

## COMMUNITY LEGAL CENTRES

## Whingers or prophets?

SEBASTIAN DE BRENNAN examines the funding needs of four western Sydney community legal centres.

Governments often claim that no matter how much funding they devote to access to justice initiatives, groups such as community legal centres (CLCs) will ask for more. Such assertions suggest that CLCs demand unlimited or unreasonable public funds for their operations. However, even a cursory analysis of funding submissions reveals that CLCs do not expect extravagant levels of funding, being amongst the first to recognise that economic realities militate against this. Recent interviews with personnel from four western Sydney CLCs was representative of a sector keen to arrive at constructive (indeed economically and politically palatable) funding solutions. Far from playing the 'blame game', all CLC staff appeared to be keen to discuss ways in which stakeholders could go forward.

## Do CLCs have the right to whinge?

The point has been made for many years that with legal aid in such a parlous state, unsustainable pressures have been placed on the CLC sector. While there is a considerable amount of information to substantiate these claims,<sup>1</sup> particularly compelling is the National Association of Community Legal Centres' 2003 Budget Submission to the federal government.<sup>2</sup> Based on statistics from the Australian Bureau of Statistics, the submission notes that there has been an imperfect, though widely adopted, funding formula that prescribes adequate staff levels for CLCs. This funding model assumes that volunteers will continue to prop up the system. The submission also notes that although there have been annual increases in total funding, in real terms it is estimated that CLCs have been forced to absorb substantial increases in operating expenses. As a consequence, wages for CLC staff continue to fall relative to the private sector, making it difficult to attract quality staff. There are numerous examples of CLCs in dire straits since the time of that submission. The 2004 Senate Legal and Constitutional References Committee noted that some CLCs were so under resourced that they had been forced to interview clients in cars.<sup>3</sup>

## The western Sydney experience — a visit to four CLCs

Not surprisingly, all of the CLCs visited emphasised a need for greater resources and, in particular, recurrent funding. The need for additional funding was immediately evident in three of the four centres visited. Operating out of converted old houses these were not only small but ready for refurbishment.

These conditions would do little to quell feelings of powerlessness often felt by those seeking CLC advice,<sup>4</sup> particularly those up against large corporate or governmental clients. One CLC noted that it was experiencing major difficulties in meeting Occupational Health and Safety standards aimed at protecting CLC employees. While the CLC coordinator saw this as a priority she was also acutely aware of the many other needs of the centre. For example, only a year earlier the centre almost lost its Aboriginal Legal Access Project — a project considered vitally important in meeting the needs of a significant and expanding Aboriginal population in the area. A 12-month grant from a private benefactor meant that the Aboriginal Legal Access Project would remain, but the centre would continue to lobby government and local parliamentarians for much needed funding. Worse still, another centre pointed out that it had been almost dormant in relation to meeting the needs of its sizeable Aboriginal community because of lack of space and funding.

All CLCs spoke highly of the various pro bono contributions of local and large city law firms. It was remarked that firms could be more obliging when CLC needs were 'of a sexier nature' or where some positive exposure might be gained. However, it was clear that this was not the norm. Respondents spoke of various firms/solicitors who performed pro bono work frequently and with minimal fanfare. One CLC coordinator was particularly adept at persuading law firms to assist her centre but was aware that at times the goodwill of benefactors had been strained by continual requests. Her next project, for example, was to seek a 'replacement photocopier' — a seemingly small request — but as she remarked, 'not exactly an easy thing to ask for'.

Another centre (the oldest of those visited) seemed surprisingly well resourced. In contrast to the other three centres it was freshly painted, modern and had a discernibly professional feel. This centre had also managed to develop robust relationships with government and industry. Describing the coordinator of his centre as politically savvy, and a 'great networker', the senior solicitor at that centre also emphasised the importance of sound management to the success of his CLC:

...that's partly prudent management which for some years could have chosen to maybe pay staff more and perhaps allocated some of the funding into better equipment ...

## REFERENCES

1. See for example Darrin Farrant, 'Legal centres ask for \$2.4 million bail out', *The Age*, 27 April 2001, 4; Kate Marshall, 'Community legal centres struggle for survival', *The Australian Financial Review*, 25 July 2003, 56; 'Volunteers fill yawning gaps in resource funds', *Herald Sun*, 9 July 2002, 21; Roselyn Melville, *My Time is not a Gift to the Government: An Exploratory Study of NSW Community Legal Centre Volunteers*, University of Wollongong, May 2002, 8.
2. National Association of Community Legal Centres (NACLC), 'Community Legal Centres — An Investment in Value. Investing in Community Law', Budget Submission to the Commonwealth Government 2004–2007 (August 2003).
3. Senate Legal and Constitutional References Committee, Parliament of Australia, *Legal Aid and Access to Justice* (June 2004) <[www.aph.gov.au/senate/committee/legcon\\_ctte/completed\\_inquiries/2002-04/legalaidjustice/index.htm](http://www.aph.gov.au/senate/committee/legcon_ctte/completed_inquiries/2002-04/legalaidjustice/index.htm)> at 2 June 2005.
4. Janet Jukes and Pauline Spencer, 'Buying and Selling Justice: The Future of CLCs' (1998) 73 *Reform* 5.

