



FEDERATION
OF COMMUNITY LEGAL CENTRES VIC



EQUAL ACCESS TO JUSTICE

VICTORIAN BUDGET SUBMISSION
FEBRUARY 2021

ABOUT THE FEDERATION

The Federation is the peak body for Victoria’s Community Legal Centres (CLCs). Our members are at the forefront of helping those facing economic, cultural or social disadvantage and whose life circumstances are severely affected by their legal problem.

For over 40 years CLCs have been part of a powerful movement for social change, reshaping how people access justice, creating stronger more equitable laws, and more accountable government and democracy.

We pursue our vision of a fair, inclusive, thriving community through challenging injustice, defending rights and building the power of our members and communities.

WE WANT A COMMUNITY THAT IS FAIR, INCLUSIVE AND THRIVING: WHERE EVERY PERSON BELONGS AND CAN LEARN, GROW, HEAL, PARTICIPATE AND BE HEARD.

The Federation:

- ▼ Enables a strong collective voice for justice and equality;
- ▼ Mobilises and leads CLCs in strategic, well-coordinated advocacy and campaigns;
- ▼ Works with members to continuously improve the impact of community legal services;
- ▼ Drives creativity and excellence in the delivery of legal services to communities;
- ▼ Helps make justice more accessible.

Read our strategic plan online fclc.org.au/about



ACKNOWLEDGEMENT OF COUNTRY

The Federation of Community Legal Centres acknowledges the Traditional Custodians of the lands across Victoria and note that this document was developed on the lands of the Wurundjeri people of the Kulin Nations.

We recognise that the over-representation of Aboriginal and Torres Strait Islander families and children in the justice system, many of whom have experienced family violence, is in part a devastating consequence of colonisation, intergenerational trauma and ongoing experiences of systemic racism.

We pay our respects to the strength and resilience of Aboriginal and Torres Strait Islander peoples and cultures and to all Elders past, present and emerging and recognise their unceded sovereignty.

CONTENTS

Executive Summary	4
SECTION 1: ACCESS TO JUSTICE FOR THOSE WHO NEED IT MOST	5
Helping people with complex needs	6
Pressures on CLCs to meet demand	6
Further surge in demand	7
Integrated services and early intervention	8
SECTION 2: COMMUNITY HELP FOR VICTIM SURVIVORS	11
Supporting victim survivors of family violence with pressing needs	12
Integration of legal assistance into the family violence support system	13
Supporting victims of crime	14
SECTION 3: SUPPORT MENTAL WELLNESS	16
Wrap-around support for people living with mental illness	17
Reducing criminalisation of people experiencing mental health issues	19
 Appendix 1: Recommendations	 21

EXECUTIVE SUMMARY

In the wake of the bushfires of 2019-2020 and the current COVID-19 pandemic, the social and economic landscape in Victoria has changed markedly. The pandemic has had a profound impact on our community which will be felt for a considerable time to come. With deepening financial hardship and sharp rises in mental health issues and family violence, supporting our community to recover is as important as ever. In Victoria, the demand for support from community services, including legal help, has grown with rising inequality and disadvantage. As we enter a second year of uncertainty following the pandemic, the need for community legal sector support is forecast to grow.

The Federation envisages a fair and inclusive community in which every person has equal access to justice. By supporting people experiencing hardship, Community Legal Centres (CLCs) provide equal access to justice and ensure a fairer society for all.

The law affects every part of people's lives. CLCs are fundamental in supporting our community in pressing areas of need. This includes assisting people who are facing eviction and homelessness, family breakdown, crippling debts and fines, discrimination, exploitation at work and unfair dismissal. CLCs, alongside specialist family violence services, also play a fundamental role in supporting women and children experiencing family violence and preventing perpetrators from causing further harm. Unaddressed legal issues can escalate and ultimately carry heavy consequences, including significant financial strain or bankruptcy, physical ill-health, psychological distress and homelessness. The risks posed by unresolved legal need are especially severe for many CLC clients who already experience some form of disadvantage, as existing vulnerabilities are compounded by risks arising from legal problems.

There is considerable legal need within the Victorian community. People experiencing hardship need assistance navigating the legal system and enforcing their rights. This is particularly important for members of our community who face systemic barriers accessing justice due to their cultural and linguistic backgrounds, LGBTIQ+ status, disability, age, geographic remoteness or poverty.

CLCs are community-based and have strong relationships with their local services, such as health services, financial counselling services, community centres, family violence and youth services and schools. CLCs are uniquely placed to assist their clients with complex and pressing legal issues that many Victorians will face at some point in their lives. CLCs also provide wrap-around and holistic support for people through integrated legal services and health justice partnerships which have become a highly effective part of Victoria's community service provision. CLCs form a valuable part of the community service network in Victoria and provide a crucial safety net for disadvantaged Victorians. The focus on early intervention through wrap-around and integrated service delivery means addressing legal issues before they escalate and reach crisis point.

Budgets are about the health and wellbeing of our community and the kind of society we want to live in. It is vital that people have access to community legal help. We are calling on the Victorian Government to increase funding across the sector to meet existing needs and address the continued rise in demand brought about by the pandemic. This includes more support for victim survivors of family violence and an increase in investment for integrated legal services to support people with complex issues, as well as those experiencing poor mental health. We urge the Victorian Government to provide CLCs with the long-term funding they need to meet demand and ensure all members of the community can access justice.

** All client names referred to in the case studies have been changed.*

SECTION 1:

ACCESS TO JUSTICE FOR THOSE WHO NEED IT MOST

HELPING PEOPLE WITH COMPLEX NEEDS

Access to justice for all Victorians is vital for creating a fair and equal society. It is critical that people in our community who are experiencing financial and social hardship and family violence have access to community legal help. As a sector that is deeply concerned about the wellbeing of our community, it is vital that gaps in unmet legal need are addressed. CLCs support those most in need of assistance and who cannot afford private lawyers or do not have access to legal aid. On average, up to 70% of people who access CLCs have income of less than \$32,000 per year. CLCs are embedded in their local communities and are able to reach groups that face additional barriers accessing legal services and support due to their mental health, racial or cultural backgrounds, age, disability, LGBTIQ status or geographic remoteness.

