

ABORIGINAL CREDIT AND DEBT CLINIC

Project Report and Evaluation

July 2011

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1. INTRODUCTION

1.1 Overview of the Aboriginal Credit and Debt Clinic

In 2010, the Public Interest Law Clearing House (**PILCH**) and the Victorian Aboriginal Legal Service (**VALS**) piloted a new project: the Aboriginal Credit and Debt Clinic (**ACDC**).

The aims of the ACDC were:

- in the short term, to provide free legal assistance to Aboriginal individuals in rural and regional Victoria; and
- in the long term, to collect data on the nature and extent of the unmet legal need of Aboriginal people living in rural and regional areas of Victoria. This data can be used to apply for government funding for long term, sustainable civil law services to assist this client group resolve credit and debt legal problems.

Between May and August 2010, one-day free legal clinics were held at community hubs in Shepparton, Ballarat, Morwell and Mildura, staffed by pro bono lawyers from PILCH's member firms. Sixty clients were assisted by lawyers at the ACDC. Without the ACDC, it is doubtful that these individuals would have had access to a lawyer.

The ACDC highlighted the vast gap in the provision of civil law services to Aboriginal clients in regional areas and the detrimental effect of this on individuals and communities. The clinics also revealed a number of systemic legal issues faced by Aboriginal communities in rural and regional Victoria.

1.2 Purpose of this Report

At the completion of the project, PILCH was to assess the success and effectiveness of the clinic, including:

- Whether it worked;
- Whether it was the best model for service delivery; and,
- How it could be improved.

This document is intended to report on the outcomes of the project, having particular regard to its aims, and to evaluate the project. Sections 2 and 3 of this Report discuss the outcomes of the project. Section 4 of this Report evaluates the project and considers which elements worked, which did not work and what we learnt. It also makes some suggestions about how services might better be delivered to this target group. The evaluation methodology is explained in Annexure 1.

2. WHAT DID THE ACDC INVOLVE?

Between May and August 2010, one-day free legal clinics were held at community hubs in Shepparton, Ballarat, Morwell and Mildura. Clients were able to make an appointment in advance or simply attend on the day. In addition, lawyers attended local prisons and community gatherings to interview clients. The clinics were promoted through Aboriginal and non-Aboriginal service providers and community groups in each location, as well as in local media.

The clinics were staffed by pro bono lawyers from PILCH's member firms. The firms involved in the pilot project were Allens Arthur Robinson, Blake Dawson, Clayton Utz, Holley Nethercote, Lander and Rogers and Rigby Cooke. Before the clinics, the pro bono lawyer team was given one day of training on cultural awareness and on credit and debt law. Further information about this training is provided in Annexure 2.

At the clinics, lawyers advised on issues including disputes with utility providers, difficulties with debt collectors, fines and infringements, Centrelink debts, unpaid loans and credit reporting. On-the-spot advice was given to clients if possible. Where matters were ongoing or more complex, lawyers took instructions at the clinic and ran the files from their firms¹. Where a client had a matter that related to an area of law other than credit and debt, or had a non-legal matter, the clinic provided appropriate referrals to other legal or non-legal services.

Financial counsellors were invited to each clinic to give free advice on the non-legal aspects of clients' credit and debt problems. This complemented the legal service provided and increased the value of the clinic for clients. Service providers such as Centrelink and Consumer Affairs Victoria (**CAV**) also attended the clinics to provide assistance and advice to clients. PILCH and VALS staff also attended to oversee the running of the clinic.

The clinics generally ran from around 11am to 3pm. We aimed to create a relaxed and informal atmosphere at the clinics. Tables and chairs were arranged to encourage conversation and tea and coffee were available all day. Lunch was served at around midday and generally coincided with the main influx of clients.

Annexure 2 describes how we set up and ran each of the clinics in more detail.

¹ Case studies referred to in this report have been de-identified. In order to protect the identity of participants certain details may have been changed including the sex and age of clients.

3. WHAT DID ACDC HELP PEOPLE WITH?

3.1 Table of key data

	SHEPPARTON	BALLARAT	MORWELL	MILDURA	TOTAL
No of clients	13 clients (11 male, 2 female)	12 clients (5 male, 7 female)	4 clients (4 female)	7 clients (2 male, 5 female)	36 clients + 24 clients at prisons = 60 clients
No of clients at mini-clinic	8 male clients from Dhurringile Prison	5 male clients from Ararat Prison	11 male clients from Fulham Correctional Centre	N/A	24 clients from regional prisons
Client income	<ul style="list-style-type: none"> • 12 clients received social security • 5 clients had no income • 4 clients had paid employment 	<ul style="list-style-type: none"> • 10 clients received social security • 4 clients had no income • 3 clients had paid employment 	<ul style="list-style-type: none"> • 12 clients received social security • 1 client had no income • 2 clients had paid employment 	<ul style="list-style-type: none"> • 4 clients received social security • 1 client had no income • 2 clients had paid employment 	<ul style="list-style-type: none"> • 38 clients received social security • 11 clients had no income • 11 clients had paid employment
Types of matters	Bank or financial institution debts; utilities debts; credit card debts; infringements; debts to government bodies; and credit reporting	Utilities debts; credit card debts; infringements; sheriffs' warrants	Utilities debts; credit card debts; debts to government bodies	Bank or financial institution debts; utilities debts; infringements; and credit reporting	Bank or financial institution debts; utilities debts; credit card debts; infringements; debts to government bodies; sheriffs' warrants and credit reporting
Value of each client's debts	\$200 (approx) – \$40,000	\$200 (approx) – \$40,000	\$200 (approx) – \$40,000.	\$200(approx) – \$5,000	\$200 (approx) – \$40,000

3.2 Range of legal problems

The primary aims of the ACDC were to provide civil law advice and representation to clients and to gather information on the legal need in each location.

