

▲ FITZROY  
▲ LEGAL  
▲ SERVICE INC.

**FITZROY LEGAL SERVICE**

**ANNUAL REPORT 2019 – 2020**

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**Above:** Guests celebrating the amalgamation of FLS and DCLC – 19 September 2019

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# ABOUT FITZROY LEGAL SERVICE

The Fitzroy Legal Service is an amalgamation of the Darebin Community Legal Centre and Fitzroy Legal Service, which took effect on 1 February 2019.

The amalgamated entity draws on the significant histories and legal assistance services provided by the Darebin Community Legal Centre (established in 1988) and the Fitzroy Legal Service (established in 1972).

We work towards a fairer and more just Victorian community, one in which the legal and broader social system supports equality and justice.

## OUR VALUES



**INTEGRITY  
COURAGE & PASSION  
EMPOWERMENT & ADVOCACY  
CONNECTED TO COMMUNITY**

# **FITZROY LEGAL SERVICE INC.**



## **A Community Legal Centre**

Reg No. A0105338Y  
ABN 13 421 440 211

### **OUR OFFICES**

#### **279 Spring Street**

Reservoir 3073  
Ph: (03) 9484 7753  
Fax: (03) 9462 3297

#### **Level 4, Fitzroy Town Hall**

PO Box 297, Fitzroy 3065  
DX no. 96611  
Ph: (03) 9419 3744  
Fax: (03) 9416 1124

#### **Neighbourhood Justice Centre**

241 Wellington Street, Collingwood 3046  
PO Box 1142, Collingwood 3066  
DX no. 211512  
Ph: (03) 9948 8698

*Fitzroy Legal Service acknowledges that our work takes place on the land of the Kulin Nations.  
We pay our respects to the Traditional Custodians of the Land, and Elders past, present and emerging.*

# CHAIR & CEO REPORT

The Fitzroy Legal Service was founded to address a major gap in the legal system – people in the community couldn't access justice because they couldn't afford it. Thanks to the pioneering work of FLS and others 48 years ago, many more communities can now access free or low-cost legal services, and this is an accepted and valued part of our justice systems.

*Left: Victorian Attorney-General Jill Hennessy and FLS CEO Claudia Fatone celebrating the amalgamation of FLS and DCLC – 19 September 2019*



But access issues haven't gone away. Other types of need and gaps in our justice systems are now clear. For example, the specific challenges for the growing number of women engaged in justice systems, people living with a disability, people experiencing homelessness, or victims/survivors of family violence. This is especially true following a turbulent year when existing social challenges and structural issues in our community have been heightened through the impact of the COVID-19 pandemic.

FLS and the Darebin Community Legal Centre have been amalgamated since 1 February 2019. This year while the world changed around us and FLS staff worked tirelessly to adapt and continue delivery, the Board took time to set a strategy for our combined organisation for the next three years. This work was informed by staff, our partners, the history of both organisations and grounded in knowledge of the community.

The 2020 strategy takes us back to our roots – and our ambition to drive change. Looking ahead we will identify issues that undermine the fairness of justice systems, work with the community to design solutions and collaborate with our partners to take this work to scale – so that ultimately our work changes the way the system operates for everybody.

All our work – from our free or low-cost generalist legal services, to our specialist programs, strategic litigation and advocacy – will inform and drive this change. Success will depend on our staff and a resilient and sustainable organisation. That's why we'll also invest in our people, systems and structures, to make sure we're an employer and partner of choice, with the skills to connect with and advocate for the needs of the community.

We would like to acknowledge the Board's commitment and insight which has shaped this strategy, as well as the energetic and pivotal contribution of Committee members, our staff and volunteers. As well, the way that our staff have adapted to the COVID pandemic, continuing to provide vital legal assistance services to the community from their homes, is an incredible achievement.

FLS is fortunate to receive significant financial and other support from a range of organisations and individuals and these are acknowledged elsewhere in the report. However we would particularly like to acknowledge the Victorian Government, Victoria Legal Aid, City of Yarra and City of Darebin for their support.

**Claire Febey**  
BOARD CHAIR



**Claudia Fatone**  
CEO

# FUNDING & SUPPORT

Core ongoing funding is provided by Commonwealth of Australia Attorney-General's Department, the Victorian Government and Victoria Legal Aid. We thank them for their ongoing support. We would also like to thank the following organisations and individuals for their contributions:

- **Allens** for pro bono support, secretarial assistance and funding the Trainee Lawyer;
- **City of Darebin** for funding support for the East Preston and Northland Youth Outreaches;
- **City of Yarra** for funding for the Fitzroy evening legal advice service;
- **Federation of Community Legal Centres (Vic)** for funding support via the Integrated Services Fund for the Darebin Drug Outreach Lawyer Program;
- **Neighbourhood Justice Centre** for their contribution towards funding FLS services delivered at the NJC, provision of meeting facilities and support on a range of programs;
- The Drug Outreach Lawyer Program, Family Law and Family Violence Health Justice Partnerships, Further & Better Particulars Program and Employment Law Clinic are supported by the **Victorian Government**;
- **Ramsay Foundation** for funding the Agency Enhancing Legal Service project;
- **RE Ross Trust** for their contribution towards funding IT upgrades;
- **Inner North Community Foundation** for supporting the Women's Leadership Group;
- **Victorian Legal Services Board Grant Program** for funding the "Women Transforming Justice" Project and the "Rachel & her Children" Project;



- Dr Bree Carlton;
- Dr Emma Russell;
- Dr Danielle Tyson;
- Better Place Australia;
- Centre for Health, Law Society – La Trobe University
- CoHealth;
- Council to Homeless Persons;
- Disability Justice Australia;
- Drummond Street Services;
- Fitzroy Learning Network;
- Flat Out;
- Harm Reduction Australia;
- Heidelberg Magistrates Court;
- Human Rights Law Centre;
- JobWatch;
- Justice Connect – Not for Profit Law;
- Justice Connect – Homeless Law;
- Kookaburra Club;
- Law & Advocacy Centre for Women;
- Lawyers for Animals;
- Launch Housing;
- La Trobe Centre for Health Law and Society;
- Liberty Victoria;
- NEMA Orange Door;
- North Richmond Community Health;
- Odyssey House;
- Philanthropy Australia;
- RMIT Centre for Innovative Justice;
- Springvale Monash Legal Service;
- St Mary's House of Welcome;

- Uniting Care ReGen;
- University of Melbourne;
- VALID;
- Victorian Aboriginal Legal Service;
- Voices for Change;
- VAADA;
- WIRE;
- Yarra Drug and Health Forum;
- Your Community Health;
- Youth Projects;
- YSAS.

#### **FOR SUBSTANTIAL PRO BONO SUPPORT:**

- Mitchell Coidan;
- Duncan Chisholm;
- Gordon Chisholm;
- Julia Kretzenbacher;
- Emrys Nekvapil;
- Alistair Pound;
- Clayton Utz;
- DLA Piper;
- Dentons;
- Gadens;
- Hall & Willcox;
- Kenna Teasdale;
- King & Wood Mallesons;
- K&L Gates;
- Maddocks;
- Maurice Blackburn;
- Minter Ellison;
- Robinson Gill Lawyers.

# OUR SERVICES

## EVENING LEGAL ADVICE SERVICES

We offer free evening legal advice services from our premises at the Fitzroy Town Hall and Reservoir.

The free evening legal advice service is conducted year-round with significant pro bono support from members of the legal sector (community members, students and practitioners) who volunteer their services to make the law and legal support accessible to members of the community.

### FITZROY TOWN HALL

This service is open Monday to Friday evenings. It is a drop-in, generalist legal advice service that assists clients with a range of matters. This generalist service is supplemented by three specialist clinics:

- **family law clinic:**  
Tuesday and Thursday evenings by appointment
- **LGBTIQ family law legal advice service:**  
Wednesday evenings, monthly, by appointment.
- **animal law clinic:**  
Wednesday evenings by appointment.

### RESERVOIR

This service is open every Tuesday evening and fortnightly on Wednesday evenings. Tuesday evenings are a drop-in service with appointments taken for Wednesday evenings.

## LEGAL ADVICE AND REPRESENTATION

### CRIMINAL AND FAMILY LAW PRACTICE (FITZROY TOWN HALL OFFICE)

The practice specialises in criminal law, intervention orders, and family law. The practice is funded through grants of legal aid and private client fees with fee structures designed to assist clients ineligible for legal aid.

### GENERALIST SERVICES (RESERVOIR OFFICE)

We provide assistance to individuals living, working or studying in the City of Darebin on a range of legal matters including criminal, tenancy, Victims of Crime, fines and infringements, family law and family violence intervention orders.

## OUTREACH SERVICES

We have partnerships with other community organisations to provide legal advice, information and representation services across the cities of Yarra and Darebin.

### DRUG OUTREACH LAWYER PROGRAM

The Drug Outreach Lawyer program provides legal services to vulnerable drug users, assisting with the rehabilitation process and harm minimisation by providing appropriate legal supports to reduce the negative impact of legal problems faced by drug users. The legal support will vary depending on the needs of the person. One off advice may be necessary for one matter where as another person may require extensive court work.

Outreach partners in the City of Yarra include YSAS (Youth Support and Advocacy Services), Living Room (Youth Projects), Inner Space (Co-Health), North Richmond Community Health Centre, North Richmond Medically Safe Injecting Room and Odyssey House. Outreach partners in the City of Darebin include Uniting Care ReGen and YSAS (Youth Support and Advocacy Services).

### FAMILY VIOLENCE AND FAMILY LAW HEALTH JUSTICE PARTNERSHIPS

We provide assistance to victims/survivors of family violence with family law and family violence matters on an outreach basis through health justice partnerships in the City of Yarra, including

- North Richmond Community Health Centre
- Fitzroy Learning Network
- Drummond Street Services
- Connie Benn Centre

### DAREBIN OUTREACH

We provide assistance to individuals living, working or studying in the City of Darebin through a partnership with Darebin Council which incorporates outreach services to the East Preston Community Centre and the Northland Youth Hub.

## COURT SERVICES

### HEIDELBERG MAGISTRATES COURT

We operate the Darebin Intervention Order Service (DIOS) which provides legal advice and advocacy services to individuals accessing the Intervention Order List. Our service is primarily assisting Applicants however in matters of conflict, we can assist Respondents. This duty lawyer service is supplemented with assistance to applicants to prepare Further & Better particulars.

### NEIGHBOURHOOD JUSTICE CENTRE

The Neighbourhood Justice Centre (NJC) is Australia's only community justice centre. It is located in Collingwood and services the City of Yarra. The NJC is committed to resolving disputes by addressing the underlying causes of harmful behaviour and tackling social disadvantage. We provide a range of services including:

- legal advice and representation in the following jurisdictions: Magistrates' Court (including the Family Violence Intervention Order List, summary crime), VCAT (the Residential Tenancies, Civil, Guardianship and Administration Lists), Children's Court, VOCAT and Infringement Court matters;
- assisting with general legal advice to residents from the City of Yarra who attend the NJC; this includes (but is not limited to) advice on matters of criminal law, family law, tenancy, family violence and personal safety; and
- actively contributing to the multi-agency leadership group, to community engagement, community development, community legal education and progress systemic change where appropriate.

## EMPLOYMENT LAW CLINIC

The Employment Law Clinic is open to individuals from overseas who have been underpaid or exploited in employment including:

- International students (500 visas)
- People on working holidays (417 and 462 'backpacker' visas)
- Workers invited to Australia through the Temporary Skills Shortage program (TSS visas)
- Refugee and humanitarian visa-holders.

We assist with issues such as recovery of unpaid wages and entitlements; advice about correct rates of pay; unpaid training; unauthorised deductions from pay; unfair dismissals and breach of general protections laws; sham contracting; and workplace bullying, injuries and discrimination.

We do not advise on immigration law.

## PRISONER ADVOCACY SERVICE

We provide a much-needed service to imprisoned people across the state. Advocating for imprisoned people to have better access to health, information, property rights and generally better conditions continues to form the bulk of the service's work. We also collaborate with other community legal centres and community-based groups who work with imprisoned people to share knowledge and work towards having greater collective impact for our clients.

## PUBLIC INTEREST WORK

We work within a community development framework to engage in strategies of empowerment for communities and individuals in their dealings with the law. These strategies include:

- public interest litigation;
- advocacy in areas of policy and law reform;
- partnership building and engagement/collaboration with stakeholders; and
- a wide-reaching community legal education program.

Our staff work across programs to identify trends, legal literacy needs, and law reform priorities for our social justice and advocacy work.

## PUBLICATIONS AND ONLINE RESOURCES

We publish and distribute a range of hardcopy and online material including:

- **The Law Handbook (LHB)** – available for sale in hardcopy, ebook and individual PDF chapters and free online at [www.lawhandbook.org.au](http://www.lawhandbook.org.au);
- **Activists Rights** – [www.activistrights.org.au](http://www.activistrights.org.au);

## FINANCIAL COUNSELLING

In partnership with Better Place Australia, financial counselling services are provided via the co-location of a financial counsellor at our Fitzroy Town Hall premises.



