

# Consumer Credit Legal Centre NSW

Annual Report  
2009 - 2010

Consumer Credit Legal Centre acknowledges the financial support provided by the Credit Counselling Program of NSW Fair Trading, the Community Legal Services Program of the State and Federal Attorney-**General's Departments**, and the Commonwealth Financial Counselling Program administered by the Department of Families, Housing Community Services & Indigenous Affairs for our core services. We also acknowledge project funding from the NSW Public Purpose Fund and Legal Aid NSW.

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Consumer Credit Legal Centre (NSW) Inc. ("CCLC") is a community legal centre specialising in financial services, particularly matters and policy issues related to consumer credit, banking and debt recovery. It is the only such Centre in NSW.

CCLC has a particular focus on issues that affect low income and disadvantaged consumers.

The goals of CCLC are:

- To assist consumers of financial services, particularly disadvantaged consumers, to effectively assert their rights and protect their legitimate interests.
- To promote consumer understanding of financial services regulation, policy and industry practice.
- To achieve redress for individual clients of the Centre.
- To promote reforms in regulation, policy and industry practice that will help create a fairer marketplace for consumers of financial services, particularly disadvantaged consumers.
- To achieve excellence in all aspects of the management and administration of a small community organisation.

In order to meet these goals, we:

- Provide information, legal advice and referral in relation to banking, credit, debt, insurance and related matters to consumers and community/welfare agencies;
- Provide ongoing casework services in relation to banking, credit and debt, insurance and related matters to consumers and community/welfare agencies. Where appropriate, this might include legal representation at Tribunal or Court hearings, and/or advocacy through industry dispute resolution schemes;
- Conduct community legal education on, and raise public awareness concerning regulation, industry practices and consumer issues in the areas of banking, credit and debt, insurance and other financial services. We also develop and disseminate CLE resources, such as kits and fact sheets, to different target groups;
- Pursue pro-consumer reforms in financial services' regulation (including self-regulation), policy and industry practice through casework, campaigns, and participation in policy development and review processes; and
- Develop and maintain the operation and management of the Centre.



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Coordinator	Karen Cox
Principal Solicitor	Katherine Lane
Senior Solicitor	Alexandra Kelly
Senior Solicitor	Alice Lin
Senior Solicitor	Susan Winfield
Solicitor	Jennifer Lewis
Solicitor	Claire Shidiak Khoury
Solicitor	Harshanie Sooriyabandara
Solicitor	Hann Thea
Solicitor	Joe Wasuruj
Solicitor	Burcu Yaroglu
Senior Financial Counsellor	Lynda Johns
Senior Financial Counsellor	Greg Russell
Financial Counsellor	Marie Druon
Financial Counsellor	Denise Lake
Financial Counsellor	Marianna Minhinnick
Financial Counsellor	Helen Rees
Financial Counsellor	Peter Schultz
Office Manager	Nicola Sutton
Financial Administrator	Chris Maddison

## Management Committee

Chair	Elissa Freeman
Treasurer	Matthew Simpson
Secretary	Michael Saadat
Ordinary Members	Paul Baker
	John Burke
	Karen Cox (Coordinator)
	Amy Kilpatrick
	Nicola Sutton (Staff Representative)

## Volunteers

Practical Legal Training:	Hussein Elachkar
	Samaneh Esfahani
	Kathryn Langton
	Samuel Li
	Julianne Qui
	Chrishan Sathianathan
	May Sun
	Kathryn Wood



I'm tempted to say that 2010 has been another year of quality service delivery to consumers in need. But that would be an understatement. While attending to over 17,000 calls, the Consumer Credit Legal Centre has shown extraordinary leadership throughout the development and implementation of Australia's new national credit laws.

The CCLC was not only a critical stakeholder participating in the development of the national credit laws but also a community educator through its highly praised *Credit Law Toolkit*, developed in partnership with the Legal Aid NSW. As well as preparing for one of the most significant changes ever in Australian credit law, the centre has continued to expand its service delivery. The CCLC has consolidated its expanded service to consumers through the commencement funding of its Mortgage Hardship Service in July 2009, and the continuation of national advice service provided by the Insurance Law Service. It has expanded its publications, now including insurance brochures in three non-English languages and has established the insurance law website.

On behalf of the management committee I congratulate the staff on a highly successful year of service delivery, advocacy for law reform and community education. Your diligence and expertise has ensured that tens of thousands of consumers receive quality assistance in often challenging and emotionally-charged circumstances. These services can be maintained because the CCLC continues to retain and attract high quality staff and is led by a fantastic management team of Karen Cox and Kat Lane.

We also extend our sincere thanks to the various funders of CCLC services: NSW Fair Trading, Legal Aid NSW, the Commonwealth & State Attorney General's Departments, the Law and Justice Foundation of NSW and the NSW Public Purpose Fund. The extensive and high quality work reported in this 2009-2010 Annual report demonstrates the value delivered by your continued support of the centre.

Lastly I want to thank my colleagues on the Management Committee for their time, energy and support of the CCLC. I know that this busy group of people freely gives their time because, like me, they are proud to support such a high quality community legal centre.

2010 has been an extraordinary year for the Consumer Credit Legal Centre. The centre continues to demonstrate the powerful combination of financial counselling and legal advice and referral, which together support quality law reform, educational and media activities. The Centre is well positioned to continue in its leadership role in the sector during 2011 and to provide services to more consumers, including reaching further out to some of the most disadvantaged consumers in NSW.

Chair

Elissa Freeman

December 2010

The number of staff at Consumer Credit Legal Centre (NSW)[CCLC] hit twenty (16 Full-time equivalent) this financial year with the commencement of the Mortgage Hardship Service, the continuation of the Insurance Law Service and some additional funding from the Commonwealth Financial Counselling program in response to the global financial crisis. This has enabled the service to respond effectively to demand, taking more calls and conducting more casework than ever. It has also enabled us to use our resources very efficiently by multi-skilling our staff, sharing the burden of answering the constantly ringing advice lines across more shoulders, and allowing some staff the space to develop expertise in particular areas of practice.

The Mortgage Hardship Service (a joint project with Legal Aid NSW), employing two solicitors and a financial counsellor at CCLC, has been in full swing since July 2009. This service has given us great insight into the pointy end of home repossession, including the Supreme Court process and the avenues available to debtors faced with losing their home. The ability to divert some matters from the formal legal process to external dispute resolution at the Financial Ombudsman Service or the Credit Ombudsman Service has been of enormous value to our clients, and we applaud this extension of the relevant Terms of Reference.

The Mortgage Hardship Service is currently being independently evaluated by the Law and Justice Foundation of NSW. This evaluation includes, among other processes, a follow-up survey with a sample of previous clients of the service. While the results of the evaluation are still months away, the process of conducting the follow-up surveys has been satisfying in itself. We were pleased to find that some of the clients whose homes we had helped to save were still living in them and feeling more in control financially. Importantly, we also found that some of the clients who had decided to sell their home after talking through their options with CCLC financial counsellors and/or solicitors were very satisfied with that decision in hindsight as a result of the reduction in financial stress and consequent improvement in lifestyle. In many cases we had assisted these clients to obtain more time from the lender or the Court in which to conduct the sale privately and avoid a mortgagee sale.

While the Mortgage Hardship Service was set up as a temporary response to record repossession levels in NSW, the value of the service is arguably more enduring. Home loans are necessarily taken out over a couple of decades, and it is almost inevitable that borrowers will encounter some financial difficulty in that lengthy period, regardless of broader economic conditions. Facing home repossession is a very stressful situation that places practical and emotional strain on borrowers and their families, impacting negatively on relationships, parenting and productivity. A service such as the Mortgage Hardship Service can assist borrowers to ride out those difficulties through improving access to hardship arrangements, or enable people to come to terms with the inevitable loss of their home in some cases and ease the transition to another form of tenure.

Unfortunately, roughly a quarter of our staff are employed with temporary funding due to cease in July 2011. Such a significant reduction people power will not only be a great loss to consumers in the particular areas in which they are employed (largely insurance and mortgage hardship), but it will reduce our overall capacity to respond as effectively to demand for assistance on the Credit and Debt Hotline, leaving many consumers without access to timely advice. Two quotes from the 2009 Access to Justice Task Force spring to mind: **“the three most common barriers to obtaining help with legal issues are difficulty getting through on the phone, delay in getting a response, and difficulty in getting an appointment”** and **“early intervention will prevent legal problems from occurring and escalating.....However, if a person does nothing—which often happens when there is not enough assistance available or it is not clear to a person where to turn to for help—it can be much harder and more costly to rectify the problem”** (A Strategic Framework The Access to Justice Methodology).

We hope that resources can be found to fill this significant breach.

I would like to thank the CCLC staff for their dedication, skill and good humour. I would also like to thank the Management Committee who give of their time and expertise without material reward. As usual, I extend particular thanks to Katherine Lane, Principal Solicitor, without whom CCLC would be a quieter and less colourful place and a far less effective service.

Karen Cox

Coordinator

December 2010

The 2009-2010 financial year was one with momentous changes made to the Australian consumer credit laws. The States and Territories of Australia agreed to transfer their powers in relation to credit to the Commonwealth. This led to the enactment of the National Consumer Credit Protection Act 2009 (Cth). CCLC was actively involved in the consultation for the new credit laws. The new laws commenced on 1 July 2010.

The CCLC casework and advice practice was a valuable resource in providing evidence that informed **CCLC's recommendations to the Commonwealth Government on the changes needed in the credit law** to better protect consumers.

CCLC was also privileged to receive funding from FACHSIA in partnership with Legal Aid NSW to produce a Credit Law Toolkit for financial counsellors and Community Legal Centre/Legal Aid solicitors. The Credit Law Toolkit was distributed to over 500 financial counselling organisations, Community Legal Centres and Legal Aid offices around Australia.

It has been another pleasing year of amazing productivity from the CCLC staff. This year CCLC staff had to keep up with very high demand for advice and casework, significant changes to external dispute resolution schemes, increasing complexity in advice questions, completing policy submissions, giving community legal education and running very demanding public interest casework. Despite this CCLC staff continues to improve the quality of their work, positive outcomes and general productivity.

Financial hardship is a common consumer problem in the CCLC casework and advice practice. Working on assisting consumers with financial hardship has shown the benefits of having a team of solicitors and financial counsellors working together to solve consumer problems.

This year was the first year of operation of the Mortgage Hardship Service. This service has involved casework, advice, a weekly morning as a duty solicitor for the possession List at the NSW Supreme Court, regular appearances in the NSW Supreme Court to assist consumers obtain time to sell or vacate their home and most importantly advocacy for consumers to get access to their right to repayment arrangements on the grounds of financial hardship.

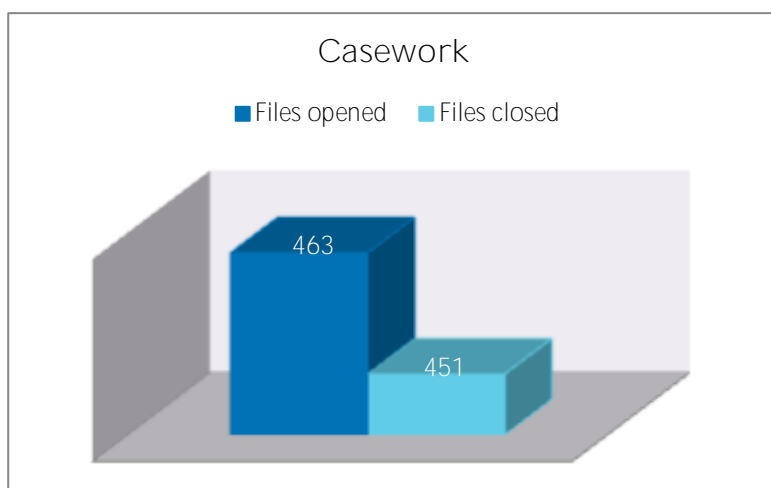
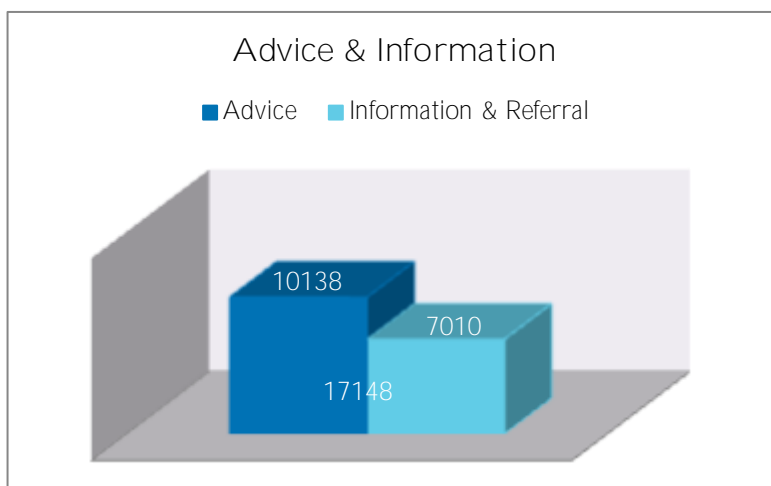
The Insurance Law Service has operated for another year. Significantly, the Insurance Law Service is an Australia wide service. CCLC was thrilled to get funding from the Federal Government and Legal Aid NSW to ensure we can continue to give advice for another year. The Insurance Law Service has shown

that “if you build it they will come”. The demand for the service continues to grow showing that this is a vital service.

As always, I want to thank all of the CCLC staff for being so productive and clever. I know my jokes are wearing thin but the CCLC staff still laugh (sometimes) which I count as very important support. I also want to thank Karen Cox, the coordinator for continuing to work in partnership with me (B1 and B2) to manage CCLC.

Kat Lane

Principal Solicitor



This is the story of an ordinary day at Consumer Credit Legal Centre (NSW). This is a selection only which, while far from including every activity, gives a good picture of the quantity and diversity of work done by the Centre on any given day.

