

Community- Based Employment Advice Services Review

Fair Work Ombudsman

*Community-Based
Employment Advice
Services Review*

January 2016

FINAL REPORT

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Executive summary

Objectives of the review

PwC was engaged by the Fair Work Ombudsman to conduct an independent review of the Community-Based Employment Advice Services (CBEAS) funded to provide advice, assistance and information to workers who experience difficulties in asserting and exercising their workplace rights.

The objectives of the review are to:

- assess the effectiveness of the CBEAS against the program guidelines
- explore the role of the CBEAS in supporting vulnerable and disadvantaged workers in the context of other funded programs and services
- develop a high level assessment of the current demand for employment advice for high priority population groups
- review the alignment between program activity and program need
- identify potential future options for delivery of the program.

Scope of the review

The scope of the review is limited to the five organisations funded by the Fair Work Ombudsman to deliver the CBEAS program. These organisations are:

- The Working Women’s Centre, Northern Territory
- The Working Women’s Centre, South Australia
- The Working Women’s Service, Queensland
- The Employment Law Centre of Western Australia
- JobWatch, Victoria.

Background

The workplace relations framework in Australia is comprised of a complex system of laws, regulations and institutions. A key part of the framework is the range of laws that protect employees from discrimination, bullying, unfair treatment and dismissal.

The Fair Work Ombudsman was established by the Commonwealth Government to provide information, education and advice on workplace relations legislation, and where necessary enforcement of the legislation. The objective of the Fair Work Ombudsman is to support Australian workplaces so they can be compliant, productive and inclusive.

The CBEAS program plays a role in the workplace relations system by providing information, advice and assistance to workers who experience difficulties in asserting and exercising their workplace rights. It is based on the premise that some workers, because of their industry, occupation, employment status or personal characteristics, are more likely to be vulnerable to exploitation and less likely to be equipped to assert their rights.

It is important to note that the CBEAS program is not available to workers across Australia. CBEAS are funded in Victoria, South Australia, Western Australia, Queensland and the

Northern Territory, while Tasmania, New South Wales and the Australian Capital Territory do not have an equivalent service. There are also access issues within the jurisdictions where CBEAS are operating due to limited outreach work and service provision to regional and remote areas.

The CBEAS also have different policies and practices around targeting assistance to need. The current allocation of funding to each of the five services is primarily based on historical decisions, and is not underpinned by a funding formula, meaning that funding may not be directed to where need is the greatest.

Current program funding for the CBEAS ceases on 30 June 2016. There is an opportunity to align future program design and funding allocations with need and to provide more equitable access to employment advice and assistance across Australia.

Key findings

There are two distinct models funded through the CBEAS program, with the Community Legal Centre model better able to leverage in kind support

There are two distinct models funded through the CBEAS program, a Working Women's Centre model and a Community Legal Centre model. The significant differences between these two models make it difficult to compare the services. While there are some similarities in the types of clients and employment problems they provide assistance with, the services have different objectives, philosophies and approaches to serving their client base.

The first is the Working Women's Centre model that is operating in South Australia, Queensland and the Northern Territory. Working Women's Centres are not-for-profit, community service providers that provide advisory and advocacy services exclusively to women on workplace relations matters.

The second model is the Community Legal Centre model that is operating in Western Australia and Victoria. These CBEAS are not-for-profits that provide specialist employment law advice and assistance, and represent clients in a limited number of matters.

The key difference between the two models is the legal nature of the advice provided by Community Legal Centres. Given that the Community Legal Centres form a part of the national network of Community Legal Centres, they are also able to leverage significant in kind and pro-bono support to extend the reach of the centres.

Both models are broadly meeting the program objectives

The data collected by each of the CBEAS show that they are broadly meeting their objectives by providing primary advice, assistance and information to a significant number of workers on workplace relations matters.

The service mix and strategic directions adopted by each of the CBEAS vary, and CBEAS have different policies for triaging services and targeting the greatest areas of need. However, the data show that it is predominantly workers with one or multiple indicators of disadvantage who are accessing the services, particularly the more intensive case work services.

PwC notes that some CBEAS are not meeting all reporting requirements specified in the Grant Program Guidelines and individual funding agreements.

The services appear to be filling a gap by assisting vulnerable and disadvantaged workers

In the states and territories where CBEAS are operating, they are fulfilling a need for employment advice. This is demonstrated by the data collected by CBEAS, which show high levels of demand for assistance from workers with indicators of disadvantage and vulnerability.

It is clear that there are few alternatives for a non-unionised worker with limited means to seek advice and information on their workplace rights that is tailored to the individual's circumstances. Employment law is a complex jurisdiction and there can be multiple avenues to enforce rights and seek remedies. CBEAS are in a position to provide information and advice to enable a worker to assess the best option available to them.

Additionally, the CBEAS appear to be fulfilling functions that are complementary to the Fair Work Ombudsman's role and objectives.

There is inconsistent coverage across Australia creating inequity of access

Due to historical funding cuts, organisations that provided employment advice and assistance in some jurisdictions were closed. There are currently no CBEAS in Tasmania, New South Wales and the Australian Capital Territory.

In South Australia, Queensland and the Northern Territory CBEAS only provide assistance to women. As a result, vulnerable or disadvantaged men in these locations have limited or no avenues to seek employment advice. Further, some CBEAS don't have the resources to provide outreach services to regional and remote communities, meaning workers in these areas don't have access to employment advice.

This has led to inconsistent coverage and issues of "postcode justice", where access to employment advice depends on where a person lives, their characteristics and the services available in that area.

The approach to setting funding allocations for the CBEAS also appears to be inconsistent, and is not underpinned by a funding methodology based around need or other factors.

The services often act as a "canary in the coal mine" on emerging issues affecting vulnerable and disadvantaged workers

The CBEAS play a role in highlighting emerging issues facing disadvantaged and vulnerable workers, through law reform and policy submissions to governments. CBEAS have also represented clients in cases that have brought attention to sensitive workplace issues affecting workers, for example JobWatch's recent legal representation of clients in matters involving family violence and sexual harassment.

Further, the data collected by CBEAS are unique and have informed research undertaken by universities and other institutions. These collaborations are resulting in a richer evidence base in Australia on employment law issues facing vulnerable and disadvantaged workers.

Recommendations

Based on our analysis, we have established that the CBEAS program has a number of strengths, and is filling a gap for employment advice for vulnerable and disadvantaged workers. However, there are a number of challenges associated with the current service delivery model, particularly in relation to how the program is targeting and meeting need.

The following outlines a number of recommended changes to the way that the program is designed, funded and procured.

Recommendation 1: Design a revised employment advice model that provides high-quality, accessible and cost-effective advice and information to those most in need

PwC recommends that a revised model is designed for any future iterations of the CBEAS program, which is informed by the following principles:

- high quality advice for workers on employment law issues
- equal access across and within jurisdictions

- cost-effective service provision, including greater use of funding to leverage monetary and in kind support from other sources
- services that are embedded within the existing workplace relations architecture, with strong networks across government, businesses, unions and the community sector.

Based on the characteristics of the new model, an assessment should be made as to which government agency is the most appropriate funder of the model going forward. Options could include the Department of Employment, the Fair Work Ombudsman or the Attorney-General's Department.

The revised model should also establish more targeted guidelines, reporting requirements and performance indicators.

PwC recommends that a contestable procurement process should be conducted for any future iterations of the program.

Recommendation 2: A funding formula should also be established based on an assessment of need

PwC recommends that a formula approach be adopted to determine the allocation of funding to employment advice services going forward.

The formula should be based on an assessment of demographic categories of need, and should also reflect the efficient cost of service delivery, the characteristics of the service and other revenue sources available to the service.

Recommendation 3: Develop a roadmap for revising the current service and funding models and moving to an open procurement process

PwC recommends that a roadmap should be developed to allow for:

- an assessment to be undertaken to confirm the greatest demographic categories of need for employment advice in Australia
- further development of the characteristics of the new service model
- development of a desired future funding model
- preparing potential service providers for an open and competitive procurement process.

