



Peninsula Community  
Legal Centre Inc

Registered No. A8T  
ABN 23 591 244 622

#### Head Office

441 Nepean Highway  
Frankston Vic 3199

Tel 03 9783 3600

Fax 03 9770 5200

Free Call 1800 064 784

DX 19953 Frankston

Email [pclc@pclc.org.au](mailto:pclc@pclc.org.au)

[www.pclc.org.au](http://www.pclc.org.au)

#### Bentleigh Branch

82 Brady Road  
Bentleigh East Vic 3165

Tel 03 9570 8455

#### Cranbourne Branch

Bella Centre  
Suite 12  
33-39 High Street  
Cranbourne Vic 3977

Tel 03 5995 3722

#### Pines Branch

2A Candlebark Crescent  
Frankston North Vic 3200

Tel 03 9786 6980

#### Rosebud Branch

1375 Point Nepean Road  
Rosebud Vic 3939

Tel 03 5981 2422

#### Visiting Services to:

Chelsea  
Hastings

#### We gratefully acknowledge the financial assistance of:

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Service to the Community  
since 1977



# Community Law News

December 2013

Issue 8

## Tackling Family Violence

**Family Violence is a key issue for our centre with parts of our catchment area having among the highest rates of family Violence in Victoria.**

According to our 2012-13 statistics on problem types dealt with by our centre, family violence ranked second highest. A recent report in the Age newspaper (28/11) states that:

"Record numbers of domestic violence order applications and an all-time high in breaches of orders are drowning the Magistrates Court and family violence services".

Our centre is committed to breaking the silence and addressing family violence in Australia. We offer specialist programs in Family Law and provide much-needed duty lawyer services at the Frankston Magistrates' Court and Dandenong Family Law Courts. We are also tackling this issue in partnership with other agencies and are currently piloting a range of initiatives with WAYSS, Good Shepherd and Peninsula Community Health aimed at reducing family violence incidents over the Christmas period.

- In November we piloted a workshop to a Men's Behaviour Change Group in Frankston about Family Violence Intervention Orders and the consequences of breaches. Feedback was positive and one of the attendees indicated that the workshop was "tough but necessary";
- We have recently provided a workshop on tenancy and family violence at a community worker Family Violence Forum in Hastings;
- We have also piloted a workshop and provided free legal advice at a Ladies Only Morning in Hastings. This forum provides women with an opportunity to find out more about Family Violence Intervention Orders and Police Safety Notices;
- We support the Hastings Respectful Relationships Group and endorse their "Say NO to Family Violence" message (see poster opposite);
- We have endorsed a joint submission to the Department of Justice's *Defensive Homicide*:



*Proposals for Legislative Reform Consultation Paper (2013).* The Department of Justice is proposing to abolish defensive homicide in family violence matters without introducing any other partial defence. The submission was prepared by the Domestic Violence Resource Centre Victoria, Monash University, the Victorian Women's Trust, and the Federation of Community Legal Centres and recommends that defensive homicide be retained in the interests of women who kill abusive intimate partners. Other states have partial defences such as diminished responsibility, excessive self-defence and provocation. Abolishing defensive homicide would leave Victoria women with no partial defence in the context of family violence.

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*This newsletter was produced with pro bono support from Russell Kennedy*

# Our Newest White Ribbon Ambassador

We are proud to announce lawyer Danny Haworth as a recently appointed White Ribbon Ambassador.

In 1999, the United Nations General Assembly declared November 25 as the “International Day for the Elimination of Violence against Women”. White Ribbon day in Australia is on the same day and sends the same message. White Ribbon Australia is a non-profit organisation and Australia’s only national, male-led primary prevention campaign to end men’s violence against women. One of the steps towards the prevention of violence against women is by becoming a ‘white ribbon ambassador’. Ambassadors use their social and professional networks to increase the campaign’s reach and involve more people in breaking the silence about violence against women.

Danny comments that his mum was one of driving forces behind him becoming an ambassador. “She instilled in me the importance of respect for women and I think standing behind the White Ribbon campaign is an extension or expression of these values”.

If you would like to make a donation to the White Ribbon campaign, or learn more about it, please visit [www.whiteribbon.org.au](http://www.whiteribbon.org.au).



## Access to Justice Arrangements “Demand for our services is relentless”

The Productivity Commission is currently conducting an inquiry into Access to Justice Arrangements, with a focus on constraining costs and promoting access to justice and equality before the law (Inquiry).

Peninsula CLC made a submission to the Inquiry, in which we endorsed the current mixed model of service delivery for addressing legal need, via community legal centres (CLCs), legal aid commissions (LACs) and the private legal profession. However, we submitted that the lack of adequate funding for CLCs and LACs is placing such strain on the legal assistance sector that there is huge unmet demand, with serious economic and social costs. We wrote that:

*There appears to be an ever-increasing group of people who cannot afford a private lawyer and do not qualify for legal aid. These people would ordinarily rely on the services of CLCs – however CLC resources are so stretched that many clients are, regrettably, being turned away, or offered only part of the assistance they need, in order to prioritise those who are most vulnerable and disadvantaged and / or facing the most serious consequences. As a result, not only is access to justice being*

*compromised, but opportunities for early intervention and resolution risk being lost in many cases.*

To address the crisis, we called for:

- Recognition that the private legal services market alone does not address the legal needs of Australians.
- Improving access to justice for disadvantaged Australians to remain a priority.
- Recognition of the significant economic and social benefits of investing in the legal assistance sector.
- The Australian Government to immediately double funding for the legal assistance sector to address the current access to justice crisis.

