

**Albury/Wodonga
Community
Legal Service**

**2003-04
Annual Report**

Table of Contents

Hours of operation	3
Number of advices undertaken	3
Casework & Number of files open & closed.....	3
Duty Lawyer services.....	3
Community Legal Education	3
Law Reform	4
Research	4
Access & Equity.....	4
Community Development work	4
Volunteers.....	5
Training.....	5
Additional Income	6
Management Committee.....	7
Appendix 1: Law Week 2004 – Report for Albury/Wodonga	8
Appendix 2: Inquiry into the current legal aid and justice arrangements submission.....	10
Appendix 3: Albury-Wodonga Community Legal Service Submission for the Inquiry into Joint Residency and Contact for grandparents.....	14

Hours of operation

9am to 5pm Monday to Friday

Number of advices undertaken

Total Advice activities	1606
-------------------------	------

Advice activities are significantly lower than previous years due to changes in the method of data collection. In the new CLSIS data system once a case is open, individual advice activities cannot be recorded. Instead work on a file is recorded as a total number of hours.

Casework & Number of files open & closed

Total cases open during period	297
- Open at period start	41
- New (opened in period)	256
- Still open at period end (ongoing)	13
Total cases closed during period	223
Closed involving court representation	181

Duty Lawyer services

Intervention Order Support Scheme was provided in Wodonga and Wangaratta Magistrates Courts on a weekly basis.

Community Legal Education

Total open during period	21
- Open at period start	4
- New (opened in period)	9
- Still open at period end (ongoing)	6

Regular Community Legal Education delivered during this period included the bimonthly divorce classes. Other major projects included:

- Law Week (see Appendix 1);
- Family Law seminars to community workers in Deniliquin, Griffith & Tumut;
- Paralegal Legal Aid training to community workers;
- Family Violence project in Wangaratta; and ,
- series of Carers' workshops in North East Victoria.

Law Reform

- Submission for the inquiry into the current legal aid and justice arrangements (see Appendix 2)
- Submission for the Inquiry into joint residency and contact for grandparents (see Appendix 3)
- Self-Represented Litigants Project

Research

Nil

Access & Equity

CLS seeks to provide a service which is accessible, equitable, non-discriminatory and non-judgmental.

CLS provides legal advice, information, referral, casework, community legal education and law reform activities in North East Victoria and the Southern Riverina of New South Wales. Any person who is in the region by virtue of their residing in, visiting, or legal issue arising in are eligible to receive service from CLS. No means test applies.

The service does have limited resources however, so within the general framework of eligibility for the service, special attention is paid to meeting the needs of the target groups. Broadly these are people who are considered to be disadvantaged in some way in dealing with the law.

There are two main categories of disadvantage:

- a) Those people who are denied access to legal assistance as a result of limited financial resources, whether they are recipients of social security benefits or in low income employment.
- b) Those people who are otherwise disadvantaged in their access to justice i.e. indigenous people, people from non-English speaking backgrounds, youth, people who have a physical disability or mental health problems, women living in circumstances of domestic violence or people who live in rural or remote areas.

Community Development work

Staff of the service are involved in the following committees/networks:

- Albury/Wodonga Community Legal Service Advisory Committee
- Victorian Community Council Against Violence
- Wangaratta Family Violence Integration Project
- Albury/Wodonga Domestic Violence Network
- Multicultural Interagency Network
- Border Interagency Group for Young People
- Victorian Regional Rural & Remote Community Legal Service network
- National Regional Rural & Remote Community Legal Service network
- Albury & District Law Society
- Law Week committee
- North East Law Association
- Rural Housing Network board member

Volunteers

19 Volunteer Solicitors provide advice at the weekly Wodonga and fortnightly Wangaratta evening clinics on a roster basis. There are also 4 paralegal volunteers who assist at these clinics on a supervised basis.

2 Volunteer Solicitors were also employed to assist with special projects including Mental Health Review Tribunal representation, accessibility of legal services for indigenous people in our community, updating legal process flow charts and legal research.

2 law students also volunteered and were involved with the Family Violence project, organising the Law Week activities and the Self-Represented Litigant project.

A volunteer paralegal worker is also employed to assist people to complete Legal Aid application forms. The worker is based at the Wodonga Community Information and Referral Service and receives ongoing support from the CLS.

