



HIV/AIDS LEGAL CENTRE

ANNUAL REPORT 2012-2013

TABLE OF CONTENTS

About Us	03
President's Report	06
Principal Solicitor's report	07
Our Clients	10
Casework and Advices	14
Case studies	20
Funding	24
Community Legal Education (CLE)	25
Volunteers	31
Client feedback	32
Acknowledgments	34
HALC Audited Financial Statement for 2013	36





ABOUT US

OUR VISION

To see an end to the HIV crisis.

OUR MISSION

To provide free and comprehensive legal assistance to anyone in NSW with an HIV-related legal problem and to undertake community legal education and law reform activities in areas relating to HIV.

OUR VALUES

To provide high quality legal services whilst displaying an appreciation of, and sensitivity to, the special needs of people with an HIV related legal matter.

OUR FUNDERS

The services we provide are made possible by the funding received from the Commonwealth and NSW Governments via the Community Legal Services Program (CLSP), and in addition, the generous funding provided by the NSW Public Purpose Fund.

We also received a number of smaller grants of funding for discrete areas of work undertaken throughout the year. These funds were provided by NAPWHA and member organisations; Positive Life NSW; JTA International Pty Ltd. (AusAid Health & Papua New Guinea Development Law Association); the Western Australia AIDS Council; Migration Institute of Australia. Further information is provided in the 'Funding' section of the report.

OUR SERVICES

People living with and affected by HIV have special legal needs. HALC is a community legal centre that specialises in the provision of free legal advice and representation for people with HIV-related legal matters and issues. Our clients are people who frequently experience significant disadvantage in their daily lives as a result of their medical condition and the stigma and discrimination that is still associated with HIV. We provide a legal service that is accessible and supportive to assist such individuals.

HALC is involved in law reform and policy related work in relation to HIV and Hepatitis C, as well as providing legal education to the community on issues related to HIV and Hepatitis C.

WHO WE ARE

Until July 2013, HALC employed five staff members, the solicitors Iain Brady (Principal Solicitor), Indraveer Chatterjee, Melissa Woodroffe, Alexandra Stratigos, and HALC's coordinator, Shehzad Mansuri

The Centre is also assisted by a dedicated team of volunteers (see page 31). We have also developed productive relationships with a number of barristers and solicitors in private practice who provide advice, representation and other valuable assistance on a pro-bono basis.

Our core funding enables us to employ three solicitors and a part time co-ordinator to provide legal assistance to clients in NSW only. As a result of successfully applying for one off small project grants over the last three years, we were able to employ an additional solicitor so we could increase our casework and provide legal assistance to some of the many people with HIV living in other States. Due to the unstable nature of this funding, combined with increased running costs and a decrease in grant funding, we desperately needed to obtain additional funding to maintain our existing staff levels and our work with interstate clients.

Despite concerted and tireless efforts by the Principal Solicitor to secure additional Federal funding to enable HALC to become a National Centre so that we could continue to assist clients nationally, we were unable to secure sufficient funding to maintain the Centre at its staff levels.

HALC had no option but to reduce staff and this resulted in the resignation of the HALC Principal Solicitor. Brady's dedication and commitment to promoting the human rights of people with HIV and improving outcomes for disadvantaged people is remarkable and will be missed by HALC. We are cheered by the knowledge that he is currently contributing his expertise to the HIV community and will continue to do so in the future.

In July 2013, Indraveer Chatterjee, a HALC solicitor for seven years, was appointed to the position of Principal Solicitor.

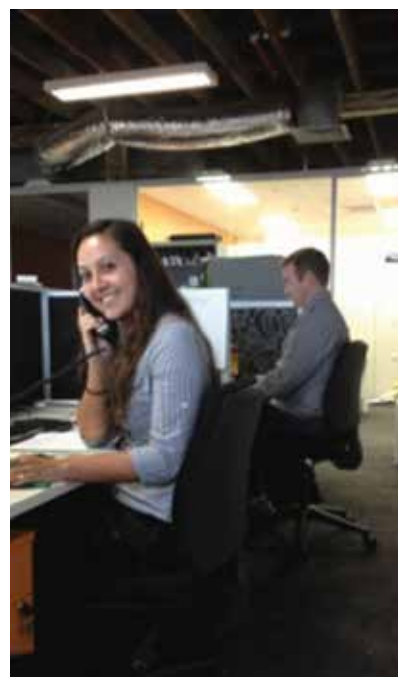


OUR SERVICES

HALC offers a range of legal services including:

- Ongoing legal representation in Courts and Tribunals;
- Legal advice – face to face, by telephone and by email;
- Information and referrals;
- Outreach services to homes, hospitals, and hospices where clients are unable to come to us;
- Outreach services to rural and/or regional areas including representation in regional Courts and Tribunals where necessary;
- Community legal education on issues relating to HIV and Hepatitis C;
- Law reform and policy work on issues relevant to HIV and Hepatitis C.

Our services are available Monday to Friday, 10am – 6pm. Where necessary, we provide assistance outside these hours (for example, outreach to hospitals and court attendances).



OUR OBJECTIVES

- Within the operational guidelines of the Association, to provide free legal advice, assistance and representation to anyone with an HIV related legal problem.
- To operate as a not for profit community legal centre specialising in HIV related legal matters.
- To provide legal training, education and experience to Practical Legal Training (PLT) students, our volunteers and staff.
- To extend the operations of the Association into other related areas such as Hepatitis C related legal problems by building on the skills and expertise developed by the Association in relation to HIV-related legal problems.
- To work with other appropriate organisations to achieve these objectives.



PRESIDENT'S REPORT – ALTHEA MACKENZIE

This year proved a difficult one for HALC, as we were unable to secure the ongoing funding required to keep five paid staff. HALC's Principal Solicitor of eight years, Brady, resigned at the end of June 2012, and Indraveer Chatterjee, a long-serving solicitor at HALC, took over as Principal Solicitor. Brady's enthusiasm, dedication and hard work will be missed.

Melissa Woodroffe, Alex Stratigos and Shehzad Mansuri continue their excellent work as they have for more than five years, with the able assistance of the many dedicated HALC volunteers.

The lack of ongoing funding has meant a temporary scaling back of the National Project, meaning that HALC is no longer able to provide legal representation or assistance to clients with HIV in other States and Territories.

Despite the challenges, HALC continues to provide high quality representation to vulnerable people living with HIV in NSW, as well as ongoing involvement in law reform and provision of Community Legal Education. Some remarkable wins during the year included the change to the NSW Coroner's discriminatory policy in respect of the reconstruction of bodies with HIV and Hepatitis C following post mortems.

HALC also completed an updated Disclosure Guide in relation to the disclosure obligations for people with HIV in NSW. The Guide was launched by Jane Costello, President of Positive Life NSW.

HALC also successfully gained funding from AusAid to provide ongoing advice and support to a recently formed legal centre in Papua New Guinea, which aims to provide services to people living with HIV in Papua New Guinea.

Our staff, including volunteers, developed a new strategic plan for 2013-2016, and this is almost completed with Indraveer overseeing the final stage.

The new HALC website was launched in April 2013. The new site, created by Jennifer Turner and maintained by Melissa Woodroffe, is more user-friendly and provides easy access to the online guides created by HALC.

The committee welcomes new member Anna Roberts (ASHM), and thanks the continuing support of Lance Feeney (Positive Life New South Wales), Michael Frommer (AFAO), Andrew Smith (Hepatitis NSW), Iryna Zablotska-Manos (Kirby Institute). The committee intends to focus on gaining new funding for the future to ensure the ongoing viability of HALC services.

PRINCIPAL SOLICITOR'S REPORT – IAIN BRADY



Community legal centres (CLCs), when they are functioning best, deliver access to justice for everyday people, protect human and legal rights for the vulnerable and strengthen rule of law. They perform an essential role in our developed, fair and stable society and our economy. In this society, legal rights and assertion of them is taken for granted: you'll notice if you are denied your rights, or the means to enforce them.

Rights are protected and delivered for people not just via courts and legal disputes, they are also powerfully delivered via advocacy. This can include assisting clients to make a claim, application or request for a service from, for instance, a Government Department, a Health service, a landlord, or some other service provider. It can include assisting to advance a complaint about a service using internal mechanisms or via a Court, tribunal or other alternative dispute resolution mechanism.

