

The Australian Government's social inclusion agenda: why it matters to community legal centres

*National Association of Community Legal Centres
Discussion Paper
13 July 2009 web v rev 2 September 2009
Comments or feedback: naclc@clc.net.au*

1. Overview & purpose of this discussion paper

For over 30 years, community legal centres in Australia have worked to reduce legal disadvantage, increase the capacity of individuals and communities to understand their rights and obligations, and support their clients to have a greater say in the laws and policies that affect their lives.

CLCs have consciously chosen to do this in a range of ways and using a number of strategies and approaches. At the root of their work are the concepts of justice, human rights, and community. These values affect not just the outcomes of CLC work but the processes they use. A rights-based, holistic, community development approach to legal service delivery means CLCs try and deal not just with the immediate legal problem of their clients, but with other broader social problems. CLCs understand the value of early intervention and prevention. They seek to educate the community about the law, and empower community members to avoid legal problems in the future. Where laws or policies clearly disadvantage particular groups, CLCs describe the problems to governments and corporations and offer fairer solutions.

Recently, along came an Australian Government that adopted many of the CLC movement's principles; used many of the same words and concepts; and said it had a program called *Social Inclusion* to achieve many of the same aims. What does this mean for CLCs? Do they just re-name their existing work as "social inclusion"? Are there major differences between the concepts of social inclusion, justice, human rights, or community development? What is CLCs' a role in a social inclusion agenda? What are the opportunities for the CLC sector in this current debate?

The National Association of CLC believes that CLCs have an important role to play in improving social inclusion in this country, and the current focus and discussion about social inclusion provide valuable opportunities for the CLC sector.

First, CLCs have a role, building on their knowledge and experience derived from grass-roots involvement with the legal issues facing disadvantaged people, in identifying better ways government can and should achieve social inclusion goals. For example, CLCs endorse a rights-based approach to justice - something missing from the current Social Inclusion Principles. CLCs know that the most disadvantaged and vulnerable people need legally enforceable rights to protect them and mechanisms and resources to protect and assert those rights.

Secondly, CLCs have a role in ensuring that the voices of their communities are heard in achieving social inclusion. CLCs can support their clients to remind government that the very philosophy they espouse requires them to consult people about what their needs are, and how they are best met. This is crucial if social inclusion is to be more than just rhetoric in this country.

Thirdly, the social inclusion agenda provides an opportunity to show governments and other legal agencies the centrality and effectiveness of what CLCs do within a social inclusion agenda.

Fourthly, this is an opportunity for self reflection and evaluation. Just as it is important that governments not get away with merely using words of inclusion, so too CLCs must be on guard that they are doing what they say, and are doing it as well as they can.

2. What are community legal centres?

Community legal centres (CLCs) are community-based not-for-profit organisations providing legal services to disadvantaged people and communities. CLCs have been a vital component of the access to justice in Australia for over 30 years. Today there are more than 200 CLCs throughout the country – in metropolitan, suburban, regional, rural and remote areas.

Most CLCs are generalist centres that service a specific geographic region. The remaining CLCs are specialist: their communities are not geographical, but communities of interest or areas of law, for example, consumer credit, immigration, people with disabilities, young people, or tenants.¹

Services and outcomes

CLCs employ a wide variety of strategies to work towards the best outcomes for their clients and their communities, including providing legal information, advice, and casework services to individuals, and conducting community legal education, law reform, and community-capacity building projects.

As a snapshot of the levels and types of services provided, in 2007-2008 CLCs throughout Australia

- provided over 140,000 information, support and referral services
- provided more than 210,000 individual advices
- worked on over 50,000 individual cases
- concluded over 2,600 community legal education projects
- finalised around 1000 law reform or policy projects.²

Many CLCs are staffed only by 1-2 lawyers, with some administrative staff. The fact that CLCs can provide the level of services outlined above is due to their remarkable success in marshalling volunteer and pro-bono support from private lawyers and other professionals. It has been estimated that CLCs leverage more than \$23 million worth of free legal assistance each year.³

While outputs such as those provided above are relatively easy to measure, the outcomes for clients and communities as a result of assistance by CLCs are more difficult to assess. Case studies such as those provided in this discussion paper are just one way to illustrate the work of centres. It is the responsibility of individual centres to develop outcomes in consultation with their communities, but common ones include:

- reducing the legal problems of individual clients both now and in the future
- reducing the barriers of key disadvantaged groups in accessing the law and achieving their human rights
- improving the robustness and sustainability of disadvantaged communities.

Approach

CLCs employ both a human rights approach and a community development approach in their work.

A *human rights approach* to the law is one which respects the rights and dignity of every client, takes up matters involving breaches in human rights particularly of disadvantaged people, and advocates for improvements to the justice system based on the human rights framework.⁴

¹ Full list of community legal centres provided at www.naclc.org.au

² Community Legal Service Information System Database (CLSIS), CA11 Report for 07/08. These figures significantly under-represent the total number of services provided by CLCs. They are taken only from CLSIS which records service delivery for only about 80% of the over 200 CLCs in Australia.

³ Calculated from data collected annually by NACLCLC, and information from the National Pro Bono Resource Centre, and applying a low commercial hourly rate.

⁴ NACLCLC, *Submission on the protection and promotion of human rights in Australia to the National Human Rights Consultation*, June 2009, www.naclc.org.au (viewed 24/06/09).

A *community development approach* assumes that individuals are in the best position to know what their own issues and problems are and, properly informed or with support, how to resolve those issues. CLCs work to improve the legal knowledge and skills of their clients and communities so that fewer legal problems arise in the first place, and those that do can be resolved early. They do this work *with* their clients and their communities, from the grass-roots up. So CLCs

- initiate and provide community legal education and law reform projects that are preventative in outcome, consultative, and strengthen the community from within
- produce plain English self-help legal resources
- ensure community participation in the CLC through inclusive management and operational structures
- collaborate and engage in strategic partnerships with community leaders, community organisations, Government agencies, and the private sector (particularly private law firms).

Strategic Service Delivery Model

The decision about which strategies are appropriate at any given time has always been particularly difficult for CLCs to make, given their limited resources and competing client priorities. The sheer number of disadvantaged people seeking legal assistance means that many CLCs struggle to plan pro-active preventative strategies. Centres are often so busy servicing the needs of people who walk in the door, that it is difficult to also reach out to particular disadvantaged communities, particularly those so socially excluded they may not even be aware of the CLC's existence.

NALCLC has therefore developed a *Strategic Service Delivery Model* and advocates the model as good practice for community legal centres. The Strategic Service Delivery Model is an evidence-based, pro-active, community-involved process that an individual community legal centre can use to plan its work. The service model is aimed at meeting the needs of clients with complex needs and/or multiple legal problems. It is multi-disciplined, works effectively with disadvantaged communities, targets services to emerging need, and is flexible and responsive.

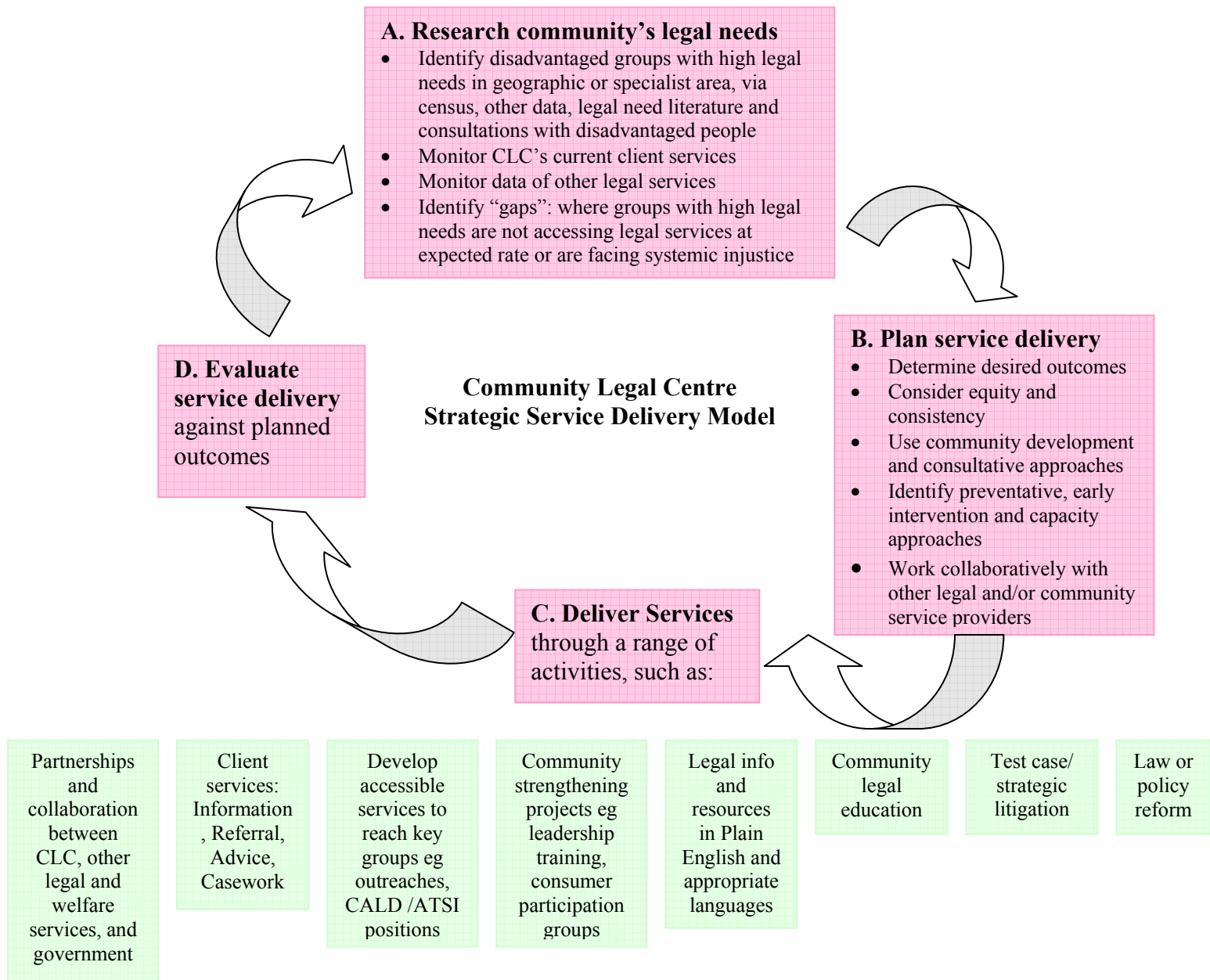
The first phase in the strategic service delivery model is a legal needs assessment of the community served by the CLC. Along with the needs assessment, the centre surveys other legal service providers and community organisations about the services they provide, to discover any gaps in service delivery. This process informs the Strategic Plan and directs the targeting of services. Figure 1 sets out the model (over the page).