Many clients presented with multiple debts to a variety of institutions and government departments. As can be seen in the table at 3.1 above, the most common debts were to financial institutions through loans or credit cards, utilities debts and debts to government departments resulting from infringements or Centrelink. Clients often did not know the exact number or size of debts they owed. In these circumstances, lawyers had to obtain a credit report to ascertain their client's actual financial status.

During the ACDC, we saw that credit and debt issues imposed a significant burden on clients, both financially and emotionally. Clients with multiple debts and credit issues struggled to make ends meet and had high levels of anxiety about housing, employment and supporting dependents. It was common for clients to have other legal issues (such as family law or criminal law issues) that were closely related to their financial legal issues.

The client information and statistics gathered by the ACDC indicate how prevalent credit and debt legal issues are and their impact on clients. Clinic lawyers assisted many clients to resolve their credit and debt issues, but there are a number of clients whose legal problems could not be resolved or were intricately tied to other issues in their lives.

Sheryl's Story

Sheryl, a woman in her late twenties, was on a single parent pension and sought assistance with infringements and debts to utilities providers, Centrelink, banks and fringe lenders. Her infringements included a number of speeding fines and a fine for failing to vote. She was on a payment plan for her utilities bills and some of her infringements but, after paying this each fortnight, did not have any money left over for new bills or payment plans.

Bruce's Story

Bruce owed multiple debts to different companies totalling approximately \$17,000. The largest was a debt of \$14,000 for a car loan he had been unable to repay as he had become unemployed shortly after taking out the loan. Bruce was interested in filing for bankruptcy. His lawyer assisted him to gather more information about his debts, including a credit report, before advising him about this option. Bruce's lawyer also spoke with the Footscray Community Legal Centre and enrolled him in a 'bulk waiver' of debts in relation to his car loan. At the time of this Report, the bulk waiver application had not yet been finally resolved, however it appeared likely that it would succeed. Either way, the outcome of the bulk waiver application will determine the nature of the future assistance to be provided by ACDC to Bruce, including options such as bankruptcy and payments plans.

3.3 Homelessness

On 21 December 2008 the Commonwealth Government released a White Paper on Homelessness. The White Paper noted that the 'rate of homelessness for Indigenous Australians is significantly higher than for non-Indigenous Australians'.²

Consistent with the White Paper, the ACDC identified housing as a major issue for the client group. Assistance was provided to a number of clients who were either homeless at the time of seeking assistance, such as Kevin (below), or had recently experienced homelessness.

Kevin's Story

Kevin was on a disability support pension and had recently left a drug and alcohol dependence rehabilitation facility, where he successfully completed a 16-week program. He had a history of severe mental illness (including suicide attempts) and drug addiction. He sought assistance from the clinic with a large number of unpaid bills and outstanding fines and warrants. The lawyer assisted Kevin to obtain a list of warrants and enforcement orders and to obtain a medical report from his doctor attesting to his history of mental illness and drug addiction in order to make a special circumstances¹ application in relation to his fines. Kevin also asked his lawyer to negotiate a payment plan for his unpaid bills, but his lawyer was unable to get further instructions or information because the client was too distressed about his housing situation to talk about this issue.

Kevin's mental health and housing situation was of great concern to his lawyer. Kevin was living in a shed in a family member's backyard after having been evicted from social housing. Kevin had not yet secured alternative accommodation at the time of this Report.

Kevin's lawyer felt ill-equipped to deal with the real issues requiring resolution. Despite making referrals to housing support services and case workers the lawyer nonetheless felt the client was not getting the assistance that his mental health and drug issues required. Ultimately, the client stopped engaging with legal services. It appears that his significant housing issues completely undermined his ability to deal with other issues in his life including debts.

² Commonwealth Government White Paper, 'The Road Home: A National Approach to Reducing Homelessness', 21 December 2008, p 5.

A common theme raised by workers in various regional communities was that many Aboriginal people had incurred large debts to the Director of Housing (**DOH**). In particular, we were told of people leaving housing in crisis situations and subsequently discovering large debts that had proceeded to the Victorian Civil and Administrative Tribunal in their absence. Tim's case below is an example of a large debt to the DOH which was incurred in the client's absence and shows how incarceration can contribute to housing debts.

Tim's Story

Bruce owed multiple debts to different companies totalling approximately \$17,000. The largest was a debt of \$14,000 for a car loan he had been unable to repay as he had become unemployed shortly after taking out the loan. Bruce was interested in filing for bankruptcy. His lawyer assisted him to gather more information about his debts, including a credit report, before advising him about this option. Bruce's lawyer also spoke with the Footscray Community Legal Centre and enrolled him in a 'bulk waiver' of debts in relation to his car loan. At the time of this Report, the bulk waiver application had not yet been finally resolved, however it appeared likely that it would succeed. Either way, the outcome of the bulk waiver application will determine the nature of the future assistance to be provided by ACDC to Bruce, including options such as bankruptcy and payments plans.

