



## **Submission to the Victorian Government's Homelessness Inquiry January 2020**

### **1. Recommendations**

- 1.1 Increase the supply of affordable housing in the western suburbs of Melbourne.
- 1.2 Increase the supply of public and social housing in the western suburbs of Melbourne.
- 1.3 Establish an emergency accommodation facility in Wyndham.
- 1.4 Establish a women's refuge in Wyndham.
- 1.5 Establish a youth refuge in Wyndham.
- 1.6 Fund integrated legal and health partnerships which seek to address housing insecurity and homelessness in Melbourne's west.
- 1.7 Strengthen legislative and policy protections against work exploitation and insecure work.
- 1.8 Fund the expansion of the School Lawyer Program to all Victorian state secondary schools.
- 1.9 Fund the expansion of Youth Law Clinics to targeted areas of need across Victoria
- 1.10 Fund the introduction of the first Out of Home Care Legal Clinics.
- 1.11 Fund the expansion of the Economic Abuse Legal Clinics to more women's refuges and family violence services across Victoria.
- 1.12 Fund the expansion of the Mortgage Wellbeing Service to identified mortgage stress hotspots in the outer suburbs of Melbourne.
- 1.13 Provide secure funding for the Employment Law Program and related legal services.
- 1.14 Consumer Affairs Victoria should strengthen its complaints regime and take a more active approach to prosecutions, to reduce the number of illegal evictions occurring in Victoria.

### **2. About WEstjustice**

- 2.1 WEstjustice (the Western Community Legal Centre) was formed in July 2015 as a result of a merger between the Footscray Community Legal Centre, Western Suburbs Legal Service and the Wyndham Legal Service. WEstjustice is a community organisation that provides free legal assistance and financial counselling to people who live, work, study or access services in the western suburbs of Melbourne.

2.2 We have offices in Werribee and Footscray as well as a youth legal branch in Sunshine and provide outreach across the western suburbs. WEstjustice provides a range of legal services including legal information; outreach and casework; duty lawyer services; court representation, community legal education; law reform; advocacy; and community development projects.

### 3. The Problem

3.1 Homelessness is a significant and growing concern in the western suburbs of Melbourne. Homelessness is primarily caused by the housing crisis. Family violence, poverty and mental illness are major contributing factors to homelessness; however, people remain homeless due to a lack of affordable housing. What was once an affordable housing option for low income earners, private rental has become unaffordable due to a lack of supply and a highly competitive rental market. An increase in people living in severely overcrowded conditions has also contributed to the rise in homelessness in the western suburbs.

3.2 Melbourne's west has seen a dramatic increase in homelessness in the five years between the 2011 census and the 2016 census. In the City of Wyndham, at the 2016 Census, there were 730 homeless people living in Wyndham. This represents an increase of 76.3% from 2011, when there were 414 homeless people in Wyndham. Only in the City of Melbourne did homelessness increase more quickly between 2011 and 2016. The increase of 316 homeless people is the fifth largest increase in Greater Melbourne, behind the Cities of Melbourne, Greater Dandenong, Casey and Brimbank.<sup>1</sup>

3.3 The profile of homeless persons in Wyndham shows that Wyndham has a high rate of youth homelessness. In 2016, the proportion of homeless people aged 24 years and under was considerably higher in Wyndham (52.5 per cent) than in Greater Melbourne (39.3 per cent).<sup>2</sup> This statistic highlights an urgent crisis of youth homelessness in the outer west. It is important to note that the problem is bigger than the statistics reveal because many incidents of couch surfing – the dominant form of homelessness for young people – are hard to determine and often under-reported. WEstjustice has a particular interest in the experience of couch surfers and 'couch providers', having conducted ground-breaking research into the legal needs and service gaps for these cohorts in 2017.<sup>3</sup>

3.4 The rest of the western region has also seen its homeless population grow. 713 Maribyrnong residents were counted as homeless during the 2016 census. Of those experiencing homelessness in Maribyrnong during the 2016 count, 129 were children under 12.<sup>4</sup> Homelessness has also risen sharply in the City of Hobsons Bay; the number of homeless people in Hobsons Bay jumped by more than 100 (or 54 per cent) in the five years to 2016.

