

**MENTAL HEALTH LEGAL CENTRE
INC.**

ANNUAL REPORT

2005/2006

Chairperson Report

There is much to celebrate in the Mental Health Legal Centre's twentieth year of incorporation, as this annual report clearly demonstrates. Anyone that has contributed to the MHLC and utilised our services over the past twenty years, be it a client, a staff member, a volunteer, a committee of management member or those associated with our funding bodies and the Federation of Community Legal Centres can truly be proud of celebrating a remarkable journey.

It was reported last year that the Centre had entered a sustained growth phase. This has continued and is reflected in our financial position, increased employee numbers, projects, programs and services. We have outgrown our current premises and will be seeking suitable new or co-location premises as a matter of urgency.

Due to the excellent work of the Centre, sustained and increased funding through Victoria Legal Aid and Department of Human Services, plus the allocation of a surplus budget, we are now poised to service a larger client base and offer more advice hours to clients across the state. We welcome Catherine Leslie to the Centre as a new pro-bono coordinator. It is a credit to the Centre that it continues to attract talented staff. Further, a night service coordinator will be employed from next year thanks to a recurrent funding increase from Victoria Legal Aid.

Considerable work has gone into the updated publications - Mental Illness and the Criminal Justice System in Victoria and the Patients' Rights booklet. Consumers, carers, families, and mental health sector workers throughout the state are better informed than ever with easy to read publications that consistently receive excellent feedback.

This past year, the Centre has continued to provide public forums. One can be excused for thinking that following a successful forum, funding arrives. This has been the case with our advance directives forum. Leading the team effort the Centre's policy worker, Merinda Epstein, can be congratulated for helping to secure a generous grant from the Reichstein Foundation and further that project over the next two years. Merinda has been a pioneer on advance directives. She is extremely passionate about this important area and we are grateful for the consistent support of the Reichstein Foundation.

Our Money Matters Seminar held at the offices of Russell Kennedy lawyers highlighted aspects of financial hardship that clients often experience. Attendees were provided with practical information and a range of client based solutions. Consumer Affairs Victoria is now a welcome new funding source. The Centre will employ a financial counselor to work on a strategy for addressing the desperate need of too many Consumers for assistance with financial problems. This again is something to

truly celebrate in our twentieth year as the Centre looks forward to a long association with Consumer Affairs.

All staff and Committee of Management members have worked extremely hard this year to arrive at the outcomes achieved thus far. There has been a new urgency, an infusion of energy as we pay tribute to all associated with the MHLC over the past 20 years. Special thanks to all the volunteers that have joined the MHLC in the past year, especially in helping with the production of a special 20th anniversary history publication. The Centre acknowledges Maddocks for their continued support and assistance in this and other projects.

We've experienced greater demands on services, an increase in client numbers, and as mentioned, growth. This has also been reflected in the workings of the Committee of Management. We have utilised the Board Builder series, offered training opportunities for committee members and have worked collaboratively on many aspects including financial reporting and governance.

As Chairperson, I was supported by the Centre to deliver a paper at the AMHCN Perspectives conference held in Melbourne on Consumer Run – Consumer operated services and participated with Victoria University in assisting other NGO's in financial literacy. The MHLC has been rated as 10 out of 10, by Victoria University, for our financial reporting and accountability. Congratulations to committee and staff. There is always room for improvement however, the strength, passion and commitment of committee members is probably the strongest the Centre has experienced for some time. We look forward to this continued passion.

I wish to extend sincere thanks to the Committee of Management Members who have left the Mental Health Legal Centre over this past year, in particular Leonie Englefield, Viviana Cohn and Vrinda Edan. Thank you also to Tasman Armitage who is stepping down as Committee Member at the 2006 AGM, for his contribution to the Centre and great work across the sector with other organisations.

In 2005/2006 we welcomed Nicola Collingwood, who joins us from Maddocks lawyers, David Webb, a consumer expert in the human rights field, and Greg Oke as observer.

One can only be inspired by Committee Members who have given their expertise, time and energy over the past twenty years, strictly as volunteers. This year a Committee of Management expense allowance has been introduced for the first time. Not without controversy, it is a move forward, particularly for Consumer representation on the Committee of Management.

As Executive Committee members, we welcome Alison Smith as Treasurer, who has done an excellent job and Pierre Baume as Secretary, for his commitment and always balanced approach.

Thank you to Julie Anderson, Joseph Trotta for their continued work and to Jill Richardson for assisting the Committee of management throughout the year.

Well done to our coordinator, Sophie Delaney and to Vivienne Topp for continued excellence and to have carefully managed this growth period. Thank you to Barbara Shalit, Leon Doyle, Rhonda Black, Anthea Teakle, Christina Bouniotis, Merinda Epstein, Pasanna Mutha-Merennege, Paula Dunn, Jill Richardson, Mim Ingvarson and Fiona Seymour for providing the service that is the Mental Health Legal Centre.

Consumers across the state of Victoria can only be thankful for the tireless and sustained work that the Mental Health Legal Centre provides. After 20 years, it is time to celebrate. Our 20 year history document will be great basis for forward planning in the next year. As a Consumer representative and Chairperson of the Committee of Management for the Mental Health Legal Centre Inc, it is an honour to present the twentieth annual report.

Keir Saltmarsh

Co-ordination Report

2005/2006 saw the Senate hand down 91 recommendations in its much anticipated report “A national approach to mental health – from crisis to community”. Amongst the recommendations relevant to our Centre’s work and on which we lobbied were those:

- For the reduction of involuntary and coercive treatment, particularly where physical and chemical restraint are used and where drugs have harmful side effects;
- For the development of advance directives or living wills;
- For mental health teams to be properly resourced such that police involvement, ambulance attendance and involuntary treatment are minimised;
- For the significant expansion of mental health courts and diversion programs and community services which will keep people out of the criminal justice system; and
- Advocating a national review of the treatment of women in the criminal justice system and specialist forensic mental health facilities for women.

The lack of recommendations for increased mental health advocacy was disappointing – as was the so far fruitless lobbying to the Commonwealth for some of the increased mental health funds through COAG to be used in that way.

However, reflecting this year on the Centre's 20 year history, we can be proud to have contributed to progress towards realization of people's rights in numerous areas. Unfulfilled objectives may still outnumber achievements, but even in the last 12 months positive change took place. At a policy level, Victoria Police prioritised interactions with Consumers as an area requiring reform. The over-representation of people with mental illness in prison has an unprecedentedly high profile. Research projects into mental health tribunals are underway at a Victorian and National level. The Centre's highly successful forums on advance directives/living wills and money troubles significantly raised the profile of these important issues – and laid the groundwork for attracting project funds in 2006/2007.

