

# **Submission to the National Legal Assistance Partnership 2020-25 Review**

**Legal Assistance Strategy and Funding**

**Department of Justice and Attorney-General**

**October 2023**



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## Acknowledgment to First Nations peoples

The Queensland Government respectfully acknowledges the First Nations peoples in the State of Queensland and acknowledges the cultural and spiritual connection that First Nations peoples have with the land and sea. We respectfully acknowledge Aboriginal peoples and Torres Strait Islander peoples as two unique and diverse peoples with their own rich and distinct cultures. We pay our respects to Elders past and present. We are dedicated to the inclusion of cultural knowledge and values as critical factors in the provision of legal assistance services to vulnerable and disadvantaged First Nations peoples. We acknowledge and thank the First Nations people who work within the legal assistance sector.

## Submission to the NLAP Review

This submission is made by Legal Assistance Strategy and Funding (LASF), a unit within the Queensland Department of Justice and Attorney-General (DJAG). This submission represents the views of LASF and its nuanced understanding of the legal assistance sector in Queensland.

LASF's written submission is in addition to information provided to the Review regarding legal need and legal assistance funding in Queensland. In addition to providing this submission, a consultation meeting was held between LASF and the Reviewer.

Required information	
Organisation name	Legal Assistance Strategy and Funding, Queensland Department of Justice and Attorney-General
Organisation type	Queensland Government department
Responsible officer	Meg Martin, Acting Director, Legal Assistance Strategy and Funding
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Consent	<p>DJAG provides the following consent:</p> <ul style="list-style-type: none"> <li>• for this submission to be published on the Review website;</li> <li>• being identified in the report of the Review as having made a submission;</li> <li>• this submission being quoted with attribution in the report of the Review;</li> <li>and</li> <li>• this submission being quoted anonymously in the report of the Review.</li> </ul>

## Abbreviations

AGD	Commonwealth Attorney-General's Department
ATSILS	Aboriginal and Torres Strait Islander Legal Service
CALD	Culturally and Linguistically Diverse (people)
CLC	Community Legal Centre
CLCA	Community Legal Centres Australia
CLCQ	Community Legal Centres Queensland
CSP	Collaborative Service Planning
DJAG	Department of Justice and Attorney-General
DPC	Department of the Premier and Cabinet
DSM	National Legal Assistance Data Standards Manual
FDM	Funding Distribution Model
FVPLS	Family Violence Prevention Legal Service
ILAP	Indigenous Legal Assistance Program
LAC	Legal Aid Commissions
LAF	Legal Assistance Forum
LAIC	Legal Assistance Investment Committee
LAQ	Legal Aid Queensland
LASF	Legal Assistance Strategy and Funding
LASP	Legal Assistance Services Program
LIM	Legal Investment Model
NLAP	National Legal Assistance Partnership 2020-25
NPA	National Partnership Agreement 2015-20
QGSO	Queensland Government Statistician's Office
QLAAP	Queensland Legal Assistance Action Plan
QLAF	Queensland Legal Assistance Forum
QLAS	Queensland Legal Assistance Strategy
QT	Queensland Treasury
RLAF	Regional Legal Assistance Forum
RRR	Regional, Rural and Remote
SLAF	Specialist Legal Assistance Forum
The Review	The review of the National Legal Assistance Partnership 2020-25

## Background introduction and Queensland context

The Queensland Government has steadily built a strong and productive working relationship with Queensland's legal assistance sector (the sector), which is underpinned by mutual trust and understanding.

The sector comprises Legal Aid Queensland (LAQ), Community Legal Centres (CLCs) including their peak organisation Community Legal Centres Queensland (CLCQ), Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (ATSILS) and Family Violence Prevention Legal Services (FVPLSs).<sup>1</sup>

The sector in Queensland provides over 650,000 legal assistance services per year<sup>2</sup> with State and Commonwealth funding allocated and administered by the Queensland Government.

### Legal investment in Queensland

Under the Legal Assistance Services Program (LASP), the Queensland Government allocates Queensland and Commonwealth Government funding for the delivery of legal assistance services using a legal investment model (LIM). LASP administers this funding to Queensland's sector.

The LIM is responsive to community needs, maximises service delivery within the available resources and promotes the Queensland Government's close working relationships with Queensland's sector and the Commonwealth Government. Funding allocations are made in a way that best promote an integrated, efficient and effective service system that is focused on meeting the holistic needs of vulnerable and disadvantaged Queenslanders.

The current LIM was implemented following a review of the allocation of funds from the (former) Legal Practitioner Interest on Trust Accounts Funds in 2012.

One of the most valuable aspects of the LIM is collaboration with the sector and the Commonwealth Government. The objectives of the LIM align with the *National Legal Assistance Partnership 2020-25* (NLAP) and are designed to improve targeting of available resources to areas of need, coordination, collaboration, efficiency, effectiveness and accountability.

### Legal Assistance Investment Committee

The Legal Assistance Investment Committee (LAIC) is an important part of Queensland's LIM. The membership of the LAIC is currently constituted by representatives from DJAG Executive Management, the Official Solicitor of the Office of the Child and Family Official Solicitor, Department of Child Safety, Seniors and Disability Services and Law and Justice Policy, Department of the Premier and Cabinet.

LAIC's role includes:

- overseeing funding allocation processes (including a five-yearly review of funding strategies and evaluation of funding applications) to promote transparency and accountability
- making recommendations that align with the strategic objectives and funding strategies through the Chair (Deputy Director-General, Justice Services, DJAG) to the Director-General, DJAG or the Queensland Attorney-General for consideration and final decision, and
- overseeing the financial management of funding allocations.

More information about its purpose, membership and functions are set out in its [Terms of Reference](#).

### Queensland Legal Assistance Strategy and Action Plan

In accordance with the requirements of the NLAP, Queensland developed a legal assistance strategy and action plan.

The [Queensland Legal Assistance Strategy](#) (QLAS) is publicly available and includes:

<sup>1</sup> Queensland has two FVPLSs: Aboriginal Family Legal Service Queensland (AFLSQ) and Queensland Indigenous Family Violence Legal Service (QIFVLS).

<sup>2</sup> Since the commencement of the NLAP in 2020 excluding Commonwealth funding streams outside of the NLAP and funding from other Queensland Government agencies other than DJAG.

- estimates of the level and nature of legal need in Queensland
- identified priorities and areas of focus for the continued delivery of mainstream, specialist and Aboriginal and Torres Strait Islander legal assistance services
- specific priority client groups relevant to Queensland
- how the State will meet the objectives and outcomes of the NLAP and the approaches to ensure that legal assistance services are delivered in accordance with the [National Strategic Framework for Legal Assistance](#).

The [Queensland Legal Assistance Action Plan](#) (QLAAP) reflects the strategic direction set out in the QLAS and identifies activities undertaken to progress the commitments made in the QLAS.

## Collaborative Service Planning

Under the NLAP and the QLAS, LASF works together with Queensland's sector to identify collaborative service planning (CSP) opportunities to maximise the investment in the sector by ensuring services are delivered where they are most needed and have the greatest impact.

Key elements of CSP include planning for legal assistance services, developing best practice in service design and planning for continuous improvement.

In Queensland, the formal collaboration of service providers is facilitated through Legal Assistance Forums (LAFs), including the Queensland Legal Assistance Forum (QLAF) which oversees and sets the strategic direction of 12 Regional Legal Assistance Forums (RLAFs) and five Specialist Legal Assistance Forums (SLAFs).

## Funding for Collaborative Service Planning

Under the NLAP, the majority of funding is for frontline service delivery and there is no dedicated funding for CSP delivery. To support the delivery of CSP and to assist with the identification and analysis of legal need in Queensland, the Queensland Government allocated funding to CLCQ in 2016 and 2019 to investigate legal need in Queensland.<sup>3</sup>

The importance of localised or regionalised CSP for legal assistance services is acknowledged by the Queensland Government. The Queensland Government has allocated funding and delegated the responsibility of developing collaborative service plans for each RLAF to CLCQ. The members in each RLAF are considered the local experts in legal assistance service delivery, therefore regionalised plans will identify priorities and optimise how the legal assistance sector in each region can work together to:

- better understand the existing and emerging legal needs in the community
- understand referral pathways
- consolidate referral relationships in each given region.

As a critical step in driving continuous improvement and fulfilling Queensland's obligations under the NLAP to facilitate the development and delivery of collaborative projects, \$150,000 of project funding was set aside by the Queensland Government to be directed towards CSP projects undertaken by the LAFs over 2020-25. As at 30 September 2023, five projects have been successfully delivered and a number of project funding applications are currently being developed.

