

REPORT TO THE FAIR WORK OMBUDSMAN
REPORT OF A REVIEW OF
COMMUNITY-BASED EMPLOYMENT ADVICE SERVICES
ANNA BOOTH, COSOLVE, 30 SEPTEMBER 2009

Executive Summary

In August 2009 the Deputy Prime Minister and Minister for Employment and Workplace Relations asked the Fair Work Ombudsman (FWO) to review the need for and provision for Community-Based Employment Advice Services (CBEAs) in the light of the introduction of the Fair Work regime. Anna Booth was engaged as an independent consultant by the FWO to conduct the Review.

The Review was undertaken during the months of August and September, comprising desk top research, taking submissions and conducting one-on-one and group meetings with interested parties around Australia.

Fair Work represents a fundamental reshaping of the industrial relations system. New rights and responsibilities have been introduced for workers and their employers and the majority of Australian workers are now covered by the federal system. A new institutional framework to support the new system has been established. Fair Work Australia exists to, amongst other things, provide a forum for workers to resolve workplace issues and, in certain circumstances, obtain redress when their rights have been contravened. The Fair Work Ombudsman has been established to provide information to workers, contractors and employers about their rights and responsibilities as well as undertake investigation, compliance and enforcement activities when employers breach the new laws. A large scale education program has recently been funded by the Department of Education, Employment and Workplace Relations (DEEWR) to be delivered by representative organisations.

State Governments also provide information to workers about their rights under State industrial relations laws and similarly, undertake investigation, compliance and enforcement activities.

Further, Commonwealth, State and Territory legislation is in place prohibiting certain conduct that is discriminatory and agencies and tribunals exist to take complaints from workers, assist them in the resolution of these complaints and conduct hearings to determine whether unlawful discrimination has occurred.

As valuable as all of these services are, when an individual worker has a problem at work they may be unaware of their rights and perhaps also reluctant to approach a government body. Very often they will be looking not only for an information-provider but also an advisor and even advocate. A worker may need advice tailored to their particular circumstance. They may need personal support in preparing documentation. They may need representation in discussions with their employer to try to resolve the problem and restore the relationship. They may need representation and advocacy in the conduct of a proceeding before a tribunal or court to obtain redress.

In these circumstances workers who are trade union members can go to their union, workers who can afford to do so can go to a lawyer and workers who are confident and capable can use the information provided by the government body to look after themselves.

However this leaves a significant group of workers with nowhere to go in the absence of community-based services. These are the workers who because of their industry or occupation, employment status or personal characteristics are also more likely to be vulnerable to exploitation at work. They experience a 'double whammy' of vulnerability at work and an inability to assert their rights.

The evidence is that the need for support for vulnerable workers is increasing at the same time as the community-based services have been curtailed. The change in workplace relations is giving rise to increases in the complexity and frequency of requests for assistance and yet the breadth and depth of services available is diminished. Any reduction in State Government services arising from the referral of powers could exacerbate this. Working Women's Centres are now confined to three locations – in the Northern Territory, Queensland, and South Australia. There are two dedicated community-based employment advice services - in Victoria and Western Australia. There are some Community Legal Centres that have an employment law capability. However these services are stretched to the limit and report significant unmet need. Legal Aid, the most comprehensive of the accessible advice and representation organisations around Australia, does not practice in employment law. Many workers with a problem at work are unable to access support for resolution or redress and countless cases of unfair dismissal, underpayment of wages and bullying or harassment are simply not addressed.

CBEAs are not 'underground' organisations that are distinct from the new workplace relations architecture. They are an essential link in the chain of maintaining employment standards. In practice they are treated as such by government bodies that regularly refer workers to them. Their interdependence in the system should be formally recognised and their visibility improved. In short, there is a good case for the strengthening of the community-based provision of employment advice and representation. The question arises as to the form such strengthening should take. There are two competing impulses. Evidence

suggests that use of a community-based service is increased the closer the service is to the community it serves. On the other hand, fragmentation of services is likely to undermine the capability underpinned by critical mass. Are a large number of geographically diverse generalist advice services, that include employment advice capability or fewer specialist employment advice services preferable? Is a service that caters for all workers or a service that addresses the particular needs of a target group preferable? In a world with no limits on government resources the answer may be 'all of the above'. However we do not live in such a world. A call must be made about the best use of the limited resources available.

The Review believes that the best use of resources is to build on the services that already exist and have served workers well, but are stretched to breaking point. Once these services are strengthened the next priority is to fill the gaps in locations without current capacity. The Commonwealth as well as State and Territory governments have a responsibility to undertake this task. The Commonwealth is now assuming responsibility for the preponderance of workplace laws. It has restored and expanded rights at work and this will, naturally enough; give rise to more workers seeking to know about their rights, to exercise them and to seek redress when they are contravened. However workers are citizens of States and Territories, and rightly expect that their State and Territory governments will support them. Furthermore some workers will remain in the State systems and some laws, notably anti-discrimination and equal opportunity laws, derive largely from State legislatures. If this strengthening occurs the impact can be monitored and in time more diversity in service provision, as well as simply more service provision, can be contemplated.

Accordingly the Review recommends the following:

Recommendation 1

The Queensland Working Women's Centre and Queensland Youth Advice Service, the Northern Territory Working Women's Centre, the South Australian Working Women's Centre, JobWatch in Victoria and the Employment Law Centre of Western Australia should each receive an increase in their current level of funding to enhance their already accessible and high quality telephone and face to face advice service along with education, representation/advocacy and outreach services in regional, rural and remote parts of their States/Territories.

The increase in funding should be on a joint basis from the Commonwealth and the State/Territory governments. Their funding, comprising current and additional funding, should be extended for a three year period from the expiry of their current Commonwealth funding.

This funding should be additional to existing budgeted funding, so that it does not detract from the current provision of government services.

They should be subject to a contract that specifies the application of funds, the performance outcomes to be achieved and the reporting format and frequency.

Following this initial transitional three year period a competitive selective Request for Proposal process should be undertaken for subsequent three year funding by which time the services should be should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

The Young Workers Legal Service in South Australia should be examined and if found to be of good quality, included in this recommendation.

Recommendation 2

New community-based services should be established in NSW, ACT and Tasmania, providing for men and women. A competitive selective Request for Proposal process should be undertaken and the services should be should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

Recommendation 3

The services of the women's and youth services in Queensland and the Northern Territory should be supplemented by funding a dedicated employment law specialist in one or more Community Legal Centres. This approach should be extended to South Australia should the Office of the Employee Ombudsman be abolished. A competitive selective Request for Proposal process should be undertaken and the services should be should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

Recommendation 4

The funding cycle for all funded CBEASs should be on a three-yearly cycle.

By the conclusion of the initial transitional three year period all the services should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

Recommendation 5

CBEAs should be required, through funding agreements, to target services other than initial telephone information and referral, to vulnerable workers. They should be required to refer trade union members to their union and workers who can afford it to fee-for-service providers.

Recommendation 6

An Employment Advice Services Advisory Council should be established to monitor and consider the effectiveness of employment advice services across the board and develop whole of government advice about future arrangements and funding from the Federal and State governments. Participants on the Council should be drawn from DEEWR, FWO, FWA, Attorney General's Department, State and Territory Government Industrial Relations and Attorney General's Departments, National Working Women's Centres Association, Employment Law Network of the National Association of Community Legal Centres, pro bono law firms and the ACTU. The Council should report to the Minister for Employment and Workplace Relations and the Attorney General.

Recommendation 7

Protocols regarding two-way referrals, case collaboration and practical cooperation between FWO and funded CBEAs should be put in place.

