

SUBMISSION TO THE VICTORIAN GOVERNMENT
EMPLOYMENT PROGRAMS REVIEW
WESTERN COMMUNITY LEGAL CENTRE

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1 Summary

In a refugee settlement context, employment has been recognised as one of four vital components necessary for successful settlement, along with housing, education and health.¹ However, newly arrived and refugee communities face significant barriers and disadvantage in the labour market.

In order to obtain and maintain sustainable employment, newly arrived and refugee communities require targeted assistance. Such assistance must ensure that job seekers are aware of their legal rights and responsibilities. It is also essential that workers are able to access employment law advice and information when they have queries, so that they can pursue sustainable outcomes and resolve disputes at an early stage. WCLC understands that under the Commonwealth Government *jobactive* program there are no longer specialist contracts for organisations specifically targeted at culturally and linguistically diverse (CALD) job seekers. This is a significant gap, and we encourage the Victorian Government to address this unmet need.

2 Introduction

Western Community Legal Centre (**WCLC**) is a newly formed entity created from the amalgamation of Footscray Community Legal Centre Inc., Wyndham Legal Service Inc. and Western Suburbs Legal Service Inc. WCLC commenced an Employment Law Project (**Project**) in July 2013. The Project seeks to improve the employment outcomes of newly arrived and refugee communities in the Western suburbs of Melbourne.² We welcome the opportunity to make this submission in response to the Employment Programs Review Background Paper.

2.1 About Western CLC

WCLC is a community organisation that provides free legal and associated services to people who live, work or study in the cities of Wyndham, Maribyrnong and Hobsons Bay, in Melbourne's Western suburbs. We have offices in Werribee and Footscray as well as a youth legal branch in Sunshine and outreach in Laverton. WCLC provides a range of legal services including legal information, advice and casework; duty lawyer services; community legal education; law reform; advocacy; and community projects.

Our services include specialised refugee, tenancy, motor vehicle accident, employment and family law clinics, as well as generalist services including a night service. We also provide financial counselling.

WCLC has a long history of working with newly arrived communities.³ Over the past five years, more than 53% of our clients spoke a language other than English as their first language. Approximately one quarter of our clients are newly arrived (having arrived in Australia in the last five years) and our refugee service alone has seen approximately 700 clients in the past five years.

¹ Alistair Ager and Alison Strang, *Understanding Integration: A Conceptual Framework*, *Journal of Refugee Studies* (2008) 21(2) page 170.

² We would like to thank Phoebe Churches for her assistance in preparing this submission.

³ WCLC has developed specialty advisory services and education programs that address the particular legal and social problems that newly arrived and refugee communities encounter. For example, we have explored the experiences of newly arrived communities in relation to the courts, housing, energy and telecommunications markets in recent years. Reports are available on our website: <http://www.footscrayclc.org.au/brochures-publications/>.

2.2 The Employment Law Project

The WCLC Employment Law Project was first developed in response to unmet need identified through our extensive casework with newly arrived and refugee communities.

The unmet need for targeted employment law assistance was further explored and documented in our Preliminary Report, *'Employment is the heart of successful settlement: overview of preliminary findings'* (**Preliminary Report**) released in February 2014. Based on over 100 surveys from community members and community workers, and numerous consultations and forums, the Preliminary Report documents high levels of exploitation and low levels of rights awareness among newly arrived and refugee workers in the West. The Report found that face-to-face, targeted employment law services and community legal education programs (**CLE**) were urgently required for refugees and recently arrived communities.⁴

Key findings in the Report included that:

- Newly arrived and refugee communities have an extremely limited understanding of Australian employment laws and services. The impact of this lack of awareness is that workers are exploited and cannot take action to have their rights enforced;
- It was common or somewhat common for newly arrived or refugee communities to not know where to get help if they had a problem;
- Face to face service was the preferred mode of legal advice;
- Legal services and CLE should be made accessible through targeted services.

Based on this feedback and information, we established a pilot Employment Law Service and CLE Program.

2.2.1 Employment Law Service

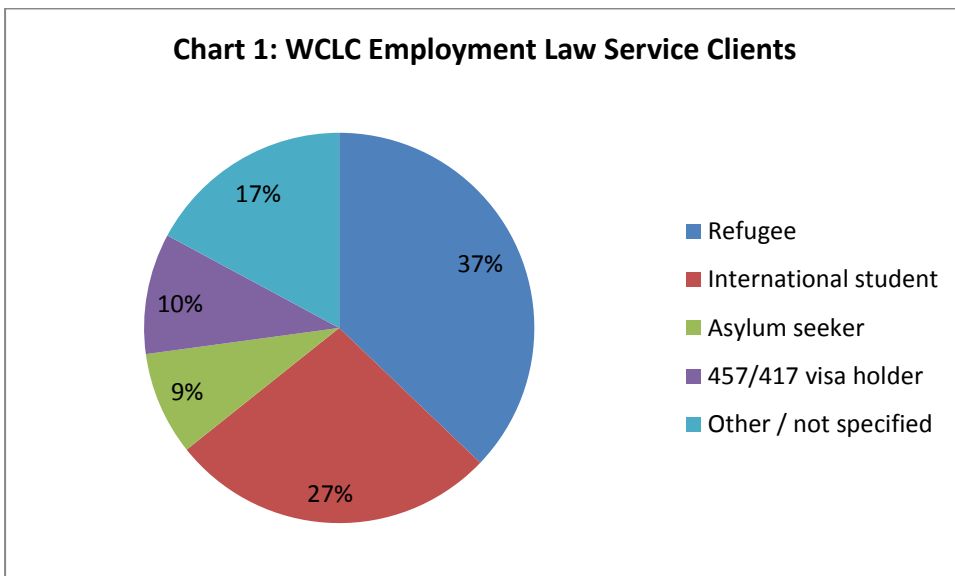
The pilot Employment Law Service provides employment law advice, referral, casework and advocacy to clients from refugee or newly arrived communities who reside in the Western suburbs of Melbourne.

