

THE WA COUNTRY LAWYERS PROGRAM

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INTRODUCTION

Background

There is an acute shortage of lawyers in regional Western Australia. In March 2008, more than one in three legal positions in the regional community legal sector were vacant.¹

A recent report by Starfish Consulting² into recruitment and retention issues in Western Australia's Family Violence Prevention Legal Service Units, all located in regional and remote areas, identified staff shortages as a key issue:

*"The staff shortage in the FVPLS units is not a small matter. There are 8 units with 13 solicitor posts. One was filled at the time of this research. The coordinator of the Port Hedland unit spent the first 8 months in his new job with only an admin worker as he could not recruit other staff. The Kununurra unit has not been able to recruit a solicitor since it opened two years ago. Several units report staff staying in their posts only a matter of weeks, or even days. This is not a minor Human Resources problem, it is a fundamental failure to be able to effectively deliver a service."*³

The Starfish Report also considers the impact of this failure on some of the most vulnerable people in our society:

*"Indigenous FVPLS units are meant to bring a culturally appropriate and holistic service to women and children who have suffered violence and sexual abuse, mostly at the hands of the people they live with. Without solicitors (and the WA units have been without solicitors for about two thirds of their existence) it is in fact the presence of justice that is missing."*⁴

These sentiments are equally relevant to the entire regional community legal sector in Western Australia, particularly the more remote areas. In the northwest, with the exception of Broome, there are no private practitioners north of Geraldton. This means that most, if not all, community legal services are provided by government-funded agencies, and in March 2008 more than one in three of those legal positions in regional WA were vacant.

¹ 59 positions and 21 vacancies or 36%. Taken from figures provided in March 2008 by Legal Aid WA, The Aboriginal Legal Service of WA, Community Legal Centres and Family Violence Prevention Legal Services

² The Starfish Report "The Presence of Justice - Recruitment and retention issues in WA's Family Violence Prevention Legal Service Units" By Leah Watkins and Rona Chadwick, Starfish Consulting, 2008.

³ The Starfish Report (above) at p11.

⁴ The Starfish Report (above) at p11.

The Country Lawyers Program has taken on the challenge of addressing the lack of lawyers in regional areas and is already achieving positive results. In the six months since March 2008 the vacancy rate in the sector has dropped from one in three to one in four positions vacant. It is anticipated that over the next two years the number of lawyers participating in the program will reach sustainable levels that can properly meet the needs of regional and remote communities in Western Australia.

The Genesis of the Country Lawyers Program

The genesis of the Country Lawyers Program was the formation of a key stakeholder group, which recognised the gravity of the recruitment and retention issues in regional WA and were committed to working collaboratively to address the issues. With assistance from both State and Commonwealth funding and significant pro bono support from the private legal sector, the Country Lawyers Program was established.

The key stakeholders agencies are:

- ❑ Legal Aid WA;
- ❑ The Aboriginal Legal Service of WA;
- ❑ The Community Legal Centres Association of WA;
- ❑ Indigenous Family Violence Prevention Legal Services (IFVPLS);
- ❑ The Law Society of Western Australia;
- ❑ The Legal Practice Board of Western Australia; and
- ❑ Pro Bono Partners such as Clayton Utz and Blakes

Collaboration remains the key to the Program's success.

Aims of the Country Lawyers Program

The Country Lawyers Program aims to:

- ❑ Improve the recruitment and retention of lawyers in country Western Australia with a specific focus on remote and hard to fill legal positions; and
- ❑ Improve access to professional development and continuing legal education for lawyers in country Western Australia.

The Country Lawyers Co-ordination Team

In September 2007, the Commonwealth government provided Legal Aid WA with seed funding over two years to establish a Co-ordination Team to spearhead the implementation of key phases of the Country Lawyers Program. These included:

- ❑ Developing a graduate program (the Graduate Stream);
- ❑ Attracting experienced lawyers to the program (the Open Stream); and
- ❑ Improving access to continuing professional development and professional support for all lawyers in country Western Australia (The General Rural Regional and Remote (RRR) Stream).

The Co-ordination Team consists of a senior project manager, a learning and development solicitor, a paralegal co-ordinator and a project officer.

PROGRAM SIZE

After 12 months of operation, there are currently 21 lawyers in the program:

- ❑ Graduate Program 2008 - 8 lawyers going regional in January/February 2009;
- ❑ Graduate Program 2009 - 9 lawyers commencing in Perth in February 2009.
- ❑ Open Stream - 4 lawyers. We are continuing to recruit to this stream;

At this stage, the maximum program capacity is between 40 to 45 lawyers.