People experiencing disadvantage are more likely to have complex legal problems¹ and although they need more support, they are less likely to have equal access to legal resources and information. This can lead to serious consequences, including poor mental health, crippling debts, homelessness and incarceration, which may have been avoided with appropriate community legal support and early intervention. CLCs assist people who have complex and traumatic life circumstances; giving rise to multiple legal issues. Legal issues can impact on many facets of people's lives and frequently arise due to lack of stable housing or homelessness, family violence, substance use issues, unfair work conditions, financial difficulties and uncertain immigration status. The effects of discrimination can be pervasive and can prevent people seeking assistance, increase social isolation and loneliness and be a barrier to gaining or retaining employment.² People experiencing discrimination need legal advocacy to enforce their rights and ensure they are treated with dignity and respect.

PRESSURES ON CLCS TO MEET DEMAND

The community legal sector has been chronically underfunded for decades. The sector is yet to see the level of investment in community legal services recommended by the Productivity Commission in its 2014 Inquiry into Access to Justice Arrangements³ and the 2016 Access to Justice Review to ensure legal assistance services can meet critical community need.⁴ Without additional funding, it is anticipated that CLCs will refuse at least 20,000 requests for legal assistance in the 2022 financial year. This will leave a substantial part of our community without any legal support for serious and complex issues, with consequential burdens placed on the public health system, justice sector (including police), and broader human services.

Victoria's economic and social landscape changed dramatically due to the COVID-19 pandemic. The high levels of unemployment, coupled with the rise in mental health issues and spike in the rate of family violence has had a profound impact on the families and communities that CLCs support. The Federation welcomed the government's recognition of the increased community need for legal assistance arising from the pandemic and bushfires in 2019/2020 and the additional funding provided to community legal services for this purpose.

CLCs are facing challenges in meeting the new demand created by COVID-19, with existing resources already insufficient to ensure that people's legal needs are met. As a result of the pandemic, more people in our community are in need of legal assistance, including those who have never needed to access community legal services before. This includes people at risk of losing their home, unfairly losing their job or being forced into bankruptcy. For example, Katie* could not pay her rent after she lost her job due to the pandemic. After her landlord refused to offer a rent reduction, Katie moved out and effectively became homeless, couch surfing between friends and family. Her landlord has since issued proceedings to recover the unpaid rent. Had Katie been aware that she could seek legal advice at an early stage, she would have received legal assistance with pursuing dispute resolution options and enforcing her rights. CLCs have also seen an increase in the complexity of legal and other issues faced by clients.

SNAPSHOT OF LEGAL NEED DUE TO THE COVID-19 PANDEMIC

This snapshot illustrates the dramatic surge in requests for legal assistances experienced by CLCs across Victoria as a result of COVID-19.

Tenancy:

Tenants Victoria, a CLC providing information, advice and legal representation to Victorian renters, received 20,103 phone calls in three months from July to September 2020 (averaging 346 calls per day) and recorded 500,879 hits to their website (including over 959,000 page views) in a six-month period from May to October 2020.

Springvale Monash Legal Service saw a 40% increase in tenancy legal services in 2020 as compared to the previous year.

Employment:

Job Watch, a CLC specialising in employment rights, saw a 43% increase in legal casework and a 165% increase in hits to its website as a result of the COVID-19 pandemic compared to the period from March to November 2019.

Consumer law:

Consumer Action Law Centre, a CLC specialising in consumer law (such as debt collection, loans and insurance), saw a 58% increase in legal advice line email enquiries from consumers from July to November 2020.

FURTHER SURGE IN DEMAND

The impact of the pandemic and the bushfires will be felt for a considerable time to come, particularly in Victoria which had extended lockdown measures, requiring long term investment to meet ongoing community need. While we welcome the existing support the government provides to the community legal sector, much of the funding has been short term.

With the easing of COVID-19 restrictions, government supports, such as JobKeeper and JobSeeker, that provided a safety net for many Victorians will end in late March 2021. The sector has already started to see an increase in legal need, but anticipates a surge once entitlements are withdrawn, especially for those who were disadvantaged prior to the pandemic. Deepening financial hardship will increase pressures on CLCs to service a greater proportion of people in need. As mortgage and rent payments resume at pre-COVID-19 levels and the moratorium ceases, the risk of evictions will increase and many people will struggle to pay their credit card and utilities bills.

The impacts of unresolved, escalating legal problems on individuals, the community and the government are significant, but can be avoided through ensuring effective access to early community legal assistance. Victoria's CLCs have a crucial role to play in the state's recovery response to the social and financial impacts of the COVID-19 crisis. Investing now to prepare the CLC sector to respond to the increased demand for its services will ultimately reduce harms to individual Victorians, strain on the community as a whole and the level of costs to be borne by government.

Recommendation: Support Community Legal Centres to meet increasing demand and ensure people can receive the help they need by providing ongoing and stable funding.

INTEGRATED SERVICES AND EARLY INTERVENTION

CLCs assist people with complex issues and overlapping causes of hardship, such as family breakdown, debt problems and housing insecurity. CLCs work collaboratively with other community professionals, such as social workers, financial counsellors, school communities and health providers, to provide holistic support to people with complex needs.⁵

People cannot recover if they do not have the right support. However, people who are experiencing disadvantage have the lowest rate of seeking professional legal assistance than any other group and are more likely to speak to a health professional or other frontline service about legal problems than a legal service.⁶ This can result in legal issues not being identified or addressed.

Inner Melbourne Community Legal (IMCL) provides legal assistance to people at local hospitals through their health justice partnerships (HJPs). This is illustrated in the case of Sashi*. In 2017, Sashi saw IMCL lawyers through the HJP with Royal Melbourne Hospital. Sashi was an outpatient receiving ongoing assistance with rehabilitation following a brain injury incurred in a rock climbing accident in 2011. As a result of her injury, Sashi's relationship with her family became fractured. Sashi attempted to return to work following her injury but was made redundant twice and began to experience financial strain. When Sashi sought assistance from IMCL, she was effectively homeless, couch surfing at friends' houses. Sashi was unable to work and had incurred almost \$58,000 in debts. Sashi sought assistance to manage her debts and obtain early access to her superannuation. IMCL contacted the creditors and assisted Sashi to have over \$51,000 in debts waived. Where debts were not waived, IMCL was able to negotiate reductions and manageable payment plans for Sashi. IMCL referred Sashi to a private law firm who assisted her to make a total and permanent disability claim with her superannuation company. Without IMCL's assistance, Sashi's creditors may have pursued legal proceedings against Sashi putting her further into debt, and risking bankruptcy.⁷

"If it wasn't for the referral from social work, I would not have known that this service existed. I would have just gotten into more and more debt. I was not well informed about services. My mental health had a lot to do with it...the debts were impacting my ability to think straight and my ability to cope.

