



Australian Government
Attorney-General's Department

National Legal Assistance Partnership

Overview Paper

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PART 1: NATIONAL LEGAL ASSISTANCE PARTNERSHIP

In the 2019-20 Budget, the Australian Government announced a new *Legal Assistance Package* which included the creation of a new, single national mechanism for Commonwealth legal assistance funding. This mechanism will be called the *National Legal Assistance Partnership* (NLAP). The NLAP will provide secure and quarantined funding for Legal Aid Commissions (LACs), Aboriginal and Torres Strait Islander Legal Services (ATSILS) and Community Legal Centres (CLCs). The NLAP will be a national partnership under the *Intergovernmental Agreement on Federal Financial Relations*.

As part of the *Legal Assistance Package*, the Australian Government also fully restored legal assistance funding, which would have been subject to reductions based on decisions of consecutive Australian governments. The full restoration of this funding will provide legal assistance services with \$83.8 million in ongoing funding over the three years from 1 July 2020. The Australian Government also committed an additional \$10.0 million per year in ongoing funding for frontline legal assistance services from 1 July 2020.

From 1 July 2020, as a result of the *Legal Assistance Package*, the Australian Government will provide over \$1.2 billion over three years, through the NLAP, for the delivery of important frontline legal assistance services.

Legal assistance services are a shared responsibility between the Australian Government and the state and territory governments. Under current arrangements, baseline Commonwealth funding for LACs are restricted to Commonwealth law matters, with limited exceptions. This restriction does not apply to CLCs and ATSILS. For example, the Australian Government provides over 90% of funding to ATSILS, with over 80% of their services being provided for state and territory law matters.

This paper provides further detail on the proposed structure and operation of the NLAP and related issues. These details may change subject to negotiations and consultation on the proposed NLAP. The NLAP has been informed by the outcomes of the reviews of the *National Partnership Agreement on Legal Assistance Services 2015-2020* (NPA) and the *Indigenous Legal Assistance Program* (ILAP), other relevant inquiries and the Australian Government's experience to date.

The Australian Government welcomes feedback on this paper. Feedback can be provided in writing to legalassistance@ag.gov.au.

Key elements to the NLAP

Summarised below are the Australian Government's proposed key elements of the NLAP:

- implementing the NLAP through multilateral and bilateral agreements between the Australian Government and the states and territories (**Part 2 – Operation of the NLAP**)
- including all new and existing Commonwealth legal assistance funding within the NLAP, as appropriate (**Part 2 – Operation of the NLAP**)
- delivering quarantined funding for LACs, ATSILS and CLCs through longer funding arrangements via the states and territories (**Part 2 – Operation of the NLAP**)
- continuation of a proportion of baseline CLC funding being specifically defined for the delivery of family law and/or family violence related services (**Part 2 – Operation of the NLAP**)
- distributing baseline funding through evidence-based models and the application of a 'no loss principle' to current state and territory funding (**Part 2 – Operation of the NLAP**)
- providing ATSILS funding to all currently funded ATSILS for the life of the NLAP, with appropriate caveats included (**Part 2 – Operation of the NLAP**)
- including the principles of Aboriginal and Torres Strait Islander self-determination within the NLAP (**Part 2 – Operation of the NLAP**), specifically:

- Aboriginal Community Controlled Organisations being the preferred providers of culturally appropriate legal assistance services while acknowledging that Aboriginal and Torres Strait Islander people have a choice in which legal assistance services they access
 - Aboriginal Community Controlled Organisations determining service priorities and locations based on community need and in partnership with governments and the broader legal assistance sector, and
 - Aboriginal Community Controlled Organisations being involved in the development and implementation of legal assistance policies and programs that affect Aboriginal and Torres Strait Islander people.
- restricting the states and territories from delegating the administration of Commonwealth legal assistance funding to the legal assistance sector, including LACs (**Part 2 – Operation of the NLAP**)
 - preventing the use of Commonwealth LAC funding for state and territory law matters, apart from existing exceptions (**Part 2 – Operation of the NLAP**)
 - continuing the objective of an efficient and effective legal assistance sector through an updated *National Strategic Framework for Legal Assistance* (National Strategic Framework) (**Part 3 – Objective and outcomes and Part 9 – National Strategic Framework**)
 - improving collaborative service planning, including through tiered and publicly transparent processes (**Part 5 – Collaborative service planning**)
 - increasing visibility of Australian Government and state and territory funding to LACs, CLCs and ATSILS (**Part 6 – Performance monitoring and reporting requirements**)
 - updating reporting and performance monitoring requirements (**Part 6 – Performance monitoring and reporting requirements**)
 - prioritising funding for frontline legal assistance services to the most vulnerable people facing disadvantage, including national priority client groups and the delivery of client-centric services (**Part 8 – Commonwealth priorities**)
 - developing joint and sole roles and responsibilities for the Australian Government and states and territories, to be based on strategic and policy guidance, provision and allocation of funding, sector planning and development, and performance monitoring (**Part 4 – Roles and responsibilities**), and
 - clarifying the current policy relating to the use of Commonwealth funding and the restriction on lobbying activities (**Part 8 – Commonwealth priorities**).

PART 2 – OPERATION OF THE NLAP

The *National Strategic Framework for Legal Assistance* provides the overarching objective and principles for all government funded legal assistance services, delivered by LACs, CLCs, ATSILS and Family Violence Prevention and Legal Services (FVPLS).

The NLAP will support the objective of the National Strategic Framework (see **Part 9 – National Strategic Framework**) and the Australian Government and the states and territories will ensure that the delivery of legal assistance services are consistent with its principles.

The NLAP consists of a multilateral agreement and supporting bilateral agreements between the Australian Government and each state and territory. Within this structure, there are individual arrangements for mainstream and specialist legal assistance and Aboriginal and Torres Strait Islander specific legal assistance.

For the purposes of the NLAP:

- **Mainstream and specialist legal assistance services** are legal assistance services delivered by LACs and CLCs.
- **Aboriginal and Torres Strait Islander specific legal assistance services** are legal assistance services delivered by ATSILS and FVPLS.
 - FVPLS are included in this definition given their ongoing involvement in collaborative service planning and the application of the Strategic Framework to their services. The Australian Government has not made any decision about FVPLS funding arrangements beyond June 2020.



Multilateral agreement

The multilateral agreement will be collectively agreed to by the Australian Government and the states and territories. The multilateral agreement will outline the key objectives and outcomes of the NLAP, roles and responsibilities, funding arrangements for LACs, ATSILS and CLCs, governance arrangements and core performance monitoring and reporting requirements.

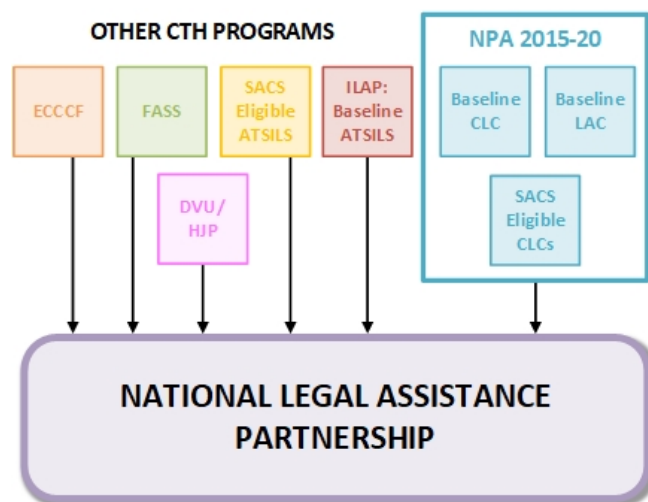
Bilateral agreements

The bilateral agreement will be agreed by the Australian Government and each state and territory. The bilateral agreement will provide the flexibility to incorporate potential new funding streams and allow for policy changes to be more easily included. The bilateral agreement will not be inconsistent with the multilateral agreement. The bilateral agreements will include specific funding and performance monitoring and reporting requirements. For example, Commonwealth funding for the Family Advocacy and Support Services (FASS) will be included in the bilateral agreement due to the specific service and reporting requirements and the funding being non-ongoing.

