

Public Legal Education

International funding models*

Introduction

This paper provides a short overview of the PLE funding arrangements for the Commonwealth of Australia and the Government of Canada, and aims to inform debates on the strategic development of PLE in the UK. It is important to note that states (Australia) and provinces and territories (Canada) also develop, deliver and fund Public Legal Education and Information (PLEI)¹ activities alongside central Government Departments. The focus of this report is on information relating to the funding of the Canadian Justice Department and the Australian Attorney General's Department respectively, PLEI funding is however provided by other Government departments and agencies and does not fall specifically within the scope of this paper. In addition, the nature of PLEI activities (i.e. overlapping with other activities) are such that it is difficult to provide an exact amount of PLEI expenditures as a percentage of Government expenditure in either jurisdiction.

It is also worth noting that the nature of activities varies significantly both in design and scope, however two broad features are distinguishable. The legal clinic/legal advice centre model described in more detail below, aims to ensure that it provides PLE which is closely derived from local needs and community priorities. The other models generally relate to special project funding responding to specific social policy events (such as an economic downturn or an influx of new migrants). There are obvious tensions that arise from the balance between ensuring ongoing comprehensive core services and reactive services that arise from wider social policy pressures. Whilst these appear to represent somewhat competing priorities, the funding decisions have mutual impact, for example a clear implication of the failure to maintain continued investment in core services is the loss of capacity to respond to special project initiatives as the PLE skills, expertise and knowledge that have evolved are likely to be lost.

* Lisa Wintersteiger 2009. The views expressed in this paper are those of the author. This paper offers an overview of two jurisdictions in a preliminary way and does not provide an exhaustive analysis of funding models of either jurisdiction.

¹ The terms PLE and PLEI are used interchangeably across Canada, with the CLE (Community Legal Education) preferred in Australia. All encompass aspects of education and information on rights and the law.

Commonwealth of Australia - Community Legal Services Program Integrated community legal education (PLE) model

The current outcome statement for the Commonwealth Community Legal Services Program is 'equitable access to legal assistance services to disadvantaged members of the community and those with special needs'²

The activities funded under the Commonwealth Community Legal Services Program comprise: **information, advice, casework, community legal education, and law reform and legal policy**. Within the CLSP framework, community legal centres determine the type and mix of service delivery that best meets the needs of their client communities. Each community legal centre is required to submit a Community Legal Services Program Plan outlining its service delivery strategies over the life of the three year service agreement and provide progress reports against the Community Legal Services Plan. The Community Legal Services Plan has to be approved by the relevant State Program Manager, a stringent process that takes into account the rationale for the plans, effective needs assessments and the selection of appropriate responses either in terms of casework or non-casework activities.

Crucially this model considers two key factors that currently undermine the responsiveness and effectiveness of the development of public legal education in the UK. Local services are able to design delivery plans according to the existing levels of demand they are experiencing (determining needs by virtue of the population, geographic or demographic features of their catchment) in conjunction with unmet needs that they identify through their casework and their local community partnerships. Rather than being demand led, this combination allows services to assess areas that are being underserved or not serviced at all, and by offering generalist or specialist legal help or through education or policy activity alleviate problems pro-actively, thereby reducing demands on services in the future (i.e. preventative work).

Without this flexibility to undertake non-casework activities and to act early to address needs, the ability of local and national services are hampered, and the possibility of learning from the experiences that people bring to their local services as a mechanism for shaping and informing the development of services for the future is lost.

Funding arrangements

Funding for the Commonwealth Community Legal Services Program in 2006–07 totalled \$24.7m³, with \$22.1m allocated to 128 community legal centres (there are over 200 clc's in total) and the balance used for program support activities. The State contributions totalled \$17.6m (including \$3.7m provided to State only funded community legal centres)⁴.