Now I am actually able to breathe I can fully focus on my therapy...it's like a huge chunk of my stress is relieved.

How about that, I could sleep at night! I didn't have to worry that I owe this much, I owe that much... that mental capacity was something that had opened my mind, that okay I can breathe. I can think.

You have given me a new life...I can now think forward...I feel like I can breathe...I can plan for my future."⁸



CLCs work in partnerships with social, community and health services to help people understand and identify their legal need earlier and reach people before their legal issues snowball. These partnerships ensure that people with vulnerabilities are connected with legal services wherever they seek help, including at schools, hospitals, maternal health clinics, youth centres, alcohol and drug programs and family violence services. The focus on early intervention has a preventative effect in terms of reducing compounding harms for vulnerable groups and can reduce pressures on the justice system and other parts of the service systems down the track, including mental health, child protection and the criminal justice system.⁹

For example, WEstjustice, a CLC in the Western suburbs of Melbourne, has a School Lawyer program in partnership with local public schools to assist young people with legal issues and educate them about the justice system. The teacher referred Emily*, a year 12 student, to the school lawyer after she disclosed that she was experiencing violence at home and did not feel safe. The school lawyer provided Emily with practical family violence advice and helped her with obtaining a family violence intervention order (FVIO) and Centrelink payments.¹⁰

The Access to Justice Review has recognised that integrated and collaborative forms of service delivery better targeted disadvantaged and vulnerable groups and had positive impact on their health.

'Community legal centres in Victoria have been at the forefront of finding new ways to provide legal help to people facing disadvantage, hardship, and discrimination'.¹¹

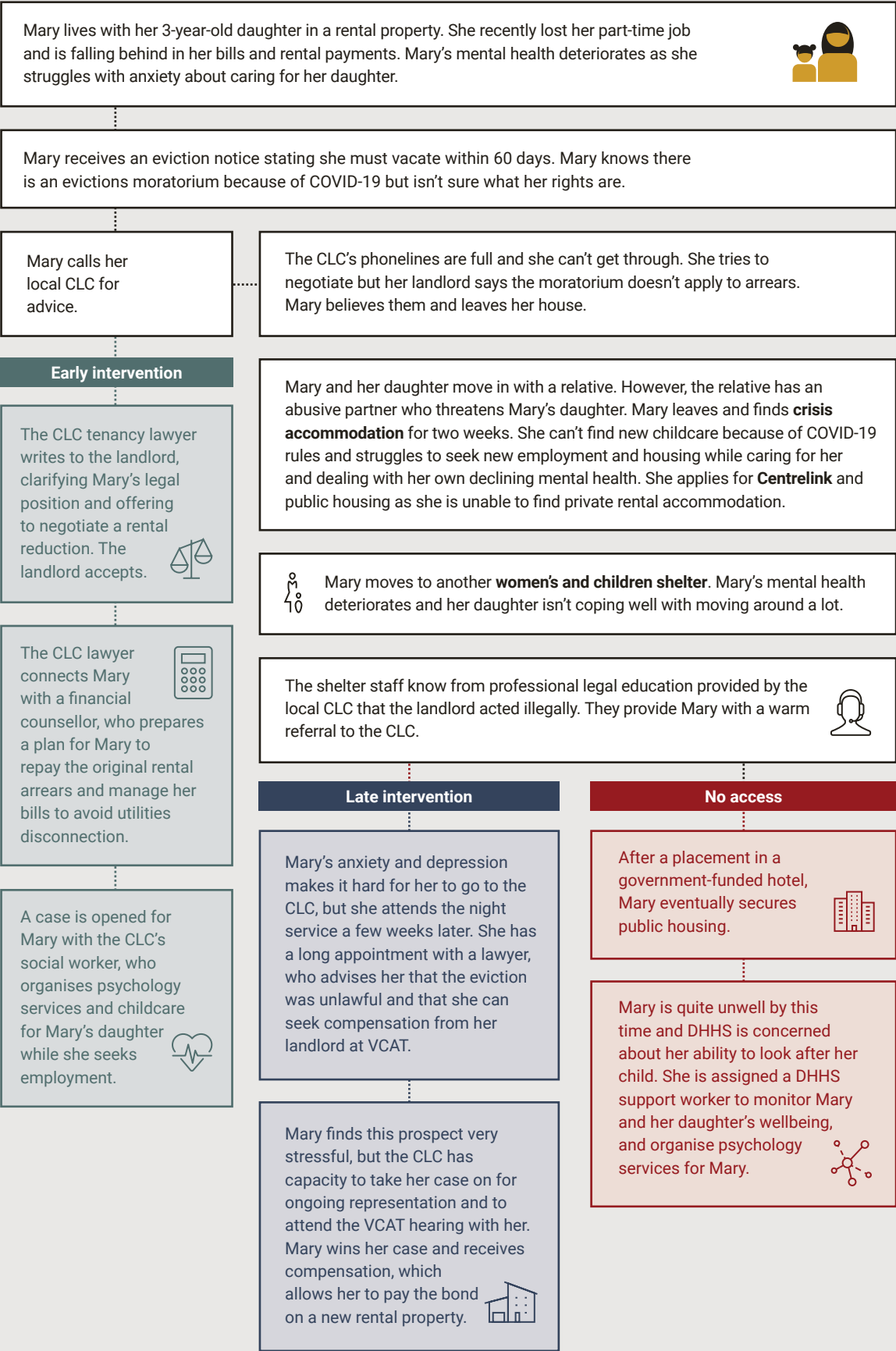
Integrated service delivery can take different forms, such as co-location of a lawyer at another agency, regular outreach by a lawyer to a community service, health justice partnerships and multidisciplinary teams consisting of lawyers, social workers and financial counsellors working together to support people's complex needs. Improved linkages between services minimises trauma associated with people having to repeat deeply personal stories to multiple service

providers. Addressing the legal and social needs of clients can reduce stigma and build their resilience, wellbeing and level of social participation.¹²

