

List of recommendations

Recommendation 1

A. Clear strategic objectives that align with the Queensland Government and Department of Justice and Attorney-General's (DJAG) strategic objectives should form the basis of a new transparent decision-making model for allocating Legal Practitioner Interest on Trust Accounts Fund (LPITAF) funds. There should be a clear link between each of the LPITAF funding allocations, the functions and services delivered with those allocations, and achieving the LPITAF strategic objectives.

B. The strategic objectives for the allocation of LPITAF funds should be:

Frontline service delivery

- LPITAF funding will be directed to the provision of frontline justice services for Queenslanders;
- Priority will be given to services that assist vulnerable people and disadvantaged community members to access justice;

Accountability

- Allocations should promote, efficiency, effectiveness, and cost effectiveness;
- Allocations will take into account the need to maintain the ongoing viability of the LPITAF, including taking special measures if necessary to preserve its viability (for example: see Recommendation 18 regarding restricting or making unavailable one or more categories of funding in a funding cycle);
- Allocations will be made through robust governance mechanisms;
- Information about the allocation process and outcomes should be readily accessible to applicants and the community.

C. The *Legal Profession Act 2007* (Qld) should be amended to broadly reflect the new strategic objectives for the allocation of LPITAF funds.

Recommendation 2

A. The strategic objectives should be supported by a set of funding strategies that guide decision-making at a practical level to maximise the delivery of legal assistance services across Queensland. The funding strategies should be reviewed triennially by the LPITAF Committee (see Recommendation 21) to ensure they remain responsive to community legal needs and continue to promote cost effectiveness.

B. The LPITAF funding strategies should be:

- Legal Aid Queensland (LAQ) and community organisations should continue to deliver complementary legal assistance services across Queensland;
- The provision of general legal information and education to the broader community and 'self help' type services for legally capable people need to be balanced with specialist services for specific vulnerable and disadvantaged groups;
- Generalist services should be, as much as practicable, accessible across Queensland; this should primarily be achieved by addressing geographical gaps based on evidence of need;
- The need for development or enhancement of specialist services for vulnerable and disadvantaged groups will be identified through consideration of: empirical research on legal need (including high prevalence vulnerable groups and legal problems); current Queensland Government priorities (for example: new legislation); and increasing the reach of specialist services across Queensland; and

- Build on existing service delivery structure where possible and only fund the establishment of separate new services if necessary.

Recommendation 3

Applicants applying for LPITAF funding to deliver legal assistance services should be required to demonstrate that they have referral pathways in place to other relevant services (for example: specialist to generalist and generalist to specialist).

Recommendation 4

In 2013-14, LPITAF project funding (see Recommendation 18) should be offered for development of a plan for making access to specialist legal services more equitable across Queensland through cost effective measures, including:

- the use of technology (telephone lines, videoconferencing, and websites); and
- information and training provided to generalist services.

Recommendation 5

All community organisations that receive LPITAF funding must commit to and demonstrate participation in the Queensland Legal Assistance Forum (QLAF), Regional Legal Assistance Forum (RLAF), specialist legal assistance forum or other similar group. What constitutes 'participation' will be defined for each individual organisation in the context of which group is most relevant to their service and location and included in their service delivery agreement.

Recommendation 6

Where a Community Justice Group (CJG) and LPITAF funded community organisation deliver services in the same area they should network with and make appropriate referrals to each other. In 2013-14, where these networks do not exist, DJAG will facilitate initial contact on a location by location basis. These networks and referral pathways should be promoted by including them as a condition of funding in their service delivery agreements from 2014-15.

Recommendation 7

There are identifiable:

- geographical gaps or pressure points in the delivery of generalist legal assistance services across Queensland; and
- high prevalence vulnerable groups and legal problems in Queensland that would be best addressed through specialist services.

In 2013, DJAG should consult with the Commonwealth Government and legal assistance sector to:

- determine the areas in greatest need of attention; and
- identify practicable measures that could be taken to improve services in those areas in future, including whether there are any geographical areas where a larger service or collocated services would be more cost effective than a number of smaller services.

Recommendation 8

A. For each funding round and as required, DJAG should:

- consult with the Commonwealth Government and other Queensland Government departments about their funding priorities and proposed allocations, with the goal of systematic simplification of funding arrangements for funded organisations and the respective Governments; and
- invite the Commonwealth Government to jointly consult with the legal assistance sector in Queensland to obtain State-wide, regional, and individual service information to inform funding decisions (through the existing QLAF forum).

B. The results of this Review, overlaid with the results of the National Partnership Agreement on Legal Assistance Services (NPA) review will form the evidence base for the LPITAF funding allocations in the first three year funding cycle, commencing in 2014-15.

Recommendation 9

The amount of direct LPITAF funding provided to the Queensland Law Society (QLS) to perform its regulatory functions should be reduced to the extent that the practising certificate revenue covers the QLS' regulatory expenses.

