



Redfern Legal Centre

Annual Report 2008-2009

# REDFERN LEGAL CENTRE ANNUAL REPORT 2008-9

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**Redfern Legal Centre is an independent non-profit community centre dedicated to promoting social justice and human rights.**

## **VISION**

A just society which respects human rights and enables equal participation by all.

## **PURPOSE**

Redfern Legal Centre promotes social justice through:

- ◆ providing free legal advice, legal services and education to disadvantaged people in New South Wales, and to groups who advocate for them
- ◆ participating in activities which reduce inequalities and defects in laws, the legal system, and administrative and social practices that impact on disadvantaged people.

## **VALUES**

Redfern Legal Centre:

- ◆ Promotes the empowerment of individuals and communities;
- ◆ Respects clients, community members and each other;
- ◆ Provides a safe, meaningful and co-operative work environment for staff and volunteers;
- ◆ Involves the staff, volunteers and community members in planning, managing and delivering services;
- ◆ Reflects and learns from experience;
- ◆ Provides accessible, holistic and non-judgmental services; and
- ◆ is independent, effective and accountable.

## **GOALS**

1. To provide legal advice, referral and casework to disadvantaged people and to groups who provide services for or advocate for them.
2. To work with communities and individuals to develop local services and empower people to assert their own interests.
3. To identify the inequalities in the laws, legal system, administrative practices and society as a whole that affect our clients and disadvantaged people generally and to work for social and legal change to remove those defects and inequalities and enhance respect for human rights.
4. To enhance community members' ability to resolve their problems and assert their rights through the provision of community legal education.
5. To contribute to a civil society, including by involving volunteers in our service delivery and by co-operating with other community organisations in pursuit of shared objectives.
6. To sustain an infrastructure and administration that provides adequate resourcing for our activities, and to effectively manage and maintain those resources.

## OUTCOMES

1. Clients of Redfern Legal Centre have access to timely, quality local affordable legal services appropriate to their needs.
2. There is improved referral and co-operation throughout the community services and legal services relevant to our clients.
3. There are changes to law, policy and administration which decrease social disadvantage.
4. Clients are better informed of the operation of the justice system and are better able to resolve their problems and enforce their rights.
5. Redfern Legal Centre has strategic partnerships with volunteers, pro bono service providers and other relevant community organisations.
6. Redfern Legal Centre is able to provide the resources needed to achieve its goals.

## ACKNOWLEDGEMENT

Redfern Legal Centre acknowledges that we work on Aboriginal land, traditionally the home of the Gadigal people of the Eora Nation.

## **MESSAGE FROM THE CHAIR OF THE REDFERN LEGAL CENTRE BOARD**

This year has been a time of cautious optimism for community legal centres. Once again the sector was recognised in a number of one-off funding grants from the Federal Attorney-General, The Hon Robert McClelland. In announcing additional funding, in May, he said;

“Legal assistance services are critical to effective early intervention by helping people resolve problems before they escalate and lead to entrenched disadvantage...”

“Community Legal Centre funding will help disadvantaged Australians who require legal assistance in areas such as consumer protection, mortgage and tenancy issues, welfare rights, family and homelessness issues.”

Redfern Legal Centre used the additional funds to provide extra casual and locum staff to help us cope with busy periods and to provide more and better quality services for our clients. We look forward to the Australian Government developing a long term and fully funded model for our core service delivery.

We were also successful in our bid to expand the Women’s Domestic Violence Court Advocacy Service. Additional funds from Legal Aid NSW have enabled us to employ three additional staff including specialist Aboriginal and CALD workers and, from 1 July 2009, provide services in Newtown, Balmain and Waverly Courts in addition to our base at the Downing Centre Local Court.

Our support for Aboriginal women experiencing family violence continues with further funding for Aboriginal police liaison staff being provided by the NSW Premier’s Department. We also began production of a DVD by and for Aboriginal women showing the process involved in obtaining an Apprehended Domestic Violence Order. This will be of particular assistance to those of our clients who have low levels of literacy.

A major focus of our community and law reform work this year has been engagement in the national consultation on human rights. We distributed human rights ‘fortune cookies’ and interviewed commuters and residents at Redfern Station. Together with Kingsford Legal Centre we held a stall at Yabun, the Aboriginal festival in January. We conducted our own public consultation, chaired by Stuart Rees of the Sydney Peace Foundation, and assisted individuals to participate in the consultation process.

We also reviewed our own case work to identify and articulate the difficulties many of our clients have in obtaining practical access to protection of their rights or to remedies for their breach. This review formed the basis for the Centre’s submission to the consultation, which was cited favorably in the Committee’s final report.

On December 10 2008, International Human Rights Day, we launched our Activist Rights Manual, an on-line resource for people intending to exercise their right to freedom of speech and of association. Meredith Bergmann presided over the launch with reminiscences of her days as a protester and the help she received from Redfern Legal Centre.

Finally I wish to acknowledge and extend my sincere thanks to the volunteers, staff and board of Redfern Legal Centre.

*Nicolas Patrick,*  
Chair, Board of Redfern Legal Centre.



*Redfern Legal Board and EO*

# MANAGEMENT STRUCTURE

Redfern Legal Centre is a company limited by guarantee. It has a Board of six elected directors who have delegated responsibility for day-to-day management of the Centre to the Executive Officer.

Member Name	Occupation	Basis of Appointment	How Appointed
Nicolas Patrick (Chair)	Solicitor	Member	Elected at AGM
Paul Farrugia	Solicitor	Member	Elected at AGM
Tamara Sims	Solicitor	Member	Elected at AGM
Peter Stapleton	Retired Solicitor	Member	Elected at AGM
Kristin van Bameveld	Solicitor	Member	Elected at AGM
Faye Williams	Community Worker	Member	Elected at AGM

# FUNDING

RLC receives funding and in-kind support from a range of sources. We thank these Departments, organisations and individuals for their ongoing support of the Centre.

- ◆ The General Legal Service is funded principally through Community Legal Centres Funding Program which is administered by Legal Aid NSW and the Commonwealth Attorney General’s Department.
- ◆ The Credit & Debt Service is funded by the NSW Department of Community Services, the NSW Office of Fair Trading and the Commonwealth Department of Family and Housing, Community Services and Indigenous Affairs through its Financial Counselling Program.
- ◆ The Women’s Domestic Violence Court Advocacy Service is funded by Legal Aid NSW.
- ◆ Support for our work with victims of domestic and family violence is also provided by the NSW Premiers’ Department, Office for Women.
- ◆ The Inner Sydney Tenants Advice & Advocacy Service is funded by the NSW Office of Fair Trading.
- ◆ The Students Legal Service (Branch Office) for undergraduates is funded by the Students’ Representative Council at Sydney University.
- ◆ The Sydney University Postgraduate Students Service is funded by Sydney University Postgraduate Representative Association (SUPRA)
- ◆ The Sydney Institute of TAFE funds a service for its students
- ◆ The City of Sydney provides the Centre with concessional rent.



## GRANTS AND DONATIONS

From time to time the Centre is successful in gaining grants or donations for specific projects. We thank

- ◆ The NSW Department of Corrective Services Victims of Violent Crime Grants Program, for funding to produce a DVD about domestic violence
- ◆ The NSW Law and Justice Foundation for funding the Activist Rights' Manual
- ◆ The NSW Office of Fair Trading for equipment for tenancy outreach, and for a grant to produce Share Housing postcards
- ◆ Thomson Reuters Australia support the Lawyers' Practice Manual
- ◆ Lord Mayor Clover Moore's Salary Trust
- ◆ Community Legal Centres NSW for funding for an Aboriginal Legal Access Project
- ◆ Macquarie Group Foundation for donation
- ◆ Freehills for donation to the Prisoners Project
- ◆ Microsoft for software
- ◆ Daniel Kirkwood

A special thank you to volunteer Margaret Jones for organising the fundraising dinner.

## PRO BONO SUPPORT

A number of legal professionals and law firms provided substantial pro bono assistance to our clients or to the Centre. Without this assistance, we would not be able to continue to provide such a comprehensive range of services. We also refer clients to the Law Society's Pro Bono Scheme and the Bar Association's Legal Assistance Scheme.

This year we have received support from the following:

Corrs Chambers Westgarth , particularly Dixon Hearder, Olivia Lancaster, Sarah Korbel, Zoe Spratt, Erin Brown, Jessica Au, for their pro bono partnership with us to assist Aboriginal people who were abused while in institutional care in Queensland (and are now local residents) to apply to the redress scheme for compensation;

Gilbert + Tobin provide a roster of solicitors to represent women seeking Apprehended Domestic Violence Orders at Downing Centre Local Court in conjunction with our Women's Domestic Violence Court Advocacy Service.

### **BARRISTERS; INCLUDING:**

Warren Andrews	Colleen McCullum
Lishan Ang	Miranda Nagy
Deborah Banwell	Sally Orman-Hales
Craig Biscoe	David Rayment
Nick Eastman	Jonathon Taylor
Mark Hay	Dominic Villa
Emily Ito	Adrian Williams
Darren Jenkins	Michael Windsor

**OUR ROSTER OF SOLICITORS WHO GIVE ADVICE ON TUESDAY AFTERNOONS:**

Foster and Associates  
Landers & Rogers  
Keddies  
Henry Davis York

**FOR PROVIDING ADVICE SESSIONS ON MONDAYS AND FRIDAYS:**

Corrs Chambers Westgarth

**FOR ASSISTANCE WITH PREPARING A SUBMISSION TO THE NATIONAL HUMAN RIGHTS CONSULTATION:**

Charles Gregory, DLA Phillips Fox

**FOR ASSISTANCE WITH ORGANISING OUR HUMAN RIGHTS CONSULTATION EVENTS:**

Alana Begg	Gerald Seeto
Kath Chegwidden	Tanya Vavilova
Chantel Cotterell	Shelley Williams
Briana Jurgeit	Tammy Wong
Amrita Kumar	Jenny Wyndham-Wheeler
Klara Major	

**FOR RESEARCH AND REPORT WRITING ON SOCIAL NETWORKING SITES**

Olivia Lancaster

**FOR CASEWORK AND CORPORATE AND PROPERTY SEARCHES:**

Baker & McKenzie  
Blake Dawson Waldron  
Clayton Utz  
Costs Plus  
DLA Phillips Fox  
Ebsworths  
Gilbert + Tobin  
Heenan & Co  
Peter Murphy and Associates  
Turner Freeman including their Brisbane office  
Harrod & Associates

**BIG THANKS TO:**

Heather Sare and colleagues at the Bar Association and to Judy Teasedale and colleagues at the Law Society for their kind support in seeking pro bono referrals.

**CONSULTANTS**

Meerkat Computer Services – IT support  
Berg Consulting – Employee Assistance Program

## VOLUNTEERS

This year, as usual, volunteers contributed to all aspects of the Centre's work. Our volunteers are of all different ages and come from all walks of life. Most of our volunteers have some post-secondary education, are highly skilled and bring many years of life experience with them. We had approximately **290 volunteers** during 2008 - 2009 where there were at least **150** active volunteers on our books at any one time. Redfern Legal Centre is able to attract approximately **18,650 volunteer hours** per year, and we estimate that through our volunteers we contribute the equivalent of **\$2.16 million** worth of services to the community each year. We thank all of our volunteers for their commitment and contribution to the Centre this past year – we would not be able to assist as many people as we do without them.

Day volunteers – “legal assistants” – are generally law students and interested members of the community. They are the first point of contact for people who access the Centre whether it be over the telephone or face-to-face. Legal assistants commit to one, half day shift a week and work on reception, casework (under the instruction of the caseworker), research and general administration.

Night volunteers – mostly solicitors and barristers – take instructions and provide legal advice during our evening advice sessions, and commit to either one weekly or fortnightly shift. All volunteers receive training and are supervised by a member of staff.

Nearly all branch offices have volunteers in some capacity. The TAFE Legal Service in particular would not function but for the enormous contribution of the PLT students who manage the offices and support the part time solicitor. The SRC Legal Service is strongly supported by up to 2 PLT students at 2 days a week each.

## REDFERN LEGAL CENTRE VOLUNTEERS IN 2008/9

(Includes volunteers starting up to end August 2009)

