

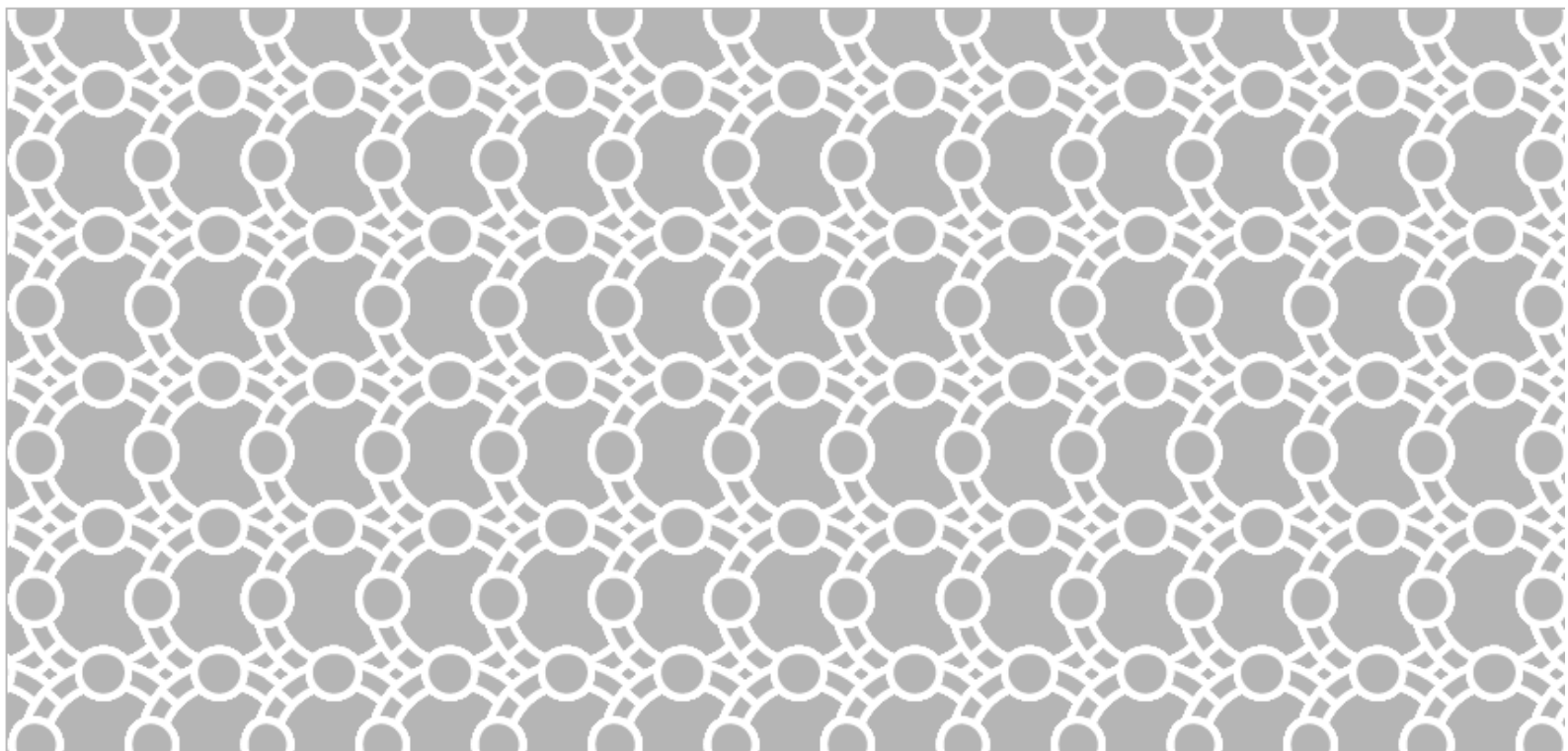


# **DROUGHT LEGAL ASSISTANCE SCOPING PROJECT:**

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Final report to Victoria Legal Aid  
from Consumer Action Law Centre

January 2018



# EXECUTIVE SUMMARY

Consumer Action Law Centre (**Consumer Action**) has completed the Scoping and Trial phases of the Drought Legal Assistance project. This report summarises the key findings of the progress reports provided to Victoria Legal Aid (**VLA**) throughout the project and presents recommendations for future responses to drought legal needs both state-wide and in local communities.

