



FEDERATION
OF COMMUNITY LEGAL CENTRES VIC

NATIONAL LEGAL ASSISTANCE PARTNERSHIP REVIEW

Response to Issues Paper:
The Victorian Community Legal Sector Perspective

October 2023

ABOUT THE FEDERATION

The Federation is the peak body for Victoria's Community Legal Centres. 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 over 50 years, Community Legal Centres 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 pursue our vision of a fair, inclusive, thriving community through challenging injustice, defending rights and building the power of our members and communities.

WE WANT A COMMUNITY THAT IS FAIR, INCLUSIVE AND THRIVING: WHERE EVERY PERSON BELONGS AND CAN LEARN, GROW, HEAL, PARTICIPATE AND BE HEARD.

The Federation:

- ▼ Enables a strong collective voice for justice and equality.
- ▼ Mobilises and leads CLCs in strategic, well-coordinated advocacy and campaigns.
- ▼ Works with members to continuously improve the impact of community legal services.
- ▼ Drives creativity and excellence in the delivery of legal services to communities.
- ▼ Helps make justice more accessible.

Read our strategic plan online

fclc.org.au/about

CONTENTS

Numbering in this Table of Contents refers to numbering in the NLAP Review Issues Paper.

ABBREVIATIONS AND ACRONYMS	5
ACKNOWLEDGEMENT OF COUNTRY	6
FOREWORD.....	7
RECOMMENDATIONS	8
3 Legal Assistance for Aboriginal and Torres Strait Islander Australians	13
VALS' key positions.....	13
Djirra's key positions	14
4.2 Legal Need.....	16
Limited analysis of legal need in Australia.....	16
Victorian survey shows that legal need is very high	16
Inadequate funding to respond to unmet need	18
Understanding legal need at a local level is important	19
4.3 Roles and Responsibilities	20
Both Commonwealth and state/territory governments bring value to determining funding distributions	20
Funding administration.....	22
Recognition of funding administration roles across key parts of the sector	24
4.4 Disadvantaged Groups	26
Existing priority groups under NLAP.....	26
Additional priority groups identified in the Issues Paper.....	26
Additional priority groups in addition to those identified in the Issues Paper	28
4.5 Regional, Rural and Remote Contexts	29
Place-based services in RRR areas are vital	30
There are additional operating costs for CLCs in RRR areas	30
There are particular workforce challenges for RRR CLCs.....	31
There are particular service delivery challenges for RRR CLCs.....	33
4.6 Funding Models	36
There are significant gaps in Commonwealth funding for CLCs, including in Victoria	37
CLCs need sustainable funding to ensure continuity of services for clients and communities.....	41
CLCs offer diverse services, so funding to CLCs should not be prescriptive	43
4.7 Managing Demand over time	45
Longer-term funding provides certainty for legal assistance providers, allowing them to plan efficiently and retain staff	45
Current NLAP indexation fails to reflect the real costs of annual award wage increases and CPI.....	46
Accounting for known changes in demand over time.....	47

CONTENTS

Numbering in this Table of Contents refers to numbering in the NLAP Review Issues Paper.

Adjusting funding in the event of unforeseen changes in demand or input prices	50
4.8 Wrap Around Services	51
Restrictions on employing non-legal roles under NLAP limit program delivery.....	51
Evidence demonstrates the success of CLC models of integrated legal services	52
Victorian CLCs can provide lessons on structuring integrated services	58
4.9 Early Intervention	60
Early intervention and continuity of service provision lead to significant positive outcomes	60
Community legal education and community development programs provide unique value.....	61
4.10 Advocacy	63
Investing in advocacy and law reform benefits communities and government	63
4.13 Labour Market	68
NLAP can help to overcome the challenges CLCs face in recruiting and retaining staff.....	69
There are ways to channel more lawyers into CLCs.....	72
The CLC volunteer workforce saves government significant money, but costs CLCs to operate.....	73
4.14 Data Collection.....	74
CLC sector data is overly costly and burdensome to collect and is not of sufficient quality or relevance	75
Investing in systems and people	75
We need to simplify reporting and improve the quality and relevance of data collected	78
Better targeted data	80
APPENDIX A: EY'S LEGAL DEMAND MODELLNG	83
APPENDIX B: AVOIDED COST MODELLING PERSONA JOURNEYS.....	85
Loretta	85
Mary.....	86
Imna.....	86
Ben.....	87
APPENDIX C: INTEGRATED SERVICES EVALUATIONS.....	88
APPENDIX D: WHAT WORKS WELL IN INTEGRATED PRACTICE MODELS	94
APPENDIX E: STAFF ATTRITION DUE TO DELAYS IN FUNDING.....	96
APPENDIX F: PARTICIPANTS IN FEDERATION CONSULTATIONS TO INFORM THIS SUBMISSION TO THE NLAP REVIEW	99

ABBREVIATIONS AND ACRONYMS

Abbreviation	Term
ABS	Australian Bureau of Statistics
ATSILS	Aboriginal and Torres Strait Islander Legal Service
CLC	Community Legal Centre
CLE	Community legal education
CLCs Australia	Community Legal Centres Australia
CPI	Consumer Price Index
DJCS	The Victorian Department of Justice and Community Safety
DSM	Data Standards Manual
EY	Ernst & Young
Federation	Federation of Community Legal Centres Victoria Inc
Forum	The National FVPLS Forum
FVPLS	Family Violence Prevention Legal Service
FY	Financial year
HECS	Higher Education Contribution Scheme
HELP	Higher Education Loan Program
LAC	Legal Aid Commission
LGA	Local Government Area
NATSILS	National Aboriginal and Torres Strait Islander Legal Services
NLAP	National Legal Assistance Partnership
PULS	Public Understanding of Law Survey (VLF)
RRR	Regional, rural and remote
SCHADS Award	Social, Community, Housing and Disability Services Award
VCAT	Victorian Civil and Administrative Tribunal
VCOSS	Victorian Council of Social Service
VALS	Victorian Aboriginal Legal Service
VLA	Victoria Legal Aid
VLF	Victoria Law Foundation
Workforce Survey	The survey undertaken by the VLF on the Victorian CLC workforce during 2020–2021 with findings set out in a series of reports .



ACKNOWLEDGEMENT OF COUNTRY

The Federation of Community Legal Centres acknowledges the Traditional Custodians of the lands across Victoria and notes that this document was developed on the lands of the Wurundjeri people of the Kulin Nation.

We recognise that the over-representation of Aboriginal and Torres Strait Islander families and children in the justice system, many of whom have experienced family violence, is in part a devastating consequence of colonisation, intergenerational trauma and ongoing experiences of systemic racism.

We pay our respects to the strength and resilience of Aboriginal and Torres Strait Islander peoples and cultures and to all Elders past and present and recognise their unceded sovereignty.

FOREWORD

The Federation welcomes the review of the NLAP and appreciates the opportunity to share the experiences of Victorian CLCs in response to the Issues Paper through this submission.

Outside Aboriginal Legal Services, the CLC movement in Australia began in Victoria. For more than 50 years, Victorian CLCs have been the heart of a powerful movement for social change, reshaping how people access justice, creating stronger more equitable laws, and more accountable government and democracy.

This submission is based on seven Federation consultations (including one with RRR members, one focusing on data and two with Aboriginal Legal Services) with more than 70 representatives from across the Victorian CLC sector (see a full list of participants in Appendix F). Victorian CLCs also participated in CLCs Australia's consultations, and ten Victorian CLCs met with the Reviewer in a roundtable on 15 September 2023.

We recommend the Reviewer supports the submission of CLCs Australia. We provide this submission with a focus on contributing additional information arising from areas where Victorian CLCs have particular experience, programs or expertise. Therefore, we have not responded to all sections of the Issues Paper.

Our recommendations can be found in each section, and for ease of reference, we have also included them in a consolidated list in the following pages. In this submission, the numbers in the headings reflect the numbers in the Issues Paper.

We also recommend the submissions from others in the Victorian legal assistance sector, other CLC state peaks, and Victoria's two Aboriginal Legal Services. We work collegiately with these groups and all our submissions have benefited from the exchanges of ideas and information that have taken place over the past few months.

The Federation works to support a community that is fair, inclusive and thriving: where every person belongs and can learn, grow, heal, participate and be heard. With the support of NLAP, this work will continue to flourish.

RECOMMENDATIONS

4.2 Legal Need

1. NLAP fund legal need studies in all states and territories in Australia, with an ongoing commitment to fund and conduct legal need assessments on a regular basis that match the lifecycle of NLAP agreements.
2. Measures to demonstrate legal need must hold up over time, be easy to understand and communicate, and be sufficiently resilient to demonstrate the change in legal need over time.
3. Any analysis or quantification of legal need must be considered in tandem with increased levels of resourcing.
4. The Commonwealth, state and territory governments draw on the findings from VLF's PULS as the most contemporary assessment in Australia of legal need and legal capability.
5. The VLF is part of any expert technical group on legal need to maximise their expertise and leadership.
6. When designing legal need assessments, analysis for local government level is included (not just state level) to support service planning for CLCs.

4.3 Roles and Responsibilities

7. Both the Commonwealth and state governments play a role in determining the distribution of NLAP funding between legal assistance providers, with decision making focusing on the best outcomes for people with legal need.
8. Funding for CLCs be administered by the relevant state justice departments.
9. The NLAP contains transparent allocation of funding for funding administration across key parts of the sector.

4.4 Disadvantaged Groups

10. The following categories be added to the current list of priority groups:
 - LGBTIQ+ people.
 - Individuals and communities impacted by disasters, including climate change.
11. Consideration be given to prioritising:
 - Women.
 - Sex workers.
 - People impacted by significant financial disadvantage.
 - Creation of sub-groups for the category of people who are culturally or linguistically diverse.

RECOMMENDATIONS

4.5 Regional, Rural and Remote Contexts

12. The process for funding CLCs in RRR areas is reformed as follows:
 - Commonwealth, state and territory governments agree on a basis for recognising the additional operating cost of delivering services and recruiting and retaining staff in RRR areas
 - The Commonwealth uses this to inform an uplift in funding to jurisdictions which is an identified part of baseline funding (an RRR loading).
 - State and territory justice departments direct the RRR loading to CLCs in RRR areas as part of an increase to their baseline funding.
13. Funding for CLC staff salaries is benchmarked higher in RRR areas.
14. There are additional grants under NLAP for relocation costs and/or rental accommodation (where there are significant housing shortages) for CLC staff relocating to RRR areas.
15. The Commonwealth Government implements incentives to attract more lawyers to work in the legal assistance sector in RRR areas, such as offsets for HECS/HELP liability, tax concessions, relocation bonuses, scholarships or clinical opportunities.
16. There is additional resourcing, including for partnership costs, to enable specialist CLCs to partner with CLCs in RRR areas to increase their capacity to assist people in practice areas requiring subject-matter expertise.

4.6 Funding Models

17. A new funding model is introduced in the next NLAP that calculates legal need and is accompanied by a government commitment to provide adequate funding to address that need, taking into account the real costs of delivering legal assistance services.
18. The funding model adopted for the next NLAP actively recognises the distinct value of the community legal sector, including its ability to meet community needs, undertake effective advocacy, and its independence from government.
19. The funding model does not limit CLCs' ability to undertake a broad range of legal services, CLE, and advocacy.
20. In calculating baseline funding under NLAP, the quantum of funding to the CLC sector needs to be increased to cover:
 - The real costs of running an organisation, including:
 - Adequate wages (on par with LACs/government agencies).
 - Learning and development pathways for staff, cultural safety, staff safety and wellbeing, trauma informed practice.
 - Corporate services, IT and administration.
 - Robust governance structures.
 - Data collection and reporting (including, fit for purpose systems for data collection and analysis).
 - Managing volunteer programs.

RECOMMENDATIONS

- Higher legal service delivery demands due to unmet legal need and to enable continuity of service for clients (e.g. end-to-end service provision from early intervention to court representation and post-court).
- Core work of CLCs (in addition to legal service delivery):
 - Integrated legal practice (this includes for community service professional roles and operational aspects, such as partnership development, project management, lived experience engagement and evaluation).
 - Advocacy and communications.
 - CLE and community development.
 - Development of self-help tools and other online information.

21. CLCs receive a greater proportion of Commonwealth funding for legal assistance than the current 14 per cent baseline funding, and this should not come at the cost of decreased funding for ATSILS or FVPLS services either in absolute or proportionate terms.

22. Terminating funding under NLAP be rolled into baseline funding.

23. NLAP adequately funds the national peak and obliges states and territories to fund peaks in all states.

4.7 Managing Demand over Time

24. NLAP funding contract terms should be at least five years but preferably seven years in length.

25. NLAP includes an indexation formula whereby 80 per cent is pegged to the annual increase to wages for modern awards and 20 per cent is pegged to annual CPI.

26. A gradual increase in funding over the life of the agreement is included to respond to expected population growth and associated demand for legal assistance services.

27. When law or policy changes are made, Commonwealth, state and territory governments consider the likely flow on effect of the demand for legal assistance in their budget planning and provide appropriate funding for services.

28. NLAP puts in place the following extreme weather and disaster related measures:

- Additional, flexible baseline funding is provided to CLCs to enable effective preparation for and response to extreme weather and disaster events, and to promote disaster risk reduction and build community resilience. This funding should be provided both to place-based and specialist CLCs to address areas of legal need particular to extreme weather events, such as family law, discrimination, employment, social security, insurance and tenancy.
- Quarantined funding is available to support surge capacity as needed, especially in response to service demand from extreme weather events or significant economic impacts.

29. Additional funding for legal services be provided by government for CLCs to respond to unforeseen changes in demand or input prices and additional reporting be integrated into existing reporting requirements.

RECOMMENDATIONS

4.8 Wrap Around Services

30. Any restrictions on CLCs employing non-legal roles under NLAP as part of integrated legal service provision, health justice and other partnerships are removed.
31. As per Recommendation 20 above, NLAP baseline funding supports the delivery of integrated legal services and partnerships by CLCs, allowing CLCs to employ community service professionals and to use the funding on other operational aspects, such as partnership development, project management, training and professional development, lived experience engagement and evaluation.

4.9 Early Intervention

32. As per Recommendation 20 above, NLAP supports early intervention as part of CLCs' core service delivery, including integrated legal service provision, CLE, community development programs and online self-help tools and legal information.

4.10 Advocacy

33. NLAP expressly recognises that CLCs may engage in advocacy and law reform, including lobbying, campaigning and strategic litigation, and baseline funding allocations support advocacy (as per Recommendation 20 above).
34. There is an additional funding pool that can be allocated to CLCs to engage with relevant Royal Commissions and large-scale inquiries.

4.13 Labour Market

35. Commonwealth, state and territory governments invest in increasing salaries and benefits for CLCs to address wage inequity between the public service/LACs and CLCs.
36. NLAP baseline funding allows CLCs to provide modern technology and office space for their staff of an equivalent standard to the public sector.
37. As per Recommendation 24 above, NLAP is used as a commitment by states and territories, as well as the Commonwealth, to make long-term, adequately indexed financial contributions, with funding to CLCs at least five years and preferably seven years in length.
38. Commonwealth, state and territory governments are required to notify CLCs of whether or not lapsing funding will be renewed at least six-months before funding expires.
39. The Commonwealth fund a national initiative to promote the importance and value of community law and to create structured pathways, including through a graduate placement program, from universities to CLCs.
40. As per Recommendation 20 above, NLAP supports CLCs to recruit, train and supervise volunteers.

RECOMMENDATIONS

4.14 Data Collection

41. The NLAP Review support CLCs Australia's proposal to transition its role to that of custodian of sector data for reporting and analysis purposes. CLCs Australia would cease its current role of directly supporting and administering a case management system (CLASS).
42. As per Recommendation 20 above, NLAP provides CLCs with sufficient baseline funding to adopt modern, fit for purpose systems for the collection, sharing and analysis of data that is collected.
43. NLAP provides adequate baseline funding to enable the CLC sector to capture reporting requirements and implement changed data requirements in a timely and consistent fashion (as noted in Recommendation 20 above). Funding needs to be directed to national and state peaks to facilitate data reporting requirements and outcomes, including funding for a dedicated data specialist in each peak.
44. Annual data sharing and learning sessions be conducted which involve Commonwealth, state and territory justice departments, CLCs Australia and state and territory peaks to consider opportunities and constraints of systems and data.
45. NLAP adopt a clear delineation of purpose, scope and standards for data they require to be collected from CLCs across two different types of information:
 1. performance indicators; and
 2. additional in-depth data based on research-type projects to probe specific issues or problems and to provide more in-depth information from selected services.
46. Changes to reporting requirements be minimised, but where the change is agreed nationally and reflected in updated Bilateral Agreements, details must be communicated at least six months before the commencement of the initial reporting period, and 12 months' notice for major changes to allow time for consultation and implementation.
47. A review of the NLAP Data Standards Manual be undertaken with the view to designing a smarter dataset to take us into the future.

3 LEGAL ASSISTANCE FOR ABORIGINAL AND TORRES STRAIT ISLANDER AUSTRALIANS

In relation to legal assistance for Aboriginal and Torres Strait Islander Australians, we support self-determination and endorse the positions of our Victorian member CLCs – VALS and Djirra – and the national peaks, NATSILS and the Forum. Below we highlight some of their key positions that they have shared with us as part of our consultations.

VALS' key positions

We support VALS' key recommendations in relation to funding for ATSILS.

Funding arrangements

The funding arrangements for VALS requires minimum guaranteed funding for the life of NLAP. The funding needs to recognise the strength of ATSILS. In the case of VALS, this includes their holistic service provision (e.g. VALS' health justice partnerships) and the critical role played by VALS' client support officers who connect VALS' lawyers to their clients and their local communities.

There are significant demand pressures on VALS, as well as opportunities for service growth which should be taken into account in the next NLAP funding arrangements with VALS. VALS' would like to see the raising of the income means test to enable them to help more Aboriginal people.

NLAP should respect the self-determination of Aboriginal Community Controlled Organisations and should allow VALS to determine how baseline funding should be best utilised for their service and the communities they work in. This should enable VALS to use the funding to address the holistic needs of clients. Consistent with the CLC sector's position, there should be a focus on long-term sustainable funding for VALS with a shift away from short term funding streams and pilots.

NLAP should also cover brokerage for clients which is often a gap. Brokerage can be an important way to engage with Aboriginal communities. For example, in the disaster work, VALS provided vouchers to people impacted by the disaster to assist them with their immediate needs. This helped in linking them into VALS to then assist with their legal problems arising from the disaster.

Investment in core work and other areas

In line with the CLC sector's position, NLAP baseline funding should enable VALS to undertake other core work, including CLE, community development, integrated legal service and advocacy. VALS requires further investment in CLE which is a critical element of VALS' work with Aboriginal communities in Victoria and is part of early intervention to proactively assist people before they are in crisis. For example, VALS has one CLE officer. As part of CLE, VALS would like to introduce a civil engagement package which would assist Aboriginal people to register to vote and to obtain other key documents (such as, a driver's licence).

SECTION 3: LEGAL ASSISTANCE FOR ABORIGINAL AND TORRES STRAIT ISLANDER AUSTRALIANS

VALS plays a critical role in the development of policy, law and programs in Victoria and is frequently relied upon to provide expert advice on the impact of policy, legal and system changes on Aboriginal communities. In line with the CLC sector's position, NLAP funding should enable VALS to undertake advocacy and law reform work. NLAP should also cover funding for operational areas, such as human resources and professional development for staff.

Recruitment and retention

Similar to CLCs in RRR areas, VALS experiences challenges with recruitment and retention of staff in their offices in RRR areas, particularly senior legal practitioner roles. This places pressures on existing staff to meet high caseloads with low staffing levels. There are also higher operating costs to cover large geographic distances in RRR areas. Our recommendations in relation to CLCs in RRR areas equally apply to VALS as a statewide service operating in RRR areas with additional consideration around VALS' work with Aboriginal communities and clients in RRR areas.

Reporting

In line with Section 4.14 Data Collection, data collection and reporting needs to be streamlined. VALS' reporting currently requires manual data collection which drains critical resources.

Djirra's key positions

We support Djirra's key recommendations in relation to funding for FVPLS.

Funding arrangements

In the event FVPLS funding is transferred to NLAP, Djirra's existing funding must be guaranteed, quarantined and not subject to 'competition' with other ATSILS or CLCs. Indexation should be applied to this funding. A 'loading' should be applied to ensure services can accommodate the additional cultural need and complexity of matters that specialist unique family violence legal services practice in.

The Commonwealth funding received by Djirra currently has restrictions on its use, such as restrictions on applying the funding to Melbourne based work. These restrictions present significant challenges for Djirra, including for central intake and holistic service provision. In line with the position of the CLC sector, funding to Djirra should be flexible and accommodate both Commonwealth and state legal matters. This recognises that it is challenging to address complex legal needs and provide a trauma informed response with the current restrictions on Djirra's funding.

Increased family violence demand and intensive support

Commonwealth funding to Djirra needs to reflect the increased demand for support with family violence in Victoria and child protection which is linked with family violence. Djirra has found that Victoria's Royal Commission into Family Violence continues to increase demand for services and drive community expectations that services are accessible and available. Further, Djirra highlights that family violence is one of the key drivers of child protection involvement and removal of children. Victoria has one of the highest rates of removal of Aboriginal children nationally and Aboriginal children are removed at 20 times the rate

SECTION 3: LEGAL ASSISTANCE FOR ABORIGINAL AND TORRES STRAIT ISLANDER AUSTRALIANS

of non-Aboriginal children.¹ Early access to legal advice and non-legal support reduces the removal of children and needs to be reflected in funding arrangements with Djirra.

FVPLS' are unique and focus on women's safety. This work is not limited to court appearances or legal advice, but can often involve communicating with clients on a daily basis. Trauma informed practice requires Djirra lawyers to be proficient in multiple areas of law (such as, family law, child protection, family violence, family violence intervention orders and victims' assistance) to ensure that women do not need to re-tell their story. In line with the community legal sector's experience more broadly, Djirra also experiences challenges recruiting senior lawyers which leads to increased costs to adequately supervise junior practitioners (particularly in regional areas). This needs to be recognised and invested in as part of any funding arrangements with Djirra and FVPLS' more broadly.

Investing in place-based services in RRR areas

Recognising the importance of place-based services in RRR areas, Djirra's regional expansion needs to be invested in. This will enable Aboriginal women living in RRR areas to engage in Djirra's early prevention programs, case management and cultural programs in-person.

Cultural safety

As highlighted by Djirra, there is little recognition across the legal sector of the pressures on Aboriginal and/or Torres Strait Islander practitioners. For Djirra's Aboriginal staff there is increased demand and pressure given the connections with the communities they work in. There should be increased investment in legal services to ensure the cultural safety, not only of clients, but critically also of staff.

Advocacy and law reform

Djirra's advocacy role is vital to ensure accountability, amplify Aboriginal women's voices and address unintended and disproportional consequences of changes in policy and legislation for Aboriginal women (e.g. bail laws and family law amendments). Djirra is consistently relied upon by the government and other services to contribute to policy, law reform and program development (which is unfunded). Djirra's expertise in family violence is critical in ensuring that safety considerations for Aboriginal women are reflected in proposed policy, law or systems changes. In line with the CLC sector's position, Commonwealth funding must enable and support policy and advocacy work to be undertaken.

Collaborative partnerships with the Commonwealth

Djirra has highlighted that they would like to see the development of a more collaborative way of working with the Commonwealth to promote a deeper and shared understanding on the Commonwealth's return on investment. This includes better measurement of avoided costs associated with holistic services.

¹ As of May 2023, there were 2,600 Aboriginal children removed from their parents and in out-of-home care: a 43 per cent increase since the permanency amendments came into force in 2016 in Victoria. Of those 2,600 Aboriginal children in out-of-home care, 100 are living in residential care, representing 22 per cent of all children and young people in residential care in Victoria.

4.2 LEGAL NEED

WE RECOMMEND THAT:

1. NLAP fund legal need studies in all states and territories in Australia, with an ongoing commitment to fund and conduct legal need assessments on a regular basis that match the lifecycle of NLAP agreements.
2. Measures to demonstrate legal need must hold up over time, be easy to understand and communicate, and be sufficiently resilient to demonstrate the change in legal need over time.
3. Any analysis or quantification of legal need must be considered in tandem with increased levels of resourcing.
4. The Commonwealth, state and territory governments draw on the findings from VLF's PULS as the most contemporary assessment in Australia of legal need and legal capability.
5. The VLF is part of any expert technical group on legal need to maximise their expertise and leadership.
6. When designing legal need assessments, analysis for local government level is included (not just state level) to support service planning for CLCs.

Limited analysis of legal need in Australia

There is limited, current analysis of legal need in Australia. The core matters raised in the Issues Paper are an accurate reflection of the current level of knowledge around legal need in Australia. The available data is, on the whole, out of date and not necessarily fit for purpose; and we know from demand for services that legal need is growing, even if data is variable to support this.

We support the Reviewer's aim to agree a set of measures to demonstrate legal need that can be used to inform the funding model.

We recommend that:

- **NLAP fund legal need studies in all states and territories in Australia, with an ongoing commitment to fund and conduct legal need assessments on a regular basis that matches the lifecycle of NLAP agreements.**
- **Measures to demonstrate legal need must hold up over time, be easy to understand and communicate, and be sufficiently resilient to demonstrate the change in legal need over time.**

Victorian survey shows that legal need is very high

We support the Reviewer's proposal to identify and use available data (and emerging data as appropriate) to improve guidance on what constitutes disadvantage and hence eligibility for services.

SECTION 4.2: LEGAL NEED

In Victoria, the PULS, published by the VLF in 2023, provides contemporary evidence of the scale and drivers of unmet legal need (excluding criminal matters).

“[PULS] explores how everyday legal problems are experienced, what people do about them and if they are resolved. These problems cover a whole range of issues people face in their lives, including those with goods and services, housing, fines, employment, family, government, debt and injury”.² – VICTORIA LAW FOUNDATION 2023

‘Everyday legal problems’ are the types of issues to which CLCs have been designed to respond. High level findings from PULS showed 42 per cent of respondents reported one or more everyday legal problems over the previous two years.³ More than half the respondents who had an everyday legal problem had more than one.⁴ PULS also demonstrates there is a clear link between everyday legal problems and disadvantage. For example, almost half (48 per cent) of those respondents who were unable to eat, or heat or cool their home in the past 12 months because of a shortage of money who had justiciable problems (that is, problems that raise legal issues) reported five or more justiciable problems.⁵

Everyday legal problems can also take a long time to resolve. PULS found that while 50 per cent of problems ended after nine months, almost 30 per cent remain ongoing after five years.⁶ This is borne out by the experience of Victorian CLCs, who note the complexity and intensity of the work they undertake.