Kat (principal solicitor) started this particular day by responding to her e-mails from home before heading North (the opposite direction to the office) to attend a disputed return of summons at the Consumer **Trader & Tenancy Tribunal ("CTTT") in Gosford. The case was actually being run by Alex (solicitor) who** has another case in the Sydney office of the CTTT on the same day. Alex has become a proficient litigator but has sadly not mastered the art of being in two places at once.

The case Kat is attending to concerns a couple who obtained a home loan through a broker who falsified their income on the loan application. They have already mitigated their loss by selling the home, but there is a significant shortfall and the dispute concerns responsibility for the outstanding debt. The case is being argued under the unjust contracts provisions of the then applicable Uniform Consumer Credit Code (now the NCC), and CCLC is arguing the lender is at least partly responsible because the information provided by the broker varied so wildly that further enquiries were clearly warranted. The issue today is that we have sought access to documents and the other parties are disputing the relevance of those documents. Kat successfully presses for most of the disputed items to be produced.

Meanwhile, back at the office in Surry Hills, Marie, Greg and Denise (financial counsellors) are answering **the Credit and Debt Hotline (“CDH”), with Alex, Hann and Harshanie (solicitors) providing overflow and** legal advice on the CDH, and answering the Insurance Law Service national advice line. Another solicitor, Claire, is at the NSW Supreme Court giving advice on a duty roster shared with Legal Aid NSW to give advice to borrowers facing home repossession. In the course of the day 70 calls are taken from members of the public, and from financial counsellors, legal aid and community lawyers, and welfare workers seeking advice and guidance on behalf of their clients.

Between calls, Alex peruses correspondence from a real estate agent on behalf of a client we are assisting **to seek more time to sell his property. She drafts a letter to the lender’s solicitors in an attempt to nego-** tiate an extension of a stay on the writ for possession. The client initially obtained an urgent stay in September and CCLC attended the Court to obtain a further stay until mid October 2010. The client built the property himself and is seeking time to sell the property by auction on his own terms rather than as a mortgagee in possession sale. The client lives 700 kilometres north of Sydney and suffers from depression and anxiety.

Hann is also trying to get on with casework between answering the phones. He is reviewing the evidence in an insurance case referred to us by the Financial Ombudsman Service about the quality of repairs to a **woman’s car. Joe (solicitor) spoke to a regional community legal centre solicitor, answering her questions** about consumer leases, credit reporting and bankruptcy. At the same time Harshanie and Greg inducted a new volunteer who will be at CCLC for 15 weeks on a full-time basis to complete the Practical Legal Training component of his legal qualifications. Greg talked about the role of the CDH and Harshanie provided basic training on CCLC procedures, common legal matters, court processes, external dispute resolution and financial counselling.

Alex, in the course of her advice shift, spoke to:

- a woman from rural NSW about her car loans;
- **a Legal Aid NSW solicitor about a client’s hardship claim in relation to a credit card debt;**
- a man who received a statement of claim for \$1.4 million over his home and his investment property;
- a woman being sued in New Zealand in the District Court; and
- a man who had discovered his wife had incurred over \$100,000 in unsecured credit without his knowledge, and wanted to understand the implications of that for their jointly owned home.

Alex also liaised with Legal Aid NSW grants department in relation to an existing client and organised for the same client, whose paddock had been repossessed and sold, to meet with a barrister in Northern

NSW, to prepare her affidavits for her evidence to be filed and served in line with Consent orders made at the Supreme Court of NSW in the Equity Division.

Financial counsellor Greg was also busy on the phones. Most of his callers required referrals to local financial counselling services but a few calls were of note: A woman had left her dog at a pet resort but had not been able to pay the most recent bill. The owner of the resort would not release the dog until the debt is paid and the woman sought advice on her rights and options. Another caller presented with enforcement of a judgment against him by the NSW Sheriff for an amount of \$3,300. He was concerned about Sheriff acting on a Writ for Levy of Property against his personal belongings. Greg was in the process of giving the caller information on the processes for dealing with that modest debt when he casually mentioned he had also been served a Statement of Claim on his home. He was then referred to a CCLC solicitor in the Mortgage Hardship Service for advice.

### Remote Financial Counselling

Marianna (financial counsellor) was attending to casework for new and existing clients. She wrote a letter to new client who is having difficulty negotiating a long term informal payment arrangement on a debt as a result of hardship; five of her six creditors have arrangements in place. The letter summarised our telephone conversation pertaining to her financial position and the supporting paperwork CCLC will need to further negotiate with the creditor. It included a copy of her money plan (income and expenditure statement) completed over the phone.

**A long term client returned Marianna's call from the previous week.** This client is an indigenous woman with limited literacy skills and recently admitted to hospital for depression. The call revisited her financial position and money plan. Marianna informed the client that the creditor had so far ignored her application for hardship so CCLC would continue to advocate. She also wrote a letter to another existing client summarising a telephone conversation, highlighting payment arrangements and due dates and the importance of paying on time or the compromise agreements made with the creditors would be abandoned and the creditor would enforce the debt for the full amount originally claimed.

Alice (solicitor) spent part of her morning complaining to ASIC about an online trader offering credit to **purchase land, apparently in breach of relevant laws. She then worked on producing CCLC's latest E-Flyer**, which is distributed to financial counsellors and other caseworkers to keep them up to date on developments in relevant law, procedures, interesting cases, publications and law reform issues. She also reviewed correspondence for other solicitors in the practice.

The afternoon saw Claire return from Court and Alice and Joe (solicitors), replace Alex on the phones. Alex heads to the CTTT.

This time our client is a 25 year old woman from Nigeria with a young baby. When she was 21 years old she was encouraged by her mother and a property developer to go as a co-borrower in the purchase of a home in Rooty Hill. The matter was initially in the Supreme Court of New South Wales and there had **been many appearances prior to CCLC's involvement culminating in consent orders returning possession of the property back to the mortgagee.** Once the property was sold the debt outstanding, including



legal fees, was approximately \$214,000. CCLC negotiated to discontinue the Supreme Court proceedings with the lender by consent and the matter is now being dealt with as an unjust contract claim in the CTTT involving all relevant parties, such as the broker and developer. CCLC is aware of a significant number of these cases involving African refugees in Western Sydney and many of the same parties.

Financial counsellor Denise was off the phones in the afternoon and conducted an interview with an existing client. The client, in her late seventies, has recently been bedridden by illness and has dropped in weight to a tiny 36 kilos. She had a number of questions for Denise including: how to deal with the ATO who are sending correspondence requesting Business Activity Statements in relation to her deceased husband's defunct business; what on earth she had signed up for when changing energy providers in response to a door-to-door sales person and whether she should be exercising her cooling off rights; a dispute with her neighbour over parking (not our area – but a referral given); and about her age pension.

By this time Kat has made it back to her home in Northern Sydney and is working on an update to the Mortgage Stress Handbook, a Legal Aid NSW publication she is updating and making national as a partnership project to complement the recently completed Credit Law Toolkit. Karen (coordinator) has spent the day responding to queries that would normally be directed to Office Manager, Nicola Sutton (who was absent due to illness); reviewing Kat's draft of the Mortgage Stress Handbook; and wrestling with statistics required for six monthly funding reports and the Law and Justice Foundation of NSW evaluation of the Mortgage Hardship Service, a complex and confusing operation involving multiple funding streams and disparate reporting requirements.

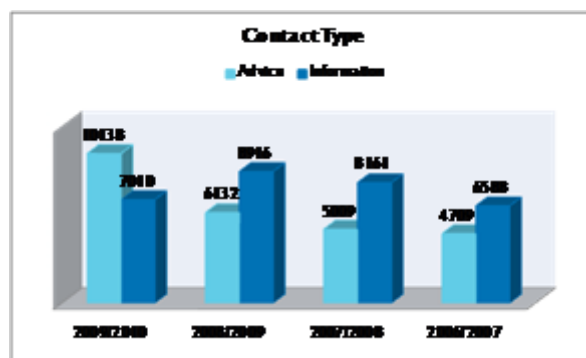
All in all, a very busy day.....

Note: Lynda (financial counsellor) and Susan (solicitor) were both on Annual Leave and Peter and Marie (financial counsellors) did not work on that particular day of the week.

CCLC staff handled 17,148 calls in the course of the financial year 2009/10. Of these, 15,454 calls were taken by the Credit and Debt Hotline, and 1,694 were taken by the Insurance Law Service. More details are included in the respective sections about each of these services. Staffed by 10 solicitors (9 full-time equivalent) and 7 financial counsellors (5 full-time equivalent), the service has continued to exceed previous records in both call and case numbers, providing an integrated service meeting a range of client needs.

## Credit & Debt Hotline

The Consumer Credit Legal Centre (CCLC) operates the Credit and Debt Hotline (CDH), which provides legal advice and financial counselling information and referrals to NSW residents. This is a telephone service and it is the central point of contact for people requesting assistance in relation to credit, debt and financial hardship. Callers are given initial information, legal advice if appropriate and a referral to a suitable face-to-face financial counselling or legal service. The type of inquiries to the CDH range from the simple - including consumers asking for the contact details of their nearest financial counsellor or how to get a copy of their credit report - to very complex inquiries requiring legal advice in relation to home mortgages and bankruptcy proceedings.



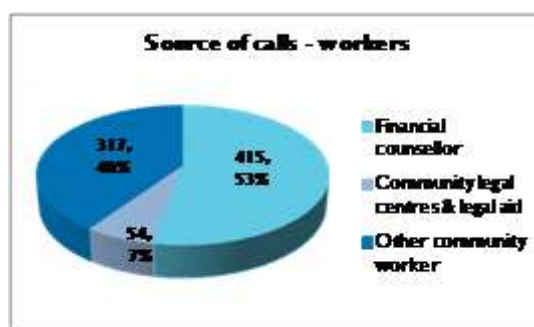
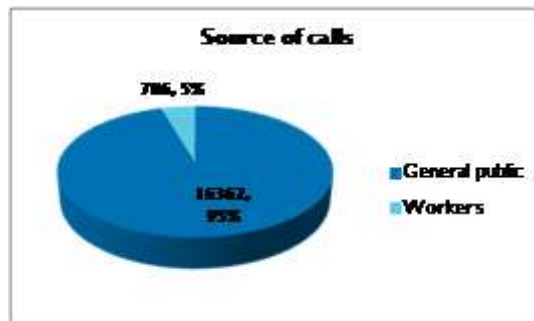
Calls to the CDH may be one-off advices, or more-increasingly, may be a series of on-going advices given to the same consumer. It is a goal of the CDH to assist consumers to self advocate and as such provides long-term direction, as well as discrete advice depending on the type of caller and the issue presented.

A key function of CCLC staff is to determine the level of assistance required by a consumer. Many consumers who are able to self-advocate with little guidance are referred to resources on the CCLC website **for sample letters and fact sheets. Others are referred to their creditor's internal dispute resolution contacts** or external dispute resolution services, with CCLC staff often dictating more customised letters over the phone. The CDH strives to ensure that service provision is our key priority, while also applying the knowledge gained from client contact to seek systemic solutions where appropriate.

For consumers who are unable to self-advocate, either because of the complexity of their problem, or their level of disadvantage, assistance can be provided in-house, by solicitors, financial counsellors, or both undertaking complementary tasks according to their expertise. Details of the casework undertaken are included in the Casework section of this report on page 25.

As from 1st December, 2009 all calls to the CDH are now recorded on one database. Prior to this date **calls were recorded on both the CDH database and the "Legal Advice Database" known locally as CLSIS. Perusal of the CDH database is still utilized to determine conflict issues; to look at caller's previous advices and information; and for historical purposes.** We hope to merge the databases in the near future for the convenience of staff and to allow for more efficient handling of calls.

The majority of callers are members of the public (95% of calls to CCLC, including the Insurance Law Service are from the public). CCLC also provides legal support to financial counsellors across NSW (over 2% of callers, or 415 calls). The CDH maintains support networks and contacts with Financial Counsellors by visiting regional and remote regions, providing training both in Sydney and in regional and remote areas on relevant issues, and attending various Financial Counselling Association of NSW meetings in Sydney. The CDH financial counsellors and solicitors also contribute articles about contemporary issues and current trends to the CCLC e-flyer. The much sought after e-flyer is distributed to all financial counsellors in NSW, community legal centres and other community organisations, drawing on their extensive contact with the community via the CDH. The CDH tries to maintain an accessible image in the community sector and so also regularly receives calls from community legal centres and Legal Aid NSW solicitors (just under 2% at 317 calls) other community workers and service providers (54 calls).



The calls to CDH receives calls from most parts of NSW. While the highest concentration of calls are from Western Sydney and the Central Coast, some calls are received from almost every region.

CDH is funded by the Credit Counselling Program administered by the NSW Office of Fair Trading (OFT); **Community Legal Services Program funded by State and Federal Attorney General's Departments (AG's); and the Federal Department of Families, Housing, Community Services and Indigenous Affairs (FAHCSIA).**

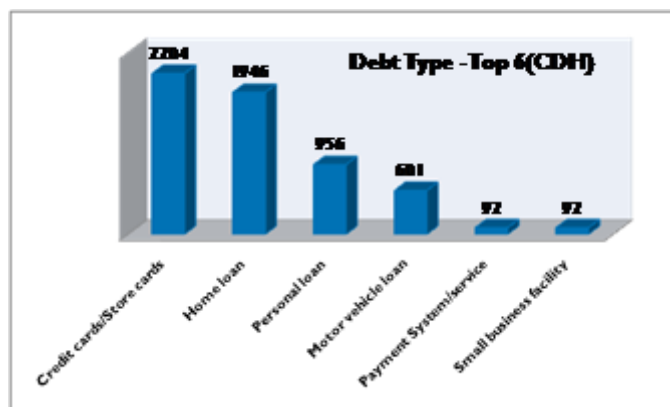
#### Referrals to face-to-face financial counselling

A key role of the CDH is to refer callers to face-to-face financial counselling services in the community operated by other organisations. We provide a single point of contact for NSW residents in financial difficulty. We are well aware that financial counselling resources are stretched and therefore CDH staff try to identify callers who can self-advocate and resource them accordingly. Despite this filtering process, the number of callers referred to other financial counselling services grows each year with 5880 such referrals this financial year.

