
New South Wales Legal Assistance Strategy and Action Plan

2022–2025

30 September 2022



Acknowledgement of Country

We, the Department of Communities and Justice, acknowledge the Traditional Custodians of the lands on which we work and live. We celebrate the diversity of Aboriginal and Torres Strait Islander peoples and their ongoing connections to the lands and waters of NSW.

We pay our respects to Elders past, present and emerging and acknowledge the Aboriginal and Torres Strait Islander people that contributed to the development of the NSW Legal Assistance Strategy and Action Plan.

Artwork by Charmaine Mumbulla



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Attorney General's foreword

The NSW legal assistance sector plays a critical role in ensuring access to justice for some of the most vulnerable people in our community.

Community Legal Centres, Legal Aid NSW and the Aboriginal Legal Service NSW/ACT deliver more than 630,000 legal services in NSW each year across crime, family, and civil law. This work is complemented by other Commonwealth and State government-funded legal assistance service providers in NSW, including those provided by the private sector.

The NSW Government has made record investments in the NSW legal assistance sector in recent years. Between 2010-11 and 2020-21, State funding for Legal Aid NSW more than doubled. In the past three years, more than \$40 million in State funding from the NSW Government and NSW Public Purpose Fund has been allocated to Community Legal Centres, an 85 per cent increase since 2015-16.

Combined with Commonwealth funding contributions under the National Legal Assistance Partnership (NLAP), total government investment in the NSW legal assistance sector will exceed \$450m per annum from 2022-23.

Recent events such as the 2019-20 bushfires, the 2022 floods and the COVID-19 pandemic have resulted in unprecedented demand on our state's legal assistance sector.

The Legal Assistance Strategy and Action Plan 2022-2025 has been developed in recognition of the important work performed by the legal assistance sector.

It will inform the legal sector's work over the remaining three years of the State's current NLAP Agreement with the Australian Government.

This document sets the following four key strategic priorities for the sector supported by specific and measurable actions:

- Addressing the needs of people experiencing disadvantage
- Meeting the outcomes of the Closing the Gap Agreement
- Preventing and responding to domestic and family violence
- Building the capacity of the sector to support equitable access to legal services.

Together, the NSW Government and the legal assistance sector can make a significant contribution to breaking the cycle of disadvantage and ensuring that people can fully participate and prosper in their communities.



September 2022
Hon Mark Speakman SC MP
Attorney General

NSW Legal Assistance Strategy and Action Plan 2022-2025



Vision

A connected, accessible and culturally responsive legal assistance sector that helps people experiencing disadvantage address their needs and thrive in their communities



Priorities

1. The legal assistance sector is focused on addressing the needs of people who experience disadvantage
2. The legal assistance sector mobilises all avenues and opportunities available to them to meet the Closing the Gap agreement
3. The legal assistance sector supports efforts to prevent and respond to domestic and family violence (DFV)
4. The legal assistance sector collaborates to strengthen and focus its collective capacity to support equitable access to legal services



Objectives

- Legal assistance services are accessible and approachable, and support people to resolve problems in a timely way and overcome the disadvantage they experience
- Legal assistance services will prioritise the voices and aspirations of Aboriginal and Torres Strait Islander people and ensure that services are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people
- Legal assistance services for people and families at risk of experiencing, and survivors of, domestic and family violence are client-centred and trauma-informed and supports their safety and recovery
- The sector partners to develop a common view of its contribution to addressing disadvantage and works together to innovate and strengthen its services to people experiencing disadvantage



Actions

- 1.1 Partner to plan and progress a shared project whose aim is to develop a more clear and contemporary understanding of legal need and gaps in NSW
- 1.2 Support people's access to family law services, particularly in regional areas, through the strengthening of referral partnerships
- 1.3 Convene a community of practice forum on legal responses to disaster events
- 1.4 Partner to strengthen the connectivity of each tier of collaborative service planning and the overall impact of that planning
- 2.1 Convene a whole-of-sector forum on culturally safe and responsive legal services for Aboriginal and Torres Strait Islander clients
- 2.2 Proactively recruit, invest in and support the advancement of Aboriginal and Torres Strait Islander staff through targeted recruitment campaigns
- 2.3 Engage Aboriginal and Torres Strait Islander people in an early, open and informed way through relevant governance structures on policy matters that significantly impact Aboriginal and Torres Strait Islander people
- 3.1 Deliver DFV training to staff, covering issues such as coercive control, DFV response and trauma-informed practice, and consider opportunities to share relevant training modules across the sector
- 3.2 Work collaboratively towards Closing the Gap Target 13
- 3.3 Strengthen relationships with Family Violence Prevention Legal Services with a view to identifying legal need and gaps, and building networks and linkages
- 4.1 Work with the Commonwealth Government and other jurisdictions to co-design an outcomes framework under the National Legal Assistance Partnership Agreement 2020-2025 (NLAP)
- 4.2 Partner ahead of the Independent Review of the NLAP to critically reflect on the implementation, learnings and outcomes of the NLAP
- 4.3 Share individual and collective experiences and initiatives to drive whole-of-sector advancements and innovation in the delivery of legal assistance services

Introduction

1

The National Legal Assistance Partnership and the NSW Legal Assistance Strategy and Action Plan

Legal assistance in New South Wales (**NSW**) is a shared responsibility between the NSW and Australian Governments. The NSW Government provides the majority of funding to the NSW legal assistance sector. The NSW Government also works closely with the legal assistance sector to improve access to justice across NSW. The Australian Government also provides significant funding to the NSW legal assistance sector.



The National Legal Assistance Partnership

The *National Legal Assistance Partnership 2020–2025 (NLAP)* is a national partnership agreement between the Australian Government and all States and Territories for Commonwealth funded legal assistance services. In relation to NSW, the NLAP includes funding for services delivered by Community Legal Centres (**CLCs**), Legal Aid NSW (**Legal Aid**), and the Aboriginal Legal Service (NSW/ACT) Limited (**ALS**).

The NLAP is supported by the National Strategic Framework for Legal Assistance, which outlines the following principles for the delivery of legal assistance services:

- Service delivery is focused on people facing disadvantage
- Services are appropriate and client-centred

- Services are delivered collaboratively and through integrated approaches (including legal and non-legal services)
- Responses are appropriately timed and include preventative action
- Services empower people and communities and build resilience
- Services are supported to continuously learn and improve.

Under the NLAP, both baseline and targeted Commonwealth funding is provided for the delivery of legal assistance to the more vulnerable in the community. This includes people experiencing financial disadvantage and a number of 'national priority client groups'. The NLAP also identifies a number of Commonwealth service priorities (see further Part 3).

The NSW Legal Assistance Strategy and Action Plan 2022–2025

Under the NLAP, all States and Territories must publish a Legal Assistance Strategy by 1 July 2022. The Legal Assistance Strategy must:

- Indicate the estimated level and nature of legal need in the State
- Indicate the priorities and focus areas for delivery of mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services
- Include the aggregate planned or forecast level of Commonwealth and State funding for legal assistance services
- Provide information on the nature and extent of the roles and responsibilities the State has delegated to a legal assistance provider under the NLAP
- Outline if there are any specific priority client groups relevant to the State
- Detail how the State will meet the objectives and outcomes of the NLAP in supporting the delivery of legal assistance services to priority client groups
- Outline approaches the State will take to ensure that legal assistance services are delivered in a manner consistent with the National Strategic Framework for Legal Assistance.

To support their legal assistance strategy, the NLAP also requires all States and Territories publish an Action Plan by 30 September which will:

- Reflect the strategic direction established by the State's Legal Assistance Strategy
- Outline specific activities, projects, initiatives and reforms to implement the State'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 (**CSP**)
- Identify a specific plan of action to address the priorities, identified in the State's Legal Assistance Strategy, that includes a range of strategies
- Establish reasonable, relevant, specific and measurable targets relevant to the State that are consistent with and support the State's Legal Assistance Strategy.

This Legal Assistance Strategy and Action Plan has been developed in consultation with the NSW legal assistance sector. It serves both as a collective vision to inform the sector's work over the next three years and articulates the NSW Government's priorities for the delivery of legal assistance services over the remaining life of the NLAP. The Legal Assistance Strategy and Action Plan aligns with the National Strategic Framework for Legal Assistance, the NSW Premier's Priorities (in particular, the priority of breaking the cycle of disadvantage) and the strategic plans of the NSW legal assistance sector.

The NSW legal assistance sector

Legal assistance providers in NSW

For the purposes of the NSW Legal Assistance Strategy and Action Plan (**Strategy and Action Plan**), the NSW legal assistance sector is defined as all Commonwealth and State government-funded legal assistance, where service delivery is focused on people facing disadvantage. In NSW the sector is comprised of three main service providers: CLCs; Legal Aid; and the ALS. Other Commonwealth or State government-funded legal assistance service providers in NSW include Family Violence Prevention Legal Services and the Public Defenders Office.

Legal assistance providers can be from the private, public, or not-for-profit sectors. They offer a range of services such as legal information, advice and representation that can assist a person with their legal problem.

The private sector plays a major role in providing free or low-cost legal services through grants of legal aid, pro bono services operated by organisations such as Justice Connect, the Law Society of NSW, NSW Bar Association, and services provided on a no win no fee basis.

The remit of each legal assistance provider is shaped by its history, funding arrangements and legal focus areas. Legal Aid and the ALS are the main providers of legal assistance in criminal matters, where representation and duty lawyer services account for most services. Legal Aid and CLCs are the main providers of legal assistance in civil and family law matters.