3.4 Personal issues & losing contact

A high proportion of clients presented with multiple personal issues that were clearly impacting on their ability to deal with their credit and debt legal problems. Civil law issues were a low priority for clients who were experiencing homelessness, substance dependency or mental health issues.

Despite the perceived low priority of civil law issues, it was evident that credit and debt issues were causing anxiety and exacerbating personal or health problems. This interlinking of personal problems and credit and debt problems meant that it was difficult to resolve one type of problem in isolation from the others.

Bruce's Story

Bruce, a male in his late forties, sought assistance with infringements and a large number of unpaid utilities debts. Bruce had a history of homelessness, unemployment, alcoholism and serious health issues. At the time of the clinic, Bruce was living in a hostel and said he felt like he was homeless. He had been seeing a counsellor for over two years in relation to his alcohol and gambling issues. He said he was trying to resolve these non-legal issues and had also imposed a 'self ban' on gambling. The client did not mention his homelessness or alcohol issues until a long way into the interview, despite being prompted by his lawyer when discussing whether he qualified for special circumstances.

The experience of ACDC demonstrated that clients with multiple personal issues were likely to have difficulty remaining engaged with legal assistance. Patricia's story is an example of competing priorities resulting in clients losing contact with their lawyers.

Patricia's Story

Patricia, a woman in her late thirties, had a history of homelessness, domestic violence and mental health issues. She had two children and was on a parenting payment. She sought assistance with outstanding infringements and a debt owed to Centrelink. She was expecting her third child and wanted to clear her debts or begin a payment plan so that she could make a fresh start. She instructed her lawyer to make a special circumstances application in relation to her infringements.

The lawyer commenced preparing a special circumstances application. However after the client had her third child, legal issues were placed on hold as these issues were no longer a priority. The client subsequently became difficult to contact and the lawyer was unable to obtain instructions. At the time of writing this Report, the lawyer had still not been able to contact the client to obtain further instructions about her special circumstances application.

3.5 Financial literacy

Many of the clients assisted by the ACDC demonstrated limited financial literacy. Clinic lawyers assisted clients with clarification and assistance with the source of debts together with clarification of the size and nature of debts (including the *non*-existence of debts).

Tony's Story

Clinic lawyers saw Tony in prison and were asked to investigate \$15,000 in debts to a major bank and to Centrelink. Tony explained that he had been receiving government study benefits and had obtained a loan from a large bank to top up his benefits. At the clinic he was given some preliminary advice about bankruptcy.

After thorough investigation, Tony's lawyers discovered that there were no outstanding debts listed in his name. Tony had been very concerned about his financial obligations and unsure about how to resolve or clarify his situation. This uncertainty may have stemmed from a failure to clearly explain the nature of his obligations when these debts were initially incurred. By assisting him to find out that he was not in fact in debt, Tony's lawyers removed a significant source of stress and anxiety.

Sophie's case (below) shows how debt combined with limited financial literacy can cause significant financial hardship.

Sophie's Story

Sophie was a full time carer for her partner and three children. Sophie initially sought advice about a single credit card debt. After some discussion with her lawyer, the financial picture became more complex as Sophie produced more credit cards and the debt level started to rise. Sophie explained that she and her husband had incurred significant debts as a result of a medical procedure. Further, she owed \$20,000 to a second tier lender and was paying this amount off at the rate of \$30 per fortnight, with the interest suspended. At this rate, the debt would take approximately 25 years to pay off. Sophie and her partner were unable to pay off this debt in greater amounts. In total the client owed \$40,000.

In Sophie's circumstances, bankruptcy was an option. However, Sophie had significant difficulty discussing this option as she was concerned about having a 'black mark' against her name. She subsequently accepted that such a large amount of debt would undermine her ability to pay for essential family needs. Her lawyer attempted to assist her to reach a decision about these issues but when the Sophie could not be contacted, unfortunately legal assistance ceased.

3.6 Infringements

ACDC case studies suggest that a large number of Aboriginal people in regional and rural communities struggle with fines. Furthermore, the involvement of the ACDC serves to demonstrate the inherent problems with the current infringements system for members of regional and rural Aboriginal communities.

Carl's Story

Carl, a male in his late twenties with a history of alcoholism and mental illness, sought assistance with outstanding infringement warrants. His lawyer began preparing a special circumstances application to have a warrant for unlicensed driving revoked. A report from a drug and alcohol counsellor was submitted with the application. However, the Infringements Registrar requested a medical report instead. The lawyer made an appointment for Carl to see a doctor at the local Aboriginal Co-operative. The client attended the appointment, but did not wish to discuss the issues relevant to his special circumstances report with the doctor at that time. The lawyer then had significant difficulty getting in contact with the client to arrange a further medical appointment. The lawyer obtained an extension from the Registrar of the time within which to provide a medical report. Due to contact difficulties, the lawyer was unable to arrange for the client to see a doctor within the extended time period so a further extension was obtained. Since then, Carl's lawyer has been unable to contact him.

Carl's case also demonstrates the way in which legal processes can create barriers to the resolution of legal issues. Even though Carl's situation fell within the special circumstances criteria, the evidentiary requirements were too burdensome for the client to satisfy.

