

**Kingsford Legal Centre**

**STUDENT MANUAL**

**SESSION 2**

**2003**



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# ABOUT OUR CENTRE

## 1. Our mission

Established in 1981, Kingsford Legal Centre is a community legal centre and a teaching facility of the University of NSW.

Kingsford Legal Centre is committed to human rights and social justice and to promoting access to and reform of the legal system. We aim to provide quality legal services including community legal education to the community and to promote excellence in clinical legal education, whilst fostering a critical analysis of the legal justice system.

## 2. The values that underpin our work:

*Kingsford Legal Centre believes in:*

- The value of clinical legal education as a means of educating law students. We provide a positive learning environment for students, encouraging them to gain first hand experience of delivering legal services in a community setting.
- Providing the best quality service to our clients whilst encouraging them to do as much as they can in regard to their legal problems. We aim to empower our clients rather than adopt a paternalistic approach to advice and casework;
- Providing equal access to justice for everyone in our target community. We recognise that a positive, practical approach to access and equity issues is needed if the Centre is to fulfil its commitment to equality of opportunity. We actively encourage an access and equity approach to all aspects of our organisation including service delivery, communications, physical environment and human resources;
- Undertaking law reform work and advocating for the development of a fair and non discriminatory legal justice system;
- Team based decision making. We value the commitment and experience students, staff and volunteers bring to the Centre. We encourage positive criticism and ideas generated by all members of the Centre and the local community;
- Working with other relevant organisations including the legal profession to provide a broader range and better quality of services to the community.

- Self determination, respect and privacy with regards to service provision;
- We recognise that many people are unable to gain access to justice due to discrimination and poverty. We are committed to providing legal services to people who would otherwise be unable to gain access to justice.

### **3. Structure**

The Centre is operated by the Law Faculty of the University of NSW. It is managed by the staff and the Centre's Director who consults with the School of Law and relevant School Committees, as well as the Kingsford Legal Centre Consultative Committee.

### **4. Funding**

The majority of the Centre's budget is provided by the Law Faculty. In addition, two solicitors positions are funded under the Community Legal Services Program.

We receive an additional grant of \$100,000 per annum from the Commonwealth Attorney General's Office to run the employment law program. One solicitor position is filled on a six monthly rotation by the law firm Freehills.

### **5. Staff**

#### **Director and clinical supervisor: Frances Gibson**

Frances has worked as a lawyer since 1984 in private practice, the Aboriginal Legal Service, the Legal Aid Commission, the ICAC and at Redfern Legal Centre where she was Principal Solicitor. In 1999 Frances spent her sabbatical at New York University examining their clinical legal education programs.

#### **Principal Solicitor: Joanne Moffitt**

Joanne commenced at the Centre in January 2000. She is responsible for supervising the legal practice at KLC. She has previously worked at South West Sydney and Campbelltown Legal Centres and the NSW Working Women's Centre.

#### **Solicitor: Vedna Jivan**

Vedna Jivan was admitted a solicitor in 1995 and worked as a locum at the Refugee Advice and Casework Service and Redfern Legal Centre as well as several regional legal centres before joining Kingsford Legal Centre in 1996. She has recently returned to the Centre after spending eight months in Asia where she worked with various human rights organisations.

#### **Employment Law Solicitor: Sinead Eastman**

Sinead has previously been the Freehills secondee at KLC (in 1999) and has worked for the Legal Aid Commission. She has also been a longstanding volunteer at Redfern Legal Centre.

**Seconded solicitor (Freehills): Emily Sunman**

Emily started at KLC at the beginning of April 2003 on a six-month secondment under a permanent arrangement with Freehills. She was a student at KLC in semester 2, 2000, and has been a volunteer solicitor at evening advice sessions. Emily has worked at Freehills since 2001 in the Environment and Commercial Litigation groups.

**Volunteer Solicitor: Susan Winfield**

Susan started at KLC as a student in the second semester of 2001. She completed her College of Law Stage 2 (Work Experience) at KLC during 2002. She has worked as a volunteer solicitor at KLC since being admitted in February 2003.

**Coordinator: Michelle Burrell**

Michelle is employed to co-ordinate and plan service delivery at the Centre. She started her career in the early 1980 s public policy and then moved into legal centres. She has worked in legal centres in Australia and the UK. Michelle has just come back from New York where she completed her LLM specializing in International Public Interest Law

**Locum Administrative Worker: Denise Wasley**

Denise joined the staff of KLC in April 2003 for the second time, having worked here in 1996. She has extensive experience in the community sector, especially with Community Legal Centres, and she has worked in them in Sydney, Melbourne and London.

**Librarian: Murray John McWilliam**

Murray works part time (usually weekends and some Thursday mornings) and is responsible for filing, updating and cataloguing our Library.

**Publications worker: Francisco Fisher**

Francisco works 5 hours per week, producing various publications including KLC newsletter, Annual Report and the Clinical Legal Education Guide.

**Information Volunteer: David Williams**

David has been a weekly volunteer at KLC for several years now and undertakes various back-up tasks for the co-ordinator. He has updated this edition of the Student Manual and takes responsibility for any mistakes herein.

**6. Services we offer**

Currently KLC offers the following services to people who live and/or work in the local government areas of Botany and Randwick. Note that we also provide services to staff and students of the UNSW, as long as no conflict of interest exists.

### **PHONE**

- Telephone advice sessions: 6pm to 8pm Tuesday and Thursday  
(where clients cannot attend appointments)
- Employment law telephone advice: Wednesday 10 am to 12 noon
- Telephone advice to community and social workers during business hours.
- Telephone referral 9-1pm, 2-5pm Monday to Friday

### **FACE TO FACE**

- Evening advice sessions: 6pm to 8pm Tuesday and Thursday  
(Face to face interviews)
- Daytime appointments 2pm + 3pm Tuesday to Friday  
(Face to face interviews)
- Employment advice session 3.15 + 4.00 + 4.45 pm Wednesday  
(Face to face interviews)  
Plus half of the evening appointments every second Thursday night.

### **SPECIALIST ADVICE SESSIONS (OUTREACH)**

- Specialist tenancy advice (EATS outreach) Monday afternoon appointments
- Specialist child support advice (LAC outreach) monthly Thursday or Friday

### **OTHER SERVICES**

- Law reform work and campaigning
- Community legal education sessions
- KLC Newsletter and other publications

**Note:** Telephone advice, information and referral is available to people outside Randwick and Botany (though not encouraged). Casework generated from those calls will not be taken on. Wherever possible these matters are referred to agencies located closer to the caller's address.

**Note:** That the Centre specialises in discrimination law. For this reason cases from outside Randwick and Botany may be taken on, subject to approval by the casework meeting, held every second Monday. Discrimination appointments should only be made for daytime appointments.

**Note:** Employment advice sessions and telephone advice are for clients from Botany and Randwick. Special arrangements exist regarding a means test (\$50,000 maximum) for employment law advice - see advice session section of this manual for more info.

## **7. Client profile**

The centre has a diverse client group. Statistics from 2002 show the following:

### **Gender**

Female	56%
Male	41%
Not recorded	3%

### **Analysis by country of birth**

Not supplied	50.0%
Australia	22.0%

The top ten countries are:

New Zealand  
China & Hong Kong  
Chile  
Russian Federation  
England  
Indonesia  
Greece  
Egypt  
Bangladesh  
Philippines

### **2002 stats show:**

Age:	2 % aged below 20 years
	11% between 21 and 30 years
51% not supplied	11% between 31 and 40 years
	10% between 41 and 50 years
	8 % between 51 and 65 years
	7 % over 66 years

Income source:            11% employed full time  
                                  7 % employed part time  
                                  2 % self employed  
49% not supplied        24% in receipt of benefit  
                                  4 % no income  
                                  3 % other

## 8.        **Volunteer Solicitors**

Evening advice and employment law sessions are staffed by lawyers who volunteer their services. Most are solicitors, some are barristers; many of them were former students at the Centre. Wednesday afternoon employment advice sessions are also staffed by volunteers. We currently have about fifty volunteer solicitors.

They come from a variety of backgrounds ranging from small suburban practices to large commercial law firms, government departments, the commercial and criminal Bar. Working with the volunteer lawyers is an opportunity to discuss law, practice and attitudes, as well as to observe the very different ways in which lawyers manage clients and situations.

The volunteer lawyers will from time to time offer comments, complimentary or of concern, about students to the supervising solicitors. These will be referred to the student for discussion as part of the learning process. The volunteers do not take formal part in any assessment of students for the clinical legal experience subject.

During Session 1 and 2, students from the Law Lawyers and Society course will be interviewing clients with the volunteer lawyers at the evening advice sessions. **CLE students are responsible for inducting these students and helping out on the advice evening session.** More detail on this is included later in the manual. Please note: this does not apply to summer session.

## 9.        **Student Hours**

The Centre is open Monday to Friday 9.00am to 5.00pm, and on Tuesday and Thursday evenings from 6.00pm until the end of the advice session, usually about 9.00 pm. (see Advice Sessions)

The Centre is closed for lunch from 1pm to 2pm each day.

Students **must attend on their rostered day/s** from 9.00am **sharp** until 5.00pm (or later if they wish). In fact, there is usually access to the office well after 5.00pm as the full time staff members are usually present at these times. CLE Students on Wednesdays will finish their working day earlier, in time to attend a 4.00pm class (see Wednesday Class).

CLE students attend seminars every Wednesday from 4pm to 6pm.

### **Absences**

Students who for some reason will be arriving late, leaving early or needing to have time off during the day are expected to notify the Coordinator in advance, and to restrict such absences to unavoidable commitments: time at the Centre is to be treated as time in an ordinary working environment. If a student cannot be at the Centre on his or her rostered day, they are expected to give advance notice to the Coordinator and to advise when they will make the time up.

**The primary consideration for any student in this situation is not simply to honour an obligation to attend the office, but to ensure that their clients' interests are being addressed and maintained.** A student must make suitable arrangements for fellow students or the supervising solicitor to attend to files in the event of a student's absence.

Remember, if you are given tasks to complete on a file, you must complete these tasks speedily and comprehensively. If you cannot complete the task during the day, then make sure you inform the solicitor supervising the file of this. Do not simply go home having not completed tasks!

## **10. Morning Meeting**

Students will attend a meeting commencing at 9.00am **sharp** on each morning of their rostered day. These meetings usually go for about one hour. These morning meetings are an opportunity to plan the day, running through the diary and identifying people's activities. Further, they are an opportunity for students to raise matters on which they are working, to discuss any points they want clarified or difficulties they are having with files, clients or procedure.

Please refer to course materials and page 60 of this manual for more information about the content of morning meetings.

## **11. Role of the Duty Student**

Students on each day are expected to organise amongst themselves at the morning meeting who will be "on duty". If morning meetings are delayed or cancelled for any reason students must still nominate a duty student each day. A five-minute session at 9am can be used to decide the duty student.

The role of the duty student is absolutely crucial to the effective operation of the Centre and also presents a good opportunity to gain a perspective of how a legal centre operates on a day to day basis. All students must take their fair share of turns at being the duty student.

The duty student should be seated at the front part of the office so he/she can also attend to front counter enquiries. The duty student's name should be noted on the sheet pasted in the front of the day diary. The student on duty has the following responsibilities:

- To welcome visitors to the centre at the reception desk, including making appointments, receiving deliveries and other reception based duties, including answering telephone queries.
- To ensure that all files down for review in the central diary are either worked on by the student responsible or pulled out of the filing cabinet and given to the responsible solicitor to allocate a new review date.

- To ensure that all students have access to referral/information recording sheets, that all students complete the information only sheets for all calls received and to collect up these sheets at the end of the day and place in the information only tray at the front of the office.
- To collect KLC s DX in the morning and deliver DX in the afternoon to the document exchange in Kingsford. Note that when delivering in the afternoon you must place the DX mail in the appropriate boxes eg; a letter addressed *DX 000 Sydney* should go in the box labeled DX Sydney City.
- To ensure that all incoming faxes are brought to the relevant staff/student attention as soon as possible (ie give it to them or if they are not there put it on their desk or in pigeonhole with note in telephone messages)
- To ensure that if any interpreters have been requested for afternoon or evening appointments on that day, that the interpreter has been confirmed.
- To ensure adequate supplies of KLC Service Commitment brochure are available at the counter and handed to clients upon making appointments.
- To ensure photocopier, printer, fax are stocked with paper, and that staplers have staples in them and that there are plenty of pens for night advice sessions
- To ensure that there are plenty of file note forms, client information sheets, solicitor referral lists and other standard forms photocopied and stored in the relevant holders.
- To undertake housekeeping duties including making sure that milk is available in the morning for the tea and coffees during the day, that the office is tidy and the kitchen is clean (including washing up) and to water plants.
- To ensure that the answering machine is switched on during lunch time and that Centre doors are locked and then to ensure that the answering machine is switched off after the lunch break. (see Telephones).
- To ensure that at the end of the day the office and kitchen are left in a tidy state. In particular, to ensure that books, stationery, paper etc are returned to their place and not left on desks at the end of the day.
- To ensure that all client files, and any other confidential material has been returned to filing cabinets and that all student desks/working areas are tidy.
- **On each Tuesday afternoon, the duty student must ring all clients for the next day s employment law session and confirm their attendance.**

A student who for some reason is unable to discharge any of her or his duties must make arrangements with fellow students to swap and/or share the responsibilities. Discharging duties as the duty student is not an assessable part of the clinical legal experience subject, but is a necessary part of maintaining the office environment and working as part of a team.



# THE OFFICE

## 12. Health and Safety

We aim to provide a safe and healthy environment for all staff, students, volunteers and visitors to the Centre. The Centre operates within the legislative framework, undertaking regular health and safety assessments to identify, minimise and remove risks health and safety.

We all share a responsibility to maintain a healthy and safe environment. If staff or students notice any hazard or risk, or are involved in any incident which affects their health and safety, they should immediately report this to the Co-ordinator or, in her absence, another member of staff. Steps should be taken to remove or minimise the risk, and at the very least a warning should be provided that the hazard/risk exists (for example by placing a sign at the location eg trip hazard).

If you are involved in an accident this must be immediately reported, recorded in the accident book (found in the Co-ordinator s office) and reported to relevant authorities in the case of a serious workplace accident. Medical treatment should be sought when needed.

To protect yourself always use appropriate aids if lifting heavy objects or reaching items stored above height level. For example, use the kick stool to reach books on the top shelf of the library and archive boxes on the top shelves in the compactor. Always take care when moving boxes in the compactor as they vary considerably in weight. Do not lift heavy boxes unaided — see Safe Manual Handling information sheet.

Please be aware of best practice when using computer terminals. Adjust chairs, keyboards and screens to suit your needs. Take regular breaks - a minimum of 15 minutes for every two hours in front of the screen.

Take extreme care when replacing toner in the photocopier and wear the protective mask and gloves provided. Immediately wash your hands after replacing toner.

The Centre has a policy of no smoking in any part of the building. Staff and students can smoke in the backyard. Clients can smoke on the front porch.

For some members of staff, volunteer lawyers and previous students, this has been a difficult policy to accept in absolute form: there are occasions on which a client will want, need or unconsciously tend to smoke during an interview. **It is at the discretion of an interviewer, whether lawyer or student, as to whether a client should be discouraged from smoking or asked not to smoke in the circumstances.** It may be relevant to consider the client's comfort in the conduct of a difficult or stressful interview, and to weigh that advantage against the interviewer's exposure at the time to cigarette smoke.

## **First aid**

The first aid box is located on top at the entrance to the kitchen. This will be pointed out to you during induction. If you use supplies in the first aid box please inform the administrator so that restocks can be made. The First Aid Officer is Joanne Moffitt.

## **13. Fire safety and evacuation**

As part of induction all students will be shown the location of fire extinguishers and instructed in their use. Please note that water extinguishers must not be used on electrical fires. Use the foam extinguishers in this case.

Fire and evacuation drills are held on a regular basis. The evacuation officer is Michelle Burrell.

There are three fire exits - one at the front door (wheelchair accessible), one through the seminar room (wheelchair accessible) and one at the rear through the kitchen (several steps).

### **In the event of fire**

Do not attempt to use fire extinguishers unless you have previously been given instructions in their use. Leave the area of the fire immediately, if possible closing door behind you (to help prevent the spread of fire).

Immediately inform the fire safety person, Michelle Burrell. Tell them or if they are absent, another member of staff the location and extent of the fire. They will inform all people present if it is necessary to prepare to evacuate and will call the Fire Brigade.

If required to evacuate leave immediately through the nearest exit, do not collect any belongings. Proceed calmly out of the building and assemble at the assembly point. This is located in the car park at the rear of the building, towards the entrance of South Sydney Juniors Club. Do not leave the assembly point or attempt to go back into the premises until the all clear is given by the Fire Safety person.

When we take a roll call at the assembly point the Fire Safety person will bring with them the student and staff time folders so as to be able to account for all people in the building. It is therefore crucial that you record your attendance at the Centre on your time sheet so that we have accurate records of who was in the building at the time of fire.

## **14. Personal Safety**

We aim to ensure your personal safety whilst you are at the Centre. As a community service, we deal with real people with real legal problems. Sometimes clients will display challenging behaviour. Part of the learning process and a commitment to equality and access is developing strategies for working with people under a lot of stress who sometimes display such challenging behaviour. However, your personal safety is paramount. For this reason mobile alarm buttons are available. Please note that we have never had to use these, there are a health and safety precaution only.

Using common sense and remaining calm is often enough to deal with these situations. A few handy hints you might want to adopt include:

- If you are concerned that a client is severely intoxicated excuse yourself from the interview and come and discuss the matter with a staff member
- If a client becomes distressed and you feel you need some help - come and discuss with a staff member
- If a client threatens you in any way, leave the interview room immediately and seek help from a staff member
- If a client says they don't want to be interviewed by a student excuse yourself and discuss with a staff member
- If the client wishes to make a complaint refer them to our complaints procedure leaflet (they should have already been given this at reception) and a staff member
- If a client makes rude, aggressive, racist, sexist or homophobic comments, excuse yourself and discuss with a staff member
- Never work back in the evening alone.