Legal assistance services can overlap in terms of geographical presence and area of law. However, as the Cameron Review of CLC Services (**Cameron Review**) found¹, the extent of unmet legal need in NSW means that clients are neither 'over-serviced' nor is there latent capacity. Indeed, the sector undertakes significant work to reduce duplication at a state, regional and local level.



1 Cameron, A, *Review of NSW Community Legal Centre Services*, (2017), p 52.

Legal Aid NSW

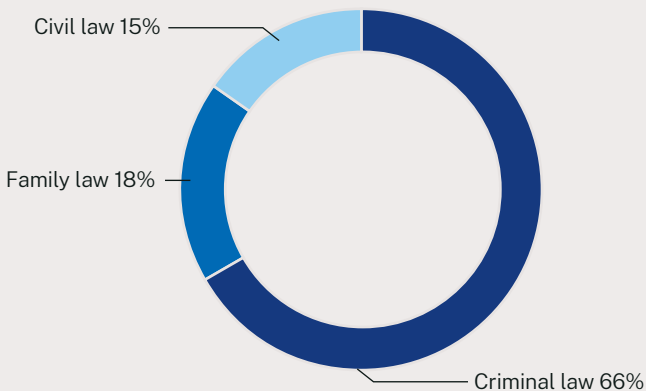


Legal Aid is a statutory body established under the *Legal Aid Commission Act 1979* (NSW). It is the largest legal aid commission in Australia, with a state-wide network of 25 offices, two satellite offices and over 240 regular outreach locations.

Legal Aid’s emphasis is on helping socially and economically disadvantaged people. It provides first-class legal services to the most vulnerable people in NSW, working in partnership with CLCs, the ALS and other agencies that deliver social and support services to provide a holistic and client-centred approach.

Legal Aid provides legal services in relation to criminal, family, and civil law. Over 60 per cent of legal services provided by Legal Aid relate to criminal law matters. However, Legal Aid also specialises in a range of civil law matters, including housing, consumer (including credit, debt and mortgage) matters, discrimination, human rights, social security, employment, immigration, mental health and guardianship.

Figure 1: Legal Aid legal services by area of law 2020–2021 (%)



(Source: Based on Legal Aid Annual Report 2020-2021)

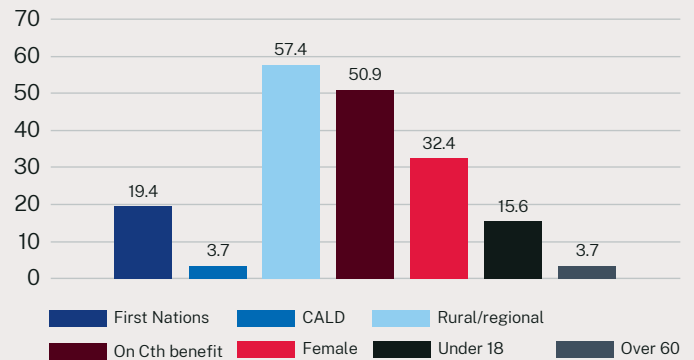
The main types of legal services provided by Legal Aid are legal representation, duty lawyer services, legal advice, minor assistance, extended legal assistance (**ELA**), and early resolution assistance (**ERA**).²

Legal Aid also administers NSW Government funding for Women’s Domestic Violence Court Advocacy Services (**WDVCASs**) through its Women’s Domestic Violence Court Advocacy Program Unit (**WDVCAP**). WDVCASs provide women experiencing domestic and family violence (**DFV**) and their children with information, advocacy, safety, planning, referrals and support through the court process at all Local Courts across NSW. The WDVCAP also administers the social support services component of the Family Advocacy and Support Service (**FASS**), a national scheme of integrated legal and social support for families affected by DFV.

Legal Aid’s eligibility policies help to ensure that its resources are directed to areas of greatest legal need. Duty lawyer services, legal advice and minor assistance are provided to the community based on eligibility criteria that targets those most in need. Legal representation, ELA and ERA services are subject to a policy and guidelines, as well as means and merit tests.

In 2020-2021, over half of all Legal Aid clients lived in rural and regional NSW, half of all clients were recorded as receiving a Commonwealth benefit and almost 20 per cent of all clients identified as Aboriginal or Torres Strait Islander.

Figure 2: Legal Aid client profile 2020–2021 (%)³



(Source: Based on Legal Aid NSW Annual Report 2020-2021)

² Note that information services have not been included as part of ‘legal services’ for the purpose of this section.

³ Definition of CALD is where an interpreter was required. Definition of rural/regional is broader than the definition of rural/remote as it includes Wollongong and Newcastle.

Community Legal Centres

CLCs are not-for-profit organisations that have been a vital component of the NSW legal assistance sector for the past 45 years. They deliver an essential service to the community by providing free legal assistance, wraparound services and holistic support to help people solve legal problems and access the legal system. CLCs can give free advice to most people who live in their local area, or who are looking for advice in an area of law they specialise in.

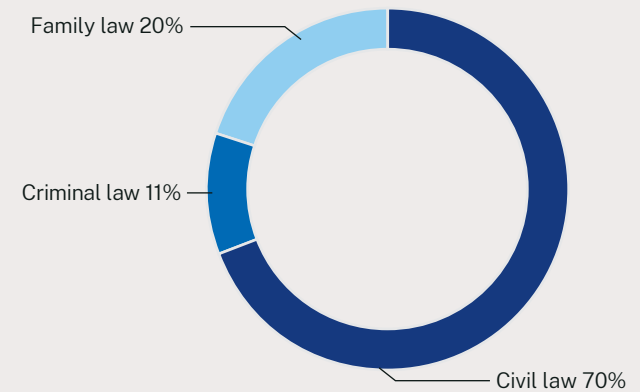
There are 41 CLCs in NSW which are members of the peak body Community Legal Centres NSW (**CLCNSW**). Members of CLCNSW fall into two main categories – generalist CLCs (which provide services across a broad range of legal matters within a geographic area), and specialist CLCs (which provide services to clients from a particular priority group or services relating to specific subject areas). Generalist CLCs may also provide specialist services that target specific priority client groups or areas of law. Three of the 41 centres are Family Violence Prevention Legal Services.

Members of CLCNSW are required to be accredited under a National Accreditation Scheme administered by Community Legal Centres Australia and to pay a membership fee. There are also a small number of organisations operating in NSW that are not members of CLCNSW but meet the definition of a community legal service for the purposes of section 6 of the *Legal Profession Uniform Law* (NSW).

Some CLCs provide criminal law services, however, the vast majority of CLC services relate to civil law and family law matters in the form of discrete assistance. Civil law matters include credit and debt, insurance, social security, mental health, disability, discrimination, DFV, elder abuse, child protection, tenancy, immigration, and employment. Specialist services are also provided in arts law, environmental law, animal law and human rights law, and to women, young people and Aboriginal and Torres Strait Islander people. Between 1 July 2021 and 31 December 2021, 96 per cent of NLAP-funded CLC services were legal advice or legal task services and 4 per cent were representation or duty services (excluding information and referrals).⁴



Figure 3: CLC legal services by area of law 2020–2021 (%)

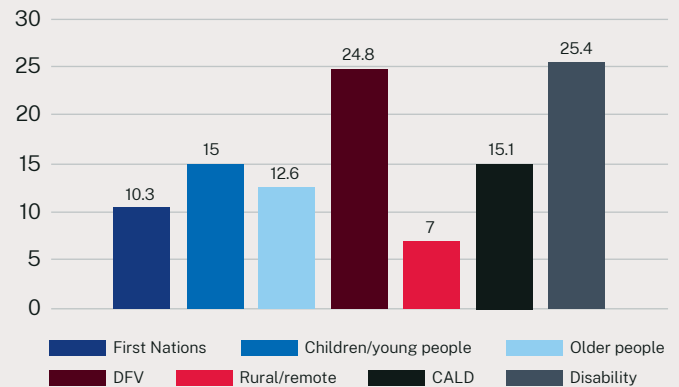


(Source: Information supplied by CLCNSW)

Many CLCs have a client intake policy to ensure they provide services to those in most need. If a person is earning a high income, a CLC will generally make a referral to a private lawyer unless the legal problem relates to DFV. This ensures that CLC services remain focused on people who cannot afford a solicitor.

Between 1 July 2021 and 31 December 2021, CLCs in NSW provided services to a range of client groups, as depicted at Figure 4.

Figure 4: CLC client profile 2020-2021 (%)



(Source: Information supplied by CLCNSW based on NLAP-funded services)

Figure 4 above shows that CLCs delivered one fifth of their NLAP-funded services to people with a disability (25.4 per cent) and people experiencing or at risk of DFV (24.8 per cent), with the next most represented groups being culturally and linguistically diverse people (**CALD**) (15.1 per cent) and children and young people aged under 25 (15 per cent), then older people aged over 65 or Aboriginal and Torres Strait Islander people aged over 50 (12.6 per cent).⁵ A list of CLCs and other members of the CLC peak body, CLCNSW, is at **Appendix 1**.

⁴ Information supplied by CLCNSW.

⁵ Information supplied by CLCNSW. A client may fit within more than one priority client group. Where this occurs, the individual will be counted more than once for the purposes of disaggregating services provided to priority client groups.

