

Welfare Rights & Advocacy Service

**Annual Report
2010/2011**

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**Funding and Support provided to Welfare Rights & Advocacy Service
in 2010/2011:**

COMMONWEALTH GOVERNMENT

**Attorney General's Department through the Legal Aid Branch of the Family
Law and Legal Assistance Division (Welfare Rights Services Program and
Community Legal Centre Program)**

WESTERN AUSTRALIAN GOVERNMENT

**Attorney General's Department and Legal Aid Commission of WA
Department of Commerce
Legal Contributions Fund**

**PUBLIC PURPOSES TRUST OF
LAW SOCIETY OF WESTERN AUSTRALIA**

DONATIONS

MEMBERSHIPS

Personnel and Staff Profile for 2010/2011

Management Committee

Simon Millman – Chairperson

Toni Emmanuel – Deputy Chairperson to June 2011

Glen Williamson – Deputy Chairperson from July 2011

Daniel Pastorelli – Treasurer

Lucy Young – Secretary to September 2010

Luke Villiers – Secretary from October 2010

Roslyn Harley – TLC Nominee to November 2010

Kelly Shay – TLC Nominee from December 2010

Aram Hosie – Committee Member to September 2010

Luke Villiers – Committee Member to September 2010

Glen Williamson – Committee Member to June 2010

Shayla Strapps – Committee Member from October 2010

Simon Barry – Committee Member from November 2010

Marina Georgiou – Committee Member from July 2011

Jack Nicholas – Committee Member from September 2011

Permanent and/or Contract Staff

Kate Beaumont - Executive Officer/Case Manager

Chris Belcher – Welfare Advocate/Tenant Advocate

Marilyn Marvelli – Welfare Advocate

Jeanie Bryant – Welfare Advocate

Catherine Eagle – Solicitor

Paul Harrison – Tenant Advocate

Tom Milton – Administrative Officer

Christine Carr – Bookkeeper

Chairperson's Report

This AGM marks the end of my third year as Chairperson of the TLC Emergency Welfare Foundation of Western Australia (Inc.) trading as Welfare Rights and Advocacy Service. This year the agency has not had access to additional funding from the Federal Government and so has depleted some of the One Off Funding provided in the preceding two years. We have continued in the current year to be provided with funding by the Public Purposes Trust of the Law Society to conduct our Prosecutions Project and that is secured up to June 2013. We have also continued to receive funding from the Department of Commerce to provide tenancy assistance. The agency has also received funding in the most recent year from the Legal Contributions Trust to conduct its Youth Project for another year. The balance sheet shows a \$24,000 deficit but this is because we brought into the year a sizeable surplus in one off funds from the Commonwealth.

Over recent years where the agency has gotten a facelift, the only major purchase in the current year has been the purchase of a new photocopier for the agency with one off funding provided by the Commonwealth.

The staff continues to provide an excellent service to clients who access our agency and they remain committed to the work that they do on a daily basis. The organisation has been around since 1983 and remains more relevant today than it was then. It is unfortunate that additional recurrent funding has not been forthcoming and at a time when demand for services is likely to increase further how we will meet this demand will be a challenge. The need for additional funding to meet this demand is patently clear and long overdue.

Over the last year the Management Committee has met on a bi-monthly basis and this has addressed previous issues over achieving quorum. On only one occasion in the last year we have had to reschedule a meeting by a week but otherwise this seems to be working. We have also seen new Management Committee Members come on board and farewelled others during the last year. As a Committee we have endeavoured to engage suitable committee members to ensure that there is continuity and the right mix of skills to keep the organisation in good stead into the future.

We have seen Toni Emmanuel step down from the Committee in June 2010 and she welcomed a new son, Leo in early September. Glen Williamson stepped into the role of Deputy Chairperson following Toni's departure from the committee. Shortly after the last AGM Simon Barry joined the committee and over the last few months we have had Marina Georgiou join the committee and Jack Nicholas was to join our ranks in September but was sick. In December we also welcomed Kelly Shay, as the new UnionsWA rep on the committee. I would like to acknowledge the work of Toni Emmanuel, Daniel Pastorelli, Luke Villiers, Glen Williamson, Shayla Strapps, Simon Barry, Kelly Shay and Marina Georgiou over

the past year and am pleased that most of them have chosen to renominate for the committee in 2011/2012.

In the year ahead the agency including staff and committee members will be working together toward NACLC accreditation which will consume some energy. We will also be gearing up for new tender processes in relation to the Tenancy contract and working collaboratively with the tenancy network to ensure continuity and quality in servicing by community legal centres and demonstrating how well we are placed to deliver this program into the future.

In conclusion I would like to again thank all of the board members for their continued support of the agency and also to thank Kate and the staff of the agency for the way in which they assist the clients who come to Welfare Rights & Advocacy Service. I look forward to the year ahead and working together to overcome the challenges ahead.

Simon Millman
Chairman

Objects of TLC Emergency Welfare Foundation of Western Australia (Inc.)

The Objects for which the Foundation is established are:

- To provide emergency financial and material support to persons who are homeless, destitute, necessitous, suffering, distressed, disabled, disadvantaged or otherwise stricken by misfortune.
- To provide advice and other forms of welfare, assistance and guidance to those persons and to make representations on behalf of those persons.
- To liaise with and whenever appropriate request and arrange the services of public instrumentalities, or of charitable or other bodies which may be able to meet the needs of those persons.
- To cooperate with other organisations having Objects similar to those of the Foundation.
- To assist and represent persons in conducting appeals against administrative decisions by Government agencies.
- To work towards structural change aimed at the elimination of poverty within the community and seek to empower welfare recipients generally and with respect to their legal, welfare and other rights.
- To promote the principles of equal opportunity.

Vision, Values, Mission and Objectives

Our Vision

That all people be able to equally access adequate housing, justice, income support, education, health and employment opportunities and enjoy the level of decision making and self determination which all Australians expect.

Our Values

Welfare Rights & Advocacy Service provides a non-judgmental information, advocacy and referral service, which assists and empowers disadvantaged or low income groups in gaining equity.

Our Mission

To achieve structural change aimed at the elimination of disadvantage within the community and seek to empower citizens generally with respect to their legal, welfare and other rights.

Our Objectives

- To enhance people's skills in self-advocacy and decision making.
- To achieve structural change through social justice activities based on the experience of clients.
- To provide services that empower citizens with respect to their legal, welfare and other rights.
- To ensure Welfare Rights & Advocacy Service operates effectively and ethically.

Model of Service Delivery



Agency Report

Overview

Welfare Rights & Advocacy Service & Advocacy Service has continued in its most recent year to provide legal assistance in its traditional and specialist area of Social Security and Family Assistance Law, as well as in relation to Social Security Prosecutions and Tenancy Law. Demand for services has remained at similar levels as in past years however there has been a slight increase in the numbers seeking help for tenancy matters in the preceding year.

The core funding for the agency still remains with the Commonwealth Attorney General's Department through its Community Legal Service Program (CLSP) who fund our welfare rights program. Whilst we had been hopeful that with the most recent service agreement with the Commonwealth that there would be an increase in recurrent funding for those in the CLSP Program this did not come to fruition and as such the only increase to funding has been in line with CPI. Fortunately for the agency over the last two years the agency has been assisted by funds remaining from the injection of one off funding by the Commonwealth Attorney General in both 2008/2009 and 2009/2010. In the most recent year apart from recurrent core funding there was also an additional amount made available by the Commonwealth Attorney General to assist with capital purchases and to conduct an Indigenous Community Legal Education Program in the Kimberley and Pilbara.

In 2010/2011 we have continued for a seventh year to receive funding support from the Public Purposes Trust of the Law Society of Western Australia (PPT) to conduct a Prosecutions and Women in Prison Project in collaboration with the Women's Law Centre of Western Australia. Previously the agency has been subject to annual applications for this funding however in the most recent round of funding there was an extension to permit agency's to apply for three year funding rather than annual funding. The application was successful and as such the joint project is currently to be funded until June 2013.

The agency also continues to receive direct funding from the Department of Commerce to provide tenancy assistance in the Lower Northern Metropolitan Zone of Perth. This is the second year in which the agency has received funding to provide a full time tenancy service which was an increase from past provision. The agency continues to be funded through the Legal Contributions Trust to conduct a project, now in its fifth year, to provide additional welfare rights assistance to young people by increasing their access to legal assistance in the area of Social Security Law. The agency has not received any financial or other in kind support from UnionsWA for the last four years.