The Centre maintained a high level of legal advice and casework services, with positive outcomes in a number of areas. Representation at the Mental Health Review Board increased significantly compared with the previous 12 months, due in part to the work of volunteer solicitor Joel Townsend and the ongoing pro bono relationship with Maddocks lawyers. Terrific long term Maddocks volunteers Peter Cavanagh and Justine Lau handed over to Jane Polglase and Michael Lyon. Without a doubt, the greater involvement of private solicitors in the Board jurisdiction is of benefit. We were pleased to finally receive project funding from the Department of Human Services to trial an expanded pro bono project. Efforts to increase the alarmingly low level of legal representation at Board hearings remain a high priority, and it is hoped we can secure recurrent funding to support the pro bono project.

Most significantly, the Centre is enormously grateful to Victoria Legal Aid for an increase in recurrent funding equivalent to a half time position. We will use those funds to introduce an evening service supported by volunteers. It is particularly pleasing in our 20th year to be in a position to increase service provision on a recurrent basis.

As always, the experience of clients in areas of work beyond the Mental Health Review Board informed Centre policy and law reform initiatives, criminal justice and child protection amongst them. We were thrilled to receive project funding from the Law Foundation to enable us to pay volunteer Paula Dunn to continue this important work.

Volunteers have continued to provide invaluable support across all areas of Centre operations. They have conducted legal research, updated and drafted community legal education materials and assisted with a major file destruction process which has long been on the Centre's agenda. Martin Thomas deserves particular thanks for his work on the Centre history document, as well as research and other tasks. The pro

bono support provided by law firms Maddocks and Russell Kennedy is extensive, varied and indispensable.

We again had the benefit of a tremendous Leo Cussen placement student, Allison Lee. The support of external individual volunteers has also been terrific. Barrister Peter Condliff deserves particular recognition – he not only represented a client pro bono at the Mental Health Review Board but also incurred a parking fine for which he paid. The pro bono expertise of barrister Susan Thompson was crucial in ensuring that the lengthy negotiations with Victoria Legal Aid over the seventh edition of the Patients Rights Booklet resulted in appropriate recognition of the Centre's copyright in the publication. We are pleased that a production agreement has finally been entered and production and distribution of the hard copy update is close.

Mim Ingvarson took parental leave and we look forward to her return at the beginning of 2007 and the write up of the Mental Health Review Board Involuntary Patient Experience Project. The Centre is fortunate to have a stable workforce of committed, experienced staff, many of whom are approaching or have reached long service leave entitlements. Administrative and operations management staff deserve credit for the support provided to a busy, exclusively part time work force.

We are again indebted to a committed, talented voluntary Management Committee. It is a privilege to work with a Committee with majority Consumer membership. Good examples of the contributions made by members beyond monthly meetings and the related management tasks are participation in selection of new staff (we are fortunate that this is a reasonably frequent task due to successful funding applications), involvement in media campaigns, contribution to an article in a national disability journal, advising and briefing Centre workers and creating networks on issues such as the Draft UN Convention on the Rights of People with Disabilities, and participation in forums and community legal education activities. Our Chairperson Keir Saltmarsh deserves particular recognition. The Centre decided this year to allocate some surplus funds to a Committee expenses allowance in recognition (albeit tokenistic in light of the contribution made, and not without controversy) of the costs involved for people who can often least afford it.

As in previous years, greatest recognition must go to the clients for whom we exist, whose experience of the mental health and legal systems falls so short of ideal. You can be assured the Centre will continue the fight for your rights, and remain awed by your courage and resilience.

Casework Report

A large proportion of the Centre's legal work is telephone advice. Only a proportion of those calls become ongoing casework files. The following areas of ongoing casework have been noteworthy in 2005/2006.

Mental Health Review Board Hearings

There continues to be a significant demand for representation at Mental Health Review Board Hearings and the demand has well surpassed the number and availability of solicitors at the Centre. This has resulted in many hearings being adjourned for two to four weeks in order to be able to provide legal representation to clients. The hearing officers of the Board should be commended in this respect for facilitating the adjournment of hearings and making this process as uncomplicated as possible. The Centre also formalised a means test for representation at Board hearings – an unfortunate necessity when demand so outweighs capacity and transparent, fair means of prioritizing service provision are required.

We have had a number of positive outcomes for clients in securing discharges from Community Treatment Orders. One client was a long term client of the Centre, having accessed legal representation from us over several years in a row for Board hearings. We were able to represent him this year and argued that he had been stable and compliant with his medication for a long period of time and would take his medication in the short to medium term. The Board accepted our client's evidence as credible and found that he should be discharged from the CTO (which he had been on for seven years!!). Equally pleasing was the case of a client who had been represented a number of times by the Centre in the past. He represented himself and was discharged.

Credibility of clients is a stand out issue in the decision making of the Board. Time and time again, the evidence of clients – particularly when they give evidence that they will take their medication or that they will continue to engage with the treatment team if discharged - are not given any weight by the Board. It is truly astounding how few instances there have been when clients are actually given the benefit of the doubt and considered credible by the Board solely on their own evidence. It has certainly been our experience that clients are far more likely to be discharged from a CTO on the basis of evidence provided by witnesses - who do not have a mental illness - such as family members, friends, doctors and independent psychiatrists.

Another interesting matter which arose this year involved a client who was not discharged from a CTO but did have his CTO varied to remove a residence determination. This meant that he could move out of the CCU he had been living in into his own rental accommodation in another suburb. It became apparent after six

weeks that the Mental Health Service he was attached to have no intention of following the Board's Order removing the residence determination and was in fact forcing our client to remain in the CCU against his will. It was only after a formal complaint was made to the Chief Psychiatrist's Office and the Board, as well as threatening Supreme Court action, that the Service took steps to follow the Order and allow our client to leave the CCU.

One example of a conservative approach by the Board to the revision of a Treatment Plan was in one case where a client's private psychiatrist gave evidence to the Board that he was willing to treat the client either voluntarily or on a Community Treatment Order. The Area Mental Health Service also gave evidence that there was a good therapeutic relationship between our client and the private psychiatrist. The Board decided not to revise the Treatment Plan or vary the Community Treatment Order, because the Board stated it was clear that the Clinic would themselves revise the Treatment Plan. The Board did not even provide an early review date to ensure the Area Mental Health Service followed through with their proposals to transfer the treatment under the Community Treatment Order to our client's private psychiatrist.

