

Social Services Regulation Reform

Regulation and Reform Branch, System Reform and Workforce Division

Department of Families, Fairness and Housing

**By Email:** [regulationreform@dffh.vic.gov.au](mailto:regulationreform@dffh.vic.gov.au)

Dear Social Services Regulation Reform Team

**RE: Social Security Regulation Reform**

Thank you for the opportunity to provide a submission on the new social services regulatory framework for Victoria, established through the *Social Services Regulations Act 2021* (the Act) and the proposed *Social Services Regulations 2023* (the Regulations).

We are broadly supportive of the new regulatory framework to address gaps in the current frameworks and better protect users of social services. However, we are writing to you in relation to the possible unintended impact of the broad drafting of the Regulations on the community legal sector.

We extend our thanks to Jennifer Hughes, Director, Social Services Regulation Reform and Jacki Holland, Manager, Reform Policy for meeting with us on 10 July 2023 for an initial discussion of our concerns.

**About the Federation**

The Federation is the peak body for Victoria's 47 Community Legal Centres (CLCs). Our members are at the forefront of helping those facing economic, cultural or social disadvantage and whose life circumstances are severely affected by their legal problem.

For 50 years CLCs have been part of a powerful movement for social change, reshaping how people access justice, creating stronger more equitable laws, and more accountable government and democracy. We want a community that is fair, inclusive and thriving: where every person belongs and can learn, grow, heal, participate and be heard.

**The reforms**

We understand that there will be a mandatory registration framework for all providers of 'prescribed social services' under the Regulations, and that these services will be overseen and regulated by a new Social Services Regulator under the Act.

At the information session about the introduction of the Regulations convened by the Department of Families, Fairness and Housing (DFFH), we were advised that the new regulatory framework is not intended to cover community legal services, which have not previously been subject to any social services regulatory regimes.

However, we note that the prescribed social services proposed to be covered by the scheme include services funded by DFFH that are broadly defined, including, for example, family violence services, sexual assault services and homelessness support services. We understand that some of these

services are not currently required to register with the Human Services Regulator, and so we understand will be newly regulated under this scheme.

We would like to ensure that the Regulations do not unintentionally capture the community legal sector due to the broad nature of the sector's legal work in areas such as family violence, sexual assault and homelessness. We would like to explore the option for including carve outs to ensure that it is clear in the Regulations that the community legal sector is not generally intended to be captured by the new regulatory regime.

### **Structure of CLC programs**

CLCs provide free, quality legal information, advice, representation, casework and education. We focus on working with people who are experiencing disadvantage, such as financial hardship, family violence, homelessness or discrimination. CLCs can be place-based, providing services across a range of legal issues to a geographic community; or specialist, focusing on specific areas of law (such as tenancy, consumer action or employment) or cohorts of people (such as women, young people, people with disability or asylum seekers).

As you may know, some CLCs operate under an auspice arrangement within a community services organisation or as a dedicated program of a broader community services organisation. In these scenarios, the legal support team is embedded within that larger community organisation. These organisations are subject to different regulatory schemes depending on the types of services they provide. We are not commenting on the application of the Regulations to CLCs in this position.

What we are concerned about is the more common scenario where a CLC is operating independently, but in a multi-disciplinary manner through integrated practice models to provide holistic and wrap around legal services to clients.

CLCs are leaders in providing integrated service delivery models and working in partnership with other community organisations to help people to understand and identify their legal needs earlier and provide more wrap-around support.

This can involve a CLC employing a community services professional to be embedded within their legal team. The type of community services professional that is employed will depend on the nature of the program being provided, and can include a counsellor, social worker, housing support worker or family violence support worker (among others).

Due to legal need intersecting across a range of other social needs, CLC programs are often delivered in a multi-disciplinary manner with diverse funding from a range of government portfolios and other sources. Funding arrangements with government vary significantly from one-off grants to multi-year agreements, and for varying amounts.

In some cases, non-legal community services professionals embedded within legal programs are funded through DFFH. The level of funding provided by DFFH depends on the nature of the program, and can often only make up a small portion of a programs total funding.