Over 15 months, the Service has seen over 125 clients. We have successfully recovered over \$55,000 in unpaid wages, and \$30,000 in compensation for unfair terminations, as well as other outcomes that focus on assisting clients negotiate legal terms and conditions, find new work or keep their jobs. More cases are underway.

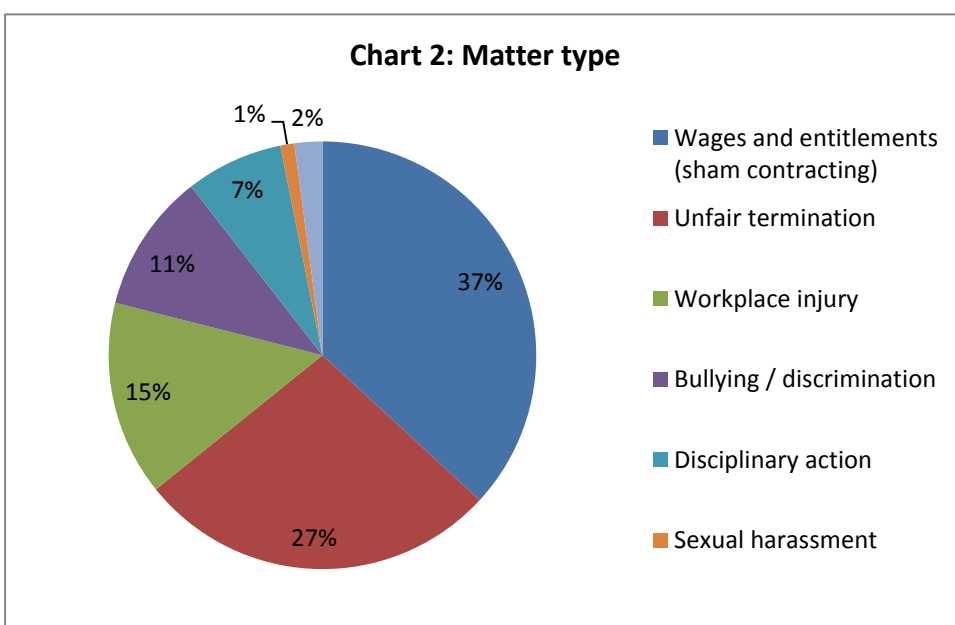
Our clients have come from over 26 different countries. As set out in Chart 1, as at February this year our largest group of clients are refugees, while the second largest cohort of clients arrived in Australia as international students. The Centre also advised some asylum seekers and people on temporary work visas (including working holiday and subclass 457 visas). The majority of clients arrived in Australia within the last 10 years. The Centre also provided advice on a discretionary basis to clients who were not newly arrived, dependent on the individual's vulnerability.⁵

⁴ http://www.footscrayclc.org.au/images/stories/Footscray_CLC_Employment_Law_Project_-_Preliminary_Report.pdf.

⁵ Some long-term migrants can have similar experiences and characteristics to newly arrived clients depending on their isolation and integration into wider society.



The Employment Law Service has assisted clients with a wide range of matters. Chart 2 shows some of the most frequent issues that we have advised on. Underpayments (including sham contracting) are the most frequently reported problem, followed by unfair termination, workplace injury, discrimination and bullying. However, often ‘unfair terminations’ contained aspects of discriminatory and/or bullying behaviour. Clients commonly present with more than one legal problem.



Many of our clients do not understand Australian laws and processes, do not speak English, and would not have enforced their rights without our help.

2.2.2 Community Legal Education Program

To date the Project has delivered over 50 community legal education (**CLE**) presentations to community members, community workers and community leaders. CLEs have been delivered to more than 500 people, and evaluation surveys were completed by over 350 individuals.

The Project has also engaged six part time community leaders from refugee and newly arrived communities to participate in a Train the Trainer Program. Supported by the Helen Macpherson Smith Trust and Victorian Women's Trust, the Program offered comprehensive training in employment law and key services, assisting participants to develop and distribute CLE sessions to their communities in the West.

2.2.3 Project Report

The Project's final report is due in 2016. Data and stories gathered throughout the pilot Employment Law Service and CLE Program will be presented in a Project Report. We would welcome the opportunity to provide further information and evidence throughout the course of this Review, and share the report with the Department once it is finalised.

3 Response to key questions

The recommendations in this submission are based on our observations during the Project, as well as our experiences working with newly arrived and refugee communities more generally.

We will respond broadly to the following questions:

- *Question 2: What are the types of clients that need different or more targeted support? What is the nature of that support?*
- *Question 3: What support services are required to assist disadvantaged Victorians find and sustain employment?*
- *Question 4: What gaps exist for unemployed Victorians in the range of existing Commonwealth and Victorian Government support measures? What groups of job seekers are not getting the support they need to move into and remain in sustainable employment?*

3.1 Newly arrived and refugee clients need different and more targeted support

The Western suburbs of Melbourne are home to a diverse range of new and emerging communities. Arriving from a foreign country, many have experienced violence, torture or trauma and are now separated from family members and social connections. Many things are new – including language, public transport systems, schools and laws. Showing resilience and determination, community members seek to create a new life, and employment is consistently recognised as a vital step for successful settlement.⁶

⁶For example, a recent consultation in Melton with community members from Burma identified employment as the most important theme for successful settlement in Melton. Employment was also ranked as the most difficult goal to achieve: Natasha Wilton, Djerriwarrh Health Services, 'Investigating resettlement barriers with the Burmese Community in Melton: A Needs Assessment'; see also Alistair Ager and Alison Strang, *Understanding Integration: A Conceptual Framework*, *Journal of Refugee Studies* (2008) 21(2) 170.

