

National Regional, Rural, Remote and Very Remote Community Legal Network ('4Rs Network')

<https://clcs.org.au/4rs-network/>

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2 September 2024

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Dear Attorney-General Dreyfus,
and Attorneys of each States and Territories,

4Rs Network Legal Assistance Report Card and Backgrounder including response to the Report of the NLAP Review

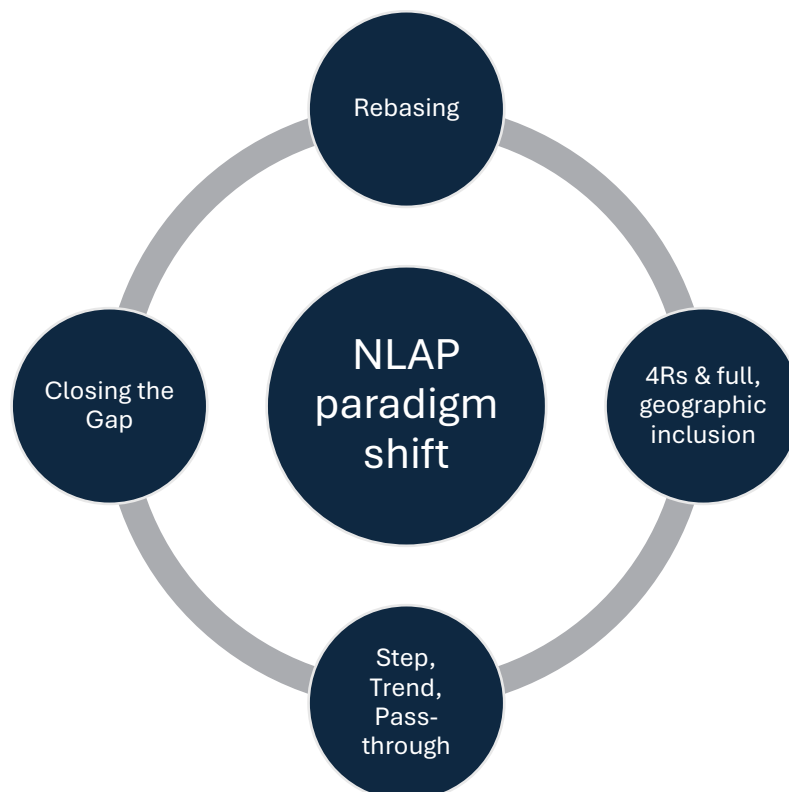
This letter is to express appreciation of the combined efforts reflected in the completion of the Report of the Independent Review of the National Legal Assistance Partnership Agreement ('**Review Report**'). We recognise the work currently being undertaken by Governments and numerous stakeholders towards the next Legal Assistance Partnership Agreement ('**NLAP**').

The 4Rs Network endorses efforts by all legal assistance peaks, legal assistance services, the legal profession and stakeholders to impress **the urgency of the situation** due to the chronic funding shortfalls, dramatic turn away rates and the destabilising effect of funding uncertainty. All of these are intensified in many regional, rural, remote and very remote ('4Rs') areas where **risks of staff losses and service reductions** are being keenly felt.

This **letter also underlines the importance of achieving a paradigm shift which includes setting parameters for full geographic inclusion.**

The 4Rs Network submission to the NLAP Review, and those by all legal assistance sectors, emphasised the critical importance of achieving funding levels to address levels of need, and costs of service provision, including in 4Rs areas. Community-based legal assistance sectors emphasised effective, safe and sustainable service provision, and the critical importance of trusted, accessible, place-based services in 4Rs areas.

The paradigm shift for the next NLAP must involve rebasing all legal assistance sectors and services emphasising (i) Closing the Gap and emphasising (ii) full geographic inclusion of 4Rs areas. The latter, tackles geographic discrimination which is occurring through the withholding of resources and solutions from and for 4Rs areas - so undermining the rights, inclusion and wellbeing of priority groups in 4Rs areas.



While the general directions of the NLAP Review Report are supported, there are issues of principle and approach which require more consideration in support of justice, rights and inclusion of all priority groups in 4Rs areas.

Urgency and setting directions

It is hoped that this input will be reflected in the responses to the crisis relating to urgent needs, and in setting directions for the next NLAP.

As represented by the above diagram, the ‘shape’ of the new funding model proposed by the NLAP Review (base, step, trend and passthrough) is supported.

The diagram reflects the two major mutually reinforcing outcomes, namely Closing the Gap and geographic (4Rs) inclusion.

Geographic inclusion requires attention to structural factors to promote and protect inclusion of all priority groups in 4Rs areas. It also requires a new approach to funding, for access to legal assistance and wraparound, for all priority groups in 4Rs areas.

The following are attached:

1. **4Rs Legal Assistance Report Card** (below).
2. **Backgrounder** to the Report Card.

We urge adoption of the 4Rs Legal Assistance Report Card by the Commonwealth, all states and territories, and all contributors and stakeholders.

The Report Card is guide to achieving key objectives and measuring progress across 4Rs areas nationally and locally.

Would be pleased to discuss any matters which may assist.

Yours faithfully,

Judy Harrison
Co-convenor, 4Rs Network

Attached: Backgrounder to the 4Rs Legal Assistance Report Card

4Rs Legal Assistance Report Card: Federal, state, territory govts & all stakeholders: Aug 24

Regional, rural, remote and very remote (4Rs) Legal Assistance Report Card: Guide and assessment tool for jurisdictions and stakeholders		CTH	ACT NSW NT QLD SA TAS VIC WA
1.	<p>National 4Rs Access to Justice Strategy & Action Plan endorsed by all jurisdictions and stakeholders?</p> <ul style="list-style-type: none"> • Principles in the Strategy include: <ul style="list-style-type: none"> ○ Commitment to full access to legal assistance & wraparound support across 4Rs Aust. ○ Closing the Gap priorities, community-based, place-based legal assistance in 4Rs ○ Processes for accountability to 4Rs access to legal assistance stakeholders 	No, no Strategy.	
2.	<p>Govt. grant funding to ATSILS, FVPLS, ACCO CLCs & CLCs is adequate in and for 4Rs areas?</p> <ul style="list-style-type: none"> • ‘Same job same pay’ as LACs achieved for ATSILS, FVPLS, ACCO CLCs & CLCs in & for 4Rs? • Funding levels enable these sectors to effectively and sustainably: <ul style="list-style-type: none"> ○ Cover their 4Rs service areas, including any newly added, without turn away? ○ In total, eliminate geographic gaps in access to legal assistance services? 	No	
3.	<p>National 4Rs Legal Workforce Plan endorsed by all jurisdictions & stakeholders?</p> <ul style="list-style-type: none"> • Paralleled by identifiable 4Rs plan in each jurisdiction including ACT? • Plans address all issues including pipeline supports e.g. law schools & legal education? • Success of workforce efforts reflected in: <ul style="list-style-type: none"> ○ Full and responsive staffing of all 4Rs legal assistance roles in all legal assistance sectors? ○ Workforce supply overcome as a barrier to legal assistance and wrap around in 4Rs areas? 	No plan & success indicators not achieved.	
4.	<p>Advocacy & research capacity for 4Rs legal assistance & justice issues in place?</p> <ul style="list-style-type: none"> • Peaks, networks & groups within sectors funded and facilitated for 4Rs inclusion? • Research, monitoring, reporting & project capacity responds to 4Rs legal needs? 	No to both points	
5.	<p>Barriers to full access by people and communities in 4Rs areas legal assistance & wraparound, responsive to their needs, have been overcome?</p>	No	

National Regional, Rural, Remote and Very Remote Community Legal Network

<https://clcs.org.au/4rs-network/>

Backgrounder to the 4Rs Legal Assistance Report Card – Aug 24

Incorporating response to the Report of the Independent Review of the National Legal Assistance Partnership Agreement

Dated: 2 September 2024

The 4Rs Network acknowledges Traditional Owners of Country throughout Australia and the continuing connection to lands, waters and communities. We pay our respect to Aboriginal and Torres Strait Islander cultures and to Elders past and present.

Contents

About the 4Rs Network.....	3
4Rs Legal Assistance Report Card: Federal, state, territory govts & all stakeholders: Aug 24 ...	4
About this Backgrounder	5
Glossary	6
Tools.....	7
NLAP Review Report chapters and recs.	8
NLAP Review Report recs. and implementation categories	9
I NLAP Review Report compared to 4Rs submission	12
I.I NLAP Review Report compared to 4Rs key challenges table	12
I.II NLAP Review Report compared to 4Rs recommendations.....	14
I.III Summary of 4Rs Network response to NLAP numbered recommendations	18
II Principles in the NLAP Report and 4Rs inclusion	26
II.I NLAP Review Report – underpinning principles.....	26
II.II Principles relating to rights and inclusion of people in 4Rs areas	27
II.III 4Rs proficient collaboration and connectivity	28
II.IV Support for 4Rs place-based approaches	32
III Synthesis of the paradigm shift and 4 key 4Rs issues.....	32
III.I NLAP paradigm shift.....	33
III.II Closing the Gap.....	34
III.III Principled and structural approach to 4Rs inclusion	34
III.IV Rebasing of community-based legal services in and for 4Rs areas	35
III.V Step, Trend and Pass-through	36
IV Response to numbered NLAP Report Recs: Attachment 1	37

About the 4Rs Network

The 4Rs Network is a network of non-profit legal services in and/or for 4Rs areas which provide legal and related assistance via an incorporated non-profit structure or auspicing arrangement.

These services are based in and/or serve localities within any of four of the five [classes of remoteness](#) including:

- Inner regional Australia
- Outer regional Australia
- Remote Australia
- Very remote Australia

This equates to 6 of the 7 levels in the Modified Monash Model¹ being MM2 Regional centres to MM7 Very remote communities.

These services in 4Rs areas work with and for their communities and regions. Their methods and programs often reflect deep understanding and long-term efforts to address important community needs. Their programs, services and advocacy often reflect involvement in community issues that have not been addressed by other means, including by local, state, or federal governments.

National, statewide and sector peaks for these services, may participate in the 4Rs Network in support of their 4Rs work and objectives.

The 4Rs Network also includes incorporated non-profit legal services with national, statewide or regional service areas which include 4Rs areas. Many of these services are based in metropolitan areas, with a longstanding history, and are orientated to 4Rs areas within their available resources. Noting that the ability for people and communities in 4Rs areas to access these services is constrained by current government funding formulas.

The 4Rs Network has been facilitated from within and supported by Community Legal Centres Australia. It builds on a substantial history of community legal centre-based networking from the mid-1990s which has sought to address the specific and nuanced legal needs and rights of 4Rs communities to increase the wellbeing of those living within them.

More information about the 4Rs Network is available on [the 4Rs Network page](#) on the Community Legal Centres Australia web site which includes links to previous submissions.

Below is the **4Rs Legal Assistance Report Card** which is the focus of this **Backgrounder**.

¹ Department of Health, [Modified Monash Model Fact Sheet](#) (online)

4Rs Legal Assistance Report Card: Federal, state, territory govts & all stakeholders: Aug 24

Regional, rural, remote and very remote (4Rs) Legal Assistance Report Card: Guide and assessment tool for jurisdictions and stakeholders		CTH	ACT NSW NT QLD SA TAS VIC WA
1.	<p>National 4Rs Access to Justice Strategy & Action Plan endorsed by all jurisdictions and stakeholders?</p> <ul style="list-style-type: none"> • Principles in the Strategy include: <ul style="list-style-type: none"> ○ Commitment to full access to legal assistance & wraparound support across 4Rs Aust. ○ Closing the Gap priorities, community-based, place-based legal assistance in 4Rs ○ Processes for accountability to 4Rs access to legal assistance stakeholders 	No, no Strategy.	
2.	<p>Govt. grant funding to ATSILS, FVPLS, ACCO CLCs & CLCs is adequate in and for 4Rs areas?</p> <ul style="list-style-type: none"> • ‘Same job same pay’ as LACs achieved for ATSILS, FVPLS, ACCO CLCs & CLCs in & for 4Rs? • Funding levels enable these sectors to effectively and sustainably: <ul style="list-style-type: none"> ○ Cover their 4Rs service areas, including any newly added, without turn away? ○ In total, eliminate geographic gaps in access to legal assistance services? 	No	
3.	<p>National 4Rs Legal Workforce Plan endorsed by all jurisdictions & stakeholders?</p> <ul style="list-style-type: none"> • Paralleled by identifiable 4Rs plan in each jurisdiction including ACT? • Plans address all issues including pipeline supports e.g. law schools & legal education? • Success of workforce efforts reflected in: <ul style="list-style-type: none"> ○ Full and responsive staffing of all 4Rs legal assistance roles in all legal assistance sectors? ○ Workforce supply overcome as a barrier to legal assistance and wraparound in 4Rs areas? 	No plan & success indicators not achieved.	
4.	<p>Advocacy & research capacity for 4Rs legal assistance & justice issues in place?</p> <ul style="list-style-type: none"> • Peaks, networks & groups within sectors funded and facilitated for 4Rs inclusion? • Research, monitoring, reporting & project capacity responds to 4Rs legal needs? 	No to both points	
5.	<p>Barriers to full access by people and communities in 4Rs areas to timely legal assistance & wraparound, responsive to their needs, have been overcome?</p>	No	

About this Backgrounder

This is the **Backgrounder** to the National Regional, Rural, Remote and Very Remote Community Legal Network ('4Rs Network') **4Rs Legal Assistance Report Card** (above) which is a one page, 5-point guide for the federal, state and territory governments and all stakeholders to achieve full access to effective legal assistance in 4Rs areas across Australia advancing justice, rights, wellbeing and inclusion.

The Report Card distils directions and how to gauge *are we there yet?*

The **Backgrounder** outlines the reasons for the priorities in the Report Card. The Backgrounder particularly focuses on:

- Advancing analysis by the Commonwealth, States and Territories and all stakeholders, in relation to 4Rs areas and priority groups impacted.
- Addressing the practical operational needs of all community-based legal services in 4Rs areas.
- A new paradigm of drive and accountability for 4Rs access to justice inclusion.

The Backgrounder highlights directions following the Independent Review of the National Legal Assistance Partnership Agreement ('Review Report')² in light of the submission to the Review by the 4Rs Network and many others relating to 4Rs areas. Many submissions by national, statewide, sector, regional and local stakeholders highlighted the importance of substantially and quickly increasing access to legal assistance in 4Rs areas.

Closing the Gap and geographic inclusion are major themes of the Review Report which are also reflected in State and Territory Legal Assistance Strategies and Action Plans.³

The 4Rs Network submission to the Review, and many other submissions relating to 4Rs areas, strongly urged increased funding realistic to community needs, service delivery costs and sustainability and geographic coverage.

The Review accepted that there are often higher operating costs in 4Rs areas due to local conditions and logistics.⁴ The Review found that recruitment and retention are impeding services in 4Rs areas, and that this is linked with salaries and conditions, which must be

² Attorney-General The Hon Mark Dreyfus KC, MP, '[Independent Review of the National Legal Assistance Partnership](#)' (Media Release, 28 May 2024); Warren Mundy, [Independent Review of the National Legal Assistance Partnership 2020-2025 – Final Report](#), March 2024 (**'NLAP Review Report'**).

³ NSW Government, [New South Wales Legal Assistance Strategy and Action Plan 2022–2025](#) 30 Sept 2022; Queensland Government, [Queensland Legal Assistance Strategy 2020-2025](#) 28 June 2022, and [Action Plan](#); Government of Western Australia, [Western Australia Legal Assistance Strategy 2022-25](#) and [Action Plan](#); South Australia Government, [South Australia Legal Assistance Strategy and Action Plan 2022-25](#); Victorian Government, [Victorian Legal Assistance Strategy 2022-25](#) and [Action Plan 2022-25](#); Tasmanian Government, [Tasmanian Legal Assistance Strategy 2022- 25](#) and [Action Plan 2022-23](#); and the ACT Government, [ACT Legal Assistance Sector Strategy 2023-2025](#) and [Action Plan 2023-2025](#).

⁴ For example, reflected in the NLAP Review Report at pp.134-136 and 174.

increased across community-based legal assistance sectors (ATSILS, FVPLS and CLCs) to be on par with Legal Aid Commissions.⁵ This, and recommendations in the report regarding geographic coverage, would achieve major progress in the 4Rs access to justice landscape.

While the general directions of the Review Report are supported, there are issues of principle, approach and detail for increased effectiveness in support of justice, rights and inclusion in 4Rs areas. These are encapsulated in the **4Rs Legal Assistance Report Card** and highlighted in this **Backgrounder**.

Goodwill, good process and striving by Governments and by all stakeholders at this critical juncture has high prospects of positively resetting the course of access to justice in Australia. This includes achieving inclusion of priority groups in 4Rs areas. Geographic inclusion relating to 4Rs areas appears, for the first time, to be centrally included in the policy vision.

It is crucially important to achieve progress quickly. The dramatic inadequacy of funding to levels of disadvantage and needs in 4Rs areas and funding uncertainty, are placing many legal assistance services under extreme duress.

After the Glossary and Tools below, the Backgrounder consists of four sections:

- I. NLAP Review Report compared to the 4Rs Network submission** – highlights key areas for further development and action and summarises the 4Rs response to the NLAP Review Report, including to the 39 numbered recommendations.
- II. Principles in the NLAP Report and 4Rs inclusion** – responds to the principles in the NLAP Report and outlines improvements for 4Rs inclusion.
- III. Synthesis of the 4 key 4Rs issues** – distils 4Rs directions into 4 key points.
- IV. Response to NLAP Review Report recommendations** – responds to the 39 recommendations in [Attachment 1](#).

Glossary

ACCO	Aboriginal Community Controlled Organisation
ACCO CLC / ACCO Women’s Legal Service	There are currently two ACCO CLCs, being Aboriginal Community Controlled Organisations which are CLC and are not ATSILS or FVPLS. The two ACCO CLCs are the First Nations Women’s Legal Service Queensland and Wurringa Baiya Aboriginal Women’s Legal Centre.

⁵ NLAP Review Report iv-v; Ch. 8 Same Job, same Pay, 147-175 (discussion), Rec. 25 ‘Remuneration of Community Legal Assistance Workers’, and Rec. 17 ‘Rebasing community legal service providers’.

ACCO legal assistance service	ACCO legal assistance services are ATSILS, FVPLS, First Nations Women’s Legal Service Queensland, Wirringa Baiya Aboriginal Women’s Legal Centre and any other ACCOs providing legal assistance services.
ACNC	Australian Charities and Not-for-Profits Commission
ALAF	Australian Legal Assistance Forum consists of representatives of the national peaks of each of the legal assistance sectors (LACs, ATSILS, FVPLS and CLCs) and the Law Council of Australia.
ATSILS	Aboriginal and Torres Strait islander Legal Services
CLC	Community Legal Centre
CLCA	Community Legal Centres Australia
Community-based legal assistance services	Means ATSILS, FVPLS and CLCs unless the context indicates otherwise. These are non-profit incorporated services.
4Rs Network	National Network of Regional, Rural, Remote and Very Remote Community Legal Services.
FNAAFV / NFVPLSF	First Nations Advocates Against Family Violence (from 1 July 24, formerly National Family Violence Prevention Legal Services Forum (‘NFVPLSF’).
FVPLS	Family Violence Prevention Legal Services.
LACs	Legal Aid Commission/s. LACs are statutory entities.
Legal assistance providers	Unless otherwise indicated means ATSILS, FVPLS, CLCs and LACs.
NATSILS	National Aboriginal and Torres Strait Islander Legal Services
Review Report / or NLAP Review Report	Final Report of the Independent Review of the National Legal Assistance Partnership ⁶ released by Attorney-General Dreyfus on 28 May 2024. ⁷

Tools

The tools show the NLAP Review Report recommendations / implementation categories.

⁶ Dr Warren Mundy, [Independent Review of the National Legal Assistance Partnership 2020-2025 – Final Report](#), March 2024.

⁷ Attorney-General The Hon Mark Dreyfus KC, MP, [‘Independent Review of the National Legal Assistance Partnership’](#) (Media Release, 28 May 2024).

NLAP Review Report chapters and recs.

Table 1: NLAP Review Report chapters and recommendations

NLAP Review Report	Rec.	
Ch 1: Introduction		
Ch 2: National Legal Assistance Partnership		
Ch 3 Legal Assistance Landscape		
Ch 4: Legal Need	1	Legal needs survey
	2	Addressing unmet geographic need
	3	Complete FVPLS coverage
	4	Legal Assist Impact Ass for admin law
	5	Civil law
	6	Disaster legal assistance
	7	Women's peak funding
	8	Priority groups
Ch 5: Closing the Gap	9	A2JP must address Closing the Gap (CtG) Priority Reforms
	10	All legal assistance provided by ACCOs to be funded through A2JP
	11	Self-determination review
	12	Self-determination review
	13	Self-determination in new services
Ch 6: Funding facts		
Ch 7: Funding models	14	NLAP funding model to be abandoned
	15	Reduction in fragmentation
	16	Cease competitive tendering
	17	Rebasing community service providers
	18	Rates of grants of legal aid
	19	Independent Children's Lawyers
	20	Step (rec. 20) (other than as it applies to rec 2,3,4, 5)
	21	Indexation
	22	Legal Assistance Impact Assessment
Ch 8: Same job, same pay	23	Portability of entitlements
	24	Workforce strategy
	25	Remuneration of community sector workers
	26	HECS-HELP Forgiveness Scheme
Ch 9: Delivering legal assistance	27	Use of baseline funding
	28	Advocacy and law reform
	29	Justice Tech. Innovation Fund Board
Ch 10: Administration and costs sharing	30	Term of AJP2
	31	Better reporting
	32	Improved Commonwealth involvement
	33	LACs not to administer funding
	34	Commonwealth money for Cth matters
	35	Sharing the funding task
Ch 11: Outcomes and data	36	Administrative responsibility
	37	Outcomes Framework
	38	Performance indicators
Ch 12: Implementation	39	Temporary indexation

NLAP Review Report recs. and implementation categories

1. This section summarises the implementation categories in the NLAP Report contained in Chapter 12 – Implementation, relating to:

... implementation considerations for actioning the suite of recommendations provided by the Review, and considers which priorities require dedicated effort.’⁸

The Reviewer noted that:

‘Some recommendations necessarily inform the implementation and cost of others’⁹

‘market and physical constraints necessarily mean service providers may need several years to fully deploy additional funding made available to them, especially those which involve recruiting new staff and upgrading premises and IT systems. Others, such as work on a legal needs survey and Justice Technology Innovation Fund, are largely independent and can be implemented as government resources permit.’¹⁰

‘There are priorities for proposed reforms that can be expected to improve safety outcomes for women and children, reduce incarceration rates of Aboriginal and Torres Strait Islander peoples, and help people experiencing challenges with cost of living in areas like tenancy, social welfare payments, workplace rights and consumer credit.’¹¹

2. The Reviewer divided the recommendations into the three categories:
 - Urgent – those which need to be implemented largely in full by 30 June 2025
 - Architecture – those relating to governance and the documentation of A2JP, or which support its long-term development
 - Phased – these largely relate to expenditure that involves recruiting workers and capital investment, and those it will take time to assess need and cost.¹²
3. The tables below, show the recommendations outlined in Ch.12 against the Reviewer’s three categories. The Reviewer included Rec 11 – Self-determination review, in the urgent and architecture categories (shown accordingly). Some adjustments are indicated in the footnotes.

⁸ NLAP Review Report, p. 230.

⁹ NLAP Review Report, p. 230.

¹⁰ NLAP Review Report, p. 230.

¹¹ NLAP Review Report, p. 231.

¹² Ibid.

Table 2: NLAP Review Report breakdown of recommendations into three categories ordered by category and (next page) by recommendation

Urgent – those which need to be implemented largely in full by 30 June 2025	11	Self-determination review	Phased – these largely relate to expenditure that involves recruiting workers and capital investment, and those it will take time to assess need and cost. ¹³	2	Addressing unmet geographic need
	13	Aboriginal interpreters		3	Complete FVPLS coverage
	17	Rebasing community service providers (partial for ATSILS & FVPLS)		4	Legal Assistance Impact Assessment for admin law ¹⁴
	18	Rates of grants of legal aid		5	Civil law
	19	Independent Children’s Lawyers		17	Rebasing: Focus first on ATSILS and FVPLS; CLCs funded solely by Cth complete by 30/3/26 for funding inclusion in 26-27 but by 25-26 preferable; Cth/State funded CLCs & LACs: should complete by 30/3/27 for funding inclusion in 27-28 (new NLAP 3 rd yr) ¹⁵
	24	Workforce strategy			
	25	Remuneration of community sector workers			
Architecture – those relating to governance and the documentation of A2JP, or which support its long-term development	1	Legal needs survey			
	7	Women’s peak funding			
	8	Priority client groups			
	9	A2JP must address Closing the Gap (CtG) Priority Reforms			
	10	All legal assistance provided by ACCOs to be funded through A2JP			
	11	Self-determination in existing services			
	12	Self-determination in new services			
	14	NLAP funding model to be abandoned			
	15	Reduction in fragmentation			
	16	Cease competitive tendering			
	18	Grants restructuring review			
	20	Step (rec. 20) (other than as it applies to rec 2,3,4, 5)			
	21	Indexation			
	22	Legal Assistance Impact Assessment			
	27	Use of baseline funding			
	28	Advocacy and law reform			
	29	Justice Technology Innovation Fund Board			
	31	Better reporting			
	32	Improved Commonwealth involvement			
	34	Commonwealth money for Commonwealth matters			
	35	Sharing the funding task			
	35	Administrative responsibility			
	36	Outcomes Framework			
37	Performance indicators				
38 ¹⁶	Data systems				

¹³ NLAP Review Report, p. 231.

¹⁴ Listed in Rec. 20 as ‘Step’, not included in the NLAP breakdown of categories at pp.231-253 but added in here for completeness.

¹⁵ NLAP Review Report, pp. 234-5.

¹⁶ Listed as Rec. 39 on the list of priorities in the NLAP Review Report, but it is Rec. 38.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

Ordered by recommendation			Ordered by Category		
Rec.	Category	Recommendation	Rec.	Category	Recommendation
1	Architecture	Legal needs survey	6	Urgent?	Disaster legal assistance
2	Phased	Addressing unmet geographic need	11	Urgent	Self-determination review
3	Phased	Complete FVPLS coverage	13	Urgent	Aboriginal interpreters
4	Phased	Legal Assist Impact Ass for admin law	17	Urgent	Rebasing community service providers (partial for ATSILS & FVPLS)
5	Phased	Civil law	18	Urgent	Rates of grants of legal aid
6	Urgent?	Disaster legal assistance ¹⁷	19	Urgent	Independent Children's Lawyers
6	Phased ?	Disaster legal assistance ¹⁸	23	Urgent	Portability of entitlements
7	Architecture	Women's peak funding ¹⁹	24	Urgent	Workforce Strategy
8	Architecture	Priority client groups	25	Urgent	Remun. of community sector workers
9	Architecture?	A2JP must address CtG Priority Reforms ²⁰	39	Urgent	Temporary indexation 2024-5
10	Architecture	All legal assistance provided by ACCOs to be funded through A2JP	1	Architecture	Legal needs survey
11	Urgent	Self-determination review	7	Architecture	Women's peak funding
11	Architecture	Self-determination review	8	Architecture	Priority client groups
12	Architecture	Self-determination in new services	9	Architecture?	A2JP must address CtG Priority Reforms
13	Urgent	Aboriginal interpreters	10	Architecture	All legal assistance provided by ACCOs to be funded through A2JP
14	Architecture	NLAP funding model to be abandoned	11	Architecture	Self-determination review
15	Architecture	Reduction in fragmentation	12	Architecture	Self-determination in new services
16	Architecture	Cease competitive tendering	14	Architecture	NLAP funding model to be abandoned
17	Urgent	Rebasing community service providers (partial for ATSILS & FVPLS)	15	Architecture	Reduction in fragmentation
17	Phased (?)	Rebasing community service providers ²¹	16	Architecture	Cease competitive tendering
18	Urgent	Rates of grants of legal aid	20	Architecture	Step (rec. 20) (other than as it applies to rec 2,3,4, 5)
19	Urgent	Independent Children's Lawyers	21	Architecture	Indexation
20	Architecture	Step (rec. 20) (other than as it applies to rec 2,3,4, 5)	22	Architecture	Legal Assistance Impact Assessment
21	Architecture	Indexation	27	Architecture	Use of baseline funding
22	Architecture	Legal Assistance Impact Assessment	28	Architecture	Advocacy and law reform
23	Urgent ²²	Portability of entitlements	29	Architecture	Justice Tech. Innovation Fund Board
24	Urgent	Workforce strategy	30	Architecture	Term of AJP2
25	Urgent	Remuneration of community sector workers	31	Architecture	Better reporting
26	Phased (?)	Rec 26 – HECS-HELP Forgiveness Scheme ²³	32	Architecture	Improved Commonwealth involvement
27	Architecture	Use of baseline funding	33	Architecture	LACs not to administer funding
28	Architecture	Advocacy and law reform	34	Architecture	Commonwealth money for Cth matters
29	Architecture	Justice Tech. Innovation Fund Board	35	Architecture	Sharing the funding task
30	Architecture	Term of AJP2 ²⁴	36	Architecture	Administrative responsibility
31	Architecture	Better reporting	37	Architecture	Outcomes Framework
32	Architecture	Improved Commonwealth involvement	38	Architecture	Performance indicators
33	Architecture	LACs not to administer funding ²⁵	2	Phased	Addressing unmet geographic need
34	Architecture	Commonwealth money for Cth matters	3	Phased	Complete FVPLS coverage
35	Architecture	Sharing the funding task	4	Phased	Legal Ass Impact Ass for admin law
36	Architecture	Administrative responsibility	5	Phased	Civil law
37	Architecture	Outcomes Framework	6	Phased (?)	Disaster legal assistance
38	Architecture	Performance indicators	17	Phased (?)	Rebasing community service providers
39	Urgent ²⁶	Temporary indexation 2024-5	26	Phased (?)	Rec 26 – HECS-HELP Forgiveness Sch
39	Phased ²⁷	Temp. indexation till Rebasing completed	39	Phased	Temp indexation till Rebasing complete

¹⁷ Not categorised in NLAP Review Report, listed here as 'urgent' as some funding finishing in 2023/4.

¹⁸ Ibid and as rebasing disaster legal assistance included in Rec. 20 included here also as 'phased'

¹⁹ Listed as Step in Rec. 20 of the NLAP Review Report.

²⁰ Not included in list of categories in the NLAP Review Report, included here as 'Architecture'

²¹ Ibid.

²² Not included in NLAP Report categories, included here as 'Urgent' as in Rec 24 which is listed 'urgent'.

²³ Not included in NLAP Report categories, from Rec. 26 listed here as 'Phased'.

²⁴ Not included in NLAP Report categories, included here as 'Architecture'

²⁵ Ibid.

²⁶ Included here as 'urgent' because Rec. 39 recommended funding provision for 2024-5.

²⁷ Included here as 'phased' as Rec 39 is for higher indexation in 2025-6 until rebasing is completed.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

I NLAP Review Report compared to 4Rs submission

The current National Legal Partnership Agreement ('NLAP') which is due to expire on 30 June 2025, is:

“... a \$2.4 billion agreement between the Commonwealth and state and territory governments to fund vital legal assistance services for the most vulnerable people in Australia.”²⁸

The Report of the Independent Review of NLAP ('the NLAP Review Report')²⁹ was released by the Attorney-General on 28 May 2024.³⁰

The 4Rs Network submission to the NLAP Review recommended ways forward to address critical lacks in access to legal assistance and resulting effects in regional, rural, remote and very remote ('4Rs') areas.³¹

This section compares the NLAP Review Report with the 4Rs submission to the Review,³² indicating opportunities for Governments and stakeholders to:

- implement the many positive findings and recommendations of the Review, and
- address a range of issues more fully,

The following snapshot compares the findings and recommendations of the NLAP Review Report with the summary sections of the 4Rs submission, namely:

- Key challenges table (I.I below), and
- Recommendations (I.II below).

I.I NLAP Review Report compared to 4Rs key challenges table

The 4Rs submission to the NLAP Review included a short table summarising the key challenges to be overcome, which were also developed in the submission.³³ The table below, repeats this table in the two left hand columns, while the two right hand columns summarise responses to the NLAP Review against those criteria.

²⁸ Attorney-General The Hon Mark Dreyfus KC, MP, '[Independent Review of the National Legal Assistance Partnership – consultation open](#)', (Media Release, 18 August 2023).

²⁹ Dr Warren Mundy, '[Independent Review of the National Legal Assistance Partnership 2020-2025 – Final Report](#)', March 2024.

³⁰ Attorney-General The Hon Mark Dreyfus KC, MP, '[Independent Reivew of the National Legal Assistance Partnership](#)' (Media Release, 28 May 2024)

³¹ 4Rs Network, '[Submission to the NLAP review, 27 Oct 2023](#).'

³² Ibid, 22-23.

³³ Ibid.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

Table 3: 4Rs Network response to the NLAP Review Report

4Rs Network submission to the NLAP Review		<i>4Rs Network response to the NLAP Review Report</i>	
Challenges for NLAP	To overcome the following:	<i>Comments on NLAP Review Report</i>	<i>Next steps by Govts and stakeholders</i>
Planning and direction for the 4Rs	<ul style="list-style-type: none"> • No national 4Rs Access to Justice Strategy. • No articulated 4Rs vision, concepts, structures, or coordination. • No identifiable 4Rs representative or implementation arrangements. 	Not addressed.	Address.
Funding and resources for the 4Rs	<ul style="list-style-type: none"> • No 4Rs legal assistance community needs-based funding model. • No accountability for the adequacy of funding in the 4Rs or the effects of underfunding, including cost-shifting. 	Potentially on track to achieving the first. Second also but processes for accountability unclear.	Confirm first to be achieved. Address the second for the next NLAP.
Legal workforce for the 4Rs	<ul style="list-style-type: none"> • Dramatically insufficient salaries and conditions for 4Rs legal assistance workforce (lawyers and non-lawyers). • No national legal workforce plan and no 4Rs legal workforce plan • Insufficient emphasis on paralegal, non-legal advocacy, and support across 4Rs communities. • Absence of programs and financial incentives to help address 4Rs legal workforce needs. 	Substantial focus on salaries and conditions including 4Rs applauded. Recommended national legal workforce plan, but not 4Rs legal workforce plan. Insufficient emphasis on tailoring and innovation in 4Rs (dot point 3). HECS forgiveness Rec. welcome but highly insufficient.	Implement salary and conditions parity with LACs for ATSILS, FVPLS and CLCs simultaneously & immediately. Address: - national 4Rs legal workforce plan & sector plans re 4Rs. - emphasis on 4Rs tailoring and innovation. - range of programs and financial incentives for 4Rs legal workforce needs and develop an attuned / responsive HECS forgiveness scheme.
Accountability to groups and communities in the 4Rs	<ul style="list-style-type: none"> • No 4Rs legal assistance targets or intended impact model. • No monitoring and reporting on 4Rs legal assistance, access to justice or intended outcomes. • No adequate accountability under NLAP to 4Rs communities (horizontal accountability), and over- 	Not addressed but could be built into the recs. made about resetting objectives and measures.	Address.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

	reliance on vertical accountability to funders.		
Cross-cutting themes relating to the 4Rs	<ul style="list-style-type: none"> No principles for access to legal assistance in the 4Rs. No adequate measures to address metro-normativity in legal education and training for admission to legal practice resulting in insufficient focus on 4Rs law, justice, and legal workforce issues in law school curriculum. No measures to facilitate law student legal practitioner and law student pro bono resulting in this being highly skewed to the metro and inequitable for 4Rs communities. 	Not addressed although good <i>visibility</i> of 4Rs and geographic inclusion in the Review Report.	Address all three dot points.

I.II NLAP Review Report compared to 4Rs recommendations

The following compares the 10 numbered recommendations in the 4Rs submission to the NLAP Review (left hand columns) with the treatment and recommendations in the NLAP Review Report (two right hand columns).

Table 4: 4Rs recommendations compared to NLAP Report

4Rs NLAP Review submission recommendations		Comments on NLAP Review Report	Next steps by Govts and stakeholders
1	4Rs Network Pre-budget submission should be implemented That the recommendations by the 4Rs Network, in its January 2023 federal pre-budget submission, be implemented. That is:		
	<ul style="list-style-type: none"> Establish a National 4Rs Access to Justice Strategy and Action Plan. 	Not addressed.	Address.
	<ul style="list-style-type: none"> Increase federal portfolio capacity to respond to 4Rs legal needs – to include all relevant portfolios to overcome the narrow and insufficient focus on the Attorney-General's portfolio. 	Not addressed. Rec 22 Legal Assistance Impact Assessment important but insufficient.	Address.
	<ul style="list-style-type: none"> Immediate injection of funds for 4Rs community-based legal services for 4Rs place-based approaches, addressing priority unmet community legal needs via models to increase wellbeing across multiple areas in people's lives. 	Strong emphasis on large funding injection but insufficiently responsive with timing for 4Rs (crisis) and lifting ATSILS, FVPLS	Address.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

		and CLCs at the same time. Insufficient focus on 4Rs place-based approaches and other points in the 4Rs rec.	
	<ul style="list-style-type: none"> Allocate federal funding for 4Rs community legal services to be assisted to collaborate and develop as a sector. 	Not addressed.	Address.
	<ul style="list-style-type: none"> Allocate federal funding for the 4Rs Network to hold a national gathering of 4Rs community-based legal services and initiatives to deliberate current issues, themes, directions and solutions. 	Not addressed.	Address.
2	<p>NLAP’s unresponsiveness to 4Rs legal needs to be overcome</p> <p>The unresponsiveness of NLAP to 4Rs legal needs must be addressed, and forms of bias which have subordinated legal needs in the 4Rs must cease. This should also be reflected in a major, corrective, funding injection to address unmet needs for access to legal assistance in the 4Rs.</p>	Hard to say. 4Rs visible in discussion, appears included. But no principles expressed. Bias against / subordination of, 4Rs is not addressed.	Address.
3	<p>Principles in Support of 4Rs Legal Assistance are needed</p> <p>NLAP should facilitate development of Principles in Support of 4Rs Legal Assistance and once finalised, these principles should be incorporated in relevant way in stakeholder practices.</p>	Not addressed.	Address.
4	<p>Standards for access to legal assistance in the 4Rs are needed</p> <p>NLAP should ensure that standards for access by 4Rs communities to legal assistance are established and implemented and reporting against standards and indicators include report-back and direct engagement with 4Rs groups and communities.</p>	Not addressed.	Address.
5	<p>Standards to address factors upstream from the 4Rs are needed</p> <p>NLAP should implement standards which address upstream factors relating to access to legal assistance in the 4Rs, in particular:</p> <ul style="list-style-type: none"> sufficient funding to ensure equitable salaries, not less than Legal Aid Commission levels, for community legal workers salary levels in 4Rs 	Substantial focus on salaries and conditions including 4Rs welcomed.	Implement for ATSILS, FVPLS & CLCs at same time, & asap.
	<ul style="list-style-type: none"> initiatives in support of recruitment and retention of the remote 4Rs legal workforce equivalent to those relating to the rural and remote health workforce 	HECS rec welcome but too limited & other supports not addressed.	Address.
	<ul style="list-style-type: none"> initiatives to increase the treatment and inclusion of 4Rs justice issues and career options in law curriculum including 	Not addressed.	Address.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

	financial support for law students to undertake clinical and other placement programs in 4Rs areas, and including a domestic equivalent to the New Colombo Plan in law focused on the 4Rs		
	<ul style="list-style-type: none"> Initiatives to facilitate 4Rs pro bono. 	Not addressed.	Address.
6	<p>NLAP theory of change should reflect positive inclusion of the 4Rs</p> <p>NLAP should reflect a coherent, meaningful, and integrated theory of change and results framework. This should include the objective of reducing disadvantage. Measures should support dialogue about progress in 4Rs and metro areas, including accountability to groups and communities in the 4Rs.</p>	Progress with NLAP rec for new Outcomes Framework (Rec.36)	Fully integrate 4Rs per 4Rs rec. 6.
7	<p>Indicators, baselines, and data sharing for the 4Rs</p> <p>The new NLAP should place transparency and accountability at the centre to achieve a striving approach to access to legal assistance and the intended impacts like Closing the Gap and include:</p> <ul style="list-style-type: none"> indicators and targets to help respond to unmet legal needs in the 4Rs baselines and additional data collection including qualitative data sufficient capacity for effective and ongoing 4Rs access to justice research, and an effective range of justice, social justice and wellbeing indicators relating to the 4Rs. 	Can be built from recs. although not addressed.	Address.
			Address.
			Address.
			Address.
8	<p>NLAP reconceptualised to promote ‘buy-in’ and leveraging</p> <p>NLAP should be reconceptualised to promote ‘buy-in’ and leveraging by the full range of policy and program areas and enable inclusion of peaks representing disadvantaged groups and mechanisms for inclusion of lived experience. This will help address the current problems of NLAP being distanced from, and insufficiently accountable to the 4Rs.</p>	Not addressed.	Address
9	<p>Foreground geography, place, and accountability to the 4Rs</p> <p>The geographic dimensions of access to justice in Australia should be fully visible in the NLAP and NLAP should promote contextually responsive, place-aware service availability. NLAP should reflect and apply principles of accountability to groups and communities in the 4Rs. This should be carried out in the operation of the NLAP and monitoring and evaluation of the NLAP.</p>	Geographic inclusion was a strong theme, but rest not, although recs in the Review can be built on.	Address.
10	<p>Implement Needs based funding</p> <p>The current historical-distribution funding model should be replaced with a needs-based funding model, which is the most fundamental and critical improvement required for adequate access to legal assistance, and intended positive outcomes, in the 4Rs.</p>	Unsuitability of the current model a core Review finding. Replacement as outlined appears to be agreed by	Needs-based funding model for required service area insufficiently clear

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

		the Review (esp. Rec 14 & 17).	especially for 4Rs areas. ³⁴
	Funding for 4Rs legal assistance should immediately be doubled due to the nature and extent of gaps in availability of legal assistance.	Not addressed directly recs are however in this direction.	Implement doubling.
	In relation to the 4Rs costings for needs-based funding should be based on locally costed service delivery plans which reflect the estimated actual costs of service provision.	Appears to be supported.	Implement in rebasing phase.
	Overheads in the 4Rs such as travel and related costs for service provision in 4Rs areas should be funded without this impinging on service provision.	NLAP Report Rec 17 appears to reflect i.e. rebasing based on actual costs. Further Rec 2 refers to 'agreed costs' to be included in 'step' funding.	Full funding for 4Rs service provision should occur as a high priority during rebasing to reduce delay and needlessly deferring to the 'step' phase.
	Needs-based funding should also be implemented for 4Rs disaster resilience legal assistance, to include baseline and surge funding and funding for research for 4Rs disaster legal research and 4Rs legal capacity building local, regionally and nationally.	Funding is addressed by NLAP Report Rec 6 but remains to be seen if this will achieve 'needs-based'.	Address needs-based aspect.

³⁴ The first part of Rec 17 reads: 'Rec 17. Rebasing community service providers The Reviewer recommends that the levels of funding for each community sector provider be reset to reflect the true costs of operating sustainable organisations.'. However, coverage by services of their service regions is not sufficiently expressed. For example, Cape York which is part of the service regions of: Queensland Aboriginal and Torres Strait Islander Legal Service, Queensland Indigenous Family Violence Legal Service, First Nations Women's Legal Service Qld, North Queensland Women's Legal Service, Cairns Community Legal Service, statewide community-based legal services including Basic Rights Queensland and national community-based legal services including ArtsLaw, Knowmore and Youth Law Australia.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

I.III Summary of 4Rs Network response to NLAP numbered recommendations

This table summarises the response to the 39 NLAP Review Report recommendations (full response by Rec. number is at [Attachment 1.](#))

Chapter, Rec. number and name		Summary of 4Rs Network response
		<p>Re all NLAP Report recs. should properly reflect and respond to legal assistance needs and costs of service provision in 4Rs areas and ensure mechanisms for accountability to and inclusion of 4Rs areas.</p> <ul style="list-style-type: none"> • National 4Rs Access to Justice Strategy and Action Plan needed • National 4Rs Legal Workforce Plan needed. • Accountability to 4Rs areas needed and all NLAP priority groups in 4Rs areas
Ch 1: Introduction		
Ch 2: National Legal Assistance Partnership		
Ch 3 Legal Assistance Landscape		
Ch 4: Legal Need		
1	Legal needs survey	<ul style="list-style-type: none"> • Supported. Should approach concept of legal needs holistically, be First Nations proficient/suitable and 4Rs proficient / suitable
2	Addressing unmet geographic need	<ul style="list-style-type: none"> • Support base, step, trend & pass-through concept but rebasing is urgent and should be completed before the start of the next NLAP. • Unmet legal needs relating to geographic areas, should be addressed in time for the start of the next NLAP with proper funding for service area coverage. • Principles should be established for addressing service gaps in 4Rs areas. These should implement Closing the Gap priorities and reflect all priority groups. The principles should emphasise 4Rs client and community empowerment, accountability to 4Rs communities, valuing community-based sector attributes (ATSILS, FVPLS and CLCs), full geographic coverage, sustainability and effectiveness, and principled processes for ‘new’ services. • Rejects preferencing LACs over CLCs re addressing geographic gaps as a matter of policy or practice.
3	Complete FVPLS coverage	<ul style="list-style-type: none"> • Supported which requires increasing funding to enable FVPLS to fully service their existing service areas and address all geographic gaps in access to FVPLS services. • Supports scaling up funding for FNAAFV as the sector peak reflecting increased demands as the FVPLS program expands.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

		<ul style="list-style-type: none"> The reference in Rec. 3 to ‘potentially the conversion of some existing ACCOs into FVPLS’ does not reflect input from the services concerned. Self-determination of these and all ACCO legal services should be respected and fully supported.
4	Legal Assist Impact Assessment for administrative law	<ul style="list-style-type: none"> Supported but this should not delay urgent funding for unmet legal needs in federal areas of law e.g. social security and NDIS, including in 4Rs areas (funding for ACCO legal services and CLCs particularly) and migration and veterans including 4Rs areas (CLC’s particularly)
5	Civil law	<ul style="list-style-type: none"> Support substantially increased access to civil law legal assistance services applying Closing the Gap priorities and addressing civil law legal needs in 4Rs areas. The latter applying a principled approach which commits to community-based and place-based legal assistance in 4Rs areas provided by ACCOs and CLCs. Support increased access to civil law grants of aid, especially in 4Rs areas, but private lawyer locations are a limiting factor, plus issues with the grant of aid model in light of Closing the Gap, needs of clients with complex needs, and value for money. Supports review of the grant of aid model. Also see response to Rec. 18.
6	Disaster legal assistance	<ul style="list-style-type: none"> Supported should also align with Closing the Gap Funding for disaster legal assistance should be addressed during rebasing before start of the next NLAP.
7	Women’s peak funding	<ul style="list-style-type: none"> Supported including sufficient funding for work by the peak in relation to 4Rs areas. Support for rebasing women’s legal services and ACCO Women’s Legal Services reflecting service costs, unmet needs and service areas. Support for funding for the Aboriginal Women’s Network or similar. That the proposal to establish women’s legal assistance forums is best responded to by the peaks concerned.
8	Priority client groups	<ul style="list-style-type: none"> Supported but the priority regarding ‘rural and remote’ should be <i>regional, rural, remote and very remote</i>.
Ch 5: Closing the Gap		
9	A2JP must address Closing the Gap Priority Reforms	<ul style="list-style-type: none"> Supported – and the general principle that funding for legal assistance must be sufficient to help achieve all Closing the Gap targets is strongly supported. We note that this includes all geographic areas of Australia including 4Rs and

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

		Northern Australia.
10	All Commonwealth legal assistance provided by ACCOs to be funded through A2JP	<ul style="list-style-type: none"> For ACCOs to respond
11	Self-determination in existing services	<ul style="list-style-type: none"> Consistent with Closing the Gap priority reforms ATSILS, FVPLS and ACCO CLCs must be fully funded for geographic coverage, the range of services and supports to be provided, and related objectives. Governments should rebase funding to ATSILS, FVPLS and ACCO CLCs to reflect this, including achieving parity of pay and conditions with Legal Aid Commissions. Priority for funding to be with the relevant ACCO is supported. Advance reasons for locally nuanced responses which also support access by First Nations people to non-ACCO CLCs. First Nations Legal Assistance Funding Principles should be established to facilitate adjustments including local place-based collaborative adjustments which maintain and increase services and avoid instability including increased staffing issues and other risks.
12	Self-determination in new services	<ul style="list-style-type: none"> Supported and urges a nuanced approach to supporting / implementing First Nations self-determination in new services rather than an inflexible, one-size-fits-all-approach e.g timing and arrangements are likely to vary between locations.
13	Aboriginal interpreters	<ul style="list-style-type: none"> Supported and should be framed in terms of the human rights of First Nations people, should apply broadly to all interactions with legal assistance services not only as a client. New funding arrangements should be based on free access for users and to reduce the cost of the funding models.
Ch 6: Funding facts		
Ch 7: Funding models		
14	NLAP funding model to be abandoned	<ul style="list-style-type: none"> Supported current model doesn't work to deliver necessary resources. Effective model needed relating to each legal assistance sector, including ACCOs, CLCs and geographic access to legal assistance.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

15	Reduction in fragmentation	<ul style="list-style-type: none"> Supported but moving funds into baselines should be accompanied by ways of continuing to identify funding amounts for specific programs and activities where needed, to be able to monitor and continue to assess the adequacy of the funding (e.g. funding for social security legal help including in 4Rs areas). Programs should be rebased whether being moved into baselines or not, recurrent and non-recurrent funding should be rebased to reflect actual costs, including in 4Rs areas. ATSILS, FVPLS and CLCs should have the opportunity to participate in all relevant funding programs (including those listed on Table 7.1 in the NLAP Review Report), including these services in 4Rs areas.
16	Reduce competitive tendering for legal assistance	<ul style="list-style-type: none"> Supported and the alternative commissioning arrangements should be properly articulated, with guidelines which address Closing the Gap principles as well as geographic access to assistance in 4Rs areas. Principles should emphasise funding existing community-based legal services in 4Rs areas to enable full servicing of their service areas and expansion to address gaps (e.g. where there is no existing service area contracted for generalist CLC assistance in a 4Rs such as most of the NT).
17	Rebasing community service providers	<ul style="list-style-type: none"> Supported, should occur before start of the next NLAP, fully reflect needs in 4Rs and costs of safe, sustainable service provision across whole service area/s. Comments on many cost factors for inclusion in rebasing of community-based services in 4Rs areas. Support for key programs remaining identifiable. Support for expansion of the Indigenous Women’s Program, True Justice: Deep Listening and Health Justice Partnerships involving community-based legal assistance services in 4Rs areas. Support for funding to community-based legal services to ensure access to legal assistance in all key areas of law in 4Rs areas.
18	Rates of grants of legal aid	<ul style="list-style-type: none"> Supported but urges that questions about suitability of the grant of aid model be addressed. Issues include how the model operates in light of: (i) location of private legal practitioners, (ii) clients with complex needs including First Nations (iii) value for money of the grant of aid model. Outlined need for better alternatives especially in 4Rs areas.
19	Rates of grants for Independent Children’s Lawyers	<ul style="list-style-type: none"> Supported ICL needs-based funding, but with similar questions for 4Rs areas to those for Rec. 18, plus same issues regarding coverage of Child Reprs under State/Territory law. Raised concerns about alignment with Closing the Gap, rights of First Nations children and families. Outlined why

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

		<p>arrangements centering on LACs for ICL and Child Rep appointments should be reviewed.</p> <ul style="list-style-type: none"> Called for data reporting, analysis and accountability re ICL and ICR appointments for effectiveness for First Nations children and geographic effectiveness.
20	Step	<ul style="list-style-type: none"> Support for concept of ‘Step’ but main focus should be on urgent rebasing of all community-based legal assistance sectors before and in time for the next NLAP including in and for 4Rs areas. Response expanded on the list of successful pilots and gaps to be addressed during ‘step’ – especially in 4Rs areas - compared to the list in the NLAP report
21	Indexation	<ul style="list-style-type: none"> Support for responsive indexation for all legal assistance services and indexation arrangements which reflect proper and equitable provision for 4Rs areas.
22	Legal Assistance Impact Assessment (‘LAIA’)	<ul style="list-style-type: none"> Supported but should apply to all government changes which could affect legal assistance needs and differentiate impacts which negatively and positively increase legal needs (e.g. new redress measures). Human rights and substantive equality. Principles and processes for LAIA should include promoting: Closing the Gap; geographic inclusion and non-discrimination against people and groups based on 4Rs location; safety from violence and abuse; gender equality; rights and inclusion of people with disability and all NLAP priority groups; intersectionality, and education and awareness raising.
Ch 8: Same job, same pay		
23	Portability of entitlements	<ul style="list-style-type: none"> Supported development of an entitlements portability scheme relating to legal assistance sectors, including LACs. Highlighted that effects on 4Rs workforce should be modelled, any negative effects should be addressed, and any additional costs to services as employers should receive financial supplementation.
24	Workforce Strategy	<ul style="list-style-type: none"> Establishing a National Legal Workforce Strategy supported but a National 4Rs Access to Justice Strategy and Action Plan are needed. Specific workforce strategies are needed: <ul style="list-style-type: none"> National 4Rs Legal Assistance Workforce Strategy National First Nations Legal Assistance Workforce Strategy

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

		<ul style="list-style-type: none"> ○ workforce strategies addressing requirements for areas of law and for priority client groups ○ plus: <ul style="list-style-type: none"> ▪ State and Territory 4Rs legal assistance workforce strategies and ▪ Northern Australia legal assistance workforce strategy. ● Outlined areas of focus for 4Rs strategies ● Supported funding to ACCO legal sector peaks and ACCO legal services for workforce planning and similarly for CLCA and state and territory CLC peaks. ● Called for 4Rs inclusion and specific focus on development of 4Rs strategies. ● Outlined numerous measures in support of First Nations legal assistance workforce development, Closing the Gap objectives, and structural measures and initiatives to overcome 4Rs legal assistance recruitment and retention issues e.g. all workforce measures in support of the rural health workforce should be paralleled for the 4Rs legal assistance workforce. This includes initiatives relating to legal education, law schools, placements (called for domestic equivalent of the New Colombo Scheme in law focused on 4Rs areas in Australia). Proposed ways to address workforce shortages in areas of law including social security law.
25	Remuneration of community legal assistance workers	<ul style="list-style-type: none"> ● Supported, urgent increase in funding for remuneration of community base legal sectors to LAC levels, especially in 4Rs which are likely the lowest paid compared to LACs. ● The Cth should provide a tool which is reflective of issues and costs in 4Rs areas for services to prepare estimates. ● Funding to equalise remuneration to LACs should be achieved urgently, at the latest in time for the next NLAP due to start on 1 July 2025. ● Commonwealth should share the best estimates of the remuneration disparities, including in 4Rs areas, and estimates of the projected impact of the May 24 federal budget injection of \$27.2 mill. for the pay increase for CLCs, ATSILS and FVPLS including in 4Rs areas.
26	HECS-HELP Forgiveness Scheme	<ul style="list-style-type: none"> ● Supported but fine tuning needed. Should include all community-based legal assistance workers in and for 4Rs, and all HECS-HELP debts, not only law due to 4Rs legal workforce needs. ● Also supports fee-free VET and tertiary qualifications for First Nations people.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

Ch 9: Delivering legal assistance		
27	Use of baseline funding	<ul style="list-style-type: none"> • Support reducing restrictions on use of baseline funding, but funding for particular purposes must remain identifiable when needed (non-repetition of problems when social security legal help funding went into baselines). • Also suggests defining ‘baseline’ to help maximise recurrent funding, reduce administrative burdens, and achieve objectives about funding conditions including the identifiability and adequacy of funding amounts related to certain purposes.
28	Advocacy and law reform	<ul style="list-style-type: none"> • Support commitment to the importance of advocacy and law reform work by all legal assistance sectors. • Highlights adequate funding for advocacy and law reform work by all legal assistance sectors, including ATSILS, FVPLS and CLC sectors and national and state peaks and networks should be in place. • Highlights need for funding support for First Nations Women’s Legal Services and the Aboriginal Women’s Network or similar. • Also highlights need for funding for advocacy and collaboration relating to gaps and other issues in 4Rs areas.
29	Technology funding	<ul style="list-style-type: none"> • Support for funding for technology initiatives, supports additional funding, and principles in support of First Nations leadership on technology issues affecting First Nations people. • Calls for principles related to 4Rs involvement and effectiveness for 4Rs areas.
Ch 10: Administration and cost sharing		
30	Term of A2JP	<ul style="list-style-type: none"> • Longer term supported for service continuity. • Provided the next NLAP reflects the base, step, trend and pass through proposal in the NLAP Review Report, the funding context should be substantially more responsive and realistic with positive adjustments over the period.
31	Better coordination and reporting of legal assistance funding by the Commonwealth	<ul style="list-style-type: none"> • Supports better coordination and reporting by the Commonwealth, proposes further investigation of how to best achieve the outcomes of better grant administration, grant data and reporting, arrangements should align with Closing the Gap priorities and advance access to legal assistance in 4Rs areas. • Raises questions about impact of proposed centralization on portfolio area funding responsibilities and access to program specific expertise in grant administration (e.g. knowledge of 4Rs areas)

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

32	Improved Commonwealth involvement	<ul style="list-style-type: none"> Supported and called for expertise and resources of the Cth, State and Territory processes to fully reflect and support Closing the Gap priorities, and all priorities under NLAP. Latter includes all priority groups, policy and programs in 4Rs areas. The revised arrangements should demonstrate accountability to 4Rs communities and regions, including maximising responsiveness to 4Rs contexts. This reiterates a theme in the 4Rs submission to the NLAP Review that NLAP has not delivered horizontal accountability to 4Rs, it has instead mainly focused on vertical lines between levels of government.
33	LACs not to administer funding	<ul style="list-style-type: none"> Supported. As for response to Rec. 32, the new admin should be effective for all NLAP and legal assistance priorities and objectives including addressing 4Rs legal needs
34	<i>Commonwealth money for Commonwealth matters</i>	<ul style="list-style-type: none"> Supports overcoming negative effects of demarcations by achieving proper funding, including for legal needs in 4Rs. Also see response to Rec. 35.
35	<i>Sharing the funding task</i>	<ul style="list-style-type: none"> Supports principled approach to funding to be reflected in agreements which do not leave gaps. The agreements should specify safety nets and responsibilities to address gaps. This includes 4Rs legal assistance needs.
Ch 11: Outcomes and data		
36	<i>Outcomes framework</i>	<ul style="list-style-type: none"> Supported should be accountable to all priority groups including 4Rs
37	<i>Performance indicators and Data Standards Manual</i>	<ul style="list-style-type: none"> Supported and noted increased data needed re 4Rs
38	<i>Data Systems</i>	<ul style="list-style-type: none"> Supported with special support re 4Rs services and areas where needed.
Ch 12: Implementation		
39	Temporary indexation	<ul style="list-style-type: none"> Supports early rebasing to reduce the need for the temporary indexation proposed in Rec. 39. If temporary indexation is required it should be equitable for community-based legal assistance services in or for 4Rs areas.

