



COMMUNITY LEGAL
WESTERN AUSTRALIA

October 2023

National Legal Assistance Partnership Review

CLWA submission

Acknowledgement of Country

We acknowledge the Traditional Owners in the Perth region, the Whadjuk People of the Noongar Nation and acknowledge their special connection to land, waters and community.

Always was. Always will be.

We pay respects to all First Nations Peoples in Western Australia and their cultures, and to Elders, past and present.



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Community Legal WA

Community Legal WA (CLWA) is the peak body for community legal centres (CLCs) in Western Australia. Our purpose is to support our members and work for a fair WA, where everybody has access to justice.

CLWA represents 26 community legal centres throughout metropolitan, regional and remote Western Australia. Our member centres provide both generalist and specialist services, including specialist financial, tenancy, employment, mental health, welfare and women's legal services. Three of WA's 26 community legal centres are Family Violence Prevention Legal Services (FVLPS): Aboriginal Family Legal Services; Southern Aboriginal Corporation; and Marninwarntikura Women's Resource Centre.

Our centres are built around the needs of their community or the cohort that they service. Half of Australia's remote and very remote community legal centre offices are based in Western Australia, making up a quarter of the total number of community legal centres offices in the state.¹ CLCs and FVPLS support some of the most vulnerable West Australians, many of whom feel safer accessing a trusted local service than a government agency. Of the more than 24,500 people supported in WA last year, 16% identified as Aboriginal or Torres Strait Islander, 8% spoke a language other than English at home, 22% disclosed a disability or mental health issue, 20% lived in regional or remote areas, 9% were experiencing or at risk of homelessness, and 29% were identified as experiencing or at risk of family violence.²

Endorsed submissions

In addition to providing our own submission to the review, Community Legal WA endorses the following submissions:

- Community Legal Centres Australia
- Aboriginal Family Legal Services (WA)
- Australian Legal Assistance Forum papers on
 - Data
 - Building the Evidence Base/Legal need
 - Workforce
 - Disaster response.

We also recommend to you the submissions from other state CLC peaks and the national CLC RRRR network.

¹ Data based on a list of CLCs provided by AGD July 2023

² 2022-23 WA CLASS data provided by CLCA October 2023

NLAP review consultations

CLWA has 26 members – including 3 Family Violence Prevention Legal Services (FVPLS). Our submission is informed by input provided by our members in three key consultations sessions run specifically to inform the NLAP review.

Session 1. CLWA member consultation

Attended by representatives from:

- ▶ Street Law Centre WA
- ▶ Southern Communities Advocacy Legal and Education Services (SCALES)
- ▶ Consumer Credit Legal Service WA
- ▶ Albany Community Legal Centre
- ▶ Circle Green
- ▶ Fremantle Community Legal Centre
- ▶ Kimberley Community Legal Services
- ▶ Northern Suburbs Community Legal Centre
- ▶ Marninwarntikura Women’s Resource Centre
- ▶ Youth Legal Service
- ▶ Southern Aboriginal Corporation
- ▶ Women’s Legal Service WA
- ▶ Welfare Rights and Advocacy Service
- ▶ Ruah Legal Services
- ▶ Midland Information Debt and Legal Advocacy Service (MIDLAS)
- ▶ Sussex Street Community Law Service
- ▶ Peel Community Legal Services
- ▶ Wheatbelt Community Legal Centre
- ▶ Gosnells Community Legal Centre
- ▶ South West Community Legal Centre

Session 2. CLCA/CLWA WA consultation with CLCs and FVPLS

Attended by representatives from:

- ▶ Street Law Centre WA
- ▶ Consumer Credit Legal Service WA
- ▶ Circle Green
- ▶ Northern Suburbs Community Legal Centre
- ▶ Marninwarntikura Women’s Resource Centre
- ▶ Fremantle Community Legal Centre
- ▶ Welfare Rights and Advocacy Service
- ▶ Pilbara Community Legal Services
- ▶ Ruah Legal Services
- ▶ Sussex Street Community Law Service
- ▶ South West Community Legal Centre
- ▶ Wheatbelt Community Legal Centre
- ▶ Gosnells Community Legal Centre
- ▶ Goldfields Community Legal Centre

Session 3: WA CLC forum with Dr Mundy

Attended by representatives from 11 CLCs and CLWA.

Further input

This submission was also informed by WA CLC and FVPLS input at NLAP review consultations run by the national CLC RRRR and disaster networks. Further detail was provided by Centres through individual meetings and written input (for example, case studies). This submission also reflects the learnings from CLWA’s regular consultations, meetings, and discussions with our members, including our Member Engagement Forums held twice a year.

Key recommendations

- 1.** The next NLAP should facilitate whole of government approaches to social issues through alignment with other key national agreements and policies, including but not limited to the National Agreement on Closing the Gap
- 2.** The NLAP should improve understanding of legal need across Australia through investment in regular legal need surveys.
- 3.** Consideration should be made to investing in the development of a tool to forecast legal need to help inform funding and service planning.
- 4.** Legal assistance services should have flexibility to determine how best to meet need through partnerships/integration/wrap around services, taking into account need, as well as the existing service environment in their communities. The next NLAP should contain a provision explicitly permitting funding under the agreement to be used for non-legal supports.
- 5.** The next NLAP should provide innovation or project funding to support the development of more integrated services/partnerships/innovative models of partnership.
- 6.** The next NLAP should fund legal assistance providers to deliver prevention, early intervention and integrated, non-legal services that reduce or prevent harmful contact with justice systems for people experiencing vulnerability and disadvantage. Consideration should be given to how data and outcomes frameworks can better support this work and demonstrate its impact.
- 7.** The next NLAP should affirm the value of law reform and systemic advocacy and the importance of the work legal assistance providers and peaks do in this space. The agreement should increase baseline funding to CLCs, FVPLS, ATSILS and peaks nationally and in each jurisdiction to support this work.
- 8.** A new NLAP should review performance indicators, streamline reporting requirements, articulate and justify the purpose of reporting, and reduce administrative burden. New performance indicators must be meaningful, not duplicative, mindful of emerging changes to the Privacy Act 1988 (Cth) and mindful of legal professional requirements. Data collection, cleaning, analysis and reporting should be fully funded.
- 9.** The next NLAP should invest in outcomes work from service provider level up, with a clearer guide and timetable for the shift to impact evaluation. There should be commitment to ensuring this work does not undermine any impact work already underway.
- 10.** The legal assistance data strategy developed under the next NLAP should explicitly recognise legal professional privilege, the duty of client confidentiality and State and Commonwealth privacy laws, and the access to justice, technical and resource implications for the collection of data from clients receiving legal services.
- 11.** A new Data Standards Manual should be developed in partnership with the sector. The Manual should align with ABS standards wherever possible and should be reviewed regularly. Guidance and standards could be provided which go beyond core NLAP reporting to assist with data mapping projects and innovations.

- 12.** Appropriate resourcing should be included in NLAP funding to enable people with lived experience to be involved in designing services to achieve outcomes, data collection methods, policy/advocacy and planning evaluation of services.
- 13.** The Commonwealth and states should work in partnership with ACCOs to ensure the principles of data sovereignty are applied to the NLAP in accordance with the National Agreement on Closing the Gap.
- 14.** The Commonwealth and states should coordinate reporting and data collection requirements to prevent duplication and reduce administrative burden.
- 15.** The next NLAP must invest in improved data capability for CLCs through increased baseline funding and support for data expertise in each state, territory and national peak body for CLCs and, if included in the next NLAP, FVPLS.
- 16.** The next NLAP should affirm access to justice for everyone, no matter where you live and ensure funding for regional and remote services meets the real cost to deliver good outcomes.
- 17.** The next NLAP should recognise the importance of place-based and face-to-face services for Aboriginal people following the current national LA strategy
- 18.** When Aboriginal people provide place-based, locally led and culturally safe services to Aboriginal people, the outcomes are far better. We recommend additional funding is provided to FVPLS and ATSILS to increase the ability of these organisations to better meet the significant need for their services, particularly in the context of national commitment to achieving Closing the Gap targets. We further recommend these contributions are made both by state and Commonwealth governments.
- 19.** The next NLAP should support and facilitate self-determination including through integrating shared decision-making and improved partnership approaches. This work will require greater investment in FVPLS and ATSILS.
- 20.** The next NLAP should facilitate the development of initiatives to support workforce, including investing in a national legal assistance workforce development strategy. This should include investment to enable pay parity with Legal Aid Commissions, portability of leave and other entitlements, and RRRR-specific initiatives like housing support etc
- 21.** The next NLAP should support local place-based response to disasters with support from specialist centres for a minimum of two years following any disaster.
- 22.** The next NLAP should support CLCs and FVPLS in disaster preparedness and response. Increase in baseline funding (including funding for peaks) should be made for preparedness work, and the Commonwealth and states should work together to provide a quick deploy, minimum two years duration, funding stream to enable response following a disaster.
- 23.** The next NLAP should require state governments to ensure that the principles of partnership with legal assistance service providers and a focus on good system design and how best to meet identified need and achieve better community outcomes are evident in funding allocation decisions and contract management approaches. Competitive tendering should never be the default method for purchasing services.

- 24.** The next NLAP should provide the framework and funding for a true partnership approach between the Commonwealth, state and territory governments, and legal assistance providers.
- 25.** The next NLAP should provide for state and territory governments to continue to make decisions regarding distribution of funding to individual CLCs.
- 26.** To achieve greater consistency and equity across different jurisdictions, and improve transparency around funding decisions, we recommend the next NLAP:
 - a.** Require state and territory governments to contribute to legal assistance funding (including funding for community legal centres, FVPLS, ATSILS and peaks) and improve funding security within their jurisdictions.
 - b.** Require all levels of government to deliver greater transparency around funding allocation, distribution, improved reporting processes and greater accountability for outcomes
- 27.** The community legal sector and FVPLS deliver the best outcomes in civil and family law for many people and communities experiencing the greatest vulnerability and disadvantage. The next NLAP should recognise this expertise and support strengthened service delivery from CLCs and FVPLS. Consideration should be given to whether redirecting funding from grants to aid to long term increases in baseline funding for CLC civil and family law matters would be more efficient and achieve better outcomes for clients.
- 28.** Funding for legal assistance services should be allocated by the Commonwealth to states and territories based on need and on equity principles, taking into account the additional costs of providing services to specific populations and in particular to people living in RRRR areas
- 29.** The next NLAP should facilitate the delivery of funding to community legal centres, FVPLS and ATSILS sufficient to ensure strong sustainable services that have the resources necessary to achieve good outcomes. Funding should be sufficient to meet the costs of:
 - a.** Service delivery to RRRR - including strong place-based services, ACCOs and regular outreach by both local services and specialists (this needs to include costs like housing allowances etc)
 - b.** Qualified staff recruited and retained at classification levels suited to job tasks. This requires pay parity at a minimum with Legal Aid lawyers.
 - c.** Professional development, supervision and other supports which develop quality and enable career progression as well as cultural safety and trauma informed practice.
 - d.** Legal practice costs including practicing certificates, access and time for professional development, new training requirements under uniform laws, court transcript costs etc
 - e.** Reporting; administration; technology; innovation, planning and service improvement; auditing, legal and other necessary business activities, and infrastructure, including investment in data capability, evaluation, outcomes work.

Includes new developments like needing to adhere to new privacy regulations and psychosocial safety requirements.

- f.** Law reform, advocacy, consultation, and policy input
 - g.** Early intervention including community legal education
 - h.** Innovation/integration/partnerships/wrap around services
 - i.** Disaster preparedness and response
 - j.** Co-design and involvement of people with lived experience
- 30.** The 4 year funding provided in the Commonwealth 2021 budget should be made ongoing and rolled into baseline
 - 31.** There should be timely and transparent distribution of any additional investment allocated through the NLAP, including for disaster response.
 - 32.** Both Commonwealth and state funding provided under the next NLAP should be sufficiently indexed to meet rising costs. Indexation should be paid in a timely manner, and regularly reviewed to ensure it is fit for purpose and that unanticipated cost increases such as increased superannuation payments can be covered.
 - 33.** The next NLAP should provide a simplified and flexible funding stream to CLCs and include funding security and sustainability (minimum five-year agreement with a preference for 12 months, and an absolute minimum of six months, notice of any changes).
 - 34.** The next agreement should require state governments to provide baseline funding contracts to CLCs, FVPLS and ATSILSs linked to the timeframe of Commonwealth funding, and for a minimum of five years.
 - 35.** The next NLAP should require the Commonwealth and states and territories to work together and report annually on steps taken to reduce the reporting burden on CLCs. Any additional funding allocated under the agreement (eg for disaster response) should be added as top ups to existing contracts to reduce the reporting burden on providers.
 - 36.** The next NLAP should include a requirement that it is reviewed periodically by an independent body. The NLAP review should be aligned with a review of the strategic framework
 - 37.** We strongly support the next NLAP facilitating funding for peaks in all jurisdictions, including our national CLC peak.

Access to justice

The right to justice should be a fundamental public entitlement, equivalent to that of education or healthcare. But access to justice has steadily been eroded across Australia to the point that our justice system is in crisis. Justice is not accessible to many Australians, and in particular to those experiencing the highest levels of vulnerability and disadvantage. Legal assistance services only have capacity to meet a tiny proportion of demand. There is insufficient community legal education and early intervention. Further, CLC lawyers, being the experts in how our laws impact on everyday Australians, have little capacity to devote time to advocate to make those laws better.

The current review of the National Legal Assistance Partnership presents an important opportunity to re-establish legal assistance as a public right.

Community legal centres

There are 26 community legal centres in Western Australia including 3 Family Violence Prevention Legal Services (FVLPS).

Community legal centres:

- are embedded in their communities, operating at a grassroots level
- have specialist skills in trauma informed care and culturally responsive service delivery
- are flexible and nimble, responding efficiently to changing and emerging needs in their communities
- offer integrated care with holistic or social supports and work closely with other local services to provide clients a web of support
- are the service of choice for people experiencing complex needs
- are experts in identifying where laws and policies require reform
- provide access for people who feel more comfortable accessing an independent service rather than from government
- play a particularly important role in prevention and early intervention through activities like community legal education, advocacy, and law reform.

CLC accreditation

All Community Legal Centres in Australia, including those in WA, are accredited for quality assurance under the National Accreditation Scheme (NAS). The NAS focuses on continuous improvement of CLC services. Centres are assessed every three to four years to determine their compliance with seventeen minimum standards in the areas of good governance, sound financial management, law reform activities, and delivering client centred services. Assessments involve a desktop review of each CLC's policies and procedures, a full day of onsite inspections (where possible), and multiple interviews of CLC staff and Board members by an Accreditation Coordinator.

Western Australia has its own Accreditation Coordinator who works closely with other coordinators nationally. This helps ensure that there is a consistent approach to achieving quality across the CLC sector and supports knowledge sharing of best practice approaches to delivering legal assistance services.

National priorities

- 1. The next NLAP should facilitate whole of government approaches to social issues through alignment with other key national agreements and policies, including but not limited to the National Agreement on Closing the Gap**

The National Legal Assistance Partnership has important intersections with other key government strategies and initiatives. Investment in legal assistance is likely to have positive flow on effects towards meeting commitments across these other areas. Any consideration of funding allocations to legal assistance services should include investment in meeting these broader priorities including the commitments under the following:

National Agreement on Closing the Gap

Funding legal assistance providers, including FVPLS, ATSILS and CLCs, is an important component of reaching Closing the Gap targets including reducing the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system.

It is essential the partnership and shared decision-making elements articulated in Closing the Gap³ are embedded into any national partnership agreement for legal assistance services.

The National Plan to End Violence against Women and Children 2022-2032

The National Plan recognises that legal services are an important part of the response to violence against women and children. It specifically notes capacity building for legal services, including Women's Legal Services and Aboriginal and Torres Strait Islander Women's Legal Services as a priority. The National Plan also articulates the importance of work to ensure 'justice systems are safe, accessible and easy for victim-survivors to navigate' and that legal services are educated about:

- ▶ the drivers, forms and dynamics of domestic, family and sexual violence
- ▶ trauma-informed court practices
- ▶ the impact of these crimes on victim-survivors, including how perpetrators may use the system against them.⁴

The National Plan recommends integrated service delivery for people who have experienced gender-based violence, including across mental health, health, legal, and workforce support.⁵

³ See [6. Priority Reform One - Formal Partnerships and Shared Decision-Making](#).

⁴

https://www.dss.gov.au/sites/default/files/documents/11_2022/national_plan_to_end_violence_against_women_and_children_2022-2032.pdf

⁵

https://www.dss.gov.au/sites/default/files/documents/11_2022/national_plan_to_end_violence_against_women_and_children_2022-2032.pdf

Australia’s Disability Strategy 2021-2031

A key priority of the national disability strategy is for people with disability to have equal access to justice⁶. Directly relevant to this review, *this requires appropriate strategies, including aids, equipment, and accessible legal information and advice to facilitate equal and effective participation in all legal proceedings. In addition, greater awareness of disability is needed among some parts of the judiciary, legal professionals and court staff.*

“People with disability engaging in the justice system face significant barriers, with many finding access to justice difficult, hostile and ineffectual. As a result, they are often left without legal redress.” (Australian Civil Society 2019)

National Strategy for Volunteering

CLCs utilise a significant number of volunteers in their work. As noted in the national volunteering strategy, it’s vital that we work towards ensuring that volunteering is valued and properly considered in policy settings, service design, and strategic investment. The review of the NLAP is an important opportunity to consider volunteers and volunteering in legal assistance in line with the national strategy’s strategic objective 3.1 Make Volunteering a Cross-Portfolio Issue in Government. This objective provides that *comprehensive policy and investment in volunteering should be recognised as an essential remit of Governments at every level.*

Safe and Supported: National Framework for Protecting Australia’s Children 2021-2031

The [first action plan](#) under Safe and Supported includes important outcomes related to ensuring children, young people, and families have improved access to better quality and more equitable family law and justice services and supports.⁷

The [Aboriginal and Torres Strait Islander action plan](#) under Safe and Supported includes Action 6 Commitment: *Improve availability and quality of legal support for Aboriginal and Torres Strait Islander children, young people and families engaged with child protection systems, and acknowledge the issues of equitable access to justice.*

Disability Royal Commission

The Royal Commission recommends that *the Australian Government, working with state and territory governments consider establishing free, independent legal advice and advocacy services for people with disability experiencing homelessness.*

The Commission also highlights the need for national agreements to be reviewed to consider alignment with Australia’s Disability Strategy 2021–2031 including how funding allocations and outcomes measures should recognise the needs and rights of people with disability.

⁶ Policy Priority 5

⁷ See for example sub-outcome S5.1

Legal need

2. The NLAP should improve understanding of legal need across Australia through investment in regular legal need surveys.

WA CLCs and FVPLS, like their counterparts in other jurisdictions, cannot meet current demand for legal assistance and the demand for legal assistance is increasing.

What we know

We have to turn away more people than we are able to support. CEO, WA Specialist CLC, 2023

By necessity, the evidence provided by CLWA members relates primarily to their ability to service expressed legal need, rather than unexpressed or unidentified legal need.

Over the past three years Southern Communities Advocacy Legal & Education Service (SCALES) have had to turn away an average of more than 100 people per quarter. Albany CLC have reported turning away 30-40 people per month, up from a long-term average of 15-20 people per month. Between 1-20 July 2023, they had already turned away 30 people and expected this number to grow. In both cases, these were all individuals who would have otherwise been eligible to receive a legal assistance service but were turned away solely due to a lack of service capacity or a conflict of interest.

Marrinwarntikura Women's Resource Centre have had to close their office to new representations on more than one occasion.

Northern Suburbs CLC are seeing a massive quarter-on-quarter and year-on-year increase in information and referral services. Current numbers of information and referral services this year are trending approximately 40% higher than the same period last year. While these figures are not turn-aways as such, they do represent clients who only receive a basic level of service either because the Centre does not have capacity or are not funded to provide the specific service required.

Street Law Centre WA has seen an increase from 23% to 38% street presentations for street legal.

Circle Green received over 30,000 requests for assistance in the 2022-23 financial year.⁸

Specialist centres like Youth Legal Service report often not being able to undertake outreach into regional and remote communities due to a lack of capacity, meaning these populations are not getting access to these vital services. This may be indicative of the situation for many specialist CLC's attempting to offer statewide services in specialised areas of law or to priority cohorts.

These numbers represent some of the increase in unmet demand for services. As the Victorian [Public Understanding of Law](#) results demonstrate, there are likely to be much greater numbers of people who do not seek help, either because they do not understand their problem is legal, or because they are do not know where to get help, or they are fatalistic about the outcome.

⁸ Circle Green Community Legal 2023. Our impact in 2022-2023

The increase in legal need is putting many centres under pressure. The volume of demand means CLCs often have to triage clients, maintain waitlists, or not be able to offer appointments for a number of weeks or even months, and/or provide a lower level of service than what is needed to achieve the best outcomes. Some clients have to wait longer to access legal help, by which time their problem may have become more urgent, increased in complexity, or the opportunity to achieve an optimal outcome has been missed. This increase in complexity further impacts the ability of the centre to provide service to future clients.

The implications for people when they can't access legal help can be significant. For example, Ruah Legal Services' Mental Health Law Centre has reported turning away some criminal law cases who meet eligibility criteria due to lack of capacity.

It can also mean Centres are unable to meet identified gaps in service delivery. More information about those gaps is provided in [the Emerging Legal Need](#) section.

Where legal need existed, 78 per cent went unmet. Unmet need was the norm not the exception. Where legal need goes unmet, there is no access to justice. Victoria Law Foundation 2023⁹

Drivers of legal need in WA

Housing stress

Housing was identified by our members as one of the most pressing issues currently facing clients and was the top problem type for people accessing WA CLCs and FVPLS in 2022-23.

This is not surprising. WA is experiencing a housing crisis, with rental vacancy rates at historical lows, high rents, and increasing mortgage pressures. Anglicare WA's Rental Affordability Snapshot 2022 found less than 1% of available properties were affordable for people on income support payments and nothing was affordable for people on JobSeeker.¹⁰ Perth's rental vacancy rate has been below 1% since 2020, with regional centres even tighter. According to the Real Estate Institute of WA (REIWA), a balanced market would be reflected in vacancy rates between 2.5 and 3.5%.¹¹ There is little respite on the horizon for renters as demand continues to remain strong and supply weak.¹²

Clients experiencing FDV are staying in terribly dangerous relationships as they have nowhere else to go. Tenants are paying extraordinary rent (more than 60% of their income) as they can't afford to move anywhere else and nothing is available. CLWA member, 2022 State Budget Submission consultation

⁹ <https://puls.victorialawfoundation.org.au/publications/everyday-problems-and-legal-need>

¹⁰ https://www.anglicarewa.org.au/docs/default-source/advocacy/anglicare-wa-rental-affordability-snapshot-2022.pdf?sfvrsn=de77d2cf_8

¹¹ https://sqmresearch.com.au/graph_vacancy.php

¹² Brierty R, Buckland A, Crowe A, Duncan AS and Rowley S (2023), 'Housing Affordability in Western Australia 2023: Building for the future', Bankwest Curtin Economics Centre Focus on Western Australia Report Series, No 17, May 2023.

Housing insecurity is one of the biggest issues at the moment. Clients experiencing family violence are reticent to leave because they have nowhere to go. Overcrowding is leading to more violence and tension and elder abuse. **CLWA member, 2022 State Budget Submission consultation**

CLCs and FVPLS told us they are seeing higher levels of vulnerability, urgency, and complexity in housing matters, as well as new classes of clients who have not previously needed to access their services before. Growing complexity means a greater number and length of appointments are needed to resolve a problem. Centres also report seeing more people with children, as well as older people who are at risk of homelessness.

Family and domestic violence

Centres are also seeing an increase in family and domestic violence. WA Police crime statistics demonstrate family related offences are currently 34.8% above the five-year average, with regional data 52.6% above the five year average.¹³ Family and domestic violence was one of the top five issues for clients contacting CLCs in WA in 2022.

E-safety must be part of our day to day work. Women are stalked and monitored by devices in their homes, on their phones, other devices, on their cars or their children's possessions. It needs to be part of the intake and consideration of safety.

September 2023. Comments provided by metropolitan generalists WA CLC.

Cost of living

More than one in eight people (13.4 per cent) and one in six children (16.6 per cent) in Australia live in poverty.¹⁴ Poverty erodes economic and social rights such as the right to health, adequate housing and food.¹⁵ Poverty has also traditionally been a key social indicator of legal need, with low-income households significantly more likely to experience legal problems.

Inflationary pressures are rising across the state with Perth's inflation currently at an annual rate of 6.0%.¹⁶ Our members are already seeing the impact of the rising cost of living on their clients, and it is anticipated that these pressures will get worse. The cost of food and energy is going up, with the regions particularly hard hit. Inflation in regional and remote locations can be significantly higher.¹⁷

We are seeing an increasing reliance on buy now pay later. People are using this to survive. People are buying Coles vouchers on After Pay to buy food. This leads to people spiralling into financial crisis and increasing rates of predatory lending.

CLWA member, 2022 State Budget Submission consultation

¹³ <https://www.police.wa.gov.au/crime/crimestatistics#/> Accessed 27 September 2023.