### Examples

- A generalist CLC receives funding from DFFH to employ a community services professional as part of a legal program to assist residents of public housing to understand their rights and connect with support services.
- A metropolitan CLC receives funding from DFFH to support community engagement as part of a program to build trust with residents of public housing to assist them to understand their rights.
- A specialist CLC receives funding from DFFH to support the work of non-legal advocates who work alongside the lawyers in the prevention of family violence.
- A specialist CLC receives funding to provide tenancy support and legal services for residents of social housing.

DFFH also provides funding to CLCs for specific projects, education and training programs.

### Examples

- Funding for an education program for vulnerable youth on their rights and responsibilities.
- Funding for a legal and justice sector project to drive action on gender equality.
- Funding to train lawyers on critical issues in family violence.

### Possible application of the Regulations

Due to the broad definitions of ‘prescribed social services’ in the Regulations, the new scheme may unintentionally capture integrated legal programs such as those described above.

In particular, we note the broad definitions of family violence services, sexual assault services and homelessness support services.

For example, ‘homelessness support services’ includes any of the following services that are funded by DFFH:

- accommodation services (including arranging accommodation)
- case management services
- counselling services
- services providing support to establish and sustain tenancies
- other supports that assist to reduce risk of homelessness

Based on the drafting of these Regulations alone, integrated legal programs focused on housing and tenancy rights could be captured where, for example, a housing support worker is employed using funding from DFFH to sit alongside the lawyers to support concurrent housing needs to reduce the risk homelessness.

Legal services that provide representation for clients in tenancy disputes could also possibly be captured here as ‘services providing support to established and sustain tenancies.’

### Our submission

It is our view that CLC services involving other community services professionals should not generally be subject to the Regulations. The programs that CLCs run are predominantly legal programs, and CLCs

are already regulated through the CLC National Accreditation Scheme (NAS) and are bound by the legal profession's Conduct Rules and Code of Ethics.

The NAS is Community Legal Centres Australia's industry-based certification process for CLCs. It supports and recognises good practice in the delivery of community legal services. Participation in the scheme enables Community Legal Centres to maintain high service standards, and to reflect and develop increasingly effective governance and management practices. The NAS is both a quality assurance process and a framework for encouraging a continuous approach to organisational risk management and quality improvement.

The CLC sector has not traditionally been regulated as a social service. If the Regulations apply to CLCs in providing integrated services, we are concerned that this will create an unnecessary administrative burden on CLCs who are already subject to a number of services standards and reporting requirements as legal service providers through the NAS, as well as through funding arrangements with other Departments such as the Department of Justice and Community Safety. Further, compliance with the NAS may satisfy the requirements of the Regulations as there is likely to be duplication.

We understand that there is hesitancy to include a carve-out in the Regulations for CLCs or integrated legal services. However, the practical implication is that CLCs may not be able to run programs that receive funding from DFFH in some circumstances due to the additional administrative burden. There is significant time and cost associated with complying with a new regulatory scheme, particularly when CLCs are already subject to their own reporting and registration requirements.

DFFH funding to CLCs is considerably valued in integrated program model contexts, as Commonwealth and State funding through the National Legal Assistance Partnership cannot be used by CLCs to employ social services professionals. The impact of requiring CLCs to comply with the Regulations would result in a loss of integrated programming models that have been evaluated as highly effective.

If a carve-out is not included, there needs to be at least clear guidance around when the Regulations apply to integrated funding models for legal services due to the varying and multi-disciplinary nature of these models.

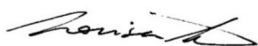
Further, it is not clear whether it is only family violence services, sexual assault services and homelessness support services that are already covered by the Human Services Standards that are intended to be captured by the Regulations. We understand that there is currently no legislative requirement for providers of these services to comply with the Human Services Standards, but that the obligation to comply is created through funding agreements. Given the array of different funding arrangements, it would be useful to have clarity on this issue.

**We recommend a carve-out in the Regulations or clear policy position that legal services are not intended to be captured by these Regulations.**

If this is not possible, we would appreciate the opportunity to meet with DFFH to discuss ways in which CLCs may be able to satisfy the Regulations, when required, without imposing an additional burden on them.

We would welcome the opportunity to discuss this further or provide any additional information.

Yours sincerely,



**Louisa Gibbs**  
Chief Executive Officer