The ACDC engagement with communities also uncovered a significant access to justice issue in relation to the 'special circumstances' provisions of the *Infringements Act 2006* (Vic) which provide that a person with 'special circumstances' is eligible to apply for revocation of their infringements. 'Special circumstances' means, in summary, mental or intellectual disability or homelessness that relates directly to the conduct constituting the offence.³ At a general level, the experience of ACDC lawyers and the circumstances of clients like Carl, demonstrate that many clients require advocacy and support to be able to engage with legal processes such as special circumstances applications.

Our meetings with stakeholders in Ballarat demonstrated that there needs to be greater community education on how the fine cycle works and how interventions can be made during the cycle to assist vulnerable individuals. We observed that there was a general lack of knowledge amongst local service providers about the ability to have fines dismissed using 'special circumstances'. A local financial counsellor stated that a culture in which special circumstances applications were made had not been allowed to develop in Ballarat because special circumstances applications were only heard in the Melbourne Magistrates' Court and not in Ballarat or other regional cities.

3.7 Sheriffs' 'fine waiver' program

During our pre-clinic visits to community stakeholders, we were informed that the Sheriff's Office in Ballarat had recently carried out a program of extensive engagement with the Aboriginal community in relation to fines and infringements. The Sheriffs had spoken to groups of Aboriginal people at the Ballarat & District Aboriginal Cooperative Ltd (**BADAC**) and individually to key members of the Aboriginal community, who they had asked to 'spread the word'.

We were informed the Sheriffs had:

- met with about 15 Aboriginal people in Ballarat and 40-50 in the region;
- waived around \$20,000 worth of fines; and
- converted around \$50,000 worth of fines into payment plans or community work.

The waiver of \$20,000 worth of fines owed by people from disadvantaged communities with little or no ability to repay the fines is commendable. Furthermore, during pre-clinic meetings it became apparent that the Sheriff had committed significant time and organisational resources to engage with the Aboriginal community. This engagement appeared to have succeeded as many people we spoke with were aware of the nature and operation of the Sheriff's work. Furthermore, our discussions indicated that this initiative had been positively received by Aboriginal community.

Despite these positives of the infringements initiative, it should also be acknowledged that there is an apparent conflict of interest in the Sheriff converting fines to community work or

³ See *Infringements Act 2006* (Vic) s 3.

signing people up to payment plans. Based on the clients seen by the ACDC, we fear that many of the people signed up to agreements or community work would have been eligible to have their fines revoked on the basis of special circumstances. This is clearly an adverse outcome for Aboriginal people in rural and regional areas and is an issue that could only work to undermine financial stability.

4. EVALUATION AND ANALYSIS

4.1 Achievement of the aims of the ACDC

The ACDC was successful in providing free legal assistance to Aboriginal individuals in rural and regional Victoria and collating data and anecdotal evidence of legal need in this client group. Section 6 of the Report describes the legal assistance provided to the target client group. This section outlines our assessment of the unmet legal need in regional Aboriginal communities and our evaluation of the ACDC project.

4.2 Unmet legal need

The ACDC project confirmed what research suggested, namely that Aboriginal people in rural and regional areas require legal services for civil law matters.

As discussed in part 3 of this Report, we saw frequent examples of issues such as infringements and utilities debts causing serious anxiety and financial stress for individuals and communities. For example, in Morwell, some stakeholders expressed to us that they were at a loss to know, given their limited resources, how they could respond to the huge fines and infringements problem in the Morwell Aboriginal community. We also saw many instances of legal issues beyond credit and debt causing hardship for Aboriginal people. For example, in Mildura, we were told by employees of the Mildura Aboriginal Corporation (**MAC**) of the significant problems that women in situations of domestic violence face when trying to obtain housing.

The real issue is therefore not whether there is an unmet legal need, but *who* will respond to this unmet need and *how*. The experience of the ACDC demonstrates that the need is not just for increased civil law services, but for culturally appropriate services that are part of the community. Specifically, there is a need for legal services that can develop a sense of trust with partner organisations and, most importantly, with the client group.

4.3 The ACDC model

During the course of the project, we learned a great deal about the service delivery model used and, in particular, the challenges in delivering legal services to Aboriginal clients in rural and regional areas. A number of aspects of the model of service delivery used were positive and should be incorporated into future projects. However, we also identified a number of aspects that could be improved upon in the future.

Partnerships

Strong partnerships were vital to the ACDC model, both with local service providers and with local community organisations and leaders. We found that although telephone and email communications assisted in developing these relationships, face to face time with these partners was critical. Because of this, in our view any future service delivery model will need to involve PILCH developing good relationships with local partners by attending the regional centre(s) on a semi-regular basis.

As noted in many of the case studies in this Report, it was common for clients' personal problems to impact on their legal problems (and vice versa). To overcome this difficulty, it would be beneficial to have good referral relationships in place for non-legal issues. For example, strong referral relationships with local housing services, health services, Centrelink, and drug and alcohol services would be of assistance.

In considering the role and model of future clinics, it is worth noting that the ability to develop partnerships and to understand the local service context will be clearly affected by the number of clinic locations.

