

National Access to Justice and Pro Bono Conference 2010
Collaboration to defeat the tyranny of distance – a West Australian perspective
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THE WA COUNTRY LAWYERS PROGRAM

Background

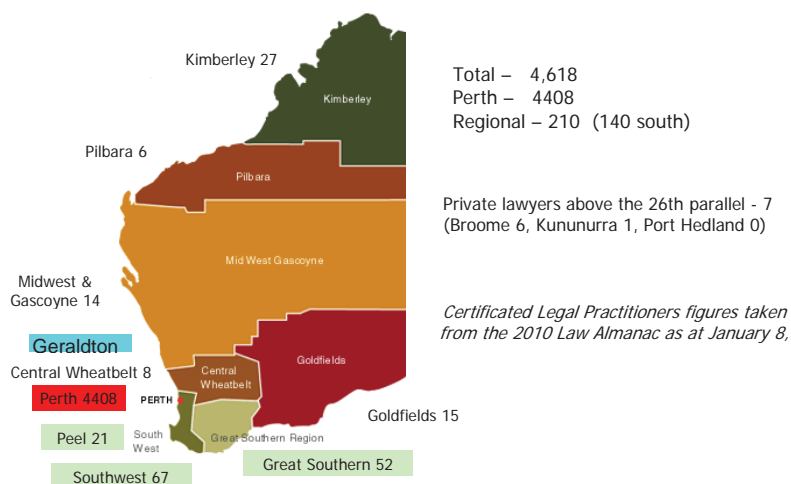
The Country Lawyers Program (CLP) was developed by a collaborative stakeholder group in 2007 to address the critically high number of vacancies in the regional community legal sector in Western Australia. The aim of the CLP is to improve recruitment and retention of lawyers in country WA focusing on remote and hard to fill legal positions.

The current stakeholder group consists of representatives from:

- ❑ Legal Aid WA;
- ❑ Aboriginal Legal Service of WA;
- ❑ Community Legal Centres;
- ❑ Indigenous Family Violence Prevention Legal Services;
- ❑ The Law Society of Western Australia;
- ❑ The Legal Practice Board of WA;
- ❑ The Commonwealth Attorney General's Department; and
- ❑ The State Department of the Attorney General.

The CLP model was specifically developed to suit Western Australian conditions. Models used in other states that rely on the assistance of private practitioners do not work well in WA due to the very limited number of private practitioners in regional and remote areas. Legal Practice Board figures indicate that currently there are only seven private practitioners north of Geraldton holding current practice certificates (six in Broome and one in Kununurra).¹

Distribution of Lawyers in Western Australia as at January 2010



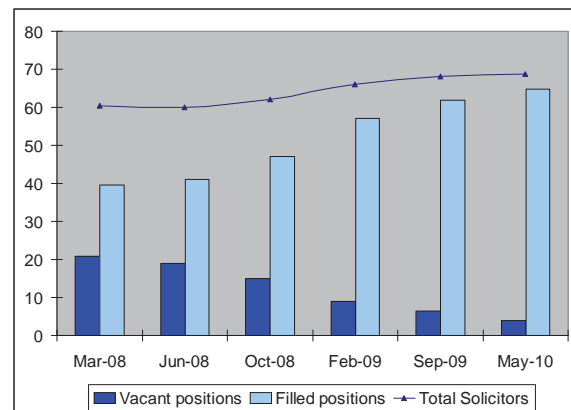
¹ Western Australia Law Almanac 2010 Country Directory, edited by the Dept of the Attorney General.

Key Achievements

Two years into regional rotations, the CLP has been extremely successful in achieving its core objectives. There are currently 27 lawyers in the Program and since March 2008, the vacancy rate in the WA publicly funded regional community legal sector has reduced from 35% to 6%. This reduction is coupled with an increase in publicly funded regional solicitor numbers, which have gone from 60.5 in March 2008 to 68.75 solicitors in May 2010.²

Country Lawyers Program Vacancy Mapping of the publicly funded regional community legal sector March 2008 – May 2010

Agency	Mar 08			May 10		
	Total Solicitors	No. Vacancies	% Vacancies	Total Solicitors	No. Vacancies	% Vacancies
CLC	10.5	3.9	37%	14	0	0%
Legal Aid	24	1	4%	25.75	0	0%
ALS	10	0	0%	14	0	0%
IFVPLS	16	16	100%	15	4	27%
Total	60.5	20.9	35%	68.75	4	6%



Other key achievements of the CLP include:

- ❑ Enabling the collaboration of a wide group of stakeholders to provide a co-ordinated interagency response to deliver access to justice in RRR areas. This includes enabling the regulator to keep abreast of regional issues and operate more effectively within regional areas;
- ❑ Focusing the government and stakeholders' minds on the issues facing regional lawyers and agencies;
- ❑ Establishing processes and flexible approaches that set the lawyers in the Program up for success. This includes the ability to tailor placements to individual requirements and the provision of up front and ongoing training to fulfill continuing professional development requirements; and
- ❑ Achieving good levels of engagement and satisfaction from lawyers within the Program, including the development of retention mechanisms even when particular placements are not successful. Since establishment of the CLP in 2007, only two lawyers have left the Program (both for personal reasons).