In another case, our client is receiving involuntary treatment which has the side effect of causing osteoporosis. In our submissions to the Board it was argued that a Treatment Plan can only provide treatment which is "to promote a patient's health or wellbeing". As this treatment was having detrimental side effects to our client's health the Treatment Plan should be revised so that the particular medication causing this side effect be ceased. The Board refused to amend the Treatment Plan. This decision has been appealed to the Victorian Civil and Administrative Tribunal. Should the VCAT appeal fail to obtain a revision of the Treatment Plan, this case may be appealed to the Supreme Court.

Should we be unsuccessful in our appeal, this controversial issue will need to be addressed in law reform. Specifically, this type of treatment may need to be regarded as a "special procedure" which would mean that a psychiatrist would need to obtain an approval from the Victorian Civil and Administrative Tribunal before undertaking such treatment.

Treatment Plans have been used for all patients under the Mental Health Act 1986 (Vic) since the most recent amendments to the Act in December 2004. Treatment Plans have to be reviewed by the Board and the Board has the power to order the authorised psychiatrist to revise the treatment plan.

We have attempted to use these amendments to our clients' benefit. We regularly adopt arguments that if a treatment plan is either inadequate or does not reflect our client's wishes, that the Board should order a review. We have had a number of positive decisions where Board members have been responsive to these arguments and view this as a way of improving engagement and treatment. However we have

also had Board members who are clearly very conservative and adopt the view that it is not their place to review treatment determined by the Mental Health Service. We consider that it renders the amendment largely obsolete if Board members do not use their new power to facilitate better engagement and treatment between clients and Mental Health Services. It is also troubling that some Board members do not see the value for the process of formally ordering revisions of plans where a new treatment option has been canvassed and agreed to at the hearing. If nothing else, formal documentation of progress made at hearings will clearly be of therapeutic benefit to many clients, as well as fulfilling an important accountability function.

Concern about natural justice in relation to file access for Board hearings persists. Access to material that is deemed exempt under the Mental Health Act pursuant to Section 26 (8) has been a reoccurring issue this year. It has been common practice for Mental Health Services to remove material from files prior to a hearing so that the client and their legal representative do not have access to the material. They often then fail to make the necessary application for non-disclosure. We receive differing responses to our requests to follow a longstanding practice and gain access to materials prior to the day of the hearing on the basis of an undertaking that their contents will not be disclosed unless and until the Board orders disclosure. Procedures such as these are poorly understood and inconsistently applied across mental health services. We understand the Board has taken some steps to address this issue, including developing their own guidelines for the conduct of applications for non-disclosure. We have raised our concerns with the Board both in general submissions and in relation to specific matters that come before the Board. It is hoped that guidelines will be drafted which both recognize people's entitlement to natural justice and increase understanding and consistency of approach.

The quality of statements of reasons continues to vary considerably – and disappoint in too many cases. Sometimes the concern is that statements are incomplete. In this category, it was pleasing that, albeit after two requests and an initial refusal, the Board did provide amended reasons where statements did not include an order for an early review and an order to revise a treatment plan, respectively. Another too frequent concern relates to accuracy – for example the Board refused to amend a statement which inaccurately summarized submissions made by the lawyer. Inadequate statements of reasons undermine confidence in the Board process, the usefulness of statements and the development of Board jurisprudence. People may also be deprived of an accurate record about issues of great importance to them, and, troublingly in terms of the therapeutic impact of hearings, may miss out on a permanent record of positive observations or a partial victory.

Sadly these issues relating to the Board – the weight they place on client's own evidence, the conduct of applications for non-disclosure and the standard and quality of statement of reasons all tend to undermine the Board's purpose to provide an

accessible mechanism of independent review that protects patient's rights and that is unbiased, fair and professional.

We certainly hope that in the coming year that some of these issues will be addressed to improve positive outcomes for clients on community treatment orders.

Family Law and Child Protection

A Family Law case regarding contact by our client to his two children finally settled with an Order that our client have face to face contact with his children at a supervised Contact Centre. Our client had physically assaulted one of the children when he was still suffering from an untreated mental illness. Dr Bill Glaser provided a very thorough and favourable report for our client which was instrumental in our client obtaining face to face contact. Victoria Legal Aid (VLA) was not prepared to fund the final hearing even though one of the stated priorities of VLA is to assist people with a mental illness. Special mention should here be made of John Love of Counsel who acted in this matter on a pro bono basis even though it had the potential to be a four day hearing.

In Child Protection matters, we continue to be confronted with an intransigent and slow moving protective system. In one case, our client was seeking the return of his younger child to his care and the removal of an older child who was physically abusing the younger child. Protective Services made a decision to remove the younger child from our client's care leaving him with the care of an older child who had obvious "protection" issues. After many months of negotiations with senior protective workers and the enlistment of the Advocate for Children in Care, Protective Services finally accepted their role of providing a service for the older child and returned the younger child to our client's care.

In another case, Protective Services had refused to allow our client unsupervised contact with her children because of her history of mental illness. This is despite her psychiatrist providing reports stating she is able to parent the children without supervision and despite an independent psychiatric report from the Children's Court Clinic also confirming our client's ability to parent the children without supervision. This matter has been compounded by cultural issues as well. Our client's family have been reluctant to provide assistance to our client because they are frightened of Protective Services. This matter which could clearly have been settled or transferred to the Family Law jurisdiction is proceeding to a contested hearing.

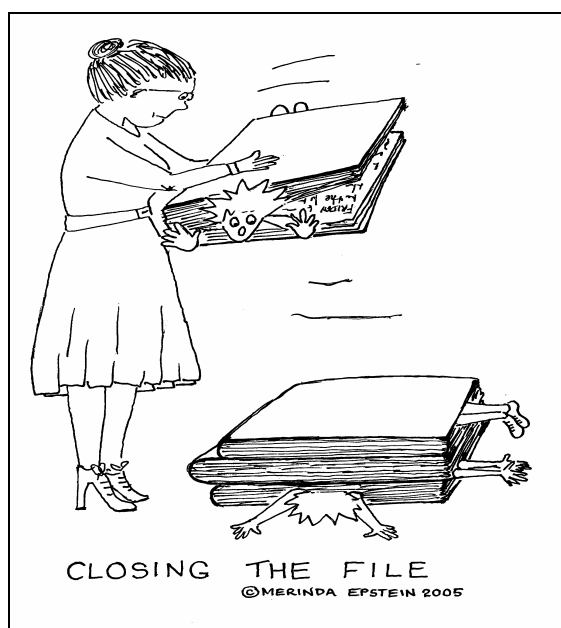
Women's Safety in Psychiatric Wards and Health System Complaints

The centre has been campaigning for a number of years to improve the safety of women in mixed sex psychiatric wards. Specifically, we have campaigned for women's choice in being able to be an inpatient in a women's only ward. The failure

to provide such a service may amount to "indirect discrimination" under both the Sex Discrimination Act 1984 (CTH) and the Equal Opportunity Act EOA 1995(VIC). A client has sought our assistance regarding a sexual assault upon her whilst she was an inpatient in the high dependency section of a psychiatric ward. A complaint has been lodged against the service with the Health Services Commissioner.