#### Debt and problem type

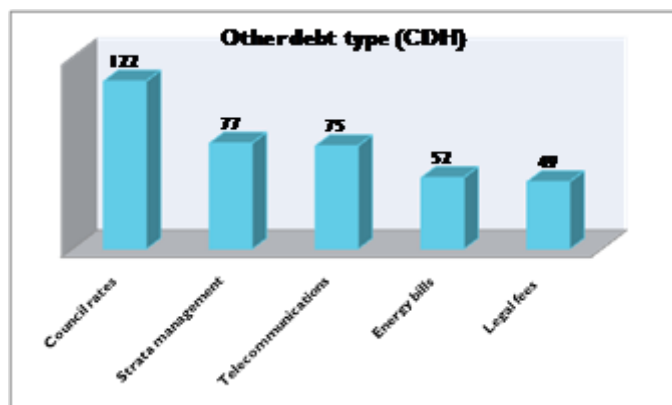
The total number of calls during the reporting year was 15,454. This was made up of 6744 Information calls and 8710 Advice calls. A typical Information call is a referral to a financial counsellor or a website. An Advice call is a call where detailed information including limitations periods is given.

Credit card problems dominated advice calls to the CDH (2204 calls), followed closely by home loans (1946 calls). Personal loan calls (956 calls) and Motor Vehicle loans (601 calls) were the other top scoring call topics. These figures are all dramatically increased when compared to last year and it is difficult to determine how much of this increase is due to improvements in our data collection systems. Considerable work has been done by the Mortgage Hardship Service (see page 30), however, in partnership with Legal Aid NSW, to raise the profile of that service and this could explain the significant increase in calls in relation to home loans. It should also be noted that the database requires the advisor to nominate one financial product as the predominant reason for seeking advice. As many callers have multiple debts, there is significant under-recording in some categories.



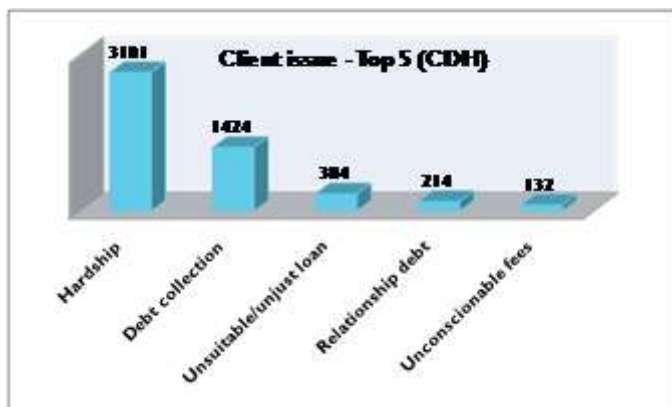
The remaining advice calls concerned credit related sales (other than interest-free, continuing credit contracts which are included in cards) such as mathematics software tutoring programs, deposit & cheque account disputes, investment products and advice, small business loans, pawnbroking and non-financial products such as telecommunications and council rates (see Graph - Other debt type).

The presenting problem types recorded in the CDH databases were similar to last year, with increases in every problem type. Calls in relation to consumer credit contract issues (including hardship, unjust contracts, unconscionable fees) were most common including 1595 calls in relation to mortgage hardship.



Debt collection issues were significant with 1424 calls. These largely involved callers who simply could not afford to pay, but also included alleged breaches of the Debt Collection Guidelines (110 calls); alleged pursuit of statute barred debts (107 calls); and fraud/mistaken identity complaints (48 calls). Credit reporting enquiries and complaints continued also with 275 calls, at least 90 of which related to disputes as opposed to general enquiries.

There were also 1,251 calls about bankruptcy, including 81 in relation to Part IX Debt Agreements and 148 in relation to Bankruptcy Notices and Creditors Petitions. The latter represents a significant departure from previous years, with more callers than ever being forced into bankruptcy, most commonly as a result of unpaid strata levies, but also for other consumer debts. These calls were not in addition to calls about hardship, debt collection etc, but bankruptcy was also recorded as either the solution being contemplated debtor, or in the case of the 148 calls referred to above, the action being taken to pursue the debt by the creditor.



## CDH demographics

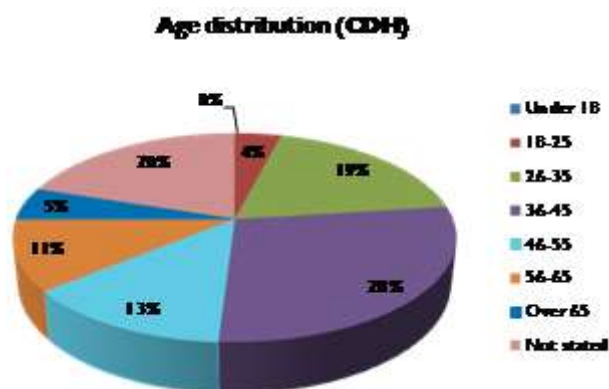
Detailed demographic data is not taken about information calls. Therefore the following demographics apply to the 8,710 advice calls only.

After accounting for callers who ring more than once, advice was given to roughly the same

number of men and women.

As in previous years, most callers are between 26 and 45 years old (47%), followed by the 45-66 age bracket (24%). Five percent of calls to the service were received from consumers over the age of 65 years. In the previous report, callers under the age of 18 sought advice (3.76% of calls) in relation to credit and debt issues. Interestingly, there were only 6 calls from people under the age of 18 in this year's reporting period.

People who spoke a main language other than English accounted for 3% of all calls. Callers who identified as Indigenous numbered 42 calls. As a phone service, however, these statistics are likely to be understated as we are very reliant on either the caller self-identifying and/or the advisor requesting information that may be considered invasive, particularly when the level of assistance being provided is a fairly straightforward, discrete piece of advice over the telephone.



## The Insurance Law Service

The Insurance Law Service, a national service, commenced as a pilot in 2007 with funding from a range of sources including Legal Aid NSW, the Law and Justice Foundation of NSW and Victoria Law Foundation. After receiving one-off funding from the Federal Attorney-General's Department's Community Legal Services Program ("CLSP") for the 08/09 financial year, the service received recurrent funding for the first time in the 09/10 financial year, with one solicitor position being funded by the CLSP for the next three years. We were fortunate enough to obtain funding for the remaining two solicitor positions from Legal Aid NSW, therefore maintaining the same level of resourcing to the previous year.

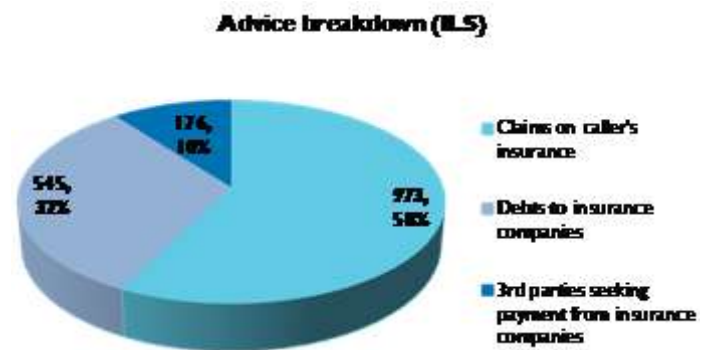
## Advice

Legal advice is available nationally via a 1300 number. The service answered 1,694 calls or an average of 141 calls per month during the period from July 2009 to June 2010. This represents a 21% increase in calls **over the previous year's figures. 84% of the callers received legal advice from the service whereas the remaining 16% of callers were provided with information or referrals only.**

Consistent with previous trends, only 58 percent of calls were from insurance customers in relation to their own insurance policy. The other 42% of calls (compared to 38% last year) were made up of debts to insurance companies (32% of calls) and claims against insurance companies of which the caller is not a customer (just over 10% of calls).

### Debts to insurance companies

A total of 528 or 31% of calls received by the service related to debts to insurance companies. **Similar to last period's results, the overwhelming majority of calls about debts to insurance companies (97% compared with 90% for last year) related to motor vehicle accidents involving one or more other vehicles.**



### Claims against insurance companies by non-customers

The calls recorded in this category were those which arose from a motor vehicle accident for which another party (who did have insurance cover) was at least partly at fault. Claims of this nature can be taken to the Financial Ombudsman Service – General Insurance Division, provided the amount claimed is \$3000 or less.

About 10% of callers contacted the service to obtain advice about claiming money from an insurance company with whom they are not insured with. Roughly 42 % of these callers sought advice for a recovery against an insurer where the amount is less than \$3000. However, the results show that about 48% of the callers had a claim against an insurer that is greater than \$3,000 and are unable to access the FOS jurisdiction. The ILS and other consumer representatives strongly argued for this jurisdiction to be increased when the Terms of Reference were revised last year without success.

Eighteen callers (the remaining 10%) reported that they had been informed that the other party in an accident had not paid the excess associated with their policy and that the insurer was therefore unable to settle the claim by the caller. These callers cannot access FOS under the current terms of reference, but where practicable, they should encourage the insured party to do so after a recent FOS bulletin supported the insured's right to seek to pay the excess by instalments or have it deducted from the claim proceeds.

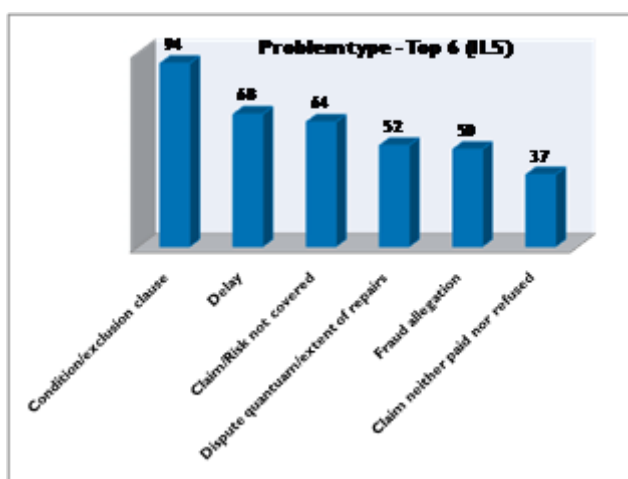
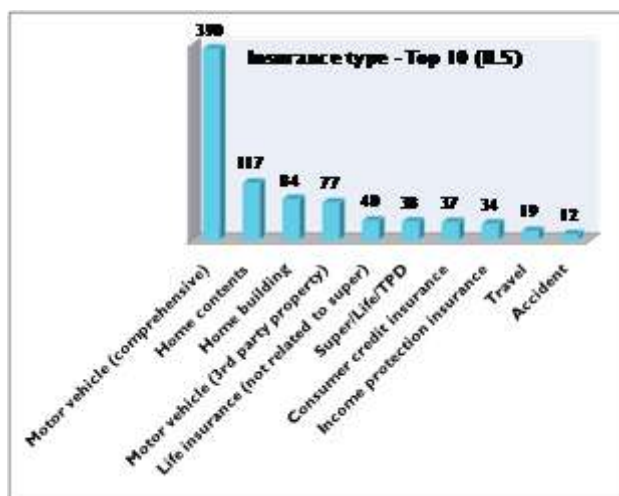
### Claims – Insurance Types

**Of the 58% of calls about a claim on the caller's insurance policy, 40% (compared to 34% last year) related**



to Motor Vehicle insurance. This was the most common insurance type by a significant margin. Calls relating to Home and Contents insurance were the second most common and fell in percentage (and number) to 12% from 19% last year.

As in previous periods, a number of calls to the service related to types of insurance which the service does not provide advice on, such as compulsory third party insurance and public liability insurance. A targeted promotional campaign about what the service can and cannot advise on has been implemented and should see these calls gradually reduce. The service is also promoting its availability to provide advice on life insurance, consumer credit insurance and income protection insurance and anticipates an increase in calls relating to these products in periods to come.



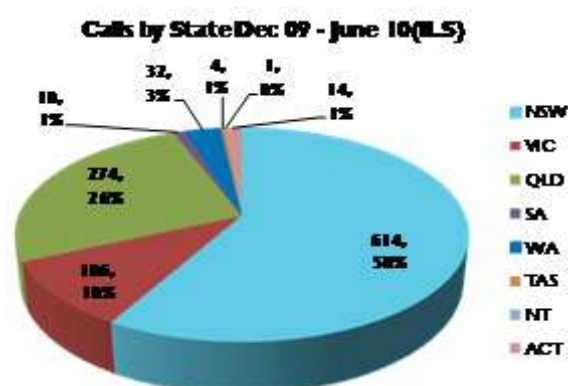
### Claims – Problem Types

The most common problem type for insurance customers was the operation of a condition or exclusion which was alleged to defeat their claim. The second biggest complaint was a delay in processing a claim, followed closely by the risk simply not being covered by the policy. Disputes over the scope of works/quantum figured fairly frequently, along with allegations of fraud. Finally, we continue to receive complaints from customers who were in *limbo*, given

an indication their claim is likely to be refused but no formal refusal or information about dispute resolution options.

### A National Service

While national promotion is a challenge with limited resources, forty-two percent of calls for this period came from outside NSW. Queensland (at 26% of calls) was the biggest source of calls outside NSW (due in large part to an excellent referral relationship with Legal Aid QLD), followed by Victoria (10%). At least one call was received from every State and Territory, ranging from exactly one

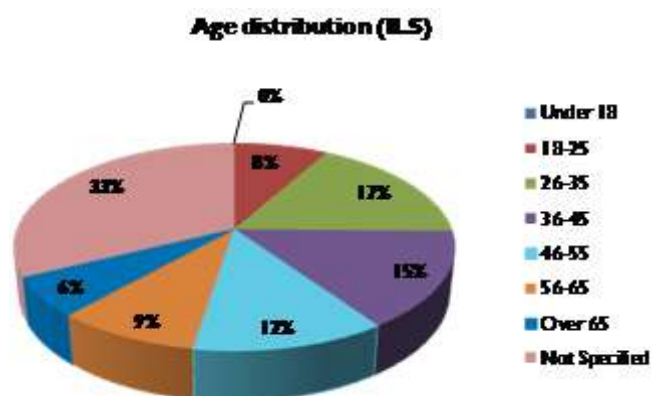


call from the Northern Territory to 32 from Western Australia. A large mail-out in mid 2010 (has produced results, with interstate reach continuing to improve in the second half of 2010.

