

Employment Law Project for Working Holiday Makers and Temporary Visa Workers

Final Report

Format of this Report

1. **Executive Summary**
2. **Client Summary**
3. **Case Studies**
4. **Discussion and Recommendations**
5. **Program Logic report**
6. **Note from JobWatch**

Attachments:

1-5 Examples of collateral produced for project

6-8 Financial Reports for each CLC

9 Summary Staff Survey results (Baseline to End of Project comparison)

EXECUTIVE SUMMARY

Background

In 2017, Industrial Relations Victoria (IRV) identified Temporary Visa Workers, particularly Working Holiday Maker (WHM) visa subclass 417 and 462 holders in regional areas, as having particular employment issues which could be addressed through a legal assistance program. The 417 and 462 visas are particular utilised by 'backpackers' in Australia. Victoria Legal Aid (VLA) agreed to manage a grant on their behalf, which could address the issues identified and increase access to justice for this cohort. Initial funding for this project was for 18 months.

Barwon Community Legal Service (BCLS) and Goulburn Valley Community Legal Centre (GVCLC), alongside specialist employment law legal service, JobWatch, were funded to deliver this project. BCLS provided services in the Barwon and surrounding regions and GVCLC provided services in Shepparton and surrounds. JobWatch was to support overall service delivery, and also provide secondary consults and additional capacity building given its specialist employment law legal expertise.

The intended outcomes of the grant are indicated as the 'High Level Outcomes' in the program logic below, while the 'Intermediate Outcomes' were identified as those which the grant activities could directly contribute to. The Intermediate Outcomes were updated following the Phase II report, to reflect some of the challenges encountered by project partners in attracting clients.

High Level Outcomes	1. Increased awareness among WHM's of their workplace rights and enable them to enforce those rights.	2. Increased experience and capacity of CLCs in Victoria to provide employment law advice to temp visa workers	3. Continue to attract workers from other countries to regional Victoria and ensure that it is seen as a place that respects and protects the work rights of international workers
Intermediate Outcomes	1.1 People on WHM Visas have increased access to employment law services 1.2 Increased engagement with key stakeholders to improve referral pathways 1.3 Increased engagement with potential clients from NESB 1.4 Increased engagement with clients via alternative methods (other than clinics)	2.1 Increase the knowledge and skills of employment law in Victorian CLCs	3.1 Clients on WHM visas have their work rights advocated for

Service delivery

At the conclusion of the Project, **196** clients on temporary working visas had been assisted by GVCLC, BCLS and JW in total, and another **10 clients** not on temporary visas. The sum of **\$101 810** has been recovered by way of compensation and unpaid wages and entitlements by JW and GVCLC. Almost **\$10,000** in underpayments was recovered by BCLS.





	1 September 2018 30 June 2019	1 July 2019 – 31 March 2020	Total for project
Total number of clients	95 (+3)	101 (+7)	196 (+10)
<i>Total number of advices (All CLCs)</i>	68	62	130
<i>Total number of cases (All CLCs)</i>	27	38	65
<i>Total number of clients (All CLCs)</i>	95	100	195
<i>Total Clients (JobWatch)</i>	48	42	90
<i>Total Clients (GVCLC)</i>	38	48 (+ 5 AUS)	86 (+5 AUS)
<i>Total Clients (BCLS)</i>	9 (+3 AUS)	1 (+ 2 AUS)	20 (+5 AUS)
Total cash recovery			
<i>Total recovery (JobWatch)</i>	\$46250	\$28148	\$74 398
<i>Total recovery (GVCLC)</i>	\$8390	\$19022	\$27 412
<i>Total recovery (BCLS)</i>			(c. \$10,000) ¹
<i>Total recovery (JW and GVCLC only)</i>	\$54 640	\$47 170	\$101 810
Total CLE sessions			13
<i>Total CLE sessions (JobWatch)</i>			2
<i>Total CLE sessions (GVCLC)</i>			5
<i>Total CLE sessions (BCLS)</i>			6
JobWatch provision of secondary consults			64
<i>To GVCLC</i>			59
<i>To BCLS</i>			6

(Australian Citizen clients)

Achievement against Outcomes:

Overall, while the total number of clients was fewer than expected, the CLCs were able to conduct activities that successfully contributed to the Intermediate Outcomes identified – as demonstrated by the outcomes measure developed - and therefore likely contributed to the achievement of the High Level Outcomes. It was out of scope for this report to evaluate achievement against the High-Level Outcomes.

The tables summarise achievement against Intermediate Outcomes. For further detail on the activities and outcome measures, see **Program Logic Report**.

Legend	
	<i>Indicators and other supporting evidence show overall success for the outcome</i>
	<i>Most indicators and other supporting evidence show success. Some indicator evidence may be limited.</i>
	<i>Indicators are limited in showing success</i>
	<i>Indicators do not indicate success achieving the outcome</i>

¹ Approximate amount and not included in total recovery for that reason. To be confirmed with BCLS.

Intermediate Outcome	Proposed indicator	Result
1.1 People on WHM Visas have increased access to employment law services	Increase in number of WHM seen by each of the CLCs during the project compared to prior to the project	Significant increase in WHM Visa holders access to employment law services in regional areas. JW TIS continued to receive a large number of calls from TVWs during the life of the Project and case work for WHM clients significantly increased. Project funding allowed for overall increase in employment law services at JW increasing wider access to justice. CLE services delivered to increase employment law knowledge among WHMs. Monies recovered, and client numbers show value of legal services provision.
1.2 Increased engagement with key stakeholders to improve referral pathways	Increased referrals from a variety of potential stakeholders, Increased CLE activities delivered with stakeholders	Increased referrals from targeted sources e.g. FWO; Migrant Workers' Centre; consulates; embassies. Increased opportunities for CLE with stakeholders (e.g. attendance at Job Fairs; presentations at hostels). Existing referral pathways established in Phase 1 saw no increase in client referrals Phase 3.
1.3 Increased engagement with potential clients from NESB	Activities designed to assist NESB lead to referrals	No clients contacting service as a result of NESB-focused brochure/postcard dissemination and no clients self-referring from hostel factsheet drop offs.
1.4 Increased engagement with clients via alternative methods (other than clinics)	Increase number of clients seen outside of traditional legal clinics	34 advices given by GVCLC via alternative project delivery methods from July 2019 until March 31 2020. 8 advices were given by BCLS via contact with the Waurin Ponds campus of Deakin University
2.1 Increase the knowledge and skills of Employment Law in Victorian CLCs	Staff at regional CLCs have increased knowledge of employment law	Surveys showed staff at regional CLCs had an increase in their knowledge of employment law, and that employment law training conducted by JW showed 100% of participants increased understanding of employment law principles and application.
3.1 clients on WHM visas have their work rights advocated for	Outcomes for clients are positive	The majority of clients reported positive experiences with the advice/casework provided. With ongoing services, many clients had positive outcomes including settlements or court representation. Cash recovery totalled over \$100,000 for the project. Longer term outcomes to be monitored.

Discussion and Recommendations

Implementation of the project revealed several challenges which limited the number of WHM who engaged with the project, however the project was able to deliver some strong outcomes for individual clients. In addition, some unexpected longer-term benefits have occurred as a result of the project. BCLS have indicated that they will continue to offer employment law as part of their generalist practice and

staff surveys suggest an increase in confidence amongst BCLS staff in this area of law. GVCLC also indicated that they have developed a stronger referral and assistance pathway with JW, and noted that for clients that they service for other issues, employment law issues are often interrelated and can now be addressed as part of their general service. JW will continue to provide support to both CLCs as the state's employment law specialist CLC.

Unique Nature of Target Cohort

Experience has shown that WHMs particularly in regional areas, are highly itinerant. As a result of this, traditional methods of engaging those workers who may have benefitted from learning more about their work rights or who may have had an employment law issue they wanted to pursue, did not work as effectively and new approaches were trialed for this project with success.