II Principles in the NLAP Report and 4Rs inclusion

II.I NLAP Review Report – underpinning principles

The NLAP Report outlined principles underpinning the Review’s recommendations.³⁵

These principles are quoted in the left-hand column of the table below, with the 4Rs Network response to the right.

Table 5: 4Rs Response to principles underpinning the NLAP Report

“The following principles underpin this Review’s recommendations:	4Rs Network response
— Genuine partnership rather than just a service agreement – A2JP should involve collective commitment from both levels of government to support delivery of the overarching objective, and to ensure legal assistance services meet community needs.	As outlined in the 4Rs NLAP Review submission, the partnership should be tripartite with visibility and accountability to NLAP priority groups including First Nations and 4Rs.
— Evidence informed – A2JP must improve the focus on outcomes, and appropriate data capture, to ensure decisions on funding levels, distribution and approach are appropriately targeted to positive community impacts.	Agreed. Must be fully inclusive of 4Rs.
— Sustainable organisations, rather than individual service funding – A2JP’s design should embed a focus on funding sustainable service providers, rather than services, to ensure organisations have the capacity to deliver the outcomes required, now and into the future.	Sustainable organisations reflecting self-determination of ACCOs (ATSILS, FVPLS and ACCO CLCs) the accountabilities of CLCs and the statutory responsibilities of LACs - to maximise access to legal assistance, especially in 4Rs areas - is supported. Achieving and sustaining full coverage of each organisation’s 4Rs service areas is supported.
— Whole of client perspective – A2JP must avoid fragmentation in both funding and service delivery to ensure clients can be supported end-to-end, minimising risks of traumatisation and inefficiencies.	Whole client perspective starts with the availability of assistance required by the client. A2JP must avoid obscuring Cth, State and/or Territory Government responsibility if there are funding shortfalls relating to their areas of responsibility e.g. Cth. responsibility for ensuring resources for access to social security legal assistance. Avoiding fragmentation must not impede identification, monitoring and evaluation of whether funding provided is sufficient e.g. if funding provided to increase access to legal assistance by

³⁵ NLAP Review Report, p. 11.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

	certain priority client groups and/or areas of law is sufficient.
— Collaborative culture – barriers to collaboration, such as competitive tendering, must be removed to ensure the sector leverages the natural strengths in working together to meet the needs of disadvantaged Australians.	Agreed. Principles for collaboration should be developed, to include principles for increasing access to legal assistance in 4Rs areas. The latter include the importance of locally embedded, accountable and accessible community-based legal assistance services.
— Efficiency – better regulatory design and investment in people, systems and premises will lead to higher levels of productivity.	Agreed.
— Closing the Gap – A2JP must clearly address, through funding and other mechanisms, both relevant targets and processes of self-determination articulated in the Priority Reforms.”	Agreed. Strongly supported.

II.II Principles relating to rights and inclusion of people in 4Rs areas

1. The NLAP Review included substantial visibility for geographic access to legal assistance but did not articulate principles relating to access to legal assistance in 4Rs areas. However, principles are needed. The 4Rs Network submission to the NLAP review recommended the following principles, which should be deliberated by Governments and all stakeholders with a view to finalisation and adoption:

“Principles in support of the provision of 4Rs legal assistance should be developed and reflect basic requirements for effectiveness in the 4Rs.

These principles would include promoting Closing the Gap and the central role of First Nations legal services in service provision for First Nations people, groups, and communities in the 4Rs.

The following are examples of possible principles relating to provision of 4Rs legal assistance:

- **Disadvantaged individuals, groups, and communities in the 4Rs should have timely, responsive, and effective access to the legal assistance they need.**
- Access by individuals, groups, and communities in the 4Rs to legal assistance **reflect the rights of these groups and aims to contribute to multi-dimensional efforts to increase agency, inclusion and wellbeing and reduce disadvantage.**
- Service provision to 4Rs communities **should be accountable to 4Rs communities.**
- **The central role of First Nations legal services in service provision for First Nations people, groups and communities is recognised, supported and facilitated in the 4Rs** aligned with:
 - human rights, self-determination, cultural safety, and empowerment, and

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

- principles and priorities under Closing the Gap.
- **In-person legal assistance** should be available in the 4Rs where required for accessibility, cultural safety and effectiveness for the clients, groups and communities concerned.
- Legal services in the 4Rs should be as **relevant and local as possible** to maximise accessibility, responsiveness, and accountability.
- Legal services in the 4Rs should be as **receptive as possible to local needs** in relation to their service provision and their overall operations.
- Legal services delivering in the 4Rs should aim to **achieve and maintain local trust and support** and **work in with the flow of community needs, priorities and activities**.
- Legal services in the 4Rs should **aim to employ from the local area** as much as possible and should **contribute to local skills development** and to **the local economy**.
- **Legal services in 4Rs areas should recruit and facilitate service provision by additional services** where relevant, e.g., metro services which are willing to contribute or provide expertise in specialist areas of law. Appropriate protocols should be established to maintain community trust and effectiveness.
- Legal services looking to expand into or within the 4Rs **should consult with existing services to maximise benefits**.
- **Funding bodies, and all stakeholders, should be mindful of these principles** and ensure that new initiatives do not impact negatively on continuing, effective, 4Rs service provision.

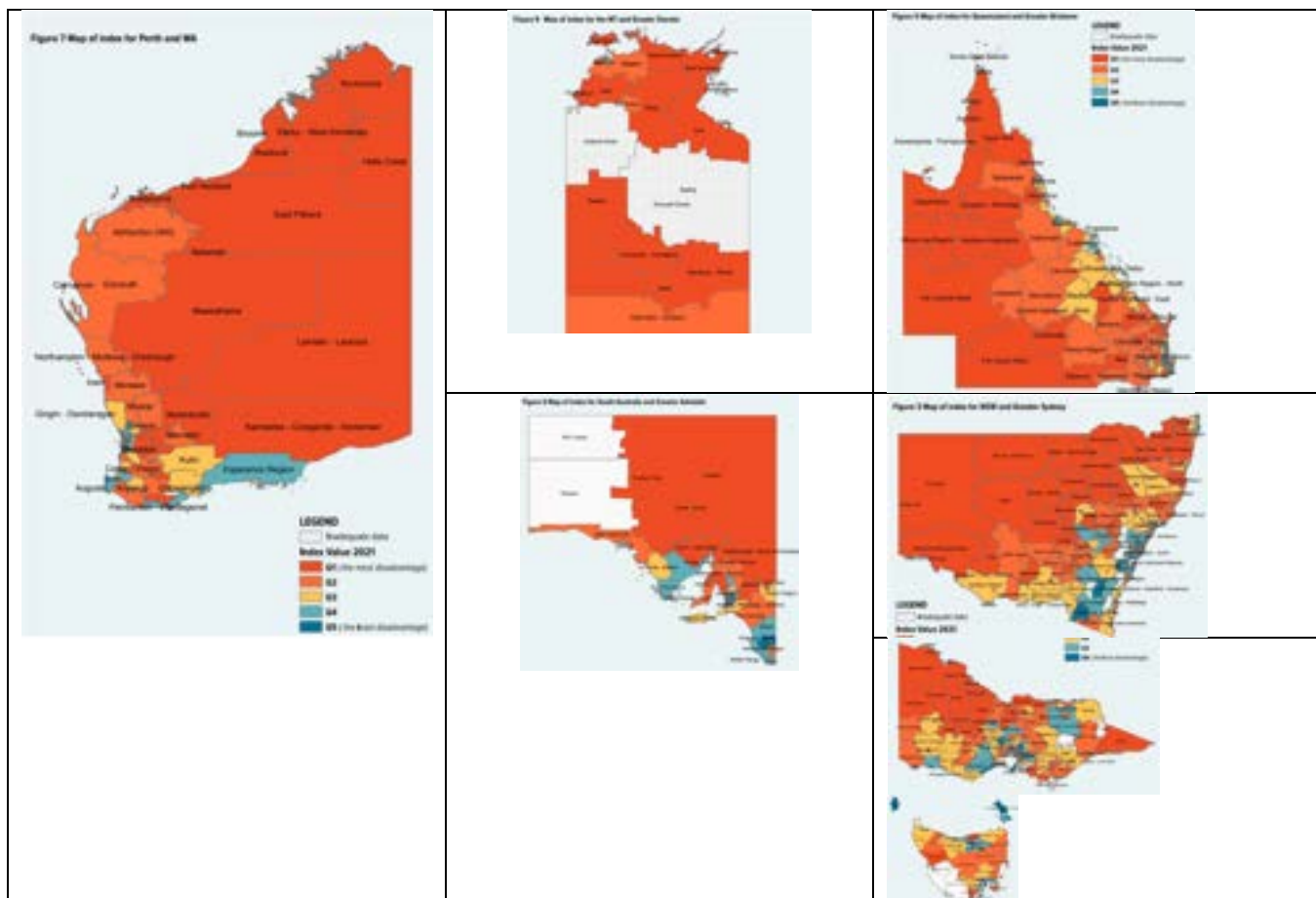
II.III 4Rs proficient collaboration and connectivity

1. Numerous factors, including federal policy and decisions by actors in many sectors, have positive and negative impacts in 4Rs areas. 4Rs proficient collaboration and connectivity involves external actors recognising, and being concerned to understand, their impacts on 4Rs areas. This involves *recognising how decisions can impact*, seeking to avoid negative impacts and supporting the rights, wellbeing and inclusion of those in 4Rs areas.
2. More effective collaboration and connectivity between 4Rs areas and urban/metro areas is needed, including cross-jurisdictional and multi-jurisdictional efforts. For these reasons the following statement in the NLAP Review Report is too narrow:

‘All Australians experiencing disadvantage are the joint responsibility of the Commonwealth and the government of the jurisdiction in which they live.’³⁶

3. The maps below help illustrate why questions of joint responsibility, in relation to people experiencing disadvantage, are broader than the Commonwealth plus the government (state and territory) of the jurisdiction where they live.
 - The first two examples (the map of areas of disadvantage and the map of Northern Australia) reflect the likelihood of interconnected issues, causes, themes and opportunities for collective impacts.
 - The next four examples (maps of the tri-state area of the NPY Women’s Council, South Australia’s Far North, Local Government Areas, and the Murray Family Care tri-state area) illustrate some multi-jurisdictional and sub-jurisdictional perspectives, to which many more could be added.

Figure 1: Areas of disadvantage in Australia (red = most disadvantaged, white = inadequate data)³⁷



³⁶ NLAP Review Report p. 207.

³⁷ Robert Tanton, Lain Dare, Riyana Miranti, Yogi Vidyattama, Andrew Yule and Marita McCabe, *Dropping Off the Edge 2021: Persistent and multilayered disadvantage in Australia* (2021, Jesuit Social Services) maps: NSW p. 68, Victoria, p. 89, Queensland, p. 109, South Australia, p. 127, Western Australia, p. 142, Tasmania, p. 158 and Northern Territory, p. 172.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

Figure 2: Northern Australia³⁸

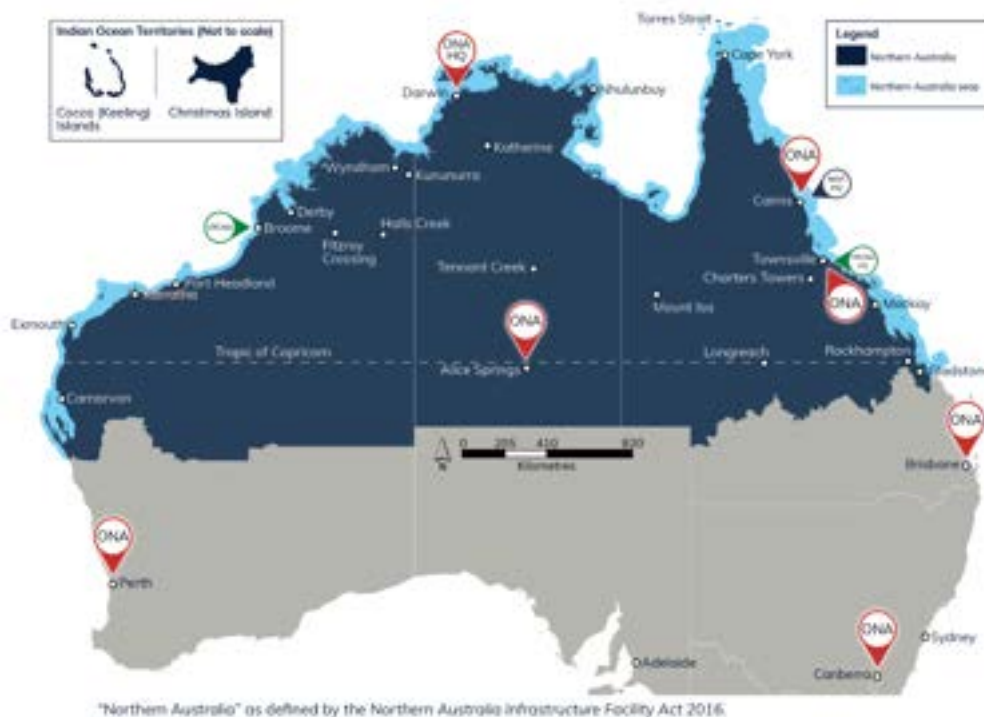


Figure 3: Urban centres and localities in Northern Australia in 2021³⁹



³⁸ Northern Australia is defined in s.5 of the Northern Australia Infrastructure Facility Act 2016 (Cth) in summary ‘...includes all of the [NT], and those parts of [QLD and WA] above and directly below or intersecting with the Tropic of Capricorn. It also includes the regional centres of Gladstone, the Gladstone Hinterland, Carnarvon and Exmouth, as well as the Local Government Areas of Meekatharra and Wiluna and the Shire of Ngaanyatjarraku in Western Australia, and the Indian Ocean Territories communities of Christmas Island and the Cocos (Keeling) Islands...’: North Australia Infrastructure Facility, *NAIF Act and Investment Mandate* (NAIF, [Web Page](#)); map: [Office of Northern Australia web site](#).

³⁹ Dávid Karácsonyi & Andrew Taylor, Long-Term Hierarchic Changes in Settlement Systems at Geographic ‘Edges’, (2024) *Australian Geographer*, ([Open Access](#)) 1-21 at 8; ‘localities’ have c. 200-999 people ([ABS](#))

Figure 4: NPY Lands⁴⁰

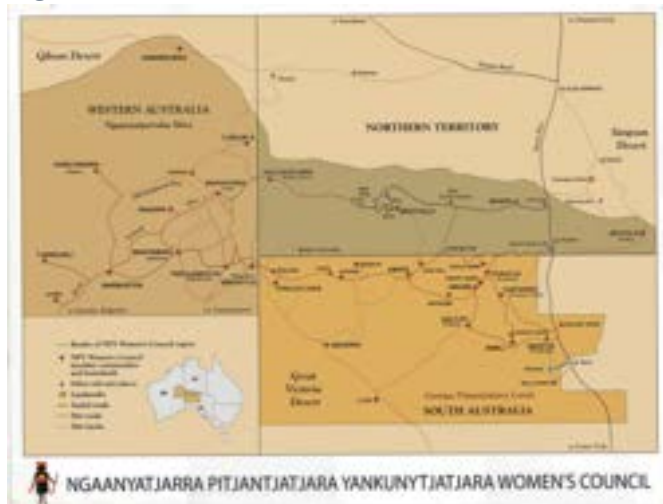


Figure 5: South Australia's Far North⁴¹



Figure 6: Local Government Areas⁴²



Figure 7: Service area of Mallee Family Care⁴³



⁴⁰ NPY Women's Council, NPY Map, NPY Women's Council ([Web Site](#)); The Cross Border Justice Scheme applies in the NPY Lands, NT Government, 'Cross Border Justice Scheme' ([Web Site](#)):

⁴¹ Regional Development Australia Far North, South Australia's Far North (image), RDAFN Web Site: <https://rdafn.com.au/> which notes that South Australia's Far North is 80% of area of the state and has a population of about 28,670.

⁴² Digital Atlas of Australia, 2021 Local Government Areas (LGA) from the Australian Statistical Geography Standard (ASGS) Edition 3 ([Online](#)).

⁴³ Mallee Family Care, [Catchment Map](#) (Online), Mallee Family Care (head office in Mildura) provides the Mallee Family Care Community Legal Service and is auspicing the Far West CLC based in Broken Hill.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

Collaboration by all jurisdictions can open more opportunities and solutions for 4Rs areas. This includes less obvious opportunities which do not relate to ‘the jurisdiction in which [people] live’ (NLAP Report quote above).

II.IV Support for 4Rs place-based approaches

Place-based approaches (compared to place-neutral approaches), relate to local and geographic contexts, and respect forms of continuity and association which are locally relevant and locally invested.⁴⁴ Principles include:

- Recognising, respecting and enhancing diverse capabilities within locations and building forward on this basis.
- Appreciating and nurturing the many positive and often remarkable attributes demonstrated in establishing and sustaining local services.
- Accepting and not arguing or scheming against the needs among diverse communities in 4Rs areas for in-person, face-to-face assistance.
- Ensuring flexible co-designed pathways for local people based on real, place-based journey maps and rejecting the purported ‘entitlement’ of external systems to be dismissive of the needs and diversity of people in 4Rs areas.
- Ensuring 4Rs service areas can be fully and effectively serviced, with adequate resources to ensure sufficient time, relevant staff and flexibility.

III Synthesis of the paradigm shift and 4 key 4Rs issues

In summary, the ways forward for access to legal assistance and justice, rights and wellbeing, inclusive of 4Rs areas requires **an NLAP paradigm shift, priority to *Closing the Gap***, commitment to the further and related priority of ***4Rs, and full geographic inclusion*** with a **two-part process** based on the NLAP Review recommendations. Namely: ***Rebasing*** (urgent, before the next NLAP) and ***Step, Trend and Pass-through*** (during the next NLAP).

⁴⁴ For example Fabrizio Barca, Philip McCann and Andres Rodríguez-Pose, ‘The Case for Regional Development Intervention: Place-Based Versus Place-Neutral Approaches,’ (2012) (52) *Journal of Regional Science* 134 ([Open Access](#)).

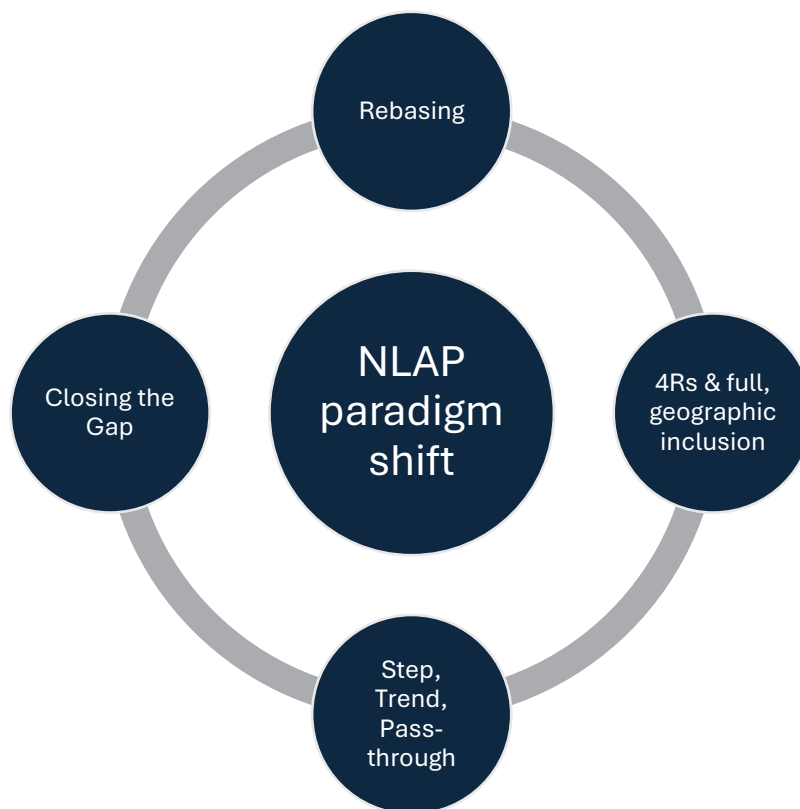


Figure 8: Synthesis of NLAP paradigm shift

III.I NLAP paradigm shift

Background: The NLAP Review Report proposes what would be a paradigm shift involving a deep and wide-ranging response to lack of access to legal assistance. The Review Report emphasised that geographic coverage is inadequate, that funding levels for community-based legal assistance services in 4Rs areas are not reflective of costs of service provision and that the rebasing of these, and all legal assistance services, is required.

- ***The paradigm shift proposed by the NLAP Review Report must be taken seriously by Governments and stakeholders, for the major opportunity it presents*** for a reset which moves the entire collaboration forward more purposefully, reasonably and responsibly.
- ***The paradigm shift involves changing the parameters, especially addressing insufficient access to resources***, which are impeding rights, inclusion and empowerment especially in 4Rs areas.

III.II Closing the Gap

Background: The NLAP Review Report provides strong guidance about requirements for ACCO legal assistance services, including ACCO CLCs, to be funded and facilitated in accordance with Closing the Gap priority reforms to ensure First Nations people can utilise full benefits through these services. This requires a landmark change in approach, including funding levels and accepting leadership by these services in legal assistance for First Nations people.

- ***Directions to lift ACCO funding to fully address needs, achieve geographic coverage and respect ACCO leadership are fully supported*** – this includes supporting ACCO facilitation by all legal assistance sectors including and non-ACCO community-based legal assistance services in and for 4Rs areas.
- ***Principles should be developed to guide preferencing ACCOs and ensuring First Nations access to non-ACCO legal assistance services*** – principles should
 - Facilitate governments, non-ACCO legal services and other stakeholders collaborating with ACCO legal services, and
 - Provide a framework for funding requirements in relation to access by First Nations people to legal assistance services.
- ***Responsibilities of non-ACCO community-based legal services in and for 4Rs areas to ensure their services are fully accessible to First Nations people are fully supported*** – this includes support for relevant funding levels for access and initiatives in support where relevant.

III.III Principled and structural approach to 4Rs inclusion

Background: Overall, the NLAP Review did not consider principles or structural approaches to access to legal assistance by people and communities in 4Rs areas. Discussion and recommendations in the NLAP Review Report relating to geographic coverage are very welcome but the Review did not address principles and structural approaches to 4Rs inclusion raised in the 4Rs Network submission.

- ***Principles of recognising, valuing and strongly supporting community and place-based empowerment of individuals, groups and communities in 4Rs areas are needed.*** This complements Closing the Gap and all relevant policy priorities about reducing, and ultimately overcoming, disadvantage in 4Rs areas. This should include Principles relating to 4Rs rights and inclusion (discussed at II.II above).

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

- **Structural measures are also required to increase drivers and maintain momentum regarding access to legal assistance and access to justice in the 4Rs.** For example, reflecting on the following and actioning positive responses:
 - How the next NLAP can make accountabilities to people and communities in 4Rs areas more visible and effective to ensure geographic inclusion.
 - How the next NLAP can structure in requirements for consultation with, and responsiveness to, 4Rs community-based legal assistance services and 4Rs community stakeholders.
 - Why a National 4Rs Access to Justice Strategy and Action Plan is needed.
 - Why a National 4Rs Legal Assistance Workforce Strategy and Action Plan are needed.
 - Why resources are needed to strengthen 4Rs related focus especially through:
 - existing community-based legal assistance sector peaks (NATSILS, FNAAFV, CLCA and CLC State and Territory peaks) and by National Legal Aid and the Australian Legal Assistance Forum.
 - service affinity peaks (e.g. Women’s Legal Services Australia, Economic Justice Australia, the National Association of Renters’ Organisations and others)
 - the Aboriginal and Torres Strait Islander Women’s Network,⁴⁵ and
 - the National 4Rs Community Legal Services Network.

III.IV Rebasing of community-based legal services in and for 4Rs areas

Background: The NLAP Report proposes Base, Step, Trend and Pass-through in response to findings about chronic levels of underfunding compared to operating/input costs, especially in 4Rs areas. The Review proposes that rebasing should begin as soon as possible, with priority to ATSILS and FVPLS. Further, that rebasing of CLCs should be underway or advanced before the start of the next NLAP and that an ameliorating uplift of 10% p.a. on top of existing funding should apply to any service still awaiting rebasing

⁴⁵ Outlined below in Attachment 1 at 7.5 Aboriginal and Torres Strait Islander Women’s Network.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

at the start of the next NLAP until rebasing is completed. Geographic gaps would be addressed during the Step phase.

- ***Responsive rebasing before the start of the next NLAP:*** The proposal to rebase is supported but the *timetable proposed* in the NLAP Review is not realistic to the nature and extent of the funding crisis facing community-based legal assistance service in 4Rs areas and will cause substantial additional problems.
 - ***Rebasing must occur before the start of the next NLAP,*** it must be undertaken for all community-based legal sectors and all regions, at the same time. Delay will have adverse effects and proceeding piecemeal risks destabilising sector-specific and place-based effects. Unless staff salaries and conditions are increased concurrently across sectors, increased staff movements are likely affecting service continuity and service levels.
 - ***Consequently, a realistic and responsive approach must be taken to costings and funding for rebasing.***
 - This should include providing a tool which services can use to develop and provide their costings and service plans.
 - Rebasing should relate to each service's whole geographic service area/s unless there are good reasons to the contrary.
 - The 4Rs Network continues to call for a minimum of doubling of funding for community-based legal assistance services in or for 4Rs areas.
- Responsive Rebasing as just described will change the paradigm by:
 - Responding to the crisis of underfunding and stabilising and strengthening legal assistance service provision especially in 4Rs areas.
 - Consolidating and increasing service area coverage by existing community-based legal services so reducing geographic gaps to be addressed during the step phase.

III.V Step, Trend and Pass-through

Background: The recommendation by the NLAP Review to apply Step, Trend and Pass-through in designing and implementing the next NLAP would substantially increase coherence, effectiveness, program efficiency and focus.

29 Aug 24 draft 4Rs Backgrounder to 4Rs Legal Assistance Report Card

- **Step, Trend and Pass-through should be included in the next NLAP agreement** and each should be framed by principles which include geographic access to legal assistance especially in 4Rs areas and the cost of delivering services in and for 4Rs areas.
- Rebasing (as noted above) should be completed before or in time for the start of the next NLAP achieving **a clean start for Step, Trend and Pass-through from the start of the next NLAP.**

IV Response to numbered NLAP Report Recs: Attachment 1

1. The response to the numbered recommendations in the NLAP Review Report are in Attachment 1. This is in addition to the following above:

I NLAP Review Report compared to 4Rs submission

II Principles in the NLAP Report and 4Rs inclusion

III Synthesis of the paradigm shift and 4 key 4Rs issues

A copy of this Backgrounder with Attachment 1 can also be downloaded from:
National Regional, Rural, Remote and Very Remote Community Legal Network
<https://clcs.org.au/4rs-network/>

National Regional, Rural, Remote and Very Remote Community Legal Network

<https://clcs.org.au/4rs-network/>

ATTACHMENT 1

To The Backgrounder to the 4Rs Legal Assistance Report Card – Aug 24

**Incorporating response to the Report of the Independent
Review of the National Legal Assistance Partnership
Agreement**

Dated: 1 September 2024

The 4Rs Network acknowledges Traditional Owners of Country throughout Australia and the continuing connection to lands, waters and communities. We pay our respect to Aboriginal and Torres Strait Islander cultures and to Elders past and present.

Contents

ATTACHMENT 1: Response to NLAP Rec. 1-39	9
Rec 1 – Legal needs survey	9
1.1 Legal needs surveys should be 4Rs suitable and accountable	9
Rec 2 – Addressing unmet geographic need	11
2.1 Strong support for geographic coverage – but improve the approach	11
2.2 Step phase and geographic coverage	11
2.3 Geographic gap criteria and Appendix D	16
2.3.1 ‘Parts .. [with] little or no legal assistance services’: include all 4Rs	16
2.3.2 Comments on Appendix D ‘Potential regions with unmet need’	23
2.4 Rec. 2 implementation sequence and preferencing	26
2.4.1 Expand existing services to provide ‘New services’	26
2.4.2 First Nations and unmet legal need: apply Closing the Gap	26
2.4.3 Reject preferring LACs over CLCs to address unmet geographic needs	28
2.4.4 Concern about treatment of ‘large’ and ‘small’	30
2.4.5 Reject preferencing LACs over statewide and national CLCs	37
2.4.6 ‘..insufficient demand to sustain a permanent legal presence’ and population density as a ‘major barrier’	39
2.5 Principles for addressing geographic service gaps in 4Rs.....	41
2.6 Research capabilities: First Nations, 4Rs and Northern Australia	42
Rec 3 – Complete FVPLS coverage.....	43
3.1 Support for complete FVPLS coverage and FNAAFV	44
3.2 Rebasing for increased coverage	44
3.3 Conversion of some existing ACCOs into FVPLS	45
Rec 4 – Legal Assistance Impact assessment for administrative law	46
4.1 Funding now for Commonwealth administrative law matters.....	46
4.1.1 Administrative law including access to social security legal help	47
4.1.2 Funding for independent advocacy and NDIS legal help in 4Rs	47
4.1.3 Veterans’ advocacy support and legal assistance in 4Rs	48
4.1.4 Immigration legal assistance by CLCs in 4Rs.....	49

Rec 5 – Civil law	50
5.1 Principled commitment to 4Rs place-based community-owned service delivery	51
5.2 Approach to increasing statewide and specialist CLCs	52
5.2.1 Priority to ACCO CLCs	52
5.2.2 Statewide, specialist and national CLCs	53
5.3 Increase civil and family law grants of aid and 4Rs areas	53
Rec 6 – Disaster legal assistance.....	55
6.1 Disaster legal response initiatives should be increased.....	57
6.2 Timeline for rebasing for disaster legal assistance	58
Rec. 7 - Women’s funding stream	58
7.1 Separation of women’s legal services funding: supported	58
7.2 Funding for access to Women’s Legal Services in 4Rs areas	60
7.3 Additional funding for Women’s Legal Services Australia	61
7.4 Aboriginal and Torres Strait Islander Women’s Legal Services	61
7.5 Aboriginal and Torres Strait Islander Women's Network.....	62
7.6 Women’s Legal Assistance Forum – regarding funding allocation	64
Rec 8 – Priority groups	64
8.1 Expansion supported but <i>all</i> 4Rs should be included	64
Rec 9 – A2JP must address Closing the Gap Priority Reforms	66
9.1 Agreed that A2JP must address Closing the Gap Priority Reforms	66
9.2 Involvement of ACCOs in decision making and funding.....	69
Rec 10 - All Cth legal assistance provided by ACCOs to be funded through A2JP	70
10.1 Support for ACCO positions on funding through A2JP	70
Rec 11 – Self-determination in existing services	71
11.1 Support for self-determination in existing services: full funding	71
11.2 Period of rebalancing with ACCOs legal services fully funded	71
11.3 Statistical baselines	72
11.4 Avoiding instability and negative effects	72
11.5 Develop First Nations Legal Assistance Funding Principles.....	73
11.6 Self-determination and non-ACCO legal assistance services	74
Rec 12 – Self-determination in new services	75
12.1 Principles relating to self-determination in new Services.....	75

Rec 13 – Aboriginal interpreters.....	75
13.1 Aboriginal interpreters, human rights and Closing the Gap	76
Rec 14 – Funding models	77
14.1 NLAP funding model should not be used: supported.....	77
Rec 15 – Reduction in fragmentation	77
15.1 Background to reducing fragmentation	78
15.2 Adequacy of funding levels and responses to fragmentation.....	79
15.3 Reducing fragmentation but avoiding negative effects.....	81
Rec 16 – Reduce competitive tendering for legal assistance	83
16.1 Support for reducing competitive tendering and building existing services.....	83
16.2 Moving away from funding individual services – is unclear	83
16.3 New community-based legal services.....	84
16.4 New locations within service areas	85
Rec 17 – Rebasing community legal service providers.....	87
17.1 Background	87
17.2 Cost factors particularised for inclusion in rebasing.....	88
17.3 Programs NLAP Review proposes for inclusion in baseline	93
17.3.1 Indigenous Women’s Program (IWP)	94
17.3.2 True Justice: Deep Listening.....	99
17.3.3 Health Justice Partnerships	100
17.4 Sufficient funding for areas of law in and for 4Rs areas	100
17.5 Rebase community-based services in 2024-25.....	101
Rec 18 – Rates of grants of legal aid	102
18.1 Ensuring access to grants of aid <i>and</i> alternatives in 4Rs areas	102
18.2 Working group on the future of grants of aid supported.....	103
Rec 19 – Rates of grants for Independent Children’s Lawyers.....	104
19.1 Statistics and focus	104
19.2 Funding for ICLs and ICRs demand-driven supported	108
19.3 Ongoing demand-driven funding	109
19.4 Reviewing LAC arrangements for First Nations children and 4Rs	109
19.5 Data sharing, Closing the Gap and geographic coverage.....	110
Rec 20 – Step.....	110

20.1 Step i.e. additional substantial funding for priority matters, new priority groups and ‘specific areas of geographic needs etc’	111
20.2 Funding for services successfully piloted by other service providers	111
20.3 Emerging Lawyers Program model	112
20.3.1 Description and importance of the Emerging Lawyers Program	112
20.3.2 Applicability to other statewide specialist service sectors.....	114
Rec 21 – Indexation	115
21.1 Responsive indexation is supported for 4Rs areas.....	115
21.1.1 Indexation as one of three features of a sustainable funding model	116
21.1.2 Shortfall in indexation and new national model	116
21.2 Addressing 4Rs in indexation.....	117
21.3 Three components of the proposed new indexation rate.....	118
21.3.1 Rate of growth in demand	118
21.3.2 Wage growth.....	120
21.3.3 Consumer prices	122
21.3.4 Addressing problems with indexation	122
21.4 Regional prices – data sources and indexation formulas.....	123
Rec 22 – Legal Assistance Impact Assessment.....	125
22.1 Support for quality Legal Assistance Impact Assessment inclusive of 4Rs	125
22.2 Assessment of current law, policy and court procedures.....	126
22.3 Effectiveness of Legal Assistance Impact Assessment.....	126
Rec. 23 – Portability of entitlements.....	127
23.1 Portability of entitlements: supported	127
23.2 Cost of carry over entitlements.....	127
Rec 24 – Workforce Strategy.....	127
24.1 Development of National Legal Workforce Strategy supported.....	128
24.2 National 4Rs Access to Justice Strategy and Action Plan	128
24.3 Many legal workforce strategies are missing	129
24.4 National 4Rs Legal Assistance Workforce Strategy.....	129
24.4.1 Short, medium & long term: resources for cross-sector involvement.....	129
24.4.2 Areas of emphasis for 4Rs Strategy.....	130
24.5 First Nations legal workforce development: ACCOs and non-ACCOs	131

25.5.1	Promoting First Nations careers with legal assistance services	132
24.5.2	Free university and vocational education for First Nations people	133
24.6	Specific workers and contributors	133
24.6.1	Background	133
24.6.2	Experienced lawyers – urgent need in 4Rs legal assistance	133
24.6.3	Caseworker 4Rs training programs	135
24.6.4	Paralegal, advocacy/casework and non-lawyer led models	135
24.6.5	Graduate intake programs and 4Rs legal assistance services	136
24.6.6	Incentive structure law graduates, paying PLT fees etc. for 4Rs	137
24.7	Volunteers	137
24.7.1	Patterns relating to volunteers in 4Rs areas.....	138
24.7.2	Patterns relating to pro bono and 4Rs – general	141
24.7.3	Funding to extend 4Rs volunteer and pro bono initiatives	143
24.8	Law students including course credit.....	144
24.8.1	Establish funded 4Rs clinical collaborations	144
24.8.2	Facilitating PLT placements with 4Rs community-based legal services ...	148
24.8.3	Placement poverty and cost barriers: 4Rs legal assistance placements ..	149
24.9	Legal education, 4Rs access to justice, and workforce	150
24.9.1	Background – lack of treatment of legal education.....	150
24.9.2	University roles in relation to 4Rs legal workforce	152
24.9.3	Addressing no equivalent in law UDRHs or Rural Clinical Schools.....	155
24.9.4	Domestic 4Rs law equivalent to New Colombo needed	155
24.9.5	Areas of law – 4Rs legal assistance workforce	156
24.9.6	Social security legal assistance workforce – training example.....	157
Rec 25	– Remuneration of community legal assistance workers	159
25.1	Background	159
25.2	Parity of wages and conditions ASAP with LACs supported	160
25.3	NLAP Rec. cf treatment in May 2024 federal budget	160
25.4	Under estimation of wage gap in 4Rs areas	163
25.5	Wages and conditions LAC comparison tool needed.....	166
Rec 26	– HECS-HELP Forgiveness Scheme.....	166
26.1	HECS-HELP forgiveness scheme supported; fine tuning needed.....	167

26.2 HECS-HELP forgiveness: all 4Rs community legal staff, all HECS-HELP debts	169
26.3 HECS-HELP forgiveness and LAC staff lawyers in 4Rs areas	169
24.4 Other initiatives related to education	170
Rec 27 – Use of baseline funding	170
27.1 Support for reducing restrictions on ways baseline funding is used	170
27.2 Definition of ‘baseline’ funding needed	170
Rec 28 – Advocacy and law reform	171
28.1 Strategic advocacy and law reform as core work: supported	171
28.2 Funding for sector advocacy in under-resourced jurisdictions	171
28.3 Advocacy by Indigenous women’s legal services	172
28.4 Funding for 4Rs advocacy and law reform	172
Rec 29 – Technology funding	173
29.1 Rec 29 supported: but First Nations and 4Rs inclusion required	174
Rec. 30 – Term of A2JP	175
30.1 – Term of the next NLAP should avoid dislocation in 4Rs	176
Rec 31 – Better coordination and reporting by the Commonwealth	176
31.1 Better coordination and reporting support intended outcomes	177
31.2 Better coordination and reporting for priorities including 4Rs areas	177
Rec 32 – Improved Commonwealth involvement	178
32.1 Improved Commonwealth involvement and 4Rs	178
Rec 33 – LACs not to administer funding	179
33.1 LACS not to administer funding: agreed	179
Rec 34 - Cth money for Cth matters	179
34.1 Two senses of ‘Cth money for Cth matters’	179
34.1.1 Use of money provided to LACs	179
34.1.2 Funding responsibilities between the Cth, States and Territories	182
Rec 35 – Sharing the funding task	182
35.1 Sharing the funding task	182
35.2 FVPLS and CLCs directly funded by the Cth	183
35.3 States and Territories fund their NLAP admin. costs in A2JP	184
35.4 Cth and State/Territory funding responsibilities	184
35.4.1 Cth /State & Territory matters and statistical collection	184

35.4.2 <i>Adequacy</i> of shared funding approach by Cth, States and Territories	185
Rec 36 – Outcomes Framework.....	188
36.1 Outcomes Framework required: must include 4Rs.....	188
Rec 37 – Performance indicators and Data Standards Manual	189
37.1 Performance indicators and DSM: supported	190
Rec 38 – Data systems.....	190
38.1 Data systems – 4Rs areas	190
Rec 39 - Temporary indexation	191
39.1 Temporary indexation	191
39.1.1 Indexation in 2024-5	191
39.1.2 Temporary indexation of 10% until service’s baselining completed	192
Attachment 1A: Volunteers with CLCs metro and 4Rs	195
Table A1.1 Volunteers per ACNC returns 2022-3	195
Table A1.2 Where ACNC Information Statement not a source	200
Attachment 1B: Social security legal assistance workforce: education and training ..	203

ATTACHMENT 1: Response to NLAP Rec. 1-39

This is Attachment 1 to **The Backgrounder** to the **4Rs Legal Assistance Report Card**. The Backgrounder includes Glossary, and Tools.

This Attachment 1 responds to the recommendations in the NLAP Review Report and amplifies the sections in **The Backgrounder** namely:

- I NLAP Review Report compared to 4Rs submission
- II Principles in the NLAP Report and 4Rs inclusion
- III Synthesis of the paradigm shift and 4 key 4Rs issues. The latter includes a summary of the response contained in this Attachment 1, to the 39 numbered recommendations in the NLAP Report.

Rec 1 – Legal needs survey

Recommendation 1 – Legal needs survey

The Reviewer recommends, consistent with recommendation 25.1 of the PC Report, the relevant Minister should, pursuant to section 9 of the *Census and Statistics Act 1905 (Cth)*, direct Australian Bureau of Statistics to undertake a national legal needs survey at five-yearly intervals. The survey should collect data to measure both legal need and unmet legal need.

The surveys must address specific priority groups identified in the A2JP with sufficient granularity to identify jurisdictional and regional variations to support funding decisions.

The results of the first survey should be published by such a time as to be available for the review of A2JP and related matters.

Subject to annual expenditure timing, the Commonwealth should provide a total of \$3 million in 2024-25, \$6 million in 2025-26 and a further \$41 million over the life of A2JP.

1.1 Legal needs surveys should be 4Rs suitable and accountable

1. It is noted that the legal needs survey outlined in Rec. 1 would be undertaken in time to review the next NLAP, commencing on or by 1 July 2025, and facilitate the subsequent NLAP commencing in 2030. Although Rec. 1 proposed that work begin immediately with a \$3mill allocation for 2024-25, this was not included in the May 2024 federal budget.¹
2. Rec. 1 is supported subject to the following:
 - i. Ensure the suitability of the legal needs survey to identify and report on the nature and extent of legal needs and unmet legal needs in 4Rs areas nationally, considering the concept of ‘legal needs’ *holistically*, including:

¹ The federal budget inclusions are outlined below at 25.3 – *NLAP Rec. cf. treatment in May 2024 federal budget*.

- Legal needs and unmet legal needs of First Nations people - having regard to all Closing the Gap priorities,
 - Legal needs and unmet legal needs of people in 4Rs areas having regard to all policy priorities to reduce and address disadvantage, and
 - All 4Rs areas including those with low or very low population density,
 - Reporting for geographic areas, including Northern Australia reflecting this policy priority,² and
 - Reporting for geographic service areas of legal assistance services reflecting the importance of this data.
- ii. The legal needs survey must be adequately resourced and apply a methodology which enables accurate estimation of legal needs and unmet legal needs in 4Rs areas. This will require avoiding major deficiencies such as those affecting ABS Survey of Disability, Ageing and Carers (which is ‘.. the recommended source of disability prevalence data in Australia’),³ which excludes multiple 4Rs groups and groups with substantial 4Rs connections.
4
- iii. The legal needs survey should have a 4Rs reference group which includes the relevant range of 4Rs grounded expertise including demographic, service focused, researched focused and statistical.

² Department of Infrastructure, Transport, Regional Development, Communications and the Arts, [Northern Australia Agenda](#) (Online), includes Developing the new Northern Australia Action Plan—Refresh of the [Our Future: Our North White Paper on Developing Northern Australia](#) (Online).

³ Australian Bureau of Statistics ‘Understanding disability statistics in the Census and the Survey of Disability, Ageing and Carers’ ABS, 27 July 2022 ([Online](#)).

⁴ This Survey excludes very remote areas, discrete Aboriginal communities, homeless hostels, correctional institutions, and sources of data other than private dwellings, self-care retirement and health establishments providing long term care (over 3 months): ABS, *Understanding disability statistics in the Census and the Survey of Disability, Ageing and Carers An explanation of disability data available in the Census and other ABS sources, Released 27 July 2022* discussed by Darwin Community Legal Service, [Submission to the Royal Commission by Darwin Community Legal Service Lived experience highlights multiplicity of factors in the NT continuing to expose people with disability to violence, abuse, neglect and exploitation, 31 December 2022](#) p. 32-33.

Rec 2 – Addressing unmet geographic need

Recommendation 2 – Addressing unmet geographic need

There are parts of Australia where there are little or no legal assistance services provided to disadvantaged and vulnerable people. Governments should work with service providers and organisations like Victoria Law Foundation and the NSW Law and Justice Foundation to better understand these geographic areas of legal need and the nature and cost of the services needed to efficiently fill these gaps. The agreed cost of these services should be included in the step funding of the A2JP. Given the scale of this task it is likely it will take a number of years and priority should be given to those areas of greatest need and ease of implementation.

For those services funded solely by the Commonwealth (currently outside NLAP, but will become part of A2JP), the Commonwealth should undertake a similar exercise to ensure that services intended to be national in character are adequately funded to service all parts of the country.

2.1 Strong support for geographic coverage – but improve the approach

1. The thrust of Rec 2, that there should be geographic access to legal assistance, and that funding should cover the actual cost of service provision in 4Rs areas, is strongly supported.
2. However, Rec. 2 relates to the ‘step’ phase, stating:
‘There are parts of Australia where there are little or no legal assistance services provided to disadvantaged and vulnerable people... The agreed cost of these services should be included in the step funding of A2JP’.
3. There are a range of issues relating to this proposal, which are responded to below under the headings:
 - 2.2 – Step phase and geographic coverage
 - 2.3 – Geographic gap criteria and Appendix D
 - 2.4 – Rec. 2 implementation sequence and preferencing
 - 2.5 – Principles for addressing geographic service gaps in 4Rs
 - 2.6 – Research capabilities: First Nations, 4Rs and Northern Australia

2.2 Step phase and geographic coverage

1. The reference to the ‘step funding of A2JP’ in Rec. 2, relates to the proposed use of Base, Step, Trend and Pass through discussed in the Review Report in Chapter 7 – *Funding models*, and summarised on the following diagram:⁵

⁵ NLAP Review Report, p. 134.

Figure 1: NLAP Report Figure 7.1 Key components of the new funding model

Figure 7.1 Key components of the new funding model



2. The Base, Step, Trend and Pass-through components are further outlined as follows:

Australian economic regulators use a methodology referred to as ‘base, step and trend’ to determine the efficient revenues a regulated business can collect over a regulatory period. The process broadly involves:

- **Base:** *Determining the efficient cost for providing existing services.* It is clear that current funding levels are inadequate to deliver, effectively and efficiently, the services governments and communities expect. Funding must be adjusted to provide, among a range of things, proper remuneration, workplace arrangements that support positive employee wellbeing and appropriate IT systems.
- **Step:** *Increasing the base to reflect efficient costs of new services, new regulatory requirements or changes in input costs.* It is clear that there are currently service gaps in geography, legal matters and delivery methods.
- **Trend:** *Establish a mechanism to roll forward the sum of the base and step over the life of the arrangement.* The funding available through the life of A2JP should grow to reflect increases in demand and increases in prices faced by service providers.
- **Pass through mechanisms:** These allow additional funding for changes in demand or costs unforeseen at the time baseline funding was set. Legal assistance providers have faced significant challenges meeting changes in demand caused by changes in law, government policy priorities, court procedures. They have faced input cost pressures

resulting from macroeconomic developments beyond their control.⁶

3. The implementation proposal for Rec. 2 is also discussed in the Review Report in Chapter 12 – Implementation, in the section quoted below ⁷ (‘the page 234 quote’):

Recommendation 2 deals with providing new or improved services in geographic areas of greatest need. The Reviewer expects some service providers will have well developed, well costed plans capable of rapid deployment. Others will need more work from officials and service providers themselves. Some areas are probably not covered by existing plans.

After consultation with relevant community groups and service providers, governments will need to agree which geographic areas require further service provision and what services should be provided. This will inevitably lead to some existing service providers receiving further funding and new services being established. In the latter case, where the client population is largely Aboriginal and Torres Strait Islander, it would be appropriate to turn to the relevant ATSILS to provide the service, at least in the first instance. With other populations, the relevant LAC should be preferred. The reason for this preference is that by leveraging existing multilocation service providers, services are likely to be deployed more rapidly and successfully. That said, there may be instances where a reasonably proximate CLC could undertake the work, or a strong community service organisation could support the service.

It is acknowledged this work will take time and expenditure will ramp up over the life of A2JP as new services are deployed. How these additional costs are to be shared should be agreed as part of A2JP, as discussed in section 10.3.

4. The NLAP Review Report outlines that rebasing is likely to take time and that while it would commence as soon as possible (in 2024/5) it would likely continue in 2025/6 and 2026/7.⁸
5. This proposed timeline raises questions about how Base, Step, Trend and Pass-through would relate. For example, would sectors or services which have not been rebased, still receive all upwards Step, Trend and Pass-through adjustments while awaiting rebasing. Or, if rebasing is a ‘gateway’ to Step, Trend and Pass-through, how this would operate in practice given the likely prejudicial and inequitable effects on the sectors, services, clients and communities awaiting rebasing.

⁶ NLAP Review Report, pp. 133-4.

⁷ NLAP Review Report, p. 234.

⁸ NLAP Review Report, Chapter 12 – Implementation, pp. 235-236.

6. The reference in para 1 of the p. 234 quote anticipates that some services will have “plans capable of rapid deployment”. These plans are likely to relate to immediate needs including increased coverage of existing service areas and all services are likely to be able to provide these plans, which should consequently be dealt with in the ‘rebasings’ phase.
7. The proposal in the quote at para 2 about consultation with relevant community groups, service providers etc. is not likely to be required to attend to levels of underfunding of 4Rs services during the rebasing phase. This is because these gaps are well known, as indicated by the Review Report. Chronically insufficient funding and coverage of existing service areas requires an affirmative, straightforward approach - not one which creates complications, causes delay or increases risks. The statement in the quote at para 3 that ‘It is acknowledged this work will take time and expenditure will ramp up over the life of the A2JP as new services are deployed,’ indicates an unnecessarily laborious approach.
8. Rebasings (Rec. 17) should increase funding to all community-based legal services in and for 4Rs areas to proper levels for sustainability and the intended level of operation and coverage of service areas. The 4Rs Network submission to the NLAP Review called for funding for community-based legal services to be at least doubled – being a simple and responsive first step.⁹ This is validated by levels of underfunding of community-based legal services in and for 4Rs areas compared to input/operating costs, safety, sustainability and service area coverage. Scenarios at 39.1.2 below include further detail.
9. Consequently, the Base, Step, Trend and Pass-through phases should include:
 - i. **Rebasing - achieved as soon as possible, and at the latest by 1 July 2025.** The timetable for rebasing must not be instrumental in perpetuating or compounding the current crisis in access to legal assistance and access to justice, especially in 4Rs areas. As outlined further below at 2.4:
 - **All *sectors* should be rebased at the same time** - to avoid the risk of major destabilisation and perverse effects including the potential for staff losses within and from geographic areas, services and service sectors.