In Victoria, more than 800,000 Victorians (13.3 per cent) live in significant economic disadvantage, including 216,000 children.⁷

For the Victorian context, two additional useful publications on distribution of disadvantage that may support the development of indicators of legal need are:

- VCOSS’ *Mapping Poverty in Victoria* tool, available here: <https://vcoss.org.au/cost-of-living/2023/08/povertymaps/>
- Jesuit Social Services’ Centre for Just Places and University of Canberra’s *Dropping off the Edge* report, available here: <https://www.dote.org.au/>

We support the Reviewer’s proposal to establish an expert technical group and recommend that the VLF’s expertise and leadership be part of that group. We further recommend that NLAP draws on the findings from VLF’s PULS as the most contemporary assessment of legal need and legal capability.

² Victoria Law Foundation, *PULS Volume 1 shows gaps in how people understand and engage with the law*, accessed on 28/9/2023. <https://victorialawfoundation.org.au/news/puls-volume-1-shows-gaps-in-how-people-understand-and-engage-with-the-law>

³ Nigel Balmer, Pascoe Pleasence, Hugh McDonald and Rebecca Sandefur, *Public Understanding of Law Survey: Volume 1 – Everyday Problems and Legal Need*, 2023, Victoria Law Foundation. p.45. <https://puls.victorialawfoundation.org.au/publications/everyday-problems-and-legal-need>

⁴ Ibid, p.75.

⁵ Ibid, p.77.

⁶ Ibid, p.133.

⁷ VCOSS, *Mapping Poverty in Victoria*. <https://vcoss.org.au/cost-of-living/2023/08/povertymaps/>

SECTION 4.2: LEGAL NEED

Should any data be required to be gathered by CLCs (and other funded legal services) to contribute to the understanding of legal need, such data needs to be administratively simple to gather, purposeful, easy to communicate, and resilient over time. CLCs also need adequate lead time to gather this data.

Inadequate funding to respond to unmet need

Legal need is predominantly unmet and legal assistance services are not adequately funded to respond to that need. PULS found that where legal need existed, 78 per cent went unmet.⁸

“Unmet need was the norm not the exception. Where legal need goes unmet, there is no access to justice.”⁹ – VICTORIA LAW FOUNDATION, 2023

PULS also identified that when faced with a problem which is potentially legal (but not necessarily identified as legal), individuals seek advice from a wide range of sources, including the internet.¹⁰ This highlights a gap for the wider community to know how and where to seek assistance, noting the importance of multiple pathways to access legal assistance and advice, and the value of integrated approaches to guide people through trusted intermediaries, such as health services, to obtain legal assistance.

All legal assistance providers (CLCs, ATSILS, FVPLS and LACs) are unable to meet anywhere near the existing levels of legal need with current resources. The CLC experience has been that, in a fixed-funding envelope environment, allocating funding based on legal need assessments has the effect of diverting resources from one area of need to another. This generates gaps in service delivery in one place at the same rate as gaps are being filled in another area.

Further, we emphasise CLCs Australia’s submission that most state funding (including in Victoria) flows to LACs. The Commonwealth therefore has a particular responsibility to fund community-based legal assistance.¹¹ CLCs provide a critical range of services to complement those provided by LACs and to facilitate management of legal conflict. CLC services are key to early intervention strategies that assist people to resolve everyday legal problems before they escalate and require more complex and costly interventions. Given existing evidence of the need for increased resourcing for the CLC sector, it is important that any funding injection is not deferred while a national-level legal needs analysis is being conducted.

⁸ Balmer and others, above note 3, p.152.

⁹ Victoria Law Foundation, *Everyday Legal Need - What legal need goes unmet*, accessed on 28/9/2023. <https://puls.victorialawfoundation.org.au/publications/everyday-problems-and-legal-need>.

¹⁰ Balmer and others, above note 3, p.16.

¹¹ For example, in FY 2021–2022, VLA received \$179.041 million (82 per cent) of funding from the Victorian Government, compared with \$34.928 million for CLCs (16 per cent) and \$4.059 million for ATSILS (2 per cent). Victorian Department of Justice and Community Safety, *Victorian Legal Assistance Strategy – Appendix B – Funding for Legal Assistance*, p.32. <https://files.justice.vic.gov.au/2022-08/Victorian%20Legal%20Assistance%20Strategy%202022%20-%202025%20-%20Final.pdf>

SECTION 4.2: LEGAL NEED

We support CLCs Australia’s recommendation that any analysis or quantification of legal needs must be considered in tandem with increased levels of resourcing.

Gaps caused by funding constraints

Funding constraints require CLCs to prioritise certain areas of need over others. This means some areas of significant legal need remain unmet and can create further disadvantage.

A key theme of unmet legal need reported by Victorian CLCs during consultations for this submission is for family law and property matters. With limited resources, in the family law space, CLCs prioritise children’s matters due to urgency and high risk. However, property law is a huge area of unmet need, especially for women escaping violent relationships where the property pool is too large to access CLC or LAC services, but not sufficient to pay private lawyers and leave enough to support a woman’s economic security. It can also be particularly challenging for people to obtain private legal assistance with family law property matters where there are no assets requiring the allocation of debts and superannuation splitting. This underscores the importance of community legal assistance in this area.

By not meeting this need, an environment of further disadvantage is created for women who are victim-survivors of family violence.

Understanding legal need at a local level is important

Some Victorian CLCs have undertaken local-level legal need analysis projects to understand the particular legal need in their communities.¹² However, this technical work takes expertise and is expensive; it is therefore not an option for most CLCs. Ad hoc work by different CLCs also means different standards are applied and there is no consistency in the analysis.

CLCs would benefit from support through a proper local-level evidence base for making decisions on the services they provide. This would assist in LGA level analysis by individual services, but also in collaborative work across location based CLCs, ATSILS and LACs to plan complementary approaches to meet regional legal needs. It would allow specialist and statewide CLCs to undertake their own and joint planning for collaborative responses to specific areas of legal need.

We recommend that when designing legal need assessments, analysis at local government level is included (not just state level), to support service planning for CLCs.

¹² See, for example, Consumer Action Law Centre, *Addressing and Preventing Legal Need Relating to Credit, Debt and Consumer Law Issues*, 2023. <https://consumeraction.org.au/analysis-addressing-and-preventing-legal-need/>; and ARC Justice, EASE (Emergency Accommodation and Support Enterprise) and Loddon Campaspe Centre Against Sexual Assault, *Access to Justice in the Loddon Campaspe Region*, 2004, which led to the establishment of the Loddon Campaspe Community Legal Centre. <https://arcjustice.org.au/wp-content/uploads/2020/08/Access-to-justice-in-the-Loddon-Campaspe-region-2004-full-report.pdf>

4.3 ROLES AND RESPONSIBILITIES

WE RECOMMEND THAT:

7. Both the Commonwealth and state governments play a role in determining the distribution of NLAP funding between legal assistance providers, with decision making focusing on the best outcomes for people with legal need.
8. Funding for CLCs be administered by the relevant state justice departments.
9. The NLAP contains transparent allocation of funding for funding administration across key parts of the sector.

Both Commonwealth and state/territory governments bring value to determining funding distributions

Over the history of the NLAP there have been different approaches taken with respect to the roles and responsibilities of the Commonwealth and state governments. This has sometimes led to inequities in funding allocations, unnecessary reporting burdens, or challenges in engagement for CLCs.

The roles each of the Commonwealth and state governments play in determining the funding distribution between legal assistance providers should be based on the principle that decision-making power is vested in the entity that is most appropriately placed to make decisions that provide the best outcomes for people with legal need. This is in line with the outcomes of the current NLAP, which include a commitment that legal assistance services are provided at an appropriate time, which best addresses an individual's legal needs, including preventative action when appropriate.¹³

Joint responsibility

Victorian CLCs have observed that decision-making in relation to allocation of funding is most effective when the decision maker:

- has a level of local knowledge; and
- draws on evidence of legal need and capacity to deliver services.

Primarily, this suggests a lead role for state jurisdictions. However, joint responsibility from both Commonwealth and state and territory governments provides checks and balances. It ensures that funding allocations are made in accordance with NLAP's principles and provides accountability for making allocations within requisite timeframes. Joint accountability also ensures that all areas of law and legal need – state and federal – are effectively identified and funded, whilst protecting against politicisation of issues.

¹³ Clause 14(d), National Legal Assistance Partnership 2020–25 Multilateral Agreement.
<https://federalfinancialrelations.gov.au/agreements/national-legal-assistance-partnership-nlap>

SECTION 4.3: ROLES AND RESPONSIBILITIES

Local knowledge

The local knowledge component in decision-making can be supported by existing structures. In Victoria, the Collaborative Planning Committee is a forum for the relevant entities involved in delivering legal assistance across the state.

The membership of the Collaborative Planning Committee is:

- Victorian Aboriginal Legal Service.
- Djirra.
- Federation of Community Legal Centres.
- Victoria Legal Aid.
- Law Institute of Victoria.
- Victorian Bar Association.
- Victorian Department of Justice and Community Safety.

We support the recommendation from the Productivity Commission's *Access to Justice Arrangements: Inquiry Report* that legal assistance forums (the Collaborative Planning Committee being such an example) should be used to reach agreement as to the respective roles in addressing service priorities articulated by government.¹⁴

Guidelines from the Commonwealth Government

We support CLCs Australia's recommendation that the Commonwealth should be entitled and encouraged to issue clearer guidelines on allocation of funding, particularly in relation to additional injections of funding over the life of the NLAP.

In supporting this recommendation, we note that the Commonwealth Government will need to consult with state and territory governments about proposed funding allocation requirements, including allocations per funding stream (CLCs, ATSILS and LACs) before they are finalised in any bilateral agreement. This will ensure the requirements are pragmatic, do not place inappropriate constraints, can be communicated and will lead to suitable outcomes.

Further, we support clarity by the Commonwealth Government about the purpose underpinning any funding stream or program. This will assist in transparency and promote a shared understanding around how legal need will be met through the particular funding stream or program.

We do, however, recommend that the Commonwealth Government uses caution when stipulating that allocation of funding be directed to specific CLCs. An assessment needs to be based on:

- The legal need to be addressed.
- Whether the required service is only delivered by a limited number of services (so directed funding reduces administrative burden).
- The capacity to deliver the required service.
- Whether there is sufficient procedural fairness if funds are directed specifically.

¹⁴ Recommendation 21.7, Productivity Commission, *Access to Justice Arrangements: Inquiry Report*, 2014, p.64.
<https://www.pc.gov.au/inquiries/completed/access-justice/report>

SECTION 4.3: ROLES AND RESPONSIBILITIES

Where warranted, CLCs support directed funding. However, for transparency, the Commonwealth needs to retain responsibility for communicating the allocation decision to the sector rather than delegating this to state and territory justice departments.

There are jurisdictional differences in how some services are managed and coordinated across CLCs, ATSILS and LACs. It is essential to ensure any Commonwealth Government allocation across funding streams will not run counter to effective service delivery within a given jurisdiction. Different parts of the legal assistance sector have complementary strengths. The funding allocation requirements determined by the Commonwealth therefore need to either respect and reflect these jurisdictional differences, or have sufficient flexibility to allow fine-tuning of allocation distributions by state and territory justice departments.

We also support CLCs Australia's recommendation that the Commonwealth, states and territories work together to develop a single format and process for reporting on all government-funded legal assistance.

Taking strengths into account in funding distribution between legal assistance providers

The distribution of funding between legal assistance service providers should consider which legal assistance provider is best placed to meet legal need effectively and efficiently. CLCs and LACs bring different and complementary strengths as a result of their structures and through their practice expertise developed over many years. These should be considered, valued and built on in funding allocation decisions to promote the best outcomes for people with legal need.

Victorian CLCs draw the Reviewer's attention to the long and successful role of CLCs in providing early intervention and wrap around services, particularly for civil law matters. CLCs are place-based or issues-based, independent, and embedded in their communities. They have social services professionals integrated in their practices and long-established networks with relevant community service organisations. Evaluations of CLCs' integrated programs (See Appendix C) demonstrate the effectiveness of CLC models in providing holistic support to Victorians dealing with 'everyday legal problems'.

We recommend that both the Commonwealth and state and territory governments play a role in determining the distribution of NLAP funding between legal assistance providers, with decision making focusing on the best outcomes for people with legal need.

Funding administration

CLCs Australia notes there is an inherent conflict in one provider of legal assistance services administering the funding for other providers of legal assistance. We support the position of CLCs Australia that funding for CLCs should not be administered by LACs.

This is also in line with the position of the Commonwealth stated in the current NLAP: "The Commonwealth's preference is that the states' roles and responsibilities not be delegated to a legal assistance provider."¹⁵

¹⁵ Clause 29, National Legal Assistance Partnership 2020–25, above note 13.

SECTION 4.3: ROLES AND RESPONSIBILITIES

Currently, the Victorian Government has delegated administration of NLAP funding for Victorian CLCs (along with some state funding to Victorian CLCs) to the Victorian LAC, VLA. This approach arose from a review of the Victorian legal services sector and is formalised in legislation (*Legal Aid Act 1978* (Vic)). We recognise that under the current arrangements, VLA administers NLAP funding to CLCs in Victoria (baseline and additional streams) under direction of DJCS. However, Victorian CLCs would prefer to focus on the collaboration activities on a level playing field with VLA, in an environment that is not complicated by VLA also acting as funding administrator.

Using VLA as the administrator for NLAP funding contributes to the conflict experienced by Victorian CLCs. Current examples of VLA ‘wearing many hats’ are the Family Advocacy and Support Services, the Victims Legal Service, the provision of legal assistance in Specialist Family Violence Courts and the Early Resolution Service. In these cases, VLA is a collaborator with CLCs on service design and delivery, but is also the administrator of funding, with some funding allocation powers.

In this environment where VLA and CLCs may compete for funding (including new streams of NLAP funding), VLA has access to performance and other CLC data as part of funding reporting arrangements. There is no reciprocal information flow for CLCs to see equivalent information from VLA.

VLA is also a funding decision maker for some programs involving CLCs¹⁶ and provides direct grants from VLA’s internally budgeted funds to the Federation and some CLCs.¹⁷ Yet alongside this funding framework, it is crucial that CLCs and VLA work as collaborators on service design,¹⁸ partners in service delivery (particularly where representation of more than one party is required),¹⁹ sharers of best practice,²⁰ allies in law reform advocacy,²¹ and joint advocates for systemic change.²²

The experience of Victorian CLCs is that each legal assistance provider plays a distinct and important role in meeting the legal needs of disadvantaged people. Together, these components provide a strong foundation on which to build further improvements and can provide a high functioning blend of

¹⁶ An example is VLA determining funding allocations to CLCs to provide services as part of the Commonwealth-funded Family Advocacy Support Services (FASS) program at Victorian court locations. Funding was available for both VLA and CLCs, and VLA was responsible for determining how much went to each service provider.

¹⁷ The principles that VLA follows in making grants to CLCs are outlined in: Victoria Legal Aid, *Victorian Community Legal Services Program Funding Guidance*, 2020. <https://www.legalaid.vic.gov.au/community-legal-centres>

¹⁸ A strong recent example is the collaboration between VLA and the Federation to develop an effective, replicable service design model for the Legal Services in the Orange Door Pilot.

¹⁹ For example, CLCs and VLA both deliver services at Specialist Family Violence Courts to ensure representation for both affected family members and respondents.

²⁰ This includes through the work of the Community Development and Community Legal Education Working Group that is co-convened by Northern Community Legal Centre and VLA.

²¹ Recent noteworthy advocacy is that undertaken by the Infringements Working Group – a collaboration between CLCs and VLA – for the implementation of the Fines Reform Advisory Board’s recommendations to improve fairness and efficiency in the fines system, including through calling for binding enforcement review, improvements to the work and development permit scheme and for concessional COVID-19 fines to be implemented.

²² For example, CLCs and VLA are partnering on the Starts with Us project, to address primary prevention of violence against women in legal and justice workplaces; and the Federation, Victorian Aboriginal Legal Service, Djirra and VLA are active members of the Collaborative Planning Committee.

SECTION 4.3: ROLES AND RESPONSIBILITIES

complementary services, particularly as the sector increases its focus on interagency coordination and collaboration.

However, a model where funding is administered by one of these partners changes the dynamics of the relationship impacting on collaboration and service delivery. As CLCs highlighted for the Attorney-General in 2017, the model fundamentally requires VLA to balance the competing demands of its own organisational priorities while determining whether other service providers may be better placed to deliver a service response.²³

We support CLCs Australia's position that funding administration for CLCs be removed from LACs to empower these important collaborative relationships to be as effective as possible, with a focus on the best interests for people with legal need. Removal of such funding administration responsibilities from LACs will remove the risk of perceived or actual conflict of interest. A consistent approach across all jurisdictions nationally would be beneficial and we note that Victoria and New South Wales are the only jurisdictions where the LAC currently administers NLAP funding.

For Victoria, DJCS would need to be sufficiently resourced to take back NLAP administration of CLC funding allocations and the associated data administration, reporting and outcomes oversight. A change to the *Legal Aid Act 1978* (Vic) would likely be needed as well.

Further, we submit that the entities best placed to administer funding to CLCs are the state and territory justice departments (rather than, for example, an independent third-party contractor). This gives the state government the best opportunity to understand the work and issues across all legal assistance work, whether funded from state or federal funds.

We recommend that funding for CLCs be administered by the relevant state and territory justice departments.

Recognition of funding administration roles across key parts of the sector

Legal service providers will be better supported where NLAP administration is efficient, effective and focuses on continuous improvement. To achieve this, there is a need for dedicated funding to support NLAP administration, and transparency of the allocation of that funding.

Under NLAP, state jurisdictions must report annually on the allocation of the specific administration funding which is provided to them. The Commonwealth Government does not currently prescribe how these administration funds are to be used. We are not aware whether approaches taken in some jurisdictions are viewed as better aligned with the intention of the funding. While the larger states (New South Wales, Victoria, Queensland and Western Australia) receive a higher administration allocation than other states and territories, the difference is not significant over the life of NLAP. There is a much larger

²³ Letter from the Federation of Community Legal Centres Victoria to Attorney-General Martin Pakula in response to the Access to Justice Review, 6 March 2017.

SECTION 4.3: ROLES AND RESPONSIBILITIES

burden administratively in the larger states in particular, given the number of funded services and the increased complexity of funding allocations and associated outcomes monitoring.

We support the current approach taken in Victoria, which recognises that whilst administration of NLAP funding, performance reporting and monitoring is ultimately the responsibility of DJCS, it requires strong involvement of key parts of the sector. In Victoria, NLAP administration funding is split between DJCS (including support for administration of funding to ATSILS), the Federation, and VLA.

We recommend that the NLAP contains transparent allocation of funding for funding administration across key parts of the sector.

4.4 DISADVANTAGED GROUPS

WE RECOMMEND THAT:

10. The following categories be added to the current list of priority groups:

- LGBTIQ+ people.
- Individuals and communities impacted by disasters, including climate change.

11. Consideration be given to prioritising:

- Women.
- Sex workers.
- People impacted by significant financial disadvantage.
- Creation of sub-groups for the category of people who are culturally or linguistically diverse.

Existing priority groups under NLAP

We support the existing priority groups under NLAP as follows:

- Aboriginal and Torres Strait Islander peoples.
- Children and young people (0-24).
- Older people (over 65, or over 50 for Aboriginal and Torres Strait Islander peoples).
- People experiencing, or at risk of, family violence.
- People experiencing, or at risk of, homelessness.
- People in custody and/or prisoners.
- People residing in rural or remote areas.
- People who are culturally or linguistically diverse.
- People with a disability or mental illness.
- People with low education levels.
- Single parents.

The gathering of data about a more extended set of priority groups is critical to inform planning and funding decisions.

Additional priority groups identified in the Issues Paper

If additional priority groups are included under NLAP, it is essential that there is no additional administrative burden. That is, we would expect the reporting approach used for existing priority groups to apply similarly to any further introduced groups. Those funded services which support, for instance sex workers, would be able to report the services they provide specifically to clients who identify as sex workers.

SECTION 4.4: DISADVANTAGED GROUPS

As highlighted in the NLAP Issues Paper, we consider that the following additional priority groups should be added:

- **LGBTIQA+ people.**
- **Individuals and communities impacted by disasters, including climate change.**

LGBTIQA+ people

We support the addition of LGBTIQA+ people to the priority list. The PULS found that there was elevated reporting of justiciable problems from people identifying as LGBTIQA+ (59 per cent).²⁴ The prevalence of a range of problem types, such as those concerning family, debt or money and injury or illness was also generally higher for LGBTIQA+ people, while there was little difference between sexes.²⁵

CLCs recognise that LGBTIQA+ people benefit from a tailored, safe and non-discriminatory service. For example, Q+Law in Victoria has recently been established as a dedicated centre to meet this need. This underscores the importance of prioritising LGBTIQA+ people, and of recognising the ongoing discrimination faced by LGBTIQA+ people and the distinct family violence dynamics experienced in LGBTIQA+ communities.²⁶

Individuals and communities impacted by disasters, including climate change

We support the addition of individuals and communities impacted by disasters, including climate change. This is supported by the findings of the PULS in relation to the elevated legal needs of people who were impacted by the 2019–2020 bushfires in Victoria.

"Those impacted by bushfires were more likely to have justiciable problems, have a greater number and longer-lasting problems, and make greater use of services." ²⁷ – VICTORIA LAW FOUNDATION, 2023

This is likely to be a growing priority group as the frequency of climate-related disasters rises, deepening the vulnerability of community members to climate change and placing increasing pressures on legal and related services.²⁸ Many people who experience legal problems as a result of their exposure to environmental events would not normally have had a need for legal assistance. It will be important to measure the nature of demand for services arising from such events, and how long the need remains in the affected community.

²⁴ Balmer and others, above note 3, p.47.

²⁵ *ibid*, p.48.

²⁶ Victoria Law Foundation, *Reflections on LGBTIQ+ Legal Need*, 2020.

<https://victorialawfoundation.org.au/news/reflections-on-lgbtqi-legal-need>

²⁷ Balmer and others, above note 3, p.9.

²⁸ *ibid*, p.9.

SECTION 4.4: DISADVANTAGED GROUPS

Of the respondents who partook in the survey, four per cent indicated that they were impacted by the 2019–2020 bushfires. The survey found that:²⁹

- Respondents who were impacted by the 2019–2020 bushfires were significantly more likely to report one or more justiciable problems than people who were unaffected by the bushfires, with 57 per cent reporting a problem compared with 41 per cent of those who were unaffected.
- Bushfire-affected respondents with a legal problem were more likely to report multiple problems and problem clusters, with 29 per cent of those affected by bushfires reporting five or more problems, compared with 15 per cent of those who were unaffected.
- Bushfire-affected respondents were also more than two and a half times more likely to report problems regarding employment, injury or illness, debt or money, and government and public services.

Additional priority groups in addition to those identified in the Issues Paper

Victorian CLCs suggest that the Reviewer also consider the relevance of prioritising the following additional groups of people under NLAP:

- **Women:** Women’s Legal Service Victoria contends that women should be a priority cohort given their experience of gender-based economic and social injustice and systemic and structural disadvantage, even before adding intersectionality considerations. The submissions by CLCs Australia and Women’s Legal Services Australia support this recommendation.
- **Sex workers:** Southside Justice (which operates the state-wide Sex Worker Legal Program) contends that sex workers experience harm and discrimination that make them a priority group.
- **People impacted by significant financial disadvantage:** The PULS report identifies that people experiencing financial hardship (to the degree that they could not afford to heat or cool their homes, or went without meals because of shortage of money) were more vulnerable to experiencing legal issues, and particularly to experiencing multiple legal issues.³⁰ Whilst legal assistance is directed at people experiencing financial disadvantage, these findings indicate an elevated risk of facing legal challenges when financial disadvantage is extreme.

Victorian CLCs also suggest that consideration is given to reframing the current category of “People who are culturally or linguistically diverse” into subgroups, such as:

- People from migrant and refugee communities.
- Refugees and people seeking asylum.
- Migrant workers.
- International students.

²⁹ *ibid*, pp.95–96.

³⁰ *ibid*, p.9.

4.5 REGIONAL, RURAL AND REMOTE CONTEXTS

WE RECOMMEND THAT:

12. The process for funding CLCs in RRR areas is reformed as follows:
 - Commonwealth, state and territory governments agree on a basis for recognising the additional operating cost of delivering services and recruiting and retaining staff in RRR areas.
 - The Commonwealth uses this to inform an uplift in funding to jurisdictions which is an identified part of baseline funding (an RRR loading).
 - State and territory justice departments direct the RRR loading to CLCs in RRR areas as part of an increase to their baseline funding.
13. Funding for CLC staff salaries is benchmarked higher in RRR areas.
14. There are additional grants under NLAP for relocation costs and/or rental accommodation (where there are significant housing shortages) for CLC staff relocating to RRR areas.
15. The Commonwealth Government implements incentives to attract more lawyers to work in the legal assistance sector in RRR areas, such as offsets for HECS/HELP liability, tax concessions, relocation bonuses, scholarships or clinical opportunities.
16. There is additional resourcing, including for partnership costs, to enable specialist CLCs to partner with CLCs in RRR areas to increase their capacity to assist people in practice areas requiring subject-matter expertise.

Of the 47 CLCs in Victoria:

- Seven are regional or rural place-based services.
- Two are Aboriginal Legal Services that offer state-wide services and have offices in regional locations.
- One is a state-wide specialist CLC with its office in a regional city.
- One is a specialist CLC operating only in a specific regional area.
- Two are located in, and service, cross-border communities.

In addition, there are 21 specialist services in Victoria that have their main office in metro-Melbourne and offer state-wide services.