¹⁴ Davidson, P; Bradbury, B; and Wong, M (2022) Poverty in Australia 2022: A snapshot Australian Council of Social Service (ACOSS) and UNSW Sydney.

¹⁵ Alternative Law Journal, 2012, Justice and Poverty, <https://www.altj.org/news-and-views/opinion/444-justice-and-poverty>

¹⁶ WA Treasury Corporation 2023 <https://www.watc.wa.gov.au/media/ciybsvqe/cpi-q2-2023.pdf>

¹⁷ WA Department of Primary Industries and Regional Development, (2021), Regional Price Index 2021 https://catalogue.data.wa.gov.au/dataset/7ef0c9f9-6b7f-4405-af4e-19f286beba56/resource/53318142-cdb5-47ea-b003-9814b0a3e9a2/download/2374-19-02-regional-price-index-2021_web-1.pdf

Rising costs increase inequality and disadvantage and increase many of the social determinants of legal problems.¹⁸ Our members have told us that they are seeing significant follow-on effects from the increased cost of living as people put off paying their bills, access buy now pay later and payday lending schemes, and experience increased risk of violence, substance abuse and mental ill health. This reflects findings of a recent national ACOSS survey on the impact of rising cost of living.¹⁹

Mental health

Mental health and legal issues often co-occur and interact with each other and the existence of one can exacerbate the severity of the other.²⁰

There are indications that mental health challenges rose due to the economic and social dislocation of COVID-19 and those higher rates continue to persist.²¹ Research conducted by Australian National University, shows the number of Australians experiencing psychological distress in January 2022 was 2.6% higher than numbers pre- COVID.²² The impact of increasing mental health issues was one of the most significant themes in our consultations with members and was repeatedly emphasised. Centres are seeing the considerable impact that increasing mental health challenges have in their clients and across our community. When people are experiencing significant mental distress, and in particular when they are unable to access adequate mental health care, this can impact across many facets of their lives including increasing the urgency and complexity of legal need. It can also be more difficult for CLCs and FVPLS to help people address their legal problems when those people are also experiencing mental health challenges.

Disability

People with disability can be particularly vulnerable to legal issues including issues associated with discrimination, employment, guardianship, housing, and financial matters.²³

Our members told us that their clients face particular pressures around access to the NDIS and disability services, particularly in the regions. They identified a need for more advocacy and support in this space, including regional place-based support.

¹⁸ Davidson, P. & Bradbury, B., (2022) The wealth inequality pandemic: COVID and wealth inequality ACOSS/UNSW Sydney Poverty and Inequality Partnership, Build Back Fairer Series Report No. 4, Sydney. https://povertyandinequality.acoss.org.au/wp-content/uploads/2022/07/The-wealth-inequality-pandemic_COVID-and-wealth-inequality_screen.pdf

¹⁹ https://www.acoss.org.au/wp-content/uploads/2022/09/ACOSS-cost-of-living-report_web_v02.pdf

²⁰ Nagy MT & Forell S (2020) Legal help as mental healthcare, Health Justice Insights, Health Justice Australia, Sydney

²¹ Australian Institute of Health and Welfare (AIHW), Mental health services in Australia, AIHW, Australian Government, 26 August 2022

²² N Biddle and M Gray, Tracking wellbeing outcomes during the Covid-19 pandemic (January 2022): riding the Omicron wave, ANU Centre for Social Research and Methods, Australian National University, 14 February 2022, accessed 15 September 2022.

²³ Coumarelos, C., Macourt, D., People, J., McDonald, H., Wei, Z., Iriana, R., & Ramsey, S. 2012, Legal Australia-Wide Survey: Legal Need in Australia, Law and Justice Foundation of New South Wales, available at: [http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf)

Emerging areas of legal need/ disadvantaged groups

In addition to the systemically disadvantaged groups recognised in the WA Legal Assistance Strategy but absent from the NLAP, WA services are seeing demand from new cohorts of vulnerable clients.

We note the [WA Legal Assistance Strategy](#) identifies the following priority client groups in addition to those currently identified in Schedule A of the NLAP

- ▶ Involuntary patients under the Mental Health Act 2014 (WA)
- ▶ People who identify as LGBTIQI+
- ▶ Victims of institutional abuse
- ▶ Women
- ▶ People who fall into multiple priority client groups

We support the inclusion of these groups in the NLAP going forward and also note our support for inclusion of the following priority groups identified by Community Legal Centres Australia:

- ▶ Women
- ▶ Refugees and asylum seekers
- ▶ LGBTIQ+ people
- ▶ People impacted by extreme weather events and climate change

WA Centres told us they are seeing new cohorts of people who cannot afford legal representation. Many of these people may have never needed to access community services before and may not have been traditionally considered to be “disadvantaged” eg the working poor.

Services are also seeing gaps in services for, or increasing numbers of:

- ▶ people with limited executive capacity
- ▶ older people who are experiencing both increased legal need as well as facing barriers accessing help including services relating to end-of-life planning
- ▶ male perpetrators
- ▶ victim-survivors of FDV
- ▶ gig economy workers
- ▶ people under guardianship and administration orders
- ▶ prisoners
- ▶ people with low digital literacy or other technological barriers
- ▶ people who need assistance with superannuation / insurance / bankruptcy
- ▶ New Zealand citizens

We note feedback from WA CLCs and FVPLS that vulnerability is often dynamic and situational. A client might not be in an identified priority group but could nonetheless be extremely vulnerable at a particular moment in time. A strength of CLCs and FVPLS is their flexibility to identify and respond to that need. For example, a client of Welfare Rights Advocacy Service (WRAS) who would otherwise have capacity to represent herself was unable to do so due to the suicide of her daughter the week before. This understandably had a significant impact on the client’s mental health and wellbeing. Without support from WRAS there would have been a very poor outcome to the client’s case. An effective service system is underpinned by the principle that legal assistance should be

directed to those with the greatest vulnerability, while providing services some flexibility to identify and respond to different manifestations of vulnerability in their clients.

We also note the impact of changes to the geographic distribution of need. There has been significant growth in peri-urban populations in Western Australia and increasing numbers of spread-out high-density communities that need to be visited regularly. Many of these communities do not have access to adequate public transport and are not located close to services. They present a challenge to service delivery, increasing the cost and time required by Centres to provide them with legal assistance services.

Changing legal need associated with climate and disasters

Western Australia faces a range of challenges from the impacts of our changing climate. International modelling predicts that in general our climate will become much hotter and as a whole much drier. We will experience a greater risk of bushfires – with our bushfire season longer, more intense and with catastrophic fire conditions, may render traditional firefighting techniques less effective. We will experience a greater frequency and intensity of floods. There will be a rise in sea levels, causing increased coastal erosion, loss of beaches and higher storm surges. Although there are likely to be fewer cyclones, those that form are likely to be much greater in intensity and, in Western Australia, the latitude at which cyclones reach their maximum lifetime will likely shift south, affecting the central West and lower West coasts, affecting areas not historically affected by cyclones.

The nature of disasters are likely to compound, either by disaster events happening concurrently, soon after one another, reducing a community's ability to recover, or may cross state borders and occur on a national scale.²⁴

It is overwhelmingly clear that people experiencing poverty are more vulnerable to the impacts of climate change. Poverty significantly increases peoples' susceptibility to poor health and wellbeing outcomes resulting from climate hazards such as heatwaves, droughts, floods, cyclones, and bushfires. With limited access to social and financial resources, people in poverty are less able to cope, adapt, and recover from these hazards.

Legal need is impacted by climate change but often goes unrecognised; victims of disaster may not recognise that the problems they are facing are legal in nature or may not know where to seek resources to assist in the resolution of these issues. The legal response to disaster is often complex and lengthy, with legal issues often not manifesting immediately following a disaster event and can have a lifespan for years following a disaster. Generally, if legal issues following disasters are not addressed in a timely manner they can compound or increase in complexity. Disasters may also exacerbate existing legal issues that a victim is experiencing.

Extreme heat already causes more deaths than any other extreme weather event, accounting for five times more fatalities than bushfires,²⁵ and is increasingly a potential factor contributing to employment, tenancy, and administrative legal matters, as demonstrated in Kimberley Community

²⁴ *Royal Commission into National Natural Disaster Arrangements* (Report, 28 October 2020) vol 1, 55.

²⁵ *Royal Commission into National Natural Disaster Arrangements* (Report, 28 October 2020) vol 1, 63.

Legal Services [Stuck in the Heat](#) report which details the lived experiences of public housing tenants in the Kimberley.

Legal need is not adequately reflected in Western Australian climate adaptation and disaster response planning. CLCs and FVPLS have a core role supporting our communities to be safe and resilient, particularly in community-led response to, and mitigation of, disasters. Many CLC clients in WA are affected by areas of intersectionality such as: being located in regional and remote areas; more likely to experience climate harm because of where they live; their mental or physical health; and how resilient their houses are to extreme weather. For many of these clients, their financial situation can restrict opportunities to move or adjust their living circumstances and, when disasters happen, they are more likely to be underinsured or uninsured.

Climate change increases the demand for services in an already tightly constrained environment, accelerating and intensifying the types of legal issues people experience. Everyday civil law problems are likely to accelerate as a result of general climate change impacts, as well as standalone extreme weather events like the recent Kimberley floods, Tropical Cyclone Seroja and bushfires. The [Public Understanding of Law Survey](#) found that people affected by the 2019–2020 bushfires were more likely to have problems, had more problems (of all types), longer problem duration, more severe problems, and greater use of services (legal and non-legal). The increased legal need from climate disasters like bushfires and floods has been shown to continue for a long time, often many years, after the disaster.²⁶

More indirect impacts of climate change may result in more ‘hidden’ legal problems, including:

- ▶ Insurance and consumer law problems fuelled by uninsurable goods and properties
- ▶ Tenancy law problems arising from disputes about heating and cooling, and habitability during times of extreme heat or flooding
- ▶ Employment law problems, especially for low-paid workers in high heat environments, pay and conditions, and increased workplace injuries
- ▶ Legal issues related to family violence, which all too often spike during disasters and extreme heat
- ▶ Mental health law problems which can be exacerbated during crises
- ▶ Community legal education needs to help people understand the laws and policies that will affect them in terms of local climate risk and provide strategies to help them adapt²⁷

The [Disaster response and preparedness](#) section below recommends how the next NLAP should support legal assistance providers to better prevent and address legal need associated with disasters.

²⁶ See for example findings from the Climate Justice Legal Project <https://www.fclc.org.au/cjlp> as well as recent mapping and data analysis by Community Legal Centres Australia

²⁷ Federation of Community Legal Centres Victoria, 2021, Climate justice – protecting Victorians in an age of climate change. Available at: https://www.fclc.org.au/climate_justice

Mechanisms for measuring legal need

The evidence base for understanding legal need in WA is poor.

Current tools, methods and funding for collecting data are insufficient to determine legal need and the extent that the legal needs of disadvantaged Western Australians are currently being met by services funded through the NLAP.

Current legal needs tools tend to determine need using place-based indicators such as socio-economic disadvantage and low educational attainment. The community legal sector supports client-centred, needs-based funding, but our evidence base for legal need is not sufficient to serve as more than a blunt instrument to identify legal need in different geographical areas or across different populations.

Figure 1 maps existing NLAP reporting mechanisms and identifies other mechanisms which would contribute to improving our understanding of legal need. CLWA has adopted the definition for legal need outlined in the NLAP Review Issues Paper²⁸ and for the purposes of Figure 1, has split the definition of unmet legal need into three categories: unidentified, unexpressed and unmet legal need.

As demonstrated in Figure 1, most of the existing NLAP reporting mechanisms merely count the number of services delivered, and do not contribute to our understanding of legal need or whether that need has been met. Existing mechanisms that do contribute to our understanding of legal need (e.g. case studies and client surveys) are only collected by the Commonwealth in a limited way, and not then published for use by the sector with service planning. Also, this data is often not publicly available.

Case studies can give a rich qualitative example of how legal demand is or isn't met. However, they are not a complete picture and cannot inform decision making in the same way that information from a legal needs survey can.

Similarly, NLAP client surveys currently capture only two (2) out of one hundred and four (104) weeks of service delivery and they only capture demand (expressed need).

Finally, the Statement(s) of Services and related reporting provide only a brief explanation of expressed legal need observed by CLCs and FVPLS in WA. As above, this data is not then shared with the sector to inform service planning.

As part of the ongoing work to estimate the level and nature of legal need in WA, the Department of Justice (DoJ) commissioned the 2022 WA Legal Needs Report and the Legal Needs Service Data Tool.²⁹ This work involves a service delivery analysis using service data which is then overlaid with population, Court, and other justice data in an attempt to understand legal need and relative sufficiency of services.³⁰

The WA Legal Needs Report provides a snapshot of the estimated level and nature of legal need in WA, with reference to geographic regions, Priority Areas of Law and Priority Client Groups. The

²⁸ Dr Warren Mundy, 'National Legal Assistance Partnership Review: Issues Paper' (2023) 15 [4.2].

²⁹ [Supporting the Legal Assistance Sector \(www.wa.gov.au\)](https://www.wa.gov.au)

³⁰ ACIL Allen, 'Assessment on the Current Legal Needs in Western Australia - Final Report' (2022) ('ACIL Allen Report'). https://acilallen.com.au/uploads/projects/642/ACIL-Allen_WA-Legal-Needs-Report.pdf

Legal Needs Service Data Tool is being developed to synthesise legal assistance service provider data and legal needs indicators, providing an ongoing statistical narrative of legal need in WA and how it is met.³¹

It is recognised in the Legal Needs Report that this work comes with limitations as follows:³²

- ▶ **Limitations to the accuracy and completeness of service data**
 - Some data fields are not being captured consistently across the sector; postcode data is currently being collected and this does not map to Justice Regions perfectly; some services may be recording their own postcodes instead of the service user's place of residence; data used does not comply with the latest recording practices in NLA Data Standards Manual version (v3).
- ▶ **Constraints on population estimates**
 - Priority Client Group estimates used to determine underlying need for legal assistance are based on 2016 Census data and other state datasets that do not fully represent the Priority Client Groups.
- ▶ **Drawbacks from using legal assistance data**
 - Some legal problems may not be addressed due to personal or systematic barriers to accessing legal assistance services. Service data also does not explain whether the services provided have adequately addressed a client's legal need.

The Report and the Legal Needs Service Data Tool will not address the complexity of legal services provided, nor will it completely overcome the challenge of identifying and documenting unmet legal need, either because people are not aware of their legal rights, or because there is not appropriate, accessible legal assistance available to them.³³

As stated by the Law and Justice Foundation, the Need for Legal Assistance Services indicators (NLAS) are not without limitations; NLAS capability "is a blunt tool that assumes legal capability is a relatively static state that is correlated primarily with education and personal income. Other more dynamic aspects of capability, such as psychological readiness to act, are not measured by this indicator."³⁴

As demonstrated in Figure 1, outcomes data collected by legal assistance providers can also provide evidence about legal need, and importantly, whether services are meeting this need.

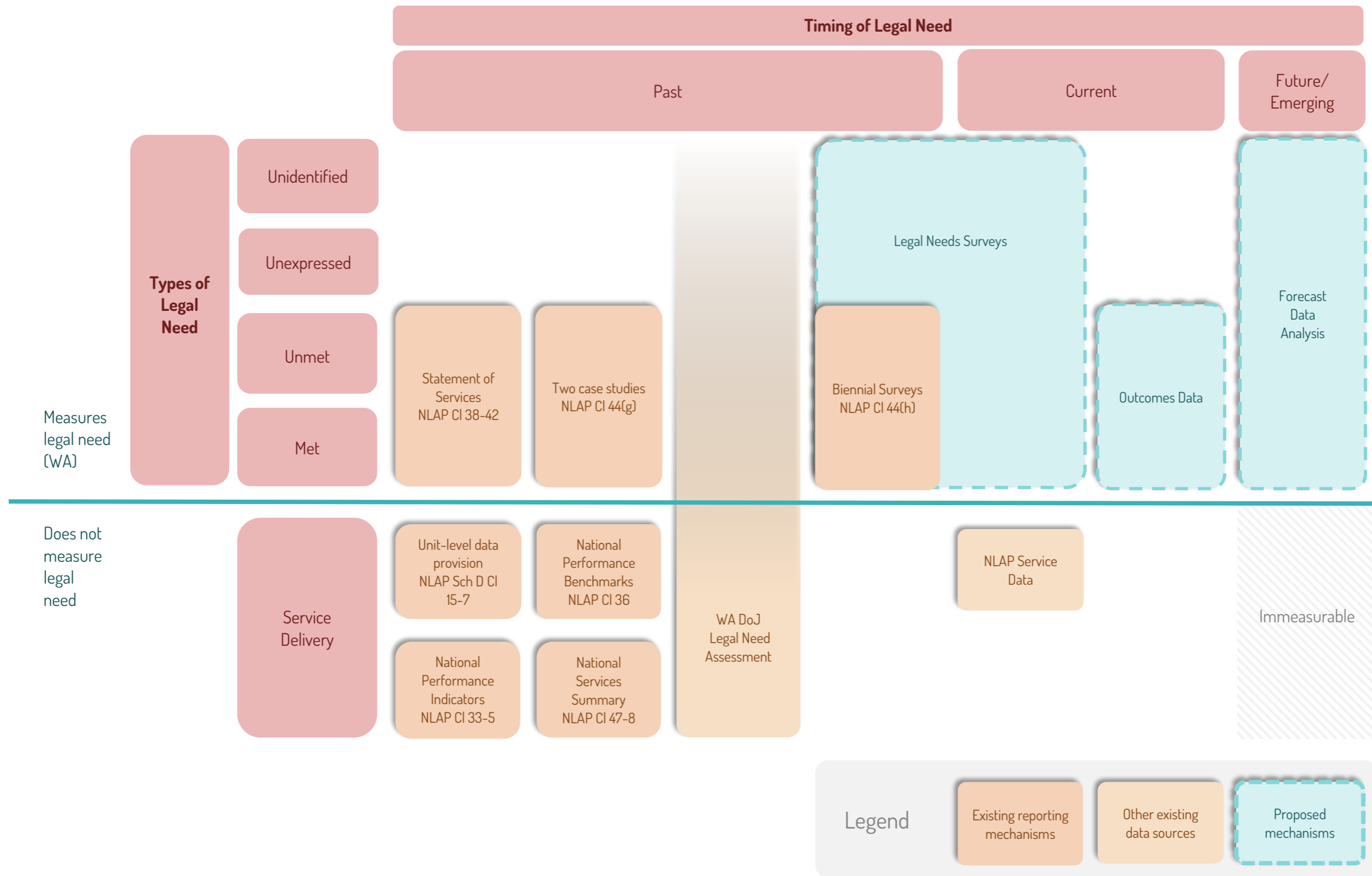
³¹ [Supporting the Legal Assistance Sector \(www.wa.gov.au\)](http://www.wa.gov.au)

³² ACIL Allen, 'Assessment on the Current Legal Needs in Western Australia - Final Report' (2022) ('ACIL Allen Report'). https://acilallen.com.au/uploads/projects/642/ACIL-Allen_WA-Legal-Needs-Report.pdf 9-12 [1.4].

³³ ACIL Allen, 'Assessment on the Current Legal Needs in Western Australia - Final Report' (2022) ('ACIL Allen Report'). https://acilallen.com.au/uploads/projects/642/ACIL-Allen_WA-Legal-Needs-Report.pdf 9-12 [1.4].

³⁴ [http://www.lawfoundation.net.au/ljf/site/articleIDs/AE704CF1729F466A8525814F000812D9/\\$file/JL_26_pages_NLAS_indicator.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/AE704CF1729F466A8525814F000812D9/$file/JL_26_pages_NLAS_indicator.pdf) p4

Figure 1: Mapping of existing and potential mechanisms for understanding legal need under NLAP



Additional information is required to improve our understanding of legal need and the extent to which current legal assistance is meeting the overall scale and breadth of the legal needs of disadvantaged Western Australians. Legal need surveys are crucial to developing this evidence. Legal needs surveys investigate the experience of justiciable problems from the perspective of those who face them (a 'bottom-up' perspective), rather than from that of justice professionals and institutions (a 'top-down' perspective). They seek to identify and explore the full range of responses to problems and, within this, all the sources of help and institutions that are utilised in pursuing problem resolution. They provide a uniquely comprehensive overview that is impossible to achieve by other means³⁵.

The recent Public Understanding of Law Survey³⁶ ('PULS') in Victoria³⁷ and the work done nationally more than a decade ago by the NSW Law and Justice Foundation are both excellent examples that clearly demonstrate the value and importance of legal need surveys.³⁸ Western Australia is disadvantaged by not having our own Law & Justice Foundation or similar to undertake this work. We also note the value of this work being done on a national scale, enabling comparisons between need in different geographic areas, providing cross-border visibility and helping provide a national evidence base for Commonwealth understanding of need and informing needs based funding allocations nationally.

The Law and Justice Foundation of NSW and the Law and Justice Institute of Victoria undertake important and valuable work which contributes to an understanding of legal need in those jurisdictions. The [Public Understanding of Law Survey](#) (PULS) is an important piece of work that significantly increases the evidence base and our understanding of legal need in Victoria. There is a significant gap in our knowledge and understanding of legal need in WA because we lack similar research. The characteristics of the Western Australian population and geography mean that much of the PULS findings may not be translatable to the WA context.

Geographic distribution of legal need

Some excellent work provides a clearer picture of the geographic distribution of disadvantage. For example Victorian Council of Social Service's [Mapping Economic Disadvantage in Victoria](#).³⁹ As this evidence base develops it will allow more sophisticated understanding of need to inform more effective service delivery, ensuring services are targeted to the greatest need. Going forward, it's important this work is integrated into the evidence base for legal need across Australia.

³⁵ OECD/Open Society Foundations (2019), Legal Needs Surveys and Access to Justice, OECD Publishing, Paris, [g2g9a36c-en.pdf \(oecd-ilibrary.org\)](#), p28

³⁶ Nigel J. Balmer et al, Victoria Law Foundation, 'The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need' (2023) 114 ('PULS Vol 1').

³⁷ 'PULS Vol 1' (n 1).

³⁸ Christine Coumarelos et al, Law and Justice Foundation of New South Wales, 'Legal Australia-Wide Survey: Legal need in Australia' (2012).

³⁹ See also <https://www.dote.org.au/western-australia>

Impact of unmet legal need

Improving our understanding of the impact of legal need and unmet legal need would help service planning and improve outcomes. According to the findings of the Public Understanding of Law Survey, on average, family problems had the greatest impact on people followed by those relating to injury, debt or money and employment. Problems also routinely had adverse impacts that extended beyond the bounds of the issue at hand and deep into respondent's lives. Having to move home, loss of employment, being harassed, threatened or assaulted, ill health or injury damage to relationship and loss of confidence were all increasingly common consequences of justiciable problems. Critically, **stress stemmed from more than 70% of problems.**⁴⁰ While this information is important and useful, the WA context is very different from Victoria and as such there are limitations to how we can use this research to inform our own work. As noted earlier, doing this type of research nationally, or funding law and justice research bodies in each jurisdiction, would help ensure people in Western Australia and other smaller jurisdictions are better represented in the evidence-base. This in turn would mean we have more robust information available to inform service planning.

Evidence of emerging legal need

3. Consideration should be made to investing in the development of a tool to forecast legal need to help inform funding and service planning.

As shown in Figure 1, data on emerging/future legal need is not currently being collected via existing NLAP reporting mechanisms. Consideration should be made to investing in the development of a tool to forecast legal need to help inform service planning. A forecasting tool could include indicators such as disasters recently impacting the community, the declaration of a health or climate emergency, economic downturns and/or changes in legislation which may increase the frequency of legal matters for disadvantaged groups. These events/changes may be likely to increase the number of people who will experience a legal problem within the next 12 months+ and may therefore act as predictors of emerging legal need.

This forecasting would help legal assistance services to coordinate efforts more effectively and plan for upcoming surges to services. This type of approach is commonly used for emergency events nationally and internationally to predict and manage impacts to life and property⁴¹.

⁴⁰ [Public Understanding of Law Survey](#)

⁴¹ 2021, Di Huang, Shuaian Wang, Zhiyuan Liu, [A systematic review of prediction methods for emergency management - ScienceDirect](#)

Wrap around services

4. Legal assistance services should have flexibility to determine how best to meet need through partnerships/integration/wrap around services, taking into account need, as well as the existing service environment in their communities. The next NLAP should contain a provision explicitly permitting funding under the agreement to be used for non-legal supports.
5. The next NLAP should provide innovation or project funding to support the development of more integrated services/partnerships/innovative models of partnership.

Legal need in WA is connected to people's experiences of disadvantage and often intersects with non-legal problems, such as mental and physical health problems, family violence and alcohol and other drug issues.

WA CLCs and FVPLS deliver a range of different models of partnership or wrap around services that improve client outcomes and increase the effectiveness and efficiency of legal service provision.

Delivery of the current NLAP on its objective to contribute to integrated legal assistance services has been weak and patchy.

The Law and Justice Foundation of NSW Legal Australia-Wide Survey found that people experiencing family and domestic violence “were 10 times more likely than others to experience legal problems other than domestic violence, including a wide range of family, civil and crime problems.”⁴²

People do not always recognise problems they are facing as legal problems. They may lack knowledge about where to go for help and they may seek help from other services, for example a health or homelessness service, or a women's refuge.

