



Additional information

This document provides additional information on the National Legal Assistance Partnership (NLAP), addressing questions raised by state and territory governments.

Requirements on the states and territories

Reporting arrangements

- Under the NLAP, each state and territory will be required to provide a **Statement of Services and Funding** and **Jurisdictional Performance Report**.
- These reporting requirements will be required in accordance with the following timeframes:
 - Statement of Services Funding: **30 September each financial year**, commencing 30 September 2020.
 - Jurisdictional Performance Report: **31 March each financial year**, commencing 31 March 2021.

Statement of Services and Funding

- The first Statement of Services and Funding, due on 30 September 2020, will be provided in accordance with guidance provided by the Commonwealth.
- From 30 September 2021 onwards, Statements of Services and Funding will include:
 - projected Commonwealth funding under the NLAP, disaggregated to separately identify funding streams and individual legal assistance providers for the current financial year;
 - reporting reflecting the national performance indicators for the first six months of the calendar year; and
 - any further reporting reflected in guidance issued by the Commonwealth.

Jurisdictional Performance Reporting

- The first Jurisdictional Performance Report, due on 31 March 2021, will be provided in accordance with guidance provided by the Commonwealth.
- From 31 March 2022 onwards, Jurisdictional Performance Reports will include:
 - actual Commonwealth funding under the NLAP, disaggregated to separately identify funding streams and individual legal assistance providers, for the current financial year;
 - actual state or territory funding for legal assistance services, disaggregated to separately identify relevant funding streams and individual legal assistance providers, for the current financial year;
 - projected Commonwealth and state or territory funding for legal assistance services, disaggregated to separately identify funding streams and individual legal assistance providers, for the next financial year;
 - progress made against the Legal Assistance Strategy and Legal Assistance Action Plan, including relevant targets;
 - reporting reflecting the national performance indicators for the second six months of the calendar year;
 - legal assistance service data;



- two case studies, in accordance with guidance issued by the Commonwealth, which covers service delivery models and triage practices;
- results of client surveys using standardised questions; and
- any further reporting reflected in guidance issued by the Commonwealth.

National performance indicators

- The national performance indicators relate to services delivered by individual legal assistance providers (i.e. LACs, CLCs and ATSILS).
- This is distinct from individual Commonwealth funding streams provided under the NLAP (i.e. baseline, expensive Commonwealth criminal cases supplementation, domestic violence units and health justice partnership and Family Advocacy and Support Services funding).
 - For example, a LAC would report on the number and percentage of services who are financially disadvantaged, which may not have relevance to the expensive Commonwealth criminal cases supplementation funding stream.
 - Similarly, the number of referrals or a client's experience is not relevant to the expensive Commonwealth criminal cases supplementation funding stream.
- If required, the Commonwealth could provide additional guidance on how the states and territories would report on these national performance indicators as part of the implementation of the NLAP.
- The design of the national performance indicators was based on the current *National Legal Assistance Data Standards Manual*.
- The Commonwealth does not expect that wholesale changes are required to data systems which collect the data necessary for the national performance indicators. Some adjustments may be necessary to produce the required reports.
- The Commonwealth intends to use the consultation process to assess the viability of the national performance indicators.

Legal Assistance Strategy and Action Plan

- Under the NLAP, the states and territories will be required to develop a Legal Assistance Strategy and at least one Action Plan.
- Each jurisdiction's Legal Assistance Strategy and Action Plan must cover the duration of the NLAP.
- The Legal Assistance Strategy and Action Plan must be in place by **1 July 2021**.
 - This timeframe will provide the states and territories with one year to consult with the legal assistance sector, develop and finalise their Legal Assistance Strategy and Action Plan.



Payments under the NLAP

- Each financial year, payments under the NLAP will be broken down into three separate payments:
 - **Payment 1** (25% of total) – to be paid by approximately 7 July.
 - **Payment 2** (40% of total) – to be paid by approximately 7 November.
 - **Payment 3** (35% of total) – to be paid by approximately 7 May.
- Payments will only be provided if the states and territories meet the requirements set out in the NLAP and its Bilateral Schedules, as follows:
 - **Payment 1** – no condition.
 - **Payment 2** – provision of the Statement of Services and Funding **and**, from 1 July 2021, have a Legal Assistance Strategy and Legal Assistance Action Plan in place and publicly available.
 - **Payment 3** – provision of the Jurisdictional Performance Report **and**, from 1 July 2021, have a Legal Assistance Strategy and Legal Assistance Action Plan in place and publicly available.