### **Policy on threats by clients**

1. Whenever anyone makes any threat of physical harm to a student or volunteer the matter should be immediately referred to a staff member.
2. Where a threat is made to a staff member it should be reported to the Director or their delegate or to an appropriate member of staff.
3. Where the matter is sufficiently serious and the Director believes there is a real risk to the safety of anyone at the Centre the matter should be reported by the Director or staff member at the Director's direction to the police and/or UNSW security. Client confidentiality should be carefully considered at all times though the safety of staff, volunteers and students is paramount.

## **15. Kitchen**

The kitchen is to be maintained to the extent described in the Role of the Duty Student . To make this task easier everyone should try to keep the kitchen (and indeed the whole office) tidy. For example clearing up after lunch, washing your cup, cutlery etc.

Kitchen supplies, including daily milk will be reimbursed on production of a receipt. (see Denise).

There is a microwave oven and a fridge for the use of staff and students. Please wipe out the microwave after each use and make sure the fridge is kept clean and tidy.

There is a hot water urn on the wall above the sink. This water is boiling so please take care when using.

If the kitchen is being used for a meeting, students are welcome to use the kitchen in any event; people using the kitchen for meetings are aware that the normal use of the kitchen will continue around them. For private meetings eg assessment meetings, student will be informed not to disturb the meeting.

## **16. Locking up and alarm**

Before leaving Kingsford Legal Centre each day, students must **put away all their files and clear the desks and workspaces.**

The last person leaving the building must do the following:

### **Turn off:**

- (I) air conditioners
- (ii) photocopier
- (iii) computers ( but not the server)
- (iv) the lights in the solicitor s offices, interviewing areas, toy library, photocopying room, toilets and all main office lights, leaving one light on
- (v) turn off heaters or air conditioners/fans

### **Lock:**

- (I) kitchen door
- (ii) entrance to the toilets
- (iii) all windows including those in interview rooms, photocopy room & and men s toilet
- (iv) door to interview rooms
- (v) deadlock the front door
- (vi) toy library door
- (vii) photocopy room door

### **Close:**

- (I) blinds and windows

### **Turn on:**

- (I) answering machine

## **Get instructions from staff on operating alarm**

Note: If the alarm goes off when you are leaving please re-enter and re-engage alarm.

## **17. Travel Policy**

Staff and students should use the most reasonably appropriate economical method of travel at all times.

This means for instance trips to the city would generally be by bus. Where staff/students need to carry documents etc they should balance the cost of using taxis with parking fees.

Students are responsible for organising their own transport after evening advice sessions.

## **14. Other trips**

Where a trip would involve more than one trip by public transport, use of taxis is fine.

Travel outside Sydney is to be conducted under usual University guidelines.

### **Travel associated with Domestic Violence Court Assistance Scheme Roster.**

Staff and students accompanying clients of the scheme should not use their own vehicles for transport, rather Cab Charges should be used for providing transport for clients between the Court, refuge, KLC premises etc. Under no circumstances should students transport clients of the DV scheme in their own vehicles.

#### **Visits to campus**

#### **Parking**

We have a portable parking permit which you may borrow from the Admin Staff for trips to campus from the Centre.

#### **Walking**

Environmentally sound, not too far (10-15 minutes) and scenic.

#### **Library Photocopying**

We have a card for use in the photocopier at the Law Library. It is to be used for client related research. The cost is charged to the Centre.



you must write your name at the top of the page for that evening so that the session supervisor knows which students are rostered on.

Please also inform the Co-ordinator of your evening session details and notate it on the central roster displayed in her office. You should have selected your evening sessions and informed the Co-ordinator of this by the end of week **one** of the session.

### **Office (Daytime) Diary**

The diary has a black cover and lives at the front desk. It is used to record all staff and student commitments as well as review dates for files and time limits.

Appointments for specialist outreach sessions (child support and tenancy advice) are made in the daytime diary. Employment law session appointments are also made in the day diary.

There are two afternoon appointments every day except Monday for new clients at 2pm and 3pm (see Advice Sessions). Students take part in afternoon interviews. The Monday afternoon appointments are reserved for clients who wish to make an appointment for Eastern Area Tenants Service (EATS) The KLC afternoon appointments should be made according to the same criteria for night time appointments (above), and:

- (I) only for people who say that because of age, infirmity, child-care, shiftwork or other factor, they cannot attend at night.
- (ii) only for discrimination problems

NEVER make more than two day-time appointments unless you have permission from a solicitor on duty. Do not make appointments for solicitors without checking with them first.

**The day diary is a key tool in ensuring files are reviewed regularly, and acted upon. All files put back in the filing cabinet should have a future review date written on the front of the file and recorded in the day time diary. The duty student uses these entries in the day diary to pull files that need review. This ensures files are not overlooked.**

## **19. Incoming and outgoing post and DX**

We send and receive mail as part of the internal UNSW system. The University mail room collects and delivers this mail to the Centre. The Centre also has a pigeon hole on Level 10 inside the General Office at Law School. The Administrator opens the Centre s mail.

As an alternative to ordinary post, the Centre subscribes to the Australian Documents Exchange (Ausdoc) which operates a system of private mail boxes (DX).

Each morning the duty student should collect the DX mail from the exchange, each afternoon they should take the DX mail to the exchange and place it in the **outward** boxes.

Our DX number is **DX 22709 KINGSFORD**. Please ensure that all DX mail has our name and DX number stamped or written on the back of the envelope. Solicitors, barristers, courts,

departments and many other professionals use the DX. It should be used in preference to mail for all intra- state correspondence. Inter-state DX **is very expensive** and should be brought to the attention of one of the admin staff if you are to use inter-state DX.

## **20. Preparing letters and documents prior to mailing**

Letters and documents drafted by students are to be submitted to the relevant clinical supervisor/solicitor for checking. When the student's final letter draft is done, it is attached to the front of the file, and put in the solicitor's work tray for signing. **No letters or documents can be sent without first being approved by the clinical supervisor.**

Student should photocopy any enclosures and attach to outside of file with the letter. If you photocopy a document of more than 20 pages on a particular file, you must record this on the Disbursement Summary Sheet.

Never forget to put a copy of the letter and all enclosures on the file.

For all letters, please use our house style. Remember to put

- The date
- Our reference (solicitors initials then our file number eg FG/99/151)
- The reference of people we are writing to
- Don't use re in the heading
- Try and spell our names properly eg. Frances
- Leave at least 4 carriage returns after Yours faithfully and then type in capitals  
KINGSFORD LEGAL CENTRE
- You may then type your name - with student law clerk following

*For an example see over page*

17 January 2003

KINGSFORD  
LEGAL  
CENTRE

Our ref: KM/ 99/147  
Your ref:

Mr Micky Mouse  
64 Disney Street  
KINGSGROVE NSW 2208

Dear Mr Mouse

**Pluto vs Walt Pty Ltd.**

Your case has been set down for hearing at the Administrative Decisions Tribunal in the Equal Opportunity Division, on the following dates:

Dates: 17th to 22nd March 2003  
Address: Level 15, St James Centre  
111 Elizabeth Street  
Sydney.

You will need to make sure you attend on both days of the hearing. We will contact you before the date of the hearing to discuss any final issues. If you have any questions in the meantime please feel free to ring us on 9398-6366.

Yours faithfully

KINGSFORD LEGAL CENTRE

Vedna Jivan  
Solicitor

Debra Clever  
Student Law Clerk

**21. Faxing**

**IN**

The duty student is responsible for ensuring all faxes received are placed in the FAX IN tray next to the machine.

Most faxes will state the name of the person the fax is intended for. If so, the duty student should give the fax to the relevant person. If the addressee is not in the office please place the fax in their pigeonhole. Therefore only faxes with no clear owner should remain in the Fax In tray.

Always read faxes and consult staff if urgent.

All staff and students are responsible for regularly checking the Fax In tray to search for faxes not clearly addressed.

At 4.30pm each day, the duty student should check the Fax In tray to see if there are any homeless faxes left in there. The duty student should discuss with the Co-ordinator or if she is not available, another member of staff who to allocate the fax to. Therefore at the end of the day there should not be any homeless faxes left in the fax in tray.

## **OUT**

1. Prepare your letter or document as per rules on having correspondence checked before sending. Remember to include at the top of the letter BY FAX and include the fax number.
2. Fill in the pre-designed fax cover sheet next to the machine and place as top sheet.
3. Place bundle face down in the machine. Punch in number, press start.
4. If there are more than 10 pages you must send in separate batches.
5. You will know that the transmission has been successful, as a pink circle will print on the bottom of the pages faxed. If you require a print out as proof of transmission the machine can be programmed to do this. Ask Michelle or Denise for help with this.
6. Remove fax documents once successfully sent. If not successfully sent, then try again.

If the machine jams or the cartridge needs replacing see Denise or Michelle. The machine is very sensitive and expensive to fix so please take care and ask for help.

**Always make sure the OUT button is pressed in, showing red light, otherwise we cannot receive faxes.**

## **22. Telephones**

Students are responsible for answering incoming calls. At all times you must act in a professional manner. For many people a telephone call is their first contact with Centre, as such your manner reflects upon the reputation of the Centre. Always state the name of the Centre when you answer the phone.

If you attempt to put a call through to a staff member and they cannot take the call, or if they are out of the office, politely inform the client. Please don't simply say they can't talk to you. You might say that they are not available or with a client or not able to take calls at the moment but please re-assure the caller that you will take a message and ask the staff member to call them back.

**When the caller asks for one of the staff members by name.**

7. Ask who is calling?
8. In relation to what **client file** or **other matter**?
  - (I) If it is **not about a client file**, intercom the staff member to put the call through.
  - (ii) If the staff member is out/unavailable/on a call, take a message. Once responded to, these messages are included on the client file as file notes. Therefore, it is **essential** that you record the
    - name of the caller, organisation or firm
    - the time
    - date of the call
    - phone number
    - and your name

9. **If it is about a client file: HOLD**

Check the **student** on the file by looking at the main file list pinned on the main notice board.

- (I) If the student is in that day, refer the call to the student or take a message.
- (ii) If the student is in on another day, take a message or help the caller yourself

**If** there is no student allocated, or if it is an urgent matter, then intercom the solicitor to see if they can take the call.

**When the caller wants legal advice**

KLC only gives legal advice over the phone on Tuesdays and Thursdays from 6-8pm, for clients who cannot attend appointments, except to social workers and community workers. If the caller says that they are calling in that capacity, refer the call to a solicitor. Otherwise, do as follows.

**If the client wants EMPLOYMENT LAW ADVICE:**

You must do as follows:

Check whether the person is within KLC s geographic boundaries (Randwick and Botany), and that their income is not above \$50,000 per annum. If they are above means test or from outside our area refer them to a service in their area or to a private solicitor.

- Check the time limit (21 days for unfair dismissal) and determine whether the caller can be steered towards the following:
- **Best option:** Client to attend face-to-face advice session (Wednesday afternoon, every second Thursday evening). If this is not possible, due to time limitation, or other reasons, refer the caller to telephone advice.
- Telephone advice intake occurs every Wednesday morning from 10am to 12 noon. Students

take instructions/details over the phone and then pass to Sinead to provide advice later in the day or week (depends on demand). **Telephone instructions are not to be taken outside this session unless there are exceptional circumstances.** Consult Sinead where there is any uncertainty.

- Additional phone advice available every second Thursday evening, at same time as face-to-face employment appointments.
- **If the caller says the matter is urgent, ask for more detail, and refer to Sinead immediately.**
- If none of these options are available refer caller to:
  1. **The NSW Working Women s Centre**, a statewide service for women,  
**157 Wardell Road, Dulwich Hill 2203**  
Tel: 9559 5355 or 1800 062 166, or
  2. **a private solicitor on our employment law referral list.**
  3. **Their local community legal centre ( if there is one in their area)**

**If the client wants NON EMPLOYMENT ADVICE:**

You must undertake the following:

Check whether the person is within KLC's geographic boundaries, if not refer them to a service in their area:

Check the type of matter (e.g. personal injury/medical negligence should be referred to a private lawyer).

**Immediately go to the Red Book — KLC policy and referral manual** Look up the type of problem to see if KLC can assist. If yes, make an appointment, if not, make a referral.

**Note that if it is a family law matter, they must automatically be referred to Legal Aid.**

**All immigration matters should be referred to specialist immigration services.**

If they are within geographic boundaries and have a matter which KLC provides advice on:

- Try to make an evening appointment (not immigration, wills or discrimination)
- If a person cannot come to evening appointment, try to make a day appointment.
- If they cannot make either day or evening appointment for good reasons, suggest KLC telephone advice (Tues and Thurs evenings 6 to 8pm). Also tell them about other services, which might be able to assist. These include:
  - (I) Immigration  
Immigration Advice & Rights Service (a community legal centre).  
Phone Advice 9281 8355: Tuesday & Thursday, 2.00 -4.00 pm  
Drop In Advice: Monday evenings 6-9 pm (City)  
Wednesday evenings 6-9 pm (Marylands)  
Appointment: 9281 1609
  - (ii) Tenancy - Eastern Area Tenants Service - Phone: 9386-9147
  - (iii) Tenants Union Hotline 9251 6590
  - (iii) To find a solicitor in private practice contact the Law Society or suggest some from our referral list. Give at least three firms so that the caller has a choice.
  - (iv) Social Security/Centrelink  
Welfare Rights Centre (a community legal centre)  
Monday to Friday  
Tel: 9211 5300 or 1800 226 028  
**Telephone advice: Monday 9-5pm, Tuesday 1-5pm, Wednesday 9-1pm, Thursday 9-5pm**

- (v) Domestic Violence  
Domestic Violence Advocacy Service (a community legal centre)  
Monday Tuesday Thursday Friday  
9.30 to 12.30 and 2.00 to 4.00pm  
Tel: 9637 3741
- (vi) Consumer Credit Legal Centre (Phone advice only)  
Tuesday Thurs  
10 am to 12.30 pm 2.00 to 4.30 pm  
Phone: 9212 4111

If none of the above services is appropriate then the person needs to see someone for advice: **see Advice Sessions. But note that we do not give immigration advice, or draft wills on either day or evening sessions.**

### **Urgent matters**

In some **urgent cases**, such as when violence is threatened, a Court case is imminent, or a person is in custody, a person may insist, and a student may believe that it is necessary to give advice over the telephone. Be sensitive to this, and not unduly bureaucratic in insisting on guidelines. Consult with one of the solicitors.

### **When the caller refers to a client's file**

1. Check the file list to see which student is handling the file.
2. Refer the call to that student if the student is available, or offer to take a message.
- 3. Make a file note.**
4. Leave a message for the relevant student in their pigeon hole.
5. **If the student is unavailable and unlikely to get the message for a day or more**, refer to the solicitor on the file or, if they too will be absent for more than a day, another staff member.
6. If the file is not allocated to a student, intercom the solicitor.

### **When the caller has a general query**

7. Answer it.
- 8. If you cannot do so confidently: Put the caller on HOLD.**
9. Discuss it with your fellow students, and if necessary with the administrative staff and solicitors.
10. Some matters might, at your discretion, be better referred to:

- (I) Solicitors, for matters relating to the legal practice, student supervision, complaints.
- (ii) Denise as Administrator, for matters relating to account payments, office management and student enrolments
- (iii) Denise for volunteer solicitors, interpreter bookings and centre policy.
- (iv) Michelle for anything else.

You are required to **RECORD** all information calls on the Information/Referral statistics forms. This information is needed for statistical reasons to account for the number of contacts made to this office and where the referral has been made. **Every referral you make must be recorded on these sheets — including those to the KLC Employment Law service (but not generalist KLC appointments).** Please remember to write your name on the sheet so that we have accurate records of your referrals - this will be discussed with you at assessment sessions. Information/Referral statistics recording sheets are kept in the information only tray (completed) at the front counter.

### **The Answering Machine**

- Turn it **ON** only between 1 and 2pm, and after 5.00 on Monday, Wednesday, and Friday.
- Remember to turn it **OFF** at 2.00 pm and 9.00 am.
- It operates by switch on the wall next to the client record cards.

### **After hours phone**

Line 6 is the Batphone. It has its own number which staff use for incoming personal calls. If you answer a call that comes in on line 6, there is no need to ask who is calling, just put through to the staff member

**Long Distance and Reverse Charge, Calls to Mobile Phones - NO CALLS ARE TO BE MADE UNLESS YOU HAVE THE SOLICITOR S PERMISSION ACTING ON THE MATTER.**

Some phones have STD capacity. Ask staff which phones. Use them for client related matters. Record all STD, mobile and ISD calls on the KLC Disbursement Summary sheet.

We accept charges on reverse charge calls **only after confirmation with the supervising solicitor** from existing clients in emergencies or when the client is in gaol.

### **Personal calls**

Necessary personal, local calls can be made at any time. They should be brief and for a purpose. Similar personal calls can be received at any time. It is best not to try to run a business or a social calendar from the Centre. Please be aware that we have limited resources.

### **Mobile phones**

Students **MUST TURN OFF** their mobile phones whilst at KLC. Students are not permitted to make/receive calls on their mobiles at KLC.

During evening telephone advice sessions we can accept calls from mobile phones but will not ring back to mobile phones. The caller needs to be made aware of this so we can arrange a call back to a land line.

### **TTY Phone**

This facility allows us to communicate with people with a hearing disability.

Instruction on how to use the TTY phone will be given as part of induction. Clear written instructions are on the wall next to the phone.

### **23. Photocopier**

Is located near the interview rooms, next to archive area.

Full instructions on using the copier will be given as part of induction. The machine double sides, collates and staples and remembers key standard forms.

Always leave the copier as you found it and **press the reset button before** leaving. Do not walk away from the machine leaving jams, no toner etc. Ask for help if needed.

If machine jams follows instructions on machine. If you need to replace toner follow instructions but take care and where gloves and mask provided.

Personal photocopying is discouraged. Please ask Co-ordinator if you want to do private copies.

### **24. Stationery**

**All handout materials for this subject cost \$33 for intensive and \$27.50 for intensive (GST inclusive) This amount should be paid to the Administrator by the end of week 3. Office stationery is provided without charge. This arrangement may not continue if printed paper and general stationery items are not treated responsibly and with respect for their value and for the limited resources of a community service.**

Pens, pencils, paper clips, Post-It Notes, glue, scissors, etc. are supplied to you. They are stored in the office and should be used only when necessary. It will be the responsibility of the duty student (see Duty Student) to ensure that enough stationery (particularly pens) are on the tables, that stationery is used responsibly and returned to storage if any excess is left around the office.