Adam Achterstraat	Laura Conlon	Amanda Harvey	Jane Matthews	Gail Sherlock
Paul Ahearn	Naomi Cook	Clare Heffernan	Danielle Mawer	Lauren Sics
Melanie Alderson	Penny Cookson	Jamie Hitchinson	Annie McCall	Janice Sim
Sonia Aliprandi	Siew Cooper	Lynda Holden	Merilyn McClung	Kirk Simmons
Roberta Allen	Chantel Cotterell	Gavin Hollamby	Tom McDonald	Tim Sinclair
Nageb Al-Malah	Chris Davies	Jemma Hollonds	Monica McKenzie	Cheryl Singh
Joseph Anderson	Lewis D'Avigdor	Jonathan Hon	Sheila McMahon	Medha Singh
Nicholas Anderson	Anna Dawson	Lauren Hrouda	Larisa Michalko	Maja Skvorc
Daniela Anicic	Nimali (Ranga) De	Joanna Hughes	Felicity Millner	Carlo Soliman
Ayishah Ansari	Silva	Lici Inge	George Minas	Anoushka
Dafne Ardiles-Martinez	Sine Dellit	Freyana Irani	Charlotte Minogue	Somasunderam
Dominique Armstrong	Deborah Dinnen	Mary Jang	Claudia Mitchell	Harshanie
Ginan Ashcroft	Milica Djurdjevic	Agnes Jaszczyszyn	Vincent Mok	Sooriyabandara
Michael Babic	Jagath Don	Darren Jenkins	Lisa Molloy	Llewellyn Spink
Lucinda Baldwin	Laura Donnelly	Kiri Jervis	Rachel Moore	Gabrielle Starr
Fiona Banks	Jonathon Dooley	Oshini Jinasena	Nina Morgan	Kate Stowell
Anna Barbouttis	Rebekah Doran	Cymbeline Johnson	Brigit Morris	Mark Straton
Martin Barker	Maeve Doyle	Benjamin Johnson	Mary Morrisroe	Russell Su
Rebecca Barry	Cameron Duncan	Sarah Johnson	Natalie Mourant	Deepti Suttrave
Patrick Bateman	Alex Edwards	Margaret Jones	Jacqueline Mowbray	Ingrid Switzer
Bianca Bates	Elfet Eid	Tamasin Jonker	Peter Murphy	Elizabeth Szabo
Thomas Beamish		Lauren Judge	Jacquie Murray	Chelsea Tabart
Harold Bear	Sheridan Emerson	Briana Jurgeit	Yega Muthu	King Tan
Joanne Beckett	Talia Epstein	Christina Kafalias	Karthiga Nageswaran	Juliana Tang
Elizabeth Bedford	Kristina Erzikov	Aaranie Karthikeyan	Dhruv Nagrath	Raeshell Tang
Alana Begg	James Feng	Hannah Keane	Persia Navidi	Frank Tao
Emily Bell	Nadine Fitzpatrick	Amjad Khan	Dian Neligan	Jessica Tat
Ziv Ben-Arie	Laura Ford	Zaid Khan	Ross Nicholas	Jack Tipple
Alina Bentley	Jill Forrester	Rabea Khan	Brendan O'Hanlon	Nelson Trieu
Amanda Berry	Keith Foster	Una Kilioni	Lila Oldmeadow	Patrick Trieu
Marthese Bezzina	Susan Fraser	Hilary Kincaid	Barbara Paradis	Charlotte Trinh
Robert Binder	Susannah Fricke	Nicola Knackstredt	Isabelle Paton	Naomi Ugarenko
Dylan Birchall	Michael Fung	Andrew Knibb	Matthew Payne	Graeme Ulbrick
Craig Biscoe	Kelly Fung	Charlene Ko	Denise Penson	Nicole Urban
Alec Bombell	Elise Funnell	Aditi Kogekar	Ching Phang	Kristin van Barneveld
Izabela Bozym	Paulina Fusitu'a	Jenny Kojevnikov	Jeremy Pinto	Katherine Vassie
Natalie Bradshaw	Seranie Gamble	Sarah Korbel	Josephine Polak	Tanya Vavilova
Kate Brady	Jennifer Garrick	Amrita Kumar	Carmen Pratap	Achinthi Vithanage
Ljiljana Brdaric	Elizabeth Gaunt	Rachel Kwok	Risha Premarajah	Sam Wade
Thomas Brett	Charlene Gerrard	Lou Kyle	Lorraine Pun	Sarah Waladan
Erin Brown	Gia Ghazi	Nicole Kyriacou	Anthony Pyne	Anna Wallington
Vanja Bulut	Annette Gibson	Victoria La Fontaine	Doris Qiu	Gemma Walters-Neil
Christopher Butler	Buffy Gilbert	Wesley Lalich	Hannah Quadrio	Lisa Warburton
Matthew Bynes	Kane Glanville	Sophie Lambert	Jeremie Quiohilag	Janice Waring
Sheelagh Callaghan	Anthony (Tony)	Olivia Lanchester	Sumit Ram	Rebecca Webb
Sarah Cameron	Glurissevich	Jia Yi Lee	Shanti Rama	Christine Weekes
Tim Capelin	David Goodenough	Samantha Lee	Pathmanathan Rama	Rebecca Weeks
Alistair Carmichael	Julia Gomly	Richard L'Estrange	Hema Raman	Gabrielle Werksman
Justin Carroll	Felicity Graham	Rosana Leung	Trisha Randhawa	John Williams
Melissa Carter	Les Gray	Sarah Levingston	Kimberly Randle	Shelley Williams
Francesca Cavadini	Wendy Green	Fiona Ley	Aaron Rathmell	Sophie Williams
Scott Chambers	Julia Green	Laura Lombardo	Eric Raymond	Piccolo Willoughby
Kim Chan	Kara Greiner	David Loonam	Philip Rees	Emma Wilson
Michael Chan	Carole Grey	Beatrice Ludowici	Amy Richardson	Michael Windsor
Kath Chegwiddden	Jacqueline Guirguis	Lily Luo	Michael Rivera	Rachael Wong
Tommy Chen	Ratula Gupta	Kirsty MacDonald	Jennifer Rochford	Tammy Wong
Shan Chen	Vicki Hadley	Erin Mackay	Nathalie Romain	Rebekah Wong
Cissie Cheng	Annalise Haigh	Paloma Mackay-Sim	Nadia Rosenman	Sophy Woodward
Bandini Chhichhia	Rana Halabi	Marianne Maguire	Madeleine Rowley	Kasturi Wren
Robert Chiarella	Leonie Hale	Cate Mahony	June Rozen	Timothy Wu
Umniyat Choudhury	Marc Halpern	Anna Mahony	Nicole Sammel	Jenny Wyndham-
Emily Christie	Olga Hancock	Lynda Maitland	Nicholas (Nick)	Wheeler
Monika Ciolek	Rommel Harding-	Klara Major	Sandrejko	Rosaline Yusman
Antonia Clarke	Farrenberg	Vadym Malakhov	Sarah Sandstrom	Flora Zaydenberg
Lucy Clynes	Callista Harris	Sarah Malik	Nicholas Santucci	Mona Zheng
James Cokayne	Jemima Harris	Tamir Maltz	Rachel Saravanamuthu	Kathy Zhong
Rosemary Collins	Robert Harris	Savi Manii	Stefan Schonell	
Andrew Cong	Sarah Harrod	Simon Margan	Gerald Seeto	
Sharon Cong	Naomi Hart	Abramo Martinelli	Elisabeth Sercombe	

Staff, Volunteers & Guests



## STAFF 2008-09

### PERMANENT AND FIXED TERM STAFF:

Natalie Bradshaw	<i>Tenancy Adviser</i>	Elizabeth Morley	<i>Principal Solicitor</i>
Judy Burgess	<i>Solicitor, TAFE NSW branch</i>	Nicki Petrou	<i>Solicitor</i>
Megan Cameron	<i>Solicitor</i>	Katherine Pranic	<i>Solicitor, TAFE NSW branch</i>
Helen Campbell	<i>Executive Officer</i>	Penny Quarry	<i>Senior Solicitor</i>
Hilary Chesworth	<i>Administrator</i>	Susan Smith	<i>WDVCAS Coordinator</i>
Nicholas Comino	<i>Volunteer Coordinator</i>	Brenda Staggs	<i>Solicitor, TAFE NSW branch</i>
Carl Freer	<i>Tenants' Advocate</i>	Jacqui Swinburne	<i>Tenancy Coordinator</i>
Maggie Hayes	<i>Solicitor, SRC branch</i>	Sue Thomas	<i>Tenants' Advocate</i>
Jacki Jarrett	<i>WDVCAS Aboriginal Outreach worker</i>	Phoenix van Dyke	<i>Tenants' Advocate</i>
Rabea Khan	<i>WDVCAS assistant</i>	Ingrid van Tongeren	<i>Solicitor, SUPRA branch</i>
Jodie Lee	<i>WDVCAS Assistant Coordinator</i>	Wendy Wang	<i>Admin/IT Officer</i>
Kirillie Moore	<i>Senior Solicitor</i>	Charmaine Weldon	<i>WDVCAS Court Advocate</i>

### CASUAL STAFF:

Eleanor Barker	<i>Solicitor</i>	Corinne Hodson	<i>Project Officer</i>
Tom Beamish	<i>Tenancy Adviser</i>	Cymbeline Johnson	<i>Legal Assistant</i>
Michela Carattini	<i>WDVCAS assistant coordinator</i>	Thomas Johnson	<i>Archives Assistant</i>
Lucy Cheng	<i>Cleaner</i>	Amrita Kumar	<i>Supervisor, Day Information Service</i>
Siew Cooper	<i>Administration assistant</i>	Marianne Maguire	<i>Project Officer</i>
Chantel Cotterell	<i>Cleaner</i>	Klara Major	<i>Supervisor, Day Information Service</i>
Fang Li Dai	<i>Cleaner</i>	Merilyn McClung	<i>WDVCAS Assistant</i>
Benjamin Davis	<i>Archives Assistant</i>	Barbara Paradis	<i>Tenancy Adviser</i>
Benjamin Day	<i>Archives Assistant</i>	Bernard Ross	<i>Archives Assistant</i>
Sarah Drury	<i>Tenancy Adviser</i>	Elizabeth Sercombe	<i>Supervisor, Day Information Service</i>
Alex Edwards	<i>Supervisor, Day Information Service</i>	Katherine Vassie	<i>Supervisor, Day Information Service</i>
Kristina Erzikov	<i>Supervisor, Day Information Service</i>	Janice Waring	<i>Legal Assistant</i>
Jack Fu	<i>Cleaner</i>	Cass Wong	<i>Tenancy Adviser</i>
Emma Golledge	<i>Tenancy Adviser</i>	Rosaline Yusman	<i>Supervisor, Day Information Service</i>
Naomi Hart	<i>Supervisor, Day Information Service</i>		

**SELECTED CLIENT AND SERVICE STATISTICS**

Information activities	2252
Number of advices undertaken	1886

**CASEWORK:**

Number of files opened	1100
Number of files closed	1005
Community legal education projects	28
Law reform projects undertaken	32
Community development projects	22
Aboriginal and Torres Strait Islander clients	9%
Culturally and Linguistically diverse clients (88 different countries of origin)	35%

Most of our CALD clients came from: China, Vietnam, Russia, India, Fiji, Indonesia, Bangladesh, Japan, Phillipines, and Korea

**GENERAL ADVICE AND CASEWORK**

(top 10 issue areas)

- Credit & Debt
- Domestic Violence
- Employment
- Tenancy
- Other civil/legal system/property damage
- Consumer complaints
- Government/admin/police complaints
- Road traffic offences
- Child protection/contact
- Fines

**WOMEN’S DOMESTIC VIOLENCE COURT ASSISTANCE SCHEME**

Total client contacts	1518
clients assisted:	484
First contact at court	47%
Referred by police	85%
Client identified as Aboriginal	12%
CALD clients	36%
Clients with a disability	12%

### **INNER SYDNEY TENANTS' ADVICE AND ADVOCACY SERVICE**

Total contacts	1797
Assistance/representation in Tribunal	149
Born outside Australia	769
Public housing tenants	1080

### **CREDIT AND DEBT SERVICE**

Total advice/cases	797
Debts	23%
Consumer complaints	16%
Motor vehicle	10%
Fines and traffic matters	28%

### **SYDNEY UNIVERSITY SRC BRANCH**

Total advice/case	189
Fines/traffic offences	19%
Tenancy	12%
Employment	13%
Credit and debt	5%
Criminal offences	7%
Discrimination	4%

### **SYDNEY UNIVERSITY SUPRA (POSTGRADUATE) BRANCH**

Total advice/cases	186
Civil (process, contracts)	21%
Consumer complaints	8%
Intellectual property	5%
Tenancy	11%
Employment	6%
Credit & Debt	11%

### **SYDNEY INSTITUTE OF TAFE BRANCH**

Total advice/cases	357
Family law and child support	24%
Tenancy and housing	14%
Motor Vehicle accidents	19%
Employment	10%
Credit & debt/consumer complaints	13%



## GENERAL LEGAL SERVICE

Redfern Legal Centre provides free legal information and advice, and legal casework to disadvantaged people who live and/or work in the Sydney, Leichhardt and Botany local government areas, and in some instances beyond this region. We provide general legal advice and specialist advice in credit and debt, domestic violence, tenants' rights, and employment law. We also conduct community legal education and participate in law reform campaigns.

### OPERATING HOURS

On Monday to Thursday we are open from 9 am to 8.30 pm, and on Friday we are open from 9 am to 5 pm. We are closed each day for lunch between 1 pm and 2 pm and for shift change-over between 6pm and 6.30pm Monday to Thursday.

### ADVICE AND CASEWORK

It is an overall aim of the Centre's general casework that clients should be provided with as much information and as many skills, as we can, to take control of their own situations. Our clients face many barriers to achieving fair treatment within our society. Enhancing our clients' ability to act for fair outcomes themselves is both effective delivery of service, and consistent with practising in a human rights context.

People will want to participate rather than act against a fair and inclusive society, where individuals feel that their grievances are listened to, are taken into consideration, are fairly balanced against competing interests, and redress is available. The economic and social costs, of allowing people to be alienated, or for an underclass to develop, are unsustainable.

Legal advice and some minor assistance is provided at a number of advice sessions each week. Some ongoing casework assistance is provided – we use casework guidelines to determine which matters to take on.

The Centre cannot take on all cases. It is funded by the government and has limited resources. Lawyers who volunteer outside of their paid employment give most of the advice. We try to make the best use of our resources and to help as many people as possible. Additionally, we only have depth of experience in specific areas.

In deciding whether to take on a case, the Centre considers whether there are other forms of assistance available to the client, whether it is an area of work the Centre does, what the chances of success are, whether the case will assist a large number of people or change the law, and how much other work the Centre is doing at the time.

We have implemented a policy whereby Indigenous clients – resources permitting - have access to immediate legal advice. If we are not able to provide the advice required immediately, we take initial instructions and/or give the client an appointment as soon as possible, preferably the same evening.

The Centre's general advice hours are as follows:-

- ◆ *Monday to Thursday evenings from 6:30 pm to 8.30 pm*

We see up to 8-10 clients per session, and can provide advice by telephone. Priority is given to clients who have a pre-arranged appointment.

Many of our clients are not able to easily act on advice without some detailed and practical assistance, due to, for instance poor mental health, intellectual disability or language issues. We have therefore reviewed our appointment system to allow more time for each client. Our aim is to resource the client by the time they leave the office, as far as possible, to take the next step.

All evening advice sessions provide advice on a range of general legal matters which may include:

Providing clients with the information they require to advocate for themselves;

- ◆ Assisting them with drafting a letter, statement, or other document they can use to progress their matter;
- ◆ Identifying the issues and appropriate referrals and how to access those referrals; or
- ◆ Where appropriate, assisting the client to come to terms with the limitations of the justice system to provide remedies in their circumstances.

Many of our clients have diagnosed psychiatric disorders but many more manifest depression or traumatic stress arising from the complex disadvantaging aspects and events of their lives. These disabilities may be part of the substance of the presenting problem, or may complicate communication or the identification of effective strategies to resolve the problem. Many of these problems would not arise if government agencies were more pro-active in training and resourcing their staff to deliver services, or if there were more on the ground support and advocacy services for people with psychiatric illnesses. Such support could avoid the escalation of minor problems to problems needing legal remedies. Clients in these circumstances need substantial time from us; time that could have been avoided.

- ◆ *Monday afternoon and Friday morning*

These appointments are usually set aside for clients who may require a longer interview and are usually for the preparation of a statement or affidavit. In 2008 this service was focussed on assisting claimants to the Queensland Redress Scheme for children abused or neglected while in institutional care. This service has been available because of the pro bono assistance of Corrs Chambers Westgarth.