Aboriginal Legal Service (NSW/ACT) Limited

The ALS opened its doors in 1970 on Eora Country in Redfern. It was the first free legal service on the continent, paving the way for today's community legal support sector.

It is a proud Aboriginal community-controlled organisation (**ACCO**), owned and governed by the communities it serves. It is a registered not-for-profit organisation with a mission to deliver quality and culturally appropriate legal services that meet the needs of Aboriginal and Torres Strait Islander people throughout NSW and the ACT, and to be recognised as the leader in this field across Australia.

The ALS has 23 offices in NSW, of which all but two are in regional, rural and remote areas.

The majority of its services are in criminal law, including operation of the lifesaving Custody Notification Service (**CNS**)⁶ which enables Aboriginal people to receive prompt legal advice and a wellbeing check after being taken in police custody.

The ALS additionally operates a growing care and protection/family law practice in NSW and a coronial unit to support the families of Aboriginal people whose loved ones have died in custody, to participate in coronial inquests.

As well as these core services, the ALS auspices the Greater Sydney Aboriginal Tenants Service (**GSATS**) and Western Aboriginal Tenants Advice and Advocacy Service (**WATAAS**) and is partnering with National Legal Aid to provide the Your Story Disability Legal Support service during the Disability Royal Commission. It also provides support and warm referrals in civil law matters.

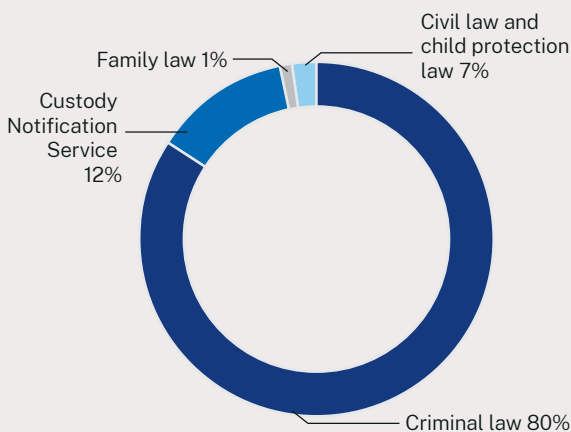
Alongside its frontline legal services, the ALS undertakes strong action in advocacy and law reform, speaking out on behalf of Aboriginal communities and providing expert advice to reform the justice system.

The main types of legal services provided by the ALS include representation services, duty services, discrete assistance, legal advice, information and referrals.

The ALS helps Aboriginal adults, young people and children. Its criminal law services are subject to means and conflict tests to ensure that limited resources are focused on those most in need, and that the best interests of the client are served.

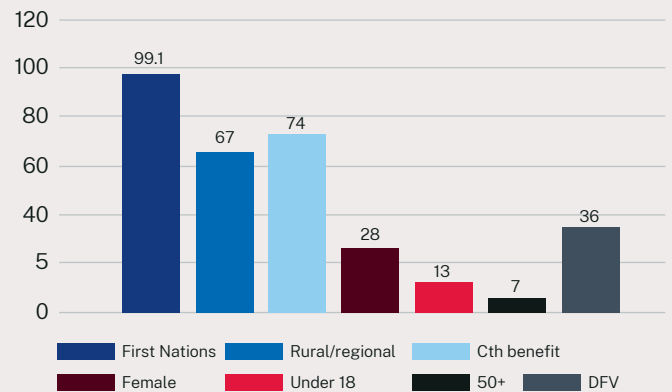
In the ALS Family Law Practice, services are subject to means, merit and conflict tests, as well as the availability of ALS family lawyers. Representation services are only provided for Aboriginal people who are on a low income and if the court matter is based in Sydney, Parramatta or Wollongong. The ALS also does not undertake property settlement cases. In the ALS Care and Protection Practice, services are subject to means, merit and conflict tests, as well as the availability of ALS care and protection lawyers.

Figure 5: ALS legal services by area of law 2020-2021 (%)



(Source: ALS reported data 2020-2021)

Figure 6: ALS client profile 2020-2021 (%)



(Source: ALS reported data 2021-2022)



6 It is mandatory for NSW Police to report arrests of Aboriginal people to the CNS. The CNS operates 24 hours a day, 365 days a year.



Other legal assistance services in NSW

Family Violence Prevention Legal Services (FVPLS)

FVPLS play a crucial role in providing culturally safe legal and counselling services to Aboriginal adults and children who are victim-survivors of DFV, including sexual assault/abuse, or who are at immediate risk of such violence. FVPLS offer legal assistance and other non-legal services in relation to matters such as family law, victims of crime compensation, child protection, tenancy and social security assistance. FVPLS operate in six main locations across regional NSW, in Kempsey, Moree, Walgett, Broken Hill, Bourke and Forbes.⁷ The FVPLS in Moree, Broken Hill and Forbes are CLCs.

Public Defenders

Public Defenders are salaried barristers independent of the government who appear in serious criminal matters where clients have been granted legal aid. A Public Defender may be briefed to advise or appear in a matter through Legal Aid, the ALS, a private solicitor or any community based legal group. Public Defenders are primarily funded by the NSW Department of Communities and Justice (DCJ) but also receive small amounts of additional revenue from Legal Aid and the ALS through Service Level Agreements.

Health Justice Partnerships

Health justice partnerships (HJPs) embed legal help into healthcare services to improve health and wellbeing for individuals and communities.⁸ HJPs developed in response to health and legal research that found ‘common groups of people who are vulnerable to intersecting health and legal issues but who may access health services with symptoms rather than seeking out legal services for solutions’⁹. As of July 2021, there were 35 HJPs operating in NSW. In addition to these 35 HJPs, a number of local partnership arrangements also exist.

Not-for-profit law firms

There has been a recent development of not-for-profit law firms owned and/or managed by for profit firms targeting the ‘missing-middle’ – people who do not qualify for government funded free legal services but cannot afford a private lawyer without experiencing substantial financial hardship. Everyday Justice, which provides civil law services, and Wallumatta Legal, which provides family law services, are examples in NSW.

Pro bono services

Private lawyers also contribute to the legal assistance sector. For example, legal assistance providers in NSW partner with, facilitate the delivery of, or utilise pro bono services provided by private lawyers to expand their service reach and support innovative service delivery. Organisations such as Justice Connect, the Law Society of NSW and the NSW Bar Association also operate pro bono schemes, matching eligible individuals (as well as not-for-profit organisations and CLCs) with private lawyers who are willing to provide free or reduced cost services.



⁷ <https://www.nationalfvpls.org/Contact-Us.php>

⁸ Health Justice Australia: <https://www.healthjustice.org.au/wp-content/uploads/2018/12/Health-Justice-Australia-HJP-definition-summary.pdf>

⁹ Ibid.

Funding arrangements

Australian and NSW government funding

Legal assistance providers in NSW receive funding from a number of different sources, including the Australian and NSW governments, NSW Public Purpose Fund (PPF), donations, and other philanthropic support such as pro bono legal services by private law firms.

Commonwealth funding

The Australian Government provides funding to the NSW legal assistance sector through the NLAP, the Attorney-General's Department's Community Legal Services Program, the Expensive Commonwealth Criminal Cases

Fund, and through specific initiatives, such as Royal Commissions. The majority of Commonwealth funding is administered via the NLAP and the NSW Bilateral Schedule to the NLAP.

Table 1: Estimated Australian Government contributions to the NSW legal assistance sector under the NLAP and Bilateral Schedule as at 1 July 2022

	2021-22	2022-23	2023-24	2024-25
Legal Aid	84.642m	91.151m	92.586m	94.042m
CLCs	20.787m	21.152m	21.498m	21.851m
ALS	22.394m	23.157m	23.610m	23.980m
Total	127.823m	135.460m	137.694m	139.873m

State funding

The NSW Government funds the NSW legal assistance sector through grants and specific program funding. Legal Aid receives NSW Government funding as a grant from DCJ.



NSW Government funding for CLCs and the ALS is also primarily distributed as grant funding via Legal Aid. Grants may also be administered separately through Legal Aid or other government departments and agencies.¹⁰ In addition, while the Australian Government is the primary funder of the ALS, the NSW Government provides discrete funding to the ALS, both directly and via Legal Aid.¹¹

The PPF is a statutory fund established by the *Legal Profession Uniform Law Application Act 2014* (NSW). Under the terms of the Act, the Trustees of the PPF may make discretionary payments from the Fund for purposes that promote access to justice. Current recipients of discretionary payments include Legal Aid and CLCs.

Table 2 below sets out current State funding contributions to the NSW legal assistance sector, including NSW Government and PPF amounts. Projected estimates are not available, as the State Budget and discretionary payments from the PPF are generally determined on an annual basis.

¹⁰ Examples include the Legal Aid WDVCA Unit, which administers NSW Government funding for WDVCA, and the NSW Fair Trading Financial Counselling Program, which provides funding to the Financial Rights Legal Centre National Debt Helpline and Tenants Advice and Advocacy Services.

¹¹ While the NSW Government provides some funding to the ALS, the ALS is a special funding responsibility of the Australian Government.

Table 2: Estimated State contributions to the NSW legal assistance sector as at 1 July 2022

Recipient	2021-22	2022-23
Legal Aid	272.742m	286.781m
CLCs ¹²	14.526m	14.603m ¹³
ALS ¹⁴	2.630m	2.528m ¹⁵
Total	289.898m	303.912

Administration of NLAP and State funding

Under the NLAP States and Territories may choose to delegate to a legal assistance provider all or part of their responsibilities relating to the administration of Commonwealth funding to CLCs (apart from funding allocation decisions to individual CLCs).¹⁶

DCJ is responsible for strategic functions relating to the NLAP, including providing policy advice to the Attorney General, participating in intergovernmental forums, and leading and conducting jurisdictional CSP.