This is exemplified by the partnership between the Law and Advocacy Centre for Women (LACW), a CLC specialising in criminal defense advocacy for women, and the Centre for Innovative Justice (CIJ). LACW lawyers work with a social worker from CIJ to provide an integrated service to women who are imprisoned, or at risk of entering the criminal justice system. In many cases, women are at risk of criminalisation because of social, health and family challenges that they experience because of entrenched disadvantage and family violence. The lawyer and social worker assisted Jane* who had criminal charges against her. Among other factors, Jane was homeless, had an acquired brain injury and experienced mental health issues as a sexual assault survivor. The social worker put in place important supports for Jane which made her strong enough to engage with the legal process. As the court could see that there was a detailed support plan in place for Jane, she was allowed to continue to engage with support services, rather than being incarcerated. The integrated approach not only led to a successful legal outcome, but also enabled Jane to address the underlying causes of her offending.¹³

Recommendation: Prevent service delivery gaps and ensure that people's complex needs can be met by providing ongoing funding for integrated legal services and partnerships that have been proven to work, as stated in Recommendation 3.4 of the Access to Justice Review.

MARY – INTEGRATED SERVICES



SECTION 2:

COMMUNITY LEGAL
HELP FOR VICTIM
SURVIVORS

SUPPORTING VICTIM SURVIVORS OF FAMILY VIOLENCE WITH PRESSING NEEDS

The far reaching social impacts of the COVID-19 pandemic have resulted in a rise in the rate of family violence across Victoria. A whole of system response is required to keep women and children safe from family violence and prevent those who use violence from causing further harm. An integrated response to family violence is critical in addressing the various challenges faced by women and children experiencing family violence, including safety planning, access to safe and stable housing, financial support, counselling and setting-up safe parenting arrangements for children.

Community legal services, alongside specialist family violence services, play a fundamental role in supporting women and families who are experiencing family violence. Victim survivors of family violence were found to be 10 times more likely to face legal problems.¹⁴ These types of legal problems are often complex, stressful and have serious implications for affected individuals and their families. CLCs provide the legal support needed by victim survivors to protect themselves from abusive situations. This includes assistance in securing FVIOs and, in the family law context, in managing custody arrangements, as well as other interconnected legal issues, such as child protection intervention, criminal law issues and housing issues. In addition, CLCs support victim survivors to restore their financial safety and independence, helping them recover from often long periods of economic abuse. CLCs have specialist services to support elderly people experiencing abuse and financial exploitation from family members and carers.

It is vital to ensure that appropriate and adequate support is available to victim survivors. Importantly, this means improving the accessibility of community legal assistance through increased investment in CLCs. This was recognised by the Access to Justice Review which identified family violence as a priority area of legal need and supported ongoing funding of integrated services pioneered by CLCs to assist victim survivors.¹⁵

The rise in the rate of family violence across Victoria has seen an increase in victim survivors seeking assistance from community legal services. Between April and June 2020, 63.5% of clients attending CLCs were at risk of, or currently experiencing family violence, an increase of 10.1% compared to the same period in 2019.¹⁶

A number of CLCs who have health justice partnerships with local health services and hospitals have seen an increase in family violence matters during the pandemic.¹⁷

For example, Inner Melbourne Community Legal has health justice partnerships with local hospitals, including Royal Melbourne Hospital and Royal Women’s Hospital. From April 2020, 61% of people referred by the hospitals were experiencing family violence, which was a 21% increase compared to the same period in 2019.¹⁸

Eastern Community Legal Centre provides legal assistance at local maternal child health services to women experiencing family violence through their Mabels program. Between April and June 2020, the program saw a 30% increase in the number of appointments for family violence legal matters, compared to the previous year.¹⁹

The COVID-19 restrictions have resulted in a growing backlog of FVIO matters in magistrate courts across Victoria, placing greater pressure on CLCs and putting victim survivors at risk of missing out on legal assistance. For example, some courts have two FVIO court lists running per day, rather than one list, to address the significant backlog in FVIO matters. Some CLCs have experienced up to 40% increases in requests for legal assistance with FVIO matters in late 2020 compared to the pre-COVID period.

The Federation welcomes the additional funding announced by the Victorian Government in December 2020 to help legal services provide assistance to parties with FVIO matters to encourage early resolution. The court process can be overwhelming and highly stressful for victim survivors. It will make a critical difference to victim survivors to have legal assistance at an early stage; in turn reducing the trauma associated with the court process through early resolution. However, this critical system change will need to be embedded long term to continue to have a positive impact and to reach people in need of support.

INTEGRATION OF LEGAL ASSISTANCE INTO THE FAMILY VIOLENCE SUPPORT SYSTEM

The *Family Violence Reform Rolling Action Plan 2020-2023* (the RAP) recognises the integral role of legal assistance in responding to family violence and enhancing the safety of women and children. The RAP recommends embedding legal services within health, community and education settings and increasing early access to legal support. CLCs specialise in delivering integrated legal services and partner with a range of organisations to provide early intervention and wrap-around support to victim survivors. With increased investment, the integration of community legal services within the family violence support system can be fully realised. As part of this, it is important that CLCs are supported to provide triage, legal advice and casework to people accessing the Orange Door hubs. The Access to Justice Review also recommended legal support be available in the hubs to allow for triage and for victim survivors to get the legal help they urgently need.²⁰

The Orange Door hubs are a free service for adults, children and young people who are experiencing family violence and for families who need additional support with the care of their children.²¹ They are intended to simplify referral pathways through the integration and co-location of key service sectors, including: specialist family violence services, services for perpetrators and child and family services.²² While, over time, local arrangements have evolved for legal services to deliver some assistance at select hubs, the level and availability of legal help is not consistent across hub sites and is limited due to a lack of funding. The integration of legal services in the hubs is a key part of providing wrap-around support to people accessing the hubs in collaboration with other support services and in turn realising the vision of the Royal Commission into Family Violence.

It is vital that the Victorian Government use the opportunity provided by the COVID recovery response and the RAP to expand the integration of legal services into the family violence support system across the state, including within the Orange Door network.

Recommendation: Increase funding to support the integration of community legal services into the family violence system across Victoria. This includes funding community legal services to provide triage, legal advice and ongoing casework to people accessing the Orange Door hubs.