# OUR IMPACT







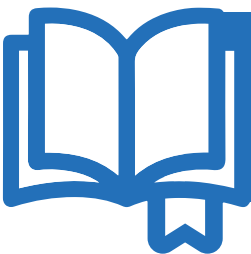
**5,439 CLIENTS ASSISTED**

**216,947 USERS ACCESSED  
WWW.LAWHANDBOOK.ORG.AU**



**\$93,143 RECOVERED FOR  
EMPLOYMENT LAW CLINIC CLIENTS**

**339 VOLUNTEERS CONTRIBUTED  
THEIR TIME AND EXPERTISE**



**21 COMMUNITY LEGAL EDUCATION/  
COMMUNITY DEVELOPMENT ACTIVITIES**

# OUR PEOPLE

## FLS STAFF

### Franky Bain

Senior Community Lawyer, NJC

### Jennifer Black

Principal Lawyer Legal Practice

### Laura Button

Women's Leadership  
Program Coordinator

### Daniel Brown

Data Entry (until September 2019),  
Night Service Administration (from  
September 2019 to February 2020)

### Deb Brown

Reservoir Office Support

### Anna Caleo

Volunteer Program Coordinator  
(from February 2020)

### Angus Cameron

Drug Outreach Lawyer  
(until December 2019)

### Mi-Lin Chen Yi Mei

Volunteer Coordinator & Drug  
Outreach Program Coordinator  
(until January 2020)

### Ella Crotty

Managing Lawyer, Family Law and  
Family Violence

### Helen Davidson

Senior Lawyer, Family Law and  
Family Violence (to September  
2019 and from June 2020),  
Managing Lawyer Family Law and  
Family Violence (from September  
2019 to June 2020)

### Chris Davies

Lawyer Prison Advocacy Program  
(from November 2019)

### Tori Diamond

Office Manager



**Above:** FLS staff and board members with MC Jon Faine at the 2019 Tim McCoy Dinner – (L-R) Yasmin Geneva, Odette Shenfield, Erin Fradd, Beth King, Jon Faine, Tim Christensen, Bonnie Renou, Tori Diamond, Shamila Liyanage

**Claudia Fatone**

Chief Executive Officer

**Jill Faulkner**Women Transforming Justice  
Project Manager**Meghan Fitzgerald**Social Action, Policy and  
Law Reform Manager**Karen Fletcher**Senior Generalist Lawyer  
(July – September 2019),  
Managing Lawyer Public Interest  
(from September 2019)**Erin Fradd**Community Lawyer, Family  
Law and Family Violence (from  
September 2019)**Yasmin Geneva**

Senior Criminal Lawyer

**Thea Gibson**Drug Outreach Lawyer  
(from January 2020)**Florence Godfrey**Client Services & Administration  
Officer (until September 2019)**Lauren Gordon** – Senior Lawyer**Rosie Heselev**

Trainee Lawyer (from March 2020)

**Brendan Kelly**Finance & Operations Manager  
(from August 2019)**Paul Kidd**

Community Lawyer NJC

**Beth King**

Senior Community Lawyer, NJC

**Albert Kuan**

Finance Officer (until July 2019)

**Sophie L'Estrange**Community Education &  
Projects Officer**Alison Leonidis**

Finance Officer (from April 2020)

**Amre Levy** – Family Lawyer**Catherine Lau**Night Service Administration  
Officer (from February 2020)**Glen Ludbrook**Night Service Coordinator  
(Reservoir) (from September 2019)**Madeleine Lynch**Community Lawyer, Family Law  
and Family Violence  
(from September 2019)**Emily Male**Client Services & Administration  
Officer (from September 2019)**Morgan Nyland**Senior Lawyer, Employment  
Law Clinic**Barbara Osafo-Kwaako**Taxi Driver Legal Education  
Program (until March 2020)**Megan Pearce**Women Transforming Justice  
Project Manager**Mark Rawlings**Night Service Coordinator  
(Fitzroy)**Naomi Saligari**

Law Handbook Editor

**Odette Shenfield**Trainee Lawyer (until December  
2019), Outreach Lawyer (from  
January 2020)**Adrian Snodgrass**

Principal Lawyer Night Service

**Annaleise Vulin**

Family Law Paralegal

**Tuvan Vuong** – Finance Assistant**Linda Waters**

Family Violence Lawyer

**Adam Willson**

Senior Drug Outreach Lawyer

**Hui Zhou**

Principal Lawyer, Legal Practice

**Dara, Jacqui Bampton, Sara  
Stilianos, Nina Storey**

Women's Leadership Group

**BOARD****Dylan Goldsworthy** (Chair)  
(resigned 31 July 2019)**Claire Febey** (Chair)  
(appointed 3 October 2019)**Vera Boston** (Deputy Chair)**Tiernan Christensen****Fiona Delahunt****Jeremy Levine****Bonnie Renou****Mick Sheehy**

(appointed 18 June 2020)

**Jennifer Tucker**

(appointed 1 October 2019)

**Karri Walker**

(appointed 18 June 2020)

**COMMITTEES****FINANCE AND AUDIT  
COMMITTEE**

Vera Boston, chair

Roslyn Aikman

Tiernan Christensen  
(until October 2019)

Peter Loukas

Rebecca Middleton

Naomi Munga

Gerry Schembri

**PEOPLE COMMITTEE**

Fiona Delahunt, chair

Chanphyna Bou

Glenn Caterer

Bonnie Renou

Donna Ross

**LIFE MEMBERS**

Sue Bothmann

Brian Collingburn

John Finlayson

Julian Gardner

Tessa Hay

Robin Inglis

Michael Kingston

Henrik Lassen

Trevor Williamson

Brian Wright

# LEGAL PRACTICE REPORT

To say it's been a rollercoaster of a year would be putting it mildly.

After many months planning, consulting and development, we finally merged the legal practices of Fitzroy Legal Service and Darebin Community Legal Centre on 17 September 2019.

With pro bono partners Clayton Utz and Allens, and the expertise of the Victorian Legal Services Board, we developed a new Conflicts of Interest and Information Barrier Policy, which introduced an information barrier between Day and Night practices. We also implemented a new electronic file management system, Actionstep, to enable better collaboration, supervision and ability to work across our Reservoir, Fitzroy Town Hall and Neighbourhood Justice Centre offices.

After 12 months of largescale organisational change, we were looking forward to a more settled 2020, until COVID hit in March which saw us like the rest of the world working from home, and quickly adapting to new ways of service delivery provision. We're grateful for the resilience, flexibility, positivity and commitment of our board, management, colleagues, volunteers, broader FLS community, who took the global pandemic in their stride, and continued to ensure that we remained focused on ensuring that we continued to service clients in our community who needed access to legal assistance. With necessity comes creativity, and very quickly we pivoted to remote service delivery, continuing to work with our community service partners, with the courts and pro bono law partners to ensure that despite challenges of not having physical presence and a shopfront interface we remained as responsive and accessible as possible in the circumstances. Some changes and achievements during this period include:

- Continuing to run duty lawyer services remotely at Heidelberg Magistrates' Court and Neighbourhood Justice Centre;
- Implementation of COVID 19 fines phone line;
- Supporting Inner Melbourne Community Legal and Flemington Kensington Community Legal Centre with the lockdown of the nine public housing towers;

- Community Legal Education and Law Week events through online channels;
- Rowson v Department of Justice, Corrections Victoria and the State of Victoria [2020] VSC 236 – in partnership with the Human Rights Law Centre, we assisted our client to seek orders for temporary release from prison in light of serious risk of harm or death that COVID-19 would pose if a case of the virus arose in prison;
- Virtual launch of our report with La Trobe and Deakin Universities "A Constellations of Circumstances": The drivers of women's increasing rates of remand in Victoria; and
- Continuing to provide services remotely to vulnerable clients serviced by our outreach partners, including through our Drug Outreach Lawyer programs, our Darebin youth outreach, family violence and family law outreaches to Queerspace, the Orange Door and North Richmond Community Health Centre.

We've learnt many things over the past few months, enhanced our technological capability, and made it easier to have more flexible work arrangements. As we look forward to taking our new skills and experiences with us as we move towards COVID normal, we're also conscious of the adverse social, health and legal impacts that COVID has had and will likely have on the clients we service, and are looking for ways to understand new legal needs and ways to address them.

Thanks again to our wonderful colleagues for their hard work in what has been a challenging and eventful year.

**Hui Zhou, Jen Black & Adrian Snodgrass**  
PRINCIPAL LAWYERS



## DRUG OUTREACH LAWYER PROGRAM

The Drug Outreach Lawyer ('DOL') Program has been operating for twenty years in the City of Yarra and has assisted thousands of individuals whose offending is connected with, or underpinned by, alcohol and drug use that systemically creates disadvantage in engaging equitably with legal services and processes. More recently in early 2019, the program expanded into the City of Darebin with strong partnerships being formed and expanded through YSAS and Uniting Care Regen. Excitingly, Meg Fitzgerald joined the team in February 2020 which enabled a focus on the broader context of advocacy to improve the health and wellbeing of drug users insofar as engagement with the justice system is concerned.

The COVID 19 pandemic environment presented huge challenges to vulnerable members of the community and health justice partnerships. Many health services were no longer able to offer face to face support, and long delays for rehabilitative treatment and counselling ensued. Some services, including our own, were converted to telephone supports, while other programs such as the Medically Supervised Injecting Room continued to provide services at limited capacity.

A common challenge that worsened during the pandemic is the fact that many clients of the DOL program are difficult to contact by phone or mail. More than ever the DOL was reliant on partners to support access to shared clients, and to track pressing concerns arising in the drug dependent community in real time. With this assistance, the DOL program across Yarra, Darebin and the City of Melbourne received steady referrals of clients with criminal and COVID related matters. FLS was also able to engage in regular briefings to peak bodies on concerns being expressed in the community, such as access to sanitation, accessible health information, access to accommodation, and trends of criminalisation and targeting affecting those experiencing homelessness, mental health, and drug dependence.

We were also able to increase awareness on the specific health demographic of people who use drugs and vulnerability to transmission, adverse outcomes in the context of COVID, relevant to the prisoner population and broader population.

Overarching objective: seek opportunity to push the public health frame around drug use, human rights of drug users, the duty on the State to preserve life, as an advocacy opportunity within COVID 19.

## KEY ACHIEVEMENTS

- Rapid adaptation of outreach service delivery and community engagement models to ensure maintenance of proximity to clients and issues impacting people who use drugs in our catchments
- Community legal education to health partners on Child Protection laws and Supporting Clients through Court
- Capacity building with peer network to provide feedback on trends, needs and materials, with education resource specific to the needs of drug users developed by the group.
- Advocacy for prisoners with a history of intravenous drug use through health agencies, networks and peak bodies, and commissioning of rapid research to identify specific risks presenting through Burnett.
- Investment in coalition building to bring to the fore and champion the rights of one of the most vulnerable demographics in the COVID 19 pandemic environment.
- Supporting opportunities of people with lived experience to engage with media.



## EVENING LEGAL ADVICE SERVICES

The evening legal advice services at our Reservoir and Fitzroy Town Hall premises provided 3,285 sessions in the year 2019–20, helping people with civil, criminal and family law issues. From March 16th, in response to the COVID lockdown, we moved from providing an in-person service to telephone advice. The COVID restrictions limited our ability to provide the service on the same scale and we provided 412 advice sessions between March 16th and June 30th. Overall, we provided about 400 fewer advice sessions in 2019–20 than we were able to in 2018–2019.

### **WE CONDUCTED CLIENT SURVEYS TO ASSESS THE TELEPHONE ADVICE SERVICE. HERE IS SOME OF THE FEEDBACK WE RECEIVED:**

*"I couldn't sleep or eat prior to talking to your lawyer. I had had a call from a private firm who was more interested in getting my credit card details than giving any useful advice. I was so confident I decided to use your services."*

*"Wasn't sure of my legal position and was given direct and clear advice. Although the outcome is pending, stress levels and anxiety reduced due to the advice provided."*

*"I appreciate the patience and courtesy of the staff as they assist so many people who are facing difficult situations in their lives. Also the practitioners who generously make their services available to us. I find it sad that the demand for their services is so excessive."*

*"We have had (and are still receiving) brilliant and clear-headed advice from a number of your volunteers and staff. It's been a very stressful time (not to mention the pandemic) but your organisation's wonderful service has helped to alleviate some of the stress. Please send our thanks and regards to all."*

*"I would just like to say how great the professional service provided was and how fortunate we are to have such an organisation as Fitzroy Legal Service. Your service truly makes a difference to the lives of disadvantaged and busy people like myself who cannot afford the time and money to get access to legal advice and services. Thank you. Keep up the amazing work."*



**Above:** FLS lawyer Erin Fradd (second from left) and CEO Claudia Fatone (far right) walking in the annual Pride March

# CASE STUDIES

## GENERALIST SERVICES (DAREBIN)

### FINES

Mary\* came to FLS with fines of several thousand dollars obtained over several years. She is of low income, has limited literacy skills and suffers from mental health issues. Mary's lawyer discussed the options available to Mary in dealing with her fines, and she agreed she'd like to participate in the Work Development permit scheme – a new scheme within Fines Vic that allows vulnerable people to "work off" their fines while seeking psychological and mental health support and treatment. Mary's lawyer approached a local mental health nurse to ask if he would accept a referral to support Mary and become a sponsor on the WDP program. The nurse agreed and was able to provide all round mental health support, while with each visit, Mary "worked" off some of her fines. Her fines are now completely discharged.

In addition, after making several previously unsuccessful applications for the Disability Support Pension, with the support of her new mental health nurse and further mental health supports he was able to introduce, Mary was finally able to gather the necessary evidence of her condition, and was successful in her application for the Disability Support Pension.

### VOCAT

Sam\* came to us for assistance with a Victims of Crime Compensation (VOCAT) application in relation to a serious assault. Sam had a previous criminal history, something, which on the face of it would exclude her from being eligible for an award. The Tribunal raised concerns in relation to the criminal history, indicating they may reject the application on that basis. Sam's lawyer made submissions addressing Sam's criminal history and her circumstances and the Tribunal accepted her as eligible, making awards to assist her with her recovery.

## CRIMINAL LAW PRACTICE

Sarah came into FLS one day after she had been charged with property damage and assault of her ex-partner. She was a single mother to five young children and English was her second language. She had no prior criminal history and didn't understand the charges against her or why she had to go to court. After speaking with Sarah with the assistance of an interpreter, FLS learnt that Sarah was the victim of domestic violence and she acted in self-defence when she was attacked by her ex-partner. This wasn't the first time that she was attacked but it was the first time she fought back. Her ex-partner called the police when she defended herself and then she was charged and received a summons to attend court. No charges were laid against her ex-partner. FLS negotiated with the prosecution and appeared on Sarah's behalf at court. Through the hard work and determination of FLS, the charges against Sarah were ultimately withdrawn. FLS also assisted Sarah to apply for an intervention order to protect herself and her children and referred her to a number of support services.



