



Bringing Justice to Wyndham.

28 May 2015

C/O WYNDHAM LEGAL SERVICE INC
Suite 10, 2-14 Station Place, Werribee VIC 3030

The Honourable Marcia Neave AO

Commissioner

Royal Commission into Family Violence

PO Box 535

Flinders Lane VIC 8009

Email: enquiries@rcfv.com.au

Copy: The Honourable Fiona Richardson, Minister for the Prevention of Family Violence

The Honourable Martin Pakula, Attorney-General

The Honourable Tim Pallas, Treasurer

Dear Commissioner Neave,

BRINGING JUSTICE TO WYNDHAM-SUBMISSION TO THE ROYAL COMMISSION INTO FAMILY VIOLENCE

'Bringing Justice to Wyndham' welcomes the opportunity to make a formal submission to the Royal Commission into Family Violence. 'Bringing Justice to Wyndham' is an advocacy group comprising non State Government Agencies. The following organisations support this submission and are members of the Bringing Justice to Wyndham advocacy group:

- Whitelion
- Wyndham City Council
- Wyndham Community and Education Centre
- Wyndham Legal Service
- Women's Health West
- Salvation Army

The advocacy group has been established to improve access to justice for people in Wyndham and the Western region. The group works to secure political, bureaucratic and community support for the development of an Integrated Justice Precinct. See Attachment One for further details of the organisations supporting this submission.

This submission is focused on urgently needed improvements to the court , court support services, child contact centres and legal assistance and has been developed from the data, experiences and research of the ‘Bringing Justice to Wyndham’ advocacy group.

Summary of concerns

‘Bringing Justice to Wyndham’ agree that there are a range of infrastructure concerns relating to the Werribee Magistrates’ Court (**Werribee Court**) that directly impact on victims of family violence. This combination of poor service provision and deficiencies in infrastructure at the Werribee Court can mean the escalation of family violence to the point of serious injury or even death to the victim. We have developed submissions on the following points:

1. Werribee Magistrates’ Court building and facilities
2. Werribee Magistrates’ Court support services and programs
3. Family law jurisdiction
4. Supervision centres/child contact services
5. Legal assistance

Key recommendations

1. The Werribee Magistrates’ Court must be rebuilt to properly meet the complex needs of a large community. Consideration must be given to specific building and safety requirements for victims of family violence, such as a ‘Protected Persons Space’ and remote witness facilities at the Werribee Magistrates’ Court.
2. Access to justice for ordinary people is delivered through a range of services provided at a local Magistrates’ Court. The State Government should provide access to court support services in the Werribee Magistrates’ Court, including the Court Network Service and family violence support services.
3. Increased funding to enable early intervention and mediation services relating to family law disputes in Wyndham. Clients should not be expected to travel to Sunshine or wait 2-3 months for mediation.
4. A Federal Circuit Court should sit full time in Wyndham and should be located in the future Wyndham integrated justice precinct. If a Federal Circuit Court sits in Wyndham it remains highly desirable that resources be allocated to early intervention and mediation services located in Wyndham to maintain the efficiency of the court.
5. A supervision service or Children Contact Centre should be located in Wyndham, in close proximity to the proposed Wyndham integrated justice precinct.

6. A Victoria Legal Aid office should be located near or incorporated into all major Magistrates' Court venues. There is a need to establish a Victoria Legal Aid office in Wyndham.
7. The Commonwealth and State Governments should increase funding to Legal Aid services in line with the productivity Commission recommendation that there is an immediate need for increased funding of \$200 million.
8. State government should develop and roll out plans to ensure that local residents living in isolated areas, such as the outer suburbs of Wyndham, can access their justice services and infrastructure easily. This could be achieved by linking a centrally located justice precinct to the local community centres, routinely established in new growth areas.

