



*Kimberley Community Legal Services Incorporated*  
*Annual Report*  
*2012-2013*



*KCLS acknowledges that we work on  
Aboriginal land and pays deep respect  
to elders past and present.*

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## *Kimberley Community Legal Services Inc*

### *Our Vision*

KCLS is a community-based service. Its aim is:

*To work with and within the Kimberley Community to provide a range of services that promote social justice for individuals and the community and act as a catalyst for social and legal change.*

## *Our Values*

Empathy and Respect  
Dedication and Commitment  
Integrity and Honesty  
Teamwork and Collaboration  
Improvement and Innovation

## *Our Mission*

Our mission is to be a dynamic organisation with leadership and innovation in culturally effective services and programs that make a positive difference to the people, communities and towns of the Kimberley.

# Introduction

Kimberley Community Legal Services Inc (KCLS) is based in Kununurra. KCLS is an independent, non-profit community organisation overseen by a community based Management Board.

KCLS is funded by:

## Commonwealth Government

**The Commonwealth Government Attorney-General's Department**, as part of the Commonwealth Community Legal Services Program (CCLSP). The CCLSP provides funding for 151 community legal services across Australia. The CCLSP partly funds our Generalist service and our Indigenous Women's Program,

**FaHCSIA** – budgeting, credit and debt and financial management service for low income and income managed clients

## State Government

Department of Housing – Indigenous Tenancy Advice Service

Department of Consumer Protection – Tenancy Advice and Education

Department of Child Protection – Financial Counselling/credit and debt, Public Tenancy Support (part of National Partnerships Agreement on Homelessness).

## The Profession

The WA Legal Contributions Trust Fund provides funding through the Community Legal Services Program for Community Legal Education and Outreach.

KCLS forms part of an Australia wide network of community based legal services and is a member of the National Association of Community Legal Centres and Community Legal Centres Association (WA) Inc. KCLS participates in many networks and engages in joint initiatives in law reform and policy. These networks provide a forum for staff to meet other professionals, from the state and nationally within the community legal service sector.

## Our Services

- ❖ CLC generalist legal service provides advice, referral, information and casework assistance, community legal education, law reform and advocacy regarding legal processes to people and communities within the Kimberley region;
- ❖ Indigenous Women's Program assists Indigenous people, in particular women in accessing legal services, information, advice and community legal education mainly in areas of family law and child protection within the Kimberley region.
- ❖ Generalist legal and Indigenous Women's Program outreach services are provided to the towns of Wyndham, Halls Creek, Fitzroy Crossing, Derby and Broome and the remote Kimberley communities of: Warmun, Kalumburu, Balgo, Mulan, Billiluna, Ringer Soak and other communities predominately in the East Kimberley;

- ❖ Community Legal Education Outreach Program provides community legal education for community service providers and clients through outreach services
- ❖ Tenancy Advice and Education Service provides information, advice and workshops to residential tenants (private and public) to support them in understanding and exercising their rights as tenants
- ❖ Indigenous Tenancy Advocates Service provides a tenancy advocacy service to Indigenous people in public housing in the towns of the Kimberley region.
- ❖ Financial Counselling Service provides financial counselling, education and advocacy services for individuals and families on low income experiencing financial difficulties in particular Aboriginal families in Kununurra and surrounding communities.
- ❖ FaHCSIA provides budgeting, credit and debt and financial management service for low income and income managed clients
- ❖ Public Tenancy Support Service provides early intervention and prevention of eviction services to Department of Housing Tenants (including Community Housing) in Kununurra.

Kimberley Community Legal Services Inc. is open Monday to Thursday, between the hours of 8.30am – 4.30pm and on Friday the office is closed however the phones are available between 8:30am – 12:30pm. The service conducts a Drop-In Session between 8.30am – 1:00pm Monday – Wednesday and clients can attend in person or via telephone. The service is located in the town centre of Kununurra, which provides access to people living in Kununurra.

KCLS provides a regular weekly service to Wyndham and fortnightly service to Warmun and Halls Creek.

Access other towns and remote communities within the Kimberley region is achieved by outreach services. Staff consult clients at mutually agreed locations, usually at a local community or government organisation, or at the client's home. Equity of services is ensured through the client intake process and a planned and coordinated approach to outreach services within the Kimberley region.

## Board

<i>Chairperson</i>	Matt Panayi
<i>Vice Chairperson</i>	Jade Wade
<i>Treasurer</i>	Yale Bolto
<i>Secretary</i>	Grace Lewis
<i>Board Members</i>	Rachelle Irving Michelle Manning

## Staff

<i>Director</i>	Liz O'Brien
<i>Principal Solicitor</i>	Kylie Kerin/Tom Allen
<i>Indigenous Women's Program Worker CLEOP</i>	Ruth Abdullah
<i>Tenancy Advice &amp; Education Solicitor</i>	Andrew Turner
<i>Public Tenancy Support Officer</i>	Erika Parsons/Haelema Ward
<i>Indigenous Tenancy Advocate</i>	Carlos Waina
<i>Financial Counsellor</i>	Hannah Levy
<i>Reception Officer</i>	Leiphire Brown/Cara Rahman
<i>Senior Solicitors</i>	Hannah Levy /Amanda Whitehead
<i>Junior Solicitors</i>	Lynda Hagar/ Melissa Bateman
<i>Paralegal</i>	Vanessa Lynch



# Kimberley Community Legal Services Inc.

## Staff for 2012-2013



*Principal Solicitor*  
Thomas Allen



*Indigenous Women's  
Program Worker*  
Ruth Abullah



*Financial  
Counsellor/  
Solicitor*  
Hannah Levy



*Indigenous Tenancy  
Advocate*  
Carlos Waina



Vanessa Lynch



*Director*  
Liz O'Brien



*Reception Officer*  
Cara Rahman



*Office Manager*  
~~Office Manager~~  
Caroline McKenzie



*Public Tenancy  
Support Officer*  
Healama Ward



*Public Tenancy  
Support Officer*  
Erika Parsons



*Tenancy Solicitor*  
Andrew Turner



*Solicitor*  
Amanda Whitehead



*Solicitor*  
Melissa Bateman



*Solicitor*  
Lynda Hagar



## Reports

### Chair

On behalf of all staff and board members of the Kimberley Community Legal Service Inc (KCLS), I'd like to acknowledge the traditional owners of the vast Kimberley lands in which we operate and pay respect to the elders past and present.