Implementation approach

PwC's review has found that while the CBEAS are meeting the needs of many vulnerable and disadvantaged workers, there are significant opportunities to improve the current service delivery model in order to better target and serve those most in need.

Given that funding for the CBEAS is currently due to cease on 30 June 2016, PwC's view is that a brief transition phase should be considered which could entail rolling over contracts for a further six month period, in order to enable the implementation of the work program we have identified in our suite of recommendations.

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1 *About our approach*

Review objectives

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- The Working Women's Centre, South Australia
- The Working Women's Service, Queensland
- The Employment Law Centre of Western Australia
- JobWatch, Victoria.

Summary of review activities

PwC conducted a high-level review of CBEAS, including:

- A desktop review of relevant program documentation including program guidelines, reports, statistics and past reviews.
- Consultation with the five CBEAS funded through the program and the Fair Work Ombudsman.
- Analysis of available data on the community advice landscape, particularly in relation to workplace relations advice.

2 Background and context

2.1 Workplace relations framework

The workplace relations framework in Australia is comprised of a complex system of laws, regulations and institutions. The Commonwealth Government's role in regulating workplace relations has increased over time.

In 2009-10, New South Wales, Queensland, Tasmania and South Australia referred their industrial relations powers to the Commonwealth. Victoria had already referred its powers in 1996. The Australian Capital Territory and Northern Territory are also covered by the national workplace relations system. Western Australia is the exception; it has not referred its powers to the Commonwealth.

The national workplace relations framework was established through the *Fair Work Act 2009*, and covers the majority of private sector employees and employers in Australia. The key elements of the framework are:

- a safety net of minimum terms and conditions of employment
- a system of enterprise-level collective bargaining underpinned by bargaining obligations and rules governing industrial action
- provision for individual flexibility arrangements as a way to allow an individual worker and an employer to make flexible work arrangements that meet their genuine needs, provided that the employee is better off overall
- protections against unfair or unlawful termination of employment
- wages and conditions must align to the 122 modern awards that regulate specific industries and occupations.

States systems regulate workplace relations for employers and employees who are not in the national system. Additionally, Commonwealth, state and territory anti-discrimination legislation prohibits discrimination in the workplace.

The key institutions that oversee workplace relations and enforce workplace rights are:

- Fair Work Commission
- Fair Work Ombudsman
- Fair Work Building and Construction
- state industrial relations commissions
- state and territory work safety regulators
- Commonwealth, state and territory anti-discrimination and equal opportunity commissions
- the court system.

Fair Work Commission

The Commission is the independent national workplace relations tribunal. It is also responsible for maintaining a safety net of minimum wages and employment conditions. The Fair Work Commission's key roles are to:

- hear unfair dismissal and unlawful termination applications
- resolve general protections claims
- accept and investigate bullying complaints
- approve registered agreements and variations to registered agreements
- make and change awards
- make decisions about industrial action and union activity.

Fair Work Ombudsman

The Fair Work Ombudsman enforces compliance with the Fair Work Act and related legislation, awards and registered agreements. It also provides advice and education to employees and employers, including through its website and Fair Work Infoline. This information is of a general nature and is not tailored to an individual's circumstances.

The Fair Work Ombudsman's key roles are to:

- provide information about Australia's workplace relations system
- educate people about fair work practices, rights and obligations
- resolve workplace issues by promoting and monitoring compliance with suspected breaches of workplace laws, awards and registered agreements
- enforce workplace laws and seek penalties for breaches of workplace laws.

Protections for employees

Australia has a range of laws that protect employees from discrimination, bullying, unfair treatment and dismissal. The key protections are set out in Table 1.

Table 1: Key protections for employees

Area of law	Description
Unfair dismissal	Unfair dismissal provisions in the <i>Fair Work Act 2009</i> provide for remedies for workers who are dismissed in a "harsh, unjust or unreasonable" manner. The Fair Work Commission can order the employer who has been unfairly dismissed to be reinstated, or compensated where reinstatement is not viable.
General protections	The general protections provisions of the <i>Fair Work Act 2009</i> are a set of prohibitions against conduct by employers and industrial associations that breaches an employee's workplace rights, called "adverse action". Pursuant to the general protections provisions, an employee, or prospective employee, is protected from adverse action based on discriminatory grounds. The Fair Work Commission can resolve general protections claims.
Anti-bullying	There are multiple avenues to address bullying claims, including anti-discrimination, workplace health and safety laws and more recently through the <i>Fair Work Act 2009</i> . Pursuant to the Act, the Fair Work Commission can mediate, conciliate, adjudicate and make orders in matters involving bullying.

2.2 Employment advice landscape

In addition to the Fair Work Ombudsman, workers with an employment law problem can seek advice and information from other organisations such as trade unions, private law firms and community legal centres. However, there are significant gaps in some geographical locations and for workers with limited means.

Many community legal centres are generalist centres and lack the specialist knowledge required to provide employment law assistance. A small number can provide employment law advice and assistance in a limited capacity, but this often depends on whether they have volunteers or staff members with employment law expertise.

Each state and territory has a legal aid commission. While these commissions provide some assistance in discrimination matters relating to employment, they largely direct resources to criminal and family law matters. Data indicate that legal aid commissions often refer enquiries relating to employment law to community legal centres or other community organisations, including the CBEAS.

Members of trade unions can seek advice and support from their union relating to their workplace rights and entitlements. The level of support provided depends on the particular union and the circumstances of the matter. However, union membership levels are low and have decreased over time. Between 1992 and 2013, the percentage of workers in Australia who were members of a trade union declined from 43.0% to 16.3% for male employees and from 35% to 17.8% for female employees.¹

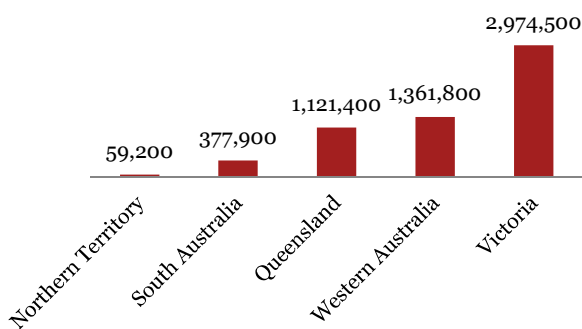
Private law firms can be engaged to provide advice and representation in employment law matters. However, many workers do not have the means to pay for a private lawyer. Some law firms provide limited pro-bono support to clients referred from community legal centres and other community organisations, including the CBEAS.

2.3 Labour market context

The composition of the labour market varies across states and territories. Figure 2 sets out key data on the labour market in the states and territories where the CBEAS are located.

While there are similarities across jurisdictions in industry types, working population figures vary significantly. This is magnified when the client base of the CBEAS is considered. Figure 1 shows the estimated potential client base in each state and territory, controlled for the female working population in South Australia, Queensland and the Northern Territory. Estimated numbers do not control for trade union membership or socio-economic status.

