



Submission to the Review of the National Partnership Agreement on Legal Assistance Services 2015-2020

National Submission
October 2018

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Overview

Introduction

The National Association of Community Legal Centres (NACLC) provides this submission to Urbis in response to the Discussion Paper released as part of the current review of the *National Partnership Agreement on Legal Assistance Services 2015-2020* (NPA).

NACLC is the national peak body for the community legal sector. Our members are the eight State and Territory Community Legal Centre Associations. A number of Aboriginal and Torres Strait Islander Legal Services (ATSILS) and Family Violence Prevention Legal Services (FVPLS) are members of their State and Territory CLC Association, and so also fall under the NACLC umbrella. NACLC does not receive direct funding under the NPA.

Overview

Community legal centres provide free legal help to hundreds of thousands of everyday people as well as vulnerable and disadvantaged members of the community every year. CLCs are a critical and unique part of the legal assistance sector. CLCs are imbedded in local communities, working in a holistic, client-centred and multidisciplinary way. Centres play a crucial and effective role in assisting people to resolve their legal problems at an early stage, and in meeting rising demand for legal assistance as well as contributing to systemic reform.

The commencement of the NPA in 2015 fundamentally changed the administration and funding of CLCs nationally. The NPA had significant potential to improve funding and administration of the sector, including through a shift to transparent and evidence-based funding allocations; greater funding certainty; more effective collaboration between governments and the legal assistance sector; and a true and shared responsibility for the funding and administration of the sector by Commonwealth and State and Territory Governments. However, in our view, the negotiation and implementation of the NPA has largely been a missed opportunity.

Despite this, the vital work of the sector continues and this Review provides a useful opportunity to consider the operation of the NPA, the various roles and responsibilities of the parties to the NPA as well as the legal assistance sector and ways to improve the NPA and funding and administration of the sector moving forward.

Importantly we note that while the focus of this Review is on the NPA as a framework or mechanism itself, the NPA is one part of the broader legislative and policy setting within which the legal assistance sector operates.

By way of background, and as the reviewers are aware, this Review builds on a substantial evidence base and a number of reviews and inquiries over recent years, including the key national review by the Productivity Commission through its 2014 Access to Justice Arrangements Inquiry.¹ In addition, there have also been a number of state and territory reviews of CLC funding programs and CLCs more broadly.

¹ See relevant NACLC submissions to the Productivity Commission Access to Justice Arrangements Inquiry here: http://www.naclc.org.au/cb_pages/submissions.php

The most recent review and one which we draw the Review Team's attention to in particular is the NSW Review of Community Legal Centre Services conducted by Alan Cameron completed in 2017.² There have also been other sector reviews, including in Victoria in 1998³ and 2016,⁴ Queensland in 1999 and 2012,⁵ Western Australia in 2003 and 2009⁶, New South Wales in 2006⁷ and 2012⁸ and South Australia in 2016.⁹ A current review of the sector in Tasmania is ongoing.¹⁰

Submission Approach

Each of the four publicly funded legal assistance services: Community Legal Centres (CLCs), Aboriginal and Torres Strait Islander Legal Services (ATSILS), Family Violence Prevention Legal Services (FVPLS) and Legal Aid Commissions (LACs) play an important, unique and complimentary role in providing legal help to people across Australia. However, the focus of this submission is on CLCs. NACLC will engage separately in the concurrent review of the Indigenous Legal Assistance Program (ILAP) and evaluation of the FVPLS.

This submission addresses each of the NPA Review Goals outlined in the Discussion Paper. It addresses Goals 1-5 under defined headings, however rather than dealing with Goal 6 (Improvements and Opportunities) separately it makes a range of suggestions and recommendations about ways to improve the current and future NPAs throughout the body of the submission.

We acknowledge the contributions made by the Sector NPA Review Working Group (established by NACLC to assist in our engagement in the Review), State and Territory CLC Associations, National Networks and individual centres to the preparation of this submission.

In addition to this submission made on behalf of the sector, we will also make a short supplementary submission with respect to the role and work of NACLC as a peak body under the NPA.

A number of our members (the State and Territory CLC Associations), National Networks of CLCs as well as individual centres from across Australia will also be making submissions to Urbis as part of the Review and we encourage the Review Team to consider these submissions.

² Alan Cameron, *Review of NSW Community Legal Services* (2017), accessed at:

https://www.justice.nsw.gov.au/justicepolicy/Pages/lpclrd/lpclrd_consultation/community-legal-centre-services-review.aspx

³ Impact Consulting Group, *Review of the Victorian CLC Funding Program*, Final Report (1998).

⁴ Victorian Government, *Access to Justice Review*, Report and Recommendations, Volumes 1 & 2 (2016).

⁵ Department of Justice and Attorney General Queensland, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund: Final Report* (2012).

⁶ Community Legal Centre Review Steering Committee, *Joint Review of Community Legal Centres* (2003); URS, *Demographic and Socio-economic Analysis of Western Australia* (2003), prepared for the Joint Review of WA Community Legal Centres; and Kalico Consulting, *2003 Joint Community Legal Centre Review Update Report* (2009), prepared for WA Community Legal Centre Consultative Committee.

⁷ Legal Aid Commission of New South Wales, *Review of the NSW Community Legal Centres Funding Program* (2006).

⁸ NSW Department of Attorney General and Justice, *Review of the Delivery of Legal Assistance Services to the NSW Community* (June 2012).

⁹ Ernst and Young, *SA Community Legal Centres Service Review Project*, Final Report (January 2016) accessed at: <https://www.agd.sa.gov.au/projects-and-consultations/new-community-legal-service-model/review-community-legal-services>

¹⁰ NACLC's submission to the current Tasmanian Evaluation of the Legal Assistance Sector is available here: <http://www.naclc.org.au/resources/180702%20NACLCSubmissionTasEvaluationFinalWEB.pdf>

What are Community Legal Centres?

There are 181 CLCs nationally and in 2017-2018 centres provided over 470,000 services to people across Australia.

- Community legal centres play a **unique but complementary role** to the other legal assistance providers and community services
- Community legal centres are **independent, community-based organisations** that are **imbedded in and responsive to community**
- Community legal centres provide **holistic, client-centred, wrap-around, safe and appropriate services**
- Community legal centres deliver **efficient, effective and innovative services**
- Community legal centres often comprise **multidisciplinary** teams and service delivery models
- Community legal centres provide **high quality services** and are supported by a strong national quality service framework focused on continuous improvement
- Community legal centres use frontline service delivery to inform broader systemic work, including **law reform, policy and strategic advocacy**

The sector includes a wide range of CLCs which differ significantly in size and operation, but which together form a vital fabric of services which play a role in ensure clients and communities can access the types of help that they need. Centres include:

- generalist CLCs that provide legal assistance to people in a particular geographic region (catchment area) in relation to a wide range of areas of law, including family law and family violence, credit and debt, consumer law, social security, migration, tenancy, discrimination, employment and child protection
- generalist CLCs that also have specialist programs that reach a wider catchment area and/or target a particular client group or area of law
- specialist CLCs which provide services to a particular target group, for example women, refugees and asylum seekers, older people, children and young people, people with disability, LGBTIQ people and people experiencing homelessness
- specialist CLCs which provide services in a particular specialist area of law, for example consumer and credit, social security, employment, tenancy and environmental and planning law
- a number of national centres (and centres with national services) and several that provide cross-border services, or have offices in multiple jurisdictions, and
- stand-alone centres and a number that are auspiced as part of larger organisations.

Centres also work together in National Networks of CLCs to share information and good practice and undertake policy and advocacy work.¹¹

¹¹ The National Networks include: Women’s Legal Services Australia, National Social Security Rights Network, Aboriginal and Torres Strait Islander Women’s Network, Older Persons Legal Services Network, Employment Law Network, Disability Rights Network, Human Rights Network, LGBTIQ Network, Animal Law Network, Clinical Legal Education Network, Police Accountability Network, RRR Network, Youth Advocacy Network and Women’s Safety Package Network.

As outlined in our preliminary submission, CLCs provide a range of services including information, referral, legal advice, non-legal support, duty lawyer services, and casework including representation services. CLCs also utilise a range of early intervention and preventative strategies such as community legal education and community development, individual skill building, systemic advocacy and law and policy reform activities. More broadly, CLCs also play a key role in community engagement, developing and facilitating partnerships between legal assistance providers and legal and non-legal services (for example, domestic violence organisations, community health organisations, housing services and drug and alcohol services), and developing and maintaining referral networks and protocols.

Centres provide services in offices, communities and health care settings across Australia. For example, the 2017 National CLC Census indicates that a significant proportion (more than 80%) also provide outreach services, including for example to prisons, aged care facilities, and Aboriginal and Torres Strait Islander communities.

Importantly, centres:

- are imbedded in and understand their communities (whether geographical or based on a characteristic or experience), tailor services to meet local or specific needs in ways that are appropriate and familiar, and have sufficient flexibility to be able to adapt service delivery responses quickly in response to changing legal need
- provide client-centred, wrap-around, holistic and culturally appropriate services
- deliver efficient, effective and innovative services
- often comprise multidisciplinary teams and service delivery models
 - increasingly many centres have multidisciplinary teams and service models, including a combination of lawyers, social workers, financial counsellors, health care practitioners and others in both legal and non-legal settings.
 - for example, CLCs were at the forefront of developing Health Justice Partnerships and are currently involved in three quarters of the 50 HJPs across Australia. These HJPs involve collaboration between community lawyers and health services and their patients to address their legal need including through integrating a lawyer into a healthcare team in a health setting or delivering any number of other service models such as: “integrated services (health and legal services provided by one organisation); service hubs (health and legal services joined with other services in a community setting); outreach (with less intensive partnership arrangements and more autonomy than health justice partnerships); and student clinics (partnerships between law faculties and health agencies)”.¹²
- have strong national quality service systems focused on continuous improvement, in particular the National Accreditation Scheme coordinated by NALCL (discussed more later in this submission)
- use frontline service delivery to inform broader systemic work, including law reform, policy and strategic advocacy (discussed more later in this submission)
- are able to increase the capacity and services of centres through utilising significant volunteer programs and pro bono assistance (discussed more later in this submission)

¹² Health Justice Australia, *Mapping a New Path: The Health Justice Landscape in Australia* (2017).

- are designing and implementing innovative approaches and solutions to working with clients and addressing legal problems

Service Delivery

Community legal centres provide services across a range of areas of law, primarily civil and family law. The top four areas of law in which centres provided services in 2017-2018 were:

1. Family law (in particular, parenting arrangements)
2. Credit and debt
3. Housing
4. Family violence protection orders

Centres provide a range of services across Australia for individual people/clients as well as more broadly for the community, including for example:

- Information, legal advice, non-legal support, casework and representation for individual clients across a wide range of civil law areas (for example: family law, credit/debt, housing/tenancy, social security, victims' compensation, family violence, elder abuse)
- Duty lawyer services
- Community legal education
- Outreach to rural, regional and remote locations and communities as well as other places like prisons
- Services through specialist programs and units, including for example for people experiencing homelessness, elder abuse or family violence
- Multidisciplinary practices, including for example through Health Justice Partnerships

Community legal centres aim to put the client at the centre of their work and service planning and delivery. Often people seeking assistance from CLCs are experiencing a range of legal problems which may require both legal and non-legal assistance and solutions. As a result, in providing holistic and client-centred services, CLCs often:

- seek to assist clients by providing legal services as well as attempting wherever possible to assist people in resolving the causes of their legal problems
- coordinate client access to other legal services, for example, by seeking tertiary advice from a specialist legal centre, or doing a supported or 'warm' referral to another legal service
- rely on multidisciplinary teams to provide clients with support by non-legal staff including financial counsellors, social workers, Aboriginal and Torres Strait Islander Liaison officers/support workers and others as well as through the establishment of Health Justice Partnerships
- have strong partnerships with other community organisations and support services.

As noted later in this submission, CLCs work closely together in a complementary way to assist clients and communities. For example, centres often partner in the delivery of legal services, CLE or to undertake policy, advocacy and law reform and centres have strong referral pathways.

The Role of Generalist and Specialist Centres

There is an important and complementary role for generalist and specialist centres, drawing on their client and community relationships and expertise, to ensure the best mix of services to meet the needs of clients.

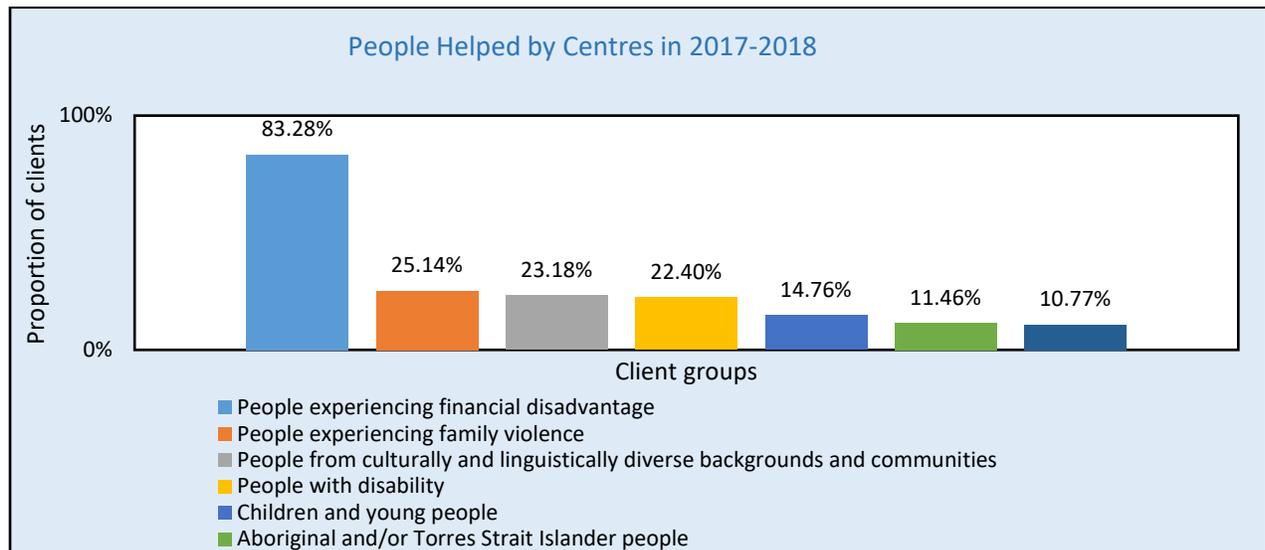
Generalist and specialist CLCs work closely together, cross-referring, sharing information and engaging in joint CLE and law reform and policy activities. Specialist centres play an important role in harnessing their expertise in supplementing the services generalist centres can provide as well as supporting generalist CLCs in meeting the need of clients with specialist legal issues through providing training and resources, secondary consultations and referral pathways.¹³

Example of Specialist and Generalist Collaboration

Earlier this year, the Consumer Action Law Centre (CALC) formalised a partnership which involved working closely with Hume Riverina and Barwon Community Legal Centres to upskill their lawyers in spotting and assisting people with consumer, credit and debt matters and improving referrals processes between Consumer Action and these generalist legal centres. The project successfully developed strong relationships with staff across all three agencies through CALC lawyers attending the respective centres on a regular basis and their lawyers attending CALC. The project also allowed Consumer Action to build relationships with other organisations that these CLCs work closely with in these areas. The project culminated in a report published by the Federation of CLCs and the delivery of panel discussions at a state level and national level which contributed to discussion of good practice across the sector.

Clients and Communities

Centres help a broad range of clients and communities. For example, in 2017-2018, the profile of clients assisted nationally (noting the conservative nature of these numbers) is outlined in the graph below:¹⁴



¹³ For more information about the role and value of generalist and specialist centres, see for example, Federation of Community Legal Centres (Victoria), *Collaboration Works: Generalist/Specialist Project Final Report* (2018), available here: https://www.fclc.org.au/generalist_specialist_clc_project. See also a Community Legal Centres Queensland report from 2014 jointly developed by CLC Qld (then QAILS) and Queensland Advocacy Incorporated, *Access All Areas: Specialist Services Accessibility Project Final Report* (2014) available here: http://communitylegalqld.org.au/sites/default/files/downloads/pages/ssap_final.pdf

¹⁴ CLASS Report.

Many centres are also based in, or provide services to people in, rural, regional and remote communities across Australia.

More broadly however, it is important to recognise that in many instances the real clients or beneficiaries of CLC assistance are not individuals but rather are groups or communities more broadly and that it is difficult to quantify this broader category. CLCs are responsive to context and exemplify the consistent evidence that place-based and flexible service provision is the way to achieve the best outcomes for those who are disadvantaged. This is particularly so where CLCs act in public interest matters.