Community legal centres funded under the Commonwealth Community Legal

² Attorney-General's Department, Commonwealth Community Legal Services Program Guidelines

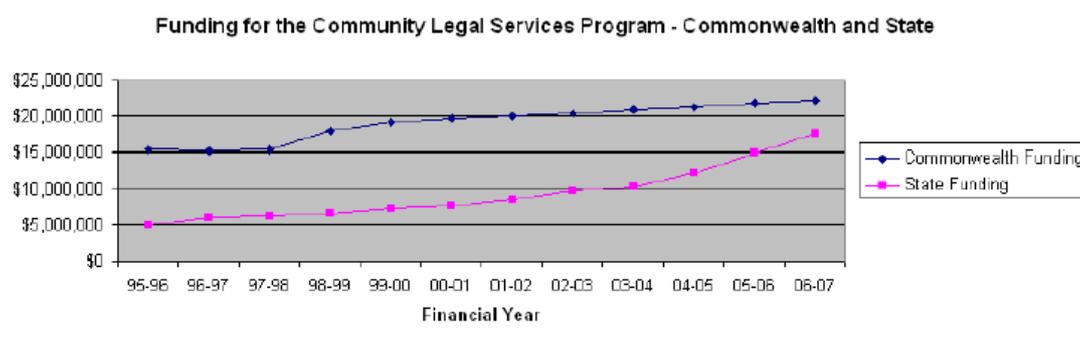
³ Review of the Commonwealth Community Legal Services Program
March 2008

<http://www.ag.gov.au/www/agd/rwpattach.nsf/>

⁴ Representing 48% of overall funding allocation

Services Program undertook 269,537 activities in 2006–07 of which 1,346 were community legal education projects.

Funding is provided through a service agreement which is renegotiated every three years, although funding is provided to each community legal centre on an ongoing basis subject to it meeting the terms and conditions of the Service Agreement. In 2006–07 the average level of Australian Government funding provided to community legal centres funded under the Commonwealth Community Legal Services Program was approximately \$173,000.



In addition to CLSP funding a number of other Government programs include aspects of public legal education activities including the Family Development resolution services of the Legal Aid Program, and community awareness and development activities of the Family Violence Prevention Legal Services.

Proportionally these represent major funding streams in the context of PLE with 14,469 projects funded by the LAP, and 3,158 by the FVLS. PLE projects involve a number of PLE sessions and activities and account for on average 5% of all services across the range of funding programmes, in some instances PLE accounts for up to 18.5% of programme activities. It is relevant to note that the figures recorded for PLE projects do not reflect the overall number of live projects. The CLIS database used for recording the activities functions on a 'case closed' basis, thus ongoing PLE projects of which there are many are not reflected. Additional a history of under-recording in law-reform and PLE activities means the number of actual PLE projects is likely to be significantly higher⁵

Comparative funding levels (in '000 Australian dollars rounded) across comparable AGD programs 2006-07 (for the purposes of this table, Community Legal Services Program column is based on Commonwealth funding alone).

1 GBP = 2.06965 AUD.

CLSP	Legal Aid Program	Legal Aid for Indigenous Australians	Family Violence Prevention Legal Services Program	Total Program Funding
22,149	148,025	48,171	11,291	245,012
9.04%	60.42%	19.66%	4.61%	100%
(0.5% PLE activities)	(3% PLE activities)	(18.5% PLE activities)	(7% PLE activities)	

⁵ Evidence provided by National Association of Community Legal Centres (Executive Director April 2009)

Source: CLSP –Community Legal Services Information System – CM 11 Quarterly Income and Expenditure (active, funded, Community Legal Services Program only, State) , LAP- Legal Aid Program, LEGA – Legal Aid for Indigenous Australians, FVLS – Family Violence Prevention Legal Services Program. (*New South Wales includes National Children’s (based in New South Wales but provides a national service)

Australian Government funding provided to community legal centres in 2006-07 for non-Community Legal Services Program projects or programs makes up less than 6% of the funding provided to centres funded under the Commonwealth Community Legal Services Program and affects only 12.5% of community legal centres. The Department of Families, Housing, Community Services and Indigenous Affairs provided funding ranging from \$510 to \$135,470, making a combined total of \$610,603 to 14 community legal centres under seven different funding programs. The Department of Health and Ageing provided Advocacy Services Program funding to two community legal centres at a combined total of \$653,000.

The strength of this mixed model approach enables services to be responsive to community needs by maintaining close contacts with the communities which they serve. By taking an early intervention and multi-faceted approach to services there is a reduced likelihood of unnecessary litigation and other negative social consequences⁶

The weakness of the arrangements in the Australia model seemed to be the lack of any sole-purpose organisation or body that can help to maintain momentum in the development of PLE across the board, with the National Association of Community Legal Centres currently undertaking some of this work with limited resources. The need to avoid overlap, identify gaps and to coordinate activities across states requires an overview and focus that is not presently established in this model.