The resource implications of this model are currently being examined in a research project in NSW, *Translating Legal Needs into Strategic Service Delivery* and the model may be further refined after the project is completed in late 2009.⁵ The Commonwealth Attorney-General's Department has endorsed a simplified version of the strategic service delivery model in its March 2008 *Report of the Review of the Commonwealth Community Legal Services Program*⁶ but to date the model has not been incorporated into funding agreements or taken into account in funding decisions.

⁵ Project being conducted by the Combined Community Legal Centres' Group NSW, with Legal Aid NSW, the Law and Justice Foundation of NSW, the National Association of CLCs and two individual CLCs. See 'Grants awarded August 2008', <http://www.lawfoundation.net.au/grants/awarded>.

⁶ Attorney-General's Department, Australian Government, *Report of the Review of the Commonwealth Community Legal Services Program* (2008), <http://www.ag.gov.au/www/agd/agd.nsf/Page/RWP6DE98B3437EEB6FDCA25742D007B0738> (viewed 05/05/09).

Figure 1: Strategic Service Delivery Model



3. What is meant by social exclusion and social inclusion?

During the 1980s the term *social exclusion* became commonly used in social policies, firstly in France, and then throughout Europe. Addressing social exclusion is now a mainstream policy framework within the European Union.⁷ The UK Blair Labour Government established a Social Exclusion Unit shortly after its election in 1997. It defined social exclusion as:

a shorthand label for what can happen when individuals or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime environments, bad health and family breakdown.⁸

The UK's development of the policy of social exclusion has strongly influenced Labor Governments in Australia, including SA (from 2002), Victoria (from 2005), and most recently, the Federal Labor Government. One month after its election in November 2007, the Rudd Government created the Australian Social Inclusion Unit within the Department of the Prime Minister and Cabinet, headed up by the Deputy Prime Minister Julia Gillard. In February 2008, Julia Gillard stated that social inclusion required all people to be given the opportunity to

secure a job; access services; connect with others in life through family, friends, work, personal interests and local community; deal with personal crises such as ill health, bereavement or the loss of a job; and have their voice heard.⁹

Victorian Premier John Brumby has drawn on traditional "Australian" values in his definition:

The fair go is probably the most succinct and apt definition of social inclusion.

If you want people to have access to: the services they need to stay healthy and acquire an education; the opportunity they need to get a job, find a place to live and get involved in their local community; the security they need to be safe from harm, unfair dismissal and discrimination; and the infrastructure they need to go about their daily business...[I]f you want to live in a fairer community where nobody is left behind then you believe in social inclusion...¹⁰

Principles for Social Inclusion in Australia

In 2008 the Australian Government released a set of "Principles for Social Inclusion in Australia" to guide individuals, business and community organisations, and government on how to take a socially inclusive approach to their activities.¹¹ These include three aspirational principles – what the Australian government / community wants to achieve – and eight principles of approach – what might be done to get there. The detail of the principles is essential reading (<http://www.socialinclusion.gov.au/Principles/Pages/default.aspx>) but below is a summary.

⁷ Hayes, A., Gray, M. and Edwards, B., Australian Institute of Family Studies, *Social Inclusion: Origins, concepts and key themes* (2008) prepared for the Social Inclusion Unit, Australian Government. At <http://www.socialinclusion.gov.au/Pages/ResearchPapers.aspx> (viewed 21/04/09).

⁸ UK Social Exclusion Unit, *Social Exclusion Unit: Purpose, work priorities and working methods* (2008), London, The Stationery Office. Referred to in Hayes et al, above.

⁹ Gillard, J, *Social innovation, social impact: A new Australian agenda* (Speech delivered at the Launch of the Australian Social Innovation Exchange, Centre for Social Impact, Sydney, 28 February 2008). At http://www.deewr.gov.au/Ministers/Gillard/Media/Speeches/Pages/Article_081017_153859.aspx (viewed 27/04/08).

¹⁰ Brumby, J, *Social Inclusion Conference* (Speech delivered at the Social Inclusion Conference, Centre for Public Policy, University of Melbourne, 14 October 2008). At http://www.premier.vic.gov.au/index.php?option=com_mymedia&Itemid=51&lang=en&media_id=336&task=text (viewed 29/06/09)

¹¹ <http://www.socialinclusion.gov.au/Principles/Pages/default.aspx> (viewed 04/05/09).

SOCIAL INCLUSION PRINCIPLES FOR AUSTRALIA

ASPIRATIONAL PRINCIPLES

1. Reducing disadvantage

Making sure people in need benefit from access to good health, education and other services

2. Increasing social, civil and economic participation

Helping everyone get the skills and support they need so they can work and connect with community, even during hard times

3. A greater voice, combined with greater responsibility

Governments and other organisations giving people a say in what services they need and how they work, and people taking responsibility to make the best use of the opportunities available

PRINCIPLES OF APPROACH

4. Building on individual and community strengths

Making the most of people's strengths, including the strengths of Aboriginal and Torres Strait Islander peoples and people from other cultures

5. Building partnerships with key stakeholders

Governments, organisations and communities working together to get the best results for people in need

6. Developing tailored services

Services working together in new and flexible ways to meet each person's different needs. For some members of the Australian population experiencing, or at immediate risk of, significant exclusion, mainstream services may not be sufficient or appropriate to mitigate against exclusion

7. Giving a high priority to early intervention and prevention

Heading off problems by understanding the root causes and intervening early

8. Building joined-up services and whole of government(s) solutions

Getting different parts and different levels of government to work together in new and flexible ways to get better outcomes and services for people in need

9. Using evidence and integrated data to inform policy

Finding out what programs and services work well and understanding why, so you can share good ideas, keep making improvements and put your effort into the things that work

10. Using locational approaches

Working in places where there is a lot of disadvantage, to get to people most in need and to understand how different problems are connected

11. Planning for sustainability

Doing things that will help people and communities deal better with problems in the future, as well as solving the problems they face now

4. CLCs: socially inclusive legal service delivery

In their strategic and community development approach to legal service delivery, community legal centres are at the forefront of socially-inclusive legal and related service delivery in Australia.

It is often not immediately apparent to governments that legal services have a role to play in reducing social exclusion. Many people assume that legal services are there to fix immediate legal crises. There is no question that this triage role of legal services is important, and CLCs do this work alongside Legal Aid Commissions and other legal assistance services. Indeed, CLCs are often the last port of call of people in crisis who are unable to get assistance elsewhere.

But CLCs do more than this. They work to try and prevent legal problems arising in the first place, both with individual clients and with communities.

The first CLCs formed in the 1970s differentiated themselves from the work of other legal providers through

a collective rather than an individualistic approach; the greater emphasis on social reform rather than a case-by-case approach to assistance; and the partnership with non-lawyers, approaching legal problems in the context of the total needs of the disadvantaged.¹²

So while the language of social inclusion may be relatively new in Australia, the principles of self-empowerment, holistic service delivery, community development, and stakeholder partnerships have always been advocated by CLCs.

Community development in particular has been identified by Tony Vinson as a major fore-runner to social inclusion.¹³ They share the same philosophy: that in any provision of services to disadvantaged communities

it is vital to do more than simply provide tangible assistance. Rather the challenge is to make such assistance a medium for strengthening the capacities required by a self-managing, problem solving community whose members are capable of 'pulling together' to achieve common goals.¹⁴

CLCs have risen to this challenge over the years with their development of the Strategic Service Delivery Model. There is a striking similarity between many of the features of this model and the Social Inclusion Principles. The rest of this paper provides case studies illustrating the way in which CLC practice and philosophy accords with individual Social Inclusion Principles. Appendix 1 shows how the principles fit with key features of the Strategic Service Delivery Model.