SUPPORTING VICTIMS OF CRIME

CLCs are uniquely placed to assist victims of crime, particularly those with complex needs. CLCs play an important role supporting victims of crime, including victims of family violence and sexual assault, to obtain victims compensation, redress and support as part of their process of recovery. CLCs have expertise in assisting people with high levels of vulnerability to navigate the Victims of Crime Assistance Tribunal (**VOCAT**) scheme. The VOCAT scheme provides financial assistance to victims of crime, including for counselling and medical expenses, safety related expenses and loss of earnings, as well as grants of special financial assistance in recognition of the profound impact of crime on people's lives. While, some CLCs are able to deliver some assistance to victims of crime to obtain compensation, the level and availability of legal help is not consistent across the state and is limited due to lack of funding. This leaves people with high levels of vulnerability and complex legal needs without crucial access to legal assistance.

In 2018, the Victorian Government committed to establishing a new financial assistance scheme following the Victorian Law Reform Commission's (VLRC) review of the *Victims of Crime Assistance Act 1996*.²³ As the Victorian Government implements a new financial assistance scheme for victims of crime, it is essential that victims of crime, particularly victims with complex and multiple needs, are supported by CLCs to effectively navigate the new scheme.

The Victims Services Review conducted by the Centre for Innovative Justice (CIJ) found that victims of crime were left to navigate a patchwork of legal support or more likely, not receive any legal assistance at all.²⁴ The review found that even though victims of crime are currently funded to receive assistance with VOCAT applications through private practitioners, the relatively low fees available for this work sometimes resulted in minimal engagement between legal practitioner and client.²⁵ The review also recognised that CLCs are impacted by significant demand and lack of adequate funding to fill this gap.²⁶

Without access to legal advice, many victims of crime are missing out on entitlements, as well as experiencing spiralling needs in relation to other legal issues, thereby undermining their capacity

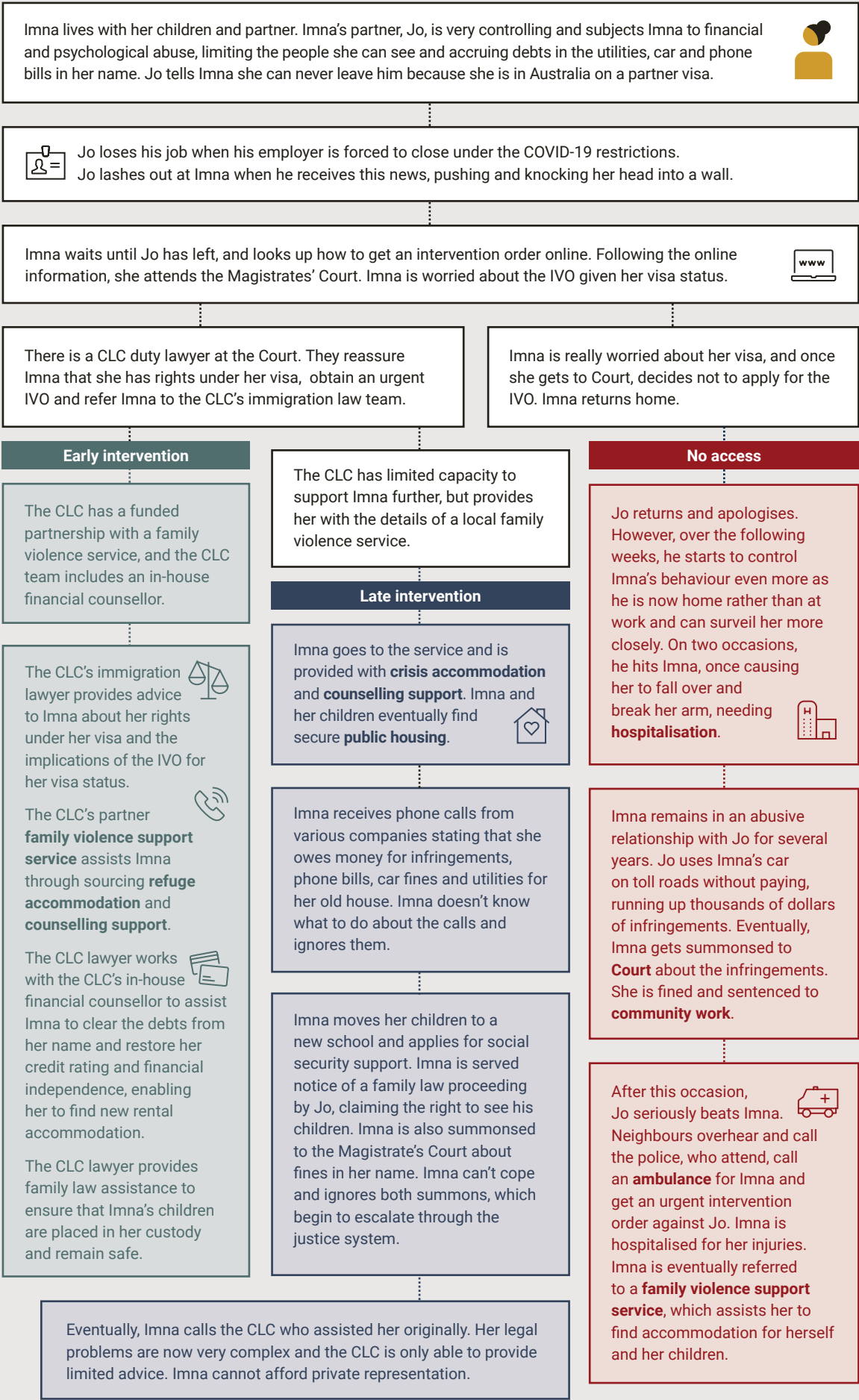
to recover.²⁷ There is a strong correlation between crime victimisation and legal need.²⁸ The Review recognised the need for additional resourcing for lawyers to assist victims of crime.²⁹

CLCs are well positioned to assist victims of crime, particularly those with complex needs, with their VOCAT applications and to identify related legal issues through integrated service delivery. CLCs have expertise working with people who have experienced trauma and require additional support through integrated services.