This work can be very powerful in securing services and rights for some of the most vulnerable people in our community, but also for people who are otherwise independent and reasonably resourced, but who may be unable to understand and negotiate a dispute in a particular situation with a service provider. The work can be powerful in three important ways. First, it can secure the service, or the thing the dispute is about, thus enabling a client to get on with their life. Second, it can re-engage a person who may have become



alienated from services because of self-stigmatising, poverty, frustration or social isolation. Third, it can lead to systemic and policy change by service providers, such as Health services and Government services, which otherwise may be oblivious to the difficulties clients have in accessing services or otherwise 'being heard'.

This work is usually complex to explain briefly. Understanding the importance of the work usually requires understanding of much detail and context regarding the client, the service involved and the administrative processes and interactions involved. There are much unglamorous minutiae involved.

The work can however be very powerful individually and on aggregate, to changing the outcomes for people and improving our community. A person who is alienated from services and the community is more likely to have poor health outcomes, is perhaps more likely to engage in criminal behaviours, and is less likely to make positive contributions to our economy and society. Engaging them, by standing up with them for their rights as much as by securing those rights, can reverse an otherwise negative trajectory.

Improving outcomes for PLHIV and PLHCV (People living with Hepatitis C) not only resounds in improved wellbeing, it will resound in lowered health care costs and decreased morbidity. However, although CLCs perform such an essential role, they receive a mere pittance in funding. Overall in NSW CLCs attract only \$18,916,933 in funding.

HALC is the only funded specialist legal centre in the country dealing with HIV and HCV related legal matters. The link between human rights, law and better outcomes on HIV is well recognised nationally and internationally. In Australia, the demographic balance shifted in around 2011 when for the first time PLHIV in NSW made up less than 50 per cent of the national total. Victoria and Queensland's PLHIV numbers are rapidly that rate.

In that context we set out three years ago to expand HALC's services to all states and territories in Australia. Quietly, by building relationships with service providers and by saying yes to client requests, we built networks of referral and slowly built recognition and a client base in each state and territory. This low key, and work based approach was a deliberate strategy aimed at proving through the work the value of our service and the worth of the contribution HALC could make to PLHIV and PLHCV across the many jurisdictions.

HALC hit a funding crisis in 2012/2013 with some increased costs and decreases in grants funding at the same time. HALC had to accelerate the push to gain Federal funding for a national service. We obtained within three months the support of NAPWHA and all state PLHIV organisations and through AFAO the approval of the AIDS Councils for our efforts to persuade Ministers Roxon (then Attorney General) and Plibersek (then Health Minister) to provide HALC with funding to properly provide a national specialist HIV/HCV legal service.



Notwithstanding these significant challenges, HALC has increased to more than double in staffing numbers over the past 8 years – all of the increase being in direct service delivery legal staff. We have nearly tripled the number of cases and the number of advices provided through the average year. We have increased and broadened the training HALC provides. We have tripled HALC's published legal resources; and we have significantly broadened the range and scope of legal work our solicitors provide on HIV and HCV related matters. We have directly helped and I believe generated meaningful and lasting outcomes for hundreds of people.

This is my last Annual Report message as Principal Solicitor. I am very honoured to have been associated with the work HALC has achieved over the last eight years.

HIV IN AUSTRALIA

Approximately 25,708 people in Australia are living with HIV at the end of 2012, an increase of 10 per cent from the year before. It is estimated that 28,000 to 34,000 people live with HIV (PHIV) in Australia, including those who have yet to be diagnosed. Around 12,684 of them live in NSW¹.

Perhaps the core policy underpinning the Australian HIV strategy has been the concept of the enabling environment: a setting free from fear and discrimination in which people living with HIV and those most at risk of infection with HIV can feel safe to engage with services and in society to protect their own health and that of others. Research demonstrates the strong association between the experience of legal problems and illness or long term disability.² The findings support the importance of integration of legal, health and welfare services for people living with HIV or other disabilities.

The importance of the enabling environment still resonates today. The most recent National HIV Strategy (*Sixth National HIV Strategy (2010-2013)*) reiterates the need for immediate action in relation to the provision of a renewed focus on law reform to ensure an enabling human rights-based environment for the HIV response. The importance of multi-disciplinary approach and provision of services (including legal services) to those affected with HIV is clearly envisioned in the goal of the Strategy:

The goal of the Sixth National HIV Strategy 2010–2013 is to reduce the transmission of and morbidity and mortality caused by HIV and to minimise the personal and social impact of HIV.

The most recent Annual Surveillance Report (2013) on HIV highlights NSW, showing its first significant increase in new HIV diagnoses since 2007, when new infection levels had plateaued. HIV infections continue to show a steady increase nationally.

¹ 'HIV, viral hepatitis and sexually transmissible infections in Australia' Annual Surveillance Report 2013 The Kirby Institute

² 'Law and disorders: illness/disability and the experience of everyday problems involving the law' www.lawfoundation.net.au/.../UJ_22_Law_and_disorders_working_paper_FINAL.pdf



In December 2012, the NSW State Government released its three year strategy, a strategy committed to, and aligned with, the bold targets of the *UN 2011 Political Declaration on HIV*.

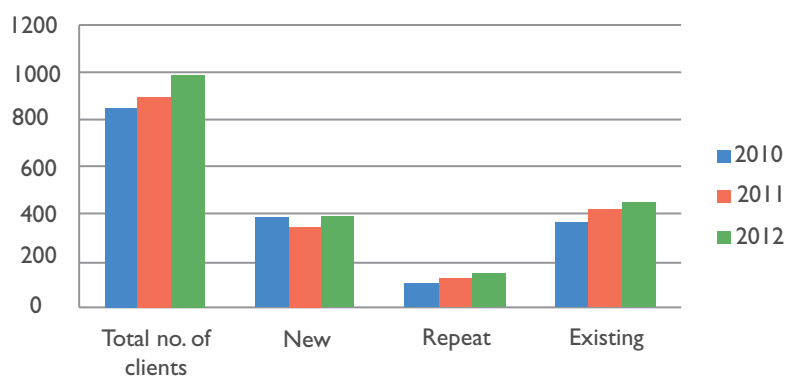
The Strategy reiterates the priority populations as follows:

- People living with HIV
- Gay and other homosexually active men
- Aboriginal people
- Sex workers
- People who inject drugs
- People from culturally and linguistically diverse backgrounds

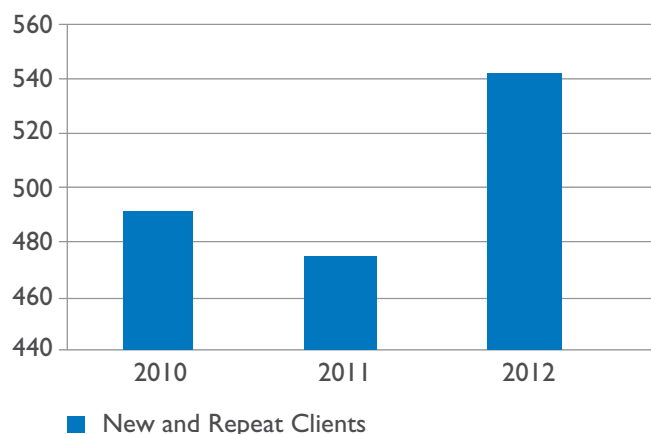
OUR CLIENTS

The number of clients seen by HALC continues to increase. The number of new and repeat clients seen by HALC this year has increased significantly compared with previous years, while the number of existing clients is about the same.

CLIENT NUMBERS



NEW AND REPEAT CLIENTS

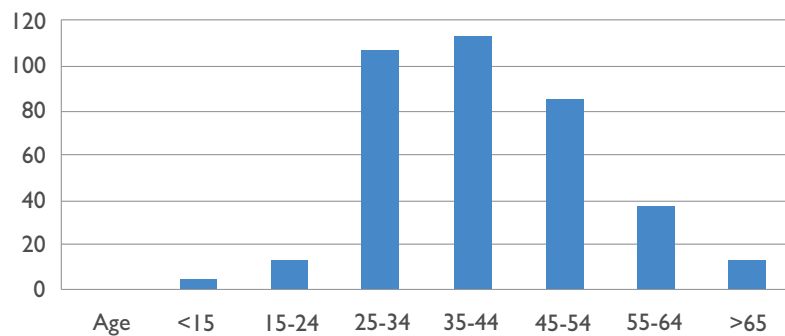




AGE

With continuing improvements in treatment resulting in significantly reduced mortality rates for people with HIV, there is a growing and increasing ageing population of people with HIV. This is reflected in the age profile of our clients. With age come other health-related issues, for example, dementia affecting those in older years, in conjunction with HIV-related cognitive issues.