The CLP is being independently evaluated by Starfish Consulting. Two of the three phases of the evaluation are complete. The third and final phase will be completed later in 2010.

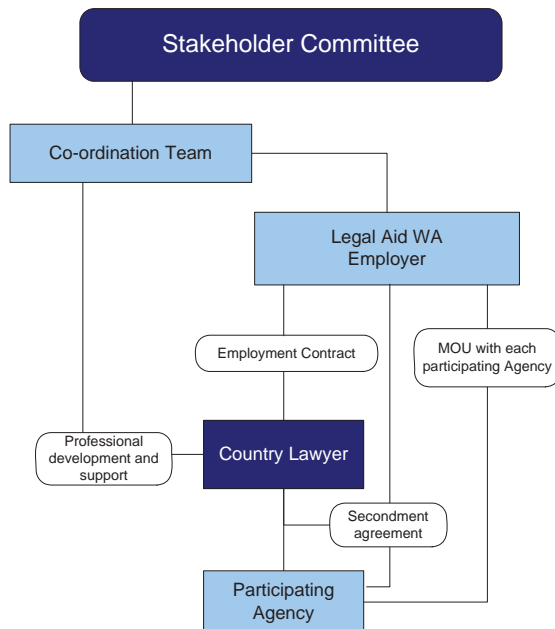
² Vacancy mapping carried out by independent evaluators, Starfish Consulting.

How the Program works

The Program's Co-ordination Team, based at Legal Aid WA in Perth, spearhead the implementation of the three key Program streams:

- ❑ **Graduate Stream:** Graduates remain at Legal Aid WA in Perth until being admitted to practice before commencing regional rotations for three years;
- ❑ **Open Stream:** Regional placements and rotations for more experienced lawyers over a three-year period; and
- ❑ **General RRR Stream:** Provides general assistance to all lawyers practising in regional, remote, and rural Western Australia.

Employment Model



All CLP lawyers are employed by Legal Aid WA and seconded out to participating agencies for regional placements. The one-employer model provides:

- ❑ Great diversity for participating lawyers in terms of geographic locations and placement agencies they can work in;
- ❑ Ongoing professional development and support, which are key factors in tackling professional isolation in regional and remote areas; and
- ❑ Parity and portability of working conditions across all agencies using Legal Aid WA's award as the benchmark, giving participating lawyers access to subsidised housing, district allowances and salary packaging.

Regional Rotations

Graduate Stream lawyers spend up to 12 months at Legal Aid WA in Perth before commencing regional rotations. Once regional rotations commence, both the Graduate Stream and the Open Stream operate in the same way. Rotations are usually between 6-12 months and can be extended for longer periods in some circumstances. The shorter rotations accommodate the lack of funding available to some agencies that can only afford a CLP lawyer for 6 months. As part of the rotation process both lawyers and agencies can express preferences regarding the next round of rotations.

Cost Recovery

Legal Aid WA meets all salary and other award related costs (travel, district allowances, accommodation etc) up front and then recovers these costs from participating agencies. A levy is also charged to recoup some of the salary and training costs incurred by Graduates whilst they are based at Legal Aid WA in Perth.

Insights into the Program three years on...

What pleases us...

- The real difference the CLP is making on the ground in regional WA – an extra 27 lawyers in two years and no systemic vacancies in the publicly funded regional legal sector;
- The short amount of time it has taken to get the Program up and running;
- The quality of the lawyers attracted to the Program at all levels; and
- The high level of commitment from CLP lawyers to regional WA.

What surprises us...

- The low level of attrition in the Program.
- The Program's ability to attract high quality experienced lawyers. Initially we thought we would need to "grow our own" – hence the large graduate intakes in 2008 (8) and 2009 (9). In 2010 we only took one graduate; and
- The speed at which Program lawyers are putting down roots in particular regional locations. One of the key Program attractions for lawyers was the ability to rotate through different geographic locations.

What has challenged us...

- Parity issues relating to salaries, housing and other employment conditions;
- The rapid growth of the Program;
- External governance issues in some participating agencies, particularly those developing a legal practice from the ground up;
- Instability in auspice/management arrangements for the IFVPLS's. We have experienced three different management models - individual agencies, auspice arrangements and management by an Aboriginal Corporation, since the CLP commenced;
- Legislative changes in restricted practitioner supervision requirements. Graduate lawyers admitted to practice now will be restricted practitioners for two out of their three years of regional rotations instead of one year as was the case prior to March 2008; and
- The complexity of the financial recovery process for salaries and other costs from participating agencies.

Future challenges...