This is illustrated by Springvale Monash Legal Service's (SMLS) and the South East Centre Against Sexual Assault's (SECASA) long-standing partnership: *Integrated Services for Survivor Advocacy* (ISSA). The ISSA supports victim survivors to recover from sexual assault and/or family violence and navigate the legal system. Many of the women accessing the integrated program have faced profound challenges as a result of their traumatic experiences, including isolation, lack of support from family and psychological issues, such as PTSD, anxiety and memory loss. Many of these women have not been able to talk about their traumatic experiences and have carried these stories with them for years; finding it hard to remain in stable work due to their trauma. The integrated approach is critical in supporting these women. While SMLS provides legal assistance with VOCAT applications and other legal issues (such as fines, infringements and tenancy), SECASA supports women through therapeutic intervention, counselling and crisis response. Over the year in 2019/2020, SMLS successfully secured over \$550,000 in compensation for victims of family violence and sexual assault.³⁰

Recommendation: Resource Community Legal Centres to provide assistance to victims of crime with VOCAT matters through an integrated service delivery approach.

IMNA – SUPPORTING VICTIM SURVIVORS OF FAMILY VIOLENCE





SECTION 3: SUPPORT MENTAL WELLNESS

WRAP-AROUND SUPPORT FOR PEOPLE LIVING WITH MENTAL ILLNESS

A high proportion of people living in Victoria will be impacted by mental illness at some juncture in their lives.³¹ The Royal Commission into Victoria's Mental Health System (the Royal Commission) found that 'poor mental health has become a pressing yet ignored health crisis' and there have been significant system failures in supporting people living with mental illness, their families and carers.³² This has been exacerbated by the pandemic, leading to heightened mental health issues as Victorians were increasingly isolated and had less access to services.

The Royal Commission provides a crucial opportunity to address the systemic failures in our mental health system and improve support for people living with mental illness. The Royal Commission recognised the lack of integrated services to assist people living with mental illness who have other complex needs.³³ This has a significant impact on wellbeing. An integrated system would ensure timely mental health and psycho-social support, while also access to secure housing, income support and legal assistance.³⁴ Investment in wrap-around support for people experiencing mental health issues should form a key part of the reform agenda, and include access to community legal assistance and place-based support.³⁵

People living with poor mental health will often have multiple legal issues. Legal issues can arise as a result of mental illness or can exacerbate a person's condition due to the significant stress caused by legal problems.³⁶ At least 20% of people accessing CLCs experience mental health issues, but we believe this is underreported. Specialist CLCs, such as Youthlaw and Justice Connects' Women's Homelessness Prevention Program, have found that around 80% of people accessing their service experience mental health issues.

Health and legal problems are intrinsically linked. The causes of poor mental health are multifaceted. Socioeconomic disadvantage (such as, poverty), discrimination, family violence and inequality are important contributing factors to mental illness.³⁷ People facing serious issues, such as housing insecurity, overwhelming debts, unfair dismissal or workplace bullying, family breakdown, incarceration and risk of deportation, can experience high levels of distress. Without access to legal assistance at an early stage, these issues can compound leading to poor mental health outcomes which can have ripple effects through the person's family, friends and support networks.

CLCs assist people living with mental illness with complex legal issues and through integrated legal services and partnerships providing holistic support. This is illustrated by Youthlaw's and Mental Health Legal Centre's (MHLC) justice partnerships. MHLC, a specialist CLC supporting people experiencing mental health issues, partnered with the Bolton Clarke Homeless Persons Program (HPP). The nurses at Bolton Clarke HPP recognised that legal issues were having a significant impact on their patients' mental and physical health. The lawyers partnered with the nurses to provide outreach services to patients at risk of homelessness with a wide range of legal issues, including fines, debts, housing, access to health services, minor criminal matters, Centrelink, family violence and victims of crime compensation.³⁸





For example, Lisa* had FVIO matters in Court as both a protected person and respondent following a family breakdown. This was causing Lisa enormous distress at a time when she was experiencing poor mental health and was living in crisis accommodation. Lisa was referred to MHLC by the nurse and to facilitate access to MHLC’s service, the lawyer visited Lisa at her temporary accommodation. Through negotiation by the lawyer with Lisa’s family, the matter was resolved by consent which allowed for the possibility of reconciliation and supported Lisa’s recovery.³⁹ Sarah* had significant mental health issues, experienced intermittent homelessness and had spent time in jail due to drug dependency. At the time she was referred by the nurse to MHLC, she was reasonably settled in a boarding house and was engaging with treatment. However, Sarah was being pursued by a debt collection company for nearly \$20,000 in court fines and infringements which she could not afford and this was exacerbating her anxiety. Through MHLC’s legal assistance, her debts were waived on the basis of financial and social hardship and due to her mental illness. Through access to wrap-around support, Sarah has continued to achieve encouraging outcomes in various areas of her life.⁴⁰

Youthlaw has partnered with Frontyard Youth Service to establish a mental health program called *Check-in*. The program is designed for young people between 12 and 25 displaying psychological distress and risk of homelessness. The program helps young people navigate the health system and access the therapeutic and social support they need, addressing a large gap in service delivery. Youthlaw, a specialist CLC for young people, provides legal assistance (e.g, unpaid fines, family violence assistance and housing issues) and a specialist support team helps young people at risk of self-harm and suicide.

Early access to wrap-around support services which places the consumer at the centre is essential. Wrap-around services should be tailored to the person’s needs and include mental health support, housing, employment services and legal assistance. Increased investment will enable CLCs to expand access to legal assistance for people living with mental illness as part of wrap-around support.