Single Point of Contact

As WHMs are itinerant and moving frequently from place to place, the model of independent regional 'hubs' for service under this project was, at times, confusing. A client might enter the service in a regional area where they were staying but then quickly move away to another area of Victoria or even elsewhere in Australia or overseas. A single point of contact could have been easier to communicate with WHMs.

Clear and Targeted Messaging

Many WHMs would wait until the end of their stay to pursue employment law related claims. This made pursuing underpayment claims (where matters are often listed nine months or more post filing) challenging as the client has often returned to their country by the time the matter is heard.

Incorrect Identification of Catchment Area

Research into the Barwon catchment found that WHMs were not highly represented in the region, contributing to the low client demand in this area.

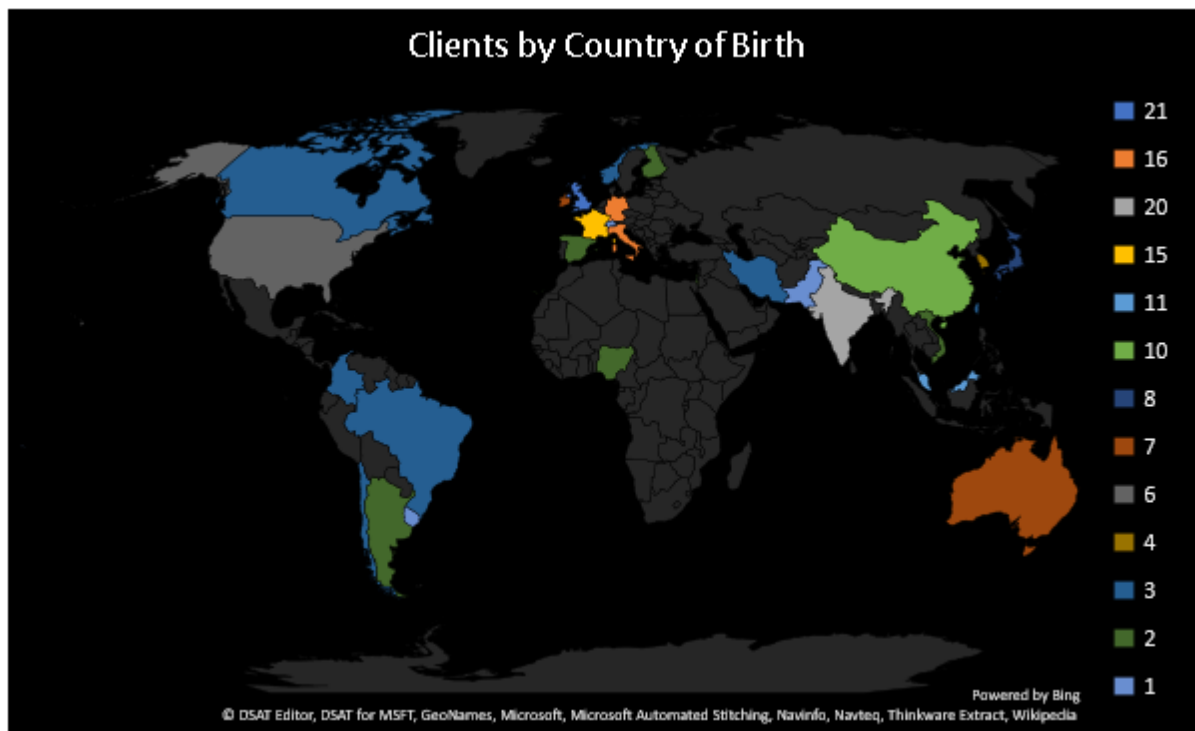
The recommendations made are summarised below:

- **Recommendation 1**
Move away from a traditional walk-in / appointment based legal clinic model for this cohort or similar cohorts which are itinerant or have low access to transport.
- **Recommendation 2**
Explore whether a single point of contact with regional referrals model could be successful for this or similar projects.
- **Recommendation 3**
Ensure clear and concise resources are produced at the start of the project to be disseminated during the project.
- **Recommendation 4**
Targeted advertising urging WHMs to seek information and advice early for future projects in WHM Employment Law
- **Recommendation 5**
Conduct legal needs assessment to better determine areas of high demand.
- **Recommendation 6**
Explore whether links can be made between WHM and International Student services, particularly in Employment Law.

Client Summary

Client Country of Origin

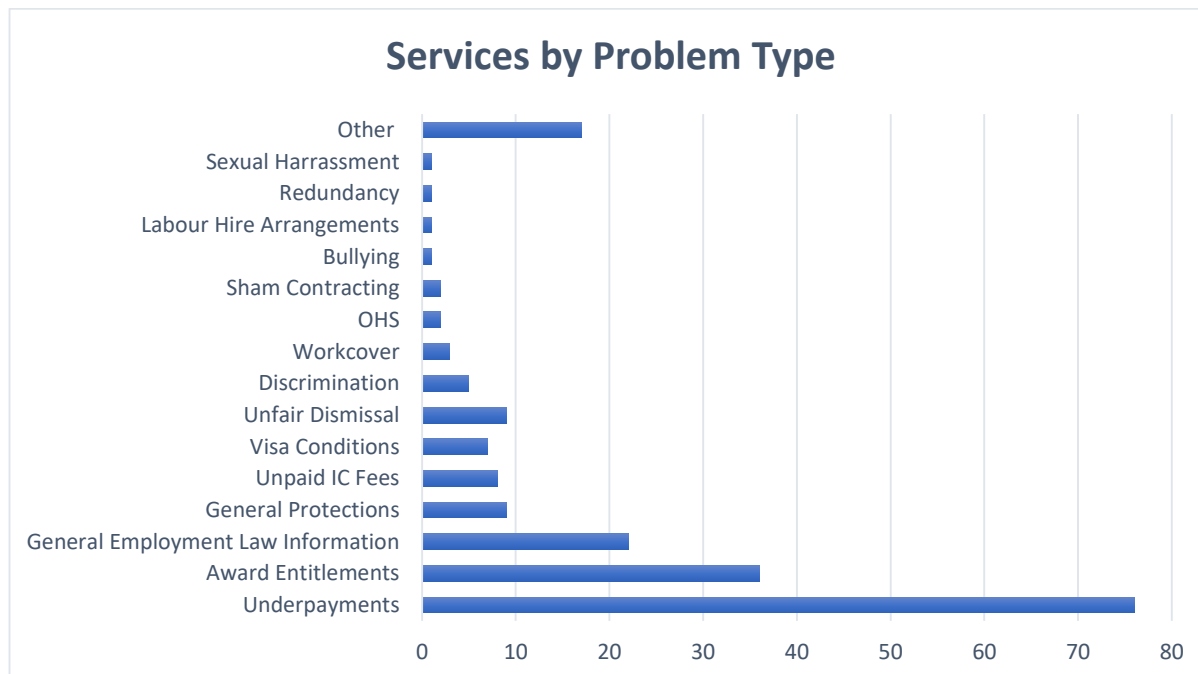
Those clients assisted came from a range of countries, with a concentration from United Kingdom, France, Germany, Italy and India as indicated in the graph and table below.