## Key Findings

The primary legal issues facing communities in the drought affected areas of the Wimmera were identified as: **financial** (debt, contracts, financial viability), **business** issues (insolvency, liability for business debts, financial management, consumer protection, employment) and **family** issues (succession planning, wills, family conflict and breakdown).

During times of drought people facing these issues are likely to lack the means to pay for private legal or financial advisory services. The existing service system for people in financial difficulty is well-served in relation to personal financial issues and family issues but is very limited in responding to business legal issues.

The project found that a major impediment to the existing service system addressing drought-related legal issues is the absence of affordable specialist small business legal services. So, a trial was recommended comprised of four components:

- Self-help community education
- Community legal education to local community service providers including specialist legal information in relation to farm and business legal matters
- Professional/clinical legal education for community lawyers and related services, especially regarding farm and business legal matters
- Increased access to free or low cost legal services.

During preparations to implement the proposed trial, it became apparent that the project was unable to fill the significant gap in the existing service system in responding to business legal issues. The existing services indicated that the professional legal education could not proceed in the absence of a specialist telephone legal advice line on farm and business law; further they were reluctant to support community education that encouraged clients to approach their services for help with issues that were clearly outside their current scope or capacity.

So, a more modest service model was developed for trialling including:

- Development and/or collation of online resources to support service delivery to clients with drought-related legal issues, especially small business legal, debt and related issues.
- Convening of a forum for relevant agencies in the Wimmera to launch these resources, strengthen referral networks and develop advice to government on service models to meet future drought-related legal support needs.

The project identified opportunities for strengthening the service system to better respond to drought-related legal needs through the web-based resources and the face-to-face forum. It also



identified significant challenges in engaging communities in identifying drought-related legal needs in regional Victoria, including barriers to accessing legal support generally and structural limitations in the current service system. It also identified barriers to engaging the existing service system in trialling of service initiatives in response to drought legal need.

### **Key Recommendations**

1. Conduct a dialogue within VLA and with other government agencies to identify capacity to invest in a Small Business Community Legal Service and a Small Business Financial Counselling Service to leverage the capacity of existing legal, financial and other community services to actively identify legal needs of their clients with small businesses and to refer them for expert legal advice with confidence.
2. Support a proposed pitch, authored by Consumer Action, to the State Government (and others) for the establishment of a Small Business Community Legal Service and a Small Business Financial Counselling Service (for example, by co-authoring the pitch or writing a letter of support).
3. Ensure that legal advice or assistance interventions are appropriately resourced and managed.
4. VLA could support forums in local communities affected by drought and related climate events to bring together service providers during the scoping phase and at the stage of designing service responses to trial in order to:
  - Support identification of drought/climate-related legal issues amongst the diverse needs presented by clients;
  - Strengthen the existing service system by building referral pathways;
  - Identify gaps in the local service system; and
  - Bridge different perspectives between legal services and business development agencies.

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# 1. BACKGROUND

Victoria Legal Aid (VLA) contracted Consumer Action Law Centre (**Consumer Action**) to undertake a detailed scoping and service model development project for Drought Legal Assistance for Victoria.

This project had two stages—first a Scoping Project and then a Trial of service development informed by the scoping. The scoping was conducted in 2016 and recommended a number of service developments for trialling in 2017.

## 1.1. VLA's objectives

VLA was seeking to confirm the most appropriate assistance that the Victorian legal assistance sector can provide to address the legal concerns experienced by drought affected communities. The target group include all people negatively impacted by drought (not just primary producers, but other residents in affected areas).