REDUCING CRIMINALISATION OF PEOPLE EXPERIENCING MENTAL HEALTH ISSUES

Reducing the criminalisation of people living with mental illness is vital. CLCs delivering integrated legal services should be supported to help achieve this aim. Recognising that Aboriginal and Torres Strait Islander people are disproportionately impacted in this area, there needs to be further investment in culturally safe and responsive programs funded through Aboriginal Community Controlled Organisations.⁴¹

People experiencing mental health issues are overrepresented in the criminal justice system⁴² and in prisons which do not have adequate mental health supports.⁴³ There is a strong nexus between people experiencing mental health illnesses and other factors, such as homelessness and alcohol and drug dependency.⁴⁴ These factors increase the likelihood of interactions with the police and visibility as a consequence of living in public areas. The Australian Institute of Health and Welfare found that about one third (33%) of people reported being homeless in the four weeks prior to entering prison.⁴⁵

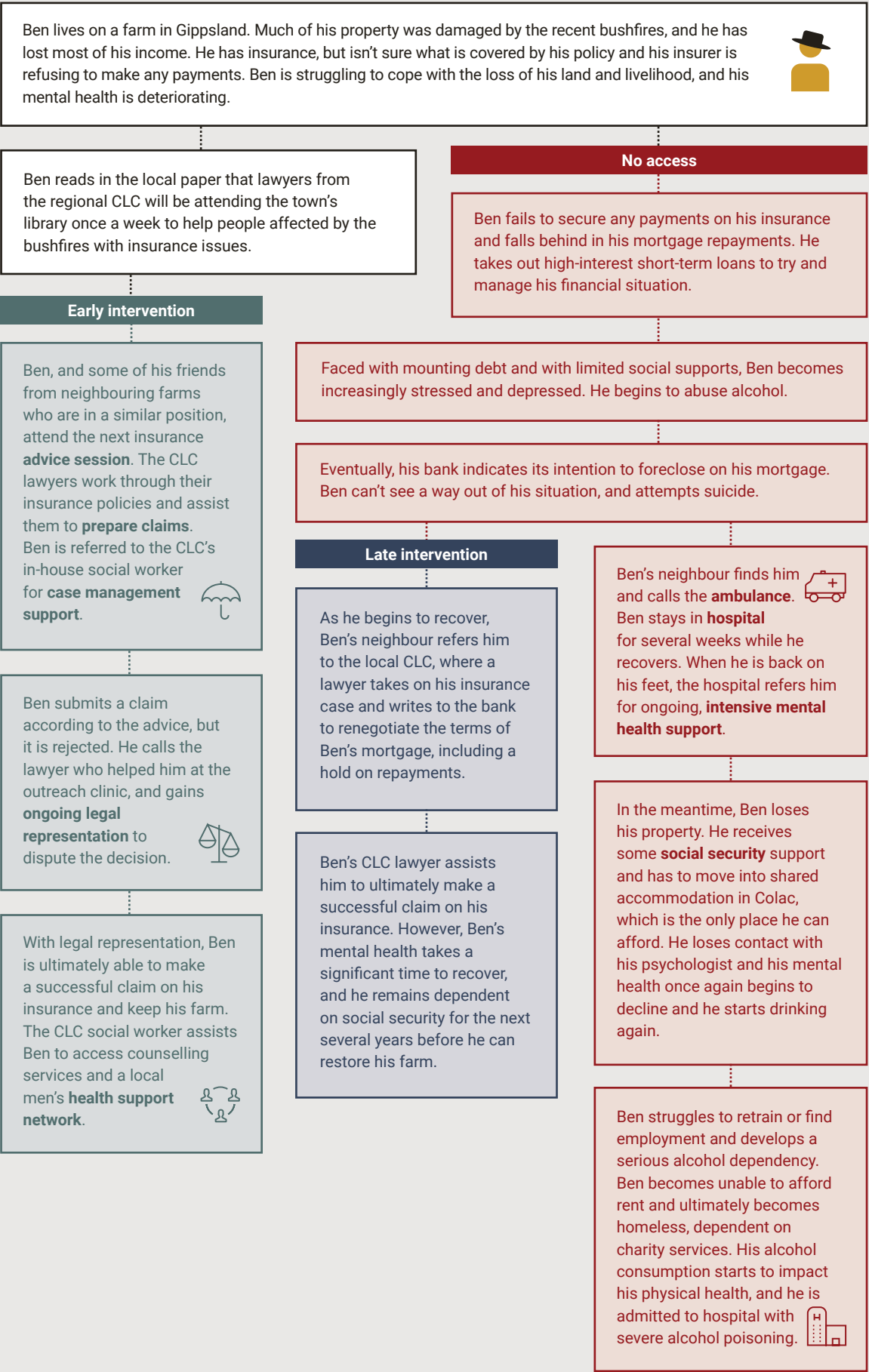
The reliance on police as first responders to mental health crises can increase the risk of a criminal justice response and can compound distress experienced by the person living with mental illness. While police may make referrals to health services, they are not trained mental health experts who also need to be resourced to intervene as first responders.⁴⁶ The emphasis on criminal justice responses and the lack of investment in recovery-focused interventions and diversionary programs, leads to people with mental illness becoming entrenched in the criminal justice system. A greater focus on therapeutic courts and diversionary measures (particularly, for minor offences) which seek to address the underlying causes of offending and reduce recidivism, would better support people with mental health issues.⁴⁷ This should occur in tandem with increasing community support and therapeutic services that work alongside the court and diversionary programs.⁴⁸ Importantly, this includes investment in integrated health and

legal services delivered by CLCs who work with people living with mental illness who are in contact with the criminal justice system or are at risk of incarceration.

Initiatives such as the Maryborough Therapeutic Justice Partnership between Loddon Campaspe Community Legal Centre (LCCLC) and Maryborough District Health Service (MDHS) are already doing this. The partnership supports people with complex legal and health needs who are in contact with the criminal justice system. In one matter, the lawyer and social worker from MDHS supported Judy* who had experienced family violence by her partner for many years and had significant trauma resulting in drug dependency and mental health issues. Judy had begun to use violence against her abusive partner which led to criminal charges and her children were removed by child protection. Critical supports were put in place by the social worker enabling Judy to begin to address the underlying causes of her offending. Through legal advocacy and intensive wrap-around support, her children were returned to her care and she received an undertaking with no criminal conviction. Judy also obtained a FVIO to protect her against her abusive partner and received family law advice about setting up safe parenting arrangements for her children.⁴⁹

Recommendation: Resource and expand integrated legal services delivered by community legal services and Aboriginal Legal Services as part of wrap-around support for people experiencing mental health issues, including to reduce criminalisation of people living with mental illness.

BEN – SUPPORTING MENTAL WELLNESS



APPENDIX A:

RECOMMENDATIONS

ACCESS TO JUSTICE FOR THOSE WHO NEED IT MOST

- 1. Support Community Legal Centres to meet increasing demand and ensure people can receive the help they need by providing ongoing and stable funding.
- 2. Prevent service delivery gaps and ensure that people's complex needs can be met by providing ongoing funding for integrated legal services and partnerships that have been proven to work, as stated in Recommendation 3.4 of the Access to Justice Review.