AGE GROUPS OF CLIENTS

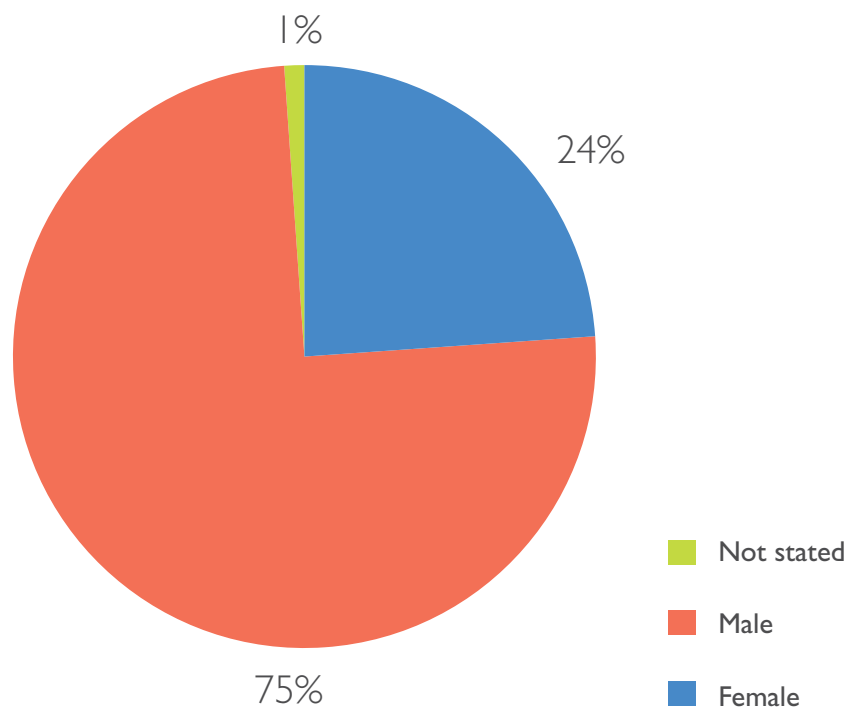


GENDER

Around 10 per cent of people living with HIV in Australia are women, that percentage being 8 per cent in NSW (compared for example with WA where 21 per cent of the total number of PHIV being women).

Approximately a quarter of our clients in 2012 identified as female, an increase on the 18 per cent reported in last year's annual report

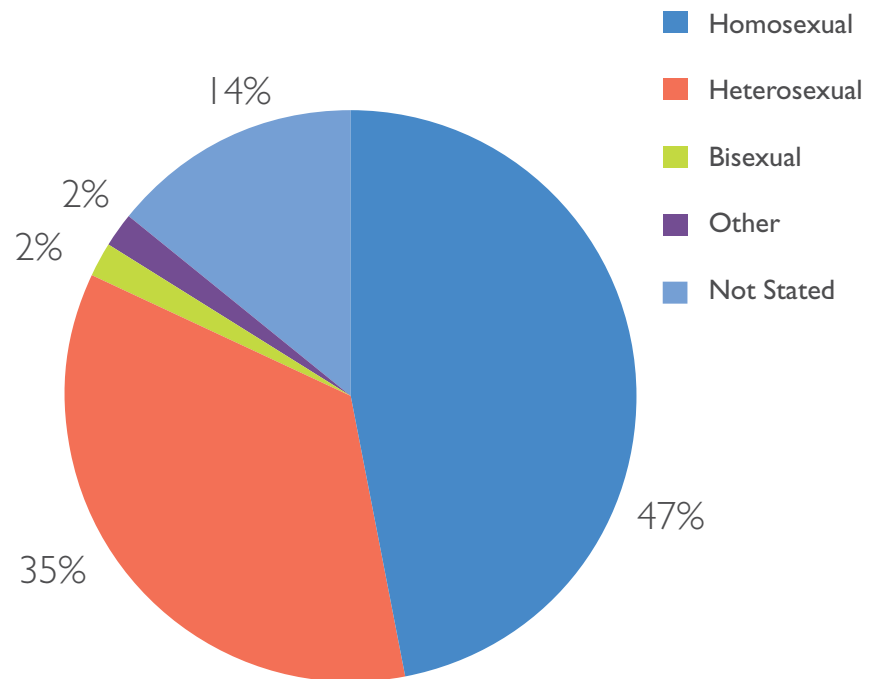
CLIENT GENDER PROFILE 2012



SEXUALITY

The number of clients identifying as homosexual, or men who have sex with men has remained steady at 47 per cent.

CLIENTS' SEXUALITY



However, the number of heterosexual male and female clients continues to increase, at 35 per cent compared to 30 per cent the year before.

Some 14 per cent of new HIV notifications in 2012 were acquired through heterosexual contact. Heterosexual people living with HIV are recognised as a difficult community to service and engage, partly due to the general focus of many HIV services on the gay community, and also due to heterosexuals' higher self-stigmatisation and geographical and/or social isolation.

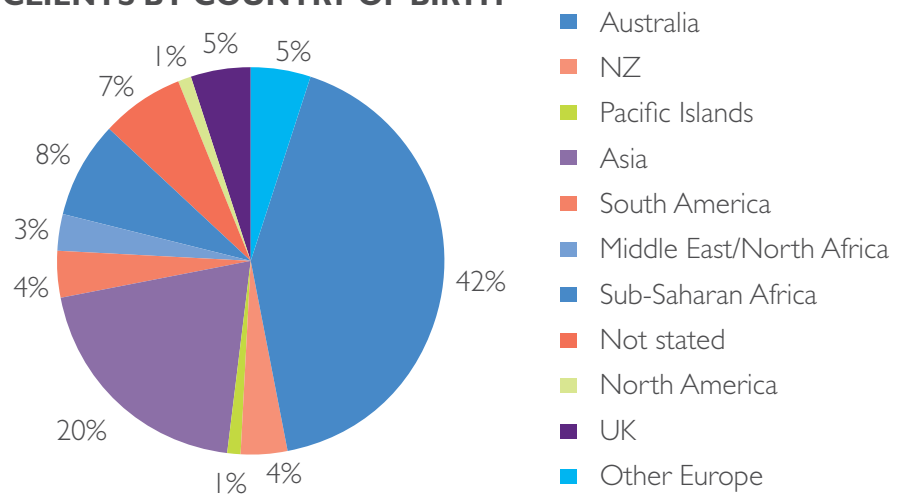
We are pleased to see that our efforts to proactively engage the heterosexual HIV community appear to be succeeding, given the increasing number of clients seen.



CULTURALLY AND LINGUISTICALLY DIVERSE CLIENTS (CALD)

HALC works with a number of culturally and linguistically diverse communities, as over half of our client base is born overseas. Similarly to the heterosexual community, and with some overlap, we have made efforts to ensure that our services are relevant, accessible and available to such clients. We have worked closely with our community partners, including the Multicultural HIV and Hepatitis C Service, migrant resource centres, social workers and health care providers.

CLIENTS BY COUNTRY OF BIRTH



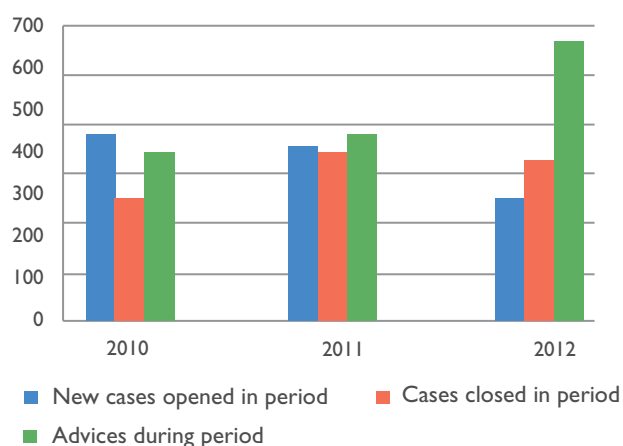
CASEWORK AND ADVICES

HALC engages in a broad mix of casework. The main areas worked on during the year were Migration (31 per cent), Wills and Estates (17 per cent), Criminal (19 per cent) and Discrimination (9 per cent).