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<sup>1</sup> Wyndham City Council, *Homelessness in Wyndham: Social profiles*, <https://wyndham-digital.iconagency.com.au/node/37>

<sup>2</sup> *Ibid.*

<sup>3</sup> Shorna Moore, *Couch surfing limbo: Legal, policy and service gaps affecting young couch surfers and couch providers in Melbourne's West*, WEstjustice, 2017, <https://www.westjustice.org.au/cms/uploads/docs/westjustice-couch-surfing-limbo-report.pdf>

<sup>4</sup> North and West Homelessness Networks, *Melbourne's Housing Crisis: Reality of Homelessness*, [http://www.nwhn.net.au/admin/file/content2/c7/Homelessness%20in%20Maribyrnong\\_1533123814653.pdf](http://www.nwhn.net.au/admin/file/content2/c7/Homelessness%20in%20Maribyrnong_1533123814653.pdf)

3.5 As Melbourne's west experiences unprecedented population growth (currently the fastest in the State), there is a major challenge to ensure that residents, especially those living in the new growth areas, are able to access secure, appropriate and affordable accommodation. Centrelink payments rates have not increased in real terms for many years, leaving most people living on pensions or welfare payments priced out of the private rental market.

#### **4. Interconnection between homelessness and mental health**

4.1 In 2016, WEstjustice established a health-justice partnership with Mercy Mental Health, which includes the Clare Moore Building psychiatric inpatient facility in Werribee Hospital. This was the first health-justice partnership in Australia embedded within a mental health inpatient facility. This project provided an opportunity to analyse the interconnectivity between mental health problems and homelessness.

4.2 The partnership was established to assist patients with fines and debts, to tackle the financial stressors that could interfere with their recovery. However, we found that tenancy and housing issues were significant problems for people in the unit and becoming worse. According to Mercy data, the three year trend for mental health inpatients identifying as homeless demonstrates an upward trend, for example 50 people identifying in 2015-16 compared with 92 in 2017-18.

4.3 Of note, in the Ursula Frayne Centre (Mercy Mental Health's psychiatric inpatient unit in Footscray), 11 of the 16 inpatients identified as homeless in a single day. Currently at least two patients of the Ursula Frayne Centre stated that they are residing in the facility because they have nowhere else to live. One has been residing there for over a year. The other patient – who has an intellectual disability and complex needs – has been living in Mercy Mental Health acute inpatient facilities for almost three years. The hospital invests significantly in trying to find accommodation for these patients, but this is resource intensive and often unsuccessful.

4.4 Due to this apparent high demand for legal support for tenancy and housing issues, WEstjustice has been providing (unfunded) assistance outside the scope of the project. Given our success in preventing evictions, we are currently scoping an expanded service to include these additional areas of law.

#### **Recommendation**

4.5 We recommend that government fund integrated legal and health partnerships which seek to address housing insecurity and homelessness in Melbourne's west.

#### **5. The Solution**

5.1 Westjustice has committed considerable resources over the years to finding innovative comprehensive solutions to complex legal and social issues.

5.2 The remainder of this submission showcases WEstjustice's responses to these complex issues, including specialist services in multidisciplinary placed-based partnerships across a range of client groups experiencing, or at risk of, homelessness.

5.3 These include:

- 5.3.1 The McAuley Services for Women – Health Justice Partnership
- 5.3.2 The School Lawyer Program
- 5.3.3 Out of Home Care Legal Clinics
- 5.3.4 The Youth Law Clinics
- 5.3.5 Tenancy Program
- 5.3.6 Mortgage Wellbeing Service
- 5.3.7 Employment Law Project

## **6. McAuley Services for Women - Health-Justice Partnership: Restoring Financial Safety Project**

### Overview of program

- 6.1 WEstjustice has developed an innovative new model of assisting people experiencing economic abuse that has improved financial security, financial safety and, ultimately safe and secure housing, for family violence victim-survivors.
- 6.2 Over the years, our research into family violence lead to the creation of a partnership with McAuley Community Services for Women (McAuley) in which to deliver the Restoring Financial Safety Project (Economic Abuse Legal Clinics). McAuley is a provider of family violence crisis accommodation and support services in Melbourne's west. The program sees a lawyer and a financial counsellor imbedded at McAuley House women's refuge to address a victim-survivor's financial and legal problems in a supported and familiar environment. The program has prevented the escalation of legal and financial problems arising out of family violence through early intervention and provided holistic legal and financial counselling support through the complex processes and laws related to family violence.
- 6.3 Recent research revealed that up to 99% of the women who present to family violence support services, experienced some form of economic abuse.<sup>5</sup> Economic abuse is also cited as the main reason a woman remains in, or returns to, a violent relationship,<sup>6</sup> and notably, family violence is the major driver of homelessness among Victoria's growing population of homeless women.<sup>7</sup>
- 6.4 Almost all victim-survivors struggle to fully recover from family violence without effective support to resolve related financial and legal issues. The majority of victim-survivors are forced to self-represent through the justice system and with creditors. Their legal and financial issues are intertwined, many of which have spiralled out of control, risking homelessness and poverty. Early intervention and effective representation by qualified legal professionals is essential to intercept this downward spiral.