Fragmented and siloed systems cannot meet increasing and increasingly complex levels of health, legal and social need. 100 Families WA research clearly demonstrates the barriers people experiencing disadvantage in WA face accessing services and supports.

The retelling of our story in bits, over and over, when trying to access stretched services is often frustrating and so easily compounds already existing trauma. **100 Families WA**

However, we know that we can improve the responsiveness of legal assistance services to the multiple, intersecting health and legal problems that are experienced by many clients through creating more integrated, collaborative and joined-up services. This type of service delivery helps to, for example, better address the complexities of mental health service pathways, the clustering of

⁴² Coumarelos, C. 2019. Quantifying the legal and broader life impacts of domestic and family violence, Justice issues paper 32, Law and Justice Foundation of NSW, Sydney.

needs in relation to family violence, the issues related to financial stress, and the interacting problems that bring people into contact with child protection authorities – all challenges experienced by many clients.

...those non-legal supports for us here in Fitzroy Crossing have been invaluable both in terms of improving client outcomes and also reducing the workload on the solicitors. WA CLC Manager 2023

Integrated approaches to providing legal assistance can take different forms, including:

- ▶ Multidisciplinary teams (lawyers and community service professionals working closely to deliver services together) within a community legal service or other community organisation
- ▶ Co-location of a lawyer at another agency
- ▶ Lawyer outreach embedded in a community service
- ▶ Health justice partnerships – formal partnerships between legal assistance service providers and health or community services
- ▶ Two or more organisations merging to offer services together on a permanent basis.
- ▶ Dedicated case management or social work resource located in, or connected to, community legal centres⁴³

Within each type of integrated practice, there are many and varied models, although all aim to provide a more holistic person-centred response that leads to better client outcomes through coordinated support for a diverse range of legal and social needs.

Integrated services can reduce the need for multiple appointments and more complex and therefore time-consuming external referral paperwork. When working as part of a team, the lawyers and the other professionals (eg financial counsellors, social workers etc) vastly increase their knowledge of the other professional's roles, requirements, capabilities and boundaries. This improves the capability of all workers, resulting in more efficient ways of working, streamlining resources.

Partnering with social support services means lawyers don't need to provide counselling and makes service delivery dramatically more efficient. WA CLC Manager 2023

Utilising non-legal staff can lighten the workload of legal staff and reduce work-related stress, vicarious trauma etc. Legal assistance funding needs to be more flexible, including specifically allowing for employment of non-legal staff eg financial counsellors, case managers, tenant advocates, social workers, FDV advocates, community connectors, Aboriginal engagement workers, mediators etc. This has not been the case in WA to date.

⁴³ Eastern Community Legal Centre, Integrated practice – Better Practice Principles. <https://eclc.org.au/wp-content/uploads/ECLC-Better-Practice-Principles-Integrated-Practice-Report.pdf>

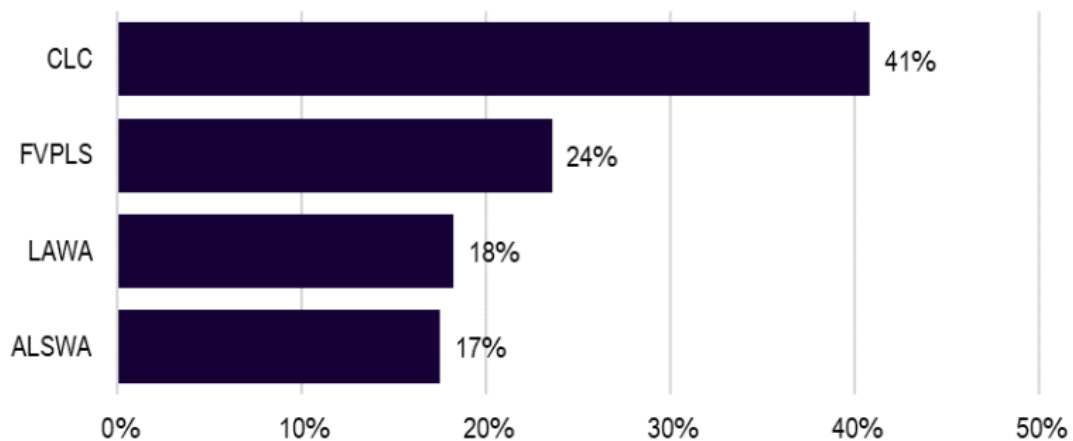
Holistic services can help identify areas of concern and challenge for people across a broad range of areas, identifying ways to deploy early intervention and prevention strategies and reducing the likelihood of future legal needs/issues from emerging or needs becoming more complex.

CLCs and FVPLS, as smaller, person centred and often place-based services, embody many of the characteristics that families in the 100 Families WA project reported as being needed to improve their access to help. Centres aim to provide person-centred approaches that are responsive, adaptable, and effectively address structural barriers to service access.

Between them, CLCs and FVPLS deliver 65% of the non-legal supports provided by the legal assistance sector in WA. CLCs are the largest provider of non-legal support, accounting for 41% of service delivered. Among the CLCs, the three largest providers are Pilbara Community Legal Service (27 per cent), Regional Alliance West (19 per cent) and Northern Suburbs Community Legal Centre (14 per cent). These three organisations provide a broad range of integrated services including tenant advocacy and FDV services. In addition to these CLCs, there are 13 other CLCs that deliver non-legal support.⁴⁴

In Western Australia this work is generally only enabled through non-core funding. Some funding for non-legal supports is provided through DoJ project or NLAP special purpose funding, other funding is investment from other government departments including the Department of Communities, Department of Mines, Industry Regulation and Safety as well as through other project and philanthropic funding.

Figure 2.1 Non-legal support, proportion of services delivered by provider type



Source: ACIL Allen, from service provider data

⁴⁴ <https://www.wa.gov.au/system/files/2022-12/WA-Legal-Needs-Final-Report.pdf>

For those CLCs who do not report delivering non-legal supports, some have developed strong partnerships with other community service providers meaning they work together to provide more wrap around services, although these are not necessarily visible in CLC service data. Other CLCs report wanting to provide more integrated services but lacking the funding and/or capacity to invest in the work needed to be able to do so.

Community Legal WA, in partnership with Health Justice Australia, the WA Association for Mental Health and Legal Aid, held a symposium in October 2022 to explore and inspire partnerships between the legal assistance sector and health and community services. The overwhelming response to the symposium reflects that community service providers see the need and potential for this work to lead to better outcomes for people, and they are actively seeking the support, resources and knowledge necessary to progress this work.

The opportunity to develop our practice further with a structured case management model within the legal service and to provide a service broader than the legal service would make a world of difference to how we can improve people's lives and prevent them from a cycle of poverty and disadvantage. Many individuals and families would benefit from someone able to walk beside them in their journey and help them when they come upon barriers.

CLWA Member survey 2022

WA CLCs advised that if their funding was sufficient and able to be used to employ non-legal staff they would employ the following types of non-legal staff⁴⁵:

- ▶ financial counsellor
- ▶ social worker
- ▶ case manager
- ▶ mediator
- ▶ tenant advocate
- ▶ FDV advocate
- ▶ Dedicated CLE worker
- ▶ community/Aboriginal engagement worker
- ▶ client support officer
- ▶ IT specialist (to work on AI).

As reflected in [recommendations 4](#) and [5](#) above, an improved funding environment and explicit statement of support for flexibility for NLAP funds to be able to be used for non-legal staff in integrated services would help strengthen integrated service provision.

⁴⁵ CLWA consultation with members, September 2023

Interpreters

Our members frequently raise language as a significant barrier to service access, including for access to in-person as well as online support. Interpreter and translation services can be costly and difficult to source, in particular for Aboriginal clients for whom English is not their first or even their second language. WA CLCs and FVPLS have raised with CLWA on a number of occasions their concerns regarding the significant unmet need for interpreting and translating services in Western Australia. Some centres do their own fundraising to pay for interpreters. This is a fundamental access to justice issue which should be considered by the reviewer.

Considerations for wrap around services

There are particular challenges to integrated service delivery associated with legal professional requirements including around the sharing of client information. Access to and disclosure of legally privileged information remains a concern for our members (see [Obligations of CLC lawyers](#) later in this document).

Research into successful partnership approaches in other jurisdictions demonstrates that they require:

- ▶ Comprehensive planning with a clearly developed and articulated rationale
- ▶ Well documented policies and guidelines
- ▶ Monitoring and evaluation embedded into program design, utilising principles of continuous improvement and, where possible, co-design
- ▶ Outcomes measurement and ongoing needs analysis to ensure the program is adaptive and responsive to changing community needs.^{46,47, 48,49}

Models of collaboration, case management or joined up support need to be flexible and, where possible, place-based. They also require strong foundations to be successful – this requires time and expertise. Investment must be made to enable evaluation of models so we know they are achieving the right outcomes – and the people using the services must be central to their design and evaluation. These types of partnerships not only need investment, they also need a supportive policy and funding landscape that enables and drives collaboration.

⁴⁶ Ibid.

⁴⁷ Centre for Innovative Justice, Financial Counselling Practice Guidance: Integrating financial counselling in a legal setting for effective collaborative practice

⁴⁸ [Building blocks - Health Justice Australia](#)

⁴⁹ Community Legal WA, Improving Outcomes Through Collaboration Health and Community Justice Partnerships Symposium October 2022

Current funding and reporting models do not support integrated services.

There are costs associated with establishing an integrated service/partnerships and the current funding environment, where many services are frequently overwhelmed by and unable to meet existing demand, does not readily support the development of these models. While firmly focused on operations and front-line services, CLC's that do not already have developed partnerships/integrated services are unlikely to have the capacity to build these networks in an intentional and planned fashion while under increasing demand. We need a policy and funding environment that supports new work while providing capacity to maintain existing service delivery.

There are many different models of integrated service delivery/partnerships/collaborative outreach, and the funding environment should support local services to have flexibility depending on need in their communities. Examples include Ruah's integrated service model at [Appendix 3](#) and Pilbara Community Legal Centre example below.

While there needs to be a strong framework to support this work and to ensure that legal services remain a core component of service delivery, there also needs to be flexibility to determine the most appropriate service model. Where service providers are not given flexibility there can be a risk of duplication or inefficiencies depending on what services are already provided in local communities.

Case Study

Pilbara Community Legal Services provide wraparound services in a one-stop-shop approach. They provide legal services, financial counselling, tenancy advocacy and housing support, victim support and advocacy and outreach for people affected by FDV. People who need help can be referred for counselling, get help with housing, safety planning and child protection matters, Family Violence Restraining Orders and credit and debt issues, all in one place.

Ms BK is an Aboriginal woman residing in a remote town in the northwest of Western Australia. She first sought assistance from PCLS in July 2021 after having relocated to escape domestic violence.

Ms BK's initial contact with PCLS was with the Homelessness Service who provided her with information and support to liaise with external agencies including Department of Communities and Court Liaison services. An internal referral was then made to the DV service team leader who provided both practical and educational support in the form of safety planning and options to improve her security, and to identify any additional concerns with which Ms BK could be supported. This followed by further internal referrals to the Tenancy team to assist her to negotiate arrangements with her current tenancy as she was struggling to pay the rent (in collaboration with the Homelessness Team who assisted with an application for alternative more affordable housing); Financial Counselling team for budgeting and debt management; and the Legal Team to assist with an application for a Family Violence Restraining Order.

Established protocols within PCLS include pathways for clients to be transferred across services within the organisation as required. This is a client-centred strategy that eliminates the need for the client to "retell" their story and provides efficient response to identified needs. This process requires limited effort due to shared resources and well-established communication and information sharing networks.

This model provides an effective base from which to also initiate collaborative efforts with outside agencies where appropriate. A significant benefit of the model is the knowledge that each PCLS staff member has with regards to scope and capability of other services within the organisation.

Existing referral pathways were used to move Ms BK efficiently from service to service within the organisation. Each internal referral included a meeting of PCLS involved to triage the needs of Ms BK and ensure that assistance and resources were being targeted appropriately and as efficiently as possible without overlap.

The integrated model allows staff to assess developing issues at an early stage and make timely internal referrals to address those issues before they become significant. For example, in this case, the tenancy advice service was able to identify financial difficulties at an early stage and provide an internal referral to financial counsellors.

While there has been some dedicated Health Justice Partnership funding under the current NLAP, the agreement has not facilitated or supported most centres to provide more holistic wrap-around services. Furthermore, in Western Australia state government contract management has hampered more holistic service delivery as CLCs have been told NLAP funding cannot be used to pay for non-legal staff.

Funding silos

Funding silos create challenges for integrated service delivery, and there can be a significant additional administrative burden in reporting requirements for integrated services with funding across different government and non-government sources. These barriers can be addressed through streamlined reporting and efforts to reduce administrative burden.

Co-commissioning

Co-commissioning is also a potentially powerful mechanism that can be used to support a more joined up approach to complex social problems and can help address the limits of siloed funding. In Western Australia the state government is currently undertaking significant commissioning work across community services. We see opportunities for co-commissioning to improve the delivery of legal assistance services, for example where the Department of Justice and the Department of Communities or Consumer Protection co-commission for integrated service provision, supporting CLCs and FVPLS to incorporate financial counsellors, social workers, case workers or tenant advocates etc into their organisations. It is unclear how a national partnership agreement can help break down siloed funding and support co-commissioning but given many state governments are currently undertaking commissioning work we believe it is important that consideration is given to how the next NLAP can facilitate a more joined up service system.

Early intervention

6. The next NLAP should fund legal assistance providers to deliver prevention, early intervention and integrated, non-legal services that reduce or prevent harmful contact with justice systems for people experiencing vulnerability and disadvantage. Consideration should be given to how data and outcomes frameworks can better support this work and demonstrate its impact.

Prevention and early-intervention allow front-line legal assistance service funding to be used at the most effective time, in the most effective way, for the greatest number of people.

Prevention and early intervention is broadly acknowledged to be one of the most efficient ways to use funding, as it prevents small, easily solved problems from growing into large, complex, difficult to solve issues. It is difficult to measure the avoided costs of events that didn't happen although there is some useful work in this space including the PwC report into the [benefits of proving access to justice](#) which provides a framework for assessing the benefit to the justice system, to individuals and to society.⁵⁰ The recent [Family and Relationship Services Economic Evaluation](#) also adds to the evidence base around intervening early through the provision of services like Family Dispute Resolution, finding these services return \$7.85 for every dollar invested.

The Public Understanding of Law Survey results demonstrate that there is still significant work to be done to educate people about legal problems. The survey found that people continue to not typically see the justiciable problems they face as legal, with only 34% characterised as such.⁵¹ If you don't see your problem as legal, you are far less likely to seek legal advice. Around half of those people who face justiciable problems obtain independent advice, with 21% receiving it from a legal service, public or private – a figure that appeared high relative to other legal needs surveys. As has been found in previous surveys, a significant proportion (30%) of people who did not obtain independent advice did so for reasons that raise concern, such as not knowing where to get help or being fatalistic as to its value.⁵²

*In order for citizens to act on their right to justice, they need the capacity to identify a problem as legal in character, understand the help to which they are entitled and select an appropriate service. **The Right to Justice 2017. The Final Report of the Back Commission***

⁵⁰ [Final-Public-Report_PwC_The-Benefits-of-Providing-Access-to-Justice1.pdf \(nationallegalaid.org\)](#)

⁵¹ [Public Understanding of Law Survey 2023](#)

⁵² [Public Understanding of Law Survey 2023](#)

Community Legal Education

Legal education is a key component of a holistic approach to legal services.

Improved knowledge of the law and rights can equip individuals to manage their own problems more effectively. CLE can prevent problems developing as people are more aware of their obligations under the law and improve recognition of early action by individuals as well as supporting groups to act early to improve prevention. Effective CLE has been shown to reduce court times and costs.⁵³

CLCs value Community Legal Education (CLE) as important and powerful early intervention/prevention work. CLE improves outcomes and leads to people seeking help earlier, while their complexity and number of legal issues is low and can be resolved more successfully. Outcomes of CLE also include community connection and better integration of legal assistance into the community services landscape. However, providing education or information about the law must not be seen as an alternative to making adequate resources available for legal advice and representation, or as a device for making savings in legal assistance expenditure. The reality is that many people lack the skills or self-confidence to handle legal disputes without the support of a lawyer or adviser. It should also be recognised that although legal education can decrease some legal need, a more aware and informed public may make more demands on legal assistance services.

Many WA Centres told us they see CLE as a core responsibility and believe it has a strong positive impact. Services see significant opportunity to expand work in this space to lead to improved outcomes and reduction in legal need. However high levels of demand for services, including increasing numbers of urgent and complex cases, make it difficult for Centres to prioritise work in CLE / other early intervention. They are also aware that increasing knowledge of the services they provide might increase demand that cannot be serviced. Current NLAP National Performance Indicators reporting template only records the number of CLE activities and resources, not the number of people who accessed CLE or the impact of this work.

There are no good data metrics for early intervention in the current agreement. The current agreement doesn't effectively prioritise early intervention and prevention services.

CLC Manager, September 2023

⁵³ Wintersteiger, L., Morse, S., Olatokun, M. and Morris, C. 2021. [Effectiveness of Public Legal Education initiatives - A literature review](#). Prepared for: The Legal Services Board

CLCs have the potential to deliver high quality, impactful CLE and other early intervention activities. This work provides significant cost-saving but delivery is hampered by insufficient funding and a perception of government prioritisation on frontline service delivery.

The current agreement doesn't effectively prioritise early intervention or prevention services ... without the NLAP specifically prioritising this work, it's not going to happen in the systematic way that we're all hoping for. **WA RRRR CLC CEO, 2023**

There's an insinuation that direct legal assistance is valued more by the government than CLE. **WA specialist CLC CEO, 2023**

According to the [WA Legal Needs Report](#), in 2020–2021, WA CLCs delivered 1,294 CLE activities. Most of these activities were in relation to civil law matters (71%), followed by family law (19%) and criminal law matters (10%). Early intervention and prevention work undertaken by CLC encompasses a broad range of different activities, including:

- ▶ CLE to the public including in-person and online presentations, social media, radio, resource creation and dissemination,
- ▶ CLE to other community service organisations
- ▶ CLE to other CLCs (for example, specialist CLCs working to increase knowledge and skills of generalist CLCs)
- ▶ partnership development and provision of wrap around non-legal support
- ▶ mediation
- ▶ radio, flyers, info sessions, social media – different communities need different types of CLE and different areas of law need different CLE.

An ideal service system would fund FVPLS and CLCs to provide an ecosystem of legal support in our communities – from awareness raising, education, early intervention, advice, intensive support (including wrap-around non-legal supports) and follow-up.

We tend to think there's only one level of CLE but there's so much more...we are doing it all the time... one of the things everyone mentions is engagement, but we don't record engagement in our data, **WA generalist metro-based CLC CEO, 2023**

CLE and disasters

Delivering community legal education ensures that community members can better identify legal risks and undertake preparedness activities to better mitigate these risks. Should legal issues occur, community legal education also improves individuals' ability to identify their issues as legal issues, and arms them with the knowledge of where and how to seek help. This helps with both the avoidance of legal issues occurring in the first place and, if they do occur, with addressing those issues in a timely manner before they worsen. Targeted community legal education is fundamental to disaster risk reduction and builds resilience in individuals, communities, and businesses.

Specialist CLC: Prevention and early intervention activities and resources

Circle Green is a specialist CLC offering legal assistance services across employment, tenancy and humanitarian matters. Community legal education and self-help resources play a pivotal role in the support that Circle Green offers.

This includes:

- Website resources, including information and self-help tools
- Raising awareness of legal rights and responsibilities through presentations and speaking engagements, media, social media
- Raising awareness of options and processes for self-advocacy and support
- Training community workers on rights and obligations to be able to provide preliminary information and support to clients
- Providing specialised legal education for other community legal centres to raise awareness of legal areas and improve understanding of referral pathways – including when to refer a client for more specialised support
- Raising awareness of support available to target (vulnerable) cohorts
- Identification of emerging issues and working with stakeholders to raise awareness of and address systemic issues and causes
- Trained intake and information services which triage clients according to need and ability

Examples of this work over the last year:

- Across 2022/2023 over 50,000 people accessed Circle Green's website, many of these accessing the website for information and self-help resources. The continued development of these is a key part of the organisation's CLE platform and reduces the need for individualised support.
- Online resources are also used in the provision of information and advice given current funding levels are insufficient to meet need for across the service system for case managed support. Being able to provide advice and guidance, with links through to self-help supports, extends the impact services make. These resources are also promoted for use by other CLCs.
- Provision of dedicated information sessions to CALD immigrants around family reunification with detailed information and resources to enable self-advocacy.
- Conducting a social media campaign to raise awareness of workplace sexual harassment.
- Development of a seminar series in conjunction with Consumer Protection for community support workers delivered across the state in conjunction with local CLCs raising awareness of consumer protection issues and pathways for support
- Request from a service provider for training in FDV specific/community housing setting – with a focus on being accessible, providing lived-experience sensitivity in design and practical training session for women renting in community housing and looking to be more skilled and empowered including how to seek legal advice.
- Provided over 25 accessible training sessions in tenancy and employment law to over 200 students.

Impact of CLE and other early intervention activities

It is difficult to determine the impact of legal assistance education and early intervention activities with our current data set and lack of investment in outcomes. Not all WA Centres evaluate these sessions. One of our bigger WA CLCs, Northern Suburbs Community Legal Centre, provided the following information:

- ▶ Of 482 responses from CLE session participants from 1 Jan – 30 June 2023 96% of participants agree or strongly agree that they know more about this topic after attending the session.
- ▶ 96% of participants agree or strongly agree that the session information included the right level of detail.

Our consultation with WA Centres found services are unable to invest in community legal education and other prevention/early intervention activities to the extent that they identify as being needed. For example, one WA CLC employs a fulltime CLE lawyer and still can't meet demand. This demand is expressed through requests from partners, other community services, community groups and schools.

Other CLCs told us that frontline service delivery like court work is prioritised over the delivery of CLE as there is more urgency and immediate impact on individuals if this work is not done. CLE is time consuming and can be resource intensive. It requires a specific skill set that is not held by all lawyers.

For many CLCs and FVPLS in WA there is significant overlap between prevention, early intervention, community legal education, integrated service provision and law reform and advocacy work. As an example, Ruah Legal Services provide wrap around early intervention support during pre-birth planning when a woman has had contact with the Department of Communities during her pregnancy. This support includes legal advice to help the client understand the Department of Communities' concerns as well as practical support to address those concerns. This early intervention support can lead to improved outcomes including preventing a higher level of legal need developing in the future.

...the key though is for us would be the money to develop those early intervention prevention type strategies. Now you can't get into the primary prevention space or even the early intervention space without ultimately dropping your service delivery. And so we are somewhat in a crisis cycle in the sector. You can't shift to early intervention without letting those people down unless there's more funding. WA CLC Manager, 2023

Support provided through a network of CLCs

WA tenancy network

The network is designed on a 'Hub and Spoke' model. The model includes a centralised advice line based in Circle Green, the WA specialist tenancy CLC, and tenant advocates and lawyers who provide more holistic support and who are embedded in 16 CLCs across WA.

Through the network CLCs collaborate to support a systems approach with:

- Training and development of tenant advocates and lawyers provided centrally by the Hub (Circle Green)
- Community education targeting vulnerable cohorts with Circle Green co-ordinating and presenting in conjunction with local service providers
- Information and self-help tools developed centrally and available across the network
- Triage, information provision and advice provided by a central advice line with referrals to local providers when more holistic support is needed
- Independent access for clients to place based, integrated, local support via 'spokes' (15 CLCs across the state)
- Referrals to the 'hub' for more complex matters
- Dedicated hotline and access to Circle Green tenancy lawyers for community sector workers
- Network members provide support to each other during resourcing gaps
- Regular communities of practice and newsletters
- Identification of emerging issues and collaborative law reform and advocacy work

Artificial Intelligence

AI presents an opportunity for early intervention and prevention of legal problems. CLCs raised the possibility of AI being used by the legal assistance sector as a tool to answer simple low complexity questions, including questions that are not purely of a legal character. We expect that although AI tools are unlikely to be fully accessible to many clients (see below section on [digital service delivery](#)) there will be significant potential benefits from developments in this space going forward.

Advocacy & law reform

7. **The next NLAP should affirm the value of law reform and systemic advocacy and the importance of the work legal assistance providers and peaks do in this space. The agreement should increase baseline funding to CLCs, FVPLS, ATSILS and peaks nationally and in each jurisdiction to support this work.**

When laws are not working well it often hits the most disadvantaged communities the hardest. CLCs are experts in this field and have frontline visibility of emerging issues.⁵⁴

Increasing access to justice includes working towards ensuring that our justice system is fairer. One of the ways that the community legal sector can do that is to advocate for changes in justice policies and legislation. According to the [WA Legal Needs Report](#), in 2020-2021 WA CLCs participated in 218 projects for law and legal service reforms. Most of these projects were in relation to civil law matters (81%), followed by family law matters (16%) and criminal law matters (3%).