## Queensland Legal Assistance Forum

The QLAF was established in early 2006 to enable organisations to consider and address legal assistance issues in a cooperative and coordinated manner. QLAF's strategic focus is derived from the NLAP, the QLAS and QLAAP, and includes the following guiding principles:

- focus service delivery on people facing disadvantage
- appropriateness of service
- collaboration
- timely intervention

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<sup>3</sup> Community Legal Centres Queensland, (2019) [Evidence & Analysis of Legal Need](#).

- empowerment and resilience.

The QLAF coordinates and maximises the reach of legal assistance services and plays a vital role in driving collaborative service planning by considering opportunities for improved coordination and targeting of services between legal assistance providers, as well as linking legal assistance services with other human, community and social services.

The QLAF also provides feedback to the Queensland and Commonwealth Governments and other relevant bodies on legal assistance strategies, key areas of law reform and issues affecting the sector.

More information about its purpose, membership and functions can be found on the [QLAF webpage](#).

In response to the NLAP Review, and in preparation of the next legal assistance funding agreement, the QLAF is currently focusing on the following key priority areas:

- legal need and unmet legal need
  - regional, rural and remote (RRR) legal needs
  - Aboriginal and Torres Strait Islander legal needs
- future funding models including roles and responsibilities
- labour market and workforce issues
- data collection (and the intent and purpose of collection).

## Executive summary

LASF administers Queensland and Commonwealth Government funding to legal assistance service providers and collaborates with the sector and government, to ensure delivery of holistic legal services to improve the quality of life for vulnerable Queenslanders seeking equitable access to justice.

LASF welcomes the opportunity to contribute to the NLAP Review to support the evaluation of the extent to which the objective, outcomes, outputs and policy intent of the NLAP have been achieved.

The response from LASF is a thematic approach to address the key areas raised in the NLAP Review Issues Paper, ordered accordingly with the Queensland-specific priorities (as per table below).

Analysis tables have been used in this document and utilise a stop-light matrix for assessment: green indicates achieved, orange indicates partially achieved and red indicates not achieved. At the end of each chapter, we have linked the key issues raised in the Issues Paper with Queensland's themes.

Priority order of key themes
NLAP achievement of objective, outcomes and outputs
Funding
Roles and responsibilities
Data
Legal need
First Nations
Regional, rural and remote
Workforce issues

## To what extent has the NLAP achieved its overall objective and intended outcomes and outputs?

In the context of the key issues discussed within this submission, LASF considers the NLAP to be a suitable framework that has achieved its objective and most of its outcomes and outputs.

The 5-year NLAP has been a suitable partnership model that has maximised funding certainty for legal assistance service providers.

NLAP outputs	Status and effectiveness (as at 30 September 2023)
The delivery of efficient, effective and appropriate mainstream and specialist legal assistance services within each State.	<p>Achieved.</p> <p>A large quantity and high quality of services were delivered by the sector in Queensland, taking into consideration the barriers to service delivery experienced across 2020-23 including, but not limited to COVID-19, natural disasters and workforce recruitment and retention issues.</p> <p>The NLAP has supported the sector to be relatively flexible in its determination on how to deliver front-line service demand.</p> <p>Community legal education and activities undertaken within the sector have been very</p>



	successful and highly beneficial to clients, the greater community and within the sector itself.
<p>The delivery of efficient, effective and culturally appropriate Aboriginal and Torres Strait Islander specific legal assistance services within each State.</p>	<p>Partially achieved.</p> <p>Commonwealth funding provided under the NLAP Multilateral Agreement and Bilateral Schedule was allocated and administered to ATSILS (Qld) for the delivery of culturally appropriate services in a manner consistent with self-determination, as defined under the NLAP, and the Partnership Agreement on Closing the Gap and the Closing the Gap framework.</p> <p>The FVPLSs in Queensland received Vulnerable Women funding under the NLAP, commencing in 2021-22. The inclusion of the FVPLSs has been of great benefit to the sector in terms of strengthening working relationships, collaboration and holistic and culturally appropriate service delivery.</p> <p>Due to unprecedented service demand and workforce retention and recruitment issues, ATSILS commenced suspending services from September 2022. Following additional short-term funding allocations provided by both the Commonwealth and State Governments to support this critical service delivery, the majority of service suspensions have now been lifted, with the remaining suspensions expected to be lifted by the end of October 2023.</p>
<p>Participation and engagement in CSP by the Commonwealth, States and the sector, with guidance provided in Schedule B.</p>	<p>Partially achieved.</p> <p>Under the NLAP, the parties are to work together with the sector to coordinate and maximise the reach of mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services and ensure they are focussed on where they are most needed.</p> <p>Jurisdictional CSP is supported in Queensland through the QLAS, QLAAP and LAFs. The Queensland Government currently provides secretariat support for 18 individual LAFs across Queensland to enable collaboration and engagement at multiple levels.</p> <p>The development of regional CSPs was delegated to CLCQ and has been carried out to support localised and relevant CSP designs.</p> <p>States and territories also engage regularly in CSP together through relevant government agencies. However, stronger strategic direction is required at a national/Commonwealth level to support the tiered CSP approach outlined in Schedule B of the NLAP.</p>

<p>Sharing of information and resources which support the delivery of mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services.</p>	<p>Partially achieved.</p> <p>This has been achieved in Queensland through the delivery of LAFs and collaboration between legal and non-legal service providers.</p> <p>More effective communication channels and strategic direction is required from the Commonwealth to support continuity in expectations and communication.</p>
<p>The States facilitating the provision of the final year of Social and Community Sector (SACS) supplementation funding, provided by the Commonwealth, to eligible service providers, as applicable. The SACS supplementation is intended to cover increased wage costs arising from Fair Work Australia's 2012 Equal Remuneration Order.</p>	<p>Achieved.</p> <p>Delivered and provided to eligible service providers in 2020-21.</p>
<p>From 1 July 2022, in order to receive funding under the NLAP, each State will be required to produce a publicly available Legal Assistance Strategy as set out in Schedule C.</p>	<p>Achieved.</p> <p>The <a href="#">QLAS</a> was published by the Queensland Government on 28 June 2022.</p>
<p>From 30 September 2022, in order to receive funding under the NLAP, each State will be required to produce a publicly available Legal Assistance Action Plan as set out in Schedule C.</p>	<p>Achieved.</p> <p>The <a href="#">QLAAP</a> was published by the Queensland Government on 28 September 2022.</p>

## Funding

LASF's position
<ul style="list-style-type: none"> <li>• LASF supports a further 5-year multilateral partnership.</li> <li>• Current bilateral funding should be included in future baseline funding.</li> <li>• Greater investment in funding overall is needed, but particularly in Queensland, including for associated operational and administrative costs.</li> <li>• The Funding Distribution Models (FDM) to allocate baseline funding need to sufficiently address the unique legal needs of Queensland, and should include further consultation, particularly during the development of the next partnership agreement.</li> <li>• The next partnership agreement should have mechanisms to flexibly respond to emerging legal need, including the ability to regularly review and adjust to keep pace with the consumer price index.</li> <li>• Commonwealth funding for Commonwealth matters is not supported, as this does not align with the intent of the NLAP principles.</li> </ul>

LASF supports a further 5-year multilateral partnership agreement to maximise funding certainty for legal assistance providers and to provide the opportunity to mature and refine the governance of the current NLAP, while providing the opportunity to review the efficacy of the agreement within a practical timeframe.

### Proposed Commonwealth funding for Commonwealth matters

The purpose of the NLAP includes recognition that the Commonwealth and States and Territories have a mutual interest and responsibility in the provision of legal assistance services which help vulnerable people facing disadvantage, who are unable to afford private legal services, to engage effectively with the justice system in order to address their legal problems.

Pursuant to Part 5 of the NLAP, the NLAP is intended to be a single mechanism for Commonwealth funding for legal assistance services. Clause 54 states Commonwealth financial contributions provided under the NLAP do not inhibit legal assistance providers, including national legal centres, from accessing and receiving other Commonwealth or State (or other funding) outside of the NLAP.

Schedule A of the NLAP clearly identifies national priority client groups for the sector as well as the general principles for the prioritisation of Commonwealth funding. This includes:

- delivery of frontline services focused on meeting the legal needs of individuals, with a specific focus on priority client groups
- to directly enable legal assistance providers to undertake activities required under the NLAP.

In addition, general principles include that:

- mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services must be delivered in a manner consistent with the National Strategic Framework
- family or civil law disputes should be resolved through alternative dispute resolution processes rather than litigation where appropriate
- the sector should consider whether other services (legal as well as non-legal) may be relevant to a client's needs and make referrals to these services where appropriate.

Further clarification is provided on focus areas for family law, Commonwealth civil law, and Commonwealth criminal law, but this focus is not an exclusive list that rules out state-based legal matters.