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<sup>5</sup> Jozica Kutin, Roslyn Russell, Mike Reid, 'Economic abuse between intimate partners in Australia: prevalence, health status, disability and financial stress' (2017) 41:3

Australian and New Zealand Journal of Public Health 269 at 269 <https://onlinelibrary.wiley.com/doi/full/10.1111/1753-6405.12651>.

<sup>6</sup> Australian Institute of Health and Welfare, *Specialist Homeless Services Data Collection 2011-12* (2012) Cat. No. HOU 267 <https://www.aihw.gov.au/reports/housing-assistance/specialist-homelessness-services-2011-12/contents/table-of-contents>.

<sup>7</sup> *Ibid.*

6.5 Addressing economic abuse and supporting women to achieve financial security is the next step in prevention of homelessness for women experiencing family violence. It is clear that assisting a victim-survivor to be free from debt and associated legal problems acquired through family violence circumstances opens up money and capacity to afford stable housing. Early indications show that improving financial security also means victim-survivors and their children can be housed sooner, relieving pressure from the refuge and homelessness systems.

## Case Study

*Tamara and her husband were married for 10 years and had two children. Tamara's husband was extremely violent, abusive and controlling over Tamara; she wasn't allowed to have friends, a driver's licence or buy clothing. After the tragic loss of their daughter, Tamara's husband refused to pay the funeral expenses and continued to use Tamara's Centrelink benefits to fund his lifestyle. With the money she could access, Tamara paid rent, school fees and her husband's fines. Tamara still had more than \$25,000 in debts for unpaid utility bills, credit cards, a Centrelink debt and a personal loan she used to pay for her daughter's funeral.*

*Tamara came to the McAuley women's refuge program soon after she separated from her husband. She had to leave her son with a close friend so he could continue his studies. Tamara was skipping meals while living in a safe house to make ends meet. In just five hours, WEstjustice sought and obtained a full waiver of Tamara's \$10,000 personal loan thanks to our contact at a bank. That loan was causing Tamara enormous stress and tipping her into destitution. In one week we also obtained full debt waivers on Tamara's telephone, utilities, other banking and debt collection debts. By clearing Tamara's debts, she could afford to return to a private rental and live with her son again.*

## Recommendation

6.6 We recommend that government urgently establish a women's refuge in Wyndham.

Further, government should fund the expansion of the Economic Abuse Legal Clinics to more women's refuges and family violence services across Victoria.

## **7. School Lawyer Program**

### Overview of program

7.1 WEstjustice has worked extensively with vulnerable young people through embedded outreach legal services delivered at places where young people live, learn, work and socialise.

7.2 Our school lawyer program is one of the programs that exemplifies our in-situ service delivery model. It has been successfully operating in a number of schools in the outer western suburbs of greater Melbourne. The program, which places a lawyer within the school environment, has identified and addressed the legal issues faced by high school children which includes homelessness and housing instability. Legal issues are intercepted before they reach crisis point, this includes family violence, which is almost always the precursor to homelessness for our young people. At the very early stages, we can provide legal advice, education, representation and warm referrals around the legal issues that force young people into homelessness.

## Case Study

Alex was living with their parents and was the victim of family violence at the hands of their father. The mother was the primary victim and was not ready to leave the relationship. On a number of occasions Alex slept rough to escape the violence and went to school the very next day. Alex grew frustrated and wanted advice on their options to leave this violent environment.

Alex came to see the school lawyer at their school for family violence advice. Alex had organised to couch surf with a friend but Alex wanted to know the legal implications, and also their legal rights. The school lawyer gave family violence and related legal advice and represented Alex in court to take out an intervention order against the father. The school lawyer also arranged for social security support in the form of Youth Allowance, arranged homelessness case management and was a constant support throughout a difficult time for this young person. Alex stayed at school, finished year 12 and stated to our service through client feedback that the school lawyer had played a huge part in their feeling supported enough to finish school.