As person-centred, responsive and independent community organisations, CLCs and FVPLS are well positioned to improve access to justice through advocacy for law and policy reform. They see first-hand where our laws and policies are not working well and where there are particularly unfair and costly impacts on people experiencing disadvantage. This is a key strength of CLCs and it is important this expertise is harnessed to inform the development of new legislation and policy responses and the review of existing laws and policies.

This core work for CLCs and FVPLS requires government investment. Without appropriate resourcing, centres face difficult decisions around where to best devote their limited capacity – contributing to making our legal system fairer for everyone, or essential front-line service delivery. They should not be forced to choose between the two. Improving laws and policies using evidence from service providers results in better outcomes for individuals and communities; as such law and policy reform is legal need prevention work as well as being recognised as a critical early intervention activity (eg. fines imprisonment, credit law changes, imprisonment without trial (disability), FDV provisions for Social Security Law, sexually transmitted debt, etc).

CLCs can struggle to resource law reform work and our sector data doesn't provide clear visibility of the value and impact of this work.

Opportunities for law reform activities are often identified by CLCs and FVPLS but cannot be followed up due to pressure on front line service delivery. Developing case law is essential to establish legal interpretations but is resource intensive. WA CLCs, FVPLS and Community Legal WA itself also have a significant government consultation burden. There's a danger that advocacy

⁵⁴ Not only law reform, also policy response. For example, advocacy by the Welfare Rights Advocacy Service following the recent Kimberley floods to ensure the Commonwealth was aware of the need to pause welfare obligations for people impacts and support to communicate this response to the community through local place-based services.

capacity could be swallowed up responding to government work and thus funding should cover advocacy in addition to this consultation work.

CLCs are on the front line of dealing with legal need and are one of the largest providers of civil law services in Western Australia⁵⁵. There is no other group better placed to understand and advocate for legal and social policy changes that will assist people to live healthier, safer, better connected and more prosperous lives. We welcome that the [WA Legal Assistance Strategy](#) includes law reform and advocacy as a core activity: *Legal assistance service providers contribute to policy development and law reform.*⁵⁶ The NLAP should also recognise the importance of this work, not only for peaks. Removing the gag on advocacy is not enough, we must have an explicit statement supporting the legal assistance sector to undertake systemic advocacy, and part of an increase in baseline funding should be to support law reform and advocacy work.

Case Study - Welfare Rights and Advocacy Service (WA)

Welfare Rights and Advocacy Service (WRAS) is a specialist CLC based in Perth. WRAS undertakes significant amounts of law reform and advocacy work across a wide range of different issues in relation to Centrelink, Family Assistance, Tenancy and Social Security prosecution matters.

WRAS played an integral role in Robodebt advocacy investing a conservative estimate of 220 hours of the Principal Lawyer's and Executive Officer's time over a six year period (2017-2022). The strong advocacy providing by WRAS which included many incredibly compelling examples of the impact of the scheme on clients played a key role in securing the Royal Commission and the Commission's recommendations.

⁵⁵ Delivering 51% of weighted services or 39% of unweighted services in 2020-21.

<https://www.wa.gov.au/system/files/2022-12/WA-Legal-Needs-Final-Report.pdf>

⁵⁶ WA Legal Assistance Strategy 2022-25. Focus Area 3.

Case Study: Drivers licence reform

The current driver's licence regime in Western Australia impacts disproportionately on the employment prospects, health, family and cultural obligations of people in remote and regional areas, and in particular on First Nations people.

Law reform has been identified as needed for a long time. One of a number of issues relates to the removal of lifetime licence disqualifications. CLCs have observed that clients who are good candidates for having their lifetime ban removed often then face a large number of shorter, cumulative disqualifications (that cannot be removed). Some of these clients would be quite elderly before these numerous, shorter periods have all run their course.

Regional Alliance West, a placed-based generalist CLC in the Midwest Gascoyne, estimates, of approximately 12 clients on quarterly regional outreach visits who present with lifetime suspensions, only around 1 is likely to get a positive resolution of their case, despite hours of work by the CLC lawyer. It's a costly and frustrating exercise with poor outcomes commonly experienced by clients.

Drivers licence issues are not a specialist area of law, and key stakeholders, despite recognising its importance, struggle to resource advocacy on this issue.

In a recent Supreme Court of Western Australia decision, Justice Solomon identified the issues with drivers licence requirements for people in remote and regional communities:

"But even if the circumstances are not exceptional, it is difficult to characterise the manifestly unjust penalty imposed by the State as anything less than a miscarriage of justice. The vast distances of the East Kimberley and the paucity of public transport services renders transport by private vehicle the only viable option for travel. This is all the more so for someone who lives five kilometres from the only town along the 600 kilometre stretch of the only highway in the region. The impact on Indigenous Australians of reliance on private motor vehicle transportation is well known, if inadequately addressed." *Johnson v Williams* [2022] WASC 78, [46]

Law reform in this area will make a genuine difference to the lives of those in regional and remote communities, as well as enabling more efficient use of legal practitioner's time. However, law reform is unlikely to occur without significant advocacy by legal assistance providers and/or peaks.

Case Study: Workplace Respect project

There is often a particular need for advocacy where a legal framework has undergone significant reform. Unintended consequences are a common teething problem and there is potential for unfair impacts on certain groups, particularly those experiencing the greatest disadvantage and vulnerability. Careful monitoring and advocacy is essential to ensure that intended outcomes are achieved, and any negative unintended consequences are addressed. CLCs, like Circle Green, a specialist in employment law, are perfectly placed to undertake this work, but struggle to do so without ongoing investment.

Three years on from the Respect@Work Report, and since the Government committed to implementing all the recommendations in the report, legal reforms are still being implemented.

For example:

- the positive duty in the Sex Discrimination Act 1984 (Cth) (SDA) was introduced in December 2022, and the Australian Human Rights Commission's new regulatory powers, including compliance powers, in relation to the positive duty will not commence until December 2023;
- the Fair Work Commission's new sexual harassment jurisdiction commenced 6 March 2023, but still remains a largely untested jurisdiction; and
- cost neutrality provisions were proposed in an earlier version of legal reforms, however later taken out as further consultation was sought, and are yet to be implemented.

Circle Green is playing a central role in WA advocating for the Fair Work Commission's new sexual harassment jurisdiction to provide a trauma-informed process particularly in relation to traumatised, vulnerable, and self-represented litigants. Continued advocacy will be required to ensure that the cost protection provisions are implemented and that they meet the needs of clients.

Workplace sexual harassment cost the Australian economy \$3.5 billion in lost resources and revenue in 2018, with productivity loss contributing \$2.6 billion in lost revenue ([Deloitte, 2019](#)). Without expert advocacy to ensure reforms are well targeted and implemented the cost saving potential of government reforms are unlikely to be fully realized.

Data

8. **A new NLAP should review performance indicators, streamline reporting requirements, articulate and justify the purpose of reporting, and reduce administrative burden. New performance indicators must be meaningful, not duplicative, mindful of emerging changes to the Privacy Act 1988 (Cth) and mindful of legal professional requirements. Data collection, cleaning, analysis and reporting should be fully funded.**

Current reporting processes are wholly insufficient for monitoring the achievement of the NLAP's objectives and outcomes.

CLWA endorses the position of the Australian Legal Assistance Forum (ALAF) on the "Proposed new NLAP data principles" dated 6 October 2023 and the ALAF's paper on "Building the Evidence Base" dated June 2023. CLWA supplements this endorsement with the information below.

It is recognised that improvements are needed to strengthen reporting processes and data collection for the NLAP. Changes should be based on the following overarching principles which align with the ALAF's principles:

- ▶ Aboriginal data sovereignty, legal professional privilege and privacy requirements are embedded in the data strategy and collection tools
- ▶ People with lived experience, community members and legal assistance providers are involved in the design of the data collection process (codesign and collaboration)
- ▶ NLAP data collection, cleaning, analysis and reporting is fully funded and legal assistance providers have access to sector wide data to inform service design, planning and delivery as well as advocacy
- ▶ Data collected is useful to more than one party and is directly connected to improving outcomes (eg it can be used for NLAP, for improvement purposes and Closing the Gap and maps to the Commonwealth Measuring What Matters Framework)
- ▶ The administrative burden on service and service user is as low as possible
- ▶ The data model and reporting framework are effective – inputs, outputs, activities and outcomes are captured and relevant to evaluation
- ▶ The purpose of collection and reporting is clearly defined, consents are obtained and data is only used as agreed with the data providers

Outcomes

- 9. The next NLAP should invest in outcomes work from service provider level up, with a clearer guide and timetable for the shift to impact evaluation. There should be commitment to ensuring this work does not undermine any impact work already underway.**

There are insufficient linkages between the data collected by the sector as required by the current NLAP and understanding improved outcomes for people experiencing disadvantage. Current reporting mechanisms are burdensome and focus on activities and outputs, rather than achieving the outcomes and objectives of the NLAP. New and updated definitions, measures and collection protocols need to be established as part of the NLAP Data Strategy which are clearly connected to achieving outcomes. While the current NLAP includes this work and the importance of moving towards outcomes, progress is significantly behind schedule.

The National Legal Assistance Data Strategy, developed in accordance with the NLAP, was informed by the Productivity Commission's 2017 'Data Availability and Use' report insofar as identifying the opportunities that data present. However, the Data Strategy failed to address the problem of requiring organisations with limited time, resources, infrastructure and data capability to collect sophisticated data. This has contributed to issues for CLCs in delivering the unit-level data requested under Schedule D of the NLAP, alongside other issues such as problems with the data requests being in conflict with legal professional privilege requirements.

The limitations of legal assistance service data are well documented.⁵⁷ Current service data has limited application and it does not provide information on how complex matters are, and whether a person receiving a service had their legal needs met.⁵⁸ This is particularly an issue in reflecting the complexity and challenges of RRR service delivery. For example, an information service provided via an advice line can be very different from a face-to-face service with a client with complex needs, or a RRRR outreach service to a remote community, yet all three can look the same in our data.

Also, the data being collected does not allow us to understand if the whole target group described as being "disadvantaged" in the NLAP is actually being supported by services being provided eg data on people with low education levels, single parents etc. are not currently being consistently collected.

In addition to improving the data already being collected, data on performance outcomes needs to be added to the collection. For example, the NLAP recognises the importance of collaboration

⁵⁷ Hugh M. McDonald et al, Victoria Law Foundation, Apples, oranges and lemons: The use and utility of administrative data in the Victorian legal assistance sector (2020) [1.3],[4.4] ('Apples, oranges and lemons'); Productivity Commission, Australian Government, 'Access to Justice Arrangements: Productivity Commission Inquiry Report Volume 2' (2014) [25.2].

⁵⁸ 'Apples, Oranges and Lemons' (n 14) [4.4].

across the legal services sector; however, there is no data currently being collected to evidence whether this is occurring, to what effect, and how this is benefitting the community.

Improving the data collected will be essential for understanding outcomes in a timely and transparent manner for the legal assistance sector. An appropriately funded, clear data model to support better connection between data, service planning and continuous improvement, outcomes and impact is required.

As stated by the Productivity Commission Access to Justice Arrangements 2013, “The absence of data has hampered policy evaluation” and “Outcomes-based standards to measure service effectiveness... should be a priority”⁵⁹.

Any changes to the data strategy will require a transition period, funding and potentially also capability development funding.

We note [recommendations](#) made further in this submission seeking an improved partnership approach in the next agreement. This should also apply to how data is collected from Centres and used by government. A true partnership approach would give services more visibility and control over how their data is used, including improved access to data that is collected and the ability to provide a narrative around data analysis. This is particularly important while data systems are still quite immature and where government is making funding and other decisions based on data provided by CLCs. This approach will also build buy-in from Centres and help build sector capability and understanding about data utility.

Obligations of CLC lawyers: Legal professional privilege

10. The legal assistance data strategy developed under the next NLAP should explicitly recognise legal professional privilege, the duty of client confidentiality and State and Commonwealth privacy laws, and the access to justice, technical and resource implications for the collection of data from clients receiving legal services.

In the course of their work, as legal practices CLCs provide legal advice, and receive personal information from clients that is subject to legal professional privilege and in respect of which they owe a duty of confidentiality. The majority of these clients experience a range of vulnerabilities. Furthermore, many of their legal problems often involve the disputes with an arm of government (eg Department of Social Services (Centrelink, Child Support), Department of Communities (Housing, Child Protection), Department of Home Affairs (Immigration) and Police). If a CLC was required to provide to “government” certain personal information concerning clients, that legal adviser would be required to advise or warn the client of this prior to seeking instructions or providing legal advice. It is likely that, if asked, many clients would refuse to provide their personal information to a legal assistance provider, knowing it could be passed onto government.

⁵⁹ <https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-overview.zip> p.33

It is obviously crucial that any national partnership agreement upholds citizens' fundamental rights, including legal professional privilege. It is also important that government decisions are based on sound data and evidence, and service data is important information for government decision-making and oversight. The current NLAP data strategy does not address the issue of legal professional privilege and the barriers legal assistance providers face meeting requests to provide unit level data to government.⁶⁰ Given the impracticalities of obtaining informed client consent for the release of client information for every service provided under the NLAP,⁶¹ CLCs have been faced with the challenge of undertaking significant and complex data work to ensure that clients are not able to be identified in any way from the unit level data we have been compelled to provide to government or other external agencies. Nationally, a failure to understand these important ethical obligations and the work required to deidentify the data has resulted in delays to the provision of unit level data under Schedule D of the NLAP and has been a source of stress and frustration for CLWA and many of our members. It has also required many hours of work from principal solicitors in CLCs whose first priority under the NLAP should be frontline service delivery.

The key issue is that requests for data in the next NLAP need to be focused on the benefit of clients and potential clients and needs to take into account the duty of confidentiality in the Australian Solicitors Conduct Rules (or equivalent Legal Profession Conduct rules in each jurisdiction). At present the NLAP, and then the purpose and processes of data collection, do not address this issue directly.

For WA CLCs, our first experience of unit level data collection was for the WA state government. In this situation, CLWA also experienced an insufficient understanding within government of the legal practice obligations of CLCs. CLWA worked to obtain legal advice and develop a solution, adjust data collections and processes, and provide engagement and technical support to our members in order to support the sector to provide data compliant with both the government's request and their obligations. CLWA was fortunate to have state government funding that enabled us to undertake this work.

In our example with the state government, the CLC peak body worked to find a solution for our members. In the case of Schedule D this role was expected of Community Legal Centres Australia. As unit level data was a new requirement, in both cases, each peak body was starting from the beginning to understand the client data and legal practice issues ourselves (which in WA included obtaining Special Counsel advice). We then had to advocate to government about the issues, build a technical solution, engage our members, and provide communications and technical support. For CLCs, this work *may* be best supported by peak bodies, though we note that CLCA and CLWA are still considering roles and responsibilities into the future. Regardless of who undertakes this support function, the resources and capability required to do this work needs attention in future funding arrangements.

⁶⁰ Attorney-General's Department, Australian Government, 'National Legal Assistance Data Strategy' (2021) 6,8-9,15-16.

⁶¹ For example, it would be hugely problematic to collect consents for services provided via advice lines, and any attempt to do so would likely result in people being unwilling to access the service.

It is vital that the Commonwealth, state governments, third parties (such as the ABS), peak bodies and legal assistance providers work together to develop agreed processes and data governance that enables appropriate data to be collected for NLAP monitoring while protecting the fundamental rights of clients and minimising administrative burden on services and to provide resourcing for adequate capability building and technical support.

Review of the Data Standards Manual

- 11. A new Data Standards Manual should be developed in partnership with the sector. The Manual should align with ABS standards wherever possible and should be reviewed regularly. Guidance and standards could be provided which go beyond core NLAP reporting to assist with data mapping projects and innovations.**

Updated data definitions in the Data Standards Manual and improved guidance are required to ensure high quality, standardised data are being collected.

The data capability of legal assistance providers is improving as observed through data communities of practice and data communities of interest, and this has led to gaps in the data standards manual now being identified. Increased accuracy and consistency are required to further strengthen datasets being created by the legal services sector. Without robust review of the data standards manual, the national data set will be complete, but will likely contain data that does not properly reflect the client's circumstances, the service that was provided, nor the outcomes achieved.

For example, in WA it has recently been identified that some CLCs currently count tenancy advice as being legal advice whilst others consider this to be non-legal advice, even though the CLCs are providing the same type of advice and support. This means that any aggregation of data on how much non-legal advice is being provided by CLCs will be flawed. The Data Standards Manual needs to be updated to ensure there is a clearer definition of what constitutes non-legal advice to ensure these inconsistencies are avoided.

It is recognised that changing the definitions and updating the Data Standards Manual will lead to a break in the continuity of the datasets for the NLAP. This is unfortunate because it will make longitudinal reporting evaluation more challenging. However, the incompleteness and inaccuracies currently contained within the dataset make it unreliable. Therefore, the break in data continuity is less important than the gains that will be made by updating the Data Standards Manual and improving the quality of the data collected.

Where possible, existing definitions and standards should be adopted such as those used by the ABS. Data collection and definitions could also be updated to ensure that information is collected to assist in data mapping and other innovation projects.

People with Lived Experience

- 12. Appropriate resourcing should be included in NLAP funding to enable people with lived experience to be involved in designing services to achieve outcomes, data collection methods, policy/advocacy and planning evaluation of services.**

The lived experience of people accessing or failing to access legal assistance services is critical to improving service delivery and understanding legal need, but is not currently recorded in NLAP data.

There is only a very limited understanding from the biennial survey (two weeks every two years) of how legal services are making a difference to the lives of those who access them. Furthermore, this work provides no visibility of the experiences of people who don't access legal services (and this is a lot of people according to the results of the PULS).⁶² More information is needed to understand the perspectives of the people experiencing services and service or access gaps or perhaps unmet legal need to ensure continuous improvement occurs across the legal services sector.

Utilising the knowledge of people with Lived Experience can assist with improving the accessibility of services for those experiencing the greatest vulnerability and disadvantage, supporting service design/re-design, improving efficiencies and supporting positive outcomes for people engaging with legal services. In addition, people with Lived Experience can provide insights into reducing potential stress and trauma from engaging with services.

In WA, the 100 Families Project⁶³ found that clients/families experiencing deeply entrenched disadvantage are not always well served by community services. For these clients, positive service experiences involve being listened to, respected and supported according to their particular circumstances and needs. The report states that to improve the service access and service experiences of people facing entrenched disadvantage, services need to elevate the role and amplify the voice of people experiencing disadvantage, create a safe, supportive environment for people and make it as easy as possible for people to access support. To achieve this, the participants invited services to 'commit to engage with our lived experience' and 'reimagine and redesign systems and processes, policies and legislation so that people stuck in entrenched disadvantage can realise a new and hopeful future'.

Research demonstrates the value of client engagement and codesign in improving services in a range of health, mental health, and disability settings to improve services by focusing on the experiences of people receiving the services and ensuring clients' needs are met⁶⁴. Governments and not-for-profits are increasingly embracing co-design and lived experience engagement in

⁶² [Public Understanding of Law Survey](#)

⁶³ 2019, 100 Families WA Summary Report

⁶⁴ 2018, Bomkamp, E. 'The Promise of Co-Design for Public Policy', Australian Journal of Public Administration, [The Promise of Co-Design for Public Policy - Blomkamp - 2018 - Australian Journal of Public Administration - Wiley Online Library](#)

policy making and in designing services and systems and are extending beyond the usual domains of health and disability into family violence and legal settings⁶⁵.

Data sovereignty

- 13. The Commonwealth and states should work in partnership with ACCOs to ensure the principles of data sovereignty are applied to the NLAP in accordance with the National Agreement on Closing the Gap.**

Data sovereignty is very important for First Nations services and communities. The current NLAP does not recognise this.

CLWA endorses the recommendations described in the Aboriginal Family Legal Service submission dated September 2023, pages 17-19. We acknowledge that the way that data is collected, analysed and reported on can have negative impacts on Aboriginal people. The NLAP's approach to data sovereignty should align with best practice for managing data as described in the National Agreement on Closing the Gap⁶⁶.

Data inefficiencies

- 14. The Commonwealth and states should coordinate reporting and data collection requirements to prevent duplication and reduce administrative burden.**

Schedule C of the NLAP requires that State Program Managers must develop Legal Assistance Strategies. The Department of Justice is the State Program Manager in WA. In the WA Legal Assistance Strategy, the DoJ has decided to go beyond the requirements of NLAP Schedule C and set out a plan to estimate legal need more comprehensively for the current NLAP. CLWA welcomes the ongoing assessment of legal need in the state but notes a significant increased reporting burden to service providers with the increased reporting that was required to achieve this aim.

NLAP Schedule D sets out the provision of unit-level data to the Commonwealth and the WA Legal Assistance Strategy effectively duplicated and expanded this process. The first iteration of this process was in March 2022 and required the provision of unit-level data to the DoJ's consultant, requiring dozens of hours across the CLC sector to supply this data on short notice. The DoJ is also currently formulating an ongoing process of unit-level provision for state-based legal need assessment. CLWA understands that the WA government is exploring ways to operate off Schedule D / reduce reporting burden, but this is in the exploratory stage.

It may be argued that the state-specific approach to understanding legal need requires a separate process of assessment, but there should be a requirement that any additional reporting developed

⁶⁵ For example, the NSW Legal Aid Commission 'With You' Mental Health Training Project, and the Victorian Government Family Violence Lived Experience Strategy.

⁶⁶ [6. Priority Reform Four - Shared Access to Data and Information at a Regional Level | Closing the Gap](#)

by State Program Managers must align with Commonwealth processes as much as possible, to give effect to the NLAP's objectives to reducing administrative burden, and be properly resourced.

Data capability

15. The next NLAP must invest in improved data capability for CLCs through increased baseline funding and support for data expertise in each state, territory and national peak body for CLCs and, if included in the next NLAP, FVPLS.

Improved funding and investment in systems and people is required to enable the CLC sector to gather high quality, consistent data for operational and sector planning, monitoring and improving outcomes.

The WA Department of Justice has provided CLWA with two-year project funding which includes employment of a part-time Data and Impact Advisor to support CLCs with their data practice. Through creating a community of practice, informal and formal support mechanisms, tools and guidelines, this role has gained significant increased buy-in from CLCs across the state and identified the next steps for them to improve their data collection capability. The Advisor has also worked with another staff member to begin developing a suite of outcomes and indicators for understanding impact, including collection methods and tools which are currently being trialled within the WA CLC sector. CLCs have provided feedback that these efforts have led to an increased understanding and appreciation of how important data is to demonstrate the effectiveness of their services.

The Department of Justice has also stated that this has led to a streamlined, more accurate data collection and has added significant value.

“Noticeable improvements have already been achieved to data completeness, for example within the July to December 2022 CLC service data locality/ suburb data has improved to 90.02%, up from 47% in 2020-21.⁶⁷”

Continued investment in improved data capability for the sector is required, with additional resourcing integrated into baseline funding to assist with data collection, management and utilisation.

⁶⁷ WA Department of Justice paper. General Principles and Expectations: Developing a framework for the use of the WA Legal Needs Assessment Data Tool - April 2023.

Regional, rural, remote

16. The next NLAP should affirm access to justice for everyone, no matter where you live and ensure funding for regional and remote services meets the real cost to deliver good outcomes.

Access to justice shouldn't be determined by your postcode.

Community legal centres are committed to providing access to justice, no matter where people live.

There is clear inequity in access to legal assistance services for people living outside the metropolitan area in Western Australia.

Western Australia covers more than 2.5 million square kilometres, which is more than twice the size of South Australia, and more than five times the size of Victoria.

Western Australia is enormous, with a population centred in Perth and the south-west corner of the state, but with a substantial rural, regional and remote cohort, often experiencing high legal need. The Western Australian legal assistance sector is required to service almost 80% of the state population within the Perth area, whilst also servicing 20% of the population across a land mass one third the size of Australia.⁶⁸ There are well-recognised challenges to delivering services in regional, rural and remote (RRR) areas, including costs, logistics, travel and cultural issues. CLC and FVPLS staff in regional centres spend significant time and resources travelling to meet the legal assistance needs of people across vast service areas.

Those most at risk of missing out on legal help are people in remote areas. CLWA member, 2022 State Budget Submission consultation

An enduring issue for Western Australia is how to ensure that 20% of people who live outside of the Greater Perth area have fair and equal access to social services. In comparison to Victoria and even South Australia, there is a massive increase in scale to attempt to achieve a fair and equitable outcome.

The NLAP currently recognises that remoteness is a major obstacle to access to justice and combined with the economic and demographic profile of the more remote regions, these areas are expected to have a very high level of legal need. The funding model provides for both compounding disadvantage and remoteness, but is opaque.

Western Australia's CLCs have responded to this by providing a high level of service in comparison to both the total population distributions across the state and the population distributions by remoteness category across Australia.

⁶⁸ Kalico Consulting, 2017, Legal Need in Western Australia, available at https://www.legalaid.wa.gov.au/sites/default/files/Legal_Need_in_Western_Australia.pdf

A heat map of the percentage of Australian population by remoteness living in each state shows that Western Australia has a unique population profile⁶⁹. While Western Australia has just over 10% of Australia’s total population, we have more of Australia’s remote and very remote populations than any other state, and they are spread out over a much larger geography. Western Australia’s proportion of Australia’s population by remoteness is almost entirely the reverse of that of New South Wales and Victoria.