## MIGRANT EMPLOYMENT LAW CLINIC

The Migrant Employment Law Clinic continues to assist vulnerable migrant workers with claims for unpaid wages, general protections, discrimination and unfair dismissals. Two of the published highlights from the past year:

- *Budathoki v Consult Security* (2020) FCCA 1872 in which our client, a migrant security guard, was found to have been employed on a sham contract and underpaid more than \$20,000, including a period of more than a month where our client was not paid at all. The company and its directors were also ordered to pay \$115,000 to Mr Budathoki in penalties for breaches of the Fair Work Act.
- *Kumari v Bervar Pty Ltd t/a Della Rosa Fresh Foods* [2019] VCAT 1654 (25 October 2019). A discrimination claim in which the employer was found to have victimised our client for making a complaint about workplace sexual harassment. The case continues and the amount of any compensation order is still in dispute.

## NEIGHBOURHOOD JUSTICE CENTRE

### YOUNG ADULT LIST

When FLS first met him, Amir\* was 20 years old with pending charges for possession and trafficking of cannabis. Amir had been charged with some offences when he was under 18, but this was the first time that he had been charged with an adult criminal offence.

Amir was initially connected with our team at the NJC via a referral from FLS's Drug Outreach Lawyer Program operating in partnership with the Youth Support Advocacy Service ('YSAS'). FLS worked with Amir to understand his needs and priorities, particularly focusing on his youth and his future housing, study and employment goals. FLS successfully negotiated for the more serious charge of trafficking to be withdrawn. In relation to the remaining charge of possession, our lawyer recognised that Amir was eligible to have this matter heard in the NJC's Young Adult List. The Young Adult List aims to improve justice outcomes for people aged 18–25 years who come into contact with the criminal justice system through (1) ensuring focus on relevant sentencing principles for youthful offenders such as rehabilitation; (2) encouraging tailored age- and need-specific therapeutic interventions for young people; and (3) promoting recognition of the scientific research indicating that for this age bracket, brain and cognitive development is not yet complete.

FLS prepared written submissions, negotiated with police and appeared on Amir's behalf in court, successfully arguing that Amir was an appropriate candidate for the Magistrates' Court Diversion Program. This program offered Amir the opportunity to avoid the burden of an adult criminal record, which would have had significant impact on his future employment opportunities.

Having the matter listed at the NJC Young Adult List allowed the NJC's Neighbourhood Justice Officer (NJO) to facilitate a Circle of Support for Amir as part of his diversion program. The NJO is a unique position

which serves as a link between the NJC court and the Yarra community, and the Circle of Support involved participation by the NJO, Victoria Police, Amir's YSAS case worker, and his FLS lawyer.

Amir's participation in the Circle of Support allowed him to share his story and the circumstances which had led to his offending behaviour. Amir described moving to Australia at the age of 5 and his family struggling with poverty, overcrowded living conditions, family violence perpetrated by his father and his mother's poor mental health. He talked about becoming homeless at the age of 15, often sleeping in parks, through which he was exposed to significant further violence, and becoming dependent on cannabis. Amir described how despite this, he had managed to complete high school, secure casual employment, and enrol in further study.

The Circle participants discussed how Amir was intelligent and motivated, but had previously struggled with following through on opportunities as a result of having to focus on basic survival needs. From this collaborative approach and Amir's positive participation, Amir was connected with several referrals to help improve his overall wellbeing, including housing support, alcohol and drug counselling and mental health support.

When the case returned to Court, Amir's engagement and the information he shared in the Circle of Support allowed FLS to make a strong case regarding the value of a non-adversarial therapeutic approach. Amir's case was finalised by way of diversion. Now Amir hopes to use his experience with the criminal justice system to assist other at risk young adults.

## OUTREACH SERVICES (DAREBIN)

### ASSAULT

Henry\* came to FLS explaining that he had been charged for assaulting an emergency worker, but that he was unconscious at the time. Henry is a transgender asylum seeker with a background of significant trauma. We successfully negotiated with police to withdraw Henry's charge, by arguing that the charge could not be proved since evidence showed that Henry was unconscious. Negotiating with police on Henry's behalf meant we were able to help Henry express his side of the story and resolve the matter outside of court. It also avoided the risk of a visa cancellation. After his charges were withdrawn, Henry said: "Fitzroy Legal Service took care of my case very well. They were able to get social help for my mental health and I'm very thankful to have them as my lawyers."

### FINES

Ben\* was an international student suffering a gambling disorder, depression and anxiety. Because of his gambling addiction, Ben had thousands of dollars of fine debt and fell behind on his university fees. His university enrolment was cancelled because of late fee payments and this led to the possibility of his visa being cancelled. We negotiated with his university to reinstate his enrolment. After we explained Ben's personal circumstances and his efforts in managing

(\*not client's actual name)

his financial situation, the university reinstated his enrolment on compassionate grounds. We also helped Ben manage his fine debt. We supported Ben to participate in the Work Development Permit Scheme ('WDP'). The WDP is an option for vulnerable people to work off their fine debt, and allowed Ben to 'work off' his fines by attending financial and mental health counselling. Through this program, Ben has already worked off thousands of dollars of his fine debt and is now engaged with therapeutic and financial counselling to support him in his gambling addiction.

### **TENANCY**

Haleema\* was two months into her fixed-term tenancy when she began suffering severe sinus infections and headaches because of mould and damp in a house she was renting. She was particularly worried about these health risks during the COVID-19 pandemic. Despite several requests, Haleema's landlord refused to fix the mould and damp issues. Haleema wanted to end her tenancy but was unsure whether she would be in breach of her lease agreement. We helped Haleema draft a letter to her landlord requesting to end the tenancy by consent and the landlord consented to do this. This meant that Haleema avoided having to pay any lease breaking costs or having to go to VCAT. Haleema described her help from Fitzroy Legal Service, saying "I don't have words enough to express my appreciation and how much this helps me out. Life changing!"

### **GRAFFITI OFFENCE**

Luke\* was studying for his final year 12 exams and managing stress at home when he was charged with graffiti offences. Luke had no prior criminal history and seemed like an ideal candidate for the Diversion program. The Diversion is a program that allows people to deal with their criminal matter outside the court system and helps them to avoid a criminal record. A person cannot get diversion without consent from prosecutions, who usually require consent from the officer who charged the person. In this situation, the police officer refused to recommend Luke for the program. The Darebin Youth Hub offers a community program to help young people engage in legal avenues for creating street art. Through our partnership with the Hub, we referred Luke to this program, both for his artistic development and to improve his chances of being recommended for the Diversion program. Luke engaged well in this program and found it a rewarding community to be part of. We then contacted the police officer who charged Luke and with a support letter from the Hub and other support materials, they agreed to reconsider the issue and to recommend him for the Diversion program.

## **FAMILY LAW/FAMILY VIOLENCE SERVICES**

### **PARENTING PLAN ADVICE**

Sarah\* was referred to FLS by the Asylum Seeker Resource Centre seeking legal advice on a parenting plan for her young child. Sarah was a survivor of family violence and had obtained a Family Violence Intervention Order protecting herself and the child. Sarah did not want legal representation and preferred to attend mediation without a lawyer. Through multiple advice appointments, her FLS lawyer explained the law, the meaning of terms in the Father's proposed parenting plan and re-drafted the parenting plan in line with Sarah's instructions. This assistance provided Sarah with the legal support she needed to exercise agency over her legal problem.

### **VLA PROPERTY PILOT**

Jo\* was referred to FLS through VLA's Property Pilot. Jo sought the sale of the family home and the Wife sought periodic spousal maintenance. Jo had a good income during the marriage but due to COVID 19, had recently been made redundant. Their FLS lawyer submitted that Jo did not have the capacity to pay spousal maintenance, although the Wife clearly had the need, and successfully negotiated an agreement for capitalised spousal maintenance. The main asset of

the marriage, the home, needed minor repairs. Their FLS lawyer assisted Jo to vary the intervention order against him to allow him to organise for works to be carried out at the home to maximise its value at sale. Over two mediation conferences, and much work in between, the FLS lawyer assisted Jo to reach a property settlement and final consent orders. We are grateful to Gadens for the pro bono mentoring support they have provided to FLS for our work on the VLA property pilot.

### **HEIDELBERG MAGISTRATES COURT SERVICE**

Thea\* applied for a Family Violence Intervention Order on behalf of herself and her children. The Respondent was her ex-partner and the children's father. The Respondent had emotionally and psychologically abused Thea and the children and had recently assaulted the youngest child. Their FLS lawyer worked with Thea to prepare detailed Further and Better Particulars (FBPs) referencing and annexing copies of the Respondent's abusive communications to Thea and the children. The Respondent failed to comply with the Court's Order for a written Response and then did not attend the Directions Hearing. On the basis of the FLS lawyer's submissions and the FBPs on record, the Court made a final intervention order lasting until the youngest child completed their final VCE exams.

## **DRUG OUTREACH LAWYER PROGRAM**

### **CITY OF YARRA**

James\* was referred to our Drug Outreach Lawyer via his worker at the Living Room (one of our partner health services). He is homeless, has significant mental health issues, a significant opiate dependency, and attends the North Richmond Medically Supervised Injecting Room (MSIR) (another of our partner health services) frequently to safely use. James was in a state of high stress as he had been served with an interim intervention order protecting a person who is also using the MSIR. While James did not object to the full order, he was not allowed to go within a certain distance of the victim which he was certain to breach if they were both at the MSIR. Being homeless, he still needed to access the MSIR as his only space to safely inject. He wanted to do the right thing by the protected person and the order but feared when using at MSIR he may encounter the protected person and would therefore have to leave which would rob him of the much needed supervision.

His FLS lawyer contacted the MSIR to see if there were any mechanisms that could be put in place at their service to ensure both our client and the protected person could still use the service. James consented to MSIR putting a note on his file which would flag if the protected person was present and he would be advised he could not enter at that time. The same flag was also put on the protected person's file. That failsafe made the client feel safe that he could attend MSIR without risk of breaching the intervention order by accident or putting himself at harm. James' FLS lawyer made an application with the Court to have the intervention order varied to allow both parties to attend

the MSIR. Due to the nature of the proceeding, it was able to be heard at Court during the pandemic. A worker from the Living Room was at Court with the client to support them with his FLS lawyer appearing remotely. The variation was initially rejected in the initial negotiations with the police prosecution which led to further lengthy discussions and finally eventuating with prosecutions understanding the harm that could be reduced by varying the order to allow both parties to attend the MSIR. James' lawyer then explained to the Court regarding the supervised injecting space, and its importance to both parties to continue to have access without fear. Her Honour was receptive and pointed out herself that the risk to the protected person was ameliorated.

The matter provided an opportunity to work with two of our health partners to ensure a better outcome for a mutual client. It also promoted the principles of harm reduction and educated other important stakeholders (the Police and Magistrates' Court) of the importance of the MSIR.

### **CITY OF DAREBIN**

Eric\* (40 years old) instructed that his drug use was "spiralling out of control" in conjunction with the rest of his life. He had lost his job, family and home in the last year. He was now homeless and had been using Ice daily to deal with severe depression. To add to the stress, Eric had recently been sentenced for criminal matters to a community corrections order for six months. The order was one step away from a prison sentence. Given the chaotic nature of his life at the time, he was in no position to comply with the conditions of the order. He faced the very real prospect of being resentenced to imprisonment and further breach proceedings.

Eric decided to take the first step in attempting to deal with his issues by walking into Uniting Care ReGen's office for Alcohol and Other Drug (AOD) counselling. It was during that initial assessment the referral to the drug outreach lawyer was made. It became clear that Eric had grounds to appeal the corrections order. The sentence was far too punitive for a person with no relevant prior convictions. Furthermore, many of the charges Eric "felt forced to plead guilty to" without proper legal representation and they were not made out. An appeal was lodged. Before the proceedings, Eric's lawyer negotiated with the Crown to withdraw the most serious charges. During the hearing, the lawyer was able to present a compelling argument that Eric is now attempting to address the issues that led to the offending through his efforts with ReGen. The original corrections order was overturned, and Eric received a significantly reduced sentence without conviction to undertake to be of good behaviour for six months.

The timely referral by the AOD worker to the Drug Outreach Lawyer made a significant difference to Eric's life. He avoided fraud and theft charges which may have resulted in unnecessary stigmatisation. Without having to comply with the Corrections Order, the external stressors in Eric's life were also greatly reduced and furthered the opportunity for him to focus fully on his recovery.

(\*not client's actual name)

# PROJECTS

## AGENCY ENHANCING LEGAL SERVICE (AELS) PROJECT

In late 2019 Fitzroy Legal Service and the University of Melbourne were successful in securing capacity-building funding from the Paul Ramsay Foundation for the Agency Enhancing Legal Service (AELS) Project. Inspired by the UN Convention on the Rights of Persons with Disabilities, the AELS project will co-design a new legal service model to enhance agency and decision-making for all clients, particularly people with disability, during their interactions with lawyers and the legal system and ideally also to act as a catalyst for such changes in their lives more broadly.

In May 2020 we brought together a diverse steering committee including people with lived experience of disability and the criminal justice system and representatives from the Centre for Innovative Justice, Victorian Advocacy League for Individuals with Disability (VALiD) and Disability Justice Australia. Whilst COVID has thrown a significant spanner in the works for our envisioned face to face co-design, we have used the additional time to learn from tailored training and refine our project design. We are now set to begin co-designing with two small groups of people with lived experience of the justice system – one with people with acquired brain injury and the other with people with intellectual disability. FLS lawyers will join the co-designing process in 2021 to prototype ideas and elements of the model as they are developed in their daily practice. Following the prototyping phase, we will develop some resources and training to support the implementation of the model for all staff at Fitzroy Legal Service. This exciting project, which will be evaluated by the University of Melbourne, has the potential to improve FLS service delivery for people with disability as well as all people who experience barriers to participation. It is also a tremendous opportunity to explore meaningful and innovative co-design strategies. We hope this will strengthen FLS' existing commitment and capacity to work alongside people with lived experience to improve our practices at all levels of the organisation and to plan, deliver and evaluate future projects.