## Recommendations

7.3 We recommend funding the expansion of the School Lawyer Program to all Victorian state secondary schools.

## **8. Out of Home Care Legal Clinics**

### Overview of program

8.1 We are currently incubating a project that aims to capitalise on our longstanding partnerships and connections to offer in-situ legal services to children removed through child protection processes and placed in out of home care.

8.2 We will provide a comprehensive service which will include employment law, debts, fines, family violence, criminal law and housing.

8.3 This project will address unmet legal needs of young people in out of home care in the western suburbs and showcase more comprehensive approaches to working with vulnerable young people, evidenced through successful legal outcomes and improved life outcomes. We will highlight problems with the current reactionary and dysfunctional child protection system that at times forces children into homelessness and build a case for reform.

8.4 Many children reported not feeling safe in residential care homes which is the option of last resort in the out of home care system. Some children would prefer to couch surf rather than staying in residential care.

### Comments by young people

*"I've been in and out of here for about three years. There's a new kid [...] that I don't get along with. I refuse to stay here, I hate it. I stay in a mate's shed (Walker, residential care, 16 years of age)."*

*"The only reason I'm absconding is because I don't feel safe there. They don't listen to me, I don't feel valued (Imogen, residential care, 16 years of age)."*

- In Our Own Words report, Commission for Children and Young People

## Recommendations

8.5 We recommend that government fund the introduction of the first Out of Home Care Legal Clinics.

## **9. Youth Law Clinics**

### Overview of program

9.1 As a result of the learnings from the School Lawyer Program, we extended our reach and now offer Youth Law Clinics.

9.2 Our Youth Law Clinics are situated at sites where young people frequent and already engage with other 'youth specific' services on a regular basis. Staff of the youth services are provided with training regarding the role and benefits of the Youth Law Clinics and the youth lawyers learn about the scope and purpose of the youth services. This ensures that referral processes are properly understood and mitigates against delays and multiple story telling.

9.3 The youth lawyers and staff of the youth services meet regularly to ensure that the young person is provided with comprehensive multidisciplinary support. Reports and references are obtained and used to support of legal arguments and case work.

9.4 Many of the legal issues addressed through these clinics involve family violence, tenancy, employment law, debt, fines and criminal law. A common narrative is the unravelling of the young persons life due to a combination of issues including health, mental health, financial and unresolved legal problems. By providing an integrated legal service within a multidisciplinary placed based program, effective legal interventions are provided simultaneously with all of the other essential supports including housing.

### Case Study

*Jaime is in her twenties and grew up in residential care. She has a two year old daughter. Jaime came to us in complete crisis late last year – homeless (couch surfing and in crisis accommodation without any belongings) and using drugs. Her circumstances were largely due to an ongoing abusive relationship with her ex-partner, who had previous convictions for family violence. Previous intervention orders existed to protect Jaime and her child.*

*Last year, Jaime was admitted to a local psychiatric unit. Police took out an intervention order against her to protect her violent ex-partner. She was served with the application for the order while she was in hospital and heavily medicated. Not surprisingly, she did not attend court and as a result a full order was put in place against her protecting her ex. She was served with the order after she was discharged via substituted service, which allowed police to slip the order under a boarding house dorm room where she had been staying. She told us she was barely staying at this property as it was dangerous and says she never received the paperwork so had no idea an intervention order existed or what its terms were.*

*Some months later, Jaime's ex contacted her out of the blue (likely knowing her intervention order against him had recently expired and his was still active) and offered her a place to*

*stay. As she was still homeless at the time, she accepted the offer. That night Jaime's ex violently assaulted her. Jaime managed to flee the property and in doing she accidentally damaged the door of the property.*

*Jaime was later arrested in relation to this incident. During her record of interview, she gave a detailed account of the horrific assault that took place at her ex's house and made it clear that she was the victim in the relationship. She also told police that she had no knowledge of any intervention order existing against her. Despite this, police charged Jaime with breaching the intervention order and criminal damage.*

*Despite negotiations, police refused to withdraw the charges and the matter was booked in for trial. A few days before the trial the prosecution withdrew all the charges. Jaime was ecstatic and felt vindicated.*

*When Jaime came to us, we linked her in with housing support, drug counselling and family violence support. We have worked holistically with these services to support Jaime to recover and move on while dealing with her legal issues.*

## Recommendation

9.5 We recommend that government fund the expansion of Youth Law Clinics to targeted areas of need across Victoria. We further recommend that government establish a youth refuge in Wyndham.