Recommendation 8

Conduct regular (at least half-yearly) national meetings between the FWO and funded CBEAs to review the implementation of the protocol and provide for practical exchange of ideas and experiences between the FWO and funded CBEAs and the funded CBEAs themselves.

At these meetings explore the concrete ways that CBEASs can cooperate:

- *CBEAS should share their materials and processes so that where appropriate they can be transferred. For example, if one CBEAS has good Client Contact Management software it should make that available to the others; if one CBEAS has well developed educational materials these should be shared with the others.*
- *CBEAS should consider the services they each provide and where appropriate enhance their services by offering new services stimulated by others practice. E.g. the bulk 'self-help' sessions conducted by the ELC of WA could be replicated elsewhere*

- *Identify areas of joint concern to conduct research to allow evidence based continuous improvement in provision of Government services and in Government policy*

Recommendation 9

The FWO should liaise with CBEASs and FWA/State and Territory Departments to identify and commit to the particular ancillary support that can be provided. Consideration should be given to:

- *Regularly updated information materials*
- *Conduct of regular training sessions*
- *Provision of materials such as the Fair Work Act*
- *A special internet site that is password protected and contains material directed at CBEASs including a discussion board*
- *Secondments of staff from to and from CBEASs on a full or part-time basis. E.g. a part-time FWO officer could also be a part-time CBEAS staff member*
- *IT support including telephone access to 'help desk' information and advice as well as on-site visits to repair systems or the capacity to arrange shared services between CBEASs.*
- *Use of government purchasing power for CBEAs to buy office equipment*
- *Use of government meeting and training locations*
- *The provision of government owned or leased office space on reasonable terms*

Recommendation 10

The FWO Legal Panel in each state should be requested to provide pro bono support to the funded CBEAs in their state. CBEAs should be provided with a point of contact and be able to seek free advice from a legal practitioner from the FWO National and Regional panels. CBEAs clients should be able to be referred for pro bono representation by a member of the FWO Legal Panel

Background and approach

In August 2009 the Deputy Prime Minister and Minister for Employment and Workplace Relations asked the Fair Work Ombudsman (FWO) to review the need for and provision for Community-based Employment Advice Services (CBEAS) in the light of the introduction of the Fair Work regime. Anna Booth was engaged as an independent consultant by the FWO to conduct the Review.

Terms of reference were:

1. Examine the current role of community-based employment advice services in supporting vulnerable workers covered by the federal workplace relations system.
2. Consider the relative benefits to vulnerable employees in accessing community-based employment advice services versus seeking assistance directly from relevant government agencies
3. Assess community-based employment advice services in the context of the establishment of Fair Work Australia and the Fair Work Ombudsman and determine whether there may be gaps in terms of assisting vulnerable employees in accessing advice, information and resolving disputes under federal workplace relations laws.
4. Examine whether community-based employment advice services require additional Government support to adequately meet the needs of vulnerable employees covered by the federal workplace relations system, as well as the means through which support can be provided, including options for:
 - a. Shared Commonwealth and State funding (including appropriate accountability requirements; and
 - b. The provision of in-kind support from relevant Government agencies
5. Examine the relationship between community-based employment advice services, other related not-for-profit services and Government education and enforcement services with a view to identifying how information and resources can be shared and possible networking arrangements that can be implemented to ensure more seamless, coordinated service delivery to vulnerable employees.
6. Report on these issues to the FWO by 30 September 2009.

The Review was conducted during the month of September conducting desk top research, taking submissions and conducting one-on-one and group meetings with interested parties around Australia.

Over 70 submissions were received from:

- the four CBEAS that are currently funded by the FWO
- CBEAS that are not funded by the FWO such as JobWatch, Community Legal Centres
- advocacy Non-Government Organisations (NGOs) such as the Multicultural Council of the Northern Territory, Women's Electoral Lobby
- trade unions and their peak bodies
- employer organisations
- Commonwealth Government departments and agencies
- State Government departments and agencies
- individual Members of Parliament
- individual clients of CBEAS

Although the deadline for submissions was 16 September 2009 submissions received up to and including 27 September 2009 were taken into account in the preparation of this report.

Consultation meetings were attended by some who had made submissions, from each State and Territory.

Individual phone based and face to face meetings were held with some who could not attend consultation meetings.

The Review thanks the FWO for the support provided, in particular by Sally Dennington and Lynda McAlary-Smith who assisted by conducting research and coordinating logistics for the Review.

The new Fair Work regime

Fair Work represents a fundamental reshaping of the industrial relations system. New rights and responsibilities have been introduced for workers and their employers and the majority of Australian workers are now covered by the federal system

It is estimated that over 80% of Australian workers are covered by the federal system now that employees of national system employers are covered by the

Fair Work Act and this proportion will increase once, as is expected, most States follow in the footsteps of Victoria and refer their employment regulation powers to the Commonwealth.

Employees will have new rights and correspondingly employers new responsibilities to provide at a minimum the 10 National Employment Standards (NES), the terms of the relevant new modern award, the terms of a collective agreement (if applicable) and protections against unfair dismissal or discrimination.

Fair Work employee advice

Fair Work Australia (FWA), the Federal Magistrates Court, the Federal Court and magistrates courts in the States have the ability to provide redress for workers who believe their workplace rights have been contravened and the Fair Work Ombudsman (FWO) is available to assist workers in seeking such redress.

FWA provides a website and a 1300 number for the provision of information about workplace rights. This information is of a general nature and is not provided as a response to a description of the individual's circumstances. A worker accessing this information must analyse this information and interpret it in light of their situation. FWA will also provide information about how a worker can use their services. FWA will provide dispute resolution services and in relation to unfair dismissal provides conciliation, and if necessary a hearing of the case, as long as the paperwork has been lodged within 14 days of the dismissal (unless an exemption is granted).

The FWO came into existence on 1 July 2009, having subsumed the functions of the Workplace Ombudsman and some functions of the Workplace Authority.

FWO provides information through the Fair Work Infoline, which takes around 4,500 calls per day, Fact Sheets and its website. FWO goes further than FWA in that it will give information, take a complaint, undertake an investigation and conduct an enforcement proceeding on behalf of a worker. In 2008-9 the then Workplace Ombudsman recovered \$32,489,904 for 28,648 employees, secured \$1,621,206 in court-awarded penalties and finalised 23,338 investigations. The Workplace Ombudsman and Workplace Authority responded to a combined total of almost 900,000 telephone inquiries in 2008-9.

Federal Anti-Discrimination

Commonwealth legislation in relation to anti-discrimination is a system of employment rights that complements Fair Work and in particular the new anti-discrimination provisions. The Australian Human Rights Commission administers legislation and the commission operates a Complaints Infoline to provide information about discrimination in, amongst other areas, the workplace.

Complaints are made to the Commission in writing and resolution is attempted through conciliation. A complaint that is not resolved for a complainant who wishes to continue to seek redress is heard by the Federal Magistrates Court or the Federal Court.

Fair Work Australia can conciliate disputes and dismissals involving discrimination. The Fair Work Ombudsman can investigate allegations of workplace discrimination and initiate legal proceedings.

State systems and employee advice

States systems remain to provide for the establishment and enforcement of the rights of workers who are not employed by national system employers and the States have established inquiry services as well as agencies to take complaints, undertake investigations and conduct enforcement proceedings. In practice the architecture established to provide information to State system workers fields inquiries from national system employees who are referred to FWO and other services.

NSW

There were 3.4 million workers in NSW in August 2009.