Percent of Australian Population by Remoteness in each state

	NSW	Vic	Qld	SA	WA	Tas	NT	ACT
Major Cities of Australia	32.80	27.34	18.43	7.32	11.68	0.00	0.00	2.43
Inner Regional Australia	34.29	26.54	22.30	3.92	5.26	7.66	0.00	0.01
Outer Regional Australia	18.07	12.25	33.72	9.85	9.16	9.83	7.12	0.00
Remote Australia	8.78	1.09	24.16	14.90	30.70	2.86	17.50	0.00
Very Remote Australia	3.48	0.00	27.41	7.31	33.51	1.33	24.61	0.00
Total	31.38	25.46	20.49	7.01	10.72	2.20	0.96	1.76

First Nations and Remoteness

The challenges of remoteness are often challenges that affect First Nations peoples.

The Australian Institute of Health and Welfare estimates that 47% of Australia’s very remote population is First Nations⁷⁰, making it critical that these regions are provided proper access to justice in accordance with Closing the Gap.

In Western Australia, the LGA areas with the highest percentage First Nations population (by population of the LGA) are all in Very Remote Areas⁷¹. Other states that have some local government areas where First Nations people are in the majority include Queensland, South Australia and the Northern Territory. Victoria, the ACT and Tasmania have consistently low population percentages of First Nations people.⁷²

Another map that might be useful in understanding the distribution of First Nations communities is below. This is an old map (using 2006 data) but shows the number of First Nations Communities scattered across Australia, and particularly shows the consistency of settlements, and also the

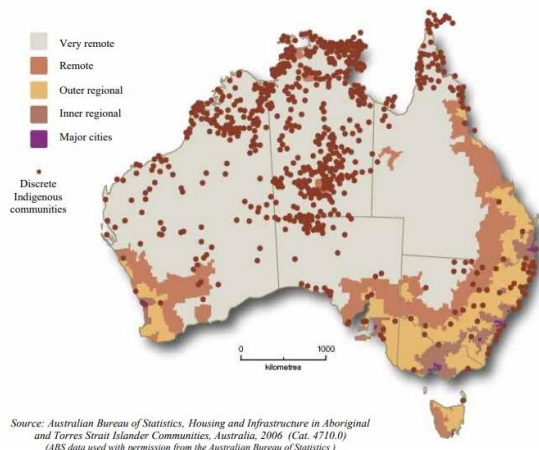
⁶⁹ 2022 Data pulled from ABS - <https://www.abs.gov.au/statistics/people/population/regional-population/2021-22#interactive-maps> "Population estimates by LGA, Significant Urban Area, Remoteness Area and electoral division, 2001 to 2022"

⁷⁰ [People and community / Population distribution - AIHW RIFIC](#)

⁷¹ [Western Australia: Aboriginal and Torres Strait Islander population summary | Australian Bureau of Statistics \(abs.gov.au\)](#) (from 2021 Census data, estimated undercount of indigenous population in Australia in the 2021 census is 17.4%, or around 170,752 people across Australia ([2021 Census overcount and undercount, 2021 | Australian Bureau of Statistics \(abs.gov.au\)](#))

⁷² <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/census-population-and-housing-counts-aboriginal-and-torres-strait-islander-australians/latest-release>

relative sparseness of settlements, across the Pilbara, Murchison and Gascoyne regions of Western Australia.



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A sample of our data for the 2022/23 Financial Year shows the high proportion of First Nations clients in these areas.

Region	Total Clients	ATSI clients	%
WA (Statewide)	23,109	3622	16
Kimberley (SA3)	503	395	79
East Pilbara (SA3)	606	424	70
West Pilbara (SA3)	585	340	58

Western Australian CLCs and FVPLS regularly engage in outreach to more remote communities, with trips covering thousands of kilometres over the course of a week or more. Delivering services to remote and very remote communities (both majority indigenous and not) has been and continues to be one of the defining features of delivering social services in Western Australia.

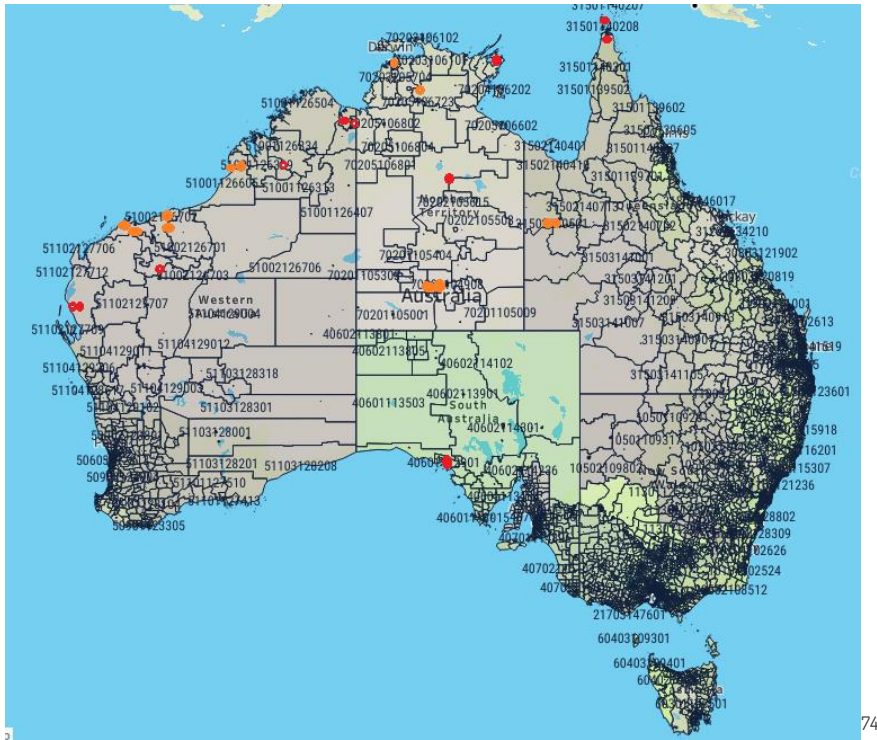
Remote and Very Remote Centres

Of the Australian CLC and FVPLS offices in each remoteness category, WA has the highest proportion of Centre offices in remote and very remote areas – far above the proportion of the Australian population living in those areas.

WA has nearly half of all Australian CLC/FVPLS offices in Remote and Very Remote locations.

Western Australian CLC’s and FVPLS provide 12 generalist and specialist offices across seven locations. Beyond being based in Remote and Very Remote towns, these Centres provide further outreach to communities up to 1000km away.

⁷³ Map from 2010 Australian Parliamentary inquiry



Trust and service delivery

Community services of any kind cannot be effectively delivered until trust is established.

One of the major issues in remote and very remote communities that are serviced by outreach workers of various kinds is the inconsistency of service that results from limited funding and inconsistent funding and staff turnover. Inconsistency leads to lack of trust not only from clients, but from the services that are on the ground in community. It takes a long sequence of consistent visits to establish trust and with many communities, services cannot be effectively delivered until trust is established. Metrics around remote service delivery must understand the relationship building activity required, rather than simply counting number of services delivered.

One of the difficulties with outreach is developing trust. It takes a long time. **CLC Manager, 2023**

(It's) not just trust for clients, but trust for stakeholders, because we find that when we're trying to develop our outreach locations, we need to build the connections with all the other service providers and to build on that regularly... They need to trust that you'll be able to help the clients that they need you to help, when they need help. **CLC Manager, 2023**

Place based outreach and linkage is not so much based on how much time you're going there. It's how regular you are there. And once the trust is developed that you're going to keep coming back. **CLC Manager, 2023.**

⁷⁴ SA1 map from ABS Geographical services, markers hand drawn.

Delivering Services in Remote and Very Remote areas.

There is a large disparity in the actual distance and the cost to deliver services to communities within the Very Remote category and this is not reflected in the available information regarding the funding model.

Ensuring that people in even more remote places still have access to justice is critical work, but it provides additional financial and staffing challenges for our Centres providing legal assistance.

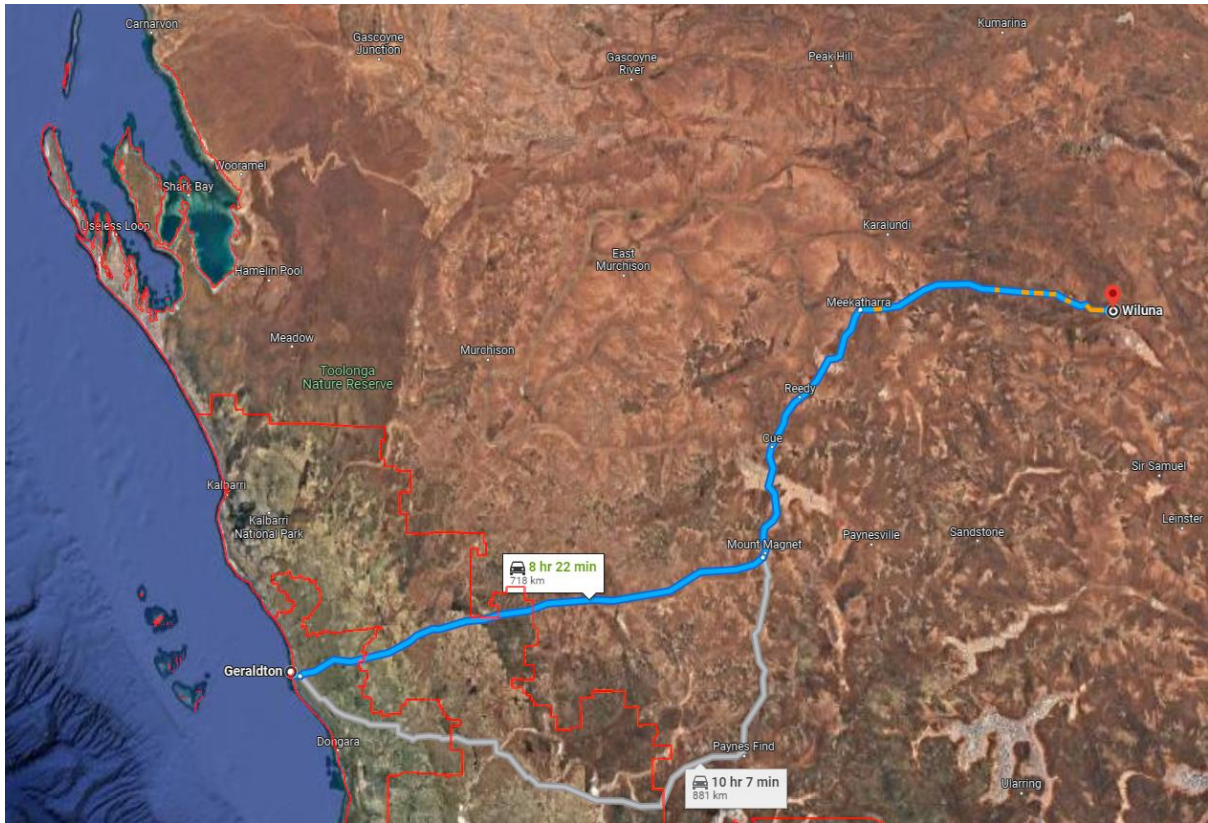
WA Regional and Remote Centres cover an enormous area beyond their immediate surrounds. All of our Regional and Remote CLC and FVPLS offices undertake additional outreach visits to communities up to 1000km away and lasting up to a week, often including full days of driving. For WHS reasons, two staff are usually the minimum required to undertake a trip. The Kimberley CLC has two offices and provides in-person outreach services to another 18 communities across the Kimberley region, including driving the Tanami Highway to Balgo. Outreach trips undertaken by our Goldfields CLC staff members require a 4WD vehicle and camping equipment.

The ARIA+ methodology that underlies the ABS categorisations of Major Cities, Inner Regional, etc is based on the road distances to the nearest service centre at each of five different sizes. The mean distance for each value across Australia has been determined, and then a ratio value for the specific community is created by comparing the actual distance for that community to the mean distance for Australia for each measure. A ratio over 3 is treated as 3 for the purposes of calculating the ARIA+ score of 0-15. This means that it is entirely possible for the distance of Very Remote communities to their service towns to be incredibly variable. While the funding models include an allowance for remoteness, this does not cover the enormous increase in cost to deliver services to communities that are so much further away.⁷⁵

The difference in distances between communities serviced by Regional Alliance West demonstrate that it costs approximately twice as much to service the most distant Very Remote community as it costs to service the closest Very Remote community.

Despite the communities of Mt Magnet, Meekatharra and Wiluna all having the same categorisation of Very Remote, the cost to Regional Alliance West to deliver services to these communities is very different. The cost of staff time in simply travelling is more than double to service Wiluna as it is to service Mt Magnet. There is also an opportunity cost involved in spending so much time travelling. Our centres carefully plan their trips to ensure that they are able to see the maximum number of clients and local agencies for the least amount of time travelling, but it is still enormously more time consuming and expensive to service the farther flung Very Remote communities.

⁷⁵ [Accessibility/Remoteness Index of Australia \(ARIA+\) | The Australian Centre for Housing Research | University of Adelaide](#)



Route	One way	Return trip	Cost of travel time for SCHADS 6.1 jnr lawyer @ \$51.90/hr
Geraldton to Mt Magnet	3hr 43min	7hr 50m	\$406.55
Geraldton to Meekatharra	5hr 49min	12hr 01min	\$622.80
Geraldton to Wiluna	8hr 22min	17hr 07min	\$882.30

The distances involved mean that in addition to the travel time and costs, additional costs around accommodation and overnight travel allowances must be included.

Arguments that funding indexation based purely on the ABS remoteness classification does not account for the cost of delivering services to those regions have previously been rejected by the Commonwealth⁷⁶. However, the Commonwealth’s decision was based on consideration of the costs of a very broad suite of services, including services delivered by circuit as well as those delivered through a permanent ‘home base’ office. Even in rejecting the case, the Commonwealth Grants Commission recognised that the costs borne by providers delivering a circuit service increase with distance travelled. In the specific case of legal services, there is an identified ‘home base’ from which distances to undertake service delivery can be calculated and should be addressed in the funding model.

⁷⁶ Commonwealth Grants Commission, *Report on GST revenue sharing relativities 2020 Review. Volume 2, Part B, methodology for measuring state fiscal capacities.*

Regional Alliance West (RAW) – Outreach overview

RAW is the second-largest provider of non-legal services among WA CLCs. Outreach by RAW includes legal and non-legal staff, with frequency largely determined by each program's funding.

RAW provides outreach services to a number of communities, primarily on a day-trip model due to funding limitations, which severely limits the amount of time available for appointments after multiple hours of travel in each direction.

RAW has a strong work health and safety culture. Workers only travel in daylight hours and driver fatigue is managed. Whatever work cannot be completed on site within regular business hours is followed up from Geraldton or on the next visit.

Like many WA CLCs, RAW recognises the critical importance of consistency in outreach trips to build relationships with providers and employs a full time Outreach Manager to develop and maintain relationships with Community Agencies.

An example of a fairly standard week-long trip through the Murchison is included below. Due to funding limitations, a lawyer only goes on these trips once every three months. Other programs within RAW go once per month.

Administration work prior to travel

6-10 hours booking rooms, appointments, emails to agencies, planning, checks, preparation and promotion. This is in addition to the Outreach Manager's work.

Clients and Agencies

Strong relationships with the agencies that are on the ground in the community are critical to ensuring that an outreach trip is successful. Many CLC clients are transient, or don't have reliable contact details. By necessity, RAW leans on the local agencies to assist in getting the word of the visit out to the people who most need RAW's services.

The local agencies in large part provide the offices and facilities that RAW staff use while on outreach. The facilities are not necessarily set up to be spaces to work with clients and may lack air-conditioning, private/discreet entry/exit, desks or even furniture. Local agency staff may vacate their offices to provide privacy for lawyers and clients to meet.

Additional challenges

A Murchison trip is a full week away for any staff undertaking it. Accommodation is limited and relatively basic. Working conditions vary. Access to fresh food is limited and costly. As the Principal Solicitor says "Outreach work in our region is not for everyone, as a certain level of discomfort is unavoidable and a flexible attitude to work and working conditions essential."

RAW Murchison outreach trip 21/08/2023 – 25/08/2023

Activities and costs

Three staff (NLAP funded lawyer; Indigenous Women’s Legal Outreach Program paralegal or lawyer; and MoneyBusiness (financial literacy) caseworker) travelled 1100km over five days. The legal assistance staff member met with nine agencies and met 17 of 19 planned appointments in five towns, over five days.

Staff travel costs – \$1,250 per person

Diesel – \$283.05 split equally between the three program areas.

Similar distances and challenges to service communities are seen by our other Remote and Very Remote members. For example, an outreach trip to Newman for the Pilbara CLC takes 7 hours driving time each way for a minimum of two people to meet WHS regulations plus \$350 per night accommodation each. In addition, the remoteness of the roads requires safe vehicles, satellite phones and training drivers in 4wd defensive driving.

Kimberley Community Legal Services

Delivering services to small communities in the East Kimberley

KCLS visits Balgo, Mulan and Billiluna four or five times per year, and usually sends two lawyers and a case worker, who see up to 40 clients per visit.

It is roughly an 8 hour drive each way, 4 hours of which is on the corrugated dirt road of the Tanami Highway. For four months of the year, road access is cut due to flooding and the team must fly to Balgo instead. Wet season costs around \$10,000 per trip. Dry season costs around \$8,000 per trip.

This is only one example of their outreach. KCLS runs multiple circuits, including the day trips of flying to Kalumburu, and driving to Wyndham, and the four-day long trips driving to Warmun and Halls Creek.



Office space in the remote Kimberley
(photo provided by Kimberley CLS)

Our members are dedicated to ensuring these communities have access to justice, no matter where they are.

Specialist service delivery to remote areas

Specialist CLCs and FVPLS are active in delivering services, training and CLE outside the metropolitan area. The cost of this work is significant.

One of our biggest challenges is resourcing all of our outreach activities. Principal Solicitor, RRRR CLC, 2023

Specialist community legal centres which offer statewide services are often physically based in urban areas. However, they can deliver a significant number of services to RRRR communities remotely and via outreach, as well as offering training and capacity building to place-based generalist centres. Specialist CLCs who are based in the metropolitan area must invest in developing trusted relationships with RRRR local service providers to be able to effectively deliver services.

Outreach stakeholders need to trust you to help the people they need you to help. WA specialist CLC, 2023

If we were funded to do regular trips we could be a trusted service and that would help with normal service provision as well as disaster response. WA Specialist CLC Principal Solicitor 2023

Inadequate funding can limit the ability of specialists to deliver services outside the metro area – furthering the disadvantage experienced by people living in RRRR areas. As an example, Women’s Legal Service WA is based in Perth and provides specialist legal services to women across WA. To undertake what we consider a minimum level of outreach would cost the service \$100,000 per year.

2023-24 Outreach plan for Women’s Legal Service WA

Total rough costing \$110,000/annum

Schedule:

- 4 x Kimberley region
- 4 x Great Southern region
- 4 x Murchison/Gascoyne region
- 10 x Pilbara region
- 10 x Goldfields region

Characteristics of each trip:

- Lawyer travels alone (except Pilbara, where industry sponsors a social worker)
- Trips last 4 days
- Costs between \$3,000 and \$4,000, including flights and accommodation.

Digital service delivery

Digital services, while important, cannot replace face-to-face service delivery for many priority groups.

Digital inclusion has the potential to improve access to justice by facilitating more efficient delivery and uptake of legal assistance services for some people. Digital delivery is also sometimes suggested as a way some of the challenges of service delivery to RRR areas, particularly those around the time spent travelling from place to place, can be overcome.

Over the past few years, and particularly since the COVID-19 pandemic, there has been a significant expansion of legal assistance services delivered by phone or online. These are an important complement to face-based services and can improve access, particularly to specialist services.

However, while online and phone services can help improve access to legal help, they are not the answer for everyone. The transition to online services in many sectors during COVID-19 lockdowns highlighted the digital divide, particularly in remote regions which may not have reliable access to the internet and patchy phone coverage. Recent data tells us that 11 per cent of Australians are "highly excluded" from digital services because they do not have access to affordable internet or don't know how to use it.

While digital inclusion is complex and multi-faceted, three critical domains are access, affordability and digital ability.⁷⁷

Centres told us that a significant proportion of their clients find online technologies difficult to access. Clients may not have access to electronic devices or share a phone with other people, may not be able to afford the necessary data technology or may not feel comfortable using digital platforms to access services. The increase in delivery of online services also present costs and challenges for service providers, requiring greater training, expertise and IT support.

Digital projects / chatbots / AI must be seen as capacity enhancing for Community Legal Centres, rather than as a silver bullet to provide an initial touchpoint or service for all potential clients. We know that many of the NLAP priority groups align closely with the groups identified as vulnerable cohorts by the Digital Inclusion Index.⁷⁸

Work to create the index has found that digital exclusion is strongly correlated to other markers of social disadvantage. An over-reliance on digital methods to deliver services risks simply creating another barrier to the clients who need CLCs the most. This is particularly the case where remoteness compounds existing intersectional vulnerabilities.

⁷⁷ https://www.niaa.gov.au/sites/default/files/publications/first-nations-digital-inclusion-plan-2023-2026_0.pdf

⁷⁸ digitalinclusionindex.org.au/wp-content/uploads/2023/07/ADII-2023-Summary_FINAL-Remediated.pdf

First Nations digital inclusion

17. The next NLAP should recognise the importance of place-based and face-to-face services for Aboriginal people following the current national LA strategy

Place-based and face to face services are critical for good outcomes, including for Aboriginal and Torres Strait Islander clients⁷⁹

The challenges accessing and using digital technology experienced by many First Nations people potentially lead to poorer outcomes, diminished wellbeing and opportunities⁸⁰.

First Nations people have a relatively low level of digital inclusion -7.5 points below the ADII 2023 survey national average score for non-First Nations people. The digital inclusion gap between First Nations people and non-Indigenous Australians is evident across the three elements of access, affordability and digital ability. ADII case studies have shown that digital inclusion for First Nations people, particularly in relation to access and affordability diminishes with remoteness.⁸¹

Lower levels of digital inclusion can make it difficult to access services and exacerbate disadvantage experienced by Aboriginal and Torres Strait Islander people. While community organisations like FVPLS and CLCs are increasingly working to attempt to fill the face-to-face service delivery gap by assisting community members to navigate digital service platforms, Centres are generally not resourced to do this work, particularly across outreach communities.⁸²

Many First Nations people find it difficult to create a digital identity and access digital services due to a lack of documentary evidence (such as a birth certificate or drivers licence) to confirm who they are. Two-factor authentication requirements for many government services present additional layers of difficulty, as access to a mobile device or email address is required. Authentication also becomes a significant challenge as devices are often shared between a number of people within a household or extended family.⁸³

In addition, research has identified particular barriers to digital service delivery which are specific to legal services. As noted earlier, the Public Understanding of Law Survey found that 64% of people did not see the justiciable problems they face as legal.⁸⁴ The UK Bach Commission found that people can be “hindered from using digital legal help effectively because they struggle to frame

⁷⁹ We are committed to place-based community-led work for three reasons:

- it leads to better outcomes for people and communities, and allows communities to overcome challenges to create the change they want to see better than the traditional human services system;
- it advances self-determination for Aboriginal and Torres Strait Islander communities; and
- it shifts existing power dynamics to ensure the agency of community members as part of active, participatory citizenship.

⁸⁰ https://www.niaa.gov.au/sites/default/files/publications/first-nations-digital-inclusion-plan-2023-2026_0.pdf

⁸¹ https://www.niaa.gov.au/sites/default/files/publications/first-nations-digital-inclusion-plan-2023-2026_0.pdf

⁸² https://www.niaa.gov.au/sites/default/files/publications/first-nations-digital-inclusion-plan-2023-2026_0.pdf

⁸³ https://www.niaa.gov.au/sites/default/files/publications/first-nations-digital-inclusion-plan-2023-2026_0.pdf

⁸⁴ [Public Understanding of Law Survey 2023](#)

their problems in a way that enables them to search for what they need. If they do find information, they are often unable to assess its quality and veracity properly. In addition, they cannot always correctly identify whether the information they have accessed applies to the relevant jurisdiction” (for example, a user may be unknowingly applying a law from a different jurisdiction).⁸⁵ The difficulty many people face in accessing e-courts portals was raised by our members as a significant issue impacting access to justice for people with low digital access and literacy.

RRRR labour challenges

Cost of living and housing

The 2021 Regional Price Index compares the cost of more than 220 goods and services at 37 regional centres, weighted for necessity according to the ABS weightings for creating the Consumer Price Index. The cost of living in many remote and rural areas is substantially higher than in Perth and this impacts CLC and FVPLS workers along with their clients. Client issues around cost of living are discussed in the [Drivers of Legal Need](#) section above.

We are consistently told that being able to provide housing for their workers is a major issue for our Centres based in RRRR areas.

If we can't house them, we can't hire them. RRRR WA CLC manager, 2023

From the 2021 Regional Index numbers, we can see that housing in the Pilbara comes at a substantial additional cost compared to that of Perth.⁸⁶ However, the structure of CLC salaries does not include an allowance to deal with housing costs of this magnitude.

