

The Allen Consulting Group

## **Review of the National Partnership Agreement on Legal Assistance Services**

*Working paper two: Evaluation of legal assistance services*

**June 2013**

Prepared for the Australian Government Attorney-General's Department

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## Abbreviations

ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AGD	Australian Government Attorney General's Department
APY	Anangu Pitjantjatjara Yankunytjatjara
ATSILS	Aboriginal and Torres Strait Islander legal services
CGC	Commonwealth Grants Commission
CLC	Community legal centre
CLSIS	Community Legal Services Information System
CLSP	Community Legal Services Program
COAG	Council of Australian Governments
DWG	Legal Assistance Data Working Group
FVPLS	Family violence prevention legal services
IGAFFR	Intergovernmental Agreement on Federal Financial Relations
IRIS	Integrated Reports and Information System
LAC	Legal aid commission
LAPR	Indigenous Legal Assistance and Policy Reform Program
LARI	Legal Aid Reporting Initiative
LAW Survey	Legal Australia-Wide Survey: Legal need in Australia
NACLC	National Association of Community Legal Centres
NLAAB	National Legal Assistance Advisory Board
NPA	National Partnership Agreement on Legal Assistance Services
NSW	New South Wales
NT	Northern Territory
Qld	Queensland
RSE	Relative standard error
SA	South Australia
SCRGSP	Steering Committee for the Review of Government Service Provision

SEIFI	Socio-Economic Indexes for Individuals
SLA	Statistical local area
SPP	Special purpose payments
Tas	Tasmania
Vic	Victoria
WA	Western Australia



## Glossary

<b>Casework</b>	An activity where a service provider gives ongoing assistance and/or acts on behalf of a client in respect of a problem. A case has an open date and a close date. Casework includes instances where a service provider acts as a duty lawyer for court work. The term 'casework' applies under the data system used by community legal centres and family violence prevention legal services only.
<b>Civil law</b>	Problems requiring resolution under Commonwealth and state civil law, including: <ul style="list-style-type: none"> <li>• Employment</li> <li>• Social security</li> <li>• Veterans entitlements</li> <li>• Proceeds of crime</li> <li>• Consumer/credit and debt</li> <li>• Housing</li> <li>• Rights (discrimination, mental health law and guardianship for adults)</li> <li>• Immigration law</li> <li>• Environment</li> <li>• Wills and estates</li> <li>• Neighbourhood disputes</li> <li>• Health</li> <li>• Other civil law.</li> </ul>
<b>Community education</b>	Community education informs and builds individual and community resilience by enhancing awareness and understanding about the law and how to prevent and deal with problems and awareness of the help available from legal and support services. These services are provided to the general community and groups within the community and are not targeted to individual needs.
<b>Cost-effectiveness</b>	Measures how well expenditure on inputs (such as employees, cars and computers) are converted into outcomes for individual clients or the community. Cost-effectiveness may be expressed as a ratio of inputs to outcomes.
<b>Criminal law</b>	Problems where the client is charged with or at risk of being charged with an offence under Commonwealth or state criminal law. These include: <ul style="list-style-type: none"> <li>• Homicide and related offences</li> <li>• Acts intended to cause injury</li> <li>• Sexual assault and related offences</li> <li>• Dangerous or negligent acts endangering persons</li> <li>• Abduction, harassment and other offences against the person</li> <li>• Robbery, extortion and related offences</li> <li>• Unlawful entry with intent/burglary, break and enter</li> <li>• Theft and related offences</li> <li>• Fraud, deception and related offences</li> <li>• Illicit drug offences</li> <li>• Prohibited and regulated weapons and explosives offences</li> <li>• Property damage and environmental pollution</li> <li>• Public order offences</li> <li>• Traffic and vehicle regulatory offences</li> <li>• Offences against government procedures, government security and government operations</li> <li>• Miscellaneous offences.</li> </ul>

<p><b>Commonwealth legal aid service priorities</b></p>	<p>General principles and priorities outlined in Schedule A of the National Partnership Agreement on Legal Assistance Services to provide guidance about the types of legal matters that should attract Commonwealth funded legal services.</p>
<p><b>Culturally competent practices</b></p>	<p>Culturally competent practices are defined for the purposes of this Review to include:</p> <ul style="list-style-type: none"> <li>• Employment of people from Aboriginal or Torres Strait Islander backgrounds</li> <li>• Employment of people from culturally and linguistically diverse backgrounds</li> <li>• Comprehensive cultural competence training for staff on commencing employment</li> <li>• Ongoing opportunities for staff to develop their skills in delivering culturally competent services</li> <li>• Staff have ready access to information on providing services in a culturally competent manner</li> <li>• Strategies to welcome, communicate, engage and support Aboriginal and Torres Strait Islander peoples</li> <li>• A current directory of Aboriginal and Torres Strait Islander organisations and services, used for referrals and to provide information to clients</li> <li>• There is a current directory of organisations and services relevant for people from culturally and linguistically diverse backgrounds, and this is used for referrals and to provide information to clients</li> <li>• Translators and interpreters are routinely offered to people from Aboriginal or Torres Strait Islander backgrounds who wish to access services</li> <li>• Translators and interpreters are routinely offered to people from culturally and linguistically diverse backgrounds who wish to access services</li> <li>• All forms are written using plain English</li> <li>• Assistance is always offered when people from Aboriginal or Torres Strait Islander backgrounds are asked to fill out a form</li> <li>• Assistance is always offered when people from culturally and linguistically diverse backgrounds are asked to fill out a form</li> <li>• Alternative methods of providing services to Aboriginal and Torres Strait Islander peoples, including out-posting workers to appropriate locations and outreach services</li> <li>• Alternative methods of providing services to people from culturally and linguistically diverse backgrounds, including out-posting workers to appropriate locations and outreach services</li> <li>• Established policies and processes to establish and maintain linkages with Aboriginal and Torres Strait Islander organisations and services</li> <li>• Established policies and processes to establish and maintain linkages with organisations and services that specifically target assisting people from culturally and linguistically diverse backgrounds.</li> </ul>
<p><b>Disadvantaged groups</b></p>	<p>Disadvantaged groups are defined for the purposes of this Review to include:</p> <ul style="list-style-type: none"> <li>• Aboriginal and Torres Strait Islander peoples</li> <li>• Financially disadvantaged people</li> <li>• Homeless people or people at risk of homelessness</li> <li>• People experiencing or at risk of family violence (including children)</li> <li>• People from culturally and linguistically diverse backgrounds</li> <li>• People living in remote areas</li> <li>• People with a disability</li> <li>• People with a mental illness</li> <li>• People in custody.</li> </ul>
<p><b>Discrete task assistance</b></p>	<p>Discrete task assistance is the provision of advice and/or task assistance to a client in relation to a specific problem. These services may be provided at any location, including at a court or tribunal by a duty lawyer.</p> <p>An advice service is the provision of fact specific advice to a client in response to their request for assistance to resolve specific problems. The advice service may be legal or non legal.</p> <p>Task assistance is where the service provider completes a task or series of tasks, other than advice, to assist the client to resolve a problem or a particular stage of a problem. Task assistance may be legal or non-legal.</p>

<b>Dispute resolution</b>	Dispute resolution services involve the provision of a dispute resolution process for parties in dispute. It may involve a dispute resolution conference or arbitration.
<b>Section 60I certificates</b>	Section 60I certificates are issued under the <i>Family Law Act 1975 (Commonwealth)</i> to demonstrate fulfilment of compulsory family dispute resolution prior to filing a court application for an order in relation to a child. They may be issued for reasons including failure to attend or failure to reach an agreement.
<b>Duty lawyer services</b>	Advice and/or representation services provided at a court or tribunal where a court event or tribunal hearing is imminent, other than services, which are subject to a grant of legal aid. Each attendance by the duty lawyer upon a client is counted as one service.
<b>Early intervention services</b>	Legal services provided by legal aid commissions to assist people to resolve their legal problem before it escalates, such as legal advice, minor assistance and advocacy other than advocacy provided under a grant of legal assistance.
<b>Efficiency</b>	Reflects how resources (inputs) are used to produce outputs and outcomes, often expressed as a ratio of outputs to inputs (technical efficiency), or inputs to outcomes (cost-effectiveness).
<b>Family law</b>	A legal area that deals with disputes in domestic relationships (married or de facto), as well as the welfare of children and issues of property when a relationship breaks down, including: <ul style="list-style-type: none"> <li>• Parenting arrangements</li> <li>• Child support</li> <li>• Family law property</li> <li>• Divorce and annulment</li> <li>• Other family law</li> <li>• Domestic violence</li> <li>• Child protection.</li> </ul>
<b>Grant of legal aid</b>	The allocation of funding for a legal representative to undertake ongoing representation of a matter for a person who is considered eligible under the Commonwealth service priorities and eligibility principles (National Partnership Agreement on Legal Assistance Services Schedules A and B).
<b>Information</b>	Information is the provision of generic information to individuals in response to their request or inquiry. These services may be provided at any location, including at a court or tribunal by a duty lawyer.
<b>Legal advice</b>	Legal advice includes services that provide fact specific advice where the provider gives specific legal advice in relation to a person's individual circumstances and analyses the options available to that person to resolve his or her legal matter. Each legal advice service provided is counted as one, or may be counted as two if a client receives advice about two separate issues in one session.
<b>Legal assistance services</b>	Legal assistance services include services provided by all of the sector-wide legal services providers. The National Partnership Agreement on Legal Assistance Services sets out shared outcomes and objectives for four Commonwealth funded legal assistance programs delivered through Aboriginal and Torres Strait Islander legal services, community legal centres, family violence prevention legal services and legal aid commissions.
<b>Legal representation</b>	Legal representation is where the service provider provides legal representation for a client in an alternative dispute resolution process or in a matter before a court, tribunal or inquiry.
<b>Matter</b>	The problem or group of problems about which a person seeks assistance from a legal assistance service provider.
<b>Non-legal service provider</b>	A service provider that provides services of a non-legal nature, but closely related to those provided by legal assistance service providers. Examples include financial counsellors and Family Relationship Centres.
<b>Policy and law reform</b>	Policy and law reform services are activities to influence and effect changes to the law and legal process so as to improve equitable access to and the effectiveness of the justice system.
<b>Preventative legal services</b>	Legal services provided by legal aid commissions that inform and build individual and community resilience through community legal education, legal information and referral. These include information and referral, community legal education, publications and website page views.

<p><b>Process maturity</b></p>	<p>The concept of process maturity looks at how entrenched good practices are within an organisation, based on the premise that the more entrenched the process the more likely it is to support good outcomes. For the purpose of this Review, process maturity is broken down into five levels:</p> <ul style="list-style-type: none"> <li>• Level 1 – Person–dependent practices that are not documented or formalised.</li> <li>• Level 2 – Documented and partially deployed process, that have been reviewed documented and approved, but may be inconsistently or partially deployed.</li> <li>• Level 3 – Fully deployed processes with consistency between the documented process and deployed process.</li> <li>• Level 4 – Measured processes, that have set measures and goals.</li> <li>• Level 5 – Continuously improving processes, that are measured against goals and targets that are analysed for achievements and improved regularly.</li> </ul>
<p><b>Quality</b></p>	<p>Reflects the extent to which a service is suited to its purpose and conforms to specifications.</p>
<p><b>Referral</b></p>	<p>A referral service occurs when:</p> <ul style="list-style-type: none"> <li>• a service provider assesses the needs of a client seeking assistance; and</li> <li>• determines that the client would be assisted by a service available from another service provider; and</li> <li>• refers that client to a service provider that is likely to be able to assist them.</li> </ul> <p>There are two types of referral service: simple referral and facilitated referral. A client may be provided with one or more of each type of referral. In each case the service is counted separately and the details of each provider to whom the client is referred are reported. A referral service may be made in conjunction with any other service category or service type.</p>
<p><b>Social exclusion</b></p>	<p>The restriction of access to opportunities and a limitation of the capabilities required to capitalise on these opportunities.</p>

## Overview of evaluation findings

### The task

The Australian Government Attorney-General's Department (AGD) commissioned the Allen Consulting Group (ACG) to Review the National Partnership Agreement on Legal Assistance Services (the Review). The Terms of Reference of the Review require assessment of progress towards the objectives and outcomes of the National Partnership Agreement on Legal Assistance Services (the NPA) by Commonwealth-funded legal assistance programs. The NPA was established by the Council of Australian Governments (COAG) as a four-year agreement that commenced in 2010-11.

In practice, the Review involved looking at national performance from a program level, as well as supporting system infrastructure, including funding allocation and other governance and supporting arrangements. A concurrent component of the Review was concerned with a broader analysis of the market for legal services, including effectiveness of the Commonwealth-funded legal assistance programs in addressing market failure and opportunities to increase supply of legal services to those who cannot currently afford to access such services.

This working paper forms one component of the larger Review and presents the findings of the evaluation of national performance, providing an assessment of the quality, efficiency and cost-effectiveness of legal assistance services when viewed as a national set of programs contributing to a national service system. This is the first time an evaluation of this breadth has been conducted for legal assistance services. In doing so, it sets a baseline for evaluation of the national system of legal assistance services, helping foster a culture of evaluation and continuous system improvement.

A final report draws on each component of the Review, setting out findings and options to address the key challenges facing the legal assistance sector.

### The context

Achieving the NPA objective of a national system of legal assistance that is integrated, efficient and cost-effective is a significant challenge. Four separate legal assistance service organisation types are working towards this objective; the Aboriginal and Torres Strait Islander legal services (ATSILS), community legal centres, family violence prevention legal services (FVPLS) and legal aid commissions. These four legal assistance services have distinctive features that influence the types of legal and related support services offered and how they are delivered. Table 1 provides an overview of these features for each of the four programs that are part of the national system of legal assistance services that forms the focus of this Review. The description provided in Table 1 is from the perspective of the Commonwealth's legal assistance funding program.

The challenges involved in achieving the NPA objectives, which provide the overarching direction for legal assistance services, include the complex and multiple legal needs of clients that are often part of a cluster of connected legal and non-legal issues, and the setting in which legal assistance services operate.

Table 1

**LEGAL ASSISTANCE SERVICES PROGRAM OVERVIEW**

<b>NATIONAL PARTNERSHIP AGREEMENT ON LEGAL ASSISTANCE SERVICES (NPA)</b>				
<b>OBJECTIVE: a national system of legal assistance that is integrated, efficient and cost-effective, and focused on providing services for disadvantaged Australians in accordance with access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness</b>				
Program features	Aboriginal and Torres Strait Islander legal services (ATSILS)	Community legal centres	Family violence prevention legal services (FVPLS)	Legal aid commissions
Program name	Indigenous legal assistance and policy reform program	Commonwealth community legal services program	Family violence prevention legal services program	Legal aid services
<b>Objective</b>	To deliver legal assistance and related services to Aboriginal and Torres Strait Islanders	Contribute to access to legal assistance services for vulnerable and disadvantaged members of the community and/or those whose interests should be protected as a matter of public interest	Provide legal services and assistance to Aboriginal and Torres Strait Islander victim-survivors of family violence or sexual assault	Provide access to legal assistance for the vulnerable and disadvantaged  Provide the community with improved access to justice and legal remedies
<b>Commonwealth funding 2011-12</b>	<b>\$68.2M</b>  • Funding agreements	<b>\$33.7M</b>  • Funding agreements • Administered by legal aid commissions in all states except SA where provided through Department of Justice and Attorney-General	<b>\$18.5M<sup>1</sup></b>  • Funding agreements	<b>\$195.1M<sup>2</sup></b>  • NPA and funding agreements
<b>Service distribution</b>	<b>8 ATSILS</b> • One in each state, 2 in the NT, ACT serviced by NSW • Majority of outlets in regional and remote areas	<b>138 community legal centres</b> funded by the Commonwealth • Services across all states and territories • Predominantly in metropolitan and regional areas	<b>14 FVPLS</b> • In all states and territories except ACT and Tasmania • Servicing 31 high need regional, rural and remote areas	<b>8 legal aid commissions</b> • In all states and territories • Metropolitan, regional and remote services including 70 regional offices
<b>Target population</b>	Aboriginal and Torres Strait Islanders or a partner or carer of an Aboriginal and Torres Strait Islander	Those who do not qualify for legal aid focusing on the vulnerable and disadvantaged	Aboriginal and Torres Strait Islander or a partner or carer of an Aboriginal and Torres Strait Islander, who is a victim-survivor of family violence or a child at risk of family violence and in need of protection	Community with focus on vulnerable and disadvantaged people

Program name	Indigenous legal assistance and policy reform program	Commonwealth community legal services program	Family violence prevention legal services program	Legal aid services
<b>Eligibility</b>	Means test	Community legal centre eligibility criteria having regard for: <ul style="list-style-type: none"> <li>• economic, social or cultural disadvantage and broader life circumstances</li> <li>• allocation to maximise client benefits</li> </ul>	Meets target population criteria	Means test for grants of legal aid
<b>Main areas of law<sup>3</sup></b>	<ul style="list-style-type: none"> <li>• Predominantly criminal law</li> <li>• Civil and family law as funds permit</li> </ul>	<ul style="list-style-type: none"> <li>• Predominantly civil and family law issues</li> <li>• Small amount of criminal law</li> </ul>	<ul style="list-style-type: none"> <li>• Predominantly family law, domestic violence, child protection and injuries compensation</li> </ul>	<ul style="list-style-type: none"> <li>• Predominantly family law</li> <li>• Some criminal and civil law</li> </ul>
<b>Services available</b>	<ul style="list-style-type: none"> <li>• Legal information, referral and advice</li> <li>• Legal representation and duty lawyer assistance</li> <li>• Community legal education</li> <li>• Law reform, policy and advocacy</li> </ul>	<ul style="list-style-type: none"> <li>• Legal information and advice including advocacy, support and referral</li> <li>• Family dispute resolution by some</li> <li>• Casework</li> <li>• Community legal education</li> <li>• Law reform, policy and advocacy</li> </ul>	<ul style="list-style-type: none"> <li>• Legal information and advice including counselling, support and referral</li> <li>• Casework</li> <li>• Court support</li> <li>• Child protection and support</li> <li>• Community legal education</li> <li>• Law reform, policy and advocacy</li> </ul>	<ul style="list-style-type: none"> <li>• Legal information, advice, assistance and referral</li> <li>• Grants of legal aid for legal representation</li> <li>• Duty lawyer services</li> <li>• Family dispute resolution</li> <li>• Community legal education</li> <li>• Law reform, policy and advocacy</li> </ul>
<b>Service delivery model</b>	<ul style="list-style-type: none"> <li>• In-house but may be briefed out to external lawyer</li> <li>• Outreach including bush circuits</li> </ul>	<ul style="list-style-type: none"> <li>• In-house lawyer or volunteer</li> <li>• Specialist services may be provided for particular groups or areas of law</li> <li>• Outreach clinics, pro bono partnerships</li> </ul>	<ul style="list-style-type: none"> <li>• In-house lawyer but can be briefed out to external lawyer if no other legal assistance service lawyer available</li> <li>• Focus on ongoing support and case management</li> <li>• Outreach</li> </ul>	<ul style="list-style-type: none"> <li>• In-house lawyer or contracted to external lawyer</li> <li>• Specialist services may be provided for particular groups or areas of law</li> <li>• Outreach services including bush circuits</li> </ul>
<b>Related national policies</b>	<ul style="list-style-type: none"> <li>• Access to Justice principles</li> <li>• Closing the Gap</li> <li>• Stronger Futures</li> <li>• National Indigenous Law and Justice Framework</li> </ul>	<ul style="list-style-type: none"> <li>• Access to Justice principles</li> <li>• Social Inclusion Agenda</li> <li>• National Plan to Reduce Violence Against Women and their Children</li> <li>• NPA to Reduce Homelessness</li> </ul>	<ul style="list-style-type: none"> <li>• Access to Justice principles</li> <li>• Closing the Gap</li> <li>• National Indigenous Law and Justice Framework</li> <li>• National Plan to Reduce Violence Against Women and their Children</li> </ul>	<ul style="list-style-type: none"> <li>• Access to Justice principles</li> <li>• Social Inclusion Agenda</li> <li>• National Plan to Reduce Violence Against Women and their Children</li> <li>• NPA to Reduce Homelessness</li> </ul>

Note: <sup>1</sup>Does not include early intervention and prevention activity and program support funding. <sup>2</sup>Includes one-off NPA funding. <sup>3</sup>Description relates to services provided under the NPA funding and does not include service provided by legal aid commissions in areas of state crime, and care and protection.

## The approach

The Review took a practical and structured approach to evaluating legal assistance services. Team members met with representatives from each of the four programs, across Australia's eight states and territories, during the early stages of the Review to consult on how services operate and how to effectively approach evaluation.

These discussions, as well as subsequent feedback on the evaluation approach, provided strong messages that traditional approaches to measuring outcomes would not work for legal assistance services. This was in large part because of the differences between programs including the different levels of organisational maturity and capability. In the absence of the capacity to measure system outcomes and having regard for program differences, the Review's approach to evaluation examined performance from a number of different levels, looking at progress towards high-level outcomes, legal assistance sector outcomes and system capability outcomes.

A pragmatic approach has been taken to identifying information sources and data collection tools, identifying and drawing upon information that is relevant, useful and available. This approach implicitly recognises the data challenges in evaluating legal assistance services, including inconsistency in data collection and data definitions across programs, data quality issues and a paucity of accessible data about the cost of providing services (such as the ability to allocate expenditure to areas of law or priority population groups). Issues regarding consistency and comparability of data across legal assistance service providers were well known prior to the Review by both AGD and service providers. A working group has been established to address data standardisation and their important and continuing work was drawn upon during the conduct of the Review, particularly with respect to data definitions.

An intensive information collection process provided the bulk of the evidence for the findings presented in this working paper. The Review commends the time and efforts of legal assistance service providers and individual staff members in supporting this information collection process. In brief, the new information collected for the Review included:

- detailed information about individual organisations and processes collected via an organisational survey (Service Provider Survey and Data Request);
- perceptions of individual legal assistance service employees, collected through an online survey (Employee Survey);
- the views and experiences of legal assistance service clients, as expressed through client interviews (Client Survey);
- the views of organisations closely connected to legal assistance services and providing client support services in such areas as health, community services and financial counselling (Non-Legal Service Provider Survey); and
- the views of the broader justice system, including the judiciary, courts, police and private legal practitioners, collected through an invitation to provide submissions.



Two key qualifications are made about the Review's approach. First, assessment of quality, efficiency and cost-effectiveness of legal assistance services cannot be undertaken within silos. While the Review findings are grouped according to these measures, interpretation of the findings needs to have regard for the impact on performance of low performance on one or more of the other measures. For example, impediments to efficiency such as a lack of consistent implementation of documented arrangements to enhance collaboration can have implications for service quality and cost-effectiveness.

Second, the approach has been partially constrained by the information and data available to the Review without placing an undue burden on service providers. Over time, as improvements in data quality and consistency are achieved across legal assistance services, the Evaluation Framework should also evolve to draw in more quantitative information and establish a stronger link between services and achievement of agreed system outcomes.

### **Key findings**

The way in which the Review framed questions to assess aspects of service quality, efficiency and cost-effectiveness is set out in Table 2 along with a summary of findings. A number of the findings make reference to service limitations posed by available funds. In considering this issue it is recognised that there are a number of potential approaches to reducing unmet need. For example, unmet need might be addressed by increased funding, system efficiencies assisted by capital funding, or through initiatives to support increased private sector responsiveness. These options are not mutually exclusive or exhaustive.

The following conclusions can be drawn from the Review findings on quality, efficiency and cost-effectiveness.

#### **Quality**

- Services across all programs were generally regarded to be of high quality based on feedback from clients. However, stakeholders in the wider legal system qualified their views on quality of service, pointing to concerns regarding the inexperience of some legal practitioners and the breadth and volume of work they were required to undertake, particularly in regional and remote locations.
- Quality service outcomes were supported by the existence of quality assurance processes that, for example, reviewed service outputs such as advice, casework and information materials, monitored staff workloads and ensured records management. These and other quality assurance processes were implemented to varying levels of sophistication by legal assistance services. While it is expected that larger, more mature services will have good processes in place, quality assurance is a core requirement of legal assistance services requiring rigorous processes for all services.
- There is a strong level of referral activity between legal assistance service providers and other services. However, responsibility for case management of the client's needs, including their legal requirements, is unclear. Improvements in this area would benefit client outcomes by providing more integrated service delivery.

**Efficiency**

- Smaller services showed a higher proportion of administrative to service delivery costs, as well as less developed processes to ensure service costs are proportionate to the matter at hand, raising questions about economies of scale.
- A large proportion of services were unable to allocate expenditure by service activity, such as costs associated with provision of dispute resolution. Without this information, calculation of unit costs is not possible limiting analysis of service efficiency, such as achievement against average unit cost targets.
- Recruitment and retention of lawyers is problematic in regional and remote areas undermining service efficiency. This can be compounded by a lack of private practitioners available to do outsourced and pro bono work.
- There is scope to improve service planning, design and implementation between service providers to reduce overlap and increase sharing of good practices.

**Cost-effectiveness**

- A key objective of the NPA is for a national system of legal assistance to focus on providing services to disadvantaged Australians. Legal assistance services are providing services to disadvantaged Australians, however the specific nature of the disadvantage is not well documented. Therefore, it is not possible to report the amount of services provided to each of the priority groups identified in the Evaluation Framework. In the absence of suitable routine information, assessment of service cost-effectiveness has included the extent to which the mix of services in each area of law is meeting the needs of disadvantaged groups. An easily measurable value that provides a proxy for allocation has been chosen that represents the relative level of activity for disadvantaged groups.
- There is evidence of significant unmet demand for legal assistance services by disadvantaged Australians by area of law and location.
- In relation to early intervention, while legal assistance services are making an overall contribution to earlier resolution of legal problems, funding constraints restrict these types of activities.
- Service providers are constrained in addressing the needs of complex clients where a range of legal and related support services are required, for example, a client with consumer (Commonwealth matter), criminal (state matter) and housing (state matter) problems may also require financial counselling for an effective outcome.
- The NPA has had some positive impact on service priorities and strategic planning. Overarching constraints identified in achieving NPA objectives and outcomes are overwhelmingly related to funding.

### **Continuing to build the evidence base**

The information collection process and analysis of data undertaken by the Review has confirmed the challenges surrounding a lack of comprehensive, reliable and consistent data across legal assistance services. These challenges were recognised at the outset of the Review, and to some extent accounted for by the incorporation of alternative measurement methodologies. However, the Review is mindful not to lose sight of the importance of continuing efforts to build the evidence base.

Table 2

#### **KEY EVALUATION FINDINGS**

<b>1.</b>	<b>Is the legal assistance sector providing services effectively (including of appropriate quality)?</b>
<b>QUALITY</b>	<p>(a) Where clients have accessed legal assistance, feedback strongly suggests that service quality is high across the four programs. Consistently good feedback from clients demonstrates the high value given to legal assistance services, commending services and the efforts of staff across the sector.</p> <p>(b) Where concerns about quality were found among employees, this appeared to have been influenced by a perception of insufficient service volumes linking quality to perceptions of service accessibility and finite resources. Some stakeholders also qualify their views about service quality due to concerns about the inexperience of some practitioners and the breadth and volume of work they are required to undertake, particularly in regional and remote areas.</p> <p>(c) Quality assurance processes and processes to deliver services in a culturally competent manner are present across legal assistance services. However, consistent implementation and process maturity varies across programs depending on organisational size and focus. Existing industry initiatives such as the National Association of Community Legal Centres accreditation, show the potential to leverage good processes across legal assistance services to enhance overall quality.</p>
<b>2.</b>	<b>To what extent are legal assistance services provided in an integrated, coordinated manner?</b>
<b>QUALITY</b>	<p>(a) Across all four programs, services have recognised the need for integrated, coordinated service delivery and have implemented a full range of client referral processes. While a number of innovative, good practice arrangements are in place, feedback from non-legal service providers and evidence from program data raises questions about consistency in implementation of arrangements and how effectively arrangements target local needs and conditions.</p> <p>(b) A significant proportion of services across the sector self assess their referral processes as not documented or partially deployed, particularly ATSILS, community legal centres and FVPLS. Further development of these processes is a priority to ensure continued progress towards the NPA objective of integrated services.</p>
<b>3.</b>	<b>Is the legal assistance sector providing services efficiently?</b>
<b>EFFICIENCY</b>	<p>(a) In relation to efficiency, legal aid commissions are the most developed of the legal assistance services, demonstrating maturity of processes to monitor proportionate costs and with a relatively small proportion of their expenditure allocated to administrative costs.</p> <p>(b) Smaller community legal centres and FVPLS show wide variations in administrative costs and relatively immature processes to ensure costs are proportionate to the legal matter.</p> <p>(c) Unlike legal aid commissions, which do collect service expenditure information, current systems for ATSILS, community legal centres and FVPLS are not able to reliably and consistently allocate costs to services provided. This limits capacity to establish an evidence base for sound decision making about service efficiency.</p>

4.	<p>To what extent is the legal assistance sector operating in a sustainable manner, with particular emphasis on staffing, and collaborative and cooperative effort?</p>
EFFICIENCY	<p>(a) The legal assistance service sector faces significant sustainability issues within the context of current resources, service demand and service delivery arrangements. This includes issues of skills and staff recruitment and retention especially in regional and remote areas, and constraints on the capacity to outsource work and access volunteer effort.</p> <p>(b) Sustainability challenges highlight the importance of collaboration and cooperation between service providers to the efficient delivery of services. However, implementation of processes to facilitate collaboration and cooperation in service planning and design, implementation and delivery, and the level of maturity of these processes is low compared to other organisational processes examined by the Review. This provides limited assurance of systematic avoidance of service duplication or overlap, and suggests a greater opportunity for information sharing about good practices.</p>
5.	<p>Is the legal assistance sector providing services to disadvantaged Australians?</p>
COST-EFFECTIVENESS	<p>(a) The legal assistance services sector has processes in place to target disadvantaged groups and there are strong indications that a majority of services are delivered to individuals experiencing one or more forms of disadvantage. Financially disadvantaged people and people experiencing or at risk of family violence are among the groups most frequently targeted by legal assistance services, while homeless people and people in custody are those least frequently targeted by legal assistance services and for whom processes associated with targeting services to them are least mature. Targeting of disadvantaged groups is not clearly reflected in current administrative data sets.</p> <p>(b) Generally key informants are of the view that there are not enough legal assistance services to support the needs of disadvantaged groups. Those groups most marginalised are considered to be people with a mental illness, people with a disability and people experiencing homelessness.</p>
6.	<p>Is the legal assistance sector providing the right services (categories of services in each area of law and amounts of each service category in each area of law) to support achievement of the NPA objectives?</p>
COST-EFFECTIVENESS	<p>(a) While legal assistance services are considered to be making an overall contribution to the earlier resolution of legal problems, the mix of service volumes for both service category and areas of law restrict this. Evidence suggests that the current service mix is particularly lacking for categories of legal representation and discrete task assistance, and that for some clients, more intensive assistance is needed to resolve legal problems at the earliest possible point.</p> <p>(b) Feedback also suggests that achievement by legal assistance service providers of NPA outcomes is reduced by the inability to offer enough related support services, such as financial counselling. The provision of a holistic service for successful outcomes to legal issues could be more fully explored as an integrated model building on the evidence about the clustering of legal problems, such as 'consumer, crime, government and housing'.</p> <p>(c) Civil law consistently emerges in the views of key informants as an area where more services are needed to support achievement of NPA outcomes. This finding is corroborated by evidence that current service provision for civil law is low. Areas of particular service gaps identified include employment, equal opportunity and discrimination, migration and refugee, and guardianship. These areas of law are not set as priorities for ATSILS or FVPLS.</p>

7.	To what extent does program documentation, including the NPA, assist legal assistance service providers to deliver services in line with the NPA objectives?
COST- EFFECTIVENESS	<p>(a) The extent of support provided by key program documentation was assessed with feedback from legal assistance services suggesting that the NPA has had some positive impact on service priorities and strategic planning. Overarching constraints identified in achieving NPA objectives and outcomes are overwhelmingly related to funding.</p> <p>(b) Concerns expressed about the NPA documentation relate to the perceived disconnect between the NPA and service activities and a lack of clarity between the roles and accountability of the different legal assistance services program types. There are also concerns about the effectiveness of a national reform agenda in the context of tensions between Commonwealth and state funding for legal aid commissions.</p>

## Chapter 1

# Introduction

### 1.1 The Review

The Australian Government Attorney-General's Department (AGD) commissioned the Allen Consulting Group to undertake a Review of the National Partnership Agreement on Legal Assistance Services (NPA) (the Review). The NPA sets out the shared objectives, outputs and outcomes for Commonwealth-funded legal assistance programs that are delivered through Aboriginal and Torres Strait Islander legal services (ATSILS), community legal centres, family violence prevention legal services (FVPLS) and legal aid commissions.

The Review took place between May 2012 and June 2013. It involved a number of separate components, analysis from which is detailed in a series of working papers:

- *Working paper one* — development of an NPA evaluation framework.
- *Working paper two* — assessment of the quality, efficiency and cost-effectiveness of legal assistance services through implementation of the NPA evaluation framework.
- *Working paper three* — analysis of the market for legal services, including legal assistance services.

A final Review report draws on each working paper, setting out Review findings and options to address the key challenges facing the legal assistance sector.

A separate report, the *Legal aid commissions report*, contains an assessment of the progress of legal aid commissions against the NPA outcomes and indicators.

The Terms of Reference for the Review are set out in Appendix K.

### 1.2 Legal assistance services

For the purposes of this Review, the term legal assistance services refers to services provided under the Commonwealth-funded programs by ATSILS, community legal centres, FVPLS and legal aid commissions. Across these generalist and specialist services, a wide range of activities are undertaken including information; referral; legal advice and task assistance; dispute resolution; legal representation; community education; and policy and law reform (DWG 2013). Each program varies in its origins, service delivery model and precise activity mix.

While this Review covers the four programs only, it is important to recognise the pro bono effort contributed by private legal practitioners, as well as representative industry bodies at a national and state level.

### 1.3 The National Partnership Agreement on Legal Assistance Services

The NPA is designed to ‘facilitate reform in the legal assistance sector and provide access to justice for disadvantaged Australians through the delivery of legal assistance services’ (COAG 2010, p1). It provides the overarching policy for Commonwealth investment in legal assistance services. While the specific performance indicators and benchmarks set out in the agreement apply only to legal aid commissions, the objectives, outcomes and many of the outputs are shared across legal assistance services.

Commonwealth funding of legal aid commissions over the four year period 2010-2014 and performance reporting is also provided for under the NPA. Commonwealth funding for services delivered by ATSILS, community legal centres and FVPLS are provided through separate programs; the Indigenous Legal Assistance and Policy Reform Program (LAPR), the Community Legal Services Program (CLSP) and the Family Violence Prevention Legal Services Program (FVPLSP). State and territory governments also fund legal aid commissions, community legal centres and one FVPLS.

### 1.4 This working paper

This working paper assesses the quality, efficiency and cost-effectiveness of legal assistance services through implementation of the Evaluation Framework developed by the Review and contained in *working paper one*. In addition legal assistance service governance and funding arrangements are examined. The results presented in this working paper draw on new information collected during the Review and existing administrative data sets. This working paper is structured as follows.

- **Chapter 2** — provides a brief overview of the NPA, legal assistance services and service delivery context across jurisdictions.
- **Chapter 3** — sets out the Evaluation Framework, evaluation questions and indicators and information sources.
- **Chapters 4 to 6** — set out evaluation results.
- **Chapter 7** — examines governance arrangements.
- **Chapter 8** – reviews the funding arrangements for each of the legal assistance programs.
- **Appendices A to D** — set out detailed program descriptions and analysis of program level data.
- **Appendix E** — sets out the Evaluation Framework indicators, data points and data sources in full.
- **Appendices F to J** — provide full details of new information collected as part of the Review, including processes and participants.
- **Appendix K** — provides the full Review Terms of Reference.

## Chapter 2

# Service delivery context

*Legal assistance services operate within a complex landscape of Commonwealth and state agreements, policy documents and legislation. This chapter provides an overview of the key components of this landscape and highlights characteristics of each program.*

### 2.1 The National Partnership Agreement on Legal Assistance Services

The NPA is designed to ‘facilitate reform in the legal assistance sector and provide access to justice for disadvantaged Australians through the delivery of legal assistance services’ (COAG 2010, p1). It provides the overarching policy for Commonwealth investment in legal assistance services and shared objectives and outcomes for ATSILS, community legal centres, FVPLS and legal aid commissions (see Box 2.1).

Box 2.1

#### NATIONAL PARTNERSHIP AGREEMENT OBJECTIVES AND OUTCOMES

##### Objective

A national system of legal assistance that is integrated, efficient and cost-effective, and focused on providing services for disadvantaged Australians in accordance with access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness.

##### Outcomes

The Agreement will contribute to the following reforms across the legal assistance sector and to successful outcomes to be achieved by legal aid commissions providing efficient and cost-effective legal aid services for disadvantaged Australians in accordance with Commonwealth legal aid service priorities:

- a) earlier resolution of legal problems for disadvantaged Australians that, when appropriate, avoids the need for litigation;
- b) more appropriate targeting of legal assistance services to people who experience, or are at risk of experiencing, social exclusion;
- c) increased collaboration and cooperation between legal assistance providers themselves and with other service providers to ensure clients receive ‘joined up’ service provision to address legal and other problems; and
- d) strategic national response to critical challenges and pressures affecting the legal assistance sector.

Source: COAG 2010, p4

The NPA also provides a vehicle for Commonwealth funding of legal aid commissions, prescribing relevant performance indicators, benchmarks, timelines and reporting requirements. Supporting schedules set out applicable Commonwealth legal aid services priorities (NPA Schedule A) and principles for assessing eligibility for a grant of legal aid (NPA Schedule B). Commonwealth funding for ATSILS, community legal centres and FVPLS is provided through separate agreements.



The NPA facilitates ‘cooperative federalism’ in the provision of legal assistance services and access to justice by providing policy coherence and consistent objectives. The NPA sits within the platform for Commonwealth-state relations established by the *Intergovernmental Agreement on Federal Financial Relations* (IGAFFR), which recognises the importance of coordinated action and accountabilities while preserving flexibility for states and territories to determine how to achieve shared outcomes efficiently and effectively.

Each state and territory also has a role under the NPA to provide for jurisdictional forums, including Commonwealth participation, to foster opportunities for improved coordination and targeting of services within the jurisdiction.

The NPA is consistent with the Australian Government’s increasing emphasis on joined-up, cross cutting policies to address difficult policy issues. This signals a role for the NPA in contributing to the broader COAG reform agenda and other related government objectives including assisting those at risk of social exclusion, reducing Aboriginal and Torres Strait Islander disadvantage, reducing violence against women and children, and alleviating homelessness.

## 2.2 Aboriginal and Torres Strait Islander legal services

### Key 2011-12 statistics

**Funding** — \$68.2 million Commonwealth funding

**Service volumes** — 202,390 matters made up of advice (94,240), case (80,368) and duty lawyer (27,782) matters

**Types of law** — the vast majority of services relate to criminal law matters, followed by civil and family law matters

**Key client characteristics** — 85 per cent of grants for case matters awarded on the basis of clients being a Centrelink beneficiary or Community Development Employment Projects participant

ATSILS promote access to justice for Aboriginal and Torres Strait Islander peoples through targeted, culturally competent legal assistance services. Services primarily relate to criminal law matters, with some services in family and civil law as funds permit. There are eight ATSILS across Australia, with one in each state and two in the Northern Territory. A single ATSILS operates across New South Wales and the Australian Capital Territory. Each organisation has outlets in regional and remote locations and other locations are serviced through outreach, including servicing ‘circuit’ or ‘bush’ courts.

A key feature of the ATSILS service delivery model is a focus on cultural competence. Each organisation is community based and governed through a board comprised of Aboriginal and Torres Strait Islander representatives. Aboriginal and Torres Strait Islander field officers are employed to assist with client communications and relationship building. A means test is applied to service eligibility, generally satisfied where a client is receiving government income support.

Details about ATSILS history and objectives, service delivery model, service delivery volumes and clients are set out in Appendix A.

### 2.3 Community legal centres

#### Key 2011-12 statistics

**Funding** — \$33.7 million Commonwealth funding

**Service volumes** — 237,243 occasions of advice, 167,520 occasions of information provision, 51,759 cases opened and 3,163 community legal education projects

**Types of law** — Advice was provided most commonly for civil matters, followed by family matters and a smaller number of criminal matters. A similar emphasis can be seen in cases opened

**Key client characteristics** — 57 per cent of clients were low income (earning under \$26,000 per annum), 7 per cent of clients were Aboriginal and Torres Strait Islander and 6 per cent of clients spoke poor or no English

Community legal centres are community based not for profit organisations, generally established as a result of a recognised need in the community to provide legal assistance to disadvantaged groups. As a result of this history, community legal centres are diverse organisations. Some services are generalist, while others target specific areas of law or particular client groups (for example women or young people).

Despite this diversity, community legal centres have a common defining feature in that they are community based and aim for flexible service delivery that meets the needs of their communities. Community legal centres have a history of innovative and diverse service delivery models to deliver preventative and early intervention legal services. Some examples include night advice sessions, partnering with universities for clinical legal education, integrated services (eg credit law and financial counselling) and outreach service delivery (eg in homeless shelters).

There are 138 Commonwealth-funded community legal centres operating across Australia. A number of community legal centres receive funding from other government and philanthropic sources, in some cases including funding for related support services and activities.

Details about community legal centres history and objectives, service delivery model, service delivery volumes and clients are set out in Appendix B.

## 2.4 Family violence prevention legal services

### Key 2011-12 statistics

**Funding** — \$18.5 million Commonwealth funding, and \$0.2 million in preventative and early intervention funding

**Service volumes** — 3,553 legal advice services, 7,274 non-legal advice services and 2,108 cases opened

**Types of law** — majority of services are delivered for family or domestic violence issues, including injuries compensation, child protection and other family issues related to family violence circumstances

**Key client characteristics** — Aboriginal and Torres Strait Islander victims of family violence, with a high proportion of repeat clients and clients accessing services on a self referral or referral from a friend/relative/neighbour

FVPLS provide services specifically targeted to Aboriginal and Torres Strait Islander victim-survivors of family violence or sexual assault, with an aim of preventing and responding to family violence and sexual assault. Services primarily relate to family violence orders, child protection, victims compensation and family law and child support where it relates to family violence. Other activities that may be provided include counselling, client assistance and court support, early intervention, and preventative activities including community legal education, policy and advocacy.

Fourteen FVPLS are operating across 31 high need geographic areas. A key defining aspect of the program relates to particular challenges surrounding reaching and engaging the client target group. For many services this challenge means that a key aspect of service delivery is also working to engage the community and build trust, for example through employment of Aboriginal and Torres Strait Islander support workers and regular outreach visits to communities.

Details about FVPLS history and objectives, service delivery model, service delivery volumes and clients are set out in Appendix C.

## 2.5 Legal aid commissions

### Key 2011-12 statistics

**Funding** — \$195.1 million Commonwealth funding (including one-off NPA funding)

**Service volumes** — 1,223,920 preventative (excluding website hits and publications), 347,708 early intervention, 23,307 dispute resolution, 17,396 duty lawyer and 22,577 litigation

**Types of law** — 91 per cent of grants of Commonwealth legal aid were for family law issues

**Key client characteristics** — 70 per cent of clients who received a grant of aid received a Centrelink payment or government benefit as their main source of income

A single legal aid commission in each state and territory delivers assistance for civil, criminal and family law matters across a full spectrum of services, from preventative and early intervention services to legal representation. Legal representation is provided through a combination of in-house lawyers and contracted private lawyers on a grant of legal aid. Legal aid commissions are typically involved in policy and law reform, as well as community education activities such as production of legal information and resources.

Legal aid commissions receive funding from the Commonwealth, states and other sources (including public purpose funds). Unlike other legal assistance programs, Commonwealth funding for legal aid commissions is specifically earmarked for Commonwealth law matters, with funding for state law matters coming from state governments. Commonwealth funding may also be used for preventative and early intervention services (regardless of whether they relate to a Commonwealth or state law matter) and legal representation where matters are a mix of Commonwealth family law and state or territory family violence or child protection. For legal aid commissions, the Review relates to these Commonwealth-funded services only.

Access to information and advice, community legal education and duty lawyer services is generally available to all, whereas grants of legal aid (funding for ongoing representation) are subject to the principles set out in Schedule B of the NPA. Individuals are eligible where their total income consists of a Centrelink income support payment or benefit. Provision for discretionary grants and co-contributions also apply, along with consideration of the cost of proceedings and prospect of success.

Details about the history and objectives of legal aid commissions, service delivery models, service delivery volumes and clients are set out in Appendix D.

## **2.6 The legal assistance services sector**

The term 'legal assistance services sector' in this working paper refers to service providers funded through the legal assistance programs delivered through ATSILS, community legal centres, FVPLS and legal aid commissions. Together these service providers received total Commonwealth support of \$315.6 million in 2011-12, an increase of around 3 per cent from total funding of \$306.7 in 2010-11. In 2011-12 Commonwealth investment was greatest in legal aid commissions, with a total of \$195.1 million, followed by ATSILS with a total of \$68.2 million. Commonwealth funding for community legal centres and FVPLS in 2011-12 totalled \$33.7 million and \$18.5 million respectively. Services in 2012 were spread across Australia as depicted in the map below.

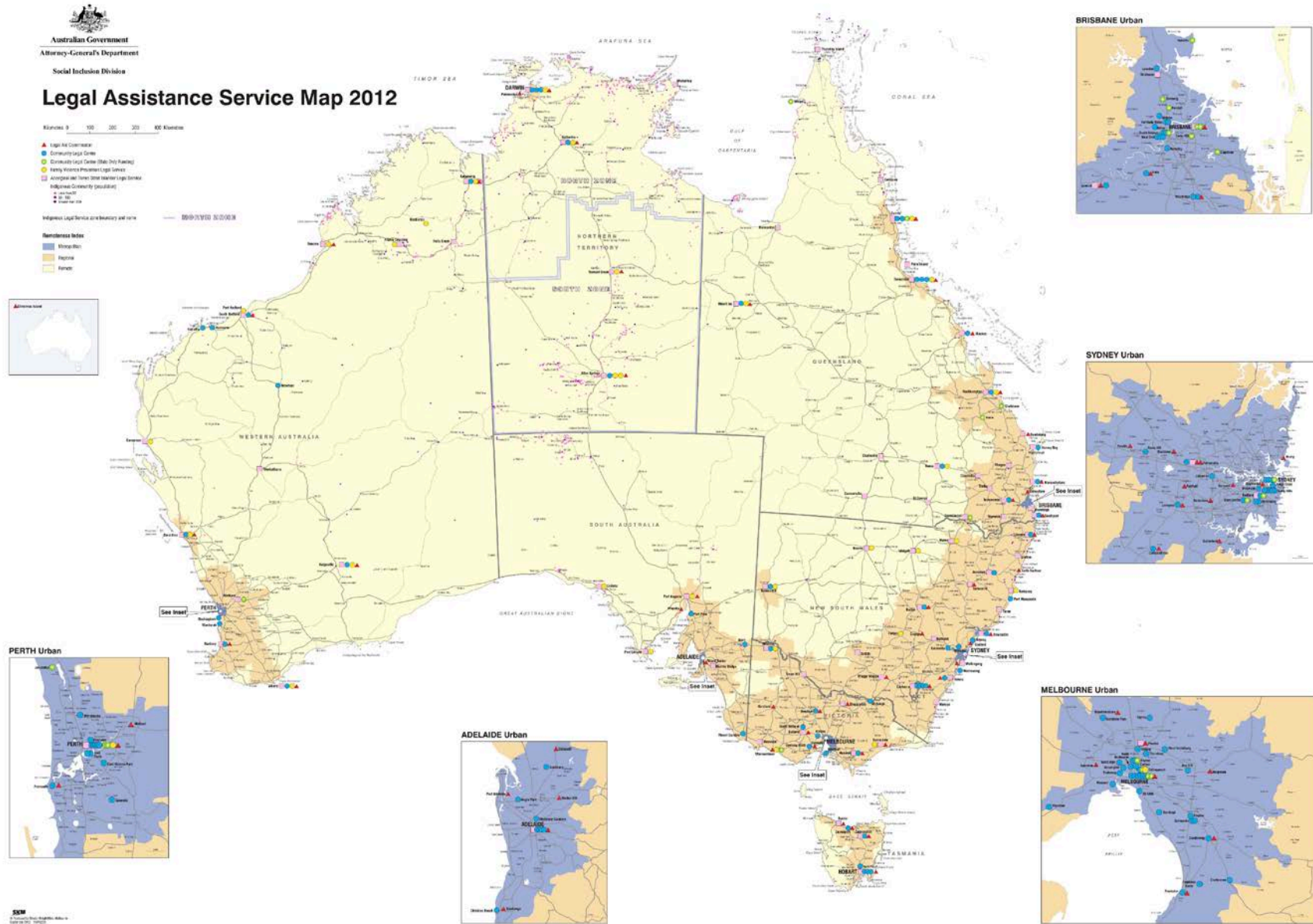


Table 2.1 sets out Commonwealth funded service activity across the legal assistance service sector in 2011-12, by program type and area of law. These figures should be interpreted with caution as they include a full range of service types of varying intensity, where a low intensity activity may be a single 20-minute advice session and a high intensity activity may be representation in court for a lengthy trial. See Appendix A to Appendix D for more details on types of services and clients for each program. As mentioned above, unlike other legal assistance programs, Commonwealth funding for legal aid commissions is largely tied to Commonwealth law matters.

Table 2.1

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – NATIONALLY, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commissions <sup>4</sup>
Civil	20,838	171,431	3,340	121,513
Criminal	169,894	20,448	17	111,564
Family	9,410	97,122	7,467	177,967
Other	2,248	1	-	-
<b>Total</b>	<b>202,390</b>	<b>289,002</b>	<b>10,824</b>	<b>411,044</b>
<b>Cth funding<sup>5</sup></b>	<b>\$68.2M</b>	<b>\$33.7M</b>	<b>\$18.5M<sup>6</sup></b>	<b>\$195.1M<sup>7</sup></b>

<sup>1</sup>Includes all Commonwealth and state matters, based on IRIS data.

<sup>2</sup>Includes state and territory law advice and casework for Commonwealth funded community legal centres, based on CLSIS data system.

<sup>3</sup>Includes legal and non-legal advice (Commonwealth and state matters), based on CLSIS data system.

<sup>4</sup>Includes Commonwealth and state early intervention services and Commonwealth dispute resolution, duty lawyer, litigation, and post resolution services, based on NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Does not include preventative and early intervention funding.

<sup>7</sup>Includes NPA funding allocations and one-off funding contributed by AGD.

While information about the national legal assistance service sector builds a picture of the overall service activities, disparities across Australia's states and territories mean that it is important to also look at service delivery from this level. This enables examination of service delivery at a state/territory level to take into account differences in the demographic, geographic and policy characteristics of each jurisdiction. As such, the remainder of this section sets out key contextual considerations, service delivery levels and service volumes for each jurisdiction. Contextual information incorporates input provided by members of the Review Steering Committee.

## **Australian Capital Territory**

### *Service context*

The Australian Capital Territory's population of approximately 0.36 million people (ABS 2012) is growing at the second highest rate of any Australian state or territory (after Western Australia).

The Australian Capital Territory has a high degree of income inequality, with 40,400 residents falling in the most disadvantaged 20 per cent of all Australians according to the 2006 Census analysed using the Socio-Economic Indexes for Individuals (SEIFI). However, using the existing Census based measure Socio-Economic Indexes for Areas (SEIFA), only 712 individuals are reported in the bottom 20 per cent. The difference is due to aggregation of the data by areas using SEIFA, which masks the extent of low-income groups in the Australian Capital Territory.

Forty-nine per cent of the population in the Australian Capital Territory experience legal problems in a given one-year period. This is consistent with the national average for experience of legal problems of 50 per cent annually (Coumarelos et al 2012).

Being a small jurisdiction, opportunities to reap economies of scale in the administration of legal services are limited. Moreover, the impact of high rates of Commonwealth employment on the Australian Capital Territory economy means that Commonwealth public sector changes to financial policies can have a sudden impact, rapidly creating legal issues.

Underestimation through SEIFA of the number of individuals in the most disadvantaged 20 per cent of the population has potential to contribute to an underestimation of the need for legal infrastructure and services in the Australian Capital Territory. The reliance of the Australian Capital Territory economy on Commonwealth employment and financial policies also means that the legal assistance services sector can be subject to large fluctuations in demand.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.2.

Table 2.2

### **AUSTRALIAN CAPITAL TERRITORY KEY STATISTICS**

<b>Characteristic</b>	<b>Australian Capital Territory</b>	<b>National</b>
<i>Population</i>	375,500	21,507,717
<i>Population growth rate</i>	2.0%	1.7%
<i>Aboriginal and Torres Strait Islander population</i>	1.5%	2.3%
<i>Median weekly household income</i>	\$1,920	\$1,234
<i>People with a disability</i>	16.1%	18.5%
<i>Single parent households</i>	14.6%	15.9%
<i>Population born overseas</i>	30.2%	30.2%

Note: Individuals may belong to multiple categories.

Sources: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2012)

*Service mix, distribution and investment*

Table 2.3 sets out Commonwealth funding for legal assistance services in the Australian Capital Territory for 2011-12, as well as service activities by law type. Funding for ATSILS in the Australian Capital Territory is covered by funding provided to the Aboriginal Legal Service NSW/ACT, therefore Australian Capital Territory does not receive any direct ATSILS funding. Commonwealth funds four community legal centres in the Australian Capital Territory, with total funding at a constant \$0.8 million in 2010-11 and 2011-12. For the legal aid commission, funding fell from \$5.3 million to \$5.2 million between 2010-11 and 2011-12 as a result of one-off funding provided under the NPA tapering off.

In 2011-12 overall community legal centre service volumes fell around 16 per cent from 2010-11 levels, while legal aid commission service volumes rose by close to 18 per cent. Community legal centre and legal aid commission service activity is primarily for civil and family law matters; around 3 per cent of total community legal centre and 11 per cent of total legal aid commission services were related to family law in 2011-12. A relatively high proportion of legal aid commission services in the Australian Capital Territory relate to civil law, at around 47 per cent compared to an average across all legal aid commissions nationally of around 30 per cent.

Table 2.3

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – ACT, 2011-12**

Area of law	Number of Commonwealth funded service activities <sup>1</sup>			
	ATSILS	Community legal centres <sup>2</sup>	FVPLS	Legal aid commission <sup>4</sup>
Civil	-	3,148	-	6,211
Criminal	-	144	-	1,476
Family	-	2,227	-	5,828
Other	-	-	-	-
<b>Total</b>	-	<b>5,519</b>	-	<b>13,515</b>
<b>Cth funding<sup>5</sup></b>	-	<b>\$0.8M</b>	-	<b>\$4.5M<sup>6</sup></b>

<sup>1</sup>A single ATSILS provides services in NSW and ACT. There are no FVPLS providers in the ACT.

<sup>2</sup>Includes Commonwealth and territory advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>4</sup>Includes Commonwealth and state early intervention services and Commonwealth dispute resolution, duty lawyer, litigation and post resolution services, based on data from NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Based NPA funding allocations and additional one-off funding of \$0.1 million, contributed by AGD.



## **New South Wales**

### *Service context*

With approximately 7.3 million people (ABS 2012) (more than 32 per cent of the national total), New South Wales has the largest population of all of the Australian states and territories. The population of New South Wales is characterised by a high diversity of cultural and ethnic groups. This includes 208,300, or 31 per cent, of Australia's total Aboriginal and Torres Strait Islander population, as well as the highest number of migrants of any state or territory. Thirty-five per cent of recent immigrants live in New South Wales. Eleven per cent of migrants who arrived to Australia after 1996 live in Sydney alone.

There are also a high number of people in New South Wales living with a disability; the National Disability Strategy Implementation Plan estimates that there are about 1.3 million people in New South Wales with a disability, of which 420,000 (32 per cent) have a severe or profound disability.

As classified by the Australian Bureau of Statistics (ABS), approximately 442,300 people live in outer regional areas, 32,200 in remote areas and 4,400 in very remote areas. This brings service delivery challenges due to population spread and distances between remote areas, towns and regional centres.

Legal assistance service initiatives in New South Wales are also tied to goals of the New South Wales 2021 State Plan, including reducing the level of homelessness, diversion of people with mental health impairments from the criminal justice system, and increasing the efficiency of the New South Wales court system. Sydney's position as a common entry point for illegal drug importation also leads to high amounts of Commonwealth prosecutions and demand for legal assistance in these matters in New South Wales compared to other jurisdictions.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.4.

Table 2.4

### **NEW SOUTH WALES KEY STATISTICS**

<b>Characteristic</b>	<b>New South Wales</b>	<b>National</b>
<i>Population</i>	7,314,100	21,507,717
<i>Population growth rate</i>	1.2%	1.7%
<i>Aboriginal and Torres Strait Islander population</i>	2.5%	2.3%
<i>Median weekly household income</i>	1,237	\$1,234
<i>People with a disability</i>	18.6%	18.5%
<i>Single parent households</i>	16.3%	15.9%
<i>Population born overseas</i>	31.4%	30.2%

Note: Individuals may belong to multiple categories.

Sources: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2013)

*Service mix, distribution and investment*

Table 2.5 sets out Commonwealth funding for legal assistance services in New South Wales in 2011-12, as well as service activity by law type. Commonwealth investment in 2011-12 amounted to \$90.0 million, an increase of close to 4 per cent from 2010-11. Over two thirds of Commonwealth funding was allocated to the legal aid commission and the remainder spread across ATSILS, community legal centres and FVPLS. Thirty community legal centres and four FVPLS located in New South Wales received Commonwealth funding in 2011-12.

Total legal aid commission service volumes increased around 14 per cent between 2010-11 and 2011-12, with the biggest increases in civil law and family law, which rose 23 per cent and 20 per cent respectively. In contrast, total service volumes for ATSILS, community legal centres and FVPLS dropped between 2010-11 and 2011-12. The Aboriginal Legal Service ACT/NSW focuses its service delivery on criminal matters only, hence the high focus on services for criminal law matters (around 97 per cent of the total). In contrast, the majority (around 68 per cent) of services delivered by community legal centres were for civil law matters.

Table 2.5

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – NEW SOUTH WALES, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commission <sup>4</sup>
Civil	888	48,801	711	37,695
Criminal	39,180	3,428	3	35,456
Family	163	19,400	1,501	57,218
Other	264	1	-	-
<b>Total</b>	<b>40,495</b>	<b>71,630</b>	<b>2,215</b>	<b>130,369</b>
<b>Cth funding<sup>5</sup></b>	<b>\$16.4M</b>	<b>\$8.5M</b>	<b>\$3.5M<sup>6</sup></b>	<b>\$61.6M<sup>7</sup></b>

<sup>1</sup>Includes all Commonwealth and state matters, based on IRIS data.

<sup>2</sup>Includes Commonwealth and state advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>3</sup>Includes legal and non-legal advice (Commonwealth and state matters), based on CLSIS data.

<sup>4</sup>Includes Commonwealth and state early intervention services, in addition to Commonwealth dispute resolution, duty lawyer services, litigation, and post resolution, based on data from NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Does not include preventative and early intervention funding.

<sup>7</sup>Legal aid commission income based on the National Partnership Agreement funding allocations.

## Northern Territory

### Service context

More than 25 per cent of the Northern Territory's population of around 0.2 million is Aboriginal and Torres Strait Islander, compared to 2.5 per cent nationally. This is accompanied by significant, well-documented Aboriginal and Torres Strait Islander intergenerational disadvantage including social, health, education, justice, governance and employment. The overall population is also growing at a slightly higher than average growth rate and has a higher than average proportion of young people. The number of Aboriginal and Torres Strait Islanders living in the Northern Territory is expected to continue to grow, reaching 100,000 by 2040.

Significant geographic challenges affect service delivery across a jurisdiction that is the third largest in Australia, while accounting for only 1 per cent of the total population. These characteristics mean that there are extensive distances between major and remote centres and associated cost burdens in delivering services to these areas. Skill shortages and limited referral pathways across a number of service areas are exacerbated in remote and regional locations. According to ABS geographical classification, all of the Northern Territory population is located in either outer regional areas (55 per cent, including Darwin), remote areas (22 per cent) or very remote areas (23 per cent).

The policy landscape in the Northern Territory is changing, including through complex funding and service arrangements underpinned by joint government frameworks. Key initiatives include Stronger Futures, the National Partnership Agreement for Remote Service Delivery, correctional reform, and a Northern Territory Government intention to develop mandatory rehabilitation pathways.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.6.

Table 2.6

#### NORTHERN TERRITORY KEY STATISTICS

Characteristic	Northern Territory	National
<i>Population</i>	236,300	21,507,717
<i>Population growth rate</i>	1.8%	1.7%
<i>Aboriginal and Torres Strait Islander population</i>	26.5%	2.3%
<i>Median weekly household income</i>	\$1,674	\$1,234
<i>People with a disability</i>	15.2%	18.5%
<i>Single parent households</i>	17.9%	15.9%
<i>Population born overseas</i>	25.4%	30.2%

Note: Individuals may belong to multiple categories.

Sources: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2013)

*Service mix, distribution and investment*

Table 2.7 sets out Commonwealth funding for legal assistance services in the Northern Territory for 2011-12, as well as service activities by area of law. Commonwealth investment in 2011-12 amounted to \$23.1 million, a 1.5 per cent increase from total funding in 2010-11. Uniquely among the states and territories, the Northern Territory has two ATSILS. Commonwealth funding levels are significantly higher for ATSILS than for the legal aid commission, with total funding in 2011-12 of \$13.7 million compared to \$4.0 million. Three FVPLS located in the Northern Territory received \$3.6 million in funding in 2011-12, while five Commonwealth funded community legal centres received \$2.0 million.

In 2011-12 overall service delivery volumes were highest for ATSILS, with a total of 26,208 services, an increase of around 5 per cent from 2010-11 service activity levels. Community legal centre service activity increased around 13 per cent between 2010-11 and 2011-12, with services in 2011-12 primarily relating to civil law (around 60 per cent) and family law (around 38 per cent). Legal aid commission service activities in 2011-12 were relatively evenly split across areas of law, with around 31 per cent of total services for civil law matters, around 31 per cent of total services for criminal law matters and around 38 per cent of total services for family law matters.