When settling in a new country, sustainable employment provides financial stability⁷ as well as ‘social cohesion, self-esteem, independence, the ability to gain stable housing and more broadly, a greater sense of community belonging and well-being’.⁸ As noted by the Refugee Council of Australia and many of our clients, many humanitarian entrants are also extremely driven to find and keep work in order to sponsor family reunion and/or provide financial support to family members waiting in refugee camps or other locations.

Labour market integration of CALD workers benefits not only migrants and refugees, but the broader community as a whole. High levels of unemployment;⁹ exploitation of newly arrived workers; and an inability to enforce workplace rights means that Australia is missing out on needed skills and human capital benefits,¹⁰ not to mention the numerous social and economic benefits an equitable, cohesive, vibrant and multicultural workplace, can bring for all workers.

CALD communities face significant barriers to entering the labour market and maintaining sustainable employment, for reasons set out **below**. However, with targeted support, many of these barriers can be overcome.

3.1.1 Barriers to accessing employment

Australians of refugee background are more likely to experience difficulties obtaining employment. Once employed, they are more likely to be engaged in low income, precarious forms of work, and are particularly vulnerable to experiencing discrimination.¹¹ The high levels of unemployment and underemployment amongst migrants has been recognised in academic research¹² as well as by organisations working with migrant communities.

Our clients report that finding a job is extremely challenging for many newly arrived communities. In 2011, the Australian Bureau of Statistics found that 9.1% of Humanitarian migrants in the labour force (actively looking and immediately available for work) were unemployed. The 9.1% unemployment rate of Humanitarian migrants is glaringly high when compared to the general unemployment rate (rated in 2011 at 5.3%).

⁷Australian Bureau of Statistics, ‘Labour Force Participation of Migrants’, Australian Social Trends, 2006; Nic Price, ‘Employment a path out of poverty for a Fitzroy refugee’, *Melbourne Leader*, 11 October 2013.

⁸FECCA, ‘Latest unemployment figures hide harsh realities for CALD workers’ (Media Release, 16 August 2013); see also Deng Tor Deng and Fodia Andreou, ‘Settlement Needs of Newly Arrived Migrant and Refugee Men: Brimbank & Maribyrnong’, Migrant Resource Centre North West Region, March 2006.

⁹Val Colic-Peisker and Farida Tilbury, ‘Refugees and Employment: The effect of visible difference on discrimination’, Final Report, Centre for Social and Community Research, Murdoch University, January 2007, 1.

¹⁰See for example, Graeme Hugo, ‘Economic, social and civic contributions of first and second generation humanitarian entrants’, <http://www.immi.gov.au/media/publications/research/_pdf/economic-social-civic-contributions-about-the-research2011.pdf>.

¹¹Graeme Hugo, *Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants: Final Report to Department of Immigration and Citizenship* (Department of Immigration and Citizenship, May 2011), 252; Val Colic-Peisker and Farida Tilbury, *Refugees and Employment: The Effect of Visible Difference on Discrimination* (Murdoch University, 2007), 14; VicHealth, *Preventing Race-Based Discrimination and Supporting Cultural Diversity in the Workplace* (2012), 13; Farida Fozdar and Silvia Torezani, ‘Discrimination and Well-being: Perceptions of Refugees in Western Australia’, *International Migration Review* (2008) 42 (1) 30, 40; Independent Inquiry into Insecure Work, *Lives on Hold: Unlocking the Potential of Australia’s Workforce* (ACTU, 2012), 23.

¹²See, for example Val Colic-Peisker and Farida Tilbury, ‘Refugees and Employment: The effect of visible difference on discrimination’, Final Report, Centre for Social and Community Research, Murdoch University, January 2007, 1.

In our Preliminary Report, we examined the factors contributing to high levels of exploitation experienced by newly arrived and refugee workers. Many of these factors also represent barriers to gaining access to sustainable employment, including:¹³

- **Communication and language barriers:** Language or communication difficulties was identified as the most common workplace experience from the list provided. 64% of survey respondents said that language/communication difficulties were common or somewhat common, or that they or someone they knew had experienced this. We have seen many clients have their employment ended or threatened as a result of misunderstanding.
- **Low understanding of rights and services:** Both the literature and our findings strongly indicate that newly arrived and refugee communities have an extremely limited understanding of Australian employment laws and services. The impact of this lack of awareness is that workers are exploited and cannot take action to have their rights enforced, leading to unsustainable employment outcomes. Nearly two thirds of survey respondents reported that it was common or somewhat common that newly arrived or refugee communities do not understand Australian employment Laws. Similarly, when community workers and AMES Community Guides were asked how well newly arrived and refugee communities understood Australian employment laws, 88% said they do not understand at all or understand a little.
- **Discrimination in recruitment:** Discrimination in recruitment has been recognised as a major barrier preventing migrants and refugees from finding work. Many participants in our preliminary research reported discrimination in the recruitment stage. One community worker explained that for many young people from emerging communities it is difficult to get over the first hurdle of an online application, which often requires detailed written responses to questions such as ‘your dream for the future’, even if the job is for low-skilled industries. Another community worker told us about a young African man studying at university and looking for part time work. Although he was happy to do any sort of hospitality job, he was repeatedly told that his application was unsuccessful prior to the interview stage. When he did get an interview, he would get there and be told there is no job for him (after they saw him).
- **Lack of recognition of qualifications:** Many participants said it was difficult to have qualifications and experience recognised in Australia. Studies have shown that despite professional qualifications, many migrants and refugees are employed below their level of expertise.¹⁴
- **Cultural barriers, lack of networks and no Australian experience:** This was reported as a barrier to finding work, but also a contributing factor to exploitation of newly arrived workers. Without local experience or a reference, many workers find it immensely challenging to find work. As discussed below, cultural barriers also prevent some workers from accessing mainstream services.