⁹ 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#), rec. 10.

- **All *geographic areas* should be rebased at the same time** - for the same reasons.
 - ***Rebasing should be streamlined and responsive*** – reflecting that there are no indications that levels of underfunding are disputed, that rebasing immediately (in time for the commencement of the next NLAP) compared to over an extended period, will achieve far greater benefits, substantially reduce risks and achieve coherence for the Base, Step, Trend and Pass-through approach.
- ii. Step* – quick and effective rebasing as just described will reduce the size of the exercise in the step phase. It would also establish a separation between rebasing (occurs immediately) and Step, Trend and Pass-through. That is, the step phase would focus on whether funding is insufficient after rebasing compared to needs, required coverage and intended outcomes. If rebasing does not occur quickly, before or in time for the start of the next NLAP, this will increase complexity. This is because rebasing would then be occurring concurrently with the step phase or potentially delay the step phase until too late in the next NLAP cycle for intended positive benefits. This is particularly concerning for 4Rs areas because delays in rebasing and/or the step phase are likely to have major negative impacts, locally and regionally.
- iii. Trend* – should apply to all relevant sectors and services immediately and on an ongoing basis. If, on the other hand, it was proposed that ‘Trend’ is dependent on rebasing this would reinforce that rebasing must be completed quickly and before the start of the next NLAP (as outlined above). ‘Trend’ should also be responsive to higher costs of service provision in many 4Rs areas. The aspect of indexation is discussed further below in relation to Recs. 21 and 39.
- iv. Pass-through* – similarly Pass-through should apply to all sectors and services immediately. If there are any delays in rebasing this should not disadvantage these sectors or services relating to ‘Pass-through’ increases.
10. These issues are discussed further below in response to NLAP Report Recs. 14-19 (relating to rebasing).

2.3 Geographic gap criteria and Appendix D

2.3.1 ‘Parts .. [with] little or no legal assistance services’: include all 4Rs

1. Rec. 2 and other parts of the Review Report refer to areas with ‘little or no legal assistance services’. This should include consideration of existing, but underserved, ‘service areas’. That is, the geographic area/s referred to in funding contacts in which services should be provided with available resources. The adequacy of funding for existing service areas is a crucial first step to address areas with little or no legal assistance services.
2. Service areas are geographically specified, often expressed in terms of regions, local government areas (‘LGAs’), statewide or national. The following table gives examples.

Table 1: Examples of legal assistance service areas

State/ Territory	Service	Service area	Current office locations
National	knowmore	National ¹⁰	Brisbane, Melb., Sydney, Adelaide, Perth and Darwin
	Arts Law Centre of Australia	National ¹¹	Sydney
NSW	Western NSW Community Legal Service	Western NSW LGAs of: Dubbo, Bland, Bogan, Bourke, Cobar, Coonamble, Forbes, Gilgandra, Lachlan, Mid-Western, Parkes, Walgett, Warrumbungle ¹²	Dubbo
	Shoalcoast Community Legal Centre	LGAs of Shoalhaven, Eurobodalla, Bega Valley, Snowy Monaro & Queanbeyan-Palerang ¹³	Nowra
NT	NAAJA	Whole of the Northern Territory ¹⁴	Darwin, Katherine, Tennant Creek and Alice Springs
	Katherine Women’s Information and Legal Service	Big Rivers region from border-to-border WA/Qld (Gulf of Carpentaria) ¹⁵	Katherine

¹⁰ Knowmore Legal Service (Web Page) <https://knowmore.org.au/>.

¹¹ Arts Law Centre of Australia (Web Page) <https://www.artslaw.com.au/>.

¹² Western Community Legal Centre (Web Page) <https://www.wnswclc.org.au/>.

¹³ Shoalcoast Community Legal Centre (Web Page) <https://www.shoalcoast.org.au/>.

¹⁴ North Australian Aboriginal Legal Service (Web Page) <https://www.naaja.org.au/>.

¹⁵ Katherine Women’s Information and Legal Service (Web Page) <http://www.kwils.com.au>.

Qld	North Queensland Women's Legal Service	From Sarina in the south, to the Torres Strait in the north and west to the Northern Territory border ¹⁶	Carins and Townsville
	Queensland Advocacy for Inclusion	Statewide ¹⁷	Brisbane
SA	Women's Legal Service South Australia	Statewide ¹⁸	Adelaide, Christies Beach
	Family Violence Legal Service Aboriginal Corporation South Australia	Spencer Gulf and West Coast Regions and to surrounding communities ¹⁹	Port Augusta, Port Lincoln and Ceduna
TAS	Tenants Union of Tasmania	Statewide ²⁰	Hobart, and by appointment in Launceston
	North West Community Legal Centre	North West, West Coast and King Island areas ²¹	Davenport
VIC and Vic/NSW	Women's Legal Service Victoria	Statewide ²²	Melbourne
	Mallee Family Care including Mallee Family Care Legal Service	Murray Mallee region of northwestern Victoria and southwestern NSW (LGAs of Mildura, Swan Hill, Buloke, Gannawarra, Balranald, Wentworth, Hindmarsh, Yarriambiack, Hay, Loddon)	Mildura
WA	Kimberley Community Legal Service	Whole of the Kimberley ²³	Kununurra and Broome
	Welfare Rights and Advocacy	Statewide ²⁴	Perth

3. The following examples relating to service areas demonstrate:
- (i) different coverage according to grant focus: examples of TASC National based in Toowoomba and Macarthur Legal Centre based in Campbeltown, and
 - (ii) how existing service areas can help highlight gaps in service area coverage: example of Darwin Community Legal Service.

¹⁶ North Queensland Women's Legal Service (Web Page) <https://www.nqwls.com.au/our-service>.

¹⁷ Queensland Advocacy for Inclusion (Web Page) <https://qai.org.au/>.

¹⁸ Women's Legal Service South Australia <https://www.wlssa.org.au/>.

¹⁹ Family Violence Legal Service Aboriginal Corp. South Australia (Web Page) <https://www.fvlsac.org.au/>.

²⁰ Tenants Union of Tasmania (Web Page) <https://tutas.org.au/>.

²¹ North West Community Legal Centre (Web Page) <https://www.nwclc.org.au/>.

²² Women's Legal Service Victoria (Web Page) <https://www.womenslegal.org.au/>.

²³ Kimberley Community Legal Service (Web Page) <https://www.kcls.org.au/>.

²⁴ Welfare Rights and Advocacy Service (Web Page) <https://wraswa.org.au/>.

TASC - Maps showing: 1. TASC’s Legal Services catchment; 2. TASC’s Disability Advocacy Service catchment; 3. Darling Downs Primary Health Network –for TASC Mental Health Advocacy; 4. TASC’s National Redress Support Scheme Catchment; and 5. TASC’s Seniors Legal Support Service funded service area.²⁵

Figure 2: TASC Maps



Map 1: TASC's Legal Services catchment.



Map 2: Darling Downs Primary Health Network.



Map 3: Toowoomba, Darling Downs & Maranoa forms the funded catchment for TASC's National Redress Scheme Support Service.



Map 4: TASC's Disability Advocacy Service's catchment.



Map 5: TASC's Seniors Legal and Support Service funded service area.

Macarthur Legal Centre - provides a range of services, three of which demonstrate different service areas:

- *Free legal advice* in the LGAs of Campbelltown, Camden, Wollondilly, Wingecarribee, Goulburn, Yass and the Upper Lachlan Shire and after receiving NSW ‘Critical Service Gap’ funding in 2023 expanded to 17

²⁵ TASC National, [Annual Report 2022-3](#), p. 14-16 (Online).

Western NSW LGAs: Balranald, Bland, Carrathool, Coolamon, Cootamundra-Gundagai, Cowra, Griffith, Hay, Hilltops, Junee, Leeton, Narrandera, Temora, Weddin, Snowy Valleys (partial coverage, shared with Hume Riverina CLC), and Wentworth.²⁶

- *Tenancy advice and advocacy* for tenants who live in the LGAs of Fairfield, Liverpool, Campbelltown, Camden and Wollondilly.²⁷
- *Macarthur Women's Domestic Violence Court Advocacy Services* which help women in the Macarthur region, who need advice about domestic violence and help at court.²⁸

Darwin Community Legal Service - DCLS's current service areas highlight gaps in service area coverage. That is, DCLS:

- is the *only generalist CLC in the NT*, and the only provider of generalist CLC assistance however the service area of the DCLS general legal service under NLAP is Darwin and Palmerston areas - resulting in a gap of the rest of the NT in relation to generalist CLC legal assistance²⁹
- provides the *NT Tenants Advice Service* NT-wide, but with grossly insufficient resources and an anomaly of no federal funding contribution despite federal contributions towards tenancy services in all other jurisdictions³⁰
- provides the *NT Older Persons' Abuse Information Line* NT-wide and the *DCLS Seniors and Disability Rights Service*, focusing on individual and systemic advocacy with and for people with disabilities, their family or carer(s) in the Top End including Cox Peninsula, Darwin, Jabiru, Katherine, Litchfield, Pine Creek Palmerston, Tiwi Islands and East Arnhem Shire. However, there is no funding for similar coverage by DCLS or other legal services for the rest of the NT.³¹

4. The maps included in the NLAP Review Report (copy below) do not show service areas, however maps and details of service areas are relevant for rebasing. They are also relevant for Step, Trend and Pass-through.

²⁶ Macarthur Legal Centre ('MLC'), *Legal Service Catchment Expansion* (Web site):

<https://maclegal.net.au/our-services/legal-service-catchment-expansion/>.

²⁷ MLC, *Tenancy* (Web site): <https://maclegal.net.au/our-services/tenancy/>.

²⁸ MLC, *Domestic violence* (Web site): <https://maclegal.net.au/our-services/domestic-violence/>.

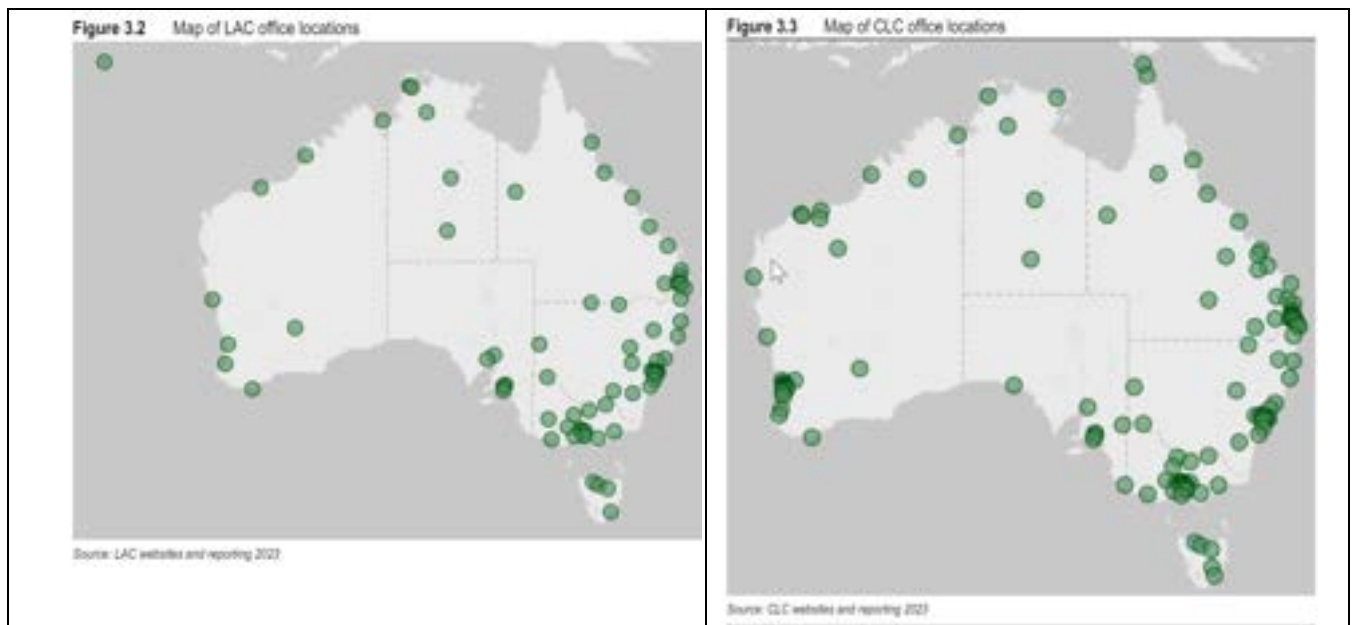
²⁹ DCLS, *NLAP Review Submission* 3.

³⁰ *Ibid.* p.7-8.

³¹ DCLS [Eligibility and Priority Guidelines](#) 13 February 2023 (Online) 14; DCLS Federal Pre Budget Submission 2023-4, *Federal funding support for: NT Seniors and Disability Rights Advocacy and Legal Service*, 24 Jan 23 ([Online](#)).

5. Unlike the maps in the NLAP Review Report, there should be a consistent approach to:
- *Reflect legal assistance sectors* (see next bullet point).
 - *Differentiate office and outreach locations.*³²
 - *Indicate the size of the service areas* – for example the service area of the Great Southern Community Legal Service in Albany WA is spread across 100,000 square km, 25 local government areas and over 40 townships.³³
 - *Show distances* – the maps in the NATSILS submission to the NLAP Review (copy below)³⁴ are examples.
 - *Show features combined* - maps in the Women’s Legal Services Australia submission are an example (copy below).³⁵

Figure 3: Maps included in the NLAP Report³⁶



³² The maps in the Review Report show FVPLS locations with office and outreach undifferentiated and maps for the other service sectors show office locations only.

³³ Great Southern Community Legal Service, [GSCLS 2022-3 Annual Report](#) (Online) 4.

³⁴ NATSILS, [Submission to the NLAP Review, October 2023](#), with [Addendum](#).

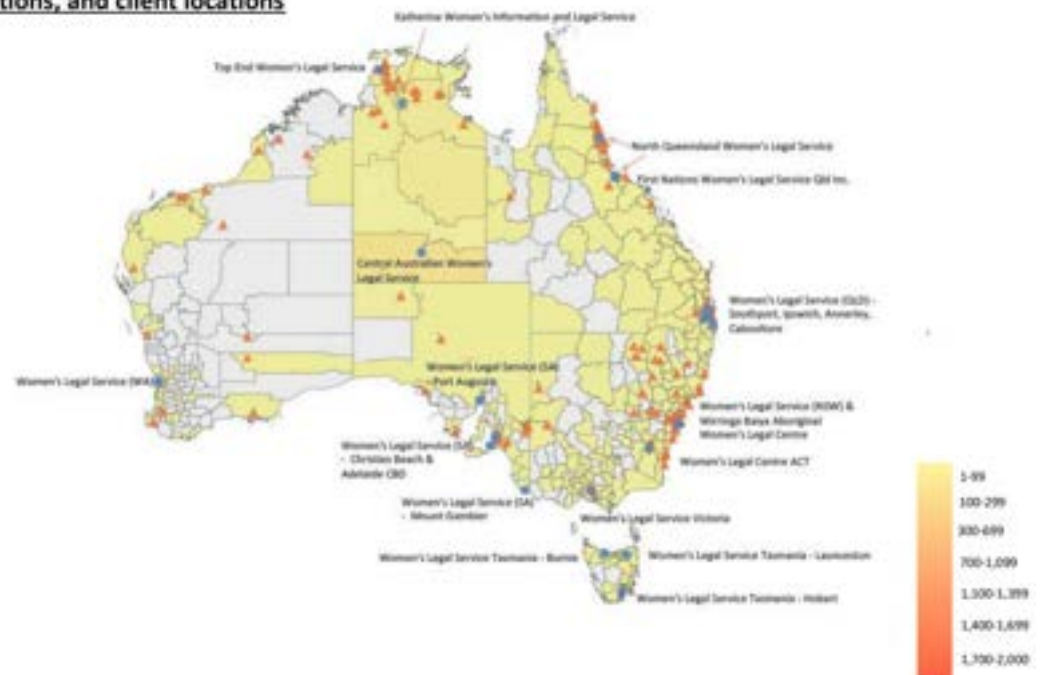
³⁵ Women’s Legal Services Australia, [NLAP Review Submission, 27 Oct 2023](#), 36.

³⁶ NLAP Review Report, LAC map p. 21; CLC map p. 22; ATNLS map p. 23; FVPLS p. 25.

Figure 4: Map by Women’s Legal Services Australia³⁸

The map shows office locations (blue dot), outreach locations (orange triangle) and Local Government Areas areas shaded to show client numbers (key at bottom right).

**Women’s Legal Service offices,
outreach locations, and client locations**



6. Community-based legal assistance services in 4Rs areas can readily indicate the adequacy of current service coverage in relation to service objectives, their current service area/s, gaps and their priorities. They can also provide costings e.g.
 - Addressing underfunding relating to rebasing criteria regarding input/operating costs for safe and sustainable operation e.g. salaries and conditions, travel for service provision, other overheads.
 - Additional capacity required for current office location/s.
 - Additional office location/s needed, if any.
 - Increased outreach needed - having regard to client demographics, nature and complexity of client needs, unmet legal and related needs, and service accountability to communities (geographic and demographic) across the service regions.

7. The above indicates that ‘parts...[with] little or no legal assistance services’ within existing service areas can readily be included in rebasing, that this is likely to reduce gaps in geographic coverage and the scope of what remains to be addressed in the Step phase.

³⁸ Women’s Legal Services Australia, [Submission to the NLAP Review](#), 27 Oct 23, Appendix 2 p.36.

2.3.2 Comments on Appendix D ‘Potential regions with unmet need’

1. The criteria in Rec. 2 regarding ‘little or no legal assistance services’ would benefit from clarification, as would the longer version which precedes it, namely: ³⁹

“..many submissions to the Review have drawn attention to areas of the country where legal assistance services **are not available at all, involve long journeys to access, or are prohibitively expensive**. Not all these areas, such as the south-east of South Australia, can be considered remote. Appendix E [sic. Appendix D] sets out those areas identified in submissions to the Review. The Reviewer is confident this is not a complete list.”⁴⁰

1. Clarification should also ensure sufficient focus on prevention, client and community empowerment, and continuity of community-based assistance in relation to their service area/s.
2. It is agreed, as stated the Review Report, that Appendix D is not a complete list. It is unclear why FVPLS are not included despite the Review’s recommendation that FVPLS be extended for full geographic coverage⁴¹ and the inclusion of priority areas for increased geographic coverage in Chapter 4 - Legal need, that is:⁴²

“Current [FVPLS] gaps in service coverage identified were:

- **Northern Territory:** 17 remote communities in Central Australia and Barkly
- **New South Wales:** Narrabri, Tamworth, Armidale, Newcastle and Central Coast
- **Queensland:** Central Queensland
- **South Australia:** Adelaide, the Riverlands and south-eastern SA
- **Western Australia:** WA West Kimberley and Wheatbelt areas
- **Victoria:** Gippsland and northern regional corridor (including Mildura and Shepparton)
- **Tasmania:** North/Northwest Tasmania.”⁴³

3. Most locations of CLCs in 4Rs areas should also be on the list, due to inadequate access to assistance in their service areas because of insufficient resources. North West and West Coast Tasmania are included in Appendix D as potential areas for the CLC Sector, indicating this was based on ‘Consultation feedback’.⁴⁴ This inclusion is supported, however, it does not indicate which aspects relating to the CLC Sector. It is the only inclusion on the list for Tasmania which is not reflective of the extent of the geographic needs.⁴⁵ It is also the only CLC Sector inclusion on the list nationally, which is not reflective. While there are numerous examples two are:

³⁹ NLAP Review Report, Rec. 3.

⁴⁰ NLAP Review Report, p. 45.

⁴¹ NLAP Review Report, Rec. 3.

⁴² NLAP Review Report, p. 49.

⁴³ Ibid.

⁴⁴ NLAP Review Report, p. D-2.

⁴⁵ For example, Community Legal Centres Tasmania, *NLAP Review Submission*, 17 Oct. 2023 ([Online](#)); LAC Tasmania, *Submission to the NLAP Review Oct 2023*, plus input via networks for priority groups, areas of law and sector peaks.

- the Far West Region of NSW (not included in Appendix D) with a service area amounting to 18% of NSW was identified in the submission by the Far West Community Legal Centre as a highly underserved area; ⁴⁶ and
- Orange, NSW (not included in Appendix D) where needs, related to lack of access to LAC assistance and chronically insufficient assistance related to domestic and family violence, were highlighted by the Central Tablelands and Blue Mountains Community Legal Service. ⁴⁷

5. Taking the NT as a further example, the section of the Table D.1 (screen shot below)⁴⁸ about the NT:

Table D.1 Potential regions with unmet need

Jurisdiction	Region	Sub sector	Submission
Northern Territory	Darwin	ATSILS	Legal Aid NT (sub.48)
	Katherine	ATSILS	Legal Aid NT (sub.48)
	Alice Springs	ATSILS	Legal Aid NT (sub.48)

- The reference to the submission by Legal Aid NT is relevant but the inclusions on Table D1 are not reflective of the breadth of the issues raised by Legal Aid NT,⁴⁹ and do not encompass the submissions by the NT Government,⁵⁰ NAAJA,⁵¹ Darwin Community Legal Service,⁵² peaks including Economic Justice Australia,⁵³ NATSILS,⁵⁴ NFVPLSF⁵⁵ and the submission by the 4Rs Network.⁵⁶
- The reference to only one Sub sector (ATSILS) is not reflective as there are gaps for FVPLS, CLCs (NT based and national), and relating to LAC NT.

⁴⁶ Far West Community Legal Centre, [Submission to the NLAP Review, 23 Oct 2023](#), p. 3.

⁴⁷ Central Tablelands and Blue Mountains CLC, [Submission to the NLAP Review, 16 Oct 2023](#).

⁴⁸ NLAP Review Report, p. D-1.

⁴⁹ NT Legal Aid, [Submission to the NLAP Review, 25 Oct 2023](#).

⁵⁰ Northern Territory Government, [Submission the NLAP Review, Oct 2023](#).

⁵¹ NAAJA, [Submission to the NLAP Review, 1 Nov 2023](#).

⁵² Darwin Community Legal Service, [NLAP Review Submission, Oct 2023](#).

⁵³ Economic Justice Australia, [Submission to the NLAP Review, 26 Oct 2023](#).

⁵⁴ NATSILS, [Submission to the NLAP Review, Oct 2023](#) NATSILS, with [Addendum](#).

⁵⁵ NFVPLSF, [Submission to the NLAP Review, Oct 2023](#)

⁵⁶ 4Rs Network, 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#).

- The reference to Darwin, Katherine and Alice Springs is not reflective of the NT Regions (Top End, Big Rivers, Barkly, Central Australia), or the major centres which include Tennant Creek and Nhulunbuy where there are also unmet needs.⁵⁷
- Does not reflect consideration of the gaps highlighted in the NT Legal Assistance Strategy and Action Plan.⁵⁸

8. In total, Appendix D cites only six submissions and mainly lists one service sector ('sub sector') per listed 'Potential regions with unmet need'. The Appendix does not reflect that many regions have unmet needs involving two or more sub sectors, as just outlined in the example relating to the NT. A further example is that in relation to the Kimberley and the Pilbara - Appendix D highlights the need for increased ATSILS services but does not reflect levels of unmet needs relating to other sectors namely:

- Community-based legal assistance:⁵⁹
 - family violence legal assistance via Marninwarntikura Women's Resource Centre and the Aboriginal Family Legal Service,⁶⁰
 - basic rights civil law legal assistance from Pilbara Community Legal Service and the Kimberley Community Legal Service,⁶¹
 - access to statewide specialist community legal services (including social security legal help, tenancy, employment law)⁶²
 - access to assistance from national community legal services,⁶³ and
- WA Legal Aid Commission.⁶⁴

9. Appendix D did not consider geographic gaps in access to legal assistance relating to statewide and national CLCs although lack of geographic access to these specialist services was emphasised in multiple submissions and NLAP Rec.5.⁶⁵

⁵⁷ Submissions relating to the NT referred to above.

⁵⁸ Department of the Attorney-General and Justice, [Northern Territory Legal Assistance Strategy and Action Plan 2022-2025, Feb 2023.](#)

⁵⁹ Aboriginal Family Legal Service WA, [Submission to the NLAP Review, Oct 2023](#); National Family Violence Prevention Legal Service Forum, [Submission to the NLAP Review, Oct 2023](#); Community Legal Centres Australia, [Submission to the NLAP Review, 27 Oct 2023](#); 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#); Community Legal WA, [Submission to the NLAP Review, Oct 2023](#); Pilbara Community Legal Centre, [Submission to the NLAP Review, 23 Oct 2023.](#)

⁶⁰ Aboriginal Family Legal Service WA, [Submission to the NLAP Review, Oct 2023.](#)

⁶¹ Pilbara Community Legal Centre, [Submission to the NLAP Review, 23 Oct 2023.](#)

⁶² Community Legal WA, [Submission to the NLAP Review, Oct 2023.](#)

⁶³ Ibid.

⁶⁴ Legal Aid WA, [NLAP Review Submission, Oct 2023.](#)

⁶⁵ NLAP Rec. 5 p. 58 regarding addressing gaps in civil law, 'Particular focus should be placed on supporting statewide and national specialist CLCs (whether currently funded under NLAP or not)'

10. However, as noted above, if the rebasing phase is effective for legal assistance services in and for 4Rs areas, including statewide and national services, geographic gaps left for the Step phase, will be substantially reduced.

2.4 Rec. 2 implementation sequence and preferencing

This section responds to four further issues relating to Rec. 2.

2.4.1 Expand existing services to provide ‘New services’

1. Chronic levels of under resourcing means that many community-based legal services have not had the opportunity to fully service their service areas despite ongoing advocacy highlighting these issues and seeking additional resources. Rebasing should apply a principle that *geographic areas* will be properly serviced, and *services will be properly funded for their service areas*.
2. Once it is indicated that funds are available, it is likely that all or most existing 4Rs legal assistance services will provide proposals to strengthen their operations. As noted at 2.3.1 point 5, it is likely that some will include enlarging their current office base/s, establishing new office locations and all will include increased outreach. These aspects are related. For example, as noted by Townsville Community Law, outreach requires backfill in the office for staff out of the office on outreach, and funding levels should factor this in.⁶⁶
3. If the possibility of establishing ‘new’ services (referred at paras 2 and 3 of the p. 234 quote, copy included in this response at 2.2 point 3), includes new service providers and/or newly incorporated organisations, this should be balanced against the benefits of existing services increasing their service levels, service area coverage and footprint – considering objectives of sustainability, effectiveness, embeddedness, knowledge, history, trust relationships and capabilities of these services. These issues are discussed further below at 2.5 -*Principles for addressing geographic service gaps*.

2.4.2 First Nations and unmet legal need: apply Closing the Gap

1. The reference in the p. 234 quote in para 2 to ATSILS being preferred where the client population is largely Aboriginal and Torres Strait Islander people,⁶⁷ applies

⁶⁶ Townsville Community Law, *NLAP Review Submission, Oct 2023*.

⁶⁷ ‘This will inevitably lead to some existing service providers receiving further funding and new services being established. In the latter case, where the client population is largely Aboriginal and Torres Strait Islander, it would be appropriate to turn to the relevant ATSILS to provide the service, at least in the first instance. With other populations, the relevant LAC should be preferred. The reason for this preference is that by leveraging existing multilocation service providers, services are likely to be deployed more rapidly

Closing the Gap principles and is strongly supported. However, the reference to ATSILS overlooks FVPLS and the ACCO Women's Legal Services namely the First Nations Women's Legal Service Queensland ('FNWLSQ')⁶⁸ and Wurringa Baiya Aboriginal Women's Legal Centre in NSW.⁶⁹ All ACCO legal assistance services should be included.

2. The substantially higher funding levels which should result may also allow ATSILS, FVPLS, FNWLSQ and Wurringa Baiya ('ACCO legal assistance services') to increase service levels and areas of law in which assistance is provided.
3. It is noted that services can be an ACCO and a CLC e.g. FNWLSQ and Wurringa Baiya and those ATSILS and FVPLSs which are members the state or territory CLC association.⁷⁰ The term 'non-ACCO CLCs' is consequently used below to differentiate.
4. Non-ACCO CLCs in 4Rs locations with a high First Nations population, generally a high proportion of First Nations clients. For example, in 2022-3, 73% of clients of Katherine Women's Legal and Information Service identified as Aboriginal⁷¹ as did 85% of clients of Kimberley Community Legal Service.⁷²
5. Non-ACCO CLCs which are a valuable community resource should be encouraged and developed as part of the local service mix. Additionally, underserved locations with a high First Nations population should continue to have access to non-ACCO CLC assistance which complements assistance by ACCO legal assistance services. This includes conflict of interest referrals. As the funding and resulting capacity of ACCO legal assistance services increases, the various factors which will impact locally and regionally to rebalance service provision between ACCOs and non-ACCO CLCs are likely to occur collaboratively (discussed further in the response below relating to Rec. 11 – *Self-determination in existing services* and Rec. 12 – *Self-determination in new services*).
6. Fully funding ACCOs as primary providers of legal assistance for First Nations people is supported. This should apply a *maximising approach*, which also ensures access by First Nations people to non-ACCO community-based legal assistance.

and successfully. That said, there may be instances where a reasonably proximate CLC could undertake the work, or a strong community service organisation could support the service.'

⁶⁸ Web page: <https://www.atsiwlslsq.org.au/>.

⁶⁹ Web page: <https://www.wurringabaiya.org.au/>.

⁷⁰ Community Legal Centres Australia, 'Member centres' in Appendix 2, CLCA, *State of the Sector Survey Report 2022-23: A Sector in Crisis Report* (Online, March 2024).

⁷¹ KWILS, *Annual Report 2022-3*, p. 11.

⁷² KCLS, *Annual Report 2022-3*, p. 1.

2.4.3 Reject preferring LACs over CLCs to address unmet geographic needs

1. The reasoning in the p. 234 quote in para 2⁷³ (copy in this response at 2.2 point 3) about preferring LACs over CLCs in provision of ‘new’ services addressing unmet geographic need, would have the effect of preferring LACs over place-based community-owned CLCs (including the ACCO-CLCs namely the First Nations Women’s Legal Service Queensland and Wirringa Baiya Aboriginal Women’s Legal Centre).
2. This proposed preferencing of LACs over CLCs does not reflect proper consideration of relevant factors and it is not supported. Relevant factors include:
 - The geographical presence of CLCs and how this can lend itself to provision of ‘new’ services to address gaps in *their current service areas* and/or extending geographic coverage where it makes sense to build forward from current locations.
 - Local needs and preferences, including those relating to relationships, continuity and trust.
 - That CLCs in 4Rs areas work hard to employ locally and reflect strong investment in their geographic and demographic communities. Most CLCs in 4Rs areas with high First Nations populations have high ratios of locally employed First Nations staff in a wide range of roles. For example, about 1/3 of Katherine Women’s Information and Legal Service staff are First Nations women.
 - CLC models are client-centred, wraparound, multi-disciplinary, trauma-informed and aim to be culturally safe. CLC accreditation applies standards and includes annual peer review.⁷⁴
 - The community development, community empowerment and community accountability approach of CLCs includes working in with the pace and rhythms of communities and long-term commitment.⁷⁵

⁷³ NLAP Review Report, p. 234 also at p. 48.

⁷⁴ Outlined at ‘[Insurance](#)’ and ‘[Accreditation](#)’ on the CLCA web site.

⁷⁵ For background see for example: Community Legal Centres Australia, *What makes a community legal centre?* ([Online](#)); Community Door, *Community Development*, Queensland Council of Social Service ([Online](#), 2024); Community First Development, *A First Nations Approach to Community Development: Our Community Development Framework* ([Online](#), 2020); International Association for Community

- LAC guidelines, orientation and governance compares with CLCs greater flexibility, localisation and a more holistic approach.⁷⁶ For example, the Far West Community Legal Centre outlined that:

Building trust, in particular with Aboriginal clients, through face-to-face interaction is the key to being able to provide a culturally safe and effective service

...

In our experience, clients are far less likely to seek legal assistance via email, the internet or phone. Most of the Far West region is a communication blackspot and where available the internet is often unreliable. Telecommunications data is unaffordable to the region's most disadvantaged and many of our clients are known to share a smart phone with pre-paid data – when this runs out, maintaining contact to provide information about legal appointments and court dates for example, becomes very difficult. ...

...

The nature of our clientele and communication challenges necessitates extensive community engagement activities and outreach that must be delivered regularly, with consistency and by the same staff. As trust takes time to build, low client numbers on outreach are common at times of staff turnover or inconsistent service provision and are not a reliable indicator of demand.⁷⁷

- Preferring LAC *scale* would preference LACs *models* including the nature, types and conditions of assistance, compared to more flexible CLC approaches.
- Preferring LACs would also preference LAC models of limited local and regional office autonomy and voice, over ACCO and non-ACCO CLCs which are civil society organisations supporting client and community advocacy and empowerment.
- As outlined by the NLAP Report, perverse and negative effects can arise with resource allocation, when funders are attracted to LACs larger 'scale'. The Report noted that:

'funding inadequacy prevents ACCOs from providing the full range of services to community ...These circumstances can lead governments to allocate funding to organisations with greater existing capacity, in the belief that leveraging existing scale will ensure funds reach communities in need. A key example referenced throughout the Review was Legal Aid NSW's suite of family and civil law programs offered to Aboriginal communities in areas ATSILS could service if they

Development, *Towards Shared International Standards for Community Development Practice* ([Online](#), June 2018); AIFS, 'What is community development?' *Resource Sheet* ([Online](#), July 2023).

⁷⁶ Issues related to the unsuitability of current LAC grant of legal aid models for clients with complex needs are outlined below at 5.3 Increase civil and family law grants of aid and 4Rs areas.

⁷⁷ Far West Community Legal Centre, *Submission to the NLAP Review, 23 Oct 2023*, pp. 3-4.

had appropriate funding. The inability of Aboriginal and Torres Strait Islander peoples to access ACCO services if they so choose is contrary to article 14 paragraph 3 (d) of the *International Covenant on Civil and Political Rights*.⁷⁸

- The Report also noted ‘scale’ can be problematic in relation to competitive bidding for grants, where LACs may have an advantage due to being larger and better resourced, but that:

‘..it is by no means certain the exploitation of economies of scale necessarily leads to the best outcomes for vulnerable clients. It may be that better outcomes will be achieved by more innovative, slightly higher cost service providers’⁷⁹

2.4.4 Concern about treatment of ‘large’ and ‘small’

1. The observations by the NLAP Review about the size and attributes of legal assistance organisations warrants further elaboration. That is, in response to the following paras:

The legal assistance sector is not unlike the small business and charities and not-for-profit sectors in that there is a small number of large organisations (e.g., LACs, major CLCs) and a relatively higher proportion of small organisations (for example, most CLCs, ATSILS and FVPLS).⁸⁰

””””

[CLCs, ATSILS and FVPLS] ... tend to be small and governed by boards generally made up of persons who have had substantial legal and government careers. Usually, they have existed for a long time with a strong track record of integrity.⁸¹

2. It is important not to lose sight of the fact the community-based legal assistance sector (CLCs, ATSILS and FVPLS) is larger than LACs in terms of combined number of staff, number of office locations, extent of geographic coverage, involvement of volunteers and pro bono contributions.⁸² A sizeable portion of LAC budgets, relates to the mixed model of LAC assistance involving private lawyers which, as noted in the 4Rs Network submission, is not operative for most of the Australian land mass due to unavailability of private lawyers.⁸³
3. The homogenization of legal assistance sectors through a lens of ‘size’, without examining the adequacy of the lens, and effectively suggesting that there are no

⁷⁸ NLAP Review Report, p. 90.

⁷⁹ NLAP Review Report, p. 205.

⁸⁰ NLAP Review Report, p. 195.

⁸¹ NLAP Review Report, p. 196.

⁸² Staffing figures by sector are at 25.4 below; regarding office locations see the maps at 2.3.1 above; volunteers and pro bono contributions are discussed at 24.7 below.

⁸³ 4Rs Network, [Submission to the NLAP review, 27 Oct 2023 p.20.](#)

other relevant differences or factors, is problematic.

4. The approach frames away from suitability and effectiveness including in 4Rs contexts (as outlined above) and frames away from the inter-connected nature of community-based legal services.⁸⁴ The approach has the effect of equating the statutory and hierarchical structure of LACs, and far greater involvement of the private legal profession in provision of legal assistance via LACs on a paid basis, with ‘large’, and equating the associative, networked, and less hierarchical structure of community-based legal assistance services, and involvement of legal profession as volunteers, with ‘small’.
5. That there are a small number of LACs, among the total number of non-profit legal assistance service entities, is associated with patterns of Board representation, with far more stakeholders in 4Rs areas reflected and involved in governance across community-based legal assistance sectors compared to LACs.⁸⁵
6. As different definitions of ‘small business’ are used in legislation, programs and policy, the reference to ‘small business’ in the NLAP Report, without definition, makes the parameters and patterns unclear.⁸⁶ If the ABS definition of small businesses (5-19 employees), medium businesses (20-199 employees) and large businesses (more than 199 employees) is used,⁸⁷ most community-based legal

⁸⁴ For example, a feature which makes a CLC is that they are unified and connected to one another: Community Legal Centres Australia, [What makes a Community Legal Centre?](#) (Online, 2024).

⁸⁵ Research by the Victorian Federation of Community Legal Centres with the Victorian Law Foundation regarding the number of board or management committees of CLCs in Victoria gives a sense of the likely figure nationally. The Victorian estimate was 318 board or management committee members across 42 CLCs in Victoria (average of about 7.22 / centre): Jozica Kutin with Hugh M. McDonald, Tenielle Hagland, Clare Kennedy and Nigel J. Balme, *Working in Community Legal Centres in Victoria: Results from the Community Legal Centres Workforce Project – Workforce Profile* (Victoria Law Foundation and Federation of Community Legal Centres (Vic), 2021) ([Online](#)) p. 13 -14.

⁸⁶ For example, there is a substantial difference between the definitions in the Corporations Act and the Fair Work Act i.e. Corporations Act s.45A, ‘small proprietary company’ means at least 2 of the following: (i) less than \$25mil. consolidated revenue for the financial year, (ii) gross assets of less than \$12.5 mil at the end of the financial year (iii) fewer than 50 employees; Fair Work Act 2009 s.23. an employer who employs less than 15 people (in any capacity including part-time and casual). For further discussion about variations in definitions see for example: NSW Treasury, Small business definition Policy and Guidelines Paper – Small business definition TPP22-08, Feb 22 ([Online](#));

⁸⁷ Australian Bureau of Statistics (2022-23), [Australian Industry](#), ABS Website, accessed 16 July 2024, which is based on the Economic Activity Survey which uses a ‘headcount’ for ‘employees’ not full time equivalent: Australian Bureau of Statistics, [Economic Activity Survey](#), 15 Aug 2023, ABS Website, accessed 28 July 2024 and for example: Australian Bureau of Statistics, [Economic Activity Survey - Health Care and Social Assistance Services & Education and Training](#), 15 Aug 2023, ABS Website, accessed 28 July 2024.

assistance services appear to be 'medium' sized,⁸⁸ as are some LACs.⁸⁹

7. Purposes would be relevant to framing definitions relating to 'size' of legal assistance sector organisations if needed.⁹⁰ Legal assistance services are not-for-profit, and all are likely to be registered charities. This includes the eight LACs which are registered charities.⁹¹ Under the ACNC definition of 'large' which is annual revenue of \$3mill or more⁹² the following services incorporated to predominantly provide legal assistance, are 'large': all ATSILS,⁹³ some FVPLS⁹⁴ and a sizeable number of CLCs.⁹⁵ It is likely that all ACCO legal assistance services incorporated under the CATSI Act are medium or large under the CATSI criteria.⁹⁶

⁸⁸Community Legal Centre, [Submission to the NLAP Review, 23 Oct 2023](#) outlined that: 'Data from the national State of the Sector Survey for 2022 – 23, shows that participating centres had Full Time Equivalent (FTE) staff ranging from 0 (volunteers only) to 110, with an average of 20.5. The median centre had an FTE staff of 13.5.' (p. 55).

⁸⁹ At 30 June 2023 TAS LAC had 93.38 FTE staff, NT LAC: 124 staff at 30 June 2023 and ACT LAC had 153 Sources: LAC Tasmania, [Submission to the NLAP Review Oct, 2023](#), p. 11; NT Legal Aid, [Submission to the NLAP Review](#), 25 Oct 2023, p.9.; ACT Legal Aid, [Annual Report 2022-3](#), p. 64.

⁹⁰ E.g. whether the purposes of the definition of 'small business entity' in s.328.110 of the Income Tax Assessment Act 1997 are relevant. This definition specifies turnover of less than \$10mill pa. but the level of turnover is not relevant to charitable status tax concessions received by most legal assistance services: see for example Justice Connect, '[Tax Landscape](#)' (Justice Connect, Not for Profit Law, 2024)

⁹¹ Australian Charities and Non-profit Commission ('ACNC'), Data base (Online): <https://www.acnc.gov.au/charity/charities>

⁹² Australian Charities and Not-for-profits Commission Act 2012 s.205-25 Small (annual revenue under \$500,000), medium (annual revenue under \$3mill), and large (annual revenue of \$3mill or more) registered entities, and [Charity Size](#) (Web Page); Corporations (Aboriginal and Torres Strait Islander) Act 2006 s. 37.10 Small, medium and large corporations, and ORIC CATSI Fact Sheet, '[Corporation Size and Reporting](#)' (Web Page).

⁹³ All ATSILS are 'large' according to the ACNC definition.

⁹⁴ The largest FVPLS are Djirra (Victoria), Queensland Indigenous Family Violence Legal Service and the Aboriginal Family Legal Service WA with income in 2022/3 of about \$12 mill., \$8mill, and \$7.9mill respectively. Sources: Djirra, [Annual Report 2022/3](#) (Online) p. 6: QIFVLS [Annual Financial Statement 2023](#) (Online) p.5.; Aboriginal Family Legal Service WA, [Annual Financial Report 2023](#) (Online) p. 18.

⁹⁵ For example, the following CLCs in 4Rs areas are 'large' according to the ACNC definition: Central Australian Women's Legal Service; Darwin Community Legal Centre; Far West Community Legal Centre; Kimberley Community Legal Service; Macarthur Community Legal Centre; North Queensland Women's Legal Service; Northern Rivers Community Legal Centre (based in Lismore); Pilbara Community Legal Service; Western Community Legal Centre (based in Dubbo); Regional Alliance West (based in Geraldton); TASC National, based in Toowoomba.

⁹⁶ Corporations (Aboriginal and Torres Strait Islander) Act 2006 s. 37.10 Small, medium and large corporations, and ORIC CATSI Fact Sheet, '[Corporation Size and Reporting](#)' (Web Page), large is at least two of the following: (i) gross operating income over \$5mill; (ii) consolidated gross assets of \$2.5mill or more (iii) over 24 employees.

8. The three largest ATSILS receive income higher than the three smallest LACs⁹⁷ and while multiple ATSILS have income higher⁹⁸ than the largest national CLCs⁹⁹ and the largest statewide CLCs,¹⁰⁰ the overall picture is more nuanced than that suggested by the characterisation in the NLAP Report. It is also more nuanced due to pro bono contributions. For example, private practitioner pro bono contributions to Refugee Legal (Refugee and Immigration Legal Service) estimated at an annual figure of about \$20mill,¹⁰¹ is likely more than the total paid out to private lawyers by a number of LACs combined.
9. Appreciating interconnections, including how CLCs may be involved in service collaborations, is also part of a more nuanced approach. For example:
 - *State and Territory CLC associations and networks in each state and territory* – facilitate CLC collaborations, joint projects and combined efforts. Examples include active peer information sharing and support, sector research, and large-scale projects. State and Territory CLC peaks in all jurisdictions should be properly funded, including and especially the

⁹⁷ The three largest ATSILS are ALS NSW/ACT with income of about \$37 mill in 2022/3 and NAAJA and ATSILS Queensland with an income each of about \$31 mill., which compares to the three smallest LACs being NT LAC, ACT LAC and LAC Tasmania with income in 2022/3 of \$23mill each (NT and ACT) and \$24mill (TAS). Sources: Aboriginal Legal Service NSW/ACT, [Annual Report 2022/3](#) (Online) p. 49; NAAJA, [Financial Report 2023](#) (NAAJA General Purpose Financial Report 30 June 2023) (Online); NT Legal Aid Commission, [Annual Report 2022/3](#) (Online), p.46; QATSILS, [Annual Report 2022/3](#) (Online) p. 11; ACT Legal Aid Commission, [Annual Report 2022/3](#) (Online), p. 74; Tasmania Legal Aid Commission, [Annual Report 2022/3](#) (Online), p. 32; Aboriginal Legal Service WA, [Annual Report 30 June 2023](#).

⁹⁸ In addition to ALS NSW/ACT, NAAJA, and ATSILS Queensland just indicated (Ibid), the income in 2022/3 for the Aboriginal Legal Service WA was \$21 mill. Sources: *ibid*, and Aboriginal Legal Service WA, [Annual Report 30 June 2023](#).

⁹⁹ The national CLCs with the largest income in 2022/3 were Knowmore which had income of about \$18.7mill and the Environmental Defenders Office which had income of about \$15.5 mill: Sources: Knowmore Legal Service Ltd. [Financial Report 2023](#) (Online); Environment; EDO, [Annual Report, 30 June 23](#) (Online).

¹⁰⁰ The large statewide CLCs by income in 2022/3 included: Women's Legal Services Queensland with income of about \$10.9mill; Justice Connect (focusing on Victoria and NSW) with income of about \$9.9mill; WestJustice based in Werribee Victoria with income of about \$9.2mill; Seniors Rights Service (NSW) and the Justice Support Centre (NSW) each with income of about \$8.5mil, Tenants Queensland with each with income of about \$8.3mill; Caxton Community Legal Centre with income of about \$8.02mill; Intellectual Disability and Rights Service NSW with income of about \$7.8mill; Environmental Justice Australia with income of about \$7.7mill, and Women's Legal Service Victoria with income of about \$7.3mill Sources: Women's Legal Service, Queensland, [Financial Report 2023](#) (Online); Justice Connect, [Financial Report 2023](#) (Online); Western Community Legal Service (WestJustice), Seniors Rights Service (NSW), [Financial Report 2023](#) (Online), [Financial Report 2023](#) (Online); Justice Support Centre, [Financial Report 2023](#) (Online); Tenants Queensland, [Financial Report 2023](#) (Online); Caxton Community Legal Centre, [Financial Report 2023](#) (Online); Intellectual Disability and Rights Service NSW, [Financial Report 2023](#) (Online); Environmental Justice Australia, [Financial Report 2023](#) (Online); Women's Legal Service Victoria, [Financial Report 2023](#) (Online).

¹⁰¹ NLAP Review Report, p. 26.

four unfunded peaks (NT, TAS, SA and ACT)¹⁰² the first three of which relates to some of the most disadvantaged 4Rs areas in Australia.

- *The Queensland Statewide Tenant Advice and Referral Service* ('QSTARS') managed by Tenants Queensland (TQ) as the lead provider, which contracts 7 partner organisations including 3 CLCs services in regional areas (Mackay Regional CLC, Hervey Bay Neighbourhood Centre and TASC National based in Toowoomba).¹⁰³
- *The Queensland Coronial Legal Service*, which is a statewide, multidisciplinary, legal social support service delivered by Caxton Community Legal Service in partnership with Townsville Community Law Inc. The service assists bereaved families at all stages of coronial investigation and inquests.¹⁰⁴
- *The Western Australia Tenancy Network* – also called the Tenancy Advice and Education Service ('TAES') which involves 15 providers, 8 of which are in 4Rs areas which have individual contracts with the WA government funding agency,¹⁰⁵ Additionally, Circle Green is funded as the hub resource providing direct assistance to tenants and Network facilitation for joint efforts including training, resources, projects and law reform.
- *The Women's Legal Service Victoria, Emerging Lawyers Program* - which provides funding and support for 14 new lawyer positions with one located

¹⁰² CLCA, [Submission to the NLAP Review, 27 Oct 2023](#) p.60: 'The next NLAP should commit the Commonwealth, state, and territory governments to properly funding community legal sector peak bodies in all jurisdictions. This includes: • Establishing funded peaks in the ACT, NT, SA, and Tasmania • Ensuring peaks in all jurisdictions receive funding sufficient to deliver effective supports and services to community legal services in their membership, including leadership and coordination, capacity building and development, accreditation and quality assurance, data and reporting, and advocacy and law reform.'; and for example: Community Legal WA, [Submission to the NLAP Review, Oct 2023 \(Online\)](#), 91-92; Community Legal Centres Tasmania, [NLAP Review Submission, 17 Oct. 2023 \(Online\)](#) pp. 10-11.

¹⁰³ Web site: <https://qstars.org.au/>; The Hon. Meaghan Scanlon, Minister for Housing, '[\\$44mill for tenant advice service](#)', Queensland Government, (Media Release, 10 Aug 2023); The Advocacy and Support Centre (based in Toowoomba); Community Plus; Enhance Care; Suncoast Community Legal Service; Ipswich Regional Advocacy Service; The Hervey Bay Neighbourhood Centre; and Mackay Regional Community Legal Centre.

¹⁰⁴ Caxton Community Legal Centre, [Annual Report 2022-3 \(Online\)](#), p.27; Townsville Community Law Annual Report, 2022-3 [\(Online\)](#) p.12 and p.8 in the incorporated Financial Report.

¹⁰⁵ This involves 15 providers 8 of which are located in 4Rs areas and 7 in metropolitan areas plus Circle Green which has a statewide focus: Western Australian Government, '[Tenant advice and education service](#)', Department of Energy, Mines, Industry Regulation and Safety (Website) includes service list, the 8 services in 4Rs areas area Great Southern Community Legal Service, Goldfields Community Legal Service, Kimberley Community Legal Service, Peel Community Legal Service, Pilbara Community Legal Service, Regional Alliance West, South West Community Legal Centre, and Wheatbelt Community Legal Centre; Circle Green, [Annual Report 2022-3 \(Online\)](#), p. 13.

with each of the 14 selected CLCs, 8 of which are in regional areas.¹⁰⁶ In this model, outlined further at 24.7 below, each CLC employs, and the Women's Legal Service facilitates throughout, including training and support.

- *knowmore and the Redress Support Services* – knowmore provides legal and wraparound assistance on a national basis for survivors of child sexual abuse to navigate their legal options¹⁰⁷ knowmore also shares knowledge with professionals and with Redress Support Services.¹⁰⁸The latter can access knowmore expertise, pre-prepared resources, updates and training.¹⁰⁹
 - The Redress Support Services are a range of services funded separately by the Department of Social Services, which include 4 community-based legal assistance services, enabling assistance at a local and regional level.¹¹⁰
 - The 4 legal assistance services, which assist people locally and regionally are: TASC National, based in Toowoomba,¹¹¹ the Aboriginal Family Legal Services WA (with the head office in Perth and 6 regional offices),¹¹² Pilbara Community Legal Service head office in Karratha and offices in Roebourne, Newman and South Hedland,¹¹³ and Kimberley Community Legal Service (with offices in Broome and Kununurra).¹¹⁴
 - These services utilise the Redress Support Services login area on the knowmore web site, and participate in a bi-monthly group update, information and training sessions with knowmore.
 - In this example knowmore acts as a backbone/support to other services, as part of a large scale national and local/regional effort.

10. Additionally, the description in the NLAP Report does not reflect:

¹⁰⁶ Women's Legal Services Victoria Emerging Lawyers Program Women's Legal Services Victoria, Emerging Lawyers Program (online, 2024), < [More family violence support where it's needed the most \(womenslegal.org.au\)](https://womenslegal.org.au/)>; < [Emerging Lawyers Program - Women's Legal Service Victoria. \(womenslegal.org.au\)](https://womenslegal.org.au/)>, discussed further below at 20.3.

¹⁰⁷ Knowmore, *Services* ([Website](#))

¹⁰⁸ Knowmore, *Service providers* ([Website](#))

¹⁰⁹ Ibid. and the RSS mini-site: <https://knowmore.org.au/redress-support-services/>

¹¹⁰ The full list of services is here: <https://www.nationalredress.gov.au/support>

¹¹¹ TASC National, Redress Scheme Support ([Weblink](#))

¹¹² Aboriginal Family Legal Services WA, Redress Support Service ([Weblink](#))

¹¹³ Pilbara Community Legal Service Redress Support ([Weblink](#))

¹¹⁴ Kimberley Community Legal Service ([Website](#))

- CLCs are generally locally governed, often including prominent and highly regarded local people as Board members.¹¹⁵ ACCO CLCs have exclusively or predominantly First Nations people as Board members. First Nations people also serve as Board members with many non-ACCO CLCs in 4Rs areas. Most ATSILS, FVPLS and CLC Boards include people with expertise involving lived experience and backgrounds relating to the organisation's geographic scope and place-based services. This also applies to CLCs located in 4Rs areas.
 - Levels of collaboration among CLCs facilitated by State and Territory CLC Associations, Community Legal Centres Australia, and by networks and peaks, and collaboration on a regional basis, for example between the three women's legal services in the NT (Central Australia, Katherine and the Top End) and between three generalist CLCs in northern Western Australia (Regional Alliance West, Pilbara CLC and Kimberley CLC).
 - Where the funding levels of individual community-based legal services in or for 4Rs areas are lower than other comparable services, the causes are generally unaddressed historical funding anomalies including substantial differences in funding between jurisdictions. That is, the causes are external, and the Commonwealth, States and Territories should collaborate to ensure they are addressed – first during rebasing and second, for remaining issues, during the Step phase.
11. As noted above, non-ACCO 4Rs CLCs in areas with high First Nations populations generally have high First Nations client profiles. Many of these services also reflect *place-based scale* for local and regional CLC assistance as the total effort by the CLC for Indigenous and non-Indigenous community members underpins staff positions and funding.
12. In many cases the funding for 4Rs CLCs, which enabled the service to start, resulted from the Commonwealth and/or the State selecting locations for CLC funding and calling for proposals.¹¹⁶ In some cases, this responded to years of

¹¹⁵ The Central Women's Legal Service is an example of a place-based community-owned legal service the constitution of which includes that Board eligibility requires residence in Central Australia.