Table 2.7

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – NORTHERN TERRITORY, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commission <sup>4</sup>
Civil law	4,988	2,193	326	1,896
Criminal law	19,588	71	1	1,845
Family law	931	1,363	3,268	2,303
Other	701	-	-	-
<b>Total</b>	<b>26,208</b>	<b>3,627</b>	<b>3,595</b>	<b>6,044</b>
<b>Cth funding<sup>5</sup></b>	<b>\$13.7M</b>	<b>\$2.0M</b>	<b>\$3.6M<sup>6</sup></b>	<b>\$4.0<sup>7</sup></b>

<sup>1</sup>Includes all Commonwealth and territory matters, based on IRIS data.

<sup>2</sup>Includes Commonwealth and territory advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>3</sup>Includes legal and non-legal advice (Commonwealth and territory matters), based on CLSIS data. Data includes funding and services of the Ngaanyatjarra, Pitjatjara and Yankunytjatjara (NPY) Women's Council, which has a jurisdiction covering parts of NT, WA and SA.

<sup>4</sup>Includes Commonwealth and territory early intervention services, in addition to Commonwealth dispute resolution, duty lawyer, litigation, and post resolution services, based on data from NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Does not include preventative and early intervention funding.

<sup>7</sup>Based on NPA funding allocations and one-off funding of \$0.15 million, contributed by AGD.

## Queensland

### Service context

Queensland's population of approximately 4.6 million people (ABS 2012) is Australia's third largest. The 2011 Census data revealed that 3.6 per cent of Queensland's residents are of Aboriginal and Torres Strait Islander origin and some 20 per cent of Queenslanders were born overseas. Of the total Aboriginal and Torres Strait Islander population approximately 30 per cent live in South East Queensland, while 20 per cent live in Aboriginal and Torres Strait Islander local government areas (those with an Aboriginal and Torres Strait Islander population of over 85 per cent). Queensland's population grew by approximately two per cent last year, driven by the decentralisation of industry and the mining boom as well as significant internal migration, particularly from New South Wales (Karuppannan 2011).

Queensland is geographically the second largest state in Australia, creating challenges in delivering services to a large number of regional, remote and rural communities in a geographically dispersed and decentralised state. This includes service delivery to a number of small, remote communities that are the most disadvantaged parts of Queensland and some of the most disadvantaged parts of Australia. These communities include a significant Aboriginal and Torres Strait Islander population, many of whom are vulnerable and over-represented in the criminal and youth justice sectors. In addition, Queensland is seeing significant growth in the regions, driven by decentralisation of industry and the mining boom.

The Queensland Department of Justice and Attorney-General have set out strategic aims for the delivery of legal assistance services in Queensland. These include improving administration of Queensland's justice system, improving frontline justice services for Queenslanders and enhancing the organisational effectiveness of legal services in Queensland.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.8.

Table 2.8

#### QUEENSLAND KEY STATISTICS

Characteristic	Queensland	National
<i>Population</i>	4,584,600	21,507,717
<i>Population growth rate</i>	2.0%	1.7%
<i>Aboriginal and Torres Strait Islander population</i>	3.6%	2.3%
<i>Median weekly household income</i>	\$1,235	\$1,234
<i>People with a disability</i>	17.9%	18.5%
<i>Single parent households</i>	16.1%	15.9%
<i>Population born overseas</i>	26.3%	30.2%

Note: Individuals may belong to multiple categories.

Sources: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2013)

*Service mix, distribution and investment*

Table 2.9 sets out Commonwealth funding for legal assistance services in Queensland in 2011-12, as well as service activities by area of law. Commonwealth investment in 2011-12 amounted to \$64.6 million, an increase of around 3 per cent from total funding in 2010-11. The legal aid commission received 63 per cent of Commonwealth funding, while ATSILS received around 25 per cent. Queensland has a total of 27 Commonwealth funded community legal centres, which shared \$5.0 million of Commonwealth funding in 2011-12. Two FVPLS received \$3.1 million in funding.

Total service volumes for ATSILS, community legal centres, FVPLS and the legal aid commission all increased between 2010-11 and 2011-12. The largest increase was in ATSILS services, with an increase of around 27 per cent, followed by an increase in service activity of around 5 per cent for the legal aid commission. ATSILS were most active for criminal law matters, with around 80 per cent of services related to criminal law matters in 2011-12. In contrast, community legal centres tended to have a higher focus on civil law matters (around 58 per cent of total community legal centre services) and legal aid commissions delivered more than half (53 per cent) of services for family law matters.

Table 2.9

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – QUEENSLAND, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commission <sup>4</sup>
Civil	8,026	37,860	762	14,984
Criminal	61,963	4,603	3	17,684
Family	6,065	22,950	1,644	36,557
Other	1,052	0	-	-
<b>Total</b>	<b>77,106</b>	<b>65,413</b>	<b>2,409</b>	<b>69,225</b>
<b>Cth funding<sup>5</sup></b>	<b>\$16.1M</b>	<b>\$5.0M</b>	<b>\$3.1M<sup>6</sup></b>	<b>\$40.5M<sup>7</sup></b>

<sup>1</sup>Includes all Commonwealth and state matters, based on IRIS data.

<sup>2</sup>Includes Commonwealth and state advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>3</sup>Includes legal and non-legal advice (Commonwealth and state matters), based on CLSIS data.

<sup>4</sup>Includes Commonwealth and state early intervention services and Commonwealth dispute resolution, duty lawyer, litigation, and post resolution services, based on data from NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Does not include preventative and early intervention funding.

<sup>7</sup>Based on NPA funding allocations.

## South Australia

### Service context

South Australia has a population of around 1.7 million people (ABS 2012) and has one of the lowest rates of population growth in Australia. The average age of the population in South Australia is slightly higher than Australia's average, creating higher incidences of age or disability specific legal needs. There is a significant Aboriginal and Torres Strait Islander population of 30,430 residents, mainly located in regional and remote areas. In terms of the migrant population of South Australia, 353,003 residents were born overseas and 229,548 speak a language other than English at home.

Services are delivered over a large geographical area with a significant number of mid size rural centres and some remote, isolated (often Aboriginal and Torres Strait Islander) communities, where service delivery is expensive, time consuming and sometimes dangerous due to the extreme conditions. In some of these areas there is little access to private legal practitioners. This includes the *Anangu Pitjantjatjara Yankunytjatjara (APY)* lands, covering 103,000 square kilometres of arid land in the northwest of South Australia. Over the past 10 years, populations in remote locations have increased resulting in a greater need for legal services in those centres.

Funding is structured differently in South Australia compared to other states; South Australia does not have separately funded consumer credit legal services and is not funded at the state government level to provide assistance other than advice in areas of civil law and employment law. Over the past 10 years, South Australia has seen an intensive law and order campaign by the state government, resulting in an increase in defendants.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.10 below.

Table 2.10

### SOUTH AUSTRALIA KEY STATISTICS

Characteristic	South Australia	National
<b>Population</b>	1,658,100	21,507,717
<b>Population growth rate</b>	1.0%	1.7%
<b>Aboriginal and Torres Strait Islander population</b>	1.9%	2.3%
<b>Median weekly household income</b>	\$1,044	\$1,234
<b>People with a disability</b>	20.9%	18.5%
<b>Single parent households</b>	16.3%	15.9%
<b>Population born overseas</b>	26.7%	30.2%

Note: Individuals may belong to multiple categories.

Sources: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2013)

*Service mix, distribution and investment*

Table 2.11 below sets out Commonwealth funding for legal assistance services in South Australia in 2011-12, as well as service activities by area of law. Commonwealth investment in 2011-12 amounted to \$25.3 million, an increase of around 2 per cent from funding levels in 2010-11. The legal aid commission received the majority of Commonwealth funding, followed by ATSILS, community legal centres and FVPLS. Ten community legal centres and one FVPLS receive Commonwealth funding in South Australia.

There was some fluctuation in service delivery volumes between 2010-11 and 2011-12 across ATSILS (up 15 per cent), community legal centres (down 7 per cent), and FVPLS (down 16 per cent), while service delivery volumes for the legal aid commission were virtually unchanged. Overall volumes were highest for legal aid commissions, with total services of 72,489 in 2011-12 compared to 18,456 for community legal centres, 20,514 for ATSILS and 387 for FVPLS. A relatively high proportion of legal aid commission services in South Australia relate to civil law, at around 51 per cent compared to an average across all legal aid commissions nationally of around 30 per cent. In contrast, 87 per cent of ATSILS services relate to criminal law matters.

Table 2.11

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – SOUTH AUSTRALIA, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commission <sup>4</sup>
Civil	2,141	8,077	143	36,948
Criminal	17,918	3,241	1	9,485
Family	429	7,138	243	26,056
Other	26	0	-	-
<b>Total</b>	<b>20,514</b>	<b>18,456</b>	<b>387</b>	<b>72,489</b>
<b>Cth funding<sup>5</sup></b>	<b>\$4.4M</b>	<b>\$3.9M</b>	<b>\$1.7M<sup>6</sup></b>	<b>\$15.4M<sup>7</sup></b>

<sup>1</sup>Includes all Commonwealth and state matters, based on IRIS data.

<sup>2</sup>Includes Commonwealth and state advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>3</sup>Includes legal and non-legal advice (Commonwealth and state matters), based on CLSIS data.

<sup>4</sup>Includes Commonwealth and state early intervention services and Commonwealth dispute resolution, duty lawyer, litigation, and post resolution services, based on data from NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Does not include preventative and early intervention funding.

<sup>7</sup>Based on NPA funding allocations.



## **Tasmania**

### **Service context**

Tasmania has a population of around 0.5 million, with the lowest growth rate of any state or territory of 0.1 per cent per annum (ABS 2012). Median household income in Tasmania is 23 per cent below the national average, and median household net worth 12 per cent below national average. Other statistics also reflect a lower than average socio economic status in Tasmania; including the proportion of the population dependent on Centrelink benefits, proportion of the population living with a disability, amount of single parent families, and proportion of children living in houses with no employed adult. Just over one third of the Tasmanian population live in areas categorised as ‘low socio-economic status,’ which is significantly larger than the national rate of one fifth of the population living in areas categorised this way.

Tasmania’s population is highly decentralised, with about 40 per cent living in Hobart and the remainder dispersed across the state. While the land area is relatively small compared to the other states and territories, there is sufficient spread of the population to create challenges in accessing residents in rural areas requiring dispersed service delivery mechanisms. Parts of Tasmania struggle with sparse professional capacity and decreasing levels of private sector lawyers.

There are a number of high profile policy initiatives underway in Tasmania. Tasmania Together, a government/community vision for Tasmania in 2020, places a significant focus on equitable service delivery to all citizens regardless of location or any other demographic characteristic.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.12.

Table 2.12

### **TASMANIA KEY STATISTICS**

<b>Characteristic</b>	<b>Tasmania</b>	<b>National</b>
<b>Population</b>	512,200	21,507,717
<b>Population growth rate</b>	0.1%	1.7%
<b>Aboriginal and Torres Strait Islander population</b>	4.0%	2.3%
<b>Median weekly household income</b>	\$948	\$1,234
<b>People with a disability</b>	22.7%	18.5%
<b>Single parent households</b>	17.0%	15.9%
<b>Population born overseas</b>	16.4%	30.2%

Note: Individuals may belong to multiple categories.

Source: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2013)

*Service mix, distribution and investment*

Table 2.13 below sets out Commonwealth funding for legal assistance services in Tasmania in 2011-12, as well as service activity by area of law. Commonwealth investment in 2011-12 amounted to \$9.5 million, an increase of around 2 per cent from 2010-11. The legal aid commission received more than half of the total Commonwealth funding, while six Commonwealth funded community legal centres shared \$1.6 million in funding. There are no FVPLS service providers and six community legal centres located in Tasmania.

Variations in service activities between 2010-11 and 2011-12 show a fall in ATSILS service activity of around 5 per cent, a fall in community legal centre service activities of around 34 per cent and an increase in legal aid commission service activity of around 11 per cent. Over half (53 per cent) of legal aid commission services related to family law matters in 2011-12. In contrast community legal centres provided the majority (70 per cent) of services for civil law matters, while ATSILS delivered around half of total services for criminal law matters.

Table 2.13

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING - TASMANIA, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commission <sup>4</sup>
Civil	1,630	5,890	-	1,727
Criminal	2,155	593	-	2,343
Family	352	1,952	-	4,543
Other	152	-	-	-
<b>Total</b>	<b>4,289</b>	<b>8,435</b>	<b>-</b>	<b>8,613</b>
<b>Cth funding<sup>5</sup></b>	<b>\$1.9M</b>	<b>\$1.6M</b>	<b>-</b>	<b>\$6.0M<sup>6</sup></b>

<sup>1</sup>Includes all Commonwealth and state matters, based on IRIS data.

<sup>2</sup>Includes Commonwealth and state advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>3</sup>There are no FVPLS service providers located in Tasmania.

<sup>4</sup>Includes Commonwealth and state early intervention services and Commonwealth dispute resolution, duty lawyer, litigation, and post resolution services, based on data from NPA Reports.

<sup>5</sup>Does not include preventative and early intervention funding.

<sup>6</sup>Based on NPA funding allocations and one-off funding contribution of \$0.11 million, provided by AGD.

## **Victoria**

### *Service context*

Victoria is Australia's second largest state/territory in terms of population with an estimated 5.6 million residents. The population grew by approximately 94,800 in 2012, a rate of 1.7 per cent per annum. Victoria has a smaller population of Aboriginal and Torres Strait Islander people compared to other states, however, Victoria's Aboriginal and Torres Strait Islander population is growing at a rate of 4 per cent annually, the second fastest growth rate of all jurisdictions.

There is a high degree of diversity in the population of Victoria with more than one quarter of the population born overseas. Victoria receives the second highest number of migrants to Australia, after New South Wales. There are significant populations of refugee communities, particularly concentrated in specific regional areas. There are higher levels of social issues in the migrant population; for example the rate of incarceration among the Sudanese population in Victoria is more than double that of the state average. Overseas migration is expected to be the largest driver of population change in Victoria over the medium term.

Some of Victoria's regional areas are the most disadvantaged in the state. There is a lack of legal services particularly in the north-west of the state. Fast growing areas on the outskirts of Melbourne can also be quite disadvantaged and challenged in relation to transport infrastructure and access to services. Some newly-arrived communities are particularly concentrated in specific regional areas, including Shepparton, Ballarat, Swan Hill and Mildura.

Key policy changes impacting legal assistance services in Victoria include:

- introduction of specific family violence prevention legislation in 2008 and increases in violence matters dealt with by legal assistance services;
- deployment of additional police officers has subsequently increased the amount of detected crime, recorded offences and investigations;
- increase in filings for migration matters following the High Court extension of judicial review to offshore entry persons; and
- ramifications of implementing a large scale inquiry into child protection, which is expected to increase notifications and investigations and increase demand for legal assistance services.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.14.

Table 2.14

**VICTORIA KEY STATISTICS**

Characteristic	Victoria	National
<i>Population</i>	5,649,100	21,507,717
<i>Population growth rate</i>	1.7%	1.7%
<i>Aboriginal and Torres Strait Islander population</i>	0.7%	2.3%
<i>Median weekly household income</i>	\$1,216	\$1,234
<i>People with a disability</i>	18.4%	18.5%
<i>Single parent households</i>	15.5%	15.9%
<i>Population born overseas</i>	31.4%	30.2%

Note: Individuals may belong to multiple categories.

Sources: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2013)

*Service mix, distribution and investment*

Table 2.15 sets out Commonwealth funding for legal assistance services in Victoria in 2011-12, as well as service activities by area of law. Commonwealth investment in 2011-12 amounted to \$56.2 million, an increase of around 4 per cent from 2010-11. Over three quarters of total funding went to the legal aid commission. The next greatest proportion went to community legal centres, with 13 per cent of total funding, followed by ATSILS with 7 per cent of total funding. Victoria has the greatest volume of Commonwealth funded community legal centres of any of the states and territories (36) and one FVPLS service provider.

In 2011-12, ATSILS delivered the bulk of services for criminal law matters. In contrast, the majority of community legal centre services were for civil and family issues. Total legal aid commission services fell around 6 per cent between 2010-11 and 2011-12, with the majority of the fall attributable to services for criminal law matters. Community legal centre activity was relatively steady between 2010-11 and 2011-12. The majority (52 per cent) of community legal centre services in 2011-12 were related to civil law matters. In contrast, ATSILS service activity volumes, which fell around 20 per cent between 2010-11 and 2011-12, were primarily related to criminal law matters.

Table 2.15

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – VICTORIA, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commission <sup>4</sup>
Civil	632	35,866	213	17,848
Criminal	9,211	5,349	0	28,964
Family	431	28,384	191	28,740
Other	43	0	-	-
<b>Total</b>	<b>10,317</b>	<b>69,599</b>	<b>404</b>	<b>75,552</b>
<b>Cth funding<sup>5</sup></b>	<b>\$3.7M</b>	<b>\$7.4M</b>	<b>\$1.5M<sup>6</sup></b>	<b>\$43.6M<sup>7</sup></b>

<sup>1</sup>Includes all Commonwealth and state matters, based on IRIS data.

<sup>2</sup>Includes Commonwealth and state advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>3</sup>Includes legal and non-legal advice (Commonwealth and state matters), based on CLSIS data.

<sup>4</sup>Includes Commonwealth and state early intervention services and Commonwealth dispute resolution, duty lawyer, litigation, and post resolution services, based on data from NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Does not include preventative and early intervention funding.

<sup>7</sup>Based on NPA funding allocations.

## **Western Australia**

### **Service context**

With a population of around 2.5 million (ABS 2012), Western Australia is the fourth largest state/territory in Australia and has the highest growth rate of all the states/territories at 3.4 per cent in 2012. This is exactly double the national average population growth rate of 1.7 per cent per annum (ABS 2012). There are an estimated 70,000 Aboriginal and Torres Strait Islander residents of Western Australia, with a median age of 22, compared to the average for the state of 36 and a disproportionate rate of contact with the criminal justice system. Aboriginal cultural awareness in Western Australia is challenging due to significant regional diversity and difficulty sourcing interpreters.

Western Australia has a very large geographical area with a dispersed population and sparsely populated communities, particularly in the Pilbara and Kimberley regions. The majority of the Western Australian population (74 per cent) lives in the Perth metropolitan area, with the remaining 26 per cent dispersed throughout the rest of the state. Service delivery in these areas is challenged by very limited availability of private lawyers, and a need to provide the majority of services during infrequent visits or circuit courts. This creates problems for clients with complex legal issues and those that are nomadic and/or itinerant and often miss court appearances and appointments. Recruitment and retention of lawyers in regional and remote areas is also challenged by very high housing costs in some areas.

There is thought to be a linkage between fly-in, fly-out workers and higher rates of family conflict in Western Australia, and as a consequence of these two factors there is a high level of demand for family law services in Western Australia. Providing these services is challenged by a limited supply of family lawyers, which inflates rates charged for these services. Other impacts of the mining boom include high population growth, housing shortages and pressure on social infrastructure.

Other key statistics impacting on legal assistance service delivery are set out in Table 2.16.

Table 2.16

**WESTERN AUSTRALIA KEY STATISTICS**

Characteristic	WA	National
<i>Population</i>	2,451,400	21,507,717
<i>Population growth rate</i>	3.4%	1.7%
<i>Aboriginal and Torres Strait Islander population</i>	3.1%	2.3%
<i>Median weekly household income</i>	\$1,415	\$1,234
<i>People with a disability</i>	17.4	18.5%
<i>Single parent households</i>	14.8%	15.9%
<i>Population born overseas</i>	37.1%	30.2%

Note: Individuals may belong to multiple categories.

Sources: ABS Census (2011), ABS Catalogue 4430.0 (2009), ABS Catalogue 3101.0 (2013)

*Service mix, distribution and investment*

Table 2.17 below sets out Commonwealth funding for legal assistance services in Western Australia in 2011-12, as well as service activities by area of law. Commonwealth investment in 2011-12 amounted to \$41.4 million, an increase of around 2 per cent from 2010-11. Nearly half of total funding was allocated to the legal aid commission. Funding levels for FVPLS were slightly higher than for community legal centres, at \$5.1 million compared to \$4.6 million. Twenty Commonwealth funded community legal centres and three FVPLS are located in Western Australia.

Between 2010-11 and 2011-12 overall service activity levels remained reasonably constant for community legal centres, fell around 8 per cent for ATSILS, fell around 8 per cent for community legal centres and increased around 15 per cent for the legal aid commission. The majority (around 85 per cent) of ATSILS services in 2011-12 were related to criminal law matters. In contrast, 64 per cent of community legal centre services were related to civil law matters. The legal aid commission primarily provided services for family law matters (47 per cent) and criminal law matters (41 per cent).

Table 2.17

**LEGAL ASSISTANCE SERVICES: COMMONWEALTH FUNDED ACTIVITY BY AREA OF LAW AND FUNDING – WA, 2011-12**

Area of law	Number of Commonwealth funded service activities			
	ATSILS <sup>1</sup>	Community legal centres <sup>2</sup>	FVPLS <sup>3</sup>	Legal aid commission <sup>4</sup>
Civil	2,533	29,596	1,185	4,204
Criminal	19,879	3,019	9	14,311
Family	1,039	13,708	620	16,722
Other	10	-	-	-
<b>Total</b>	<b>23,461</b>	<b>46,323</b>	<b>1,814</b>	<b>35,237</b>
<b>Cth funding<sup>5</sup></b>	<b>\$12.2M</b>	<b>\$4.6M</b>	<b>\$5.1M<sup>6</sup></b>	<b>\$19.6M<sup>7</sup></b>

<sup>1</sup>Includes all Commonwealth and state matters, based on IRIS data.

<sup>2</sup>Includes Commonwealth and state advice and casework for Commonwealth funded community legal centres, based on CLSIS data.

<sup>3</sup>Includes legal and non-legal advice (Commonwealth and state matters), based on CLSIS data.

<sup>4</sup>Includes Commonwealth and state early intervention services and Commonwealth dispute resolution, duty lawyer, litigation, and post resolution services, based on data from NPA Reports.

<sup>5</sup>Based on funding allocation data provided by AGD.

<sup>6</sup>Does not include preventative and early intervention funding.

<sup>7</sup>Based on NPA funding allocations.

## Chapter 3

# The Evaluation Framework

*An Evaluation Framework provides a logical, focused and transparent basis for the analysis and findings set out in this working paper grounded in the objectives and outcomes of the NPA. The Evaluation Framework was developed, tested and refined during the early stages of the Review, drawing on extensive input from the legal assistance services sector. This chapter provides an overview of key elements of the Evaluation Framework.*

### 3.1 Legal assistance services outcomes framework

The Evaluation Framework was designed to recognise and reflect the dynamics and interactions between the legal assistance sector, the broader justice sector, individual outcomes and broader policy objectives and outcomes.

Figure 3.1 provides an overview of the conceptual approach to the Evaluation Framework and linkages between high level outcomes and government policy priorities. The Evaluation Framework expresses these high level outcomes, legal assistance sector outcomes and system capability measures as a set of evaluation questions (see Box 3.1) and corresponding indicators designed to measure progress towards outcomes. The full set of evaluation questions, indicators and data points can be found in Appendix E.

Box 3.1

#### EVALUATION QUESTIONS

- Are legal assistance services providing the right services to support achievement of the NPA objectives?
- Are legal assistance services providing services to disadvantaged Australians?
- Are legal assistance services providing services effectively (including of appropriate quality)?
- Are legal assistance services providing services efficiently?
- To what extent does program documentation, including the NPA, assist legal assistance service providers to deliver services in line with the NPA objectives?
- To what extent are legal assistance services provided in an integrated, coordinated manner?
- To what extent is the legal assistance services sector operating in a sustainable manner, with particular emphasis on staffing, and collaborative and cooperative effort?

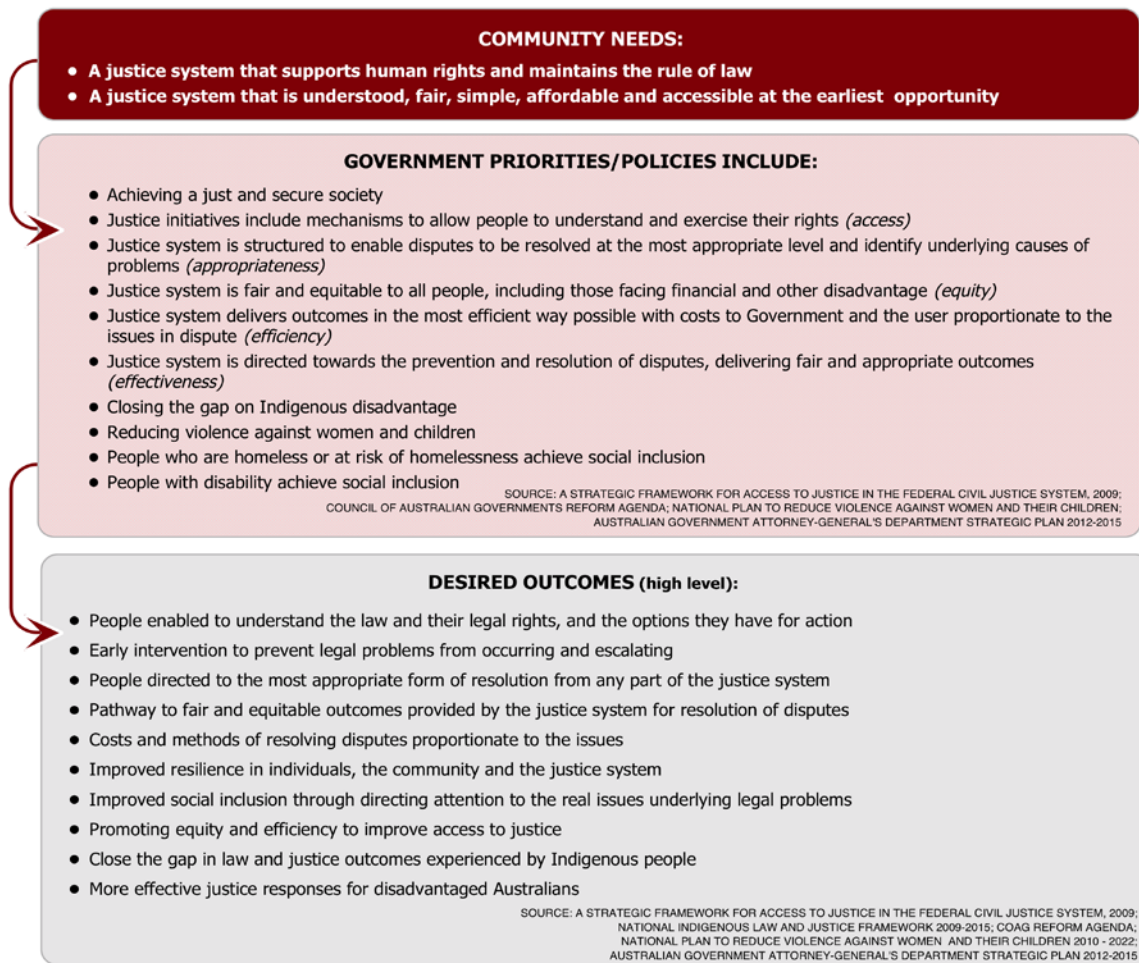
Source: ACG 2012, p15

Development of the Evaluation Framework took place through extensive consultation with legal assistance services and the sector more broadly. An iterative process that drew on desktop research, consultations, submissions and a pilot study informed the final contents of the evaluation questions and indicators, as well as data collection tools and processes in implementing the framework.



Figure 3.1

**LEGAL ASSISTANCE SERVICES OUTCOMES FRAMEWORK AND LINK TO PROGRAM LOGIC**



**Legal assistance services objectives**

A national system of legal assistance that is integrated, efficient and cost-effective, and focussed on providing services for disadvantaged Australians in accordance with access to justice principles.

**High level outcomes**

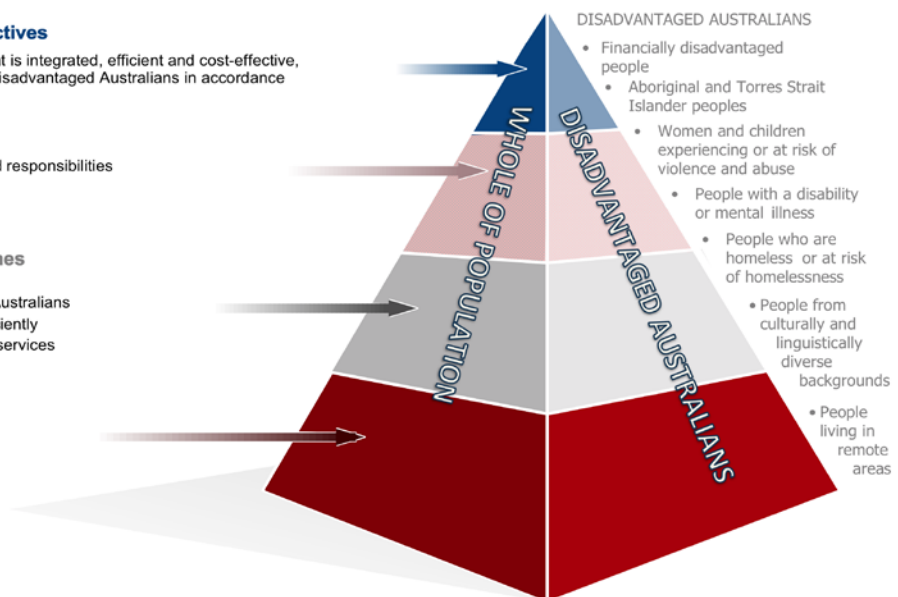
- Enabled to understand legal rights and responsibilities
- Know where to go for assistance
- Confidence to access legal assistance

**Legal assistance sector outcomes**

- Providing the right services
- Providing services to disadvantaged Australians
- Providing services effectively and efficiently
- Providing integrated and coordinated services

**System capability outcomes**

- Sustainability
- Collaboration and cooperation



Source: ACG 2012, p14

### 3.2 Assessing quality, efficiency and cost-effectiveness

In addition to assessing progress towards the NPA outcomes and objectives, the evaluation questions and indicators support assessment of the quality, efficiency and cost-effectiveness of legal assistance services. These performance terms, and how they are applied by the Review are explored below. Issues of quality are also linked to access, appropriateness and effectiveness.

*Quality* reflects how well suited a service is to its purpose and conforms to specifications (SCRGSP 2012). As such, indicators of quality look at processes to assure that services are consistently provided to a high standard and processes to ensure services are provided in a culturally competent manner. Consistent with the NPA focus on integrated service delivery, quality also examines organisational processes to support referrals and integrated service delivery.

*Efficiency* looks at how well resources are used to produce outputs, often expressed as a ratio of outputs to inputs (SCRGSP 2012). Straight ratios of costs to outputs are avoided in this analysis, in part due to data limitations (for example, see Table 2.1) and in recognition of unique state/territory contextual factors that impact on service costs. As such, efficiency analysis focuses on processes to ensure that service costs are proportionate to the matter at hand, the proportion of total expenditure directed to service delivery and processes to facilitate collaboration and cooperation.

*Cost-effectiveness* analysis traditionally focuses on measures of how well inputs (such as employees, cars and computers) are converted into outcomes for clients or the community (SCRGSP 2012). In the absence of robust information about outcomes, and in line with the focus of the NPA on providing services to disadvantaged Australians, assessment of cost-effectiveness includes how well organisational processes support the NPA outcomes such as a focus on services for disadvantaged groups.

Table 3.1 maps in full the linkages between the evaluation framework indicators and the performance terms that are the focus of this Review.

Table 3.1

**MEASURING PERFORMANCE OF LEGAL ASSISTANCE SERVICES: EVALUATION QUESTIONS AND INDICATORS**

Evaluation questions	Indicators	Quality	Efficiency	Cost effectiveness
<b>High level outcomes*</b>				
Are community members enabled to understand their legal rights and responsibilities?	Proportion of population who consider they have been enabled to understand their legal rights and responsibilities (community as a whole and for disadvantaged groups)			
Do community members know how to access legal assistance when they need to?	Proportion of population able to identify from whom they may gain assistance for legal matters (community as a whole and for disadvantaged groups)			
Are community members confident to access legal assistance when they need it?	Proportion of population who are confident to access legal assistance when needed (community as a whole and for disadvantaged groups)			
<b>Legal assistance sector outcomes</b>				
1. Is the legal assistance sector providing the right services (categories of services in each area of law and amounts of each service category in each area of law) to support achievement of the NPA objectives?	1.1 Strategic and operational plans are in place to ensure legal assistance services provided reflect NPA outcomes [PROCESS INDICATOR]			X
	1.2 Proportion of justice system participants surveyed who view that legal assistance service providers are providing the right mix of services in each area of law to support achievement of NPA outcomes			X
	1.3 Proportion of justice system participants surveyed who view that legal assistance service providers are contributing to the earlier resolution of legal problems			X
2. Is the legal assistance sector providing services to disadvantaged Australians?	2.1 Proportion of justice system participants surveyed who view that legal assistance service providers are providing the right mix of services in each area of law to meet the needs of people from specific client groups			X
	2.2 There is a clearly articulated process that ensures services are directed to those in disadvantaged/priority groups [PROCESS INDICATOR]			X
3. Is the legal assistance sector providing services effectively (including of appropriate quality)?	3.1 Proportion of clients by area of law who perceived the legal assistance provided was respectful, relevant and made a positive difference to the outcome	X		
	3.2 Proportion of justice system participants surveyed who view that legal assistance service providers are providing services of an appropriate quality	X		
	3.3 Processes are in place to ensure services are provided in a culturally competent manner [PROCESS INDICATOR]	X		
	3.4 Quality assurance processes are in place [PROCESS INDICATOR]	X		

Evaluation questions	Indicators	Quality	Efficiency	Cost effectiveness
4. Is the legal assistance sector providing services efficiently?	4.1 Proportion of organisation's resources expended on administration and proportion of resources expended on actual service delivery		X	
	4.2 Processes are in place to ensure service costs are incurred at a level proportionate to the legal matter [PROCESS INDICATOR]		X	
5. To what extent does program documentation, including the NPA, assist legal assistance service providers to deliver services in line with the NPA objectives?	5.1 Proportion of service providers who view program documentation, including the NPA, as helpful in guiding the organisation's service objectives and priorities			X
6. To what extent are legal assistance services provided in an integrated, coordinated manner?	6.1 Processes are in place to facilitate client referrals and provision of integrated services by legal and non-legal service providers [PROCESS INDICATOR]	X		
	6.2 [Legal aid only] Number of referrals made	X		
	6.3 [Legal aid only] Average number of different service provider lawyers representing a client on a discrete matter	X		
<b>System capability measures</b>				
7. To what extent is the legal assistance sector operating in a sustainable manner, with particular emphasis on staffing, and collaborative and cooperative effort?	7.1 Processes are in place to facilitate cooperation and collaboration with other service providers [PROCESS INDICATOR]		X	

\* Note that no new data will be collected for high level outcomes as part of this Review. High level outcome indicators will be populated to the extent possible from existing research. Source: ACG 2012.

### Measuring outcomes

Legal assistance services operate in a complex environment. Legal issues are intrinsically linked to a range of social and economic issues. The *Legal Australia-Wide Survey: Legal Need in Australia* (LAW Survey) found that the most disadvantaged members of our society are particularly vulnerable to legal issues (Coumarelos et al 2012). When compared to an overall population proportion of 49.7 per cent of people experiencing legal problems within a one year period, demographic groups that have a significantly greater probability of experiencing legal problems include people with a disability (61.0 per cent), Aboriginal and Torres Strait Islander peoples (54.4 per cent), unemployed (63.5 per cent), single parents (69.3 per cent) and people living in disadvantaged housing (60.9 per cent) (Coumarelos et al 2012, p.67).

As highlighted by Curran (2013), effectiveness and outcome measurement in this context is not easy, and taking a simplistic approach to measurement is not the answer. It is well recognised that legal assistance services are dealing with a complex and diverse client group, and that the resulting web of legal and non-legal needs do not always lend themselves to measurable outcomes.

As such, the Review takes a mixed methods approach to evaluation, drawing on perceptions across clients and those involved in service delivery, as well as examination of the organisational processes that contribute towards the achievement of outcomes. Where possible, findings are corroborated with quantitative evidence about service delivery levels, client demographic characteristics and service expenditure, set out in Appendix A to Appendix D.

Process benchmarking enables comparison of elements of performance across dissimilar organisations. The approach is premised on the assumption that the presence of good practices and the more entrenched those good practices are in the organisation's operations, known as maturity of process, the more likely the organisation will perform well.

The Evaluation Framework uses a number of process indicators. This requires specification of elements of good practice and evaluation of the maturity of the processes that include the good practices. Box 3.2 provides further description of the process maturity indicators and the five levels used by the Review to describe process maturity.

Box 3.2

#### PROCESS MATURITY LEVELS

**Level 1 – Person-dependent practices:** This is for cases where the process being performed is not documented or formalised. In other words, it is not recorded either in outline or in detail. The activity is person-dependent and the sequence, timing and result may vary during repetition, or be sacrificed under pressure. This requires significant supervision and there is no guarantee of either achieving the desired result or adhering to timelines. The activity is ad hoc, with the effectiveness of the activity dependent on individuals.

**Level 2 – Documented and partially deployed process:** At this maturity level, the processes have been reviewed, documented and approved by the supervisor or the approving authority as the standard process. However, there is inconsistency in the deployment or the process may not be deployed in totality. That is, it may not be deployed by all staff or at all the intended locations, or through all functions, or by all the intended supervisors, or all the activities defined in the process are not being performed.

**Level 3 – Fully deployed processes:** At this level, there is consistency between the documented process and the deployed process. The process documented and deployed is applied at all the intended locations, by all supervisors and staff. There is also a seamless linkage to other processes wherever there needs to be any interaction to ensure a consistent level of service.

**Level 4 – Measured processes:** The process has set measures and goals, such as adherence to timelines, customer satisfaction, cost, and the process is measured against these goals. Process variation is reduced through statistical management with corrective action able to be taken at the point of reference. Outcomes can be predicted with accuracy from organisational capability.

**Level 5 – Continuously improving processes:** At this level, the goals set for the process are analysed for achievements and improved regularly. The timelines, cost targets and satisfaction levels are achieved regularly and the targets are stretched using continuous quality improvement techniques. Improvements are evaluated and deployed using systematic methods.

Source: The Allen Consulting Group based on Srinivasa & Murthy, and Curtis (2004)

### 3.3 Information collection

Population of the Evaluation Framework indicators provides for a robust, holistic approach by incorporating information that reflects different service perspectives, including service providers, clients, other justice system participants and non-legal service providers. The Review employed five data collection tools to obtain new information.

- A **Service Provider Data Request and Survey** collected organisational information about services, clients, expenditure, staffing and processes. All legal assistance service providers were invited to participate in this component.
- An online **Employee Survey** examined perceptions of employees of legal assistance services. All legal assistance service providers were invited to participate in this component and encouraged to disseminate the Employee Survey to employees for completion.
- A **Client Survey** conducted face to face or via telephone explored client experiences with legal assistance services. All legal assistance service providers were asked to express interest in hosting client surveys and a selection of locations were chosen to provide an appropriate mix of geographic locations and program types.
- An online **Non-legal Service Provider Survey** focussed on the perceptions of organisations that work closely with legal assistance services. Legal assistance service providers participating in the other survey components were given an opportunity to nominate appropriate contacts to complete the survey.
- **Submissions** invited from the police, courts, judiciary, law societies and bar associations to examine perspectives of the wider justice system. Submission invitations were sent to police, court and judiciary representatives, as well as Law Council's and Bar Associations across Australia.

Appendix F to Appendix J detail information collection methodology, response rates and respondent characteristics.

### 3.4 A note about interpretation

In accordance with the national objectives and outcomes provided for under the NPA, evaluation results are presented from a national perspective. However, the distinct demographic and geographic characteristics of Australia's states and territories and the law and policy differences created by Australia's federal structure are recognised by the Review. The impact of these differences on service demand and the challenges involved in effective service delivery suggest that, when considering service delivery in each jurisdiction, it is important to view evaluation results within the context of these characteristics, as summarised in Chapter 2.

Part of the purpose of the Review was to test the Evaluation Framework for legal assistance services. To this extent, subsequent refinement of the evaluation framework is set out in an addendum to the Evaluation Framework (*working paper one*).

## Chapter 4

# High level outcomes

*High level outcomes are recognised as an important indicator towards achievement of overarching government policy priorities and objectives. As such, monitoring high level outcomes are an important element to be considered in future monitoring and evaluation of legal assistance services. Populating these indicators as part of the Review has drawn on existing information. The results presented are indicative only.*

### 4.1 Are community members enabled to understand their legal rights and responsibilities?

Enabling community members to understand their legal rights and responsibilities is closely linked to the *Strategic Framework for Access to Justice in the Federal Civil Justice System* concept of ‘everyday justice.’ This connects the demand for better information and empowering people to resolve their own disputes through pathways that do not require legal assistance. The importance of this concept is highlighted by results of the *Legal Australia-Wide Survey: Legal Need in Australia* (LAW Survey) (Coumarelos et al 2012), which confirm that the majority of legal problems are resolved outside the formal justice system, more often than not without legal advice. The LAW Survey included some 20,716 interviews across Australia conducted by the Law and Justice Foundation of New South Wales, and provides detailed analysis and recommendations on how to address a diverse range of legal needs.

The system at large, including legal assistance services, government agencies and non-legal related support services, has a role to play in achieving progress against this indicator through building community capacity and resilience. Results of the LAW Survey (Coumarelos et al 2012) show that 19.5 per cent of the time, actions taken by survey respondents to address legal issues included consulting websites or self-help guides. The LAW Survey reports evidence collected in 2008 and suggests that at that time there was still progress to be made, and that in many cases where no action is taken in response to legal problems (18.3 per cent of total problems) it is due to poor legal knowledge (Coumarelos et al 2012).

### 4.2 Are community members confident to access legal assistance when they need it?

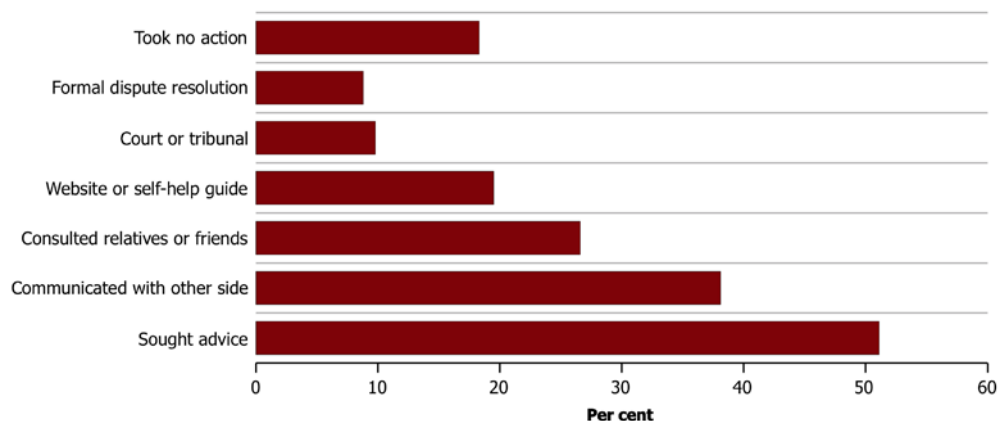
The LAW Survey provides information in two areas that are instructive about whether individuals are accessing legal assistance in relation to their problems and, if not, the reasons for this.

#### ***Actions in response to legal issues***

A significant proportion of the population takes no action in response to legal issues. LAW Survey respondents sought formal advice for just over half of legal issues, while no action was taken 18.3 per cent of the time (see Figure 4.1). Legal issues were handled without advice 30.6 per cent of the time (Coumarelos et al 2012, p 96).

Figure 4.1

**ACTION TYPES IN RESPONSE TO LEGAL PROBLEMS (N= 19,142 PROBLEMS)**



Note: Percentages do not sum to 100 because multiple action types were used for some problems

Source: Coumarelos et al 2012, p 93

A number of demographic groups are significantly less likely to take action in response to legal issues. These include (Coumarelos et al 2012):

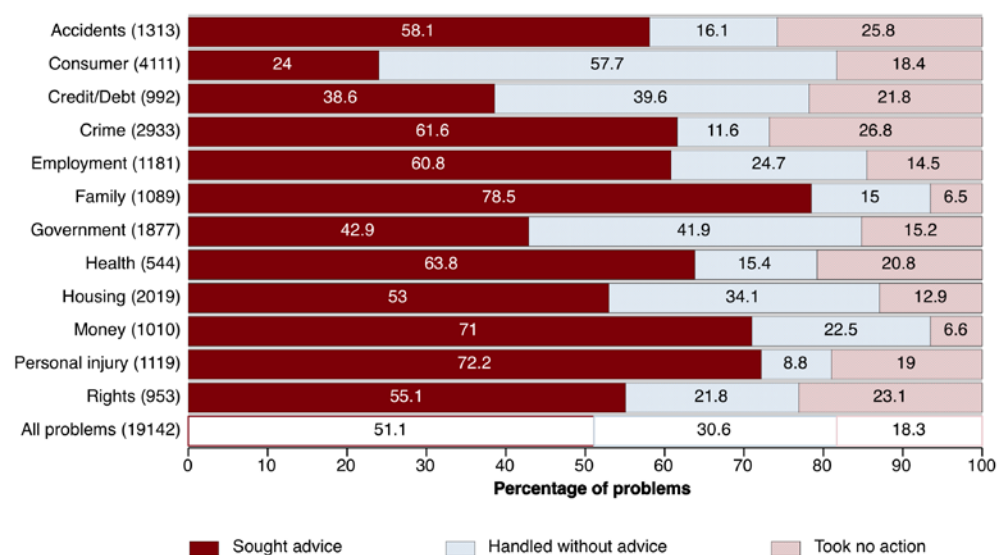
- people whose main language is not English;
- people aged 65 years or over;
- people with low education levels;
- males;
- people without a disability; and
- people who have been unemployed.

Strategies used in response to legal issues also vary significantly according to problem type, with a lower likelihood of taking action for consumer, government and credit/debt problems (see Figure 4.2). Where action is taken for consumer issues, individuals are much more likely to handle these without advice.



Figure 4.2

**STRATEGY IN RESPONSE TO LEGAL PROBLEMS (N = 19,142)**



Note: n=3,342 problems where took no action and n=776 problems where only relatives.

Data were missing for 246 problems.

Source: Coumarelos et al 2012, p 102

**Barriers to action**

The reasons for inaction in response to legal problems cited most frequently by respondents to the LAW Survey included a perception that it would make no difference (56.2 per cent), that the problem was resolved quickly (56.1 per cent), and the view that the problem was not very important (43.0 per cent) (see Table 4.1). The two reasons cited most frequently by respondents for only consulting friends or relatives mirrored those for taking no action, namely that it would make no difference (58.1 per cent) and that the problem was resolved quickly (45.2 per cent). The third most frequently cited reason for only consulting relatives or friends was that it would be too stressful (44.2 per cent).

Reasons cited by respondents to the LAW Survey for inaction in response to legal problems or for only consulting friends or relatives that are directly relevant to understanding whether community members are confident to access legal assistance when they need it, are that it would take too long (35.4 per cent and 41.1 per cent respectively), that it would be too stressful (29.6 per cent and 44.2 per cent) and that it would cost too much (27.1 per cent and 34 per cent).

Table 4.1

**REASONS FOR INACTION OR ONLY CONSULTING FRIENDS OR RELATIVES IN RESPONSE TO LEGAL PROBLEMS**

<b>Reason</b>	<b>Reason for taking no action %</b>	<b>Reason for only consulting relatives or friends %</b>
Would make no difference	56.2	58.1
Problem resolved quickly	56.1	45.2
Problem not very important	43.0	34.1
Didn't need information/advice	39.2	36.6
Would take too long	35.4	41.1
Had bigger problems	31.1	36.4
Would be too stressful	29.6	44.2
Was at fault/there was no dispute	27.4	21.3
Would cost too much	27.1	34.0
Didn't know what to do	21.4	38.4
Other reason	12.8	19.9
Would damage relationship with other side	12.7	22.2

Note: n=3,342 problems where took no action and n=776 problems where only relatives or friends consulted.

Source: Coumarelos et al 2012, pp. 98 to 99

### **4.3 Do community members know how to access legal assistance when they need to?**

#### ***Advice for legal problems***

Community members are more likely to seek formal advice for their legal issues from non-legal advisors than legal advisors. The LAW Survey found that, where respondents took action for their legal issues, non-legal advisors were consulted 69.7 per cent of the time, compared to 30.3 per cent of the time for legal advisors (Coumarelos et al 2012, p 111). Government advisors (38.8 per cent), health or welfare advisors (27.2 per cent) and financial advisors (22.2 per cent) were all frequently — and generally appropriately — consulted depending on the type of legal problem experienced (Coumarelos et al 2012, p114). These data are summarised in Table 4.2.

Table 4.2

**TYPES OF ADVISOR FOR LEGAL PROBLEMS, AUSTRALIA**

	Advisor type	Per cent of problems where advice sought (n=9,783)
<b>Legal advisors</b>	ATSILS	0.1
	Community legal centres	1.7
	Court service	2.7
	Legal aid commissions	6.0
	Private lawyer	21.3
	Legal advisor - other	3.2
<b>Other advisors</b>	Dispute/complaint handling advisor	8.1
	Government advisor	38.8
	Trade or professional association	7.6
	Health or welfare advisor	27.2
	Financial advisor	22.2
	Other advisor	17.1

Note: Percentages do not sum to 100 because multiple advisors were sought for some problems.

Source: Coumalrelos et al 2012

Legal assistance service providers were consulted for a relatively small proportion of the total pool of legal problems for which formal advice was sought. These figures represent a relatively small proportion of total legal problems, which is expected as the total of legal problems represent legal problems experienced by the community at large as opposed to those experienced by the disadvantaged groups targeted by legal assistance services.

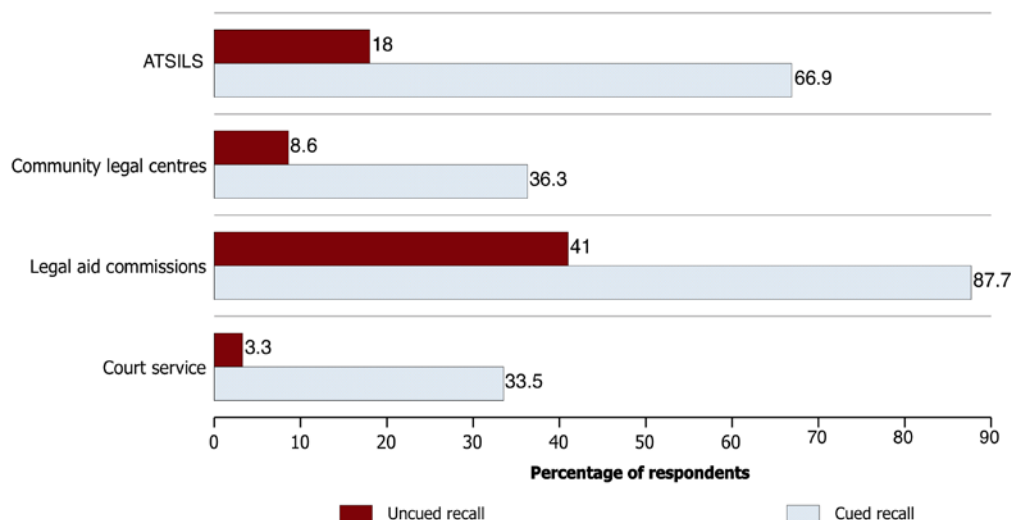
Where advice was sought, the severity of the legal problem and nature of the legal problem experienced influenced the selection of advisor type. Of respondents who sought advice from a private legal advisor, 73.4 per cent did so for a substantial legal problem (one that had a moderate or severe impact on their daily life), compared with 26.6 per cent who experienced a minor legal problem. For those that sought advice from a legal assistance service, 79.1 per cent did so for a substantial legal problem (Coumarelos et al 2012, p117).

### ***Awareness of legal assistance services***

The LAW Survey (Coumarelos et al 2012) found that there are significant gaps in awareness about legal assistance services across Australia. Awareness is highest for legal aid commissions, with 41.0 per cent of respondents able to recall the service unprompted and 87.7 per cent of respondents able to recognise the service when prompted. Only 8.6 per cent of respondents were able to freely recall community legal centres, increasing to 36.3 per cent when prompted (see Figure 4.3). As noted in the LAW Survey, it is possible that people may incorrectly use the term 'legal aid' as a generic term to refer to not-for-profit legal services including ATSILS and community legal centres.

Figure 4.3

**UNCUED AND CUED RECALL OF LEGAL SERVICES**



Note: ATSILS based on 348 Aboriginal and Torres Strait Islander respondents only. Remainder is based on 20,716 Australia wide respondents.

Source: Coumalrelos et al 2012, p.134

**Key points**

- *Results of the LAW Survey provide important evidence about how the community experiences and responds to legal problems. This evidence can be used to inform design of legal assistance services that promote accessibility and effectiveness of interventions.*
- *Many individuals do not take action to resolve their legal problems, and of those who seek formal advice, many do not seek it from legal advisors. Decisions to seek formal legal advice are influenced by the demographic characteristics of the individual experiencing the problem, the nature of the legal problem and the severity of the legal problem. Individuals experiencing substantial legal problems are far more likely to seek advice from a legal advisor than those experiencing minor legal problems.*

## Chapter 5

# Legal assistance sector outcomes

*This chapter presents evidence collected as part of the Review that builds a picture of whether the right or appropriate services have been provided, whether they have been provided to disadvantaged Australians and how well they have been provided. Results are presented to provide a system wide perspective, and disaggregated to illustrate differences between program types as appropriate. Findings presented in this chapter also draw on the descriptive information for each program type presented in appendices and existing research.*

*It is expected that different types of legal assistance service providers will have processes of varying maturity depending on the resources available to the organisation and the stage of development of the organisation. In addition, it is expected that legal assistance service providers will differ in the emphasis they place on various processes depending on the extent to which processes relate to delivery of key services or providing services to targeted client groups.*

### 5.1 Are legal assistance services providing the right services to support achievement of the NPA objectives?

#### **Strategic and operational plans reflect NPA outcomes**

Strategic and operational plans were in place at the vast majority of service providers that responded to the Service Provider Survey and Data Request. Strategic and operational plans were in place at the six ATSILS that responded to the survey (there are eight in total) and at all eight of the legal aid commissions (all responded to the survey). Ninety six per cent of community legal centres responding to the survey had strategic and operational plans in place (53 responses from a possible 138 Commonwealth funded community legal centres), and 78 per cent of FVPLS (nine responses received from a possible 14 services).

Average process maturity differed across the sector. Legal aid commissions displayed the highest process maturity with an average rating of 4.5 (of a possible 5), followed by ATSILS, community legal centres and then FVPLS (see Table 5.1). The range of process maturity responses across program types shows opportunity to further develop processes, particularly for FVPLS (with 43 per cent indicating operation at the least mature levels of level 1 or 2) and community legal centres (30 per cent on level 1 or 2). Only one of the eight legal aid commissions self assessed at level 1 or 2.

Table 5.1

**PROCESS MATURITY – PROCESSES TO ENFORCE AND MONITOR STRATEGIC AND OPERATIONAL PLANS**

Program	Proportion of respondents with processes	Average maturity level	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
ATSILS (n=6)	100%	3.7	0.0%	33.3%	16.7%	0.0%	50.0%
Community legal centres (n=53)	96%	3.5	2.0%	27.5%	19.6%	15.7%	35.3%
FVPLS (n=9)	78%	3.1	0.0%	42.9%	14.3%	28.6%	14.3%
Legal aid commissions (n=8)	100%	4.5	0.0%	12.5%	0.0%	12.5%	75.0%

## Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group, based on Review Service Provider Survey and Data Request 2013

Service providers that responded to the Service Provider Survey and Data Request reported that the NPA outcomes have had a significant influence on strategic and operational plans. Consistent with application of the NPA performance benchmarks and indicators to legal aid commissions only, influence was greatest amongst legal aid commissions; 75 per cent of legal aid commissions reported that their strategic and operational plans have been actively developed to ensure services provided reflect NPA outcomes. Even though ATSILS, community legal centres and FVPLS are encouraged but not required to align their strategic and operational plans to the NPA outcomes, the majority of these services reported that their strategic and operational plans were influenced by, and to some extent reflect NPA outcomes (see Table 5.2). Only a small proportion (12 per cent) of community legal centre respondents reported that their strategic and operational plans do not actively reflect NPA outcomes, while two of the FVPLS that had strategic plans in place did not provide a response to this question.

Table 5.2

**ALIGNMENT OF STRATEGIC AND OPERATIONAL PLANS WITH NPA OUTCOMES**

Extent of strategic and operational plan alignment with NPA outcomes	Proportion of respondents (with strategic plans in place)			
	ATSILS (n=6)	Community legal centres (n=51)	FVPLS (n=7)	Legal aid commissions (n=8)
<i>Actively developed to ensure services provided reflect NPA outcomes</i>	16.7%	17.6%	14.3%	75.0%
<i>Influenced by, and reflects to some extent NPA outcomes</i>	83.3%	62.7%	57.1%	25.0%
<i>Does not actively reflect NPA outcomes</i>	0.0%	11.8%	0.0%	0.0%
<i>Not stated</i>	0.0%	7.8%	28.6%	0.0%

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

### ***The right mix of services to support NPA outcomes***

There was, unsurprisingly, a general view among legal assistance service employees responding to the Employee Survey that more legal assistance should be made available to meet the needs of those who need it. Whilst mindful of this, the variations in views regarding service types and law types deemed most or least adequate to support achievement of the NPA outcomes is still informative when considering future allocation of resources.

### ***The right service category mix***

With respect to the sufficiency of service volumes provided by legal assistance services, respondents to the Employee Survey most frequently identified that ‘not enough’ non-legal services, such as counselling and financial counselling, were provided (80 per cent of respondents to the question). This was followed by legal representation (78 per cent) and discrete task assistance (71 per cent). More than half (56 per cent of respondents to the question) indicated that the volume of information and referral services was ‘about right,’ followed by criminal duty lawyer appearances (48 per cent). See Figure 5.1 for employee responses regarding sufficiency of the volume of services provided across each service category.

A greater proportion of Employee Survey respondents reported the level of service volumes in their state/territory was ‘not enough’ than for their local area (68 per cent across service categories in their state/territory compared to 63 per cent for their local area). Of a total of 619 responses to the Employee Survey, 53 per cent were from legal aid commission employees; 36 per cent from community legal centre employees; 7 per cent from FVPLS employees and 6 per cent from ATSILS employees. ATSILS, community legal centre and FVPLS employee respondents more frequently reported that ‘not enough’ service volumes were delivered across service categories than did legal aid commission employees. For example:

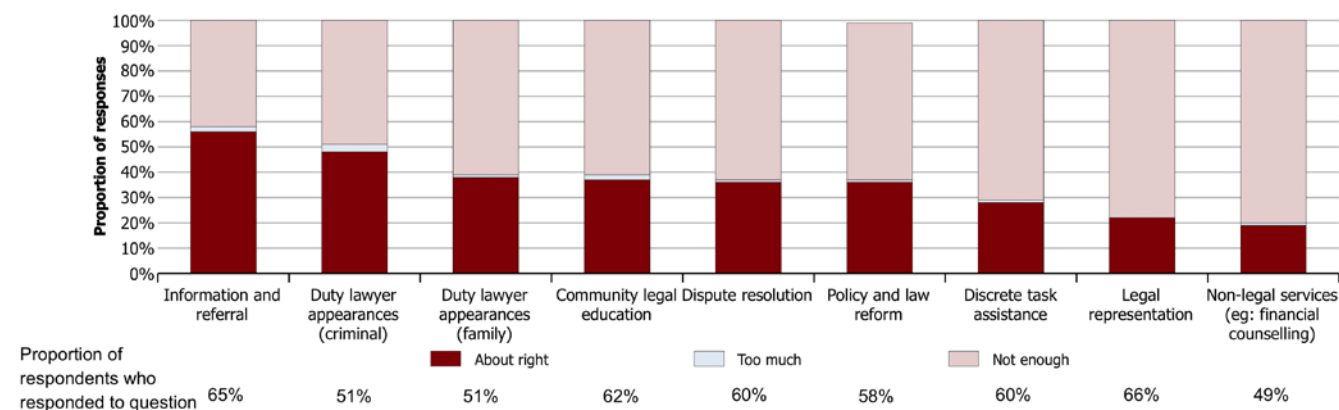
- around 86 per cent of ATSILS employees, 88 per cent of community legal centre employees and 80 per cent of FVPLS employees who provided a response considered that there was ‘not enough’ legal representation, compared to around 69 per cent of legal aid commission employees; and

- one hundred per cent of ATSILS employees, around 80 per cent of community legal centre employees and around 95 per cent of FVPLS employees who provided a response considered that ‘not enough’ non-legal services were provided, compared to around 75 per cent of legal aid commission employees.

Figure 5.1

**EMPLOYEE SURVEY RESPONSE TO STATEMENT:**

**IN YOUR LOCAL AREA, PLEASE INDICATE WHETHER THE VOLUME OF THE FOLLOWING SERVICES PROVIDED BY LEGAL ASSISTANCES PROVIDERS IS ABOUT RIGHT/TOO MUCH/NOT ENOUGH TO SUPPORT ACHIEVEMENT OVERALL OF THE NPA OUTCOMES — BY SERVICE CATEGORY**



Notes:

Responses for each service category total 100 per cent as analysis excludes responses of "don't know" and participants who did not respond to this question.

Proportions of survey participants who gave a response are reported below the columns. Total number of respondents was 619 employees.

Source: The Allen Consulting Group analysis based on Review Employee Survey 2013

Repeated identification by Employee Survey respondents of non-legal services as an area where ‘not enough’ services were provided to support achievement of the NPA outcomes indicates recognition by the sector of the importance of addressing non-legal issues when resolving legal problems. This is supported by relevant literature (see eg Buck and Curran 2009). This raises important questions about the model(s) that should be employed to achieve service delivery that addresses both legal and non-legal problems. Consideration of this question should also account for the fact that the majority of legal assistance service providers are not currently funded to provide non-legal services in-house, instead focusing on integrated service delivery through referral arrangements with non-legal service providers.

