



## **Brimbank Melton Community Legal Centre Submission to the Royal Commission in to Family Violence**

Brimbank Melton Community Legal Centre (BMCLC), a program of Community West (Victoria) Ltd welcomes the Victorian Royal Commission into Family Violence and the opportunity to provide a perspective from the unique and diverse community of Melbourne's outer western region.

### **Brimbank Melton Community Legal Centre Family Violence Legal Service**

BMCLC provides free legal services to one of Melbourne's fastest growing and most culturally diverse regions, across Brimbank, Melton and Bacchus Marsh. BMCLC is a program of Community West Ltd, a multi-disciplinary organisation providing family, education, legal and neighbourhood house programs to the western suburbs community. Community West aims to provide a continuum of services that address the multiple barriers and disadvantage faced by community members.

BMCLC's Family Violence Legal Service (the Service) is funded until 2017 by the Commonwealth Attorney General's Department to address the high levels of reported family violence incidents in Melbourne's outer western region. Since opening its doors in November 2013, BMCLC and the Service have assisted 468 clients experiencing family violence and demand for services continues to grow.

### **Family Violence in Brimbank and Melton**

Brimbank and Melton record some of Victoria's highest family violence figures. In 2013-2014:

- More than 20,000 incidents of family violence were reported in the north-west metropolitan region (in which Melton and Brimbank are located), accounting for 30.5 per cent of all incident of reported family violence in Victoria
- 2,148 of these incidents were in Brimbank and 1623 in Melton
- Victoria Police were called to approximately 300 family violence incidents in Brimbank and Melton each month. These figures are some 12 per cent higher than the previous year
- Melton had the second highest rate of family violence within the region (1320.5 per 100,000 people, compared to 1129.2 for Victoria overall).

Further information about the Service and the unique factors contributing to family violence in the Brimbank and Melton communities can be found on page 3 of the attached report, "*Family Violence on the Fringes: A report from the Brimbank Melton Community Legal Centre Family Violence Legal Service.*"

### **Summary of Recommendations**

1. State and Commonwealth governments invest in a range of family violence prevention measures that focus on school aged children and high risk groups, especially culturally and linguistically diverse communities.
2. State and Commonwealth governments invest in a range of family violence early intervention measures that are:
  - a. embedded within the community;
  - b. integrated to provide access to a wide range of services;
  - c. targeted to areas of most need (geographically and culturally); and
  - d. ongoing and effective in addressing non-physical forms of family violence.
3. Review of the judicial system that ensures a comprehensive and holistic approach to dealing with family violence victims and perpetrators.
4. An integrated policy and departmental approach to tackling family violence involving community organisations, community legal centres and family violence service providers.

**1a) Examine and evaluate strategies, frameworks, policies, programs and services across government and local government, media, business and community organisations and establish best practice for the prevention of family violence.**

Research shows family violence prevention and early intervention strategies are effective when targeted at young people and high-risk groups.<sup>1</sup> High-risk groups include Culturally and Linguistically Diverse (CALD), regional, isolated and Indigenous communities, which is also reflected in BMCLC's client data. Additionally, young people are at a crucial stage of their development and are most susceptible to moving into damaging pathways or conducting themselves in a way that may be considered destructive or harmful.<sup>2</sup>

Community legal education (CLE) is an effective way to reach school aged and high-risk groups within our community, as well as to provide relevant and culturally appropriate information. Successful family violence prevention programs led by Community West include:

- Love Bites – school-based family violence and sexual assault prevention program. Love Bites challenges conceptions of masculinity, gender inequity and helps student in years 9 - 11 to develop healthy conflict resolution skills as part of being in a respectful relationship.<sup>3</sup> The program is delivered in the outer western region by Community West and community partners including school nurses, Victoria Police, family violence workers and local council staff. Feedback is extremely positive, with students' comments including, "we get to learn about real life issues and other people's experiences," "we learned about how respecting your significant other is extremely important," "now I am more aware of what domestic violence and sexual assault are - it opened our eyes about what happens outside."
- Learning Law in our Land / Accessing Justice in our Community – early intervention and prevention legal information package for emerging communities. Learning Law in our Land (LLIOL) capitalises on adult English as an Additional Language (EAL) educators' unique role of trust and knowledge to provide early intervention legal and referral information to adult EAL learners. The program emphasises prevention and contains a family violence/law module, equipping both adult educators and learners to meaningfully discuss family violence and access local referral and support services. The program also influences local communities directly through Accessing Justice in our Community, targeting local community leaders to better understand the legal information, including family violence. Both programs are positively received with participants feeling equipped to tackle a range of legal issues including family violence, and knowing where to refer people for advice and representation in family violence matters. Community leaders also comment that the information and activities dispelled misconceptions and previous bad experiences of the family violence system.