Funding streams under the NLAP

Under the NLAP, the Australian Government will provide ongoing and indexed funding for legal assistance services, which will be approximately **\$397.5 million in 2020-21** (see Budget Paper No.3), as detailed in **Table 1**. This includes an additional \$10.0 million per year in ongoing funding for frontline legal assistance services from 1 July 2020 distributed to LACs, ATSILS and CLCs based on their current share of baseline funding.

The inclusion of various funding sources within a single arrangement will help prevent the fragmentation of services, reduce the risk of duplication and support the more efficient allocation of resources. The quarantining of funding will help prevent any disruption to the legal assistance sector.



The Australian Government Attorney-General’s Department is working with other relevant Australian Government agencies to determine whether other legal assistance programs could be included within the NLAP in the future. Any decision to include these programs will be subject to the decision of the Australian Government Minister responsible for its administration and negotiated with states and territories. The Bilateral agreements allow for other Australian Government legal assistance programs to be included after the NLAP commences on 1 July 2020.

TABLE 1: FUNDING WITHIN THE NLAP

Funding stream	NLAP structure	Funding amount (2020-21)
Baseline funding for LACs* (currently provided under the NPA)	Multilateral	\$232.7 million , ongoing
Baseline funding for ATSILS* (currently provided under the ILAP)	Multilateral	\$77.8 million , ongoing
Baseline funding for CLCs* (currently provided under the NPA)	Multilateral	\$33.4 million , ongoing
Baseline funding for CLCs for family violence and/or family law (currently provided under the NPA)	Multilateral	\$13.4 million , ongoing
Supplementary expensive criminal cases funding - currently provided under the Expensive Commonwealth Criminal Cases Fund (ECCCF)	Multilateral	\$8.1 million , ongoing
Funding for Family Advocacy and Support Services (FASS)	Bilateral	\$9.9 million , until 30 June 2022
Funding for specialist Domestic Violence Units (DVUs) and/or Health Justice Partnerships (HJPs)	Multilateral	\$9.9 million , ongoing
Funding for the final year of Social and Community Services (SACS) supplementation to eligible CLCs and ATSILS for 2020-21 [#]	Multilateral	\$12.3 million for 2020-21 in SACS supplementation

* Includes a share of the additional \$10.0 million per year announced in the 2019-20 Budget.

[#] SACS supplementation will cease on 30 June 2021, as per section 10 of the *Social and Community Services Pay Equity Special Account Act 2012*. The Australian Government has increased baseline legal assistance funding from 1 July 2021 to ensure the cessation of the SACS supplementation does not affect the overall amount of funding for legal assistance.

State and territory funding distribution

Baseline funding for LACs, CLCs and ATSILS, to the states and territories, will be distributed through the existing evidence-based funding distribution models, updated with relevant datasets. A publicly-available paper will be developed which explains how the models distribute funding between the states and territories.

The Australian Government proposes to adopt a ‘**no state and territory loses**’ principle for baseline funding. This will mean that the LAC, CLC and ATSILS subsectors in each state and territory will not experience a loss in baseline Commonwealth funding based on their 2019-20 funding levels. The funding distribution models will only apply to the indexation of baseline funding from 1 July 2020.

State and territory distributions for supplementary expensive Commonwealth criminal cases funding will be based on historical demand to allow for the variability of annual costs over the life of the NLAP.

State and territory distributions for the FASS and DVUs and/or HJPs will be based on current funding levels.

State and territory distributions for SACS supplementation funding will be based on the existing, predetermined formula.

State and territory funding

All levels of government should provide greater visibility of their funding to the legal assistance sector. The Australian Government proposes that, under the NLAP, the states and territories provide greater visibility of their funding through the:

1. proposed jurisdictional Legal Assistance Strategy (see **Part 6 – Performance monitoring and reporting requirements**), and
2. proposed NLAP reporting requirements (see **Part 6 – Performance monitoring and reporting requirements**).

The Australian Government will not require the states and territories to administer state and territory funding or report on its specific use through the NLAP.

Financial arrangements

General principles

The Australian Government proposes that the administration of the NLAP be based on the following principles:

- funding must be used for frontline legal assistance services and cannot be used to administer the NLAP, unless otherwise agreed by the Australian Government and the states and territories
- funding for LACs, CLCs and ATSILS will be quarantined and cannot be used to cross-subsidise other sectors
- baseline Commonwealth funding must be provided and administered in longer term funding cycles (three to five year arrangements) with limited exceptions to be agreed in writing between the Australian Government and the states and territories on a case-by-case basis
- within these three to five year cycles, LACs, CLCs and ATSILS should be provided with advance notice of any potential future baseline Commonwealth funding distributions. Ideally this would be least six months prior
- the Australian Government’s financial contribution will not be reduced where the states and territories provide additional funding for LACs, CLCs or ATSILS
- the Australian Government’s financial contributions provided under the NLAP will not lessen the states’ and territories’ responsibility in funding the delivery of legal assistance services. The states and territories own financial contributions to legal assistance should not reduce as a result of the Australian Governments’ contributions under the NLAP

- states and territories will not be required to refund to the Commonwealth if the actual cost of delivering the services is less than the agreed funding provided under the NLAP, consistent with clause 39 of the current NPA
- the use of Commonwealth funding under the NLAP will be informed by:
 - the states and territories respective Legal Assistance Strategy and Legal Assistance Action Plan
 - the outcomes of collaborative service planning, and
 - the Commonwealth priorities, including priority client groups and service priorities.

Mainstream and specialist legal assistance services

Baseline funding

Under the NLAP, the states and territories will allocate and administer quarantined Commonwealth baseline funding to LACs and CLCs. Commonwealth baseline funding for LACs will be used for Commonwealth law matters only, except:

- where state and territory law matters relating to the safety or welfare of a child are connected with family law proceedings
- where state and territory law matters relating to a person's safety are connected with family law proceedings, or
- in discrete assistance or community legal education, regardless of whether the matter relates to Commonwealth or state or territory laws.

These restrictions will not apply to baseline Commonwealth funding to CLCs under the NLAP. The states and territories will be required to allocate and administer **Commonwealth baseline CLC funding: Family law and/or family violence** to CLCs for family law services and/or family violence related services.

Expensive Commonwealth criminal cases supplementation

The Australian Government currently provides supplementary funding to LACs through the ECCCCF. The ECCCCF is used to cover the costs incurred by LACs in defending clients facing serious, high-cost, Commonwealth criminal matters, for example, terrorism, drug trafficking and people smuggling offences.

Under the NLAP, the Australian Government proposes that the states and territories will allocate quarantined Commonwealth supplementation funding for expensive Commonwealth criminal cases. States and territories will provide this funding to LACs to reimburse costs incurred in defending clients facing serious, high-cost Commonwealth criminal law matters.

Supplementation funding is not intended to be a replacement for the use of baseline funding for Commonwealth criminal law matters. It is expected that baseline Commonwealth funding for LACs will be used where supplementation funding is unable to cover the number of expensive Commonwealth criminal cases in a jurisdiction. Any unused supplementation funding for any given financial year would be rolled over and be used in subsequent financial years for expensive Commonwealth criminal cases.

In providing this funding, the states and territories will have regard to the following guidance:

- a high-cost Commonwealth criminal matter is one that incurs costs of at least \$40,000 (GST exclusive)
- states should not provide supplementation funding to the legal assistance sector in matters where costs:
 - have been awarded in favour of the defendant, or
 - could be sought under the *Proceeds of Crime Act 2002* (Cth).

Domestic violence units and health justice partnerships

The Australian Government funds 17 legal assistance providers, via direct grant agreements, to operate specialist DVUs and HJPs in 21 locations across Australia, plus one online model in Victoria. The existing funding agreements will expire on 30 June 2020.

From 1 July 2020, the Australian Government proposes including funding for DVUs and HJPs within the NLAP, to be administered by states and territories. The Australian Government proposes that the states

and territories will allocate funding to all currently funded legal assistance providers, for the delivery of DVUs and HJPs, for the duration of the NLAP.

The states and territories will be able to reallocate Commonwealth funding for DVUs and HJPs to another legal assistance provider, if there:

- are issues relating to performance of the currently funded provider
- is a demonstrated shift in legal need within the state or territory, or
- is a more appropriate, qualified provider for the delivery of DVUs and HJPs.