This recommendation does not impact on the LPITAF funds the QLS receives through the Memorandum of Understanding with the Legal Services Commission.

Recommendation 10

There should continue to be provision in the LPA that allows for payments to be made from the LPITAF to or for the Legal Practitioners' Fidelity Guarantee Fund (LPFGF). However, it should be made clear that any such payment would only be considered if all other LPFGF funding sources and payment options have been exhausted.

Recommendation 11

The Bar Association of Queensland (BAQ) should receive LPITAF funding for the costs associated with its regulatory function of investigating complaints against barristers.

The costs of its regulatory functions in relation to practising certificates issued to barristers are funded by the practising certificate fees paid by barristers.

Recommendation 12

The Legal Services Commission (LSC) should continue to receive LPITAF funding to cover the cost of performing its regulatory functions.

Recommendation 13

The LSC should continue to receive recurrent allocations of LPITAF funds to support the Legal Practice Committee, although those funds should be included in the LSC budget to streamline funding allocation and reporting processes.

Recommendation 14

The Supreme Court of Queensland Library (SCQL) should continue to receive funding allocations from the LPITAF.

Recommendation 15

LAQ should continue to receive funding allocations from the LPITAF.

Recommendation 16

A funding allocation should be able to be made from the LPITAF to a community organisation where the individual allocation will promote the strategic priorities and funding strategies.

Recommendation 17

LPITAF funding should be allocated to community organisations in three year cycles. The cycles should generally align with the Community Legal Services Program (CLSP) funding cycles, with the first commencing in 2014-15.

Recommendation 18

A. There should be four types of LPITAF funding allocations that can be made to community organisations:

1. Service delivery funding

Service delivery funding should be provided under three year service delivery agreements (see Recommendation 28 regarding funding agreements). A reassessment should be undertaken every three years to ensure funds are being allocated to initiatives that best address the strategic objectives and funding strategies. This type of funding would replace the categories of funding currently known as 'recurrent funding' and 'transitional funding'.

2. Service development or improvement funding

This funding should be available for up to three years for new services or improvements to services to be piloted within a three year funding cycle. For example, this funding could be provided on the basis that the first year could involve establishment (including recruitment) and reduced running costs, the second year will involve full running costs and evaluation, and the third year will involve full running costs. The evaluation would be conducted in the second year to allow the initiative to be considered for service delivery funding in the next three year cycle.

This funding would only be offered for a funding cycle if it is anticipated that sufficient service delivery funding will be available for successful initiatives from the next funding cycle.

3. Project funding

This funding should be available for one-off projects that will produce a predetermined product or outcome with no ongoing costs. Project funding could be

provided for any period of time up to three years. Potential project topics might be identified by the LPITAF Committee (see Recommendation 21).

4. Emergency funding

DJAG should continue to set aside an amount per annum of LPITAF funds for matters of an emergent nature. The amount should be reassessed for each three year funding cycle.

B. Any of the four types of funding may be restricted or made unavailable in a three year cycle if special measures are required to preserve the viability of the LPITAF.

C. The amount of funding available in each category will be reviewed by the LPITAF Committee, decided by the Attorney-General, and published at the start of each funding round, although whether the whole of that amount is allocated will depend on an assessment of the proposals received in that funding round.

Recommendation 19

LPITAF service delivery funding allocations to specified entities and community organisations should continue to be indexed by CPI each financial year, unless special measures are required to be put in place in any three year cycle to preserve the viability of the LPITAF. LPITAF is not drawn upon to index other funding (for example: State, LPITAF, or Commonwealth Government contributions to State or Commonwealth wage increases).

Recommendation 20

DJAG should continue to have overall responsibility for administering the LPITAF and the Attorney-General should remain as ultimate decision-maker for funding allocations.

Recommendation 21

A. A LPITAF Committee should be established to have oversight of the LPITAF funding allocation processes, including:

- reviewing the funding strategies and amounts available for allocation for each type of funding triennially;
- overseeing funding application processes;
- assessing applications;
- endorsing the service delivery agreements; and
- overseeing accountability and reporting requirements.

It should also oversee the financial management of the LPITAF.

The LPITAF Committee would make recommendations on all of the above to the Attorney-General, through the Chair, for his consideration and final decision.

The membership of the LPITAF Committee should be:

- Director-General, DJAG (Chair);
- Deputy Director-General, Justice Services, DJAG;
- Assistant Director-General, Strategic Policy, Legal and Executive Services, DJAG;
- Assistant Director-General, Corporate Services, DJAG;
- a representative from Queensland Treasury and Trade; and
- a representative from the Department of the Premier and Cabinet.