	Kimberley	Pilbara	Gascoyne	Mld West	Goldfields-Esperance	Wheatbelt	Peel	South West	Great Southern
Overall	110.8	114.9	102.3	100.7	103.7	100.5	98.2	99.7	100.8
Basket									
Food	109.2	105.1	100.8	103.8	104.3	102.6	99.9	99.5	100.8
Cigarettes, tobacco, alcohol	103.7	108.8	106.6	108.2	109.0	107.5	98.9	104.5	102.8
Clothing	100	100	100	96.8	100.6	100.4	99.7	102.6	103.1
Housing	118.1	134.6	104.8	95.7	98.5	95.7	96.0	100.0	98.3
Household equipment and operation	106.1	105.4	100.5	101.3	105.4	102.0	96.1	99.5	100.4
Health and personal care	107.2	112.2	104.0	107.1	113.9	102.6	97.3	110.1	110.7
Transport	107.7	111.6	103.7	98	104.1	102.2	102.5	95.1	100.8
Recreation	109.7	103.8	102.4	105.3	111.6	102.4	98.8	98.7	103.2

The Rental Affordability Index⁸⁷ is an additional measure created by SGS Economics and Planning that compares the cost of rentals to the average salary for the area, with 100 being affordable and lower numbers being less affordable. The Pilbara region has recovered to some extent from the

⁸⁵ https://fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Right-to-Justice-Report-WEB-2.pdf

⁸⁶ [Regional-Price-Index-2021-1.pdf](#) (kdc.wa.gov.au)

⁸⁷ [Rental Affordability Index | SGS Economics & Planning](#) (sgsep.com.au)

record unaffordability during the early 2010s but is still considered unaffordable on a salary of \$105,000 per year.

Ensuring that CLC staff are able to afford to live, and especially able to afford housing, in these Remote and Very Remote areas is one of the critical pieces of the puzzle needed to deliver services in these areas.

This has long been recognised by the public service, with many WA government departments providing accommodation in these areas through the Government Regional Officer Housing Program, which provide subsidised rental properties in the regions⁸⁸. A large number of Western Australian industrial awards also contain a location allowance to assist with cost-of-living in regional and remote Western Australia.⁸⁹ This 'top-up' funding does not come close to covering the additional cost of living in remote areas like the Pilbara and is only available to CLC and FVPLS workers on the relevant WAIRC award. Many Centres are trying to find creative ways to raise funds to house their workers in WA.

Increasingly, our members report that housing shortages significantly exacerbate the challenges to regional and remote service delivery. Difficulties community legal centres face recruiting staff in RRRR areas are exacerbated when there is no housing available for them to live. Housing availability is constrained both by a lack of affordability, with rents at record highs in many areas, and a lack of availability, with vacancies at record lows. Relocation costs can also be prohibitive for staff. In addition, rents are rising rapidly. In the past year, rents have risen on average by 11 percent, while wages have only grown by 3.7 percent.⁹⁰ Housing costs are growing faster than the pace of wages. Housing costs exacerbate workforce shortages⁹¹

Leave coverage, training, succession and burnout

The difficulty in staffing in the remote and very remote areas mean that there are serious challenges for staff attempting to undertake or deliver training or to go on leave as there is usually no capacity to provide coverage.

Beyond the challenges of covering absences and leave, there are additional challenges where the Principal Solicitor may be the only person in the organisation with the ability to provide legal supervision. In organisations with young lawyers, leave can lead to the reduction or cessation of legal work at the CLC/FVPLS.

⁸⁸ [Government Regional Officer Housing Program \(www.wa.gov.au\)](http://www.wa.gov.au)

⁸⁹ [Location allowance for employees in regional areas | Department of Mines, Industry Regulation and Safety \(commerce.wa.gov.au\)](http://commerce.wa.gov.au) The two main awards which cover CLC staff are the SCADS and SCAS. SCADS currently has no allowance for remote work ([P.A.C.T - \(fairwork.gov.au\)](http://fairwork.gov.au)). SACS is a WAIRC award and maximum (woefully inadequate) allowance is \$66.60/week for living in Argyle ([Social and Community Services Award \(commerce.wa.gov.au\)](http://commerce.wa.gov.au)).

⁹⁰ SQM Research (2023) Weekly Rents: National. Australian Bureau of Statistics (2023)

⁹¹ <https://www.anglicarewa.org.au/docs/default-source/advocacy/report-rental-affordability-snapshot---essential-workers.pdf>

Centres are staffed by dedicated lawyers who follow this path to make a difference. Facing a substantially increased cost of living, serious challenges in taking leave and long trips away from home undertaking outreach, it is not surprising the turnover of staff in RRRR is comparatively very high. High turnover also has an impact on succession planning.

Attraction, recruitment and retention

An additional barrier to attraction and recruitment – beyond the challenges of living and working in a RRRR area – is the lack of career progression available at many smaller Centres. For career progression – more responsibility, more complex cases – lawyers may need to leave the specific CLC/FVPLS. This provides another barrier to relocating to a RRRR area, if the person believes that they will need to relocate for career progression in a few years anyway.

Ideas that have been raised at our consultations and may be worth further consideration include initiatives such as:

- ▶ HELP forgiveness schemes for employees who work in RRRR locations for a specified period of time
- ▶ Housing assistance schemes such as housing allowances, access to essential worker housing or government housing where available
- ▶ Relocation support, both financial and administrative

To justify the costs of relocation, contracts of sufficient length (5 years plus) must be available.

Costs associated with high staff turnover

There are time, resource and knowledge costs associated with changing staff. Estimates of the cost of recruitment process vary from around \$5,000⁹² up to more than \$20,000⁹³.

Should a CLC or FVPLS be lucky enough to be able to transition a new employee in as the old one leaves, this time and financial cost is fairly minor, outside the time taken for a new employee to reach their peak productivity. However, it is common for recruitment to take time, especially in RRRR areas, further reducing the capacity off the Centre to respond to community need.

Time to full productivity for new staff also falls into ranges, with estimates from as short as 5 months⁹⁴, to as long as 2 years⁹⁵ for a new employee to reach full productivity. During this time frame (however long or short it is), a new employee cannot perform their work with their full speed and accuracy and this impacts on client access to services and the quality of service received.

⁹² Society for Human Resource Management -

⁹³ HR Industry Benchmark Survey (2021)

⁹⁴ <https://humanpanel.com/onboarding-and-new-hire-time-to-productivity/#timetoproductivity>

⁹⁵ Training Industry Quarterly (2012) -

https://www.nxtbook.com/nxtbooks/trainingindustry/tiq_2012winter/index.php?startid=40#/p/40

Legal assistance for Aboriginal and Torres Strait Islander Australians

Funding for Aboriginal Community Controlled Organisations

- 18. When Aboriginal people provide place-based, locally led and culturally safe services to Aboriginal people, the outcomes are far better. We recommend additional funding is provided to FVPLS and ATSILS to increase the ability of these organisations to better meet the significant need for their services, particularly in the context of national commitment to achieving Closing the Gap targets. We further recommend these contributions are made both by state and Commonwealth governments.**

CLWA has three Aboriginal Community Controlled Organisations (ACCOs) in our membership. All three, Aboriginal Family Legal Service, Marninwarntikura Women's Resource Centre and Southern Aboriginal Corporation, are Family Violence Prevention Legal Services (FVPLS). They play a vital role in the delivery of culturally safe and holistic services to Aboriginal people affected by family violence across WA.

Commonwealth funding

FVPLS are not currently fund through the NLAP. We note the submission to the review provided by Aboriginal Family Legal Services which details the problematic history of funding to FVPLS over the last 13 years. FVPLS play a crucial role in the legal assistance service system, and it is vital they are strengthened.

We note concerns raised about the proposal to transition FVPLS funding to the NLAP and we support the views of WA's FVPLS services and their national peak regarding the mechanism through which Commonwealth funding should be provided to these organisations in the future. Whatever mechanism is used, it is essential that it facilitates the delivery of a long term, sustainable and appropriately indexed Commonwealth funding stream to these organisations, with specified or quarantined funding for FVPLS. Funding should be based on determination of need, a preference for face-to-face service delivery, and take into account the costs of delivering services to Aboriginal people living in RRRR areas.

State government funding

The WA state government (Department of Justice) has not provided ongoing baseline funding to FVPLS. The failure to invest in the sustainability of these core legal assistance providers undermines the state's contribution to progress towards Closing the Gap commitments, and to whole of government efforts to strengthen and grow ACCOs.

Despite the government's lack of investment in FVPLS, these organisations have been asked to provide service data and participate in collaborative service planning and associated policy work resulting in a significant consultation workload across a range of different areas. This does not reflect a true partnership approach. The State Government must make long-term funding commitments to adequately resource FVPLS as the preferred providers for Aboriginal people and to support Aboriginal communities to address violence against women and children.

ALSWA

The Aboriginal Legal Service of WA (ALSWA) is the primary legal assistance provider of criminal law services to Aboriginal people across WA. We note ongoing concerns about the critical insufficiency of funding for ATASILS nationally, including ALSWA.⁹⁶ During collaborative service planning meetings, ALSWA frequently raises their dire resource constraints which significantly impact their ability to maintain their RRRR workforce in particular. This is having direct and deep impacts on Aboriginal people's access to justice in WA. Both the Commonwealth and the state should be contributing funding for these services.

Self-determination

19. The next NLAP should support and facilitate self-determination including through integrating shared decision-making and improved partnership approaches. This work will require greater investment in FVPLS and ATASILS.

CLWA strongly supports self-determination and appropriate resourcing of, and broader government support for, a strong Aboriginal community-controlled sector.

Self-determination as a collective right of Aboriginal and Torres Strait Islander peoples to determine and control their own destiny should underpin the delivery of legal assistance services to Aboriginal people in WA. We welcome current NLAP specific outcomes regarding the delivery of legal assistance service to Aboriginal people, including clarity provided within the current NLAP as well as the National Strategic Framework for Legal Assistance regarding around how self-determination should be interpreted in the agreement.

In line with Closing the Gap, shared decision-making allows for transparency, with both parties receiving the same amount of information and having adequate time to review and understand the implications of decisions. It allows Aboriginal and Torres Strait Islander peoples to have their voices heard, including Elders, young people, women and Aboriginal and Torres Strait Islander people with a disability.⁹⁷

To meet Closing the Gap justice targets it is crucial that Commonwealth and government strategy not only articulate these principles, but there must also be concrete steps to ensure they are

⁹⁶ See for example <https://www.smh.com.au/national/aboriginal-legal-services-to-scale-back-work-nationally-amid-funding-crisis-20230417-p5d15m.html>

⁹⁷ Joint Council on Closing the Gap (2020) National Agreement on Closing the Gap.

properly embedded into all work across policy, strategy, service delivery and law reform and collaboration. This includes ensuring that models of service delivery that provide the best outcomes for Aboriginal people are appropriately funded, enabled and supported. There is little evidence this work has been prioritised under the current NLAP.

We note and echo concerns made by WA FVPLS that there is significant work to do to ensure a true partnership approach and shared decision-making with government. While there has been a welcome significant shift in government policy and procurement practices in some areas⁹⁸, progress has been inconsistent across different government agencies. More work is needed to properly embed shared decision-making principles into the WA government's work and in particular in legal assistance, corrective services, and across justice more broadly. This includes a requirement for government to partner with FVPLS in planning, designing and delivering family violence related services and programs for Aboriginal people.⁹⁹

Partnership approaches are hampered by a lack of capacity for FVPLS and ATSILS to engage in policy and planning work. Without adequate funding these organisations cannot participate as true partners with government.

Barriers to service delivery to RRRR communities have significant impacts on Aboriginal people in WA (see [Error! Reference source not found. section](#)) as do issues associated with digital inclusion (see [First Nations and digital inclusion](#) above).

First Nations data

WA FVPLS also tells us they are concerned that NLAP reporting requirements and policies do not properly support the more holistic, intensive support model needed by many of their clients. Pressure to report on service numbers ('widgets') rather than outcomes, and restrictions on the use of NLAP funding to employ non-legal staff like social workers or community liaison workers, do not reflect principles of self-determination, shared decision-making and partnership.

As culturally focused services, a core part of the work undertaken by ACCOs is relational, while NLAP currently reports transactions. We understand that KPIs developed to report funding provided to FVPLS through the National Indigenous Australians Agency are developed by the funded ACCOs, in partnership with government. The more 'locked in' reporting required under NLAP is seen as a backward step and our members have raised concerns that this type of reporting doesn't fairly reflect their work, cultural models of delivery and outcomes.

⁹⁸ See for example the WA Department of Communities Aboriginal Community Controlled Organisation (ACCO) Strategy 2022 to 2032 <https://www.wa.gov.au/system/files/2022-08/ACCO-Strategy-document-2022.pdf>

⁹⁹ Either the Commonwealth or state government, depending on which level of government is making the funding distribution decision.

FVPLS have raised concerns that if their services are brought into the NLAP their service delivery outputs (number of services) will be compared unfavourably to high-number services with a completely different model (and one that is less appropriate for many Aboriginal people).

Additionally, see [Data Sovereignty](#).

Non-ACCO CLCs and the delivery of legal assistance to First Nations people

We also support investment in building the capacity of non-ACCO services to deliver culturally secure services. All WA CLCs deliver services to Aboriginal people. Sixteen per cent of CLC clients in WA are Aboriginal, and this number is as high as 79% in the Kimberley and 70% in the West Pilbara.¹⁰⁰ Ensuring all CLCs are equipped with the knowledge and skills to deliver culturally safe services ensures Aboriginal people have options, including where a conflict of interest or lack of services means they cannot access an ACCO, but also so that Aboriginal people can have genuine choice to decide the service that they want to access.

All CLCs are required to meet accreditation standards under the National Accreditation Scheme which requires their services to be culturally safe and appropriate. This is an external baseline requirement which is checked by a reviewer and certifier, improving the likelihood of positive outcomes for Aboriginal clients.

CLCs have identified an ongoing requirement for greater investment in cultural training for all staff. They have also told us that they experience challenges recruiting and retaining First Nations staff. These are two issues we recommended be considered in the development of a national legal assistance workforce development strategy (see [Recommendation 20](#)).

¹⁰⁰ 2022-23 CLASS data

Labour market

20. The next NLAP should facilitate the development of initiatives to support workforce, including investing in a national legal assistance workforce development strategy. This should include investment to enable pay parity with Legal Aid Commissions, portability of leave and other entitlements, and RRRR-specific initiatives like housing support etc

Some of the most talented and celebrated lawyers in Australia work in community legal centres.¹⁰¹ They are passionate and committed and they tell us they are drawn to CLCs to make a difference. Over as little as a decade of employment, CLC lawyers are likely to have earned between one and three million dollars less than their peers in private practice and government (see [Appendix 2](#)).¹⁰²

Workforce is one of the biggest issues facing CLCs – particularly those in RRRR areas (see [RRRR labour challenges](#) above). Funding, and an inability to offer permanent, full-time positions, as well as a high risk of vicarious trauma and burnout are seen by our members as barriers to both successful recruitment and long-term retention of paid employees.

Particular pressure points our members have shared with us include:

- ▶ A lack of more senior lawyers in CLCs/FVPLS. People with significant (five years plus) in the sector are more efficient and skilled. They have a better understanding of the service system and the law and so are more effective at getting better outcomes for their clients. They are also likely to have developed the expertise to run more complex cases including representation, to identify and act on law reform opportunities, and to supervise and mentor junior staff
- ▶ Some Centres lack the capacity to cover senior lawyers' work and supervisory roles, restricting their ability to take leave

¹⁰¹ For example, Shayla Strapps, Ruah Legal Services, 2022 Woman Lawyer of the Year at the Women Lawyers of Western Australia's annual awards, Ann-Margaret Walsh, Principal Solicitor of Street Law Centre, Antoinette Kennedy career contribution Award 2022. Funmi Adesina, Principal Solicitor, Gosnells Community Legal Centre, Law Society of Western Australia 2022 Lawyer of the Year, Zoe Bush, EDO Senior Solicitor, 2023 Pro Bono/Community Lawyer Award at the Lawyers Weekly #30under30awards, Corina Martin, Aboriginal Family Legal Services, Indigenous Lawyer of the Year award at the Lawyers Weekly - Women in Law Awards 2022. Corina was also awarded Order of Australia in 2022 for Services to the Law.

¹⁰² [This document](#) outlines the narrative of gov lawyer classifications. It compares L6 and L7 with private partner firms. But if you checked a CLC PS JDF they'd at least be a L5, and your nominated persons within a CLC would probably be a L4 (not graphed)

- ▶ Significant vacancies which are particularly difficult to fill in RRRR areas, most significantly in the north (a position in the Kimberley was vacant for a year) but also in regions which have traditionally been sought after like Bunbury.

The CLC/FVPLS workforce is highly feminised. While we don't yet have access to data for WA, we imagine it is similar to Victoria where 77% of the current workforce are women.¹⁰³ Western Australia's gender pay gap, at 21.4%, is the biggest in country.¹⁰⁴ By failing to address pay parity issues in the community sector, including in CLCs and FVPLS, governments are directly contributing to the gender pay gap.

The Western Australian Department of Justice is currently developing a workforce strategy under the state Legal Assistance Strategy. Data collected as part of this work more fully detail pay disparity issues that particularly affect ALS and CLC lawyers in RRRR areas. We understand this is being provided to the reviewer by the Department. Ultimately, any key actions are prioritised by the strategy will require significant additional investment to be successful.

We acknowledge that many workforce challenges are shared by legal assistance providers across Australia. As such, there would be merit in developing a national workforce development strategy. CLWA supports calls from the Australian Legal Assistance Forum (ALAF) including investment in:

- ▶ Pay parity
- ▶ Learning and development
- ▶ Career development, including for RRRR lawyers
- ▶ Recruitment and retention initiatives like
 - Tailored RRRR incentives
 - Country lawyer programs
 - HELP debt forgiveness schemes

We draw the reviewer's attention to work being done by the Law Council on a suitable policy to incentivise legal practitioners to live and work in RRRR locations. CLWA supports the recommendations made by the Council in its draft paper.¹⁰⁵ Consideration should be made to whether the NLAP can support a HELP debt reduction and indexation relief scheme.

¹⁰³ https://www.fclc.org.au/new_report_reveals_inclusive_nature_of_the_community_legal_sector

¹⁰⁴ [Workplace Gender Equity Agency](#), November 2022

¹⁰⁵ Law Council of Australia. HELP debt reduction and indexation relief for legal practitioners working in rural, regional and remote locations: Position Paper. September 2023. CONSULTATION DRAFT

Disaster response and preparedness

Community legal centres and FVPLS need to be included in the planning and processes that lead to emergency and disaster preparedness, response and recovery, through both place-based responses as well as regional and state-wide coordination and planning.

- 21. The next NLAP should support local place-based response to disasters with support from specialist centres for a minimum of two years following any disaster.**
- 22. The next NLAP should support CLCs and FVPLS in disaster preparedness and response. Increase in baseline funding (including funding for peaks) should be made for preparedness work, and the Commonwealth and states should work together to provide a quick deploy, minimum two years duration, funding stream to enable response following a disaster.**

As noted above, it is anticipated the need for disaster response will increase as the impacts of climate change continue and grow. Disasters can create or exacerbate a range of legal issues, including problems with insurance, housing, income and social security, credit and debt, and destroyed legal documents. Disasters compound legal need and make it even more difficult for stretched centres to respond. Disasters are associated with higher legal need, with greater likelihood of multiple problems and problem clusters and legal need often continues for years after the disaster event.¹⁰⁶

CLCs and FVPLS strongly support place-based response to disasters, with local centres and other legal assistance providers supported by relevant specialists. Centres are well placed to deliver this when appropriately resourced and supported through disaster readiness capacity building, particularly in WA given the significant impact of remoteness factors.

Better outcomes will be achieved if we act early and invest in anticipating and planning our response to climate challenges. Effective adaptation, emergency and recovery planning and coordination require a collective and collaborative approach. Legal assistance services are key stakeholders with important roles and capabilities in response and recovery efforts. Tropical Cyclone Seroja and disasters in the eastern states highlighted the important role of CLCs and FVPLS during disasters and through recovery. These events also highlighted the need for more disaster preparedness including community legal education.

Legal assistance disaster resilience, readiness and response requires flexible funding periods, rather than funds pegged to short-term disaster responses.

We also note recommendations made by [ACOSS](#) regarding including provisions in contracts so that organisations faced with serious impacts from natural disasters (including pandemics) can redirect

¹⁰⁶ https://uploads-ssl.webflow.com/64aca8cd4793bdb0821ec3ab/64ed85c5a810cb6d00f61e9b_The%20Public%20Understanding%20of%20Law%20Survey%20Report%202023%20Volume%201.pdf

funding to meet agreed alternative services. This will help facilitate CLCs to be as nimble and responsive as possible in the face of changing need.

Experiences in WA, including from the recent Kimberley floods, Cyclone Seroja and the Wooroloo bushfires have demonstrated:

- ▶ A lack of investment in preparedness and planning. There has been no investment on CLC and FVPLS disaster preparedness and planning in WA and CLCs have been unable to allocate funding for prevention or disaster-resilience work, including interagency coordination and collaboration to prepare for future events. Funding even modest resilience-building programs is an investment rather than a cost and would increase the effectiveness and efficiency of response following a disaster.
- ▶ Funding takes too long to hit the ground. For example, it took almost 9 months for the delivery of funding to meet legal need following the recent Kimberley floods. Delays in distribution of funding following disasters reduce its effectiveness in meeting need and hamper the provision of CLE and other early intervention strategies.
- ▶ Funding periods must be designed to meet long term need associated with disasters.
- ▶ Funding must be flexible to enable providers to determine the most appropriate ways to meet need. This should include flexibility for centres to determine the most effective workforce roles, recognising that in addition to frontline legal workers effective disaster response may also require community engagement, CLE, financial counselling, case workers etc. Services are best placed to decide the most appropriate response and as such need to have flexibility in funding allocations to determine the composition of roles needed as well as the allocation of funding for travel and other activities.

Roles and responsibilities

See also [Funding Allocation](#).

State government contract administration

23. The next NLAP should require state governments to ensure that the principles of partnership with legal assistance service providers and a focus on good system design and how best to meet identified need and achieve better community outcomes are evident in funding allocation decisions and contract management approaches. Competitive tendering should never be the default method for purchasing services.

In WA, contract management of CLCs moved from Legal Aid WA to the WA Department of Justice in 2021. This has led to very positive developments for CLCs including:

- ▶ CLCs receiving four-year contract terms for the first time
- ▶ An increase in state baseline funding
- ▶ An increase in the proportion of funding for specific programs allocated to many, but not all, CLCs
- ▶ Securing state indexation for the first time in 2022-23

During this NLAP the state government has made progress on significant programs of work including mapping legal need, investing in CLC sector's data capability via funding to the peak, and commencing development of the sector's first state legal assistance workforce strategy.

We further note that the Department of Justice appears to understand the unique needs of RRRR communities in WA and to value the delivery of services to these regions; this is a significant priority for CLWA and the sector.

However significant challenges are being experienced.

To date, the Department has taken a very tight contract management approach. While the sector strongly welcomes the lack of specific service targets/KPIs, the Department takes a very detailed look from an efficiency perspective, with a particular emphasis on a low proportion of funding being spent on back-end costs as compared to front line service delivery. While the sector understands the government's need to secure value for money services, investing in quality, contemporary services is essential to achieve good outcomes for the investments made. Our members report that this emphasis on low back-end spending makes it very challenging for Centres to appropriately finance back-end like leadership, planning, data, staff training and development, governance and more modern and efficient tools and systems. When leadership capacity is too lean, it is also very difficult for CLCs to allow the time for important government and sector engagement and consultation processes, for the development of partnerships and innovation, and in the responsive and adaptiveness that are key strengths of CLCs.

US research has shown that one of the key drivers of not-for-profit vulnerability is insufficient funding of charity indirect costs. This is called the 'non-profit starvation cycle' where funders have inaccurate expectations of how much overhead is needed to run a not-for-profit. This can result in charities under reporting their costs to funders, contributing to a sector starved of the necessary core funding required to create resilient charities delivering long-term impact on complex social issues. The same research found that low indirect costs is not a good measure of charity effectiveness; whereas there is clear evidence that spending insufficient resources on indirect costs can potentially reduce overall NFP effectiveness.¹⁰⁷

A focus on back-end costs or onerous service targets can cloud our view on whether services are achieving impact. A shift to an outcomes focus would support a focus on effectiveness as the key goal and help enable service providers to allocate their resources with the flexibility required to meet community needs in the most effective way.

CLCs in WA are also under pressure from the Department to respond to 5 pillars of sustainability:

1. Client-centred services
 - ▶ Focuses upon holistic integrated service delivery and a shift to client centred service delivery throughout the sector.
2. Minimum level and standard of service
 - ▶ Establishes an agreed minimum level and standard of service to provide clients with equitable, effective and responsive legal services.
3. Evidence based service delivery
 - ▶ Builds capacity and guides CLC's to produce complete, accurate and consistent data that is used to inform service delivery and system planning.
4. Collaboratively delivered services
 - ▶ Supports CLC's to work collaboratively to ensure that vulnerable people are provided with effective, consistent and connected legal services.
5. Increased capacity of Community Legal Centres
 - ▶ Increasing the capacity of CLCs to deliver effective, appropriate legal services responsive to community need, and deliver on pillars 1-4.