The integrated local service delivery model has significant strengths, particularly in identifying need; however the value and benefit of PLE can be far reaching and supports the outcomes of a variety of other social justice goals. So, for example a lack of awareness of judicial processes was attributed in part to a gap in 'civics' education development, a responsibility that falls on the education department⁷. The need to cross fertilise from other key sectors is suggestive of the need for sole-purpose investment that can support and facilitate learning across a range of providers and attract confident investment from other funders.

⁶ The National Association of Community Legal Centres, Community Legal Centres: An investment in value; Investing in Community Law: Budget Submission to the Commonwealth Government 2004-2007, August 2003, p15

⁷ Promoting an understanding of the Federal Civil Justice System to enhance public confidence in it [http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(CFD7369FCAE9B8F32F341DBE097801FF\)~0+ch+3+Promoting+understanding+chapter.doc/\\$file/0+ch+3+Promoting+understanding+chapter.doc](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(CFD7369FCAE9B8F32F341DBE097801FF)~0+ch+3+Promoting+understanding+chapter.doc/$file/0+ch+3+Promoting+understanding+chapter.doc)

Government of Canada

Canada funds its PLEI activities through a mixture of Justice Canada core funding to sole-purpose PLEI organisations and Law Foundations, whose revenue comes primarily from the interest on lawyers trust accounts. The Department of Justice Canada provides \$1.03 million dollars (1 GBP = 1.81483 CAD)⁸ annually to support the core activities of 10 PLEI organizations designated by provincial governments across the country. These organisations are co-designated by the Department and its provincial counterparts. The funding is provided in accordance with the terms and conditions of the Justice Partnership and Innovation Program. The Department of Justice also provides annual funding to support a range of access to justice activities, including PLEI activities in each of the three territories (\$70,000 each for Northwest Territories, Yukon and Nunavut) through agreements signed directly with the territories.

The Department manages a variety of grant and contributions programmes that provide funding to organisations for projects that, generally speaking, aim to improve access to justice. These include programs such as the Justice Partnership and Innovation Program, the Child-Centered Family Justice Fund, the Victims Fund, the Family Violence Prevention program, the Aboriginal Justice Strategy, the Youth Justice Fund and the Access to Justice in both Official Languages Support Fund. The objectives and funding criteria of most of the programs are such that they allow funding for PLEI activities undertaken by provinces and territories as well as by non-governmental organisations. There has been some debate about the relative merits of applying PLEI budgets to the internal production of PLEI materials by Government departments. It has been suggested that a clear delineation between PLEI activities and Government communications should be made. The need to produce PLEI with an awareness of local situations in an accessible way that also supports the critique of law is better suited to the work of independent non-governmental agencies:

'The similarities and distinctions between PLEI and government communications suggest that both serve equally valid functions while meeting different objectives. For example, PLEI is local, community based and targeted to deliver legal information to specific groups or needs. Departmental communications tend to be nationally oriented and broadly targeted to reach particular sectors of the public. PLEI is about education and about how information gets absorbed and translated into understanding. Communications is about whether or not the message is clear and well communicated. Unlike some communications activities, PLEI is not aimed at obtaining greater acceptance of the law. It explains the law in a way which is accessible to the PLEI user. As a result, PLEI information may be critical of legislation - especially if it is perceived as removing rights and making the laws more complex for some'⁹.

In 1987, a national association dedicated to PLEI, the Public Legal Education Association of Canada (PLEAC) was formed to ease communication among PLEI deliverers and to act as a national voice and advocate for PLEI issues.

⁸ Marc Dubois Programs Branch | Direction générale des programmes

Department of Justice Canada | Ministère de la Justice Canada - figures correct as at March 2009

⁹ 1997 Public Legal Education and Information Marie Moliner (PLEI Review for Justice Canada) P25

In addition, the Department also provides project funding to non-governmental organisations to develop and deliver information activities and tools and who qualify for funding from the various funding programs of the Department.

A wide variety of partnering or intermediary organisations (for example, legal aid clinics, health centres, churches; and groups that target specific publics, such as older people, women, Aboriginal people and immigrants) are also important aspects to the PLE funding matrix.