The Office of Industrial Relations provides legal information services and undertakes litigation on behalf of State system workers. In 2008-9 155,000 telephone inquiries and 6,000 email inquiries were made. 108 employers were prosecuted, a majority of which arose from targeted inspections of employers. 14,000 employers, employing 63,000 workers, were provided with information about their obligations under State laws and as a result 13,500 breaches were identified including 1,576 for underpayments. As a result \$4m was recovered for workers. Over a five year period to 30 June 2009 30,400 workers have been repaid \$9.4m The Office of Industrial Relations undertakes outreach services to vulnerable employee communities. Over 200 presentations were made at community events to approximately 4,800 community representatives in 2008-9.

Victoria

There were 2.7 million workers in Victoria in August 2009.

In 1996 the Victorian Government referred most of its industrial relations powers to the Commonwealth. The majority of Victorian workers are national system employees and are thus covered by the Fair Work regime and infrastructure. The only service provided by Workforce Victoria for these workers is a government telephone based information service on long service leave and the employment of children. The Victorian Government funds JobWatch, a CBEAS that will be described later in this report.

South Australia

There were 784,000 workers in South Australia in August 2009.

On 9 September 2009 the South Australian Government introduced two Bills to State Parliament that will provide for all private sector employers and employees in South Australia to be part of a national industrial relations system from 1 January 2010.

SafeWork SA is responsible for administering industrial relations legislation and managing all occupational health, safety and welfare functions in the State. Assistance to determine the appropriate state award coverage is available from the SafeWork SA Help Centre which has a 1300 line. Assistance with federal award coverage was available from the Workplace InfoLine however from 1 July 2009 South Australian workers who are national system employees are referred to the Fair Work InfoLine.

The Office of the Employee Ombudsman provides information, advice and assistance to State and national system employees. In 2007-8 OEO acted on 3079 requests for assistance.

Our office estimates that approximately 80% of those who contact our service are subject to the federal industrial relations regime. We also provide assistance to employees from state and local governments sector. We consider that around 7% of our clients are non-public sector employees subject to the South Australian industrial relations system (i.e.: sole traders, partnerships and trusts). *[Source: Submission from the Office of the Employee Ombudsman SA]*

Queensland

There were 2.2 million workers in Queensland in August 2009.

A Workplace Rights Ombudsman also exists in Queensland to assist (but not represent) both State and national system employees.

The Queensland Workplace Rights Ombudsman provides information and advice to Queensland workers and employers about their workplace rights and obligations, and promotes fair and equitable practices in Queensland workplaces.

Whether you're a worker or an employer the Ombudsman provides impartial and independent advice and information on both the State and Federal industrial relations systems.

[Source: www.workplacerrights.qld.gov.au]

The Workplace Rights Ombudsman operates the Workplace Rights Hotline which receives approximately 17,000 inquiries per annum from employees. The Department of Justice and Attorney General operates Wageline for the State system.

An example of the assistance provided by the Workplace Rights Ombudsman is as follows:

This office was informed about allegations involving working conditions, wages, standards of accommodation and possible immigration law breaches concerning five Filipino subclass 457 visa workers. In relation to the issues involving immigration laws, the Ombudsman and the QWRO investigator met with, and referred the information provided to, officers of the Department of Immigration and Citizenship. In relation to the wages and employment conditions issues, the QWRO provided advice to the Australian Workers' Union who were negotiating directly with the employer on behalf of the vulnerable employees.

[Source: Quarterly Report to the Attorney-General and Minister for Industrial Relations April-June 2009]

Western Australia

There were 1.2 million workers in Western Australia in August 2009.

The Department of Commerce operates Wageline, a telephone information service that provides information on State private sector awards, agreements and legislation. Wageline does not provide information on wages and conditions for workers under the federal system.

Tasmania

There were 232,000 workers in Tasmania in August 2009.

Workplace Standards Tasmania provides information via a telephone helpline and its website concerning State industrial relations and occupational health and safety legislation. It is also an enforcement agency.

Territory systems and employee advice

There were 119,000 workers in the NT and 193,000 in the ACT in August 2009.

By and large the ACT and the Northern Territory rely upon the Fair Work institutions since their citizens are, with the exception of anti-discrimination and equal opportunity legislation, covered by the federal workplace relations system.

In general the provision of employee advice by State bodies is in an uncertain period. The intention of most States to refer their industrial relations powers to the Commonwealth may result in consideration of the future of State services.

State and Territory anti-discrimination regimes

In each State and Territory anti-discrimination laws prohibit discrimination in, amongst other areas, the workplace. Typically agencies exist to administer the laws through the conduct of community education, providing information to individuals and addressing complaints of discrimination through conciliation. A

complaint that is not resolved for a complainant who wishes to continue to seek redress is often heard and determined by purpose specific tribunals or the general court system. The agency in each State and Territory is:

NSW: Anti-Discrimination Board

Victoria: Equal Opportunity and Equal Rights Commission

South Australia: Equal Opportunity Commission of South Australia

Queensland: Anti-Discrimination Commission Queensland

Western Australia: Equal Opportunity Commission of Western Australia

Tasmania: Office of the Anti-Discrimination Commissioner

Northern Territory: Northern Territory Anti-Discrimination Commission

ACT: ACT Human Rights Commission

Trade unions

In August 2009 there were 10.8 million workers in Australia. 1.8m were union members. 21% of full time employees and 15 % of part time employees were members and in the private sector 14% of employees were trade unions members. The ACTU, its State Branches (peak bodies of State Branches of national unions in each State) and individual trade unions themselves are by far the largest providers of employee advice services in Australia. The network employs hundreds of officers who are wholly dedicated to the establishment of workers rights at work , the resolution of collective and individual issues at work and the enforcement of employment standards on behalf of members in Federal and State.

The ACTU runs the Workers' Helpline, to provide industrial advice and referral to workers, whether they are members or not, who contact it by phone, email or mail.

Vulnerable workers

As valuable as all of these services are, when an individual worker has a problem at work they may be unaware of their rights and perhaps also reluctant to approach a government body. Very often they will be looking not only for an information-provider but also and advisor and even advocate. A worker may need advice tailored to their particular circumstance. They may need personal support in preparing documentation. They may need representation in discussions with their employer to try to resolve the problem and restore the relationship. They may need representation and advocacy in the conduct of a proceeding before a tribunal or court to obtain redress.

In these circumstances workers who are trade union members can go to their union, workers who can afford to do so can go to a lawyer and workers who are confident and capable can use the information provided by the government body to look after themselves.

However this leaves a significant group of workers with nowhere to go in the absence of community-based services. These are the workers who because of their industry or occupation, employment status or personal characteristics are also more likely to be vulnerable to exploitation at work. They experience a 'double whammy' of vulnerability at work and an inability to assert their rights.

Vulnerable workers are not easily defined. It is common to define vulnerable workers by reference to their demographic characteristics e.g. women, young people, older workers, disabled workers, workers from Culturally and Linguistically Diverse (CALD) workers, indigenous workers, refugees, workers on 457 visas, low paid workers, casual workers in precarious employment, regional/rural/remote (RRR) workers etc. It also needs to be acknowledged that workers can be vulnerable at some time of their lives and not at others. Workers can be vulnerable in some states of mind and not others. The combination of circumstances that a worker faces can leave them in a vulnerable position. For example a middle income woman with young children who is going through a divorce may be more vulnerable to exploitation at work than a low paid CALD man who is confident of his circumstances; and this is the vulnerability being targeted. Workers for whom these services exist are those who are more likely to experience a contravention of their rights at work and who are unlikely to be able, because of income or another obstacle such as language or culture, to seek the support of a trade union or a private fee for service provider like a law firm. The Review understands vulnerability in terms of the personal circumstances of the worker rather than a demographic category of workers but accepts that many of the demographic characteristics mentioned, especially when combined, create vulnerability in the workforce and when seeking assistance, so they are a reasonable basis for targeting employment advice services to workers.

