

SUBMISSION

REVIEW OF THE NATIONAL LEGAL ASSISTANCE PARTNERSHIP

27 OCTOBER 2023

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Contents

Acknowledgement of Country	3
About Women's Legal Service Victoria	3
Foundations of our submission	3
Summary of Recommendations	5
Legal needs and Disadvantaged groups	7
Funding models, Effectiveness and Efficiencies	16
Early intervention and wrap around services	19
Labour market.....	24

Acknowledgement of Country

Women's Legal Service Victoria ('Women's Legal') acknowledges and pays respect to the traditional custodians of the land on which we work, the Wurundjeri People of the Kulin Nation, and all Aboriginal and Torres Strait Islander people across Australia. We pay respect to Elders past, present and emerging.

We honour Aboriginal and Torres Strait Islander peoples' ongoing connection to sea, waterways and Country. We also recognise the strength and resilience of Aboriginal and Torres Strait Islander people, especially those who have been affected by domestic and family violence.

About Women's Legal Service Victoria

Women's Legal is a not-for-profit specialist organisation that has been providing free specialist legal services to women since 1982. We work with and for women to address legal issues arising from family violence and relationship breakdown.

Women's Legal exists to help build a gender equitable country. Our unique contribution to this vision – as lawyers, advocates and educators – is to work alongside women experiencing disadvantage to promote their rights to live free from violence and make informed choices about their relationships.

Women's Legal specialises in family violence, family law, migration law, child protection law and victims of crime assistance – recognising the intersection between the jurisdictions. We focus on women's safety, recovery from violence and economic security.

We do this by:

- Providing legal advice and representation to women, with a wraparound model of service delivery where women are also supported by social workers and financial counsellors, depending on their needs
- Advocating for law and policy that respects and promotes the rights of women
- Building the capacity of other professionals and communities to identify and respond appropriately to legal need of women

Foundations of our submission

Women's Legal puts women – individually and collectively – at the centre of our work. As specialists in family violence, we work across the service response spectrum, from tertiary response to primary prevention of gendered violence. We work with women to achieve optimal legal and wellbeing outcomes. The experiences of our clients and legal practice informs our policy and law reform advocacy so that our recommendations are evidence-

based and provide practical solutions to addressing systemic and structural issues and with a goal to improving the safety and wellbeing of women and children and work towards the elimination of gendered violence.

Client stories are shared in the submission. The stories are included with client consent and have been de-identified to protect the safety and privacy of all persons concerned.

Our submission does not address each area of the National Legal Assistance Partnership Review Issues Paper (Issues Paper), noting our support for the Women's Legal Services Australia submission. We provide this submission to contribute information from a Victorian perspective to the review.

Summary of Recommendations

Recommendation 1:

Women should be listed as a national priority client group in the next National Legal Assistance Partnership (NLAP).

Recommendation 2:

Women's Legal Services across Australia should be appropriately funded to support strong partnerships with ACCOs and to provide an alternate culturally safe and trauma informed legal service for Aboriginal and/or Torres Strait Islander women.

Recommendation 3:

Additional NLAP funding is required to address the complex and intersecting forms of legal need experienced by Australian women.

Recommendation 4:

Family law remains a high area of legal need, particularly for women victims/survivors of family violence and requires an additional injection of funding for community legal services to provide comprehensive family law practices.

Recommendation 5:

Appropriate indexation is included in the NLAP, based on a formula whereby 80% is pegged to the annual increase in modern award wages and 20% to annual CPI.

Recommendation 6:

Reporting requirements are streamlined and based on a "report once, use often" principle.

Recommendation 7:

All special purpose NLAP funding, including Vulnerable Women, should be rolled into baseline funding.

Recommendation 8:

NLAP baseline funding allows for employment of community services professionals and investment in partnership development and maintenance.

Recommendation 9:

That additional funding is provided to community legal centres to address inequity in remuneration and employment benefits, and to provide for staff wellbeing, such as trauma-informed training, supervision and reflective practice.

Recommendation 10:

That additional funding is provided for a sustainable and ongoing New Lawyers Program for the CLC sector.

Legal needs and Disadvantaged groups

Women as a priority group

1. The Victoria Law Foundation's Public Understanding of Law Survey (PULS) is a Victoria-wide survey exploring how people experience, understand and navigate law and everyday life problems. Initial survey results released in August 2023 identified that "where a legal need existed, 78% was unmet at the time of the survey interview. This means unmet legal need was the most common experience for Victorians with a legal problem."¹

2. Furthermore, family law legal need had the highest percentage of unmet civil legal needs considered by the survey (at 70.1%).