**Recommendation for 1a**

*State and Commonwealth governments invest in a range of family violence prevention measures that focus on school aged children and high-risk groups, especially culturally and linguistically diverse communities.*

<sup>1</sup> Ibid.

<sup>2</sup> Judy Cashmore, 'Pathways to Prevention: National Crime Prevention' in Partnerships Against Domestic Violence (ed), *National Forum: The Way Forward: Children Young People and Domestic Violence: Proceedings* (Office of the Status of Women, Canberra, 2000) 59-66. <[www.padv.dpmc.gov.au/oswpdf/way\\_forward.pdf](http://www.padv.dpmc.gov.au/oswpdf/way_forward.pdf)>.

<sup>3</sup> NAPCAN, *Love Bites Respectful Relationships Program Facilitator Training Manual*, NAPCAN Preventing Child Abuse (2014)

**1b) Examine and evaluate strategies, frameworks, policies, programs and services across government and local government, media, business and community organisations and establish best practice for the early intervention to identify and protect those at risk of family violence and prevent the escalation of violence.**

Organisational frameworks that promote early intervention

BMCLC's reach is exponentially increased by its situation within a multi-program organisation such as Community West. The ability to receive 'warm' referrals from other programs, access and develop a wide stakeholder base through different programs and collaborate with other programs and program staff increase the ways clients can interact with BMCLC and visibility within the community.

This allows women who would not usually seek help directly from a family violence legal service to be identified as early as possible and be referred to internal or external services. The Service also finds that clients are more confident seeking help from a known and trusted contact (e.g. their EAL teacher)<sup>4</sup> and BMCLC provides ongoing training and support to Community West staff to ensure they can identify and support clients experiencing family violence.

Population growth and infrastructure

Melbourne's outer western region is experiencing rapid population growth, emphasizing the lack of infrastructure that disadvantages women experiencing and trying to escape family violence. Our clients report significant transport issues (Melton, Deer Park and Bacchus Marsh are only accessible by regional V-Line and limited bus services) and difficulty reaching and attending police stations, as well as in accessing refuges and crisis housing. Our anecdotal data also indicates that women experiencing or at risk of family violence living in Melton, Deer Park and Bacchus Marsh face considerable difficulties in attempting to transfer to another area and to access affordable housing.

Our communities experience difficulty accessing family violence support services such as police, housing, and health, especially in a crisis. Our experience shows that the waiting lists to access local family violence support services, including housing and behavioural change programs, are long. State and region-specific family violence support services have only limited resources

and many inner-city services deliver only outreach services in the Brimbank, Melton or Bacchus Marsh areas, rather than provide connected and permanent services.

Co-location and collaboration

To help address access and infrastructure issues<sup>5</sup>, BMCLC co-locates and integrates several specialist services with other community agencies and local government services. These strong relationships mean

**Case study – forced to stay in harm's way**

*Sally was referred to the Service by her maternal and child health nurse. Sally was eighteen years old, had two young children and was experiencing significant family violence at the hands of her ex-partner. Sally was forced to move in with her new partner's family and was continually harassed by her ex-partner and his family and friends. Some of these incidents resulted in criminal charges. When asked if she could move out of the area to reduce the risk to herself, Sally disclosed that she and her new partner were unable to secure private rental accommodation due to their age and lack of income, and that she was on a waiting list for public housing but had no idea when or where she would move.*

<sup>4</sup> Ibid. The *Australia-Wide Survey* also finds that people are far more likely to seek help from a friend, relative or other known professional (like a GP) than a lawyer.

<sup>5</sup> For example, the BMCLC Melton office is situated within the Melton City Council's library and BMCLC's Mortgage Wellbeing Service is situated within the local community health provider, to facilitate early referrals and relationships with referring agencies.

clients can be reached earlier in the family violence cycle, as well as help protect against an escalation of violence.