LASF does not support the limitation of Commonwealth funding for Commonwealth matters. This does not align with the agreed principles of the current NLAP, and the implications of Commonwealth funding for Commonwealth matters would impose additional administrative expense on the sector. Legal assistance service providers are diverse and providing strict requirements on the use of funding may contravene the intent to provide self-determination and the responsiveness to emerging legal need.

## Determination of baseline funding

The adequate resourcing of legal assistance services is a cornerstone of access to justice.<sup>4</sup> A significant overall increase in baseline funding across the sector is required to sustain the sector, and LASF strongly encourages the Review to consider Queensland's status as the second largest<sup>5</sup> state with the fastest growing population<sup>6</sup> in regard to baseline funding allocations.

The current cost of living pressures and significant increase in interest rates, has meant that a greater percentage of the population<sup>7</sup> would now fall within the gap between being able to afford legal assistance and the low-income level required to qualify for a legal assistance grant of aid. This in turn would place increasing demand on the rest of the sector to meet the needs of 'the missing middle'.

Having baseline funding in one source can provide certainty for the sector, as well as consistent reporting requirements. Multiple funding streams, particularly if provided outside of a future partnership agreement, could result in multiple reporting mechanisms which in turn could lead to a greater need for funding for services to address administrative costs. In addition, this could lead to a lack of clarity on total funding from the Commonwealth and a greater administrative and contract management burden will be placed on the States and Territories.

## Operational costs to support service delivery

As stated above, Schedule A of the NLAP details funding priorities, namely front-line service delivery including operational costs. Although funding provided under the NLAP covers the associated operational

<sup>4</sup> Australian Law Reform Commission, (2017), [Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#).

<sup>5</sup> Queensland covers 173,017,122 hectares, [ABS region summary: Queensland](#).

<sup>6</sup> As at December 2021, Queensland had the fastest growing population at 1.4% increase, [ABS National, state and territory population](#).

<sup>7</sup> Australian Treasury, (2023), [Making ends meet](#).

costs to deliver frontline legal assistance services, these funded operational costs are often inadequate to meet emergent or changing needs.

Adequate baseline funding considerations should be given to extend past frontline service delivery and associated operational costs to provide a buffer to support the sector to address the unforeseen and/or emerging operational costs that can significantly impair the delivery of frontline services including:

- investment in the health, wellbeing and safety of staff, particularly in a sector that is susceptible to high risk of exposure to vicarious trauma and psychosocial hazards, is critical to support the ongoing delivery of quality legal assistance services,<sup>8</sup> which will also support [workforce pressures](#) addressed below
- facility requirements needed to be fit for purpose and to meet increased demand (this includes office expansion and/or relocation costs)
- additional operational system requirements to keep abreast of technology changes. This should include relevant resourcing to support the sector to be resilient to cyber security concerns including hacking, release of information and removal of funds electronically.

The COVID-19 pandemic highlighted the need for the sector to be responsive, flexible and innovative in the way it provides services. The current baseline funding has little or no scope to cover any costs other than the delivery of frontline services and associated operation costs, as indexation has not kept pace with the increasing cost of providing services. This erosion of funding over time is particularly apparent in the 2020-25 funding cycle, due to the pandemic, world events and natural disasters which have contributed to the current cost of living crisis.<sup>9</sup> To address this funding gap, additional baseline funding should be allocated to support emerging operational costs for legal assistance service providers, or a mechanism could be included in the next partnership agreement to enable the review and evaluation of baseline funding for emerging operational costs.

### Law reform and policy impacts

As the NLAP requires the prioritisation of frontline services, the sector is often unable to prioritise submissions regarding law and policy reform. The sector is well placed to be able to collaborate and provide evidence and advice as to the impacts (of legislative and policy reform) as the sector delivers frontline services.

Changes to legislation often has downstream impacts – if legislative changes affect agencies such as police, corrective services and courts and tribunals they will also affect the sector providing advice and representation to those affected. This is often a forgotten element of legislative and policy reform. If additional resourcing is not provided to meet the increased need as a result of legislative and policy reform, then it will often mean the sector must decrease activity in other important areas to meet emerging need.

The NLAP should include a mechanism to review baseline funding to meet the increase in service demand as a result of Commonwealth law reform policy and legislative changes.

## Emerging and emergency funding

### Disaster management and response to emergencies

Queensland is the most disaster-affected state, as well as being the state most financially impacted by disasters in Australia.<sup>10</sup> Unprecedented natural disasters have the potential to overwhelm local and state

<sup>8</sup> Employers now have an obligation to manage the risks of psychological hazards at work through the [Code of Conduct 2022](#). This was through an amendment of federal requirements in the *Work Health and Safety Act 2011* (Cth).

<sup>9</sup> In the 12 months to March 2022, the Consumer Price Index (CPI) increased by 5.1%, the [highest annual rise](#) reported since the introduction of the GST in 2000.

<sup>10</sup> Queensland Reconstruction Authority, (2022), [Queensland Strategy for Disaster Resilience, 2022-2027: Stronger, safer and more resilient communities](#), Queensland Fire and Rescue Service, (2022), [Queensland 2021/22 State Disaster Risk Report: Executive Summary](#).

governments and necessitate the support of the Commonwealth. While not the only legal concern, many of the legal issues that arise from post-disaster events relate to insurance matters, which falls under the Commonwealth's authority.

Emergent legal assistance needs that have arisen since 2020 are often met with a reactive policy and funding response. Due to the NLAP not having a mechanism to respond to arising emergencies, the provision of funding to support the sector's response to the COVID-19 pandemic and natural disasters were under separate funding agreements with additional reporting requirements outside of the NLAP.

A framework for disaster management, contingency funding and a mechanism in the future partnership agreement to enable the sector to rapidly respond to sudden changes in demand arising from emergencies will provide certainty and reduce administrative costs.

### Indexation

The Commonwealth Government's indexation funding is fixed for the funding cycle at the time the funding allocation is determined. Depending on the basis rate at the time, this has the potential for service providers to receive significantly less than the actual rate, as has been the case for recent financial years, or more than the actual rate throughout the cycle. For example, the indexation provided for 2022-24 is less than one quarter of the actual indexation needed to keep pace with inflation.

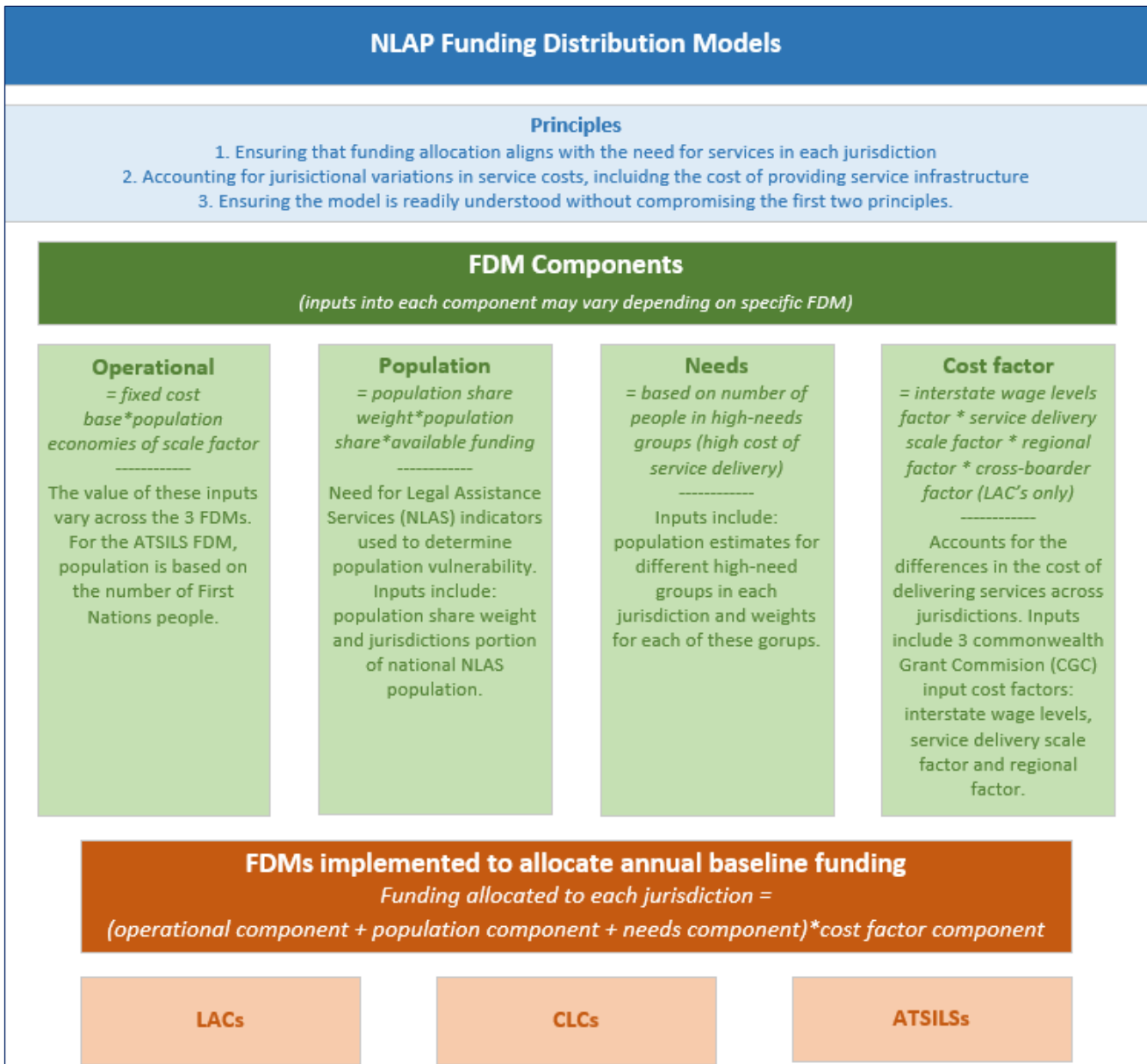
In addition, the indexation is also inconsistent between Commonwealth funding allocations, and some allocations have no annual indexation. Where the indexation does not keep pace with inflation (wage increases and goods and services cost increases), the funding erodes, and fewer services are able to be provided.