The 2012/13 financial year has seen further expansion of the services KCLS provides, as well as consolidation of the existing services. We have yet again seen our funding base expand, due to much effort and commitment by our Director, Liz O'Brien.

Our core service provision this financial year continued to be in providing generalist legal advice and services, including assistance to parties in family law and care and protection matters, tenancy advice and assistance, financial counselling and associated legal assistance, assistance with obtaining violence restraining orders for victims of family and sexual violence, assisting victims of crime to obtain criminal injuries compensation awards and providing community legal education to a wide variety of audiences. More detail is provided in the report of our Principal Solicitor, Tom Allen.

KCLS has continued to provide outreach services, and expanded some of those, to people residing in towns and communities right across the vast expanse of our service area, which is the entire Kimberley region, inclusive of Broome in the West, to the NT border beyond Kununurra to the East, Balgo to the South and Kalumburu to the North. An area larger than some of the other Australian States and Territories! Our collaborative community legal education, advice and assistance initiative with Legal Aid WA, Aboriginal Family Law Service and Aboriginal Legal Service WA, known as 'Yarning about the Law', has continued into its second year.

Andrew Turner joined us in late 2012 as the Tenancy Solicitor. Please read his report to see the amazing work Andrew and his team have done in advocating for the rights of over 100 tenants whom the Department of Housing were taking to Court this year regarding debts. Andrew negotiated favourable terms for all those he represented and assisted.

Judy Harrison, our amazingly skilled volunteer, an experienced solicitor and academic, has recently raised the profile of the deficiencies in the Stolen Wages compensation scheme, and gained some national media attention in relation to this. She has been ably assisted by our PLT placement student, Matt Keating.

The dedicated lawyers and staff have assisted over 1000 clients over the past financial year, a phenomenal effort.

Our service has continued to expand, with KCLS winning a 5 year contract to provide tenancy advocacy and advice services throughout the Kimberley, which has resulted in a satellite office being established in Broome over the last couple of months, which is to be staffed by our newly employed solicitor Sarah Crouch. This is a huge step forward for the West Kimberley towns and communities, who until now has not had any Community Legal Centre presence. I look forward to seeing how the service operates in the coming years.

In relation to other staff movements, in January 2013 our able Principal Solicitor Kylie Kerin joined Legal Aid WA in Kununurra, and handed the reigns to our equally able and very enthusiastic current Principal Solicitor, Tom Allen. Erika Parsons and Haelema Ward have joined us as the Public Tenancy support Service workers, assisting clients who are at risk of losing their Department of Housing lease. Carlos Waina has joined us as the Indigenous Tenancy Advocate, Lynda Hagar as a junior Solicitor

and Leiphire Brown as our front of office/reception. Vanessa Lynch has moved from reception to paralegal duties and Caroline McKenzie has taken on much of the book keeping to add to her office manager duties. We farewelled Edna Hester.

It would be remiss of me not to mention the continuing outstanding efforts of Hannah Levy and Amanda Whitehead, who have been with us for over 3 years now as solicitors, continuing to expand their skill base, meeting all challenges thrown at them and providing the community with quality legal advice, assistance and advocacy.

Further I congratulate our Indigenous Women's Project Officer, Ruth Abdullah, for her nomination as 'Elder of the Year' at the 2013 East Kimberley Aboriginal Achievement Awards.

All staff were awarded a payrise from 1 March 2013, acknowledging the fine work they are doing and also in recognition of the new classifications under Social and Community, Housing and Disabilities Award 2010 and Equal Remuneration Order.

In relation to the Board and governance, we have recently welcomed Rachelle Irving, who brings to the organisation a wealth of experience in policy and project management accrued in both the government and not for profit sector. Yale Bolto has continued to provide guidance and leadership as treasurer, in relation to all matters financial. We have spent much time on the Board this year attempting to strengthen our financial position, and ensure that practices, procedures and policies are in place to ensure KCLS's ongoing financial viability and integrity into the future. Yale has more to say about this in his report, particularly in relation to our now completed financial improvement plan and our Financial Management Manual. I'd like to thank the tireless work of Geoff White and his company, Quantum Assurance, in assisting us through this process.

Our next focus at Board level will be on strategic planning, and completing a strategic plan for the organisation, in collaboration with staff, to see us through the next 3 to 5 years. I thank Grace Lewis (our secretary), Michelle Manning and Jade Wade for continuing to dedicate themselves to receiving endless email's from myself and Liz and for turning up at 7am meetings, all to ensure that KCLS continues to operate and improve for the benefit of the community in the Kimberley.

I'd like to thank Lotteries West for providing us with a new work vehicle, and a soon to be provided second vehicle for our Broome satellite office. I'd also like to thank Clayton Utz for their continued support, although unfortunately they are currently unable to provide us with any secondees.

Finally, I'd like to thank Liz for her dedication and effort in orchestrating the expansion and consolidation of KCLS, from an office with a compliment of 4 staff at her inception to an office of 14 today.

Due to other commitments, and spending an extensive amount of time in the UK next year, I will not be re-nominating as the Chair of KCLS for next year, although I intend to stay on as a general member for a short period of time. I have enjoyed watching the service recover from what I don't think I exaggerate as being a crisis in 2009, to the robust and invaluable service that it is today. I sincerely hope that my contributions on the Board have assisted with this process, and I am proud to have been involved. I look forward to seeing the service continue to provide a much needed service to all people's of the Kimberley into the future.