The sector is broadly supportive of, and making significant progress towards, improving practice and capability regarding the first 4 pillars. In relation to pillar 5, the Department of Justice has made public statements about the need for CLCs to merge, or otherwise partner with each other or other community sector providers, in order for the Department to view them as having sufficient capacity to meet the other pillars. The Department has made further public statements that should this not occur, the Department will need to pursue tenders for services currently delivered by CLCs for the next round of agreements under the next NLAP. While their stance appears to have softened to be now considering other procurement including direct approach options, CLCs are still strongly

¹⁰⁷ Social Ventures Australia and the Centre for Social Impact (2022) *Paying what it takes: funding indirect cost to create long-term impact*. Social Ventures Australia. https://www.philanthropy.org.au/wp-content/uploads/2022/11/Paying_what_it_takes.pdf

encouraged to merge or partner. CLWA has secured agreement from the government that it will not make any decisions about CLC procurement before the NLAP Review is finalised.

However, many CLCs are concerned about this focus on merging to form larger organisations, and of the view that merging may compromise the ability of their organisation to be client centred and responsive to community. Other CLCs are considering their partnership options, seeing benefit in increased capacity or simply wanting to meet the Department's preferred approach.

The WA government has also commenced the development of a WA Legal Assistance Commissioning Strategy which will:

*ensure the legal assistance services funded by governments achieve desired outcomes across the system. Anchored in the current understanding of existing and future needs of legal services sector clients, the strategy will communicate a unified future direction and goals for the system, including priority services, and provider roles which reflect a sector wide minimum level and standard of service. It will identify system level outcomes which will be used to assess and monitor progress; and it is intended to adapt over time in response to changing circumstances*¹⁰⁸

The Commissioning Strategy is to cover all funding allocated to the legal assistance sector including, NLAP funds, State baseline and specific program funding.¹⁰⁹

With the potential for a tender or some other form of open procurement process, CLCs in WA are operating in an environment where in addition to not having secure funding beyond 2025, there is also a real risk that some CLCs will not receive WA Department of Justice/NLAP funding at all. For the majority of CLCs, the only legal assistance funding they receive is via the Department of Justice and losing this would put their ability to provide services to people in need of legal assistance and to keep their doors open at existential risk.

Our members report that this environment is having a significant impact on the quality of trust and relationships between CLCs and in their relationships with government, with some CLCs reporting it harder to collaborate with each other, to develop partnerships or to share information that would support joined up service delivery.¹¹⁰

Research on the use of tenders in the community sector indicates that competitive tendering does not necessarily result in improved outcomes for the community, can open up new service gaps and may not meet the needs of the community sector.¹¹¹ We are deeply concerned that state government procurement decisions could result in the loss of organisations with decades of

¹⁰⁸ Nous, 'Legal Assistance Commissioning Strategy, Phase 2 sector engagement plan update', 18 September 2023

¹⁰⁹ Nous, 'Legal Assistance Commissioning Strategy, Phase 2 sector engagement plan update', 18 September 2023

¹¹⁰ WA CLC Forum with Dr Mundy 2 October 2023.

¹¹¹ For example [Impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Services \(aph.gov.au\) and Competition Policy & Human Services \(ACOSS & Choice\)](#)

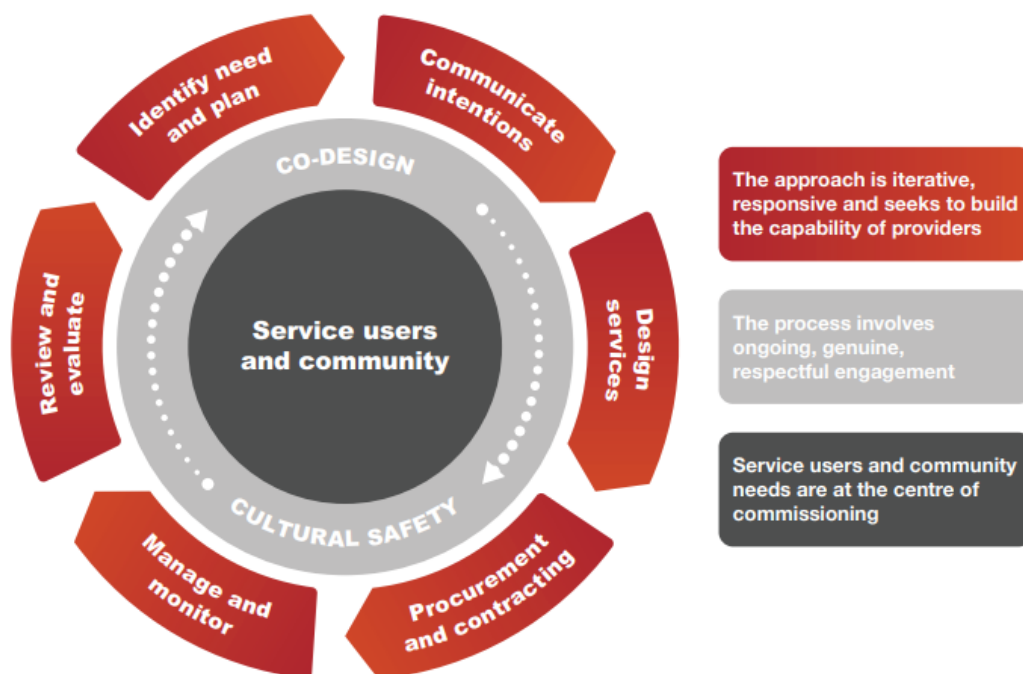
experience, and the trust, connections and partnerships with communities and other organisations that help make them effective.

Ideally, government contracting of legal assistance services should be determined through a collaborative process underpinned by partnership principles. Competitive tendering should never be a default. Contracting for legal assistance services should be based on how best to meet identified need and to achieve better community outcomes.

As demonstrated in the commissioning cycle diagram¹¹² below, a good commissioning approach is underpinned by these principles, including a focus on:

- ▶ determining need
- ▶ improved service design and delivery
- ▶ a system-wide approach; and
- ▶ building capacity across the system.

The commissioning cycle



¹¹² <https://www.wa.gov.au/system/files/2022-08/State-Commissioning-Strategy-for-Community-Services-2022.pdf>

Partnership approaches

While there has been some progress on collaborative service planning, the current agreement hasn't delivered a true partnership approach.

24. The next NLAP should provide the framework and funding for a true partnership approach between the Commonwealth, state and territory governments, and legal assistance providers.

We believe an effective service system is underpinned by outcomes-focused funding and partnership-based contracts. We welcome the WA State Government's [Delivering Community Services in Partnership Policy](#) which provides clear partnership principles and expected behaviours. The policy seeks to ensure *State agencies contract with the not-for-profit community services sector in a manner that supports sustainable and effective service delivery and recognises the importance of ongoing organisational viability*. We further welcome a move to focusing on outcomes in the [Community Services Outcomes Measurement Framework](#) and the [State Commissioning Strategy](#). While these foci are yet to play out in practice for CLCs in WA, the potential is sound and we recommend these documents to the Review.

Working in partnership is also a key focus for Closing the Gap, and for the self-determination principle of the NLAP. It is essential that government funding and procurement contracts and processes recognise and give life to a shared understanding of the strength, expertise and right to self-determination by ATSI communities.

We note the current consultation by the [Department of Social Services \(DSS\)](#) about supporting and strengthening the sustainability of the community sector and the five focus areas of this work:

- ▶ Giving the sector the voice and respect it deserves through a meaningful working partnership
- ▶ Providing grants that reflect the real cost of delivering quality services
- ▶ Providing longer grant agreement terms
- ▶ Ensuring grant funding flows to a greater diversity of community sector organisations
- ▶ Partnering with trusted community organisations with strong local links (place-based).

These five focus areas are all highly relevant to CLCs, FVPLs and ATSILs and to the more effective and efficient delivery of legal assistance services to the community. We recommend consideration be made to how the findings and recommendations from the work being done by DSS can inform the development of the next NLAP so that this work is not siloed.

Funding distribution roles

25. The next NLAP should provide for state and territory governments to continue to make decisions regarding distribution of funding to individual CLCs.
26. To achieve greater consistency and equity across different jurisdictions, and improve transparency around funding decisions, we recommend the next NLAP:
 - a. Require state and territory governments to contribute to legal assistance funding (including funding for community legal centres, FVPLS, ATSILS and peaks) and improve funding security within their jurisdictions.
 - b. Require all levels of government to deliver greater transparency around funding allocation, distribution, improved reporting processes and greater accountability for outcomes

WA CLCs have benefited from some funding increases under the NLAP and current state government, although much of this is not long term, nor sustainable. We welcomed an increase in state baseline funding that has gone some way to rectifying historical inequity, with larger portions of this new funding going to regions that were most underfunded. In distributing this funding we understand the Department of Justice used Need for Legal Assistance Services (NLAS) indicators and 2020-21 service data to determine areas of greatest need.

According to the WA Department of Justice approximately 70% of an increase to CLC funding from 2019/20 to 2023/24 can be attributed to State funding.¹¹³ CLC's have received approximately 45% of the new Commonwealth funding streams (Vulnerable Women, Mental Health Conditions and Workplace Sexual Harassment). A breakdown of this funding is provided at [Appendix 4](#). Previous to this there was minimal, if any, distribution of this type of programmatic funding to CLC's.

Community Legal WA as the state peak body for CLCs has also benefited from increases in funding following the transfer of CLC program management from Legal Aid WA to the WA Department of Justice.

Although there are varied opinions across WA CLCs, in general we see benefit in the WA state government continuing to play a key role in the distribution and administration of funding to CLCs. The state government has a sound understanding of local need and our service environment, including the specific challenges of delivering services in WA's RRRR areas. The state government is also doing work to develop the evidence base around legal need to better inform the distribution of funding. As noted in [partnership approaches](#) above, this work should be underpinned by agreed partnership principles.

We note concerns raised with us, and in particular by our colleagues in other jurisdictions, about a lack of transparency and timeliness in the distribution of some additional allocations made under the NLAP. Without a sound and agreed criteria for distribution, any additional funding can be

¹¹³ Email correspondence between CLWA and WA Department of Justice. 29 September 2023.

delayed and/or poorly targeted and as a result can fail to achieve the government's intended outcomes, as well as distribution undermining sector trust and collaboration.

Legal assistance service system

An effective legal assistance service system requires a variety of providers to meet need across different priority areas of law and so that people have choice, to avoid conflicts, to enable self-determination and for vibrant and strong services. When some parts of the service system are not adequately funded or experience other issues this impacts on all providers, as well as the operation of the wider justice system. As an example, we note the significant challenges facing legal assistance providers in the Midwest-Gascoyne region which were raised with CLWA during a visit to Geraldton in August 2023. Workforce issues experienced by the Aboriginal Legal Service (WA), and in particular vacancies in ALS's Geraldton and Carnarvon offices and the resulting lack of available legal representation for Aboriginal people, had a significant impact on the operation of the courts as well as increasing demand on the local Legal Aid and FVPLS services. If each part of the service system, including ATSILS, FVPLS and CLCs, are not funded adequately it impacts on everyone, and significantly reduces access to justice.

Civil law providers under the NLAP

27. The community legal sector and FVPLS deliver the best outcomes in civil and family law for many people and communities experiencing the greatest vulnerability and disadvantage. The next NLAP should recognise this expertise and support strengthened service delivery from CLCs and FVPLS. Consideration should be given to whether redirecting funding from grants to aid to long term increases in baseline funding for CLC civil and family law matters would be more efficient and achieve better outcomes for clients.

Legal Aid WA provide crucial services in family and criminal law and play a central role in providing access to justice for Western Australians experiencing vulnerability and disadvantage who need legal assistance. Legal Aid WA and a number of WA CLCs work in partnership, both formal and informal, in a range of activities across WA.

While we acknowledge there is some excellent work occurring, we question the continued expansion of Legal Aid WA into more areas of civil law and higher levels of civil law services, noting that in [2020 Legal Aid WA](#) reported a 22% increase in grants of aid for civil law matters and a 24% increase in elder abuse services. Changes to the service system, and particularly those that have the potential to weaken other providers, should be carefully considered and only undertaken in a collaborative and strategic way. While service choice is important, poorly considered changes to the service system risk duplication and inefficiency, and could undermine the strength of community legal centres as a service system (and therefore the strength of the legal assistance sector as a whole) complicating access pathways and confusing people seeking legal assistance.

This expansion significantly risks undermining funding availability to, and the sustainability and strengthening of, the other 3 provider types, when a range of providers is essential:

- ▶ for consumer choice
- ▶ to enable self-determination for Aboriginal and Torres Strait Islander people
- ▶ to address legal conflict
- ▶ to address fluctuating capacity to respond to need
- ▶ to ensure the availability of non-government service where this is crucial to achieving outcomes for example through client work in redress or welfare matters or through independent law reform and advocacy
- ▶ to facilitate connection to community and other services including through CLE
- ▶ to facilitate and maintain community trust in local services
- ▶ to integrate with other community based services either in-house or in partnership

We further question the government's current significant reliance on grant of aid processes to deliver legal assistance to people who cannot afford private representation. We note that in 2020 [Legal Aid WA](#) paid out \$32.8m on grants of aid to private practitioners. In that year WA CLCs received \$12.5m in funding which included \$5.95m of Commonwealth funding.

During consultations for the Vulnerable Women and Mental Health Commonwealth funding programs, CLWA identified that a more client centred and trauma-informed approach would provide an end to end service, with one provider supporting the client right through to court if needed. We have received feedback from members and FDV stakeholders that private practitioners are often not well placed to deliver trauma-informed, independent, holistic, place-based services for civil law clients.

In addition, Legal Aid are experiencing market problems with a rising inability to place grants of aid, with Legal Aid WA recently approaching CLCs to join their panel for Independent Children's Lawyers due to an inability to place enough matters in the private sector. Our members also report that Legal Aid WA is often unable to place grant of aid matters in family law and are sometimes referring clients back to CLCs for ongoing court representation for which they do not generally have the capacity.

It is a commonly held view that the rates for private practitioners is a key issue limiting the market, and we note state and national advocacy from Law Societies and the Law Council to raise the rates.

However, CLWA questions whether the grant of aid approach is best placed to provide person-centred services and achieve the best outcomes, particularly where clients are experiencing significant trauma.

It is essential these types of services are readily available, particularly for clients experiencing higher levels of complexity, vulnerability and disadvantage. CLCs and FVPLS provide person-centred models and their ability to provide high quality, trauma informed practice is regularly assessed through the CLC National Accreditation Scheme. Redirecting some of the funding away from grants

of aid to increase CLC baseline would enable clients to benefit from the trauma informed approach offered by CLCs and the quality assurance provided through our accreditation process.

Funding

28. Funding for legal assistance services should be allocated by the Commonwealth to states and territories based on need and on equity principles, taking into account the additional costs of providing services to specific populations and in particular to people living in RRRR areas
29. The next NLAP should facilitate the delivery of funding to community legal centres, FVPLS and ATSILS sufficient to ensure strong sustainable services that have the resources necessary to achieve good outcomes. Funding should be sufficient to meet the costs of:
 - a. Service delivery to RRRR - including strong place-based services, ACCOs and regular outreach by both local services and specialists (this needs to include costs like housing allowances etc)
 - b. Qualified staff recruited and retained at classification levels suited to job tasks. This requires pay parity at a minimum with Legal Aid lawyers.
 - c. Professional development, supervision and other supports which develop quality and enable career progression as well as cultural safety and trauma informed practice.
 - d. Legal practice costs including practicing certificates, access and time for professional development, new training requirements under uniform laws, court transcript costs etc
 - e. Reporting; administration; technology; innovation, planning and service improvement; auditing, legal and other necessary business activities, and infrastructure, including investment in data capability, evaluation, outcomes work. Includes new developments like needing to adhere to new privacy regulations and psychosocial safety requirements.
 - f. Law reform, advocacy, consultation, and policy input
 - g. Early intervention including community legal education
 - h. Innovation/integration/partnerships/wrap around services
 - i. Disaster preparedness and response
 - j. Co-design and involvement of people with lived experience

As noted above in the section on [legal need](#), chronic underinvestment in legal assistance services like CLCs, FVPLS and the Aboriginal Legal Service in WA has meant thousands of Western Australians are denied access to justice each year. This is the current reality in WA where demand for legal assistance significantly outstrips the availability of services. This means that services are

forced to focus their resources on those clients with the most urgent and acute need, and the benefits of early intervention and prevention are unable to be fully realised. Better resourcing would enable services to have a more balanced approach to prevention, early intervention and representation, and face less pressure to triage out those whose needs are less urgent.

There is a huge gap between what is needed and what we can deliver. WA Specialist CLC CEO, 2023

It is crucial that funding is directed to meeting need and that the quantum takes into account the costs of providing access to justice for people living in RRRR areas.

We welcome the current funding distribution model's focus on need and costs – and the underlying principle of equitable access to justice for populations across Australia. Strong effective CLCs need sustainable funding which:

- ▶ reflects the true cost of delivering services, including in, rural, regional and remote areas
- ▶ supports crucial work to prevent legal problems occurring, and
- ▶ recognises the costs of running a legal practice and engaging a suitably experienced workforce.

The current funding model hasn't delivered on these principles, with RRRR populations particularly disenfranchised. The current funding quantum is insufficient, the model fails to properly account for the true costs of providing services in RRRR areas, and there is little transparency regarding whether states are directing loading provided by the Commonwealth directly to support service provision in RRRR locations.

An overall insufficiency of funding lies at the heart of these issues. A move to a funding model that considers the level of funding required, rather than only the allocation of a predetermined amount, would contribute to an overall improvement in access to justice. In addition, better evidence about legal need and more effective mechanisms to determine the relative cost of meeting that need for different people, including importantly those living in RRRR areas, would significantly increase equity of access to justice.¹¹⁴

We are always trying to strike the right balance between helping many people a little (advice and tasks) and helping fewer people a lot (ongoing and representation). There are always people who need more help than we can deliver, and we have to decide who to turn away ... and who to decline to help beyond a particular service level. So we meet the need in some sense, but there is much more assistance that could be provided, and many more people who would benefit from more intensive assistance.

CLWA member, 2022 State Budget Submission consultation

¹¹⁴ As an example of government recognition of the significantly higher costs associated with service delivery to RRRR areas we note that NDIS loadings are 40% for scheme participants living in remote locations, and 50% for those living in very remote locations. <https://www.ndis.gov.au/about-us/strategies/rural-and-remote-strategy>

We note that the National Strategic Framework sets out six key principles to guide legal assistance policy development, service delivery and sector planning:

1. focus service delivery on people facing disadvantage
2. client centred and appropriate services
3. collaboration and integrated approaches
4. appropriately timed responses and preventative action
5. empowerment and resilience, and
6. continuous learning and improvement

It is crucial that governments consider and fund the true cost of delivering on these principles.

Special purpose funding

30. The 4 year funding provided in the Commonwealth 2021 budget should be made ongoing and rolled into baseline

31. There should be timely and transparent distribution of any additional investment allocated through the NLAP, including for disaster response.

CLCs have told us that a significant, long-term increase in flexible, baseline funding is their greatest need. Although special purpose funding can provide a welcome boost, its insecurity, additional reporting requirements and restrictions on its use makes it less effective than additions to baseline which can respond more flexibly to need and demand over time. There is no indication that the need being serviced by those funds will disappear when that funding is no longer available.

Rather than continuing as discrete streams (or not continuing at all), streamed/special purpose funding should be rolled into an increased baseline amount provided by the Commonwealth to state governments under the next NLAP.

While we appreciate the Commonwealth needs flexibility to increase funding to take into account changing need (and we welcome this) it would be more efficient to provide additional funding as an increase to baseline wherever possible.

Where government determines funding increase should be directed towards specific need this should be clearly articulated with the Commonwealth providing clear guidance regarding the need to be addressed, and state governments working in partnership with legal assistance providers to determine the best way to direct funding towards this need. This work should be based on genuine partnership principles and undertaken in a timely way using agreed principles and transparent processes.

Funding foreseeable increases in need

Where government changes are anticipated to increase legal need there must be government investment to ensure services have capacity to meet this need. For example, Royal Commissions, both the Commission process itself and then the implementation of recommendations, can increase the policy and advocacy work of CLCs and FVPLS, require the development and distribution of new CLE resources, and result in increased service demand. The following example from Circle Green's workplace respect project demonstrates the time it can take for this work to be done and the necessity for funding to be ongoing where it is government's intention to address new legal need.

CLC Prevention and early intervention

Workplace respect project: Circle Green Community Legal

Circle Green is the lead agency delivering the Workplace Respect Project in WA. The project is part of the Commonwealth Government's response to the Respect@Work Report, which identified the prevention of and response to workplace sexual harassment as an urgent priority due to the widespread and pervasive nature of its occurrence in Australian workplaces. Workplace sexual harassment is highly stigmatised and underreported and requires long-term, sustained commitment to address.

The project is an important and much needed piece of work which includes facilitating capacity building and promoting legal and cultural change.

Prevention of workplace sexual harassment requires looking at its key underlying drivers, such as:

- (a) gender inequality;
- (b) power imbalances inherent in male dominated industries; and
- (c) toxic or complacent workplace cultures that condone and accept sexual harassment and sex discrimination.

Addressing the issue of workplace sexual harassment also involves addressing the key structural barriers to accessing legal assistance.

Outreach for the project found that most regional CLCs are seeing little to no demand in this space, despite high community prevalence. As such, the project has pivoted to a focus on stakeholder awareness, engagement, and education activities in local communities, as opposed to direct regional place-based legal service provision, in order to raise awareness about workplace sexual harassment and promote help-seeking behaviours in the community. It is anticipated that legal demand will only begin to rise significantly once this important groundwork has been done.

Commitment to ongoing funding is required to address workplace sexual harassment given its prevalence and pervasiveness; the barriers to expressing help-seeking behaviours; and the complexities to accessing justice faced by persons who experience workplace sexual harassment.

The project is an excellent example of why long-time frames are crucial for addressing new areas of legal need. A four-year funding period is not enough to achieve the work required to:

- Raise awareness about the issue
- Educate the community about the support available to someone experiencing workplace sexual harassment
- Determine and deploy effective strategies to encourage help-seeking behaviour.

Indexation

32. Both Commonwealth and state funding provided under the next NLAP should be sufficiently indexed to meet rising costs. Indexation should be paid in a timely manner, and regularly reviewed to ensure it is fit for purpose and that unanticipated cost increases such as increased superannuation payments can be covered.

The payment of indexation on baseline funding for community sector organisations, to cover increasing annual costs, is a critical part of the equitable and appropriate resourcing of the community sector. Without proper indexation, there is a danger that funding increases will be eaten by inflationary costs rather than increasing service delivery to people experiencing vulnerability and disadvantage, as Government intended.

Indexation of the Commonwealth component of NLAP funding is insufficient. The lack of appropriate indexation in the NLAP means funding has not kept pace with real cost increases and has hampered service delivery and CLC's ability to plan. In June 2022, the Fair Work Commission announced a 5.2% increase to the national minimum wage and 4.6% increase to modern award minimum wage. In addition, the superannuation guarantee increased by 0.5% on 1 July 2022. These changes are welcome and important for helping workers on low incomes with the rising cost of living. However, CLCs like other community service organisations are facing significant wage cost pressures because of these increases. As people-centred community service organisations, staff costs account for around 70% - 80% of CLC running costs. With the rapidly increasing Consumer Price Index, rising rents, and increasing fuel costs, a significant gap has developed between funding indexation and community legal centre operating costs.¹¹⁵

Indexation to state funding provided to CLCs in Western Australia is paid under the [Indexation Policy for the Non-Government Human Services Sector](#). The objectives of the Indexation Policy are to provide:

- ▶ increases to service agreement prices over the life of a service agreement to assist in addressing cost increases;
- ▶ transparency and consistency in the level of indexation across agreements with community services; and
- ▶ administrative simplicity.

Under the policy, indexation rates are based on a weighting of 80% of the Wage Price Index and 20% of the Consumer Price Index. Indexation under the policy has not kept pace with rising costs and fails to account for the much higher CPI and wage costs in RRRR areas. [Appendix 1](#) contains a table of WA State Government Contracts Indexation over the last decade which clearly demonstrates the cumulative impact of insufficient indexation. The policy is currently under review following significant advocacy from community services and peaks bodies, including CLWA.

¹¹⁵ Social Ventures Australia and the Centre for Social Impact (2021) Partners in recovery: Moving beyond the crisis? Available at <https://www.csi.edu.au/media/uploads/partners-in-recovery-moving-beyond-the-crisis.pdf>

ACOSS and the COSS network propose the following principles for the determination and payment of indexation to community service organisations. These principles are supported by Community Legal WA and should be incorporated into an indexation policy for funding distributed under the NLAP.