As a community legal centre the core services delivered by Welfare Rights & Advocacy Service continue to be in the three areas of casework assistance, community legal education and law and policy reform activities. There has been a slight decrease in the demand for

casework assistance by way of advice and casework assistance in the most recent year. All community legal education and policy and law reform activities undertaken by the service are linked to the experiences of clients presenting for assistance at the agency. The approach taken reflects the vision, values, mission and objectives of the TLC Emergency Welfare Foundation of Western Australia (Inc.) and the enunciated strategic direction of the organisation. Similar to previous years the agency has been provided with an increased ability to contribute in the area of law reform and legal policy in the most recent year due to our ongoing involvement with the National Welfare Rights Network (NWRN).

Direct Service Provision

The main area in which Welfare Rights & Advocacy Service provides direct service is in the provision of independent and free information, advice, advocacy and representation to those who wish to challenge Centrelink and Family Assistance Office decisions. The agency continues to prioritise the provision of information and advice to individuals so that they have knowledge of the appeal and review rights available to them to challenge decisions made by Centrelink and the Family Assistance Office.

The agency has been able to provide additional assistance in an area which has not been a traditional area for welfare rights centres to those who are seeking assistance in relation to Social Security Prosecution matters. For the last six years the agency has provided this help as part of its Prosecutions and Women in Prison's Project conducted in conjunction with Women's Law Centre. The agency also provides some casework assistance in the women's correctional facilities in Western Australia, at both Bandyup and Boronia Prisons. The Prosecutions and Women in Prison's Project has been funded by the Public Purposes Trust and funding is currently secure up to 30 June 2013. The agency continues to conduct a Youth Welfare Rights Project at the agency which undertakes casework assistance directed toward young people in settings which they already access.

The other main area of law outside of welfare rights assistance provided by the agency is in the area of tenancy law. This assistance is provided to both public and private tenants to ensure that they are aware of both their rights and obligations within Department of Housing policies and the *Residential Tenancies Act 1987*.

Delivery of direct casework assistance is provided by both lawyers and paralegals at Welfare Rights & Advocacy Service. The agency does not run a volunteer program and so direct casework assistance is not provided by volunteers. The agency is assisted at times by private lawyers who provide some ad hoc pro bono assistance on a case by case basis. The agency does not provide assistance in other areas of law outside of our designated areas of expertise and refer all other matters out to appropriate services.

Casework assistance provided by Welfare Rights & Advocacy Service in relation to welfare rights matters continues to be within the designated catchment area from North of the Swan

River to the top of Western Australia and across to the South Australian and Northern Territory borders. The geographic area serviced by Welfare Rights & Advocacy Service is the largest catchment area for any welfare rights service across Australia. As a specialist welfare rights centre the agency also provides some assistance to clients who are within the geographic catchment areas serviced by both Sussex Street Community Law Service and Fremantle Community Legal Centre. The assistance provided to clients outside of the welfare rights catchment area is in part due to organisational arrangements in the other centres where there are stand alone workers who may not be able to be accessed by clients due to staff being on leave, workload issues or where welfare rights positions may not be staffed on a full time basis due to the inadequacy of funding in the Commonwealth Welfare Rights Program.

The other main instance in which the agency may assist someone outside of its geographic catchment area is where a conflict of interest is identified for the appropriate geographic welfare rights service and due to legal requirements they are unable to provide assistance. There are reciprocal arrangements in place to permit Sussex Street Community Law Service and Fremantle Community Legal Centre to provide assistance to clients from our agency's catchment area where a conflict of interest is identified, so that Welfare Rights & Advocacy Service is unable to provide legal assistance. In most instances apart from conflict of interest cases every effort is made to ensure clients are linked into the appropriate geographic welfare rights service for advice and ongoing assistance. For some matters immediate action is required at the time of first contact which cannot be deferred until a worker is available in another service. In such circumstances assistance is provided, however for ongoing casework assistance the person is referred back to the welfare rights service for the area in which they reside.

Whilst there is a designated geographic catchment area for welfare rights matters the same restrictions do not occur in relation to Social Security Prosecution matters, as neither Sussex Street Community Law Service nor Fremantle Community Legal Centre provides assistance in relation to such matters. Regular referrals are made by both of these services to the solicitor at Welfare Rights & Advocacy Service. Where clients are provided with advice in relation to Social Security Prosecutions and they are located in the catchment areas of the other welfare rights services any challenges of administrative law decisions are pursued by the welfare rights worker in the catchment area with the solicitor from Welfare Rights & Advocacy Service providing support and advice through this process. In some limited circumstances where there might be an interconnection of potential prosecution for Social Security offences and administrative challenge of a Centrelink decision Welfare Rights & Advocacy Service may continue to act in relation to both aspects of the matter to diminish disruption for the client and to ensure that there is continuity of servicing. As the Prosecutions Project is unique across the National Welfare Rights Network the solicitor at Welfare Rights & Advocacy Service regularly provides support and assistance to solicitors across the broader network outside of Western Australia to workers at the various welfare

rights centres in other states and also to the Welfare Rights workers in the Northern Territory who work at NAAJA and CAALAS.

Similarly to the Prosecutions Project the agency does not adhere to the traditional welfare rights geographic catchment area in relation to the Youth Welfare Rights Project as neither Sussex Street Community Law Service nor Fremantle Community Legal Centre has a designated youth focused service. As this project is focused on increasing access of young people to welfare rights assistance it is considered that artificial geographic boundaries may not be conducive to facilitating this process, as initial connection is an important aspect of engagement with this population. Referral to another service could act as a barrier to a young person challenging a decision and receiving the ongoing assistance required to resolve their Centrelink matter.

Tenancy assistance is provided within the catchment area in the lower Northern Suburbs of Perth, which incorporates the Local Government areas of the City of Perth, Vincent, Subiaco, Nedlands, Claremont, Peppermint Grove, Cottesloe, Mosman Park, Cambridge, Scarborough, Glendalough, Wembley Downs, Wembley, Menoora, Coolbinia, Mount Lawley, Bayswater and Mt Hawthorn. Due to the longstanding co-operative relationship with Northern Suburbs Community Legal Centre our agency continues to provide services to those in other zones in the Northern Metropolitan Suburbs so that clients who may have traditionally used Welfare Rights & Advocacy Service under our previous agreement are not disadvantaged.

In the most recent year the agency has provided additional assistance to clients outside of its designated catchment zone into the southern suburbs of Perth due to tenancy positions in other services being without staff or where the incumbent tenant advocate does not have capacity to provide either advice or ongoing tenancy casework assistance in the near future. The agency continues to receive regular referrals from both the Department of Commerce and Tenants Advice Service in more complex cases and this is in part due to the long tenure of the agency's two tenant advocates.

This agency continues to maximise accessibility for clients and is open between 9.00 am to 5.00 pm from Monday to Friday with the exception of Public Holidays. As part of the TLC Emergency Welfare Foundation of WA Inc. Enterprise Bargaining Agreement the agency has a two week closure at Christmas time and an additional day off on Easter Tuesday. The latter condition of providing an additional day at Easter time was to bring parity between members of staff some of whom came under previous award conditions providing for a Public Holiday on Easter Tuesday. In 2011 due to the timing of Anzac Day falling on Easter Monday staff of the agency did not receive an additional day off, as the Anzac Holiday was observed on Easter Tuesday.

Priority in direct service and ongoing casework assistance at the agency continues to be to the most disadvantaged within the community, including those without income and also

those who are at threat of loss or a significant reduction in income. Tenancy assistance is prioritised to those who are at risk of eviction or are homeless. Beyond these priorities ongoing casework assistance is also provided to those who have additional barriers in the advancement of their cases, such as disability, culture, language, literacy, age and other diversity. Another relevant aspect of our service delivery is that ongoing casework assistance is provided only in matters where there is legal merit and the person is on a low income. Apart from the legal merit of a matter the agency does ensure that it assists in matters where there is a public interest dimension and also where a case is a “test case”. In determining as to whether or not ongoing casework assistance is to be provided the agency complies with casework guidelines which are an aspect of the agency Policy and Procedure Manual.

Whilst the articulated priority for casework assistance is to those on low or no income, as the range of Centrelink and Family Assistance payments are made to a broader cross section of the community and particularly some on higher levels of income the agency still provides one off advice to some who may have greater means than those who have traditionally accessed community legal centres. The agency routinely does not provide ongoing casework assistance in relation to welfare rights matters to those with means.

In relation to one off assistance and ongoing casework assistance for tenancy matters the agency provides help irrespective of means. The principal reason for this is because the Tenancy Education and Assistance Program of which our tenancy assistance is a part of, is funded from the interest from the Rental Accommodation Fund, which includes the bonds of the full range of tenants (including those on both low and high incomes) and therefore all tenants should have equal access to tenancy help. The agency does not provide any advice or assistance to tenants who are involved in tenant against tenant disputes as there is the potential for the eviction of a tenant.

