



Prevention is better than cure

Can education prevent refugees' legal problems?

Katie Fraser
Footscray Community Legal Centre

ISBN 978 1 876045 90 6

© Footscray Community Legal Centre 2011
All Rights Reserved

This publication may be photocopied for educational purposes.

Published by the Victoria Law Foundation 2011

Cover image: Somalian refugees collecting rations at Dagahaley
refugee camp, Kenya.

Inside back cover: "Looking for legal help?" (featuring Melbourne
author Goldie Alexander <http://www.goldiealexander.com>)

DISCLAIMER

The Community Legal Centre Fellowship was established in 2003 to coincide with 30 years of Community Legal Centres in Victoria. The Fellowship is an annual award, made through a competitive application process, to Community Legal Centre workers with suitable qualifications and experience. It provides the Fellow with an opportunity to conduct research into issues that may have been identified in their casework and advocacy and produce a report on their findings. This report represents the opinion of the author, and not necessarily the views of the Victoria Law Foundation.

While due care has been taken to ensure the accuracy of the material contained in this publication, the Victoria Law Foundation takes no responsibility for any errors or omissions.

Accurate at March 2011

CLC Fellowship Report

Prevention is better than cure

Can education prevent
refugees' legal problems?

Katie Fraser

Footscray Community Legal Centre

Prevention is better than cure

Acknowledgements

Denis Nelthorpe and Laura Berta (Footscray Community Legal Centre), Cynthia MacKenzie (Spectrum Migrant Resource Centre), Jenni Blencowe and her team, and Ramesh Kumar (Adult Migrant Education Services), Monica Ferrari (Victoria Legal Aid), Paula Kansky (Internal Organization of Migration), and Gus Overall, Joanna Henderson and Denise Earnshaw (Department of Immigration and Citizenship).

Contents

Project aims	4
Project overview	5
Observations and recommendations	6
Common legal problems experienced by refugees	10
What don't we know?	13
Interviews with stakeholders	16
What legal problems do non-lawyers perceive?	16
What CLE strategies might be appropriate?	18
What services are CLCs already providing?	20
What barriers are there to accessing legal services?	21
An overview of the Humanitarian Program	25
Who are refugees?	25
Offshore applicants	25
Refugees	25
Special Humanitarian Program	27
Split family provisions	28
Onshore applicants	28
The settlement system: an overview	30
Offshore Australian Cultural Orientation	30
Opportunities to provide legal information	33
Settlement services	37
Overview of the IHSS	37
The proposed HSS program	38
Problems with the HSS requirement to provide legal information	40
Settlement Grants Program (SGP)	42
Adult Migrant Education Program (AMEP)	44
How can CLCs work with settlement service providers?	46
Can community legal education prevent legal problems?	49
Conclusion	51
Appendix 1: Suggestions for legal information topics	53
Appendix 2: A visit to Mae La Refugee Camp, Thailand	58
Appendix 3: A visit to the refugee camps at Dadaab	63
Appendix 4: Excerpt from the Request for Tender for HSS services	71
Appendix 5: Excerpt from the AMEP Request for Tender	78
Appendix 6: Local settlement planning committees in Victoria	79
Glossary of acronyms	84

Project aims

This project sought to investigate whether legal and financial problems experienced by refugees could be prevented if refugees were given more information about common legal issues before they arrived in Australia or early in the settlement process. This project sought to build on a report published in 2009, in which I documented the legal and financial problems experienced by African refugees in Footscray.¹

It is worth mentioning that legal problems arise for many new migrants to Australia, including those who arrive as skilled migrants and on family or spouse visas, as well as those who arrive as refugees. The reason this report focuses on refugees is that there is a government mandate to assist these individuals in settling and the Department of Immigration and Citizenship (DIAC) funds agencies to provide settlement services.

This project had two primary aims:

1. To identify any gaps in the information about legal and financial issues provided to refugees at two key stages:
 - i. before departure to Australia; and
 - ii. during the first six months after arrival in Australia.
2. To identify opportunities and strategies to provide important legal information to refugees, with the aim of preventing common legal problems.

A secondary aim was to document the settlement system in order to resource Community Legal Centres (CLCs) and other mainstream organisations with a basic understanding of how settlement works. The report highlights some opportunities for CLCs to provide legal education.

This project is the result of a Community Legal Centre Fellowship awarded by the Victoria Law Foundation. The fellowship model enables the fellow to undertake a six-month project while based at an external agency and funds the community legal centre to backfill the position.

¹ Fraser, Katie, *Out of Africa and into Court: the legal problems experienced by African refugees* (2009) Footscray Community Legal Centre <http://www.communitylaw.org.au/clc_footscray/cb_pages/about_us.php> at 11 November 2010.

Project overview

I undertook a placement at the Adult Migrant Education Service (AMES), which receives funding from DIAC for a range of settlement and education services. I was placed in their policy and planning department, and at this time the department was dedicated to writing tender applications, for funding, from DIAC. AMES submitted tender applications for continued funding for the Adult Migrant English Program (AMEP), which provides migrants and refugees with 510 hours of English classes; the Language, Literacy and Numeracy Program (LLNP), which provides English classes to jobseekers; and the Humanitarian Settlement Services (HSS), which provides casework assistance to refugees for up to 12 months after arrival in Australia.

In addition, I conducted interviews with refugees, workers at mainstream agencies (including health and housing agencies), and workers at other settlement agencies, which assist refugees from six months to five years after arrival in Australia. I asked respondents to describe the legal and financial problems experienced by refugees; whether those legal problems could be prevented through timely education; and if so, how and when such education should be provided.

I sought to observe and become involved in several DIAC policy and planning groups to learn more about the DIAC-funded programs and to advocate for the need for more legal and financial information to be provided to refugees as part of the settlement process. I developed links with the Humanitarian Branch of DIAC, and attended relevant committee meetings. DIAC also allowed me to attend and provide a training session to the teachers who provide Australian Cultural Orientation (AUSCO) training to refugees before they leave the refugee camps.

Finally, I travelled to two refugee camps: Mae La refugee camp in Thailand, which has been in existence for 25 years and holds approximately 50,000 Karen refugees from Burma; and the group of three camps at Dadaab in Kenya, which have been there for almost 20 years and currently hold approximately 290,000 refugees, the majority from Somalia. My observations of conditions in refugee camps inform all aspects of this report. Detailed accounts of these two trips are included as appendices to this report.

Observations and recommendations

1. Education about legal issues can prevent or mitigate some legal problems

- Refugees are vulnerable to legal and financial problems. This vulnerability is recognised by settlement service providers and by DIAC.
- Some legal and financial problems – particularly those relating to consumer credit contracts and lack of car insurance – could be prevented if refugees were given appropriate legal information soon after their arrival in Australia. Although there is no empirical data to show that Community Legal Education (CLE) effectively prevents legal problems, CLE recipients and clients say that they feel they would have benefited had they received relevant information before they developed a legal problem.
- Other legal and financial problems can be resolved by CLCs if refugee clients are empowered to recognise a problem as a legal problem and then access appropriate legal services.
- Some legal problems cannot be prevented through education because they are not caused by ignorance of the law or Australian systems. For example, family law problems arising as a result of relationship breakdown; criminal law problems arising as a result of criminal behaviour or sometimes as a result of discrimination by police.²

2. Legal education should be provided after refugees arrive in Australia

- Australian Cultural Orientation (AUSCO) training provided to refugees at refugee camps before they leave for Australia is not an appropriate or effective place to provide information about common legal problems and how to avoid them.
- It is fitting to provide newly-arrived refugees with legal information in the first few months after arrival in Australia.

² See Hopkins, Tamar, *An Effective System for Investigating Complaints Against Police* (2009) Victoria Law Foundation <<http://www.victorialawfoundation.org.au/images/stories/Grants/CLC-report-09.pdf>> at 11 November 2010.

3. DIAC should consult CLCs and Legal Aid Commissions to identify areas of legal need and develop appropriate education materials

- At the moment, there is no strategic or methodical approach taken by DIAC, settlement agencies or CLCs to providing legal information to refugees in the first five years after arrival in Australia.

A strategic approach might help to identify relevant legal problems through the casework of selected settlement agencies, CLCs and Legal Aid Commissions, develop tools to prevent those legal problems, deliver programs or resources across the nation in partnership with existing agencies accessed by refugees and facilitate access to legal services.

- The recent tender for HSS services (which are provided to refugees for up to 12 months after arrival in Australia) requires settlement agencies to offer some legal information to refugees including information about the role of police, basic family laws, and driving-related laws.
- The legal information that DIAC requires settlement agencies to provide does not necessarily match the casework experience of CLCs. I believe this is a consequence of the fact that CLCs have no formal role in providing information about the legal issues of refugee clients to DIAC, and no formal role in contributing to settlement planning at a state or Commonwealth level. CLCs are not involved in settlement planning, nor are financial counsellors.
- The composition of DIAC committees indicates that settlement planning is undertaken with a focus on the services the settlement sector provides and the time frame in which they provide them. In practice this can be a short-term, limited view of settlement. DIAC should extend representation on relevant planning committees (including, for example, the Victorian Settlement Consultative Committee) to include a CLC representative.
- CLCs and Legal Aid record information about clients which could be valuable in settlement planning. This information is not reported to the Commonwealth, and cannot be accessed by DIAC for the purpose of settlement planning.
- Greater involvement of CLCs in the settlement sector has several potential benefits, including the ability to influence DIAC policy on what legal information newly-arrived refugees should be given; the possible use of education and early intervention to prevent legal problems; and opportunity to improve access to justice for refugees in the long-term.

Observations and recommendations

4. Settlement agencies and AMEP providers should work with CLCs and Legal Aid Commissions to deliver legal information and train settlement workers on legal issues

- Settlement agencies and AMEP providers (which teach English to migrants and refugees) are well-placed to deliver legal and financial education to a large number of people in a systematic way. However, settlement agencies are not trained providers of legal services and therefore not best suited to create this information.

It is crucial that settlement agencies and AMEP providers work with CLCs and Legal Aid Commissions to ensure that the legal information provided to refugees by settlement agencies is appropriate, accurate, and reflects the way the law operates in practice.

- HSS-funded agencies are best placed to provide legal education with a preventative focus. This can be in coordination with AMEP-funded agencies. By the time people are eligible for services funded under the Settlement Grants Program (SGP), many people have already developed legal problems. CLE is still valuable, but the emphasis might shift to how to address legal problems and where to seek help.
- Legal and financial information is most effective if it is provided in conjunction with referral information and access to local services so that people know where to seek assistance if they need to.
- It is crucial that settlement agencies work with CLCs and legal aid commissions to ensure that refugees are given practical information about where they can go for help. If non-lawyers, in the settlement sector, are providing legal information to clients then they need to be trained to ensure they can answer questions about legal problems appropriately and be able to make suitable referrals.
- CLCs can also play an important role in providing training to settlement workers. Settlement workers come from a broad range of backgrounds and are not currently required to undertake specialised training. Many settlement workers are not aware of fundamental legal protections for their clients, such as the *Judgment Debt Recovery Act 1984* (Victoria), which prevents creditors from compelling debtors to make repayments from Centrelink income. Some workers are not aware of the services provided by CLCs. Without training, settlement workers may not always recognise a legal problem to properly refer their clients.

It would be preferable if settlement agencies were to enter into genuine partnerships with CLCs in order to create materials that have the benefit of legal expertise and settlement workers' expertise. It may be appropriate for community legal centres and settlement service providers to make joint applications for funding to support this work.

5. CLCs and clients can benefit from partnerships with settlement agencies

- CLCs stand to benefit from closer relationships with providers of settlement services. Settlement agencies can help provide access to local refugee communities and can give information about refugees' changing needs to CLCs. CLCs based in areas with large numbers of refugees should seek to be represented at local settlement planning committees. Working in partnership with local settlement agencies can improve the planning, execution and distribution of CLE resources that target refugee communities.
- Other mainstream agencies that have refugee clients might also benefit from closer relationships with settlement agencies, and improve their access to and ability to deal with refugee clients.
- From April 2011, legal information will be delivered by settlement agencies and English teachers, following the implementation of the new tenders for HSS and AMEP services. CLCs should seek partnerships with local settlement agencies to deliver legal training, and to become more involved in the settlement sector through local settlement planning networks. There is also an opportunity to apply and/or lobby for funding to support this work.

6. CLCs must be funded to do this work

- There are costs to providing CLE. I believe it is not sustainable for CLCs to provide legal education to all newly-arrived refugees who are clients of settlement services, unless CLCs are funded. CLCs also need time and the opportunity to develop ongoing resources for use across the state, rather than simply providing more and more one-off CLE sessions.
- CLCs should also look for opportunities to collaborate with Legal Aid Commissions to develop best practice resources to provide CLE to refugees. A good collaboration between CLCs and Legal Aid Commissions can enable the development of small one-off programs into sustainable, longer term, larger scale programs. Legal Aid Commissions may also have the ability to distribute good resources across a state at no cost to the CLC. Such collaborations have the potential to impress funders and benefit clients.

Common legal problems experienced by refugees

Several reports include information about the legal problems experienced by refugees. In 2007, the Footscray Community Legal Centre established a legal outreach service for refugees from Africa and published a report about the most common legal issues experienced by African clients in 2009.³ Our casework experience and CLE with the African community led us to observe that many people from a refugee background do not have a good understanding of some of the complex systems in Australia, particularly with regard to driving; contracts to buy goods and services, such as mobile phones, gas and electricity; and personal loans. Lack of information about driving, insurance, utilities, consumer contracts and avoiding scams gives rise to complex legal and financial problems in the first few years after arrival in Australia. These problems can result in high levels of debt, negative credit reports and bankruptcy, all of which are barriers to successful long-term settlement. The report concluded that many of these problems could be prevented if new migrants were given information that could help them avoid legal problems, as well as recognise a legal problem and seek appropriate assistance in a timely manner.

Anita Smith, a financial counsellor at the Footscray Community Legal Centre, recently conducted several focus groups with Burmese communities on the topic of common legal and financial problems. Her findings were that refugees from Burma experience many of the same legal problems as refugees from Africa, including:

- Issues with contracts arising from door-to-door sales
- Electricity, gas, and water problems, including not understanding accounts, not receiving concessions on accounts, failure to receive accounts
- Telephone and internet problems, including not understanding contracts and accounts
- Tenancy problems
- Traffic related fines
- Public transport fines
- Driving and road rules
- Life insurance and funeral costs
- Taxation problems
- Immigration problems.⁴

3 Fraser, Katie, *Out of Africa and into court: the legal problems experienced by African refugees* (2009) Footscray Community Legal Centre <http://www.communitylaw.org.au/clc_footscray/cb_pages/about_us.php> at 11 November 2010.

4 Smith, Anita and Boi, Neng, *The Burmese Community and the Legal System – a study in confusion* (2010), available Footscray Community Legal Centre <http://www.communitylaw.org.au/clc_footscray/cb_pages/about_us.php> at 11 November 2010.

Jane Berry, a solicitor at the Footscray Community Legal Centre, recently conducted an outreach service to refugees to provide advice, casework assistance and CLE concerning tenancy issues. A report has not yet been published. She found that many people of a refugee background experienced tenancy problems, including failure by landlords to make repairs, failure by landlords to return bonds on specious grounds, increases in rent, eviction of tenants on grounds that were suspect (e.g. landlords ending a lease on the grounds that a family member wanted to move into the house, but then readvertising the property a few weeks after eviction, at a much higher rent).

Jane's observation was that many settlement workers sought to address these problems without seeking the assistance of a lawyer. This approach is understandable, given that the principal source of free tenancy advice in Victoria, the Tenants Union of Victoria, is difficult to access for clients living in the western suburbs of Melbourne. However, sometimes the well-intentioned work of a settlement worker was not consistent with the tenants' legal rights and obligations, and was not consistent with the law. A further observation of the tenancy service was that refugee clients were reluctant to go to VCAT to pursue their rights, even with the assistance of a lawyer. Jane attributed this reluctance to fear of participating in what they saw as the court system and its consequences; for example, the belief that if a tenant took their landlord to court they would be evicted. Tenants preferred to move out of rental accommodation and move in with a friend or family to avoid using the legal system. Some clients feared being blacklisted by their landlord. I subsequently found information about blacklisting in the AUSCO handbook (discussed below).

A 2008 report by the Victorian Equal Opportunity and Human Rights Commission, 'Rights of Passage: The Experiences of Sudanese Australian Young People' included a short section on legal and consumer rights of this group of refugees. The common legal problems identified in the report were those arising from driving and consumer law contracts. The report notes, "A few young people described difficulties with debt after entering into consumer contracts they could not afford or signing terms and conditions they did not understand". The section concluded:

Equality before the law is enshrined in the Charter [of Human Rights]. True equality requires people to be aware of and able to access the legal system and participate meaningfully in legal processes that impact upon them. Culturally and linguistically diverse communities can face considerable barriers to the enjoyment of the right... Clearly education and information is critical to overcoming this, not only for

Prevention is better than cure

Common legal problems experienced by refugees

members of newly arrived communities but also those involved in the administration of justice.⁵

A more recent report by the Australian Human Rights Commission includes a section on engaging with the justice system. Community members who took part in consultations identified a number of areas of concern, including:

- lack of awareness of the law which can, inadvertently, result in contact with the police and courts
- language barriers with police and courts
- limited awareness of family and domestic violence laws, particularly among newly-arrived communities
- concerns around the child protection system and interventions by child protection agencies
- under-reporting as victims of crime, often due to a lack of confidence in the system
- difficulties accessing affordable legal assistance, leading to situations where people self-represent.⁶

This report did not mention any of the civil law issues that have been identified through our casework at the Footscray Community Legal Centre.

5 *Rights of passage: the Experiences of Sudanese Australian Young People* (2008) Victorian Equal Rights and Opportunity Commission <http://www.humanrightscommission.vic.gov.au/pdf/rights_of_passage.pdf> at 11 November 2010 at page 42.

6 *'In our own words,' African Australians: A review of human rights and social inclusion issues* (2010) Australian Human Rights Commission <http://www.hreoc.gov.au/africanaus/review/in_our_own_words.pdf> at 11 November 2010 at page 28.

What don't we know?