Training

Solicitors attended the following training/professional development:

- Ethics Workshop
- Trust Account Seminar
- CLSIS Training
- Attended National Conference of Community Legal Centres in Hobart
- NSW Combined Group of Community Legal Centres quarterly meeting – Nov 03, Feb 04
- Forum on Defences to Homicides
- Victorian CLC RRR Network meeting – Feb 04
- LIV Mansfield Regional CLE conference
- VLA New Family Law Rules conference in Shepparton

- Freedom of Information training
- Victorian Federation of Community Legal Centres State Conference in Melbourne

Administration staff attended the following training/professional development:

- CLSIS Training
- Attended National Conference of Community Legal Centres in Hobart
- Victoria Legal Aid seminar for community workers
- Accidental Counselling course
- Community Law Online training

Additional Income

No additional income was received from other sources in this financial year.

Management Committee

Upper Murray Family Care Incorporated Directory of the Executive Committee of Management for 2004

President Sue Blake Dip Ed. B Ed. M Ed.	RMB 2158 Barnawartha 3688	02) 6026 7155 (home) 02) 6055 6558 (fax) 0416247736 (mobile) susan@bryanblakeconsulting.com.au
Vice President Jeff Wittig	RMB 4191 Wangaratta 3678	03) 5721 6099 (work) 03) 5721 9222 (fax) 0428 573 075
Treasurer Ray Park FCPA. B.Bus (L. Govt)	11 Central Place, Wodonga. 3690	02) 6071 5100 (work) 0419 381 535 (mobile) rayp@towong.vic.gov.au
Wodonga Chair Alan Cracknell B Sc. Dip Ed	9 Allambie Crescent Wodonga 3690	02) 6024 1260 (home) 02) 6024 1800 (work)
Member Gillian Mallinder LL.B	21 Billabong Drive Wangaratta VIC 3677	03) 5721 4591 (work) 03) 5721 4693 (home) brianmallinder@netc.net.au
Member Lester Sawyer B.Arch. ARAIA	PO Box 830 Albury 2640	02) 6021 8484 (work) 0414 273 584 (mobile) 02) 6021 8829 (fax) lestersawyer@bigpond.com.au
Member Phil Oates Dip Bus. (Acc)	7 Hall Court Wodonga 3690	02) 6024 2698 (home) philmer27@hotmail.com
Member Karin Willcox	70 Michelle Ave Lavington NSW 2640	02) 6041 5622 (work) 0419 211 766 (mobile) karinwillcox@hotmail.com
Member Wendy Cisar BSW Grad Dip Comm Dev	4 Wilca Way Wodonga 3690	02) 6056 8825 (home) 02) 6055 6504 (work) 0400 482 072 (mobile)
Director Luke Rumbold BA. BSW. MSW. PhD. FAIM	C/- UMFC 7/22 Stanley Street Wodonga VIC 3690	02) 6022 8115 (work) 02) 6022 8199 (fax) 0418 970 182 (mobile) lrumbold@umfc.com.au
Finance Manager Donna Guille CPA, B.Bus(Acc), M.Comm(Acc), JP	C/- UMFC 29 Stanley Street Wodonga VIC 3690	02) 6022 8010 (work) 02) 6022 8099 (fax) 0403 006 149 (mobile) dguille@umfc.com.au
Staff Representative Vivien Hardham	C/- UMFC 29 Stanley Street Wodonga VIC 3690	02) 6022 8019 (work) 02) 60228199 (fax) vhardham@umfc.com.au

Appendix 1: Law Week 2004 – Report for Albury/Wodonga

The Albury-Wodonga Community Legal Service, Upper Murray Regional Library, Albury & District Law Society and NSW Legal Aid worked together to organise the events held in the Albury-Wodonga area during Law Week.

Committee Members

Rebecca Eberle – Community Legal Service
Tim Eggleston – Upper Murray Regional Library
Paul Gibney – Albury & District Law Society
Jacqueline Sutherland – NSW Legal Aid

Events Held (please see attached timetable)

Family Law Seminar, Tuesday, 18 May 2004

The Community Legal Service and the Family Mediation Service held a Family Law Seminar for Women at the Women's Centre in Albury. Topics covered included children, property, divorce and mediation. Three women attended the seminar. The seminar was offered as a free event and we received very good feedback from the participants.

Albury Local Court Tour, Wednesday, 19 May 2004

The Community Legal Service and local lawyer, Peter Uniacke, lead the Albury Court Tour. Three people attended and were very impressed by the court. Peter Uniacke was very good and allowed the tour to sit in on some of the District Court hearings that were on at the time. The tour was offered as a free event. The Upper Murray Regional Library also set up a display board in the foyer of the courthouse for Law Week.