3. For Victorian, and Australian women, their broader inequality results in significant legal need. This is evidenced by:

- Significant gender pay gap resulting in women retiring with 40% less super than men.²
- High rates of sexual violence³
- High rates of harassment at work⁴
- Women experience intimate partner violence or violence from a family member, more than double the rate for men **(12%, 1.1million)**⁵
- Women who leave violent relationships suffer a drop in income of as much as 45%⁶
- Women are overwhelmingly more likely to be single parents, and thus experiencing the associated financial disadvantage.⁷

4. For Aboriginal and Torres Strait Islander women, the likelihood of needing legal assistance is higher due to:

¹ Balmer, N.J., Pleasence, P., McDonald, H.M. & Sandefur, R.L. (2023). The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need. Melbourne: Victoria Law Foundation, p152.

² AIST, AIST hails success of superannuation information sharing system, Media Release, 31 March 2023.

³ Australian Bureau of Statistics (2021-2022) Sexual Harassment
[<https://www.abs.gov.au/statistics/people/crime-and-justice/sexual-harassment/2021-22>]

⁴ Australian Human Rights Commission, Everybody's Business: Fourth national survey on sexual harassment in Australian workplaces, 2018.

⁵ Australian Bureau of Statistics (2021-2022^a) Personal Safety, Australia
[<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release#key-statistics>].

⁶ Summers, A. (2022), The Choice: Violence or Poverty, University of Technology Sydney, page 18.

⁷ Michael Klapdor and Matthew Thomas, *Expanding eligibility for Parenting Payment Single and ending ParentsNext*, Parliament of Australia, 2023.

- Aboriginal and Torres Strait Islander women being 6 times more likely to be a victim of homicide due to domestic violence than non-Indigenous women. They are also 33 times more likely to be hospitalised as a result of domestic violence.⁸
- Domestic and family violence as a main cause of women and children leaving their homes and the leading cause of homelessness for children. Aboriginal and Torres Strait Islander women who have experienced family and domestic violence are twice as likely to have experienced homelessness at some time in their life compared to those who have not experienced any physical violence.⁹
- The high rates of misidentification of Aboriginal and Torres Strait Islander women as perpetrators of family violence when they seek assistance. 'Incident-based responses, assumptions and stereotypes, intentional abuse of systems, and structural inequality and discrimination heighten the risk of Aboriginal and Torres Strait Islander victim-survivors being misidentified as a perpetrator. The legal and justice systems are not well adapted or informed to respond effectively to the interlocking and compounding forms of violence that Aboriginal and Torres Strait Islander women experience.'¹⁰
- Family violence being a significant factor contributing to the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. 'Fear of child removal remains one of the greatest deterrents for Aboriginal and Torres Strait Islander women to report violence or seek assistance. This fear is strengthened by previous child protection exposure, ongoing institutional racism and the history of the Stolen Generations.'¹¹

5. Women's Legal supports the self-determination of Aboriginal and Torres Strait Islander peoples and the principle that Aboriginal Community Controlled Organisations (ACCOs) are the preferred providers of culturally appropriate legal assistance services.

6. Given the continued damning statistics about the impact of violence on Aboriginal and Torres Strait Island women, and the Federal Government's ambition to end violence against women in a generation,¹² non-indigenous Women's Legal Services play an important role, as an alternate service provider, in the provision of culturally safe and trauma informed legal services to Aboriginal and Torres Strait Islander women. Alternate service provision is important in the context of legal conflicts of interest, limited capacity

⁸ Aboriginal and Torres Strait Islander Action Plan to End Violence against Women and Children; Commonwealth of Australia 2023; p10.

⁹ Ibid, p35.

¹⁰ Ibid, p40.

¹¹ Ibid, p29.

¹² The National Plan to End Violence against Women and Children 2022-2032, Commonwealth of Australia (Department of Social Services) 2022.

or capability, and, to offer a choice of service provider, should a woman not want to access an ACCO legal service.

7. ABS census data (Victoria, 2021) noted that 32,757 women identified as Aboriginal and/or Torres Strait Islander. Of these women, approximately 20,000 (61%) were aged between 15 & 64 years. In the period 1 July 2022 to 30 June 2023, Women's Legal assisted 2,516 women of which 3% (75) identified as Aboriginal and/or Torres Strait Islander.

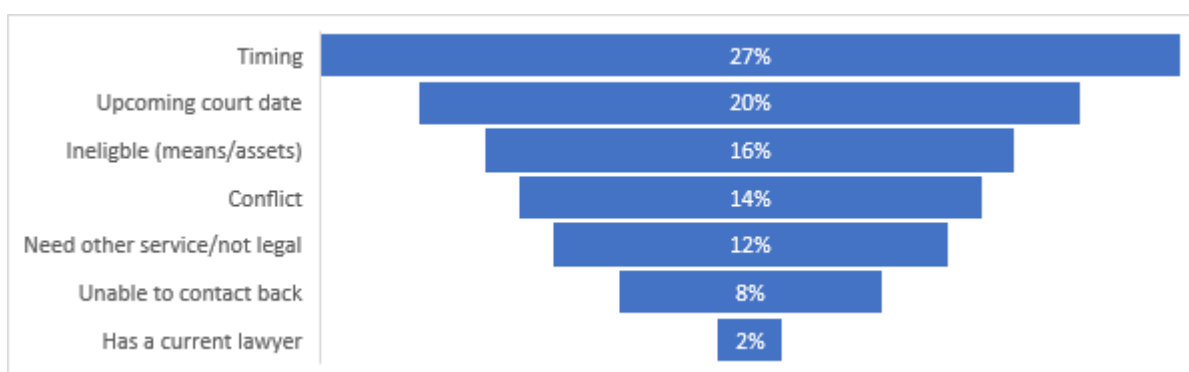
8. Women's Legal Services across Australia should be appropriately funded to support strong partnerships with ACCOs and to provide an alternate, culturally safe and trauma informed legal service to Aboriginal and Torres Strait Islander women.