Findings of the LAW Survey (Coumarelos et al 2012) provide important evidence about which types of legal problems individuals tend to experience at the same time, pointing towards areas where integrated service delivery may have the biggest impacts. The three main clusters of legal problems identified are:

- consumer, crime, government and housing;
- credit/debt and family issues;
- employment, health, personal injury and rights.



After non-legal services, legal representation and discrete task assistance were the service categories identified most frequently by respondents where ‘not enough’ services were provided. Rather than detracting from the NPA focus on preventative and early intervention services, this perception is consistent with recognition in the *Strategic Framework for Access to Justice in the Federal Civil Justice System* that court is necessary for resolution of some issues and, in these situations, it is important to ensure processes are accessible and fair. This finding also reflects a recognition that in some cases clients with higher levels of disadvantage may require more intensive assistance. As put by a submission to the Review from the pro-bono practices of Australia’s largest law firms:

For most disadvantaged clients access to justice requires much more than 30 minutes of face time with a lawyer on the Court steps, or the provision of a simple fact sheet. In our experience, most will require access to quality legal advice and information prior to any decision to commence proceedings, and often a lawyer to advocate on their behalf.

Pro-bono practices of Australia’s largest law firms, submission to the Review

In the context of constrained resources it is important to identify the mix of services that is most likely to help resolve legal problems earlier. Employee Survey responses suggested that, while current service volumes were generally seen as insufficient, there was a need to provide more discrete task assistance, possibly to help clients use available legal information. As highlighted by a submission to the Review by a member of the judiciary, ‘someone to help frame the case can be more important than someone to argue the case’ and what is important is assistance to help put available legal information into a ‘realistic framework that articulates what the real message is for court’. Another submission highlighted that services such as information and referral ‘should act as an addition to, and not as a substitute for proper legal advice and representation’.

### *The right area of law mix*

Coupled with questions about what types of services should be provided are issues surrounding appropriate coverage of different areas of law. Appropriate service volumes can largely be seen as a product of two factors — frequency of issues and nature of issues, including complexity and seriousness or importance.

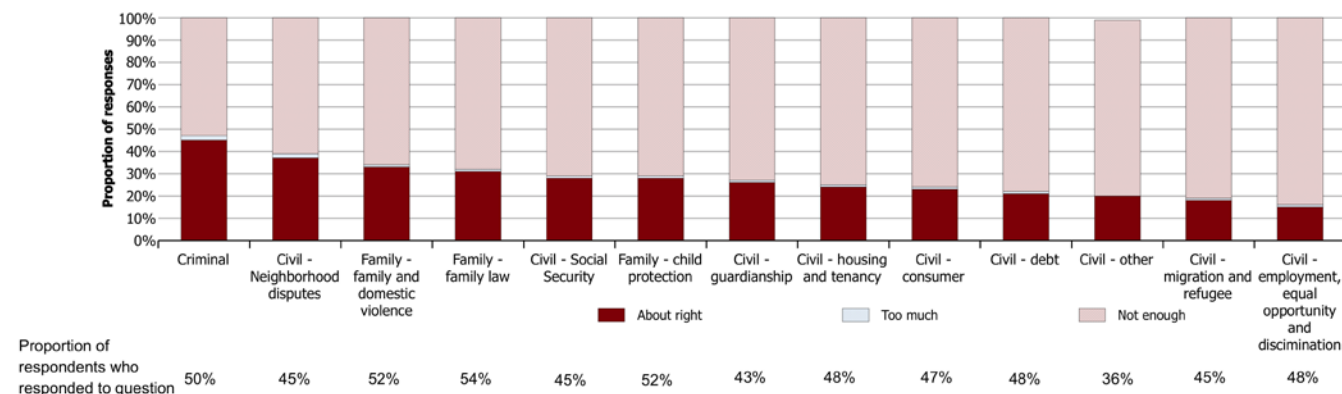
Across all areas of law more than half of the Employee Survey respondents reported that there were not enough services provided to support achievement of the NPA outcomes. Very few respondents reported that service volumes across all areas of law were ‘too much’ to support the NPA outcomes.

Within areas of law, between 53 per cent and 84 per cent of Employee Survey respondents reported there were ‘not enough’ services. Employment, equal opportunity and discrimination and migration and refugee law were the areas of law where service volumes were considered least appropriate to meet the NPA outcomes. Criminal and neighbourhood disputes were regarded as areas where service volumes were most appropriate, albeit still lacking (see Figure 5.2). These results were reasonably consistent when Employee Survey responses were examined on a state-wide basis. Once again more survey respondents employed by ATSILS, community legal centres and FVPLS reported services volumes as ‘not enough’ compared to respondents employed by legal aid commissions.

Figure 5.2

**EMPLOYEE SURVEY RESPONSE TO STATEMENT:**

**IN YOUR LOCAL AREA, PLEASE INDICATE WHETHER THE VOLUME OF THE FOLLOWING SERVICES PROVIDED BY LEGAL ASSISTANCES PROVIDERS IN THE FOLLOWING AREAS OF LAW IS ABOUT RIGHT/TOO MUCH/NOT ENOUGH TO SUPPORT ACHIEVEMENT OVERALL OF THE NPA OUTCOMES — BY AREA OF LAW**



**Notes:**

Responses for each area of law total 100 per cent as analysis excludes responses of "don't know" and participants who did not respond to this question.

Proportions of survey participants who gave a response are reported below the columns. The total number of respondents was 619 employees.

Source: The Allen Consulting Group analysis based on Review Employee Survey 2013

The views of Non-legal Service Provider Survey respondents in relation to the appropriateness of service volumes by area of law were broadly consistent with those of Employee Survey respondents presented above. For example, among respondents to the Non-legal Service Provider Survey:

- civil law stands out as an area where respondents reported not enough services were provided. Areas of civil law most frequently reported as having insufficient services volumes included guardianship law, neighbourhood disputes and housing and tenancy;
- criminal law is the area of law where the largest proportion of respondents viewed that service volumes were ‘about right’;
- over 90 per cent of respondents indicated that ATSILS were not providing enough family law services.

Views about insufficiency of service volumes for civil law matters were echoed in a number of submissions provided by the judiciary and courts. In a submission from the pro bono practices of Australia’s largest law firms, the point was made that the vast majority of people seeking advice and representation do so for civil matters and those who might be expected to meet the socio-economic criteria for legal assistance do not in fact receive assistance. Feedback from other submissions supports this view (see Box 5.1). These views are backed by a significant body of work documenting rising levels in self represented litigants, contributed to by a shortage of publicly funded legal representation (see Richardson, Sourdin and Wallace 2012).

Box 5.1

**FEEDBACK FROM EXTERNAL JUSTICE SYSTEM PARTICIPANTS – THE MIX OF SERVICES**

No legal aid is provided in any court in respect of civil matters...many civil cases could be resolved if adequate representation was provided. When matters do proceed to trial and parties are unrepresented, there is a great deal of court time and resources wasted.

*Judiciary, South Australia*

It needs to be acknowledged that there are significant gaps in the services available in relation to civil matters, particularly at the higher court level. Queries received...are likely to be the tip of the iceberg in terms of unmet legal need.

*Judiciary, Victoria*

There is a case for increasing the level of representation for applicants in the social security and migration jurisdictions....some applicants would benefit from the provision of a greater degree of ongoing task assistance, particularly in relation to obtaining and presenting additional evidence that would support their case.

*Administrative Appeals Tribunal*

Current arrangements with respect to the provision of legal representation are significantly less than adequate. Legal representation in civil proceedings or in less serious criminal matters is simply unavailable.

*Judiciary, Western Australia*

The virtual abolition of the availability of legal aid in civil law matters means that for many, access to justice is simply unaffordable.

*Bar Association of Queensland*

Source: Submissions to the NPA Review 2013

In addition to these general views, submissions also provide some indication about particular areas of law or disadvantaged groups where service gaps might exist within particular states and territories. Areas identified in submissions include:

- ***Northern Territory*** — areas of unmet need include matters before the Mental Health Tribunal, tenancy issues, consumer law, child protection and family law;
- ***Queensland*** — family law matters, in particular child protection, assistance for people before the mental health tribunal and assistance for people in the guardianship jurisdiction;
- ***South Australia*** — civil law, in particular consumer credit law;
- ***Tasmania*** — civil law; and
- ***Western Australia*** — migration law matters, family law matters, consumer law matters, and child protection matters.

Perceptions about appropriate service volumes for civil law matters may be linked to the prevalence of different types of legal issues. Civil law matters, including consumer, housing and government, are among the most commonly experienced legal problems. Across Australia, 21 per cent of respondents to the LAW Survey experienced consumer legal problems, 12 per cent a housing issue and 11 per cent government legal problems (Coumarelos et al 2012).

Data on services provided (as set out in Appendix A to Appendix D) show that service volumes by area of law have little relationship to frequency of legal problems. In particular, only 10 per cent of total ATSILS services and around 4 per cent of total legal aid commission grants of aid are for civil law matters.

***Contributing to the earlier resolution of legal problems***

Case studies examining particular models in place at legal assistance services and how these impact on client outcomes are illustrative of the potential contribution of legal assistance services towards the earlier resolution of legal problems. For example, a program in place at Legal Aid Western Australia collaborates with child protection, health and court services to intervene pre-birth where child safety concerns are present (see Box 5.2 below).

Box 5.2

**CASE STUDY: EARLIER RESOLUTION OF LEGAL PROBLEMS THROUGH THE SIGNS OF SAFETY PROGRAM**

The Legal Aid Western Australia Signs of Safety program was developed in partnership with the Department for Child Protection and Family Support (DCPFC), King Edward Memorial Hospital (KEMH) and the Perth Children's Court. It is comprised of lawyer assisted Signs of Safety Meetings involving pregnant mothers and their families at KEMH in circumstances where there is a concern that the baby might be at risk in the care of the parents following the birth and Signs of Safety Pre-Hearing Conferences in relation to child protection proceedings referred from the Perth Children's Court.

For example, a Legal Aid Western Australia duty lawyer appeared for a mother at a Signs of Safety pre-birth lawyer assisted meeting at KEMH. The mother was afraid that DCPFS would take her baby, particularly as they had been involved with her older 2 children. DCPFS had concerns about the mother's use of intravenous methamphetamines and failure to engage, as well as concerns about the mother continuing to see the father, who had failed to comply with previous safety plans and had a violence restraining order in place against him. DCPFS considered that the mother's parents (who currently care for the mother's older children) were suitable carers. At the conclusion of the meeting, it was agreed that although DCPFS would still be seeking a Protection Order (time limited) for 2 years, the mother could go home to her parents with the baby with a strict safety plan in place. The safety plan included the requirement that the mother was not to leave the home with the baby unless accompanied by one of her parents. There were also provisions that set out what was to happen should she relapse into drug use.

The mother and the baby are living with the mother's parents and the other children and protection order proceedings are progressing as planned.

Source: provided by Legal Aid Western Australia

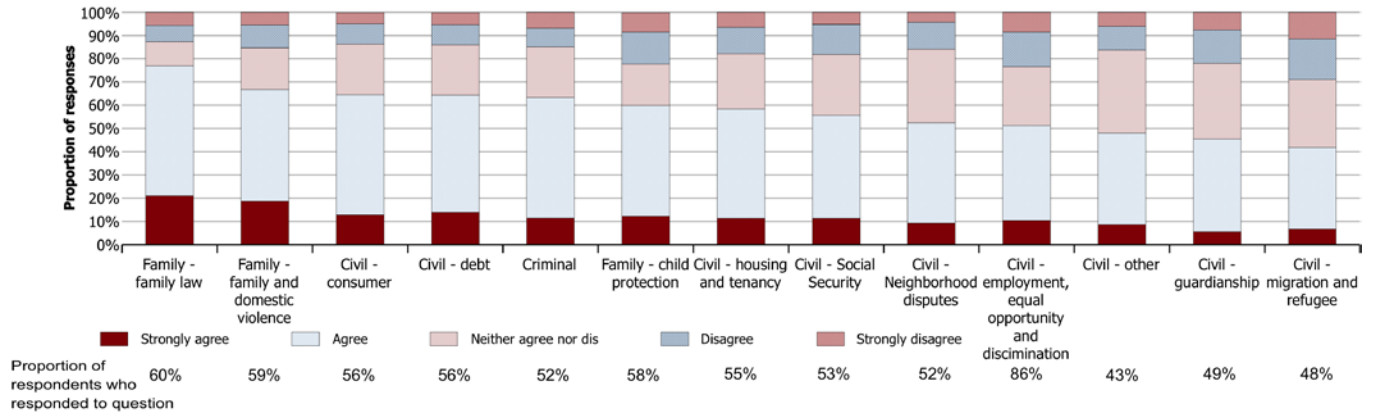
While case studies such as this provide an encouraging indication about the potential for legal assistance services to impact in this area, precise assessment of whether legal problems are being resolved earlier is very difficult. As such, the Review relies primarily on perceptions of legal assistance employees and other justice system participants.

The majority of respondents to the Employee Survey reported that legal assistance services were contributing to the earlier resolution of legal problems. Weight of opinion regarding contribution to earlier resolution was strongest for family law matters, followed by family and domestic violence and consumer law matters. Migration and refugee and guardianship law matters were the areas where the least number of respondents reported that services were contributing to the earlier resolution of legal problems (see Figure 5.3).

Figure 5.3

**EMPLOYEE SURVEY AGREEMENT WITH THE STATEMENT:**

**IN YOUR LOCAL AREA, LEGAL ASSISTANCE PROVIDERS ARE CONTRIBUTING TO THE EARLIER RESOLUTION OF LEGAL PROBLEMS IN THE FOLLOWING AREAS OF LAW**



**Notes:**

Responses for each area of law total 100 per cent as analysis excludes responses of "don't know" and participants who did not respond to this question.

Proportions of survey participants who gave a response are reported below the columns. The total number of respondents was 619 employees.

Source: The Allen Consulting Group analysis based on Review Employee Survey 2013

A relationship may be drawn between these perceptions about earlier resolution of legal problems and the areas of law where service delivery is focused. In particular, in 2011-12 around 91 per cent of Commonwealth grants of aid by legal aid commissions were directed to family law issues — an area with a significantly higher net agreement score than any other area of law. Family and domestic violence problems have arguably received increased attention and resourcing in recent years, suggesting influencing early resolution of law matters may have some relation to the emphasis and resourcing given to them. Perceptions about the contribution made by legal assistance services towards earlier resolution may also be linked to characteristics of the law matter. For example, consumer law matters may be perceived as a type of matter where receiving advice early could effectively contribute to earlier resolution, whereas the processes required to address migration and refugee law matters may provide fewer opportunities for early resolution.

The views of police, courts and judiciary support a finding that legal assistance services are helping resolve issues earlier (see Box 5.3). Views of non-legal service providers concerning the impact of legal assistance services on earlier resolution of legal problems are mixed, showing the highest proportion of respondents that agree or strongly agree refer to services delivered by community legal centres, at around 70 per cent (of those providing a response). For ATSILS, FVPLS and legal aid commissions the corresponding proportions were all between 50 per cent and 60 per cent.

Box 5.3

**FEEDBACK FROM EXTERNAL JUSTICE SYSTEM PARTICIPANTS – CONTRIBUTION TO EARLIER RESOLUTION OF LEGAL PROBLEMS**

Legal assistance services are heavily involved in resolving disputes before they come to court. If we didn't have this there would be a lot more people coming to court to manage.

*Judiciary, Victoria*

Initial advice can lead to a decision to withdraw or agreed outcome being reached at an early stage. Matters are more likely to be resolved without a hearing where the party is represented by a legal service provider.

*Administrative Appeals Tribunal*

The provision of timely legal advice greatly assists early resolution of criminal matters where appropriate.

*Court Registrar, Queensland*

Once a person is represented a great deal of time is saved compared with dealing with unrepresented persons.

*Judiciary, South Australia*

Source: Submissions to the NPA Review 2013

Examples cited in submissions where legal assistance services are having a particular impact on earlier resolution of legal services include targeted, innovative programs undertaken by community legal centres such as 'legal health checks' and services to assist self represented litigants. Family law is another area where positive impacts are recognised, particularly where there is positive engagement between legal assistance services and Family Support Program family law services.

While these examples show positive progress, a number of submissions from Law Societies and Bar Associations across Australia draw links between the types of services provided and earlier resolution of legal problems, suggesting that achieving the NPA outcome of earlier resolution of legal problems cannot be considered in isolation of the type and volume of services provided. In particular, a number of submissions highlighted that unrepresented litigants consume greater court time than if they were represented and can add a significant strain to the justice system:

Where matters are in the early stages of court proceedings legal assistance in the form of representation can lead to the earlier resolution of legal problems and save significant court and social costs. At present involvement of legal assistance providers in this area is minimal due to resources having to be prioritised towards one-off advice and community education.

Law Society of Western Australia, Submission to the Review

### Key points

- *Legal assistance services have made an overall contribution to the earlier resolution of legal problems. However, the factors at play are complex and relate to the mix of service volumes by both service category and area of law.*
- *There were strong opinions that, across the board, current levels of legal assistance have been insufficient to support achievement of the NPA outcomes. Evidence suggests that the current mix has been particularly lacking in the areas of non-legal services, legal representation and discrete task assistance, and that for some clients more intensive assistance was needed to resolve legal problems at the earliest possible point.*
- *In the views of legal assistance service employees, non-legal service providers and other justice system participants who responded to surveys or provided submissions, civil law consistently emerged as an area where it was considered more services were needed to support achievement of the NPA outcomes and objectives. This finding was corroborated by evidence showing that current service provision for civil law was low, despite the relatively high frequency of these issues across the community. Areas of particular service gaps included employment, equal opportunity and discrimination law, migration and refugee law and guardianship law.*
- *Strength of views about the need for increased volumes of non-legal services showed recognition by the sector of the importance of addressing non-legal issues when resolving legal problems.*

## 5.2 Are legal assistance services providing services to disadvantaged Australians?

Central to the NPA objective is the provision of legal assistance services to disadvantaged Australians. The LAW Survey (Coumarelos et al 2012) highlights some significant challenges in meeting this objective, in particular:

- certain disadvantaged groups have an enhanced vulnerability to legal problems including people with a disability, Aboriginal and Torres Strait Islander peoples, the unemployed, single parents, people living in disadvantaged housing and people whose main income is a government payment;
- disadvantaged clients often have a web of inter-connected legal and non-legal problems and are more likely to experience both substantial and multiple legal problems; and
- some disadvantaged groups are significantly less likely to take action or engage with legal assistance service providers in response to their legal problems, including people with low levels of education, people from culturally and linguistically diverse backgrounds and unemployed people.

Effective service delivery is related not only to the availability of services but also how services account for the characteristics and needs of target client groups. Service delivery must take this into account through targeted processes that build flexibility, familiarity and trust into service delivery (Forrell and Gray 2009). In the legal assistance service context this can mean that certain clients may require high intensity assistance. For example, see Box 5.4 for a case study exploring the difficulties involved in delivering services to a remotely based victim of domestic violence with complex needs.

Box 5.4

**CASE STUDY: FVPLS SERVICE DELIVERY TO REMOTE CLIENTS WITH COMPLEX NEEDS**

The North Australian Aboriginal Family Violence Legal Service (NAAFVLS) provides legal advice and assistance to Aboriginal and Torres Strait Islander people living in remote communities in the top end of the Northern Territory who have been victims of family violence.

To connect with clients NAAFVLS travels to remote communities on the Northern Territory Magistrates Court Bush Court Circuit roster. Travelling at the same time as the circuit court allows NAAFVLS to make court appearances in person, ensures clients and local service providers have knowledge of when NAAFVLS will next be in community, and enables NAAFVLS to follow and provide information to clients on related proceedings. During community visits NAAFVLS also attends service provider meetings, community groups and provides community legal education.

MBN is an Aboriginal woman living in a community in East Arnhem land who had been subjected to violence from her husband for more than 12 years. During the relationship she had four children. She left the community where she lived with her husband during her pregnancy with her fifth child. She went to the clinic to ask for help and was evacuated to regional crisis accommodation. MBN remained in contact with her husband and his family. As a result of this and other factors, MBN's children, including her fifth child after birth, were removed from her.

NAAFVLS has assisted MBN with legal representation in care matters relating to her children, linked her with local service providers to assist with counselling and helped her with applications for housing and in applying for a domestic violence order against her husband. MBN does not speak English and has hearing loss, as well as a suspected acquired brain injury attributed to assaults against her by her partner. MBN lives transiently across two remote communities. Communicating and taking instructions from MBN is achieved with the support of NAAFVLS Community Legal Worker, a local Aboriginal person who is identified as a community leader, and who is employed to assist NAAFVLS staff meet and communicate with non English speaking Aboriginal clients living in remote areas.

Source: provided by the North Australian Aboriginal Family Violence Legal Service

***The right mix of services to meet the needs of specific client groups***

Survey respondents, including legal assistance services employees, non-legal service providers and other justice system participants, all suggest that insufficient quantities of legal assistance services were available to meet the needs of disadvantaged groups. While this view was consistent across disadvantaged groups generally, differences in the strength of opinion do provide some indication of potential service gaps. Analysis of Employee Survey responses for specified disadvantaged groups across civil, family and criminal law (see Figure 5.4) indicated where gaps might exist.

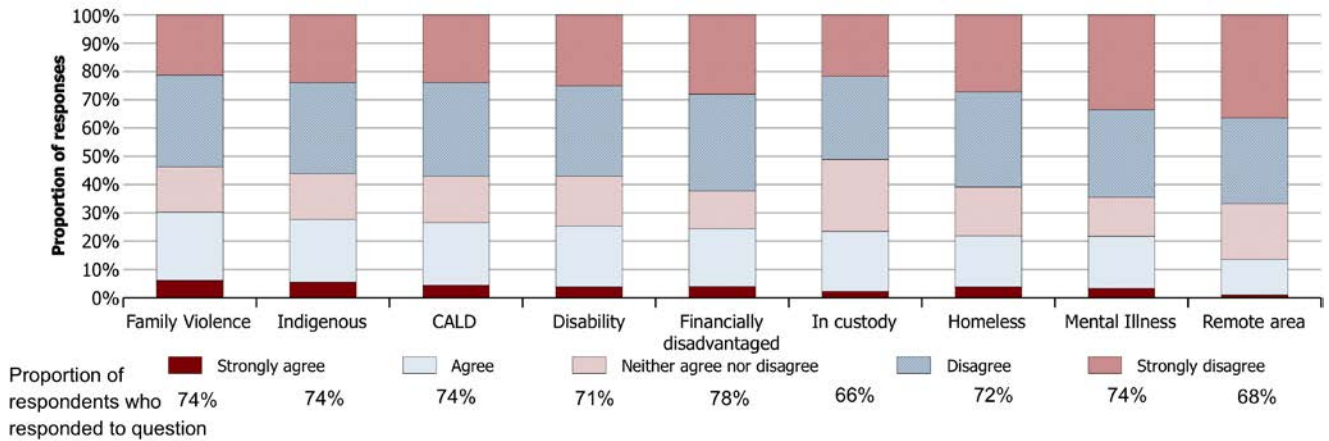


Figure 5.4

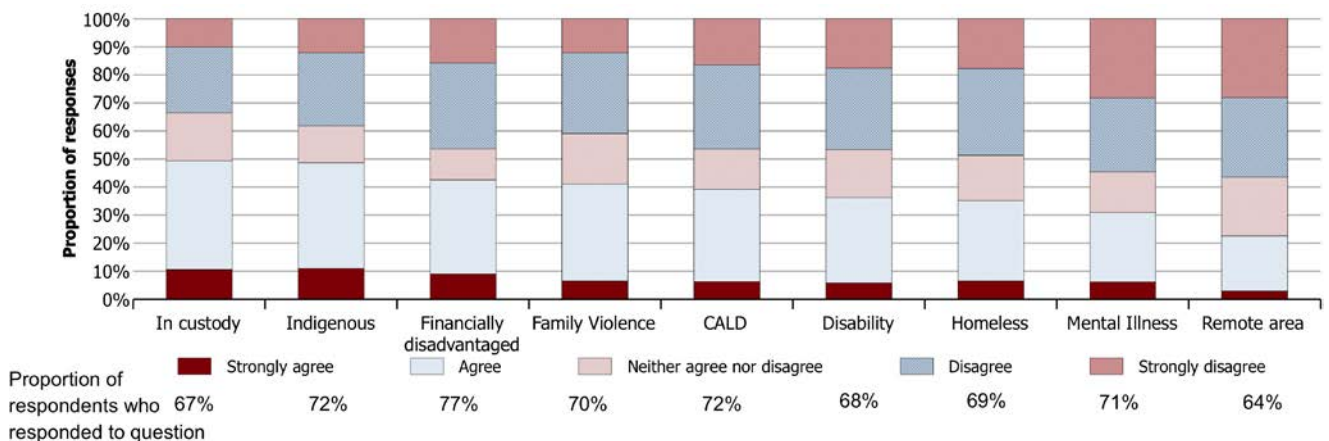
**EMPLOYEE SURVEY AGREEMENT WITH STATEMENT:**

***IN YOUR LOCAL AREA THE APPROPRIATE AMOUNT OF LEGAL ASSISTANCE IS AVAILABLE IN THE FOLLOWING AREAS OF LAW TO MEET THE NEEDS OF [CLIENT GROUPS]***

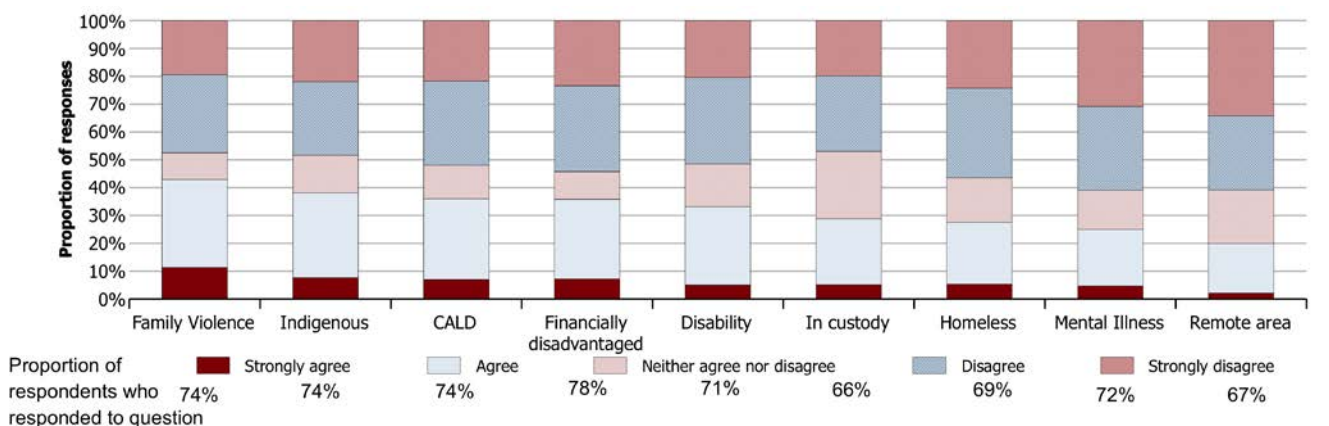
**CIVIL LAW**



**CRIMINAL LAW**



**FAMILY LAW**



**Notes:**

Responses for each type of disadvantage total 100 per cent as analysis excludes responses of "don't know" and participants who did not respond to this question.

Proportions of survey participants who gave a response are reported below the columns. The total number of respondents was 619 employees.

Source: The Allen Consulting Group analysis based on Review Employee Survey data 2013

### *Civil law*

Over 50 per cent of respondents to the Employee Survey disagreed or strongly disagreed that service volumes were appropriate to meet the needs of each specified disadvantaged group. The proportion of respondents who disagreed or strongly disagreed for each disadvantaged group was generally higher for civil law than for criminal law and family law, supporting opinions presented in Figure 5.2 in relation to the appropriateness of service volumes by area of law.

The groups where the largest proportion of Employee Survey respondents felt that service volumes were not appropriate were individuals living in a remote area, individuals with a mental illness and homeless persons. People experiencing or at risk of family violence and people in custody were groups where the largest proportion of respondents agreed or strongly agreed that service volumes were appropriate.

### *Criminal law*

For criminal law matters, a larger proportion of Employee Survey respondents tended to agree or strongly agree that service volumes were appropriate to meeting the needs of specified disadvantaged groups when compared to civil law matters and family law matters (see Figure 5.4). While rates of agreement about the appropriateness of service volumes were relatively high for specified groups with criminal law matters, there were still very strong perceptions that service volumes were not appropriate. In particular, more than half of Employee Survey respondents disagreed or strongly disagreed that service volumes were appropriate to meeting the needs of people with a mental illness and people living in a remote area, followed closely by people with a mental illness, homeless persons and people with a disability.

### *Family law*

Employee Survey opinions about the appropriateness of service volumes for family law again provide strong perceptions that not enough services are available to meet the needs of disadvantaged groups. People living in a remote area, people with a mental illness and homeless people are again the three groups where the highest proportion of Employee Survey respondents disagreed or strongly disagreed that service volumes were appropriate. Around 60 per cent of respondents disagreed or strongly disagreed that service volumes were appropriate to meet the needs of people in a remote area and people with a mental illness, followed closely by homeless persons. People experiencing family violence and Aboriginal and Torres Strait Islander persons were the groups where the smallest proportion of Employee Survey respondents disagreed or strongly disagreed that service volumes were appropriate.

People with a mental illness and homeless people also emerge as the groups where the smallest proportion of non-legal service providers surveyed view service volumes as appropriate across criminal, civil and family law (see detailed results in Appendix I).

Submissions from other justice system participants provide consistent themes to those drawn from analysis of the Employee Survey, expressing concern that ‘many individuals who are unable to represent themselves adequately are unable to obtain legal representation from a legal assistance service provider’. A number of submissions also singled out people with a mental illness and disabled persons as groups for whom not enough services are available. It is notable that in their submissions both the Administrative Appeals Tribunal and the Social Security Appeals Tribunal raised issues surrounding low representation of Aboriginal and Torres Strait Islander applicants and possible linkages with availability of legal assistance services (see Box 5.5).

Box 5.5

**FEEDBACK FROM EXTERNAL JUSTICE SYSTEM PARTICIPANTS – APPROPRIATE AMOUNT OF ASSISTANCE TO MEET THE NEEDS OF DISADVANTAGED GROUPS**

The Administrative Appeals Tribunal is concerned that there are fewer Aboriginal and Torres Strait Islander applicants than might reasonably be expected...greater assistance is required from legal assistance services in educating Aboriginal and Torres Strait Islander persons about their review rights and providing them with support.

*Administrative Appeals Tribunal*

The Social Security Appeals Tribunal receives very few applications for review from persons who identify as Aboriginal and Torres Strait Islander and queries whether the reason is a lack of legal assistance.

*Social Security Appeals Tribunal*

There are not enough services for people with a mental illness. Sometimes this is undiagnosed and is becoming an increasing management issue for the court. These people often have no other family support and are very isolated.

*Federal Magistrates Court*

Source: Submissions to the NPA Review 2013

***Directing service delivery to disadvantaged groups***

As noted earlier, effective service delivery to disadvantaged groups must be specifically targeted to disadvantaged groups. Drawing on results from the Service Provider Survey and Data Request, across the legal assistance services sector nationally, the client groups most frequently identified as being targeted by service providers were financially disadvantaged people, people experiencing or at risk of family violence and Aboriginal and Torres Strait Islander peoples, while homeless people and people in custody were the least frequently targeted.

It is expected that programs providing services to a specific target group would have highly developed, mature processes that ensure services are provided to that target group, and processes associated with the provision of services to clients outside the target group would be less developed. As such, processes put in place by service providers delivering services under each of the four programs are considered here in turn.

### *ATSILS*

Table 5.3 below sets out the level of process implementation, as well as process maturity in relation to each specified disadvantaged group for ATSILS responding to the Service Provider Survey and Data Request.

The disadvantaged groups displaying the highest levels of process implementation, as well as process maturity appropriately reflect the program focus and service delivery characteristics (as highlighted in the below table), including services targeted towards Aboriginal and Torres Strait Islander peoples, high levels of remote service delivery and a high proportion of services for criminal law matters.

Unsurprisingly, all ATSILS have processes in place to target services towards Aboriginal and Torres Strait Islander peoples, as well as financially disadvantaged people and people in custody, and these are among groups where the level of process maturity are highest. In contrast, processes targeting people from culturally and linguistically diverse backgrounds were reported to be less mature but reflecting an appropriate level of effort given the program focus.

Despite the overall positive results, closer examination of process maturity levels does suggest that there is some scope to further mature processes, including for target groups. As shown in Table 5.3, for each target group the level of process maturity is spread from low to high, and for each group some services self assess their process maturity at level two, which suggests processes are inconsistently or partially deployed. In addition, implementation of processes to target services to homeless people, people with a disability and people with a mental illness is patchy. While these are not specific target groups, the co-occurrence of these issues for some individuals within ATSILS target groups is likely.

Table 5.3

**LEGAL ASSISTANCE SERVICES: PROCESSES TO ENSURE SERVICES ARE DIRECTED TO DISADVANTAGED GROUPS, ATSILS (N=6)**

Disadvantaged group	With processes	Average maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
<b>Aboriginal and Torres Strait Islander peoples</b>	<b>100%</b>	<b>3.8</b>	<b>0%</b>	<b>17%</b>	<b>17%</b>	<b>33%</b>	<b>33%</b>
<b>Financially disadvantaged people</b>	<b>100%</b>	<b>3.2</b>	<b>17%</b>	<b>17%</b>	<b>17%</b>	<b>33%</b>	<b>17%</b>
Homeless people	67%	2.8	25%	25%	25%	0%	25%
People experiencing or at risk of family violence	83%	3.0	20%	20%	20%	20%	20%
People from culturally and linguistically diverse backgrounds	50%	3.3	0%	33%	33%	0%	33%
<b>People living in remote areas</b>	<b>83%</b>	<b>3.4</b>	<b>0%</b>	<b>20%</b>	<b>40%</b>	<b>20%</b>	<b>20%</b>
People with a disability	67%	2.8	25%	25%	25%	0%	25%
People with a mental illness	50%	2.6	33%	33%	0%	0%	33%
<b>People in custody</b>	<b>100%</b>	<b>3.5</b>	<b>0%</b>	<b>17%</b>	<b>33%</b>	<b>33%</b>	<b>17%</b>

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

### *Community legal centres*

Table 5.4 below sets out the level of process implementation, as well as process maturity in relation to each specified disadvantaged group for community legal centres responding to the Service Provider Survey and Data Request.

Reflecting variations in target groups and target areas of law across some community legal centres, implementation of processes to target services to specified disadvantaged groups is patchy. Only 25 per cent of community legal centres have processes in place to target people in custody, however, this would be expected given that few organisations would actually deliver services to people in custody. Rates of implementation are highest for financially disadvantaged people (75 per cent of respondents), followed by people experiencing or at risk of family violence (55 per cent of respondents).

Table 5.4

**LEGAL ASSISTANCE SERVICES: PROCESSES TO ENSURE SERVICES ARE DIRECTED TO DISADVANTAGED GROUPS, COMMUNITY LEGAL CENTRES (N=53)**

Disadvantaged group	With processes	Average maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
Aboriginal and Torres Strait Islander peoples	49%	2.9	19%	19%	31%	19%	12%
<b>Financially disadvantaged people</b>	<b>75%</b>	<b>3.3</b>	<b>5%</b>	<b>25%</b>	<b>33%</b>	<b>18%</b>	<b>20%</b>
Homeless people	49%	3.1	4%	15%	54%	23%	4%
People experiencing or at risk of family violence	55%	3.3	14%	10%	31%	24%	21%
People from culturally and linguistically diverse backgrounds	58%	2.9	29%	3%	39%	10%	19%
People living in remote areas	38%	3.1	15%	15%	35%	20%	15%
People with a disability	51%	3.0	15%	7%	56%	7%	15%
People with a mental illness	45%	3.1	17%	8%	46%	8%	21%
People in custody	25%	3.2	8%	23%	31%	15%	23%

## Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

As would be expected for small, community based organisations, the overall level of process maturity is generally lower than for the larger legal aid commissions. Interestingly, for each disadvantaged group, process maturity is spread from the highest level to the lowest level, and average process maturity levels out to between 2.9 and 3.3 for each group. While many of these variations are appropriate to program design and organisational characteristics, the results presented in Table 5.4 do suggest some potential for improved consistency in implementation of processes. Significant amounts of organisations reporting processes at a level of maturity where processes are person dependent, or partially deployed (level 1 or level 2), alongside organisations reporting process as well developed (level 4 or 5) does point to some opportunities within the community legal centre sector to share good practices and improve consistency.

**FVPLS**

Table 5.5 below sets out the level of process implementation, as well as process maturity in relation to each specified disadvantaged group for FVPLS responding to the Service Provider Survey and Data Request.

Consistent with a program focus on Aboriginal and Torres Strait Islander victims of family and domestic violence, rates of implementation for these groups is high, and processes are generally at higher levels of maturity. FVPLS would rarely deliver services to people in custody, or to people from culturally and linguistically diverse backgrounds, suggesting that low rates of implementation for people from these groups is appropriate.

Similar to community legal centres, it is expected that FVPLS, which are small, community based organisations, some of which are relatively new services, or have been recently regionalised, would have lower levels of process maturity than larger organisations such as legal aid commissions. As the organisations mature, areas for improved focus include people with a disability, people with a mental illness and homeless people.

Another area for improvement is processes to target services to clients in remote areas. Despite this being a program focus, only two thirds (or six out of nine) organisations responding to the Service Provider Survey and Data Request had processes in place to target services to people living in remote areas.

Table 5.5

**LEGAL ASSISTANCE SERVICES: PROCESSES TO ENSURE SERVICES ARE DIRECTED TO DISADVANTAGED GROUPS, FVPLS (N=9)**

Disadvantaged group	With processes	Average maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
<b>Aboriginal and Torres Strait Islander peoples</b>	<b>100%</b>	<b>3.9</b>	<b>0%</b>	<b>11%</b>	<b>33%</b>	<b>11%</b>	<b>44%</b>
Financially disadvantaged people	67%	1.8	50%	17%	33%	0%	0%
Homeless people	44%	2.0	50%	0%	50%	0%	0%
<b>People experiencing or at risk of family violence</b>	<b>89%</b>	<b>4.3</b>	<b>0%</b>	<b>0%</b>	<b>38%</b>	<b>0%</b>	<b>63%</b>
People from culturally and linguistically diverse backgrounds	44%	3.0	25%	0%	50%	0%	25%
<b>People living in remote areas</b>	<b>67%</b>	<b>3.5</b>	<b>0%</b>	<b>17%</b>	<b>50%</b>	<b>0%</b>	<b>33%</b>
People with a disability	22%	2.0	50%	0%	50%	0%	0%
People with a mental illness	33%	1.7	67%	0%	33%	0%	0%
People in custody	11%	1.0	100%	0%	0%	0%	0%

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

### *Legal aid commissions*

Table 5.6 below sets out the level of process implementation, as well as process maturity in relation to each specified disadvantaged group for legal aid commissions responding to the Service Provider Survey and Data Request.

As would be expected for the larger, more established legal aid commissions, process implementation, as well as overall levels of maturity are the highest among the four legal assistance services program types. All legal aid commissions have processes in place to target services to financially disadvantaged people, people experiencing or at risk of family violence, people with a mental illness and people in custody, and seven out of the eight legal aid commissions have processes in place to target other specified groups.

While legal aid commissions are already targeting disadvantaged groups more consistently, and at a higher level of process maturity than other legal assistance services, the organisational characteristics of legal aid commissions suggests that high levels of process maturity should be expected, and further improvements may be warranted, in particular where processes are not in place, or are at a level where they are not consistently implemented.

Table 5.6

#### **LEGAL ASSISTANCE SERVICES: PROCESSES TO ENSURE SERVICES ARE DIRECTED TO DISADVANTAGED GROUPS, LEGAL AID COMMISSIONS (N=8)**

Disadvantaged group	With processes	Average maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
Aboriginal and Torres Strait Islander peoples	88%	3.6	14%	14%	14%	14%	43%
<b>Financially disadvantaged people</b>	<b>100%</b>	<b>4.3</b>	<b>0%</b>	<b>0%</b>	<b>38%</b>	<b>0%</b>	<b>63%</b>
Homeless people	88%	3.1	0%	29%	43%	14%	14%
People experiencing or at risk of family violence	100%	3.8	0%	13%	38%	13%	38%
People from culturally and linguistically diverse backgrounds	88%	3.4	14%	14%	29%	0%	43%
People living in remote areas	88%	3.9	0%	14%	29%	14%	43%
People with a disability	88%	3.7	0%	14%	29%	29%	29%
People with a mental illness	100%	3.6	0%	13%	38%	25%	25%
People in custody	100%	3.9	0%	0%	38%	38%	25%

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions. .

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013



### ***The evidence base for service delivery to disadvantaged groups***

As highlighted by Shearer (2010), data about who uses legal assistance services is necessary to demonstrate appropriate targeting of legal assistance services and to demonstrate how legal assistance services contribute to other government objectives that are targeted at particular demographic groups. Providing services to disadvantaged individuals with complex needs is more time consuming and more expensive than providing services to individuals at large (Shearer 2010). Linking data on costs and expenditure to target client groups provides an important dimension for measures of appropriateness and cost-effectiveness.

However, analysis undertaken as part of the Review has highlighted inconsistencies and data gaps that exist across programs and the challenges this presents in analysis, including differences in the way that disadvantage is measured and recorded across programs. While characteristics of clients undertaking the Client Survey are not intended to provide a comprehensive assessment of who is accessing services, it does provide snapshot evidence about the profiles of clients. Comparison of the profile of clients accessing services collected as part of the Client Survey, which show a very high prevalence of indicators of disadvantage (see Appendix H) with legal assistance service administrative data sets (see Appendix A to Appendix D) also suggests that current data sets do not reflect the full extent to which legal assistance services are providing services to disadvantaged groups.

#### **Key points**

- *The legal assistance services sector has processes in place to target disadvantaged groups and there are strong indications that the bulk of services are delivered to individuals who are experiencing one or more forms of disadvantage. However, the types of disadvantage experienced by services users are not clearly reflected in current administrative data sets.*
- *Many marginalised individuals are still unable to obtain legal representation to meet their needs. Evidence indicates particular service gaps for people with a mental illness, people with a disability and people experiencing homelessness, pointing towards opportunities to better support services to deal with the needs of these groups.*

### **5.3 Are legal assistance services providing services effectively (including of appropriate quality)?**

Curran (2012b) stresses the importance of using a 360-degree perspective in quality measurement, drawing on input from clients, employees and other stakeholders. As such, the Review has taken a rounded approach to measurement of quality, incorporating client feedback, employee feedback, process indicators and stakeholder views into quality assessment.

#### ***Client views***

Client experiences of legal assistance services have been captured through a survey of individuals using legal assistance services, focussing on whether services are respectful, relevant, accessible, helpful and timely.

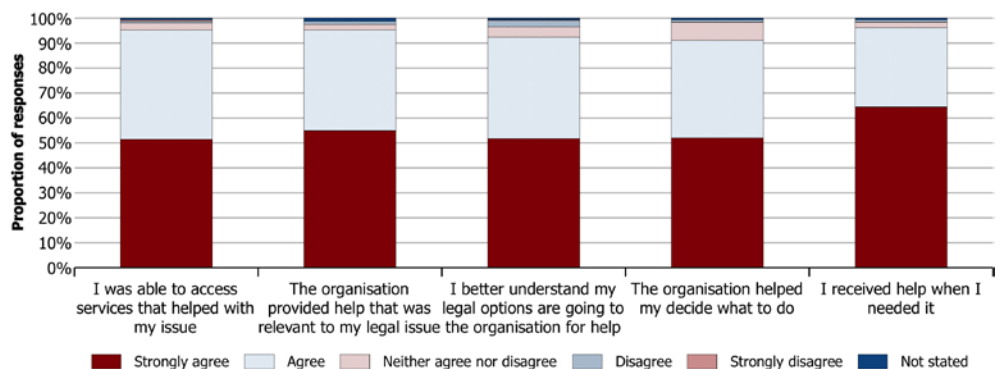
The Client Survey methodology, described in more detail in Appendix H, was carefully designed to ensure that views of the disparate client groups were captured. This included conducting face to face interviews in offices, courts, and outreach locations, as well as a small amount of telephone interviews. This is reflected in statistics about Client Survey participants, which show significant capture of clients with indicators of disadvantage, including a majority of clients with multiple indicators of disadvantage. Characteristics and their presentation across the complete sample of 315 clients include:

- Aboriginal and Torres Strait Islander people — 35 per cent;
- people born in a country other than Australia — 22 per cent
- people living in remote locations — 24 per cent;
- sole parents — 23 per cent;
- people with a physical or intellectual disability — 22 per cent; and
- people with a mental health condition — 21 per cent.

Overall, consistently positive results across the Client Survey provide very strong evidence about the quality of legal assistance services. For questions focusing on views about the system or organisation at large there was agreement by the vast majority of clients across all questions. Only 5.5 per cent of clients disagreed with any of the statements relating to relevance and timeliness of the legal assistance they accessed (see Figure 5.5).

Figure 5.5

**CLIENT SURVEY OPINIONS ABOUT THEIR VISIT – VIEWS ABOUT SYSTEM/ORGANISATION**



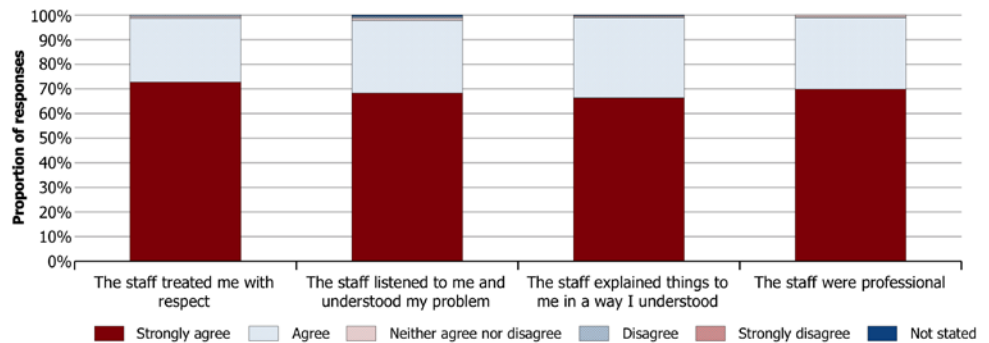
Note: Results are aggregated across all program types, n=315.

Source: The Allen Consulting Group analysis of data from the Review Client Survey 2013

The strength of clients’ views was more pronounced for aspects examining performance of legal assistance services staff. Over 60 per cent of respondents indicated strong agreement across all questions with the remainder agreeing and a very small proportion undecided (see Figure 5.6).

Figure 5.6

**CLIENT SURVEY OPINIONS ABOUT THEIR VISIT — VIEWS ABOUT STAFF**



Note: Results are aggregated across all program types, n=315.

Source: The Allen Consulting Group analysis of data from the Review Client Survey 2013

The Client Survey sample was designed to ensure a reliable capture of views of clients across different geographic locations — including metropolitan, regional and remote. An unexpected finding of the Client Survey was the high degree of consistency and reliability of client responses across different geographic locations, different types of clientele and different program types. Relative Standard Error calculations support the reliability of the positive results across these geographic locations. Further details are provided in Appendix H.

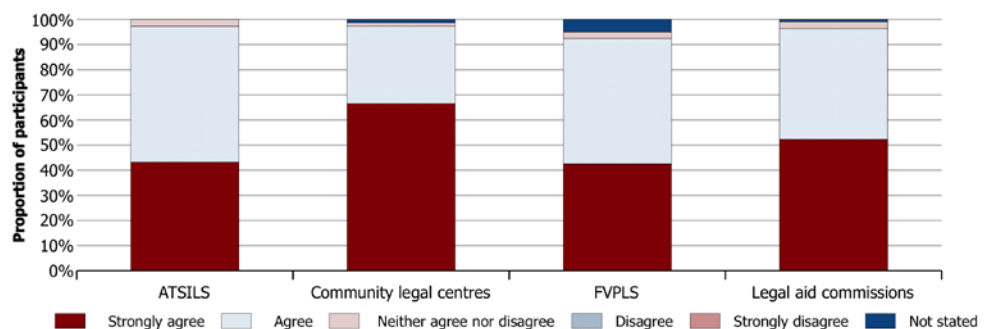
**Service provider views**

Ninety-six per cent of respondents to the Employee Survey either agreed or strongly agreed that clients are generally able to better understand their legal options after receiving services. Strength of opinion was highest amongst lawyers, 66 per cent of whom strongly agreed with the statement, compared to administrative officers and client support officers, where 42 per cent and 43 per cent respectively strongly agreed with the statement. Employee opinion was overall strongest at community legal centres, followed by legal aid commissions, ATSILS and FVPLS (see Figure 5.7).

Figure 5.7

**EMPLOYEE SURVEY AGREEMENT WITH STATEMENT:**

**IN GENERAL, AFTER RECEIVING SERVICES, CLIENTS OF OUR SERVICE ARE BETTER ABLE TO UNDERSTAND THEIR LEGAL OPTIONS — BY ORGANISATION**



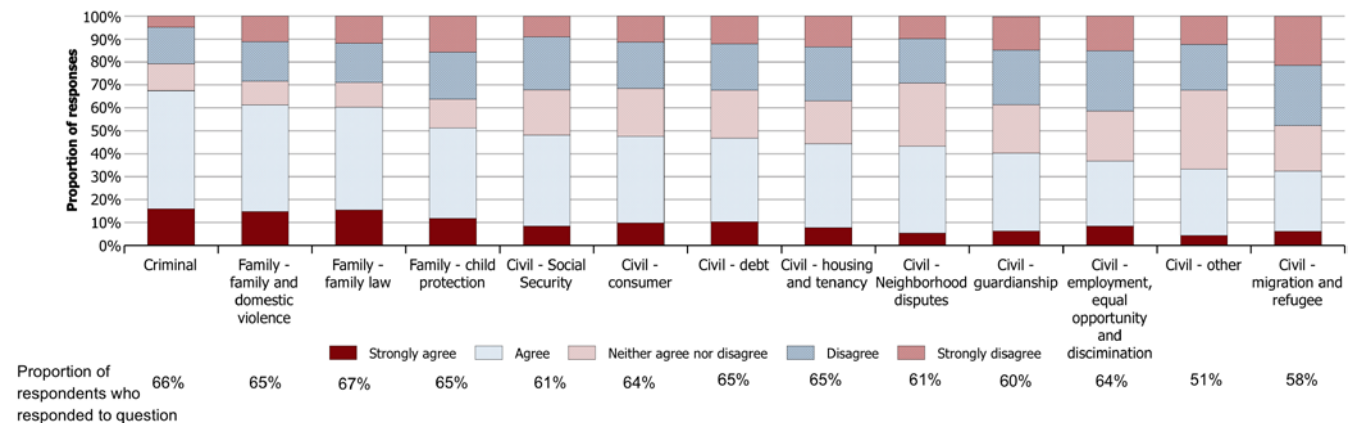
Source: The Allen Consulting Group analysis based on Review Employee Survey 2013

Overall, responses to the Employee Survey indicate that a higher percentage of survey respondents strongly agree or agree that service quality is appropriate for criminal issues, followed by family and domestic violence and general family law issues (see Figure 5.8). Forty-eight per cent of employees surveyed disagreed, or strongly disagreed that service quality is appropriate for migration and refugee law, while 42 per cent feel similarly about employment, equal opportunity and discrimination matters. Relatively low response rates for these areas of law may reflect that ATSILS and FVPLS are not funded for these areas of law, hence employees may tend to have lower levels of knowledge of service quality for these law types.

Figure 5.8

**EMPLOYEE SURVEY AGREEMENT WITH STATEMENT:**

**IN YOUR LOCAL AREA, LEGAL ASSISTANCE SERVICES OF AN APPROPRIATE QUALITY ARE BEING PROVIDED IN THE FOLLOWING AREAS OF LAW**



Notes:

Responses for each area of law total 100 per cent as analysis excludes responses of "don't know" and participants who did not respond to this question.

Proportions of survey participants who gave a response are reported below the columns. The total number of respondents was 619 employees.

Source: The Allen Consulting Group analysis based on Review Employee Survey 2013

Responses to the Employee Survey in relation to perceptions of appropriateness of service quality by law type show some relationship with perceptions about appropriateness of service volumes — the areas where perceptions showed the strongest and weakest agreement generally align with the areas where opinions were strongest about there being ‘not enough’ services. This suggests that opinions about quality may have some linkages to service availability and caseload pressures.

### **Views of judiciary, courts, police and the private legal profession**

Submissions from the judiciary, courts and police suggested that services were generally considered to be of an appropriate quality where available (see Box 5.6).

However, views about the quality of service are frequently qualified by concerns that are linked to the amount of available resources and services, and how stretched resources can impact on quality. In their submission to the Review, the Law Council of Australia identifies the maintenance of high quality service provision within a context of high service demand and limited resources as the biggest challenge facing legal assistance services. Particular quality concerns highlighted in submissions relate to:

- *Caseloads* — concerns about quality standards being challenged when the caseload becomes very large, as is often the case with legal aid lawyers.
- *Junior practitioners* — concerns about a trend towards ‘juniorisation’, and demands placed on junior lawyers to work in stressful circumstances with disadvantaged clients, as well as the consequences of instructing inexperienced lawyers in matters beyond their professional competence.
- *Tight advice timeframes* — concerns about the ability to provide comprehensive advice for complex cases during short, time limited advice sessions.
- *Services in remote areas* — concerns about the quality consequences of limited service availability in remote areas, for example where services may only be provided during traveling circuit courts.

Box 5.6

#### **FEEDBACK FROM EXTERNAL JUSTICE SYSTEM PARTICIPANTS – QUALITY OF SERVICES**

Given the financial constraints placed upon legal service providers it is generally agreed that the quality of service is adequate.

*Judiciary, South Australia*

Generally well prepared and provide great support.

*Federal Magistrates Court*

Quality standards are always under challenge when the caseload becomes very large.

*Judiciary, Tasmania*

Legal assistance services are very good, however, access to justice is diminished in locations further away from major population centres.

*Registrar, Queensland*

Source: Submissions to the NPA Review 2013

### **Culturally competent services**

Operationally defined, cultural competence is the integration and transformation of knowledge about individuals and groups of people into specific standards, policies, practices, and attitudes used in appropriate cultural settings to increase the quality of services, thereby producing better outcomes (Davis & Donald 1997).

The need for cultural competence in delivering legal assistance services is highlighted by findings across the relevant literature that a lack of cultural competence can act as a barrier to effectively reaching disadvantaged groups (Curran 2012a). This can relate to issues including culturally inappropriate structure, as well as staff that do not understand individual values or needs (Memmot et al 2006). The Review examined two indicators of cultural competence — staff members with specific responsibility to assist culturally competent service delivery and the presence of practices to support delivery of services in a culturally competent manner.

*Employees with specific responsibility to assist to deliver services in a culturally competent manner*

Table 5.7 below sets out the number of employees with specific responsibility to deliver culturally competent services by program type, based on responses to the Service Provider Survey and Data Request. The most common response from service provider respondents was that no staff were employed with a specific role to assist in the delivery of culturally competent services. The large majority of these responses were from community legal centres, however results for community legal centres, as well as FVPLS, should be interpreted with caution due to relatively low overall response rates for these organisations (53 out of a total of 138 community legal centres and 9 out of a total of 14 FVPLS).

Consistent with service focus and service delivery model, all ATSILS and FVPLS responding to the Service Provider Survey and Data Request indicated that they employed staff members with specific responsibility for delivering culturally competent services. Variation in the number of such employees across FVPLS was expected due to organisation size and whether the service operated under a regionalised or auspice model. Similarly, variation in the number of employees with specific responsibility for delivering culturally competent services by community legal centres was expected given the variable focus and size of these organisations.

The degree of variability across legal aid commissions was more unexpected. Three out of the eight legal aid commissions reported that no staff members were employed with specific responsibility for assisting in the delivery of culturally competent services. The basis for this variation is unclear. For example, South Australia reported that it employed 3.5 staff members with specific responsibility to assist in delivery of culturally competent services, while Western Australia reported no staff were engaged for this purpose. The explanatory note accompanying this question in the Service Provider Survey and Data Request distinguished between the expectation that all staff have responsibility for culturally competent service delivery and the employment of staff specifically to assist in achieving this outcome, such as field officers, interpreters and cultural training officers, reducing the likelihood that variations in responses were due to different interpretations of the question.

Table 5.7

**LEGAL ASSISTANCE SERVICES: NUMBER OF STAFF EMPLOYED TO ASSIST IN DELIVERING SERVICES IN A CULTURALLY COMPETANT MANNER**

Employee numbers	Count of Service Provider Survey and Data Request respondents			
	ATSILS (n=6)	Community legal centres (n=53)	FVPLS (n=9)	Legal aid commissions (n=8)
Not stated	0	8	0	0
0 employees	0	28	0	3
1 or fewer employees	0	4	1	3
More than 1 but less than 5	0	9	3	1
More than 5 but less than 10	1	4	3	0
More than 10	5	0	2	1

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

*Practices to support delivery of services in a culturally competent manner*

Examination of the presence of practices to support delivery of services in a culturally competent manner according to program types showed significant variation across programs and process types (see Table 5.8). This is to be expected where a legal assistance service focuses on delivery of services to people from specific cultural backgrounds. For example, organisations that focus on delivering services to Aboriginal and Torres Strait Islander peoples would be expected to have developed, mature practices to support culturally competent service delivery to people from these backgrounds, with significantly less developed and mature practices for delivery of services to people from other cultural backgrounds.

Across all legal assistance services there were high levels of usage of plain English forms and opportunities for staff members to develop their skills in delivering culturally competent services.

Consistent with program focus, ATSILS and FVPLS that responded to the Service Provider Survey and Data Request reported near uniform adoption of practices to support delivery of culturally competent services focussed on Aboriginal and Torres Strait Islander peoples and a less targeted focus on people from culturally and linguistically diverse backgrounds. Presence of practices to support delivery of culturally competent services was variable across community legal centre respondents. However, it should be noted that this could, to some extent, reflect the diverse nature of community legal centres' target groups and service delivery models. For legal aid commissions, the presence of practices that support delivery of culturally competent services was reported as high across most areas, with the least frequently adopted practices being the provision of cultural competence training for staff on commencing employment (38 per cent of respondents), offering alternative methods of providing services to people from culturally and linguistically diverse backgrounds (50 per cent of respondents), routinely offering translators to people from Aboriginal or Torres Strait Islander backgrounds (50 per cent), and offering assistance to people from Aboriginal or Torres Strait Islander or culturally and linguistically diverse backgrounds to fill out forms (63 per cent).

Table 5.8

**LEGAL ASSISTANCE SERVICES: PRACTICES TO SUPPORT DELIVERY OF CULTURALLY COMPETENT SERVICES**

Practice	Proportion of respondents with practices			
	ATSILS (n=6)	Community legal centres (n=53)	FVPLS (n=9)	Legal aid commissions (n=8)
<i>All forms used by the organisation are written using plain English</i>	100%	92%	89%	100%
<i>Translators and interpreters are routinely offered to people from culturally and linguistically diverse backgrounds who wish to access services</i>	17%	91%	33%	88%
<i>Translators and interpreters are routinely offered to people from Aboriginal or Torres Strait Islander backgrounds who wish to access services</i>	67%	38%	44%	50%
<i>Assistance is always offered when people from culturally and linguistically diverse backgrounds are asked to fill out a form</i>	17%	81%	33%	63%
<i>Staff are provided with ongoing opportunities to develop their skills in delivering culturally competent services</i>	83%	74%	100%	88%
<i>There is a current directory of organisations and services relevant for people from culturally and linguistically diverse backgrounds, and this is used for referrals and to provide information to clients</i>	50%	70%	56%	100%
<i>Assistance is always offered when people from Aboriginal or Torres Strait Islander backgrounds are asked to fill out a form</i>	100%	68%	100%	63%
<i>There is a current directory of Aboriginal and Torres Strait Islander organisations and services, and this is used for referrals and to provide information to clients</i>	100%	60%	89%	100%
<i>Staff have ready access to information on providing services in a culturally competent manner</i>	100%	62%	78%	88%
<i>People from culturally and linguistically diverse backgrounds are employed by the organisation</i>	83%	60%	100%	100%
<i>The organisation has established policies and processes to establish and maintain linkages with organisations and services that specifically target assisting people from culturally and linguistically diverse backgrounds</i>	50%	42%	22%	100%
<i>The organisation has strategies in place to welcome, communicate, engage and support Aboriginal and Torres Strait Islander peoples</i>	100%	38%	89%	75%
<i>The organisation has established policies and processes to establish and maintain linkages with Aboriginal and Torres Strait Islander organisations and services</i>	100%	34%	78%	88%
<i>People from Aboriginal or Torres Strait Islander backgrounds are employed by the organisation</i>	100%	30%	100%	100%
<i>The organisation has alternative methods of providing services to Aboriginal and Torres Strait Islander peoples, including out-posting workers to appropriate locations and outreach services</i>	83%	28%	100%	88%
<i>The organisation has alternative methods of providing services to people from culturally and linguistically diverse backgrounds, including out-posting workers to appropriate locations and outreach services</i>	33%	28%	22%	50%
<i>Staff receive comprehensive cultural competence training on commencing employment</i>	83%	21%	100%	38%

Note: shaded areas indicate processes relevant to program focus areas.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013



### Quality assurance

Recognising that legal assistance services are complex, operate at different levels and interact with many players, a mixed or triangulated approach to quality assurance is important. That is, no one process will be sufficient to ensure all aspects of a legal assistance service are captured. As such, the Review has examined a range of quality assurance processes, drawing on sector feedback and good practices in quality assurance, as well as the process maturity of these arrangements (see Table 5.9 below).

Every organisation participating in the Service Provider Survey and Data Request across all four programs reported having processes to ensure casework is kept within a reasonable limit, workloads are manageable and adequate supervision can be provided, as well as processes to ensure appropriate records of advice, communications and other documents. The lowest implementation rates were for email policies, particularly for ATSILS. This may be of concern in the future as an increasing amount of communication and work is conducted electronically and therefore requires recording.