Capturing Broader Client Groups and Communities

An example of the limitations of considering matter or individual client numbers is work done by Environmental Defender's Office NSW. The list below illustrates the greater number of individuals who directly benefit from EDO NSW services than is captured in the client recording section of CLASS (even when not considering the broader community and environmental benefits of their work):

Colong Foundation for Wilderness (1 client; 250 members)
People for the Plains (1 client; 180 members)
Groundswell Gloucester (1 client; 220 members)
Friends of the Koala (1 client; 130 members).

Strategic Policy, Advocacy and Law Reform Work

Community legal centres have a long and successful history of bringing about systemic change through policy, advocacy and law reform. This work is crucial in identifying and encouraging reform of laws, policies and practices that are not operating effectively or equitably.

Unfortunately however, CLCs that receive Commonwealth funding under the NPA have been restricted from undertaking advocacy work with Commonwealth funding. This restriction under the NPA has had a chilling effect on the policy, advocacy and law reform work of the sector. We, along with the sector, have long expressed the view that the NPA should be amended to remove this restriction and acknowledge the value of this work.

The different services CLCs provide are interrelated - assisting individual clients through advice and casework enables CLC lawyers to not only assist the individual, but also identify laws, policies and practices that adversely or inequitably impact on disadvantaged people or vulnerable groups in the community. As a result, CLCs are in an excellent position to identify recurring causes of legal problems, such as unclear laws, or unlawful or unfair practices.

The work done by CLCs benefits individual CLC clients, most of whom are disadvantaged or vulnerable in multiple ways, and this is the focus of CLCs' work. However, it is also important to recognise the broader benefit generated by law reform and advocacy work to other members of the community. In some instances, the most efficient means of avoiding or resolving civil disputes, particularly those arising from unfair operation or application of a law or policy, is to advocate for legislative, policy or practice reform. Accordingly, this work constitutes a core prevention strategy.

The value of this work has been recognised in a number of contexts, including the Productivity Commission Inquiry into Access to Justice Arrangements.

In its report, the Productivity Commission stated that CLCs play a key role in law reform, policy and advocacy, that it should be a 'core activity' of CLCs and that 'in many cases, strategic advocacy and law reform can reduce demand for legal assistance services and so be an efficient use of limited resources'.¹⁵

The Commission also expressed the view that 'strategic advocacy can benefit those people affected by a particular systemic issue, but, by clarifying the law, it can also benefit the community more broadly and improve access to justice (known as positive spill-overs or externalities)'. It ultimately recommended that 'Australian, State and Territory Governments should provide funding for strategic advocacy and law reform activities that seek to identify and remedy systemic issues and so reduce demand for frontline services'.¹⁶

The recent Cameron Review in NSW also recognised and strongly supported ongoing funding for this work. The Final Review Report stated that 'CLCs that engage in strategic advocacy and law reform activities that aim to remedy systemic issues, including in relation to environmental matters, should continue to be funded'.¹⁷

The Law Council of Australia's Justice Project released earlier this year also recommended that governments 'should fund and recognise the value of systemic law reform and policy advocacy work by legal assistance providers' and specifically recommended the current restriction on this work under the NPA.¹⁸

NACLC strongly recommends that the NPA be amended to permit these activities to be undertaken with Commonwealth funding.

Examples of Strategic Policy, Advocacy and Law Reform Work

Reducing Surveillance in Insurance

The Financial Rights Legal Centre Insurance Law Service was providing significant levels of advice to policyholders who found themselves subject to insurance investigations and surveillance. Solicitors regularly heard stories of bullying, threats and intrusive surveillance, however there were limited consumer protection in place and no specific standards for the conduct of claims investigations under any industry code of practice.

Based on this frontline experience, Financial Rights researched and published *Guilty Until Proven Innocent: Insurance Investigations in Australia* a report that took a detailed look at insurance investigation practices and made a series of recommendations for reform. Since the Report, the life insurance sector has taken up the recommendation for specific Code of Practice commitments on investigation and surveillance practices. Financial Rights had direct input in the drafting of these commitments. The General Insurance sector also has a draft set of standards about to be introduced, again with direct input from Financial Rights.

¹⁵ Productivity Commission of Australia, Access to Justice Arrangements Inquiry (2014) Final Report, Vol 2, 709.

¹⁶ Ibid, Vol 1, rec 21.1.

¹⁷ Alan Cameron, *Review of NSW Community Legal Services* (2017), 7-8.

¹⁸ Law Council of Australia, Justice Project (2018), recs 2.12, 2.13.

The Royal Commission hearings on insurance this month noted significant changes in surveillance and reduction in the use of surveillance, all as a direct result of the new standards in force under the Code.¹⁹

Unlawful Detention Class Action

The Public Interest Advocacy Centre (PIAC) settled a major class action that had run for over four years with Maurice Blackburn on behalf of young people wrongfully arrested by NSW Police.

PIAC had identified that children and young people were being arrested and detained on the basis of inaccurate or out-of-date information on the NSW Police database. For example, one 14-year-old client was arrested, handcuffed, strip-searched and held in custody overnight on three separate occasions over a two-week period, for allegedly breaching bail conditions that did not exist.

The settlement of the case saw the young people affected share \$1.85 million in compensation. PIAC's work on this case not only saw the individual children and young people compensated, but led to police making changes to their systems and practices to prevent future injustices. This outcome benefits not only children and young people, but also other disadvantaged demographic groups, such as Aboriginal and Torres Strait Islander people and people at risk of homelessness, who are more likely to come in contact with police.

Expunging Wrongful Convictions

Having a criminal record can mean a life-time sentence even though a person has served their actual sentence. It is particularly unjust if the criminal record is for activities that are no longer against the law.

Consensual sexual activity between adult men was decriminalised in Queensland in 1990. Although decriminalisation removed the threat of further prosecution for these activities, it did not address the impacts of criminal records relating to historical offences. This meant that a number of Queenslanders continue to live with ongoing stigma, shame, and practical difficulties presented by a criminal record for conduct that is now legal.

The LGBTI Legal Service actively advocated for the expungement of wrongful convictions prior to 1991 by publishing a discussion paper, engaging with the Queensland Law Reform Commission Review process and working with community to raise awareness of the issue.

In October 2017, the Queensland government passed a law to establish an administrative scheme for the expungement of convictions for consensual homosexual interactions prior to decriminalisation.

¹⁹ For example, the Royal Commission heard that Suncorp Life Insurance used surveillance in in 5.84 per cent of physical health claims and 17.2 per cent of mental health claims in the 2014, '15 and '16 financial years – the highest level of surveillance across all insurers. Following the introduction of the Life Insurance Code of Practice, Suncorp implemented revised surveillance policies and has now used surveillance significantly less frequently: 0.84% of physical health claims and in 0.19% of mental health claims in the 2017 and '18 financial years. Similar drops were reported from other insurers: *In the Matter of a Royal Commission into Misconduct in the banking, Superannuation and Financial Services Industry*, 14 September 2018, 5791: <https://financialservices.royalcommission.gov.au/public-hearings/Documents/transcripts-2018/transcript-14-September-2018.pdf>

Protecting Aboriginal and Torres Strait Islander Artists

In 2016, following representations by Aboriginal and Torres Strait Islander community members and artists, Arts Law, in collaboration with the Indigenous Art Code and Copyright Agency | Viscopy created the 'Fake Art Harms Culture' campaign to address the growing presence of inauthentic 'Aboriginal style' art and craft products and merchandise for sale across Australia.

This campaign has been very successful, resulting in a House of Representatives Inquiry. With pro bono assistance from law firm Allens, Arts Law made submissions to the Inquiry and a Bill has been drafted. This important reform is ongoing.

Protecting Vulnerable Witnesses

Specialist women's legal services, because they are working closely with women and specialist sexual assault and family violence services and other community and women's organisations supporting women, are well placed to identify trends in issues and gaps in laws and policies affecting women. One such issue has been the impact of direct cross-examination on victims-survivors of family violence in family law proceedings by their alleged abusers.

In 2015, Women's Legal Services Australia (WLSA) the national network of specialist women's legal services conducted a survey of 330 women about their experiences in family law litigation to build the evidence to show the impact of direct cross examination and fear of direct cross-examination in family law matters, including on women settling on terms that did not adequately address their children's or their own safety.

This survey and broader advocacy by WLSA members has been extensively cited in a recent key Australian Institute of Family Studies report and has informed Government policy in this area, which has resulted in a Bill currently before Federal Parliament proposing a ban on direct cross-examination which has the potential to limit significant trauma and re-traumatisation of family violence victims-survivors.

Making Public Transport Accessible

Queensland Advocacy Incorporated (QAI) has been instrumental in the community campaign for accessible Queensland trains.

In 2013, Queensland's Department of Transport and Main Roads commissioned \$4.3 billion for 75 new six-car trains. Those that have arrived in Queensland so far (built overseas) are not fully accessible for people who use wheelchairs, or who have vision impairments. Some access paths and the bathroom access are narrower than the minimum widths set out in the Disability Standards for Accessible Public Transport (DSAPT) established in 2002.

Queensland applied to the Australian Human Rights Commission for exemptions from the DSAPT, but they did not grant them for the new trains. Queensland has undertaken to fix the conveyances over the next few years and the Premier has appointed retired District Court judge Michael Forde to lead a commission of inquiry into the faulty commissioning process.

Protecting Consumers

Consumer Action Law Centre developed a number of key policy reports, including *Knock It Off: door-to-door sales and consumer harm in Victoria* in November 2017 (jointly with WEstjustice and Loddon Campaspe Community Legal Centre)²⁰ and *Dirty Leads: consumer protection in online lead generation* in March 2018,²¹ which received interest from regulators. Following these reports, in August 2018, the Australian Communications and Media Authority (ACMA) confirmed that solar industry telemarketing would be a [compliance and enforcement priority for 2018-19](#).

Commitment to Quality Services and Continuous Improvement

Community legal centres are subject to a number of governance arrangements and accountability requirements, including:

- the NALC National Accreditation Scheme's (NAS) continuous assessment of CLCs against the Scheme's Accreditation Criteria and Standards
- the Mandatory Standards of NALC's Risk Management Guide (RMG)
- obligations arising from CLCs' status as companies and associated incorporations, and in many cases as charities and not-for-profit organisations duplicated at a Commonwealth and State and Territory levels
- requirements arising under Commonwealth, state and territory government funding agreements and the terms of funding arrangements with other bodies such as philanthropic organisations
- memoranda of understanding and agreements made in relation to formal partnerships and collaborations
- legal profession regulation and ethical obligations contained in legislation, Solicitors Conduct Rules (or equivalent) and case law, and
- professional regulation requirements of other professionals who work with or within CLCs, such as social workers and counsellors, youth workers, and accountants.

[The National Accreditation Scheme](#)

Information about the structure and operation of the National Accreditation Scheme (NAS) was provided in our preliminary submission.

The NAS plays a vital role in quality assurance for all CLCs as well as in directly informing the work of peak bodies in providing training and support across the sector in areas identified through the accreditation of centres.

As noted in the preliminary submission, the NAS is an industry-led quality assurance partnership between NALC and the eight state and territory CLC associations. The Scheme was developed in 2010 to provide an industry-based certification process for CLCs that supports organisational development and gives recognition to good practice in the delivery of community legal services. We are currently

²⁰ See, <https://policy.consumeraction.org.au/wp-content/uploads/sites/13/2017/11/Knock-it-off-Consumer-Action-Law-Centre-November-2017.pdf>

²¹ See <https://consumeraction.org.au/wp-content/uploads/2018/03/Dirty-Leads-Consumer-Action-Law-Centre-March-2018.pdf>

undertaking a review of the NAS as well as planning for development and roll-out of the third phase of the NAS.

Full members of state and territory CLC associations are required to participate in the NAS and demonstrate that they satisfactorily comply with or they are actively working towards satisfactory compliance with, the NACLAC Accreditation Criteria. The NACLAC Accreditation Criteria include the 17 NAS Standards listed in the NAS *Guidelines* and the Mandatory Standards of the Risk Management Guide (discussed in more detail in our preliminary submission).

NAS Effectiveness in Supporting Quality Services and Organisational Sustainability

In a recent example of the effectiveness of the NAS at supporting quality service delivery and organisational sustainability, a small CLC experienced a complete withdrawal of government funding (for reasons not associated with its own operations).

The CLC was forced to retrench all its paid staff, and for several years relied entirely upon its volunteer workforce and management committee to maintain its existence and community presence. When the centre later received government funding again, the CLC was able to re-establish its specialist community legal practice – and it did so by relying on structures, systems and processes it had implemented to meet the requirements of the NAS.

The knowledge base built under the NAS allowed the CLC to overcome the loss of corporate memory it suffered with the loss of all its staff, and was vital in supporting a quick return to effective and high quality operations.

Being a rigorous and consistent national scheme, funding bodies have expressed support for the NAS as a strong quality assurance framework for delivery of legal assistance services. The scheme has successfully replaced and/or supplemented a number of state government led reviews or audits of service standards, and a number of other funding bodies have expressed support for the NAS as a strong quality assurance framework for delivery of legal assistance services.

Government, clients and the broader community benefit from and have an interest in ensuring quality legal and related services provided by the community legal sector. This is also central to the achievement of the NPA objective and outcomes.

Accordingly we suggest that it is appropriate that the Commonwealth (as well as State and Territory Governments) contribute to the ongoing continuous improvement and quality assurance work of the sector, including through supporting sustainable resourcing for the NAS.

NPA Review Goal 1 (Impact of the NPA)

Assess the impact that the NPA has had on the delivery of efficient and effective legal assistance services, including consideration of:

- *the appropriateness and utility of the objective and outcomes in supporting the delivery of legal assistance services*
- *whether the NPA promotes legal assistance services that are effective, efficient and appropriate and represent value for money*
- *whether the NPA has improved the targeting of legal assistance services to people facing disadvantage*

Questions

- *What impact has the 2015 reforms had on the legal assistance sector?*
- *To what extent has the NPA encouraged more effective and efficient service delivery practices?*
- *To what extent does the NPA support innovation in service delivery?*
- *To what extent do the NPA objective and outcomes remain relevant to the legal assistance landscape?*

Summary

- The NPA had significant potential to improve funding and administration of the sector, however on the whole the negotiation and implementation have been a missed opportunity
- The commencement of the NPA fundamentally changed the administration and funding of CLCs nationally
- There is significant inconsistency across jurisdictions with respect to the funding and administration of the sector and State and Territory Governments have taken vastly different approaches, with mixed results
- There is a need for greater Commonwealth leadership as well as more meaningful and shared engagement and responsibility between the Commonwealth and State and Territory Governments
- The NPA has increased pressure and reliance on CLC peak bodies with no, or limited resources despite the vital role these bodies play as part of the NPA framework
- The CLC sector continues to pursue and drive more effective and efficient service delivery practices, but not as a result of the NPA which has not made a significant impact on the delivery of these services or practices. Indeed, in some respects the NPA has limited efficiency and innovation given the lack of funding certainty
- The work of the sector has significant benefits not only for the individuals that centres assist and their families and communities, but also for governments and the broader community
- A number of sector projects have examined potential 'efficiencies' and savings, but have only identified limited areas for reductions or savings in the operating budgets of CLCs due to historical underinvestment in core services and systems and direction of funding to frontline services
- CLCs leverage the maximum benefit from the resources available to them. Examples of initiatives/areas which enhance sector efficiency include the NAS, through encouraging a culture

of commitment to continuous improvement; as well as pro bono and volunteer partnerships and contributions

- CLCs across Australia are developing innovative approaches to service delivery and practice; community legal education; strategic advocacy; and the use of technology
- The inclusion of priority groups under the NPA has not significantly changed the work or targeting of services by the sector, and
- The priority groups should be amended to include women and LGBTIQ people and better account for and capture the importance of public interest and systemic work.

Impact of the NPA

As outlined above, the NPA had the potential to improve funding and administration of the sector. Its commencement and associated reforms in 2015 fundamentally changed the funding and administration and funding of CLCs nationally. The sector continues to deliver high-quality legal and related services to hundreds of thousands of people each year. However, in many respects the implementation and operation of the NPA itself, as a partnership between the Commonwealth and State and Territory Governments, has not delivered many of its potential opportunities.