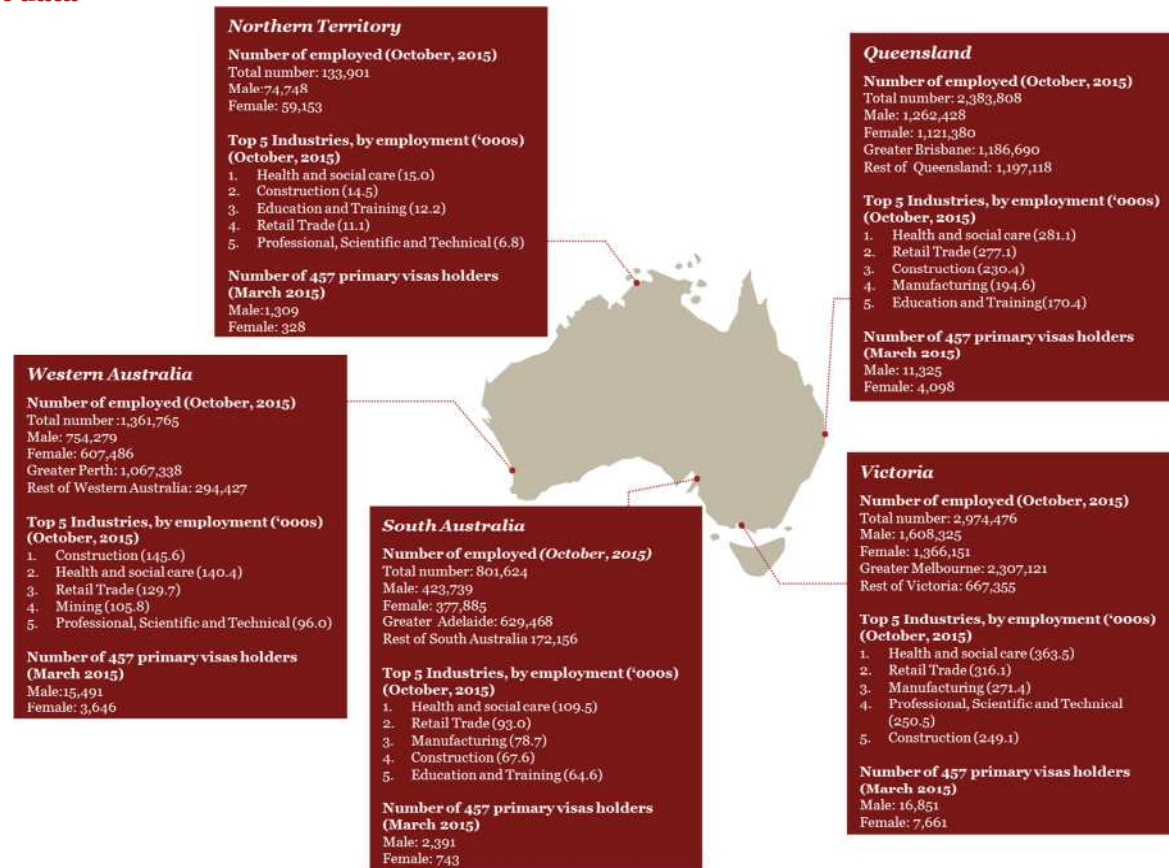
Figure 1: Estimated client base on working population data, October 2015²



¹ Australian Bureau of Statistics, *Employee Earnings, Benefits and Trade Union Membership*, Australia, June 2014.

² Australian Bureau of Statistics, *Labour Force*, Australia, November 2015.

Figure 2: Labour market data³



³ Australian Bureau of Statistics, *Labour Force*, Australia, November 2015, Australian Government Department of Immigration and Border Protection, *Subclass 457 visa holders in Australia at 31 March 2015*, March 2015.

2.4 Factors impacting on workforce participation in Australia

Some groups of workers experience particular issues that impact on their ability to participate in or maintain their connection with the workforce. For example, victims of family violence may experience discrimination and job insecurity. Migrant workers face a higher risk of being exploited in the workplace. Additionally, the number of casual workers in Australia is increasing and for some casual workers this creates job and income insecurity and a more precarious connection with the workforce.

Through consultations, the CBEAS identified these as issues that currently affect a significant number of clients accessing employment law assistance and advice. This section highlights some of the broader contextual factors affecting workers accessing CBEAS, but is not intended as an exhaustive list of factors.

Family violence

Family violence is increasingly being recognised as an issue affecting employment. When an employee is living with family violence there are often negative impacts that flow into the workplace. It is estimated that 1 in 3 Australian women have experienced physical violence since the age of 15, and 1 in 5 have experienced sexual violence.⁴

Victims of family violence often experience discrimination in the workplace related to family violence. This can include:

- being denied leave or flexible work arrangements to attend to family violence-related matters, such as going to court or moving to a shelter or safer accommodation
- having employment terminated for reasons related to the violence they are experiencing
- being transferred or demoted for reasons relating to the violence they are experiencing.⁵

A recent PwC report estimated the cost of lost productivity in Australia associated with violence against women to be \$2.0 billion in 2014-15. This reflects lost productivity through absenteeism, being late or attending court.⁶

Rights of low wage migrant workers

Temporary immigrants in Australia face a higher risk of being exploited by employers for a number of reasons, including:

- temporary migration status, creating an additional layer of dependency on the employer and a fear of visa cancellation
- limited English proficiency
- lack of awareness of workplace rights
- youth and a related lack of experience in the workforce

⁴ Australia's National Research Organisation for Women's Safety, *Violence against women: Key statistics*, May 2014.

⁵ Australian Human Rights Commission, *Fact sheet: Domestic and family violence – a workplace issue, a discrimination issue*, 2014.

⁶ PwC, *A high price to pay: The economic case for preventing violence against women*, November 2015.

- geographical isolation of the industries many visa holders are employed in
- economic vulnerability, including payments and indebtedness to employers, migration agents or labour hire companies and high living expenses in Australia.⁷

The key types of exploitation experienced by migrant workers include underpayment of wages and entitlements, excessive work hours, poor work conditions, discrimination, unfair dismissal and physical and sexual abuse.⁸

Further, employer-sponsored visas such as the subclass 457 visa, can create powerful disincentives for the employee to report mistreatment or to leave a job where the workplace conditions are poor.⁹ Under the subclass 457 visa scheme, visa holders can work in Australia for up to 4 years, and are required to work for a specific employer sponsor in a designated occupation. There were 106,750 persons holding a 457 visa in Australia on 31 March 2015.¹⁰

International students are also particularly vulnerable to exploitation, as highlighted through recent media reporting and investigations.¹¹ International students studying in secondary and tertiary institutions in Australia on the Student (Temporary) (Class TU) visa are able to work part-time during their studies. There were 374,566 international student visa holders in Australia on 30 June 2015.¹²

Casualisation of the workforce

An increasing number of people in Australia are employed in casual jobs, leading to a “casualisation” of the workforce. In July 2014, 23.9% of all employees were engaged as casual employees.¹³ Casual employment is more common among some population groups including youth and women, and in low skilled occupations.

There is no formal definition of casual employment; it is generally defined in Australia as employment where there are no paid leave entitlements. Other characteristics of casual employees, when compared with ongoing employees, include:

- they are more likely to have been in their current job for less than a year
- they have a greater expectation that they will not be in their current job in 12 months
- they are more likely to have no superannuation coverage
- they are more likely to work overtime and on weekends
- they have much greater variation in their earnings from one pay period to the next.¹⁴

⁷ UNSW Human Rights Clinic, *Temporary Migrant Workers in Australia: Issues Paper*, 15 October 2015.

⁸ Ibid.

⁹ Ibid.

¹⁰ Australian Government Department of Immigration and Border Protection, *Subclass 457 visa holders in Australia at 31 March 2015*, March 2015.

¹¹ ABC, “7-Eleven: The Price of Convenience”, *Four Corners*, 2 September 2015.

¹² Australian Government Department of Immigration and Border Protection, *Student visa and Temporary Graduate visa programme quarterly report*, June 2015.

¹³ Australian Bureau of Statistics, *Labour Market Statistics*, July 2014.

¹⁴ A Kryger, *Casual Employment in Australia: A quick guide*, Australian Parliamentary Library, 20 January 2015.

Casual employment can mean fewer workplace rights and entitlements, and can also create income insecurity and a more precarious connection with the labour market.¹⁵ The University of Sydney Workplace Research Centre has found that “jobs without paid leave entitlements in Australia are just as likely to play the role of conveyor belt out of the labour market as they are to be an escalator up to better and brighter jobs”.¹⁶

¹⁵ Australian Council of Trade Unions, *Lives on Hold: Unlocking the potential of Australia's workforce*, Independent Inquiry into Insecure Work, May 2012.

¹⁶ B van Wonrooy, S Wright, J Buchanan, S Baldwin, S Wilson, *Australia at Work In a changing world*, Workplace Research Centre, University of Sydney, November 2009.

3 About the Community-Based Employment Advice Services

3.1 Background

There are currently five Community-Based Employment Advice Services (CBEAS), including three Working Women's Centres and two employment law Community Legal Centres.