Table 5.9

#### LEGAL ASSISTANCE SERVICES: QUALITY ASSURANCE PROCESSES

Quality assurance processes	Proportion of respondents with processes			
	ATSILS (n=6)	Community legal centres (n=53)	FVPLS (n=9)	Legal aid commissions (n=8)
<i>Processes to ensure casework is kept within a reasonable limit, workloads are at a manageable level and adequate supervision can be provided.</i>	100%	100%	100%	100%
<i>Processes to ensure appropriate records of advice, communications and other documents are kept.</i>	100%	100%	100%	100%
<i>Processes to ensure adequate and appropriate supervision for all workers and volunteers (if you have them) at the service.</i>	100%	98%	100%	100%
<i>A comprehensive and accessible file review system.</i>	100%	98%	78%	100%
<i>Processes to check all advice and casework provided by volunteer lawyers/non-lawyers volunteers (if you have them) and a sample of work undertaken by employed lawyers.</i>	83%	94%	78%	100%
<i>Procedures to check the accuracy of community legal education materials and law reform materials.</i>	100%	89%	78%	100%
<i>An email policy, including disclaimers, procedure for responding to inquiries and requests for advice, treatment of confidential email, obtaining consent to communicate by email and appropriate recording and storage of emails.</i>	50%	79%	78%	88%

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

*Quality assurance process maturity*

Maturity of quality assurance processes was variable across the four program types (see Table 5.10). Six out of the eight legal aid commissions ranked their quality assurance processes as fully developed and continuously improving, with an average process maturity level of 4.4.

In contrast, 40 per cent of ATSILS, 37 per cent of community legal centres and 13 per cent of FVPLS respondents reported process at a maturity level 4 or level 5. Significant proportions of services reported quality assurance processes at a level 2, where they may be partially or inconsistently deployed. While it is expected that smaller organisations may have less developed quality assurance processes than large organisations, given the centrality of quality to provision of any form of legal service, it is of concern that some services have immature quality assurance processes.

Table 5.10

**LEGAL ASSISTANCE SERVICES: QUALITY ASSURANCE PROCESS MATURITY**

Service	Proportion with processes	Average maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
ATSILS (N=6)	83%	3.6	0.0%	20.0%	40.0%	0.0%	40.0%
Community legal centres (N=53)	98%	3.2	3.8%	26.9%	32.7%	15.4%	21.2%
FVPLS (N=9)	89%	2.9	0.0%	37.5%	50.0%	0.0%	12.5%
Legal aid commissions (N=8)	100%	4.4	0.0%	12.5%	12.5%	0.0%	75.0%

## Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group, based on Review Service Provider Survey and Data Request 2013

*National Association of Community Legal Centres (NACLC) accreditation scheme*

NACLC has developed, and is implementing, a National Accreditation Scheme. Full members of state and territory associations of community legal centres must comply with the scheme. The National Accreditation Scheme aims to support good practice service delivery, incorporating CLSP service standards, requirements of the NACLC Risk Management Guide (NACLC 2011) and requirements of other common quality standards. The majority of organisations are still undertaking the accreditation processes — at the time of responding to the Service Provider Survey and Data Request only 6 per cent of community legal centre and FVPLS respondents were accredited. While the National Accreditation Scheme is an ongoing process, it demonstrates significant potential for industry driven processes to drive sector wide quality improvements.

### Key points

- Overall, where clients have accessed legal assistance, service quality is considered by clients to be high across the four programs. Consistently good feedback from clients demonstrates the high value that clients attribute to the services provided by legal assistance services, commending efforts of organisations and individual staff members across the sector.
- The judiciary, courts and police qualified their views about service quality due to concerns about a lack of services in remote areas or quality standards being challenged by caseloads and by instruction of inexperienced lawyers in matters beyond their professional experience or competence.
- Where employees of legal assistance services voiced concerns about quality, correlation with service volumes suggested linkages between concerns about quality with issues such as service accessibility and finite resources.
- Good quality assurance processes and processes to deliver services in a culturally competent manner are already present across legal assistance services. However, consistency in implementation and process maturity varies across programs, depending on organisational size and focus.
- An area for future development is how to expand quality assurance processes to include a focus on culturally competent services.
- The lack of mature quality assurance processes in some legal assistance services is of concern given the centrality of quality to the provision of legal services.
- Existing industry initiatives, such as NACLAC accreditation, show the potential to leverage good processes across legal assistance services to enhance overall quality.

## 5.4 Are legal assistance services providing services efficiently?

### Measuring efficiency of legal assistance services

As noted in section 3.2, efficiency reflects a ratio of inputs to outputs. There is scope to improve efficiency if there is potential to increase outputs produced from a given quantity of inputs, or if there is potential to reduce the quantity of inputs used in producing a certain quantity of outputs. This can be impacted by factors such as the size of operations and by managerial practices (SCRGSP 2013).

Traditional measurements of efficiency generally focus on calculations of cost input ratios or unit costs. The Review has not undertaken this kind of analysis due to a number of constraints. These include:

- information supplied through the Service Provider Survey and Data Request demonstrated that, currently, costs or input data for ATSILS, community legal centres and FVPLS cannot be consistently or reliably disaggregated;
- lack of a relevant, robust benchmark or comparator (for example, historical costs, or the cost of similar services in the private sector given the lack of private practitioners providing services to many of the client groups and locations serviced by legal assistance services); and

- constraints on the ability to make comparisons across programs and states and territories due to differing program objectives, client needs and contextual factors (as outlined in Chapter 2).

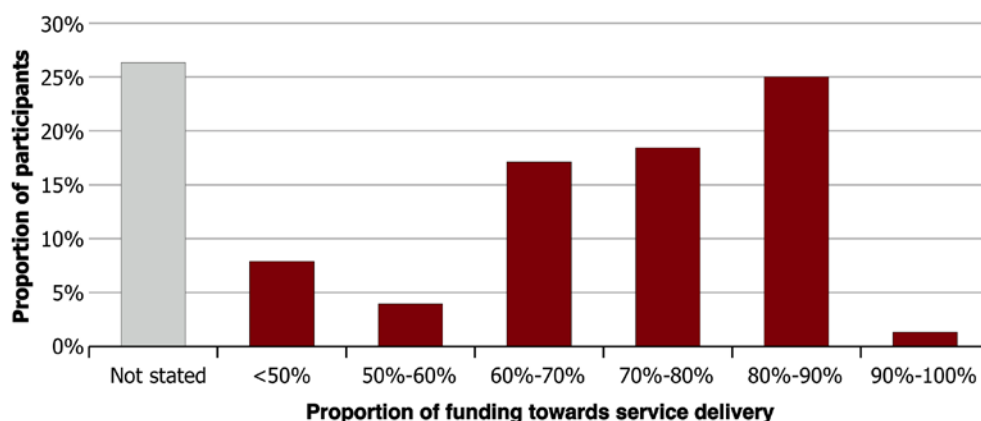
Due to these constraints the Review’s efficiency analysis focussed on practical measures and available data, examining expenditure data where available, as well as practices to ensure service costs are proportionate to outputs.

**Expenditure breakdown**

Across all four programs, 25 per cent of organisations responding to the Service Provider Survey and Data Request reported that over 80 per cent of their funding was allocated towards service delivery, and less than 20 per cent allocated to administrative purposes. Less than 10 per cent of organisations reported less than 50 per cent of their expenditure was directed towards service delivery. Of some concern is the relatively high proportion of respondents who chose not to answer this question, suggesting this fundamental piece of management information is not routinely available to them. Figure 5.9 presents the spread of the proportion of expenditure towards service delivery across the sector, showing a wide variation across organisations.

Figure 5.9

**PROPORTION OF FUNDING TOWARDS SERVICE DELIVERY**



Note: Proportions are calculated by dividing the amount of money each organisation reported allocating towards administration, by total amount of money reported by each organisation.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

Breakdown of expenditure on service delivery versus administration also varies across the four legal assistance services (see Table 5.11 below). ATSIILS and legal aid commissions — which are generally larger organisations more able to achieve administrative economies of scale — were generally the organisations more able to devote a large proportion (over 80 per cent) of Commonwealth expenditure to service delivery. Breakdown within programs showed significant variation, and is particularly marked among community legal centres and FVPLS.

Community legal centres are highly spread across the expenditure proportion brackets presented in Table 5.11, with close to 20 per cent reporting that between 80 and 90 per cent of their expenditure is devoted towards service delivery, as well as 11 per cent reporting that less than half of their total expenditure is devoted towards service delivery. For community legal centres this variable performance may, to some extent, reflect size differentials, as well as different operational arrangements. For example, some community legal centres may deliver a significant volume of their services through pro bono work, which may push up the proportion of expenditure used by administration.

For FVPLS that provided relevant data, the range of expenditure on service delivery was 54 per cent to 83 per cent, with a relatively high proportion of organisations towards the lower end of the range. FVPLS respondents at the higher end of the range tended to be those operating under an auspice service delivery model (under which administrative costs may be shared with other parts of the organisation).

For legal aid commissions, the smaller jurisdictions of the Northern Territory and the Australian Capital Territory had the lowest proportion of expenditure on service delivery (or conversely, the highest on administrative costs) while the largest jurisdictions of New South Wales and Victoria report the highest proportion of expenditure on service delivery.

Table 5.11

**LEGAL ASSISTANCE SERVICES: EXPENDITURE ON SERVICES AS A PROPORTION OF TOTAL EXPENDITURE, 2011-12**

Service	Proportion of respondents by expenditure on service delivery						
	Not stated	<50%	50%-60%	60%-70%	70%-80%	80%-90%	90%-100%
ATSILS (n=6)	0.0%	0.0%	0.0%	16.7%	16.7%	66.7%	0.0%
Community legal centres (n=53)	34.0%	11.3%	3.8%	15.1%	17.0%	18.9%	0.0%
FVPLS (n=9)	11.1%	0.0%	11.1%	44.4%	22.2%	11.1%	0.0%
Legal aid commissions (n=8)	12.5%	0.0%	0.0%	0.0%	25.0%	50.0%	12.5%

Note: Proportions are calculated by dividing the amount of money each organisation reported allocating towards administration by total reported expenditure.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

***Ensuring service costs are proportionate to legal matter***

The concept of proportionate cost is at the core of the *Strategic Framework for Access to Justice in the Federal Civil Justice System*, as well as the *Social Inclusion Agenda* (Shearer 2010). Rather than limiting costs or setting caps, central to the concept is a need to weigh the costs of services provided against the benefits delivered. This can take into account factors such as a tendency for service delivery to marginalised groups with complex needs to consume more resources, or the potential for large benefits flowing from matters of public importance, such as test cases.

All legal aid commissions and all ATSILS respondents to the Service Provider Survey and Data Request reported they have processes in place to ensure that service costs are proportionate to the legal matter. FVPLS reported partial implementation of these kinds of processes, with 67 per cent of respondent organisations reporting that processes were in place. Most of the responding community legal centres (83 per cent) report that proportionate cost processes were in place.

Table 5.12

**LEGAL ASSISTANCE SERVICES: PROCESSES TO ENSURE COSTS ARE PROPORTIONATE TO THE LEGAL MATTER**

Program	Proportion with processes	Average maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
ATSILS (n=6)	100%	3.3	16.7%	0.0%	50.0%	0.0%	33.3%
Community legal centres (n=53)	83%	2.8	9.1%	31.8%	36.4%	13.6%	9.1%
FVPLS (n=9)	67%	3.0	16.7%	33.3%	16.7%	0.0%	33.3%
Legal aid commissions (n=8)	100%	4.3	0.0%	12.5%	12.5%	12.5%	62.5%

## Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group, based on Review Service Provider Survey and Data Request 2013

Maturity of these processes followed similar trends to many of the other processes examined by the Review. Legal aid commissions reported high levels of process maturity, with an average rating of 4.3 across Australia. Five out of the eight legal aid commissions self assessed their processes to ensure costs are proportionate to the legal matter as consistently deployed and measured against continuously improving targets. One legal aid commission assessed processes of this kind at a maturity level where processes may be partially and inconsistently deployed. Given that legal aid commissions are the largest of the legal assistance services, and the only services that report against expenditure, there is some room for improvement for the legal aid commissions that do not have highly mature processes.

Where processes were in place for FVPLS a full spread of maturity levels was present — 33 per cent of organisations report processes at a maturity level of 5, with a further 50 per cent reporting maturity levels of 1 or 2. This may reflect that some FVPLS are relatively new organisations compared to other legal assistance services. For community legal centre respondents, 23 per cent reported proportionate cost processes at a maturity level of 4 or 5, while for ATSILS one third reported highly mature processes. While small or relatively new organisations may not have highly sophisticated processes to ensure costs are proportionate to the legal matter, it is suggested that such processes are a critical element in managing the risks of operating a legal service and should, at the minimum, be in place and operating at a process maturity rating of level 3.

### **Efficiency and the legal assistance services system infrastructure**

Variations in expenditure breakdowns and maturity of processes to ensure proportionate cost are illustrative of the services delivered through a multitude of provider arrangements including disparate, small organisations, with specific target groups.

These issues have received some recognition from the external justice system. One judicial submission to the Review raised questions about whether the current legal assistance services system infrastructure represents the ‘optimal and most efficient use of inevitably limited resources,’ particularly in relation to separate services of a specialised character. These issues are highlighted in regional and remote areas with limited service availability.

### **Enhancing efficiency**

As recognised by Shearer (2010), data about the cost of services is important to provide an evidence base for decision-making in accordance with the ‘efficiency’ objective of the NPA and principles of the *Strategic Framework for Access to Justice in the Federal Civil Justice System*.

However, information collected as part of the Review has shown challenges with current data, including an inability to reliably and consistently disaggregate service costs for ATSILS, community legal centres and FVPLS (noting that these services are not required to keep this information). These challenges show some relationship with the performance of the four services against efficiency indicators. The overall picture shows legal aid commissions, the only service that can consistently allocate costs of different service types, as the service that also has the most mature processes to ensure proportionate costs and the smallest proportion of expenditure on administration.

As an illustration about how this kind of information can be used, Figure 5.13 sets out estimated unit costs per activity for legal aid commissions between 2010-11 and 2011-12. This kind of information can, over time, enable tracking of performance and be used to measure improvements in efficiency and set targets. It can be used to inform decisions at both an organisation and systemic level about where limited funds can be directed to deliver the most value.

Table 5.13

#### **LEGAL AID COMMISSION ESTIMATED UNIT COST PER COMMONWEALTH FUNDED ACTIVITY 2010-11 AND 2011-12**

<b>Service type</b>	<b>2010-11</b>	<b>2011-12</b>
<b>Dispute Resolution</b>	\$1,390	\$1,336
<b>Duty Lawyer</b>	\$376	\$387
<b>Litigation</b>	\$6,090	\$6,286

Note: Figures are the average reported expenditure on Commonwealth funded activities.

Source: The Allen Consulting Group analysis based on data from NPA Reports compiled by legal aid commissions.

### Key points

- *From an efficiency perspective, legal aid commissions were the best developed legal assistance service, with mostly mature processes to ensure costs are proportionate to the legal matter and a relatively small proportion of expenditure directed towards administration.*
- *Smaller community legal centres and FVPLS organisations showed wide variations in expenditure on administration and relatively immature processes to ensure costs are proportionate to the legal matter. Many reported maturity at a level where processes were not documented or were inconsistently deployed.*
- *ATSILS, community legal centre and FVPLS systems were not able to facilitate reliable and consistent allocation of costs to services provided. Comparison of performance against efficiency indicators with legal aid commissions, which do collect expenditure information, suggests the importance of an expenditure and cost evidence baseline for processes to ensure proportionate cost.*

### 5.5 To what extent are legal assistance services provided in an integrated, coordinated manner?

Integration and collaboration go to the heart of both the NPA objectives and the principles of the *Strategic Framework for Access to Justice in the Federal Civil Justice System*. While it is clear that many legal assistance service clients have complex needs and benefit from coordinated services, it also needs to be recognised that service integration is neither necessary nor economic for all needs. Instead, integration has to be implemented locally to suit local needs and conditions (Leutz 2005) and policy to support these arrangements needs to facilitate rather than dictate their shape.

Accordingly, the Review has taken a flexible approach to evaluation of integration and coordination that takes account of different kinds of initiatives. Indicators take a broad focus by examining whether different types of arrangements are in place and how mature the arrangements are. The views of related support service providers about the appropriateness and effectiveness of arrangements are also examined.

Arrangements in place to facilitate integrated service provision across legal assistance services are diverse. The Review found many examples of good practice arrangements, including targeted advocacy for high need clients to ensure clients are able to access related support services, regional coordination networks, use of telephone advice lines to undertake a triage function for clients with complex needs and development of 'legal needs checklists'. The extent that these kinds of processes are born out in improved outcomes for clients is illustrated by case studies examining individual clients that have received integrated services. For example, the case studies set out in Box 5.7 illustrate the importance of integrated service delivery for high need, vulnerable clients.



Box 5.7

**CASE STUDIES: SERVICE INTEGRATION****FVPLS service integration for a family violence victim**

Lilly was the mother of a teenager and working fulltime in fulfilling employment when she commenced a relationship with Darryl. The 18 month relationship was characterised by repeated coercive and controlling family violence and multiple sexual assaults.

The Central Australia Aboriginal Family Legal Unit (CAAFLU) worked closely with police, and the Sexual Assault Referral Centre (SARC) to provide holistic, informed and integrated service provision. SARC provided expert sexual assault and family violence counselling. CAAFLU's counsellor provided intensive and culturally safe support and assistance to Lilly throughout all legal processes and related appointments, without which Lilly would not have been able to engage with the legal system. Pro bono legal assistance was obtained for specialist financial matters outside the expertise of the FVPLS. With legal matters now concluded Lilly intends to shortly return to employment as her youngest child enters pre-school and is positive about her path forward.

The above collaborations maximised therapeutic and legal outcomes for Lilly and her three children, whilst recognising and appropriately responding to barriers for Aboriginal and Torres Strait Islander victims of family violence including sexual assault in accessing police, legal and therapeutic services.

**ATSILS service integration for a high need client**

The Throughcare Program at ATSILS (Qld) is aimed at providing for effective service integration to produce the best possible client outcomes. This involves a significant amount of networking to understand how the available range of services can be best utilised to suit client needs and achieve a holistic and culturally acceptable approach. For example, a Throughcare Program client was returned to prison for a breach of a parole order. Areas where assistance was required included accommodation, rehabilitation, counselling, cultural support, advocacy and employment. An ATSILS (Qld) solicitor represented the client in court, with an outcome of conviction but no further punishment. In addition and with assistance of the program:

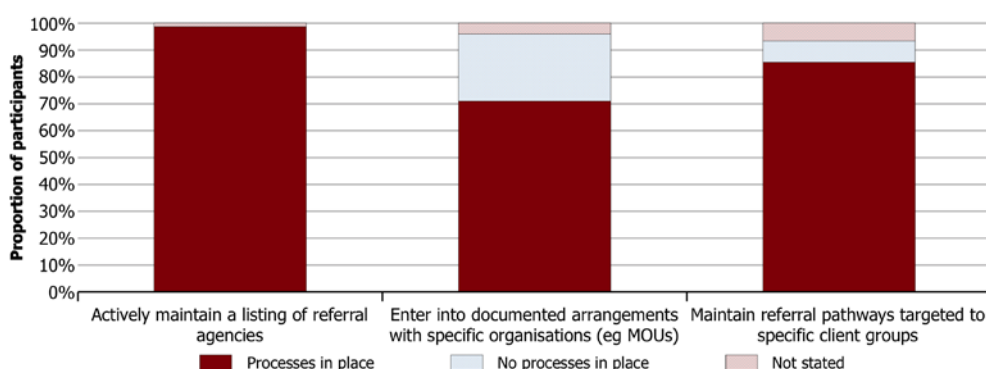
- arrangements were made, including obtaining a referral, for the client to attend healing camps and successfully complete a culturally appropriate residential rehabilitation program;
- assistance was provided to locate an aunty to undertake a home assessment and prepare a letter and relapse prevention plan; and
- the client registered for employment and housing listings.

Source: summarised from case studies provided by Aboriginal and Torres Strait Islander Legal Service Queensland and the Central Australia Aboriginal Family Legal Unit Aboriginal Corporation

***Processes to facilitate referrals and integrated services***

Sector wide, the overwhelming majority of organisations responding to the Service Provider Survey and Data Request had a broad range of processes in place to facilitate referrals and integrated service delivery. Of respondents to the Service Provider Survey and Data Request, 98.6 per cent reported that they actively maintained a listing of referral agencies and 85.1 per cent reported that they maintained referral pathways for specific client groups. Just over 70 per cent of organisations reported formal, documented arrangements were in place such as memoranda of understandings (see Figure 5.10).

Figure 5.10

**ORGANISATION REFERRAL ARRANGEMENT ACTIVITIES — ORGANISATIONS WITH PROCESSES IN PLACE**


Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

### ATSILS

All ATSILS respondents reported that they had processes in place across the three areas of maintaining a listing of referral agencies, documented arrangements and targeted referral pathways. However maturity of these processes was variable, with between 20 and 40 per cent of organisations reporting maturity of level 4 or 5 across the three areas (see Table 5.14 below). A significant proportion of organisations report that each type of referral process is at a maturity of level 2, where processes may be partially or inconsistently deployed, suggesting some room for further development.

Table 5.14

**ATSILS — REFERRAL PROCESS MATURITY (N = 6)**

Process	Proportion with processes	Average process maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
Actively maintain a listing of referral agencies	100%	3.2	0.0%	33.3%	33.3%	16.7%	16.7%
Enter into documented arrangements with specific organisations (eg MOUs)	100%	3.2	0.0%	33.3%	33.3%	16.7%	16.7%
Maintain referral pathways targeted to specific client groups	100%	2.7	0.0%	50.0%	33.3%	16.7%	0.0%

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

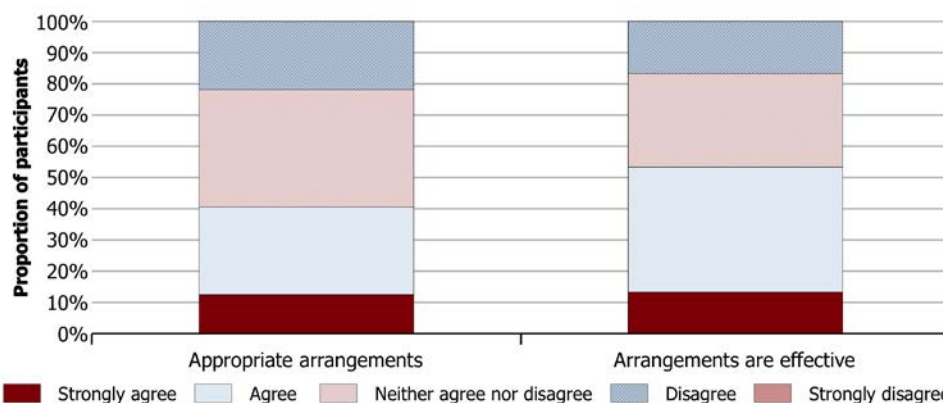
Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

The views of related support service providers responding to the Non-legal Service Provider Survey showed 40.6 per cent agreeing that these arrangements were appropriate, and 53.3 per cent agreeing that they were effective (see Figure 5.11 below).

Figure 5.11

**NON-LEGAL SERVICE PROVIDER SURVEY AGREEMENT WITH STATEMENTS:**

***THERE ARE APPROPRIATE COLLABORATION AND REFERRAL ARRANGEMENTS BETWEEN NON-LEGAL SERVICE PROVIDERS AND ATSILS, AND THESE ARRANGEMENTS ARE EFFECTIVE***



Note: 32 out of a total of 52 respondents answered survey question relating to appropriateness of referral arrangements and 30 out of a total of 52 respondents answered question relating to effectiveness of referral arrangements.

Source: The Allen Consulting Group analysis based on Review Non-Legal Service Provider Survey 2013

***Community legal centres***

Maintenance of a listing of referral agencies was nearly uniform across respondent community legal centres, but more patchy for documented arrangements (60 per cent) and maintenance of referral pathways targeted to specific client groups (79 per cent). Process maturity was variable across the three areas, with between 33 per cent and 41 per cent of organisations reporting maturity of level 4 or 5 (see Table 5.15 below). A significant proportion of organisations self assess their referral arrangements at a process maturity level of one or two, where processes are person dependent, or partially/inconsistently deployed. While some variations in the level of process maturity can be expected for smaller organisations such as community legal centres, it is suggested that given the importance of integrated service delivery to effective legal assistance services, these types of processes should aim to be at a level where they are documented and consistently deployed.

Table 5.15

**COMMUNITY LEGAL CENTRES — REFERRAL PROCESS MATURITY (N=53)**

Process	Proportion with processes	Average process maturity rating	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
Actively maintain a listing of referral agencies	98%	3.3	3.8%	19.2%	44.2%	11.5%	21.2%
Enter into documented arrangements with specific organisations (eg MOUs)	60%	3.2	9.4%	15.6%	34.4%	25.0%	15.6%
Maintain referral pathways targeted to specific client groups	79%	3.1	16.7%	11.9%	33.3%	21.4%	16.7%

## Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

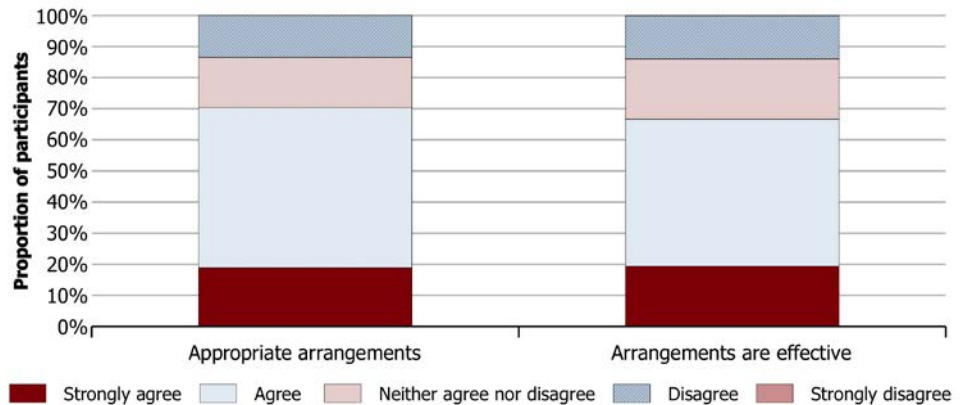
Community legal centre administrative data showed the proportion of community legal centre clients with referrals to external organisations varying between 9.4 per cent and 33.9 per cent across jurisdictions, with a national average of 22.0 per cent (see Table B.3). The top four referral destinations were all legal or mediation services. Financial services was the fifth most common referral destination, with 4.9 per cent of referrals (see Table B.4).

The views of related support service providers showed 70.3 per cent of respondent organisations agreeing that these arrangements are appropriate, and 66.7 per cent agreeing that they are effective (see Figure 5.12 below), suggesting relatively high levels of satisfaction among related service providers with arrangements.

Figure 5.12

**NON-LEGAL SERVICE PROVIDER SURVEY AGREEMENT WITH STATEMENTS:**

***THERE ARE APPROPRIATE COLLABORATION AND REFERRAL ARRANGEMENTS BETWEEN NON-LEGAL SERVICE PROVIDERS AND COMMUNITY LEGAL CENTRES, AND THESE ARRANGEMENTS ARE EFFECTIVE***



Note: 37 out of a total of 52 respondents answered survey question relating to appropriateness of referral arrangements and 36 out of a total of 52 respondents answered question relating to effectiveness of referral arrangements.

Source: The Allen Consulting Group analysis based on Review Non-legal Service Provider Survey 2013

***FVPLS***

Implementation of referral processes for FVPLS was high across all three categories. Process maturity was variable, with an average rating of between 2.9 and 3.7 and between 25 per cent and 56 per cent of organisations reporting processes at a maturity level of 4 or 5 (see Table 5.16 below). A significant proportion of service providers reported that entering into documented arrangements with specific organisations, as well as maintenance of referral pathways for specific clients groups, were at a process maturity level of two (38 per cent and 44 per cent respectively). As noted for community legal services, some variations for small organisations such as FVPLS are to be expected. However, the nature of the target client group for FVPLS does highlight the importance of referral arrangements to support integrated service delivery, and suggests that lifting processes to a level where they are at least documented and consistently deployed should be a focus.

Table 5.16

**FVPLS — REFERRAL PROCESS MATURITY (N=9)**

Process	Proportion with processes	Average process maturity rating	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
Actively maintain a listing of referral agencies	100%	3.7	0.0%	11.1%	33.3%	33.3%	22.2%
Enter into documented arrangements with specific organisations (eg MOUs)	89%	2.9	0.0%	37.5%	37.5%	25.0%	0.0%
Maintain referral pathways targeted to specific client groups	100%	3	0.0%	44.4%	22.2%	22.2%	11.1%

## Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

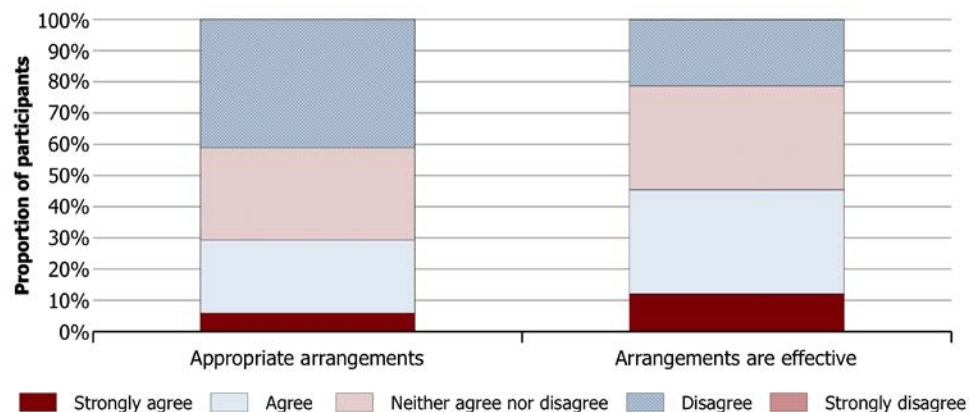
FVPLS administrative data showed that referrals were made to a wide range of legal and related, non-legal services (see Figure C.11). However, total volume of referrals compared to total service and client volumes were relatively low in 2010-11 and 2011-12 (see Figure C.10), particularly in the context of the FVPLS client base, however, it is acknowledged that in remote locations there may also have been issues about availability and accessibility of local services.

The views of related, non-legal service providers surveyed showed only 29.4 per cent agreeing that these arrangements were appropriate, and 45.5 per cent agreeing that they were effective (see Figure 5.13 below). It should be noted that a reasonably small proportion of respondents to the Non-legal Service Provider Survey (between 64 and 66 per cent) felt they knew enough about FVPLS to comment.

Figure 5.13

**NON-LEGAL SERVICE PROVIDER SURVEY AGREEMENT WITH STATEMENTS:**

***THERE ARE APPROPRIATE COLLABORATION AND REFERRAL ARRANGEMENTS BETWEEN NON-LEGAL SERVICE PROVIDERS AND FVPLS PROVIDERS, AND THESE ARRANGEMENTS ARE EFFECTIVE***



Note: 34 out of a total of 52 respondents answered survey question relating to appropriateness of referral arrangements and 33 out of a total of 52 respondents answered question relating to effectiveness of referral arrangements.

Source: The Allen Consulting Group analysis based on Review Non-legal Service Provider Survey 2013

### ***Legal aid commissions***

All legal aid commissions reported that they had processes in place across the three referral areas. These processes were reported at the highest overall level of maturity compared to other programs, with average ratings of above 4 across all areas and between 75 per cent and 88 per cent reported at a process maturity level of 4 or 5 (see Table 5.17 below).

Table 5.17

**LEGAL AID COMMISSIONS — REFERRAL PROCESS MATURITY (N=8)**

Process	Proportion with processes	Average process maturity rating	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
Actively maintain a listing of referral agencies	100%	4.5	0.0%	0.0%	12.5%	25.0%	62.5%
Enter into documented arrangements with specific organisations (eg MOUs)	100%	4.1	0.0%	12.5%	12.5%	25.0%	50.0%
Maintain referral pathways targeted to specific client groups	100%	4	0.0%	25.0%	0.0%	25.0%	50.0%

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

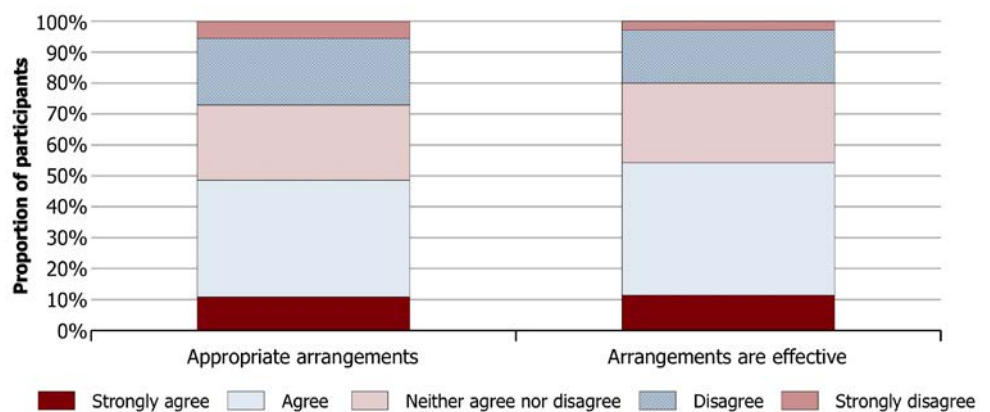
Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

While the levels of self-assessed process maturity were high, they should be interpreted in the context of maturity of other referral systems, including data systems that generally do not record destinations and sources of referrals.

The views of related, non-legal service providers showed 48.6 per cent agreeing that these arrangements are appropriate, and 54.3 per cent agreeing that they were effective (see Figure 5.14 below).

Figure 5.14

**NON-LEGAL SERVICE PROVIDER SURVEY AGREEMENT WITH STATEMENTS:**  
***THERE ARE APPROPRIATE COLLABORATION AND REFERRAL ARRANGEMENTS BETWEEN NON-LEGAL SERVICE PROVIDERS AND LACS, AND THESE ARRANGEMENTS ARE EFFECTIVE***



Note: 38 out of a total of 52 respondents answered survey question relating to appropriateness of referral arrangements and 36 out of a total of 52 respondents answered question relating to effectiveness of referral arrangements.

Source: The Allen Consulting Group analysis based on Review Non-legal Service Provider Survey 2013

***Number of referrals (legal aid commissions only)***

Table 5.18 below sets out total number of referrals for legal aid commissions, as reported in NPA Reports. While these figures demonstrate efforts in implementing processes and improvements in recording data, they should be interpreted with caution. Number of referrals does not necessarily provide an indication of the effectiveness of a referral. Moreover, significant variations in referrals across years and between jurisdictions raises questions about consistency in approach to reporting data, hence reducing the reliance that should be placed on the data.



Table 5.18

**NUMBER OF LEGAL AID COMMISSION REFERRALS, 2009-10 TO 2011-12**

Total referrals	2009-10	2010-11	2011-12
ACT	604	2,554	4,079
NSW <sup>1</sup>	N/A	101,211	133,851
NT	N/A	N/A	1,526
Qld	5,220	8,123	52,674
SA	7,789	12,083	17,605
Tas	7,324	7,141	8,112
Vic	N/A	15,685	40,814
WA	N/A	3,616	29,472

Note: <sup>1</sup>NSW figure includes LawAccess NSW referrals.

N/A: Not available

Source: NPA Reports

***Number of service provider lawyers per matter (legal aid commissions only)***

Table 5.19 below sets out the average number of different lawyers representing each client for legal aid commission grants of aid. Results indicate a reasonable level of continuity across all legal aid commissions reporting this information.

Responses suggest that this information is not routinely collected by all legal aid commissions, with particular issues in collecting this information where case transfers occur within external firms for outsourced work. Where this information cannot be recorded, some service provider feedback indicated that, in general, normal practice would mean only one lawyer would work on each case. The results suggest that while this remains an important measure of quality, representation by multiple lawyers and lack of continuity is not currently a serious issue within legal aid commissions.

Table 5.19

**LEGAL AID COMMISSION AVERAGE NUMBER OF DIFFERENT LAWYERS REPRESENTING EACH CLIENT PER CASE**

Average number of lawyers	Count	Proportion
1	3	37.5%
1.1	1	12.5%
1.2	1	12.5%
1.4	1	12.5%
Not stated	2	25%

Note: Average case duration varies between around 7 and 14 months, where reported.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

**Key points**

- *Across all four programs, services recognised a need to deliver integrated, coordinated services and have implemented a full range of referral processes. A number of innovative, good practice arrangements were in place throughout the sector.*
- *While progress in this area has been significant, areas for development remain. Mixed feedback from non-legal service providers and evidence drawn from administrative data raises questions about consistency in implementation of referral arrangements and how effectively referral arrangements target local needs and conditions.*
- *A significant proportion of services across the sector self assessed their referral processes as not documented or partially deployed, particularly ATSILS, community legal centres and FVPLS. Maturing these processes is a priority to ensure consistency in implementation and continued progress towards the NPA objective of integrated services.*

## Chapter 6

# System capability outcomes

*This chapter presents evidence collected as part of the Review that considers the effective and efficient functioning of the legal assistance services system, including system sustainability and collaboration and cooperation. Results are presented to provide a system wide perspective, and disaggregated to illustrate differences between program types as appropriate. Findings presented in this chapter also draw on existing research.*

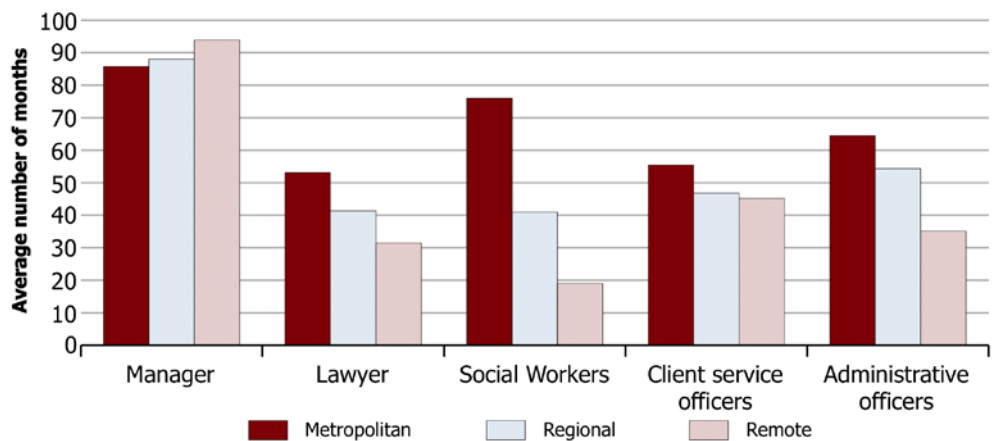
### 6.1 Sustainability — staffing issues

#### Recruitment and retention challenges

A key service constraint stressed by stakeholder input during various stages of the Review relates to the challenges associated with recruitment and retention of staff in regional and remote areas. Data collected through the Service Provider Survey and Data Request reinforced this view, showing clear trends towards decreased tenure for lawyers, social workers, client service officers and administrative officers in regional and remote areas (see Figure 6.1 for response numbers). However, it should be noted that the number of respondents was low for some employee types, particularly in remote areas (see Table 6.1).

Figure 6.1

#### AVERAGE TENURE OF EMPLOYEES ACROSS LEGAL ASSISTANCE SERVICES – BY LOCATION



Note: ATSILS N=6, community legal centre N=53, FVPLS N=9 and legal aid commission N=8.

Source: Allen Consulting Group analysis based on Service Provider Survey and Data Request 2013

The legal assistance services sector has implemented initiatives in response to recruitment and retention issues. For example, the NACLRC recruitment and retention of lawyers in regional, rural and remote Australia project, funded by AGD, is working to place graduate lawyers undertaking their practical legal training with legal assistance services in regional, rural and remote areas, as well as placement of four regional coordinators to assist with recruitment and retention in four regional areas.

Table 6.1

**AVERAGE TENURE OF STAFF IN MONTHS AT 30 JUNE, 2012**

Employee type	Metropolitan average tenure (months)	Regional average tenure (months)	Remote Average tenure (months)
Manager	85.8 (43)	88 (21)	93.9 (8)
Lawyer	53.1 (43)	41.3 (31)	31.5 (11)
Social Workers	76 (12)	41 (10)	19 (1)
Client service officers	55.4 (15)	46.8 (15)	45.2 (9)
Administrative officers	64.5 (42)	54.3 (24)	35.1 (8)

Notes: Number of organisations that provided a response for each staff type/location given in brackets.

ATSILS n=6, community legal centre n=53, FVPLS n=9 and legal aid commission n=8.

Source: Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

***Use of volunteer and pro bono effort***

In a national survey of law firms with 50 or more full time employees, the National Pro Bono Resource Centre (2013) found that in 2011-12, lawyers at the 36 participating firms undertook an average of 29.9 hours of pro bono effort per lawyer over the course of the year.

Over 60 per cent of this work was undertaken for organisations (rather than individuals). In addition, much of the pro bono effort contributed by large firms was in areas of law outside the legal assistance service sphere in areas such as governance, deductible gift recipient applications and commercial agreements. Notably, requests were most often rejected in the areas of law where legal assistance services operate most frequently, that is, family and criminal law. Major constraints identified to increasing the amount of pro bono effort included firm capacity, insufficient expertise, concern about conflict of interest and insufficient management support to undertake volunteer or pro bono work.

A June 2012 survey of volunteer work undertaken by NACLC found that, from a sample of 106 community legal centres surveyed, 95.2 per cent were utilising volunteers. In these community legal centres, 3,637 volunteers contributed 8,369 hours of work per week, which translates to:

- an average volunteer contribution of 79 hours per week per community legal centre; and
- an average contribution of 2.3 hours per week for each volunteer.

A volunteer contribution of 79 hours per week, nearly the equivalent of 2 full time staff members, represents a significant service input. Importantly, these contributions were not confined to pro bono legal effort, with volunteer contributions in administrative support, non-legal service delivery and governance or management also common (see Box 6.1).

Box 6.1

**SURVEY OF VOLUNTEER CONTRIBUTIONS TO COMMUNITY LEGAL CENTRES  
2011-12**

At the 106 community legal centres who contributed to the 2012 NACLC survey on volunteers in community legal centres, volunteer contributions were made towards:

- direct legal service delivery — 89.2 per cent;
- administrative support — 72 per cent;
- law reform and advocacy — 48.4 per cent;
- community legal education — 40.9 per cent;
- non-legal service delivery — 16.1 per cent; and
- governance or management — 16.1 per cent.

Source: NACLC 2012

As illustrated by the NACLC volunteer survey, volunteer effort is already providing a significant input into sustainability of the legal assistance services sector, particularly community legal centres. However, increased use of volunteers and pro bono effort is not without issues and challenges.

A central theme from feedback to the Review was that staffing, education, training and skills feed into sustainability issues. The skills needed for effective service delivery to disadvantaged groups do not necessarily match with the skills of private legal practitioners and the supervision required for volunteers, such as students, can detract from the cost-effectiveness of these arrangements. As noted in comments provided to the Review in submissions from the judiciary, appropriate levels of experience, skills and training links back to issues of quality and efficient functioning of the justice system.

This all suggests that while pro bono and volunteer effort is a valuable input into legal assistance services it is not a reliable or viable option to fill gaps between services provided and legal need. This argument is supported by submissions to the Review from the private profession, which provided strong views that, while the private profession devotes significant amounts of time and skills to legal assistance services, this is ‘not a substitute for the proper funding by government of the justice system’. As put by the pro bono practices of eight of Australia’s largest law firms:

Pro bono services by the private legal profession cannot come close to filling the access to justice gap which exists in Australia.

Submission to the Review from pro bono practices of eight of Australia’s largest law firms

These issues and a wider consideration of demand and supply were explored further as part of the market analysis component of the Review (*working paper three*).

### ***Expenditure on outsourced legal work***

‘Maintaining a fresh pool of private practitioners is vital to the ongoing sustainability of legal aid’ (TNS Social Research 2007).

At one level, outsourcing legal work can enhance sustainability by increasing the pool of resources that legal assistance services can draw on, increasing flexibility to respond to changing service needs. There are also potential linkages between the specialisation possible with outsourced legal work and the quality and efficiency of service provision. However, outsourcing work can pose challenges, including issues of disengagement of the private sector due to low hourly remuneration and limited availability of private lawyers in regional and remote areas (TNS Social Research 2006).

Across legal assistance services, reported expenditure on outsourced legal work was very low for ATSILS, community legal centres and FVPLS (see Table 6.2). This is consistent with program guideline restrictions about situations where legal representation can be outsourced (including to overcome conflict issues), and for ATSILS and FVPLS possibly reflects the specialist capabilities present within these organisations. Community legal centres as a group cover a much wider array of matters than do ATSILS and FVPLS, but take on very limited amounts of trial work which would require outsourcing, including to barristers.

*Greater efficiencies could be achieved if legal assistance services could establish specialist panels of barristers and solicitors who would act in certain matters.*

*South Australia Supreme Court submission to the Review*

Table 6.2

**LEGAL ASSISTANCE SERVICES: PROPORTION OF EXPENDITURE ON OUTSOURCED LEGAL WORK 2011-12**

Proportion of expenditure outsourced to the private profession	Count of respondents to Service Provider Survey and Data Request			
	ATSILS (n=6)	Community legal centres (n=53)	FVPLS (n=9)	Legal aid commissions <sup>1</sup> (n=8)
Not stated	1	21	2	1
0-10%	5	32	6	0
10-20%	0	0	0	1
20-30%	0	0	1	2
30-40%	0	0	0	3
40%+	0	0	0	1
<b>Average proportion outsourced</b>	<b>2.1%</b>	<b>0.2%</b>	<b>3.9%</b>	<b>32.2%</b>

Note: <sup>1</sup>Legal aid commission outsourced expenditure relates to Commonwealth funded services only.

Source: the Allen Consulting Group based on Review Service Provider Survey and Data Request 2013

Legal aid commission outsourcing of legal representation was variable across jurisdictions (see Table 6.3). The jurisdictions with the lowest rates of expenditure on outsourced legal work (Northern Territory and Western Australia) were also large and sparsely populated, raising the possibility of correlation with a lack of available private sector resources in regional and remote areas. Other jurisdictions are drawing a considerable proportion of their total inputs from the private sector. The table below outlines expenditure on outsourced legal work by the legal aid commissions.

Table 6.3

**LEGAL AID COMMISSION PROPORTION OF COMMONWEALTH FUNDING EXPENDED ON OUTSOURCED LEGAL WORK 2011-12**

State/territory	Total Commonwealth funding under NPA	Expenditure on Commonwealth outsourced legal work	Proportion outsourced
NSW	\$65,632,535	\$19,646,645	29.9%
NT	\$5,311,351	\$586,000	11.0%
Qld	\$43,017,852	\$23,150,000	53.8%
SA	\$16,561,824	\$6,362,140	38.4%
Tas	\$6,055,697	\$2,040,000	33.7%
Vic	\$57,982,359	\$22,568,135	38.9%
WA	\$20,550,835	\$4,310,697	21.0%

Note: ACT expenditure on outsourced Commonwealth work not available.

Source: The Allen Consulting Group based on NPA Reports and Review Service Provider Survey and Data Request 2013

## 6.2 Coordination and collaboration

The NPA outcomes include a focus on coordination and collaboration and the provision of ‘joined up’ services. The priority given to these outcomes are highlighted through explicit inclusion of performance benchmarks around coordination and outcomes for increased collaboration in the NPA.

While rarely defined, for the purposes of the Review, the concept looks at connections between services or between people and services aimed at improving outcomes (Leigh 2008). What this actually entails can be conceived in various ways depending on the needs of particular groups (Stewart et al. 2011). At one level, it may mean cross agency information sharing typified by discrete entities working together with arrangements that are often informal, across a continuum to entities working together in formalised, structured and planned ways. Coordination and collaboration activities across this continuum can enable organisations to use their resources better, as well as to leverage off the expertise and resources of others. The case study set out below in Box 6.2 provides an illustrative example of how collaboration of legal assistance organisations can produce improved outcomes and enhanced use of resources at an individual case level.

Box 6.2

### **CASE STUDY: COMMUNITY LEGAL CENTRE SERVICE COORDINATION AND COLLABORATION**

The Bendigo based Loddon Campaspe Community Legal Centre (LCCLC) was briefed by the metropolitan Public Interest Law Clearing House (PILCH - a Community Legal Centre operates specialist Homeless Person’s Legal Clinic staffed mostly by volunteer lawyers at private law firms) to represent a homeless single mother in an application for a rehearing of her infringements matters in Bendigo.

The client had incurred many infringements over a period of five years during which she had experienced family violence, homelessness, drug and alcohol addiction and mental illness. When she failed to pay fines pursuant to enforcement orders, warrants were issued for her arrest and she was brought before a Magistrate. At that hearing, the client had no legal representation and the Magistrate failed to enquire about her circumstances. The Magistrate ordered the client to pay all the fines pursuant to a payment plan. He also made an order for imprisonment in the event that she defaulted on the payment plan (commonly referred to as an ‘Imprisonment in Lieu Order’). This meant that the client would not be brought back before the court before prison. The client sought PILCH’s assistance when she became aware that there was an imprisonment warrant out for her.

Following a Victorian Court of Appeal decision in a similar case which found that the court has a duty to inquire into the circumstances of the offender and consider availability of less punitive orders LCCCLC and PILCH together prepared technical legal submissions regarding the power of the Magistrates Court to rehear an application. On the basis of the submissions, the Magistrate was satisfied that he had the power to cancel the warrants and rehear the matter in consideration of the client’s circumstances. Ultimately, the Magistrate reduced the fines by two-thirds, payable in accordance with a payment plan. No imprisonment in lieu order was made.

This was a great example of a CLC (PILCH) engaging volunteers with the resources to research and prepare complex submissions, then sharing those submissions with a regional CLC (LCCLC), with knowledge of the nuances of the regional Magistrates Court to present those submissions in the most digestible form. The submissions will be shared with other CLCs.

Source: Provided by the Loddon Campaspe Community Legal Centre



At a broader level coordination and collaboration also has potential to contribute towards system efficiencies through strategic use of technology and by promoting the resolution of legal problems outside the formal legal system. For example, the National Bulk Debt project described in Box 6.3 is looking at how collaboration with the financial counselling sector can help ensure financial hardship is recognised and dealt with before legal issues escalate.

Box 6.3

#### **CASE STUDY: THE NATIONAL BULK DEBT PROJECT**

In 2011, Victoria Legal Aid and Legal Aid NSW joined with West Heidelberg Community Legal Service to assist people in long-term financial hardship struggling with debt. The National Bulk Debt (NBD) project involves negotiating with selected debt collectors and credit providers for bulk waivers of debt incurred by people with no or virtually no capacity to pay. Bundling the debts together to be considered in a joint approach has made sense for creditors, who have little likelihood of recovering the debt, and it is also fairer on vulnerable people with low or no incomes.

Financial counsellors, State Trustees and lawyers can refer debts of eligible people through the project website. Eligible people must be dependent on Centrelink benefits or have no income at all; have no assets; have no prospect of employment in the short to medium term and be unable to repay the debt.

To date the project has negotiated waiver or closure of debts worth over \$15 million with creditors such as major banks, insurance companies, credit providers, debt collectors and utility service providers. Clearing these debts gives people breathing space from what can seem like a crushing burden and ensures they can use their limited income for food, housing and other necessities.

More recently, a further client eligibility criterion has also been added for the further phase of the project, whereby the debt can only be referred if the client has sought a waiver from the creditor and this has been refused or not provided. The aim of this additional criterion is to provide evidence as to whether, and to what extent, the NBD project has changed industry practice.

Victoria Legal Aid is discussing with project partners how to transfer the knowledge developed to the financial counselling sector, to ensure there are continued efforts to make certain long-term financial hardship is properly recognised and dealt with. The project is informing discussions between consumer advocates, industry and regulators about the treatment of long-term financial hardship, and is spurring discussions about the creative use of online platforms for intake, triage and referral of clients. The NBD is a good example of collaboration and connected service delivery between different legal service providers (Legal Aid Commissions and CLCs) and across different states, and between legal and non-legal service providers. It is also a good example of using technology and a strategic approach to enable a service delivery response that can help more clients through more efficient use of resources.

Source: provided by Victoria Legal Aid

### **6.3 Implementation of processes to facilitate coordination and collaboration**

There is no 'right' degree of connectivity or collaborative model for legal assistance services. How collaboration can best achieve 'joined up' services depends on client characteristics and types of activities. Due to these complexities, collaboration and coordination across legal assistance services are examined across a service delivery continuum of service planning and design, service implementation, policy and law reform, and case management.

## ATSILS

Table 6.4 presents process implementation and process maturity levels across ATSILS for service planning and design, service implementation, policy and law reform, and processes for appointing a case manager for clients with complex needs across criminal, civil and family law. Interestingly, despite ATSILS tending to deliver the majority of services for criminal law matters, processes to facilitate collaboration and cooperation were not more prevalent, or significantly more mature for criminal law matters. Implementation of processes to appoint a case manager for clients with complex needs is lowest of the four areas, however, where processes are in place these tend to be at a higher average maturity level than other kinds of processes. A significant proportion of processes across all four areas are reported at a process maturity of level 1 or level 2, suggesting there is some scope to improve consistency in documentation and implementation of processes.

Table 6.4

### PROCESSES TO FACILITATE COLLABORATION AND COOPERATION – ATSILS (N=6)

Proportion of respondents with processes		Average process maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
<b>Service planning and design</b>							
Criminal	67%	3.3	0%	25%	50%	0%	25%
Civil	67%	3.3	0%	25%	50%	0%	25%
Family	67%	3.3	0%	25%	50%	0%	25%
<b>Service implementation</b>							
Criminal	100%	3.2	0%	50%	0%	33%	17%
Civil	67%	2.8	0%	75%	0%	0%	25%
Family	100%	3.3	0%	50%	0%	17%	33%
<b>Policy and law reform</b>							
Criminal	83%	2.8	20%	40%	0%	20%	20%
Civil	67%	3.0	25%	25%	0%	25%	25%
Family	83%	2.8	20%	40%	0%	20%	20%
<b>Appointing a case manager for clients with complex needs</b>							
Criminal	50%	3.7	0%	33%	0%	33%	33%
Civil	33%	3.5	0%	50%	0%	0%	50%
Family	67%	3.2	17%	0%	33%	50%	0%

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group based on Review Service Provider Survey and Data Request 2013

### Community legal centres

Table 6.5 presents process implementation and process maturity levels across community legal centres for service planning and design, service implementation, policy and law reform, and processes for appointing a case manager for clients with complex needs across criminal, civil and family law.

Implementation of processes, as well as process maturity across the four areas is patchy. Implementation across the four areas is lowest for criminal law matters, which is to be expected given that a small proportion of community legal centre service delivery relates to criminal law matters. However, implementation for areas of law where community legal centres are most active — civil law and family law — is also low, ranging between 40 and 67 per cent of respondents to the Service Provider Survey and Data Request for service planning and design, service implementation and policy and law reform. A very small proportion of services have processes to appoint case managers for clients with complex needs. These results indicate that there may be some lost opportunities within the community legal centre sector for collaboration and cooperation.

Table 6.5

#### PROCESSES IN PLACE TO FACILITATE COLLABORATION AND COOPERATION – COMMUNITY LEGAL CENTRES (N=53)

Proportion of respondents with processes		Average process maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
<b>Service planning and design</b>							
Criminal	30%	2.3	13%	50%	31%	6%	0%
Civil	67%	3.3	0%	25%	50%	0%	25%
Family	51%	2.8	11%	26%	41%	11%	11%
<b>Service implementation</b>							
Criminal	36%	2.5	21%	26%	42%	5%	5%
Civil	60%	2.6	16%	34%	28%	16%	6%
Family	55%	2.9	14%	24%	35%	10%	17%
<b>Policy and law reform</b>							
Criminal	34%	2.2	39%	22%	22%	17%	0%
Civil	59%	2.4	29%	29%	23%	13%	7%
Family	40%	2.5	19%	33%	29%	14%	5%
<b>Appointing a case manager for clients with complex needs</b>							
Criminal	9%	2.0	40%	20%	40%	0%	0%
Civil	15%	2.1	38%	25%	25%	13%	0%
Family	15%	2.6	25%	25%	25%	13%	13%

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group based on Review Service Provider Survey and Data Request 2013

### FVPLS

Table 6.6 presents process implementation and process maturity levels across FVPLS for service planning and design, service implementation, policy and law reform and processes for appointing a case manager for clients with complex needs across criminal, civil and family law.

Low implementation and maturity of processes for FVPLS in criminal areas can be expected and is appropriate, as the involvement of these services in criminal matters is minimal and does not reflect the areas of law they are funded to provide. For family law and civil law a good proportion of organisations had processes, suggesting that, although FVPLS is a developing sector it is on the right track to promoting collaboration and cooperation. However, a significant proportion of FVPLS do not have processes in place for civil law and family law, and many organisations report processes at a maturity level where they may be person dependent or inconsistently implemented, suggesting that, as the sector develops, continuing to mature processes should be an ongoing focus.

Table 6.6

#### PROCESSES IN PLACE TO FACILITATE COLLABORATION AND COOPERATION – FVPLS (N=9)

Proportion of respondents with processes		Average process maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
<b>Service planning and design</b>							
Criminal	22%	2.5	0%	50%	50%	0%	0%
Civil	56%	3.2	0%	20%	40%	40%	0%
Family	89%	2.9	13%	38%	13%	25%	13%
<b>Service implementation</b>							
Criminal	11%	3.0	0%	0%	100%	0%	0%
Civil	44%	2.5	25%	0%	75%	0%	0%
Family	78%	2.4	29%	29%	29%	0%	14%
<b>Policy and law reform</b>							
Criminal	11%	3.0	0%	0%	100%	0%	0%
Civil	33%	3.3	0%	0%	67%	33%	0%
Family	67%	2.3	33%	17%	33%	17%	0%
<b>Appointing a case manager for clients with complex needs</b>							
Criminal	11%	4.0	0%	0%	0%	100%	0%
Civil	56%	4.2	0%	0%	40%	0%	60%
Family	67%	3.2	17%	0%	33%	50%	0%

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group based on Review Service Provider Survey and Data Request 2013

### Legal aid commissions

Table 6.7 presents process implementation and process maturity levels across legal aid commissions for service planning and design, service implementation, policy and law reform, and processes for appointing a case manager for clients with complex needs across criminal, civil and family law.

Implementation of processes was high for service planning and design, service implementation and policy and law reform across criminal, civil and family law. Process maturity for legal aid commissions was, on average, higher than for the other programs, however some legal aid commissions remained at a process maturity level that suggests there is some opportunity to improve service planning. The relative maturity of legal aid commission processes in comparison with the other programs also suggests some opportunity to leverage the relative maturity of legal aid commission processes to help develop the processes of smaller organisations. Only one legal aid commission had processes in place to facilitate appointing a case manager for clients with complex needs in criminal and civil law, and none had these kinds of processes in place for family law.

Table 6.7

#### PROCESSES IN PLACE TO FACILITATE COLLABORATION AND COOPERATION – LEGAL AID COMMISSIONS (N=8)

Proportion of respondents with processes		Average process maturity	Proportion of respondents by level of process maturity				
			Level 1	Level 2	Level 3	Level 4	Level 5
<b>Service planning and design</b>							
Criminal	75%	3.7	0%	17%	33%	17%	33%
Civil	88%	3.7	0%	14%	43%	0%	43%
Family	88%	3.6	0%	29%	29%	0%	43%
<b>Service implementation</b>							
Criminal	88%	3.7	0%	29%	29%	14%	29%
Civil	88%	3.7	0%	14%	43%	0%	43%
Family	88%	3.7	0%	14%	43%	0%	43%
<b>Policy and law reform</b>							
Criminal	88%	3.6	0%	29%	29%	0%	43%
Civil	88%	3.7	0%	14%	43%	0%	43%
Family	88%	3.6	0%	29%	29%	0%	43%
<b>Appointing a case manager for clients with complex needs</b>							
Criminal	13%	3.0	0%	0%	100%	0%	0%
Civil	13%	2.0	0%	100%	0%	0%	0%
Family	0%	-	-	-	-	-	-

Notes:

Results calculated on the sample of respondents with processes in place.

Process maturity levels are: Level 1 (person dependent practices), Level 2 (documented and partially deployed processes), Level 3 (documented and consistently deployed processes), Level 4 (documented and measured processes), Level 5 (documented processes, measured against continuously improving targets). See Box 3.2 for full definitions.