- ◆ *Tuesday afternoon*

We provided afternoon general legal advice service each Tuesday with the pro bono assistance by the firms of Henry Davis York, Keddiess, Fosters and Landers & Rogers. We try to make these appointments available to clients who have difficulty accessing the evening service, for example if they have the care of young children, or are frail.

## **CASEWORK**

It is difficult to report much of the cases in view of settlement conditions of confidentiality and client confidentiality. We also often do not know about successful conclusions of many matters, as we resource the client to deal with the matter themselves.

Redfern Legal Centre works closely with its volunteer staff, pro bono counsel, legal firms providing pro bono services, private solicitors and other professional and support workers assisting our clients to achieve workable outcomes.

**CASEWORK INCLUDED:**◆ **Housing issues**

- ◆ Assisting a tenant in a complaint of discrimination by a real estate agent on the grounds of race;
- ◆ Assisting our tenancy team on legal issues and possible District Court appeals in strategic cases;
- ◆ Assistance to boarders and lodgers in relation to recovery of goods and terms and conditions of accommodation.

◆ **Consumer**

- ◆ Represented a woman in the District Court who had guaranteed trade debts of a business owned by a company her husband and another man had shares in. Redfern Legal Centre was concerned at what appeared to be unconscionable conduct in the execution of the guarantee. Our client had exhausted her resources at the time she came to us. She was unrepresented and was unable to manage what had become a complex set of pleadings and proceedings. The matter was settled after considerable work on terms not to be disclosed;
- ◆ Redfern Legal Centre obtained pro bono assistance for a family from an Indonesian background who had mortgaged their home to guarantee what they thought was just a small extension for their friends' house loan. The Bank sought the full amount from our clients. DLA Phillips Fox assisted the clients to resolve the matter in a way that limited their liability and gave them time to organise their affairs;
- ◆ Redfern Legal Centre assisted a woman with disabilities to negotiate arrangements to enable her to remove her goods from the family home after she was evicted after the mortgagee was given possession;
- ◆ Assistance to a number of people with issues to deal with utility contracts, direct marketing and incorrect supply and billing;
- ◆ Redfern Legal Centre obtained pro bono representation for a client where the mortgagee had entered into possession and sold it at a time when he was not well and could not maintain payments. He had feared he still owed them money but in fact the balance on the sale had been paid into court. Clayton Utz helped him with the necessary documentation to recover the balance from the Court.

◆ **Administrative Fairness**

- ◆ Advice and minor assistance to clients who have matters to do with guardianship and financial management orders;
- ◆ Prisoners seeking information and referral as to the law applicable to their situation as prisoners;
- ◆ Assistance with "Stolen wages" cases including the second round of the Queensland wages reparations scheme.

◆ **Assistance and referral for a number of parents about the removal of their children by the Department of Community Services with a view to ensuring that in all cases, all steps are taken properly including:**

- ◆ In the care and protection proceedings themselves;
- ◆ In the way DOCS treat individuals and families in the investigation and preliminary stages

- ◆ In the way DOCS treats the parents and families subsequently in contact arrangements and maintenance of continuing monitoring of the wellbeing of the children.
- ◆ **Victims of violence**
  - ◆ Advice and referral in relation to victims' compensation. Many of these cases are women referred from the Women's Domestic Violence Court Assistance Scheme.
  - ◆ Assistance to women on domestic violence associated issues, particularly women who are charged with offences or have applications for domestic violence orders against them where the abusive partner is better at using systems and appearing persuasive to attending police.
  - ◆ Redfern Legal Centre obtained pro bono representation in a civil matter for a victim of sexual assault. She was assaulted by someone in a position of authority and responsibility who then continued an abusive relationship. At the time of writing this he no longer has a claim on her house.
  - ◆ Assistance to a woman with her APVO application against her neighbour, who is also a local property developer. When the client first came to RLC, she was being bounced between the court (which kept referring the parties to mediation) and the CJC (which kept refusing the referral because of threats of violence). The client was elderly and suffering from PTSD and was unable to represent herself in court. Redfern Legal Centre found pro bono counsel who represented her to break the cycle of referral, and then counsel who represented her at hearing for a reduced fee. The APVO was made.
  - ◆ Representation referral to people assaulted by security guards and "bouncers". We remain concerned at the amount of injury caused by "bouncers". Redfern Legal Centre is also concerned at the privatisation of the market place and the restrictions on access to what used to be a public market place but is now enclosed malls, policed by private security guards.
- ◆ **Complaints about Police conduct – the need for checks and balances to ensure that the Police maintain the confidence of the community and act appropriately:**
  - ◆ Assistance in the writing and lodging of complaints against Police in relation to conduct often perceived as arising from racial or disability issues of the complainant. Issues that have arisen include: failure to demonstrate that a report of an incident is being taken seriously, difficulty in speaking with the relevant officer due to shifts, problems with how and when to get goods back when seized under a noise abatement direction, and the way in which persons are searched, detained and handled.
  - ◆ Redfern Legal Centre conducted a claim for damages where a vulnerable client was taken into custody on a warrant in the name of someone else in circumstances where it was well known to local Police that she was not that person. That matter settled in this period.
- ◆ **Criminal Law**
  - ◆ Assistance for a number of clients seeking withdrawal or waiver of fines in circumstances where there are extenuating circumstances, there are reasons why the person should not have been given an infringement notice, or there are very real financial hardship issues.

- ◆ Advice on many small traffic and fine matters where advice as to court process and how to present information to the court is provided to support the client in representing themselves, there being no referral affordable/available.
  - ◆ Redfern Legal Centre obtained pro bono representation for a homeless man who was living in his car, drove it to scrap dealers to sell it to buy medication and was charged with driving while unlicensed and driving an unlicensed and unregistered vehicle. A satisfactorily small fine was the outcome, which in turn was dealt with.
  - ◆ Redfern Legal Centre acted for a minor who needed to retract a statement made to Police where she had made certain allegations about her mother. The family circumstances were challenging.
- ◆ **Employment**
- ◆ Representation was provided to a seventeen year old worker who was dismissed after complaining about being assaulted in the workplace by a supervisor;
  - ◆ Advice, assistance and referral on numerous unfair and unlawful dismissal cases. Many of our clients are employed long term as casuals, are not given the required notice, are not provided with equivalent work when returning from maternity leave or are fired shortly after complaining about some safety or other aspect of their work.
  - ◆ Advice, assistance and referral on a number of cases involving discrimination in employment. Sexual harassment and disability discrimination continue to be problems for our clients.
  - ◆ Advice, assistance and referral on a number of cases involving questions of entitlements and pursuing unpaid superannuation.
  - ◆ Advice on contracts of employment. Ordinary waged employees do not have the funds to get private solicitors to advise on contracts of employment. We encourage workers to join unions as a form of advice and advocacy insurance.
- ◆ **Other**
- ◆ Redfern Legal Centre has had a number of Aboriginal and Torres Strait Islander clients who were seeking compensation arising from their removal as children and the abuse and neglect they experienced while in institutional care. The Queensland Redress Scheme has allowed for some of our clients to have their stories heard and written down. Our thanks to Corrs Chambers Westgarth who have lent solicitors to help with the patient work of gathering information and setting out our clients' stories. At the time of writing this report, the Level 2 payments are being finalized and we are closing these files.
  - ◆ Privacy and identity theft have remained issues in relation to fines but also in relation to some consumer credit, debt and banking matters.

## COMMUNITY LEGAL EDUCATION

The Centre provides a number of community legal education activities in a wide range of community settings and organisations. During 2008-9 we participated in community legal education activities on

- ◆ human rights and discrimination
- ◆ credit and debt
- ◆ employment law
- ◆ criminal law
- ◆ mental illness
- ◆ information about access to legal services
- ◆ family law and care and protection matters
- ◆ aged care, enduring powers of attorney and enduring guardianship arrangements
- ◆ information for students, volunteers and youth workers
- ◆ civil protest which is non-violent and seeks to build community consensus, and
- ◆ domestic violence

We produce fact sheets and brochures, which provide legal information in an accessible way. We have information about our services available in five community languages.

## **SEXUAL VIOLENCE AND VIOLENCE AGAINST CHILDREN IN THE LOCAL ABORIGINAL COMMUNITY**

The Centre continued to work with the local Aboriginal community and in particular Mudgin-gal Aboriginal Women's Centre to look at ways of strengthening the relationship of women and children in the local Aboriginal community with the justice system so that victims of sexual assault and child victims of violence could see it as worthwhile to engage with police and the courts in getting perpetrators identified and removed. We will continue to work with other stakeholders to address issues including:

- ◆ Confidence in police as allies in getting victims protected rather than further victimised;
- ◆ Strategies for getting "everyone knows..." to be effective knowledge by those able to take action, that is, people come forward and report matters in a timely manner;
- ◆ The provision of appropriate support services such as Aboriginal sexual assault counsellors;
- ◆ Awareness of the necessary steps to take to preserve and record evidence.

## **YOUTH ISSUES**

It has been identified that continued support for youth workers by back-up information in particular cases, as well as ongoing community legal education, remains an effective way to deliver services to youth at venues where they are comfortable. Centre staff have also continued to participate in the Youth Justice Coalition.

## **WEBSITE AND OTHER MATERIALS**

Redfern Legal Centre, along with other legal centres, remains constrained in the information it can provide to the public as a result of regulations prohibiting

advertising of legal services to do with personal injuries. The definitions are very broad and catch many areas of the law. While community legal centres have been specifically exempted in a couple of specific areas, there are many others that still hamper us communicating with the public about seeking help or practical access to justice. Redfern Legal Centre is pleased to have obtained funding from the Law and Justice Foundation and has launched the website [www.activistsrightsmanual.com](http://www.activistsrightsmanual.com).

## LAW REFORM

Like other community legal centres, our primary aim is to achieve a fair and accessible legal system that really delivers justice. Therefore we participate in a range of law reform activities and campaigns. We are able to identify obstacles to justice from the advice and casework we do, as well as information gathered during the provision of community legal education, and from our general networking.

Our priority areas of law reform and policy work during 2008/2009 arose from our casework and focused on three main streams:

- ◆ The needs of victims of crime and injury;
- ◆ Access of disadvantaged people in the community to services and participation in society and, consistent with this;
- ◆ Administrative fairness and checks and balances on use and abuse of power by agencies including the police, that is, "keeping the system honest".

## EMPLOYMENT LAW

The introduction of the Fair Work Act replacing the Workplace Relations Act meant that there would be changes in agencies, courts and procedures as well as the law. Redfern Legal Centre, together with Kingsford Legal Centre undertook a meeting with relevant court personnel to clarify exactly how certain provisions in the Fair Work Act might work and what the implications might be for our clients who will most often be relatively unskilled but unrepresented. Redfern Legal Centre also prepared training materials and provided training sessions to its own staff and other community legal centres.

## REMOVAL OF CHILDREN

Redfern Legal Centre has continued to provide a monitoring role on issues to do with the removal of children by the Department of Community Services.

The Sydney Morning Herald reported on 15 March 2008

*Since 2002, the number of all children in foster, kinship or residential care has risen by 37 per cent to 12,712 last year, giving the state the highest proportion of children in out-of-home care in Australia - 8.1 per 1000 children, almost double the rate of Victoria, and higher than in New Zealand or Britain.*

*Aboriginal children comprise 30 per cent of those in care - almost 4000 - though they represent only 4 per cent of the state's 0-17 year population, the DOCS data shows.*

Redfern Legal Centre has commenced a project to assess gaps in legal services to families at risk of child removal or trying to maintain contact with children after removal. To do this we are assisting a small number of people with identification of the various issues pertinent to the removal or loss of contact where legal or paralegal advice and education was necessary. We have not taken on the actual Care and Protection cases themselves but rather whether people understand the

law and processes that are happening to them and are able to achieve and utilise effectively representation available to them. A report will be prepared later in 2009 on the findings of this study.

### **NATIONAL HUMAN RIGHTS CONSULTATION**

The General Team undertook a snapshot of cases dealt with on one day across the whole of the Centre's casework operations and contributed the findings to inform the Centre's submission to the National Human Rights Consultation. The findings showed that for many of our clients, it is the long term disadvantages and barriers they face, caused by structural social and economic factors which prevent them from achieving their human rights. That is not to say that in some matters a bill of rights for instance might ensure that a person's human rights were not overridden. A bill of rights might also have a long term affect that would provides checks to the structural forces that disadvantage and exclude our clients. Caseworkers also contributed their observations in the pooling of views and experience for the writing of the submission.

### **POLICE ISSUES**

As part of looking for resolution of issues arising from police matters in the Local Area, the Centre met with Superintendent Luke Freudenstein. An effective, fair, and mature police force is an important service to the community. Assault victims need to be respected and to have their matters treated seriously. Our clients, on the other hand, do not need to be charged with resist arrest/assault officer/offensive language because the manifestation of their disability makes them stand out from the crowd and attracts police attention, or because they are trying to get home after a long and tiring journey.

As police powers increase, the capacity for errors to occur which have harsh outcomes or for accidental or deliberate abuse of those powers needs to be monitored. In this regard we observe that some of the more serious complaints reported to us in recent years have involved not the Local Area Command but rather a unit located in the area that deals with serious crime. It is appreciated that that unit will be focussed on more serious criminals but in the course of doing so its members appear to be at risk of losing perspective on dealing with ordinary members of the community. Those likely to come into contact with exercise of those powers also need to be advised of their rights and obligations under the law. Redfern Legal Centre worked with other interested parties to ensure that processes and resources are in place to deal with matters and complaints as they arise.

A relevant case Redfern Legal Centre has been working on through the year revealed some tendency of both the Ombudsman and the Local Area Command to operate on a basis that if a person has been convicted of an offence arising in the course of an incident they cannot make any complaint about what happens to them. This is clearly an incorrect assumption as the elements constituting the offence may be the small part of the incident. Following further representations to both the Ombudsman and the Local Area Command and a meeting with senior police in the Local Area Command, our client finally felt that the surrounding events had been treated with some understanding.



**PRIVACY/IDENTITY THEFT**

This is a continuing issue of concern, particularly in the light of the increasing power of databases. Our casework demonstrates:

- ◆ How often something mis-heard, mis-communicated, interpreted through a frame of prejudice or lack of cultural understanding or just plain mis-typed, can have significant adverse outcomes for individuals - once on record, the error can be virtually impossible to be realistically addressed;
- ◆ Cards and numerical identifiers and databases have the counter-intuitive outcome of making it easier for certain offences to occur - armed with the right identifier, a person can easily pass themselves off as another; and
- ◆ Mobile telephones with cameras and the internet create a whole field of opportunities for individuals to distribute information about others.