OVERVIEW

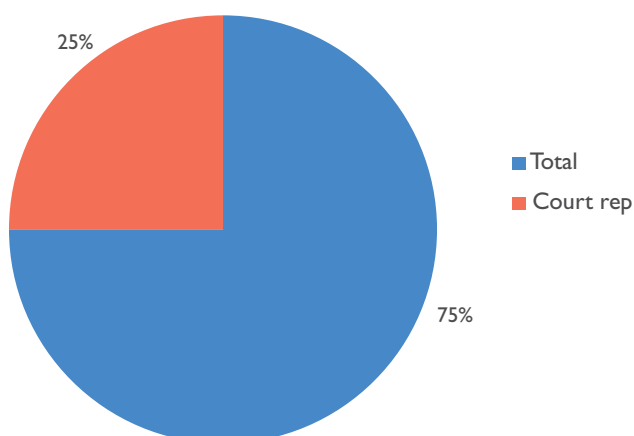
Casework and Advices

CASEWORK 2012/13



The total number of cases opened during the period was 292, and 451 cases were closed during the period. Of the cases closed, 113 (25 per cent) involved Court or Tribunal representation, 49 (11 per cent) involved primary dispute resolution and 10 (2 per cent) had a public interest indicator or test case indicator. New cases were fewer than in previous years, and this reflects the ongoing high volume of high complexity casework, as well contingency planning for the loss of one full time solicitor in the event that we were unable to secure additional funding to maintain existing funding levels.

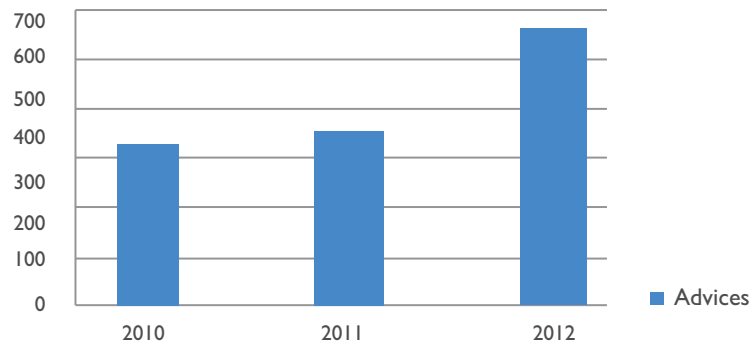
COURT REPRESENTATION 2012





A total of 664 advice activities were recorded for the year, an increase of almost 40 per cent on last year's figure.

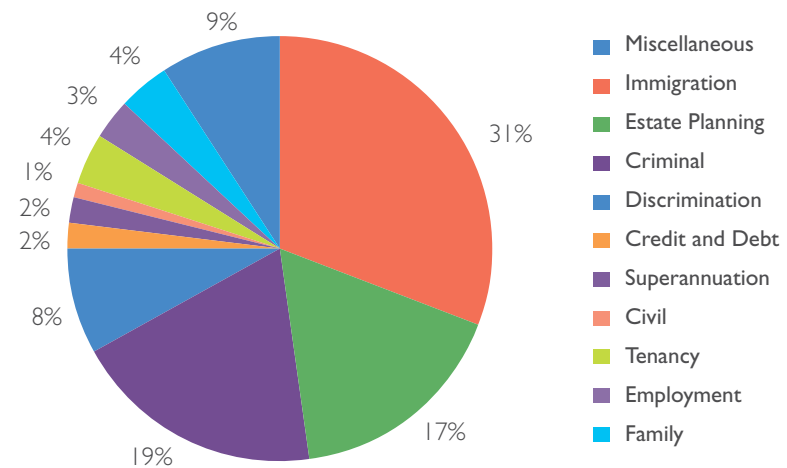
ADVICES 2012/13



CASEWORK

An analysis of our casework for the year shows that our main areas of casework are in Immigration, Criminal, Estate Planning and Discrimination.

CASEWORK BY PROBLEM TYPE FILES CLOSED 2012/13



CRIMINAL LAW

Criminal law matters have increased this year. This reflects our growing expertise in this area, and is also likely to be related to the increasing number of criminal matters where clients have an underlying mental health problem.

We have represented many clients and been successful in diverting them out of the criminal justice system and into the mental health system via the *Mental Health (Forensic Provisions) Act 1990* (in particular applications under sections 32 and 33 of the Act). They then receive support and treatment for the underlying mental health problems that have contributed to the offending.



As well as providing representation for clients in relation to pleas in mitigation for sentencing purposes, HALC has also represented clients in defended hearings at the Local Court, and successfully appealed the severity of sentences imposed in the Local Court at District Court level.

DISCRIMINATION

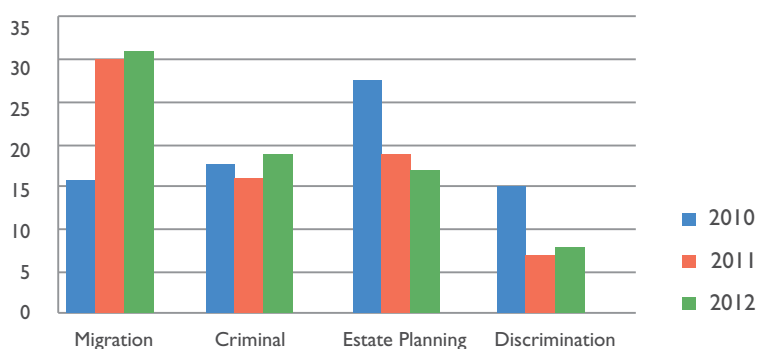
Discrimination cases appear to be decreasing, however the figures are based on files closed in the relevant period. We have a significant number of ongoing complex discrimination cases. Due to the nature and complexity of these matters, many have been continuing for a number of years due to the protracted nature of court proceedings. Notably, a number of cases are being considered by the Appeal Panel of the Administrative Decisions Tribunal, and the Supreme Court of Appeal.

MIGRATION

Migration cases continue to increase, with almost twice the number of cases closed in 2012 as compared with 2010. The bulk of our work involves applications and submissions to the Department of Immigration and Border Protection, Migration Review Tribunal, Refugee Review Tribunal and ultimately to the Minister or to Court in relation to health, specifically HIV. All three employed solicitors are Registered Migration Agents and able to provide migration advice.

We continue to assist the most vulnerable of clients in migration matters, clients for whom HIV treatment in their country of origin is either vastly inferior or so limited in its provision that only a small minority of people living with HIV are able to access satisfactory treatment. In addition, many clients, especially those seeking Protection Visas, face the risk of serious harm, discrimination and stigma as a direct result of their HIV status. Such harm is also compounded for many clients if they also identify as homosexual men, given that homosexuality remains either unlawful or highly taboo within many countries.

FILES CLOSED BY PROBLEM TYPE – 3 YEAR COMPARISON (Percentage of total closed per year)





We have assisted many clients and their families to achieve successful visa outcomes, including successful appeals to the relevant Tribunals and to the Minister of Immigration for intervention when all other options are exhausted.

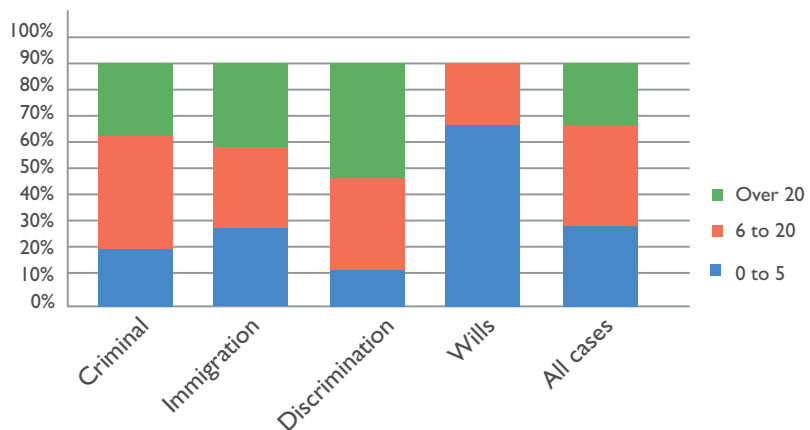
ESTATE PLANNING

The number of estate planning cases closed is decreasing. This is likely to represent the changing nature of the legal needs of people with HIV. In particular, HIV is now seen as a chronic but manageable illness, as opposed to the imminently life-threatening condition it once was prior to the advent of the more effective treatment available today. Many people will have already prepared their end of life documentation, and in general, are not likely to want to change their instructions for a number of years if ever.

CASEWORK HOURS

Casework is broken down into large (over 20 hours), medium (6-20 hours) and small cases (less than 5 hours). A significant proportion of our casework falls into the 'large' category, but their exact length is hard to pin down as it could span anything from 21 hours to over 100 hours or more for more complex matters.