The agency has a finite capacity to provide ongoing casework assistance and would not have the ability to meet demand for services if all who were provided with one off advice were helped to resolve their issue on an ongoing basis. In line with our service delivery approach and the objective of using empowerment approaches the agency regularly provides clients with information products and resources to permit them to take their own action. In situations where a person has the means to secure appropriate legal help in the market, one off advice is provided and supplemented with written materials to support the person pursuing their matter through the appeal and review process. In instances where there is little legal merit ongoing casework assistance is not provided.

The agency clearly communicates where a matter has little legal merit and that this is the reason why ongoing assistance will not be provided. Although the strict legal merit of a matter is a restriction to ongoing casework assistance being provided it is always articulated that the client has a right to pursue the matter. The agency regularly provides resources and information to assist those who want to continue their matter and exercise their right of

appeal. Welfare Rights & Advocacy Service also provides significant support to other community organisations who are working with their clients to challenge Centrelink and tenancy issues.

In terms of the advice and casework undertaken in the current year there has been an overall increase in the numbers of advice activities in the current year, at the same time as there has been a slight reduction in ongoing casework assistance through the opening of a case in 2010/2011. Whilst the numbers of advises and cases opened have changed the numbers of client provided with assistance in the current year has increased from 770 to 771, which includes existing and returning and new clients.

The presenting issues for clients continue to be varied and across the whole range of Social Security and Family Assistance Law, prosecution and tenancy matters. Welfare rights matters continue to be the majority of the work undertaken by the agency and this incorporates clients presenting for assistance in relation to Social Security Prosecutions.

Table 1
Top 10 Main Problem Types for Advice and Casework for agency for 2010/2011

Problem Type	Advice	Casework
Govt pensions/benefits allowances – recovery overpayment	164	104
Govt pensions/benefits allowances Other	153	31
Govt pensions/benefits allowances – refusal eligibility	133	45
Govt pensions/benefits allowances	119	38
Deception and related offences	87	46
Tenancy Bond	60	7
Tenancy Access	53	9
Termination by Lessor	55	8
Tenancy Rent	45	4
Tenancy Other	42	2

The problem types above relate to the problem types which are permitted on the Community Legal Service Information System (CLIS) which is the database used by the Commonwealth to keep quantitative data on those being provided with assistance under the CLSP Program.

Centrelink and Family Assistance debts matters continue to be the area in which a significant amount of energy is expended as this is the most common issue for clients presenting for assistance at the agency. In the most recent year 17% of those accessing the service for advice assistance have had Centrelink or Family Assistance debts. The prevalence of the agency dealing with debt matters may correlate with the agency providing assistance in relation to Prosecution matters, as prosecution issues are recorded on the data base under the category of debt and recovery issues as well as under Deception and related offences.

Table 2**Breakdown in relation to the specific issue of debts and recovery issues as recorded on CLSIS.**

Debts and Recovery Issue	Advice	Casework
Prosecution	99	55
Existence of Debt	33	18
Waiver	21	11
General Inquiry	17	13
Rate/Mode of Recovery	10	6
Debts etc Other	8	1
Quantum of Debt	7	5
Compensation Debt	2	2
Write Off	1	1

This year we have noticed fewer smaller debts being referred by Centrelink for consideration for prosecution by the Commonwealth DPP. In part this may be as a result of Centrelink raising the amount at which a debt is automatically considered for referral to the Commonwealth DPP from \$5,000 to \$10,000. Last year the National Welfare Rights Network lobbied Centrelink's Business Integrity section for this increase to occur and we are now seeing the results of this change in the Prosecutions work undertaken by the agency. It is pleasing that Centrelink Prosecutions Team regularly refer clients to Welfare Rights & Advocacy Service to get legal advice when they have been invited to participate in a Prosecution interview.

This year a number of matters that have been referred by Centrelink to the Commonwealth DPP have been put on hold before a prosecution has been commenced. The explanation for this in part may be attributed to the Commonwealth DPP waiting for the outcome in the matter of *Poniatowska v DPP (Cth)* which is currently awaiting a decision by the High Court, as it would potentially impact on a number of current and past Social Security prosecutions where the offence was based on a failure or omission of the person rather than a positive act.

In *Poniatowska v DPP (Cth)* (2010) 271 ALR 610; [2010] SASCFC 19 (*Poniatowska*), the full court of the Supreme Court of South Australia (majority decision) held that 'section 135.2 does not define any duty or obligation relevant to an offence committed by way of omission' (that is, paragraph 4.3(a) of the *Criminal Code* did not apply). It further noted that the CDPP had not relied on any notice issued to the defendant to establish such a duty (i.e. to inform the Department of an event or change of circumstances) and that the Administration Act did 'not create a separate "stand alone" obligation (that is, paragraph 4.3(b) of the *Criminal Code* did not apply). Accordingly, the court held that the defendant 'could not, in law, have been convicted of the offences charged' and set aside the convictions which had been recorded against the defendant.

The Commonwealth has appealed the *Poniatowska* decision to the High Court, which has reserved its decision. The current position is that a large number of past convictions are at risk of being overturned on appeal on the basis of the decision in *Poniatowska*. Since the decision, the CDPP has adjourned or discontinued a large number of matters of this kind before the courts. The CDPP is also not

commencing new proceedings of this kind, pending the determination of the appeal before the High Court.]

The CDPP did not, in past prosecutions, rely on the notices given to the person by Centrelink to establish the person was under a duty to inform Centrelink as it was understood that this was not required. It is not possible to defend past convictions appealed on the basis of the reasoning in *Poniatowska* by seeking to introduce such notices into evidence to establish the duty. In addition, it has become apparent that it may not be able to be proved beyond reasonable doubt that such notices have complied with the requirements of section 6A of the Administration Act during the relevant period of time.¹

As a result of the *Poniatowska* decision the Government introduced the *Social Security and Other Legislation Amendment (Miscellaneous Measures) Bill 2011* in June 2011 to introduce a requirement for a person to notify of a change in circumstances within 14 days and also an amendment to permit decisions by computer programs. Unlike many other provisions of Social Security law these amendments were to apply retrospectively (in the case of the first provision to 20 March 2000 and the latter from 12 June 2001.) These amendments received Royal Assent on 4 August 2011. They were designed to avoid the situation where hundreds of former convictions could be cast into doubt and allow prosecutions in the future where it is alleged that a person has been overpaid as a result of an omission by them.

It is apparent that in many of our clients' matters, debts could have been prevented or minimised had Centrelink adopted better practices to ensure payments made to people are correct. We have continued to raise our concerns with Department of Human Services (DHS) both in individual matters and by suggesting positive steps they can take to ensure people are not overpaid (and therefore not at risk of prosecution).

Table 3
Payment Entitlement Type for those seeking Welfare Rights assistance as recorded on CLSIS for 2010/2011

Payment Entitlement Type	Advice	Casework
Disability Support Pension (DSP)	160	51
Newstart Allowance	126	53
Parenting Payment Single (PPS)	116	66
Family Tax Benefit A (FTB)	55	15
Age Pension	52	8
Youth Allowance	25	10
Carer Payment (Adult)	14	1
Payment Other	10	4
Special Benefit	10	2
Austudy	9	2
Parenting Payment Partnered (PPP)	8	2

¹ Commlaw, The Explanatory Memorandum to the Social Security and Other Legislation Amendment (Miscellaneous Measures) Bill 2011, <http://www.comlaw.gov.au/Details/C2011B00119/Explanatory%20Memorandum/Text>

It is of interest that the payment entitlement type that clients seeking welfare rights assistance with, that the highest proportion relate to Disability Support Pension followed by those with Newstart Allowance and Parenting Payment Single issues. In the latest year we have continued to have a steady stream of clients accessing the service in relation to Disability Support Pension matters similar to what has occurred in past years. Eligibility issues continue to be an issue including confusion of clients over the rules relating to pre and post 2006 Welfare to Work changes. This has not been reduced with the regular media reports relating to Disability Support Pensioners and the vilification of those on these payments. The agency continues to regularly assist clients who have had long term conditions who have complied with treatments provided by their treating health professional and yet when they have a Job Capacity Assessment they are found to have conditions which are not fully diagnosed, treated and stabilised and therefore deemed to be temporary conditions which do not attract impairment points.