*Matt Pinayi*

Chairperson

## *Statistics*

In 2012/13 KCLS provided assistance to 1062 clients of these:

- 402 were new clients
- 159 were repeat clients
- And
- 5011 were existing clients

Advice was provided to 918 clients

The total number of cases opened - 585

Community Legal Education projects in the period – 66

96% of KCLS clients are Indigenous

## *Director*

As you will see from the Legal Practice Report, KCLS has assisted many more clients in 2012/13 than 2011/12. This is a tribute to the whole team.

A draft new strategic plan was drawn up in September 2012.

KCLS was chosen as one of the pilot centres for the National Association of Community Legal Centres Evidence based planning as part of the National Partnerships Review of legal Assistance.

I continue to convene the East Kimberley Regional Homelessness Plan (EKRHP) Steering Group. Community consultation and surveys by the EKRHP has revealed that overcrowding is the biggest factor in Homelessness in the East Kimberley. Slow maintenance or no maintenance has devastating effects on decent housing. The Steering Group will continue to work on recommendations to improve the housing situation. The report will be available in October 2013.

I attended on KCLS and EKRHP behalf a consultation of the National Partnership Agreement on Homelessness. NPAH funds our Public Tenancy Support Service.

KCLS has received extra funding from the Commonwealth Community Legal Service Program which will assist the establishment and staffing of our new West Kimberley Legal Service in Broome. We have secured premises in the Broome office of International Red Cross. This will be a temporary location to start the service. Permanent office premises will be sought.

I have been elected to the position of WA state rep on the National Association of Community Legal Centres (NACLC). I convene the RRR working group of WA Community Legal Centres Association.

I attended the WACLC Association conference in Perth from 22 to 24 October. I convened the RRR network session.

Staff have attended training in Special Homelessness Reporting. WA tenancy conference, NACLC conference and Quik books accounting systems.

Gina Frampton, from Clear Communications presented a one day workshop for our staff called Words & Beyond Letter writing and communication skills using workplace documents.

KCLS was nominated for an award in the biennial East Kimberley Aboriginal Achievement Awards. This is a great tribute to KCLS services to our community.

My thanks to the Board for its support throughout the year and to all the Staff whose work individually and as a part of a **Community** Legal Service assures that we continue to adapt and adjust to be part of positive change for our clients and communities. Particular thanks and tribute to Matt Panayi for his support and commitment as the Chair of KCLS over a period of change and expansion.



*Liz O'Brien*

Director



## *Volunteer and pro bono work*

Clayton Utz provided significant assistance to KCLS clients and communities for the Stolen Wages scheme, seconding Juliet King to provide critical assistance.

Judy Harrison, a senior practitioner and Senior Lecturer at the College of Law, ANU has provided extensive pro bono assistance to KCLS and its clients.

### *Our Volunteer Staff 2012 - 2013:*

Kate Hall  
Danielle Cox  
Sarah White  
Joshua Howard  
Matt Keating



*Judy Harrison*



*Matt Keating*



*Kate Hall*

# *Legal Services*

## *Acknowledgement of Country*

On behalf of the Kimberley Community Legal Services (KCLS) legal team, I acknowledge the traditional owners of the lands on which we work and pay my respect to the Elders of these lands, past and present.

## *Acknowledgment of Staff and Volunteers*

I also acknowledge the significant contributions of:

1. Kylie Kerin, for handing me an organised and cohesive legal practice which allows me to write this positive end-of-financial-year Legal Practice Report. Kylie held the KCLS practicing certificate for the majority of this time and provided me support for the duration of the year;
2. KCLS Director, Liz O'Brien, for her guidance and leadership resulting in KCLS's continued growth. On the ground this saw a strong retention of valued colleagues, increases in funding and additional legal staff from the previous financial year. Liz's contributions also resulted in the employment, up-skilling and development of Indigenous staff, all of whom are essential to KCLS meeting our Clients' needs;
3. KCLS Legal Staff (Senior Solicitors Hannah Levy, Amanda Whitehead and Andrew Turner, Restricted Solicitors Lynda Hagar and Melissa Bateman, Paralegal Vanessa Lynch and Tenancy Advocate Carlos Waina). This team provided quality legal advice, advocacy, education and access to justice for Clients across the Kimberley and in some cases across Australia;
4. KCLS Program and Administrative Staff, without which we would not be able to run an effective, accessible and culturally appropriate legal practice. These contributions will be noted in their respective Reports to the KCLS Board.
5. KCLS Volunteers and Students. KCLS is fortunate to have the continued support of Senior Solicitor Judy Harrison as a volunteer. Judy has carriage of a large caseload, works tirelessly on historical injustices and law reform, motivates experienced staff and offers guidance to junior practitioners. KCLS also hosted student placements and seconded solicitors during FY2013 from NSW, NT and WA. These students brought contemporary learning to the office, enriched their own understanding of issues faced by KCLS's Clients, while also performing valuable research, education and file work under supervision.

## *KCLS Objectives*

6. In accordance with KCLS Policies and Procedures regarding the provision of legal services, we continue to strive to empower people by:
  - a. Giving an understanding of their rights;
  - b. Advising of all available strategies to have those rights respected;

- c. Detailing available remedies where their rights are being overlooked or a wrong and adverse decision has been made; and
- d. Providing advocacy and representation when asked to ensure those rights are respected and obtained.

### *Overview of Legal Services*

KCLS provided legal services and education in the following practice areas during the previous financial year (see attached CLSI breakdown):

- 7. Care and Protection, Wills and Estates, Indigenous Intestacy, Restraining Orders, Compensation, Stolen Wages, Redress, Country High Schools ex Gracia Scheme, Tenancy, Criminal, Licensing, Superannuation and Debt, HUGS, Employment, Guardianship, Financial Services, Fines, Child Support, Social Security, Equity and Family.

Accordingly, we provided advocacy in the following Courts and Tribunals:

- 8. Magistrates Court, Children's Court, Supreme Court, Federal Magistrates Court, CIC Compensation Reimbursement Hearing, Social Security Appeals Tribunal and WA Industrial Relations Commission.