¹³ Catherine Dow, Employment is the Heart of Successful Settlement, <http://footscrayclc.org.au/images/stories/Footscray_CLC_Employment_Law_Project_-_Preliminary_Report.pdf> 13-18.

¹⁴ See for example, Ethnic Communities Council of Victoria Discussion Paper: Qualified but not recognised: http://www.eccv.org.au/library/ECCV_Discussion_Paper_-_Qualified_but_not_Recognised_2015_Final.pdf.

- **Low income, precarious work:** Many newly arrived and refugee workers are engaged in precarious work, defined as ‘work for remuneration characterised by uncertainty, low income, and limited social benefits and statutory entitlements’.¹⁵ In 2011, 72% of Humanitarian stream migrants aged 15 and over had weekly incomes of less than \$600. Survey respondents and interviewees reported that communities worked in a variety of low-paid, low-skilled or dangerous jobs including warehousing, factories, hospitality, meat processing, family day care, painting/tiling, taxi driving and cleaning. The work was characterised by casualisation and insecurity. There were also some professional and managerial positions, although these workers were in the minority.

3.1.2 Barriers to accessing employment services

Language, literacy, cultural understandings and practical considerations also form critical barriers to accessing mainstream employment services.

Many of our clients cannot read or write English and many are illiterate in their own languages. This means that these communities will typically face a range of barriers to accessing support services to gain employment, but also in understanding the law and accessing assistance from the Fair Work Ombudsman (**FWO**) and other services to maintain their livelihoods and avoid exploitation.

In our experience, and as confirmed by literature, the mode of service delivery is an important factor. For example, telephone advice services are not always accessible for CALD communities:

Sole reliance on internet and telephone legal information and advice services may fall short of providing justice for all people... internet and telephone services can be ineffective modes of delivering legal assistance for people with low levels of legal capability. For example, as already noted, people with poor literacy or communication skills can have difficulty using legal information resources and websites, and other self help strategies... In addition, several authors have noted that disadvantaged people in particular often fall into the category of those who may require high quality face-to-face advice in order to achieve beneficial legal resolution... Thus, legal hotline services should not be regarded as a stand-alone panacea...¹⁶

People of refugee background may have past experiences and cultural understandings of legal systems and authority figures,¹⁷ which deter them from seeking assistance from government agencies. As the Refugee Council of Australia notes:

Prior to arriving in Australia, refugees have often experienced years of persecution and injustices at the hands of corrupt government officials, police and bureaucracies. It is understandable, then, that many refugees arrive with a wariness of police and government bureaucracies and it takes time to rebuild trust and understanding.¹⁸

¹⁵ Leah Vosko, ‘Managing the Margins: Gender, Citizenship, and the International Regulation of Precarious Employment’ (2010) 3.

¹⁶ Christine Coumarelos, Deborah Macout, Julie People, Hugh M. McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsie, *Legal Needs Report*, (Law and Justice Foundation Report, August 2012), 209-210.

¹⁷ Refugee Council of Australia, *Legal and Financial Issues Fact Sheet*, <http://www.refugeecouncil.org.au/f/smt-l&f.php>

¹⁸ Ibid.

Practical issues including difficulties in using a telephone advice line,¹⁹ accessing internet resources, finding appropriate interpreters²⁰ and travelling to appointments²¹ also prevent individuals from accessing services.

In order to reach these communities; provide meaningful assistance, and ensure vulnerable and disadvantaged jobseekers are able to obtain and maintain sustainable employment, education and assistance must be delivered via culturally sensitive services, and through appropriate language translation services or services in relevant languages. Community Legal Education also needs to be ‘maintained in a sustained rather than ad hoc way’.²²

In this context and for these reasons, WCLC recommends the following approaches to maximise engagement with people from refugee communities in the delivery of employment programs and support to enter and maintain employment.

3.1.3 Targeted services and collaboration are needed

In order to overcome these barriers and enable CALD jobseekers to find sustainable employment, increased funding for targeted services is urgently required.

We have heard of many successful employment outcomes arising from targeted community-based programs, many of which feature one-on-one assistance and partnerships between employers, unions, education providers and settlement agencies. Importantly, these programs generally feature face-to-face ongoing support commencing well before employment starts (to ensure adequate training and preparation including awareness of laws and workplace practices), and continuing well after employment commences (to assist newly arrived workers and employers to navigate communication or other challenges that may arise).

One community worker described the satisfaction he felt when clients approached him three or four years after participating in an employment program to let him know that they were still working, had bought a house and had reunited with family members. As he said, ‘employment is the heart of successful settlement’.

Based on a literature review and over 100 surveys of community members, community workers and community leaders from newly arrived and refugee communities, our Preliminary Report²³ found that the following features make targeted services effective:

- **Relationships and trust:** To be accessible, it is essential that community members feel safe and trust the service. This trust will build through nurturing relationships between the service and target communities, for example, by providing face-to-face community education, and attending local meetings and events. As one survey respondent noted, a key element of the relationship is its long-term, ongoing nature: *‘Engage new arrival communities to integrate in the Australia system, especially to understand Australian laws; keep support and provide information/services to refugee backgrounds for long term in order to collaborate with the Australian-first settlers as a community.’*

¹⁹ Christine Coumarelos, Deborah Macout, Julie People, Hugh M. McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsie, *Legal Needs Report*, (Law and Justice Foundation Report, August 2012), 209-210.