PROGRAM STREAMS

The Graduate Stream

The Country Lawyers Graduate Program is a four-year program. Graduates currently spend their first year as Articled Clerks at Legal WA in Perth where they undertake a comprehensive Professional Development Program consisting of.

- ❑ Structured intensive clinical legal education;
- ❑ Rotations through substantive sections at Legal Aid WA; and
- ❑ Short placements in Stakeholder Agencies.

Kyle Martin, who commenced in the Country Lawyers Program in February 2008, reflects on his experience to date and on what he hopes to achieve as a regional lawyer:

“Professional Development is strongly encouraged at Legal Aid, and the training and support in the Articles year is second to none. I hope that through the training and experience I will be an effective solicitor, an advocate and a better person. In the regional placements, I want to find a sense of community, and a place where I can use my skills to have a meaningful relationship with the client base.”

Kyle Martin, Country Lawyers Graduate Program

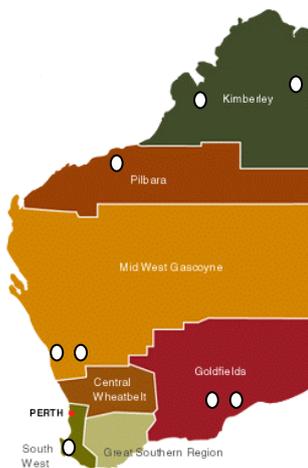
The Professional Development Program specifically targets legal skills that lawyers will require in regional public sector agencies. This includes:

- ❑ Cross Cultural Training;
- ❑ Family Violence;
- ❑ Protection and Care;
- ❑ Family Law;
- ❑ Criminal Injuries Compensation;
- ❑ Criminal Law; and
- ❑ Advocacy Skills.

A significant amount of time is also spent developing resources, establishing professional networks and building mentor relationships to help address professional isolation issues that the lawyers will face when they begin their regional service.

After being admitted to practice, the graduates commence fixed term regional placements, usually of around 12 months, with participating stakeholder agencies over a three-year period. Whilst on their regional placements, the graduates will continue to receive comprehensive professional support, co-ordinated by the Country Lawyers Co-ordination Team based at Legal Aid WA in Perth.

In 2009, the first intake of graduate Country Lawyers will be placed in agencies throughout regional and rural Western Australia, as depicted below:



Region	Town	Agency
Kimberley	Kununurra	FVPLS
	Broome	LAWA
Pilbara	Port Hedland	FVPLS
Midwest & Gascoyne	Geraldton	CLC
	Geraldton	LAWA
Goldfields	Kalgoorlie	CLC
	Kalgoorlie	ALS
Southwest	Bunbury	CLC

Table 1: 2009 RP Placements by Region, Town and Agency.

With the introduction of the *Legal Profession Act 2008* in early 2009, practical legal training for law graduates, based on WA content, will become available for the first time in Western Australia. A final decision is yet to be made on whether the 2009 graduates will complete Articles or practical legal training. If they complete practical legal training, they will be eligible to be admitted to practice within six months and may be in a position to commence regional rotations as early as September 2009.

The Open Stream

Like the graduates, practitioners in the open stream are offered fixed term regional placements, of usually around 12 months each, with participating Stakeholder Agencies over a three-year period. The Country Lawyers Co-ordination Team in Perth manages ongoing professional support during regional placements.

Prior to commencing their first regional placement, each practitioner spends four weeks at Legal Aid WA in Perth where they will complete a tailored induction program to equip them to practise law in regional Western Australia. The induction period has proved to be a vital part of the program, particularly for lawyers coming from other jurisdictions.



Region	Town	Agency
Kimberley	Broome	FVPLS x2
Pilbara	Port Hedland	LAWA
Great Southern	Albany	FVPLS

Table 2: 2008/9 Open Stream Lawyers by Region, Town and Agency

The General RRR Stream

The introduction of mandatory continuing professional development in 2009⁵ has placed the spotlight on this stream of the Country Lawyers Program. The Country Lawyers Program and Legal Aid WA are assisting all lawyers practising in rural, regional and remote Western Australia, including lawyers working in private practice and in non-stakeholder agencies, to obtain mandatory CPD points. Accredited workshops are being conducted in key regional centres including Broome, Kununurra, Port Hedland, Geraldton and Kalgoorlie and priority places are available for RRR lawyers attending Legal Aid WA workshops in Perth.⁶

HOW THE PROGRAM WORKS

The Employment Model

The Country Lawyers Program uses a one-employer model with Legal Aid WA as the employer. Participants are then seconded to each stakeholder agency during their regional placements.