Lawyers in the Park BBQ, Thursday, 20 May 2004

A public BBQ was held in QE2 Square in the centre of Albury at lunchtime. Legal Information tables were set up with pamphlets provided by the Community Legal Service and the Upper Murray Regional Library. Members of the Albury & District Law Society were on hand to answer general questions about the law and legal institutions.

The BBQ was offered as a free event for the community and was funded by the NSW Law Society who paid for the BBQ service (300 sausages in bread) and the signage. The BBQ was a huge success and many people who might not have access to the law came along to speak to one of the solicitors. Twelve solicitors attended the BBQ over the two hour period that it was held and The Border Mail covered it with a photo and story.

The informal and social approach will help members of the community feel comfortable seeking information from the legal profession as well as providing an opportunity to get to know the resources, programs and systems available to them in the Albury/ Wodonga community.

The Victoria Law Foundation provided funding for a re-print of the brochure titled "Finding the Law in Albury-Wodonga" which re-launched at the BBQ. The BBQ was a great success and received lots of media coverage. We would like to run this event as an annual event.

Wodonga Magistrate's Court Tour, Friday 21 May 2004

The Community Legal Service and local lawyer, Kathy Scripnikiw, lead the Wodonga Court Tour. Two members of the public and 15 secondary school students attended and were very impressed by the court. Kathy Scripnikiw was very good and the students related to her very well. The tour was offered as a free event.

Law Week Social Night – "Human Rights and the Law" Presentation, Friday 21 May 2004

Social evening featuring guest speakers was held at The New Albury Hotel, Crown Lounge, on Friday evening, 21st May. 25 people attended the evening including local practitioners and members of the public at a cost of \$10 per person. This included finger food and a donation to the local Amnesty International group.

Mr Richard Franklin spoke on behalf of Amnesty International Australia about the role of Amnesty and the work that they do. Mr Franklin was an excellent speaker who donated his time (and travel expenses from Melbourne) to attend the event.

Waratah Rose Gillespie, author, spoke about her experiences in Iraq and a book she had written about the war in Iraq.

Dennis Ginnivan of the Albury-Wodonga Amnesty International group spoke about the local group's work.

This event was a big success and was enjoyed by everyone who attended. \$100 was raised for the local Amnesty International Group.

Media Coverage

Please see attached copies of media release and articles. The media release was sent out to all local newspapers, radio stations and television stations.

Publications

Please see attached "Find the Law in Albury-Wodonga" brochure which was funded for reprint by the Victoria Law Foundation.

Appendix 2: Inquiry into the current legal aid and justice arrangements submission

To Legal and Constitutional References Committee

From Community Legal Service (Albury Wodonga)

Date Monday 22 September 2003

Legal Aide in the cross border regional community of Albury Wodonga.

Ms Helen McGowan
Community Legal Service
29 Stanley Street Wodonga
558 Mitchell Street, Albury

Ph 02 6056 8210
email cls@umfc.com.au

The Albury Wodonga community legal service (CLS) is funded by the Commonwealth AG. We are 'managed' by Victoria Legal Aid and we are auspiced by a not for profit community based organisation (Upper Murray Family Care)

CLS covers the regional communities of North East Victoria and the Southern Riverina of NSW.

Helen is the principal solicitor at the CLS and is the co convener of the National Network of Rural, Regional and Remote Community Legal Centres.

Introduction

We are blessed to work within a cross border regional community which has an abundance of choices to obtain legal assistance (legal aide)¹. However to find aide, the citizen is led a 'merry dance'². We believe the current mix of legal aide is disjointed and inequitable. Services depend on which side of the river you live on and your ability to persist.

We believe in 'local solutions to local problems' and that 'one size does not fit all'.

If the aim is to achieve access to justice across the nation, we see a lack of sustained co operation between the main players (private practitioners, state and federal governments, legal aid commissions and community legal centres). To our knowledge, all stakeholders 'do their own thing' regarding access to justice with the exception of the Commonwealth State agreements governing the provision of aid in Commonwealth matters.