Please do not souvenir stationery items (leave them stationary). As a community legal centre, our funds are limited. We have had to cut back on our stationery budget. For this reason students are asked to be mindful of our lack of resources.

## **Recycling**

Papers that are spoilt but contain confidential client information (that is anything that can identify a client in any way!) should immediately be shredded and placed in recycle bins. NEVER throw papers with client information on them directly into bins or recycle without first shredding them.

All used paper that is blank on one side (except for that containing confidential information about clients) is recycled and used for drafting documents, letters and scribble paper. You will find a supply in the box on top of the main student desk.

Any other paper - newspapers, cardboard, paper written on both sides must be placed in blue recycle containers in the main office.

**Be very careful when shredding**, telephone attendance notes, original documents, file notes etc must not be shredded! The office shredder has a maximum capacity of **four** sheets at a time.

## **25. Accounts**

### **Trust Account**

The Centre operates a Trust Account in which clients' money is held pending release of that money on the client's authority. Any money that is received directly or indirectly from a client, or is received by the Centre on behalf of the client, must be received properly. The Administrator, as bookkeeper, manages the receipt and banking of money, and Director as Principal Solicitor of the practice has the responsibility for the proper maintenance of the Trust Account. The Trust Account is inspected annually by the Law Society.

Client money includes settlement payments, money paid by clients towards the costs of disbursements, and any other monies held on trust for clients. It does not include donations to the Centre.

Any trust account receipt must show the following details (please rely on the details of previous trust account receipts in the receipt book as a guide). It is best to ask for help from Denise when dealing with client money/trust account.

- (I) Client name
- (ii) Client file number
- (iii) Type of matter
- (iv) Amount of money ( including GST where payable)
- (v) Signature
- (vi) "cash" or "cheque"
- (vii) Purpose for which money is received (e.g on account of filing fee)

We have specific forms that must be completed whenever money is paid into the Trust Account on behalf of a client and for whenever a cheque (or other) payment is requested. Please see the Administrator for one of these forms. The routine to follow is:

1. Get income or payment form from Administrator
2. Fill in details on form
3. Attach copy of relevant correspondence ( eg fee note for disbursement usually in the form of a tax invoice including details of GST, relevant page of settlement agreement), keep the original on client file!
4. Get form signed by solicitor
5. Pass to Administrator for drawing of cheque or paying into bank.

More details about the trust account will be given during induction.

### **General Account**

The office maintains an account for general operating expenses, including petty cash. It is unlikely you will receive money for deposit to this account; more likely you will want to be reimbursed from this account. Any reimbursements should be claimed from the Administrator.

### **Reimbursement for expenses**

General kitchen expenses should be reimbursed from petty cash -see Denise for more details.

All travel expenses, including buses, trains and petrol, should be claimed through the Administrator. All purchases, such as forms, statutes and stationery should also be claimed from petty cash. To claim reimbursement, present a receipt or a written note of the expense to Administrator. She will arrange for you to complete a petty cash voucher.

Please note that reimbursements will not be paid unless:

- Prior authorisation for expenses has been sought and agreed
- A proper receipt is produced to evidence the expenditure
- Note that all expenses over \$ 50 must be evidenced by a full receipt in the form of a tax invoice, including GST.

## **26. Statistics**

KLC maintains statistical records of all work undertaken by the Centre. The system we use is called the National Information Services (NIS). It is important that all work is recorded on statistics sheets provided so that we can use the information to :

- Monitor workload
- Identify gaps in service delivery
- Plan services
- Monitor take up by the local community

- Monitor equalities information
- Produce evidence to funders ( eg Legal Aid Commission) that our grants are being used for the purposes for which they are provided.

Students, staff and volunteer solicitors are responsible for completing statistics forms. These are passed to the Administrator for inputting onto the database. On the 17th of each month all statistics must be entered onto the database so that we can download the data and send it to the central unit in Canberra. Sometimes, students may be asked to help out with NIS data entry.

To make the collection of statistics easier we use the following forms for recording stats:

- existing advice sheets (white) for face to face advice
- existing telephone sheets (pink) for phone advice
- Information/Referral statistics sheets (white) found next to each phone for referrals
- Open and close client file book
- The summary provided in the Project/Training book located next to the client card drawers in the main office for non casework activity.

It is absolutely vital that all telephone advice, face to face advice, referral, project and other work is recorded on the forms/books provided. If you fail to do this, the Centre loses out as we cannot provide evidence of our work to funders and the wider community.

When filling out statistics forms please make sure you complete all the details asked for - **including the statistics code for the problem type, conflict search and limitation period. If there is no conflict or limitation period write N/A.** For ease of reference, a summary of problem type codes is taped to each of the large student desks in the main office.

It is **very important** that students collect demographic data on all clients (face-to-face and phone) as required on the advice sheet, e.g. gender, age, ethnicity etc.

# COMPUTER AND LIBRARY

## 27. Computer basics

We have the following IT resources

- 16 terminals, networked running Windows 98 and Office 2000, all with Internet access
- 2 laser printers
- 1 MAC terminal used for Desk Top Publishing (DTP)
- 1 scanner attached to a terminal for DTP purposes
- 1 server for network
- 1 laptop for use in interview rooms for taking statements etc

As we are an under-resourced agency you may find that it is not always possible to get onto a terminal. If you have an urgent matter please discuss with another student as to having access to complete the task. Generally the staff will be using their computers constantly, please try to use the machines in the main office first.

Our word processing package is Word 2000. Please seek assistance if you have any problems or need training.

### **To turn on computers**

In order to gain access to the network (including previously saved documents) you must log on as a user using the appropriate password. For student machines this is quite simple, for staff machines you will need to see Michelle for a password.

- Turn on monitor and processor
- Windows will automatically open (be patient it takes a while)
- The password prompt will come up. Type in the correct password.
- You are now in the network.

## **To turn off machines**

As we use Windows 98 it is very important that before turning the machine off, the user has exited windows properly.

- Click on start button in the lower left hand corner of the screen
- Click on shutdown
- Screen will say windows is shutting down
- Wait for screen to say it is now safe to turn off your computer
- Turn off monitor and processor.

Students are forbidden to touch the server located in the main office.

If you have problems with any of the machines eg freezing up, printer won't work, screen wobbling, please seek help from either Denise or Michelle. Do not attempt to fix it yourself!

If you need assistance with mail merge, labels or using Excel, please see Michelle or Denise.

## **28. Creating documents in word**

You can decide between blank document or KLC letterhead - all letters must go out on this letter head

### **To create a new blank document, follow the steps below**

- Click on word on button bar on right side of screen
- A blank document will come up

### **To bring up letterhead template**

- Click on new office document — at top of button bar, right hand side of screen
- Click on General
- Click on KLC letterhead

The letterhead template will come up. We are having a few problems with this so please note that you need to put the date on the same line as the bottom of the UNSW logo.

### **To open existing documents**

- Click on open office document second top on button bar on right side of screen
- Select the drive (eg documents, admin, casework -note client docs are saved in casework)

- Click on appropriate doc to open

OR

- If you are already in word click on open doc icon on top button bar ( second from left)
- Then follow same steps.

### **Opening and using Court Document templates**

- Go to admin directory
- Click on Precedents folder
- Click on Templates
- Click on either local, district or high court
- Copy the document
- Put in details where required
- Print and save in appropriate casework folder/directory — do not save in precedents

### **29. Saving documents on computer - directories and sub directories**

The Centre s computers are all networked and letters or documents should be saved in the appropriate directories listed. These are:

f:\klc\server\document  
g:\klc\server\admin  
h:\klc\server\casework

**All client documents are saved in the H/casework drive.**

**Do not save in my documents , or create your own folders, rather save documents where they belong!!!!!!!!!!!!**

**Save letters on the h: drive - name the letters under the name of the solicitor and the client folder whose file you are working on.**

If it is a new client — create a folder within the solicitors casework directory. To do this:

- Click on h:\klcserver\casework

- Click on solicitors directory
- Click on new folder
- Name the folder using clients name

Use the clients name to name the file together with number or indication of what the document is eg. smith affidavit 1.

### **To create a running-head (recording where document is saved and saved name)**

This function is automatic in word

### **Deleting files**

At the end of each case, once you have filleted the case file and ensured all documents and correspondence is contained in the paper file you can delete the client folder ( and all documents therein) from the computer.

Before the file is closed the solicitor will indicate whether this case might be useful for other matters the centre takes. If the case fits this category a record is kept on our useful cases database .

Process for date entry:

- Go to casework on h drive
- Open folder useful cases , then open subfolder for particular area of law eg discrimination;
- Fill in the following fields: file name, box number, date file closed, matter, also write a brief summary including the issue that makes this file interesting.
- Close file

## **30. Internet and Email**

All the computers have access to Microsoft web and e-mail packages. Please use your email account number issued by UNSW to log on. Please do not spend your placement time sending and receiving personal emails.

The web can be a useful tool for legal research. The computers have as their home page the Australian Legal Information Institute site (<http://www.austlii.edu.au/>). This gives information on judgements, statutes etc.

If you have information about useful websites that you would like to add to favourites please tell us about them so that we can update the favourites file on each of the machines.

Do not under any circumstances download offensive material ( including that which would breach our equal opportunities commitment).

Please make sure you log off the net when you have completed your search. Never, ever leave a web page up overnight.

### **31. Computer support**

Computer support technicians come to KLC on the last Friday of each month. In order to streamline things, if you experience problems with computers, write down the problem and put in Michelle s pigeon hole. She will then pass on to technicians.

Please note the:

- Date
- Terminal number
- Nature of problem
- Error message (if any)

#### **To avoid problems the following rules must be followed:**

- Students are forbidden from creating their own folders on any drive. All client documents must be saved in the client folder under the name of the solicitor in the letters drive. Projects should be saved under projects in the document drive.
- Students are forbidden from saving documents on the my documents folder. All documents must be saved on the correct drive on the server.
- Students are forbidden from downloading software onto KLC computers.
- Students are forbidden from adjusting the settings on KLC computers — this includes creating new screen savers!

For general problems seek help from Michelle or Denise.

### **32. Library and library database**

We have a part time librarian (Murray) who helps to catalogue and maintain the library. Main texts, legal encyclopaedia loose leafs, case reports, statutes and journals are available. Information about law reform, local organisations and our community is also available. A library tour will be available as part of induction.

The golden rule for using the Library is to return books, loose leafs, statutes etc. back to where you found them! **Never, ever pull out pages from a loose leaf** (to copy) and then neglect to put

the pages back into the correct place in the binder. This leads to errors in the loose leafs which are time consuming and expensive to correct. The worst case scenario is that the wrong advice could be given - leaving the Centre open to complaints and possibly being sued.

If there is a journal or text that you think would make a useful addition to the library - please discuss with Michelle.

Please remember that you are not permitted to take books home. Please help us to keep the library tidy by returning the publication to where you found it on the shelves. If you cannot locate where a book belongs please place the item in Murray s pigeon hole.

**KLC s library is also on the UNSW law library catalogue database**, so you can check the catalogue to see if we have a publication. To do this you must log into the Library Internet site and put in the password. Follow these steps:

- Go to UNSW Library webpage
- User id = view
- Password - see Michelle.
- Then you can search

We also have access to all the **UNSW law library electronic databases** eg Butterworths online etc. To use these follow these steps:

- Go to UNSW Library homepage
- Click on information resources
- Click on databases
- Type in law at select a database
- Click on view and records

And you will be in!

### **33. The Lawyers Practice Manual (LPM)**

The LPM (a.k.a the Red book) was a joint enterprise between Redfern Legal Centre and Kingsford Legal Centre. It is now published by Redfern Legal Centre Publishing and the Law Book Company.

It is unique text, offering legal practitioners a guide to areas of law and practice not usually or extensively covered by mainstream texts. It is practical, easy to use and includes topics such as working with clients living with HIV and AIDS, working with Indigenous people, as well as a full range of civil and criminal law matters.

You have access to two copies in the office.

If you decide you would like to purchase the Manual ask the Administrator to order for you and you should receive it before the end of your session. You may be able to receive a discount.

# THE LEGAL PRACTICE

## 34. Introduction

The casework you undertake at the Centre will be supervised by a solicitor. You will have day to day responsibility for reviewing files, taking appropriate action, drafting documents, maintaining the file in an orderly state, making file notes, liaising with and keeping the client informed of progress, liaising and negotiating with other parties and generally progressing the matter.

Before the Centre takes on a case, the client is interviewed by a student at an evening session or day appointment. On the basis of the attendance notes and documentation attached to the advice sheet, the solicitors will decide if a case can be taken on. This process is undertaken by a case meeting ( held every Monday). If a client s matter is not being taken on the Centre informs them of this decision. If the case is to be taken on, a student is allocated to the case.

## 35. Case criteria

### For all matters:

- we specialise in discrimination law and provide a state wide service.
- we specialise in employment law
- we consider whether the case will expand a particular area of the law for the benefit of a section of the community.
- We consider the strategic value of the case and how it relates to the law reform and community legal education work of the centre.
- we provide a service to people who live or work in the Randwick and Botany areas (basically bounded by Eastlakes, La Perouse and Coogee: see the wall map).
- we consider whether legal aid is available (most commonly the duty solicitor at court for many criminal matters, and sometimes for family law matters).
- we consider other appropriate agencies (a closer legal centre, the Legal Aid Commission, pro bono scheme, a chamber magistrate, financial counselling, Consumer Affairs etc).
- we assess where possible the person's ability to manage the matter themselves,

especially with the help of another agency such as Consumer Affairs etc.

- we take account of the urgency of the matter (is there a court date pending, is a notice period about to expire).
- we look at our own resources and availability of solicitors and students.

#### **For wills:**

**KLC does not draft wills.** A will can be done by any local solicitor quite cheaply. A referral list is available.

#### **For immigration:**

Immigration matters can only be done by a registered migration agent. Although one staff solicitor is registered as an agent, our volunteer lawyers are not. In the first instance, all people seeking immigration advice should be referred to Botany Migrant Resource Centre or to other specialist immigration services such as the Immigration Advice and Rights Centre. **We do not accept appointments for immigration advice.**

#### **For Child Support:**

Make a booking for Legal Aid Outreach (Child Support) at KLC (fortnightly session).

Making a good **REFERRAL** is a crucial if challenging task. The main resource to use is the **RED BOOK** — KLC policy and referral manual. Always check this book!

A referral requires you to have a sufficient conversation with the client to enable the above considerations, and to consult with fellow students, written resources and staff. Never, ever give the impression that you are fobbing off the client. Do your best to identify other sources of help and give the client as much information as possible as regards contact details, opening hours etc of organisations to which you are referring.

We are not bureaucratic, although we are careful with the use of our limited resources. We try to ensure that if we are not the last port of call for a person in need, then we are the second last.

Our legal practice is based upon the highest standards of client care and professional ethics. Your placement will provide you with an opportunity to learn about how this approach translates into practice.

### **36. Looking after clients**

Providing a high quality, sensitive and individually tailored service to each client is a fundamental principle of effective legal service. Some of the basic tenets for achieving this are:

- Always undertaking a conflict search before a matter is taken on. If there is a conflict, we cannot act or advise.

- Maintaining confidentiality.
- Always informing clients of any time limits and recording time limits on the file and acting within the time limit.
- Treating the client with respect and actively listening to the client
- Taking detailed file notes of all interviews and phone calls. This includes making notes of all phone calls, even where the phone was engaged or rang out. Each file note must be signed with **the full name** of the student.
- Providing the best quality advice by thoroughly researching the law and developing a range of options for the client to consider.
- Always taking detailed instructions from the client and ensuring they are accurately recorded.
- Maintaining case files in an orderly fashion, the standard is could another adviser understand this file and pick up the matter easily?
- Keeping all documents, correspondence and file notes on the file.
- Regularly reviewing files and undertaking action required.
- Keeping the client informed of progress.
- Using plain language.
- Meeting communication and access needs of the client eg using properly trained interpreters.
- Operating within the rules of professional conduct, including professional courtesy, rules re disbursements and trust account.

### **37. Conflict of Interest**

The Centre will not act for or advise more than one party to a dispute.

The Centre will not act for someone in a dispute with a person who was previously a client of the Centre if the Centre has received from the former client confidential information relevant to the current dispute, or where the former client would reasonably expect the Centre to be available to act for her/him in the current dispute.

**IT IS VERY IMPORTANT THAT YOU CHECK FOR CONFLICT OF INTEREST BEFORE AN APPOINTMENT IS MADE FOR ANY MATTER, ALWAYS DO A CONFLICT CHECK BEFORE MAKING AN APPOINTMENT. ALSO ENSURE THAT THE CLIENT IS NOT IN DISPUTE WITH UNSW.**

### **To search for a conflict of interest**

1. On identifying the other party/ies to a dispute, check the NIS computer on reception.
2. Search for the name of the opponent in the matter, not your client's name. Some client names have many different spellings so just enter the first 3 letters of the client surname. If the name appears on the computer index, check the details.
3. If no name is found on the search, then no conflict exists (assuming the records to be in order).
4. If a conflict arises, locate the advice sheet for that name and check to see if it is on the same matter. Always seek help if you're not sure how to proceed.

### **38. Confidentiality**

The full meaning of confidentiality will be discussed in the first weeks of session. Discussion of files and clients within the office with KLC students and with staff is not only permissible but encouraged when that discussion is constructive, and is part of an analysis of the client's situation.

**Strict confidentiality must be maintained in any discussion concerning your work with people outside the Centre. On no account should a client be identified, or should information be made available that would enable someone to identify a client.**

Phone calls and enquiries from third parties seeking the identity or whereabouts of our clients are to be treated with caution. No information is to be given out in any circumstances without consultation with a clinical supervisor.

Always check with a client if it is appropriate to leave messages and/or identify the centre on their answering machine. This may inform other parties that the client has visited the centre and so would be a breach of confidentiality if the client has not given permission.

Files may be taken out of the office when attending Court, conferences or a client interview. Files must not be taken home for a student to work on, unless permission from the clinical supervisor/solicitor has been given. In that case a dummy file with client name and file number and student's name and address must be created.