With regard to clinic funding, Legal Aid Ontario has responsibility for 79 community legal clinics. The clinics provide services including:

- legal representation and advice
- community development and organising
- law reform, and
- public legal education.

Legal Aid Ontario assists and supports the clinics through its Clinic Resource Centre which provides legal research and legal information. It also coordinates the clinics' purchases of information technology equipment and other office supplies.

Legal Aid Ontario monitors clinics' performance through a Quality Assurance Program and regular meetings. The Quality Assurance Program requires clinics to submit a range of quarterly and annual reports including an annual funding application containing a review of last year's work and a work/business plan for the coming year. The clinics receive funding on a presumptive basis subject to meeting the requirements of the Quality Assurance Program.

In the aggregate, law foundations are probably the largest funders of PLE organisations in Canada. Along with Justice Canada, the provincial Law Foundations are the primary entities funding to sole-purpose PLE organisations in Canada. In several cases law foundations are the source of 50% or more of a sole-purpose organisation's revenue.

Although PLE organisations benefit tremendously from the law foundations—nearly all of which have “legal education” of some kind explicitly in their legislative funding mandate—there remain two important problems with PLE and law foundations:

1. Law foundations' revenue, coming primarily from interest on lawyers' trust accounts, is tied extremely closely to interest rates and provincial economic conditions. A fall in interest rates as currently experienced results in a major reduction in core providers funding.
2. Although law foundations talk to each other, as funders they are often islands and there is limited collaboration with Justice Canada or other funders on PLE issues¹⁰.

¹⁰ Ibid. Moliner noted that contact between the law foundations and Justice Canada before 1997 was “sporadic” and recommended that Justice Canada do something about that.

Issues relating to funding allocation also continue to impinge on debates as to the nature and scope of PLEI activities. Whilst PLEI aims to provide practical and useful information for the public to access the justice system as 'informed consumers' there is an equally important need to engage the public in a meaningful way so that the system is both comprehensible but also responsive to public needs and more welcoming of public involvement¹¹.

Recommendations

This preliminary analysis of the funding arrangements of both the Commonwealth of Australia and Canadian models underlines the difficulties in ensuring adequate funding for PLE activities in the context of wider demand for legal services. What the Australian model does suggest is that the ability of PLE interventions combined with policy activities in an integrated legal clinic model does enable services on the ground sufficient flexibility to be proactive in meeting unmet demand for services. They are also able to rationalise activities to achieve good value for the funding that is received in meeting the needs of their local communities.

The benefit of the Canadian model stems from the commitment to funding sole-purpose PLEI providers that are then best placed to focus and target PLE needs across provinces; this offers a clear advantage to singularly funding local clinics that also have responsibilities for PLEI. This model both prevents overlap and ensures gaps can be identified through a more rationalised production of PLE resources that can then be disseminated through intermediaries (clinics and others) to reach those communities most in need of support. However the heavy reliance on Law Foundation funding places sole-purpose PLEI organisation in a precarious position in view of the risks associated with interest rates falling, indeed in one year a sole purpose PLEI organisation lost 40% of its core funding due to a drop in interest rates¹².

As a consequence of the underdevelopment of PLE in the UK it is recommended that a combination of approaches is taken to building capacity; investment in integrated delivery methodologies such as through existing legal and advice services, as well as adult learning and basic skills provision and housing and community development activities. Alongside this the funding of sole-purpose PLE provision will enable the most effective dissemination of PLE research, materials and quality assurance standards in support of coordinated and high quality PLE activities.

Finally consideration should be given to adopting a policy that distinguishes PLE from Government communications. The role of Government information as an awareness raising tool that is broadly targeted and nationally oriented is better suited to the provision of general information about the law. Given that PLE is about education and about how information gets absorbed and translated into understanding, production of PLE aimed at providing practical legal information with the capacity to be critical and targeted to local needs may be better provided independent of Government.

¹¹ Gander L *The Changing Face of Public Legal Education in Canada News and Views on Civil Justice Reform* (2003)

¹² Eppink R *Law Foundations and PLE* (unpublished 2007) <http://plei.wordpress.com/2007/05/25/law-foundations-and-ple/>