There are huge gaps in knowledge about the legal (and financial) issues experienced by refugees. In part, this is because not all agencies that deal with legal issues collect statistics about a person's refugee status, ethnicity, or year of arrival in Australia. For example, the Magistrates' Courts do not collect information about birthplace, ethnicity, or whether someone arrived in Australia as a refugee. There may be very good reasons for not collecting this information and making it part of the public record. It is possible to glean some idea from looking at the records of how many people asked for an interpreter, and in which language. But this is not definitive information about the total number of refugees who use the court, simply because not all people from a refugee background need or ask for an interpreter.

Police do collect information on the ethnicity of people who are charged with an offence. However, this is misleading to the extent that the statistics cannot show who was convicted of an offence.

Victoria Legal Aid (VLA) collects information about each client's country of origin and year of arrival. This data is reported to the Commonwealth Attorney General's Department. It is possible to use this information to try to infer whether a client is of a refugee background. For example, if one adopts the assumption that most clients from Burma who arrived in Australia from 2005–2010 are likely to be of refugee background, the VLA data set can be analysed to find out what legal problems those clients were experiencing. This data is not sent to DIAC, and so presumably is not accessible to DIAC.

CLCs must collect the following information from all clients and enter it into the client database, known as the Community Legal Service Information System (CLSIS):

- Address
- Date of birth
- Sex
- Family type
- Indigenous status
- Main language spoken at home
- Proficiency in English
- Disability
- Income scale
- Type of legal problem.

There are two additional fields that are not compulsory:

- Country of origin
- Year of arrival in Australia.

Prevention is better than cure

What don't we know?

Furthermore CLCs do not collect information of refugee status or visa type. It would, however, be possible to add these fields to the CLSIS database.

CLCs collect data from every client and can run detailed reports crossing several fields. For example, when Footscray CLC had been running the African Legal Service for a few months, we were able to analyse the CLSIS data to determine the most common legal problems experienced by all clients who attended the African Legal Service. We were able to find out whether men and women had different legal problems (they did), and whether women or men were more likely to use an interpreter (women were). We were able to say how long a client had been in Australia when they came to the CLC (many clients had only been in Australia for two years before they started developing, in some instances multiple, legal problems.) We were working from a relatively small data set (450 African clients) – imagine the wealth of information that could be collected by analysing the CLSIS statistics of all CLCs in Victoria, or all CLCs in Australia.

All CLCs must submit quarterly reports to VLA as part of their funding agreements, but CLCs do not report on all of the fields previously listed. Legal Aid collects demographic information on:

- Total number of clients seen by the CLC
- Sex
- Age
- Income scale
- Family type
- Proficiency in English
- Aboriginal or Torres Strait Islander status
- Disability.

VLA does not receive or report on information collected from CLCs about a client's country of origin, year of arrival in Australia or refugee status. Consequently, when VLA reports the state figures to the Commonwealth National Processing Centre (CNP), information about country of origin and year of arrival are not downloaded to the NPC. All the information about refugee clients that we collect and can analyse at a centre level cannot be accessed at a state or commonwealth level. That information is entrapped at the CLC where it originated.

At a centre level, this information is useful for the purposes of strategic planning. Statistics are one tool that centres can use to conduct a legal-needs analysis. They can see what kinds of clients they are seeing and what kinds of legal problems they have. This information can drive decision-making about what kind of legal

education is needed, the implications for policy, opportunities for law reform as well as any other apparent problems that can be addressed.

This kind of information could also be useful to DIAC and could be a valuable tool in settlement planning. These statistics could potentially provide evidence of the legal and financial problems experienced by refugees. If CLCs were to start collecting information on, for instance, visa type we might be able to tell whether people who are entitled to access settlement support services (i.e. arrive with subclass-200 visas) experience fewer legal and financial problems than those who are not eligible for settlement services. In the absence of statistics DIAC must rely on anecdotal information about legal issues given by settlement services and at public discussion forums.

The Department of Immigration receives statistics only from DIAC-funded agencies, such as AMES and New Hope Foundation. Presumably these agencies give an account of numbers of hours of casework provided to assist refugee clients and some information about the nature of a client's issues. It is not clear how detailed that information is or whether it gives DIAC a valuable indication of the scope of legal and financial problems experienced by refugees.

DIAC-funded settlement agencies only provide services for the first five years after a client arrives in Australia. After five years, clients are not eligible to access DIAC-funded services. Refugees are expected to access mainstream services that do not report back to DIAC. DIAC employees have informed me that there are current research projects being conducted in relation to long term settlement outcomes for refugees focussing on employment. I believe the statistics collected by CLCs showing the legal issues experienced by refugee clients could provide another perspective on refugee settlement, but unfortunately there is no procedure in place for CLCs to provide those statistics to DIAC at more than a local level, or for DIAC to access that information from alternative sources.

Interviews with stakeholders

As part of this project, I conducted interviews with workers at settlement agencies, health services and housing services. I also interviewed several community guides employed by AMES. Community guides are bilingual workers who are members of refugee communities and provide refugees with information in their own language in the first few days after the refugee arrives in Australia.

Respondents were asked to identify common legal and financial issues within refugee communities, as explored below.

What legal problems do non-lawyers perceive?

1. Contracts and consumer problems

Workers at the Migrant Resource Centre Northwest and Spectrum Migrant Resource Centre mentioned several consumer law problems arising from people not understanding the terms of contracts they had signed. For example, one of their clients had applied for an interest-free loan at a furniture retailer, and had then been sent a credit card from GE Finance. When he used the credit card and made a late payment, the interest rate was increased for the 'interest-free' loan as well.

These workers (who are funded by DIAC to provide services to refugees up to five years after arrival) reported that people signed numerous contracts they did not understand with door-to-door marketers, particularly for internet services.

A Chin community guide⁷ reported that it is culturally appropriate for Chin people to invite door-to-door marketers into their homes. He said people have signed multiple contracts for utilities companies, contracts for Foxtel and internet connections. Many other people in the community were interested in buying "funeral insurance," and had signed up for expensive life insurance in order to get coverage for their funeral. Sometimes these products are marketed by people within the community.

A Sudanese community guide reported that many people signed contracts as a result of a misrepresentation made by a salesperson at the door or over the phone.

⁷ All references to "community guides" in this report refer to the workers employed by AMES to assist newly-arrived refugees with orientation and settlement within the first days and weeks after arrival. The community guides are bilingual workers who are from a refugee background themselves.

2. Legal problems related to driving

Several workers mentioned the following issues related to driving:

- Driving without a licence (a Chin community guide noted that this behaviour is common in the Chin community)
- Failure to purchase third party property insurance (which is often seen as a discretionary purchase)
- Drink driving, and a lack of understanding about how much alcohol can safely be consumed before driving (mentioned by Chin and Karen community guides)
- Lack of awareness of the need for a baby capsule or booster seat in a car.

One community guide commented that these relatively minor civil issues can sometimes lead to more serious contact with police, criminal behaviour and, as a consequence, involvement in the criminal justice system.

3. Family violence

Two community guides commented that family violence is a significant problem in Burmese communities. One said people in the community did not understand how the court process works to address family violence issues.

I spoke to workers at the River Nile Learning Centre in Footscray, which is funded by the Department of Education to provide classes to young women aged 16 to 21 who are not attending school. All of the women enrolled are African and most of them are mothers. The manager identified the greatest problems facing these young women are family breakdown, housing issues and family violence. With respect to family violence one worker said that her observation has been that intervention orders (IVOs) do not work. She noted a situation where police took days to serve an IVO, the need to wait up to four days for an appointment with the registrar to apply for an IVO and the fact that there often seemed to be no police response and/or no consequence for breaching an IVO. She said that as a result of the IVO system not working, problems with family violence tended to be resolved within the community.⁸ One of the recurring problems she mentioned was the problem of a young woman leaving a violent partner to move into her own housing and then reuniting with the partner after suffering criticism from her community. She also mentioned the need for child protection services to use mediation to resolve issues with parents rather than taking an adversarial approach.

8 For more information about the role of Sudanese traditional mediators in resolving family violence, see the overview of a project undertaken by the Migrant Information Centre: *Family Violence within the Southern Sudanese Community Project Evaluation Report* (2008) Migrant Information Centre <[http://www.miceastmelb.com.au/documents/PROJECTEVALUATION\(pdf\).pdf](http://www.miceastmelb.com.au/documents/PROJECTEVALUATION(pdf).pdf)> at 11 November 2010.

Interviews with stakeholders

4. Tenancy

In the area of tenancy, workers mentioned clients who are afraid to seek repairs in their rundown houses because of fear of the landlord and fear of losing the rental house.

5. Delinquent behaviour

One AMES employee mentioned that young people from Burma were getting into trouble due to fighting, breaking windows, and letter box vandalism. She said that young people were not aware of the consequences of breaking the law (such as the possibility of a criminal record), and were not clear on their rights when interacting with police.

A leader in the African community said that assaults perpetrated by and against young African men were a significant problem.

6. Family law

A community guide stated that refugees from Burma did not understand obligations to pay child support, and rights to child contact. She mentioned that in Burma, if there is a separation or divorce, the mother automatically gets sole custody of the children and the father is never allowed any contact again.

7. Bills

A worker at the New Hope Foundation in Footscray alluded to a tendency to not pay things on time, and said this had consequences for rent, car repayments, fines, and bills for essential services.

8. Lack of awareness of entitlements

A worker at Women's Health West who has conducted financial literacy training for groups of Sudanese women, Somali women and Karen women said that even women who had been in Australia for several years had little knowledge about their entitlements, such as the entitlement to concessions available with healthcare cards, and the availability of fee-free bank accounts.

What CLE strategies might be appropriate?

I asked all interviewees for their opinions about whether CLE could be used to prevent legal problems. There was broad (and vague) agreement that information about some kinds of legal problems could help people avoid getting into trouble.

I also asked about the kinds of strategies that would be most effective in providing legal information to refugee communities.

Two workers identified the need to give people skills to cope with Australian culture, in addition to mere information. For example, one worker at AMES said it is not good enough to tell people, "You must

not use violence to discipline your children because it is against the law". She said that education must also include information about alternative techniques you can use to discipline children. Another AMES employee said education about Australian systems was much more useful if provided in a comparative context and that it would be advantageous to frame issues in terms of how they are different from the clients' home country.

One AMES community guide noted that most people in the Karen community do not have access to the internet to visit websites and emphasised the importance of providing CLE face-to-face.

A leader in the African community suggested that education about the law should be given to young people while they were at school; for example at transitional language schools like the Western English Language School. He believes AMEP classes are a good way to reach new arrivals and suggested that information delivered via community radio, such as 3CR, would be a useful way to reach people who are already here.

Several workers thought that community guides should provide information sessions to new arrivals about legal issues. Some community guides thought that it was a good idea to provide information through AMEP classes. Most people saw it as advantageous to provide this kind of information more than once, in different venues. Several interviewees also spoke about the need for CLE to be provided to community groups and ethnic organisations.

A worker at the Multicultural Centre for Women's Health spoke strongly in favour of using bilingual workers to provide information, and pointed to evidence showing the efficacy of using bilingual workers to provide health information. She emphasised the need to provide intensive training, support and mentoring for bilingual workers, and the need to ensure they are well paid. The payoff from a substantial investment in the bilingual workforce is a reduction in staff turnover. However, an AMES employee pointed out that a long-term bilingual workforce is not always what settlement agencies need: often they are seeking community guides to assist at short notice, and possibly for a relatively short period while Australia's refugee intake from a particular country is high.

The manager of the Diversity Issues Unit at the Department of Justice suggested taking a cautious approach to using bilingual workers to deliver legal information. He spoke about the danger of losing control of the content of the information and inaccuracies being introduced. The Department of Justice is training its own bilingual workers to provide legal information sessions (e.g. about criminal law and domestic violence) to community groups. The Department of Justice does not, however, intend to provide any information about civil law issues of the type experienced by many

Prevention is better than cure

Interviews with stakeholders

clients. Another Department of Justice employee and community leader did not like the idea of using community guides trained by AMES to provide legal information to clients and said they were undertrained and underpaid. She suggested getting IHSS workers to provide information about legal issues and link people in with Legal Aid and CLCs. She also thought a multilingual website that directed people to appropriate services would be useful and more likely to be accessed by refugees.

The answers of interviewees differed on the issue of when legal education should be provided. Some community members said people were unlikely to absorb more information in the first month, when they were struggling with culture shock, information overload, and the difficulty of working out very basic issues, like how to buy familiar food. Two community guides independently suggested information about legal issues (including contracts, scams, marketing, public transport, and renting) should be provided at least 4 weeks after arrival. A worker from Women's Health West suggested a need for ongoing onshore orientation about financial issues at six months after arrival, 12 months, and two years. There was general consensus that it is not a good idea to provide this information to people before they arrive in Australia because they do not have capacity to process that information, or understand its relevance, until they get to Australia.

The table provided in Appendix 1 of this report provides an outline of legal topics that could be provided to refugees, an indication of what is already provided through the AUSCO program, and a tentative schedule for providing legal information. The content of this table has been informed by some of the comments made to me during interviews, and by DIAC's own tender requirements for legal education (which are included in Appendices 4 and 5).

This document is intended as a starting point for discussion, and to give DIAC, Community Legal Centres and settlement agencies a thorough evaluation of the current situation to refer to while deciding what legal education should be provided, and when.

What services are CLCs already providing?

Many CLCs provide casework and legal advice services to clients who are from a refugee background. In most legal centres, refugee clients are seen at a generalist service that is open to the public. Footscray CLC is the only service I know of that has a specific legal service aimed at refugees.

CLCs also provide CLE for refugees, either directly to community groups, or through local partnerships with settlement agencies such as Migrant Resource Centres. Some CLE projects have developed resources for refugees about the legal system and legal problems.

The Victorian Law Foundation is compiling a database of all the CLE resources that have been developed by CLCs and other agencies, which will, in theory, include information about CLE resources that have been created specifically for new arrivals. This portal is at: www.victorialaw.org.au. However, several CLC workers have suggested that while this database will provide a good record of publications that have been created for refugees, it may not provide a good record of other non-print resources that have been created. The National Community Development and Legal Education Working Group (CLEWS) is also developing a proposal for a national online CLE clearing house.

What barriers are there to accessing legal services?

The *Strategic Framework for Access to Justice in the Federal Civil Justice System* report highlights some of the barriers that people experience when they have a legal problem:

...evidence shows many people do not contact private lawyers, or 'user friendly' services such as CLCs, LACs or family relationship services, even when they recognise that they are dealing with a non-trivial legal issue. Non-legal advisers are the primary providers of assistance. People are more likely to seek assistance from prominent members of their community, such as doctors, teachers or union officials ... Evidence also suggests that many people do nothing in response to legal events, increasing the likelihood of the issue escalating and hindering the chances of the issue being resolved and the person satisfied. People may need assistance to understand the implications of their choices or find the right option for action.⁹

Dr. Liz Curran, Director of West Heidelberg CLC, has written about the obstacles that disadvantaged people, including refugees, face when they need legal advice: "knowledge, capacity, capability and understanding are the key prerequisites to access to justice."¹⁰ All of these barriers come into play when refugees have a legal problem.

9 Access to Justice Taskforce Attorney General's Department, *Strategic Framework for Access to Justice in the Federal Civil Justice System* (2009) Attorney General's Department <[http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(8AB0BDE05570AAD0EF9C283AA8F533E3\)~A+Strategic+Framework+for+Access+to+Justice+in+the+Federal+Civil+Justice+System+-+Report+of+the+Access+to+Justice+Taskforce.pdf/\\$file/A+Strategic+Framework+for+Access+to+Justice+in+the+Federal+Civil+Justice+System+-+Report+of+the+Access+to+Justice+Taskforce.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(8AB0BDE05570AAD0EF9C283AA8F533E3)~A+Strategic+Framework+for+Access+to+Justice+in+the+Federal+Civil+Justice+System+-+Report+of+the+Access+to+Justice+Taskforce.pdf/$file/A+Strategic+Framework+for+Access+to+Justice+in+the+Federal+Civil+Justice+System+-+Report+of+the+Access+to+Justice+Taskforce.pdf)> on 7 February 2011, 77–78.

10 L Curran and M Noone, "The Challenge of Defining unmet Legal Need" (2007) 63 *Journal of Law and Social Policy*, 63–64. For an outline of some of the barriers to accessing legal services, and strategies to addressing them, see also L Curran, "Making Connections: The Benefits of Working Holistically to Resolve People's Legal Problems" 12(1) *Murdoch University Electronic Journal of Law* <http://www.murdoch.edu.au/elaw/issues/v12n1_2/Curran12_1.html#n1> on 18 October 2007.

Interviews with stakeholders

1. Not knowing about the existence of CLCs

A recurring comment from both settlement workers and community members was that they did not know what a CLC could do. A Burmese worker, for example, said that people do not know that CLCs exist and that they are free services. She believed it would be very useful to tell newly-arrived refugees about the availability of free legal services, and to take people to their local CLC as part of their orientation.

2. Complexity of access to legal services

Free legal services are sometimes complicated to access and navigate, and referrals to other services are often seen by clients as a denial of legal help.¹¹ For example if clients do not live within the catchment of a CLC they might be referred to another CLC and not understand why. Clients may not understand if a CLC has a conflict of interest and refers them elsewhere. Some CLCs won't take on certain kinds of cases (e.g. family law) and clients just assume that they can't get free legal help. Refugees are even less able to cope with this "referral roundabout" than other clients. And many clients do not understand the difference between Legal Aid and CLCs. Most of the community guides I interviewed referred to me as a worker from "Legal Aid" and did not understand the fact that CLCs provide a different and complementary service to Legal Aid.

3. Fear of the law and lawyers

The worker from Burma said that people often conceal their legal and financial problems out of fear, denial and shame. She mentioned, for example, that in Burma if you cannot pay a debt, the consequence is that you are jailed. People are afraid that the same thing will happen to them in Australia and consequently do not tell anyone about legal or financial troubles they may have – not community leaders, church leaders or settlement workers. If newly-arrived refugees understood how to seek confidential and free legal assistance, these cultural factors may become less of a barrier to accessing legal services.

An African community leader said there is often reluctance among young people to ask for legal help because there is a negative perception within the African community of some lawyers who had provided legally-aided services to African people. He said there is confusion about how legal aid works and whether a person is entitled to change lawyers if they did not like the lawyer they had been given. He asked whether legal aid monitors the private lawyers who are doing legally aided work, and whether it would be possible for Legal Aid to identify a shortlist of lawyers who are working specifically with African clients, and provide them with cultural competency training.

