



**Brimbank Melton Community Legal Centre  
Submission to the Senate and Public Administration Committee  
Inquiry into Domestic Violence in Australia**

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Brimbank Melton Community Legal Centre (BMCLC) is a program of Community West. BMCLC provides free legal services to one of the fastest growing and most culturally diverse regions in Melbourne, with offices in St Albans and Melton, and delivers outreach services in Deer Park, Bacchus Marsh, as well as at ISIS Primary Care and the Family Relationships Centre in Sunshine.

BMCLC operates a generalist legal service and a specialist family violence legal service funded by the Federal Attorney General's Department until June 2015. Our family violence lawyers provide legal information, advice and representation focusing on Family Violence Intervention Orders (IVOs), Victims of Crime assistance applications and family law. We also advise and represent clients on issues arising across the continuum of family violence including complaints about police, criminal and other civil law matters such as consumer complaints, debt and infringements.

Our family violence legal service aims to build the capacity of BMCLC lawyers and local community workers to identify as early as possible when clients are experiencing family violence, and assist them to find appropriate supports. The service is based on a holistic approach, linking clients with other support services within Community West and externally with our community partners, including local financial counsellors, housing services, family violence case workers, Centrelink, and other culturally specific services.

### **SUMMARY OF OUR SUBMISSION**

We recommend additional Commonwealth Government investment in community legal centres (CLCs) focusing on family violence services. CLCs are uniquely placed to provide quality legal help to women who are either in a family violence situation or trying to escape family violence.

Additional funding would improve:

- communication and collaboration between family violence services and CLCs which have in depth knowledge and understanding of their communities and their legal issues;
- delivery of family violence legal services across the continuum;
- delivery of specialist and generalist legal services embedded in other multi-disciplinary organisations; and
- quality representation for victims of family violence.

BMCLC's submission is confined to paragraph (d) of the Senate Finance and Public Administration Committee's (Committee) Terms of Reference:

*The effects of policy decisions regarding housing, legal services, and women's economic independence on the ability of women to escape domestic violence.*

BMCLC endorses the recommendations of the Federation of Community Legal Centres' (FCLC). submission to this Inquiry. We also commend the Commonwealth Government on the implementation of the *National Plan to Reduce Violence Against Women and their Children 2010-2012* which aims to develop a sustained and integrated approach to reducing violence against women and their children across jurisdictional boundaries.

## **FAMILY VIOLENCE IN BRIMBANK, MELTON AND BACCHUS MARSH**

We take this opportunity to highlight the significant demand for family violence legal assistance in our Brimbank, Melton and Bacchus Marsh communities. Our clients face a range of legal issues as well as multiple barriers to accessing the legal system. Our casework shows that family violence is often the catalyst for further legal issues and marks the beginning of a long (and often expensive) journey through the legal system.

According to recent legal needs studies undertaken by BMCLC, our Brimbank and Melton communities are of low socio-economic status and experience high levels of disadvantage.<sup>1</sup> Research shows<sup>2</sup> that disadvantage leads to high incidences of legal needs, as well as substantial barriers to accessing the justice system and legal assistance. Other life events, including losing employment and physical or mental illness, also impact on an individual's ability to engage with the justice system.

Recent statistics<sup>3</sup> demonstrate the significantly high number of family violence incidents in the Brimbank and Melton areas. Victoria Police is called to approximately 300 family violence incidents in Brimbank and Melton each month.

## **ISSUES ARISING IN BMCLC'S FAMILY VIOLENCE WORK**

This submission is based on our experience providing legal advice and representation to clients (mainly women) experiencing family violence and its consequences.

***Recommendation 1: Additional investment improves communication and collaboration between agencies and family violence services (non-legal) and legal assistance providers.***

Sadly, recent events highlight that IVOs alone do not protect victims from family violence, and in some cases death.<sup>4</sup> The effectiveness of the IVO system in protecting victims relies on an integrated approach.

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<sup>1</sup> Edwards, J., Justice Out West: *Melton Community Legal Profile 2014*, Community West, 2014; Edwards, J., Justice Out West: *Legal needs and barriers to accessing the justice system in Brimbank 2014*, Community West, 2014. see also SEIFA indexes <http://www.abs.gov.au/websitedbs/censushome.nsf/home/seifa> Socio-Economic Indexes for Areas (SEIFA) is a product developed by the ABS that ranks areas in Australia according to relative socio-economic advantage and disadvantage. The indexes are based on information from the five-yearly Census.

<sup>2</sup> Coumarelos, C, Wei, Z & Zhou, AZ, 2006, *Justice Made to Measure: NSW Legal Needs Survey in Disadvantaged Areas*, Law and Justice Foundation of NSW, Sydney and Coumarelos, Macourt, People, McDonald, Wei, Iriana & Ramsey, 2012 *Legal Australia-Wide Survey: Legal Needs in Australia*, Law and Justice Foundation of New South Wales, Sydney.