For more information about the inquiry, visit [www.pc.gov.au/projects/inquiry/access-justice/submissions](http://www.pc.gov.au/projects/inquiry/access-justice/submissions). A copy of our submission is available on our website [www.pclc.org.au](http://www.pclc.org.au).

## Large Spike in Eviction Rates

Victorian Civil and Administrative Tribunal (VCAT) figures reveal that Frankston has the highest eviction rate in Victoria, with 277 evictions from July 2010 to June 2013, as the housing affordability crisis worsens.

Dandenong, Pakenham and Noble Park, areas within our Tenant Advice and Advocacy Program’s catchment, also appear in the top ten spots for eviction.

According to a report in *The Age* (10/11/13), an analysis of last financial year’s 2600 eviction warrants shows the sharpest increases were in the city’s outer west, north and south-east. These areas had the most single-parent families affected by changes to their welfare payments last January.

Peninsula CLC is funded by Consumer Affairs Victoria to provide a Tenant Advice and Advocacy Program to assist vulnerable and disadvantaged tenants in Melbourne’s Southern Metropolitan area, including providing a “Duty Advocate” at Dandenong Victorian Civil and Administrative Tribunal (Residential Tenancies List). In 2012-13, tenancy was the 8th most common legal issue affecting Peninsula CLC clients.

Gillian Wilks, General Manager of Consumer Affairs Program, Projects and Development says “notices to vacate and evictions are one of the main issues our clients are facing. Our tenant advocates often assist tenants all the way through to VCAT hearings. They have very strong relationships with other service providers who may also be able to assist them”.

Peninsula CLC is also piloting a workshop for teenage parents seeking to rent for the first time, to help them understand their rights and obligations as tenants.

### EVICTIONS TOP 10

| Total evictions from July 2010 to June 2013 |     |
|---|-----|
| Frankston                                   | 277 |
| Tarneit                                     | 177 |
| Dandenong                                   | 168 |
| Werribee                                    | 152 |
| St Albans                                   | 150 |
| Pakenham                                    | 135 |
| Melton                                      | 129 |
| Reservoir                                   | 123 |
| Nobel Park                                  | 119 |
| Hoppers Crossing                            | 111 |
| Source : <i>The Age</i> 10/11/13            |     |

# Infringement Matters

Unpaid fines have caused increasing concern to Peninsula CLC, with several clients having accumulated debts of tens of thousands of dollars. The Centre has joined the Infringements Working Group, which is a joint working group of the Federation of Community Legal Centres (Victoria) and the Financial and Consumer Rights Council.

The infringements system is complex and difficult to navigate. It is easy for vulnerable people with “special circumstances”, such as those suffering from mental illness, intellectual disability, substance addiction or homelessness, or those subjected to family violence, to become unfairly and unknowingly embroiled in the system.

People are often also caught up in the cycle of poverty and have no means of paying the fines, nor the additional charges accruing as authorities action the matters. One solution suggested by the Infringements Working Group is to make fines proportionate to a person's ability to pay.

Case studies also show that amounts payable for different infringements are disproportionate to the seriousness of the offence. As at 1 July 2013, a fine for failing to produce a concession card for public transport, for example, was \$212, compared to an infringement for exceeding the speed limit by less than 10km/hour – an offence involving a risk to public safety - which was \$180.

The Sentencing Advisory Council of Victoria called for submissions to its “*Court Fines and Infringement Fines Project*” and the IWG responded by releasing a Position Paper, “*A simple,*

*fair and effective infringements system for all Victorians*”, which Peninsula CLC was pleased to endorse.

In its submission, the Infringements Working Group calls “an infringements system that operates effectively as an enforcement mechanism and efficiently promotes rehabilitative outcomes for struggling members of the community”.

The paper highlights and addresses the adverse impacts of the current infringements system experienced by so many of our clients. Peninsula CLC was happy to endorse the recommendations in the paper which call for systemic reform of the infringements system and we will continue to advocate to reduce the disproportionate impact of the infringements system on people experiencing disadvantage. The government has indicated that it is committed to reforming the infringements system through legislative amendments and an IT upgrade so it operates in a fairer way for all Victorians.

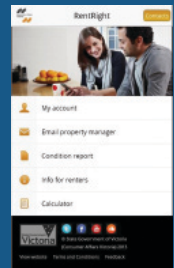
To access the position paper, please visit:

[www.youthlaw.asn.au/wp-content/uploads/2013/08/Infringements-Working-Group-Position-Paper-final-July-2013.pdf](http://www.youthlaw.asn.au/wp-content/uploads/2013/08/Infringements-Working-Group-Position-Paper-final-July-2013.pdf).