¹¹ Attorney General's Department above n 9, 77.

A worker from Foundation House spoke about the need to address peoples' fears about accessing legal services. She emphasised the need to tell people that lawyers are not the police, that they do not talk to the government, and that if a refugee tells a lawyer about their legal problem, it will not affect his or her ability to sponsor family members living overseas. All of these fears are genuine and present barriers to a person seeking legal help. A clear understanding of the role of legal professionals and the implications of legal assistance is critical for refugee clients.

4. Inconsistency of referrals for legal assistance

Sometimes people do ask for help from a worker – such as a settlement worker or community leader – but I received anecdotal information to suggest that often workers struggle to resolve legal or financial issues on their own without the benefit of specialist expertise, and without the capability of making a referral to a specialist agency such as a CLC. Some workers said that it is difficult to make an effective referral; for example, because the agency to which they wish to refer the client is not accessible, or because they feel the client is unlikely to follow through with a referral. Another worker made the point that she is often trying to help a client with a raft of personal, social and financial issues, and that there is a temptation to deal with all of the problems herself.

5. Provision of legal advice by non-lawyers

There is also a danger in settlement workers trying to do everything and not referring clients to services with expertise. For example, one experienced SGP worker reported that she had assisted clients who had been involved in car accidents while driving without insurance and were being pursued by debt collectors. She had assisted them by helping them negotiate repayment plans with the insurance company. Her clients were refugees who subsisted on a low income from Centrelink. From a legal perspective, this may be regarded a very poor outcome for a client, because that client's Centrelink income would be protected under the terms of the *Judgment Debt Recovery Act 1984* (Victoria) and the insurer would not be able to access it through court action. This was nonetheless the approach taken by a very experienced caseworker. Since that incident, I have met with new settlement workers and given legal information sessions in which I have explained to them the terms of the Act. None of them were familiar with its protections and the implications for their clients.

Of course, it is also worth commenting that legal and financial problems are just a small facet of refugees' lives and settlement experiences. Refugees are also often dealing with trauma and torture experienced in the past, complex health issues, culture shock and

Prevention is better than cure

Interviews with stakeholders

the pressure of trying to support and sponsor family members who are still in refugee camps overseas. The first few months of life in Australia can be chaotic and difficult for refugees dealing with all of these issues. Legal problems may not seem particularly pressing or urgent in the context of other personal issues.

The following sections provide an overview of the settlement system and identify opportunities to provide CLE to newly-arrived refugees through the existing settlement system.

An overview of the Humanitarian Program

Who are refugees?

Under the UN Refugee Convention (1951) Relating to the Status of Refugees, a **refugee** is a person who, owing to a well-founded fear of being persecuted on account of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of their nationality, and is unable to or owing to such fear, is unwilling to avail him/herself of the protection of that country.

The definition is a narrow and legalistic one. Many of Footscray CLC's clients are not "refugees" under this definition, but are married to refugees, or have been sponsored from refugee camps by family members. Footscray CLC provides legal advice and casework services to people who fit within all these circumstances.

Australia takes in 13,750 persons per year who are refugees or in refugee-like situations. In 2009–2010, it accepted 13,770 persons. This number is composed of offshore applicants, who must apply for resettlement while they are outside Australia, and onshore applicants, who apply for refugee status while they are in Australia. I have outlined the different visa categories below. Most of this information is drawn from the DIAC website¹² and the Refugee Council of Australia website.¹³

Offshore applicants

Refugees

The majority of refugee places go to people who are offshore applicants, which simply means they apply while they are outside Australia. The majority of offshore refugees are referred by the UNHCR (United Nations High Commission on Refugees) to the Australian resettlement program, which is managed by DIAC employees based in Australian High Commissions, Embassies, and Consulates overseas. The Australian government decides how many refugees it wishes to accept from a given area each year. At the moment, the intake is split three ways, between Africa, Asia and the Middle East (including South West Asia).¹⁴

According to DIAC, the size and composition of the resettlement program are influenced by a number of factors each year.

12 *Visas, Immigration and Refugees* Department of Immigration and Citizenship, <<http://www.immi.gov.au/visas/humanitarian/>> at 5 November 2010.

13 Refugee Council of Australia, <<http://www.refugeecouncil.org.au/>> at 5 November 2010.

14 Refugee Council of Australia, *Australia's Refugee and Humanitarian Program: Community Views on Current Challenges and Future Directions* (2010) Refugee Council of Australia <<http://www.refugeecouncil.org.au/docs/resources/Intake%20Sub%202010-11.pdf>> at 11 November 2010 at page 19.

Prevention is better than cure

An overview of the Humanitarian Program

These include:

- an estimate of the number of people onshore who are likely to be found in need of protection in accordance with international obligations under the Refugee Convention (1951)
- UNHCR assessments of the resettlement needs of refugees overseas
- the views of individuals and organisations in Australia conveyed during community consultations with the Minister for Immigration and Citizenship
- Australia's capacity to assist.

The UN's systems for referring people for resettlement differ depending on the nature of the refugee situation and the number of resettlement places available. For example, in Dadaab refugee camp in Kenya there are 300,000 refugees and only 3,000 resettlement places available each year, most of them for the US resettlement program. The UN prioritises refugees for resettlement who have been in the camps for the longest time. It has a database of 77,000 people who arrived in 1991 or 1992. The computer program randomly generates names to be processed for resettlement. UN staff in Dadaab then selects individuals or families from this list and seek to match them with a resettling country. For example, when selecting names for Australia, the UN staff select people who have no known serious health problems, because Australia's policy is not to accept people with serious health problems (although this requirement can be waived). Australia also requires applicants to meet character tests and pass security screenings. The UN then conducts interviews with people selected for resettlement to ensure they are genuine refugees and identify any cases of fraud or assumed identity. It refers all those who pass the interview process to the UN office in Nairobi, which refers them to the high commissions of the resettling countries, including the Australian High Commission.

DIAC staff based at the Australian High Commission in Nairobi travel to the refugee camp to interview the refugees referred by the UN. DIAC employees say that they will usually accept for interview all the cases referred to them by UNHCR, and DIAC works with the UNHCR to ensure a sufficient number of referrals are received before each trip. DIAC will then accept for resettlement all those who it believes to be genuine refugees and that pass the medical tests. This process is not consistent with the claims by some workers at NGOs who told me that Australia cherry-picks those refugees who are most likely to resettle and integrate successfully.

In 2009–2010, DIAC set aside 6000 places in the resettlement program for offshore refugees. Most people entering Australia as refugees travel on a Refugee Visa (Subclass 200). Some people enter on different visas – for example, vulnerable women and children travelling on a Woman at Risk Visa are granted Subclass 204.

Persons who arrive in Australia as refugees are entitled to the full spectrum of settlement services, including the offshore AUSCO orientation program, casework assistance for up to 12 months after arrival in Australia through the HSS program (which includes help to find housing), and further settlement assistance from an SGP-funded agency for up to five years after they arrive in Australia.

Special Humanitarian Program

DIAC also reserves up to 7750 places per year for people who may not be formally registered as refugees with UNHCR. These places are made available as part of the Special Humanitarian Program (SHP). SHP entrants must be proposed by a friend or family member who is an Australian citizen or permanent resident. To be eligible for an SHP visa, the applicant must show that they are “subject to substantial discrimination amounting to a gross violation of their human rights in their home country.”¹⁵ This is a different standard to the “fear of being persecuted” which defines a refugee under the Refugee Convention (1951). In practice, many people entering Australia on SHP visas are from the same refugee camps as those who entered on refugee visas. SHP entrants travel to Australia on the Global Special Humanitarian Visa (Subclass 202).

There are many more SHP applicants than there are places. For example, in 2007–08, more than 34,000 people applied under the SHP and around 5000 were granted visas. While most applicants have suffered some form of discrimination, the limited number of visas available means that only those in greatest need of resettlement can be assisted under the SHP. Most successful applicants have close family in Australia and have demonstrated strong claims of discrimination in their home country.

SHP entrants are not automatically entitled to all the support services that are provided to those who arrive as refugees on a Subclass 200 visa. Instead, the person who proposed the refugee is expected to provide support to the entrant. So, for example, SHP entrants are generally not eligible for HSS services in the first 12 months after they arrive in Australia. They do not receive help from a caseworker to find a house, apply for Centrelink and Medicare, register their child at a school and ask questions about Australian systems. The proposer is expected to provide this information and orientation. IHSS services do provide the proposer with some training on how to do this. In most cases, the proposer also provides housing by allowing the SHP entrant to stay at their house for an indefinite period.

15 *The Special Humanitarian Program* (2008) Department of Immigration and Citizenship <<http://www.immi.gov.au/media/publications/pdf/shp-client-info-sheet.pdf>> at 11 November 2010.

Prevention is better than cure

An overview of the Humanitarian Program

In addition, the Australian government does not fund the cost of the SHP entrant's travel from overseas. This must be funded by the proposer. Interest-free loans are available from the International Organization of Migration (IOM). The cost of travel for large families can be very high – \$20,000 or more. In practice, most proposers expect to be paid back by the SHP entrant. An SHP entrant's inability or refusal to repay the loan can result in the breakdown of their relationship with the proposer.

The lack of services provided to SHP entrants is largely seen by service providers as the single greatest gap in settlement services. In reality, many proposers have been in Australia for a relatively short period of time themselves and may be struggling with their own settlement issues, including employment, education and the need for secure housing. They are often not able to provide a lot of support for SHP entrants.

Split family provisions

The other offshore category is for immediate family members of Australian residents. Immediate family is defined as spouses or children of the proposer in Australia. Parents are only included as immediate family if the proposer is under 18. Split family applications are given highest priority under the Humanitarian Program. In most cases, immediate family members are granted the same visa as the proposer and are given the same travel and settlement assistance. So if the proposer arrived as an SHP entrant on a Subclass 202 visa, their immediate family will also receive a Subclass 202 visa and will have the same limited access to services. People who arrive under split family provisions are included in the total number of refugees or SHP entrants for the year.

The Refugee Council of Australia notes that “despite common perceptions, the SHP is not currently serving primarily as a means to reunite under the split family provision. Nearly three-quarters of SHP visas issued in 2008–09 were for reasons other than the reunion of immediate families.”¹⁶ This indicates the SHP is primarily being used to sponsor friends and non-immediate family members.

Onshore applicants

Anyone who watches the news will no doubt be aware that many people try to reach Australia by boat in order to apply for refugee status once they are in Australia (as onshore applicants). At the time of writing, most of the asylum seekers who arrive by boat are being held on Christmas Island until their applications for refugee

¹⁶ Refugee Council of Australia, above n 10, 17.

status are processed. Many other asylum seekers arrive in Australia by plane and seek refugee status after arriving in Australia.¹⁷

One problem with onshore applications is that the government of Australia wants to cap its total refugee intake at 13,750 places. In order to do this, it subtracts one place from the SHP program for every successful onshore application. The more onshore applications that are made, the fewer places are available in the offshore SHP program. In its 2009 discussion paper for the annual submission on the 2010–2011 Humanitarian Program, the Refugee Council of Australia states:

Australia is the only country in the world which has created a numerical link between the recognition of asylum seekers within its border with its offshore resettlement of refugees and humanitarian entrants. Each time an asylum seeker is recognised by Australia as a refugee through its onshore protection process, one position is deducted from the Special Humanitarian Program. RCOA has opposed this policy since its introduction in 1996, arguing that the onshore and offshore programs are designed to meet quite different international responsibilities. The onshore protection aims to meet Australia's obligations as a signatory to the Refugee Convention [1951], enabling people at risk of persecution to seek refuge in Australia. The offshore resettlement program is a voluntary contribution to the sharing of international responsibility for refugees for whom no other durable solution is available.¹⁸

Many of the Afghan and Tamil refugees arriving by boat are single men who have left their wives and children behind in their home countries. If they are assessed to be refugees and granted protection visas, they are eligible to apply to bring their wives and children to Australia under the split family provisions (and these applications are prioritised). Accordingly, the number of other offshore refugee and SHP places available is reduced.

People who are seeking asylum in Australia have no entitlement to settlement services, and limited entitlement to government services while they are "asylum seekers" and their claim for refugee status is considered. They only become entitled to these services if and when they are determined to be refugees. This is another massive gap in services that makes asylum seekers a highly vulnerable population.

17 A recent Asylum Seeker Resource Centre position paper states "In 2007/08, 97.3% of the 4750 asylum seeker applications submitted in Australia came from people who arrived by plane and now live in the Australian community." See Asylum Seeker Resource Centre *Locked Out: Position paper on Homelessness of Asylum Seekers Living in the Community* (2009) Asylum seeker Resource Centre <<http://www.asrc.org.au/media/documents/locked-out.pdf>> at 11 November 2010.

18 Above n 10, 35.

The settlement system: an overview

DIAC funds specialised settlement assistance programs to assist refugees to settle into the Australian community. All of these programs are provided by not-for-profit agencies. These agencies must tender for funding through a competitive tender process. The requirement for agencies to tender for funding was introduced by the Howard government in the mid-nineties. There are of course advantages to this system – the requirement to rethink programs every three years can be productive and lead to flexibility and innovation. But there are also costs. Writing a tender takes an enormous amount of time and expertise, invested over a period of months or years. A massive reallocation of resources is required to dedicate full-time staff to preparing a tender document. This process is made more difficult by the fact that DIAC will announce that it is about to release a tender, but nothing might happen for months or even years. For example, DIAC announced that it was about to release a request for tender for IHSS services in 2008, and settlement agencies geared up and dedicated staff to be available to work on it. However, the tender was not released for almost two years. When the tender does come out, it has a short turnaround time, so agencies are on tenterhooks, ready to write tenders, for long periods of time. The ability of small organisations to provide direct services is much reduced when staff positions are reallocated to tender-writing. This expenditure of time may make sense if organisations are only required to tender once every three years. But, for example, in the most recent round of SGP funding, there was an increase in the number of one-year contracts provided to settlement agencies.

The system of competitive tendering is anathema to sharing best practices across the sector. It was my observation that agencies are reluctant to share resources and program ideas with each other, particularly in the long lead-up to tender-time, because they are in direct competition. If agencies are not re-funded, there are massive costs: lost staff, lost expertise, and lost programs. The irony is that improved collaboration could benefit clients and staff and could, in itself, bring about economic efficiencies.

The different programs provided to refugees as part of the settlement process are outlined below. I have focused on the opportunities that will exist to provide legal information through settlement services that will be offered when the new tenders come into operation in early 2011.

Offshore Australian Cultural Orientation

The Australian Cultural Orientation program (AUSCO) is provided to offshore refugees who have been accepted for resettlement in Australia. AUSCO training is usually provided to small groups of refugees, in classes of 5–20 people. The AUSCO program was

evaluated internally by DIAC in November 2009.¹⁹ That review's first recommendation is that "core AUSCO program goals and objectives remain unchanged for the next contract."²⁰ Other recommendations seek to ensure that AUSCO training is delivered to as many people as possible; improve AUSCO content and resources; and improve communication about the AUSCO program to relevant stakeholders. The final recommendations identify a need for a more formal onshore orientation program and the need to integrate AUSCO with any orientation information that is provided through the IHSS program after people arrive in Australia.

The AUSCO program is three to five days long. The curriculum for the course is developed by DIAC. It used to receive input from the AUSCO committee composed of community leaders (former refugees) and representatives from settlement agencies. It appears that this consultative committee has recently been dissolved, although I have been informed by DIAC staff that it will be reconstituted some time this year. The program is funded by DIAC and is currently delivered by the IOM. It is delivered by locally engaged staff. Staff training is discussed in more detail below.

AUSCO training is not currently provided to asylum seekers who are in detention at Christmas Island even if they are found to be refugees. The rationale for this is that providing information about Australia to people whose applications have not been processed may give them false hope and expectations. If people are determined to be refugees, they are immediately removed from detention and sent to mainland Australia, and there is no time for them to receive AUSCO training on Christmas Island.

AUSCO training is not always provided to offshore refugees before they leave the refugee camp for Australia. This is because it is impossible for AUSCO trainers to travel to every location where refugees are living to deliver the course within a reasonable budget and a reasonable timeframe. For example, I interviewed AUSCO trainers at the IOM office in Nairobi, who had recently received the bundle of "approval letters" from DIAC that they expect every fortnight. The approval letters show every individual who has been accepted to Australia. Approval letters were received for refugees in Ethiopia, Ghana, Rwanda, Tanzania, Uganda, Kakuma (Kenya), and Nairobi (Kenya). Most of the refugees are scheduled to fly to Australia within four weeks of receiving the "approval letter" so AUSCO training has to be organised quickly.

19 *Australia's Cultural Orientation Program for Humanitarian Entrants: Evaluation of AUSCO 2009* (2010) Department of Immigration and Citizenship <<http://www.immi.gov.au/media/publications/pdf/ausco-evaluation-2009.pdf>> at 8 November 2010.

20 *Ibid*, 13.

Prevention is better than cure

The settlement system: an overview

The IOM office for east Africa has only 2.5 staff and all are based in Nairobi. IOM reported that the staff could not possibly spread themselves across all these countries to provide AUSCO training to all those who need it. For example, there were 12 people scheduled to leave Rwanda for Australia, but IOM staff told me they could not go there to provide AUSCO training because travel is too expensive. I have been told by DIAC that 99.9 percent of the time it will approve additional travel to provide AUSCO training to “reasonable” groups, even if they are remote. In this case, DIAC did approve travel and the group received AUSCO training.

If AUSCO staff are not able to provide in-person training to a group, then AUSCO staff will send AUSCO handbooks to refugees on their way to Australia. Unfortunately, the handbook is a long, bulky document, which has been developed by IOM. The handbooks are available in some languages (Kiswahili, Amharic, and Somali), but if a local language is not available then the handbooks are sent in English. Many refugees are not literate in their mother tongue and would be unable to read a booklet in their own language, let alone in English.

One reason that it is difficult to provide AUSCO training to all refugees travelling to Australia is that people are “approved” for travel in dribs and drabs. In one month, a dozen refugees might be approved in Rwanda, three in the Democratic Republic of Congo and six in Ethiopia. The next month a few more might be approved in each location. DIAC staff reported that this happens because DIAC cannot grant visas until all legal requirements are met (health, character and national security where applicable), and these clearances have specific timeframes. With large families, some members do not meet the health requirements following initial examinations and further examinations are required. Consequently, not all people are ready to travel at the same time, and so all visas for one place cannot be granted at the same time. DIAC staff reported that they do try to improve the likelihood that AUSCO staff will be able to travel and provide AUSCO training by providing IOM staff with significant forewarning about larger groups. I was told by DIAC that about 90 percent of those eligible – i.e. those with the correct visas aged between 5 and 60 – do attend AUSCO training.