Funding distributions under the NLAP

Baseline funding for LACs, CLCs, ATSILS

- Baseline funding for LACs, CLCs and ATSILS, to the states and territories, have been distributed through the existing evidence-based funding distribution models, updated with relevant datasets.
 - The Commonwealth will develop a publicly-available paper which explains how the models distribute funding between the states and territories.
 - The Australian Government has adopted a '**no state and territory loses**' principle for baseline funding.
 - This will mean that the LAC, CLC and ATSILS subsectors in each state and territory will not experience a loss in baseline Commonwealth funding.
 - The 'no state and territory loses' principle will ensure continuity in funding and services.
 - The FDMs will apply to the indexation of baseline funding from 1 July 2020.
- Each funding distribution model uses a consistent structure and formula and consists of **four components: operational, population, need and vulnerability**, and **cost factors**.
- At its simplest, each model uses a predefined formula:

$$\text{Funding Distribution} = (\text{Operational Component} + \text{Population Component} + \text{Needs and Vulnerability Component}) \times \text{Cost Factors Component}$$

Operational Component

- Funding is distributed to each jurisdiction to account for operational costs of delivering services, such as rent, equipment hire and other administrative overheads.
- The funding a jurisdiction receives under this component increases with its population size and is adjusted for 'economies of scale' (i.e. the cost advantage an organisation obtains as the size of its operations increase).



- This means that smaller jurisdictions receive a larger portion of operational component funding relative to their population size.

Population Component

- Funding is distributed to each state and territory based on the **Need for Legal Assistance Services** (NLAS) indicator, adjusted for projected population growth per year.
- The NLAS indicator was developed by the Law and Justice Foundation of New South Wales.
- It provides an approximate count of the number of people that are likely to require legal assistance if they were to experience a legal problem.
- A different NLAS indicator was used for the ATSILS model. This NLAS indicator specifically focuses on Aboriginal and Torres Strait Islander population and relevant characteristics.
- If a state or territory's population is growing faster than the national average, it will receive a progressively larger share of funding for this component.

Need and Vulnerability Component

- The need and vulnerability component distributes funding using the number of people in specific high-needs groups.
- This component accounts for differences in the relative cost of providing appropriate services to members of specific high-need groups.
- If a jurisdiction has high need and vulnerability component for its population size, it will receive a higher proportion of available funding.
- Specific factors included in the need and vulnerability component are:
 - Number of people in regional and remote areas
 - Number young people in detention
 - Number of adult prisoners
 - Number of children in out-of-home care
 - Number of children on care and protection orders
 - Number of people who speak other languages and speak English not well or not at all
 - Number of single parents with a dependent child
 - Estimated number of homeless people
 - Estimated female experiences of violence (not used in the ATSILS model due to data quality issues)Estimated number of Aboriginal and Torres Strait Islander people (not used in ATSILS model)
 - Number of people in need of assistance for core activities, and
 - Number of people on income support payments.
- Each of these factors are equally weighted (i.e. unweighted).
- These factors replace the narrower number of factors used in the existing model. The factors used in the existing model was based on an imperfect regression analysis of service data.
- The updated need and vulnerability component more comprehensively covers key cohorts which are considered the most vulnerable to legal problems.



Cost Factors Component

- The cost factors account for differences between jurisdictions in the cost of delivering legal assistance services.
- The cost factors component consists of four components:
 - **Commonwealth Grants Commission (CGC) interstate wage levels:** Accounts for variations in the wages paid to otherwise comparable employees between jurisdictions due to differences in labour markets.
 - **CGC regional factor:** Accounts for variation in the cost of delivering services between regions, such as higher wages needed to entice people to work in more remote locations and the higher cost of goods.
 - **CGC service delivery scale factor:** Accounts for the increased cost of delivering services to small isolated communities, and differences in the number of people that reside in such communities, between jurisdictions.
 - **Cross-border factor:** Accounts services provided in one jurisdiction to residents of another jurisdiction.

Expensive Commonwealth criminal cases supplementation

- Distributions for supplementary expensive Commonwealth criminal cases funding for LACs is based on a combination of historical demand and funding estimates from LACs.
- The distribution includes a:
 - base allocation of \$100,000 to each LAC to cover any unforeseen costs, and
 - proportional allocation of the remaining funding available, based on historical expenditure over the period 2014-15 to 2018-19 and estimates from LACs for 2019-20.

Other Commonwealth funding streams

- Distributions for the FASS and DVUs and/or HJPs will be based on current funding levels.
- State and territory distributions for SACS supplementation funding will be based on the existing, predetermined formula.

Process to finalise the NLAP

- The Commonwealth Attorney-General's Department expects to circulate the Official Draft of the NLAP in **early November 2019**, with a two week timeframe for comments on the Official Draft.
- The NLAP will be discussed at the CAG meeting on **29 November 2019**.
- Subject to the outcomes of the CAG meeting and necessary changes to the Official Draft, either official level negotiations will continue or the finalisation process will commence.
- Typically, national partnership agreements are finalised by heads of government – the Prime Minister and First Ministers.