Country	# of clients
United Kingdom	21
India	20
Germany	16
Italy	16
France	15
Malaysia	11
China	10
Japan	8
Ireland	7
USA	6
South Korea	4
Iran	4
Norway, Chile, Canada, Colombia, Taiwan, Brazil	3 (each)
Spain, Israel, Argentina, Nigeria, Vietnam, Finland, Malta, New Caledonia	2 (each)
Samoa, South Africa, Pakistan	1 (each)
Unknown	15
Total	196

Services by problem type

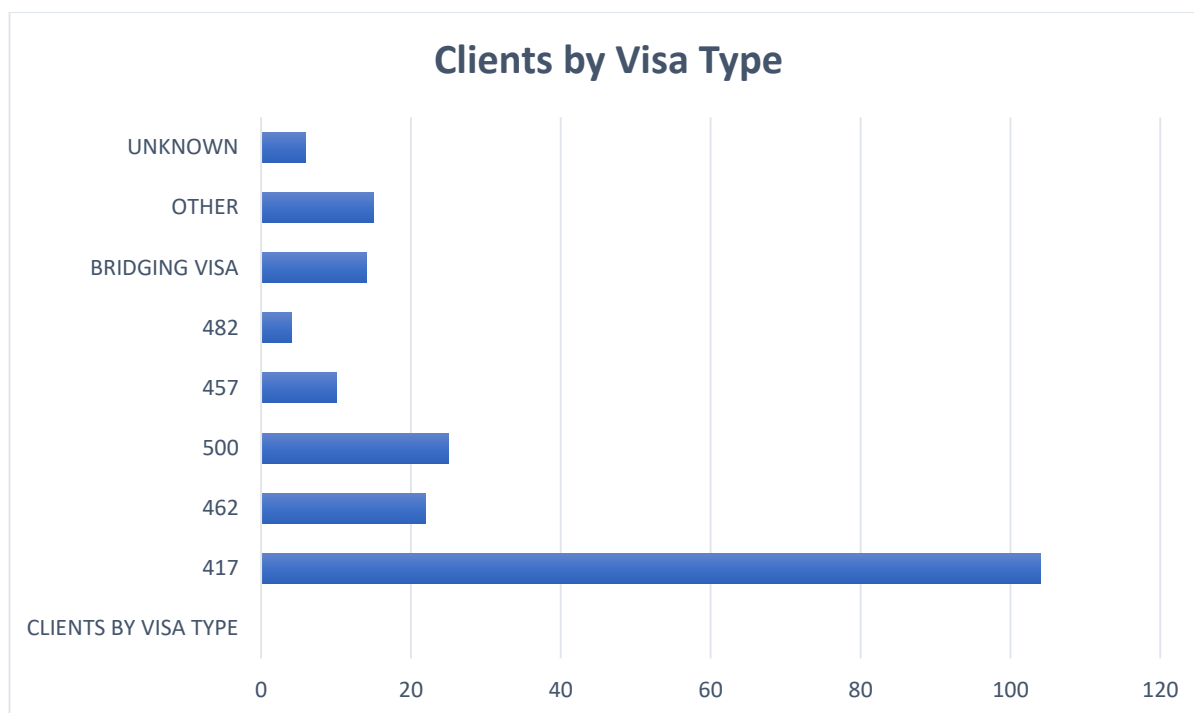
Most services were provided for issues about underpayment of wages and award entitlements. General advice also included general employment law matters such as notice requirements and unreasonable requirements to pay. A number of unfair dismissal matters were undertaken, as well as general protections disputes and discrimination claims, as shown in the graph below.



The majority of cases undertaken, and advices provided involved underpayments of wages and entitlements, including disputes undertaken by GVCLC with regard to the proper application of piece rate agreements under the *Horticultural Award 2010*. **74** clients were assisted with matters relating to underpayments. **36** clients were assisted with advice regarding award entitlements and the proper application of the relevant award to their employment. **22** clients were assisted with matters relating to general employment law information i.e. disputes with an employer about paying insurance excess on workplace vehicles, and whether it was lawful for an employee to take personal 'tips' in the workplace. **9** clients were assisted with general protection matters, primarily general protection termination disputes. **9** clients were assisted with recovering unpaid independent contractor fees and **7** clients were assisted with matters particular to the 417 and 462 visa schemes, such as the 88 days of specified regional work requirement. **8** clients were assisted with unfair dismissal claims and **5** clients were assisted with issues relating to discrimination. **3** clients were assisted with Workcover claims and issues relating to bullying in the workplace. **2** clients were assisted with matters relating to occupational health and safety requirements in the workplace. Other matters included sham contracting, labour-hire arrangements, redundancy and sexual harassment.

Clients by Visa Type

The majority of advices and casework undertaken involved clients on sub-class 417 visas. However, a range of clients on other temporary working visas were also assisted, as shown in the graph below.



As can be seen, **126** clients on Working Holiday visas were assisted during the life of the Project. This number is comprised of **104** sub-class 417 holders and **22** sub-class 462 visa holders.

Clients assisted that were working in Victoria on other variants of temporary working visas are as follows:

- **20** clients on International Student (sub-class 500) visas.
- **14** clients on Temporary Skill Shortage (sub-class 457 and 482) visas.
- **14** clients on Bridging visas (ranging from A to C).
- **14** clients on 'Other' visas (including provisional partner visas and protection visas).
- **6** clients were assisted (exclusively by way of advices) whose exact visa status was not captured.
- It is important to note, also, that **13** additional clients who held either permanent resident visas or were Australian citizens were also assisted.

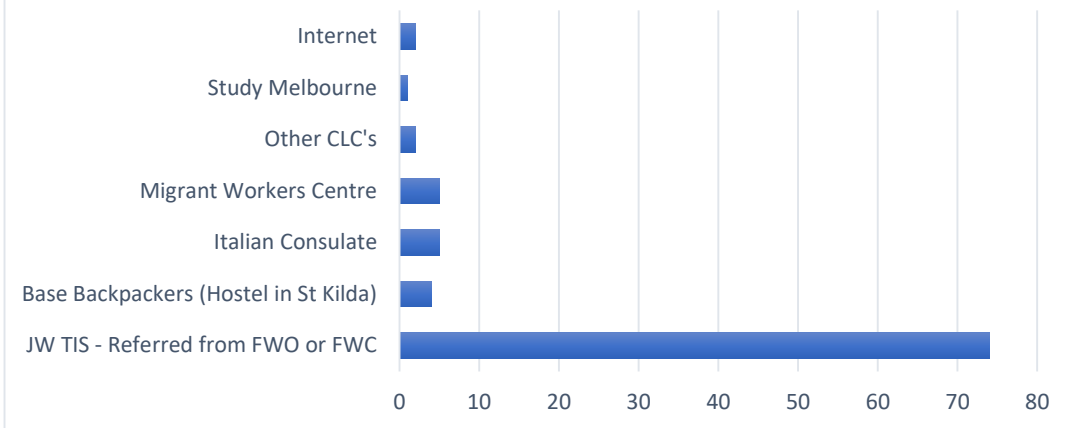
Sources or Referrals

Given the initial difficulties in establishing referral pathways for clients, a primary focus of the Project became building relationships with potential stakeholders in the community to support the establishment of improved referral pathways. The majority of the referrals generating advices and casework for JW came from the JW Telephone Information Service (TIS). The main source of referrals to the JW TIS was the Fair Work Ombudsman and the Fair Work Commission. Other sources of referrals included the Migrant Workers' Centre, the Italian Consulate in Melbourne, the JobWatch website, Base Backpackers in St Kilda as a result of the Job Fairs attended by JW in late 2018 and early 2019, and word of mouth.

Regional CLCs trialed a wide number of ways of approaching potential clients as the legal clinics originally established resulted in low booking rates. The Backpacker BBQs run by GVCLC were one example of this – leading to several services to WHM clients. Outreach/CLE by BCLS to Deakin University students led to services to Temporary Visa holders in Barwon.

Please see below for breakdown of referral sources by CLC.