Principle 1: Reducing disadvantage

Making sure people in need benefit from access to good health, education and other services

Legal problems can have a devastating effect on people's lives. Research shows that people who are already disadvantaged or socially excluded are more likely to experience legal problems than other people;¹⁵ that legal issues can bring about a range of social, economic and health problems;¹⁶ and that unresolved legal issues can reinforce and bring about social exclusion.¹⁷ Legal problems

¹² Noone, M.A., 'The Activist Origins of Australian Community Legal Centres' (2001) 19 *Law in Context* 128, p 97.

¹³ Vinson, T. for the Australian Government, *Social Inclusion: Markedly Socially disadvantaged localities in Australia: Their nature and possible remediation* (2009). At: <http://www.socialinclusion.gov.au/Pages/ResearchPapers.aspx> (viewed 21/04/09).

¹⁴ Vinson, above.

¹⁵ Pleasence, P., *Causes of Action: Civil Law and Social Justice* (2nd ed, 2006), p 155. At <http://www.lsrc.org.uk/publications.htm> (viewed 27/06/09).

¹⁶ Pleasence, P., Balmer, N.J., Tam, T., Buck, A., Smith, M. and Patel, A., *Civil Justice in England and Wales: Report of the 2007 English and Welsh Civil and Social Justice Survey* (2008), London, Legal Services Commission, LSRC Research Paper No. 22, see chapter 3. At <http://www.lsrc.org.uk/publications.htm> (viewed 27/06/09).

¹⁷ Pleasence, note 15, p 155.

are not problems that should concern only lawyers and those charged with civil law policy development. They are problems that should be of general concern since they relate to and impact on health, education, housing, welfare, commerce, citizenship, policing and communities. They are, in sum, problems that should not be associated narrowly with civil law, but broadly with social justice.¹⁸

Any society keen to tackle disadvantage and social exclusion must therefore ensure that disadvantaged people are given a “fair go” in the justice system, so that they are able to resolve legal problems and take up their rights to access other services without being hindered by their life circumstances.

CLCs lead the way in ensuring this “fair go”. Usually located in areas of significant socio-economic disadvantage or hubs easily accessible by public transport, CLCs are often the first port of call for anyone with a legal problem, and they can be the last hope for those rejected for assistance by private, government and other legal service providers.

Although CLCs provide free legal information and advice to virtually anyone who walks in the door, they target their more intensive legal services – casework, advocacy, court representation, community education, and law and policy interventions - to those experiencing or most at risk of social exclusion. Key target groups include homeless people, people with disabilities, economically disadvantaged women, Aboriginal and Torres Strait Island people, refugees and newly arrived migrants, people from culturally and linguistically diverse backgrounds, social security recipients, people in prison or ex-prisoners, young people, and older people.

CLCs are also there in times of crisis.

Case study: CLCs assisting people deal with Global Financial Crisis

The Global Financial Crisis began making itself felt in Australia in late 2008. CLCs observed the impact almost immediately. National statistics show that there was a 20% increase in employment-related inquiries and casework services provided by CLCs in the 6 months July 2008 -January 2009 compared to the same period the previous year.¹⁹ The number of cases opened relating to credit and debt rose by 23%, while tenancy inquiries rose by 20%.

Illawarra Legal Centre is one CLC that sees the effect of the GFC every day. The centre is located in the public housing suburb of Warrawong and covers the Illawarra region on the coast 100 km south of Sydney. Its economy is mostly dependent on the steelworks, port, and manufacturing, all industries suffering under the Global Financial Crisis due to the sudden loss of export demand. For example, in February 2009 Pacific Brands (manufacturer of Bonds and other brands) announced they were closing all their Australian factories. Closure of the Illawarra factory will put 300 low-income people out of work in the next 12 months.

A Four Corners Program shown on 20 April 2009 provided a detailed look at the effect of the downturn on the people of Illawarra.²⁰ The story also provided a clear illustration of the intergenerational and cyclical pattern of lack of education, unemployment, welfare-dependency, depression, drug and alcohol dependency, crime, and violence.

In May 2009 Illawarra Legal Centre conducted an analysis of their legal services to monitor the effect of the downturn on their community. Comparing October 2008 to March 2009 to the same period for 2007-08, the centre has experienced changes in demand and complexity across many

¹⁸ Pleasence, note 15, pp 153-154.

¹⁹ Commonwealth Legal Services Information System (CLISIS), reports run 15/04/09 comparing number of information, advice and casework services provided 01/07/07-31/01/08 with those provided 01/07/08-31/01/08. Note that CLISIS only captures the services of those centres funded under the Community Legal Services Program, which are 130 out of the 200 community legal centres across Australia,

²⁰ Australian Broadcasting Corporation, http://www.abc.net.au/4corners/special_ed/20090420/unwork/

areas. The centre is now developing adjustments to their service delivery plan to prioritise those most in need during the economic downturn.

- *Financial counselling – a 22% increase in advice and an 80% increase in casework has led to a 3-week blow-out in appointment waiting times*
- *Credit and debt – a 105% increase in advice and 50% increase in casework services has put huge pressure on the solicitors, with different options being considered to meet the demand*
- *Child support – an 80% increase in casework due to a greater number of people presenting in hardship, for example where the resident partner loses employment and is more vulnerable to the other partner failing to pay child support*
- *Welfare rights - while assistance levels remain the same, clients are presenting in greater economic hardship than in the past, with a common problem being someone losing their job, used severance pay to pay off long-term debts, applying for Centrelink benefits and only then discovering that payments and waiting periods are calculated in relation to the severance pay and not in relation to their current lack of funds*
- *Tenancy – although assistance levels remain similar, tenants advocates report an increase in inquiries about termination and have had to limit casework to matters where people are at immediate risk of eviction; duty advocates attending the local Tenancy Tribunal are being asked to represent a larger number of people which results in more work in each case; the tenancy service has had to abandon travel plans to run community education sessions on the far south coast*
- *Employment – assistance levels have only increased slightly, but the centre has decided to promote its services in employment law through community education for local community service workers about the rights of people being made redundant.*

Principle 2: Increasing social, civil and economic participation

Helping everyone get the skills and support they need so they can work and connect with community, even during hard times

When someone experiences a legal problem, their ability to participate in social, civil or economic life can be severely curtailed. This is even more so for disadvantaged people whose legal problems are often the problems of every-day life and affect basic rights and services, such as the right to housing, employment, income support, and safety from violence. For example, it has been found that there is often a direct causal link between homelessness and previous legal problems.²¹ It is therefore crucial that disadvantaged people receive quick, free and professional legal support to resolve such problems. However it is also important to assist people to gain skills and confidence to prevent legal problems recurring in the future.

For this reason, although CLCs provide advice and casework services to those most in need, they also work with clients and communities to increase their knowledge of their legal and human rights. CLCs have always recognized that such education is crucial to decreasing the prevalence of legal problems, and increasing the participation of disadvantaged people, in civil society. This is why CLC staff use plain English to explain the law, assist clients to develop their own knowledge, resources and skills, and encourage clients to advocate for themselves and to be more assertive with government and corporations.

Through their strong referral networks and partnerships, CLCs also put clients in touch with local support agencies such as neighbourhood centres, community health centres, migrant resource centres, homeless outreach services, or domestic violence services. Sometimes it takes a crisis for people to discover that there are services available to support them participate more fully in social, civil and economic life.

Case study – A Rights Leadership course for people with intellectual disabilities

²¹ Homeless Person's Legal Clinic of the Public Interest Law Clearing House (Vic), *Improving the administration of justice for homeless people in the court process* (2004). At http://www.pilch.org.au/Assets/Files/Report_of_the_Homeless_Persons_Court_Project_2004.pdf (viewed 21/05/09).

The Intellectual Disabilities Rights Service (IDRS) in Sydney runs a 'Rights Leadership' course for people with intellectual disability. The course is run four times a year and is co-taught by two educators, one of whom has an intellectual disability. This course of six sessions informs participants about their legal, human and social rights and responsibilities. Topics covered include:

- *Rights where you live*
- *Rights where you work*
- *Rights as a member of the community*
- *Standing up for yourself and others.*

James was one of the first participants in the course. He had been a client of IDRS for a few years. He was often in trouble with police, State Rail and security officers, and had spent some time in gaol. After attending the leadership course, he became passionate about the rights of people with intellectual disabilities in the criminal justice system, and became active as a representative of people with intellectual disabilities. In 2008 James won the NSW Justice Awards - Volunteer of the Year Award. James is now employed as a part time co-educator at IDRS.

*Gerard is a young man with Downs Syndrome who attended the course in 2008. He had always wanted to be an actor. A filmmaker filming the rights leadership course for a documentary was so impressed with Gerard she asked if he would make a film with her. The short film, *Be My Brother*, won Best Film at 2009 Tropfest Film Festival and Gerard won Best Actor.²² Gerard is now pursuing a career in acting.*

Case study – Increasing participation of disadvantaged people in environmental processes

The Environmental Defender's Offices (EDOs) throughout Australia are CLCs specialising in public interest environmental law. Their objectives are broadly to empower the community to protect the natural and built environment through the law, recognising the importance of public participation in environmental decision-making, the importance of environmental law and policy frameworks in ensuring sustainable development and environmental protection and the importance of Indigenous involvement in protection of the environment.