The AUSCO program has been criticised in the past for not doing enough to prepare people for resettlement and not giving people enough knowledge and understanding of Australian systems. Settlement workers in Australia have sometimes blamed AUSCO for creating unrealistic expectations of Australia and for leading people to believe that it will be easy to get a house and a job. These criticisms led to the establishment of an exchange program, initiated and funded by DIAC and run by the Refugee Council of Australia, which enabled AUSCO trainers to visit Australian settlement

agencies and Australian workers to observe AUSCO training overseas. As a result of feedback provided during the first exchange program, AUSCO trainers reduced the amount of information they provide about employment and increased the information they provide about housing. Another consequence is that settlement workers in Australia have been told more about the limitations of AUSCO in preparing refugees for resettlement. For example, Annerose Reiner at Foundation House observed AUSCO training in Ghana in 2009 and has said that the primary role of AUSCO training is to prepare people for the shock of resettlement.²¹ There is not a high expectation that people will actually develop knowledge and skills that they can use when they get to Australia.

Opportunities to provide legal information

When I began this project, I anticipated advocating for an increase in the amount of information about legal and financial issues that was provided to refugees as part of the AUSCO program. I concluded after meeting with DIAC and observing AUSCO training in Mae La refugee camp in Thailand that it is not practically possible or appropriate to provide more than the most basic outlines of the legal system to refugees before they arrive in Australia.

Increasing the amount of information provided to refugees before arrival in Australia is not viable for several reasons. First, the program is short and there is much information to cover. Approximately one-third of the program is dedicated to information about travelling to Australia, which might include a long journey by road and two or more plane flights. Refugees are accompanied to the airport, but must fly on the plane alone and without support. AUSCO trainers spend more than half a day explaining travel procedures such as how to use plane toilets, seatbelts and how to change nappies on the plane.

Second, it is difficult to provide detailed information to participants about what settlement services to expect because they are travelling to different states and are on different visas. For example, one person in a group may be on a refugee visa and on his way to Victoria, where he can expect to be met by a bilingual community guide at the airport and receive settlement services for up to 12 months. Another person in the same group may be travelling to Darwin on an SHP visa and will receive no formal settlement help (the proposer will be expected to provide it).

Most importantly, most attendees are starting from a very basic point: they speak little or no English and may have been in a refugee

21 Annerose Reiner, *Refugee Council of Australia*, "Cultural orientation for refugees: a five-day course or years of learning?" <http://www.refugeecouncil.org.au/docs/current/AUSCO%20presentation_AReiner_0911.pdf> at 8 November 2010.

The settlement system: an overview

camp for many years. The refugee camp I visited in Thailand was extraordinarily different from Australia. For example, people paid no bills and no rent; they had little or no money and little opportunity to spend it in the few shops in the camp. Their freedom of movement was restricted; they were not allowed to leave the camp or seek work in Thailand. Their relationship with Thai police and authority figures was tense, because Thai police enforced the ban on travel and had the power to deport people who left the camp to seek work. In addition, many people had suffered trauma in Burma and during their journeys to the refugee camp. The gap that AUSCO is trying to bridge, between refugee camp conditions and life in Australia, is massive. AUSCO can only ever be a starting point.

In the AUSCO class I observed in Thailand, a lot of time was spent teaching people a few introductory phrases, such as “thank you”, “pleased to meet you” and “no worries”. Basic information was given across numerous areas, ranging from the fact that family violence is not tolerated in Australia to the fact that it is culturally acceptable to ask questions and complain in Australia. The aim of the program seemed to be to reduce the level of apprehension about resettlement and prepare people for the inevitability of culture shock. My conclusion, in part based on my attempt to explain what I do as a community lawyer and the blank expressions on peoples’ faces, was that it is difficult to give people detailed information about Australia before they arrive. Information about legal systems is largely meaningless in the absence of an Australian context in which to understand it. Meaningless information is unlikely to be remembered weeks or months later.

The AUSCO trainers who deliver AUSCO training are local staff who are employed by IOM. They attend a training workshop run by DIAC every year in Australia. I attended the AUSCO trainers meeting in October 2009 and gave a presentation about some common legal issues experienced by African refugees in Footscray. I also travelled with the AUSCO trainers to a local settlement agency for a day-long introduction to settlement services in Brisbane and a visit to some newly-arrived refugees in their first home. I was surprised at the breadth and depth of knowledge trainers had about Australian culture and Australian systems. But there were also gaps in their knowledge. For instance, trainers were surprised (and appalled) at the high cost and low quality of accommodation provided to new arrivals. They were well-informed about the role of settlement agencies, but had less knowledge and understanding of specific programs delivered by settlement agencies in any state. They also had limited knowledge of the mainstream social services provided by non-settlement agencies. They were very open to learning more and receiving resources.

For example, the AUSCO trainer I met with in Thailand asked me to provide materials, including copies of the following:

- electricity, water and gas bills
- phone contract and bill
- bank statement
- sample of reference letter for renting a house
- sticker to avoid door-to-door salespeople
- a TIS (Translating and Interpreting Service) “I need an interpreter card”
- train and bus ticket
- brochure about rental housing.

These are valuable resources for AUSCO trainers to familiarise themselves with Australian systems and useful things to show their clients who are moving to Australia. I assumed that these materials are not provided to AUSCO trainers by DIAC, IOM or anyone else. I have since been told by DIAC that the trainers are provided with electronic copies of all these resources on a regular basis, and have access to the internet to access information about rental housing etc. DIAC is currently following up to ensure that trainers have access to all the resources that AUSCO trainers asked for.

I also observed and participated in an AUSCO Committee meeting,²² which took place in Canberra in January 2010. Participants were from settlement agencies, refugee communities, a representative of Victoria police, Centrelink, the Refugee Council of Australia and IOM. The bulk of the meeting consisted of information sharing about the settlement issues observed by each agency. A short amount of time was devoted to brainstorming the content of a proposed youth AUSCO program. My impression was that DIAC staff are adept at consultation and their grasp of settlement problems is comprehensive.

However, the AUSCO program is let down by its printed resources. The AUSCO handbook is dense. It does not use simple language and it covers a vast range of topics and issues. The handbook could be improved if it were drafted by a settlement agency or AMEP provider with expertise in writing simplified English. DIAC is in the process of revising the handbook with much broader consultation, and I have recently provided this feedback to them.

An alternative – or at least a supplement – would be to provide refugees DVDs on the AUSCO topics when they arrive in Australia. A DVD player is now part of the package of goods that people receive when they move into their new house in Australia. DVDs in their own language may be available. For example, Footscray CLC and AMES have created ten “digital stories” on legal issues that are

22 As noted above at page 31, the AUSCO Committee has now been disbanded.

Prevention is better than cure

The settlement system: an overview

relevant to refugees, available on DVD in 12 languages. Legal Aid Commissions are currently creating a national version with information about the Australian legal system. AMES has created other digital stories on common settlement issues. Information on DVD with a voiceover in their own language is obviously accessible to people who cannot read. It also gives people the opportunity to revise and go over the same information in their own house in the first days and weeks after arrival. DVDs can help bridge the gap between offshore orientation and onshore experience more effectively than a written handbook.

The AUSCO curriculum generally could be improved if it was created jointly by settlement agencies and AUSCO trainers rather than by DIAC. AUSCO trainers have the best idea of where people are coming from and the limitations they face in trying to understand and process information about Australia. Settlement workers have the best idea of what problems new arrivals encounter when they arrive in Australia and how best to transmit that information.

In summary, the AUSCO program has a valuable role in preparing people for travel, providing basic information to refugees, and alerting people to the experience of culture shock when they arrive in Australia. The program has already been improved by the development of connections and information exchange between Australian settlement agencies and AUSCO trainers. The information exchange is valuable to both AUSCO trainers, who gain a great sense of settlement issues for new arrivals in Australia, and for settlement workers, who benefit from detailed information about the conditions that refugees are leaving behind. Contact between the two programs should continue to be expanded and facilitated by DIAC.

Mainstream agencies would also benefit from receiving information about the AUSCO program and refugees, generally. When I observed the AUSCO program, it occurred to me that many mainstream service providers (such as housing agencies, health services, child-care services, schools, ombudsmen schemes, CLCs) have no real idea of what refugee camps are like, the experiences that refugees have had, or information about cultural differences. For example, some time in the AUSCO class was spent teaching refugees that Australians value eye contact and shake hands with a firm grasp. It occurred to me that it would be useful to educate service providers in Australia about cross-cultural communication issues, such as that in Karen society where handshakes are limp and eye contact is avoided. Mainstream services would be better equipped to address problems and provide a more sympathetic approach to clients if they were informed about some of the background of refugees and common cultural differences. Settlement agencies might be the appropriate providers to deliver such information sessions.

AUSCO is necessarily limited in its ability to give people a detailed understanding of how Australian systems work. This gives rise to another gap in settlement services: there has never been a structured onshore orientation program provided to refugees after they arrive in Australia, which could build on the basic framework provided by AUSCO. That is about to change: in the new tender for HSS services there is a requirement for a program of “onshore orientation” to be provided from January 2011. This is discussed below.

Settlement services

Overview of the IHSS

The IHSS program has existed since 2005. It provides DIAC funding (through a competitive tendering process) to settlement agencies. These agencies provide services to refugees, on a casework model, from the moment they arrive at the airport in Australia for up to 12 months after arrival. As previously noted, SHP entrants are not eligible for assistance from IHSS.

The assistance provided by IHSS includes:

- Meeting the refugee at the airport
- Providing the refugee with a package of goods: comprising of whitegoods; a TV and basic furniture for kitchen, living and dining rooms; as well as some groceries
- Providing initial orientation to services: including assistance opening a bank account and learning how to use an ATM, applying for Centrelink benefits and Medicare, registering for English classes, and doing a health assessment
- Assistance in finding “long-term” housing (long-term is defined as six months; almost one hundred per cent of these are private-rental houses).

In Victoria, all IHSS services are currently provided by AMES and by its consortium partners. I spoke to two managers at AMES about how the process works in practice. Newly-arrived refugees meet a case coordinator the day after they arrive in Australia, usually with an interpreter and an AMES community guide for a basic “welcome session”. A week after arrival the refugee meets with the case coordinator again for a full assessment and a case plan. At this appointment the case coordinator organises appointments and allocates tasks to the community guide, such as training on how to use public transport and ATMs. The community guide’s job is to take clients to their appointments, assist them to access services, and provide clients with information about Australia.

Prevention is better than cure

The settlement system: an overview

AMES community guides are bilingual workers who often have a refugee background. They are recruited based on their language skills and their role as community leaders. They receive two days of induction training and have the opportunity to attend ongoing training sessions every month. They are casual employees of AMES and are not guaranteed a set number of hours. AMES views the role as a position that can lead to further employment opportunities both inside and outside AMES. Training community guides is also seen as a way of building capacity in newly-arrived communities. The AMES managers pointed out that community guides have varied skill levels and that some have not been in Australia for a great length of time.

Community guides are only employed by AMES in Victoria. Settlement services in other states take different approaches to providing information to refugees in the first days and weeks after settlement. For example, at ACCES Services Inc in Brisbane, newly-arrived refugees are brought to a community hall for the first few days and weeks after arrival. There, they are given the opportunity to mingle with other newly-arrived refugees and learn more about services.

Case coordinators try to ensure a person is enrolled in AMEP classes within four weeks of arrival. The bulk of the case coordinator's time is spent organising health assessments and follow-ups. The client exits the program when their needs have been met. This can be as soon as four months after arrival and up to 12 months. If there are no serious concerns about the client, the IHSS worker will organise an exit interview with the client and refer him or her to a refugee-friendly agency, usually an SGP-funded agency (see next section).

With regard to consumer education, the AMES managers interviewed reported that case coordinators provide some information on the topic, but that this depends on the client. They suggested that community guides could be trained in consumer education so that they can reinforce important messages to clients.

The proposed HSS program and opportunities to provide legal information

The IHSS program will be replaced by the HSS program in January 2011. The program looks similar, in many respects, to the old program. One of the most notable changes is that it requires settlement agencies to provide an onshore orientation program that builds on the AUSCO program. The section of the tender that deals with the "Orientation Program and National Orientation Framework" is attached as Appendix 4. The tender does not require service providers to explain how they would provide this orientation or when it would take place. It sets out the general topics that should be covered and the core competencies that clients should have by the time they exit the system. There is one required topic entitled

“Australian Law” that requires clients to be provided with general legal information, as set out below:

Police

- Understanding the role of police
- Reporting a crime, crime prevention.

Law

- Basic family law (including family violence and child protection)
- Understanding the role of child services
- Driving-related laws (seatbelts and child safety seats, vehicle registration, driver licensing etc.)
- Driving infringements (driving without a licence, driving while suspended, exceeding the speed limit, driving while talking on a mobile, overloading vehicles, driving under the influence of alcohol, parking etc.)
- Bicycles and helmets
- Public spaces (how to behave, illegal to be drunk, talk or behave indecently, local council regulations against spitting etc.)
- Alcohol and drugs (buying and consuming alcohol, smoking, illicit drugs etc.)
- Consequences of breaking laws (fines and other penalties, ignorance of the law is no excuse, impact of a criminal record on future employment prospects or travelling overseas)
- Legal aid and community legal centres.

There are several additional topics where legal information would be relevant to clients. For example, in the section on money management, it would be useful to provide clients with information about the consequences of debt, such as negative reports on their credit record and bankruptcy. For example, refugees might benefit from understanding the effect of personal bankruptcy on their applications to sponsor family members and on their ability to travel overseas. It might also be useful to provide information about some protections afforded to debtors, such as the terms of the *Judgment Debt Recovery Act 1984* (Victoria), in which creditors cannot garnish a person’s income from Centrelink if that is the only income they receive. This is complex information, but it could be reduced to a simple practical message, such as: “If a debt collector is trying to collect money from you, don’t promise to pay anything out of your income from Centrelink. Talk to a lawyer or financial counsellor first.”

The core competencies required of clients in the topic of “Australian Law” are that clients:

Prevention is better than cure

The settlement system: an overview

- a. Comprehend child protection and domestic violence laws and their impact on family relationships
- b. Understand the role of police, and
- c. Develop understanding of Australian culture and laws and display culturally appropriate behaviour (for example, politeness, punctuality, etc.).

All of these are worthy aims, but there are other core competencies that CLCs might have wished to contribute had they been consulted.

I would suggest that one of the most important competencies for clients leaving the HSS system would be the ability to recognise when they need to see a lawyer and know where to seek free legal advice. It has been my experience as a legal educator that many recently arrived clients do not recognise their problems as legal until they are given examples. For instance, if a person has had a car accident while driving without insurance and is being pursued by an insurance company for money, they might seek to address this as a financial problem and borrow money from a bank. I would argue that it is a legal problem (debt collectors seeking to recover money from a judgement-proof client, often with the threat of legal action). Such problems would be more appropriately dealt with by seeking legal advice.

Problems with the HSS requirement to provide legal information

The requirement for onshore orientation is a welcome addition to the services provided to new arrivals through HSS providers. However, I believe there are three serious problems with the requirement in the HSS tender for settlement service providers to provide information about legal issues.

First, CLCs have not been consulted to identify key legal topics that should be provided to refugees or key competencies to be demonstrated by clients. Many CLCs have expertise in providing legal services to refugees in the months and years after arrival in Australia. And yet, CLCs are not involved in settlement planning, and their expertise is not reflected in this tender document. For example, CLCs have not been represented at the state level settlement planning committee, the Victorian Settlement Consultative Committee (VSCC). The role of this Committee is to bring together settlement providers and government agencies to identify issues or problems experienced by newly-arrived refugees, share best practice and enable collaboration. The Chair of this Committee has recently indicated her willingness for CLCs to be involved in the VSCC through representation of the Federation of CLCs.

The second major problem with the requirement for settlement services to provide legal information to new arrivals is that settlement service providers are not legally trained and do not have expertise in providing CLE. Non-lawyers who are not trained legal educators run the risk of getting legal information subtly – or sometimes entirely – wrong. A further concern is that, a reluctance to provide detailed legal information, propelled by the fear of getting it wrong, results in legal information being delivered at such a simplified level that it is not useful.

A third issue is that most settlement service providers do not have any specific capacity to provide legal advice or casework services to support the provision of CLE. In my experience, a successful CLE session is often followed by individuals approaching the presenter with their own personal legal problems, seeking on-the-spot advice or a referral. Lawyers and trained CLE workers based in CLCs are obviously capable of recognising legal problems and making a referral to an appropriate service. However, it is my observation that not all settlement workers are capable of recognising when a referral to a lawyer would be appropriate and making an effective referral to see a lawyer.

The tender does not explicitly recognise the lack of specialised legal expertise of settlement agencies, as would be demonstrated, for example, by requiring settlement service providers to partner with CLCs or local legal aid commissions. There is a significant possibility that settlement service providers could create legal education materials without appropriate consultation and could deliver information to refugees about the law and legal services that is inaccurate and misleading. Alternatively, they could provide information that is at such a level of generality that it lacks necessary legal content.

It is imperative that settlement service providers who do provide this “onshore orientation” on legal topics consult with CLCs and legal aid commissions to ensure that they have the legal facts right and to ensure that settlement workers are trained and able to make appropriate and effective referrals. However, CLCs need to be resourced to do this. As the tender start date looms, lawyers at Footscray CLC have been asked for more and more commitments to provide CLE sessions to newly-arrived refugees and “train the trainer” sessions to community guides. If the number of sessions continue to increase and HSS services, in effect, use CLCs to perform pro bono, the work that the agencies are funded to provide, we will have less capacity to provide CLE to other high-needs client groups. This CLE cannot be provided on an ongoing basis unless CLCs are funded accordingly – whether by DIAC, philanthropy or settlement agencies.