### Demographics

Slightly more men than women call the service (about 52% male compared to 48% female). The most common age group was 26-35, but both 36-45 and 46-55 were also well-represented.

Roughly 6% of callers spoke a main language other than English, with Chinese and Arabic being the most common language spoken.

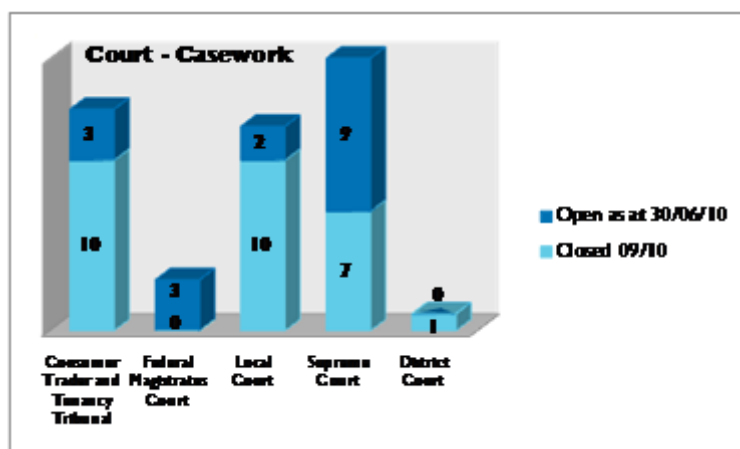
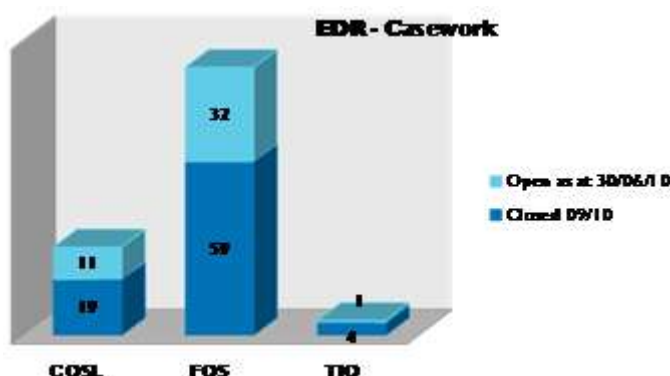




The CCLC casework practice is very busy! CCLC opened 463 casework files in 2009/2010 and closed 451 cases in the same period. A busy casework practice is essential to assist consumers by representation. It also ensures that all phone advice is informed by practical knowledge of how to achieve the best outcome.

Court, Tribunal and External Dispute Resolution

As demonstrated by the chart, CCLC and the ILS maintained last financial year's strong litigation focus, with 45 matters in courts and tribunals. CCLC made 97 appearances in Courts or Tribunals. The large number of appearances is a result of a number of complex cases CCLC has been running which have involved ongoing appearances in a Court or Tribunal. A number of these appearances were at the NSW Supreme Court in the Possession List assisting consumers in negotiating for time to sell or move out of their home after a Court judgment has been obtained.



Many of the cases that resulted in a successful settlement involved the commencement of proceedings or the lodging of a defence prior to settlement. In some cases, matters had progressed almost to hearing, or had been successful at the hearing of a preliminary issue such as jurisdiction, at the point of settlement. In other cases, not included in the above statistics, CCLC did not represent the

client(s) but assisted by drafting documents such as; an application or complaint, pleadings, or a defence.

This financial year has seen a vast number of lenders and finance brokers joining an External Dispute Resolution Scheme (EDR). This follows the introduction of the licensing laws under the new credit law requiring compulsory membership of an EDR. In addition, access to EDR improved when consumers could lodge in EDR even after court proceedings had commenced. CCLC represented consumers in 126 matters which were lodged in EDR.

CCLC also lodged complaints on behalf of clients with Australian Securities & Investments Commission, the Legal Services Commissioner, and the Insolvency Trustee Service of Australia. This is to ensure that the regulator is aware of relevant systemic breaches of legislation.

#### Financial Counselling Case Study: Total & Permanent Disability Benefit

John is a 50 year old illiterate man, with no family, who suffered three heart attacks in late 2008 and was unable to continue in his occupation as a cleaner. He was then assisted by a community organisation to obtain the Disability Support Pension (DSP) in late 2008.

He was in a depressed state when referred to CCLC in September 2009 after a major bank refused to extend his hardship arrangement to repay his \$7,600 credit card debt.

The client initially said he had no assets and wanted us to seek to have the debt waived or go bankrupt because he had no funds other than his pension. The CCLC financial counsellor reviewed his personal and financial situation. The client revealed he had at least one super policy.

The financial counsellor searched the ATO lost -super site, which revealed that he had 8 superannuation policies. The client was surprised to learn that three of these included cover for Total and Permanent Disability (TPD). When checking with each fund the financial counsellor established that the potential payout figure was over \$120,000. After discussing options, the client was keen to apply for TPD on these policies to pay off his debts and access funds to improve his lifestyle.

The financial counsellor worked with the client to complete the TPD application forms and obtain the medical and other reports requested **by the super funds. The financial counsellor submitted the TPD claims on the client's behalf with two super funds. The client** worked with another agency on a TPD claim for the fund he had been aware of previously.

The client received his first TPD payment of \$67,000 in April 2010. A second payment of \$60,000 from another fund was delayed until October 2010.

The financial counsellor established with Centrelink that if the client retained most of his TPD proceeds in his super funds his TPD pension would not be reduced. The client decided to take out some funds to refurbish his Housing Dept unit, pay off his debt to the bank and go on the overseas holiday he had always dreamed about.

## Financial Counselling Casework

CCLC offers a variety of financial counselling case work options and our clients come from all over NSW. **The financial counsellor's case work involves working with CCLC and Legal Aid NSW Solicitors, other Community Legal Centres, other financial counselling agencies in addition to working individually with clients.**

When some callers make contact with the Credit and Debt Hotline it becomes apparent that they need urgent assistance and the matter cannot wait until they can see a financial counsellor at the local financial counselling agency. In other cases there may not be a face-to-face **agency in the client's area, or the local agency may be inappropriate as a result of a conflict of interest.** The CCLC financial counsellor may then organise an appointment for the caller to come into CCLC office, or for the caller to send all the required documents to CCLC by the most convenient means for the caller. The financial counsellor needs to **assess the client's whole financial situation (completing a money plan over the phone if necessary) and negotiate short term arrangements with creditors. With the client's authority the CCLC financial counsellor may then make contact with the client's local financial counsellor (if such an agency is available), to whom the client will be referred, and may continue to work with the financial counsellor to assist the client.** In other cases the financial counsellor will see the matter through to a satisfactory conclusion.

### Financial Counselling Case Study

Client contacted CDHL and advised they had not made any mortgage repayments for 6 months and they had received a default notice about 2 months ago for their mortgage. Clients were very concerned as they wanted to keep their property.

CCLC financial counsellor made an appointment for caller and her partner to attend CCLC office the next day. At this meeting Clients, who **were in there late 40's, advised that they had obtained finance to purchase a small business about 12 months previously. At that time they also had outstanding credit card and personal loan debts. They had both worked in the business as sole traders. The business never operated as they had hoped and they had closed the business the week before contacting CCLC.**

The financial counsellor was able to work out that between them they had over \$200,000 in outstanding debts including personal loans, credit cards and the failed business debts not including the mortgage. At this appointment the clients had not registered for Centrelink Newstart payments. They had already lodged Application to Pay by Instalments (API) in relation to some of the judgment debts, which had been accepted but clients were not paying because they had no income.

The financial counsellor assisted the clients to obtain Centrelink Benefits, negotiated with judgment creditors to commence paying in accordance with the API arrangements and obtained a 3 month moratorium on all the other debts. A CCLC solicitor obtained 3 month moratorium on the mortgage.

During the subsequent 3 months the financial counsellor assisted the clients to determine whether, in the event they were both back in paid employment, they be able to afford the repayments on all their outstanding debts. Both clients under took further employment training and applied for many jobs unsuccessfully in this period. Before the 3 months expired the clients advised the financial counsellor that it was a lot harder than they had believed to obtain full time employment. Further, it became apparent that even if they were employed they would not be able to afford all the repayments.

The clients had listed the property for sale but there was very little interest in it. A CCLC financial counsellor and CCLC solicitor worked with clients and their local financial counselling agency to assist the clients to come to terms with their predicament, find alternative accommodation, surrender the property and consider bankruptcy.

### Financial Counselling Case Study: Strata

An 81 year old widowed and disabled woman suffering from a stroke, on an age pension, living alone with no family support in Australia, was faced with legal bills for \$39,000.

She complained to the Strata Manager about damage to her unit from water seeping into her unit, affecting her walls, doorways, floors and carpets. She believed that this was caused by concrete cancer or leaking water tanks. After the Strata Manager refused to act, she disputed the matter in the Consumer Trader & Tenancy Tribunal (CTTT).

After extensive legal action, which she lost, she was faced with substantial legal costs of \$39,000. She had no savings or other readily-available assets to pay this debt.

She was served with a Statement of Claim for the legal costs, which she did not have the capacity to pay. Soon after she was served with a Bankruptcy Notice and was put contact with the Consumer Credit Legal Centre NSW. She was in imminent danger of losing her unit and potentially thousands of dollars in equity in trustees fees.

The financial counsellor worked with the client on her available options. The client decided to obtain a reverse mortgage, drawing on equity in her unit to pay the debt and avoid bankruptcy and homelessness. The financial counsellor obtained an extension of time on the Bankruptcy Notice, enabling the client to satisfy the bankruptcy notice and save her home.

There was an outstanding debt for \$3,500 still owing because the strata manager had diverted her regular strata levy payments to meet **their legal costs. The financial counsellor negotiated a repayment arrangement for this debt on the client's behalf through the owners' corporation, which recognised her financial hardship and allowed our client to fund the instalments from her age pension.**

Financial counsellors also play a vital role in working with clients of the CCLC solicitors, and other services such as Legal Aid NSW. In working with solicitors the financial counsellor may be working with the

client to make sure that the client's legal options are realistic having regard to their financial situation. This year CCLC financial counsellors have been very busy working with solicitors in the Mortgage Hardship Service.

When a client has mortgage arrears they are usually in arrears with their local council rates, strata management fees (where applicable), utilities, telecommunications and personal debts. With the threat of losing their home hanging over their heads, this is an extremely stressful time for both clients and their families. The financial counsellor can assist to analyse the situation and make sustainable arrangements with all the other creditors, while the solicitor focuses on any legal proceedings commenced in relation to the mortgage. In some cases the person making contact with CCLC has not told anyone about the mortgage arrears or that they have received a notice to vacate the property from the Sheriff - not even their partner or husband. In these circumstances, the financial counsellor assists the client to obtain alternative accommodation and other support services, such as personal or relationship counselling. Perhaps above all, the financial counsellor becomes someone for the client to talk too.

#### High cost fringe loan

Mr and Mrs V needed a loan of \$3000 to visit relatives overseas. Mr V worked as a laundry assistant earning around \$36,000 per year. Mrs V relied on Centrelink benefits and had casual employment as a fruit picker. They both had a number of default listings on their credit reports and could not get a loan from any mainstream lenders. They already had a mortgage of over \$200,000 and they had two children.

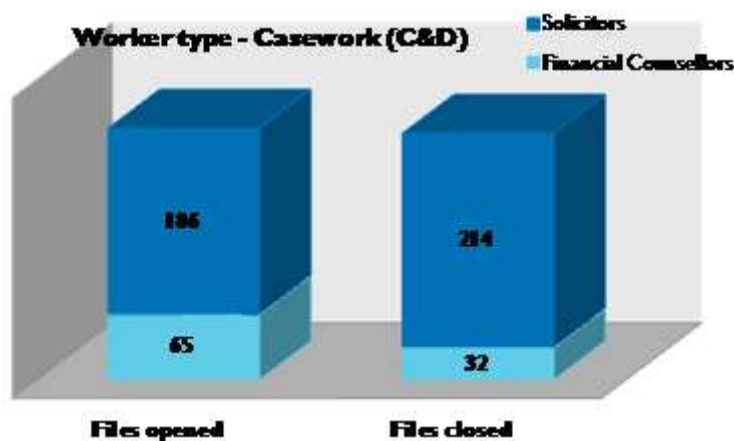
They eventually obtained a loan from a fringe lender. **They obtained a \$3000 loan which was "no interest" but there was over \$1900 in other fees for the one year loan. Mr and Mrs V's house was taken as security for this loan.** If they missed any of their fortnightly repayments, there was also a \$48 default fee and 48% p.a. default rate of interest on top of that. Even though the loan was an ordinary consumer loan, the contract was documented as a "promissory note" in an attempt to avoid the Consumer Credit Code.

Mr and Mrs V fell behind on the loan repayments and sought assistance from their lender. The fringe lender put them into another loan contract to pay out the first contract and charged a further \$1800 in fees for this. Mr and Mrs V also fell behind on these repayments and sought assistance from CCLC. CCLC represented Mr and Mrs V in proceedings against the lender in the CTTT, which were settled on the basis that Mr and Mrs V would be released from both contracts and their house released as security.

Basis of CTTT application: CCLC argued unjustness under UCCC and Consumer Claims Act, also unconscionable fees, breach of 48% cap, breach of key disclosure requirements, unreasonable enforcement costs under UCCC, and misleading and deceptive under FTA.

## Credit and Debt Casework

Over the last financial year, the general credit and debt service at CCLC (as opposed to the Mortgage Hardship Service or the Insurance Law Service) opened a total of 251 files and closed 246 files involving generalist credit and debt issues. This comprises a total of 65 financial counselling files opened (32 closed) and 186 legal files opened (214 closed).