²⁰ Women’s Legal Services NSW, *A Long Way to Equal - An update of “Quarter Way to Equal: A report on barriers to access to legal services for migrant women”* (Report, Women’s Legal Services NSW, July 2007), 32.

²¹ Inability to travel can be due to geographic isolation, lack of public transport options and childcare responsibilities.

²² Women’s Legal Services NSW, above n 20, 32.

²³ Catherine Dow, *Employment is the Heart of Successful Settlement*, <http://footscrayclc.org.au/images/stories/Footscray_CLC_Employment_Law_Project_-_Preliminary_Report.pdf>, pages 23-26.

- **Collaboration:** Closely linked with the above point is the importance of collaborating with other services that assist target communities, and other mainstream employment-related services. Fortunately, there are a number of networks (including the Wyndham Humanitarian Network, Inner West Settlement Advisory Committee and Maribyrnong Workers With Young People Network) that promote collaboration between service-providers in the West.
- **Consultation with relevant communities and agencies:** Involvement of the target group in planning and decision making is crucial.
- **Importance of community workers:** Community workers from target communities provide an essential link between services and community members.

We found that the following features make community education effective:

- **Face-to-face & verbal:** provided face to face. Verbal as well as written information.
- **Client's language and community workers:** Using interpreters, community guides and bilingual community workers from relevant communities.
- **Visual materials and multimedia:** Use of pictures, visual aids (such as DVDs) or other multimedia (including community radio).
- **Information sessions, English classes and pre-arranged community meetings:** Delivering community education via information sessions or as part of English classes is effective, as is visiting existing community groups.
- **Clear language:** Using clear and simple language.
- **Key information only:** Outlining key concepts and where to go for further information/assistance.
- **Cultural awareness:** Ensuring presenter understands the community culture.
- **Convenient location:** Considering location of CLE and contacting existing organisations. As one community worker recommended: 'I think taking time to identify a number of community groups and associations that are already established and are meeting for a purpose on a regular basis. Request to be invited to talk about this issue which I think would be very popular within these communities.'
- **Practical and timely:** Providing information 'that is linked to outcomes', for example by facilitating employment in industries and workplaces where rights can be realised. Ensuring that workers receive the right amount of information at the right time so it is not abstract.
- **Developed in consultation with communities:** Ensuring that education is developed in consultation with community members and community workers, and responds to identified needs.

There is strong evidence to suggest that face-to-face assistance and advocacy is essential to provide a service to refugee clients, and that without targeted assistance focused on relationships, collaboration and trust, government employment services – including those offering support to enter and sustain employment – are often inaccessible to refugee and newly arrived communities.

5 Example: WCLC Employment Law Project

Sustaining employment requires a range of supports. Fundamental among them is that employees know and understand their rights in the workplace and are able to effectively enforce them. Building on our Preliminary Report, our Community Education Program and Employment Law Service seeks to achieve these aims via targeted, community based programs.

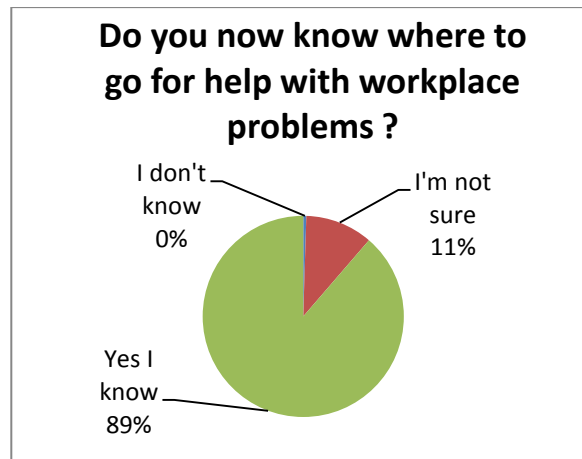
5.1.1 Community Education Program

In response to the finding mentioned above regarding the importance of face-to-face, targeted employment law services and information, the WCLC has developed and implemented a Community Legal Education program (**CLE Program**) for the past 18 months. The Program has consisted of:

- Information sessions for community members (delivered at a variety of locations including English as Additional Language classes, community meetings, settlement agencies and schools);
- Information sessions for community workers (to enable staff to identify when their clients have an employment law issue and make appropriate referrals); and
- The Train the Trainer Project, working with community leaders.

The Program has delivered around 50 CLE presentations about employment laws and services to approximately 500 community members, community workers and community leaders.

Community member presentations were delivered in English with the assistance of interpreters for some sessions. Presentations were evaluated through participant surveys. As shown in the graph below, as at February this year, the evaluations found that 89% of participants surveyed stated that as a result of the CLE session they now knew where to go for help with an employment problem.



Feedback from the sessions was overwhelmingly positive. The following responses illustrate a cross-section of feedback:

The best thing about the employment law is get to know everyone have right at work.

New legal terms like 'sham contracting'.

About how much for the permanent and casual payment.

The wage in different work type.

It provides the legal wage standard and organisations we can ask for information and legal help.

When you losing our job for wrong matter we can .get help many places.

The best thing I learn is job problem and talk to the community legal centre for help.

I know about our rights (awards, enterprise agreements and contracts).

To make people know the right for both employment and employees.

In our submission, the success of the Project's CLE program shows that additional funding and resources ought to be made available for the delivery of regular sessions to community groups who may not have access to information and other services to raise awareness about employment law issues.

Such education should form part of any targeted program assisting CALD job seekers to find sustainable employment.