For example, we have observed:

- significant inconsistency across jurisdictions with respect to funding and administration of the sector and State and Territory governments have taken vastly different approaches, with mixed results
- the need for greater Commonwealth leadership to support good practice and national consistency following its reduced role in overseeing and guiding sector funding, administration and work
- the need for more meaningful and shared engagement and responsibility between the Commonwealth and State and Territory Governments for the sector
- increased pressure and reliance on CLC peak bodies (including NACLC and State and Territory CLC Associations) with no, or limited funding to undertake vital coordination, information sharing, support and engagement work

Some of these issues which relate to the roles and responsibilities of the Commonwealth and State and Territory Governments as parties to the NPA are discussed in more detail later in this submission in response to NPA Review Goal 5.

Lack of National Consistency

There is an important balance between ensuring that funding and administrative structures and processes are tailored to each individual jurisdiction, while retaining national consistency, or at a minimum information sharing across jurisdictions.

In our experience, the NPA and the devolution of decision-making responsibility to State and Territory Governments has resulted in inconsistent approaches to:

- the roles and responsibilities played by the State/Territory Government and/or Legal Aid Commissions as funder, system manager and/or coordinator
- co-design, collaboration and consultation between government and the sector, as well as between legal assistance providers themselves
- decision-making structures and processes
- funding agreements, including difference in term, deliverables and requirements

- collaborative service planning structures, processes, and outcomes
- regulatory approaches and reporting requirements

The impact of this lack of consistency has meant that centres in different jurisdictions are subject to different expectations and requirements; there has been duplication or ‘reinventing of the wheel’ by State and Territory Governments; and good practice has largely not been shared across jurisdictions.

The various reviews of CLCs across jurisdictions (including for example in SA, Victoria, NSW and Tasmania) have all added significantly to the work of the sector and NACLCL and on the whole, not engaged with or built on the information, reflections or learnings from the other reviews.

We suggest greater Commonwealth leadership at a Ministerial level and through the Attorney-General’s Department (articulated more in response to NPA Review Goal 5); establishment of more solid national structures and forums (for example as articulated in relation to Collaborative Service Planning as well as discussion of performance data and outcomes); as well as additional resourcing for NACLCL as the national peak body may assist address some of these issues.

We note however, that consistency of approach and sharing of good practice information is quite different from imposing one size fits all and it is important that there is sufficient flexibility to allow tailoring of priorities, service delivery and outcomes according to context.

Work and Value of Peak Bodies

Under the NPA there has been increased pressure and reliance on CLC peak bodies (including NACLCL and State and Territory CLC Associations) with no, or limited funding to undertake vital coordination, information sharing, support and engagement work.

This issue is discussed in more detail later in this submission in response to NPA Review Goal 5.

Benefits, Efficiency and Value of Sector and Service Delivery

The work of the sector has significant benefits not only for the individuals that centres assist and their families and communities, but also for governments and the broader community.

For example, the Productivity Commission has highlighted that the work of CLCs generates savings for government and the community, noting that the ‘positive spill-over or flow on effects to the wider community from providing legal assistance services’²² justify government involvement in, and funding of, legal assistance services. It has also highlighted that in many types of disputes, the avoided or flow-on costs are greater than the cost of providing funding to legal assistance services to provide the assistance.²³

Similarly, the 2017 Review of NSW Community Legal Services (Cameron Review) outlined a number of the key benefits of the sector, including:

- ensuring that legal rights can be enforced
- preventing civil problems from escalating into criminal matters
- avoiding costs to other government services, and

²² 7 Productivity Commission of Australia, Access to Justice Arrangements Inquiry Report No 72 (September 2014) 666.

²³ See, eg, Productivity Commission of Australia, Access to Justice Arrangements Inquiry Report No 72 (September 2014) Appendix K, 1054.

- improving the efficiency of court proceedings.²⁴

The Review noted that CLCs ‘deliver tangible benefits both to individuals and the broader community’ and that the ‘services provided by CLCs are also delivered at very low cost to government. CLCs are extremely efficient, leveraging volunteer and pro bono support to maximise the total hours, dollar value and range of services they provide’.²⁵ The Review highlighted:

*The CLC service model is very efficient and effective. It leverages large amounts of pro bono support to multiply its reach, fosters collaborative partnerships to build strong referral pathways, and engages in strategic advocacy to progress the interests of classes of clients. The CLC sector also incorporates efficiency measures into their sector-wide and individual service design and delivery.*²⁶

The sector is committed to achieving the best possible outcomes for our clients and communities through the delivery of efficient, effective and innovative services and commitment to continuous improvement. As part of this, CLCs are at the forefront of leveraging better outcomes through a variety of means and the peak CLC bodies further support and enhance the efficiency of CLC operations and service delivery.

As noted in our preliminary submission, NACLCL and State and Territory CLC Associations provide and continue to explore ways to further enhance the efficient operation of the sector and centres. For example, NACLCL coordinates a number of national services and schemes for centres, including:

- the National Community Legal Sector Insurances Scheme which provides tailored and highly discounted bulk insurances to the sector
- the National Accreditation Scheme (outlined in more detail earlier in the submission) which is free for all members, and
- free access to online legal resources (case law, legislation, precedents and practical guidance manuals in a wide range of legal topics) through a partnership with LexisNexis

A number of State and Territory Associations have also recently completed projects looking at the potential for administrative efficiencies or savings across the CLC sector in each state. These include:

- Community Legal Centres Queensland, *Blood from a stone: Trying to reduce costs in an underfunded community legal sector* (2017)
- Community Legal Centres Association of WA, *Models of Sustainability Project* (2017)
- Community Legal Centres NSW, *Administrative Efficiencies Project* (2015-2017) as well as other projects and initiatives such as the Community Legal Centres NSW Financial Services Project and ICT project.

A key finding of these projects, particularly in Queensland and NSW, was that due to historical underinvestment in core services and systems (with CLCs directing as much funding as possible to frontline services), as well as the significant reliance on pro bono support (including free or reduced rent), the majority of CLCs cannot reduce their overheads any more than they already had. These

²⁴ Alan Cameron, *Review of NSW Community Legal Services* (2017), [2.4.2].

²⁵ *Ibid*, 5, 6.

²⁶ *Ibid*, [5.1].

projects did however recommend the exploration of some centrally-based projects and initiatives such as the CLCNSW Financial Services Program, a CLCNSW ICT Project, and the co-locating of specialist legal centres in Perth into a central “hub”. Further information on these projects can be provided to the Review Team, or may be available in submissions from these state associations.

In addition to the investigations undertaken by our members, a number of individual centres across Australia have undertaken or are exploring mergers, co-location, bulk purchasing arrangements, shared services, joint investments, fee for service, social enterprises and similar initiatives to both reduce costs and increase their non-government revenue.

Sector Efficiency and Innovation

The sector has continued to pursue and drive more effective and efficient service delivery practices as well as innovation under the NPA, however the NPA itself has not been the main driver. Indeed, in some respects the NPA has limited efficiency and innovation given the lack of funding certainty.

Efficiency

CLCs are well versed in leveraging the maximum benefit from the resources available to them. CLCs proactively examine possible opportunities for further efficiency and implement measures that build on the already highly efficient nature of CLC operations, which already generally operate on extremely tight budgets.

At a national level, the NAS contributes to enhancing sector efficiency and effectiveness, through encouraging a culture of commitment to continuous improvement. Two key areas of efficiency which enhance the capacity of the sector include pro bono and volunteer contributions.

Volunteers

The extent of volunteer involvement that CLCs are able to garner sets them apart from the other legal assistance providers and significantly increases their capacity and extends areas of expertise as well as increasing access to justice.

For example, according to the 2017 National CLCs Census (which provides conservative numbers given not all centres respond to the Census) 94.5% of CLCs use volunteers and in 2016-2017 6,915 volunteers contributed nearly 15,300 hours of work per week across Australia. The main types of volunteers include undergraduate law students, PLT students and lawyers and the main activity undertaken by volunteers is involvement in direct legal service delivery.

Importantly however, significant time and resources are required to establish and oversee volunteer programs which require dedicated paid staff to provide induction, training and supervision. This means that while volunteers are an important resource, there is still a need for a core paid staff within a centre to ensure the centre and community can benefit from the work of volunteers.

Volunteers

Canberra Community Law

Launched in April 2014, the Canberra Community Law (CCL) Admin Intern Program continues to be an invaluable source of administrative support for the busy Centre. The program sees a law student rostered on each day for a half a day shift to work in the front office and support CCL’s lawyers and other professional staff. The law students undertake a range of tasks including greeting clients,

answering the phones, doing initial intake and taking initial instructions as well as providing paralegal support. This support has immeasurably increased the accessibility and efficiency of the Centre freeing up lawyers' time to concentrate on the substantive legal work and ensuring that there is always someone available to answer calls to the Centre.

Suncoast Community Legal Service

Providing services in a geographically dispersed State like Queensland has its logistical challenges, particularly when resources are scarce.

In tackling the legal need across the Sunshine Coast region, Suncoast Community Legal Service recruits volunteer lawyers and receptionists to provide regular evening services across the region, from Maroochydore, Noosa, Nambour, Caloundra, Maleny, and Landsborough to Pomona.

The commitment of volunteers has meant that regional towns and communities have increased access to free legal services on a regular basis.

Southern Community Justice Centre (SA)

Southern Community Justice Centre runs two volunteer programs, each for 12 week cycles. These include a volunteer law student program which allows students to gain experience within a legal office environment and exposure to drafting, case management and court processes. Volunteers provide support to legal staff with a range of tasks including research and drafting letters and/or court documents. The second program is for volunteer lawyers who provide a range of assistance including advice, minor case work, court representation and involvement in negotiations. All volunteers are supervised by SCJC staff.

Pro Bono Partnerships

CLCs are also effective at gaining significant pro bono contributions from private law firms, adding to their service delivery capacity and saving money in other areas of their operations which can then be directed to legal service delivery.

For example, in 2016-2017, over 83,252 hours were contributed by pro bono partners to CLCs across Australia. The major contribution by pro bono partners is through provision of specialist advice for use in client matters and involvement in legal service delivery.²⁷

It is, however, important to recognise that pro bono resources are only available in limited supply and that the resources required to establish and maintain pro bono relationships can be significant. Whilst CLCs will continue to utilise the valuable support of pro bono lawyers, the scope for leveraging greater efficiencies via these important relationships is limited.

²⁷ NACLC, *National CLC Census 2017* (Final Report), forthcoming.

Examples of Pro Bono Partnerships

Mental Health Legal Centre

The Pro Bono Justice Project (the Project) is an initiative of the Mental Health Legal Centre Inc. (MHLC), which currently operates in Victoria. The Project aims to address the legal needs of unrepresented involuntary patients in the Melbourne metropolitan region who have Community Treatment Order matters before the Mental Health Tribunal.

Law firms that take part in the Project commit at least two pro bono lawyers to the Project, with each lawyer representing one client per month/every two months. The private firm lawyers, and other participating legal practitioners from the Victorian Bar and public service, are trained, supervised and supported by MHLC to provide legal advice and representation to the unrepresented clients.

Homeless Persons' Legal Services

Homeless Persons' Legal Services exist in most states and territories and have been largely developed by pro bono clearing houses in each jurisdiction.

For example, the Homeless Persons' Legal Service (HPLS) in NSW is a key project operated by the Public Interest Advocacy Centre (PIAC). It addresses the legal needs of people experiencing or at risk of homelessness in NSW through a human rights framework, by providing free legal advice and ongoing representation.

HPLS currently operates 14 free legal clinics on a roster basis, importantly partnering with welfare agencies in the greater Sydney metropolitan and Hunter regions which provide direct services, such as food and accommodation, to people in housing crisis and which provide the premises and context where advice can be provided. The clinics are coordinated by HPLS and staffed by lawyers from a number of private law firms and other organisations on a pro bono basis.²⁸

Victims of Violence Project

In 2015, Colin Biggers & Paisley partnered with Women's Legal Service NSW (WLSNSW) to launch the 'Victims of Violence' Project.

This collaborative partnership involves only female Colin Biggers & Paisley lawyers (trained by WLSNSW), which is consistent with the casework practice of WLSNSW and helps to ensure that clients are more likely to feel comfortable to disclose details about acts of violence and injury. The project is part of a broader relationship involving Colin Biggers & Paisley giving access to its city rooms for volunteer lawyers to provide a weekly evening telephone advice service, as well as support to WLSNSW through Colin Biggers & Paisley's workplace giving program and taking on other referrals

Cyberlaw Volunteer Project

A national law firm and several in-house corporate and government legal teams have partnered with Youth Law Australia (formerly the National Children's and Youth Law Centre) to provide pro bono legal advice nationally, under its Cyber Project.

²⁸ See, eg, <https://www.piac.asn.au/projects/homelessness/>

These “Cybervolunteers” are based in Canberra, Melbourne, Sydney, Brisbane and Perth and respond to online advice requests within a secure, password-protected, online portal developed by YLA with the financial support of the Commonwealth Attorney-General's Department. The portal is called Lawmail and Lawmail advises approximately 2,000 clients each year with approximately half of those advices being co-drafted by the Cybervolunteers.

Other Partnerships

CLCs also have a long history of collaboration with universities, including through clinical legal education, student legal clinics, delivery of community legal education and policy, advocacy and law reform.

For example, the 2017 National CLC Census indicated that 40.6% of centres partner with universities for CLE; 31.7% for delivery of legal services; 27.7% for policy, advocacy and law reform and that there are also a number of research projects and initiatives underway across the sector.

A key example is there is a strong relationship between clinical legal education and CLCs, with CLCs playing a key role in clinical legal education across Australia. The benefits include, for example:

- increased capacity of CLCs
- exposure of students to the distinctive and innovative model of legal service provision of CLCs which is community based and combines individual service provision and law reform, and
- educating and inspiring students to recognise their future and ongoing duty to contribute to people experiencing disadvantage throughout their careers.²⁹

Innovation

Community legal centres lead innovative practice and approaches in many respects across the broader legal assistance sector. CLCs across Australia are developing innovative approaches to service delivery and practice; community legal education; strategic advocacy; and the use of technology.

As CLCs are imbedded in community and are often relatively small organisations, they are well placed to respond to the needs of their community and have sufficient flexibility to be able to adapt service delivery responses quickly in response to changing legal need. Centres are also able to innovate and adapt to meet the needs of their clients.

Importantly:

- funding uncertainty and the ongoing need for CLCs to undertake funding-related activities including fundraising and applying for grants reduces the ability of CLCs to explore innovative service delivery models
- innovation should be sector-led and client-focussed (with many centres implementing user-centred design in the development of new practices, products and initiatives), and
- while technology has the potential to significantly assist CLC clients under the NPA, it is important to recognise and account for technological accessibility and appropriateness for particularly vulnerable and disadvantaged clients and communities.

²⁹ For more information on clinical legal education, including designing and operating best practice law school clinical legal education and the role of CLCs, see, eg: *Australian Clinical Legal Education* (2016) <https://press.anu.edu.au/publications/australian-clinical-legal-education>

There are numerous examples of innovation across the sector, though many funded outside the NPA. For example, the Community Legal Services Programme coordinated by AGD was re-badged as a nationally focussed discretionary grants programme. The Programme funds national service delivery projects, innovative pilot programs and other innovations. It has provided some centres with grants to undertake important initiatives and projects, but is managed outside the NPA.

Innovation by the sector takes many forms, including examples/initiatives:

- are designed to empower clients to resolve their own legal problems, which means centres can assist other clients
- facilitate access to more resources, for example through increasing the pool of volunteers or others to assist
- provide early intervention support to clients to prevent the escalation of legal and other problems, for example by assisting clients to avoid homelessness
- assist, or are implemented through, collaboration across CLCs and a range of other organisations, and
- utilise innovative service design or delivery to assist clients.

Examples of Sector Innovation

The **Moonee Valley Legal Service** has developed FineFixer, a web based that helps people understand their fines and take action. The app enables people to act earlier, preventing the accumulation of costs and penalties for people and reducing demand for CLC assistance.³⁰

In 2017, the **Arts Law Centre** received funding from the Commonwealth Attorney-General's Department's CLSP grants programme for the development of a video project explaining the standard Aboriginal Art Centre / Artist agreement in multiple local languages (a 'talking contract'). The release of this video will allow Aboriginal and Torres Strait Islander artists to better understand the relationship with their Art Centre, and the terms of the agreement they are entering into. The project is due to be finalised this year.

Women's Legal Service Tasmania developed Girls Gotta Know, a legal information initiative for young women which provides easy to understand legal information online about relationships, partying and trouble, housing and renting, employment and money.³¹

Financial Rights Legal Centre has developed the Motor Vehicle Accident Problem Solver, an online self-help tool that asks users a series of questions about their situation, and then provides tailored advice on their problem and next steps as well as access to sample letters.