We continue to assist some clients with complaints to the Health Services Commissioner and Office of the Chief Psychiatrist. We have had some positive outcomes, but remain concerned that these bodies are not appropriately responsive in some cases.

It was pleasing to see one typically persistent, resourceful client obtain a finding from the Chief Psychiatrist that ECT had been performed in technical breach of the Mental Health Act. He had received inadequate responses from the Health Services Commissioner in relation to a number of matters, and had in fact been barred by that office from complaining about matters more than 12 months old.



Administration and Guardianship

We continue to act for clients in this jurisdiction and achieve a range of positive outcomes including variations to orders and complete discharge.

Unfortunately, we are still having difficulty with being informed of adjournments and Orders made by VCAT even after providing correspondence confirming that we are acting for clients. Whilst it is pleasing that the Guardianship List is liaising more closely with lawyers who appear there, it still has a long way to go in terms of practice and procedures.

Criminal Law and Forensic Patients

Criminal charges in the Magistrates Court constitute a very small proportion of the Centre's work, with most of these clients provided with advice and referral only. We aim to act only in matters where diversion or the mental state defence can be usefully pursued. In some cases we achieve diversion against the odds, where, for example, a person has numerous priors. Other cases – for example one where a person was charged with impersonating a police officer when he asked for directions in a police shirt bought at a second hand market, in a state of extreme drunkenness and mental ill-health – clearly demonstrate the need for a better diversion system.

We continue to encounter prosecution determination to force matters up to the County Court where clients have a mental state defence, and lobby for an end to this unnecessary, counter-therapeutic, costly approach.

People subject to Supervision Orders under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 continue to seek our representation services and we ensure their voices are heard and least restrictive outcomes sought. We have varying degrees of success in an increasingly conservative jurisdiction.

Policy & Law Reform Report

Centre staff have continued to influence policy and law reform projects through a range of strategies. Merinda Epstein has continued to ensure the Consumer voice informs our work and to maintain a high profile for Centre issues through conference presentations, production of papers and strategic networking. Centre membership of advisory networks and committees has included the Law Institute of Victoria Disability Law Committee, the Guardianship List matters working group, the Law Institute of Victoria Charter of Rights Committee, the Human Rights Law Resource Centre Advisory Group, the Independent Third Party Reference Group, the Justice Environment working group, Corrections stakeholder meetings, Federation of Community Legal Centres Management Committee and convening the National Mental Health Advocates Network.

The issues worked on in 2005/2006 have included:

Advance Directives

The Centre has continued to work on advance directives and this has been buoyed by the support not only of many consumers who attended our successful forum but also our tireless working group- Cath Roper Wanda Bennetts and Michael Fleming. The Victorian Law Reform Commission, the Equal Opportunity Commission and Victoria University all have been overwhelmingly supportive of law reform to enhance and support advance directives. The ever-supportive Reichstein Foundation has provided project funding to progress their development. Next year we will commence one stage of this creative and exciting project by listening to consumers. We will continue to promote advanced directives in many ways including the publication of articles.

Sexual Offences Project

Although it is acknowledged that the most abused and vulnerable group experiencing sexual offences are people with disabilities, these offences continue to be under reported. People are not believed or taken seriously, the legal processes fail to assist them and criminal charges are not pursued.

This project, to examine the difficulties for victim survivors with disabilities when reporting sexual assault and seeking justice has been instrumental in legislative change and raising awareness in particular to assist the Victorian Law Reform Commission in the development of the Sexual Offences Final Report. Centre workers have continued to be involved on the reference group of this Reichstein funded project commenced by Disability Discrimination Legal Service in 2002. The first three stages involved victim survivors of sexual assault, advocates and other stakeholders and identified the difficulties people have in accessing justice. The third stage auspiced by the Federation of Community Legal Centres focused on advocacy and ways to ensure that sexual assault services, disability services and key organizations including Office of Public Advocate can better assist sexual assault victims. It is clear that unless practical hurdles are removed and the paucity of advocacy services addressed reforms will deliver no substantial change.

Stage 4 funding has been secured to continue to lobby for development of new and creative ways to provide advocacy services and support and train gate keepers including disability workers, CASA workers, police and the courts.

Some of this work and the stories gathered from clients have been used to assist Centre workers in their involvement with training registrars and magistrates who will be assigned to the new domestic violence courts and to speak at, for example, the sex worker forum at St Kilda Town Hall and to women in prisons.

Police Involvement

The Centre collated the negative experiences of clients reported over a two month period and included them in comprehensive submissions to the Office of Police

Integrity and the Victoria Police Services Review. Our submissions were well received and led to a close working relationship with the project worker responsible for the review of police practice.

Quality Use of Medications

The Centre was on an advisory group of a project to bring together stakeholders to develop “Concrete ideas for practical change” in use of psychotropic medications. Our input was valued – whether change results remains to be seen.

United Nations Convention on the Rights of People with Disabilities

The Centre, made a general submission on the draft Convention. We also provided some comment and advice on particular clauses concerning involuntary treatment and interventions to People with Disabilities in New South Wales. The support and expertise of Management Committee member David Webb on this issue was greatly appreciated.

Child Protection

Rushed consultation and politically driven law reform leading to the development of the Children Youth and Family’s Act 2005 largely ignored the concerns of legal advocates who act for parents in child protection matters. Also ignored were the concerns of parents with mental illness (significantly over represented in these proceedings). The Centre has been working with other practitioners in lobbying against many of the changes which will impact on our clients; notably fast tracking permanent care, anti natal notifications, changes to review mechanisms and care plans. This lobbying will continue and the Centre is exploring ways to audit the impact of the changes on our clients from the first day of the Act coming into effect.

Young People

Together with Youth Law, Centre workers have been concerned about issues for young people with disabilities in juvenile justice/youth detention. There is also concern to ensure that workers are aware of the issues for young people particularly as we explore advance directives. A youth worker who is volunteering with the Centre is speaking to young people about their experiences of the mental health system to advise us of their views.

Criminal Justice Project

Funding from the Victoria Law Foundation has allowed the Centre to commence this project.