These organisations have been operating for between 15 and 35 years. Historically, a greater number of organisations were funded by Commonwealth, state and territory governments to provide services to vulnerable workers. However, some of these organisations, including the New South Wales and Tasmanian Women's Working Centres, no longer attracted sufficient funding and were closed.

There are two distinct models funded through the CBEAS program. The first is the Working Women's Centre model that is operating in South Australia, Queensland and the Northern Territory. Working Women's Centres are not-for-profit, community service providers that provide advisory and advocacy services to women. They are focused on providing women with information, advice and referrals about work-related issues. They also deliver community education sessions to women, and provide policy advice to governments and public commentary.

The second model is the Community Legal Centre model that is operating in Western Australia and Victoria. These CBEAS are not-for-profits that provide specialist employment law advice and assistance and represent clients in a limited number of matters. They also provide community legal education.

While the Working Women's Centres have some relationships with law firms through which they can seek legal opinion and advice for their clients, the key difference between the two models is the legal nature of the advice provided by the Community Legal Centres.

Previous reviews

In 2009, the Commonwealth Government asked the Fair Work Ombudsman to review the need for and provision for CBEAS in the context of the introduction of the Fair Work regime. In 2009, there were six CBEAS receiving funding from the Fair Work Ombudsman:

- The Working Women's Centre, Northern Territory
- The Working Women's Centre, South Australia
- The Working Women's Centre, Queensland
- Queensland Youth Advice Service
- The Employment Law Centre of Western Australia
- JobWatch, Victoria.

Anna Booth was engaged by the Fair Work Ombudsman to lead this review. It comprised desktop research, taking submissions and conducting individual and group meetings with interested parties around Australia.

The Report of a Review of Community-Based Employment Advice Services found that resources were needed to “build on the services that already exist and have served workers well, but are stretched to breaking point”, including through an increase in funding levels for CBEAS.¹⁷

It found that new CBEAS should be established in New South Wales, Tasmania and the Australia Capital Territory, providing for both men and women.¹⁸ Further, it recommended that a dedicated employment law specialist in one or more Community Legal Centres should be funded in the states and territories with Working Women’s Centres, in order to extend access to employment advice in these locations to men.¹⁹

While the recommendation to continue funding the existing set of CBEAS was acted on, PwC understands that the other recommendations made by the review were not implemented.

3.2 Purpose

The CBEAS Grant Program Guidelines set out a number of purposes for the CBEAS. These include:

- Provision of specialist workplace relations expertise, covering issues across federal and state jurisdictions, and a holistic client-centred approach to service delivery.
- Provision of advice, information, face to face services, advocacy, case work and community education activities that are targeted at employees with one or more indicators of vulnerability and disadvantage in the workplace.
- Supplying support that is supplementary to the Fair Work Ombudsman’s functions, including where it does not have jurisdiction to provide primary assistance to affected workers beyond general information, for example in unfair dismissal matters.
- Supporting the Fair Work Ombudsman’s aim of promoting harmonious, productive and cooperative workplace relations.

The Grant Program Guidelines provide for funding for the five CBEAS from 2012/13 to 2015/16 and set out a range of reporting and other requirements.

Program logic

PwC has developed a high-level program logic for the CBEAS program, contained in Figure 3 below. The information captured in the program logic is based on the CBEAS Grant Program Guidelines. It follows PwC’s program logic framework including:

- **Problem** – why is the CBEAS program being delivered? Who is it for? What is the evidence?
- **Objectives** – what are the specific aims of the CBEAS program?
- **Inputs** – what makes the program work? What are the program activities implemented to bring about change?

¹⁷ A Booth, *Report of a Review of Community-Based Employment Advice Services*, Report to the Fair Work Ombudsman, 30 September 2009.

¹⁸ Ibid.

¹⁹ Ibid.

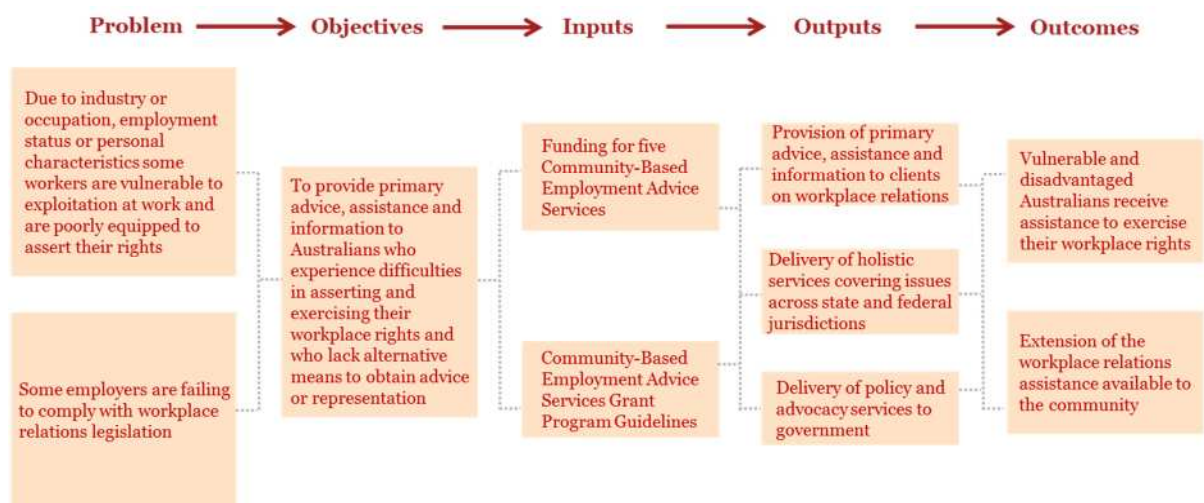
- **Outputs** – what is being delivered? What are the direct results of the delivery of the CBEAS program?
- **Outcomes** – the desired final result of the program – what changes and impacts will result for vulnerable and disadvantaged workers?

By setting up the program logic in a way that explicitly links a defined need with identified program activities and anticipated outcomes, this approach:

- illustrates the logic or theory of a program - a visualisation of why and how the program owner believes a program will work
- demonstrates design and implementation clarity and competence
- provides a chain of reasoning that links investment with results – a series of expected consequences, not just a sequence of events
- sets out a series of "if-then" relationships that, if implemented as intended, lead to the desired outcomes.

The program logic is a useful tool in assessing the CBEAS program’s overall effectiveness. We used this program logic to frame the consultation guide and key lines of enquiry for the review.

Figure 3: Program logic



3.3 Geographical distribution and coverage

The CBEAS only exist in some states and territories, and have varying geographical reach within those states and territories. There are no CBEAS in New South Wales, Tasmania and the Australian Capital Territory. The coverage of CBEAS in other states and territories is set out below:

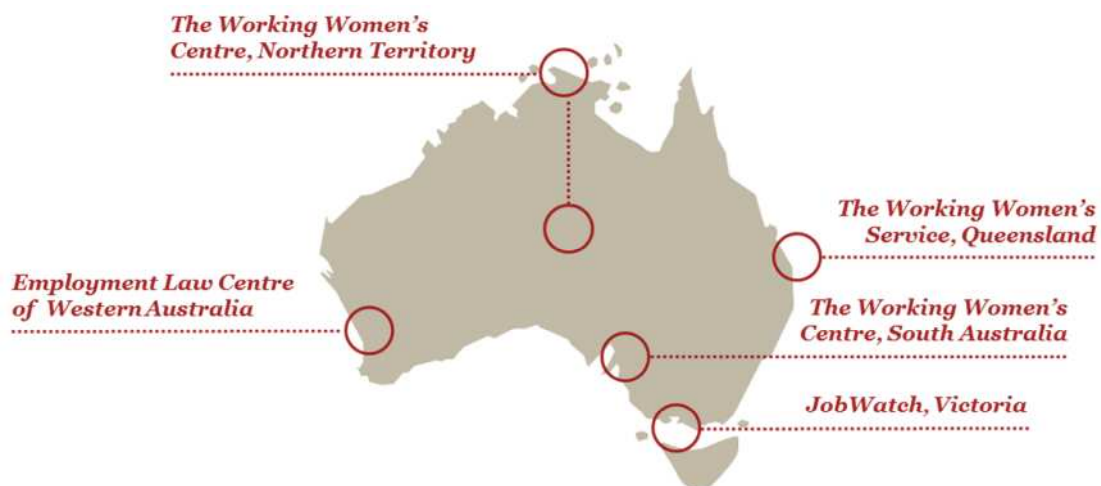
- **Northern Territory:** The Working Women’s Centre has its principal office in Darwin, and a smaller satellite office in Alice Springs. Clients can access the service via a free call number or on a walk in basis. Services are provided throughout the Northern Territory and staff visit regional centres and some remote communities.
- **Queensland:** The Working Women’s Service operates a telephone advisory service that is accessible across the state, and provides some workshops in regional areas. The Centre indicated that it does not have the resources to provide comprehensive outreach services

across the state. The Centre previously had offices in Rockhampton, Townsville and Cairns which allowed for greater reach across the state.