- B.** In relation to the allocation of funds to community organisations:
- DJAG should seek information from the QLAF to inform the LPITAF Committee's triennial review of the funding strategies (to be overlaid with research conducted by DJAG – see 'Recommendation 22');
 - QLAF member organisations should be invited to directly address the LPITAF Committee to provide information during the application assessment process; and
 - DJAG and the LPITAF Committee should seek advice from other relevant peak bodies and applicants when necessary.

Recommendation 22

DJAG should have a more intensive role in the administration of the allocation of LPITAF funds in future, including:

- policy, research, and administrative support for the LPITAF Committee;
- more intensive liaison with and seeking information from the QLAF;
- managing service delivery agreements with the specified entities;
- a more active role in managing the relationship with LAQ as the SPM, including meeting with LAQ regularly to receive and discuss CLSP financial and performance reporting information;
- increased knowledge of and improved relationships with the legal assistance sector through attendance at QLAF and some RLAF meetings;
- working more closely with the Commonwealth Attorney-General's Department (AGD) (including developments post the NPA review) and other Queensland Government departments on an ongoing basis with the goal of systematically simplifying funding arrangements for funded organisations and the respective Governments; and
- coordinating public reporting on LPITAF allocations and maintaining LPITAF webpage content (see Recommendation 31).

Recommendation 23

A. LPITAF funding allocated to community organisations should continue to be managed under the CLSP by LAQ as the State Program Manager.

B. A service delivery agreement should be developed between DJAG and LAQ for this purpose. DJAG should actively manage the agreement, including meeting with LAQ regularly to receive and discuss CLSP financial and performance reporting information.

Recommendation 24

A. All future LPITAF budget submissions made by the specified entities should include a breakdown of the types and number of services that will be provided with the funding they are seeking.

B. If the specified entity also receives funding from the Queensland Government Consolidated Fund they should be required to submit one combined budget submission seeking funding from both sources.

Recommendation 25

A. A two-stage application process for the allocation of LPITAF funds to community organisations should be trialled for the first funding cycle, commencing in 2014-15. It should apply to all four funding types and involve:

Short form:

- community organisations submitting a short form (one page) to DJAG;
- DJAG identifying whether there is any duplication or opportunity for collaboration amongst the applications and, if so, notifying the relevant organisations so they can address these matters and amend their applications; and
- the LPITAF Committee assessing the applications and inviting those that best address the strategic objectives and funding strategies to submit a long form application.

Long form:

- invited community organisations submitting a long form application to DJAG; and
- the LPITAF Committee assessing the applications and making recommendations to the Attorney-General for his consideration and final decision.

B. DJAG will consult with the community organisations to determine if the trial two-stage application process achieved the desired outcomes: early identification of duplication and opportunities for collaboration; and reduced workload for applicants.

Recommendation 26

A. DJAG should maintain information about the allocations made and services delivered for LPITAF funding on the proposed LPITAF webpage (see Recommendation 31 regarding the proposed webpage).

B. Community organisations submitting a short form should be required to declare that they have checked the LPITAF webpage (and the community legal education materials on the QLAF website if relevant) to ensure their proposal does not duplicate existing services or projects.

Recommendation 27

Applicants should be notified of the outcomes of the funding allocations by 31 March at the latest for funding commencing as of 1 July the next financial year.

Recommendation 28

A. LPITAF funding allocations to specified entities should be provided under annual service delivery agreements.

B. DJAG should work with each specified entity to develop appropriate performance targets for inclusion in its agreement (the LAQ targets should complement those required under Commonwealth Government funding arrangements).

C. Specified entities should be required to submit six monthly performance reports in addition to the current quarterly financial reporting.

Recommendation 29

A. All LPITAF funding allocated to community organisations should be provided under the CLSP.

B. If a community organisation also receives Commonwealth Government funding under the CLSP, it should be required to enter into one tripartite agreement.

Recommendation 30

A. The specified entities should be required to acquit unspent funds so they can be returned to the LPITAF, unless they are to be retained and used for another purpose approved by the LPITAF Committee.

B. Community organisations should continue to be able to carry forward 15% of their funding on an annual basis. Additional funding can only be retained and used if it is for a particular purpose approved by the LPITAF Committee.

Recommendation 31

A. A dedicated LPITAF webpage should be developed on the DJAG website.

B. DJAG should develop an annual report on the allocation of LPITAF funds, including the links between the strategic objectives and the LPITAF funded functions and services, to be included in the DJAG Annual Report.

C. Each organisation that receives LPITAF funding must acknowledge and report on the use of those funds in its Annual Report.

Recommendation 32

The findings and recommendations in the Final Report (including funding application and assessment processes) should apply equally to both LPITAF and any Queensland Government Consolidated Fund funds allocated to the specified entities and community organisations, unless otherwise indicated.

Recommendation 33

In conjunction with the first triennial review of the funding strategies (in the first half of 2016), a report should be completed on the implementation of the recommendations from this Review, whether the model is working in practice, and any other improvements that have been or should be made to the model.