To maximise the efficient administration of NLAP funds, responsibility for administering CLC funding is delegated to Legal Aid. The Legal Aid CLC Program Unit administers NLAP funding (as well as State funding) to 32 generalist and specialist CLCs, as well as their peak body CLCNSW, through individual service agreements. The CLC Program Unit does not provide advice to the Attorney General in relation to funding decisions. The Attorney General generally makes such decisions based on advice from assessment panels who

are independent from the sector. DCJ is also responsible for the administration of funding to the ALS and Legal Aid.

Legal Aid's Cooperative Legal Service Delivery Program supports local CSP activities and coordination efforts. This includes helping to support twelve regional justice partnerships in NSW to address unmet legal need and achieve better outcomes for vulnerable and disadvantaged people.

The NSW Legal Assistance Forum (**NLAF**) organises and facilitates the jurisdictional legal assistance forum under the NLAP. The NLAF is an interagency forum that brings together key legal service providers across the government, non-government and private sectors¹⁷ and promotes collaboration and coordination in the development of legal assistance services in NSW. The NLAF Executive comprises representatives from the ALS, Legal Aid, CLCNSW and the Law and Justice Foundation of NSW (**LJF**).



12 Information on State funding of the CLC sector is limited to the principal source of funding provided to the sector via the Legal Aid CLC Program.

13 Estimate as of 1 July 2022 and may not include indexation.

14 State funding is provided to the ALS to support implementation and/or delivery of the following discrete program areas: Youth Koori Court; Early Appropriate Guilty Pleas (EAGP), Closing the Gap, Cooperative Legal Services Delivery; and the ALS Care and Protection services.

15 Estimate as of 1 July 2022 and may not include indexation. This amount does not include State funding for Closing the Gap, or services auspiced by ALS such as the Western Aboriginal Tenants Advice and Advocacy Service, as this information was not available at the time of publication.

16 NLAP, clause 27.

17 NLAF members include the ALS, CLCNSW, Legal Aid, DCJ, LJF, Justice Connect, Law Access, Law Society of NSW, NSW Bar Association, Legal Information Access Centre, Public Interest Advocacy Centre and NSW FVPLS.

Legal need
in NSW

2

The nature and extent of legal need in NSW

Legal need in NSW is multifaceted, connected to experiences of disadvantage and often intersects with non-legal problems, such as mental and other physical problems which can drive engagement with the justice system. As a result, timely, person-centred and ‘joined up’ legal assistance services are critical to achieving holistic outcomes, reducing people’s exposure to future legal problems, and assisting them to overcome disadvantage.

In NSW legal need is most evident in the Greater Sydney area, both in absolute terms and across a majority of NLAP priority client groups¹⁸. While the legal assistance sector makes a significant contribution to meeting a very high level of legal need across NSW, there continues to be unmet or under-met latent and patent legal need, particularly for Aboriginal and Torres Strait Islander people, people experiencing or at risk of DFV, and people in areas of rural and remote NSW.

There is an opportunity for the legal assistance sector and governments to better understand the nature and extent of both latent and patent legal need across the sector, as well as to understand the sector’s contribution to addressing that need.



18 The national priority client groups under Schedule A of the NLAP are: Aboriginal and Torres Strait Islander people; children and young people (up to 24 years); older people (aged over 65 years or Aboriginal and Torres Strait Islander people aged over 50 years); people experiencing, or at risk of, family violence; people experiencing, or at risk of, homelessness; people in custody and/or prisoners; 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 need for legal assistance services correlates with experiences of disadvantage, and legal problems are often connected to non-legal problems

A number of legal needs studies have been conducted in Australia including the LJF Legal Australia Wide Survey (**LAW Survey**)¹⁹, the Indigenous Legal Needs Project²⁰ and the Law Council of Australia Justice Report²¹.

According to the LAW Survey, about half of all survey respondents in NSW (50.1 per cent) experienced at least one legal problem in the 12 months prior to the survey. The LAW Survey also identified that some people are particularly vulnerable to legal problems. Sixty-six per cent of legal problems were experienced by only 9 per cent of respondents, and 87 per cent of problems were experienced by 23 per cent of respondents.

Research reveals that people who experience indicators of disadvantage are more likely to experience legal problems and have a greater number of legal problems.²² For example:

- People with a disability and single parents are more than twice as likely to experience legal problems compared to people without those characteristics
- People who were unemployed and people who lived in disadvantaged housing are also more likely to experience legal problems.

Each additional form of disadvantage a person experiences further increases their likelihood of experiencing legal problems. The LAW Survey revealed that a person who exhibits one indicator of disadvantage had, on average, 2.3 legal problems per year. However, this rose consistently with each additional indicator of disadvantage experienced. For example, persons with three indicators of disadvantage would, on average, have 3.7 legal problems per year, rising to 12.5 problems per year for persons who have six or more indicators of disadvantage.²³

Research conducted by the LJF also suggests that people experiencing disadvantage face more challenges when it comes to solving legal problems.²⁴ They are significantly more likely than other members of the community to ignore problems or act without the benefit of legal or non-legal advice. This can result in accumulated problems and poorer outcomes.

For example, the LAW Survey found that respondents who had not finished year 12 or with a non-English main language were less likely to act in response to a legal problem. Respondents who were unemployed were less likely to seek advice whereas those whose main income was government payments were more likely to seek advice if they acted in response to a legal problem.²⁵

Evidence also shows that legal problems are closely interwoven with other legal and non-legal issues.²⁶ For example, the LJF found that 26.3 per cent of respondents to the LAW Survey experienced legal problems from two or more problem groups.²⁷ The LJF's analysis revealed three main 'clusters' of legal problems that tend to co-occur, namely: (a) consumer, crime, government and housing problems; (b) economic issues, including credit/debt and money problems (such as investment issues but also family related problems like will/estates); and (c) employment, health, personal injury and 'rights' problems.²⁸ This shows that the nature of legal need in NSW is not 'siloes'. Clients present with multiple legal problems, which may or may not be interconnected. This affects the nature and complexity of service provision to these clients, depending on whether they are seeking assistance for one or multiple problems or issues.



19 Coumarelos, C, Macourt, D, People, J, McDonald, HM, Wei, Z, Iriana, R & Ramsey, S, *Legal Australia-Wide Survey: legal need in New South Wales*, Law and Justice Foundation of NSW, Sydney, (2012) (**LAW Survey NSW**) p 57.

20 Cunneen, C & Schwartz, M. "Civil and Family Law Needs of Indigenous People in New South Wales: The Priority Areas". *UNSW Law Journal* 32, No 3 (2009): pp 725-745.

21 Law Council of Australia, *The Justice Project Final Report* (2018).

22 Law and Justice Foundation, *LAW Survey NSW*, pp 66-68.

23 Law and Justice Foundation, *Updating Justice* No. 24.

24 Law and Justice Foundation, *LAW Survey NSW*, pp 102-104.

25 *Ibid*, p 100.

26 Forell, S, *Is early intervention timely?*, Justice Issues paper 20, Law and Justice Foundation of NSW, Sydney, (2015), p 5.

27 Law and Justice Foundation, *LAW Survey NSW*, p 87.

28 *Ibid*, p 88.

The need for legal assistance services is not uniformly distributed across NSW and, in absolute terms, is most pronounced in parts of Greater Sydney

Legal need exists across the entirety of NSW – from Greater Sydney to regional cities and towns, and in more rural and remote parts of the State.

The LJF's *Need for Legal Assistance indicators (NLAS indicators)*²⁹ help identify people who are most likely to need legal assistance services and where they live. The NLAS indicators were developed primarily to help legal assistance providers plan and target services appropriately, however they are also a useful proxy for understanding where legal need is present in NSW. While the NLAS indicators have limitations³⁰ and are based on 2016 Census data, they are generally regarded as the best available measure of relative potential need for legal assistance.

The NLAS(Capability) indicator provides a proxy measure of legal capability by identifying people aged 15 to 64, with very low personal income (under \$26,000 per annum), and who have a lower level of educational attainment. This group are potentially more likely to require help from a legal assistance provider if they experience a legal problem. The NLAS(Capability) population distribution largely reflects the population spread across NSW:³¹

- The top three geographical catchment areas of NSW³² with the highest count of people likely to require legal assistance *in absolute terms* are all in Greater Sydney – Sydney South West (17.4 per cent of the NLAS(Capability) group in NSW), Sydney Central (15.7 per cent) and Sydney West (11.7 per cent). Together, these three catchments constitute 44.8 per cent of the NLAS(Capability) state-wide total.
- The Hunter (10.7 per cent) and Campbelltown-Goulburn (6.0 per cent) catchments make up the remaining two of the top five catchment areas in NSW in terms of indicative absolute legal need.
- In relative terms, however, when the NLAS(Capability) indicator is expressed as a percentage of the population aged 15 to 64, the catchment areas of NSW with the highest rate of people who are likely to require legal assistance are in the rural and regional areas of Broken Hill (21.4 per cent of the population aged 15 to 64), Lower Mid North Coast (16.4 per cent), Wentworth (16.2 per cent), Central West (16.0 per cent) and Upper Mid North Coast (15.5 per cent).
- This relativity of legal need is also borne out in the context of DFV incidents. Data from the NSW Bureau of Crime Statistics and Research (**BOCSAR**) reveals higher rates of such incidents in certain non-metropolitan parts of NSW, in particular in the Coonamble, Walgett, Moree Plains, Broken Hill and Dubbo regional local government areas, which flows through to demand for associated legal services.³³

The NLAS(ATSI) indicator is a proxy estimate of the number of Aboriginal and Torres Strait Islander people more likely to require legal assistance if confronting a legal problem. It comprises two groups: Aboriginal and Torres Strait Islander people aged 18 and over earning less than \$52,000 per year, and Aboriginal and Torres Strait Islander people aged between 10 and 17.