Research conducted by the Women and Work Research Group based in the Faculty of Economics and Business at the University of Sydney in 2007 asserts that women in particular have been the victims of changes in workplace relations over the past decade that make them vulnerable. Of course Fair Work is designed to restore rights stripped away over the past decade, but it is early days and many women find themselves at the bottom of the heap.

Our research finds that several and significant changes have occurred in the workplaces of these women and in their employment relationships. For the most part, these changes have been negative and deleterious, reducing decency and democracy at work and in society. These changes have included reductions in pay for already low paid workers, less certainty about wage rates and pay rises, intensification of work, weakening of job security, less financial independence, less money for children and basic household costs, less representation and say at

work and in the community, and poorer health and wellbeing. All of these outcomes weaken the capacity of these women to participate in the workforce and in their communities.

[Source: Baird, Cooper and Oliver. Down and Out with WorkChoices: The Impact of WorkChoices on the Work and Lives of Women in Low Paid Employment A report o the Office of Industrial Relations June 2007]

The Women's Electoral Lobby makes this point in a slightly different way.

Women continue to experience disadvantage in the workplace and require specialist services. Women earn 17% less than men on average and are subjected to particular and sensitive issues such as pregnancy discrimination, sexual harassment, sexual assault at work. Women also have particular needs around negotiating flexibility for family reasons.

[Source: Women's Electoral lobby Submission to the review of Community-based Employment Advice Services, September 2009]

Whilst no research was presented in relation to Australia the Review found research conducted in the UK concerning vulnerable workers. In 2007 the TUC Commission on Vulnerable Employment in the UK set out to answer some questions about vulnerable workers in the UK. How many vulnerable workers are there? What does it mean to be a vulnerable worker? How do workers become vulnerable? Why don't our current laws protect workers from the worst exploitation? Is the problem getting worse? It is beyond the scope of this Review to answer these questions for Australia, however the UK findings reflect many of the descriptions of vulnerable workers given by organisations and individuals making submissions to this Review.

We define vulnerable employment as: "Precarious work that places people at risk of continuing poverty and injustice resulting from an imbalance of power in the employer-worker relationship."

Vulnerable work is insecure and low paid with little chance of escape. Those who already face the greatest disadvantage, especially women, those from black and minority ethnic groups and disabled people are both more likely to be in such jobs and less likely to be able to leave them. Fear and insecurity make this situation hard to challenge. Our research shows that problems at work are experienced across all sectors of employment. However, they are particularly common in care homes, cleaning, hotels and restaurants, hairdressing and beauty, construction and security..... vulnerable workers have great difficulty in getting the specialist support they need – even if they are persistent, they will in many areas only get advice about their basic rights but not the ongoing support they need to enforce them. Many areas of the country are employment rights advice deserts.

[Source: Hard Work. Hidden Lives. The Short Report of the Commission on Vulnerable Employment. TUC 2007]

A specific study of employment advice for minority ethnic workers in the UK found that vulnerable workers have difficulty accessing employment advice services.

Minority ethnic workers (along with other groups, such as those with caring responsibilities and disabled workers) find it significantly harder to get advice than others.

[Source: Holgate et al Union decline and the lack of employment advice for minority ethnic workers in the UK: Can community support organizations help to fill the gap?]

In review consultation meetings the Review has been reminded that quality of life is highly dependent on employment. Obtaining access to employment advice services that allow resolution of issues at work and underpin continued employment is a passport to individual well being. In turn, downstream consequences for Governments' health and welfare budgets as well as social cohesion are very real positive or negative outcomes depending on the employee's experience at the point of employment difficulty. Like many public policy consequences the interdependencies are sometime hidden by the compartmentalisation of budget decisions and portfolio responsibilities, but they are nevertheless real.

The preponderance of submissions to this Review, and not only those from CBEASs, contend that the need for support for vulnerable workers is increasing at the same time as the community-based services have been curtailed. Any reduction in State Government services arising from the referral of powers would exacerbate this. Working Women's Centres are now confined to three locations – in the Northern Territory, Queensland, and South Australia. There are two dedicated community-based employment advice services - in Victoria and Western Australia. There are some Community Legal Centres that have an employment law capability. However these services are stretched to the limit and report significant unmet need. Legal Aid, the most comprehensive of the accessible advice and representation organisations around Australia, does not practice in employment law. Many workers with a problem at work are unable to access support for resolution or redress and countless cases of unfair dismissal, underpayment of wages and bullying or harassment are simply not addressed.

CBEASs

CBEAS comprise a range of different organisations. However they share some common features:

- They define themselves as existing to serve a particular community
 - geographically (State, region etc),or
 - a particular target client group (e.g. women, young people, disabled workers, indigenous women etc), or
 - both (e.g. indigenous women in a particular location)

- They are independent Non-Government Organisations (NGOs)

- They are not-for-profit

- They are generally funded by Government – Commonwealth and/or State with some ancillary funding from other sources

- They provide employment rights advice to workers
 - as a core purpose, or
 - as part of a larger legal advice offering,
 - as part of a larger social support in relation to employment opportunities, educational access etc
- They target services to vulnerable workers and refer clients that do not meet their criteria to other services such as government services, trade unions or law firms

Historically a number of these services were funded by both Commonwealth and State Governments to provide services to vulnerable workers, however by the middle of 2000 many no longer attracted funding and closed. For example, in NSW and Tasmania Working Women's Centres were closed and over the last decade some Community Legal Centres which provided employment law advice and representation were unable to retain the services of their employment lawyers and ceased providing the service.

At present there are three Commonwealth funded Working Women's Centres (Qld, NT and SA) and a dedicated employment law advice service in WA, the Employment Law Centre of WA. These are funded in part by the Fair Work Ombudsman.

The Working Women's Centres were the subject of an internal review by the Department of Employment, Education and Workplace Relations (DEEWR) in 2008.

This review concluded:

The Centres are robust community service providers whose strength lies in their specialist workplace relations expertise and holistic client-centred approach to service delivery. They provide high quality, ethical services to women in vulnerable employment, covering issues across state and federal jurisdictions, by delivering specialist advice, information and casework services to women and valuable policy and advocacy services to government on issues for women in the workplace.

The Centres are highly valued by unions, government and non-government agencies for supporting women whom no one else can support. They are very well regarded for their application of a holistic approach to assisting women with workplace relations difficulties, and for the linking and capacity-building role they play in the sector, that builds social capital in the community.

This Review endorses these findings and notes the high degree of consistency in the submissions to this review and the interviews conducted by DEEWR during the 2008 review.

SA Working Women's Centre Inc.

This centre has been in operation for 30 years this year. It runs on an annual budget of \$469,475 consisting of \$365,000 from the State Government and \$104,475 from the Federal Government in 12 monthly cycles. The centre employs 1 Director, 1 Client Services Officer/Receptionist and 3 Industrial Officers who hold qualifications including business and education and regularly attend continuing professional development training. The key services provided by the centre are one to one telephone information, support and referral; representation in a range of jurisdictions at conciliation conference level; workplace intervention on behalf of clients; assistance women to write letters, lodge forms, write statements; attendance with women at workplace meetings (especially for NESB or CALD women); training and awareness raising and public policy advocacy. In 2008-9 they provided 2,644 telephone advices, 231 new cases and undertook a total of 428 cases.