**paulramsay**  
**FOUNDATION**  
PARTNERSHIPS FOR POTENTIAL

## WOMEN TRANSFORMING JUSTICE PROJECT

Fitzroy Legal Services manages Women Transforming Justice, which has been funded by the Victorian Legal Services Board since the start of 2018 and is operated in partnership with the Law and Advocacy Centre for Women (LACW) and Flat Out. The overarching objectives of Women Transforming Justice are to support women to be released from and stay out of custody by providing skilled, integrated and women-specific legal representation and outreach-based case management and influencing decision-makers to take a gender-responsive approach. Women Transforming Justice achieves these objectives through its three key components:

- **SERVICE DELIVERY**
- **WOMEN'S LEADERSHIP**
- **SYSTEMIC REFORM**



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CENTRE FOR WOMEN

Victorian Legal Services  
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Funded through the Legal Services Board Grants Program



## SERVICE DELIVERY

In 2019–20, Women Transforming Justice consolidated the implementation of its service delivery component, which provides women on remand with skilled, holistic and women-specific legal representation and intensive outreach to support them to be released from custody and address the drivers of their incarceration in the community. This component of the project is delivered by LACW and Flat Out, with project management and coordination by Fitzroy Legal Service.

In 2019–20, the project received nearly 40 referrals and made bail applications in every instance. A significant proportion of referrals resulted in a successful bail application. The overwhelming majority of women referred to the project were navigating multiple, interrelated and significant challenges, including family violence, housing instability, drug dependence, mental health problems and child protection involvement. The project repeatedly highlighted how the Victorian social service and criminal justice system is completely inadequate to meet the needs of criminalised women.

As with all elements of the project, COVID-19 had a significant impact on the service delivery component. Given the significant health risks posed by COVID to people in prisons, LACW and Flat Out made a concerted effort to seek bail for as many women possible. This intense service delivery occurred against a backdrop of increased policing to enforce COVID-19 restrictions and reduced availability among support services affecting some women's ability to access the support they need. In contrast, emergency accommodation made available to people sleeping rough and exiting prison benefited some women.

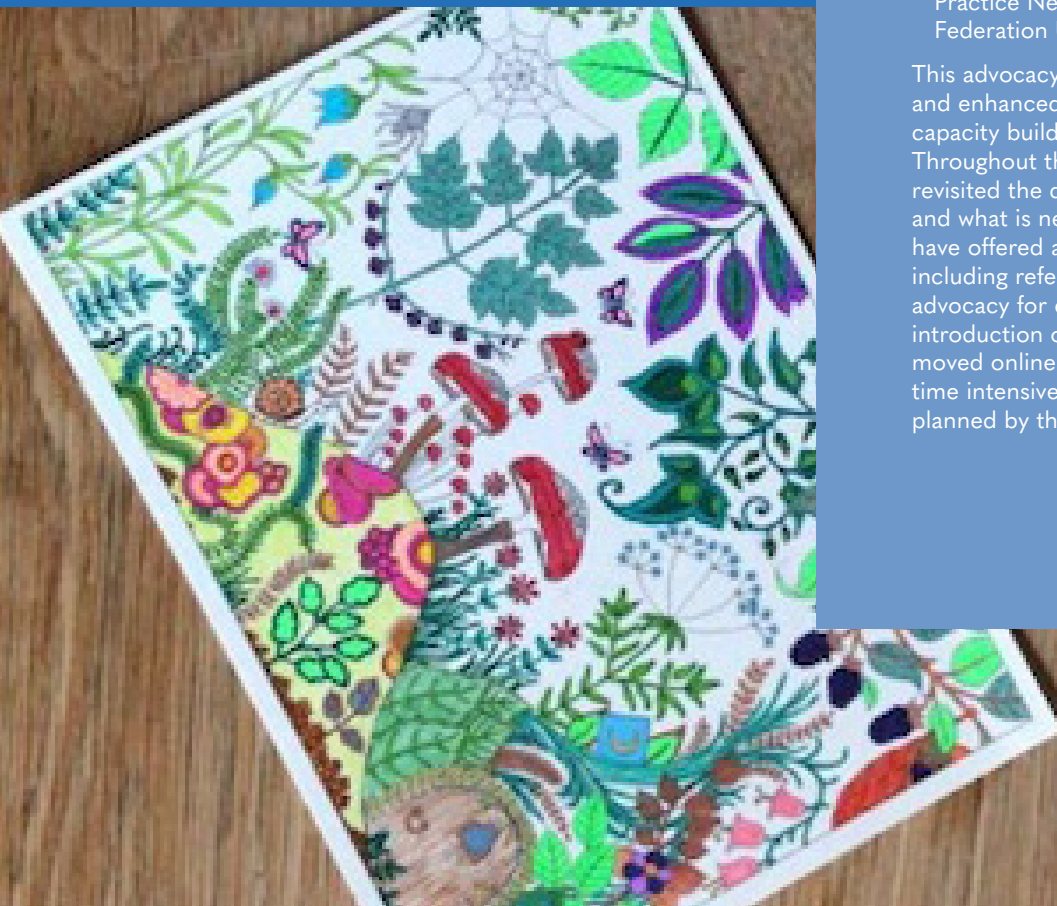
## WOMEN'S LEADERSHIP GROUP

The Women's Leadership Group is a group of women who have been in prison who meet weekly with Fitzroy Legal Service staff to build their own capacity and skills and to inform and deliver the advocacy activities of Women Transforming Justice. The Women's Leadership Group are casual employees of Fitzroy Legal Service.

In 2019–20, a key focus of the Women's Leadership Group work has been guiding and contributing to Women Transforming Justice's advocacy activities. Highlights of this work include:

- Finalising submissions to the Victorian Parliamentary Inquiry into Homelessness, Royal Commission into Mental Health and Parliamentary Inquiry into Spent Convictions
- Presenting at forums and on panels such as: Reintegration Puzzle conference in Darwin, Flat Out's "Accountability for Harm" forum, WIRE panel on COVID-19 and Safety and the launch of the report "Constellation of Circumstances: The Drivers of Women's Increasing Rates of Remand in Victoria" (co-authored by FLS, La Trobe and Deakin).
- One member gaining membership of the Victim Survivors Advisory Council, an initiative of the Victorian Government which informs the development of laws and policies that respond to family violence in Victoria
- Developing a podcast with Philanthropy Australia
- Consulting with WIRE, Geelong Integrated Practice Network and researchers at Federation University

This advocacy work has been supplemented and enhanced by a program of training and capacity building for members of the group. Throughout the year members of the WLG have revisited the question of capacity to participate and what is necessary to enable this. WTJ staff have offered a range of supports to WLG members including referrals to services, support and advocacy for court and material relief. With the introduction of COVID-19 restrictions the WLG moved online. Arranging for this was challenging, time intensive and disrupted some of the work planned by the group.



*Left: Images of craft projects a member of the WLG did during COVID*

## SYSTEMIC REFORM

In pursuing its agenda of systemic reform, Women Transforming Justice has contributed to a number of research, advocacy and strategic litigation initiatives in addition to the advocacy work of the Women's Leadership Group. Most notably this has involved:

- Alongside La Trobe and Deakin universities, co-authoring the report: *Constellation of Circumstances: The Drivers of Women's Increasing Rates of Remand in Victoria* (July 2020)
- Participating in a range of regular stakeholder forums including with Family Safety Victoria, Justice Connect's Justice Access Advisory Group, Independent Broad-based Anti-Corruption body roundtables, Smart Justice for Women (convened by the Federation of Community Legal Centres and LACW) and a consumer participation network meeting.
- Appearing in the appeals case of *Hill v The Queen* [2020] VSCA 220, in which FLS sought to highlight the complex links between family violence and women's criminalisation in an appeal against sentence to the Victorian Court of Appeal. While leave to appeal was ultimately refused, the litigation itself represents a strategic attempt to bring the complexities of gendered violence and the gendered nature of women's criminalisation into Victorian sentencing jurisprudence.

As with all other work, COVID-19 hampered the capacity of project staff to pursue its planned systemic reform activities.



INNER NORTH  
COMMUNITY  
FOUNDATION

*Left: Images of craft projects a member of the WLG did during COVID*

## RACHEL AND HER CHILDREN PROJECT

The 2019–2020 year brought the service delivery phase of the Rachel and her children pilot into fruition, with the project in its entirety coming to an end on 30 June 2020.

The pilot was funded by the Victorian Legal Services Board Grants Program, and was independently evaluated by Effective Change Pty Ltd. The evaluation took a developmental approach, proving invaluable, as the Multi-disciplinary model being tested was an innovative design involving a new partnership with Save the Children Australia.

The pilot paired a Family Violence lawyer from FLS with a Child Support Worker (CSW) from Save the Children Australia who brought with them expertise in child rights and advocacy, to better assist adult primary carers and their children who were victim survivors of family violence, and who had complex legal and child related needs arising from family violence. A City of Yarra focused project, we also formed partnerships with the Connie Benn Centre and the Neighbourhood Justice Centre who generously provided child safe, and culturally safe, client consultation space.

The evaluator worked alongside project staff, the Governance Group and the Project Advisory Committee (comprised of key stakeholders) throughout the project's timeline. An Evaluation Report was delivered in August 2020 summarising the learnings and findings of the project around service collaboration, improved outcomes for victim/survivors, identification of practice, policy and service system improvements, and recommending options for a future iteration of the model.

The experience of the practitioners' and the findings of the evaluation report aligned, and it was concluded that this MDP model is valuable for clients with complex or outlier family violence legal matters, and whose children have multifaceted needs. The project delivered substantial legal services to five adult primary carers, and tailored child focused case management through the CSW to nineteen children who, in and of themselves, were survivors of family violence. Another ten adult primary carers referred into the program received legal advice or referral.

"...the characteristic they had in common was a level of complexity that had been missed by other service providers or was likely to be missed – non-English speaking migrant mothers, disconnected from local community services, unsupported by patriarchal structures of their country of origin communities, a victim survivor misidentified as a perpetrator, a father acting protectively for the care and custody of his son, a mother ineligible for legal assistance yet spending all of her divorce settlement funds as a self-represented litigant in the Family Law Court, histories of undisclosed family violence left unaddressed and continuing to affect the adults and children."

After training was delivered to Save the Children Project staff as to family violence legal needs identification, a referral pathway was established. Notwithstanding this, referrals into the project primarily came from external service providers who had direct contact with the adult primary carer (i.e., City of Yarra Family Services, Maternal Child and Health Services, the Orange Door in Heidelberg), as well as internally through FLS legal services.

Working within the model, and in liaison with other service providers in Yarra to dismantle silos, the lawyer and CSW were able to provide a better service to families. As practitioners, cross system collaboration, secondary consultation, training, and improved practice around child safeguarding and client consultations, meant that the provision of the legal service was not encumbered by non-legal case management tasks. The CSW, in turn, was better informed of the mechanics of the legal processes that impact families which aided their assessment of how to support each adult primary carer and child with referrals in the Yarra service system, and non-conventional referrals (i.e., martial arts programs, aerial yoga), advocacy, and support to pivot the family toward better long term health, wellbeing, education and safety outcomes. The addition of co-case management or liaison with adult focussed external service providers such as Berry Street or City of Yarra Family Services, ensured holistic support was provided to each family member in an integrated response.

The report highlights the development of this MDP model led to:

- Increased cross organisational knowledge of family violence and child-focussed practice (which has manifested into FLS reassessing all working spaces and practices where children may attend on-site, and developing an organisational Child Safeguarding policy which will be implemented across the organisation);
- Improved referral pathways between FLS and service providers in the City of Yarra for adult primary carers and children alike;
- Improved outcomes for victim survivors of family violence (the collaborative approach enhanced engagement with legal support and enabled children's needs to be separated from the legal process, and the multidisciplinary and holistic response improved the quality of the legal and non-legal responses for clients); and
- Value and responsiveness to clients, their children, and their legal outcomes under emergency conditions such as the bushfires and the COVID-19 pandemic.

Whilst funding for the project has finished, we have been able to build on the City of Yarra relationships developed during the project to hone in on local support for children. Should the project be re-framed for a future adaptation, it was recommended in line with the key learnings, that partnership and collaboration with one or two organisations who deliver child focussed services, and direct service delivery to adult primary carers who meet the eligibility criteria for the project, over the course of a lengthier project timeline would strengthen the model.

We continue to work collaboratively where possible to fill gaps and advocate for victim survivors, noting the limitations of the current service system for children.

# PUBLIC INTEREST

## LITIGATION

### COVID-19 RISK AT PORT PHILLIP PRIVATE PRISON

We partnered with the Human Rights Law Centre and briefed Emrys Nekvapil of senior counsel and Julia Kretzenbacher as his junior to represent Mr Mark Rowson, a man in his fifties serving a sentence of over five years for fraud offences at Port Phillip Prison in Truganina, in an application to the Supreme Court for his release to effective home detention to prevent his infection, serious illness and death from COVID-19.

Mr Rowson contacted the Prison Advocacy Program early in the first wave of COVID-19. He had made an application for a “Corrections Administration Permit” to allow him serve part of his sentence confined to a self-contained unit on a family member’s property under strict conditions. Corrections Victoria had not responded to his application.

Mr Rowson has a history of serious cardiac and respiratory conditions. He was extremely anxious because he was unable to self-isolate at Port Phillip Prison and in his view, there were inadequate health and hygiene measures at the privately-operated prison to prevent an outbreak. He and his family feared he would become infected and suffer serious illness or die. He felt he was a ‘sitting duck’ for the virus.

Emrys Nekvapil and Julia Kretzenbacher both acted pro bono and they and Monique Hurley, senior lawyer at the Human Rights Law Centre worked tirelessly on the matter. Thanks to their extensive experience and expertise the litigation strategy was able to use and build on very recent developments in negligence litigation, particularly in immigration cases. We argued in a one-day hearing in the Practice Division of the Supreme Court that the state owed a duty of care to take reasonable steps to ensure Mr Rowson did not suffer serious injury or death from COVID-19 and that their failure to respond to his application for a Corrections Administration Permit or otherwise take reasonable steps to protect him was a breach of that duty. We also argued that the state defendants were acting incompatibly with Mr Rowson’s human rights under the Victorian Charter of Human Rights and Responsibilities Act 2006, in particular his right to life and to humane treatment when deprived of liberty. We made interlocutory application for an injunction to prevent Mr Rowson’s continued imprisonment pending determination of the substantive claim of negligence and for judicial review. His Honour Justice Ginnane found “the Court has power to make such an order in an extreme case under its inherent jurisdiction to preserve the subject matter of litigation” but did not find the circumstances to be sufficiently extreme on 1 May 2020, a time when community transmission was in significant decline.