Tenancy WA, Street Law Centre WA and Women's Law Centre of WA have developed a joint program 'Safe as Houses' which was funded by the WA Government and awarded the WA Attorney-General's Community Service Award. The program aims to prevent homelessness for women and children affected by family and domestic violence. It provides integrated and holistic legal and support services and is an example of strong sector innovation and collaboration which has resulted in keeping women and

³⁰ See, eg, <https://finefixer.org.au/>

³¹ See, eg, <http://girlsgottaknow.com.au/>

children safe and early intervention to prevent escalating legal and social problems for the women and their families.³²

Youth Law Australia (formerly the National Children's and Youth Law Centre) has developed TeachLaw, a national schools-based community legal education program. TeachLaw has received funding from the NSW Government to develop lessons for NSW teachers including on cyber safety and the law. These lessons will be delivered online to teachers in NSW via a new TeachLaw website that is in development and funded by a Commonwealth Attorney-General's Department Innovation Grant. YLA similarly aims to develop curriculum-linked, online lesson plans for each State and Territory. In the words of YLA, "TeachLaw is targeted, national community legal education, outreach and joining up with teachers all in the one scalable program."

The **Employment Law Centre of WA** has partnered with the LegalAPptitude team (a unit at the University of Western Australia) to develop an app to assist people to determine whether they are eligible to make an unfair dismissal claim and if so, help them complete an unfair dismissal application form.

Women's Legal Service Queensland has developed a remote volunteering program to enable eligible lawyers in Queensland to receive training and provide volunteer legal help remotely. The program includes a website, online training, portal and calendar for volunteers to indicate their availability.

Inner Melbourne Community Legal works with international students facing a range of legal problems. In considering innovative ways to reach international students, IMCL developed a range of comic strips and information focused on providing legal information in accessible language.

Justice Connect has been undertaking a number of innovative digital service design initiatives, including through the Legal Help Gateway Project. The project was created in 2016 and received seed funding through the Google Impact Challenge. Through the project, an online intake tool which helps people and organisations quickly and easily understand whether they are eligible for Justice Connect services, and make an online application has been released. A portal that matches people and organisations with pro bono lawyers is currently under development, due for release in early 2019. ³³ Justice Connect also delivers on a range of interactive self-help applications and tools for people ineligible for direct advice.

Canberra Community Law's Socio-Legal Practice (SLP) Clinic was a finalist in the Australian Human Rights Commission Law Award category in 2017. The SLP Clinic combines intensive legal and social work case advocacy to assist disadvantaged and vulnerable people who have urgent housing and Centrelink problems. An external evaluation commissioned in 2017, found that clients were coming to the SLP Clinic with complex problems that they have not been able to get help with anywhere else. This model of service requires a high level of collaboration between social work and legal professionals in order to deliver better, more holistic outcomes for some of CCL's clients who are most in need.

³² See, eg, <http://www.tenancywa.org.au/safeashouses>

³³ See, eg, <https://justiceconnect.org.au/how-we-help/digital-innovation/gateway-project/>

Priority Groups

Overall, the list of priority groups under the NPA broadly captures the key groups to which centres provide services. The inclusion of priority groups under the NPA has not significantly changed the work or targeting of services by the sector. Prior to the NPA, CLCs were already targeting people experiencing financial disadvantage or other forms of disadvantage and the groups listed in the NPA priority groups and continue to do so.

In addition, on the whole, the use and reliance on the priority groups listed in the NPA by governments has not been clearly articulated.

In our view, the key changes or issues with the priority groups include:

- the need to include women and LGBTIQ people as additional group under the current NPA priority groups list- these are two key client groups assisted by centres that are not currently included under the priority groups list but that require particular legal help as a result of their experience of and/or vulnerability to legal problems and the importance of appropriate legal assistance
- the practical implementation and interpretation of a number of existing groups, for example people living in rural and remote areas- there is particular confusion about this group, given there is broad acceptance of the particular needs of people in rural, regional and remote areas and that on the whole face-to-face services to people in rural and remote areas come from centres based in regional towns and cities
- in line with our earlier comments about the importance of systemic work and impact beyond a single individual client, there is also a need to consider ways in which the groups and their use might better capture the idea and importance of public interest work. For example, we suggest there is a need to consider how the priority groups fit with matters where important systemic issues are likely to be addressed by providing the assistance, or a particular piece of strategic litigation might be of benefit to a broader community or the environment beyond an individual that falls within one of the priority groups.

NPA Review Goal 2 (Collaborative Service Planning)

Assess the implementation of collaborative service planning by the Parties, and the extent to which it is contributing to the objective and outcomes of the NPA

Questions

- *How effective has collaborative service planning been in your area/region?*
- *What are the opportunities to improve collaborative service planning?*
- *What barriers, if any, prevent effective collaborative service planning?*

Summary

- Collaboration between legal assistance services as well as with other non-legal community organisations in relation to service delivery and planning has been occurring over many years
- One of the key processes and mechanisms most likely to support appropriate coverage of services across Australia and that those services are responsive, effective and holistic is Collaborative Service Planning
- However, Collaborative Service Planning under the NPA is not currently occurring in an effective way across Australia, or in a way that contributes to the objectives and outcomes of the NPA
- There is significant inconsistency and limited information-sharing across jurisdictions, resulting in widely different practice and duplication of work underlying CSP
- There are a range of barriers to effective CSP and significant opportunities for improvement upon existing CSP frameworks, mechanisms and processes across Australia.
- NACLC has developed a National Position Paper on Collaborative Service Planning, which outlines the national position on the hallmarks of good practice CSP, outlined in this section. We suggest that these provide a useful basis for considering opportunities and ways in which to improve CSP under the NPA nationally and in specific jurisdictions
- We also suggest amendments to the NPA to increase the accountability of State and Territory Governments with respect to CSP to ensure real progress and outcomes as well as greater transparency in reporting around CSP.

Collaboration

Collaboration between legal assistance services as well as with other non-legal community organisations in relation to service delivery and planning has been occurring across Australia over many years.

CLCs are effective in collaborating and partnering with other CLCs to ensure delivery of legal services to clients and communities as well as with other legal assistance providers and non-legal community organisations. For example, the 2017 National CLC Census indicated that the top two most common partners for CLCs in delivery of legal services, CLE and policy, advocacy and law reform are other CLCs and non-legal community organisations.

Collaboration and working in partnership is at the core of the way CLCs operate. It is particularly important in the context of providing support and assistance to particularly vulnerable and disadvantaged clients and communities given the importance of holistic engagement and coordination with a range of organisations to meet not only the legal needs but also broader needs of each person.

Importantly however, this collaboration takes time (for example, to establish trust and true partnerships) as well as resources.

In the context of this broader tradition of collaboration, the NPA introduced formal requirements to undertake Collaborative Service Planning (CSP), a term developed in the context of the NPA, but building on the collaboration in relation to service delivery and planning that has been occurring across the sector over many years.

Overview of Collaborative Service Planning

There are a number of components to ensuring appropriate coverage of services across Australia and that those services are responsive, effective and holistic. The central component is adequate, sustainable and predictable funding of services to meet legal need.

To ensure legal and related services are provided in an appropriate and effective way, there is also a need for co-design, coordination and collaboration between governments, the community legal sector, LACs and other providers of legal and non-legal support and assistance. Given the availability of insufficient funding to meet legal need, there is also a need to determine ways in which to target and tailor delivery of services to best meet the needs of priority groups or people who seek legal help in priority areas.

One of the key processes and mechanisms most likely to support the achievement of these things is Collaborative Service Planning (CSP). As a result, we welcome the inclusion of requirements around CSP in the NPA and AGDs attendance at many CSP meetings across Australia.

However, there is significant inconsistency and limited information-sharing across jurisdictions, resulting in widely different practice and duplication of work underlying CSP. In our view, CSP under the NPA is not currently occurring in an effective way across Australia, or in a way that contributes to the objectives and outcomes of the NPA.

Barriers to Effective CSP

We welcomed the inclusion of CSP as a key mechanism under the NPA, however there are a range of barriers that have prevented effective CSP. These include:

- lack of national guidance or structures, other than very limited requirements under the NPA
- lack of expertise at State/Territory level to design and lead CSP
- overall funding inadequacy which ultimately results in CSP processes moving service gaps around as well as resulting in forced competition between service providers
- limited resources for CSP, including often no additional funding to undertake CSP despite the time and resources involved
- limited information sharing across jurisdictions
- limitations in CSP structures, processes and understanding of the mix of legal assistance services required to meet the legal needs of vulnerable clients has meant CSP has often not considered the important but distinct role of specialist services,³⁴ or those operating nationally or across borders

³⁴ For example, vulnerable clients may have particularly complex legal problems which may require a depth of knowledge and skill best provided by a specialist service and other clients will present with legal problems to which a generalist community legal centre is most appropriate to respond.

- the existing evidence base or approach to measuring legal need (for example the 2008 Legal Australia-Wide (LAW) Survey), is outdated and had a number of methodological limitations. The postcode method also fails to appreciate the spectrum of complexity of legal matters clients present with and the need to have a mix of generalist and specialist services that are accessible and responsive to particular client groups and/or able to provide the depth or breadth of knowledge required to meet the needs in complex matters and/or with complex clients
- on the whole, a failure to fund peak CLC bodies to support CSP
- sector capacity without provision of resources or training to engage in CSP, and
- difficulty engaging all legal assistance providers, which has meant CSP on the whole has not benefited from the perspectives and experiences of all legal assistance providers (particularly ATSILS and FVPLS).

[Opportunities for Improvement and Hallmarks of Good Practice](#)

Given the potential benefits of CSP, but in light of the barriers outlined above, there are significant opportunities for improvement upon existing CSP frameworks, mechanisms and processes across Australia.

NACLC has developed a National Position Paper on Collaborative Service Planning, which is included below which outlines the national CLC position on the hallmarks of good practice CSP. We suggest that these provide a useful basis for considering opportunities and ways in which to improve CSP under the NPA nationally and in specific jurisdictions:

[Commonwealth Leadership and National Consistency](#)

1. The Commonwealth Government should provide leadership, guidance and support in relation to CSP, including through:
 - Provision of additional funding to the sector to undertake and engage in CSP (discussed further below)
 - Facilitation of national consistency in the key elements of, and approaches to, CSP
 - Sharing information with governments and the sector about CSP processes and progress across jurisdictions
 - Developing good practice guidance and/or materials to inform CSP
2. A national inter-agency forum or similar should be created to oversee CSP nationally, hosted by the Commonwealth Attorney-General's Department. Such a forum would provide oversight over CSP nationally and should include representatives from each of the four key legal assistance providers, through their peak bodies, as well as representatives from the Commonwealth government and State and Territory Governments. It should be separate to the Australian Legal Assistance Forum (ALAF). Briefings should be provided to the group from jurisdictional CSP forums/groups.

[Purposes](#)

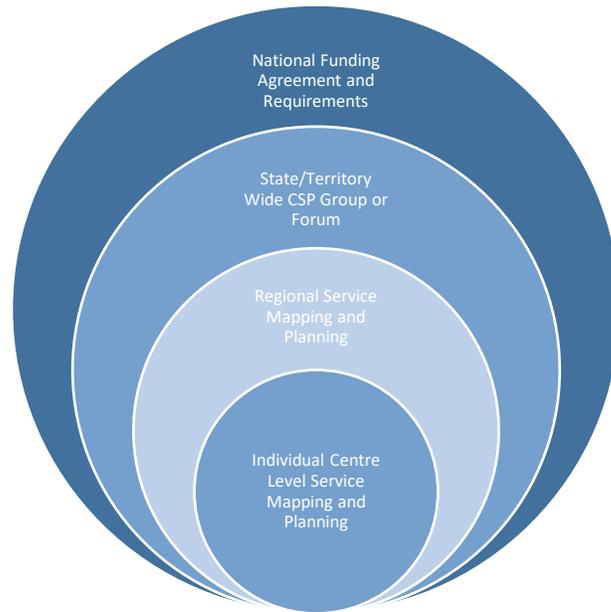
3. The purposes of CSP include:
 - building understanding of the existing and emerging legal and related needs in communities
 - facilitating coordination between service providers in the planning and delivery of services as well as referral pathways and opportunities for partnerships
 - mapping of existing services and identification of service gaps

- facilitating information-sharing between providers
 - providing a mechanism and/or forum for consideration of research, projects and similar that will support and facilitate CSP and good practice service delivery
 - informing the allocation of LAC, CLC, ATSILS and FVPLS funding, and
 - providing information and guidance to governments on the administration and funding of the legal assistance sector.
4. CSP should involve mapping and consideration of all services provided by legal assistance service providers and actively inform decisions about ongoing service delivery by all service providers.

Structure, Parties and Processes

5. All legal assistance providers, including Community Legal Centres, Legal Aid Commissions, Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention Legal Services should be invited and encouraged to contribute to and engage in CSP.
6. CSP processes should be governed by clear structures, processes, project plans and timetables, as well as appropriate timeframes for consultation and decision-making.
7. CSP should occur at (or be informed by input from) national, State and Territory and regional/local levels, each feeding into the other (see diagram below).
8. Peak CLC bodies, including NACLCLC and State and Territory Associations have a key role to play in CSP.
9. At a State/Territory level there should be one central group/forum with dedicated responsibility for leading collaborative service planning. In addition:
 - The State/Territory Department of Justice or equivalent should lead and have secretariat responsibility for CSP
 - The group must have established Terms of Reference and clear and consistent membership, including representatives of all legal assistance providers nominated by the relevant organisation or peak body
 - The group must develop a clear Project Plan, with appropriate implementation and monitoring mechanisms and provision of progress reports against the Plan
 - Working Groups with responsibility for progressing specific elements of CSP could be established to sit under and report back to the central group/forum.
10. At a regional/local level, regional CSP provides an opportunity to build more locally based service plans through data collection and analysis and consideration of local/regional service delivery. At a regional level CSP may involve legal and non-legal providers outside the legal assistance sector. Consideration should also be given as to how to incorporate the work of state-wide services at regional and local CSP levels.
11. Individual centres should undertake centre-based mapping and service planning but must be provided with appropriate resource to undertake this work. This can include use of the NACLCLC Legal Needs Assessment Toolkit, to inform their work and engagement with broader CSP processes.
12. CSP must be undertaken in a culturally safe and appropriate way, acknowledging the expertise of Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention Legal Services as community controlled organisations in providing services to Aboriginal and Torres Strait Islander people and communities.

13. All providers must be treated equally as part of collaborative service planning. Consultation, discussion and collaboration must be genuine, respectful, in good faith and grounded in a commitment to partnership.³⁵
14. State and Territory CLC Associations should establish an internal sector CSP Working Group or similar to oversee, coordinate and guide sector engagement in CSP processes in each jurisdiction.



Resources

15. Additional and separate funding must be provided to support collaborative service planning. This should include funding for: individual centres; jurisdictional groups/forums undertaking or contributing to CSP; and peak CLC bodies at a State/Territory and national level.

Research and Evidence Base

16. It is vital that a solid, relevant and current evidence-base is established to inform CSP that is easily accessible to governments and the sector.
17. There is a need to ensure that both quantitative and qualitative data is captured and considered as part of CSP so that it is a 'data informed' process rather than 'data driven' process.

³⁵ For example, the following principles have been developed to guide CSP in NSW: We will ensure that our collaborative efforts adhere to the following guiding principles: **Commitment and participation** – we are committed to the working collaboratively and will actively participate in the collaboration. **Positive working relationship** – we will ensure fair and transparent decision making, recognising the strengths, culture and voice of all partners. **Transparency** – we will share information and ideas that will support and strengthen collaborative service planning processes. **Independence** – we will value and respect independence within the partnership, recognising each other's contributions and acknowledging each other's strengths. **Equal standing and responsibility** – all partnering organisations have an equal standing in the partnership and are equally responsible for the outcomes of the partnerships. **Joint learning** – we will learn from each other, with the aim of incorporating learning, communications and knowledge-sharing into the relationship.

18. The NSW Law and Justice Foundation Collaborative Planning Resources should be used to support collaborative service planning, but must be up-to-date and accessible.³⁶
19. Other data sources/evidence bases should also be used to inform planning. This should include information, research and data in relation to demographic data, factors driving or impacting legal need (for example the impact of Government policy decisions and implementation on priority groups and the impact of local factors including natural disasters, major employer closures and similar), the existence of relevant social and community services and supports, and good practice service design and delivery. It is also important to consider and incorporate data that recognises the client groups and role of specialist services.
20. There is a need for funding and support for research and thinking about CSP, including consideration of work being undertaken in other sectors of relevance to measuring a particular need and then funding and planning delivery of services accordingly.