9. A number of state/territory legal assistance strategies (for example, in Victoria and the Northern Territory) identify women as a priority group. We recommend that the next NLAP also recognise women as a priority group in and of themselves, given the legal needs of women.

Unmet and Identified Legal Needs

10. The broader inequality experienced by women, and the associated legal need that ensues, is evidenced, in part, by the growing demand for Women's Legal Services.

11. In the week of Monday 9 October 2023, Women's Legal¹³ undertook data collection which identified that out of 133 enquiries, 89 women (approximately 67%) were unable to be assisted by our service and only 10 women (8%) were eligible for an appointment.¹⁴ Most women who were assessed as ineligible for assistance (49) were done so by the intake team at the first point of contact. The reasons for women being turned away at this stage are detailed below:



¹³ All 13 members of Women's Legal Services Australia undertook data collection at the same time. The Women's Legal Services Australia submission contains information on the full set of data collected.

¹⁴ The status of the remaining requests (34 or 26%) are pending. These include 21 women who were unable to be contacted or asked to be left on the waiting list, and 13 women who were assisted by the intake team, but are yet to complete more comprehensive eligibility assessment and may/may not have appointments booked.

Note: Timing in the graph above means that when women were told of the timelines to potentially get an appointment (due to capacity limits of Women's Legal), they decided it was too long so didn't progress with intake.

12. The data illustrates:

- ineligibility: the challenge for Women's Legal in setting eligibility guidelines that reflect our resources and capacity to assist;
- timing or upcoming court date: that we are still meeting women for the first time very late in their legal problem or legal journey, making it difficult to provide timely (and often urgent) assistance; and
- conflicts: the importance of the mixed model of service delivery to ensure women have options and access to high quality legal assistance.

13. Based on this snapshot, potentially up to **4,500 women** are unable to be assisted by Women's Legal each year, based on current funding levels.

14. Furthermore, we are seeing growing complexity in the type of legal issues that women experience. In over **90%** (12/13) of advice appointments during the same week, clients had other associated legal issues in addition to the problem type they had first self-identified in the enquiry submission form. For 50% (6) of clients one associated legal issue was identified; for 42% (5) of clients two additional issues were identified; and one client had three associated legal issues identified. This is consistent with the legal needs research in two ways: (i) that help-seekers experience 'problems' and do not necessarily understand that their problems are legal issues and (ii) the frequency of legal problems clustering for help-seekers.

Legal needs of women experiencing or at risk of family violence

15. The First Action Plan 2023-2027, under the *National Plan to End Violence Against Women and Children 2022-2032*, provides a roadmap for the first 5 year effort towards achieving the vision of the National Plan.¹⁵ Action 4 of the First Action Plan is to "Build the capacity of services and systems that support victim-survivors to provide trauma-informed, connected and coordinated responses that support long-term recovery, health and wellbeing."¹⁶ **Appropriately funded, specialist Women's Legal Services are integral to achieving the goals of the National Plan and associated Action Plan(s).**

16. An evaluation of the Australian Government's Escaping Violence Payment, found that access to legal assistance is one of the highest needs for women leaving violent relationships, alongside economic security. The evaluation found that "whilst the EVP

¹⁵ The National Plan to End Violence against Women and Children 2022-2032, Department of Social Services, Australian Government (dss.gov.au).

¹⁶ First Action Plan & Outcomes Framework 2023-2027, Commonwealth of Australia (Department of Social Services), 2023.

removes an immediate financial barrier to permanently leaving a violent relationship, it is not sufficient to meet many other needs associated with healing, including social/emotional, economic support and participation.”¹⁷

High levels of unmet family law legal need

17. Family law continues to be an area of high legal need generally, and for women in particular. The PULS Survey identified that on average, family problems were rated as the most severe by survey respondents.

18. The Specialist Collaborative Planning (SPC) pilot was a collaboration between Women's Legal and Victoria Legal Aid (VLA) to develop a state-wide analysis of family law property and parenting legal need. Conducted in 2020, the project's purpose was to better understand unmet need for family law property and parenting legal services in Victoria, in order to make evidence-based and collaborative service decisions to better meet that need.