This model:

- ❑ Provides parity of working conditions across all stakeholder agencies using Legal Aid WA's award as the benchmark;
- ❑ Honours entitlements accrued by lawyers in the course of their employment under this program and provides portability of conditions across the program; and
- ❑ Achieves a seamless transition of lawyers through regional placements.

The model is underpinned by a MOU and contractual arrangements between Legal Aid WA and participating agencies that set out the practical arrangements of paying and managing staff.

Graduate Stream training costs

Stakeholder agencies participating in the Graduate Program pay Legal Aid WA an Articled Clerk loading. This loading is spread over the three years of the program and is calculated to reimburse Legal Aid for 75% of its Articled Clerk training costs. This is around \$18,000 per year.

⁵ Legal Profession Act 2008

⁶ Legal Aid WA is an accredited QA Provider and can award CPD points to legal practitioners attending or presenting Legal Aid CPD training events.

Other Costs

In order to achieve parity across participating agencies, housing subsidies (in applicable areas), admission fees, Law Society fees, and other RRR costs are provided under the program. These costs are met by participating agencies.

Program Support to RRR lawyers

The Country Lawyers Co-ordination Team provides and co-ordinates professional support for lawyers in the Program. This includes:

- ❑ Unfettered access to senior staff to assist with legal queries;
- ❑ Dedicated HR personnel to assist with all leave and relocation needs;
- ❑ Comprehensive IT support including a laptop and access to the internet through Legal Aid's server, all supported and maintained by Legal Aid's IT section;
- ❑ Access to Legal Aid's online legal resources and library;
- ❑ Professional mentors;
- ❑ Access to employer funded counselling and de-briefing services;
- ❑ Peer support through a bi-monthly Country Lawyer's Newsletter. The newsletter keeps lawyers up to date with legal issues and training courses. It also provides lawyers with the opportunity to share experiences and learn about other participating agencies and staff through regular profiles.

In addition, any lawyers working in RRR areas can access the Country Lawyers Co-ordination Team at any time for assistance and professional support.

HOW OUR PRO BONO PARTNERS ARE HELPING

Clayton Utz continues to provide extensive and comprehensive pro bono legal assistance to the Country Lawyers Program on a wide range of issues including:

- ❑ Legal advice on a wide range of industrial relations and employment law issues whilst establishing the employment framework for the Program;
- ❑ Drafting employment contracts, MOU's and other supporting documentation to establish the employment framework;
- ❑ Legal advice on tax related issues;
- ❑ Inviting the Country Lawyers Program to participate in the CLE for CLC training program; and
- ❑ Providing an ongoing commitment to mentor lawyers in the Country Lawyers Program as part of their ongoing professional support.

Blakes is also providing comprehensive pro bono legal assistance to the Country Lawyers Program including:

- ❑ Assistance with the establishment of governance protocols for FVPLS's participating in the Country Lawyers Program;
- ❑ Inviting Country Lawyer participants to relevant training sessions at Blakes;
- ❑ Playing a lead role in including the Country Lawyers Program in the CLE for CLC training program; and
- ❑ Providing an ongoing commitment to mentor lawyers in the Country Lawyers Program as part of their ongoing professional support.

A number of other commercial law firms have also expressed interest in assisting the Country Lawyers Program, particularly in relation to providing mentors and ongoing professional support to lawyers on regional placements.

KEY CHALLENGES

Housing

Housing is the single most significant issue facing the Country Lawyers Program. The economic boom in Western Australia has had a significant impact on the availability and cost of housing, particularly in the Kimberley, Pilbara and Goldfields regions. Significant housing subsidies and assistance in obtaining housing are essential for the survival and sustainability of the Program.

Available options to deal with the acute housing shortage include:

- ❑ ***Accessing government housing subsidies:*** Using the status of Legal Aid employee under the one employer model to access government subsidised housing (Government Regional Officers Housing - GROH formerly GEHA);
- ❑ ***Purchase Houses:*** Some agencies are purchasing houses in key areas including Kununurra, Port Hedland and Broome;
- ❑ ***Fly in Fly out:*** Fly in fly out services are being used successfully in some areas:
 - The Carnarvon Flying Duty Lawyers Circuit - Legal Aid in Perth
 - Fitzroy Crossing family violence services - Women's Legal Centre in Perth;
 - Flying in senior counsel for serious indictable matters on District and Supreme Court criminal circuits; and
 - Many regional community legal sector agencies regularly using relief support from lawyers based in Perth or other offices.

Supervision of Restricted Practitioners

Supervision of Restricted Practitioners is a major issue in the regional community legal sector. Although restricted practitioners are often suitable to undertake most of the presenting legal work, and fall within the right wage bracket, major difficulties arise in attracting and retaining senior lawyers to supervise them.