COMMUNITY LEGAL HELP FOR VICTIM SURVIVORS

- 3. Increase funding to support the integration of community legal services into the family violence system across Victoria. This includes funding community legal services to provide triage, legal advice and ongoing casework to people accessing the Orange Door hubs.
- 4. Resource Community Legal Centres to provide assistance to victims of crime with VOCAT matters through an integrated service delivery approach.

SUPPORT MENTAL WELLNESS

- 5. Resource and expand integrated legal services delivered by community legal services and Aboriginal Legal Services as part of wrap-around support for people experiencing mental health issues, including to reduce criminalisation of people living with mental illness.

REFERENCES

1

Law and Justice Foundation of New South Wales, Legal Australia-Wide Survey: Legal Need in Australia, 2012, p.xiv.

2

State of Victoria, Royal Commission into Victoria's Mental Health System, Interim Report Summary, Parl Paper No. 101 (2018–19), p.8.

3

Productivity Commission, Access to Justice Arrangements, Inquiry Report No. 72, Canberra, 2014, p.30.

4

Department of Justice and Regulation Victoria, Access to Justice Review, 2016.

5

Federation of Community Legal Centres, Meeting People Where They Are: Delivering Integrated Community Legal Services, p 10.

6

Ibid; Also see: Law and Justice Foundation of NSW, Legal Australia-wide survey: Legal Need in Australia, 2012, p.1-2.

7

Inner Melbourne Community Legal, Partners in Care: The benefits of community lawyers working in a hospital setting, 2018, p.29.

8

Ibid.

9

The Centre for Innovative Justice, Strengthening Victoria's Victim Support System: Victim Services Review, November 2020, p. 149; Department of Justice and Regulation Victoria, Access to Justice Review, 2016, p.7.

10

WEstjustice, School Lawyer Program Framework, March 2018, p.13.

11

Department of Justice and Regulation Victoria, Access to Justice Review, 2016, p.188.

12

Federation of Community Legal Centres, Meeting People Where They Are: Delivering Integrated Community Legal Services, p.12.

13

Ibid, p.26-27.

14

Coumarelos, Christine, Quantifying the legal and broader life impacts of domestic and family violence, The Law and Justice Foundation NSW, Justice Issues, Paper 32, June 2019.

15

Department of Justice and Regulation Victoria, Access to Justice Review, 2016.

16

This snapshot represents data from only 30 of the 48 CLCs and only represents figures from services provided through government funded services.

17

Federation of Community Legal Centres, PAEC Inquiry into the Victorian Government's response to COVID-19 pandemic: Submission, October 2020, p.7.

18

Ibid.

19

Ibid.

20

Department of Justice and Regulation Victoria, Access to Justice Review, 2016.

21

See: <https://orangedoor.vic.gov.au/what-is-the-orange-door#heading2>

22

Report of the Family Violence Reform Implementation Monitor, 1 November 2019. Also see: <https://orangedoor.vic.gov.au/what-is-the-orange-door#heading2>

23

Victorian Law Reform Commission, Review of the *Victims of Crime Assistance Act 1996* Report, 2018.

24

The Centre for Innovative Justice, Strengthening Victoria's Victim Support System: Victim Services Review, November 2020, p. 147.

25

Ibid.

26

Ibid.

27

Ibid, p. 148.

28

Ibid

29

Ibid.

30

Springvale Monash Legal Service, Annual Report 2019-2020, p.30.

31

State of Victoria, Royal Commission into Victoria's Mental Health System, Interim Report Summary, Parl Paper No. 101 (2018–19), p.1.

32

Ibid.

33

Ibid, p.10.

34

Mental Health Legal Centre, Submission to the Royal Commission into Victoria's Mental Health System, 5 July 2019, p.21.

35

Please refer to the Federation's submission to the Royal Commission into Victoria's Mental Health System for a detailed list of our recommendations which are available here.

36

Mental Health Legal Centre, Submission to the Royal Commission into Victoria's Mental Health System, 5 July 2019, p.22.

37

State of Victoria, Royal Commission into Victoria's Mental Health System, Interim Report, Parl Paper No. 87 (2018–19), p.36.

38

Mental Health Legal Centre, Submission to the Royal Commission into Victoria's Mental Health System, 5 July 2019, p.22.

39

Ibid, p.24.

40

Ibid.

41

See: Djirra, Submission to the Royal Commission into Victoria's Mental Health System, July 2019.

42

See for example: State of Victoria, Department of Health and Human Services, Victoria's 10-year mental health plan, 2015.

43

Australian Institute of Health and Welfare 2019, The Health of Australia's Prisoners 2018, Cat. No. PHE 246. Canberra: AIHW.

44

Australian Housing and Urban Research Institute, Housing, Homelessness and Mental Health: Towards Systems Change, 2018, p.13.

45

Australian Institute of Health and Welfare 2019, The Health of Australia's Prisoners 2018, Cat. No. PHE 246. Canberra: AIHW, p.viii.

46

See: Federation of Community Legal Centres, End criminalisation – apply a health response for people experiencing mental health issues, Submission 3 to the Royal Commission into Victoria's Mental Health System, July 2019.

47

Ibid.

48

Ibid.

49

Federation of Community Legal Centres Vic, Meeting People Where They Are: Delivering Integrated Community Legal Services, p 34-36.



PRINTED ON ECOSTAR+
PAPER MADE CARBON NEUTRAL
WITH FSC RECYCLED CERTIFIED
FIBRE SOURCE.



**WE APPRECIATE AND CELEBRATE DIVERSITY
IN ALL ITS FORMS.** WE BELIEVE DIVERSITY OF
ALL KINDS MAKES OUR TEAMS, SERVICES AND
ORGANISATIONS STRONGER AND MORE EFFECTIVE.

**Federation of Community
Legal Centres Victoria**

Location: Level 3, 225 Bourke St,
Melbourne Victoria 3000

Phone: 03 9652 1500

Email: administration@fclc.org.au

Social: @CommunityLawVic

ABN 30 036 539 902

REGISTRATION A0013713H

*Community Legal Centres are
the heart of a movement for justice.*



FCLC.ORG.AU