We are continuing to monitor the cases we are seeing with a view to developing publications with problem solving strategies for dealing with situations when they arise.

Olivia Lancaster wrote a paper and provided a more accessible community version of the information on Social Networking Sites for Redfern Legal Centre during the year. Redfern Legal Centre would consider allowing the paper to be reproduced in appropriate publications.

**ACCESS AND EQUITY AND COMMUNITY DEVELOPMENT**

We aim to ensure our service is accessible and appropriate to people/communities in our area. As well as general centre-wide access and equity policies, some staff work with specific communities to ensure access and assist communities' ability to be able to assert their rights.

Many of our information resources are available in a range of community languages. We use interpreters when required. We continue to seek recurrent funding for an Aboriginal Access worker.

Redfern Legal Centre is also active in a range of local, state-wide and national networks and campaigns including:

- ◆ Combined Community Legal Centres Group NSW (including participation in a number of networks and working groups)
- ◆ Consumers' Federation of Australia
- ◆ South Sydney Interagency
- ◆ Financial Counsellors Association of New South Wales
- ◆ Youth Justice Coalition
- ◆ NSW Council of Social Service
- ◆ National Association of Tenants' Organisations
- ◆ Inner City Domestic Violence Action Group
- ◆ South Sydney Community Aid Multicultural Neighbourhood Centre
- ◆ Inner Sydney Regional Council for Social Development
- ◆ Glebe Youth Service

## 2008-2009

Redfern Legal Centre anticipates that many of its ongoing issues will remain current but has identified removal of children from families, stresses on families caused by imprisonment, violence against women and children, discrimination, exercise of police powers and access to public space for its general law service in the coming year. The Centre identifies the importance of an inclusive society where members are valued and treated with respect as important in building social cohesion.



*Author Dale Mills, RLC EO Helen Campbell, Cr Meredith Burgmann at the launch of Activists Rights Manual*

## CREDIT AND DEBT LEGAL SERVICE

Our Credit and Debt Legal Service has one full-time and one part-time solicitor. We provide legal advice and casework assistance to people who live in our local government areas, and State-wide to financial counsellors and their clients. We also undertake law reform and policy activities and conduct community legal education on request.

The period July 08 – June 09 was an extraordinary one for our Credit and Debt Service. The global financial crisis became full-blown in September 2008. In Australia, the new Labor Commonwealth Government commenced a period of intense legislative activity in relation to credit and debt issues. After years of raising such issues with Government, (see previous Annual Reports), one of our solicitors felt compelled to respond. She wrote five submissions to Government inquiries, and participated in the writing of two more. Summaries of these are given below. (Most are reproduced on our website, at [www.rlc.org.au/our services/credit & debt advice](http://www.rlc.org.au/our_services/credit%20&%20debt_advice)).

### LAW REFORM/POLICY

#### ◆ Unfair Terms in Contracts – Commonwealth Treasury

The Government proposed a new national Australian Consumer Law (through amendments to the Trade Practices Act). The law would include provisions prohibiting unfair contract terms.

In our submission dated March 2009, we supported the banning of all the types of unfair terms described in the draft law and, as a **minimum**, the proposal to provide a remedy where the consumer shows a substantial likelihood of detriment. (This proposal should be strengthened to better protect disadvantaged consumers). We also supported the proposal that the onus of proof rests on the supplier to prove that the contract is not a standard form contract.

#### ◆ Carbon Pollution Reduction Scheme Green Paper July 2008 (Commonwealth Department of Climate Change)// Emissions Trading Scheme

Climate change has important disproportionate and regressive affects on our low-income clients, due to increased energy costs, for example.

In our submission dated September 2008, we said, among other things, that there should be no “free” carbon pollution permits; and that where government-owned electricity generators and/or retailers were sold, it should be a fundamental condition of the contract of sale that the new retailers and generators provide affordable services to low-income people. (See also our 2007/08 Annual Report for our submission on this issue to the NSW Government in 2008. NSW readers will be aware that the sale of electricity retailers or generators is still under consideration).

We also said:

1. The Government should not cut fuel taxes on a cent-for-cent basis to offset the price of fuel. Those who use fuel a great deal should pay for it. A permissible exception would be for farmers, and those living in rural or regional areas who need motor vehicle transport for work, and to travel long distances to buy food.
2. Not all carbon pollution permits created by the Government should be auctioned.
3. The Government should not provide direct assistance to existing privately-owned coal-fired electricity generators. Instead, such owners should only be granted

permits if they agree under contract to provide affordable services to low-income people who are tenants of residential properties and who don't own investment properties.

4. Obviously, we support the proposal that revenue raised by the [carbon pollution reduction] scheme be used to “help households adjust” (Summary Report, p. 24). We also support an “increase [in] payments, above automatic indexation, to people in receipt of pensioner, carer, senior and allowance benefits.” (Summary Report, p. 25). It is our view that the increase should also go to those on unemployment benefits.
5. If these proposals are not accepted, Governments (Commonwealth, State, and Territorial) should regulate electricity prices. It is noted that the NSW Government already enables the Independent Pricing and Regulatory Tribunal to monitor electricity prices, but the current intention is that this should end. It is also noted that the Green Paper proposed the establishment of an independent scheme regulator (Summary Report, p.31)
6. As an alternative or in addition to the above, the electricity industry could be restructured, on the condition that the interests of low-income people were adequately protected. For example, shares in the industry could be sold to the public, but not to big business. (Some unfairness occurred a few years ago in relation to the separate sale of shares in Telstra, to big business. Those shares increased in value a lot more than the separate tranches which had been sold to Mum-and-Dad shareholders). In addition, any such restructure should only be undertaken after proper consultation with low-income people and their representatives.

#### ◆ Reasons and discussion

Car fuel prices should be taxed at a level that a) discourages unnecessary use of vehicles, and b) truly represents the damage caused to the environment. The cost of petrol is irrelevant to most of Redfern Legal Centre's clients because they are too poor to own cars. One exception is the class of rural and regional people whom Redfern Legal Centre is required to assist, through financial counsellors. Many of these people are farmers and/or live in farming communities. Another exception is the many rural and regional Aboriginal people who we assist due to our location next to an important Aboriginal sacred site (“the Block”, in Redfern). Many Aboriginal people have very strong links to rural and regional land, and need to stay in touch physically with both their background communities, and the land itself.

In effect, the granting of “free” carbon permits provides a licence to pollute. We do not support this. Power generators should have addressed the issue of their respective carbon footprints by now. Big business made massive profits for years. Low-income people who do not own property, did not prosper in this way. Low-income people should not have to bear a disproportionate burden of the cost of growth. We accept that the Government may need to auction some permits in order to obtain revenue with which to assist low-income households.

Regarding terms of sale contracts, where these are breached by generator/retailer purchasers, then they are potentially liable for damages. Thus, our recommendation achieves two goals. First, it is a method by which low-income people can be protected from undue price increases. Secondly, if the purchasers do not provide low-income people with cheap electricity, then Government (or perhaps

consumers themselves, depending on the contract terms) can recover damages from the purchasers.

Finally, it is important that any regulator, as proposed, is sufficiently strong. It is possible that a Parliamentary Committee would be a better option.

◆ **Regulation of credit and mortgage brokers – the June 2008 Financial Services and Credit Reform – Green Paper.**

This is another issue which has been a subject of great concern for credit and debt solicitors throughout Australia, and on which one of our Credit and Debt solicitors has been working for many years.

In our submission to the (then) Minister for Superannuation and Corporate Law, dated July 2008, we supported the proposal for Commonwealth legislation to regulate all credit and mortgages (and hence mortgage lenders and brokers).

We noted that it is commonplace for our clients to enter contracts in one State, but be sued by the Head Office of the creditor, in another State. Although legal arrangements can be made to transfer a matter to the State or Territory in which the client lives, this is difficult for disadvantaged clients. Where they are impecunious, have trouble obtaining pro bono legal advice, or cannot access a community legal centre, it is our experience that inter-territorial Courts find such people liable for the alleged debts. Community legal centres are more readily able to achieve inter-jurisdictional transfers through their extensive contacts with one another nationally.

However, we said that we believe that State [and Territorial] Courts and Tribunals should retain some power to hear credit and mortgage matters in their own jurisdictions. It was our strong view that mortgage and finance brokers and lenders should be subject to stringent licensing requirements.

The Government followed this Green Paper with the:

◆ **National Consumer Credit Protection (“NCCP”) Bill 2009 – “Exposure Draft”**

In summary, this Bill is intended to change the existing State legislation to Commonwealth legislation; license consumer credit and credit-related brokering services; and require licensees to observe responsible lending practices.

In February 2009, we worked on a **\*submission by Consumer credit advocates** from around Australia on ensuring access to justice in relation to the proposed implementation of the (new) Consumer Credit Code, by recommending the development of a no-cost jurisdiction in the Federal Magistrates Court.

Then in May 2009, we wrote our own submission to the (then) Minister for Superannuation and Corporate Law, on the Exposure Draft of the NCCP Bill.

We supported the following:

◆ **Commonwealth legislation**

- enacting the existing State legislation (UCCC) as Commonwealth legislation;

◆ **A licensing regime**

- establishing a national licensing regime to require providers of consumer credit and credit-related brokering and advice services to obtain a licence from ASIC;

◆ **Membership of EDR bodies**

- requiring mandatory membership of an external dispute resolution body by all providers of consumer credit and credit-related brokering and advice services.

#### ◆ ASIC powers

- extending the powers of ASIC to be the main regulator of the national credit framework with enhanced enforcement powers. However, we think there may be room for the concurrent operation of State and Territory Tribunals and Courts, for example in relation to smaller and simpler matters.

We supported the principle that licensees be required to observe a number of general conduct requirements including **responsible lending practices**. However, there is a risk that the data collection and use which might occur, becomes an unreasonable breach of information-privacy. This will be a big issue in the next few reporting periods.

We supported the requirements in the draft legislation that credit providers and credit assistance providers etc. must:

- ◆ provide credit guides to potential borrowers;
- ◆ assess whether particular credit contracts are unsuitable for a consumer;
- ◆ disclose in a document any fees or commissions likely to be payable.

It is questionable, however, how much these proposals will protect our clients.

Regarding the first point, it is our experience that many of our clients don't read all the documentation with which they are provided under the present regime. Perhaps one way around this is to provide adequate training to credit providers to fairly assist borrowers.

On the second point - assessment of suitability for credit – we have strong reservations about the ability or propensity of lenders, credit ratings agencies, and so on, to correctly and properly assess borrowers' capacity to pay off debt. After all, many of these entities have some responsibility for the global financial crisis. They were either too greedy or too careless to see that many financial institutions were massively over-g geared.

It is perhaps arguable that Australian credit assessors (of whatever kind) were better at assessing risk than many world lenders. However, it is the writer's experience that Australian lenders have thought until recently that they were safe lending even to pensioners without any assets other than the [inexpensive] family home, as long as the debt (mortgage) was fully secured against the borrower's home.

Allowing credit providers to make better attempts to assess credit "worthiness", through massive invasions of the information privacy of borrowers, is not supported, unless there are extremely strict information- or data- privacy protections in place. For example, lenders and credit reporting agencies should not be able to collect, store, and distribute financial or other information about individuals or families until after such guidelines are put in place.

This is only Phase One of the Government's legislative programme regarding consumer credit regulation. The Government intends to address other consumer credit issues under Phase Two of the NCCP legislative program.

#### ◆ The Rudd Stimulus package (the global financial crisis No.1)

Prior to its passage through the Upper House in February 2009, we wrote to the Greens and the two independent Senator Members in the Commonwealth Parliament, noting our support for certain elements of the Rudd Government's

proposed so-called “Stimulus package”. (Some of the Senators were undecided about whether or not to support the package). We said that we supported the provision of \$10.5 billion for housing for the poor, and the proposed grant of \$950. to singles. However, we said that this one-off grant was insufficient. In addition, we supported the ACOSS proposal that unemployment benefits for singles be increased by a minimum of \$30. per week.

◆ **Garnishee Orders**

Together with the Consumer Credit Legal Centre, the Financial Counsellors’ Association of NSW, and the Lismore and District Financial Counselling Service, we wrote to the NSW Attorney General about the unduly high amount of wages which can be garnished when a Court finds that a person owes a debt. We recommended that the amount of income which should be “protected” from garnishment, should be increased, but with a judicial discretion to take into consideration an individual’s particular circumstances. We also recommended that the Commonwealth Bankruptcy Act be used as a benchmark for personal property that is protected from seizure by Sheriffs. (For example, bankrupts can keep tools used to earn an income, up to the value of \$3,250.00 (as at April 2009).

This work followed a client contacting us after her wage had been garnished by her employer.

◆ **Post-Release Prisoners & the Families of Prisoners Housing and Debt Project**

The Project continues to evolve since its inception in 2006, with the creation of a Workbook and preparation for its formal delivery in a number of workshops at Guthrie House later in the year.

The Project aims to address the issues facing people embroiled within the criminal justice system. It also has a specific focus on working with families of prisoners, especially since families often remain the silent victims of the system, as they struggle to maintain an everyday life, whilst supporting their loved one in custody and trying to keep the family unit intact.

The specific focus of the program is to inform people of their rights and obligations in relation to a wide range of matters affecting housing and credit and debt, and to assist them in advocating for themselves. Ultimately, the aim is to address recidivism, especially as a result of overwhelming debt, unstable or unsuitable housing accommodation, and consequently to build stronger communities.

◆ **The Women In Prison Advocacy Network (WIPAN)**

Our active involvement and support for WIPAN continues to grow, as does WIPAN itself.

The target group for this project is NSW female prisoners and women upon their release. It has been recognised that women prisoners often have multiple and more complex needs than their male counterparts, as they experience greater hardship through their incarceration, which can be further exacerbated where the women are mothers, have been a victim of a crime themselves or have severe physical and/or mental health issues or suffer from some other disadvantage.

WIPAN aims to provide support and advocate for:

- ◆ Alternatives to imprisonment for women in NSW (reducing the increasing recidivism rates).
- ◆ Medium to long-term accommodation post release.

- ◆ Drug & Alcohol education and support.
- ◆ Parenting & living skills.
- ◆ Domestic Violence.
- ◆ Education, (Literacy, Numeracy & Vocational).
- ◆ Health and Dental Care.
- ◆ Culturally appropriate programs.
- ◆ Mentoring programs.

## **CASE WORK**

A selection of the case work conducted by our service during the year, is set out below.