Too regularly the agency sees instances where clients have had a number of Job Capacity Assessments and there is little consistency between the assessments made by the various Job Capacity Assessors. This inconsistency has been borne out in the recent trials conducted on the new Impairment Tables for Disability Support Pension. In the limited trial undertaken in Victoria "the department commissioned Taylor Fry Pty Ltd to 'get an independent view of the results of those trials'. Taylor Fry examined 215 assessment results, of which 35 were assessed by two different assessors using the draft revised impairment tables." ² As part of their finding they concluded "with respect to inter-assessor reliability, Taylor Fry concluded there was 'a significant amount of disagreement between assessments of the same person, with a difference of 35 per cent in some cases'. ³ The recent Senate Committee were also advised that the last time that there had been any crosschecking of the reliability of inter assessor assessments by FaHCSIA had been in 1993. ⁴ It is pleasing that the Senate Committee recommended that in future the Departments check inter assessor reliability as part of their regular quality assurance mechanisms regularly. ⁵

With the recent introduction of changes to Disability Support Pension from 3 September 2011 which require a person who is not severely disabled to have to complete a program of support as well as the existing medical and continuing inability to work requirements it is likely that there will be even more demand for assistance. This workload will increase further from 1 July 2012 when the new Impairment Tables for Disability Support Pension will come into effect. The research conducted assessed against both the old and new Impairment Tables and found that 41% of those who would have qualified under the old

² Senate Community Affairs Legislation Committee, Disability Impairment Tables: Provisions of Schedule 3 of the Social Security and Other Legislation Amendment Bill 2011, September 2011, http://www.aph.gov.au/senate/committee/clac_ctte/Soc_Sec_Amend/report/report.pdf, p 28

³Ibid p 28

⁴Ibid p 30

⁵Ibid p 31

tables will not qualify under the new Tables.⁶ This is particularly problematic as the new Impairment Tables will be used in the reviews of at least 2.2% of the total DSP population per year which in 2010/2011 equated to 18,100 clients who were reviewed.⁷ If 41% of these clients are found to be medically ineligible for the payment under the new tables then that could equate to 7,421 clients having their DSP cancelled each year. Unlike other changes which have occurred where there has been a significant change some protection by way of grandfathering provisions such as with the Welfare to Work changes there will be nothing to impede significant numbers being placed on the lower paying Newstart Allowance. It is questionable how welfare rights services will be able to cope with the increased demand as a result of these changes.

Welfare Rights Case Study

Mrs F is a 45 year old woman with 5 children who was referred by Sussex Street Community Legal Service to the agency, as their main welfare rights solicitor no longer worked there and they were unable to assist her further. The worker from Sussex Street Community Law Service had requested Mrs F's file papers under Freedom of Information and these had been received. Mrs F had had her Centrelink and Family Assistance payments cancelled, as Centrelink alleged that she was a member of a couple with her former partner from January 2001. Centrelink also raised two debts in the amount of \$62,063 and \$18,206 in respect of Parenting Payment Single and Newstart Allowance paid to her from 2001.

Mrs F had contacted Centrelink and asked for a reconsideration of the decision that she was a member of a couple. The Original Decision Maker (ODM) completed a reconsideration of his decision and sent a letter to Mrs F in April 2010. Mrs F then rang the ODM on two occasions and left messages on his phone saying that she did not agree with the decision and wished to have it looked at again and asked for the ODM to call her back. The ODM did not phone Mrs F back. In the ensuing months a further \$42,811 was raised in Family Tax Benefit debts for the period of the Parenting Payment and Newstart Allowance debts.

At the time that Mrs F came to the agency she had been without Centrelink payments from March 2010 to August 2010. Contact was made with Centrelink and it was found that there had been no request for review registered for Mrs F. On the same day a request for review was made on behalf of Mrs F and that she had previously made requests for review and these had been ignored by the ODM and had not been recorded on her Centrelink records. The request for review was directed to the Manager of Business Integrity and the request for review should be deemed to have been received within the 13 week time limit permitted, so that Mrs F was not disadvantaged by the ODM's inaction. The Business Integrity Team Leader contacted the agency to find out if Mrs F wanted to receive payment pending the outcome of the review. Kate Beaumont assisted Mrs F to obtain payment pending the outcome of review as she had struggled to survive financially since the cancellation of all of her payments 5 months previously living off her earnings from working one day per week and Child Support paid by her ex-husband in respect of their children, and borrowing money from her sister and boss. Centrelink agreed to Mrs F being paid pending the outcome of the review and received

⁶Ibid p 28

⁷Ibid p 29

payments for the period that she had been without payments. Apart from the cancellation of Mrs F's payments her eldest son's Youth Allowance had also been cancelled as a result of the decision that Mrs F was a member of a couple. As a result of the restoration of Mrs F's payments her son's Youth Allowance was also restored.

After getting Mrs F back onto payments Catherine Eagle provided written submission to the Centrelink ARO refuting the allegation that Mrs F had been a member of a couple with her ex-husband from January 2001 and that she remained living separately and apart from him on a permanent or indefinite basis. In that submission Catherine Eagle highlighted that there had not been a proper record of the basis for the decision that had been made and it appeared that the ODM had given very little weight to information which indicated the Mrs F was **not** a member of a couple. Additionally there was no record of information provided to the investigator by Mrs F's employer in lengthy conversations which she had with him which set out that Mrs F was not a member of a couple. It was also suggested that the record made of the interview between Mrs F and the investigator was not an accurate record of the interview and information provided by Mrs F missing from the record would have supported a finding that she was not a member of a couple. Further third party evidence was provided to the Centrelink ARO. The Centrelink ARO then requested an opportunity to interview Mrs F. The ARO interviewed Mrs F with Catherine Eagle in attendance. The following day after the interview the ARO set aside the original decision and found that there was insufficient evidence to support a finding that Mrs F was not living separately and apart from her ex-partner.

As a result of the assistance provided by Welfare Rights & Advocacy Mrs F went from a situation of she and her son not receiving Centrelink payments for over five months and Mrs F owing in excess of \$133,057.60 to Centrelink to receiving full back payment and not owing any money to Centrelink. Additionally Mrs F's son's Youth Allowance was restored and he was similarly backpaid to when his Youth Allowance had been cancelled as a result of the Centrelink decision that his mother was a member of a couple.

Tenancy law is the other focus of casework assistance for the agency. The agency has continued to have a steady stream of clients accessing the service in relation to their public or private tenancies. Unlike the previous year there has been an increase in demand for tenancy assistance in the current year following a reduction in 2009/2010. The most prevalent tenancy issue in the current year continues to be related to bond disposal followed closely by housing access.

Table 4
Breakdown of tenancy clients according to tenure type where provided

Tenure Type	Advice	%	Casework	%
Boarder or lodger	3	0.1%	1	0.2%
Community Housing	6	0.2%	2	0.4%
Homeless or in transitional housing	2	0.08%	1	0.2%
Owner/Purchaser	1	0.04%	0	0%
Private Rental	155	62.5%	10	24.4%
Public Rental	81	32.6%	16	39%

Similar to recent years the housing affordability crisis in Western Australia has had an impact on those seeking assistance as there is a dearth of readily available low cost housing. Over the most recent year there has been an increasing trend of individuals and families languishing on priority waiting lists with the Department of Housing for longer periods of time as there is no available stock. This can be particularly problematic for larger families as the availability of this type of stock is at a premium. Unfortunately an aspect of the work of the tenant advocate is to manage the expectations of clients on waiting lists as they become increasingly frustrated as they wait a number of years prior to allocation of a property.

In the most recent year the agency has had an increased demand for assistance in relation to evictions by the Department of Housing and this has correlated with the introduction of the new Three Strike Policy relating to Anti-Social Behaviour by tenants. Over recent months the agency has also seen an increase in the Department of Housing seeking eviction orders in relation to monies owed for rent and water consumption. It is of concern that many of these clients already have arrangements in place for payments to be made directly from their Centrelink payments and the Department of Housing is now seeking to increase the rate at which they recover outstanding debts. Rather than negotiating with the client or asking them to pay a higher rate of repayment they are seeking to terminate their tenancy.

In many of these cases water bills have been allowed to accrue to thousands of dollars without action and the first the client becomes aware of the issues is when they lodge at court. There have been instances where these clients have been threatened by Department of Housing staff with being put on Child Protection Income Management and also where tenants have been forced to be on voluntary income management as a condition of staying in a tenancy and put into court agreements. Whilst the agency to date has been successful in some instances in preventing eviction we are concerned about Department of Housing tenants who do not get assistance from a tenancy service and are evicted. As such Welfare Rights & Advocacy Service have started preliminary discussions with Northern Suburbs Community Legal Centre and Sussex Street Community Law Service about the establishment of a clinic at the Local Court to assist tenants and ensure that they have advice prior to their court matters.