## **10. Tenancy Program**

### Overview of program

- 10.1 Westjustice provides tenancy advice, assistance and representation to renters who work, live, study or have ties in the Wyndham, Maribyrnong, Hobsons Bay, Moonee Valley, and Metropolitan Melbourne areas. Although we predominantly work with clients in these areas, our service reach across the state.
- 10.2 We assist all renters seeking help with a particular focus on:
  - 10.2.1 Culturally and linguistically diverse (CALD), including refugees and recently-arrived households;
  - 10.2.2 Women and children facing family violence;
  - 10.2.3 Youth and international students;
  - 10.2.4 Economically vulnerable individuals and households;
  - 10.2.5 Those experiencing homelessness or at risk of homelessness.
- 10.3 Our Tenancy Team provides services at our offices in Werribee and Footscray, but also 'in situ' at our partner programs such as Study Melbourne (for international students). Our lawyers aim to provide holistic assistance including legal advice, legal and non-legal options and practical suggestions through to court hearings.



- 10.4 A large portion of our tenancy work is around assisting renters challenge and negotiate Notices to Vacate therefore preventing temporary and long-term homelessness.
- 10.5 Our lawyers are highly experienced in carrying out negotiations with the landlord and/or agent to withdraw Notices to Vacate and challenging Notices to Vacate in VCAT. Our Team has been successful on many occasions preventing eviction or, at the very least, postponement of the eviction process - thus, providing time to find alternate housing and avoiding temporary homelessness.
- 10.6 Our Tenancy Team understands the increasing issues with homelessness in tenancy matters and, in the last year, have been more focused on looking into illegal evictions. We have assisted renters inform landlords of the legal eviction process to ensure landlords refrain from acting in conflict with the Residential Tenancies Act. We have also put a stay on illegal eviction proceedings through assisting renters with Restraining Orders at VCAT. Further, our team is currently looking into policy work around the Director of Consumer Affairs Victoria imposed penalties for illegal eviction.

## Case Study

*Jake came to our service in September 2019 because he was provided with a Notice to Vacate for arrears and there was a VCAT hearing for possession coming up. Jake explained that he was in arrears because he was recently involved in an accident resulting in him having to stop work. During this period, Jake experienced severe depression causing him to fall behind in utility bills and rent, and to accumulate traffic fines. Jake told us that he intended to move to Queensland to live with his sister but that he did not have financial capacity to do so at that time. Jake said if he was to be evicted, he would need time to pack up his belongings and expected to be living in his car for a few weeks until he gets money to drive to Queensland. Jake advised that he could only contribute small amounts towards the rent.*

*We negotiated a payment plan with the agent. The agent eventually accepted the payment plan and the landlord withdrew his application to VCAT for possession.*

*During this time, Jake was referred to our internal financial counsellor for assistance with his debt matters. Our financial counsellor was able to arrange a waiver on the utility bills and traffic fines. Our financial counsellor also assisted Jake to apply for part of his superannuation so that Jake had money to start afresh in Queensland.*

*Jake vacated the property not long after and moved in with his sister in Queensland. Jake attempted to get his bond back but the landlord refused. The landlord made a claim for bond and compensation against Jake in the order of about \$1,700.*

*We negotiated with the agent and provided Jake with advice about what he should do in preparation for his defence. Jake did not agree with the claim and was under a lot of stress. Jake's mental health condition worsened and it was sometimes difficult to get in contact with him. Jake advised that he would lock himself in his room during times he experienced severe depression and that he could not focus or advocate for himself at times when he was under a lot of pressure and had anxiety.*

*We worked closely with the financial counsellor and Jake's doctors to ensure Jake was in a position to understand his situation and provide instructions.*

*Jake advised that he may still have the plug in storage and could return this to the agent. In relation to the door damage, Jake advised he accidentally ran his vacuum cleaner into the door, causing damage. Jake said he wanted to fix the door but didn't have time. We advised Jake that he would be liable for the door damage. Jake indicated he would pay for the vanity but did not agree with the cost, stating it was excessive.*