Prevention is better than cure

Settlement Grants Program (SGP)

The Settlement Grants Program (SGP) is funded to provide services to refugees from six months to five years after arrival. These services are also put up to tender every few years. AMES once provided SGP services, but lost funding for those services in 2007. In the Footscray area services are provided by the New Hope Foundation, Centacare Catholic Family Services and EACACOV (East and Central African Communities of Victoria). Migrant resource centres also provide SGP-funded services. A new tender was released in late 2009 and results were announced in mid-2010. I have heard complaints about the tender process and the costs associated with preparing the tender from many workers at SGP-funded agencies. The allocation of staff time to writing tenders means that fewer staff members are available to provide direct services to clients. The relative cost is even higher for small agencies. Agencies find the process particularly frustrating when the tender is successful but funding is only granted for one year.²³

I interviewed an SGP worker at New Hope Foundation and asked her how clients are referred from the IHSS-funded services. The SGP worker reported that generally the SGP agency receives a fax from the IHSS agency; with the client's name, address and a box ticked to indicate whether there are any ongoing issues. The SGP worker then contacts the client and makes an appointment to meet them to evaluate whether they require assistance. Handover meetings between IHSS workers and SGP workers to transition the client from IHSS services to SGP services are infrequent.

Some SGP-funded agencies house the Refugee Action Program (RAP). This program is funded by the Victorian Multicultural Commission (VMC) and provides for workers who have a community development role. These workers build capacity of new and established refugee communities and assist in building programs and resources that are identified and developed by local refugee communities.

New Hope Foundation is funded by SGP to provide advice and referral services and some community education. However, staff reported that in effect New Hope's SGP workers spend all their time doing casework because the clients have high needs. "Advice and referrals" were particularly difficult as there is nowhere to refer clients that have the capacity to assist. I feel there may also be a reluctance to refer clients due to the belief that a client may not be able to follow through with a referral. This attitude is rational, given the language and other barriers that newly-arrived refugees encounter when

²³ The types of SGP funding and duration of SGP funding have been analysed by the Refugee Council of Australia in its paper, *The Settlement Grants Program 2007–2011: An over view of funding trends* Refugee Council of Australia (2010) <http://www.refugeecouncil.org.au/docs/resources/SGP_2007-11.pdf> at 11 November 2010.

seeking services and the fact that many mainstream services are not always accessible to refugees.

To some extent, the New Hope Foundation is also seeking to fill the gaps in services provided by other agencies. For example, SGP workers at New Hope are doing “Segment One” housing applications for prioritised public housing for refugees who have repeatedly experienced homelessness. Housing workers, from a nearby housing agency, have trained New Hope SGP workers because they do not have the capacity to complete all housing applications themselves.

Opportunities to provide CLE through SGP-funded agencies

Some CLCs already work closely with local SGP-funded agencies. For example, CLCs respond to requests to provide information sessions for community groups and may also provide training for workers. Generally, these sessions are undertaken on an ad hoc basis.

SGP-funded agencies, like HSS-funded agencies, have excellent connections to refugee communities. But my observation is that legal education aimed at preventing legal problems is more difficult to provide to the clients of these services. There are two reasons for this.

First, clients of SGP-funded agencies are more difficult to access to provide settlement information to than clients of IHSS-funded agencies or AMEP students. SGP services are accessed by clients on an as-needed basis, unlike IHSS services, which are delivered to all eligible refugees on arrival. And SGP clients are often busy with other commitments, such as work and AMEP language classes. One consequence of this is that every information session that I have ever delivered to an SGP group must be scheduled after-hours or on the weekend to ensure attendance. And even so often education sessions are poorly attended for reasons outside the agency’s control. Groups tend to be small (10 or 15 people). One worker commented that it takes time for our SGP communities to build trust in the agency and worker to show up regularly. Working in conjunction with SGP agencies to deliver information to large numbers of clients in a time-effective way appears to be difficult.

Second, most of the refugees and migrants who are accessing SGP-funded services have been in Australia for at least six months. At this stage of their settlement, refugees are likely to be renting a house, moving house, managing payment of utility bills, starting work and making some big purchases; such as a car and possibly even a house. All of these experiences can and do give rise to legal problems. By the time clients are accessing SGP-funded agencies, clients may already have several legal issues. The ideal moment for legal education with a purely preventative focus has passed.

Prevention is better than cure

Settlement Grants Program (SGP)

Of course legal education is still valuable: it can help clients recognise legal problems and ask for help, and there is still scope to prevent certain kinds of legal problems. There are also advantages to providing legal information to people after six months: at this stage in settlement, education about some legal and financial issues has much more meaning to an individual than it might have had the moment they arrived.

One possibility is to stage the delivery of legal information (and, indeed, other settlement information) over several months or even years. The table in Appendix 1 suggests a possible timetable for provision of legal information, which includes several topics that could be delivered through partnerships with SGP-funded agencies. But to do this may require some innovative thinking about how to strategically provide legal information to as many people as possible, without time pressures becoming too onerous. And, as with partnerships with IHSS-funded agencies, CLCs cannot do this unless they receive funding to create appropriate resources and deliver programs.

Adult Migrant Education Program (AMEP)

The Adult Migrant Education Program (AMEP) is not strictly a settlement service. It is an English-language education program which is delivered to adult migrants or refugees who have been granted a permanent visa and speak little or no English. New arrivals must enrol within three months after arrival in Australia and all students are eligible for 510 hours of English language classes. These are usually delivered over six months, with students attending classes for a few hours each day. Humanitarian arrivals under 25 are entitled to up to 910 hours and those over 25 can undertake up to 610 hours. Approximately 8000 students enrol in AMEP classes every year in Victoria alone. According to DIAC, in 2008–09 AMEP provided English language tuition to more than 50,000 clients across Australia. At the time of writing, AMES and its consortium partners are the primary providers of AMEP classes in Victoria.

There are several potential barriers to accessing AMEP classes. Free child care is, in theory, available to students who have young children and want to attend AMEP classes. In practice, many people struggle to find child-care places. A further barrier is the pressure created by Centrelink to find work. Centrelink representatives have said most job network providers do see AMEP classes as an “activity” that means that AMEP students can temporarily stop seeking work. In addition, some people attend AMEP classes until they are able to find work and then stop taking classes. And, despite a demonstrated need, some don’t attend at all.

A new request for tender for AMEP services was released in mid-December 2009, and announcements have recently been made about the successful agencies. The request for tender included a new requirement that AMEP teachers provide 40 hours of settlement information. This requirement is set out in Appendix 5 of this report.

Like the new HSS tender, the new AMEP tender also requires settlement service providers to provide legal information to new arrivals. Again, the tender does not reflect the fact that legal information is specialised and that AMEP providers ought to partner with local CLCs or legal aid commissions in order to ensure that AMEP teachers are supported to provide accurate legal information and make appropriate referrals.

How can CLCs work with settlement service providers?

The first step to develop relationships between settlement services and CLCs is for CLCs to make contact with local settlement services. CLCs that are not already connected with local settlement services can find out who their local providers are by contacting their local settlement planning network (contacts for Victoria are included in Appendix 6). IHSS-funded services can be found on the DIAC website.²⁴ AMEP providers are also listed on the DIAC website.²⁵ Services that receive SGP funding can be found using the “settlement services locator” on the DIAC website.²⁶

Partnerships and projects are probably best determined by the CLC and settlement agency partners, depending on the needs of the clients and local community. Summaries of some projects undertaken by Footscray CLC are set out below. These are just an example of possible collaborations, by no means an exhaustive list of what may be possible.

Examples of collaboration with IHSS services

Lawyers from Footscray CLC have:

- provided information about legal issues to newly-arrived refugees in the first two weeks after arrival in Australia while based at a local migrant hostel managed by AMES. All these refugees had come via Christmas Island and had not received AUSCO training. Information sessions have started with stories based on case studies from Footscray CLC clients. Topics covered include credit cards and debt collectors; car finance and repossession; car accidents and insurance; door knockers and “Do not knock” stickers; police stops and searches
- provided information to AMES community guides about common legal problems, the legal consequences of legal problems (e.g. creditors pursuing debts through debt collectors and seeking judgement) and where community guides can refer people for assistance
- provided training to trainee settlement case coordinators on the same topics: common legal problems and their consequences, and where to refer people for help.

All of these programs have been provided without funding as part of Footscray CLC’s core services.

24 Department of Immigration and Citizenship <<http://www.immi.gov.au/living-in-australia/settle-in-australia/find-help/ihss/>> at 25 November 2010.

25 Department of Immigration and Citizenship <<http://www.immi.gov.au/living-in-australia/help-with-english/amep/teaching-english/amep-sp-websites.htm.>> at 25 November 2010.

26 Department of Immigration and Citizenship <<http://www.immi.gov.au/living-in-australia/settle-in-australia/find-help/where-to-help/>> at 25 November 2010.

Examples of collaboration with SGP services

Lawyers from Footscray CLC have:

- worked with SGP workers to establish an outreach service for African refugees, the “African Legal Service.” This service was established in 2007 with substantial input from the New Hope Foundation, which referred many of our first clients. The service has now been running for three years and has been transformed into the “Refugee Legal Service”
- continued to work with SGP workers and encourage them to refer clients to our services targeted at refugees, including the “Refugee Legal Service” and the “Refugee Tenancy Service”. Lawyers occasionally attend a staff meeting of caseworkers and outline the services we provide at Footscray CLC and how they can be accessed
- collaborated with local SGP agencies to run events, such as a “Bring Your Bills” day aimed at encouraging refugees to make complaints to the Telecommunications Industry Ombudsman about sales tactics, unfair contracts and billing errors
- partnered with SGP workers to provide CLE to community groups. For example, a refugee brokerage worker at the New Hope Foundation was working closely with a group of mothers at a playgroup for the Chin community. Footscray CLC’s financial counsellor started to attend the group on a regular basis. She has provided extensive education to the group and undertaken casework for purposes such as to ensure the women are claiming concession entitlements on their energy bills
- conducted ongoing CLE programs; such as a course about legal issues and driving for a group of newly-arrived refugees from Burma who wanted to get their learner’s permit and learn to drive
- conducted one-off CLE sessions to community groups, such as an information session about driving for a community group of Sudanese women called “Sudanese Women on the Move”, an information about driving and insurance for a community group known as the “Chin Men’s Shed”, and an information session about buying a home delivered to a group of refugees from Burma

Some of these programs have been funded through philanthropic grants for a specific project; most have been provided without funding, as part of Footscray CLC’s core services.

Prevention is better than cure

How can CLCs work with settlement service providers?

Providing legal information through AMEP classes

Footscray CLC partnered with AMES curriculum experts to develop CLE resources for AMEP teachers in Victoria. This project was funded by a small grant from the Victoria Law Foundation, and I contributed time as part of my VLF fellowship. The primary resource is a DVD of digital stories entitled “Getting to Know the Law in my Own Country”. This DVD is available free of charge through Victoria Legal Aid.²⁷ The stories were written by staff at Footscray CLC and are based on real case studies. The stories are enacted on a DVD which is approximately 45 minutes long. AMES staff worked with Footscray CLC lawyers to create simple English versions of the DVD. They also worked with AMES curriculum experts to create resources for teachers, including quizzes and class exercises that teachers could use to check for understanding of the digital stories.

Providing Victorian AMEP teachers appropriate tools and resources such as the digital stories DVD allows them to function as community legal educators. It empowers them with accurate, appropriately contextualised legal information. Footscray CLC has endeavoured to support AMEP teachers to be legal educators by providing them with training in professional development. The emphasis of the professional development training has been on how to answer students’ questions about legal issues (the key message has been: “don’t give legal advice”), and how to make an appropriate referral if students do have legal problems.

This kind of partnership provides a good model for further work with AMEP providers. The National Legal Aid CLE Working Group (CLEWG), representing Legal Aid Commissions from each state and territory, is currently working on a national legal education strategy for refugee communities. A national version of the DVD “Getting to know the law in my new country” is the primary tool in this strategy. CLWG are currently adapting it, and creating a package of education resources to be made available to all AMEP providers across Australia, which could constitute an audience of thousands of migrants and refugees every year.²⁸ This project is supported by the national CLC CLE working group, and represents a significant collaboration across the justice sector. There is enormous potential for such a project to prevent some legal problems and improve access to justice for new arrivals to Australia.

²⁷ Victoria Legal Aid <http://www.legalaid.vic.gov.au/3164.htm> at 3 December 2010.

²⁸ “In 2008–09 the AMEP provided English language tuition to 52 720 clients” Department of Immigration and Citizenship <<http://www.immi.gov.au/living-in-australia/help-with-english/amep/facts-figures/client-demographics.htm>> at 23 November 2010.

Can community legal education prevent legal problems?

Legal and financial issues have complex causes. Some legal problems are not the result of ignorance of Australian systems. Even where ignorance is a factor, education alone will not prevent people from breaking the law and developing a legal problem. It is worth reiterating that there have been no empirical studies that show whether community education can improve access to legal services, or prevent legal problems from occurring. However, I believe that targeted education can prevent some kinds of legal problems. For example, it can help prevent people incurring debts and experiencing the legal and financial consequences that follow, by:

- helping people make more informed choices about consumer contracts (e.g. for pay TV, internet services, mobile phone services and “no interest for 24 months” loans etc.) by educating them on how to interpret common contract terms that are often hidden in the fine print (e.g. two year contract terms, termination fees and triggers for increases in interest rates)
- ensuring people understand the costs and the benefits in the contestable energy market and make informed decisions about whether to change utilities suppliers
- informing people about the costs of borrowing money, including interest and fees; and some of the consequences of debt, such as repossession of cars, debts noted on credit reports and bankruptcy
- informing people about the benefits of third-party property insurance and the financial risks of driving without insurance.

Legal education alone cannot prevent other types of legal problems, such as separation, domestic violence and criminal behaviour. But it can improve people’s ability to access justice to attempt to remedy legal wrongs and resolve legal issues. For example, legal education can:

- inform people about their right to challenge government decisions, including decisions made by Centrelink, the Office of Housing, Department of Human Services and Civic Compliance
- inform people about the consequences of minor criminal behaviour, including appearing in court, paying fines, the consequences of getting a criminal record and their opportunity to seek legal help from Victoria Legal Aid or a duty lawyer
- inform people about the legal tools available to address family violence and how intervention orders work.

Prevention is better than cure

Can community legal education prevent legal problems?

Many of these topics are best addressed through partnerships with other agencies with appropriate expertise. For example, information about the child-protection system is probably most useful if it is delivered in partnership with an agency that can provide practical advice about how to discipline children without using violence.

Accessing legal help in a timely way can in itself improve legal outcomes for clients. The outcomes for newly-arrived refugees who are given more information about some aspects of the legal system could be phenomenal: the ability to recognise a legal problem and seek timely assistance, the knowledge to avoid some common legal pitfalls and faith in the capacity of the legal system to assist them. And if newly-arrived refugees establish a healthy relationship with legal service providers early in their settlement, they will be more likely to continue to understand legal systems and access legal advice early and effectively. They could pass on this information to children, future family members that may reunite with them and to their community.

Conclusion

We must learn from refugees' experiences of the legal system if we are going to create legal education that is relevant and engaging. We need to look at the legal problems that refugees have experienced if we are going to have any chance of preventing others from developing the same legal problems. This means legal educators need to develop strategies that are well-researched, carefully thought out, and appropriate for the target audiences. Ideally, the strategies need to involve the target client group in every step of the development process, from planning and delivery to evaluation. Given the scarcity of resources available to legal education, it makes good sense for collaborative opportunities to be fully explored. It also makes sense for the agencies and departments that are charged with responsibility for these vulnerable communities, to be working together strategically to implement high-quality preventative legal education strategies. To discover if these strategies prevent legal problems, work needs to be evaluated and shared with other legal educators. Empirical research that tests the impact of legal education strategies would also be valuable.

Settlement agencies do amazing work to facilitate refugees' settlement in Australia. The programs that are funded by the Department of Immigration and Citizenship are respected by other countries as examples of best practice. By way of comparison, in the United States refugees receive virtually no government-funded settlement assistance and rely entirely on services provided by charity organisations.

But there are dangers inherent in developing a specialist sector funded to provide specialist expertise in refugees' problems. One danger is that the settlement agencies feel that they must take on the role of providing help to refugees in every area – assisting a refugee with finding a house, paying the bills, resolving family problems and trying to address legal issues. As a result, settlement workers are overwhelmed, and refugees do not access specialized agencies that might be better placed to assist and achieve better outcomes. Another danger is that it becomes all too easy for mainstream agencies to shirk their responsibility to provide services to refugees as members of the Australian community, by referring refugee clients back to the agencies that have specialist expertise in helping refugees. I believe there is significant potential for inter-sector collaboration (such as between DIAC and the justice sector), and corresponding collaboration at the agency level. This could save money, improve the quality of programs, and ultimately improve outcomes for clients.²⁹

29 Attorney General's Department, above n.9, 163. See Recommendation 6.7: "Legal assistance providers and relevant Commonwealth-funded service providers (such as family relationship services) should increase collaboration to develop joined-up solutions to service delivery. Strategies could include the collaborative delivery of services, increasing the use of warm referral between providers and more uniform data collection."

Conclusion

It is an oft-repeated cliché in the settlement sector that “settlement is a journey”. Settlement is not complete after one year, or five years or even ten years. But settlement services are only funded for the first five years after a refugee arrives in Australia. Settlement services need to have a greater emphasis on enabling clients to access mainstream services. When obstacles are encountered, such as issues with mainstream agencies making repeated referrals, then settlement agencies need to work with mainstream agencies to address them. Settlement agencies have an important role to play in assisting mainstream organisations to improve their accessibility to refugees. And I believe that when organisations take steps to become more accessible to refugee clients, those improvements in accessibility have benefits for all vulnerable Australians.

CLCs are just one of many mainstream agencies that are not represented in the settlement sector. Representatives of mainstream agencies need to become stakeholders in the settlement sector – to attend the local settlement planning networks, the state conferences and become involved in the DIAC Committees that undertake settlement planning. Improving the links between sectors does not necessarily need an enormous amount of funding, but it does require some rethinking about what settlement is and the journey that refugees undertake – from being new arrivals or refugees to being part of the broader Australian community.

Appendix 1: Suggestions for legal information topics

The suggestions below are provided as a starting point for discussion with DIAC, settlement agencies and other CLCs.