The Centre handles a number of matters which involve clients who have HIV/AIDS. It is a criminal offence under the Public Health Act to disclose a person's HIV or AIDS status except with the consent of the client, or if the disclosure is a "normal duty" as a consequence of providing the legal service. The reason for this confidentiality is to protect people with HIV/AIDS from discrimination.

### **39. Time Limits**

It is vital that time limits on any matter are checked, communicated to the client (including in letters of advice) and a note made on the file. Missing time limits can leave the Centre open to

complaints and legal action. **A summary of common time limits is included in this manual at Appendix 1. Copies are also held on the reception desk and in the library.**

Time limits must **always** be recorded on the file, in the office (day) diary and in your own diary. You must check your diary every day for impending time limits

Using your diary to note time limits, and how close they are can help you to ensure that no time limit is missed.

For example, Client A must issue proceedings in the Consumer Trader and Tenancy Tribunal within 30 days, that is May 1st 2003.

- Write in the details of Client A time limit issue on May 1st
- Write one week to Client A issue on April 24th
- Write two weeks to Client A issue on April 17th.

#### **40. A guide to taking instructions and gathering information**

In order to gather the relevant information from the client during a preliminary interview or telephone advice query, students should use as a guide the Instructions Guide contained as Appendix 2 and 3 of this document. Written notes should be made.

#### **41. Allocation of case files to students**

Students will be allocated new files from time to time in response to their own requests, the needs of the Centre and its clientele, and an assessment by the clinical supervisors.

Students should check their pigeon hole every morning on arrival at the Centre to see whether new work has been allocated to them. A file should be opened immediately (see below) and contact made with the client, if only to reassure the client that their matter is under way and that they will be contacted in the near future for an interview.

**If a student is concerned by the allocation of extra work, they should immediately see their supervising solicitor about their workload. Workload must be discussed openly and confidently, as it is unfair on the student, and on the clients who depend on the student's time and availability, for a student to be working under pressure or beyond capacity. There is absolutely no problem in asking to have new work reallocated when you are too busy. If you are having difficulty coping with the workload on your files then discuss it with your supervising solicitor.**

**IMPORTANT: *WHENEVER A NEW FILE NUMBER IS USED A CLIENT INFORMATION SHEET MUST BE COMPLETED***

#### **42. Opening, maintaining and closing case files**

## Opening

1. Original advice sheet will be in your pigeonhole.
2. Get the new client file opening red book and fill in next file number and other details as set out.
3. Insert file number and date of opening file on original advice sheet and then photocopy original advice sheet, **this photocopy will go on the file.**
4. Place original advice sheet in tray on the front desk in tray called NIS for filing so that it can be filed.
5. Get a file cover/manila folder (bottom of cupboard) and a Client Disbursement Summary Sheet (forms drawer) and attach this sheet to the inside file cover. Fill in relevant information on outside and inside cover (all information must be filled in, including date of opening file). Make sure the file has an open file and close file checklist on inside back cover as you will use these to check the file is properly maintained.
6. Attach **copied** advice sheet with all correspondence onto a spike (bottom index card drawer). If there are any court documents these are to be inserted in a plastic pocket.
7. Staple the Disbursement Summary sheet in a plastic sleeve to the inside file cover.
8. Write up a client card and file alphabetically in index card drawers. Get a file hanger (bottom of cupboard), tag and insert (bottom index card drawer) and write the client's surname and file number on insert and place in filing cabinet in alphabetical order.
9. Undertake Opening File Check **using the checklist** on inside back cover

## Maintaining files

1. Keep all documents, correspondence, reports etc on a clip in anti-chronological order - most recent date at the top.
2. Do not punch holes in, or mark Court documents - keep them in a plastic sleeve.
3. Do not punch holes in medical or psychological reports or any original documents- keep them in a plastic sleeve
4. For large files you may need to split into separate bundles eg exhibits, documents, correspondence, disbursements and fee note etc. Label these files 1of3, 2of3, 3of3 etc
5. Complete a letter of engagement or client agreement
6. Keep detailed, legible file notes, don't use abbreviations
7. When making file notes write the full date including year and your full name not initials

8. When making file notes of phone calls, make sure to record phone calls which are unsuccessful ie, when the phone is engaged or the call rings out.
9. Regularly review files and follow up on agreed action.
10. Always enter time limits and review dates and keep record of actions taken/review completed.
11. Place files back in filing cabinets at the end of each day, make sure date for next review has been marked on file and in day diary.

### **Closing a file**

1. Discuss closure of file with solicitor and then complete a file closure form. These forms are kept in the forms drawer near the staff whereabouts white board. Write a short summary of the case outcomes and have it checked by the solicitor before placing it in the file and saving it on the computer.
2. Write a letter to the client advising that the file is closed and that documents will be destroyed after 7 years. If the client is a minor the file must be held for 7 years after they turn 18.
3. Check ledger cards for any disbursements outstanding and monies held in trust. See admin staff for access to these cards, held in Denise s office. Disbursement Summary Sheet on the file s inside cover should also be checked. Denise must sign off on every file closure.
4. Go to new red book (opening book) and in the second half of that book note all closing details. This is so that the file can be deleted from main file list.
5. Go to master client list folder (white lever arch folder) and find current archive box number and write down relevant information.
6. On the files outside cover write the archive box number that this file will sit in.
7. Go to client cards and select appropriate card. Then place a red dot on the top left hand side of the card, record box number on the right hand side and record date closed where noted.
8. Remove file hanger from filing cabinet and place in archive box in cleaners cupboard.
9. Undertake Closing File Check **using the checklist** on inside back cover
10. Attach file closure form to the front of the file for solicitor s signature and put in solicitors pigeon hole, make sure you give the solicitor the whole file.
11. Place completed file into appropriate archive box in the back room.

12. Write a short description of case and save on computer at H/closed files/short description.
13. Delete other client documents from computer.

### **Finding a file that has been archived**

1. Older files and advice sheets are held off site in a secure archive storage facility. If you need to get a file back from the archive, follow these steps.
2. Check client cards for archive box number ( KLC).
3. Check to see if held on site, if not ..
4. Go to archive database on computer (see Michelle) or manual list in file opening/closing folder.
5. Look up KLC box number and get translated box number for off site archive. You will use this translated box number to extract the file from the storage facility.
6. Complete and fax file request form. If this is done before midday, file should be ready for collection on the same day.
7. **Complete summary in archive folder held on reception**, then go and collect!
8. Note when finished with the file, you need to return to archive by filling in a return form, completing summary on reception and taking to archive.

### **43. Opening , maintaining and closing Community Legal Education files**

#### **Policy on Handing Over Files to Another Practitioner**

1. Where a client has withdrawn instructions from Kingsford Legal Centre and has retained another practitioner and wishes their file to be handed over to that practitioner, written instructions confirming same must be provided by the client.
2. Where another practitioner takes over a matter previously handled by Kingsford Legal Centre and wishes to obtain the file, a written authority by the client to hand over the file must be provided.
3. Where a client has withdrawn instructions from Kingsford Legal Centre and has not retained another practitioner but wishes to have a copy of their file, written advice confirming the withdrawal of instructions must be provided by the client.
4. Where a client has withdrawn their instructions from Kingsford Legal Centre and instructed another practitioner, we must, on receipt of a direction in writing from the client, deliver to that practitioner all relevant documents to which the client is entitled and

any information necessary for the proper conduct of the client's matter unless there are outstanding costs.

5. If there are outstanding costs, the relevant documentation and necessary information may still be sent as long as the costs have been satisfactorily secured.

### **Opening a CLE file:**

- 1) Obtain a *Project Brief* from your supervisor.
- 2) Get out the **Projects Files Opening and Closing Book** and fill in the next file number and other details as set out.
- 3) Get a blue folder (bottom of cupboard under whiteboard). Write name of file and file number on the front
- 4) Go to **CLE co-ordination file** and find the *procedures* section. Fill out relevant details on the *file register*; then take an *Incoming Summary — CLE* form and fill it out.
- 5) Go to the **Contacts and Correspondence file** and photocopy all relevant correspondence. Make a note on the last piece of correspondence that all further correspondence will be on the file (not file name and number).
- 6) Attach the *Incoming Summary — CLE*, the *Project Brief* and the photocopied correspondence onto a spike (top of index card drawers).
- 7) Write up a client card and file alphabetically in index card drawers. Get a file hanger (top of stationary cabinet), tag and insert (cupboard under whiteboard) and write the project name on insert and place in filing cabinet in alphabetical order.

### **Closing a CLE file:**

- 1) Write a **Final Report** for the project describing:
  - a) the project
  - b) action taken
  - c) outcomes
  - d) feedback from participants
  - e) your own thoughts/feedback/critique
  - f) **and have this checked by the staff supervisor.**
- 2) Create a *CLE Resource Kit* from the file (to be kept on the shelves).
- 3) Go to **White Folder** (Client Master List) and fill in file no. and archive box no (note: project files are stored in their own archive box. Look for the relevant box).

- 4) Go to **Projects Files Opening and Closing Book**. Fill out the date closed and the box number.
- 5) Go to **Client Card**. Fill in the box no etc and put red dot in top corner.
- 6) Go to **Co-ordination Folder** — Procedures section. Fill out details on the *CLE File Register*.
- 7) Place the your **Final Report** on the file.
- 8) Check with your supervisor that closure is satisfactorily completed.
- 9) Put file in corresponding box in the compactor (where photocopier is).

#### **44. Checklist for handing over files at end of session**

##### **Outside Cover of Case File**

- Is the file name on the cover?
- Is the file number recorded on the cover?
- Are review dates recorded on the cover?
- Is the limitation date recorded on the cover?

If any of the above is not applicable to the case, YOU MUST record not applicable or N/A

##### **Inside Cover of Case File**

- Is the client name recorded?
- Is the client s address and contact details up to date and recorded?
- Is the solicitor s name recorded?
- Is the solicitor of the other party recorded? (Including contact details)
- Is the student s name recorded? (note all students names should be recorded)
- Is the file opening date recorded?
- If the file is re-opened, is the re-opening date and/or re-closing date recorded?
- If Court appearances have occurred, attach a summary sheet to inside cover which outlines Court dates and Court details — Sheets located on top of form drawers.
- If others are involved in case eg. Hospitals, Social workers, Legal Aid solicitors, Court clerks, Dept of housing officers etc attach peoples names, titles and contact details to inside cover of file — Sheets located on top of form drawers.

If any of the above is not applicable to the case, YOU MUST record not applicable or N/A

##### **File Content: KLC Documents which SHOULD be contained in every file**

- Photocopy of original advice sheet — with file opening date recorded
- Letter of engagement
- Client disbursement summary sheet — in plastic sleeve
- Incoming summary — completed when you commenced working on case file

##### **Check that file has been maintained**

- ❑ All documents are filed in antichronological order (most recent on top)
- ❑ All original CLIENT documents eg. Letters, Court documents etc are kept in a plastic sleeve
- ❑ All Court dates and appearances are recorded
- ❑ Large files may be split into several white folders — all should be labelled and have content pages, also note there is a standard KLC spine for large folders.
- ❑ Large files are often kept in solicitor s office however the filing cabinet should still have a hanging folder with a sheet indicating where the file can be found. Note sheets located on top of form drawers.
- ❑ File notes are all dated and signed.
- ❑ Evidence that client has been informed that there will be a new student taking over
- ❑ Incoming summary/fact summary or chronology of case
- ❑ Plan of action
- ❑ Any additional notes you wish to leave the next student

### **Secure file and return to filing cabinet**

#### **Also Check:**

- ❑ The case file has a client card
- ❑ Client card has up to date details recorded (all opening and closing dates etc).
- ❑ The file opening book has a record of the file
- ❑ All client documents on the computer are filed in the computer under solicitors client folders

## **45. Attending Court**

### **Generally**

Students are generally expected to attend court for proceedings in a file they are working on. Students may also be invited to attend court for other files. Court appearances are done by solicitors, or by barristers (but see Tribunals below). At Court students will observe and assist, by making phone calls, urgent library visits, taking notes of proceedings, accompanying the client or witnesses etc, in effect acting like a solicitor instructing a barrister.

Prior to the court date, the student will have done most of the preparation for the case. Ideally, the student's involvement is in all but the advocacy, and even this role will be taken on by the student in some Tribunals (see below).

### **Tribunals**

Whenever possible and appropriate, a student will conduct matters in Tribunals. This is most commonly done in jurisdictions where legal representation is not allowed or is not usual: the Consumer Trader and Tenancy Tribunal, Social Security Appeals Tribunal, and Consumer Claims Tribunal.

### **Dress**

One of the glories of community legal centres is that you do not have to get dressed up but if you really want to, it is permitted. Suits are not necessary, even when attending court.

If appearing for a client in a Tribunal, students should dress formally.

## **46. Disbursement policy**

Kingsford Legal Centre does not have any allocation of funds to pay for clients disbursements. All arrangements in relation to payments on behalf of clients must take this into account. All clients should have explained to them the **client agreement** in relation to costs and disbursements whether it is a litigation matter or not and should be asked to sign this agreement. A copy of the agreement must be kept on the file. These agreements have been adjusted to take into account GST impacts. You will find these agreements in the tall forms drawers next to the recycle bins.

### **Medical Reports/Transcript Fees/FOI Fees etc**

Where a client has a grant of legal aid, the grant should be checked to ensure that it covers these fees. Monies can then be paid out and recovery sought from the Legal Aid Commission as soon as possible.

If the client has no grant of legal aid, the client should be asked to pay these fees upfront.

Where the client has no money to cover the cost of these fees and there is no doubt that they will be awarded compensation at the conclusion of the matter, for instance, in victims compensation applications with no problems, doctors can be asked to defer payment of their fees until the client receives the monies from compensation. Where there is doubt about whether there will be an award of compensation, clients should generally be asked to contribute monies upfront even if they pay by instalments to cover any fees of this type. If this is impossible, they should be consulted in relation to each expenditure and asked to sign an agreement that they will refund the Centre that amount of money, on payment of any monies.

### **Barristers Fees**

If it is necessary to brief a barrister in relation to a client's matter, a grant of legal aid should be sought to cover this expense.

If legal aid is not available, the client has to pay the barrister's fees upfront before we can obtain any advice from a barrister or retain a barrister to undertake any work.

If the client is unable to arrange payment then services of a pro bono barrister must be sought or a barrister who will agree to take the matter on, on the basis that if they succeed they will be paid from the proceeds of the claim and if they do not succeed they will waive their fee. This must be made very clear to both the client and the barrister. At the conclusion of the matter the student responsible should prepare an account setting out all disbursements incurred in the matter whether these have been paid and by whom and also listing any outstanding accounts. No money should be paid to the client until all accounts have been properly dealt with. No file should be closed with an outstanding account or money owing in relation to the matter.

### **Writing Off Accounts**

The Director must approve any amounts that are to be written off on client files.

#### **47. Organising interpreters**

It is important to encourage client to use an interpreters when needed. Some people feel embarrassed about their English speaking ability. Therefore always make sure the client feels at ease about having an interpreter.

One way to do this is to frame the questions about using interpreters in a positive way.

We suggest you say something like:

We provide free interpreters. Would you like your interview to be in ( state language) .

This is a more positive way of asking do you need an interpreter .

#### **State Matters**

Interpreters are booked in advance with the NSW Ethnic Affairs Commission. The booking is arranged by the student who makes the appointment and completes Interpreter Request Form. This must be signed by a member of staff (usually Denise or Michelle). This is then faxed to the EAC and the details entered into the Booking Interpreters Folder.

EAC provides free interpreters if the matter relates to NSW law, or the jurisdiction is unclear, or there is an overlap of State and Commonwealth jurisdictions. (EAC doesn't provide interpreters if the matter is a Commonwealth matter, for example, Family Law, Immigration, Social Security, etc.)

You should try to book at least a few days in advance so that EAC staff have time to find and book an interpreter for you. To book an interpreter through EAC:

1. Fill out an Interpreter Request form (kept next to the fax machine), get it authorised by a member of staff and fax it to EAC.
2. Place the fax in the relevant section of the Booking Interpreters Folder and enter on the awaiting confirmation sheet. Photocopy the request form if you want to keep a copy on the client's file.
3. Insert interpreter needed and language in column on appointment list in relevant diary.
4. The Duty Student each day should check the appointments diary and booking interpreters folder to ensure that all interpreters needed on that day have been confirmed. See Michelle or Denise for assistance.

#### **Commonwealth matters (except some initial interviews)**

The Department of Immigration and Multicultural Affairs provides interpreters for matters which are primarily Commonwealth jurisdiction, for example, Family Law, Immigration, Social Security. Interpreters must be booked at least a week in advance but ideally at least two weeks in advance. The Department has a strict limit on the number of interpreters it allocates each day so you must give as much notice as possible. **They will not provide interpreters for evening interviews so we have to use phone interpreters then.** Assuming it s a Commonwealth matter for a daytime appointment, do the following:

To book an interpreter through the Department:

1. Fill out an Interpreter Request form (kept at the back of the Interpreters folder) and fax it to the Department. (Do not fax an EAC form - it won t work!)
2. Follow steps 1,2 and 3 as above

Authorised interpreters will attend the Centre without a fee, as we are a community legal centre. The need for the interview and for an interpreter should be carefully considered so that this valuable resource is used efficiently and effectively.

If you require an interpreter to attend an interview outside the office **we will be charged** for this service so you must check with the solicitor before you book.

At short notice, and for short interviews, use the **Telephone Interpreter Service: 131 450**. You will be asked for our customer number which is **C 024643**. This service will contact an interpreter who may then be requested to call a client and interpret a message from you to the client or, if the client is at the Centre, to interpret a short interview, for which you use one of our speaker-phones. Press speaker button on phone.

### **Other matters**

If it is not possible to get an on-site interpreter, or if you want to have a quick, relatively simple conversation with a client, you can ring the Telephone Interpreter Service (TIS) and they will arrange to have an interpreter speak to your client. They have the system to provide a three way telephone link-up, so you, your client, and the interpreter can be connected by phone at the same time. You can ring TIS for any matter, even if someone rings the Centre and you can t understand what they want.

To speak to an interpreter through TIS:

Ring 131 450

Quote Kingsford Legal Centre s number : **C 024643**

# ADVICE SESSIONS

## 48. Day and evening appointments

Legal advice is given to clients by appointment on Tuesday and Thursday nights from 6.00pm.

