

Victorian Aboriginal Legal Service Co-operative Ltd

Newsletter January-February 2008



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Staff Update

VALS thanks Bianca Dukic, Barrister, who acted as In-House Counsel (Civil) during the latter part of 2007. VALS welcomes Tanya Burke to the role of Administration Assistant. We also welcome Daniel Cash to the role of Criminal Lawyer.

Apology

On 13th February 2008 the Federal Government offered a formal apology to Indigenous Australians for past injustices. The apology was warmly received by Indigenous Australians who gathered to watch the apology live at the Aborigines Advancement League. It appears now that the key is to transform this momentous occasion into momentum.

Mediation

Mediation is a professional skill. The Practitioner's Certificate in Mediation course, offered by the Institute of Arbitrators & Mediators Australia, is designed to equip people across a wide range of disciplines with a practice-oriented qualification in mediation. It is a 5-day interactive workshop combining theory and practice with one-on-one coaching by experienced mediators. On successful completion of the course and membership of the association, participants are eligible to apply for accreditation as Mediator with the Institute.

The details for the next course are:

Date: August 20th - 22nd & 26th - 27th.

Where: Melbourne CBD.

All enquiries and registration: (03) 9602 1711 and vic.chapter@iama.org.au.

EVENTS

Indigenous Human Rights Forum

You are invited to attend the Indigenous Australian Human Rights Forum organised by the Victorian Equal Opportunity & Human Rights Commission and the Victorian Aboriginal Legal Service.

The forum is an opportunity for Indigenous Australian Community Workers and Community members to learn more about the Victorian Charter of Human Rights and Responsibilities. The one-day forum will explore the importance and relevance of a Human Rights Charter for Indigenous Australians in Victoria. The morning session will feature presentations by keynote speakers from Victoria and NSW on human rights law and its application for Indigenous populations in other parts of the world. The afternoon session will consist of a workshop on the impact of the Charter on Indigenous Australian communities across Victoria.

The details are:

When: Wednesday 19th March 9.30am - 4.00pm.

Where: Aborigines Advancement League, 2 Watt Street, Thornbury, Melbourne.

Booking is essential so please register by Wednesday, 12 March 2008 to Jason Rostant on 9281 7104 or Jason.Rostant@veohrc.vic.gov.au.

Aboriginal English in the Courts Kit Launch

Stay tuned for more details about the launch of the 'Aboriginal English in the Courts Kit' on 24th April 2008.

Alternative Dispute Resolution

VALS sent a submission to the Victoria Law Reform Commission about how to make the alternative dispute resolution system more accessible for Indigenous Australians. The Commission asked questions about the submission at a Public Hearing that VALS appeared at on 25th February 2008. The arguments made were:

There is need to create space for

- a community based Alternative Dispute Resolution (ADR) model that is a distinct entity separate from the Courts;
- the utilisation of Indigenous Australian knowledge in the development of ADR models, particularly in the development of restorative justice programs.

VALS identified the following issues of access to ADR for Indigenous Australians:

- There are limited Indigenous Australian specific ADR or restorative justice services, particularly at the early intervention end. There appears to be only one mainstream dispute resolution service attempting to provide a culturally sensitive service by providing an Indigenous Liaison Officer role and Koori mediators (Dispute Settlement Centre).
- ADR reflects Western cultural values and alienates Indigenous Australians who have different cultural values and are consequentially disadvantaged by a power imbalance. According to Smith "the ability to decentre the Western worldview in order to understand Aboriginal ones is important to the ADR movement"

The suggestions VALS made in the submission was influenced by Larissa Behrendt, an Indigenous Australian lawyer. She argues that despite the advantages of ADR it is still a problematic alternative for Indigenous Australians "as it is a non-Indigenous Australian product that is incapable of addressing the power inequality created by racism and institutional discrimination."

The model that Larissa Behrendt argues for:

- goes beyond merely transferring the dominant programs of ADR into the Aboriginal community with mediators who have had cultural training or Indigenous Australian mediators.
- is one that is implemented by Indigenous Australians in their own communities, which recognises traditional cultural values and traditional structures of decision making.

VALS' submission contained many characteristics of an appropriate ADR model and some are outlined below:

Cultural inclusiveness/restorative justice

There should be a culturally inclusive framework which incorporates notions of restorative justice. The concept of restorative justice is closely related to Indigenous Australians forms of dispute resolution (ie: victim-offender mediation which involves multiple parties).

Community Based

There should be a model that creates space for community based ADR which is in a position to provide early intervention and is not in the shadow of the Courts.

Co-mediation

There should be a co-mediation model which, according to Behrendt, will work for Indigenous Australian as they can have someone they can relate to in some way.

Safeguard: Legal Advice/power imbalance

There should be a model that ensures that prior to using ADR all parties get clear legal advice about the scope of the ADR process that they are engaging in and their rights in terms of withdrawing from the process, especially if ADR is mandatory and there is a significant power imbalance (ie: family violence).

Triage

There should be a model that caters for disputes that involve a matter of some urgency (eg: impinging on welfare of child). There should be a fast tracking option to the Courts.

Internship

VALS has a Statement of Co-operation with the Department of Criminology at the University of Melbourne. As part of the Statement, an internship at VALS is provided to criminology students. The internship is designed to provide students with hands-on criminological research experience. The student undertakes one major research project that is of use to VALS which culminates in a 5000 word formal research report for VALS. The current intern is doing research on an issue that is of use to VALS, that is post-release issues and needs for Indigenous Australian women. VALS finds that the absence of post-release support for Indigenous Australians contributes to them re-entering the criminal justice system and needing the assistance of VALS.

Contact Details

If you require information about the contents of this newsletter or wish to subscribe to the mailing list, please contact VALS on 03 9419 3888. Previous newsletters are available on the VALS website.