The centre would like to be able to assist more women and in particular would like to:

- Increase staff in order to provide more services outside of the metropolitan area and have a better state wide presence.
- Increase staff in order to promote our training offering
- Improve its Information technology capacity including hardware and develop a State based interactive website
- Upgrade its statistical data base

Northern Territory Working Women's Centre Inc

This centre has been in operation since 1994. It runs on an annual budget of \$346,416 including \$144, 224 from the State Government and \$188,217 from the Federal Government in 12 monthly cycles.

The centre employs 1 full-time and 6 part-time employee who holds qualifications including law and social work and regularly attend continuing professional development training. The key services provided by the centre are the provision of information, advice, referral, representation and community education about work related issues for women in the NT. In 2008-9 they provided 570 short client contacts, 387 advice sessions and undertook 54 cases.

The centre would like to be able to assist more women and in particular would like to:

- employ a specialist indigenous staff member
- employ a Senior Industrial Liaison Officer to support Industrial Liaison Officer staff on formal complaints processes and legal proceedings

- increase staff and obtain office space in order to provide regional outreach offices outside of Darwin
- obtain an electronic data base
- install a more contemporary telephone system
- obtain a new computer server
- obtain additional office space
- obtain anew photocopier

Queensland Working Women's Service Inc.

This centre has been in operation since 1994. It runs on an annual budget of \$570,261 consisting of \$365,000 from the State Government and \$150,000 from the Federal Government in 12 monthly cycles. The centre employs 2 full-time and 6 part-time employees who hold qualifications including science, social work, political science, industrial relations and employment law and regularly attend continuing professional development training. The key services provided by the centre are the provision of information, advice, specialist assistance, case work (representation and advocacy), community education and policy consultation. In 2008-9 they provided 759 instances of basic information or referral, 2525 instances of specialised industrial relations information/advice and conducted 104 cases.

The centre would like to be able to assist more women and in particular would like to:

- employ a two new Industrial Officers to provide specialist advice and case work capability
- employ more staff to conduct outreach in regional, rural and remote areas of Queensland
- upgrade Information and Communications Technology (ICT) hardware and software

Employment Law Centre of WA (Inc)

This centre has been in operation since 2001. It runs on an annual budget of \$612,415 consisting of \$235,636 from the State Government, \$136,363 from the Federal Government and the balance from charitable sources in WA in 1 – 2 year cycles. The centre employs 2 full-time and 18 part-time employees (approximately 6 FTE's) who hold qualifications including social science and law and regularly attend continuing professional development training.

The key services provided by the centre are:

- Specialised employment law advice;
- Specialised employment law information;
- Community Legal Education including fact sheets, information kits, workshops, seminars, website resources;
- Client representation and advocacy;
- Self Help Information Sessions;
- Evening Legal Services with pro bono solicitors and support volunteers;
- Students clerkships, volunteer program and clinic

In 2008-9 they responded to 3,196 callers on the advice line for an average of 34.4 minutes each, provided over 172 clients with further assistance, saw 81 clients at the evening legal service and trained 32 clients in 'self-help' sessions. It should be noted that the ELC was unable to answer or respond to 3,845 calls.

The centre would like to be able to assist more workers and in particular would like to:

- employ one more full-time solicitor in the centre
- conduct full-time community legal education and outreach services;
- employ a full time RRR solicitor and support staff;
- arrange secondment arrangements from FWO/FWA to ELC;
- increase Advice Line hours and lines increased to include more after hours times;
- have full-time administration and finance support;
- undertake more staff training time
- have better functioning ICT equipment with IT support
- improve resource development;
- obtain access to training rooms, equipment and facilities with catering for internal training events;

- access RRR office space when ELC conducts RRR community legal education;
- obtain printing, publicity and administration support

There are other specialist employment advice CBEAS that are not currently funded by the Federal Government.

JobWatch

This centre has been in operation since 1980. It runs on an annual budget of \$871,000 from the Victorian State Government 12 month cycles. The centre employs (16 staff or 10 FTE's) who hold qualifications including law, social science and science and regularly attend continuing professional development training.

The key services provided by the centre are:

- Telephone advice
- A legal casework service provided by JobWatch's Legal Practice for disadvantaged workers.
- A community legal education program that includes publications, information via the internet and talks aimed at workers, students and community groups.
- Research and policy advice on employment and industrial law issues.
- Advocacy and Law Reform activity on behalf of those workers in greatest need.

In 2008-9 they responded to 18,500 callers on the telephone advice line where calls are on average of 20 minutes duration, and managed over 130 cases. It should be noted that they expect to be able to handle 11,500 calls in 2009-10 due to funding cuts.

The centre would like to be able to assist more workers and in particular would like to:

- employ more staff
- have mentors for staff
- occupy larger premises

Young Workers' Advisory Service (Queensland)

This centre has been in operation since 2002 and is hosted by the Queensland Working Women's Centre. It runs on an annual budget of \$382,437 with

\$340,000 from the Queensland Government on a 12 month cycle. The centre employs 2 full-time and 3 part-time staff who hold qualifications including commerce and social science and some staff members are undertaking further qualifications including law. Staff regularly attend continuing professional development training.

The key services provided by the centre are:

- Information and referral on work-related matters to young people 25 and under
- Advice to young people on employment entitlements, conditions and options
- Advocacy services and representation to clients
- Information sessions on work-related matters to clients and relevant agencies such as government, unions, schools and the community sector.

In 2008-9 they provided 322 clients with general assistance (advice and referral) 1,281 clients with specialised advice and assistance and managed 125 cases.

The centre would like to be able to assist more workers and in particular would like to:

- increase training available to staff
- increase wages to attract, retain and motivate staff
- conduct more education outreach sessions particularly in RRR locations
- occupy better premises

Young Workers Legal Service (South Australia)

SA Unions provided a submission which gave a general overview of the role of the service that is hosted by SA unions. It is conducted by volunteers and in face to face appointments offers:

- Legal advice
- Assistance with strategies to deal with the disputes in the workplace;
- Assistance with lodging applications with relevant legal bodies
- Information on legal rights and responsibilities and
- Information about entitlements under industrial instruments

Unions SA say that the YWLS receives no Commonwealth funding yet the great majority of its clients are in the federal system and that will increase further if the SA referral of its industrial powers to the Commonwealth goes ahead later in the year.

There are 128 Community Legal Centres funded by the Commonwealth Attorney General's Department and whilst many do not provide employment law services many do. In its submission to this review the Attorney General's department said:

The Commonwealth Community Legal Services Program provides funding to 128 community legal centres across Australia to provide information, legal advice, referrals, casework, community education and law reform work, in order to increase access to justice for the disadvantaged and those with special needs.

In 2008–09, 110 community legal centres provided employment related services including information and advice, and 77 of these provided casework for employment conditions/entitlements, unfair dismissal and other employment related matters. Community legal centres report increasing numbers of clients with employment problems and difficulties with the increasing complexity of employment law. National data provided by the funded community legal centres shows that there was a 20% increase in employment-related inquiries and casework services provided by centres in the 6 months July 2008 - January 2009 compared to the same period the previous year. Centres also report that clients with employment problems often present with multiple needs such as debt, tenancy, welfare rights, child support and other family law matters requiring heavy time commitment from centre staff.

Some CLC's are geographically focussed, for example the Macarthur Legal Centre in Campbelltown, NSW. This CLC has no dedicated employment lawyer however 10% of advice given is of an employment nature by a generalist solicitor.