Use of pro bono lawyers

The use of pro bono lawyers to address the legal needs of Aboriginal people in regional and rural areas was successful and could be continued in future projects. Generally speaking, the service provision model involved pro bono lawyers receiving training, support and coordination to provide legal advice and ongoing casework. Issues to be considered in relation to the future utilisation of pro bono lawyers include:

- the availability of funding to train, support and co-ordinate pro bono legal services;
- the capacity of pro bono providers to accept ongoing casework;
- the term or period of commitment of PILCH and pro bono providers to project work in regional and rural communities;
- the value of client contact versus 'triage' services to maximise pro bono contributions

Engagement

As anticipated, the greatest challenge was engagement with the target client group. During the project, we found that the importance of building trust and understanding could not be overstated. Our community stakeholders told us that while the ACDC was welcome, building trust, respect and a reputation in the community would take time. In this respect, engagement can be seen as a two-way street – legal service providers need to be just as engaged as the client group. After a clinic, one community stakeholder gave feedback stating:

This type of day is very confronting, especially for those who need it. ...

Some years ago... I helped organize a similar day. Most of those who came that first time did not really need the help, but still benefited. My follow up showed that those who needed most help would not attend for fear someone would think they needed help.

Anyway, keep trying – it is so worthwhile.

It is worth noting that the ACDC was designed to maximise engagement within the constraints of the service delivery model employed, through extensive contact with Aboriginal community members and social services prior to each clinic. This engagement strategy involved:

- partnering with VALS;
- meeting with Aboriginal community groups and asking Aboriginal community leaders to attend the clinics;

- conducting a full day of engagement meetings with local social services and community groups in each location prior to each clinic;
- using the media and appropriate communication materials such as posters and flyers to advertise the clinic; and
- attempting to create an informal 'community atmosphere' and providing lunch to clinic attendees.

As discussed in part 3 of this Report, the Sheriffs' infringement initiative provides a practical example of a successful engagement strategy with Aboriginal community. In many places we visited we heard how the Sheriffs were engaged with Aboriginal people on a broad level, rather than merely in a narrow service delivery context. In conversations with local community members we heard how the Sheriffs had been running dedicated Aboriginal services for a number of years, had tailored its services for cultural appropriateness, and had experienced a high level of engagement.

One day model

This report demonstrates that the ACDC was effective at its stated aims of providing free legal services to Aboriginal people and collecting data on the nature and extent of unmet legal need. Despite these successes, there were obvious limitations to attending communities and providing advice and assistance on a 'once off' basis. This model requires significant input from PILCH, VALS and local stakeholders to ensure engagement. However, as noted, in many cases this may not be sufficient to build the necessary trust and understanding required to ensure a high client attendance.

In addition, the one-day model depended upon clients being available to attend a single clinic in their location. This was problematic when events occurred that prevented community members from attending on that one day, such as the death of a local community member in on location.

Legal focus of the ACDC

As outlined in part 3 of this Report, ACDC clients often had multiple intersecting legal problems in a range of areas. The cases seen by clinic lawyers clearly support calls for funded civil law services for Aboriginal people in regional and rural areas. In the absence of such services, the scope of legal issues identified by this report poses a challenge for pro bono service provision and the legal services that provide training, support and coordination functions. One possible approach to this issue may be to consider the way in which pro bono lawyers can provide legal services in certain areas and at the same time capture and report on unmet legal needs of the client group. Such an intervention would balance the need for direct casework services with the policy imperative of advocating for adequate legal aid funding.

Choice of clinic locations

We received considerable feedback in relation to the issue of the cultural appropriateness of clinic locations. In particular, as explained further in Annexure 2, we received a lot of feedback that certain parts of the Aboriginal community felt excluded from some of the venues selected.

After one of the clinics, a local stakeholder stated:

I was sorry to hear that the attendance was low on Monday at the clinic. I did promote and hand out numerous flyers however most people I spoke felt that if venue had been on mutual ground they would have attended.

However, in organising clinic venues we found it very difficult to find a venue that was agreeable to all sections of the community. One stakeholder suggested that to overcome this, rather than going to just one venue in each location, we do a number of 'mini-clinics' at various community centres and hubs. Whilst this would undoubtedly assist in removing neutrality issues, it would be quite resource intensive.

4.4 Alternative models

Whilst the ad hoc one-day outreach clinic model was a useful way of assisting clients and learning about legal need, as outlined above in part 14 it has some shortcomings. We canvassed a number of improved or alternative service delivery models during the course of the project. These included the following.

- *Piggy-back model:* This involves 'piggy-backing' the clinic onto local events that the Aboriginal community will already be attending. This would capture a greater audience and mean the clinic could assist a greater number of clients. One such event we have considered is the 'Sisters' Day Out', run by the Family Violence Prevention Legal Service for Aboriginal women.
- *Return to one location:* Another approach would be to select one location and to staff a clinic there on a semi regular basis, for example every two months. This would allow greater relationships between the clinic and the local Aboriginal community and local service providers to develop over time.
- *Triage model:* An alternative to providing direct legal services would be a triage model, where PILCH would provide staff to take instructions from clients then triage to determine which clients were suitable and where clients would receive the most appropriate assistance, then refer suitable clients to lawyers for assistance. Potentially, triage could be done via telephone interviews or clients could be referred from local organisations and services. Aside from issues of client engagement, a potential downside of such an approach would be the disconnection between client and lawyer together with a reduction in the potential for 'cultural exchange'.
- *Focus on law reform:* In addition to providing individual clients with legal assistance, the ACDC could focus on one or two law reform projects which would attempt to cause systemic change that will benefit the client group. For example, given the enormity of the infringements problems for Aboriginal clients in regional and rural Victoria, PILCH could work to convince the Melbourne Magistrates' Court to hold Special Circumstances List hearings in regional towns on an ad hoc basis where the clinic can guarantee that it will present a large number of represented clients on that day.