*We first assisted Jake to apply to VCAT to appear via telephone as Jake was residing in Queensland. This request was granted by the Tribunal. We then negotiated with the agent around the possibility of forgoing the plug cost if Jake could return this. The agent agreed; however, Jake subsequently said he could not find the plug so he bought a new one from Bunnings and sent this to the agent.*

*In preparation for the matter, we investigated a cheaper alternative for the vanity. We found a quote for \$600 for the vanity, which Jake was happy to pay. We negotiated this amount with the agent and the landlord accepted this. Jake also conceded to the door cost. The agent said the plug Jake bought did not fit but the landlord conceded they would not go to VCAT for just a plug if the parties were settling the matter.*

*Through successful negotiations for a payment plan, Jake was given more time to move out and avoided homelessness. Jake also avoided a claim of \$1,694 and instead paid \$750. This amount was taken out of Jake's bond and the remaining balance of \$756 was returned to Jake. Jake was very happy to get part of his bond back as he needed money to start afresh in Queensland.*

*After this matter finalised, Jake's mental health significantly improved as he no longer had to worry about the landlord or VCAT. Jake also had adequate finances to help him settle in Queensland.*

## Recommendations

10.7 We recommend that Consumer Affairs Victoria strengthen its complaints regime and take a more active approach to prosecutions, to reduce the number of illegal evictions occurring in Victoria. We further recommend that the Victorian government funds more tenancy legal assistance services, particularly place-based services set up as part of multidisciplinary partnerships. Further, we recommend the government establish an emergency accommodation facility in Wyndham.

## **11 Mortgage Wellbeing Service**

### Overview of program

11.1 Mortgage stress is a growing concern for Australians with nearly 30% of households currently in some form of loan default or struggling to pay their mortgage on time. A sudden rise in interest rates or an event which results in loss of income or capability, such as job loss, illness or family violence, has a devastating impact, with a dramatic increase in the number of people entering the homelessness and housing sector.

11.2 In response to the rapid increase in mortgage stress across Melbourne's outer west, WEstjustice established the Mortgage Wellbeing Service (MWS). The MWS is a

homelessness prevention program which has been running for over two years as a health-justice partnership with Djerriwarrh Health Services and forms part of the Wyndham H3 Alliance (H3). The first of its kind in Australia, the MWS aims to keep people in their homes by avoiding repossession and therefore preventing people from entering the homelessness and housing sector. The MWS provides an integrated model, with services being delivered by a lawyer, financial counsellor and social worker working together to support clients experiencing mortgage stress. The MWS also provides community outreach and engagement and cross-sectoral referrals with banks.

- 11.3 Since the H3 program began in July 2017, 366 people (clients and their children) have been prevented from entering the homelessness service system, 107 houses were saved from repossession and \$278,943.19 of debt has been waived. Over 33% of clients had experienced family violence and over 40% experienced mental health issues.
- 11.4 Further findings from the MWS show that the lived experience of mortgage stress can be found in the sacrifices being made by families foregoing school camps and new clothing or restricting essentials like food or electricity while servicing their mortgage. Unopened letters from lawyers and courts mount for fear and anxiety of the consequences. As the pressure builds, common impacts of mortgage stress include family breakdown, substance abuse and mental ill-health; housing repossession has been shown to significantly increase the risk of common mental illness, and there are crushing stories of personal shame when presenting at homeless shelters or asking friends and family for temporary accommodation.
- 11.5 The MWS shows that working proactively through early intervention can protect people and families, reduce harm and minimise costs arising from mortgage stress. To do this effectively, it is important to ensure Victorians are empowered to seek and receive assistance through trusted, local, integrated services. The community, government and banking sectors have a moral obligation, knowing what we now know about the risks and growing problem, to work together to support vulnerable Victorians. The opportunity cost of failing to invest in early intervention is too significant – both for our community and for our economy.

## Case Study

*Our client Zara is a single mother of 8 young children living in Melbourne's west. She came to Australia with her husband on a humanitarian visa. Her marriage ended due to family violence and her ex-husband is now in jail.*

*As a result, Zara had fallen into significant debt, owing over \$15,000 in arrears on her mortgage, \$3,000 in arrears on Council rates and \$10,000 owing on a car loan. She also had a number of personal credit card debts that she took out in order to support her family.*

*When Zara was referred to WEstjustice's MWS by her local Council, legal proceedings had been initiated by the bank and her house was in the process of being repossessed. Zara was told to go with her family to Unison Housing to seek crisis accommodation and housing support. Sadly, Zara's mental health had become so bad that she tried to take her own life.*

The MWS successfully negotiated with the bank and was able to put a three month hold on her mortgage repayments as well as reconfigure the loan and reverse proceedings so that the house was not repossessed. The service also negotiated a hardship arrangement with respect to her car loan and rates to prevent further risk of repossession of her house. The program's social worker provided continuous wrap-around social support for her mental health issues.

