

THE PEOPLE'S CHAMPION OF THE NORTH COAST

Paul Batley is the epitome of a community lawyer. With over 20 years experience in community legal centres and Legal Aid, Paul truly believes in the importance of helping people who need it most and using his skills to improve the law for everyone.

Since his early days as a volunteer at Redfern Legal Centre, Paul has been instrumental in test cases that have influenced the lives of many and often led to legislative amendment. Much of this success has been due to his skills as an accredited specialist in advocacy – enabling him to successfully appear against senior barristers in all courts including the Full Federal Court and Court of Appeal. Paul is currently a civil lawyer in the Legal Aid office in Coffs Harbour where he continues to be challenged by the law and inspired by the work he does.

Growing up in Adelaide, Paul never felt that he was destined to be a lawyer. During university, he was unsure where his career was headed and was not all that keen on practicing law. After an escape to Sydney found him volunteering at Redfern Legal Centre, he had a change of heart. The inspiring people he met there instilled in him the belief that maybe a career in law would not be such a bad thing, especially if he could work in the community to make a difference in people's lives.

In 1990, Paul found himself at Kingsford Legal Centre (KLC) as a qualified lawyer and with several years of experience already under his belt. By then he had volunteered at Redfern Legal Centre, completed a Masters degree at London School of Economics, worked at what is now known as Macarthur Legal Centre and finished College of Law. His experience at KLC was an extremely positive one and one that threw up different challenges and expectations. He was no longer only required to do case and policy work but also to supervise students who had a high level responsibility in terms of the work they were given. The presence of the students meant that at that time, KLC had more resources than other legal centres and were therefore able to take on cases that were quite involved and demanding.

Reflecting back on his four years at KLC, Paul recalls three cases that he found to be particularly interesting and worthwhile. The first was *Garendon Investmentsⁱ*, a consumer protection case involving a marketing ploy by developers to encourage people to invest in time-share holidays. People would be lured into borrowing money to buy into this scheme and would then find themselves regretting their decision. Faced with a number of clients with the same problem, Paul worked out an approach based on a technicality that enabled him to mount a case that invalidated all the credit contracts at once. A successful result would release many people from their obligations.

The case was headed up by Paul and jointly run by KLC and Redfern Legal Centre. They were unsuccessful at both the Consumer, Trader and Tenancy Tribunal (CTTT) and the Supreme Court however, after three years they finally won their case in the Court of Appeal where approximately 2000 credit contracts were held to be invalid. Through his ingenuity and sheer hard work, Paul was able to make a real difference in the lives of many.

An employment law test case that Paul ran in 1993 was also remembered by him as a highlight of his time at KLC. *Liddell v Lembke*ⁱⁱ concerned new federal unfair dismissal laws that were significantly more generous than those then in place in NSW. Arguing the inadequacy of the NSW laws, Paul ran a case at the Industrial Relations Court of Australia (no longer in existence) where a judicial registrar agreed that the NSW laws were not an adequate alternative to the federal laws. Unhappy with that decision, the Employers Federation and Federal Government briefed Senior Counsel and appealed to the three judge Full Industrial Relations Court.

Appearing as an advocate for his client, Paul was faced with two teams of lawyers headed by Senior Counsels against him. After some initial hesitation, he was successful in winning the appeal and commented that it was “quite exciting but a bit scary. My heart was fairly close to my mouth.” The state of NSW then appealed to the High Court but withdrew because the government agreed to make amendments to the legislation that would bring the state laws more into line with the federal laws. Paul’s efforts and advocacy skills were again influential, but this time on a legislative level. He was instrumental in not only winning the case for his client, but also improving the law for all employees in NSW.

Paul described this next case of *Williams*ⁱⁱⁱ as probably the most important case he was involved in during his time at KLC. It was the first stolen generation case run in Australia and had great scope for addressing the problems of many Aboriginal people who were taken from their families as young children. Paul’s involvement in this case was only at the preliminary stage however his success provided much hope for his client and other members of the stolen generation. The case was won in the Court of Appeal where it was held that his client should be granted an extension of time to bring a claim about the effect of the actions of the Aboriginal Welfare Board on her between 1941 and 1959. However, the sad ending came when the substantive case against the NSW government as successor of the Aboriginal Welfare Board was lost at the Court of Appeal and an application for special leave to appeal to the High Court was rejected.

In reflecting back on this case, Paul made the following comment: “What is really disappointing about the overall outcome is that the client had many problems as a result of her childhood and upbringing and the terrible and damaging effects it had on her. But also, part of the problem is how conservative the legal system can be when the fear is that a precedent might lead to a lot of litigation. The judges are meant to decide their cases on their merits but you can see that what’s ticking away in their minds is the possibility that any slightly generous interpretation of the law could lead to a lot of people being able to assert their legal rights. This was a bit of a lesson in how the so-called independent institution, the judiciary, can be influenced by outside factors including political factors.”