An extraordinary response was received from many people willing to tell their experience of the courts when mental health was an issue. Also interviewed were magistrates, a county court judge and advocates. Literature was reviewed and various models including specialist courts and court support networks were researched. Research covered the concepts of therapeutic jurisprudence and problem-solving Courts, sentencing options, types of specialist Lists/Courts in the Magistrate's Courts throughout Australia and Mental Health Courts in particular.

A report will be completed towards the end of 2006. Facts sheets and an article aiming to inform advocates appearing for defendants with a mental impairment defence have been developed. There has been some interest from police, magistrates and court support workers for training.

Funds in court

Changes to the funds held in court by the Senior Masters Office were mooted earlier this year and it seemed that these monies may have been transferred to the State Trustee. The Senior Masters Office was not openly accountable and there was concern that there were no audit or review mechanisms. There was a flurry of interest particularly from carers' groups and the media. The Centre made submissions and attended a number of forums concerned that the options for administration of a persons estate must consider their wishes and interests and that the number of options for administrators were expanded

Seclusion/Restraint

As the Office of the Chief Psychiatrist is keen to review practice in this area we have researched articles and background. We intend to collate individual experiences and views and monitor the use of these practices, with the aim of developing a position paper to advise the Office of Chief Psychiatrist. This project will proceed jointly with Victorian Mental Illness Awareness Council (VMIAC) to develop a response to the National Inquiry and we are in the process of investigating funding to assist.

Guide for advocates appearing at VCAT

A project worker has been employed with Victoria Law Foundation funding to research and develop a guide to advocates appearing in the Victorian Civil & Administrative Tribunal (VCAT) guardianship list. The project is a joint managed project between Villamanta Disability Rights Legal Service and the Centre. It will focus very much on the person subject to the application and cover issues such as taking instructions, possible positive outcomes and less restrictive arrangements and informed consent. It has been welcomed as a great initiative by all advocates who frequently appear in this jurisdiction

Involuntary patient experience

Due to the worker on maternity leave, this project has been on the back burner. The interviews and data collection is complete, the project is at the writing up stage. Centre workers have been involved with the ARC project which has meant that some of the data gathered from MHLC has steered the direction of the national study. We have presented the interim findings to various conferences including the Victorian justice conference and the MHRB annual conference.

Neighbourhood Justice Centre

Our involvement with the development of this new center in the city of Yarra resulted in a joint submission with Fitzroy Legal Centre and a grant for a community lawyer. MHLC will resource and support this person and other court support workers to ensure that people with mental health issues are properly represented.

Criminal Justice and Sentencing Advisory Council

Though it seemed that the Centre's lobbying against reduction of the discretion of courts to impose Hospital Orders had some effect, it was still disappointing to see them confined to "non-serious" offences.

We have attended round tables and made submission on all sentencing dispositions evaluated by the council including suspended sentences, bail and continued detention. Our input has also assisted the Federation of Community Legal Centres in their submission.

Coroners Office

We presented to the coronial inquiry and assisted the Federation with a joint submission. The assistance of Dr Ian Freckelton on this issue was greatly appreciated.

Guardianship List

We attended users group meeting and ongoing meetings held by the disability law committee at Law Institute of Victoria) with John Billings to iron out administrative concerns.

Community Legal Education

Education Sessions

The list below is by no means complete about, but gives an indicative overview of those we engaged with from an educational perspective. The Centre remains committed to prioritizing requests for assistance in the following order firstly to Consumers, then legal workers, then others.

- Mental Illness Fellowship - rights and loss of dignity
- Fitzroy Legal Service - Criminal Law and Administrative Law for Community Workers
- Fitzroy Legal Service - mental health law for volunteers and staff.
- Monash Clayton Hospital - Mental Health Act
- Loddon Campaspe CLC - general rights of consumers
- Family Counselling Service, (Aboriginal mental health service) - rights of consumers, mental health services prisons / transfers.
- Peter James Centre - MHLC/ Family Law mediation / CTO representation
- Outer East Mens Consumer Group - Debt and Credit, Tenancy, Administration, Rights with Utilities, CTO's and Discrimination.
- Yooralla Expo - Discrimination and Mental Health.
- Money Troubles forum on debt sponsored by Russell Kennedy Solicitors.
- Brunswick/Coburg's CLC Domestic Violence network - Social Security Appeals and Crisis Payments with Welfare Rights Unit.
- St Marys House of Welcome - Mental Health Act and Rights.
- Broadmeadows Psychiatric Service - Mental Health Act.
- Gippsland Legal Service - Disclosure and Equal Opportunity.
- Goulbourn Valley Area Mental Health Service - Rights.
- Bickle Place - Rights.
- Arafemi - Confidentiality.
- Macaulay - Legal Services
- Southern mental health workers - confidentiality.
- Maddocks lawyers and State Community Legal Centre Conference - Victorian Charter of Rights and Responsibilities.

Where we cannot attend the engagement we may assist by coordinating with other relevant experts such as the Human Rights and Civil Section at Victoria Legal Aid, Mental Health Review Board or Victorian Mental Illness Awareness Council. We also responded to requests from others people who were trying to prepare materials such as the Melbourne Assessment Prison and the North West Area Mental Health Service, and researched resources on other CLC's behalf so they could move forward with their reouces – and example of this was legal capacity.

Hearings before the Mental Health Review Board of Victoria: Advocates Guide
www.communitylaw.org.au/mentalhealth/pages/MentalHealthlegalinformation

This invaluable publication also was finalised in this year. Russell Kennedy provided invaluable assistance with layout. We took some time liaising with the Mental Health Review Board around their new system for citing Statements of Reasons as the document refers to at least 30 cases. The material proved extremely useful for updating our presentations, for assisting other lawyers conducting hearings and in limited circumstances some clients who were representing themselves. Additionally we encouraged the Board to make their case law more publicly accessible and they have made great advances in this in that more case law is available on Austlii than ever before (www.austlii.edu.au/au/cases/vic/VMHRB).

Child Protection: A guide for parents and family members
www.communitylaw.org.au/westernsuburbs/pages/Booklet

There has been a terrible gap in legal education resources for parents who have a disability for too many years. This year Western Suburbs Legal Service produced a guide which they have committed to maintain and make available to the public. The Mental Health Legal Centre contributed to this publication. Thanks go to Western Suburbs Legal Service and Helen Yandell for developing this resource.

Patients Rights Booklet

A lot of work went into the negotiations with VLA and the Centre looks forward to offering the community the hard copy as well as our updated website version.