Source of Referrals JW (All Clients)

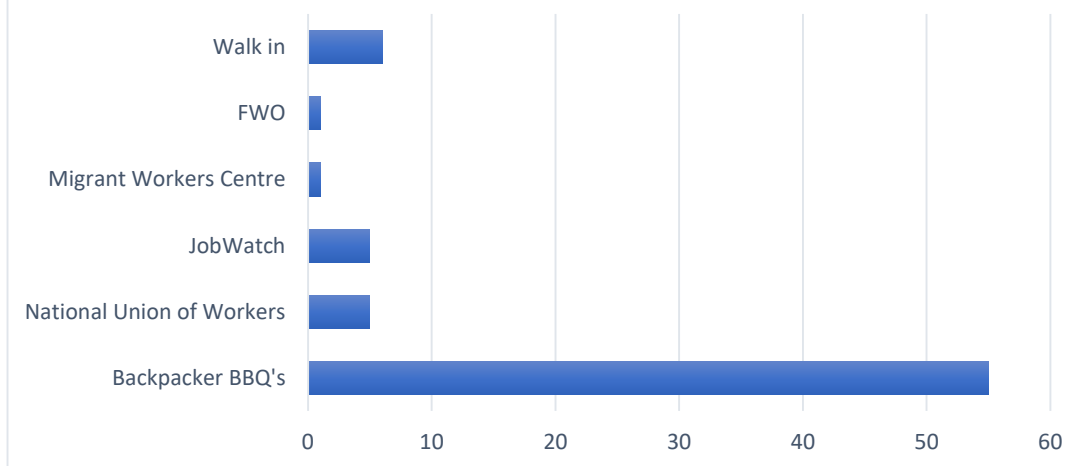


GVCLC

The main source of referrals for GVCLC was the extremely successful 'Backpacker BBQs' that were organised at various times during 2019 and early 2020. Other sources of referrals came from the National Union of Workers in Shepparton, JW and walk-in clients.

Please see below for a graphical breakdown of sources of referrals for GVCLC.

Source of Referrals GVCLC (All Clients)



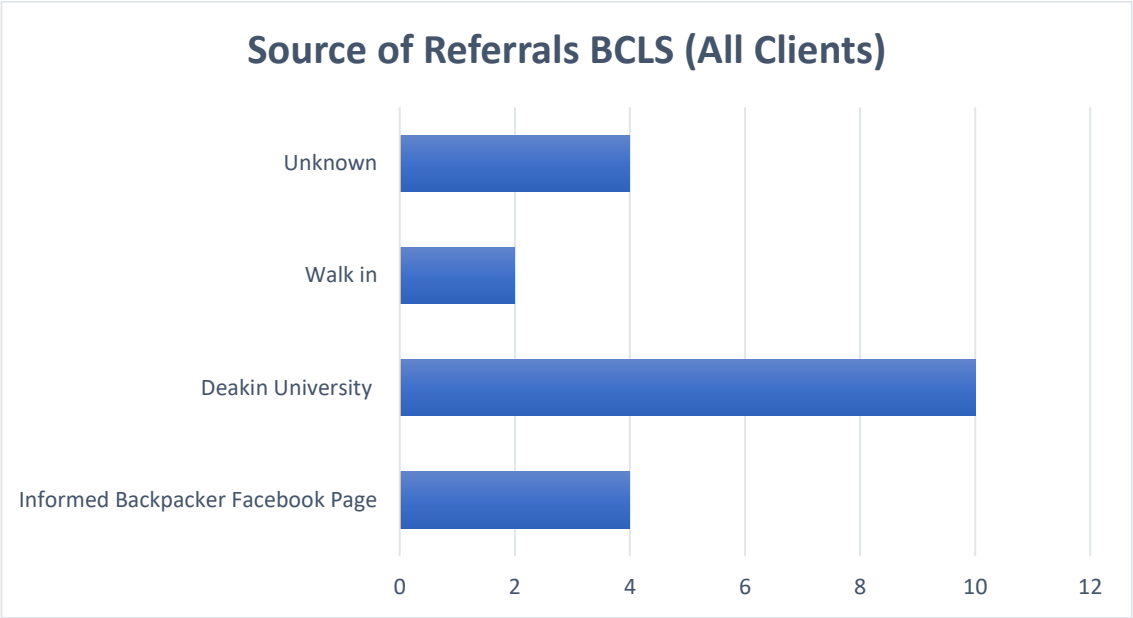
By far, the main source of client referrals for GVCLC was the 'Backpacker BBQs and Pizza Nights' that were held in and around Shepparton. A total of **52** client referrals resulted from these events. Other sources of referrals were:

- 5 referrals from JobWatch
- 5 referrals from the National Union of Workers
- 6 walk in clients
- 1 client from the Migrant Workers' Centre
- 1 client referred by the Fair Work Ombudsman

BCLS

The main source of referrals for BCLS was the CLE activities conducted by BCLS staff at the Waurm Ponds campus of Deakin University. This was followed closely by the Informed Backpacker Facebook page that BCLS set up as well as walk-in clients.

Please see below for a graphical representation of the sources of referrals for BCLS.



The main source of client referrals for BCLS were via the relationship BCLS established with the Waurm Ponds campus of Deakin University; **10** referrals, the majority international student (sub-class 500) visa holders. This was followed by the Informed Backpacker Facebook page with **4** referrals and **2** walk-in clients.

Case Studies

Andreas

Andreas was on a sub-class 417 visa and working as a bartender in a small bistro in the inner suburbs of Melbourne. Andreas had answered an advertisement in the newspaper seeking staff for the bistro and upon answering the advertisement was hired immediately.


Andreas was employed on a casual basis and was told that he would be earning \$17 per hour. Andreas worked with this employer for approximately a month, working up to ten hours per day, 6 days per week. He did not receive pay-slips and often was unable to take breaks as he was the only staff member working the bar.

One morning, Andreas received a text from his employer saying, 'We know what you did' and terminating his employment on the spot. He was further warned never to contact the employer again.

Andreas was bewildered by this and sent a number of messages in reply asking what he was supposed to have done. His employer replied accusing him of stealing tips and advising him that they had reported him to the police.


Andreas approached JW seeking information on his employment rights.

JW was able to assist Andreas by providing a warm referral to Fitzroy Legal Service for criminal law advice. Additionally, JW informed Andreas that he had been substantially underpaid by his employer and assisted him with filing an underpayment claim with the Federal Circuit Court of Australia. The matter settled two days prior to the hearing and Andreas was paid all the monies owed.



IT'S SO GREAT THAT THERE ARE PEOPLE OUT THERE HELPING TEMPORARY VISA WORKERS. SO MANY PEOPLE ARE UNDERPAID/MISTREATED/UNINFORMED. SOMETIMES THIS CAN BE BECAUSE OF A LANGUAGE BARRIER OR THAT THEY ARE FORCED IN TO AGREEING TO LESSER TERMS I.E.: - REGIONAL WORK, TIME LEFT TO DO REGIONAL WORK ETC. IT'S AMAZING TO KNOW THAT YOU CAN DO SOMETHING ABOUT IT & KNOW YOUR OWN WORTH.

- Client Post-Advice Survey



I BELIEVE THIS IS AN EXCELLENT SERVICE. I KNOW THAT I AM NOT THE ONLY FOREIGN NATIONAL ON A WORKING HOLIDAY VISA IN AUSTRALIA WHO IS BEING EXPLOITED BY ILLEGAL WORK PRACTICES. WITHOUT HAVING THIS SUPPORT I WOULD NOT HAVE BEEN ABLE TO GET TO THE RESOLUTION WHICH WE HAVE DONE.

Emily

Emily is a sub-class 417 visa holder from the United Kingdom who was working for a medium-sized retail establishment in the Melbourne CBD. Emily was employed on a permanent part-time basis but was often required to work 38 to 40 hours per week. Emily was paid a flat rate of \$22 per hour for all time worked, including weekends and public holidays. She was also not paid overtime for the hours she worked in excess of her agreed weekly hours.

Approximately five and half months into her employment, Emily's employer was informed of the six-month limitation on working with one employer condition attached to the 417 visa. Emily had not thought it applied as she had worked at two different locations for the same employer and thought she fell into a category that was exempted from this rule. Emily's employer sought advice on this issue and decided to terminate Emily's employment summarily.

Emily sought advice from JW as to her rights.

JW was able to assist Emily by informing her of her rights under her relevant modern award – most particularly her rights to notice of termination, overtime requirements and penalty rates. JW calculated the underpayments that were owed to Emily and drafted a letter of demand to her employer on her behalf. Her employer agreed to settle the matter and remitted to Emily unpaid wages in the amount of \$6000.