In recognition that people from disadvantaged communities are often the least likely to complain about the effect of environmental issues on their lives, EDOs have increasingly sought to educate such communities and encourage their participation in environmental processes. The following is a snapshot of the work of the EDOs with disadvantaged communities

- *Education and advice on pollution issues in disadvantaged regions of Australia – for example*
 - *Assistance to residents of Whyalla to make the One Steel pellet plant accountable for red dust damaging the health of the community - EDO SA*
 - *Work with communities around the mining town of Lithgow to bring a pollution case that has resulted in contamination of Sydney Catchment's drinking water - EDO NSW*
 - *Advice and support to a pensioner near Perth whose only source of drinking water was contaminated by the local tip, forcing him to fill up water bottles at a local service station - EDO WA.*
- *Education and advice to Indigenous people - for example*
 - *Assistance to Traditional Owners to understand their rights in their dispute with Xstrata over the redevelopment of the McArthur River mine in Borroloola NT - EDO NT with support from EDO NSW*
 - *Advice to Traditional Owners on changes to the Cook Shire Planning Scheme - EDO North Queensland*
 - *Review of natural resource management legislation for the Murray Lower Darling Rivers Indigenous Nations - EDO NSW and EDO Victoria.*

²² Tropfest, <http://www.tropfest.com/home/pressroom.aspx?articleid=118> (viewed 29/06/09).

Principle 3: A greater voice, combined with greater responsibility

Governments and other organisations giving people a say in what services they need and how they work, and people taking responsibility to make the best use of the opportunities available

Since their inception in the late 1970s, community legal centres have been motivated by the community development philosophy that seeks to give disadvantaged clients and communities a greater voice. This philosophy and approach underpins CLC operations. For example, many CLCs actively seek former clients and community groups in their management structures; consult with key communities when determining legal need and service design; and seek formal and informal feedback from clients when evaluating service delivery.

Case study – Mental Health Legal Centre Victoria

Victoria's Mental Health Legal Centre involves its community – clients and people with experience of the mental health system - in all aspects of its services. Three examples are:

- *The Centre's constitution requires that at least three members of the committee of management are consumers of the mental health system, and contains a range of participation policies including that consumer members receive an expense allowance for their participation and that selection panels for Centre jobs include a consumer representative from the Committee*
- *Community legal education activities are often conducted in consultation with consumers – for example a consumer focus group to revise the centre's Patients' Rights Booklets*
- *Consumer views influence policy and law reform work – through individual client experience, targeted consultation and facilitating consumer participation in external processes – for example the centre arranged for a psychiatric survivor (as this person describes themselves) to present at a forum on the Review of the Victorian Mental Health Act.*

Principle 4: Building on individual and community strengths

Making the most of people's strengths, including the strengths of Aboriginal and Torres Strait Islander peoples and people from other cultures

CLCs work with many disadvantaged groups, such as people from culturally and linguistically diverse backgrounds, and Aboriginal and Torres Strait islander people. CLCs operate from a strength-based approach, whereby CLCs try and find a way to resolve problems that make sense to the particular individual, taking into account their cultural and other backgrounds.

Case study – Reaching out to African refugees

In 2007 Footscray Community Legal Centre in Victoria established a specialist African service to respond to the difficulties experienced by newly-arrived refugees in adjusting to Australian laws. Footscray CLC has on-site interpreters in African languages, provides outreach services to African communities and collaborates with settlement agencies to provide culturally appropriate legal information to new arrivals. The centre's financial counsellor helps resolve problems with utility bills, credit card debt and loan repayments that commonly arise within refugee communities.

The CLC felt there was a misconception in the community about the types of legal problems faced by African refugees. Media reports focus on crimes of violence, drugs and conflicts with police, but the centre found that most their cases involved simple misunderstandings about the way Australian systems work - unfair contracts, claims against uninsured clients after car accidents, unpaid fines. The centre also goes out into the community to educate people about common legal issues so they don't get into trouble in the first place.

In 2009 the centre received the Victorian Women's Trust's Essie Burbridge Community Award that recognises outstanding achievement by community organisations in promoting understanding and combating racism.²³

Case study - Reducing the barriers for Aboriginal women

The Women's Legal Service in Canberra was concerned about the low numbers of Aboriginal women attending their centre. They listened to local Aboriginal women and learned of the need for an Aboriginal-identified position at the Service so that Aboriginal women would feel able to use their services. In 2005, the Women's Legal Service established an Indigenous Women's Law and Justice Support Project that has resulted in:

- *Aboriginal clients receiving support in gaining appropriate legal assistance, navigation of court processes, and accessing other community and government services*
- *a doubling of numbers of Aboriginal women receiving advice from the Service*
- *an increase in the number of home visits to Aboriginal clients*
- *a range of community legal education activities including a two-day workshop for Aboriginal community support workers on domestic violence and family law.*

²³ Victorian Federation of CLCs, *Community Law News*, Summer 2009, p 6. At http://www.communitylaw.org.au/cb_pages/com_law_news.php (viewed 21/05/09).

Principle 5: Building partnerships with key stakeholders

Governments, organisations and communities working together to get the best results for people in need

Since the birth of the CLC movement over 30 years ago, CLCs have shown expertise in forging strong partnerships with Governments, other legal sectors, community organisations, and the community itself to improve access to justice for people who are at risk of social exclusion.

One of the strengths of the CLC sector is its utilisation of partnerships where on-the-ground services are scarce. For example, people living in rural regional and remote (RRR) locations in Australia are often dislocated from essential services, and CLCs have developed ways to partner with existing services in RRR locations to make use of local knowledge and relationships while providing legal services to isolated people in and around those communities.

Two examples of strong and innovative partnerships are provided below.

Case study – Partnership between a CLC, a university, and a community health centre

The West Heidelberg Community Legal Service in Victoria only has sufficient funding for 1-2 lawyers and some administrative staff. However the centre benefits from the support of two agencies: LaTrobe University, with which the centre runs a clinical legal education program, and Banyule Community Health, a large health centre co-located with the CLC. The university students increase the capacity of the centre to provide legal support but also increase the university's attractiveness to students wishing to gain practical skills or work in social justice. The co-location and strong relationship with the community health centre increases the profile of the legal service amongst disadvantaged communities and also allows the health centre's clients to have easy access to legal assistance. The health centre and the legal service benefit through cross-over of board membership, use of a common reception area, use of quick and accurate referrals between staff of the two organisations, and a greater understanding of the connection between health and legal problems.²⁴

Case study – Partnership between a CLC and community justice centre in Innisfail, North Queensland

Based in Townsville, the North Queensland Aboriginal and Torres Strait Islander Women's Legal Service has regular outreaches to communities with large Indigenous populations such as Cardwell, Tully, Innisfail and Yarrabah. Because the Service can only visit each town once a month, the key to its ability to provide services is the development of strong partnerships with local community organisations.

One example is the legal centre's partnership with the Indigenous Community Justice Group in Innisfail. Since Cyclone Larry in 2006, Innisfail has experienced a rental crisis affecting many Indigenous families. Rents have risen and low-cost housing is scarce. This causes evictions, insecure accommodation, overcrowding, and exacerbates family violence and child protection problems. Innisfail has no local legal services. The Community Justice Group is thus the key contact for Aboriginal and Torres Strait Islander people experiencing legal problems in and around Innisfail.

The legal centre has developed a close working relationship with the Justice Group, including:

- *seeing clients at the premises of the Justice Group during their visits*
- *providing legal information and advice over the phone to the Justice Group and their clients*
- *providing ongoing casework assistance, including drafting of court documents, for many women whose main contact point is through the Justice Group.*

²⁴ Noone, M.A., *Towards Integrated Legal Service Delivery*, Draft paper to the International Legal Aid Group Conference, Wellington New Zealand, 2009; from author m.noone@latrobe.edu.au.

Without this relationship, the legal service would find it impossible to access this extremely disadvantaged group of people.

At its heart a CLC is itself a product of a unique relationship between the community, various levels of government (as funding bodies), other community agencies (often involved in management of the centre or service delivery partnerships), and the private sector (private lawyers volunteering their services or law firms providing formal pro bono support).

CLCs harness an extraordinary amount of voluntary and pro bono support from private lawyers, law firms, students and ordinary people. In 2006, almost 4,000 volunteers - 2200 private solicitors and 1600 other professionals, students and ordinary members of the community- contributed a total of 300,000 hours with CLCs.²⁵ These volunteers provided CLC clients with legal advice; management committees with expertise; and staff with office support and other essential skills.

Formal partnerships between CLCs and law firms are also common, assisted in recent years by the National Pro Bono Resource Centre and government schemes such as the Victorian Attorney-General's Community Law Partnerships. Some examples of pro bono partnerships involving CLCs are:

- A Victorian city based firm and a rural and regional CLC have a 3 year memorandum of understanding where the firm provides a range of legal services, research and library support, strategic litigation and a potential secondment
- Mallesons seconds a full time lawyer position at the National Children's & Youth Law Centre on 3 month rotations;
- In 2005, the Darwin office of Clayton Utz commenced a project with the Top End Women's Legal Service (TEWLS) to provide civil legal advice services to the Indigenous community on Groote Eylandt
- Freehills provides short-term secondments to the Sussex St Legal Centre in Perth for all recently graduated lawyers in their Perth offices
- An ongoing commitment from a firm to open their internal professional development opportunities free of charge to all lawyers in CLCs in Victoria.