<sup>3</sup> See, for example, statistical information about the rates of family violence and domestic assaults in Melton in the Submission to the Committee made by Melton City Council.

<sup>4</sup> See Souter, F 2014, 'They Asked for Help. They did everything by the book. So what went wrong?' *Marie Claire* p. 60.

Rosie Batty, mother of Luke Batty who was killed by his father in Tyabb in February 2014, recently articulated the glaring systemic gaps in an ABC Four Corners report aired on 14 July 2014:

*“Things happen in such a fragmented fashion. They seem like isolated events. Each statement you make to the police is a separate statement, each policeman you meet is a different policeman, each organisation is doing their own job with their own focus.*

*No one's taking an overarching look at everything that's going on together. No one's looking at the complete picture.”*

CLCs are well-placed to look at this complete picture. Increased collaboration and communication between CLCs and the police, Courts and local service providers can significantly improve the outcomes of people escaping family violence.

#### **Case study 1: early intervention through collaboration and communication**

Julie lived with her partner of 13 years and two children in Melton. A local Council worker referred Julie to BMCLC's specialist family violence clinic. Before speaking with BMCLC, Julie did not understand the IVO system and had difficulty recognizing that she was experiencing verbal and psychological abuse. BMCLC assisted Julie to make an IVO application and connect with the Court's Applicant Support Worker for further support. Julie put a plan in place to keep herself and her children safe, and did not return to the family home until her ex-partner had been served with the IVO application and left the property.

By receiving the right legal advice from BMCLC and the Applicant Support Worker at an early stage, Julie escaped her family violence situation and was empowered to regain control over her life.

BMCLC has built strong relationships and partnerships with local community service providers. Through Commonwealth funding, BMCLC has undertaken effective stakeholder engagement with family violence services in the West, meaning that we are in the position to provide effective and timely referrals to clients. Additional funding would allow this work to continue and collaboration and communication to improve.

***Recommendation 2: Additional investment in CLCs providing family violence work ensures the delivery of across the continuum legal services.***

#### **Case study 2: preference for across the continuum legal representation**

Police applied for an IVO against Sam on behalf of Amy. Sam and Amy have one child, Jacob, aged two. Sam consented to a 12 month IVO protecting Amy only. Amy applied to vary the order to include her son who witnessed Sam's abusive behaviour towards her at changeover. Victoria Police refused to act as a party to this application, and the Respondent refused to consent to the variation despite BMCLC preparing detailed further and better particulars detailing his ongoing abuse towards Amy.

BMCLC represented Amy through the IVO process to her Directions Hearing, including providing assistance drafting the further and better particulars. However, due to limited resources, BMCLC

was unable to represent Amy at the contested IVO hearing. The Magistrate ordered Victoria Legal Aid to offer Amy legal representation. This means that Amy will have to explain her case again to another lawyer, who will represent her solely for the contested IVO hearing.

With additional funding, the same BMCLC lawyer could represent Amy throughout the entire IVO process. This would have retained Amy's confidence in the legal process and supported Amy to continue to use the legal system to ensure her and Jacob's ongoing safety and the ability to escape family violence.

Working with family violence clients can take longer than ordinary client conferences or matters, given the trauma, breadth and complexity of the issues victims face. Fast-paced duty lawyer services for early hearings and grants of legal assistance for later hearings provide clients with solid representation for many IVO hearings. Yet investment in continuous and comprehensive legal representation would be far more effective and appealing for women trying to escape violence.

***Recommendation 3: Additional investment in CLCs providing family violence services increases the delivery of specialist and generalist legal services needed in the family violence context.***

The term "family violence fallout" refers to the range of legal and non-legal issues which flow from a person's decision to leave a family violence situation. Family violence fallout is an additional legal issue that is intertwined with or a further example of family violence.

**Case study 3: family violence fallout**

Sarah attended BMCLC's specialist family violence clinic for advice. She applied for an extension to an existing IVO against her ex-husband, Justin. Sarah and Justin's had son, Henry, was born with a medical condition. Justin had virtually no contact with Henry since his birth.

Sarah attempted mediation to discuss family law issues including obtaining a passport for Henry, changing Henry's family name and obtaining a blood test to determine Justin's blood type for Henry's medical history. Justin refused all of these requests.

Sarah sought advice from BMCLC about how to initiate family law proceedings. A personal car loan in both her and Justin's names was also obtained during the relationship. Justin had possession of the car yet refused to pay the loan, leaving Sarah struggling to meet the repayments alone and at risk of a bad credit rating. Justin repeatedly failed to pay child support. Every now and then he would be forced to make a lump support payment, which reduced Sarah's Family Tax Benefit, leaving her to wait for her usual payments to resume.