Relationship between CSP and Funding

21. CSP processes and outcomes should inform the allocation of Commonwealth and State/Territory funding for legal assistance services (not limited to the NPA), but those decisions should be made by way of separate and independent process(es).
22. CSP should only be used to inform decision-making with respect to new or additional funding, or in the context of a guaranteed base for existing services.

Support, Capacity Building and Training

23. It is important that senior and wherever possible, consistent representatives from organisations are involved in CSP mechanisms and processes and that they are provided with appropriate support, training and resources to support their engagement.

Other Issues

24. It is important for CSP in each jurisdiction to meaningfully plan, consider and account for:
 - specialist and generalist services (a number of hallmarks include reference to particular steps and considerations that may assist in improving consideration of the important and complementary role of specialist services. We also suggest amendments to the NPA itself, including for example to specifically mention specialist services in the appropriate mix of services under Schedule A, clause A9).
 - national and state-wide services
 - services that operate across jurisdictions
 - pro bono services and partnerships (including for example beginning with mapping of jurisdiction-wide pro bono services)
25. CSP should involve mapping and planning of direct client service delivery, but also Community Legal Education and systemic law reform, policy and advocacy work
26. CSP is likely to be an iterative process and it is important for there to be monitoring and accountability mechanisms in place, including reviews of CSP in each jurisdiction to ensure the

³⁶ For example, we understand that the NSWLJF has recently updated its Evidence of Legal Need resource for the upcoming procurement/application process in NSW.

structure, processes and outcomes are effective and appropriate. There is also a role for greater oversight and accountability by the Commonwealth to ensure real progress and outcomes arising from CSP.

Opportunities for Reform

The hallmarks of good practice outlined above provide clear suggestions as to ways in which existing approaches and structures across jurisdictions might be amended to improve the effectiveness of CSP. In addition we also suggest amendments to the NPA to increase the accountability of State and Territory Governments with respect to CSP to ensure real progress and outcomes as well as greater transparency in reporting around CSP.

As noted, to date the operation of CSP across Australia has been inconsistent. The key examples of effective CSP include the approach taken in Queensland and elements of the Victorian approach. For example, the Queensland approach incorporates many of the hallmarks outlined above, including for example:

- a strong and clear 'system manager' role split between government, Legal Aid Queensland, Community Legal Centres Queensland and the Queensland Legal Assistance Forum (QLAF). For example, this includes the separation of program administration by the Legal Aid Commission from government policy and funding decision-making by government
- clear frameworks and forums for CSP (including a strong existing system as well as state-wide and regional service planning)
- development of a strong and tailored evidence-base to inform CSP, building on but not solely relying on the NSWLJF CSP resources
- resources to support CSP, including to Community Legal Centres Queensland and QLAF, and
- funding and support for Community Legal Centres Queensland as the peak CLC Association to work with Government and the sector to support CSP.

However, as in other jurisdictions, the Queensland approach does not incorporate all the hallmarks outlined above and there continue to be some limitations in CSP structures, processes and implementation in Queensland.

We also suggest that other examples of strong collaboration within and across the sector prior to the introduction of CSP requirements under the NPA such as the Cooperative Legal Service Delivery Program (CLSD) in NSW are useful in informing CSP. The CLSD is strongly supported by CLCs as a model of good practice, evidence-informed decision-making by people working on the ground to deliver legal services.

NPA Review Goal 3 (Funding Arrangements)

Assess the effectiveness, efficiency and appropriateness of current funding arrangements in meeting the objective and outcomes of the NPA

Questions:

- *To what extent is progress towards the NPA desired outcomes facilitated by the NPA funding allocation model?*
- *To what extent has the NPA facilitated good geographic coverage between states and nationally of legal assistance and associated outcomes?*

Please note that the scope of the NPA Review includes assessment whether the NPA has been effective, efficient and appropriate in the context of the funding that is available, and whether NPA funding has enabled progress toward NPA objectives (as stated in section 1.3 of the NPA Review Discussion Paper). This assessment will not include consideration of whether the existing funding is sufficient to meet legal need.

Summary

- We support the intended shift under the NPA to funding allocation being by way of transparent, consistent and evidence-informed mechanisms or models taking into account evidence and analysis of met and unmet legal needs and barriers to access to justice
- There is a lack of transparency about the current Funding Allocation Model under the NPA

Quantum of Funding

- Current levels of Commonwealth (as well as State and Territory Government) funding are insufficient to meet the objective and outcomes of the NPA
- The current NPA only includes Commonwealth funding and does not lock in State or Territory Government contributions, which was perhaps the biggest missed opportunity by the Commonwealth to encourage and require appropriate investment in the sector by State and Territory Governments
- There is a need to increase the overall quantum of funding to the sector contributed by both Commonwealth as well as State and Territory Governments and ensure any future NPA locks in funding commitments from both levels of government

Certain, Predictable, Long-term and Sustainable Funding

- Ensuring certain, predictable, long-term and sustainable funding for the sector is a vital part of ensuring it can operate most effectively
- The NPA was intended to, but did not, provide funding certainty to the sector
- Funding certainty and predictability allows organisations to appropriately and effectively plan for organisational sustainability and service provision. This lack of funding certainty has had a significant impact on the sector, centres, clients and communities

Interaction of NPA and Other Funding Arrangements

- The provision of additional and new funding outside the NPA has perpetuated lack of certain, predictable funding and increased the reporting burden on centres. There is a need to ensure additional or new Commonwealth funding for the sector is allocated under the NPA.

Funding for Peak Bodies

- Given the increased role of and reliance on peak bodies, there is a significant need for funding of peak CLC bodies.³⁷

Investing in Sector Capacity/Support and Core Functions

- In the context of limited funding, that funding has been focused on direct service delivery which has positive short-term benefits but over a long period has meant underinvestment in centre systems, staff wages and professional development and in outreach and remote servicing, which ultimately support quality services

Unfunded Centres

- There are a number of categories of centres that are not currently funded under the NPA. This submission considers in particular the work of the Environmental Defenders Offices, which have received Commonwealth funding in the past but are not currently funded under the NPA and the national centres which are currently funded by the Commonwealth but outside the NPA.

SACS

- There appears to have been a lack of understanding by some State and/or Territory Governments about how SACS supplementation is calculated or should be distributed or used
- Low sector wages impact on the ability of centres to attract and retain quality staff.

Quantum of Funding

The Terms of Reference for this Review are clear about the purpose of the Review, which includes assessing the 'effectiveness, efficiency and appropriateness of the NPA as a mechanism for achieving its objectives and outcomes within available resources'.

Similarly, the Review Discussion Paper acknowledges that *'the scope of the NPA Review includes assessment whether the NPA has been effective, efficient and appropriate in the context of the funding that is available, and whether NPA funding has enabled progress toward NPA objectives'*.

It is clear that the overall funding provided to the sector is insufficient to meet current or rising legal need in Australia. However, given the narrow focus of the Review, we emphasise that the level of funding currently provided to the sector under the NPA is a key barrier to meeting its stated objectives and outcomes.

³⁷ The need for appropriate resourcing of peak bodies is discussed throughout the submission, including in relation to the impact of the NPA, collaborative service planning, roles/responsibilities and evaluation/outcomes measurement.

As the Productivity Commission noted in 2014 (which remains the case under the NPA) ‘the total quantum of funds allocated is not sufficient to achieve governments’ stated priorities’³⁸ and that ‘the global funding envelope provided to legal assistance providers by Australian governments should be broadly related to the costs associated with meeting these priorities’,³⁹ which is not currently the case.

As a result, in considering whether the outcomes and objectives of the NPA have been met, we suggest that the Final Review report should also make recommendations about the level of resources that have been available (or not available) and the impact of underinvestment on objectives and outcomes and productivity.

There are a number of key elements to the issue of quantum, including the:

- broader funding context
- level of funding provided under the current NPA
- need for a cooperative approach between the Commonwealth and State and Territory Governments to determining the overall quantum of funding required for the sector to meet the objective and outcomes of the NPA (and then more broadly to meet legal need), and
- need for additional funding.

Funding Context

CLCs are efficient and innovative providers of free legal assistance to everyday people across Australia. Unresolved legal problems generate a range of flow-on effects, including multiple and related problems and significant costs to the government and broader community. CLCs as part of the legal assistance sector, play a crucial and effective role in assisting people resolve their legal problems and in meeting rising demand for legal assistance.

The vital work of CLCs generates savings to governments and the community as a whole. As the Productivity Commission has noted:

- the ‘positive spill-over or flow on effects to the wider community from providing legal assistance services’⁴⁰ justify government involvement in, and funding of, legal assistance services
- in many types of disputes, the avoided or flow-on costs are greater than the cost of providing funding to legal assistance services to provide the assistance⁴¹
- ‘legal assistance services can prevent or reduce the escalation of legal problems, which in turn can mean reduced costs to the justice system and lower costs to other taxpayer funded services (in areas such as health, housing and social security payments)’.⁴²

The Law Council’s Justice Project recently found and recommended that Commonwealth, State and Territory Governments should invest significant additional resources in the legal assistance sector to address critical civil and criminal legal assistance service gaps. The Report suggested that at a minimum it should include \$390 million per annum.⁴³

³⁸ Productivity Commission of Australia, Access to Justice Arrangements Inquiry Report No 72 (September 2014) 741.

³⁹ Ibid, 743.

⁴⁰ Ibid, 666.

⁴¹ See, eg, Ibid, Appendix K, 1054.

⁴² Ibid, 666.

⁴³ Law Council of Australia, Justice Project (2018), rec 2.1.

People experiencing legal problems in Australia are increasingly unable to access legal assistance and there is significant unmet legal need in Australia. This is occurring against the backdrop of underfunding of the legal assistance sector (for example, Australia is one of the lower funding nations of legal assistance services on a per capita basis). The effect of this is that hundreds of thousands of people who are experiencing legal problems are unable to access legal help.

Level of Funding

CLCs across Australia receive a mix of funding. The 2017 National CLCs Census results provide information about the mix of funding received by centres. The list below outlines the sources of funding received by centres which responded to the survey and the percentage in brackets indicates the percentage of CLCs which receive the funding:

- Commonwealth Government: NPA (76.6%) and non-NPA (26.2%)
- State/Territory Governments: Main Budget (74.8%)
- State/Territory Governments: Public Purpose Fund/Legal Practitioners Interest on Trust Account Funds and similar (44.9%)
- Fundraising and sponsorship (35.5%)
- Philanthropic organisations (28%)
- Some centres also receive funding through other sources such as fee for service training/initiatives.

The NPA provides \$1 billion over 4 years for Legal Aid Commissions and CLCs. However CLCs only receive \$142.90 million of total NPA funding, and approximately 12% of overall Commonwealth funding for the legal assistance sector.

In the 2017-2018 Federal Budget, a 30% reduction to Commonwealth funding for CLCs across Australia under the NPA was reversed, with \$39 million reinstated over the remaining years of the NPA. As a result, under the NPA, the Commonwealth contribution to 189 CLCs nationally is \$48.64 million in 2018-2019 and \$50.07 million in 2019-2020.

A Cooperative Approach to Funding

Funding for CLCs must be a responsibility shared jointly by Federal, State and Territory Governments. There are two key elements to this responsibility:

1. Joint investment in the sector, locked into the NPA, and
2. Cooperation to determine the appropriate overall quantum of funding to the sector, including Commonwealth, State and Territory investments

Joint Responsibility for Funding

The current NPA only includes Commonwealth funding allocated to each jurisdiction over the period of the NPA. It does not incorporate or confirm State or Territory Government contributions which was perhaps the biggest missed opportunity by the Commonwealth to encourage and require appropriate investment in the sector by State and Territory Governments.

There are other NPA examples which incorporate both Commonwealth and State and Territory contributions, for example the National Partnership Agreement on Homelessness 2017-2018.

In addition to the need to lock in State and Territory funding commitments over the life of the NPA, another key issue of concern for the sector is the limited contribution by many State and Territory governments to the sector.

State and Territory funding for the sector varies significantly across jurisdictions. For example, for centres funded under the NPA in 2017-2018, the percentage of Commonwealth compared to core State/Territory Government funding is as follows:

Jurisdiction	% of total funding (Cth/Total)	% of total funding (State/Total)
Australian Capital Territory	73.16%	26.84%
Northern Territory	70.65%	29.35%
Tasmania	70.61%	29.39%
South Australia	66.76%	33.24%
Western Australia	79.49%	20.51%
New South Wales	55.40%	44.60%
Queensland	36.84%	63.16%
Victoria	34.45%	65.55%

Notes: The table is based on information provided by the Commonwealth Attorney-General's Department. It only includes centres that receive Commonwealth funding under the NPA. Commonwealth funding includes Women's Safety Package and SACS funding but not other sources of Commonwealth funding. State funding only includes 'core' State funding, not PPF/LPITAF/SGTF or other sources of State funding.

Ensuring contributions and support for the sector from both levels of government is vital and we strongly recommend that any future NPA lock in Commonwealth as well as State and Territory Government contributions for the full period of the NPA. That said, we note the importance of ensuring that Commonwealth funding contributions are not reduced where State or Territory Governments provide additional funding.

Determining Appropriate Quantum

In considering the appropriate level of funding for CLCs nationally there are several clear gaps. There has been and continues to be no transparent, public or evidence-based assessment of what the overall quantum of funding for legal assistance should be in Australia to meet legal need.

We suggest that to properly inform decisions about allocating funding between jurisdictions under the NPA it is necessary to re-examine how decisions are made about the quantum of funding for legal assistance, to quantify the existing extent of underfunding and to determine an appropriate and sustainable quantum of funding in the long-term in light of legal need.

Accordingly, we recommend a cooperative approach between the Commonwealth, State and Territory Governments and the legal assistance sector to determine what the appropriate quantum of funding is for the sector, what the contribution of Commonwealth, State and Territory Governments should be to that quantum, and the appropriate allocation of the quantum to the four key legal assistance providers. Given the variety of Government sources from which CLCs receive funding (outlined above) a whole-of-government approach to such a determination is vital. In addition, once the appropriate quantum is determined it is vital that State, Territory and Commonwealth Governments commit to provision of such funding on an ongoing basis.

[Additional Funding](#)

As noted, the current level of funding under the NPA is insufficient to meet its objective and outcomes. As a result, and in addition to the cooperative approach outlined above, we recommend that the Commonwealth Government provide an immediate injection of additional funding to the legal assistance sector.

The Productivity Commission was clear—there is a need for an immediate injection of \$200 million per year into legal assistance with 60% contributed by the Commonwealth Government and 40% contributed by State and Territory Governments.

In 2014 when the report was released, the Productivity Commission expressed the view that this was an urgent and interim measure, necessary to address “the pressing nature of service gaps” and needs including maintaining existing frontline services. Since 2014 there has been three Federal Budgets, each failed to address these service gaps by not providing additional funding, resulting in an extra \$360 million shortfall since 2014 and thousands of people have been and continue to be turned away from essential legal services.

The Productivity Commission did not recommend how the proposed funding amount should be allocated between legal assistance providers (CLCs, ATSILS, FVPLS and LACs). NACLIC does not necessarily consider that the existing proportionate allocation of funding between legal assistance providers is appropriate or should be continued. This is something that should be considered as part of the process for determining an appropriate quantum discussed above.

More recently, the Law Council of Australia’s Justice Project recommended that Commonwealth, State and Territory Governments should invest significant additional resources in the legal assistance sector to address critical civil and criminal legal assistance service gaps. The Report suggested that at a minimum it should include \$390 million per annum.⁴⁴

[The Need for Certain, Predictable and Long-Term Funding](#)

Regardless of the overall amount of funding provided to the sector, funding for the sector has also been characterised by significant uncertainty.

This uncertainty has arisen despite the 5-year NPA being in place as a result of:

- the particular political and funding circumstances in which the current NPA was negotiated and has been implemented
- the allocation of the Commonwealth component of sector funding to each State and Territory Government which is then subject to varying decision-making processes and mechanisms for allocating the funding (either directly from the relevant Department of Justice or in some jurisdictions, the Legal Aid Commission). For example, State Governments often wait for their own State Budget processes and/or allocations of solicitors’ trust funds prior to making decisions about the allocation of overall funding to individual centres, and
- varying length of service agreements across jurisdictions

⁴⁴ Law Council of Australia, *Justice Project* (2018), rec 2.1.

Funding uncertainty has significant impacts on the efficiency and effectiveness of the work of the sector. It makes decisions about service delivery, staffing, and related issues very difficult.