There are no CLC offices located in areas classified as 'remote' in Victoria. However, CLCs such as Gippsland Community Legal Service, VALS and Djirra work in areas classified as remote in far eastern and far western Victoria.

SECTION 4.5: REGIONAL, RURAL AND REMOTE CONTEXTS

Place-based services in RRR areas are vital

The Issues Paper recognises that people residing in rural and remote areas are identified as priority cohorts under the NLAP given their higher level of need. We support this cohort continuing to be recognised as a priority group under NLAP due to higher levels of socio-economic hardship, coupled with barriers to accessing legal and other core services, geographical constraints, and lack of access to technology.

We wish to emphasise the importance of investing in place-based services in RRR areas. There are concerns that, given the service delivery challenges in RRR areas, government and other funders will seek to replace place-based services with online service delivery models in RRR areas. A shift to purely online service delivery in RRR areas will likely reduce access to legal help in already under-served communities.

To effectively deliver legal services in RRR areas, it is essential that CLCs are on-the-ground so they can build trust with communities, understand the environment and context in which legal issues are arising and build partnerships with local organisations. This is particularly important for people experiencing disadvantage who are less likely to trust and remain engaged with legal services based in metropolitan areas (for example, via a legal helpline model) that have little on-the-ground knowledge of the person's region or the local services available.

Communities within each RRR area are diverse. Identifying legal need and responding to this need is resource intensive and requires CLCs to remain responsive to dynamic changes in these communities, including changes resulting from major environmental events. This not only involves regular outreach for legal service delivery, but also community engagement and legal education to build trust and raise awareness about available legal services in vast geographical areas.

There are additional operating costs for CLCs in RRR areas

Under the NLAP, the Funding Allocation Model³¹ gives some consideration to the additional operating costs of delivering services in RRR areas. The outcome is to direct additional funding (over and above the jurisdiction population basis) to those states and territories with legal need spread over greater geographic territory. This approach recognises, for instance, additional service delivery costs for Western Australia and Queensland.

However, this approach only provides an uplift in the proportion of the national funding directed to certain jurisdictions. It is not overtly based on a specific analysis of differential costs of service delivery and recruitment and retention of staff in RRR areas.

Victoria's experience (as outlined more specifically below) is that additional operating costs occur, especially in attracting staff, in regional centres and more remote areas. Impacts are felt once outside the capital city as the pool of resources is significantly reduced, competition for scarce resources increases, and CLCs have little or no flexibility to incentivise qualified staff.

The baseline funding allocated to states and territories does not explicitly recognise the additional costs of services for individual CLCs in RRR areas. There would be value in collaboratively establishing a basis for

³¹ ACIL Allen, *NLAP Issues Paper Addendum 1 – Funding Distribution Models*, 2023.

<https://nlapreview.com.au/uploads/media/NLAPReview-IssuesPaperAddendum-Final-1693453758.pdf>

SECTION 4.5: REGIONAL, RURAL AND REMOTE CONTEXTS

additional funding to be directed to services located in RRR areas across the Commonwealth and state and territory governments. This would better ensure continuity of services to these communities. Such an analysis could allow for differentiation between services directed to the most remote communities, and identify those factors which most contribute to RRR operating costs. As a result, the basis for an RRR loading could be communicated clearly, and thus provide transparency about its direction to eligible services by jurisdictions.

As ATSILS provide services to many RRR areas, the approach to an RRR loading should also apply to funding of ATSILS, noting that there are additional factors which impact operating costs for ATSILS in order to deliver culturally safe services.

Victoria is able to identify which location-based services would qualify as RRR area services, and other jurisdictions would also be able to do so.

Such an approach would provide clear and transparent recognition of the importance of services being delivered to disadvantaged people in RRR areas, and recognise that there are identifiable additional operating costs in such service delivery.

We recommend that the process for funding CLCs in RRR areas is reformed as follows:

- Commonwealth, state and territory governments agree on a basis for recognising the additional operating cost of delivering services and recruiting and retaining staff in RRR areas.
- The Commonwealth uses this to inform an uplift in funding to jurisdictions which is an identified part of baseline funding (an RRR loading).
- State and territory justice departments direct the RRR loading to CLCs in RRR areas as part of an increase to their baseline funding.

There are particular workforce challenges for RRR CLCs

Challenges recruiting and retaining qualified staff

It is well recognised that workforce challenges are more acute in RRR areas, leading to a significant shortage of lawyers in RRR areas across Australia,³² as well as limited access to volunteers, interns and secondees. This presents not only workforce capacity issues, but also impinges on access to justice, particularly for people experiencing disadvantage in RRR communities who rely on community legal assistance.³³

Specific barriers to recruiting legal staff to CLCs in RRR areas identified in the Victorian CLC Workforce Survey conducted by VLF include: “unattractive or uncompetitive salaries; perceived lack of career progression; lack of familiarity with and interest in RRR areas; and financial, familial and social relocation

³² Pamela Taylor-Barnett and Liz Curran, *Wellness for Law: Making Wellness Core Business* (ed. Judith Mary Church & Adiva Sifris), LexisNexis, 2019, p.1. https://store.lexisnexis.com.au/products/wellness-for-law-making-wellness-core-business-skuwellness_for_law_making_wellness_core_business

³³ Jozica Kutin, Hugh McDonald, Nigel Balmer, Tenielle Hagland, & Clare Kennedy, *Working in community legal centres in Victoria. Results from the Community Legal Centres Workforce Project: Building and maintaining a sustainable workforce*, Victoria Law Foundation, 2022, p.12. <https://victorialawfoundation.org.au/research/research-reports/working-in-community-legal-centres-in-victoria-building-and-maintaining-a-sustainable-workforce>

SECTION 4.5: REGIONAL, RURAL AND REMOTE CONTEXTS

costs”.³⁴ CLCs in RRR areas in Victoria have also pointed to the limited applications for legal positions, higher levels of competition among legal service providers when recruiting similar roles, uncompetitive salaries compared to VLA and private law firms that do legal aid work and geographic isolation. They also highlighted increased difficulty finding qualified senior legal staff in RRR areas. Lawyers require a breadth and depth of experience and skill to cover a range of practice areas not addressed by any other legal service in the region and capacity to work with minimal supervision, particularly during outreach trips. For staff in cross border areas (such as Hume Riverina Community Legal Service and Mallee Family Care Community Legal Centre), this requires capacity to work across different legal jurisdictions. This can lead to increased supervision, training and mentoring required where junior lawyers are recruited due to the absence of senior legal applicants.

CLCs in RRR areas experience staff retention issues with staff leaving due to professional isolation, being too far from family and friends,³⁵ and greater opportunities for career progression in Melbourne. This means investment in training and upskilling new staff (particularly, junior lawyers due to challenges recruiting senior staff), and building connections to the local community and local networks can be short-term.

The recruitment and retention challenges undermine service continuity and increases costs and pressures on existing staff to address service gaps and mentor less experienced staff. For example, to address recruitment and retention challenges, Mallee Family Care Community Legal Centre employed lawyers who worked remotely during 2022–2023. This required remote staff to travel to Mildura regularly, which led to a substantial increase in travel expenditure (including the cost of flights). Even with remote recruitment, Mallee Family Care Community Legal Centre continues to have multiple vacant positions. For one regional CLC in Victoria, recruitment costs in 2023 amounted to approximately \$120,000 (3.6 per cent of total salaries). Relocation costs were paid to three staff at a total of approximately \$16,000, but for two staff the actual out-of-pocket expenses were double the relocation grant. For another regional CLC, it took on average five to seven months to recruit staff.

Short-term funding models exacerbate recruitment and retention challenges in RRR areas and increase staff vacancy rates. Qualified candidates are less likely to make the significant life decision to relocate to an RRR area for a short-term contract and are unlikely to remain in the role where there is funding uncertainty. We reiterate the importance of ensuring that baseline funding is provided for a period of at least five years and preferably seven years (see Section 4.7 Managing Demand Over Time).

These issues are also worsened by structural barriers such as housing shortages and a lack of access to core services (such as childcare). It is important that when the Commonwealth is addressing access to basic services and housing in RRR areas for other sectors, such as health and education, the legal assistance sector is also taken into account.

³⁴ *ibid.*

³⁵ *ibid*, p.13.

SECTION 4.5: REGIONAL, RURAL AND REMOTE CONTEXTS

As the housing shortage is a broader structural issue and may be mitigated over time with recently announced Commonwealth funding, it would be helpful if a grant fund were available to cover relocation or supplement rental costs. This could be managed if CLCs were able to apply for a one-off grant from a fund against explicit selection criteria, with a cap on the maximum available per application. The criteria could be agreed by the Commonwealth and state and territory justice departments, and then administered by a suitable arrangement. We suggest that such an approach could be put in place for an agreed period of time and assessed before being extended or modified.

We recommend that:

- **Funding for CLC staff salaries is benchmarked higher in RRR areas to recognise the higher recruitment and retention costs and to incentivise staff to work in RRR areas.**
- **There are additional grants for relocation costs and/or rental accommodation (where there are significant housing shortages) for CLC staff relocating to RRR areas.**

Lack of incentives for lawyers to relocate to RRR areas

Higher benchmarked salaries need to be complemented by other incentives. The Law Council of Australia has proposed a number of measures to address critical shortages of lawyers in RRR areas, such as the Commonwealth Government waiving or reducing the HECS/HELP liability of lawyers who relocate to an RRR area for a minimum period, relocation bonuses, tax breaks for lawyers working in RRR areas, as well as scholarships, online opportunities to study in RRR locations or clinical opportunities.³⁶ Incentives are also needed to encourage local people to remain and work in their communities. This is particularly important given that law graduates and lawyers who may have otherwise opted to remain living in RRR areas after school are drawn away from RRR areas due to the concentration of university campuses and law schools in metropolitan areas.

We recommend that this Review endorses the Commonwealth Government to implement other incentives to attract more lawyers to RRR areas, such as offsets for HECS/HELP liability, tax concessions, relocation bonuses, scholarships or clinical opportunities.

There are particular service delivery challenges for RRR CLCs

Increased distance and time

CLCs in RRR areas need to be adequately resourced to engage with multiple communities across a large geographical region, including provision of legal service delivery, CLE and community development. There are high operating costs in RRR areas (including state-wide CLCs that service RRR areas) due to the large geographical area that is serviced to reach satellite offices, outreach areas and courts, as well as increased travel time. The higher operating costs need to be reflected in the level of funding provided to CLCs in RRR areas under NLAP.

³⁶ Taylor-Barnett and Curran, above note 32, p.2.

SECTION 4.5: REGIONAL, RURAL AND REMOTE CONTEXTS

Higher operating costs include:

- Infrastructure costs (such as vehicles, satellite phones and other communication infrastructure).
- Travel costs for outreach trips and for trips to metropolitan areas and other centres for in-person network meetings, training and conferences (including fuel, flights, accommodation and meals).
- Running satellite offices to ensure accessibility for clients and to allow for in-person appointments in more remote areas.
- Funding for wellbeing strategies (such as debriefing or rest days) recognising that outreach trips can involve long days for staff which impacts on health and wellbeing.
- Higher regulatory costs for CLCs working in cross border areas across different jurisdictions.

This is exacerbated by rises in the cost of living and inflation, such as increasing cost of vehicles and petrol.

Examples of higher operating costs

Mallee Family Care Community Legal Centre, based out of Mildura, covers a vast area of Victoria, including outreach to Robinvale, Kerang, Swan Hill and across the New South Wales border (as needed). Staff have travelled more than 27,000km this year to meet with clients and provide community outreach for legal education. Mallee Family Care Community Legal Centre's costs for accommodation, meals and taxi fares more than doubled from \$16,000 in 2021–2022 to \$33,000 in 2022–23, and it expects the cost for regular outreach travel to exceed \$23,000 in 2023–2024 (not accounting for urgent or unplanned events, such as extreme weather events).

Hume Riverina Community Legal Service covers 17 LGAs (10 in NSW and seven in Victoria). In FY 2022–2023, staff travelled 26,500kms, equating to nine weeks of travel. The additional costs of outreach services are estimated at approximately \$42,000.

A regional Victorian CLC with approximately 50 staff and two regional offices provided the following examples of additional operating costs:

- Outreach is critical due to the large catchment area. A fleet of nine vehicles costs \$91,000 annually (1.4 per cent of turnover).
- A 300km/three hour return trip equates to a productivity cost of \$150 per day for travel plus overtime.
- Access to quality professional development requires travel to Melbourne with an overnight stay. Overtime, meals and accommodation add \$400 per person (a total of approximately \$20,000 annually).

Due to funding constraints, regular outreach and geographical reach can be limited, which has an impact on relationship building and continuity of services in RRR areas. Further, some RRR areas are not within any CLC's remit. For example, as there is no CLC in southwest Victoria, Barwon Community Legal Centre (based in Geelong) steps in to assist clients from the southwestern region of Victoria, despite receiving no additional funding to do so. Without Barwon Community Legal Centre's willingness to take on clients from another region, community members from southwest Victoria would not have access to community legal assistance. Mallee Family Care Community Legal Centre which is located on the tri-state border area between Victoria, New South Wales and South Australia services communities in New South Wales along the Murray River unfunded. Without this outreach, these remote communities would not have access to community legal assistance as the closest New South Wales CLC is over 300 km/three hours' drive away.

SECTION 4.5: REGIONAL, RURAL AND REMOTE CONTEXTS

The geographical constraints also need to be taken into account in assessing service data in RRR areas. Indicators, such as client numbers or number of legal services, are not a reliable comparison with legal services in metropolitan areas as they do not take into account the large geographical distances serviced by CLCs in RRR areas. Due to the large geographic distances and travel time, this can result in less clients serviced at a similar funding level to services in metropolitan areas. For example, Gippsland Community Legal Service operates an outreach service to Mallacoota, an area close to the Victorian border with New South Wales which is classified as remote by the ABS. Gippsland Community Legal Service staff travelled to Mallacoota 10 times for outreach in FY 2022–2023 and provided 23 legal advices. A return trip to Mallacoota takes approximately six hours (which equates to an average of approximately 2.5 hours of travel time per advice).

Lack of access to technology

Poorer quality telecommunications (such as no or limited coverage) are prevalent in RRR areas, leading to inefficiencies and higher operating costs. For example, ABS 2016 census data shows 13.6 per cent of dwellings in Victoria did not have internet (noting the rate likely being higher for unstable internet).³⁷ In Gippsland Community Legal Service's region (East Gippsland LGA), this rose to 21.7 per cent. Higher levels of disadvantage, lower literacy levels and poverty in RRR areas also reduce clients' access to technology (for example, when they cannot afford phone credit or data).

Compounding this, less competition among providers in RRR areas means that telecommunication services are often more expensive and there are longer wait times for IT professionals to fix any problems on-site. For example, Hume Riverina Community Legal Service relies on connections with other organisations in the community (such as neighbourhood houses or other community workers) to assist clients when they do not have access to phone or internet to undertake tasks such as conducting an online appointment or scanning and emailing documents. This increases the time taken to organise and conduct appointments with clients and highlights the importance of community development and education work. It is important that there is investment in technology for CLCs in RRR areas to effectively deliver services by phone/video conference across large geographical areas (to complement in-person services, not to replace them).

Limited access to specialist legal assistance

We suggest that providing resourcing to strengthen and further develop partnerships between place-based CLCs in RRR areas offering a range of legal services and specialist CLCs that have subject-matter expertise will have many benefits. It will enhance the capacity of specialist CLCs to provide secondary consultations to place-based CLC staff and for specialist CLCs to assist people in RRR areas with more complex casework matters that are outside the place-based CLC's expertise. Dedicated funding for partnership costs will improve collaboration, streamline referral processes and provide better access to specialist legal help in RRR areas.

We recommend additional resourcing, including for partnership costs, to enable specialist CLCs to partner with CLCs in RRR areas to increase their capacity to assist people in practice areas requiring subject-matter expertise.

³⁷ ABS 2016 census data available at: <https://www.abs.gov.au/census/find-census-data/quickstats/2016/2>

4.6 FUNDING MODELS

WE RECOMMEND THAT:

17. A new funding model is introduced in the next NLAP that calculates legal need and is accompanied by a government commitment to provide adequate funding to address that need, taking into account the real costs of delivering legal assistance services.
18. The funding model adopted for the next NLAP actively recognises the distinct value of the community legal sector, including its ability to meet community needs, undertake effective advocacy, and its independence from government.
19. The funding model does not limit CLCs' ability to undertake a broad range of legal services, CLE, and advocacy.
20. In calculating baseline funding under NLAP, the quantum of funding to the CLC sector needs to be increased to cover:
 - The real costs of running an organisation, including:
 - Adequate wages (on par with LACs/government agencies).
 - Learning and development pathways for staff, cultural safety, staff safety and wellbeing, trauma informed practice.
 - Corporate services, IT and administration.
 - Robust governance structures.
 - Data collection and reporting (including, fit for purpose systems for data collection and analysis).
 - Managing volunteer programs.
 - Higher legal service delivery demands due to unmet legal need and to enable continuity of service for clients (e.g. end-to-end service provision from early intervention to court representation and post-court).
 - Core work of CLCs (in addition to legal service delivery):
 - Integrated legal practice (this includes for community service professional roles and operational aspects, such as partnership development, project management, lived experience engagement and evaluation).
 - Advocacy and communications.
 - CLE and community development.
 - Development of self-help tools and other online information.
21. CLCs receive a greater proportion of Commonwealth funding for legal assistance than the current 14 per cent baseline funding, and this should not come at the cost of decreased funding for ATSILS or FVPLS services either in absolute or proportionate terms.
22. Terminating funding under NLAP be rolled into baseline funding.
23. NLAP adequately funds the national peak and obliges states and territories to fund peaks in all states and territories.

SECTION 4.6: FUNDING MODELS

This section links closely to responses provided elsewhere, in particular to Section 4.7 Managing Demand over Time.

The current funding model principally provides the basis for allocating funds nationally to each state or territory, with different allocation models used for each of the three key funding streams to CLCs, ATSILS and LACs.

Key issues with the funding model arise when the overall quantum of funding is insufficient to meet legal need (or changes in legal need), is not sufficient to enable sustainable service delivery or mid-to-long term planning (including resourcing). Challenges arise when the basis for determining the size of the funding envelope and allocation (nationally or at jurisdiction level) is unclear with insufficient explanation.

There are significant gaps in Commonwealth funding for CLCs, including in Victoria

Changing the model from dividing an arbitrary amount of funding, to calculating the amount of funding needed

Only three quarters of Victorian CLCs receive baseline NLAP funding (36 CLCs). The allocation to each of these CLCs varies from an amount that is less than needed to employ a single full-time staff member, through to significant investment in some larger CLCs. There are some CLCs that receive no NLAP or other Commonwealth funding.³⁸ Our understanding is that the variation in funding amounts to CLCs reflects some historical decisions, and also the requirements of individual grant streams within NLAP, which may draw on certain CLC capabilities or focus on specific client legal needs.

The Issues Paper notes that the current funding models “do not determine what level of funding is required to address a specified level of legal need but rather, simply distributes a largely arbitrary level of baseline funding which is then supplemented in a non-systematic way on the basis of politically perceived need.”³⁹

The calculation of adequate funding needs to consider whole of organisation costs, and include both suitable indexation and allowance for growth in legal need over the life of the NLAP (see Section 4.7).

We support introducing a new funding model in the next NLAP that calculates legal need, and is accompanied by government commitment to allocate adequate funding to address that need, taking into account the real costs of delivering legal assistance services.

The quantum of funding required by CLCs to maintain existing levels of service in Victoria has been costed by EY

In real terms in Victoria, government funding for CLCs has not been adequate to maintain existing levels of services. We provide the information below to support adopting an approach that calculates the funding required to address legal need, rather than the division of an arbitrary envelope of funding.

³⁸ A small number of these CLCs choose not to accept Commonwealth funding.

³⁹ *National Legal Assistance Partnership Issues Paper*, August 2023, p.23. <https://nlapreview.com.au/issues-paper>

SECTION 4.6: FUNDING MODELS

Work by EY commissioned by the Federation in 2020 examined funding required over the three-year period July 2021–June 2024 to meet existing levels of service provided by CLCs.⁴⁰ EY's actuarial modelling found:

"Maintaining the current level of met demand – or service provision – is expected to cost the [Victorian] CLC sector \$208.3 million from July 2021 to June 2024,⁴¹ based on demand analysis from a sample of CLCs."⁴² – EY, 2021

Actual funding figures are available for FY 2021–2022. The break down in Table 1 shows that Commonwealth and state government investment in CLCs in Victoria went backwards in real terms, falling short of funding CLCs to maintain existing service levels by \$2.63m that year.

Table 1 – Gap in funding for CLCs to maintain existing service levels in FY 2021–2022 in Victoria

Financial Year 2021–2022					
Funding required to maintain CLC services at existing levels	NLAP Baseline (Commonwealth) ⁴³	NLAP Special streams (Commonwealth) ⁴⁴	National Partnership Agreement Family, Domestic and Sexual Violence responses 2021–23 (Commonwealth). ⁴⁵	Victorian government Contribution ⁴⁶	Unfunded amount to maintain CLC services at existing levels
\$67.850 m	\$15.175m	\$11.737m	\$3.380m	\$34.928m	\$2.63m

It is worth highlighting further that for this particular year (FY 2021–2022):

- Additional Commonwealth funding of \$3.380m was gained in Victoria through the National Partnership Agreement Family, Domestic and Sexual Violence Responses (NPA FDSV) funding (refer Table 1). This funding is not part of NLAP and, while complementary, is subject to different service and reporting requirements. While Victoria successfully gained this funding, other jurisdictions were not. This funding is time bound and there is no expectation it will be extended.
- The modelling exercise preceded the unprecedented exponential increase in award wages (4.6 per cent in 2022 and 5.75 per cent in 2023) and cost of living (CPI hovering around 5 to 6 per cent in

⁴⁰ EY's legal demand model is set out in Appendix A. This modelling was undertaken as part of an exercise to demonstrate the avoided costs to government by investing in CLCs. The project produced four 'Persona Journeys' that showed the typical cost savings for representative problem experiences of clients working with CLCs to resolve their issues. The persona journeys are in Appendix B.

⁴¹ This comprised \$67,850,875 in FY 2021–2022; \$69,421,40 in FY 2022–2023; and \$71,028,281 in FY 2024–2024.

⁴² EY, *Meeting demand for community legal assistance*, 2020, p.23.

⁴³ Victorian Department of Justice and Community Safety, *Victorian Legal Assistance Strategy – Appendix B – Funding for Legal Assistance – Commonwealth Funding for 2021–22 and 2022–23*, p.34.

<https://www.justice.vic.gov.au/justice-system/legal-assistance/victorian-legal-assistance-strategy-2022-2025#appendix-b-funding-for-legal-assistance>

⁴⁴ *ibid.*

⁴⁵ *ibid.*

⁴⁶ Victorian Department of Justice and Community Safety, *Victorian Legal Assistance Strategy – Appendix B – Funding for Legal Assistance – State Funding 2021–22*, p.32. <https://www.justice.vic.gov.au/justice-system/legal-assistance/victorian-legal-assistance-strategy-2022-2025#appendix-b-funding-for-legal-assistance>

SECTION 4.6: FUNDING MODELS

2022), so these variables were not factored in. In real terms, therefore, CLC funding has retracted significantly more.

Similarly, Victorian Government funding is not ongoing and may vary significantly from one year to another. It is dependent primarily on Victorian budgetary processes, which reflect changes in state priorities and the period for which any funding is announced. As noted in the Issues Paper, while Victoria contributes relatively more to legal assistance than other states, there are no guarantees of continuity or quantum.

Accordingly, while the shortfall was calculated to be \$2.63m in FY 2021–2022 just to maintain the current level of service (not grow it to address unmet legal need), a calculated shortfall in other years may be significantly different. This highly variable level of available funding has significant impacts on each CLC's capacity to deliver services, meet legal need and manage the challenges of attracting and retaining staff (see Section 4.7 Managing Demand over Time and Section 4.13 Labour Market).

As Commonwealth and state funding are mostly timebound, the total quantum of funding for any given year is highly variable. New legal assistance funding from either level of government is typically in response to a Royal Commission or other significant inquiry and is therefore directed to meet specific identified legal needs. While this responsive funding is critical and beneficial, it can prevent an uplift in funding for more general legal needs (due to budgetary pressures and priorities) or other emerging legal needs.

Taking into account that this EY modelling does not allow for any increase of services to address unmet or hidden legal need, the data serves to provide a marker for the quantum required to maintain existing service delivery and may contribute to the Reviewer's modelling.

As well as looking at funding quantum, EY also assessed funding barriers for CLCs. The EY study identified four overarching problems which underpin the need for further investment in the community legal sector to meet the growing demand for its services. The key problem relevant to this NLAP Review was:

"The Community Legal Centre funding structure and government framework limits the visibility and recognition of the distinct value of the community legal sector, impacting on Community Legal Centres' capacity to meet community needs, undertake effective advocacy and engage independently with government."⁴⁷ – EY, 2020 (emphasis added)

In assessing the current funding gaps, and how future funding should be distributed, we urge the Reviewer to consider the distinct value of the community legal sector.

⁴⁷ EY, above note 4242.

SECTION 4.6: FUNDING MODELS

For instance, in just one sphere of work that CLCs undertake (integrated services), the independent research report, *Meeting people where they are – Delivering integrated community legal services* (funded by the DJCS in 2020) identified key strengths offered by Community Legal Centres:

- Strong partnership platforms.
- Person-centred supports.
- Inter-professional understanding and respect.
- Evidence-informed practice.⁴⁸

The ‘persona journeys’ modelled by EY in its report showed the typical cost savings for representative problem experiences of clients working with CLCs to resolve their issues. The persona journeys are in Appendix B and demonstrate the significant cost effectiveness of funding early intervention services by CLCs.

We recommend that the funding model adopted for the next NLAP actively recognises the distinct value of the community legal sector, including effective advocacy, independence from government and its ability to meet community needs.

Transparency on allocation of funding between legal service assistance providers

Whilst the Funding Allocation Model for the current NLAP in the addendum to the Issues Paper provides guidance on the formula the Commonwealth uses to calculate allocations between jurisdictions, it is not clear what evidence the Commonwealth uses to determine the relative proportion of baseline funding directed to CLCs, versus ATSILS, versus LACs.