VLA proposed that drought legal assistance would likely comprise services provided by a range of organisations working in partnership, including VLA, community legal centres, private practitioners and other frontline and government service providers.

## 1.2. Consumer Action's objectives

Consumer Action shared VLA's objectives and was particularly interested in the project considering:

- improving access to legal advice for those experiencing credit, debt and consumer issues, including those running small businesses;
- exploring further provision of legal assistance for financial counsellors (including rural financial counselling) and other professionals supporting rural and regional communities;
- integrating drought legal assistance services with other services assisting rural communities.

## 1.3 Outputs

The proposed outputs for this project included:

1. A detailed project plan.
2. An initial scoping report covering:
  - identified legal need;

- proposed service models, including use of triage systems and pathways to timely and appropriate legal assistance;
  - measures to increase legal service visibility, and thereby greater awareness of legal assistance services in drought affected communities.
3. Trialling of service development options, which may include:
    - web-based legal information and/or online tools;
    - integration with existing services that support regional and rural communities with drought related issues;
    - training and/or secondary consultation services for financial counsellors supporting rural communities affected by drought; and/or
    - provision of 'pop up' face-to-face legal information and advice in areas acutely affected.
  4. A final report to VLA that would build on the initial scoping report including further proposals based on scoping exercises.

The methodology for the initial scoping covered:

- Identifying demographic legal need – through determining data (Bureau of Meteorology, Centrelink, SEIFA, and other relevant data) to accurately identify the legal assistance needs and location of drought affected communities, particularly for summer of 2016-17.
- Identifying issue-based legal need – confirm VLA's initial scoping which suggested that legal issues that require assistance will include: financial and consumer rights; credit and debt; bank foreclosures; commonwealth entitlements; contracts, e.g. machinery; family law; wills and succession planning; water rights; insurance; employment; and laws pertaining to small business.
- Scoping existing legal assistance services (VLA, Community Legal Centre and others) to ascertain existing legal and other service capacity to respond to drought legal need.
- Proposing service development models that might be trialled within the period of the project.

#### **1.4 Trials of service developments**

The approach and capacity was determined based on the findings of the scoping report and the resources available. It was proposed that some level of trialling would inform the final report.

#### **1.5 Consultant and steering group**

Consumer Action engaged Barbara Romeril as a consultant to deliver the project. Barbara undertook all the consultations, analysis and authored the interim and final report.

The work of the consultant was informed by a Steering Group that was convened by Consumer Action. The role of the Steering Group was to provide feedback to the consultant at various points in the project, and to provide feedback on reports.

Gerard Brody, CEO of Consumer Action, chaired the Steering Group and, in addition to Barbara Romeril, the participants were Lisa Maree Stevens (then Director – Community Services, Mallee



Family Care) and Annie Nash (Senior Project Officer, Community Legal Centre Funding and Development, VLA). Consumer Action thanks the Steering Group for its invaluable advice.

## 2. WHAT WAS DONE IN PHASE 1: Scoping drought-related legal needs

Nearly four months of research was conducted in 2016 to determine the location of drought affected communities, particularly for the summer 2016–17, the legal assistance needs of these communities, and scoping of existing legal assistance services able to respond to drought legal need. The detailed findings of this research are contained in the progress reports submitted to VLA throughout the scoping project.

### 2.1 Summary of findings and recommendations from the scoping phase

The communities most affected by drought in recent years are in the Wimmera region, in particular, the local government areas of Horsham, Buloke, Yarriambiack, Hindmarsh, Northern Grampians and West Wimmera.

The primary legal issues facing these communities were identified as: **financial** (debt, contracts, financial viability), **business** issues (insolvency, liability for business debts, financial management, consumer protection, employment) and **family** issues (succession planning, wills, family conflict and breakdown).

