

FLS BRIEFS

JULY 2010

LAW4COMMUNITY

A NEW AND EASY LEGAL RESOURCE FOR COMMUNITY SECTOR WORKERS

Fitzroy Legal Service recently launched *Law4community*, an innovative website for community sector workers and a companion to the *Law Handbook Online*.

Law4Community was created to address the need for community sector workers to have access to legal information as they are often the first contact for clients seeking legal assistance. Written in plain English and developed in consultation with leading community sector providers, the site gives workers the ability to recognise their client's legal issues and refer them to an appropriate legal service.

The website features:

- A simple three step directory which can locate legal services using the characteristics of a presenting problem
- Ten practical legal checklists on common issues such as neighbourhood disputes, finances, housing, immigration, ageing, and family violence
- Information and articles on the latest policy reform from across the community sector
- A section on the rights and responsibilities of community workers



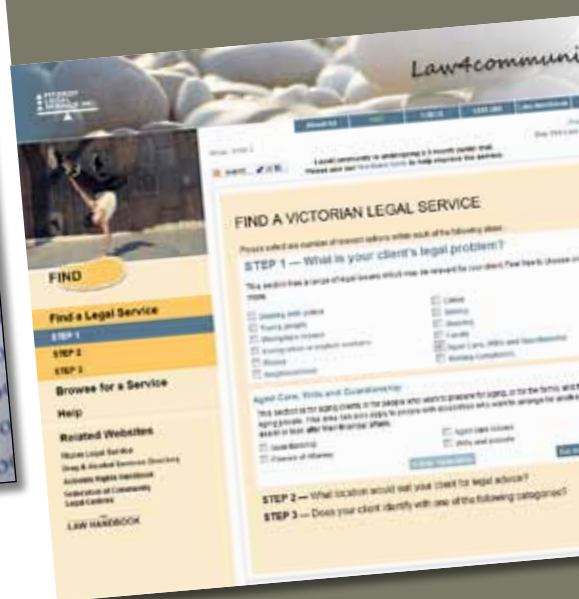
Workers have reported that it helps them understand the broader context of a problem their client may have, how to distinguish legal issues and where to get legal and non-legal assistance for their clients.

You can visit the new website at www.law4community.org.au

Law4community is funded by a Legal Services Board grant.



Kathy Langvogt, Senior Policy Researcher, from Good Shepherd Youth and Family Services launching the *Law4Community* directory at Ross House.





John Corker Director National Pro Bono Resource Centre, Marlena Pitrone Fitzroy Legal Service, Sue Ball, Grants Manager Legal Services Board, and Robin Inglis Fitzroy Legal Service celebrating the launch of the *Law4Community* website



Law4Community design and development team, comprising Centre for eCommerce and Communications (CeCC) at Ballarat University and The Design Bus; From left to right: Paul Feely (CeCC), Marlena (FLS), Meghan McBain (The Design Bus) and Helen Thompson (CeCC)

LAW HANDBOOK ONLINE

SHOWING THE WAY OUT OF THE LEGAL MAZE

It's been a year since Fitzroy Legal Service launched the *Law Handbook Online* as a free resource, and the figures show there is a huge demand for this clear, easy-to-understand and comprehensive legal resource.

The site has attracted nearly 200,000 visitors since it was launched as a free resource in June 2009. It now averages over 1,000 visitors per working day and 500 visitors per day on the weekend.

Available 24/7 on the internet, this invaluable resource provides easy access to legal information - for anyone at any time. It covers over 70 areas of the law such as buying a car or house, infringements, neighbourhood disputes, consumer protection, employment, accidents, and wills and estates. The site also has links to many other legal websites, government and legal agencies, and community organisations.

The law can be a confusing and frustrating maze of information and many

people are left feeling baffled by the language of legal letters or the formalities of court hierarchy,

Fitzroy Legal Services Web and Publications Co-ordinator Marlena Pitrone says that making the *Law Handbook* freely available on the internet is a great step toward making the law more accessible.

