

Private, community and public sectors join forces to deliver free wills in the West Kimberley

By Corina Martin

Unmet legal need for a wills service for Aboriginal people

Aboriginal Family Legal Services (AFLS) first identified the demand for a wills service for Aboriginal people in regional and remote Western Australia in early 2012, at a meeting with pro bono lawyers who were considering running a free wills project out of the Perth metropolitan area. I was at that meeting and raised the need for assistance in the wills and estates jurisdiction in regional and remote communities across Western Australia, particularly in the remote North West where there was, and continues to be, no legal facility available to meet that need.

Too many Aboriginal people are dying without wills in Western Australia, where the laws of intestacy are particularly unkind. When an Aboriginal person dies intestate, the common law system fails to recognise Aboriginal Kinship structures, the importance of burial and disposal of a person's remains in Aboriginal culture, and other cultural wishes central to an Aboriginal person's right to self-determination.

In 2020, AFLS commenced a regional consultation process on wills in the West Kimberley, hosted by our Broome office. The initial Wills Project



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Team, comprised of two lawyers and a paralegal from our Corporate Office and a Community Engagement Worker from our Broome office, attended consultations in Broome, Derby and closed communities in the Dampier Peninsula, to hear what legal services Aboriginal people needed most in relation to wills and estates and determine what the most common issues were. In total, the Wills Project Team estimated having consulted at least 300 community members.



Following the introduction of the WA Pro Bono Model on 1 July 2020, Law Access conducted consultations with community legal centres across Western Australia about areas of unmet legal need suitable for pro bono support. Wills was one of the top two areas of unmet legal need identified by CLCs across Western Australia.

In partnership with CLC peak body Community Legal WA, Law Access established a Steering Committee to oversee the implementation of a pro bono response in this area. As CEO of AFLS I was invited to chair this Committee, which first met early in 2021. Together the Committee determined to pilot a pro bono wills clinic in the West Kimberley. This area was chosen due to the previous work by AFLS in the area. The project also aligned with an application made by Broome CIRCLE, a locally based community organisation, to Law Access seeking pro bono assistance on wills for Aboriginal community members in the region.

About the project

One hundred and fifty people from the West Kimberley communities of Beagle Bay and Djarindjin registered with Broome CIRCLE for free wills clinics held from 8 November to 12 November 2021.



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The free clinics are part of a collaborative access to justice project developed by Law Access and AFLS. The clinics are being delivered by a team of five lawyers who are being supported by Broome CIRCLE and Aboriginal Interpreting WA.

Three private lawyers are taking part on a pro bono basis: Sally Bruce & Jim O’Donnell, Partners with law firm Jackson McDonald, and Janene Bon, Wills & Estate Planning Special Counsel with law firm HHG Legal.

They are joined by Daniel Gibbard, Principal Legal Officer with AFLS and Arna Plaisted, Lawyer with Legal Aid Western Australia.

The five lawyers are accompanied by staff from Broome CIRCLE and Martina Badal, interpreter from Aboriginal Interpreting WA, for the duration of the wills clinics week to ensure the project is as successful and effective as possible.

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The contribution of pro bono lawyers

Having identified this project as a priority under the new WA Pro Bono Model, Law Access approached law firm Jackson McDonald for assistance. The firm has worked closely with our service and with Law Access throughout the project, providing advice on project design, seconding lawyers to AFLS to assist with project planning as well as developing new templates and resources and recruiting their colleague Janene Bon from HHG Legal to assist.

AFLS and Jackson McDonald entered a Memorandum of Understanding through which two lawyers were seconded from Jackson McDonald to AFLS to assist the development of client preparation forms that would eventually be used for the wills clinics.

With WA Pro Bono Model funding from the Department of Justice provided through Law Access, AFLS engaged Aboriginal Interpreting WA to interpret the client preparation forms into Kimberley Kriol and ensure the accessibility of the clinic to Aboriginal people whose first language is not English.

On the ground in Broome, Broome CIRCLE’s financial counsellor Veronica Johnson was instrumental in ensuring the preparation for the project ran smoothly. Veronica coordinated the permissions for the lawyers to enter the closed communities in the Dampier Peninsula, managed the logistics of the clinics and registered over 150 Aboriginal people for the clinics.

Together with Broome CIRCLE, AFLS ran a series of pre-wills clinic workshops in October 2021, to prepare clients for the clinics and ensure they had the necessary ID and other relevant documents required to participate. Broome CIRCLE staff arranged transport and accommodation for the pro bono lawyers attending the clinic and have provided practical support for the legal team on the ground. Broome CIRCLE Executive Officer Denisa Konecny told me that *“Broome CIRCLE is very happy to be a part of this collaborative program.”*

Next steps

This project is a critical first step towards empowering Aboriginal people to be self-determining with their possessions, to ensuring Aboriginal families are looked after in culturally appropriate ways, and to creating positive outcomes for Aboriginal communities.

A joint debrief with all stakeholders will be held after the project concludes. We hope to apply the learnings from this pilot clinic in order to deliver many more like it. ■

BACK TO COVER

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Corina Martin is a Mulgyin Jaru/Kitja and Gooniyandi woman born and raised in Broome, Western Australia. Her qualifications include a Bachelor of Marketing and the Media and Bachelor of Law. Corina was admitted to the Supreme Court of Western Australia as a barrister and solicitor in 2006. She was the Principal Legal Officer of the Aboriginal Family Legal Service before becoming the Chief Executive Officer.