During sessions 1 and 2, one CLE student is responsible to inducting and supporting up to 8 Law, Lawyer and Society students undertaking preliminary interviews at these appointments.

During summer session CLE students are required to attend 4 evening advice sessions.

Appointments are made in the appointments book at the front desk, at half hourly intervals.

**Note: No advice is given on Discrimination & Immigration at nighttime appointments.**

There are also 2 generalist appointment times available every day at 2.00pm and 3pm. (Please note that these are above and beyond the specialist tenancy appointments every Monday afternoon and the specialist child support sessions monthly).

At these daytime appointments, CLE students are required to undertake preliminary interviews and then consult the supervising solicitor. The advice is given by the solicitor, with the student in attendance. The student is responsible for notating the interview, including writing down the instructions of the client, relevant facts and the advice given by the solicitor. This also applies for tenancy interviews with EATS staff on Mondays.

At other specialist sessions students can sit in on interviews but do not ask the client questions.

Afternoon appointment times are available only for people who, on being told of the evening advice sessions, volunteer that they have difficulty getting there because of a disability, child care, shift work or other problem or for discrimination problems. The afternoon times should **not** be used on a "next available" basis along with the evening times.

When somebody calls for legal advice they should be told that this office gives legal advice by appointment every Tuesday and Thursday night. A conversation relating to making an appointment for legal advice may be quite long, requiring a discussion with the person as to their needs. Students should be aware they **MUST NOT** give any legal advice over the phone.

There are numerous ways of getting to a position where a decision can be made about whether or not the person should have an appointment here or be referred to some where else. This is a matter of telephone manner and sensitivity.

## Extra Appointments

**No extra appointments beyond the available slots, are to be made in addition to the specified times without the approval of a staff solicitor on duty during that advice session. In the absence of the duty solicitor please consult one of the staff.**

## 49. Screening

Before making an appointment we want to know whether they are within the guidelines (see case criteria and catchment area):

- where do they live (because we may be able to refer them to somewhere closer to home for advice)
- what, very generally, is the problem about: family, neighbours, crime (because it may be more appropriate to refer them directly to the Legal Aid Commission or some other agency).
- do they have to go to court (because we will get some idea of urgency, and we can also make a better referral along the lines of the previous point)
- have they been here before on the same matter (so that we can pull out the previous advice sheet for information)
- if they want an appointment about a **WILL, IMMIGRATION or FAMILY** special considerations arise. (See below)
- **you must** check to see if we have ever acted for the other party involved (see Conflict of Interest). **THIS SHOULD BE CHECKED BEFORE OFFERING AN APPOINTMENT TO THE CALLER.**
- When you book a client in for a appointment **remember** to tell them to bring in all their relevant documents!

**For wills:** If the caller wants to make a will, they need to be told that a will can be done by any local solicitor very cheaply. We only do wills for pensioners with little cash or savings. We have a list of lawyers who will do wills at a low cost.

**For immigration:** Advice can only be given by a registered migration agent. None of our volunteer lawyers are registered as migration agents. Therefore, people should be referred to specialist immigration services, in the first instance the Immigration Advice and Rights Centre (see Telephones B 2 (I)).

**For family:** refer to Legal Aid

When a client does not live or work in the area then we make every effort to refer them to somewhere closer to where they are. This may well take some time and be difficult as the client may be insistent. These referrals should be done in consultation with one of the solicitors. Never hesitate to ask a staff member for assistance with referrals, as it is very important to ensure the client gets a suitable referral.

## Making Appointments for the Child Support Visiting Service

## **What is the Child Support Service?**

The Child Support Service is a specialist service within the Legal Aid Commission of NSW. The service is located at the Burwood Legal Aid Office.

Contact details: (02) 9744 3833 (phone)  
(02) 9744 6936 (fax).

## **When does the Child Support Service visit?**

The Child Support Service conducts a visiting service to the Kingsford Legal Centre once a month. Currently the visits are conducted on the 2<sup>nd</sup> Thursday of each month.

## **Who should be referred to the Child Support Service?**

The Child Support Service offers free legal advice to both paying parents and carer parents who have issues to do with child support or child maintenance. Some of the issues we can assist with include:

- Proof of paternity problems (in many cases clients will be referred from Centrelink for assistance with this issue)
- Explaining how the Child Support Agency works
- Changing child support assessments and child support agreements
- Obtaining child maintenance for the first time, or changing an existing child maintenance order
- Obtaining maintenance for children who are over 18

What details are needed when making appointments for clients with the service ?

Appointments are made for clients by staff of the Kingsford Legal Centre. Please make the appointments in blocks rather than spread throughout the day. The list of appointments is then faxed to the Child Support Service at the Burwood Office *at least* the day before the visit.

We need to know the client s name and date of birth and a contact telephone number. These details are required for us to check whether we have advised the client previously.

We also need to know the name and date of birth (if known) of the other party. This information is needed so that we can check whether there is a *conflict of interest*.

## **Urgent Appointments**

If a client has to go to court before the next available appointment at the Kingsford Legal Centre, they may be able to get an earlier appointment with the Child Support Service at the Burwood Legal Aid Office.

Alternatively, clients could be referred to the Head Office of the Legal Aid Commission at Central Square, 323 Castlereagh Street Haymarket (near Central Station). Family Law advice is given between 9:00 am and 4:00 pm. No appointment is necessary.

## **Conflicts of Interest**

The Child Support Service cannot give advice to a client if the Legal Aid Commission has already given advice to, or represented, the other party. The Child Support Service checks for conflicts when the appointments are sent to us by Kingsford Legal Centre staff.

## **Interpreters**

When an interpreter is required for a client, please contact the Child Support Service at Burwood immediately with details of the time of the appointment, and the language required. The Child Support Service will arrange for an interpreter to be booked. If there is a cancellation to the appointment, please ensure the Child Support Service is advised.

## **50. Procedures at Advice Sessions (to be followed by CLE and LLS students)**

Make sure you know the date that you have been rostered on by consulting the board in Michelle's office and the office diary. Also make sure you know which member of KLC staff is supervising the session and the names of the volunteer solicitors. All this information is contained in the diary.

### Student

1. Please ensure that the client has received a copy of our Complaints Procedure brochure.
2. Check on the availability of an interview room.
3. Take next client advice sheet from front desk.
4. Introduce yourself and take client from the waiting room.
5. Fill in personal details, fully and carefully (if not already completed) (see Advice Sheets).
6. Go to: (if not already checked)
  - (i) any previous advice sheets, and
  - (ii) check for conflict of interest.
7. Take down concise details of problem - use the Instructions Guide at **appendix 2** to assist you. Always write legibly.
8. Make sure you photocopy any documents and return originals to the client

9. Consult with the lawyer and return to client with lawyer.
10. Return fully completed advice sheet to front desk after completion by you and the lawyer.
11. **Please ensure that before the interpreter leaves the Centre that he/she assists the client to complete the service commitment evaluation**, which should have been given to the client on arrival. The client should not be forced to complete the survey. Remember it is not mandatory that the client complete the evaluation form. Evaluations are anonymous - the client feed back is used to improve our service.

## 51. Filling in Advice Sheets

The following information is necessary:

- Date
- Day (of the week)
- Student (who interviews the client)
- Solicitor (who advises the client)
- Been Before etc (so that previous records can be retrieved if relevant)
- Surname: (ie family name)
- First name:
- Address:
- Telephone ("Contact" is often a friend or family member if the client has no phone).
- Referred by (for statistical purposes)
- Problem type (use the code; for statistical purposes)
- Other Party (the first step to checking for a conflict - record the name eg. Janette Jones, not just the identity eg. 'neighbour')
- Conflict (to be completed after a search has been done).
- Date of Birth (for statistical purposes)
- Sex (not always apparent from the name; for statistics)
- Country of Birth (for statistics)
- Occupation (for statistics; as a guide to us, in a later assessment of entitlement, as to capacity and means)
- Interpreter used (for statistics and as a guide to future file management).
- Interpreter required in future - (for future file management).
- Housing (for statistics)
- It often helps to say to the client: All this information is confidential and for statistical purposes prior to asking questions.

## 52. Telephone legal advice sessions

Kingsford Legal Centre operates a dedicated telephone advice line 2 nights per week, from 6pm to 8pm Tuesdays and Thursdays.

The aims of providing this type of service are:

- To increase access to KLC services
- For clients who cannot attend in person
- To provide students with experience of telephone advice
- To facilitate more speedy and effective referrals

Whilst these are laudable aims, the organisation recognises that telephone advice services are limited in their capacity to meet advice needs, particularly on complex matters. Therefore it is accepted that telephone advice cannot replicate the full value of face to face interviewing and that safeguards must be put in place and acted upon to protect the interests of clients and the organisation.

The following protocol has been adopted to ensure that the telephone service runs efficiently and that proper safeguards are taken when giving advice.

**Telephone advice will be given between 6.00 and 8.00pm on Tuesday and Thursday with a maximum of 6 advices given only in matters where clients are unable to attend in person. Telephone advice will only be for simple matters. For complex matters an appointment will be made for clients inside our geographical boundaries. Students will take instructions from a lawyer who is available, or appropriate, from the lawyers will give advice. If the client calls on a mobile phone they will need to call us back. We do not call back to mobile phones although we will call back to land lines.**

- Students will take calls in rotation and obtain basic information about the client and the problem requiring advice. They will then discuss the matter with a solicitor, and the solicitor will provide the advice to the caller.
- Once the quota of maximum calls has been reached, any additional calls will be dealt with by the staff supervisor. Options to assist the client include: referral to other services, offering face to face appointment, requesting that the caller ring again at the next session. In offering these options the staff supervisor will have regard to the complexity and urgency of the matter, as well as the location of the client.

#### **Procedure for students and solicitors.**

This procedure applies to student/solicitor phone advice and those calls taken solely by volunteer solicitors.

It is essential that clients are informed how Kingsford Legal Centre operates and the roles of the student and solicitor. Students must explain to the caller that they are a student and that they will be gathering information only and that the solicitor will provide the actual advice.

Upon finding out the name, address and contact details of the client, the student/solicitor should

proceed to complete the telephone advice sheet (pink form). Callers should be told that much of the information on the sheet is for statistical purposes only and all client details are held in strict confidence.

It is essential that a conflict search is undertaken before any detailed information/instructions are taken from the client. It is the responsibility of the volunteer solicitor to ensure that students gather details of other parties and that conflict search is completed.

Students must take concise, thorough and legible notes of the information provided by the caller, so that they may discuss the matter with the solicitor. It may be decided, that in order to facilitate a better understanding of the matter by the solicitor, that speaker phone may be used. This is acceptable as long as confidentiality is maintained, however this is no substitute for a thorough attendance note and so the same standard applies.

It must be stressed to the caller that without sight of relevant papers it is not possible to give definitive advice over the telephone and so any advice given by the solicitor must be regarded as preliminary.

The solicitor will provide the advice to the caller with the student notating the advice.

Students and solicitors should be particularly aware of all limitation periods and of the need to inform the caller of the limitation period and to make a note of the fact that they have done so on both the telephone advice sheet (pink) and on the attached attendance note.

If it is necessary to make a referral, this should be notated on the telephone advice sheet (pink).

It may be necessary to make an appointment for a full interview so that the caller may produce all the relevant documents and more definitive advice given. The student should liaise with the staff supervisor on the front desk to arrange any appointments, having regard to KLC catchment area and case criteria.

There is a special client information sheet (PINK in colour) which is to be used when doing telephone advice. Students are to get **all** information on the top half of the sheet for statistical and conflict requirements. **Please make sure you do a conflict search before any advice is given.** The students handling a telephone advice will take down all the relevant details of the complaint. The caller will be put on hold while the student talks to one of the volunteer lawyers on duty. The volunteer lawyer **NOT** the student will give the advice to the client. This advice is recorded on the form. Once the form is completed and the advice given the client information sheet is handed to the staff member supervising the session.

### **53. Kingsford Legal Centre Email Policy**

Communication via e-mail is becoming commonplace for many people today. It is a very convenient method for clients and solicitors to use to regularly keep in touch. Kingsford Legal Centre's e-mail policy is outlined below.

1. Kingsford Legal Centre should never allow e-mail to be the means by which initial instructions are obtained from new clients. It is very difficult to ascertain by e-mail whether the client is giving all the relevant details, and whether they understand the responding advice or information. In this situation, an appointment or a referral should be made. The standard response to requests should be as follows:

Thank you for your e-mail. Due to limited resources, we regret to advise that Kingsford Legal Centre is unable to give advice via e-mail.

*Kingsford Legal Centre is located at 11 Rainbow Street, Kingsford NSW. If you live or work in our area, we may be able to arrange for you to meet with a solicitor at one of our evening advice sessions. Legal advice provided at these sessions is free of charge and all communications are confidential.*

*If we are unable to assist you, we will endeavour to refer you to an alternative service. To make an appointment or for further information please call Kingsford Legal Centre on (02) 9398 6366.*

2. It is possible for e-mail to be used for new clients in limited circumstances. Where very brief information can be supplied to the client via e-mail, as opposed to specific legal advice, e-mail may be used. If anything more is required, the protocol outlined above should be followed.
3. In relation to existing clients, e-mail may be a convenient way in which to communicate with them. The solicitor handling the matter will need to determine in conference with the client whether e-mail is an appropriate method of communication. The client will have to be computer literate and have access to appropriate facilities. In the situation that e-mail is found to be appropriate, e-mails should be directed to the solicitor's individual e-mail account, not the Centre's.
4. Confidentiality is always paramount. This is especially important in relation to Domestic Violence and Family law where it is not uncommon for people living together to have access to the one account. Work email accounts may be scanned by employers. The solicitor contemplating using e-mail as a means of communication should discuss these possibilities with the client before sending information via e-mail. In general no material should be sent in an email that you would not want to be public knowledge.
5. E-mail is beneficial in that it allows each party to have an accurate record of communication between the parties. A printed copy of every e-mail, both received and sent, should be placed on the client's file.
6. The format of the e-mail should be similar to that of a letter from Kingsford Legal Centre.
7. E-mail may be used to communicate with government departments and other institutions, as appropriate. Again, e-mails should be directed to the solicitor's individual e-mail account, not the Centre's.
8. Staff and students must not send any emails that include any discriminatory or offensive material.

9. The Kingsford Legal Centre disclaimer should be printed at the bottom of **every** e-mail:

Kingsford Legal Centre can only provide advice in the New South Wales and Commonwealth jurisdictions. If you are enquiring from another State or Territory please contact your local Legal Centre. If you are not the intended recipient of this email, please return it to Kingsford Legal Centre. The information in this email is confidential and must not be disclosed without authorisation by the intended recipient.

# THE SUBJECT

## **54. KLC s expectations of students**

We want you to enjoy your placement with us, and get the most out of it. It is important that you attend the Centre on your allocated days and actively participate in the Centre s activities. We expect students to be team oriented and to work co-operatively with fellow students, volunteers and staff.

Throughout your placement you will have responsibility for progressing various cases/files. This is done under the supervision of a solicitor. You must always follow the instructions of the solicitor. They have legal responsibility for the conduct of the case and the solicitor s practice certificate is at stake so please always follow instructions given. However, you are expected to come up with strategies on the files and show initiative as if you were the lawyer responsible for the file. These strategies can then be discussed with the responsible lawyer and further actions can be agreed upon.

Similarly, you must complete tasks that have to be done on the file in the time allocated. Do not just go home without completing your tasks. If you need more time or are having difficulties discuss this with the solicitor. If you feel you have too much work please discuss this immediately with Frances and we can reallocate workloads. It is your responsibility to ensure the clients get a high quality service and this cannot be achieved if you do not have enough time to complete necessary work. It will in no way be considered a failure on your part or a problem if you do this as it is the responsible course of action.

You are expected to undertake various course requirements (set our below).

## **55. Objectives of Courses**

### **CLINICAL LEGAL EXPERIENCE 2003 - LAWS 2303, 2304 AND 2305**

1. To develop students critical appreciation of the law and legal system in Australia through participation in a legal practice working for clients who are financially or otherwise disadvantaged
2. To enhance students contextual understanding of the law and legal process by exposing them to real clients with legal problems

3. To provide students with a detailed understanding of the legal aid system and develop students understanding of issues of access to the legal system for the Australian community
4. To develop students awareness of the role of lawyers in practice in the legal system
5. To develop students understanding of ethics and responsibility in a workplace setting
6. To introduce students to the importance of developing basic lawyering skills to a high level of proficiency including communication, interviewing, drafting and negotiation
7. To develop students ability to see beyond a casework approach to legal problems by providing opportunities to participate in campaign and education work
8. To encourage students to see the law as a vehicle which can be used to protect and develop human rights

## **56. Curriculum and teaching methods (Generalist CLE 2303 and 2304)**

Students attend the Centre either two days or one day a week from 9 to 5pm each day. Students are given responsibility for running legal files under the supervision of a staff solicitor. Cases are taken on by the Centre for clients who cannot afford a private solicitor and where there is no other source of assistance or where the Centre has a particular expertise (for instance in discrimination matters). Students will be required to draft letters, undertake legal research, interview clients, draft affidavits, statutory declarations, court documents, letters of advice and attend court with solicitors and Counsel. Students will be expected to use their initiative to develop proposals for action to be taken on files in conjunction with the responsible solicitor. Students will also be responsible for responding to public enquiries for assistance and provide effective referrals to other sources of legal and non-legal assistance.

Students must take part in:

- Weekly classes of 2 hours duration which cover a variety of topics ranging from substantive law in areas relevant to the Centre's practice such as domestic violence and discrimination, introduction to practical legal skills such as interviewing, drafting and negotiation as well as discussion of issues such as legal aid system and law reform. **A full class program will be distributed in the first week of the session.**
- A daily morning meeting of up to one hour at 9:00am. **sharp.**
- Project work.
- Case presentation or articles for publication.
- Four evening advice sessions during summer session.
- In Sessions 1 and 2 students undertake two evening sessions including one tutorial with LLS students on interviewing on advice nights.