Tran and Soraya

Tran and Soraya are from the United States and working in Victoria on sub-class 462 visas. They have been working in regional Victoria for approximately 10 months travelling from farm to farm picking fruit on the Harvest Trail. Tran and Soraya's employment to date has been subject to piece rates, meaning that they are not paid by the hour, but by the number of bins picked. The *Horticultural Award 2010* provides that any piece rate set by an employer must allow the 'average, competent employee' to pick enough bins per day to earn the equivalent of 15% above the applicable hourly rate in the Award.

Tran and Soraya had been working with a Labour Hire Contractor who provided labour for local farms in the area. The Labour Hire Contractor sourced their workforce from a particular hostel where it was understood that in order to be given work, the workers must stay at that particular hostel. After a few days picking at local farms, it became apparent to Tran and Binh, who were experienced fruit pickers, that the pick rates set by the employer were far too low. Based on the size of the bins required to be filled and the variations in the produce required to be picked from farm to farm, an average competent employee could not pick enough by way of bins to earn at least the equivalent of the minimum hourly rate, let alone 15% above.

Tran and Soraya approached GVCLC, having been present at one of the community events held by that organisation, in order to understand their rights.

GVCLC was able to assist Tran and Soraya by calculating, based on the information provided, what an adequate piece rate should have been – based on the size of the bins used and the number of hours it took the average competent employee to pick them. Based on these calculations, GVCLC drafted a letter of demand to Tran and Soraya's employer seeking unpaid wages based on their assessment of what the adequate piece rate should be.

The employer did not agree with the calculations formulated by GVCLC and would not settle. GVCLC filed a claim with the Federal Circuit Court seeking the amount claimed by way of an underpayment. JobWatch was able to assist GVCLC by appearing on their behalf at the hearing – where the matter was negotiated further and settled. Both clients were paid the monies claimed.



THE SERVICE WAS IMPECCABLE.
I FELT ASSISTED THROUGHOUT
THE WHOLE PROCESS. IT MADE
ME FEEL SAFE IN A FOREIGN
COUNTRY WHERE I KNOW
LITTLE ABOUT WORK
REGULATIONS

Client Post-Advice Survey

Discussion and Recommendations

There were several challenges with this project, but in spite of this each partner CLC was able to achieve strong outcomes for their individual clients. Across the project over \$100,000 of wages was recovered, 196 clients were provided with assistance or casework, and many new stakeholder relationships have been built.

In addition, some unexpected longer-term benefits have occurred as a result of the project. BCLS have indicated that they will continue to offer employment law as part of their generalist practice and staff surveys suggest an increase in confidence amongst BCLS staff in this area of law. This has come about as a direct result of the strong partnership developed during the Project translating to an improved knowledge of employment law and now a direct referral pathway between JW and BCLS.

GVCLC also indicated that they have developed a stronger referral and assistance pathway with JW, and noted that for clients that they service for other issues, employment law issues are often an interrelated issue, that can now be addressed as part of their general service.

Other specific items of note are discussed below.

Unique Nature of Target Cohort

Experience has shown that Working Holiday Makers, particularly in regional areas, are highly itinerant. If they are working in the horticultural industry, workers are often moving from farm to farm and do not stay in one area for any appreciable length of time. Pursuing a legal claim under these circumstances may be low on their list of priorities, especially as they may be moving quickly to another job. GVCLC noted that many WHMs in and around the Shepparton region often lacked transport options. They were often dependent on their employer (in many cases a labour hire organisation) for transport from their hostel or caravan park to the farms where they were working and back again.

As a result of this, traditional methods of engaging those workers who may have benefitted from learning more about their work rights or who may have had an employment law issue they wanted to pursue, simply did not work and new approaches were trialed with success: GVCLC created forums designed to take information and advice *to WHMs* rather than relying on methods that required WHMs to come to them. Flyers were disseminated by hand to local hostels and caravan parks and where required, and GVCLC arranged transportation to and from events (such as the Backpacker BBQs that were held at a central location in town) where information and advice could be provided. JW did something similar in attending hostel 'Job Fairs' whereby information could be provided on the night and contact details provided if a WHM chose to follow up.

A strong target cohort was also identified in the metro area – with WHMs living and working in Melbourne seeming more likely to come forward with issues. JW was well placed to take on demand from WHM for Employment Law services through its existing Telephone Information System (TIS)

Recommendation 1

Move away from a traditional walk-in / appointment based legal clinic model for this cohort or similar cohorts which are itinerant or have low access to transport. Alternative methods of engagements, like those indicated above, should be explored. Use of incentives, such as provision of food and drinks, where there is budget, should be explored further.

Single Point of Contact

As WHMs are itinerant and moving frequently from place to place, the model of independent regional 'hubs' for service under this project was, at times, confusing. A client might enter the service in a regional area where they were staying but then quickly move away to another area of Victoria or even elsewhere

in Australia or overseas. This meant that the entry point and service journey for potential clients was unclear, as each regional area was advertising independently. The majority of the case work undertaken during the life of the Project was drawn from clients seeking assistance from the JobWatch TIS – the CLC partners were able to pivot to encourage more referrals through JW and out to the regions which seemed to be clearer.

Recommendation 2

There would be benefit in further exploring investment in a single point of access for WHM in Victoria would increase visibility of and engagement with the service – as the ‘brand’ would be visible across all of regional Victoria as WHMs move from place to place. Rather than three points of contact advertised concurrently, it could be more efficient to choose, and advertise widely, one primary point of contact from which referrals can be made to the appropriate catchments as required.

Clear and Targeted Messaging

The resources produced during this project contained a lot of useful information but were not necessarily designed in a way that communicated the message clearly to potential clients. Early incarnations of brochures produced were too busy and potentially had the effect of overwhelming the reader with a barrage of information that they had no frame of reference for.

The CLCs also noted that many WHMs would wait until the end of their stay to pursue employment law related claims. This made pursuing underpayment claims (where matters are often listed nine months or more post filing) problematic as the client has often returned to their country by the time the matter is heard.

Recommendation 3

Simplify the CLE materials produced to ensure clear messages to support communication of legal information. As with Recommendation 2 promotion of a single point of contact for information might help. BCLS’s simple, well designed postcards and flyers are an excellent example of this. The simplified CLE materials were produced later in the Project; however, it likely came too late to make any appreciable difference to the uptake of clients.

Recommendation 4

Targeted advertising urging WHMs to seek information and advice **early** (‘If you think something is wrong, call us’) is strongly recommended for any future project. This would help encourage WHMs to access services and make claims prior to the end of their visa and prior to returning to their home country.

Improved use of legal needs evidence to identify priority catchment areas

BCLS was initially selected as a project partner on the basis that the region contained a number of industries that utilise significant numbers of temporary workers. These industries included meat processing, dairy farming, horticulture and hospitality/tourism operations, the assumption was made that the industries identified would prove a significant source of TVWs who would benefit from the Project. The expectation was that through the course of the Project, BCLS would verify these assumptions and develop data. It became apparent, however, that the demand for WHM/TVW-related legal assistance in this region was far less than anticipated.

Reasons for this included:

- Barwon South West is not a target destination for backpackers. The official Harvest Trail Guide published by the Federal government does not feature any work within the Barwon region.
- While dairy farmers occasionally employ backpackers, they only take on one to two at a time. The work is not seasonal and therefore farm hands are required all year round. Dairy farmers prefer experienced staff with the capacity to stay for extended periods. Those who do employ backpackers have a reputation for treating their staff well – many farms have fresh milk contracts with major supermarkets and are therefore heavily audited.

- There are just seven backpacker hostels across the region and many of them host equal numbers of domestic visitors as they do international visitors. None of the hostels have arrangements with labour hire companies.
- Meat processing factories across the region are known to employ overseas workers, however very few employ working holiday makers.
- MADEC who is the contracted provider of Harvest Labour Services reported that there were just 3 vacancies for backpackers advertised in the Barwon South West Region in 2018/19.