We serviced Clients and provided education in the following locations:

- 9. Kununurra (Monday – Wednesday drop-in service and by appointment), Wyndham (every Monday – drop-in service and by appointment), Warmun (every second Tuesday – drop-in service and by appointment), Halls Creek (every second Wednesday – drop-in service and Thursday by appointment), Desert Communities (Court Circuit and three extended visits), Kalumburu (Court Circuit and one extended visit), Gibb River Road Communities (three extended visits), Yiyili and Ringer Soak (two extended visits), plus Derby, Fitzroy Crossing and Broome as required.

We performed the following work during FY2013 as noted in the attached Summary Report:

- 10. We advised 402 new Clients, 159 repeat Clients and 501 existing Clients;
- 11. This resulted in:
  - a. 585 new cases;
  - b. 356 cases being finalized and closed;
  - c. 804 remaining open (including Redress and Stolen Wages cases); and
  - d. 918 separate advices.
- 12. Additionally, 42 separate Projects (mainly CLE and law reform) were completed during the year;
- 13. **In relation to the previous financial year this represents:**
  - a. **45% increase in new cases;**

- b. 100% increase in finalized cases; and**
- c. 62% increase in advices provided.**

### *Significant Matters*

The following examples of legal advocacy deserve mention to the KCLS Board:

14. The Department of Housing filed in excess of one hundred and fifty separate eviction proceedings in the East Kimberley between January and June 2013. The majority of tenants impacted by this action obtained advice, education and advocacy from KCLS. KCLS became involved at the earliest stage and as a result no Client was formally evicted from their home. Although some Clients voluntarily surrendered their tenancy and other Clients entered into fixed-term leases, all remaining Clients negotiated alternative arrangements and remained in their homes. Furthermore, where Clients remained at risk of eviction they were able to obtain ongoing support and education from the PTSS Program. This outcome would not have been possible without the considerable casework of Andrew Turner, Josie Farrer MLA's debate on the floor of Parliament and the dissemination of information by the Department for Child Protection to at-risk Clients. Although this outcome was positive it is concerning that many tenants did not access KCLS for advice and advocacy and we are therefore unaware of their current situation;
15. Additionally, the KCLS "Tenancy Land" obtained several notable outcomes for Clients. These outcomes alleviated household debts, provided stability and succession in tenancies, ensured that exposure to asbestos is correctly recorded and Department of Housing policies and procedures are correctly followed. We acknowledge the improved relationship with the Department of Housing has facilitated these positive outcomes and we remain determined to work proactively in this space;
16. We continued to provide Clients with opportunities to voice their dissatisfaction with the WA Government's Stolen Wages and Redress Schemes. This has been met with political, media and community support, which was recently reflected in an ABC 7:30 Report critique on the Department of Aboriginal Affairs' handling of the Stolen Wages Scheme. I foreshadow that action to further this dissatisfaction will continue in 2014 and interest has been received for examining the merits of civil action against the WA State Government;
17. KCLS again provided critical case work to Victims of Crime seeking compensation. This resulted in KCLS obtaining awards for Clients spanning the Kimberley, many of whom had not previously accessed this scheme despite being eligible for in excess of a decade. On a practical level, KCLS Staff facilitated expert reports for Clients without them having to leave their homes, which is a significant benefit to those living remotely. This is not an easy assignment. Clients were also provided high quality representation in complex matters (often historic) by Amanda Whitehead and Hannah Levy, while their services were delivered in a culturally appropriate and accessible way through the help of Ruth Abdullah;
18. KCLS assisted the Fitzroy Crossing Family Violence Prevention Legal Service (Marninwarntikura) by running a portion of their files while they were without a solicitor.



They now have a resident solicitor and those files that remain current have been returned. We have continued working informally with this service to increase their capacity to provide civil law advice in the Fitzroy Valley; and

19. Wills, Probate and Guardianship has been an area of growth this year. This occurred without promotion, highlighting the need for a free service in this area. We have written hospital bed Wills, assisted Clients deal with the now repealed Indigenous Intestacy Provisions and provided advice to existing and prospective guardians. This is an area that we will discuss with other East Kimberley practitioners in 2013. We also thank the Arts Law CLC from Sydney who provided training in this space.

### *Ongoing Issues*

Although the scope of legal work performed by KCLS continues to increase, I raise the following issues that we will focus on in FY2014 to ensure Client needs are met:

20. Significant thought needs to be put into the content and methodology of delivering Community Legal Education (**CLE**) throughout the region (including Kununurra). Despite the positive planning and execution of CLE in FY2013 (in coordination with Legal Aid, ALSWA and AFLS), education remains underutilized for empowering Clients, averting negative interactions with the legal system and obtaining important information to run KCLS. It is hoped a recently established coordination group will help to address this need and support Ruth Abdullah in her role as Indigenous Women's Project Officer. We again plan for approximately 12 field trips next year across the East Kimberley;
21. Strategic direction needs to be provided to the newly established KCLS West Kimberley office. Initially, this has come from an Implementation Plan however this requires review and amendment as Clients' substantive legal needs become apparent. It is evident, at least from initial consultation, that tenancy and debt remain an unmet service need in the West Kimberley. CLE and youth related issues are also identified as key areas of unmet need. Although this office will place increased strain on my role it is hoped that the use of technology will mitigate the logistics created by 1000 km's of pindan, acacias and asphalt;
22. KCLS staff need further professional development in employment law, wills and estates, financial services and youth law. This reflects unmet need and the knowledge base of KCLS staff. It is hoped that all senior solicitors may participate in education pertaining to one key area and then bring back that knowledge to the practice. This has been achieved in part in the areas of Wills and Probate and Tenancy Law in FY2013. We also plan for restricted practitioners and students to attend training (in house, in Kununurra and away-from-the-office) to improve their legal knowledge and again overcome the risk of professional isolation;
23. KCLS needs to constantly build and maintain robust professional relationships with the key governmental agencies that impact on our Clients lives. We must engage with the Department of Housing, Courts, the Department for Child Protection, Department of Aboriginal Affairs and Centrelink. Time will be made to meet with all agencies to refresh

them of our role, expectations and personnel while learning from their expectations of Client and KCLS alike. In my view, the issues in paragraph (10) above are avoidable through strong and honest relationships being prioritized;

24. Relationships also need to be maintained with Universities, the Law Council of Australia and pro-bono firms to enhance our current capacity. KCLS cannot meet the current legal need without this assistance. I also thank Liz and Judy Harrison for their continued work in law reform projects, legal needs surveys and clearing house modeling that keep our Clients' interests at the forefront of decision makers' minds;

Lastly, I thank the KCLS Staff and Board for their support to me during my 8 months as Principal Solicitor. I look forward to working with you all in the future and welcome any feedback.