The Real Impacts of Funding Uncertainty

- centres are unable to negotiate or continue leases on office buildings, which results in shorter-term and sometimes less cost effective lease arrangements
- centres are unable to guarantee partner organisations continuity of services which impacts on the ability of centres to develop relationships of trust, deliver integrated and collaborative services, or plan for outreach or the delivery of community legal education
- in circumstances where the ongoing financial sustainability of centres is at risk or where particular projects or services may be at risk, centres have been unable to guarantee judicial officers of their ongoing ability to be the solicitor on the record in long matters (for example in family law matters)
- lack of funding certainty makes it difficult to plan service delivery or employ staff, which has resulted in increased turnover and difficulty attracting and retaining staff across the sector. In particular the scheduled 'funding cliff' and lack of long-term funding certainty resulted in the loss of many experienced staff members across the sector and resulted in an administrative burden on centres seeking to recruit new staff
- lack of funding certainty makes it very difficult to plan services, or recruit experienced staff in rural, regional and remote areas in particular given the reluctance of staff to re-locate to RRR areas without job security
- under the Northern Territory funding agreement, funding is only provided to centres in October. This means centres have no legal assistance funding between June-September each year. This period is the dry season which means many remote communities are accessible and there is limited law and ceremony. As a result, the period between June-September should be the peak period for service delivery, rather than a period of funding uncertainty. The uncertainty means centres are reliant on securing other funds or cross-subsidising to ensure continuity of service and are limited in their ability to provide services
- during the tender process and in the lead up to reform of the sector in South Australia, centres lost a number of experienced staff as a result of funding uncertainty. Funding decisions were then not made until May, with effect from July, so centres only had a matter of weeks to deal with redundancies, office closures, finalising client files and for some centres, delivering services in new areas. Throughout this period centres were still attempting to ensure provision of ongoing assistance to clients and their communities.

Funding uncertainty and the ongoing need for CLCs to undertake funding-related activities including reporting fundraising and applying for grants also reduces the ability of CLCs to dedicate resources to front-line service delivery, or explore innovative service delivery models. For example, the results of the 2017 NACLC Census indicate that CLCs spent over 3,857.2 hours per week during 2016-17 on these funding-related activities.

It also makes effective service planning difficult. For example, the 2016 Victorian Review recommended that the Victorian Government (and Victoria Legal Aid) should provide four-year funding allocations for

legal assistance specifically to improve the ability of legal assistance services (including CLCs) to plan service provision.⁴⁵

Fund Equal Justice Campaign

At a national level, the funding uncertainty under the NPA and in particular the scheduled 30% reduction in Commonwealth funding for CLCs, prompted NACLCL to develop and coordinate the Fund Equal Justice Campaign.

The campaign was a national one which aimed to reverse the significant funding cuts to CLCs due to take effect from 1 July 2017; attract additional Commonwealth Government investment in the legal assistance sector; and encourage consideration of and support for long-term funding and sustainability of the sector.

The campaign involved: development of key information and materials; meeting with Commonwealth and State/Territory MPs; working with key sector partners and supporters; supporting individual CLCs to undertake local advocacy about their services and communities; and media and social media engagement.

NACLCL, our members, the sector and our supporters were required to divert significant time and resources to the campaign, which was ultimately successful in having the funding cuts reversed in April 2017 (only two months before they were due to take effect). This campaign and the eventual but late decision to reverse the cuts clearly illustrates the need for provision of sustainable funding and funding certainty for the sector moving forward.

Accordingly, one of the key reflections on the NPA is its failure to provide certain, predictable or long-term funding for the sector and the need to consider ways to ensure these principles underlie funding decisions and processes under any new NPA.

In particular, NACLCL suggests:

- the introduction of five-year funding agreements across jurisdictions in line with the full period of any future NPA
- requirements around longer timelines for the notification of funding decisions (by way of example, the ACT Department of Justice Funding Agreement incorporates a mandatory 6 month notice period)
- recognition of the importance of appropriate consultation, support and transitional arrangements and funding where significant changes in the funding or administration of CLCs are likely, including for example where funding cuts are predicted
- where additional funding is available, there must be recognition of the time taken to develop service delivery plans and programs and put in place the necessary arrangements to commence new/additional service delivery. For example, feedback provided by many of the services which received Women's Safety Package funding to establish specialist domestic violence units and/or Health Justice Partnerships have expressed concern about the expectation of time taken to establish these units and the necessary relationships with other organisations.

⁴⁵ Victorian Government, *Access to Justice Review*, Report and Recommendations, Volumes 1 & 2 (2016), rec 6.7.

Interaction of NPA and Other Commonwealth Funding

One of the key outcomes following introduction of the NPA that the sector was supportive of was a shift to transparent, evidence-based funding allocations. The NPA framework provided an opportunity to consolidate multiple funding sources to be governed by and decided using one framework/mechanism.

Unfortunately however, Government announcements of welcome additional funding to the sector, including for example under the Women’s Safety Package and more recently in relation to elder abuse, have been provided outside the NPA. As a result, there continue to be multiple Commonwealth funding streams to the sector, a lack of transparency or consistency in the way decisions about sector funding allocation are made, and multiple reporting obligations which impose a regulatory burden on the sector.

This provision of additional and new funding for CLCs and LACs outside the NPA has perpetuated lack of certain, predictable funding and increased the reporting burden on centres.

As a result, as a matter of principle, to ensure consistency with its aims, there is a need to ensure additional or new Commonwealth for the sector is allocated under the NPA and that provision is made for the inclusion of additional funding contributions by the Commonwealth or States and Territories under the NPA.

Other Commonwealth Sources of Funding

There are a range of sources of Commonwealth funding to the sector outside the NPA, from the Attorney-General’s Department but also from a number of other sources outlined in the table below.

Commonwealth Non-NPA Funding Source	Number of CLCs Receiving Funding
AGD - CLSP - Other	3
AGD - CLSP - Self-Representation Service	3
AGD – Family Advocacy and Support Service (FASS)	1
AGD - Women's Safety Package (DVU and/or HJP)	14
Department of Communications and the Arts	1
DIBP – Immigration Advice and Application Assistance Scheme (IAAAS)	4
DSS - CALD Prevention	1
DSS - Children’s Contact Service	1
DSS - Disability Advocacy, NDIS Appeals	7
DSS - Financial Counselling, Problem Gambling	7
DSS - Settlement Grant	2
Fair Work Ombudsman - Community Grants Program	3
PM&C Indigenous Advancement Strategy - Indigenous Women's Program	12
Department of Health	1
TOTAL	60

Note: 12 CLCs receive at least two of these funding sources, which means in total 48 CLCs receive non-NPA Commonwealth funding. Although NACLCL has attempted to verify these figures, these figures may not reflect all Commonwealth non-NPA funding sources received by centres and are in part reliant on self-reporting by centres.⁴⁶

This variety of Commonwealth sources of funding for the sector demonstrates the breadth of work undertaken by the sector across areas of Commonwealth responsibility. It also highlights that the NPA is one mechanism, but not the only one, for provision of Commonwealth funding to the sector and there is a need for greater whole of government coordination and engagement with the sector to ensure consistency and avoid duplication in administrative and reporting arrangements and facilitate efficient use of Commonwealth funding.

[Investing in Sector Capacity and Support](#)

In the context of limited funding, the focus of funding has been on direct service delivery which has positive short-term benefits but over a long period has meant underinvestment in centre systems, staff wages and professional development which ultimately support quality services. Similarly, as outlined with respect to CSP, there has not been resources available to support or enhance sector capacity to engage in CSP.

In ensuring that the objective and outcomes of the NPA are met there is a need for appropriate Government recognition of the importance of strong systems and staff to ensure the best possible outcomes for clients and communities and that an appropriate level of funding is needed to ensure this.

[Unfunded Centres](#)

There are a number of unfunded centres across Australia which receive no Commonwealth funding, or no funding at all. These centres play an important role in meeting legal need in their communities and are providing quality services (highlighted by their accreditation under the NAS) and as a result, we suggest consideration be given to the way in which the NPA and CSP operate to ensure appropriate recognition of their role.

However, in the context of the NPA Review this submission focuses on the work of the Environmental Defenders Offices, which have received Commonwealth funding in the past but are not currently funded under the NPA and the national centres which are currently funded by the Commonwealth but outside the NPA.

[Environmental Defender's Offices](#)

The eight Environmental Defenders Offices (EDOs) across Australia are the only public interest environmental law organisations in Australia.

EDOs provide:

- legal advice and representations on matters arising under environmental or planning legislation
- community legal education programs which allow community members to understand the laws and decisions that affect them, and that their involvement in decision making is informed, efficient and effective; and

⁴⁶ See, eg: NACLCL National Census 2016-2017; Commonwealth Attorney-General's Department, Grants Reporting 2016-2017; Department of Social Services, Grants Funding Report Final; Department of Prime Minister and Cabinet, Indigenous Advancement Strategy Grants Reporting.

- environmental policy and law reform work, often in response to requests from Parliamentary Committees and governments.

EDOs apply a public interest test to all work going beyond initial consultations. Cases must have significance beyond the material or financial interests of a particular individual or group. EDOs also ensure that each case has a real prospect of success and there is utility in bringing the proceeding. EDOs undertake extensive advice and outreach work with people residing in rural and remote areas, and Aboriginal and Torres Strait Islander peoples, who, by virtue of their location and special connection to land, are more likely to experience legal need in relation to environmental or planning issues.

EDOs currently receive no Commonwealth funding. As a result since the cessation of Commonwealth funding, all EDOs have worked to diversify their funding base. In addition to private funding through philanthropy, donations and fee for service work, EDOs receive funding from State Government sources, including:

- EDO ACT- Territory Government – Legal Assistance Program
- EDO Northern Queensland- Queensland Department of Justice and Attorney-General
- EDO New South Wales- Public Purposes Fund Discretionary Disbursement, Law Society NSW, Legal Aid NSW (CLSP and CLC program)
- EDO Northern Territory - Northern Territory Department of Environment, Law Society Community Fidelity Fund
- EDO Queensland Queensland- Department of Justice and Attorney-General, Queensland Department of Environment & Heritage Protection
- EDO South Australia- South Australia Department of Environment
- EDO Tasmania Tasmania-Department of Primary Industries Parks Water and Environment Tasmania, Department of Justice
- EDO Western Australia- Legal Aid WA (CLSP)

The value of the legal services delivered by EDOs has been consistently confirmed in a number of national and state and territory reports. For example, the Productivity Commission recognised that CLCs, including the EDOs, play a vital role and recommended that: ‘The Australian, State and Territory Governments should provide funding for strategic advocacy and law reform activities that seek to identify and remedy systemic issues and so reduce demand for frontline services’.⁴⁷

The Cameron Review in NSW suggested that ‘CLCs that engage in strategic advocacy and law reform activities that aim to remedy systemic issues, including in relation to environmental matters, should continue to be funded by the NSW Government’.⁴⁸ Importantly, while not assisting any one particular priority group under the NPA, as the Cameron Review observed, all of these ‘groups also benefit when the environment is protected in accordance with the law as a result of EDO’s advocacy’.⁴⁹

We suggest that the EDOs should receive Commonwealth funding and that funding should be provided under the NPA, though of course a number of mechanisms would need to be adjusted to ensure appropriate consideration and valuing of their work. For example, to date in our view there has been no

⁴⁷ Productivity Commission of Australia, *Access to Justice Arrangements Inquiry (2014) Final Report*, Vol 1, rec 21.1.

⁴⁸ Alan Cameron, *Review of NSW Community Legal Services (2017)*, 7-8.

⁴⁹ *Ibid*, 41.

effective funding mechanism or methodology that appropriately considers public interest type work; and there is a clear need to amend CSP processes to account for the work of EDOs.⁵⁰

National Centres

There are number of national centres, or centres which run national services/projects that have traditionally received Commonwealth funding. Following the negotiation and commencement of the NPA, we welcome ongoing Commonwealth funding for these centres, however it occurs outside the NPA directly from Commonwealth Attorney-General's Department under the Commonwealth's Community Legal Services Program (CLSP). The CLSP is a pool of funding retained by AGD that was not rolled into the NPA and funds these national centres as well as NACLC.

These centres include:

- Youth Law Australia
- Arts Law Centre of Australia (Artists in the Black)
- Financial Rights Legal Centre (Insurance Law Service)

Youth Law Australia

Youth Law Australia (formerly the National Children's and Youth Law Centre) is a national centre that provides services to children, young adults (ages 18-24) and children's advocates of all ages. YLA provides legal information, advice, assistance, referrals, community legal education, as well as policy and law reform.

It describes itself as a hybrid centre, both generalist and specialist. It is generalist in that it offers legal assistance on every type of everyday legal problem; it is specialist in that it has particular expertise in offering those services to children, young adults (18-24) and children's advocates of all ages.

YLA is the only CLC to target an entire NPA priority group via a national service model. YLA's mission is to assist in solving the twin problems of Australian young people's lack of access to justice, and the Australian legal assistance sectors' geographical gaps in service coverage. In respect of the last, nearly 30% of YLA's clients are from RRR areas across the nation.

YLA's legal information website, Lawstuff: www.lawstuff.org.au is accessed by more than 1 million Australians every year generating benefits for the broader Australian community of online legal help seekers.

YLA currently receives no NPA, State or Territory Government recurrent funding. YLA is part-funded by the Commonwealth's Community Legal Services Program (CLSP).

Arts Law Centre of Australia

The Arts Law Centre of Australia (Arts Law) is Australia's only CLC for artists and arts organisations. It has been providing legal advice and engaging in advocacy on both a local level, and a national level since 1983.

⁵⁰ We understand that some of this work is currently being undertaken by the NSW Government as part of the upcoming NSW procurement/application process.

Arts Law launched its service, Artists in the Black, in 2004. Since then Arts Law has assisted Aboriginal and Torres Strait Islander artists, Indigenous Art Centres and related organisations with legal advice, referrals, legal education, and a wills service. In Aboriginal and Torres Strait Islander communities art is often one of the main income sources. When artists in a community are able to control their rights associated with their arts practice, the entire community benefits.

Financial Rights Legal Centre (Insurance Law Service)

The Financial Rights Legal Centre runs the Insurance Law Service (“ILS”) which is a national legal advice and casework service for consumers of personal insurance products and people with debts to insurance companies.

The ILS provides telephone advice across Australia for the cost of a local call. The service deals with between 7,000 and 8,000 calls and e-mail enquiries per year by providing information and advice, and conducts task and representation services to about 100 people per year. It also provides information and resources on its website including fact sheets, sample letters via our letter generator and more dynamic advice through our interactive motor vehicle accident problem solver.

ILS clients range from Aboriginal and/or Torres Strait Islander people in remote communities who have been sold multiple poor value funeral or life insurance policies causing them severe financial hardship, to people who have had trouble claiming on their home or car insurance due to policy exclusions, over zealous claims investigations, mental illness or family violence. ILS has provided many examples of poor conduct to the Royal Commission and provide continuous feedback to government and industry to shape both regulatory and self-regulatory initiatives and improve consumer outcomes.

The ILS is currently funded by a combination of direct funding from the Commonwealth Attorney General’s CLSP program, the NPA (taken from Financial Rights core NPA funding) and funds from financial service providers as a result of one off Enforceable Undertakings negotiated by the Australian Securities and Investments Commission (“ASIC”). Despite this, the service regularly receives 3 times as many calls as it can answer.

Funding for National Centres/Services

Consistent with the broader call for additional resources under the NPA, we strongly support provision of additional funding to the national centres (currently funded under the CSLP) by Commonwealth, State and Territory Governments.

The structures and processes under the current NPA would not currently support provision of appropriate support and funding for these centres. As a result, we do not suggest that their funding be rolled into the NPA at this stage. However, in future NPAs it may be appropriate to include funding for these centres under the NPA. This would require significant reform of the structures and processes to ensure Commonwealth, State and Territory funding and support for these centres, recognition of their value, involvement in CSP, and consideration to administrative questions such as which government would most appropriately oversee the funding and administration of these centres.

SACS Supplementation and Sector Wages

SACS Supplementation

Briefly, our members have indicated that there appears to have been a lack of understanding by many State and/or Territory Governments about how SACS supplementation is calculated or should be distributed or used. In addition, in some jurisdictions (such as South Australia) SACS supplementation was included as part of core funding levels which made it difficult to determine the SACS component.

Sector Wages

Overall, the salaries and conditions for most CLC workers are covered by the Social, Community, Home Care and Disability Services Industry Award 2010 (SCHCADSI Award). Many CLCs have Enterprise Agreements. However, there are ongoing concerns and difficulties across the sector recruiting and retaining staff, particularly at a senior level, due to low salaries. This issue is exacerbated in RRR areas.