By comparison, the majority of Queensland State funding is adjusted annually when the Non-Government Organisation (NGO) grant indexation rate is reviewed, based on a mix of projections of the Wage Price Index and Consumer Price Index growth. In addition, the State Government reviewed the NGO indexation rate in 2022, resulting in a more responsive revised rate that included adjustments for the Superannuation Guarantee increase, as well as a second annual review that enabled additional funding to be provided.

LASF recommends that a mechanism is embedded into the future partnership agreement to allow for an annual review of indexation allocations so that funding is reflective of actual service delivery costs.

### Funding Distribution Models

The below image is a diagram of the Funding Distribution Models (FDM).



As stated in the NLAP Review Issues Paper, FDMs for each legal assistance sub-sector determine the baseline funding allocation to each jurisdiction.

Although the FDM component calculations seem comprehensive on face value, further disclosure from the Commonwealth is needed in order to ensure that Queensland’s vast regional nature, unique legal needs of its diverse population and associated legal assistance service delivery costs are adequately and sufficiently addressed through the FDMs. Meaningful consultation and engagement between the Commonwealth and states and territories on the FDMs and the relevant governing framework is needed for LASF to provide a fulsome response on the proposal.

LASF has particular concerns that the population growth rate calculations applied have not adequately captured the highly variable population changes that have occurred since the implementation of the NLAP. Further information on the component inputs, particularly the specific weighting applied to each input, is of particular interest to LASF.

The associated administrative costs incurred by the states and territories in the administration of the baseline funding should also clearly be defined in the FDMs.

Related NLAP Review Issues Paper sections	
Section #	Section topic
2.3	Legal assistance expenditure over time
2.4	Other sources of Commonwealth legal assistance funding
2.5	International comparison
4.6	Funding models
Addendum 1	Funding Distribution Models

## Roles and responsibilities

LASF's position
<ul style="list-style-type: none"> <li>• The future partnership agreement should include and articulate the various roles and responsibilities of all parties include the Commonwealth, States and Territories and the sector.</li> <li>• Communication and collaboration led by the Commonwealth needs to be both streamlined and strengthened, with greater investment from the Commonwealth on CSP.</li> <li>• LASF will consider evaluating the efficacy and appropriateness of current delegations of the State Program Manager function for the next funding cycle.</li> </ul>

A strong and clear governance structure is vital to ensure clarity of the roles and responsibilities of the Commonwealth Government, the States and Territories and service providers. Clarity around roles and responsibilities assists in the progression of a shared direction and strengthens sector collaboration. Transparency, accountability and clear delineation of duties is required to support policy decisions and to progress the NLAP outcomes and outputs.

### Roles and responsibilities under the NLAP

The following table outlines LASF's feedback on the Commonwealth's role and responsibilities defined under Part 3 of the NLAP:

Commonwealth responsibilities		Outcomes feedback
Policy and strategic guidance	Facilitating information sharing at the national level with the States and the sector; organising, facilitating and participating in forums at the national level with the States and sector.	<p>Partially achieved.</p> <p>More meaningful consultation and engagement is sought by Queensland from the Commonwealth.</p> <p>Information sharing is not consistent across jurisdictions, and leads to inconsistent applications and data delivery.</p> <p>The Law and Justice Foundation of NSW is heavily relied upon by the Commonwealth in the development of materials relating to the achievement of the NLAP outcomes. LASF would value early engagement of the Commonwealth with the States and Territories prior to this occurring, as in some instances, jurisdiction endorsement is required for the sharing of data provided under the NLAP.</p>

Provision of funding	Providing a financial contribution to the States for the delivery of mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services in accordance with the NLAP; providing a financial contribution to support the States in administering the NLAP.	<p>Achieved.</p> <p>LASF would recommend that the level of administrative funding be reviewed, in consideration of the extensive procurement processes and the level of stakeholder consultation and engagement required for specific funding programs, in particular, additional funding.</p>
Sector planning and development	Leading, conducting and participating in national CSP; providing specific guidance and support to the States on the requirements and implementation of CSP; sharing resources at the national level which support the ongoing development and capacity of the within available funding.	<p>Partially achieved.</p> <p>While there are forums where government departments at relevant levels meet and collaborate (such as the Inter-Governmental Committee (IGC)), there is limited sector engagement in these forums.</p> <p>While its appropriate for government counterparts to meet regularly, there is a missed opportunity for comprehensive CSP with the sector.</p>
Performance monitoring	Monitoring and assessing performance under the NLAP to ensure that outputs are delivered and outcomes are achieved; and facilitating improvements to the collection of nationally consistent data and the National Legal Assistance Data Standards Manual (DSM).	<p>Not achieved.</p> <p>While Queensland has met and complied with all reporting requirements under the NLAP, there has been no monitoring or analysis by the Commonwealth.</p> <p>There are a number of missed opportunities in data and performance monitoring. These include:</p> <ul style="list-style-type: none"> <li>- The DSM being cumbersome and outdated. There has been limited advice as to the level of review of the DSM to date.</li> <li>- Annual National Legal Assistance National Services Summaries are completed, but there is no analysis or evaluation of this information due to data issues.</li> <li>- Effective communication from the Commonwealth regarding decisions on data, monitoring and evaluation could be improved, as could officer level communications between respective agencies.</li> </ul>



The following table outlines LASF's feedback on the Commonwealth and States and Territories joint responsibilities as defined under the NLAP:

Commonwealth and jurisdictions' responsibilities	Outcomes feedback
Participating in consultations with the sector as appropriate regarding the implementation of the NLAP.	<p>Partially achieved.</p> <p>Queensland has regularly engaged in consultation with both the Commonwealth and the sector regarding the implementation of the current NLAP. We do note, however, that there have been delays in commencing the NLAP review which may have a flow on effect for the sector, both with the time for negotiating the next partnership agreement, and the time to run robust and transparent tender processes for allocation of funding in a timely manner to allow CLCs and other agencies employment continuity.</p>
Meeting biannually on a bilateral basis to discuss the operation of the NLAP.	<p>Achieved.</p> <p>However, improvements can be made to the utility of the meeting by having a clearer defined purpose.</p>
Ensuring the ongoing collection and transparent reporting of nationally consistent data.	<p>Partially achieved.</p> <p>Reporting occurs, but improvements could be made to data collection and reporting processes. This includes accountability for reporting templates not altering and reporting of data in a clear and consistent manner.</p>
Working with the sector to increase data availability.	<p>Not achieved.</p> <p>Currently being addressed by a project with the Australian Bureau of Statistics (ABS), however this has only recently commenced.</p> <p>There are concerns as to the proposed closure of current data collection methods used by the sector (i.e. CLASS) and the limited future planning that has occurred to date.</p> <p>Changes to the data collection system will have significant impacts on the sector, which will require resourcing and support to implement change.</p> <p>There are concerns that this could lead to multiple Client Management Systems that don't adequately draw on data, and require the sector to invest more heavily in resourcing for data collection, taking away from frontline services.</p>
Developing an outcomes-based framework for legal assistance services.	<p>Not achieved.</p> <p>The Commonwealth has advised that this is still in the preliminary development stage.</p> <p>LASF has advised the Commonwealth that meaningful co-design should be undertaken to deliver this body of work. There are concerns</p>

	regarding the development of the Outcomes Framework without adequate consultation and engagement with the jurisdictions and sector.
Supporting the independent review.	Achieved. While the review is currently underway, LASF regularly engages with the Reviewer, the Commonwealth and other jurisdictions on these issues.