### ***CREDIT, CREDIT & MORE CREDIT***

A client on a disability support pension due to her long history of mental health issues, and consequently ongoing periods of hospitalisation for this, was provided numerous credit cards and other services through telephone marketing. Our client was unable to repay these debts and it is doubtful that she had capacity at the time she entered into these arrangements. A number of Ombudsman complaints have been lodged in relation to some of these credit and service providers, including due to their failure to provide the essential documents sought despite repeated requests. The increased difficulty experienced in attempting to obtain all documentation relevant to our clients' matters from creditors appears to be a recently revived trend.

### ***A SPOUSE, A MORTGAGE BROKER, ONE HOME, MULTIPLE LENDERS AND AT LEAST TWO FORGED MORTGAGES.***

This case demonstrates how readily available credit still is; poor lending practices; and failure to make proper enquiries, particularly in relation to secured borrowings.

Client was subsequently embroiled in a Supreme Court action, instigated by one of the mortgagees seeking to enforce its forged mortgage. With the aid of Counsel, we successfully negotiated a complete release for our client of any legal liability, and the withdrawal of proceedings by the Plaintiff.

### ***LEMONS EVERYWHERE AND NO TREES IN SIGHT***

We have assisted a number of clients in relation to the purchase of second hand cars on credit to the same finance company. The sale price of the vehicles did not reflect their true market value, but were significantly inflated. The loans operated to exclude the operation and protection of the Consumer Credit Code.

One client who was on the Centrelink old age pension purchased a second-hand car for significantly above its fair market value on credit. The credit contract contained no interest provision, however interest appeared to have been incorporated in the purchase price of the car. The sales/loans person sought to obtain a guarantee from our client's elderly mother who owned her home. This was unsuccessful, however it clearly demonstrates that there was some concerns that our client as primary borrower would not be able to service the loan. Unsurprisingly, our client experienced difficulty repaying the debt due to its onerous payments on a number of occasions, and despite failed attempts to renegotiate his repayments, the car was subsequently repossessed and sold,



resulting in a residual debt. Our client had also spent a substantial sum to undertake repairs to the car during the 2 years that he had it.

In another like case, we were able to have our client's credit contract terminated at no additional cost to her, and a full release from all liability.

### **PANDORA'S BOX**

We have been managing a number of predatory and overcommitted lending cases. At times, this has involved the assistance of pro-bono legal providers due to the complexity of the case, and extent of management necessary.

### **FINES (AGAIN)**

We represented an Aboriginal woman who had incurred many fines over the years. She has a number of physical disabilities (which are not obvious to the naked eye), and is on a disability pension. We informed the State Debt Recovery Office (SDRO) of these matters, providing medical certificates and Centrelink statements as evidence.

We asked for all of her enforcement orders to be written off. Instead, the SDRO listed four of the orders for Court hearings. Unfortunately, it listed the hearings for separate days, and in various Courts scattered throughout the State. This meant our client would have to travel large distances around the State, in a short space of time. Furthermore, due to the fines, our client's car licence had been cancelled.

Through lengthy and many verbal and written submissions to the Police Prosecutors (in the criminal matters) and the Plaintiffs (in the civil matters), our solicitor obtained withdrawals of the charges and dismissals at each of the Court hearings.

### **DODGY INSURANCE CONTRACTS (UNJUST TERMS)**

Through written negotiation, we managed to get a disabled client out of a dodgy accident insurance contract. The problem was the insurance company's contract, not our client's disability.

### **COMMUNITY LEGAL EDUCATION / NETWORKING**

One of our solicitors continued in the role as the NSW CLEW (Community Legal Education Working Group) Co-convenor. This network provides training and network opportunities to all community legal centre workers, the development of partnerships and sharing of resources, especially those interested in and engaged in community education. The other solicitor was involved in discussions at a specialist Indigenous Financial Counsellors' group at the Australian Financial Counsellors' Credit Reform Association (AFCCRA) conference, and gave training to our volunteer solicitors on credit and debt issues.

One of our solicitors was a member of the Executive Committee of the Financial Counsellors Network of NSW ("FCAN"). In early October 2008, she also attended the 'Discovering Balance: Prison Reform, Restorative Justice & Human Rights' Conference in Perth, WA run by the Institute For Restorative Justice And Penal Reform. This provided a great opportunity to network with other organisations and community workers operating within the criminal justice system and to discuss and address issues around prisons generally, such as better prison

models, treatment of persons in custody, alternatives to sentencing, particularly custodial sentences, post-release support and the impacts on recidivism. (For the other solicitor's networking activities, see under items 3, 4, and 6 of the "Law Reform" entries in this report).

### **ONGOING ISSUES – GFC NO. 2, POVERTY, HOUSING, ENERGY, DISABILITY, FINES**

A large number of low-income people are massively over-committed, and have no chance of paying off their debts. In addition, the complexity of our clients' debt problems, the number of debts incurred, and the types of debt, are all increasing.

Although those attempting to pay off mortgages were assisted during 08/09 by unusually low interest rates and the Rudd Government's "First Home Buyers Assistance Package", it is not rocket science to foresee a greater number of people at risk of losing their homes due to unemployment. In addition, there is an under-supply of affordable housing in Sydney. Those who have not entered the housing market yet (e.g. the young, the unemployed, the disabled, and low-income people) will continue to suffer extreme financial hardship.

As was demonstrated by people dying from extreme heat in Adelaide in January 2008, energy costs are particularly important for the health of children, the elderly, and the disabled. Anecdotally, it seems that more of our clients have physical disabilities, such as chronic pain, and hence a reduced capacity to deal with debts such as fines.

Clients with many fines, and difficulties dealing with the State Debt Recovery Office, took up a great deal of our casework capacity in the first half of 2008. There were two amendments to the NSW Fines Act during the year, however. In particular, the December 2008 amendments were aimed at assisting Centrelink beneficiaries to pay off fines. It is too early as yet to assess the impact this may have on our clients.

### **MEDIA**

One of our solicitors was asked by the office of the NSW Minister for Fair Trading to attend a "media event" with her. Our solicitor took an indigenous client to talk about his debt experiences and the assistance provided to him by RLC. We were all filmed speaking to Channels 7 and 10 about poverty and debt, among other things.

### **GOODBYE JAN**

We would like to record our thanks to Jan Pentland, the President of AFCCRA, who has been of great help to many in the Consumer Credit movement over many years. Jan passed away just after the 2009 AFCCRA conference.

## **INNER SYDNEY TENANTS' ADVICE & ADVOCACY SERVICE (ISTAAS)**

During the last financial year ISTAAS recorded 1,954 client contacts. The tenancy team opened 142 files.

### **ADVICE & CASEWORK**

Telephone advice is available 20 hours per week during advertised advice line hours, and an estimated 4 hours of telephone advice per week is provided for urgent calls outside of these hours. During this period ISTAAS recorded 1,797 initial contacts as phone advice in the TAAP database.

ISTAAS provides face to face advice by appointment, as well as immediate face to face advice to persons who drop into the Centre, if the matter is urgent and they are unable to use a telephone due to disability or a legally complicated matter. ISTAAS also provides face to face advice at other times as part of ongoing casework.

During this period ISTAAS saw 227 clients for face-to-face advice as the initial type of contact. In addition, 153 clients were seen face-to-face as a follow up to the initial contact (of phone or face-to-face advice). Clients were also given face to face advice as part of ongoing casework which is not recorded in the TAAP Database.

Of the 142 files, 76% involved social housing landlords. This indicates the high level of assistance required by many public housing tenants.

64 initial contacts were Aboriginal or Torres Strait Islander tenants which includes 21% of open files. 38% of contacts were born outside Australia.

ISTAAS caseworkers also assisted 149 clients with their preparations for a hearing at the Consumer, Trader & Tenancy Tribunal (CTTT). This includes applications for rehearings at the Tribunal which involve a lot of preparation, even where we don't represent at the final hearing. ISTAAS represented tenants in 107 hearings at the Tribunal.

ISTAAS trained and supervised a number of volunteers to answer the Tenants' Union Hotline one advice session per week and who assisted 89 tenants from all over New South Wales.

### **CASE STUDIES**

#### **ADVOCACY WITH PRIVATE LANDLORDS**

One matter involved a tenants' claim for bond two years after leaving the premises. The landlord had kept her bond for damage done to the property by a domestic violence perpetrator that the tenant had not allowed onto the property and should not be legally liable for. The landlord had not claimed compensation within the time limit of 30 days to the CTTT and instead took the bond months after the damage had been repaired. The matter involved a lot of advocacy but was not successful at the CTTT. While the onus of proof is on a landlord, the landlord was not required to give proof of his claims.

ISTAAS has successfully advocated in many cases for sub-tenants to receive their bonds back from head tenants where the bonds have not been lodged with the Rental Bond Board.

ISTAAS has successfully negotiated for boarders to be given reasonable notice for terminations in boarding houses (usually 1 – 2 weeks as opposed to 1 – 2 days).

### **ADVOCACY IN PUBLIC HOUSING**

Our clients had moved in together and were engaged to be married. Housing NSW refused to move them to a larger premises even though they were living in a one bedroom unit with two children. This involved a harsh application of the policy not to rehouse for overcrowding after additional occupants move in.

Another public housing tenant applied for transfer on medical grounds in early 2008. The transfer was initially granted but then was withdrawn. We helped him with first tier appeal, which was unsuccessful. We then assisted with a second tier appeal to Housing Appeals Committee which was successful. The client is now on the priority transfer list.

ISTAAS had an Aboriginal client who had to vacate her premises due to severe domestic violence. She had applied for a transfer twice, through our office, but HNSW kept losing her application. After a complaint to the NSW Ombudsman we were able to get her approved for a priority transfer.

ISTAAS represented a client 5 years ago and consent orders were made for the client to move out of the property and for Housing NSW to waive the debt of \$40,000 (due to a backdated rental subsidy cancellation). Recently Housing NSW tried to enforce that debt through a debt collector. When the CTTT orders were raised with HNSW they continued to pursue the debt giving the reason that the agreement was not binding as the Tribunal's jurisdiction only went to \$10,000. ISTAAS argued that due to estoppel, waiver and contract law, Housing NSW could not enforce the debt. They have not proceeded to enforce the debt through litigation. However, had we not intervened, the client would not have realised the debt could not be collected through a debt collector if she did not agree with it.

Our client was referred to us from the Womens' Domestic Violence Court Assistance Scheme in 2007. She spoke limited English and was living in Housing NSW with her husband and son. She was listed as additional occupant on the Housing NSW agreement. Apprehended domestic Violence Orders had been made that her husband not intimidate or harass her. ISTAAS requested HNSW implement their Domestic Violence Policy and rehouse her husband. This they failed to do.

Her husband continued to breach orders. Our client advised Housing NSW that her additional two children would be joining her and had been approved for Immigration Visas so sought transfer to three bedroom accommodation. Despite the Department being aware of the imminent arrival of the client's children, they failed to implement their policy and made her an offer of two bedroom accommodation. When she declined it as being too small for herself and three children she was told to go to appeal. After extensive negotiations our client was rehoused with her three children.

By HNSW failing to adhere to their Domestic Violence policy and rehouse the husband, our client was forced through further hardship by having to move her household and three children with no assistance or financial means. On top of the domestic violence and trauma she and her son had suffered they were forced out of their home. This matter is currently the subject of a complaint to HNSW about failing to apply what looks to be a good policy on paper.

### **CTTT REPRESENTATION, PUBLIC HOUSING**

An Aboriginal tenant was living in community housing. Police raided her premises and found drugs. Community housing gave her a notice of termination and applied to the CTTT for an order for termination and vacant possession. She has three teenage daughters and says that the drugs belonged to a brick-layer who was working in her yard that day. She was not charged by the police with any offence. Community housing is arguing that she used the premises for illegal purpose. At the Tribunal we successfully argued for her to retain her tenancy.

A tenant living alone in a Housing NSW property received notice of termination for breach, because, it is alleged, he has too many belongings and the premises are very unclean. Support services have refused to come to the premises because of Occupational Health and Safety issues. ISTAAS undertook intense advocacy with support services and Housing NSW. Represented at the Consumer, Trader & Tenancy Tribunal. ISTAAS was able to get support services involved to assist the client to keep his premises clean. Since this time he has been successful in maintaining his tenancy.

We have also continued to assist a public tenant who pays market rent. He lives in a public housing estate in Waterloo, which is notorious for having been let run down and for its perceived high crime rate.

Every year for the past three years, Housing NSW increased his rent by \$60. Every year he successfully fought the rent increase in the CTTT as being excessive. Again, this year ISTAAS assisted him in providing evidence that a \$60 rent increase was excessive, as the premises are in a greater state of disrepair with each passing year.

We assisted a public housing tenant who had been living in the same premises for 22 years. Shortly after moving into the premises with her young son, she noticed that there was a severe damp problem, causing ceilings, walls and her belongings to grow mould. Her son's asthma got worse, and the tenant also started to develop respiratory problems.

For twenty years she tried to get Housing NSW to remedy the problem. Her and her son's doctor kept on sending letters to Housing NSW pointing out that the mould problem had a severe negative impact on both, mother and child.

When her son turned 16 he moved out from home and his health improved. After suffering severe asthma attacks every time he visited his mother, they started to meet outside her home and would spend holidays at his house rather than hers.

ISTAAS successfully negotiated with Housing NSW to transfer the tenant to new premises as a matter of priority. We applied for her file under the Freedom of Information Act. Upon receipt of the file, we found photographic evidence spanning twenty years, which confirmed that Housing NSW was aware that there was a severe problem. The file also contained the letters the tenant's doctor had sent to HNSW over the past twenty years, pointing out that her living situation was detrimental to both hers and her son's health.

The tenant applied to the Consumer, Trader & Tenancy Tribunal (CTTT) for non-economic loss of \$10,000 (the jurisdictional limit) for inconvenience, stress and embarrassment resulting from the landlord's failure to repair the premises. She also informed Housing NSW that she'd be seeking \$17,000 for economic loss in the local court, for her furniture and goods that were damaged by mould over the past twenty years.

ISTAAS represented her in a number of CTTT hearings, the last one which was adjourned as Housing NSW indicated that their insurance was going to make the tenant an offer. Housing NSW also transferred Joy to new premises. Eventually with the help of ISTAAS, Joy negotiated a settlement of \$17,000 with the insurance company and withdrew her CTTT application.