- *Seek additional government funding:* Aside from providing targeted, project based legal assistance, the pro bono sector is ill equipped to provide long term civil law legal assistance to the Aboriginal community. However, pro bono legal services can provide a useful indicator of legal need. PILCH could work with VALS and/or local Community Legal Centres, using ACDC data, to seek additional government funding for additional civil law services in rural and regional areas.

4.5 Conclusions

The ACDC project demonstrated that there is a great unmet legal need in rural and regional Aboriginal communities in the area of credit and debt law. The project also showed that engagement with clients in this target group is a significant issue. Isolated legal clinics struggle to build the level of trust, respect and reputation that is required to generate high levels of legal engagement. A medium to long term strategy is required to improve engagement by lawyers and clients. This can best be achieved by increased government funding for legal services in rural and regional areas. In the meantime, pro bono projects can continue to assist to fill the gap and build trust by providing legal assistance.

ANNEXURE 1 – METHOD OF EVALUATION

This Report evaluates the ACDC using various criteria, including:

- the number of clients assisted;
- the outcome of client files; and
- feedback received from participants as to the appropriateness and value of the services provided.

To assess the results of the project, feedback and information was drawn from VALS staff, PILCH staff, pro bono lawyers, key stakeholders in each location and clients.

VALS staff and key stakeholders in each location were invited to provide feedback by email following each clinic and by participating in phone interviews after the completion of the clinics.

During phone interviews, stakeholders were asked to provide feedback on matters including the clinic model, the promotion of the clinic, whether they referred clients to the clinic, whether they had received feedback from clients about the clinic, suggestions for improvements to the clinic and whether there were other unmet legal needs of the Aboriginal community in rural and regional areas that were not targeted by this clinic.

Pro bono lawyers provided feedback in the following ways:

- by completing evaluation forms after each clinic which sought feedback on the clinic model, their experience at the clinic, the organisation of the clinic, their views on improvements for future clinics, the adequacy of training, the resources and support provided for Clinic lawyers and any insights on legal need;
- by attending a feedback meeting following this initial clinic (Shepparton Clinic Lawyers only); and
- by completing file closure reports analysing the impact on the client of the legal assistance provided.

Clients provided feedback through ‘exit interviews’ conducted over the phone by their lawyer at the conclusion of the file.

The information gathered from these sources was collated, analysed and incorporated into this Report.

ANNEXURE 2 – MECHANICS AND MODEL

1.1 Setting up the ACDC – stakeholders and promotion

Partnership with VALS

PILCH's key partner in the ACDC project was VALS. VALS is uniquely placed to identify and understand the legal needs of Aboriginal people in Victoria. The partnership between PILCH and VALS drew on the networks, expertise and insights of VALS in engaging with and providing targeted, accessible and appropriate legal services to Aboriginal communities.

Of particular importance were the VALS Community Service Officers (**CSO**) in each of the clinic locations. The role of VALS CSOs is to support Aboriginal clients who have a legal problem or who are going through the court system. They are key figures in regional Aboriginal communities and are known and trusted by community members. VALS CSOs provided a crucial link between the ACDC and the local community.

Partnerships with other stakeholders

It was essential for ACDC staff to understand the legal services landscape in each location we visited. Before each clinic, we researched organisations in and near the clinic location that would have contact with the target client group. We relied on the VALS CSOs to assist in identifying these organisations. The types of organisations we contacted included local:

- housing and accommodation services;
- financial counselling services;
- Sherriff's Offices;
- community legal services;
- welfare and social service providers; and
- Victoria Legal Aid (**VLA**) offices.

We found that it was important to identify the right people and community leaders in each location and to get them 'on board' with the clinic. For example, in each location it was particularly important to engage with staff from the local Aboriginal Co-operative. The Co-operatives are central to Aboriginal community life and provide services such as medical clinics, drug and alcohol addiction support services, counselling, sporting clubs and social groups.

Once we had identified key stakeholders, we called each of them to inform them about the clinic and to encourage them to 'spread the word'. We also sought input from these stakeholders as to how to promote the clinic and how best to meet client needs.

This initial call was followed up by an email containing the key details of the clinic and attaching a promotional flyer. In this email, we asked the stakeholders to distribute the flyer to their clients and to encourage them to attend the clinic.

Pre-clinic visits

We visited each clinic location approximately one week prior to the clinic. This enabled us to inspect the venue for the clinic, which was usually chosen by the VALS CSO. More importantly, the pre-clinic visit enabled us to meet with key stakeholders in each region, including the VALS CSO and the staff from the Aboriginal Co-operative. We felt that these face-to-face meetings were crucial to spreading the message of the clinic and understanding the local service environment/context.

Media promotion

In the week prior to each clinic, we promoted the clinic on local radio stations and in local newspapers. In each location we relied on the VALS CSO or a staff member of the local Aboriginal Co-operative to identify which radio stations and newspapers would most effectively target the client group.