5.1.2 Empowering community leaders: the Project's 'Train-the-Trainer' program

Over nine days between February and April 2015, the 'Train the Trainer' project (**TtT Project**) offered comprehensive training in employment laws and services to six Community Education Officers, assisting participants to develop and distribute community legal education to their communities in the West.

The community leaders visited a number of key employment and anti-discrimination law agencies, including the Fair Work Ombudsman, the Fair Work Commission, the Victorian Equal Opportunity and Human Rights Commission and Victoria Legal Aid.

Participants were supported to develop a community education presentation, which they delivered to their communities in a culturally appropriate and targeted way. Participants now act as an important link between their communities and agencies by raising awareness that those affected by employment problems can get advice from agencies including WCLC.

Feedback from the leaders, external agencies who attended the launch event, and community members who attended information sessions, has been overwhelmingly positive.

From the trainers:

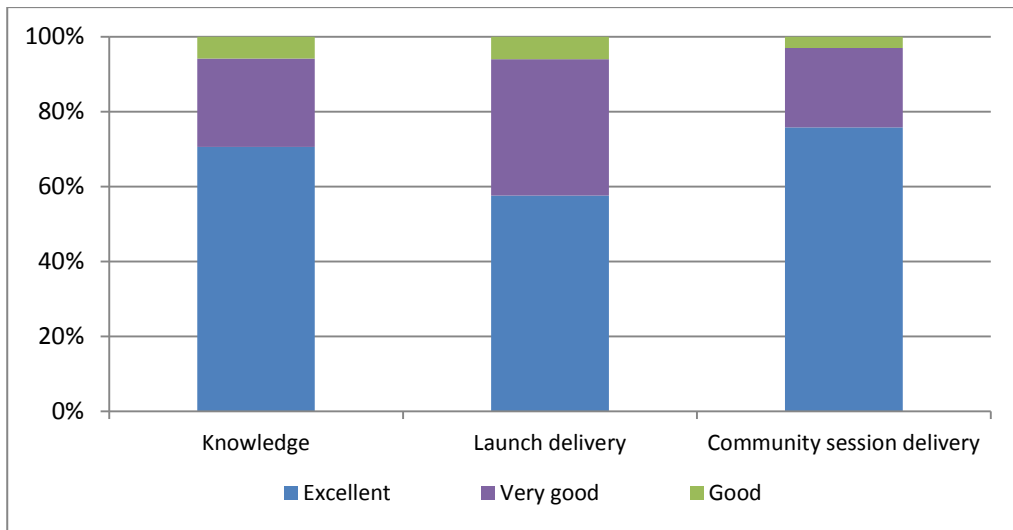
Train the Trainer program has helped me to understand the complexity of employment law issues in Australia. It was particularly relevant for me to understand how different organisations work to provide a comprehensive protections to workers in Australia.

Prior to the training I had some ideas about employment laws and services but now after the training I know more details and am confident that I can deliver the information sessions by myself and refer clients appropriately.

I didn't have any knowledge and understanding of employment law before but I now have some knowledge about it and hope I can help the community how and where to get help.

Train the Trainer program will help my community because they will know now who can help them with employment law issues, in English, and also in the language which they speak. The Community Leaders have the first-hand knowledge of the employment law problems faced by their community and also have the knowledge of the organisations that can help. They can confidently refer their community to those organisations. Having the knowledge of the employment law will empower the community and people will gain confidence in taking action when their employment rights are breached.

At the launch event, each of the participants presented in a resources showcase. 95% of attendees thought the leaders’ knowledge of employment laws was excellent or very good. 94% found their delivery excellent or very good. Importantly, 97% thought that the leaders would deliver an excellent or very good information session to their communities. From agency staff who attended the launch:



Community Leaders

The presentations were fabulous, the program is beneficial because it links services and clients.

Excellent initiative to have presenters from the community.

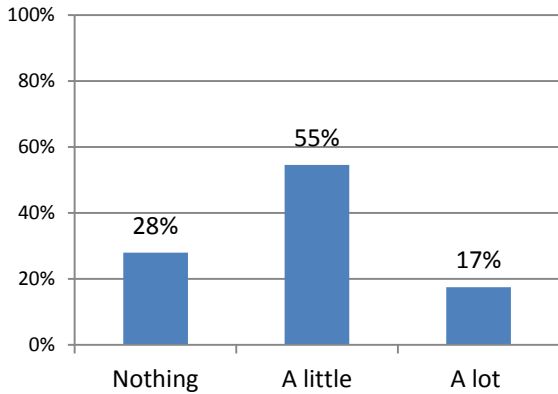
Great presentation, this has been needed for sometime so its great to see this at grass roots level.

Presentations were terrific, great to see everyone confidently providing advice.

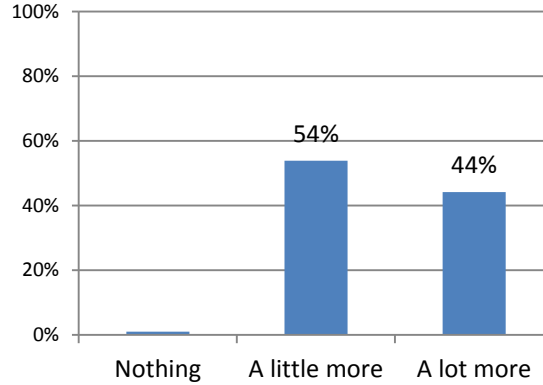
The Program is exactly what the community needs. It should be ongoing with additional support provided to the Community Leaders, as well as additional Community Leaders trained.