### Co-borrower or Guarantor?

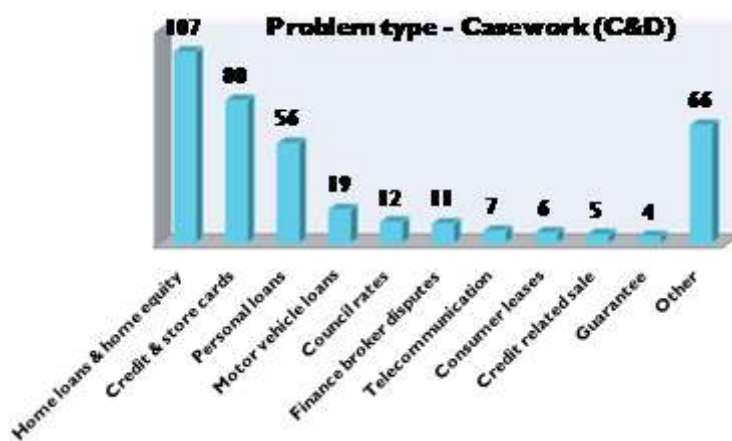
Mr A is of Aboriginal background. He entered into a loan transaction with B-Finance in on the understanding he was a guarantor for Miss Z's car loan. At the time of the initial loan transaction, Mr A was living with his partner Ms B and her mother, Mrs M. Mr A understood he was to be a guarantor only and the sales person was very clear that Mr A already had access to another vehicle and would not be driving Miss Z's car or receiving any other benefit from the loan.

Miss Z never made a single payments and the car was eventually repossessed and sold, leaving a balance of about \$10,000.

Mr A first became aware of legal proceedings against him when B-Finance began garnisheeing his wages.

When he contacted B-Finance after the garnishee commenced, they confirmed by phone that Mr A was listed as a co-borrower to the contract (not a guarantor). He had never been given any of the required information notices in relation to signing a guarantee, because he was listed as a co-borrower. Further, it was apparent that Ms B had clearly never been in a position to pay the loan and sales person was well aware of this.

Action taken/ case outcome: We helped our client to apply to the court to set aside judgment with the consent of B-Finance, and a stay on the garnishee of his wages until the matter was resolved. We filed a defence and cross-claim in court against B-Finance and the car dealership in relation to unjust circumstances at the time of the loan. We also negotiated in writing with B-Finance. The matter was settled between the parties, with the outcome being: B-Finance agreed to release Mr A from any further liability on the disputed loan account in



Of the files closed, 9% of the clients spoke a main language other than English and 5% of clients were Aboriginal or Torres Strait Islander background. 58% of clients were female and 42% male (of files closed in this period).

In the 09/10 financial year, home mortgage matters continued to dominate opened files with 107 cases opened, followed closely by

### Minor Case Assistance— mortgage exit fee

Mrs I had two properties, their residential home and an investment property. They had initially taken out two loans in 2003, however in 2007 they varied their loans by combining them into a single loan with the same non-bank lender. In 2008 they wanted to exit the loan as they found the interest rates were no longer competitive. Due to the combining of the facility the non-bank lender charged an "exit fee" of a deferred establishment fee to Mr and Mrs I that exceeded \$10,000 as they argued the variation was a new contract despite Mr and Mrs I being a loyal customer since 2003.

Mrs I contacted CCLC, however, due to the relative size of their asset pool CCLC advised they could not represent Mr and Mrs I, however CCLC gave ongoing advice and assistance to Mr and Mrs I as to how they could challenge the fee under section 72o of the Uniform Consumer Credit Code in the Consumer Trader and Tenancy Tribunal.

CCLC first advised Mr and Mrs I to raise a dispute with the lender directly about the fees. Mr and Mrs I received no joy and the lender refused to refund the fee. Mr and Mrs I decided to wait for the outcome of the CCLC test case of Braodfoot v RHG. Once the case was completed, Mr and Mrs I lodged in the CTTT with the assistance of CCLC.

CCLC helped Mr and Mrs I draft a summons on the lender to seek the relevant information for their matter.

CCLC also provided telephone advice to Mr and Mrs I when they attended a conciliation conference with the lender.

Mr and Mrs I were very pleased with the result.

CCLC was able to provide assistance with limited resources for a good outcome.

credit and store card matters with 80 files. Mortgage files include not only the overflow of mortgage hardship matters not picked up by the dedicated service, but also other home loan issues such as exit fees and unsuitable/unjust contracts. There were also 56 files on personal loans, 19 on motor vehicle loans, 12 on council rates, 11 on disputes with finance brokers, 7 telecommunications issues, 6 consumer leases, 5 credit related sales and 4 guarantees. Some clients have multiple files as a result of the need to take action against a number of different parties in relation to the same debt, because of multiple debts or because of complaints made to regulators in addition to other individual action.

The most common issues addressed in the casework continued to include financial hardship and unjustness across a variety of different debt types. Other less frequent cases included car repossessions, strata debts, credit report listings, bankruptcy notices and creditor's petitions, telecommunications debts, guarantees or other intra-familial debt as well as linked credit sales including mathematics tutoring programs.

#### *Mortgage Hardship Case Study*

*Mr E is a contractor in the building industry. Due to a downturn in the market Mr E had not worked since April 2009 and they were struggling to pay their home loan..*

*Mrs E had a part time job looking after disabled children. Mrs E also receives a carers pension. Mr and Mrs E were relying on the income from Mrs E part time job and the carers pension to survive.*

*Mr and Mrs E have a 24 year old son who has spina bifida and when they came to us he suffered from related kidney problems. Mr and Mrs E's son continually requires treatment and specialist care. Mr and Mrs E's home has been built around their son's special needs in order to provide him with some independence. Mrs E had to reduce her shifts at work to take care of their son. Mr and Mrs E's son requires treatment in Sydney and the cost of travel is expensive and borne by them.*

*Mr and Mrs E had been making reduced repayments towards their loan but received a Statement of Claim from the NSW Supreme Court because they were not meeting their contractual commitments.*

*CCLC filed a complaint on Mr and Mrs E behalf with the Credit Ombudsman Service in July 2009 seeking a hardship variation under s66 of the Consumer Credit Code and discontinuance of the Statement of Claim. Mr and Mrs E's financial position improved over time as Mr E gained more contract work. The Lender then agreed to capitalise the arrears and discontinue the legal proceedings, but was not prepared to extend the term of the loan. CCLC recently contacted Mr and Mrs E and were glad to find that they and their son currently still reside in the Property and are up to date with their mortgage repayments.*

## Mortgage Hardship Service Casework

In the face of the Global Financial Crisis in 2008 the Supreme Court of New South Wales issued 4008 Writs of Execution; on average 400 writs were being issued per month and 50% executed by the Sherriff. Meaning 200 NSW families were being evicted from their homes each month.

CCLC also found an increasing number of people reporting difficulty in maintaining their mortgage repayments. Struggling homeowners struggle to access legal advice due to the expense. If they had money they would use it to pay their mortgage after all.

CCLC in conjunction with Legal Aid NSW started the Mortgage Hardship Service (MHS) in 2009, with funding from the NSW Public Purpose Fund, targeting NSW residents facing "Mortgage Stress" and Hardship, providing a multidisciplinary approach to a client's needs, aiming to:



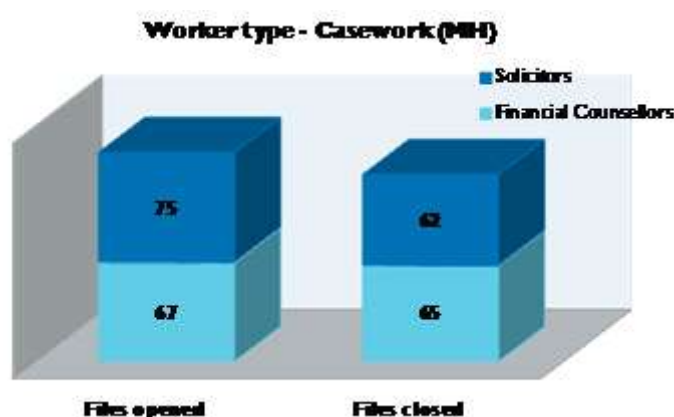
### Mortgage Hardship Case Study

Mr and Mrs W received a Notice to Vacate for their family home. Mr W was a self employed bricklayer, and Mrs W was substantially **hearing impaired and had no income. Mr and Mrs W's mortgage was with a non-bank lender**, and their interest rate was very high. Mr W was not being paid and was having trouble making the payments. When Mr and Mrs W received the Notice to Vacate they went to the Supreme Court and saw the Duty Registrar who referred Mr W to the CCLC Duty Solicitor for advice and assistance.

With the assistance of CCLC Mr and Mrs W got an urgent stay on the Writ for possession for seven days. During this time Mr and Mrs W came and saw a financial counsellor at CCLC to determine whether they could afford their mortgage going forward. After seeing the financial counsellor and assessing their ability to make payments, Mr and Mrs W decided that they would sell their home and try to recover as much of the equity as possible and rent elsewhere for less.

**Mr and Mrs W put their home on the market and found a buyer very quickly. CCLC's mortgage hardship team applied for a further stay on the Writ to enable Mr and Mrs W to exchange contracts, once contracts were exchanged the Lender agreed to a further stay on the Writ to enable the sale to settle.**

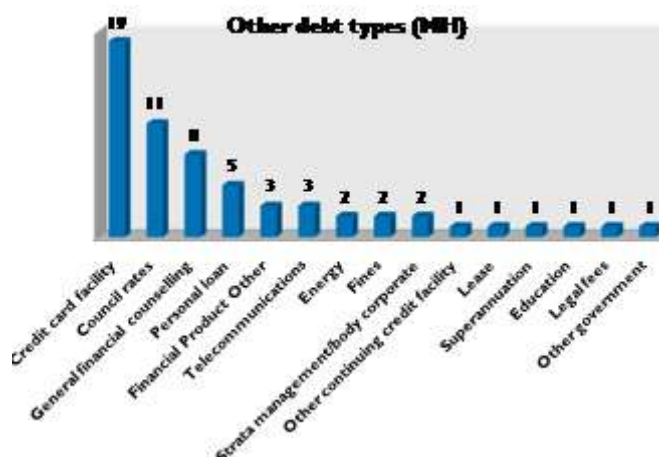
1. To prevent home repossessions in cases where this is a realistic option by providing legal advocacy, financial counselling and related assistance;
2. To assist borrowers who cannot realistically maintain home loan repayments in the longer term to leave their home with minimal financial loss and social disruption.



The particular advantage of working with financial counsellors is that a client's whole financial situation can be assessed, to ensure that any solutions reached with mortgage providers are sustainable in light of a client's whole financial situation and maximise the likelihood that the home could be saved long-term.

CCLC has given 1595 advices and undertaken 142 cases for consumers in mortgage hardship during the course of the year (an additional 43 mortgage hardship cases were opened with CCLC's general casework funding). Of those files, 127 files were closed during the same period.

It is important to note that one CCLC MHS file does not equate to one house. In setting up the project the need to take a holistic approach to client problems was recognised. As such, Financial Counsellors may have a general financial counselling file (for assessing the client's overall financial position) or one or more files relating to specific non mortgage debts. Similarly a Solicitor may also have a home loan file and other files relating to



credit cards, insurance or strata fees where there was a legal aspect. Casework includes minor assistance, and in this instance representation and/or assistance with documentation to apply for temporary stays of enforcement (eviction) were common.

To track the stage of the enforcement process at which clients contacted CCLC for help and assistance, **an additional field in the Centre's casework and advice database CLSIS was included. Where the information was specified for calls identified as 'mortgage hardship advices' as determined by the person taking the call it seems 36% of advices were given prior to the issuing of Default Notices, 25% after Default Notices were served and 25% after the commencement of proceedings by Statement of Claim. 8% contacted CCLC after judgment had been entered and a Notice to Vacate the premises issued, and 6% respectively for post repossession and post sale of the property.**

In contrast to this, the enforcement stage at first contact for casework clients was much later, revealing the significantly more resources required to assist mortgage hardship clients later in the enforcement process: only 8% of casework clients had contacted the service prior to receiving a default notice, 16 % after a default notice had been issued, 40% after being served with a Statement of Claim and 28% after receiving a Notice to Vacate. 7% were given assistance post-repossession. These clients were selected for casework as a result of an assessment by a solicitor giving initial advice that representation, or at the very least minor casework assistance would be required to give the client any realistic hope of a positive outcome.

A Duty Solicitor Scheme was set up at the Supreme Court of NSW in September 2009 for referrals to be made from the Duty Registrar, Registrar and Judges in relation to urgent stays on Writs for Possession and defences for unrepresented litigants in the possessions list; since September 2009 when the scheme began over 100 clients have been advised at the Court between CCLC and LAC. In the last year 46 of the advices given at the Supreme Court were from CCLC.

#### *Mortgage Hardship Case Study*

***CCLC acted for a Mr and Mrs X ("the borrowers") who had, whilst unrepresented, lodged a defence in the Supreme Court of NSW to their lender's Statement of Claim for repossession of their home. They had also lodged an unsworn, unsigned amended defence and cross-claim against the lender on the grounds of financial hardship.***

*The borrowers had got into mortgage hardship when Mr X lost his job. As a result they rented out their home to assist with the mortgage repayments. The tenants were unreliable in their rental payments and as a result the borrowers defaulted on their mortgage repayments. The borrowers were now faced with the prospect of a lengthy and potentially expensive battle in the Supreme Court to save their home, when they were already experiencing financial difficulties.*

***CCLC advised the borrowers that the lender was a member of an External Dispute Resolution Scheme ('EDR'), the Financial Ombudsman Service ('FOS'). Under the FOS Terms of Reference 1 January 2010 FOS now has the jurisdiction to consider the Dispute after legal action has commenced.***

*Mr and Mrs X then lodged a Dispute against the lender, claiming financial hardship. The lenders disputed the jurisdiction of FOS to consider the Dispute claiming the borrower had taken a step in the legal proceedings beyond lodging a defence and counterclaim.*

*FOS determined that it did have the jurisdiction to consider the dispute and as a result the Lender adjourned the matter in Court pending the outcome of a FOS Conciliation Conference. At Conciliation, the matter settled, and the Borrowers were granted a moratorium on their repayments for 6 months.*

*Mr X is now back in work and will be able to continue to make mortgage repayments once the moratorium expires. The Lenders discontinued the matter in Court and the clients were able to keep their home..*



## Evaluation

The Mortgage Hardship Service at both CCLC and Legal Aid NSW is currently being independently evaluated by the Law and Justice Foundation of NSW. While a number of homes were saved at fairly advanced enforcement stages by the service, many other clients were assisted to obtain temporary stays of enforcement while they refinanced, sold their property or sought for suitable alternative accommodation. Part of the evaluation includes a follow up survey with clients to check the impact of the service some months afterwards. We look forward to the results with great anticipation.