Family Advocacy and Support Services

The FASS increases the capacity of duty lawyer services in family law court registries and integrates family violence support services, to help families affected by family violence with matters before the family law courts.

Under the NLAP, the Australian Government proposes that the states and territories will allocate and administer quarantined Commonwealth funding for the operation of FASS at agreed federal family law court registries and circuits. The states and territories will ensure that the FASS provide integrated legal assistance services including:

- legal support and advice for families affected by family violence with matters before the family law courts
- preparing notices of risk and applications to assist the court to make evidence-based and safe decisions
- trauma informed and high quality social support services delivered by appropriately qualified personnel, so that clients' non-legal issues, particularly where they elevate the risk of family violence, are identified and responded to alongside legal issues
- dedicated men's support workers who will work with male victims and alleged male perpetrators to access appropriate support services including parenting programs and men's behavioural change programs
- assisting families to transition between, and manage matters across, the Commonwealth family law, state family violence and state child protection jurisdictions, and
- unless it is not possible, partnering with established providers of specialist domestic violence services to deliver the social support services.

Aboriginal and Torres Strait Islander specific legal assistance services

Baseline funding

The Australian Government currently funds seven ATSILS under the ILAP for the provision of culturally appropriate service delivery, with funds totalling \$370.1 million over five years. These agreements expire on 30 June 2020. The Australian Government provides over 90% of funding to ATSILS, with over 80% of their services being provided to Aboriginal and Torres Strait Islander people for state and territory law matters.

From 1 July 2020, the Australian Government proposes including ATSILS baseline funding in the NLAP. The NLAP will continue the trajectory of reform established under the current NPA, which incorporated CLC funding for the first time.

Under the NLAP, the Australian Government proposes that the states and territories will:

- allocate and administer quarantined Commonwealth baseline funding to ATSILS
- provide funding to all existing and currently funded ATSILS for the duration of the NLAP
- provide funding to ATSILS to allow for the delivery of culturally appropriate legal assistance services thereby supporting self-determination of Aboriginal and Torres Strait Islander people, which in the context of the NLAP refers to:
 - Aboriginal Community Controlled Organisations being the preferred providers of culturally appropriate legal assistance services while acknowledging that Aboriginal and Torres Strait Islander people have a choice in which legal assistance services they access

- ATSILS determining service priorities and locations based on community need and in partnership with governments and the broader legal assistance sector, and
- ATSILS being involved in the development and implementation of legal assistance policies and programs that affect Aboriginal and Torres Strait Islander people.

The states and territories will have the flexibility to reallocate Commonwealth baseline funding for an existing ATSILS to another Aboriginal Community Controlled Organisation, if there:

- are serious issues relating to performance of the currently funded ATSILS that are detrimental to their present and/or potential clients
- is a demonstrable and substantial shift in legal need within a jurisdiction, and/or
- is a more appropriate Aboriginal Community Controlled Organisation operating within the state or territory which can clearly demonstrate it has the capability to provide more effective, culturally appropriate legal assistance services to Aboriginal and Torres Strait Islander people which results in better outcomes for current and/or potential clients.

If the state and territory intends to make a reallocation of funding, the state or territory must first consult with the Australian Government.

All ATSILS baseline funding in the NLAP must be directed to ATSILS and not used to support NLAP administration costs.

Payments

Australian Government payments under the NLAP will be made subject to the states and territories providing:

- a publicly available Legal Assistance Strategy and Legal Assistance Action Plan (see **Part 6 – Performance monitoring and reporting requirements**), and
- reporting on the NLAP as set out in **Part 6 – Performance monitoring and reporting requirements**.

PART 3 – OBJECTIVE AND OUTCOMES

The Australian Government proposes that the objective of the NLAP be focussed on contributing to integrated, efficient, effective and appropriate legal assistance services which are focussed on improving outcomes and keeping the justice system within reach for vulnerable people facing disadvantage, within available resources.

The NLAP will facilitate achievement of the following outcomes as detailed in the National Strategic Framework:

- legal assistance services focused on, and accessible to, people facing disadvantage
- legal assistance services delivered in a client-centric manner in order to better consider people's legal needs and capabilities
- legal assistance and other service providers and governments collaborating to provide integrated, client-centric services to address people's legal and other problems
- legal assistance services provided at an appropriate time, which best address an individual's legal needs, including preventative action when appropriate
- legal assistance services empowering people and communities to understand and assert their legal rights and responsibilities and to address, or prevent, legal problems, and
- legal assistance providers supported to build the capacity of their organisations and staff, to ensure they can effectively respond to evolving service demand.

These outcomes will be the shared responsibility of the Australian Government and the states and territories.

The objectives and outcomes of the NLAP will be achieved by the:

- delivery of efficient, effective and appropriate mainstream and specialist legal assistance services within each state and territory
- delivery of efficient, effective and culturally appropriate Aboriginal and Torres Strait Islander specific legal assistance services within each state and territory
- participation and engagement in collaborative service planning by the Australian Government, states and territories and the legal assistance sector, and
- sharing of information and resources which support the delivery of legal assistance services.

PART 4 – ROLES AND RESPONSIBILITIES

Role of the Australian Government

Outlined below are the proposed Australian Government roles and responsibilities under the NLAP.

Policy and strategic guidance

- facilitating information sharing, at the national level, with the states and the legal assistance sector
- organising and facilitating forums, with the states, territories and the legal assistance sector, on collaborative service planning, innovation and best practice legal assistance service delivery (for example, similar to the 2018 Victoria Legal Aid Collaborative Service Planning Symposium)

Provision of funding

- providing a financial contribution to the states and territories for the delivery of mainstream and specialist and Aboriginal and Torres Strait Islander specific legal assistance services in accordance with the NLAP

Sector planning and development

- undertaking national level collaborative service planning (see **Part 5 – Collaborative service planning**)
- providing specific guidance to the states and territories on the requirements and implementation of collaborative service planning
- sharing information and resources at the national level which support the ongoing development and capacity of the legal assistance sector within available resources

Performance monitoring

- monitoring and assessing the performance under the NLAP to ensure that outputs are delivered and outcomes are achieved
- reporting on outcomes and outputs within the National Summary of Legal Assistance as set out in **Part 6 – Performance monitoring and reporting requirements**, and
- facilitating improvements to the collection of nationally consistent data and the *National Data Standards Manual for Legal Assistance*

Role of the states and territories

Outlined below are the proposed state and territory roles and responsibilities under the NLAP. These roles and responsibilities will not be delegated to a provider within the legal assistance sector.

Policy and strategic guidance

- facilitating information sharing, at the jurisdictional level, with the Australian Government and the legal assistance sector
- organising and facilitating forums, with the Australian Government and the legal assistance sector, on collaborative service planning, innovation and best practice legal assistance service delivery (for example, current jurisdictional legal assistance forums).

Allocation of funding

- allocating and administering Commonwealth funding for the delivery of mainstream and specialist and Aboriginal and Torres Strait Islander specific legal assistance services, in accordance with the NLAP
- administering Commonwealth funding under the NLAP in accordance with agreed Commonwealth priorities.

Sector planning and development

- undertaking jurisdictional and local collaborative service planning (see **Part 5 – Collaborative service planning**)

- supporting the ongoing development and capacity of the legal assistance sector within available resources

Performance monitoring

- monitoring and assessing the delivery of legal assistance services by LACs, CLCs and ATSILS funded under the NLAP, and
- reporting on the delivery of agreed outcomes and outputs.

Shared roles and responsibilities

The Australian Government and the states and territories agree to be jointly responsible for:

- developing bilateral agreements for the NLAP
- participating in consultations with the legal assistance sector, as appropriate, regarding the implementation of the NLAP
- participating in Legal Assistance Services Inter-Governmental Committee (see **Part 7 – Governance arrangements**) meetings, jurisdictional forums and processes
- meeting biannually on a bilateral basis to discuss the operation of the NLAP
- contributing to the ongoing collection and transparent reporting of agreed nationally consistent data, including ongoing improvements to the *National Data Standards Manual for Legal Assistance*
- funding, conducting and participating in the review of the NLAP
- subject to meeting relevant legislative obligations (such as those relating to privacy, retention or distribution of information and data), to:
 - collect and share data and information, where practicable, relevant to legal assistance and for delivering improved outcomes under the NLAP
 - ensure collected data is communicated to the legal assistance sector and provides meaningful insight and analysis to inform legal assistance service delivery, and
 - provide reasonable access to research and administrative data sets, within available resources.