Mr Rowson gave extensive evidence of the shortfalls in the measures in place at Port Phillip Prison, operated by global private security company G4S, to prevent COVID-19 including practices that made social distancing impossible and inadequate hygiene and cleaning. The defendants tendered the policies and practices required to be followed at the prison. His Honour commented that there appeared to be “a gap between what policy anticipates should occur and what is actually occurring” in Mr Rowson’s unit at Port Phillip and ordered an independent assessment of the risk to prisoners and staff.

Mr Rowson was not released to home detention but the findings that the defendants owed a duty to prisoners to take reasonable steps to protect them from infection, and that the court has power to grant an injunction for release in sufficiently serious circumstances, may



be significant for future litigation in prison matters. Reports indicate the case, and the court-ordered risk assessment, led to some significant improvements in measures to prevent COVID-19 at Port Phillip Prison and elsewhere. We are pleased to report that, at time of writing, Mr Rowson is in good health and, bar a single case of COVID-19 in a young man transferred from Port Phillip to a youth detention facility, there has not been an outbreak at Port Phillip.

Sincere thanks to Emrys Nekvapil, Julia Kretzenbacher and Monique Hurley for their skill, expertise and their many hours of work, at all hours. Thanks also to senior counsel Alistair Pound for his valuable guidance and support. FLS Managing Lawyer Public Interest Law, Karen Fletcher was interviewed about Mr Rowson's case on the 5 May 2020 edition of The Law Report on ABC Radio National. The case is reported at *Rowson v Department of Justice and Community Safety* [2020] VSC 236.

### REFUGEE RIGHTS PROTESTER'S PHONE AND COMPUTERS SEIZED BY POLICE

FLS lawyer Odette Shenfield and counsel Adam Chernok acted for local high school teacher and refugee rights activist Chris Breen (*pictured right*) in the Melbourne Magistrates Court for an order for the return of his mobile phone and his, and his son's, home and school computers seized by Victoria police connected to his role in organising a refugee rights rally.

Mr Breen is a member of the Refugee Action Collective and was an organiser of a COVID safe "car cavalcade" protest calling for release of medical evacuees from Manus Island detained at the Mantra Hotel in Preston on Good Friday, 10 April 2020. Social media posts promoting the protest requested participants comply with Stage 3 COVID restrictions by remaining in their cars with a maximum of 2 people from the same household in each car.

Police arrested Mr Breen at his home early on the morning of the protest and held him at Preston police station until late evening. The protest went ahead without him and he was charged with inciting breaches of COVID directions. His mobile phone and several computers, including his son's and his own school computers, were seized from his home under a search warrant on the basis that they may afford evidence of the offence.

FLS tried unsuccessfully to negotiate with police for return of the phone and computers which Mr Breen and his son both needed for remote schooling due to start after Easter. Police advised the items would be held for up to two years for forensic examination. On 6 May 2020 Her Honour Magistrate Radford ordered the immediate return of the items on the basis that Mr Breen admitted to posting the Facebook event promoting the protest and it was in the interests of justice for the items to be returned to allow Mr Breen and his son to use them for school and other purposes. The incitement charges against Mr Breen are yet to be heard.





## ADVOCACY AND LAW REFORM

### YARRA COUNCIL LOCAL LAW 8 – PUBLIC DRINKING PROHIBITION

We made submissions to the City of Yarra Councillors urging them to reject a proposal to extend operation of Consumption of Liquor in Public Places Local Law 2019 (Local Law 8) scheduled to sunset on 19 October. We supported the submission of the Victorian Aboriginal Legal Service and a range of other Aboriginal organisations calling on councillors to vote against renewal of the law.

Local Law 8 imposes fines for “consuming, possessing or controlling liquor in a public place” and related offences. It was introduced by Yarra Council in 2009 to address concerns among local business people about public drinking in the City of Yarra, particularly on Smith Street in Collingwood. There was significant opposition to the law at the time it was introduced.

FLS maintains our opposition to Local Law 8 on the basis of the significant, and growing, evidence that laws against public drinking and public drunkenness disproportionately impact Aboriginal and Torres Strait Islander people. The laws, while rarely enforced in Yarra, exacerbate serious risks associated with criminalisation, contact and conflict with police. This evidence was examined closely by the Victorian Coroner in the 2019 inquest into the death of Tanya Day. In response to the Coroner’s findings the Victorian government has announced it will repeal state laws criminalising public drunkenness. Local Law 8 should likewise be repealed.

In 2019 the campaign against re-enactment of Local Law 8 was again led by local Aboriginal representatives and organisations urging Council to adopt evidence-based public health and welfare measures to reduce alcohol-related harm. Council narrowly (by one vote) decided to renew Local Law 8 for a further two, rather than 10, years as an interim measure while further consultation is conducted. The by law will now sunset on 21 October 2021. FLS is participating in the consultation process coordinated by Council’s Aboriginal Partnerships unit.

### VICTORIAN PARLIAMENTARY INQUIRY INTO HOMELESSNESS

We made submissions to the Inquiry by the Legal and Social Issues Committee of the Victorian Parliament into Homelessness in Victoria. The submission focussed on the ways in which we see homelessness and criminalisation reinforce and compound for clients of FLS programs including Drug Outreach, Prison Advocacy, Criminal, Family Violence and Family Law.

Members of the Women Transforming Justice leadership group provided case studies demonstrating the link between insecure housing, homelessness and criminalisation of women. We joined with the housing and homelessness sector to call for construction of 30,000 new social housing properties over the next eight years, including at least 20,000 new government owned and managed public housing properties.

#### OTHER RECOMMENDATIONS INCLUDE:

- a “Housing First” policy that progressively removes restrictions on transitional and social housing eligibility for psychosocial disability, drug and alcohol dependency and criminal record;
- Repeal of laws that expressly or indirectly criminalise homelessness including laws against begging, public drunkenness and obscene language;
- Reclassification of minor criminal conduct from indictable to summary offences – such as breach of bail conditions, possession of drugs for personal use, theft of property below a certain value and public nuisance;
- Amendment of the Bail Act so that lack of accommodation or adequate accommodation may not be a reason to refuse bail;
- Priority Housing Register waiting lists for people leaving prison to improve transparency, equity of access and to planning to meet housing need; and
- Redirection of Victorian Government funding from prisons to public housing.

## COMMUNITY LEGAL EDUCATION AND COMMUNITY DEVELOPMENT

### **BLACK LIVES MATTER – STOP BLACK DEATHS IN CUSTODY**

We worked with the Victorian Aboriginal Legal Service (VALS), National Aboriginal and Torres Strait Islander Legal Service (NATSILS), Stary Norton Halphen, Melbourne Activist Legal Support (MALS) and a team of around 30 volunteer solicitors and barristers to provide legal support to the COVID-safe Black Lives Matter – Stop Black Deaths in Custody rally organised by Warriors of the Aboriginal Resistance (WAR) outside the Victorian Parliament in Melbourne on 6 June 2020.

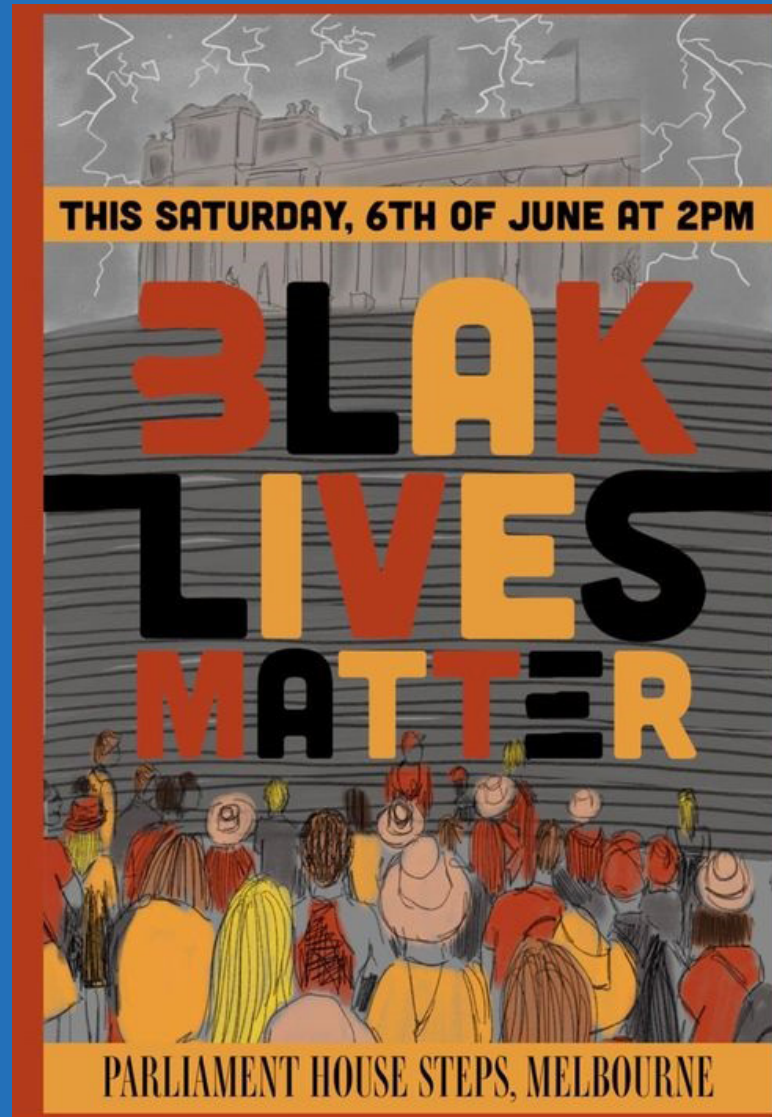
VALS, FLS and Stary Norton Halphen provided phone numbers for protesters to call if they needed legal advice or assistance on the day. Our Neighbourhood Justice Centre lawyers Beth King and Paul Kidd staffed the FLS advice line, ready to despatch our team of experienced volunteer lawyers to police stations or courts if there were arrests. FLS lawyers from our Criminal, Generalist and Drug Outreach Law teams volunteered to take on matters arising from the protest and we liaised with the marshalling team, MALS and the coordinator of Victoria Legal Aid duty lawyers at the Melbourne Magistrates Court.

The rally was called by Warriors of the Aboriginal Resistance in solidarity with mass Black Lives Matter protests in the United States in the wake of the public murder of African American man George Floyd by police in Minneapolis, Minnesota on May 25. WAR released a statement the day before the rally which said, in part:

*"I can't breathe. The words of George Floyd as he was being murdered by police in Minneapolis resonate painfully with Aboriginal people, as so many of our own have died at the hands of racist police and prison guards here in so-called Australia."*

*Since the 1991 Royal Commission into Aboriginal Deaths in Custody, 432 Aboriginal people have died in custody, with countless others before then... Aboriginal people and other racialised people are subjected to police brutality and to racist policing practices every day. We have had enough."*

In the days leading up to June 6, organisers came under intense pressure to cancel the rally, and protesters to stay away, on the basis of COVID restrictions on public gatherings. The rally took place at the end of Victoria's



### OUR THANKS TO THE FOLLOWING LAWYERS WHO WERE PART OF THE BLM RALLY LEGAL ASSISTANCE TEAM:

- Patrick Allen (Patrick Allen Law)
- Conrad Banasik (Vic Bar)
- Jonny Barreiro (Vic Bar)
- Maddie Carroll (Emma Turnbull)
- Linh Cao (Law & Advocacy Centre for Women)
- Deanna Caruso (Vic Bar)
- Emily Clark (Vic Bar)
- Sarah Condon (Stary Norton Halphen)
- David De Witt (Greg Thomas )
- Bill Doogue (Doogue & George)
- Tamar Hopkins
- Gregor Husper (Flemington & Kensington CLC)
- Amanda Hurst (Vic Bar)
- Jeremy King (Robinson Gill)
- Andrew McGregor (Dowling McGregor Solicitors)
- Ashlee McPhail (Law & Advocacy Centre for Women)
- Jill Prior (Law & Advocacy Centre for Women)
- Rob O'Neill (Vic Bar)
- Allie Sutherland (Greg Thomas)
- Lucy Swift (Victoria Legal Aid)
- Josh Taafe (Doogue & George)
- Greg Thomas (Greg Thomas)
- Meg Tait (Law & Advocacy Centre for Women)
- Matt Wilson (Flemington & Kensington CLC)
- Ran Zaydan (Vic Bar)
- Asha Zomer (Law & Advocacy Centre for Women)

first wave of coronavirus infections, when community transmission had reached zero cases. Organisers urged the elderly, vulnerable and unwell to stay at home and support the protest online and advised protesters to physically distance as much as possible. The Victorian Aboriginal Community Controlled Health Organisation (VACCHO) provided thousands of masks and gallons of hand sanitiser.

On the day tens of thousands of people flooded Melbourne's streets in a peaceful but immensely powerful demonstration against systemic racism. It was a massive crowd led by young First Nations people and with strong participation from other young people of colour and supporters from all walks of life. All listened respectfully and with great attention to the moving and inspiring speeches and marched through the city with dignity and discipline. There were no arrests. We were pleased to have been part of the very well-prepared legal support team, scrambled in a matter of days, and even more pleased that our assistance was not needed.

### COMMUNITY LEGAL EDUCATION

As for all programs and services, the Community Development and Community Legal Education (CD/CLE) program was significantly impacted in the second half of the year by the COVID-19 pandemic. The legal information needs of the community shifted largely to rights and responsibilities around the Chief Health Officer's Directions and delivery went largely online.

We delivered fifteen CLE sessions across Yarra and Darebin covering topics of family law, driving and the law, human rights. Sessions specifically targeted to young people and those supporting them and covered topics including rights with police, sex and the law, weapons and graffiti, alcohol and drugs, and rights and responsibilities on public transport. We also partnered with other services in Yarra to deliver two community forums on racism, discrimination, and racial and religious vilification. The CDCLE program also organised for a session on tenancy rights to be delivered by Tenants Victoria to students of the Fitzroy Learning Network.

The Taxi Driver Legal Information program continued to deliver two sessions a week to 13CABS trainee taxi drivers until March 2020 when delivery became impossible due to COVID-19. The materials have been posted to the FLS website.