Maternal and child health (MCH) nurses hold a unique position through their ability to enter the homes of vulnerable families to speak with women who may be experiencing controlling or violent behaviour. Linking the Service with the frontline MCH nurse service accessed by all new mothers is an effective early intervention strategy.

#### Addressing cultural differences to prevent escalation

While family violence does not discriminate by socio-economic status, background, culture and gender, we know that women from CALD communities are overrepresented in family violence statistics. Migrant women or women from CALD communities experiencing family violence are less likely to seek legal help for reasons including shame, fear, misconceptions and lack of awareness of the justice system and available assistance.<sup>6</sup> Cultural norms and religious beliefs of communities are diverse and issues relating to: displacement in migrant and refugee communities, dowries, loss of status, and pressure to maintain the family unit can place extreme burden on families, contributing to family violence.<sup>7</sup> In our experience, limited culturally appropriate services means that these issues remain hidden within communities and, in particular, women are left alienated or isolated so that early intervention strategies aimed at preventing the escalation of violence are less effective.

As discussed earlier, targeted and culturally appropriate CLE is an effective measure in preventing the escalation or continuation of violence by empowering women to feel safe and confident to report family violence.

#### **Recommendation for 1b**

*State and Commonwealth governments invest in a range of family violence early intervention measures that are:*

- a. embedded within the community;*
- b. integrated to provide access to a wide range of services;*
- c. targeted to areas of most need (geographically and culturally); and*
- d. ongoing and effective in addressing non-physical forms of family violence.*

#### **1c) Examine and evaluate strategies, frameworks, policies, programs and services across government and local government, media, business and community organisations and establish best practice for the support for victims of family violence and measures to address the impacts on victims, particularly on women and children.**

We know that strong support networks are needed for women to leave a violent relationship and to not return. One of the most common reasons women continue to stay in a violent relationship is that they feel like they have nowhere to go for help<sup>8</sup> or are unable to live independently (often financially). Clients often tell us they feel the system is designed to further victimise women experiencing violence, as they are unable to take back control and make decisions for themselves - because the support isn't there.

<sup>6</sup> Stephanie Anderson, 'He Almost Killed Me: Migrants Left Trapped in Domestic Violence', SBS (online), 6 November 2014 <<http://www.sbs.com.au/news/article/2014/10/22/he-almost-killed-me-migrants-left-trapped-domestic-violence>>.

<sup>7</sup> Ibid.

<sup>8</sup> Stephanie Convery, 'Violence against Women: Don't Just Punish, Prevent', *The Drum* (online), 16 April 2015 <<http://www.abc.net.au/news/2015-04-16/convery-treating-the-root-causes-of-violence-against-women/6398146>>.

### Partnering to reduce retraumatisation and victimisation

Following the development of a strong relationship with the government department, a Centrelink social worker outreaches from BMCLC's Melton office during the Service's drop-in advice clinic each week. The partnership provides co-located social work support for clients, including assistance with safety planning, housing and crisis payments to fast track outcomes.

This approach means clients do not need to re-tell their story, they escape the referral roundabout and have access to fast-tracked outcomes. Clients also report feeling supported and listened to. In contrast, some clients have expressed anxiety at having a range of services contacting them at once when they have just been through a crisis and may need some space to deal with the crisis.

### Addressing the range of legal issues surrounding family violence

When applying for an IVO the burden falls on women who are victims of family violence to give evidence against the perpetrator, to enforce the IVO and to report breaches.<sup>9</sup> There is further emphasis on women to become suddenly independent and deal with other, often non-physical forms of violence.

The impact of family violence on our clients (women and children) often includes economic and emotional abuse long after an IVO is in place, including fines and debt issues, mortgage stress, parenting disputes and abuse of the legal system. A duty lawyer service can be effective for the initial IVO proceedings, yet it would rarely address ongoing or hidden forms of violence.

BMCLC and the Service take the approach that legal problems associated with family violence cannot be viewed in isolation and legal issues associated with family violence must be viewed holistically. The Service is managed by a family violence lawyer with knowledge and experience to assist clients across the range of legal issues that commonly impact victims of family violence, and raise awareness around more pervasive forms of family violence.