Driving and Mental Impairment flyer
www.communitylaw.org.au/mentalhealth/pages/MentalHealthlegalinformation

Pasanna and volunteer Michael Radywonik did a great job with the Driving and Mental Impairment flyer – and thanks go to former Management Committee member Vrinda Edan for the inspiration. This issue affects a lot of Consumers particularly in rural areas where public transport is so poor. Feedback from Consumers on the finalised product was really good - perhaps a reflection on how well our processes and team effort were.

Other flyers

We also updated the “All Patients Have these Rights” flyer and with the Federation’s assistance had it translated into 9 languages, incorporating Arabic this time. Transcription of the UN Principles for Protection of Persons with Mental Illness and for the Improvement of Mental Health Care was improved and many other in-house

overheads and handouts were improved or updated, in our effort to improve the community's understanding of mental health law.

Mental Illness and the Criminal Justice System in Victoria: Your Rights

Much of the second half of the year was spent updating this very complex text and contracting a print manager. It is a time consuming task because it is long, and it covers numerous jurisdictions, processes and legal and non-legal issues. We had delayed the update because of imminent legislative changes, and as the manuscript was finalised another – to suspended sentences – was announced. Sections amended, updated, added, expanded or improved include diversion, contest mentions, special leave, suppression orders, medication list, Restricted Involuntary Treatment Orders, Treatment plans, flow chart, defence of mental impairment, resources available, relevant contacts, Fines, Mail, Federal forensic patients and others. The document is available as you read this, so contact the Centre for your new edition.

Right to Review

The Mental Health Review Board finished their video that CLE contributed significant time to so it was great to make use of it and help with promoting it.

Volunteers

Volunteers help enormously to build CLE capacity. They provide invaluable assistance with reviewing and comparing documents, managing resources, researching cases and legislation. Thankyou so much Lizia, Louisa, Michael, Felicity and Martin for your priceless, talent, enthusiasm and commitment.

Website

We attempt to upload and downloaded materials and documents as they are developed or reviewed but please feel free to email the Centre with suggestions or feedback to help us make the site as useful as possible.

Policy issues

Many issues were raised over the year but from a CLE perspective things that stand out were the problems raised about coordination and consistency of different types of treatment plans, disclosure in employment, debt problems and provision of mental health services to prisoners.

Consumer Consultants

This year we were able to secure through Minter Ellison sponsorship to send 2 Consumer Consultants to negotiation skills workshops at CMA. Feedback from Consultants was excellent and hopefully they will go on to make use of these skills in their own advocacy work. Additionally we committed our resources to maintaining our own list of Consumer Consultants so we can regularly communicate and share information which we hope they can disseminate.

Staff development

In terms of developing our own knowledge about mental health, Tasman Armitage led us in Mental Health First Aid training, a great opportunity for reflection.

Operations Management/Administration

Funding

We acknowledge and thank our funders for their support over the last 12 months – Recurrent annual funding was received from Department of Human Services (\$239,985) and Victoria Legal Aid (\$214,887). An additional \$79,000 has been received from Department of Human Services for a Pro Bono Coordinator position to start in the 2006/2007 financial year. This money is for a committed project and is sitting in ‘income in advance’.

Project funding received during this financial year was from Victoria Law Foundation (\$16,690) for the Consultation on Sentencing Options.

Staff

Miriam Ingvarson is currently on maternity leave; Paula Dunn commenced working on Consultation on Sentencing Options project (Victoria Law Foundation) in December 2005. No other changes to staff during this reporting period.

Policy and Procedures Manual

Ongoing updating and refinement of this valuable resource continued this year. New policies were developed in a number of areas – for example paid parental leave, Management Committee Executive meeting process, Mental Health Review Board means test and legal advice to third parties.

Volunteers and Work Experience Students

Martin Thomas has been a consistent volunteer and has done the research for the Centre’s history document as well as legal research for Centre solicitors. THANK YOU MARTIN! Lizia Lim has also been consistent during the reporting period and has worked with a number of solicitors and community legal education worker completing research tasks and small projects. Michael Radywonik also assisted with community legal education research and small projects. Michaela Guthridge has been of great assistance doing background research for the Sentencing Options Project. THANK YOU ALL FOR YOUR WONDERFUL CONTRIBUTIONS.

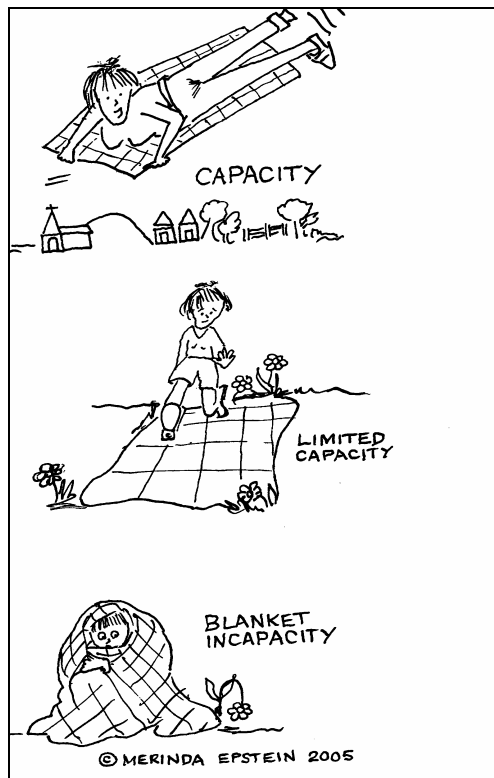
File Destruction

10 archive boxes were sent for destruction and when time permits this process will continue as our filing room is at capacity. Legally we are required to keep files for seven years but up until this year we hadn’t culled any files. Clients are notified that they can collect their file, details are put into a database and then files are sent for

destruction. We have been fortunate in that the Department of Human Services has paid for the cost of destroying these files.

Front Desk

Administration, being the front line of the Mental Health Legal Centre is vital to the smooth day-to-day running of the Centre. Clients making enquiries both in person and over the phone are dealt with promptly and efficiently, as they are the cornerstone of our organization. The administration team is to be congratulated for the smooth running of the front desk. This is not always an easy task with competing demands but always done with courtesy and efficiency.