Echoing the position made in CLCs Australia’s submission, Victorian CLCs have enormous regard for LACs and our centres rely on the critical services delivered daily by VLA. We also reiterate CLC’s Australia’s submission that the current proportion of funding that is allocated to CLCs, just 14 per cent, is not a fair allocation, particularly because nationally, state and territory funding for legal assistance predominantly flows to LACs (89 per cent),⁴⁹ and does not support the best outcomes for communities in need.

We support CLCs Australia’s recommendation that CLCs receive a greater proportion of Commonwealth funding for legal assistance than the current 14 per cent baseline funding,⁵⁰ and this should not come at the cost of decreased funding for ATSILS or FVPLS services either in absolute or proportionate terms.

⁴⁸ Victorian Department of Justice and Community Safety, *Meeting people where they are – Delivering Integrated Community Legal Services*, 2020, p.15.

https://d3n8a8pro7vhm.cloudfront.net/fclc/pages/406/attachments/original/1592962210/Meeting_People_Where_They_Are_Delivering_Integrated_Community_Legal_Services_%28FCLC_2020%29.pdf?1592962210

⁴⁹ Note that this figure excludes any funding to ATSILS and references the split of funding between CLCs and LACs only. In Victoria, the proportions are similar, although slightly more favourable to CLCs than the national average: in FY 2021–2022, VLA received \$179.041 million (82 per cent) of funding from the Victorian Government, compared with \$34.928 million for CLCs (16 per cent) and \$4.059 million for ATSILS (2 per cent). Victorian Department of Justice and Community Safety, above note 43, p.34.

⁵⁰ NLAP Issues Paper, above note 39, figure 2.1.

SECTION 4.6: FUNDING MODELS

CLCs need sustainable funding to ensure continuity of services for clients and communities

What sustainability looks like for Victorian CLCs

In all cases, it is essential that the NLAP take a “do no harm” approach, so that the minimum funding that any CLC receives under the next NLAP will not be less than it currently receives. This is because minimum service models have been designed around the existing funding profiles and any reduction will change service delivery that is core and essential for the communities that CLCs serve. This approach is a more granular expression of the position taken when entering the current NLAP, which ensured each subsector (CLCs, ATSILS and LACs) across every jurisdiction received at a minimum their baseline funding levels from the preceding year.⁵¹

Under the current NLAP, CLCs are required to prioritise Commonwealth Government funding to the delivery of frontline legal assistance services.⁵² However, a range of roles are needed for CLCs to operate effectively, to meet their responsibilities to clients and reporting obligations to funders (as for any community organisation).

The funding model for CLCs should factor in not only the delivery of legal assistance services, but also the cost of running an organisation. On this point, we support Community Legal Centres NSW’s submission (also supported by CLCs Australia), which identifies there are many functions of a CLC that need to be funded in order for it to be a sustainable, resilient organisation.⁵³

The proportion of funding for each of these functions may vary among CLCs. Further, some CLCs in Victoria receive NLAP funding that supports less than one full-time staff member. However, Community Legal Centres NSW’s list provides strong guidance to the Reviewer to ensure that the funding model adopted takes into account the need for an organisation to fund these functions in order to operate effectively and efficiently.

Throughout this submission, we have also highlighted other areas of core CLC work that should be reflected in NLAP baseline funding (in response to the specific issues raised in the Issues Paper), including advocacy, integrated legal services, CLE and community development.

⁵¹ NLAP Issues Paper, above note 39, p.21.

⁵² Clause 55, National Legal Assistance Partnership 2020–25 Multilateral Agreement, above note 13.

⁵³ Community Legal Centres NSW suggest that the following functions are necessary to maintain a sustainable CLC: adequate wages (on par with LACs/government agencies), learning and development pathways for staff, cultural safety, safety and wellbeing, corporate services and IT, robust governance structures, wrap around services, advocacy and communications, and volunteer programs. Community Legal Centres NSW has used this framework to estimate the real cost of delivering effective services for small, medium, and larger CLCs.

SECTION 4.6: FUNDING MODELS

The Victorian Government has acknowledged how crucial funding sustainability is for the legal assistance sector in its Legal Assistance Strategy:

“Funding sustainability is a key enabler that ensures the sector is able to meet its outcomes and make sustained improvements to services to reduce inequality and improve the lives of Victorians.”⁵⁴ – VICTORIAN DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY, 2022

CLCs are community responses to addressing legal need and exist because of dedicated action from people in the communities themselves. CLCs are committed to evolving to remain relevant and sustainable to meet the needs of the communities they serve. Some Victorian CLCs operate as programs of broader community organisations.⁵⁵ This not only supports deeply integrated service provision, but also helps to address some of the systemic challenges with organisational sustainability. In addition, Victorian CLCs have a history of recognising and effecting successful mergers – when they create better outcomes for clients and communities.⁵⁶

However, sustainability remains a constant issue for CLCs as a result of limited funding. In building the funding model, we submit that it is important to avoid presumptions that CLCs should all operate with the same structure, or that pathways to auspiced services, amalgamation or increases in pro bono support necessarily provide solutions to lack of funding. Rather, we observe that pressure for CLCs to operate their business in particular ways arising from funding constraints can in fact lead to loss of access to justice for some Victorians. The strength and success of CLCs lie in their diversity and ability to respond effectively to the different communities they work with. CLCs wish to continue their focus on increasing access to justice, not diminishing it. In this regard, we draw the Reviewer’s attention to Guiding Principle 2 of the National Strategic Framework for the provision of legal assistance services, which emphasises the need for ‘client-centred and appropriate services’.⁵⁷

⁵⁴ Victorian Department of Justice and Community Safety, *Legal Assistance Strategy Victoria 2022–2025 – Building the Foundations*, 2022, p.14. <https://www.justice.vic.gov.au/justice-system/legal-assistance/victorian-legal-assistance-strategy-2022-2025#nlap-requirements-of-the-strategy>

⁵⁵ Victorian examples include: Asylum Seeker Resource Centre; Brimbank-Melton Community Legal Centre (CommUnity Plus); Emma House (Sexual Assault & Family Violence Centre); Gippsland Community Legal Centre (Anglicare Victoria); Hume-Riverina Community Legal Service (Upper Murray Family Care); Mallee Family Care Community Legal Centre; West Heidelberg Community Legal Centre (Banyule Health); and Whittlesea Community Connections.

⁵⁶ Recent examples of mergers in Victoria are:

- Emma House Domestic Violence Service and the Sexual Assault & Family Violence Centre in 2023.
- Flemington-Kensington Community Legal Centre and Inner Melbourne Community Legal in 2021.
- Fitzroy Legal Service and Darebin Community Legal Centre in 2019.

⁵⁷ Council of Attorneys-General, *National Strategic Framework for Legal Assistance*, 2019.

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

SECTION 4.6: FUNDING MODELS

In calculating baseline funding under NLAP, the quantum of funding to the CLC sector needs to be increased to cover:

- The real costs of running an organisation including adequate wages (on par with LACs/government agencies), learning and development pathways for staff, cultural safety, staff safety and wellbeing, trauma informed practice, corporate services and IT, robust governance structures, administration, data collection and reporting and managing volunteer programs.
- Higher legal service delivery demands due to unmet legal need and to enable continuity of service for clients (e.g. from early intervention to court representation and post-court).
- Core work of CLCs (in addition to legal service delivery):
 - Integrated legal practice (this includes for community service professional roles and operational aspects, such as partnership development, project management, lived experience engagement and evaluation)
 - Advocacy and communications
 - CLE and community development
 - Development of self-help tools and other online information.

Rolling terminating funding into baseline funding

Victorian CLCs support the position that the newer, timebound streams of funding that have been provided under the NLAP (NLAP Special Streams) should be rolled into NLAP baseline funding. This is because:

- A legal need that aligns with Commonwealth Government priorities has been identified and quantified at sufficient level to inform a funding decision⁵⁸.
- The additional funding has allowed CLCs to respond.
- Data is available about the responses provided and services delivered.

Unless data shows otherwise, it is reasonable to accept that the legal need will continue (notwithstanding that the services delivered under the program funding to date have assisted in mitigating the impacts) and should be funded through baseline allocations.

Victorian CLCs also draw the Reviewer's attention to the fact that, with a handful of exceptions, the NLAP Special Streams were allocated to CLCs in Victoria through a competitive grants process, yet the need for services in the areas supported by the NLAP Special Streams exist across the state, served by far more CLCs than the number successful in securing the grants.

We recommend that terminating funding under NLAP be rolled into baseline funding.

CLCs offer diverse services, so funding to CLCs should not be prescriptive

The principle of 'Commonwealth funding for Commonwealth matters' currently applies to LACs, not CLCs or ATSILS. Due to the type and intersectionality of legal issues that CLCs address, we support continuation of

⁵⁸ For example, through data gathered, a Royal Commission, or other inquiry or review.

SECTION 4.6: FUNDING MODELS

no restrictions on CLCs using Commonwealth funding for any type of legal matter. People who CLCs work with typically have intersecting and compounding legal and social issues.⁵⁹ Effective responses deal with these issues together, irrespective of whether they are Commonwealth or state matters.

Further, see Section 4.9 Wrap Around Services in which we address the need for flexible use of NLAP funds for CLCs to engage the profile of staff they need to deliver integrated services, without the current restriction to frontline legal services under Clause 55 of the current NLAP.⁶⁰

We recognise that any change to this principle for LACs will have an impact on the type of work that LACs will seek to undertake with their Commonwealth funding – which in turn may have an impact on CLCs. Whilst we do not have sufficient information about what the consequences would be as a result of a change to this policy for funding allocations between LACs and CLCs, we note the points in Section 4.3 Roles and Responsibilities about the established role CLCs play in responding to client legal needs in the communities they serve, evidenced by a wide range of program evaluations (See Appendix C).

We recommend that the funding model does not limit CLCs' ability to undertake a broad range of legal services, education, and advocacy.

Funded peaks are valuable for both CLCs and government

We support CLCs Australia's recommendation for additional funding through NLAP of the national peak body (CLCs Australia) and an obligation on every state and territory to establish properly funded sector peak bodies in their jurisdictions. Currently, only four states have funded peak bodies.⁶¹ Peak bodies not only support their members, but also government funders through their coordination, training, quality assurance and funding administration functions.⁶² In particular, peaks provide vital support to government when it wishes to consult with the sector by providing consolidated information from across the membership; and play an important role in providing government with informed responses to Royal Commissions and inquiries. Peaks also provide an important sounding board for changes to legal assistance policy or other justice policy that may affect either legal services or specific client cohorts known to the CLC sector.

We support CLCs Australia's call for NLAP to adequately fund the national peak and oblige all states and territories to fund peaks.

⁵⁹ The PULS found that most people who have problems have more than one, and a high percentage of people have large clusters of problems, with correlation to disadvantage indicators. For example, 52.6 per cent of respondents had more than one justiciable problem; and almost half of those who were unable to eat, heat or cool their home in the past 12 months because of a shortage of money reported five or more justiciable problems, above note 3.

⁶⁰ Clause 55, National Legal Assistance Partnership 2020–25 Multilateral Agreement, above note 13.

⁶¹ Victoria, New South Wales, Queensland and Western Australia have peak bodies funded through their state governments, but with variable levels of funding.

⁶² The breadth of functions provided by Victoria's state peak, can be seen in the Federation's Annual Reports: https://www.fclc.org.au/annual_reports

4.7 MANAGING DEMAND OVER TIME

WE RECOMMEND THAT:

24. NLAP funding contract terms should be at least five years but preferably seven years in length.
25. NLAP includes an indexation formula whereby 80 per cent is pegged to the annual increase to wages for modern awards and 20 per cent is pegged to annual CPI.
26. A gradual increase in funding over the life of the agreement is included to respond to expected population growth and associated demand for legal assistance services.
27. When law or policy changes are made, Commonwealth, state and territory governments consider the likely flow on effect of the demand for legal assistance in their budget planning and provide appropriate funding for services.
28. NLAP puts in place the following extreme weather and disaster related measures:
 - Additional, flexible baseline funding is provided to CLCs to enable effective preparation for and response to extreme weather and disaster events, and that promotes disaster risk reduction and builds community resilience. This funding should be provided both to place-based and specialist CLCs to address areas of legal need particular to extreme weather events, such as family law, discrimination, employment, social security, insurance, planning law and tenancy.
 - Quarantined funding be available to support surge capacity as needed, especially in response to service demand from extreme weather events or significant economic impacts.
29. Additional funding for legal services be provided by government for CLCs to respond to unforeseen changes in demand or input prices, and additional reporting be integrated into existing reporting requirements.

Longer-term funding provides certainty for legal assistance providers, allowing them to plan efficiently and retain staff

The Issues Paper notes that agreements with longer-term funding enable legal assistance providers to undertake investment and planning that is not possible with short-term agreements. Victorian CLCs support this position. Please refer to Section 4.13 Labour Market for information about how employment contract certainty, which is linked to funding contract length, has an impact on attracting and retaining staff.

Further, the Federation is an active member of VCOSS, and CLCs across the state work closely in partnership with other social services providers to deliver integrated services to support clients. CLCs require adequate time to establish their operations (including partnerships with other social services) and have a period of continuity in service provision under any funding arrangement. We support VCOSS' calls

SECTION 4.7 MANAGING DEMAND OVER TIME

that, by default, government contracts for the community sector should span seven years.⁶³ This is a recommendation from the Productivity Commission.⁶⁴

Longer-term funding agreements must truly be longer-term

The current NLAP is five years in length, but allowed decisions for funding allocation to be made in two tranches. The CLC experience in Victoria was that three-year funding contracts were issued, then only five weeks before the three-year period ended, CLCs were notified that their contracts would be rolled over for a further two years.

Victorian CLCs therefore experienced the current NLAP as a three-year funding agreement and then a two-year funding agreement. Those who received the three-year funding eventually had their contracts extended, but faced challenges because funding uncertainty prevented them from undertaking proper program planning or extending staff contracts, resulting in the loss of valuable staff,⁶⁵ and CLCs who missed out on the original three-year funding gained no benefit of funding being delivered in two tranches, as they were not considered for the final two years of funding.

We recommend that NLAP funding contract terms should be at least five years and preferably seven years in length.

Further, whenever contract terms are for less than the recommended seven-year period, confirmation by the state justice department of contract extension or re-allocation of remaining funding must be completed at least nine months before the existing contract cessation date. This will ensure continuity of services, retention of important resources and provide for extended service planning.

Current NLAP indexation fails to reflect the real costs of annual award wage increases and CPI

The current NLAP provides for 1.5 per cent indexation per annum. Yet in 2022–2023 alone, wage increases on the SCHADS Award were 5.75 per cent and CPI was 4.9 per cent in the 12 months to July 2023.

The ongoing formula used to calculate indexation on Victorian government funding contracts for community organisations (including CLCs)⁶⁶ in 2023 takes into account modern award obligations imposed by Fair Work Australia (80 per cent of the increase) and CPI (20 per cent of the increase). The same formula

⁶³ Victorian Council of Social Service, *VCOSS 2023 Victorian Budget Submission*, 2022, p.8. <https://vcoss.org.au/wp-content/uploads/2022/12/VCOSS-2023-Victorian-Budget-Submission.pdf>

⁶⁴ Recommendation 8.5 of Productivity Commission, *Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services, Inquiry Report*, 2017. <https://www.pc.gov.au/inquiries/completed/human-services/reforms/report/human-services-reforms-overview.pdf>

⁶⁵ See Section 4.7 Labour Market.

⁶⁶ At the time of writing, Victorian CLCs have been notified they are included in the indexation calculation by the Victorian Department of Families, Fairness and Housing, but are awaiting formal confirmation from the Department of Treasury and DJCS.

SECTION 4.7 MANAGING DEMAND OVER TIME

will be used for all future funding indexation increases.⁶⁷ A similar approach is taken by the Queensland and Western Australian state governments to account for the mix of wage and other costs included in an indexation calculation.⁶⁸

It is highly beneficial that there is national, state and territory consistency in managing indexation in line with the Fair Work Australia decision on modern award obligations. Such an approach will assist in mitigating risks identified in Section 4.13 Labour Market.

We recommend that NLAP includes an indexation formula whereby 80 per cent is pegged to the annual increase to wages for modern awards and 20 per cent is pegged to annual CPI.

Accounting for known changes in demand over time

Indexation accounts for the provision of the same services over the term of the agreement because it responds to the costs of providing that defined suite of services. It does not ensure funding adequacy, nor does it account for changes in volume or type of demand over the life of an agreement.

A risk with putting in place multi-year contracts – particularly if the original funding quantum is not sufficient to respond to legal need – is that there is a longer period before additional resources are available to meet rising need.

There are many factors that can cause a change in demand for legal services. Victorian CLCs note that the following matters should not be considered as unforeseen. While the timing of actual occurrence or impact may be uncertain, government knows that these changes in demand will occur and should put in place additional funding to respond to legal need as part of the NLAP structure.

General increase in the demand for legal services

As populations increase, we can expect that demand for legal services will rise over the life of a multi-year agreement. Even if the proportion of people experiencing legal need does not change markedly, the quantum of people needing assistance will increase. Legal need surveys will provide information only periodically on the quantum of legal need.

We recommend a gradual increase in funding over the life of the agreement to respond to expected population growth and associated demand for legal assistance services.

⁶⁷ Victorian State government Media Release, *Promoting Fair Jobs For Vital Community Sector Workers*, September 2023, accessed on 13/10/2023 at <https://www.premier.vic.gov.au/promoting-fair-jobs-vital-community-sector-workers>

⁶⁸ Queensland Council of Social Service, *Report: Queensland's Cost Indexation for government Purchasing of Human Services*, 26 April 2023. <https://www.qcross.org.au/publication/report-queenslands-cost-indexation-for-government-purchasing-of-human-services/>

SECTION 4.7 MANAGING DEMAND OVER TIME

Changes in government policy or law

The demand for legal assistance can change considerably when governments change laws or policies. Commonwealth, state and territory governments should commit through NLAP to assess and fund the expected increase in demand for legal assistance as a result of any relevant law or policy change.

For example, in 2022–2023, Victorian CLCs experienced 9.7 times higher demand for assistance with offences against government procedures and security, attributable to the resolution of COVID lockdown-related fines.⁶⁹ CLCs absorbed this demand for services, which had an impact on their ability to meet other legal needs in the community. Victorian CLCs anticipate an increased demand on their services in the near future once the government responds to the 222 recommendations from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability handed down on 29 September 2023.

We recommend that when law or policy changes are made, Commonwealth, state and territory governments consider the likely flow on effect on the demand for legal assistance in their budget planning and provide appropriate additional funding for services to be provided.

Responding to extreme weather events and disasters

We support the joint submission by Community Legal Centres Australia, National Aboriginal and Torres Strait Islander Legal Services, and National Legal Aid in relation to disaster legal help assistance. We comment specifically on funding models to manage demand over time for disaster and climate events in this section.

Extreme weather events and disasters cause huge disruption and insecurity in Australian communities, creating new legal needs and exacerbating existing issues. Many of the legal issues Victorian CLCs see in times of disaster fall within Commonwealth priority areas of the law (employment, discrimination, family law, insurance, and social security). International research shows that disasters exacerbate disadvantage and can tip others who were previously coping into disadvantage.⁷⁰

Community members require early legal assistance when a disaster strikes, and CLCs must be ready for immediate mobilisation. Currently, disaster funding is provided reactively after a disaster event, and usually takes many months for the allocation of funds to be determined. This causes significant delays to disaster-impacted individuals receiving legal assistance and creates a risk of exacerbation of legal problems. Funding needs to be delivered on a continuous basis, so that legal services are resourced and ready to act immediately and for an ongoing period when a disaster hits.

⁶⁹ Federation of Community Legal Centres Victoria, *Annual Report 2022–2023*, in publication.

⁷⁰ Amanda Howard, Kylie Agllias, Miriam Bevis, & Tamara Blakemore, “How social isolation affects disaster preparedness and response in Australia: Implications for social work”, *Australian Social Work* 71(4), 2018, pp.392–404. <https://doi.org/10.1080/0312407X.2018.1487461>; Junia Howell & James Elliott, “As Disaster Costs Rise, So Does Inequality”, *Socius* 4, 2018. <https://doi.org/10.1177/2378023118816795>; Rachel Hale, Melina Stewart-North & Alistair Harkness, “Post-disaster Access to Justice”, *Crossroads of Rural Crime*, pp.167–179, 2021. <https://doi.org/10.1108/978-1-80043-644-220211012>

SECTION 4.7 MANAGING DEMAND OVER TIME

The findings of the PULS spotlight this. The PULS found that individuals affected by the 2019–2020 bushfires in Victoria were “more likely to have justiciable problems, have a greater number of and longer-lasting problems, and make greater use of services”.⁷¹ Further, the PULS recognised that disaster legal response will “become more necessary and need to last longer”.⁷²

Regional, rural, and remote areas are particularly susceptible to climate disasters. When disasters occur, these already isolated communities can become further isolated if floodwaters, fires or smoke physically prevent outside assistance. The presence of place-based community legal services promotes help-seeking behaviour, as disaster-impacted individuals prefer face-to-face appointments, particularly when their legal issues are complex.⁷³ Place-based community legal services are also better situated to build strong relationships with other support services locally and to promote legal preparedness within their communities.

Communities affected by disasters also benefit from specialist legal services. A substantial proportion of disaster-impacted individuals present with problems around social security, discrimination, insurance, family law and tenancy. These people may be best supported through referral to specialist community legal services. Further, Aboriginal Legal Services provide culturally appropriate responses to communities that are essential in extreme weather due to added issues of discrimination and relationship to Country. We refer to submissions made by Aboriginal legal services about how they respond to Aboriginal and Torres Strait Islander communities in disasters.

We recommend that:

- **Additional baseline funding is provided to CLCs to enable effective preparation for and response to extreme weather and disaster events. This funding should be provided both to place-based and specialist CLCs to address areas of legal need specific to extreme weather events, such as family law, discrimination, employment, social security, insurance, planning law and tenancy.**
- **Flexible funding be provided to CLCs to ensure that communities are supported to invest in early intervention and preparation that promotes disaster risk reduction and builds community resilience.**

Surge capacity

Climate change is resulting in the increasing frequency of extreme weather events, with distinct types of extreme weather often occurring simultaneously in the same region.⁷⁴ We recommend that additional

⁷¹ Balmer and others, above note 3, p. 9.

⁷² *ibid*

⁷³ Social Impact Hub, *DLHV Monitoring and Evaluation Project: Outcomes and Lessons Final Report*, 2023, p. 43.

⁷⁴ A case in point occurred at the time of writing this submission: Gippsland experienced level 3 bushfires (with a warning level of Emergency: Take Shelter/Too Late to Leave) on Tuesday 3 October 2023, followed by flooding that resulted in evacuation of a number of towns by Emergency Services on Wednesday 4 October 2023. For news coverage, see: Lachlan Abbott and Ashleigh McMillan, Flood evacuation issued hours after flames hit Easter Victoria, *The Age*, 2023, accessed on 13 October 2023 at <https://www.theage.com.au/national/victoria/flood-fears-for-fire-affected-towns-as-deluge-soaks-victoria-20231004-p5e9jo.html>.

SECTION 4.7 MANAGING DEMAND OVER TIME

quarantined funding is made available immediately following a large-scale disaster to support surge capacity. Flexible surge capacity is described as a “necessary evolution” in crisis management literature.⁷⁵ When a large-scale disaster legal response is activated, unforeseen needs appear in the community and organisational resilience can be precarious. The establishment of quarantined funding would ensure the legal sector is able to respond quickly to large-scale and consecutive disasters.⁷⁶

Quarantined funding could be held by the Commonwealth and the Commonwealth could seek a proportional co-contribution from states and territories. The criteria for release of such funds could be defined in advance so that release of funding can be expedited when the need arises.

We recommend that quarantined funding be available to support surge capacity as needed, especially in response to service demand from extreme weather events or significant economic impacts.

Adjusting funding in the event of unforeseen changes in demand or input prices

Existing funding should not be reallocated amongst legal services providers to respond to any unforeseen change (if events occur other than increase population, government law and policy changes, or disasters) because this creates alternative pockets of need, disrupts service delivery and undermines job certainty for workers in the sector.

We recommend that additional funding for legal services needs be provided by government for CLCs to respond to unforeseen changes in demand or input prices, and additional reporting be integrated into existing reporting requirements.

When unforeseen changes occur, state and territory peak bodies for CLCs can be a useful source of information for government, demonstrating quickly if an issue will impact all of the sector or more specific centres, and the nature of the impact. The Federation has a track record of working with the DJCS in this way. This supports our recommendation in Section 4.6 Funding Models that NLAP adequately funds the national peak and obliges all states and territories to fund peaks.

⁷⁵ Townsville Community Law, *Disaster Readiness for the Legal Assistance Sector: Disaster Legal Assistance in Queensland*, 2021, p.13.

⁷⁶ The Federation notes the existence of the proposed Legal Assistance Relief and Recovery Package developed by the Commonwealth Attorney General's Department and the National Emergency Management Authority in response to recommendation 22.5 of the Royal Commission into National Natural Disaster Arrangements.

4.8 WRAP AROUND SERVICES

WE RECOMMEND THAT:

30. Any restrictions on CLCs employing non-legal roles under NLAP as part of integrated legal service provision, health justice and other partnerships are removed.
31. As per Recommendation 20 above, NLAP baseline funding supports the delivery of integrated legal services and partnerships by CLCs, allowing CLCs to employ community service professionals and to use the funding on other operational aspects, such as partnership development, project management, training and professional development, lived experience engagement and evaluation.

In this section, references to integrated legal services cover wrap around services and include different forms of practice models and partnerships, such as:

- Co-location of a lawyer at another agency or legal service within a hub.
- Multi-disciplinary teams within a CLC consisting of lawyers and community service professionals (such as social workers, family violence advocates, case managers and financial counsellors).
- Health justice partnerships – involving embedding community legal assistance in health services.
- Partnerships between legal and other community services.⁷⁷

Restrictions on employing non-legal roles under NLAP limit program delivery

In Victoria, there are restrictions on applying NLAP funding to non-legal roles,⁷⁸ which limits its use for integrated legal services (unless a CLC receives a specific stream of NLAP funding as highlighted in the Issues Paper).