19. Key findings of the SPC included:

- An insufficient supply of family law services, particularly in regional areas. The mixed model of service delivery is not meeting demand for family law legal help in Victoria, with significant decline in the number of private practitioners delivering legally-aided family law services and limited capacity in the community legal sector to provide family law casework and representation.
- Regions of high need for family law services - Particularly high levels of unmet family law legal need indicated in ten local government areas:
 - **Metropolitan:** Hume, Brimbank, Wyndham, Greater Dandenong
 - **Regional:** Greater Geelong, Latrobe, Central Goldfields, Greater Shepparton, Swan Hill, Mildura
- A progressive decline in funding levels for family law, leading to restrictions to the means test and narrowing of legal aid eligibility guidelines, means people experiencing significant disadvantage are increasingly unable to access family law legal help.
- Insufficient supply of family law services limits referral options when legal services are unable to assist due to conflicts of interest.¹⁸

20. Furthermore, the SPC identified intersections between family law property and parenting legal need, and family violence:

¹⁷ Where To, Department of Social Services Report: Evaluation of the EVP, May 2023, page 20.

¹⁸ Family law collaborative planning pilot, Legal Needs Assessment.

- Women experiencing family violence, causing housing problems and instability, even when they are eligible for grants of aid tend to be unable to engage with lawyers due to all the other immediate safety and wellbeing issues they face;
- Migrant women who experience family violence, often experience visa issues at the same time as family law proceedings and child support issues, and are ineligible for certain Centrelink payments;
- Intersections between family violence, child protection and family law are complex and difficult for clients to navigate.

21. A key finding was that clients need legal help to negotiate the family law system.

People with family law problems frequently experience intersecting legal need, including family violence and other legal and non-legal issues, making self-representation particularly difficult. People experiencing disadvantage, or cultural or social barriers, are particularly unlikely to be able to navigate the family law system without legal help.

Family Law Access Project – Effective collaborative planning that is evidence based and increased access to legal assistance

22. The Family Law Access (FLA) Project was Informed by the findings of the SPC. The FLA Project was a pilot collaboration – funded by the Commonwealth Government and supported by start-up Victorian Government funding – between Women’s Legal as project lead, Victoria Legal Aid (VLA), Barwon Community Legal Service, Brimbank Melton Community Legal Centre and WEstJustice (the Western legal centres). The FLA Project sought to establish high quality and comprehensive family law services at the Western legal centres in order to increase access to family law legal assistance for disadvantaged clients in the inner West and Greater Geelong area. The FLA Project comprised of comprehensive capacity building which included development of a competency framework and the development and implementation of a learning and development program (which included training, shadowing, reverse shadowing, supervision, secondary consults, and a community of practice).

23. The FLA Project provides a proven model for expansion of family law services that can address current postcode injustices and inequitable access to family law legal help. An independent evaluation¹⁹ of the FLA Project identified that the project had:

- increased access to comprehensive family law assistance for disadvantaged Victorians who otherwise would not have been able to access family law legal help;

¹⁹ SVA Consulting, Family Law Access Final Evaluation Report, April 2023.

- supported the establishment of holistic (e.g. assisting clients with associated legal problems, e.g. family violence, fines, etc.) family law litigation and casework practices at the three Western legal centres;
- piloted a model for increasing access to family law litigation and casework services in the community legal assistance sector; and
- evidenced the benefits of a specialist CLC collaborating with generalist CLCs to build capacity with a trajectory to achieve self-sufficiency.

24. Key success factors included:

- Resourcing (ie funding) each of the Western legal centres to implement the family law capacity building program within their centre during the project period;
- Strengths-based collaboration between the Western legal centres and Women's Legal; and
- Resourcing of Women's Legal to develop the competency based program, supported by best practice principles, and to deliver capacity building through a mix of training methods.

25. Following the project period, the Western legal centres received some additional funding. This funding does not meet the cost of maintaining the family law legal practices established through the pilot, and funding ceases 30 June 2025. Additional family law funding is required as lack of access to family law help continues to be one of the most significant barriers to safety and restorative justice for victim-survivors of family violence.

26. There are still large geographic areas of Victoria – identified by the SPC – where family law legal need remains persistently high and unmet. Following the success of the FLA Project, Women's Legal will be supporting further capacity building with five community legal centres²⁰ to build high quality and comprehensive family law practices, utilising funding from the NLAP Vulnerable Women funding stream²¹. Establishing family law practices and further building the family law capacity of the community legal assistance sector will lead to better outcomes for clients who experience barriers to accessing justice and services. Accordingly, women and their children will be better placed to establish safe and secure futures following family violence and relationship breakdown.

27. We support CLCs Australia's recommendation that any analysis or quantification of legal needs must be considered alongside increased levels of resourcing.