Tenancy Case Study

Miss C is a 33 year old sole parent with an acquired brain injury with two young children who was referred to Welfare Rights & Advocacy Service by a local emergency relief agency, as she was being evicted from her Department of Housing accommodation. Although Miss C was not in the geographic catchment area for tenancy assistance by Welfare Rights & Advocacy Service she had already approached a number of legal services (including the tenancy service in her area) for help without success. Miss C was facing immediate eviction under Section 73A of the Residential Tenancies Act (1987) as they regarded that she had intentionally or recklessly caused or permitted or was likely to cause of permit, serious damage to the premises and adjacent premises at the complex and to

person(s) in occupation at the adjacent premises. The application was made by the Department of Housing on 24 May 2011 after a drug raid by the Organised Crime Squad the preceding week in which police located and dismantled a portable drug lab and which resulted in the arrest of one occupant for suspicion of the manufacture of prohibited drugs and alleged manufacture which had already taken place at the property. Paul Harrison was assisted in preparation of this case by the Principal Solicitor from Street Law, Ann Margaret Walsh, who was previously the Principal Solicitor at TAS. Paul Harrison represented Miss C in court.

The situation for the client was that she had met a man on Thursday and he had stayed at her unit over the weekend. Over the course of the weekend some of his associates came to the property and they were doing something in the carport. Miss C had asked him to get them to leave as soon as they arrived at the property, as she did not know them and did not want them there. They did not enter her home at any time. During the course of the weekend she saw gas bottles and piping in her carport and again told the male to get his associates to leave. The associates eventually left on Sunday. On Sunday she found a fit pack inside her house which the male said he would get rid of. On Monday the police arrested the male on the street with drugs in his possession and then conducted a raid on Miss C's premises. During the raid the police found chemicals in the carport and piping and the fit pack on top of her wardrobe in the main bedroom. The police were able to establish from the evidence in the carport that drugs had been manufactured in the carport. Further charges were laid against the male in regard to the manufacture of illegal drugs and the police took away the paraphernalia and chemicals and cleaned the area. Miss C was not charged. On Wednesday Miss C went to her shed at the back of the property and discovered chemicals and piping stored in the shed. Miss C then contacted the police and they returned to the property and took away the items which had been stored in the shed. Afterward the environmental health officer from the council attended the property in regard to chemical spillage into the ground.

The case presented by Paul Harrison was that the application by the Department of Housing should be dismissed on the basis that the elements of Section 73, as outlined in their application could not be proved because there had been no serious damage to the property or injury to other persons and there was no evidence that there was any likelihood of there being this damage to property or other persons into the future. The Magistrate found that the elements of Section 73 were not proven and dismissed the matter thus preventing Miss C and her children from being evicted.

In recent times the Department of Housing has increasingly used Section 64 (60 days notice for no reason) when proceeding to evict rather than trying to prove the elements of either Section 50, 62 or 73. In the past where cases have gone to court where Section 64 has been used the court has determined that it has no ability to prevent eviction unless it is able to be demonstrated that the eviction action has been taken in retaliation due to the tenant exercising their legal rights to complain under the Residential Tenancies Act 1987. The assistance provided in this case prevented the eviction of Miss C and her young family and the success in preventing eviction in this case may help to encourage other tenant advocates to assist clients at court defending Section 73 evictions. If assistance had not been provided by Welfare Rights & Advocacy Service & Advocacy Service and the lawyer from Street Law working collaboratively it is likely that the Department of Housing would have secured an immediate eviction order and Miss C and her two children would have been homeless.

Assistance provided by Welfare Rights & Advocacy Service is summarised in Table 4, which provides key numerical data for the 2010/2011 year with comparison against the previous three years across all of the key areas of service delivery including casework, information occurrences, legal advice, community legal education and law reform projects. The information provided comes from data recorded on the Community Legal Service Information System (CL SIS), the database on which all agency activities are recorded.

Table 5

Key numerical data of service use for 2010/2011, 2009/2010, 2008/2009 and 2007/2008 delineated into Casework, Information Occurrences, Legal Advice, Community Legal Education and Law Reform Projects.

Service Activity	2010/2011	2009/2010	2008/2009	2007/2008
Casework				
Clients with cases open and clients with cases opened	337	348	284	379
Cases Opened	280	284	219	313
Cases Closed	276	267	219	308
Information occurrences	202	197	286	349
Legal Advice				
Number of clients	771	775	713	677
Total number of advices	957	922	803	820
Face to Face	45	37	43	72
Telephone	873	868	748	729
Mail/Email	27	17	12	19
Community Legal Education	19	22	23	20
Law Reform Projects	26	31	45	30

It has been a trend over the last eight years that the numbers of information occurrences have reduced for the agency each year. This has occurred as a result of the manner in which these activities are recorded on the Community Legal Service Information System (CL SIS) and due to changes to the agency's listing in the Yellow Pages.

Table 6

Information occurrences breakdown of areas of law where the agency has made referrals to other service providers for assistance.

Area of Law	Number of Referrals
Welfare Rights	83
Tenancy	47
Child Protection	23
Family Law	10
Credit/Debt	9
Consumer complaints	8
Employment	5
Wills/Probate	5
Civil	4
Child Support	3
Govt Admin/Mental Health	2
Injuries	1
Immigration	1

In 2010/2011 the highest numbers of information occurrences related to welfare rights and tenancy matters. Usually referrals made in relation to welfare rights and tenancy matters relate to those accessing the agency that do not reside in the geographic catchment area serviced by Welfare Rights & Advocacy Service and reflect referrals to appropriate services closer to the client. There has also been a considerable reduction in the numbers of tenancy referrals over the last five years and this in part has been because the agency has greater capacity to deal with all of the requests for tenancy assistance. This is because in the past when the agency had a part time tenancy service there were some restrictions on our ability to respond to all of the demand for tenancy assistance within our geographic zone. Concomitantly with increased tenancy assistance being provided by this agency there has been an augmentation to the assistance provided by other services and so this has resulted in a greater capacity across the entire tenancy network to meet demand for tenancy assistance in Western Australia.

The numbers of cases opened in the current year has reduced slightly from the numbers opened in the preceding year. This has occurred at the same time as there has been an increase in the numbers of advice activities undertaken by Welfare Rights & Advocacy Service with an increase of 35 advices in the current year. The greater proportion of clients accessing for advice assistance continue to by telephone and in 2010/2011 there has also been an increase in the numbers being provided with face to face, mail and email advice by the agency.

Table 7

Provides a breakdown of the Closed Cases for the period 2010/2011 and the time taken to complete using the parameters set down by the Commonwealth Attorney General's Department.

Closed Case Classification	Number of Hours	Numbers
Minor Case	0-5 hours	174
Medium Case	6-20 hours	66
Major Case	Over 20 hours	22

There were 242 cases closed during the 2010/2011 and Table 2 details the time taken to complete these cases using the parameters set down by the Commonwealth Attorney General's Department. The categories used by Commonwealth Attorney General's Department on the CLSIS data base do not provide the actual time taken to complete cases and from our experience the time taken to complete major cases greatly exceeds the 20 hour benchmark provided. As casework assistance is regularly provided through the various review and appeal processes up to the Administrative Appeals Tribunal it can take considerable time for matters to progress to conclusion.

There were 4 clients assisted with representation at court, including the Social Security Appeals Tribunal, Administrative Appeals Tribunal, Local Court and the Department of Housing Tier 2 and 3 in 2010/2011. After many years of the agency experiencing difficulties in the recording of cases involving representation at court or tribunal on CLSIS in the most recent year the agency has finally worked out the way in which to record these activities correctly so in future these activities will be more easily reported on.

A demographic profile of those who have used the service during 2010/2011 is presented in the various tables below headed Table 8 and this represents data on those for whom such information has been provided or collected. The agency does not routinely ask the full range of demographic information, which can be collected on the CLSIS Database, from clients prior to the provision of services, as this can sometimes get in the way of providing assistance where there is a requirement for a client to answer 20 questions before getting help. The agency always ensures that it satisfies its Professional Indemnity Insurance and NACLRC Risk Management Requirements as part of its intake processes prior to giving advice or ongoing casework assistance to ensure that assistance is not provided where there is a conflict of interest identified.

Table 8**Demographic Characteristics of People using Welfare Rights & Advocacy Service in 2010/2011 where demographic information recorded.**

Gender	Advice	%	Casework	%
Male	288	34%	86	30.8%
Female	557	66%	193	69.2%

There continues to be greater numbers of women who access this service for both advice and casework assistance which is consistent with trends in the past. The higher numbers of females seeking help is reflective that women are more likely to be receiving income support payments and therefore more likely to have problems with Centrelink and the Family Assistance Office.

Age	Advice	%	Casework	%
Under 18	7	3%	6	2.8%
18-34	90	37%	53	24.8%
35-49	74	30.7%	94	44%
50-64	46	19%	50	23.4%
65 +	24	10%	11	5%

In the latest year the agency has provided assistance to clients across the entire age range from 15 years to 92 years of age. The least represented group in the current year continues to be those under 18 years of age followed closely by those over 65 years of age. As with previous years the most represented age group seeking advice assistance are those between the ages of 18 to 34 years of age although the most represented in terms of ongoing casework assistance are those aged between 35 to 49 years of age.