NLAP acknowledges (Clause 13 Objective, and Clause 14(c) Outcomes), the value of integrated or wrap around services, but funding of these effective service models has historically been limited to the Domestic Violence Units/Health Justice Partnerships funding stream, or must be sought through other arrangements, including from state governments. As a result, the intentions espoused in NLAP are not being adequately supported through ongoing or sustained funding.

Whilst funding to CLCs under the Domestic Violence Units/Health Justice Partnerships funding stream is welcomed, only one Victorian CLC receives assistance for a health justice partnership and four for Domestic Violence Units.

⁷⁷ Eastern Community Legal Centre, *Integrated Practice – Better Practice Principles*, p. 3. <https://eclc.org.au/wp-content/uploads/ECLC-Better-Practice-Principles-Integrated-Practice-Report.pdf>

⁷⁸ This is based on advice at various times sought from the Attorney-General's Department on how to interpret Clause 55 of the National Legal Assistance Partnership 2020–2025 Multilateral Agreement, above note 13.

SECTION 4.8 WRAP AROUND SERVICES

As outlined below, Victoria has developed and used integrated service models effectively to provide early intervention services and outreach to people who would most likely not seek legal assistance. This approach leverages the integrated partnerships built and maintained with other trusted social services. Additional funding Victoria sought and is receiving over a three-year period under the NPA FDSV is in most part being used to facilitate the continuation and extension of a number of integrated services, including those directed to the Aboriginal community.

Integrated practice models have become a key service delivery structure for CLCs. Health justice partnerships are a subset of integrated services and there is good data available about their reach and impact. As at November 2022, there were 105 health justice partnerships operating across Australia through which legal help is provided in a healthcare setting, with 79 of these (75 per cent) involving CLCs.⁷⁹ This includes 42 in Victoria, all of which involve CLCs.⁸⁰ In addition to health settings, CLCs provide integrated services in a wide range of other environments, such as schools, community hubs, settlement services and family violence services.⁸¹

Integrated service delivery is considered best practice in assisting people that the Issues Paper identifies as “fac[ing] multiple vulnerabilities which can lead to complex and multifaceted legal needs”.⁸² NLAP’s current lack of recognition for integrated service delivery models and partnerships (other than in relation to the specific streams of funding) is not aligned with the CLC sector’s core business model. It is also not consistent with the objective and outcomes sought under NLAP.

The recommendation below may require a clarification of or amendment to Clause 55 of the NLAP Multilateral Agreement.

We recommend that any restrictions on CLCs employing non-legal roles under NLAP as part of integrated legal service provision, health justice and other partnerships are removed.

Evidence demonstrates the success of CLC models of integrated legal services

CLCs are leaders in integrated legal service models

NLAP can better support CLCs to deliver integrated legal services. The CLC sector has been working in an integrated way with other services for decades.⁸³ Integrated legal services have arisen from a long history

⁷⁹ Health Justice Australia, *Health justice landscape: November 2022 snapshot*, 2022.

<https://healthjustice.org.au/app/uploads/downloads/November-2022-Health-justice-landscape-report.pdf>

⁸⁰ Health Justice Australia, *Health justice partnerships across Australia*, accessed on 10 October 2023.

<https://healthjustice.org.au/health-justice-partnership/health-justice-partnerships-across-australia/>

⁸¹ See, for example, the range integrated services funded through the Victorian Government’s Integrated Services Fund: Federation of Community Legal Centres, *Annual Report 2022*, 2022, p.21.

https://assets.nationbuilder.com/fclc/pages/705/attachments/original/1667429538/2021-2022_Federation_annual_report.pdf?1667429538

⁸² NLAP Issues Paper, above note 39, p.24.

⁸³ For example, the Integrated Services for Survivor Advocacy program between South-East Monash Legal Service and South-Eastern Centre Against Sexual Assault and Family Violence has been operating since 1995.

SECTION 4.8 WRAP AROUND SERVICES

of frontline work in communities with sector partners and local networks. Integrated legal services should be better funded under NLAP because they have proven to be effective.

Victorian CLCs are experienced leaders in providing holistic and trauma-informed integrated legal services and have spearheaded the development of best practice integrated legal models.⁸⁴ Their success, including health justice partnerships, has been demonstrated by a number of evaluation reports and reviews. A full list of evaluations is available in Appendix C.

“Community legal centres in Victoria have been at the forefront of finding new ways to provide legal help to people facing disadvantage, hardship, and discrimination.”⁸⁵ –

2016 ACCESS TO JUSTICE REVIEW

Key benefits of integrated legal service delivery

Addressing complex needs

As highlighted in the Issues Paper, people accessing legal assistance services often face multiple and intersectional vulnerabilities which can lead to complex and multifaceted legal needs.⁸⁶ CLCs respond to these needs by working collaboratively with other community service professionals, such as social workers, financial counsellors, school communities and health providers, to provide more holistic support to people with complex needs.⁸⁷

Integrated practice recognises that legal issues do not occur in isolation and are often the result of interconnected health, social and financial issues which can be addressed by linking clients with the support they need.⁸⁸ This recognises the interplay of legal and other social issues that can impact a client's life. Service delivery can be centred around the person with experts developing strategies that best support each individual's particular needs.

⁸⁴ See, for example, Eastern Community Legal Centre (Integrated Practice), above note 77.

⁸⁵ Department of Justice and Regulation Victoria, *Access to Justice Review*, 2016, p.188. <https://nla.gov.au/nla.obj-361647044/view>

⁸⁶ NLAP Issues Paper, above note 39, p.24.

⁸⁷ Federation of Community Legal Centres, *Meeting People Where They Are: Delivering Integrated Community Legal Services*, p.10.

https://d3n8a8pro7vhmx.cloudfront.net/fclc/pages/406/attachments/original/1592962210/Meeting_People_Where_They_Are_Delivering_Integrated_Community_Legal_Services_%28FCLC_2020%29.pdf?1592962210

⁸⁸ ARC Justice, *Maryborough Therapeutic Justice Partnership*, accessed on 6/10/2023 at <https://arcjustice.org.au/our-impact/partnerships/maryborough-therapeutic-justice-partnership/>

SECTION 4.8 WRAP AROUND SERVICES

Case studies – addressing complex needs

Lawyers from the Law and Advocacy Centre for Women work with social workers to assist women who are imprisoned, or at risk of entering the criminal legal system. Jane* was homeless, had an acquired brain injury and experienced mental health issues as a sexual assault survivor. The social worker put in place important supports enabling Jane to engage with the criminal legal process. Because the court could see a detailed support plan in place, Jane was allowed to continue to engage with support services, rather than being incarcerated. The integrated approach not only led to a successful legal outcome, but also helped Jane to address the underlying causes of her offending.⁸⁹

The Maryborough Therapeutic Justice Partnership between Loddon Campaspe Community Legal Centre and Maryborough District Health Service supports people with complex legal and health needs who are in contact with the criminal legal system. A lawyer and social worker supported Judy* who had experienced family violence by her partner for many years and had significant trauma, resulting in drug dependency and mental health issues. Judy had used violence against her abusive partner, which led to criminal charges and removal of her children by authorities. Supports put in place by the social worker enabled Judy to begin to address the underlying causes of her offending. Through legal advocacy and intensive wrap around support, her children were returned to her care and she received an undertaking with no conviction. Judy obtained a Family Violence Intervention Order to protect her against her abusive partner and received family law advice about setting up safe parenting arrangements for her children.⁹⁰

**Names have been de-identified.*

Addressing legal need early

Integrated legal services help people to understand and identify their legal need earlier and reach people before their legal issues escalate, improving access to justice. People are often unaware that their problems are 'legal' or are deterred from engaging with a lawyer due to access barriers, such as costs or negative perceptions of lawyers.⁹¹ People who are experiencing disadvantage have the lowest rate of seeking professional legal assistance of any group and are more likely to speak to a health professional or other frontline service about legal problems than a legal service.⁹²

The PULS found that many people seek legal advice through non-legal sources, such as health and welfare professionals. PULS noted only 21 per cent of respondents who dealt with their legal problem obtained advice from a legal service.⁹³ In comparison, 29 per cent of respondents obtained advice from an independent source that was not a legal service;⁹⁴ and 16.1 per cent of respondents sought advice from broader professional, health and community services.⁹⁵ This reflects the findings from the Law and Justice

⁸⁹ Federation of Community Legal Centres, above note 87, pp.26–27.

⁹⁰ Federation of Community Legal Centres, Meeting People Where They Are: Delivering Integrated Community Legal Services, pp.34–36.

⁹¹ Dacia Abela and Shifrah Blustein, *Restoring Financial Safety: The Transforming Financial Security Project*, WEStjustice, 2021, p.22. https://www.westjustice.org.au/cms/uploads/docs/westjustice_restore_fin_safety_web-version.pdf

⁹² Federation of Community Legal Centres, above note 87, p.10.

⁹³ Balmer and others, above note 3, pp.99, 102.

⁹⁴ *ibid.*

⁹⁵ *ibid.*

SECTION 4.8 WRAP AROUND SERVICES

Foundation's 2011 Legal Australia-Wide Survey which found that respondents sought the advice of their healthcare professional for over one quarter of their legal problems.⁹⁶

Integrated services and partnerships ensure that people are connected with legal services wherever they seek help, including at schools, hospitals, maternal health clinics, youth centres, alcohol and drug programs, settlement services, family violence services and more. The presence of a lawyer in non-legal settings is important in extending the reach of legal services to cohorts that otherwise would not be able to access them or for people who do not realise that their issue has a legal element.⁹⁷ This also ensures the individual has access to pertinent informed advice, critical in times where other sources of information may not help with resolving the issue to achieve best outcomes.

Meeting people where they are

In delivering on-site legal advice at three hospitals, Inner Melbourne Community Legal found that 74 per cent of patients felt their legal issues affected their health and wellbeing.⁹⁸ Inner Melbourne Community Legal found 82.5 per cent of patients had never seen a lawyer for various reasons, including that they did not know where to find a lawyer or did not recognise their problem as legal.⁹⁹

Eastern Community Legal Centre operates the MABELS program, a partnership with local maternal child health clinics and Boorndawan Willam Aboriginal Healing Service. It focuses on assisting women experiencing family violence. Of women accessing MABELS, 72 per cent indicated they would not have made an appointment with a lawyer if not for MABELS.¹⁰⁰ The success of this program can be measured not only by the increased number of women gaining early access to legal and family violence services, but also in the enhanced capacity of the health services to identify and respond to family violence.¹⁰¹

In a study in Bendigo, it was shown that, as a result of health justice partnerships, clients' knowledge and confidence in engaging with services increased by 90.9 per cent.¹⁰²

⁹⁶ Christine Coumarelos, *Legal Australia-Wide Survey: Legal need in Australia*. Law and Justice Foundation of New South Wales, 2012.

⁹⁷ For example, Victoria Kalapac notes that the healthcare system is an important avenue for the disclosure of family violence, and that evidence indicates health care professionals are a major group consulted by patients for legal advice on how to proceed in a family violence situation. Victoria Kalapac, *inLanguage, inCulture, inTouch: Integrated model of support for CaLD women experiencing family violence – Final evaluation report*, 2016, p.22. <https://intouch.org.au/wp-content/uploads/2023/04/inlanguage-inculture-report.pdf>

⁹⁸ Inner Melbourne Community Legal, *Partners in Care: The Benefits of Community Lawyers Working in a Hospital Setting*, 2018, p.6. <https://imcl.org.au/publications-and-media>

⁹⁹ *ibid.*

¹⁰⁰ Eastern Community Legal Centre, *"It couldn't have come at a better time" Early Intervention Family Violence Legal Assistance*, p.11. https://www.eclc.org.au/wp-content/uploads/ItCouldntHaveComeAtABetterTime-MABELS_EasternCLC.pdf

¹⁰¹ See Eastern Community Legal Centre, *Mabels*, accessed on 27/09/2023 at <https://eclc.org.au/what-we-do/partnerships-and-projects/mabels>

¹⁰² Liz Curran, *The Partnership between Health and Law to Ensure Human Rights*, Oxford Human Rights Hub Blog, 28 November 2016, accessed on 28/09/2023 at <https://ohrh.law.ox.ac.uk/the-partnership-between-health-and-law-to-ensure-human-rights>

SECTION 4.8 WRAP AROUND SERVICES

It is well documented that integrated services' focus on early intervention has a preventative effect in terms of reducing compounding harms for vulnerable groups and can reduce pressures on the justice system and other parts of the service systems down the track. This includes mental health, child protection and the criminal legal system.¹⁰³ The early resolution of legal problems can also reduce the likelihood of matters escalating and leading to complex litigation thereby reducing the demand on legal assistance.

Avoided cost modelling conducted by EY illustrates the benefits of early access to CLC services at an individual, community and system level, as well as the costs where community legal assistance is not available. Four persona journeys illustrating the different aspects of demand and avoided costs is set out at Appendix B. This is discussed further in Section 4.9 Early Intervention.

Positive impact on wellbeing

There is evidence that integrated services have a positive impact on wellbeing.¹⁰⁴ In an international literature review, Health Justice Australia concluded that health justice partnerships are an effective model to tackle social issues that impact the health of marginalised groups.¹⁰⁵ Integrated practices break down service silos,¹⁰⁶ and focus on addressing the underlying causes of legal problems.¹⁰⁷ The Access to Justice Review concluded that integrated and collaborative forms of service delivery better targeted disadvantaged and vulnerable groups and had positive impact on their health.¹⁰⁸

Addressing the legal and social needs of clients through integrated practice can reduce stigma and build resilience, wellbeing and a level of social participation.¹⁰⁹

¹⁰³ The Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review – Final Report*, November 2020, p.149. <https://cij.org.au/cms/wp-content/uploads/2020/11/strengthening-victorias-victim-support-system-victim-services-review-centre-for-innovative-justice-november-2020.pdf> ; Department of Justice and Regulation Victoria, above note 85, p.7.

¹⁰⁴ See for example, Margaret Camilleri, Alison Ollerenshaw, Jennifer Corbett, Meghan Taylor & Tania Burrows, *Central Highlands Health Justice Partnership: Evaluation Report*, 2018, p.49. https://www.cerdi.edu.au/cb_pages/files/ch_hjp_evaluation_report.pdf

¹⁰⁵ Health Justice Australia, *Annotated Bibliography - Resource for the review of the National Legal Assistance Partnership*, August 2023, p.13.

¹⁰⁶ "When life gets complex, people rarely experience problems in discrete and neat ways. Yet this is what service structures suggest, creating specialised silos that approach problems as though they are isolated and distinct." Suzie Forell, *Working together for client wellbeing: an outcome of health justice partnership*, 2021, p.3. <https://healthjustice.org.au/app/uploads/downloads/Health-Justice-Australia-Working-together-for-client-wellbeing.pdf>

¹⁰⁷ Law Council of Australia, *The Justice Project, Homeless Persons Consultation Paper*, August 2017, pp.36–41. <https://lawcouncil.au/files/web-pdf/Justice%20Project/Consultation%20Papers/Homeless%20Persons.pdf>

¹⁰⁸ Department of Justice and Regulation Victoria, above note 85, p.150.

¹⁰⁹ Federation of Community Legal Centres, above note 87, p.12.

SECTION 4.8 WRAP AROUND SERVICES

This practice can also assist in keeping clients, particularly those who experience trauma, engaged in the legal process and with other core services thereby leading to better outcomes.¹¹⁰ Improved linkages between services also minimises trauma associated with people having to repeat deeply personal stories to multiple services.

The Legally Minded project: Northern Community Legal Centre and Mind Australia

The Legally Minded Project explored the impact of legal intervention on the lives of people with mental health issues. The study identified a number of important benefits, including:

- Legal intervention was associated with a marked reduction in psychological distress with clients reporting increased self-efficacy and confidence.
- There were positive consequences from stress reduction, such as improved relationships.
- Clients experienced good connections to the legal service providers and mental health supports with effective co-ordination being an important element.
- Clients had increased legal knowledge and felt empowered regarding their legal rights, leading to a greater sense of hope in their lives and for the future.¹¹¹

The study concluded that it is important that both legal and mental health staff work together to support clients to attain the best level of wellbeing.¹¹²

As per Recommendation 20 above, we recommend NLAP baseline funding supports the delivery of integrated legal services and partnerships by CLCs.

¹¹⁰ ANROWS, *Landscapes: Meta-evaluation of existing interagency partnerships, collaboration, coordination and/or integrated interventions and service responses to violence against women: State of knowledge paper*, 2015, p.33. <https://www.anrows.org.au/publication/meta-evaluation-of-existing-interagency-partnerships-collaboration-coordination-and-or-integrated-interventions-and-service-responses-to-violence-against-women-state-of-knowledge-paper/>

¹¹¹ Laura Hayes, Myfanwy McDonald, Liz Hudson, Fiona May, *Legally Minded: Understanding how legal intervention can improve the lives of people with mental ill-health, final research report*, Mind Australia, 2021, p.13 https://www.mindaustralia.org.au/sites/default/files/2023-06/Legally_minded_final_research_report.PDF

¹¹² *ibid*, p.15.

SECTION 4.8 WRAP AROUND SERVICES

Victorian CLCs can provide lessons on structuring integrated services

What works well

The effectiveness of integrated services and partnerships depends on mutual commitment and support at all levels of organisations, bolstered by sustained and secure funding to meet demand, train staff and engage in joint planning.¹¹³

Effective integrated services require investment in partnership development to:

- Build and maintain strong partnerships with other community organisations and services at all levels (i.e., management level and among practitioners).
- Develop a shared vision, purpose and engage in joint planning.
- Establish robust policies and procedures supporting the governance of the partnership or integrated model.
- Create awareness and promotion of the program among partners and other stakeholders.

Investment in professional development and capacity building is needed to upskill community service professionals in identifying legal problems and to educate lawyers in trauma-informed and multidisciplinary practice. There is need for a workforce with the right skillset, recognising that integrated service requires specific skills and expertise for professionals from diverse disciplines to collaborate effectively.

Integrated practice models involve an intensive service with a focus on continuity of service for clients to reduce multiple referrals to other organisations and re-traumatisation. Time is required to build trust with clients, particularly clients who experience trauma, and to ensure that they remain engaged with the legal process. In assessing the model's effectiveness, it is important to focus on improved outcomes (rather than reporting solely on the number of clients and services delivered). Monitoring and evaluation, as well as opportunities for reflective practice should also be put in place. For a comprehensive list of what works well, refer to Appendix D.

Barriers to success

Whilst there is strong evidence supporting the benefits of integrated legal practice, many of these programs are restricted due to insecure and piecemeal funding. This places a burden on administrators and threatens the longevity and integrity of integrated legal programs.¹¹⁴ There can also be a lack of investment in essential operational elements, such as partnership development, project management, training and professional development, lived experience engagement and evaluation.

"Limited or short-term funding for integrated practice programs or partnerships can jeopardise client outcomes."¹¹⁵ – EASTERN COMMUNITY LEGAL CENTRE

¹¹³ Inner Melbourne Community Legal, above note 98, p.10.

¹¹⁴ See, for example, Liz Curran, *'Going Deeper' – The Invisible Hurdles Stage III Research Evaluation Final Report*, June 2022, Centre for Rights & Justice, Nottingham Law School, Nottingham Trent University, p.9. <https://irep.ntu.ac.uk/id/eprint/46555/>

¹¹⁵ Eastern Community Legal Centre (Integrated Services), above note 77, p.9.

SECTION 4.8 WRAP AROUND SERVICES

The Access to Justice Review found that as integrated legal services require cross-portfolio coordination between justice and human services, certainty of funding would “help legal service providers build long-term collaborative relationships with non-legal service providers and provide more effective services to vulnerable and disadvantaged members of the community.”¹¹⁶

As per Recommendation 20 above, we recommend that NLAP baseline funding allows CLCs to employ community service professionals and to use the funding for other operational aspects, such as partnership development, project management, training and professional development, lived experience engagement and evaluation.

¹¹⁶ Department of Justice and Regulation, above note 85, p.189.

4.9 EARLY INTERVENTION

WE RECOMMEND THAT:

32. As per Recommendation 20 above, NLAP supports early intervention as part of CLCs' core service delivery, including integrated legal service provision, CLE, community development programs and online self-help tools and legal information.

Early intervention and continuity of service provision lead to significant positive outcomes

It is important that NLAP funds CLCs to deliver early intervention activities including CLE, community development programs and online self-help tools, as well as early intervention as part of integrated legal service provision (see Section 4.8 Wrap Around Services).¹¹⁷ This is a core part of CLCs' existing work and should be supported under NLAP. As highlighted in Section 4.8 Wrap Around Services, early intervention has a preventative effect in reducing compounding harms for vulnerable groups and can decrease downstream pressures on service systems, such as mental health, child protection and criminal justice.¹¹⁸

Enabling CLCs to provide legal assistance at an early stage is crucial to prioritising continuity of service for clients (e.g. from early intervention to court representation and post-court, as needed). This is a critical part of trauma-informed and effective legal service delivery for people experiencing disadvantage, family violence and/or trauma. People accessing CLCs are more likely to be re-traumatised and disengage from the legal process when they are referred around different legal services, given multiple referrals, left to self-represent in court or required to retell deeply personal and distressing information to multiple professionals. Resourcing legal services to provide legal assistance as early as possible is critical to promoting end-to-end service provision.

While governments have committed to supporting early intervention, this is not reflected in reporting requirements, which focus on counting numbers of clients and number of legal services delivered. This limits the capacity of CLCs to demonstrate the value of early intervention work, such as CLE and community development programs (See also Section 4.14 Data Collection).

¹¹⁷ The benefits of early intervention with respect to Wrap Around Services are set out in Section 4.8 – including the avoided costs for government shown in the Persona Journeys in Appendix B. This Section 4.9 focuses on other forms of early intervention and preventative work, including community development, CLE and online self-help tools.

¹¹⁸ The Centre for Innovative Justice, above note 103¹⁰³, p.149; Department of Justice and Regulation Victoria, above note 85, p.7.

SECTION 4.9 EARLY INTERVENTION

Community legal education and community development programs provide unique value

Connecting with communities before an issue occurs

CLE and community development programs are essential tools for empowering communities to understand their legal rights and responsibilities, to identify where they may need to seek further legal help, and to assist people to self-advocate where they have the capacity to do so. This provides an enabling environment for people to seek assistance before legal problems escalate with benefits at the individual, community and government level. As a core part of their model, CLCs work with their communities to understand evolving legal need to tailor CLE and community development programs. Investment in CLE and community development programs should occur in tandem with an uplift in funding for legal service delivery to enable CLCs to assist people in need of legal help through these programs.

Examples of effective CLE programs

South-East Monash Legal Service identified that young people in the City of Casey were more disengaged when compared with Greater Melbourne. The team developed *Sporting Change*, to support young people from diverse backgrounds to engage constructively in the community by using sport to teach young people about the law, to minimise the risk of negative interaction with the justice system and promote early access to legal assistance. The program also includes an integrated school lawyer.

Sporting Change has had immense success in its community. After participating in the program:

- 97 per cent of young people knew more about their legal rights and responsibilities;
- 94 per cent of young people reported that learning about the legal system had helped them feel more able to engage in their community and society; and
- 90 per cent of young people reported *Sporting Change* had increased their knowledge of possible legal consequences if they or someone they knew got into trouble with the law.¹¹⁹

Community Legal Centres across Victoria provide education in schools to increase young people's understanding of what constitutes consent and the consequences of unlawful behaviour. Survey results for Mallee Family Care Community Legal Centre's program in schools and TAFE College indicated that out of 867 respondents, over 90 per cent had better or much better knowledge after the session. Students reflected: "consent is key and a necessary component of any type of sexual interaction".¹²⁰

CLCs deliver CLE to frontline workers to improve their capacity to identify legal issues and respond effectively with appropriate and timely referrals. Through its program supporting people experiencing homelessness *Under One Roof*, Justice Connect provided tailored training to Launch Housing, Sacred Heart Mission and cohealth. In 2022–2023, Justice Connect provided training sessions to 148 frontline workers, building their capacity to spot legal issues and increasing their confidence and procedural knowledge when supporting clients with legal issues.¹²¹

¹¹⁹ Springvale-Monash Legal Service, *Sporting Change: Empowering Young People Evaluation Report*, 2017–2018, p.12.

¹²⁰ Analysis of surveys provided by Mallee Family Care Community Legal Centre.

¹²¹ Justice Connect, *Under One Roof: Three years of embedding legal services to make justice accessible for homeless clients*, 2018, p.21.

SECTION 4.9 EARLY INTERVENTION

Online self-help tools and information

The resources that CLCs produce to support their communities has enormous reach. There were more than one million hits on Victorian CLC website online self-help tools and information during 2022–2023.¹²² Online self-help tools and information are effective ways of disseminating legal information in an accessible way, and providing users the resources they need to identify legal problems, understand possible options and potentially self-advocate where they have the capacity to do so. While online tools cannot replace individualised legal assistance, particularly for people experiencing disadvantage, with low digital literacy or from non-English speaking backgrounds, they are part of a suite of activities that CLCs undertake to reach as many members of the community as possible. As highlighted above, investment in online self-help tools and information should occur in tandem with an uplift in funding for legal service delivery to enable people using self-help tools to receive further legal assistance (as needed).

Tenancy – online self-help tools and legal information

Tenants Victoria's website provides extensive legal information to assist Victorian renters understand and enforce their rights. In FY 2022–2023, Tenants Victoria reported 572,800 users accessed its website, with 1.39 million page views. Of the approximately 12,000 active users the Tenants Victoria website attracts each week, 83 per cent of them visit the site more than once in seven days.

Dear Landlord is an online self-help tool for Victorian renters co-designed and developed by Justice Connect's Homeless Law program. *Dear Landlord* builds in housing and financial supports and resources tailored to the user's circumstance and helps private renters to understand their options to stay safely in their home; draft a letter to negotiate a payment plan or rent reduction; prepare for a VCAT hearing or lodge a VCAT review application; and find important financial and legal help.