²⁰ An Expression of Interest process has been launched to select the five CLCs to be involved. Interest in the project has been high, and it is anticipated that significantly more than five CLCs will submit EOIs.

²¹ The CLCs selected for this project will not receive additional funding to build their family law practices. This will continue to be a barrier to CLCs creating and sustaining these practices.

Recommendations

Recommendation 1:

Women should be listed as a national priority client group in the next National Legal Assistance Partnership (NLAP).

Recommendation 2:

Women's Legal Services across Australia should be appropriately funded to support strong partnerships with ACCOs and to provide an alternate, culturally safe and trauma informed legal service for Aboriginal and/or Torres Strait Islander women.

Recommendation 3:

Additional NLAP funding is required to address the complex and intersecting forms of legal need experienced by Australian women.

Recommendation 4:

Family law remains a high area of legal need, particularly for women victims/survivors of family violence and requires an additional injection of funding for community legal services to provide comprehensive family law practices.

Jin's Story: Cross-jurisdictional assistance

Jin was referred to Women's Legal by one of our partner agencies. She was on a temporary visa, experiencing family violence and recently had a baby. The father of the child was perpetrating systems abuse by refusing to acknowledge that he was the father of the child, which caused Jin and her child further hardship and barriers to accessing the supports they needed (i.e., Jin couldn't access Medicare or Centrelink for her child).

Assistance provided

One of our family lawyers advised Jin about the family violence she was experiencing, separation and parenting arrangements for the child. In addition to managing Jin's visa status while she resolved her family law matters, our Migration lawyer assisted her to apply for evidence of her child's Australian citizenship. With the help of our family lawyer, Jin was able to successfully apply for spousal maintenance payments to be paid by the father and the father agreed to sign the child's birth certificate, confirming his Australian citizenship and allowing Jin to access services on behalf of the child.

The father of the child also agreed to a property settlement, recognising Jin's contributions during the relationship and the future needs of her and their shared child. despite the father signing the birth certificate, paying spousal maintenance and agreeing to a property settlement, the Department of Home Affairs requested DNA evidence of paternity to process the evidence of Australian citizenship application.

We advocated strongly on Jin's behalf, that there was no basis to request DNA evidence as paternity was never in dispute (i.e., the family law processes were finalised without the father raising any objections to paternity) and expressed significant concerns for the safety of Jin and her child if she had to re-engage with the perpetrator of family violence to obtain DNA evidence.

Outcome

Securing spousal maintenance has provided Jin with the financial independence and security she and her child need to rebuild their lives after their experience of family violence and relationship breakdown. With respect to citizenship, the Department accepted our reasons as to why DNA evidence was not required, and the child's evidence of citizenship was successfully finalised.

We continue to support Jin with her visa process in Australia. Although she is the parent and primary carer of an Australian citizen child, there are extremely limited pathways for her to remain in Australia permanently with her child. We are also continuing to engage with the Department of Home Affairs around visa pathways for victims of family violence, particularly the parents and primary carers of young Australian citizen children. Jin's case illustrates the non-alignment of Australia's migration framework with our family law system and how it fails to consider the safety implications when asking victim-survivors of family violence to engage with their perpetrator for visa reasons.

Funding models, Effectiveness and Efficiencies

28. Community legal services remain chronically underfunded which has inhibited effectiveness and the achievement of outcomes under the NLAP including that 'legal assistance providers are supported to build the capacity of their organisations and staff to ensure they can effectively respond to evolving service demand'.²²

29. The Productivity Commission's 2014 Access to Justice Arrangements Report noted that "advocating for increases in funding (however modest) in a time of fiscal tightening is challenging. However, not providing legal assistance can be a false economy as the costs of unresolved problems are often shifted to other areas of government spending such as health care, housing and child protection".²³

30. The Issues Paper notes that the current funding models "do not determine what level of funding is required to address a specified level of legal need but rather, simply distributes a largely arbitrary level of baseline funding which is then supplemented in a non-systematic way on the basis of politically perceived need".²⁴

31. We support the Federation of CLC's recommendation to introduce a new funding model in the next NLAP that first calculates legal need, and then is accompanied by a commitment to allocate adequate funding to address that need, taking into account the real costs of delivering legal assistance services (inclusive of whole of organisation costs and suitable indexation).

32. Whole of organisation costs includes, for example building and maintain the data capability of CLCs. In 2020, the Victoria Law Foundation undertook a study²⁵ to understand the use and utility of administrative data in the Victorian legal assistance sector. Their research found that the **single greatest barrier to increasing the accuracy and consistency of legal assistance sector data, as well as confidently moving to measuring outcomes, is a commitment to it through funding.** Without funding, building data capability and practices comes at the cost of frontline legal assistance service capacity or is not invested in to maintain frontline service delivery, presenting an unacceptable dilemma.