1.2 Setting up the ACDC – lawyers and law firm partners

PILCH entered into partnership arrangements with six of its member firms to staff the clinics. These firms were Allens Arthur Robinson, Blake Dawson, Clayton Utz, Holley Nethercote, Lander & Rogers and Rigby Cooke.

These firms seconded a total of 20 lawyers to the ACDC. The secondment arrangement was established primarily by a Memorandum of Understanding (**MOU**) entered between PILCH and each law firm.

Obligations on Clinic Lawyers

PILCH was conscious of the potential for cultural and geographical issues to arise in a service context. In order to address this, it was explained to the participating firms from the outset that a high level of commitment was required from ACDC lawyers.

First, all lawyers were required to attend a compulsory one-day training session that included a cultural awareness component. This was necessary to achieve an important goal of the clinic, namely to provide culturally appropriate legal services to the client group. Further information on the compulsory training is provided below.

Secondly, there was an expectation that lawyers would personally retain carriage of any matters they took on at the clinics. It was expected that lawyers would attend one or two of the clinics.

Finally, to achieve the aim of gathering data about the unmet legal needs of the client group, lawyers were required to participate in the clinic's evaluation process. Further information about the evaluation process is provided above in Annexure 1.

Training

On 6 May 2010, PILCH ran a compulsory one-day training program for Clinic Lawyers. The training was held at Blake Dawson and convened by Lucy McKernan, ACDC Manager. Broadly, the training addressed culturally appropriate legal service delivery and engagement, effective communication and empathetic lawyering, and substantivelaw. The training was divided into two main components – cultural awareness training and legal training.

Trevor Pearce of the Koori Heritage Trust provided training on cultural awareness. He covered a number of areas including: Indigenous families, land and identity; Indigenous lore

and history; and language and cultural sensitivities. Further information and advice was provided by Brad Boon and Loretta O'Neil of VALS and Emily Gerrard of Allens Arthur Robinson (formerly of Native Title Services Victoria). Paul Gillett of the Consumer Action Law Centre (**CALC**) provided training on credit and debt legal issues and James Farrell of the PILCH Homeless Persons' Legal Clinic provided training on infringements and Centrelink debts.

1.3 Setting up the ACDC – documentation and file management

PILCH prepared a series of documents and forms to outline clinic procedures, record client information and assist lawyers. These documents and forms were available on a secure section of the PILCH website. Clinic lawyers were provided with a logon and password to access these resources.

1.4 Setting up the ACDC – choice of location and venue

The four regional clinic locations (Shepparton, Ballarat, Morwell and Mildura) were chosen by VALS based on its analysis of legal need. As noted (on page 20), VALS' CSOs operate in rural and regional locations throughout Victoria and are uniquely placed to identify areas of high need in relation to debt and credit legal issues for Aboriginal clients. These locations are also geographical areas where there is a large Aboriginal population.

With assistance from VALS, we endeavoured to identify venues within each location that would be suitable for the clinic based on their location within the town, neutrality of the venue with different Aboriginal families, facilities available at the venue, and the likelihood of foot traffic at and near the venue. The majority of the clinics were held at the local Aboriginal Co-operative hall, as these were generally central, frequented by the Aboriginal community, and had the required facilities. As outlined on page 16, choosing an appropriate venue was a greater challenge than anticipated and feedback indicated that this may have had a significant impact on client numbers.

1.5 On the day

Shepparton

Shepparton is a well-serviced location, with a local VALS CSO, an active and engaged Aboriginal co-operative (Rumbalara Aboriginal Co-operative Ltd (**Rumbalara**)), a VLA office, and a variety of other services for Aboriginal people. Shepparton is also home to the largest Aboriginal community outside metropolitan Melbourne.

The Shepparton clinic was held at the Uniting Care Centre hall on Wednesday 19 May 2010 from 10am to 3:30pm. The clinic was attended by four PILCH staff members, two VALS staff members and seven Clinic lawyers. The clinic was also attended by representatives from several other service providers including the Academy of Sport, Health and Education, Centrelink, CAV, the Goulburn Valley Community Health Service (financial counsellors), the Koori Resource and Information Centre (**KRIC**) and Rumbalara.

We found that the attendance of Centrelink's Indigenous Services Officer (**ISO**) for the Shepparton region was very useful for clients. However, we noted that the benefit derived from having a Centrelink representative at the clinic would depend on whether there was an

ISO in each clinic location and on the Aboriginal community's relationship with this person. We also noted that having Aboriginal service providers, such as Rumbalara and the KRIC, at the clinic was of great importance, both to encourage clients to attend and to create a friendly and comfortable atmosphere at the clinic.

The presence of financial counsellors at the clinic was very beneficial. One Clinic lawyer noted that 'several clients presented with a combination of financial and legal issues and it was great to be able to refer the client to further assistance'. Another lawyer stated that 'grouping of 'like' services together adds value [for] the clinic attendees'.

Three lawyers and one PILCH staff member attended the Dhurringhile Prison to see clients with booked appointments. This 'mini-clinic' was very effective. Clinic lawyers took instructions from 21 clients, including eight prison inmates at the Dhurringhile Prison. All but two clients seen at the Shepparton clinic were male.

During the day, client flow was slow in the morning, increased significantly around lunch time and then decreased again after lunch and continued to be slow for the rest of the afternoon.