Key learnings and insights have demonstrated the success of this self-help tool in intervening early to avoid evictions and keep renters safely housed.¹²³ Specifically, between March–September 2021, 71 per cent of *Dear Landlord* users had received either their first notice to vacate or none at all; and 36 per cent of those users accessed *Dear Landlord* to create a payment plan proactively before even receiving a notice to vacate.¹²⁴

"When it's hard to think what to do next in these situations [Dear Landlord] guides you through with current legal advice and helps ease the stress." – *Dear Landlord* user, May 2021

We recommend that the NLAP supports early intervention as part of CLCs' core service delivery, including integrated legal service provision, CLE, community development and online self-help tools and legal information (as per Recommendation 20 above).

¹²² Federation of Community Legal Centres, above note ⁶⁹.

¹²³ Justice Connect, *Dear Landlord: intervening early to prevent evictions during COVID-19*, 20 December 2021, accessed on 5/10/2023 <https://justiceconnect.org.au/dear-landlord-intervening-early-to-prevent-evictions-during-covid-19/>.

¹²⁴ *ibid*.

4.10 ADVOCACY

WE RECOMMEND THAT:

33. NLAP expressly recognises that CLCs may engage in advocacy and law reform, including lobbying, campaigning and strategic litigation, and baseline funding allocations support advocacy (as per Recommendation 20 above).
34. There is an additional funding pool that can be allocated to CLCs to engage with relevant Royal Commissions and large-scale inquiries.

In the following section, references to advocacy and law reform include (but are not limited to) submissions, lobbying, campaigning and strategic litigation.

Investing in advocacy and law reform benefits communities and government

Unique role of CLCs in addressing systemic issues

CLCs (including ATSILS) are uniquely placed to advocate for reform, have input into law reform processes, and identify systemic issues arising from their frontline work in communities and with people experiencing high levels of disadvantage. This is a core part of their mission and work.

The private legal sector is not incentivised to engage in this work as it would generally be unpaid.¹²⁵ As CLCs are not statutory authorities and are independent from government, they are particularly well positioned to undertake advocacy, such as, lobbying and campaigning. Victorian CLCs often collaborate with VLA on shared strategic advocacy and law reform initiatives employing complementary advocacy tactics.

“Legal assistance providers are superbly well placed to provide advice on law reform and legal assistance... Community Legal Centres, legal aid commissions, and Aboriginal and Torres Strait Islander Legal Services play a crucial role in ensuring that all Australians can access our justice systems. They understand better than most the challenges in their sector and the impacts of unmet need on vulnerable Australians.”¹²⁶ THE HON MARK DREYFUS, KC, MP, ATTORNEY-GENERAL, 2022

Reducing downstream costs through systemic work

The combination of frontline service delivery and strategic advocacy maximises the value and effectiveness of CLCs in addressing systemic issues and legal need in Australia. The Productivity Commission highlighted that alongside frontline service delivery, advocacy work should be prioritised,

¹²⁵ Productivity Commission, above note 14, p.708.

¹²⁶ Attorney-General's Department, *Ending the gag on legal assistance providers*, Media Release 29 September 2023. <https://ministers.ag.gov.au/media-centre/ending-gag-legal-assistance-providers-29-11-2022>

SECTION 4.10 ADVOCACY

recognising that it can effectively solve systemic issues which would otherwise require “more extensive individualised service provision.” It recommended that this area be funded by government.¹²⁷

Effective advocacy and law reform work can lead to avoided downstream costs as it not only benefits people directly impacted by the specific issue, but also the broader community through improvements to policy and legal systems. The Productivity Commission highlighted that addressing a systemic issue that has led to higher rates of litigation, disputes and hearings, “can free up resources of affected parties, legal assistance providers, private lawyers, courts and governments”.¹²⁸ The Productivity Commission considered that strategic advocacy and law reform can reduce demand for frontline services, “be an efficient use of limited resources” and should be a core activity of CLCs.¹²⁹

Reducing downstream costs through strategic advocacy

Consumer Action Law Centre worked with a coalition of partners to demonstrate the harm caused by payday loans¹³⁰ and consumer leases.¹³¹ Advocacy included complaints to regulators, research on the scale and extent of the harm, submissions to government and broad campaigning.¹³² Following this, in 2022, new laws were passed with the aim of improving safeguards for these products. These reforms will assist in preventing legal need arising and reducing complaints/litigation where predatory lender conduct decreases.¹³³ Consumer Action Law Centre’s data has already begun indicating less people seeking legal help in relation to these products.¹³⁴

Expert advisers on policy and law reform changes

CLCs are well placed to provide input into law reform processes to increase the effectiveness of the legal system, improve efficiencies (and potentially reduce downstream costs) and to ensure that proposed law reform changes will not disproportionately impact groups already experiencing disadvantage.¹³⁵

The important role that CLCs play in advocacy and law reform is recognised by governments who routinely seek expert advice from the CLC sector in Victoria on proposed legal and policy reforms across a broad range of areas, such as criminal justice, family law, family violence, tenancy and homelessness and human rights.

¹²⁷ Productivity Commission, above note 14, pp.31, 62, 703.

¹²⁸ *ibid*, p.708.

¹²⁹ *ibid*, p.709.

¹³⁰ Payday loans are high-cost, fast loans of up to \$2,000 with equivalent annual interest rates between 100–400 per cent.

¹³¹ Consumer leases are rental arrangements for common household goods that charge well-above the cost of the goods, sometimes with equivalent interest rates of up to 800 per cent.

¹³² Consumer Action Law Centre, *Addressing and Preventing Legal Need Relating to Credit, Debt and Consumer Law Issues*, August 2023, p.29.

¹³³ *ibid*.

¹³⁴ *ibid*, see figure 11.

¹³⁵ Productivity Commission, above note 14, pp.709-711.

SECTION 4.10 ADVOCACY

There have also been a number of recent federal Royal Commissions that impact CLC clients, such as the Royal Commission into the Robodebt Scheme, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Royal Commission into Aged Care Quality and Safety. As highlighted in the Issues Paper, the Final Report of the Royal Commission into the Robodebt Scheme recommended that the Commonwealth should consider the important public interest role played by CLCs and LACs (as exemplified in their work during the scheme) when next conducting a review of NLAP and the funding arrangements.¹³⁶ The final report highlighted that the role of CLCs during the scheme “in enabling access to justice for people who may not have the means to otherwise advocate for themselves is integral in a society that champions the concept of equality before the law”.¹³⁷ However, CLCs require additional resourcing to respond to inquiries, reviews, Royal Commissions and consultations. Where they do engage, this work is often unfunded.

Spearheading collective advocacy

CLCs are highly collaborative and develop coalitions with key stakeholders to spearhead collective advocacy and drive systemic change. Investment in advocacy and law reform allows CLCs to collectively amplify marginalised voices. CLCs represent people experiencing systemic disadvantage, discrimination and trauma and can shed light on important issues that may otherwise remain invisible. Investment in advocacy also enables CLCs to work with other organisations to conduct research, engage in awareness raising, and organise and support community campaigns that can bring about meaningful and enduring change.

Examples of effective coalitions led by the CLC sector in Victoria

The Federation and the Law and Advocacy Centre for Women lead a coalition of nearly 40 organisations from the community legal sector, Aboriginal Community Controlled Organisations, community services sector, legal sector and academia to advocate for reducing the criminalisation of women in Victoria.

Similarly, WEstjustice and Youthlaw, lead Smart Justice for Young People, a coalition of over 40 leading social services, health, legal, Aboriginal and Torres Strait Islander, and youth advocacy organisations working together to create systemic change for children and young people who come into contact with the justice system.

CLCs in Victoria are part of the Family Violence Justice Advocacy Network which consists of a range of interdisciplinary organisations, including VLA, state and national family violence and sexual assault peak bodies and specialist family violence services. The network focuses on improving legal responses for victim survivors of family violence, such as addressing the misidentification of victim survivors as perpetrators of family violence.

¹³⁶ Recommendation 12.4 of Catherine Holmes, *Royal Commission into the Robodebt Scheme, Final Report, Commonwealth of Australia*, 2023, p.xiv. <https://robodebt.royalcommission.gov.au/publications/report>

¹³⁷ *ibid.* p.372.

SECTION 4.10 ADVOCACY

Investment in effective advocacy and law reform

Whilst removing the restrictions on CLCs' ability to engage in lobbying activities using NLAP funds under the current NLAP agreement was a welcome step, a lack of proactive investment in this area continues to constrain CLCs from engaging in advocacy and law reform.

The level of advocacy occurring across the CLC sector in Victoria is variable due to a patchwork of funding. The Workforce Survey found that only 7.6 per cent of respondents identified policy and advocacy as one of their main work roles.¹³⁸ This was even less for communication roles (4.6 per cent) which include a component of advocacy work.¹³⁹ Despite this, CLCs have an impressive record of influencing positive law reform and policy change.

Examples of effective systemic advocacy by CLCs in Victoria

In Victoria, CLCs have advocated for and helped win many legal rights for Victorians, including mandatory third-party motor vehicle insurance and increasing awareness of and support for victim survivors of family violence and prisoners' rights.

Recently, CLCs in Victoria have:

- Advocated waiving the fines issued to young people during the COVID-19 pandemic which increased financial hardship for young people and their families.
- Successfully advocated for better wage rights for people living with disabilities.
- Effectively advocated for changes to the bail laws to reduce the disproportionate impact of these laws on First Nations people, particularly First Nations women.
- Effectively advocated for family law reforms which better support victim survivors of family violence (such as, the removal of equal shared parental responsibility).
- Established the 'Do Not Knock' campaign to deter pestering salespeople.
- Prompted Bunnings to ban the sale of native timbers and forced governments to end logging in Victoria's old growth forests.
- Successfully advocated for the decriminalisation of sex work to achieve better public health and human rights outcomes.

These advocacy examples illustrate the benefits for members of our community, as well as cost savings (such as, reduced litigation and costs associated with people on remand in prison)

¹³⁸ Jozica Kutin, Hugh McDonald, Tienielle Hagland, Clare Kennedy & Nigel Balmer, *Working in community legal centres in Victoria. Results from the Community Legal Centres Workforce Project: Workforce profile*, Victoria Law Foundation, 2021, p.56 <https://victorialawfoundation.org.au/research/research-reports/working-in-community-legal-centres-in-victoria-workforce-profile>

¹³⁹ *ibid.*

SECTION 4.10 ADVOCACY

In Victoria, one of the criteria for membership of the Federation is that a CLC aims for the development of laws, administrative practices and a legal justice system which are fair, just and accessible to all.¹⁴⁰ Each CLC therefore has an approach to advocacy and law reform, but much of this work is largely unfunded.

Recognising the effectiveness of advocacy and law reform in engendering systemic change, and the potential to lead to cost savings in the longer-term, the quantum of NLAP baseline funding should be increased to enable CLCs to undertake expanded strategic advocacy and law reform. This will enable CLCs already engaged in advocacy and law reform to build on existing strengths, knowledge and expertise and for CLCs with limited capacity to identify and respond to systemic issues, including as part of broader coalitions.

Whilst we consider that this funding should be open to CLCs to use flexibly, we understand the value of this funding in promoting collaboration and coalition-building within the sector.

We recommend that:

- **NLAP expressly recognises that CLCs can engage in advocacy and law reform, including lobbying, campaigning and strategic litigation, and supports advocacy (as per Recommendation 20 above).**
- **There is an additional funding pool that can be allocated to CLCs to engage with relevant Royal Commissions and large-scale inquiries.**

4.13 LABOUR MARKET

WE RECOMMEND THAT:

35. Commonwealth, state and territory governments invest in increasing salaries and benefits for CLCs to address wage inequity between the public service/LACs and CLCs.
36. NLAP baseline funding allows CLCs to provide modern technology and office space for their staff of an equivalent standard to the public sector.
37. As per Recommendation 24 above, NLAP is used as a commitment by states and territories, as well as the Commonwealth, to make long-term, adequately indexed financial contributions, with funding to CLCs at least five years and preferably seven years in length.
38. Commonwealth, state and territory governments are required to notify CLCs of whether or not lapsing funding will be renewed at least six-months before funding expires.
39. The Commonwealth fund a national initiative to promote the importance and value of community law and to create structured pathways, including through a graduate placement program, from universities to CLCs.
40. As per Recommendation 20 above, NLAP baseline funding supports CLCs to recruit, train and supervise volunteers.

Australian CLCs have been held up as a global example of ‘what works’ in access to justice.¹⁴¹ They provide the foundation for building community access to justice from the bottom-up. They provide legal assistance that is community focused and implement innovative services and solutions tailored to the diverse needs and capabilities of the communities they serve.

“To continue to do this, the sector needs to run on more than fumes, on more than passion and commitment to justice. It needs to be resilient and sustainable. This ultimately means recognition, respect and funding in line with the critical contribution it makes.”¹⁴² – 2022 VICTORIAN LAW FOUNDATION

During 2020–2021 the VLF conducted a survey of the Victorian CLC workforce. The findings of the VLF’s Workforce Survey are set out in a series of reports.¹⁴³

¹⁴¹ Task Force on Justice, *Justice for All – The report of the Task Force on Justice: conference version*, 2019, p.4. <https://www.justice.sdg16.plus/>

¹⁴² Kutin and others (sustainable workforce), above note 33, p.8.

¹⁴³ The Workforce Survey reports are available at: <https://victorialawfoundation.org.au/research/projects/community-legal-centres-workforce-project>

NLAP can help to overcome the challenges CLCs face in recruiting and retaining staff

It takes many roles to operate a CLC – legal roles, client service roles, centre operations and leadership.¹⁴⁴

It is challenging for CLCs to recruit and retain suitably qualified, trained, and experienced staff. When Victorian CLCs and VLA concurrently receive new funding, recruitment to new positions simultaneously creates a tight and competitive labour market.

Challenges in recruitment and retention of staff are further amplified for RRR CLCs (due to their geography and population size) in attracting talent. Issues specifically relating to RRR CLCs is addressed in more detail in our submission on Section 4.5 Regional, Rural and Remote Contexts.

Lack of wage parity with LACs

The Workforce Survey found that the median income category for Victorian CLC employees was \$65,000 to \$77,999 per annum.

The lack of wage parity between staff employed by VLA (who are engaged under an enterprise agreement based on public service conditions)¹⁴⁵ and CLCs (who come under the SCHADS Award)¹⁴⁶ is a primary barrier for CLCs in recruiting and retaining staff. While it is preferred not to compare wage parity across parts of the legal assistance sector, the reality is that LACs and CLCs are the primary employers for services funded by NLAP and state government grants. Individuals seeking work in the funded sector are fully aware of the differing base salaries, conditions and career opportunities offered by each part of the sector.

Even though CLC staff enjoy and value their role, with 91.3 per cent of respondents saying they are proud to tell others that they work in a CLC,¹⁴⁷ pay rates remain an underlying issue for staff to stay in the sector. More than half (59.5 per cent) of the respondents to the Workforce Survey believed their salary was somewhat or significantly less than others in a similar role outside the CLC sector. The Workforce Survey findings on employee movement across the legal assistance sector suggest a stronger employment pathway from CLCs to VLA (37.4 per cent of respondents aspired to work at VLA)¹⁴⁸ than from VLA to CLCs (6 per cent of people in legal roles worked at VLA just prior to joining a CLC).¹⁴⁹

In times of economic stress, and under current cost of living pressures, CLC employees increasingly face challenges to stay in a CLC role when higher salaries for comparable roles are available at VLA, in

¹⁴⁴ The Workforce Survey identified that 12 per cent of roles were in leadership, 56 per cent legal services, 15 per cent client services (including social workers, psychologists, migration agents, financial counsellors etc) and 17 per cent centre operations. Kutin and others (workforce profile), above note 138.

¹⁴⁵ Fair Work Commission, *Schedule 1 VLA Enterprise Agreement 2020–2024* [2021] FWCA 3185.

<https://www.legalaid.vic.gov.au/sites/default/files/2022-03/vla-enterprise-agreement-2020-24.pdf>

¹⁴⁶ Fair Work Commission, *Section 15, Social, Community, Home Care and Disability Services Industry Award 2010*.

<https://library.fairwork.gov.au/award/?krm=ma000100>

¹⁴⁷ Kutin and others (sustainable workforce), above note 33, p.7.

¹⁴⁸ *ibid*, p.39.

¹⁴⁹ *ibid*, p.27.

SECTION 4.14 DATA COLLECTION

government positions, or in private practice. A lifestyle or career choice to work in the CLC sector becomes harder to maintain when faced with increased mortgage or rental costs.

Significantly, the Workforce Survey emphasised the fact that CLCs are a more inclusive work environment than the Victorian public service:¹⁵⁰

- 17 per cent of CLC workers identified as LGBTIQA+ compared with 4.4 per cent for the Victorian public service.
- 9.9 per cent of CLC workers identified as living with a disability compared with 2.5 per cent for the Victorian public service.
- 3.6 per cent of CLC workers are Aboriginal or Torres Strait Islander people compared with 1 per cent for the Victorian public service. The report further notes that less than 1 per cent of registered lawyers in Victoria are Aboriginal or Torres Strait Islander people.

We submit that wage parity for workers in these groups, who find CLCs an inclusive and safe place to work, is particularly important.

Gendered nature of CLC work

76.8 per cent of the CLC workforce identify as female.¹⁵¹

The Workforce Survey demonstrates the gendered nature of the Victorian CLC workforce. The lack of employment security, low wages and short-term contracts all negatively impact a woman's ability to achieve financial security.

66.5 per cent of Victorian CLC clients identify as female,¹⁵² compared with 38 per cent of VLA clients.¹⁵³

Paying staff at VLA (who predominantly work with male clients) more than staff at CLCs (who predominantly work with female clients) creates an environment where male users of legal assistance are more likely to receive services from higher paid lawyers than female users of legal assistance.

We support the submission of Community Legal Centres NSW, which contains a comparison of LAC and CLC salaries and recommend this be used in funding decisions to improve salaries and conditions for CLCs. We recognise that because CLC employee conditions are governed by the SCHADS Award, improvements to government funding for CLC salaries and conditions may also need to be accompanied by work (which is outside the scope of the NLAP Review) to review and update award conditions and/or the individual and multi-enterprise agreements that exist across the CLC sector.

¹⁵⁰ Kutin and others (workforce profile), above note 138, pp.18–19.

¹⁵¹ *ibid*, Table 5, p.18.

¹⁵² Federation of Community Legal Centres, *Annual Report 2021–2022*, p.32.

https://assets.nationbuilder.com/fclc/pages/705/attachments/original/1667429538/2021-2022_Federation_annual_report.pdf?1667429538

¹⁵³ Victoria Legal Aid, *Annual Report 2021–2022 Access to justice for Victorians*, 2022, p.5.

<https://www.legalaid.vic.gov.au/annual-report>

SECTION 4.14 DATA COLLECTION

We recommend that the Commonwealth and state governments invest in increasing funding for CLC salaries and benefits to address wage inequity between the public service/LACs and community legal sector. To achieve this goal, we recommend a comparison is undertaken of salaries and conditions of LAC positions with the salaries and conditions of comparable roles under the SCHADS Award.

Working environment

The Workforce Survey heard from CLC workers that working conditions (for example, the availability of new technology to reduce the administrative burden) were ‘backward’ or behind other sectors and types of legal services.¹⁵⁴

NLAP funding should consider total package inclusions, recognising access to modern technology and more engaging workspaces and other benefits are currently available to staff at LACs to a greater extent than staff at CLCs.

We recommend NLAP baseline funding allows CLCs to provide modern technology and office space for their staff of an equivalent standard to the public sector.

Short-term CLC funding and lack of indexation

Short-term CLC funding results in short-term employment contracts. This makes employment at CLCs less secure and attractive. This in turn makes recruitment and retention of CLC staff challenging. It also has a flow on impact on service continuity and client confidence.

A further contributing factor is inadequate indexation. Because indexation has been far less than award wage increases, the amount of funding available to CLCs is declining in real terms (see Section 4.7 Managing Demand over Time for more detail).

The Workforce Survey found that only 57.1 per cent of CLC employees were engaged on ongoing contracts;¹⁵⁵ whereas 84.5 per cent of VLA staff are engaged on ongoing contracts.¹⁵⁶ Not surprisingly, CLC employees who had ongoing or permanent positions were more likely to see a longer-term future at their current CLC compared with those on fixed-term contracts.¹⁵⁷

As highlighted in Section 4.7 Managing Demand Over Time, we recommend that funding to CLCs be at least five years and preferably seven years in length to ensure job security for CLC employees and continuity of service to the Victorian community. We further recommend that the NLAP is used as a commitment by states and territories, as well as the Commonwealth, to make long-term, adequately indexed financial contributions.

¹⁵⁴ Kutin and others (sustainable workforce), above note 33, pp.32–33.

¹⁵⁵ Kutin and others (workforce profile), above note 138, p.27.

¹⁵⁶ Victoria Legal Aid, above note 153, p.30.

¹⁵⁷ Kutin and others (workforce profile), above note 138, p.31.

SECTION 4.14 DATA COLLECTION

Delays in notification of funding

Delays in notification of funding to CLCs result in employment uncertainty due to contracts not being renewed until just before or after expiry. This can result in high levels of staff attrition. Staff recruitment is a resource intensive activity. For example, CLCs were notified of Victorian Government funding for FY2024 on the afternoon of 30 June 2023. NLAP funding for FY2024 and 2025 was only announced five weeks earlier. This resulted in many CLCs losing experienced staff which led to a pause in service delivery to the community and a loss of momentum in the organisation. This is not a new issue for CLCs and one that must be addressed urgently by all levels of government.

In preparation for the 2023 Victorian State Budget, the Federation solicited some real-life case studies about CLC staff attrition. Appendix E provides examples of the loss of key staff where funding announcements are delayed and are made just before grants are about to lapse, as well as the impact of short-term funding on staff retention, service delivery and long-term organisational planning.

We recommend that Commonwealth, state and territory governments are required to notify CLCs of whether or not lapsing funding will be renewed at least six-months before funding expires. With a commitment to partnership from the Commonwealth, states and territories under the NLAP, this can be achieved.

There are ways to channel more lawyers into CLCs

Across Australia, only 3 per cent of solicitors are employed in CLCs.¹⁵⁸ Community demand for legal assistance outstrips supply. There currently is no structured pathway for graduate lawyers to move into CLCs. There is some urgency to address this to create a workforce for the future to address community demand for legal assistance.

“For many, the preparation in law school for community legal centre work appeared to happen more by chance than by design, and many were concerned that law schools could do more to overtly support community lawyering. The findings question whether law schools and regulators of the legal profession can do more to prepare community lawyers of the future and a sustainable community legal sector.”¹⁵⁹ – 2022 VICTORIAN LAW FOUNDATION

There is an opportunity for the Commonwealth to support multi-year graduate placements in each state and territory. This could include, for example, incentivising new law graduates to join these programs by providing evidence of study, volunteering or clinical placements at CLCs to demonstrate interest in and fitness for work in community legal settings; and reducing their HECS debt after completing a placement and continuing to work at a CLC for a period of time. Such a program could be used to incentivise placement of law graduates in RRR locations (with sufficient support for both the graduate and the host

¹⁵⁸ Jozica Kutin, Hugh McDonald, Nigel Balmer, Tenielle Hagland, Clare Kennedy, & Joe Okraglik. *Working in community legal centres in Victoria. Results from the Community Legal Centres Workforce Project: The role of legal education*, Victoria Law Foundation, 2022, p.9. <https://victorialawfoundation.org.au/research/research-reports/working-in-community-legal-centres-in-victoria-the-role-of-legal-education>

¹⁵⁹ *ibid.*

SECTION 4.14 DATA COLLECTION

CLC). There is a role for governments (Commonwealth and state), policy makers, universities and CLCs in developing this.

We recommend the Commonwealth fund a national initiative to promote the importance and value of community law and to create structured pathways, including through a graduate placement program, from universities to CLCs.

The CLC volunteer workforce saves government significant money, but costs CLCs to operate

CLCs rely heavily on volunteers to provide leadership, legal, client service and operations services for CLCs and the communities they serve. The Workforce Survey estimated that volunteers, students and board members contribute an average of 15,633 volunteer hours per week at Victorian CLCs.¹⁶⁰

Avoided costs to government of volunteer contributions to Victorian CLCs

Using the Volunteer Replacement Cost Calculator,¹⁶¹ the 15,644 hours of work by volunteers in Victoria's CLCs each week equates to a workforce expense (and minimum avoided costs to government) of

\$35,818,683

each year in Victoria.

This volunteer contribution is approximately seven times the contribution made by the Commonwealth Government under NLAP to Victorian CLCs in 2022–2023 of \$5,123,455.

Without these extraordinary volunteer contributions, CLCs would be unable to reach the number of individuals and communities that they do. However, CLCs do not currently receive baseline funding to operate their volunteer programs.

We recommend that NLAP supports CLCs of recruit, train and supervise volunteers (as set out in Recommendation 20 above).

¹⁶⁰ Kutin and others (workforce profile), above note 138, Table 18, p.28. Calculation: (5.6 hours (mean no of volunteer hours) x 2,081 volunteers) + (11.7 hours (mean no of student hours) x 313 students) + (1 hour (median no of board volunteer hours) x 318 volunteer board members) = 15,633.7 hours.

¹⁶¹ <https://stateofvolunteering.org.au/volunteer-replacement-cost-calculator/>

4.14 DATA COLLECTION

WE RECOMMEND THAT:

41. The NLAP Review support CLCs Australia's proposal to transition its role to that of custodian of sector data for reporting and analysis purposes. CLCs Australia would cease its current role of directly supporting and administering a case management system (CLASS).
42. As per Recommendation 20 above, NLAP provide CLCs with sufficient baseline funding to adopt modern, fit for purpose systems for the collection, sharing and analysis of data that is collected.
43. NLAP provide adequate baseline funding to enable the CLC sector to capture reporting requirements and implement changed data requirements in a timely and consistent fashion (as noted Recommendation 20 above). Funding needs to be directed to national and state peaks to facilitate data reporting requirements and outcomes, including funding for a dedicated data specialist in each peak.
44. Annual data sharing and learning sessions be conducted which involve Commonwealth, state and territory justice departments, CLCs Australia and state and territory peaks to consider opportunities and constraints of systems and data.
45. NLAP adopt a clear delineation of purpose, scope and standards for data they require to be collected from CLCs across two different types of information:
 1. performance indicators; and
 2. additional in-depth data based on research-type projects to probe specific issues or problems and to provide more in-depth information from selected services.
46. Changes to reporting requirements be minimised, but where the change is agreed nationally and reflected in updated Bilateral Agreements, details must be communicated at least six months before the commencement of the initial reporting period, and 12 months' notice for major changes to allow time for consultation and implementation.
47. A review of the NLAP Data Standards Manual be undertaken with the view to designing a smarter dataset to take us into the future.