Family Type	Advice	%	Casework	%
Not living with a family	193	32%	60	33%
Sole parent family with dependent children	171	28%	61	30%
Two parent with dependent children	88	14.5%	33	16%
Family type other	152	25%	44	21%

Family type is another area in which information is obtained about those accessing for advice and casework assistance. In 2010/2011 the greatest number of clients accessing for advice assistance were those not living in a family, followed closely by sole parents with dependent children and those who were classified as family type other. In relation to ongoing casework assistance sole parents with dependent children was the most represented family type closely followed by those not living in a family.

	Advice	%	Casework	%
Aboriginal and or Torres Strait Islander	32	3%	15	5%

In the most recent year most service users identified as being Australian born and in the current year 3% of clients seeking advice identified as being Aboriginal or Torres Strait Islander which represented an increase from 2009/2010. Of the ongoing casework undertaken by the agency in the most recent year 5% of clients identified as being Aboriginal or Torres Strait Islander. The agency regularly receives direct Centrelink and tenancy referrals from both Aboriginal Legal Service and Day Dawn Advocacy.

Country of Birth	Advice	%	Casework	%
Australia	677	81%	210	79%
New Zealand	12	0.14%	2	0.07%
United Kingdom	41	4.9%	6	2.2%
Europe	24	2.8%	3	0.11%
Asia	35	4.1%	18	6.8%
North Africa /Middle East/South Africa	49	5.8%	26	9.8%
South America	1	0.01%	0	0%

Of those accessing the service for advice assistance who specified that they were born overseas 32.7% were from countries where the dominant language spoken is English and the remaining 62.7% of clients born overseas come from cultural and linguistic backgrounds where the dominant language spoken is not English. The highest number of clients accessing for advice and casework assistance who were not born in Australia and where English was not the dominant language were clients from Sudan.

Welfare Rights & Advocacy Service regularly uses the Telephone Interpreting Service to facilitate communication with its clients from culturally and linguistically diverse backgrounds. Bookings for on-site interpreters still have to be made well in advance to secure these types of interpreting services. Unfortunately for some languages it is impossible to secure an on-site interpreter in particular languages due to the scarcity of accredited interpreters. Additionally the agency has recently had to secure interpreting services outside of TIS as they were unable to provide an interpreter in the language needed to assist our client. As a result of providing assistance to this client the agency incurred costs. There continues to be improved access to on site interpreters since Commonwealth Attorney General's Department has taken over funding the provision of on-site interpreters, as part of the Community Legal Service Program.

Disability	Advice	%	Casework	%
Disability Indicator	317	33%	114	40%
Dual Disability	42	9.5%	9	7%
Disability not specified	111	25%	12	9.4%
Physical	93	21%	33	25.8%
Psychiatric	152	34.4%	64	50%
Neurological	3	0.6%	1	0.7%
Intellectual	3	0.6%	0	0%

In view of the high numbers of people accessing the service in relation to Disability Support Payment issues not surprisingly 33% of those seeking advice and 40% of those receiving ongoing casework assistance identify as having a disability. This is an increase in the numbers from 2009/2010. Of those who indicate they have a disability 9.5% identify as having a dual disability. Where a dual disability is recorded there is not capacity to identify further the types of disability. The single most identified disability in the current year in terms of advice and casework assistance is psychiatric disability. In 2010/2011 34.4% of those who were provided advice and 50% of those who were provided with ongoing casework assistance identified as having a psychiatric disability. The numbers in the current year shows an increase from 2009/2010 where only 25% of clients identified as having a psychiatric disability. Consistent with the preceding year physical disability is the second most prevalent disability in terms of both advice and casework assistance. Of those who identify as having a disability 25% have not specified what type of disability they have.

Income Scale	Advice	%	Casework	%
High Income	1	0.1%	0	0%
Medium Income	35	4%	6	2.4%
Low Income	701	89%	212	83.6%
No Income	47	6%	36	14%

Priority for assistance is targeted to those who do not have the means to obtain legal assistance in the market place and in 2010/2011, 89% of clients accessing for advice and 83.6% accessing for casework assistance were classified as being on a low income. In the most recent year it is concerning that 6% of those seeking advice and 14% of those receiving ongoing casework assistance were without income. This is reflective also of the agency prioritising its casework assistance to those without income.

Income Source	Advice	%	Casework	%
Earned (eg wages and salary etc.)	196	24%	53	20%
Government pension, benefit or allowance	585	72.6%	203	77%
Income source other	24	3%	7	2%

The main source of income for those who accessed the service for advice and casework assistance in 2010/2011 was not surprisingly those on pensions, benefits and allowances at 72.6% and 77% respectively.

Welfare Rights & Advocacy Service currently surveys clients on an annual basis taking a snapshot of a two week period where all those provided with advice or who participate in community legal education activities are surveyed. These surveys are part of our contractual requirements for the Commonwealth Attorney General's Department. The results of such surveys continue to provide positive feedback about both types of activities (advice and education) and are entered into the CLSIS database at the end of each survey period. Additionally the service continues to issue surveys to clients at the time their cases are closed to provide ongoing feedback in relation to service delivery. Consistently in these surveys clients indicate a high level of satisfaction with the service they have been provided by the service.

Community Legal Education

Welfare Rights & Advocacy Service continues to prioritise the conduct of community legal education activities within its service delivery. In total there were 19 community legal education activities conducted by Welfare Rights & Advocacy Service in 2010/2011 which included delivery of formal sessions conducted with a variety of audiences, including clients, community workers, government employees and students. Welfare Rights & Advocacy Service workers continue to work collaboratively as a team in the preparation of community legal education materials and both materials and sessions are modified for the individual activities and in line with the prospective audience and the purpose of the session. Every effort is made to ensure sessions are appropriate to the level of knowledge of the participants and feedback is actively sought in order that there is continuous improvement in such activities. Staff of the agency utilise technology available to them when presenting information, which is also modified to fit the venue, audience and facilities available.

Through the year the agency presented community legal education activities in both metropolitan and rural and remote locations within our geographic catchment area. In 2010/2011 the agency received some additional one off funding to conduct an Indigenous Community Legal Education Project in the Kimberley building on from a previous project conducted in conjunction with Youth Legal Service, Pilbara Community Legal Centre, Kimberley Community Legal Service and Legal Aid WA. In the most recent year as part of that project sessions were conducted in Kununurra and Wyndham, as part of Kimberley Law Week and were provided to a variety of participants and designed to meet the needs of those undertaking the activities although the major focus was on those assisting Indigenous clients.

The agency conducted activities in a range of localities and covering a variety of topics and issues. Community legal education activities undertaken throughout the year have included singular and multiple sessions conducted at:

- Palmerston Drug Rehabilitation;
- Financial Counsellor's Association
- NWRN Conference;
- Centrelink Service Delivery Advisory Group;
- Centrelink AROs;
- Edmund Rice Centre;
- Kimberley Community Legal Centre;
- CLCA WA – CPD Sessions;
- Training of new Sussex Street Law Service Welfare Rights Worker;
- Wyndham CLE;
- Financial Counsellors Resource Project;
- Aboriginal Family Violence Perth; and
- NWRN Conference.

Law Reform, Policy and Media Activities

In recent years there has been a significant increase in the numbers of law reform activities undertaken by the agency due to Kate Beaumont's role initially as Vice President and more recently as President of the National Welfare Rights Network (NWRN) from August 2008 and then with her return to the role of Vice President from October 2010.

The law reform, policy and media activities undertaken by Welfare Rights & Advocacy Service come from the experiences of the clients we assist through our casework activities. Priority is given to the conduct of such activities as they can result in changes at a structural and systemic level, which can benefit greater numbers within the community beyond the individual client assisted in casework activities. In the last year Welfare Rights & Advocacy Service raised issues with Centrelink at a local level about a range of issues including:

- Family Tax Benefit prohibition issues;
- Fraud and investigation practices;
- Delays in the processing of Disability Support Pension claims and lost documents (including initial claims);
- Continuous assessment for Family Tax Benefit; and
- Centralisation of Authorised Review Officers.

The agency also took up opportunities to participate in forums relating to issues for clients of our service including:

- AAT Liaison Meeting;
- Commonwealth Ombudsman's Office Meeting;
- Serious Fraud Meeting;
- Civil Law Meeting with Legal Aid WA;
- CLCA WA Strategic Policy Meeting;
- Department of Employment, Education and Workplace Relations Consultation;
- Department of Human Services Consultations in relation to Stakeholder Engagement in relation to Service Delivery Reform;
- ANAO;
- Employment Services Review;
- Housing Forums;
- Pro Bono Network Group; and
- Department of Housing Community Consultation.