## **57. Curriculum and teaching methods ( EMPLOYMENT LAW 2305)**

Students attend the Centre two days a week from 9 to 5pm each day and attend weekly seminars in clinical legal education and/or seminars on employment law on alternate weeks. Students are also required to take part in employment law advice sessions on a rostered basis. These advice sessions are currently held on Wednesday afternoons, and every second Thursday evening. Students are given responsibility for running legal files under the supervision of a staff solicitor. The Centre takes on cases for clients who cannot afford a private solicitor and where there is no other source of assistance available. Students will be required to draft letters, undertake legal research, interview clients, draft affidavits, statutory declarations, court documents, letters of advice, brief Counsel and attend court with solicitors and Counsel. Students will be expected to use their initiative to develop proposals for action to be taken on files in conjunction with the responsible solicitor. Students will also be responsible for responding to public enquiries for assistance and provide effective referrals to other sources of legal and non-legal assistance.

Students must take part in:

- Weekly classes of 2 hours duration which cover a variety of topics ranging from, introduction to practical legal skills such as interviewing, drafting and negotiation, discussion of issues such as the legal aid system and law reform as well as employment law seminars. **The clinical legal education and employment law seminar program will be distributed in week 1**
- A daily morning meeting of one hour at 9:00am.
- Daytime and evening advice sessions. The number of advice session is determined by the number of students enrolled but generally employment law students can expect to take part in 6 Wednesday afternoon advice sessions and 2 evening sessions, including 1 session where they induct LLS students.
- Project work
- Case presentation or articles for publication.

## **58. Some issues that will be discussed in morning meetings will be:**

All clinical students will attend morning meetings. The morning meetings provide an opportunity for students to discuss matters they are working on and to explore issues arising out of their work. Consequently, a diverse range of legal and non-legal issues will be discussed, including those arising out of the work of the employment law clinic, which it is anticipated will be beneficial to all students.

- Discrimination laws; how the law is administered- discussion of respective roles of ADB, EOT, HREOC. Relevance of industrial laws. Issues of evidence, proof. Clients

experience of discrimination. Limits to legal approach to redress for discrimination.

- Discussion of domestic violence laws- what they are, how the law is administered, consideration of whether the law is effective, other approaches to dealing with domestic violence, discussion of changes to legislation, the effect of participation in a legal process on survivors of domestic violence, discussion of laws from defendants or civil liberties perspective
- Employment law: how is it administered and how accessible is it? How effective are the legal remedies for enforcing the rights of employees generally and specifically in relation to unfair dismissals? The role of the Industrial Relations Commissions. How effective is conciliation as a means of resolving unfair dismissal cases?
- Compensation laws, particularly victims compensation and personal injury law, relevant legislation and procedure, legal aid/pro bono services, referral issues-legal and non-legal
- The role of the Local Court in New South Wales. How is the law administered in the Local Court, jurisdiction of the Court in both civil and criminal matters, role of magistrates, impact of Local Court on those in community
- The role of the client in the legal system, - how much power does the client have in litigation. What is the nature of the relationship between the client, solicitor and barrister? Practical means of empowering clients. Communications with clients, issues surrounding believing your client, acting on instructions
- Working with the police. How does the police service interact with clients of the Centre? Particularly the role of police in relation to clients with domestic violence problems and criminal matters
- Casework policy: How the Centre decides to take on cases or deal with them
- File management, how are legal files compiled, how to read them, dealing with documents, keeping good file notes, limitation periods, preparing briefs to Counsel, drafting affidavits and statutory declarations
- Professional responsibility, time management, ethical questions, confidentiality, the importance of this, how to maintain it, dealing with difficult clients, dealing with other legal professionals
- Interviewing, pressure of other people during interview, effects of style of solicitors on clients, methods of improving clients understanding of legal concepts. How to maintain a professional relationship when interviewer is emotionally affected by content of interview
- Law reform and socio-political context

## **59. Project work**

In addition to files for individual clients, students will be required to work on specific projects that serve our local community. This is a valuable part of the course and project work is compulsory.

Students are invited in the first week of the subject to nominate their interest in a particular area. Project work commences in week 2. **Work on the projects is of equal value to work on client files and expected to allocate their time accordingly.** Most of the work is done with other students in groups or pairs, and students are expected to organise their time together.

Time spent on projects is time within the ordinary part of the subject. However, there will be occasions when at some stage of the project, a talk or presentation will be on a day other than a student's day at the Centre. This is managed in the same way as Court attendance (see Going to Court), and is part of the students' contribution to this subject and the community services associated with it.

A list of potential projects students can work can be found on the door to Michelle's office.

## **60. Case presentations/articles for publication**

The casework is the element of this subject that distinguishes it from any other: students managing clients' legal cases. An important part of the subject is to ensure, through supervision and constant consultation, that the students address not only the legal issue in a file, but also issues relating to the administration, fairness and accessibility of the legal system.

All students will be able to do case presentations during the course. Alternatively students can write an article for publication in the Combined Legal Centres newsletter or Kingsford Legal Centre newsletter about their case or a policy issue they have worked on.

**Note that a draft article or draft outline of case presentation is due for submission as part of your mid session evaluation. Final articles are due by the end of week 11.**

The article should be no longer than two pages. It should address issues outlined in the following material on case presentations.

### **Case presentations**

For the case presentations, the students are required to identify two or three issues relating to ethical, jurisprudential and social aspects of their legal casework or policy work. This necessarily involves a clear understanding of the relevant legal issues as a basis for then discussing some of the further ramifications of being a responsible legal representative of the client.

In their presentations, students are expected to raise these issues for discussion, generating some debate among those in their workgroups. What follows is an outline of some of the issues raised by some of the case presentations of the previous students.

1. Believing the client: Is it necessary? How closely must we identify with the client and the

client's personal goals? What degree of trust must exist between the solicitor and client? Is representation of a client compromised by personal doubts in the client's veracity or morality?

2. What is the purpose of individual casework? Do we look for some ripple effect so that a single case can be seen as bringing about greater change? Does it help one's commitment to a file to see the reform aspects of the case? What of the simple achievement of solving one person's particular difficulty? Does a lawyer look for a role and purpose beyond responding to the client's immediate needs?
3. Empowerment: To what extent does a solicitor assume responsibility for the resolution of a client's difficulty? Can a client be encouraged to take responsibility for resolution of a problem? Is this a role that solicitors have?
4. So often, the remedy that is available to a client is either inadequate or inappropriate. There are often occasions when what the client wants is not available in the legal system, either at all or for want of time, money and perseverance (this discussion arose particularly in relation to both discrimination and domestic violence matters).
5. There is a real need always to be alert to cultural differences in comprehension and perception of the legal system. Our system proceeds on certain cultural assumptions which are alien to many people.
6. How many people are unable to achieve a remedy for the wrong that has been done to them, or enforcement of a right they are entitled to, for want of evidence/proof? There is often a vast gap between a client's apparent entitlement and the result that the legal system can deliver. This can be a source of great frustration and difficulty for a lawyer who identifies with the needs of the client.
7. How appropriate is the adversarial system in resolving all types of matters? Perhaps it is most appropriate in the commercial sphere, although alternative dispute mechanisms are being tried there more than anywhere else. The adversarial process seems particularly inappropriate for resolving personal conflict.
8. There is still an assumption in place in the legal system that a domestic context somehow excuses a criminal act. Beyond the prominent issue of domestic violence, issues of violence, misconduct and dishonesty between people who are or have been in relationship seem to be treated differently, and less forcefully.
9. Prospective legal remedies are often cumbersome and inaccessible compared to a political remedy: sometimes it is a question of who you know.

It is apparent that many questions and few answers arise in these case presentations. Their purpose is to generate discussion, inviting students to see some of the issues that are inherent in legal practice. Certain considerations and views are offered and it is then for the student to continue deliberating on those issues well after the subject is finished, and well into their lives.

Your presentation will be in morning meetings following mid session evaluations.

## **Content**

Your presentation need not be of a whole case your are working on (or have worked on) - perhaps simply an aspect of a case will be sufficient. The point is to present for discussion a matter of legal practice that is of interest. This may relate, for example, to any of the following:

1. Your client: difficulties and challenges in dealing with her/him
2. The legal process: anomalies; injustices; inefficiencies
3. The remedy: is it appropriate, is it obtainable? If not, why not?
4. The other side: ethics/ nuances of negotiations, cooperation
5. Conflict of interest: dilemmas for you or the client. Personal ethics: representing clients or interests against your feelings
6. Professional ethics: negligence, misconduct, unprofessional conduct

## **Presentation**

You should have in mind certain issues or questions that you want to have discussed. Resolving these matters may help you in working on a file in the future, or may be informative and instructive to your colleagues.

It is your role to generate and maintain the discussion. You should try to avoid spending the entire time giving your account of the facts and issues.

Some of you may wonder about what files or issues you can use - please talk to the solicitors to discuss your case presentation. The solicitors can help you to focus on issues that may be implicit in your files and that you have not seen.

## **61. Tutorials with LLS students (Sessions 1 and 2 only)**

### **Interviewing Tutorial**

All CLE students this session will be required to attend **ONE TUESDAY OR THURSDAY AFTERNOON FROM 4.00 - 9.00 PM** to take a tutorial with Law Lawyers and Society students doing the evening advice shifts. You will also be taking part in the advice sessions. Once you have nominated a date to attend, please write it in your own diary and make sure you are at the Centre by 4:00pm for a prompt start.

This will be your second chance to attend the evening advice shift yourself. Your first advice session in weeks 1 - 3 will prepare you for this tutorial. You will be teaching these students what you know about the Centre and covering the following topics:

1. Introduction to CLE student and staff solicitor for night
2. Tour of Centre
3. Explanation of client information sheets including NIS codes

4. Procedure for advice nights including telephone advice
5. Interpreters (video)
6. Using phones
7. Library resources- Law handbook and lawyers practice manual
8. Commonly used pamphlets
9. Explanation as to how the Centre takes on cases- what criteria are used
10. Referral manual- computer and hard copies
11. Referral sheets to private solicitors
12. Conflict searches- when, why and how

Please make sure you are fully aware of all these procedures before you do your tutorial. You will need to give an information pack to LLS students, including:

1. Advice sheets ( face to face and telephone)
2. KLC complaints leaflet
3. Advice night procedure sheet
4. Telephoned protocol

**You are responsible for all organising.** A timetable for your attendance will be distributed.

If you do your job well you will make the tasks of the volunteer lawyers and staff a lot easier and learn something in the process.

## **62. Assessment**

### **A. Outline**

Students receive one of two results for this subject: Satisfactory Completion, or Fail.

- I. Students are interviewed on a one to one basis in weeks 3, 7 and 12 for assessment, weeks 3, 6 and 12 in summer).
- II. Students do a self assessment in week 6 (to be discussed in the second interview).
- III. Students are assessed on performance in relation to the assessment criteria.
- IV. Students write an article on a case/policy issue relevant to the Centre s work.
- V. Students are required to show through performance and application to the client and project files, a willingness to think critically about the legal process, and a willingness to

adapt their manner and conduct according to the needs of the particular client or legal problem.

In deciding whether or not students have completed the course satisfactorily, the staff will consult among themselves regularly throughout the session. The various components of the overall assessment will be discussed by the staff on a comparative basis, and therefore may be considered analogous to a form of grading. This assessment will be discussed with students in individual assessment interviews around weeks 3, 8 and 14 and in addition on a self assessment.

Students will be made aware of progress throughout the course relying principally on the three major assessments, but also on the continual contact students will have with the supervising solicitors in the morning meetings and the daily dealings with staff. Students will be given a clear indication in mid-session of whether performance in any one of the nominated criteria is less than satisfactory. Over the course of the session students will work with all of the Centre's staff. Consequently, all staff will provide feedback in relation to students' performance in respect of each assessment criteria.

## **B. Assessment Criteria**

### **B1. Reflection and Analysis**

- (i) Developing an appreciation of the social, cultural, economic and practical **context of the legal process.**
- (ii) Developing and practising an appreciation of the social and cultural **context of your client.**

### **B2. Professionalism**

- (i) **Maintaining files** in an ordered, accessible fashion; making proper and appropriate use of office systems, including the telephone.
- (ii) **Allocating and controlling time** and effort efficiently, according to the needs and demands of clients.
- (iii) **Working co-operatively** with fellow students and staff, contributing to the efficient operation of the office.
- (iv) **Dealing with clients** in a considered and appropriate way, showing sensitivity and punctuality.
- (v) **Taking initiative** in the resolution of a problem and the progress of a file.
- (vi) **Accepting responsibility** for the resolution of a problem and progress of a file.
- (vii) **Seeking guidance**, and consulting with solicitors, after analysis, research and consideration of a problem.

- (viii) **Considering critically** the appropriateness of a legal remedy on the basis of considerations such as expense, time and efficiency.
- (ix) **Acknowledging limitations** in knowledge and ability, and accepting guidance accordingly.
- (x) Maintaining at all times conduct and developing an awareness of and responses to:
  - (a) questions of **professional ethics**
  - (b) questions of **confidentiality** and **interest conflict**.

### **B3. Skills**

Being able to-

- (I) **interview** clients,
- (ii) **negotiate** when necessary,
- (iii) **draft** letters and documents,
- (iv) use available **referrals**,
- (v) conduct appropriate legal **research**,
- (vi) developing and contributing to projects for **community development**

all to an extent necessary to work at a reasonable level of proficiency in this legal office.

### **B4. Class Performance**

- (i) Attendance at Wednesday classes, and morning meetings.
- (ii) Contribution to and participation in group work and class activities.
- (iii) Attendance at evening advice sessions.

## **62. Breakdown of assessment criteria**

### **File maintenance and file notes**

Based on

- Solicitor/student interaction
- Perusal
- Observation

Are file notes kept ?

Are file notes detailed, legible, appropriate?

### **Time allocation**

Based on

- Solicitor/student interaction
- Observation

Have students had to manage a heavy caseload?

Have students had to manage a particularly demanding case?

If either of the above, have they maintained focus and effort on other matters?

Have files gone unattended, or been rushed — poorly thought out or understood?

Is time in the office planned and constructive?

Are they prepared for informed discussion with solicitors; researched, considered options?

Do they seek direction, or do they discuss their own ideas?

### **Interviewing**

Based on

- Solicitor/student interaction
- Student/client interaction
- Observation

Are they confident (more confident) in their dealings?

Are they properly prepared: planning and research?

Do they obtain necessary relevant instructions?

Do they do so in an ordered fashion?

Do they establish rapport with the client?

Do they work well with interpreters?

Do they identify legal factual, ethical and moral issues?

## **Drafting**

Based on

- Observation
- Perusal

Do they draft with the addressee in mind?

Do the documents show an appreciation of their purpose?

Is their style straightforward and readable?

Are the draft documents considered, planned and well set out?

## **Negotiation**

Based on

- Solicitor/student interaction
- Observation

Have they obtained full instructions and had clear goals?

Have they acted within those parameters?

Have they achieved a result, an advance in the client's position?

Has their manner been appropriate?

## **Referral**

Based on

- Solicitor/student interaction
- Observation
- Conduct of files

Have they shown a knowledge of other sources of assistance?

Have referrals been considered and appropriate?

## **Research**

Based on

- Solicitor/student interaction
- Conduct of files

Are they willing to research?

Are they adventurous, innovative in their research?

Is the research broad and thorough?

### **Ethical conduct**

Based on

- Solicitor/student interaction
- Observation

Have they failed to identify conflict of interest?

Have they acted or proposed to act without regard to ethical or professional considerations?

Have they shown in file management or discussion an awareness of professional/ethical issues?

### **The legal process**

Based on

- Solicitor/student interaction
- Case presentation
- Class discussion
- Conduct of files

Have they taken the opportunity to analyse and question legal procedures and rules, legal system and structure in the following terms:

- (a) Cost
- (b) Accessibility
- (c) Appropriateness to needs
- (d) Delay
- (e) Adequacy
- (f) Cultural or other bias

### **Clients situation**

Based on

- Solicitor/student interaction
- Case presentation

- Class discussion
- Conduct of files

Have they taken the opportunity to analyse the extent to which the system accommodates :

- (a) the clients needs
- (b) Wants/expectations
- (c) Idiosyncrasies/characteristics

### **Self-evaluation**

Based on

- Solicitor/student interaction
- Observation

Have they shown a preparedness to learn from error, experience, solicitor guidance?

### **Project**

Based on

- Staff/student interaction
- Observation
- Perusal
- Conduct of files

Have they participated by way of discussion, goal setting, research, writing, preparation, other activity?

### **Attendance**

Based on

- Records
- Observation

Have they attended

- (a) More than 80% of classes?
- (b) More than 80% of rostered days, including morning meetings?
- (c) All the required advice sessions?

Have they volunteered considered, constructive comments to discussions in class and/or morning meetings?

# TROUBLE SHOOTING

## 63. Where to go for help

In order to facilitate a speedy and effective reply to your queries - please use the table below to identify the appropriate person to approach for assistance:

<b>Problem</b>	<b>Who to approach</b>
Administration of placement: absence, timetabling, duty rosters etc	Michelle
Resource needs - stationery etc	Denise
Computer problems	Michelle or Denise
Interpreters	Michelle or Denise
Information about the course and your progress throughout it	Your clinical supervisor - the staff member who undertakes your assessment meetings
Casework/file matters	Solicitor supervising file
Information about projects	The staff member working on the project with you
Queries about case presentations and articles	Frances Gibson
Conflict/team work	Your clinical supervisor
Law Lawyers Students	Michelle
People wanting to volunteer	Denise
Equal opportunities	Frances Gibson
Complaints from clients	Frances Gibson or, in her absence, Michelle
Miscellaneous	See Michelle for whom to approach

When seeking help, make sure the person you need is available, don't just walk into their office or disturb them in the middle of a meeting (unless it is an emergency).

When undertaking casework and looking after files - be pro-active. Discuss with the solicitor what is happening, think creatively and put forward your ideas.

If you haven't got a lot of work on then place your name on the 'needing work' board in the kitchen.

We positively encourage your ideas and suggestions about how we can improve the Centre. There is an ideas/suggestions folder in Michelle's office - please make a note and place in there.

Don't hide your light under a bushel - show your initiative and commitment but always remember that the solicitor has responsibility for the file/case - always get your work checked!

Accept and give positive criticism. KLC is a learning environment.

Enjoy your placement!