Legal need for Aboriginal people in NSW is most likely to be experienced in a mixture of non-metropolitan areas and across Greater Sydney. The count of Aboriginal people most likely to require legal assistance is higher in the Hunter catchment (13.3 per cent), followed by Sydney West (9.6 per cent), New England and North West (8.8 per cent), Central West (8.4 per cent) and Sydney Central (7.1 per cent).

29 Law and Justice Foundation, Justice Issues No. 28 (2018). The NLAS indicator provides an absolute count (the total number of people) as well as a rate (the percentage of people) within an area who meet the criteria. There are several NLAS Indicators, including:

- NLAS(Capability): identifies people aged 15 to 64 who have low income (less than \$26 000) and lower educational attainment and are therefore likely to have lower capability to solve legal problems (and be more likely to need legal assistance services).
- NLAS(ATSI): identifies people who have a low income who identify as Aboriginal or Torres Strait Islander.
- NLAS(CALD): identifies people who have a low income and are from culturally and linguistically diverse backgrounds.

30 The NLAS indicator uses Census data to assess the potential demand for legal assistance services within different priority client groups. Limitations include data undercounting of people who do not complete the Census or leave out information.

31 Data provided by the LJF. The National Legal Needs Dashboard can be accessed from the LJF website at: <http://www.lawfoundation.net.au/legalneedsdashboard>

32 NSW has been divided into geographical catchment areas called CSP catchments to assist the legal assistance sector with their planning and delivery of legal services. There are 20 CSP catchments in NSW: Albury; Blue Mountains; Broken Hill; Campbelltown-Goulburn; Central Coast; Central Tablelands; Central West; Hunter; Illawarra; Lower Mid North Coast; New England & North West; Northern Rivers; South Coast; Southern Tablelands; Sydney Central; Sydney South West; Sydney West; Upper Mid North Coast; Wagga Wagga; and Wentworth.

33 BOCSAR Domestic violence statistics for NSW data file. The data file can be accessed from the BOCSAR website at: https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Domestic-Violence.aspx

The Cameron Review³⁴ found that CLCs in NSW are generally located in areas where there is a high demand for services. The high concentration of CLCs in the Greater Sydney area is consistent with 2016 Census data which indicates that Greater Sydney has 56 per cent of people with low income and low capability, 92 per cent of CALD people with low income, and 30 per cent of Aboriginal people with low income. Similarly, BOCSAR data reveals that the highest counts of domestic violence-related offences occur in the same top five locations identified by the NLAS(Capability) indicators.³⁵

In contrast, the Cameron Review also found that there is a different geographical profile for Aboriginal and

Torres Strait Islander people who are likely to need legal assistance services, finding that a significant majority (70 per cent) of people who meet the criteria for NLAS(ATSI) live outside the Greater Sydney area.³⁶

While the NLAS indicators are currently the best available proxy of legal need in NSW, there is an opportunity to build a sharper picture of legal need by harmonising the collection and reporting of data and developing outcomes-based standards to measure service effectiveness as recommended by the Productivity Commission in its 2014 Inquiry into Access to Justice Arrangements.³⁷

The NSW legal assistance sector delivers a high volume of quality legal services, but there remains patent and latent need that is unmet or under-met

The legal assistance sector in NSW makes a significant contribution to meeting a very high level of legal need across NSW. In this context:

- Over the last five years, Legal Aid has provided over 350,000 legal services per annum to people in NSW. In 2020-21, this included almost 240,000 criminal law services, and approximately 65,000 family law and 56,000 civil law services³⁸
- Over the last five years, CLCs have helped over 50,000 people per annum, reaching almost 55,000 people in 2020-21. In 2020-21, CLCs delivered over 185,000 legal services³⁹
- In 2020-21, the ALS delivered almost 85,000 legal services and supported 23,691 clients across NSW and ACT, attended 159 courts, circuits or outreach locations, and received 23,063 calls to the Custody Notification Service⁴⁰.

Without diminishing this vast collective effort, gaps in service remain. These service gaps can be viewed in terms of *patent* and *latent* legal need. Patent need refers to legal need that is manifest and identified, but services are not able to be delivered (for example, because the supply of legal services cannot meet known demand or due to services not existing). On the other hand, latent legal need refers to 'undiagnosed' or 'unactivated' legal need – namely where a person, objectively, has a legal problem but that problem has not been identified or services are not being sought to address it.

Findings from the LAW Survey provide an insight into the likely extent of potential latent legal need. The LAW

Survey attempted to quantify the number of NSW people who took no action in response to a legal problem or attempted to handle it themselves. It found that of the 50 per cent of respondents who experienced one or more legal problems in the 12 months prior to interview, 20 per cent took no action, 30 per cent took action without seeking advice and of the 50 per cent who did seek advice, only a third went to a legal advisor. While not all legal problems encountered by people will require a legal service, this data is instructive as to the fact of there being a significant level of unmet latent legal need in NSW.

This picture of latent legal need was considered by the Productivity Commission in 2014. The Commission found strong qualitative evidence to indicate unmet legal need in different areas of law and among different groups in society but noted that quantifying unmet legal need was difficult as it involves contestable methodological judgments.⁴¹ Similarly, the Cameron Review commented on service gaps. This includes gaps in areas which have legal assistance services but still have unmet demand, and locations where there are no permanent or outreach services or limited outreach. For example, the Cameron Review identified gaps for priority client groups such as Aboriginal and Torres Strait Islander people, young people and people with disability; areas of law such as housing, credit and debt, consumer law, care and protection and DFV; and geographical areas in rural, regional and remote NSW.⁴²

The limited nature of available data on unmet legal need – both patent and latent – reveals the need for this picture to be better understood.

34 Cameron, A, *Review of NSW Community Legal Centre Services*, (2017), p 49-51.

35 BOCSAR data extracted from the online NSW Crime Mapping tool

36 The Cameron review found that the top 10 areas where people met the NLAS(ATSI) indicator in NSW were: Walgett – Lightning Ridge, Kempsey, Taree, Moree, Armidale, Dubbo – South, Nowra, Bourke – Brewarrina, Dubbo – East and Tamworth – East. The LJJ has since revised and updated this data as indicated above.

37 Productivity Commission, *Access to Justice Arrangements* (2014), p 879.

38 Legal Aid NSW Annual Report 2020-2021.

39 Community Legal Centres NSW Annual Report 2020-2021.

40 Aboriginal Legal Service (NSW/ACT) Annual Report 2020-2021.

41 Productivity Commission, *Access to Justice Arrangements* (2014), p 98-99.

42 Cameron, A, *Review of NSW Community Legal Centre Services*, (2017), p 66.

Demand for representation services is growing

Most legal representation services delivered in NSW relate to criminal and family law matters. Demand for representation services has grown significantly over the past five years, which has placed additional demand on the legal assistance sector. For example, between 2016-17 and 2020-21, Legal Aid experienced:

- a 12.3 per cent increase in demand for overall legal representation services⁴³
- a 20.5 per cent increase in representation services in criminal law matters.⁴⁴

The growth in demand for representation services experienced by the legal assistance sector can be linked to the increase in the finalisation of criminal matters in NSW courts. Between 2012-13 and 2018-19, criminal finalisations across all NSW Courts increased by 16.9 per cent.⁴⁵



Consumers indicate the need for legal assistance services to be timely, person-centred and 'join up' with other services to support their holistic needs

People who experience legal problems do not always identify their problem as having a legal dimension. Research shows that the lower a person's 'legal understanding', the less likely they are to recognise that their problem has a legal dimension and the less likely they are to seek legal assistance to address it.⁴⁶

Client interviews conducted as part of the 'Pathways to Justice' Project undertaken by the UK Ministry of Justice in 2015 found that people who lack knowledge about where to seek advice for a specific legal problem are likely to turn to familiar agencies, such as social services, police or health services. While these agencies can make referrals to more appropriate services, studies have shown that this practice is ultimately often unhelpful. The phenomenon identified as 'referral fatigue' reveals that the more often a person is referred to another source of assistance, the less likely they are to visit that source, thus continuing to leave legal needs unmet.⁴⁷

Joined-up service delivery models can help to address referral fatigue and ensure that people obtain advice and assistance as early as possible. For example, HJPs respond to this problem by embedding legal practitioners in health settings to establish client rapport early

and upskill health practitioners to identify clients experiencing legal problems. The benefits of joined-up service delivery include less reliance on consumers self-identifying problems, earlier intervention, reduced stress and embarrassment, more holistic, targeted and effective responses, and less duplication of resources.⁴⁸

These benefits are consistent with the experiences and desires of people who experience legal problems. Consumers desire a 'no wrong door' approach that supports them to overcome the problem they are facing. For example, a public survey conducted by DCJ during development of the Civil Justice Action Plan revealed that people experiencing legal problems want a single contact point that can provide them with guidance and advice.