PART 5 - COLLABORATIVE SERVICE PLANNING

The Australian Government proposes that under the NLAP, the current requirements for collaborative service planning will continue and include improvements which are focussed on:

- redefining and clarifying the scope of collaborative service planning
- implementing a tiered system of collaborative service planning, and
- sharing resources and information to support collaborative service planning

Scope of collaborative service planning

Purpose

Collaborative service planning is an ongoing, iterative process where the Commonwealth, states, territories and the legal assistance sector will:

- develop collaborative partnerships to deliver services which address a range of legal needs
- inform legal assistance policy development, program design or service delivery, and
- better coordinate existing services to maximise efficiency and effectiveness and minimise system and service gaps.

Collaborative service planning processes could inform funding allocations by the states and territories but will not be responsible for making funding allocation decisions.

For each level of collaborative service planning, the Australian Government and the states and territories would conduct at least two collaborative service planning meetings each financial year. These meetings will promote discussion of strategies for mainstream and specialist and Aboriginal and Torres Strait Islander specific legal assistance services and activities listed below.

Activities

Under the NLAP, the Australian Government proposes that collaborative service planning will, at a minimum, be focused on:

Mapping

- consideration of all services provided by the legal assistance sector to inform decisions about ongoing service delivery by legal assistance providers and identify service gaps
- consideration of an appropriate evidence base for legal need

Building

- development of the jurisdictional Legal Assistance Strategy and Legal Assistance Action Plan
- understanding of existing and emerging legal and other needs
- consideration of strategies to streamline services, reduce any unnecessary duplication and target services to areas of greatest need
- coordination between legal and other service providers in the planning and delivery of services as well as referral pathways and opportunities for partnerships, and
- information-sharing between governments, the legal assistance sector and other service providers and justice agencies.

The Australian Government and the states and territories will ensure that collaborative service planning supports the National Strategic Framework and is conducted in a manner that is inclusive, consultative and culturally appropriate.

Tiered collaborative service planning structure

The Australian Government proposes that under the NLAP, collaborative service planning will be implemented through national, jurisdictional and locally based planning. Each tier of collaborative service planning will be mutually reinforcing.

Each tier of collaborative service planning will:

- have clear and formalised roles, responsibilities and membership
- be supported by relevant forums and meetings
- consider issues which intersect or interact with other tiers of collaborative service planning, including but not limited to:
 - efficient and effective ways of using available resources
 - reallocating, consolidating or sharing resources
 - changing service delivery approaches
 - adjusting triage practices
 - collaborating or co-locating with other service providers, and
 - merging administrative functions.
- make special consideration of relevant specialist services, jurisdictional and national services, cross border services and pro-bono services, and
- support capacity building and training across the legal assistance and related sectors.



National collaborative service planning

National collaborative service planning will be coordinated and supported by the Australian Government, through the Legal Assistance Services Inter-Governmental Committee (see **Part 7 – Governance arrangements**), and will:

- provide guidance and support to collaborative service planning at the jurisdictional and local tiers
- incorporate the outcomes of jurisdictional and local collaborative service planning processes
- provide a forum for sharing best practice and promoting innovation, and
- identify national level justice and socio-demographic issues which may affect legal assistance.

For national collaborative service planning meetings the Australian Government will invite:

- officials from each state and territory
- representatives from national legal assistance sector peak and research bodies, for instance, the Law and Justice Foundation of New South Wales and the Victoria Law Foundation, and

- other stakeholders on an ad-hoc basis, including:
 - relevant agencies and departments within the Australian Government
 - Law Council of Australia
 - Australian Pro-Bono Centre
 - Health Justice Australia, and
 - other national bodies.

Jurisdictional collaborative service planning

Jurisdictional collaborative service planning will be coordinated by the relevant state or territory and supported by a jurisdictional wide group. Jurisdictional collaborative service planning will:

- identify trends in the presentation of legal need in the state and territory
- build partnerships across the jurisdictional legal assistance sector and with other relevant stakeholders
- consider opportunities for improved coordination and targeting of services within the legal assistance sector and across other service providers
- incorporate the outcomes of local collaborative service planning processes
- provide a forum for sharing best practice and promoting innovation, and
- provide guidance and oversight of local collaborative service planning.

In relation to jurisdictional collaborative service planning meetings, the state or territory will invite:

- officials from the Australian Government
- representatives from the jurisdictional legal assistance sector, relevant peak and research bodies
- representatives from the legal profession, pro-bono sector, and other relevant services sectors, and
- representatives from any state or territory entities, including the police and other government bodies, and the Courts.

Local collaborative service planning

Local collaborative service planning will be place-based planning between local legal assistance and non-legal assistance stakeholders that operate in or provide outreach to a local area. Local collaborative service planning will be coordinated by the relevant state or territory. Local collaborative service planning may be combined with jurisdictional collaborative service planning for smaller states or territories.

Local collaborative service planning will:

- identify the level of legal need in the relevant geographic locale
- identify local level issues that affect legal assistance
- develop an approach to service delivery in the local area and monitor progress
- build partnership across relevant stakeholders operating within the relevant locale, and
- consider opportunities for improved coordination and targeting of services within the legal assistance sector and across other service providers.

In relation to local collaborative service planning meetings, the state or territory will invite:

- representatives from the local legal assistance sector
- representatives from the legal profession, pro-bono sector, and other relevant services sectors operating within the region, and
- representatives from any state or territory justice entities, including the police and other government bodies, and the Courts.

PART 6 – PERFORMANCE MONITORING AND REPORTING REQUIREMENTS

The Australian Government proposes to change the nature of performance monitoring and reporting under the NLAP compared to the current NPA. While retaining the relatively low reporting burden, performance under the NLAP will be measured through:

- **national performance indicators**
- the development of two outputs: a jurisdictional **Legal Assistance Strategy** and **Legal Assistance Action Plan**, and
- two core reporting requirements.

National performance indicators

The Australian Government proposes that a new set of performance indicators should be developed for the NLAP. These performance indicators will be linked to the outcomes of the National Strategic Framework. The Australian Government proposes that the following national performance indicators will be included within the NLAP:

1. Number and percentage of clients who are receiving legal assistance services who are financially disadvantaged disaggregated by priority client groups.
2. Number and percentage of services delivered by legal assistance providers, disaggregated by:
 - funding category
 - intensity (service category and service type)
 - law type and problem type, and
 - client type (indicators of disadvantage and priority client groups).
3. Assessment of clients' experience of legal assistance services, addressing issues relating to:
 - accessibility
 - service quality and relevance to legal need
 - appropriate referral, and
 - overall utility in improving client outcomes (timeliness and increased confidence to take action).
4. Number of referrals made to and from legal assistance providers, disaggregated by source, destination and reason.
5. Number of training or capacity building activities conducted or undertaken by legal assistance providers, with other services.

Further details on the national performance indicators is at **Attachment A**.

These performance indicators will be used to assess the performance of the states and territories under the NLAP.

The Australian Government proposes that the NLAP will not include performance benchmarks such as those under the current NPA. However, the Australian Government proposes that flexibility will be provided to allow national performance benchmarks to be agreed between the Australian Government and states and territories from time to time. These national performance benchmarks could be agreed to and set out in a schedule to the NLAP for that purpose.

State and Territory outputs

In order to receive funding under the NLAP, the Australian Government proposes that each state and territory would develop a Legal Assistance Strategy and Legal Assistance Action Plan by 1 July 2021.

Legal Assistance Strategy

The Australian Government proposes that each state and territory develop a publicly available Legal Assistance Strategy which will apply for the length of the NLAP. Each Legal Assistance Strategy will:

- indicate the estimated level and manner in which legal need presents in each state and territory, including sub-jurisdictional regions
- indicate the priorities and areas of focus for mainstream and specialist and Aboriginal and Torres Strait Islander specific legal assistance services in the state and territory
- include planned or forecast level of Commonwealth and state and territory funding for mainstream and specialist and Aboriginal and Torres Strait Islander-specific legal assistance services
- detail how the state and territory will address the legal needs of priority client groups
- outline if there are any specific priority client groups relevant to that state and territory and how the state and territory will address their legal needs
- outline approaches the State and Territory will undertake to ensure that mainstream and specialist and Aboriginal and Torres Strait Islander-specific legal assistance services are delivered in a manner consistent with the National Strategic Framework, and
- establish reasonable, relevant and specific targets relevant to the state and territory that is consistent with and supports the objective, outcomes and outputs of the NLAP.