For example, in February 2016, CLCNSW and CLCQ distributed a salary survey to all CLCs, asking CLCs to report anonymously on salaries of key positions, and identify the relevant Grade against the SCHCADSI Award. In NSW, 20 organisations participated in the survey: 13 generalist CLCs, 6 specialist CLCs, and CLCNSW. The survey results revealed that salaries for legal and CEO positions in CLCs are well below parity with equivalent positions in government, although CLC salaries for administrative positions are broadly comparable with government salaries.

NPA Review Goal 4 (Performance Monitoring and Reporting Arrangements)

Assess the utility of the performance monitoring and reporting arrangements, including the collection of consistent and comparable service data in measuring the progress towards achieving the objective and outcomes of the NPA

Questions:

- *To what extent do the current NPA performance monitoring and reporting requirements appropriately balance the need for accountability versus the need to minimise the bureaucratic burden on administrators and legal assistance service providers?*
- *To what extent does the National Legal Assistance Data Standards Manual support collection of consistent and comparable data?*
- *What barriers have impacted implementation of performance monitoring and reporting arrangements?*
- *What are the opportunities to improve performance monitoring and reporting arrangements?*

Summary

- The NPA itself does not impose burdensome performance monitoring and reporting requirements. However, there are a number of issues under the NPA relating to performance monitoring and reporting
- There is ongoing duplication of reporting requirements, particularly given allocation of Commonwealth funding outside the NPA
- It is imperative that any new national performance benchmarks and indicators be developed collaboratively across the legal assistance sector, and be outcomes-based rather than outputs focused
- We suggest increased transparency and use of information provided as part of reporting and greater coordination across levels of government
- The transition to new data definitions and data collections tools with the introduction of the NPA, has been difficult. There was a ‘perfect storm’ relating to sector data with the introduction of the National Legal Assistance Data Standards Manual; inconsistent recording of data under the Data Standards Manual; the roll-out of CLASS; and the use of CLASS data
- There have been significant challenges relating to the development and roll-out of CLASS.
- CLASS as a product is fit for purpose for the majority of CLCs and now meets the requirements of the funding agreement
- There is a need for greater recognition of and investment in evaluation and outcomes measurement, on behalf of Government and investing in sector capacity to undertake that work.

Performance Monitoring and Reporting

The NPA itself provides for simple performance monitoring that is not burdensome on centres. However, there are a number of issues with respect to performance monitoring and reporting, including:

- there were limited discussions between the Commonwealth, States and Territories, Legal Aid Commissions and CLCs about appropriate performance benchmarks and indicators for the NPA prior to it being finalised

- the final performance benchmark (proportion of people receiving Representation services who are financially disadvantaged) is used as an indicator for one of the NPA's outcomes (that legal assistance services are targeted to those most in need). This is a benchmark that LACs automatically meet due to their definition of Representation Services being people who have received a grant of legal aid; however many CLCs do not (and we argue should not) strictly means test our clients, so the benchmark caused great concern for CLCs in the first few years of the NPA
- each State and Territory government had to revise (or in the case of the Territories, create) CLC funding agreements and reporting arrangements in June-July 2015 in order to ensure they could gather the data they needed for NPA reporting. This created large workloads and pressure on CLCs as they had to review the agreements, provide advice to their Boards, and get them signed in the space a number of weeks
- the performance indicators in the NPA, replicated in the service agreements for the State and Territory Governments, once again led to a focus on CLC outputs (how many services were provided) rather than outcomes (and was anyone better off)
- although the NPA indicators did not (and should not) set targets for service delivery, some state CLC programs continued to set service targets for individual CLCs without analysis of the appropriateness of those targets
- there has been no national information sharing about the data or information provided by state and territory governments as part of reporting, which means this data has not been available to inform decision-making or policy development at a national level
- State and Territory NPA Performance meetings had limited opportunities to reflect or have broader conversations about the information or data.

It is imperative that any new national performance benchmarks and indicators be developed collaboratively across the legal assistance benchmark, and be outcomes-based rather than outputs focused. We also suggest that there is a need for increased transparency and use of information provided as part of reporting and greater coordination across levels of government.

Duplication of Reporting

While the NPA itself does not impose burdensome reporting, we remain concerned about ongoing duplication of reporting requirements for services which receive funding under the NPA, from State and Territory CLC funding programs, and other sources of funding. By way of example:

- services that receive welcome Women's Safety Package funding from the Commonwealth Attorney-General's Department have differing reporting obligations (provided on an Excel spreadsheet) from the rest of their funding from AGD under the NPA
- there is significant inconsistency in the requirements from State and Territory Governments across jurisdictions
- cross-border services such as Hume Riverina Community Legal Centre are subject to multiple reporting requirements, including: different information required to demonstrate targets are being met; different ways of submitting financial reports; completely different approaches and methodologies for client surveys required under the NPA as they must report to both the NSW and Victorian Governments.

Sector Data and Data Standards

There is a need for strong, consistent and reliable data to provide a basis for informing government, service providers and others in the development of evidence-based policy with respect to legal assistance and the justice system more broadly.

Importantly however, we emphasise the need to ensure that decision-making is data informed rather than data driven. CLCs recognise that qualitative information or evidence such as case studies and the experience of individuals within the system is a rich and informative source of data that complements quantitative data such as service outputs and client demographics.

CLCs have a long history of calling for improved data and evidence about the legal assistance sector as well as the justice system generally. Numerous inquiries and reviews have highlighted the importance of high quality consistent data across the legal assistance sector: much of this is summarised in the 2014 Productivity Commission Access to Justice Inquiry Report.⁵¹

The development of a National Legal Assistance Data Standards Manual (Data Standards Manual) and the decision to move away from CLSIS to a new system, provided an opportunity to improve data collection in the sector and address the Productivity Commission's concerns.

However, implementation of these initiatives has been undermined by inadequate dedicated resources and the associated timeframes.

The transition to new data definitions and data collections tools with the introduction of the NPA, has been difficult. In essence there has been a 'perfect storm' relating to:

- the push to finalise the Data Standards Manual in March-May 2015, in order to bring new service definitions under the NPA
- the need to use 'CLC proxies' for NPA data for the first few years of the NPA until a new CLC database was up and running
- an unrealistic development timeline for CLASS, pushed by the Commonwealth's desire to decommission CLSIS as soon as possible, which necessitated a phased implementation process
- the transition from CLSIS to CLASS in February-March 2017 bringing in several new data definitions that were foreign to CLCs, leading to inconsistent recording of some service types for the 2016-17 period, and
- delays in the roll-out of CLASS itself, which has caused under-reporting in the 2017-18 period.

[Data Standards Manual](#)

In 2015, the Commonwealth Attorney-General's Department released the Data Standards Manual. The aim of the Data Standards Manual was to introduce common client and service data recording across all four legal assistance services.

⁵¹ See, eg, ch 25.

Development

Against the backdrop of discussions about the need for improved and more consistent data across the legal assistance sector, in around 2013 AGD brought together all four legal assistance services into a National Data Standards Working Group. We welcomed AGD's leadership in working with the sector to discuss ways to develop more consistent data.

The aim of the Working Group was to discuss and develop some common data definitions for the main services delivered in the legal assistance sector. The initial discussions were sector-led and explorative, rather than being designed to develop any mandatory data/reporting requirements.

However, in 2015 there was a push by the AGD to finalise a Data Standards Manual and the work was then used in the draft (and later final) NPA. In addition, AGD funding to NALC for developing a new database (CLASS) was contingent on the database being based on the Data Standards Manual.

While CLASS was being built, over an 18 month period July 2015 – December 2016, NPA reports pulled data from CLSIS using CLSIS Proxies for the service types that did not exist in CLSIS but were required by the NPA and described in the Data Standards Manual.

Impact

The requirement that CLCs record data consistently with the Data Standards Manual and the requirement that it be used to underpin CLASS, resulted in significant changes for the sector as well as reconceptualising ways to capture the work of the sector.

For example, one of the key changes in the Data Standards Manual was the introduction of multiple new 'service types'. In CLSIS, there were Information, Advice and Casework. Services are now broken down into ten types. The table below outlines how the old CLSIS Activities were migrated into CLASS:

CLSIS (Previously)		CLASS (Current)
Advice	Where 'Activity Nature' was Legal	Legal Advice
	Where 'Activity Nature' was Non Legal	Discrete Non-Legal Support
Casework	Where 'Court/Tribunal' checkbox is ticked	Court/Tribunal Representation
	Where 'Duty Lawyer' was selected in Case Hours	Duty Lawyer
	Where 'Primary/Alternative Dispute Resolution' checkbox is ticked	Dispute Resolution Representation
	All other minor, medium and major cases	Other Representation
Information		Information
Not in CLSIS		Legal Task
		Ongoing Non-Legal Support
		Facilitated Resolution Process

In addition, there is a lack of clarity in the Data Standards Manual as to how CLCs should characterise and count services as they provide them to real people. This has become clearer following the roll-out of CLASS which is based on the Data Standards Manual. This lack of clarity led to centres developing their own internal rules, with the result that one CLC might have been recording a particular service as a Legal Task, where another CLC was characterising it as a Legal Advice or an Other Representation Service.

While CLASS was in development in 2016 and 2017, NALCLC prepared information and training for CLCs about the new service types that would be in CLASS. However, there were insufficient resources to properly prepare the sector for the introduction of recording data using the Data Standards Manual.

After discussions with NALCLC, AGD recognised the need for work in this area and in July 2018 we received welcome funding from AGD and Legal Aid NSW to undertake a Data Consistency Project. We are working collaboratively with the Federation of CLCs (Vic) and CLC Queensland, both provided with State Government funding to similarly improve data consistency in their states.

The project, which will be completed by June 2019, aims to develop and embed new business rules across the CLC sector that effectively “mesh” the Data Standards Manual with CLASS and with CLCs’ actual legal practice management requirements.

Ultimately, NALCLC is working towards improving the quality and recording of consistent data and enhance data collection, reporting and analysis at a national and state level. We have great confidence that by 1 July 2019, CLCs will be capturing and reporting on service data better than at any time before.

Community Legal Assistance Service System (CLASS)

Prior to 2017, the Commonwealth Attorney-General’s Department owned and administered the national CLC database Community Legal Services Information System (CLSIS). CLCs that received Commonwealth funding (and in some states, CLCs that also received state CLC program funding) were required to use CLSIS to report on their service outputs. In most states, CLCs were also required to submit their funding acquittals via CLSIS.

CLSIS was an outdated piece of software that was becoming increasingly expensive for the Commonwealth AGD to maintain. The 2014 Productivity Commission Inquiry found that CLSIS was also failing to accurately capture the work of CLCs or FVPLS, and that the data entered into the system was frequently incomplete.

In June 2015, the Commonwealth AGD provided NALCLC with some initial (but inadequate) funding to develop a new system to replace CLSIS – this system became known as the Community Legal Assistance Service System (CLASS). Importantly, the funding agreement with the Commonwealth stipulated that the database must be consistent with the Data Standards Manual.

We developed the scope and set of business requirements for CLASS from July-September 2015 through intensive consultations with a range of user groups, including CLCs, FVPLS and the State Program Managers. The aim underpinning the business requirements was to develop a client management and reporting system that permitted *at a minimum* the same level of functionality as CLSIS in terms of data collection and reporting, but was *also* a legal practice and case management tool that would improve the efficiency and operations of CLCs.

CLASS was rolled out to CLCs from February 2017 onwards.

Project Challenges

Right from the beginning, CLASS has had a number of project challenges, including:

- the short timeframe for a project of this size and complexity – effectively a 12 month period for development, testing, data migration and roll-out to 165 CLCs and FVPLS
- the Commonwealth’s decision to decommission CLSIS, which drove the urgency of the project, as there was no contingency option
 - This meant NACLCL had to ensure roll-out of the new system occurred with no loss of data and to have CLASS stable and ready so that CLCs could move from using CLSIS one day to CLASS the next day – without this, CLCs would have been unable to provide any services because conflict checks could not be conducted on any new clients
- the fact that CLASS was built on the new Data Standards Manual, which meant that when roll-out occurred not only did CLCs have to get to know a new system, they also had to understand new service types
- insufficient development budget for project of this size and complexity
- no guaranteed ongoing funding for ongoing/maintenance of the database
 - Although the Commonwealth Government advised both NACLCL and the State and Territory governments that some of the funding provided to the states and territories under the NPA included funding that should be reserved for CLASS, as far as NACLCL understands, there was no formal quarantining of these funds. As a result, NACLCL was then required to negotiate separately with each of the 8 different jurisdictions to gain funding for the ongoing maintenance of the database.

The lack of sufficient initial funding by AGD, or provision of guaranteed ongoing funding, has led to NACLCL carrying an increasing amount of the cost of CLASS from within its core budget, diverting resources from other sector support functions, and having a significant effect on NACLCL’s overall financial sustainability.

CLASS Roll-Out and Implementation

CLASS roll-out occurred in a staged approach as follows:

1. February-March 2017: Migration of data from each centre’s local CLSIS database to the online CLASS database, and CLASS ‘goes live’ with core functionalities in place
2. August 2017: Release of document management system allowing documents to be attached to client and/or service records
3. September 2017: Release of a suite of NPA reports to meet AGD NPA funding and reporting requirements
4. May 2018: Release of significant improvements to client and service reports for centres, more detailed accountability reporting for SPMs, and range of bug fixes
5. July-September 2018: Release of key functionality tools, for example the ability to upload Bulk Information and Referrals, removal/merging of duplicate records, ability to Copy a Service, automatic geo-location tagging of records so that CLCs can map their service provision, and a range of bug fixes
6. September 2018: Release of ‘Do It Yourself’ Reports providing functionality for centres to create their own reports including using data from individual custom fields
7. October 2018 – Ongoing: Future developments are currently being scoped, but the pace and extent will be contingent on securing additional funding.

We are of the view that the functionality, reliability and security of CLASS as a product is fit for purpose for the majority of CLCs. We believe that CLASS will increasingly enhance the ability of individual centres to manage their legal practice and to access and analyse data about their service delivery, clients and areas of service delivery.

However, as with any new IT system, there have been system and reporting functionality issues during the roll-out. We have worked hard with the developers to address these issues.

Consistent with our Service Level Agreement with users that CLASS will be available 99.9% of business hours (that is unplanned downtime for no more than 45 mins in any 31 days), there have been no instances of unplanned downtime we are aware of in the last 12 months.

Most issues and bugs that were present when CLASS went 'live' in stage 1 have now been resolved with the September 2018 release, and future developments can occur with less time pressures.

However, a small number of CLCs continue to report slowness in response time or in moving through screens. For example, over the last 6 months there have been 19 hours of slow performance. We are continuing to investigate and improve these issues where possible. We frequently discover that some problems are caused simply by poor internet connections / ISP data plans, and some are due to unusual network configurations at the CLC end.

Help Desk Support

We run a CLASS Help Desk every day (except NSW public holidays) during business hours which has been staffed between 1-4 people since CLASS was rolled out.

Between October 2017 and September 2018, we received 2,674 contacts. The average time to resolve a ticket (an issue that can't be resolved with the assistance of the HelpDesk staff member in a short period of time) is five days. The following provides a breakdown of Help Desk contacts by jurisdiction:

Jurisdiction	Percentage of Total HelpDesk Contacts
ACT	0.77%
NSW	31.48%
NT	5.95%
QLD	16.51%
SA	4.8%
TAS	1.34%
VIC	22.84%
WA	16.31%

Training

Since migration of the data from CLSIS, we have provided face-to-face training in every jurisdiction except Tasmania through a combination of group and individual centre training sessions. We are currently developing the training schedule moving forward, which will involve visits to every jurisdiction between October 2018 and March 2019.

We have also provided online live training sessions between 2-3 times a week with each specific module offered every fortnight.

[Next Steps](#)

With the critical business requirements of CLASS now delivered, we are focusing on providing enhanced face-to-face CLASS training to the sector over the next 12 months, to be run in parallel to training in the Data Standards Manual (as outlined above).

Many CLCs are only just beginning to use the new functionalities delivered in September, and we are confident that as they use the new tools they will have increasing confidence in the system. For example, the delivery of the much awaited 'Do-It-Yourself' reports on 28 September 2018 will greatly enhance centres' experience of the database.

As outlined above, we are currently in the process of scoping future developments, however the capacity to deliver these is contingent on securing additional funding. This includes the development of APIs to enable CLASS to interact with other databases; streamlining (and possibly customising) workflows; maximising integration and planning opportunities provided by geo-tagging; enabling fewer click-throughs to enter data for high-volume advices; and new ways to group particular sets of services for individual clients.