In our experience;

1. many people believe 'there is no legal aid' because they can't find a private solicitor to offer it (*the Griffith regional community does not have any lawyers doing legal aid and other region's private practitioners' ability, waxes and wane depending on their workload*)
2. despite initiatives from the state legal aid commissions to encourage solicitors to take on legal aid work (and to assist in determining the grant of aid) there is a perennial lack of interest to do so (*NSW LAC allows grants on line approval yet we see a low uptake*)
3. initiatives designed to provide timely assistance are ad hoc and disjointed (*NSW s provides LawAccess, Commonwealth provide Regional Law Hotline*)
4. completing the application for a grant of aid, requires literacy skills beyond many in our community (*we train community workers to do this*)

We ask that this inquiry into the current legal aid and justice arrangements make a commitment to the concept of regional justice planning which will result in regular meetings of the aide providers with a view to developing integrated delivery of services.

Current arrangements: Our legal aide mix.

In our experience the current arrangements are neither equitable nor uniform.

¹ Legal Aide is distinct from Legal Aid as it embraces the suite of assistance; pro bono lawyers, para legal workers, court staff, chamber magistrates, Legal Aid Commission (NSW), Victoria Legal Aid, community legal centres, telephone advice lines, specialist legal services.

² Merry dance: lack of referral protocols or integrated service delivery resulting in both providers and consumers ignorant of 'who is doing what'.

Systems vary widely between states;

- Our Child Support Legal Service is located in the legal aid commissions. In Victoria they provide regional outreach and actively take up casework. In NSW they do not. You need to be able to travel into their Sydney office to use them.
- NSW offer a comprehensive Domestic Violence Court Assistance Program. Victoria has a disjointed and unfunded response.
- NSW offers a Chamber Magistrate service at its Local Court to assist people in minor matters. Victorian court counter staff have limited resources to assist.

As community lawyers, we assist behind the scenes and are frequently not 'on the record' yet it is problematic to 'unbundle' ³legal services. Lawyers talk to lawyers. We have no protocols for dealing with self represented litigants.

The issue of defining legal information and legal advice underlies

Formal Legal Aid

If you can access a Legal Aid office, you can obtain minimal assistance. Legal Aid allows for legal representation, provided the client and their matter, meet the means and merit guidelines. There is some capacity for minimal assistance to the general community if they can access a clinic at the local Legal Aid office. In recent times there has been an increase in the location of regional Legal Aid offices in NSW and Victoria.

The city based Legal Aid offices also offer telephone legal information (available as a 1300/1800 service to the bush) with the possibility of legal advice if you are one of their 'disadvantaged' consumers.

Complimenting these 2 services are a plethora of support services to those able to find them; internet information, brochures, publications, do it yourself kits, classes/ workshops, libraries

Community Legal Services

In our funding agreement (Commonwealth, Victoria and Upper Murray Family Care) we commit to provide legal information and advice, community legal education and law reform and advocacy. We agree NOT to do work which the Legal Aid Commission/Victoria Legal Aid is funded to do.

Through our intake 'triage' we discern if someone is eligible for aid and steer them towards a trained para legal community worker who will assist them

³ Typically a lawyer's retainer involves care and conduct of the legal matter. The bundle includes the lawyer taking complete responsibility. When the package is 'unbundled' the legal advice is broken down into parts such as assistance to draft an Affidavit, complete a Form 3 Application for parenting orders, prepare a subpoena, draw a letter of demand. Each part is a distinct service. The unbundled service requires a clear retainer so that the advisor is not negligent in failing to take full care of, or conduct of, the matter.

complete the form, provide relevant documents, compose a cover letter addressing the means and merit criteria. Some people call this 'community legal aide'.

We focus on bridging the gaps in the legal aid system and see our role largely in community development. In the 4 years of our operation we have;

- Provided court based intervention order court support to Wangaratta and Wodonga courts. This was necessary as there was a major need in Victoria whereas NSW had addressed the issue comprehensively. (NSW have an integrated system whereby the LAC offers a duty lawyer, the Women's Centre is funded by the NSW AG to offer 'court support assistance' and the police have a 'domestic violence liaison officer')
- Developed a clinic for self represented litigants in family law matters. They don't get legal assistance from lawyers, court staff or legal aid yet are a major consumer of the Local, Magistrates and Family Courts' time.
- Provided outreach legal services throughout our region and including a specific youth law clinic in Wangaratta, .

Conclusion

We encourage the 'mapping' of the current arrangements. The development of a [diagram which illustrates how the 'pie' of Commonwealth and State Legal Aid money is shared](#) would be a useful tool.

The map could illustrate the location of regional offices, community legal centres, outreach services, chamber magistrates. Through this process we could become more aware. Who is doing what? Where are the gaps? What is working well in some communities and how can that be shared with others?