At a local level the agency participates in the local Welfare Rights Sub-Committee, which meets quarterly and includes workers from the three centres who provide welfare rights assistance from Sussex Street Community Law Centre and Fremantle Community Legal Centre, as well as representatives from Gosnells Community Legal Centre. In the most recent year this group has not met as regularly. Representatives of the agency also participate in the Centrelink Community Consultative Meeting, Centrelink Aboriginal Consultative Meeting, Centrelink Mental Health Consultative Meeting, Centrelink Homeless Steering Committee, Morley Centrelink Community Meeting, Tenancy Network Meetings, Tenancy Policy and Procedure Meetings, Shelter WA Management Committee, WA Stakeholder Consultative Committee, WA Community Legal Centres Association Meetings, the CLC Association PII and Professional Development Sub Committee, NACLCL PII Committee and Pro Bono Network Working Group. The agency also takes up opportunities to participate in community forums as they arise and participated in activities with other community organisations during the year.

In 2010/2011 Catherine Eagle continued as the WA State Representative on the NACLCL PII Committee and as the convenor of the WA CLC Association PII and Professional Development Committee. In that role Catherine Eagle is responsible for oversight of the Annual PII Crosscheck undertaken in community legal centres in Western Australia and also the continuing professional development for legal practitioners within community legal centres. Catherine Eagle works closely with staff of the WA CLC Association and others on the Sub Committee to ensure compliance with NACLCL and CPD requirements. Additionally Catherine Eagle is the CLC representative on the Pro Bono Network Working Group. In the latest year as the State Representative on the NACLCL PII Committee Catherine Eagle has spent considerable time working with others in that committee on the new Risk Management Guide which is to be implemented on 1 November 2011.

Welfare Rights & Advocacy Service continues to actively participate in the National Welfare Rights Network (NWRN), in collaboration with all of the other welfare rights services across Australia. Attendance at the annual NWRN Conference is seen by the agency as a key opportunity to gather with others within the network to identify common areas of concern and action for the coming year. In 2010 Catherine Eagle, Marilyn Marvelli and Kate Beaumont participated in the NWRN Conference which was held in Melbourne preceding the National Association of Community Legal Centres (NACLC) Conference.

Staff of Welfare Rights & Advocacy Service participate in a number of the NWRN Sub Committees which address specific policy/law reform issues and include:

- Member of a Couple Sub Committee;
- Prosecutions Sub Committee;
- Northern Territory Welfare Rights Outreach Project Sub Committee; and
- Debt Prevention Sub Committee.

Additionally staff of the agency have been involved in the convening, chairing and participating in both Members Meetings and Committee Meetings of the NWRN which have a focus on both policy and law reform, as well as the governance of the NWRN.

Kate Beaumont has in 2010/2011 continued as an office bearer of the NWRN although her role has changed in the most recent year. As such, Kate Beaumont has continued to be involved in much of the law reform and legal policy work undertaken by both the NWRN and Welfare Rights & Advocacy Service. Throughout 2010/2011 the NWRN continued to have regular dialogue with various Ministers, politicians, Government Departments and agencies in its efforts to influence legislation to be enacted and the processes of service delivery on the ground. The NWRN had Bi Annual Delegations which met with Centrelink twice in the latest year in October 2010 and March 2011. Both Kate Beaumont and Catherine Eagle participated in these Delegations and meetings representing both Welfare Rights & Advocacy Service and the NWRN. Kate Beaumont also participated in NWRN Meetings with the Minister for Employment Participation, Kate Ellis and her advisor and a separate meeting with Minister Macklin's advisor.

Previously whilst the President of the NWRN, Kate Beaumont had represented the Network on a number of external committees. A decision was made by the NWRN Committee that she should remain in these roles to ensure that there was continuity for the Network. In the latest year the Industry Reference Group established to consider the Future Purchasing of employment Services met once by teleconference to consider aspects of the Mid Term Reallocation in November 2010. Kate Beaumont remained as the NWRN representative on the Centrelink Service Delivery Advisory Group which is the peak consultative body for Centrelink. Kate Beaumont participated in four meetings in 2010/2011 and these occurred in September 2010, December 2010, March 2011 and June 2011. Each of these meetings

were held in Canberra with the exception of the March 2011 meeting which was held in Sydney to permit the Minister for Human Services, Tanya Plibersek to attend.

Throughout the most recent year the agendas for the meetings have followed themes which have closely related to vulnerable clients of Centrelink including the rollout of the new Income Management in the Northern Territory, clients with mental health conditions, Place Based approaches (including Local Connections to Work) and the introduction of the Building Australia's Future Workforce with the establishment of projects in 10 disadvantaged local government areas across Australia. It is likely that future themes for meetings in the next year will monitor changes to the Impairment Tables for Disability Support Pension and there will be further exploration of issues relating to those with mental illness and the levels of serious participation failures applied for these clients despite the existence of in some instances multiple vulnerability indicators.

During the last year the Service Delivery Advisory Group has established two working parties the first of which related to the issue of those on participation payments who do not attend interviews and the second to examine more closely the issues for those who have mental illness dealing with the Commonwealth and came about as a result of the Commonwealth Ombudsman's "Falling Through the Cracks Report". Kate Beaumont participated in the Do Not Attend (DNA) Working Group and presented sessions at each of the meetings of the broader Service Delivery Advisory Group. The final report of the DNA Working Party was provided to the Minister for Human Services in September 2011, with a list of 9 recommendations to address the issues relating to those not attending Centrelink appointments.

Some of the key work is outlined below which highlights the work of the NWRN in the most recent year and how Welfare Rights & Advocacy Service contributed to that work through Kate Beaumont and other staff of the agency.

- 17 August 2010 – Radio Interview - Election 2010 – Adelaide
- 24 August 2010 – Radio Interview – Election 2010 - Melbourne
- 15 September 2010 – Centrelink Service Delivery Advisory Group, Canberra
- 8 October 2010 – Radio Interview - Child Protection Income Management – ABC Radio Darwin
- 11 October 2010 – Interview with Indigenous Television and Radio – Child Protection Income Management in the Northern Territory
- 11 October 2010 – Interview *The Centralian* - Child Protection Income Management in the Northern Territory – Alice Springs
- 15 October 2010 – Centrelink Bi Annual Delegations, Canberra

- 21-23 October 2010 – NWRN Conference, Melbourne
- 4 November 2010 – Meeting with Department of Employment, Education and Workplace Relations in relation to the Recommendations of the Independent Review of the Job Seeker Compliance Framework
- 15 November 2010 – Evidence to the Senate Community Affairs Committee at the Public Hearings of the Inquiry into Schedule 2 of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010 (Changes to Disability Support Pension)
- 16 November 2010 – Submission to the Review of the Tables for the Assessment of Work-related Impairment for Disability Support Pension
- 18 November 2010 – Participation in DNA Working Group of the Centrelink Service Delivery Advisory Group
- 1 December 2010 - Centrelink Service Delivery Advisory Group, Canberra
- 15 March 2011 – Meeting with Minister Kate Ellis, Canberra
- 15 March 2011 – Meeting with Adviser from Minister Jenny Macklin’s Ministerial Office, Canberra
- 16 March 2011 – Media Release – *Ombudsman exposes Centrelink’s broken review process*
- 16 March 2011 - Centrelink Bi Annual Delegations, Canberra
- 22 March 2011 – Radio Interview about Welfare Dependence and what Welfare Rights & Advocacy Service Centres do – Melbourne
- 25 March 2011 - Centrelink Service Delivery Advisory Group, Sydney
- 31 March 2011 – Radio Interviews – Response to Tony Abbott’s Speech on Welfare Reform – Perth 6PR, Sydney 2GB and Melbourne 3AW
- 7 April 2011 - Participation in Meeting of DNA Working Group of the Centrelink Service Delivery Advisory Group
- 26 April 2011 – Radio Interviews – Additional Participation Requirements for over 55 year olds – Perth 6PR and Sydney 2GB
- 3 May 2011 – In Depth Interview with Department of Human Services Consultant on Stakeholder Engagement with DHS agencies
- 5 May 2011 – Joint Media Release with ACOSS - *Young mums need support, not a ‘crackdown’*

- 5 May 2011 – Television Interview – Young Mum’s Participation Requirements, SkyNews
- 9 June 2011 - Participation in DNA Working Group of the Centrelink Service Delivery Advisory Group
- 28 June 2011 - Centrelink Service Delivery Advisory Group, Canberra

Organisation and Staffing

The governance of Welfare Rights & Advocacy Service continues to rest with the Management Committee of the TLC Emergency Welfare Foundation of Western Australia (Inc.) who continues to give their skills and commitment to the organisation. Simon Millman has continued for a third year as the Chairperson of the TLC Emergency Welfare Foundation of Western Australia (Inc.). Toni Emmanuel was the Deputy Chairperson up until her resignation from the committee in June 2011. Following Toni Emmanuel’s resignation Glen Williamson took up the Deputy Chairperson from July 2011. Daniel Pastorelli has been the Treasurer for a second year in 2010/2011. Lucy Young continued in the role of Secretary until she resigned from the committee in September 2010, as she was moving overseas to take up an opportunity for further studies. Luke Villiers who had been an ordinary member of the Management Committee was elected to the Secretary of the Management Committee at the 2010 Annual General Meeting.