Some CLC's have an employment law focus. For example, Kingsford Legal Centre at the University of NSW. The Centre has provided a specialist employment law clinic since 2000 with one employment solicitor. It provides free legal advice and representation in employment issues such as unfair and unlawful dismissals, unpaid entitlements, and discrimination. The employment clinic's work includes:

- advice to clients and as well as minor assistance.
- representation of clients in conciliation and arbitration hearings in unfair and unlawful dismissal cases and discrimination matters.
- support to other community legal centres and Legal Aid solicitors in relation to employment law issues as the level of knowledge of this rapidly changing area is low within the sector.
- regular education of the community in this area of law.
- preparation of information and education materials
- law reform advocacy and policy work in this area.

Other CLC's are specialists in a particular client characteristic. For example, the AED Legal Centre established by the Association of Employees with Disability. They provide information, education, and representation in both negotiations with employers and before courts and tribunals.

The Attorney General’s Department also funds legal aid services to Indigenous Australians through the Legal Aid for Indigenous Australians Program. 8 Aboriginal and Torres Strait Islander Legal Services are contracted to deliver legal aid services across nine states/zones through numerous permanent sites, court circuits and outreach locations in metropolitan, regional and remote areas throughout Australia.

The department says:

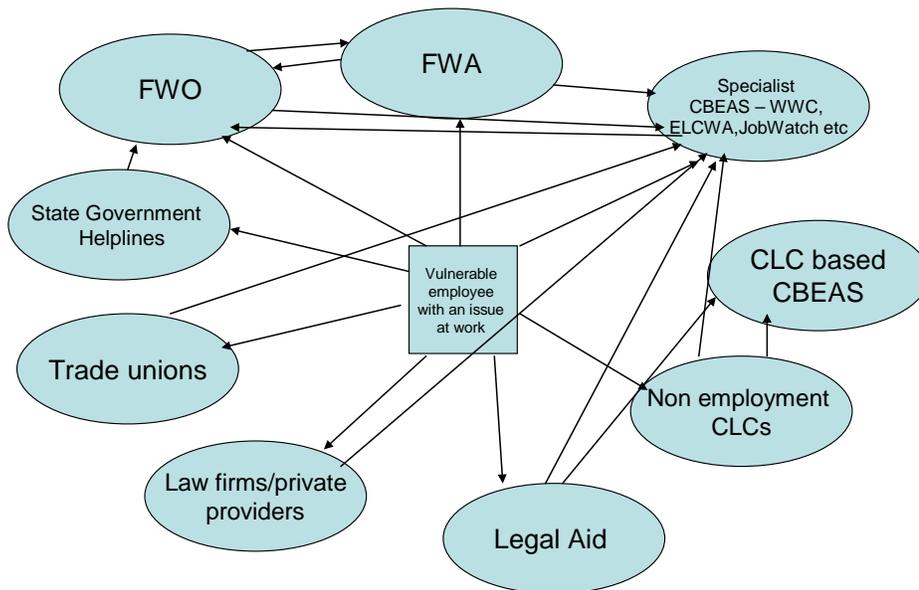
Demand for Indigenous legal aid services has significantly increased in recent years. The growth in legal needs of Indigenous people is aligned with their continued adverse contact with and over representation in the criminal justice system and the high levels of family violence in Indigenous communities.

This has created significant funding pressures on the providers. Providers have advised the Department that they may have to withdraw their assistance for some types of legal matters because of these funding pressures. This means that providers have very limited capacity to provide employment advice services without significant additional funding.

[Source: Attorney-General’s Department Submission to the Review of Community-based Employment Advice Services, September 2009]

It is clear from this broad overview that the employment advice landscape is diverse. A worker with an issue at work may approach any one of the parts of the landscape as illustrated below.

Employment advice landscape



An interconnected network

For the vulnerable employee this presents a confusing picture, if they are sent out alone, on what was described in submission to the Review as the 'referral roundabout'.

It is common for organisations to refer workers on to other organisations if their particular service is not appropriate or is overloaded. However if there is a high degree of visibility and cooperation between advice providers the referral process can be beneficial to the employee by ensuring they are in the best place possible for their particular circumstance. For this to be more than wishful thinking it is critical that workers are properly 'handed over' to the service that best meets their needs. An analogy might be the medical system – the experience can be very bad, if the patient is left to navigate the maze of medical specialties by themselves; or, it can be very good, if their record follows them, is understood by each medical practitioner, who communicate with each other and the patient can understand where their treatment fits in the big picture of their condition.

CBEAS both complement and supplement services provided by State and Federal governments and trade unions and in particular cater for the needs of vulnerable workers by:

- being client-centred and offering holistic services for workers who often present with multiple problems
- providing a confidential non-judgemental safe haven for clients who may be intimidated by a government service or a trade union service
- referring and supporting clients interactions with non workplace related NGO's based on their particular needs
- providing advice across the jurisdictional divide as between State/Federal and workplace/human rights jurisdictions
- being able to provide the full continuum of service from information, advice, representation, advocacy and support
- as a starting point supporting the client in self-help, empowering the client for the future
- attempting to resolve the clients issue without resort to an adversarial process in the first instance with an emphasis upon the desirability of reconciling the employer and employee
- referring clients to appropriate State and Federal government agencies
- ensuring that trade union members are referred to their union and that clients are advised of the benefits of joining a union and how to go about it
- being nimble and efficient in their use of resources
- preparing clients for their presentation at State and Federal government agencies
- being available to have clients referred by State and Federal government agencies or generalist legal advice services when more is required than can be offered by them

- framing clients cases properly for presentation to Fair Work Australia or anti-discrimination agency conciliations whether they accompany the client or not
- training other generalist legal advice services in employment advice
- preparing client focussed information materials e.g. even materials in community languages prepared by government departments may be lost on some workers sch as those with literacy problems. CBEAS are acutely aware of their audience needs
- raising awareness of workers about their rights at work through the preparation of client friendly materials and the conduct of education sessions
- have the capacity to harness pro bono and volunteer support
- provide the opportunities for students and volunteers to gain legal experience under supervision making law students better prepared to assist clients once they enter the legal profession upon graduation

CBEAS are not ‘underground’ organisations that are distinct from the new workplace relations architecture. They are an essential link in the chain of maintaining employment standards. In practice they are treated as such by government bodies that regularly refer workers to them. However, the interdependence within the system should be formally recognised and their visibility improved.

Submissions received from a range of State Government Ministers, departments and agencies, the ACTU, its State Branches and individual trade unions as well as employer organisations were supportive of CBEASs (although it should be noted that the Australian Hotels Association does not support a public policy advocacy role for CBEASs). Indeed some employer organisations sought a form of CBEAS for employers. The case was put that if small employers are able to obtain information and advice there would be fewer vulnerable workers. This is outside the scope of this Review but it is worth noting that the FWO exists to support employers as well as employees and contractors and employers are less likely than vulnerable workers to be intimidated or confused by Government services.

A good case for the strengthening of the community-based provision of employment advice and representation was made by many of the submissions received. The question arises as to the form such strengthening should take. There are two competing impulses. Evidence suggests that use of a community-based service is increased the closer the service is to the community it serves. On the other hand, fragmentation of services is likely to undermine the capability underpinned by critical mass. Are a large number of geographically diverse generalist advice services, that include employment advice capability or fewer specialist employment advice services preferable? Is a service that caters for all workers or a service that addresses the particular needs of a target group preferable?