Staff turnover is high in the RRR community legal sector. When a supervising solicitor leaves, if appropriate supervision cannot be found quickly, the period of restricted practice ceases to run, compromising both the restricted practitioner and the agency.

In 2009, the new *Legal Profession Act 2008* will extend the length of time that restricted practitioners must be supervised.⁷ This compounds the existing problems and places even more pressure on the regional community legal sector. To help address this issue, the Country Lawyers Program and the Western Australian Legal Practice Board are considering some flexible supervision models including:

- ❑ The introduction of “mobile supervising solicitors” who regularly spend time in the regions with junior lawyers;
- ❑ Use of state of the art electronic communications to provide remote supervision;
- ❑ A structured and collaborative inter-agency approach to supervision, bearing in mind professional conflict issues in a regional context; and
- ❑ Pro bono mentors from a number of large commercial law firms.

Parity

One of the key platforms of the Program is to create portability of conditions and entitlements for lawyers moving between different placement agencies. In the early development stages of the Program, a comparative table was prepared of the salaries and conditions provided by the different participating agencies (Legal Aid WA, The Aboriginal Legal Service, FVPLS’s and Community Legal Centres) many of which are governed by different awards. This comparison highlighted a significant range in the terms and conditions provided to lawyers within the community legal sector. After careful consideration and extensive legal advice, the Program adopted a one-employer model with the Legal Aid WA GOSAC Award being the applicable award for the Program.

The one employer model creates parity for all lawyers participating in the Program, however, many of the community legal sector lawyers who they will be working alongside, are working on much lower salaries under much less attractive awards. Although the ultimate aim is to raise the bar for all lawyers working in the sector, and this is clearly recognised as a key factor in attracting and retaining lawyers in RRR areas, on the ground parity issues continue to create real challenges for the Country Lawyers Program that need to be managed carefully and sensitively.

Recruitment

The Starfish Report⁸ canvasses a wide range of factors that contribute to the difficulties in recruiting lawyers in RRR areas of Western Australia. One of the key focuses of the program has been improving recruitment methods. Our experience to date, along with anecdotal feedback from others in the community legal sector, strongly indicates that conventional recruitment advertising in the community legal sector is largely ineffective.

⁷ 12 month of Articles plus 18 months (currently 12 months) of Restricted Practice or 6 months of Practical Legal Training and 2 years of restricted practice.

⁸ The Starfish Report (above) p2.

The Country Lawyers Program is currently experimenting with other recruitment techniques including:

- ❑ Less conventional advertisements in all the conventional places;
- ❑ Employment Forums;
- ❑ Active promotion of the Country Lawyers Graduate Program to under graduates in universities;
- ❑ Better Information Sharing. Unsuccessful applicants for any legal positions in stakeholder agencies are screened and if suitable, approached to see if they are interested in applying for positions in a Country Lawyers Pool (this has been very successful for our program);
- ❑ Looking more closely at the interstate market. A large number of lawyers in the regional community legal sector in WA come from the eastern states; and
- ❑ Innovative and low cost ways to get the message out. For less than the cost of one advertisement in the *Australian*, we have been able to produce hundreds of low cost Information Packs, which are resonating well with potential country lawyer participants and stakeholder agencies. These include USB Drives containing information about the program, note pads, glossy brochures, frequently asked questions and a program update.

In addition to improving the effectiveness of recruitment the Country Lawyers Program also needs to strategically address how it intends to increase and retain the number of lawyers working regionally as a whole, without just taking lawyers from other vital areas of the wider community legal sector.

CONCLUSION

In its first 12 months of operation, the Country Lawyers Program has had considerable success in recruiting high quality lawyers and law graduates to the community legal sector in regional, remote and rural Western Australia. Since the introduction of the Program, the vacancy rate in the sector has reduced from one in three positions to one in four. The focus moving forward is to continue to attract high quality lawyers to the Program and to provide them with ongoing quality professional support and development opportunities in a regional context.

The Program will be comprehensively evaluated in 2009. The evaluation will focus on the Program's ability to recruit and retain lawyers in the longer term and to ensure that it continues to meet the professional needs of the participating lawyers in a regional context.

With the ongoing assistance of stakeholder agencies, the Co-ordination Team is confident that the Country Lawyers Program can continue to make a positive difference in reaching and retaining sustainable levels of legal services in regional, remote and rural Western Australia.

For more information visit the Legal Aid WA website www.legalaid.wa.gov.au
and follow the links to the **Country Lawyers Program** or contact
Tonya Jensen on (08) 9261 6493 or email tjensen@legalaid.wa.gov.au