Yours faithfully,

*Thomas Allen*

Principal Solicitor

#### ***Case study – Proving of an Informal Will***

We were approached by an older Aboriginal lady from Kununurra whose husband had died before signing his Will. He was not of aboriginal descent.

She was seeking Probate of her late husband's Estate. She was named in a Draft Will and in a Wills Instruction sheet as the sole beneficiary. She told us that her late husband had completed and signed the Wills Instruction sheet prior to his death.

Our client was unsure how to apply for probate or whether she should apply for Letters of Administration. She informed us that no one else was making a claim on the Estate. We obtained the original copy of the Wills Instruction sheet. A copy of the deceased signature was obtained for authentication. All property of the marriage was in her late husband's name.

We advised the lady that under the Wills Act we could assist her to apply the Court for the proving of an Informal Will and apply for Probate; as opposed to applying for Letters of Administration which would be far more complex in the circumstances.

A thorough search has been conducted to determine assets of the Estate. The preparation of Probate documents have been drafted along with Affidavits of various family members in support of the application.

A briefing note was then prepared for Counsel and we are waiting on their advice prior to filing our client's application for proving of the Informal Will and requesting Probate with the Probate Division of the Supreme Court.

## *Indigenous Women's Program*

Since my last report, a lot of positive outcomes have happened within KCLS and out in our field trips.

KCLS has recruited five new Aboriginal workers (male and female) working with specific Lawyers in different roles and we also have a full staff of five Lawyers plus Admin. Our full total of staff to date is 15 which I think is a tremendous effort on our Director's part in getting the relevant funding for these positions and the employment of appropriate staff in KCLS.

In the beginning of 2013 I have taken individual new staff to agencies/resource centres to introduce them so they can get to know them when KCLS does service run to the Desert (Balgo, Mulan, Bililuna), Wyndham, Halls Creek area (including Kundat Djaru, Kalumburu, Yiyili Community) and the Gibb River areas.

This year, I have been working with specific Lawyers that have been involved with the Housing changes in all of East Kimberly areas, including the Gibb River areas. I have travelled to the Desert areas with other KCLS staff and stayed for several days seeing clients for legal issues, community issues, individual concerns.

These trips included a lot of CIC requests and applications, obtaining Birth Certificates, motor vehicle licensing and other community related issues (queries have been from all our outreach trips) and in some cases referrals for them to receive the right advice from the appropriate agency (Government or Non Government).

I feel that KCLS has been the main source of contact for most of the outreach trips as we do it on a regular basis and we communicate to the relevant communities of our visit and if they have particular issues that KCLS can deliver. I feel that KCLS does have a special working relationship with all of our communities that we service.

We have presented several CLE to the Kupangarri School, Wirrimanu school in the past three months. We had again combined for the "Yarning about the Law" Roadshow with ALS/Legal Aid. Kupangarri was fun as students knew us from last year and their mock court was enjoyed by all including their teachers and family group on their communities (as they were doing the mock courts with other children at home).

*Ruth Abdullah*

Indigenous Women's Project Worker

# *Community Legal Education Outreach Program*

## **2013 Outreach trips: (Clients)**

- Warmun, Halls creek, Kalumburu, Kundat Djaru, Mindibungu, Wirrimanu, Mulan, Yiyili, Kupangarri, Imintji (Desert trip 5 trips this year and Gibb River 4 trips)
- CLE delivered twice to the Kupangarri school and two at Wirrimanu school
- Roadshow "Yarning about the Law"-twice this year (Gibb River and Wirrimanu)
- Lawyers from the Australian Law Art Centre teamed up with us on our trips to Warmun, Halls Creek and Yiyili
- Finalising and following up of the Stolen Wages/Redress
- Teamed up with AJP on their outreach trips for Motor vehicles queries, vehicle licensing, Birth Certificates, Fines etc in Warmun, Halls Creek and Yiyili

## **Other Departments/contact during the year of 2013**

- Contact from the Royal Commission into Sexual Abuse is ongoing
- Attended the NCALS Conference (22-26 July) in Cairns, QLD
- Invited to ORIC meeting in Broome, December 2012
- Joint delivery of Services in Kununurra area with Money Business, Housing changes

Most of the issues for the whole year centred on the following on all outreach communities and town areas:

- Changes of the Housing system on all communities with new Agreements and their responsibility as a tenant
- Motor vehicle licenses, fines, obtaining ID's, Centrelink info
- Debit/Credit queries on communities of members buying vehicles etc including money management issues including HUGS
- Criminal Injuries Compensation
- Domestic Violence Prevention/DCP issues
- Wills for Artists and Non artists
- Holding Cultural Awareness training for KCLS staff and new students in the office
- Follow ups on Stolen Wages/Redress etc for KCLS to assist in drafting letters to Ministers in regards to some not receiving any recognition of their past in working on stations etc and not eligible for any money owing.

In closing of my report I would like to say that I am proud to be a part of the KCLS working team member for 2013 as we have done and achieved a lot of positive outcomes and the feedback from our remote and town clients have also been positive.

This is noticeable when we are all working as a team and there is a lot of communication from each other for support and to receive the positive outcomes that we try hard to achieve for the Organisation. Our own satisfaction and most importantly our clients.

*Ruth Abdullah*

Community Legal Education Project Worker



# *Tenancy Advice and Education Report*

I commenced working as Tenancy Solicitor at KCLS in late November 2012 and work alongside Indigenous Tenancy Advocate Carlos Waina and Public Tenancy Support Service (PTSS) workers Erika Parsons and Haelema Ward.