Source: The Allen Consulting Group based on Review Service Provider Survey and Data Request 2013

**Key points**

- *Within the context of current resources, service demand and service delivery arrangements, the legal assistance services sector as a whole faces significant sustainability issues — including skills and staffing issues and constraints on usage of outsourced work and volunteer effort.*
- *These sustainability challenges highlight the importance of collaboration and cooperation among the sector, including fostering understanding of what services are doing, reducing service duplication and sharing information about what practices and processes work best.*
- *More remains to be done in this area. Implementation of processes to facilitate coordination and collaboration, and the level of maturity of these processes was low compared to other organisational processes examined by the Review. This points to an area for continuing focus to better understand the opportunities, barriers and incentives to working together and sharing good practices with a view to progressing the NPA objectives and outcomes.*
- *The relative maturity of legal aid commission processes in comparison with the other programs suggests some opportunity to leverage from legal aid commission processes to help develop the processes of smaller organisations.*

## Chapter 7

# Governance arrangements

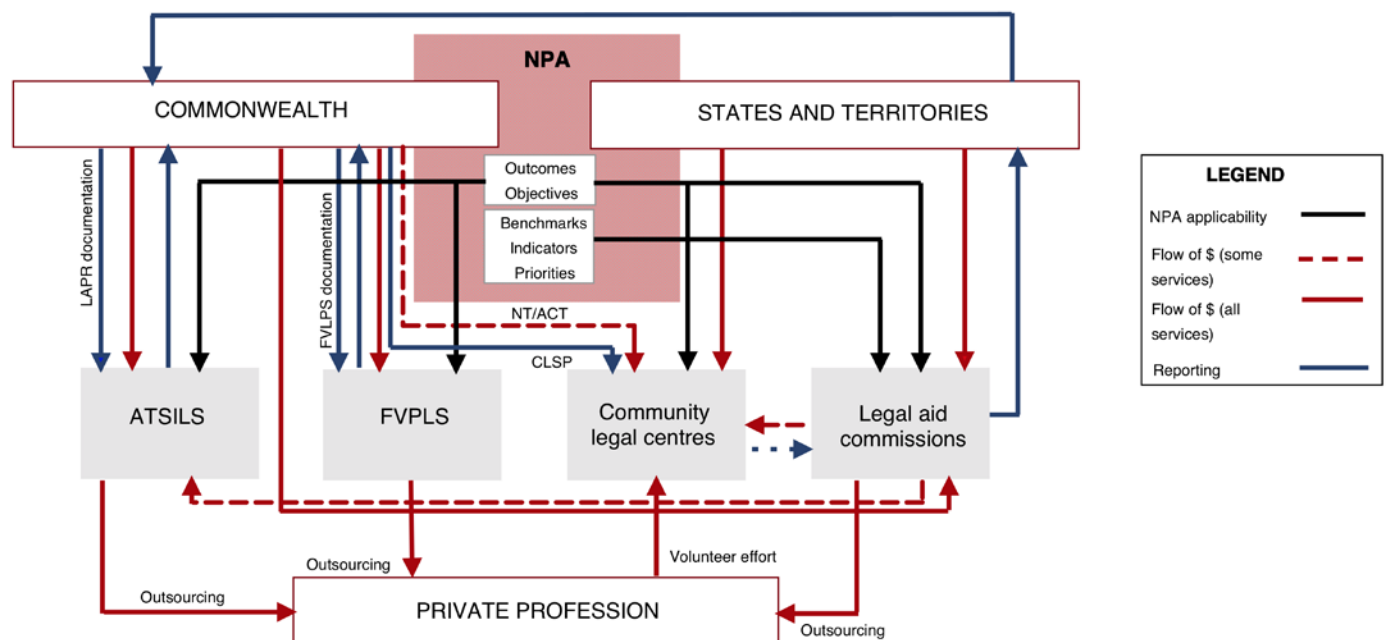
While good supporting governance arrangements alone cannot solve the challenges surrounding access to justice, they can remove barriers, set directions, and create conditions under which problems become solvable. This chapter examines the extent that the current legal assistance service governing arrangements, including the NPA, program documentation and other supporting arrangements, support achievement of the NPA objectives and outcomes. It draws on service provider views about existing arrangements, along with broader good practices and principles for effective governance.

### 7.1 Supporting governing arrangements for legal assistance services

The overarching legal assistance service governance framework is extremely complex. This chapter looks at governance arrangements from a systems level only, which as illustrated by Figure 7.1, is currently characterised by a web of responsibilities, funding and reporting streams.

Figure 7.1

#### LEGAL ASSISTANCE SERVICES GOVERNING ARRANGEMENTS OVERVIEW



Note: one FVPLS receives state government funding. Many services receive additional income of varying amounts from non government sources.

Source: The Allen Consulting Group

## 7.2 To what extent does the NPA support legal assistance services providers to deliver services in line with objectives?

Views across the legal assistance service sector about the helpfulness of the NPA in guiding organisational objectives showed just over half of organisations responding to the Service Provider Survey and Data Request agreeing or strongly agreeing that the NPA was helpful in guiding service objectives and priorities. Service provider comments suggested that the NPA was most helpful in assisting with service planning and providing the framework for sector wide collaboration and coordination. There was also broad agreement across the sector with the policy focus on preventative and early intervention services.

Among legal aid commissions, guidance on new priorities, as well as additional flexibility to meet new priorities provided by the NPA were viewed positively. In particular, inclusion of all preventative and early intervention services as a Commonwealth legal aid service priority, regardless of whether the matter type comes from Commonwealth or state/territory law, was viewed as a significant and positive reform.

Very strong negative feedback from legal aid commissions was provided around two central points:

- concerns about Commonwealth/state divide ‘perpetuating duplicated and fragmented services’ and provision of legal assistance services dependent on whether their issue was Commonwealth or state based ‘rather than a holistic response to client needs’; and
- issues surrounding the NPA Review benchmarks and indicators, which are explored in the Review’s *Legal aid commissions report*.

Another issue that emerged from organisational responses about helpfulness of the NPA was, in some instances, evidence of a limited connection between organisational priorities and objectives and those specified in the NPA. For example, a total of nine community legal centres and FVPLS indicated that they were unsure of the connection between the NPA and their service objectives and priorities. This was understandable given community legal centres, FVPLS and ATSILS are neither funded nor measured under the NPA. This raises questions about the relevance of the NPA to these programs as well as the value of referring to these programs in the agreement when the programs have no other direct association with the NPA.

### **Major constraints**

Overarching constraints identified by organisations in achieving NPA objectives and outcomes were overwhelmingly related to funding:

Lack of resourcing also seems to result in legal assistance services providers focusing on immediate client needs and direct services, rather than really investing in education and early intervention strategies. This also limits capacity to initiate and respond to law reform issues — services are just so busy trying to help the people coming through the doors, they don't have the opportunity to develop long term, early intervention strategies.

Community legal centre Service Provider Survey and Data Request response

*Continuation of the Commonwealth/state divide in grants of aid undermines the NPA objective of a national system of legal assistance that is integrated, efficient and cost effective.*

*Legal aid commission employee*



This feedback was reiterated across responses. Key pressure points identified in the feedback include:

- staffing issues — recruitment, retention and professional development;
- demand issues — linked to disadvantage and social need, as well as changes in government policy;
- inability to plan ahead; and
- costs — associated with servicing regional and remote communities and ensuring culturally competent service provision.

### **Unintended consequences**

There was a considerable view among community legal centres (employees and organisations) that the NPA had resulted in legal aid commissions moving into a more competitive relationship with community legal centres, particularly in the traditional community legal centre domain of community legal education and early intervention activities. While respondents noted that less overlap among the service sector was a welcome outcome, there was some concern about a lack of consultation and the future role of community legal centres.

*The pressure to meet some outcomes (ie early intervention) has led to a competitive rather than collaborative atmosphere between legal aid commissions and community legal centres.*

*Employee Survey response (lawyer)*

### **7.3 To what extent do other program documents assist legal assistance services providers to deliver services in line with the NPA objectives?**

#### **ATSILS**

Among the six ATSILS respondents to the Service Provider Survey and Data Request the program guidelines were generally viewed as providing clear guidance and information to service providers to assist in service planning. Four out of six respondents agreed or strongly agreed that the program guidelines were helpful. However there was some concern raised about the impact of reporting requirements on case work and service delivery.

*Current guidelines are informative but also provide enough latitude for appropriate flexibility from an operational and governance perspective.*

*ATSILS Service Provider Survey and Data Request response*

#### **Community legal centres**

There was a general view among community legal centres that the Community Legal Service Program (CLSP) guidelines, which apply uniformly to all community legal centres that receive Commonwealth funding, provided clear and helpful direction to assist service and strategic planning. Around 60 per cent of the community legal centres responding to the Service Provider Survey and Data Request considered that the CLSP documentation provided helpful guidance towards program objectives and outcomes (see Table 7.1).

Table 7.1

**COMMUNITY LEGAL CENTRE AGREEMENT WITH STATEMENT (N=53):****THE COMMUNITY LEGAL SERVICES PROGRAM DOCUMENTATION IS HELPFUL IN GUIDING YOUR ORGANISATION TO CONTRIBUTE TO THE PROGRAM OBJECTIVES AND OUTCOMES**

Response	Count	Proportion
Strongly disagree	0	0%
Disagree	0	0%
Neither agree nor disagree	10	18.9%
Agree	24	45.3%
Strongly agree	8	15.1%
Not stated	11	20.8%

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

*CLSP documentation has driven a consistent concern for improving our data, service delivery, service quality and value for money while at the same time permitting the Centre to be a 'mission-led' rather than 'program-led', broad-based organisation.*

*Community legal centre Service Provider Survey and Data Request response*

A number of community legal centres provided comments to the effect that the CLSP documentation provided clear guidelines on objectives, implementation and development, thereby improving service provision. Some views also pointed towards a positive impact of the CLSP on enabling greater collaboration and coordination within the legal assistance sector. One service provider noted in the Service Provider Survey and Data Request that the guidelines provided greater opportunity for partnerships and sharing of ideas between community legal centres as there was an increased understanding of the need to not duplicate services and therefore not compete directly against each other.

Some concerns noted by community legal centres included a tendency for the guidelines to be too general, not necessarily relevant for specialist services and to impose arduous accountability requirements.

**FVPLS**

Most providers reported that the operational framework, policy manual and program guidelines assisted with service planning and delivery (see Table 7.2).

Table 7.2

**FVPLS AGREEMENT WITH STATEMENT (N=9):**

**THE FVPLS OPERATIONAL FRAMEWORK, POLICY MANUAL AND PROGRAM GUIDELINES ARE HELPFUL FOR GUIDING YOUR ORGANISATION TO CONTRIBUTE TO THE PROGRAM OBJECTIVES AND OUTCOMES**

Response	Count	Proportion
Strongly disagree	0	0%
Disagree	0	0%
Neither agree nor disagree	3	33.3%
Agree	4	44.4%
Strongly agree	2	22.2%

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

*The operational framework provides a comprehensive guide and basis for our agencies policies and procedures in relation to responding to the community and victims of violence. The framework in collaboration with our service agreement also acts to manage capacity and expectation from the community in alignment with Attorney Generals expectations.*

*FVPLS Service Provider Survey and Data Request Response*

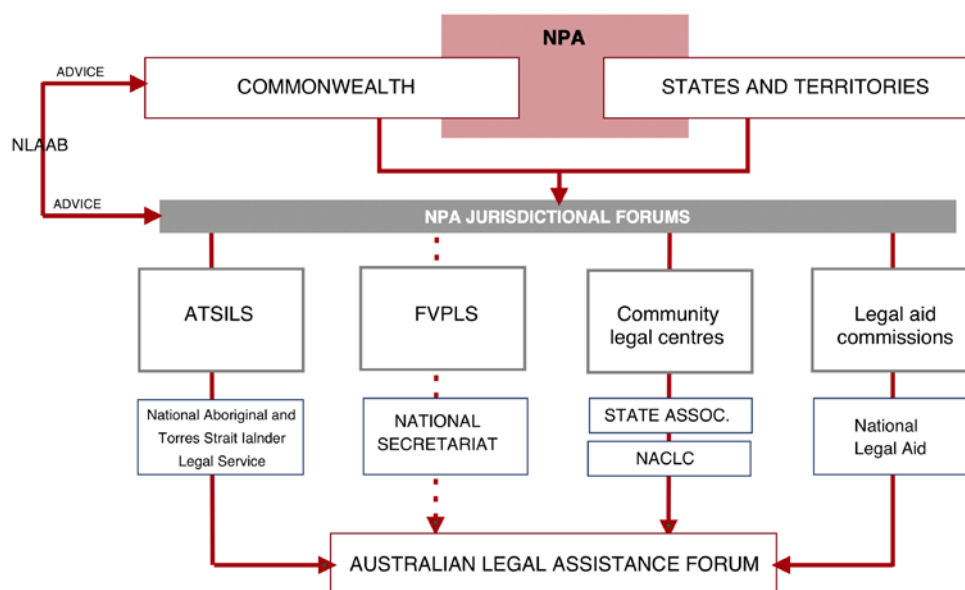
Positive aspects noted about the FVPLS program documentation included clarity and helpfulness in providing for strategic planning and setting clear parameters for service delivery. However, there were also some concerns about the level of prescription imposed by program documentation, specifically in relation to limitations in ability to tailor services to meet client needs. Some feedback suggested that the documentation is dated and in need of review, a process that is on hold until the Review and a separate review of the FVPLS have been completed.

**7.4 Legal assistance forums and other supporting arrangements**

Figure 7.2 provides an overview of the various bodies and supporting arrangements designed to facilitate legal assistance service delivery, including coordination and collaboration.

Figure 7.2

**LEGAL ASSISTANCE SERVICES SUPPORTING BODIES**



Notes: NLAAB - National Legal Assistance Advisory Board. A number of states and territories conduct separate legal assistance forums in parallel with NPA jurisdictional forums.

Source: The Allen Consulting Group.

Arrangements include jurisdictional legal assistance services forums, which states and territories have a responsibility to constitute under the NPA to ‘consider opportunities for improved coordination and targeting of services between legal assistance service providers’ (COAG 2010, p8). As part of the Review, team members consulted with representatives from each jurisdictional forum to obtain insight into how the forums are operating and the role of jurisdictional forums going forward.

***Jurisdictional forums — operating arrangements***

Each of the state and territory forums is comprised of representatives from the legal assistance services sector, as well as the legal system more broadly. Members of the jurisdictional legal assistance service forums are required to meet annually, although many meet quarterly, to discuss overarching planning, service delivery and policy and law reform issues. The Australian Government Attorney-General’s Department attends most forums as an observer and information source.

The size, scope, membership and precise operating arrangements vary considerably across states and territories. Table 7.3 provides an overview of the key features of each forum.

Table 7.3

**JURISDICTIONAL FORUM OPERATING ARRANGEMENTS**

State/territory	Membership	Meetings	Financial and secretariat support	Arrangements pre NPA	Example activities
<b>ACT</b>	Aboriginal Justice Centre; all ACT community legal centres; Law Society of the ACT; Legal Aid ACT	Four meetings each year	Provided by ACT Legal Aid Commission No direct financial support	Prior to NPA an information sharing arrangement was in place with legal and non-legal services	<ul style="list-style-type: none"> <li>• Reports are prepared and circulated prior to meetings</li> <li>• Collaborative activities including working groups; strategic planning; joint community legal education activities; preparation of a free law directory</li> </ul>
<b>NSW</b>	Aboriginal Legal Service ACT/NSW; Community Legal Centres NSW; Department of Attorney General and Justice; LawAccess NSW; Law and Justice Foundation NSW; Law Society of NSW; Legal Aid NSW; Legal Information and Access Centre; NSW Bar Association; Public Interest Advocacy Centre; Public Interest Law Clearing House	Four meetings each year with members, as well as separate executive meetings	Dedicated project manager, independent of legal assistance services, provides secretariat and project management support  Funding provided through the NSW Public Purpose fund for project manager and other administration and employment costs	Established and operational prior to introduction of the NPA	<ul style="list-style-type: none"> <li>• Working groups and projects include recruitment and retention of lawyers in regional, rural and remote areas; work to address the legal needs of prisoners; work to reduce the number of people experiencing problems with fines and traffic law; strategies to address demand for employment law services; collaborative arrangements to provide induction for new employees in legal assistance services</li> </ul>
<b>NT</b>	2 ATSIILS; 2 FVPLS; Law Society NT; NT Legal Aid Commission; 4 community legal centres; NT Council of Social Services; NT Shelter	Two meetings each year	NT Government provides in kind secretariat support and covers meeting costs, including travel and catering	Not in place prior to the NPA A separate NT Legal Assistance Forum (outside of NPA arrangements) also exists	<ul style="list-style-type: none"> <li>• Provides opportunity for Northern Territory agencies to collaborate with legal assistance service providers and provide updates on policy issues and legal reform</li> </ul>
<b>Qld</b>	Legal Aid Qld; Bar Association of Qld; Qld Law Society; ATSIILS Qld; Qld Association of Independent Legal Services; Qld Public Interest Law Clearing House; Qld Indigenous Family Violence Legal Service; Attorney-General's Department, Department of Justice and Attorney General	Four meetings each year	Legal Aid Qld provides secretariat support  A Commonwealth grant was provided for a regional legal assistance forum a number of years ago, subsequently rolled up in NPA funding	Prior to NPA a gathering of service providers took place. Since NPA has become more legitimised and action focused	<ul style="list-style-type: none"> <li>• Creates a place where people get together and share information and facilitate working together</li> <li>• Working groups, including the community legal education working group</li> </ul>

State/territory	Membership	Meetings	Financial and secretariat support	Arrangements pre NPA	Example activities
<b>SA</b>	Law Society of SA; Legal Services Commission of SA; Aboriginal Legal Rights Movement; Attorney-General's Department SA; SA Council of Social Services; South Australian Council of Community Legal Services; Family Violence Legal Service Aboriginal Corporation SA	Three or four meetings each year	Legal Services Commission SA provides venue and support for meetings Cost of secretariat is absorbed, no other funding is provided	A network, restricted mostly to the legal aid commission, ATSILS and community legal centres existing prior to the NPA, primarily as an information sharing mechanism	<ul style="list-style-type: none"> <li>• A disaster recovery working group successfully collaborated with private and public sector lawyers, including those in regional and remote areas</li> <li>• Important opportunity to bring service providers together, share information and confirm that are not duplicating activities</li> </ul>
<b>Tas</b>	Department of Justice; Legal Aid Commission of Tasmania; Tasmanian Aboriginal Centre; Tasmanian Association of Community Legal Centres; Tasmanian Council of Social Services; Law Society of Tasmania (including pro bono program)	Meet on average once per year, however can be more frequent depending on need	Legal Aid Commission of Tasmania provides secretariat services and administrative support	No formal forum in place prior to the NPA Informal structures for cooperation and networking were in place prior to NPA (and still are)	<ul style="list-style-type: none"> <li>• Provides forum to discuss different mechanisms for outreach and the use of different officers across the state</li> <li>• Opportunity for everyone to sit around the one table and build a state wide approach to issues</li> </ul>
<b>Vic</b>	Federation of Community Legal Centres; FVPLS Victoria; Law Institute of Victoria; Public Interest Law Clearing House; the Victorian Bar; Victoria Law Foundation; Victoria Legal Aid; Victorian Aboriginal Legal Service; and invitation to be extended to Attorney General's Department and the Department of Justice	Four meetings each year, two of which are jurisdictional forums	Secretariat support provided by Victoria Legal Aid through dedicated staff. Some funding initially provided by the Legal Services Board	Forum was operation prior to NPA – has been in place around 5 years	<ul style="list-style-type: none"> <li>• Provides for general information exchange and collaboration and opportunities to work together, including progressing activities through working groups</li> <li>• Work examining how to evaluate outcomes in legal assistance services and tracking outcomes</li> </ul>
<b>WA</b>	Aboriginal Legal Service WA; Community Legal Centre Association WA; Aboriginal Family Law Services; Legal Aid WA	Two meetings each year	No dedicated financial support or secretariat. In kind secretariat support provided by Legal Aid WA	Other arrangements were in place prior to NPA, however these were considered very broad and not effective	<ul style="list-style-type: none"> <li>• Use of forum to address key service delivery issues and barriers, for example receiving assistance from the state government to provide affordable housing for staff members</li> <li>• Valuable opportunity to promote collaboration and highlight the realities of service delivery in Western Australia</li> </ul>

Source: Consultation with jurisdictional forum representatives

### ***Jurisdictional forums — key value and achievements***

As illustrated by the information presented in Table 7.3, the forum arrangements in place across states and territories are at varying levels of maturity and intensity. In many instances the forums are complementary to other collaborative arrangements, or are a continuation of arrangements that were in place prior to the NPA.

Despite these differences, forum representatives consulted across states and territories had a near universal recognition that the forums are an important opportunity to bring legal assistance and other related service providers together. A strong theme from consultations was that, while networking and collaboration within the legal assistance sector would happen with or without the forums, having a formalised structure backed by the NPA legitimises the activities of the forums and helps bring some structure and purpose.

Involvement of the Australian Government Attorney-General's Department, as well as representatives from state and territory justice departments, is also recognised among forum representatives as a key value of the forums. This value is twofold; bringing an opportunity to feed issues up to government, as well as to share information about Commonwealth priorities and policy directions.

### ***The role of jurisdictional forums in the future***

As outlined above, jurisdictional forums have underpinned some significant achievements, and are generally valued among the sector as an important tool for facilitating integration and collaboration, suggesting that they have a continuing role in the legal assistance governance framework. However, the Review has identified some areas where current arrangements could be improved.

In particular, there are questions about the extent to which the various legal assistance service supporting bodies, as outlined in Figure 7.2, are working together to facilitate integration at a higher level in line with the NPA outcome of a 'strategic national response to critical challenges and pressures affecting the legal assistance sector.' For example, despite the potential for cross-over in the work of the forums and that of the National Legal Assistance Advisory Board there is little evidence of information sharing across these groups. In fact, the majority of forum representatives consulted had little or no knowledge of the work of the National Legal Assistance Advisory Board. A number of forum representatives also commented on a lack of knowledge about the activities and arrangements in place at other jurisdictional forums.

Views about the need to provide formal financial support for forum activities were mixed among forum representatives. Some representatives strongly advocated that financial support could be a key enabler to allowing forums to do more. Others considered that at this stage financial support was not needed, or could act to undermine current facilitative arrangements based on goodwill.

Some forum representatives also noted that the work of the forums is largely dependent on what their objectives are and their underpinning arrangements. For example, if the forums had a specified objective, such as evidence based planning, a focal point of the forums could be to bring together legal needs analysis across the states and territories. This suggests that, in the future, it will be important to carefully consider how to align the objectives of the forums with broader government objectives for legal assistance services.

## 7.5 Enhancing the governance framework

The evolution of Australia's federation towards 'cooperative federalism' and shared responsibility for service delivery improvement is based on the premise that cooperation between different levels of government will lead to better outcomes for Australians (Banks et al 2012).

The Intergovernmental Agreement on Federal Financial Relations provides the framework for Commonwealth state cooperation in areas of national importance. It sets out a role for Commonwealth support in areas of state or territory responsibility where close linkages with national objectives or Commonwealth expenditure priorities are present (see Box 7.1).

Box 7.1

### NATIONAL PARTNERSHIP PRINCIPLES

The following principles guide the basis of Commonwealth support for a national reform or service delivery improvement in areas of state or territory responsibility, where it:

- (a) is closely linked to a current or emerging national objective or expenditure priority of the Commonwealth — for example, addressing Indigenous disadvantage and social inclusion;
- (b) has 'national public good' characteristics — where the benefits of the involvement extend nationwide;
- (c) has 'spill over' benefits that extend beyond the boundaries of a single state or territory;
- (d) has a particularly strong impact on aggregate demand or sensitivity to the economic cycle, consistent with the Commonwealth's macro economic management responsibilities; or
- (e) addresses a need for harmonisation of policy between the states and territories to reduce barriers to the movement of capital and labour.

Source: Intergovernmental Agreement on Federal Financial Relations, Schedule E

The linkages between legal assistance services and other areas of government that also include reducing Aboriginal and Torres Strait Islander disadvantage, reducing violence against women and children and reducing homelessness as priorities suggest legal assistance services is an area where cooperation between levels of government can enhance outcomes.



However, a number of key issues and constraints relating to current arrangements underline the challenges and complexities involved. These include:

- a disconnect between the NPA objectives and outcomes and the framework underpinning service delivery for ATSILS, community legal centres and FVPLS — acknowledging that programs funding these providers are mentioned in but are not governed by the NPA, and are meant to have program objectives that are consistent with those of the NPA. This disconnect is illustrated by gaps in service provider knowledge about the NPA and limited reflection of NPA objectives and outcomes in strategic and operational plans (see section 5.1);
- an array of programs receiving Commonwealth and state funding, giving rise to complex reporting and accountability requirements;
- issues with the current NPA performance benchmarks and indicators, in particular the extent of linkages with the measured objectives and outcomes;
- the division between Commonwealth and state funding and service priorities for legal aid commissions, and the extent to which this creates tensions between competing priorities and inefficiencies in achieving outcomes, particularly given that service recipients often have complex legal needs that involve matters of Commonwealth and state/territory laws; and
- development of each program and the system at large on a largely ‘ad hoc’, unplanned basis, leading to some lack of clarity about roles and responsibilities.

The question of how to effectively combat these issues and bring arrangements together into a coherent framework is a vexed one. As a mechanism for facilitating reform across levels of government, National Partnerships are not without their critics.<sup>1</sup> In addition, a 2012 High Court of Australia case<sup>2</sup> found that the Commonwealth does not have power to enter into funding agreements or make payments that would not be within the power of the Commonwealth executive, and the implications of this for areas of Commonwealth cooperation with the states and territories are still to be fully formed.

What underpinning structures and arrangements are most appropriate are partly dependent on other service aspects including how services are delivered and service infrastructure. Options regarding relevant underpinning mechanisms are addressed in the Review’s final report and address the principles outlined in Table 7.4.

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<sup>1</sup> O’Meara and Faithful (2012) point out that they can be opportunistic or interventionist in nature.

<sup>2</sup> Williams v the Commonwealth (2012) HCA 23.

Table 7.4

**GUIDING PRINCIPLES FOR EFFECTIVE LEGAL ASSISTANCE SECTOR GOVERNING ARRANGEMENTS**

<b>Principles</b>
<b>Clear roles and accountability</b>
Clear and direct lines of reporting and accountability
Be explicit as to the roles of the Commonwealth and states and territories and avoid any unnecessary duplication
Connectivity between objectives and outcomes and service delivery frameworks
<b>A national, coherent system</b>
Preserve subsidiarity (where decision making is devolved to the lowest level jurisdictional level practicable unless there is net benefit to the community from decision making taking place at a national level) and avoid financial or other input controls on the states or territories
Design of the legal assistance service sector as a system, with coherent roles, authorities and accountabilities
Payment and administrative arrangements that are simplified and centrally administered
Mechanisms to work effectively with stakeholders across organisational and jurisdictional boundaries
Flexibility to respond to legislative and policy changes, as well as contextual considerations within jurisdictions
<b>Benchmarking and measuring performance</b>
A strategic focus linking the design of performance benchmarks with sector strategies to ensure translation of policy lessons into performance improvement
Data which supports indicators that are meaningful, understandable, timely, comparable and administratively simple
A focus on performance improvement and the close linkage of performance measurement and strategy in areas where change is desired
Data standardisation efforts to facilitate credible comparisons

Source: The Allen Consulting Group

**Key points**

- *The thrust of the NPA and its reform objectives were supported across the legal assistance services sector, and it is thought to have had some positive impact on service priorities and strategic planning. However, issues remain in relation to whether the NPA has provided the most effective vehicle for achieving the desired objectives and outcomes or indeed how well the NPA has been utilised to facilitate achievement of objectives.*
- *Areas of key concern included a disconnection between the NPA and service activities and a lack of clarity between the roles and accountability of the different legal assistance services program types, particularly given that ATSILS, community legal centres and FVPLS are not governed by or funded under the NPA. Concerns also surround the effectiveness of a national reform in the context of tensions between Commonwealth and state funding for legal aid commissions.*
- *The most appropriate vehicle for future funding of legal assistance services is a product of service architecture as well as principles underpinning good governance of coordinated reform and service delivery (the Review's final report articulates relevant options).*

## Chapter 8

# Funding arrangements

*This chapter examines the funding arrangements for each of the four legal assistance services programs. The chapter identifies the range of approaches for allocating funding for service delivery and examines the specific approaches used to allocate funds for legal assistance services within the four programs. An evaluation framework is then developed and applied, which assesses the current funding allocation approaches. Finally, potential revisions to the current funding approaches are identified, based upon the current funding framework.*

### 8.1 Approaches to allocating funding for service delivery

The challenge of allocating scarce resources to fund program delivery is confronted by many managers of government programs across a wide range of program areas. Often, the available funds are less than program providers consider necessary to deliver their components of the funded services.

#### **General resource allocation approaches**

There are six main approaches typically used to allocate public funds for the delivery of services:

- actual spending levels;
- bid or performance based;
- equal distribution;
- formula based;
- historical precedent; and
- political patronage.

Table 8.1 outlines the key characteristics of these funding approaches, as well as their strengths and weaknesses. On balance, the approach that is assessed most favourably, particularly in the ability to generate an equitable distribution of funding, is application of a formula.

In the context of funding distribution, equity is considered in two ways:

- horizontal equity, whereby funding recipients with the same level of need, receive the same funding level; and
- vertical equity, whereby funding recipients with different levels of need receive different levels of funding.

Table 8.1

**CHARACTERISTICS OF APPROACHES TO FUNDING SERVICE PROVISION**

<b>Funding approach</b>	<b>Characteristics</b>	<b>Strengths</b>	<b>Weaknesses</b>
<b>Actual spending levels</b>	Funding reimburses actual expenditure	Potential scope for funding levels being adequate to meet costs of specified services	Likely to result in rapid expenditure growth
<b>Bid or performance based</b>	Bid or performance based	Encourages innovation among potential providers	Transaction costs to oversee bidding process Unsuccessful but high need bidders may miss out
<b>Equal distribution</b>	Each provider is allocated an equal funding amount	Simple to administer	Assumes equal need among funding recipients
<b>Formula-based</b>	Funds allocated on a consistent basis across providers. May comprise either case payment or capitation approach	Seeks to fund all providers on an identical basis Can generate equitable distribution Transparent to all providers	Development costs May be difficult to understand if complex
<b>Historical precedent</b>	Based on previous years funding, with indexation	Simple to administer	Does not consider changes in need — assumes that past need continues into future
<b>Political patronage</b>	Decision made by Minister	None identified	Non transparency, with no explicit consideration of need Subject to criticism by Parliament or Auditor-General

Source: The Allen Consulting Group, based on Smith 2007

### *Operating within a fixed quantum of funds*

Allocating scarce resources for program delivery is a challenge faced by both governments and in turn, service providers. The ‘political patronage’ approach lacks transparency and is therefore inappropriate. The ‘actual spending levels’ approach is likely to result in resourcing requirements (or demands) far exceeding the available funds.

Of the remaining funding approaches, historical precedent is likely to maintain total resource allocation in line with available resources. However, basing future resource allocation on past practice may ignore significant changes in the factors that led to the original funding allocation. For example, the population of a single state/territory may grow faster than the rest of Australia, meaning that although the share of need has increased, the funding share has not.

Finally, equal distribution, while simple to implement, does not address vertical equity.

### ***International directions in public funding allocation***

Over the previous two decades, there has been an increased application of formula-based funding. There are two commonly used approaches to formula-based funding:

- case payment, whereby a service is provided at a pre-agreed amount for each activity undertaken. The total amount provided to a service may be capped or un-capped; and
- capitation, whereby an estimate is made of the quantum of need, and associated funding, for the area served by a provider.

Both approaches require clear specification of the services being funded, along with appropriate reporting and accountability processes that seek to measure activity and outcomes.

#### ***Case payment***

Case payment involves a payment being made by a funder for a service provided by a third party. For example in the case of the various legal services funded by the Commonwealth, this could operate via the AGD paying providers on the basis of a specified amount for a specific type of service delivered.

The total amount available to a provider may be capped, meaning that the total services provided must reconcile back to the level of funding allocated. If the level of services provided, when combined with the agreed amount per service, is less than total funding, it may be necessary for the provider to return funding.

Alternatively, a case payment approach could operate in combination with a block grant. For example, this could comprise an amount equivalent to the cost of a solicitor, counsellor and part-time administrator being allocated to each provider. This block grant would be provided regardless of the level of activity undertaken. However, once the level of service delivery undertaken by the provider exceeds a certain point, it is then able to attract additional funding, up to a pre-agreed cap.

The combination of a block grant and case payment is often considered attractive, as it provides certainty to providers that they will receive a certain level of funding each year. At the same time, it provides an incentive to undertake additional activity, which provides additional funding.

A key challenge associated with a case payment approach is ensuring that the payment rates are reflective of the range of activities undertaken and their associated costs, both across and within providers. If this is not the case, there may be disincentives for service providers to supply the level of service required by a client.

#### ***Capitation approach***

The main alternative to a case payment approach is capitation. Capitation involves estimating either:

- the level of expected activity a provider will be required to undertake; or
- the need for services within the geographic area covered by a provider.

This analysis typically uses population and other characteristics. Such an approach is used in Commonwealth funding of legal aid commissions and ATSILS.

A key feature of the capitation approach is that funding is not underpinned by actual activity. Rather, it seeks to provide a level of funding corresponding to the level of need in a community. However, it is still expected that providers deliver services in line with the level of funding provided.

### ***Choosing between the case payment and capitation approach***

Based upon the above discussion, Table 8.2 identifies criteria to select a preferred funding approach. These criteria are not intended to be applied inflexibly, but provide an indication of issues that may influence the success or otherwise of a funding approach. For example, the successful application of a case payment funding approach is heavily dependent upon accurate measurement of provider activity and the associated unit costs of activity. In the absence of detailed activity and unit cost data, a capitation approach may be more appropriate.

Table 8.2

#### **CHOOSING A FUNDING APPROACH: CRITERIA**

<b>Criteria</b>	<b>Case payment</b>	<b>Capitation</b>
Specific services able to be specified	✓	✗
Wide variation in services across providers	✗	✓
Unit costs of specific services able to be estimated	✓	✗
Activity able to be accurately measured	✓	✗
Activity measurement able to be manipulated	✗	✓
Service delivery unable to be accurately anticipated	✗	✓
Provider able to influence level of activity	✗	✓

Source: The Allen Consulting Group

## **8.2 Existing funding arrangements for legal services programs**

### ***Overview***

The Commonwealth funds the four legal services programs with an overall aim of improving the access of disadvantaged populations to the legal system. The majority of Commonwealth funding is directed towards legal aid commissions, mostly through Special Purpose Payments (SPP) to the states and territories. The four services are detailed in Table 8.3.

Table 8.3 details the level of Commonwealth expenditure on each program, how this funding quantum is set, and how it is indexed. Also detailed are the funding recipients of each program, and the nature of their funding relationship with the Commonwealth. Of note is that the funding quantum for each program is set independently of the other, with no common allocation mechanism.

The second half of the table examines the manner in which funds are allocated between service providers, including how the funding approach was developed, and how it deals with equity, efficiency and recipient financial needs. The table also contains details of the reporting requirements under each of the four programs.



Table 8.3

**OVERVIEW OF LEGAL SERVICES FUNDING APPROACHES**

	Legal aid commissions	ATSILS	Community legal centres	FVPLS
<b>Commonwealth funding quantum (2011-12)</b>	\$194.8 million <sup>a</sup>	\$68.2 million <sup>b</sup>	\$33.7 million <sup>c</sup>	\$18.5 million <sup>d</sup>
<b>Setting funding quantum</b>	Budget process and agreement with the states and territories, with annual indexation.	Budget process, with annual indexation.	Budget process, with annual indexation.	Budget process, with annual indexation.
<b>Linkage to funding to cost of agreed services</b>	There is no direct linkage between funding and costs incurred by legal aid commissions in providing legal assistance for specified Commonwealth matters. If costs incurred by states/territories in meeting Commonwealth targets exceed Commonwealth funding, state/territory governments, by default, may be expected to provide additional funding.  There is no requirement for legal aid commissions to report costs incurred in delivering legal services for Commonwealth matters.	No linkage identified	No linkage identified	Funding based on costs of operating legal services, with a specified number of staff
<b>Indexation method</b>	Wage Cost Index 1	Wage Cost Index 1	Wage Cost Index 1	Wage Cost Index 1
<b>Funding recipients</b>	The eight states and territories	Eight Aboriginal and Torres Strait Islander legal service organisations	Community legal centres, of which 138 receive funding from the Commonwealth Government	14 FVPLS providers
<b>Funding relationship</b>	Federal funding is provided to the states/territories, which then fund the legal aid commissions.	Funding directly to recipient legal service organisations.	Funding administered through legal aid commissions in NSW, Qld, WA, Vic and Tas, and the Department of Justice in SA.	Funding directly to recipient legal service organisation or auspice body.

	Legal aid commissions	ATSILS	Community legal centres	FVPLS
<b>Service specification</b>	NPA target to increase the number of services each legal aid commission delivers by 25 per cent by 2010-2014. Over the same period legal aid commissions are to increase the number of early intervention services by 30 per cent. Funds other than those used for preventative and early intervention services are to be expended on services related to Commonwealth areas of law.	Providers set service targets in annual Service Plans that must be met or exceeded <sup>e</sup> .	Plans submitted at the beginning of each three year contract include annual service delivery targets. The current contract runs from July 2010 to June 2013.	There are no service targets. AGD monitors the work of each unit, including the number of services delivered.
<b>Broad funding approach</b>	Formula based	Formula based	Based on historical allocation plus indexation	Broadly equal distribution, with some minor variations between services.
<b>Allocation method</b>	Funding is allocated between states and territories using a formula taking into account differences in the need for legal aid services, alongside relative differences in the cost of supplying services. The approach is similar to the Commonwealth Grants Commission approach to GST distribution.	A 'Funding Allocation Model' is used to allocate funding between 37 Aboriginal and Torres Strait Islander regions. This model takes into account differences in the need for services, alongside factors influencing the cost of supplying services.	Funds are distributed through a grants program.	Funding is allocated to 31 high need geographic areas. The original funding allocation in 2004/05 saw an equal amount per location, with some small refinement over the years.
<b>Metrics used for funding allocation</b>	Demand factors for each state and territory include divorces and Single Parent Payment recipients per capita, alongside socio-economic composition. Supply factors include location-related costs and scale-related administrative costs.	Demand factors for each region include unemployment, school completion, income, stolen generation status and single parent families. Supply factors include language needs, and remoteness.	Unclear how community legal centres are chosen to receive funding, and how funding is allocated between community legal centres.	Qualitative data from service providers, and family violence-related and demographic data.
<b>Model development date</b>	Current model (April 2010) uses 2008-09 service delivery numbers, 2006 Census data, and 2007-08 and 2008/09 data on demand factors.	Model uses 2006 Census data and 2007-08 and 2008-09 service delivery numbers.	Not applicable	Not applicable

	Legal aid commissions	ATSILS	Community legal centres	FVPLS
<b>Model development process</b>	Pre-1999, Commonwealth funding was allocated largely on an incremental budgeting basis. The current model builds upon an earlier model developed in 2004, which builds upon the 2000 model.	Consultation with service providers in 2004 and 2006 informed the development of the funding model. Model was revised after another round of consultation in 2009.	Commonwealth funding of community legal centres has been on a grants basis since the program commenced in 1978.	Geographical areas chosen based on 2004 survey of service providers.
<b>Approach to equity</b>	The funding model aims to ensure each state and territory has the resources to provide a similar level of service delivery.	Funding model aims to provide an equitable level of service provision in each Aboriginal and Torres Strait Islander area, regardless of disadvantage and remoteness.	Unclear on the information made available to this review.	Information made available to the review indicates there is no targeting of resourcing among the 31 areas on the basis of need or additional costs other than through the annual acquittal process, during which unspent funds may be recovered via offset and redistributed to other organisations with a greater need.
<b>Approach to efficiency</b>	Meeting the NPA targets within the agreed level of Commonwealth funds creates an incentive to deliver services efficiently.	Not stated	Not stated	Not stated
<b>Reporting requirements</b>	Legal aid commissions must provide bi-annual report detailing responsibilities, outputs, performance benchmarks and timelines.	ATSILS must provide an annual service plan, annual report, accrual budget, audited financial statements, stakeholder survey, income and expenditure report, and regular data report.	Triennial CLSP Plan, annual report, budget, and service targets, bi-annual progress report, quarterly funds report and monthly data report.	Annual strategic and operational plans, stakeholder management report, bi-annual stakeholder feedback report, quarterly performance indicator report, and quarterly financial statements.

Notes: <sup>a</sup> COAG 2010. Figure excludes one-off payments from the Attorney-General's Department, <sup>b</sup> ATSILS funding allocations provided by AGD, <sup>c</sup> CLC funding data provided by AGD, <sup>d</sup> FVPLS funding allocations provided by AGD. Excludes preventative and early intervention funding. <sup>e</sup> Service Plans are not publically available.

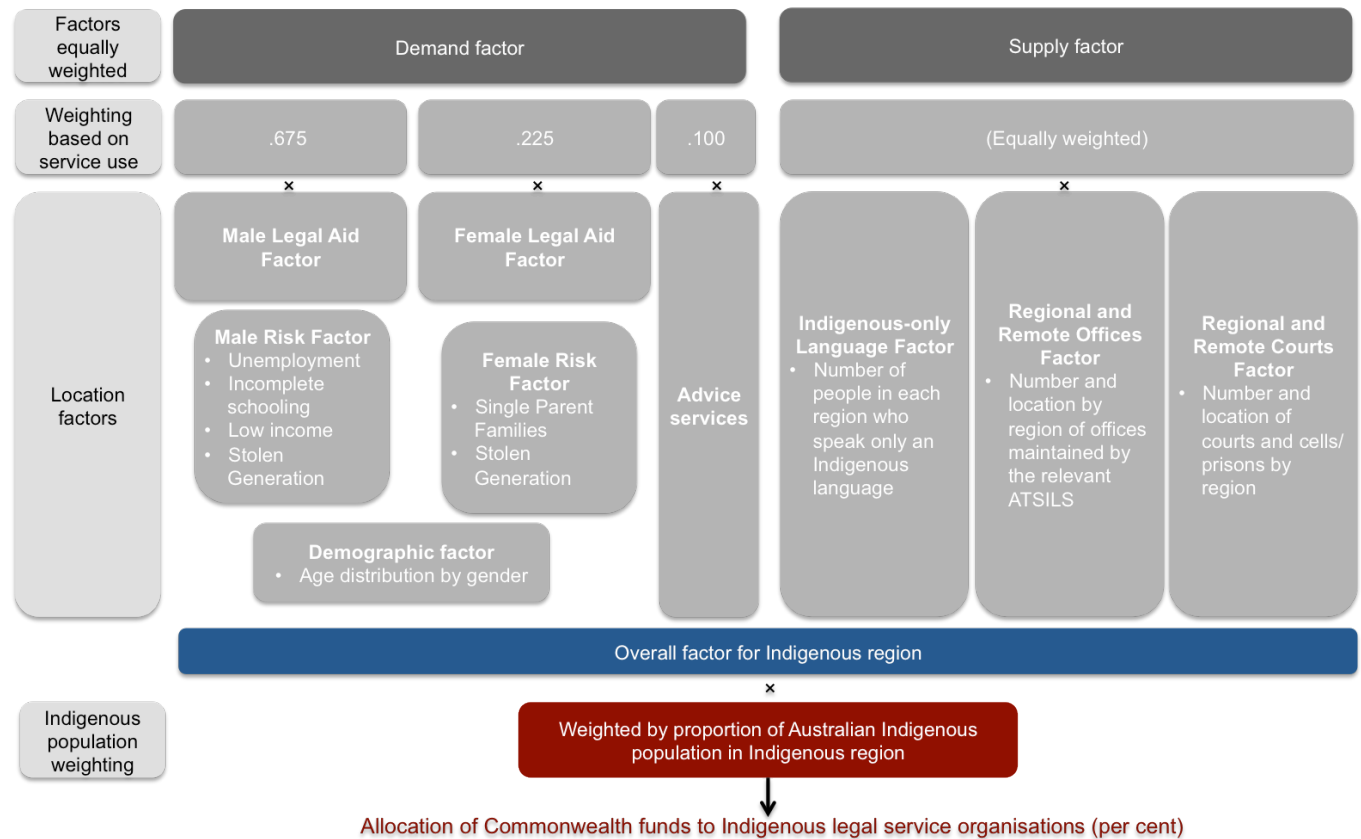
Source: The Allen Consulting Group

**ATSILS**

ATSILS are funded under the AGD’s Indigenous Legal Assistance and Policy Reform Program. Prior to 2005, ATSILS funding disbursement was the responsibility of Aboriginal and Torres Strait Islander Commission councils that used a grant process. When funding management was transferred to AGD, a Funding Allocation Model was developed, as in Figure 8.1.

Figure 8.1

**COMMONWEALTH FUNDING MODEL FOR ATSILS**



Source: Based on AGD, Funding Allocation Model Presentation – ATSILS Working Group Meeting, July 2010; and AGD, ‘Funding Allocation Model – Indigenous Legal Aid – 2009 Update’, 2009.

As in the case of the legal aid commission SPP funding model, the ATSILS funding model does not determine the level of Commonwealth funding, rather it distributes a defined amount of funds between Aboriginal and Torres Strait Islander regions.

Using the 2006 Census, 37 Aboriginal and Torres Strait Islander regions are identified. There are eight Aboriginal and Torres Strait Islander legal service organisations funded under the program, each responsible for between one and eight regions. The funding is allocated to each region, and is paid to the organisation responsible for that region. Each organisation must achieve or exceed the service levels specified in their Service Plans as agreed with the Commonwealth Government.

The allocation model develops a funding factor for each Aboriginal and Torres Strait Islander region, taking account of demand and supply differences between regions.

### *Demand*

The demand factor is split into two service areas, case and duty matters (legal aid), and advice services. As with family law in the legal aid commission model, case and duty matters are split by gender, producing male and female legal aid factors.

Both male and female legal aid factors include a demographic factor arrived at by taking the relevant gender's age distribution in the Aboriginal and Torres Strait Islander region and adjusting it by the age distribution of case and duty matters throughout Australia. This reflects the greater use of legal services by younger people.

Each legal aid factor also includes a gender-based risk factor. The male risk factor consists of the number of unemployed males, the number of males who have not completed Year 9 of schooling, and the number of people earning under \$350 per week in the Aboriginal and Torres Strait Islander region. These three inputs are weighted using a Principal Component Factor Analysis (their respective weightings are 0.375, 0.259 and 0.366) to arrive at an unemployment/schooling/income factor. The male risk factor also includes the number of Stolen Generation members in the region.

The unemployment/education/income measure and the Stolen Generations measure are then given weightings based on assumptions around how many more legal services such individuals are likely to require. It is assumed that the percentage of Stolen Generation people in a region increases male demand for legal services by 40 per cent. A lack of employment/education/income is assumed to increase male demand by 100 per cent. This weighting leads to the overall male risk factor.

The female risk factor has fewer components. The female risk factor consists of the number of single families and the number of Stolen Generation members in the region. As with the male risk components these factors are then weighted based on assumptions around their impact on demand for legal services — the percentage of Stolen Generation people in a region increases demand by 40 per cent, it is not clear what weight the model uses for single families.

The final input into the demand factor is advice services. This is given a factor of 1 for each Aboriginal and Torres Strait Islander region, presumably because no evidence exists on the drivers of demand for advice services.

The three demand factor inputs (male legal aid, female legal aid and advice services) are weighted by their proportion of Aboriginal and Torres Strait Islander legal services delivered Australia-wide in 2007-08. Legal aid for males accounted for 67.5 per cent, legal aid for females 22.5 per cent and advice services 10.0 per cent (although it is not clear how this final figure is derived).

### *Supply*

The model accounts for the different cost of supplying Aboriginal and Torres Strait Islander Legal Services in each region through three measures. The first is an Indigenous-only Language Factor, reflecting translation costs. The second is a Regional and Remote Offices Factor reflecting the additional costs of operating ATSILS offices in isolated locations. The third measure is a Regional and Remote Courts Factor reflecting costs of providing services in areas with dispersed courts. Each of these factors is weighted equally to arrive at a supply factor.

### *Final weightings*

The demand factor and supply factor are weighted equally to give an overall factor that is then weighted by the proportion of the Aboriginal and Torres Strait Islander population in each Aboriginal and Torres Strait Islander region.

### *Community legal centres*

The CLSP and state and territory community legal service programs operate under a single service agreement with community legal centres, with common accountability and administrative requirements. Community legal centres normally receive funding on a recurrent basis from the CLSP, subject to satisfactory performance under the service agreement. Funding from state and territory governments may be provided on a recurrent or one-off basis.

While the Commonwealth manages the CLSP nationally, the states manage the day-to-day operations of the CLSP.

At the beginning of each three-year contract, community legal centres must submit a CLSP Plan that includes annual service delivery targets. AGD previously reported in its annual budget statement an overall target of 250,000 services to be delivered by Commonwealth funded community legal centres, which may also receive funding from state and territory governments. This was discontinued in 2008-09.

Community legal centres are also able to access funding from other sources, including fundraising, private donations, and seeking contributions from clients. Any community legal centre policy to seek contributions from clients for legal services must not, however, cause clients to be excluded from assistance if they are not able to contribute financially.

### *FVPLS*

The FVPLS Program funds FVPLS units to provide services related to Aboriginal and Torres Strait Islanders who are victims-survivors of family violence or sexual assault. This includes legal services and counselling services. Funding is provided through a Program Funding Agreement between the Commonwealth Government and each FVPLS unit.

The FVPLS program allocates funding to 31 high need geographic locations. The choice of the 31 service delivery areas is based on 2004 research from the Crime Research Centre, University of Western Australia, which ranked the areas of highest service need based on a survey of 270 service providers and analysis of available family violence-related and demographic data.

The funding model for each area is based on capital, staffing and service delivery costs. In addition to initial set up costs, each area receives funding for two solicitors, one counsellor, an administrator, transport and office costs. Individual unit budgets are assessed during three yearly applications for continued funding and are agreed with AGD. Approximately 65 per cent of unit budgets are allocated to salary costs, 35 per cent to non-salary service delivery related costs including 10 per cent that relates to motor vehicles and other travel (AGD 2008).

Based on overall Commonwealth funding for the FVPLS Program, each area will receive around \$615,000 in 2012-13 (Australian Government 2012b).

The information made available to the review indicates targeting of resourcing among the 31 areas on the basis of need or additional costs occurs through the annual acquittal process, during which there is an assessment of whether any underspends by a service need to be recovered via offset and distributed to other organisations with demonstrated need. Each FVPLS is able to request additional funding from AGD, with requests assessed on the basis of need, priority and available funding.

### ***Legal aid commissions***

Legal aid in Australia is delivered by legal aid commissions, which are funded by both Commonwealth and state and territory governments. The relationship between these two levels of government in this area is set out in the NPA to the extent that the NPA describes the purpose of Commonwealth funding. Commonwealth Government funding is primarily used for Commonwealth law matters, while state government funding is used for state law matters.

The NPA sets out five performance targets, two of which deal with service outputs — an increase in the number of services legal aid commissions deliver by 25 per cent and a national increase in the number of early intervention services by 30 per cent (not necessarily an increase of 30 per cent in each state/territory). Both targets are to be met by 30 June 2014. The other three targets deal with service outcomes, such as a 10 per cent increase in the number of successful outcomes over four years.

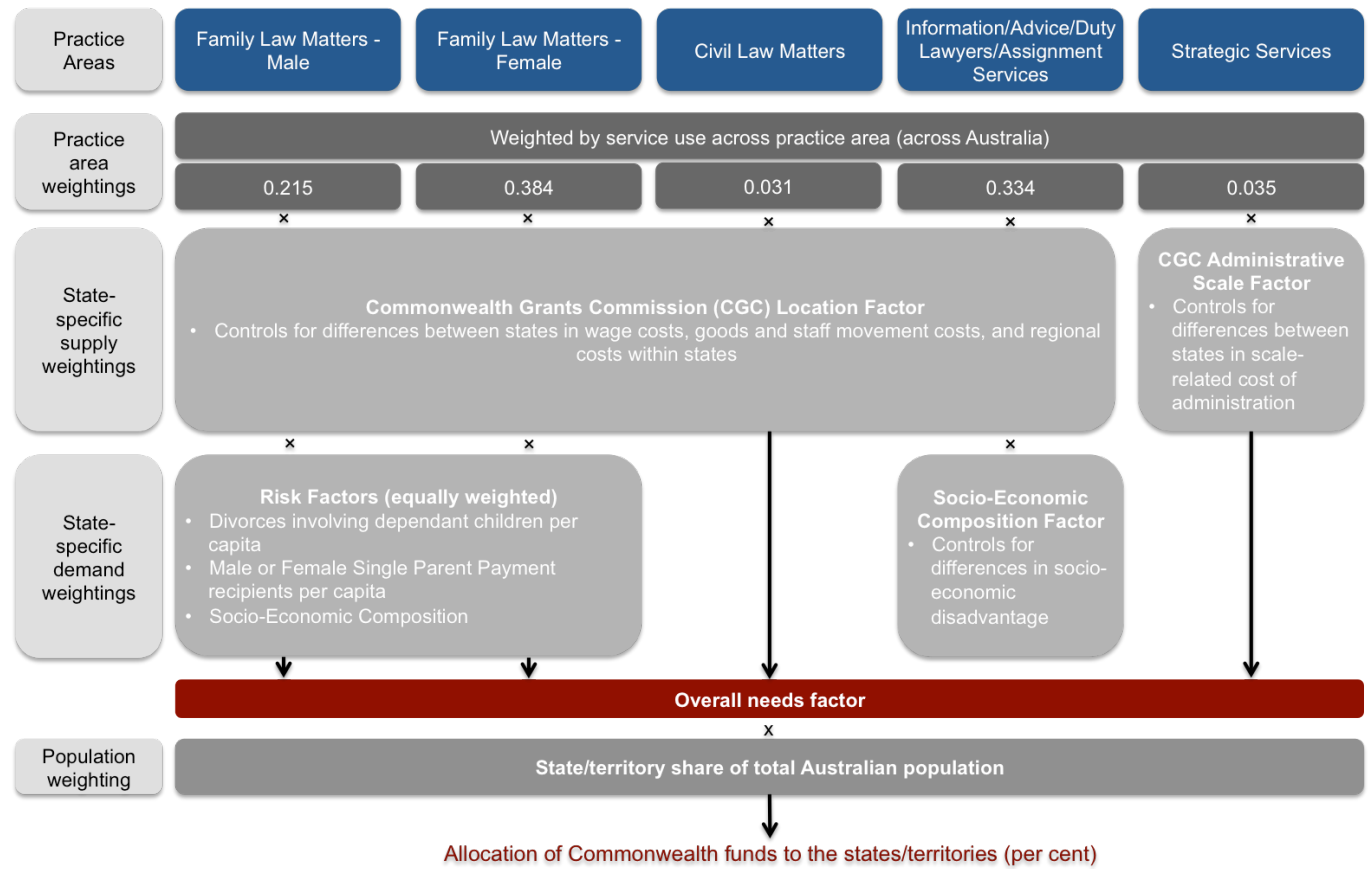
The link between the service targets and the funding model is not explicit. However, the funding model does aim to control for demand and supply cost differences between states and territories, and thus provide each state and territory resourcing to achieve similar outcomes. This is reflected in the shared service targets.

The funding allocation approach broadly reflects that used by the Commonwealth Grants Commission (CGC) when determining the distribution of GST revenues between the states and territories. Indeed, the legal aid commissions funding allocation formula uses cost factors developed and applied by the CGC.

Schedule C of the NPA provides an overview of the funding model that determines the level of funding each state and territory receives from the Commonwealth. Importantly, the funding model does not determine the overall size of the Commonwealth funding envelope for legal aid commissions, it allocates the previously decided budget between the states and territories. Figure 8.2 summarises the operation of the allocation model.

Figure 8.2

**COMMONWEALTH FUNDING MODEL FOR LEGAL AID COMMISSIONS**



Source: Based on “NPA allocation percentages” spreadsheet from AGD

Commonwealth funding is used in four main practice areas: family law matters, civil law matters, information/advice/duty lawyers/assignment services, and strategic/administrative services. The funding model splits family law matters by gender, and with the remaining three areas, assigns a component factor for each state and territory.

The component factor takes account of the fact that there are demand and supply differences across states and territories for legal aid services.

**Family law matters**

The component factor of the family law practice areas includes the CGC’s location factor which aims to control differences between states and territories in wage costs, goods and staff movement costs, and within state and territory regional costs.

The model also takes account of state and territory characteristics identified as correlated with higher demand for family law legal services. These three risk factors are divorces involving children per capita, male/female single parent payment recipient per capita and socio-economic composition (the latter measure is detailed below).



The three Risk Factors are weighted equally to give a total risk factor number, which is then weighted equally with the CGC location factor to arrive at a component factor for male family law matters and female family law matters.

#### *Civil law matters*

The model presumes the demand for legal aid in civil law matters is uniform across states and territories, and so this practice area is only weighted by states and territories' CGC location factor.

#### *Information/advice/duty lawyers/assignment services*

The 'information/advice/duty lawyer/assignment services' area covers more ad hoc legal services such as lawyers stationed at courts and tribunals to assist people who do not have a lawyer.

The CGC location factor is also used in this practice area to account for supply cost differences between states and territories. The model incorporates demand differences between states and territories in this area using a socio-economic composition factor.

The socio-economic composition factor is derived from the ABS Socio-economic Indexes for Areas data (2006). This series 'summarises 17 different measures, such as low income, low education, high unemployment and unskilled occupations' (ABS 2006). The model assigns one of three values to each Statistical Local Area (SLA) on the basis of its disadvantage decile. The values assigned to each state and territory's SLAs are added to arrive at a state/territory level measure of economic and social disadvantage.

The location and socio-economic composition factors are equally weighted to arrive at the component factor for information/advice/duty lawyer/assignment services.

#### *Strategic services*

Strategic services refer to administration and planning that legal aid commissions carry out in delivering services.

The model presumes there is no difference in demand for Strategic Services, and so arrives at a component weight using just the CGC's Administrative Scale Factor. This controls for differences between states and territories in scale-related cost of administration, based on evidence that smaller states/territories face higher per capita administration costs.

#### *Final weightings*

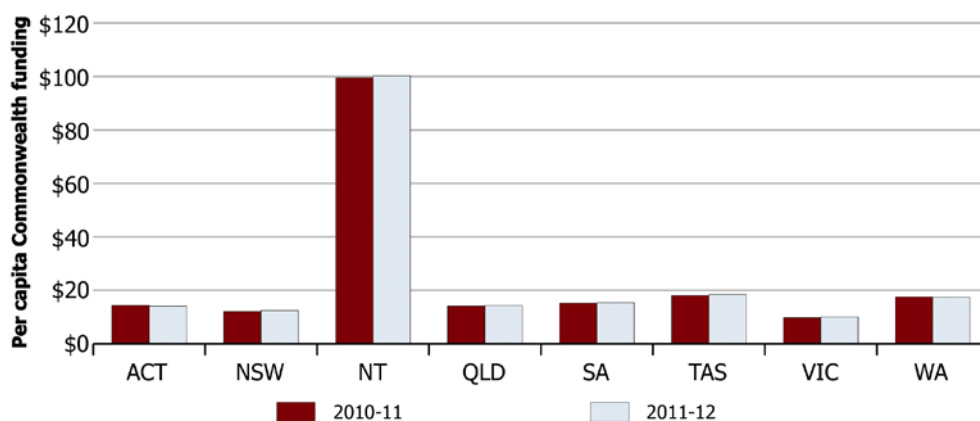
The model then weights the five component factors for each state/territory by the level of nationwide service delivery in each practice area. Female family law matters receives the greatest weighting here of 0.384, with civil law matters receiving the lowest weighting of 0.031. This provides an overall state component factor, which is then weighted by state/territory population, to arrive at the final Commonwealth funding split.

### **Application of funding arrangements**

Figure 8.3 shows how the funding approaches discussed in this section translate into Commonwealth legal assistance services funding per capita by jurisdiction. The Northern Territory receives several times the per capita funding of other jurisdictions, while overall per capita funding levels are lowest in Victoria and New South Wales. Elements of the funding formula that drive these differences include socio-economic factors and relative differences in the cost of service provision.

Figure 8.3

#### **COMMONWEALTH FUNDING OF LEGAL ASSISTANCE SERVICES PER HEAD OF POPULATION BY STATE, 2010-11 AND 2011-12**



Notes: FVPLS figures do not include preventative and early intervention funding. Legal aid commission income is based on NPA funding allocations and one-off funding contributed by AGD.

Source: The Allen Consulting Group analysis based on funding data provided by AGD, and ABS estimated resident population, states and territories (Cat: 3101.0)

## **8.3 Evaluating current funding allocation arrangements**

### **Evaluation framework**

The discussion in section 8.1 on funding allocation approaches identifies a wide range of issues for consideration when assessing the manner in which the Commonwealth funds legal service programs. Accordingly, Table 8.4 identifies evaluation criteria for assessing the appropriateness of funding models for a specific program, grouped under the following categories: model design; model development; and model operation.

Table 8.4

**FUNDING ALLOCATION MODEL: EVALUATION CRITERIA**

Criteria	Description
<b>Allocation model design</b>	
Allocation approach objectives	Articulation of key model objectives, including: <ul style="list-style-type: none"> <li>• what model is to fund; and</li> <li>• resolution at which model adequacy is assessed (provider, case category).</li> </ul>
Service specification	Services to be purchased by model are clearly specified.
Funding metric	Metric used to determine funding consistent with policy objectives, with actual delivery able to be measured after the services have been delivered.
Funding meets agreed costs	There is a close linkage between the funding allocated by the Commonwealth and the efficient costs of delivering the specified legal services.
Equity	Funding allocation varies in line with factors generating material service cost differences from the 'average'. This includes the number of clients, or their complexity.
<b>Allocation model development</b>	
Efficiency	'Price paid' by model: <ul style="list-style-type: none"> <li>• is reflective of efficient service delivery cost, and aligns with cost structure at highest feasible resolution; and/or</li> <li>• provides incentives for efficient service delivery.</li> </ul>
Development costs	Costs of developing allocation model are proportionate.
<b>Allocation model operation</b>	
Simplicity	Operation straightforward for purchaser and providers.
Flexibility	Model able to be adjusted during operation, as required.

Source: The Allen Consulting Group

**Evaluation metric**

The approach to funding each of the four legal service programs is evaluated below. Harvey Balls are used to aid comprehension by facilitating comparison of each funding approach in an easily understood diagrammatic form. A white Harvey Ball (○) indicates that the funding approach does not meet the criteria, while a black Harvey Ball (●) indicates the approach fully meets the criteria. The three Harvey Balls in between (◐ ◑ ◒) indicate partial adherence to the criteria, with the greater proportion of black indicating a greater adherence. A question mark ('?') indicates where an assessment is unable to be made on the basis of available documentation.

**Assessment**

Table 8.5 and Table 8.6 set out an assessment of each program's funding allocation method as per the criteria in Table 8.4. Table 8.5 is a summary table with Harvey Balls, while Table 8.6 provides greater detail on assessment.

Table 8.5

**FUNDING ALLOCATION ASSESSMENT – SUMMARY**

Criteria	Legal aid commissions	ATSILS	Community legal centres	FVPLS
<b>Allocation approach</b>				
Allocation approach objectives				
Service specification				
Funding metric				
Funding meets agreed costs	?	?	?	?
Equity				
<b>Allocation model development</b>				
Efficiency		?	?	
Development costs				
<b>Allocation model operation</b>				
Simplicity				
Flexibility				

Source: Allen Consulting Group

Each of the approaches for allocating funds to the four programs has their own strengths and weaknesses. Of the four funding approaches assessed in summary in Table 8.5, those applying a formula approach — the legal aid commissions and ATSILS — receive the most favourable assessment. In contrast, the funding allocation method for both community legal centres and the FVPLS does not score highly on the assessment. Again, the Review notes that FVPLS arrangements, including funding, are under review.