FLS staff member Sophie L'Estrange, coordinated social media and communications for all Public Interest Law projects including our legal support to the Black Lives Matter – Stop Black Deaths in Custody rally on June 6. Sophie also led the establishment of a COVID-19 Fines Help Line to assist people in dealing with infringements issued for alleged breaches of the Chief Health Officer's Directions and developed self-help materials for distribution online. Sophie also worked closely with the COVID-Policing project, an online tool for people to report concerns of police behaviour and tactics in enforcing COVID restrictions and to provide those people with information about where they can access legal help. Sophie and other FLS staff presented a webinar in Law Week titled Policing COVID-19 restrictions: your rights during a pandemic.



## RAISE THE RATE CAMPAIGN

FLS staff participated in the ACOSS National Day of Action to #RaiseTheRateForGood on August 26 2020 posting a series of messages on social media highlighting the impact of poverty on our client group and their legal problems.

## PRISON ADVOCACY

In late 2019 the Prison Advocacy Program joined the Public Interest Law team. Chris Davies was employed as the Prison Advocacy Lawyer for 12 months while Karen Fletcher managed Public Interest Law. Chris and paralegal Christine Callaghan staffed the Prison Advice Line on Fridays and assisted people in prisons and their families with a range of prison-related legal matters. With the onset of the pandemic an increasing number of enquiries have related to conditions in quarantine units, unit lockdowns and access to contact with families, lawyers, prison programs and services.

In March we worked with criminology academics Dr Lorana Bartels and Dr Thalia Anthony on an Open Letter to Australian Governments calling for urgent measures to prevent COVID-19 outbreaks in prisons and detention centres. The letter, signed by over 400 lawyers, academics and criminal law professionals, drew attention to the conditions in places of detention and vulnerabilities of incarcerated people that were leading to devastating outbreaks in prisons internationally. It called on state and territory governments to implement measures including lowering requirements for grants of bail and early release for people at high risk such as First Nations people, elderly, children and people with poor health and medical conditions.

We joined with Aboriginal legal services, the Victorian Federation of Community Legal Centres, the Law Institute of Victoria and Victoria Legal Aid to meet weekly with Corrections Victoria about COVID-19 measures and their impacts on people in prison and their families. COVID-19 risk has been considered by courts in numerous bail decisions in Victoria resulting in grants of bail to vulnerable people who might otherwise have been incarcerated. Corrections Victoria has also instituted measures to reduce prison overcrowding including the granting of "Emergency Management Days" reducing sentences in recognition of disruption and deprivation caused by the pandemic. Prison numbers have reduced by as much as 12%, although at time of writing they have started to climb again.

Around fifty people, including twenty-three adult prisoners and six staff tested positive for COVID-19 in Victorian prisons and youth detention centres during the pandemic. At time of writing these have been isolated cases and, largely due to successful suppression of community transmission, there have not been major outbreaks in Australian prisons to date. Internationally nearly 300,000 cases of COVID-19 have been reported in prisons and 2,537 prisoners are known to have died from the disease.



# VOLUNTEER PROGRAM

**It is through the dedication of a diverse range of legal and non-legal volunteers that FLS has been able to continue to provide the crucial free night time clinics at both Fitzroy and Reservoir.**

Our volunteers also continue to aid a selection of the day programs as well as the court, outreach and prison advocacy services. This support has been a reliable backbone for FLS for almost 50 years – volunteers coming together at different stages of their legal career to give back to the community and support FLS's values of integrity, courage & passion, empowerment & advocacy, connected to community.

When the decision was made to suspend the volunteer program in mid-March 2020 due to the COVID pandemic, these values in terms of our volunteers have been at the forefront of the work done to continue to keep FLS volunteers engaged. The decision to suspend the volunteer program was made to protect clients, staff and volunteers equally. A lot of work and logistical planning was put into rostering a restricted general night service clinic to begin in early July. We had a select group of volunteers willing to work with us on an appointment-based system so that FLS could provide the community with a form of the night service. We ran this program for three days until it too had to be suspended as metro Melbourne headed into its second lockdown.

While our volunteer program was in hiatus, we were able to put a lot of effort into implementing Better Impact Volunteer Software. In its own words:

Volunteer software help(s) thousands of leaders of volunteers in non-profits, charities and governmental organizations of all sizes. Unlimited administrators, unlimited volunteer profiles and custom fields, an intuitive design with a robust set of features, makes our volunteer database software the go-to tool for everything. From recruitment through onboarding and training, our volunteer coordination software streamlines ongoing communications, scheduling, reporting and more.

(Better Impact, <https://www.betterimpact.com.au/volunteer-impact-volunteer-management-software/> )

This software was researched and explored by FLS in the last months of 2019, and when I entered the Volunteer Coordinator role in early 2020 it had been subscribed to and in need of scheduling and programming. We wanted to convert the excessive hours spent in email, google calendars and excel spreadsheets coordinating the volunteer roster into a more streamlined process that would collate volunteer profiles, rostering and communication in one place. Better Impact will be the central point for all of these administrative tasks.

Much time has been put into writing comprehensive application forms that include registrations for both interns and PLT students as well as those volunteering their time through pro bono firms. We have been successfully using the software to schedule some of our remote Research Assistants as well as graduates and lawyers via our pro bono support, and we look forward to utilising its applications for the wider volunteer program as we move toward designing and implementing COVID safe clinics and other onsite volunteer opportunities.

We acknowledge the hard work and ongoing support of all our volunteers who, despite the setback of COVID-19, have let us know that they are ready to assist FLS again when it is safe to do so. We also acknowledge the work of Mi-Lin Chen Yi Mei, our former Volunteer Coordinator who worked hard to recruit new volunteers, update our volunteer policies and procedures, and instigate the engagement with Better Impact to nurture and improve the volunteer program moving into the future.

**Anna Caleo**  
**VOLUNTEER COORDINATOR**



“

I have been volunteering with FLS' Reservoir Office for almost a year and a half. I started off as a receptionist for FLS's Family Law Day Service then transferred to my current position as a paralegal for the night-service on Wednesday nights since February 2020. As volunteering for FLS was my first professional legal opportunity outside of University, my awareness of the legal issues prevalent within my local community were significantly enhanced. Furthermore, while I learnt the theory behind the law at University, FLS's volunteering opportunity gave me a newfound perspective of the real-life applications and experiences within the legal field, as well as allowing me to improve my communication and interpersonal skills when liaising with clients, lawyers and fellow paralegals. While the roles presented challenges at times, it was nonetheless enjoyable and rewarding to provide a voice for and act as the first point of contact for clients for a diverse range of matters. Knowing I was making a difference to improve access to justice also solidified my desire to work in the legal profession. While the COVID-19 pandemic has momentarily halted my ability to volunteer, this has only driven my enthusiasm and motivation to return to volunteering to make a difference for my local community once safe to do so.

— SONALI MOHLA”



“

I've been volunteering for FLS for a few months now on the day team. Due to the lockdown, I've been operating remotely as a research assistant. On the days I volunteer, I keep in contact with my supervisors via phone, zoom, and email, and this has been working well. Although I'm not privy to the full facts of the clients' cases, through the direction of the research, I can see that FLS's clients are facing a wide range of challenges, and that we are aiding the community by ensuring that they receive fair treatment throughout their process. Some of this research has required black letter readings of the law; other times it has involved reading High Court cases; the bulk sits somewhere in the middle, in the State cases. The experience so far has been valuable to me, for three main reasons. First, several issues have highlighted areas of the law that are in a state of flux, such as how the current COVID State of Emergency has triggered wider police powers than normal, or research involving a federal offence that highlighted where the scope of the offence had significantly narrowed in the last decade, due to a broader nexus with High Court authority. It's valuable to see the dynamic nature of the law at play. The second benefit of volunteering has been the opportunity to refine my communication skills. Working in a team engaging in complex concepts is continually improving my ability to communicate complex concepts efficiently. As a novice in this field, this is particularly valuable experience. Third, the work is improving my research skills – another invaluable benefit.

— SAM HARPER-RUSSELL”





I've been volunteering at FLS since 2018 as a volunteer lawyer in the Tuesday night drop in clinic. The breadth of matters that come in is constantly surprising from the usual summary crime, leasing and motor vehicle accident questions to a matter involving settlements of personal injury claims in the Middle East! I joined FLS so that I could give back to the community and assist clients who would not usually have the benefit of legal advice. As fundamental as the legal system is to the working of our society, it remains so impenetrable to most members of the community. Assisting clients in this way has been highly rewarding, but it has also been rewarding to support the learning and experience of law students and junior lawyers as they make their way in the legal world. It has been a great shame that COVID-19 has hampered the ability for us volunteers to undertake our duties, but I look forward to FLS opening up again in 2021 and beyond!

— JOHN LEUNG

I have been volunteering at Darebin Community Legal Centre, now Fitzroy Legal Service Incorporated (FLS) for five and a half years, beginning in July 2015. I began in the front office with administration duties. I then moved to volunteering with the Darebin Intervention Order Service (DIOS) program, which was sitting at Melbourne Magistrates' Court at the time. During this time, I was assisting on a weekly basis either aiding the solicitor at court or with administrative duties at the office. I was then moved to the Reservoir Outreach Program in which I assisted with legal administrative duties. In 2017 I began volunteering with Wednesday Night Service, first as a Coordinator and then as paralegal. Throughout my time volunteering at FLS I have gained a wealth of experience in a broad range of areas, from learning how to assist clients with legal matters for whom English is not their primary language to assisting clients in need of urgent food bank and Centrelink matters. I am eternally grateful to all of the solicitors and staff at FLS who have taught me over the years as I enjoy learning and find assisting clients at FLS extremely rewarding, despite the challenges we are facing at this time with COVID-19.

— HEATHER ATKINS



I have been a volunteer lawyer with the Fitzroy Legal Service since June 2017. The opportunity to provide real and direct advice to the most vulnerable in our community, without the pressures of private practice, has been incredibly rewarding, on both a professional and personal level. Each month, I am challenged by the needs of different clients and different legal problems, which test my knowledge and require me to problem solve and communicate effectively. For me, the best part about volunteering is the 'light bulb' moment during an interview, when you see the client understand what is ahead of them or the answer to their question, after being emotionally burdened by their legal problem for months. This is incredibly empowering to see, and serves as a reminder of the importance of Community Legal Centres in providing access to justice.

— ERICA DI MUZIO



# VOLUNTEERS

We acknowledge all the individuals below and any others who have contributed to Fitzroy Legal Service in a volunteer capacity in 2019–2020

## A

Dicky Abraham  
Giulietta Adinolfi  
Satu Aho  
Cjay Aksoy  
Melanie Albarella  
Arabella Aldous–Urwin  
Supipi Amarasekera  
Dinah Amrad  
Claire Anderson  
Nicolle Ang  
Paul Arnold  
James Arthur  
Heather Atkins  
Jarrara Atkinson

## B

Daniel Badov  
Conrad Banasik  
Joyoti (Joy) Banerji  
Georgia Barendse  
Katie Bates  
Holly Baxter  
Henry Bayliss  
Sebastian Beale  
David Bellchambers  
Tai Bell–Liu  
Jack Bennett  
Eloise Bieniak  
Aswinee (Ash) Bissoonauth  
Laura Boehm  
Murphy Bong  
Stephanie Bould  
Louis Bowden  
Tutku Bozdogan  
James Bradlow  
Isabel Britten–Jones  
Rosemary Brooks

Alexandra Brown  
Simon Brown  
Elisse Buchlak  
Lidija Bujanovic  
Hannah Bullock  
John Buxton

## C

Christopher Byass  
Bernard Campigli  
Maria Cananzi  
Joseph Carbone  
Molly Antoinette Carr–Walsh  
Sarah Catania  
Skye Chapman  
Olivia Chapman  
Nathan Cheng  
Laine Chew  
Alison Chong  
Thibaut Clamart  
Jacob Clancy  
Justine Clark  
Sam Clarke  
Loris Cohen  
Mitchell Coidan  
Courtney Colclough  
Benjamin Comerford  
Jessica Crawford

## D

Vu Dang  
Nguyen Dang  
Nam Dang  
Bianca D'Angelo  
Max Davie  
Rachel Davis  
Matthew Dawson  
Mathew De Gouveia

Collette De Silva  
Alec Deasey  
Molly Deighton  
Chris Delaney  
Laura Dev  
Angela Di Carluccio  
Mark Di Donato  
Erica Di Muzio  
Jennifer Diaz  
Michael Dickey  
Phoebe Ding  
Nichola Donovan  
Chelsea Doyle

## E

Henry Elias  
Nikki Ellis  
Mary (Mediha) Ergin  
Cassandra Evans

## F

Tim Farhall  
Annalise Farina  
Michael Fee  
Tegan Fleming  
Imogen Forbes  
Elizabeth Frampton

## G

Alessandra Galletti  
James Gamm  
Mimma Garipoli  
Jack Garmonsway  
Susan Gatford  
Caitlyn Georgeson  
Sean Ghattas  
Stefani Giangregorio  
Thalia Giannake  
Georgio Giannellis  
Julia Megan Gibby

Catherine Giles  
Gabriel Gill  
Chris Goddard  
Alper Gokoglu  
Emile Goldman  
Kasia Grabowski  
Amani Green  
Samantha Guo  
Tom Gyopar

## H

Bonnie Halsall  
Susan Hamilton–Green  
Ruth Hansen  
Daniel Harrison  
Ruby Heffernan  
Sarah Hellyer  
Michelle Helou Queiroz Pereira  
Todd Herskope  
Katherine Ho  
Katherine (Katie) Ho  
Guo Cheng Ho  
Henry Ho  
Elenore Holmes  
Michael Howard  
Shannon Hubert  
Keegan Hughes  
Magda Hughes  
Ross Hutchins

## I

Vanessa Iacono

## J

Kevin Jackman  
Isobelle Jade  
Genevieve James  
Patrick Jarrold  
Kathleen Jess  
Nadine John  
Brent Justin Daguman

**K**

Nicola Kahler  
Jacob Kairouz  
Luke Karakas  
Kathie Karapalidis  
Marin Karlos  
Simone Karmis  
Michal Kedem  
Anusha Kenny  
Si Ketenci  
Joshua Khaw  
Rasha Khoweiss  
Divya Khushalani  
Sally Knight  
Maria Korakas  
Nicole Kotsopoulos  
Anamaria Krunes  
Akaash Kumar  
Sharlene Kuruppuarachchi  
Jonathan Kwong