- **South Australia:** The Working Women's Centre is located in Adelaide, and takes telephone enquiries as well as drop-ins. The Centre indicated that there is limited outreach to regional and remote areas of South Australia.
- **Victoria:** JobWatch operates a state-wide advice line and does some capacity building on employment law issues with Community Legal Centres outside of metropolitan Melbourne, including in Mildura and Warrnambool. However, JobWatch indicated that due to lack of capacity and low staff numbers, outreach across the state is limited.
- **Western Australia:** The Employment Law Centre of Western Australia operates a state-wide advice line. It also conducts outreach to regional, rural and remote areas (ie the Kimberley and Gascoyne regions) to increase awareness of the service and employment law issues.

As noted above, organisations that previously provided similar services in other states were de-funded and closed. As a result, the geographical coverage of the CBEAS is inconsistent across Australia. Figure 4 shows the geographical locations of the CBEAS.

Figure 4: Geographical coverage of CBEAS



3.4 Process for allocating funding

In 2012, the Commonwealth Government made a commitment to fund the CBEAS for a four year period from 2012/13 to 2015/16. This commitment was captured in the CBEAS Grant Program Guidelines. It was determined that the CBEAS would be delivered through a grants process, without conducting a competitive selection process. The recurrent grant amounts are set out in Table 2.

Table 2: Annual funding allocations from Commonwealth Government (2012/13)

Location	Funding allocation
Western Australia	\$391,600
South Australia	\$208,916
Northern Territory	\$414,078
Queensland	\$300,000
Victoria	\$400,000

Note: Funding amounts are indexed to the Wage Price Index.

The Queensland Working Women’s Service was provided with additional funding by the Commonwealth Government when the Queensland Government withdrew its funding for the service in 2012. The service received \$300,000 in 2012/13, and \$550,000 per year from 2013/14 to 2015/16.

PwC understands that these funding allocations were determined with some reference to population size and level of need, but that there was no funding formula used to determine the amounts. CBEAS have also received smaller amounts of funding from the Commonwealth Government to undertake special projects on an ad hoc basis.

The CBEAS were encouraged through the Grant Program Guidelines to explore alternative funding sources, including the use of volunteers within the services and private sector support.

The Fair Work Ombudsman is the current funder of the CBEAS program. PwC understands that this funding arrangement is historical. Consideration could be given to whether the Fair Work Ombudsman is the most appropriate organisation to fund any future iterations of the program after the current funding period ends.

3.5 CBEAS funding in context

The CBEAS receive varying levels of funding from state governments. State funding levels have fluctuated for each of the CBEAS. For example, in Queensland, state government funding was withdrawn in 2012, but has been re-instated by the Palaszczuk Government, with the service recently receiving a grant of \$190,909 in 2015/16. In contrast, the Employment Law Centre of Western Australia lost two-thirds of its state government funding this financial year (2015/16).

The funding amounts received from Commonwealth, state and territory governments in 2014/15 are set out in Table 3.

Table 3: Funding received from Commonwealth, state and territory governments (2014/15)

Location	Commonwealth Government	State/territory government
Western Australia	\$365,524	\$440,500
South Australia	\$214,510	\$390,494
Northern Territory	\$397,422	\$180,463

Location	Commonwealth Government	State/territory government
Queensland	\$519,967	-
Victoria	\$373,365	\$389,317

Note: Financial information provided by the Fair Work Ombudsman.

The CBEAS also receive in kind support from law firms, universities and other institutions and limited philanthropic funding. All CBEAS have partnerships with private law firms through which they can seek legal advice and pro-bono support on matters. There are also other organisations providing in kind support to CBEAS. For example, the South Australian Working Women’s Centre works with the Women’s Certified Accountants Group who offer pro-bono assistance to calculate underpayments for clients of the Centre.

With the exception of the Northern Territory Working Women’s Centre, the CBEAS use volunteers to provide advice and assistance to their clients. The Northern Territory Working Women’s Centre indicated that due to the transient population in the Northern Territory, it is difficult to retain volunteers and is accordingly not worth the investment in training them. JobWatch and The Employment Law Centre of Western Australia have both established extensive programs for legal student volunteers that are overseen by qualified lawyers.

4 *Performance assessment*

4.1 *Overview of reporting*

Pursuant to the Grant Program Guidelines and individual funding agreements, CBEAS are required to provide six-monthly reports and annual reports that set out information on their telephone services, case work and community education.

Telephone service

Data must be collected on telephone services by the CBEAS, including on:

- number of calls, including abandoned calls
- average length of calls, including wait to be answered and wait before abandoned
- trends
- status of caller, including employer and industry and employee information, including demographic details and employment status
- nature of the concerns/issues
- satisfaction of caller
- number of calls where enquiry was completed and number of calls where enquiry was escalated.

Case work

Data must be collected on case work undertaken by the CBEAS, including on:

- number of case work matters
- trends
- level of assistance
- number of requests for review of decision not to provide case work assistance.

Community education

Information must be provided on:

- seminars and workshops delivered to individuals who are eligible to access the organisation's services
- the location of the seminars and workshops.
- topics and issues covered
- number of attendees
- how the attendees fit within the target client profile of the organisation.

Annual report

Further, the funding agreements for individual CBEAS specify that they must include the following information in their annual reports:

- hours of operation
- advisory services and number of files opened and closed
- access and equity
- extent of volunteer and pro-bono work
- training provided to and by staff
- extent and source of other funding
- names of members of Committee of Management and names and a brief description of the roles of staff involved in delivering the service
- any other activities relevant to the work of the organisation.

Performance indicators

The CBEAS are also required to meet performance indicators, which are set out in the individual funding agreements for each CBEAS. The performance indicators are broadly similar for each CBEAS, but the targets vary slightly. Table 4 shows one example of the performance indicators for the Employment Law Centre of Western Australia.

Table 4: Performance indicators, Employment Law Centre of Western Australia

Performance indicators

90% of requests for information are dealt with in a 45 minute time frame

60% of advice sessions are dealt with in a 45 minute time frame

10% of clients will be surveyed to monitor satisfaction rate with the helpline

80% of the clients surveyed report they are satisfied with the service they receive

At least one seminar or workshop delivered to individuals who are eligible to access the service

At least one seminar or workshop should be held in a regional or remote location

Attendees of the seminars or workshops should be provided with evaluation forms to evaluate the seminar or workshop

Evaluations should indicate at least an 80% satisfaction rate with the education program

The performance indicators cover the length of client service and client satisfaction rates, but do not cover the volume of clients that the CBEAS serve, or the reach of the services. Accordingly, the performance indicators appear to incentivise low volumes and high quality service provision. However, PwC's analysis shows that most of the CBEAS are servicing high volumes of clients, to meet demand for their services.

4.2 Compliance with reporting requirements

PwC has identified some issues associated with compliance with the reporting requirements contained in funding agreements and the Grant Program Guidelines.

Table 5 contains a high-level assessment of each of the CBEAS' compliance with the reporting requirements set out above. This assessment is based on six-monthly reports for the period from January to June 2015 and recent annual reports. While the CBEAS all reported some of the required data, particularly data on the number of clients served and satisfaction rates, only the Employment Law Centre of Western Australia reported the complete set of data.