### **ADVOCACY INVOLVING A REAL ESTATE AGENT AND COMMUNITY HOUSING PROVIDER**

We represented a 21-year old gay man lived in community housing. He had signed a 3-months lease for an apartment that was head-leased by the community housing provider. After moving in, he held a housewarming party, and a week later his 21st birthday party. Neighbours complained about the noise, but more than anything, some of the neighbours took issue with him being openly gay. They posted homophobic and threatening notices and graffiti around the block of flats. The community housing provider attempted to evict him.

ISTAAS argued at the CTTT hearing that the application for termination should be dismissed. The CTTT adjourned the matter to give the housing provider opportunity to make a legal submission. As a result they withdrew their application for termination.

In the meantime, ISTAAS assisted the tenant to take the matter to the Housing Appeals Committee (HAC). HAC found that the community housing provider had not followed their own policy in deciding to terminate the tenancy and recommended that he be transferred to more suitable accommodation. The community housing provider accepted the recommendation.

### **DUTY ADVOCACY AT THE CONSUMER, TRADER AND TENANCY TRIBUNAL (CTTT)**

ISTAAS continues to provide a duty advocacy service at the CTTT for one half-day per fortnight.

During 2008-9 ISTAAS duty advocates assisted 53 tenants. This included immediate provision of advice, advocacy during conciliation, representation and assistance to have matters adjourned so that tenants were able to seek further advice or representation.

This additional service remains unfunded and due to the high demand for the service and the complexity of the casework ISTAAS (and the other advocacy services that participate in the program) is unable to meet all the demand.

Unfortunately, ISTAAS was forced to cancel a number of our duty advocacy sessions due to our case load. However, CTTT conciliators continue to be very appreciative of our services and ask us to attend on other days with group listings. We also found that conciliators often ask us to assist a tenant when we are in the CTTT on behalf of another client.

## COMMUNITY LEGAL EDUCATION (CLE)

During this period some examples of CLE sessions ISTAAS ran or attended were:

- ◆ Five sessions for University of Sydney International students for a total of around 1,750 students (around 350 students per session);
- ◆ Housing of New South Wales sessions for public tenant representatives on the rental fraud amnesty and housing issues generally, in conjunction with Inner Sydney Regional Council for Social Development;
- ◆ Housing of New South Wales CLE session for tenants on rental fraud amnesty and general housing issues (appeals, repairs, CTTT etc);
- ◆ CLE session for Redfern and Waterloo Russian speaking Housing NSW tenants;
- ◆ Tenancy training for local Community Workers. Focus on general issues such as repairs and Consumer, Trader & Tenancy Tribunal issues as well as Housing NSW Appeals procedures;
- ◆ Tenancy training for 40 financial counsellors regarding rent arrears, bad tenant databases, uncollected goods, CTTT and enforcement of possession and debt orders.

Attendance at events and other organization visits:

- ◆ Attendance at Stop Domestic Violence Day at Redfern Park
- ◆ Visits to local community organisations such as Mudgingal Aboriginal Women's service, Anglicare Surry Hills, Lilyfield Community Centre, Mercy Arms Waterloo, Annandale Neighbourhood Centre, Redfern Community Centre, Salvation Army, Neighbourhood Centre Waterloo, The Shop Women's and Girls' Emergency Centre, Rozelle Neighbourhood Centre, Stepping Out Housing (Drug & Alcohol Rehabilitation Organisation); Guthrie House (prisoners transitional housing program for women suffering drug & alcohol issues); local libraries.

Other distribution of information and service promotion:

- ◆ Pamphlet mail out to housing officers and student workers at University of Sydney, UTS and TAFE campuses
- ◆ Pamphlet drop to public tenants in Redfern & Waterloo area advertising ISTAAS in English and in Russian
- ◆ Mail out of pamphlets in English and Chinese to local community organisations in Pyrmont, Haymarket and Ultimo areas; Chinese local press; TAFE Housing officers

Ongoing collaboration with other services to produce resources for CLE sessions such as:

- ◆ Before You Rent publication with Northern Area Tenants' Service and Southern Sydney Tenants Service;
- ◆ Prisoners Information kit with RLC credit & debt team;
- ◆ CLE for Housing NSW tenant reps with Inner Sydney Regional Council for Social Development;
- ◆ Boarders Legal Kit with Sydney University SRC and the RLC credit & debt team

## **LAW REFORM AND POLICY**

ISTAAS has contributed to submissions produced by the Tenants' Union, the Tenancy Legal Working Party and the Public Housing Issues Working Party.

ISTAAS has also attended CTTT consultative forums and raised issues on behalf of the TAAP network.

### ***BOARDING HOUSE RESIDENTS PROJECT***

ISTAAS has received funding from Lord Mayor Clover Moore's Salary Trust to research and publish a legal information kit for boarding house residents to assist them in asserting their rights under contract, local government and common laws.

These people are living in the most vulnerable of housing circumstances. In the past two years the number of homeless or at risk of homelessness people approaching our services has nearly doubled, but we have had not increase in funding for advocacy staff. Nor have we been successful to date in our campaign to obtain better and more tenant-like legal protections for these residents.

It is hoped this project will assist boarders and lodgers to resist no notice evictions and loss of privacy and personal possessions and lead to the development of more secure and affordable housing options.

### **STAFFING**

Over most of this period the tenancy team has been staffed by:

#### ***PERMANENT STAFF:***

Jacqui Swinburne, Coordinator & Tenants' Advocate

Phoenix Van Dyke, Tenants' Advocate

Sue Thomas, Community Education Officer & Tenants' Advocate

Natalie Bradshaw, Tenants' Advocate

#### ***CASUAL STAFF:***

Tom Beamish

Sarah Drury

Emma Golledge

Barbara Paradis

Cass Wong

#### ***HOTLINE VOLUNTEERS:***

Siew Cooper

Alex Edwards

Tom Beamish

Charlene Ko

Roberta Allen

Briana Jurgeit

Dominique Armstrong

Anna Wallington

Paul Ahearn

Rosana Leung



## **WOMEN'S DOMESTIC VIOLENCE COURT ADVOCACY SERVICE**

The Redfern Legal Centre's Women's Domestic Violence Court Advocacy Service has had another busy and productive year. We have continued to actively maintain the profile of domestic violence as a criminal matter, and we have provided advocacy, advice and referrals to over 400 women in the Redfern and inner-city areas. We have also been active in a wide range of initiatives, from domestic violence law and policy reform work to community legal education aimed at promoting the prevention of domestic and family violence.

### **STAFF AND PROJECT WORKERS**

During 2008-2009, Susan Smith has been the Solicitor/Coordinator of the Redfern WDVCAS and Jodie Lee the Assistant Coordinator. Rabea Khan was the Administrative Assistant and Court Advocacy worker, and solicitors Merilyn McClung and Klara Major have filled locum positions.

Charmaine Weldon has been the Domestic Violence Partnership Liaison Project (Yellow Card) worker. This project, funded by the Office for Women's Policy at the Department of Premier and Cabinet, worked in partnership with local NSW Police Domestic Violence Liaison Officers to provide more than 200 women with information and referrals to domestic violence services, including refuges, counselling services and the WDVCAS. In this role, Charmaine has worked closely with Domestic Violence Liaison Officers (DVLOs) Gillian Bridges and Gary Jennings at Redfern Police Station.

### **CASEWORK**

During the 2008-2009 period, the Redfern WDVCAS has given assistance to 437 individual clients in 484 separate matters. We recorded 1853 total client contacts: 12 per cent of these contacts were with women who identified as Aboriginal or Torres Strait Islander, 36 per cent with women who identified as culturally or linguistically diverse, and 12 per cent with women who identified as having a disability. Eighty-five per cent of the clients we saw were referred to us by police, 85 per cent of the applications for AVOs for our clients were made by police, and 75 per cent of all AVO applications were against a current or ex-partner.

### **GILBERT + TOBIN**

Every Wednesday (AVO list day) solicitors from Gilbert + Tobin assist Redfern WDVCAS by providing pro-bono representation to women in AVO matters at the Downing Centre Local Court. In recent years there have been far fewer private applications for AVOs through the Chamber Registrar, with 85 per cent of matters being prosecuted by police. However, the private matters handled by the Gilbert + Tobin solicitors are often the more complicated matters or are matters involving female defendants who themselves identify as victims. Gilbert + Tobin have also provided pro bono representation to women in defended hearings.

### **CASE STUDY:**

- ◆ After a referral from the RLC TAFE solicitor, we assisted a female defendant in an AVO. The client had an earlier AVO made against her ex-husband for her protection and had withdrawn her support for his permanent residency. He then claimed he was the victim of violence against him by his former wife, and was pursuing a private application for an AVO against her, represented by his

immigration solicitor. The client was not eligible for legal aid, so we sought pro-bono representation from Gilbert + Tobin. Gilbert + Tobin engaged pro bono counsel, and only days before the hearing (and only after Gilbert + Tobin and pro bono counsel had put in an enormous amount of work on the case) the application was withdrawn by the ex-husband.

In addition, G + T solicitor and RLC board member, Tamara Sims, has generously given her time to Redfern WDV CAS, and has been involved in selection panels for new WDV CAS staff as well as providing practical advice, support and encouragement.

### ***DOWNING CENTRE AVO LIST DAYS AND HEARINGS***

Workers from the local community, including Redfern Legal Centre, NSW Police (Redfern Aboriginal Client Liaison Officer, Lee-Anne Ferguson), Mudgin-Gal Aboriginal Women's Service, Darlinghurst Community Health, Elsie's Refuge, and The Shop Women and Girls' Centre have provided assistance and referrals to women on AVO list days, and on many occasions over the past year, these workers have also provided assistance to women at hearings. Local agencies have also provided ancillary assistance to Redfern WDV CAS clients which, on many occasions, has resulted in a vast improvement in the client's safety and lifestyle.

### ***CASE STUDY:***

- ◆ A client from the African community, a student with two small children, was assaulted by her partner on a Saturday night. The client was hospitalised with her injuries, and with no family or friends able to care for the children, they were temporarily placed with the Department of Community Services (DoCS). The client attended court on the following Wednesday for the mention of the police AVO for her protection and the charges against her partner. A DoCS worker attended with the client, and we were told that the client had been asked to sign an agreement placing her two children in DoCS care for another four weeks. A worker from The Shop Women and Girls' Centre was in attendance at court, and suggested - rather than place the children in care for another four weeks - she and the DoCS worker seek urgent, safe accommodation for the client and her children. The DoCS worker and the worker from The Shop placed the woman in safe housing by the next afternoon, and between them they also assisted the client and her children to find permanent housing, gain permanent residency and assisted her to find ways to continue her studies. The defendant entered a guilty plea and a final AVO was made.

### ***LAW REFORM AND POLICY***

#### ***The Premier's Council on Preventing Violence Against Women:***

Charmaine Weldon was appointed to a two-year term as a member of the Premier's Council on Preventing Violence Against Women. The Council has 12 members, was chaired by the (then) Minister for Women, the Hon Verity Firth MP, and reports directly to the Premier on issues that relate to the prevention of violence against women. As part of the NSW Government's stated commitment to an improved approach to domestic and family violence, a state wide strategic framework is being developed to increase coordination across government services to ensure women experiencing violence receive the best possible service

response, and the Council's first task was to provide advice on the development of this framework. As a Council member, Charmaine has been instrumental in conducting a number of consultations in New South Wales to inform the development of the framework.

**AVLICC:**

Redfern WDCVAS, through membership of the Attorney General's Apprehended Violence Legal Issues Coordinating Committee (AVLICC), has continued to make recommendations to government to improve domestic violence legislation, policies and procedures. AVLICC comprises representatives from non-government and government agencies, including representatives from the Attorney General's Department, the NSW Police, the Police Ministry, Local Courts, the Legal Aid Commission, the Judicial Commission, the Office of the Director of Public Prosecutions (ODPP) and key services such as the WDVCS. The purpose of the committee is to ensure appropriate coordination of criminal justice system services for people seeking apprehended violence orders (AVOs) and to examine and identify legal, policy and procedural barriers to the provision of adequate criminal justice system services.

In March 2008, after recommendations from AVLICC, major changes to the form and substance of NSW domestic violence laws came into effect with a stand-alone act, the *Crimes (Domestic and Personal Violence) Act 2007*. Over the past twelve months, Redfern WDVCS statistics show these reforms have resulted in an improved response to instances of domestic violence, in particular by a rise in the number of Provisional Orders (formerly Telephone Interim Orders) applied for by police, and a decrease in the number of matters withdrawn by police.

**STATE AND FEDERAL GOVERNMENT SUBMISSIONS:**

Redfern WDVCS statistics show that as many as 40 per cent of women attending the Downing Centre Court for apprehended violence orders and associated criminal proceedings against the defendant are also likely to be involved in protracted Family Law proceedings. In 2008-2009 Redfern WDVCS made a submission to the Federal Government's National Plan to Reduce Violence against Women and Children and to NSW Government's Domestic Violence Strategic Framework, recommending that the Commonwealth and the State consider an integrated approach to address violence against women and children. In particular, the Redfern WDVCS recommended that consideration be given to supporting the establishment of integrated, multi-jurisdictional domestic violence courts – designed to respond specifically to the unique nature of domestic violence – where a single presiding Judge is appointed to handle all matters relating to the one family, including criminal domestic violence cases and related Family Law issues.

**NSW POLICE:**

Redfern WDVCS is a member of the NSW Police Domestic and Family Violence Stakeholders Task Force, which is forging new and important links between NSW Police and peak domestic violence agencies, in keeping with the Premier's State Plan for an integrated approach to reduce domestic violence.

In 2007, Redfern WDVCS made a comprehensive submission to the NSW Police and to the NSW Ombudsman, requesting that police consider adopting a 'primary aggressor' policy when policing domestic violence, similar to policies adopted in a

number of overseas jurisdictions. NSW Police responded by making a number of changes to improve the investigation of domestic violence incidents, with many of the new changes reflecting the elements of a primary aggressor policy. In 2008-2009 Redfern WDVCS show a 12 per cent decrease in the number of female defendants seen by the service.

In addition, NSW Police have made a number of changes to improve the reporting and investigating of domestic violence incidents with the introduction of the Domestic Violence Evidence Kits and more comprehensive domestic violence training, and this has made a noticeable improvement to the quality of evidence tendered to the court in 2008-2009.