In a world with no limits on government resources the answer may be 'all of the above'. However we do not live in such a world. A call must be made about the best use of the limited resources available. The Review believes that the best use of resources is to build on the services that already exist and have served workers well, but are stretched to breaking point. Once these services are strengthened the next priority is to fill the gaps in locations without current capacity. If this strengthening occurs the impact can be monitored and in time more diversity in service provision, as well as simply more service provision, can be contemplated.

The Review recommends the following:

Recommendation 1

Existing services with good track records should receive additional funding to allow these services to support more workers in more places.

The Queensland Working Women's Centre and Queensland Youth Advice Service, the Northern Territory Working Women's Centre, the South Australian Working Women's Centre, JobWatch in Victoria and the Employment Law Centre of Western Australia should each receive an increase in their current level of funding to enhance their already accessible and high quality telephone and face to face advice service along with education, representation/advocacy and outreach services in regional, rural and remote parts of their States/Territories.

The increase in funding should be on a joint basis from the Commonwealth and the State/Territory governments. Their funding, comprising current and additional funding, should be extended for a three year period from the expiry of their current Commonwealth funding.

This funding should be additional to existing budgeted funding, so that it does not detract from the current provision of government services.

They should be subject to a contract that specifies the application of funds, the performance outcomes to be achieved and the reporting format and frequency.

Following this initial transitional three year period a competitive selective Request for Proposal process should be undertaken for subsequent three year funding by which time the services should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

The Young Workers Legal Service in South Australia should be examined and if found to be of good quality, included in this recommendation

It is essential that additional funds be used to employ more staff, in particular with legal qualifications and practising certificates. Each service has indicated that its capacity to provide individual advice and representation is limited by the number of staff it could employ and the purpose of this recommendation is to bolster the front line provision of services to vulnerable workers.

There is no simple formula for an appropriate budget a CBEASs. FWO will need to agree a budget with each CBEAS that takes into account the quantitative and qualitative objectives of the organisation. This review has not had the opportunity of reviewing each CBEAS in particular and observes that each of these CBEASs is running on a different level, source and application of funding. It would not be sensible for the Review to place a figure on the appropriate amount of funding however it will certainly be different for each CBEASs. It would be expected that the CBEAS would present a budget with staffing increased from the current level to an extent that allows an increase in the provision of service which should be specified in terms of performance outcomes.

It is recognised that when expending tax payers money processes for choosing recipients must be transparent and accountable. However current recipients of FWO 12 month funding have a demonstrated need for stability and this Review has established that there is overwhelming support from stakeholders, including State Governments and trade unions, for these particular CBEASs to be supported. No organisations came forward in their regions with any capacity to perform the service performed by these CBEASs at the present time. However for the 3 year cycle beyond the period of this recommendation it is recognised that an evaluation process should be undertaken, not only of the CBEASs' performance but of alternative organisations that may wish to provide the service.

Recommendation 2

There are two states and a territory where there is no critical mass of employment advice in the community sector. They are NSW, Tasmania and the ACT.

New community-based services should be established in NSW, ACT and Tasmania, providing for men and women. A competitive selective Request for Proposal process should be undertaken and the services should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

Existing Community Legal Centres may wish to combine forces and apply to host such a service in one or more current services. Strong capability in the provision of employment advice and the ability to access representation from specialist legal practitioners both employed and volunteers would be essential attributes of the new services. A full service from information to advice and representation is required, not simply another referral service. The Review is not in a position to

judge the cost of provision of such services however has sought to illustrate the order of funding that may be required to establish a service .There are certain fixed costs in any organisation so although there is a vast difference in the potential demand in each location the budget attached as Appendix 4 could serve as a guide. It is based on the expense budget of a small law firm and was prepared for the Review, pro bono, by Slater & Gordon.

Recommendation 3

In Queensland and the Northern Territory the CBEAS are designed to provide services to women. Whilst women make up a disproportionate number of vulnerable workers, figures supplied to the Review by the Darwin Legal Centre suggested that in a non-gender specific service just as many men as women seek assistance.

The services of the women's and youth services in Queensland and the Northern Territory should be supplemented by funding a dedicated employment law specialist in one or more Community Legal Centres. This approach should be extended to South Australia should the Office of the Employee Ombudsman be abolished. A competitive selective Request for Proposal process should be undertaken and the services should be should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

Recommendation 4

CBEASs need to be able to plan with certainty, provide job security to staff and reduce the administrative burden that comes with short funding cycles.

The Commonwealth as well as State and Territory governments have a responsibility support vulnerable workers. The Commonwealth is now assuming responsibility for the preponderance of workplace laws. It has restored and expanded rights at work and this will, ironically, give rise to more workers seeking redress for the contravention of these rights. However workers are citizens of States and Territories and rightly expect that their State and Territory governments will support them. Furthermore some workers will remain in the State systems and some laws, notably anti-discrimination and equal opportunity laws derive largely from State legislatures.

The funding cycle for all funded CBEASs should be on a three-yearly cycle.

By the conclusion of the initial transitional three year period all the services should be funded on an equal joint basis by the Commonwealth and the State/Territory governments.

Recommendation 5

The focus of this Review is, for good reason, on vulnerable workers. Other workers are able to access Government services, join trade unions or utilise the services of private fee for service providers such as law firms. Government funding is limited and should be applied to most in need.

CBEAs should be required, through funding agreements, to target services other than initial telephone information and referral, to vulnerable workers. They should be required to refer trade union members to their union and workers who can afford it to fee-for-service providers.

Recommendation 6

The Review was presented with a complex array of employment advice providers, with many different governance, administration and funding sources. It is not practical to rationalise this with 'one big service' because this, by its nature, would replicate the Government service put in place under Fair Work, that the contributors to this review said could be intimidating to vulnerable workers. Thus the diversity of governance, administration and funding is a natural outworking of the diversity of services. However there is a lot to be gained by information sharing and pooling of ideas and resources and a 'light touch' mechanism to do so would be an advisory council that meets at least half-yearly if not quarterly.

An Employment Advice Services Advisory Council should be established to monitor and consider the effectiveness of employment advice services across the board and develop whole of government advice about future arrangements and funding from the Federal and State governments. Participants on the Council should be drawn from DEEWR, FWO, FWA, Attorney General's Department, State and Territory Government Industrial Relations and Attorney General's Departments, National Working Women's Centres Association, Employment Law Network of the National Association of Community Legal Centres, pro bono law firms and the ACTU. The Council should report to the Minister for Employment and Workplace Relations and the Attorney General.

Recommendation 7

For vulnerable workers to avoid the 'referral roundabout' and benefit from cooperation between advice providers the referral process must be designed and implemented to ensure that they are in the best place possible for their particular circumstance.

Protocols regarding two-way referrals, case collaboration and practical cooperation between FWO and funded CBEAs should be put in place.

Recommendation 8

There is a lot to be gained from coordination between the FWO and CBEASs and CBEASs themselves. Whilst it is anticipated that the FWO would build on existing management of the FWO/CBEASs arrangements regular working meetings would provide a dedicated time to learn from each other. These meetings would be best conducted face to face to allow for the rich exchange that is not really permitted even by modern video conferencing facilities

Conduct regular (at least half-yearly) national meetings between the FWO and funded CBEAs to review the implementation of the protocol and provide for practical exchange of ideas and experiences between the FWO and funded CBEAs and the funded CBEAs themselves.