Information to refugees	Content of information	When delivered and the format delivered in	Revision of information
Role of police in Australia	<ul style="list-style-type: none"> • what police do • how to identify a police officer • reporting a crime • dial "000" for emergencies. 	Delivered: <ul style="list-style-type: none"> • during the AUSCO program. Format: <ul style="list-style-type: none"> • AUSCO handbook and AUSCO teachers. 	Delivered: <ul style="list-style-type: none"> • within two weeks of arrival. Format: <ul style="list-style-type: none"> • trained IHSS worker or community guide.
Common interactions with police	<ul style="list-style-type: none"> • being stopped and/or searched by police • when, why and how you might be stopped and what action to take if you are • what happens if you're charged • going to courts and criminal records. 	Delivered: <ul style="list-style-type: none"> • within three months of arrival. Format: <ul style="list-style-type: none"> • through AMEP classroom exercises • presentation to community group by a legal service, such as a CLC or legal aid, or a trained community guide. 	
Driving basics	<ul style="list-style-type: none"> • driver's licence, insurance, car registration and road safety laws. 	Delivered: <ul style="list-style-type: none"> • during AUSCO program. Format: <ul style="list-style-type: none"> • AUSCO handbook and AUSCO teachers. 	Delivered: <ul style="list-style-type: none"> • within two weeks of arrival. Format: <ul style="list-style-type: none"> • trained IHSS worker or community guide.

Appendix 1: Suggestions for legal information topics

Information to refugees	Content of information	When delivered and the format delivered in	Revision of information
Traffic fines, buying a car and car insurance	<ul style="list-style-type: none"> • common road rules • CityLink e-TAG • consequences of breaking road rules • demerit points • disputing a fine (and what to do if someone else was driving your car) • car accidents and insurance • buying a car. 	Delivered: <ul style="list-style-type: none"> • within six months of arrival. Format: <ul style="list-style-type: none"> • through AMEP classroom exercises • presentation to community group by a legal service or a trained community guide. 	
Public transport	<ul style="list-style-type: none"> • public transport rules • public transport fines • paying fines on an instalment plan • disputing fines. 	Delivered: <ul style="list-style-type: none"> • within two weeks of arrival. Format: <ul style="list-style-type: none"> • provide information when explaining transport • IHSS worker or community guide. 	Delivered: <ul style="list-style-type: none"> • within three months of arrival. Format: <ul style="list-style-type: none"> • through AMEP classroom exercises.
Riding a bike	<ul style="list-style-type: none"> • bike rules • wearing a helmet, bike lights at night and not riding on the pavement. 	Delivered: <ul style="list-style-type: none"> • within three months of arrival. Format: <ul style="list-style-type: none"> • provide information when explaining transport • IHSS worker or community guide. 	
Managing money	<ul style="list-style-type: none"> • importance of paying bills, on time • credit cards, interest and fees • mobile phone contracts. 	Delivered: <ul style="list-style-type: none"> • during AUSCO program. Format: <ul style="list-style-type: none"> • AUSCO handbook and AUSCO teachers. 	

Information to refugees	Content of information	When delivered and the format delivered in	Revision of information
Scams, telemarketing and door-to-door sales	<ul style="list-style-type: none"> • recognising a scam • “Do not call” lists • “Do not knock” stickers. 	Delivered: <ul style="list-style-type: none"> • within two weeks of arrival. Format: <ul style="list-style-type: none"> • IHSS worker or community guide. 	
Contracts and consequences	<ul style="list-style-type: none"> • common contracts (e.g. mobile phone, personal loans, car loans, credit cards) and the consequences of signing (debt collection, interest, fees, role of guarantor, co-signing) • reading the fine print • where to seek help. 	Delivered: <ul style="list-style-type: none"> • within three months of arrival. Format: <ul style="list-style-type: none"> • through AMEP classroom exercises • presentation to community group by a legal service or financial counselling service with a community guide. 	
Family violence and disciplining children	<ul style="list-style-type: none"> • violence is not appropriate or acceptable in Australia. 	Delivered: <ul style="list-style-type: none"> • during AUSCO program. Format: <ul style="list-style-type: none"> • AUSCO handbook and AUSCO teachers. 	Delivered: <ul style="list-style-type: none"> • within two weeks of arrival. Format: <ul style="list-style-type: none"> • trained IHSS worker or community guide.
Separation	<ul style="list-style-type: none"> • what is separation • contact with children. 	Delivered: <ul style="list-style-type: none"> • within six months of arrival. Format: <ul style="list-style-type: none"> • information session to AMEP classes by legal service. 	

Appendix 1: Suggestions for legal information topics

Information to refugees	Content of information	When delivered and the format delivered in	Revision of information
Divorce and remarriage	<ul style="list-style-type: none"> • divorce • remarrying. 	Delivered: <ul style="list-style-type: none"> • within six months of arrival. Format: <ul style="list-style-type: none"> • information session to AMEP classes by legal service. 	
Renting a property	<ul style="list-style-type: none"> • tenancy rights and responsibilities • condition reports, bond, right to repairs • role of VCAT • where to seek help. 	Delivered: <ul style="list-style-type: none"> • during AUSCO program. Format: <ul style="list-style-type: none"> • AUSCO handbook and AUSCO teachers. 	Delivered: <ul style="list-style-type: none"> • within two weeks of arrival. Format: <ul style="list-style-type: none"> • trained IHSS worker or community guide.
Moving house	<ul style="list-style-type: none"> • responsibilities: disconnecting utilities, condition reports, getting your bond back, notifying VicRoads and DIAC of change of address • lease terms • rights of landlords and tenants. 	Delivered: <ul style="list-style-type: none"> • within six months of arrival Format: <ul style="list-style-type: none"> • trained IHSS worker or community guide. 	
Legal rights of workers	<ul style="list-style-type: none"> • working and Centrelink • award wages • working full-time, part-time or casually • WorkCover • role of unions • termination of employment • paying tax (especially if you have two jobs). 	Delivered: <ul style="list-style-type: none"> • within six months of arrival. Format: <ul style="list-style-type: none"> • through AMEP classroom exercises. 	

Information to refugees	Content of information	When delivered and the format delivered in	Revision of information
Human rights	<ul style="list-style-type: none"> • equality before the law • right to privacy • freedom of religion • cultural rights. 	Delivered: <ul style="list-style-type: none"> • within six months of arrival. Format: <ul style="list-style-type: none"> • through AMEP classroom exercises. 	
Getting legal help – Legal Aid and CLCs	<ul style="list-style-type: none"> • legal help is free • you can get an interpreter • help is confidential – personal information will not be given to government, police or anyone else • telling someone about your problem will not influence your immigration status, applications to reunite family, or your citizenship application • you will not be deported or go to prison if you can't pay debt. 	Delivered: <ul style="list-style-type: none"> • within three months of arrival. Format: <ul style="list-style-type: none"> • trained IHSS worker or community guide and a visit to a CLC • and/or provided in conjunction with another presentation. 	

Appendix 2: A visit to Mae La Refugee Camp, Thailand

I travelled to Mae La refugee camp, Thailand in April 2010. The camp is located on the border of Thailand and Burma and is about an one-hour drive from the nearest Thai town, Mae Sot. This town is about a six-hour drive from Bangkok. You need a camp pass to visit the camp. This can only be obtained by writing to the Thai Minister of Interior, who is responsible for the security of the camps. I wrote to the Minister of Interior in October 2009; I had received no response five months later. Apparently this is not unusual. Instead, I worked with the Australian Karen Organisation to seek permission from the Karen camp leaders to enter the camp. In practice, this meant that I was illegally in the camps according to Thai authorities, but in fact they were willing to turn a blind eye given that camp leaders had sanctioned my visit. I was lucky enough to be travelling at the same time as Nanthu Kunoo, the president of the Karen Women's Department, which is part of the Australian Karen Organisation. She organised visits for me to talk to teachers and students at a high school in the camp and organised a tour of the camp to observe the AUSCO training. She was also able to act as an interpreter.

The camp is in a valley overshadowed by a steep escarpment. It looks like a village at first glance: houses are constructed of bamboo, there are streets of small shops and places to buy food; there are well-trodden dirt paths and a few vegetable plots in-between houses. The breaks in the illusion of ordinary village life are in the gates manned by Thai police and in the density and scale of the camp. It is a maze that goes for miles, with the houses built a few feet apart. Rancid streams run through gullies and next to paths. There are a few wells. Grubby, skinny children are everywhere. Plastic bags of water and sand hang off every small tree in case of fire. These are almost comically inadequate in this camp built of bamboo and grass, where it was 42 degrees every day I was there.

Mae La refugee camp is the largest of the refugee camps along the Thai–Burma border. Most of the residents there are from the Karen state in Burma; however, I also met Karenni and Chin people. I visited the Thailand Burma Border Consortium (TBBC) in Bangkok to learn about the history of Mae La refugee camp. TBBC is a consortium of 12 international non-government organisations (NGOs) from ten countries providing food, shelter and other items to refugees and displaced people from Burma. Sally Thompson, TBBC's deputy president, has been working with Karen refugees for 19 years. She provided me with a brief, anecdotal, history of the refugee camps along the Thai–Burma border.

Karen refugees began to cross the border into Thailand in the early 1980s, at a time when the Burmese army was advancing into Karen territory. There was fighting between the Burmese army and the Karen National Union (KNU). Karen villages were destroyed and Karen people were forced into labour by the Burmese army.

From 1984–94 there was no system of registration of refugees from Burma who were living in Thailand. The Thai government allowed refugees to cross the border in the expectation that the Burmese army would retreat from the border area in the wet season and Karen people would be able to cross back into Burma. Karen people were allowed to work, build houses out of local materials, grow vegetable plots in the camp and forage for food. The only thing the Thai government did not permit was the planting of rice, because this would bind people to an annual cycle.

In fact, the Burmese army did not retreat from the border. Between 1995–98 the entire border region came under the control of the Burmese army. Burmese soldiers crossed into refugee camps on the border and burned 12 camps to the ground. As a result, smaller camps were relocated and refugee populations were consolidated into fewer, larger camps. As the camps became bigger, the Thai authorities attempted to contain them. They banned Karen refugees in the camps from working, foraging for food and building houses. As a result, the refugees in the camps went from being relatively autonomous to completely aid-dependent.

Aid is primarily provided to the camps by TBBC, which works through the camp leadership structure to implement programs and distribute food. The primary support provided is a basic food basket of rice. It does not include items deemed “non-essential”; like soap, shoes or other foods. People who want and need these non-essentials may take the risk of travelling outside the camp to seek work. This travel is illegal: as long as people are inside the camp, deportation is temporarily suspended. As soon as people leave the camp, they are considered “illegal migrants” and may be deported. In practice, people who are caught working illegally are usually able to bribe the Thai police “to look the other way”. It is worth noting that Karen refugees living in Australia often fear authority figures and police as a result of their experiences in the camps, where they exist in a quasi-legal space and must circumvent the law constantly in order to survive.

The United Nations High Commissioner for Refugees (UNHCR) signed a Memorandum of Understanding (MOU) with the Thai government in 1998 and started working within the camps in 1999. There was apparently some confusion about the definition of “refugee” in the MOU. The United Nations (UN) says the MOU defined refugees as those who are fleeing from fighting or the effects of war. The Thai government has apparently adopted a narrower definition of “refugee”, limited only to those who are fleeing from fighting. This narrow definition has meant the Thai government has sought to exclude some Karen people seeking refuge from the camps, which has had some brutal consequences for individuals. For example, while I was there I met with a farmer whose land had been

Appendix 2: A visit to Mae La Refugee Camp, Thailand

destroyed by the Burmese army. He, his wife and their five children sought refugee status in Mae La refugee camp in March 2009. They were told they were not refugees because they were not fleeing from direct fighting, so they returned to Burma. The farmer was no longer able to farm rice and consequently was forced to forage for wild fruit in the jungle. In April 2009, he stepped on a Burmese military mine. A friend carried him to seek help. He lost both his legs above the knee. He is now living in Mae La refugee camp and has two prosthetic legs. He said he was interested in resettlement, but for his children and not himself. Apparently it is common for men in his situation to apply for resettlement with their families and then commit suicide before the date they are supposed to leave, so that they do not burden their families.

The UNHCR conducted a registration of all people in the camps after 1999. In 2005, resettlement became an option for registered people. The acceptance rate of refugees registered with the UNHCR is very high: approximately 95 per cent of those who applied have been accepted. Sally Thompson suggested that the most effective early intervention to improve settlement outcomes is to start providing English lessons to all who have applied for resettlement, with the assumption that the majority will eventually be resettled. The question becomes: who would fund such education?

Between 2005–10, approximately 95,000 people were resettled – the majority of them in the US, but others to Australia, the UK, Sweden, Norway, Finland, Denmark, the Netherlands and Japan. It is worth pointing out that a refugee is selected by the country and applicants have no say in where they resettle. Approximately 48,000 UNHCR-registered refugees in the camps did not apply for resettlement, for various reasons: including a reluctance to give up on the idea of returning home to the Karen state in Burma; a perception that resettling was ‘giving up’; and the cultural stigma attached to acting in one’s individual best interest rather than on behalf of the community.

The US has a very broad acceptance policy for refugees: they will take anyone who is a refugee, regardless of age, disability, or lack of proficiency in English. Other countries have been accused of carefully selecting the refugees most likely to integrate – those who are well-educated and speak some English. One result of resettlement has been a slow and steady brain drain from the camps, which has become noticeable in the area of camp leadership and teaching.

Many thousands of people have trickled into the camps since 2005. These people have not been able to register as “refugees” with the UN. Some of these may not be genuine refugees – several Karen people in the camp mentioned the problem of people who

were actually from Rangoon (Yangon) seeking refugee status as Karen refugees and paying-off various people to make sure the paperwork goes through. But many more of these arrivals since 2005 are genuine refugees who have fled the Burmese army. Many are interested in resettlement, but cannot apply until they are registered. In some families there are members who are registered and others who are not, and they are waiting to apply for resettlement until they are certain that everyone will be able to.

Currently, the Thai government is piloting a screening process with 4000 people, to attempt to identify all new arrivals since 2005 who are manifestly not refugees and refer the rest to the UNHCR for registration and eventual resettlement. The results of this pilot, and any plans to extend pre-screening to all the refugee camps, have not yet been released.

Those who remain in the camps are in limbo as a result of the lack of UN registration. They can not go home, because their land is still occupied by the Burmese army. They are not allowed to work or settle in Thailand. They are not eligible for resettlement, but they are in contact with friends and family members who have resettled overseas. Many families subsist on money provided to them by their family overseas: remittances are the third largest source of income in the camps (after casual labour and work for NGOs). Boredom and frustration are common, and alcohol abuse, substance abuse and domestic violence are consequences. Domestic violence is apparently common in the camps.

I visited a high school in the camp and spoke to parents, teachers and students about the educational system in Australia, the US and UK. The school is one of only eight high schools in the camp, and only the brightest and most committed students are accepted. Its focus is on providing English classes and computer classes. The school has several computers and an illicit – and very slow – dial-up connection to the internet. Teachers told me that their biggest challenge is in motivating students to work, because they have no experience of life outside the camp and it is difficult for them to imagine their future. I found the students to be like any other teenagers – by turns brash, shy, interested and yet bored by my attempts to explain the Australian legal system. They only became animated when I talked about the possibility of connecting them with other teenagers by arranging for them to have penpals at an American school. One student was in the process of moving to the US, sponsored by his older brother in Atlanta, but most of them were not registered and had no prospects of resettling.

Appendix 2: A visit to Mae La Refugee Camp, Thailand

The visit to Mae La refugee camp gave me some small idea of the context of resettlement of Karen refugees in Australia. My observations – limited, of course, by my own perspective and the small amount of time I spent in the camps – led me to understand more viscerally the massive gap we expect people to bridge when they arrive in Australia. It also gave me a glimpse into the power of the links between the refugees who resettle here and the diaspora in other resettling countries, such as the US and Canada. And, of course, it gave me a more personal idea of one of the greatest legal needs of refugees and one of the potent barriers to successful settlement: the need for greater availability of migration advice once people arrive in Australia and wish to sponsor family and friends, and the guilt that resettled refugees feel about those that they have left behind.

Appendix 3: A visit to the refugee camps at Dadaab

Dadaab is a tiny town in eastern Kenya about 500 kilometres from Nairobi, just 80 kilometres from the border with Somalia. It is part of a landscape of red sand, thornbushes, and goats. There was nothing remarkable about Dadaab until refugees from Somalia started to arrive in 1991 and 1992. Since then, three refugee camps, known as Dagahaley, Ifo and Hagadera, have been established around Dadaab. They were built to hold 90,000 people. At the moment, about 300,000 people live in the camps, and 60 or 70 people arrive every day. It is an enormous administrative task to continue to keep a city the size of Canberra alive and healthy for now and into the indefinite future.

I visited the refugee camps at Dadaab in May 2010, travelling as a guest of the UNHCR having organised a contact through the Australian Department of Immigration. I flew to Dadaab on a UNHCR plane and was given a guided three-day tour by the UN external relations officer, who was also showing the camp to two German fundraisers and a Japanese photojournalist. The camps at Dadaab are relatively accessible to foreign journalists and various stakeholders. New missions – of journalists, fundraisers and government officials – arrive every week. We were driven from one camp to another in air-conditioned UN trucks. We were given guided tours of schools, hospitals, and even the latrine-building program. But our contact with refugees was very limited. I was even more conscious of my role as a privileged, Western observer than I had been when visiting Mae La refugee camp.

Although the UN has oversight of various programs it does not run many programs directly. For example, there is an UNHCR education officer who has an overview of the state of the schools and the number of children attending. She also liaises with the Kenyan government about education issues and is lobbying for the schools in the refugee camp to be recognised as Kenyan schools so that they will receive more resources from the Kenyan government. The schools themselves are run by two NGOs, Care and Windle Trust.

The UNHCR has around 130 staff based at Dadaab, all of whom live in the UNHCR compound. This is a large patch of land, surrounded by barbed wire and armed guards. There is a high emphasis on security because the Somali terrorist group Al Shabaab is operating and recruiting soldiers at the camps. Al Shabaab's largest sources of income are from piracy off the coast of Somalia, and from kidnapping foreigners and ransoming them to their governments. It has threatened to kidnap any foreign workers it can capture. Staff who need to go "into the field" leave the compound every morning in a convoy of trucks escorted by police armed with AK-47s. Staff return to the UNHCR compound for lunch, go out again, and must be back before the 6.00 pm curfew. The compound is huge, but there is still a sense of claustrophobia. There is very little to do in the compound apart from work. Most of the UNHCR staff I met seemed to work

Appendix 3: A visit to the refugee camps at Dadaab

long hours for eight weeks and then take a one-week entitlement to recreational leave. The average posting to Dadaab is for two years.