### **COMMUNITY LEGAL EDUCATION**

The Redfern WDVCS has played an active role in the community, particularly in conjunction with the Inner-City Domestic Violence Action Group. The group meets monthly at Redfern Legal Centre and consists of representatives from most of the agencies in the area dealing with victims of domestic violence, including Redfern Police, Barnardos, Department of Community Services, Muding-gal, Wirringa-Baiya, SCARBA, Amnesty International, Department of Housing, the Aboriginal Medical Service and Family Relationships Centres. Redfern WDVCS and the ICDVAG have been involved in a number of Community events, where community members and local domestic violence agencies came together to discuss the problem of domestic and family violence. The ICDVAG has continued to play an important role in forging links with domestic violence services in the area, and in particular has resulted in an improved local police understanding and response to domestic violence.

### **COMMITTEES**

The Redfern WDVCS is actively involved in the following committees:

- ◆ NSW Police Domestic and Family Violence Stakeholders Task Force
- ◆ The Attorney General's Apprehended Violence and Legal Issues Coordinating Committee
- ◆ The Premier's Council on Preventing Violence Against Women
- ◆ Redfern/Waterloo Family Violence Taskforce
- ◆ WDVCS - Police Issues Working Party
- ◆ Inner-City Domestic Violence Action Group
- ◆ Downing Centre Court Users Forum
- ◆ Premier's Peak Women's Forum
- ◆ Black-Out Violence Campaign

### **THE NEW SYDNEY WOMEN'S DOMESTIC VIOLENCE COURT ADVOCACY SERVICE**

In February 2009, Legal Aid NSW (Redfern WDVCS's funding body) gave notice they were de-funding all existing WDVCS services and in March 2009 called for Expressions of Interest for the management of new and expanded services across New South Wales. Redfern Legal Centre successfully tendered an EOI for the proposed new Sydney WDVCS, incorporating Downing Centre, Waverley, Balmain and Newtown courts. Recruitment for the new service was finalised in June 2009, and the new service will commence on 1 July 2009.

## **SYDNEY UNIVERSITY STUDENT REPRESENTATIVE COUNCIL BRANCH OFFICE**

The SRC branch office has conducted matters on the range of legal problems that confront university students, including debt, traffic fines and pca offences, and trespass. Solicitors have carried matters through all stages to resolution, including appearing at court.

Students have continued to be a vulnerable group in our community. Some charges recently laid by the Police have raised concerns that students are being dealt with in a way that is totally disproportionate to the alleged offence. A recent example was the case of a student who was charged with an offence under section 4 of the *Inclosed Lands Protection Act 1901*. Our client had attended a party at the invitation of friends who were "squatting" in a house that they thought had been abandoned. The Police arrested our client and held him in custody for over five hours for an offence for which a penalty notice should have been issued. The charge was dismissed at Burwood Local Court and the magistrate chastised the Police Prosecutor for allowing a charge to proceed to court that he said never had any prospect of a guilty verdict. Costs were also awarded against the Police. The SRC branch office is indebted to the very competent work of David Rayment, Barrister-at-law for this excellent outcome.

Students also continue to be vulnerable financially and with regard to legal proceedings taken against them for the recovery of debts. The behaviour of insurance companies has been of particular concern. The SRC branch has successfully contested one matter this year, and another is in progress, where insurance companies have attempted to get our clients to pay for damage claimed to be done in an accident in which our client was liable, where the alleged damage has obviously occurred in another accident. We also successfully appealed an insurer's rejection of our client's claim to the Financial Ombudsman's Service.

The SRC branch has successfully negotiated the writing off of debts, in some cases for a small proportion of the original debt and has had applications to the court for the recovery of debts from our clients stayed while a payment plan is negotiated on behalf of the client. We have also assisted international students in what appears to be a growing problem, the lending of sometimes very large amounts of money, to other students. In the case of a student lending over a \$100,000 we have been able to recover over half of the money owed to our client. We have also been successful in obtaining judgments for debts for unpaid wages and bonds paid by our clients as boarders.

Solicitors at the branch office have appeared at local courts on several cases for clients charged with traffic offences, including pca offences, to make a submissions on sentencing in the case of guilty pleas and in the majority of cases have obtained outcomes where the fine was minimal and the period of disqualification reduced. The SRC branch office has also been able to have the charges dismissed in a number of matters where clients have pleaded not guilty to traffic offences. We were also successful in a severity appeal at the District Court of NSW. PLT students at the SRC branch office have also successfully represented students at the CTTT on tenancy issues.

The SRC branch office has continued to assist the SRC executive, the Publications Manager of SRC publications and SRC case-workers with any legal issues arising from their day-to-day work. The SRC solicitor also now attends Cumberland Campus one day a month to provide legal advice to students there.

This year the SRC branch office has been very fortunate to have the assistance of Cymbeline Johnson and James Cokayne, two very able PLT students and is pleased that it has had the opportunity to enable young lawyers who have demonstrated a commitment to social justice and human rights to become practising solicitors.

## **SYDNEY UNIVERSITY POSTGRADUATE REPRESENTATIVE ASSOCIATION BRANCH OFFICE**

The Redfern Legal Centre branch office at the Sydney University Postgraduate Representative Association ("SUPRA") is a relatively new service having only been in operation since late February 2008. This year, which marks the service's first full year of operation, has been characterised by a rapid increase in the demand for the service. The branch office provides legal services to postgraduate students from any of the University's seven campuses including the affiliated campuses of the Sydney College of the Arts, The Conservatorium of Music, Orange Agricultural College and Camden Farms. It is funded by SUPRA, which in turn receives funding from the University, to provide services to the postgraduate student population of the University. At present the service is only funded to the end of 2009 as changes to these funding arrangements will occur from 2010 with the return to compulsory student union fees which had, prior to the introduction of voluntary student unionism on 1 July 2006, been the source of funding student organisations and services.

Redfern Legal Centre employs one part-time solicitor for 17.5 hours (2.5 days per week) to operate the SUPRA office. Face to face appointments are available at various times throughout the day on Tuesdays and Thursdays with Thursday afternoons being dedicated to a drop in service. Students at distant campuses and students unable to attend on those days can also make telephone appointments or receive advice by email. The SUPRA legal service is supervised by the Principal Solicitor of Redfern Legal Centre and is covered by the Centre's professional indemnity insurance.

The solicitor primarily provides advice and casework services. Casework services are provided either through representation or through providing assistance and support to enable students to represent themselves in their matters. Deciding who to represent and who to assist is made after consideration has been given to the potential for the client to effectively and successfully manage the matter themselves with assistance from the solicitor, the other legal services available to the client, and their own resources. The aim is to allow the solicitor to spend greater time on clients who have a high degree of need and are unable to access other services for whatever reason whilst at the same time providing the most efficient and useful service to the entire postgraduate student community.

The solicitor also undertakes community legal education and policy work. Community legal education aims to increase the ability of clients to avert legal problems or to solve them themselves by providing legal information, for example in the form of fact sheets or information brochures. Policy or law reform work is work that may not be related to any one particular client but aims to achieve some systemic change in the legal system or the University in order to benefit a group of postgraduate students or all postgraduate students.

Redfern Legal Centre maintains a close link with SUPRA. SUPRA also benefits both directly and indirectly from the support offered by Redfern Legal Centre itself, especially from that given by the Executive Officer, Administrator, Principal Solicitor and the other solicitors and tenancy workers at Redfern Legal Centre. In addition to performing the duties at SUPRA, the solicitor participates in the organisational life of the main office of Redfern Legal Centre through attendance at staff meetings, in house training and other meetings.

## **ADVICE AND CASEWORK**

Advice and casework has been provided on the full gamut of legal issues. In terms of matters directly related to University studies, the area of Intellectual Property makes up the bulk of matters for which advice is sought from the solicitor. In terms of matters external to the University, advice and casework has mainly been provided in the areas of consumer and credit/debt (including money owed to or by the student in relation to housing); road traffic and motor vehicle regulatory offences & fines; criminal matters; motor vehicle accidents; tenancy; and employment.

### ***UNIVERSITY MATTERS***

As the legal service remains independent of the University it can advise students on University matters and can represent students in conflicts with the University. The overwhelming majority of university matters have concerned the area of Intellectual Property, either through the provision of independent advice on contracts prior to the assignment of rights or in handling disputes with the University. There has also been a number of Trade Practices matters handled by the service where the clients have been coursework masters students, mostly full fee paying international students who have issues with the University over the original marketing, description, accreditation & other claims, and unadvised changes made in relation to their courses.

### ***CONSUMER AND CREDIT/DEBT MATTERS***

The legal service receives a large number of enquiries about consumer contracts and credit/debt matters. Many of these enquiries relate to aggressive sales techniques or onerous credit contracts. Further a significant number of the complaints received in this area are in relation to consumer contracts with telecommunications service providers particularly in relation to mobile phones or internet services. The legal service has been able to negotiate successful outcomes for students in a range of matters in these areas. In addition, a number of students seek advice from the solicitor regarding money owed to or by the student in relation to housing. Many students are living in situations where they are not covered by the Residential Tenancies Act and/or are not able to access the CTTT at this point in time. This is because they are either residents or are in co-tenant disputes. The necessity for the party seeking to recover the money to take these matters to the Local Court creates unnecessary legal complexity and cost issues for the students irrespective of which side of the matter they are on. The legal service has provided advice to, and conducted negotiations on behalf of, a large number of students in relation to such matters. The service has also provided representation to students in these matters at the Local Court.

### ***ROAD TRAFFIC AND MOTOR VEHICLE REGULATORY OFFENCES***

Inexperience or lack of familiarity with the road rules, coupled with having older or less well maintained vehicles due to economic constraints often means that the clients of the legal service present with penalty notices received for these offences. For the same reasons they are often less able to meet the financial burden imposed in paying a penalty notice. A significant number of clients have chosen to court elect and plead guilty. In these situations, the legal service has either represented or assisted them, either in person or by way of drafting their written

pleadings. Overwhelmingly, the involvement of the legal service has resulted in achieving very favourable outcomes for the students. In addition, the service has successfully represented a number of students in defended hearings.

### **CRIME**

The solicitor has provided advice and representation in Local Court to a number of students mostly in relation to matters concerning possession of drugs, driving offences (mostly alcohol related offences), assault, carrying prohibited weapons, larceny (by a servant), and fraud. Again, overwhelmingly, the involvement of the legal service has resulted in achieving more favourable outcomes for the students.

### **MOTOR VEHICLE ACCIDENTS**

A significant number of students attend the service to seek advice in relation to recovering damages and/or defending claims for damages following motor vehicle accidents. They are often young and/or inexperienced drivers or holders of international licences who are unfamiliar with the rules and regulations in New South Wales. The financial impact of these matters can be significant for students who rely on their vehicles and earn a small income or have limited financial resources. The service has successfully assisted a number of clients to obtain compensation for the damage done to their vehicles. In addition, the service has successfully represented a number of students and obtained orders in their favour in situations where it was necessary to both defend the matters against them and cross claim against the other parties. It has also assisted a number of students to obtain judgements in their favour and, where necessary, to successfully enforce the judgements obtained against the other party. Where the students have admitted liability but disputed the amount claimed, the legal service has also successfully negotiated to reduce the amount to be paid to an acceptable amount and/or to allow the clients to pay the sum off by instalments.

### **TENANCY**

Due to their poor economic situations, students are often ill placed to afford rent increases and so often fall into arrears. In addition, lack of funds or the need to make the financial resources they have last as long as possible often means that they are residing in accommodation that is of a poor standard which leads to tenancy issues such as the need for repairs, compensation for breaches of the tenancy agreement and the like. The legal service has provided advice, and conducted negotiations on behalf of, a large number of students in relation to such matters. The service has also provided representation to students in difficult tenancy matters at the Consumer, Trader and Tenancy Tribunal (CTTT). It should be noted that the global financial crisis has seen an increase in the number of tenancy queries in relation to notices to vacate the property due to repossession by the lender and that this trend can be expected to continue.

### **EMPLOYMENT**

Many students are working outside the University to supplement their other income (usually parental support, scholarships or part time University employment in their departments). They are often working in positions where their conditions and entitlements are questionable and often in positions where their employment status (ie whether they are in fact an employee or sub-contractor) or the requirements and legal obligations imposed on them by virtue of their status



are unknown to the student until a dispute arises, the employment ends or they find themselves being investigated by government departments such as the Tax Office. The legal service has successfully negotiated on behalf of many students to recover wages and entitlements, assisted them to resolve concerns about working conditions, and assisted them in their dealings with government departments and in complying with their taxation or other legal obligations.

### ***PERSONAL INJURY***

The legal service continues to refer clients to Personal Injury solicitors for employment and motor vehicle accident related personal injury.

### ***SUPRA AS CLIENT***

The solicitor also provides regular legal and strategic advice to the four Student Advice and Advocacy Officers (“SAAOs”) employed by SUPRA who deal with a variety of issues concerning students such as academic or welfare matters. The solicitor also maintains a close link with and provides assistance to the other staff and office bearers of SUPRA in relation to any other legal matters that may arise, for example by providing advice in the areas of Intellectual Property or Defamation Law to office bearers or those involved in preparing SUPRA publications.

### ***LEGAL EDUCATION/ POLICY AND LAW REFORM***

The Service has provided information and education to a number of students in the areas of intellectual property rights, traffic offences & fines, consumer contracts (specifically telecommunications service provider contracts), motor vehicle accidents (property damage), tenancy, and employment, particularly on identifying employment status, ie the differences between being an employee or a sub-contractor and meeting legal obligations as a sub-contractor. The solicitor has also been involved in an advisory capacity in the policy work being undertaken by SUPRA in relation to a variety of proposed changes to University Policy Rules.

## **TAFE (SYDNEY INSTITUTE) BRANCH OFFICE**

### **BACKGROUND**

The Legal Service at the Sydney Institute of TAFE is provided by Redfern Legal Centre and operates as a branch office of the Centre. The service is funded by the Sydney Institute of TAFE Student Association.

The branch office is based in the Marcus Clarke TAFE building in Railway Square. Legal services are available to students who are members of the Student Association and eligible TAFE staff at the 8 colleges of Sydney Institute of TAFE: Eora, Enmore College of Design, Gymea, Loftus, Petersham, Randwick, St George, and Ultimo. There are over 74,000 students enrolled at the Sydney Institute of TAFE.

Redfern Legal Centre entered a contract to provide this service at the commencement of 2008. The Service had previously been operating for 4 years as the UTS Community Law Centre but this Centre ceased operation at the end of 2007 as a result of the reduced funding available following the commencement of Voluntary Student Unionism.

This is the only Legal Service based at a TAFE college in Australia. The student population has high levels of disadvantage in access to legal services with many students with disabilities or from CALD backgrounds, as has been confirmed in recent statistics gained during the operation of the Service.