## **Tenancy casework**

There is a strong demand for tenancy assistance at KCLS, with a high volume of enquiries from public housing and community housing tenants. Regular tenancy matters include assisting with outstanding maintenance, housing applications, water and tenant liability disputes and eviction proceedings.

In 2013, we have focused on improving our tenancy outreach services, with a significant growth in tenancy clients from Wyndham (serviced weekly), Halls Creek (serviced fortnightly) and remote communities such as the Gibb River Road communities (serviced tri-annually).

Between April and July 2013, KCLS represented around 60 public housing tenants from Kununurra and Wyndham in Magistrates' Court eviction proceedings issued by the Department of Housing (DOH) for non-payment of rent and other charges. This was a challenging period where our capacity was pushed to the limit. In the majority of these matters, tenants were experiencing financial hardship and had children in their care and the threat of eviction placed these families under enormous stress. The reasons that tenants had fallen behind on payments included poor communication by the DOH, problems processing payments and a lack of ongoing support to assist tenants to maintain their tenancies. After several months of procedural hearings, the DOH agreed to resolve all matters on the basis that tenants consent to a payment order. Many of these tenants were subsequently referred to PTSS and now receive ongoing assistance from Erika and Haelema to maintain their tenancies. We hope that the DOH will work more closely with at risk tenants and PTSS prior to taking eviction action in the future.

Some examples of outcomes in other matters include assisting tenants whose houses are in poor condition to obtain transfers and assisting tenants to obtain waivers of tenant liability charges incurred due to domestic violence.

We have also developed a detailed process for dealing with tenancy matters involving potential asbestos exposure. The first priority in these matters is to seek urgent maintenance works or a transfer. There are then a number of steps taken to document any exposure to asbestos. We then assist tenants to make complaints. This remains a work in progress and we aim to develop relationships with other interested parties advocating for policy reform on this very serious issue. In the next year, we will continue to improve our tenancy outreach services. The opening of our Broome office will provide a much improved service to tenants in the West Kimberley, who we can only assist by telephone at the moment.

## **Tenancy CLE**

A major part of our tenancy services is to also provide Community Legal Education (CLE) around housing issues and our focus in 2013 has been targeting remote Aboriginal communities affected by the introduction of Housing Management Agreements (HMAs). These agreements are a result of the *Aboriginal Housing Legislation Amendment Act*, which empowers the DOH to provide and manage housing in remote Aboriginal communities. Previously, remote Aboriginal communities were provided with funding to manage their own housing. By entering into a HMA, a community is agreeing to the DOH managing housing in their community for the next 40 years and entering into Tenancy Agreements with individual community members that live in that housing. Importantly, the *Residential Tenancies Act (the RTA)* will then apply to this housing. This will be the first time the RTA

has applied to housing in many communities. This is very important as if tenants breach their obligations under the RTA they may be evicted.

In 2013, KCLS has visited various communities to provide CLE on HMAs, including Kalumburu, the Gibb River Road communities, Ringer Soak and the Desert communities. The CLE has included meetings with community councils who are currently in the process of negotiating HMAs and discussions with community members who have recently entered into new Tenancy Agreements now covered by the RTA. Several communities have expressed concern that tenants do not understand their rights and obligations under the new system and that there is insufficient support being provided to them. We will continue to try and engage with tenants in these communities and make it known that KCLS can assist with their housing issues.

In the next year, we aim to provide CLE to tenants in and around Kununurra, Wyndham and Halls Creek, as we have identified that CLE has not been a focus in these areas that we service regularly.

*Andrew Turner*

Tenancy Advice & Education Solicitor

### *Case Study - Tenancy - Financial - Centrelink Appeal*

A young man from Kununurra approached us for assistance. He had received an eviction notice from the Department of Housing and Court proceedings were pending. He also requested assistance to pay his utility bills. During the initial client interview he told us he had applied to Centrelink for a Disability Pension as he could not work and that had been refused. His only income was Newstart allowance.

We were able to assist the client with his court proceedings by negotiating an outcome which allowed our client to remain housed. We also made a successful application for a grant under the Utility Hardship Scheme to assist in payment of his utility bill.

We advised our client he was entitled to seek a review of the refusal by Centrelink to grant him a Disability pension. Our client requested that we assist him with this process. He provided us with his medical history and informed us he was waiting for an operation that could significantly improve his wellbeing.

We requested a copy of the refusal decision from Centrelink. We noted that the decision had been made on medical grounds that did not appear to match our client's current medical status. We advised our client to get a new medical report. We used this new report as evidence in our letter of Appeal and in support of a re application for a Disability Pension which was granted for two years.

## *Public Tenancy Support Service Officer*

Our Client targets for this program are:

- Existing Department of housing tenants whose tenancy is in danger or at RISK of eviction and homelessness.
- New department of housing tenants identified as “at Risk”.  
Early intervention helps sustain housing and prevent homelessness.

PTSS and mainstream services provide an integrated response to homelessness to move people out of crisis into long term sustainable accommodation.

In 2012/13 24 individual clients were assisted to maintain their tenancies. These assistances involved 21 children. 95% are Indigenous. 80% are female

The major difficulties experienced were:

A large amount of debts arise over years of insufficient attention from DOH. The main three types are:

- Tenancy Liability- Clients not knowing what TL is or what is normal wear and tear and shouldn't be charged as TL.
- Rent- DOH wanting each client to pay 30% of their fortnightly income to the debt and leaving clients struggling to live.
- Water- DOH informing clients at very late notice regarding their water charges

As a result of these things happening over a long period of time DOH all of a sudden said that clients had to try to get debts repaid. Those clients had to pay on top of the 30% of their income try to find at least 50% of the outstanding amount owing. Which most of our clients simple could not do. Then DOH started sending out eviction notices and started taking clients to court. At this stage PTSS started referring clients to the tenancy lawyer for legal help and advice.

As a result of all these thing happing a few clients moved out of their homes. Which did not help the already ongoing problem of overcrowding.