**L**

Rajat Lal  
Hieu Lam  
Jon Lasarevic  
Paul Latimer  
Catherine Lau  
Claudia Lavery  
Chelsea Law  
Rebecca Leighton  
John Leung  
Thomas Li  
Elaine Li  
Angela Liantzakos  
Alana Licastro  
Natalie Lilford  
Christine Lim  
Marisa Liu  
Lucy Liu  
Raymond Lobo  
Jennifer Lowe  
Joel-Alexander Lowther  
Zachariah Lucic  
Catherine Luong  
Thomas Lyle  
Peter Lynch

**M**

Monique MacRitchie  
Karthik Maganty  
Troy Maher  
Lior Maisner  
Karen Mak  
Nadege Malcolm  
Emily Male  
Marco Man

Saseeka Manukulasuriya  
Justin Marcus  
Samantha Marinic  
Josh Markar  
Dru Marsh  
Angelie (Joy) Marshall  
Caroline Marton  
Natasha Mastroianni  
Najat Mattar  
Rachel Matulis  
Alex Maxwell  
Giorgina Mc Cormack  
Bruce McBain  
Kym McCarthy  
Ellie McDonald  
Alice McDonald  
Aoife McDonald  
Alexandra McFadyen  
Anthea McGurty  
Dannielle McKinnon  
Rebecca McMahon  
Holly McNaughton  
Erin Meeking  
Alice Millar  
Michelle Miller  
Jonathan Minter  
Alpana Modi  
Sonali Mohla  
Adrienne Monger  
Darren Moore  
Sarah Moorhead  
Alana Morgante  
Bridie Murphy

**N**

Samantha Newsom  
Julia Nguyen  
Lauraine Nguyen  
Vinh Nguyen  
Amy Nolan  
Jack Noone  
Morgan Nyland

**O**

Eris O'Donnell  
Louise Olsen  
Barbara Osafo-Kwaako  
Dee Dee O'Shannassy  
Gloria Ozougwa

**P**

Pearlie Padua  
Adele Palfreeman  
Anastasia Palmer-Hughes  
Anna Panayiotou  
James Panos  
Andrew Papaleo

Isabella Parolin  
Sophie Parsons  
Elizabeth Pathmaraj  
Jane Patrick  
Losa Pegler  
Maria Pejowski-Aleksovski  
Nethmi Perera  
Martin Perez-McVie  
Elizabeth Mary Petsinis  
Laura Phillips  
Meaghan Philp  
Rebekah Politis  
Sasha Ponniah  
Sam Porz  
Lekha Prasad  
Dominic Puri

**R**

Naveen Raghavan  
Avanthi Raju  
Penelope Ralston  
Gurdial Singh Ranjit Singh  
Moiria Rayner  
Cate Read  
Alana Reader  
Andre Retrot  
Alan Reynolds  
Jessica Richardson-Brown  
Isabella Riegler  
Alicia Robson-Garth  
Michaela Romas  
Robbert Roos  
Talia Rothstein  
Sam Rowe  
Rhys Ryan

**S**

Baneen Saberi  
Sarah Sajinovic  
Ayse Sakar  
Eshali Samarasinghe  
Lisa Santos  
Ariana Saropoulou  
Karl Schaffarczyk  
Julia Schumann  
Elif Sekercioglu  
Rebecca Selth  
Josephine Sergi  
Alexandra Sheehy  
Lili Sibic  
Akshai Singh  
Thomas Singleton  
Jonathan Slade  
Lesley Smith  
Allana Smith  
Imogen Smith-Waters

Elisa Solomon  
Nhirushni Somasundaram  
William Southey  
Claire Southwell  
Jessica Stafford  
Rebecca Standfield  
Eliza Stanley  
Angus Stirling  
Monisha Sudarsanan

**T**

Weilynn Tan  
Simon Tan  
Cate Taylor  
Roxanne Taylor  
Liana Tenace  
Laura Thompson  
Catherine Thwaite  
Nicholas Tikfessis  
Michael Timlin  
Joel Tito  
Lucinda Tonge  
Amelia Toohey  
Anthony Tran  
Sam Turner  
Alice Tyson

**U**

Bill Unkles

**V**

Jessica Valentine  
Jo Verity  
Elizabeth Vu  
Annaleise Vulin

**W**

Hayden Walker  
Alan Wang  
Stacey Ward  
Clementine Ward  
Louise Watson  
Chloe Watson  
Kirsti Weisz  
Loise Wells  
Pia White  
Madeline White  
Natasha Whitehead  
Lisa Williams  
Georgia Wootton

**Y**

Lana Yang  
Alan Yang  
Ed Yap

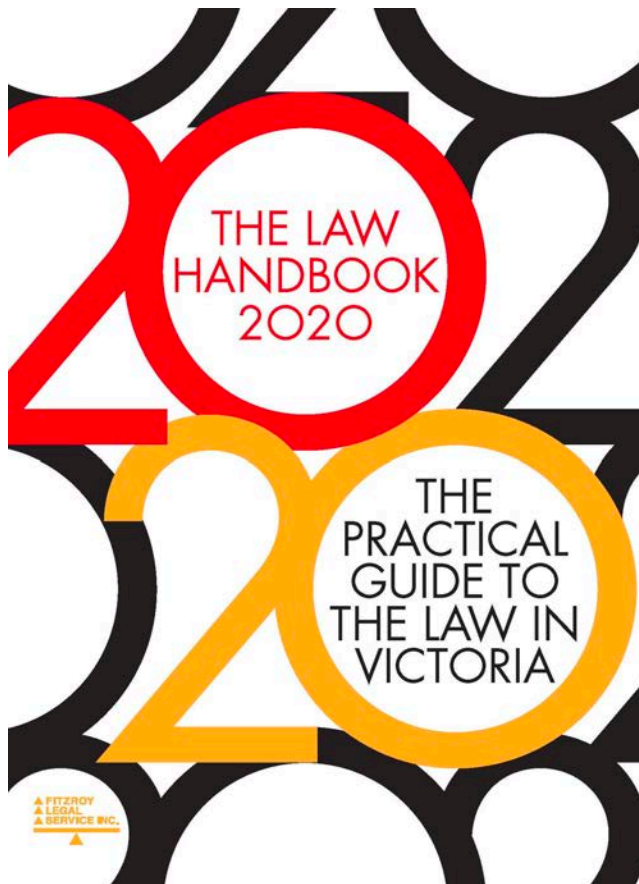
**Z**

Fiona Zafirakos  
Rania Zaydan  
Ned Zvekic

# THE LAW HANDBOOK

## The Law Handbook 2020

In January 2020, FLS published the 42nd edition of The Law Handbook.



### FROM STRENGTH TO STRENGTH

One of the strengths of the LHB is that each area of law is updated by those who specialise in that legal area. For example, in this edition, Magistrate Connellan wrote the information about the courts, the Legal Services Commissioner oversaw the legal representation chapter, the magistrates who were involved in drafting the most recent bail legislation wrote the chapter on bail, a legal tax specialist wrote the taxation chapter, and the chapters on consumer contracts were written by solicitors from the Consumer Action Law Centre. Following this, for this edition, we were thrilled that the First Nations Legal Research Service took over the 'Aboriginal and Torres Strait Islander law' section.

### ACCESSIBILITY

Once again, this edition of the LHB is highly accessible, being available in a variety of formats: as a hardcopy book, an ebook, as individual PDF chapters, and of course, for free online at [www.lawhandbook.org.au](http://www.lawhandbook.org.au).

### THANK YOU, CONTRIBUTORS

Producing this book every year would not be possible without the generosity and expertise of our contributors. This year, 89 contributors from the legal sector volunteered their time to work on the book. We very much value the outstanding contribution of each and every contributor. For the LHB 2020, magistrates, ombudsmen, commissioners, barristers, law lecturers, partners, principal lawyers, and accredited specialists in a range of legal areas are among the contributors. Some contributors have been writing for the book for decades, while others are new recruits.

### THANK YOU, FREELANCERS

I would like to thank the freelancers who have dedicated many hours to the LHB 2020: Sandy Cull (cover designer), Puddingburn (compiler of the index and the lists of cases and legislation), Sunset (the developers of the ebook), and Frances Doolan (for updating the content on the website).

### THANK YOU ALLENS AND LANDER & ROGERS

Thank you, Allens and Lander & Rogers for your continuing support of and assistance with The Law Handbook.

**Naomi Saligari**  
LAW HANDBOOK EDITOR



# PEOPLE COMMITTEE REPORT

The new FLS People Committee was established in March 2019. It held its first meeting in September 2019 and at its first meeting adopted its charter which sets out its purpose as:

- Receive and resolve grievances raised by employees of the Association, in accordance with the relevant policy approved by the board (if any).
- Advise the board as to best practice employment policies and procedures, and wider employment relations issues (including industrial issues).
- When asked to, advise the Chief Executive Officer in relation to employment matters.
- Undertake annual staff satisfaction surveys.
- Undertake biennial reviews of staff succession arrangements.

Over the past twelve months the committee has progressively recommended to the Board the adoption of new organisational policies to support both those required for National CLC Accreditation and updated policies as a result of the then Staff Integration working group reviewing the old FLS and DCLC policies and providing feedback on these policies for updating for the amalgamated entity.

The People Committee will also commence a process for the development of a Reconciliation Action Plan.

The first FLS employee engagement survey was also conducted with a majority of staff participating and providing positive feedback on their experience in the organisation.

It is also recognised that as a result of COVID 19 restrictions and FLS closing its offices that the safety and well being of staff working from home and clients seeking to access restricted services has been a high priority. The Committee has been a sounding board for approaching management of working from home and delivery of services online or by telephone and commends CEO Claudia Fatone and all staff for their flexibility and innovation in finding new ways to support clients and continue strong advocacy during extremely challenging times.

Thank you to the staff working group who have actively engaged in the development and review of policies and to CEO Claudia Fatone and Brendan Kelly, Finance & Operations Manager for their support of the Committee during the year. Thanks also to committee members – Bonnie Renou Glenn Caterer, Chanphyna Bou and Donna Ross.

**Fiona Delahunt**  
CHAIR

# FINANCE AND AUDIT COMMITTEE REPORT

The purpose of the Finance and Audit Committee (FAC) as set out in its Charter is to “Generally, assist the board in fulfilling its corporate governance responsibilities by providing oversight and direction in relation to the Association’s financial reports and other financial information produced by it, auditing and reporting processes generally, and management of financial risk.”

Accordingly, at each of its meetings the Committee reviews the monthly profit/loss to determine how the organisation is tracking against the agreed budget and other financial statements which relate to liquidity, assets to liabilities ratios etc.

The FAC is also provided with a list of debtors at each of its meetings and can therefore track likely bad debts and ensure there are adequate provisions. Other regular reports include excess staff leave entitlements.

Annually the Committee provides oversight into the development of the Budget and recommends a budget to the Board for approval. Following the Annual Audit, the FAC receives the Auditors Report and notes any issues of concerns and Management response to those. It also receives a separate report into the auditing of the Legal Practice Trust Fund.

Other issues which were considered by the FAC during this period include recommendations re-opening of new bank accounts, compliance with various Government Department requirements, finalization of the Risk Register, and the rollout of the Portable Long Service Leave Scheme, including the financial implications of the scheme for the organisation.

In the 2019/2020 financial year, the FAC met eight times, usually on a Thursday directly before the Board Meeting. The FAC currently has six Members, four of whom have finance / accountancy qualifications. My sincere thanks to the members of the Committee, Gerry Schembri, Ros Aikman, Naomi Munga, Rebecca Middleton and Peter Loukas who devote considerable time and energy to ensuring that the organisation continues to be financially well managed and sustainable.

It was pleasing to see that despite additional expenditure and diminished income associated with the COVID 19 pandemic, FLS posted a small surplus of around \$25000 for the financial year. While this amount only represents less than 1.5% of our total expenditure it is nonetheless a positive outcome and one which was delivered in part thanks to the additional financial support provided by both the Commonwealth and State Governments.

Finally my thanks to Claudia Fatone (Chief Executive Officer) and Brendan Kelly (Finance & Operations Manager) who also attend each meeting and provide timely and accurate information which enables the Committee to properly consider its recommendations.

**Vera Boston**  
**CHAIR**

# FINANCIAL REPORTS

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**FITZROY LEGAL SERVICE INC.**

ABN 13 421 440 211

FOR THE PERIOD ENDED 30 JUNE 2020

## INCOME AND EXPENDITURE STATEMENT FOR THE PERIOD ENDED 30 JUNE 2020

	NOTE	2020 \$	5 MONTHS TO 30 JUNE 2019 \$
<b>INCOME</b>			
Government Grant – VLA	9	1,933,661	713,761
Grants		1,328,378	705,154
Practice Income		268,402	152,989
Sales		59,359	78,364
Interest Income		10,235	7,574
Membership Income		5,872	4,278
Miscellaneous Income		184,500	73,229
		<b>3,790,407</b>	<b>1,735,349</b>
<b>EXPENDITURE</b>			
Employee benefits expense		2,866,425	1,112,859
Depreciation & Amortisation		30,744	11,380
Rental and premises expense		183,950	104,650
Office administration expenses		656,248	474,589
Publication expenses		27,755	23,534
		<b>3,765,122</b>	<b>1,727,012</b>
Surplus (Deficit) before income tax		25,285	8,337
Income tax expense	2	–	–
Surplus (Deficit) after income tax		25,285	8,337
Retained Earnings) at the beginning of the financial year		429,631	421,294
Retained Earnings at the end of the financial year		<b>454,916</b>	<b>429,631</b>

The accompanying notes form part of these financial statements.