33. This approach is supported by research from Social Ventures Australia (SVA) and the Centre for Social Impact (CSI) which found that not-for-profit organisations across Australia are, in general, not funded for the actual cost of what they do. The *Paying What it Takes* Report noted that 'Not-for-profits that spend less on indirect costs are not more

²² National Legal Assistance Partnership 2020-2025, p4.

²³ Access to Justice Arrangements, Productivity Commission, 2014, p30.

²⁴ National Legal Assistance Partnership Issues Paper, August 2023, p.23. <https://nlapreview.com.au/issues-paper>

²⁵ Victoria Law Foundation, Apples, Oranges and Lemons: The use and utility of administrative data in the Victorian legal assistance sector, March 2020.

effective than those who do not. Evidence shows that spending insufficient resources on indirect costs can potentially reduce overall not-for-profit effectiveness.”²⁶

Introduce a dedicated funding stream for Women’s Legal Services

34. We support Women’s Legal Services Australia’s recommendation that the NLAP provide for a dedicated funding stream for Women’s Legal Services to support continued and enhanced provision of integrated, client-centred, and trauma-informed services that meet the legal and support needs of women.

Maintaining (and growing) funding in real terms over a multi-year agreement

35. Funding provided under the NLAP has decreased in real terms over the life of the agreement. This is due to woefully inadequate indexation (approximately 1.5% per year) compared to increases in employment and other operating costs driven by high inflation. For example, Women’s Legal employs staff under the Social, Community, Home Care and Disability Services Award. From 1 July 2023, the Fair Work Commission increased adult minimum award wages by 5.75%. In addition, legislated increases to minimum mandatory employer superannuation contributions rose to 11%. And CPI was 4.9% in the 12 months to July 2023.

36. In Victoria, the Victorian Council of Social Services has been successful in securing an indexation agreement for community service organisations, including community legal centres, whereby indexation to State Government funding will be applied comprising of 80% national award wage increase and 20% CPI.

37. The next NLAP must include an adequate indexation clause to ensure that funding for all legal assistance providers isn’t reduced, in real terms, year on year. While the NLAP provides reliable funding it is insufficient and exacerbated by insufficient indexation. This means the community legal assistance sector will continue to be ill-equipped to assist Australians to resolve legal issues, but also expand service models that support earlier engagement rather than at crisis point. This has negative consequences for the physical, emotional and financial wellbeing of individuals and communities, and leads to increased burdens for other parts of Australia’s social support network, including publicly funded services.

38. In addition to appropriate funding to improve effectiveness, the new NLAP would benefit from improved streamlined reporting processes. Women’s Legal currently has twelve different funding streams across Commonwealth and Victorian Government funding, with associated reporting requirements. We recommend that Commonwealth,

²⁶ Social Ventures Australia and the Centre for Social Impact, Paying what it takes: funding indirect cost to create long-term impact, Social Ventures Australia, 2022.

state, and territory governments develop and implement a single, annual reporting process for all Commonwealth and State legal assistance funding, including baseline and top-up NLAP funding. This would lead to an immediate and significant increase in sector productivity and effectiveness.

39. We support Women's Legal Services Australia and CLC Australia's submissions that all special purpose funding should be rolled into baseline funding under the new agreement. The current model provides for baseline funding with one-off funding injections as top-ups. This approach exacerbates funding insecurity and hampers CLCs' ability to respond to community needs.

40. For Women's Legal Services, **the additional Vulnerable Women funding provided in 2022 aligns closely with stated Commonwealth Government priorities and has become part of critical service and capacity building response and, as such, should continue to be funded through baseline allocations.**

41. We note that any increases in Commonwealth funding via NLAP should be matched by State and Territory Government funding or, at the very least, not result in any decrease to funding provided by State and Territory governments.

42. Finally, we support CLCA's submission that addressing legal need must be considered in tandem with increased resourcing overall. Otherwise, in a fixed-envelope funding environment, this results in diverting resources from one area of need to another.

Recommendations

Recommendation 5:

Appropriate indexation is included in the NLAP, based on a formula whereby 80% is pegged to the annual increase in modern award wages and 20% to annual CPI.

Recommendation 6:

Reporting requirements are streamlined and based on a "report once, use often" principle.

Recommendation 7:

All special purpose NLAP funding, including Vulnerable Women, should be rolled into baseline funding.

Early intervention and wrap around services

43. Community legal services across Australia have developed considerable expertise in delivering early intervention and wrap around services that address the multiple legal and non-legal needs clients present with. Investment in specialist integrated wrap around services is cost effective and saves lives. Early intervention through the early provision of legal assistance prevents legal and other issues from escalating and reduces costs to government in the long term.