During times of drought people facing these issues are likely to lack the means to pay for private legal or financial advisory services. The existing service system for these people is well served in relation to personal financial issues and family issues – community legal services and VLA Horsham are able to provide legal advice on family issues and the VLA Panel can subsidise private lawyers to assist with family legal issue for eligible clients. Rural Financial Counsellors can assist with financial issues for farms and sometimes for associated small businesses, and generalist Financial Counsellors can assist individuals with debt issues including some limited assistance with business-related debts.

The scoping revealed that the service system is very limited in responding to business legal issues. The Small Business Financial Counselling program (funded by the Department of Economic Development, Jobs, Transport and Resources) expanded the capacity of the service system to support businesses in financial crisis due to the economic downturn resulting from drought; however, it was limited to a 12-month trial which ended on 30 June 2017. The Rural Financial Counselling program is able to support some small businesses which directly service farms but its primary focus is on farms themselves. Neither of these programs can provide specialist legal advice to small businesses. Further, farmers are often excluded from VLA legal support due to the assets tied up in their agribusiness.

The project found that a major impediment to the existing service system addressing drought-related legal issues is the absence of affordable specialist small business legal services. As a result, the service model recommended for trialling comprised four components:

- Self-help community education;





- Community legal education to local community service providers including specialist legal information in relation to farm and business legal matters;
- Professional/clinical legal education for community lawyers and related services, especially in regard to farm and business legal matters; and
- Increased access to free or low cost legal services.

The strategic priority was to trial a partnership approach to responding to the most pressing legal issues of a new group of priority clients—people with challenges exacerbated by drought and other extreme seasonal conditions that impact on agriculture, which have potential legal implications.

The goal of the proposed trial was to improve access to legal support for people living and working in communities with seasonal conditions which significantly impact agriculture production by:

- Unearthing unmet legal need by raising awareness within these communities that issues in their lives related to drought may have a legal component and access to justice is a right.
- Reducing barriers to access affordable legal support by raising awareness of existing free legal services and building the capacity of other local service providers to identify legal issues and refer confidently.
- Improving access to legal support for farms and small businesses in financial difficulty through specialist training and secondary legal consultation for community lawyers, Financial Counsellors, Rural Financial Counsellors and Small Business Financial Counsellors.

## 3. WHAT WAS DONE IN PHASE 2:

# Trialling service responses to drought-related legal needs

### 3.1 Implementing the service trial

During preparations to implement the proposed trial, it became apparent that the project was unable to fill the significant gap in the existing service system in responding to business legal issues.

Firstly, Consumer Action discovered a number of barriers to contracting an expert business lawyer to provide the secondary telephone consultation to Community Legal Centres, Rural Financial Counsellors and generalist Financial Counsellors that underpinned the other components of the trial service model; these impediments included the cost of this legal specialist and the absence of in-house expertise to support effective supervision of business legal advice.

There was investigation of an alternative model involving a local private solicitor who sought to work proactively with Rural Financial Counsellors and local accountants in meetings with rural and business clients to ensure her clients had all of the relevant information to make the best decisions for them. The solicitor was willing to provide this service and telephone advice on farm and business law to Rural Financial Counsellors and Small Business Financial Counsellors if the project could fund the legal fees.

However, it became apparent that there were significant impediments to this model, including the limited budget for unspecified legal fees and the time limited nature of the trial, which was unlikely to cover the time required to resolve business legal issues.

The existing services indicated that the professional legal education should not proceed in the absence of a specialist telephone legal advice line on farm and business law; further they were reluctant to support community education that encouraged clients to approach their services for help with issues that were clearly outside their current scope or capacity.

So, a more modest service model was developed for trialling including:

- Development and/or collation of online resources to support service delivery to clients with drought-related legal issues, especially small business legal, debt and related issues.
- Convening of a forum for relevant agencies in the Wimmera to launch these resources, strengthen referral networks and develop advice to government on service models to meet future drought-related legal support needs.