The states and territories will develop their Legal Assistance Strategies in consultation with their legal assistance sector.

The Legal Assistance Strategy for each state and territory will be approved by their Attorney-General or relevant Minister.

Legal Assistance Action Plan

The Australian Government proposes that each state and territory develop at least one publicly available Legal Assistance Action Plan. The states and territories will have the flexibility to develop multiple Action Plans over the duration of the NLAP. Each Legal Assistance Action Plan will:

- reflect the strategic direction established by the state's or territory's Legal Assistance Strategy
- outline specific activities, projects, initiatives and reforms to implement the state's or territory's Legal Assistance Strategy and meet the objective and outcomes of the NLAP
- incorporate the outcomes of jurisdictional, and where relevant, local collaborative service planning
- identify specific priorities for the delivery of mainstream and specialist and Aboriginal and Torres Strait Islander-specific legal assistance services in the jurisdiction, and
- identify a specific plan of action to address these priorities that includes a range of strategies, such as:
 - the development of new, or alteration of existing, referral pathways, networks and links
 - training and development of legal assistance sector staff, and
 - scoping of new services or activities within available resources.

The states and territories will develop their Action Plan, in consultation with their legal assistance sector.

For the purposes of clarity, each jurisdiction's Action Plan can be incorporated within the Legal Assistance Strategy and is not required to be a separate document.

The Australian Government's estimated financial contribution to the state and territory will not be reduced because the activities, projects and initiatives set out in the Action Plan do not achieve their stated or intended aim.

Reporting requirements

The Australian Government proposes that each state and territory will provide a **Statement of Services and Funding** and a **Jurisdictional Performance Report**.

Statement of Services and Funding

The Statement of Services and Funding will include:

- projected Commonwealth funding under the NLAP disaggregated to separately identify funding streams and individual providers for the relevant financial year, and
- year to date reporting reflecting the national performance indicators.

The Statement of Services and Funding will take the form of official correspondence between the relevant state or territory and Australian Government (or delegated officials from the relevant agencies). Statements may be made public by the Australian Government or the states and territories.

Jurisdictional Performance Report

The Jurisdictional Performance Report will provide an annual report of performance and outline how the state and territories has satisfied the requirements outlined in the NLAP. The Australian Government proposes that the Jurisdictional Performance Report will include:

- actual Commonwealth funding under the NLAP disaggregated to separately identify funding streams and individual providers for the relevant financial year
- actual state and territory funding for legal assistance services, disaggregated by provider, and separately identifying relevant funding streams for the relevant financial year
- projected Commonwealth and state and territory funding for the next financial year disaggregated to separately identify funding streams and individual providers
- progress made against the state or territory's Legal Assistance Strategy and Legal Assistance Action Plan, including any relevant targets
- year to date reporting reflecting the national performance indicators
- year to date service data
- two case studies, provided in templates developed by the Australian Government, which covers service delivery models and triage practices, and
- results of client surveys using standardised questions developed by the Australian Government and the states and territories through the Legal Assistance Services Inter-Governmental Committee (see **Part 7 – Governance arrangements**).

The Jurisdictional Performance Report will take the form of official correspondence between the relevant state and territory and Australian Government Ministers (or delegated officials from the relevant agencies). Performance reports may be made public by the Australian Government or the states and territories.

Further detail on the Jurisdictional Performance Report is at **Attachment B**.

Legal Assistance: National Services Summary

The Australian Government proposes that, in consultation with the states and territories and the legal assistance sector, it will produce an annual Legal Assistance: National Services Summary. This report will summarise information and analysis on the delivery of legal assistance services and the use of government funding. This will align with information that is currently provided under the National Picture developed under the current NPA.

Transition to an outcomes based framework

Understanding the extent to which legal assistance services improve outcomes for clients is important, but difficult to determine. To understand this issue, the Australian Government proposes a two stage process to achieve outcomes based performance measurement.

The first stage would occur through the NLAP by improving reporting and the collection of consistent data to better understand the scope, diversity and intensity of legal assistance services. The second stage would be to develop an outcomes based framework which aligns with the objectives and principles of the National Strategic Framework.

The Australian Government proposes that the development of this framework will occur through a transitional, co-designed approach, in partnership with the states, territories and the legal assistance sector. This process will be led by the Legal Assistance Services Inter-Governmental Committee (see **Part 7 – Governance arrangements**) as a shared responsibility.

The Australian Government proposes that this framework will be developed over the life of the NLAP and could come into effect at a future date.

Measuring sector performance against an outcomes based framework will allow the legal assistance sector to demonstrate how and to what extent their services are achieving positive outcomes for their clients and the community more broadly. In turn, this will lead to the development of a stronger evidence base for policy discussion and decision making relating to the legal assistance sector.

PART 7 – GOVERNANCE ARRANGEMENTS

Outlined below is the proposed governance arrangements and functions which will support the NLAP.

Legal Assistance Services Inter-Governmental Committee

The NLAP will be supported by the Legal Assistance Services Inter Governmental Committee (IGC) consisting of officials from the Australian Government and the states and territories. The IGC will be responsible for:

- progressing relevant outcomes from the NPA review and the ILAP review
- providing strategic and policy leadership
- building a strong research and evidence base, through consistent and robust data
- strengthening sector planning and development through sharing information on best practice service delivery
- discussing the methodology for the provision and allocation of funding by the states and territories to individual legal assistance providers, and
- strengthening performance monitoring and evaluation.

The IGC will provide a decision-making forum for the Australian Government and states and territories in relation to the current NPA and the future funding arrangements.

Advisory Group

The Australian Government proposes establishing an IGC Advisory Group to provide a forum for consultation and provide the IGC with guidance and input on key issues. The specific roles and responsibilities for the Advisory Group will be developed jointly by the IGC and the legal assistance sector.

The IGC will direct and seek the advice of the Advisory Group, who will report back to the IGC. The Advisory Group will be used to consult on issues requiring advice and guidance from the legal assistance sector where it may not be appropriate or feasible to consult individually with the broader legal assistance sector. In these instances, the Advisory Group will provide a representative forum allowing for sector, jurisdiction and service provider specific perspectives and input. The operation of the Advisory Group is intended to reduce the burden that would otherwise be experienced by the legal assistance sector.

Key areas of focus for the Advisory Group will be:

- data standardisation (ongoing)
- collaborative service planning (ongoing)
- development of an outcomes-based framework for legal assistance, and
- sharing of research and innovation relevant to legal assistance.

Review of the NLAP

The Australian Government proposes that the NLAP be reviewed at least 12 months prior to its expiry. The terms of reference for the review will be jointly developed, in consultation with the legal assistance sector.

The Australian Government proposes, consistent with the 2018 Review of the NPA, that the responsibility for the review and its costs be shared between the Australian Government and the states and territories and that this be reflected in the NLAP.

PART 8 - COMMONWEALTH PRIORITIES

National priority client groups

Under current arrangements, the legal assistance sector should plan and target their services to people who fall within one or more of the priority client groups. The Commonwealth proposes that the existing priority client groups be retained.

The national priority client groups under the NLAP will be (in alphabetical order):

- Aboriginal and Torres Strait Islander people
- children and young people (up to 24 years)
- older people (aged over 65 years)
- people in custody and/or prisoners
- people experiencing, or at risk of, family violence
- people experiencing, or at risk of, homelessness
- people residing in rural or remote areas
- people who are culturally and linguistically diverse
- people with a disability or mental illness
- people with low education levels, and
- single parents.

The list of national priority client groups is for guidance only and is not exhaustive. The legal assistance sector is not excluded from assisting clients that fall outside these groups.

In addition to these national priority client groups, the states and territories may identify other priority client groups that may be specific to their respective jurisdiction. If a state or territory identifies additional priority client groups, these should be listed in its Legal Assistance Strategy.