At local and peak levels, CLCs have forged strong partnerships with other legal assistance providers such as legal aid commissions, Aboriginal and Torres Strait Islanders Legal Services, Law Societies, Bar Associations, Indigenous Family Violence Services, and Government court services. CLCs have been at the forefront of developing formal partnerships such as

- The *Australian Legal Assistance Forum* – a partnership between National Legal Aid (all Legal Aid Commissions), the Law Council of Australia, the National Association of Community Legal Centres, and representatives of the Aboriginal and Torres Strait Islander Legal Services - that considers and addresses Australian legal assistance issues in a co-operative way
- *State Legal Assistance Forums* in NSW, Queensland, Victoria, (with proposals to establish one in WA, and a similar informal forum in SA possibly to be formalised in the future) - that bring together the major legal assistance agencies in each state, including the state CLC associations, with similar goals to that of the Australian Legal Assistance Forum
- *Cooperative Legal Service Delivery Partnerships* in 8 regions across NSW – regional legal inter-agencies, resourced by Legal Aid NSW but coordinated by a local organisation (often a CLC), that meet regularly to share information on legal trends or issues, identify service delivery gaps, and collaborate on service delivery initiatives
- The *Country Lawyers Graduate Program* - a joint initiative between the Law Society of Western Australia, Legal Aid WA, CLCs, the Aboriginal Legal Service and Family Violence Prevention Legal Services - which recruits, develops and rotates junior solicitors throughout these legal services in regional Western Australia.

The following case study provides a detailed example of a recent CLC/stakeholder partnership in Victoria.

²⁵ Calculated from figures provided to NACLCL by CLCs participating in the National Professional Indemnity Insurance Scheme, these are not all centres and these figures are therefore less than the total number for all CLCs.

Case study - Victorian Bushfire Legal Help

The bushfires of February 2009 brought the Australian community together in an unprecedented show of support for the thousands of people who lost family members and homes. The Victorian legal fraternity also responded quickly. Community legal centres located in the fire-struck regions, as well as the peak Victorian Federation of CLCs and the Public Interest Law Clearing House, worked with Victoria Legal Aid, the Law Institute of Victoria and the Victorian Bar to create Bushfire Legal Help (BLH). BLH includes:

- *a helpline providing legal advice on topics as diverse as deceased estates, employment rights where people could not go to work, disputes about fire-damaged properties, rights to appear in the Royal Commission, and insurance*
- *face-to-face legal help in the main fire-affected towns coordinated by a local lawyer, most commonly from a CLC*
- *casework taken up by lawyers from CLCs, Legal Aid and private firms*
- *training on relevant topics provided to all lawyers working with BLH*
- *the development of new resources.*

The expertise of CLCs was particularly relevant in shaping BLH: their contacts in local communities and their experience in training volunteers, coordinating rosters, developing Plain English resources, and working with people in crises proved invaluable. Victorian CLCs drew on the collective community response experience of CLCs in other parts of Australia that had previously assisted people affected by natural disasters such as floods and cyclones.

The Commonwealth Government assisted CLCs in the additional work caused by the bushfires with some additional emergency funding. Four months after the bushfires, CLCs continue to provide assistance with their local communities. As just a few examples, Eastern CLC provides outreaches in Healesville and Yarra Glen and adapts these outreaches as feedback came from clients and agencies in these areas. Gippsland CLC has run insurance workshops with the Insurance Ombudsman Service at Boolarra, Traralgon South and Drouin. Whittlesea CLC, which covers Kinglake, has taken on a secondee from Victoria Legal Aid who will provide specialised legal advice, casework and community education until the end of 2009. PILCH has hired a dedicated 'bushfire lawyer' to assist with the inquiries being referred through the BLH hotline, and continues to monitor the Royal Commission process with a view to encouraging increased public participation in the Royal Commission.

Principle 6: Developing tailored services

Services working together in new and flexible ways to meet each person's different needs. For some members of the Australian population experiencing, or at immediate risk of, significant exclusion, mainstream services may not be sufficient or appropriate to mitigate against exclusion

The CLC sector has developed a unique 2-pronged model over the past 30 years to meet the legal needs of Australia's most disadvantaged people. About half of all CLCs are generalist, servicing disadvantaged people in a particular geographic region, while the other half are specialist centres focusing on particular groups with special needs, for example young people, Aboriginal and Torres Strait Islander women, tenants, consumers, people with disabilities, social security recipients, and older people. Specialist centres work closely with their client groups and design their services to cater specifically to their needs. Specialist centres also provide training and back-up expertise to generalist CLCs, other legal agencies and the community sector.

Case study – Homeless Persons Legal Clinics

Homeless Persons Legal Clinics or Services have been developed over the past 10 years by Public Interest Law Clearing Houses (PILCH), a particular type of specialist CLC. The original HPLC was set up by the Victorian PILCH, but similar services are now running in Qld and NSW.

The Victorian Homeless Persons Legal Clinic provides legal services at crisis accommodation centres and welfare agencies around Victoria to encourage direct access by clients. Host agencies include Melbourne Citymission, The Big Issue, St Vincent de Paul Society, the Salvation Army, Anglicare, Hanover, Vacro, Koonung Mental Health Centre, and Loddon Mallee Housing Service.

Legal advice clinics are run by pro bono lawyers from law firms who receive training and support by staff at PILCH. Main areas of law for the clinics are fines and infringements, housing and tenancy, social security and dealing with Centrelink, victims of crime, discrimination, credit and debt and guardianship and administration orders.

In addition to providing legal services, the Victorian Homeless Persons Legal Clinic undertakes law reform and public policy activities to improve the laws and policies that impact on people experiencing homelessness. The Homeless Persons Legal Clinic also conducts a range of community legal education and consumer participation activities. In particular, the Homeless Persons Legal Clinic auspices a Consumer Advisory Group made up of people who have experienced homelessness or who are currently homeless.²⁶

Generalist CLCs are often the first point of contact for extremely disadvantaged people, many of whom present with “clusters” of social and legal problems, for example, in areas of tenancy, debt, and family abuse. CLCs know that legal problems rarely occur in isolation. CLCs focus on the client rather than the legal problem, and so try and assist the client to resolve as many of the problems as possible. Where the centre does not have the funding or in-house expertise to assist with specific problems, they work closely with other agencies.

Case study - How a holistic centre can help disadvantaged clients

Geraldton Resource Centre is a generalist community legal centre servicing about a fifth of WA, much of it rural or isolated coastal communities. In 2006 Mary, an Indigenous woman with 3 children, attended the Centre seeking food from the Centre’s Emergency Relief (ER) scheme. Mary revealed that family violence and financial abuse brought her into crisis. The ER officer immediately gave Mary a food hamper and voucher, but she also invited Mary to talk to other staff at the Centre who could help with financial, housing or legal issues.

Over the next week, and through the next year, staff from across different programs at the Centre assisted Mary and her children with

- *Violence Restraining Orders*
- *refuge accommodation followed by long-term Department of Housing*
- *clothing and furniture for the new house*
- *Family Court orders relating to the children’s care*
- *debt negotiation, budgeting, and financial literacy education through its Indigenous Financial Literacy (MoneyBusiness) program, and*
- *criminal injuries compensation.*

Three years on, Mary is a confident mother. She is much more financially secure, working part time, studying for a Certificate of Business Studies and volunteering with an NGO. She has purchased a car and has taken her children on a holiday funded through the first savings plan she has ever managed. The father has contact with the children, and the children are succeeding at school. Mary is also keen to assist other women facing similar problems. Mary reflects on when she first attended GRC nearly 3 years before.... "But I only wanted food....."

²⁶ <http://www.pilch.org.au/hplc/>

Principle 7: Giving a high priority to early intervention and prevention

Heading off problems by understanding the root causes and intervening early

Amongst all the legal service providers in Australia, CLCs place the greatest focus on employing early intervention strategies that prevent problems arising in the first place. An economic analysis of the value of CLCs stated the following.

It is important to emphasise that the value of [the] preventative work [provided by CLCs] is far greater than the reactive costs that would be incurred in the absence of such services. The fence at the top of the cliff not only saves lives, but it is also much cheaper than the ambulance at the bottom.²⁷

The CLC Strategic Service Delivery Model allows centres to identify common causes of people seeking assistance and then design service delivery in such a way as to reduce the need for assistance. Preventative strategies used by CLCs include community education projects that assist individuals or communities to identify legal problems at an early stage and, where possible, use their own advocacy skills to resolve those problems before they escalate or become intractable.