In some instances, non-compliance with reporting requirements may be due to policies not aligning with data collection requirements. For example, a policy to call back all initial contacts to a service within 24 hours (rather than keeping a caller waiting) means data on average call waiting time is not relevant.

Table 5: Compliance with reporting requirements

Data	NT	WA	SA	QLD	VIC
Telephone service	x	✓	x	x	x
Case work	x	✓	x	✓	✓
Community education	✓	✓	✓	x	x
Annual report	x	✓	x	x	x

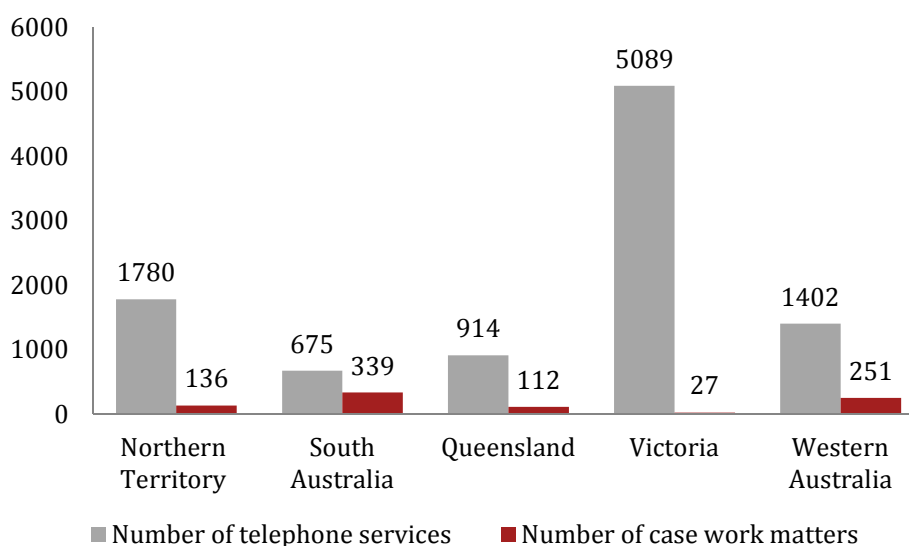
Note: In each instance, a cross (x) indicates partial compliance with reporting requirements.

4.3 Comparative analysis of five services

Numbers of clients and service mix

The data captured by CBEAS show that they have different service mixes. Some CBEAS, such as JobWatch in Victoria, have prioritised providing telephone services and accordingly serve a larger volume of clients, while other CBEAS provide more intensive case work services.

Figure 5: Number of services provided, 1 January – 30 June 2015



Most common employment-related issues

CBEAS are assisting clients with a similar set of employment-related issues. However, each service defines and records the issues differently so it is difficult to directly compare the set of issues that each service is providing assistance with. The tables below set out the top five employment-related issues that CBEAS provided assistance with from January to June 2015.

Table 6: Top 5 employment-related issues, The Employment Law Centre of WA

Employment-related issue	Proportion of matters
1. Unfair dismissal	18%
2. Adverse action and unlawful termination	11%
3. Contract	8%
4. Discrimination/equal opportunity	8%
5. Minimum entitlements	7%

Table 7: Top 5 employment-related issues, South Australia Working Women's Centre

Employment-related issue	Proportion of matters
1. Employment conditions	28%
2. Dismissal/redundancy	20%
3. Remuneration	12%
4. Workplace bullying	12%
5. Discrimination and sexual harassment	10%

Table 8: Top 5 employment-related issues, Northern Territory Working Women's Centre

Employment-related issue	Proportion of matters
1. Employment conditions	16.4%
2. Occupational health and safety (including bullying)	10.1%
3. Remuneration	10.7%
4. Discrimination	10%
5. Workplace bullying/harassment	9.9%

Table 9: Top 5 employment related issues, JobWatch

Employment-related issue	Proportion of matters
1. Unfair dismissal	13.82%
2. Adverse action – termination	10.18%
3. Redundancy	6.77%
4. General enquiry	5.15%
5. Adverse action – non-termination	4.28%

Table 10: Top 5 employment related issues, Queensland Working Women's Service

Employment-related issue	Proportion of matters
1. Dismissal	Not available
2. Discrimination	Not available
3. Workplace harassment	Not available
4. General protections dispute	Not available
5. Advice about employment contract	Not available

Client profile

Individual funding agreements set out categories of disadvantaged and vulnerable groups that the CBEAS must target. As a result, the two CBEAS models (Community Legal Centre model and the Working Women's Centre model) are directed through funding agreements to target different demographic categories.

Working Women's Centres

For the Working Women's Centres vulnerable and disadvantaged groups include:

- Aboriginal and Torres Strait Islander Women
- women from culturally and linguistically diverse backgrounds
- women on 457 visas
- women who have a disability
- women in regional, rural and remote areas
- women with family responsibilities
- women of mature age
- young women
- women re-entering the workforce or entering the workforce for the first time

- women in precarious and/or low status employment.

The following tables show the proportion of clients with selected demographic characteristics accessing the Working Women's Centres.

Table 11: Demographic data, Working Women's Centre, Northern Territory, January – June 2015

Demographic characteristic	Proportion of clients
Aboriginal and Torres Strait Islander	23.1%
Culturally and Linguistically Diverse	12.9%
Persons with disability	7.1%
Regional, Rural and Remote	41.0%
Women of mature age (over 45 years)	45.0%

Table 12: Demographic data, Working Women's Service, Queensland, January – June 2015

Demographic characteristic	Proportion of clients
Aboriginal and Torres Strait Islander	1.3%
Culturally and Linguistically Diverse	9.0%
Persons with disability	5.0%
Regional, Rural and Remote	70.26%
Women of mature age (over 45 years)	35.25%

Table 13: Demographic data, Working Women's Centre, South Australia, July 2014 – June 2015

Demographic characteristic	Proportion of clients
Aboriginal and Torres Strait Islander	0.65%
Culturally and Linguistically Diverse	7.83%
Persons with disability	13.42%
Regional, Rural and Remote	10.8%
Women of mature age (over 45 years)	22.27%

Community Legal Centres

Funding agreements for the two Community Legal Centres define people in disadvantaged and vulnerable groups as including, but not limited to:

- women from a non-English speaking background
- young people

- apprentices
- trainees
- outworkers.

The following tables show the proportion of clients with selected demographic characteristics accessing the Employment Law Centre of Western Australia. JobWatch does not publish demographic data in their reporting.

Table 14: Demographic data, Employment Law Centre of Western Australia, January – June 2015

Demographic characteristic	Proportion of clients
Regional, Rural and Remote	22%
Aboriginal and Torres Strait Islander	4%
Culturally and Linguistically Diverse	17%
Persons with disability	8%
Persons of mature age (over 45 years)	31%

Unmet demand

Unmet demand is calculated by assessing how many calls have been answered, however because it is based on the number of calls and not callers, it may not be an accurate reflection of the volume of callers who are not receiving a service.

Some CBEAS capture information to highlight unmet demand. For example, JobWatch assessed its unmet demand for its Telephone Information Service at approximately 41% for the period from January to June 2015. For the same period, the Employment Law Centre of Western Australia estimates that it responded to only 10% of calls to the Advice Line.

4.4 Summary of key insights from data

Although there are some issues regarding compliance with the reporting requirements in the Grant Program Guidelines and individual funding agreements, it is clear that CBEAS are collecting detailed data, including on the types of advice and assistance being provided, client profile and demand for services, client satisfaction and the key employment-related issues affecting clients.

5 Challenges and achievements

5.1 Overview

A range of consistent themes about the achievements and challenges of CBEAS have emerged through the consultations and data analysis. These are summarised in Table 15 and explored in more detail in this section of the report.