¹¹⁶ For example: Attorney-General Daryl Williams AM, Q.C, MP, 'Government Expands Community Legal Services - new centres in rural and regional areas ([Media Release, 11 May 1999](#)); Attorney-General Daryl Williams AM, Q.C, MP, 'Launch of Albury-Wodonga Cross Border Community Legal Service, ([Media Release, 28 July 1999](#)): 'The establishment of a Community Legal Service in the Albury-Wodonga region is one of a range of initiatives that the Government has undertaken to enhance the Commonwealth Community Legal Services Program. Other community legal services are being established in the Kimberley and South-West regions in Western Australia, South Australia's Iron Triangle, Central-West Queensland and the South Coast of New South Wales.'; Attorney-General Daryl Williams AM, Q.C, MP, 'Tenders Called for Five New Community Legal Services - - Government increasing legal services for rural

community organising in collaborations involving Indigenous and non-Indigenous community people.

13. Responding to 4Rs CLCs which have faced years / decades of funding duress (including lower salaries and conditions compared to LACs) by criticising their scale is also unhelpful for approaches to client and community empowerment in 4Rs areas and overcoming disadvantage. It is unhelpful for what *access to justice* means and involves, and how sustainable, quality, 4Rs place-based community-owned legal assistance relates.

2.4.5 Reject preferencing LACs over statewide and national CLCs

1. The proposal to preference LACs over CLCs in provision of ‘new’ services addressing unmet geographic need, by implication includes preferencing LACs over statewide and national CLCs. This is not supported, and it appears to conflict with NLAP Report Rec 5 – Civil law, which includes the recommendation that:

‘Particular focus should be placed on supporting statewide and national specialist CLCs.’¹¹⁷

2. Many statewide and national CLCs have connections with community-based legal services in 4Rs areas, some have established service relationships, and some have funded programs which include 4Rs service collaborations¹¹⁸ or provide direct client assistance in 4Rs areas.¹¹⁹ Caxton Community Legal Centre based in Brisbane is an example, providing most of its services in Brisbane but also providing five statewide programs each with a specific model. For example:
 - Statewide workplace sexual harassment and discrimination service – in partnership with Basic Rights Qld/Working Women Qld, and collaborating with Gold Coast Community Legal Centre and Mackay Community Legal Centre¹²⁰

and regional Australia’ ([Media Release, 27 Aug 1999](#)) ‘Tenders are now being called for five new Community Legal Services in regional centres to further increase legal assistance to the disadvantaged.... The new services will be located in: Broken Hill - New South Wales; Mount Gambier - South Australia; Riverland- South Australia; Gippsland - Victoria and Kalgoorlie - Western Australia.’

¹¹⁷ NLAP Review Report Rec 5. p.58 “....governments should provide additional funding for civil legal assistance services, including early intervention and mediation, to allow legal assistance providers to offer a greater number of services and prevent unresolved civil matters becoming criminal matters....Particular focus should be placed on supporting statewide and national specialist CLCs (whether currently funded under NLAP or not) and providing resources to ATSILS and FVPLS to develop and implement culturally appropriate services for Aboriginal and Torres Strait Islanders services alone and in partnership with specialist CLCs. This should be done through the baselines process set out in chapter 7.”









































¹¹⁸ Some examples of funded initiatives involving Statewide and 4Rs CLCs are at 2.4.4 point 9 above.

¹¹⁹ For example, Caxton Community Legal Centre, *Annual Report 2022-3* ([Online](#)),

¹²⁰ *Ibid.* pp.11 & 19.

- Statewide Family Advocacy and Support Service shown on the Caxton chart below - offering services delivered in person or remotely (phone icon).

Figure 5: Caxton Family Advocacy and Support Service chart¹²¹

	Lawyer	Social Support	Men's Support	Mental Health Support
BRISBANE				
TOOWOOMBA				
SOUTHPORT				
MAROOCHYDORE				
HERVEY BAY				
BUNDABERG				
ROCKHAMPTON				
MACKAY				
TOWNSVILLE				
CAIRNS				

- The focus, specialist areas, orientation, operations, and governance of these statewide CLCs are among the aspects which distinguishes them from LACs. A further aspect is that statewide CLC's based in capital cities, or in large urban centres, may include substantial contributions from volunteers including lawyers and law students (discussed further at 24.7 - *Volunteers*.)¹²² These contributions, which are often long standing due to the synergies, may increase capacity, continue to invigorate community-based social justice orientation, and achieve workforce benefits including facilitating recruitment.¹²³
- When resources are available, place-based, community-owned legal assistance services in 4Rs areas have demonstrated capacity to innovate, including collaborating in specialist CLC hub and spoke models, where the hub performs

¹²¹ Ibid, p. 25.

¹²² Examples include Canberra Community Law, *Annual Report 2022-3* ([Online](#)); South-East Monash Legal Service (formerly Springvale Community Legal Service) *Annual Report 2022-3* ([Online](#)); Darwin Community Legal Service, *Annual Report 2022-3* ([Online](#)); Top End Women's Legal Service, TEWLS, *Annual Report 2022-3*, 31 ([Online](#)); Eastern Community Legal Service, *Annual Report 2022-3* ([Online](#));

¹²³ Ibid.

roles customised to the circumstances.¹²⁴

5. Valuing what CLCs, and all community-based legal services in or for 4Rs areas bring, should be integral in directions for the next NLAP.
6. The problematic proposal that LACs be preferred over CLCs in addressing geographic gaps, underlines the need for principles relating to the rights and inclusion of people in 4Rs areas. The next NLAP must be underpinned by clearly articulated principles relating 4Rs areas based on an effective theories and models for positive change. This is outlined in **The Backgrounder** at II.II) and further below at:
 - 2.5 - *Principles for addressing geographic service gaps*, and
 - 5.1 - *Principled commitment to 4Rs place-based community-owned service delivery*.

2.4.6 ‘..insufficient demand to sustain a permanent legal presence’ and population density as a ‘major barrier’

1. The NLAP Review Report stated:

Australia’s low population density presents a major barrier to reaching clients, many of whom may have unmet legal need, with challenges of scale impacting the ability to provide local services....¹²⁵

...

.... It is likely there will remain communities where resident or nearby resident lawyers will not be present. In these cases, government must ensure more distant providers, most likely LACs and ACCOs, have adequate resources to provide timely, culturally appropriate services. This should be reflected in the baseline funding reset.¹²⁶

2. The quote frames low population density as ‘a major barrier. This is extremely unhelpful given Australia has a national population density of 3.5 people per sq km,¹²⁷ the third lowest in the world.¹²⁸ Treating low population density as a ‘barrier’ *is a ‘barrier’*. A functional framing is required, being one which rejects adverse discrimination based on claimed justifications of low population density.
3. Low population density is a reason for flexible, attuned, well-resourced service

¹²⁴ Models, including hub and spoke, in relation to 4Rs areas are discussed further at 5.1 Principled commitment to 4Rs place-based community-owned service delivery – below.

¹²⁵ NLAP Review Report, p. 46.

¹²⁶ NLAP Review Report, p. 48.

¹²⁷ Australian Bureau of Statistics, ‘[Regional population](#)’ ABS, 2022-23, at June 2023 (ABS Web Page, released 26 March 2024).

¹²⁸ World Bank, *World Bank Data*, [Population Density – All Countries and Economies](#) (Online, 2021).

provision which promotes rights, wellbeing and inclusion. The generalisation in the Review Report, that in ‘many locations there may be insufficient demand to sustain a permanent legal presence’ – should be assessed locally, not via assumptions. Complex client needs and lack of access to legal assistance often reduces problem recognition and help seeking, and unavailability of accessible legal assistance at the relevant times can have compounding effects.¹²⁹

4. Three further factors are particularly relevant

- *Building blocks:*
 - Addressing resources, and other factors, inhibiting permanent legal presence in communities and regions in 4Rs Australia, where needed and achievable, helps *improve legal assistance services in outlying communities*. This is because increasing the number of 4Rs locations with permanent legal presence reduces travel times and other forms of distance.
 - For example, when resource levels and other factors are aligned for sustainable arrangements, having staff in Halls Creek, Derby and Fitzroy Crossing in the Kimberley, may reduce logistics and increase quality and continuity compared to most legal assistance services only have staff in at the two extremes of Broome in the west and Kununurra in the east (1,000km apart).
 - Additionally, each success in increasing the permanent legal assistance presence in 4Rs communities and regions, *can increase prospects of more progress in the future*. For example:
 - Pilbara Community Legal Service, which was the first CLC in the Pilbara/Kimberley regions, facilitated community people in the Kimberley establishing the Kimberley Community Legal Service (‘KCLS’). Then, the one KCLS office in Kununurra from 1999, led to development of the fledgling KCLS office in Broome in 2014, now well established. The fact starting the Broome office took 15 years reflected lack of Commonwealth and State Government funding, not lack of willingness or initiative by KCLS or other barriers.

¹²⁹ Fiona Allison and Chris Cunneen, *Access to Justice in the Barkly: A Review of the Justice Too Far Away Report on Tennant Creek and Barkly Region’s Access to Legal Services and Information*, Jumbunna Institute for Indigenous Education and Research, University of Technology, Sydney (Online, 2020); Hugh McDonald and Zhigang Wei ‘How people solve legal problems: Level of disadvantage and legal capability’ *Justice Issues, Paper 23*. Law and Justice Foundation of New South Wales (Online, 2016). Nicole Aylwin and Lisa Moore, *Rural & Remote Access to Justice A Literature Review*, Prepared by the Canadian Forum on Civil Justice for the Rural and Remote Access to Justice Boldness Project (Online, 2015).

- *Decentralisation*: the location and organisation of work across geographically disbursed teams is relevant to access by people in 4Rs communities to local community-based legal services. Examples of how decentralisation can benefit access to 4Rs legal assistance include:
 - *Two or more office locations*: Community-based legal services in 4Rs areas with two or more offices which spread aspects of client and other work between their offices. For example, non-client facing aspects of client legal work, paralegal work and non-legal work including administration, may be undertaken by staff in a different office. Each office backs up the other/s.
 - *Flexible work location and partly or fully decentralised operations*: When community-based legal services, statewide community-based legal services and national CLCs or networks:
 - Allow their staff to work from the location of their choice, including 4Rs.
 - Decentralise part of their operations to 4Rs areas, while still delivering the jurisdiction wide assistance.

This can result in collaborations, secondments, hosting or co-locations which benefit local 4Rs legal services in multiple ways.

 - *Community responsive rather than lawyer dependent*: Community responsive models for access to legal and related assistance in remote communities extended, where suitable, via community liaison and non-legal casework models. Insufficient lawyer presence in communities is ameliorated and does not defeat access to legal assistance. Staff positions in 4Rs communities for these community embedded models are supported under an ongoing development and learning approach.
- *Flexible recruitment*: Community-based legal services in 4Rs areas which apply a flexible approach to recruitment to take advantage of opportunities. For example, where a lawyer or other worker becomes available in remote and very remote community due to personal circumstances, such as accompanying their partner employed in the community.

2.5 Principles for addressing geographic service gaps in 4Rs

1. Principles should be established for addressing geographic service gaps in 4Rs areas.
2. The principles should apply Closing the Gap and include:

- *Empowerment and accountability* – promote the empowerment of, and accountability to, diverse communities in 4Rs areas.
 - *Valuing sector attributes* – recognise and value the attributes of the different community-based legal sectors and LACs.
 - *Sustainability and effectiveness* – promote the sustainability of place-based community-owned legal assistance services in 4Rs areas for maximum effectiveness.
 - *Full geographic coverage of service areas* – ensure existing place-based community-owned legal services in 4Rs areas have sufficient resources for coverage of their service areas and that full geographic coverage is achieved.
 - *Processes for ‘new’ services* – due to capabilities and contextual factors it is generally likely to be preferable for existing services in or for 4Rs areas to provide ‘new’ services to fill gaps. However, where this is not preferable, consultation with communities, existing services and stakeholders should occur for effective approaches to establish new services having regard to local needs, conditions and objectives.
 - *Principled relationships between 4Rs place-based community-owned legal assistance services and other legal assistance services*– via service linkages and funding models which benefit and extend these 4Rs place-based community-owed approaches.
3. These issues are developed further at 5.1 - *Principled commitment to 4Rs place-based community-owned services* (below).

2.6 Research capabilities: First Nations, 4Rs and Northern Australia

1. The research capabilities of the Victorian Law Foundation and the NSW Law and Justice Foundation exist due to a combination of factors including historical, economic and geographic. While producing substantial research of national relevance, the research focus and capabilities are not specialist for the diversity of 4Rs areas nationally. Additionally, research findings related to research in specific geographic locations, are not necessarily generalisable to 4Rs areas nationally.¹³⁰

¹³⁰ NLAP Review Report p. 60, also 37, 39-40 & 49.

2. Resourcing and logistics relating to the Legal Australia-Wide Survey resulted in methodological limitations for 4Rs areas, especially for First Nations people in 4Rs areas.¹³¹
3. Additional high quality, independent, foundation/university and/or sector based, national research capacity is needed to enhance justice and access to justice in 4Rs areas. This includes:
 - First Nations law and justice – reflecting Closing the Gap, the National Justice Policy Partnership,¹³² the human rights and civil and criminal legal needs of First Nations people.
 - 4Rs law and justice – reflecting human rights, legal rights, lived experiences and legal needs, of people, groups and communities experiencing disadvantage.
 - Northern Australia and other geographic areas of policy focus – reflecting the above factors on a specific geographic basis.
4. The Commonwealth should establish processes to address these gaps in research capabilities. Adequate funding should be provided, with long-term commitment, with principles of relevance and connectedness to the groups impacted, especially accountability to First Nations people and to the range of people, needs and communities in 4Rs areas.

Rec 3 – Complete FVPLS coverage

Recommendation 3 – Complete FVPLS coverage

The Reviewer notes that there are large parts of Australia, metropolitan and non-metropolitan, where the services of FVPLS are not available.

The Reviewer recommends that the Commonwealth should work with the FVPLS Forum, other FVPLS and other ACCOs providing services to Aboriginal and Torres Strait Islander women with a view to ensure complete national geographic coverage of FVPLS. The Reviewer expects this will involve the extension of the service areas of existing FVPLS, the establishment of new FVPLS and potentially the conversion of some existing ACCOs into FVPLS.

As a starting point, focus should be placed on the locations identified by NFVPLS noted in this Report.

¹³¹ For example, the NLAP Review Report noted the limitations related to the LAWS reliance on fixed landline contact with survey participants, p. 38.

¹³² National Justice Policy Partnership Agreement: <https://www.ag.gov.au/legal-system/closing-the-gap/justice-policy-partnership>.

3.1 Support for complete FVPLS coverage and FNAAFV

1. Rec. 3 regarding complete national geographic coverage by FVPLS is supported noting that this aligns with the call to the federal government by the NFVPLS Forum (now the FNAAFV) to:¹³³
 - ensure all Aboriginal and Torres Strait Islander women have access to our specialist, culturally safe services regardless of their geographic location
 - provide certainty to Aboriginal victim/survivors and their communities through providing long-term secure funding commitments to all FVPLSs.¹³⁴
2. It is noted that ensuring all Aboriginal and Torres Strait Islander women have access to FVPLS services, requires responsive funding levels for existing services to fully cover their existing service areas and funding for areas beyond existing service areas.
3. It is also noted that NLAP Rec. 3 regarding funding for FVPLS is specifically endorsed by Rec. 5 of the Senate Legal and Constitutional Affairs References Committee inquiry into Missing and murdered First Nations women and children tabled on 15 August 2024.¹³⁵
4. The FNAAFV has called for FVPLS funding to be quarantined within NLAP so that it is only available for FVPLS. This reflects Rec. 10 in the NLAP Review Report and is supported.
5. The growth of the FVPLS program will place extra demands on FNAAFV as the sector peak. Funding for FNAAFV's operations should be scaled up accordingly.

3.2 Rebasing for increased coverage

1. It is noted that the inclusion of \$8.6million for FVPLS in the May 2024 federal budget to reduce the wage gap with LACs was positively received by the FNAAFV but the

¹³³ First Nations Advocates Against Family Violence (formerly National Family Violence Prevention Legal Services Forum), media post 1 July 2024.

¹³⁴FNAAFV, Media Post 1 July 2024.

¹³⁵ Senate Standing Committee on Legal and Constitutional Affairs, *Missing and Murdered First Nations Women and Children, Report*, August 2024 ([Online](#)) p. 177: 'Rec 5: '7.43 The committee recommends that the Australian government urgently gives effect to the relevant recommendations in the Independent Review of the National Legal Assistance Partnership 2020–2025, in particular Recommendations 2–3, 9 and 11–12, and specifically addresses the need to increase the geographic spread and capacity of Family Violence Prevention Legal Services.' (p. 177).

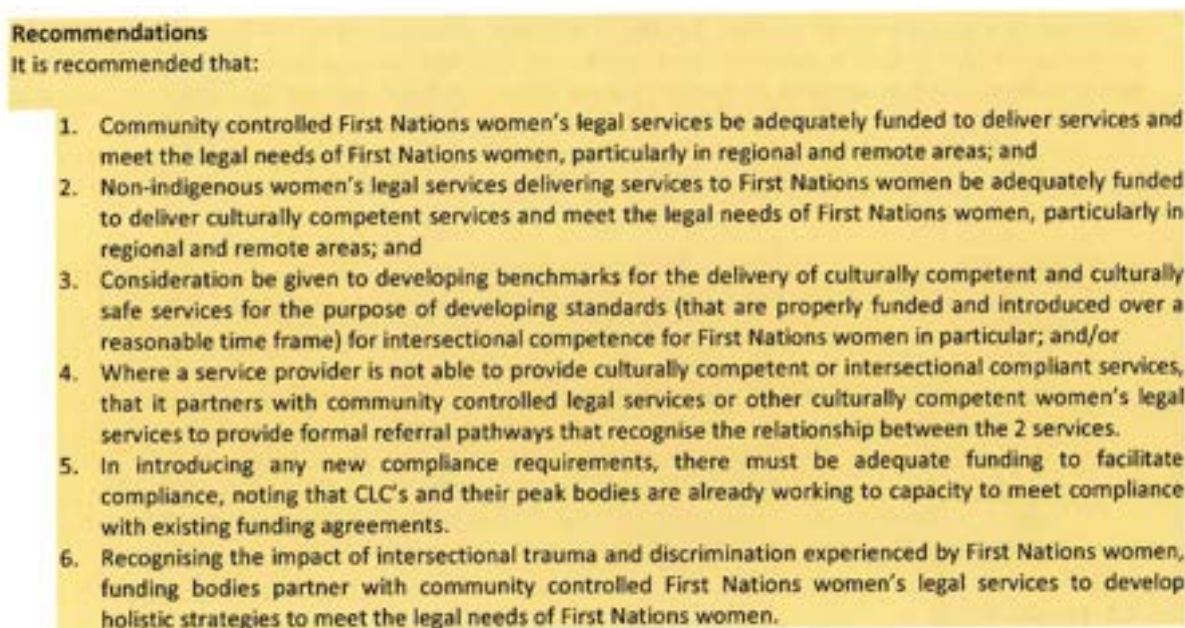
amount fell far short of the \$60mill increase in core funding which was sought.¹³⁶

2. Rebasing of FVPLS to the full level required should occur urgently.

3.3 Conversion of some existing ACCOs into FVPLS

1. The reference in Rec. 3 to ‘potentially the conversion of some existing ACCOs into FVPLS’, presumably refers to two Indigenous Women’s Legal Services namely the Wirringa Baiya Aboriginal Women’s Legal Centre in NSW (‘Wirringa Baiya’)¹³⁷ and the First Nations Women’s Legal Service Queensland (‘FNWLSQ’).¹³⁸ These services were established, and are governed, by First Nations women.
2. The recommendation for potential conversion does not sit with the submission to the NLAP Review by FNWLSQ summarised in the recommendations in the following screen shot which have been endorsed by Wirringa Baiya:¹³⁹

Figure 6: Screen shot of a number of recommendations by the First Nations Women's Legal Service Queensland to the NLAP Review¹⁴⁰



¹³⁶ NFVPLSF, *Federal Pre-Budget Submission 2024-5*; NFVPLSF, *Peak Body Calls for Critical Funds from Federal Budget* (Media Release 13 May 24) https://nationalfvpls.org/wp-content/uploads/2024/05/NFVPLS-Media-Release_Peak-Body-Calls-For-Critical-Funds-From-Federal-Budget_May-2024.pdf; The federal budget inclusions are outlined below at 25.3 – *NLAP Rec. cf. treatment in May 2024 federal budget*.

¹³⁷ Web site: <https://www.wirringabaiya.org.au>

¹³⁸ Web site: <https://atsiwlslsq.org.au>

¹³⁹ First Nations Women’s Legal Service Queensland, *NLAP Review Submission*, 27 Oct 2023, p.7 and Wirringa Baiya confirmation of endorsement.

¹⁴⁰ *Ibid.*

3. Self-determination of First Nations women’s legal services should be respected, and these services should be rebased according to the needs for their assistance. This includes Wirringa Baiya, as a statewide service, expanding accordingly including increasing services in 4Rs areas of NSW.
4. Also to note the support for Aboriginal community-controlled specialist services in August 2024 report of the Senate Committee on Missing and Murdered First Nations Women and Children Report, which stated that:

7.4.2 The committee especially agrees with Dr Mundy’s recommendations that will promote sustainable, needs-based funding in regional and remote areas for First Nations women attending gendered and Aboriginal community-controlled specialist services and Aboriginal community-controlled services.¹⁴¹

5. The NLAP Review Report did not consider whether First Nations women’s legal services should be available in other jurisdictions. This is addressed at 7.4 para 3 below, which proposes purposive consultation on this aspect.

Rec 4 – Legal Assistance Impact assessment for administrative law

Recommendation 4 – Legal Assistance Impact Assessment for administrative law

The Reviewer considers that there is insufficient certainty around a range of Commonwealth administrative law matters for him to be able to make firm funding recommendations at this time. Once these matters are settled, the Commonwealth should undertake a Legal Assistance Impact Assessment with a view to adjusting the baseline funding of those services who have substantial Commonwealth administrative law caseloads.

4.1 Funding now for Commonwealth administrative law matters

1. The thrust of Rec. 4, that an increase in baseline funding is required relating to Commonwealth administrative law matters, is agreed however baseline funding should be increased immediately to address current, chronic, underfunding and the effects on unmet legal needs.
2. The effects of the commencement of the Administrative Review Tribunal, replacing the AAT from 14 October 2024, should then be considered further via

¹⁴¹ Senate Standing Committee on Legal and Constitutional Affairs, Missing and Murdered First Nations Women and Children, Report, August 2024 ([Online](#)) p. 177.

the proposed Legal Assistance Impact Assessment once the changes have settled in.

4.1.1 Administrative law including access to social security legal help

1. Services which have substantial administrative law caseloads can demonstrate this and should have funding baselines increased immediately. However, services in 4Rs areas, which currently have low administrative law caseloads, due to lack of funding but which demonstrate the need to address this gap, should also be eligible due to the nature and extent of the unmet needs.
2. For example, in relation to social security legal assistance ATSILS and FVPLS receive no funding and most CLCs, including those in 4Rs areas, receive no funding.
3. These issues have been raised for years, and they were raised again in multiple submissions to the NLAP Review, including the submission by the 4Rs Network,¹⁴² Economic Justice Australia,¹⁴³ NATSILS¹⁴⁴ and CLC Australia.¹⁴⁵

4.1.2 Funding for independent advocacy and NDIS legal help in 4Rs

1. Similar issues about the need for funding, apply to independent advocacy and legal support for people with disability in relation to the NDIS.¹⁴⁶
2. The 4Rs Network seeks substantial expansion of the DSS NDIS Independent Advocacy and NDIS Appeals programs to overcome funding patterns which are blocking access to this assistance in 4Rs areas. For example, no ATSILS or FVPLS receive funding under these programs and few CLCs in or for 4Rs areas receive funding. Funding levels to 4Rs community-based legal services which do receive some funding under these programs is highly insufficient.¹⁴⁷
3. Additionally, there should be a major injection of funds for statewide community-based legal services specialising in independent NDIS advocacy and/or NDIS legal support to partner in agreed ways with community-based legal services in 4Rs areas. The statewide service and the community-based legal services in 4Rs

¹⁴² 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#) e.g. at 32, 41, 43-45, 81.

¹⁴³ Economic Justice Australia, [Submission to the NLAP Review, 26 Oct 2023](#).

¹⁴⁴ National Aboriginal and Torres Strait Islander Legal Services, [Submission to the NLAP Review, Oct 2023](#), with [Addendum](#).

¹⁴⁵ Community Legal Centres Australia, [Submission to the NLAP Review, 27 Oct 2023](#).

¹⁴⁶ 4Rs Network [Submission to the Joint Standing Committee inquiry on the NDIS lived experience of the NDIS in regional, rural and remote areas](#) dated 8 March 2024 with [endorsement list](#).

¹⁴⁷ Ibid.

areas should receive funding to achieve this. Principles addressed in this response should be applied (see **The Backgrounder** at II.II, 2.4 above and 5.1 below).

4.1.3 Veterans' advocacy support and legal assistance in 4Rs

1. The NLAP Review Report recommended that NLAP priority groups be expanded to include veterans (Rec. 8) and supported appropriate baseline funding for veterans' legal assistance, including Townsville Community Law and Darwin Community Legal Service, stating that:

The Reviewer is aware of specialist veterans' services operating around the country, and of trauma-informed services provided by knowmore and others. The outcomes of the Royal Commission should accommodate an expansion of those programs. If not, additional baseline funding should be provided to both LACs and appropriately located CLCs (for example, in Townsville and Darwin).¹⁴⁸

2. The final report of the Royal Commission into Veteran's Suicide is now due in September 2024, however the timing for legal assistance funding is now critical as the National Legal Aid Veteran's Legal Assistance will cease on 30 September 2024 unless federal funding is continued.¹⁴⁹ Additionally, on 3 July 2024 the Government introduced the Commonwealth Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024, which if passed will apply to all new compensation claims from 1 July 2026.¹⁵⁰
3. The Veteran's Legal Assistance provided by Townsville Community Law ('TCL')¹⁵¹ is a Queensland Government funded pilot from March 2022-March 2024, subsequently extended to December 2024 while the pilot is evaluated by the Queensland Government. The service was officially launched in March 2023, and delivery involves expert staff with lived experience of the issues affecting veterans and their families.¹⁵²As outlined in the TLC submission to the NLAP Review, Townsville has the highest number of veterans (14,200) of any region at the SA3 level, and 60% of veterans have a long-term health condition.¹⁵³

¹⁴⁸ NLAP Review Report p. 73.

¹⁴⁹ National Legal Aid, Defence & Veteran's Legal Service ([Web Page](#)).

¹⁵⁰ APH, Commonwealth Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024, Bills Digest, [Online](#).

¹⁵¹ Townsville Community Law, Veterans' Legal Service ([Web Page](#)).

¹⁵² Townsville Community Law, *Annual Report 2022-3* ([Online](#)), p. 11.

¹⁵³ Townsville Community Law, [NLAP Review Submission, Oct 2023](#).

4. The DCLS service is an unfunded pilot, which began in mid- 2021 in collaboration with Mates4Mates in Darwin, with DCLS providing a specialist veteran’s lawyer.¹⁵⁴ Targeted to veterans and veteran’s families, and focusing on wellbeing and empowerment, the service was able to facilitate full access to DCLS’s other specialist programs, including the DCLS Seniors and Disability Rights Services, and other wraparound referrals.¹⁵⁵ Reflecting that Darwin, like Townsville, is a garrison city with Navy, Army and Airforce present, strong participation in the Defence Reserves Service and large ex-service cohorts, the service responded to lived experience input about the nature and extent of unmet needs.¹⁵⁶ DCLS has had many meetings relating to the need for funding support.¹⁵⁷ The program is currently not operating as a stand-alone basis although veterans are still being served, within the civil law program, from referrals from veteran services.
5. Recurrent funding for the TCL and DCLS veteran’s legal service initiatives would also align with NLAP Review Report Recs. 15 and 20 relating to follow on from successful pilots.

4.1.4 Immigration legal assistance by CLCs in 4Rs

1. Rec. 8 of the NLAP Review recommends that the list of priority groups for NLAP be expanded to include a number of groups including ‘recent migrants, refugees and asylum seekers’.¹⁵⁸ As outlined in response to Rec. 8 below, this is supported.
2. The NLAP Review Report noted that changes in Commonwealth Government policy in areas such as migration and refugees are contributing to increased legal needs,¹⁵⁹ in these complex and contested areas of law.¹⁶⁰
3. Funding for statewide CLCs, and all community-based legal services, providing legal assistance in relation to migration, refugee and asylum seeker matters, should be increased to reflect levels of need and unmet need, including access to this legal assistance in 4Rs areas.

¹⁵⁴ Darwin Community Legal Service, Media Release 27 July 2021 ([Online](#)); Darwin Community Legal Service, ‘Support for new veteran’s support hub in Darwin’, Media Release 27 July 2022 ([Online](#)); Veterans Legal ([Web Site](#)).

¹⁵⁵ Darwin Community Legal Service, Federal Pre-Budget Submission 2023-4, 24 Jan 23 ([Online](#)).

¹⁵⁶ Darwin Community Legal Service, Annual Report, 2021-2 ([Online](#)), p.14.

¹⁵⁷ Ibid p. 20.

¹⁵⁸ NLAP Review Report, p. 74.

¹⁵⁹ NLAP Review Report, p. II.

¹⁶⁰ NLAP Review Report, p. 74.

4. A jurisdiction-by-jurisdiction review of the adequacy of funding should be undertaken. For example, Community Legal Centres Tasmania highlighted that the Tasmanian Refugee Legal Service receives no Commonwealth funds and has relied on State funding, and donations, which are not sufficient for sustainable operation and the levels of need.¹⁶¹
5. Geographic accessibility for those in 4Rs areas should be addressed through funding and service models.
6. Principles about 4Rs legal assistance addressed in this response should be applied (see **The Backgrounder** at II.II, point 2.4 above and 5.1 below).

Rec 5 – Civil law

Recommendation 5 – Civil law

To address the persistent gaps in civil law assistance first identified by the Productivity Commission in 2014, and to help Australians experiencing legal issues as a result of cost of living increases, governments should provide additional funding for civil legal assistance services, including early intervention and mediation, to allow legal assistance providers to offer a greater number of services and prevent unresolved civil matters becoming criminal matters.

Particular focus should be placed on supporting statewide and national specialist CLCs (whether currently funded under NLAP or not) and providing resources to ATSILS and FVPLS to develop and implement culturally appropriate services for Aboriginal and Torres Strait Islanders services alone and in partnership with specialist CLCs. This should be done through the baselines process set out in chapter 7.

Further, the Commonwealth, states and territories should increase funding for additional civil and family law funding broadly in line with the recommendation 21.4 of the PC Report. The Reviewer expects this to cost all governments \$459 million in 2025-26.

The Productivity Commission estimated in 2014 that around 60% of the cost associated with this recommendation should be borne by the Commonwealth – the Reviewer has not revisited this estimate.

The principle of 'Commonwealth money for Commonwealth matters' should not apply to Commonwealth funding of these grants.

1. Rec. 5 that governments should provide additional funding for increased civil law assistance services is supported. The approach should include wraparound support.
2. Substantial unmet civil law legal needs, especially in 4Rs areas, were highlighted in numerous submissions to the NLAP Review including the 4Rs Network submission. Increasing funding for civil law assistance should include a comprehensive focus on supporting and strengthening existing ACCO and CLC

¹⁶¹ Community Legal Centres Tasmania, *NLAP Review Submission*, 17 Oct. 2023 ([Online](#)) pp. 11-12.

community-based legal assistance services in 4Rs areas.

3. The following should be adopted and applied:

- II.II - Principles relating to 4Rs rights and Inclusion (in **The Backgrounder**)
- 2.5 - Principles for addressing geographic service gaps (above), and
- 5.1 - Principled commitment to 4Rs place-based community-owned service delivery (below).

5.1 Principled commitment to 4Rs place-based community-owned service delivery

1. The NLAP Review Report did not directly address the importance of place-based community-owned service delivery in relation to access to legal assistance in 4Rs areas. This is relevant to all community-based legal assistance service provision in 4Rs areas including access by people in 4Rs areas to civil law assistance.
2. People in 4Rs areas facing complex barriers need attuned, flexible, responsive, wraparound, face-to-face assistance. This is most likely to be achieved through community presence, continuity and trust, which are features of place-based community-owned legal services. These services should be resourced to provide assistance directly and via easy and effective collaborations, including fully tailored and customised collaborations with specialist community-based legal services.
3. The responsiveness of services to people and communities in 4Rs areas is a major factor. Community-based legal services in 4Rs areas, should be valued and funded to provide access to assistance in relevant areas of civil law.
4. There should be an affirmative commitment by Governments, policy processes and legal assistance services to ensure geographic availability of place-based community-owned legal assistance services in 4Rs areas reflecting the rights and needs of people experiencing disadvantage in these areas, and informed approaches to empowerment, prevention, increasing wellbeing and systemic change. Accordingly, the following principles should be applied.
 - i. Where community needs, Closing the Gap or other reasons in 4Rs areas indicate a practice of place-based community-owned legal assistance services, in and for 4Rs areas, this is the preferred service delivery model.

- ii. In these cases, funding should ensure sufficient service size for quality, sustainable service provision. The size will vary and should be assessed by focusing on client and community benefit, having regard to the topic, cohort and geographic location and coverage.
- iii. In relation to ACCO legal assistance services, funding must be sufficient for all parts of these organisations, including large and statewide, in the overall self-determined effort.
- iv. In relation to CLCs, where there is a need for coordination or facilitation of place-based community owned services, a ‘hub’/’network’ or similar model in support *should also be funded* for functions determined by the services concerned in each case e.g. call routing, training, community of practice, education, coordinating law reform, collaborative projects.
- v. Unless there are compelling reasons to the contrary, rebasing existing specialist statewide CLCs in underserved areas of law in 4Rs areas (such as social security, tenancy, disability, credit and debt) should accord with i, ii and iv. Where not already in place, this is likely to involve innovating processes of statewide CLCs in alliance with place-based community-owned service delivery.
- vi. The same should apply, as far as possible in relation to national CLCs.

5.2 Approach to increasing statewide and specialist CLCs

5.2.1 Priority to ACCO CLCs

1. As noted above at 3.3 there are currently there are two specialist First Nations women’s legal services, being Wirringa Baiya Aboriginal Women’s Legal Centre in NSW¹⁶² and the First Nations Women’s Legal Service Queensland,¹⁶³ which provide specialist legal and related assistance to First Nations women in a range of civil areas of law.
2. These ACCO CLCs should receive high priority for required resources in rebasing of statewide and specialist CLCs included in Rec.5. This accords with:
 - Closing the Gap
 - the nature and extent of the needs of First Nations women

¹⁶² Web site: <https://www.wirringabaiya.org.au>

¹⁶³ Web site: <https://atsiwlslsq.org.au>

- increasing access by First Nations women in 4Rs areas to assistance from these services, and
- increasing resources for First Nations led efforts to reduce disadvantage and achieve positive systemic change.

5.2.2 Statewide, specialist and national CLCs

1. There is strong support for substantially increased access to civil law legal assistance and allocating required funding for statewide, specialist and national CLCs, applying the *Principled commitment to 4Rs place-based community-owned service delivery* as just outlined (at 5.1). In most cases this is likely to involve increased resources via rebasing for place-based community-owned legal assistance services in 4Rs areas *and* increased resources for statewide and/or national functions by statewide / national specialist CLCs with the model/s in each case determined via deliberation with 4Rs services concerned.
2. The need for increased access to assistance in relation to social security and NDIS, are particularly highlighted in the response to Rec. 4, above.
3. The absence of statewide coverage should be addressed in jurisdictions where this applies, including the NT where there is still no funded NT-wide:
 - Generalist CLC coverage
 - Consumer Legal Service
 - Credit and Debt Legal Service
 - Employment Law Service
 - Tenants' Advice Service (due to insufficient funding to NT TAS),
 - Disability Legal Service, or
 - Seniors Rights Legal Service.¹⁶⁴
4. Workforce needs, including civil law assistance and wraparound support are discussed below in relation to Rec. 24 – Workforce Strategy.

5.3 Increase civil and family law grants of aid and 4Rs areas

1. Increased access to legal aid staff lawyers and private lawyers in and for 4Rs areas via grants of aid in civil and family law matters is broadly supported, however there are issues that need to be addressed regarding:
 - value for money

¹⁶⁴ Department of the Attorney-General and Justice, [Northern Territory Legal Assistance Strategy and Action Plan, 2022-2025 \(Online, Feb 2023\)](#) 23. Darwin Community Legal Service, [NLAP Review Submission, Oct 2023](#).

- availability, and
 - suitability for Closing the Gap priorities and the full range of client needs in 4Rs areas.
2. Currently, as noted in the 4Rs submission to the Review, the mixed model of Legal Aid (staff lawyers and private lawyers) is inapplicable to most of the Australian landmass due to the unavailability of private lawyers.¹⁶⁵ The extent to which increasing private practitioner payment rates to court scale levels, as recommended by the Reviewer, will achieve improvement in 4Rs areas, and whether this reflects value for money, are questions which need to be addressed.
 3. In geographic locations where the mixed model of Legal Aid is limited or does not apply due to unavailability of private lawyers, effective alternatives are needed, to ensure equitable and suitable access to legal assistance.
 4. Additionally, alternatives to grants of aid should apply where the structuring of a grant of aid, such as with caps and stages, is not suited to the needs of highly vulnerable clients, including those who need client-focused, holistic, wraparound, trauma informed, culturally safe, assistance.¹⁶⁶ These issues arise continually in many 4Rs areas. In these cases, client care, duty of care and effectiveness indicate that funded arrangements should be established with suitable community-based legal assistance services for the full assistance required.
 5. Issues relating to Independent Children’s Lawyers (family law) and Independent Child Representatives (child protection matters) are discussed below in response to Rec. 19 – rates of grants for independent Children’s Lawyers, especially at 19.3.
 6. There should be an active and transparent review to assess the relevance, suitability, effectiveness and value for money of:
 - the mixed model of Legal Aid (staff lawyers and private lawyers), especially in 4Rs areas, and
 - models relating to grants of legal aid for the range of clients including those with complex needs.

¹⁶⁵ 4Rs Network, [Submission to the NLAP review, 27 Oct 2023 p.20.](#)

¹⁶⁶ Community Legal WA, [Submission to the NLAP Review, Oct 2023](#) pp..79-81; Central Tablelands and Blue Mountains CLC, [Submission to the NLAP Review, 16 Oct 2023](#) pp. 2-3; Community Legal Centres Australia, [Submission to the NLAP Review, 27 Oct 2023](#) p.38.

Rec 6 – Disaster legal assistance

Recommendation 6 – Funding for disaster response

The Reviewer recommends that governments include in the baseline funding for the A2JP sufficient funding for legal assistance providers to develop and maintain suitable preparedness to respond to community legal need in the event of natural disasters. By including in baseline funding, service providers will have flexibility in use of funds during disaster periods and other times.

The development of this service response should be led by jurisdictional governments recognising the need to involve LACs and community service providers and the unique geographic and climatic and cultural circumstances of different communities, especially where there are high levels of community property ownership. This funding should support partnering with other service providers, particularly external financial counsellors. It would be expected that some CLCs would be identified as leads for responding to disasters, based on their specialist capabilities.

Governments should develop funding packages for immediate deployment in the event of disasters, noting that these would sit outside baseline funding but would be able to be deployed in a flexible, tailored and responsive fashion. The initial size and scope of these packages should be determined with review mechanisms in place to adapt within weeks of the disaster event. The Commonwealth should share the costs of these packages equally with the states and territories.

1. As outlined in the 4Rs Network NLAP submission the 4Rs requires full focus in relation to disaster preparedness and response due to patterns of occurrence, prevalence, risks and contextual requirements. The submission also highlighted that community-based legal service have major roles to play in building community awareness, resilience, preparedness, and response.¹⁶⁷
2. The Commonwealth Department of Health and Aged Care submission to the Senate Committee on Disaster Resilience outlined effects of disasters, from which the associations with increased legal needs are obvious:

... natural disasters (and extreme weather) give rise to increased rates of stress, depression, anxiety, post-traumatic stress disorder (PTSD), alcohol and substance abuse, aggression and violence, suicide, and exacerbation of other underlying mental health problems. Long-term mental health impacts are also linked to the practical challenges of rebuilding after a natural disaster, including experiences relating to housing, insurance and obtaining financial assistance.¹⁶⁸
3. Risk assessment related to all disaster risks should be factored in, including predictions considering historical patterns and climate change (examples of

¹⁶⁷ Bill Mitchell, *Disaster Readiness for the legal assistance sector: Disaster Legal Assistance in Queensland, Stage 1 Report and Proposal*, Jan. 2021, Townsville Community Law. This project was jointly funded under the Commonwealth/State Disaster Recovery Funding Arrangements 2018 to deliver a model for disaster legal assistance over 12 months (the 2020-2021 FY).

¹⁶⁸ Department of Health and Aged Care, Submission to the Senate Select Committee on Australia's Disaster Resilience, 17 Feb 2023, Submission 16 ([Online](#)) p. 5.

bushfire, cyclone and insurance maps below). Risk assessment should specifically include First Nations communities in 4Rs areas.

Figure 7: Bushfire Map of Australia¹⁶⁹

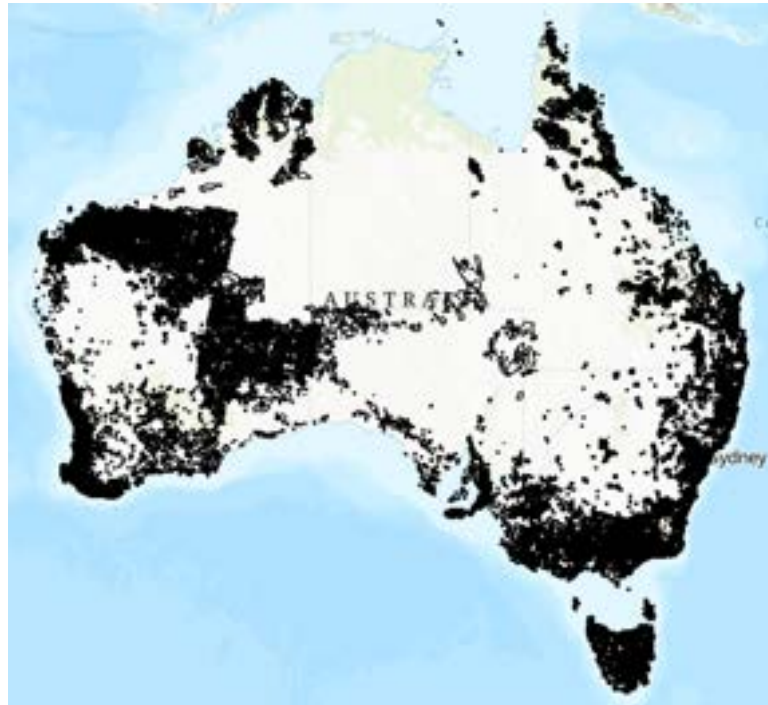
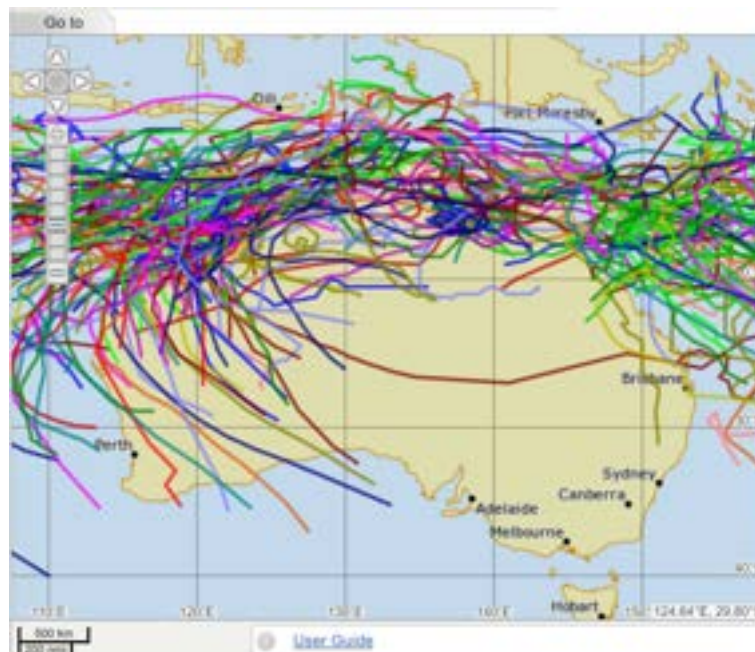


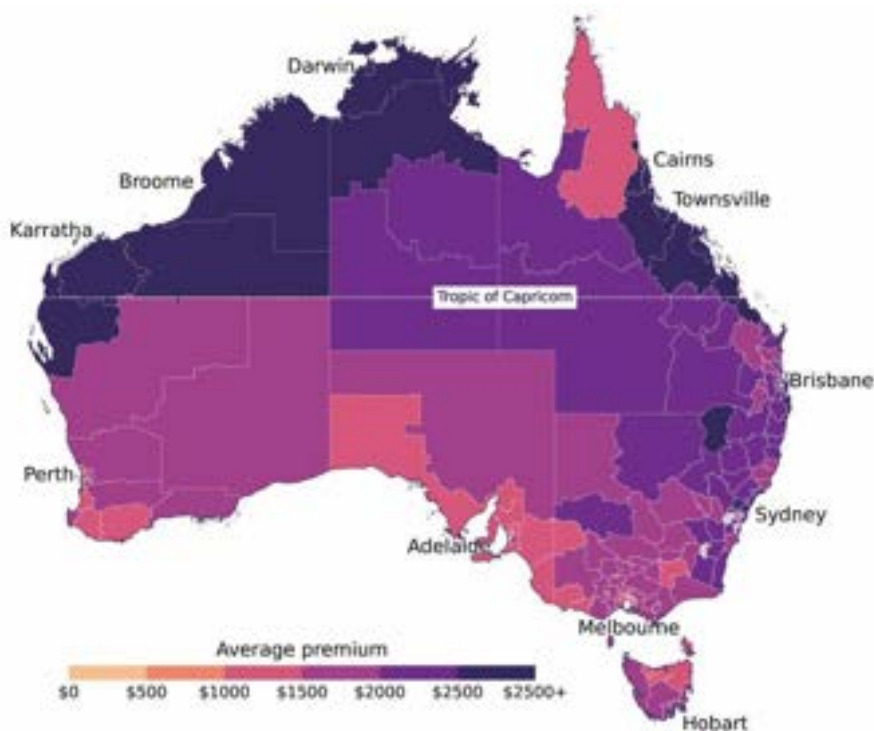
Figure 8: Southern Hemisphere Cyclone Data Portal cyclone paths 1990/91-2022/3¹⁷⁰



¹⁶⁹ Digital Atlas of Australia, National Bushfire History Viewer 1899 to 2023, showing 1 Jan 2010 to 30 June 2024 ([Online](#))

¹⁷⁰ Australian Bureau of Meteorology, Southern Hemisphere Cyclone Data Portal, [Online](#).

Figure 9: Average premiums for combined home and contents insurance, by Statistical Area Level 3, 2022¹⁷¹



6.1 Disaster legal response initiatives should be increased

1. Rec. 6 is supported and should include:

- Applying Closing the Gap principles and priorities to disaster legal responses in relation to First Nations people.
- Funding in baselines for ACCO and non-ACCO legal assistance services in a way which ensures this funding remains identifiable. This is to help ensure Government accountability for the adequacy of the funding over time.
- Sufficient resources for disaster response in different 4Rs areas, especially where there are higher risks of extreme weather events and higher vulnerability to climate risks. Funding should also reflect required levels of preparedness, geographic area, demographics, cultural appropriateness, logistics and short, medium, and long-term responses.

¹⁷¹ ACCC, *Insurance Monitoring: Second report following the introduction of a cyclone and cyclone-related flood damage reinsurance pool*, Dec.2023 ([Online](#)) p. 91.

- Funding for a national community-based disaster legal response community of practice, with relevant research, advocacy and network support capabilities.
- Funding for national peaks to support all services, including ACCOs and 4Rs, to establish and maintain disaster legal response plans.
- Facilitation of pro bono contributions to disaster preparedness and response, especially in 4Rs areas where there are currently disproportionately low pro bono collaborations.¹⁷²

6.2 Timeline for rebasing for disaster legal assistance

1. Inclusion of funding for disaster legal assistance preparedness and response, should be addressed as a matter of priority during rebasing of all relevant legal assistance services, to be completed prior to, and in time for, commencement of the next NLAP.
2. The adequacy of the funding should be rechecked during the Step phase and rechecked periodically (for example every two years), with a specific review as part of the learning and review, after each relevant disaster.

Rec. 7 - Women's funding stream

Recommendation 7 – Women's funding stream

The Reviewer recommends that funding for women's legal services be separated from the general CLC stream and quarantined under the A2JP.

Each jurisdiction should establish a women's legal assistance forum, including FVPLS, ATSILS, LACs and other CLCs, to consider how best to allocate any future women's specific funding – consideration should be given to develop existing fora to undertake this work. The Commonwealth should be represented on these fora.

Additional funding of \$0.25 million, commencing from 2024–25, should be provided to Women's Legal Services Australia so it can function as the national women's legal assistance peak.

7.1 Separation of women's legal services funding: supported

1. Rec. 7 relates to specialist women's legal services and recommends that the funding for these CLCs be separated from the general CLC stream and be quarantined under the next NLAP. The recommendation is preceded by discussion about the specialist nature of these services, high levels of unmet

¹⁷² Australian Pro Bono Centre, Submission to the NLAP Review, Sept 2023 ([Online](#)) pp. 14

legal need and alignment with contemporary policy priorities.¹⁷³ The recommendation is supported for the above reasons and because it maintains focus on the adequacy of the funding, which is important for Government accountability for funding adequacy.

2. It is noted that women’s legal services are members of Women’s Legal Services Australia (‘WLSA’), and each is an incorporated non-profit community-based legal service. There are currently 13 of which two are ACCO Women’s Legal Services being Wirringa Baiya Aboriginal Women’s Legal Centre in NSW¹⁷⁴ and the First Nations Women’s Legal Service Queensland Inc.¹⁷⁵
3. The number of women’s legal services varies by jurisdiction and resources for 4Rs coverage varies. Only 4 of the 13 receive Indigenous Women’s Program (‘IWP’) funding. IWP funding is discussed further below at 17.3.1.

Table 2: Women’s Legal Services showing Aboriginal Community Controlled Organisations and Indigenous Women’s Program funding

		ACCO	IWP
ACT	Women’s Legal Centre ACT		
NSW	Wirringa Baiya Aboriginal Women’s Legal Centre	Yes	
	Women’s Legal Service NSW		Yes
NT	Top End Women’s Legal Service		
	Katherine Women’s Information and Legal Service		Yes
	Central Australia Women’s Legal Service		
QLD	Women’s Legal Service Qld		
	North Queensland Women’s Legal Service		
	First Nations Women’s Legal Service QLD	Yes	Yes
SA	Women’s Legal Service SA		Yes
TAS	Women’s Legal Service Tasmania		
Vic	Women’s Legal Service Victoria		
WA	Women’s Legal Service WA		

4. Other community-based legal services which provide legal assistance to women, including in 4Rs areas are:
 - FVPLS which are specialist ACCO legal services focusing on First Nations safety from violence, 95% of the clients are First Nations women and children¹⁷⁶

¹⁷³ NLAP Review Report, p. 71.

¹⁷⁴ Web site: <https://www.wirringabaiya.org.au>

¹⁷⁵ Web site: <https://atsiwlslsq.org.au>

¹⁷⁶ First Nations Advocates Against Family Violence

- ATSILS which assist First Nations people, subject to resources and management of conflict of interest (which applies to all sectors), and
 - Specialist and generalist CLCs including national and statewide.
5. The following related recommendations in the NLAP Review Report are supported:
- Application of Closing the Gap (Rec. 9)
 - Full geographic coverage by FVPLS (Rec. 3), and
 - Full geographic coverage by ATSILS (Rec. 2, 5, 8-12, 17 and others).

7.2 Funding for access to Women’s Legal Services in 4Rs areas

1. There is insufficient focus in the NLAP Review Report on the funding needs for access by women to women’s legal service assistance, especially in 4Rs areas.
2. In relation to 4Rs areas, issues include:
 - *Unmet legal needs in the service areas of the Women’s Legal Services located in 4Rs areas* – these are:
 - the Top End Women’s Legal Service
 - the Katherine Women’s Information and Legal Service
 - the Central Australian Women’s Legal Service
 - the North Queensland Women’s Legal Service
 - the First Nations Women’s Legal Service NQ Inc, and
 - Women’s Legal Service Tasmania (which has regional offices in Launceston and Burnie, with the head office in Hobart).

These are among the services reflected in the 4Rs NLAP submission which called for funding to be at least doubled.¹⁷⁷

- *Insufficient funding for statewide women’s legal services to expand their operations to 4Rs locations.* As highlighted by WLSA this is a substantial gap.¹⁷⁸ Ways forward are supported consistent with Closing the Gap and the following in this response:
 - 2.5 Principles for addressing geographic service gaps
 - 5.1 Principled commitment to 4Rs place-based community owned, and
 - 5.2 Approaches to increasing statewide and specialist CLCs.

¹⁷⁷ 4Rs Network, [Submission to the NLAP review, 27 Oct 2023, Rec 10, p. 60-61.](#)

¹⁷⁸ Women’s Legal Services Australia, [NLAP Review Submission, 27 Oct 2023, 25.](#)

7.3 Additional funding for Women’s Legal Services Australia

1. The recommendation that funding for Women’s Legal Services Australia (‘WLSA’) be increased is supported, a larger increase would also be supported to enable WLSA to further promote justice, inclusion and equity for all women including women in 4Rs areas, Northern Australia and other specific geographic areas.
2. The non-inclusion in the May 2024 federal budget of the \$0.25mill for 2024-25 included in Rec. 7, for WLSA to be able to function as a peak, was disappointing.¹⁷⁹ However, we understand \$0.15mill for 2024-25 has since been allocated to WLSA. An additional \$0.1mill is still required to implement Rec. 7, and we support an increase and ongoing funding being provided to WLSA to the full amount and beyond June 2025.