Maintenance of properties is a problem because it is not being carried out in a timely manner leading to extra burdens and deterioration of housing standards.

Cultural obligations often result in temporary absences or arrivals - DoH does not seem to have appropriate protocols for tenants to notify of temporary absence or to follow up on emerging issues. They also do not seem to understand these cultural obligations and how DOH lack of understanding adds to the clients already high stress levels.

While working with our clients PTSS has also done a number of community educational projects in the last year. Some are as follows

- Created a new PTSS pamphlet
- Created a handy numbers handout for clients
- Created our " good standards" pamphlet
- Created our " cleaning your home" pamphlet
- With community housing created our "better homes" radio program
- Helped organise and did radio ads for "bring your bills day"

- Held four community awareness stalls in Kununurra and Wyndham to get the word out there about us and KCLS and what we can offer.
- With Warringarri and community housing having community information days about all areas of tenancy and being a tenant.

This is a part of our year and job that we both have loved doing.

*Erika Parsons & Haelema Ward*

Public Tenancy Support Service Officers

### *Case study - PTSS*

Elderly Indigenous female client in overcrowded and poorly maintained accommodation.

Rent arrears due to DoH failing to provide support to get genuine residents signed up or deleted from rent charged.

Overcrowding occasional due to family visits.

PTSS workers arranged clean-up of yard and house.

PTSS workers contacted maintenance for client and discussed with DoH. Emergency maintenance performed after PTSS intervention.

PTSS workers assisted client and other genuine residents to arrange rent payments. Negotiated reduction and repayment within clients and other resident's means.

PTSS workers arranged for client to see tenancy lawyer when DOH wanted 50% of outstanding debt and 30% of fortnightly income and sent eviction letter saying they would take court action.

PTSS workers helped client, client's family to stick to and uphold her Grog Ban.

Client is now constantly trying to maintain a clean, safe and healthy home.



## *Indigenous Tenancy Advocate Service*

ITAS is a specialty Tenancy Service to assist Indigenous clients in the Kimberley. It has a significant focus on Education for Tenants.

In 2012/2013 ITAS delivered community education in Hall's Creek, Ringer Soak, Wyndham and Kununurra.

The major problems continue to be high need for advice and assistance about evictions and huge bills with tenancy client's e.g: water and tenant liabilities, lots of maintenance and refurbishing of houses in the east and west Kimberley.

The ITAS is now assisting Community Housing clients where communities have come under Department of Housing management through CH contracts with Department of Housing.

Number of public housing advices - 161

Major issues: Debts, vacated debts, maintenance, priority assistance, bond recovery

*Carlos Waina*

Indigenous Tenancy Advocate

## Financial Counselling Service

It has been another busy year in the KCLS financial counseling service.

Between 2012 and 2013 KCLS assisted 168 people who attended the service with financial problems. Our morning drop in sessions are often well attended by clients presenting with problems with their utility bills or are struggling with debts to banks or other lenders. Some of the success of this work is reflected in the case studies below.

The cost of energy continues to be a problem affecting those solely dependent on Centrelink and as our records show it is increasingly becoming a problem for people in employment, who are now approaching our service for financial assistance with their power bills. I sincerely thank Lynda Hagar who has been dedicated to ensuring that clients who approach our service for assistance through the Hardship Utilities Grant Scheme (HUGS) are informed about the status of their and their entitlement to future grants.

### Case Study 1

We were approached by an elderly woman for assistance with her power bill which was in excess of \$3,000.00. We identified that the power company had not properly contracted with her following a natural disaster in the community and on that basis were able to negotiate a partial waiver of the debt and HUGS to assist her in managing the account.

### Case Study 2

We were approached by a couple who had received a substantial loan from a commonwealth lender to establish a business. The business failed due to circumstances outside of the couples control and they were unable to make the repayments requested by the lender. We assisted the couple to communicate their financial position to the lender who agreed not to pursue the debt further based on their financial circumstances.

### Bring Your Bills Day in Kununurra

In response to the increasing numbers of people coming into the service for assistance with utilities bills we collaborated with Wunan, Money Business and Jungarni-Jutiya to hold a Bring Your Bills Day at the Mirima Dawang Woorlab-gerring Language and Culture Centre in Kununurra on 16 April 2013.

The model which was developed by Community Legal Centres in Victoria offers community members a one stop shop where they can meet with representatives from the Water Corporation, Horizon Power, Department of Housing, Community Housing, Centrelink and the Sheriff's Office to discuss and resolve issues with their bills.



Bring Your Bills Day in Kununurra was attended by 36 community members and transformed our traditional role as problem solvers into facilitators able to provide community members with a direct referral to the agencies that can assist them. In reflecting on the success of the day thanks must go to Save the Children who donated their bus and Save the Children staff members Ebony Hickey and Maxine Gore who promoted the event and transported community members from their homes to the event.

## *Law Reform and Legal Policy*

The WA Stolen Wages scheme has been a major focus of law reform and legal policy work for the past year.

A special report was prepared for the Warmun Council on progress so far. A generalized version of this report had been provided to WA Members of Parliament including Josie Farrer, Member for the Kimberley, the Minister for Aboriginal Affairs and opposition members:

### **WA STOLEN WAGES SCHEME – WARMUN COUNCIL DISCUSSION ON 19 SEPT 2012**

Contributed by the Kimberley Community Legal Service (KCLS)

The WA Government's Stolen Wages Scheme has been extended until 30 November 2012. This means that Aboriginal people can still apply up until that date.

So far KCLS has helped about 30 people in Warmun hand in their application for 'stolen wages' to the WA Government. This involves writing down the person's story and filling in a form which KCLS then posts to the WA Department of Indigenous Affairs (DIA) in Perth. Most people in Warmun who have applied are now waiting for DIA to respond to their application.

#### **About the Scheme**

The Scheme applies to Aboriginal people born before 1958 who had income withheld by the WA Government when they were 14 or older. The Scheme only applies if income was withheld while the person was living on a Government Native Welfare Settlement in WA. This includes places like Moola Bulla, Beagle Bay, Amy Bethel Hostel in Derby, the Derby Leprosarium and Forrest River Mission. Each person who is eligible will receive a maximum payment of \$2,000 from the WA Government.