Table 15: Key achievement and challenges

Achievements	Challenges
<ul style="list-style-type: none"> • Client-centred and holistic service provision: the CBEAS provides a model for providing an holistic response • Filling a gap in the service system: the CBEAS appears to be meeting a gap in the current service systems • Embedding partnerships and networks: the CBEAS programs have extensive networks and partnerships which they leverage to achieve client outcomes • Leveraging funding and in kind support to extend access: CBEAS program funding is used to leverage additional funding and combined generates extended reach and access • Data generation and informing the evidence base: CBEAS collect and have access to a range of data and insights that can be further leveraged to inform policy and law reform • Raising the profile of emerging workplace issues: CBEAS have provided legal representation in 'test' cases to raise the profile of workplace issues 	<ul style="list-style-type: none"> • Responding to and meeting demand: there is significant unmet demand in the states where the CBEAS is not funded and there is partial coverage of the service nationally. Workers in New South Wales, the Australian Capital Territory and Tasmania and men in South Australia, Northern Territory and Queensland lack access to an employment advice service • Targeting services to greatest need: not all services provided by CBEAS are means tested and may not be targeted to the greatest areas of need • Community outreach and engagement: while there are some examples of outreach programs these are limited • Alignment with Fair Work Ombudsman priorities: there is an opportunity to achieve greater alignment with Fair Work Ombudsman priorities and the work of the CBEAS • Assistance to visa holders: while there is significant demand for migration and employment advice, there is no capacity and capability for migration advice in the current model

5.2 Key achievements

Through consultations and examination of data and reporting, PwC has identified a number of strengths and achievements of the current CBEAS model.

Client-centred and holistic service provision

Clients presenting to CBEAS with an employment problem often have complex and interrelated issues that they require assistance with.

Through consultations, the CBEAS highlighted a number of areas where gaining a full understanding of the client's background and the issues they are experiencing is critical to providing appropriate advice and assistance with an employment law matter.

Alternative services, such as the Fair Work Ombudsman's Infoline, provide general information which may not take into account an individual's full set of circumstances. Further, an individual with a low literacy may not have the capacity to act on the information provided to them via the Infoline.

Funded agencies often cited situations where a client's employment problems were manifestations of broader or underlying problems, such as family violence and mental health. Providing an avenue for the client's broader needs to be considered and understood was cited as a critical benefit of the CBEAS model.

Achieving a financial outcome for clients to secure their employment entitlements can contribute their financial independence and security, particularly where the employee has experienced family violence.

Further, workplace relations legislation is complex. Often there are multiple options available to an individual to enforce their rights and seek a remedy (ie in discrimination matters). CBEAS are in a position to provide information and advice to enable a worker to assess the best option available to them.

By virtue of their independence from government, the CBEAS are also more accessible for workers, such as those on student or 457 visas, who may harbour concerns about seeking advice from government providers.

Filling a gap in the service system

Through consultations, CBEAS highlighted some areas in which they are providing support to workers, where government agencies may not provide these types of support.

CBEAS cited acting and advocating on behalf of clients in order to support them to access their employment entitlements. The Fair Work Ombudsman provides some support in these matters, but the level of assistance provided is considered on a case by case basis.

CBEAS were able to cite evidence of assisting clients to recover unpaid entitlements, and have recouped significant amounts for clients. In the context of the vulnerable population groups that CBEAS are intended to serve, access to unpaid entitlements (even if they are relatively small amounts) can be material for a client with limited means who has just lost their job. JobWatch estimates that it has recovered \$4.2 million in compensation for clients over the past 15 years.

In this way the CBEAS is fulfilling its objective of providing support which is complementary to the Fair Work Ombudsman's functions.

Embedded partnerships and networks

Due to their relatively long established history, the CBEAS are firmly embedded in the workplace relations systems in the states and territory where they operate. These connections and networks facilitate expeditious resolution of issues and "warm" referrals (where the client handover is supported).

Data confirm that the CBEAS receive significant numbers of referrals from organisations, such as the Fair Work Ombudsman, generalist community legal centres, state government agencies and community service providers.

CBEAS reported that they have strong relationships and networks with government agencies, businesses, unions and other community services. They cite such networks as being established over an extended period of time which has leveraged deep connections into their local communities.

Most of the CBEAS also actively participated in working groups on emerging issues and trends to provide expertise and collaborate on a range of issues. Recent examples cited included family violence, gender pay inequality and human trafficking.

Leveraging funding and in kind support to increase access

All CBEAS receive a portion of funding from state or territory governments. While most cited the precarious nature of this funding, with funding amounts fluctuating over time, this provides evidence of the program's capacity to leverage funding.

All CBEAS identified informal pro-bono relationships with law firms which have largely been based on the relationships that the staff at the CBEAS were able to establish and build. In terms of formal relations, the two Community Legal Centres receiving CBEAS funding have established their models in a way that attracts a significant amount of pro-bono and volunteer support. This significantly extends the reach of the services. For example, the Employment Law Centre of Western Australia valued its volunteer and pro-bono support at approximately \$794,677 for the 2014/15 financial year.²⁰

These services also have connections into the nation-wide network of Community Legal Centres, and have used this network to disseminate information and build capability in the area of employment law. These centres also provide and publish guidance and information on claims processes and employment law matters, which provides support to the broader network Community Legal Centres, the Working Women's Centres and members of the public.

Data informing the evidence-base

The data collected by the CBEAS are extensive. Through consultations, CBEAS suggested they are in a "privileged position" in collecting primary data from clients. CBEAS noted that low paid and low resourced clients are highly unlikely to conduct their own advocacy on issues affecting them. CBEAS use the data and case studies collected from clients to advocate on their behalf for law reform and changes to government policies.

CBEAS provided examples of submissions they had provided to various inquiries, including recent submissions to the Australian Human Rights Commission's Pregnancy and Return to Work National Review and the Productivity Commission's Inquiry into the Workplace Relations Framework.

In addition, CBEAS undertake their own research and analysis programs. For example, the Employment Law Centre of Western Australia has undertaken pathways analysis to determine the outcomes achieved for their clients after having received advice.

Raising the profile of emerging workplace issues

The CBEAS highlighted instances where they had brought attention to workplace issues affecting vulnerable and disadvantaged workers, including through legal representation. For example, JobWatch has recently provided representation in cases involving family violence and sexual harassment.

²⁰ Employment Law Centre of WA, *Six Monthly Report*, 2015.

In a high-profile case involving family violence, JobWatch's client was dismissed from a workplace where her partner was also employed.²¹ The police had obtained an Intervention Order against her partner and the employer took the view that it would not be "nice" for both parties to continue to work for the employer.²² The Fair Work Commission found that the client had been unfairly dismissed and this decision was upheld in an appeal to the Fair Work Commission Full Bench. The client was awarded six months' compensation for lost wages.

The case received widespread media attention and was a "test" case in that the Fair Work Commission demonstrated it is prepared to protect employees being dismissed as a result of family violence.²³

5.3 Key challenges

PwC has identified key challenges associated with the CBEAS model, and some suggested improvements.

Meeting demand

Provision of timely advice is critically important in unfair dismissal matters given the 21 day period of limitations under the *Fair Work Act 2009*.

Data collected by CBEAS show high levels of unmet demand for services. All indicated that they are at capacity and that they fail to meet the current demand for their services.

Through consultations, CBEAS conveyed the difficult balance between promoting their services to target populations, given their inability to meet current demand and to absorb any increases in client numbers. One of the key strategies that the CBEAS use to manage demand is to offer fixed hours of service provision.

Some CBEAS staff indicated that it is possible that the more capable employees are those that are able to access the service as they are able to organise themselves to access the service during service times. This means that the workers accessing the CBEAS may not represent the most disadvantaged and vulnerable members of the community.

The incomplete coverage of the CBEAS program nationally, combined with a lack of alternative service provision, means that there is likely to be significant unmet demand for employment advice nationally.

Targeting services to greatest need

CBEAS have a range of different policies for targeting services to vulnerable and disadvantaged workers. While intensive case work support is more stringently means tested and targeted at workers with multiple indicators of vulnerability or disadvantage, it appears that telephone services are not always means tested.

The Employment Law Centre of Western Australia has undertaken a Social Impact Research Pilot Project to understand the effectiveness and impact of their service, and identify areas of unmet need. A key finding of this project is that the most vulnerable workers are unlikely to be accessing the advice line. In response the service established an outreach model to extend access and awareness in remote areas of the state, for example the Kimberley and Gascoyne regions.