44. Women's Legal provides high quality cross-jurisdictional and wrap-around assistance to women with complex matters and needs. In the context of high inflation, housing crisis and financial stress exacerbated by ongoing pandemic impacts, our integrated social work and financial counselling services have been crucial. Our social workers assist many clients to access critical material aid, including food vouchers, alongside advocating and coordinating required supports for clients and their children within a stretched family violence sector. Our financial counsellors provide critical support focusing on economic security for clients, including assistance with debts, fines, loans, utility bills, government support payments and accessing superannuation. The benefits of a successful integrated service delivery model are many – the client need only tell their 'story' once, they are not navigating complex systems unassisted, it promotes confidence in our service and results in life changing outcomes for many.

45. Health Justice Partnerships bring together health, legal and other services to address complex problems. A recent Health Justice Insights report²⁷ identified that “there is an opportunity to recognise, and expand upon, the role of health justice partnership as part of the landscape of early support for children and their families”.²⁸ Moreover, that “early support is the best way to protect children, by providing families with the assistance they need to address circumstances that put children at risk”.²⁹

46. Intimate partner violence frequently begins or escalates during pregnancy. Living with a disability, homelessness, systems abuse and barriers to support, including legal assistance, mean vulnerable mothers are at risk of having their newborn baby removed from their care. Women's Legal, in partnership with Monash Health (MH) launched the Together from the Start Health Justice Partnership (HJP) in May 2020. The HJP provides early intervention and holistic support for women experiencing family violence attending MH for antenatal care. The model was developed to support women experiencing family

²⁷ Chia, J (2023), *Health justice partnerships as early support for children and their families*, Health Justice Australia, Sydney.

²⁸ Ibid, page 7.

²⁹ Ibid, page 7.

violence, with the opportunity to provide a safe and healthy environment for their children, to keep mothers and babies together from the start.

47. An independent evaluation found the HJP has been a successful partnership to date, characterised by **trust, good communication**, and a shared commitment to **support** vulnerable women. Funding certainty is essential to maintaining trust and effective working relationships in collaborations such as HJPs.

48. The next NLAP agreement should support early intervention, wrap-around and integrated service models to support people and communities in need before crisis point and once they are in contact with the most expensive part of the legal and justice sector. We support the Federation of CLCs recommendation that “restrictions on CLCs employing non-legal roles under NLAP as part of integrated legal service provision, health justice and other partnerships are removed”.³⁰

49. Successful and effective partnerships require resourcing to build and maintain. Integrated service delivery requires attention be paid to the partnership as well as to the service delivery itself. Appropriate levels of funding are required to support the partnership as a component of service delivery, and all the tools and resources that underpin it.

50. As noted in Women’s Legal Services Australia’s Submission, Women’s Legal Services also engage in projects to prevent gendered violence from occurring. In 2018, Women’s Legal established the Starts With Us Project, a sector-wide, workplace-based project to meaningfully address gender inequality and prevent violence against women in the legal and justice workforce in Victoria.

51. The Starts With Us Project is grounded in collaboration with partners with extensive reach across the sector. Project outputs included two research reports providing background and understanding of professionals’ experience of gender inequality in the legal and justice sector. Our research found direct and indirect discrimination against women of childbearing age and preferential treatment of male practitioners through hiring, promotion and leadership opportunities. In September 2023 the project launched the Starts With Us Framework, providing ‘how to’ guidance and supporting resources, informed by the latest research and best practice, on practical steps organisations can take to prevent gendered violence in the workplace.³¹

³⁰ Federation of Community Legal Centres, National Legal Assistance Partnership Review Response to Issues Paper: The Victorian Community Legal Sector Perspective, page 51.

³¹ <https://www.womenslegal.org.au/starts-with-us/>

Recommendation 8:

NLAP baseline funding allows for employment of community services professionals and investment in partnership development and maintenance.

Integrated assistance

Background

Women's Legal first met Margaret through our Duty Lawyer Service at Moorabbin Children's Court. The Department of Families, Fairness and Housing (DFFH) had issued a Protection Application by Emergency Care and removed Margaret's son from her care. Margaret had been in a relationship with Paul, her son's father, for 10 years. The relationship was characterised by significant violence, in particular physical and financial abuse. Margaret has a significant drug history with Paul. Paul was also involved in criminal behaviour.

Margaret and her son had become disengaged from society because of the violence, including not attending school and not responding to concerns raised by DFFH leading to his removal. Sadly, on removal, Margaret relapsed following a period of abstinence of one year.

Assistance provided

Women's Legal assisted with legal support for the duration of the Child Protection proceedings. In addition, our Senior Financial Counsellor assisted with managing the many fines and debts that Margaret had accrued; she was at risk of the Sheriff acting. This support involved liaising with Centrelink, accessing insurance entitlements, and applying for grants and material aid. Margaret stated that the support from our Financial Counsellor meant that for the first time in years she was not afraid to answer the phone. Our Social Worker assisted with ensuring Family Violence Specialist Services were engaged together with weekly safety planning. Margaret said, "every Friday Mel would call and make sure I had a plan for the weekend to keep me safe, nobody else did that".