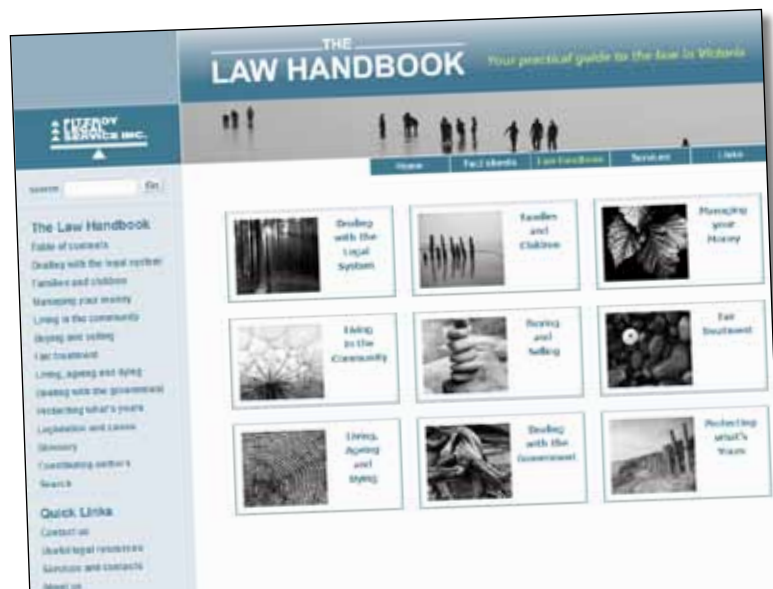
"For many people a lack of knowledge or understanding of the law can hinder their ability to manage their legal matters or support their family and friends. The *Law Handbook Online* is designed to help people better understand the law that affects their lives, families and communities," she says.

The online resource is a digital version of *The Law Handbook*, a printed guide to

the law, which was first published in 1977. Now in its 33rd edition, the publication has grown to a 1000 page plain English guide to the law.

It is the most widely read legal publication in Victoria.

The *Law Handbook Online* is available at www.lawhandbook.org.au and is produced by the Fitzroy Legal Service and generously funded by a major grant from the Legal Services Board.



TALKING 'TOUGH ON CRIME' IS NOT WHAT THE COMMUNITY WANTS OR NEEDS

With a November state election looming, it's no surprise that both major parties are trying to outdo each other with "tough on crime" campaign talk. But Fitzroy Legal Service is calling for all parties to be held accountable and responsible for election promises that seek to introduce harsher penalties and sentences.

The service has written to all state politicians and party leaders asking them to commit to a post election parliamentary inquiry into the effectiveness of new penalties and sentences before introducing further punitive measures.

Executive Officer of Fitzroy Legal Service Robin Inglis says the proposal for a parliamentary inquiry is based on a considerable amount of research that shows punitive sentencing has no or little impact on offending, and is unlikely to make the public more confident in the courts and sentencing.

"Punitive sentencing is ineffective and has huge social and economic costs," he says.

"We know that people in prison are more likely to have mental health problems, be relatively poor, have low levels of formal education and are more likely to be Indigenous. 'Tougher sentence' promises from the Government and Opposition ignore the longer term consequences and costs of these policies."

In his 2002 investigation into sentencing, Professor Arie Feinberg from the Victorian Sentencing Advisory Council found that harsher sentencing only results in modest reductions in crime rates. The study also found that, "despite apparent punitiveness, the public believes that the most effective way to control crime is via programs such as education and parental support, rather than via criminal justice interventions".

This research was backed up by a more recent study by Professor Austin Lovegrove from the University of Melbourne, which concluded that when the public are given more information about the crime and criminal justice policies, they are far more compassionate than pre-election opinion polls suggest.

Simply put, 'harsher sentencing' is not only bad policy, it is a cynical misrepresentation of the community's views. Fitzroy Legal Service is calling on all political parties to show genuine leadership on sentencing and to avoid bowing to the perceived demands of opinion polls and heated headlines. And according to the evidence, it's what the public wants too.



The Federation of Community Legal Centres has developed a website with a range of fact sheets explaining the benefits of less fear based justice policies.

www.smartjustice.org.au

The Victorian Council of Social Services has released a detailed and evidence based election platform called a Platform for Smart Government. It urges many reforms including a focus on poverty reduction rather than law and order.

<http://www.vcross.org.au/what-we-do/election/platform.htm>

CHANGES TO EQUAL OPPORTUNITY LAW

A POSITIVE BUT TIMID STEP FORWARD

A revised *Equal Opportunity Act* will come into force in Victoria in August 2011 and while the legislation heralds some positive changes, Fitzroy Legal Service is disappointed that it fails to protect the homeless and people with criminal records from discrimination.