### 3.2 Production of Drought Legal Assistance online resources



A dedicated section of the Consumer Action website was developed, entitled Drought Legal Assistance; see <http://droughtlegalassistance.consumeraction.org.au/>.

It is a new website with useful resources for community workers and others providing initial advice and support to clients with legal issues for farms and small businesses in distress, including legal issues that are exacerbated by drought.

It was designed to meet the following objectives:

- enable community lawyers, rural financial counsellors, generalist financial counsellors and other services to identify drought-related legal issues confronting their clients, including farm and business-related legal issues; and
- enable community lawyers, rural financial counsellors, generalist financial counsellors and other services to confidently refer clients with drought-related legal issues to expert services.

The website is not designed as self-help website for people running small businesses in distress – these clients are often dealing with multiple personal and financial issues and may be unable to absorb information and make strategic choices without assistance. Instead, the resources are intended to enable community workers and others to spot drought-related legal issues that their clients are facing in regard to farms and small businesses and to assist the client to make sense of the issues they face and prepare to seek specialist help.

Other intended messages of the website include:

- You don't have to be a commercial law expert to help your clients who have a farm or small business in distress.
- Legal issues for small businesses and farms can be exacerbated by drought and recovery from drought.
- People running drought-affected farms and small businesses need initial support and advice on the associated legal issues from whatever community service they access.

The resource collection was launched at the Drought Legal Support Forum in Horsham in November 2017 and is now publicly available. It includes a request for users to send their feedback on how it can be improved.

### **3.3 Summary of findings from the Drought Legal Support Forum**

The forum was held in Horsham on 22 November 2017 and was attended by a range of local and state-wide agencies.

The following opportunities for strengthening of the service system to respond to drought legal need were identified:

- There is significant potential to improve service responses by bringing together service providers in a regional area of Victoria to build referral pathways by overcoming the inevitable gaps in knowledge of each other's offerings.

- There are long-standing, skilled, highly experienced service provision staff in regional community services available to inform the scoping phase of the project, who bring significant local knowledge and a trusted profile in hard to reach target groups.
- Some skilled and experienced service providers are willing and able to commit time to explore ideas and advise on potential new service responses.
- There is potential for participation in a legal response from other government departments involved in drought responses, interested and available to participate in scoping and design of service responses for a trial e.g. the Agriculture portfolio within the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) and the Victorian Small Business Commission.
- There is potential to involve business development agencies alongside legal and financial support services in a supported dialogue to increase mutual understanding of the different perspectives on the needs of drought-affected businesses.
- There is potential to inform and support advice to government through the participation of formal regional partnerships conducted by Regional Development Victoria (see [www.rdv.vic.gov.au/regional-partnerships](http://www.rdv.vic.gov.au/regional-partnerships)).



# 4. LESSONS ON THE CHALLENGES IN MEETING DROUGHT-RELATED LEGAL NEED IN REGIONAL VICTORIA

## 4.1 Challenges in engaging communities in identification of drought-related legal need

The project encountered significant challenges in engaging local service agencies and all levels of government in an exploration of drought-related legal needs. It is difficult to quickly collect comprehensive information on legal needs related to drought due to the following factors:

Social, psychological, physical and financial barriers to access to legal support in regional communities, including:

- Most Australians do not routinely recognise the issues and challenges in their lives as legal problems;
- People in regional areas are aware of the lack of accessible services and so have no incentive to characterise the issues and challenges in their lives as legal problems;
- Seeking help in small communities risks a loss of privacy; and
- Seeking help is stigmatising for people running family farms who see themselves as custodians of an ancestral legacy – failure of the farm is failure as a provider.

Structural limitations in the current service system:

- The cost of private solicitors is a barrier to people facing financial hardship due to drought;
- Long distances to access a non-fee charging community lawyer inhibits access for people living in outlying areas;
- Community service providers to regional communities struggle to identify legal issues of individuals, farms and small businesses because their clients don't initially present with a legal issue and many agencies have nowhere to refer clients for legal support other than to private solicitors;
- Service providers unaccustomed to the availability of affordable legal advice to which they can refer clients; and
- State-wide dispute resolution and service provision agencies do not routinely record drought as a factor in the issues presented by clients.