Many refugees who arrive in Dadaab are fleeing fighting in Mogadishu, Somalia's capital city. Others may be seeking the security of a refugee camp, given that Somalia has become increasingly dysfunctional and there are no guarantees of safety, food or education. The Kenyan border is officially closed to people from Somalia, but it remains porous and people manage to sneak across. They then catch the bus from the border town of Luboi to Dadaab, or walk with their children. When they get to Dadaab they make their way to the intake centre in Ifo camp. They wait on benches with their families for hours until they are processed by UN workers. They have ten minutes to tell their story and then must have their fingerprints and photos taken by Kenyan government officials. The fingerprints are cross-checked against the government's database of Kenyan citizens, to ensure that the refugees are not, in fact, Kenyans pretending to be Somali refugees.

Kenyan citizens posing as refugees have presented a huge problem in the camps in the past. UN staff on the ground estimate that 20,000 rations are being collected by Kenyan citizens every month. These are probably resold and trucked to Nairobi. The UN has recognised the scale of the problem and has started a process of "re-verification" – checking that every ration card belongs to a refugee who is alive, living in the camp and not a Kenyan citizen. Work was underway on a "re-verification centre" to speed this process up, until it was destroyed by local Kenyans in a riot a few months ago. The verification process was completed in Hagadera camp earlier in 2010, as a result of which the official refugee population dropped from 95,000 to 82,000 people.

The refugee camps present an endless expanse of sorry-looking shacks of various shapes and sizes. Each camp is divided into sections, which are subdivided into blocks, and we were each given a map to show the camp layout. Many roads seemed to finish in dead ends and others had smouldering bonfires in the middle of them to burn rubbish. Donkeys wander around. There are children everywhere, and a crowd gathered within 30 seconds every time we stopped. The three camps are a few kilometres apart and the roads between them are half sand, half puddle. It took about 45 minutes to travel 15 kilometres from the UN compound to Dagahaley camp. It is hard to get a sense of the scale of the camps from the ground – they are not surrounded by fences and some patches of the camps seem to be denser than others. If I did not know I was in the middle of a refugee camp, I would probably travel through thinking "what a dismal town." The photojournalist wanted photos that could give a sense of the scale of the camp, and it was virtually impossible given the flat landscape and the kilometres of scrub between each camp.

Most of the houses are an African form of wattle and daub – the huts are built of twigs with mud pasted over the outside walls and UN-issued tarpaulins on the roofs. Many people have improvised with available bits of rubbish. A favourite building material is flattened tins of cooking oil. These are issued to families as part of their standard ration, and are provided to the World Food Program by the US. As a result, many of the most decrepit hovels are emblazoned with multiple copies of the US flag and the insistent motif: “USA! USA! USA!”

There are programs to build mud-brick houses on concrete slab foundations, but there is a long waiting list to get the slab poured and a complex bureaucratic procedure to get your name on the list. There are also programs to build latrines, which are basically deep pit toilets with poured concrete slabs on top. There are waiting lists for these too. At the moment, 14 people share one latrine.

I visited Dadaab at the end of the wet season, when large parts of some camps were underwater. Much of Ifo camp is built on a flood plain. The UN is about to start building an extension to Ifo, known as “Ifo 2”, to try and reduce overcrowding. Most refugee camps seem to spring into being when people haphazardly start building houses. Ifo 2 will be one of the few refugee camps in the world that will be created with the benefit of planning and design. Despite the fact that it will be a “model camp”, no-one who lives in Ifo wants to move to Ifo 2, perhaps because they have had to work so hard and wait so long for whatever dwelling they already have.

The 300,000-odd inhabitants are fed with rations distributed by the World Food Program every two weeks. These add up to exactly 220 calories, a number calculated to keep malnutrition at bay. Many people sell their rations, or barter them for something more appetising. The food distributions take place in the first and third week of every month. On May 1, all the families composed of one person come to collect their rations. On May 2, the families of two or four people collect rations; on May 3 it is the families of three and the families of 16 or more. On the day that I visited I saw the tail end of a distribution. The large families hire a person or a donkey to carry their rations home. A few weeks before my visit, there had been a riot at the food distribution centre on the day food is distributed to families of one – all young men, bored and frustrated. UN staff locked themselves behind a barbed wire gate and watched as the sacks of food were looted and the buildings were vandalised. The refugees attacked UN workers with metal frisbees, made by cutting out the bottom of those US-issued oil tins.

I visited several hospitals over the course of three days, in part because the two German women visiting the camp with me had a particular interest in health and maternal nutrition. There

Appendix 3: A visit to the refugee camps at Dadaab

are hospitals in each camp. All of them are overcrowded by Western standards, but they are clean and dry for the most part. I was particularly interested in the maternity wards. I heard confronting statistics: 98 per cent of women have undergone female circumcision. Apparently there have been massive public education campaigns to reduce the incidence of circumcision, which have had virtually no effect.

Each camp had infant nutrition wards to feed and stabilise babies who were malnourished. I saw babies the size of six-week olds who had adult-like faces and were actually closer to 12 months old. I found it horribly distressing and said to the UN worker, "It's just so sad." He responded, "What are you being sad for? These babies are going to live!" The reasons for malnourishment vary. One baby had diarrhoea that would not go away and the doctors simply could not work out why. Breastfeeding was an issue for other mothers and babies. Doctors said breastfeeding is traditionally delayed until a few days after birth, and this can mean that breastmilk is not produced in sufficient quantities to nourish the baby. In other cases, breastfeeding goes well for the first six months or so, but then women fall pregnant again. They stop breastfeeding and the baby becomes malnourished. Health services have undertaken education campaigns about contraception to try and encourage women to use birth control to lengthen the period between births, but doctors said there is virtually no use of birth control.

I visited several primary and high schools in the three refugee camps. Children aged 7–14 have the opportunity to attend primary school, but some older children attend as well. According to the UN Education office, 43 per cent of all children in the camp attend primary schools run by NGOs (many other children attend private schools). Classes include a mix of ages of children; classes are assigned based on ability. Students study the Kenyan curriculum, which means that teaching is conducted in English. The fact that children study English may be a massive boon for those who eventually settle in English-speaking countries.

At the end of primary school all the students must take an exam. Those who do well (the top ten per cent or so) are able to attend high school. High school takes four years and there is an exam at the end of the final year. The students who are at the top of the class are eligible for scholarships. The most highly sought scholarships are through the World University Service of Canada (WUSC) program, which enables students to study at a Canadian university and resettle in Canada. One young teacher told me that he had been accepted to the WUSC program, but had to decline because at the same time his family were selected for resettlement. Unfortunately, this young man had been adopted, but his mother lied to UN officials and told them he was her own son, believing this would ensure that

he would be able to resettle. The US authorities conducted DNA tests on the whole family and identified the lie, which caused the resettlement application to fail. By that time, the WUSC place had been lost. The young man had been teaching at the camps for three years since then.

Other scholarships are available to study at Kenyan universities. The students who do not get scholarships to university usually remain in the camps and become teachers. The vast majority of teachers in the schools are refugee teachers. Consequently, students tend to do very poorly on their compulsory Swahili exam, as Swahili is a Kenyan language. This drags down their overall results in primary and high school exams.

The school classrooms are crowded. One teacher said there is usually one teacher to every 120 students; the UN said the figure is closer to one teacher to every 60 students. School facilities are fairly basic: classes in sheds built of cinder blocks with dirt floors and corrugated iron roofs are relatively fortunate. There are many students squeezed behind a few desks. Some students sat on the floor. Every school I visited had a tree in the yard which students sat under when classrooms were full. Textbooks are only slightly less rare than teachers; one book is shared between ten children. There are more boys than girls. In part, this is because education is not always highly valued for Somali girls. Girls generally achieve lower marks than boys because they are not given time off from chores to do homework and because they miss school every time they menstruate (due to shortages of sanitary pads). Despite the basic conditions, students seemed incredibly attentive. The teaching methods are traditional: the teacher lectures at the front of the classroom and students listen in silence, or respond as a group.

Several people said that the biggest problem with providing education is not the quantity of students, but the quality of teaching. An Italian NGO called AVSI is providing training to 185 refugee teachers every weekend and during holidays for 12 months. However, once they are trained many teachers go back to Somalia, where they are relatively highly qualified and can get high-paying jobs. The only answer is an expensive one: providing continuous training to all refugee teachers, in the expectation that 15 to 20 per cent of them will leave each year.

One reason that the schools are so basic is that the Kenyan government does not recognise them as Kenyan schools and so is under no obligation to provide funding or teacher training. Instead the schools are referred to as “private learning centres.” The UN education office (UNESCO) is advocating to the Kenyan government for a change to the classification, but with no imminent hope of success.

Appendix 3: A visit to the refugee camps at Dadaab

My main reason for travelling to the camps was my interest in resettlement and opportunities to prevent legal problems. But a few days in the camps put resettlement into its proper context. Out of 300,000 refugees living in Dadaab only 500 will be resettled to Australia each year. Only 1500 will be resettled to the US. Everywhere I went, people told me they wanted to come to Australia and asked me to help them. With those odds, to be given the opportunity to resettle is like winning the lotto. It is little wonder people have high expectations of Australia when they arrive.

The UN resettlement staff gave me an outline of the resettlement process. There are three categories of people eligible for resettlement:

1. Somalis who have been in Dadaab camp since 1991 or 1992. This category covers 77,000 people. People in this category are in a database and are randomly selected by the computer. People are told that resettlement is “in the hands of God”, which is an explanation that most people accept.
2. Non-Somalis who have been in Dadaab for many years, including Ugandans, Rwandans, and Ethiopians (the majority of whom are ethnic Somalis). Their applications are processed according to the year of arrival.
3. Need-dependent cases, which are individually referred by NGOs such as Medecins sans Frontieres. This includes protection cases (for refugees who have been threatened or assaulted and are no longer safe in the camps. Many of these cases are women and children). Resettlement for these people is a last resort, and will only happen if mediation has failed and if it is not possible to transfer the refugee to another refugee camp. The other major category is medical cases, where the refugee has a life-threatening or debilitating medical condition that is not adequately treatable in the camps, but may be treatable in a First-World hospital. Cases of infertility are no longer accepted under this category.

Once people are identified for resettlement, they enter into a two-phase process. First, the family is profiled and the case composition is identified. One case might consist of the mother and father and children under 18. If there are children who have married and have their own children, they may be included on a separate application. A child who is not a biological child but has been living with a family since childhood might be included as a dependent in their application. Decisions are made in accordance with resettlement principles of maintaining the family unit. UN staff look for any cases of fraud and often identify Kenyans who are posing as refugees. They also look for polygamy. There are no resettling countries that will accept polygamous families. If a man has four wives, he must divorce three of them before he can proceed with resettlement. The US will

only accept and recognise the first marriage. UN staff reported they have occasionally put a second wife and her children on a separate application for resettlement. They have had some success in arguing that this should be allowed by the US because there is no law against adultery.

After the family composition has been identified, the family will be asked to attend a second interview to find out what their refugee claim is, so that the UN has the ability to justify the person to the settlement country. The UN produces a form with photos and identifying information. The UN office in Dadaab then submits this to the UN office in Nairobi, which refers the family to a resettlement country. The resettlement countries then review the cases (which may take a year or more) and decide which people to accept.

This long wait for the processing of resettlement cases may be an opportune time to start providing settlement information, or at the very least, to start providing intensive English classes. I suggested this to a worker at one education-focussed NGO, and she conceded that it would be possible to target families selected for resettlement to provide English classes. But there are limited numbers of adult education classes available at the moment, so a new program would have to be created. I suspect one argument against doing this is the possibility of raising false expectations that resettlement is guaranteed. I think high expectations already exist in all those who are “chosen by God” for resettlement processing anyway. And providing English classes could make the process of resettlement to the US or Australia so much smoother for those who eventually do resettle. Again, the question is: who would pay for such a program?

The UN office in Dadaab said they usually recommend people for resettlement in Australia if they already have family here. They have stopped doing “split family reunion” cases because there was too much fraud. The US is also wary of fraud, and DNA tests all family members to ensure that they are related in the ways they claim. UN staff reported that they have seen many cases where mothers swear at three different interviews that all their children are their own biological children, until the DNA tests show that some children must be adopted. At that point, it is too late. The case is rejected and the lie ruins the case for all the family members.

The refugee camps at Dadaab compose a small, dysfunctional city of 300,000 people that does not have any industry or employment. The residents of Ifo, Dagahaley and Hagadera are entirely aid-dependent. Yet, people have lived there for 20 years and go about making their lives. Children are born, and people marry, grow old and die. There are maternity wards and there are cemeteries here. This is also an internationally connected city in that many people here have relatives who have settled overseas. Everyone has mobile phones.

Appendix 3: A visit to the refugee camps at Dadaab

There are thriving small businesses that give people an hour of access to a power outlet so they can charge their mobiles.

On my last day I met the family of a friend from Melbourne. My friend used to live in Hagadera camp, and his parents and five children still live there. I brought his family gifts that my friend had purchased in Australia. I showed them photos of him studying in his flat in Flemington. They met me with a blankness that may have been cultural, or may have arisen from the fact that they had no idea who I was. While I met with them, my friend Abdiqadir phoned from Australia. He was so excited that I was standing in Hagadera camp, talking to his parents. But to me the conversation with him was like a rude interruption in a vivid dream. The phone connection to Australia felt like it had been set-up as some kind of trick. The worlds of Hagadera and Flemington seem too different and too distant to bridge.

Appendix 4: Excerpt from the Request for Tender for HSS services

Orientation Program and National Orientation Framework

The Orientation Program focuses on providing Clients with practical skills and knowledge to help them progress along their settlement pathway, building their self confidence and self help skills, and developing their understanding of key information and processes. The Orientation Program is not designed to provide Clients with everything they need to know about every aspect of life in Australia and a western culture.

The national orientation framework comprises:

- a. the information and training (scope of topics) some Clients may require in their early settlement period, and
- b. the outcomes (core competencies) of the Orientation Program.

Scope of topics

The following table sets out the broad scope of subjects available in the Orientation Program. Subjects listed are intended for Service Provider guidance only and DIAC does not expect all Clients will receive all information.

The Service Provider must tailor its Orientation Program to individual Client needs and learning capacities, giving consideration to Clients' existing competencies, in order to assist them to become proficient in the core competencies.

The Service Provider should look to the section on Orientation contained in the SOR (see paragraph 5.101 to 5.117) which provides greater detail on how the Orientation Program should be delivered.

Introduction to Australia

About Australia

- information about states and territories, capital cities, regional Australia and local information
- language(s), multiculturalism and Australia's indigenous people
- freedom of political expression
- religions and freedom of religion

Accessing information

- using telephone interpreting service
- how to access information (online information, phone books, directory assistance etc.)
- accessing the internet (public libraries)
- government services available to permanent residents

Appendix 4: Excerpt from the Request for Tender for HSS services

- right to raise a complaint
- Local orientation and settling in

Getting to know your area

- using public transport (purchasing tickets, transport routes, timetables etc.)
- orientation to where you live (shops, hospital, school, postal services)
- using currency

Safety and security

- personal safety (locking the house, closing windows, walking streets alone after dark, road safety etc.)
- fire safety
- emergencies (what, when and how to use emergency services)

Money management

Banking and lines of credit

- banking (ATMs and PINs, phone banking, internet banking, direct debit, EFTPOS etc.)
- credit and debt (credit cards, mobile phone and internet contracts, loans, 'loan sharks', interest rates and terms)
- insurance (life, house contents, car, health etc.)

Budgeting and saving money

- household budgeting (rent, bills, saving, food, clothes, transport, medical, leisure, other expenses etc.)
- how to pay bills (post office, mail, telephone etc.)
- how to save money (closing windows while heating/cooling)
- Shopping
- shopping (fixed prices, when to bargain, second-hand etc.)
- consumer rights (warranties, receipts, refunds, pushy sales people, door knockers and telephone sales people etc.)
- sales gimmicks (buy-2-get-1-free, sales and discounts etc.)

Renting

Types of housing and renting in Australia

- types of homes, areas, costs, public housing
- lease (over-occupancy, penalties for breaking lease, rental inspections)
- tenancy information (rights and responsibilities)

Navigating the private rental world

- rental application process (newspaper, internet, real estate agents etc.)
- bonds and condition reports
- end of first lease

Keeping a house

- connecting (and disconnecting) utilities
- paying rent
- looking after your home (cleaning, property maintenance, garden maintenance, damage etc.)
- getting on with your neighbours (e.g. noise), keeping pets, fire alarms, rubbish and recycling, water conservation practices
- changing address
- using the Laundromat

Youth issues

- schooling: how to behave, attendance
- education and employment opportunities
- setting goals and planning how to reach them, fulfilling aspirations (school guidance or career counsellors etc.)
- peer pressure, making friends, dealing with bullying, body image and self-esteem
- family relationships, family conflict
- sport and recreation, music and arts
- adolescent health
- life skills: personal safety habits, budgeting and financial independence, effective communication
- law and police, driving
- technology and accessing information
- youth groups, centres and programs

Education

Education in Australia

- types of schools (public and private schools, religious schools, co-ed and boys and girls schools etc.)
- levels of schooling (preschool, early childhood, prep/ kindergarten, primary, high school, and college etc.)
- ESL or intensive language schools for school-age students
- further education options and pathways (university, TAFE and community education, apprenticeships and traineeships)

Appendix 4: Excerpt from the Request for Tender for HSS services

- learning English (AMEP)
- recognition of overseas education qualifications
- goals and planning how to reach them, help fulfilling aspirations (school guidance or career counsellors etc.)

Going to school

- school calendar and hours, holidays
- attendance expectations (absences – writing a note to the teacher)
- uniforms
- packing school lunches
- appropriate behaviour at school, talking to the teacher, parent-teacher interviews, progress or report cards

Family life

Australian families

- about Australian families (immediate and extended families, nuclear families, single families, step-parents and children, de facto relationships, marriage, working parents)

Parenting in Australia

- parenting practices and skills
- talking with and listening to children
- overview of local family support services
- childcare, play groups

General topic Detail of topic

Health

Health care in Australia

- health care system (Medicare and private health insurance, public and private hospitals, GPs and referrals to specialists etc.)
- role of GPs and Refugee health services
- understanding Australian medical terms (bulk billing, scheduled fee, the 'gap', 'over the counter' and prescription medicine etc.)