Ballarat

The Ballarat clinic was held at BADAC on Thursday 1 July 2010 from 11am to 3pm. BADAC had a communal area downstairs where lunch was served and a number of smaller rooms upstairs where clients and lawyers could go for privacy.

The clinic was attended by five PILCH staff members, two VALS staff member and six Clinic lawyers. The clinic was also attended by representatives of the Ballarat Sherriff's Office. PILCH had an agreement with the Sheriff's Office that no paper warrants were to be brought on the day (so that clients could not be served) and that lawyers could access the Sherriff's records for their clients by providing a duly completed and signed authority. This proved to be a useful resource for several clients. A financial counsellor from Child and Family Services attended the clinic and was a very valuable additional resource for lawyers and clients. A representative from the Central Highlands Community Legal Centre also visited briefly.

Instructions were taken from 17 clients. Of these clients, seven were female. Client flow at the clinic was relatively consistent during the day. Three lawyers and one PILCH staff member attended the Ararat Prison to see 5 clients with booked appointments. Again we found that this worked well. Two lawyers also provided advice at a local mothers' group.

A BADAC mail-out to Aboriginal community members early in the week of the clinic appeared to have been a very effective means of promoting the clinic.

Morwell

The Morwell clinic was held at the Central Gippsland Aboriginal Health Service (or 'Nindedana Quaranook') on Thursday 29 July 2010 from 12pm to 4pm.

The clinic was attended by four PILCH staff members and seven lawyers. The clinic was also attended by representatives from VALS, Centrelink, CAV, the Morwell Koori Open Door Education School, Quantum Support Services and the Ramahyuck District Aboriginal Corporation.

Two PILCH staff members and two lawyers also attended the Fulham Correctional Centre and took instructions from prison inmates.

Clinic lawyers took instructions from 15 clients, of which 11 were inmates of Fulham Correctional Centre. All four clients seen at the clinic itself were female.

A number of issues may have accounted for the low client numbers in Morwell. One issue was the lack of a Morwell-based Aboriginal Co-operative. Morwell is serviced by two Aboriginal Co-operatives, however neither is based in Morwell. On our pre-clinic visit, we were informed that until about 2007, there was an Aboriginal co-operative based in Morwell and run by the Morwell Aboriginal community. The co-operative was disbanded for various reasons including lack of funding. Services and programs for the Aboriginal community in Morwell are now provided by the Ramahyuck Aboriginal Co-operative which is based in Sale, and the Gippsland and East Gippsland Aboriginal Co-operative which is based in Bairnsdale. The clinic was held at the Gippsland Aboriginal Health Service, which is auspiced by the Ramahyuck Aboriginal Co-operative.

A second difficulty with the Morwell clinic was that we were unable to find financial counsellors who were available to attend the clinic on the day. The free financial counselling services available in Morwell do not appear to be sufficient to service the community, and while they were very keen to be involved, they were unavailable on the day. Free financial counselling services from the wider Gippsland area were unable to attend because they are only funded to work in certain catchment areas, which do not include Morwell. Further, we were told by the main free financial counselling service based in Morwell that they were booked out for several months.

Finally, on the day before the clinic, we were informed of the death in the Morwell Aboriginal community.

Our pre-clinic visit to Morwell and our experience on the day of the clinic suggested to us that Morwell is an area of great legal need that is under-serviced. At the Morwell Local Aboriginal Justice Action Committee meeting, which we attended during our pre-clinic visit, a large number of committee members expressed their frustration at the absence of a VALS CSO in Morwell. PILCH understands that a suitable candidate for this CSO role has now been filled. As noted above, there is also frustration in the community at the lack of a Morwell-based Aboriginal co-operative.

Despite the lower turnout for the Morwell clinic, we gained a great deal of knowledge about the need for legal (and other) services in this area and consider that this location would be worth greater attention in any future efforts at service delivery to this target group.

Mildura

The Mildura clinic was held on Monday 23 August 2010 at the Mildura Aboriginal Cooperative (**MAC**) from 12pm to 4pm. The clinic was attended by four PILCH staff and six Clinic lawyers. The clinic was also attended by the Mildura VALS CSO, financial counsellors from Mallee Family Care, and representatives from MAC, the Aboriginal Family Violence Prevention Legal Centre, the Loddon Mallee Housing Service and Centrelink.

A number of particular areas of legal need were discussed during our pre-clinic visit to Mildura. For example, one stakeholder informed us that there was a systemic problem of people with low literacy signing housing contracts with the DOH despite not being able to read or understand the contract. Another issue relating to the provision of legal services in Mildura is the absence of a VLA office. VLA work in Mildura is carried out by private firms on VLA panels, who receive funding for this work from VLA. This arrangement poses major difficulties for clients attempting to access legal services. Clients would need to know which law firms were VLA funded in order to be able to seek free legal assistance, but the list of VLA firms is not published.

Mildura had a relatively low attendance rate. Only seven clients sought legal assistance at the clinic despite the large Aboriginal population and high level of legal need in Mildura.

A major reason for the low turnout may have been due to the location of the clinic in Mildura as some members of the community did not use MAC. We received feedback that it may have been worth considering splitting lawyers into smaller groups to visit local suburbs where the different Aboriginal communities lived and frequented. It was suggested that a de-centralised clinic model could overcome the neutral territory issues and target the different groups in the community more effectively.