Case study – Educating young people about their rights and responsibilities

The Youth Legal Service in Western Australia has a comprehensive community legal education program which aims to educate young people and youth workers about avoiding legal problems. In the financial year 2006/2007 the legal service conducted 82 community legal education workshops. Topics included

- *A Law Education Program provided to young people aged between 10 - 18 years, and their parents or guardian, as a diversion option from the Children's Court and/or an action plan option for Juvenile Justice Teams. The program examines offending behaviour, encourages the young person to take responsibility for his/her behaviour, explores the consequences of future offending, and provides information about legal rights and responsibilities.*
- *Planning and budgeting – a practical workshop for young people which uses an interactive quiz to determine how well each person knows his/her finances, then guides participants through the development of a financial plan for savings and living expenses. The workshop considers spending leaks (eg take away food, gambling), budget busters (how to reduce costs), impulse buying, pre-existing debts and life events.*
- *Young people and public space – a workshop exploring the laws and regulations governing peoples' behaviour in public space. The workshop uses quizzes and role-playing to identify the powers of various agencies in enforcing those laws. The aim is to increase young people's awareness of the consequences of certain behaviour in public space.*

An extremely important prevention strategy used by CLCs is policy and law reform. Through their casework and information from their communities, CLCs are quickly able to identify a policy, law or legal process that unfairly impacts on disadvantaged groups. CLCs engage policy-makers in a dialogue about these problems and offer possible solutions. If governments then change the relevant policies, laws or systems, CLCs return to the front-line to educate affected groups about the change. This cycle nicely represents the holistic nature of CLC work.

Engaging in policy and law reform work can be both effective – in that this work resolves or reduces a particular legal problem for the CLC's current clients - and efficient, because in altering the legal or political landscape, it reduces the number of people who would have potentially become clients of that CLC.²⁸

²⁷ Institute for Sustainable Futures, University of Technology Sydney, *The Economic Value of Community Legal Centres* (2006) commissioned by NACLCLC and the Combined Community Legal Centres' Group NSW. At www.naclc.org.au.

²⁸ Rich, N, *Reclaiming Community Legal Centres: Maximising our potential so we can help our clients realise theirs* (2009), p 14. At <http://www.consumeraction.org.au/publications/policy-reports.php> (viewed 16/06/09).

Case study – Fines law reform campaigns

Infringement notices and on-the-spot fines are an increasingly common way of enforcing administrative offences. Examples include street offences (eg littering, urinating or spitting in a public place, drinking alcohol in prohibited areas), public transport infractions (eg putting feet on seats, travelling without a ticket, smoking on a station), minor traffic violations (eg parking in a No Parking zone), and in some states, cannabis fines and minor thefts. If fines are not paid, people can be pursued by the Sheriff's office, Government or private debt collectors for the unpaid debt; be required to pay additional administrative costs; have their license suspended; and in some states could be imprisoned, all without necessarily appearing before a court.

In Victoria during the 1990s, CLCs saw increasing numbers of disadvantaged people – homeless people, people with intellectual or mental disabilities, people with low literacy, or a combination of all these factors – presenting to CLCs with thousands of dollars of debt due to unpaid fines. Many of these people had no capacity to understand the complicated procedures for clearing the debts. The CLCs set up a Working Group (now known as the Infringements Working Group) consisting of legal assistance services, financial counsellors and welfare agencies. This group met regularly to exchange de-identified case histories and identify key problems with the laws and policies – including mistakes made by the administrative bodies enforcing the fines, and the system failing to take into account clients' circumstances, eg that they have no capacity to pay, or were homeless. Between 1994 and 2005 the Working Group adopted a variety of strategies to reduce the effects of the Infringement system on disadvantaged people. These strategies included:

- *producing a simple booklet explaining the process to clients*
- *producing and running a community education package for community workers*
- *identification of legal and human rights breaches*
- *media attention on case stories including a man beaten while being imprisoned for non-payment of fines*
- *a test case against the Department of Correctional Services concerning a woman who had been imprisoned for 4 weeks for non-payment of fines but had never appeared before a court, and*
- *detailed submissions and advocacy to the State Government and fine-issuing agencies on how the system should be changed.*

These strategies were effective. In 2000 correctional policy was changed as a result of the successful test case, with an increase in options after an arrest for non-payment of fines. In 2002 the Magistrates Court and Office of the Sheriff implemented a special circumstances list for people who defaulted on fines due to homelessness, mental illness, intellectual disability, and so on. In 2004-2005 the fines law was reviewed by the Victorian Government. The new Infringement Act 2006 adopted many of the submissions made by CLCs over the previous 10 years. The outcome for disadvantaged people in Victoria facing legal action for fines is now much improved.

Principle 8: Building joined-up services and whole of government(s) solutions

Getting different parts and different levels of government to work together in new and flexible ways to get better outcomes and services for people in need

In the legal assistance sector, CLCs are at the forefront in planning and delivering holistic and flexible services. CLCs such as Geraldton Resource Centre in WA (see case study under principle 5) have been successful in broadening their services to deal with many of a client's issues in-house. Often these services are provided through funds from other Commonwealth, state or territory government departments, for programs such as tenants advice services, domestic violence support services, and financial counseling. Centres also seek project funding from philanthropic organisations and local councils, which also contribute to many CLCs through subsidising rents.

This drive to seek and retain a diversified source of funds has fostered within the CLC sector an expertise in working with different levels of government and the private sector to provide a cohesive service to disadvantaged people. However it also means that, like much of the community sector in Australia, CLCs spend a great deal of administrative time fulfilling reporting and accountability requirements of different funding programs.

While some CLCs have developed a “joined-up” service within their own organisation, many other CLCs maintain a distinctly legal identity and expertise, and instead build up strong relationships and “warm” referral protocols with key welfare and government agencies. The strength of such relationships and protocols are crucial to ensuring that disadvantaged people are not sent off on the “referral round-about”. Evidence from Australia and internationally shows that clients who are referred to more than one legal or community agency often suffer from “referral fatigue” and simply stop seeking resolutions of their problems.²⁹ CLCs therefore work hard to reduce the possibility of referral fatigue through strong relationships at a local and state-wide level to improve referral and collaboration between agencies.

The Victorian Bushfire Legal Help case study described under principle 5 shows how a joined-up approach to legal service delivery can be created quickly in times of crises, and the value of CLC expertise in ensuring results are delivered to people in need. The following case study also illustrates how CLCs work with government and communities to protect the rights of disadvantaged people.

Case study: CLCs intervening in the Northern Territory Intervention

In late 2007, in response to the report Little Children are Sacred which detailed abuse of Aboriginal children in the NT, the Australian Government announced a “national emergency” intervention into Indigenous communities in the NT. The intervention included an income management regime that quarantined 50% of social security payments of Aboriginal people living in specific communities, for food and other essentials. Welfare payments were also linked to children’s school attendance.

The National Welfare Rights Network, which consists of all welfare rights advocates at CLCs around Australia, were immediately concerned that Aboriginal people would not understand their rights or responsibilities under these new laws, and that lawyers and community workers in the NT may also need expert assistance.

The National Association of Community Legal Centres and the Welfare Rights Network successfully sought funding from the Attorney-General’s Department for a senior welfare rights solicitor to visit the NT, meet local CLCs and other legal services, consult with major stakeholders including Centrelink, travel to affected communities, consult with Aboriginal people, and gather information about what was happening on the ground and what was needed in terms of ongoing social security advice and information. This worker provided information and drafted factsheets for NT legal practitioners on all aspects of the income management regime, which were then simplified into material for clients.

After this initial scoping project, the National Association of CLCs, in partnership with the North Australian Justice Agency and the Central Australian Aboriginal Legal Aid, received funding for a Welfare Rights Outreach Project in the NT. The Commonwealth Attorney-General’s Department provided funding for four welfare rights solicitor positions, two based in Alice Springs, two in Darwin. All four workers recruited were experienced CLC workers. In addition to advice and casework services, these workers provide education on social security issues to Aboriginal communities as well as community and government workers.

On another front, CLCs have been active in calling on the Australian Government to observe the legal and human rights of Aboriginal people under the NT Intervention. In 2008 and 2009, concerns about the Intervention were outlined by the National Association of CLCs, the Human Rights Legal Resource Centre and Kingsford Legal Centre in their series of reports to the United Nations on

²⁹ Pleasence, P, Buck, A., Balmer, N., O’Grady, A., Genn, H., and Smith, M., *Causes of Action: Civil Law and Social Justice* (2004), Legal Services Commission. London. At <http://www.lsrc.org.uk/publications.htm> (viewed 15/05/09).

Principle 9: Using evidence and integrated data to inform policy

Finding out what programs and services work well and understanding why, so you can share good ideas, keep making improvements and put your effort into the things that work

The CLC sector increasingly draws on, and contributes to, evidence and research that can improve CLC service delivery. This research includes

- empirical studies, such as those conducted by the UK Government and the NSW Law and Justice Foundation relating to people's legal needs and their experience in accessing legal services
- a wide range of NACLCL, state CLC association and individual CLC research projects, for example, research into the effect of CLC law reform campaigns,³¹ research into the legal needs of CLC priority client groups,³² surveys of the extent and value of pro bono legal activity in Australia,³³ research into the economic value of CLCs,³⁴ and a study of the experience of prisoners³⁵
- field research – the on-the-ground experience of individual CLCs with disadvantaged people and communities, including cases, consultations, workshops, and other feedback from community members
- national and state CLC conferences and network meetings, which bring together CLCs to discuss their experiences and identify trends.