Table 8.6

**FUNDING ALLOCATION ASSESSMENT – DETAILED**

Criteria	Legal aid commissions	ATSILS	Community legal centres	FVPLS
<b>Allocation approach</b>				
Allocation approach objectives	The objectives of the legal aid commission allocation methodology are not clearly set out in the NPA. Rather, Schedule C of the NPA focuses on the allocation method per se.	No documentation on allocation approach objectives were identified.	No documentation on allocation approach objectives was identified.	Poor articulation in available documentation on specific role of funding allocation model (as distinct from the program), or what provided resourcing is intended to deliver.
Service specification	Service quantity and quality targets specified.	Services targets are set annually in each ATSILS service plan. These are submitted to AGD for approval and performance is reviewed against targets at 6 monthly performance meetings.	Quantitative service targets are specified in triennial contracts. Service standards are specified.	Input focussed specification, on basis of staff numbers and type.
Funding metric	Funding metrics covering both demand and cost factors considered.	Funding metrics covering both demand and cost factors considered.	No specific funding metric applied.	No specific funding metric applied.
Funding meets agreed costs	No direct linkage between funding and costs. Also, available information does not indicate whether funding is sufficient to meet the costs of delivering agreed services.	No direct linkage between funding and costs. Also, available information does not indicate whether funding is sufficient to meet the costs of delivering agreed services.	No direct linkage between funding and costs. Also, available information does not indicate whether funding is sufficient to meet the costs of delivering agreed services.	No direct linkage between funding and costs. Also, available information does not indicate whether funding is sufficient to meet the costs of delivering agreed services.
Equity	Model is focused on ensuring equity across the states and territories.	Model is focused on ensuring equity across service areas.	Unclear how equity is considered in bidding process.	No consideration of equity between the 31 high need areas, in terms of client numbers or complexity. However, equity considered in terms of identifying high need areas.

Criteria	Legal aid commissions	ATSILS	Community legal centres	FVPLS
<b>Allocation model development</b>				
Efficiency	Funding approach encourages efficiency by setting service targets and funding allocations.	Not able to be determined from documentation.	Not able to be determined from documentation.	Input focus on developing funding allocation suggests efficiency not a factor in development.
Development costs	Current model is detailed and likely to have required significant development.	Current model is detailed and likely to have required considerable development.	As contracts are triennial, funding priorities can be changed relatively flexibly.	Current model straightforward to develop. Most intensive element appears to be identification of high need areas.
<b>Allocation model operation</b>				
Simplicity	Current model is complex to understand, with documentation suited to a technical audience.	Current model is relatively complex to operate.	Current model relatively simple to operate. Funding is allocated on an historical basis plus indexation.	Current model relatively simple to operate.
Flexibility	Model specifications and inputs can be changed relatively easily, but states and territories would need to be consulted.	Model specifications and inputs can be changed relatively easily.	As contracts are triennial, funding priorities can be changed relatively flexibly.	Staffing input focus in funding allocation model means changes to funding model are relatively cumbersome.

Source: The Allen Consulting Group

## **8.4 Revising the current funding approaches**

This section identifies possible directions to improve the allocation of Commonwealth funding to the four legal services programs. It is understood that there is little, if any scope for additional funds to be allocated to the four programs, with the focus of this section thus on improving the allocation of existing funding. This should in no way be interpreted as a finding by the Review that current funding levels are adequate to deliver legal assistance services to disadvantaged Australians. Further comment on this matter will be included in the final report of the Review. At the same time, the information available to this Review does not allow an assessment to be made as to whether the Commonwealth funding contribution meets the efficient costs of funding recipients delivering services in line with agreed targets.

Furthermore, specific features of the future funding allocation models are heavily dependent on the design of the four legal services programs, as considered in other chapters of this working paper.

### ***Moving towards output based service targets***

While the Commonwealth programs to support legal aid commissions and community legal centres are backed by output-based service delivery targets, funding of ATSILS and FVPLS providers is not. This is at odds with current directions in public sector management, and limits the ability of the Commonwealth to determine, on an ongoing basis, whether service providers are delivering value for money.

In light of this, future funding for ATSILS and the FVPLS may be allocated on the basis of output based targets. This would see service providers allocated a specific level of funding, with clear expectations on what this funding is expected to provide.

A step beyond output based service targets would be for output based funding methods to be applied. This would involve ascertaining the costs of specific legal service activities, with funding provided by the Commonwealth then tied to the cost of delivering a certain number of services. Such a step would require a considerable degree of data collection and analysis, with the information systems operated by service providers potentially unable to disaggregate costs on the basis of Commonwealth and state/territory legal matters.

In addition to the ongoing application and monitoring of output based service targets, periodic outcome-based evaluation could also occur. This could take place every 3-4 years, with a focus on identifying whether the quality of legal assistance services is being maintained (if not improved), as well as whether target populations are being effectively serviced. An impetus for this dual approach is the risk that output-based service targets may be met, but this is in conjunction with a decline in service quality or coverage. Outcome-based evaluation is proposed as a periodic activity as it is a more holistic approach, and would require significantly more resources than that required to enforce output based service targets.

***Providing incentives for efficiency***

All four programs could be strengthened by improved direction in the areas of service breadth and quality. The analysis documented elsewhere in this working paper suggests there are significant variations in efficiency between providers within a single program due, in part, to a lack of appropriate incentives. In this context, efficiency is defined as the level of productive activity undertaken given the amount of funds allocated to providers.

***Striving towards equity***

The Commonwealth funding allocation models used for legal aid commissions and ATSILS provide a transparent and comprehensive attempt to address issues of equity between service areas. The community legal centre and FVPLS funding approaches have a less structured approach in this area, which may fail to take into account different demand levels and cost levels between regions.

***Allocation method being proportionate to the task***

It is perhaps no coincidence that the two largest programs have the most complex funding methods. It is important that changes to any of the funding allocation models be proportionate to the scale of each particular program. In the cases of the two smaller programs (community legal centres and FVPLS), re-development costs should be kept relatively low.

***Aligning with accountability and monitoring***

The success of any funding model is dependent, in large part, on the accountability and monitoring mechanisms in place aimed at ensuring that the services funded are in fact provided. Accordingly, movement to an output-based funding model, with specification of what is to be provided, requires careful oversight. This is particularly the case if a funding allocation model that is closely tied to activity is implemented.



## Appendix A

# Aboriginal and Torres Strait Islander legal services

### Key points

- *Eight organisations across Australia with an objective of delivering culturally appropriate legal assistance to Aboriginal and Torres Strait Islander peoples.*
- *Total funding of \$68.2 million in 2011-12.*
- *Services delivered in 2011-12: 202,390 advice, case and duty matters, with 84 per cent of total services in areas of criminal law.*
- *Clients are overwhelmingly of Aboriginal and Torres Strait Islander origin and facing disadvantage. High proportion of male clients, as well as children/youths.*
- *Inconsistency in data collection across jurisdictions constrains identification of other client characteristics, including disability and literacy.*

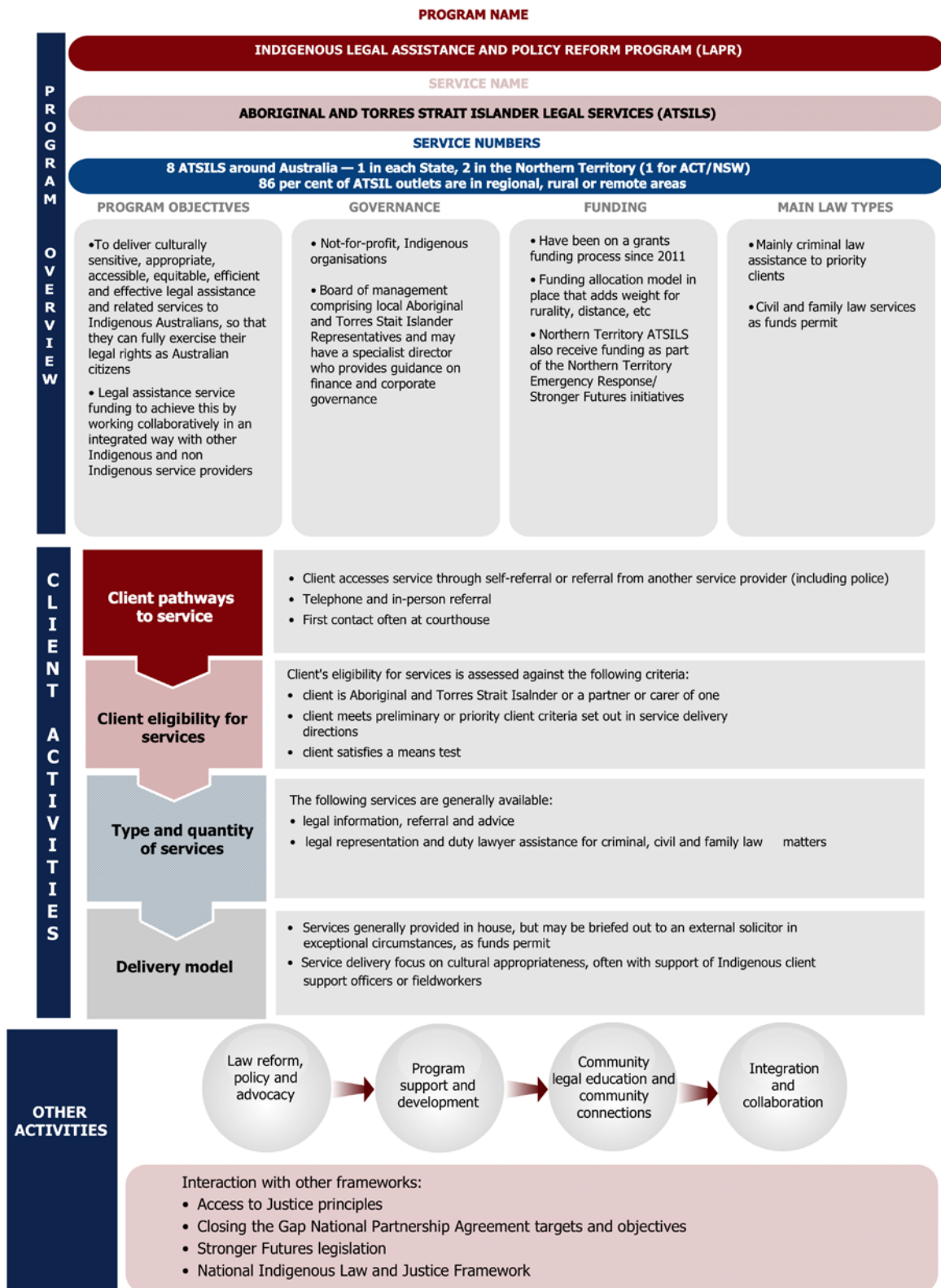
### A.1 History and objectives

ATSILS were established across Australia throughout the early 1970s as part of a national movement to improve legal and civil rights for Aboriginal and Torres Strait Islanders. The first service, the Redfern Aboriginal Legal Service, was established by a group of activists, lawyers and academics against a background of enforced curfews for Aboriginal peoples, arbitrary detention and arrest and a lack of effective legal representation (ALS NSW/ACT, undated). Since their beginnings a key service focus has been on community grounding and involving Aboriginal and Torres Strait Islander peoples in both management, as well as service delivery.

These beginnings are reflected in the current program objective of delivering culturally sensitive, appropriate, accessible, equitable, efficient and effective legal assistance and related services to Aboriginal and Torres Strait Islander peoples. Figure A.1 provides an overview of the program structure, governance and funding arrangements and activities.

Figure A.1

**ABORIGINAL AND TORRES STRAIT ISLANDER LEGAL SERVICES OVERVIEW**



Source: Program documentation and stakeholder consultations

## A.2 Service delivery model

Cross-cultural issues, remoteness and language barriers create unique needs and service delivery challenges for ATSILS clients (Huynor 2012). These issues, coupled with other barriers, including Aboriginal and Torres Strait Islander social disadvantage and over-representation in the justice system (Cunneen and Schwartz 2008) create a distinctive service delivery environment and model for ATSILS.

Field officers with an understanding of Aboriginal and Torres Strait Islander culture and community — generally Aboriginal and Torres Strait Islander peoples or those with significant community connections, play an important role in ATSILS service delivery. While precise duties differ across organisations, they generally assist clients to access legal services and with issues related to their legal problems. ATSILS have developed significant institutional knowledge relating to culturally competent services, as well as relating to particular legal issues impacting Aboriginal and Torres Strait Islander peoples (Huynor 2012).

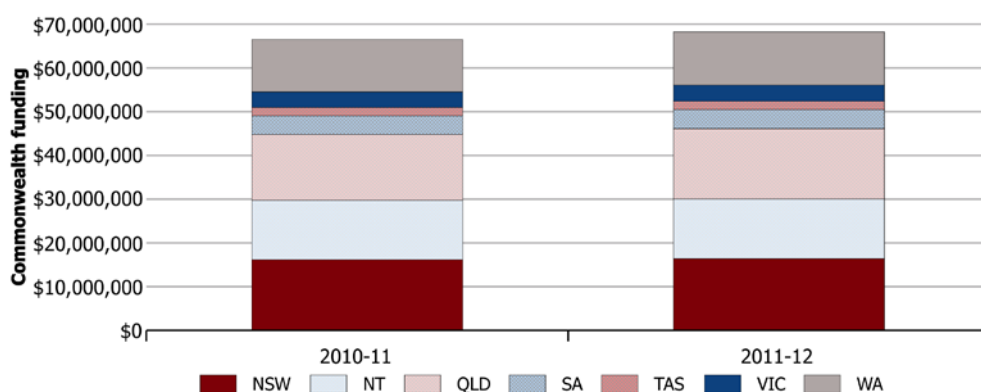
A custody notification service operates in each jurisdiction to enable Aboriginal and Torres Strait Islander persons arrested or detained by the police to obtain access to an ATSILS solicitor immediately upon detention. Custody notification is available 24 hours a day, 7 days a week.

## A.3 Funding

Total Commonwealth funding for ATSILS has increased from 2010-11 to 2011-12 to \$68.2 million (see Figure A.2). The proportion of total funding is highest in New South Wales (24 per cent), followed by Queensland (24 per cent) the Northern Territory (20 per cent) and Western Australia (18 per cent). Victoria, Tasmania and South Australia share 15 per cent of total funding.

Figure A.2

### COMMONWEALTH FUNDING TO ATSILS, 2010-11 AND 2011-12



Source: The Allen Consulting Group analysis based on funding data provided by AGD

**Geographic coverage**

Eight organisations across Australia deliver services across metropolitan, regional and remote areas (see Table A.1). Each organisation delivers services in regional and remote locations through a combination of regional offices and outreach services, including remote court circuits.

Table A.1

**ATSILS BY JURISDICTION AND NUMBER OF SERVICE OUTLETS**

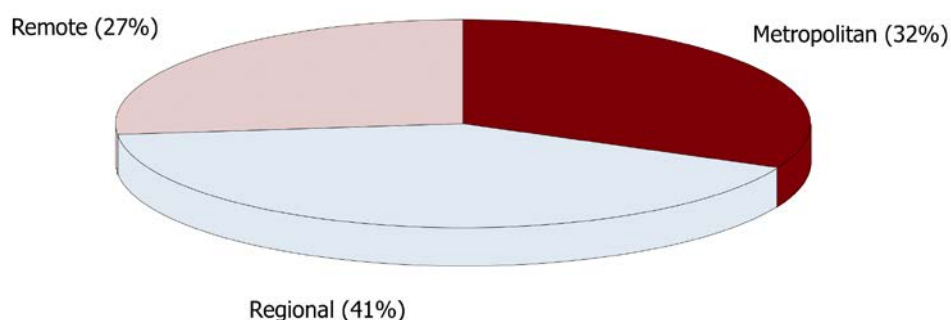
Jurisdiction	Organisation	Outlets
ACT/NSW	Aboriginal Legal Service (NSW/ACT) Limited	21
Qld	Aboriginal and Torres Strait Islander Legal Services Qld Limited	27
NT	North Australian Aboriginal Justice Agency Limited	3
NT	Central Australian Aboriginal Legal Aid Service Incorporated	2
SA	Aboriginal Legal Rights Movement Incorporated	5
Tas	Tasmanian Aboriginal Centre Incorporated	3
Vic	Victorian Aboriginal Legal Service Co-operative Limited	8
WA	Aboriginal Legal Service of Western Australia Incorporated	13

Source: the Allen Consulting Group

ATSILS have a significant service delivery footprint in regional and remote areas, which accounts for 41 per cent and 27 per cent respectively of total services delivered nationally (see Figure A.3).

Figure A.3

**ATSILS MATTER LOCATION BREAKDOWN 2011-12**



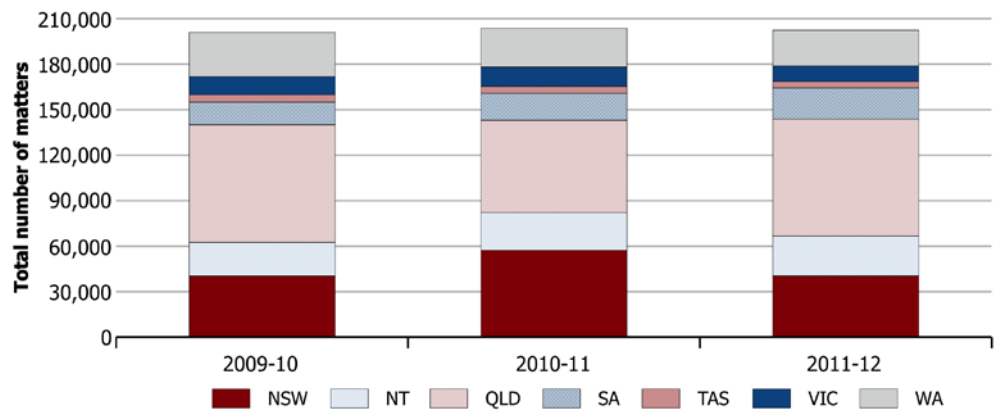
Source: The Allen Consulting Group analysis based on IRIS data

**Service volumes**

Nationally, ATSILS delivered services for 202,390 matters in 2011-12, a slight drop from 2010-11 (see Figure A.4). Service volumes were highest in Queensland (38 per cent of all matters), followed by New South Wales (20 per cent) and the Northern Territory (13 per cent).

Figure A.4

**ATSILS TOTAL NUMBER OF MATTERS 2009-10 TO 2011-12**



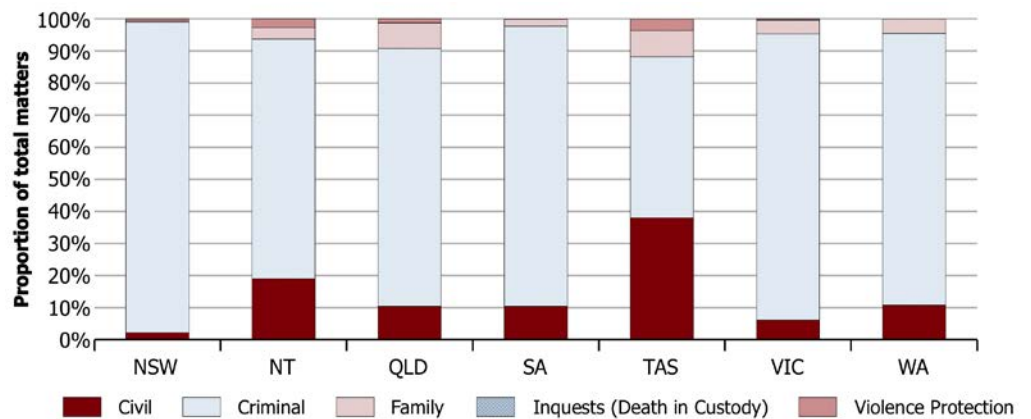
Source: The Allen Consulting Group analysis based on IRIS data

**Areas of law**

ATSILS service delivery nationally is dominated by criminal law matters, which in 2011-12 accounted for 84 per cent of all matters, followed by 10 per cent civil matters and 5 per cent family matters. The breakdown between criminal/civil/family matters varies across jurisdictions (see Figure A.5), with a relatively greater proportion of civil matters in the Northern Territory and Tasmania. New South Wales has very small amounts of civil and family matters, reflecting a service focus on criminal law and children’s care and protection law.

Figure A.5

**ATSILS MATTERS BY LAW TYPE BY STATE/TERRITORY 2011-12**



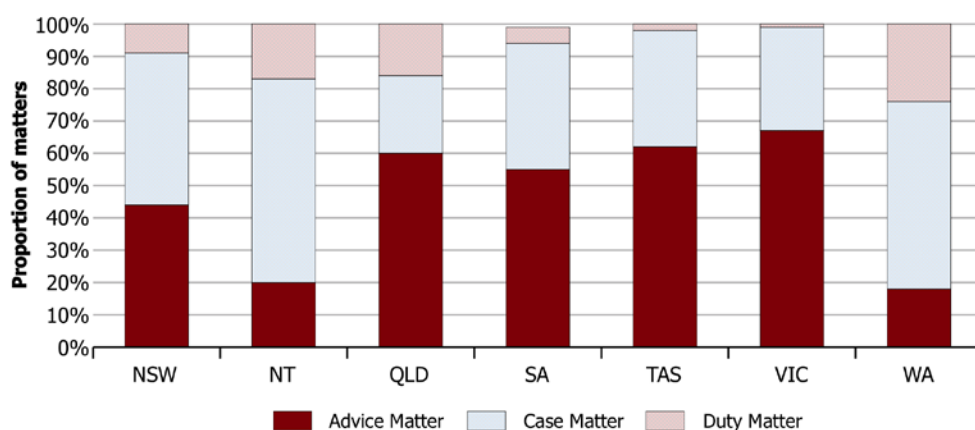
Source: The Allen Consulting Group analysis based on IRIS data

### Service types

Total service activities in 2011-12 were split between advice matters (47 per cent), case matters (40 per cent) and duty matters (14 per cent). The types of activities undertaken are variable across states. The Northern Territory and Western Australia show greater proportions of case matters and duty matters, perhaps reflective of the remote geographic characteristics of these states and higher volumes of outreach services.

Figure A.6

#### ATSILS MATTER TYPE BY STATE/TERRITORY 2011-12



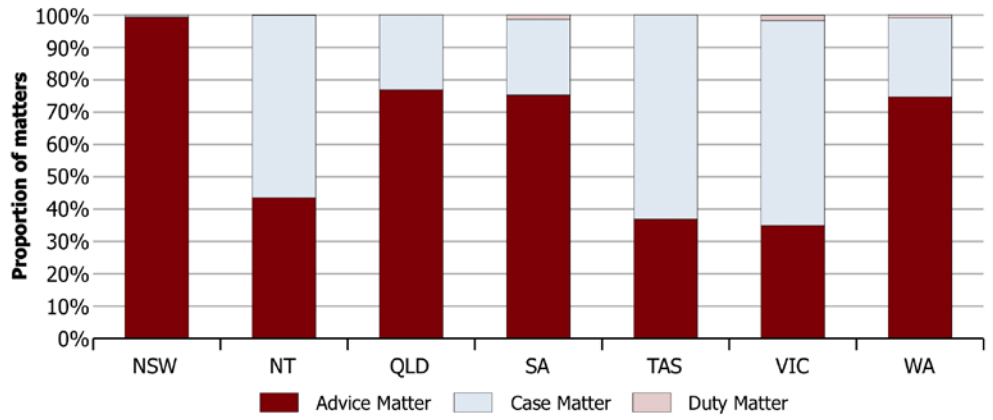
Source: The Allen Consulting Group analysis based on IRIS data

Types of activities undertaken show some relationship between areas of law. Across all jurisdictions in 2011-12 civil law matters and family law matters were more likely to involve advice than criminal law matters (see eg Figure A.7 below). This may be due to a higher proportion of services for criminal matters being provided by duty lawyers at courts. For criminal matters the type of service varies significantly across jurisdictions. Figure A.7 below shows that, in 2011-12, the majority of criminal matters in the Northern Territory and Western Australia involved case matters or duty matters. This may be related to the geographic characteristics of these jurisdictions — which are both vast and sparsely populated, suggesting high levels of outreach services.

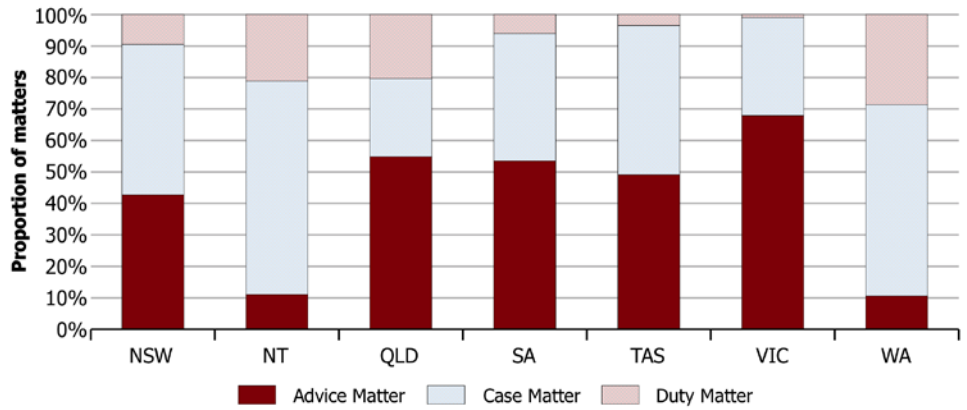
Figure A.7

**ATSILS MATTER TYPE BY STATE/TERRITORY 2011-12**

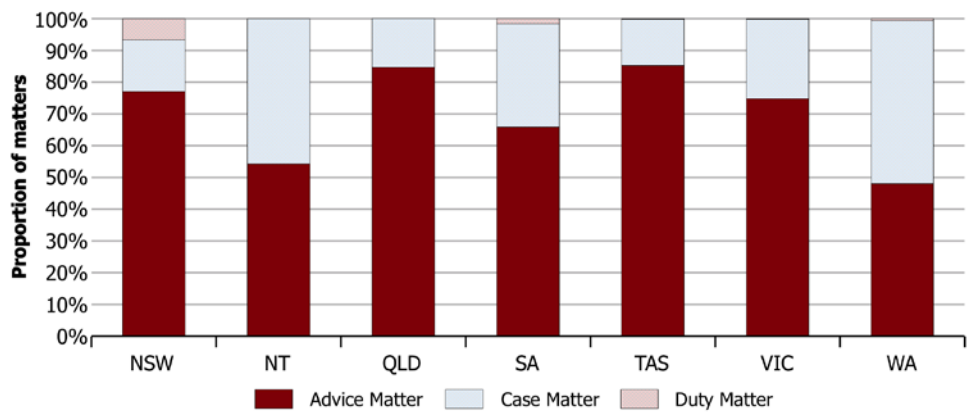
**FAMILY LAW**



**CRIMINAL LAW**



**CIVIL LAW**

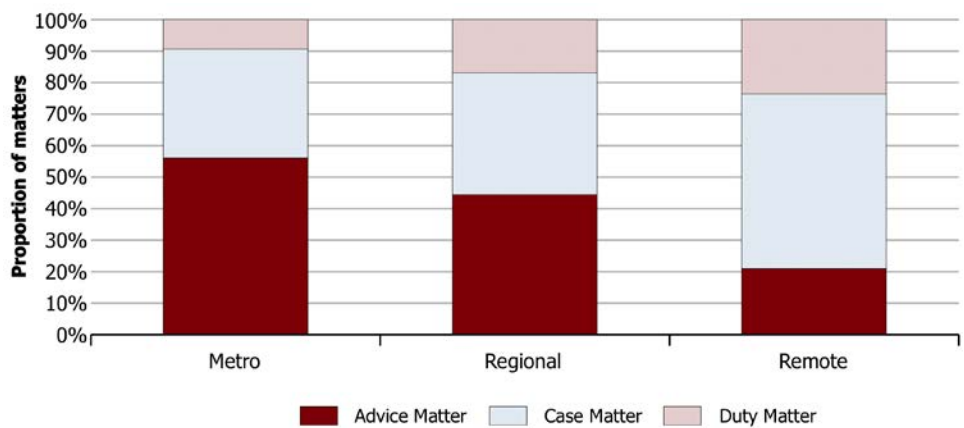


Source: The Allen Consulting Group analysis based on IRIS data

Service delivery characteristics also vary across metropolitan, regional and remote locations. Remote services are more likely to involve a case or duty matter. In 2011-12, just over 20 per cent of remote criminal matters were classified as advice, compared to over half of metropolitan based criminal matters. This may be reflective of proximity to regional offices and how remote services are delivered, which include outreach services at remote court circuits. An exception to this trend relates to inquest matters, which in 2011-12 were more likely to involve advice in remote locations than metropolitan.

Figure A.8

**ATSILS MATTER TYPE BY LOCATION - CRIMINAL LAW 2011-12**



Source: The Allen Consulting Group analysis based on IRIS data

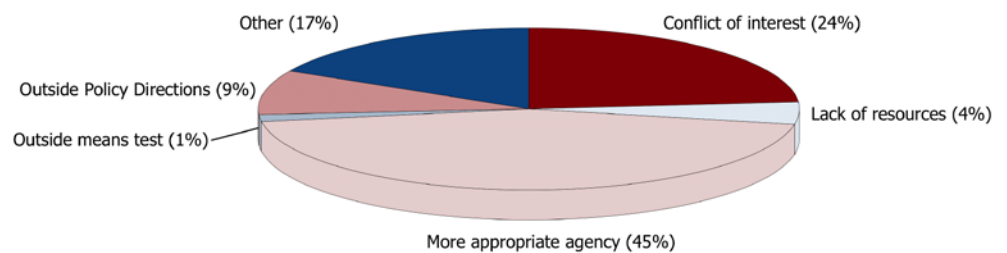
**A.4 Targeting service delivery**

**Service eligibility**

In 2011-12 less than one per cent of applicants were refused a service or referred to another agency. Of these, only four per cent were refused without referral, while the remainder were referred to legal or other services. Common reasons for referral generally included a more appropriate agency and conflict of interest (see Figure A.9).

Figure A.9

**BREAKDOWN OF REASON FOR REFUSAL OF SERVICE 2011-12 (N=2527)**



Source: The Allen Consulting Group analysis based on IRIS data

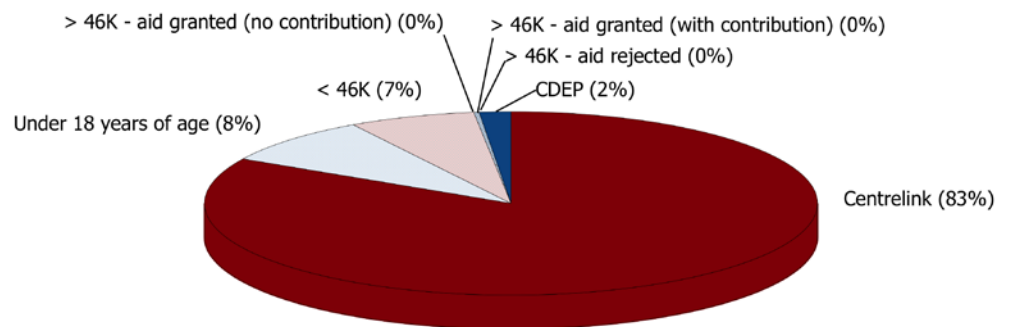


**Client characteristics**

ATSILS clients are overwhelmingly Aboriginal and Torres Strait Islander peoples, with only 0.3 per cent of clients not of Aboriginal or Torres Strait Islander origin in 2011-12. The majority of clients are also facing financial disadvantage, as illustrated by 85 per cent of aid given for case matters in 2011-12 being awarded on the basis of the clients being a Centrelink beneficiary or Community Development Employment Projects participant (see Figure A.10 below).

Figure A.10

**BREAKDOWN OF AID GRANTED AND REJECTED 2011-12**

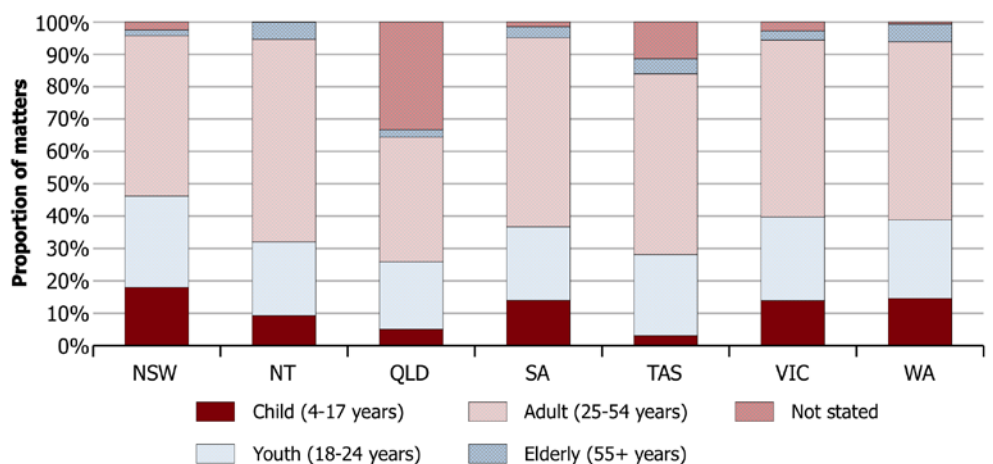


Source: The Allen Consulting Group analysis based on data from the IRIS database.

Other key demographic characteristics of ATSILS clients include a high proportion of male clients — who received a total of 70 per cent of all services in 2011-12. Across jurisdictions the proportion of male clients varied between 60 to 80 per cent. A high proportion of services are also delivered to children or youth, comprising 36 per cent of total services nationally in 2011-12 (see Figure A.11 below). Almost half of all services were for individuals aged between 25 and 54.

Figure A.11

**ATSILS MATTER BREAKDOWN BY CLIENT AGE 2011-12<sup>1</sup>**



Note: <sup>1</sup>Matters, rather than clients, are recorded in the IRIS database. Each client may have multiple matters. In Queensland, children are classified as those aged between 4 and 16 years and youths are classified as those between 17 and 24 years

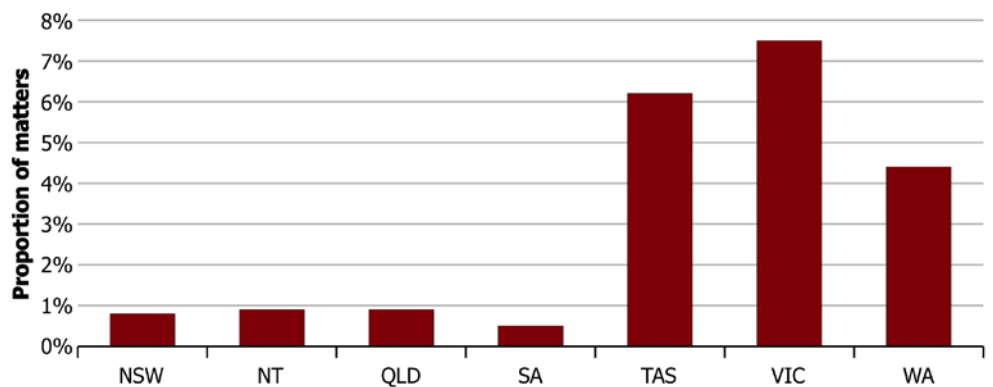
Source: The Allen Consulting Group analysis based on IRIS data

Issues with administrative data sets and consistency in recording client demographics present issues in reliably identifying other ATSILS client characteristics. For example, two per cent of total services were reported as delivered to clients that have a mental or physical disability in 2011-12. However, data inconsistency across states, which show high levels of disability in Tasmania, Victoria and Western Australia and low levels in other jurisdictions suggests this information may not always be recorded (see Figure A.12 below).

Similarly, twelve per cent of services were delivered to clients reported as ‘not literate’ in 2011-12. However, inconsistency in data, with very low rates of illiteracy in some jurisdictions, suggest that this information is not always recorded and may in fact be much higher.

Figure A.12

**ATSILS MATTER BREAKDOWN BY CLIENT DISABILITY STATUS 2011-12**



Note: Matters, rather than clients, are recorded in the IRIS database. Each client may have multiple matters.

Source: The Allen Consulting Group analysis based on IRIS data

## Appendix B

### Community legal centres

#### Key points

- *Community based not-for-profit organisations, providing generalist and specialist services using diverse service delivery models.*
- *A total of \$33.7 million in Commonwealth funding provided to 138 organisations in 2011-12. In aggregate, 167,520 information services, 237,243 advice services, 3,163 community legal education projects were delivered and 51,759 cases opened in 2011-12.*
- *Clients are primarily receiving services for civil and family law matters, which accounted for 59 per cent and 33 per cent of total clients respectively in 2011-12. Eight per cent of clients received services for criminal law matters.*
- *Eighty per cent of clients nationally in 2011-12 earned less than \$26,000 per year. Only three per cent of clients were on incomes over \$52,000. Around seven per cent of clients were Aboriginal and Torres Strait Islander, while around six per cent of clients spoke little or no English.*

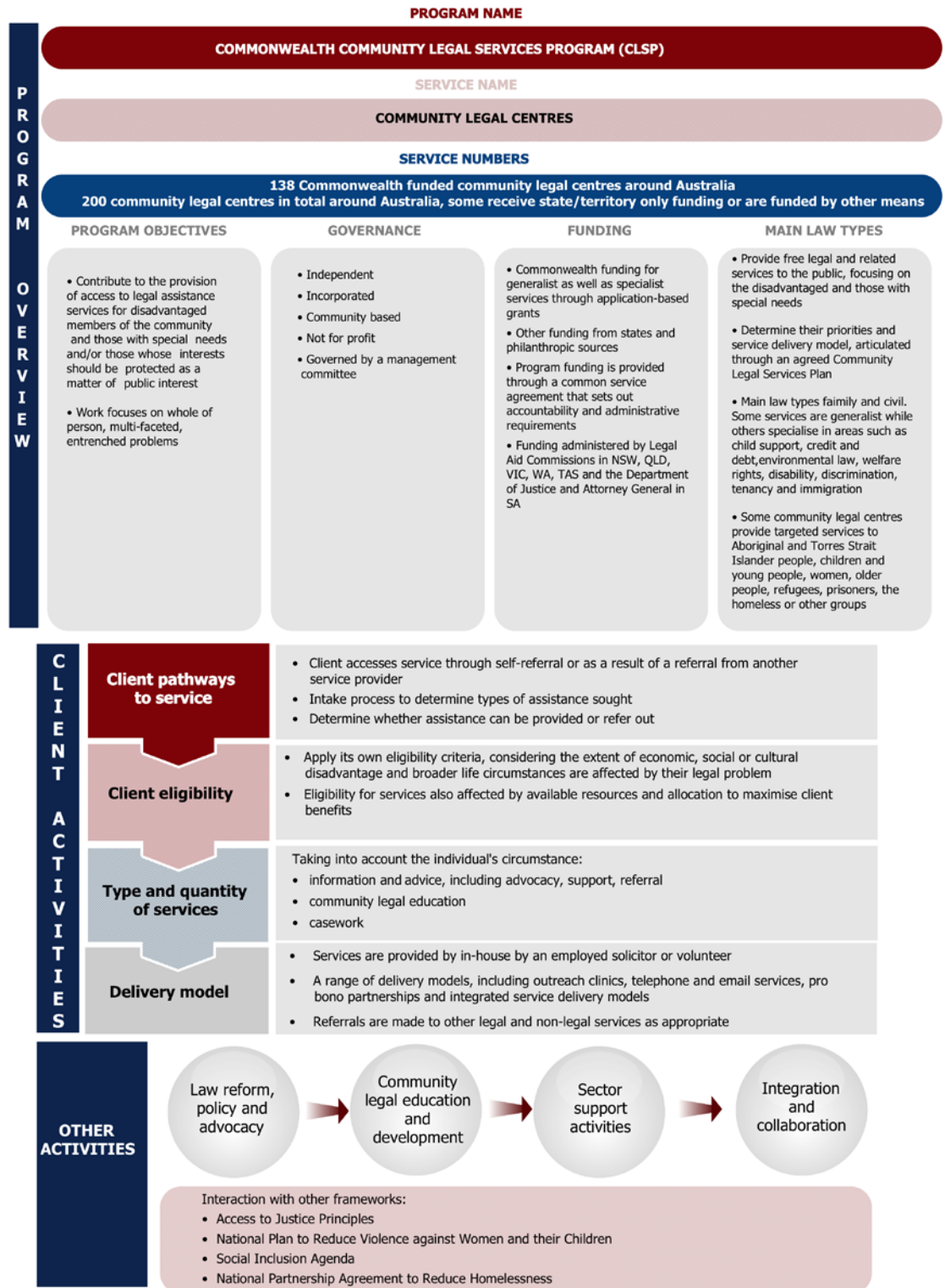
#### B.1 History and objectives

Community legal centres are community based not for profit organisations, first established in the 1970s to address a need to provide legal assistance to disadvantaged groups. The incremental development of community legal centres in response to diverse community needs has resulted in a set of equally diverse organisations, ranging from small, targeted services to generalist practices. Their objective is to contribute to the provision of access to legal assistance services for disadvantaged members of the community and those with special needs and whose interests should be protected as a matter of public interest.

There are 138 community legal centres operating across Australia that receive Commonwealth funding through the Community Legal Services Program (CLSP). Figure B.1 provides an overview of program objectives and activities.

Figure B.1

**COMMUNITY LEGAL CENTRES OVERVIEW**



Source: Program documentation and stakeholder consultations

## **B.2 Service delivery model**

Community legal centres have a history of innovative and diverse service delivery models to deliver preventative and early intervention legal services. Some examples currently in place across Australia include:

- night advice clinics, often staffed by private lawyers providing pro bono services;
- partnerships with universities to deliver clinical legal education;
- integrated legal and non-legal services, such as consumer credit and financial counselling; and
- outreach service delivery, delivering advice and community legal education.

Community legal centres can determine their own eligibility criteria, subject to a requirement to maximise client benefits, taking into consideration factors such as systemic barriers to access and vulnerability.

Community legal centres are members of state based associations, which are in turn members of the National Association of Community Legal Centres (NACLC). NACLC has developed, and is implementing, a National Accreditation Scheme that its members must comply with. The National Accreditation Scheme aims to support good practice service delivery, incorporating CLSP service standards, requirements of the NACLC's Risk Management Guide (NACLC 2011) and requirements of other common quality standards.

Day to day administration is undertaken through cooperative relationships with the legal aid commissions in New South Wales, Victoria, Queensland, Western Australia and Tasmania and the South Australian Attorney-General's Department. The Commonwealth directly undertakes administration for the Australian Capital Territory and the Northern Territory.

Previous reviews have identified advantages of the community legal centres service delivery model, including flexibility to respond to emerging client needs and multidimensional approaches suited to clients with complex needs and multiple disadvantage (Commonwealth of Australia 2008).

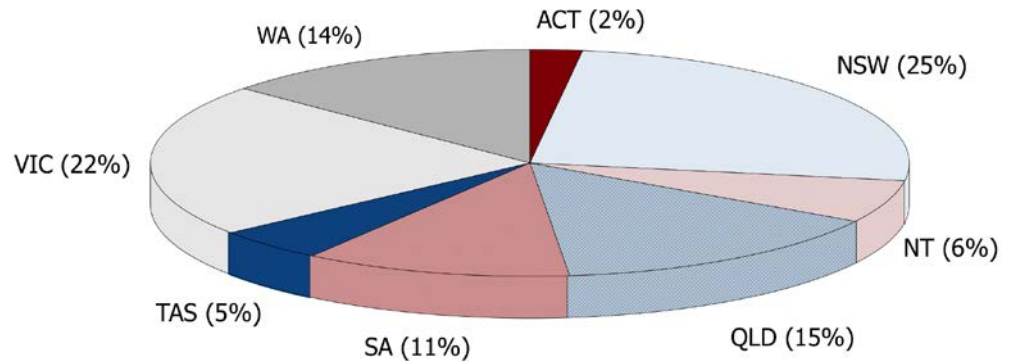
## **B.3 Service implementation**

### ***Funding***

Total Commonwealth CLSP funding in 2011-12 amounted to \$33.7 million, an increase from funding in 2010-11 of \$30.9 million. Community legal centres also receive funding from state sources, other government programs, fundraising activities and private donations. In 2011-12, Commonwealth funding constituted 31 per cent of total funding of community legal centres. Funding is allocated to centres based on a historical basis and includes an indexation factor. The split of funding across jurisdictions delivers the largest proportion to New South Wales (25 per cent) followed by Victoria (22 per cent), and Queensland and Western Australia (15 and 14 per cent respectively) (see Figure B.2 below).

Figure B.2

**COMMONWEALTH FUNDING FOR COMMUNITY LEGAL CENTRES BY STATE, 2011-12**



Source: The Allen Consulting Group analysis based on CLSIS data

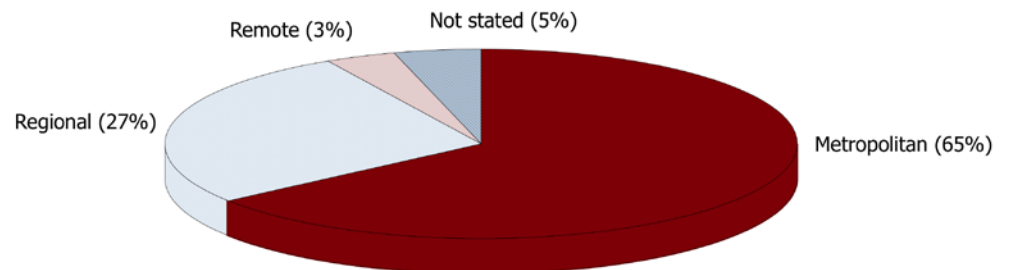
**B.4 Service Implementation**

**Geographic coverage**

The majority of community legal centres are located in metropolitan areas. This is reflected in the location of community legal centre clients, with 65 per cent metropolitan based and 27 per cent regional based in 2011-12 (out of those whose location was determinable).

Figure B.3

**COMMUNITY LEGAL CENTRE CLIENTS BY LOCATION, NATIONALLY FOR 2011-12<sup>1</sup>**



Note: <sup>1</sup>Proportions are based on client information from the CLSIS data system. The format of the data means that it may include double counting as a result of rounding errors, or multiple visits to the same service from separate locations. Regions were attributed to clients by matching postal area name information with postcode information, then matching postcode information to region classifications, as per the ABS Australian Standard Geographical Classification. Approximately 4.6% of clients could not be matched with a region.

Source: The Allen Consulting Group analysis based on CLSIS data, and the ABS Australian Standard Geographical Classification

The geographic reach of community legal centres can extend beyond office locations. In particular, some community legal centres provide state-wide or national services primarily via telephone and email. These types of service delivery models are common in specialist services, particularly in the areas of consumer credit, environment and welfare. Outreach services are also a common feature of community legal centres, often involving regular visits and collaboration with other community service providers to provide wrap around legal services in locations such as homeless shelters, shopping centres and community centres.

### **Service volumes**

Commonwealth CLSP funding is provided for a range of generalist and specialist services. Generalist services cover core service activities across a broad range of legal matters, with flexibility to reflect the needs of the local community. Specialist funding is also provided to target services to particular groups (eg women, young people) and particular areas of law (eg environment, welfare, child support, disability discrimination).

Core activities funded include information, advice, casework, community legal education, law reform and policy. In volume terms advice activities are the most prominent nationally, with 237,243 activities in 2011-12, followed by information with 167,520 activities in 2011-12. Total advice volumes fell 2.2 per cent from 2010-11 to 2011-12, while information services rose 7.0 per cent and cases opened fell 3.8 per cent.

Table B.2

#### **COMMUNITY LEGAL CENTRE ACTIVITIES 2011-12**

<b>Jurisdiction</b>	<b>Advice</b>	<b>Information</b>	<b>CLE</b>	<b>Cases opened</b>
<b>ACT</b>	4,977	492	11	542
<b>NSW</b>	61,878	45,324	1,209	9,752
<b>NT</b>	2,751	1,025	17	876
<b>Qld</b>	57,582	31,724	499	7,831
<b>SA</b>	16,093	11,824	182	2,363
<b>Tas</b>	7,643	1,152	115	792
<b>Vic</b>	46,699	55,942	714	22,900
<b>WA</b>	39,620	20,037	416	6,703
<b>Grand Total</b>	237,243	167,520	3,163	51,759

Source: The Allen Consulting Group analysis based on CLSIS data

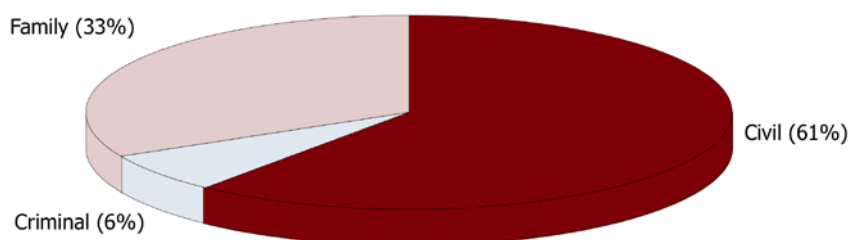
Information services dipped slightly in 2010-11 from 2009-10 levels, before recovering in 2011-12. Information services in 2011-12 were most intensive in Victoria (33 per cent), followed by New South Wales (29 per cent) and Queensland (24 per cent). Advice volumes nationally have fallen each year from 2009-10 to 2011-12, a total fall of 4.9 per cent. The breakdown of advice services across jurisdictions shows the bulk of services being provided in New South Wales (26 per cent), followed by Queensland (24 per cent) and Victoria (20 per cent). Total cases opened rose from 2009-10 to 2010-11 and dipped again in 2011-12. Victoria accounted for 44 per cent of total cases opened, followed by New South Wales (19 per cent), Queensland (15 per cent) and Western Australia (13 per cent).

**Area of law**

Community legal centre services are primarily delivered in the areas of civil and family law. Community legal centre clients in 2011-12 are reported as having civil issues 59 per cent of the time, family issues 33 per cent of the time and criminal issues 8 per cent of the time. Breaking down the area of law specifically for advice services broadly reflects this, with 61 per cent of services classified as civil, 33 per cent family and 6 per cent criminal in 2011-12 (see Figure B.4 below).

Figure B.4

**COMMUNITY LEGAL CENTRES BREAKDOWN OF ADVICES BY AREA OF LAW, 2011-12**

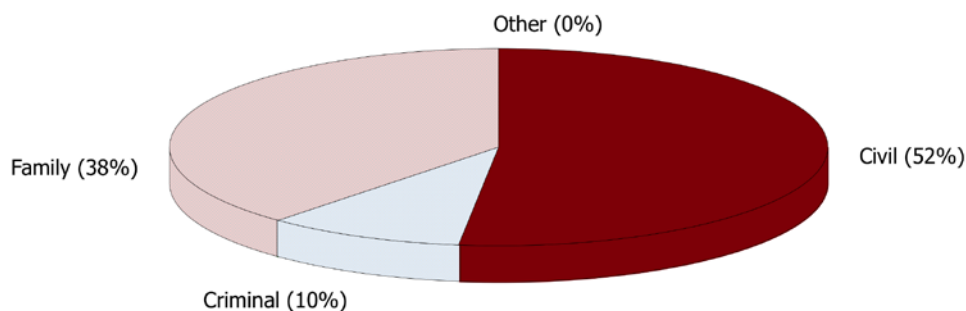


Source: The Allen Consulting Group analysis based on CLSIS data

Cases opened showed a slightly higher prevalence of criminal and family law in 2011-12 — comprising 10 per cent and 38 per cent of cases respectively (see Figure B.5).

Figure B.5

**COMMUNITY LEGAL CENTRES BREAKDOWN OF CASES OPENED BY MATTER, 2011-12**

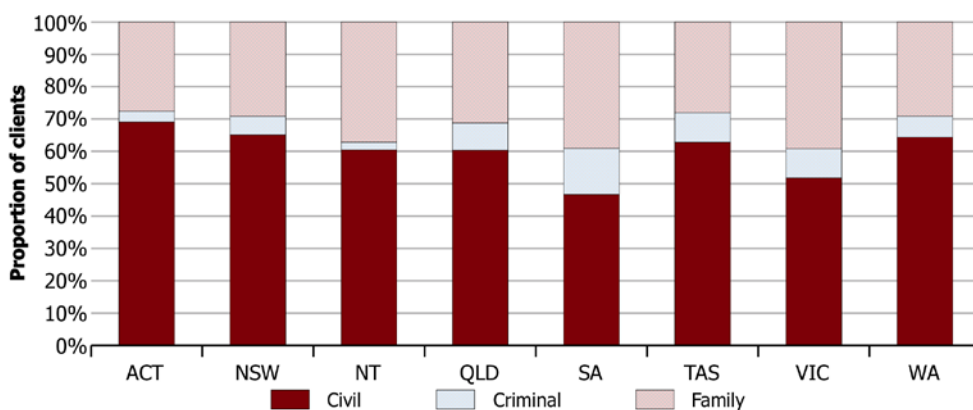


Source: The Allen Consulting Group analysis based on CLSIS data



The mix of law types shows some variation across jurisdictions (see Figure B.6 below). In 2011-12 clients with civil matters were most prominent in the Australian Capital Territory (69.1 per cent) and least prominent in South Australia (46.7 per cent). South Australia also has a significant proportion of clients with criminal matters compared to other states, with a proportion of 14.7 per cent.

Figure B.6

**COMMUNITY LEGAL CENTRE CLIENTS BY AREA OF LAW BY STATE 2011-12**

Note: Proportions are based on client information from the CLSIS data system. The format of the data means that it may include double counting as a result of rounding errors, or multiple visits to the same service from separate locations.

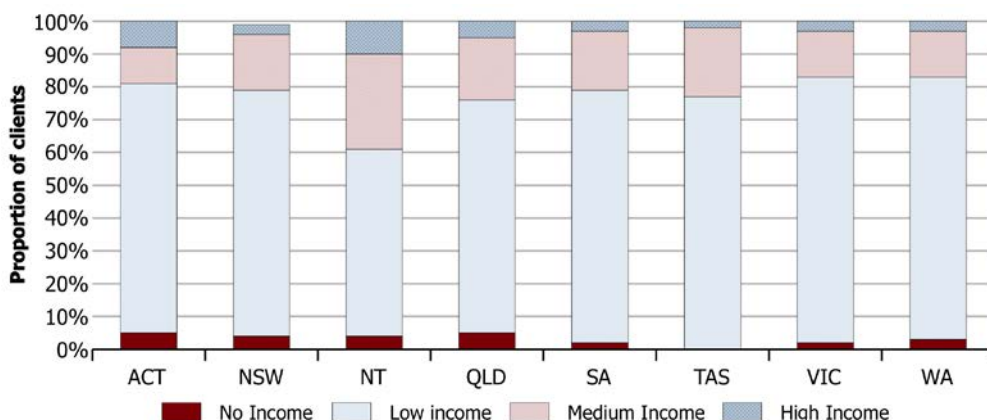
Source: The Allen Consulting Group analysis based on CLSIS data

**B.5 Targeting service delivery**

Eighty per cent of clients nationally in 2011-12 were reported as low income, earning less than \$26,000 per year. A further 3 per cent of clients had no income. Only 3 per cent of clients were reported as earning over \$52,000 per year, and 15 per cent of clients did not disclose their income. Client income characteristics are reasonably consistent across jurisdictions, with exception of the Northern Territory, which shows a higher proportion of clients with medium and high income (see Figure B.7).

Figure B.7

**COMMUNITY LEGAL CENTRE CLIENTS BY INCOME, BREAKDOWN BY STATE AMONG CLIENTS WHO STATED THEIR INCOME, 2011-12**



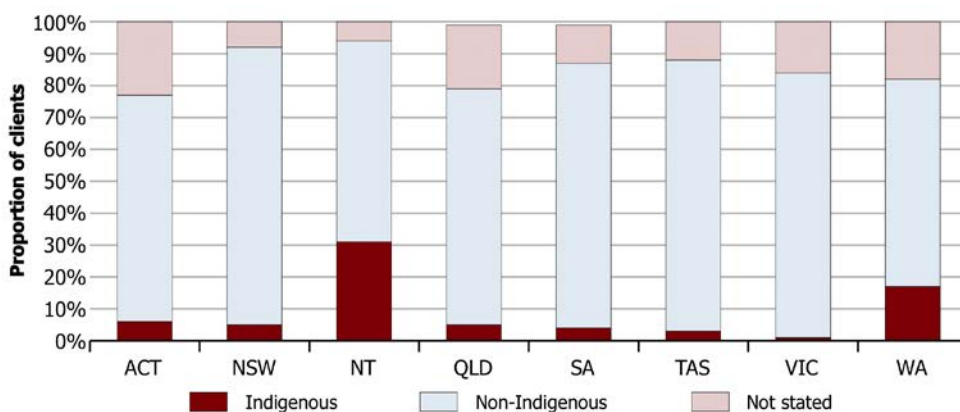
Note: Proportions are based on client information from the CLSIS data system. The format of the data means that it may include double counting as a result of rounding errors, or multiple visits to the same service from separate locations. Low income is defined as earning less than \$26,000 per annum, medium income as earning between \$26,000 and \$52,000, and high income as over \$52,000 per annum. Proportions exclude clients who did not provide income information.

Source: The Allen Consulting Group analysis based on CLSIS data

Six per cent of clients were reported as being of Aboriginal and Torres Strait Islander origin in 2011-12. The Northern Territory and Western Australia had the highest proportions of clients that are identified as Aboriginal and Torres Strait Islander, at 30.5 per cent and 16.6 per cent respectively.

Figure B.8

**COMMUNITY LEGAL CENTRE CLIENTS BY INDIGENOUS STATUS BY STATE, 2011-12**



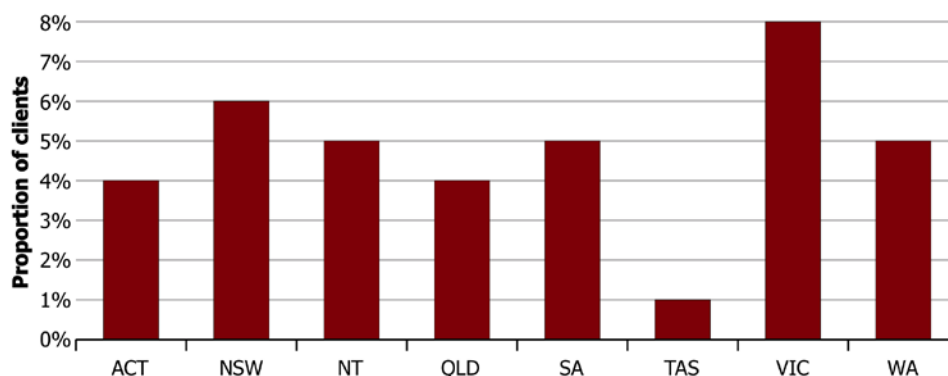
Note: Proportions are based on client information from the CLSIS data system. The format of the data means that it may include double counting as a result of rounding errors, or multiple visits to the same service from separate locations.

Source: The Allen Consulting Group analysis based on data from the CLSIS data system

Nationally, 1 per cent of clients in 2011-12 were reported as speaking no English, while a further 4 per cent were reported as speaking poor English. This figure varies markedly across jurisdictions, with the highest proportions of clients with no English or poor English seen in Victoria and New South Wales (see Figure B.9 below).

Figure B.9

**COMMUNITY LEGAL CENTRE CLIENTS WITH POOR OR NO ENGLISH - BREAKDOWN BY STATE AMONG CLIENTS WITH ENGLISH PROFICIENCY STATED, 2011-12**



Note: Proportions are based on client information from the CLSIS data system. The format of the data means that it may include double counting as a result of rounding errors, or multiple visits to the same service from separate locations.

Source: The Allen Consulting Group analysis based on CLSIS data

Other key characteristics of community legal centre clients in 2011-12 included:

- 59 per cent of community legal centre clients were female and 38 per cent male;
- 18 per cent of clients were single parents; and
- the majority of clients were spread between the 18-34, and 35-49 age groups. Clients aged over 65 account for 12 per cent of clients that reported their age, while those aged under 18 account for only 1 per cent.

## B.6 Referrals

Nationally in 2011-12 an average of 46.2 per cent of clients who presented at community legal centres reported an inwards referral, compared to 22.0 per cent of clients that received a referral from a community legal centre to another service. There are significant variations in referral levels across jurisdictions (see Table B.3 below). The proportion of clients with inwards referrals ranged from 64.7 per cent in South Australia to 20.9 per cent in the Australian Capital Territory. For outwards referrals the jurisdiction with the highest level was again South Australia, at 33.9 per cent, while the jurisdiction with the lowest level was the Australian Capital Territory, at 9.4 per cent.

Table B.3

**PROPORTION OF CLIENTS WITH REFERRALS IN OR OUT OF COMMUNITY LEGAL CENTRE SERVICE PROVIDERS, 2011-12**

State	Referrals in	Referrals out
ACT	20.9%	9.4%
NSW	58.5%	29.7%
NT	30.9%	16.9%
Qld	33.8%	21.2%
SA	64.7%	33.9%
Tas	26.4%	23.7%
Vic	48.1%	17.8%
WA	38.7%	13.4%
<b>National</b>	<b>46.2%</b>	<b>22.0%</b>

## Notes:

Proportions are based on client information from the CLSIS data system. The format of the data means that it may include double counting as a result of rounding errors, or multiple visits to the same service from separate locations.

The proportion of clients with a referral is calculated by dividing the number of clients with a confirmed referral by the number of clients. Referrals in and out are based on quarterly data, to reduce the impact of a client receiving multiple services, and receiving a referral for only one service.

Source: The Allen Consulting Group analysis based on CLSIS data

Common sources/destinations of referrals in 2011-12 are set out in Table B.4. Self referrals, or referrals from a friend/relative/neighbour were by far the number one source of referrals, comprising 33.7 per cent of total referrals. The top four destinations of outwards referrals were private legal practitioners, legal aid commissions, mediators and other community legal centres.

Table B.4

**MOST COMMON REFERRALS IN AND OUT OF COMMUNITY LEGAL CENTRE SERVICE PROVIDERS, 2011-12<sup>1</sup>**

Rank	Referrals in <sup>2</sup>	Referrals out <sup>2</sup>
1	Self/friend/relative/neighbour (33.7%)	Private legal practitioner (18.8%)
2	Other (10%)	Legal Aid Commission (8.6%)
3	Legal Aid Commission (8.2%)	Mediator/mediation centre (6.9%)
4	Community support Other (6.7%)	Community Legal service Other (6.4%)
5	State/territory courts (5.7%)	Financial (including financial counselling) (4.9%)

Note: <sup>1</sup>Referrals in and out are based on quarterly data, to reduce the impact of a client receiving multiple services, and receiving a referral for only one. <sup>2</sup>Referrals in and referrals out are the proportion of confirmed referrals in which the organisation/person was referred from/to. A valid referral is one that is not listed as "Not applicable – no referral", "Not applicable/Not Stated" or "Not stated". Multiple referrals may be given to each client.