7.4 Aboriginal and Torres Strait Islander Women’s Legal Services

1. The two Aboriginal and Torres Strait Islander Women’s Legal Services (Wirringa Baiya Aboriginal Women’s Legal Centre in NSW and the First Nations Women’s Legal Service Queensland Inc.) should be rebased and funded to develop their services according to their self-determined development plans including further extending assistance in 4Rs areas. For example, this may include increasing office space and locations, client assistance, community education and empowerment, projects, strategic and systemic advocacy. Rebasing should address as much as possible, as quickly as possible, and the Step, Trend and Pass-through phases should be fully responsive to these services.
2. As noted above at 3.3 the proposal in Rec. 3 that these services be converted to FVPLS should not be imposed contrary to the self-determined position of these services.
3. Additionally, the NLAP Review Report did not discuss whether First Nations women’s legal services, such as services like FNWLSQ and Wirringa Baiya, are needed in other jurisdictions. To address this, there should be consultation with FNWLSQ and Wirringa Baiya and the option of a federally funded national First Nations consultation about whether First Nations Women’s Legal Services are indicated in other jurisdictions. It would be relevant to invite the Aboriginal and Torres Strait Islander Social Justice Commissioner, the First Nations Gender Justice Institute,¹⁸⁰ ACCO peaks and key ACCO stakeholders to share their

¹⁷⁹ The federal budget inclusions are outlined below at 25.3 – *NLAP Rec. cf. treatment in May 2024 federal budget*.

¹⁸⁰ ANU, [‘New ANU institute to advance First Nations gender equality First-of-its-kind in Australia to be chaired by Dr June Oscar’](#) (Media Release. 27 March 2024).

Australian Human Rights Commission, [First Nations Gender Justice Institute](#), 2024 (Web Page).

perspectives and facilitate dialogue, inclusive of issues for First Nations women in 4Rs areas. The Commonwealth, States and Territories should be open to collaborating to advance resulting directions.

7.5 Aboriginal and Torres Strait Islander Women's Network

1. The Aboriginal and Torres Strait Islander Women's Network ('ATSIWN') has been a Network within Community Legal Centres Australia for about ten years. The Network encourages mutual support between First Nations women working in community-based legal assistance services around Australia.
2. In part the ATSIWN follows on from work by the National Network of Indigenous Women's Legal Services Inc. ('NNIWLS') which was established in the late 1990's and continued until mid-2000s, ceasing due to insufficient federal government funding support.¹⁸¹ The Aims and Objects of the NNIWLS under the Rules of Association were:

AIMS

1. To empower and promote social justice for Indigenous women and Indigenous people with particular emphasis on law and justice issues

OBJECTIVES

1. Provide a network for organizations, services and programs that have the primary purpose of providing legal assistance, legal advice or legal information to Indigenous women,
2. Promote the availability of legal and related services for Indigenous women that respect principles of Indigenous cultures,
3. Improve the responsiveness of the legal system to Indigenous women and promote full exploration of opportunities for the recognition of customary lore,
4. Build partnerships and social coalitions to address the legal and related disadvantage of Indigenous women,
5. Provide input to government policy, reform bodies and inquiries on issues relating to Indigenous women and the law,
6. Provide training for members and others to empower Indigenous women and promote quality legal services for Indigenous women,
7. Mentor and promote peer mentoring of workers providing legal and related support assistance to Indigenous women,

¹⁸¹Jan 2008 National Network of Indigenous Women's Legal Services ('NNIWLS') web site (via the Wayback Machine), site capture Jan 2008: <https://web.archive.org/web/20080518144820/http://www.nniwls.org.au/>; NNIWLS *Network Booklet*, Oct. 2001: via the Way Back Machine: <https://web.archive.org/web/20040603015031/http://www.nwjc.org.au/awlsn/> (screen capture 2004); News: <https://web.archive.org/web/20040603040713/http://www.nwjc.org.au/awlsn/news.htm>; NNIWLS Federal Budget and Policy Submission, 23 Jan 2002, via the Wayback Machine: https://web.archive.org/web/20040613123206/http://www.nwjc.org.au/awlsn/final23_1_02.doc

8. Provide representatives or participants for advisory bodies, reference groups and project management groups,
 9. Facilitate consultation and input about legal and related issues by and with Indigenous women,
 10. Develop and promote quality service delivery strategies, and Coordinate and advise on the above matters.”
3. The membership and participation in the NNIWLS were broad and included First Nations Women’s Legal Services (incorporated and auspiced), Indigenous Women’s Project / Units under the Indigenous Women’s Program (‘IWP’)¹⁸² and Indigenous women’s initiatives and programs of other legal assistance services. Services and participants in 4Rs areas were highly present in the NNIWLS and were influential in advancing recognition of First Nations women’s legal needs in 4Rs areas and culturally safe assistance.
4. Like the NNIWLS, the ATSIWN aims to help increase the collaboration, visibility, leadership and voice of First Nations women. The NNIWLS and the ATSIWLN have contributed to increasing the number of First Nations workers in community-based legal assistance services, improving cultural safety, and improving access by First Nations people, especially First Nations women, to legal assistance.
5. The NLAP Review Report noted the Closing the Gap Priority Reform Three: *Transforming Government Organisations*, requires Governments, their organisations and their institutions to be accountable for Closing the Gap and to ensure services they fund are culturally safe and responsive for First Nations people.¹⁸³ The Report noted that First Nations people within legal assistance workforces continue to experience workforce discrimination and harassment, and that this must be addressed.¹⁸⁴
6. Funding should be provided for:
- Increased support for First Nations women workers in CLCs, networking, capacity building, collaboration and advocacy via ATSIWLN.
 - Collaborative exploration of whether development of a new NNIWLS, or a different mechanism for large scale collaboration by First Nations women

¹⁸² The Indigenous Women’s Program (IWP) is now administered by the NIAA and has a budget of about \$1mill pa. This is discussed at 17.3.1 below.

¹⁸³ NLAP Review Report, p. 82.

¹⁸⁴ Ibid.

and allies across legal assistance sectors, is indicated.

- If there is support for the latter, the Commonwealth should also provide funding for the new Network / organisation to be developed and implemented with sufficient funding for effective operation in accordance with Closing the Gap principles including self-determination.

7.6 Women's Legal Assistance Forum – regarding funding allocation

1. This aspect of Rec. 7 is best considered by the peaks concerned.
2. If a forum process is implemented, it would likely benefit from principles and guidelines which accord with relevant parameters and priorities including Closing the Gap.
3. A principled approach relating to 4Rs areas should also be applied, reflecting the following:
 - II.II - Principles relating to 4Rs rights and Inclusion (in **The Background**)
 - 2.5 - Principles for addressing geographic service gaps, and
 - 5.1 - Principled commitment to 4Rs place-based community-owned service delivery (above).

Rec 8 – Priority groups

Recommendation 8 – Priority client groups

The Reviewer recommends A2JP priority groups list expands to include:

- women
- LGBTIQ+ people
- people living below the ACOSS defined poverty line
- recent migrants, refugees and asylum seekers
- veterans and serving personnel.

8.1 Expansion supported but *all* 4Rs should be included

1. Rec. 8 to expand priority groups is agreed and should be reflected in rebasing community-based legal assistance services in or for 4Rs areas, including:
 - the legal needs of Indigenous and non-Indigenous women – is supported - see the responses to Rec 3 – *Complete FVPLS coverage*, Rec. 7 – *Women's*

funding stream, Rec 17 – Rebasing at 17.3.1 Indigenous Women’s Program.

- LGBTIQ+ people – is supported including intersectionally with 4Rs and other priority client groups.
 - People living below the poverty line – is supported. Regarding those with legal problems relating to social security see the response to Rec. 4 – *Legal Assistance Impact Assessment* – at 4.1.1 – *Administrative law* including access to social security legal help.
 - Recent migrants, refugees and asylum seekers – is supported, see the response at 4.1.4.
 - Veterans and serving personnel – is supported, see the response at 4.1.3.
2. However as recommended in the 4Rs submission to the NLAP Review the existing priority group of: ‘people residing in rural or remote areas’ should be expanded to include *regional areas* and *very remote areas* to make both visible.
 3. The 4Rs Network relates to people in regional, rural, remote and very remote areas, reflecting patterns of disadvantage, challenges to be overcome regarding geographic access to legal assistance, including addressing sustainability, safety and development of 4Rs community-based legal assistance services.

Rec 9 – A2JP must address Closing the Gap Priority Reforms

Recommendation 9 – A2JP must address Closing the Gap Priority Reforms

The Reviewer considers there is little evidence that the NLAP framework has materially addressed the Closing the Gap Priority Reforms. To correct this the A2JP in its founding document must:

- recognise the shared responsibility of the Commonwealth, state and territory governments for both achieving those Closing the Gap targets that relate to the legal system and for the provision of legal assistance funding to achieve them.
- ensure legal assistance ACCOs and other representative organisations are involved in all decision making that involves the provision of legal assistance services to Aboriginal and Torres Strait Islander peoples.
- ensure legal assistance ACCOs have adequate funding to develop their organisations and people to enhance the scope, scale, quality and cultural appropriateness of their services. Resourcing in 2024-25 is recommended in recommendation 17 to assist with the implementation of the recommendations of this Review.
- commit governments to continuous improvement of their own engagement practices with legal assistance ACCOs and their clients.
- explicitly recognise Aboriginal and Torres Strait Islander data sovereignty in its data collection and reporting arrangements including in relation to the data held by non-ACCO legal assistance providers.

9.1 Agreed that A2JP must address Closing the Gap Priority Reforms

1. Rec. 9, that the founding document for the next NLAP must address Closing the Gap Priority Reforms in the ways indicated in the recommendation, is supported. It is noted, as set out on the NLAP Review Report, that the Closing the Gap Priority Reforms are:¹⁸⁵

¹⁸⁵ NLAP Review Report, p. 77.

Table 5.1 Closing the Gap Priority Reforms

Priority reform	Target
Priority Reform One of the National Agreement is a commitment for governments to work in partnership with Aboriginal and Torres Strait Islander communities and organisations, empowering them to share in decision-making on policies and programs that have a significant impact on them.	Support Closing the Gap by establishing formal partnership arrangements between Aboriginal and Torres Strait Islander peoples and governments in each state and territory, enshrining agreed joint decision-making roles and responsibilities, with Aboriginal and Torres Strait Islander peoples choosing their representatives
Priority Reform Two is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander peoples across the country. Aboriginal and Torres Strait Islander community-controlled services are acknowledged as usually achieving better results and employing more Aboriginal and Torres Strait Islander peoples who often prefer them to mainstream services.	Increased government funding for programs and services provided by Aboriginal and Torres Strait Islander community-controlled organisations
Priority Reform Three will transform government organisations and institutions. It will keep them accountable for Closing the Gap, and ensure they are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander peoples, including through the services they fund.	Reduced proportion of Aboriginal and Torres Strait Islander peoples who experience racism
Priority Reform Four facilitates access to data and information at a regional level, ensuring Aboriginal and Torres Strait Islander peoples have capability to use data to monitor implementation of priorities, and to drive development.	Increases to number of regional data projects that support Aboriginal and Torres Strait Islander communities to make decisions about Closing the Gap and their development

Source: National Agreement on Closing the Gap, 2020

2. Further, that the February 2024 Report of the Productivity Commission Review of the National Agreement on Closing the Gap recommended that the parties amend Priority Reform One to reflect the goal of self-determination, and that shared decision making is a step towards this goal and these efforts extend beyond policy partnerships and place-based partnerships.¹⁸⁶
3. The general principle that funding for legal assistance must be sufficient to achieve Closing the Gap targets is strongly supported. We note that this includes all geographic areas of Australia including 4Rs and Northern Australia.
4. However, the reference in the first dash point to the need for governments to address targets ‘that relate to the legal system and for the provision of legal assistance funding to achieve them’ is too limited. This is because access to legal assistance services contributes to all Closing the Gap Targets (that is, Targets 1 to 17 listed below). This includes, but is not limited to the following 4 Targets stated to be relevant to the NLAP Review:¹⁸⁷
 - overcoming the disproportionate rates of adult Indigenous incarceration (Target 10),

¹⁸⁶ Productivity Commission, *Review of the National Agreement on Closing the Gap, Study Report, Part 1*, Jan 2024, pp. 7-8, 11.

¹⁸⁷ NLAP Review Report, pp.24 and 78.

- overcoming the disproportionate rate of Indigenous young people in criminal justice System (Target 11),
 - overcoming the disproportionate rate of Indigenous children in out of home care (Target 12) and
 - substantially reducing family violence (Target 13), noted by the NLAP Review Report.
5. Legal assistance also contributes to addressing insufficient focus on supports, prevention and early intervention, being shifts advocated by ATSILS, FVPLS and many others.
6. Closing the Gap principles are relevant to all ACCO legal services including the two ACCO women's legal services. The proposal in Rec. 3 to the effect that these services may be converted to FVPLS raises issues of self-determination. This is outlined previously at 3.3 above.

Closing the Gap targets and outcomes¹⁸⁸

1. Aboriginal and Torres Strait Islander people enjoy long and healthy lives.

Close the Gap in life expectancy within a generation, by 2031.

2. Aboriginal and Torres Strait Islander children are born healthy and strong Children thrive in their early years

By 2031, increase the proportion of Aboriginal and Torres Strait Islander babies with a healthy birthweight to 91 per cent.

3. Aboriginal and Torres Strait Islander children are engaged in high quality, culturally appropriate early childhood education in their early years

By 2025, increase the proportion of Aboriginal and Torres Strait Islander children enrolled in Year Before Fulltime Schooling (YBFS) early childhood education to 95 per cent.

4. Aboriginal and Torres Strait Islander children thrive in their early years

By 2031, increase the proportion of Aboriginal and Torres Strait Islander children assessed as developmentally on track in all five domains of the Australian Early Development Census (AEDC) to 55 per cent.

5. Aboriginal and Torres Strait Islander students achieve their full learning potential

By 2031, increase the proportion of Aboriginal and Torres Strait Islander people (age 20-24) attaining year 12 or equivalent qualification to 96 per cent.

6. Aboriginal and Torres Strait Islander students reach their full potential through further education pathways

By 2031, increase the proportion of Aboriginal and Torres Strait Islander people aged 25-34 years who have completed a tertiary qualification (Certificate III and above) to 70 per cent.

7. Aboriginal and Torres Strait Islander youth are engaged in employment or education

By 2031, increase the proportion of Aboriginal and Torres Strait Islander youth (15-24 years) who are in employment, education or training to 67 percent.

¹⁸⁸ Closing the Gap Targets and Outcomes, online: <https://www.closingthegap.gov.au/national-agreement/targets>

8. Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities

By 2031, increase the proportion of Aboriginal and Torres Strait Islander people aged 25-64 who are employed to 62 per cent.

9. Aboriginal and Torres Strait Islander people secure appropriate, affordable housing that is aligned with their priorities and need

By 2031, increase the proportion of Aboriginal and Torres Strait Islander people living in appropriately sized (not overcrowded) housing to 88 per cent.

10. Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system

By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent.

11. Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system

By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent.

12. Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system

By 2031, reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent.

13. Aboriginal and Torres Strait Islander families and households are safe

A significant and sustained reduction in violence and abuse against Aboriginal and Torres Strait Islander women and children towards zero.

14. Aboriginal and Torres Strait Islander people enjoy high levels of social and emotional wellbeing

Significant and sustained reduction in suicide of Aboriginal and Torres Strait Islander people towards zero.

15. Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters

Target 15a: By 2030, a 15 per cent increase in Australia's landmass subject to Aboriginal and Torres Strait Islander people's legal rights or interests.

Target 15b: By 2030, a 15 per cent increase in areas covered by Aboriginal and Torres Strait Islander people's legal rights or interests in the sea.

16. Aboriginal and Torres Strait Islander cultures and languages are strong, supported and flourishing

By 2031, there is a sustained increase in number and strength of Aboriginal and Torres Strait Islander languages being spoken.

17. Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision-making regarding their own lives

Target 17: By 2026, Aboriginal and Torres Strait Islander people have equal levels of digital inclusion.

9.2 Involvement of ACCOs in decision making and funding

1. The second dash point in Rec. 9 recommends that ACCOs 'be involved in all decision making that involves the provision of legal assistance to Aboriginal and Torres Strait Islander people.' However, 'involves' is a low threshold, compared to ACCO leadership of decision making. The latter is supported as best practice

reflecting the expertise of ACCO service providers.

2. The reference in the third dash point in Rec. 9 to ACCOs having adequate funding to develop their organisations and people, engages Closing the Gap Priority 2 - Building the Capacity of the Community Controlled Sector.¹⁸⁹ The position should be strengthened by requiring that the funding be long-term and sustainable.

Rec 10 - All Cth legal assistance provided by ACCOs to be funded through A2JP

Recommendation 10 – All Commonwealth legal assistance provided by ACCOs to be funded through A2JP

The Reviewer believes that better service co-ordination and service, including the appropriate level and scope of service provision by ACCOs, is best achieved by all Commonwealth legal assistance provided to ACCOs being brought together under a single agreement subject to the governance reforms recommended throughout this Report.

The Reviewer recommends the baseline funding for FVPLS be brought into the A2JP. The FVPLS would remain a separate, quarantined funding line administered by the Commonwealth Attorney-General's Department, but the same model of funding be adopted as is set out in section 7.2 of this Report. The administration of ATSILS funding is not affected by this recommendation.

10.1 Support for ACCO positions on funding through A2JP

1. ACCOs will provide leadership in relation to the response to Rec. 10. However:
 - if FVPLS baseline funding is brought into the NLAP, the recommendation that this remain separate, quarantined, funding is supported, and
 - if Indigenous Women's Program funding is brought into the next NLAP, this should remain a separate, quarantined, funding to ensure it remains targeted – discussed further below at 17.3.1.
2. Also to note that the appropriate level and scope of service provision by ACCOs includes full geographic access by First Nations people to ACCO legal, wraparound services and comprehensive service models.¹⁹⁰

¹⁸⁹ Closing the Gap, [Priority 2](#) (online).

¹⁹⁰ Which was strongly emphasised by the NATSILS, [Submission to the NLAP Review, Oct 2023](#) with [Addendum](#) and by the NFVPLSF, [Submission to the NLAP Review Oct, 2023](#).

Rec 11 – Self-determination in existing services

Recommendation 11 – Self-determination in existing services

Consistent with the Closing the Gap Priority reforms the Reviewer recommends that governments should commission an independent review of specialised services provided by LACs and CLCs to Aboriginal and Torres Strait Islander clients to ensure that the allocation of resources by governments maximises ACCO involvement, while recognising that Aboriginal and Torres Strait Islander peoples have legitimate rights to access culturally appropriate services across the sector, and that there is a need to provide appropriate resources to deal with conflicts and service coverage issues.

This review should be co-designed with relevant ACCOs and consider the costs and benefits of reallocation of resources between existing service providers (including the transfer of funding, staff and premises and transitional costs where relevant), and any additional funding reasonably necessary for the ACCO to provide the relevant services.

11.1 Support for self-determination in existing services: full funding

1. Consistent with Closing the Gap Priority reforms ATSILS, FVPLS and ACCO CLCs must be fully funded for geographic coverage, the range of services and supports to be provided, and related objectives. Governments should rebase funding to ATSILS, FVPLS and ACCO CLCs to reflect this, including achieving parity of pay and conditions with Legal Aid Commissions.
2. The NLAP Review Report stated that the independent review in Rec. 11 was urgent and ‘need[ed] to be implemented largely in full by 30 June 2025, with funding of \$0.3mill for 2024-5 proposed.¹⁹¹ It is noted that the latter figure was not included in the May 2024 federal budget.¹⁹²
3. The background to Rec. 11 includes situations of funding being with non-ACCO legal assistance services when it should be with ACCOs. The Report included the example of resources with the NSW LAC for family and child protection which are being used in relation to Aboriginal children and families while NSW/ACT ALS has inadequate funding.¹⁹³ Close examination of these situations and appropriate response is fully supported.

11.2 Period of rebalancing with ACCOs legal services fully funded

1. While ACCOs are expanding with increased funding, it is suggested that non-ACCO services provide all support to ACCOs that can assist.

¹⁹¹ NLAP Review, Chapter 12 – Implementation p. 232.

¹⁹² The May 2024 federal budget is discussed at 25.3 below.

¹⁹³ NLAP Review Report, p.90.

2. Further, that the decision about whether to include non-ACCO CLCs in the independent review (Rec. 11) consider whether facilitation and collaborative rebalancing -particularly at a local and regional level in the 4Rs - would be more effective, especially initially. For example, reflecting:
 - ACCOs being properly funded because of rebasing, for the first time ever. This will likely result in major expansion of all existing ACCO services, ACCO coverage of current service areas and increased footprint.
 - That CLCs will also be rebased against the backdrop of chronically insufficient levels of funding, to ensure safe and sustainable service provision and increase services, especially in 4Rs areas.¹⁹⁴
 - That all CLC assistance must, as noted in Rec. 11, be accessible to First Nations people.

11.3 Statistical baselines

1. It is recommended that resources be allocated to services, and their peaks for central coordination and facilitation, to refine statistical collection and analysis and:
 - Establish baselines and trends (e.g. for the previous three to five years) about the nature and extent of legal and wraparound (non-legal) support for First Nations people,
 - Achieve this in relation to all legal assistance sectors and services, and
 - Achieve statistics for regions, including 4Rs areas.
2. Use baselines, in a mix of methods, to help monitor and evaluate progress in:
 - Increasing access to legal assistance and to non-legal, wraparound support for First Nations people through ACCOs and non-ACCO provided legal services, and
 - Improving outcomes.

11.4 Avoiding instability and negative effects

1. Approaches to ACCO and non-ACCO community-based legal assistance funding allocations, including any funding reallocations, should be facilitative of local and place-based circumstances and should not proceed from a top-down, one-size-fits-all, approach.

¹⁹⁴ NLAP Review Report, p. iv.

2. The processes should be well managed, especially in 4Rs areas, to avoid causing unnecessary instability among services in one or more community-based sectors. If this occurs service reductions, increased staff movements and reduced capacity of other kinds, could result.

11.5 Develop First Nations Legal Assistance Funding Principles

1. Principles for funding allocation in support of service provision by ACCO and non-ACCO provided legal services for and with First Nations people (**'First Nations Legal Assistance Funding Principles'**) should be developed to provide clarity, direction and facilitation.
2. The Principles should reflect Closing the Gap requirements and outline processes relating to funding, including grant seeking and grant making. The strategies recommended by the Productivity Commission in the *Review of the National Agreement on Closing the Gap* relating to commissioning, and the *APONT Partnership Principles*, are likely to help inform development of these Funding Principles.¹⁹⁵ Examples from jurisdictions with relevant Commissioning Strategies, such as Western Australia, are also likely to assist. That is:
 - *The WA Legal Assistance Services Commissioning Strategy and Implementation Plan 2024-2030*¹⁹⁶ - which recognises the unique and distinct role for ACCOs in the legal assistance system with specific commitments to strengthening ALSWA and the FVPLS units to build capacity and increase the proportion of service delivery by them to Aboriginal people across all priority areas of law.
 - *The WA Aboriginal Community Controlled Organisation Strategy 2022-2032 and Implementation Plan*¹⁹⁷ - which includes prioritising ACCOs as service providers to Aboriginal people, ensuring the sustainability of ACCOs, maximising opportunities for ACCOs through procurement strategies and the like.

¹⁹⁵ Productivity Commission, *Review of the National Agreement on Closing the Gap*, [Study Report, Part 1](#), Jan 2024, Rec. 3 Mainstream government systems and culture need to be fundamentally rethought pp. 19, 52-54; APONT, *APO NT Partnership Principles for working with Aboriginal organisations and communities in the Northern Territory* (Online, May 2017) <<https://www.amrric.org/wp-content/uploads/2019/12/21070504-APO-NT-Partnership-Principles-Updated-version.pdf>>

¹⁹⁶ Government of Western Australia, Department of Justice and Legal Assistance Branch, *WA Legal Assistance Services Commissioning Strategy and Implementation Plan 2024-2030* ([Online](#)).

¹⁹⁷ Online at: <https://www.wa.gov.au/government/publications/aboriginal-community-controlled-organisation-strategy-2022-2032>.

3. Development of First Nations Legal Assistance Funding Principles, accompanied and followed by capacity building, should occur to ensure knowledge and proficiency in relation to the Principles among:
 - Funders
 - Boards and staff across all legal assistance sectors
 - Pro bono contributors, and
 - Other relevant stakeholders.
4. The combination of increased funding to ACCOs, First Nations Legal Assistance Funding Principles and capacity building (just described) is likely to facilitate collaborative, local, rebalancing between ACCOs and non-ACCO community-based legal assistance services.

11.6 Self-determination and non-ACCO legal assistance services

1. In 4Rs locations where First Nations people are a high proportion of the client group of existing non-ACCO provided community-based legal services - appreciation of the history and struggles of communities, which achieved and have sustained these services, is also important for results.
2. For example, Aboriginal women were among the leaders in establishing the Pilbara Community Legal Service ('PCLS') which began as a small office in Newman in 1993. PCLS responded to women in the Kimberley about lack of legal assistance. PCLS began consulting, including via the North West Women's Gathering held near Derby, in 1994.¹⁹⁸ This led to formation of the group of Aboriginal and non-Aboriginal people who established the Kimberley Community Legal Service ('KCLS').¹⁹⁹ KCLS began in Kununurra and became operational in 1999 after federal funding was received, including Indigenous Women's Project funding, which in total was sufficient for three staff (for the whole of the Kimberley).²⁰⁰ First Nations people have been continually involved in the governance of these services and have been pivotal staff members. Services like these, which have always had a high representation of Aboriginal people in the client group, should also be developed reflecting self-determination in the collaboration between local Indigenous and non-Indigenous people.

¹⁹⁸ Margaret Robinson, Helen Cheney, Kate Mackey, *Restricted access: meeting the legal needs of north-west women*, Social Research Centre Hedland College, Pilbara Community Legal Service, Marnja Jarndu Women's Refuge, c. 1998.; Amanda Jane and Sally Elizabeth Kingdon and Nicole Dunn, *North West Women's health gathering resource booklet and report* (North West Women's Association, 1994).

¹⁹⁹ History on file with KCLS, also KCLS web site [The KCLS Story](#).

²⁰⁰ Ibid. KCLS was launched by Commonwealth Attorney-General Daryl Williams on 11 April 2001 ([Media Release](#), via the Pandora Archive).

Rec 12 – Self-determination in new services

Recommendation 12 – Self-determination in new services

The Reviewer is of the view that there is sufficient evidence to conclude that on occasions when new funding is provided for services with particular relevance to Aboriginal and Torres Strait Islander peoples, there has been inadequate consultation with relevant ACCOs regarding the deployment of such funding.

The Reviewer recommends that the A2JP requires each jurisdiction to establish a consultative forum to discuss and where possible agree how future funding for services for Aboriginal and Torres Strait Islander peoples is to be distributed between the relevant ACCOs and other service providers. Membership of these forums should include all relevant ACCOs in the jurisdiction plus a representative of the Commonwealth. Governments should consider how existing fora might be adapted to perform this task

12.1 Principles relating to self-determination in new Services

1. The intention of Rec. 12 is supported, however whether the proposed process/mechanism is supported by ACCO peaks and ACCO services is not indicated.
2. The proposal that principles relating to self-determination in new Services should be reflected in funding and eligibility criteria, is supported.
3. Provided funding for ACCO legal assistance services is substantially increased, First Nations Legal Assistance Funding Principles are developed, and capacity building is undertaken (discussed above at 11.5 – *Develop First Nations Legal Assistance Funding Principles*) this should achieve a highly facilitative context for rebalancing which preferences ACCO service provision in relation to Aboriginal and Torres Strait Islander people. Also acknowledging that an inflexible, one-size-fits-all-approach is likely to be problematic, and that details, timing and arrangements are likely to vary between locations.

Rec 13 – Aboriginal interpreters

Recommendation 13 – Aboriginal interpreters

The Reviewer considers that access to interpreter services is essential for Aboriginal and Torres Strait Islander Australians to have proper access to justice and that funding is currently inadequate.

The Commonwealth together with the relevant jurisdictional governments and service providers should determine an adequate level of interpreter funding for legal assistance purposes as soon as practicable.

13.1 Aboriginal interpreters, human rights and Closing the Gap

1. The recommendation is strongly supported and access to Aboriginal interpreters should be reflected in terms of:
 - the human rights of First Nations people,
 - Closing the Gap principles, priorities, targets and outcomes, and
 - the many ways that access to an interpreter relates.
2. Access to Aboriginal interpreters should apply to all areas of law: criminal, civil and family law and to all areas of assistance and operations of legal assistance services and their wraparound supports.
3. It is critical that the funding model for provision of Aboriginal interpreters focus on what is required for Aboriginal interpreter services to have the relevant Aboriginal interpreter capacity. This includes needs and availability in geographic locations, and arrangements to promote capacity, quality and sustainability.
4. The funding model for access by legal assistance services to Aboriginal interpreters should be needs-based and fully funded. Arrangements for free access would reduce administrative and transaction costs.
5. The reference in Rec. 13 to 'legal assistance purposes' should be given the widest meaning for an objective of First Nations people having access to all services provided by legal assistance services. This includes:
 - advocacy support
 - wraparound (non-legal) assistance including casework assistance
 - dispute resolution including mediation
 - counselling
 - financial counselling
 - participation in community legal education
 - participation in projects, and
 - input or other involvement in reform.
6. The rights of First Nations people to provide feedback and input about legal assistance services and to be fully involved in advisory, reference group and governance capacities, should also be within scope.

Rec 14 – Funding models

Recommendation 14 – NLAP funding model to be abandoned

The existing funding distribution models that inform the distribution of NLAP funding should not be used for the development of the funding of the A2JP. The Reviewer's alternative approach is set out in subsequent recommendations.

14.1 NLAP funding model should not be used: supported

1. The 4Rs submission to the NLAP Review made many of the same criticisms of the existing model for distributing funding related in findings by the Reviewer.²⁰¹
2. The issues include that the amounts to be distributed are highly inadequate and the model is not achieving policy outcomes, including flow on savings and financial benefits.²⁰²
3. The current model does not achieve funding reflective of the costs of service provision, safe and sustainable services by ATSILS, FVPLS, CLCs or LACs and it does not achieve adequate access for First Nations people or geographic coverage of 4Rs areas.

Rec 15 – Reduction in fragmentation

Recommendation 15 – Reduction in fragmentation

The Reviewer considers that there is an inefficiently high level of fragmentation in the current funding base.

In the setting of the baseline funding for 2025-26, all existing programs that have been favourably evaluated should be included in baseline funding unless there are particular policy circumstances where the program will terminate.

If pilots commenced before the commencement of the A2JP are subsequently positively evaluated, they should similarly be included in baseline funding.

In the future where governments undertake pilots, they should be undertaken on the basis that if successful, they will be deployed to all other relevant providers in the jurisdiction and included in ongoing baseline funding.

²⁰¹ 4Rs Network, *Submission to the NLAP review, 27 Oct 2023, 4Rs Rec. 10, pp. 50-61*

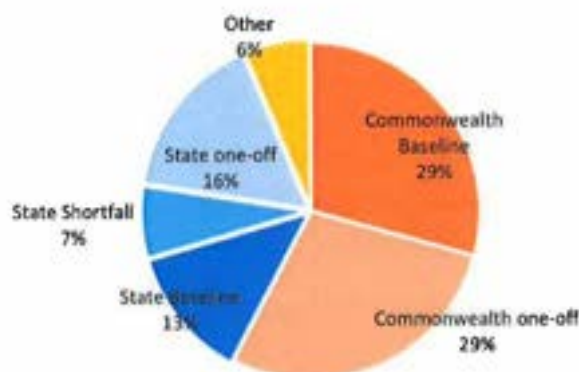
²⁰² Many submissions to the NLAP Review addressed cost-benefit, including the submission by Community Legal Centres Tasmania which reflected on work over many years: Community Legal Centres Tasmania, *NLAP Review Submission, 17 Oct. 2023 (Online)*, pp.3-4.

15.1 Background to reducing fragmentation

1. Rec. 15 (reducing fragmentation) relates to legal assistance sector funding profiles for funded services which consists of core funding and multiple non-recurrent, specific purpose grants. 'Fragmentation' relates to the problems associated with this non-recurrent funding, including successful pilots which should become recurrent. The Review Report noted that the consequences include:
 - excessive reporting burdens, both in data reporting and cost relative to funding provided
 - funding of finite and often short duration presents service providers with significant difficulties in staff attraction and retention, and does not provide adequate resources or incentives to invest in human and capital development
 - service providers not properly funded to fully recognise overhead costs associated with provision, especially given most legal assistance providers operate at or above the full and efficient capacity of their fixed-cost base.
2. The problems caused by short-term funding are well described by Community Legal Centres Tasmania ('CLCT') which outlined that total funding received by CLCs in Tasmania from all sources (including Commonwealth and State Governments, philanthropic funds and donations) in 2022/23 was \$6,444,432, split between baseline and one-off funding shown on the pie chart below.²⁰³ CLCT summarised that:

Worryingly... 49 per cent of the ..[Commonwealth] funding was one-off special purpose funding including increased legal assistance for vulnerable women, workplace sexual harassment and supporting people with mental health conditions to access the justice system... and only 61% of funding provided by the State and Commonwealth State Governments is recurrent funding.²⁰⁴

CLC Total Funding 2022/23



²⁰³ Community Legal Centres Tasmania, *NLAP Review Submission*, 27 Oct 2023 ([Online](#)) p. 5.

²⁰⁴ Community Legal Centres Tasmania, *NLAP Review Submission*, 27 Oct 2023 ([Online](#)) pp. 7-8.

3. The problem of large-scale one-off funding needs to be addressed as proposed by Rec. 15, which is strongly supported. However, where one-off funding is to be converted to recurrent, the funding should be rebased to reflect actual costs and where relevant the method should ensure that funding for specific purposes continues to be identifiable. The latter is critical to ensure, for example, that program priorities continue to be addressed, and the adequacy of the funding can be reassessed periodically against increasing needs, the adequacy of indexation and the like. These aspects are outlined further in the responses below at 15.2 and 15.3.
4. Additionally, guidelines should be established to clarify issues relating to rebasing, noting that Rec 17 outlines that rebasing involves ‘levels of funding for each community sector provider [to] be reset to reflect the true costs of operating sustainable organisations.’²⁰⁵ For example, guidelines should ensure that:
 - The actual costs of operating sustainable organisations are established and funded, including the actual costs in 4Rs areas.
 - Any non-recurrent funding received by a service should be rebased to the actual cost whether or not the funding is to become recurrent or continue as non-recurrent.
 - Funding arrangements should ensure that all relevant services, including those in 4Rs areas, can choose to participate in existing programs, including those listed on Table 7.1 in the NLAP Review Report (included at Figure 18 below), where the funding is not already received.

15.2 Adequacy of funding levels and responses to fragmentation

1. It is noted that the Reviewer identified initiatives under the Indigenous Advancement Strategy (‘IAS’) and under bilateral schedules (summarised on Table 7.1 in the Report, shown below)²⁰⁶ as being among the funding streams suggested as suitable to instead be included in baseline funding. These programs relate, as indicated by the listing on the Table, to different sectors (ATSILS, CLCs, FVPLS and LACs).

Figure 10: NLAP Review Report Table 7.1 Programs for inclusion in baseline funding

²⁰⁵ NLAP Review Report Rec. 17 p. 136.

²⁰⁶ NLAP Review Report p. 129.

Table 7.1 Programs for inclusion of baseline funding

Initiatives under the Indigenous Advancement Strategy:	Bilateral schedules and specific funding streams:
- Custody Notification System (ATSILS)	- Domestic Violence Unit (LACs and CLCs)
- Throughcare programs (ATSILS)	- Family Advocacy and Support Service (LACs)
- Indigenous Women's Program (CLCs)	- Legal assistance for vulnerable women (LACs, CLCs, ATSILS and FVPLS)
- Supplementary Legal Assistance (ATSILS)	- NDIS Appeals program (LACs)
- Youth Engagement Program (ATSILS)	- Frontline support to address workplace sexual harassment (LACs, CLCs, ATSILS, and FVPLS)
- True Justice: Deep Listening Initiative (ATSILS)	- Supporting people with mental health conditions to access the justice system (LACs, CLCs, and ATSILS)
- Youth Justice Advocacy Coordinator (ATSILS)	- Expensive complex cases and coronial inquiries (ATSILS)
- Community Night Patrol Legal Training and Support Activities (ATSILS)	- Justice Policy Partnership (ATSILS)
- Kunga Stopping Violence Program (ATSILS)	- Community Legal Support Program (CLCs and ATSILS)
	- Family Property Mediation Pilot (LACs)
	- Elder Abuse Service Trials (LACs and CLCs)
	- Ongoing Health Justice Partnerships that have received positive evaluations (see section 9.3.1)

2. Table 7.1 should be fully developed to list all applicable programs, with program descriptions, applicable sectors and visible inclusion and specification of ACCO CLCs. The list should be made public to all services for consideration. Programs which are time limited, and which would otherwise cease before they are considered for inclusion in baselines, should be extended. Some programs on Table 7.1 are discussed further at 17.2 and 17.3 below.

3. Geographic coverage of 4Rs areas, including coverage of existing service areas, should be applied to all programs applicable to 4Rs areas and program funds should be increased to achieve this:
 - a. For existing program funding recipients.

 - b. To address anomalous funding patterns – such as overcoming the anomalous exclusion of Wirringa Baiya from IWP funding (IWP funding is discussed further at 17.3.1 below).

 - c. To extend pilots and programs with demonstrated benefit (which applies Rec. 20 of the NLAP Review Report) – enabling uptake by community-based services which wish to participate. For example:
 - i. Where a service wishes to lead, or participate, in a Health Justice Partnership - noting that nationally there is currently disproportionate underfunding for HJPs in 4Rs areas (outlined at 17.3.3 below).²⁰⁷

²⁰⁷ 4Rs Network [Submission to the Joint Standing Committee inquiry on the NDIS lived experience of the NDIS in regional, rural and remote areas](#) dated 8 March 2024 with [endorsement list](#); NATSILS, [Submission to the NLAP Review, Oct 2023](#), with [Addendum](#).

- ii. Where non-inclusion of services and/or sectors is anomalous e.g.:
- The current non-inclusion of ATSILS, FVPLS and most CLCs from funding to provide NDIS appeals support and representation.²⁰⁸
 - Geographic gaps in funding to assist people with mental health conditions to access the justice system.
 - Coronial inquiry representation – such as ensuring sufficient funds for ATSILS and access to funding by FVPLS and CLCs to undertake coronial work on an individual case or on an ongoing basis.²⁰⁹
 - Lack of Elder Abuse Service funding to all relevant sectors and services.²¹⁰

15.3 Reducing fragmentation but avoiding negative effects

1. While reducing separate grant reporting, and upgrading non-recurrent funding to recurrent should occur, it is noted that major problems could arise unless:
 - the funding amounts intended to be for initiatives are *specified and identifiable*
 - the requirement to deliver *the funded program* is contractual
 - there is *reporting on performance and outcomes*, and
 - it is easy to engage with funders *about the adequacy of the funding* in the future.
2. What occurred when funding for specialist social security legal help ceased to be identified is an example of the problems to be avoided. That is:

²⁰⁸ 4Rs Network [Submission to the Joint Standing Committee inquiry on the NDIS lived experience of the NDIS in regional, rural and remote areas](#) dated 8 March 2024 with [endorsement list](#)

²⁰⁹ For example, Family Violence Prevention Legal Services, First Nations Women's Legal Services, Women's Legal Services and Community Legal Centres, to assist or represent family members or participate on another basis, in relation to relevant coronial processes. The findings of the Senate Legal and Constitutional Affairs References Committee inquiry into Missing and murdered First Nations women and children, tabled on 15 August 2024, also highlighted issues surrounding lack of independent representation for family members in in these coronial processes ([Online](#)) especially pp. 54-61.

²¹⁰ To build on the experience of the Specialist Elder Abuse Units outlined in the NLAP Review Report (pp. 65-66) delivered by Eastern Community Legal Centre (VIC), Kimberly Community Legal Services (WA), Uniting Communities (SA), Legal Aid Commission NSW, and Legal Aid Commission of Tasmania.

- From the commencement of funding of some social security legal help by the Department of Social Security ('DSS'), and for many years after the funding was transferred to the Attorney-General's Department to administer, the funding was quarantined, as a specialist sub-program within the Commonwealth Legal Services Program ('CLSP').²¹¹ The existence of the sub-program promoted collaboration, networking and capacity building among services receiving this funding, including formation of the National Welfare Rights Network in 1990 (subsequently called the National Social Security Rights Network and most recently, Economic Justice Australia).²¹²
- About a decade ago when 'specialist' federal government funding for social security legal help became part of 'generalist' CLC funding, it was no longer possible to identify *what funds* the Commonwealth was providing for access to social security legal help. This was due to the funding no longer being quarantined or specified for providing social security legal assistance. Generalist services, which previously received 'specialist' social security funding, had this funding rolled into core funding, and contractual requirements for the funds to be used to provide social security legal assistance ceased.
- The funding approach described, is associated with no national objectives relating to social security legal help, no funding model for access to social security legal help, and no benchmarks relating to the adequacy of funding. For example, the adequacy of funding considering the population, demographics and location of social security recipients to be served and this weighted for factors such as complex needs and service costs including for 4Rs areas.²¹³

3. In the case of social security funding, the importance of being able to identify funding, has been consistently advocated by Economic Justice Australia, including in the EJA submission to the NLAP Review which recommended

²¹¹ For example Attorney-General's Department, Social Inclusion Division, [Commonwealth Community Legal Services Program Guidelines](#) (Online, 2010) p.6 outlined that 'The Commonwealth Community Legal Services Program ('the Program') is a dedicated program within the Attorney-General's Department which supports and funds community legal services as part of the Commonwealth's contribution to the maintenance of effective systems of justice and legal assistance. The Program provides funding for generalist as well as specialist community legal services. Specialist sub-programs include services for women (including indigenous and rural) and youth as well as child support, disability discrimination matters, welfare rights, and environmental issues.'

²¹² Economic Justice Australia, Our History ([Website](#)).

²¹³ Darwin Community Legal Service, [Submission to the Inquiry into the Social Security \(Administration\) Amendment \(Repeal of Cashless Debit Card and Other Measures\) Bill 2022](#) 13-15;

establishment of ‘a *designated funding stream* for social security legal work.’²¹⁴

4. Accordingly, arrangements need to be identified which reduce fragmentation while avoiding deleterious effects about monitoring and evaluating the adequacy of funding and levels of service availability.

Rec 16 – Reduce competitive tendering for legal assistance

Recommendation 16 – Reduce competitive tendering for legal assistance

The Commonwealth, state and territory governments should abandon competitive tendering as the preferred means of allocating new funding for legal assistance services, moving away from funding individual services and programs. This will reduce compliance burdens, provide greater funding certainty, improve efficiency, and encourage greater collaboration and holistic service provision. Competitive tendering should only be used where it is clearly the case that it will generate significant benefits over administrative allocation of funding.

16.1 Support for reducing competitive tendering and building existing services

1. Ceasing competitive tendering as the preferred means of allocating new funding for legal assistance services is supported.
2. However, the alternative commissioning arrangements should be properly articulated, with principles and guidelines and these should specifically address Closing the Gap principles as well as geographic access to assistance in 4Rs areas.
3. A draft should be developed through suitable collaborative processes, with provision for input with a view to reaching positive consensus.

16.2 Moving away from funding individual services – is unclear

1. The proposal in the second part of the first sentence of Rec. 16 to ‘moving away from funding individual services and programs’ presumably means moving to more holistic funding models. That is, funding services ‘to reflect the true cost of operating sustainable organisations’ (Rec. 17) and reducing fragmentation associated with non-recurrent funding by converting these programs, where

²¹⁴ Economic Justice Australia, [Submission to the Independent Review of NLAP, 26 October 2023](#); Economic Justice Australia, [Federal Budget Submission, 2024-5](#), recommendation 41 and 42.

appropriate, to be recurrent for inclusion in baselines (Rec. 15.).

2. However, if ‘moving away from funding individual services and programs’ impinges on First Nations self-determination or on fully resourcing existing community-based, community-owned 4Rs legal assistance services, this would be highly deleterious and is not supported.
3. Otherwise, the response to this proposal is the same as the response to Rec.15, above. That is, the proposal is supported but pitfalls about the adequacy of funding, and the importance of funding for specific purposes remaining identifiable, should be avoided.
4. The Report notes high ‘entry costs’ for legal services,²¹⁵ meaning high costs of establishment. This is certainly the case, including ‘costs’ of community efforts, in working to establish and provide community-based legal services. This and similar forms of ‘investment’ are critical for sustainability, accessibility, effectiveness, accountability and prospects for positive change aligned with community development and community empowerment approaches. The importance of these approaches was not directly discussed in the Report. However, consideration of Closing the Gap and self-determination of First Nations peoples, emphasised in the Report, is also aligned with rights-based community development and empowerment.²¹⁶
5. The Report also noted that smaller services can be more effective.²¹⁷ In any circumstances where there is a proposal to reduce the number of *individual community-based services* in 4Rs areas, in favour of larger services, the proposal should be made clear, and input sought from local communities and regions, and from all sectors and stakeholders. In some cases, services or sectors in regions may wish to initiate discussion about additional ways of strengthening community-based service provision. Issues of ‘scale’ are discussed at 2.4 above and further below at 16.3.

16.3 New community-based legal services

1. In the section quoted below, the Review Report notes that ‘CLCs can emerge organically from communities’ - and processes such as those for unsolicited infrastructure proposals, can be used by funders.

²¹⁵ NLAP Review Report p. 131.

²¹⁶ For further discussion of community development in this context see for example: Community First Development, *A First Nations Approach to Community Development: Our Community Development Framework* ([Online](#), 2020).

²¹⁷ NLAP Review Report p. 205.

“As discussed in section 4.5.1, some geographical areas have little or no service provision. In some areas, the most appropriate provider will be a nearby LAC or ATSILS. In other locations a CLC may be more appropriate. The Reviewer is aware that new CLCs can emerge organically from communities, or in response to changing economic and/or social circumstances. In such circumstances governments should primarily focus on addressing unmet legal needs and use processes similar to those used for unsolicited infrastructure proposals. These processes can also be used when a community group comes forward. Where no group volunteers, governments can look at limited tenders involving existing CLCs and organisations with experience in auspicing CLCs, such as Anglicare”²¹⁸

2. It has been a long time since funding for new community-based legal services in or for 4Rs areas has been an option. This could be an exciting opportunity, and we encourage federal and state/territory Governments to consult with sectors and communities.
3. New services in and/or for 4Rs areas are more likely to emerge organically if governments flag a facilitative context for unsolicited proposals. This includes collaborations between 4Rs community-based legal assistance services and State-wide or national services. It also includes collaborations relating to 4Rs areas with or which include, law schools, volunteer or pro bono initiatives (discussed below at 24.7 *Volunteers*, 24.8 *Law students including course credit* and 24.9 *Legal Education, 4Rs access to justice, and workforce*).
4. Proposals which emerge organically should be considered in light of principles relating to First Nations self-determination (NLAP Review Rec. 12) and principles relating to legal assistance services and 4Rs areas (outlined in **The Backgrounder** at II.II *Principles relating to rights and inclusion of people in 4Rs areas*; and above at 2.5 *Principles for addressing geographic service gaps* and 5.1 *Principles commitment to 4Rs place-based community-owned service delivery*).

16.4 New locations within service areas

1. The discussion in the Review Report in the section just quoted in 16.3, does not reflect consideration of ‘service areas’. As noted earlier, especially in response to Rec. 2, and *Geographical gap criteria and Appendix D* at 2.3, these are the areas for service provision indicated in funding contracts.

²¹⁸ NLAP Review Report p.132.

- In the case of the service areas of community-based legal services in 4Rs areas, these generally have three features:
 - The existing 4Rs community-based legal services have deep familiarity with their service areas.
 - The services have advocated and worked to increase service coverage of their service areas, often for decades.
 - There is a substantial depth of relationships and networks across the region including areas where there are high rates of unmet legal need.
 - In the case of the *service areas of statewide community-based legal services*, which currently have limited or insufficient physical presence in the 4Rs regions, these services:
 - Have often been advocating for decades to overcome the funding obstacles preventing them from expanding access, and
 - Need, and often receive, leadership from community-based legal services in 4Rs regions about models needed in these regions.
2. Consequently, new funding to increase coverage within 4Rs areas, should place central importance on existing community-based legal assistance services in these areas. Arrangements should ensure this dynamic is protected to continue and extend place-based, community-owned approaches, grounded in local knowledge, local empowerment and trust relationships.
 3. A principle of increasing funding to existing services for increased services in their 4Rs service areas should be applied unless none are willing, there is an agreed preferred alternative or there are exceptional circumstances.
 4. Principles and guidelines should be developed, consistent with Closing the Gap and First Nations Legal Assistance Funding Principles (outlined at 11.5 above) to guide decisions about funding distribution in relation to 4Rs areas and regions. In some cases, the nature of the unmet needs will indicate how funding should be distributed and there may be cases where all existing services should receive additional funds to expand.
 5. Situations of high unmet needs, where no service has the area in their existing service region/s, should be addressed. For example, most of the Northern

Territory is not covered by a service region for generalist community legal centre assistance. That is, as noted previously, there is one generalist community legal service in the NT (Darwin Community Legal Service) which has a service area of Darwin, Palmerston and surrounds for the generalist community legal service funding.²¹⁹ In this example, there should be generalist community legal assistance service coverage for the whole of the NT and consultation to achieve this, followed by funding for implementation and ongoing service provision.

Rec 17 – Rebasing community legal service providers

Recommendation 17 – Rebasing community service providers

The Reviewer recommends that the levels of funding for each community sector provider be reset to reflect the true costs of operating sustainable organisations.

This should be done on trilateral basis between the Commonwealth, state or territory governments and service providers.

Priority should be given to ATSILS and FVPLS followed by CLCs then LACs.

The Reviewer recommends in 2024-25 that \$12 million be allocated to ATSILS and \$4 million to FVPLS to ensure they have the capacity to develop their organisations and for other matters discussed in chapter 12.

17.1 Background

1. Rec. 17 applies the Base, Step, Trend, Pass-through approach recommended by the Review Report (shown on diagram ‘7.1 Key components of the new funding model’²²⁰ included in this response above at 2.2 – *Addressing unmet geographic need*).
2. Rebasing to adequate funding levels for each community-based legal service in the ‘Base’ / ‘Rebasing’ phase is supported. It is agreed that this should ‘reflect the true costs of operating sustainable organisations’ (Rec. 17), which in relation to community-based organisations in and for 4Rs areas, includes:
 - the actual costs of operating sustainable organisations in their operating context
 - coverage of the whole of the service’s service area/s

²¹⁹ Discussed at 2.3.1 above.

²²⁰ NLAP Review Report p. 134.

- coverage of the required areas of law, including effective arrangements for access to specialist assistance
- provision of non-legal supports for holistic and wraparound assistance, and
- other relevant aspects considering the nature and extent of client and community needs to be met.

3. The increased costs in service provision in 4Rs areas are reflected in the Review Report which states:

“The Reviewer acknowledges significant additional challenges and costs associated with operating in RRR areas of Australia. These costs and challenges significantly hamper the ability of the legal assistance sector to meet legal need in rural, regional and remote Australia. Recommendations to increase baseline funding {see section 7.2.1) include provisions for accommodation, appropriate allowances when staff live or work in rural, regional and remote areas, and adequate funding for travel to clients and courts.’²²¹

4. The response which follows has four sections:

17.2	Relates to the Reviewer’s recommendations about cost factors which should be included in base funding.
17.3	Relates to existing programs including those on the Table 7.1 in the Review Report (discussed initially in this response in relation to Rec. 15 above).
17.4	Sufficient funding for areas of law in and for 4Rs areas.
17.5	Rebasing community-based services should occur in 2024-5.

17.2 Cost factors particularised for inclusion in rebasing

The Reviewer listed the following factors for inclusion in rebasing:

<i>Text in this column quoted from p. 135-136 in the Review Report.</i>	4Rs Network response
“The Reviewer considers the levels of funding for each community sector provider (ATSILS, CLCs including those currently solely Commonwealth funded, FVPLS) should be reset, having regard to:	Agreed that funding for ATSILS, FVPLS and CLCs should be reset upwards.

²²¹ Review Report p. 134.

<p>— rolling all terminating programs (some of which are set out in Table 7.1) into baseline funding unless the legal need they address is no longer relevant. If programs still being evaluated fail in their assessment, they should be removed from baseline funding</p>	<p>While the objective of reducing fragmentation and reporting burdens is supported, the programs listed at Table 7.1 should be properly funded for existing service providers as part of rebasing, and for inclusion in the rebasing of other relevant services (also addressed in response to Rec. 15 above).</p> <p>Keeping track of adequacy of funding</p> <ul style="list-style-type: none"> ▪ As indicated in response to Rec. 15, there is a risk of losing track of the funding levels for programs / activities / outcomes - if shifting funding to the baseline means that the amounts become unidentifiable. ▪ What occurred when social security legal help funding in the Community Legal Service Program was moved from the identifiable / quarantined specialist social security stream to generalist community legal service funding (outlined at 15.3 above) – is salutary for the adverse effects to be avoided.²²²
<p>— appropriate funding to undertake community legal education and law reform and advocacy</p>	<p>Supported – and in and for 4Rs areas:</p> <ol style="list-style-type: none"> 1. This should relate to existing levels of activity and higher levels where needed, 2. it should include adequate coverage of the whole service area/s, 3. arrangements / funding for interpreters should be included where needed (consistent with NLAP report Rec. 13), and 4. opportunities to create jobs in communities, including through the Remote Area Jobs and Economic Development Program should be explored and promoted.²²³
<p>— adjusting remuneration and other terms and conditions of employment so they are equivalent with the jurisdictional LAC, as set out in recommendation 25</p>	<p>Supported – and:</p> <ol style="list-style-type: none"> 1. For 4Rs community-based legal services in and/or for 4Rs areas, this should at minimum include all loadings, benefits (including housing related) and conditions applicable to the LAC equivalent for the 4Rs location/s. 2. Rebasing should include funding for additional remuneration and incentives (above LAC levels) to attract and retain senior workers in community-

²²² Economic Justice Australia, [Submission to the NLAP Review, 26 Oct 2023](#); Darwin Community Legal Service, [Submission to the Inquiry into the Social Security \(Administration\) Amendment \(Repeal of Cashless Debit Card and Other Measures\) Bill 2022](#) 14 August 2022, pp. 11-15.