## RentRight Smartphone App

Consumer Affairs Victoria has released a free smartphone app – RentRight – to assist Victorian renters with their rights and responsibilities. For more information, visit [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au).



# Helping Kinship Carers Plan for Life's Unpredictable Events

We recently had the privilege of speaking with kinship carers from the Mirabel Foundation about family law issues and other legal issues relating to wills, powers of attorney and guardianship of minor children in the care of extended family as a result of Department of Human Services intervention. The Mirabel Foundation's motto “every child deserves a childhood” strikes a chord with us.

It is for this reason that, following on from our talk, we offered our support to Mirabel's kinship carers who attended the talk, by providing them with assistance in drafting their Wills and Enduring Powers of Attorney, based on their special circumstances.

Mirabel is an Australian Children's Charity established in Victoria in 1998. It is the only organisation in Australia specifically addressing the needs of children who have been orphaned or abandoned due to parental drug use and who are now in the care of extended family (kinship care). Mirabel supports children aged 0-17 years and “works at restoring a child's sense of self-worth, belonging and hope for the future in order for them to reach their full potential as young adults”.

The kinship carers we assisted were relieved to learn how they could make proper provision for the children in their care and so

ensure that they would continue to be looked after in the same way should something happen to them. Likewise, should the carer become incapacitated and unable to make legal or financial decisions on their own, by appointing a trusted person to act as their attorney, the legal and financial decisions which affect the children in their care would also be made by that trusted person. By ensuring their estate planning affairs are in order, these children are protected from yet another unpredictable future. The child is central to Mirabel and all of Mirabel's programs and services relate to the needs of the child, their kinship carers, their environment and their community. We were pleased to be able to support this objective.

For donations or more information, go to [www.mirabelfoundation.org.au](http://www.mirabelfoundation.org.au).

# Anti-Poverty Week

During Anti Poverty Week in October, Peninsula CLC hosted a lunch time seminar on *Poverty, Homelessness & The Law*. This was attended by people from a wide range of community and government organisations.

Anti-Poverty Week was established in Australia in 2002 as an expansion of the United Nation's International Day for the Eradication of Poverty. It is an opportunity for organisations and communities to focus attention on reducing poverty and hardship. The Week focuses on poverty around the world and aims to strengthen public understanding of the causes and consequences of poverty and encourage research, discussion and action to address these problems.

Guest speaker Chris Holt, Lawyer at PILCH Homeless Persons' Legal Clinic, talked about the connections between poverty, homelessness and the law for their clients, explaining that people experiencing homelessness are, for example, more likely to get fines for public space offences and less likely to be able to address the fines and infringements through payment or navigating the system. Peninsula CLC's Rooming House Outreach Worker, Jasmin Underwood, talked about some of the issues affecting local rooming house residents and illustrated the variations in quality and conditions in reputable and less reputable rooming houses.

In 2011-12, Victoria had a poverty rate (all persons) of 11.5 per cent (640,000) and a child poverty rate of 11.7 per cent (119,000).<sup>1</sup> Low income is the single most common characteristic of Peninsula CLC clients, with around 80% reporting no or low income (less than \$26,000 a year). This is in line with recent substantial research done by the Legal-Australia Wide Survey into legal need in Australia, which shows that characteristics such as low income, unemployment, disability and being a single parent make a person more likely to experience multiple and severe legal problems.<sup>2</sup>



We see that poverty has a huge impact on legal problems, including non-payment of fines, housing stress, causing issues like mortgage default, non-payment of rent, eviction and homelessness, as well as being an often-cited trigger factor for relationship breakdown and family law issues.

- 1 Uniting Care Children, Young People and Families and NATSEM at the University of Canberra Report, 'Poverty, Social Exclusion and Disadvantage in Australia', October 2013
- 2 Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, Legal Australia-Wide Survey: legal need in Australia, Law and Justice Foundation of NSW, Sydney

## Case Study: Homelessness Avoided

**"Sam" was couch surfing with friends and facing eviction when he came to the Victorian Civil and Administrative Tribunal and saw our Duty Advocate.**

When Sam began renting, he had a job and could afford the rent. Unfortunately he suffered from mental health problems and was hospitalized and out of work for a period of time. This caused him to fall about \$450 behind in rent. The landlord's agent served Sam with a Notice to Vacate, but Sam desperately wanted to keep his home.

Our advocate was able to obtain financial assistance for Sam from a local agency, which reduced the amount of rent owing. We also negotiated with the agent, who agreed to let Sam stay in the property and pay the balance of rent arrears by installments. The Tribunal made Orders by consent and Sam got to go home afterwards.

*Peninsula Community Legal Centre is an independent, not-for-profit organisation that has been providing free legal services to Melbourne's south-eastern communities since 1977.*

*The Centre helps people use the law to protect and advance their rights, offering free advice on most legal issues. Ongoing assistance is targeted to*

*assist clients who are experiencing disadvantage. In addition to its general services, the Centre operates Family Law, Child Support, Family Violence, Tenant and Consumer Advocacy and Rooming House Outreach Programs.*

*Community legal education, special projects and participation in law reform are also important aspects of the Centre's work.*