Source: The Allen Consulting Group analysis based on data from the CLSIS data system

## Appendix C

# Family violence prevention legal services

### Key points

- *Fourteen organisations received Commonwealth funding of \$18.5 million in 2011-12 to deliver services across 31 high need areas.*
- *FVPLS delivered a total of 3,546 legal advice services, 7,278 non-legal advice services and opened 2,085 cases in 2011-12.*
- *The majority of casework services are delivered for family or domestic violence, injuries compensation, child protection and other family issues.*
- *A high proportion of clients are repeat clients, or are accessing services on a self referral or referral from a friend/relative/neighbour.*

### C.1 History and objectives

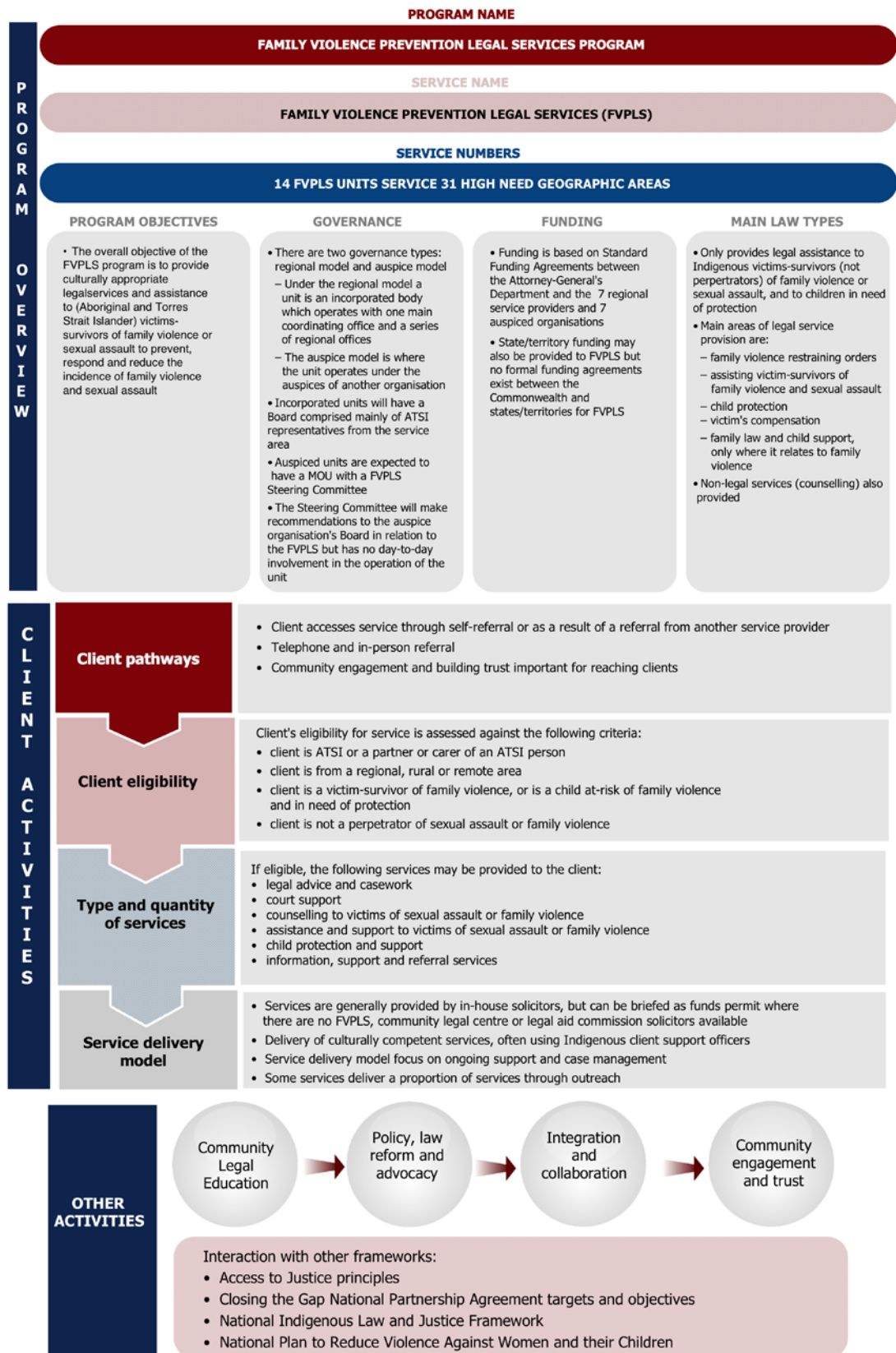
The FVPLS program's stated objective is 'working collaboratively with other service providers to deliver appropriate, accessible, equitable, efficient and effective legal assistance and related services to victim-survivors of family violence' (FVPLS Program Guidelines, 2010).

The FVPLS program started in 1998 at a pilot site in Kempsey, through funding from the Aboriginal and Torres Strait Islander Commission. Following the pilot period, funding of \$4.8 million was provided to expand the number of high need areas receiving services in remote and rural areas across Australia.

The program has since been transferred to the Attorney-General's Department and expanded to cover 31 high need areas around Australia. Selection of high need service areas was informed through research by the Crime Research Centre in 2004, which ranked the areas of highest service need based on agency surveys and analysis of available family violence-related and demographic data.

Figure C.1

**FAMILY VIOLENCE PREVENTION LEGAL SERVICES OVERVIEW**



Source: Program documentation and stakeholder consultations

## C.2 Service delivery model

The role of an FVPLS organisation is to provide legal assistance, counselling, court support, early intervention, education and advocacy activities for Aboriginal and Torres Strait Islander victims of family violence in rural and remote communities. Fourteen organisations currently deliver services across 31 high needs areas. This includes seven regionalised providers servicing 24 high needs areas and seven auspiced providers servicing one high need area each.

A variety of methods are currently used to deliver services, including outreach services (via both air and vehicle) and services delivered from a home office base. Providers that operate remote outreach activities by air generally follow the court circuit through remote regions, supporting appropriate clients whose cases are to be heard in court. Some FVPLS service providers deliver few, if any services from their agency outlet, instead employing an outreach based service model.

A number of distinctive challenges for FVPLS need to be accounted for in the service delivery model, including issues surrounding acknowledgement of domestic violence and challenges surrounding cultural appropriateness and accessing the client group (see Box C.1). Addressing these challenges draws on a recognised strength of the program in providing holistic and culturally competent services, leading to an ability to generate trusting relationships with communities (ACG 2012).

Box C.1

### LOCAL CHALLENGES IN ACCESSING SERVICE TARGET GROUPS

#### ***Acknowledging domestic violence***

"[we know] there is family violence happening but people [are] not accessing our service."

"[We need to] overcome community silence and denial regarding family violence and sexual abuse."

"[We need to] break down the ingrained belief that family violence is normal and often justified."

#### ***Challenges to accessing the target group***

"English not being the first language of the client group and, as a result, clients having little understanding of police, court, child protection systems."

"Clients having sufficient stability, safety to engage emotionally and be supported throughout the counselling process."

"Contacting clients who are very mobile and move between locations on a regular basis"

"Building strong relationships with the community."

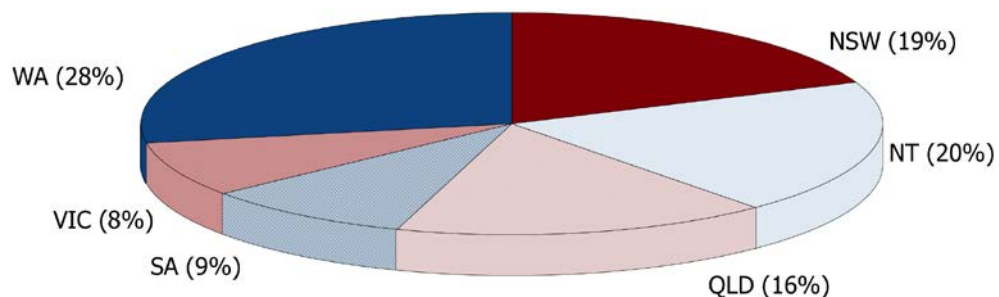
Source: ACG 2012.

## C.3 Funding

Commonwealth funding to FVPLS service providers was \$18.5 million in 2011-12, an increase from \$17.7 million in 2010-11. These figures exclude preventative and early intervention funding of \$0.32 million in 2010-11, and \$0.24 million in 2011-12. Western Australia, New South Wales and the Northern Territory received the bulk of funding (see Figure C.2 below).

Figure C.2

**COMMONWEALTH FVPLS FUNDING BY STATE, 2011-12**



Notes:

Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's council, which has a jurisdiction across NT, WA and SA is included in the data for NT.

Figures exclude preventative and early intervention funding.

Source: The Allen Consulting Group analysis based on data provided by AGD

**C.4 Service implementation**

***Geographic coverage***

The FVPLS program is specifically targeted to regional and remote areas. Table C.1 below sets out each organisation and office locations. In addition, many providers have a significant outreach focus and high levels of servicing in very remote locations.



Table C.1

**FVPLS PROVIDERS AND OFFICE LOCATIONS**

<b>Jurisdiction</b>	<b>Organisation</b>	<b>Office locations</b>
<b>NSW</b>	<i>Thiyama-li Family Violence Service I</i>	Bourke, Moree (head), Walgett
	<i>Binaal Billa FVPLS</i>	Forbes
	<i>Many Rivers Violence Prevention Unit</i>	Kempsey
	<i>Far West Community Legal Centre Inc.</i>	Broken Hill
<b>NT</b>	<i>CAAFLU</i>	Alice Springs (head), Tenant Creek
	<i>North Australian Aboriginal Legal Service (NAALS)</i>	Darwin (head), Katherine
	<i>NPYWC Domestic and Family Violence Service</i>	Alice Springs
<b>Qld</b>	<i>QIFVLS</i> <i>(head office is located in Cairns)</i>	Cairns (head office), Cape York (2 areas), Mt Isa, Rockhampton, Townsville
	<i>Maruma-li Outreach Service</i>	Roma
<b>SA</b>	<i>FVLSAC</i>	Ceduna, Port Augusta (head), Port Lincoln
<b>Vic</b>	<i>FVPLS Victoria</i>	Bairnsdale, Mildura, Warrnambool, Melbourne (head office)
<b>WA</b>	<i>Aboriginal Family Law Service (head office is located in Perth)</i>	Broome, Carnarvon, Geraldton, Kalgoorlie, Kunnanurra, Port Headland
	<i>Marninwarntikura Family Violence Prevention Unit</i>	Fitzroy Crossing
	<i>FVPLS Albany</i>	Albany

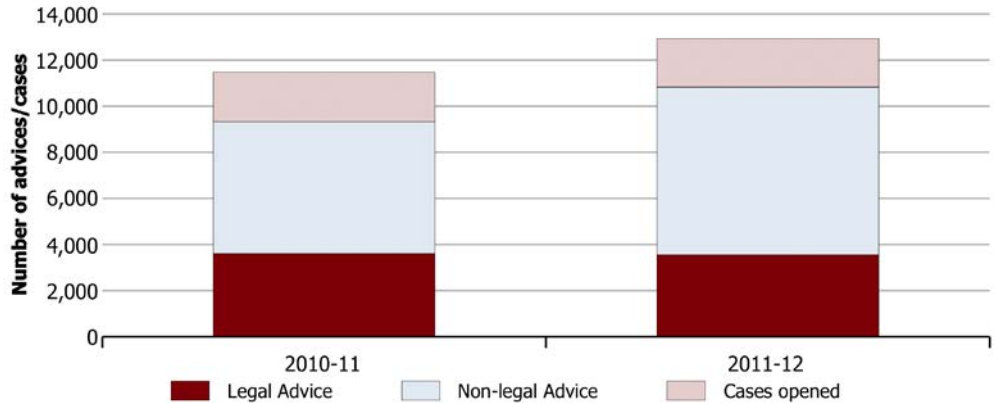
Source: Documentation provided by AGD and organisations to the Allen Consulting Group

**Service volumes**

FVPLS nationally delivered a total of 3,546 legal advice services, 7,278 non-legal advice services and opened 2,085 cases in 2011-12 (see Figure C.3). Non-legal advice is delivered more than twice as regularly as legal advice. Changes in service volumes between 2010-11 and 2011-12 suggests that the service delivery mix is shifting towards non-legal advice, which increased more than a quarter, while legal advice and cases opened decreased slightly.

Figure C.3

**FVPLS TOTAL NUMBER OF ADVICES AND CASEWORK, 2010-11 AND 2011-12**

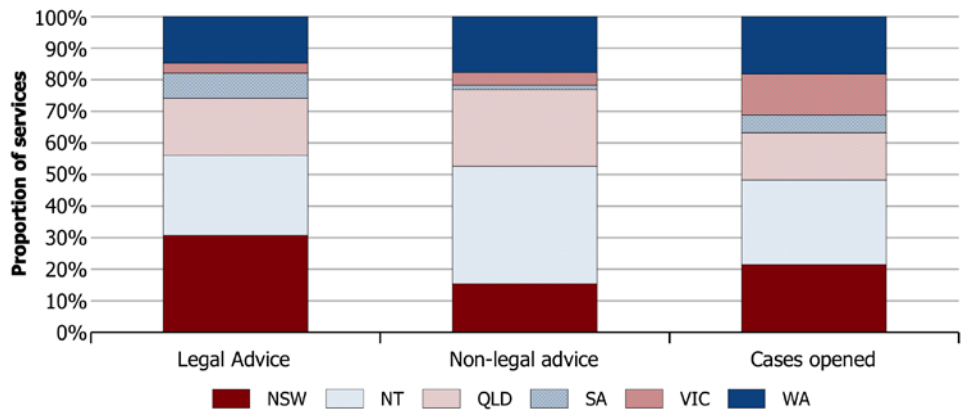


Source: The Allen Consulting Group analysis based on CLSIS data

Figure C.4 below breaks down total services delivered in 2011-12 according to each jurisdiction’s proportion of the total. New South Wales accounted for a large proportion (30.7 per cent) of total legal advice services. In contrast, the Northern Territory had the biggest proportion of non-legal advice services, with 37.2 per cent of the total. While Victoria accounted for only 3.2 per cent and 4.0 per cent of legal and non-legal advice respectively, it accounted for 13.0 per cent of cases opened.

Figure C.4

**SERVICES PROVIDED BY STATE, 2011-12**



Note: Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's council, which has a jurisdiction across NT, WA and SA is included in the data for NT.

Source: The Allen Consulting Group analysis based on CLSIS data

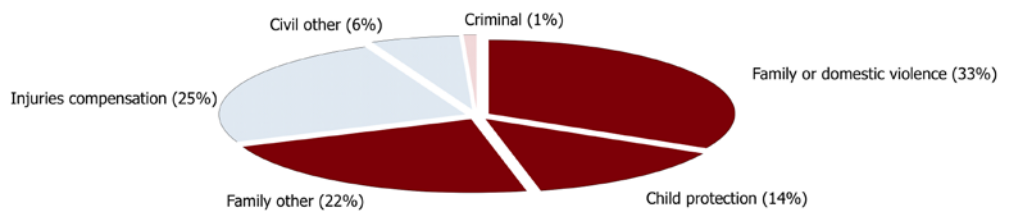
**Area of law**

Figure C.5 below breaks down cases opened, legal advices and non-legal advices by area of law between July 2010 and November 2012. Casework and legal advice services are predominantly in the fields of family or domestic violence, child protection, injuries compensation and other family issues. The majority of non-legal advice services are for other civil and family issues.

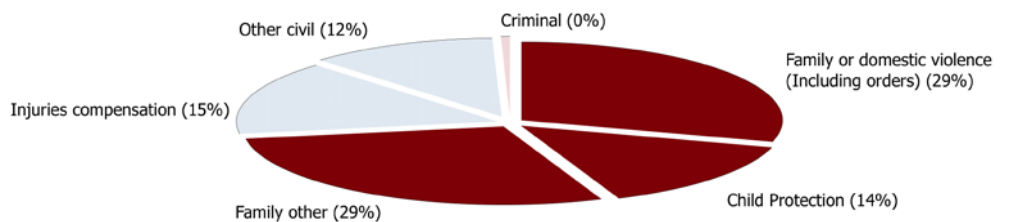
Figure C.5

**BREAKDOWN OF SERVICES BY AREA OF LAW, JULY 2010 TO NOVEMBER 2012**

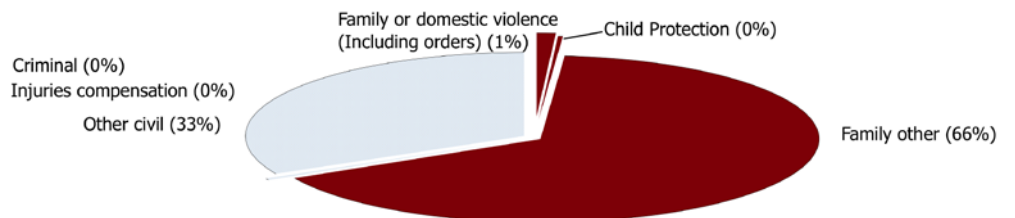
**CASES OPENED**



**LEGAL ADVICE**



**NON-LEGAL ADVICE**



Source: The Allen Consulting Group analysis based on CLSIS data

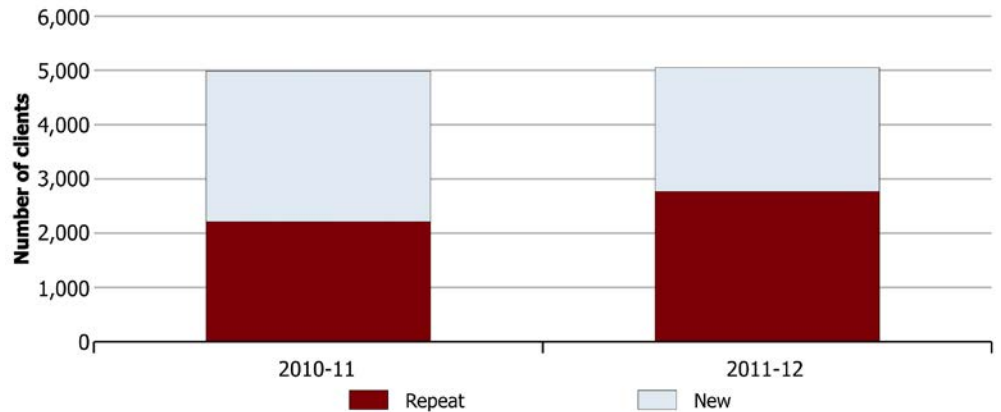
**C.5 Targeting service delivery**

As a product of the targeted nature of the FVPLS program all clients generally display a number of indicators of disadvantage, namely people of Aboriginal and Torres Strait Islander origin experiencing or at risk of family violence.

The total amount of FVPLS clients increased slightly between 2010-11 and 2011-12, largely as a result of an increased number of repeat clients. The proportion of total clients that were repeat clients in 2011-12 was largest in the Northern Territory, with 71.5 per cent of clients having used FVPLS services previously. In contrast, in Western Australia 34.1 per cent of clients were repeat service users.

Figure C.6

**FVPLS CLIENTS BY CLIENT TYPE, 2010-11 AND 2011-12**

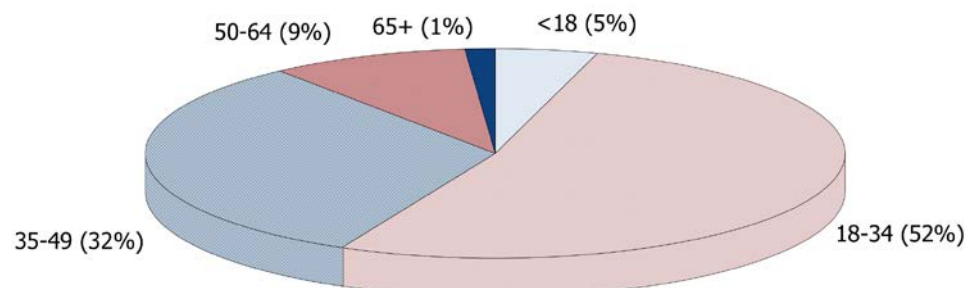


Source: The Allen Consulting Group analysis based on CLSIS data

Nationally 83 per cent of FVPLS clients in 2011-12 were female, with the proportion varying between around 75 per cent and just over 90 per cent across jurisdictions. The age profile of FVPLS clients is relatively young, with only 10 per cent of total clients (who provided information on their age) aged over 50 in 2011-12 (see Figure C.7 below).

Figure C.7

**FVPLS CLIENT BY AGE, AMONG CLIENTS WHO PROVIDED INFORMATION ON THEIR AGE, 2011-12**

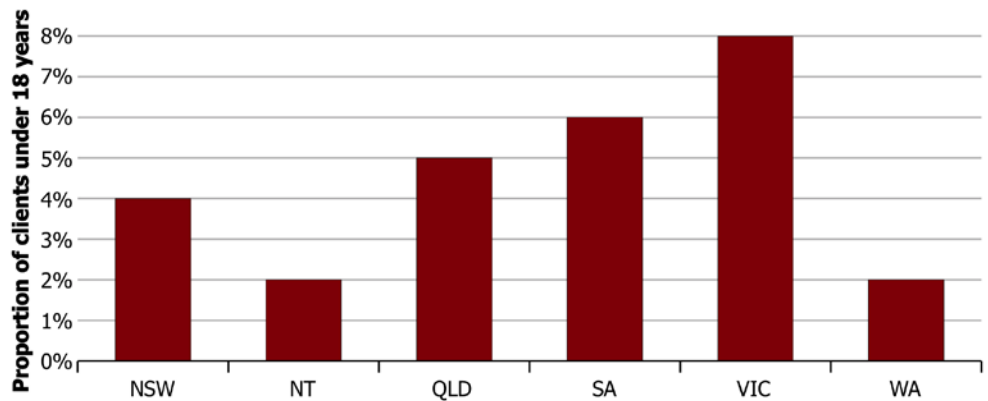


Source: The Allen Consulting Group analysis based on CLSIS data

Some jurisdictions are seeing a significant proportion of clients aged below 18 years of age. In 2011-12 the number of clients aged under 18 years varied across jurisdictions between 2 per cent (Western Australia and Northern Territory), and 8 per cent (Victoria) (see Figure C.8).

Figure C.8

**FVPLS PROPORTION OF CLIENTS UNDER 18 YEARS OF AGE, 2011-12**



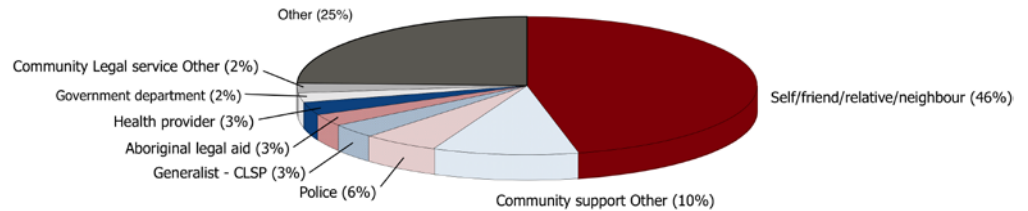
Source: The Allen Consulting Group analysis based on CLSIS data

**C.6 Referrals**

The majority of inward referrals between July 2010 and December 2012 were self referrals, or from a friend/relative/ neighbour. Very few referrals were identified as coming from other legal services (see Figure C.9).

Figure C.9

**SOURCE OF REFERRALS IN — JULY 2010 TO DECEMBER, 2012**



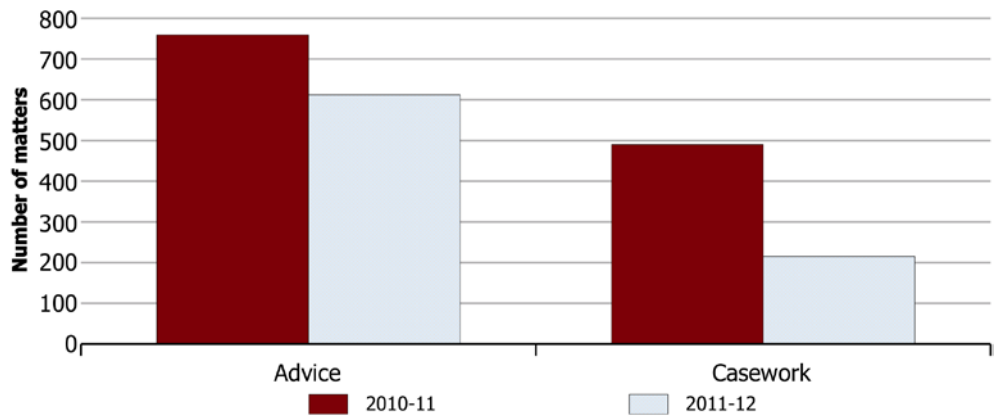
Note: Referral breakdown refers to overall period in which data is extracted from the CLSIS database, which for this analysis was 2010-11, 2011-12, and 2012-13 as at December 2012.

Source: The Allen Consulting Group analysis based on CLSIS data

There was been a notable drop in referrals arising from both advice services and casework services between 2010-11 and 2011-12 (see Figure C.10). This may be due to organisations becoming better trained and more accurate when entering data.

Figure C.10

**ADVICE AND CASEWORK WITH REFERRALS TO ANOTHER SERVICE FROM A FVPLS PROVIDER, 2010-11 AND 2011-12**

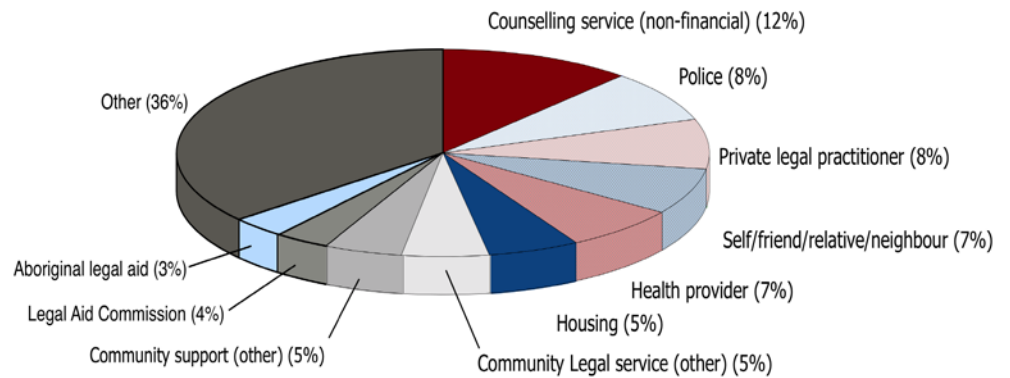


Source: The Allen Consulting Group analysis based on CLSIS data

Outward referral destinations were varied between July 2010 and December 2012. The most common destination was counselling services (12 per cent), followed by private legal practitioners and police (both 8 per cent) (see Figure C.11 below).

Figure C.11

**DESTINATION OF OUTWARD REFERRALS — JULY 2010 TO DECEMBER, 2012**



Note: Referral breakdown refers to overall period in which data is extracted from the CLSIS database, which for this analysis was 2010-11, 2011-12, and 2012-13 as at December 2012.

Source: The Allen Consulting Group analysis based on CLSIS data

## Appendix D

### Legal aid commissions

#### Key points

- *Eight legal aid commissions received a total of \$195.1 million in Commonwealth funding in 2011-12.*
- *Since introduction of the NPA, service delivery levels and expenditure mix have shifted towards a greater emphasis on preventative and early intervention services. However, litigation services still account for the majority of Commonwealth expenditure.*
- *Commonwealth grants of legal aid are dominated by family law issues, which accounted for 91 per cent of grants awarded nationally in 2011-12.*
- *Over 70 per cent of clients receiving a grant of legal aid are receiving a Centrelink payment or government benefit as their main source of income.*
- *Grants of legal aid come at an average cost nationally of \$4,513, with marked variations across law types and jurisdictions.*

#### D.1 History and objectives

Until the mid 1970s the predominant method of delivering legal aid services in Australia was through the participation of private practitioners in law society schemes. The 1970s saw a growing interest in promoting equality through readily available legal assistance to promote equitable access to justice. The Australian Legal Aid Office was established by the Commonwealth in 1973 to provide legal assistance to people for whom the Commonwealth had a special responsibility, including social security recipients, returned servicemen and women, Aboriginal and Torres Strait Islander peoples and migrants. Legal assistance was also provided for matters arising out of Commonwealth law.

State and territory legal aid commissions first emerged in 1977, subsuming Commonwealth-funded offices. As put by the Attorney-General of the day, instead of separate state and Commonwealth services being provided side-by-side, the new scheme was 'based upon the principles of co-operative federalism' (Durack 1977). Since this time, legal aid commissions have been established as independent statutory bodies in each state and territory to provide access to legal assistance for the vulnerable and disadvantaged, with regard to considerations of effectiveness and efficiency.

From 1997 Commonwealth legal aid funding moved towards a purchaser-provider model, with an expectation that expenditure of Commonwealth funds be clearly linked with Commonwealth laws and service priorities. Introduction of the NPA, in 2010 represented a step away from this clear purchaser provider-split, introducing some additional flexibility for use of Commonwealth funds in preventative and early intervention services and areas of joint policy priority, including state law matters with connected family violence or child protection issues.

Figure D.1

**LEGAL AID COMMISSIONS OVERVIEW**



Source: Program documentation and stakeholder consultations



## D.2 Service delivery model

A single legal aid commission in each jurisdiction delivers civil, criminal and family legal assistance across a full spectrum of services, from preventative and early intervention services to legal representation. Legal representation is provided through a mixture of in-house lawyers and contracted private lawyers on a grant of legal aid. Legal aid commissions are also typically involved in policy and law reform, as well as community education activities such as production of legal information and resources.

Access to information and advice, community legal education and duty lawyer services are generally available to all, whereas grants of legal aid (funding for ongoing representation) are subject to the principles set out in Schedule B of the NPA. Grants of aid are subject to an income test, generally satisfied where an individual is receiving a government payment as their main form of income, as well as an asset test. Provision for discretionary grants and co-contributions also apply, along with consideration of the cost of proceedings and prospect of success.

## D.3 Funding

Legal aid commissions receive a mixture of funding from the Commonwealth, states and other sources (including public purpose funds). Uniquely among legal assistance services, Commonwealth funding for legal aid commissions is specifically earmarked for Commonwealth law matters, with funding for state law matters coming from state governments. Commonwealth funding may also be used for preventative and early intervention services, and legal representation where matters are a mix of Commonwealth family law and state or territory family violence or child protection. For legal aid commissions, the Review relates to these Commonwealth-funded services only. Commonwealth legal aid commission funding for 2010-11 and 2011-12 is set out in Table D.1.

Table D.1

### COMMONWEALTH LEGAL AID FUNDING 2010-11 AND 2011-12

Jurisdiction	2010-11	2011-12
ACT	\$4,491,000	\$4,455,000
NSW	\$60,279,000	\$61,598,000
NT	\$3,860,000	\$4,000,000
Qld	\$40,258,000	\$40,484,000
SA	\$15,056,000	\$15,434,000
Tas	\$5,936,000	\$5,946,000
Vic	\$42,415,000	\$43,644,000
WA	\$19,212,000	\$19,583,000
Total	\$191,507,000	\$195,144,000

Source: Funding agreement data as per the NPA, including additional NPA one-off funding provided by AGD

## D.4 Geographic coverage

Services are delivered through one legal aid commission in each state and territory. Each legal aid commission, with exception of the Australian Capital Territory, delivers services through a number of regionally based outlets (see Table D.2). Telephone advice services also typically service the entire jurisdiction, and outreach activities may also be undertaken. For example, while the Australian Capital Territory has one office only, services are also available through outreach in locations such as courts, prisons and hospitals.

Table D.2

### NUMBER OF LAC OUTLETS BY JURISDICTION

Jurisdiction	Organisation	Outlets
ACT	Legal Aid Australian Capital Territory	1
NSW	Legal Aid New South Wales	22
Qld	Legal Aid Queensland	23
NT	Northern Territory Legal Aid Commission	5
SA	Legal Services Commission of SA	11
Tas	Legal Aid Commission of Tasmania	4
Vic	Victorian Legal Aid Commission	15
WA	Legal Aid Western Australia	11

Source: The Allen Consulting Group, based on Review Service Provider Survey and Data Request 2013

## D.5 Services implementation

### *Service volume and expenditure*

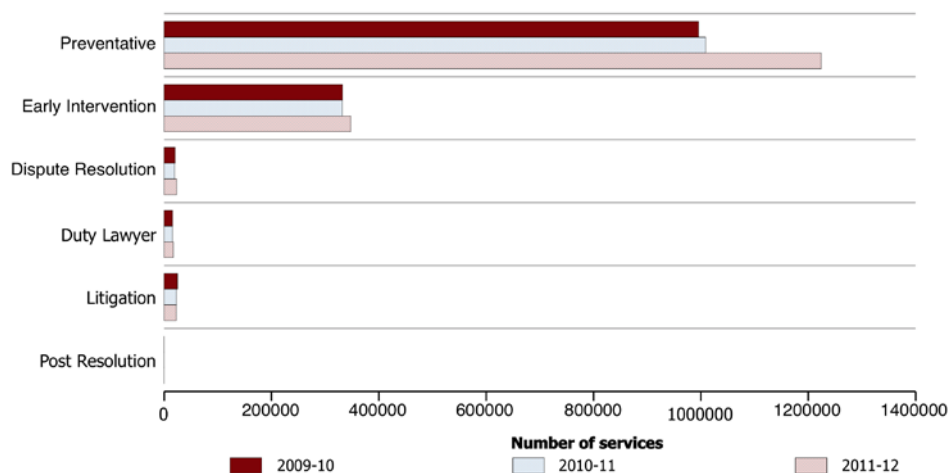
Figure D.2 below provides national services across legal aid commissions between 2009-10 and 2011-12. In 2011-12:

- preventative services (relating to Commonwealth and state matters, excluding website hits and publications) totalled 1,223,920, a 23 per cent increase from 2009-10;
- early intervention services (relating to Commonwealth and state matters) totalled 347,708, an increase of around 5 per cent from 2009-10;
- dispute resolution services (relating to Commonwealth matters only) totalled 23,307, an increase of around 13 per cent from 2009-10;
- duty lawyer services (relating to Commonwealth matters only) totalled 17,396, an increase of around 11 per cent from 2009-10; and
- litigation services (relating to Commonwealth matters only) totalled 22,577, a decrease of around 9 per cent from 2009-10.

‘Post Resolution’ services, which refer to advice regarding the resolved outcome of a matter, are uncommon — in 2011-12 the only states/territories to report these services were Queensland (42 services) and New South Wales (14 services).

Figure D.2

**NUMBER OF SERVICES DELIVERED BY LEGAL AID COMMISSIONS FOR MATTERS UNDER THE NPA 2009-10 TO 2011-12**



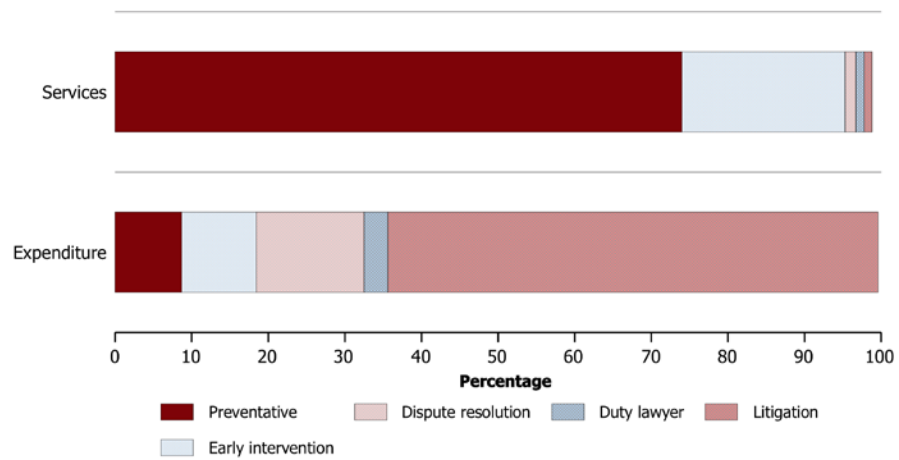
Note: Preventative services exclude website page views and publications. Preventative and early intervention services relate to state/territory and Commonwealth matters. Other service categories relate to Commonwealth matters only.

Source: The Allen Consulting Group analysis based on NPA Reports

Examination of service delivery on an expenditure basis highlights the continuing importance of litigation services in the overall legal aid commission service delivery mix. Figure D.3 below provides a breakdown of total legal aid commission Commonwealth expenditure and services by service category in 2011-12. Comparison of this breakdown shows that, while litigation services comprised only 1.4 per cent of total services, they accounted for close to 65 per cent of total expenditure. In contrast, preventative services accounted for around 75 per cent of total services, but only around 9 per cent of total expenditure, while early intervention services comprised around 21 per cent of services and around 10 per cent of expenditure.

Figure D.3

**LEGAL AID COMMISSION SERVICES<sup>1</sup> AND EXPENDITURE BY SERVICE CATEGORY 2011-12**



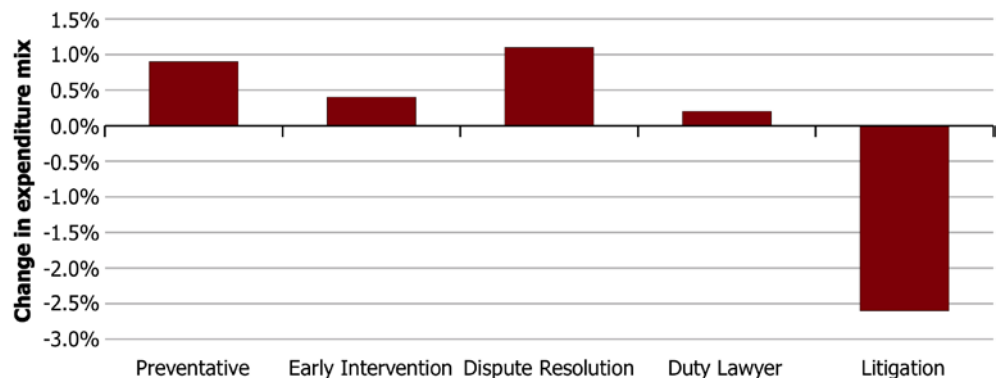
Note: <sup>1</sup>Preventative services exclude website page views and publications. Preventative and early intervention services relate to state/territory and Commonwealth matters. Other service categories relate to Commonwealth matters only.

Source: The Allen Consulting Group analysis based on NPA Reports

The dominance of litigation services in Commonwealth legal aid expenditure is slowly shifting with increased expenditure on preventative and early intervention services. National expenditure between 2010-11 and 2011-12 increased across all categories, however, large increases in preventative and early intervention services in comparison to a small increase in litigation services has led to change in the overall expenditure mix (see Figure D.4). As a proportion of the overall cost, litigation decreased by over 2.5 per cent from 2010-11 to 2011-12, while all other categories increased as a proportion of total Commonwealth expenditure.

Figure D.4

**CHANGE IN NATIONAL COMMONWEALTH EXPENDITURE MIX BY ACTIVITY, 2010-11 TO 2011-12**



Note: These figures are the difference in each activity's contribution to overall expenditure from 2010-11 to 2011-12.

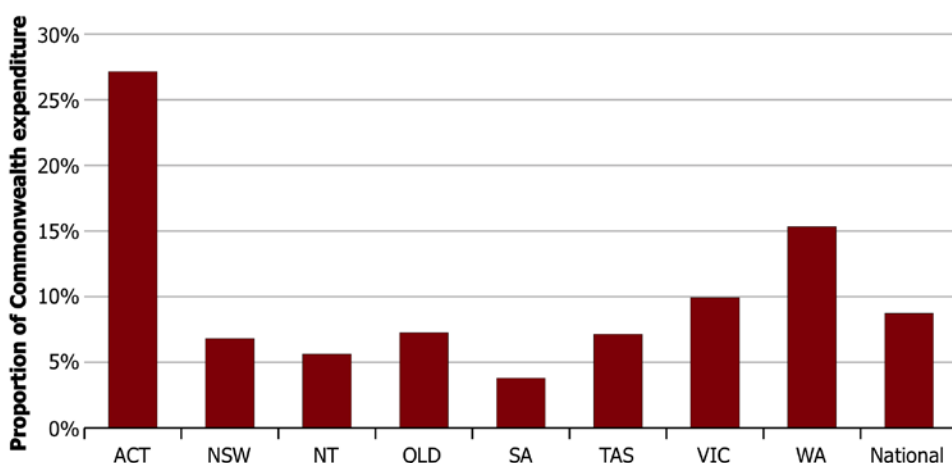
Post-resolution included in calculations, but excluded from chart due to only two states conducting these activities between 2010-11 and 2011-12. The change in post-resolution's contribution to the expenditure mix is -0.007%.

Source: The Allen Consulting Group analysis based on NPA Reports

*Preventative services*

Expenditure on preventative services as a proportion of total Commonwealth expenditure (see Figure D.5 below) was highest in the Australian Capital Territory, followed by Western Australia and Victoria.

Figure D.5

**COMMONWEALTH EXPENDITURE ON PREVENTATIVE SERVICES AS A PROPORTION OF TOTAL COMMONWEALTH EXPENDITURE, 2011-12**


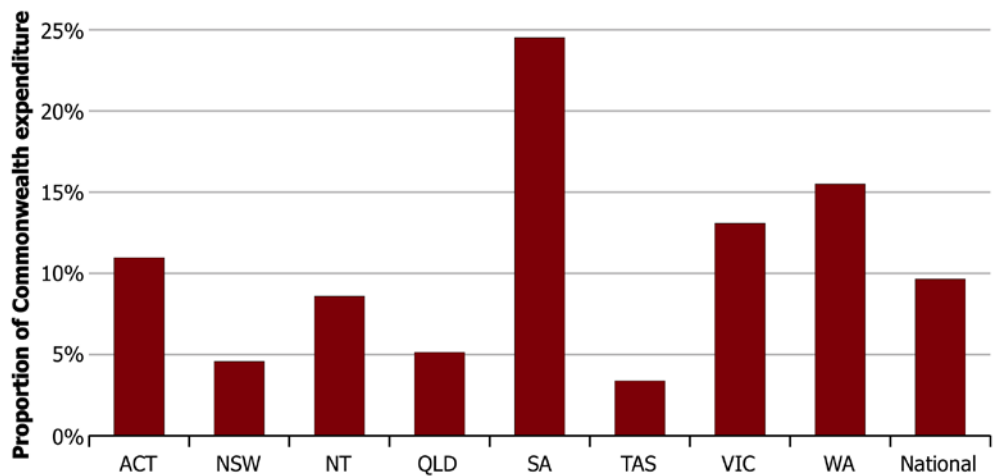
Source: The Allen Consulting Group analysis based on NPA Reports

*Early intervention*

While there is an overall trend towards an increase in early intervention services, expenditure on early intervention services as a proportion of all expenditure of Commonwealth funds is highly variable across jurisdictions. South Australia expended almost one quarter of its funds on early intervention in 2011-12, well above other jurisdictions, with the closest being Western Australia, Victoria and the Australian Capital Territory, with between 10 and 15 per cent of Commonwealth expenditure on early intervention activities (see Figure D.6).

Figure D.6

**COMMONWEALTH EXPENDITURE ON EARLY INTERVENTION SERVICES AS A PROPORTION OF TOTAL COMMONWEALTH EXPENDITURE, 2011-12**

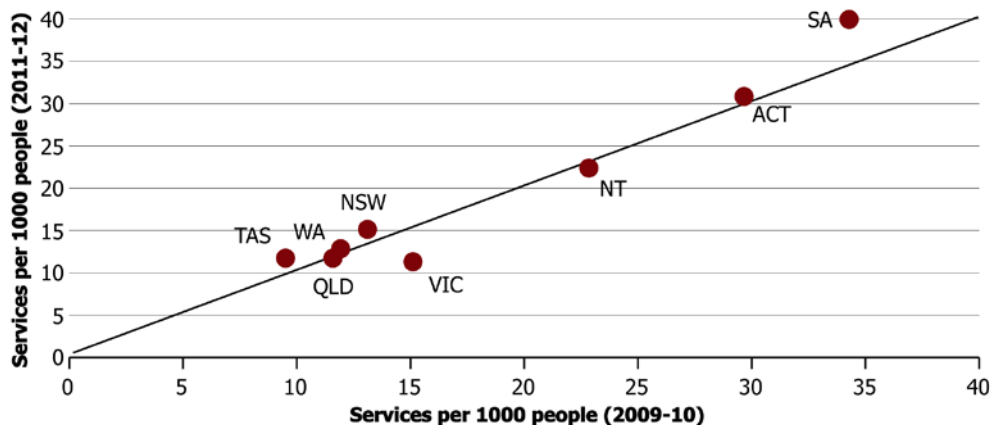


Source: The Allen Consulting Group analysis based on NPA Reports

Figure D.7 below provides a representation of level of service delivery in each jurisdiction per 1,000 population in 2011-12 and 2009-10. While this representation is an activity based measure only (and does not provide an indication of the quality or effectiveness of service delivery) it does show relative service intensity across states and territories. States/territories above the line have increased per capita service delivery during this period, while those below the line have decreased. States/territories further to the right have a relatively high per capita level of service delivery. South Australia shows the highest increase in early intervention services per capita between 2009-10 and 2011-12, while Victoria shows the biggest decrease.

Figure D.7

**TOTAL EARLY INTERVENTION SERVICES PER 1000 PEOPLE, 2009-10 TO 2011-12**



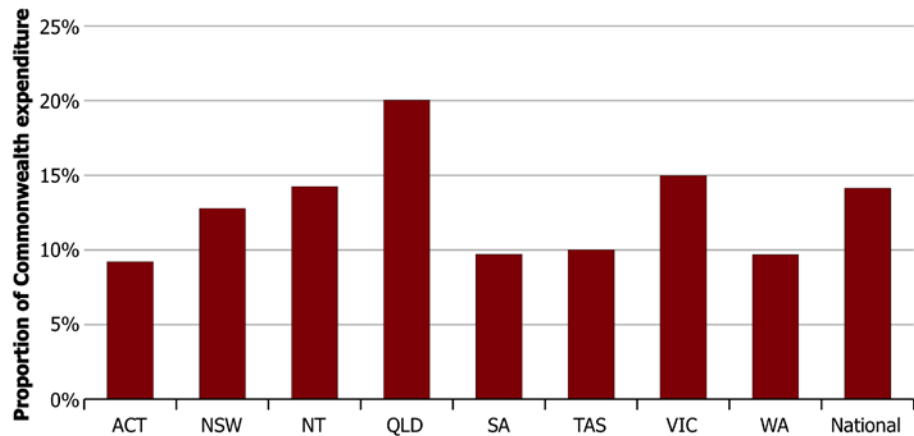
Source: The Allen Consulting Group analysis based on NPA Reports and ABS Australian Demographic Statistics - estimated resident population (Cat: 3101.0)

*Dispute resolution*

Proportionate Commonwealth expenditure on dispute resolution in 2011-12 was highest in Queensland, followed by Victoria and the Northern Territory who were closer to the national average of just under 15 per cent (see Figure D.8).

Figure D.8

**COMMONWEALTH EXPENDITURE ON DISPUTE RESOLUTION SERVICES AS A PROPORTION OF TOTAL COMMONWEALTH EXPENDITURE, 2011-12**

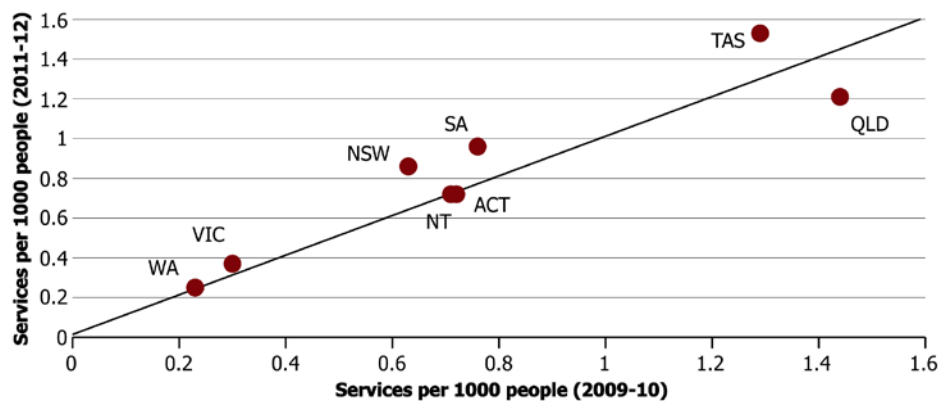


Source: The Allen Consulting Group analysis based on data from the NPA Reports

Despite a relatively small proportionate expenditure on dispute resolution, Tasmania had the highest per capita family dispute resolution service delivery level in 2011-12 (see Figure D.9). Per capita family dispute resolution service delivery increased from 2009-10 to 2011-12 in Tasmania, South Australia, New South Wales and Victoria. Although per capita family dispute resolution services decreased in Queensland, after Tasmania it still remains the highest provider of per capita services of all other states and territories.

Figure D.9

**COMMONWEALTH FAMILY DISPUTE RESOLUTION SERVICES PER 1000 PEOPLE, 2009-10 TO 2011-12**



Note: Only FDR services are considered to allow for comparison between years. FDR services exclude Section 60I outcomes in this chart.

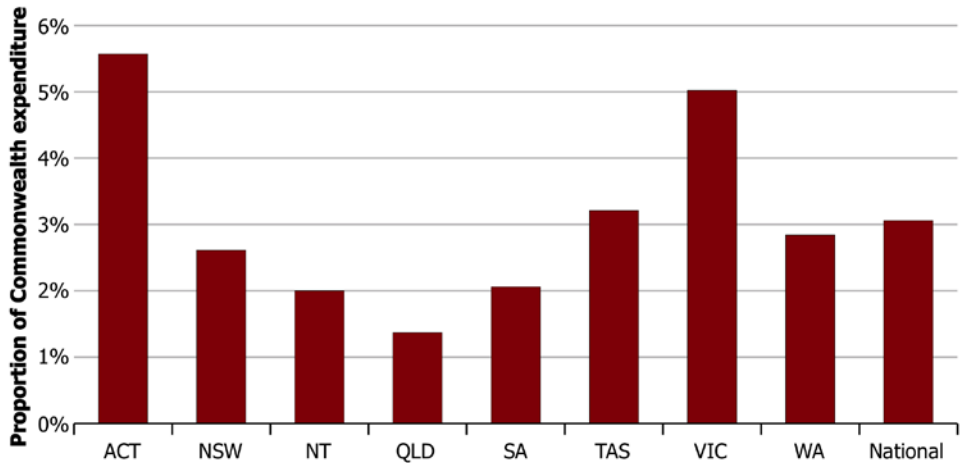
Source: The Allen Consulting Group analysis based on NPA Reports and ABS Australian Demographic Statistics - estimated resident population (Cat: 3101.0)

*Duty lawyer services*

Duty lawyer expenditure as a proportion of total expenditure of Commonwealth funds in 2011-12 was highest in the Australian Capital Territory, followed by Victoria and Tasmania (see Figure D.10).

Figure D.10

**COMMONWEALTH EXPENDITURE ON DUTY LAWYER SERVICES AS A PROPORTION OF TOTAL COMMONWEALTH EXPENDITURE, 2011-12**

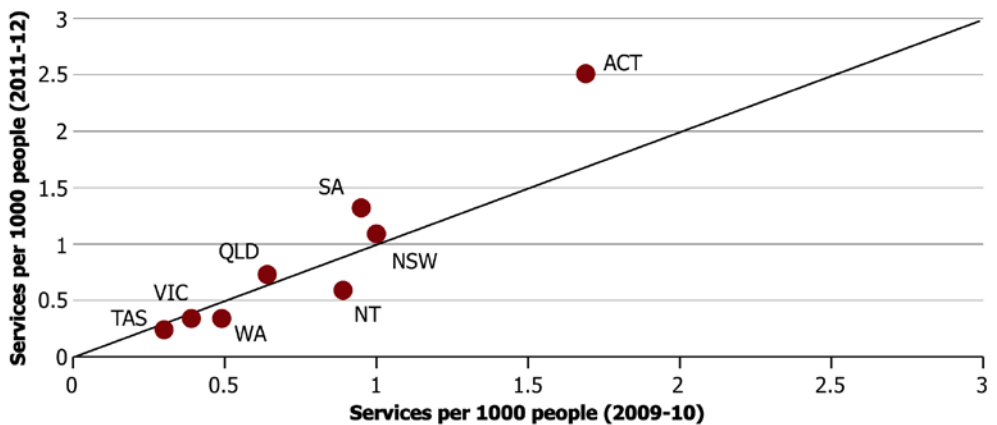


Source: The Allen Consulting Group analysis based on data from the NPA Reports

The Australian Capital Territory and South Australia significantly increased the volume of per capita duty lawyer services between 2009-10 and 2011-12 (see Figure D.11 below). The largest decreases were in the Northern Territory and Western Australia.

Figure D.11

**COMMONWEALTH DUTY LAWYER SERVICES PER 1000 PEOPLE, 2009-10 TO 2011-12**



Source: The Allen Consulting Group analysis based on NPA Reports and ABS Australian Demographic Statistics - estimated resident population (Cat: 3101.0)

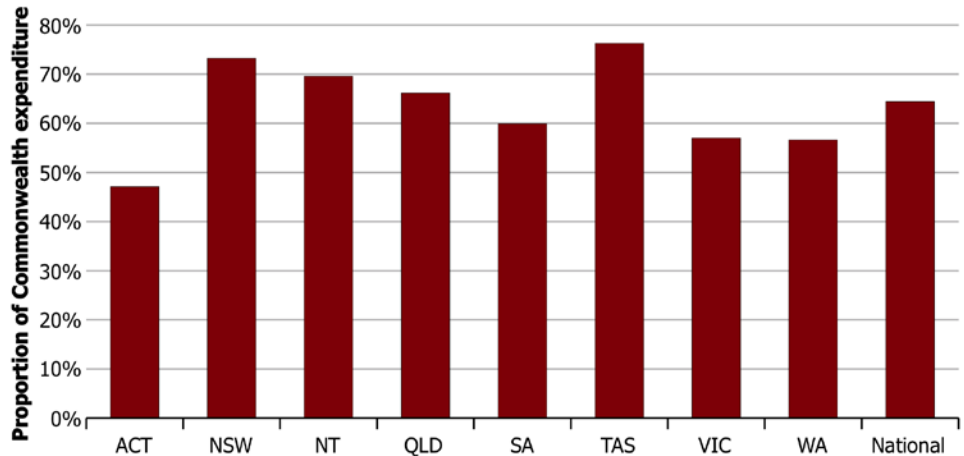


*Litigation*

Expenditure on litigation services as a proportion of total Commonwealth expenditure in 2011-12 was highest in Tasmania, followed by New South Wales and the Northern Territory. The Australia Capital Territory’s proportionate Commonwealth expenditure on litigation, at just under half of the total in 2011-12, is low compared to other states and territories (see Figure D.12 below).

Figure D.12

**COMMONWEALTH EXPENDITURE ON LITIGATION SERVICES AS A PROPORTION OF TOTAL COMMONWEALTH EXPENDITURE, 2011-12**

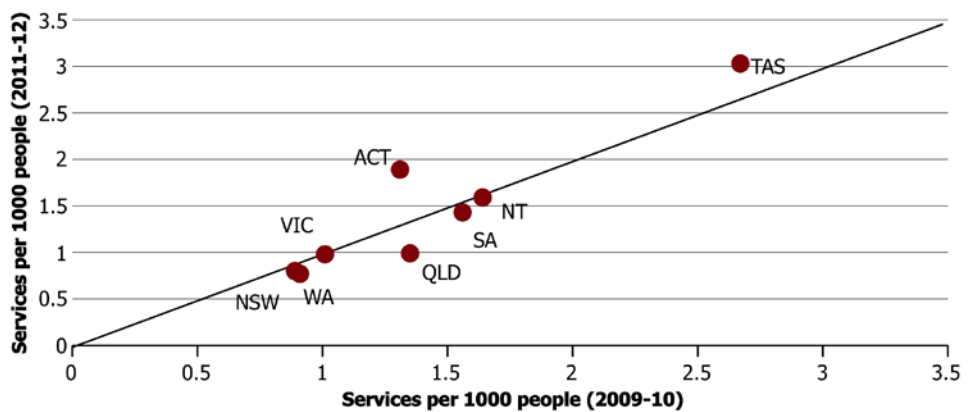


Source: The Allen Consulting Group analysis based on data from the NPA Reports

Tasmania’s above average per capita expenditure is reflected in a higher volume of services delivered per capita — nearly double that of most states and territories in 2011-12 (see Figure D.13). Per capita volumes increased between 2009-10 and 2011-12 in Tasmania and the Australian Capital Territory and remained constant or decreased for all other states and territories.

Figure D.13

**COMMONWEALTH LITIGATION SERVICES PER 1000 PEOPLE, 2009-10 TO 2011-12**



Note: Tasmania 2009-10 services per 1000 people re-calculated by subtracting duty lawyer and dispute resolution services from total 2009-10 services reported in the 2011-12 NPA Report.

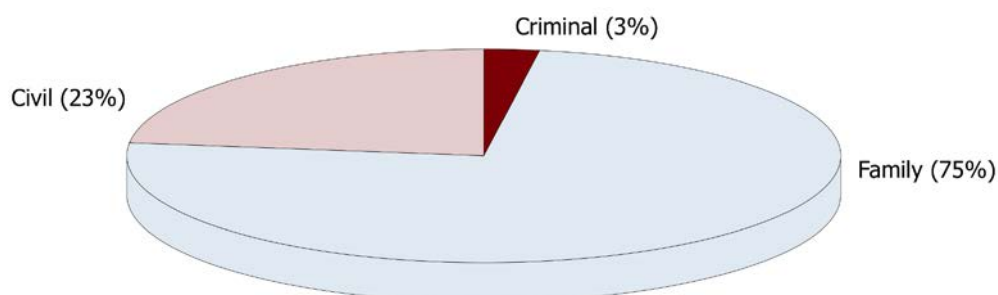
Source: The Allen Consulting Group analysis based on NPA Reports and ABS Australian Demographic Statistics - estimated resident population (Cat: 3101.0)

### Area of law

The majority of Commonwealth legal aid commission services are provided for family law issues. In 2011-12 this included 75 per cent of Commonwealth early intervention services (see Figure D.14 below) and 91 per cent of Commonwealth grants of legal aid (see Table D.3).

Figure D.14

**LEGAL AID COMMISSION COMMONWEALTH EARLY INTERVENTION SERVICES BY AREA OF LAW, 2011-12**



Note: Percentages may sum to more than 100 due to rounding.

Source: The Allen Consulting Group analysis based on NPA Reports

Table D.3 also shows that grants of aid for family matters had the lowest average cost in 2011-12 at \$3,901.62. The highest average cost per grant was for criminal matters, at an average cost of \$13,119 per grant in 2011-12, followed by civil matters, with an average cost of \$8,593 per grant.

Table D.3

**NATIONAL COMMONWEALTH GRANTS OF LEGAL AID BY MATTER TYPE, 2011-12**

Matter	Count	Proportion:	Average cost: <sup>1</sup>
Criminal	1,485	4.4%	\$13,119.80
Family	30,725	91.2%	\$3,901.62
Civil	1,474	4.4%	\$8,593.63
<b>Total</b>	<b>33,684</b>		<b>\$4,513.33</b>

Note: <sup>1</sup>Average cost is calculated by dividing the total funding allocated towards each type of matter by the number of grants awarded for each matter type. Expenditure may relate to grants in a prior year.

Source: The Allen Consulting Group analysis based on NPA Reports

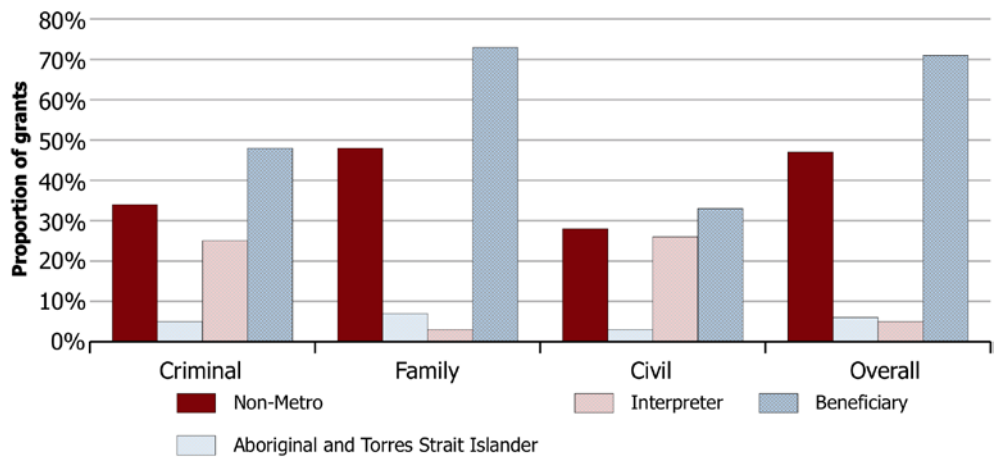
### D.6 Targeting service delivery

Means testing for grants of legal aid for Commonwealth matters are reflected in a high overall proportion (over 70 per cent in 2011-12) of total grants of legal assistance to individuals receiving their main income from government income support or a Centrelink payment.

Representation of disadvantaged groups is variable across civil, criminal and family law matters (see Figure D.15). In 2011-12 interpreters were required for around 25 per cent of grants for criminal and civil matters, compared to only 3 per cent of family matters. Almost 50 per cent of grants for family matters were awarded to clients in non-metropolitan regions, compared to 34 per cent for criminal matters and 28 per cent for civil matters.

Figure D.15

**GRANT ALLOCATION TO DISADVANTAGED GROUPS BY MATTER TYPE - NATIONALLY, 2011-12**



Note: Categories are not mutually exclusive. 'Beneficiary' refers to clients who are in receipt of a Centrelink pension or income support payment.