CASEWORK HOURS FOR CASES CLOSED IN 2012/13



A quarter of all cases closed during the period were large cases. With the exception of estate planning cases, which are most commonly shorter matters, HALC has a significant number of large cases of over 20 hours duration. A third of all criminal and migration matters exceeded 20 hours, with almost half of discrimination matters exceeding 20 hours. This reflects the high complexity of such matters, which generally also involve court and/or tribunal representation, settlement negotiations and research and preparation of detailed oral and/or written submissions.



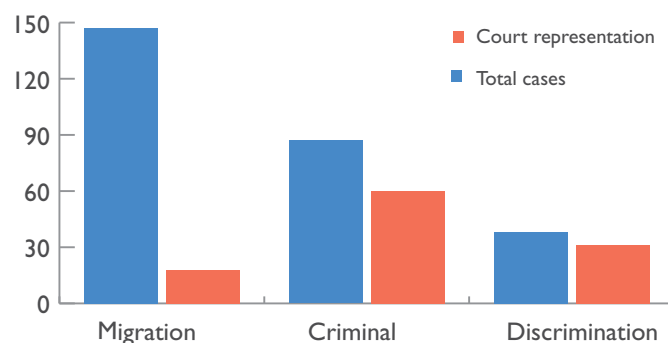
COURT OR TRIBUNAL REPRESENTATION

HALC continues to represent clients where required in Courts and Tribunals. A quarter of all our cases that were closed in 2012/13 involved representation at Courts and/or Tribunals. The figure below highlights that almost all of our discrimination matters involve representation. At the initial stages this would be at the Anti-Discrimination Board or Australian Human Rights Commission for mediation meetings, followed by attendances at case conferences and hearings at the Administrative Decisions Tribunal or Federal Circuit Court for matters filed under Commonwealth legislation.

Around two-thirds of criminal matters required attendance at mentions, and either sentencing hearings or defended hearings.

A smaller proportion of migration matters involved representation at the Migration Review Tribunal, Refugee Review Tribunal or Court. This is largely due to the fact that only matters that are unsuccessful at the first decision stage at the Department of Immigration proceed to the Tribunals or to Court.

COURT/TRIBUNAL REPRESENTATION



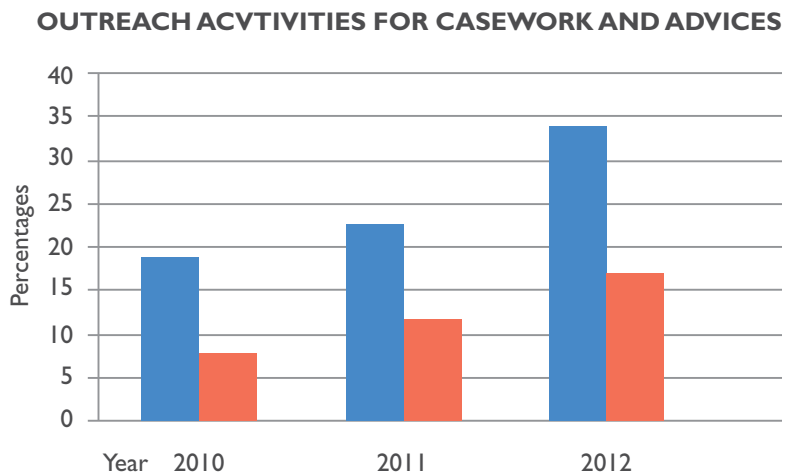
HALC maintains a commitment to assist clients with matters before Courts and Tribunals in order to achieve the most successful outcomes and to minimise the stress upon clients who are unable to represent themselves effectively.



OUTREACH

HALC provides outreach assistance to clients in rural and regional NSW and during the 2012/13 financial year also assisted clients in other states.

Our data indicates that our outreach activities have increased over the last three years as follows:



In the current reporting period, over a third of our cases that were closed were classed as outreach. As well as assisting clients in rural and regional areas with legal matters, we have also provided representation at Courts and Tribunals outside the greater Sydney area, as well as interstate.

HALC has provided assistance to clients in rural and regional areas in relation to discrimination, privacy, insurance, wills and estates and migration work. We also attend health facilities in circumstances where clients are terminally ill and would be unable to attend our offices.

In the last financial year we partnered with Positive Life NSW and attended a series of “roadshows” for people living with HIV. This involved HALC staff providing a session on legal issues affecting people living with HIV, and highlighting the services that can be provided by HALC to clients living in rural and regional areas.

We continue to strive to ensure that our services are accessible to people in rural and regional areas. It is apparent from our discussions with clients outside Sydney that they can feel very isolated, especially when they experience stigma and/or discrimination due to their HIV status.



CASE STUDIES

Over time HALC has built an extensive portfolio of cases, giving our solicitors a solid grounding in the intricacies of a number of different jurisdictions, most notably migration, discrimination and insurance.

It has also enabled us to undertake public interest matters, and/ or work in fields where change is incremental and slow.

DISCRIMINATION

Health care discrimination

This last financial year finally saw some measure of success in one of HALC's longest running discrimination cases, against a policy of non-reconstruction by the NSW Department of Forensic Medicine.

The Department of Forensic Medicine is the primary body responsible for the conduct of coronial autopsies in NSW, providing services state-wide, while also functioning as a reference service for all forensic services in the State. It also refuses to reconstruct bodies infected with HIV and/ or Hepatitis C, making NSW the only jurisdiction in Australia with such a policy. For over a decade community groups have campaigned to have this policy changed while HALC has acted for the friends and family of deceased HIV-positive individuals since around 2007 seeking change.

While a number of applicants were held by the NSW Supreme Court to not have standing, the Department did in September 2012 make changes to its policy, instituting new techniques to allow for reconstruction and finally bring NSW in line with the rest of the country. HALC continues to act for litigants affected by this policy prior to this, to have recognition for their loss and the discrimination they suffered as a result of their kin's HIV-positive status.

We also continue an application from last year under the State Privacy Act against a Federal government body. While state remedies are traditionally never used to pursue breaches by commonwealth agencies, the protections in the federal sphere are of practically no use. There is highly restricted access to the Courts, and in practice is inaccessible to complainants. While we were unsuccessful at both the Administrative Decisions Tribunal and its Appeal Panel, we are now commencing process at the Supreme Court of Appeal and successfully obtained leave. The matter raises constitutional issues and could have considerable flow on effects in terms of the remedies available to complainants against one of the most pervasive entities – the Federal Government – in all spheres of life.

Insurance discrimination

HALC has seen a number of clients who have been refused insurance policies on the basis of their HIV status. Policies which have an exclusion for people with HIV commonly include life insurance and income protection insurance. Important to note is that these are actual exclusions from cover, rather than cover provided with increased premiums, for example. Such exclusions have been historically based upon actuarial data that indicated that persons with HIV or AIDS suffer a much higher mortality rate than is the case for those suffering a wide range of other diseases.



Australian Anti-Discrimination legislation provides an exemption for discriminatory conduct by insurers where the discrimination is based upon actuarial or statistical data on which it is reasonable for the insurer to rely.

The most recent relevant case law dates back to 2001, where the insurer was held to be entitled to rely upon actuarial data to justify the exclusion of HIV positive applicants from the insurance policy. Importantly, the court noted that the actuarial data relied upon dated from 1996. His Honour noted that there was no available data after the period 1996, and, importantly, acknowledged that, at the time of the decision (2001) there was evidence that the mortality associated with HIV was declining, and thus it might not be legitimate for insurers to rely on the exemption based on the old actuarial data in the future.

This is David's story:

David took out a life insurance policy in 2005, to ensure that upon his death, the costs of his funeral would be met by the policy and it would not fall upon his partner or other family members to pay for his funeral.

In 2007, David was diagnosed with HIV. He advised the insurer of his diagnosis and continued to pay his premiums. He was subsequently advised that the insurance policy had three specific exclusions upon which it would not pay out: death as a result of criminal activity, death by suicide, and death directly or indirectly related to HIV/AIDS.

HALC assisted David to lodge a complaint with the Australian Human Rights Commission based on the discriminatory nature of the policy in relation to people living with HIV. On the basis of the court case described above, we argued that the actuarial data being relied upon was outdated and irrelevant to people living with HIV and thus the exemption would not apply.

In a settlement agreement reached between the parties prior to the formal commencement of court proceedings, the insurer agreed to amend David's policy by removing the exclusion clause in relation to HIV, and also paid David a five-figure sum in compensation for stress and humiliation suffered.

HALC continues to work with clients in order to seek a court decision in our favour that will result in insurers no longer being able to include blanket HIV exclusions in their policies. We are also seeking systemic change by insurers to HIV exclusions in insurance policies.