Helen McGowan
22 September 2003

Appendix 3: Albury-Wodonga Community Legal Service Submission for the Inquiry into Joint Residency and Contact for grandparents

The Albury-Wodonga Community Legal Service commenced operation in July 1999 and covers North-East Victoria and Southern Riverina of NSW. Since 1999 the service has provided advice, information and referrals to over 2,000 parents in relation to residence and contact issues – both mothers and fathers. As a service we are opposed to the proposal of rebuttable joint residence as it does not focus on the best interests of the child. In regards to contact of grandparents it is submitted that this should occur if it is in the best interests of the child.

As the law currently stands any relevant factor should be considered when trying to determine children's best interests and in turn what living arrangements will be made when parents are not living together. Every family, every parent and every child is different. To begin this process with a presumption of shared care is to ignore these differences and in many cases will ignore the best interests of the child. It may even ignore what is best for the parents but at worst privileges the parents' interests or "rights" above that of the child.

"Shared care" works in very limited cases, requires a committed effort by all involved and is the exception rather than the norm. In its best form it is the ideal arrangement as children are able to be cared for by both parents and these parents rarely require recourse to the legal system, ie. the parents retain a workable relationship and put the children first. In its worse form it is disruptive to children, costly and may even result in conflict (or increased conflict) between parents. How is it in the best interests of the children to always live out of a suitcase, feel like ping pong balls and feel like they are out of control of their situation? Children may find it hard to keep up with schoolwork, friends etc, in between swapping houses. How is it best for the children if conflicting parents are made to have regular, continued contact with each other? Would the proposal have any support from parents if the suggestion was made that parents should move between houses as children are expected to in shared care arrangements? A presumption of shared care returns to old notions of children as property – that they are objects to be moved backwards and forwards between mum's and dad's house.

The Family Law Act refers to children having a right to know and be cared for by both parents. Whether this is equal time or not depends on the individual circumstances of the family in question. One needs to question whether shared care is appropriate after separation. When a child is born to a couple living together is there a presumption of "shared care"? Do both parents spend equal amounts of time with their children? This depends on the parents' situations – surely? Why should the situation change after separation? It appears that some people are now starting to object to the other parent being the primary caregiver, but only after separation. Suddenly

they are willing and able to care for children that previously they couldn't or wouldn't.

This is clearly an example of a double-standard in our society. In the majority of cases parents continue to revert to traditional roles of mothers being the primary caregiver when the family is together and "working". On separating, fathers are suddenly calling for changes to the situation and to the law because they feel hardly done by because the law is recognising this important role and decides that the best interests of the child deems it more appropriate to have a residence/contact arrangement. Perhaps society, and fathers for that matter, need to review the role of the father and promote shared care in all families. If, in general, we were starting on this even playing field than a presumption of shared care would be appropriate.

The law puts the onus, to a large extent, on the parents involved to work out together what is best for their children. There are very few parents that need to use the Family Court to resolve this issue as in most cases the parents can agree as to what arrangements will be in the best interests of the child because it is obvious. Often a residence/contact arrangement occurs as this reflects the situation prior to separation – one parent has been the primary caregiver. Contact is what a parent makes of it and is only as successful as the effort put in by the parent. Some parents cannot and do not want to have the care of their children. This is evident in the number of enquiries we receive from resident parents trying to encourage contact between their children and the other parent. Parents who do resort to going to court are generally those that have ongoing conflict and, in all likelihood, will never be happy with any decision made by the court.

A presumption of joint residence is likely to lead to more conflict between parents and matters coming before the court. But in real terms how and who is going to police it? Will it increase the need for orders to be made, even when parents agree between themselves that one parent will give up their shared care and will "settle" for contact. It is concerning to read articles which state "dad's have 1 in 5 chance of winning sole custody". Again children are being referred to as something to be "won". The community's concept of parenting after separation needs to be adjusted to looking primarily at what is in the children's best interests. The difficulty with this is that each parent thinks they are what is in the best interests of their child without looking at their motives. Are they angry at the other parent and want to beat or get them? Or do they really believe they can give the child a stable, happy, loving environment?

Has the push for this rebuttable presumption come from parents upset about the lack of quality time spent with their children or is it linked to the issue of Child Support? Many clients contact our service linking the issues of contact with children to child support. What a sad state of affairs when parents are so blinded by money that they cannot see the impact arrangements can have on children.