BMCLC, as a generalist CLC, was able to provide Sarah with specialist family violence advice and representation with respect to the IVO process *in addition to* generalist legal information, advice and representation on 'family violence fallout' issues including debt and family law.

One of the main family violence fallout issues BMCLC is in relation to the division of property. A high proportion of clients accessing BMCLC's family violence service own property,<sup>5</sup> and BMCLC

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<sup>5</sup> Approximately half of the Melton family violence clinic clients owned property and were usually as joint tenants with the Respondent.

– like almost every CLC – cannot provide property law advice or representation.

#### **Family violence and mortgage stress**

Many BMCLC clients face the following situation:

- our client's violent partner (Respondent) is the household breadwinner and pays the majority of mortgage repayments;
- an IVO is ordered to protect the client and exclude the Respondent from the family home;
- the Respondent stops paying the mortgage and serves our client with papers initiating property settlement;
- our client is forced to seek private legal representation to assist with the sale of the property and division of the assets; and
- our client is reliant on Centrelink and has full custody of any children. This is an expensive and time-consuming process, further contributing to the client's stress and trauma.

With increased funding for services to assist with family violence fallout such as property law, CLCs would be able to help clients with the pressures that arise in the family violence context and which can be deterrents from leaving, or incentive to return to, a violent relationship.

#### ***Recommendation 4: Increased investment is needed to ensure quality representation of victims of family violence.***

Victims of family violence deserve quality representation to guard against abuses of the legal process and to improve their confidence in the legal process.

#### **Case study 4: quality representation in Court to prevent abuse of process**

Sally married Peter 8 years ago and had a long history of family violence. Peter assaulted Sally numerous times, causing injuries and Sally felt like she was living in a prison. Victoria Police made an IVO application on Sally's behalf after Peter violently attacked her and her children.

Peter made an IVO cross-application claiming Sally would get drunk and call him names. He also claimed she lied to the Police about him making threats to kill her and accused her of withdrawing her complaint on a prior occasion because he paid the bills and the mortgage.

Concerned that Peter's IVO cross-application would be used to further control Sally, the Court Applicant Support Worker referred Sally to BMCLC. Sally was confused about how the legal system could allow Peter to make an application against her. She experienced this as a further example of him trying to intimidate her. Sally wanted the Court proceedings to be over but was worried about consenting to an IVO in favour of Peter, where he might entice or trick her into breaching the order.

A BMCLC lawyer represented Sally at the preliminary Court hearing. Despite Peter's lawyer and the Magistrate's pressure to consent to Peter's application, with the help of her lawyer, Sally resisted the application. At the next hearing, Peter withdrew his application and consented to a 12 month order protecting Sally and her children.

Specific funding for highly-skilled family violence lawyers – and for those lawyers to mentor and train other lawyers – is important to ensure that victims of family violence receive high quality representation in Court, to put an end to violence and ensure women can escape violence.

***Recommendation 5: Increased investment in CLCs supports women and their families to escape family violence because CLCs are embedded in local communities.***

The clear value of funding CLCs to provide family violence services is evident in CLCs' ability to deliver legal information, education, advice, representation and referrals at all stages of the violence cycle, and to address family violence fallout.


Many private lawyers that can also provide effective legal help in this area. However the value of CLCs lie in their deep connection with their communities and strong relationships with community stakeholders. This is particularly relevant in Melbourne's outer west where private firms and other community services are much more limited than in inner city areas.

CLCs also value and regularly undertake stakeholder engagement and policy work, emphasising CLCs' expertise and ability to collaborate and communicate with legal and non-legal family violence services. This provides a view of the complete picture that victims of family violence need to safely and successfully leave a violent relationship (see Recommendation 1).

BMCLC is even better placed to deliver family violence services as it is a program of Community West, a multi-disciplinary organisation. Community West runs education and family support programs in addition to the legal program, which enables seamless and effective referrals for clients, from identifying the signs of a family breakdown in our family programs, through to legal representation in Court, support and advice in the fallout of family violence and beyond.

BMCLC welcomes the Committee's Inquiry into this prevalent issue. We encourage the Committee to recognize the unique position of CLCs working in family violence and recommend additional Commonwealth Government investment to meet the increasing need for quality legal help to women trying to escape and remain free from family violence.

We look forward to providing further information and evidence to support our recommendations to the Commission. Please feel free to contact us on 8312 2020 or [stonkin@communitywest.org.au](mailto:stonkin@communitywest.org.au).



Stephanie Tonkin  
Managing Lawyer



Kira Levin  
Family Violence Coordinator

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