Quotes in this section from Victorian CLCs come from the consultation convened by the Federation for 30 Victorian CLCs on 27 September 2023 to provide feedback for this submission specifically on data issues.

SECTION 4.14 DATA COLLECTION

CLC sector data is overly costly and burdensome to collect and is not of sufficient quality or relevance

Our submission is based on a view that we need to address reporting burden, data quality and relevance to better inform the needs and issues faced by CLCs and the communities that they serve. In parallel this better supports the work of Commonwealth, states and territories to manage funding, inform decisions and ensure responsiveness to ongoing and emerging needs.

"In its current form, the administrative data collected by the legal assistance sector is not sufficiently accurate and consistent to reliably evaluate sector-wide performance and policy."¹⁶²
– 2020 VICTORIAN LAW FOUNDATION

To achieve high quality, comparable information from CLCs that is useful for operational and sector planning requires investment in systems and people and further development of data standards.

Investing in systems and people

Better systems are needed for data collection, reporting and visualisation

The core system provided to CLCs to assist with case management and reporting is CLASS. The case management component of this system is not able to adequately support CLCs to manage the services they provide.

In addition, CLASS has significant limitations as a sector planning tool because it does not include data from all CLCs. In Victoria, only 29 of the 47 CLCs (62 per cent) enter data into CLASS. The quality of the data is also variable because many centres that use CLASS enter data purely to fulfil their reporting obligations and thus it becomes an overhead rather than a supporting system with consequent impact on data consistency and quality.

There is a cost associated with collecting data, so data collection needs to be as simple and effective as possible. There are too many inefficiencies in the current approach. In 2020, a study by the VLF found that more than 90 per cent of CLCs store data to fulfil reporting requirements in more than one system (for example, CLASS and Excel).¹⁶³ As well as evidence of the inadequacy of the current system, this results in greater effort to collect and access data and more opportunity for quality errors to arise.

The study also found that data entry was undertaken by volunteers or administration staff in a high proportion of CLCs.¹⁶⁴ This is problematic if paper or other means of recording data are then passed on to someone else to enter. Simply, every point of administrative hand-off increases the risk of data being entered incorrectly, mis-interpreted, delayed or misplaced.

¹⁶² Hugh McDonald, Cosima McRae, Nigel Balmer, Tenielle Hagland & Clare Kennedy, *Apples, Oranges and Lemons – The use and utility of administrative data in the Victorian legal assistance sectors*, Victorian Law Foundation, 2020, p.95. <https://a.storyblok.com/f/139306/x/fb4936a87e/apples-oranges-and-lemons-the-use-and-utility-of-administrative-data-in-the-victorian-legal-assistance-sector.pdf>

¹⁶³ *ibid*, p. 32.

¹⁶⁴ *ibid*, p 35.

SECTION 4.14 DATA COLLECTION

The complexity of some of the reporting requirements is such that senior staff are often required to spend considerable time consolidating or summarising the data that is entered.

Many CLCs are moving to other systems that better meet their operational needs but which also have the capacity to share their data with the CLCs Australia reporting repository. In Victoria, 30 of our 47 CLCs will have the Actionstep system in place by early 2024 and will be able to feed reporting data directly to CLCs Australia. While many Victorian CLCs have adopted Actionstep, there are also other systems that CLCs can and do use to achieve the same objectives.

We highlight that this high level of adoption of modern case management systems in Victoria has only been made possible through dedicated funding from DJCS for this purpose.

We support CLCs Australia's position that its preferred role in the next NLAP agreement period is to manage a reporting data repository rather than a case management system.¹⁶⁵ CLCs Australia acknowledges the need to provide support and assistance to CLCs with their system needs; but its preferred model is for CLCs to be able to select from a number of compliant systems to assist with case management and to facilitate a model where deidentified data from any system can be transferred securely to CLCs Australia's reporting repository.

We also strongly support a model where the data submitted to a CLCs Australia data repository is readily accessible by CLCs and stakeholders for sector planning and operational purposes. This requires funding to be successful, both for individual CLCs and for CLCs Australia to provide ease of access to the data for sector planning and operational purposes.

We favour a model where baseline NLAP funding is allocated to CLCs to support and maintain a compliant legal management system of their choice and CLCs Australia is provided with funding to support and maintain a reporting repository and provide related advice and assistance to CLCs.

The Federation, with the assistance of DJCS funding, is working with CLCs Australia on options to improve access to the data in the reporting repository and this project shows great promise not only for Victorian CLCs but also for those elsewhere in the country.

Currently, the Commonwealth, state and territory governments contribute significantly to the cost of managing the CLASS database. It may be preferred that a similar contribution model is adopted going forward for a data repository managed by CLCs Australia. In addition, subject to permissions granted by CLCs Australia on behalf of the CLC sector, data within the repository could be provided at a suitable level of deidentification and aggregation to the Commonwealth and states and territories.

We support CLCs Australia's proposal to transition its role to that of custodian of sector data for reporting and analysis purposes. CLCs Australia would cease its current role of directly supporting and administering a case management system (CLASS).

¹⁶⁵ Community Legal Centres Australia, *Our future in data storage and reporting*, August 2023. This position is reflected in CLCs Australia's submission in response to the Issues Paper.

SECTION 4.14 DATA COLLECTION

The Victorian experience can inform the cost of providing a case management system to CLCs

Based on the Victorian experience, the cost of providing and supporting a functional case management system to CLCs can be broken down as follows using 2023 figures for an average CLC with 20 system users:

- \$20,000 for one-off implementation and transition costs.
- \$20,000 per annum (indexed) for ongoing costs (software licensing, limited support and a service to share data with CLCs Australia for NLAP reporting).
- \$3,000 per annum (indexed) for a service to visualise and use the data (assumes Power BI access to a shared CLCs Australia managed data repository).

Leaving aside the one-off implementation costs, this equates to an annual cost of \$23,000 per CLC (assuming 20 users as the average across CLCs).¹⁶⁶ This cost could be partly offset by a change to the state contribution for CLASS which could be reduced to just those funds needed to support reporting and visualisation of the data.

We recommend NLAP provide CLCs with sufficient baseline funding to adopt modern, fit for purpose systems for the collection, sharing and analysis of data (as noted in Recommendation [20 above]).

Supporting CLCs with their data collection systems and processes

It would be ineffective to provide CLCs with funding to implement modern systems without providing support for implementation and to ensure the value is maximised and quality of data is improved.

To facilitate enhanced data quality and consistency, we submit that CLCs should receive baseline funding to assist with data collection and management; and a central role is available in each jurisdiction (best placed in the state and territory peaks) and at CLCs Australia to assist CLCs to maintain systems and improve data quality.

There is a cost associated with collecting data, and so any changes to data collection need to be considered from a value proposition perspective (that is, the value of the information to be obtained must be worth the cost of its collection). Additionally, the cost of data collection should not be assumed to be a cost that must be borne by the individual agency.

¹⁶⁶ An average of 20 users for each CLC is based on a survey of Victorian CLCs. The annual cost for Victoria's 47 CLCs would therefore be \$1,081,000.

SECTION 4.14 DATA COLLECTION

CLCs see value in funding a shared resource to support CLCs with data

The Federation has been running a project to improve legal management systems for the past three years. It has employed an Implementation Analyst to assist CLCs to prepare for implementing Actionstep and to coordinate efforts to maximise the use of the new system. Starting in 2021, this role was initially funded through a DJCS grant and then the Federation chose to use its own funds to extend the role, which is still in place.

The Implementation Analyst also convenes a Community of Practice to provide advice to CLCs and enable knowledge sharing.

This model has been extremely successful, with the Victorian Collaborative Planning Committee Sector Outcomes Pilot calling for additional Implementation Analyst roles in its submission to this Review.

This model assists CLCs to implement and maintain their systems and improve data quality. Using the current arrangement in Victoria as an example, we estimate the cost to replicate this valuable service at \$200,000 per year per position (unindexed), comprising salaries and systems to consolidate and analyse data at a sector level. Such capability is most usefully located in the state and territory peaks to complement capacity building work undertaken by the peak with member CLCs.

Because the effort of managing systems and the data required for funder reports is not acknowledged in funding programs, quite different approaches are taken by individual CLCs. Often an administrative staff member takes on the role but also draws heavily on management staff or service providers who have shown an interest in systems or data. Some larger CLCs have staff employed specifically to manage reporting obligations to funders. CLCs are aware that the piecemeal approach to data and systems in the sector impacts on the quality and consistency of data for their centre and the sector as a whole.

Unfortunately, it is not unusual for the reporting requirements for NLAP funded programs to be provided to CLCs after the funding year has commenced. This practice is problematic because it can result in missing or inaccurate data. In an environment where CLCs are adopting new modern systems (such as Actionstep) with data passed to CLCs Australia for reporting purposes, vendors of the systems may need to change their systems to accommodate changes. Adequate lead time is needed for the vendors to effect these changes.

We recommend that NLAP provide adequate baseline funding to enable the CLC sector to understand and capture reporting requirements, and implement changed data requirements in a timely and consistent fashion (as noted in Recommendation 20 above). In doing so, funding also needs to be directed to national and state peaks to achieve data reporting requirements and outcomes, including funding for a dedicated data specialist in each state and territory peak.

We need to simplify reporting and improve the quality and relevance of data collected

It is not possible to look at data issues under NLAP in isolation – rather, it is crucial that it is considered in light of all the funding streams that CLCs are balancing as they operate their services. Under NLAP itself,

SECTION 4.14 DATA COLLECTION

CLCs may receive multiple funding streams (for example, a CLC may receive baseline NLAP funding and NLAP special funding, such as vulnerable women funding and workplace sexual harassment funding). In addition, CLCs are likely to receive funding through other non-NLAP Commonwealth streams, state government and philanthropic funding streams.¹⁶⁷

NLAP can help with data quality by improving data standards and ensuring data collection is better targeted to the need

While different funding programs may require additional program specific data items to be collected, too often the core data they require has slightly different field descriptions, data items or counting rules for similar data.¹⁶⁸ This adds significantly to the reporting burden of CLCs and can lead to differences in interpretation of data definitions. A lack of visibility of how the data is used also means that many CLCs are unconvinced of the value or relevance of much of the data they collect.

Victorian CLC staff feel the lack of quality and consistency means the data does not provide an adequate reflection of the nature and value of their work.

“We need to step back and understand what metrics we need, what they mean, and what do we have to do to have meaningful insights.”¹⁶⁹ – VICTORIAN CLC, 2023

Simplifying reporting by requiring both Commonwealth and state and territory governments to use common fields, ideally based on NLAP standards, and adding this data to a reporting database could significantly reduce the reporting burden on CLCs. The Commonwealth should work to ensure common data fields are used in reporting of services delivered under non-NLAP funding arrangements administered by other Commonwealth departments which are directed to legal services.

We recommend that the Commonwealth, state and territory justice departments convene an annual data sharing and learning session with CLCs Australia and state peaks to better understand the opportunities and constraints of current systems and data.

Designing a dataset that prepares us for the future

The current model for data standards and quality is not working. Not only is there considerable inconsistency in application of definitions between CLCs, but the approach also varies between practitioners within a CLC.

“Has anyone ever looked at the level of consistency of recording against the Data Standards? I expect it would be highly variable. I think it varies just across our centre.”¹⁷⁰ – VICTORIAN CLC, 2023

¹⁶⁷ Typically, Victoria CLCs manage an average of nine funding streams. The largest number of funding streams we heard from a Victorian CLC was 48.

¹⁶⁸ To accommodate nine of the most common funding programs, a CLC needs to capture 53 data fields that are fundamentally about clients and services.

¹⁶⁹ Views expressed by Victorian CLCs at the Federation’s consultation on data collection, quality and consistency, conducted on 27 September to support this submission.

¹⁷⁰ *ibid.*

SECTION 4.14 DATA COLLECTION

The NLAP Data Standards Manual¹⁷¹ is the most relevant tool to promote data quality and consistency. However, as it is currently written, it does not meet the needs of the sector as it is too open to interpretation, too long and complex and thus also means data collection is not standardised.

"I think it's important for government funders to develop a consistent set of requirements for data collection, reflecting how the data is actually going to be used by those funders. We will need to gather data for service delivery and other purposes, but central reporting requirements need to be tied to a realistic projection of the use to which data will be put."¹⁷² – VICTORIAN CLC, 2023

We recommend a review of the NLAP Data Standards Manual be undertaken collaboratively by the Commonwealth Government, state and territory government, CLCs Australia and state peaks with the view to designing a dataset that prepares us for the future.

Better targeted data

Current approaches to data collection do not capture complexity and attempts to do this with proxy measures are not working. We submit it is important to balance some key indicator data that is collected routinely (and provides a basic view of the quantum of services delivered and types of needs being served) with more in-depth information to better understand the nature of legal need, the types of service mixes required, the value of integrated approaches, and how different approaches lead to better client and systemic outcomes.

The current measures do not support monitoring of continuous improvement. They are largely limited to counts of services and clients. Accordingly, they do not inform service delivery models, service improvement or provide information about effectiveness of service or client outcomes. For example, if the data shows a CLC provides 10 per cent more/less services from one year to another with a static level of funding, there is no information to confirm if this is improved/reduced efficiency or effectiveness, or whether clients achieved better/worse outcomes.

There is an opportunity under NLAP to promote data collection which both provides funders with the information they need about the services being delivered, and also provides CLCs with the information they need to evaluate and improve their programs.

Given the diversity of the CLC sector – with large and small place-based services, highly specialised services operating statewide, and varying types of specialisation in many location-based services – it is worth considering what data is most informative for cohorts of services. There is limited recognition of this under the current NLAP, with only slight variations of data collected for certain programs and also for specialist disaster related funding programs.

¹⁷¹ Attorney-General's Department, *National Legal Assistance Data Standards Manual – Version 3*, 2021.

<https://www.ag.gov.au/legal-system/publications/national-legal-assistance-data-standards-manual>

¹⁷² Views expressed by Victorian CLCs at the Federation's consultation on data collection, quality and consistency, conducted on 27 September to support this submission.

SECTION 4.14 DATA COLLECTION

"An overarching question about data is purpose. There seems to be a critical need to hone the approach to data collection, collation and reporting with relevant purpose(s). This should include how such data will be used to inform fundamental questions of legal need."¹⁷³ – VICTORIAN CLC, 2023

We suggest two types of information should be collected by CLCs to inform planning, monitoring and accountability. The first set of reporting (performance indicators) is required to be reported under NLAP. The second set of data is not reported by individual CLCs, but the outcomes of such research is shared across the sector and with government (Commonwealth and state).

1. **Performance indicators which apply to all funded services and are collected by CLCs and reported regularly to funders** (for example, every six months or annually). This is the only data formally used for accountability/compliance purposes.
2. **Additional in-depth data based on research projects to probe specific issues or problems and to provide more in-depth information from selected CLCs (and also ATSILS and LACs depending on the research project)**. This is the approach that will most usefully inform practice improvement, taking into consideration the many factors which influence client outcomes.

More in-depth information is better served by specifically focused activity, which is conducted as a research project, conducted periodically (perhaps annually). This would enable the formulation of an appropriate methodology and allow for some limited adaptation by jurisdiction or other factors (e.g. regionality or remoteness).

Research project data gathering provides an opportunity to gain rich information about key aspects of the work of the sector in terms of service delivery and most effective models. The PULS is an excellent example of a research project report that provides valuable information about legal need.¹⁷⁴

This area of information could be considered for joint work with relevant research bodies. For example, NLAP could provide for a number of suitable research projects to be undertaken during its life which might focus on specific areas for understanding and improvement. These might be projects fully funded by NLAP or funded jointly by the Commonwealth, state and territory governments.

More defined research approaches also mean that not all CLCs need to participate in a specific project, which mitigates the problem of generic data collection across place-based services and highly specialist services.

We recommend NLAP adopt a clear delineation of purpose, scope and standards for data collection by funders from CLCs be developed across the following types of information:

- **Performance indicators.**
- **Additional in-depth data based on research projects to probe specific issues or problems and to provide more in-depth information from selected services.**

¹⁷³ Views expressed by Victorian CLCs at the Federation's consultation on data collection, quality and consistency, conducted on 27 September to support this submission.

¹⁷⁴ Balmer and others, above note 3.

SECTION 4.14 DATA COLLECTION

If new reporting requirements draw on 'Additional data' items defined in the NLAP Data Standards Manual, then at least 12 months lead time prior to the commencement of the reporting period should be provided to CLCs and their system developers. If the data items are new, then even more lead time should be provided. Changes to the reporting requirements significantly add to the reporting and administrative burden for CLCs. Adequate lead time is required to consult on, plan for and implement the changes required.

We recommend that changes to reporting requirements be minimised, but where the change is agreed nationally and reflected in updated Bilateral Agreements, details must be communicated at least six months before the commencement of the initial reporting period, and 12 months' notice for major changes to allow time for consultation and implementation.

APPENDIX A: EY'S LEGAL DEMAND MODELLING

This is an extract of the business case information and demand modelling conducted by EY for Victorian CLCs and documented in EY's 2020 report *Meeting demand for community legal assistance*. In the extract below, 'we' and 'our' refers to EY.

Demand modelling – summary of assumptions and method

The demand modelling drew on service data from FY 2018–FY20 provided by 12 sample Community Legal Centres. This data comprised the number of services provided, the types of services provided, the estimated time spent on each type of service, and Community Legal Centre referral information, including turn-away data...Met demand was measured using the service data provided by the sample Community Legal Centres in a simple 'number of services provided' count, averaged across the Community Legal Centres.

...

Funding calculation – summary of method

It was not possible to determine comprehensively the sources or amount of funding received by the Community Legal Centre sector. However, EY was provided with the core funding contribution made each year by the Victorian State Government, and a sample of Community Legal Centres was analysed to determine the proportion of funding received from the government and other sources, such as private donors, project-based grants, etc.

...

The amount of funding required was calculated as follows:

$$\begin{array}{c} \text{Number of services/type (to maintain service provision)} \\ \times \\ \text{time taken/service type} \\ \times \\ \text{indicative salary (provided by the Federation of Community Legal Centres)} \end{array}$$

The funding calculations may not capture the full extent of funding required to maintain... the Community Legal Centre sector's ability to meet the forecasted demand for its services because:

- The source data for the 'time taken' to complete each service type was limited (not all sample Community Legal Centres recorded this data), and although the time estimates were corroborated with the Federation, may not be entirely accurate, especially given that the data does not necessarily capture time associated with activities such as transport to and from court/tribunals, reviewing files, research, etc.

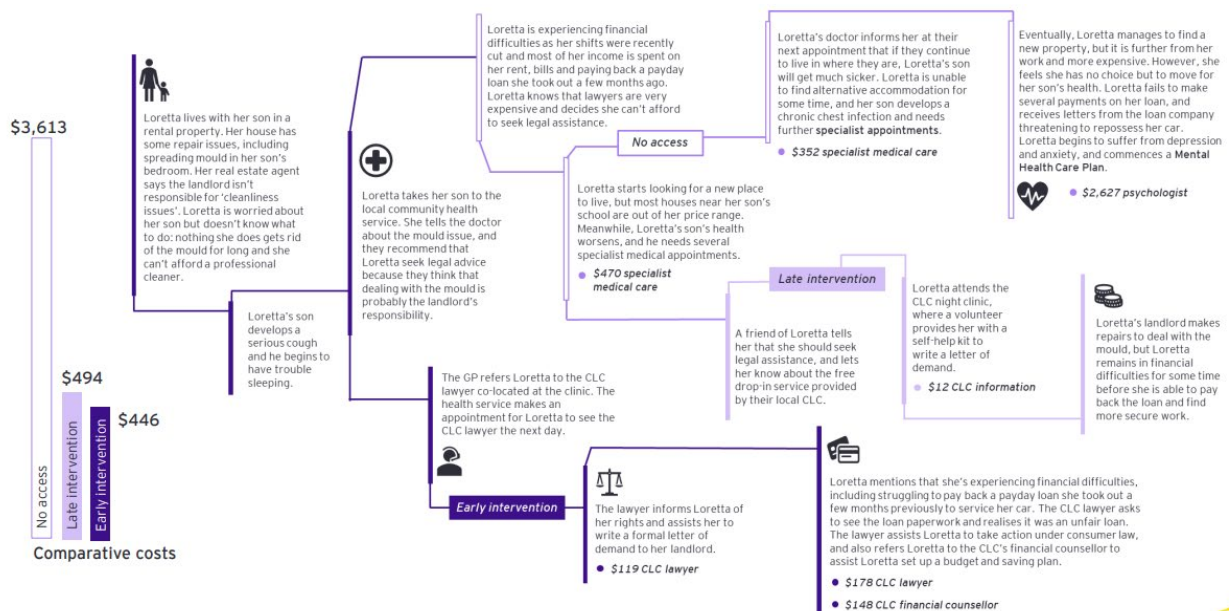
APPENDIX A: EY'S LEGAL DEMAND MODELLING

- The indicative salary reflects a 'halfway point' between the average salary of a full-time lawyer, and the average salary of administrative staff (as some services within the data are undertaken by lawyers, and others by support staff). This may not accurately reflect staffing costs given that it was not possible to undertake comprehensive analysis of staffing arrangements across the sector.
- Ongoing efforts to raise the profile of Community Legal Centres and increase awareness of their services among the community may increase demand in coming years, decreasing the level of 'hidden legal need' but increasing, overall, the number of services actually sought from Community Legal Centres.
- Most significantly, the calculations do not capture the time (and cost) associated with securing funding, including applying for grants, reporting, and other administration. Given many Community Legal Centres are highly reliant on project/grant-based funding to provide their services, this potentially represents a significant hidden cost.

APPENDIX B: AVOIDED COST MODELLING PERSONA JOURNEYS

The following four models were developed by EY and documented in EY's 2020 report *Meeting demand for community legal assistance*.

Loretta

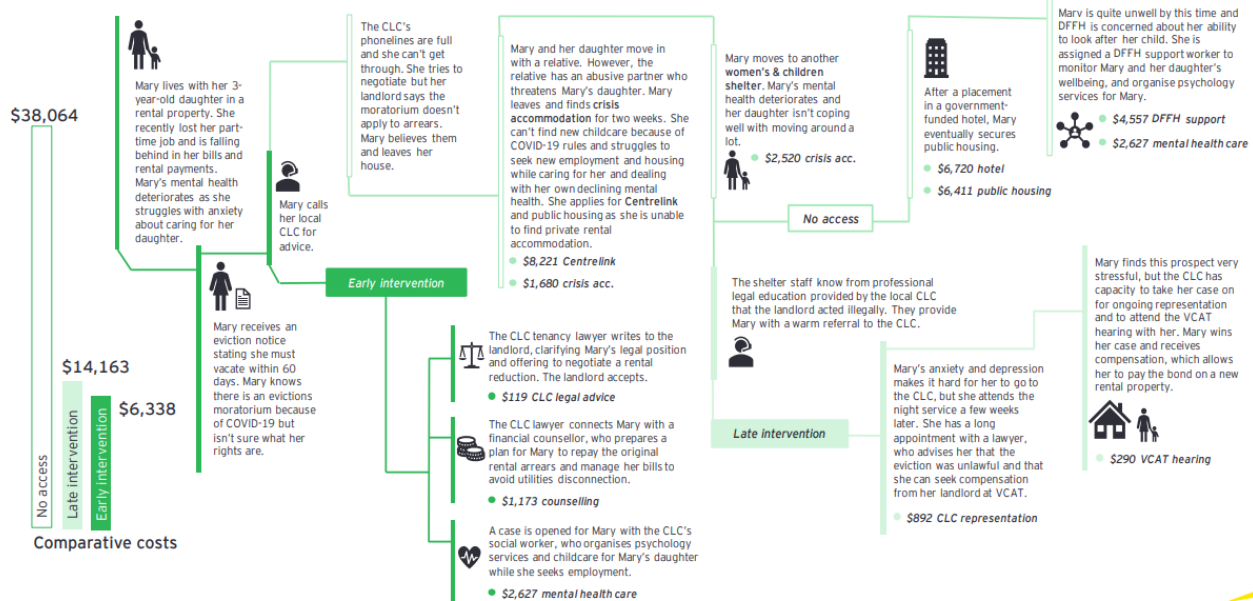


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APPENDIX B: AVOIDED COST MODELLING PERSONA JOURNEYS

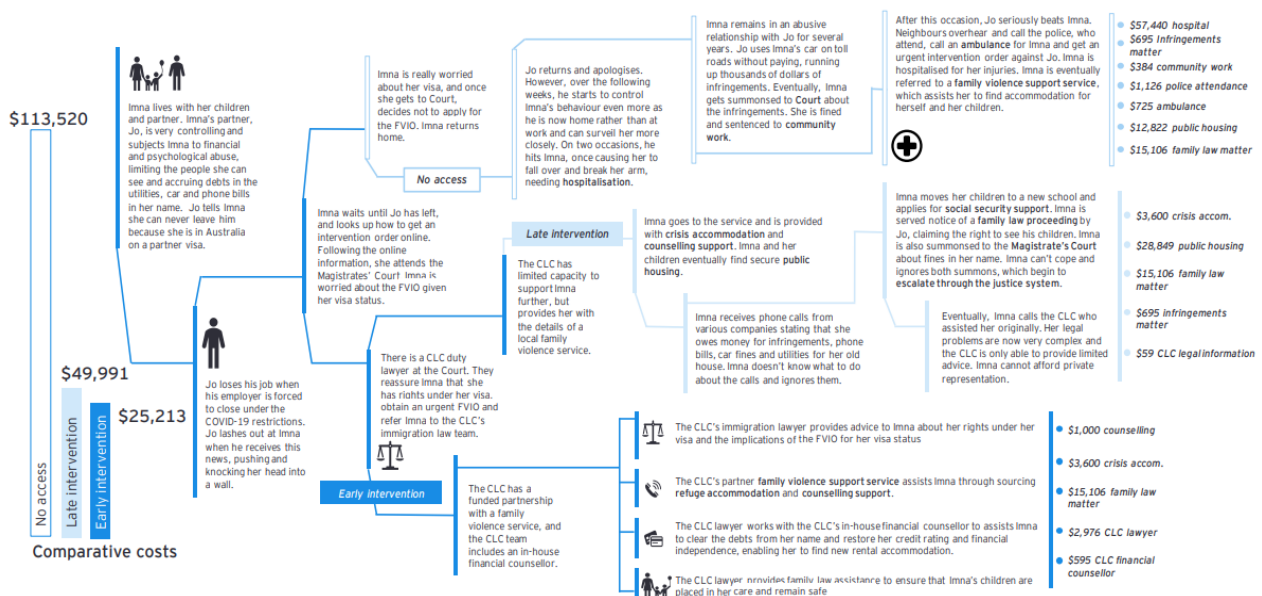
Mary



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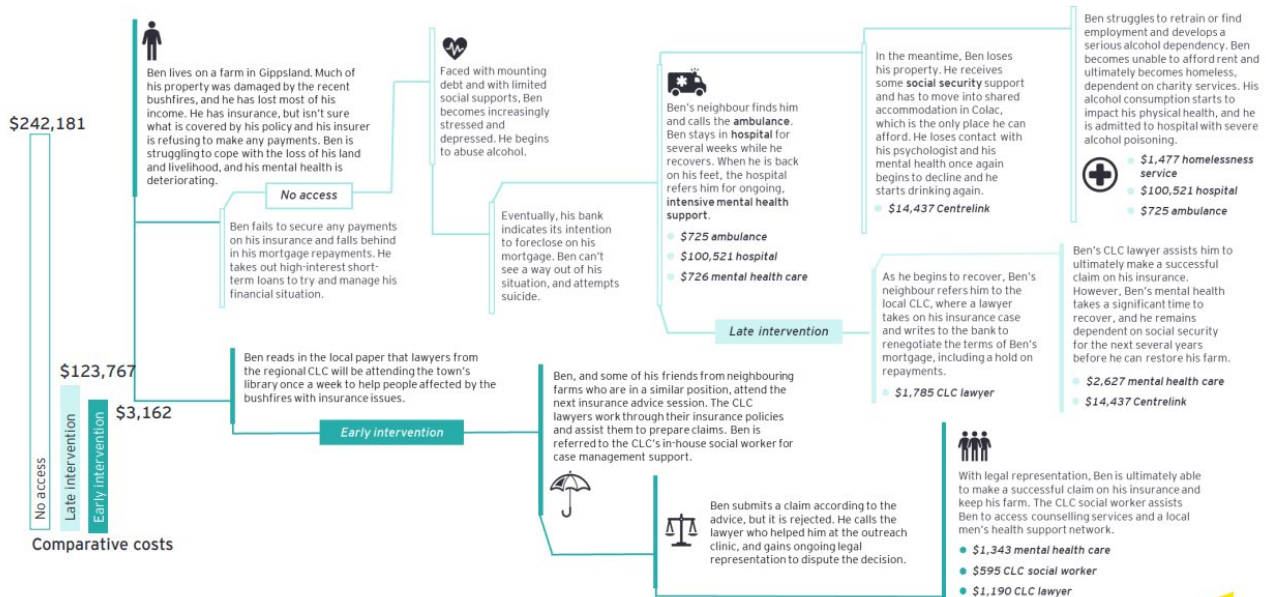


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APPENDIX B: AVOIDED COST MODELLING PERSONA JOURNEYS

Ben



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APPENDIX C: INTEGRATED SERVICES EVALUATIONS

For a copy of the reports that are not publicly available, please request access from the individual CLC.