# APPENDIX 1

## TIME LIMITS SUMMARY

### LIMITATION PERIODS

Combined Community Legal Centres Group Inc  
April 2001

The following information is of necessity in summary form and should not be relied on as a substitute for specific legal research or advice.

Discretions exist in most jurisdictions to extend limitation periods. Specialist advice should be sought immediately if limitation period is about to or has expired.

For special rules for children and people with a disability see the *Limitation Act* and other specific legislation relevant to cause of action.

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### Complaints against Solicitors and Barristers

3 years for complaints to the Legal Services Commission  
(s.138 *Legal Profession Act*).

Claims against the Fidelity Fund for pecuniary loss caused by failure to account or dishonest default (s.80(7) *Legal Profession Act*) - to the Law Society within 3 months of becoming aware of the failure to account.

### Consumer Claims

3 years from date of contract / delivery of goods to lodge a claim in the Fair Trading Tribunal (*Consumer Claims Act*, 1998).

### Criminal

28 days to appeal to the District Court against a decision of a magistrate on conviction or sentence (s.122 *Justices Act*). Extensions of time up to 3 months (s.124 *Justice Act*).

### Debts

6 years from breach to commence proceedings if based on a simple contract (s14 *Limit n Act*).

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12 years from breach to commence proceedings if based on a deed (s.16 *Limitation Act*).

12 years to enforce a **judgment** debt (s.17 *Limitation Act*).

## **De Facto Relationships**

2 years from date relationship ends to claim property settlement (s.18(1) *De Facto Relationships Act*. Provisions for extension of time (s.18(2))

## **Discrimination**

**NSW** - 6 months to make a complaint to the Anti-Discrimination Board for each act of discrimination.

**Federal** - 12 months to complain to the Human Rights and Equal Opportunity Commission.

## **Environmental**

3 months to appeal the validity of an environmental planning instrument from the date of publication in Gazette (s.35 *Environmental Planning and Assessment Act* ).

3 months to appeal, by way of judicial review, against a development consent from the date of public notice of consent (s.101 *Environmental Planning and Assessment Act* ).

28 days for a third party objector to designated development to appeal on the merits of a determination to grant consent (s.98 *Environmental Planning and Assessment Act* ).

## **Family Provisions Act**

18 months from date of death to commence proceedings (s.18(1) *Family Provisions Act* ).

## **Family Law**

**Property** - 12 months from date of decree absolute to claim property or spouse maintenance.

**Appeal** - 28 days to lodge an appeal from a Judge s decision.

## **Local Government Act**

28 days to appeal to Land & Environment Court against Council order (s.180(3) *Local Government Act* ).

12 months to appeal to Land and Environment Court against Council s decision regarding an approval (s.176(2) *Local Government Act* ).

## **Health Care Complaints Commission or Medical Board**

5 years to make a complaint

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## Negligence

### Damages for Personal Injury

3 years from accident or death (s.18A *Limitation Act* ).

### Damages for Personal Injury (motor vehicle accident)

28 days to report to police (s.42(1) *Motor Accidents Act* ).

6 months to service Notice of Claim (s.43(2) *Motor Accidents Act* )

3 years from accident or death to commence proceedings (s.42(1) *Motor Accidents Act* ).

### Damage to Property

6 years to commence proceedings (s.14 *Limitation Act* ).

### Torts Generally (not personal injury)

6 years (s.14 *Limitation Act* ).

## Social Security

**ARO** - Appeal to ARO within 3 months of the date of decision by Centrelink.

**SSAT** - Appeals *should* be made to the Social Security Appeals Tribunal within 3 months of the date on which the client was notified by the Department of the decision being appealed.

If an application is lodged after 3 months then the Tribunal's decision cannot be retrospective - this could mean that a client cannot recover any benefits (ie. back payments) s/he might otherwise be entitled to.

**AAT** - Appeal within 28 days of the date of the SSAT to the AAT, although the Tribunal does have power to allow applications to be made out of time.

## Unfair Dismissal

**NSW** - 21 days from date of unfair dismissal (or threat of dismissal) to lodge a complaint with the NSW Industrial Relations Commission (s.84 *Industrial Relations Act* ).

**Federal** - 21 days from date of unfair dismissal or unlawful dismissal to lodge a complaint with the Australian Industrial relations Commission (*Workplace Relations Act* ).

## Victim s Compensation

2 years from date of act of violence. Extensions of time, especially for victims of sexual assault.

3 months from date that Notice of Determination duly served to appeal.

## Workers Compensation

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3 years from accident or death (s.151D(2) *Workers Compensation Act* ).

## **Workplace injuries - common law claims**

3 years from accident or death but not until 6 months after notice of injury is given to employer; and if court proceedings are not commenced within 18 months of injury explanation of delay must be given.

# APPENDIX 2

## INSTRUCTIONS GUIDE

### 1. DIVORCE

Marriage date:

Existence of marriage certificate:

Period of separation:

Circumstances of separation:

Need for accommodation:

Need for income:

Fear of violence:

Ages and whereabouts of children:

Whereabouts of spouse:

Any maintenance being paid:

Any existing orders about the children, property or AVO:

### 2. DEBT

Basis of debt: tort or contract:

If contract: copy of contract:

The wrong alleged:

The parties and representatives:

The damage/loss claimed:

Any letter of demand:

Any court proceedings:

Copy of pleadings:

When served:

How served:

Any Defence:

Any Insurance:

### 3. DISCRIMINATION

Date of any complaint made (to ADB or HREOC?):

Details of any conciliation conference:

Identity of other party:

Identity of any companies:

Ground of discrimination:

Details of discriminatory conduct:

Details of loss or damage:

Response of other party to the allegations:

Any employer/employee relationships:

Current employment:

Any victimisation:

# APPENDIX 3

## INSTRUCTIONS GUIDE EMPLOYMENT LAW

### 1. UNFAIR DISMISSAL/REDUNDANCY

Date of dismissal

Any application lodged or court proceedings

Employer's name and whether it has more than 15 employees

Client's occupation and classification eg; casual, permanent

Is there an applicable award?

If so, is it a Federal or State award?

If no award coverage or client unsure, is there an employment contract?

Remuneration, ie; annual total of wages plus other benefits

Length of employment

Circumstances surrounding the dismissal

Was notice given and/or any other entitlements paid on termination

What remedy is the client seeking?

Trade union membership

## 2. UNPAID ENTITLEMENTS

Basis of claim and how is it calculated?

Employer's name

Client's occupation and classification eg; casual, permanent

Is there an applicable award?

If so, is it a Federal or State award?

If no award coverage or client unsure, is there an employment contract?

Length of employment

Any letter of demand

Any court proceedings

Trade union membership

## 3. DISCRIMINATION IN EMPLOYMENT

Date of any complaint made (to ADB or HREOC)

Details of any conciliation conference

Identity of other party, ie; employer and where applicable identity of employees

Ground of discrimination

Details of discriminatory conduct

Details of loss or damage

Response of other party to the allegations

Current employment

Any victimisation

# APPENDIX 4

## **Professional Indemnity Insurance Compliance Manual for NSW Community Legal Centres**

A Manual to assist Centres meet the National Professional Indemnity Insurance Scheme Requirements

**January 2002**

This Manual is an updated and reworked version of the previously named Practice Standards Manual produced by the Management Support Project of the NSW Community Legal Centres Secretariat in November 1999. It has been rewritten by Lauren Finestone and Dana Harvey and replaces all previous Manuals.

### **1. Introduction**

#### **1.1 About this Manual**

Community Legal Centres (CLC or Centres) in Australia belong to a National Professional Indemnity Insurance (PII) Scheme, and are covered by a Master Insurance Policy, which indemnifies them against claims of negligence and defamation. The policy covers all CLC workers, paid and unpaid, solicitors and non solicitors, and management committee members.

Each State or Territory CLC peak body regulates the implementation of the National PII Scheme in their State or Territory. The Practice and Insurance Committee (PIC) of the NSW Combined Community Legal Centre Group s (CCLCG) administers and oversees the implementation of the National PII Scheme in NSW. It is a requirement of inclusion in the National PII Scheme that NSW Centres adhere to and meet a set of mandatory legal practice requirements. These mandatory requirements aim to limit the likelihood of a negligence claim being made against a Centre, and are set out in this Professional Indemnity Insurance Compliance Manual (the Manual).

In addition this Manual incorporates the Commonwealth Family Law and Legal Aid Department s Casework Service Standards and addresses the attributes required to comply with those standards.

This Manual has previously been called the NSW Preventative Manual or the NSW Practice Standards Manual, which was based on one developed by Victorian Centres and amended numerous times over the years. This Manual contains only the mandatory practice requirements.

It is important to note that compliance with this Manual is not an absolute protection against claims. Each Centre must examine and develop its own procedures to minimise any risk of claims. All Centres must comply with the legal practice requirements set out in this Manual in order to remain eligible for inclusion in the national PII Scheme. If a Centre is not able to meet these requirements, it must urgently contact the PIC Convenor(s) to discuss their concerns.

The PIC - comprised of the Principal Solicitors (or their nominated representative) of each NSW Centre - is responsible for dealing with legal practice issues, both as they affect the National PII Scheme and as they arise generally in NSW Centres. A Convenor or two Co-Convenors of the PIC are elected every year. The Convenor(s) convene the quarterly PIC meetings, administer the National PII Scheme and oversee the annual Cross Check procedure (see below). The Convenor(s) represent NSW in the National PII Network and a Convenor is an ex officio member of the CCLCG Board.

The PIC can request that a Centre which has not sufficiently complied with the mandatory requirements in this Manual put in place mechanisms to comply as a prerequisite for inclusion in the following year's insurance coverage. In the most serious cases where a systemic error is not rectified, a Centre may be excluded from the PII Scheme. (See PIC Policy and Procedure in the Practice Guide).

## **1.2 How to use this Manual**

As this Manual contains the agreed mandatory legal practice requirements for NSW Centres, all Centre workers (staff and volunteers, solicitors and non solicitors) and management committee members must be familiar with its requirements.

This Manual is to be read in conjunction with the Practice Guide for NSW (2002 edition), which contains more detail about the issues dealt with in this Manual, as well as a number of other legal practice issues. The Practice Guide complements this Manual and is designed to assist Centres to achieve best practice .

The Manual is also to be read in conjunction with the Professional Indemnity Insurance Cross Check Questionnaire (Appendix 2 of the Practice Guide) which is the mechanism by which Centres are monitored for compliance with the Manual.

The PIC intends that this Manual and the Cross Check Questionnaire will be updated regularly. Please raise any comments at the PIC or pass any comments about either document to the Convenor(s).

## **1.3 Relationship between this Manual and the Commonwealth Service Standards**

The Commonwealth Service Standards which are included as a Schedule in the proposed CLC Service Agreement are to take effect from 1 July 2002. There are 9 Service Standards in all:

- vi. Information and referral
- vii. Provision of Advice
- viii. Casework
- ix. CLE
- x. Law Reform and Legal Policy
- xi. Accessibility
- xii. Organisational Management
- xiii. Management of Information and data
- xiv. Assessing Client satisfaction and managing complaints

Although several of these standards are relevant to PII, the stated attributes do not have a relationship to PII, so for the purpose of this Manual, the only Standards that are addressed are Provision of Advice

and Casework .

The attributes of those Service Standards (which are also mandatory requirements) are identified throughout the Manual by an asterix (\*).

## **1.4 Glossary of terms used in this Manual**

For a more detailed discussion of these terms refer to the Practice Guide.

### ***Casework:***

Any matter for which the Centre is taking ongoing responsibility (as opposed to one-off advice, information or referral), and a file is opened.

### ***Client/Litigation Agreement or Letter of Engagement:***

Whenever casework is undertaken (see above) the client must be provided with written information confirming the nature and extent of the work that the Centre has agreed to do on behalf of the client. This may be done by way of a Letter of Engagement or a Client/Litigation Agreement. In some cases it will be appropriate that the Letter of Engagement takes the form of a closed file letter, in which the work which the Centre has agreed to do, on the client's instructions, is specified. For more detail about Client Agreements and Letters of Engagement, and samples of same, see the commentary and Appendices in the Practice Guide.

### ***Legal advice:***

The provision of initial or one-off legal advice. This may include a referral to a more appropriate agency, but is distinguished from referral only. Legal advice relates to information given to the client which is based on a full consideration of the particular facts in their case and an assessment of whether, or how, the law might apply in the particular case.

### ***Legal information:***

Legal information is generally said to be provided where information about the relevant law or a particular legal process is given in general terms only. It does not involve a consideration of the specific merits of the individual client's problem and an assessment of the application of the law in their case. The distinction between advice and information is not always easy to draw, and a fuller discussion of this issue is contained in the Practice Guide.

### ***Management Committee:***

The board of management and/or governing body of the Centre. As the Insurance policy is held by the management committee, members must ensure that all staff and volunteers are responsible to them and familiar with this Manual.

### ***Nominated Person (NP):***

A Centre employee — solicitor or non solicitor - with expertise in a particular area of law who is delegated responsibility for supervising advice given and/or work undertaken in that area of the Centre's practice. (For example, a person in a Centre's tenancy service who is delegated the responsibility for supervising the work of other tenancy workers).

If the Nominated Person is a solicitor or barrister they must have a current practising certificate which may be restricted. This person is directly responsible to the Principal Solicitor who is in turn directly responsible to the Management Committee, which holds the insurance policy on behalf of the Centre.

A Nominated Person who is a non solicitor must have specialist knowledge and experience in their specialist area of law. This person is directly responsible to the Principal Solicitor who is in turn directly responsible to the Management Committee, which holds the insurance policy on behalf of the Centre.

***Principal Solicitor(PS):***

Solicitor with overall and ultimate responsibility for the Centre s legal practice, either as Head Solicitor of a Corporation and/or with an Unrestricted Practising Certificate in their own name. This person is the Solicitor on the Record in court proceedings and has supervisory responsibility but does not need to be an employee of the Centre. The Principal Solicitor is directly responsible to the Management Committee, which holds the insurance policy for the Centre.

***Solicitor:***

For the purpose of this Manual and the PII Cross Check Questionnaire, solicitor refers only to a person who holds a current practising certificate.

## **2. Compliance Regime**

### **2.1 Insurance**

Not only is there a legal requirement under the *Legal Profession Act 1987* for all practising solicitors to hold professional indemnity insurance, but on a practical level, a successful claim could devastate a Centre financially. Since 1988, most Centres have opted to participate in the National Community Legal Centres PII Scheme which was negotiated by the National Association of Community Legal Centres (NACLCC). This Scheme is particularly suited to the needs of a CLC legal practice in that it covers all CLC workers, legal and non legal, paid and volunteer, and management committee members against claims for negligence and defamation.

The Scheme has been successful, claims have been minimal, and premiums have stayed relatively low. A major reason for this is due to the procedures and requirements developed by Centres to minimise risk in CLC practice, and monitored by the annual Cross Checks (see below). See the Practice Guide for more details about this scheme.

### **2.2 Notifications**

#### **2.2.1 Insurers**

When a Centre becomes aware of a claim or potential claim against it, the Centre must notify the insurance brokers in writing. The notification must be made during that financial year and no later than 30 June each year at which time the insurance is renewed. Failure to notify the insurers of a claim of which you have knowledge or should reasonably have been aware by this date may result in the insurers refusing to pay the claim.

From 1988 to 30 March 2001, the Insurer was:

HIH  
C/o Marsh PTY LTD  
GPO Box 1229L  
MELBOURNE VIC 3000

From 1 April 2001 to 30 June 2002, the Insurer is:

St Paul International Insurance Company Ltd  
Level 7  
200 Creek Street  
BRISBANE QLD 4001

From 1 July 2002 onwards (until further notice), the Insurer is:

To be advised.

In December 2001, NACLIC was advised that St Paul's would not be renewing the Scheme's PII given that St Paul's commercial interests had changed.

See the Practice Guide for discussion about the Insurance Policy and the Appendices for copies of those policies.

### **2.2.2 Practice and Insurance Committee Convenor(s)**

In addition, the Centre must send a copy of the above notice to the NSW PIC Convenor(s). As the insurance company will deal directly with the Centre that has made the notification, the Centre must advise the PIC Convenor(s) of the outcome of the claim.

## **2.3 Cross Check**

An annual Cross Check procedure is coordinated by the PIC, to monitor each Centre's compliance with the mandatory requirements in this Manual. The Cross Check procedure is carried out using the PII Cross Check Questionnaire which is completed by staff and volunteers from each Centre, assisted by Cross Checkers from other Centres. All NSW Centres covered by the National PII Scheme are cross checked in this manner, and the completed Questionnaires are assessed by the PIC Convenor(s) who write a Report to each Centre and a general Report to the PIC advising of the most common systemic faults.

The Cross Check is designed to check Centres' systems for ensuring that the mandatory requirements are met. It is not intended to be a substantive check of the advice that is given. The Principal Solicitor of each Centre is responsible for the substantive correctness of all advice and ongoing casework, and is responsible for implementing systems and procedures by which that can be checked. The Cross Check simply checks that the Principal Solicitor has put in place those procedures.

## **2.4 Confidentiality**

Cross Checkers sign an undertaking on the Cross Check Questionnaire that any client and Centre information obtained during the Cross Check process will be kept confidential as part of the PIC processes.

The Convenor(s) of the PIC undertake to keep any notifications received by Centres confidential, including the fact of a notification by a Centre, the name of the Centre or the name of the solicitor with responsibility for the file.

Further, discussions regarding a particular Centre issue at a PIC meeting and/or with the PIC Convenor(s) are confidential.

## **3. Mandatory Legal Practice Requirements**

## **3.1 Supervision of Legal Practice by Principal Solicitor**

### **3.1.1 Different Models**

All Centres must have a Principal Solicitor (PS) with a current unrestricted practising certificate who has ultimate responsibility for the conduct and supervision of the Centre's legal practice. There may be several different models for how a Centre's legal practice is structured, depending on the size of the Centre and the nature of work it carries out. The various models are described in the Practice Guide.