²¹ JobWatch, *2015 Annual Report*, 2015.

²² Ibid.

²³ ABC, "Landmark Fair Work ruling over family violence victim sacked after husband allegedly abused her", *ABC News Online*, 25 July 2015, *The Saturday Age*, "Victim of violence unfairly sacked", 28 November 2015.

Community outreach and engagement

The CBEAS undertake varying levels of community outreach and engagement. Despite a range of options for accessing CBEAS, including telephone-based advice, the reach of the services is to some extent a function of their physical location in large population hubs.

Some services actively run outreach programs to build profile, provide services and extend the reach of their program in rural and remote areas. One CBEAS, the Northern Territory Working Women's Centre, has established a satellite office in Alice Springs as a complement to the primary office in Darwin.

Notwithstanding these examples of extension, engagement and outreach, limited funds prevent CBEAS from undertaking more extensive outreach programs. This means that vulnerable and disadvantaged workers in rural and remote areas are more likely to lack awareness of and access to the services.

Alignment with Fair Work Ombudsman priorities

On a service by service basis, CBEAS were able to cite good relationships with their Fair Work Ombudsman contacts. However, there appeared to be limited consultation with the Fair Work Ombudsman regarding work plans developed by the CBEAS, once the funding agreement was finalised.

This potentially impacts on identifying emerging areas for collaboration with the agency to direct resources to areas where there are emerging issues or themes. Closer collaboration in setting year on year priorities would support greater alignment of the CBEAS program with the Fair Work Ombudsman's strategic directions.

Assisting visa holders

A consistent theme raised by CBEAS was around their inability to assist visa holders with workplace problems that intersect with migration law. All CBEAS noted that migration law is complex, and they don't have expertise and qualifications required to practice migration law, or links to migration practitioners.

For example, in the Northern Territory, the Multicultural Council of the Northern Territory provides free advice on migration law one day each month, but this is not enough to meet extensive demand for migration law advice.

CBEAS identified a need for dual practitioners or access to migration law advice as a current gap.

6 *Key findings and recommendations*

6.1 *Core findings*

There are two distinct models funded through the CBEAS program, with the Community Legal Centre model better able to leverage in kind support

There are two distinct models funded through the CBEAS program, a Working Women's Centre model and a Community Legal Centre model. The significant differences between these two models make it difficult to compare the services. While there are some similarities in the types of clients and employment problems they provide assistance with, the services have different objectives, philosophies and approaches to serving their client base.

The first is the Working Women's Centre model that is operating in South Australia, Queensland and the Northern Territory. Working Women's Centres are not-for-profit, community service providers that provide advisory and advocacy services exclusively to women on workplace relations matters.

The second model is the Community Legal Centre model that is operating in Western Australia and Victoria. These CBEAS are not-for-profits that provide specialist employment law advice and assistance, and represent clients in a limited number of matters.

The key difference between the two models is the legal nature of the advice provided by Community Legal Centres. Given that the Community Legal Centres form a part of the national network of Community Legal Centres, they are also able to leverage significant in kind and pro-bono support to extend the reach of the centres.

Both models are broadly meeting the program objectives

The data collected by each of the CBEAS show that they are broadly meeting their objectives by providing primary advice, assistance and information to a significant number of workers on workplace relations matters.

The service mix and strategic directions adopted by each of the CBEAS vary, and CBEAS have different policies for triaging services and targeting the greatest areas of need. However, the data show that it is predominantly workers with one or multiple indicators of disadvantage who are accessing the services, particularly the more intensive case work services.

PwC notes that some CBEAS are not meeting all reporting requirements specified in the Grant Program Guidelines and individual funding agreements.

The services appear to be filling a gap by assisting vulnerable and disadvantaged workers

In the states and territories where CBEAS are operating, they are fulfilling a need for employment advice. This is demonstrated by the data collected by CBEAS, which show high levels of demand for assistance from workers with indicators of disadvantage and vulnerability.

It is clear that there are few alternatives for a non-unionised worker with limited means to seek advice and information on their workplace rights, that is tailored to the individual's circumstances. Employment law is a complex jurisdiction and there can be multiple avenues to enforce rights and seek remedies. CBEAS are in a position to provide information and advice to enable a worker to assess the best option available to them.

Additionally, the CBEAS appear to be fulfilling functions that are complementary to the Fair Work Ombudsman's role and objectives.

There is inconsistent coverage across Australia creating inequity of access

Due to historical funding cuts, organisations that provided employment advice and assistance in some jurisdictions were closed. There are currently no CBEAS in Tasmania, New South Wales and the Australian Capital Territory.

In South Australia, Queensland and the Northern Territory CBEAS only provide assistance to women. As a result, vulnerable or disadvantaged men in these locations have limited or no avenues to seek employment advice. Further, some CBEAS don't have the resources to provide outreach services to regional and remote communities, meaning workers in these areas don't have access to employment advice.

This has led to inconsistent coverage and issues of "postcode justice", where access to employment advice depends on where a person lives, their characteristics and the services available in that area.

The approach to setting funding allocations for the CBEAS also appears to be inconsistent, and is not underpinned by a funding methodology based around need or other factors.

The services often act as a "canary in the coal mine" on emerging issues affecting vulnerable and disadvantaged workers

The CBEAS play a role in highlighting emerging issues facing disadvantaged and vulnerable workers, through law reform and policy submissions to governments. CBEAS have also represented clients in cases that have brought attention to sensitive workplace issues affecting workers. For example JobWatch has recently represented clients in matters involving family violence and sexual harassment.

Further, the data collected by CBEAS are unique and have informed research undertaken by universities and other institutions. These collaborations are resulting in a richer evidence base in Australia on employment law issues facing vulnerable and disadvantaged workers.

6.2 Recommendations

Based on our analysis, we have established that the CBEAS program has a number of strengths, and is meeting a need for employment advice for vulnerable and disadvantaged workers. However, there are a number of challenges associated with the current service delivery model, particularly in relation to how the program is targeting and meeting need.

The following outlines a number of recommended changes to the way that the program is designed, funded and procured.

Recommendation 1: Design a revised employment advice model that provides high-quality, accessible and cost-effective advice and information to those most in need

PwC recommends that a revised model is designed for any future iterations of the CBEAS program, which is informed by the following principles:

- high quality advice for workers on employment law issues
- equal access across and within jurisdictions
- cost-effective service provision, including greater use of funding to leverage monetary and in kind support from other sources
- services that are embedded within the existing workplace relations architecture, with strong networks across government, businesses, unions and the community sector.

Based on the characteristics of the new model, an assessment should be made as to which government agency is the most appropriate funder of the model going forward. Options could include the Department of Employment, the Fair Work Ombudsman or the Attorney-General's Department.

The revised model should also establish more targeted guidelines, reporting requirements and performance indicators.

PwC recommends that a contestable procurement process should be conducted for any future iterations of the program.

Recommendation 2: A funding formula should also be established based on an assessment of need

PwC recommends that a formula approach be adopted to determine the allocation of funding to employment advice services going forward.

The formula should be based on an assessment of demographic categories of need, and should also reflect the efficient cost of service delivery, the characteristics of the service and other revenue sources available to the service.

Recommendation 3: Develop a roadmap for revising the current service and funding models and moving to an open procurement process

PwC recommends that a roadmap should be developed to allow for:

- an assessment to be undertaken to confirm the greatest demographic categories of need for employment advice in Australia
- further development of the characteristics of the new service model
- development of a desired future funding model
- preparing potential service providers for an open and competitive procurement process.

6.3 Implementation approach

PwC's review has found that while the CBEAS are meeting the needs of many vulnerable and disadvantaged workers, there are significant opportunities to improve the current service delivery model in order to better target and serve those most in need.

Given that funding for the CBEAS is currently due to cease on 30 June 2016, PwC's view is that a brief transition phase should be considered which could entail rolling over contracts for a further six month period, in order to enable the implementation of the work program we have identified in our suite of recommendations.

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