Commonwealth service priorities

The Australian Government proposes that under the NLAP, the use of Commonwealth funding for the delivery of legal assistance services be consistent with the following principles:

- Commonwealth funding must be used for the delivery of front-line services and focused on meeting the legal needs of individuals, with specific focus on priority clients
- non-frontline activities, including strategic policy and law reform, should be led by relevant peak bodies and not frontline legal assistance providers
- mainstream and specialist and Aboriginal and Torres Strait Islander-specific legal assistance services should be delivered in a manner consistent with the *National Strategic Framework for Legal Assistance*
- family or civil law disputes should be resolved through alternative dispute resolution processes rather than through litigation, where appropriate, and
- the legal assistance sector should consider whether other services (legal as well as non-legal) may be relevant to a client's needs and make referrals to these services where appropriate. Suitable collaborative arrangements should be established for this purpose.

Commonwealth law priorities

The Australian Government proposes that the existing priority areas for Commonwealth family, civil and criminal law be retained (as detailed in clauses B11 to B17 of the current NPA).

Lobbying and campaigning activities

Australian Government policy remains that lobbying and campaigning activities must not be undertaken using Commonwealth resources. This policy will apply to the NLAP.

The Australian Government and the NLAP will not restrict what legal assistance providers can do with their state or territory funding or pro bono resources. The manner in which legal assistance providers use non-Commonwealth resources is a matter for those organisations.

For the purposes of the NLAP, ‘lobbying’ refers to any oral, written or electronic communication with a government representative in an effort to influence government decision-making in relation to the awarding of a government contract or grant. It also includes undertaking public campaigns, political campaigns, or activities which do not relate to frontline service delivery.

Under the NLAP, activities that **do not** constitute lobbying include:

- community legal education activities
- communications with a committee of the Parliament
- communications with a Minister or Parliamentary Secretary in his or her capacity as a local Member or Senator in relation to non-ministerial responsibilities
- making a submission to a government or parliamentary body or inquiry to provide factual information and/or advice with a focus on systemic factors affecting justice issues
- identifying strategic policy and law reform issues to be referred to and pursued by legal assistance peak bodies
- communications in response to a call for submissions
- communications in response to a request for tender or similar process, or
- response to requests by Government representatives for information.

Under the NLAP, the following activities constitute lobbying and Commonwealth funding **would not** be permitted to be used for these purposes:

- communications with an Australian Government Minister intended to unduly influence the outcome of a grant or procurement process or other decision, or
- undertaking campaigns designed to garner public support for or against an administrative, legislative or policy decision.

PART 9 – NATIONAL STRATEGIC FRAMEWORK FOR LEGAL ASSISTANCE

The updated *National Strategic Framework for Legal Assistance* (National Strategic Framework) reflects feedback received from the states and territories and the legal assistance sector.

Updated National Strategic Framework for Legal Assistance

Legal need in Australia

Legal problems are widespread in Australia and there is significant unmet legal need. Changes in Australian society, through broader socio-demographic and population factors and systemic issues, contribute to the level of unmet legal need and directly affects the way in which legal problems present for individuals.

People often experience multiple legal problems at the same time, including criminal, civil and family matters. These legal problems often coexist with, or are triggered by, other problems. In many cases, services and professionals outside the legal system are the first or only points of contact for people in need of legal help.

If left unresolved, legal problems can escalate and trigger other problems, such as health and social welfare issues. They can also impact adversely on a person's broader life circumstances and their ability to participate effectively in society. The flow on impacts will often also affect the person's family and the wider community.

These contextual factors necessitates all levels of government and the legal assistance sector to work together with other service providers to deliver services that consider a holistic approach to addressing an individual's legal and other problems.

Legal problems are highly prevalent amongst groups in society that experience economic, social and other forms of disadvantage. People facing disadvantage often experience higher rates of legal need, and more frequently come into contact with the justice system. Often, it is these people who are more susceptible to, and lack the capabilities and knowledge to deal with, legal problems. Aboriginal and Torres Strait Islander people, in particular, face greater disadvantage and experience significantly higher rates of incarceration than other people in Australia.

Overview of the National Strategic Framework

The National Strategic Framework provides the policy framework for all government assistance funding including an overarching objective and aspirational principles, to guide legal assistance policy development, service delivery and sector planning. The Framework is not a funding agreement or a performance measurement document.

The National Strategic Framework encompasses all Commonwealth, state and territory government-funded legal assistance. This includes generalist and specialist legal assistance services, delivered by legal aid commissions and community legal centres, and Indigenous Australians - specific legal assistances services, delivered by Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention and Legal Services.

The National Strategic Framework was agreed to by the Council of Attorneys-General on **[DATE OF CAG AGREEMENT]** and was developed with consultation with the legal assistance sector. The National Strategic Framework is due to commence on 1 July 2020 and expires on 30 June 2025.

A review of the National Strategic Framework should be conducted prior to its expiry.

The National Strategic Framework may be reviewed or amended by the Council of Attorneys-General to ensure that the principles and outcomes remain relevant for all levels of government and the legal assistance sector.

Any review or amendment should be made in partnership between the Commonwealth, states and territories and in consultation with the legal assistance sector.

Objective of the National Strategic Framework

The National Strategic Framework encourages a unified and coordinated approach by governments and the legal assistance sector to keep the justice system within reach in Australia and help focus finite resources towards areas of greatest legal need.

The National Strategic Framework sets out the following shared aspirational-objectives for all Commonwealth, state and territory government funded legal assistance:

To further a national, integrated system of legal assistance that is focused on keeping the justice system within reach, maintaining the rule of law, and maximising service delivery within available resources. Within this system, legal assistance services should be delivered in a high quality and culturally appropriate manner.

In support of this objective, the National Strategic Framework sets out six principles:

1. focus service delivery on people facing disadvantage
2. client centred and appropriate services
3. collaboration and integrated approaches
4. appropriately timed responses and preventative action
5. empowerment and resilience, and
6. continuous learning and improvement

Self-determination

The principles of the National Strategic Framework should be applied consistently in a manner which supports self-determination. For the purposes of the delivery of legal assistance services, self-determination refers to:

- Aboriginal Community Controlled Organisations being the preferred providers of culturally appropriate legal assistance services, while acknowledging that Aboriginal and Torres Strait Islander people have a choice in which legal assistance services they access
- Aboriginal Community Controlled Organisations determining service priorities and locations based on community need and in partnership with governments and the broader legal assistance sector, and
- Aboriginal and Community Controlled Organisations being involved in the development and implementation of legal assistance policies and programs that affect Aboriginal and Torres Strait Islander people.

Purpose of legal assistance services

The National Strategic Framework sets out a broad purpose of legal assistance services:

Legal assistance is intended to help vulnerable people facing disadvantage who are unable to afford private legal services to engage effectively with the justice system in order to address their legal problems.

Legal assistance services are a key component of the justice system and are crucial in maintaining the rule of law by working to ensure that the law is applied to all people equally and that fundamental rights are upheld.

Legal assistance services are intended to enable and empower individuals to make informed decisions about asserting or defending their legal rights, meeting legal duties and obligations or otherwise using the law and the justice system to try to progress or address a legal problem.

By addressing legal problems, legal assistance services allow for timely and cost effective outcomes to an individual’s life and wellbeing prevents the exacerbation of disadvantage, contribute to community safety, and provide broader socio-economic benefits, including the overall efficiency of the justice system and other tax payer-funded services.

Principles

PRINCIPLE ONE - FOCUS SERVICE DELIVERY ON PEOPLE FACING DISADVANTAGE

Context	<p>People facing disadvantage are more susceptible to legal problems, including multiple and substantial legal problems. Vulnerable groups within our community, particularly Aboriginal and Torres Strait Islander people, tend to experience more legal problems. They are also less likely, or unable, to identify or manage legal problems themselves. Failure to address legal problems often impacts upon broader life circumstances, triggering additional legal and other problems and often resulting in, or furthering, entrenched disadvantage.</p> <p>Given the finite resources available, it is important that legal assistance services are focused on those most in need. Governments and the legal assistance sector must continue to work together to identify legal need and respond flexibly, in the context of changing demographics, needs and shifts in government policy. Targeting strategies and outreach services may sometimes be necessary to reach and assist people facing disadvantage and with the greatest legal need.</p>
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Outcomes

- 1. Legal assistance services focus on, and are accessible to, people facing disadvantage.**
 - 1.1. Legal assistance services are accessible to people facing disadvantage, with the greatest legal need and the least capacity of self-help.
 - 1.2. Legal need is understood to ensure legal assistance services are responsive to changes in need, within available resources.
 - 1.3. Legal assistance services are sustainably structured and operate to deliver appropriate, proportionate and tailored client-centred services.