MIGRATION

For a range of reasons we often have immigration clients who request that the Minister for Immigration and Border Protection (formerly Minister for Immigration and Citizenship) intervene to grant them a visa to remain in Australia. The Minister intervenes in very limited circumstances where there is a public interest in the intervention. In order to be able to seek Ministerial Intervention an applicant must have first validly applied for a visa with the Department, and have appealed a negative decision to the Migration or Refugee Review Tribunal (MRT or RRT). Only then can the Minister intervene, essentially when all other avenues have been exhausted.



In the past financial year we had four successful requests for Ministerial Intervention, which included a total of seven people, six of whom were HIV positive. This equates to around 1 per cent of all successful Ministerial Intervention requests made nationwide under the Minister's public interest powers under the Migration Act (s351 and s417). All our clients had strong claims to remain in Australia. They all had significant concerns for returning to their home countries and they are also people who can and have made contributions to the Australian community. These are their stories:

Katarina

Katarina is from Eastern Europe. She had come on a holiday to visit her boyfriend, Jim, and had a condition on her visa preventing her from making any further applications, with the exception of a protection (refugee) visa. While in Australia, Katarina went to the doctor, who without Katarina's knowledge or consent, conducted an HIV test that came back positive.

Katarina didn't receive any pre or post-test counselling, and was traumatised by the unexpected news. Jim was tested and is HIV negative. Katarina feared returning to her home country due to her HIV status, and she was also concerned about leaving Jim, her only support person. Katarina was particularly concerned after she disclosed her HIV status to her best friend of 30 years, who then completely cut ties with Katarina. Jim contacted us for assistance.

We first endeavoured to have the condition limiting further visa application removed, so that Katarina could lodge a partner visa. This was unsuccessful, so we lodged a protection visa application for Katarina. The protection visa was refused by the department and the RRT. We then commenced proceedings in the Federal Circuit Court (formerly Federal Magistrates Court) and we also submitted a request for Ministerial Intervention. Jim is financially stable and he and Katarina are in a committed and loving relationship. The Minister intervened in November 2012 and granted Katarina a visa. At the time, Jim and Katarina were thinking about starting a family.

Justice

Justice, from the Pacific islands, is gay and HIV positive. He is also an award winning hairdresser. Justice was unsuccessful lodging an application for a temporary skilled visa and was told that he didn't meet the primary criteria for the grant of the visa. This was due to the fact that he submitted the application more than six months after his course of study finished. Justice lodged an appeal to the MRT. He then moved house and informed the MRT that he had moved, but correspondence from the MRT went missing and he did not attend his hearing.

By the time Justice came to see us it was too late to rectify the situation so we assisted him in making a request to the Minister. Justice had an employer who was desperate to keep him due to his amazing skills: had Justice been able to lodge a sponsored visa they would have sponsored



him (but he was prevented due to his earlier visa refusal). Justice was also very fearful of returning to his home country due to the treatment of people with HIV and due to the fact that homosexuality is unlawful there. The Minister intervened and granted Justice a permanent visa. Justice continues to make people look beautiful.

Raja

Raja is from Nepal and is married to Bina. Raja came to Australia many years ago and lodged a protection visa that was unsuccessful. Since that time Raja has been diagnosed with HIV. Bina, his wife, recently arrived in Australia. We assisted Bina to lodge an application for a protection visa which was successful. We also assisted Raja with a request for Ministerial intervention, as he was barred from lodging a new protection visa. The Minister intervened and granted Raja a permanent visa. Raja and Bina are working hard and saving up to buy their first home.

Agnes and Daniel

Agnes, Daniel and their two teenage children Diego and Jemma are from sub-Saharan Africa. Both Agnes and Daniel are highly skilled, with skills which are in high demand. Agnes, Daniel and Diego are all HIV positive. They were diagnosed with HIV as part of the visa medical process to applying for a 457 visa (temporary employer sponsored work visa) when in Australia. They had a private migration agent who pressured them to pay more money.

They came to our service when they were on a bridging visa for the 457 and when the Department of Immigration were requesting that they obtain a health undertaking from the employer. The health undertaking would have most likely involved disclosure of their HIV status to the employer, which they were not willing to do. They decided to take the less certain route of proceeding to request Ministerial intervention, rather than risking disclosure to the employer. The family were concerned about returning to their home country due to their HIV status, including their teenage son's HIV status, and also because they had been affiliated with the opposition government and experienced harassment as a result of that. The whole process took almost five years, but the family now have permanent visas thanks to the Minister's intervention.



FUNDING

HALC was successful in buttressing its core funding with some alternative sources via \$71,400 worth of one-off grants during the year. This funding enabled us to maintain the employment of four full-time solicitors and to undertake a significant amount of additional work, including interstate work. The grants are as follows:

- \$35,000 from NAPWHA and its member organisations. Purpose of the grant was to engage HALC in ongoing projects and activities focussed on HIV transmission and legal reform in partnership with NAPWHA.
 - \$10,000 from Positive Life NSW for producing an updated edition of the NSW resource *Disclosing your HIV Status – A Guide to some of the Legal issues*.
 - \$8,500 from JTA International Pty Ltd. (AusAid and Health & Papua New Guinea HIV Implementation Services Provider). HALC is providing support, advice and ongoing mentoring to the Papua New Guinea Development Law Association to enable the organisation to become a stable fixture in the HIV and legal sectors in Papua New Guinea. This is one of four quarterly payments to be received from AusAid of \$35,000 over a one year period.
 - \$8,300 from the Western Australia Aids Council for the WA version of the resource *Disclosing your HIV Status – A Guide to some of the Legal issues*.
 - \$5,100 in generous donations from clients through the year.
 - \$2,500 from the Western Australia Aids Council for a one day training session for Migration Agents in WA.
 - \$2,000 from the Migration Institute of Australia for training seminars for Migration Agents in Victoria and NSW on HIV and the health requirement in relation to Migration law.
-



COMMUNITY LEGAL EDUCATION (CLE)

HALC undertook 22 workshops with people affected by HIV/Hepatitis C, health professionals and community workers during the year. These workshops related to the work of HALC and the disclosure requirements in relation to HIV. This includes information around disclosure in the context of sexual relationships, in employment and in various scenarios related to day to day life.

In the target audiences for our community legal education (CLE) we continue to engage with all communities affected by HIV, including gay men, heterosexuals, culturally and linguistically diverse communities and PHIV living in rural and regional areas. The majority of our clients reach us through a referral from a healthcare professional. We therefore provide regular workshops for staff working at sexual health clinics and the main hospitals and HIV clinics in the State, including those in regional areas of NSW. Some highlights of the CLE program for the year are provided below.

POSITIVE LIFE ROADSHOWS

HALC partnered with Positive Life NSW and our solicitors all participated in the program of rural and regional workshops delivered to PHIV around NSW. We reported on some of these workshops in the last annual report, but participated in additional workshops in Newcastle, Albury and Sydney in this reporting period.

In conjunction with our participation in these regional workshops with Positive Life NSW, whichever solicitor was participating in the Roadshow also met with staff at sexual health clinics in the area and provided an overview of the services offered by HALC and the assistance we can provide to people in regional areas who present with legal problems.

MIGRATION CONTINUING PROFESSIONAL DEVELOPMENT

HALC was funded by the Migration Institute to present advanced Continuing Professional Development sessions to Migration Agents. Three, one day sessions were presented by Iain Brady and Alex Stratigos to Migration Agents in Perth, Melbourne and Sydney on migration and the health criteria specifically in the context of HIV, as part of the ongoing training requirements for Registered Migration Agents.

CHINA/AUSTRALIA HUMAN RIGHTS DELEGATION

HALC hosted a half day workshop for solicitor delegates from China in March 2013. The delegates were on a four week visit to Australia co-ordinated by the Australian Human Rights Commission. The purpose of the visit was to foster increased co-operation and integration aimed at strengthening the administration, promotion and protection of human rights in China.

PUBLICATIONS, PROJECTS AND COLLABORATIONS

HALC continues to work with partner organisations, as well as developing new partnerships where appropriate. The significant expertise of HALC staff, combined with our unique access to examples of client legal problems is increasingly recognised and utilised as a valuable resource by our partners nationally and internationally.

In the reporting period, we have co-authored articles with other HIV organisations, produced and launched Guides for people living with HIV and undertaken Community Legal Education in collaboration with our partners. A selection of the projects and collaborations undertaken are outlined below.