### Delegation of roles and responsibilities

It is clearly defined in the NLAP that the Commonwealth's preference is that the States' roles and responsibilities are not delegated to a legal assistance provider. Historically, the function of the CLC State Program Manager in Queensland has been delegated to LAQ, and this arrangement continued under the administration of the NLAP. LASF will consider evaluating the efficiency and appropriateness of maintaining this arrangement in preparation for the next funding cycle.

### Roles and responsibilities of funding allocations

It is acknowledged that generally the States and Territories have a deeper level of engagement with stakeholders and have cultivated productive working relationships with CLCs and respective peaks which provide extensive mutual benefits. The Queensland Government, through LASF, is better positioned to run administrative processes to allocate NLAP funding to the Queensland CLCs due to the nuanced knowledge of the jurisdiction and service providers. However, the Commonwealth needs to provide adequate support (both in terms of information and resourcing) to facilitate this.

Timely consultation and engagement is required from the Commonwealth if additional or ad hoc funding is to be allocated during the term of the NLAP, and if there is an expectation that the States and Territories are to administer the funding on the Commonwealth's behalf.

If the Commonwealth requires States and Territories to make decisions about how funding should be split across the sector, detailed advice needs to be provided regarding the policy rationale for funding, expectations and information for funding allocations together with additional administration funding. As an example, the significant additional funding provided through amendments to the NLAP Bilateral Schedule required intensive funding allocation and procurement determinations for the CLC sector. This had a significant and unforeseen resourcing impact on LASF given the need to distribute the funding in a timely manner. Delays in funding can demonstrably affect the sector, which relies on early confirmation of funding to maintain its workforce and service delivery continuity.

In Queensland, the sector has raised concerns regarding the inefficiencies of the funding allocation for specific programs of work. To support and enable the efficient allocation of funding, the undertaking of procurement processes, the subsequent timely distribution of funding and effective contract management, the level of responsibility required of the jurisdictions should be met with additional administrative funding being provided by the Commonwealth Government in the funding package.

### Case study – 2022 Floods in New South Wales and Queensland – additional legal assistance

In 2022, the Commonwealth Government provided funding to support the delivery of efficient and effective legal services to support relief and recovery in communities affected by the significant weather events that lead to widespread flooding in New South Wales and Queensland. While this was a welcome addition in funding, there were significant roadblocks with the funding including:

- Funding was limited to addressing flood events, not the additional bushfires. Negotiations had to occur in order to include these into service delivery arrangements.
- Significantly restrictive funding requirements were placed on services that arguably limited the impact of funding on the community (i.e. that funding would expire 2025, but that funding post the significant weather events couldn't be used to meet disaster preparedness. This meant that there were limitations on future planning).
- Inconsistent information was provided to New South Wales and Queensland about the services that could be provided with the funding. This led to inconsistent data collection, a lack of clarity around deliverables, and significant sector concerns as to how it would meet expectations if strict requirements were placed on the funding.
- Extension funding was allocated directly by the Commonwealth Government in accordance with election commitments, without regard to how initial funding had been allocated by New South Wales and Queensland.

Further stakeholder engagement was needed to clarify funding expectations and deliverables to ensure that there was consistency for the states with the same funding pool. This wouldn't have been needed if clarity had been provided at the outset.

### Related NLAP Review Issues Paper sections

Section #	Section topic
4.3	Roles and responsibilities
4.12	Commonwealth administrative review

## Legal need

### LASF's position

- A mechanism to capture data on unmet legal need would be highly beneficial to identify and analyse service delivery gaps, funding requirements and how to better support the sector.
- The implementation of an Outcomes Framework and its foundation of evidence building would improve service design and delivery, including identifying unmet and underserved legal need.

As identified in the QLAS, the factors that contribute to Queensland's legal need are varied, complex and interconnected. Within the Queensland context, there are several factors that contribute to the State's level of legal need. These include the legal needs of populations identified within the national priority client groups and Queensland priority groups, including the unique legal needs and vulnerabilities of the First Nations population, the level of financial disadvantage and the remoteness of the population.

The New South Wales Law and Justice Foundation Collaborative Planning Resource<sup>11</sup> (the CPR) brings together information on service design and population data to support planning and monitoring of legal assistance services. The CPR developed Need for Legal Assistance Services (NLAS) indicators to

<sup>11</sup> Coumarelos, C., McDonald, H. M., Forell, S., & Wei, Z. (2015). *Collaborative Planning Resource - Service Planning*. Sydney: Law and Justice Foundation of New South Wales.

provide a census-based count of the distribution of anticipated need. These indicators are also used within the FDM to determine the NLAP baseline funding allocation to each jurisdiction.

As detailed in [Regional Rural and Remote](#) nature of Queensland below, Queensland's population over recent years has increased at an unexpected rate. The effects of the unprecedented population increase and cost of living changes since the pandemic need to be considered when making an assessment on legal need based on the NLAS indicators. As States and Territories are not privy to comparison data, LASF considers the Commonwealth would be best placed to undertake this work, and to consider an Australia-wide approach.

## Unmet or underserviced legal need

As stated in the Issues Paper, the NLAP does not define the term legal need or provide a framework to measure legal need. While this allows jurisdictions the freedom to self-determine and self-assess the term "legal need," it does not provide for a governance model to measure and observe legal need and unmet legal need trends over time.

Currently, unmet legal need is not effectively recorded. There are a number of reasons a legal service may not be able to meet the needs of a consumer. These can include that the client or their issues are outside the scope of eligibility for services (either from a funding perspective, or the jurisdiction of the type of matters the service deals with), that services cannot be provided to due to capacity issues (i.e. there are more clients than funding can support). Additional funding would be required to support the sector to capture data on unmet legal need as this would be an additional body of administrative work, and potentially outside the scope of the current NLAP requirements of delivery frontline services.

It has been recommended that legal needs assessments should be conducted every 3-5 years to ensure that the volume of need, as well as the nature of relevant legal matters are based on relevant and current evidence.<sup>12</sup> Although the Queensland Government currently has no framework for collecting, evaluating and analysing legal need, in March 2016, and subsequently 2019, DJAG engaged CLCQ to undertake an analysis of legal need. Time constraints meant CLCQ was unable to do a comprehensive literature review but was able to evaluate and analyse data from a breath of sources to inform the legal need of priority client groups and regional areas of Queensland.<sup>13</sup>

A national mechanism to capture unmet legal need would be highly beneficial to identify and analyse service delivery gaps, funding requirements and how to better support the sector in the delivery of their work. Embedding the responsibility of undertaking recurring legal need assessments within the future partnership agreement would circumvent the current issue of limited or older legal needs data and research.

It is essential that a legal needs analysis should be conducted at the Commonwealth level as the issue of unmet legal need affects all Australians. While each state and territory may have unique drivers, an Australian-wide assessment will ensure that data collection is not siloed. The last legal Australia-wide survey (LAW Survey)<sup>14</sup> was conducted in 2012 and commissioned by the eight State and Territory legal aid commissions.

Understanding the level and nature of unmet legal need is critical to informing an appropriate evaluation design model. This in turn will identify the scale and breadth of legal needs and priority areas for disadvantaged Australians. It is acknowledged that undertaking this program of work is vital and that it will require appropriate resourcing to reach a level of maturity that would be beneficial to the legal assistance sector, as well as government.

There are many variables with data capture and analysis of legal need that would need to be considered in the development of the framework. The outcomes of legal assistance are generally very specific to the individual matters in question. Other examples of variables include:

- individuals being able to identify their legal needs

<sup>12</sup> United Nations Office on Drugs and Crime, (2016), [Global Study of Legal Aid](#).

<sup>13</sup> Community Legal Centres Queensland, (2019), [Evidence and Analysis of Legal Need](#).

<sup>14</sup> National Legal Aid, (2012), [Legal Australia-Wide Survey: Legal Need in Australia](#).

- the impact and disruption of natural disasters and pandemics
- areas of law e.g., criminal, domestic and family violence, consumer, family, bankruptcy, civil, child protection
- jurisdictions: Federal and Family Circuit Court matters; State matters; Tribunal matters (both State and Commonwealth)
- intersectional diversity and at-risk groups
- unique legal needs in RRR areas
- externalities, for example, increased identification of legal need due to law reform outcomes.