All of these factors point to the need for time and assistance to community service providers and state-wide agencies to distil legal aspects from other aspects of the needs that rural clients present. Bringing together local service providers during the scoping phase could assist with this. For example, there is a need to explore and spell out the legal issues in farm and business debt – to distinguish between poor lending and unfair contracts, and poor financial management skills.

## 4.2 Barriers to engaging the existing service system in trialling of service initiatives in response the drought-related legal need

The project identified difficulties in attempting to add on short-term, low-cost trial services to an overstretched existing service system. These lessons include:

- Despite overlapping geographic focus and client groups for a number of services, knowledge of each other's services is often incomplete as there is limited capacity for networking with other services to build referral networks.
- Very long distances between the base or auspice for a community service and the location of the target audiences severely limits the physical presence for on-site service delivery in drought affected areas, creating a reliance on visiting outreach workers who drive in and drive out, or alternatively delivery directly to clients through remote means such as telephone, Skype or video conferencing, which are unreliable.
- IT communications are unreliable, including fragile internet connections and mobile phone black spots.
- Long distances driven by service provision staff limits the time spent on service delivery.
- Large client workloads serviced in limited timeframes e.g. community legal centre presence one day per month in Buloke.
- Community services in regional areas are often overstretched due to these and other factors; this limits their ability to commit time to a project to develop new responses that may not be delivered or may be delivered for a limited period as a trial.
- Drought is neither a short-term, highly visible crisis such as a bushfire or flood, nor a long-term challenge requiring a permanent response – rather it is a crisis which evolves slowly over several years and which is resolved when rains arrive.
- People affected by drought experience long term affects in their recovery from drought, especially long term financial recovery and associated legal problems.



# 5. RECOMMENDATIONS TO VLA FOR FUTURE RESPONSES TO DROUGHT LEGAL NEEDS

## 5.1 State-wide initiatives

- Broaden the scope of future initiatives to include drought and other climate events, and the recovery from these events, in recognition that climate change is impacting on rural communities in myriad ways.
- Conduct a dialogue within VLA and with other government agencies to identify capacity to invest in a Small Business Community Legal Service and a Small Business Financial Counselling Service in order to leverage the capacity of existing legal, financial and other community services to actively identify legal needs of their clients with small businesses and to refer them for expert legal advice with confidence – see the initial summary of the evidence gathered by the Drought project in support of this recommendation in Attachment Two. Consumer Action will be developing a pitch to State Government for the funding of such a service, and VLA could support this work.
- Publicise the availability of the VLA Public Interest Guideline to community agencies within the sector as a potential tool to support affordability of legal assistance on systemic small business legal issues.
- Publicise the Drought Legal Assistance website developed as part of this project as a resource for community agencies in providing initial support to clients with small business legal issues.

## 5.2 Initiatives in local communities

- Ensure that legal advice or assistance interventions are appropriately resourced and managed. Any short-term trial services should not require existing services to operate outside their areas of expertise and should result in minimal disruption to overstretched existing service systems, and minimal investment of resources (staffing, time, funds) by local service providers.
- Conduct forums to bring together local service providers during the scoping phase and at the stage of designing service responses to trial in order to:
  - Support identification of drought/climate-related legal issues amongst the diverse needs presented by clients.
  - Strengthen the existing service system by building referral pathways.
  - Identify gaps in the local service system.

- Bridge different perspectives between legal services and business development agencies.
- Engage local advisory groups to ensure that recommendations on legal responses are informed by and integrated into their priorities for the regional area.