1. Indexation methodology should account for the specific characteristics of our sector and as such, accurately identify the real, major costs involved in providing community services. This includes but is not limited to the fact that our workforce is female-dominated, reliant on award wage systems and has unique compliance and administration costs.
2. In a timely manner, government should notify community service organisations on the following:
 - a. the formula used to determine indexation levels
 - b. quantum of indexation being provided in accordance with the relevant formula
 - c. the percentage rate that indexation represents on annual funding for specific grants
 - d. whether that rate has increased or decreased from the previous financial year.
3. Government should pay indexation in the first quarter of a new financial year to allow organisations to adequately plan their service delivery for the coming twelve months.
4. Government should pay a consistent and equitable rate of indexation to community service organisations across different Departments and programs. Community service organisations should not be disadvantaged or discriminated against because of different Departmental or program rules regarding indexation.
5. The adequacy of indexation arrangements, including formula, quantum, notification and payment processes should be routinely reviewed to ensure that community service organisations maintain the value of indexation over time.
6. The community sector should have opportunity to collaborate with government on indexation arrangements on a regular basis and to provide input, to ensure that such arrangements are fit for purpose.
7. Indexation policy should be applied to all State, Territory and Federal service agreements and any grant agreements.

It is vital indexation is paid on both federal and state funding to legal assistance providers. The amount of indexation should reflect real cost increases to services, including varied inflationary pressures in different geographical locations.

Demand over time

33. The next NLAP should provide a simplified and flexible funding stream to CLCs and include funding security and sustainability (minimum five-year agreement with a preference for 12 months, and an absolute minimum of six months, notice of any changes).

34. The next agreement should require state governments to provide baseline funding contracts to CLCs, FVPLS and ATSILSs linked to the timeframe of Commonwealth funding, and for a minimum of five years.

CLCs need surety of funding. Longer time frames are important in allowing services to plan, innovate, and attract and retain quality staff. Terms of less than five years do not allow sufficient time for service sustainability which impacts on funding outcomes and effectiveness. A core strength of CLCs is their responsiveness but if funding is not distributed in a timely manner this hampers services' ability to be nimble enough to respond to changing need and this core strength of CLCs is undermined.¹¹⁶

The current NLAP has seen changing legal need associated with COVID-19, disasters and law and policy reform. We don't know what the future will bring. There is a need to embed flexibility into the next agreement to enable providers to respond to any changing need. With a sufficient quantum and flexibility of baseline funding, services will be able to innovate and pivot to respond to changing need and circumstances.

Despite the requirements of clause 58 of the NLAP,¹¹⁷ CLCs in WA have only benefited from four-year funding agreements under the current NLAP, and some other jurisdictions have had much less. For example, we understand Tasmanian CLCs have been on one year funding agreements, severely impacting their sustainability and ability to plan.

¹¹⁶ Note the current NLAP provision regarding funding distribution. 59. *The Commonwealth and the States will make best endeavours to ensure that, within the duration of funding agreements outlined in Clause 58, legal assistance providers receive ideally twelve months advance notice of any potential future Commonwealth and State funding distributions, where applicable and appropriate.*

¹¹⁷ 58. Given the Parties preference for maximising funding certainty for legal assistance providers, the States will administer, as appropriate, Commonwealth funding under the NLAP:

- (a) for Aboriginal and Torres Strait Islander Legal Services through a five year funding agreement; and
- (b) for all other legal assistance providers through either a:
 - i. **preferred single funding agreement that covers the full five years of the NLAP;** or
 - ii. combination of no more than two funding agreements that cover the five year duration of the NLAP.

Limited exceptions to this requirement may be agreed between the Parties, in writing, on a case by case basis.

Efficiency

- 35. The next NLAP should require the Commonwealth and states and territories to work together and report annually on steps taken to reduce the reporting burden on CLCs. Any additional funding allocated under the agreement (eg for disaster response) should be added as top ups to existing contracts to reduce the reporting burden on providers.**

There is no question that improvements can be made to streamline reporting requirements, particularly for CLCs who provide integrated services and are required to report on multiple contracts. Even for services with a relatively narrow funding pool, the requirement to report on baseline funding and special purpose funding separately results in an additional unnecessary administrative burden.

CLCs have told us they often cobble together their resources through a range of different funding streams, and as such are required to report to many different government departments and other funding bodies. Each Department measures things differently and is looking for different data. This is not only a significant administrative burden, but it also results in reporting that does not provide a coherent picture of overall service delivery or outcomes and can make it difficult for centres who want to use data for service planning.

It's very hard to systematise when every government department wants something different. **CLC General Manager 2023.**

There is a potential for the move towards shared whole of government outcomes to improve reporting. We note the work the WA Government and in particular the Department of Finance in partnership with the WA Council of Social Service (WACOSS) and other WA community sector peaks has undertaken to develop a shared [Community Services Outcomes Measurement Framework](#) which aims to provide a framework to better harness data to demonstrate the effectiveness of community services at achieving positive outcomes for the people of Western Australia.

Please also see the [Data section](#) of this submission for additional considerations around the burden and purpose of data collection.

National Strategic Framework for Legal Assistance

36. The next NLAP should include a requirement that it is reviewed periodically by an independent body. The NLAP review should be aligned with a review of the strategic framework and should consider progress towards strategic framework principles, outcomes and objectives.

The National Legal Assistance Partnership supports the National Strategic Framework for Legal Assistance, which sets out shared aspirational objectives and key principles for all Commonwealth, state and territory government funded legal assistance.

The Strategic Framework appropriately acknowledges the intersection between access to justice and broader social issues and states that legal assistance is intended to avoid and minimize these difficulties and consequences, and that a holistic approach is required for the best outcomes. The Strategic Framework should be better embedded into work under the NLAP and into the wording of the agreement itself.

The Strategic Framework expires on 30 June 2025 and a review is to be conducted before it's expiry.¹¹⁸ The mid-term review of the NLAP is an important opportunity for stakeholders to consider the performance of the agreement and feed into development of any subsequent agreement. Given the alignment of the Strategic Framework with the NLAP, we consider it important that they are reviewed together.

¹¹⁸ <https://www.ag.gov.au/system/files/2020-06/National-Strategic-Framework-for-Legal-Assistance.pdf>

Investing in peaks

37. We strongly support the next NLAP facilitating funding for peaks in all jurisdictions, including our national CLC peak.

Peak bodies are recognised across community services as playing an important, often multifaceted role presenting a collective voice to government on behalf of their nongovernmental service provider members and the vulnerable client populations they serve.¹¹⁹ There is a close alignment between much of this work and the objectives and outcomes sought by the National Legal Assistance Partnership. Legal Assistance peaks like CLWA and our national peak CLCA act as advocates, partners, capacity builders and leaders. A body that is explicitly created and funded to lead, support and advocate for the community legal sector in each state or territory is essential.

As articulated in our [strategic plan](#), CLWA as the peak for CLCs in WA works to:

- ▶ Advocate for access to justice and the promotion and protection of human rights and responsibilities
- ▶ Lead law reform and systemic advocacy that improves just outcomes for our clients and our communities
- ▶ Promote the provision of legal assistance to people living with vulnerability and disadvantage
- ▶ Hear client perspectives and lead collaborative service system design and delivery
- ▶ Support community legal centres to best meet the needs of their communities and demonstrate their impact
- ▶ Enhance sector leadership, best practice, ongoing learning and capacity building
- ▶ Advance the sustainability of WA community legal services
- ▶ Represent and advocate for community legal services in WA
- ▶ Work with industry leaders and health and community services to integrate services and add value
- ▶ Strengthen cooperation, communication and coordination between CLCs.

The legal assistance sector has not enjoyed the kind of investment in reform seen in many other community service sectors including disability and mental health. Peaks can help progress this much-needed work.

¹¹⁹ [Collaboration between Australian peak bodies and governments in the context of the COVID-19 pandemic: New ways of interacting](#). Foote, W., Conley Wright, A., Mason, J. and McEwan, T. 2023 <https://doi.org/10.1002/ajs4.260> Australian Journal of Social Issues.

The NLAP recognises the existence of peaks in its definitions ¹²⁰ and specifically names the national legal assistance peaks, ¹²¹including noting that Commonwealth funding to national peaks is done outside the NLAP.¹²² Despite this, legal assistance peaks have not been uniformly supported by governments under the current NLAP, particularly at the state and territory level in some jurisdictions.

The Commonwealth and state and territory governments should fully fund peaks in each jurisdiction and at the national level for ACCOs in recognition of important role they should play across:

- ▶ Data capability and consistency, and using data to inform program and service level planning and decision-making (see note above re sector capability and buy-in from the data role currently funded in CLWA)
- ▶ Accreditation
- ▶ Sector development including, for example, lived experience engagement, partnerships and collaboration, client centric and trauma informed practice, disaster readiness
- ▶ Workforce development, including development of an Aboriginal workforce, and investment in staff whose jobs means they are regularly exposed to vicarious trauma and who are on the whole on limited term contracts
- ▶ Advocacy and law reform (including to respond to and harness examples from generalists CLCs where they do not have capacity to do this work, as well as to support the work of specialists)
- ▶ Government engagement including collaborative service planning.

¹²⁰ Clause 98 (j) *legal assistance peak bodies refers to an organisation, group or association which represents or advocates for legal assistance providers;*

¹²¹ Clause 98 (n) *national legal assistance sector peak bodies refers to Community Legal Centres Australia, National Aboriginal and Torres Strait Islander Legal Services, National Family Violence Prevention Legal Services Forum and National Legal Aid;*

¹²² Clause 23. *Separate to the NLAP, the Commonwealth provides funding for national legal centres, national legal assistance peak bodies and other Commonwealth legal assistance programs.*

Conclusion

Access to justice is a fundamental right and a lack of access to justice has significant social and economic flow on effects with significant social and economic costs to individuals, communities and governments.

The National Legal Assistance Partnership (NLAP) is a critical agreement for improving access to justice for people experiencing vulnerability and disadvantage.

Greater demands are being placed on community legal centres and family violence prevention legal services than ever before and the current NLAP has not delivered funding to meet need.

CLCs and FVPLS cannot keep delivering professional, high quality modern legal services that meet the needs of Western Australians experiencing vulnerability and disadvantage without increased, long term investment.

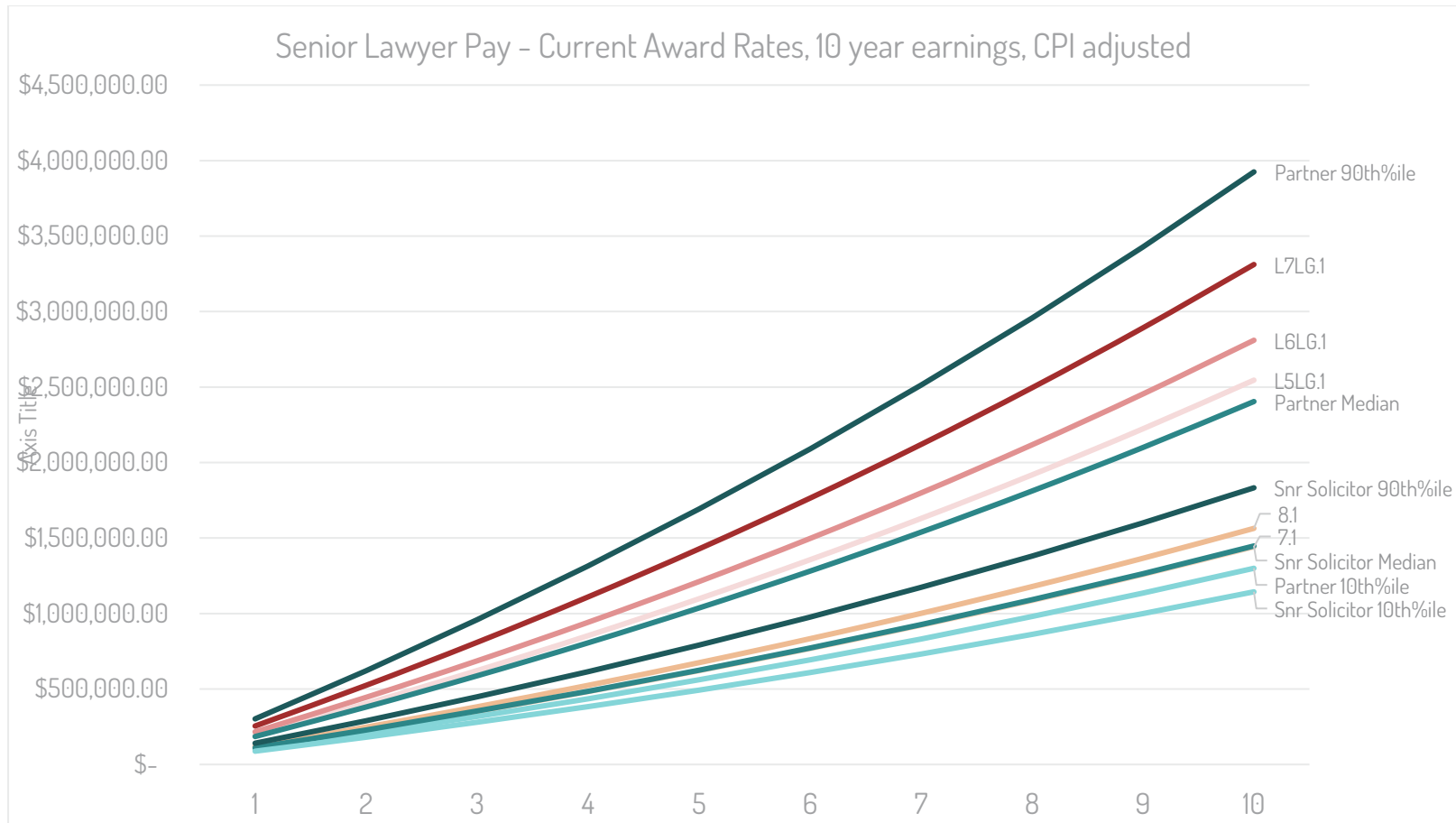
We all desire an integrated strategic approach that moves the sector from inadequate, unstable, short-term, program-centred funding towards certainty, longevity, local control and people-centred services.

We encourage the Commonwealth and state governments to take the opportunity presented by this review of the National Legal Assistance Partnership to commit to re-establishing legal assistance as a public right so that all Australians, whether they live in Balgo, Armadale, Fremantle or Esperance, have equitable access to justice.

Appendix 1 – WA State Government Contracts Indexation

Financial Year	NGHSS Indexation	Formula	National Wage Case	Superannuation Guarantee	Differential
2014/15	2.65%	20% CPI, 80% WPI	3.00%		-0.35%
2015/16	1.90%	20% CPI, 80% WPI	2.50%		-0.60%
2016/17	1.60%	47% CPI 53% WPI	2.40%		-0.80%
2017/18	0.83%	73% CPI, 27% WPI	3.30%		-2.47%
2018/19	0.83%	100% CPI	3.50%		-2.67%
2019/20	1.47%	20% CPI, 80% WPI	3.00%		-1.53%
2020/21	1.67%	20% CPI, 80% WPI	1.75%		-0.08%
2021/22	1.30%	20% CPI, 80% WPI	2.50%	0.50%	-1.70%
2022/23	3.53%	One off adjustment - weighting of the CPI in the indexation formula to 50%, WPI at 50%.	4.60%	0.50%	-1.57%
2023/24	4.51%	20% CPI, 80% WPI Plus 80% of the 0.5% Superannuation Guarantee. Resulting in an additional 0.4%	5.75%	0.50%	-1.74%
				Total	-13.51%

Appendix 2 – pay disparity example¹²³



¹²³ Figures are a rough calculation based on current wages and assuming a consistent increase as per the table on the following page.

Award	Level	1 (Base)	2	3	4	5	6	7	8	9	10
PUBLIC SECTOR CSA AGREEMENT 2022	L5LG.1	\$ 195,881.00	\$ 402,927.22	\$ 621,775.07	\$ 853,097.25	\$ 1,097,604.79	\$ 1,356,049.26	\$ 1,629,225.07	\$ 1,917,971.90	\$ 2,223,177.30	\$ 2,545,779.40
PUBLIC SECTOR CSA AGREEMENT 2022	L6LG.1	\$ 216,205.00	\$ 444,733.69	\$ 686,288.51	\$ 941,611.95	\$ 1,211,488.83	\$ 1,496,748.69	\$ 1,798,268.37	\$ 2,116,974.67	\$ 2,453,847.22	\$ 2,809,921.51
PUBLIC SECTOR CSA AGREEMENT 2022	L7LG.1	\$ 254,797.00	\$ 524,117.43	\$ 808,789.12	\$ 1,109,687.10	\$ 1,427,736.27	\$ 1,763,914.23	\$ 2,119,254.35	\$ 2,494,848.84	\$ 2,891,852.23	\$ 3,311,484.80
SCHADS (Aug 2023)	7.1	\$ 110,907.68	\$ 228,137.10	\$ 352,048.59	\$ 483,023.04	\$ 621,463.04	\$ 767,794.11	\$ 922,466.05	\$ 1,085,954.30	\$ 1,258,761.37	\$ 1,441,418.45
SCHADS (Aug 2023)	8.1	\$ 120,331.12	\$ 247,521.11	\$ 381,960.94	\$ 524,063.83	\$ 674,266.59	\$ 833,030.90	\$ 1,000,844.79	\$ 1,178,224.06	\$ 1,365,713.95	\$ 1,563,890.77
Law Firm Partner Salary in Australia in 2023 PayScale	Partner	\$ 184,975.00	\$ 380,493.58	\$ 587,156.71	\$ 805,599.64	\$ 1,036,493.82	\$ 1,280,548.97	\$ 1,538,515.26	\$ 1,811,185.63	\$ 2,099,398.21	\$ 2,404,038.91
Law Firm Partner Salary in Australia in 2023 PayScale	Partner	\$ 100,000.00	\$ 205,700.00	\$ 317,424.90	\$ 435,518.12	\$ 560,342.65	\$ 692,282.18	\$ 831,742.27	\$ 979,151.58	\$ 1,134,963.22	\$ 1,299,656.12
Law Firm Partner Salary in Australia in 2023 PayScale	Partner	\$ 302,000.00	\$ 621,214.00	\$ 958,623.20	\$ 1,315,264.72	\$ 1,692,234.81	\$ 2,090,692.19	\$ 2,511,861.65	\$ 2,957,037.76	\$ 3,427,588.91	\$ 3,924,961.48
Senior Solicitor Salary in Australia in 2023 PayScale	Snr Solicitor	\$ 111,368.00	\$ 229,083.98	\$ 353,509.76	\$ 485,027.82	\$ 624,042.40	\$ 770,980.82	\$ 926,294.73	\$ 1,090,461.53	\$ 1,263,985.84	\$ 1,447,401.03
Senior Solicitor Salary in Australia in 2023 PayScale	Snr Solicitor	\$ 88,000.00	\$ 181,016.00	\$ 279,333.91	\$ 383,255.94	\$ 493,101.53	\$ 609,208.32	\$ 731,933.20	\$ 861,653.39	\$ 998,767.63	\$ 1,143,697.39
Senior Solicitor Salary in Australia in 2023 PayScale	Snr Solicitor	\$ 141,000.00	\$ 290,037.00	\$ 447,569.11	\$ 614,080.55	\$ 790,083.14	\$ 976,117.88	\$ 1,172,756.60	\$ 1,380,603.72	\$ 1,600,298.14	\$ 1,832,515.13

Appendix 3 – Ruah Interim evaluation snapshot of the care and protection project

INTERIM EVALUATION SNAPSHOT OF THE CARE AND PROTECTION PROJECT

This snapshot provides an interim overview of the **Care and Protection** project run by **Ruah Legal Services**. The program is the first of its kind in WA, which provides a lawyer and a case worker to intensively support each client through their Care and Protection proceedings. We currently have 2 lawyers and 2 case workers on our dedicated Care and Protection team.

This snapshot illustrates data from **1 September 2020** until **31 December 2021** and shows the first evaluation data available for the project. The project aims to provide legal advice and representation and also social support to clients to ensure that they are empowered to make the best choices for their families.

Feedback from the Courts is also positive and indicative of reduced resource usage. A Magistrate from the Children’s Court said that, “A legal service that is specialised results in less frustration and aggression due to a fear response. Clients are more confident, less anxious and it makes it easier....What distinguishes Ruah is the wrap around service with additional support and having practical problems resolved”.

FAST FACTS



Of the **34 legal matters** that have concluded, the following **legal outcomes** and **non legal supports** have been achieved.¹
(Note: Multiple outcomes have been achieved per legal matter)



THE MOST VULNERABLE CLIENTS

The **Care and Protection Project** supports some of the most vulnerable children and families in Perth.



¹ RLS has withdrawn from 30 services due to client disengagement (n = 6), no merit in application (n=4), and aggressive behaviour toward staff (n=1).

86% OF CLIENTS AGREED OR STRONGLY AGREED THAT AS A RESULT OF THIS SERVICE, THEY FELT THAT THEIR VOICE HAD BEEN HEARD IN CARE AND PROTECTION MATTERS.

81% OF CLIENTS AGREED OR STRONGLY AGREED THAT AS A RESULT OF THIS SERVICE, THEY BETTER UNDERSTOOD THE CARE AND PROTECTION PROCESS.

86% OF CLIENTS AGREED OR STRONGLY AGREED THAT THIS SERVICE HAD HELPED THEM FEEL MORE CONFIDENT ABOUT ENGAGING WITH CHILD PROTECTION SERVICES IN THE FUTURE.

95% OF CLIENTS AGREED OR STRONGLY AGREED THAT HAVING ACCESS TO BOTH LEGAL AND SOCIAL SUPPORTS FROM ONE SERVICE HAD BEEN VALUABLE.

86% OF CLIENTS AGREED OR STRONGLY AGREED THAT AS A RESULT OF THIS SERVICE THEY FELT MORE HOPEFUL FOR THE FUTURE.

CLIENT COMMENTS FROM FEEDBACK QUESTIONNAIRES

What have been the biggest challenges you have experienced in your CAP proceedings? (for example: personal challenges, challenges dealing with the Department, challenges with the court hearings?)

"We didn't know we could get help. The department is very invasive. Dragging on - not able to enjoy the pregnancy. Quite cruel to be told, 'we'll see if you can keep your baby'."

KEY THEMES

- DCP involvement - being bullied, going to meetings, their negativity, lack of trust in client, communication, and inconsistency.
- Personal mental health.
- Attendance at court.
- Anxiety around separation from children.
- Contact arrangements.

What supports have Ruah Legal Services provided that have assisted you manage these challenges?

"Coming to the meetings, helping keep things in perspective. Helping me to prioritize what is important to the department."

KEY THEMES

- The legal advice and support to understand the legal process.
- Support to attend meetings.
- Help with managing disappointment, understanding, getting perspective.
- Liaison with DCP - support with communication and understanding what they require of the client.

What have been the best things about the Ruah CAP service?

"Professionalism, reassurance. How much knowledge they have and they go above and beyond. Communication is very thorough and informative."

KEY THEMES

- The support from the case workers. This includes mental health support and practical supports such as transport and attending meetings with the client.
- Help navigating and interacting with the Department of Communities.
- Feeling comfortable with team members.
- Communication - reminders about appointments, court, etc.

Are there things about Ruah Legal Services you have not liked or that you think could be improved?

"Nope, I love your service - I tell everyone about you. Without you I would have walked away ages ago."

KEY THEMES

- No (majority).
- After hours support and weekend support (n=1).
- Better communication about appointments (n=1).

What has changed in your life as a result of being engaged with Ruah Legal Services?

"How I see life - before RLS I thought my life was completely destroyed. You have given me hope that I can get through this and get my kids."

KEY THEMES

- Feeling supported and having hope.
- Awareness of processes in the system.
- Increase in confidence.

What do you think would have been different (better or worse) if you had not engaged with Ruah Legal Services?

"I would have ran away and never looked back. I would have never seen my kids again. You helped me so much even when I wasn't honest, You have been a major support."

"I wouldn't be here to answer this question."

KEY THEMES

- Having to navigate court.
- Not having access or contact with their children.
- Meetings wouldn't have been as positive.
- Lack of understanding and ability to engage in the process.

PROCESS AND SOURCE

The Care and Protection service is being evaluated through several different avenues.

1. The data from this snapshot was collected by way of client surveys and interviews designed by Ruah to gather some mid-project data and gain a better understanding of how the project was being received by clients and the impact it was making. The client interview has been conducted with 24 clients to date.

2. We are also using a Department of Social Services (DSS) survey. This data is comparative and can only be used as clients exit the service. To date we have collated 24 DSS intake surveys that help create a snapshot of who our clients are and a sense of their own understanding of their situation when initially accessing the Care and Protection Service.

Appendix 4 - WA CLC funding: 2023-2024

Commonwealth Funding Streams	Funding Amount
NLAP Baseline	\$7,286,000.00
NLAP DVU/HJP	\$2,195,000.00
NLAP WSH	\$1,080,300.00
NLAP Vulnerable Women	\$1,255,606.37
NLAP Mental Health Conditions	\$500,000.00
TOTAL	\$12,316,906.37

State Funding Streams	Funding Amount
State Baseline	\$8,137,696.76
Baseline Boost	\$4,565,000.00
Shuttle Conferencing	\$1,035,405.00
Prison Exit	\$383,525.00
Therapeutic Pilot Court	\$424,795.00
TOTAL	\$14,546,421.76



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