#### **Case study – ongoing harm through debts and fines**

*While Kacey was working, her ex-partner used her car every day. He didn't work and incurred numerous traffic fines in Kacey's name, hiding them from her. After speaking to Civic Compliance Victoria, Kacey discovered over \$15,000 of outstanding fines in her name. She made an application to have the fines wiped and the Magistrate was understanding of her situation, agreeing to waive the outstanding fines. However, the demerit points accrued meant Kacey's license was suspended without her knowledge. After being caught driving with a suspended license by the police, Kacey and her family violence caseworker tried to negotiate with the police using the same information with which the court waived the initial fines, however the police still charged Kacey with driving unlicensed. Kacey was eventually referred to the Service and her lawyer negotiated with the police to withdraw the charge almost 12 months after Kacey was pulled over. Kacey didn't have to miss any more work and her lawyer made sure police withdrew the charge.*

#### **Recommendation for 1c**

*State and Commonwealth governments invest in a range of family violence early intervention measures that are:*

- e. embedded within the community;*
- f. integrated to provide access to a wide range of services;*
- g. targeted to areas of most need (geographically and culturally); and*
- h. ongoing and effective in addressing non-physical forms of family violence.*

<sup>9</sup> Danny Rose, 'Prisons Won't Fix Family Violence: Batty', *The Australian* (online), 12 September 2014 <<http://www.theaustralian.com.au/news/latest-news/batty-rues-ambivalence-on-family-violence/story-fn3dxiwe-1227056268669>>.



**2) Investigate the means of having systemic responses to family violence, particularly in the legal system and by police, corrections, child protection, legal and family violence support services, including reducing re-offending and changing violent and controlling behaviours.**

Policy, legislation, systems and a range of services are required to adequately respond to the needs of victims of family violence and to reduce reoffending. Successful examples of integrated and systemic responses to family violence can be easily extended to Melbourne's outer western region, where demand for support services is extremely high.

Family Violence and Magistrates' Courts

Currently two Victorian Magistrates' Courts (Ballarat and Heidelberg) operate as specialist family violence courts (SFVCs). SFVCs have the power to hear integrated criminal, child protection, civil and family law matters related to family violence. One court sitting in multiple jurisdictions is intended to promote access to justice and consistency in monitoring perpetrators and ensuring the safety of affected family members (although limited information is available about the evaluation of the specialist court divisions that operate this way).<sup>10</sup>

*The case for Sunshine Magistrates' Court becoming a SFVC*

Despite the high rates of family violence in Melbourne's outer western region, and while Sunshine Magistrates' Court operates family violence programs and hears family violence-related matters every day, the court does not operate as a SFVC. We believe that Sunshine Magistrates' Court does not meet the needs of its increasing number of family violence clients.

Our clients report that they are frightened, forced to walk out of secure and safe areas into court, and give evidence before busy courtrooms. Assistance is also limited, with clients occasionally unable to consult a duty lawyer and forced to make interim applications before Magistrates with less experience in hearing family violence matters. Another common issue reported to us is that police aren't voicing clients' concerns through the IVO process in police applications.

Implementation of SFVCs requires strong policy and adequate resourcing, taking into account the introduction of specialist court staff and specialised training. Even with Sunshine Magistrates' Court's dedicated IVO list, Family Violence Registrar and a Court Applicant Support Worker, Magistrates with family violence expertise only sit where practicable.<sup>11</sup> Certain services, including family violence court support services and culturally specific services, are only accessible on particular days. Most notably, Sunshine Magistrates' Court does not have the ability to make mandatory counselling orders following a final IVO being made, and does not have any Respondent workers. While there have been improvements at Sunshine Magistrates' Court, further consultation with clients and service providers is needed to ensure positive outcomes for people experiencing family violence.

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<sup>10</sup> Julie Stewart, 'Specialist Domestic Violence Courts: What We Know Now - How Far Have Australian Jurisdictions Progressed?' Australian Domestic Violence Clearinghouse, Topic Paper - 2011 Reissue, <<http://www.adfvc.unsw.edu.au/PDF%20files/Topic%20Paper%202020.pdf>> page 8.

<sup>11</sup> Cathy Lamble, 'The Family Violence Court Division and Specialist Family Violence Services Projects in the Victorian Magistrates' Court: Lessons Learned from Implementation and Specialisation' (Speech delivered at the Family Violence Conference: Towards Better Practice, Brisbane, 2 October 2009) <<http://aija.org.au/Family%20Violence%2009/Papers/Lamble%20PPT.pdf>>.