STATISTICS

July 2005 to June 2006

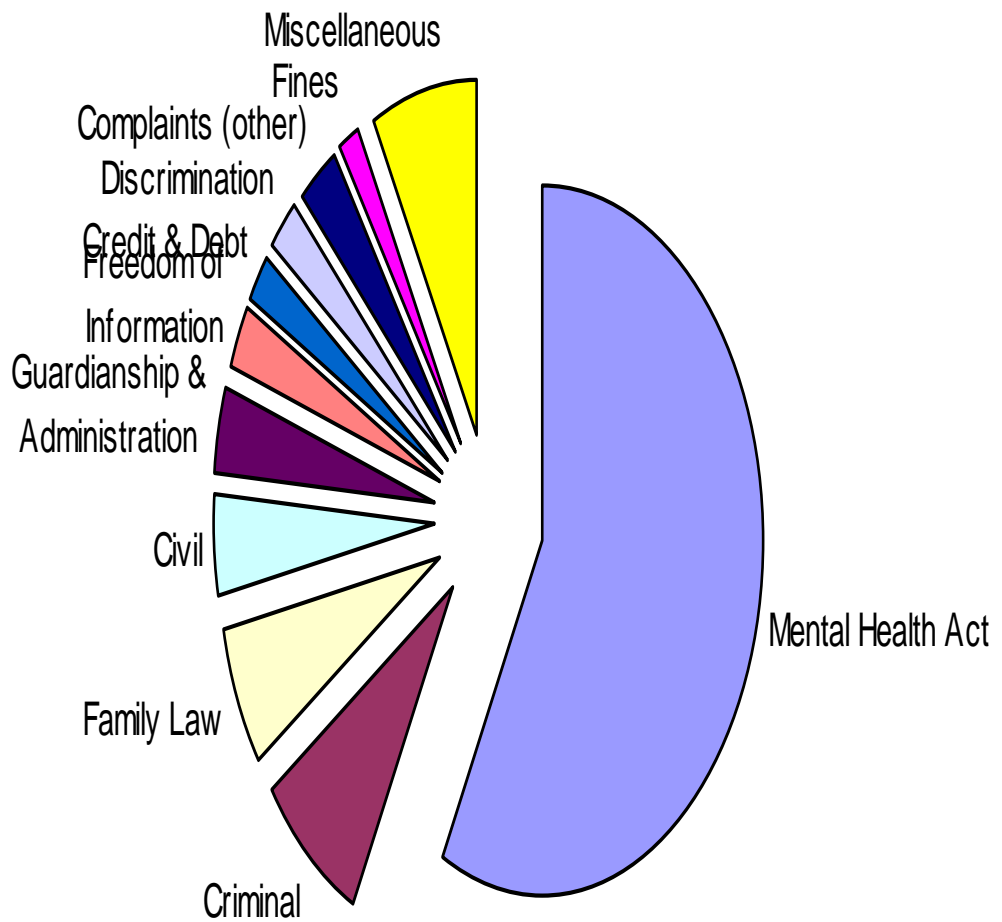
TOTAL NUMBER OF CLIENTS	1077
TOTAL ADVICE ACTIVITIES	1010
INFORMATION ACTIVITIES	669 <small>(started collecting data from mid May 2006)</small>
OPEN CASES	430
TOTAL NEW CASES OPENED DURING PERIOD	248
TOTAL CASES CLOSED DURING PERIOD	183

Number of Matters dealt with by Problem Type

Legal Problems	Number
Mental Health Review Board	234
Community Treatment Order	202
Complaints - Psychiatric services/hospital//doctor/health services commissioner	86
Criminal	83
Government/admin mental health	37
Family Law	69
Involuntary Detention	61
Guardianship and Administration	43
Freedom of Information	30
Other civil	52
Employment (including injuries employment)	17
Discrimination	25
Complaints (other)	35
Road Traffic Offences	5
Fines	13
Credit and debt	26
Intervention Order	10
Medical Negligence	12
Tenancy	12
ECT	6
Government pensions	3
Wills/probate/power of attorney	9
Restraint/Seclusion	1
Other	18
TOTAL RECORD OF MATTERS BY PROBLEM TYPE	1089*

*Note – some clients have more than 1 matter

Top 10 Problem Types





J L COLLYER & PARTNERS
ACCOUNTANTS & AUDITORS

1st Floor
63 Kingsway
Glen Waverley Vic 3150
PO Box 340
Glen Waverley Vic 3150

Phone: 03 9560 0211
Fax: 03 9561 5497
Email: bcatax@jcollyerpartners.com.au

INDEPENDENT AUDIT REPORT
To the Members of MENTAL HEALTH LEGAL CENTRE INC.

SCOPE

We have audited the attached special purpose financial report of **MENTAL HEALTH LEGAL CENTRE INC.** for the year ended 30th June 2006. The Committee of Management is responsible for the financial report and have determined that the accounting policies used are consistent with the financial reporting requirements of the constitution and are appropriate to meet the needs of the members. We have conducted an independent audit of the financial report in order to express an opinion on it to the members of **MENTAL HEALTH LEGAL CENTRE INC.** No opinion is expressed as to whether the accounting policies used are appropriate to the needs of the members. The financial report has been prepared for distribution to members for the purpose of fulfilling the Committee of Management's financial reporting requirements under the constitution. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report and evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with the accounting policies described in Note 1 to the financial statements. (These policies do not require the application of all Accounting Standards and UIG Consensus Views).

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In our opinion, the financial report presents a true and fair view in accordance with the accounting policies to the financial statements the financial position of **MENTAL HEALTH LEGAL CENTRE INC.** as at 30th June 2006, and the results of its operations and its cash flows for the year then ended, and gives a true and fair view of the **MENTAL HEALTH LEGAL CENTRE INC.** during and at the end of its last financial year.

Janet L Collyer
J L COLLYER AND PARTNERS
29TH September 2006

DIRECTORS
JANET L. COLLYER FCPA LIONEL R. ARNOLD CA B.BUS



Chartered Accountants

	Annual Leave	29,861	21,882
	Long Service Leave	-	-
	Other (specify)		
	Time in Lieu	-	7,328
		-	-
9	Unused Project Funds		
	Income in Advance	171,993	92,699
		-	-
		-	-
		\$	\$
	TOTAL CURRENT LIABILITIES	220,521	136,370
	NON-CURRENT LIABILITIES		
10	Employee Entitlements		
	Annual Leave	-	-
	Long Service Leave	33,522	31,181
	Other (specify)	-	-
		-	-
11	Other: (specify)		
	Moving Costs	20,000	20,000
	Contingency Reserve	7,328	-
		\$	\$
	TOTAL NON-CURRENT LIABILITIES	60,850	51,181
	TOTAL LIABILITIES	281,371	187,551
	NET ASSETS	205,968	160,874
	ACCUMULATED FUNDS		
12	Retained Surplus/(deficit) at Beginning of Year	160,874	136,969
	Surplus/(deficit) for Year	45,093	23,905
		\$	\$
	RETAINED SURPLUS/(DEFICIT) FOR THE YEAR	205,968	160,874

Statement of Income & Expenditure Year ending 30 June 2006

Mental Health Legal Centre Inc.