Under the NLAP, an Outcomes Framework was to be developed by the Commonwealth Government. Finalisation of an Outcomes Framework would help to improve service design and delivery, including identifying unmet and underserved legal need, and support the sector to find innovative and collaborative ways to effectively address challenging problems.<sup>15</sup> As the delivery of the Outcomes Framework is led by the Commonwealth, the Commonwealth would be best placed to deliver this.

Related NLAP Review Issues Paper sections	
Section #	Section topic
4.2	Legal need
4.7	Managing demand over time

## Workforce capacity

LASF's position
<ul style="list-style-type: none"> <li>• Workforce capacity issues affect the entire sector across Australia.</li> <li>• A comprehensive and staged approach to address the sector's workforce capacity issues needs to be led and prioritised by the Commonwealth before the delivery of essential legal assistance services are critically impacted.</li> <li>• Based on population need, Queensland will continue to experience workforce shortages in legal practitioners. This is likely to be more pronounced in RRR communities where attraction, recruitment and retention of the legal profession workforce is already a challenge</li> </ul>

There are currently persistent and growing significant workforce issues affecting the Australian sector. The workforce difficulties are sector-wide and issues are particularly acute in Queensland in RRR areas including Mount Isa, Cairns, Townsville, Rockhampton and South West Queensland.

Over the last few years, some service providers have had to implement service suspensions, particularly for new client intakes, to manage the workforce capacity limitations and increased service delivery demands. This has had significant impacts on service delivery in the affected areas and has resulted in other parts of the sector having to provide short-term support in order to ensure the needs of the community are met. This has resulted in flow-on effects for these services which have incurred additional expenses associated with increased workloads.

Ongoing vacancies are resulting in service gaps in the provision of legal assistance services to vulnerable Queenslanders. The sector workforce issues have the potential to impact on key law reform areas and strategic Government priorities including Closing the Gap targets.

The specific workforce issues facing the sector are influenced by salary and employment condition disparities, both within the sector and private practice. Short funding cycles also affect sector sustainability, with employment often tied to limited life funding for defined programs of work. Funding is typically tied to specific service delivery requirements, which has the effect of limiting service providers' ability to divert allocated funding to other purposes such as financial incentives to attract RRR employees.

<sup>15</sup> Law and Justice Foundation of New South Wales, (2022), [Legal Assistance Services Outcomes Frameworks, A Rapid Scoping Review](#).

Based on population need, Queensland will continue to experience workforce shortages of legal practitioners in the sector. This will be more pronounced in RRR communities where attraction, recruitment and retention of the legal profession workforce is already a challenge.

Given that workforce capacity issues are Australia-wide, a comprehensive and staged approach to addressing the sector's workforce capacity issues needs to be led by the Commonwealth. If the delivery of legal assistance services cannot be sustained, it will have detrimental effects on communities and will greatly impact, and further disadvantage, the most vulnerable priority groups.

The [First Nations](#) and [RRR specific](#) workforce issues will be addressed in the related sections of this submission.

### Complexity increases and workload impacts

Since COVID-19, both the level of support sought from the sector, and the complexity of matters that the sector deal with, have increased. CLCs across Australia have reported that nearly two thirds of centres were assisting clients experiencing more complex issues.<sup>16</sup> This has included significant increases in key areas such as family and domestic violence.

Services report an increasing level of complexity in matters, including both legal and non-legal needs that require more inventive solutions to support clients.

### Juniorisation of the workforce and tertiary coursework

The sector has advised that over recent years, it is experiencing a juniorisation of the workforce. Anecdotally, recruitment processes used to attract applicants with several years' post admission experience (PAE) for relatively junior legal roles. Consequently less investment was required to onboard lawyers who were often unrestricted practitioners under their practicing certificate requirements.

Services have reported that not only are they seeing fewer applicants, but that the applicants have significantly less experience, with some applicants having not yet completed their practical legal training (a requirement needed to be admitted as a solicitor in Queensland). Conversely, applicants have limited or no PAE. This in turn requires significant investment in onboarding, as well as supervision frameworks to support restricted practitioners.

The sector is one of the most fruitful learning environments for lawyers. The sector can offer a rewarding and successful career that provides vital support to vulnerable and disadvantaged members of the community. In addition, within the sector, lawyers have the opportunity to develop a breadth of experience that would not otherwise be available to a practitioner. However, the sustainability of the sector will be impacted if the sector cannot support middle-tier legal practitioners with the ability to undertake complex legal matters and nurture and supervise junior staff. There is a problem in the sector if the most vulnerable members of our society are being serviced by our most junior lawyers.

Baseline funding should be increased to better incentivise both retention and recruitment of experienced lawyers in order to ensure a robust and resilient sector.

### Impacts of mental health and vicarious trauma

Investment in the health, wellbeing and safety of staff, particularly in a sector that is at high risk of exposure to vicarious trauma and psychosocial hazards, also needs to be considered as part of the required service delivery infrastructure. This investment in the health and wellbeing of staff will help reduce the level of staff in the sector leaving the industry and the resulting impact on the service provider's ability to maintain existing service delivery as well as undertake new service delivery.

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<sup>16</sup> Community Legal Centres Australia, (2022), [Impacts of Covid-19 on the Community Legal Sector](#).

Supportive professional relationships and appropriate supervision<sup>17</sup> can be essential to support and manage vicarious trauma. Also, building trauma informed practices<sup>18</sup> can ensure that those who work in these areas have greater understanding of the clients and relevant supports to help them.

The impact on employees in the sector when clients are turned away should also not be discounted. People rarely engage with the sector because their life is going well; clients are often in crisis, are impacted by trauma and have nowhere to turn. Having to turn away someone in crisis can have significant psychological impacts on staff.<sup>19</sup>

The legal profession as a whole has high rates of burnout as compared to other professions.<sup>20</sup> Queensland has invested in a number of incentives to support mental health in the profession, including LawCare through the Queensland Law Society and other training and education opportunities. Impacts in mental health for practitioners can lead to not only leaving the profession, but disciplinary action as to standards of a lawyer not being met.<sup>21</sup> This support and investment should also come from a national level.

Related NLAP Review Issues Paper sections	
Section #	Section topic
4.13	Labour Market

## Legal assistance for First Nations Queenslanders

LASF's position
<ul style="list-style-type: none"> <li>• First Nations legal services should remain a part of the NLAP in order to build on relationships and services.</li> <li>• Funding allocation for First Nations services providers should adequately consider unique additional barriers faced by First Nations people in Queensland.</li> </ul>

LASF has consulted with the First Nations Justice Office, DJAG to provide a culturally respectful and appropriate response to the First Nations related sections and key questions raised within the Review Issues Paper.

Queensland, through DJAG, is committed to addressing the legal assistance needs of First Nations people and closing the gap between the access to justice for First Nations people and other Queenslanders.

The QLAS supports the objective of the National Agreement on Closing the Gap (Closing the Gap) to enable First Nations peoples and governments to work together to overcome inequality and to achieve life outcomes equal to all Australians. The QLAS embodies the principles of the Queensland Government's Statement of Commitment to Reframe the Relationship between First Nations peoples and the Queensland Government.

The legal assistance providers currently funded under the NLAP (CLCs, ATSILS, FVPLSs and LAQ), complement each other and play an integral role in providing legal assistance services in Queensland. The removal of the First Nations service providers will weaken the strong working relationships that have been developed under the inclusive approach of the NLAP.

<sup>17</sup> Jude P.E. Smith, Judge Administrator, District Court Queensland. (2018). [Vicarious trauma and the legal profession](#) – Speech to the Queensland Law Society.

<sup>18</sup> Nomchong, K., (2017). [Vicarious trauma in the legal profession](#), The Journal of the NSW Bar Association.

<sup>19</sup> Bucci, N., (2002). ['Saying no has an enormous impact': overwhelmed community legal centres forced to turn away clients](#). The Guardian, Australia.

<sup>20</sup> Australasian Legal Practice Management Association, (2023), [Lawyers Mental Health and Wellness: Part 1](#).

<sup>21</sup> Briton, J., (2009). [Lawyers, Emotional Distress and Regulation](#), Bar Association of Queensland 2009 Annual Conference.

The inclusion of ATSILS and FVPLSs in the next iteration of the NLAP will give the opportunity to mature the strategic direction of the sector as a whole and support collaboration between First Nations legal service providers, non-First Nations legal service providers and the Queensland Government to support the provision of culturally safe services to First Nations people. This will also support the active and meaningful involvement of the community-controlled sector in the development of legal assistance policies and programs under the NLAP.