BCLS research was verified by data from the Australian Tax Office which showed that of the 6,000 businesses in Victoria who employ WHMs, just 281 operate in the Barwon South West region. ATO data also suggested that just 600 to 650 individual Working Holiday Makers were employed in the region in a single year (2016/17).

In spite of the team at BCLS undertaking a range of engagement activities including a survey of backpacker hostels, a backpacker insight survey and establishment of the Facebook page (The Informed Backpacker), demand for legal assistance from WHM was limited in Barwon. BCLS did identify an increasing number of International Students experiencing employment law issues in the area. International Students and other Temporary Visa Holders like WHMs often experience similar and/or overlapping systemic issues in regard to employment law which should be explored.

Recommendation 5

Further research should be conducted to understand where temporary visa holders and WHMs are being employed to understand where future services could be concentrated or aimed.

Recommendation 6

More should be done to explore overlapping issue between WHM and International Students, with an aim to understand how to better understand, provide services and to advocate for improvements to employment law issues as experienced by both cohorts.

Referrals

The Fair Work Ombudsman plays an integral role in its capacity to provide information to temporary visa workers in Australia; importantly, it also plays an integral role in its capacity to refer clients that require more in-depth assistance to state-based CLCs working in the employment law sector. The majority of the case work undertaken during the life of the Project came as a result of FWO referrals to JobWatch.

The work done during the Project has helped to cement the referral pathway between the Fair Work Ombudsman and the JW TIS. Firm referral pathways have also been established with Consulates in Melbourne and in Sydney. These additional referral pathways will build on those already established – such as the Migrant Workers' Centre and Unions.

Conclusion

The work of JobWatch, Barwon CLS, and Goulburn Valley CLC has contributed to positive achievement towards the High-Level outcomes of the project as summarised below.

1. Increased awareness among WHM's of their workplace rights and enable them to enforce those rights.

Almost 200 clients on WHM or other Temporary Visas were provided with legal advice or casework – and 100% of clients surveyed reported a greater understanding of employment law rights in Australia. Over \$100,000 of monies was recovered across the 18 month project – indicating that clients were able to

enforce their rights and receive appropriate compensation as agreed between themselves and the employer.

2. Increased experience and capacity of CLCs in Victoria to provide employment law advice to temp visa workers

Both BCLS and GVCLC have indicated that within their practices, staff knowledge of employment law issues has increased and that both have seen a benefit from engaging in the project from this perspective. BCLS will continue to provide some employment law services in their general practice, and GVCLC has indicated that increased knowledge of employment law will contribute to better outcomes for some complex clients. JW provided secondary consultations to both regional CLCs across the project, and has committed to supporting those CLCs where appropriate in the future as the state's specialist Employment Law CLC.

3. Continue to attract workers from other countries to regional Victoria and ensure that it is seen as a place that respects and protects the work rights of international workers;

It was beyond the scope of this project to measure success against this outcome – except to note that amongst the clients seen by the CLCs in regional areas has their rights advocated for, and many were able to achieve successful outcomes.

In spite of some difficulties, the project was successfully able to advocate for good outcomes on behalf of clients, and all project partners were able to reflect on, and learn from the process. The project evaluation being conducted currently will provide further insight into success, challenges, and learnings to be taken forward.

Program Logic Report

1.1 People on WHM Visas have increased access to Employment Law services

Outcome measures:

- **22** WHM clients contacted JW in 6 months prior to the commencement of the Project and **21** in the final 6 months of the Project.
- **0** WHM clients contacted or were referred to partner CLCs in 6 months prior to commencement of Project as employment law was not a service offered by either GVCLC or BCLS. In the final 6 months of the Project GVCLC assisted **50** clients by way of advices and casework and BCLS assisted **11** clients by way of advices and casework. This is a **500%** and **110%** increase respectively.
- **0** employment law clients/matters received by partner CLCs in 6 months prior to Project
- **50** employment law clients/matters received by GVCLC in final 6 months of Project; 11 employment law clients/matters received by BCLS in the final 6 months of the Project.

Activities:	Measure or target	Due date	CLC Responsible	Outcome	Comment
1.1.1 1.1 Provide legal assistance (advice or casework) to clients on WHM visas	250 clients in project period	31 March 2020	All CLCs	195 clients as at 31 March 2020	
1.1.2 1.1.1 Assist clients from Barwon Region	50 clients from this region	31 March 2020	BCLC	20 clients at 31 March 2020. (It should be noted that 8 additional clients were seen, however, they were unrelated to the Project.)	As explained in the narrative summary, it was concluded that the Barwon area was not a high priority need area. Despite the best efforts of all staff involved, the uptake of clients and casework proved very difficult. BCLS undertook 4 cases and recovered a total of \$0.
1.1.3 1.1.2 Assist clients from	50 clients from this region	31 March 2020	GVCLC	88 clients at 31 March 2020. (It should be noted that an additional 5 clients	23 cases and a total of \$27 412 recovered.

Goulburn Valley				were seen, however they were unrelated to the Project)	
1.1.4 1.1.3 Assist clients in metro Melbourne or other areas	50 clients from this region	31 March 2020	JW	89 clients as at 31 March 2020.	38 cases and a total of \$74 398 recovered.

1.2 Increased engagement with key stakeholders to improve referral pathways					
Outcome Indicators: <ul style="list-style-type: none"> Increased referrals from targeted sources e.g. FWO; Migrant Workers' Centre; consulates; embassies Increased opportunities for CLE with stakeholders (e.g. attendance at Job Fairs; presentations at hostels) 0% increase of referrals from established referral pathways (e.g. Italian consulate; Migrant Workers' Centre) 					
Activities:	Measure or target	Due Date	CLC Responsible	Outcome	Comment
1.2.1 Identify key stakeholders to engage with	Stakeholder map produced	15 September	All CLCs		Stakeholders were identified at various points in project
1.2.2 Engage with FWO	3 meetings attended Referral pathway developed 50 clients referred by FWO	Meetings attended: 30/11/19 6/6/19 30/7/19 31/03/2019	JW JW JW JW	<ul style="list-style-type: none"> JW met with FWO to discuss Project and forging referral pathways. Project documents were also provided for circulation within the FWO JW met with the FWO to further discuss Project. JW presented Project at FWO Branch meeting - discussing need for referral and offering a JW lawyer to train FWO Infoline staff Referral pathways developed 74 clients referred by the FWO by the end of the Project 	Referral pathways already firmly established with the FWO and JW TIS. Assured that WHM/TVWs would be similarly referred Referral pathways reiterated, offer of training for Infoline staff warmly received.
1.2.3 Engage with MRC	a) 3 meetings attended	12/2/19 15/2/19 19/3/19 29/3/19	JW JW/GVCLC/BCLS JW JW	<ul style="list-style-type: none"> JW (with other CLCs) met with Migrant Workers' Centre on many occasions to discuss: 	10 meetings attended referral pathways firmly established

	<p>b) Referral pathway developed</p> <p>c) # clients referred by FWO</p>	<p>30/4/19</p> <p>15/5/19</p> <p>25/6/19</p> <p>3/7/19</p> <p>28/8/19</p> <p>15/1/2020</p>	<p>JW</p> <p>JW</p> <p>JW</p> <p>JW</p> <p>GVCLC/JW</p> <p>JW</p>	<ul style="list-style-type: none"> • General project • Producing visual media about migrant workers' rights • Referral pathways • transgender issues in the workplace 	not known if FWO referred clients to the MWC
1.2.4 Engage with other potential stakeholders	<p>Contact embassies and consulates in and around Melbourne to inform them of Project and establish referral pathways</p> <ul style="list-style-type: none"> • French • Spanish • Chinese • Korean • Columbian • Chilean • Argentinian 	23/9/20 19	<p>JW</p> <p>BCLS</p> <p>BCLS</p>	<p>JW has reached out to the following consulates and Consul-Generals in Melbourne:</p> <ul style="list-style-type: none"> - French Consulate - Spanish Consulate - UK Consulate - Columbian Consulate - Chinese Consulate <p>Firm referral pathways have been established with the French Consulates in Melbourne and in Sydney, who have in turn put JW in touch with the Canadian Consulate in Sydney</p> <p>Spanish consulate agreed to provide referrals to project</p> <p>BCLS formulated a letter to consulates, including the Chilean consulate in late November 2019.</p>	

1.2.5	Establish referral pathways with Labour Hire Authority	Referral pathway established	1/10/2019	GVCLC	Contact was made with the Labour Hire Authority early in the Project – however it did not prove to be a source of referrals. GVCLC attended an information session on the Labour Hire Licensing Scheme on 28/3/2019.	
1.2.6	Establish referral pathways with MADEC	Referral pathway established	1/10/2019	BCLS	On 16/8/2019 BCLS conducted a meeting with the state manager for MADEC which holds the contract for the National Harvest Labour Information Service. The main purpose of the meeting was to explore possible avenues to increase BCLS' uptake of clients in the Barwon region. However, information gained from MADEC confirmed that there were not many Harvest Trail vacancies in the Barwon Southwest region, nor was it typically, a prominent area for WHM seasonal work.	