Source: The Allen Consulting Group analysis based on NPA Reports

Allocation of grants to Aboriginal and Torres Strait Islander clients across jurisdictions in 2011-12 (see Figure D.16) varied from around 3 per cent of total grants (Victoria) to around 15 per cent of total grants (Northern Territory).

Figure D.16

**GRANTS OF LEGAL AID TO ABORIGINAL AND TORRES STRAIT ISLANDER CLIENTS BY STATE/TERRITORY, 2011-12**

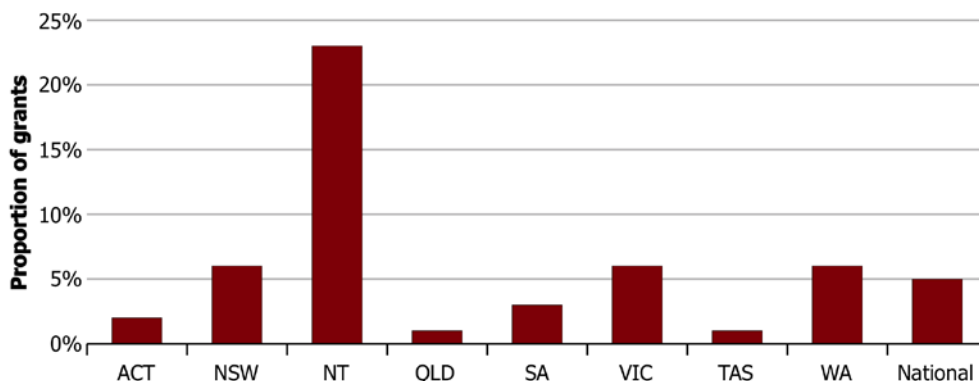


Source: The Allen Consulting Group analysis based on NPA Reports

Grants of aid to clients requiring an interpreter in 2011-12 were significantly higher in the Northern Territory than other jurisdictions (see Figure D.17), noting that an interpreter may be required for Aboriginal and Torres Strait Islander as well as for culturally and linguistically diverse clients. Levels were below the national average for Queensland, Tasmania, the Australian Capital Territory and South Australia.

Figure D.17

**GRANTS OF LEGAL AID TO CLIENTS REQUIRING INTERPRETERS BY STATE, 2011-12**

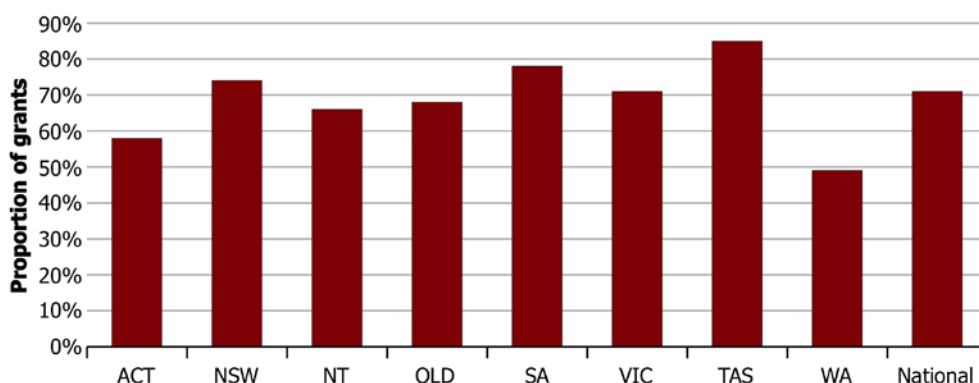


Source: The Allen Consulting Group analysis based on NPA Reports

Western Australia allocated the smallest proportion of grants in 2011-12 to individuals receiving government benefits or Centrelink payments as their main income, at just under 50 per cent of the total (see Figure D.18). Around 58 per cent of recipients of grants of legal aid in Tasmania received government benefits or Centrelink payments as their main income, the highest proportion of any state or territory.

Figure D.18

**GRANTS OF LEGAL AID TO CLIENTS ON CENTRELINK BENEFITS OR INCOME SUPPORT BY STATE, 2011-12**



Source: The Allen Consulting Group analysis based on NPA Reports

## Appendix E

### Evaluation Framework data points and data sources

Table E.1

**EVALUATION FRAMEWORK DATA POINTS AND DATA SOURCES\***
**DATA SOURCE KEY:**
**SPS&DR** = Service Provider Survey and Data Request

**Employee Survey** = Service Provider Employee Survey

**Client Survey** = Survey of legal assistance service clients

**NLSP S** = Non-legal service provider survey

**SUBMISSIONS** = Law society, bar association, judicial officer, court registry and police in each jurisdiction

<i>Descriptive information</i>	<i>Indicator</i>	<i>Data points/survey question</i>	<i>Data source</i>
<b>Evaluation Question 1. Is the legal assistance sector providing the right services (categories of services in each area of law and amounts of each service category in each area of law) to support achievement of the NPA objectives?</b>			
<i>Describes geographic coverage of services</i>		<i>In which local government areas does your organisation have offices?</i>	<i>SPS&amp;DR</i>
<i>Describes geographic coverage of services</i>		<i>In which local government areas does your organisation provide services (including outreach services)?</i>	<i>SPS&amp;DR</i>
<i>Describes number of services provided by service category by area of law and by client group</i>		<i>Number of services delivered by service category by area of law by client group during 2011-12, and the total number of services provided</i>	<i>SPS&amp;DR</i>
<i>Describes expenditure on services provided by service category by area of law and by client group</i>		<i>Expenditure by service category by area of law by client group during 2011-12, and the total expenditure on service delivery</i>	<i>SPS&amp;DR</i>
<i>Describes funding sources</i>		<i>Funding received by legal assistance service providers by source of funds</i>	<i>Additional Data</i>
	<i>1.1 Strategic and operational plans are in place to ensure legal assistance services provided reflect NPA outcomes</i>	<i>Does your organisation have a strategic and/or operational plan in place?</i>	<i>SPS&amp;DR</i>
		<i>Which of the following best describes the processes your organisation uses to enforce and monitor any strategic and operational plans? [Process maturity ratings]</i>	<i>SPS&amp;DR</i>

Descriptive information	Indicator	Data points/survey question	Data source
		<i>To what extent does the strategic and/or operational plan align with the outcomes expressed in the National Partnership Agreement? [Scale provided]</i>	SPS&DR
	1.2 <i>Proportion of justice system participants surveyed who view that legal assistance service providers are providing the right mix of services in each area of law to support achievement of NPA outcomes</i>	<i>In your local area, please indicate whether the volume of the following services provided by legal assistance providers is about right/too much/not enough to support achievement of the NPA outcomes [list NPA outcomes] [SERVIC CATEGORIES]</i>	Employee Survey
		<i>Across all service providers in your state/territory, please indicate whether the volume of the following services provided by legal assistance providers is about right/too much/not enough to support achievement of the NPA outcomes [list NPA outcomes] [SERVIC CATEGORIES]</i>	Employee Survey
		<i>In your local area, please indicate whether the volume of the following services provided by legal assistance providers is about right/too much/not enough to support achievement of the NPA outcomes [list NPA outcomes] [DETAILED LIST OF AREAS OF LAW]</i>	Employee Survey
		<i>Across all service providers in your state/territory, please indicate whether the volume of the following services provided by legal assistance providers is about right/too much/not enough to support achievement of the NPA outcomes [list NPA outcomes] [DETAILED LIST OF AREAS OF LAW]</i>	Employee Survey
		<i>Please indicate whether you consider Aboriginal and Torres Strait Islander legal services/community legal centres/family violence prevention legal services/legal aid are providing about right/too much/not enough/don't know services in the following areas of law. [DETAILED LIST OF AREAS OF LAW]</i>	Non-legal Service Provider Survey
		<i>Submissions sought from Bar Association, Law Society, judicial officers, court registries and police in each jurisdiction</i>	Submissions
	1.3 <i>Proportion of justice system participants surveyed who view that legal assistance service providers are contributing to the earlier resolution of legal problems</i>	<i>Across all service providers in your state/territory, legal assistance providers are contributing to the earlier resolution of legal problems in the following areas of law [LIST AREAS OF LAW]</i>	Employee Survey
		<i>In your local area, legal assistance providers are contributing to the earlier resolution of legal problems in the following areas of law [LIST AREAS OF LAW]</i>	Employee Survey
		<i>Services provided by Aboriginal and Torres Strait Islander legal services/community legal centres/family violence prevention legal services/legal aid are contributing to the earlier resolution of legal problems [Separate response for each service, only respond where an informed assessment can be made]</i>	Non-legal Service Provider Survey

Descriptive information	Indicator	Data points/survey question	Data source
		Submissions sought from Bar Association, Law Society, judicial officers, court registries and police in each jurisdiction	Submissions
<b>Evaluation Question 2. Is the legal assistance sector providing services to disadvantaged Australians?</b>			
Describes number of services provided by service category by area of law and by client group		Number of services delivered by service category by area of law by client group during 2011-12, and the total number of services provided	SPS&DR
Describes expenditure on services provided by service category by area of law and by client group		Expenditure by service category by area of law by client group during 2011-12, and the total expenditure on service delivery	SPS&DR
Describes client groups targeted by service providers		Which, if any, client groups does your service specifically target? Please indicate all that apply. [LIST CLIENT GROUPS]	SPS&DR
	2.1 Proportion of justice system participants surveyed who view that legal assistance service providers are providing the right mix of services in each area of law to meet the needs of people from specific client groups [DETAILED LIST OF AREAS OF LAW], [LIST CLIENT GROUPS]	In your local area, the appropriate amount of legal assistance is available to meet the needs of people from the [CLIENT GROUPS] in each area of law [DETAILED LIST OF AREAS OF LAW]	Employee Survey
		Across all service providers in your state/territory, the appropriate amount of legal assistance is available to meet the needs of people from the [CLIENT GROUPS] in each area of law [DETAILED LIST OF AREAS OF LAW]	Employee Survey
		The appropriate amount of legal assistance is available to meet the needs of people from the following groups in each area of law [LIST CLIENT GROUPS] [LIST DETAILED AREAS OF LAW]	Non-legal Service Provider Survey
		I received help when I needed it	Client Survey
		Submissions sought from Bar Association, Law Society, judicial officers, court registries and police in each jurisdiction	Submissions
	2.2 There is a clearly articulated process that ensures services are directed to those in disadvantaged/priority groups	Does your organisation have processes or strategies in place to ensure that services are directed to specific client groups?	SPS&DR
		Which of the process maturity levels listed below best describes implementation of any processes or strategies to ensure services are directed to specific client groups? [Process maturity ratings]	SPS&DR

Descriptive information	Indicator	Data points/survey question	Data source
<b>Evaluation Question 3. Is the legal assistance sector providing services effectively (including of appropriate quality)?</b>			
Number of staff (on an FTE basis) employed as at 30 June 2012 specifically to assist in delivering services in a culturally competent manner – such as field officers, support officers, interpreters and cultural training officers/Number of FTE service provider staff as at 30 June 2012			SPS&DR
	3.1 Proportion of clients by area of law who perceived the legal assistance provided was respectful, relevant and made a positive difference to the outcome	I was able to access services that helped with my issue.	Client Survey
		The organisation provided help that was relevant to my legal issue	Client Survey
		I better understand my legal options after going to the organisation for help	Client Survey
		The organisation helped me decide what to do	Client Survey
		The staff treated me with respect	Client Survey
		The staff listened to me and understood my problem	Client Survey
		The staff explained things to me in a way I understood	Client Survey
		The staff were professional	Client Survey
	3.2 Proportion of justice system participants surveyed who view that legal assistance service providers are providing services of an appropriate quality	In general, after receiving services, clients of our service are better able to understand their legal options.	Employee Survey
		Across all service providers in your state/territory, legal assistance services of an appropriate quality are being provided in the following areas of law [DETAILED LIST OF AREAS OF LAW]	Employee Survey
		In your local area, legal assistance services of an appropriate quality are being provided in the following areas of law [DETAILED LIST OF AREAS OF LAW]	Employee Survey
		Submissions sought from Bar Association, Law Society, judicial officers, court registries and police in each jurisdiction	Submissions
	3.3 Processes are in place to ensure services are provided in a culturally competent manner	Which of the following practices are in place in your organisation? [LIST OF CULTURALLY COMPETENT GOOD PRACTICES]	SPS&DR
	3.4 Quality assurance processes are in place	What quality assurance processes does your organisation have in place? [LIST OF QUALITY PROCESSES]	SPS&DR
		Which of the following best describes implementation of your quality assurance processes? [Process maturity ratings]	SPS&DR



Descriptive information	Indicator	Data points/survey question	Data source
		<i>(For ATSILS, community legal centres and FVPLS) Is your service accredited under the revised national community legal centres accreditation scheme?</i>	SPS&DR
<b>Evaluation Question 4. Is the legal assistance sector providing services efficiently?</b>			
<i>Describes number of services provided by service category by area of law and by client group</i>		<i>Number of services delivered by service category by area of law by client group during 2011-12, and the total number of services provided</i>	SPS&DR
<i>Describes expenditure on services provided by service category by area of law and by client group</i>		<i>Expenditure by service category by area of law by client group during 2011-12, and the total expenditure on service delivery</i>	SPS&DR
<i>Outlines expenditure on outsourced legal work during 2011-12</i>		<i>Expenditure on outsourced legal work during 2011-12</i>	SPS&DR
	4.1 <i>Proportion of organisation's resources expended on administration and proportion of resources expended on actual service delivery</i>	<i>Breakdown of expenditure for the 2011-12 financial year: Expenditure on service delivery, expenditure on administration, total expenditure</i>	SPS&DR
	4.2 <i>Processes are in place to ensure service costs are incurred at a level proportionate to the legal matter</i>	<i>Does your organisation have processes in place to ensure that service costs are incurred at a level proportionate to the legal matter, for example to avoid over servicing or inappropriate commitment of the organisation's resources to a single matter or client?</i>	SPS&DR
		<i>Which of the following best describes implementation of processes to ensure service costs are proportionate to the legal matter? [Process maturity ratings]</i>	SPS&DR
<b>Evaluation Question 5. To what extent does program documentation, including the NPA, assist legal assistance service providers to deliver services in line with the NPA objectives?</b>			
<i>Descriptive information regarding the NPA and program documentation</i>		<i>Explain how the NPA has/has not been helpful</i>	SPS&DR
<i>Descriptive information regarding the NPA and program documentation</i>		<i>(For ATSILS) Explain why the program guidelines are/are not helpful</i>	SPS&DR
<i>Descriptive information regarding the NPA and program documentation</i>		<i>(For community legal centres) Explain why the CLSP program guidelines are/are not helpful</i>	SPS&DR
<i>Descriptive information regarding the NPA and program documentation</i>		<i>(For FVPLS) Explain why the operational framework, policy manual and program guidelines are/are not helpful</i>	SPS&DR
<i>Descriptive information regarding the NPA and program documentation</i>		<i>(For legal aid commissions) Explain why the benchmarks and indicators have/have not been helpful</i>	SPS&DR

<i>Descriptive information</i>	<i>Indicator</i>	<i>Data points/survey question</i>	<i>Data source</i>
<i>Descriptive information regarding the NPA and program documentation</i>		<i>Please outline the major constraints facing legal assistance sector providers in achieving the outcomes specified in the NPA</i>	<i>SPS&amp;DR Employee Survey</i>
<i>Descriptive information regarding the NPA and program documentation</i>		<i>Please explain how these constraints may be overcome including ways in which existing resources may be better utilised to assist with achieving the outcomes specified in the NPA</i>	<i>SPS&amp;DR Employee Survey</i>
<i>Descriptive information regarding the NPA and program documentation</i>		<i>Please describe any unintended consequences associated with the introduction of the NPA</i>	<i>SPS&amp;DR Employee Survey</i>
	<i>5.1 Proportion of service providers who view program documentation, including the NPA, as helpful in guiding the organisation's service objectives and priorities</i>	<i>The National Partnership Agreement on Legal Assistance Services is helpful in guiding your organisation's service objectives and priorities.</i>	<i>SPS&amp;DR</i>
		<i>(For ATSILS) The Indigenous Legal Assistance Program Guidelines are helpful in guiding your organisation to contribute to the program objectives and outcomes.</i>	<i>SPS&amp;DR</i>
		<i>(For community legal centres) The Community Legal Services Program documentation is helpful in guiding your organisation to contribute to the program objectives and outcomes.</i>	<i>SPS&amp;DR</i>
		<i>(For FVPLS) The Family Violence Prevention Legal Service operational framework, policy manual and program guidelines are helpful in guiding your organisation to contribute to the program objectives and outcomes</i>	<i>SPS&amp;DR</i>
		<i>(For legal aid commissions) The performance benchmarks and indicators included in the National Partnership Agreement on Legal Assistance Services are helpful in guiding your organisation to contribute to the objectives and outcomes specified in the NPA.</i>	<i>SPS&amp;DR</i>
<b><i>Evaluation Question 6. To what extent are legal assistance services provided in an integrated, coordinated manner?</i></b>			
<i>Information regarding referral arrangements between service providers</i>		<i>What activities does your organisation have in place to facilitate referrals of clients with complex needs to other services?</i>	<i>SPS&amp;DR</i>
<i>Information regarding referral arrangements between service providers</i>		<i>Please provide comment on the effectiveness of formal and informal referral arrangements that are in place with providers of legal assistance</i>	<i>Non-legal Service Provider Survey</i>
	<i>6.1 Processes are in place to facilitate client referrals and provision of integrated services by legal and non-legal service providers</i>	<i>With respect to your organisation's referral arrangements, which of the following activities do you undertake? Where the answer is yes, which of the process maturity levels listed below best describes implementation of those referral arrangements?</i>	<i>SPS&amp;DR</i>

Descriptive information	Indicator	Data points/survey question	Data source
		Which of the following types of formal referral arrangements does your service have in place to facilitate client referrals with Aboriginal and Torres Strait Islander legal services/community legal centres/family violence prevention legal services/legal aid?	Non-legal Service Provider Survey
		There are appropriate collaboration and referral arrangements between non-legal service providers and Aboriginal and Torres Strait Islander legal services/community legal centres/family violence prevention legal services/legal aid.	Non-legal Service Provider Survey
		Collaboration and referral arrangements between non-legal service providers and Aboriginal and Torres Strait Islander legal services/community legal centres/family violence prevention legal services/legal aid are effective.	Non-legal Service Provider Survey
	6.2 Legal Aid only. Number of referrals made	Number of referrals made to another service	Additional Data
	6.3 Legal Aid only. Average number of different service provider lawyers representing a client on a discrete matter	(For legal aid commissions only) For legal representation activities only, please provide the average number of different service provider lawyers representing each client (representation only)	SPS&DR
<b>Evaluation Question 7. To what extent is the legal assistance sector operating in a sustainable manner, with particular emphasis on staffing, and collaborative and cooperative effort?</b>			
Information relating to staffing issues and staffing effort required to deliver current services		Average length of service of staff by metropolitan/regional/remote location by role as at 30 June 2012 and total number of staff by role as at 30 June 2012	SPS&DR
Information relating to staffing issues and staffing effort required to deliver current services		Average time taken to fill staff vacancies by metropolitan/regional/remote location by role during 2011-12	SPS&DR
Information relating to staffing issues and staffing effort required to deliver current services		Expenditure on outsourced legal work during 2011-12	SPS&DR
Information relating to staffing issues and staffing effort required to deliver current services		Number of hours of volunteer effort provided by lawyers during 2011-12	Additional Data
Information relating to staffing issues and staffing effort required to deliver current services		Number of hours of volunteer effort provided by non-lawyers during 2011-12	Additional Data
	7.1 Processes are in place to facilitate cooperation and	For each area of law, does your organisation have processes in place to	SPS&DR

<i>Descriptive information</i>	<i>Indicator</i>	<i>Data points/survey question</i>	<i>Data source</i>
	<i>collaboration with other service providers</i>	<i>facilitate cooperation and collaboration with other service providers in service planning and design; service implementation and delivery; policy and law reform; for clients with complex needs (clients requiring ongoing services from multiple service providers), is there a process in place to appoint a case manager who coordinates the services provided to the client across service providers?</i>	
		<i>For the above, which of the process maturity levels listed below best describes implementation of those processes? [Process maturity ratings]</i>	<i>SPS&amp;DR</i>

\* Note that indicators for high level outcomes have not been included in this Table as no new data will be collected for these indicators as part of this Review. High level outcome indicators are populated to the extent possible from existing research.

Source: ACG 2012

## Appendix F

# Service Provider Survey and Data Request

### F.1 Aim and process

The Service Provider Survey and Data Request asked questions and sought data from an organisational perspective, including information about services provided, broad categories of expenditure, staffing, targeted groups and processes that assist in the operation of the legal assistance services.

All Commonwealth-funded legal assistance services were invited to complete the Service Provider Survey and Data Request. Those that agreed were provided with a template for completion, as well as additional explanatory material and assistance as required.

### F.2 Participants

Service provider responses received by the Review are set out in Table F.1.

Table F.1

#### SERVICE PROVIDER SURVEY PARTICIPANT SUMMARY

State	ATSILS	Community legal centres	FVPLS	Legal aid commissions	Total
ACT	n/a	2	n/a	1	3
NSW	1	13	0	1	15
NT	1	3	3	1	8
Qld	1	12	2	1	16
SA	1	3	0	1	5
Tas	0	4	n/a	1	5
Vic	1	11	1	1	14
WA	1	5	3	1	10
<b>Total</b>	<b>6</b>	<b>53</b>	<b>9</b>	<b>8</b>	<b>76</b>

Note: There are no FVPLS in ACT or Tasmania. The Aboriginal Legal Service NSW/ACT provides services in NSW and ACT.

Source: The Allen Consulting Group analysis based on Review Service Provider Survey and Data Request 2013

### **F.3 Quality and completeness of data provided**

#### ***Information about service categories***

Categorisation of services and expenditure into service types was problematic for many organisations. While most organisations attempted to provide information about service volumes according to the proposed Data Working Group categories, partial completion was common. Details about how service counts were constructed showed inconsistency across providers, suggesting any future implementation of new data categories would need to take methodological considerations into account.

Expenditure data was lacking for many organisations that provided service counts. Many organisations felt uncomfortable with breaking up expenditure into the new categories, and several organisations that did provide breakdowns qualified their data.

#### ***Information about clients***

Legal aid commissions had difficulty providing client information for information and advice services, community legal education and services outsourced to private professionals. Only two out of the eight legal aid commissions were able to break down expenditure according to client groups.

Other service providers experienced similar problems. Many ATSILS and FVPLS assigned their entire client group to particular categories (eg Aboriginal and Torres Strait Islander or remote). Some organisations allocated expenditure on a pro-rata basis (ie applying the proportion of the client base in particular groups to overall expenditure). Some community legal centres were in a better place to provide information by client group, however many others could not provide any information.

#### ***Information about areas of law***

Seven out of eight legal aid commissions were able to provide information on broad areas of law (criminal/civil/family). Expenditure information was also available for five legal aid commissions by these areas.

ATSILS were primarily able to provide information on broad areas of law. One ATSILS also provided information on detailed areas of civil law, and two on detailed areas of family law. Four out of six ATSILS gave expenditure information.

Six out of nine FVPLS providers reported service levels in family law, including detailed area of law information for five service providers.

There was divergence across community legal centres, with some being able to break down services across detailed areas of law, while others were not able to provide any breakdown in this way. Very few community legal centres provided accompanying expenditure information.

#### ***Use of data around service and expenditure breakdowns***

Two key messages have come out of the Service Provider Survey and Data Request process concerning the degree to which organisations can identify service delivery and expenditure by service type, client type and area of law.

First, service providers often do not collect information in addition to the baseline data requirements, and retrospective construction of these breakdowns is not necessarily robust. Second, linkages between funding and service delivery are scarce, with many organisations having to make ad-hoc estimates based on the number of hours worked on each service/client type/area of law, or number of services delivered.

Results of the Service Provider Survey and Data Request suggest a general lack of developed systems for tracking expenditure across legal assistance services, posing a barrier to certain kinds of efficiency and cost-effectiveness analysis. Box F.2 provides examples of what analysis would be possible with complete and robust service delivery and expenditure data.

Considerations that need to be made when assessing whether to require service providers to report to this level of detail include increased administrative costs, which take resources away from actual service delivery, and the time required (both of the practitioner and the client) in order to collect data on each of the items listed.

The data improvements required to conduct this kind of analysis are not without costs, in the form of both increased administrative costs and time required to collect. Given these considerations, it is important to identify key areas across which to measure expenditure and determine whether collection is necessary on an ongoing basis, or whether snapshot data is sufficient. In order to ensure comparability across the legal assistance sector as a whole, the methodologies and systems in place to measure these aspects should be consistent across service providers.

Box F.2

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**EXAMPLE EFFICIENCY AND COST-EFFECTIVENESS ANALYSIS**

- Construction of unit costs by service within programs, as well as comparisons across service types to determine the level of efficiency exhibited by each program. To establish the complexity of cases, this could be compared to the client base of each program.
- Comparisons across organisations against the unit cost of services to particular client groups could be used to guide the allocation of grant money in a way that better reflects the marginal cost of servicing these client groups.
- Overall client profiling by state, and nationally in a consistent manner.
- Analysis of the relative costs of various types of civil and family law matters, both in terms of overall expenditure on these services, as well as the unit costs of providing services in these areas of law.

Source: The Allen Consulting Group

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## Appendix G

# Employee Survey

### G.1 Aim and process

The Employee Survey examined employee perceptions about legal assistance services, asking questions about the services provided, how services benefit clients and whether services are supporting the achievement of NPA outcomes and objectives.

All Commonwealth-funded legal assistance services were invited to distribute a link to complete the survey online to employees throughout their organisation. Positive responses were received, and a link to complete the online survey provided for distribution, to:

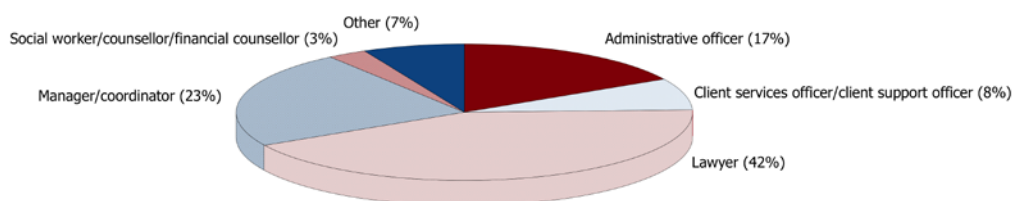
- ATSILS — 7 (out of 8) organisations;
- community legal centres — 74 (out of 138) organisations;
- FVPLS — 11 (out of 14) organisations; and
- legal aid commissions — 8 (out of 8) organisations.

### G.2 Participants

A total of 619 responses to the Employee Survey were received. Of these, 42 per cent were lawyers and 23 per cent managers/coordinators (see Figure G.1).

Figure G.1

#### EMPLOYEE SURVEY PARTICIPANTS BY PRIMARY ROLE



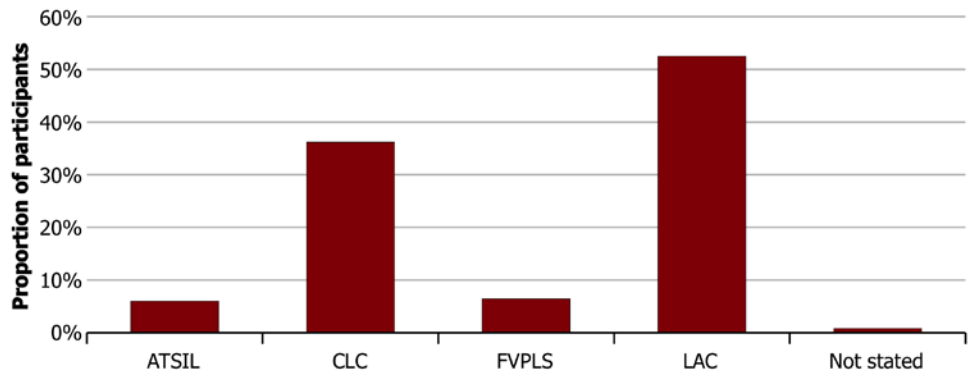
Source: The Allen Consulting Group analysis based Review Employee Survey 2013

The majority (53 per cent) of participants were from legal aid commissions, while a large share (36 per cent) were from community legal centres (see Figure G.2 below).



Figure G.2

**EMPLOYEE SURVEY PARTICIPANTS BY ORGANISATION**



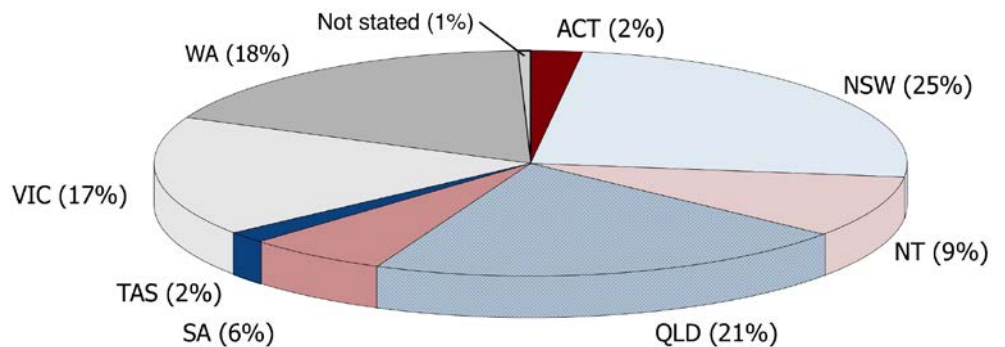
Note: Respondents were permitted to nominate multiple responses for this question.

Source: The Allen Consulting Group analysis based on Employee Survey data

Employees from every jurisdiction contributed. New South Wales had the largest share (25 per cent), followed by Queensland (21 per cent), Western Australia (18 per cent) and Victoria (17 per cent) (see Figure G.3 below).

Figure G.3

**EMPLOYEE SURVEY RESPONDENTS BY ORGANISATION LOCATION<sup>1</sup>**



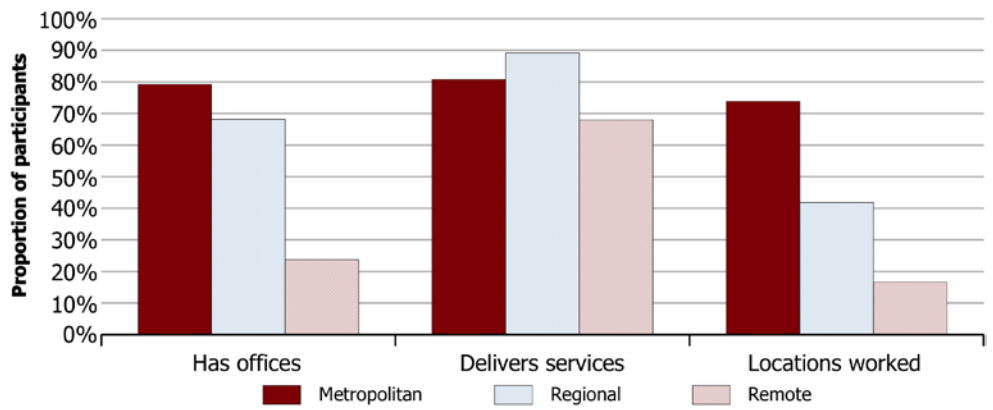
Note: <sup>1</sup> Respondents were permitted to nominate multiple responses for this question. The chart output includes two individuals coded as NSW that reported their organisation was in both NSW and Vic.

Source: The Allen Consulting Group analysis based on Employee Survey data

While a relatively small proportion of participants reported their organisation as having offices in remote locations (24 per cent), service delivery was more evenly distributed across locations, with 68 per cent of participants reporting their organisation delivered services in remote locations (see Figure G.4 below).

Figure G.4

**EMPLOYEE SURVEY RESPONDENTS BY LOCATION OF OFFICES, LOCATION OF SERVICE DELIVERY, AND LOCATIONS WORKED<sup>1</sup>**



Note: <sup>1</sup>Locations worked can include multiple locations (for example where a staff member is based in a metropolitan office but travels to regional or remote locations for outreach).

Source: The Allen Consulting Group analysis based on Employee Survey data

## *Appendix H*

# Client Survey

### **H.1 Aim and process**

The Client Survey aimed to capture the experiences with legal assistance services and client perceptions of service quality.

All Commonwealth funded legal assistance services were invited to express interest in 'hosting' client surveys as part of the Review. Locations were selected to provide appropriate representation across different jurisdictions, program types and metropolitan, regional and remote locations. Review team members visited selected locations to conduct interviews across all jurisdictions from December 2012 to early February 2013, with some additional telephone interviews ongoing throughout March 2013.

The majority of Client Surveys were completed through short, face-to-face discussions with clients conducted on location directly following service delivery. Interviews took place in legal assistance service offices, courts and outreach service delivery locations (including homeless shelters and community centres). While interviewers were on location, host organisation staff members were asked to invite clients to participate in the Client Survey following service delivery and, where agreeable, provide a warm referral to the interviewer.

Some client surveys were also completed via telephone. This survey technique was used to ensure capture of different service delivery models and client groups. This technique was used:

- while interviewers were on location, to capture clients receiving telephone advice;
- to follow up with clients receiving face to face services who were unable to complete a face to face interview while interviewers were on locations; and
- in a small amount of surveys, to make contact with clients at pre-determined times (for FVPLS clients only).

Ethics approval for the Client Survey was obtained through the Bellberry Human Research Ethics Committee.

### **H.2 Participants**

A total of 315 Client Surveys have been completed across programs types and across metropolitan, regional and remote locations (see Table H.1).

Table H.1

**CLIENT SURVEY PARTICIPANTS BY ORGANISATION TYPE AND LOCATION**

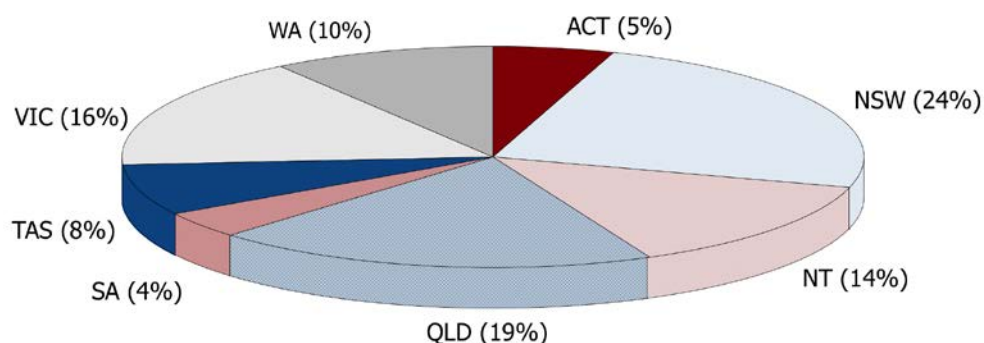
Organisation	Metropolitan	Regional	Remote	Total
ATSILS	10	12	56	78
Community legal centres	81	24	1	106
FVPLS	0	8	3	11
Legal aid commissions	48	57	15	120
<b>Total</b>	<b>139</b>	<b>101</b>	<b>75</b>	<b>315</b>

Source: The Allen Consulting Group analysis on data from Review Client Survey 2013

Client Survey participants by jurisdiction are presented in Figure H.5.

Figure H.5

**CLIENT SURVEY PARTICIPANTS BY STATE AND TERRITORY**



Source: The Allen Consulting Group analysis on Review Client Survey 2013

Other key Client Survey participant characteristics included:

- an approximate even split between genders;
- 22 per cent were born in a country other than Australia;
- 35 per cent were Aboriginal and Torres Strait Islander clients;
- 22 per cent had a physical or intellectual disability;
- 21 per cent had a mental health condition;
- 23 per cent were single parents;
- 58 per cent were receiving their main income from a government benefit or Centrelink payment;
- 35 per cent of participants were between 18 and 34 years of age and 40 per cent were between 35 and 49 years;
- 69 per cent of participants considered that they spoke English very well, and a further 26 per cent considered they spoke English well; and
- 3 per cent were homeless.

Notably, the vast majority of survey respondents identified with multiple indicators of disadvantage. Respondent characteristics were analysed according to whether they identified as belonging to seven indicators of disadvantage: accessing services in a remote location; Aboriginal and Torres Strait Islander or born overseas; single parents; living in disadvantaged housing; physical or intellectual disability; mental health condition; or financially disadvantaged (on government benefits or earning less than \$600 per week). This analysis showed that:

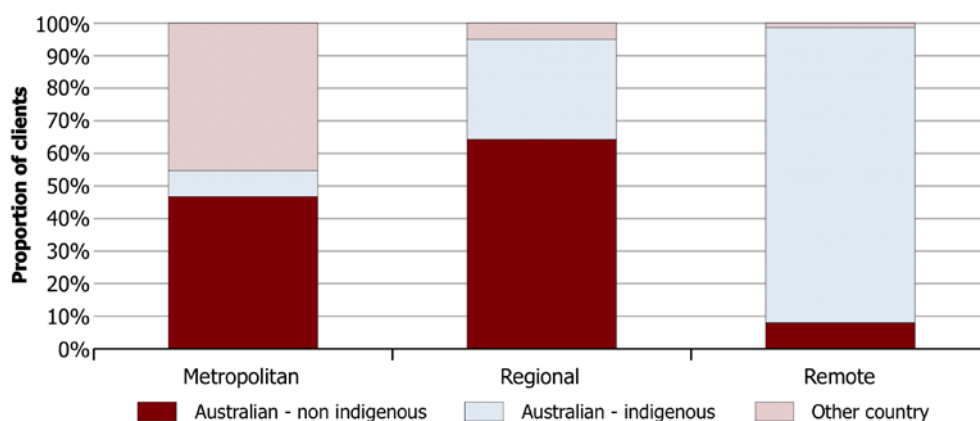
- 72 per cent of respondents belonged to two or more categories of disadvantage;
- 42 per cent of respondents belonged to three or more categories of disadvantage;
- 15 per cent of respondents belonged to four or more categories of disadvantage; and
- 3 per cent of respondents belonged to five or more categories of disadvantage.

As the survey sample was not designed as a random sample of the population, care should be taken in applying these proportions to legal assistance clients at large. Nevertheless, this snapshot of clients does provide an indication about the prevalence of multiple disadvantage among clients of legal assistance services.

Client background varied markedly across metropolitan, regional and remote areas. Over 90 per cent of clients in remote areas were Aboriginal and Torres Strait Islander peoples. In contrast, over 45 per cent of clients in metropolitan areas were born in a country other than Australia (see Figure H.6).

Figure H.6

#### CLIENT SURVEY PARTICIPANT COUNTRY OF BIRTH BY LOCATION

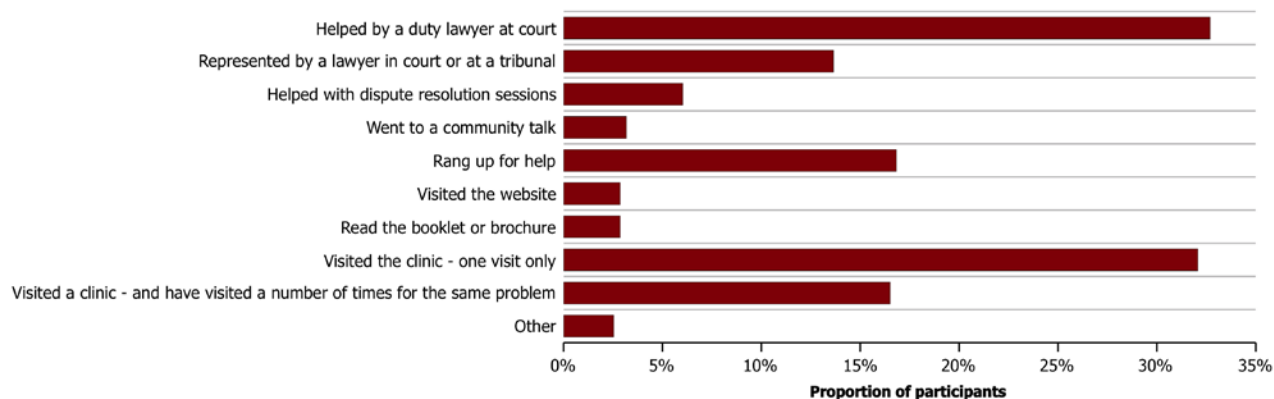


Source: The Allen Consulting Group analysis on data from the Client Survey 2013

The most common kind of help received by clients was duty lawyer services (33.6 per cent of participants), followed by visiting an advice clinic on a first visit (32.9 per cent) and a repeat visit to an advice clinic (16.9 per cent). Twenty-nine per cent of respondents sought help for criminal issues, 34 per cent family issues and the remainder civil issues (see Figure H.7).

Figure H.7

**CLIENT SURVEY PARTICIPANTS BY TYPE OF HELP RECEIVED**



Source: The Allen Consulting Group analysis on data from the Client Survey 2013

**H.3 Reliability of estimates**

Survey results are subject to sampling variability. This refers to the variations that can occur between proportions reported within a survey sample and true population proportions due to chance. Standard error is one way of expressing this variability. If a survey sample is taken repeatedly, an estimated proportion will differ from the true population proportion around two thirds of the time.

Relative standard error is a way to demonstrate the reliability of survey results. Relative standard error (RSE) expresses the standard error as a proportion of the estimate. A high RSE would indicate that, compared to the value of the estimate, the variability is high, and so the population value could be quite different (proportionally) to the estimate. In contrast, a lower RSE indicates that the estimate is more reliable, and the population value is likely to be close to the estimated value. The Australian Bureau of Statistics (ABS 2013) suggests that estimates with a RSE of 25 per cent to 50 per cent should be used with caution, and estimates with a RSE over 50 per cent are unreliable for most purposes.

Table H.2 below sets out RSE for the proportion of the population that agreed/strongly agreed to each of the satisfaction questions in the Client Survey within metropolitan, regional and remote areas. Each estimate is within the ABS recommended range of below 25 per cent, confirming the reliability of agreement with client satisfaction survey questions across geographic locations.

Table H.2

**CLIENT SURVEY RELATIVE STANDARD ERROR**

Question	Response	Metro (n=139)	Regional (n=101)	Remote (n=75)	Overall (n=315)
Q15: I was able to access services that helped with my issue	Agree	10.7%	12.3%	9.8%	6.4%
	Strongly agree	8.1%	8.4%	14.2%	5.5%
Q16: The organisation provided help that was relevant to my legal issue	Agree	10.7%	12.6%	12.8%	6.9%
	Strongly agree	7.8%	8.1%	12.1%	5.1%
Q17: I better understand my legal options are going to the organisation for help	Agree	11.0%	11.9%	12.8%	6.8%
	Strongly agree	8.5%	9.3%	11.2%	5.4%
Q18: The organisation helped my decide what to do	Agree	10.7%	12.3%	14.6%	7.1%
	Strongly agree	9.1%	8.8%	10.3%	5.4%
Q19: The staff treated me with respect	Agree	15.6%	17.9%	16.0%	9.5%
	Strongly agree	4.9%	5.6%	8.7%	3.5%
Q20: The staff listened to me and understood my problem	Agree	14.7%	15.4%	15.1%	8.7%
	Strongly agree	5.5%	6.5%	9.2%	3.8%
Q21: The staff explained things to me in a way I understood	Agree	11.5%	17.0%	15.1%	8.1%
	Strongly agree	6.4%	5.9%	9.5%	4.0%
Q22: The staff were professional	Agree	13.6%	17.4%	15.1%	8.8%
	Strongly agree	5.6%	5.7%	9.0%	3.7%
Q23: I received help when I needed it	Agree	12.3%	17.9%	13.8%	8.3%
	Strongly agree	6.8%	6.0%	9.8%	4.2%

Source: The Allen Consulting Group analysis, based on the Review Client Survey 2013

## Appendix I

# Non-legal Service Provider Survey

### I.1 Aim and process

The Non-legal Service Provider Survey sought to capture perceptions of providers of related services to legal assistance services, with a particular emphasis on issues surrounding integration and collaboration.

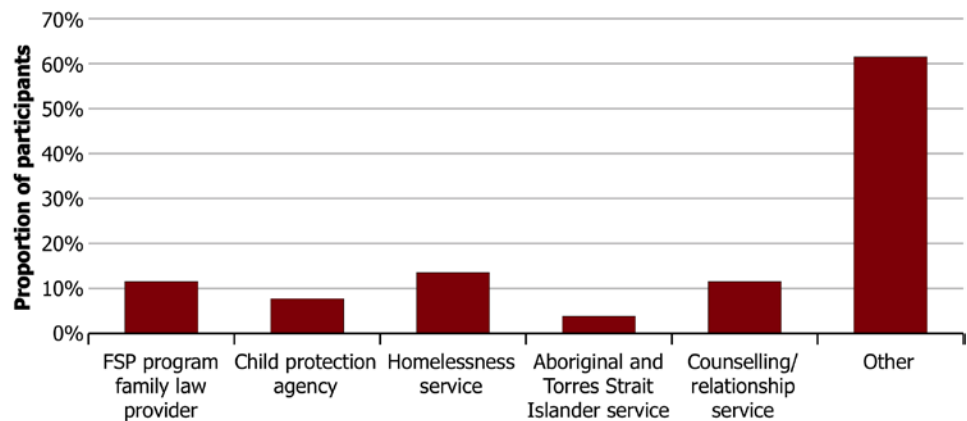
Each legal assistance service participating in broader data collection as part of the Review was asked to nominate non-legal service provider contacts to complete the Non-legal Service Provider Survey. Invitations to complete the survey online were sent to 74 organisations and received a total of 52 responses.

### I.2 Participants

Participants came from a broad range of organisations (see Figure I.1). The ‘other’ category includes mental health services, settlement services, domestic and family violence resource services, forensic psychologist, hospital, university, and many others.

Figure I.1

**NON-LEGAL SERVICE PROVIDER SURVEY - ORGANISATION OF PARTICIPANT<sup>1</sup>**



Note: <sup>1</sup>Multiple responses were permitted for this question.

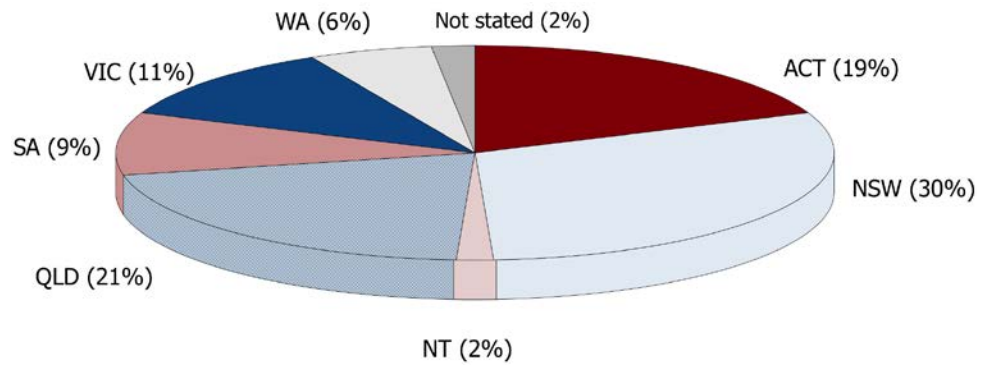
Source: The Allen Consulting Group analysis based on the Non-Legal Service Provider Survey 2013

Participants are spread across all jurisdictions, with exception of Tasmania (see Figure I.2).



Figure I.2

**NON-LEGAL SERVICE PROVIDER SURVEY - PARTICIPANT STATE**

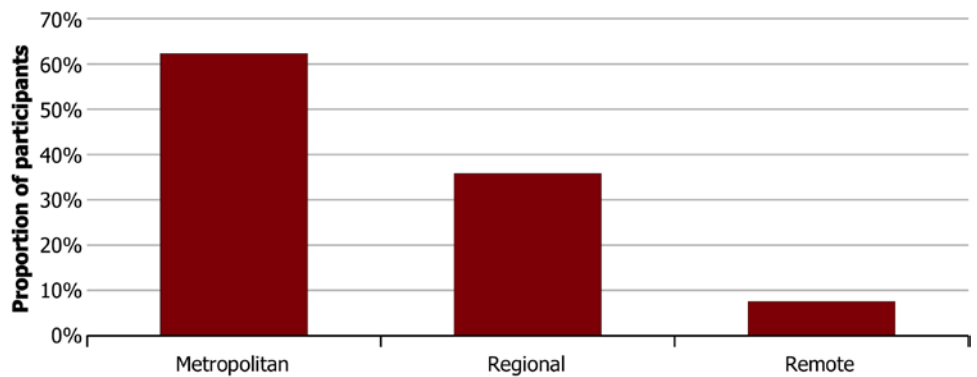


Source: The Allen Consulting Group analysis based on the Non-Legal Service Provider Survey 2013

The majority of participants were from organisations located in metropolitan or regional areas (see Figure I.3 below).

Figure I.3

**NON-LEGAL SERVICE PROVIDER SURVEY — GEOGRAPHIC LOCATION OF PARTICIPANT'S ORGANISATION<sup>1</sup>**



Note: <sup>1</sup>Multiple responses were permitted for this question.

Source: The Allen Consulting Group analysis based on the Non-Legal Service Provider Survey 2013

## *Appendix J*

# Submissions

### **J.1 Submission format**

Representatives from courts, judiciary, police, law societies and bar associations in each jurisdiction received a formal written invitation to provide input on select topics to the Review. Invitees were asked:

- Are legal assistance service providers in your jurisdiction providing the right mix of services in each area of law to support achievement of the NPA outcomes?
- Are legal assistance service providers in your jurisdiction contributing to the earlier resolution of legal problems?
- Are legal assistance services in your jurisdiction providing services of an appropriate quality?
- Are legal assistance services providing an appropriate amount of legal assistance to meet the needs of people in specific client groups in each area of law?
- If you have identified that the needs of disadvantaged Australians are not being met, have there been any recent changes in supply and/or demand in the legal services market that have contributed to this?
- Are there ways the legal assistance services sector can further engage with the private profession to help move forward to meet the needs of disadvantaged Australians?
- Please provide any other relevant information or comments.

### ***Participants***

Appropriate contacts were nominated by the Review's steering committee members, as well as identified through external sources. Invitees received a letter of introduction from the Attorney-General's Department accompanied by a template providing relevant background and areas for input.

The Review received 23 submissions from courts, judiciary and police representatives.

Table J.1

**SUBMISSIONS RECEIVED FROM COURTS, JUDICIARY AND POLICE**

<b>Jurisdiction</b>	<b>Organisation</b>
<b>ACT</b>	ACT Magistrates Court
<b>National</b>	Administrative Appeals Tribunal
<b>National</b>	Social Security Appeals Tribunal
<b>National</b>	Federal Magistrates Court (input provided by teleconference)
<b>National</b>	Family and Relationships Services Australia
<b>National</b>	Law Council of Australia
<b>National</b>	Large Law Firm Pro-bono Practices
<b>NSW</b>	Law Society of NSW
<b>NT</b>	Law Society Northern Territory
<b>Qld</b>	Magistrates Court (Holland Park)
<b>Qld</b>	Magistrates Court (Rockhampton)
<b>Qld</b>	Magistrates Court (Mt Isa)
<b>Qld</b>	Queensland Law Society
<b>Qld</b>	Bar Association of Queensland
<b>SA</b>	South Australia Supreme Court
<b>Tas</b>	Supreme Court of Tasmania
<b>Vic</b>	Supreme Court of Victoria
<b>Vic</b>	Children's Court of Victoria
<b>Vic</b>	Victorian Bar Association
<b>Vic</b>	Law Institute of Victoria
<b>WA</b>	Western Australia Police
<b>WA</b>	Supreme Court of Western Australia
<b>WA</b>	Law Society of Western Australia

## *Appendix K*

# Review Terms of Reference

Box K.1

### REVIEW TERMS OF REFERENCE

#### Overview

The purpose of the review is to assess the progress of parties in achieving the objectives and outputs of the National Partnership Agreement on Legal Assistance Services (NPA) and to establish a robust evidence base for the development of policy and program implementation for legal assistance services across Australia which are efficient and cost effective.

The four programs under review are the Commonwealth funded programs mentioned in the NPA which collectively provide a suite of legal assistance services ranging from the provision of information and advice to dispute resolution and representation in criminal, civil and family law matters. The four programs are legal aid, Aboriginal and Torres Strait Islander legal services, community legal services and family violence prevention legal services for Indigenous Australians (referred to herein as the legal assistance sector). Legal aid will be the subject of review under Part 3 of the NPA in particular.

The review will not encompass legal assistance services solely funded by the States and Territories and instead will cover Commonwealth funded services to the extent that they provide services for Commonwealth purposes.

Essentially the policies underpinning the programs aim at ensuring the needs of Australia's disadvantaged and vulnerable people are addressed and that access to justice is not limited to those who can afford to pay.

Key elements of the programs' design and implementation are prevention and targeting assistance to the disadvantaged in society.

While the four programs are discrete in their objectives, funding and service delivery models, as a whole they are intended to provide an integrated range of legal assistance services which cover an assortment of needs. It is for that reason that this review is looking at all four programs together with the intention that the recommendations of this review can be a source of national learning for all forms of legal assistance.

There are a number of recent and current program reviews in each jurisdiction that may be relevant to the outcomes of the review and will be considered as part of the relevant review resources.

The review is to be undertaken in four stages and comprise an evaluation of the performance of Legal Aid Commissions as well as a broader review of the legal assistance sector. The four stage report must be delivered by 30 June 2013.

#### 1.1. Background

##### *Objectives of legal assistance programs*

- 1.1.1 The broad objectives of legal assistance are to enable Australians to access justice, to assist in closing the gap between Indigenous and non Indigenous Australians, to assist those at risk of social exclusion, to assist in alleviating homelessness and contributing to the broader Council of Australian Governments (COAG) Reform Agenda.
- 1.1.2 Legal assistance also assists in the efficient running of the court system, promotes alternative dispute resolution and facilitates the law reform work that legal assistance providers undertake.
- 1.1.3 Legal assistance contributes to the earlier resolution of legal problems through increasing the delivery of preventative, early intervention and dispute resolution services.
- 1.1.4 In particular the objectives are:
  - a) to assist disadvantaged Australians to successfully resolve their legal disputes at the earliest opportunity; and
  - b) to provide legal information and advice to all Australians.

##### *National Partnership Agreement objectives*

- 1.1.5 Clause 15 of the NPA states as its objectives: A national system of legal assistance that is integrated, efficient and cost effective, and focused on providing services for disadvantaged Australians in accordance with access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness.

##### *Funding arrangements*

- 1.1.6 The Commonwealth Government is responsible for funding:
  - a) The activities within Legal Aid Commissions which provide legal assistance on Commonwealth law matters under the NPA;
  - b) Aboriginal and Torres Strait Islander Legal Services (ATSILS) under the Indigenous Legal Assistance and Policy Reform Program;
  - c) Community Legal Centres (CLCs) under the Community Legal Services Program; and
  - d) services provided through the Family Violence Prevention Legal Services for Indigenous Australians (FVPLS)

Program.

- 1.1.7 State and Territory governments are responsible for funding the activities within Legal Aid Commissions which provide legal assistance on State/Territory law matters.
- 1.1.8 State and Territory Governments or Legal Aid Commissions may also fund CLCs subject to State parliamentary and budgetary processes.
- 1.1.9 Legal Aid Commissions also have responsibility for allocating funding for specific services, as determined by their respective statutory Boards.
- 1.2. Summary of tender requirements
- 1.2.1 In accordance with clause 40 of the NPA, to review the progress made by the parties in respect of achieving the agreed outcomes, objectives and outputs. This work will include:
  - 1.2.1.1 Evaluating the performance of Legal Aid Commissions against the performance benchmarks and indicators as set out in Part 3 of the NPA.
  - 1.2.1.2 Assessing the adequacy of the existing NPA performance indicators as they relate to legal aid, and recommending new indicators and benchmarks as appropriate.
  - 1.2.1.3 Assessing the Commonwealth service priorities under Schedule A of the Agreement, which guide legal assistance service choices and are measured by the performance indicators, against the agreed outcomes, objectives and outputs.
  - 1.2.1.4 Assessing the effectiveness and appropriateness of the principles for assessing eligibility for a grant of legal assistance under Schedule B, against the agreed outcomes, objectives and outputs.
  - 1.2.1.5 Evaluating collaboration and co-operation between legal assistance providers.
- 1.2.2 Conduct a broader analysis of the legal assistance sector in order to review the progress made by the parties in respect of achieving the agreed outcomes, objectives and outputs in Part 2 of the NPA.
- 1.2.3 In accordance with the objectives of the NPA set out in clause 15, and the broad objectives of legal assistance (section 1.1.1), to develop an evaluation framework, and undertake an analysis of the efficiency, cost-effectiveness and quality of services provided under the legal assistance sector to disadvantaged Australians. The framework and analysis needs to support an efficient and cost-effective justice system and be informed by an understanding of, and specific attention to, the cultural sensitivities of delivering these services to Indigenous Australians and culturally diverse communities and the diversity of the four legal assistance programs.
- 1.2.4 Review the appropriateness of the NPA for administering Commonwealth legal assistance funding, including the existing indexation and Legal Aid Commission funding model arrangements for allocating funds between the States and Territories.
- 1.2.5 Having regard to the review's outcomes, recommend options for evidence based models for future legal assistance sector funding arrangements.

### 1.3. Details of tender requirements

While there are various performance reporting frameworks, including those embedded in the agreements, there is a lack of data available on the outcomes that are achieved through the provision of legal services. Stage 1 of the review aims to address this limitation, and also assist in developing a framework that will allow us to report to COAG under the COAG Reform Agenda.

#### Stage 1

- 1.3.1 Consider the results of a preliminary literature review of Australian and international studies and evaluations of legal assistance services with a view to incorporating robust findings into the review's cost-effectiveness analysis. The literature reviewed will not be date restricted to the commencement of the NPA (July 2010).
- 1.3.2 The material provided under this preliminary literature review may be supplemented by additional material available to the tenderer.
- 1.3.3 There are a number of recent and current program reviews in each jurisdiction that may be relevant to the outcomes of the review and should be considered as part of the review resource material.
- 1.3.4 Develop an evaluation framework that will enable monitoring and reporting on:
  - a) the quality, efficiency and cost-effectiveness of legal assistance services; and
  - b) short-term to long-term outcomes consistent with the programs' objectives and the COAG Reform Agenda.
- 1.3.5 Identify where there are deficiencies in existing data collections and what additional data are needed to report against the evaluation framework. Wherever possible, additional reporting burden on service providers should be avoided.
- 1.3.6 This may require the development of other methods of collecting information which provide quantitative and/or qualitative data that will inform the framework and policy development.
- 1.3.7 Undertake a pilot study of the framework to assess its efficacy on:
  - a) a geographic basis (very/remote, regional, urban metropolitan);
  - b) Indigenous and non-Indigenous (or all Australians) populations; and

- c) program by program basis.

*Stage 2* of the review will draw upon existing data collections along with the results from work completed or identified in *Stage 1*. As the service models for all four programs were in place prior to commencement of their funding agreements, historic data can be utilised in the analysis, if the data is viable.

- 1.3.8 Undertake a quality, efficiency and cost-effectiveness analysis of service provision across the four programs taking into account the Strategic Framework for Access to Justice principles of accessibility, efficiency, appropriateness, effectiveness and equity, and having regard to:
- a) the personal and legal characteristics of clients of services;
  - b) the extent to which early intervention and prevention have resulted in positive outcomes, particularly for disadvantaged and vulnerable people;
  - c) the contribution of legal assistance services to the COAG Reform Agenda, particularly closing the gap on Indigenous disadvantage, workforce productivity and social inclusion;
  - d) improving arrangements for allocative efficiency within and between programs, taking into account the different cost structures between types of services and the different types of clients they service;
  - e) the extent to which services individually and as a composite are achieving their objectives, any wastage or duplication in service delivery, and any areas of unmet need which are either unidentified or under-resourced.

*Stage 3* of the review may be undertaken concurrently with either *Stage 1* or *2*, and involves the tenderer undertaking studies in the following areas:

- 1.3.8 An analysis of whether the programs address market failures, for example, lack of affordable services in the private market, information asymmetries or economic disadvantage. In this context, the availability of low or no-cost service provision by alternative providers – for example, other government programs, the private sector or NGOs – should be considered.
- 1.3.9 The study should also consider whether funding is appropriately targeted to address those areas where there is the greatest demand and need for services.
- 1.3.10 The extent to which any service delivery results from availability or supply of a particular service in contrast to other considerations such as need or demand.
- 1.3.11 The effectiveness of early intervention and prevention in resolving people's legal problems, avoiding the need for litigation and building community resilience, canvassing issues consistent with the service priorities identified in the NPA.
- 1.3.12 An analysis of the performance measures used to assess the operation of the existing Commonwealth funded legal assistance programs.
- 1.3.13 An analysis of the NPA as a mechanism for future funding of legal assistance services and options for a more coordinated mechanism for funding legal assistance services.
- 1.3.14 An analysis of the current legal aid funding distribution model under Schedule C of the NPA.

*Stage 4* of the review will report on progress towards achieving the objectives, outcomes and outputs of the NPA. In particular, this stage of the review should:

- 1.3.15 report separately on the performance of Legal Aid Commissions against the performance indicators and benchmarks in clause 20 of the NPA and the matters referred to in clause 40 of the Agreement, including the role of the Commonwealth service priorities under Schedule A of the NPA and the role of the NPA in determining and standardising financial eligibility rules for the supply of services on grants of aid;
- 1.3.16 report on the quality, effectiveness, efficiency and cost-effectiveness of service provision in the legal assistance sector to disadvantaged Australians;
- 1.3.17 report on the extent to which the reforms under the NPA have contributed to the earlier resolution of legal problems for disadvantaged Australians, the better targeting of legal assistance to people who experience or are at risk of experience social exclusion and increased collaboration between legal assistance providers themselves and with other service providers;
- 1.3.18 report on the appropriateness of the NPA for administering Commonwealth legal assistance funding, including the existing indexation and funding model arrangements for allocating Commonwealth funding between the States and Territories. This should include reference to National Partnership principles provided in the Intergovernmental Agreement on Federal Financial Relations at clause E21;
- 1.3.19 report on the adequacy or otherwise of the data available to undertake the review;
- 1.3.20 recommend options for outcome measures and performance indicators that could be adopted for each of the four programs under future funding agreements; and
- 1.3.21 recommend options for evidence based models for better targeted future legal assistance services' funding arrangements.

Source: Review of the National Partnership Agreement on Legal Assistance Services Terms of Reference, AGD

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