Funding allocations to First Nations service providers should adequately consider the unique additional barriers faced by First Nations peoples in Australia, and particularly in Queensland, and the benefits of the provision of culturally appropriate legal assistance services that can be integrated with non-legal assistance services. Increasing access to justice for First Nations peoples requires sufficient, sustainable and ongoing funding.<sup>22</sup>

Funding should be provided to First Nations legal assistance providers to improve capacity to advocate and provide input into law reform activities to ensure that the First Nations voice is being heard and accounted for.

## Self-determination

The *Human Rights Act 2019* (Qld) specifically recognises the significance and special importance of self-determination for the First Nations peoples of Queensland.

The QLAS embraces the principles of the National Strategic Framework for Legal Assistance that are applied to support self-determination and Closing the Gap.

The Queensland Government supports Aboriginal and Torres Strait Islander Community Controlled Organisations as providers of culturally appropriate legal assistance services while acknowledging that First Nations peoples should have meaningful choice in the legal assistance services they access.

LASF acknowledges the valuable contribution of non-Indigenous organisations in providing support to First Nations peoples and supports the ongoing collaboration between First Nations and non-Indigenous agencies and organisations to offer services that are culturally appropriate for First Nations peoples.

Meaningful, respectful and productive working relations have been built between ATSILS, QIFVLS, AFLSQ and LASF based on a strengths-based approach that has greatly assisted in the determination of legal need within First Nations communities and the development and implementation of legal assistance programs.

## Barriers to justice

Many First Nations persons who are brought into the criminal justice system also experience intersectionality and often experience multiple layers of disadvantage, having a compounding effect on vulnerability to legal problems:

- Vulnerable First Nations peoples with legal need often intersect with other priority client groups, compounding the challenges with accessing justice to address legal problems.
- Barriers for First Nations peoples accessing legal assistance services include distrust of the system and insufficient cultural awareness within the sector.
- Strong and interconnected cultural bonds to kin, culture and country are often misunderstood and overlooked.
- Inter-generational trauma and entrenched poverty contributes to homelessness for First Nations peoples.
- Poverty, homelessness and geographical remoteness can be barriers to accessing legal and other support services.
- First Nations children and youth are often affected by inter-generational trauma and have disproportionate disadvantage compared to non-Indigenous children and youth.

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<sup>22</sup> Australian Law Reform Commission, (2017), [Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#).



- 1 in 18 Indigenous children were in out-of-home care as of 30 June 2020, with almost two-thirds living with relatives, kin, or other Indigenous caregivers.<sup>23</sup>
- Violence against First Nations women is experienced at a vastly disproportionate rate to the total Queensland population.<sup>24</sup>
- First Nations peoples do not feel safe to report violence for fear of having their children removed.
- First Nations peoples with a disability were unlikely or unable to secure a resolution of their legal problem.
- There is currently a disproportionate incarceration rate of First Nations people. In Queensland, First Nations people are 12 times more likely than non-Indigenous people to be incarcerated.<sup>25</sup>

There is an overwhelming legal need present in First Nations communities that requires specialist, holistic services to be provided. Access to adequate, culturally appropriate legal assistance services and the provision of integrated, holistic services, including the co-location of legal assistance services, can greatly address barriers to accessing justice for First Nations peoples and can also reduce the rate of incarceration.<sup>26</sup>

The Australian Law Reform Commission (ALRC) noted as part of its findings that barriers to access to justice for First Nations people can be reduced by collaborations between non-First Nations legal assistance provider and First Nations organisations. Effective collaboration can support First Nations people to access mainstream services in a culturally safe way.

### First Nations population in RRR areas

In Queensland, 67% of the First Nation's population lives outside of Greater Brisbane,<sup>27</sup> therefore there is a greater need in RRR areas for accessible, adequate and culturally appropriate legal support that takes into consideration the unique barriers to justice faced for First Nations people.

As discussed under the [RRR nature of Queensland](#) section of this submission, the barriers to accessing justice for people in RRR areas is further compounded by the unique barriers to accessing justice for First Nations people in remote locations.

Funding allocations must take into consideration how to best support First Nations people over-come the multiple, complex and intersecting barriers experienced when accessing legal assistance services.

### Workforce issues

Under the QLAS, the Queensland sector committed its support to innovative and new strategies to increase representation, recruitment, and retention of First Nations peoples in and across the sector. The QLAF is actively considering strategies to support this commitment, in light of the ongoing and increasing workforce issues being faced in the legal assistance sector.

First Nations service providers, have noted that services are increasingly overburdened, with some people turned away due to the lack of capacity to meet their needs. Due to significant workforce issues which have impacted its service delivery capacity (both in retention and recruitment of staff), ATSILS commenced withdrawing services across the sector in late 2022.

Historically, ATSILS has received the majority of its funding from the Commonwealth, with the exception of State funding to address specific programs of work. To support ATSILS service delivery during this critical period, the Queensland Government allocated one-off funding to ATSILS in 2023-24.

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<sup>23</sup> Australian Institute of Health and Wellbeing, (2021), [Child Protection Australia: 2019-20](#).

<sup>24</sup> Australian Institute of Health and Welfare, (2019), [Family, domestic and sexual violence in Australia: continuing the national story 2019](#).

<sup>25</sup> Queensland Government Statistician's Office, (2022), [Prisoners in Queensland, 2022](#).

<sup>26</sup> Australian Law Reform Commission, (2017), [Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#).

<sup>27</sup> Queensland Government Statistician's Office, (2021), [Queensland compared with other jurisdictions, Census 2021](#).

Related NLAP Review Issues Paper sections	
Section #	Section topic
3	Legal assistance for Aboriginal and Torres Strait Islander Australians
3.1	Self determination
3.2	Arrangements over time
3.3	Funding levels
4.1	Effectiveness
4.4	Disadvantage groups
4.5	Regional, rural and remote contexts
4.12	Commonwealth administrative review
4.13	Labour market

## Regional, rural and remote nature of Queensland

LASF's position
<ul style="list-style-type: none"> <li>All Commonwealth FDMs need to give adequate weighting to the unique needs of Queensland's growing, decentralised and diverse RRR population including the additional needs of a RRR workforce.</li> <li>Greater investment is needed in RRR communities to ensure community-based services can be delivered effectively.</li> </ul>

As noted in the NLAP Review Issues Paper, disadvantaged and vulnerable people residing in RRR areas are identified as priority cohorts under the NLAP, reflecting their high level of need and the unique sets of challenges they face due to high-socio-economic disadvantage and barriers to accessing justice (including due to a lack of public transport, access to technology and access to services).

In Queensland, the challenge of providing legal assistance services is complicated and magnified by geographical distance and the need to address unique demographic and community characteristics, including overlapping of all national and Queensland priority client groups and multiple and complex legal needs. This, in conjunction with the intersecting sector-wide workforce issues, impacts significantly on organisations' capacity and capability to deliver legal assistance services. Workforce issues, including the unique challenges faced by the RRR workforce will be addressed under the workforce capacity section of this paper.

### Cost of RRR service delivery

The Queensland sector provides highly visible, well connected outreach services to the most RRR areas. Providing these outreach services is a commendable commitment which involves travelling vast distances across Queensland to deliver legal assistance services to vulnerable and disadvantaged Queenslanders.

When localised recruitment or housing/accommodation challenges occur in the sector, a fly in-fly out (FIFO) model is often engaged to support service delivery to RRR areas. While a FIFO model can meet short term needs, it is not an economical or sustainable model.

All Commonwealth FDMs need to give adequate weighting to the unique needs of Queensland's growing, decentralised and diverse RRR population, taking into consideration but not limited to:

- Queensland being Australia's third largest and fastest growing state<sup>28</sup> with a population of 5,409,714 which is projected to increase to 5,996,606 by 2030.<sup>29</sup>
- Over the next 25 years, the greater Brisbane population will grow by 1.2 million people, while the expected population outside of the greater Brisbane region is projected to grow by 900,000 people.<sup>30</sup>
- Queensland is the most decentralised Australian state or territory with 49% of the population living in the greater Brisbane region, compared with 68% in other states.<sup>31</sup>
- 67.6% of Queensland's First Nation's population lives outside of greater Brisbane.
- Queensland is home to culturally and linguistically diverse (CALD) people from over 200 different cultures and 190 overseas languages.<sup>32</sup>
- Queensland's overseas-born population increased by 15.2% from 2016 to 2021, which is higher than the 14.1% rate for the rest of Australia over the same period.<sup>33</sup>
- The additional costs incurred by service providers to deliver services in RRR area including, but not limited to regional allowances, staffing incentives, transport (including air travel, ferries, vehicle costs) and FIFO costs.