## Insurance Casework

**The Insurance Law Service ("ILS"), a national service offered by Consumer Credit Legal Centre, opened 70 files for the period ending 30 June 2010 (comparable to 58 last year). 78 files were closed compared to 57 files closed last financial year. A total of 24 files were carried over from the last financial year into this financial year. This is a significant increase in casework (21% in files opened and 36% in files closed), while maintaining a slight increase in advice calls also. With a similar level of resourcing this financial year, we hope to maintain this effort as the service matures.**

9% of closed files were for clients whose main language was not English.

An equal proportion of males and female casework clients were assisted in this financial year.

### Income protection Insurance

*In 2005, Mr A began to experience early signs of dementia; memory impairment. As his condition worsened he decided to claim on his income protection insurance on the basis that his increasing memory impairment made it difficult for him to continue working.*

**Mr A claimed insurance benefits under the cover of "specified medical condition" of either Dementia or Alzheimer's Dementia. However, his insurer concluded that they would only approve Mr A's claim on the basis that Mr A had "any other illness" as opposed to a "specified medical condition." Payments for this cover were limited to only 2 years and were due to expire in December 2009. He duly provided regular reports supplied by his treating doctor, hoping to impress upon the insurance company the serious and deteriorating nature of his condition, but they did not change their decision in relation to the status of the claim.**

*Mr A first approached the ILS for assistance on 25 March 2009. At this stage his payments were due to cease in 9 months. This would have left him with the prospect of bearing the full force of a deteriorating and incurable condition without compensation. It would also have **immense consequences for Mr A's wife; who would have to care for a husband whose memory of himself and of her (his wife) would inevitably fade away.***

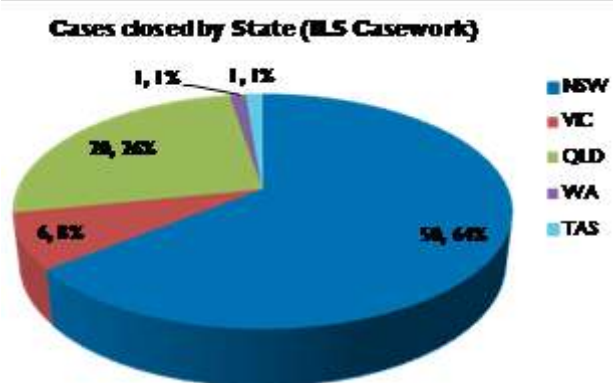
*We assisted Mr A through a power of attorney obtained by his wife, to request an opinion from his medical specialist about the nature of **his condition, and whether a definitive diagnosis of Alzheimer's dementia could be made in accordance with the insurance policy definition.** Evidence and submissions were provided to the insurance company. The ILS was subsequently advised that the insurer had accepted our **argument that our client should be entitled to benefits under his income protection policy as Alzheimer's Dementia.***

*As a result, our client became entitled to \$85,179.14 per annum until he turns 70. Our client was 61. Therefore, these benefits will be **payable for another 9 years provided he does not die before 70 or no longer has Alzheimer's dementia (unlikely at it's an incurable condition).***

*Mr and Mrs A upon hearing the news, replied that **"having the claim recognised by \*\*\* will make a significant difference to \*\*\*'s quality of life in the coming years and we greatly appreciate your help in this matter."***

17 of CCLC's 59 disputes lodged in FOS were insurance related. One of CCLC's 10 complaints to ASIC related to insurance.

A National Service

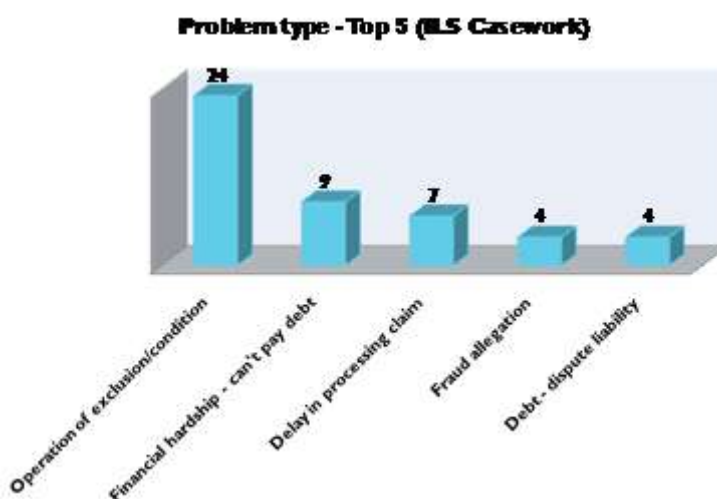
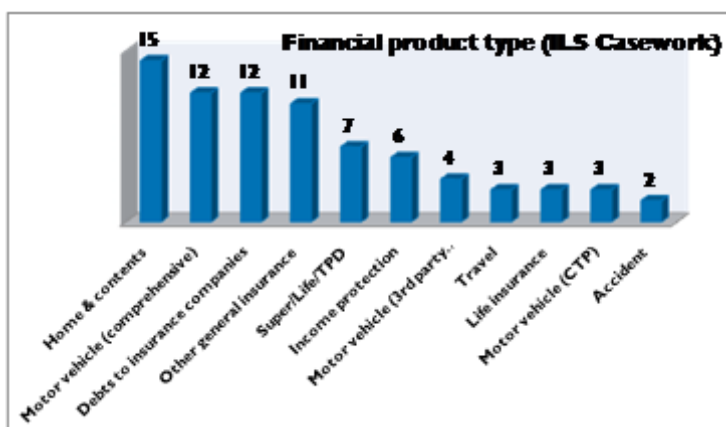


The top three states from which the Service's closed files came from were 64% New South Wales, 26% for Queensland and 8% for Victoria. All in all the service opened 28 files (36% of opened files) for clients from outside New South Wales. With recent promotion efforts nationally producing results on the advice line, our objective is to increase the number of non-New South Wales residents assisted for 2010/11.

Types of insurance casework matters

The Service's top three insurance closed files casework products were Home and Contents, Motor Vehicle (comprehensive) and Debts to insurance companies.

Unsurprisingly for insurance matters, the operation of exclusion clauses and policy terms and conditions ranked as the top concern for the Service's casework clients in this financial year. In most cases these cases involved alleged pre-existing injuries or a pre-existing defect.



### Travel insurance— pre-existing illness?

Mrs C, a 72 year old pensioner, and her husband booked a holiday from Queensland to Perth and further travel by the Great Southern Rail to Sydney.

On 16 January 2009, Mrs C was admitted to hospital for pain in her right shoulder. A guided aspiration was unable to determine the cause of her symptoms so on 20 January 2009 she was presented at the emergency department at Townsville Hospital to undergo further tests.

**At this stage, when consulted about her travel plans, Mrs C's doctors believed that she could still take her planned holiday.** Relying on this advice, she proceeded to pay for her trip on 21 January 2009.

On 29 January 2009, after having completed all their medical investigations, doctors diagnosed Mrs C with septic arthritis. They further advised that she would have to cancel her holiday plans due to the seriousness of the condition and the intensity of the treatment required.

Mrs C had travel insurance and claimed soon after the 29 January 2009 for the cancellation of her trip due to illness. The travel insurer rejected her claim on the grounds that she had suffered a pre-existing condition which was excluded under the insurance policy terms. **Mrs C challenged this decision with the Insurer's internal dispute resolution department but this department later confirmed their decision to reject her claim.**

At the time that Mrs C contacted the ILS in a very distressed state, only a week was left for her to lodge her dispute at the Financial Ombudsman Service (FOS), **after which her only option to challenge the insurer's decision would have to be through taking costly legal action, which she could not have afforded.**

On the same day as her call, the ILS service immediately assisted Mrs C to draft an application to FOS. Her instructions were that she believed the rejection of her claim was unreasonable as she did not know at the time she paid for her holiday and took out the policy that she was suffering from this far more serious condition.

**FOS forwarded Mrs C's dispute to her travel insurer, who within a month offered to settle her dispute for a substantial part of her loss.. She was very happy with this settlement and sent the ILS a letter stating in her own words, "Cheers!! Hurrah!! And Garlands for all your efforts!! Much appreciated."**

### Total and Permanent Disability claim

Mr B, an Aboriginal client, was placed on workers compensation due to a workplace injury. Mrs B was receiving Centrelink benefits.

They owed \$150,000 on their mortgage and had numerous other debts including a judgment debt to an energy company. An initial hardship variation negotiated by the CCLC credit and debt service soon fell through when they defaulted again and the lender threatened legal proceedings.

CCLC lodged an urgent application to the Credit Ombudsman Service Limited (COSL) to prevent legal proceedings from commencing on the home loan. The ILS also assisted Mr B to claim for total and permanent disablement ("TPD") from his superannuation fund insurer, due to the enduring nature of his injury.

Mrs B subsequently advised that she had found work in the Northern Territory. A repayment arrangement proposal was offered to the **home loan lender. The ILS continued to request urgent processing of Mrs B's TPD insurance claim. Numerous requests for supporting documentation were received, and medical reports provided.**

Mr B then fell ill, was admitted to hospital, and diagnosed with terminal Pancreatic cancer. His only treatment option was palliative care with chemotherapy and pain management. Mrs B returned to NSW to look after Mr B and was forced to quit her job in the Northern Territory, and also to turn down an offer for a higher paying job she had recently applied for. The ILS service then requested an early release of Mr B's superannuation balance from the superannuation fund in addition to continuing to pursue the TPD claim.

**The lender was advised of Mr B's condition and, through the COSL, the credit and debt service was able to convince the lender to agree to a suitable permanent repayment arrangement. Default fees and interests incurred since the date Mr and Mrs B's application for hardship variation were refunded. Superannuation was paid out of almost \$13,000, enabling Mr B to commence chemotherapy treatment, and to pay out the default judgment with the energy company. Mr B's TPD claim was later approved for the amount of \$93,055.**

These payments considerably lessened the financial burden the Bs had experienced, helped save their home from repossession, and improved their quality of life.

Using our extensive contact with consumers and our experience running disputes to seek a better deal **for consumers is a vital part of CCLC's work.** The following lists paint a picture of the extent and importance of this aspect of our work and our success is evident in recent reforms in laws and associated procedures that greatly improve the chances of consumers obtaining access to justice. We have worked hard in concert with other consumer advocates around Australia to lobby for the following measures which are now in place:

- Compulsory free external dispute resolution under the new Commonwealth credit regime;
- Access to external dispute resolution *after* the commencement of legal proceedings
- Improved hardship laws and processes
- New obligations to lend responsibly

## Credit & Debt

National Credit Laws – Finalising Phase 1 and the commencement of Phase 2 consultations.

7/07/2009	N/A	Letter to Minister for Consumer Affairs regarding our concern about delay of responsible lending provisions, especially in relation to brokers and non-bank lenders
20/07/2009	N/A	Drafted brief to advise on constitutional issue re National Consumer Credit Protection Bills and non-applicability of new hardship threshold to existing contracts – submitted to PILCH.
20/07/2009	N/A	Submission to Senate Economics committee re National Consumer Credit Protection Bill 2009 & related Bills
20/08/2009	N/A	Informal comments to ASIC in relation to its draft Responsible Lending Guidelines
26/08/2009	Senate Economics Committee Hearing (Fed)	Appearance before Senate Economics Committee re National Consumer Credit Protection Bills and related
22/09/2009	Sydney	Meeting at ASIC re responsible lending consultation paper
27/09/2009	N/A	Written submission to treasury regarding the draft regulations to the National Consumer Credit Protection Bill
15/10/2009	N/A	Brief to the Greens (Senator Bob Brown) re National Consumer Credit Protection Bill 2009
27/10/2009	NSW Parliament House	Meeting with NSW Minister for fair trading regarding brokers (in transition period) and pawnbrokers
27/11/2009	Sydney	ASIC Cap meeting - invited as guest to discuss credit issues, including Consultation Paper 112 (Dispute resolution requirements for consumer credit and margin lending)
1/12/2009	Hilton Sydney	Consultation Meeting with Treasury – Phase 2 (Main group)
8/02/2010	Canberra	Consultation Meeting at Treasury - Phase 2 (Point of Sale subgroup)
19/02/2010	Teleconference	Consultation Meeting at Treasury - Phase 2 (Equity Release products subgroup)
10/03/2010	Sydney	Consultation Meeting with Treasury – Phase 2 (Main group)
13/04/2010	Sydney	Appeared on panel at the FINSIA Conference in relation to the new credit laws
25/05/2010	Melbourne	ASIC Consumer Advisory Panel meeting (as new member)

31/05/2010	Canberra	Consultation Meeting at Treasury - Phase 2 (Point of Sale subgroup)
21/06/2010	N/A	Statistics about Credit card calls to ASIC for internal report
21/09/2009	N/A	Submission to ASIC re Consultation Paper 112 (Dispute resolution requirements for consumer credit and margin lending)
20/10/2009	Teleconference	Contribution to discussion and comments on draft - joint submission re ASIC Consultation Paper 115 responsible lending by Consumer Action Legal Centre
6/11/2009	Sydney	Meeting with consumer advocates and researchers regarding pay day lending and other high cost fringe products

## External Dispute Resolution

25/11/2009	Sydney	Meeting at ASIC regarding RG 139 and FOS TOR - post statement of claim access to FOS - industry and consumer consultation by ASIC
14/12/2009	N/A	Submission to ASIC regarding proposed revised wording for FOS TOR section 13 - post statement of claim access to FOS
5/01/2010	COSL	Comments to COSL re change of rules in relation to post-statement of claim access generally, hardship in particular & post default judgment.
5/02/2010	N/A	Further submission to ASIC re Post Judgment access to EDR
1/03/2010	N/A	Feedback to Financial Ombudsman Service regarding the Draft Protocol for dealing with post Statement of Claim complaints.
10/03/2010	Melbourne	Meeting with FOS regarding financial hardship and other issues, including insurance disputes