Attending to health issues

- how to make a medical appointment
- medical emergencies and how to deal with them
- medications and pharmacies/chemists

Preventative and other health

- immunisation
- living a healthy lifestyle (healthy eating, exercise, leisure, avoiding smoking and excessive alcohol consumption)
- basic nutrition, food hygiene, food storage and use-by dates
- personal and dental hygiene
- maternity and early childhood health care
- men's and women's health
- the sun and skin cancer
- mental health wellbeing and impact of cultural transition

Work

Working in Australia

- training/study to get qualified
- recognition of overseas employment experience
- types of work (part-time, casual work, shift work, work experience and volunteering etc.)
- getting paid (wages, payroll deductions, superannuation, cash-in-hand jobs and taxation etc.)

Finding work

- looking for work (JSA/Centrelink, local employment programs, newspaper, internet, notices in shop windows, word of mouth etc.)
- preparation for and attending a job interview, resumes and references
- goals and planning how to reach them, fulfilling aspirations

Starting work

- how to behave (punctuality, productivity, good work ethic etc.)
- the importance of English in the workplace
- working conditions, worker's rights, OHS and worker's compensation
- uniforms and safety clothing

The Service Provider may choose to bundle a range of information from different subject lists and deliver in one session. The following example shows how information contained within the money management and Australian laws topics can be combined into a specific program about driving.

Appendix 4: Excerpt from the Request for Tender for HSS services

Driving

Costs and risks

- credit and debt (credit cards, loans, 'loan sharks', interest rates and terms)
- consumer rights (warranties, receipts, refunds, pushy sales people etc.)
- car insurance

Licences and laws

- driving-related laws (seatbelts and child safety seats, vehicle registration, driver licensing etc.)
- driving infringements (driving without a licence, driving while suspended, exceeding the speed limit, driving while talking on a mobile, overloading vehicles, driving under the influence of alcohol, parking etc.)

Program outcomes – core competencies

It is critical that Clients attain the following skills and knowledge set out in the core competencies in order to become independent and confident to continue their settlement journey beyond HSS. Clients should not be exited from the HSS without attaining the core competencies (refer to paragraph 5.104).

This section sets out the core competencies.

1. Finding information and accessing services

- a. understand what services are available to them
- b. able to access services and know how to obtain information or assistance to access services (for example, visiting a MRC, using the internet or attending their local library), and
- c. able to request an interpreter and use the Translating and Interpreting Service (TIS).

2. Making an appointment

- a. able to make an appointment (for example, with Centrelink or doctor) by using the telephone or in person (with or without the use of an interpreter), and
- b. understanding the importance of being punctual for appointments.

3. Transport

- a. able to independently get around their local community (using public transport) and the wider vicinity, and
- b. understand road safety and licensing requirements.

4. Money management

- a. understand the value of money
- b. develop household budgeting skills, and
- c. able to access money, including using an automatic teller machine (ATM), and use it to shop and pay bills without assistance.

5. Tenancy issues

- a. understand tenancy obligations, including property maintenance
- b. develop understanding of finding a rental property and tenancy application processes with a view to applying for a lease (with assistance from other support agencies if necessary), and
- c. understand the importance of changing address with essential agencies when moving house.

6. Employment and education

- a. develop understanding of education opportunities in Australia and associated career guidance services
- b. understand how the Australian primary and secondary education systems operate (for example, attendance, start/finish times, holidays, school lunches, behaviour in school, homework etc.), and
- c. develop understanding of employment services and working in Australia.

7. Australian law

- a. comprehend child protection and domestic violence laws and their impact on family relationships
- b. understand the role of police, and
- c. develop understanding of Australian culture and laws and display culturally appropriate behaviour (for example, politeness, punctuality etc.).

Appendix 5: Excerpt from the AMEP Request for Tender

In recognition of the crucial role AMEP plays in helping new arrivals to settle in Australia and to reinforce important settlement information, Service Providers will deliver settlement courses with related learning outcomes to clients. These will be delivered to all AMEP Clients in receipt of English language tuition or Home Tutor training when they first commence the AMEP and just prior to exit. The entry course will provide new arrivals with information about Australian society, culture, laws, services and practices. The course for exiting AMEP Clients will reinforce this information, as well as provide information on post AMEP pathways to further education, employment, ESL, and community services.

The courses will be based on the notion of a 'hierarchy' of settlement needs and will highlight key aspects of settlement information delivered through the Australian Cultural Orientation Program (**AUSCO**), the Integrated Humanitarian Settlement Strategy (**IHSS**) and the resources provided on the DIAC website. They will be inclusive but not limited to the following areas:

- culture shock (acclimatising to a new life and culture, loss of family/friends)
- the law (respect for and not fear of) the police
- housing – renting, responsibilities, rights
- money – shopping, budgeting, bills
- banking – banks, ATM, credit cards
- health – well-being, nutrition, leisure, personal hygiene, Medicare
- transport – bus, train, walking
- English – AMEP (active participation, asking questions, taking responsibility for learning)
- Schools – education system, communication with teachers, forms
- Work – Job Services Australia, Centrelink
- Driving – road rules, licence, buying a car, loans
- Communication – respect, relationships, eye contact, punctuality etc.

The settlement courses will be delivered to AMEP Clients of all tuition modes – face to face tuition, distance learning and Home Tutor Scheme. They will provide AMEP Clients with a targeted and structured introduction to settlement issues which will provide a foundation for the existing and more comprehensive settlement English language programs currently delivered through the AMEP. The exit course will provide a useful summary and focus on next steps for AMEP Clients.

Appendix 6: Local settlement planning committees in Victoria

Area Covered	Committee Name	Convenor
Bass Coast	Bass Coast Settlement Planning Committee c/o Bass Coast Shire Council PO Box 118 WONTHAGGI VIC 3995	Ms Liz Wright l.wright@basscoast.vic.gov.au
Greater Bendigo, Loddon, Central Goldfields, Macedon Ranges	Bendigo Local Settlement Planning Committee c/o Greater Bendigo City Council PO Box 733 BENDIGO VIC 3552	Ms Jenny McQuilkin j.mcquilkin@Bendigo.vic.gov.au
Brimbank, Melton	Brimbank Melton Settlement Advisory Committee c/o Migrant Resource Centre North West Region 45 Main Road West ST ALBANS VIC 3021	Ms Erin Hughes erin@mrcnorthwest.org.au
Casey, Cardinia	Casey-Cardinia Migrant Settlement Committee c/o South Eastern Migrant Resource Centre Casey Outreach Service 60 Webb Street NARRE WARREN VIC 3805	Mr Bill Collopy billc@sermrc.org.au
Mount Alexander	Castlemaine Settlement Planning Committee c/o Mount Alexander Shire Council PO Box 185 25 Lyttleton Street CASTLEMAINE VIC 3450	Mr Glenn Menner g.menner@mountalexander.vic.gov.au

Appendix 6: Local settlement planning committees in Victoria

Area Covered	Committee Name	Convenor
Ballarat, Pyrenees, Hepburn, Moorabool, Golden Plains	Central Highlands Regional Settlement Planning Committee c/o Ballarat Community Health Centre PO Box 1156 BAKERY HILL VIC 3354	Ms Robyn Reeves robyn@bchc.org.au
Latrobe	Latrobe Settlement Committee c/o 28 Comans Way MOE VIC 3825	Ms Lisa Price lprice@latrobe.vic.gov.au
Colac-Otway, Corangamite	Colac Settlement Planning Committee c/o Otway Community College 6 Murray St COLAC VIC 3250	Ms Sue Buley sbuley@occ.vic.edu.au
Manningham, Monash Boroondara, Whitehorse, Maroondah, Yarra Ranges, Knox	Eastern Region Migrant Settlement Committee c/o AMES 60 Douglas Street NOBLE PARK VIC 3174	Mr Sam Navarria navarria@ames.net.au
Geelong, Greater Geelong, Surf Coast	Geelong Settlement Planning Committee c/o Diversitat 153 Pakington Street GEEELONG WEST VIC 3218	Mr Tony Jenkins tony.jenkins@diversitat.org.au

Area Covered	Committee Name	Convenor
Murrindindi, Mitchell, Greater Shepparton, Strathbogie	Goulburn Valley Integrated Settlement Planning Committee c/o Ethnic Council of Shepparton and District, Inc. PO Box 585 SHEPPARTON VIC 3630	Mr Chris Hazelman ecmanager@mcmedia. com.au
Hume	Hume Workers' Network on Multicultural Issues c/o Migrant Resource Centre North West Region Cnr Blair and Belfast Streets BROADMEADOWS VIC 3048	Ms Baylet Danielle baylet@mrcnorthwest. org.au
Maribynong, Moonee Valley,	Inner Western Region Settlement Advisory Committee c/o Migrant Resource Centre North West Region 45 Main Road West ST ALBANS VIC 3021	Ms Erin Hughes erin@mrcnorthwest.org.au
Dandenong, Greater Dandenong	Migrant Settlement Committee of Greater Dandenong c/o South Eastern Migrant Resource Centre Level 1, 314 Thomas Street DANDENONG VIC 3175	Ms Jenny Semple jennys@sermrc.org.au

Appendix 6: Local settlement planning committees in victoria

Area Covered	Committee Name	Convenor
Mildura	Mildura Integrated Settlement Planning Committee c/o Sunraysia Ethnic Communities Council PO Box 1213 MILDURA VIC 3502	Mr Peter Byrne c/o colleent@migrantservices.com.au pdbyrne@iinet.net.au
Moreland	Moreland Multicultural and Settlement Services Network c/o Moreland City Council Locked Bag 10 MORELAND VIC 3058	Ms Nelum Buddhadasa nbuddhadasa@moreland.vic.gov.au
Banyule, Darebin, Whittlesea, Nillumbik	North Eastern Region Settlement Issues Network c/o Spectrum Migrant Resource Centre 251 High Street PRESTON VIC 3058	Ms Carlene Lamanna community@spectrumvic.org.au
Swan Hill	Swan Hill Settlement Services Committee c/o Mallee Family Care 229 Beveridge Street SWAN HILL VIC 3585	Ms Mary Ruane mruane@malleefamilycare.com.au
Local Government Authorities	Victorian Local Government Multicultural Issues Network City of Greater Dandenong PO Box 200 DANDENONG VIC 3175	Chairperson: Eugenia Grammatikakis – City of Monash Secretary (mail to): mberisic@hobsonsabay.vic.gov.au

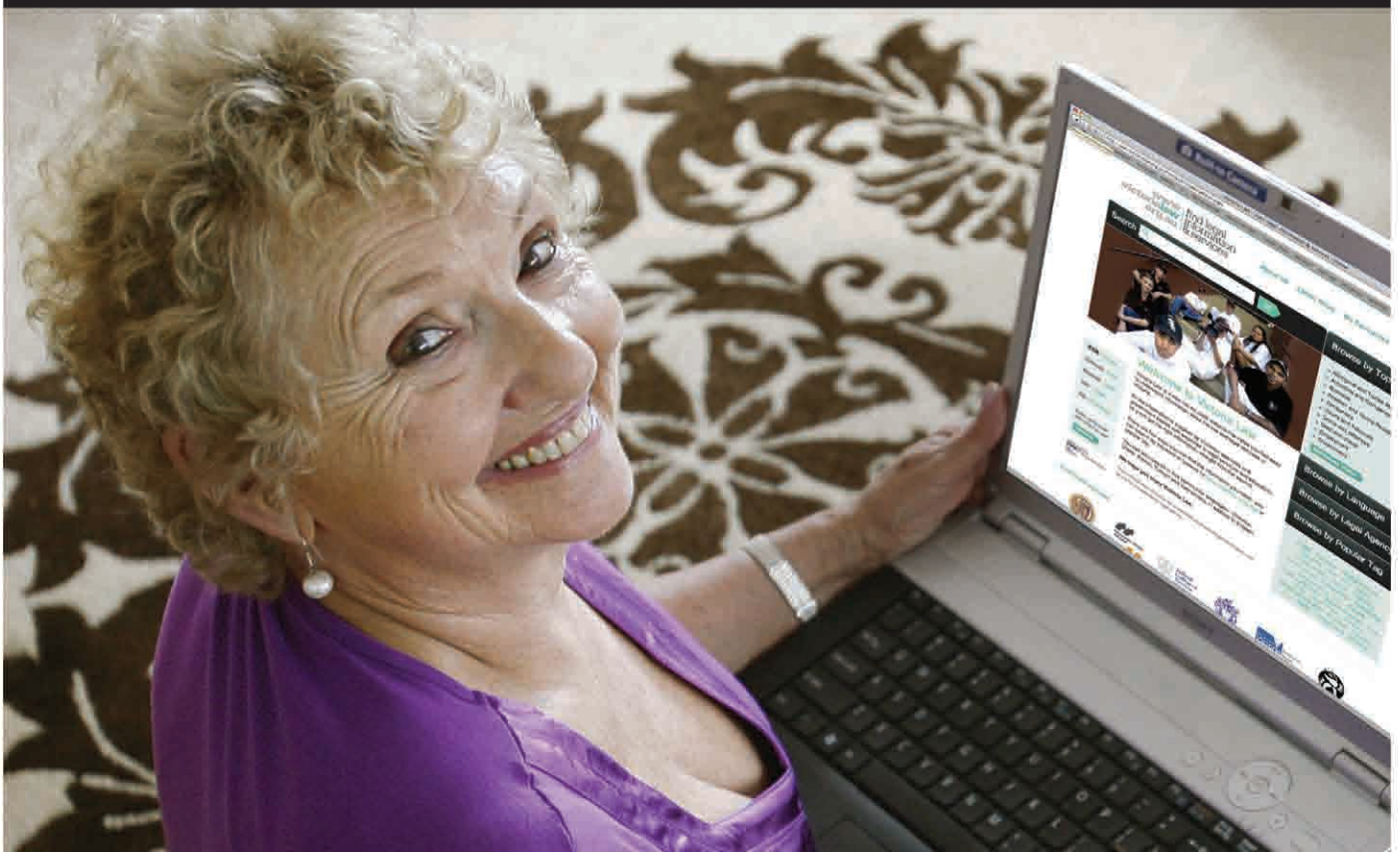
Area Covered	Committee Name	Convenor
Warrnambool, Moyne, Glenelg	Warrnambool Migrant Resettlement Advisory Committee c/o Warrnambool City Council PO Box 198 WARRNAMBOOL, VIC 3280	Ms Julie Kean keanjm@swtafe.vic.edu.au
Whittlesea, Nillumbik	Whittlesea Multicultural Issues Network c/o Whittlesea Community Connections Shop 111 Epping Plaza EPPING VIC 3076	Ms Emma Antonetti eantonetti@whittleseacommunityconnections.org.au
Yarra	Yarra Settlement Forum c/o North Yarra Community Health 365 Hoddle Street COLLINGWOOD VIC 3066	Ms Melinie Ridge Melinie.Ridge@nych.org.au
Wyndham	Wyndham Humanitarian Network c/o Werribee Community Centre 4 Synnott Street WERRIBEE VIC 3030	Ms Jennie Barrera jennieb@werribeecc.net
Hobson's Bay	Hobson's Bay Interagency Network c/o Hobson's Bay City Council 115 Civic Parade ALTONA NORTH VIC 3025	Mirjana Berisic mberisic@hobsonsbay.vic.gov.au

Glossary of acronyms

- Adult Migrant Education Service (AMES)
- Adult Migrant English Program (AMEP)
- Australian Cultural Orientation (AUSCO)
- Commonwealth National Processing Centre (CNP)
- Community Legal Centres (CLCs)
- Community Legal Education (CLE)
- Community Legal Service Information System (CLISIS)
- Department of Immigration and Citizenship (DIAC)
- East and Central African Communities of Victoria (EACACOV) ()
- English as a Second Language (ESL)
- Humanitarian Settlement Services (HSS)
- Integrated Humanitarian Settlement Strategy (IHSS)
- International Organization of Migration (IOM)
- Intervention orders (IVOs)
- Language, Literacy and Numeracy Program (LLNP)
- Legal Aid Commission (LAC)
- Migrant Resource Centre (MRC)
- National Legal Aid CLE Working Group (CLEWG)
- Refugee Action Program (RAP)
- Refugee Council of Australia (RCOA)
- Settlement Grants Program (SGP)
- Special Humanitarian Program (SHP)
- Thailand Burma Border Consortium (TBBC)
- National Community Development and Legal Education Working Group (CLEWS)
- Translating and Interpreting Service (TIS)
- UNHCR (United Nations High Commission on Refugees)
- Victoria Law Foundation (VLF)
- Victoria Legal Aid (VLA)
- Victorian Civil and Administrative Tribunal (VCAT)
- Victorian Multicultural Commission (VMC)
- Victorian Settlement Consultative Committee (VSCC)
- World University Service of Canada (WUSC)

Looking for legal help?

Find legal services and easy-to-understand information at www.victorialaw.org.au



www.victorialaw.org.au | find legal information & services

“Victoria Law Foundation had the vision to recognise that my particular project would meet a real need by assisting community legal centres with their day-to-day service delivery. The Foundation’s Community Legal Centre Fellowship provided the funds for me to take time off from Fitzroy Legal Service to pursue my research project at La Trobe University.”

Rachna Muddagouni
2006/2007 CLC Fellow



Victoria Law Foundation is a not-for-profit, community benefit organisation providing legal information through grants, publications and education programs.

The Foundation is an independent statutory body funded by the Legal Services Board Public Purpose Fund. See our website at www.victorialawfoundation.org.au

This publication may be photocopied for educational purposes.

© Footscray Community Legal Centre 2011
ISBN 978 1 876045 90 6

Disclaimer:

The Community Legal Centre Fellowship was established in 2003 to coincide with 30 years of Community Legal Centres in Victoria. The Fellowship is an annual award, made through a competitive application process, to Community Legal Centre workers with suitable qualifications and experience. It provides the Fellow with an opportunity to conduct research into issues that may have been identified in their casework and advocacy and produce a report on their findings. This report represents the opinion of the author, and not necessarily the views of the Victoria Law Foundation.

funded by a grant from

**Victoria
Law Foundation**

Grants
Publications
Education

Victoria Law Foundation

Level 5, 43 Hardware Lane
Melbourne Vic 3000 Australia
DX491 Melbourne
T 03 9604 8100 F 03 9602 2449
contact@victorialawfoundation.org.au