²²³ NIAA, Remote Jobs and Economic Development Program (Web Page) <https://www.niaa.gov.au/our-work/employment-and-economic-development/remote-jobs-and-economic-development-program>

	<p>based legal services in and/or for 4Rs areas where there are major shortages, including:</p> <ul style="list-style-type: none"> ▪ First Nations people with 5 years' experience and above as caseworkers and managers, ²²⁴ ▪ Lawyers for roles requiring 5 years' post admission experience and above. ²²⁵ <p>3. Workforce issues are discussed further in response to Rec. 24 – Workforce Strategy, below.</p>
<p>— providing appropriate levels of support and casework staff to ensure lawyers and other professional staff do not have excessive administrative workloads</p>	<p>Supported – and in 4Rs areas this should include</p> <ol style="list-style-type: none"> 1. Existing and expanded operation to address levels of unmet need, and 2. casework, wraparound and paralegal roles which reflect <ol style="list-style-type: none"> (i) roles related to lawyer's administrative workloads, plus (ii) roles focused on service provision and increasing casework, wraparound and paralegal assistance in response to the nature and extent of needs.
<p>— ensuring all staff can access their leave entitlements every year, enjoy industry standard levels of professional and personal development, and undertake appropriate levels of law reform and advocacy work (including potentially running test cases)</p>	<p>Supported</p> <ol style="list-style-type: none"> 1. Regarding staff leave - in 4Rs areas this should include provision for the cost of cover including locums or other arrangements. 2. Regarding professional and personal development, for staff in, or in relation to, 4Rs areas this should include sufficient funding to meet, network, share and participate in peer training. 3. Regarding law reform and advocacy in relation to 4Rs – this should include: <ul style="list-style-type: none"> ○ integrating and supporting client and community involvement in law reform and advocacy, ○ involvement in Coronial inquires (referred to at 15.2 above), and ○ participation in advocacy and reform networks including 4Rs issues in relation to state and national networks and reform issues.
<p>— expanding funding so that staff numbers are sufficient to ensure workloads, especially in criminal law and other trauma related matters, are sustainable from a worker wellbeing perspective,</p>	<p>Supported – however this should apply to:</p> <ul style="list-style-type: none"> ▪ all client facing work, and ▪ all priority areas of law including family & civil law <p>It should also apply to:</p> <ul style="list-style-type: none"> ▪ all staff roles, and

²²⁴ Highlighted in input by the First Nations Advocates Against Family Violence (formerly called National Family Violence Prevention Legal Service Forum).

²²⁵ Experience among 4Rs community-based legal services.

<p>and also to ensure clients have adequate preparation time with their lawyer</p>	<ul style="list-style-type: none"> ▪ all forms of assistance and services provided. <p>In 4Rs areas expanded funding levels should include:</p> <ol style="list-style-type: none"> 1. Actual service provision costs. 2. Logistics of service provision including travel 3. Additional staffed office locations where required for client and community access, to reduce adverse effects of service logistics on clients, staff and communities. 4. Workforce planning & roles related to directions identified (e.g. addressing widespread absence of volunteer & placement coordinator roles inhibiting flow of volunteers & students in many 4Rs areas, which can adversely impact recruitment).
<p>— providing adequate funding so workers can travel safely to clients and courts in appropriate and properly equipped vehicle. Adequately fund travel time for non-metropolitan private lawyers funded by grants of legal aid. This funding should ensure professionally and culturally appropriate face-to-face engagement with clients</p>	<p>Supported – this should relate to existing service and staff and to expanded operations with the staffing levels and operations required.</p> <p>In and for, 4Rs areas funding should also be sufficient for:</p> <ul style="list-style-type: none"> • Regular accessible in-person assistance. • Plane charters for services for 4Rs communities where this is the most practical / effective option. • Access to appropriate, properly equipped land transport, including when staff are working fly-in.
<p>— providing adequate funding to sustain appropriate case management, office and administrative systems and other equipment. Such funding should ensure systems are adequate to facilitate appropriate digitisation and innovation now and in the future</p>	<p>Supported – however the following should also be included for services in 4Rs areas and community-based legal services delivering to 4Rs areas:</p> <ul style="list-style-type: none"> • Access to electronic case management systems implementation, training and expert support. • Access to suitable training in case management, including suitable accredited training. • Access to case management certification for community-based legal service sectors. • Support for case management communities of practice.
<p>— providing accommodation and/or appropriate allowances, equivalent to LAC staff, if staff live or work in regional and remote areas. This includes travel home for remote workers and relocation costs</p>	<p>Supported – and for:</p> <ul style="list-style-type: none"> • Access to government staff housing programs in 4Rs areas and similar, including urgent access for community-based legal services in Western Australia to the WA Government Regional Officer Housing Program ('GROH') to match access by the WA Legal Aid Commission. • Allocation of funds to rent, buy or build staff housing where required to address availability.

<p>— ensuring workplaces are physically safe to engage with trauma affected clients and compliant with all relevant workplace standards. This may require provision for appropriate rents and building maintenance, utilities and one-off payment to upgrade existing premises or acquire new ones</p>	<p>Supported – and reflecting:</p> <ul style="list-style-type: none"> • Costs for community-based legal services in, or for, 4Rs areas. • Increase locations for 4Rs service area coverage. • The adequacy of workplace space and related needs for all contributors including pro bono lawyers, interns, and volunteers.
<p>— providing workplace and mental health support appropriate for the level of exposure to trauma-exposed clients</p>	<p>Supported – and this needs to be tailored to:</p> <ul style="list-style-type: none"> • contexts in 4Rs areas, • the needs of different groups of workers within community-based non-profit legal services based in, or providing legal assistance to, 4Rs areas, and • support the needs of First Nations workers within ACCOs and non-ACCO community-based legal services.
<p>— ensuring a service provider that has suitably qualified staff can elect to be funded to allow continued support to clients until matters are concluded, including through appeals, and providers are adequately resourced to brief counsel at legal aid rates as necessary. Funding should be provided to develop collaborative service provision arrangements with other providers to ensure continuity of services if that is what clients desire and it is efficient to do so.</p>	<p>Supported all are high funding needs for community-based legal assistance services in, and for, 4Rs areas.</p>

<p>(continued quote) “Further, the following items should be included for ATSILS:</p>	
<p>— adequate resourcing to operate a CNS appropriate for criminal justice arrangements in their jurisdiction</p>	<p>Supported, however:</p> <ul style="list-style-type: none"> ▪ There should be consultation with FVPLS, ATSILS and ACCO CLCs about whether Aboriginal and Torres Strait Islander child protection notification schemes are also needed, including in relation to children and families in 4Rs areas. ▪ Where needed, there should be adequate

	resourcing for the arrangements required.
— sufficient resources for prison outreach services delivered by both legal and non-legal staff	Supported, however: <ul style="list-style-type: none"> ▪ Prison outreach is also undertaken by FVPLS and CLCs, especially in relation to civil law legal needs, this is under-resourced especially in 4Rs areas. ▪ Prison outreach services are essential in relation to criminal representation <i>and</i> civil law assistance including legal and non-legal casework.
— sufficient funding to support prevention and early intervention activity.”	Supported, however: <ul style="list-style-type: none"> ▪ This also applies to FVPLS and CLCs especially in 4Rs areas due to levels of disadvantage.

17.3 Programs NLAP Review proposes for inclusion in baseline

1. The second element of rebasing is the proposal that a range of existing programs be included in baselines. The list of programs for inclusion in baseline funding is at Table 7.1 (copy again below) which the Reviewer noted is likely incomplete.
2. This has been discussed above in general terms in relation to Rec. 15 – *Reduction in fragmentation*, and in the comments above at 17.2 about a parallel to Custody Notification relating to First Nations child protection notifications, sufficient resources for prison outreach and for prevention and early intervention, and sufficient resources to support prevention and early intervention activities.
3. The discussion here relates to three further programs on Table 7.1 (shown again below),²²⁶ relevant to 4Rs.

²²⁶ Table 7.1 is in the NLAP Review Report at p. 129 Included earlier in response to 15.1 – Adequacy of funding levels and responses to fragmentation.

Table 7.1 Programs for inclusion of baseline funding

Initiatives under the Indigenous Advancement Strategy:	Bilateral schedules and specific funding streams:
<ul style="list-style-type: none"> - Custody Notification System (ATSILS) - Throughcare programs (ATSILS) - Indigenous Women's Program (CLCs) - Supplementary Legal Assistance (ATSILS) - Youth Engagement Program (ATSILS) - True Justice: Deep Listening Initiative (ATSILS) - Youth Justice Advocacy Coordinator (ATSILS) - Community Night Patrol Legal Training and Support Activities (ATSILS) - Kunga Stopping Violence Program (ATSILS) 	<ul style="list-style-type: none"> - Domestic Violence Unit (LACs and CLCs) - Family Advocacy and Support Service (LACs) - Legal assistance for vulnerable women (LACs, CLCs, ATSILS and FVPLS) - NDIS Appeals program (LACs) - Frontline support to address workplace sexual harassment (LACs, CLCs, ATSILS, and FVPLS) - Supporting people with mental health conditions to access the justice system (LACs, CLCs, and ATSILS) - Expensive complex cases and coronial inquiries (ATSILS) - Justice Policy Partnership (ATSILS) - Community Legal Support Program (CLCs and ATSILS) - Family Property Mediation Pilot (LACs) - Elder Abuse Service Trials (LACs and CLCs) - Ongoing Health Justice Partnerships that have received positive evaluations (see section 9.3.1)

17.3.1 Indigenous Women's Program (IWP)

1. The NLAP Review Report recommended that the 'Indigenous Women's Program (CLCs)' be included in baseline funding.²²⁷ However, the funding amounts are grossly insufficient. The first step should be to increase the program funding allocation, to increase the funding amount to each of the seven recipient services and include Wirringa Baiya Aboriginal Women's Legal Centre.
2. IWP program funding should be substantially increased for the seven existing funded services as a CLC Indigenous women's civil law legal needs initiative promoting Indigenous women's leadership in CLC service provision, for Indigenous women's access to CLC assistance, and legal assistance generally, especially in 4Rs areas.
3. The National Indigenous Australia's Agency outlined the IWP as follows:²²⁸

Indigenous Women's Program

IAS Indigenous Women's Program (IWP) funding supplements core funding provided through the NLAP to 7 Community Legal Centres across Australia to ensure these organisations have additional capacity to meet the needs of First Nations women. Services provided with IWP funding differ depending on the needs of each community, as identified by each provider. Service Providers are required to deliver high quality, culturally sensitive, equitable and accessible legal assistance services.

4. The Review Report noted that the IWP is under the Indigenous Advancement Strategy and it:

"... supplements core funding provided through NLAP to select service providers across Australia, to ensure they have additional capacity to meet the needs of Aboriginal and

²²⁷ NLAP Review Report p.129.

²²⁸ NIAA, Submission to the NLAP Review, 17 Oct 2023 ([Online](#)).

Torres Strait Islander women. Funding is estimated at \$1 million in 2022–23.”²²⁹

5. The seven services receiving IWP funding are:

NSW	NSW Women’s Legal Service
NT	Katherine Women’s Information and Legal Service
QLD	First Nations Women’s Legal Service Queensland
SA	South Australian Women’s Legal Service
WA	Kimberley Community Legal Service Pilbara Community Legal Service Regional Alliance West

6. This Program originated with *The Justice Statement* in May 1995.²³⁰ This followed on from recommendations by the Australian Law Reform Commission in the *Equality Before the Law* reports²³¹ and the Access to Justice Advisory Committee, *Access to Justice an Action Plan* report.²³²

7. The funding reflected advocacy by and in support of Aboriginal and Torres Strait Islander women about the need for Indigenous women’s legal assistance. The

²²⁹ NLAP Review Report, p.106.

²³⁰ Justice Statement May 1995 with Foreword by Prime Minister Paul Keating (Online), Chapter 5, National Women’s Justice Strategy ([Direct link](#)), includes the following :

‘The Government will provide \$5 million over the next four years to enable the network of women’s legal centres to establish specialist services for Aboriginal and Torres Strait Islander women.’ The following background was given (online): “The Aboriginal and Torres Strait Islander services provided through women’s legal centres will be able to assist with identifying the legal service needs of Aboriginal and Torres Strait Islander women and develop the best methods for delivering those services. The units will provide legal assistance and advice, as well as referral and support services designed to meet the particular legal and cultural needs of Aboriginal and Torres Strait Islander women. The units will play an important role in developing outreach services for women living outside urban areas. Details of the services to be delivered through the network of women’s legal centres, and the best models for the involvement of indigenous women in the planning, management and operation of these services, will be developed after appropriate consultations. These small units will not be expected to provide services as extensive as those provided to the Aboriginal and Torres Strait Islander community through their own legal services. This will not be their objective. Aboriginal and Torres Strait Islander women will continue to have access to the Aboriginal Legal Services that are already funded by the Government throughout the country. However, the experiences of these specialist women’s services will significantly extend our knowledge of how best to provide appropriate services for Aboriginal and Torres Strait Islander women. The achievements of these units will contribute to the pool of information and advice on which the Aboriginal and Torres Strait Islander Commission and the Government will make future decisions about how best to meet the legal needs of the entire Aboriginal and Torres Strait Islander community.

²³¹ Australian Law Reform Commission, *Equality Before the Law: Women’s Access to the Legal System, Interim Report*, ALRC 69 pp. 31-34 & 56-57, which recommended ‘...the funding, as part of the National Women’s Justice Program, of legal resource and advocacy centres for Aboriginal and Torres Strait Islander women as pilot programs for an initial three year period.’ (p. 57); Australian Law Reform Commission, *Equality Before the Law: Justice For Women Part 1*, No 69, Rec. 5.2.and paras 5.24-5.38.

²³² Access to Justice Advisory Committee, *Access to Justice: An Action Plan* (AGPS, 1995), also referred to as ‘the Sackville Report’.

Commonwealth planned some IWP funding to each jurisdiction however difficulties arose because of the small amount of the funds, which were either not sufficient to employ a full-time worker (in the case of Tasmania) or not sufficient for the models First Nations women wished to establish.

8. The FNWLSQ received IWP funds, originally located with North Queensland Women's Legal Service, when the then new First Nations women's legal service was separately incorporated in about 2005.²³³ FNWLSQ is one of two First Nations women's community controlled legal services in Australia. The other is Wirringa Baiya Aboriginal Women's Legal Centre. When federal funding was originally allocated, there were no *federally funded* Indigenous Women's Legal Services in Australia. Wirringa Baiya, the first Aboriginal women's legal service in Australia, opened in 1994 as the NSW Aboriginal Women's Resource Centre and received funding from the NSW Attorney-General in 1995.²³⁴ That Wirringa Baiya was not, and still is not, included in IWP funding is egregious.
9. The original IWP funding commitment of \$5mill in the Justice Statement, would be at least double in current day terms,²³⁵ indexation should have been applied throughout (which did not occur), and the program should have been developed, which has not occurred either, resulting in the program sitting at about \$1mill. pa.²³⁶
10. There is significant variation in the funding allocations, and funding to five of the seven current IWP funding recipients is insufficient for 1 full time equivalent position. Consequently, these services top up the funding from their general budgets.
11. While grossly underfunded the IWP has been pivotal in many ways over the years. For example:
 - FNWLSQ: the IWP funding was instrumental in the service being able to start and for the service to be sustained. The IWP funding has been an integral aspect in First Nations women's access to legal assistance.
 - WLSNSW and WLSSA – while the amount of IWP funds historically and currently received are substantially different – the funds have been integral since first received in about 1996 to First Nations women's access to these

²³³ First Nations Women's Legal Service Queensland, 'About' ([Web Site](#)).

²³⁴ Wirringa Baiya Aboriginal Women's Legal Centre --- "[Aboriginal Women Speaking Out about Violence: Is Anyone Listening?](#)" *Reflections of Wirringa Baiya Aboriginal Women's Legal Centre* [2011] 7(23) Indigenous Law Bulletin 26; Wirringa Baiya, 'About us' (Web Site): <https://www.wirringabaiya.org.au/about-us>.

²³⁵ Using the Reserve Bank of Australia inflation calculator: [Inflation Calculator | RBA](#)

²³⁶ Figure included in the NLAP Review Report quoted at para 4 above.

services. These services also place utmost importance on the continuation of the program.

- KWILS – for the Katherine Women’s Information and Legal Service, IWP funding has been integral to the extent of assistance provided by and to Indigenous women, enabling levels of activity and specialist targeting, towards objectives about service provision to Aboriginal women in remote communities in the Big Rivers Region. IWP funds are integral to KWILS current levels of outreach travel across the Region. Any cut in this funding would be a huge step backwards for access to justice by Aboriginal women. IWP funding should be increased to reflect realistic levels of access.
- PCLS, RAW and KCLS – Pilbara Community Legal Service, Regional Alliance West and Kimberley Community Legal Service have each received IWP funding for decades. KCLS being the last of the three established, received IWP funding from the commencement of the service in 1998. In each case there is an important history of what Indigenous women employed as the IWP worker achieved within these communities, regions and legal services.
- Over the years the IWP has been the only funding program of its kind focusing specifically on Indigenous women’s access to CLC legal assistance and related assistance where available via specialist women’s legal services and via generalist CLCs in remote areas. The IWP has been highly instrumental in the emergence of First Nations women as leaders within CLCs both regionally and nationally, and in First Nations women workers in CLCs influencing collectively.

12. The IWP is arguably a long running pilot program, because it has continued for 25+ years, with the clear potential for development and expansion. However, there has been little, if any, policy attention to the program. The IWP has clearly demonstrated its importance, effectiveness and durability. The program logic is cogent, strategic and validated.

13. Rec. 20 in the NLAP Review Report recommends that:

As part of the step process, consideration should be given to providing additional funding for services that have been successfully piloted by other service providers where provided.²³⁷

14. Reflecting its purposes, importance and resonance, the 4Rs Network supports the strong views of the IWP funding recipient services, that the funding program should remain distinct, the funds should be quarantined and the program itself should be

²³⁷ NLAP Review Report, p. 120.

substantially increased and Wirringa Baiya should be included.

15. The strong preference is to start by developing the program from the vision established by the Justice Statement in 1995, and to at least increase the program funds to current day value of the original \$5mil. with indexation for the long periods when this was not included. The enlarged IWP program should then be implemented in two stages:

- Stage 1: Rebasing current IWP funding recipients in relation to the funds received via the program, by substantially increasing program funds. Additionally, Wirringa Baiya Aboriginal Women’s Legal Centre should be included to address the historical and continuing anomaly of non-inclusion. Rebasing IWP funds should proceed on a co-designed basis with an increased funding pool to match. The funding should be recurrent and identifiable, continuing the long-term nature of the program. Contracts should continue to specify that the staffing component of the funds be used for First Nations identified positions, unless there is specific approval to the contrary.
- Stage 2: Step phase – second increase in program funding, enabling program expansion by adding new streams. Stage 1 would continue as Stream 1, and additional streams would be added, proceeding simultaneously as far as possible. That is:

Table 3: Indigenous Women’s Program enlarged showing proposed streams

IWP funding streams (examples of potential streams)	Description
Stream 1: Existing per step 1 above (continue)	Substantially increased funding to the existing IWP funding recipients plus Wirringa Baiya.
Stream 2: New Indigenous women’s legal services	NLAP and IWP funding for new Indigenous women’s legal services in more jurisdictions if consultation indicates support.
Stream 3: Specialist women’s legal services	IWP funding for specialist women’s legal services which are not existing IWP funding recipients, which meet program criteria for IWP funding.
Stream 4: CLCs in 4Rs areas	IWP funding for CLCs in 4Rs areas with a high Indigenous population, which are not existing IWP funding recipients, which meet funding criteria.
Stream 5: Other CLCs including statewide and national	IWP funding for other CLCs which meet criteria about gaps in access to their services in relation to First Nations women’s legal needs.

16. The rebasing of services receiving IWP funding and inclusion of Wirringa Baiya

should reflect:

- The objectives of the program
- Culturally safe best practice
- Input costs/service costs
- Geographic coverage of service areas
- Service plans for IWP funds, and
- Participation by IWP workers in the Aboriginal and Torres Strait Islander Women's Network (referred to above at 7.5).

17. If the IWP program is transferred from NIAA to the Attorney-General's Department, in addition to the funding remaining identifiable and quarantined (as outlined above), the program should be administered separately to, but in association with, women's legal services funding. This reflects the focus of the program on gendered legal assistance needs of First Nations women.

17.3.2 True Justice: Deep Listening

1. As noted by the NLAP Review Report:

True Justice: Deep Listening Initiative, which seeks to transform legal education and continuing professional development and learning through facilitating on-country, immersive experiences. Funding is estimated at \$0.1 million in 2022–23.²³⁸

2. This initiative, launched at the 14th National Indigenous Legal Conference in Darwin in 2019,²³⁹ is a national exemplar seeking to transform legal education. NAAJA has collaborated with the Australian National University²⁴⁰ and Charles Darwin University²⁴¹ to deliver the program. The initiative involves opportunities to learn about First Nations justice perspectives, on-country. The initiative has already helped inspire a further course delivered by Indigenous Justice Hub within Melbourne University Law School.²⁴² A survey by the NT Association of Community Legal Centres in 2021 estimated that about 90 staff and board members would be interested in undertaking the program.

3. As the funding amount is currently small, and the originator was the North Australian Aboriginal Justice Agency, it appears that the recommendation is to continue funding and move the existing funding to NAAJA's baseline rather than

²³⁸ NLAP Report, p. 106.

²³⁹ Website: <http://truejustice.org.au> referred to in the NLAP Review Report at p. 106 and 129.

²⁴⁰ ANU outline: [Legal Education for True Justice: Indigenous Perspectives and Deep Listening on Country | ANU College of Law](#).

²⁴¹ Jarred Cross, 'NT Aboriginal justice agency co-delivering program set to take law students on Country for new perspectives, National Indigenous Times 21 June 2024 ([Online](#))

CDU partners with NAAJA to deliver True Justice Program 24 June 2024, (CDU [Media Release](#))

²⁴² The course is Access to Justice on Country: <https://handbook.unimelb.edu.au/subjects/laws90257>

expand the program, despite the demonstrated effectiveness.²⁴³ There is likely to be high interest, high support and high demand for the program.

4. The Commonwealth and all jurisdictions should collaborate with NAAJA and First Nations leadership with a view to Governments providing resources and facilitation for national implementation, linked to the transformational objectives outlined above.

17.3.3 Health Justice Partnerships

1. The Health Justice Partnerships (HJPs) which are in place are mainly operating in Victoria, NSW and Queensland. This reflects patterns about the availability of HJP funding. There have been far fewer opportunities to establish HJPs in other jurisdictions and 4Rs areas.²⁴⁴
2. Funding should be provided for all community-based legal services in and/or for, 4Rs areas - which need funding to participate and/or establish and lead HJPs in their service areas. It should not be assumed that HJPs can be undertaken from existing baseline funding considering that specific funding has been required by successful HJPs to date.
3. Funding for HJPs should be recurrent and identifiable to ensure continuing focus and development of HJP models, communities of practice and the adequacy of funding.

17.4 Sufficient funding for areas of law in and for 4Rs areas

1. Sufficient funding regarding the areas of law listed below, should also be included in funding for community-based non-profit legal services in and for 4Rs areas.
2. Funding should be sufficient to ensure ready access to wraparound support including non-legal advocacy, casework support and legal assistance, and including prevention and early intervention, community legal education, and law reform and systemic advocacy.

²⁴³ Susan Bird, John Rawnsley and Ciprian Radavoi, 'True Justice through deep listening on Country: decolonising legal education in Australia' (2003) 19(4) *AlterNative: An International Journal of Indigenous Peoples* 892-901 ([Open Access](#)).

²⁴⁴ 4Rs Network [Submission to the Joint Standing Committee inquiry on the NDIS lived experience of the NDIS in regional, rural and remote areas](#) dated 8 March 2024 with [endorsement list](#).

Table 4: Areas of law for inclusion in 4Rs areas by sector

Area of law	ATSILS	FVPLS	CLCs in / for 4Rs
Social security	All ATSILS	FVPLS who wish to provide this assistance	CLCs who wish to provide this assistance where there is demonstrated need.
Homelessness, housing / tenancy	All ATSILS	As above	As above
Child protection	All ATSILS	All FVPLS	As above
Mental health, adult guardianship, health planning/directives	All ATSILS	FVPLS who wish to provide this assistance	As above
NDIS independent advocacy and legal assistance	ATSILS who wish to provide this assistance	As above	As above
Coronial inquiries	All ATSILS	As above	As above
Credit and debt	All ATSILS	As above	All CLCs
Discrimination	All ATSILS	As above	CLCs who wish to provide this assistance where there is demonstrated need.
Domestic and family violence – safety and prevention	ATSILS to indicate may mainly relate to prevention, education and rehabilitation.	All FVPLS	As above
Immigration	N/A	NA	As above
Veterans	ATSILS to indicate	N/A	As above

17.5 Rebase community-based services in 2024-25

1. As outlined above at 2.2 the 4Rs Network supports rebasing all community-based legal services as soon as possible during 2024-5 with this reflected in the next NLAP beginning by or on 1 July 2025.
2. To achieve this the 4Rs Network supports a minimum of doubling current funding, as a straightforward approach, warranted by levels of underfunding and reflective of the time frames.
3. The problems which arise from not rebasing quickly and affirmatively, are outlined previously especially at 2.2.

Rec 18 – Rates of grants of legal aid

Recommendation 18 – Rates of grants of legal aid

The Reviewer recommends:

- For the period of A2JP grants of legal aid to private practitioners should be set at the same level as provided in the court scales (or some other relevant standard) where the matter is heard.
- The Commonwealth should provide \$44m in 2024-25 and \$46 million in 2025-26 for this purpose in relation to matters it funds under NLAP (apportioned 91% family matters, 7% criminal matters and 2% civil matters and excluding funding of ICLs which is the subject of a separate recommendation)
- State and territory Governments should provide \$337 million in 2025-26 for this purpose in relation to matters it funds under NLAP (apportioned 85% criminal matters, 13% family matters and 2% civil matters).
- LAC baseline funding for 2025-26 should reflect this level of grants of legal aid across all categories of matters.
- LACs should be allowed to determine whether this additional funding is used for private practitioners or internal lawyers.
- A working group should be established with an independent chair, supported by independent consultants, to develop a framework for the future of the levels and structure of grants of legal aid, including for lawyer assisted alternative dispute resolution. This should include consideration of the cost of delivering culturally appropriate approaches. SCAG should consider these recommendations with a view to varying baseline funding in 2027-28.

18.1 Ensuring access to grants of aid *and* alternatives in 4Rs areas

1. As noted in response to Rec. 5 Civil law (at 5.3 – *Increase civil and family law grants of aid and 4Rs areas*) - increased access to grants of aid via LAC staff lawyers and arrangements with private lawyers in and for 4Rs areas, is broadly supported. This also applies to criminal law. However, in relation to payments to private lawyer, and the grant of legal aid model generally, there are issues that need to be addressed concerning:
 - whether the model achieves value for money
 - availability, and
 - suitability for Closing the Gap priorities and the full range of client needs, including in 4Rs areas.
2. As expressed at 5.3 above, in responding to Rec. 5, there should be an active and transparent review to assess the relevance, suitability, effectiveness and value for money of:
 - the mixed model of Legal Aid (staff lawyers and private lawyers), especially in 4Rs areas, and
 - models relating to grants of legal aid for the range of clients including those with complex needs.

3. In geographic areas where increasing payment rates to private lawyers are not likely to achieve significant improvement, this should be addressed through alternative arrangements, consistent with Closing the Gap, and the following, in this response:

II.II - *Principles relating to 4Rs rights and inclusion* (in **The Backgrounder**)

2.5 - *Principles for addressing geographic service gaps*, (above) and

5.1 - *Principled commitment to 4Rs place-based community-owned service delivery* (above).

18.2 Working group on the future of grants of aid supported

1. Establishing a Working Group on the future of grants of aid is supported and should include people with different types of experience and expertise in relation to 4Rs areas around Australia.
2. The terms of reference for the Working Group should include the impacts and suitability of current grant of aid models, and different models of grants of aid in relation to:
 - Closing the Gap
 - NLAP priority groups
 - clients with complex needs
 - the diversity of needs and conditions in 4Rs areas, and
 - value for money.
3. The Working Group should be supported by research capacity which develops publicly available background and issues papers. This should include:
 - Comparison of LAC legislative frameworks regarding grants of aid, including whether, and in what circumstances, grants of aid of different kinds (including disbursement only) can be made for a non-profit community-based legal service to provide the assistance and practices relating to this.
 - Whether and how current grant of aid models operate in 4Rs areas including effectiveness of the models for ICLs and Independent Child Representatives (outlined further in response to Rec. 19 – Rates of grants for ICLs).

Rec 19 – Rates of grants for Independent Children’s Lawyers

Recommendation 19 – Rates of grants for Independent Childrens Lawyers

The Reviewer recommends that:

- For the duration of the A2JP, the Commonwealth should fund LACs to provide ICLs appointed by the Family Courts at the relevant levels of the courts’ scales prevailing at the time the service is provided.
- LACs should be allowed to determine whether this additional funding is used for private practitioners or internal lawyers.
- If a court orders an ICL to procure expert reports or other material, those disbursements should also be funded at scale rates.
- The Commonwealth should provide \$84 million in 2024-25 and \$88 million in 2025-26 in this regard.
- Any cost orders made to the benefit of LACs for the provision of ICLs should be offset against the cost of providing ICLs. An annual reconciliation arrangement should be put in place to carry forward any over/under recoveries.
- For the duration of A2JP, where lawyers are appointed to independently represent children under state or territory laws (such as in some care and protection matters) state and territory governments should fund LACs to remunerate these lawyers in accordance with the relevant jurisdictional court scales. This should support adequate supply lawyers for state and territory matters and avoid them showing a preference for matters in the Family Courts.
- To the extent that ATSILS, FVPLS or CLCs are ordered by the relevant courts to provide ICLs as set out above, funding should be provided the relevant LAC on a pass-through basis – the order of the Court should be the sole criteria for provision of funding.

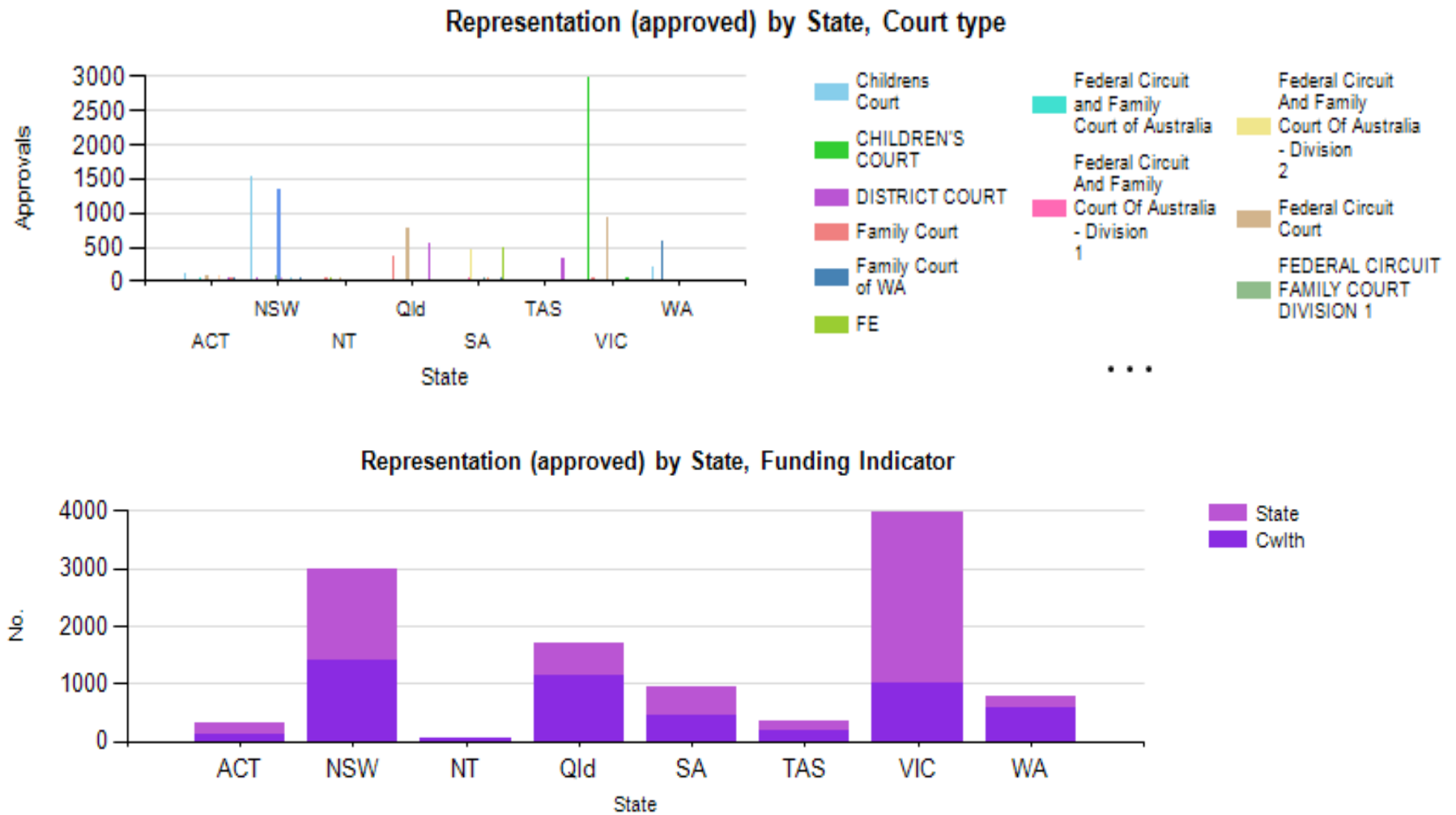
19.1 Statistics and focus

1. Rec. 9 concerns Independent Children Lawyers (‘ICLs’) appointed by Family Courts (dash points 1-5 & 7) and lawyers appointed to independently represent children under state/ territory laws, including child protection (Independent Child Representative, ‘ICRs’) (dash point 6). Statistics published by National Legal Aid about child representation relate to Commonwealth and State/ Territory law, indicating requests and outcomes (example of 2022-3 below).²⁴⁵
2. Discussion in the NLAP Review Report, relating to Rec. 19, outlined insufficient private lawyers and LAC lawyers including in 4Rs areas, especially due to resources including LAC fee scales which s be doubled.²⁴⁶

²⁴⁵ National Legal Aid, National Statistics Reports, Child Representation (Online): <https://nla.legalaid.nsw.gov.au/nlareports/>

²⁴⁶ NLAP Review Report, pp. 138-140 and pp. 64-65.

Figure 11: National Legal Aid Statistics Report Child Representation for Financial Year 2022-2023 at 2 August 2024



state	funding category	court type	approved	refused	pending	withdrawn	received
ACT	Cth	Children's Court	1	0	0	0	1
		Federal Circuit and Family Court of Australia	40	0	0	0	40
		Federal Circuit Court	61	0	0	0	61
		Other	1	0	0	0	1
		Other Representation	6	0	0	0	6
	State	Children's Court	104	0	0	0	109
		Federal Circuit and Family Court of Australia	3	0	0	0	3
		Magistrates Court	71	0	0	0	73
		Other	2	0	0	0	3
		Other Representation	4	0	0	0	4
		Supreme Court	12	0	0	0	12
ACT Subtotal			305	0	0	0	313
NSW	Cth	Federal Circuit Family Court Division 1	65	2	2	0	69
		Federal Circuit Family Court Division 2	1337	12	84	0	1433
		High Court	1	0	0	0	1
	State	Children's Court	1543	18	133	0	1694
		District Court	9	0	4	0	13
		NSW Civil and Administrative Tribunal- Administrative & Equal Opportunity Division	5	0	0	0	5
		Supreme Court	9	0	0	0	9
NSW Subtotal			2969	32	223	0	3224
NT	Cth	Family Court	1	0	0	0	1
		FE	1	0	0	0	1
		Federal Circuit Court	39	0	0	1	40
NT Subtotal			41	0	0	1	42

state	funding category	court type	approved	refused	pending	withdrawn	received
Qld	Cth	Family Court	375	0	0	0	375
		Federal Circuit Court	761	0	0	0	761
		Other	2	0	0	3	5
	State	Federal Circuit Court	3	0	0	0	3
		Other	550	0	0	0	550
Qld Subtotal			1691	0	0	3	1694
SA	Cth	Federal Circuit & Family Court of Aust Div 1	20	0	0	0	20
		Federal Circuit & Family Court of Aust Div 2	442	0	0	0	442
		No Court Proceedings	0	0	0	1	1
	State	Indigenous Federal Circuit Court	1	0	0	0	1
		No Court Proceedings	2	0	0	0	2
		Supreme Court	5	0	0	0	5
		Youth Court	489	0	0	0	489
SA Subtotal			959	0	0	1	960
TAS	Cth	Other	184	0	0	0	184
	State	Other	159	0	0	0	159
TAS Subtotal			343	0	0	0	343
VIC	Cth	Family Court	57	0	0	0	57
		Federal Circuit Court	945	0	0	2	947
	State	Children's Court	2971	6	3	13	2994
		Null	5	0	0	0	5
VIC Subtotal			3978	6	3	15	4003
WA	Cth	Family Court of WA	579	20	0	1	600
	State	Children's Court	203	2	0	0	205
WA Subtotal			782	22	0	1	805
Grand Total			11068	60	226	21	11384

19.2 Funding for ICLs and ICRs demand-driven supported

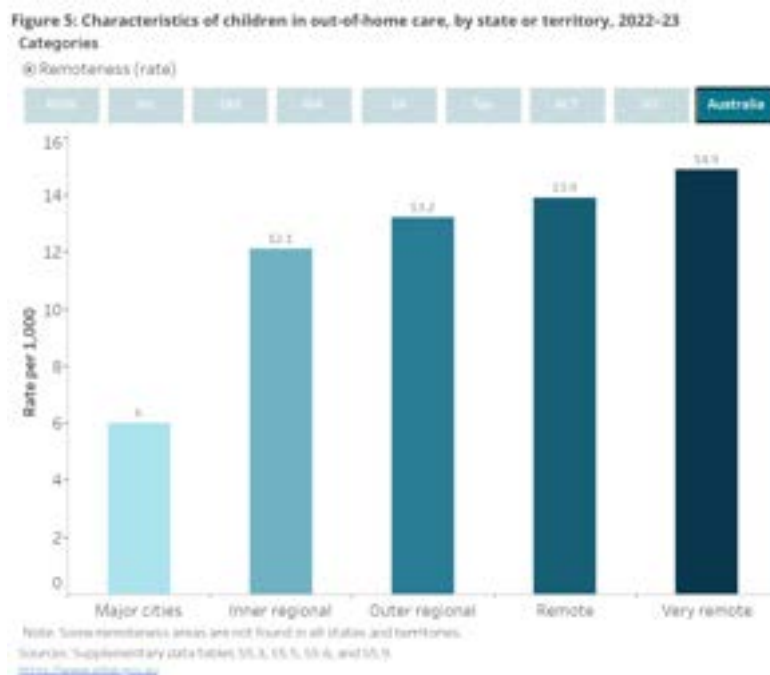
1. The thrust of Rec. 19 about (i) demand-driven funding for ICLs ordered by the Family Courts (dash points 1-5 and 7) and (ii) demand-driven funding for ICRs ordered under state and territory laws (dash point 6), is supported, however a full review of ICL and ICR arrangements is also needed considering:

- Closing the Gap priorities (Ch. 5 of the NLAP Report, Rec. 9 – *A2JP must address Closing the Gap Priority Reforms*, and Rec. 11 and 12 – *Self-determination in existing and new services*),
- Geographic patterns relating to the rights, needs and wellbeing of children:

Health & Development of Children in Rural & Remote Australia Report (2017):

Children in remote areas are four times as likely as those in major cities to be the subject of a [child protection] substantiation and twice as likely to be in out of home care.. Indigenous children living in remote and very remote areas are nine times more likely to be in out-of-home care than their non-Indigenous counterparts.²⁴⁷

Figure 12: AIHW, Child protection Australia 2022–23 (AIHW, 2024)²⁴⁸



²⁴⁷ Noushin Arefadib and Tim Moore, *Reporting the Health and Development of Children in Rural and Remote Australia, for Royal Far West* (Centre for Community Child Health, Royal Children’s Hospital and the Murdoch Children’s Research Institute, 2017) ([Online](#)) p. 41.

²⁴⁸ Australian Institute of Health and Welfare. Figure 5 in ‘Care and Protection Orders’, [Supporting Children in Child protection Australia 2022–23](#), AIHW, 2024 ([Online](#))

- Despite these geographical patterns, factors pointing to significant risks of under ordering and less effective fulfilment of ICL and ICR orders in 4Rs areas.
- Potential contribution of these factors to higher rates of ordering of out-of-home care for children in 4Rs areas.

19.3 Ongoing demand-driven funding

1. Due to the nature and extent of needs the demand-driven funding should be ongoing for ICLs and ICRs, especially in relation to
 - First Nations children, and
 - Children in 4Rs areas.

19.4 Reviewing LAC arrangements for First Nations children and 4Rs

1. The reference in the last dash point in Rec. 19 to ATSILS, FVPLS or CLCs being ordered by the relevant courts to provide ICLs should be checked against the practice in each jurisdiction, whereby orders for appointment are usually forwarded by the Court and/or the parties to the Legal Aid Commission for action. The practices relating to ICR orders should also be checked.
2. The usual process, where ICL and ICR orders are received by the LAC, involves the LAC being the decision maker about ICL and ICR appointments relating to First Nations children. Additionally, LAC ICL and ICR pool arrangements may provide limited options in relation to First Nations children and children from 4Rs areas.
3. The NLAP Review quoted an anonymous submission which outlined that:

There is significant concern that there will not be sufficient separate representatives and independent children's lawyers to adequately represent the interests of many children who are in precarious situations. It also means that Independent Children's Lawyers and Separate Representatives who are appointed are generally not from the same locality as the child and are not as sensitive to the issues and services available in each area.²⁴⁹

This is very important particularly in regional and remote areas where services are not available or if they are available, sufficient to address the concern due to high staff turnover etc.

4. There should be a transparent, collaborative, national review of the effectiveness of ICL/ICR appointment arrangements for First Nations children and families and for children and families in 4Rs areas. This should include whether the current ICL/ICR appointment arrangements:

²⁴⁹ NLAP Review Report, pp. 64-65.

- Are consistent with Closing the Gap priorities.
- Are effective in relation to First Nation children and families.
- Are effective in relation to children and families in 4Rs areas.
- Have a sufficiently large, diverse and suitable pool of lawyers available for appointment including lawyers with ATSILS, FVPLS, ACCO women's legal services and CLCs, including in 4Rs areas.

19.5 Data sharing, Closing the Gap and geographic coverage

1. Effectiveness and accountability requires effective data collection and analysis.
2. Timely statistical data publication regarding ICL/ICR appointments should provide a geographic picture relating to metro and 4Rs areas and facilitate consideration of effectiveness against Closing the Gap priorities. This should include:
 - Statistics about ICL/ICR order requests made by all Courts by jurisdiction and by region within jurisdictions.
 - Whether an ICL/ICR was appointed and if appointed, which legal service sector (LAC, ATSILS, FVPLS or CLC) made the appointment
 - Statistics about the allocated lawyer (staff lawyer, private practitioner) and if appointment not made, the reasons (by broad category).
 - Statistics should allow analysis ICL/ICR appointment:
 - Patterns regarding First Nations children and all children.
 - Geographic patterns including suitability of the location of the ICL/ICR to the Court location, location of the child etc.
3. Monitoring and analysis should include:
 - Metro and 4Rs comparisons.
 - Patterns relating to First Nations children.
 - In relation to both, number of cases by jurisdiction and regions within jurisdiction where a Court ordered that a child be placed in state care where there (1) was, and (2) was not, an ICR for the child.

Rec 20 – Step

Recommendation 20 – Step

The Reviewer recommends that Governments should provide additional substantial funding in relation to a number of priority matters the addition of new priority groups, addressing specific areas of geographic need, providing additional grants of aid in civil and family law matters and funding for disaster preparedness and response. These are captured in recommendations 2, 3, 4, 5 and 7.

As part of the step process, consideration should be given to providing additional funding for services that have been successfully piloted by other service providers where provided.

20.1 Step i.e. additional substantial funding for priority matters, new priority groups and ‘specific areas of geographic needs etc’.

1. The recommendations by the Review about Governments providing additional substantial funding, are supported subject to the responses in relation to each of the recommendations concerned.
2. Rec. 20 refers to Rec. 2,3,4,5 and 7. These are in the NLAP Review Report at Chapter 4 *Legal Need*. Chapter 4 contains 8 recommendations:

Ch 4: Legal Need	1	Legal needs survey
	2	<i>Addressing unmet geographic need</i>
	3	<i>Complete FVPLS coverage</i>
	4	<i>Legal Assist Impact Assessment for administrative law</i>
	5	<i>Civil law</i>
	6	Disaster legal assistance
	7	<i>Women’s peak funding</i>
	8	Priority client groups

3. However, as outlined in response to Rec 2,3,4,5 and 7 above, priority should be placed on addressing these issues as much as possible during rebasing, which should occur during the current financial year and be completed before the start of the next NLAP. The step phase should relate to the issues which then remain.
4. The 4Rs Network continues to recommend that all funding for all 4Rs community-based legal services be at least doubled immediately. This should occur in the rebasing phase to address levels of underfunding and the risks and major limitations this is creating.

20.2 Funding for services successfully piloted by other service providers

1. As noted by the NLAP Review, too often there have been issues relating to successful pilots where the services concerned have not received timely support to continue and/or the program arrangements have not enabled uptake by other relevant services.²⁵⁰ The Review Report also refers to the issue in Rec. 15 *Reduction in fragmentation* and in discussion relating to Rec. 17 *Rebasing community legal service providers*.
2. Rec. 20 proposed that the step process should include considering ‘providing additional funding for services have been successfully piloted by other service providers’. This is strongly supported and should apply to services and initiatives

²⁵⁰ NLAP Review Report, pp.128-129.

piloted locally, regionally, statewide and/or nationally.

3. A range of initiatives for which there is currently insufficient funding for expansion, despite successful piloting or successful service provision - have been highlighted above, especially in response to NLAP Review Report Recs. 15 and 17. This includes the following:

17.3.1 Indigenous Women's Program

17.3.2 True Justice: Deep Listening

17.3.3 Health Justice Partnerships

4. Further initiatives which are relevant for expansion in 4Rs areas, which have been piloted in legal assistance contexts, or other relevant contexts, are outlined below, including:

- 20.3 Emerging Lawyers Program and model
- 24. Workforce Strategy – numerous initiatives
 - 24.5 First Nations legal workforce development: ACCOs and non-ACCOs
 - 24.6.4 Development, training and support for paralegal, and non-lawyer focused, service models
 - 24.6.5 Graduate intake programs and 4Rs legal assistance services
 - 24.6.6 Incentive structure law graduates, paying PLT fees etc. for 4Rs
 - 24.7.3 Funding to extend 4Rs volunteer and pro bono initiatives
 - 24.8.1 Establish funded 4Rs clinical collaborations
 - 24.8.2 Facilitating PLT placements with 4Rs community-based legal services
 - 24.9.3 Addressing no equivalent to UDRHs and Rural Clinical Schools
 - 24.9.4 Domestic 4Rs law equivalent to New Colombo needed
 - 24.9.5 Areas of law – 4Rs legal assistance workforce
 - 24.9.6 Social security legal assistance workforce

20.3 Emerging Lawyers Program model

1. The Women's Legal Services Victoria ('Women's Legal') *Emerging Lawyers Program* is an inspirational collaboration with many potential synergies for broader application in 4Rs areas.

20.3.1 Description and importance of the Emerging Lawyers Program

1. The Emerging Lawyers Program aims to increase legal assistance relating to family law and safety from domestic and family violence.²⁵¹The background includes identification of underserved areas in the Family law Collaborative Planning Pilot,

²⁵¹ Women's Legal Services Victoria, Emerging Lawyers Program (online, 2024), <[More family violence support where it's needed the most \(womenslegal.org.au\)](https://www.womenslegal.org.au)>; <[Emerging Lawyers Program - Women's Legal Service Victoria \(womenslegal.org.au\)](https://www.womenslegal.org.au)>.

Legal Needs Assessment.²⁵²

2. The Women's Legal Emerging Lawyers Program has provided funding to other community legal services for 14 new lawyer positions, 7 of which are with regional community legal centres and 1 is with Djirra in Melton.²⁵³The regional CLC locations and partners are Shepparton, with Goulburn Valley Community Legal Centre; Bendigo, with Loddon Campaspe Community Legal Centre; Warrnambool, with Emma House Legal Program; Ballarat, with Ballarat & Grampians Community Legal Service; Mildura, with the Mallee Family Care Community Legal Centre; Morwell, at Gippsland Community Legal Service and Albury Wodonga, at Hume Riverina Community Legal Service.²⁵⁴
3. The model provides an additional lawyer position for 18 months, with training and support, to increase legal assistance. The 18-month period reflects funding availability, and the program is tailored accordingly.
4. Interested community-based legal services submitted an expression of interest ('EOI') to Women's Legal, which were assessed against criteria including ability to integrate and provide professional legal supervision. Women's Legal received substantially more EOIs compared to funding capacity. Successful legal services were advised, they then advertised the Emerging Lawyer position with their service and Women's Legal provided high visibility promotion as well as coordinating the recruitment process.
5. Pitched to law graduates who have completed their Practical Legal Training and are admitted to legal practice, or are eligible for immediate admission, the program received huge number of applications from qualified applicants. Applicants were short listed through a process led by Women's Legal and then interviewed. Women's Legal liaised with the legal services concerned which then confirmed their preferred candidate to Women's Legal and made their offer to the candidate concerned, reflecting that these services are the employers. All positions were filled.
6. The Emerging Lawyers undertake a training program provided by Women's Legal while working at their community legal service. The introductory training involved the Emerging Lawyers being trained together as a group over a three-week period,

²⁵² Women's Legal Service Victoria, [Submission to the NLAP Review, 27 Oct 2023](#), 11; Victoria Legal Aid, [Family law collaborative planning pilot, Legal Needs Assessment](#), September 2021, Sector Engagement and Service Design Regions and Service Delivery, Victoria Legal Aid, with project partners: Family Law Services, Family Youth and Children's Law, Victoria Legal Aid and Women's Legal Service Victoria.

²⁵³ Ibid.

²⁵⁴ Ibid.

providing the opportunity to meet each other and form a community of practice.

7. The strategy of a city-based statewide women's legal service, collaborating in this way with other community-based legal services, including 4Rs, appears to be a first in Australia. The initiative includes leveraging city location, city and statewide networks, the Women's Legal's profile, with a convincing program rationale, shape and coherence. The program also achieves a match between the interests and needs of new lawyers, women's law and justice issues, practicing in community law, including in regional locations – with staffing needs and concerns to address gaps on the part of metro and regional community legal centres.
8. Funding to enable the Women's Legal to deliver this program reflects Commonwealth and Victorian State Government contributions. The pioneering nature of this program warrants continuing financial support from both, especially relating to support for women in regional areas.
9. As well as specific funding for a program manager role, Women's Legal has been able to be implement the program due to expertise in delivering training and capacity building to legal assistance lawyers. Women's Legal has been able to draw on this expertise and existing resourcing to deliver the Emerging Lawyers Program. Support from Women's Legal's HR team (2 staff) and Data and Evaluation Team (2 staff) has also been integral in being able to deliver the program.
10. Additionally, the Commonwealth, state and territory government should make funding available for all women's legal services who wish to replicate or build on the approach in 4Rs areas where there is support from 4Rs CLCs and legal assistance service collaborators. The program would likely require higher levels of Commonwealth contribution in smaller jurisdictions where the program would otherwise receive insufficient funding.

20.3.2 Applicability to other statewide specialist service sectors

1. The Women's Legal Emerging Legal Program model also has applicability to other statewide specialist service sectors, as a concrete way to achieve more inclusive access to legal assistance in 4Rs areas.
2. For example, Welfare Rights and Advocacy Service Inc. ('WRAS') is the statewide social security legal help service in Western Australia but funding for the service only provides for 3 solicitor positions - which is critically insufficient for effective

and meaningful statewide operation.²⁵⁵ On the other hand, like Women's Legal, WRAS is a specialist statewide service with high profile, strong networks and is city based. Like Women's Legal which has one office which is in Melbourne, WRAS, has one office which is in Perth:

3. Lack of access to social security legal assistance in 4Rs areas of Western Australia is a case study in Community Legal WA's NLAP Review submission²⁵⁶ and the 4Rs Network NLAP submission.²⁵⁷ The needs assessment undertaken for the Western Australian Legal Service Planning, also confirmed unmet needs for social security legal assistance throughout regional Western Australia, which is geographically about 95% of the State.
4. Assuming support from community-based legal assistance services in 4Rs areas in Western Australia, funding for a similarly sized Emerging Lawyers Program, or a customised program of a similar kind relating to social security, is likely to have a major effect on the availability of social security legal assistance in 4Rs WA.

Rec 21 – Indexation

Recommendation 21 – Indexation

The Reviewer recommends that, once the funding for the base year 2025-26 is determined, subsequent years funding should be indexed each year by the sum of the expected growth in demand and the expected rate of growth in prices in the jurisdiction concerned.

In the event that the growth in the price index in any year exceeds forecast by more than 2%, then the forecast price index increase should be replaced with the actual price index increase.

In the event that agreement can't be reached between governments about a new funding sharing approach, indexation as described in this section should be applied to all Commonwealth, state and territory funding streams.

21.1 Responsive indexation is supported for 4Rs areas

1. Ensuring that indexation occurs, that it keeps up with growth in demand and service costs and is received on time – are essential for overcoming the corrosive effects of

²⁵⁵ Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings, Peter Joy, Mary Anne Noone and Simon Rice, *Australian Clinical Legal Education Designing And Operating A Best Practice Clinical Program In An Australian Law School*, ANU Press ([Online](#), 2016); Jeff Giddings, 'Clinical Legal Education in Australia: A Historical Perspective' June 2023, *International Journal of Clinical Legal Education*.