- Expansion into the private sector;
- The parity issue remains as an important ongoing and unresolved issue;
- Working out how to actually measure success. If a lawyer leaves the Program but keeps delivering legal services in the regions is that actually a failure?;
- Managing the end of contract period for the first intake of CLP lawyers. It is difficult to predict whether this cohort will stay in the regions after their CLP contracts end in about 12 months; and
- Improving communication within the Program.

Collaboration in the CLP Program

Collaboration is an integral part of the success of the CLP. Some of the benefits of high levels of collaboration include:

- ❑ Creating a collective whole that can achieve more than its individual parts;
- ❑ A better understanding of “bigger picture” issues including the pressures faced by other agencies;
- ❑ Better working relationships across traditional divides which have helped us to:
 - Identify and preference high priority areas in regional WA (for example in 2008/2009 the Program collectively prioritised IFVPLS placements);
 - Strengthen on the ground relationships between participating agencies including the provision of lawyers and administrative staff to help each other out during critical times (for example a Legal Aid lawyer went to the Aboriginal Legal Service in Kununurra for 3 months to assist with the Kimberley taskforce);
 - Provide better training and professional development opportunities (for example a Geraldton Legal Aid family lawyer with strong interest in alternative dispute resolution and mediation, was seconded to the Geraldton IFVPLS to allow her to gain more experience chairing mediations.)

Improving communication remains one of the key future challenges for the Program. Even where there is a shared vision and high levels of commitment, working together still takes a considerable amount of time, energy and effort. The CLP Program Co-ordination Team works hard to balance the needs of a large number of stakeholders. Keeping good lines of communication open is critically important in a centrally managed, regionally based Program of this size and geographical spread. The Program uses a mixture of new and old technology and face-to-face meetings to communicate with lawyers and stakeholders. A recent networking meeting held in Perth for Program lawyers proved very successful as many of the regionally based lawyers hadn't actually met each other.

Pro Bono Assistance provided to the CLP

The CLP has received a tremendous amount of pro bono support from the private legal profession. This work has been led by the team of lawyers at Clayton Utz in Perth who have assisted not only with the establishment of the CLP framework but also with ongoing legal issues arising as the Program develops and matures. Assistance has been provided in the areas of contract, industrial relations, employment law and tax law. The willingness of Clayton Utz to help and the timeliness and quality of the assistance provided has been nothing short of amazing. Time and time again I have picked up the phone to ask yet another tax or industrial relations question and every single time I have been provided with comprehensive advice and a workable solution. There is no doubt, that the CLP could not have evolved so quickly and so effectively without this kind of help. Pro bono support on CLP related issues has also been provided by other firms including Blakes, Freehills and Allens.

COLLABORATION ON RRR ISSUES IN A WIDER CONTEXT IN WA

Obviously the main focus of this paper is the Country Lawyers Program, however there are some other good examples of collaboration to defeat the tyranny of distance in WA that I have recently been involved with that I will briefly mention.

The Introduction of mandatory Continuing Professional Development (CPD)

Mandatory CPD was introduced into Western Australia in March 2008. This presented huge challenges to regionally based lawyers some of whom were facing the prospect of having to travel thousands of kilometres and spend thousands of dollars to obtain their required CPD points.

In the first CPD year, Legal Aid WA, in conjunction with the Legal Practice Board, the CLP and many CLP partner agencies, travelled to major regional centres including Broome, Kalgoorlie, Geraldton, Bunbury and Albany and rolled out CPD training at low cost. This was extremely well attended and allowed many regional lawyers to obtain the necessary points without having to travel. In a number of locations, this was the first time that all of the practising lawyers in the area had been in the same room, resulting in valuable networking and relationship building.

In the second year of CPD, with the development of better relationships between lawyers at a local level, many regional centres successfully ran well attended CPD training sessions. Some of these sessions coincided with superior court regional circuits so the judiciary and senior lawyers on circuit could take part in the delivery of the training.

Legal Aid WA also runs an annual two-day series of CPD workshops in Perth. This provides another CPD option for regionally based practitioners, who can come to Perth, complete back to back workshops and obtain all of their required CPD points at low cost in one trip.

Pro Bono Regional Circuit Work – Legal Aid WA and Clayton Utz

Legal Aid WA and Clayton Utz have further developed their pro bono relationship in the form of a pro bono regional circuit program. As part of this program Clayton Utz lawyers accompany Legal Aid lawyers on a regional Magistrates Court circuit. So far Clayton Utz lawyers have attended three regional circuits, one out of Kununurra in the Kimberley and two out of Port Hedland in the Pilbara. The results have been very beneficial and were summed up very nicely by Tim Muirhead from Clayton Utz who said:

“I believe this partnership between Clayton Utz and Legal Aid:

- is fantastic for developing the relationship between the two organisations and the individuals within them;
- provides Legal Aid with an extra set of hands on the ground on the Magistrate’s circuit; and
- gives a Clayton Utz lawyer the opportunity to learn about and be involved in the criminal justice system in remote communities in Western Australia and to provide assistance to those persons involved in the system.”