	2005/2006	2004/2005
INCOME		
CLC Recurrent	214,887	210,172
Other VLA	-	-
Other Commowearth	-	-
Other State	239,985	238,475
Local Government	-	-
Wage Subsidy	-	-
Other Grants	16,690	3,251
Philanthropic Trust	-	17,310
Interest	14,534	4,774
Membership	-	-
Community Legal Education	91	201
Costs Recovered & Retained	-	-
Fundraising/Donations	1,000	-
Sundry income	29	1,500
Profit on Disposal of Assets	-	3,342
	\$	\$
A. TOTAL INCOME	487,216	479,025
EXPENDITURE		
Salaries		
Permanent Staff	268,306	293,798
Casual Staff	17,834	12,884
Superannuation		
Permanent Staff	26,084	26,697
Casual Staff	455	-
Work Cover	1,718	1,472
Annual Leave Loading	1,634	3,374
Travel & Accommodation	2,370	2,238
Amenities	1,205	2,506
Audit	4,393	2,282
ASC Lodgement Fees	37	35

Bank Charges	1,370	2,081	
Cleaning	1,016	468	
Community Legal Education		45	-
Conferences	1,858	555	
Disbursements		-	-
Electricity, gas and fuel	2,477	1,621	
Employment Advertising	746	842	
Insurance (Other than PI)	3,299	2,034	
Library	3,659	3,834	
Memberships & Subscriptions	4,248	3,256	
Postage	1,345	1,327	
Practising Certificates	1,370	1,305	
Equipment Repairs and Maintenance	106	185	
Sundry Equipment Purchases		-	-
Parking	6,242	5,523	
Publicity		-	-
Rates		-	-
Rent	40,574	41,631	
Structural maintenance		-	-
Stationery/Photocopying	3,865	5,095	
Security	556	612	
Telephone	6,956	6,761	
Training	2,366	3,613	
Car Leasing expenses	9,480	10,270	
Internet usage		-	65
Computer software and supplies	1,912	4,128	
Forum expenses	-	1,157	
Printing & publication costs	2,724	1,564	
Accounting fees	3,578	3,035	
Other	352		20
	\$	\$	
B. Sub Total Direct Expenditure	423,046	446,267	
C. TOTAL INCOME LESS			
	\$	\$	
DIRECT EXPENDITURE	64,170	32,758	

INCREMENTS TO PROVISIONS &

DEPRECIATION		
Annual Leave	7979.17	4,021
Long Service Leave	2341.19	1,551
Depreciation	8756.85	12,773
Time in Lieu	-	1,653
D. Sub Total Increments to Provisions & Depreciation	\$ 19,077	\$ 8,853
E. TOTAL EXPENDITURE	\$ 442,123	\$ 455,120
F. TOTAL EXPENDITURE LESS CAPITAL PURCHASES	\$ 442,123	\$ 455,120
G. NET SURPLUS/(DEFICIT) (Total Income less [Total Expenditure less Capital Purchases])	\$ 45,093	\$ 23,905

STAFF

Coordinator/Principal Solicitor	Sophie Delaney
Operations Manager-	Jill Richardson
Solicitor/ Policy Worker –	Vivienne Topp
Solicitor	Barbara Shalit
Mental Health Review Board Solicitor	Pasanna Mutha-Merrenge
Advice Line Solicitor	Leon Doyle
Policy Worker	Merinda Epstein
Community Legal Education Worker	Fiona Seymour
Administrative Officers	Christina Bouniotis/Rhonda Black/ Anthea Teakle
Project Worker	Miriam Ingvarson (on maternity leave from September 2005)
(Involuntary Patient Experience of Mental Health Review Board)	
Project Worker	Paula Dunn (from August 2005)
(Consultation on Sentencing Options: The views of clients with psychiatric disorders)	

COMMITTEE OF MANAGEMENT

Executive

Chairperson	Keir Saltmarsh
Secretary	Pierre Baume
Treasurer	Leonie Englefield (until November 2005) Pierre Baume (from December 2005)

Committee members

Joseph Trotta
Viviana Cohn (until April 2006)
Vrinda Edan (until April 2006)
Julie Anderson
Tasman Armitage
Alison Smith (from December 2005)
David Webb (from May 2006)

Observers
Nicola Collingwood (from June 2006)
Greg Oke (from June 2006)

VOLUNTEERS

Louisa Dicker	Paula Dunn
Michaela Gutheridge	Lizia Lim
Felicity Price	Michael Radywonik
Martin Thomas	Joel Townsend

LEO CUSSEN PLACEMENT STUDENT

Allison Lee

PRO BONO LAWYERS – MADDOCKS SOLICITORS

Peter Cavanagh
Jane Polglase

Justine Lau
Michael Lyon



Maddocks

 **RUSSELL KENNEDY**
MEMBER OF THE KENNEDY STRANG LEGAL GROUP



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Mental Health Legal Centre Inc.

The Mental Health Legal Centre Inc. is part of a network of Community Legal Centres located throughout Victoria and Australia. Community Legal Centres provide a three-tiered approach to the law, through casework, community legal education and law reform/policy. The Mental Health Legal Centre is a Specialist Community Legal Centre in the field of Mental Health Law. The Legal Centre was established in 1987.

Vision

The Mental Health Legal Centre aims to work towards empowerment, equality, and justice for people with a psychiatric disability.

Objectives

1. To provide legal services of advice, representation, advocacy and referral to people having or labeled as having a psychiatric disability who otherwise would not have access to those services.
2. Through community legal education, to achieve knowledge of and attainment of rights for people with psychiatric disability.
3. To advocate with and for people with a psychiatric disability on policy and law reform issues, facilitating Consumer participation and basing Centre positions on Consumer views.
4. To be responsive to the needs of service users and staff (paid and unpaid), facilitate a maximally effective and participatory management structure and ensure the Centre is as well equipped as possible in terms of resources to meet its Objectives.

OFFICE HOURS and CONTACT DETAILS

The Mental Health Legal Centre Inc. offers telephone advice on Monday, Wednesday, and Friday afternoons between 3pm and 5pm.

The office is open to the public Monday to Friday 9am to 1pm and 2pm to 5pm. Face to face assistance is provided by appointment only.

Phone 9629 4422 or 1800 555 887 for country callers. Fax 9614 0488.

email – [Mental Health VIC@fcl.fl.asn.au](mailto:Mental_Health_VIC@fcl.fl.asn.au)