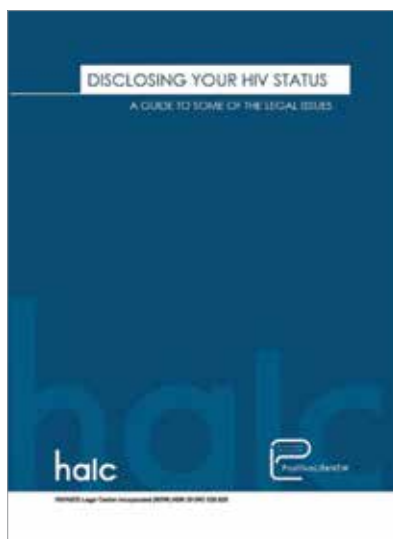
DISCLOSING YOUR HIV STATUS – A GUIDE TO SOME OF THE LEGAL ISSUES IN WA



The Western Australia Guide was produced in collaboration with, and with kind funding from the Western Australia AIDS Council (WAAC). It was launched by the then Minister for Health and Medical Research, Tanya Plibersek.

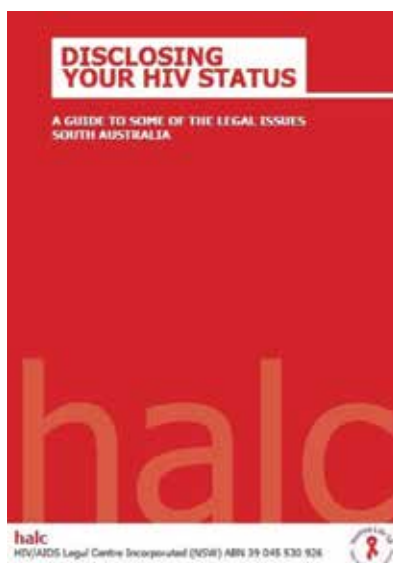
Alexandra Stratigos travelled to Perth for the launch, and also ran two well-attended workshops on disclosure requirements – one for people living with HIV and another for healthcare and community workers, including social workers and medical staff.

DISCLOSING YOUR HIV STATUS – A GUIDE TO SOME OF THE LEGAL ISSUES IN NSW



The NSW Disclosure Guide was produced in collaboration with, and with generous funding from Positive Life NSW. It was launched by Jane Costello, the President of Positive Life NSW in June 2013. This was a timely point to launch an updated version of the popular Guide which was first published in 2008, given the recent amendments to the *Public Health Act 2010*.

DISCLOSING YOUR HIV STATUS – A GUIDE TO SOME OF THE LEGAL ISSUES IN SA



HALC was successful in obtaining funding to produce a Disclosure Guide for South Australia. This Guide is scheduled for launch in November 2013.

We partnered with Positive Life SA (PLSA) in the preparation and production of the Guide. PLSA arranged a number of consultation events to seek the feedback and input of the community into the Guide. Melissa Woodroffe spent three days in Adelaide meeting with PLSA staff and Executive Management Team and running three focus group sessions with people living with HIV. The participants included PHIV from rural/regional as well as urban locations.

These workshops were well received by participants, whilst also providing HALC with valuable feedback that has been incorporated into the Guide.

HALC has collaborated with and contributed to policy documents and submissions in conjunction with the Australian Federation of AIDS Organisations (AFAO), National Association of People With HIV/AIDS (NAPWHA), Australasian Society of HIV Medicine (ASHM), Positive Life NSW, ACON Health Ltd (formerly AIDS Council of NSW), Sex Work Outreach Project (SWOP) and NSW Users and AIDS Association (NUAA).



ASK AN EXPERT – SOUTH AUSTRALIA

HALC was invited to collaborate with Gay Men's Health SA, and the former AIDS Council of SA, in the provision of legal advice and information via the web-based 'Ask an Expert' Forum. This forum was developed to enable gay men to increase their knowledge around HIV transmission through the submission of questions to the website, with answers provided by a network of medical and legal advisors. A HALC solicitor provided written advice to a number of questions including the legal obligations for disclosing one's HIV status in employment and other scenarios and questions relating to temporary and permanent visa options for HIV positive migrants.

Is there a need to discuss HIV status if the guys I hook up with use protection?

Ask An Expert's lawyers answered:

There are very limited circumstances in which an HIV positive person is required by law to disclose their HIV status. It is important to note that laws differ from State to State in relation to disclosure, especially disclosure in the context of sexual relationships. In South Australia, the law does not require a person with HIV to disclose their HIV status to a sexual partner. Rather, it requires a person with HIV (or indeed any other communicable disease) to take all reasonable measures to prevent transmission of the disease to others. So, if you are an HIV positive person and practicing safe sex, in South Australia there is no legal requirement to discuss or disclose HIV status...

POSITIVE LIFE REGIONAL ROADSHOWS

Two publications followed from our partnership with Positive Life NSW and our workshops as part of their Regional Roadshows for PHIV. Melissa Woodroffe and Lance Feeney, a senior policy officer at Positive Life NSW, co-authored an article in *HIV Australia* highlighting some of the issues faced by people in rural and regional NSW in relation to disclosure of their HIV status. In addition, Brady, our former Principal Solicitor, authored an article around suppression orders and disclosure of HIV to the wider community in the context of criminal matters.

PUBLIC HEALTH ACT 2010

In August 2012, HALC contributed to a joint position paper with ACON regarding the recent amendments to the *Public Health Act 2010*.

LEGAL AID CRIMINAL LAW CONFERENCE

HALC was invited to attend the Legal Aid Criminal Law Conference in August 2012 at a poster session to highlight the work that we undertake and the assistance we can provide to vulnerable and disadvantaged clients.



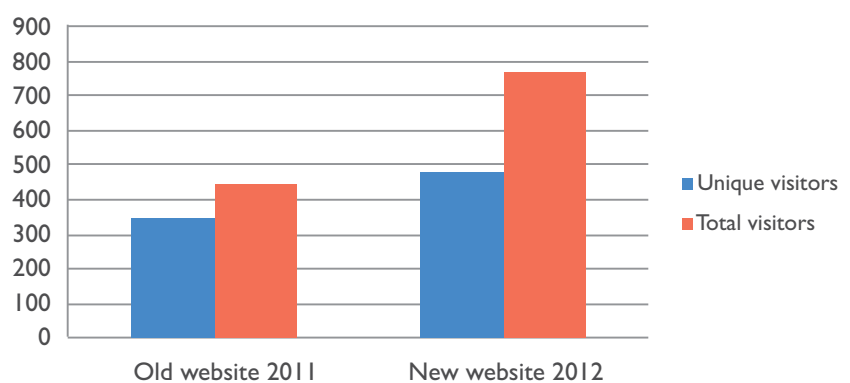
HALC WEBSITE

The new and improved HALC website was launched in April 2013 after six months of consultation and design by HALC staff and web developer Jennifer Turner.



In the year 2011-2012, the site had an average of 344 unique visitors per month; and an average of 475 visits per month. Those numbers rose after the launch of the new site, with an average of 443 unique visitors to the site per month in the first six months; and a significant increase in the average monthly visitors to 765.

HALC WEBSITE FIGURES





COLLABORATIONS AND REVIEWS

HALC continues to work with partner organisations to provide legal advice and expertise when requested. We frequently provide advice to Positive Life NSW and other partners on legal aspects of policy work, or in provision of case studies from our client casework. A recent example involved providing information and case studies for a project on migrants ineligible for Medicare undertaken by Positive Life NSW.

We were invited by the University of Notre Dame in Fremantle to review an academic thesis discussing the issues surrounding consent as a defence to criminal assault charges, including in the context of HIV transmission.

HALC has an ongoing collaboration with the University of Sydney Masters in Public Health program, and HALC staff present a lecture to students of the course on an annual basis.

ARTICLES AND RESOURCES

Stratigos, A. 'Stairs, Not Ramps – Australia's approach to migration and disability'. *Immigration Review Bulletin* 2013 No. 55 March 2013

Feeney, L. and Woodroffe, M. 'Disclosure in Rural and Regional New South Wales'. *HIV Australia* Vol. 10 No. 2 October 2012

Brady, I. 'In regional NSW, slight cover from the harsh glare of 'Open Justice'' *HIV Australia* Vol. 10 No. 2 October 2012



Doran, S., Brady, I. 'Cannabis & Compassion – Is it really so hard?' *Talkabout* 177 June 2012

Stratigos, A. 'Short Lived were the Positive Changes to Australian Migration Laws'. *Talkabout* 177 June 2012

Bapat, T. 'When there's a will there's a way'. *Talkabout* 178 (2012)

Disclosing your HIV status: A guide to the law in Western Australia (2012)

Disclosing your HIV status: A guide to the law in New South Wales (2013)

VOLUNTEERS

HALC volunteers provided ongoing and valuable contributions to the work of the Centre throughout the year. Up to seven volunteers per day work at HALC offices. As HALC does not operate an evening advice service like some other Centres, our volunteers work during normal daytime hours. They are often juggling paid employment or study with volunteering at HALC. Our daytime volunteers include law students, law graduates undertaking their Practical Legal Training (PLT) Program, and volunteer solicitors. This year, we hosted two international student interns, from Paris and from the USA. We also had PLT students from Canada, Ireland, South Africa and New Caledonia.