The established history and experience of this centre was an advantage in soliciting resources from the legal and extended community allowing it to leverage off its reputation and achievements when applying for new or additional funding. As one of the older CLCs, the centre seemed to enjoy a legitimacy within the wider community that was perhaps elusive to some of the newer centres:

...the advantage of being 25 years old is we have been quite good at running around and getting funding for a series of different projects which can then be pooled together...

Given the declining rates of legal aid and the additional strains placed on CLCs, one might expect CLC managers to be fairly disparaging toward government. However, this was not the case. Of course, the issue of lack of funding was raised frequently, but overwhelmingly feedback was both civil and constructive in nature. When asked: 'Would you say you are short of staff at the moment?', the senior solicitor at the oldest of the centres replied:

Well, you know you've got to think logically. You could always add, so the next person you would have to add would be a lawyer. So, as a community legal centre we could always put up our hand and say we are short, but in some ways we're ... you might notice from our office, we're quite well resourced.

As to the needs of the immediate area he said:

Well, meeting the need? Yes we are to an extent. One of the interesting things about need is that it's very variable. Sometimes we talk about access to justice it assumes that everyone you see has a just cause. I mean a client comes in and has been booked twice in the same day for an offence? ... this guy comes in and he wasn't licensed, but yet was using learners' plates. The police booked him because there was no one in the car with him. He comes in and his excuse is that he is the only one in the family that can drive. I had to say to him — mate you are the only one in your family who can't drive.

Respondents were also quick to mention that a number of positive developments had taken place. In its recent submission to the Senate Legal and Constitutional Committee Inquiry into Legal Aid and Access to Justice the Combined Community Legal Centres Group (NSW) noted there had been a number of 'good news' developments since the 1996–1998 Senate Inquiry into Legal Aid.<sup>5</sup> For example, the support of governments in bringing about the Women's Domestic Violence Court Assistance Program, additional legal aid solicitors in rural areas, the new legal advice services in Parramatta, and community representation on the Board of the NSW Legal Aid Commission.<sup>6</sup>

The centres also noted that government-funded services such as Law Access had led to a visible reduction in the demand for telephone advice. One interviewee was a little more cynical about such developments suggesting that if programs such as Law Access continued to grow, this would provide the government with yet another excuse to further erode CLC funding.

Notwithstanding funding constraints, the quality of CLC staff was impressive. One CLC solicitor had authored a prominent publication in the area of family law, and another CLC solicitor had published in the area of Apprehended Violence Orders. Three solicitors at one CLC had between them a combined total of 50

years in practice. With such experience at stake one can quickly see why CLC advocacy groups continue to highlight the asymmetry between private sector and CLC remuneration.

Also impressive was a distinctive CLC collegiality. Interviewees spoke of spending time at other centres and 'helping one another out'. For example, a solicitor from one centre had recently spent some time at another centre, advising in relation to employment law matters. National conferences and other developmental activities were also described as a worthwhile forum to interact and enable knowledge diffusion.

Every person interviewed indicated that, although challenging, their role within the CLC was both rewarding and enjoyable. One respondent stated that although he was now earning considerably less than he did in private practice, he enjoyed the diversity of work available at the CLC and the lower 'expectation of hours' relative to his previous job. Interestingly, this sense of job satisfaction continues to evade many lawyers working in private practice.<sup>7</sup>

## Conclusions

Those interviewed provided a less pejorative appraisal of government than one might have expected. The director of one dilapidated CLC did not want to talk about the condition of the place in which she worked, or having a bigger office. Instead she spoke about the desire to extend innovative, though under-funded, access to justice programs. Although the interactions with these four CLCs cannot be imputed to the entire CLC sector, it seemed that the attitude of 'let's get on with things' reflected more than an acquiescence to the fact that further government funding was unlikely to be forthcoming. Rather, it struck me as a positive demonstration that CLCs were not in the business of asking for additional funding 'for fundings sake' or whinging about how hard things were for them (despite having every entitlement to do so).

The interviews reveal that the CLC sector is not fixated on a notion of unrealistic access to funding, or 'government bashing' generally, but instead it is a sector desperate to foster more constructive relationships with governments and the private sector alike. In this respect CLCs might be their own worst enemy, for in their benevolence they give comfort to those governments that believe CLC workers will continue to work for minimal wages, in conditions that can only be described as testing, and without the whinging that would likely emerge in the private sector. What is perturbing, though, is that instead of rewarding and valuing these people for their efforts, the government takes the altruism of the CLC worker for granted.

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5. Combined Community Legal Centres' Group (NSW) Inc, 'Impact of Current Arrangements Regarding Legal Aid and Access to Justice on NSW Community Legal Centres' (September 2003).

6. *Ibid* 11–12.

7. For a recent account of lawyer disenchantment see 'Bankers and lawyers a miserable bunch' *SEEK Survey of Employee Satisfaction and Motivation in Australia* <[www.seek.com.au/media/about\\_media\\_centre.asp](http://www.seek.com.au/media/about_media_centre.asp)> at 2 June 2005.