Our Social Worker also supported Margaret's lawyer to prepare evidence based, best practice submissions, to address the concerns of DFH, in particular, regarding Family Violence and its dynamics. This was particularly impactful through the Conciliation Conference process and set Margaret and her son on a path to reunification. The non-legal work undertaken through our integrated practice greatly improved the legal outcome of Margaret's matter.

Outcome

DFFH has now withdrawn from Margaret's case following 6 months involvement. The initial DFFH position was to have the child out of Margaret's care for a minimum of 12 months. Margaret is now living independently, with a full non-contact FVIO in place to protect her and her son and is well supported to continue this positive path.

With the cost of out-of-home care to government on average \$57,085 per person per year, the integrated support provided by Women's Legal has resulted in downstream savings of approximately \$28,500 let alone with health and wellbeing benefits to Margaret and her son resulting from an earlier reunification.

Health Justice Partnership Early intervention

Background

Farida became pregnant as a teenager and attended Monash Health for antenatal care. Farida lived with the father of her unborn child and his parents. The father had a history of family violence and was using substances. Farida was scared to engage with DFFH and didn't understand the protective concerns. Monash staff were concerned the baby would be removed as she was unable to protect her unborn child and encouraged Farida to speak to a Women's Legal lawyer.

Assistance provided

The Women's Legal lawyer helped Farida to understand the protective concerns and the likelihood that her child would be removed if she remained in the home with the perpetrator. Farida accepted that it was necessary for her partner to undertake AOD and family violence counselling to address the protective concerns. Monash Health and Women's Legal attended care team meetings and worked collaboratively with DFFH to identify alternative accommodation. Farida moved in with her mother prior to the birth of her baby and agreed that contact between her partner and the child would be supervised by the maternal grandmother.

Outcome

The advice and support provided during her pregnancy empowered Farida to reassess her relationship with the perpetrator. Farida ultimately decided to end the relationship in order to keep herself and her baby safe.

The baby has been in Farida's care since birth and DFFH is no longer involved.

Labour market

52. The Issues Paper requests consideration of “barriers to the training or supply of adequate legal assistance workers, and how would addressing these increase the size of the legal assistance work force”.³²

53. Australia’s employment market is facing complex challenges. While the unemployment rate is at historic lows, a tight labour market has also brought challenges including widespread and acute skill shortages. These impacts have affected the community legal assistance sector which, in Victoria, has been exacerbated by a lack of a defined pathway for law graduates.

54. A report published by the Victoria Law Foundation in 2022³³ found that almost half of the community legal centres in Victoria had vacancies – a total of 63 vacant employee positions of which 65% (41) were for full-time positions. The report also found that successful retention was related to good workplace culture, aligned values and stage of career. Remuneration, and an inability to offer permanent, full-time positions, was seen as a barrier to both successful employee recruitment and long-term retention.

55. Until very recently, the Fitzroy Legal Service offered the sole Trainee Lawyer position in the community legal assistance sector, a role that has been generously funded by Allens law firm for over twenty years. In August 2023 Women’s Legal advertised for a Trainee Lawyer position and received over 100 applications from women seeking a start to their legal career in a Women’s Legal Service.

56. Victoria Legal Aid (VLA) offer a New Lawyers Program each year. In 2023, twelve positions were available for first-year post-admission lawyers, with three positions designated for First Nations Australians. Currently there is no equivalent New Lawyers Program for the Community Legal Centre sector.

57. Women’s Legal is currently considering the benefits of developing a New Lawyers Program for the CLC sector, to provide a defined pathway for graduate lawyers. The concept would be similar to VLA’s New Lawyers Program in that Women’s Legal would provide a centralised training program for a number of new lawyers working in different CLCs.

³² National Legal Assistance Partnership Issues Paper, August 2023, page 31.

³³ Working in Community Legal Centres in Victoria – Results from the Community Legal Centres Workforce Project, Victoria Law Foundation, 2022.

58. Access to lawyers for legal assistance services in regional areas is even harder. 29% of Australia's population live outside a major capital city, however only 10.5% of lawyers reside in, and service, these populations.³⁴

59. Whilst remuneration and associated employment benefits are a key in attracting and retaining lawyers, legal assistance services must be appropriately funded to provide safe and supportive workplaces, particularly in the context of providing services to people with complex needs, and with a high risk of vicarious trauma.

60. We support the Federation of CLCs recommendation that the Commonwealth and State Governments invest in increasing funding for community legal centres to address inequity of remuneration with the public service.

Recommendations

Recommendation 9:

That additional funding is provided to community legal centres to address inequity in remuneration and employment benefits, and to provide for staff wellbeing, such as trauma-informed training, supervision and reflective practice.

Recommendation 10:

That additional funding is provided for a sustainable and ongoing New Lawyers Program for the CLC sector.

³⁴ PricewaterhouseCoopers Consulting, The benefits of providing access to justice, National Legal Aid, January 2023, page 19.