A vital and fundamental change to the legislation is that it gives the Equal Opportunity Commission the power to actively investigate instances of discrimination rather than wait for complaints to be made. This gives oxygen to the idea that deliberate discrimination is only the tip of the iceberg when it comes to tackling discrimination.

It also gives the Commission the power to research practices and systems – such as assumptions, folklore, traditional ways of doing business, opening hours,

recruitment practices and lack of systematic review and feedback about how organisations are performing - which unintentionally create barriers and lead to discrimination.

But Fitzroy Legal Service Executive Officer Robin Inglis says the Government's timidity in not recognising the need to protect the right to work of people with a criminal record and homeless people is a missed opportunity.

The 2008 Review of Victoria's Equal Opportunity Laws made recommendations that discrimination on the basis of an irrelevant criminal record should be prohibited in Victoria.

The recommended changes would have meant that a criminal record unrelated to the inherent requirements of the job would no longer be a legitimate ground for denying a person work or workplace opportunities.

The portion of the community who may be affected is substantial. Victorian courts sentenced close to 100,000 people in 2007-2008. The vast majority of matters are heard in the Magistrates Courts, and of these the lion-share are matters that are punished with a fine.

"The new equal opportunity Bill has ignored these recommendations and failed to include any protections for Victorians with a criminal record. The Bill has also failed to provide protections to people experiencing discrimination as result of homelessness," he says.

"Combined with increased prosecution of public order offences, we are looking at large numbers of the population whose life prospects are severely hampered by a criminal record even when the offences are minor".

Fitzroy Legal Service will continue to seek change; working with individuals and organisations who understand that these issues matter.

BRINGING LEGAL EDUCATION TO HOMELESS PEOPLE

... AND ROOMING HOUSE RESIDENTS WITH WEB BASED VIDEO

An exciting new project, with support from the Neighbourhood Justice Centre, is underway at Fitzroy Legal Service, aiming to bring information about the law to homeless people and rooming house residents via web-based "micro-videos".

The project is based on the recognition that previous attempts to engage homeless people and rooming house residents using traditional community legal education tools such as pamphlets, have proved unsatisfactory. Irrespective of the material conditions most rooming house residents experience, most have a mobile phone and/or access to the Internet through neighbourhood houses and libraries.

A group of homeless people and rooming house residents came together in January to write and produce a number of 10 - 15 second video clips, each one addressing key areas of need determined by the group.

The clips will be posted on YouTube and are designed to be stored in mobile phones and disseminated via Bluetooth and MMS.



Tony Creedon, one of the stars of micro-video project

KNOW
YOUR
RIGHTS

NEW OPPORTUNITIES FOR A REVIEW OF THE CHILD PROTECTION SYSTEM

A review of the child protection system by the Victorian Law Reform Commission (VLRC) will soon be available, and Fitzroy Legal Service is pushing for change.

The FLS submission advocates for the use of procedural fairness principles at all stages of child protection proceedings. This means that provision of information to parents and children must be done in a clear and understandable way.

Procedural fairness means that decision making by the Department of Human Services, which relies on a 'voluntary agreement' with parents, must ensure that the parents are able to give fully informed consent to the arrangements and that they are clear about their right to seek legal advice to help them understand the process.

The Child Protection Proceedings Taskforce Report (Feb,2010) recommendations have led to non legislative improvements which should make some of the pre court processes more understandable for both parents and workers. The 'headline' for this initiative is a 'more collaborative' approach between court users'. On the ground it should mean greater procedural fairness and simplifying the steps. The fact that this review highlights the need for new strategies and systems of communication is in part a recognition that procedural fairness has been in short supply.

The key recommendation of the FLS submission is that parents need to have better access to legal advice at the earliest stage of a child protection matter.

FLS also recommends volume based funding for child protection. Where budgets are inflexible and there are large increases in the number of children and families coming into care, quality will suffer and services will be even further

rationed and delayed. More children into the system means there needs to be increased funding to meet this need.

It's been a long campaign for a better child protection system. A 2006 review saw legislative proposals dominated by the Department of Human Services vision of what a better system should look like.