# ATTACHMENT: Rationale for recommendation for a state-wide small business legal and financial services initiative

This report on the outcomes of the Drought Legal Assistance Scoping Project includes the following recommendation to VLA:

Conduct a dialogue within VLA and with other government agencies to identify capacity to invest in a Small Business Community Legal Service and a Small Business Financial Counselling Service in order to leverage the capacity of existing legal, financial and other community services to actively identify legal needs of their clients with small businesses and to refer them for expert legal advice with confidence.

The following paper sets out the rationale for this recommendation, based on the consultations and findings of the Drought project.

## **RATIONALE – Legal issues not serviced through the existing service system**

The Drought Legal Assistance Scoping Project consulted a broad range of services, peak bodies and government departments and documented the key issues facing small businesses in drought affected communities.

Family farms and small businesses in regional centres lose turnover due to depressed farming conditions during extreme climate variations. This downturn in the local economy places local businesses under financial pressure, exposing weaknesses in financial management/bookkeeping, business planning and monitoring and the capacity to meet all legislative requirements including ATO and employee entitlements.

The business legal issues exacerbated by drought fall largely into three categories – finance and debt, business structures and compliance.

### **Business Financial and Debt Legal Issues**

- Insolvency
- Individual debt for business owners
- Who the debt stays with in a partnership
- Credit cards used for both business and personal expenses
- Trade debt (where a business is the creditor)
- Business loans, understanding contracts, debt agreements

- Poor financial management including:
  - Ignoring original business plan during ongoing monitoring of the business
  - Poor cashflow monitoring and budgeting skills
- Tax-related bankruptcy - small businesses facing court over ATO debts

Financial Counsellors are restricted in their capacity to address individual debts gained through business activities, especially where the debtor is a sole company director or where there is potential for criminal charges. Neither generalist and Rural Financial Counsellors are legal services and so are unable to provide detailed legal advice on business debt issues.

### **Business Structures – Legal Issues for Small Businesses Affected by Drought**

- Access to affordable legal advice on complex business structures, in particular companies and trusts, including winding up
- Partnerships – liability when partnerships break up
- Knowledge of when to close a business and how

Rural Financial Counsellors have some limited capacity to advise on legal implications of business structures, especially in relation to succession planning, care for ageing members of a family business and succession planning.

It is important to explore potential overlap with Business Development Centres, which assess potential viability of new small businesses, advise on business structures – especially sole traders and partnerships. However, they refer to private lawyers for Company and Trust structures.

### **Compliance – legal Issues for Small Businesses Affected by Drought**

- Compliance with local government planning, registrations and licences
- Consumer Law including breaches of consumer guarantees and billing disputes
- ATO compliance in order to avoid tax-related bankruptcy
  - National Debt Helpline sees many small businesses facing court over ATO debts
  - Centrelink Mobile Office sees high demand for the ATO advisor

Financial Counsellors see low functioning, self-employed tradespeople with large ATO debts due to tax assessments based on projected income which was not earned – this could be dealt with by a Small Business FC or a Small Business CLC, which may need a taxation lawyer on staff.

### **Other Legal Issues for Small Businesses Affected by Drought**

- Consumer protection laws do not apply to businesses
- Disputes with suppliers
- Farm insurance
- Electricity supply
- Limited protections in commercial tenancies e.g. no escape clause in a lease when a property runs out of water
- Illness of business owner including mental illness
- Reluctance to outsource



## **RATIONALE - Benefits of Investment in Small Business CLC and Small Business Financial Counselling as the Proposed Model**

Existing models of service delivery have proven effective in targeting small businesses with legal issues, especially those facing financial difficulty. Rural Financial Counselling and the short-term trial of Small Business Financial Counselling service in the Wimmera report:

- 1:1 counselling is highly effective but workshops have less impact on small businesses in trouble
- Shame about business failure creates reluctance to attend forums about businesses in trouble
- Confidentiality is essential
- Small businesses are reluctant to pay for mentoring services

Participants in the Drought Legal Support forum in the Wimmera report significant positive impacts of the Small Business Financial Counsellors including:

- Reduced pressure on the generalist Financial Counsellor who was able to refer small business clients
- Capacity to assess business viability in complex cases
- Supported access to government drought assistance and other programs

There is an increasing number of small businesses, including the 'gig' economy (eg. AirBNB, Uber drivers) with a limited safety net, or protections under financial or credit law.