### **SERVICES**

The TAFE Legal Service is staffed by one solicitor who works three days per week and is employed and supervised by Redfern Legal Centre. The Legal Service solicitor, Brenda Staggs, has been working at the Sydney Institute of TAFE since April 2009, taking over from Katherine Pranic who worked this year with the Legal Service for two months and Judy Burgess who had been the previous solicitor at the UTS Community Law Centre. The Legal Service is covered by the Centre's professional indemnity insurance.

#### ***1. Advices***

The solicitor provides a very busy advice service three days per week. Face to face appointments are available at the solicitor's office in the Student Association, and also by telephone where clients cannot attend in person.

The major areas of advice in the most recent statistical period from 24 June 2009 onwards until 15 September 2009 were:

- ◆ Family Law 24%
- ◆ Other Civil 21%
- ◆ Employment 12%
- ◆ Criminal 10%
- ◆ Tenancy 9%
- ◆ Motor Vehicle Accident related 8%
- ◆ Credit and Debt 7%
- ◆ Miscellaneous 6%
- ◆ Fines 3%

The statistics for this period indicate that it has been a busy term with an increase of 28% of advices provided compared to another similar 12 week period last year from 12 August 2008 to 5 October 2008.

Anecdotal data would seem to indicate that the current Global Financial Crisis means other resources have decreased dramatically with students seeing the legal service as their first and or only avenue for help.

## **2. Other Assistance**

As well as providing legal advice, the solicitor provides assistance where required in preparing legal correspondence for clients and negotiating with third parties on behalf of clients.

The solicitor provides ongoing casework services in a limited number of cases. In deciding whether to take on a case, the solicitor weighs up available resources and expertise and factors such as the availability of other assistance and the likely outcome if assistance is not provided. As many legal problems may affect a student's ability to continue studying, much of the casework is aimed at enabling students to continue their study.

The main types of cases opened in 2009 related to Criminal Law (road traffic offences and property damage), Family Law (domestic violence), Credit and Debt (consumer credit and bankruptcy) and motor vehicle accidents. These matters were for quite serious legal problems, including family law involving domestic violence and AVOs and clients facing potential homelessness if they were not assisted.

For our open files, assistance was also provided for minor civil and criminal matters, where the clients were full time TAFE students and members of the Student Association, but could in no way afford to engage a private solicitor to assist them. The civil matters included motor vehicle accidents where a statement of claim was served on the student. Criminal matters included students who were charged with drink driving and property damage, and served with a CAN to attend Court. These students faced serious penalties including suspension of their driving licence as well as a fine of over \$500 and a criminal record.

The solicitor does not provide legal representation at court as the time and resources required to do this would restrict the Legal Service's ability to help other clients. However, clients are assisted to find free or reduced-fee legal representation. Self-representing clients are also assisted in the preparation of documents, statements and advice regarding court procedure.

## **3. Additional responsibilities**

The solicitor also undertakes community legal education with the intention of increasing the ability of students to avoid legal problems and to increase awareness of the availability of legal assistance when problems arise.

The solicitor supervises law graduates completing Practical Legal Training and student volunteers. Work carried out by volunteers includes taking initial instructions and statements from clients, legal referrals, legal research and drafting legal forms and other court documents. The volunteers make a valuable contribution to the work of the service.

The Legal Service is a student-focused service. When acting for students the Legal Service is able to liaise closely with TAFE counsellors and teachers (with the

students' consent) so that students' legal needs are addressed within the context of their general welfare.

In addition to performing the duties at TAFE, the solicitor participates in the organisational life of the main office of Redfern Legal Centre through attendance at staff meetings.

## **CASEWORK**

Of the files that were recently opened, 2 clients identified themselves as being of Aboriginal or Torres Strait Islander background, while at least 4 clients had disabilities involving serious health problems including HIV, clinical depression and a psychiatric disability requiring a period of hospitalization. 1 client from a CALD had a matter involving a case of discrimination based on race.

### **CRIMINAL**

One case involved a 23 year old Aboriginal man who was served with a CAN for a driving under the influence of alcohol incident. The maximum penalty for the offence was a fine of \$1,100. The client was assisted with filling in an application for Legal Aid, which was refused on the grounds that the client's income just exceeded the Legal Aid income test thresh-hold. The solicitor then assisted the client in finding a barrister who was willing to represent the client pro bono in his plea for mitigation of sentence. Initially, the client was given a fine and three months' suspension of his driving licence. The solicitor assisted the client in appealing this sentence, and at the District Court, the client's sentence was quashed and he was given a section 10 such that no criminal conviction was recorded. The TAFE service played a pivotal role in achieving this outcome by identifying that the client had strong mitigating grounds in applying for an appeal as he had a family history of alcohol abuse, had attended Alcoholics Anonymous and completed a rehabilitation program, but on this particular instance had been in attendance at a close uncle's funeral the night before he was due to drive his fiancée and young son home from the funeral.

### **CREDIT AND DEBT**

One client was assisted with a bank dispute, in which the client had received an original cheque in 1985, and presented it to a branch office in 2008, some 23 years later. When the client presented the cheque, the bank retained the original and provided her with a copy of the cheque. Later, the bank refused to honour the cheque and the client believed the bank had destroyed the original. The client was assisted with lodging a complaint to the Financial Ombudsman, who was able to investigate the matter and put pressure on the bank to reach a negotiated settlement. Initially, the bank offered to pay the client \$5,324.00 which was slightly more than half the value of the cheque. After negotiating with the bank as to interest, to which the Financial Ombudsman was able to confirm that in ordinary circumstances where a cheque is not presented, the value of that cheque is placed in an unclaimed monies fund or unmatched cheque register, and that such funds do not earn interest, the bank agreed to pay the client the full amount on the face of the original cheque, which was \$9,324.00. This represented an excellent result for the client who was now due to mental health issues on a Centrelink benefits and had very limited financial recourses.

In another credit and debt matter, the solicitor assisted a client from a CALD who had signed up to a book-club but had not been aware of the contractual obligations it entailed due to her CALD and the fine print on the contract. After

ongoing negotiations, the manager of the company the cost of breaking the contract and allow the client to pay for the books which she kept only.

### **FAMILY LAW**

One case involved a client who had been involved in domestic violence, who brought an AVO against her ex-partner, and had a cross-AVO claimed against her. The solicitor was able to assist the client in drafting court documents, forms and affidavits, as well as referring the client and working together with other appropriate legal services including DVCAS and Gilbert and Tobin pro bono department for representational work. The result was that the other party withdrew the AVO application against our client. This was an outstanding result for the client as she had stood up to the other party and had not been intimidated by him.

Another case involved a client from a CALD background who was assisted with advice in relation to workers' and victims' compensation as she had been in a relationship which had experienced domestic violence. Victims' compensation was granted and assessed at \$32,000, which was a result that the client was extremely grateful for, due to being a single mother bringing up her young daughter in a foreign country.

### **EMPLOYMENT**

In one employment matter involving a claim of sexual harassment by our client, our client was encouraged to report the matter to the police. The result was that our client decided to take the action of reporting the matter, leading to the police investigating the matter and eventually charging the other party with sexual assault.

In a conference with another client, the solicitor ascertained from the client that she had been raped in her place of employment, and assistance was provided for the client by complaining to the Anti Discrimination Board, referring her to victims services, commencing a worker's compensation (then handing the client over to a private solicitor) and referring the matter to HREOC.

### **TAFE MATTERS**

At present the TAFE service does not advise students on matters in which they are in conflict with TAFE, it does however provide minor advice and referral. However some minor assistance has been provided in regards to course related matters. One student was written a letter of reference for special consideration for her exams due to her family law Court matter. Another student was assisted with withdrawing from her course due to her family law matter and mental health issues.

### **LEGAL EDUCATION**

The service has provided the following legal education workshops:

- ◆ Working in Australia: your rights and responsibilities (for International Students)
- ◆ Attending various open days at the colleges and informing students about the facility.

### **VOLUNTEERS**

The Legal Service received invaluable assistance from the following volunteers:


Doris Qiu (Practical Legal Training placement)  
 Rebekah Wong (Practical Legal Training placement)  
 Rachel Saravanamuthu (Law Student)  
 Anoushka Somasunderam (Law Student)

**DIRECTORS' DECLARATION**

The directors of the company declare that:

1. The financial statements and notes, as set out on pages 4 to 20 presents fairly the company's financial position as at 30 June 2009 and performance for the year ended on that date of the company in accordance with Accounting Standards in Australia and other mandatory professional reporting requirements in Australia;
2. In the directors' opinion there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors.

Director   
Nicholas Patrick

Dated this ~~29th~~ 21st day of October 2009

Director's Declaration



# PITCHER PARTNERS

ACCOUNTANTS AUDITORS & ADVISORS

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D S MCGILL  
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Y E PIETSCH  
R M SHANLEY  
D W STAPLES  
P G WESTON  
D G YOUNG

CONSULTANTS:  
I S YOUNG  
D G BARNSDALE  
P S ROWE

**REDFERN LEGAL CENTRE**  
ABN 31 001 442 039

**INDEPENDENT AUDIT REPORT  
TO THE MEMBERS OF  
REDFERN LEGAL CENTRE**

We have audited the accompanying financial report of Redfern Legal Centre, which comprises the Balance Sheet as at 30 June 2009, and the Income Statement, Statement of Changes in Equity and Statement of Cash Flows for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the directors' declaration.

*Directors' Responsibility for the Financial Report*

The directors' of the company are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the *Corporations Act 2001*. This responsibility includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

*Auditor's Responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement in the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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INTERNATIONAL



REDFERN LEGAL CENTRE  
ABN 31 001 442 039

INDEPENDENT AUDIT REPORT  
TO THE MEMBERS OF  
REDFERN LEGAL CENTRE

*Independence*

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*.

We confirm that the independence declaration required by the *Corporations Act 2001*, provided to the directors of Redfern Legal Centre on 21 October 2009, would be in the same terms if provided to the directors as at the date of this auditor's report.

*Auditor's Opinion*

In our opinion, the financial report of Redfern Legal Centre is in accordance with the *Corporations Act 2001*, including:

- (i) giving a true and fair view of the company's financial position as at 30 June 2009 and of its performance for the year ended on that date; and
- (ii) complying with Australian Accounting Standards (including the Australian Accounting Interpretations) and the *Corporations Regulations 2001*.

Mark Godlewski  
Partner

22 October 2009

PITCHER PARTNERS  
SYDNEY



REDFERN LEGAL CENTRE  
ABN 31 001 442 039

INCOME STATEMENT  
FOR THE YEAR ENDED 30 JUNE 2009

	Notes	2009 \$	2008 \$
Revenue	3	<u>1,438,013</u>	<u>1,244,067</u>
Employee benefits expense		(1,227,314)	(1,043,328)
Depreciation and amortisation expenses	4	(21,817)	(17,605)
Insurance		(10,904)	(10,656)
Program and related expenses		(51,870)	(56,783)
Subscriptions		(11,744)	(8,315)
Telephone, facsimiles and internet		(14,481)	(14,552)
Printing, stationary and postage		(23,627)	(23,627)
Other expenses		<u>(73,440)</u>	<u>(60,642)</u>
		(1,435,197)	(1,235,508)
Finance costs		<u>(562)</u>	<u>(1,263)</u>
<b>Profit/(Loss) before income tax expense (income tax benefit)</b>		2,254	7,296
Income tax benefit (income tax expense)		<u>-</u>	<u>-</u>
<b>Profit/(Loss) from operations</b>		<u>2,254</u>	<u>7,296</u>

REDFERN LEGAL CENTRE  
ABN 31 001 442 039

BALANCE SHEET  
AS AT 30 JUNE 2009

	Notes	2009 \$	2008 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	6	282,767	321,082
Trade and other receivables	7	1,792	360
Other financial assets	9	432,166	409,525
Other current assets	8	<u>10,227</u>	<u>8,386</u>
<b>TOTAL CURRENT ASSETS</b>		<u>726,952</u>	<u>739,353</u>
<b>NON-CURRENT ASSETS</b>			
Property, plant and equipment	10	<u>42,234</u>	<u>41,542</u>
<b>TOTAL NON-CURRENT ASSETS</b>		<u>42,234</u>	<u>41,542</u>
<b>TOTAL ASSETS</b>		<u>769,186</u>	<u>780,895</u>
<b>CURRENT LIABILITIES</b>			
Trade payables	11	276,384	336,450
Short term borrowings	12	1,197	4,319
Provisions	13	<u>189,902</u>	<u>143,065</u>
<b>TOTAL CURRENT LIABILITIES</b>		<u>467,483</u>	<u>483,834</u>
<b>NON-CURRENT LIABILITIES</b>			
Long term borrowings	12	-	1,715
Provisions	13	<u>71,228</u>	<u>67,125</u>
<b>TOTAL NON-CURRENT LIABILITIES</b>		<u>71,228</u>	<u>68,840</u>
<b>TOTAL LIABILITIES</b>		<u>538,711</u>	<u>552,674</u>
<b>NET ASSETS</b>		<u>230,475</u>	<u>228,221</u>
<b>EQUITY</b>			
Retained earnings	14	<u>230,475</u>	<u>228,221</u>
<b>TOTAL EQUITY</b>		<u>230,475</u>	<u>228,221</u>

Balance Sheet

REDFERN LEGAL CENTRE  
ABN 31 001 442 039

STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 JUNE 2009

	Notes	2009 \$	2008 \$
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>			
Other income		96,399	153,881
Grant receipts		1,257,548	1,170,683
Payments to suppliers and employees		(1,381,225)	(1,090,970)
Interest received		40,989	39,917
Borrowing costs		<u>(562)</u>	<u>(1,263)</u>
Net cash provided by operating activities	17 (b)	<u>13,149</u>	<u>272,248</u>
<b>CASH FLOW FROM INVESTING ACTIVITIES</b>			
Payment for property, plant and equipment		(23,986)	(31,444)
Payment for investments		<u>(22,641)</u>	<u>(26,343)</u>
Net cash provided by/(used in) investing activities		<u>(46,627)</u>	<u>57,787</u>
<b>CASH FLOW FROM FINANCING ACTIVITIES</b>			
Repayment of finance lease		<u>(4,837)</u>	<u>(4,136)</u>
Net cash provided by/(used in) financing activities		<u>(4,837)</u>	<u>(4,136)</u>
Net increase (decrease) in cash held		(38,315)	210,325
Cash at beginning of financial year		<u>321,082</u>	<u>110,757</u>
Cash at end of financial year	17 (a)	<u><u>282,767</u></u>	<u><u>321,082</u></u>