

National Mechanism for Legal Assistance Negotiations 2019

Blueprint for Negotiations/Key Sector Asks

July 2019

Background

As negotiations for the next National Mechanism formally commence it is important that we as a sector have a shared view of what we would like to see included in the next National Mechanism itself as well as any reforms to the systems and structures that support and facilitate its implementation that should be the focus of our advocacy and engagement.

The work we all undertook in reaching shared sector positions developed throughout the Review of the current National Partnership Agreement on Legal Assistance Services in 2018 provides an important basis upon which to inform our engagement over the coming months.

Given the National Mechanism will require agreement between the Commonwealth and State and Territory Governments, it is important that advocacy and engagement occurs by the community legal sector at a:

- State/Territory level through State and Territory Associations
- National level by NACLC

We have worked with the NACLC Advisory Council and State and Territory Associations to develop these key 'asks', intended to provide a high-level blueprint for our advocacy and engagement as the National Mechanism is negotiated. Some of these asks relate to the National Mechanism document itself and others to the processes, systems and structures that support and facilitate its implementation.

The asks outlined below reflect our position throughout the NPA Review in submissions and advocacy, and/or recommendations made in the NPA Review Final Report.

Key Asks

General

- Co-design must underlie and inform Government approaches to the funding and administration of the sector, including negotiation of the National Mechanism itself and then moving forward system and service design and implementation
- A requirement that State/Territory Government funding contributions (or at least a baseline) are included in the National Mechanism over its life
- Minimum 5 year National Mechanism (with a review prior to its expiration)
- Removal of the restriction on the use of Commonwealth funding by community legal centres to undertake policy, advocacy and law reform work
- Oppose rolling of ATSILS and Indigenous Legal Assistance Programme under the National Mechanism
- Consolidation of various separate funding streams under the National Mechanism, including ensuring consistent reporting requirements but also sufficient flexibility to enable centres to respond to emerging need

- Ensuring there is provision to include new funding under the National Mechanism where it becomes available/is announced
- Considering ways the National Mechanism can strengthen its support for innovation
- Funding for NACLC and State and Territory peak bodies to support negotiation and implementation of the new National Mechanism.

Government Roles and Responsibilities

- A requirement that State/Territory Governments rather than Legal Aid Commissions are the funding/system administrator in each jurisdiction
- Greater clarity about the roles of each level of government in key areas under the National Mechanism
- Greater Commonwealth leadership and engagement in relation to funding and administration under the National Mechanism. This includes, for example:
 - Establishment of a national forum with key sector representatives to advise and provide guidance on implementation of the National Mechanism nationally, chaired by the Commonwealth
 - Greater information sharing around good practice and data/reporting by the Commonwealth
 - Increased guidance to State and Territory Governments about implementation of the National Mechanism to ensure greater consistency and appropriate implementation
 - Increased feedback about information reported to the Commonwealth under the National Mechanism (for example, trends and headline statistics or issues) to the sector
 - Ongoing relationship with and funding of national peak bodies

Reporting and Accountability

- Requirements around transparency in the allocation of funding under the National Mechanism
- Greater transparency in State and Territory Government use/allocation of funding for administration of the National Mechanism
- Considering reporting arrangements in the context that they:
 - do not currently capture the full scope and complexity of services, nor recognise the substantial variations in effort required to produce each unit of 'counted' service output
 - currently impose a relatively low burden but there are reporting inconsistencies between the National Mechanism and other funding streams
- Incorporation of possible move to sector outcomes/performance/evaluation framework and outcomes measurements, but as a staged approach and with funding provided to NACLC to develop a national framework as the first step (that builds on work already done or being undertaken in Victoria, Queensland and NSW) and the sector more broadly.

Collaborative Service Planning

- Greater Commonwealth leadership, guidance and information sharing in relation to Collaborative Service Planning (and this reflected in the National Mechanism document). This includes, for example:
 - establishment of a national Collaborative Service Planning body/forum chaired by the Commonwealth
 - increased national guidance and requirements about Collaborative Service Planning
 - greater information sharing around good practice and data/reporting by the Commonwealth
 - Commonwealth funding for an updated national LAW Survey of legal need to underpin Collaborative Service Planning
- Improvements to Collaborative Service Planning, including:
 - increased national guidance/requirements about Collaborative Service Planning in the National Mechanism
 - greater information sharing around good practice and data/reporting
 - increased collaboration across jurisdictions including in relation to national and cross-border services
 - greater consideration of the roles/work of generalist and specialist centres and the work of national and cross-border services
 - greater consideration of Community Legal Education and systemic law reform, policy and advocacy work
 - further consideration of and commitment to true, genuine and equal partnerships and engagement by all providers engaged in Collaborative Service Planning
- Increased funding to peak bodies and the sector itself to support Collaborative Service Planning.