It was clear from speaking with Paul Batley that although he has spent the most recent part of his career working for Legal Aid, he has a soft spot for community legal centres. When asked about what role he believed they play in the legal system he commented that they have been incredibly important and influential in improving access to justice. This has been not only through their own work

but also by encouraging the development of pro bono schemes in large firms, law societies and bar associations. In his own words, "it is quite extraordinary that these poorly resourced organisations have managed to be so influential and to do brilliant work. I think they are fabulous."

Eight years ago, Paul's fundamental belief in the importance of community legal centres saw him undergo a change in lifestyle and move to the mid-North coast with the intention of establishing a centre there. This move did not go exactly as he had planned as not long after he arrived, Paul discovered that the Legal Aid Commission had applied for Commonwealth funding to set up a regional office in the same area. With a view that a well-resourced Legal Aid office would have a greater impact on the community than an under-resourced legal centre, Paul found himself involved in the establishment of the Coffs Harbour Legal Aid office. He has been one of two lawyers in the civil division since its opening in May 1996.

The shift from a community legal centre to Legal Aid was one that Paul characterised as involving a very big change mainly due to the constraints of working within a bureaucratic model. As a Legal Aid lawyer, he has no input in the policies and guidelines which govern the running of the organisation and the decisions regarding which clients are eligible for assistance. He has found this difference a bit of a challenge because he can see many injustices that are not being met simply because people do not fall within the guidelines. He did however comment that because of the growth in access to justice in recent years, those who are not eligible for Legal Aid assistance can and are referred to pro bono services mainly in Sydney.

The nature of the work that Paul does in a regional office is somewhat different to the work he did in a metropolitan legal centre. He gives a lot of advice about neighbour disputes and motor vehicle accidents however he has been involved in some interesting cases that one would not expect to arise in a country town.

In a disability discrimination case that Paul ran in 1998, he was once again successful in not only making an impact on his client and the Coffs Harbour community but also on the wider Australian population. His client was wheelchair bound and brought an action against the local cinema operator under the *Disability Discrimination Act 1992* on the basis that when it was built, there was no lift or wheelchair access. A claim of aiding and abetting the breach of the Act was also brought against the council who approved the cinema redevelopment. Paul was successful in both actions in the Federal Court and as a result of the decision a lot of work was done to bring the Australian Building Code into line with the provisions of the Act. This means that in future, all redevelopments will be compliant with disability discrimination legislation. A significant win for the disabled community!

Another influential case that Paul ran in 2000 also concerned the provisions of the *Disability Discrimination Act* but this time concerned the position of people on a methadone program for heroin addiction. Paul's client, Mr Marsden claimed that he was discriminated against when he was expelled from the Coffs Harbour and District Ex-Servicemen and Women Memorial Club^{iv} ostensibly for bad behaviour. At the time, the club was aware of his methadone use and had previously tolerated similar behaviour from other members who did not have a drug problem. The Federal Court found in favour of Mr Marsden and held that

an addiction to methadone could be classed as a disability under the Act. It is not necessary to spell out just how important this decision is for methadone users and there is no doubt that it will have huge ramifications in this state and around the country.

Paul's devotion to his clients and sheer belief in the importance of helping them to achieve justice is undoubtedly a large part of why he has been so successful in his work as a Legal Aid lawyer. However, his outstanding skill as an advocate cannot be overlooked. Since even before becoming an accredited specialist in 1996, Paul has done all his own advocacy work and achieved incredible results – even against the most senior barristers. Earlier this year, his skill and experience saw him travel to Adelaide to be the advocate for another disability discrimination case for the Legal Aid head office. While remarking that it was all “a bit of a rush”, Paul was true to form and again successful in achieving a good result for his client.

Throughout his career, Paul Batley has been interested in improving access to justice and pressing the limits of the law. He has achieved this and much more through his work as a community lawyer – running test cases that have had an important and widespread impact on both government and the public. His passion for all he does really shines through when asked what advice he would give students who are about to finish their law degree: “Try the community sector because you can find a lot of opportunities for satisfaction there and the feeling that you can achieve great things for people...it's not just the stimulation and the challenge but also the sense of helping people who need it.”

This is what makes Paul Batley a true hero of Legal Aid.

Rebecca Hurst

ⁱ *Garendon Investments PTY Ltd and Ors v Afa and Ors* s101 [1995] HCA

ⁱⁱ *Robin Beadon Liddell v Cheryl Lembke t/as Cheryl's Unisex Salon* (940139), [1995] IRCA.

ⁱⁱⁱ *Williams v The Minister Aboriginal Land Rights Act 1983 and the State of NSW* [2000] NSWCA255.

^{iv} *Marsden v HREOC and Coffs Harbour and District ex-Servicemen and Women's memorial Club Ltd* FCA1619 [2000].