## RRR workforce

The sector's RRR workforce experience specific hardships that can disincentivise potential employees to move to RRR areas. These majority of the following impacts are not new and have been ongoing for some time:

- added costs of living pressures, additional travel, higher costs of living and housing costs
  - Queensland's RRR workforce is currently disproportionately affected by a burst of rental inflation that has seen Queensland rents grow at rates faster than any other Australian jurisdiction<sup>34</sup>. Median rents rose by 13.1% in regional Queensland compared with 10.8% across regional Australia as a whole. The sharpest rent increases have been seen in RRR areas, where over the past five years, median rents rose by 80% in some regional suburbs, as compared to 13% in Brisbane.
- limited housing availability
- health, safety and wellbeing impacts:
  - employees in RRR areas can experience isolation and a lack of access to support networks in all aspects of life including at work.
  - a lack of adequate support networks and poorer access to healthcare can limit mechanisms needed to support the health and wellbeing of staff, in particular vicarious trauma and psychosocial hazards<sup>35</sup>
  - intensive travel requirements to undertake court circuit duties in remote locations.
  - high workloads due to small office operations with minimal staff undertaking court circuit duties while also providing frontline legal assistance services to clients with complex legal needs
  - technology limitations that can impact engagement with RRR clients: challenges including digital literacy of clients lack of service access and reliable internet.<sup>36</sup>

<sup>28</sup> Australian Bureau of Statistics, (2023), [National, state and territory population](#).

<sup>29</sup> Queensland Government Statistician's Office, (2023), [Queensland population projections report 2023](#).

<sup>30</sup> Queensland Government Statistician's Office, (2023), [Queensland population projections report 2023](#).

<sup>31</sup> State Development, Infrastructure, Local Government and Planning, (2023), [Queensland regions](#).

<sup>32</sup> Queensland Government Statistician's Office, (2023), [Diversity Figures Report, 2021](#).

<sup>33</sup> Queensland Government Statistician's Office, (2023), [Diversity Figures Report, 2021](#).

<sup>34</sup> Paulson, H., Clarke, A. Moore, J., van den Nouwelant, R. & Ng, M., (2023). [A blueprint to tackle Queensland's housing crisis](#). City Futures Research Centre, UNSW.

<sup>35</sup> Dol, S. (2020). [Lawyers find anxiety, isolation more challenging than tech while working remotely](#). Australasian Lawyer.

<sup>36</sup> Marshall, A., Babacan, H., & Dale, A. (2021), [Leveraging digital development in regional and rural Queensland: Policy Discussion Paper](#). Rural Economics Centre of Excellence, QUT, James Cook University.

Previous recommendations on how to address these challenges remain the same; including that incentives should operate at both the graduate stage but also through education and support to encourage students to see RRR legal practice as a long-term viable career. This would also mean that working in RRR must be financially viable both for employers and employees.

## Barriers to accessing justice

Queensland has some unique barriers for accessing justice in RRR settings.<sup>37</sup> These include:

- clients in smaller communities not engaging with service providers due to a fear of being judged and ostracised within the community
- older people facing travel limitations and elder abuse
- multiple barriers faced by First Nations populations (lower incomes, high levels of family and domestic violence, high rates of unemployment and very few specialist services to provide culturally safe and appropriate legal support to communities that are spread across a large geographic space, difficulties with accessing face-to-face services but also may not have access to reliable (and private) IT services, lack of specialist court and diversion options
- culturally and linguistically diverse (CALD) people face language barriers, cultural differences, additional complexities navigating the legal system and a need to assimilate within a new community, while at times facing prejudice, racism and discrimination;<sup>38</sup>
- lack of access to low-cost legal advice and dispute resolution services
- lack of access to speciality court programs and diversion options due to these resource-intensive programs being focused on metropolitan areas.<sup>39</sup>

In addition, the types of legal matters can also be impacted by RRR services delivery.<sup>40</sup> For instance, while only 17% of work within the CLC community was from RRR, 59% of these clients were experiencing family and domestic violence and that 25% of clients seeking help in RRR areas were Aboriginal and Torres Strait Islander peoples.

Greater investment in meeting the needs of RRR communities, by ensuring services are sufficiently resourced to meet needs as well as accounting for additional funding to live in RRR areas, should be taken into account in the next NLAP.

Related NLAP Review Issues Paper sections	
Section #	Section topic
4.2	Legal need
4.4	Disadvantage groups
4.5	Regional, rural and remote
4.8	Wrap around services

<sup>37</sup> Community Legal Centres Queensland, (2019) [Evidence & Analysis of Legal Need](#).

<sup>38</sup> Settlement Council of Australia, (2019). [Access to justice for people from refugee and migrant backgrounds in Australia](#).

<sup>39</sup> Bartels, L. (2009). [Challenges in mainstreaming specialty courts](#). Australian Institute of Criminology.

<sup>40</sup> Community Legal Centres Queensland, (2021). [Impact Report 2021](#).

## Data

### LASF's position

- Improvements to the DSM, the collection and publication of nationally consistent data are needed.
- NLAP reporting processes have highlighted the need for improved collaboration between the Commonwealth, jurisdictions and the sector to support best practice data management.

Legal assistance data has great potential to support understanding within the sector to help build on future planning and policy direction. Advanced analytics would support the efficient allocation of both Commonwealth and State resources to the sector and improve the impact of services provided.

The NLAP introduced enhanced accountability reporting requirements to collect and store unit level data for legal assistance services. The States and Territories are responsible for facilitating the provision of bi-annual qualitative and quantitative legal assistance service data to the Commonwealth. This data is collected in accordance with the National Legal Assistance Data Strategy and DSM, which provides best practice guidance for the sector to support the transparent reporting of nationally consistent data.

A significant time investment is required by the sector and State Government agencies to collect, store, review and cleanse data. Data is often inconsistent because not all services use the same data collecting methods, and there is a lack of clarity around the DSM requirements. The delivery of the NLAP reporting requirements has highlighted the need for ongoing best practice data management training, resources and support that can be accessed by the sector nation-wide. Training and support for new staff with the data collection system often sits at the State level, with no additional resourcing provided by the Commonwealth.

Under the NLAP, the Commonwealth is to facilitate improvements to the collection of nationally consistent data and the DSM. We understand that a review has recently commenced but there are concerns that there is limited time to effectively engage with the sector on a genuine co-design model, and to finalise this review prior to the next national agreement.

For future national funding agreements, it would also be beneficial to build on this review and already established data to support maturing of the reporting process and outcomes. Clarity around roles and responsibilities with data governance would also assist. This can be done through collaboration between the Commonwealth and the States, Territories and sector.

### Data analysis and evaluation

The NLAP has a number of reporting requirements for States and Territories, that amount to, at a minimum, providing detailed data every 6 months. However, under the NLAP, there are limited expectations for the Commonwealth to undertake data analysis and evaluation.

As part of the current NLAP performance monitoring and reporting requirements, the Commonwealth must produce a Legal Assistance National Services Summary (NSS) annually in collaboration with the States, Territories and the National Legal Assistance Advisory Group. The purpose of the NSS is to undertake an analysis of the legal assistance services data.

Issues with data maturity and quality were highlighted during the drafting of the first NSS for the 2020-21 reporting period and the analysis has not been published in part due to data analysis limitations that required multiple exceptions and caveats. There is a need to consider data issues, such as systems limitations, data collection and reporting practices that can lead to inaccurate analysis and representation of data.

If the NSS is to remain a requirement of future national agreements, there is a need to address the existing data limitations. As this is a national priority, the Commonwealth is ideally placed to drive this work in consultation with jurisdictions.

## Outcomes Framework

Under the NLAP, the Commonwealth and States and Territories agreed to be jointly responsible for developing an outcomes-based framework for legal assistance services for potential implementation from 1 July 2025. This would enhance and contextualise the qualitative data to understand the holistic value and outcomes of services provided.

As previously stated in this submission, the implementation of an Outcomes Framework and its foundation of building evidence to support continuous improvement would identify and address legal need in a collaborative, flexible and responsive manner.

The Commonwealth has advised that this is still in the preliminary development stage. It is important that co-design between the Commonwealth, States and Territories and the sector be undertaken to deliver this work but concerns have been raised regarding time limitations to deliver the work before the end of the current NLAP.

## Data systems

The current NLAP provides that services must either use the approved data reporting system (known as the Community Legal Assistance Services System (CLASS)) or collect data using a system that interacts with and migrates data to CLASS for reporting purposes.

It is understood that CLASS will not be continuing for the future national agreement. If CLASS as the data reporting system is to be deactivated, early and effective consultation and engagement with the sector is essential. The future national agreement also needs clarity for the sector around what data is needed, and if a particular system/s is necessary to support this data collection. It is considered the Commonwealth is well placed to lead this work to provide the sector with clarity around future planning from a national data perspective.

Related NLAP Review Issues Paper sections	
Section #	Section topic
4.14	Data