Importantly, feedback from community members shows that their understanding and awareness has increased:

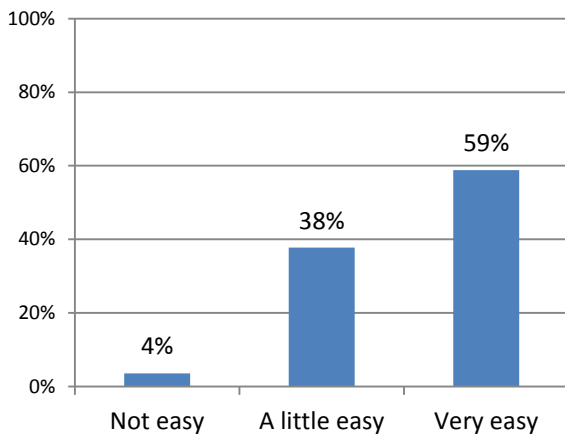
How much did you understand about employment law before today?



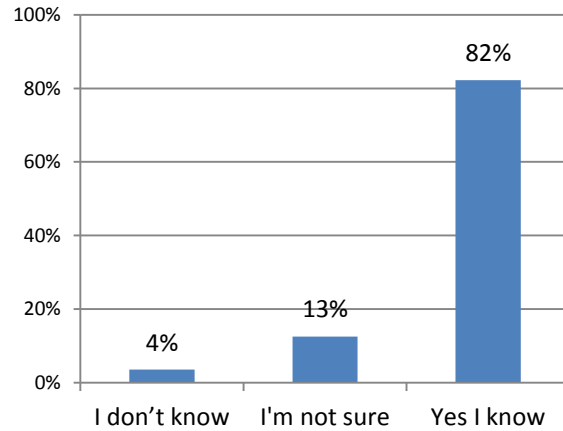
How much do you now understand about employment law?



How easy was the information to understand?



Do you now know where to go for help with workplace problems?



What was the best thing about the employment law session?

- “Knowing that employees have rights and entitlements”
- “Free service, interpreter”
- “If you get bullied you can contact people who can help you”
- “They made it easy for me to understand it better in my language”
- “It has helped me to understand the employment law better than before”
- “The information, phone numbers and pamphlets”
- “Discrimination”

What would make the employment law session better?

- “Conduct information sessions in Karenni language for parents who cannot speak English and Burmese”
- “Explain with the real case study”
- “Asking people about their work conditions, this would have connected the audience more”
- “More training, as well as meeting with different communities of different backgrounds”
- “Informing the community about the best ways to enter into the workplace”

How will the information from today help you?

- “Will help the family”
- “Will guide me to the best legal service centre”
- “I can get help without worry and anxiety”
- “Giving information to friends and colleagues”
- “Will give information to young friends entering employment”
- “I have new awareness of the law and it will stop discrimination and bullying”
- “I know whom to approach now”

The TtT model has many positive outcomes not least of which is the increased information sharing (of accurate information) within the community. Community leaders who participated in the TtT Project have told us that they have shared, and plan to share, employment law information with their community in a number of ways, including:

- Community information session
- Client appointments in their workplace
- At their church
- At community events and functions
- Via telephone conversations
- Face to face meetings in their home
- On community radio
- Social media (such as Facebook)
- Local newspaper and Community newsletter

In our submission, the train-the-trainer model is an important mechanism to create strong support networks within migrant communities. By arming community leaders with knowledge of workplace rights in Australia, workplace issues may be resolved early and the levels of exploitation amongst migrant workers may be reduced. Such a model could be adopted and expanded to other communities, and topics could be broadened to include assistance with finding employment.

We are currently finalising an evaluation report regarding the TtT Project, and would be happy to provide a copy to the Department if this would assist.

5.1.3 Targeted materials

As part of a broader face-to-face program, we also recommend that materials in relation to employees' rights are widely distributed in a range of relevant community languages. Such materials should come in a variety of formats to accommodate clients of varied literacy levels. Optimal points of distribution include General Practitioners and other community health clinics, Centrelink Offices, and neighbourhood houses or other centres where local communities gather. To ensure that materials are effective and utilised, they should be developed in close consultation with community workers and community leaders. Once developed, distribution should be accompanied by a training package for community workers and community leaders.

The WCLC has been involved in designing a number of community education tools targeted towards newly arrived and refugee communities. Past successful training tools have included the development of digital stories and other training resources, which can be used by community workers, teachers, Community Legal Centre staff and others, to conduct community education activities. Research has established that best practice in CLE requires materials in a variety of languages and not just in written format. Consequently education regarding finding and maintaining employment should be delivered in a range of media, including digital stories, DVDs and infographics. These materials should be developed in consultation with community workers and community leaders, to ensure the resources are appropriately targeted.

As part of the TtT Project, a suite of education resources were developed that target newly arrived and refugee communities. The resources aim to provide useful tools for agencies, educators, community leaders and others working with vulnerable communities to explain employment and anti-discrimination laws and services. The materials are designed for high post-beginner to intermediate ESL (English as a second language) students. They are freely available on our website.

The resources are divided into six topics which relate to common legal issues identified in our casework:

- wages and other entitlements;
- employees, contractors and sham contracting;
- workplace safety;
- discrimination;
- sexual harassment and bullying;
- unfair dismissal and other entitlements when employment ends.

The resources are:

- A template PowerPoint presentation which provides key information about each of the six topics. The Community Leaders modified the presentation template for their individual information session. They included the employment law topics that would benefit their community.
- Handouts: A summary of employment law concepts, Key employment law terms
- Six video clips (one relating to each topic). View the video clips at www.footscrayclc.org.au/train-the-trainer-project

- Activities and question/answer sheets to accompany each video. If used in a workshop, classroom or other group setting, the activities provide an opportunity for participants to work together and strengthen their understanding of employment and anti-discrimination law in Australia.