1.3 Increased engagement with potential clients from NESB

Outcome Indicators: <ul style="list-style-type: none"> • 0 of clients contacting service as a result of brochure/postcard dissemination • 0% increase of contact from Hostel owners/guests following presentation/dissemination of fact sheets 					
Activities:	Measure or target	Due Date	CLC Responsible	Outcome	Comment
1.3.1 Increase awareness of Project among target client base	a) Amalgamation of three brochures into one more targeted brochure	30/10/19	JW	JW formulated a mock-up, simplified brochure that posited JW as the central point of contact for WHM/TVW's in the Melbourne CBD. JW liaised with Golden Gully Designs to produce the required brochure.	Simplified brochure produced. Please see Attachment 1 . Prelim inquiries \$140 per language for translation. Translation was deferred, however, until the continuation of the Project could be confirmed.
	b) Graphic designer to render design professional	30/11/19	GVCLC		
	c) Translation into 4 languages (as determined by DHA report as top NESB countries to be granted visas) <ul style="list-style-type: none"> ○ French ○ Spanish ○ Chinese ○ Korean 	10/11/19	JW		
.3.1 Greater concentration of advertising of Project in city and surrounding suburbs – as well as in regional areas	Advertising in: <ul style="list-style-type: none"> • Metro Melbourne • Geelong • Goulburn Valley 	1/11/2019	JW	JW met with a representative of LMB Media to arrange for targeted advertising around the Melbourne CBD. The advertising campaign involved a mix of '7 premium digital smart-frames' – primarily on tram stops and the backs of phone boxes – and 29 street talk signs in the Melbourne CBD and in	Please see Attachment 2 for finalised JW advertisement Please see Attachments 3 and 4 for finalised BCLS postcard design and poster for billboards. Please see Attachment 5 for an example of the GVCLC flyers advertising their events.
		1/11/2019	BCLS		
		1/11/2019	GVCLC		

				<p>St Kilda. The advertisements ran for 2 weeks and 3 weeks respectively from January 6 to January 27 2020.</p> <p>In late October 2019 BCLS designed a range of postcards and simple flyers that were sent out to local caravan parks and hostels in the Geelong area. A number of community billboards were also commissioned at primary locations around the Geelong area to advertise the BCLS service. The billboards ran for 8 weeks over the December 2019-Jan 2020 period.</p> <p>GVCLC concentrated on promoting their BBQ/Pizza Night initiatives with the distribution of flyers in and around the Shepparton area.</p>	
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1.3.3 Greater dissemination of information to backpackers in city	Hostel drops, events:	31/3/2019	JW	On the 9/12/2020 and 13/12/2020 JW arranged a targeted drop of the simplified brochure at Backpacker Hostels in the Melbourne CBD. In addition to delivering brochures, the offer was extended to deliver information seminars about work rights to guests. The following locations were targeted: <ul style="list-style-type: none"> • Flinders Backpackers • United Backpackers • Youth Hostels Australia headquarters in Flinders Street • Nomads Backpackers • Melbourne City Backpackers (which appeared to have closed down) • Base Backpackers in St Kilda were also supplied with copies of the brochure • Backpacker hostels were also targeted around the Victoria Market area – 	
	• minimum of 10 hostel drops	31/3/2019	JW		
	• min of 2 events held e.g. coffee cart?	31/3/2019	JW		

				however Bozo Backpackers appeared to have closed down.	
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1.4 Increase engagement with clients via alternative methods (other than clinics)					
Outcome Indicators: <ul style="list-style-type: none"> 34 advices given by GVCLC via alternative project delivery methods from July 2019 until March 31 2020. 8 advices were given by BCLS via contact with the Waurm Ponds campus of Deakin University. 100% of clients reporting greater understanding of employment law rights in Australia (as evidenced by post-advice surveys). 					
Activities	Measure or target	Due Date	CLC Responsible	Outcome	Comment
1.4.1. Engage clients over email	Min of 20 clients assisted by email	31 March	All CLCs	From the information supplied a total of 4 clients were assisted by way of internet/Facebook inquiries.	
1.4.2 Engage clients over Facebook	Min of 20 clients assisted via FB 3 clients assisted via FB inquiries.	31 March	All CLCs	All CLCs advertised the service on their CLCs respective Facebook pages and websites. BCLS created a discrete FB page called the 'Informed Backpacker' which was a source of 4 advices given by BCLS. Neither JW nor GVCLC, however, gained	

				much traction from FB advertising with the majority of clients coming from other sources.	
1.4.3 Backpacker BBQ's	<p>a) Backpacker BBQ's</p> <p>b) min of 8 events between November 19 and February 2020</p> <p>c) approximately 5 to 10 attendees at every BBQ/Pizza night, amounting to around 30-40 attendees in total.</p>	31/3/2020	GVCLC	<p>BBQ's/Pizza nights after July 2019 were held by GVCLC on the following dates:</p> <p>Thursday 5 Dec 2019 Friday 17 Jan 2020 Thursday 6 Feb 2020 Friday 14 Feb 2020 Friday 22 Feb 2020</p>	<p>JW travelled to Shepparton for the BBQ/ Pizza night held on Thursday 5 Dec. The remainder attracted less participants than the events that had been held in early 2019.</p> <p>While it is problematic to theorise, this may have been due to the bushfires in regional Victoria. Additionally, it was decided that BBQ's scheduled after 22 Feb would not go ahead due to the decision about the continuation of funding and concerns around COVID-19.</p>
1.4.4 Kombi Trip to Warnambool, Port Campbell, Torquay	<p>a) Min of 3 presentations given to hostels during trip</p> <p>b) # of advices/information given</p>	31/3/2020	BCLS	Did not proceed	It was decided by BCLS that, due to a lack of interest in the local areas, these activities would not go ahead.
1.4.5 Community Legal Education Weekly/fortnightly attendance at	a) Min of 1 attendance per week		BCLS	On the 2 July 2019, BCLS attended Deakin University in	This presentation proved to be a source of a number of advices given by BCLS and has forged a valuable link for BCLS with the

Deakin campus for clinic	b) min of 10 advices given		BCLS	Waurm Ponds and gave a presentation to over 150 international students.	international student cohort in the Barwon region.
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2.1 Increase the knowledge and skills of Employment Law in Victorian CLCs					
Outcome measures: <ul style="list-style-type: none"> Surveys distributed to partner CLC's at commencement, interim and conclusion of project: of the 6 staff that returned completed baseline surveys at the cessation of the project 85% of staff reported an increased knowledge of employment law (6 reported an increase in knowledge and 1 reported that their knowledge of employment law had remained the same.) Surveys distributed to participants after each training and PD session: 100% of staff reported an understanding of subject matter and broader understanding of employment law principles and application. 					
Activities:	Measure or target	Due date	CLC Responsible	Outcome	Comment
2.1.1 Provide mentoring to lawyer at BCLC	a) 20 secondary consults b) 2 shadowing opportunities	a) Ongoing b) Ongoing	a) JW b) JW	Provided approx. 6 secondary consults to BCLS since project inception	Due to a low client numbers there has been limited need for secondary consults. Offer has been extended to VG of BCLS to come to JW for shadowing – but was not pursued.
2.1.2 Provide mentoring to lawyer at GVCLC	a) 50 secondary consults b) 2 shadowing opportunities	a) Ongoing b) Ongoing	a) JW b) JW	Provided approx. 59 secondary consults to GVCLC since project inception. Shadowing opportunities provided on <ul style="list-style-type: none"> • 29/3/19 • 26/8/19 – 30/8/19 • 4/9/19 – Attended FCC for matter • 9/9/19 – 13/9/2019 • 23/9/19 – 26/9/19 • 13/12/2020 – Attended VCAT her matter 	