HALC volunteers support the work of the employed staff in all aspects of the Centre's work. This includes casework, telephone advice, law reform submissions, preparation of legal resources for our client base and presenting at community legal education forums. On a daily basis our volunteers deal with

clients face to face and by telephone with respect and sensitivity, often in difficult circumstances where clients are upset or angry. Our volunteers also play a valuable role in liaising with other organisations to ensure that vulnerable clients remain engaged with services that assist them with other problems in their lives that impact upon their legal matters, for example, social workers, health care providers and financial institutions.



Through the dedication of our volunteers we are able to expand the capacity of our Centre to provide high quality legal advice and representation to our clients. In 2012, our volunteers contributed the equivalent of 1,571 days of work to the Centre.

HALC is extremely proud of its ongoing ability to attract enthusiastic and capable volunteers, and it is testament to their level of commitment and dedication of our volunteers, as well as the quality and nature of the work experience, supervision and mentoring provided by employed staff, that many of our volunteers have given years of service to HALC.

We are also extremely grateful to the private practitioners (barristers and solicitors) who provide pro bono legal and practical assistance to us and to our clients. Such assistance includes one-off advice on client matters, ongoing sharing of expertise, provision of meeting rooms for events, and pro bono assistance with design and layout of various publications and resources.

We also acknowledge and thank the work of the members of the HALC Management Committee who give their time to oversee the management of the organisation.

A full list of all our volunteers and pro bono partners who have contributed to HALC throughout the year is included in the Acknowledgments section below.



CLIENT FEEDBACK

Client satisfaction surveys are sent to all clients when their file is closed. This year, we received 45 completed client satisfaction surveys, as well as many cards and emails from clients expressing gratitude, and some \$5,100 in donations.

Some of the feedback , negative and positive, is below.



“Great service, wonderful staff, very pleased”

“Words cannot express my sincere thanks to Alex and the legal team. Thank you from the bottom of my heart for all your patience, hard work on this matter and understanding. All along you were wonderful and very committed. Many thank to Brady for initially taking on the case. You are all a wonderful team fighting for a very just and perfect cause.”

“Unbelievable service which helped me in a great outcome in discrimination case. Melissa is absolutely awesome. Thank you so much HALC.

“I found Brady and his team to be very professional and expediently dealt with a situation that had put me in an unfair dilemma and allowed me to concentrate on my treatment and getting virus free.”

“Advice and documents were signed early February but did not receive paperwork until early April. This seems an unsatisfactory period of time to wait. Further, the paperwork had many mistakes including my surname. Finally I don’t believe we were taken seriously even though the advice given was adequate.”

“The service is far better today than 16 years and 10 years ago. I found with time the process has become user friendly and staff a level of confidence.”

“All the staff were friendly and accommodating. My lawyer was supportive, encouraging and very professional all through the court case. The only negative remark I have to make is that I think the juniors are overworked leading to bad phone management and miscommunication between client and lawyer.”

“100% satisfied with all services and information provided by your beautiful people, Melissa and Louise. I am a very happy customer.”



“Thank you very much for the assistance you gave me. The assistance and advice provided by Sue, Indraveer and Brady has truly helped me through one of the most difficult times in my life. You have all helped me on numerous occasions over the past 2 years. Thank you for all your professionalism and understanding, and thank you Sue for your patience with my many questions.”

“I would like to thank Indraveer and the team that have helped me a lot to get my Permanent Resident Visa finally granted. You and your team have done a great job. It is really good news for me, a relief of all my stress too as I have worried and waiting for quite long. I could not thank you enough for this... once more a massive thank you.”

“I was represented today by Jennifer at Ryde Local Court. I feel it necessary to convey my gratitude for Jen’s outstanding representation of me and how she articulated my case to the magistrate. I am truly overwhelmed at how exceptional Jen was, and also with briefing me beforehand and after the court appearance. The gay community in general has historically not had an easy run with discrimination etc however with people like Jen helping to right injustices against gay people our future is very bright indeed.”

“I was homeless, my son was taken away with my ex-wife. Through HALC I was able to get my son back. Without HALC I could still be on the street with no son. Thanks again.”

“I just want to thank your HALC team, you are unreal. Keep up all the good work, I’m glad you were able to help me with my court case. I am glad I didn’t need Legal Aid, and I got a better outcome with your help.”

“I had court dealings and matters with the Protective Commissioner of NSW. Melissa was your staff member that looked after me. She is fantastic and she also organised my will for me...”

”

ACKNOWLEDGMENTS

STAFF

Brady (Iain Brady)	Principal Solicitor
Indraveer Chatterjee	Solicitor
Melissa Woodroffe	Solicitor
Alexandra Stratigos	Solicitor
Shehzad Mansuri	Co-Ordinator

VOLUNTEERS

Amanda Jones
Anne Tissier
Avi Primov
Gizelle Van Zyl
Kunalan Arjunan
James Brosnan
Jean-Louis Potgieter
Jennifer Smythe
Julie Hoang
Jessica Smith
Laura Cameron
Laura Santana
Louise Ferguson
Matthew Drake-Brockman
Melissa Gross
Nicholas Markwell
Ricky Russell
Sarah Bond
Solomon Wakeling
Sophia Zander
Stephanie Coelho
Sue Doran
Trupti Bapat
Vikas Parwani
Yan Wen Gao

MANAGEMENT COMMITTEE

Althea Mackenzie	President
Lance Feeney	Secretary and acting Treasurer
Andrew Smith	
Iryna Zablotska	
Michael Frommer	
Iain Brady	
Shehzad Mansuri	
Tim Parsons (retired during the year)	
Kylie Tattersall (retired during the year)	



BARRISTERS AND PRO BONO SOLICITORS

We gratefully acknowledge the significant support, advice and expertise contributed by barristers and solicitors in private practice. This includes providing pro bono representation for clients in complex litigation.

Dr Chris Ward
Dr Chris Birch
Mr Michael McHugh
Mr Lachlan Robison
Mr David Baran
Mr Clive Evatt
Mr Scott Holmes
Ms Penny Purcell
Ms Lisa Powell
Ms Rachel Mansted
Ms Lisa D'Ambra
Mr Kerry Murphy
Ms Deslie Billich
Mr Mark McDiarmid

OTHER PRO BONO PARTNERSHIPS

We gratefully acknowledge the support provided by our partners who in addition to providing legal advice, have also assisted with providing us with access to their graphic design expertise, and providing venues for launch of resources and other events.

1. Dan Creasey and Nic Patrick of the ProBono team at DLA Piper;
2. ACON Health Ltd and its staff for their ongoing support and assistance;
3. The probono team, including Kim Marks (graphic designer) at Gilbert & Tobin;
4. Jonathon Street, Positive Life NSW;
5. Alison Barnes for graphic design of the South Australia Disclosure Guide
6. Jennifer Turner – design of the new HALC website.

HALC AUDITED FINANCIAL STATEMENT FOR 2013

INCOME	2013 (\$)
State	86730
Commonwealth	70124
Public Purpose Fund	139996
NAPWHA	35000
Service income	27189
Sundry income	10017
Disbursements recovered	4086
Donations received	5141
Interest received	3016
Total revenue	381299

EXPENDITURE	
Amortisation & intangibles	170
Annual Leave provision	9069
Audit and Accounting fees	6000
Bank Charges	119
Bookkeeping fees	1013
Client disbursements	5759
Depreciation	2815
General expenses	505
Insurance	787
Library	382
Long Service Leave provision	170
Memberships	2280
Office Expenses	8158
Practicing Certificates	2536
Programs and Planning	681
Repairs and Maintenance	5087
Salaries	299998
Staff Training	545
Superannuation	29678
Travel and Accommodation	5633
Workers Compensation	1543
Total Expenses	388684
Net Deficit	(7385)