²⁵⁶ Community Legal WA, [Submission to the NLAP Review, Oct 2023](#).

²⁵⁷ 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#) Rec. 5, pp.34-5 & 82. CLCA, [Submission to the NLAP Review, 27 Oct 2023](#).

weaknesses in indexation on legal assistance service funding.²⁵⁸

21.1.1 Indexation as one of three features of a sustainable funding model

1. As noted by David Gilchrist and Clare Feenan, effective indexation is one of three features of an ongoing sustainable funding model, the others involve:
 - Properly pricing contracts (grants) – this relates to pricing (costing) at commencement and regularly re-aligning funding via re-contracting processes to proper pricing,²⁵⁹ and
 - Provision of capital injections during an economic shock ‘where costs increase dramatically and/or where income reduces significantly’.²⁶⁰
2. These three features should apply to funding for legal assistance services, and mechanisms to ensure this should be included in the NLAP agreement. This is consistent with the Rebasing, Step, Trend and Pass-through framework recommended by the NLAP Review, and it would contribute to moving legal assistance funding onto an effective and stable footing.

21.1.2 Shortfall in indexation and new national model

1. Regarding indexation, this must be properly calibrated to avoid squeezing and reducing services to a point of unsustainability. This is highly relevant to legal assistance services due to the history of inadequate indexation. The Review Report estimated the shortfall in indexation for LACs over the period 2013/4 to 2022/3 was a cumulative figure of \$143mill at an average of \$16mill pa. while ATSILS received a cumulative shortfall of \$82mill at an average of \$9mill pa.²⁶¹ These calculations used the revised indexation figure recommended by the Reviewer. While data was not sufficient for FVPLS or CLC calculations, the Reviewer was inclined to think that this was probably insufficient as well.²⁶²
3. The adequacy of the proposed indexation method is discussed below, however the Reviewer’s recommendations that jurisdictional figures ‘developed by state and

²⁵⁸ CLCA, *State of the Sector Survey Report 2022-23: A Sector in Crisis Report* ([Online](#), March 2024) p. 3-5, 7; ACOSS, *Submission to: A stronger, more diverse and independent community sector Department of Social Services* 16 November 2023 ([Online](#)) 23-24.

²⁵⁹ David Gilchrist and Clare Feenan. ‘Economic Paper 1: What is Indexation?’ *Working Paper Series on the Economics of Human Services*, Centre for Public Value, UWA Business School, Perth, Australia ([Online](#), 2023) pp. 5. Additionally, David Gilchrist and Clare Feenan, *Western Australia’s 2024 Sustainable Funding Survey Report Survey*, Survey undertaken by Western Australian Council of Social Service Analysis and Report prepared by David Gilchrist and Clare Feenan Centre for Public Value, UWA Business School May 2024 ([Online](#)).

²⁶⁰ *Ibid*, p. 5.

²⁶¹ NLAP Review Report, pp. 123-4.

²⁶² *Ibid*. 124. Also to note that the National Family Violence Prevention Legal Service Forum noted a historical lack of indexation of FVPLS funding prior to an indexation amount in late 2022, which was insufficient and did not achieve a catchup: NFVPLSF, *Submission to the NLAP Review, Oct 2023*, p. 7.

territory Treasury departments for their annual budgets' ²⁶³should apply to a national indexation model, and that this should be applied to all Commonwealth, State and Territory funding streams to legal assistance services (Rec. 21) – are supported.

4. The Reviewer's calculations of the indexation shortfall (indicated at para 1 above) involved finding that indexation based on prices alone was insufficient, and that population increase, and wage price increase should be factored in. The Reviewer's calculation included 80% of the forecast Wage Price Index ('WPI') increase plus 20% of the forecast CPI increase.²⁶⁴ While the Reviewer did not outline how this compares to current State and Territory practices, these CPI and WPI components accord, for example, with the Western Australia Indexation Policy for the Non-Government Human Services Sector.²⁶⁵ Gilchrist and Freeman give a worked example as follows:

For instance, a government might decide that funding indexation for a particular year is to be calculated based on 20% CPI and 80% WPI. Therefore, if the relevant CPI was 4% and WPI was 6%, the indexation figure would be 5.6% as follows: $[0.2 \times 0.04] + [0.8 \times 0.06] = 0.056$ or 5.6%²⁶⁶

5. However, if the insufficiency of the WPI and CPI for legal assistance sectors (outlined below), is factored in, it is likely that the shortfall in indexation calculated by the Reviewer was insufficient, and the indexation shortfall was substantially higher. Additionally, as outlined below, there should be specific and identifiable provision in relation to cost differentials for service provision in 4Rs areas.

21.2 Addressing 4Rs in indexation

1. The discussion about indexation in the Review Report did not address whether the proposals would be sufficient for fair and responsive indexation for legal assistance services in and for 4Rs areas. As noted by CLCA, indexation arrangements should reflect 'much higher wage and CPI costs faced by services in RRRR communities'.²⁶⁷
2. The comments which follow, are in aid of the Commonwealth and jurisdictions providing further public analysis for deliberation with stakeholders, about indexation including suitable provision for legal assistance services in, and for, 4Rs areas.

²⁶³ NLAP Review Report, p. 143

²⁶⁴ Review Report, pp 124 & 143

²⁶⁵ Western Australia, Indexation Policy for the Non-Government Human Services Sector published June 2019, last updated 12 June 2024 with the 2023/24 indexation rate ([Online](#)), the indexation is $CPI \times 0.2 + WPI \times 0.8$ Where: • CPI is the annual percentage increase in the Perth Consumer Price Index; and • WPI is the annual percentage increase in the Perth Wage Price Index. Indices will be sourced from the latest actual data available on 1 July as published by the Australian Bureau of Statistics."

<https://www.wa.gov.au/government/publications/indexation-policy-the-non-government-human-services-sector>

²⁶⁶ David Gilchrist & Claire Freenan, *Human Services Economic Paper 2: Why the CPI and WPI are not Appropriate Bases for Human Services Funding Indexation*, University of Western Australia Centre for Public Value, April 2023 ([Online](#)), p.5.

²⁶⁷ Community Legal Centres Australia, [Submission to the NLAP Review, 27 Oct 2023 p. 46.](#)

21.3 Three components of the proposed new indexation rate

1. The discussion in the Review Report about suitable indexation rates focused on *increased demand for services, wages growth and cost of consumables* ('the three proposed indexation components'). The following comments relate to each in turn.

21.3.1 Rate of growth in demand

1. The Review recommended that the:

'expected rate of growth in demand be estimated as the expected growth rate for the relevant population cohort'²⁶⁸

and that the relevant population cohorts should be:²⁶⁹

Table 7.3 Indexation arrangements

Subsector	Indexation
LACs and general CLCs	Forecast population growth
Women's CLCs	Forecast rate of female population growth
ATSILS	Forecast rate of Aboriginal and Torres Strait Islander population growth
FVPLS	Forecast rate of female Aboriginal and Torres Strait Islander population growth

2. Forecast population growth is important and should be reflected in indexation, but where levels of disadvantage and related legal needs are statistically higher for certain population groups, and/or geographic locations, this also requires attention. For example:

- The proposal to apply the forecast rate of Aboriginal and Torres Strait Islander population growth to ATSILS, and female Aboriginal and Torres Strait Islander population growth to FVPLS, is likely to be insufficient considering demographic and socio-economic profiles, the nature and extent of legal needs, and geographic location including remote and very remote areas.
- The proposal to apply forecast population growth to LACs and general CLCs without considering client demographics appears problematic for similar reasons. For example, as noted previously - in 2022-3, 73% of clients of Katherine Women's Legal and Information Service identified as Aboriginal²⁷⁰ as did 85% of clients of Kimberley Community Legal Service.²⁷¹ Additionally, in 2022-3 among people assisted by NT Legal Aid 52% identified themselves as Aboriginal and Torres Strait Islanders,²⁷² and 74% of clients who received a grant of aid were

²⁶⁸ NLAP Review Report, p.143.

²⁶⁹ Ibid.

²⁷⁰ KWILS, *Annual Report 2022-3*, p. 11.

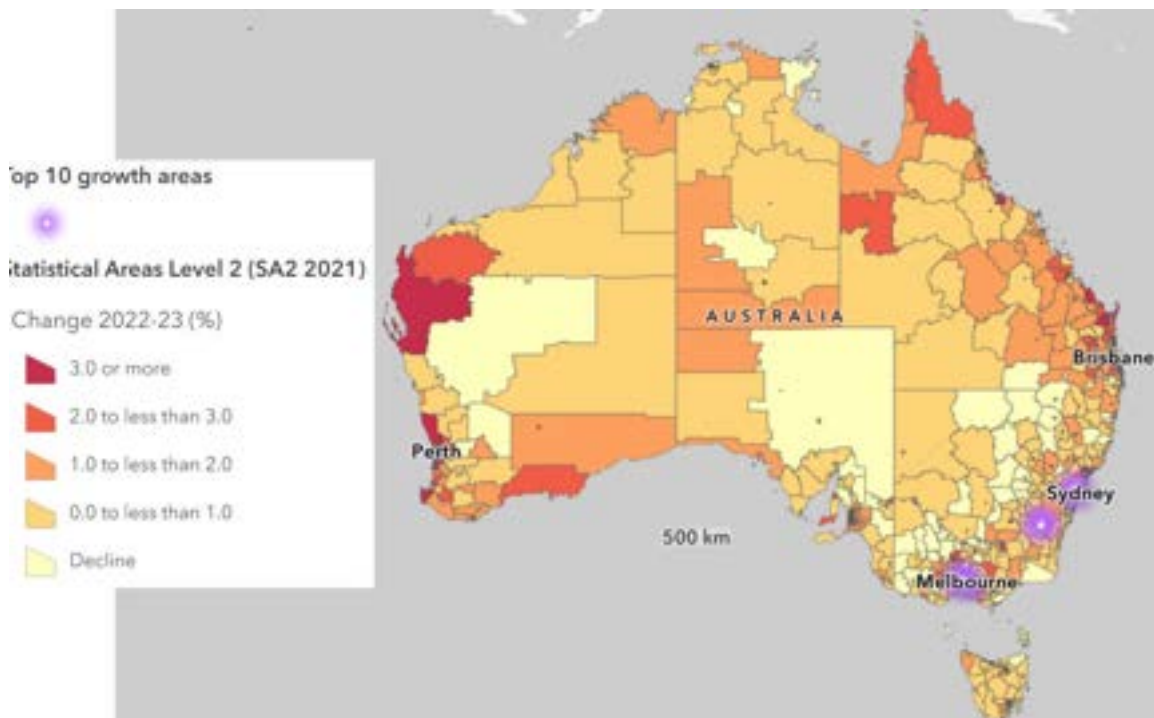
²⁷¹ KCLS, *Annual Report 2022-3*, p. 1.

²⁷² NT Legal Aid, *Annual Report 2022-3 (Online)* p. 4.

Aboriginal and Torres Strait Islander people being 82% of criminal law clients, 50% of civil law and 30% of family law clients (including care and protection).²⁷³

3. Further, situations of low population growth, stagnation or decline, including where this occurs in 4Rs areas, may signal worsening conditions which increase demand. The maps below highlight variations in population growth which range from 3% or more increase (darkest) - which includes SA2 population increases ranging up to 50% - to areas of population decline including a 3.8% decline in the Lismore NSW SA2.²⁷⁴ The latter population decline reflecting a number of factors, including catastrophic flooding is an example of why population demographics, trends and events - which increase hardship and demand – need to be factored in.²⁷⁵

Figure 13: ABS Population Change 2022-23 by Statistical Areas Level 2²⁷⁶



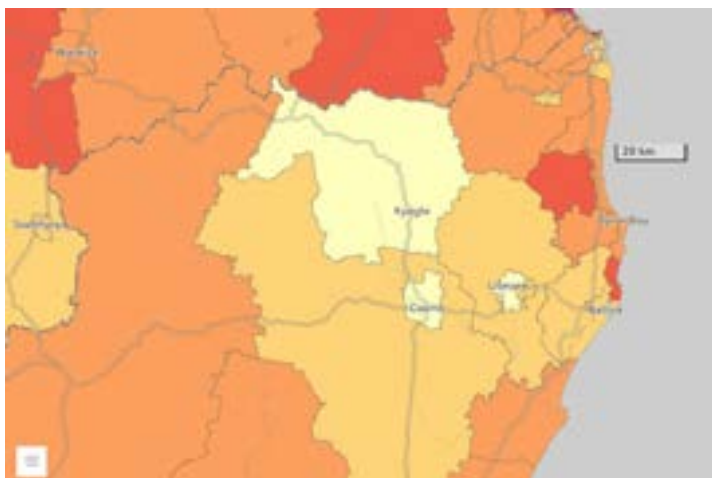
²⁷³ NT Legal Aid, *Submission to the NLAP Review*, 25 Oct 2023, p.4.

²⁷⁴ Ibid. increased magnification.

²⁷⁵ Keely McDonough, 'Come to the heart', *Law Society Journal Online*, 19 July 2023 ([Online](#)); Nick Parmeter and Emma Rennie, 'Flood-hit Northern Rivers legal practices struggling as system grinds to a halt amid intense demand', *ABC North Coast*, 14 May 2022 ([Online](#)).

²⁷⁶ Adapted from Australian Bureau of Statistics, 2022-23 [Regional population](#) ABS Website, viewed 21 Jul 24.

Figure 14: Increased magnification - Lismore, NSW, ABS Population Change 2022-23 by Statistical Areas Level 2



4. Responsive indexation relating to demand, should also consider how price increases which affect levels of financial stress and disadvantage - increase legal need.²⁷⁷
5. In summary, while population increase is an indicator of increased demand, this has limitations, especially for 4Rs areas, and additional indicators are needed.

21.3.2 Wage growth

1. The proposed use of the Wage Price Index ('WPI') should factor in that the WPI is only published for national, state and sector - not regions²⁷⁸ and is not reflective for regions with higher wage growth.
2. David Gilchrist and Claire Feenan have outlined shortcomings of the WPI, compared to human services wages expenditure, by highlighting costs not included:²⁷⁹

²⁷⁷ For example social security payment rates falling further below the poverty line and not keeping up with inflation: EIAC, *Economic Inclusion Advisory Committee: 2024 Report to Government*, 26 April 2024 ([Online](#)) 20, 29-43; ACOSS, *"It's not enough": why more is needed to lift people out of poverty*, Australian Council of Social Service, Sept 2023 ([Online](#)); Regarding lack of buffers against price increases among low income households: see for example: Danielle Wood, Iris Chan, and Brendan Coates, 'Inflation and inequality: How high inflation is affecting different Australian households', *Grattan Institute, Working paper prepared for the RBA Annual Conference, Sydney, 25-26 Sept 2023* ([Online](#))

²⁷⁸ Australian Bureau of Statistics, *Wage Price Index: Concepts, Sources and Methods* ([Online](#), 2012) which outlines that the quarterly WPI measures change in the prices employers pay for wages and salaries due to market factors over time and that quarterly WPI data is published at the national, sector, state and industry. For research which includes regional wage growth see: The Treasury, *Analysis of wage growth*, Commonwealth of Australia ([Online](#), Nov 2017).

²⁷⁹ David Gilchrist & Claire Feenan, *Human Services Economic Paper 2: Why the CPI and WPI are not Appropriate Bases for Human Services Funding Indexation*, University of Western Australia Centre for Public Value, April 2023 ([Online](#)), p.4; endorsed by the ACOSS, *Submission to: A stronger, more diverse and independent community sector Department of Social Services* 16 November 2023 ([Online](#)) 23-24.

Figure 15: David Gilchrist and Claire Feenan WPI costs not included

Table 1. State Wage Price Index compared to REAL human services wage expenditure

Wage Price Index (State)		Human Services (Wage Expenditure)
✓	Wage inflation as cost to business	✓
✗	Mandatory superannuation contribution increases	✓
✓	Represents multiple industries across the state	✗
✗	Minimum wage overrepresented (and increases)	✓
✗	Female dominated workforce	✓
✗	Business paid maternity leave	✓
✗	Workers' compensation payments	✓
✗	Recruitment and retention costs	✓
✗	Penalty rates and allowances	✓
✗	Bonuses and benefits	✓
✗	Training and personal development	✓
✗	NDIS compliance (training and admin costs)	✓
✗	Increases reflected from success of outcome	✓

- The index selected for legal assistance sector wage expenditure should reflect actual cost, including any higher costs and higher cost increases in 4Rs areas.
- Customising the State Wage Price Index to include provision for estimated wage items not included in the WPI may be an option with (i) a top up adjustment in the first quarter for any difference between the indexed allocation and the actual for the previous year, and (ii) special provision through indexation and/or supplementation for services in or for 4Rs regions where costs are higher.
- The weighting of WPI for inclusion in the indexation should also be considered and justified. As noted above the NLAP Review Report recommended that 80% of WPI be included. This compares with calculations by the Centre for Public Value for Queensland Community Services for the 2023-24 budget which recommended:²⁸⁰

Using a mix of 60% WPI and 40% CPI, based on our research findings, and adding the additional 0.5% for the increased superannuation costs, we estimate that indexation for the 2023-24 financial year needs to be at least 5.82%.

Workings

Weighting:

- 0.4 non-labour related costs
- 0.6 labour related costs

Source:

- ABS indexes from Q4 2022 (Australia Non-Discretionary CPI and QLD (Private) WPI)

²⁸⁰ David Gilchrist and Clare Feenan, *Queensland's Community Services Funding Indexation: An Estimate for the 2023-2024 Budget Year*, 1 April 2023, Centre for Public Value UWA, UWA Business School ([Online](#)).

- 0.5 mandatory superannuation increase \times Indexation for 2023 = $0.4 \times 8.4 + 0.6 \times (3.6 + 0.5) = 5.82$

21.3.3 Consumer prices

1. As the CPI relates to household expenditure and capital cities,²⁸¹ suitability of CPI indexation for human services, including legal assistance services in or for 4Rs areas, is problematic.²⁸² Gilchrist and Feenan summarise concerns as follows:²⁸³

Figure 16: Gilchrist and Feenan - CPI and human services expenditure

Table 2. Capital City Consumer Price Index compared to REAL human services expenditure

Consumer Price Index (Capital City)		Human Services (Non-Wage Expenditure)
✓	Outcome: household utility in living standards	✗
✗	Outcome: demand and quality of service provision	✓
✓	Represents capital city average household	✗
✗	Represents state-wide Human Services organisations	✓
✓	Represents optional purchases (alcohol, take away, holidays)	✗
✗	Overrepresentation in essential items (financial services, communication, housing)	✓
✓	Elasticity in discretionary and discretionary spending	✗
✗	Business related purchases (subscriptions, PPE)	✓
✗	Timely response to market goods and prices	✓
✗	New goods and technology	✓
✗	Significant savings or investment component (land, capital goods)	✓
✗	Taxes	✓
✗	Interest Charges	✓
✗	Second hand goods	✓
✓	Subsidised by flexible wealth and debt management	✗

21.3.4 Addressing problems with indexation

1. Additional work by Gilchrist and Feenan considered actual cost increases for social service organisations in WA compared to indexation provided, found that the indexation rate was far behind actual price increases.²⁸⁴ The authors suggested options including a catch-up increase for initial correction. However, each of the options identified should be considered for a more realistic approach to overcome the drag on services caused by ineffective indexation.²⁸⁵

²⁸¹ David Gilchrist & Claire Feenan, *Human Services Economic Paper 2: Why the CPI and WPI are not Appropriate Bases for Human Services Funding Indexation*, University of Western Australia Centre for Public Value, April 2023 ([Online](#)) pp.6-9.

²⁸² Ibid. and ACOSS, *Submission to: A stronger, more diverse and independent community sector Department of Social Services* 16 November 2023 ([Online](#)) 23-24.

²⁸³ Ibid p. 4.

²⁸⁴ David Gilchrist & Claire Feenan, *Western Australia's Cost Indexation for Government Purchasing of Human Services*, Centre for Public Value UWA Business School, April 2023 ([Online](#)).

²⁸⁵ David Gilchrist & Claire Feenan, *Western Australia's Cost Indexation for Government Purchasing of Human Services*, Centre for Public Value UWA Business School, April 2023 ([Online](#)).

21.4 Regional prices – data sources and indexation formulas

1. Recent ANU research similarly noted:²⁸⁶

“The ABS Consumer Price Index (CPI) and Living Cost Indexes (LCI) are based on capital city level baskets of goods and services with the weights of each item in those basket determined by expenditure levels of the average household for each capital city...²⁸⁷ ‘The ABS CPI currently measures price change for capital cities of Australia [and].. does not calculate price change for regional areas outside of capital cities [or]... measure price change for smaller regions within capital cities.’²⁸⁸
2. Focusing on this gap, the ANU Regional Living Costs Index (‘RLCI’) expanded the range within capital cities and neighbouring cities, to cover about 200 of these SA3 regions including the neighbouring cities of Sunshine Coast, Toowoomba, Gold Coast, Newcastle, Wollongong and Geelong.²⁸⁹ While this is progress, there are 359 SA3 regions and the RLCI still omits the bulk of the Australian land mass.²⁹⁰
3. The Western Australia Regional Price Index (‘WARPI’) is an example of regional price data. Map 1 (below) shows the WARPI region and town prices indices²⁹¹ and Map 5 shows the Housing commodity group region price indices,²⁹² indicating:

‘... overall, prices are more expensive than Perth in all regions except for the Mid West and South West. Prices were highest in the Pilbara region, followed by the Kimberley and Gascoyne.’²⁹³
4. Although regional price data is not collected by each jurisdiction, consideration about how price differentials can be factored in or offset is demonstrably required. The Commonwealth and jurisdictions should provide analysis of options for situations of higher demand, higher need or higher cost increases in 4Rs areas. This should include considering 4Rs indexation arrangements in sectors like health and education,²⁹⁴ and the benefits of establishing a Special Indexation Measures Fund for fast response during the year for 4Rs indexation top-up due to price differentials.

²⁸⁶ Ben Phillips and Joseph Cukkoo, ‘ANU Regional Living Costs Index’, *CSRM Research Note 3/22*, ANU Centre for Social Research and Methods, Aug 2022 ([Online](#)).

²⁸⁷ *Ibid* p.3.

²⁸⁸ *Ibid* p.4.

²⁸⁹ *Ibid* p.5.

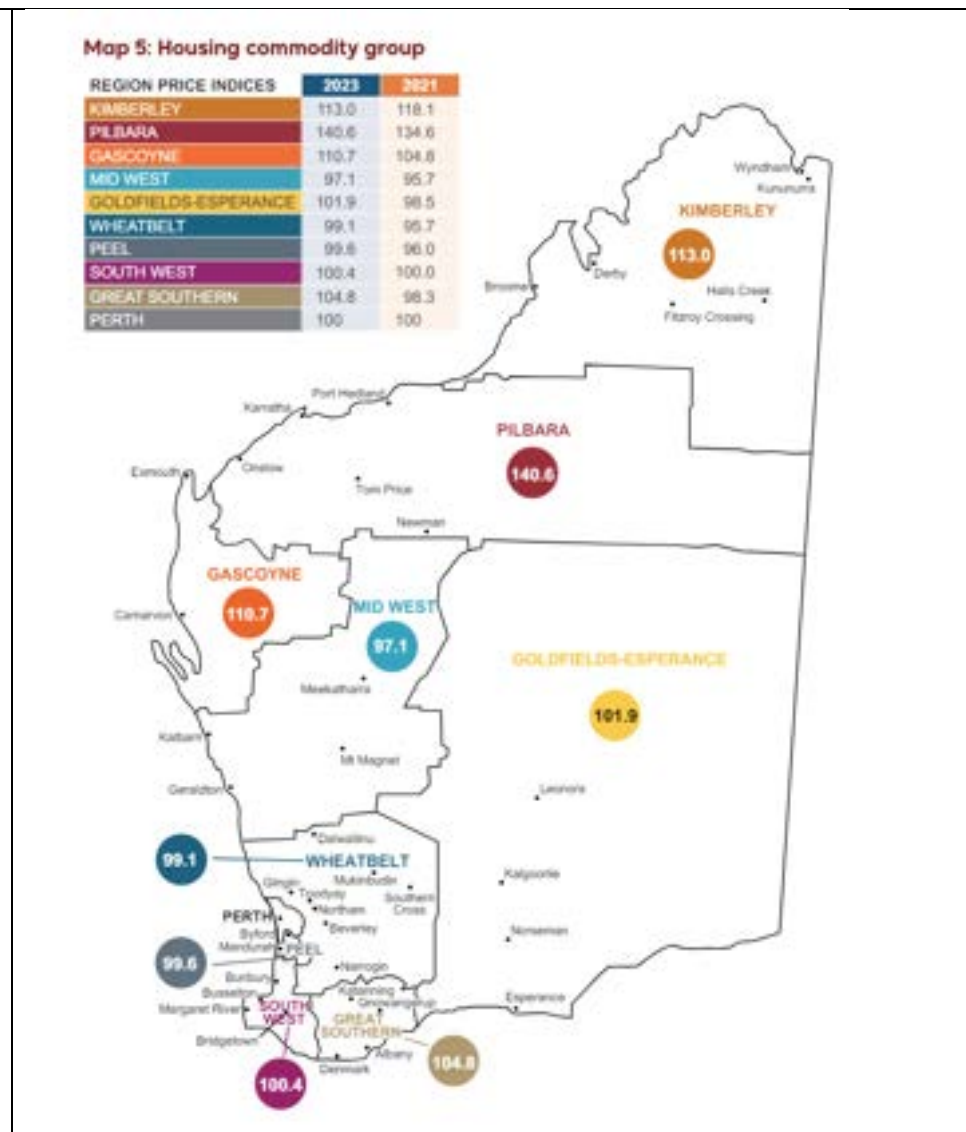
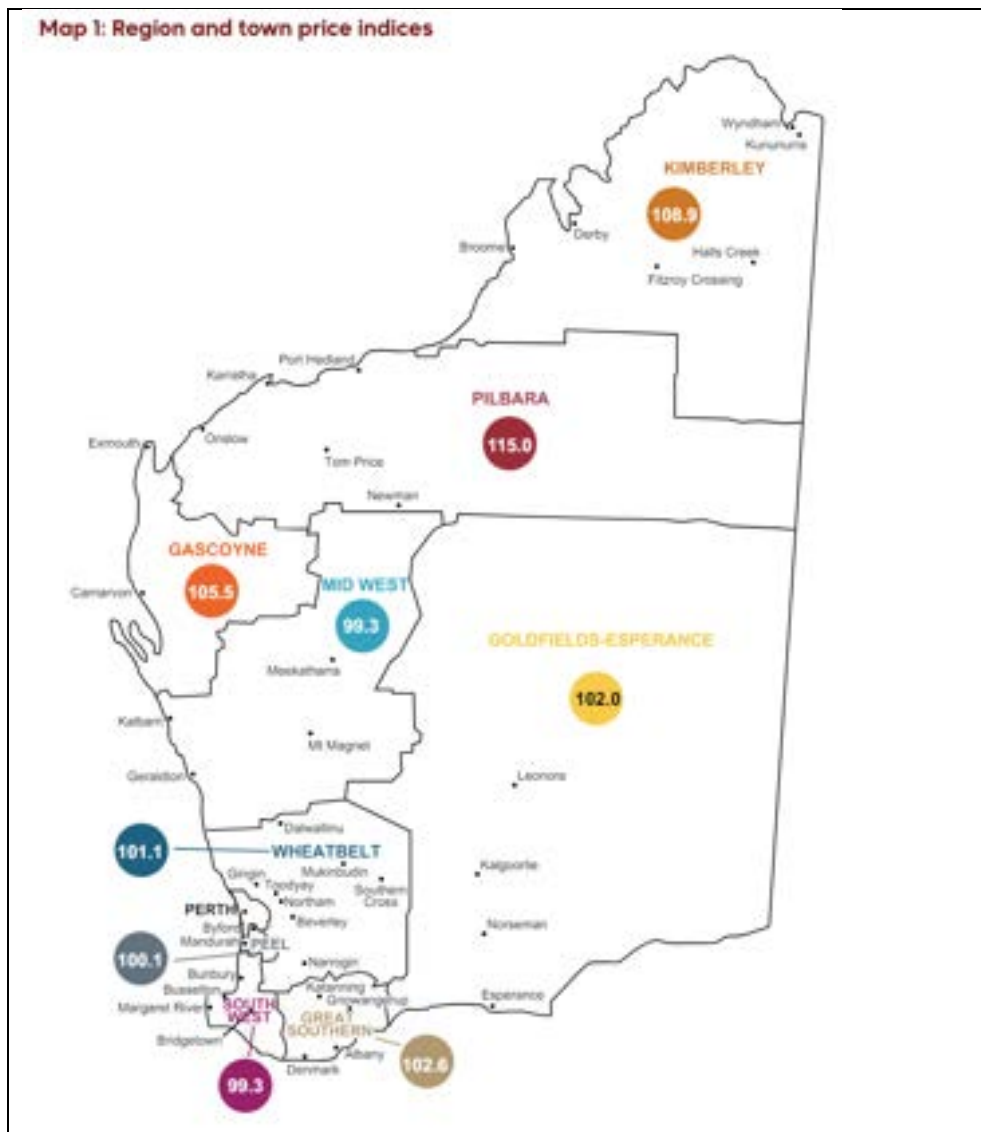
²⁹⁰ Australian Bureau of Statistics. (Jul2021-Jun2026). *Statistical Area Level 3*. ABS ([Online](#))

²⁹¹ *Ibid* 9.

²⁹² *Ibid* 13.

²⁹³ Department of Primary Industries and Regional Development, *Western Australian Regional Price Index 2023*, Jan 2024.

²⁹⁴ For example the Independent Health and Aged Care Pricing Authority, Pricing Framework for Australian Public Hospital Services 2023–24 (December 2022) ([Online](#)).



Rec 22 – Legal Assistance Impact Assessment

Recommendation 22 – Legal Assistance Impact Assessment

The Reviewer recommends that when a government undertakes law reform (including but not limited to changes in law, policy or court procedure) that can be expected to change demand for legal assistance service it should undertake a Legal Assistance Impact Assessment (LAIA). The LAIA should consider the impacts for each affected legal assistance provider and determine what funding is required to provide appropriate services to affected clients irrespective of what the funding arrangements of services providers is.

Where significant impacts are found, the government of the jurisdiction making the changes should ensure that relevant legal assistance providers are properly resourced to deal with such impacts through an immediate and ongoing increase in baseline funding.

For the avoidance of doubt, a policy measure that reduces demand should lead to funding reductions, but these should be deferred until two years after the implementation of the measure or the end of the A2JP, whichever comes earlier.

22.1 Support for quality Legal Assistance Impact Assessment inclusive of 4Rs

1. Rec. 22, for Legal Assistance Impact Assessment ('LAIA') to be undertaken by governments when a government undertakes law reform that can be expected to change demand for legal assistance, is supported.
2. However, it is extremely important that changes to *policy* be included in 'LAIA' including:
 - policy *within government departments* - as highlighted by the Robodebt Royal Commission which found that:

“Government agencies failed to consider the additional challenges for recipients who lived rurally or remotely when designing and implementing the Scheme.”, and²⁹⁵
 - changes *affecting how decisions are made*, including when the use of algorithms, expert systems, or AI is proposed.²⁹⁶
3. The requirements and processes for LAIA related to changes to law, policy and/or how decisions are made (outlined above), should be:
 - Framed by appropriate principles (referred to below).

²⁹⁵ Royal Commission into the Robodebt Scheme, *Final Report*, (2022) p. 329 and Rec. 10.1 at p.342.

²⁹⁶ Australian Human Rights Commission, *Final Report: Human Rights and Technology*, 2021 ([Online](#)). Georgia van Toorn and Terry Carney, 'Decoding the algorithmic operations of Australia's National Disability Insurance Scheme. *Australian Journal of Social Issues*' (2024) 00, 1–19, open access at: <https://doi.org/10.1002/ajs4.342>.

- Fair, rigorous, transparent and educative.
 - Properly resourced and accompanied by resources for research, consultation and participation by legal assistance sector peaks, relevant networks and stakeholders.
 - Suitable for geographic diversity, including regions within jurisdictions, regions involving multiple jurisdictions such as Northern Australia and local 4Rs areas.
 - Able to distinguish between impacts which increase demand for legal assistance *in a positive way* (such as increasing rights to redress) and those which increase demand *in a negative way* (such as impinging on rights or applying harsher measures).²⁹⁷
4. Principles and processes for LAIA should include promoting:
- Human rights and substantive equality.
 - Closing the Gap.
 - Geographic inclusion and non-discrimination against people and groups based on 4Rs location.
 - Safety from violence and abuse.
 - Gender equality.
 - Rights and inclusion of people with disability.
 - Rights and inclusion of all other NLAP priority groups.
 - Intersectionality.
 - Education and awareness raising.
5. Processes to assess impact should be inclusive of service providers and other stakeholders in 4Rs areas.

22.2 Assessment of current law, policy and court procedures

1. Current law, policy and court procedures should also be reviewed for their legal assistance impact to identify adverse impacts on the need for legal assistance and potential areas for reform, having regard to the above principles (22.1) and impacts in 4Rs regions, Northern Australia and local 4Rs areas.

22.3 Effectiveness of Legal Assistance Impact Assessment

1. The effectiveness of legal assistance impact assessment should be monitored and reviewed to ensure positive effects having regard to all objectives and principles

²⁹⁷ For example, there has been no Stolen Generations Reparations Scheme in Western Australia, but there should be and if established it is likely to increase the need for legal assistance in a positive way.

including suitability to assess impacts in 4Rs regions, Northern Australia and local 4Rs areas.

Rec. 23 – Portability of entitlements

Recommendation 23 – Portability of entitlements

The Reviewer recommends that governments work with peaks and the relevant unions to develop a portable entitlement scheme for all workers in the legal assistance sector, including LACs. At a minimum this scheme should address long service leave but consideration should be given to including others, such as sick and parental leave, where appropriate and when the benefits of increased labour market mobility outweigh the incremental costs to the scheme.

23.1 Portability of entitlements: supported

1. Development of a portable entitlement scheme for all workers in the legal assistance sector, including LACs, is supported.
2. The effects of the scheme on staffing across legal assistance sectors in 4Rs areas should be modelled, to ensure that any potentially adverse effects on 4Rs areas are identified and addressed.

23.2 Cost of carry over entitlements

1. If the introduction of portability results in additional costs to legal assistance employers (such as the payment of entitlements which would otherwise be lost), the additional cost would require financial supplementation.

Rec 24 – Workforce Strategy

Recommendation 24 – Workforce Strategy

The Reviewer recommends that the Commonwealth Government, in collaboration with unions, state and territory governments and peak bodies, develop a national workforce development strategy for the legal assistance sector to attract and retain a skilled, well supported, and diverse workforce. This strategy should address:

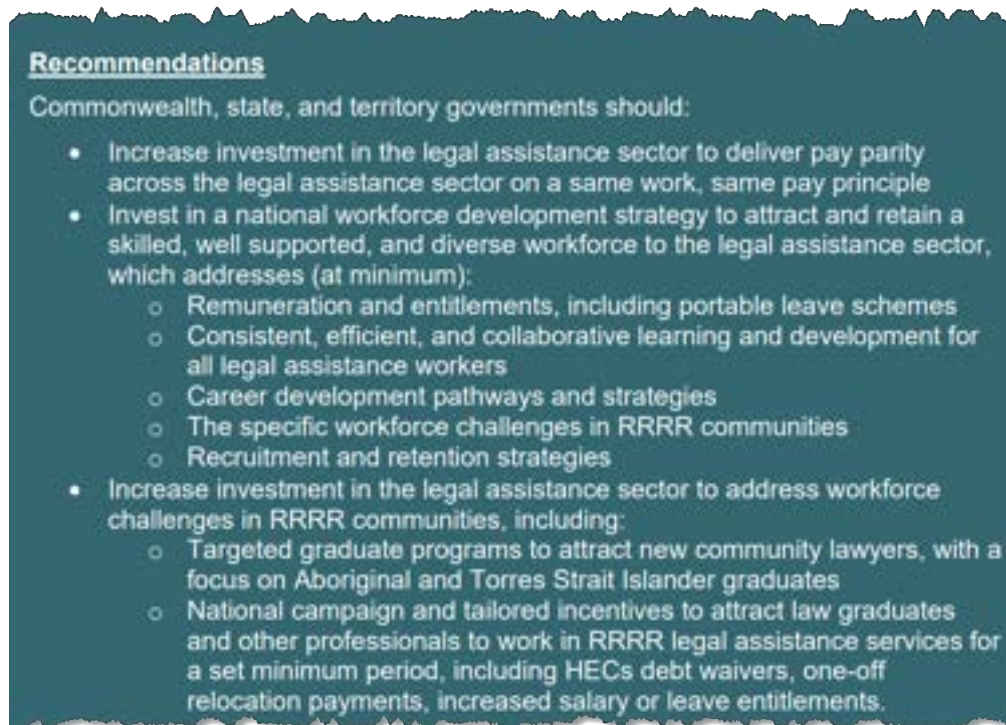
- development of a robust data set on the legal assistance workforce as part of the improved approach to data discussed in chapter 10
- attraction and retention strategies
- remuneration and entitlements, including portable entitlement schemes
- continuing professional development and supervision
- career pathways and progression.

It is recommended that \$5m be provided by the Commonwealth for these purposes in 2024-25 with a view that ongoing funding of the strategy be shared by the states and territories during the A2JP.

24.1 Development of National Legal Workforce Strategy supported

1. Background relating to Rec. 4 – Workforce Strategy, reflects substantial consensus among legal assistance sectors as expressed in the Australian Legal Assistance Forum Legal Workforce (‘ALAF’) Statement summarised by CLCA as follows:

Figure 17: ALAF Legal Workforce Statement summarised by CLCA²⁹⁸



2. Establishing a national workforce development strategy for the legal assistance sector (here referred to as a ‘National Legal Assistance Workforce Strategy’) which addresses the supply of workers, salaries and conditions, recruitment, retention, wellbeing, training and advancement - is supported.

24.2 National 4Rs Access to Justice Strategy and Action Plan

1. The 4Rs Network has continued to call for the establishment of a National 4Rs Access to Justice Strategy and Action Plan,²⁹⁹ however there was no reference to this or discussion in the NLAP Review Report.
2. This National Strategy and Action Plan should be put in place as soon as possible to increase and target efforts to address access to justice in 4Rs areas. This includes,

²⁹⁸ CLCA, [Submission to the NLAP Review, 27 Oct 2023](#), p. 56.

²⁹⁹ 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#), Rec. 1; 4Rs Network, [Federal Pre-Budget Submission 2023-4](#) dated 27 Jan 2023; 4Rs Network, [Federal Pre-Budget Submission 2024-5](#) dated 24 Jan 2024; the 4Rs Network [Submission to the Joint Standing Committee inquiry on the NDIS lived experience of the NDIS in regional, rural and remote areas](#) dated 8 March 2024 with [endorsement list](#).

informing development of the National Legal Assistance Workforce Strategy and all other missing legal workforce strategies, related efforts and initiatives.

24.3 Many legal workforce strategies are missing

1. The absence of a National Legal Assistance Workforce Strategy is *one of many* which are absent.
2. All the following are needed:
 - National 4Rs Legal Assistance Workforce Strategy
 - National First Nations Legal Assistance Workforce Strategy
 - National workforce strategies by and in relation to:
 - each legal assistance sector (LACs, CLCs, ATSILS, FVPLS)
 - pro bono, volunteer and related contributions to legal assistance services
 - areas of chronic undersupply e.g. experienced lawyers, experienced caseworkers
 - client groups including First Nations people and all priority groups
 - areas of law e.g. e.g. social security, tenancy, family law, child protection
 - Northern Australia Legal Assistance Workforce Strategy
 - State and Territory Legal Assistance Workforce Strategies

24.4 National 4Rs Legal Assistance Workforce Strategy

1. The National 4Rs Legal Assistance Workforce Strategy may be a component of the National Legal Assistance Workforce Strategy ('N-LAWS') or a standalone Strategy which informs, benefits from and coordinates with, the N-LAWS.
2. Some legal workforce strategies which have positive effects in 4Rs areas will arise from general or overarching approaches, and others will be 4Rs specific and/or specific to legal sectors in 4Rs regions and locations. For processes which develop general or overarching approaches, which will have impact in 4Rs areas, it will be important to ensure that these proposals consider 4Rs impacts and ensure these will be positive.

24.4.1 Short, medium & long term: resources for cross-sector involvement

1. The N-LAWS should be a cross-sector, inclusive and holistic plan which documents the nature and extent of the legal workforce challenges in the 4Rs, establishes baselines and directions for 4Rs legal workforce development, recruitment and retention, and focuses on the short, medium and long term.
2. The 4Rs Network and sector groups should be resourced to fully participate and contribute to the development, implementation, monitoring and evaluation of the N-LAWS.

24.4.2 Areas of emphasis for 4Rs Strategy

1. The N-LAWS should include:

Scope

- All legal assistance sectors.
- Short, mid and long-term.
- National, jurisdictional, regional and place-based initiatives.
- Sharing, deliberating and educating about systemic barriers, practical, resource and other barriers, to achieving and maintaining full staffing of legal assistance services in 4Rs areas.
- Engaging stakeholders including legal assistance services, legal profession, policy contributors, law schools, PLT programs and other areas across tertiary education relevant to the 4Rs legal assistance workforce.

Focus

- Workforce equity including salary and conditions, cultural safety, physical safety, wellbeing, supervision, training and advancement.
- Skills and qualifications relating to 4Rs legal assistance workforce including subject matter (such as areas of law or specialist support) and competencies for:
 - 4Rs contexts and particular service sectors
 - place-based legal assistance
 - client needs including complex needs
 - client-centred practice, client needs including complex needs
 - trauma-informed practice
 - wraparound service provision
 - sustainable services
 - casework models
 - advocacy models
 - models and approaches regarding systemic change
 - service and individual development
- Recruitment and retention:
 - First Nations people in and for 4Rs areas and broader workforce objectives
 - All workers and roles, and
 - Regarding underserved / high needs areas of:
 - Law, including specialist areas and levels of experience, and

- Assistance and support including non-legal casework, advocacy and wraparound service provision.

Specific issues

- Flexible models for effective legal assistance in 4Rs including non-legal caseworker and paralegal focused models.
- Local workforce development including local recruitment, school to employment continuum and retention of locally employed staff.
- Access by legal assistance services in or for 4Rs areas, to peer and specialist resources to develop, implement, monitor and support their workforce development plans.
- Achieving information collection, baselines, monitoring and analysis of 4Rs legal assistance workforce e.g. by establishing and coordinating regular national 4Rs legal assistance sector workforce surveys and analysis and reflection on patterns and trends.

24.5 First Nations legal workforce development: ACCOs and non-ACCOs

1. NATSILS, ATSILS, NFVPLSF, and FVPLSs should be funded to undertake and maintain holistic workforce planning which includes workforce development, training, recruitment and retention focusing on the short, medium and long term and liaising with other sectors.
2. ACCO legal assistance sector leadership should be resourced for development of the National First Nations Legal Workforce Plan and for protocols and processes regarding inclusion of First Nations in all legal sector workforce plans.
3. First Nations legal assistance workforce planning relating to recruitment and retention of First Nations people is likely to include:
 - All legal assistance service roles including administrative, non-legal roles (including community liaison, admin worker, caseworker (specialist and non-specialist), advocate, paralegal, social worker, financial counsellor), legal (including entry level to principal, generalist and specialist), other roles and leadership roles (team leader, management, executive and CEO).
 - Local, regional, statewide and national dimensions. This may include drawing on First Nations legal workforce planning and development in other sectors (e.g.

health and education), involving tertiary institutions and champions.

- Initiatives on a continuum from school leaver to tertiary qualifications, professional accreditation and career progression.
 - Strong and holistic financial, practical and peer supports.
 - Specific initiatives such as a First Nations Legal Services Placement Program, to increase visibility, coordinate and support student placements with First Nations legal assistance services (also referred to below at 24.9.4 – *Domestic 4Rs law equivalent to New Colombo needed*).
4. Funding should be allocated to implement initiatives, including ongoing programs and pilots, to increase First Nations recruitment and retention across all legal assistance sectors.

25.5.1 Promoting First Nations careers with legal assistance services

1. Efforts to increase First Nations career pathways in relation to ACCO and non-ACCO community-based legal services should include promoting, and where relevant strengthening programs (current and previous) by:
 - ACCOs including ATSILS,³⁰⁰ Aurora,³⁰¹ First Nations lawyer's associations,³⁰² and,
 - LACS,³⁰³ CLCs,³⁰⁴ initiatives within Law Schools,³⁰⁵ in the private sector³⁰⁶ and others.

³⁰⁰ For example, the Bilata Legal Pathways Program developed by NAAJA and Charles Darwin University ([Online](#)).

³⁰¹ Aurora Foundation (WebPage) <https://aurorafoundation.com.au/>.

³⁰² For example, the Ngalaya Cadetship Program by the Ngalaya Indigenous Corporation, the peak body for First Nations lawyers and law students in NSW and the ACT ([Online](#)).

³⁰³ For example (i) the Victorian Legal Aid Commission First Nations careers pathway which includes First Nations Clerkship, Graduate law, Aboriginal community engagement officer and New Lawyers Program: VLA ([Web Page](#)): and (ii) NSW Legal Aid Commission Aboriginal Legal Career Pathways Program This '...invites Aboriginal and Torres Strait Islander people to study either a Certificate III or IV in Legal Services Administration or a Diploma in Paralegal Services at TAFE and establish a pathway into a law degree at Macquarie University while working in a legal support, client services, LawAccess NSW or grants officer role at Legal Aid NSW.' NSW Legal Aid Commission. *Annual Report 2022-3* (Online) 30.

³⁰⁴ For example, the Community Legal Centres NSW Law Access Program ([Online](#)) and the CLC NSW, *Aboriginal Cadetship Program* ([Online](#)): '...open to Aboriginal students in the final two years of a degree in law, social work, communications, or community development. Cadets gain practical experience that complements their study, and they participate in a range of professionally and socially meaningful work, as well as training and mentoring opportunities. The cadetship is for 90 days of paid work.'

³⁰⁵ For example, University of Western Australia, 'Indigenisation of the Juris Doctor', ([Online](#))

³⁰⁶ For example Allens First Nations Legal Internship Program ([Online](#)) and programs by Gilbert + Tobin, Herbert Smith Freehills, Arnold Bloch Leibler, Colin Biggers & Paisley (CBP) and McCabes Lawyers, see: Sam Mckeith, '[Law firms boost Indigenous talent with First Nations cadetships](#)' *Law Society Journal*, 24 January 2024.

24.5.2 Free university and vocational education for First Nations people

1. Fee free university and vocational education and training in law, and other fields of study which contribute to increasing the number of First Nations people working in roles in law, legal policy, justice and legal assistance sectors, is recommended by FNAAFV, and is strongly supported.
2. Strong affirmative action should be taken to address multi-faceted biases against First Nations people and promote opportunities for First Nations people across the legal workforce, including the legal assistance workforce in 4Rs areas.
3. Fee-free education as indicated should be accompanied by access to practical supports tailored to individual circumstances to overcome barriers due to associated costs including travel and accommodation.
4. A full range of programs should be identified and implemented for First Nations people to undertake work integrated learning and work experience across legal fields – including 4Rs legal assistance services.

24.6 Specific workers and contributors

24.6.1 Background

1. This section relates to specific workers and is in addition to 24.5 - *First Nations legal workforce development ACCOs and non-ACCOs*.

24.6.2 Experienced lawyers – urgent need in 4Rs legal assistance

1. Multiple measures are needed immediately to address the chronic shortage of *experienced lawyers* in 4Rs areas.
2. The recent advertisement by Wheatbelt Community Legal Service of their Principal Solicitor position,³⁰⁷ gives an indication of the kind of measures which require support. The package included:
 - Relocation support
 - Accommodation (2-bedroom unit or 3-bedroom house) for first 12 months then possibility of subsidies
 - Salary range pitched competitively for the sector
 - Permanency
 - Retention bonus after 12 months of positive service

³⁰⁷ Wheatbelt Community Legal Centre (Website), [advertised](#) on Ethical Jobs

3. The following should be urgently explored:

- **Salary and conditions supplementation funding:** access to funds which enables incentives to attract experienced lawyers to 4Rs community-based legal services facing substantial barriers to recruitment. Difficulty attracting experienced lawyers has flow on effects relating to recruitment and retention.
- **Housing access fund:** in addition to community-based legal services receiving equivalent access to LACs to government housing arrangements (in jurisdictions where this applies), a national fund which can be accessed by community-based legal services to alleviate unavailability of housing including:
 - Renting, buying and building, and
 - Subsidised rent.
- **Bonus payments:** structured in ways negotiated – for example, a bonus payment on 12 months successfully completed service.
- **Relocating to and from:** in addition to contributing to the cost of relocating to the 4Rs location for employment, building in a contribution to costs of relocation after successfully completing a specified period of service.
- **Collaborations by 4Rs community-based legal services** - with statewide and national legal assistance services and related programs to help recruit and support experienced lawyers for 4Rs legal assistance services including:
 - **Secondments** – secondment resources, ease of secondment, routines for sourcing / collaborating in secondments.
 - **Locum register/s** – including in-person and remote (work from different location), 4Rs locum preparation / support, one-off and repeat locum support to 4Rs legal assistance services.
- **LAC collaborations:** funding for optional 4Rs community-based legal service participation in a new program modelled on the previous WA Legal Aid Country Lawyers Program,³⁰⁸ whereby community-based legal services can choose to receive experienced lawyers on secondment via the program. We note that the

³⁰⁸ Jane Stewart, '[The WA Country Lawyers Program](#)', Access to Justice Pro Bono Conference Sydney 14-15 November 2008 (Jane Stewart, Director, Legal Practice Development, Legal Aid WA); Legal Aid WA, [Annual Report 2011-12](#); Legal Aid WA, [Legal Aid Commission of Western Australia Response to the Productivity Commission Draft Report: Access to Justice Arrangements](#), May 2014, pp.8-10.

National Legal Aid submission to the NLAP Review also made recommendations about this program.³⁰⁹

24.6.3 Caseworker 4Rs training programs

1. Non-legal casework roles take many forms in 4Rs community-based legal assistance services. These roles may relate to specialist areas such as roles in relation to First Nations clients and clients with specific support needs. For example, areas of support may include safety in relation to domestic and family violence, intensive /preventative family support, prison throughcare, tenant advocacy and support, credit and debt related casework, disability advocacy, NDIS advocacy, seniors' rights advocacy; mental health related casework and advocacy.
2. While some workers have had previous relevant experience, and/or have undertaken vocational or tertiary training, while others learn on the job. Casework / caseworker training for different roles and contexts, is a specific need among community-based legal services in 4Rs areas.
3. The federal, state and territory government should facilitate consultation about community-based legal assistance casework and caseworker training needs in 4Rs areas, to develop options about ways of achieving the level of training support required for sector, jurisdiction, regional and place-based casework training. If the resulting plans require funding or other facilitation the Commonwealth, States and Territories should resource and facilitate this.

24.6.4 Paralegal, advocacy/casework and non-lawyer led models

1. The 2014 Productivity Commission Report on Access to Justice recommended review of regulatory issues relating to the legal workforce including the work reserved for lawyers, whether this was too broad, and if there was work which could be undertaken appropriately in other ways.³¹⁰
2. Non-lawyer roles, including paralegal roles are widespread among community-based legal assistance providers generally, including in 4Rs areas.
3. Aboriginal Legal Services have historically included strong integration of Field Officers, Aboriginal Liaison Officers, Client Service Officers, Court Officers (Western Australia) and other roles. Some ATSILS, staff and staff of other community-based legal assistance services learn on the job and/or undertake a vocational qualification,

³⁰⁹ National Legal Aid, [Submission to the NLAP Review](#), Oct 2023.

³¹⁰ Productivity Commission, Access to Justice Arrangements Report No. 72, Vol. 1 (2014) ([Online](#)) Recommendation 7.1. 'the nature of tasks that could appropriately be conducted by individuals who have completed each stage of education' and p. 21 and Section 7.4 – Limited Licences pp. 269-281.

including specialist and sector tailored training.³¹¹

4. Additionally, community-based legal services including Regional Alliance West ('RAW') based in Geraldton, in collaboration with some other CLCs in WA, have had substantial success with paralegal service models, which place greatest emphasis on paralegal and non-lawyer led advocacy and casework models. In the RAW example, staff interested in being trained to become paralegals are typically recruited locally. Currently, and in recent times, paralegal training has been provided in-house based on over twenty years' RAW experience.³¹² For a period in the past the model included VET qualifications, and senior staff became accredited trainers and assessors. Paralegals provide information and referrals in the office and via outreach and undertake defined types of casework, where necessary under solicitor supervision. Solicitors involve paralegals in work on the solicitor's matters however the paralegal service model aims to increase the volume of assistance by placing emphasis on solicitor supervision compared to solicitor casework.
5. Development, training and support for paralegal, and non-lawyer focused, service models is likely to be a substantial workforce development opportunity which is also applicable in 4Rs areas.
6. The Commonwealth, States and Territories should engage with the CLC sector, and ATSILS and FVPLS sectors if they wish, to identify and share information about these models. This should include funding and facilitation to extend effective models where this is sought by services, including in 4Rs areas.

24.6.5 Graduate intake programs and 4Rs legal assistance services

1. Graduate intake programs relating to community-based legal assistance sectors are currently operating in some jurisdictions.
2. These programs may target graduates pre-professional qualification or post-qualification, such as pre or post admission to legal practice. The Emerging Lawyers Program by the Victorian Women's Legal Service, discussed above at 20.3, is an example of the latter. If sufficiently resourced and targeted graduate intake programs have the potential to be facilitative for many 4Rs legal assistance services.
3. The recommendation by Community Legal Centres Australia for targeted graduate programs to be established or extended to attract new community lawyers is

³¹¹ Among ATSILS this may include the Diploma of Aboriginal and Torres Strait Islander Legal Advocacy (10861NAT) Detailed at: <https://training.gov.au/Training/Details/10861NAT>

³¹² Zane D'Mello, 'Profile of the Geraldton Resource Centre (2003) 5(23) Indigenous Law Bulletin 15

supported.³¹³ This should particularly focus on 4Rs areas. The recommendation by CLCA of strongly focusing on attracting Aboriginal and Torres Strait Islander graduates is also supported.