### **3.1.2 Supervision**

- The PS retains overall responsibility for the Centre's legal practice and must ensure that the practice is properly supervised.
- The PS must determine the level of supervision required of each worker and volunteer in the centre, having regard to the following:
  - i) Experience of the worker or volunteer
  - ii) Knowledge of the worker or volunteer
  - iii) Complexity of the legal work being undertaken
  - iv) Any other relevant matter
- If the PS is on leave s/he must make arrangements with another solicitor with an unrestricted practicing certificate (from their management committee, another CLC or a locum) to be available to supervise the Centre's casework. In addition, the PS may delegate the responsibility for the day to day management of the legal practice to a Centre solicitor with appropriate experience. That solicitor may have a restricted practicing certificate.
- If the PS resigns from the Centre the centre must make arrangements for another PS, either employed or external, to be the solicitor on the record and to provide supervision as per the Manual, until such time as another permanent PS is employed. The PIC Convenor(s) must be advised of any change in solicitor on the record.
- If a Centre experiences substantial changes in its legal staffing or practice type (including service delivery), the PIC Convenor(s) must be formally advised.

### **3.1.3 Supervision of Staff and Volunteers**

- It is the PS's responsibility to supervise all caseworkers (solicitors and non solicitors) and volunteers (solicitors and non solicitors).
- It may be necessary and appropriate for the Principal Solicitor to delegate their supervisory responsibility over a discrete area of the legal practice to a Nominated Person (NP) (see glossary) with expertise in the requisite area of law.
- All advice or casework of volunteers must be checked by the PS or NP.
- Any staff or volunteer giving advice or doing casework must have access at all times to the Principal Solicitor (or the appropriate Nominated Person). In the event that the Principal Solicitor (or Nominated Person) is not immediately available and the person is not sure about the advice to be provided or course of action to be taken, then :

- i) the client must be informed that the advice/course of action will require checking;
  - ii) the advice/course of action must be checked within 24 hours.
- In relation to ongoing casework, the day to day management of each file must be the responsibility of an employed worker.
- Workers must attend regular case conferences at appropriate intervals, usually weekly. The case conference is a supervision tool, the purpose of which is to:
  - i) determine what matters the Centre will undertake on an ongoing basis
  - ii) monitor caseloads
  - iii) discuss difficult cases
  - iv) detect any problems
  - v) monitor limitation dates, and
  - vi) ensure that the quality of the service is maintained
- As soon as it has become apparent that incorrect or incomplete advice has been given to a client, the following steps must be taken:
  - i) the caseworker responsible for providing the inaccurate/incomplete advice must be alerted to this fact
  - ii) the client must be advised of the correct advice by telephone and/or in writing, and
  - iii) the new advice must be recorded.

#### **3.1.4 Workloads must be monitored**

Principal Solicitors must ensure that Centres are mindful of their limits and resource constraints and do not take on more work than staff can handle. Casework must be kept within reasonable limits taking into account staffing levels and available resources. Workload must be continually monitored and reviewed to ensure that it is kept at a manageable level.

#### **3.1.5 Guidelines for Centre s work must be developed**

Centres must have written guidelines about the type of work (advice and casework, community legal education and law reform) they will, and will not, take on. In relation to casework, the guidelines should include the level of assistance that will be provided to clients. All workers and management committee members must be familiar with these guidelines and procedures must be developed to ensure that they are complied with.

The guidelines must take account of the following:

- i) the particular knowledge and expertise of the Principal Solicitor and Centre staff
- ii) the capacity of the Centre to take on certain work (including workloads)
- iii) the resources of the Centre
- iv) other criteria as determined by the Centre (e.g., target/priority client groups)
- v) the risks associated with certain types of work (e.g. wills, personal injuries, property matters).

#### **3.1.6 Practising Certificates and other Qualifications**

To practice as a solicitor in NSW a person must be admitted to practice and have a current practising certificate from the NSW Law Society. This is discussed in more detail in the Practice Guide.

Advice about immigration issues must only be provided by a Registered Migration Agent. Solicitors also need to register before providing such advice.

### **3.2 Dealing with Monies**

Centres that accept money from or on behalf of clients - as controlled monies or on trust - must ensure that there are adequate procedures for dealing with and accounting for it. Centers must refer to *Riley's Solicitors Manual* and the Practice Guide for details of the requirements.

### **3.3 Provision of Legal Advice**

**Note:** those requirements which are also an attribute of a Service Standard are identified by an asterix (\*).

#### **3.3.1 Duty of Confidentiality\***

The duty of confidentiality means that solicitors may not disclose any client information which has come to them in their professional capacity and in the legitimate course of their professional employment. Because a client's instructions are given to the legal practice and not just the individual solicitor, the duty is binding on all staff and volunteers within the Centre (See the Practice Guide for a fuller discussion of this issue).

All Centre workers and volunteers must be aware of this duty. A copy of a Confidentiality Agreement for volunteers (including management committee members) to sign, acknowledging that they understand the duty and will abide by it while they work at a Centre is in the Appendices in the Practice Guide.

#### **3.3.2 Intake Procedures**

The following information must be recorded for all clients upon intake, including telephone and face to face advice and advice given at outreach programs:

**a) Client's contact details\* (name, address and/or telephone number)**

The client's contact details (name, address and/or phone number) must be recorded unless exceptional circumstances exist. Exceptional circumstances may include where the client is unable to provide this information for reasons of homelessness, accommodation in a refuge, mental illness, etc.

Where a client is unable or refuses to provide those details, the client must be told that the Centre will not be able to correct, update or add to the advice given upon checking of the advice. In addition, that advice to the client must be recorded on the advice sheet, together with a record that the client refused or was unable to provide those details.

**b) Matter type(s)**

**c) Name of other party/parties\***

The name of the other party must be recorded. Where the name of the other party is unknown that must be recorded. Where the other party is a government agency, the police or a business, that must also be recorded.

Where a client refuses to provide the name of the other party the client must be advised that the Centre is unable to provide advice in the absence of this information.

**d) Indication that a conflict of interest check has been performed\***

All Centres must have policies dealing with conflicts of interests for the protection of their clients, potential clients and the Centre. Staff must be trained to look for conflicts of interest and the subject must be covered during the orientation of new workers, paid and unpaid, and reinforced regularly.

A conflict of interest check must be done prior to making an appointment for a client or giving the caller any telephone advice. If a Centre cannot act for someone because of a conflict of interest with a former or current client, the caller must be told that the Centre is unable to assist them and an appropriate referral must be made. Refer to the Practice Guide for the Law Society's recommendation as to how to advise the caller why the centre cannot advise them.

It must be recorded on the advice sheet that a conflict of interest check has been carried out. Some Centres stamp the core data/advice sheet indicating the check has been done, others write conflict check done on the core data/advice sheet. Centres could also incorporate a relevant field into their data base to indicate that a conflict check has been done.

**e) File Number**

All client information must be readily retrievable. Centres must have a file system which allows all client matters to be located by name and file number. If the matter becomes an open file, it must then be noted as such on the Centre's file system.

**3.3.3 Instructions recorded**

**a) Outline of client's problem/instructions\***

This must be legible and recorded in sufficient detail so that the nature of the client's enquiry is clear to anyone who reads it.

**3.3.4 Advice recorded**

**a) Professional basis for advice must be disclosed**

Section 25 of the *Legal Profession Act* provides that a legal practitioner must not hold themselves out as a solicitor or barrister without a current practising certificate. Under section 48B and C of that Act a person must not hold themselves out as a solicitor or barrister or otherwise imply that they are a solicitor or barrister.

This means that workers who provide advice but who do not have a current practising certificate must ensure their clients know that they are not a solicitor. They must tell the client what their status is with words to the effect of 'I am not a solicitor, I am a law student' or 'I am a tenancy worker'.

**b) Outline of advice given to client\***

This must be legible and recorded in sufficient detail so that it is clear to anyone who reads it what advice was given to the client.

**c) Limitation dates\***

A client may approach a Centre with a number of different problems, or a number of causes of action may arise out of the same set of facts (e.g., victims compensation application, civil action and workers compensation claim). The client must be advised of all relevant limitation dates or if the precise date is not known, the relevant limitation period.

The limitation **date** must be noted on the front of all open files.

If the Centre is not able to advise in any particular area of law, the client must be told that advice must be obtained in relation to those areas where the Centre is unable to advise and, as limitation dates may apply, that advice should be sought immediately.

**d) Date and signature of person giving advice**

The person giving the advice must record their name, and sign and date the advice sheet.

**e) Telephone advice**

Where advice is given over the telephone, and any relevant papers cannot be sighted, the person giving advice must preface their advice with a warning to the effect of I cannot be certain without seeing all the documents . This warning must be recorded.

**f) Email advice**

There are a range of legal, regulatory and other issues that Centres providing advice by email need to consider. Centres must develop policies and procedures for dealing with email enquiries that incorporate legal requirements and quality standards.

Centres may wish to provide advice by email so as to increase accessibility, for example to persons with a disability. Even if a Centre decides not to provide legal assistance by email, it must still develop policies and procedures for dealing with people who may make contact via email.

*Email Law: a planning guide for the delivery of free legal assistance via email* is a booklet produced by the Law and Justice Foundation in July 2001 and should be referred to by Centres that provide, or are considering providing, email advice.

**3.3.5 Advising Third Parties**

Centres must not provide advice to third parties (that is, to a person who requests advice on behalf of another person) unless exceptional circumstances exist. The primary reason for this is that it is not possible to be certain that the third party is giving correct or complete instructions, nor is it possible to be certain that the advice given will be relayed accurately.

There may be some exceptional circumstances where it is appropriate to provide advice to third parties, for example, to a person caring for a person with dementia or some other disability or a parent inquiring on behalf of a young child.

**3.4 Open Files**

**3.4.1 Advice and Casework Guidelines**

In determining whether to take on a matter as an ongoing casework file, reference must be had to the Centre s advice and casework guidelines (See above).

**3.4.2 File Number**

*The matter will already have been given a file number (see intake procedures). It is now necessary to indicate on the Centre s file system that the file has been opened as an ongoing casework file.*

**3.4.3 Letter of Engagement or Client/Litigation Agreement**

Whenever ongoing casework is undertaken and a file is opened, the file must have a Client/Litigation Agreement or a Letter of Engagement. See Practice Guide and Appendices for a full discussion about these and other matters, including retainers, costs disclosure documents, and also samples of each. See also definition in Glossary.

#### **3.4.4 Limitation Date**

Matters in relation to which a statute of limitation applies must be clearly marked on the front of the file with the **date** on which the limitation date will expire (in addition to being recorded in the Centre's diary system).

If no limitation date is applicable, this must be noted on the front of the file as N/A . Similarly, if the limitation date has expired, this must also be indicated as Expired .

Regular file checks of all current files must be undertaken to monitor the limitation dates. This can be done by way of regular case conferences.

All workers - paid and unpaid - must be made aware of the CCLCG PIC Limitation Date document (contained as an Appendix in the Practice Guide). This document must be continually updated and displayed prominently in appropriate areas in the Centre.

When a client attends the Centre with multiple problems, or where the same set of facts disclose more than one cause of action (e.g., victims compensation application, civil action and workers compensation claim), all the relevant limitation dates must be given.

#### **3.4.5 File Management**

##### **a) Front of File Information**

The following information must be recorded on the front of the file:

- i) Client name
- ii) File number
- iii) Limitation date (see above)
- iv) Review date

##### **b) Inside of File Information**

The following information must be recorded in the file when a new casework file is opened:

- i) Name, address and telephone number of client
- ii) Name of the other party
- iii) Indication that a conflict check has been done
- iv) Matter type
- v) Outline of the client's problem
- vi) Outline of the advice given
- vii) Client/litigation agreement or letter of engagement
- viii) Date file opened
- ix) File number
- x) Date instructions first received
- xi) Date advice given
- xii) Name of worker responsible for file.

The NIS Core Data sheet requests most, but not all, of the above information.

For further discussion of the above, see the Practice Guide.

**c) File notes**

File notes must be made of all telephone or face to face attendances with the client or any other person spoken to in relation to the matter. The file notes must be dated, indicate the circumstances in which the note was made (e.g., face to face, or telephone), be signed by the person making the file note, and spiked on the file.

**d) Incoming or outgoing calls**

Records must be made of all incoming and outgoing calls made on the file, by the person with the conduct of the file and any other person who works on the file. Messages taken from callers must be spiked on the file.

**e) Correspondence, Court Documents, Evidence and Disbursements**

All correspondence in a matter must be kept on the file. Files must be kept in a sensible and logical order, with court documents and evidence separated from file notes and correspondence. File notes and correspondence must be secured to the file in chronological order. Disbursements must also be kept together and separate from other documents.

## **3.5 File Closure**

### **3.5.1 Closing Files**

Before a file is closed, it must be reviewed by the Principal Solicitor (or Nominated Person), who must ensure that the following requirements have been complied with:

- a) The client is advised in writing:
  - that the file will be closed
  - that the file will be destroyed after 7 years (See below at 3.5.2)
  - of any relevant limitation dates
  
- b) The following administrative process has been completed:
  - any original documents provided by client are returned to the client
  - all bills have been paid, trust statements sent and unused trust monies returned and accounted for
  - the date the file is closed (and its location) is recorded.
  - The file is closed on the Centre's file system.

It is easier to dispose of files after seven years if they are given a new number when they are closed, as the time period runs from the date of closure.

There must either be a record on the file that the above things have been done (for example by way of a checklist) or an explanation as to why they have not been done.

### **3.5.2 Keeping Files**

All files must be kept for a minimum of 7 years from the date that the file is closed. It should be noted however that the period recommend by the Law Society of NSW is 10 years after closure. It is therefore recommended that the practice of Centres is that files are kept for 10 years.

Note also that clients under 18 years of age must be advised that their file will be destroyed after 7 years from the date of their eighteenth birthday (although in best practice such files should be kept for 10 years after that date).

In relation to clients with mental illnesses or intellectual disabilities, those files must never be destroyed.

Files containing instructions for wills, and copies of wills and powers of attorney must not be destroyed. If the Centre retains the original will it must not be kept on the file, rather it must be kept in a secure place with a will register.

## **3.6 File Review**

### **3.6.1 Diary system**

The Centre must have a comprehensive diary system (whether electronic or other form) which records a regular review date for each ongoing file, and the limitation date (and appropriate forewarnings of that date) where applicable. The diary system must be accessible at all times at the Centre.

This is to ensure that correspondence is sent or attended to, court dates and limitation dates are not missed, and other necessary action is taken on the file.

Whatever system is used, it is essential that:

- each file is given a review date at an appropriate interval
- court dates are recorded ( e.g., subpoena to be filed )
- on the review date a check is done to ensure that any necessary action is completed
- checks to ensure that limitation dates are not missed must occur well in advance (at least one month and again at one week) of the expiry of the limitation date;
- there are procedures in place to ensure that a date or action to be taken is not missed due to the absence of a particular person
- there is a formal system or process in place to ensure diaries are checked, particularly in the absence of a solicitor or caseworker
- diary entries must record the file name and/or the name of the client, as well as the name of the staff member responsible for the file.

### **3.6.3 Correspondence**

All correspondence must be attended to promptly and appropriate action taken.

Incoming correspondence must be placed in the appropriate person s in tray which must be checked every day. It must not be placed in the file where it may not be seen until the file is next reviewed, which may not be for some period of time.

### **3.6.4 Case Conferences**

As stated above case conferences must be held on a regular basis at appropriate intervals (see 3.1.2).

## **3.7 Specialist Projects Auspiced by Centres**

Several Centres auspice various specialist projects, including Women s Domestic Violence Court Assistance Schemes (WDVCAS), Tenancy Advice Services, Welfare Rights and Children s Court Support Schemes. Different models operate in different Centres. The workers in these projects are covered by the National CLC Professional Indemnity Insurance Scheme and therefore must comply with the requirements of this Manual (see all of above).

Particular attention must be paid to the following:

- Any work done by the Project (advice or ongoing casework) must be opened as files of the Centre and given a file number. For example, where a WDVCAS worker advises a woman in a police initiated AVO it must be recorded as a Centre file.
- Projects must use the Centre letterhead (which may then have a sub heading in the name of the Project)
- Project workers must sign correspondence over their stated position ( e.g. Tenancy Worker)
- Project workers must check legal documents such as Deeds of Release, Affidavits, Statutory Declarations, etc with the Principal Solicitor.
- Project workers must advise clients (for example in the letter of engagement) that there may be other legal ramifications in the matter and refer them to solicitors at the Centre for that advice.
- The Project is subject to the annual Cross Check of the Centre.

### **3.8 Volunteers**

The legal work of volunteers must be supervised by the Principal Solicitor (or Nominated Person).

All new volunteers, whether they are legal practitioners providing legal advice at evening sessions or student volunteers working with the Centre during the day, must participate in a training and orientation program.

An orientation package must be given to each new volunteer which includes:

- information about the history, philosophy, resources, facilities, purpose, etc of the Centre
- structure and operations of the Centre
- all policies and procedures of the Centre, including office procedures, advice and casework guidelines
- this Compliance Manual;
- any other relevant documents.

Each Centre must have an ongoing training program for volunteers to keep them up to date with changes at the Centre, developments in the relevant areas of law, and so on.

### **3.8 Publications**

Information in any brochures or publications produced by a Centre must be checked by the Principal Solicitor or Nominated Person for accuracy prior to distribution. The publication must contain a disclaimer as to the reliability of the information contained in the publication and the need for the reader to obtain legal advice in relation to their particular circumstances.

### **3.9 Community Legal Education (CLE)**

Centres undertaking CLE activities must make it clear that the information provided in those sessions is in the manner of general legal information, not legal advice, and accordingly must not be relied upon or applied by participants in their own cases. Participants must be advised that each set of circumstances needs to be looked at individually and they must seek individual legal advice if they have a legal problem.

Similarly, legal advice must not be given by workers conducting CLE sessions, as such sessions are not appropriate for obtaining sufficient and comprehensive instructions upon which to provide advice.

The Principal Solicitor (or Nominated Person) must ensure that the content of CLE sessions is accurate and up to date, and workers conducting such sessions are aware of the law of defamation.

### **3.10 Law Reform**

The Principal Solicitor (or Nominated Person) in Centres involved in law reform activities must ensure that the content of legal submissions and other documents prepared by the Centre or on behalf of the CCLCG are legally accurate and do not contain any defamatory material.

### **3.11 Media**

The Principal Solicitor must ensure that the content of a press release is correct and not defamatory, and ensure that all workers who may speak with the media are aware of the issues around defamation.