2.1.3 Provide PD workshops to CLCs	2 workshops provided to partner CLC's 20 attendees overall	31/03/2019 31/03/2019	JW JW	<ul style="list-style-type: none"> • Employment Law workshop conducted for staff at BCLS on 18/10/2019 – approx. 3 hours • Employment Law workshop conducted for staff at GVCLC on 26/10/2019 	
2.1.4 Meetings to discuss ideas and ways forward with partners	9 meetings held 3 to 4 attendees per meeting.	Meetings held: 11/10/18 15/11/18 4/2/19 8/5/2019 24/5/19 30/8/19 19/11/2019 29/11/2019 7/02/2020	ALL CLC's	<ul style="list-style-type: none"> • Meeting in Shepparton with all CLCs to discuss project • Teleconference with BCLS/GVCLC/JW to further discuss progress of Project • Teleconference with GVCLC/BCLS to discuss progress • Meeting with partners at JW to discuss upcoming report • Meeting with partners in Geelong • Meeting at JW with GVCLC/BCLS to discuss next steps • Meeting with JW and BCLS to discuss steps going forward • Liaised with BCLS over letters to consulates 	

				<ul style="list-style-type: none"> • Meeting with partners to discuss possible referrals of existing cases 	
2.1.5 Meeting with wider network of CLC's to raise awareness of Project and encourage referrals for WHM	6 meetings attended	CLCs present included: Justice Connect; Fitzroy Legal Service; Young Workers' Centre; Victorian Aboriginal Legal Service; VLA; Springvale/Monash Legal Service; WEstJustice; representatives from the Federation of Community Legal Centres; Eastern Community Legal Centre; Inner Melbourne Community Legal Centre	All CLC's	<p>JW attended meetings with other CLCs on the following dates:</p> <p>22/7/2019 – meeting at the Federation of Community Legal Centres offices where awareness was raised about the Project</p> <p>4/9/2019 – attended the Victorian Employment Law Working Group where awareness was raised with other CLCs about the Project</p> <p>7/11/2019 – training with QC Mark Irving was attended by all CLCs, where awareness was raised about the Project and questions asked relating to GVCLCs matters concerning piece rates.</p> <p>27/11/2019 – attended the Victorian Employment Law Working Group where awareness was raised about the Project.</p>	

3.1 clients on WHM visas have their work rights advocated for

Outcome measures:

- **75% clients with positive outcomes (successful advice or settlements by way of case work or court work). 4 clients did not proceed; 2 matters failed to settle and 11 remain ongoing (including 3 referred by GVCLC to JW)**
- **Cash recovery total by CLC: JW: \$74 398; GVCLC: \$27 412; BCLS: \$0.**
- ***Success of advocacy/systemic work will need to be monitored longer term***

Activities:	Measure or target	Due date	CLC Responsible	Outcome	Comment
All Service Delivery will contribute to achievement of this outcome (see outcomes 1.1 - 2.1)	Actions completed	Ongoing	All		
3.1.1 Strategies re: systemic advocacy	Systemic issues are identified Collaboration with GVCLC and BCLS regarding systemic advocacy – particularly with regards to ‘piece rate’ agreements and the pursuit of penalties	Ongoing	JW and GVCLC	GVCLC and JW collaborated on systemic issues surrounding piece rates. Two cases were referred to JW by GVCLC at the conclusion of the Project and an FCC hearing was attended by JW. During the hearing the presiding Judge suggested that the parties try and settle the matter, considering the complexity of the matter and the paucity of available evidence on both sides. The crux of	The work that was done by GVCLC around the setting of inadequate piece rates by employers in the Shepparton area provided tangible avenues for further exploration. While the cases brought before the FCC did not provide the desired clarity around the application of the CI 16 provisions in the <i>Horticultural Award 2010</i> – it is an avenue well worth pursuing for any future projects in the

				the clients' arguments centred on what constituted the 'average, competent, employee' – and the lack of employer records rendered this problematic in the small claims jurisdiction. Both matters were settled subject to a Deed.	
3.1.2 Media releases/ policy and/or strategic work planned	Formulation and dissemination of formal Communications and Media Engagement Plan	1/11/2019	JW to propose guidelines and formulate plan – to be approved/amended by GVCLC/BCLS	IRV advised that a direct contact would be provided in their comms/media team and all media requests would be actioned within 48 hours. This was agreed by all CLCs.	

Project Management					
Activities	Measure or target	Due Date	CLC Responsible	Outcome	Comment
Partner CLC to provide JobWatch with monthly reports detailing clients assisted/clinics planned/CLE engagement/alternative activities planned and/or executed	a) # of client assists b) # of clinics planned (outcome of clinics) c) # presentations given d) # of alternative activities (e.g. backpacker BBQ's/Deakin clinics attended)	Every month going forward (reports on clients assisted/CLE engaged in have been supplied to JW since July 2019)	GVCLC/BCLS	Reports were provided.	

JobWatch to provide VLA with consolidated report	Three reports provided to VLA since Project beginning: Report on Establishment Phase; Report on Phase 1; Interim Report	Reports submitted on the following dates: 17.12.2018 10.07.2019 04.12.2019	JW	Reports were provided.	
Project meetings planned	JobWatch to arrange quarterly meetings with BCLS/GVCLC	11/10/18 22/2/2019 10/5/2019 24/5/2019 30/8/2019 19/11/2019 29/11/2019 7/2/2020	JW	Meetings were conducted with project partners to discuss progress, problems and plans going forward.	
Consolidation of amended service delivery plan	Formal plan (to be reflected in advertising) to have JW as primary hub of client engagement (predominantly via TIS) and refer as appropriate to partner CLC's when client falls within catchment	1/11/2019	All CLC's	All CLCs agreed to formal plan whereby JW would be posited as the primary source of contact and refer clients where appropriate. This approach was reflected in amended brochure, JW advertising campaign in Melbourne CBD and BCLS	

				billboard advertisements.	
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Note from Zana Bytheway, JobWatch Executive Officer

Together with its CLC partners JW would like to thank IRV for funding this worthwhile Project and VLA for its support.

JW would also like to thank its CLC partners for their commitment and excellent contribution to the Project. Strong relationships have been forged and will endure. We wish GVCLC and BCLS all the very best in the future.

While the provision of meaningful assistance is an important aspect of this Project, more important still is the opportunity it provides to communicate to TVWs that there is an organisation that a working traveler to Victoria can reach out to for help. Knowing of and being able to access expert assistance easily is key to empowering TVWs workers to exercise their workplace rights.

All TVWs living and working in Victoria should be afforded a positive experience. The message that they share with friends and family should be that Victoria is a great place to visit and a great place to work.

JW firmly believes that a need for the Project has been well established and that an extension of the initial grant of funding would enable JW under a new service model to build on the successes achieved so far. JW has a proven track record and the capacity to continue service delivery. Strong referral pathways and the far-reaching capabilities of the TIS enables JW to identify and assist TVWs not only in the CBD but being statewide, can also identify other regions where support may be needed.

To end the Project too soon would be to lose the momentum hard won over the course of the Project.

We have only scratched the tip of the iceberg; there is so much more that can, and should, be done.