PRINCIPLE TWO - CLIENT CENTRED AND APPROPRIATE SERVICES

Context	<p>To best meet the legal needs of vulnerable people, where practicable, a client-centred approach should be used to ensure legal assistance services are tailored and appropriate to people’s particular legal needs, capabilities and knowledge. The level of assistance provided should also be proportionate to people’s legal needs and capabilities, factors such as disability and cultural barriers, and the complexity of legal problems faced. This ensures that resources are used most effectively.</p> <p>To facilitate this, service delivery models should be multifaceted and integrate a range of strategies to cater for different capability levels. Such strategies may include, but are not limited to, outreach services, information and other assistance for self-represented parties, dispute resolution and multi-disciplinary partnerships with legal and other organisations.</p> <p>The delivery of legal assistance services to Aboriginal and Torres Strait Islander people should focus on their specific and unique needs.</p> <p>Legal assistance services should continue to explore innovative methods of service delivery to both maximise outcomes for clients and the reach of services.</p>
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Outcomes

- 2. Legal assistance services are delivered in a client-centric manner in order to better consider people’s legal needs and capabilities.**
 - 2.1. Legal assistance services are high quality, relevant, delivered respectfully and focused upon improving

- people’s circumstances.
- 2.2. Culturally appropriate legal assistance services are accessible to Aboriginal and Torres Strait Islander people and people from culturally and linguistically diverse communities and are appropriate to their respective legal needs.
 - 2.3. All legal assistance providers are proficient to deliver culturally appropriate services to clients.
 - 2.4. Service models deliver a mix of legal assistance services and are tailored to meet people’s legal needs and capabilities.
 - 2.5. Innovative service models are used to improve legal assistance services and better address legal need.
 - 2.6. Legal assistance service costs are proportionate to the complexity and significance of the legal matter and the person’s capability.

PRINCIPLE THREE - COLLABORATION AND INTEGRATED APPROACHES

Context	<p>People experiencing disadvantage are susceptible to multiple legal and other problems. These problems are often inter-related and, in many cases, long-term resolution of any legal problem will only be possible in the context of working to address the other problems they are experiencing.</p> <p>To improve access to legal assistance services, legal assistance providers should coordinate with each other and collaborate with governments, other services and the private legal profession at a national, jurisdictional and regional level.</p> <p>Collaboration and strong partnerships within the legal assistance sector and with other services and professionals enables people’s problems to be dealt with holistically and can result in more effective outcomes. Clear referral pathways, joined-up services and an integrated, system-wide approach also fosters a ‘no wrong door’ culture, making the path towards justice easier to navigate.</p> <p>Evidence-based, collaborative service planning can help legal assistance services focus on identified areas of legal need, maximising service delivery within existing resources. It also supports the evaluation of existing services and improves service delivery to people facing disadvantage.</p>
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Outcomes

- 3. Legal assistance and other service providers and governments collaborate to provide integrated, client-centric services to address people’s legal and other problems.**
 - 3.1. Legal assistance services deliver complementary services, joined-up where appropriate, that are focused on meeting people’s legal needs.
 - 3.2. Where appropriate and practical, legal assistance services collaborate with other legal and other services to assist them to identify legal problems, make appropriate legal referrals, and identify and address systemic causes of legal problems.
 - 3.3. Legal assistance services focus on identified areas of legal need, including through collaborative service planning.
 - 3.4. Sector planning and service delivery are evidence-based and informed by accurate, reliable and consistent data from relevant sources including legal need, service delivery and demographic data.
 - 3.5. Governments and legal assistance providers share information and data relevant to the delivery of services and legal need.

PRINCIPLE FOUR - APPROPRIATELY TIMED RESPONSES AND PREVENTATIVE ACTION

Context	<p>Failure to address legal problems often leads to problems escalating or cascading into multiple problems. This results in increased social and economic costs to people, communities and to governments.</p> <p>Directing people with legal problems, and who are facing disadvantage, to the most appropriate services allows for appropriately timed responses which assist to address their legal problems, avoiding the need for court or tribunal appearances, wherever possible.</p> <p>Preventative action (including, but not limited to, information, legal advice and community legal education) can address legal problems before they arise or escalate, and help to identify and address systemic causes of legal problems. The use of alternative dispute resolution services and restorative justice programs are encouraged, where appropriate.</p> <p>Where court proceedings are necessary, legal assistance services contribute to the efficiency of the courts and tribunals. Meaningful cooperation between legal assistance services, prosecution services, relevant authorities and courts and tribunals can assist to facilitate appropriately timed responses and preventative action, in the resolution of matters.</p>
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Outcomes

- 4. Legal assistance services are provided at an appropriate time, which best addresses an individual’s legal needs, including preventative action when appropriate.**
 - 4.1. Legal assistance services offer a range of appropriately timed responses and use the most appropriate service type, including preventative action, to address people’s legal problems.
 - 4.2. Matters are addressed quickly and cost effectively, including through the use of alternative dispute resolution and consideration of the likelihood of successful resolution, where appropriate.

PRINCIPLE FIVE- EMPOWERMENT AND RESILIENCE

Context	<p>Many people are unaware that they have legal problems or that legal remedies exist, and therefore take no action to address their legal needs. The successful resolution of legal problems is highly dependent upon a level of knowledge and capability. While it is not possible to address all unmet legal need, it is important to empower people to understand their legal rights and how to access legal assistance.</p> <p>A range of activities will be needed to empower people and communities to understand and appropriately act. These activities will depend on the individual’s capabilities and the legal problem and circumstances.</p> <p>Community legal education provides people with the basic skills to identify and address legal problems early and to prevent legal problems from occurring or escalating. Access to information and support facilitates positive participation in the justice system, particularly for Aboriginal and Torres Strait Islander communities, enhancing their access to the justice system and strengthening the rule of law.</p>
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Outcomes

5. Legal assistance services empower people and communities to understand and assert their legal rights and responsibilities and to address, or prevent, legal problems.

- 5.1. People have access to the appropriate type of legal assistance that is necessary to enable individuals to make informed decisions about asserting or defending their legal rights, meeting legal duties and obligations or otherwise using the justice system to address a legal problem.
- 5.2. Community legal education and information is tailored appropriately for different groups, coordinated across the jurisdiction, aligned with shared priorities and not duplicated unnecessarily.
- 5.3. People are equipped with increased skills and knowledge to help address or prevent future problems.

PRINCIPLE SIX - CONTINUOUS LEARNING, IMPROVEMENT AND SUPPORT

Context	<p>All levels of government should seek opportunities to better understand the legal needs and priorities of the sector more broadly, to ensure that policy decisions accurately reflect the legal landscape in each jurisdiction.</p> <p>Strategies and interventions to achieve the outcomes identified for Principles 1 to 5 will require appropriate evidence and information sources to support them. Governments and services providers should commit to appropriate monitoring and evaluation of service delivery to learn what strategies work most effectively and efficiently to meet needs.</p> <p>Opportunities to develop skills, such as in data literacy, should be explored to support legal assistance providers and improve the collection, analysis and communication of data to enhance service outcomes. The ability of legal assistance providers to effectively collect and collate quality data, will support a robust data collection framework and enhance the capacity of staff members as well as the legal assistance service providers more broadly.</p> <p>Legal assistance peak or representative bodies have an important role in supporting their members by providing leadership, supporting service and organisation standards, facilitating information sharing and developing capabilities.</p>
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Outcomes

6. Legal assistance services providers are supported to effectively respond to evolving service demand.

- 6.1. Governments provide legal assistance service providers appropriate forums for information sharing and capacity building opportunities.
- 6.2. Governments and the legal assistance sector facilitate a strong culture of information sharing and an effective evidence-base to inform service delivery.
- 6.3. Appropriate monitoring and evaluating mechanisms are in place to identify and learn effective strategies and best practice which improve legal assistance services.
- 6.4. All legal assistance services are able to complete reporting and performance monitoring requirements to a high standard using accurate and appropriate data.
- 6.5. Legal assistance peak or representative bodies support legal assistance service providers by undertaking a range of activities, including capability and capacity building, strategic policy and law reform.