A Small Business Community Legal Centre is well placed to engage the small businesses with the greatest need i.e. small businesses in financial difficulty and those who are otherwise vulnerable. A CLC is well placed to engage those businesses which are reportedly the least likely to participate in a group training activity, individual mentoring where a fee is payable or a service which focusses on one aspect of the challenges faced by the business such as compliance with government requirements.

A Small Business Community Legal Centre could facilitate referrals of small businesses in difficulty to agencies providing financial literacy training to small businesses, to overcome difficulty in attracting the businesses most in need.

Reciprocally, agencies which provide training to small businesses can use the workshop topics which tend to attract the largest number of small businesses in regional areas, such as Succession Planning, to offer information on more sensitive issues such as debt, insolvency and disputes with suppliers, with specialist lawyers from a Small Business Community Legal Service on site for private one-on-one discussions to provide immediate, affordable, confidential legal advice.

### **Suggested Components of the Design of a Small Business Community Legal Service**

1. **Legal Health Checks** for small business which can be administered by a range of legal and welfare service providers, or self-administered by high functioning businesses – a skilled specialist small business community legal service can design these checks in a way which serves more capable business (such as by enabling easy identification of areas of

compliance with government requirements that require attention) and more vulnerable small businesses

2. **Worker advice service** to support financial counsellors, community lawyers and other community service providers who provide initial advice to small businesses in distress and support referral to the specialist CLC
3. Telephone and on-line **legal advice service for individual small businesses**, to provide initial advice, identify systemic issues affecting small businesses and conduct **strategic litigation**
4. Evidence based advice to government on **policy reform**
5. Delivery by one **state-wide specialist agency**

An alternative delivery method via diverse providers contracted by government carries the intrinsic difficulties of:

- Limited availability of personnel with the specialist skills to staff multiple providers
- Inconsistent delivery standards and increased burden on government of management on multiple contracts
- disincentive for small businesses in distress in navigating a complex service system to locate the local provider
- experience with other specialist legal services suggests that a single state-wide provider is best able to develop the capacity to provide a well informed and strategic policy and advocacy function

VLA could refer small business legal queries to a Small Business CLC.

A Small Business CLC Worker Advice Line would be useful to Financial Counsellors, in the same way as Consumer Action Worker Advice Line supports Financial Counsellors with consumer legal matters.

A Small Business CLC could also address family violence components of small business legal issues e.g. wives and parents coerced to sign as guarantor for small business loans, not understanding the risks, placing their home at risk.

Laws affecting small business are changing e.g.. unfair contracts protection is now extended to small businesses although awareness is low – a SBCLC could test the effectiveness of new legislation.

Lending practices to small businesses and farms are not protected in the same way as consumer lending – a Small Business CLC could explore the potential to extend these protections.



## **Suggested Options for Delivery of Small Business Financial Counselling State-wide**

Small Business Financial Counselling has demonstrated its value through the Department of Economic Development short term service delivered in 2016/17. The trial in the Wimmera has generated a strong recommendation for its continuation.

This could be delivered as a third component of the existing Financial Counselling program:

- Generalist Financial Counselling for individuals, wage and salary earners
- Rural Financial Counselling for farms and other primary production businesses
- Small business Financial Counselling for other small businesses in financial difficulty

Existing contracts with local agencies delivering generalist and/or rural financial counselling could be extended to include small business financial counselling.

The Small Business Community Legal Centre could be contracted to provide a state-wide telephone financial counselling service to small businesses, including telephone advice to generalist financial counsellors assisting individuals with business debts, in a similar model to the current contract with Consumer Action for delivery of the National Debt Helpline in Victoria.