### *Bacchus Marsh Magistrates' Court*

Smaller regional courts also need focus and investment. BMCLC provides duty lawyer representation for applicants in the family violence list at Bacchus Marsh Magistrates' Court. Based on this experience it is important to ensure the proper infrastructure and resourcing in small and regional courts to provide the basic protection and anonymity of victims of family violence. Clients report feeling intimidated and may have to wait alongside or walk past the perpetrator of violence, making their experience of the justice system disempowering and frightening.

### Lack of support programs and places available in the outer metropolitan region

In BMCLC's experience, Magistrates have limited options for referring Respondents to offender accountability programs as many services in the Melbourne's outer western region have closed their books due to lack of resources and high demand. Our clients tell us that violent ex-partners only undertake behavioural change programs when ordered to do so through the criminal justice system, as there is no supervision of these conditions on IVOs in Melbourne's outer western region (excluding Ballarat).

Behavioural change programs are one of the very few important strategies aimed at changing violent and/or controlling behaviour and may reduce reoffending. However, our clients and stakeholders frequently tell us that the program is too short (10-week) to reverse a lifetime of cultural and behavioural beliefs, attitudes and behaviours.

### **Case study – financial abuse and limitations of the Court system**

*Police applied for an IVO when Lucy's ex-partner became physically abusive towards her and their child. Lucy was referred to the Service after a court applicant support worker recommended she speak to a lawyer about a property issue. Lucy reported emotional, verbal and physical abuse, as well as significant financial control and economic abuse. Before the police arrived, Lucy's ex-partner took her vehicle, which was registered in her name and solely financed by her. Lucy worked part-time, was the primary carer of her child and reliant on her vehicle. She also lived in an outer suburb and had no other means of transport.*

*When the IVO matter returned to court, Lucy requested the police who represented her as her ex-partner to return her vehicle. Even though there was no other property and no dispute over the title of the vehicle, the police advised Lucy that the vehicle would be the subject of a family/property settlement, for which she would need the assistance of a family lawyer.*

### **Recommendation for 2**

Review of the judicial and court system that ensures a comprehensive and holistic approach to dealing with family violence victims and perpetrators.

### **3) Investigate how government agencies and community organisations can better integrate and coordinate their efforts.**

Integration and coordination requires planning and clear points of contact to ensure the family violence referral system is seamless. It also requires building the capacity of other service providers to better support early identification and facilitation of access to support services for people experiencing family violence.

### Large-scale coordinated responses to family violence

BMCLC welcomes the state-wide implementation of the Risk Assessment Management Panel (RAMP) which uses a coordinated, multi-agency approach to enhance the protection of victims of violence identified as high risk and keep perpetrators accountable. We believe this type of systemic approach will be successful, based on BMCLC's local collaborations and partnerships.

### Clients falling through the gaps

We are extremely concerned about clients falling through the systemic gaps, including women not deemed “high risk” enough to receive intensive case management under the RAMP model. The Service engages with Victoria Police regularly to discuss police applications and clients’ safety concerns, however this informal model can be challenging. Proper integration requires extension of the concepts underpinning the RAMP program to help resolve matters deemed “non-complex”.

Community lawyers are uniquely placed through their position in the community, their strong relationships with local services and their ability to gain clients’ trust. Community lawyers already work in collaboration with family violence agencies. CLCs occupy a unique place within the community and the family violence sector, and should be recognised as an integral part of the coordinated response to family violence.

### **Case study – ongoing violence but not “high risk”**

*Thi was referred to the Service by her caseworker from a local health service. Thi told her lawyer that while she was initially protected by an IVO applied for by the police, her ex-partner made a meritless application for a rehearing after months of no contact. Thi was anxious and couldn’t understand how her ex-partner could require her to fight for the protection of an IVO again. The police told Thi that they couldn’t help her resist the application for rehearing even though they made the initial application, leaving Thi on her own to explain to the Magistrate why the rehearing was unfair and unnecessary.*

### **Recommendation for 3**

An integrated policy and departmental approach to tackling family violence involving community organisations, CLCs and family violence service providers.

## **Bibliography**

### **A Articles/Books/ Reports**

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### **B Other**

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