Submissions

1. Werribee Magistrates' Court building and facilities

It is a commonly held view within Wyndham that the Werribee Court has outgrown its current useful life and is now a security risk for the public. The Werribee Court was built in about 1980 to service a population of up to 40,000 residents. With a current population of nearly 200,000 residents, the Werribee Court has not grown since it was first established. On a busy day when the court is full, it is common to see people sitting on the brick floors of the building or waiting outside in the open. Victims of family violence are forced to sit within metres of their abuser in the Court house with no security available to protect them. There is no 'Protected Persons Space' at the Werribee Court. It is often the case that there is also no private and comfortable space in the Court to meet with legal and community services. Solicitors often have to advise their clients in a corner of the court house, under the stairs or out on the street.

If a person is highly vulnerable and requires a remote witness facility, their matter is adjourned to the Sunshine Magistrates' Court.

Case Study 1:

Lucy's Story

Lucy lives in Werribee and has been experiencing physical and emotional abuse at the hands of her husband for nearly 10 years. As a result of the ongoing family violence, Lucy has developed a range of mental health issues including anxiety and depression, which has led her to try and take her own life on more than one occasion.

On the day that Lucy's intervention order application is heard, Lucy lines up to check in at the Registry counter of the Werribee Magistrates' Court, nervous and on her own, she notices that her abuser is lined up right behind her looking directly at her. She is scared. To get away Lucy runs upstairs to see the Wyndham Legal Service duty lawyer.

For safety reasons applicants and respondents are supposed to be separated until the hearing, however, due to the lack of space, Lucy's husband has to see his lawyer upstairs in the room next door. Through the extremely thin walls Lucy can hear her husband angrily denouncing her to his private solicitor.

Lucy waits several hours for her matter to be called, sitting upstairs outside the court room. Although her husband is instructed by court staff to wait downstairs during that time, there is no court security staff to intervene when Lucy's husband repeatedly comes upstairs to speak to his solicitor, passing right by Lucy every time and making threatening gestures. Lucy has also been told that if she would like to speak with an applicant support worker, she must do so downstairs next to where her husband is waiting.

Because of her fear of her husband, Lucy had hoped to give evidence via remote witness facilities, but Werribee Magistrates Court does not have such facilities. As a result, the magistrate transfers the matter to Sunshine Magistrates Court. This means Lucy will have to catch 2 buses and 2 trains to an unfamiliar big court complex in Sunshine.

Recommendation 1 – The Werribee Magistrates' Court must be rebuilt to properly meet the complex needs of a large community. Consideration must be given to specific building and safety requirements for victims of family violence, such as a 'Protected Persons Space' and remote witness facilities at the Werribee Magistrates' Court.

2. Werribee Magistrates' Court support services and programs

The Werribee Court is unable to cope with the volume of work generated locally and no capacity to accommodate any court-related support services. Court staff consists of a handful of people and no Court Network Services. The Court Network Service was established in 1980, to address a gap in the justice system for a service providing support, information and referral. Court Network is a unique court support service operating throughout Victoria and Queensland, solely concerned with the needs of the court users. It operates in metropolitan courts and in the regional courts. The absence of the Court Network Service at the Werribee Court is solely due to the lack of space.

There are two support staff that are available at the Family Violence Division of the Werribee Court. There is one Applicant Support Worker and one women's support worker from Women's Health West; however they are outreached from Sunshine Magistrates' Court and Footscray respectively and assist applicants and not respondents. There are no Respondent workers at the Werribee Court and it is often the case that the sitting magistrates are making referrals to external support services such as the Men's Referral Service, during their court hearing. It is worth noting, that it is not uncommon for a perpetrator of family violence to make an application against the victim, thereby restricting the victim's ability to obtain support services.

It is also worth noting that there are no assessment, support or referral services available when the criminal lists are heard at the Werribee Court. Often charges are connected or associated with an existing family violence matter and without the appropriate assessment and referral service, such as the Court Integrated Services Program¹, Assessment and Referral Court List², Mental Health Court Liaison Service³ or the Court Network Service, the defendant is unlikely to access any behavioral change programs.