#### **Problems with the Scheme**

As we have talked to many hundreds of Aboriginal people in the East Kimberley about the WA Stolen Wages Scheme we can report that most Aboriginal people think this Scheme is unfair and that it should be changed to make it better. KCLS agrees.

The main reasons people think the Scheme is unfair are because the Scheme doesn't:

- Respond to the effects of stolen wages on Aboriginal people as a group, as families and as communities,
- Include people who have passed away,
- Allow families to apply to honour deceased family members, for example by putting up a head stone on their grave,
- Allow families, Aboriginal communities or Aboriginal organisations to apply for funds for programs, projects or events to acknowledge and record what happened, or
- Help non-Aboriginal people understand, and properly respond to, the treatment Aboriginal people experienced.

Another major concern expressed to us is that the amount of \$2,000 is far too low and it is very hurtful to be offered this when people work for so long.

Also, many people think that it is very unfair that the Scheme does not include Aboriginal people who worked on private stations. For example, many older people in Warmun only

received rations for many years of work at Springvale Station, Bedford Downs Station, Bow River Station and many others.

There are also problems with the Scheme for many Aboriginal people in the East Kimberley who spent time in the Northern Territory. The WA Scheme does not apply for income withheld by stations or welfare institutions in the NT. There is currently no NT Stolen Wages Scheme and no national Scheme.

#### **Why did the WA Government call it the 'Stolen Wages' Scheme?**

Many Aboriginal people have told us that they feel very let down by the WA Government Scheme. Many people have said that when they heard of the 'stolen wages' Scheme they thought it meant 'station money'. That is, a payment from the WA Government for allowing stations to only pay them rations for their work. At the moment, the WA Government says that the Scheme does not include 'station money'.

Some people have said, 'Well, why did the Government call it 'stolen wages' when they didn't mean that?' KCLS agrees that the name of the Scheme is very confusing. KCLS believes that the WA Government should change the Scheme to include Aboriginal people whose income was withheld on private stations.

#### **Former Aboriginal station workers trying to improve the Scheme**

Many older people in Warmun, who only received rations for their work on private stations, have lodged an application with the WA Stolen Wages Scheme in protest, to show the Government what is wrong with the Scheme. These people are arguing that they should be eligible or if they aren't the WA Government should change the Scheme to make them eligible.

The WA Aboriginal Legal Service has told us that many older Aboriginal people from other areas of the State, including Broome, Carnarvon and Kalgoorlie, who received rations for their work on private stations, who have lodged protest applications with the WA Stolen Wages Scheme. This means that many Aboriginal people are trying to show the Government that the Scheme is unfair and should be improved.

#### **Warmun community talking about the problems with the Scheme**

The Warmun Community Council will spend some time talking about the unfairness of the WA Stolen Wages Scheme at its meeting on 19 September 2012.

If you have things to say about the Stolen Wages Scheme, you can talk to people before hand to let them know what you think to help the discussion at the meeting.

#### **Do you want help to apply to the Stolen Wages Scheme?**

If you want to apply to the WA Stolen Wages Scheme, or find out more about the Scheme, KCLS can help. KCLS visits Warmun every second Tuesday. You can book an appointment with KCLS by talking to Kerry in the Warmun Office or contact KCLS direct on ph 1800 686 020.

If you are going to be in Kununurra, you can drop into the KCLS office at 4 Papuana Street on Monday to Wednesday (Thursday appointment only; closed Friday).

Also, KCLS is available in Halls Creek every second week, usually on Tuesday and Wednesday afternoon. You can contact the KCLS office for an appointment in Halls Creek.

**What's happening with my application?**

If you have lodged your WA Stolen Wages application and want information about your application you can call KCLS or visit us in Warmun or Halls Creek at the times above. If you are unsure if you have lodged an application you can contact KCLS and we can check for you.

**Advocating for improvements to the WA Stolen Wages Scheme**

If you would like to contact KCLS about efforts to improve the WA Stolen Wages Scheme, please contact KCLS Director, Liz O'Brien on ph: 08 91693100 or email: Liz\_Obrien@kcls.org.au

Liz O'Brien presented a letter on behalf of the Warmun community to the WA Attorney General, Michael Minchin and to Wayne Martin Chief Justice of the WA High Court



In consultation with KCLS, Stateline WA presented a program filmed in Kununurra and surrounds the report can be viewed at <http://www.abc.net.au/news/2013-09-13/retired-indigenous-mission-and-station-workers/4957734?section=wa>

With our clients permission Greens Member for the Legislative Assembly has been provided with stories from our clients which have been read in the WA Legislative Council and recorded in Hansard. A petition is currently being prepared and advice has been sought from the Human Rights Law Centre about further action.

## *Treasurer's Report*

Kimberley Community Legal Services Inc (KCLS) recorded \$124,475 surplus (2012-\$27,356 deficit) for the 2012/2013 financial year. The surplus is due to an increase in funding which has increased 29.66% on the 2011/2012 financial year whilst expenditure has only increased 11.16%. The major increase in expenditure was due to employee / payroll expenses which have increased 46.62% in comparison to 2011/2012. As a remote Legal Service it is difficult to find and retain skilled staff which can impact on the service provision. During 2012 /2013 KCLS has managed to not only retain staff yet increase the staffing levels which all results in providing a better service to the community.

I also wish to note that KCLS has received an unqualified audit for 2012/2013 financial year, previously KCLS has received qualified audits due to irregularities in expense qualifications. I think it is testament to the work that Liz and her team have done to produce an unqualified audit report whilst experiencing rapid growth.

The service continues to grow and I believe we have the correct people in place and the correct governance and reporting structures to sustain the growth.

I also wish to thank Kununurra Accounting Services (KAS) for their professional support over the past 12 months and also providing help with our end of year audit. The audit was completed by LBW Chartered Accountants again this year.



# *Auditors Report*

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