Next steps and finalisation of the National Strategic Framework

Feedback on the updated National Strategic Framework will be sought through the proposed Advisory Group (see **Part 7 – Governance arrangements**).

The National Strategic Framework will be agreed at ministerial level through the Council of Attorneys-General. The Australian Government anticipates this will occur in late 2019.

A. NATIONAL PERFORMANCE INDICATORS

The Australian Government proposes that the following national performance indicators would be included within the NLAP. The meaning of terms used in performance indicators would be consistent with the *National Legal Assistance Data Standards Manual*.

Overview

Potential national performance indicator	Related National Strategic Framework outcome	Description
Number and percentage of clients receiving legal assistance who are financially disadvantaged disaggregated by priority client groups.	1	Quantitative indicator This indicator is focused on demonstrating whether legal assistance services are focused on the most vulnerable facing disadvantaged and directed towards the identified national priority client groups.
Number and percentage of services delivered by legal assistance providers, disaggregated by: <ul style="list-style-type: none"> funding category (Commonwealth or state or territory funding) intensity (service category and service type – for example, representation services is the service category and court/tribunal is the service type) law type and problem type (for example, criminal law is the law type and aggravated assault is the problem type), and client type (indicators of disadvantage and priority client groups). 	1	Quantitative indicator This indicator is focused on demonstrating whether clients, with particular legal needs and legal capability, receive appropriate, proportionate and client-centred services.
Assessment of clients' experience of legal assistance services, addressing issues relating to: <ul style="list-style-type: none"> accessibility service quality and relevance to legal need appropriate referral, and overall utility in improving client outcomes (timeliness and increased confidence to take action). 	1 2 3 4 5	Qualitative indicator (client survey) This indicator is focused on assessing a number of qualitative elements of client-centred legal assistance services. It is important that the methodology is consistent across jurisdictions. The Commonwealth will determine the methodology used, in consultation with the states, territories and legal assistance sector.
Number of referrals made to and from legal assistance providers, disaggregated by source, provider referred to and reason.	2 3	Quantitative indicator This indicator provides an overview of the pathways to and from legal assistance providers and engagement with other service providers in order to address a client's needs.

Potential national performance indicator	Related National Strategic Framework outcome	Description
Number of training or capacity building activities conducted or undertaken by legal assistance providers, with other services.	3	<p>Quantitative indicator</p> <p>This indicator provides some insight into the capacity building and engagement between legal assistance providers and other service sectors. The purpose of this insight is to improve capacity of services to identify legal problems and make appropriate referrals.</p>

Interpretation

Financially disadvantaged means a person who does not have the means to pay for their legal representation without incurring serious financial difficulty, including a person who:

- is in receipt of Centrelink benefits as their main source of income
- satisfies a means test applied by a legal aid commission
- is exempt from the legal aid means test, such as a person seeking merits review of decisions about eligibility for Commonwealth military entitlements or military compensation payments and children
- has an income equal to or below the Henderson Poverty Line, or
- cannot access finances temporarily due to circumstances outside of their control. For example, a person experiencing, or at risk of, family violence who cannot access finances without risk to their personal safety or the safety of others.

Legal assistance services would include:

- **Discrete Assistance** - the provision of unbundled, discrete, legal and non-legal services including:
 - **information services** - the provision of information to a Service User in response to an enquiry about:
 - the law, legal systems and processes
 - legal and other support services to assist in the resolution of legal and related problems.
 - **referrals** - when a Service Provider determines that a Service User can be assisted by another individual or organisation and provides the User with the contact details to that service. This can be recorded as either a simple referral (contact details provided) or a facilitated referral (direct assistance to make contact).
 - **legal advice services** - provision of fact-specific legal advice to a Service User in response to a request for assistance to resolve specific legal problems.
 - **non-legal support** - provided by an appropriately qualified or experienced person in response to a request for assistance to resolve specific, non-legal problems such as general counselling, financial counselling, trauma-informed counselling, Aboriginal and Torres Strait Islander community liaison, and mental health assessments and support.
 - **legal task** - a discrete piece of legal work to assist a Service User to resolve a problem or a particular stage of a problem such as:
 - preparation or assistance with the drafting of documents (such as a will)
 - writing a letter to another party asking them to do something or stop doing something, or

- advocating on behalf of a Service User without taking ongoing carriage of the matter.
- **Facilitated resolution process** - aimed at resolving disputes without going to court and generally involving a screening process and the provision of an independent, suitably qualified professional to facilitate resolution of the issues in dispute.
- **Duty lawyer services** - legal services provided by a duty lawyer to a Service User at a court or tribunal.
- **Representation services** - where a Service Provider takes carriage of a matter in an ongoing, representative capacity including:
 - **dispute resolution** - including preparation for, and representation at, a Facilitated Resolution Process
 - **court/tribunal** - ongoing representation for any matter before a court, tribunal or inquiry, where a Service Provider provides legal representation to a Service User, and takes carriage of a matter in an ongoing, representative capacity. This includes court/tribunal based alternative dispute resolution.

For criminal offences this could include representation for summary offences (less serious and heard in the Magistrates Court without a jury and must be commenced within one year of the date that the offence happened) or indictable offences (heard before a judge and jury in the County or Supreme court with no time limit).
 - **other representation** - any matter where the Service Provider takes carriage of a matter in an ongoing, representative capacity, but due to the nature of the matter it does not proceed to a court, tribunal or inquiry, or is not required to appear before a court, tribunal or inquiry.

Law type would provide information about the specific area of law.

Problem type refers to specific legal issues arising per each law type. For example, for family law matters, matter types could include:

- Abduction
- Child support
- Child representation /Independent Children’s Lawyer
- Divorce, de-facto separations and/or annulment
- Family law property
- Parenting arrangements
- Surrogacy; and
- Spouse maintenance.

B. JURISDICTIONAL PERFORMANCE REPORT

Overview

Jurisdictional Performance report	Related National Strategic Framework outcome	Description
Information relating to each jurisdiction's Legal Assistance Strategy and Legal Assistance Action Plan.	N/A	<p>Qualitative statement</p> <p>This information is intended to capture the progress that each state and territory has made on their Legal Assistance Strategy and Legal Assistance Action Plan, including progress made on specific targets.</p>
De-identified data of services provided by legal assistance providers, funded by the Commonwealth and the states and territories.	<p>1</p> <p>2</p> <p>3</p>	<p>Service data</p> <p>The exact service data requirements, including specific fields, would be outlined in a schedule and developed by the Australian Government, states, territories and the legal assistance sector. This will ensure appropriate privacy and data integrity safeguards are adopted. Potential fields which could be captured includes:</p> <ul style="list-style-type: none"> • funding category • service category and service type • law and matter type • demographic information of the client, and • approximate service and client location within a relevant geography (for example SA2 or above).
Case studies relating to the range of service delivery models used by legal assistance providers. Service delivery model refers to the range of practices undertaken by legal assistance providers in the delivery of services to clients. This case study would capture information relating to: <ul style="list-style-type: none"> • detailed description of the service delivery model used • cost in providing services, and • benefits and barriers to clients 	<p>1</p> <p>6</p>	<p>Case study</p> <p>These case studies would be completed in accordance with a template provided by the Commonwealth, developed in consultation with the states, territories and the legal assistance sector. The intention of these case studies would be to capture the diversity of service delivery models used by the legal assistance sector and its implication for client outcomes. This would provide an indication of the overall sustainability and value for money of the models, including its appropriateness and cost effectiveness.</p>
Case studies relating to the triage models used by legal assistance providers.	<p>1</p> <p>2</p> <p>6</p>	<p>Case study</p> <p>These case studies would be completed in accordance with a template provided by the Commonwealth, developed in consultation with the states, territories and the legal assistance sector. The intention of these case studies is to capture information on triage practices of the legal assistance sector to ensure services to clients are appropriate, proportionate, cost effective and efficient.</p>