At the level of the individual CLC, the Strategic Service Delivery Model advocated by NACLCL entrenches the requirement to research the legal needs of the CLC's catchment area, communities and target groups. This research is then used to strategically plan service delivery so that centres' resources are directed towards those most in need and in the most appropriate and effective manner.

In NSW, the Strategic Service Delivery Model is being further tested and refined through a collaborative research project.

Case study: Legal Needs and Strategic Planning Research Project

In 2008-2009 the Combined Community Legal Centres' Group NSW has been working with the Law and Justice Foundation of NSW and Legal Aid NSW on a project about Legal Needs and Strategic Planning. The project uses two pilot NSW CLCs, one specialist and one rural generalist centre, to determine how individual CLCs can improve the way they assess legal need in their communities and translate that need into service delivery. The project includes:

- *The development of a tool to predict the legal need in a particular geographic region*
- *Legal needs research for the two pilot centres - identifying legal needs of their communities through research and data, identifying the legal services that already exist, noting the gaps between legal need and existing services, and producing a report on this research for the pilot CLCs;*
- *Strategic planning with the two pilot CLCs to re-focus service delivery on any identified unmet legal needs;*
- *Monitoring of the project to track time and resource implications for other CLCs; and*
- *Creating a "Legal Needs-based Service Planning Tool" which includes templates and guides for CLCs on how to conduct their own legal needs research and use it for their strategic planning.*

³⁰ <http://www.hrlrc.org.au/our-work/law-reform/ngo-reports/>

³¹ Curran, Liz, 2007, *Making the legal system more accountable to community, A Report on the Impact of Victorian Community Legal Centre Law Reform Initiatives*, for West Heidelberg Community Legal Service.

³² Community Legal Centres Association of WA, <http://www.communitylaw.net/Table/Priority-Client-Resource/menu-id-48.html>

³³ National Pro Bono Resource Centre, <http://www.nationalprobono.org.au/page.asp?from=4&id=36>

³⁴ Institute of Sustainable Futures, University of Technology Sydney, 2006, *Economic Value of CLCs*, , op cit.

³⁵ Prisoners Legal Service Inc (Qld) with Catholic Prison Ministry, 2008, *2008 Report on Queensland Prisons*

This project, due for completion by late September 2009, will lead to a more effective targeting of services provided to disadvantaged people by CLCs in NSW, and if further funding is available to extend the project, throughout Australia.

Principle 10: Using locational approaches

Working in places where there is a lot of disadvantage, to get to people most in need and to understand how different problems are connected

There are 88 generalist CLCs located throughout Australia, from Darwin in the Top End, to Launceston in Tasmania, the Kimberly in Western Australia and Lismore in NSW. The vast majority of these generalist services are physically located in disadvantaged communities, and to the extent that their resources allow them, cover wide geographic regions of disadvantage. Unfortunately there are notable gaps in coverage where no funding exists for CLCs in key disadvantaged areas.³⁶

Many generalist CLCs owe their existence to local communities identifying the need for local legal services and developing a local community response. For example, Fitzroy Legal Service in Victoria was formed in the early 1970s after a public meeting at the local town hall, and for several years “lawyers would put themselves at the disposal of the community which would decide policy at public meetings.”³⁷ The type of services offered by centres at their inception was also a product of the local community’s regional needs.

Case study: Mackay Regional CLC: a community response to a regional problem

Mackay is a fast-growing regional centre on the Queensland coast between Townsville and Rockhampton. In 2002, women attending a domestic violence resource service in Mackay repeatedly raised the problem of a lack of family law services in the area. These women couldn’t afford private lawyers, and although they were usually eligible for legal aid, there were only two firms in the region taking legally aided family law clients and often the women were conflicted out because their partners had already been to these firms. A private solicitor on the management committee of the domestic violence service began voluntarily providing legal advice to clients of the service, and then the service made a successful application for a small amount of funding from the Queensland Government to scope the legal needs of the region. A steering committee was established to assist a project worker conduct the legal needs analyses.

In 2002-2003, the legal needs project worker consulted widely with lawyers, community workers and the general public in the region. A Discussion Paper recommended that a generalist community legal centre be established to service the region stretching about 150km north and south, and 300km west of Mackay. Family law was seen as the burning issue but also there was a high demand for just general legal advice. Although the paper acknowledged there was no likelihood of recurrent government funding in the immediate future (and in fact even the legal needs scoping project ran out of money in December 2003), the paper identified that there was sufficient volunteering interest from local private lawyers to set up a voluntary service. Townsville CLC took an active role in mentoring the emergence of the Mackay CLC as it had previously assisted clients from Mackay.

The Mackay Regional Community Legal Centre opened its doors in February 2004 in the premises of a neighbourhood centre. From the beginning there were three pools of volunteers who operated the service:

- *Volunteer lawyers who were rostered on to provide advice at twice-monthly evening advice sessions*
- *Volunteer social workers who attended all advice sessions to provide support, assistance and referral to clients, and*

³⁶ Australian Attorney-General’s Department (2008) *Review of the Commonwealth Community Legal Services Program*, Attachment F.

³⁷ Neal, D “Ten Years After: The Victorian Centres”, in Neal, D. (ed) 1984 *On tap, not on top: Legal centres in Australia 1972-1982, Special Edition of Legal Service Bulletin*

- *Community members who volunteered to run the centre, answering the phones and performing all the administrative tasks required to keep the centre open.*

In July 2005 the centre was granted recurrent funding from the Queensland Community Legal Services Program that allowed, and continues to allow, the centre to employ a solicitor and an administrator. Additional part-time positions including a Community Liaison Officer are funded from a variety of other sources. The centre continues to have a strong voluntary advice roster staffed by lawyers and social workers. In keeping with the demands of the community, the most common area of law the centre deals with is family law, but increasingly the centre is being used as the first port of call for people with any legal problem in Mackay and the regions. The centre's staff are active in other community organisations in the region, including the Family Relationship Centre and Children's Contact Centre.

Because of their location within disadvantaged communities, some CLCs engage in innovative community development projects that are not strictly “legal” but more designed to improve the self-esteem of people within a disadvantaged region and create gateways to the use of legal services by local people. The outcome is a more resilient, assertive and knowledgeable community.

Case study: Katherine Galahs footy team, Northern Territory

Like many CLCs in rural Australia, Katherine Women's Information and Legal Service (KWILS) services a staggeringly large region: approximately 380,000km² between Alice Springs and the Top End. In the Katherine region many young women are caught in a cycle of violence and intergenerational disadvantage. KWILS tried to find ways to reach these women. The CLC secured a grant to develop a Katherine women's AFL team, with the goal of educating young women about being stronger within themselves and choosing healthier lifestyle choices. The Katherine Galahs footy team was formed in 2005, with young women (aged 15 and older) learning about the team through fliers, emails, the local high school and word of mouth. The CLC workers formed strong relationships with the young women, and had many opportunities to talk to them individually or as a group about legal and non-legal issues going on in their lives. Although the team folded three years later, there was and still is a great deal of pride amongst those who were involved: a sense of achievement for these young women living in an extremely disadvantaged community with limited social or community engagement opportunities.

Principle 11: Planning for sustainability

Doing things that will help people and communities deal better with problems in the future, as well as solving the problems they face now

Improving the capacity of individuals and communities to deal better with future legal problems is a key goal of community legal centres – see Principals 2, 7 and 10. This capacity-building work however is needed not just with disadvantaged people and communities, but with the community legal centres themselves. The sustainability of the CLC sector is crucial to the ability of centres to assist disadvantaged individuals and communities into the future. The national and peak CLC bodies work together with governments and other legal agencies to improve the capacity of CLCs, for example, through

- improved learning and development resources and opportunities for CLC staff and volunteers
- governance training for management committee members
- advice and assistance in organisational development
- improved information technology initiatives
- the development and maintenance of two quality management frameworks, the National Association of Community Legal Centre's Legal Risk Management Scheme and the Commonwealth Community Legal Service Standards.

The CLC sector is also dedicated to improving planning and program evaluation processes to ensure CLCs better assist people and communities into the future. This includes moving away from the old program framework that focuses on outputs - merely counting the numbers of people provided with legal services –

and moving towards social inclusion outcomes, for example, showing that as a result of the intervention of the CLC, a person is more able to assist his or her self when presented with the next legal issue.

5. What are the barriers to CLCs working effectively within a social inclusion framework?

Although many CLCs are already working effectively within a socially inclusive framework, there are barriers to be overcome if all CLCs are to adopt the principles of social inclusion or community development. Some of these barriers are externally imposed by governments, some may be areas that individual CLCs or the sector decide they need to work on.