## Credit reporting

21/12/2009	Sydney	Meeting with Minister Ludwig regarding Privacy reform including credit reporting
25/02/2010	North Sydney	Credit Reporting consultation meeting at Veda Advantage

## Bankruptcy

10/11/2009	N/A	Submission to Senate Legal and Constitutional Committee in relation to proposed amendments to the Bankruptcy Act 1966
31/07/2009	N/A	<b>Submission to Federal Attorney General's Department</b> regarding proposed amendments to the Bankruptcy Act 1966.
15/09/2009	Attorney-General's Department (Fed)	Further submission regarding proposed Bankruptcy Amendments
28/01/2010	NSW Parliament House	Appeared before Senate Hearing in relation to the Bankruptcy Legislation Amendment Bill
9/03/2010	Sydney	ABACUS Roundtable

Other policy work :

24/07/2009	N/A	Submission to Treasury regarding consummation in relation to improving the <b>“Consumer Voice”</b>
22/09/2009	Sydney	Meeting with ASIC, CLCs and National Legal Aid in relation to credit legal services research project and follow up meeting with other stakeholders at NSW Legal Aid afterwards
10/11/2009	Canberra	Meeting with Treasury, Attorney-Generals, ASIC, CLCs and National Legal Aid to discuss the need for funding for credit legal services under the new Commonwealth regime
11/11/2009	Sydney	Meeting with CLCs and National Legal Aid in relation to coordinated CLE
7/12/2009	Sydney	Predatory Lending Project meeting
12/12/2009	N/A	Submission to Minister/Department for Fair Trading regarding pawnbroking
16/12/2009	Sydney	Meeting with NRMA and NSW Legal Aid in relation to insurance issues
27/01/2010	N/A	Submission to the Senate Committee regarding Do Not Call register Amendment Bill
5/02/2010	N/A	Complaint to ASIC about misleading and deceptive conduct of website
22/02/2010	N/A	Submission to NADRAC re: reference to ADR
24/02/2010	Sydney	ABA Consultative Forum Meeting - topics, debt collection, Code of Banking Practice review and ABA response, CCMC restructure, hardship, Phase 2 credit law
9/03/2010	Sydney	Consumer advocates meeting regarding industry funding, conflicts of interest, and coordinating financial counselling/credit legal services across Australia to provide better and more consistent access

## Insurance

Review of the General Insurance Code of Practice

30/07/2009	N/A	Submission to the Review of the General Insurance Code of Practice
11/12/2009	Sydney	Meeting with Insurance Code of Practice Reviewer and Insurance Council of Australia regarding the reviewers report
6/01/2010	Sydney	Follow up submission to the Reviewer in response to review report

Unfair terms and the Australian Consumer law

31/07/2009	N/A	Submission in response to the Inquiry into the Trade Practices Amendment (Australian Consumer Law) Bill 2009
26/08/2009	Sydney	Appearance before Senate Economics Committee (Fed) in relation to Trade Practices Amendment (Australian Consumer Law) Bill 2009 - unfair terms
8/09/2009	N/A	Letter to Minister Emerson - Minister for Competition Policy and Consumer Affairs opposing exclusion of insurance contracts from unfair terms provisions of Australian Consumer Law
13/10/2009	N/A	Submission to Senate Economics Committee in response to the Inquiry into the Trade Practices Amendment (Australian Consumer Law) Bill 2009
15/05/2010	N/A	Submission on the Unfair Terms in Insurance Contracts Options Paper

## Insurance Contracts Amendment Bill

11/11/09	Treasury (Cth)	Submission jointly with NLA and other consumer reps re Insurance Contracts Amendment Bill 2009
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Regular Committees on which CCLC is represented:

- CTTT Users Group
- Supreme Court Users Group
- Australian Bankers Association Consumer and Community Consultative Forum
- Veda Advantage Consumer Liaison Meetings
- Predatory Lending Project
- NSW Legal Aid Consumer Lawyers Meetings
- Various Combined Community Legal Centre Group meetings



### **Community Legal Education continues to be a valuable and valued part of CCLC's work.**

We continue to participate and contribute to the NSW Community Education Workers Group, which includes those within the community legal sector who participate in the organisation and delivery of community legal education. The group convenes quarterly and communicates regularly to share knowledge and ideas for the effective practice, methodology, organisation and delivery of legal education to the community.

For the past 4 years CCLC has provided a staff member to co-convene these meetings and also to participate both in the regular National Community Legal Education Workers Group telephone link-ups and also the Legal Information and Referral Forum meetings.

**CCLC's main messages include informing consumers about their legal rights and obligations in relation to credit debt, banking and insurance, together with options and strategies in managing or anticipating potential problems.**

### **CCLC's education strategy includes the following key elements:**

- Workshops and presentations directed at financial counsellors, Legal Aid and community **lawyers to provide them with specialist information to assist with their client's casework** and keep them up to date with relevant new laws and regulations;
- Sessions for trainee financial counsellors in credit and debt and insurance matters as part of their progress towards accreditation;
- Publications aimed at resourcing financial counsellors and Legal Aid/community lawyers;
- Workshops for Community Workers assisting immigrant communities and other special needs communities;
- Presentations at specific events for the general public in response to topical problems such as extreme weather conditions;
- **CCLC's regular e-flyer** distributed to Financial counsellors and other caseworkers including legal caseworkers;
- Our 2 websites, including the new website for the Insurance Law Service, aimed to inform and assist caseworkers and also the general public;
- Publications in English and other languages aimed at the public, available on both CCLC websites and where relevant in hard copy and other media.
- Comments in the general news media both print and visual and popular publications (refer to Media Report on page 43).



In 2009/10 32 education sessions were conducted in Sydney, Melbourne, Canberra and rural NSW. The sessions ranged from short 30 minute presentations to those that lasted for a few hours or a full or half day. The sessions ranged over a variety of topics including detailed information of national relevance such as the National Consumer Credit Code.

CCLC distributed 3 editions of the e-flyer in the 2009/10 year covering important and critical issues in credit, debt and insurance regulation and practice, to a large subscription list of financial counsellors, case-workers, and other community legal centres.

<p><b>PARTICIPANTS:</b></p> <p>Law Access Solicitors; Private Solicitors offering Pro-bono work; Refugee Settlement Workers; Trainee Financial Counsellors; qualified Financial Counsellors; CLC and Legal Aid Lawyers; Community Workers, Welfare Workers; Legal Studies Teachers; members of culturally and linguistically diverse Communities; and Migrant Resource Workers.</p>	<p><b>TOPICS:</b></p> <p>Predatory Lending; Mortgages and Mortgage Hardship Service, Financial Hardship; Internal Dispute Resolution Schemes and External Dispute Resolution Schemes- FOS and COSL; National Consumer Credit Code and Regulations; Insurance; the Insurance Law Service; Credit and Debt; Consumer Credit Legal Centre and the Credit and <b>Debt Hotline; and Telco's and</b> Dispute Resolution.</p>	<p><b>FORUMS/CONFERENCES:</b></p> <p>AFFCRA Conference in Melbourne; ASIC Road-shows and Workshops in Sydney and Canberra. EDR Conference in Melbourne;</p> <p>Mortgage Hardship Forums in Parramatta, Gosford Raymond Terrace and Albury with Legal Aid; FCAN Financial Counsellor Training Courses in Raymond Terrace and Carlingford; Financial Counsellor Training courses in Lismore and Sydney; and CLC State Conference in Sydney.</p>
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## Website News

In 2009/10 CCLC added an additional website covering the Insurance Law Service. The ILS website can be found at [www.insurancelaw.org.au](http://www.insurancelaw.org.au) and includes information useful for both caseworkers and the general public. New sample letters and fact sheets were produced for this website.

In addition we produced a new-look CCLC website at [www.cclcnsw.org.au](http://www.cclcnsw.org.au). This year we have been busy updating the fact sheets and sample letters in accordance with the provisions of the National Consumer Credit Code.

## Publications

The Insurance Law Service has produced the following legal information booklets to assist consumers to make a claim on their insurance. These booklets have been published in English, Arabic, Mandarin and Vietnamese:

1. **“Home Insurance Matters!”** – a Home Building and/or Contents Insurance Claim Information Guide; and
2. **“Car insurance Matters!”** – a Car Insurance Claim Information Guide.

**CCLC has published ‘the Credit Law Toolkit’** - a comprehensive guide to the new National Credit Laws for Financial Counsellors and caseworkers.

**In addition we are in the process of updating ‘The Mortgage Stress Handbook’ to which we contributed in 2009.** The new handbook has been updated to reflect the National Credit Laws and will be published shortly.

As in past years, CCLC continues to be very active in the mainstream and regional media, with appearances in print, on radio and on television.

CCLC is active in the media for three main reasons:

- To increase awareness of the availability of our services;
- To educate consumers about their rights and obligations; and
- To encourage and facilitate debate on law-reform issues.

The majority of the media work has been undertaken by the Coordinator, Karen Cox and the Principal Solicitor, Katherine Lane, with contributions from other staff members at times.

A selection of media contributions follows:

DATE	LOCATION	TOPIC
5/11/09	All TV Stations	Press Conference with Legal Aid and the State Attorney General re: mortgage repossessions
11/11/09	Insurance News	Unfair terms and dispute resolution
20/11/09	CH 10 News	Video late fees debt collection
4/12/09	Daily Telegraph	Mortgage repossessions in times of hardship
7/12/09	A Current Affair	Interview on dispute resolution and Telstra
8/12/09	ABC News Radio	Spoke ABC news radio re mortgage repossessions on one year loans.
9/12/09	Daily Telegraph	Consequences of debt for young people
23/12/09	Insurance News	Interview for insurance news about General Insurance Code of Practice
5/01/10	7:30 Report - ABC TV	General discussion re program on debt levels exceeding GDP
7/02/10	Daily Telegraph	Computer Con Aimed at the Poor
1/03/10	The Age	Interview about bankruptcy as debt collection
8/03/10	SMH	Story on mortgage hardship and financial hardship generally
9/03/10	Money Magazine	Comment on need for 48% cap
17/03/10	Herald Sun	Unfair terms and insurance
17/03/10	Australian Financial Review	Unfair terms and insurance
17/03/10	SMH	Back-up plan needed (Mortgage stress)
23/03/10	Choice Magazine	Credit cards and reforms in UK
23/03/10	SMH	Credit cards & charging of interest & fees.
24/03/10	SMH	New credit card laws won't stop gouging by companies
1/04/10	Daily Telegraph	Default interest on mortgages
6/04/10	Money Magazine	Direct debits and unarranged overdrafts
4/05/10	Herald Sun	Consolidating debt could save a bundle but there are risks
26/05/10	SMH	Alarm over bill shock (Telco debts)
28/05/10	SMH	Telco debt
1/06/10	Money Magazine	Payday Trap
4/06/10	Daily Telegraph	And you thought an RBA rate rise was bad, meet lenders charging 780% (Pay day lending)
7/06/10	2UE Radio	Pay day lending
16/06/10	Newcastle ABC Radio	Responsible lending laws and mortgage exit fees
28/06/10	SMH	Article re dodgy brokers and registration process

In 2009/10, the CCLC Administration Team comprised of Chris Maddison (Book Keeper), Nicola Sutton (Office Manager), and Anthony Lane (Locum Office Manager, 1<sup>st</sup> September to 2<sup>nd</sup> October 2009). The responsibilities of the Administration Team cover a range of governance, resource, staffing and facility activities. Recent highlights were:

- Completion of office renovations; including building works, painting, new furniture, rearranging space, set up of new offices (June – November 2009);
- Induction committee/orientation program for new staff (July 2009)
- Working with IT to set up new email system; and support of staff to use new email system, including training, cheat sheets (November 2009);
- Planning Day 2010 (5<sup>th</sup> March 2010);
- New ILS website & revamped CCLC website (February – May 2010).

## Governance activities

The Team is responsible for maintaining financial records and reports to assist in the day-to-day operation of the Centre and for the benefit of the Management Committee. They also gather performance statistics, collaborate with the Centre Coordinator on submissions to funding bodies, compile supporting documents (i.e., agendas, minutes, etc.) for meetings with staff and the Management Committee, and coordinate the publication of the Annual Report.

## Resource activities

Resource tasks include the maintenance and update of the CCLC website, the distribution of e-flyers and brochures, and referral advice to first-point-of-contact callers who call outside designated advice times.

## Staffing activities

Staffing tasks include remuneration, recruitment, induction and staff training, travel and accommodation arrangements, staff activities (i.e., planning days, functions, etc.) and management of the volunteer program.

## Facility activities

Facility tasks include information technology support through liaison with external support staff (i.e., computer and telephone systems administration, software and hardware updates, data backup, database maintenance, etc.) as well as physical storage and archiving procedures. The Team is committed to an environmentally friendly office.

# Financial Statement

1 July 2009 to 30 June 2010





## Consumer Credit Legal Centre (NSW)

Financial Report for the year to 30 June 2010

### **Mark Godlewski** Partner

Pitcher Partners  
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19 Martin Place, Sydney NSW 2000  
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**CONSUMER CREDIT LEGAL CENTRE (NSW) INC**  
**Financial Report for the Year Ended 30 June 2010**

**ABN: 40 506 635 273**

**COMMITTEE'S REPORT**

Your committee members submit the financial report of the Consumer Credit Legal Centre (NSW) Inc (the Association) for the financial year ended 30 June 2010.

**Committee Members**

The names of committee members throughout the year and at the date of this report are:

Elissa Freeman, Chair  
Matthew Simpson, Treasurer  
Amy Kilpatrick  
Michael Saadat  
John Burke  
Paul Baker  
Karen Cox  
Nicola Sutton

**Principal Activities**

The principal activities of the Association during the financial year were provision of Legal Services and Financial Counselling Services in accordance with the Constitution.