The legal assistance sector is adept at bridging the support needs of consumers and making warm referrals through established networks and relationships with the broader services sector. However, there are opportunities to strengthen connectivity and relationships, to help people get the support they need in a timely way to meet their holistic needs, address the core problem they face and overcome disadvantage.

43 Legal Aid NSW Annual Report 2020-2021, p 29.

44 Legal Aid NSW Annual Reports 2020-2021 and 2016-2017.

45 BOCSAR and the LJF's Criminal Finalisations Dashboard. 2019-20 saw criminal finalisations drop by 13.9 per cent due to changes in court operations in response to the COVID-19 pandemic. This reduction is likely to be temporary in nature as the courts move to address the backlog of criminal matters resulting from the pandemic.

46 Balmer, NJ, Pleasence, P, Hagland, T & McRae, C, *Law...What is it Good For? How People see the Law, Lawyers and Courts in Australia*, Victoria Law Foundation, Melbourne, (2019), pp 5-6.

47 Pleasence, A Buck, N Balmer, A O'Grady, H Genn and M Smith, *Causes of Action: Civil Law and Social Justice* (The Stationery Office 2004), p 77.

48 Pleasence, P, Coumarelos, C, Forell, S & McDonald, HM, *Reshaping legal assistance services: building on the evidence base: a discussion paper*, Law and Justice Foundation of NSW, Sydney, (2014), p 68. Australia's National Research Organisation for Women's Safety has also found that cross-sector integration benefits women and children experiencing DFV, while early evaluations of health justice partnerships focusing on DFV by Health Justice Australia found that benefits include more timely, streamlined access to legal help, assistance at a pace and place that was safe and appropriate to individual client needs and increased use of secondary consultation with legal professionals. See Forell, S & Nagy, MT, *Health Justice Insights: health justice partnerships as a response to domestic and family violence*, Health Justice Australia, Sydney, (2021), p 12.

Aligned to the need for joined-up service delivery is the need for legal assistance services to be timely. ‘Timely’ does not necessarily mean ‘early’, rather that legal services assist people at the earliest *possible* stage, recognising that in some cases this may not be until a crisis point has been reached.⁴⁹ This is with a view to preventing the escalation of the issue they are facing or the accumulation of additional legal and non-legal problems.

Submissions to the Law Council of Australia noted that timely legal assistance from duty lawyers and self-representation services based in courts and tribunals helped parties settle issues early and persuaded parties to discontinue claims without merit. In the DFV area, these kinds of services increased the chances of successfully obtaining an apprehended violence order between 40 and 60 per cent and reduced the number of unnecessary defended hearings.⁵⁰

There is an opportunity to better understand and more clearly measure the legal assistance sector’s contribution to addressing disadvantage

The legal assistance sector in NSW undertakes a range of reporting under the NLAP and other agreements. This reporting includes quantitative measures such as the number of clients assisted and the type of services provided. Service providers also seek to measure the quality of their service outputs via client satisfaction surveys. The collection of such data provides important information about the services that are provided by the legal assistance sector. However, there remains a significant opportunity to better understand how the sector contributes to addressing disadvantage and improving outcomes for clients.

The Cameron Review recommended that the NSW Government invest in the development of an outcomes measurement framework for the NSW legal assistance sector. Since that time, the NSW Government has developed and embedded the NSW Human Services Outcomes Framework across a range of programs and services. However, there remains significant scope for government and the legal assistance sector to work together to design and implement an outcomes measurement framework for the legal assistance sector.

Such a tool will support the sector and governments to build a clearer and shared understanding of the contribution of the sector to the outcomes of people experiencing disadvantage, as well as support the design of future approaches to the way legal services are delivered, to whom they are delivered, and the places they are delivered.



49 Law Council of Australia, *The Justice Project Final Report – Part 2*, (2018), p 92.

50 Productivity Commission, *Access to Justice Arrangements*, Appendices B to K, (2014), p 1059.

The way forward
in NSW

3

Strategic vision for the legal assistance sector in NSW

Through this Strategy and Action Plan, the NSW Government and legal assistance sector are committed to working in partnership to realise a vision for:

A connected, accessible and culturally responsive legal assistance sector that helps people experiencing disadvantage address their needs and thrive in their communities



Priorities for the legal assistance sector in NSW

Over the remaining duration of the NLAP, the legal assistance sector and NSW Government will focus on four priorities:

- 1 Addressing the needs of people who experience disadvantage
- 2 Meeting the outcomes of the Closing the Gap Agreement
- 3 Supporting efforts to prevent and respond to DFV
- 4 Collaborating to strengthen and focus collective capacity to support equitable access to legal services across NSW

Each of these four priorities are accompanied by:



an objective for the priority



an outline of the role of the NSW legal assistance sector in meeting the priority



an outline of the alignment of the priority with the NSW context

While presented as discrete priorities, the legal assistance sector and NSW Government acknowledge that the priorities will overlap. This reflects the need for services to respond in a holistic way to address disadvantage and the intersecting needs of people.

Priority 1 – The NSW legal assistance sector is focused on addressing the needs of people who experience disadvantage

This priority goes to the core function of the legal assistance sector. It involves ensuring that legal assistance services remain focused on supporting people across NSW to overcome their experiences of disadvantage and thrive.



Objective of Priority 1

Legal assistance services are accessible and approachable, and support people to resolve problems in a timely way and overcome the disadvantage they experience.

Role of the legal assistance sector in supporting Priority 1

The NSW legal assistance sector will:



- Provide quality, accessible and approachable legal services to address disadvantage through representation, advocacy and advice across a range of legal areas
- Support equitable access to services across NSW
- Take a person-centred approach to client needs, including by working with non-legal service providers to address client needs holistically and support engagement with other service systems
- Support early intervention to prevent disadvantage and entrenchment in the legal system.

Alignment of Priority 1 with the NSW context

Focusing on addressing and helping people overcome disadvantage is an overarching and fundamental priority of the NSW legal assistance sector. This priority is a longstanding feature of the legal assistance sector's purpose and drives the services that are delivered.

This priority aligns with the NSW Government Premier's Priorities and State Outcomes aimed at addressing intergenerational disadvantage, including in relation to priority client groups such as people experiencing homelessness, children and young people, and people experiencing or at risk of DFV.

This priority is also reinforced through the core purpose of the NLAP to provide legal assistance services which help people facing disadvantage, who are unable to afford private legal services, to engage fully with the justice system in order to address their legal problems.⁵¹



51 NLAP p 2.

Priority 2 – The NSW legal assistance sector mobilises all avenues and opportunities available to them to meet the outcomes of the Closing the Gap agreement

Legal assistance services play a key role in contributing to efforts in NSW, and nationally, to Closing the Gap in outcomes for Aboriginal and Torres Strait Islander people, particularly outcomes related to the involvement of Aboriginal and Torres Strait Islander people in the criminal justice and care systems.



Objective of Priority 2

Legal assistance services will prioritise the voices and aspirations of Aboriginal and Torres Strait Islander people and ensure that services are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people.

Role of the legal assistance sector in supporting Priority 2

The NSW legal assistance sector will:

- Support Aboriginal and Torres Strait Islander staff in the sector to increase representation in employment and to work with communities to build trusted relationships and client-centred services
- Acknowledge that, when supported by government, Aboriginal and Torres Strait Islander community-controlled services usually achieve better results, employ more Aboriginal people and are often preferred over mainstream services. This acknowledgement aligns with the rights to self-determination and self-government in the UN Declaration of the Rights of Indigenous Peoples
- Support the ALS to continually strengthen its ability to provide high quality legal services
- Support the ALS to champion community-led approaches and embed Aboriginal self-determination across the justice system
- Acknowledge that strong Aboriginal and Torres Strait Islander cultures are fundamental to improved life outcomes for Aboriginal and Torres Strait Islander people and commit to working in a way that promotes the cultures of Aboriginal and Torres Strait Islander people.



Alignment of Priority 2 with the NSW context

Prioritising a focus on delivering culturally safe and responsive legal services for Aboriginal and Torres Strait Islander people will support NSW's commitment to Closing the Gap. The National Agreement on Closing the Gap commits NSW to working in partnership and sharing decision making with Aboriginal and Torres Strait Islander organisations and communities to improve life outcomes for all Aboriginal and Torres Strait Islander people.

The NSW 2021-2022 Implementation Plan for Closing the Gap was released in June 2021. The plan identifies the following socio-economic targets and nominates NSW Coalition of Aboriginal Peak Organisations (**CAPO**) leads for implementation of actions in partnership with Government.⁵²



52 NSW Implementation Plan for Closing the Gap, available at: <https://www.aboriginalaffairs.nsw.gov.au/closingthegap/nsw-implementation-plan/2021-22-implementation-plan/NSW-Implementation-Plan-2021-22.pdf>

Target 9	By 2031, increase the proportion of Aboriginal and Torres Strait Islander people living in appropriately sized (not overcrowded) housing to 88 per cent. The CAPO leads for Target 9 are the NSW Aboriginal Land Council and the Aboriginal Community Housing Industry Association.
Target 10	By 2031, reduce the rate of Aboriginal adults held in incarceration by at least 15 per cent. The CAPO lead for Target 10 is the ALS.
Target 11	By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people in detention by 30 per cent. The CAPO lead for Target 11 is the ALS.
Target 12	By 2031, reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent. The CAPO lead for Target 12 is AbSec, the NSW Child, Family and Community Peak Aboriginal Corporation.
Target 13	By 2031, reduce the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children by at least 50 per cent, as progress towards zero. The CAPO lead for Target 13 is the ALS.