In 2008 Fitzroy Legal Service ran a project aimed at providing support to women who were dealing with child protection.

The project found that the system was clearly under enormous pressure. Many women needed several different problems dealt with before they could address child protection issues. For example, many women who had a child in care were also trying to deal with housing, employment, debt and family violence problems.

It's hoped that this VLRC review will provide an opportunity for a more objective view and a springboard for significant changes to the troubled child protection system.

YARRA NEEDS A SMARTER APPROACH TO DRINKING IN NON-LICENSED PUBLIC SPACES

Fitzroy Legal Service and the Victorian Aboriginal Legal Service have written to Yarra City Council about the evaluation of the ban on drinking in non-licensed public spaces, calling for a greater reliance on publicly available evidence.

The Council passed the contentious law, banning the consumption of alcohol in non-licensed public places, last year. The law was heavily criticised by service providers and many local residents who said that it would have an adverse and disproportionate impact on the Indigenous, poor, homeless and young

people who have a connection to the area.

The letter was critical of the initial consultation process and the lack of an evidence base to support the introduction of the law in the first place.

Police statistics were influential in the debate, yet the police have not provided any evidence of the prevalence of violent behaviour and associated geographic or time patterns. In the absence of any historical data there is no statistical basis for monitoring to establish whether

arrests, detention or remands for local law related matters increase or decrease.

The letter calls for the Council to press the police for data on which the decision relied.

It also calls for the Council to assess qualitative data from people who are being targeted by the new law and the incidence and nature of complaints to councillors in the evaluation process.

The evaluation, which is being conducted by Turning Point Alcohol and Drug Centre, is due to be released on 31 August 2010.

AN INVESTIGATION INTO POLICE, RACISM AND YOUNG PEOPLE

Beginning in mid-2009, Fitzroy Legal Service, along with Springvale Monash Legal Service (as the project leader) and Western Suburbs Legal Service, jointly initiated an investigation into tensions between African young people and police in Melbourne.

The final report titled *Boys You Wanna Give Me Some Action?* was released in March this year with the aim of strengthening anti-racist and pro-diversity initiatives.

Despite the fact that policing has been consistently identified as one of the biggest issues facing African young people across Australia, the report highlights a vast gap between the experiences and perspectives of African young people and the public conversation around policing, public space and young people.

Key findings of the report were that African young people are over-policed and routinely harassed. Despite generally having a good understanding of their legal rights, for the most part young people cannot assert these rights — doing so often results in police hostility and aggression.

One of the Project Co-ordinators, Bec Smith, says the report brought these issues to the surface and demonstrated the power of giving young people a space in which they can speak publicly.

“The report has sparked a lot of discussion amongst community organisations and service providers, conversations in which we’ve participated,” she says.

“The challenge now is to keep the momentum going, not to let this important stuff fly under the radar again, and to really highlight the things we’ve learnt from this report.”

You can read the full report by going to www.fitzroy-legal.org.au



At the launch of *Boys Do You Wanna Give Me Some Action?*
From left to right: Bec Smith (Project Co-ordinator), Helen Yandell (Springvale Legal Service), Shane Reside (Project Co-ordinator), Gillian Davey (Western Suburbs Legal Service) and Belinda Lo (Fitzroy Legal Service)



At the launch of *Boys Do You Wanna Give Me Some Action?*

DEMAND FOR ADVICE ON FINES SKYROCKETS

With an overwhelming demand for advice on fines, Fitzroy Legal Service's expert solicitor on fines, Lynne Thomas, recently ran a workshop for Neighbourhood Justice Centre staff to help them understand the complicated and increasingly expensive fines jungle.

In 2009 demand for fines advice increased by 78% over the 2008 level. This follows a 23% increase the previous year. So far in 2010 the rate of demand for fine advice continues at this high level.

Fitzroy Legal Service urges law makers to take a look at their assumption that people are all equally able to pay fines and asks them to instead introduce some reality to how low income people are fined.

In the article below Lynne Thomas provides a small window on some of the ways we try to assist people through the system and a few ideas for making the system a little more user friendly.

INFRINGEMENT NOTICES

The Fitzroy Legal Service has been assisting an increasing number of people who are experiencing financial difficulty due to non payment of infringement notices.