**Significant Changes**

No significant change in the nature of these activities occurred during the year.

**Operating Result**

The surplus for the year ended 30 June 2010 amounted to \$ 92,611.

Signed in accordance with a resolution of the Members of the Committee.



.....

Elissa Freeman



.....

Matthew Simpson

Dated this 6 day of October 2010



*Consumer Credit Legal Centre (NSW) Inc*

ABN: 40 506 635 273

STATEMENT OF COMPREHENSIVE INCOME  
FOR THE YEAR ENDED 30 JUNE 2010

	Note	2010	2009
		\$	\$
INCOME			
Grants	2	1,400,091	951,442
Other project income		14,690	-
Interest received		31,995	23,444
Other income	3	23,922	40,680
		<u>1,470,698</u>	<u>1,015,566</u>
EXPENDITURE			
Operating expense	4	176,833	138,553
Employees expense	5	1,086,963	733,366
Communications		48,115	41,588
Legal fees		-	2,418
Project expense		20,475	-
Insurance expense		4,205	3,796
Travel expenses		9,092	8,022
Depreciation		17,196	11,351
Building Modifications		3,208	23,791
Provisions	6	12,000	12,094
TOTAL EXPENSES		<u>1,378,087</u>	<u>974,979</u>
Current year surplus/ (loss)		<u>92,611</u>	<u>40,587</u>
Other comprehensive income		-	-
Total comprehensive income		<u><u>92,611</u></u>	<u><u>40,587</u></u>

The accompanying notes form part of this financial report.

*Consumer Credit Legal Centre (NSW) Inc*

ABN: 40 506 635 273

STATEMENT OF FINANCIAL POSITION

AS AT 30 JUNE 2010

	Note	2010 \$	2009 \$
CURRENT ASSETS			
Cash and cash equivalents		745,497	857,176
Trade and other receivables	7	16,372	1,035
Prepayments		11,405	3,828
TOTAL CURRENT ASSETS		773,274	862,039
NON-CURRENT ASSETS			
Rental bond		15,030	15,030
Financial assets		17,002	17,002
Property, plant and equipment	8	33,069	34,672
TOTAL NON-CURRENT ASSETS		65,101	66,704
TOTAL ASSETS		838,375	928,743
CURRENT LIABILITIES			
Grants received in advance	10	347,800	524,313
Employee Benefits	9	160,414	120,211
Provisions	11	31,000	51,094
GST liabilities		32,433	43,898
Employee liabilities		30,771	40,776
Creditors & Accruals		13,880	18,984
TOTAL CURRENT LIABILITIES		616,298	799,276
TOTAL LIABILITIES		616,298	799,276
NET ASSETS		222,077	129,467
MEMBERS' FUNDS			
Reserves	12	25,292	25,292
Retained profits	13	196,785	104,174
TOTAL MEMBERS' FUNDS		222,077	129,467

The accompanying notes form part of this financial report.

*Consumer Credit Legal Centre (NSW) Inc*

ABN: 40 506 635 273

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

**NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES**

This financial report is a special purpose financial report prepared in order to satisfy the financial reporting requirements of the *Associations Incorporation Act 1984*. The committee has determined that the Association is not a reporting entity.

The financial report has been prepared on an accruals basis and is based on historic costs and does not take into account changing money values or, except where specifically stated, current valuations of non-current assets.

The following significant accounting policies, which are consistent with the previous period unless otherwise stated, have been adopted in the preparation of this financial report.

**a. Income Tax**

The Association is exempt from Income Tax in accordance with the provisions of the *Income Tax Assessment Act 1997*.

**b. Property, Plant and Equipment (PPE)**

Leasehold improvements and office equipment are carried at cost less, where applicable, any accumulated depreciation.

The depreciable amount of all PPE is depreciated over the useful lives of the assets to the Association commencing from the time the asset is held ready for use.

**c. Impairment of Assets**

At each reporting date, the Association reviews the carrying values of its tangible and intangible assets to determine whether there is any indication that those assets have been impaired. If such an indication exists, the recoverable amount of the asset, being the higher of the asset's fair value less costs to sell and value in use, is compared to the asset's carrying value. Any excess of the asset's carrying value over its recoverable amount is expensed to the income statement.

**d. Employee Benefits**

Provision is made for the Association's liability for employee benefits arising from services rendered by employees to balance date. Employee benefits have been measured at the amounts expected to be paid when the liability is settled, plus related on-costs.

**e. Provisions**

Provisions are recognised when the Association has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured. Provisions are measured at the best estimate of the amounts required to settle the obligation at reporting date.

**f. Cash and Cash Equivalents**

Cash and cash equivalents includes cash on hand, deposits held at call with banks, and other short-term highly liquid investments which mature within three months or less from the date of the end of financial year.

*Consumer Credit Legal Centre (NSW) Inc*

ABN: 40 506 635 273

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

g. **Revenue**

Grant income, is recognised as revenue in the year to which the associated expenditure and grant funding agreement relates. Accordingly, this income received in the current year for expenditure in future years are treated as grants in advance.

Unexpended specific grant income at 30 June each year is disclosed as a liability in the financial statements. The amount brought to account as income is equivalent to that amount expended by the Association during the financial year. Where surplus funds are required to be repaid, they will remain as a liability in the financial statements until repayment.

Interest revenue is recognised using the effective interest rate method which for floating rate financial assets is the rate inherent in the instrument.

All revenue is stated net of the amount of Goods and Services Tax (GST).

h. **Leases**

Leases of property, plant and equipment, where substantially all the risks and benefits incidental to the ownership of the asset, but not the legal ownership, are transferred to the Association, are classified as finance leases.

Finance leases are capitalised by recording an asset and a liability at the lower of the amounts equal to the fair value of the leased property or the present value of the minimum lease payments, including any guaranteed residual values. Lease payments are allocated between the reduction of the lease liability and the lease interest expense for that period.

Leased assets are depreciated on a straight-line basis over the shorter of their estimated useful lives or the lease term. Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are charged as expenses in the periods in which they are incurred.

i. **Goods and Services Tax (GST)**

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Tax Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables are shown inclusive of GST.

j. **Critical Accounting Estimates and Judgements**

Certain accounting estimates include assumptions concerning the future, which, by definition, will seldom represent actual results. Estimates and assumptions based on future events have a significant inherent risk, and where future events are not as anticipated there could be a material impact on the carrying amounts of the assets and liabilities. Details of estimates and judgements are provided in the above accounting policies.



*Consumer Credit Legal Centre (NSW) Inc*

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NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

**NOTE 2: GRANTS RECEIVED**

	<b>2010</b>	<b>2009</b>
	<b>\$</b>	<b>\$</b>
Commonwealth Attorney General-CLSP	136,348	167,417
State Attorney General-CLSP	123,276	120,364
Office of Fair Trading –Credit Counselling	183,612	179,133
Office of Fair Trading –Financial Counselling	343,769	335,385
Commonwealth Financial Counselling-FaHCSIA	101,500	22,680
Mortgage Hardship support Service –PPF	272,331	7,669
Commonwealth Grant –Insurance Law Service	200,000	118,794
State Grant –Insurance Law Service	26,246	-
Grants –Insurance Pilot Project	13,009	-
	<hr/> 1,400,091	<hr/> 951,442

**NOTE 3: OTHER INCOME**

Administration fees	1,500	-
Consultancy fees	6,800	3,000
Disbursements recovered	1,781	2,937
Legal Costs recovered	12,233	34,288
Sitting fees	359	-
Sundry Income	455	455
Royalties	794	-
	<hr/> 23,922	<hr/> 40,680

*Consumer Credit Legal Centre (NSW) Inc*

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NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

**NOTE 4: OPERATING EXPENSES**

	2010	2009
	\$	\$
Financial Expenses	8,138	3,907
Library & Resources	9,243	6,266
Disbursements	2,916	4,439
Electricity	4,699	2,767
Cleaning	8,260	5,081
Rent	122,555	95,383
Rates & Outgoings	-	2,718
Rental Lease expenses	-	512
Repairs & Maintenance	1,485	496
Waste Removal	974	305
General expenses	-	55
Office expenses	18,563	16,624
	<u>176,833</u>	<u>138,553</u>

**NOTE 5: EMPLOYEE RELATED EXPENSES**

Salaries	932,857	633,618
Superannuation	86,052	56,202
Accrued leave	40,202	29,101
Workers Compensation Insurance	4,852	2,078
Staff related expenses	23,000	12,367
Total employees expenses	<u>1,086,963</u>	<u>733,366</u>

**NOTE 6: PROVISIONS**

Provision for Building Modification	-	12,094
Provision for Make Good	12,000	-
	<u>12,000</u>	<u>12,094</u>

*Consumer Credit Legal Centre (NSW) Inc*

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NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

	2010	2009
	\$	\$
<b>Note 7: TRADE AND OTHER RECEIVABLES</b>		
Sundry debtors	10,334	-
Interest receivable	6,038	1,035
	<u>16,372</u>	<u>1,035</u>

**NOTE 8: PROPERTY, PLANT AND EQUIPMENT**

Computer Equipment –at cost	51,830	57,971
Accumulated depreciation	(38,353)	(37,960)
	<u>13,477</u>	<u>20,011</u>
Office Equipment – at cost	22,294	21,865
Accumulated depreciation	(17,538)	(12,513)
	<u>4,756</u>	<u>9,352</u>
Office Furniture and Equipment – at cost	22,526	11,360
Accumulated depreciation	(7,690)	(6,051)
	<u>14,836</u>	<u>5,309</u>
Total Property, Plant and Equipment	<u>33,069</u>	<u>34,672</u>

**NOTE 9: EMPLOYEE BENEFITS**

Provision for Annual Leave	67,036	48,221
Provision for Long service Leave	70,994	50,216
Provision for Parenting Leave	14,827	14,423
Provision for Sick Leave	7,557	7,351
Total Employee Benefits	<u>160,414</u>	<u>120,211</u>

*Consumer Credit Legal Centre (NSW) Inc*

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NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

**NOTE 10: GRANTS IN ADVANCE**

	2010	2009
	\$	\$
Mortgage Hardship support service	280,000	272,331
IT project	734	5,000
Insurance Pilot Project	17,490	239,982
Commonwealth Financial Counselling	-	7,000
Mortgage Stress Handbook & Credit Law Tool kit	49,576	-
	<u>347,800</u>	<u>524,313</u>

**NOTE 11: PROVISIONS**

Provision for Financial Counsellor	-	14,000
Provision for Telephone Upgrade	14,000	-
Provision for Make good	12,000	-
Provision for PI Insurance excess	5,000	5,000
Provision for Building Modifications	-	32,094
	<u>31,000</u>	<u>51,094</u>

**NOTE 12: RESERVES**

Reserve for future projects	14,000	14,000
Reserve for office equipment	11,292	11,292
	<u>25,292</u>	<u>25,292</u>

**NOTE 13: RETAINED PROFITS**

Balance b/f	104,174	63,587
Current year surplus	92,611	40,587
Transfer to reserves	-	-
Balance c/f	<u>196,785</u>	<u>104,174</u>



*Consumer Credit Legal Centre (NSW) Inc*

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NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

NOTE 14: LEASING COMMITMENTS

	2010	2009
	\$	\$
a. Operating Lease Commitments		
Being for rent of office		
Payable — minimum lease payments:		
— not later than 12 months	57,519	122,555
— between 12 months and 5 years	-	52,290
— greater than 5 years	-	-
	<u>57,519</u>	<u>174,845</u>

The property lease is a non-cancellable lease with a three-year term, with rent payable monthly in advance. Contingent rental provisions within the lease agreement require that the minimum lease payments shall be increased by a fixed percentage review or 5% per annum. An option exists to renew the lease at the end of the three-year term for an additional term.

NOTE 15: RELATED PARTIES

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties unless otherwise stated.

**Consumer Credit Legal Centre (NSW) Inc**

**ABN: 40 506 635 273**

**STATEMENT BY MEMBERS OF THE COMMITTEE**

The committee has determined that the Association is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

In the opinion of the Committee the financial report as set out on pages 2 to 10:

1. Presents a true and fair view of the financial position of Consumer Credit Legal Centre (NSW) Inc as at 30 June 2010 and its performance for the year ended on that date.
2. At the date of this statement, there are reasonable grounds to believe that Consumer Credit Legal Centre of (NSW) Inc will be able to pay its debts as and when they fall due.

This statement is made in accordance with a resolution of the committee and is signed for and on behalf of the committee by:

Chair .....



Elissa Freeman

Treasurer .....



Matthew Simpson

Dated this 6 day of October 2010



**PITCHER PARTNERS**  
ACCOUNTANTS AUDITORS & ADVISORS

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Melbourne | Sydney | Perth | Adelaide | Brisbane

**CONSUMER CREDIT LEGAL CENTRE (NSW)  
INDEPENDENT AUDITOR'S REPORT  
TO THE MEMBERS OF CONSUMER CREDIT LEGAL CENTRE**

We have audited the accompanying financial report, being a special purpose financial report, of Consumer Credit Legal Centre (NSW) (the Association), which comprises the statement of financial position as at 30 June 2010, and the statement of comprehensive income for the year ended on that date, a summary of significant accounting policies and other explanatory notes.

*The responsibility of those charged with governance*

The committee of the Association is responsible for the preparation and fair presentation of the financial report and has determined that the accounting policies described in Note 1 to the financial statements, which form part of the financial report, are appropriate to meet the financial reporting requirements of the Association and are appropriate to meet the needs of the members. This responsibility includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

*Auditor's responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1 to the financial statements, are appropriate to meet the needs of the members. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Association's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of



accounting policies used and the reasonableness of accounting estimates made by the committee member, as well as evaluating the overall presentation of the financial report.

The financial report has been prepared for distribution to members for the purpose of fulfilling the financial reporting requirements under the constitution. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

*Independence*

In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

*Auditor's opinion*

In our opinion, the financial report presents fairly, in all material respects, the financial position of Consumer Credit Legal Centre (NSW) as at 30 June 2010 and its financial performance for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements.

PITCHER PARTNERS

Mark Godlewski

Partner

SYDNEY

8 October 2010