In addition to these Closing the Gap targets, there are a number of other priority reforms and socio-economic targets linked to these justice outcomes such as Target 7, to increase the proportion of Aboriginal and Torres Strait Islander youth (15-24 years) who are in employment, education or training to 67 per cent.

Legal assistance services play a key role achievement of Closing the Gap targets (and broader socio-economic targets) through:

- Supporting efforts in NSW to prevent and end DFV
- Representing Aboriginal and Torres Strait Islander adults and young people involved in the criminal justice and youth justice systems, to prevent or minimise incarceration and detention wherever possible
- Representing children and families involved in the child protection system, to prevent or minimise entry into out of home care wherever possible
- Representing Aboriginal and Torres Strait Islander tenants in social, community and private housing at the NSW Civil and Administrative Tribunal and the Housing Appeals Committee



Priority 3 – The NSW legal assistance sector supports efforts to prevent and respond to domestic and family violence

Legal assistance services play a key role in supporting efforts in NSW to prevent and end the scourge of DFV. Legal assistance services, including specialist DFV services, are at the forefront of efforts to keep women and children protected from DFV.



Objective of Priority 3

Legal assistance services for people and families at risk of experiencing, and survivors of, DFV are client-centred and trauma-informed and support their safety and recovery.



Role of the legal assistance sector in supporting Priority 3

The NSW legal assistance sector will:

- Deliver comprehensive legal services to prevent and address instances of DFV, support women, children and families be safe, and assist with survivor recovery and perpetrator supports – including across the DFV, child protection and justice systems
- Work in partnership with non-legal services to provide holistic, trauma-informed responses to victim-survivors and perpetrators of DFV which support prevention, healing and recovery (for example, through proactive/supported connections and referrals to education, training and employment services, trauma support, and health, mental health, community controlled and alcohol and other drug services)
- Support self-determination, community leadership and community driven solutions to reduce the rate of all forms of DFV against Aboriginal and Torres Strait Islander women and children
- Engage across the criminal, civil and family law, and child protection, systems to address violence, provide family and child centred supports and improve safety.



Alignment of Priority 3 with the NSW context

The National Plan to Reduce Violence against Women and their Children 2010-2022 (**National Plan**)⁵³ connects the work being done by governments, community organisations and individuals across the country to reduce violence against women and their children.

NSW has implemented a number of initiatives as part of its contribution to the National Plan and under the NSW Premier's Priority to reduce domestic violence reoffending by 25 per cent by 2023. This includes the *NSW Domestic and Family Violence Blueprint for Reform 2016-2021: Safer Lives for Women, Men and Children*, the DFV Innovation Fund and the Integrated Domestic Violence and Family Services program.⁵⁴ NSW continues to work with the Commonwealth and other jurisdictions to develop the *National Plan to End Violence Against Women and Children 2022-2032*, which is due to commence in July 2022. The *NSW Domestic and Family Violence Plan* and the *NSW Sexual Violence Plan 2022-2027* will also commence in 2022.

DFV continues to feature prominently in the legal assistance sector's work and people experiencing or at risk of DFV remain a priority client group for service delivery. Between July and December 2021, 18 per cent of Legal Aid's clients and 25 per cent of the ALS's and CLC's clients were experiencing or at risk of DFV.⁵⁵ The legal assistance sector also reports that since the start of the COVID-19 pandemic, demand for DFV related legal services has risen even further.

53 National Plan to reduce violence against women and their children, available at: https://www.dss.gov.au/sites/default/files/documents/08_2014/national_plan1.pdf

54 For a full list of NSW initiatives under the Fourth Action Plan of the National Plan see: <https://plan4womenssafety.dss.gov.au/responsibility/03-nsw/>

55 Information supplied by Legal Aid, the ALS and CLCNSW.

Priority 4 – The NSW legal assistance sector collaborates to strengthen and focus its collective capacity to support equitable access to legal services

The legal assistance sector works in partnership with governments and the broader service system to help people get the assistance they need to be safe, overcome experiences of disadvantage and live productive and healthy lives.

This priority is about building on those strong relationships and networks to strengthen the collective capacity of the legal assistance sector, in combination with other sectors, to address disadvantage.



Objective of Priority 4

The NSW legal assistance sector partners to develop a common view of its contribution to addressing disadvantage and works together to innovate and strengthen its services to people experiencing disadvantage.



Role of the legal assistance sector in supporting Priority 4

The NSW legal assistance sector will:

- Strengthen whole-of-sector collaboration and engagement, with CSP at the centre (through partnering, networking, coordination, showcasing and driving innovative practices, learning and development)
- Work together to build a common understanding of, and way of measuring, the collective impact of the sector's services on addressing disadvantage by creating/codesigning an outcomes measurement framework for the NSW sector
- Strengthen connections with other service providers to support referrals to meet universal needs
- Drive whole-of-sector innovation in service delivery approaches, including through the use of technology and exploring opportunities for shared service delivery.



Alignment of Priority 4 with the NSW context

The legal assistance sector in NSW has a long history of collaboration, particularly at the local level, to meet the legal needs of the communities they serve. The NSW Government has also committed to the tiered CSP model outlined in the NLAP, whereby collaboration occurs at both the local and jurisdictional levels.

This priority builds on this history of collaboration to deliver a collective vision for the legal assistance sector. It also recognises the need for a common outcomes measurement framework for the legal assistance sector, as recommended by the Cameron Review.

Approach to delivering on the priorities

The following table outlines how NSW intends to approach the task of delivering on the key priorities in Part 3 and the actions in Part 4. This is with a view to:

- NSW meeting the objectives of the NLAP in supporting the delivery of mainstream, specialist and Aboriginal and Torres Strait Islander legal services to address the needs of national priority groups; and
- Ensuring that mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services are delivered in a manner consistent with the National Strategic Framework.

What NSW will do	What this involves
1. Collaboratively partner	<ul style="list-style-type: none"> • Participating and engaging in CSP by the Commonwealth, States and the legal assistance sector • Leading, conducting and participating in jurisdictional and local CSP
2. Share information and engage meaningfully	<ul style="list-style-type: none"> • Sharing of information and resources with the legal assistance sector and the Commonwealth to support the delivery of mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services • Participating in jurisdictional legal assistance forums with the NLAP parties and the legal assistance sector
3. Make disclosures under NLAP in a timely way	<ul style="list-style-type: none"> • Providing annual State funding information for legal assistance services to the Commonwealth • Facilitating the timely provision of legal assistance service data
4. Monitor and report on progress and performance	<ul style="list-style-type: none"> • Monitoring progress against the Strategy and Action Plan through jurisdictional CSP • Conducting a yearly review of the Strategy and Action Plan as a living document with the legal assistance sector • Meet reporting requirements under the NLAP
5. Develop an understanding of impact and foster innovation	<ul style="list-style-type: none"> • Developing an outcomes measurement framework for legal assistance services for potential implementation from 1 July 2025, to better understand the contribution of NSW's legal assistance sector to addressing disadvantage and supporting access to justice for the NSW community, and to enable continuous improvement • Creating an environment that encourages the legal assistance sector to develop innovative ways to improve access to justice for the national priority client groups, such as through the Access to Justice Innovation Fund
6. Support the Aboriginal and Torres Strait Islander legal assistance sector deliver culturally responsive legal services	<ul style="list-style-type: none"> • Supporting the Aboriginal and Torres Strait Islander legal assistance sector and community lead culturally responsive services to Aboriginal and Torres Strait Islander people • Supporting the Aboriginal and Torres Strait Islander legal assistance sector to exercise data sovereignty over Aboriginal and Torres Strait Islander data and determine the use of such data

Action on the
priorities

4

NSW Legal Assistance Action Plan 2022-2025

As indicated in Part 1, under the NLAP, all States and Territories must publish Legal Assistance Action Plan by 30 September 2022. NSW's Action Plan is set out in this part.

As with the Strategy, the actions in NSW's Action Plan have been developed in consultation with the NSW legal assistance sector. They reflect the collective approach the sector has taken to realise the strategic priorities in Part 3. An indicative lead organisation has been identified to take each action forward in collaboration with other legal assistance sector participants and DCJ, as relevant.



Jurisdictional Collaborative Service Planning in NSW

Jurisdictional Collaborative Service Planning (**CSP**) in NSW occurs on a bi-annual basis and is led by DCJ. Membership of jurisdictional CSP includes representatives from Legal Aid, the ALS and CLCNSW, along with DCJ. Other parts of the legal assistance sector are invited to attend from time to time, and representatives from the Commonwealth Attorney-General's Department are invited to attend at least annually.

The main outcomes of jurisdictional CSP since July 2021 have been the development and publication of the Strategy and Action Plan.

Through several workshops, the NSW legal assistance sector has committed to actions that have a cross-sector and collaborative focus, and which seek to galvanise all parts of the sector to strengthen their individual and collective capacity to address disadvantage.

DCJ, in partnership with the legal assistance sector, will continue to leverage jurisdictional CSP forums as a mechanism to monitor and drive progress against the actions in this part. Progress will be monitored dynamically, and more formally on a yearly basis, through jurisdictional CSP meetings.