External barriers

Insufficient and inequitable funding to individual CLCs

- The majority of community legal centres are too poorly funded to adequately meet existing legal advice demands. The Australian Council of Social Service estimates that 16.4% of eligible people are turned away from CLCs because of resource constraints.³⁸
- Funding to individual centres from the Commonwealth Community Legal Services Program averages approximately \$175,000 p.a.,³⁹ and even centres that also receive funding through a State Community Legal Services Program struggle, with for example the average funding of NSW centres around \$300,000 p.a.⁴⁰
- This funding level is usually only sufficient to pay operational expenses and employ 3-4 legal and administrative staff on below-market salaries. NACLCLC has estimated that the strategic service delivery model requires a multi-disciplinary team of at least five full-time workers to successfully implement within each CLC, a cost of at least \$500,000 p.a.⁴¹
- Although volunteers and law firms offer assistance, the vast majority of this voluntary work is provided to CLCs located in capital cities or large regional towns. In most rural areas there are few volunteers or law firms to help.
- When funding is low but demand is high, CLCs rarely have the time or resources to systematically identify the unmet legal needs of their communities, and struggle to develop and conduct alternative service delivery methods and implement preventative strategies. Inevitably CLCs respond to demand by directing their resources to reactive legal service provision such as advice and crisis casework services. Many CLC workers, quite understandably, feel there is simply not enough time to engage in more resource-intensive community development projects such as community education, law reform, or community capacity-building.
- Low funding also makes it difficult for CLCs to accurately monitor and report on the outcomes of their legal service provision on the lives of clients and communities. If a movement towards outcomes-based accountability is one of the goals of social inclusion, then services must be resourced to provide this information.

Fragmentation of government funding and services

- Although some CLCs described in this paper have created a holistic service, this can currently only be done through seeking funding from a variety of government programs. Each government funding body has different accountability requirements which place a large administrative burden on the CLC, often unremunerated, as many funding bodies have strict limits on auspice fees or refuse to allow their funds to be split across administrative functions or staffing costs of the entire CLC.
- Few CLCs can provide all the services a disadvantaged client may require. It remains the norm for most disadvantaged individuals to have to access several services for assistance even where their problems

³⁸ Australian Council of Social Service, 2009, *Australian Community Sector Survey 2009*.

³⁹ Australian Government, 2008, *Review of the Commonwealth Community Legal Services Program*, p 45: in 2006/2007 the average funding level for the approximately 127 CLCs under the CCLSP was \$173,000

⁴⁰ Australian Government and NSW Government, 2006, *Joint NSW/Commonwealth Review of Community Legal Centres*, p 174: in 2004/2005 the average funding per NSW centre from combined NSW and Commonwealth CLSP was \$293,193.

⁴¹ Australian Government and NSW Government, 2006, *Joint NSW/Commonwealth Review of Community Legal Centres*, Appendix P: Combined Community Legal Centres Group NSW, "Baseline Capacity and effect of enhancement of capacity."

are legal or legally interrelated. For example, one client may be seeing a local CLC for civil law assistance, the state Legal Aid Commission for criminal law representation, a separate financial counselling service in the neighbourhood centre for debt advice, and a family violence court assistance scheme down the road for support separating from a violent partner.

- This can cause “referral fatigue”, where people just do not follow up on referrals, thereby missing out on crucial social or legal services that could help prevent crises further down the track.
- New ideas of integrated legal service delivery are needed and CLCs, with their history of innovation in service delivery, are in a good position to develop them.
- The state/Commonwealth jurisdiction split, entrenched by the Federal Government from 1996-2007, also continues to complicate the provision of legal services. Commonwealth government policy was that Commonwealth funds should be used only for legal assistance in federal matters such as family law, with State funds to be used for legal matters arising under state laws. Though this appears to have been relaxed for CLCs, it still affects service provision: for example in NSW state-funded interpreter services are only available to clients of CLCs who have a legal problem based on state law not Commonwealth law.
- While the Community Legal Services Program is a joint Commonwealth/State program, there is no agreement between the Commonwealth and States as to a funding formula, and some states and territories contribute no funding at all.

Insufficient funding for capacity-building and workforce development

- CLC staff and volunteers across Australia need training to continue to provide a truly socially inclusive service. Ongoing learning and development opportunities are required in skills such as legal needs research, strategic planning, community legal education (including adult education), policy and law reform, and outcomes-based reporting.
- Working with disadvantaged people with complex legal and social needs is not easy, and is not on the curriculum of university law schools. Staff and volunteers need training and support to work with disadvantaged people, otherwise the risk of burnout is high.
- Capacity-building and workforce development is most efficient when done by peak bodies, either state or national, but CLC peak bodies are sorely underfunded.
- The National Association of Community Legal Centres has a national policy and program development focus. It is largely funded by membership contributions that cannot realistically be increased when centres’ funding has not been increased. Although it receives some one off project funding from the Commonwealth CLSP, without further long-term recurrent funding, NACLCLC is limited in what it can do in designing, coordinating or sustaining long term capacity-building projects. For example, NACLCLC has produced an extremely useful Guide for CLC Management Committees, however there is no ongoing funding to run training based on this Guide to individual centres or to update it as required over time.
- Much of the one-on-one support for individual CLCs is provided by the peak state and territory associations. However only four states have funded peak CLC bodies – NSW, Victoria, Qld and WA. Of these, the WA and Qld peak bodies receive recurrent funding for only 2-3 full-time workers.
- Without additional funds for the national, state and territory peak bodies, capacity-building of the CLC sector is nearly impossible.

6. A CLC Action Plan for Improving Social Inclusion?

The purpose of the Social Inclusion Principles is to stimulate discussion as well as encapsulate the main goals and means by which social inclusion may be achieved. The Australian Government’s Social Inclusion Board noted in February 2009 that a national plan for social inclusion requires a “communications strategy to achieve social inclusion objectives” which might include, among other strategies, “direct participation programs – locally based contact between groups on a grassroots level; ... (and) training for service delivery staff to improve the delivery of services...”⁴²

⁴² <http://www.socialinclusion.gov.au/AusGov/Board/Pages/default.aspx>

In NACLCLC's view, this is one area where the sector needs to focus attention.

1. Start talking about social inclusion in the CLC sector and continue to assess CLC work against social inclusion principles

- The use of the term social inclusion has only comparatively recently been used in the CLC sector. This paper has commenced the process of assessing CLC practice and philosophy against principles of social inclusion but there is a long way to go. NACLCLC welcomes centres feedback about what we have written.
- Workshops or forums at the National Conference of CLCs and state association meetings and conferences can be used to stimulate discussions.
- Discussion with other community sectors and the Social Inclusion will also be important.
- The Strategic Service Delivery Model advocated in this paper is an extremely effective vehicle for a socially inclusive legal service. It is important therefore that the model actively incorporates the social inclusion principles. Because the model is based on community development, a predecessor of social inclusion, it does have striking similarities. NACLCLC will continue to review the model to ensure it is as effective a mechanism as possible as a social inclusion tool and is working on other ways to support CLCs in operating according to social inclusion principles.

2. Seek increased funding from the Commonwealth and the State/Territory Governments so that all CLCs receive sufficient funding to adopt the Strategic Service Delivery Model

- Funding for all CLCs must be increased so CLCs can maintain or increase their services to meet the needs of disadvantaged people, implementing the Strategic Service Delivery Model.
- NACLCLC has calculated that the model requires a multi-skilled staff team covering the following 5 positions: a Coordinator, Senior Solicitor, Solicitor, Administrative Assistant and a Community Worker - this fifth position will depend on the mix required by the particular community and other services available locally.
- NACLCLC has determined that the baseline funding for each CLC to most effectively implement the strategic service delivery model is approximately \$500,000.⁴³

3. Create a National Community Legal Centre Social Inclusion or Strategic Service Delivery Capacity-Building Program

The NACLCLC and/or the state/territory associations should seek recurrent funding from the Commonwealth and/or other governments to build the CLC sector's capacity to work within a social inclusion framework and/or implement the strategic service delivery model. NACLCLC and the state/territory associations must work together – NACLCLC particularly at the level of policy development and national initiatives, the state and territory associations working more directly with individual centres to provide them with training and one-to-one advice/support. Such a program could include the following strategies:

- Identify good practice and existing resources in socially-inclusive service delivery within the CLC sector
- Make this information available so CLCs and other legal services can build on 30 years of CLC experience and expertise
 - For example, NACLCLC could develop a "Social Inclusion Summary or Toolkit for CLCs" available on the NACLCLC website addressing each of the 11 Social Inclusion Principles, and containing
 - detail about each principle (drawn from www.socialinclusion.gov.au and community organisations in the UK and Australia)
 - CLC case studies
 - Concerns/issues

⁴³ National Association of CLCs, 2007, *Revised Funding Formula for Community Legal Centres: Submission to the Attorney-General's Department*

- Tips for CLCs on improving their work using this principle
 - Information about social inclusion could also be added to existing resources such as NALC's National Management Committee Guide
- Identify existing, or develop new, learning and development programs in relevant areas eg
 - legal needs research
 - strategic planning (including bringing in the views of disadvantaged people)
 - legal education
 - law reform
 - management committee governance training
 - consumer participation mechanisms for disadvantaged people such as mentoring, consultation, skills-development
- Partner with government, the private sector and other community agencies to deliver relevant training
- Engage in national stakeholder partnerships to improve access to justice for socially-excluded people, such as the Australian Legal Assistance Forums, and form new partnerships
- Take part in, or monitor and feed back to the sector, relevant research or pilot projects including
 - improving outcomes
 - integrated service delivery
 - a client-focussed approach (eg case-management).

NALC welcomes your thoughts on this Discussion Paper: please send ideas or feedback to naclc@naclc.org.au.

Appendix 1: Comparison of Australian Government Social Inclusion Principles with CLC Strategic Service Delivery Model