¹ The Court Integrated Services Program (CISP) is a multi-disciplinary team-based approach to the assessment and referral to treatment of defendants. CISP is available at the Melbourne, Sunshine and La Trobe Magistrates' Courts

² The Assessment and Referral Court List (ARC) is a specialist court list to meet the needs of accused persons who have a mental illness and/or a cognitive impairment. ARC is available at Melbourne Magistrates' Court

³ Mental Health Court Liaison Service (MHCLS) determines the presence or absence of serious mental illness and provide feedback based on these assessments to the Court. MHCLS is available at the Melbourne, Ringwood, Heidelberg, Dandenong, Frankston, Broadmeadows, Sunshine, Geelong, Shepparton, Bendigo, Ballarat and Latrobe Valley Magistrates' Courts

Due to a lack of staff and resources, often the Werribee Court users are sent to the local Community Legal Centre (CLC), WLS, to get help filling in their family violence intervention order forms. This creates further delay and places added pressure on an already under resourced CLC. In almost all other Victorian Magistrates' Courts (metropolitan, outer-metropolitan and regional courts), it is the court Registrar's responsibility to help court users complete court documentation. This is not being critical of the court staff, rather, it acknowledges the difficulties and workload they face on a day-to-day basis.

Recommendation 2 – Access to justice for ordinary people is delivered through a range of services provided at a local Magistrates' Court. The State Government should provide access to court support services in the Werribee Magistrates' Court, including the Court Network Service and family violence support services.

3. Family Law Jurisdiction

It is widely accepted that one of the triggers for ongoing family violence can relate to issues around child contact. The negotiation of safe conditions around the time that children spend with a parent who has committed family violence is a priority. Many people with children accessing the family Violence Division of the Magistrates' Court will have concurrent (or future) family law proceedings in the Federal Circuit Court.

Early intervention and mediation services

All people involved in family law matters involving children must first attempt mediation with a Family Dispute Resolution Practitioner before being able to go to court. There are exceptions where there has been family violence or the matter is urgent however in most cases the mediation service will make the assessment at the initial interview.

People living in Wyndham must attend mediation at the Sunshine Family Relationships Centre (Sunshine FRC), Lifeworks or FMC Mediation and Counselling Victoria located in Wyndham. The Sunshine FRC is federally funded and is a free mediation service, which also provides free lawyers. Lifeworks and FMC do not offer free services. Therefore people are required to travel to Sunshine to obtain free mediation. The wait lists for these services are extremely long and people are experiencing 2-3 month wait times for their mediation. Where there is one party who is able to access legal aid funding there is the option to attend Roundtable Dispute

Management (**RDM**). RDM is a mediation service which has a 4-6 week waiting time. A person living in Wyndham must travel to Sunshine or Melbourne (closest Victoria Legal Aid offices) to attend RDM. There is no RDM in Wyndham.

Lengthy wait times at Mediation services can exacerbate already explosive situations, escalating family violence to the point of serious injury or even death to the victim.

Recommendation 3 – Increased funding to enable early intervention and mediation services in Wyndham. Clients should not be expected to travel to Sunshine or wait 2-3 months for mediation.

Federal Circuit Court

The Federal Circuit Court covers all matters relating to family law such as divorce, children's disputes and property settlement. Wyndham residents with family law disputes, and for people living in the western suburbs of Melbourne in general, are expected to travel to Melbourne's CBD to attend the Federal Circuit Court. It is important to note that there is a Federal Circuit Court in Dandenong that sits full time, which services the broad eastern and southern suburbs. There are also Federal Circuit Court Circuits in regional areas.

The Federal Circuit Court in Melbourne is over worked and has over crowded lists. The length of time it takes for matters to be listed in the Melbourne Federal Circuit Court can be months which can make the whole process, including mediation, around a 6 month wait. This combination of huge wait times can mean the escalation of family violence to the point of serious injury or even death to the victim.

Further, once the matter is listed in the Melbourne Federal Circuit Court, Judges are generally unable to get through all the matters that are listed each day. If a matter cannot be heard the judge has no choice but to adjourn the matter often for a period of about 2 months away. This is extremely expensive for the client and although children's matters are given priority over property matters this can have serious consequences if there are children involved and there is family violence. As there is no guarantee that listed matters will be heard on the day of hearing, many clients are pressured into early and unsatisfactory settlements. Clients are often influenced by the inability to access the courts in a reasonable time. Settlements may not necessarily be best or safe for the client or their children.