The Management Committee has a mix of older and new members with continuing participation from Simon Millman, Toni Emmanuel, Lucy Young, Luke Villiers, Glen Williamson and Roslyn Harley. Simon Barry joined the Management Committee in November 2010 filling the vacancy remaining after the October 2010 AGM. Marina Georgiou joined the Management Committee in July 2011 filling the vacancy left with Toni Emmanuel’s departure and Glen Williamson taking up the Deputy Chairperson position. Jack Nicholas joined the Management Committee in September 2010. Roslyn Harley continued as the UnionsWA representative on the Management Committee up to November 2010 and January 2011 Kelly Shay took over as the UnionsWA representative on the Management Committee.

In the latest year the Management Committee has met on a bi-monthly basis rather than on a monthly basis as permitted in the Constitution and Rules. There is capacity for additional meetings and in the most recent year the Management Committee met in both June and July because of the end and start of the new financial year. Moving to bi-monthly meetings has assisted the Management Committee to achieve quorum and in the current year only one meeting had to be rescheduled because quorum was not achieved.

In the last year there were some minimal changes to the staffing of Welfare Rights & Advocacy Service. In 2010/2011 we retained our core welfare rights and tenancy staff of

Christine Belcher, Marilyn Marvelli, Jeanie Bryant, Catherine Eagle, Paul Harrison, Tom Milton, and Kate Beaumont. In December 2010 Christine Carr joined the staff of Welfare Rights & Advocacy Service as a part time Bookkeeper initially on a fixed term contract but this has been extended.

In the most recent year in line with expected changes to the NACLC Risk Management Guide the agency introduced a new system for the checking of work which has seen Catherine Eagle take over responsibility for the checking of all advice and casework undertaken in the agency. The transition to this new system has been smooth and at the same time that these changes were implemented the agency also revised some of its other processes to ensure compliance with PII requirements into the future.

Throughout the year all staff of the agency have undertaken performance appraisals and as a result of the identified training needs the Management Committee has prioritised training for the year and committed financial resources to the completion of training activities. A training and development need which was identified was team building. Training identified in the current year related to the refugee experience, cultural competency and working with refugee populations. Other ad hoc training was completed by individual staff members including participation in tenancy training provided to the tenancy network and other Continuing Professional Development seminars for our lawyer.

During the year staff participated in various conference opportunities as they arose with Paul Harrison and Chris Belcher participating in the State Tenancy Conference, Kate Beaumont, Catherine Eagle, and Marilyn Marvelli participating in the NWRN Conference in Melbourne. Catherine Eagle also facilitated and participated in the twice yearly Legal Practice and Professional Development Meetings which are conducted by CLCA WA.

Apart from training and development opportunities being provided Welfare Rights & Advocacy Service continues to support staff of the agency through the provision of the services of an Employee Assistance Provider. PPS Worldwide continued to provide staff of the agency with confidential counselling services as the need has arisen.

The agency has continued in its work on a new Enterprise Bargaining Agreement. The pay and conditions of staff of the agency remain superior to the applicable award and there has been agreement to the provision of full long service leave after 12 years rather than 15 years. The capacity to provide superior conditions has in part been facilitated by one off funding provided by the Commonwealth Attorney General's Department in both this and the previous year. The agency has also continued to provide Salary Sacrificing for its staff and most staff of the agency currently avail themselves of these arrangements.

In the most recent year the agency with one off funding provided by the Commonwealth Attorney General's Department has purchased a new colour photocopier. The new photocopier is a multifunction unit which permits colour and black and white copying as well

as scanning to email, and the storage of regularly used documents on the unit. The service contract with the new photocopier is less expensive than the old service contract for the old photocopier. The agency also replaced three computers in a move to upgrade the services computers from XP operating system. The agency upgraded its Office Programs with software donated by Microsoft through Donor Tec.

Future Directions


It is unknown how a further economic downturn will impact on the broader community we service; however during the Global Financial Crisis we saw many accessing Centrelink payments for the first time in their lives. We saw individuals and families encountering difficulties accessing payments and programs that they should have been eligible for. Although the thrust of Service Delivery Reforms, with the new Department of Human Services, is geared to providing more accessible services to those who want to do their business on line too often we are seeing vulnerable clients directed into using service channels that do not work for them. The repercussions we see are individuals who end up with no payments and others being overpaid. We remain sceptical about how staff of DHS will be able to deliver services across the whole range of Centrelink, Medicare, Child Support Agency, and Commonwealth Rehabilitation Service programs in a way which will protect the integrity of these programs and permit clients access to the services and payments which they are entitled to.

The changes to Disability Support Pension being introduced over the next twelve months will result in increasing numbers being taken off that payment and forced onto Newstart Allowance. Whilst we recognise that looking at capacity rather than incapacity is a way of increasing workforce participation until there are employment opportunities and the workforce disincentives are removed through genuine reform then all that we will see with this exercise is more and more people with disabilities being placed on payments of \$34.00 per day which is inhumane. A crystal ball is not needed to know that demand for services from organisations such as Welfare Rights & Advocacy Service will also increase.

Over recent years the agency has only been able to meet demand for assistance because of one off funding provided to this organisation by the Commonwealth Attorney General's Department in 2008/2009 and 2009/2010 which was not expended at that time. Rather than using those funds in one or two years to supplement services the agency has eked it out over a number of years to support its core services. Although in the recent past there was a review of the Community Legal Service Program which highlighted the sustainability issues for community legal services we have not seen any increase apart from CPI to our recurrent funding. Recently the WA State Government took the lead in recognising that community services deliver programs on behalf of government and that they need to be properly funded. As a result we have seen a significant increase in the funding provided by the Department of Commerce for the tenancy work that we do for 2011/2012. It is about time that the Commonwealth Government also recognises that the community sector needs

to be better funded to ensure that we are still able to deliver the range and quality of services into the future.

I would like to acknowledge the tireless work of the staff of the agency, as their focus on outcomes for clients drives this organisation and the work that we do. We thank the Management Committee and all of the members of the TLC Emergency Welfare Foundation of Western Australia (Inc.) for their ongoing support of the work done by the agency in its advancement of the Objects of the organisation again in 2010/2011.



Kate Beaumont
Executive Officer

Treasurers Report for the Financial Year 2010/2011

Another positive year for the agency although in the current year there is an almost \$25,000 deficit. Whilst this might seem alarming it comes after the agency had a previous surplus of \$95,000 remaining of one off funding provided by the Commonwealth Attorney Generals Department in 2008/2009 and 2009/2010. The agency has used some of those surpluses to augment its welfare rights program over the most current year. At the end of the current year the remaining amount of one off funding brought forward into 2011/2012 is still almost \$43,000.

In the current year the agency was funded through five sources and received funding from Commonwealth Attorney General's Departments, State Attorney General's Department, Department of Commerce, Legal Contributions Trust, and the Public Purposes Trust of the Law Society of Western Australia.

At the end of the financial year the agency had \$280,340 in its bank accounts. The employee's leave and redundancy provisions totalled \$186,035 and other liabilities, these being GST, grants received in advance and creditors, \$12,578 giving the agency a cash reserve of \$81,727. The agency received one off funding of \$10,000 in the current year from the Commonwealth for purchase of equipment of which the agency purchased a new photocopier. In the current year we have not had to do any real work to the building except for the installation of additional smoke alarms in both the building and the shed.

Overall the agency is in a good position financially coming into 2011/2012 and I would like to thank Kate Beaumont for all her efforts. Her dedication clearly has made a positive contribution to the agency and it has not gone unnoticed. Thanks also go to the staff and members of the Management Committee.

The accounts have been audited by Graeme Cope and additional audit work will be completed by Burns and Baker to comply with the requirements of the Commonwealth Attorney General's Department in the next week.

Daniel Pastorelli
Treasurer

**Audit Report and Financial Statements of TLC Emergency Welfare
Foundation of Western Australia (Inc.)**