The **below** case study also demonstrates the impact of these targeted materials:

CASE STUDY: IMPACT OF TARGETED MATERIALS & FACE TO FACE SUPPORT

A teacher from an English as Additional Language program provided the following feedback about the impact of the WCLC education resources. WCLC has also directly assisted clients that this teacher, and others from her community centre, have referred to our employment law service:

I used the material from the Employment Law project - and in 6 weeks, we only got through two of the videos! They were fabulous, and the class did lots of related readings and role plays.

One of the students told me as a result of doing that project, she was able to ask her employer for her payslips. They had not given her any, and now she has all of them.

Another student had a boyfriend who sounded like he was in sham contracting. He had been told to get an ABN, and was working 6 am - 9 am on a casual basis and in a supervisory role, for \$15 an hour. She was able to give him the information about contacting the CLC, and that it was all confidential... I'm not sure if he followed up, but at least he has the information.

Another student is a bilingual worker in childcare. Even though we didn't get up to the discrimination videos, after studying the underpayment and sham contracting videos, she thought maybe she should talk to her boss about being treated unfairly at different centres. So she rang her boss and stated what had happened. The lady was most concerned and said she would talk to the workers involved, and then said, 'How long did you say you have been working with us?...' As a result, the student has been given a \$5 per hour pay rise as her employer realised they had not given her increments for experience. I don't know if they've backpaid her, but it's still a good outcome and she's very happy. She's especially happy that she was brave enough to talk to her boss.

And this same student has a neighbour who was working at a restaurant. The young girl is an international student and has to work to make ends meet. Her agreement had been to work at a casual basis at only \$15 p.h. When our student talked to her, they had told her she must work for \$8 ph. So she was able to pass on information about the CLC and the Fairwork Ombudsman's office. Again, I don't know whether she has done anything about this, but at least she knows what to do.

Some students which have a slightly lower level of English still seem a bit apprehensive to act on what they've been taught because they're still frightened of losing any jobs they do have. One of them has two sons working at factories. Although the work is casual, and he often works long hours, they're only paying him the minimum wage of \$17.29 an hour. It sounds like her other son is on the correct minimum wage for casuals. The workers have been told they're going to be moved to part-time, with no change in pay, so that's good. The son hasn't done anything about going to CLC even though his mother has told him what to do - maybe because he's always exhausted - working 12 hours a day on a lot of days. They also probably find it hard to believe they can get people to pay them more money.

WCLC has long advocated for the delivery of CLE on workplace rights via a range of education programs for newly arrived and refugee communities. These include the Adult Migrant English Program (AMEP); the Skills for Education and Employment (SEE) and other vocational training and employment programs.²⁴ There is a real need to integrate further training in employment law rights and responsibilities at various stages of these programs. We emphasise the need to target information to communities, and also to match education and materials to the relevant stage in the resettlement process.

5.1.4 Advice and referral service

Ultimately the central plank to effective engagement with newly arrived and refugee communities seeking support to enter the workforce is relationship-building. For services to be accessible to these vulnerable communities, delivery points for legal services should ideally be co-located with, or delivered in collaboration with, employment services targeting the specific communities. Community workers must be engaged to build relationships, promoting the services and facilitating access to them.

WCLC's Employment Law service provides employment law advice, referral, casework and advocacy to clients from refugee or newly arrived communities who live, work or study in the western suburbs of Melbourne. The service assists newly arrived clients with work related legal issues – including workers entering or re-entering the workforce via government employment services. We have already seen a number of clients who have been placed via government employment programs and have faced exploitation and unfair treatment in their new workplaces. Although job services agency staff may try to assist workers to recover their entitlements, they do not have the legal expertise or resources to ensure rights are respected.

CASE STUDY: JOHN

John is from South Sudan. He was assisted to find a job through a job services agency. He worked at a factory and was not paid the minimum wage. He is illiterate and does not speak much English. WCLC assisted John to calculate his underpayment and write a letter of demand. When this was not successful, they helped John fill out the FWO complaint form. John would not have been able to do this without assistance. Inspectors from the Overseas Workers team worked with John and WCLC, and helped John recover his wages.

It is essential that any employment program provided by government includes assistance for workers who have not received their minimum entitlements.

²⁴ See e.g. *Fact Sheet 94 – English Courses for Eligible Migrants and Humanitarian Entrants in Australia*, at <<http://www.immi.gov.au/media/fact-sheets/94amep.htm>>.

6 Recommendation

In recognition of the fact that CALD jobseekers require targeted, face-to-face assistance to find and maintain sustainable employment, the Victorian Government should fund a specialist employment program for newly arrived and refugee communities.

The Program should be holistic, build on and expand successful past and existing programs, and should provide:

- **ongoing one-on-one support commencing well before employment starts (to assist with recognition of overseas qualifications; ensure adequate training and preparation including awareness of laws and workplace practices; and help with finding employment)**
- **ongoing one-on-one support continuing well after employment commences (to assist newly arrived workers and employers to navigate communication or other challenges that may arise and ensure their rights are protected)**
- **services delivered by staff and agencies that are experienced in working with clients from newly arrived and refugee communities, utilising culturally appropriate service delivery models and access to interpreters. Ideally services will be co-located.**
- **targeted education to raise awareness of employment laws, minimum entitlements and agencies that can assist where workers have a question or think they are facing exploitation**
- **targeted legal advice and assistance where employment rights have been breached or workers require assistance to maintain employment.**

Thank you for considering our comments. We would welcome the opportunity to explore this important topic in greater depth with you - please contact Catherine Hemingway, Employment Project Solicitor at WCLC, if you would like to discuss further.