## Recommendation

- 11.6 We recommend the Victorian government expand the Mortgage Wellbeing Service across the state to areas of high mortgage stress. This would assist to prevent thousands of people becoming homeless and intercept the many flow on effects.

## **12 Employment Law Program**

### Overview of program

- 12.1 WEstjustice's Employment Law Program (ELP) seeks to improve employment outcomes for vulnerable workers including migrants, refugees, temporary visa holders and young people. We do this by empowering communities to understand and enforce their workplace rights through the provision of tailored legal services, education, sector capacity building and advocacy for systemic reform. WEstjustice's ELP program exists because we identified a large unmet need for employment law assistance for these communities, who are particularly vulnerable to exploitation at work.<sup>8</sup>
- 12.2 The impact of insecure work and exploitation on our clients is immense. Without financial security, isolated community members struggle to pay bills, buy food and pay rent. A number of our clients have experienced homelessness as a result of losing their job as they were no longer able to pay rent. In some cases, exploitative and discriminatory behaviour has caused significant psychological injuries, which impacted on our clients' ability to work in the future, so that their ability to maintain stable housing was jeopardised.
- 12.3 The impact of employment law problems has been well documented (for more information see WEstjustice's report *Not Just Work – Ending the exploitation of refugee and migrant workers*, 2016). Frequently, employment law problems create further problems for workers. For example, research indicates that two thirds of Victorians with an employment problem will face adverse consequences as a result of their initial employment problem.<sup>9</sup> A Law and Justice Foundation survey found that 'not only did 5.9 per cent of Victorians have an employment law problem, but that the problem was not just contained to the employment relationship alone—it also had a negative impact across other areas of their lives. In this sense, employment problems tend to function as 'trigger' problems which cause other legal and non-legal problems to emerge – including

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<sup>8</sup> Work exploitation includes underpayments or non-payment of entitlements (wage theft), sham contracting, unsafe work, discrimination and other unlawful treatment at work, as well as unfair / unlawful dismissal. Insecure work includes casual work, work in on-demand work force (gig economy), work via labour-hire companies, sham contracting, short-term contracts etc.

<sup>9</sup> Richard Denniss, Josh Fear and Emily Millane, *Justice for All: Giving Australians Greater Access to the Legal System* (Institute Paper No 8, Australia Institute, March 2012)

eviction and homelessness.<sup>10</sup> The negative flow-on effects of employment law problems makes it even more important to prevent exploitation and ensure workers have access to timely help.

12.4 To date, our ELP service has recovered over \$400,000 in unpaid entitlements or compensation, trained over 1000 community members, delivered five roll-outs of our award-winning Train the Trainer program, and participated in numerous law reform inquiries and campaigns.

## Case Study

*Maricar and her partner both worked 6-7 days per week, 13-16 hours per day in a motel. Their boss described their wage as a “package” – \$860 per week to cover both of them. This worked out to be about \$5 per hour. After working hard for 18 months, they were dismissed unfairly. Maricar describes their predicament: “It was winter and we were jobless, homeless, with all our belongings in the hotel, hardly had friends with limited resources and knowledge on how and what to do. We were only but fortunate to come across WEstjustice.”*

*WEstjustice provided initial advice and helped Maricar to lodge an unfair dismissal claim. We then connected Maricar with pro bono help and the Fair Work Ombudsman. Maricar obtained the maximum compensation in her unfair dismissal claim, and the Ombudsman has obtained significant penalties in the wages claim.*

## Recommendations

12.5 We recommend the Victorian government strengthen legislative and policy protections against work exploitation and insecure work. This would help many of our clients to maintain stable, secure jobs, which is a significant factor in preventing homelessness. Similarly, funding for services like WEstjustice’s Employment Law Program (and our related legal services) will help us to protect vulnerable workers from the exploitative work practices that can catapult vulnerable workers into financial insecurity – including eviction or homelessness.

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<sup>10</sup> Federation of Community Legal Centres, *Putting the Law to Work: Meeting the Demand for Employment Law Assistance in Victoria* (Report, August 2014)