It is also worth noting, that residents in Wyndham who have family law matters are often vulnerable (i.e. family violence) and too scared and apprehensive to travel to the Federal Circuit Court in Melbourne. Some often don't attend for their hearings. This results in further adjournments and a waste of the court's time.

Recommendation 4 – A Federal Circuit Court should sit full time in Wyndham and should be located in the proposed Wyndham integrated justice precinct. If a Federal Circuit Court sits in Wyndham it remains highly desirable that resources be allocated to early intervention and mediation services located in Wyndham to maintain the efficiency of the Court.

Supervision centres/children contact services

Children's contact services help children and parents to maintain contact where contact visits are difficult because of high levels of conflict between the parents or concerns for the safety of family members. The services provide a neutral location for transfer of the child between the parents and facilities for supervised contact visits where necessary (Community West). Children's contact services work with families to encourage positive interaction between children and their parents, and to support the strengthening of these relationships.

If a person decides to go to court for a decision about their children, the court may order them to participate in supervised changeovers or for the time that a parent or other family member spends with a child to be supervised at a specific Children's Contact Service.

There are no children contact services in Wyndham. The closest service is in Deer Park and a person may be waiting up to 6 months to use the service. This means that if a court orders that a parent spends time with their child at a children's contact service, the parent may have to wait 6 months to spend time with their child or have to travel hours to another children contact service (i.e. in Ballarat).

Recommendation 5 – A children contact service should be located in Wyndham, in close proximity to the proposed Wyndham integrated justice precinct.

4. Legal assistance

Victoria Legal Aid

There is no Victoria Legal Aid office in Wyndham. A person living anywhere in the western suburbs of Melbourne, including Wyndham, is expected to travel to the Sunshine Legal Aid office. For many of our low income clients with family or criminal law matters, representation is mostly provided by VLA duty lawyers. Duty lawyers in the western suburbs are also based at the Sunshine Legal Aid office with no outreach available in either Werribee or Melton. This lack of access is a tremendous disincentive to clients seeking timely advice before hearings, especially for those who rely on public transport and are unlikely to travel the distance to Sunshine.

Recommendation 6 – A Victoria Legal Aid office should be located near or incorporated into all major Magistrates’ Court venues. There is a need to establish a Victoria Legal Aid office in Wyndham.

Community Legal Sector

There is only one CLC, WLS, funded to service the 200,000 residents of Wyndham. The role of the WLS is to provide free legal services to their clients, people who tend to be disadvantaged and generally, people who could not afford to pay for a lawyer in the private sector. This includes general family violence services as well as duty lawyer services at the Werribee Court intervention order list.

People living outside of the Werribee centre, where the majority of the new housing estates are located, find there are barely any legal or access to justice services provided. Currently, victims of family violence are expected to travel to the centre of town for assistance.

Case Study 2:

Sarah’s Story

Sarah recently migrated to Australia with her four-year-old son on a spousal visa. She lives with her husband in an outlying suburb of Wyndham. Sarah has no friends or family in Australia. Since living in Wyndham, she has been suffering from physical, emotional and

sexual abuse by her husband. She is not allowed to leave the house or make any phone calls without her husband's permission and/or supervision.

As Sarah lives in an isolated suburb and has no access to a car, there is nowhere for her to run to for help and it is likely to take her several hours to reach the centre of Werribee.

The Productivity Commission report 'Access to Justice Arrangements (2014)', made a detailed study of the Legal Aid system. This included Aboriginal Legal Services, CLCs, and other Legal Aid providers. The report drew attention to the increasingly restrictive Legal Aid guidelines and took the unusual step of recommending that \$200 million additional funding was necessary to sustain the system. The report also highlights that failure to invest in the legal aid system will create costs for other government departments as well as hardship for people who miss out on assistance

Recommendation 7 – The Commonwealth and State Governments should increase funding to Legal Aid services in line with the productivity Commission recommendation that there is an immediate need for increased funding of \$200 million.

Recommendation 8 – State government should develop and roll out plans to ensure that local residents living in isolated areas, such as the outer suburbs of Wyndham, can access their justice services and infrastructure easily. This could be achieved by linking a centrally located justice precinct to the local community centres, routinely established in new growth areas.