Report Title	Publicly available?
Sector-Wide	
<u>Meeting People Where They Are, Delivering Integrated Legal Community Services. Federation of Community Legal Centres (funded by the Department of Justice and Community Safety).</u> D Goodrick and E Sampson (2020).	Yes
<u>“It’s Hard to Open Up to Strangers” Improving Access to Justice: The key features of an integrated legal services delivery model. La Trobe University</u> M Noone and K Digney (2010).	Yes
<u>Integrated Practice – Better Practice Principles</u> Eastern Community Legal Centre (2019)	Yes
Health	
<u>Partners in Care: The Benefits of Community Lawyers in a Hospital Setting.</u> Inner Melbourne Community Legal and University of Melbourne (2018).	Yes
<u>Health justice partnerships: a promising model for increasing access to justice in health services. Australian Health Review.</u> V Lewis, L Adamson, and F Hawthorne (2018).	Yes
<u>Health Justice Partnership Legal Clinics in the Hospital Evaluation Report.</u> Inner Melbourne Community Legal and University of Melbourne (2018).	Yes
<u>A Research and Evaluation Report for the Bendigo Health-Justice Partnership: A partnership between Loddon Campaspe Community Legal Centre and Bendigo Community Health Services. Australian National University.</u> E Curran (2016).	Yes
Labels Changes Everything: How a Health Justice Partnership is quietly transforming legal and family violence support in Maternal and Child Health Services, Final Evaluation Report, Effective Change. Eastern Community Legal Centre (2018).	No

APPENDIX C: INTEGRATED SERVICES EVALUATIONS

Report Title	Publicly available?
<u>It Couldn't Have Come At A Better Time: Early Intervention Family Violence Legal Assistance.</u> Eastern Community Legal Centre (2018).	Yes
<u>Maryborough Therapeutic Justice Project.</u> Loddon Campaspe Community Legal Centre and Maryborough District Health Service (2020).	Yes
<u>Central Highlands Health Justice Partnership: Evaluation Report. Federation University.</u> M Camilleri, A Ollerenshaw, J Corbett, M Taylor and T Burrows (2018).	Yes
Women's Legal Service of Victoria – Together from the Start: a health justice partnership with Monash Health. Interim evaluation and progress report to funder (VLSB). Unpublished. H Barclay, K Neophytou and A Garcia Negron (2021).	No
<u>Improving housing and health outcomes: understanding and addressing barriers to VCAT attendance. West Heidelberg Community Legal Service and Banyule Community Health.</u> S Price and B Millard (2018).	Yes
Equity, Health & Wellbeing Project Evaluation Report Model Summary and Implementation Lessons. West Heidelberg Community Legal Service.	No
<u>Health Agency to Court, Tackling the Fines System Evaluation Report 2018-2019</u> WEstJustice (2020).	Yes
Mental Health, Alcohol and Other Drugs	
<u>Legally Minded: Understanding how legal intervention can improve the lives of people with mental ill-health, final research report. Mind Australia and Northern Community Legal Centre.</u> L Hayes, M McDonald, L Hudson and F May (2021).	Yes
Health outcomes and service use patterns associated with co-located outpatient mental health and alcohol and other drug specialist treatment: a systematic review. University of Melbourne, In press. First Step Legal (2021).	Request full text <u>here</u>
HeaL program evaluation report E Pritchard Consulting and Eastern Community Legal Centre (2022)	No

APPENDIX C: INTEGRATED SERVICES EVALUATIONS

Report Title	Publicly available?
Drug Outreach Lawyer Program – Darebin E Pritchard Consulting and Fitzroy Legal Service (2019).	No
<u>Final Evaluation</u> First Step Legal (2017).	Yes
Family Violence	
<u>Evaluation of the Pre-court Support for Adolescents using violence in the home (AVITH) Pilot</u> Centre for Innovative Justice (2022) (Youthlaw)	Yes
<u>The PIPA project: Positive Interventions for Perpetrators of Adolescent violence in the home (AVITH) by Elena Campbell, Jessica Richter, Jo Howard and Dr Helen Cockburn</u> Centre for Innovative Justice (2020) (Youthlaw)	Yes
<u>Acting on the Warning Signs Evaluation – Final Report.</u> University of Melbourne and Inner Melbourne Community Legal (2014).	Yes
Progress Report for SAGE Program: Domestic Violence Unit Eastern CLC, 1 July 2019–31 December 2019. Eastern Community Legal Centre (2020).	No
<u>It Couldn't Have Come At A Better Time: Early Intervention Family Violence Legal Assistance, Mabels Program.</u> Eastern Community Legal Centre (2018).	Yes
<u>inLanguage, inCulture, inTouch: Integrated model of support for CaLD women experiencing family violence. Final Evaluation Report. Jean Hailes for Women's Health.</u> V Kalapac (2016).	Yes
<u>Evaluation of the pilot program of specialist domestic violence units and health justice partnerships established under the women's safety package. (Prepared for the Attorney-General's Department).</u> Social Compass (2019).	Yes
Women's Legal Service Victoria LINK Community Domestic Violence Unit (DVU) Project. Mid-term review: Unpublished. E Pritchard (2021).	No
<u>Indian Women's Family Violence Project – Findings and Recommendations, March 2021</u> Northern Community Legal Centre (2021).	Yes

APPENDIX C: INTEGRATED SERVICES EVALUATIONS

Report Title	Publicly available?
Evaluation of the expanded Mabels health justice partnership: interim report Effective Change and Eastern Community Legal Centre (2023).	No
Restoring Financial Safety: The Transforming Financial Security Project WestJustice (2021).	Yes
Family law and social security	
Evaluation of the Community Legal Centre Children and Family Law Pilot. The Incus Group (2017).	No
Specialist social security lawyers and financial counsellors working together to improve client outcomes – Evaluation. Social Security Rights Victoria (2020).	Yes
Regional, remote and rural	
Hume Riverina Community Legal Service: Overcoming the Invisible Hurdles to Justice For Young People Australian National University (2020). Stage I, II and III reports available here.	Yes
Aboriginal and Torres Strait Islander	
Consumer Action Law Centre and Victorian Aboriginal Legal Service (2019) . Mid-Year Report (2019).	Yes
Consumer Issues in Victorian Aboriginal Communities Integrated Project Final Report 2020 Consumer Action Law Centre and Victorian Aboriginal Legal Services (2020).	Yes
Consumer Issues in Victorian Aboriginal Communities during 2020 Integrated Practice Project Report June 2021 Consumer Action Law Centre and Victorian Aboriginal Legal Service (2021).	Yes
Youth	
Sporting Change: Empowering Young People Evaluation Report 2017–2018 . South-East Monash Legal Service (2018)	Yes
School Lawyer Program WestJustice and SVA consulting	Yes

APPENDIX C: INTEGRATED SERVICES EVALUATIONS

Report Title	Publicly available?
<u>Health justice partnerships: initial insights into the delivery of an integrated health and legal service for youth in regional Victoria. Rural and Remote Health 2017; 17: 3975.</u> A Ollerenshaw and M Camilleri (2017).	Yes
<u>Hume Riverina Community Legal Service: Overcoming the Invisible Hurdles to Justice For Young People.</u> Australian National University (2020).	Yes
<u>Ignorance is NOT bliss: The barriers to employment outcomes for young people in Melbourne's West and how to overcome them</u> WestJustice Report of the Youth Employment Justice Project September (2021).	Yes
Homelessness and housing	
<u>Three Years of Embedding legal services to make justice accessible for homeless clients.</u> Justice Connect (2018).	Yes
<u>Improving housing and health outcomes: understanding and addressing barriers to VCAT attendance. West Heidelberg Community Legal and Banyule Community Health.</u> S Price and B Millard (2018).	Yes
<u>Keeping Women and Children Housed – Women's Homelessness Prevention Project.</u> Justice Connect (2018).	Yes
Justice Connect's Women's Homelessness Prevention Project – Cost Benefit Analysis Pitcher Partners Corporate Finance Vic Pty Ltd (2019).	No
<u>Closing the Revolving Door: Scoping the holistic legal needs of Victorians exiting prison.</u> Justice Connect (2021).	Yes
<u>Under One Roof - Responsively addressing the increasing legal needs of Victorians experiencing homelessness.</u> Justice Connect (2023).	Yes
<u>International Student Housing Project Report</u> WEstJustice (2020)	Yes
Women	
LACW Integrated Case Management Program: Evaluation Report. Law & Advocacy Centre for Women	No

APPENDIX C: INTEGRATED SERVICES EVALUATIONS

Report Title	Publicly available?
Institutional abuse	
<u>Evaluation of Knowmore Legal Service.</u> Knowmore Legal Service (2016).	Yes
Elder Abuse	
<u>Final evaluation of Eastern Community Legal Centre's Elder Abuse Response Programs - ROSE and ELSA service trials</u> La Trobe University, RMIT University and the National Ageing Research Institute (NARI) (2023).	Yes
<u>Elder Abuse - Response Trial - Final evaluation summary</u> Eastern Community Legal Centre, Eastern Health and Oonah Health & Community Services Aboriginal Corporation (2023).	Yes
<u>Final Evaluation of the Elder Abuse Service Trials Final report.</u> A report prepared by Inside Policy for the Attorney-General's Department (2023).	Yes
Refugee and Migrant	
Don't Settle for Less: The Settlement Justice Partnership and Fairer Outcomes for Refugees in Melbourne's West WEstJustice, Tess Matthews and Joseph Nunweek (2023)	No

APPENDIX D: WHAT WORKS WELL IN INTEGRATED PRACTICE MODELS

The following principles support a successful integrated practice models and partnerships:

- **Strong partnerships with other community organisations:** A strong commitment to integrated practice must occur at all levels of an organisation. Practitioners working in integrated services should be well supported by their leaders and executive so that they have the space to learn, share and reflect on their practice.¹⁷⁵ Healthy relationships between practitioners benefit clients as they will often trust the recommendation of their healthcare or other non-legal professional to link them in with a lawyer. There is strong evidence that trust built through secondary consultations leads to an increase in referrals.¹⁷⁶
- **A shared vision and purpose:** Having a shared vision and purpose of the integrated partnership is essential to ensuring all organisations involved are working towards the same goals. The shared vision should be developed in consultation with the community to ensure that the objectives of a program are informed by lived experience and grounded in safety and accessibility.¹⁷⁷
- **Robust policies and procedures:** There must be clear policies and governance documents supporting the integrated partnership to operate effectively and promote client safety, including around confidentiality, legal professional privilege and risk management. These should be regularly reviewed and refined to ensure models are working well.
- **Monitoring and evaluation:** Monitoring and evaluation must be embedded from the start of a new integrated practice or health justice partnership to continually reflect, review and refine program design.¹⁷⁸ There must also be capacity to incorporate co-design.¹⁷⁹ It is important to continually collect and analyse evidence of impact, and to recalibrate or adapt services as needed to ensure the objectives of the program are being met.¹⁸⁰ It is also important to recognise that raw client numbers are not always the most effective way to determine the success of a program. Evaluation should also include qualitative data collected through in-depth interviews with clients to demonstrate individual outcomes.¹⁸¹

¹⁷⁵ Eastern Community Legal Centre (Integrated Services), above note 77, p.4.

¹⁷⁶ Liz Curran, *A Research and Evaluation Report for the Bendigo Health–Justice Partnership: A partnership between Loddon Campaspe Community Legal Centre and Bendigo Community Health Services*, 2016, p.111.

¹⁷⁷ Eastern Community Legal Centre (Integrated Services), above note 77, p.4.

¹⁷⁸ Eastern Community Legal Centre (Early Intervention), above note 100, p. 5.

¹⁷⁹ *ibid* p. 5.

¹⁸⁰ Centre for Rights & Justice, Nottingham Law School, Nottingham Trent University, above note 114, p. 11.

¹⁸¹ For example, Margaret Camilleri, Alison Ollerenshaw, Jennifer Corbett, Meghan Taylor and Tania Burrows, above note 104 p.55.

APPENDIX D: WHAT WORKS WELL IN INTEGRATED PRACTICE MODELS

- **Professional development and capacity building:**

Formal professional development and capacity-building opportunities are essential to a successful integrated service. This must include training on cultural safety and trauma-informed practices.

For example, as part of its integrated service *Under One Roof*, Justice Connect provides tailored legal education training sessions for caseworkers and other non-legal at a frontline homelessness service which educate and empower non-legal workers to identify legal issues early and refer to the legal service in a timely manner.¹⁸² As a result of the program, 88 per cent of caseworkers said that having a lawyer onsite increased their knowledge of legal issues and improved their confidence in investigating these issues with clients.¹⁸³ Compare this to 67 per cent of caseworkers who indicated that were not confident in identifying legal problems prior to the co-location of a lawyer.¹⁸⁴

- **Continuity of service:** It is important to understand that integrated services provide a more resource and time intensive service, recognising that it takes time to establish trust with clients and develop strong referral pathways. To ensure a trauma-informed approach, enough time must be given for people to tell their story freely and comprehensively.¹⁸⁵ Successful integrated services aim to provide continuity service and support the client with their various issues (where this falls within the services' practice areas) to reduce traumatisation and referral fatigue. As such, in evaluating and assessing the effectiveness of an integrated practice model or health justice partnership, it is important to look beyond client data and focus on outcomes.
- **Awareness and promotion:** It is important to maintain awareness of the service with partners, staff and the community to ensure it can reach the clients it needs to. For example, an evaluation of the Central Highlands Health Justice Partnership found that promotion of the program through a website, flyers and legal-health checklist heightened the level of understanding of the adverse impacts of legal issues on young people's wellbeing,¹⁸⁶ evident in part from the number of self-referrals to the program.¹⁸⁷
- **People with the right skills:** Working within an integrated services requires specific skills and expertise.¹⁸⁸ Certainty of funding is needed to attract and retain the right staff.

All of these principles require resourcing to help ensure a person-centred and flexible service delivery.

¹⁸² Justice Connect, *Under One Roof: Three years of embedding legal services to make justice accessible for homeless clients*, 2018, p. 6.

¹⁸³ *ibid.*

¹⁸⁴ *ibid.*

¹⁸⁵ For example, Eastern Community Legal Centre's MABELS program found that women accessing the integrated family violence program may not have developed trust with the family violence lawyer at the first appointment to fully disclose an experience of family violence. Conversations may need to happen over multiple appointments to build rapport.

¹⁸⁶ Camilleri and others, above note 104, p54

¹⁸⁷ *ibid* p. 55.

¹⁸⁸ Eastern Community Legal Centre (Integrated Services), above note 77, p. 7.

APPENDIX E: STAFF ATTRITION DUE TO DELAYS IN FUNDING

Clients no longer able to receive family law assistance

A CLC lost its family lawyer in April 2022 due to funding uncertainty. As the CLC has a small team, this loss represented 10 per cent of the team. The CLC could not recruit until the funding was confirmed which led to a 5-month gap without any family lawyer. The CLC attempted to cover the gap with its current staffing, but existing resources could not be stretched. This led to the CLC having to cancel all family law appointments during this period. Recognising the importance of providing assistance in family law in the family violence context, the absence of a family lawyer placed considerable stress on the entire team, but particularly the CLC's principal lawyer and intake administrator.

The CLC faced recruitment challenges that many CLCs face as the pool of candidates for 12-month positions – particularly in family law and family violence – is shallow. As this is a small CLC, it does not have the staff to easily backfill positions when staffing changes occur due to uncertain funding.

The CEO commented on the impact of uncertain short-term funding from a personal perspective:

"As a CEO, the insecurity of funding and 11th hour funding decisions are one of the least enjoyable parts of the role. I aim to be open and transparent with staff, including encouraging very talented and committed staff to look for other jobs as I can't guarantee their tenure."

Loss of expertise in service design and impact measurement

A CLC lost a key staff member because it could not guarantee their position due to funding uncertainty. This staff member had unique skills and expertise, particularly around service design and the use of data to show impact. It placed considerable stress on permanent staff who had to absorb additional work and take on new responsibilities.

The CEO made the following observations about funding uncertainty:

"It creates a huge amount of stress and uncertainty on staff, both in terms of their own employment and careers, and about the impact on clients of not being able to continue providing a service. It means we lose skilled staff with both specialised and corporate knowledge, we cannot adequately forward plan to adapt and increase services to respond to demand, and it creates a work culture that does not support growth and innovation."

APPENDIX E: STAFF ATTRITION DUE TO DELAYS IN FUNDING

Specialist CLC staff began winding up their practice due to delay in funding extension

A small specialist CLC provided substantially less services than usual prior to the end of the financial year because many of the CLC staff did not know if they had a job in the new financial year and were working on the basis of winding up. This led to significant disruption to service delivery and stress. The small specialist CLC also had a staff member resign to take up another position specifically stating that she had sought other employment due to the funding uncertainty.

The CEO commented:

"[Funding uncertainty] delayed 2022-2023 planning and had a marked effect on everyone, from which we are all still recovering".

Impact on service assisting people experiencing family violence

A small CLC lost two passionate and outstanding lawyers due to funding uncertainty. The continuation of the funding for the lawyers' roles was notified to the CLC a couple of weeks prior to the end of the current funding and the expiry of the lawyers' contracts. Due to the uncertainty as to whether these lawyers would have a job, they sought employment elsewhere.

The departure of the lawyers represented 20 per cent of the legal team and led to a significant loss of experience, skills and corporate knowledge, as well as having a major impact on service delivery. The loss undermined the CLC's partnerships and professional relationships that these lawyers had built up at court, as part of the CLC's health justice partnerships, and with other stakeholders. For the CLC to continue to provide legal services at court in family violence matters following the departure of the lawyers, the CLC had to significantly cut back on other services while it recruited new staff. The CLC had to temporarily pause a number of important projects and partnerships while it was understaffed. This negatively affected service continuity.

Recruitment was challenging due to the tight employment market, which was compounded by other legal services recruiting for similar roles at the same time following funding extensions/grants. It took the CLC two months to recruit, and additional time to upskill new staff and rebuild relationships with key stakeholders and partners.

The Principal Lawyer reflected:

"[The loss of staff] contributed to a feeling of uncertainty and instability at the time... Low numbers in the office and increased workloads had a negative impact on staff morale."

Loss of almost half of a CLC's legal team

A small CLC lost two full-time staff in June 2022 as a result of funding uncertainty. As this is a small CLC, this represented 40 per cent of the CLC's legal capacity. As of September 2022, the CLC has still been unable to recruit to fill either of these roles due to timing of the grant of the funding along with increased challenges in a tight employment market.

APPENDIX E: STAFF ATTRITION DUE TO DELAYS IN FUNDING

The CEO commented on the personal impact of the funding uncertainty:

"I haven't taken more than 5 consecutive days of leave since I started in January 2021 as a result of the staffing shortages... even at reduced capacities in the past two months without filling those roles, we are still seeing more clients than we did in previous year to date. This really is unsustainable for our service."

APPENDIX F: PARTICIPANTS IN FEDERATION CONSULTATIONS TO INFORM THIS SUBMISSION TO THE NLAP REVIEW

Victorian Community Legal Centre staff involved in consultations for the
NLAP Review

- Ajsela Siskovic, InTouch
- Alan Yang, University of Melbourne Student Union Legal Community Legal Service
- Anas Quishta, Whittlesea Community Connections
- Anna Ware, Victorian Aboriginal Legal Service
- Anne Lenton, Djirra
- Annie Nash, Villamanta Disability Rights Legal Service
- Brett Moreton, Moonee Valley Legal Service
- Bryanna Connell, Barwon Community Legal Service
- Chalita Ugrinovksi, Eastern Community Legal Centre
- Charlotte Jones, Mental Health Legal Centre
- Charmaine Floyd, Barwon Community Legal Service
- Chris Povey, Justice Connect
- Claudia Fatone, Women's Legal Service Victoria
- Damian Stock, ARC Justice
- Daniel Cashmere, Moonee Valley Legal Service
- David Manne, Refugee Legal
- Dineshwary Ganesamurthi, Women's Legal Service Victoria
- Elisa Buggy, Inner Melbourne Community Legal
- Elise Amond, Villamanta Disability Rights Legal Service
- Francesca Lai, WEstjustice
- Geordie Stapleton, Barwon Community Legal Service
- Gillian Wilks, Social Security Rights Victoria
- Hamish McLachlan, Fitzroy Legal Service
- Hellen Argiriou, Peninsula Community Legal Centre
- James Tresise, Youthlaw
- Jenni Smith, Northern Community Legal Centre
- Joel Townsend, Monash Law Clinics
- Julie Phillips, Disability Discrimination Legal Service
- Katie Keays, West Heidelberg Community Legal Service
- Kris Wallwork, South-East Monash Legal Service
- Kristine Olaris, Fitzroy Legal Service
- Laura Gartland, Fitzroy Legal Service
- Linda Budd, Refugee Legal
- Luke McLean, Northern Community Legal Centre

APPENDIX F: PARTICIPANTS IN FEDERATION CONSULTATIONS TO INFORM THIS SUBMISSION TO THE NLAP REVIEW

- Marika Manioudakis, Eastern Community Legal Centre
- Martin Ha, Brimbank Melton Community Legal Centre (CommUnity Plus)
- Mary Morison, Djirra
- Melissa Hardham, WEstjustice
- Michael Smith, Eastern Community Legal Centre
- Mikayla P, Southside Justice
- Nadia Morales, Inner Melbourne Community Legal
- Narelle Laing, Ballarat and Grampians Community Legal Service
- Natasha McGregor, Victorian Aboriginal Legal Service
- Nicholas Pagonis, Brimbank Melton Community Legal Centre (CommUnity Plus)
- Patreena K, Emma House (Sexual Assault and Family Violence Centre)
- Patrick Cook, Victorian Aboriginal Legal Service
- Rebecca Bone, Seniors Rights Victoria
- Sarah Rodgers, Hume Riverina Community Legal Service
- Simon Suttie, Gippsland Community Legal Service
- Sokha Um, Peninsula Community Legal Centre
- Stephanie Price, West Heidelberg Community Legal Service
- Stephanie Tonkin, Consumer Action Law Centre
- Sue Brown, Southport Community Legal Service
- Sue Vincent, Peninsula Community Legal Centre
- Tanya Stelmach, Whittlesea Community Connections
- Tracey Gaudry, Brimbank Melton Community Legal Centre (CommUnity Plus)

Federation staff involved in consultations for the NLAP Review

- Angela McCrorie
- Dr Bronwyn Lay
- Gabby Talmadge
- Kimberley Yeung
- Louisa Gibbs
- Michelle Taylor
- Nicole Burnard
- Rachael Pliner
- Rohini Thomas
- Sarah Lefevre
- Simon Kuut
- Skye Forster
- Tanya Sawtell
- Tim McMahon