## ASSETS AND LIABILITIES STATEMENT AS AT 30 JUNE 2020

	NOTE	2020 \$	5 MONTHS TO 30 JUNE 2019 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	3	1,471,726	1,564,073
Trade and other receivables	4	407,958	89,565
Inventory		6,605	3,019
<b>TOTAL CURRENT ASSETS</b>		<b>1,886,289</b>	<b>1,656,657</b>
<b>NON-CURRENT ASSETS</b>			
Security Bond		13,126	13,126
Property, plant and equipment	5	78,668	88,585
<b>TOTAL NON-CURRENT ASSETS</b>		<b>91,794</b>	<b>101,711</b>
<b>TOTAL ASSETS</b>		<b>1,978,083</b>	<b>1,758,368</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	6	188,739	166,769
Amounts received in advance	7	1,009,568	797,272
Provisions	8	225,468	225,704
<b>TOTAL CURRENT LIABILITIES</b>		<b>1,423,775</b>	<b>1,189,745</b>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	8	99,392	138,992
<b>TOTAL LIABILITIES</b>		<b>1,523,167</b>	<b>1,328,737</b>
<b>NET ASSETS</b>		<b>454,916</b>	<b>429,631</b>
<b>MEMBERS' FUNDS</b>			
Retained Earnings		454,916	429,631
<b>TOTAL MEMBERS' FUNDS</b>		<b>454,916</b>	<b>429,631</b>

The accompanying notes form part of these financial statements.



## STATEMENT OF CASH FLOWS FOR THE PERIOD ENDED 30 JUNE 2020

	NOTE	2020 \$	5 MONTHS TO 30 JUNE 2019 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from Government grants		1,933,611	825,990
Receipts from customers		570,480	339,746
Other Receipts		1,169,933	106,537
Payments to suppliers and employees		(3,755,829)	(1,843,417)
Interest received		10,235	7,574
<b>Net Cash provided by operating activities</b>	10	<b>(71,570)</b>	<b>(563,570)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Payments for purchase of property and equipment		(20,827)	–
<b>Net Cash provided by (used in) investing activities</b>		(20,827)	–
Net increase (decrease) in cash held		(92,397)	(563,570)
Cash at the beginning of the year		1,564,073	2,127,643
<b>Cash at the end of the year</b>		<b>1,471,676</b>	<b>1,564,073</b>

The accompanying notes form part of these financial statements.

# NOTES TO THE FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 JUNE 2020

## NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

This financial report is special purpose financial report prepared in order to satisfy the financial reporting requirements of the Associations Incorporation Reform Act 2012 (Vic). The Board has determined that the association is not a reporting entity.

The financial report has been prepared on an accruals basis and is based on historical costs and does not take into account changing money values or, except where specifically stated, current valuation of non-current assets.

The following significant accounting policies, which are consistent with the previous period unless otherwise stated, have been adopted in preparation of this financial report. The measurement and recognition requirements of accounting standards have been applied except for AASB16 Leases.

### a. Cash and Cash Equivalents

Cash and cash equivalents includes cash on hand, deposits held at call with banks, and other short-term highly liquid investments with original maturities of three months or less.

### b. Income Tax

The Association is an Income Tax Exempt Charity in terms of Subdivision 50-5 of the Income Tax Assessment Act 1997.

### c. Property, Plant and Equipment

Leasehold improvements and office equipment are carried at cost less, where applicable, any accumulated depreciation.

The depreciable amount of all property, plant and equipment is depreciated over the useful lives of the assets to the association commencing from the time the asset is held ready for use. Leasehold Improvements are amortised over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

### d. Employee Entitlements

Provision is made for the Association's liability for employee benefits arising from services rendered by employees to the end of the reporting period. Employee benefits have been measured at the amounts expected to be paid when the liability is settled.

The Association is bound by the Multipurpose Business Agreement, whereby employees' prior service in other CLCs is recognised for purposes of determining accrual of long service leave entitlement.

Accordingly where the employee is known to have served in other CLCs for 5 years or more, provision for long service leave is accrued from the commencement of their employment with the Association.

Provision previously recognised for employees who subsequently leave the Association is not reversed at that time because the Association will be required to contribute the accrued entitlement to the then current employer provided they remain eligible for prior service recognition. Where the Association becomes aware that the ex-employee is no longer entitled to prior service recognition the provision is reversed.

Commencing on 1 July 2019, the Victorian Government introduced the Portable Long Service Scheme, administered by the Portable Long Service Authority (PLSA). It covers all community services workers and as such, the Association is covered by the scheme. Effective from 1 July 2019 all future long service leave benefits reside with the PLSA and the Association is required to pay 1.65% of salaries to the PLSA on a quarterly basis. Provisions have been adjusted to include only the portion of leave accrued prior to 30 June 2019.

### e. Inventories

Inventories consist of publications and are measured at the lower cost and net realisable value. Costs are assigned on a specific identification basis and include direct costs and appropriate overheads, if any.

### f. Provisions

Provisions are recognised when the Association has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured. Provisions are measured at the best estimate of the amounts required to settle the obligation at the end of the reporting period.

### g. Impairment of Assets

At the end of each reporting period, the entity reviews the carrying values of its tangible and intangible assets to determine whether there is an indication that those assets have been impaired. If such an indication exists, the recoverable amount of the asset, being the higher of the asset's fair value less costs to sell and value in use, is compared to the asset's carrying amount. Any excess of the asset's carrying value over its recoverable amount is recognised in the income and expenditure statement.

# NOTES TO THE FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 JUNE 2020

## NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT.)

### h. Revenue

Grants are recognised on an accrual basis. Any grants received and provided for special purposes are recognised to the extent funds are expended on projects. Grants received for future financial periods are treated as grants in advance under current liabilities to the extent of the unspent grant where there is an obligation to repay the unexpended portion of the grant.

Revenue from membership fees and donations are recognised upon receipt. Revenue from the sale of goods is recognised upon delivery of goods to customers.

Interest revenue is recognised on an accrual basis taking into account the interest rates applicable to the financial assets.

All revenue is stated net of the amount of goods and services tax (GST). All revenue is stated net of the amount of goods and services tax (GST).

### i. Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with other receivables or payables in the assets and liabilities statement.

### j. Economic Dependence

The entity is dependent on Commonwealth and State Government funding for a significant portion of its revenue used to operate its business. At the date of this report, there is inherent uncertainty particularly in view of the current global pandemic, however the Board have no reason to believe this support will not continue.

## NOTE 2: INCOME TAX EXPENSE

The Association is an Income Tax Exempt Charity in terms of Subdivision 50-5 of the Income Tax Assessment Act 1997.

2020	5 MONTHS TO 30 JUNE 2019
\$	\$

## NOTE 3: CASH AND CASH EQUIVALENTS

Cash and cheques on hand	304	1,271
Cash at Bank	567,760	962,802
Term Deposit	903,662	600,000
	<b>1,471,726</b>	<b>1,564,073</b>

## NOTE 4: TRADE AND OTHER RECEIVABLES

Accounts receivable	415,834	99,955
Provision for doubtful debts	(10,500)	(10,500)
Prepayments	2,624	110
	<b>407,958</b>	<b>89,565</b>

## NOTES TO THE FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 JUNE 2020

2020

5 MONTHS TO  
30 JUNE 2019

\$

\$

### NOTE 5: PROPERTY, PLANT AND EQUIPMENT

Office Furniture &amp; Equipment – Original Cost

227,542

206,715

Less accumulated depreciation

(148,874)

(118,130)

**78,668****88,585**

### NOTE 6: TRADE AND OTHER PAYABLES

#### Current

Trade Creditors and accruals

63,832

67,718

Provision for audit fees

3,500

3,500

PAYG and BAS amount Payable

119,115

93,259

SSRV Security Bond Held

2,292

2,292

**188,739****166,769**

### NOTE 7: AMOUNTS RECEIVED IN ADVANCE

VLA Allowable Surplus

414,228

159,438

Unexpended project funds

595,339

637,834

**1,009,567****797,272**

### NOTE 8: PROVISIONS

#### Current

Employee Entitlements

**225,468****225,704**

#### Non-Current

Employee Entitlements

**99,392****138,992**

### NOTE 9: INCOME GOVERNMENT GRANT – VLA

Government Grant – VLA Commonwealth

476,699

192,601

Government Grant – VLA State

1,711,750

550,688

Government Grant Brought Forward – VLA

(254,788)

(29,528)

**1,933,661****713,761**

## NOTES TO THE FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 JUNE 2020

2020

5 MONTHS TO  
30 JUNE 2019

\$

\$

### NOTE 10: RECONCILIATION OF CASH FLOW FROM

#### Operations with Profit from Ordinary

#### Activities after Income Tax

Surplus after income tax	25,285	8,337
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Cash flows excluded from operating profit attributable to operating activities

Non-cash flows in surplus

- Depreciation	30,744	11,380
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Changes in assets and liabilities;

- (Increase)/decrease in trade and other debtors	(318,393)	269,671
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- (Increase)/decrease in inventory	(3,586)	(1,698)
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- Increase/(decrease) in trade and other payables	21,970	(48,774)
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- Increase/(decrease) in amounts received in advance	212,295	(839,136)
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- Increase/(decrease) in provisions	(39,836)	36,650
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Net cash provided by Operating Activities	<b>(71,521)</b>	<b>(563,570)</b>
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### NOTE 11: GOING CONCERN

The members of the Board believe that the application of the going concern basis of accounting is appropriate due to the expected positive cash flows of the association and through the on going support of all funding bodies.

### NOTE 12: OPERATING LEASE COMMITMENTS

Operating leases contracted for but not recognised in the financial statements

Payable – minimum lease payments:

- no later than 12 months	5,778	26,360
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- between 12 months and five years	23,112	-
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- greater than five years	-	-
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<b>28,890</b>	<b>26,360</b>
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There is a 5 year equipment lease for 2 printers which was signed 14 May 2020.

The Association has a lease for its office at 279 Spring St, Reservoir which expired on 1 May 2020.

In accordance with the overholding provision of the Lease, the Association continues to occupy the Premises after the end of the Term subject to the same terms and conditions as contained in the Lease and either party may end this Lease during any period of holding by giving 30 days written notice.

The Association also has a lease for its office at Level 4 of the Fitzroy Town Hall which expired on 31 August 2018.

In accordance with the overholding provision of the Lease, the Association continues to occupy the Premises after the end of the Term subject to the same terms and conditions as contained in the Lease and either party may end this Lease during any period of holding by giving 30 days written notice.



## STATEMENT BY MEMBERS OF THE BOARD FOR THE YEAR ENDED 30 JUNE 2020

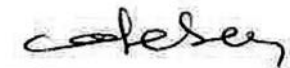
The Board has determined that the association is not a reporting entity and that this special purpose report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

In the opinion of the board the financial report as set out on pages 42 to 49:

1. Presents a true and fair view of the financial position of Fitzroy Legal Service Inc. as at 30 June 2020 and its performance for the period ended on that date.
2. At the date of this statement, there are reasonable grounds to believe that Fitzroy Legal Service Inc. will be able to pay its debts as and when they fall due.

This statement is made in accordance with a resolution of the Board and is signed for and on behalf of the Board by:

Chair of Board



Dated:

10 / 11 / 2020

Board Member



Dated:

10 / 11 / 2020

## AUDITOR INDEPENDENCE DECLARATION TO THE DIRECTORS OF FITZROY LEGAL SERVICE INC.

As lead auditor of Fitzroy Legal Service Inc. for the period ended 30 June 2020, I declare that, to the best of my knowledge and belief, there have been:

- a. No contraventions of the auditor independence requirements of the Australian Charities and Not-for-profits Commission Act 2012 in relation to the audit; and
- b. No contraventions of any applicable code of professional conduct in relation to the audit.



**Stephen Kirtley**  
Director

Dated this 10<sup>th</sup> day of November, 2020

Davidsons Assurance Services Pty Ltd  
101 West Fyans Street  
Geelong, Victoria 3220

# INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF FITZROY LEGAL SERVICE INC.

## Opinion

We have audited the financial report of Fitzroy Legal Service Inc. (the association), which comprises the statement of financial position as at 30 June 2020, and the statement of comprehensive income, statement of changes in equity and cash flow statement for the period then ended, and notes to the financial statements, including a summary of significant accounting policies, and the declaration by those charged with governance giving a true and fair view of the financial position and performance of the association.

In our opinion, the accompanying financial report presents fairly, in all material respects, the financial position of the association as at 30 June 2020 and its financial performance for the period then ended in accordance with the accounting policies described in Note 1 to the financial statements and the requirements of the Australian Charities and Not-for-profits Commission Act 2012 (ACNC Act).

## Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Report section of our report. We are independent of the Association in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 Code of Ethics for Professional Accountants (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our other responsibilities in accordance with the Code.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## Basis of Accounting and Restriction on Distribution

Without modifying our opinion, we draw attention to Note 1 to the financial report, which describes the basis of accounting. The financial report has been prepared for the association for the purpose of fulfilling the board's financial reporting responsibilities under the ACNC Act. As a result, the financial report may not be suitable for another purpose.

## Other Information

Those charged with governance are responsible for the other information. The other information comprises the information included in the association's annual report for the period ended 30 June 2020, but does not include the financial report and our auditor's report thereon.

Our opinion on the financial report does not cover the other information and accordingly we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial report, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial report or our knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

# AUDITOR INDEPENDENCE DECLARATION TO THE DIRECTORS OF FITZROY LEGAL SERVICE INC.

## Responsibilities of Management and Those Charged with Governance for the Financial Report

Management is responsible for the preparation of the financial report in accordance with the ACNC Act 2012, and for such internal control as management determines is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, management is responsible for assessing the association's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Association or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the association's financial reporting process.

## Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial report.

A further description of our responsibilities for the audit of the financial report is located at the Auditing and Assurance Standards Board website at: <http://www.auasb.gov.au/Home.aspx>. This description forms part of our auditor's report.



**Stephen Kirtley**  
Director

Dated this 13<sup>th</sup> day of November, 2020

Davidsons Assurance Services Pty Ltd  
101 West Fyans Street  
Geelong, Victoria 3220



## OUR OFFICES

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**279 Spring Street**  
Reservoir 3073  
Ph: (03) 9484 7753  
Fax: (03) 9462 3297

**Level 4, Fitzroy Town Hall**  
PO Box 297, Fitzroy 3065  
DX no. 96611  
Ph: (03) 9419 3744  
Fax: (03) 9416 1124

**Neighbourhood Justice Centre**  
241 Wellington Street, Collingwood 3046  
PO Box 1142, Collingwood 3066  
DX no. 211512  
Ph: (03) 9948 8698

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