IN CONCLUSION

'Bringing Justice to Wyndham' is confident that the above recommendations would result in improved access to justice for victims of family violence living in Wyndham. We would be pleased to discuss these issues in greater depth or provide further detail upon request.

Yours sincerely,



Shorna Moore

Senior Policy Lawyer

On behalf of Bringing Justice to Wyndham

shorna@wyndhamls.org.au

Attachment One – Organizations supporting this submission

Wyndham Legal Service (WLS)

Wyndham Legal Service (WLS) is a non-profit, community managed incorporated association. WLS advocates for equitable justice by providing free legal advice and assistance, community education, law reform and advocacy to the people of the City of Wyndham and the greater western suburbs of Melbourne. WLS has extensive experience in delivering a range of legal services, particularly family violence services. The WLS is one of only a few community legal services in Victoria to receive specialist money for a Family Violence program and provides duty lawyer services at the Werribee Magistrates' Court Family Violence Division. In 2012, WLS was funded by the Legal Services Board to undertake a research project into the legal needs of people living in outer-metropolitan areas and their ability to access the current justice system, including the civil justice jurisdiction and dispute resolution services. The final report, 'Outer Sight Out Of Justice: Finding pathways to justice for Melbourne's outer-metropolitan areas (February 2014), explores the provision of justice infrastructure in Victoria, including physical and social infrastructure, and its impact on victims of family violence residing in outer-metropolitan areas, such as Wyndham. (A copy of the report has been enclosed together with this submission.)

Wyndham City Council

Wyndham has experienced the largest and fastest growth in all Victorian local government areas and is the third fastest growing in Australia. The official forecasted population for Wyndham City is approximately 201,000 as at June 30, 2015. Wyndham City has involvement in addressing family violence largely through primary prevention, secondary prevention (or early intervention), through advocacy and in community planning. Wyndham City has contributed to a range of submissions including:

- Bringing Justice to Wyndham
- Wyndham Humanitarian Network
- H3 Alliance
- Women's Health West / Health West – Preventing Violence Together
- Municipal Association of Victoria
- Interface Councils Submission

Wyndham Community Education Centre

Wyndham Community and Education Centre offers a range of education and community programs across the western suburbs of Melbourne. Founded over 40 years ago, Wyndham CEC is a leader in supporting people and communities make positive changes for the future. Current programs include:

- Language, literacy and numeracy training

- Digital literacy training
- Employment and work skills programs (industry & pre-accredited)
- Vocational education (VET) including Business Services and Community Services
- Victorian Certificate of Applied Learning (VCAL)
- Settlement services for eligible migrants and refugees
- Saffron Kitchen - a hospitality social enterprise

The Salvation Army – Wyndham City

The Salvation Army – Wyndham City provides significant support to families and individuals in our community through our community support services and Church based programs. These services include financial support through food, food vouchers, furniture vouchers, clothing vouchers, assistance with payment of bills, white goods loans, and various feeding or meals programs. We also deliver The Positive lifestyle program in which we currently have eleven clients who have been referred to us through the court system. Other volunteers also support people in need in our courts.

Women’s Health West

Women’s Health West (WHW) is the women’s health service for the western metropolitan region of Melbourne. Our health promotion, research and development program plans and implements activities designed to promote women’s health, safety and wellbeing across three key areas – sexual and reproductive health, mental health, and prevention of violence and discrimination. Our family violence service provides women and children with the range of services they require while in crisis – such as court support, crisis housing and case management – through to services designed to promote healing and recovery, such as women’s and children’s counselling. We work collaboratively with communities, government and local agencies, and provide secondary consultation for health, community and other service providers.

Whitelion

Whitelion opens doors to opportunities, relationships and community for at risk young people in Australian. Whitelion has been supporting at risk young people since 1999, helping them to change their lives. The organisation provides youth-focused, gender and culturally-specific services in several areas. These include employment, mentoring, specialist outreach support, and education-based prevention programs. Whitelion’s mission is focused on connecting young people aged 10 to 24 with the community. It provides them with practical and effective supports that enable them to make positive choices in their lives.”