At these meetings explore the concrete ways that CBEASs can cooperate:

- *CBEAS should share their materials and processes so that where appropriate they can be transferred. For example, if one CBEAS has good Client Contact Management software it should make that available to the others; if one CBEAS has well developed educational materials these should be shared with the others.*
- *CBEAS should consider the services they each provide and where appropriate enhance their services by offering new services stimulated by others practice. E.g. the bulk 'self-help' sessions conducted by the ELC of WA could be replicated elsewhere*
- *Identify areas of joint concern to conduct research to allow evidence based continuous improvement in provision of Government services and in Government policy*

Recommendation 9

The FWO, FWA and/or State and Territory Departments could provide a range of ancillary support to CBEAs.

The FWO should liaise with CBEASs and FWA/State and Territory Departments to identify and commit to the particular ancillary support that can be provided. Consideration should be given to:

- *Regularly updated information materials*
- *Conduct of regular training sessions*
- *Provision of materials such as the Fair Work Act*

- *A special internet site that is password protected and contains material directed at CBEASs including a discussion board*
- *Secondments of staff from to and from CBEASs on a full or part-time basis. E.g. a part-time FWO officer could also be a part-time CBEAS staff member*
- *IT support including telephone access to 'help desk' information and advice as well as on-site visits to repair systems or the capacity to arrange shared services between CBEASs.*
- *Use of government purchasing power for CBEAs to buy office equipment*
- *Use of government meeting and training locations at low or no cost*
- *The provision of government owned or leased office space on reasonable terms*

Recommendation 10

Pro bono lawyers have a lot to offer the employment advice network. The Review heard from Clayton Utz, Blake Dawson and Gilbert +Tobin about the programs offered. The services are understandably oriented towards representing the vulnerable worker and that is how it should be. However CBEASs could benefit from access to these lawyers. Since the FWO has recently refreshed its panels of lawyers to whom it refers the conduct of enforcement actions it is timely to consider how these lawyers can assist further.

The FWO Legal Panel in each state should be requested to provide pro bono support to the funded CBEAs in their state. CBEAs should be provided with a point of contact and be able to seek free advice from a legal practitioner from the FWO National and Regional panels. CBEAs clients should be able to be referred for pro bono representation by a member of the FWO Legal Panel

Appendices

- 1. Timetable for review - milestone dates**
- 2. List of submissions received**
- 3. Participants at consultation meetings**
- 4. Model budget for a small service**

Appendix 1. Timetable for review - milestone dates

2nd & 3rd September

Invitation to participate sent to Stakeholders

4th September

Public Notice of Review in Financial Review

5th September

Public Notice of Review in all National and major State Newspapers

14th September

Consultation with Employment Law Network at the National Community Legal Centre Conference in Perth.

16th September

Submission end date, but extension to the 26th September was granted

17th September

Consultation sessions with currently funded centres

22nd September

NSW open consultation session

23rd September

QLD, NT and ACT open consultation session

25th September

VIC, SA and TAS open consultation session

28th September

Draft report presented to Review group

30th September

Report delivered

Appendix 2. List of submissions received

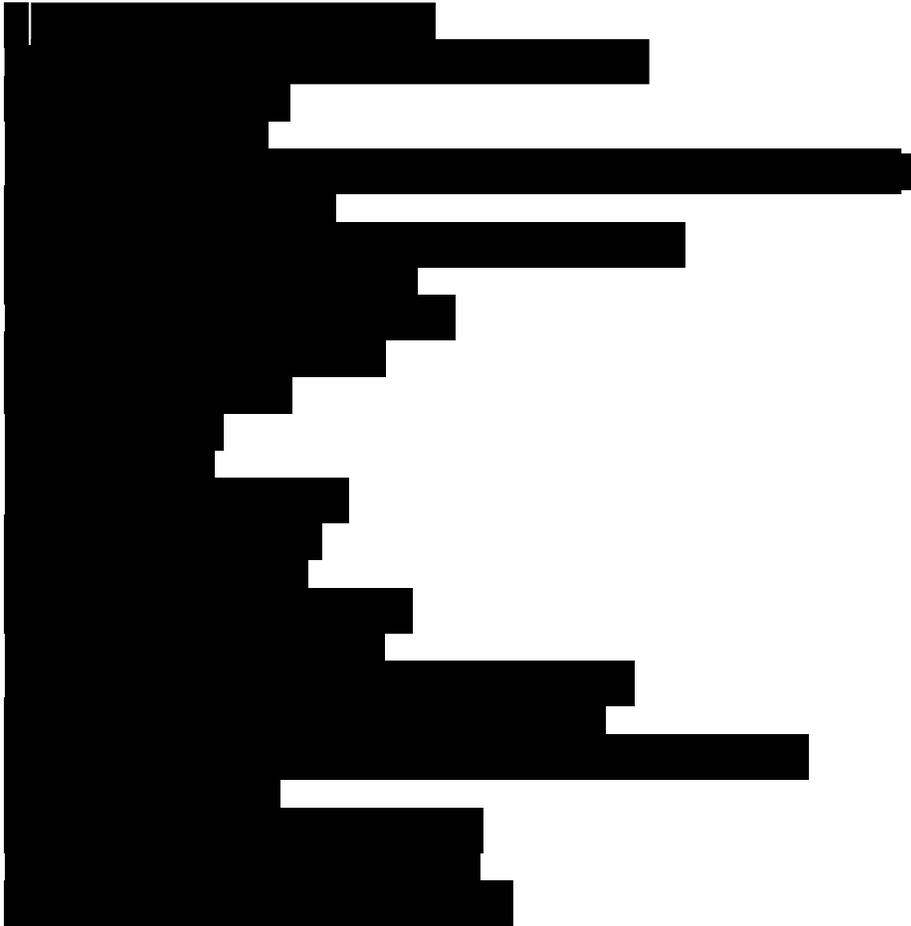
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Appendix 3. Participants at consultation meetings



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Appendix 4. Model budget for a small service

Legal Services Cost Model

Principal Lawyer	120,000	
Associate	80,000	
Junior Lawyer	65,000	
Professional Salaries		265,000
Junior Legal Assistant	45,000	
Junior Legal Assistant	45,000	
Receptionist / Office Manager	50,000	
Support Staff Salaries		140,000
Superannuation		36,450
Work cover Levy	1.5%	6,622
Fringe Benefits Tax		-
Payroll Tax	5.0%	6,622
Professional Indemnity Ins		15,000
Professional Membership Fees		2,000
Staff Education & Training		2,000
Staff Recruitment Costs		2,000
Sundry Employee Related Costs		5,000
Occupational Health & Safety		2,000
Total Labour Costs		482,694
Leasing Charges - Furniture, Fittings and Fit out		10,000
Cleaning		500
Electricity		2,500
Assumed office	Melb	
Sq m cost	450	
Sq req per staff member	25	
Required Sq m	150	
Rent		67,500
Rental Outgoings	10.0%	6,750
Repairs & Maintenance Premises		2,500
Staff Amenities		5,000
Total Accommodation		94,750
Couriers & Freight		1,500
Journals & Subscriptions		500
Mobile Telephones		2,000
Photocopying		5,000
Postage		5,000
Printing		5,000
Stationery		5,000
Motor Vehicle Expenses		2,500
Telecommunications		5,000
Total Communication Expenses		31,500
Computer Costs	5,000	30,000
IT Consultants		5,000
Internet Expenses		3,000
Software Licensing	400	2,400
Total IT Expenses		40,400
Marketing		10,000
Travelling Expenses		5,000
Audit Fees		3,500
Accounting Fees		3,500
Bank Fees		500
Legal Fees		2,500
Minor Asset Expense		1,000
Sundry Expenses		2,500
Total Administration Fees		28,500
Total Expenses		677,844