Actions to support Priority 1

The NSW legal assistance sector is focused on addressing the needs of people who experience disadvantage

The actions in the following table support Priority 1 and its objective of legal assistance services being accessible and approachable, supporting people to resolve problems in a timely way and overcome the disadvantage they experience.

Action	Targets	Timeline	Leads
1.1 The legal assistance sector and DCJ partner to plan and progress a shared project whose aim is to develop a more clear and contemporary understanding of legal need and gaps in NSW	<ul style="list-style-type: none"> Project objectives, scope and methodology finalised Project commenced 	<p>Mid- 2023</p> <p>2024</p>	DCJ (with Legal Aid, CLCNSW and ALS)
1.2 The legal assistance sector supports people's access to family law services, particularly in regional areas, through the strengthening of referral partnerships	<ul style="list-style-type: none"> Establish cross-sector family law referral pathways in at least four regional locations 	2024	Legal Aid (with CLCNSW and ALS)
1.3 The legal assistance sector co-convenes a community of practice forum on legal responses to disaster events. The forum will support the sector coming together to share experiences, case studies and learnings from recent disaster events to strengthen their own future responses, identify opportunities for cross-sector collaboration and support community resilience	<ul style="list-style-type: none"> Community of practice forum is convened Outcomes of community of practice documented 	2023	Legal Aid (with CLCNSW and ALS)
1.4 The legal assistance sector and DCJ partner to strengthen the connectivity of each tier of CSP and the overall impact of that planning, including by: <ul style="list-style-type: none"> Using local CSP forums to identify issues of legal need and known or emerging service gaps across NSW Elevating those issues to jurisdictional CSP forums and collaborating at a jurisdictional level to seek to address them Elevating and discussing issues of national interest or Commonwealth responsibility to national CSP forums and feeding back to jurisdictional and local CSP forums accordingly 	<ul style="list-style-type: none"> Local CSP members are engaged to inform the strengthening of the purpose and framework for local CSP Jurisdictional CSP members are engaged to inform the strengthening of the purpose and framework for jurisdictional CSP 	2023 and ongoing	Legal Aid & DCJ, as applicable (with CLCNSW and ALS)

Actions to support Priority 2

The NSW legal assistance sector mobilises all avenues and opportunities available to meet the outcomes of the Closing the Gap Agreement

The actions in the following table support Priority 2 and its objective of legal assistance services prioritising the voices and aspirations of Aboriginal and Torres Strait Islander people and ensuring that services are culturally safe and responsive to needs.

Action	Targets	Timeline	Leads
2.1 The ALS convenes a whole-of-sector forum on culturally safe and responsive legal services for Aboriginal and Torres Strait Islander clients, drawing on learnings from the ALS, Legal Aid NSW and CLCNSW programs that focus on improving justice outcomes for Aboriginal and Torres Strait Islander people	<ul style="list-style-type: none"> Forum is planned Forum is hosted and outcomes documented and shared as a professional development resource for future use 	<p>Mid- 2023</p> <p>2024</p>	ALS (with Legal Aid and CLCNSW)
2.2 The legal assistance sector proactively recruits, invests in and supports the advancement of Aboriginal and Torres Strait Islander staff through targeted recruitment campaigns, and explores opportunities to support their development and mobility across the sector to meet the needs of Aboriginal and Torres Strait Islander people	<ul style="list-style-type: none"> Establish a baseline of the number of Aboriginal and Torres Strait Islander staff across the sector Against the above baseline, increase in the number of Aboriginal and Torres Strait Islander staff working across the sector by 2025 Build on the sector's existing Aboriginal and Torres Strait Islander cadetship programs and work towards a cross-sector approach 	<p>2023</p> <p>2025 and ongoing</p> <p>Ongoing</p>	Legal Aid, CLCNSW and ALS (joint)
2.3 DCJ engages Aboriginal and Torres Strait Islander people in an early, open and informed way through relevant governance structures on policy matters that significantly impact Aboriginal and Torres Strait Islander people	<ul style="list-style-type: none"> Aboriginal and Torres Strait Islander voices are sought and considered by DCJ in policy development 	Ongoing	DCJ (with Legal Aid, CLCNSW and ALS)

Actions to support Priority 3

The NSW legal assistance sector supports efforts to prevent and respond to domestic and family violence

The actions in the following table support Priority 3 and its objective of legal assistance services being client-centred and trauma-informed for people and families at risk of experiencing, and survivors of, DFV to support their safety and recovery.

Action	Targets	Timeline	Leads
3.1 The legal assistance sector delivers DFV training to staff, covering issues such as coercive control, DFV response and trauma-informed practice, and considers opportunities to share relevant training modules across the sector	<ul style="list-style-type: none">• Training is rolled out to staff across the sector	2024	Legal Aid, CLCNSW and ALS (joint)
3.2 DCJ and the legal assistance sector will work collaboratively towards Closing the Gap Target 13, including supporting the establishment of the Aboriginal Women's Advisory Network to guide Aboriginal-led and place-based solutions to address DFV	<ul style="list-style-type: none">• The sector and DCJ to support the establishment of the Aboriginal Women's Advisory Network, including building collaborative and consultative relationships	2023	Legal Aid, CLCNSW and ALS (joint)
3.3 The legal assistance sector will strengthen their relationships with FVPLS with a view to identifying legal need and gaps and building networks and linkages	<ul style="list-style-type: none">• An appropriate engagement mechanism is identified with the FVPLS and implemented	2023	CLCNSW (with Legal Aid and ALS)



Photo by Cathy Ross, courtesy of Community Legal Centres Australia

Actions to support Priority 4

The NSW legal assistance sector collaborates to strengthen and focus its collective capacity to support equitable access to legal services

The actions in the following table support Priority 4 and its objective of the legal assistance sector partnering to develop a common view of its contribution to addressing disadvantage, and working together to innovate and strengthen its services to people experiencing disadvantage.

Action	Targets	Timeline	Leads
4.1 DCJ and the legal assistance sector will work with the Commonwealth Government and other jurisdictions to co-design an outcomes framework as required under clause 30(e) of the NLAP, to measure the sector's contribution to addressing disadvantage	<ul style="list-style-type: none"> DCJ works with the sector and Commonwealth to develop an outcomes framework 	2025	DCJ (with Legal Aid, CLCNSW and ALS)
4.2 The legal assistance sector and DCJ partner ahead of the Independent Review of the NLAP to critically reflect on the implementation, learnings and outcomes of the NLAP 2020-2025, and identify opportunities to strengthen future NLAP arrangements and access to justice for people in NSW experiencing disadvantage	<ul style="list-style-type: none"> Forum is convened and hosted 	2023	Legal Aid, CLCNSW, ALS and DCJ (joint)
4.3 The legal assistance sector, in collaboration with DCJ, shares its individual and collective experiences and initiatives to drive whole-of-sector advancements and innovation in the delivery of legal assistance services	<ul style="list-style-type: none"> Experiences and innovations are shared through local and jurisdictional CSP, as well as other formal and informal channels 	Ongoing	Legal Aid, CLCNSW, and ALS (joint), with DCJ as applicable



Appendix

Appendix 1 – Community Legal Centres NSW member organisations

Specialist community legal centres

1. [Animal Defenders Office \(ADO\)](#)
2. [Arts Law Centre of Australia](#)
3. [Australian Centre for Disability Law](#)
4. [Australian Pro Bono Centre](#)
5. [Binaal Billa Family Violence Prevention Legal Service](#)
6. [Environmental Defenders Office NSW \(EDO\)](#)
7. [Financial Rights Legal Centre](#)
8. [HIV/AIDS Legal Centre \(NSW\) \(HALC\)](#)
9. [Human Rights Law Centre](#)
10. [Immigration Advice and Rights Centre \(IARC\)](#)
11. [Intellectual Disability Rights Service \(IDRS\)](#)
12. [International Social Service Australia \(ISS\)](#)
13. [Justice Connect](#)
14. [Public Interest Advocacy Centre \(PIAC\)](#)
15. [Refugee Advice and Casework Service \(RACS\)](#)
16. [Seniors Rights Service \(SRS\)](#)
17. [Tenants' Union of NSW](#)
18. [Thiyama-Li Family Violence Prevention Legal Service](#)
19. [Welfare Rights Centre](#)
20. [Wurringa Baiya Aboriginal Women's Legal Centre](#)
21. [Women's Legal Service NSW](#)
22. [Youth Law Australia](#)

Generalist community legal centres

23. [Central Coast Community Legal Centre](#)
24. [Central Tablelands and Blue Mountains Community Legal Centre](#)
25. [Far West Community Legal Centre](#)
26. [Hume Riverina Community Legal Service](#)
27. [Hunter Community Legal Centre](#)
28. [Illawarra Legal Centre](#)
29. [Inner City Legal Centre](#)
30. [Kingsford Legal Centre](#)
31. [Macarthur Legal Centre](#)
32. [Marrickville Legal Centre](#)
33. [Mid North Coast Community Legal Centre](#)
34. [North and North West Community Legal Service](#)
35. [Northern Rivers Community Legal Centre](#)
36. [Redfern Legal Centre](#)
37. [Shoalcoast Community Legal Centre](#)
38. [South West Sydney Legal Centre](#)
39. [University of Newcastle Legal Centre](#)
40. [Western NSW Community Legal Centre](#)
41. [Western Sydney Community Legal Centre](#)

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