Individuals from all walks of life appear to have a basic lack of knowledge regarding the infringement process. Clients of Fitzroy Legal Service are not immune from this as many will only seek legal advice as a last resort when their legal options are limited. As community lawyers it is our responsibility to address this community ideology through education in the hope of rectifying this way of thinking and subsequent behaviour.

The Fitzroy Legal Service assist individuals, particularly those within the public housing sector, CALD clients, students, the unemployed and those with physical and/or mental health issues with their infringement matters in the following ways:

- Requests for Internal Review
- Payment Plan Applications
- Revocation on the basis of Special Circumstances*
- Revocation and referral to Open Court
- Penalty Enforcement Hearings

Through infringement case work Fitzroy Legal Service has noticed the following emerging trends:

- Clients are attending on a more frequent basis for clarification as to why a tollways infringement has been received. There are a couple of reasons as to why this is believed to be the case:
 - Many individuals, particularly those from a non English speaking background will often be oblivious that they have travelled on a tollway and/or be unaware of the toll procedure. Subsequently, these individuals may not know that they are required to pay in order to use a section of certain roads.
 - The toll infringement notice can appear ambiguous to clients when it indicates that they have driven an unregistered vehicle on a tollway. This may lead to an individual being under the misconception that the infringement is for failing to register their vehicle with Vic Roads (and not the toll authority as required).

A simple re-wording of the toll infringement notice would go some way to alleviating this common misconception.

- Infringement notices fail to clearly explain the notion of special circumstances. A client may therefore erroneously believe that being in an abusive relationship, gambling issues or times of emotional turmoil will warrant special circumstances being established. These mitigating factors

will only be considered in conjunction with mental health, drug and alcohol issues and/or homelessness.

- If a special circumstances application has been submitted directly by the client confusion may arise when they receive the Notices of Revocation from the Infringements Court. In not understanding the entire process a client may believe that the matter has been resolved and as such will often fail to take any further action. This can become problematic where the issuing agency (ie: provider of the infringement) does not withdraw the infringement matter and the Sheriff becomes involved.
- Infringements for fare evasion are provided by the Department of Transport. Although an extension of time to pay the infringement can be requested there is no facility for an individual to enter into a payment plan whilst the infringement remains with this agency. It is only once an infringement is lodged with the Infringements Court that a payment plan can be established. This may cause further financial and emotional stress to an individual as costs will continue to accrue as the infringement proceeds through the various stages.

The Fitzroy Legal Service believes that education is vital in making individuals more aware and knowledgeable of the complexities of the infringements system. It is hoped that this will result in individuals taking prompt action when in receipt of an infringement when the accrual of costs are minimal and legal options more diverse.

At the same time education of decision makers is also vital. There is a moral obligation and a public policy argument on the governments and bureaucracies who implement these systems to consider the capacity of different individuals to pay and capacity of individuals to navigate the system.

* Special circumstances is applicable where an individual has drug and alcohol, mental health or sustained periods of homelessness or a combination of all three.

CONGRATULATIONS AND THANKS TO MICHAEL KINGSTON

After 28 years of providing volunteer assistance on the FLS night service, Michael Kingston has called it a day. Michael, who was a partner in the Mergers and Acquisitions group at Mallesons, has moved on to become Chief Legal Officer at the Australian Securities and Investment Commission.

Fitzroy Legal Service extends its sincere gratitude and congratulations to Michael who has made a wonderful contribution to the Service. In recognition of his invaluable assistance, Michael has been made a life member of Fitzroy Legal Service.

At the presentation to celebrate his contribution, he quipped that someone who has volunteered at one service for 28 years could be accused of a lack of imagination.

The truth is, of course, quite the opposite. A 28-year commitment to volunteering shows exceptional vision and conviction – over that time Michael gave free legal assistance to thousands of people who would have been locked out of the legal system by poverty and disadvantage without it.

In 1982, Michael's first year as a volunteer, community legal centres were still in their infancy and held a precarious place in the justice system. It's the spirited commitment of many dedicated volunteers that made community legal centres possible and helped them become the indispensable resource they are today.

Michael's hard work, humour and self deprecating wit will be missed by all on the Monday night legal service and by many others. We wish him the very best.



Michael Kingston receives his certificate of life membership



Michael Kingston and Adrian Snodgrass Night Coordinator at the presentation of Michael's life membership

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