[Impact of Movement from CLSIS to CLASS on Data Reports](#)

As outlined in our preliminary submission, NACLCL has developed advice about understanding data reports from CLASS for the first three years of the NPA. The advice was provided as an appendix to the preliminary submission.

[Evaluation and Outcomes Measurement](#)

Nationally, NACLCL recognises the potential benefits of a greater focus on outcomes in measuring the impact and value of the work of CLCs. Unfortunately, under the NPA there has been a focus on outputs rather than outcomes.

As recognised in the Cameron Review:

Outcomes measurement is a way of demonstrating the value of a particular investment. It involves identifying the outcomes a service is intended to deliver, and developing a framework to evaluate how successful the services has been in achieving this outcome. Without a way of measuring outcomes, it is difficult to establish whether a service is achieving what it set out to do.⁵²

We consider that there is a need for monitoring, evaluation and outcomes measurement to be built into the funding and administration of CLCs and this could potentially include reporting. Importantly, individual centres should also be funded and supported to undertake this work within a broader framework.

There are a number of useful outcomes measurement and evaluation projects that have recently been completed by the Federation of Community Legal Centres in Victoria and Community Legal Centres Queensland that could inform thinking and work in Tasmania.

For example, Community Legal Centres Queensland undertook a Self-Evaluation toolkit project, supported by the Queensland Government. This project developed a Theory of Change for the

⁵²Alan Cameron, *Review of NSW Community Legal Services* (2017), [8.7.3]

Queensland community legal centres sector with a practical set of tools that community legal centres could apply to compile an impact report and provide input for internal service improvement processes.⁵³

The Federation of CLCs in Victoria has recently completed a Victorian Community Legal Sector Outcomes Measurement Framework which is intended to assist the Victorian community legal sector to demonstrate, articulate and measure the outcomes it achieves through its activities and service delivery.⁵⁴

Importantly however, any such shift or work must be supported by appropriate resources to the sector and its peak bodies.

⁵³ The Toolkit can be found at www.communitylegalimpact.org

⁵⁴ The Framework can be accessed here: https://www.fclc.org.au/outcomes_measurement_framework

NPA Review Goal 5 (Roles and Responsibilities)

Assess the extent to which the Commonwealth and the states and territories have fulfilled their agreed roles and responsibilities and how the Parties to the NPA and the legal assistance sector have worked together to support a holistic approach to addressing legal need

Questions:

- *To what extent have the roles of both the Commonwealth and states and territories contributed to meeting the objective of the NPA?*
- *To what extent have the Commonwealth, states and territories and legal assistance sector been effective in working together to address legal need?*
- *What are the opportunities to improve the roles of both the Commonwealth and the states and territories?*

Summary

- Commonwealth, State and Territory Governments all have responsibility for funding and supporting the legal assistance sector
- The Commonwealth Government has a particular leadership role to play in a number of key areas, including through increased guidance, information sharing and promotion of national consistency. The NPA has reduced engagement in and oversight of the sector by the Commonwealth Government
- Overall we have a positive relationship and engagement with the Commonwealth Attorney-General's Department, however funding and staffing changes within the Department impacted oversight of, and engagement with, the sector
- Devolving responsibility for funding allocation to State and Territory Governments has resulted in inconsistent approaches to funding and administration of the sector across Australia and lack of national consistency or sharing of good-practice
- There is a need for more meaningful and shared engagement and responsibility between the Commonwealth and State and Territory Governments in relation to the funding and administration of the sector
- There is a need for greater co-design, collaboration and consultation with legal assistance providers through true and genuine partnership, including clear agreements and partnership principles that outline how government, system managers and the sector work together and the roles and expectations of each
- The role of the sector in working with governments and other legal assistance providers to address legal need and meet the objectives of the NPA would be facilitated by increased funding for sector engagement in administrative, funding and planning-related processes and mechanisms
- The NPA has increased pressure and reliance on CLC peak bodies with no, or limited resources despite the vital role that strong and adequately funded peak sector bodies play as part of the NPA framework.

Co-Design, Collaboration and Consultation

At the outset we emphasise that in considering the roles of the parties to the NPA and their engagement with the sector, there is a need to recognise that co-design, collaboration and consultation in true and genuine partnership must underlie the funding and administration of the sector, as well as engagement across the sector.

Co-design must underlie and inform government approaches to the funding and administration of the sector, including reviews and evaluations, reform, and system or service design both with respect to the legal assistance sector and broader justice system. We have observed that this occurs in an inconsistent way across levels of government and jurisdictions.

Importantly, this requires true and genuine partnership, including clear agreements and partnership principles that outline how government, system managers and the sector work together and the roles and expectations of each.

We also note the particular need to ensure co-design and support for self-determination in working with Aboriginal and Torres Strait Islander peoples, communities and community-controlled organisations.

Role of the Commonwealth

The negotiation and implementation of the NPA has fundamentally changed the administration and funding of CLCs nationally. In our view, it resulted in a lack of clarity by Commonwealth Government about its appropriate role and a number of missed opportunities. In particular, we have observed:

- a missed opportunity to seek appropriate joint responsibility for and financial investment in the sector by State and Territory Governments upfront under the NPA
- lack of information sharing or sharing of good practice across jurisdictions
- lack of clarity about, or use of, performance data and reports or other information about sector trends, at a national level
- limited vision or forward planning for the sector as whole, developed and implemented jointly between governments and the sector
- fragmentation of policy and administrative responsibility for the sector where centres receive Commonwealth funding outside the NPA (for example, the separate community of practice and reporting required for centres which received Women's Safety Package funding).

Overall we have a positive relationship and engagement with the Commonwealth Attorney-General's Department. However, significant and ongoing funding, Machinery of Government and staffing changes within the Department have made establishing and maintaining productive working relationships with contacts with sector expertise difficult over the life of the NPA.

In our view, the Commonwealth Government has a particular leadership role to play in a number of key areas. Reforms to the current and future NPAs and the structures and processes supporting the NPA with respect to the role of the Commonwealth should include:

- establishment of national forums for sharing of information and good practice (for example, as suggested with respect to CSP and performance monitoring /reporting)
- additional Commonwealth funding and resources to the sector to engage in structures, forums and processes under the NPA

- increased oversight and holding of State and Territory Governments to account for the way in which Commonwealth funding is administered and allocated and engagement with the sector about those processes and decisions (for example, some of the CSP reforms highlighted and to address concerns in many jurisdictions about the timeliness of State/Territory Government decision-making and notification of funding allocations to centres)
- development of a clear vision for the sector as a whole, developed and implemented jointly with the sector
- greater whole-of-government approach to funding and support of, and engagement with, the sector
 - While AGD retains main portfolio responsibility for the sector, the work and in some instances funding of the sector spans a number of portfolios. For example:
 - **Department of Health:** Given the rise of Health Justice Partnerships and multidisciplinary approaches to the provision of legal help in a health setting, as well as connection between socio-economic determinants of health, there is a clear role for greater engagement with the Department of Health.
 - **Department of Education:** There are now a number of school lawyers across Australia who provide legal help and education in a school setting. This presents a unique opportunity to engage with this Department to consider ways in which these approaches might be supported and expanded.
 - **Department of Social Services:** As the main social policy agency within the Commonwealth Government, the work of DSS intersects in a variety of ways with the work of the sector and lives of our clients and communities. These include, for example, social security, women’s safety and family violence, child support, mental health, housing and homelessness, older people, people with disability, carers and fair pay for community services workers. The management of a number of sector funding processes (for example, in relation to elder abuse) are or will be managed through the DSS Grants Hub which increases the opportunities for engagement, as does engagement in relation to advocacy under the National Disability Insurance Scheme (NDIS)
 - **Department of Prime Minister & Cabinet:** There are a number of centres that receive funding under the Indigenous Advancement Strategy
- greater engagement across the legal assistance sector noting the funding and administration of NATSILS and NFVPLS sits outside the NPA.

Role of State and Territory Governments

Our members, the State and Territory Associations, are better placed overall to comment on the role of State and Territory Governments under the NPA. However, we offer a number of national reflections:

- on the whole, State and Territory Governments did not have the expertise or structures in place to take over the funding and administration of the sector upon commencement of the NPA
- State and Territory Governments were unclear about what the pool of funding under the NPA provided to them was to include (for example, there were different approaches to taking system manager/administration costs from the pool of CLC funding as well as in relation to the funding of interpreters and access to CLASS)

- there has been limited information sharing between State and Territory Governments, which has resulted in duplication of work under the NPA (for example, several jurisdictions undertook similar legal need and mapping to inform CSP)
- on the whole, CSP has not operated effectively under the NPA, which was the responsibility of State and Territory Governments. We note that views about the effectiveness of CSP in most jurisdictions differ significantly between the sector and State/Territory Government
- there have been a number of State/Territory reviews of the sector or parts of the sector, including in SA, Victoria and NSW as well as an ongoing review in Tasmania. These reviews have all added significantly to the work of the sector and NALC and on the whole not engaged with or built on the information, reflections or learnings from the other reviews. We have expressed concerns about the conduct, outcome and implementation of some of these reviews, particularly in SA
- the funding application/tender processes in some jurisdictions have resulted in what we consider to be poor outcomes for the sector and our clients, in particular in SA where the competitive tender process resulted in significant uncertainty, the de-funding of a number of centres and undermined collaboration across the sector.

That said, a number of State and Territory Governments have ‘stepped up’ with respect to the funding and administration of the sector, building strong frameworks, structures and relationships with the sector.

In our view, greater guidance and clarity within the NPA and from the Commonwealth; as well as ongoing engagement with the sector and its peak bodies, would assist State and Territory Government to fulfill a more effective role under the NPA.

System Manager Role

Over many years we have expressed concerned about, as a matter of principle, any model under which a Legal Aid Commission—or any single legal service provider—is ‘in charge’ of the allocation of funds and making key service planning or delivery decisions. This is particularly so where that provider is also responsible for delivering similar services and funding another provider to do particular work may be contrary to their interests. These arrangements generate, at the very least, the perception of a conflict of interest (actual or potential), and as such may undermine CSP and other opportunities for collaboration.

The allocation of funding and service delivery planning should involve a strong and transparent evidence base; assessment of legal need using the evidence base; mapping of existing services; and coordinated service planning involving all parts of the legal assistance sector.

As a result, we support collaborative approaches to system management and service planning, ideally lead and facilitated by the state/territory government with the involvement of CLCs, ATSILS, FVPLS and LACs at a state-wide and regional level.

In addition, in planning and coordinating services it is vital that Aboriginal and Torres Strait Islander community-controlled organisations are supported to lead and co-design solutions for their communities. In our view, the concept of a single non-community controlled organisation playing the role of system manager undermines these important principles.

The Work and Value of Peak Bodies

Under the NPA there has been increased pressure and reliance on CLC peak bodies (including NACLCL and State and Territory CLC Associations) with no, or limited funding to undertake vital coordination, information sharing, support and engagement work. This has arisen as a result of number of factors, including:

- reduced engagement by the Commonwealth Government, leading to the need for NACLCL to play a key role in sharing information and good practice across jurisdictions
- rolling over of almost all Commonwealth funding into the NPA, leaving very little funding within AGD for particular projects and initiatives to support the sector, and
- increased responsibility at a State and Territory Government level and reliance on state and territory based structures requiring input and engagement from the sector.

NACLCL

Traditionally NACLCL played a national role on behalf of the sector in engaging directly with the Commonwealth Attorney-General's Department in relation to funding, funding agreements, standards and service delivery and a range of other issues. NACLCL has been provided with once-off funding in the past to establish key systems to support the sector following discussion with AGD (for example, the NAS).

Since the commencement of the NPA this role has changed significantly. However, given the lack of national consistency, lack of funded peak CLC bodies in some jurisdictions and need for national leadership in a number of areas, NACLCL continues to play a vital role. The value of NACLCL as a peak body includes:

- providing a voice to, and for, the community legal sector
- playing a key coordination and support role to the benefit of governments and the sector, including for example by sharing information; facilitating consultation; sharing and encouraging good practice; and sharing and drawing upon sector expertise to inform government decision-making
- working to support and facilitate the provision of high quality community legal services (for example, through the National Accreditation Scheme to ensure continuous quality improvement)
- undertaking strategic national advocacy and representation on behalf of the sector and the people and communities our centres work with
- contributing to the evidence base that informs improved government policy development and decision-making, including through: research, policy development, expert advice and participation in roundtables and similar; sector consultation; and provision of submissions.
- advocating for and contributing to law and legal frameworks, policy settings and a society that enables access to justice and the protection of human rights for people in Australia
- educating governments, other organisations and the community about the sector and access to legal help
- collecting and communicating sector data (for example, through CLASS, the National CLCs Census and sector surveys)
- providing sector support, education, training and capacity building to support provision of high quality services and the ongoing sustainability of the sector
- facilitating and leading strategic sector thinking (for example, through the development of National Position Papers)

- working to support our members, including providing particular assistance to the CLC Associations and centres in many of the jurisdictions that do not currently have a funded CLC Association
- working collaboratively and in partnership with other peak bodies such as NATSILS and NFVPLS to achieve the things outlined above (noting the importance of peak legal assistance bodies and the need for appropriate funding and support of those bodies).

In the context of a number of ongoing reviews of CLCs at a state and territory level as well as this current review, the Indigenous Legal Assistance Program (ILAP) review and FVPLS review, NACLCL will be undertaking considerable additional work of this type in 2018-2019.

Peak Legal Assistance Bodies

More broadly, we note the vital importance of peak legal assistance bodies and the need for appropriate funding and support of those bodies, including in particular NATSILS and NFVPLS. Many of the points outlined above with respect to our value are also true of these peak bodies, as well as their particular role as peak Aboriginal and Torres Strait Islander community-controlled organisations. We will be providing submissions and information in relation to the vital work of NATSILS and NFVPLS as part of the ILAP Review and current FVPLS Evaluation.

State and Territory CLC Associations

In addition, there has been significant increased pressure and reliance on State and Territory CLC Associations. However, no additional Commonwealth funding was provided to these bodies across jurisdictions to provide expert input and guidance as part of State and Territory CSP and processes around the allocation of Commonwealth funding. Some State Government funding has been provided, for example in Queensland, New South Wales, and Victoria which has been of significant benefit to both government and the sector.

Based on our experience, funding and support for, as well as engagement with, peak State and Territory CLC associations have resulted in more positive outcomes for government, the sector and the community in specific jurisdictions. We cannot overestimate the efficiencies and benefits that flow when a sector has a funded peak body.

In our experience both as a peak, as well as working with the eight state and territory associations that are our members, the broad benefits of a funded secretariat include:

- increased collaboration and information sharing between CLCs, both within that state and across Australia, which avoids duplication and allows dissemination of good practice in service delivery
- a greater focus on the client rather than on the centre, through facilitation of system-wide discussions about the needs of clients across the jurisdiction
- increased learning and development activities – a funded secretariat can facilitate, or tap into, mandatory legal education sessions for solicitors and other training opportunities
- advice and support on administration, data management, strategic planning, service delivery and accreditation which improve both quality and efficiency of the individual centres
- support for centres wishing to co-locate, share back-office resources and otherwise explore bulk purchasing and similar efficiencies
- the ability to leverage project funds from other sources, and

- improved collaboration and cooperation with other legal assistance providers, government and justice system stakeholders.

In the context of the funding and administration of CLCs, CSP and reviews, NALC highlights that in jurisdictions such as Queensland where the peak body has been provided with additional State Government funding early in the review and reform process, it has resulted in:

- positive co-design and engagement between government and the sector
- development of a clear evidence base and agreed funding principles, and
- a strong basis for ongoing partnership in the planning and funding of legal assistance services.

As a result, we encourage the Review Team to recognise the importance of the work and funding of NALC and State and Territory CLC associations as well as constructive, timely engagement around funding, administration, service delivery planning and policy development for legal assistance services.

Further Information and Contacts

We give permission for this submission to be treated as a public submission, to be identified in the report as having made a submission and being quoted with attribution in the report of the NPA Review should Urbis wish to do so.

We would be happy to provide any additional information relevant to the Review and look forward to continuing to engage positively with the Review Team throughout the Review.

The key NACLCL contacts for the purposes of the NPA Review are:

Nassim Arrage

Amanda Alford

Chief Executive Officer

Director Policy and Advocacy

nassim.arrage@naclc.org.au

amanda.alford@naclc.org.au

0408 092 256

0421 028 645