24.6.6 Incentive structure law graduates, paying PLT fees etc. for 4Rs

1. The NLAP Review report did not consider *incentive structures* to overcome barriers to law graduates taking up entry level positions in 4Rs areas. Rec. 26 about the HECS-HELP Forgiveness Scheme needs to be accompanied by more measures, including those to provide more immediate and specific incentives.
2. Community-based 4Rs legal services located in 4Rs areas, and those delivering in-person legal assistance in 4Rs areas from a non-4Rs base, should have access to additional funds to offer incentives for:
 - Paid law graduate positions to students undertaking practical legal training ('PLT') for admission to legal practice,
 - Scholarships, or similar, for payment of PLT course fees, and
 - Post admission employment as a lawyer.
3. This is like the incentive arrangement developed by the Legal Aid Western Australian (LAWA) as outlined in the NLA submission to the NLAP Review:

'Following a review of the regional graduate program in February 2023, LAWA introduced a range of strategies to encourage more graduates to take up positions in the regions. These include paying for Practical Legal Training introducing a permanency incentive after a two-year placement, and changing our relief model so that graduates are not used for that purpose. The paid Practical Legal Training initiative appears to have led to considerably more interest and uptake from high performing graduates. All LACs promote the job security and flexibility of their positions, however, this is currently challenging due to the insecure nature of the funding provided via short-term programs which has limited the capacity of LACs to offer permanent positions, instead being limited to temporary, fixed term contracts.'³¹⁴

4. LAWA experience indicates that funding certainty, which governments can facilitate, is also an important factor.

24.7 Volunteers

1. This section proposes directions in relation to volunteers especially related to community-based legal assistance services in 4Rs areas.

³¹³ CLCA, [Submission to the NLAP Review, 27 Oct 2023](#) p. 9

³¹⁴ National Legal Aid, [Submission to the NLAP Review](#), October 2023 p. 52-53

24.7.1 Patterns relating to volunteers in 4Rs areas

1. The 4Rs Network submission outlined that:

... many 4Rs locations .. [have] low access to lawyer volunteers, pro bono collaborations, law school collaborations and law student volunteers. Currently, volunteer leveraging, which is such a positive feature of many community-based legal services, is not achieved by many 4Rs legal services, for example where there are few or no private lawyers or law schools close by.³¹⁵

2. The NLAP Report reflected in a similar way but focused mainly on CLCs, and did not suggest any directions about volunteers, stating that:

The Reviewer notes CLCs rely significantly on volunteers for non-legal activities and pro-bono lawyers for legal assistance services. These roles are not accounted for in FTE estimates above. A survey of Victorian CLCs estimated the median number of volunteers was 22 per CLC. There is large variance in the number of volunteers engaged by CLCs. Larger CLCs, and those located nearer CBDs or regional hubs, tend to have larger volunteer bases. The Reviewer has heard of volunteer bases in mid-sized to large CLCs ranging from 50 to 600 volunteers. As an indication of overall scale, Victorian CLCs make up just over 25% of all CLCs in Australia and in 2022 an estimated 2,081 people volunteered with Victorian CLCs (Victoria Law Foundation, 2022).³¹⁶

3. The type of volunteering, the volume and the benefits to community-based legal assistance services can vary substantially. For example, as noted above (at 2.4.4), Refugee Legal, based in Victoria, estimated the value of the private practitioner pro bono contributions received at about \$20mill.³¹⁷ In celebrating 40 years of positive impact, Kingsford Legal Centre ('KLC') in Sydney, included recognition of the Herbert Smith Freehills Secondee Program with KLC operating for almost 30 years, worth conservatively over \$15mill to KLC and achieving benefits to secondees, including building legal skills.³¹⁸

4. For community-based non-profit legal services, volunteering is generally resonant with their roots, how they came to be established, and with their continuing altruism and mission. Volunteers often reflect the social purposes of these services and volunteering resonates with solidarity in struggles for justice, equality and rights.

Volunteers may help in many ways, including increasing:

- direct assistance including legal and wrap around assistance
- capacity for administrative tasks, projects, research and systemic advocacy

³¹⁵ 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#), p.54.

³¹⁶ NLAP Review Report, p.155.

³¹⁷ NLAP Review Report, p. 26.

³¹⁸ Kingsford Legal Centre, KLC 40 Years of Impact, 2021, UNSW ([Online](#)) p. 39.

- access to additional knowledge, skills and in-kind assistance
- potential to address existing and future workforce needs, and
- potential for a range of additional positive impacts.

5. The *Theory of Change* developed by Community Legal Centres Queensland locates volunteers as one of the four key stakeholder groups (diagram below) with the objective that ‘we can leverage volunteer support and have a positive impact on the professional lives of volunteers.’³¹⁹ Research by the Victorian Federation of CLCs and the Victorian Law Foundation highlighted substantial synergies between law student participation, increased social justice awareness and career choices.³²⁰

Figure 18: Theory of Change and four key stakeholder groups³²¹



6. That volunteers are widely involved in many CLCs is confirmed, for example, by the:

³¹⁹ Rosslyn Monro, James Farrell and Carly Hanson, Measuring the impacts of community legal centres: A toolkit for CLC workers to measure your services' outcomes and impacts, (2018, Community Legal Centres Queensland) ([Online](#)), 14.

³²⁰ Jozica Kutin, Hugh M. McDonald, Nigel J. Balmer with Tienielle Hagland, Clare Kennedy and Joe Okraglik, *Working in Community Legal Centres in Victoria: The role of legal education: Results from the Community Legal Centres Workforce Project* (Victoria Law Foundation, 2022) ([Online](#)).

³²¹ Community Legal Centres Queensland, Theory of Change, CLCQ Impact Report 2023 ([Online](#)), p. 4.

- 2022-23 Community Legal Centres Australia *State of the Sector Survey* which reported that 86% of respondent centres involved volunteers of which 79% had law student volunteers, 22% had social work student volunteers and 55% had law graduate volunteers completing their practical legal training.³²²
- Oct 2020-Feb 2021 CLC surveys in Victoria – which indicated a head count ratio of over 1:2, that is for every 1 CLC employee there were 2 non-employee contributors being volunteers, students and board members (table below).³²³

Figure 19: Victorian CLCs workforce estimates (2021)

Table 4. Summary of community legal centres workforce estimates

	CLCs only	CLCs & Federation	FTE	CLCs & Federation & vacancies
Employees	1,195	1,211	1,021	1,274
Volunteers	2,081	2,081	-	2,115
Students	313	313	-	315
Board members	311	318	-	332
Total	3,900	3,923	-	4,036

7. While the figures do not indicate the type of volunteers (for example, the proportion of lawyers and non-lawyers) or geographic patterns - that many community-based legal assistance services in 4Rs areas face additional challenges in relation to volunteers, is well known among these services and tends to be apparent from information returns by CLCs with the Australian Charities and Non-Profit Commission ('ACNC') (see [Attachment 1A](#)). CLCs located in metropolitan areas, or regional hubs when there is a law school presence close by, tend to have more volunteers. For example:
 - The Top End Women's Legal Service ('TEWLS') and Darwin Community Legal Service ('DCLS') incorporate substantial volunteer contributions drawing especially on local lawyers and law students. About 40 lawyers volunteered with TEWLS in 2022-3.³²⁴ Volunteer lawyers and law students contributed 1160 hours towards DCLS's free After-Hours Legal Advice Service in 2022-3,

³²² CLCA, *State of the Sector Survey Report 2022-23: A Sector in Crisis Report* ([Online](#), March 2024), 18.

³²³ Surveys conducted between 30 Oct 2020 and 1 Feb 2021; Jozica Kutin with Hugh M. McDonald, Tenielle Hagland, Clare Kennedy and Nigel J. Balmer, *Working in Community Legal Centres in Victoria: Results from the Community Legal Centres Workforce Project* (Victoria Law Foundation, 2022) ([Online](#)) p. 15; Jozica Kutin, Hugh M. McDonald, Tenielle Hagland, Clare Kennedy and Nigel J. Balmer *Working in Community Legal Centres in Victoria: Technical report* (Victoria Law Foundation 2021) ([Online](#)).

³²⁴ TEWLS, *Annual Report 2022-3*, 31

and a further 1,225 hours was contributed by law student interns.³²⁵

- The figures at Attachment 1A, shows how this compares with other locations in the NT where there a far smaller local pool of potential volunteers. The figures also indicate lower involvement of volunteers can be seen in 4Rs WA, 4Rs South Australia, north-west Tasmania, and many 4Rs areas in NSW and non-coastal Queensland.
- Additionally, as can be seen from the figures at Attachment 1A, involvement of volunteers in metro headquartered community-legal assistance services varies. This includes variation among services (including statewide and other services) which include 4Rs service areas.

24.7.2 Patterns relating to pro bono and 4Rs – general

1. Prominent definitions of pro bono in Australia focus on lawyers and include the definition by the Australian Pro Bono Centre related to the National Pro Bono Target and National Law Firm Pro Bono Survey.³²⁶ However, the Pro Bono Centre also encourages law student pro bono where students assist without reward, including without academic course credit.³²⁷
2. The Australian Pro Bono Centre’s submission to the NLAP Review, noted that 17,463 FTE lawyers around Australia are covered by the voluntary and aspirational National Pro Bono Target of at least 35 hours of pro bono legal services per lawyer per year and during 2021/2 signatories reported 645,509 hours of pro bono legal services, equivalent to 359 lawyers working full time for a year.³²⁸ The Centre also noted that government panel procurement often includes pro bono conditions.³²⁹
3. In relation to 4Rs areas, the Pro Bono Centre outlined that:

Much like other segments of the legal market, the pro bono sector has found it difficult to service regional, rural and remote clients. This is because the law firms operating in those areas are usually sole practitioners or very small partnerships, which are unable or unwilling to provide pro bono legal services. Most of the signatories to the National Pro Bono Target are located in capital cities around Australia. It is submitted, therefore, that pro bono legal services ought not be considered by the Review as a long-term way to meet the challenges of service

³²⁵ DCLS *Annual Report 2022-3*, 23-24.

³²⁶ Australian Pro Bono Centre, NLAP Review Submission, Sept 2023.

³²⁷ Australian Pro Bono Centre, For Law Students, ([Web Site](#)).

³²⁸ Australian Pro Bono Centre, NLAP Review Submission, Sept 2023 ([Online](#)), p.6.

³²⁹ Australian Pro Bono Centre, ‘Comparison of Government Pro Bono Provisions’ ([Web Site](#)).

delivery in regional, rural and remote locations. The exception to this is that pro bono can have a role in disaster response in these areas, which is covered below.³³⁰

4. As there are also examples of successful pro bono collaborations with community-based legal assistance services in 4Rs areas, both in-person and by distance, there are conditions under which collaborations relating to 4Rs areas can be successful.
5. The Launceston based commercial firm of Rae and Partners pro bono collaboration with the Tasmanian Refugee Legal Service is an example. By undertaking several initial steps with clients, this collaboration has made a substantial contribution to increasing TRLS assistance in northern Tasmania.³³¹
6. There may be opportunities for pro bono coordination, referral, service and project initiatives to share good practice and increase focus in relation to 4Rs areas.³³² This includes state and territory pro bono initiatives such as Law Right Queensland,³³³ the Law Society of NSW Pro Bono Scheme,³³⁴ Justice Connect³³⁵ the Pro Bono Referral Service provided by the Tasmanian Law Society,³³⁶ JusticeNet South Australia,³³⁷ and LawAccess Western Australia.³³⁸
7. There are opportunities to increase awareness of successful pro bono collaborations in 4Rs areas, to help inspire more focus. A range of initiatives, including the following, could also be explored:
 - Mapping 4Rs pro bono through examples, case studies or surveys,
 - Researching the nuanced factors enabling successful 4Rs pro bono³³⁹
 - Adding 4Rs to pro bono indicators for planning, monitoring and evaluation
 - Adding 4Rs to pro bono targets
 - Adding 4Rs pro bono to government procurement criteria
 - Options to increase the visibility of 4Rs pro bono through special projects and forms of recognition.

³³⁰ Australian Pro Bono Centre, NLAP Review Submission, Sept 2023 ([Online](#)), p. 14.

³³¹ Tasmanian Refugee Legal Service, *Annual Report, 2022-3* ([Online](#)), pp. 21-23.

³³² For a list see the Australian Pro Bono Centre list of Pro Bono Referral Schemes and Organisations ([Online](#)).

³³³ LawRight Queensland ([Web Page](#)), LawRight 2022-23 Annual Report ([Online](#)).

³³⁴ Law Society of NSW, Pro Bono Scheme ([Web Page](#)).

³³⁵ Justice Connect ([Web Page](#)); Justice Connect Impact Report 2022/3 ([Online](#)).

³³⁶ Law Society of Tasmania Pro Bono Referral Service ([Web Page](#)).

³³⁷ JusticeNet ([Web Page](#)); JusticeNet 2022-3 Annual Report ([Online](#)).

³³⁸ Law Access Western Australia ([Web Page](#)); LawAccess WA Impact Report 2022/3 ([Online](#)).

³³⁹ For example, Fiona M. Kay and Robert Granfield, 'Altruism at Work: An Integrated Approach to Voluntary Service among Private Practice Lawyers', (2023) *Law & Social Inquiry*, 48(2) 593 ([Open Access](#)) relating to altruism, 'community' and other factors, without focusing on the dimension of geographic distance.

24.7.3 Funding to extend 4Rs volunteer and pro bono initiatives

1. Additional initiatives to overcome barriers to 4Rs community-based legal assistance services accessing incorporating and sustaining effective volunteer and pro bono contributions are needed. This should include:
 - **Community-based legal assistance services in 4Rs areas:** funding for Volunteer, Pro Bono and Placement Coordinator roles – based on the experience of services which have roles of this kind, funding should be provided where a case is made by community-based services in or for 4Rs areas, and/or by their statewide and national bodies and peaks. This should include resources to build the capacity of the service/s concerned, address barriers including provision of accommodation for volunteers and pro bono contributors where needed and offset travel and higher living costs in 4Rs areas where needed.
 - **National 4Rs Volunteer Program** – consulting with 4Rs legal assistance sectors, law schools, legal profession and other stakeholders with a view to developing and establishing a National 4Rs Legal Volunteer Program for students and pro bono lawyers to volunteer with 4Rs legal assistance service. The program should provide financial support for 4Rs legal assistance services and volunteers plus funding for facilitation / coordination by legal assistance sectors and key contributors (e.g. law schools and legal professional representative body).
 - **Legal professional representative bodies, law schools and law student associations** – additional ways for 4Rs community-based legal assistance services to increase the flow of volunteers and pro bono contributions relating to each of these should be developed and resourced.
 - **The Australia Pro Bono Resource Centre** - proposed additional funding to expand the pro bono ecosystem highlighting that it already has a multiplier effect of 500:1 compared to funding.³⁴⁰ Additional funding for the Pro Bono Resource Centre is strongly supported especially for initiatives to partner in increasing contributions, where sought by community-based legal assistance services in 4Rs areas.
 - **Communities of practice** – ways of increasing and effectively utilizing volunteer and pro bono contributions in and for 4Rs areas should be promoted through communities of practice. Where needed, these should be resourced.

³⁴⁰ Australian Pro Bono Centre, *NLAP Review Submission*, Sept 2023 ([Online](#)), 19-22.

24.8 Law students including course credit

1. While many of the measures just outlined at 24.7.3 will help to address barriers relating to law student contributing via 4Rs community-based legal assistance services there are also long-standing obstacles relating to 4Rs legal assistance services in accessing clinical legal education collaborations involving some law schools.

24.8.1 Establish funded 4Rs clinical collaborations

1. The examples of law schools which partnered historically in establishing and developing community legal centres, and those which collaborate in clinical programs (including law internships) and/or provide a community legal centre as part of the law school effort – mainly relate to metropolitan areas.
2. The synergies which can occur between legal education and community-based legal assistance are reflected, for example, in the mission of South-East Monash Legal Service, the purpose of Kingsford Legal Centre and the Aims and Objectives of the University of Newcastle Legal Centre, that is:

South-East Monash Legal Service is a CLC with the following mission: Working with vulnerable and disadvantaged community members, South-East Monash Legal Service contributes to a fair and just society by:

- Advising on legal rights and responsibilities;
- Advocating for systemic change;
- Collaborating with stakeholders &
- Educating law students as future advocates³⁴¹

Kingsford Legal Centre is a CLC with the following purpose:

'Our Purpose

- > We work to increase access to justice for people experiencing disadvantage
- > We advocate around the values of social justice and human rights
- > We collaborate and work in partnership with our community
- > We deliver high quality legal services and community legal education
- > We argue for systemic change that increases fairness for disadvantaged people
- > We teach UNSW Law & Justice students by providing them with real world opportunities to improve the lives of people and communities³⁴²

University of Newcastle Legal Centre is a CLC, with the following aims and objectives: ³⁴³

³⁴¹ SMLS, 'About us' ([Online](#))

³⁴² Kingsford Legal Service, *Annual Report 2022* ([Online](#)), p. 6.

³⁴³ [Legal Centre - School of Law and Justice - The University of Newcastle, Australia](#)



University of Newcastle Legal Centre (UNLC)

Aims and Objectives

Clinical Legal Education

To provide all law students with high quality clinical legal education. All students are guaranteed an intensive professional legal placement at the UNLC dealing with clients who are disadvantaged in dealing with the legal system.

Students to be engaged effectively in client casework engendering deep learning about the law, enhancing lawyering skills and promoting excellent lawyering values including inculcating an ethos of social justice.

Actively pursue applied research in dealing with systemic issues and problems with the law and facilitating access to the legal system.

Access to Justice and Service of the Community

To provide advice, assistance, advocacy and representation for persons who are marginalised and disadvantaged in dealing with the legal system.

To provide advice, assistance, advocacy and representation for older persons, their carers and families. To devise methods and strategies to combat elder abuse.

Developing a strong community and fostering mutual respect, social justice and a united voice between Aboriginal and Torres Strait Islander and non-Aboriginal Australians.

To undertake public interest advocacy where there has been a miscarriage of justice or other serious failure in the administration of justice or a serious wrong.

To promote access to justice for persons who are disadvantaged in dealing with the legal system by empowering persons with legal information, delivering community legal education seminars and making contributions to law reform and government inquiries.

To provide holistic services to the community including partnering with other community organisations, government departments and university disciplines.

4. Although they have developed somewhat differently, the rationales are strong and the funding received contributes to resilience and sustainability. These features can be seen for example with Kingsford Legal Centre ('KLC') with the University of NSW,³⁴⁴ Southern Communities Advocacy Legal and Education Service ('SCALES') integrated partnership with Murdoch University,³⁴⁵ and South-East Monash Legal Service ('SMLS')

³⁴⁴ In 2022 KLC provided over 2,300 legal assistance services and about 50 community legal education related activities and almost 60 law reform projects, additionally about 80 law students undertook clinical placement and KLC rostered over 80 experienced solicitor volunteers with free legal advice estimated to be valued at over \$1mill. In 2022 the total budget was about \$2.6mill, of which UNSW contributed about \$690,000 : Kingsford Legal Centre Annual Report 2022 (Calendar year), [Online](#).

³⁴⁵ For example, in 2021/2 SCALES assisted over 600 clients and had 54 law clinic students, plus lawyer, migration agent and Lawyers Practice Manual volunteers. SCALES annual budget was about \$1.5mill, of which Murdoch University contributed \$200,000, NLAP funds were about \$1.2mill. Murdoch additionally contributed in-kind support of a further \$284,603: SCALES Annual Report, 2021/2 ([Online](#)); SCALES constitution provides the framework for the education and community service objectives: SCALES Constitution ([Online](#))

which collaborates with Monash University.³⁴⁶

5. A survey undertaken in 2022 in Victoria found that most respondents with law degrees felt that their law degrees did not prepare them for community legal centre work, however clinical placements were often a central feature among the respondents who were positive and aspects of their studies which focused on the needs of clients and communities, particular subjects and inspirational staff were also strong contributors.³⁴⁷
6. Clinical Legal Education ('CLEd') is described as follows by SCALES:

CLEd is a methodology which brings together communities in need of legal assistance and law students wanting to develop their legal knowledge and their ethical and reflective practice skills. This produces a synergy that can simultaneously increase provision of legal services and improve the education of legal professionals. For the students, it offers an opportunity to explore legal practice and their role in it, while developing their skills and improving their knowledge.

*Favourable staff-student ratios and collaborative learning environments support a climate in which each student is motivated to improve and perform at their best. The personal responsibility of working with and being accountable to clients motivates students to perform to the best of their ability.*³⁴⁸

It does this through the delivery of legal services by, or with the involvement of, law students acting under professional supervision. In doing so, it can boost collaborating legal centres' capacity to provide legal services to their clients. CLEd has an important role to play in strengthening the legal profession and contributing to access to justice.³⁴⁹

7. Access to funding has been a major barrier for the development of community legal education collaborations in Australia,³⁵⁰ and more so for 4Rs community-based legal services.

³⁴⁶ SMLS, 'About us' ([Web Site](#)); Monash University legal clinic information ([Online](#)); SMLS provides client assistance and the full range of activities undertaken by CLCs and partners in clinical legal education programs (the first and largest site for clinical legal education in Australia with around 100 students a year) and practical legal education legal practice experience for admission to legal practice. SMLS (previously called the Springvale Monash Legal Service) has produced the Victorian Lawyer's Practice Manual for over 30 years. SMLS had income of about \$4.1mill in 2022/3 including about \$510,000 as a grant from Monash University: SMLS Annual Report 2022/3 ([Online](#)).

³⁴⁷ Jozica Kutin, Hugh M. McDonald, Nigel J. Balmer with Tenielle Hagland, Clare Kennedy and Joe Okraglik, *Working in Community Legal Centres in Victoria: The role of legal education: Results from the Community Legal Centres Workforce Project* (Victoria Law Foundation, 2022) ([Online](#))

³⁴⁸ Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings, Mary Anne Noone, Simon Rice Best Practices, *Australian Clinical Legal Education*, September 2012 ([Online](#)), 4.

³⁴⁹ Submission by the 4Rs Network; Southern Communities Advocacy, Legal and Education Service ('SCALES'), [Submission to the NLAP Review, Oct. 2023](#) (Online).

³⁵⁰ Jeff Giddings, 'A Circle Game: Issues in Australian Clinical Legal Education' (1999) 10(1) *Legal Education Review* 33 ([Online](#)).

8. Although highlighted in the 4Rs Network submission, the Review Report did not discuss limited access by 4Rs legal services to Law School collaborations, compared to legal services in metro areas. Similarly, the recommendations by the 4Rs Network about clinical legal education,³⁵¹ and those by Monash Law Clinics³⁵² and SCALES,³⁵³ were not addressed. SCALES highlighted that while 10% of lawyers reside in and service 4Rs populations, that 30% of the population lives outside metropolitan areas.³⁵⁴ SCALES also gave the following example of a 4Rs clinical collaboration:³⁵⁵

Case study Aboriginal Family Legal Services WA (AFLS) and Murdoch Clinic

From 2019 -2021, AFLS and Murdoch collaborated on a clinical program to better support the regional and remotes offices of the AFLS. Murdoch law students worked on matters from AFLS's offices across the state, assisting solicitors in those locations to research and formulate advice, draft documents and access documents for evidentiary purposes.

This was done under the supervision of Perth based AFLS lawyers. Through this collaboration AFLS was able to increase capacity to deliver services to their clients, while Murdoch law students gained insight into the challenges and rewards of working in a practice that brings legal services to regional and remote indigenous women.

9. Three further examples are:

- Kimberley Community Legal Service -Australian National University collaboration which began in early 2017 as an in-kind back-office effort involving ANU law students in Canberra, matching KCLS's work hours in the Kimberley to provide paralegal and research backup to KCLS lawyers and other staff. This developed into a multi-faceted collaboration with students undertaking internships with KCLS in the Kimberley or by distance, and practical legal training placements. The initiative substantially increased KCLS success in recruitment and retention and had other positive impacts. The initiative was impacted by COVID and by lack of government funding support.³⁵⁶
- Darwin Community Legal Service law reform collaborations with Monash Legal Clinic and the University of Western Sydney relating to different issues with students working off site from their university locations, supervised by

³⁵¹ 4Rs Network, [Submission to the NLAP review, 27 October 2023](#) pp. 34-35

³⁵² Monash University [Monash Law Clinics Submission to the NLAP Review 3 Nov 2023](#).

³⁵³ SCALES, [Submission to the NLAP Review](#), Oct 2023.

³⁵⁴ Ibid, p. 5.

³⁵⁵ Ibid.

³⁵⁶ KCLS, Annual Report 2016/7 ([Online](#)), Annual Report 2017/8 ([Online](#)), Annual Report 2018/9 ([Online](#)) Annual Report 2019/2020 ([Online](#)).

legal practitioner/academic staff and guided by DCLS staff in Darwin.

- North Australian Aboriginal Family Legal Service collaboration with Melbourne Law School related to the Northern Territory coronial inquiry into the deaths of four Aboriginal women.³⁵⁷

10. Clinical legal education has been operating in Australia for decades, mainly in metropolitan areas. However, there has been insufficient funding support for expansion especially in 4Rs areas. The 4Rs Network submission highlighted that the New Colombo Scheme, which makes it possible for many law students from Australia, with accompanying legal academics, to undertake law courses including clinical programs in participating countries in Asia and the Pacific has no domestic equivalent.³⁵⁸ This creates the anomaly that it can be more feasible for law students to undertake law courses, including clinical and experiential learning programs, overseas via the New Colombo Plan, compared to 4Rs Australia. This dynamic supports courses in New Colombo destinations overseas, at the same time that support is unavailable for similar courses in 4Rs areas in Australia. Consequently, the Network submission called for a domestic equivalent in law to the New Colombo Plan relating to 4Rs areas.

11. Rec. 20 by the NLAP Review proposed that Step funding be provided for initiatives which have been successfully piloted, including for uptake by other relevant services. Clinical legal education programs with community-based legal assistance services are squarely in this category.

12. A funding program should be established for 4Rs community-based legal services and law schools to collaborate to overcome the current chronic metro-normativity in clinical legal opportunities in Australia, in aid of the combined community service and legal education objectives these programs achieve. The program should include funding necessary for in-person and distance clinical legal options partnering with community-based legal assistance services in 4Rs areas, which wish to participate.

24.8.2 Facilitating PLT placements with 4Rs community-based legal services

1. The National Association of Community Legal Centres (now Community Legal Centres Australia) ran the successful Commonwealth funded RRR Practical Legal Training Project, with 55 4Rs services across CLCs, ATSILS and FVPLS.³⁵⁹ Piloting occurred

³⁵⁷ North Australian Aboriginal Family Legal Service, 'Thankyou Melbourne Law School Student Volunteers' (1 Nov 2023, Media Release) [Online](#).

³⁵⁸ 4Rs Network, *Submission to the NLAP review, 27 Oct 2023* p.34.

³⁵⁹ The RRRPLT information on the NACLCC web site can be viewed via the WayBack Machine (3 Feb 2017, [Online](#)); PLT placement at Northern Rivers Community Legal Centre – Anne's Feedback (4 Oct 2016, [YouTube](#)); Monash University, Remote, Regional and Rural Lawyering, ([Web Site](#), c. 2013)

between September 2008 and October 2010 with the Legal Workshop at the Australian National University which contributed funds for student travel and accommodation.³⁶⁰ The program was then continued by NACLCL with a National Coordinator, promotion and student and placement location support. Participating 4Rs services were assisted to frame and present opportunities, students applied, went through a selection process with the service, and where placement was offered this was facilitated and supported by the project.

2. The initiative received public support from the Law Council of Australia which also encouraged Commonwealth funding.³⁶¹
3. The 4Rs Network submission to the Review outlined the importance of addressing barriers Practical Legal Training placements³⁶² however, this was not discussed by the Review.
4. Commonwealth funding should be provided for national 4Rs PLT placement facilitation should be re-established. If not already addressed this should be a focus during development of the National Workforce Plan (NLAP Review Rec. 24).

24.8.3 Placement poverty and cost barriers: 4Rs legal assistance placements

1. Placement poverty most commonly refers to students undertaking mandatory placements in circumstances which cause them financial hardship. For example, placements which are lengthy and unpaid. Placements which involve high costs, such as high travel, accommodation and living costs can also cause hardship. Cost factors can deter students from undertaking placements which are too expensive having regard to their personal circumstances.
2. Placement poverty raises equity and workforce considerations. The cost to non-local students of undertaking placement in 4Rs areas is often a barrier, despite student interest and the importance for students and 4Rs communities of students accessing and undertaking placements in 4Rs areas.
3. These factors are highly prevalent in relation to law student and some other placements in 4Rs community-based legal services in 4Rs areas. The cost of travel, accommodation and living costs for the student are often prohibitive. Students sometimes nominate to economise on the length of placement, which is often highly

³⁶⁰ Liz O'Brien, Judy Harrison, Rachna Muddagouni, *A feasibility study for law graduate legal practice experience with Community Legal Centres in Regional, Rural and Remote Australia*, Presented: 20 Nov 2010, National Rural / Regional Law and Justice Conference, Warrnambool, Victoria, Australia.

³⁶¹ Law Council of Australia, Federal Budget Submission 2012-3 ([Online](#)).

³⁶² 4Rs Network, [Submission to the NLAP review, 27 Oct 2023](#) pp. 34-35

sub-optimal for the student and the service. The option of scaffolded placements during student programs ('same time next year') which can be very beneficial for the service and students, is rare in 4Rs areas.

4. Australian University Accord Report ³⁶³ discussed 'placement poverty' without referring to law, or to legal or other roles in legal assistance services, both generally or specifically in relation to 4Rs areas.³⁶⁴ While there has been a response by the federal government to placement poverty for certain professions, law is not included, and the amount has been criticised as being unrealistically low.³⁶⁵
5. Governments should work with community-based legal assistance sectors to implement measures to overcome financial barriers, and ensure proper financial support for student placements with 4Rs community-based legal assistance services.

24.9 Legal education, 4Rs access to justice, and workforce

1. This section outlines issues relating to law schools, legal education, legal training and 4Rs access to justice including legal workforce supply, which were not addressed by the NLAP Review Report. The discussion and recommendations relating to the following, also relate:
 - True Justice: Deep Listening which aims First Nations perspectives in legal education in Australia at outlined at 17.3.2
 - First Nations legal workforce development at 24.5 including fee free university and vocational education for First Nations people outlined at 24.5.2.
 - Volunteers at 24.7.
 - Law students including course credit at 24.8.

24.9.1 Background – lack of treatment of legal education

1. Although the Productivity Commission inquiry into Access to Justice completed in 2014 considered aspects relating to legal education, and made recommendations for review, the NLAP Review Report did not refer to this aspect of the Report or comment

³⁶³ Australian Government, Australian University Accord Final Report (Online, released 24 February 2024) <https://www.education.gov.au/australian-universities-accord/resources/final-report>

³⁶⁴ Ibid e.g. pp.14 and 100- focusing on addressing placement poverty in nursing, care and teaching professions. Jack Campbell, 'Is poverty a real threat for law students?' *Lawyers Weekly* 29 April 2024 (Online).

³⁶⁵ 'Combatting Placement Poverty', 17 Oct 2023, News and Analysis, Griffith University (Online); Evan Young and Maryanne Taouk 'Upcoming 'poverty placement payment' is 'a slap in the face' student groups say', 7 May 2024, ABC News (Online)

on the lack of progress.³⁶⁶

2. Kift and Nakan outline that unmet legal need and access to justice is one of the drivers in the changing professional context for legal services, however this has been ‘an enduring and wicked problem’.³⁶⁷
3. The facts and figures included in the NLAP Review Report about legal education did not reflect on the insufficiency of available data,³⁶⁸ including student numbers, factors effecting career intentions and destinations, and relationships between:
 - drivers and incentives affecting student programs and career choices, and
 - outcomes in addressing legal workforce needs, especially legal assistance workforce needs in 4Rs areas.
4. The Gippsland Community Legal Service submission to the NLAP Review encapsulated issues relating to legal education affecting many community-based legal services in 4Rs areas, by outlining that:

“There are no university campuses in Gippsland offering a law degree. A law student in Gippsland must decide to either study entirely online or move to a city, usually Melbourne. Law students then build a life in that city over the three to five years of their degree and remain there after completing their degree. Gippsland needs pathways for law students to remain in Gippsland. Temporary solutions and incentives are part of the solution, but they will never completely solve the problems created by low staffing pools in regions like Gippsland. The limited pool of law students is directly responsible for a limited pool of volunteers, which has the flow on effect of creating a limited pool of qualified lawyers for RRR CLCs to draw from.

GCLS emphasises the need for any RRR workforce proposals to prioritise pathways and incentives that encourage law students to remain in the RRR area they grew up in, benefit from the availability of volunteer opportunities in that area, and enter the legal profession with an understanding of the community legal sector that they do not currently receive through law degrees which complements their understanding of their community.”³⁶⁹

4. The NLAP Review Report noted that:

³⁶⁶ Productivity Commission, Access to Justice Arrangements Report No. 72, Vol. 1 (2014) ([Online](#)) Recommendation 7.1 which recommended a holistic review of the three stages of legal education namely university, practical training and continuing professional development (pp. 252-254). For an overview about lack of progress and numerous issues facing legal education see Sally Kift and s Kana Nakan, *Reimagining the Professional Regulation of Australian Legal Education*, Council of Australian Law Deans, 1 Dec 2021 ([Online](#)), pp. 33, 49, 131 etc. regarding Productivity Commission Rec. 7.1.

³⁶⁷ Sally Kift and Kana Nakan, *Reimagining the Professional Regulation of Australian Legal Education*, Council of Australian Law Deans, 1 Dec 2021 ([Online](#)), p. 54.

³⁶⁸ Ibid, Kift and Nakan pp. 88-91.

³⁶⁹ Gippsland Community Legal Service, *Submission to the NLAP Review*, ([Online](#)) p. 14.

As most law schools are located in capital cities, access and choice for regional students is limited. Many students in regional areas relocate to major cities to undertake their degrees, and once there they are unlikely to return.³⁷⁰

However, this was not accompanied by discussion about options and strategies related to law students from and/or in, regional areas, law students generally or law schools and legal education. For example, Rec. 24 about the need for a Workforce Strategy did not refer to legal education. Additionally, the discussion in the NLAP Report leading to Rec. 26 - *HECS-HELP Forgiveness Scheme*, focused on this from a specific employment incentive perspective. This did not consider whether orientation, content and/or culture of legal education is contributing to 4Rs legal workforce shortages or whether insufficient support for legal education – including policy, facilitation, resources and/or regulation - are contributing.

5. That is, the HECS-HELP Forgiveness Scheme recommendation by the NLAP Review Report, was not put as part of an engagement with law schools and practical legal training programs, the legal profession and governments - about aspects such as the following:
 - The nature, extent, characteristics and effects of unmet legal needs and justice issues in 4Rs areas and the roles of legal education, law schools and universities.
 - The chronic and systemic shortage in 4Rs legal workforce supply.
 - Whether treatment of rights, justice and inclusion of people, groups and communities in 4Rs areas in law in law curriculum is sufficient, including sufficiently visible (discussed below at 24.9.2).
 - Opportunities for law students in 4Rs areas during their studies, when preparing for admission to legal practice, post-admission and during their careers.
 - Opportunities for law schools and universities to collaborate with stakeholders, including legal assistance services, to increase efforts in relation to all the above and related issues including scholarship and research.

24.9.2 University roles in relation to 4Rs legal workforce

1. Against a backdrop of numerous issues relating to the suitability of legal education in Australia,³⁷¹ there are currently no measures generally applicable to universities, legal education and law schools to incentivise, support, facilitate and/or require

³⁷⁰ Ibid, p.149

³⁷¹ For an overview of many of the issues facing legal education see Sally Kift and Kana Nakan, *Reimagining the Professional Regulation of Australian Legal Education*, Council of Australian Law Deans, 1 Dec 2021 ([Online](#)) and recommendation 7.1 by the Productivity Commission, *Access to Justice Arrangements Report No. 72, Vol. 1 (2014)* ([Online](#)) for a holistic review of the three stages of legal education namely university, practical training and continuing professional development (pp. 252-254).

consideration of:

- justice, access to justice, rule of law, social and economic inclusion relating to 4Rs areas, and
 - legal workforce needs in 4Rs areas.
2. The 4Rs Network submission to the NLAP Review expressed concern about lack of visible inclusion of regional, rural, remote and very remote law and justice issues in law curriculum,³⁷² however this was not noted or discussed in the Review Report. There are few examples of 4Rs law curriculum inclusion and substantial indications of metro-normativity and that most law students lack familiarity with 4Rs legal career options.³⁷³ Despite calls for action by law schools by the Law Council in the 2018 Justice Project Report and in the 2020 RRR Strategic Plan - there are no indications of progress.³⁷⁴
 3. Momentum for legal curriculum reform from the 1990's relating to gender bias in law,³⁷⁵ and momentum especially in the last 15 years to address bias against First Nations people,³⁷⁶ has not been matched by reform in relation to treatment of law and justice

³⁷² 4Rs Network, [Submission to the NLAP review, 27 Oct 2023, p.23, Rec. 5 at p. 24, pp. 34-35 and 82.](#)

³⁷³ Jennifer Nielsen and Amanda Kennedy, 'Rethinking the law curriculum: strategies for rural and regional Australia', (2012) 37(2) *Alternative Law Journal* 134; Amanda Kennedy, Theresa Smith-Ruig, Richard Coverdale, Caroline Hart, 'Preparing Law Graduates for Rural and Regional Practice: A New Curriculum-based Approach' (2013), 93(3) *Procedia – Social and Behavioural Sciences* 317-321; Amanda Kennedy, Amanda, Richard Coverdale, Caroline Hart, Claire Macken, Reid Mortensen, Trish Mundy, Jennifer Nielsen and Theresa Smith-Ruig, *Rethinking Law Curriculum: Development Strategies to Prepare Law Graduates for Practice in Rural and Regional Australia* (Final Report, 2013) ([Online](#)); Amanda Kennedy, Trish Mundy and Jennifer Nielsen, 'Bush Law 101: realising place conscious pedagogy in the law curriculum' (2016) 13(1) *Journal of University Teaching & Learning Practice*, Article 6 ([Open Access](#)); Trish Mundy, 'Engendering 'Rural' Practice: Women's Lived Experience of Legal Practice in Regional, Rural and Remote Communities in Queensland' (2013) 22(2) *Griffith Law Review* 481; Trish Mundy, Amanda Kennedy and Jennifer Nielsen (eds.), *The Place of Practice: Lawyering in rural and regional Australia* (Federation Press, 2017). Further on metro-normativity see for example: Fiona McDonald and Christina Malatzky, 'Responding to Health Outcomes and Access to Health and Hospital Services in Rural, Regional and Remote New South Wales' (2023) 20(2) *Journal of Bioethical Inquiry* 191. For similar issues in the US, see for example Shaun Jamison and Hannah Catt, 'Law Schools Can Ease the Drought in Rural 'Legal Deserts'', *Bloomberg Law* (Online, 25 April 2023).

³⁷⁴ Law Council of Australia. The Justice Project Final Report, Part 1, Rural, Regional and Remote (RRR) Australians ([Online](#)), Aug 2018) 57; Law Council of Australia, [Regional, Rural and Remote National Strategic Plan](#) (Online, 18 Nov 2020), pp. 19-20.

³⁷⁵ Regina Graycar and Jenny Morgan, *The Hidden Gender of Law* 1st edition (Federation Press, 1990) and 2nd edition (Federation Press, 2002) ('The Hidden Gender of Law'); Australian Law Reform Commission, *Equality Before the Law: Women's Equality*, ALRC 69, Final Report Part II, Chapter 8 Legal Education ([Online access](#)) ('ALRC, Legal Education').

³⁷⁶ Marcelle Burns, 'Are We There Yet? Indigenous Cultural Competency in Legal Education', (2018) 28(2) *Legal Education Review* ([Open Access](#)); Marcelle Burns, Professor Anita Lee Hong and Professor Asmi Wood, [Indigenous Cultural Competency for Legal Academics Program, Final Report](#) to the Department of Education and Training (Online, 2019); Sally Kift and s Kana Nakan, *Reimagining the Professional Regulation of Australian Legal Education*, Council of Australian Law Deans, 1 Dec 2021 ([Online](#)), pp. 97-104; Council of

issues concerning 4Rs areas.³⁷⁷ Perversely, lack of focus on 4Rs areas also fails to engage with how biases and discrimination against women, First Nations people and other frequently discriminated groups, operate with biases related to 4Rs locations.³⁷⁸

4. Work from the early 2000's to address 4Rs deficiencies across law curriculum,³⁷⁹ was largely met with strong blockages which - without incentives, supports and regulatory requirements - continue to apply.
5. Additionally, legal workforce issues, including 4Rs legal workforce, were not addressed by the recent final report of the [Australian University Accord](#)³⁸⁰ the vision for which, in relation to higher education and vocational education and training, includes 'delivery of graduates with the creativity and technical skills to meet future workforce and societal need'.³⁸¹ The Accord Report discussed regions, especially in Chapter 7 'Serving the regions through tertiary education', without reference to law, access to justice, legal education, legal workforce needs or the like.
6. There is no indication that the review process for the Accord focused on legal education or accreditation relating to law and legal workforce needs. For example, there is no indication in the Report of consultation with federal, state and territory law and justice policy areas, the Australian Council of Law Deans,³⁸² the Australasian Professional Legal Education Community³⁸³ the Law Council of Australia,³⁸⁴ legal professional representative bodies³⁸⁵ or legal assistance sectors.³⁸⁶
7. For the reasons outlined, legal education should be a priority for legal assistance workforce strategies, and for government efforts in support of legal workforce recruitment and retention in 4Rs areas. This requires affirmative measures which includes policy directions, curriculum review, establishment of practical programs, and collaborations with sufficient funding supports.

Australian Law Deans, *First Nations Peoples Statement on Racism and Law Schools*, 31 January 2024 ([Online](#)).

³⁷⁷ References at n375 (Graycar & Morgan) etc. and n375 (Neilsen & Kennedy) etc.

³⁷⁸ Ibid.

³⁷⁹ Neilsen & Kennedy and related references about Australia at n373 above.

³⁸⁰ Australian Government, *Australian University Accord Final Report* (Online, released 24 February 2024) <https://www.education.gov.au/australian-universities-accord/resources/final-report>.

³⁸¹ Ibid p.16.

³⁸² Australian Council of Law Deans web site: <https://cald.asn.au/>.

³⁸³ Australasian Professional Legal Education Community web site: <https://aplec.asn.au/>.

³⁸⁴ Law Council of Australia web site: <https://lawcouncil.au/>.

³⁸⁵ Listed on the Law Council's web site at: <https://lawcouncil.au/about-us/our-constituent-bodies-and-directors>.

³⁸⁶ The sectors make up the Australian Legal Assistance Forum: <https://www.nationallegalaid.org/alaf/>

24.9.3 Addressing no equivalent in law UDRHs or Rural Clinical Schools

1. Despite the number of law schools in Australia, including the number of regional university law schools, there is no equivalent in legal education to rural health training infrastructure funded by the federal Department of Health and Aged Care through the Rural Health Multi-disciplinary Training Program.³⁸⁷ This includes the 19 University Departments of Rural Health ('UDRHs'), which are government supported centres based in rural and remote Australia focused on health education and research. These work in association with the 22 Rural Clinical Schools and their 19 Regional Training Hubs.³⁸⁸ Similarly, there is no equivalent in legal education to the Australian Rural Health Education Network ('ARHEN'), which is the national association for the 19 UDRH's.³⁸⁹

[ARHEN's] purpose is to promote the health and wellbeing of people in rural and remote Australia by delivering high-quality health education, research and advocacy.

Our member organisations, the UDRHs, are academic centres based in rural and remote Australia.

Each year, the UDRHs support more than 15,000 nursing, midwifery and allied health students to experience the rewards of living, studying and working as a health professional in rural and remote regions.

2. Similar infrastructure should be developed in law and legal education having regard to the nature and extent of the 4Rs legal workforce needs, and the inability of law schools and legal education training providers to manifest and sustain arrangements without government facilitation and support. The current absence of this government support is directly and negatively impacting legal assistance services in 4Rs Australia and impeding the ability of law schools and legal training providers to respond.

24.9.4 Domestic 4Rs law equivalent to New Colombo needed

1. Further to the discussion above at 24.8 – *Law students including course credit* and 24.9 – *Legal education, 4Rs access to justice and workforce* - as noted in the 4Rs NLAP Review submission the situation in total results in a perverse incentive for law students:
 - In relation to initiatives in support of 4Rs clinical legal, internship and practical placement programs a domestic equivalent to the New Colombo Plan (NCP)³⁹⁰ focusing on law should be developed to enable law students to undertake on-location experiential learning law courses in 4Rs Australia equivalent to those

³⁸⁷ Rural Health Multi-disciplinary Training Program ([Web Site](#)).

³⁸⁸ Australian Rural Health Education Network, About UDRHS, ([Web Site](#)); DoHAC, Rural Health Multi-disciplinary Training Program ([Web Site](#)) (list of the Rural Clinical Schools and UNRH's is also on this page).

³⁸⁹ Ibid. ARHEN is a member of the [National Rural Health Alliance](#) and collaborates with the [Federation of Rural Australian Medical Educators](#) ('FRAME') which works to support and improve rural medical education in Australia.

³⁹⁰ [New Colombo Plan](#) information on the Department of Foreign Affairs web site.

currently undertaken overseas under the NCP.

- The lack of a domestic equivalent to the NCP makes it more feasible for many Australian law students to participate internationally, while being unable to undertake the equivalent experiential learning in 4Rs Australia.³⁹¹

2. The table below outlines specific ways forward:

Table 5: Initiatives to boost law and related student awareness of and involvement with 4Rs legal assistance services

Focus ³⁹²	Exists	Next steps
Aurora	Yes	Aurora Foundation ³⁹³ - consult about options to expand 4Rs legal assistance sector placements across Aurora disciplines. Increased government funding if needed.
National First Nations Legal Service Placement Program (related to 24.5.1)	No	Facilitation for ACCOs and other key stakeholders to explore National First Nations Legal Service Placement Program. For learning, development and career related placements with ACCO and non-ACCO legal services, including 4Rs.
National 4Rs Volunteer Program (24.7.3)	No	Consult with all 4Rs legal assistance sectors, law schools, legal profession and other stakeholders with a view to developing and establishing a National 4Rs Legal Volunteer Program for students and pro bono lawyers to volunteer with 4Rs legal assistance service. The program should provide financial support for 4Rs legal assistance services and volunteers plus funding for facilitation / coordination by legal assistance sectors and key contributors (e.g. law schools and legal professional representative body).
National 4Rs Clinical Legal Education and Internship Program (24.8.1)	No	Consultation as above to develop this national for course credit 4Rs program. This should similarly include financial arrangements for legal assistance services in 4Rs areas, law students and law schools plus funding for facilitation / coordination by legal assistance sectors and law schools.
Facilitating 4Rs PLT Placements (24.8.2)	No	Re-establish the CLCA 4Rs PLT Placement Program or similar.

24.9.5 Areas of law – 4Rs legal assistance workforce

1. Legal workforce needs among community-based legal services in 4Rs areas include insufficient supply of staff trained in specialist areas of law. Social security law is an example, and others include safety from domestic and family violence, family law,

³⁹¹ 4Rs Network, *Submission to the NLAP review, 27 Oct 2023* p.34

³⁹² References in brackets refer to the numbered section in this response.

³⁹³ Aurora Education Program, Internships (Web Site) <https://aurorafoundation.com.au/our-work/internship-program/>

disability law including NDIS, tenancy, credit and debt, consumer, employment law and human rights.

2. A common feature of these areas of law is that they are not among the *Prescribed Areas of Knowledge* published by the Law Admissions Consultative Committee which are adopted by Legal Profession Admission Rules as required for admission to legal practice.³⁹⁴ These areas ('the Priestly 11') are also reflected in admitting authorities' recognition of institutions to provide academic law courses, which satisfy academic requirements for admission.³⁹⁵ The Law Admission Consultative Committee (LACC) is chartered by the Australian Council of Chief Justices.³⁹⁶ However, the Charter does not expressly require the LACC to consider legal workforce needs, geographic dimensions, or access to justice and inclusion. The LACC charter specifies the membership, which does not include non-profit legal assistance representation.³⁹⁷
3. That the NLAP Review Report did not suggest directions in relation to legal education is noted at 24.9.1 above. Specific issues should be addressed through the development of the recommended Workforce Strategy (Rec. 24) and efforts relating to specific issues, including areas of law.

24.9.6 Social security legal assistance workforce – training example

1. Social security law and practice is an example of an area where education and training opportunities are chronically insufficient having regard to the nature and extent of the legal workforce needs, including in 4Rs areas. This is against the backdrop of levels of unmet social security legal need, the critical nature of access to social security income support, the power imbalances between the individual and the social security system, the complexities of social security law and review and appeals procedures.
2. Currently the main way proficiency in social security law and practice is developed is on-the job and through on-the-job communities of practice. However, the number of social security lawyer jobs is highly limited and largely depends on grant funding. The majority of social security lawyer roles which exist are in with specialist social security community legal services in metro areas. Lack of funding for collaboration models by and with these services, including hub and spoke, also limits access to training to build proficiency among the range the range of community-based legal services including other CLCs, ATSILS and FVPLS (which also lack funding to provide social security legal

³⁹⁴ For example, section 5 and Schedule 1 of the Legal Profession Uniform Admission Rules 2015.

³⁹⁵ For example, the Victorian Legal Admissions Board ([Web Site](#))

³⁹⁶ Legal Services Council, Charter Law Admissions Consultative Committee ([Online](#)).

³⁹⁷ [Law Admissions Consultative Committee \(LACC\) \(legalservicescouncil.org.au\)](#)

help) and with CLCs, ATSILS and FVPLS in 4Rs areas.³⁹⁸

3. There is no federal or other funding to support a national social security law and practice training program relating to social security legal assistance workforce needs, including in 4Rs areas. However, some or all specialist community-based social security legal service training may be suitable to be scaled up, if resources were available.³⁹⁹
4. There is no known class-taught / doctrinal social security law course by a law school in Australia (LLB, JD or LLM) and no federal initiatives or incentives to address this.
5. While experiential law courses (e.g. courses which include actual or simulated client matters) such as clinical law courses and law student placements, do or may contribute to exposure to social security law - this is not part of an identified or coherent social security workforce plan. The volume is insufficient compared to nature and extent of the workforce and legal assistance needs.
6. A table giving a sense of social security legal education and training relating to community-based social security legal assistance is at [Attachment 1B](#).
7. The gaps in education and training in relation to community-based social security law and practice should be addressed by:
 - The federal government providing funding to Economic Justice Australia and ACCO nominated processes, to research, consult and develop recommendations for a national social security legal workforce plan, which includes 4Rs areas,
 - Ensuring input from the Australian Legal Assistance Forum,⁴⁰⁰ the Australian Council of Law Deans⁴⁰¹ and the Australasian Professional Legal Education Community,⁴⁰² and

³⁹⁸ For example, lack of funded models such as those in which regional community-based relating to tenancy legal assistance in Queensland and Western Australia, women's legal assistance in Victoria and regional legal assistance relating to the National Redress Scheme outlined at 2.4.3 (f) above),

³⁹⁹ For example, the training sessions offered by: Social Security Rights Victoria (Community worker [training schedule](#)), Welfare Rights Centre NSW ([Community Worker Training schedule](#)); Basic Rights Queensland ([Web Site](#)) offers online sessions to workers who support individuals with social security issues.

⁴⁰⁰ National Legal Assistance forum ([Web Site](#)).

⁴⁰¹ Australian Council of Law Deans ([Web Site](#)).

⁴⁰² Australasian Professional Legal Education Community ([Web Site](#)).

- Federal government support to implement the agreed plan – including providing recurrent funding. For example, for:
 - coordination and leadership by Economic Justice Australia and ACCO nominated processes, and
 - program delivery including community-based legal services and tertiary education providers which is available cross-institutionally, online and is targeted to relevant cohorts.
8. A similar approach should be applied to address workforce training needs in other specialist areas of law where there is insufficient workforce supply, including and especially in 4Rs areas.

Rec 25 – Remuneration of community legal assistance workers

Recommendation 25 – Remuneration of community legal assistance workers

The Reviewer recommends the Commonwealth Government should provide additional funding in last year of NLAP (2024-25) to increase the remuneration of both legal and non-legal staff working in CLCs, ATSILS and FVPLS to equivalent pay as that of the LAC in the respective jurisdiction. The estimated cost of this in 2024-25 is estimated to be \$66 million - \$35 million for CLCs, \$25 million for ATSILS and \$6 million for FVPLS. The estimated cost of this in 2025-26 is estimated to be \$69 million - \$36 million for CLCs, \$26 million for ATSILS and \$7 million for FVPLS.

To access this funding, which can be back dated to 1 July 2024, the relevant service providers must demonstrate employment conditions have been varied and approved through the relevant industrial processes. No funding is to be provided to service providers for 2024-25 who fail to have necessary workplace arrangements in place by 30 June 2025.

This funding should be embedded in the baseline funding moving forward.

25.1 Background

1. The NLAP Review Report noted that current wage discrepancies disadvantaging workers with FVPLS, ATSILS and CLCs are disproportionately affecting:
 - women due to the feminised workforce,⁴⁰³ and
 - First Nations people who make up a substantially higher proportion of workers in the ATSILS and FVPLS the two lowest paid legal assistance sectors.⁴⁰⁴

The Report also highlighted higher costs faced by services in 4Rs areas and levels of underfunding.

⁴⁰³ NLAP Review Report, p.156.

⁴⁰⁴ NLAP Review Report, p.156 and 159-164.

2. Disparities in wages and conditions disadvantaging these workers and sectors are grossly unfair to the workers concerned and are contributing to recruitment and retention challenges for services in many 4Rs areas, with flow on effects which impinge on the rights, wellbeing and inclusion of the most disadvantaged people and communities.

25.2 Parity of wages and conditions ASAP with LACs supported

1. Wage parity with LACs for ATSILS, FVPLS, and CLCs for all staff and operations is strongly supported and should be implemented in full as soon as possible.
2. To achieve parity the funding increases must include Commonwealth, State and Territory Government funding programs which provide funding to these services.
3. Parity with LAC conditions should apply for staff in the same jurisdiction and locations, including 4Rs areas. The latter should include benefits, subsidies and allowances, including those relating to housing. Where housing arrangements include access to Government housing stock, such as GROH in Western Australia,⁴⁰⁵ eligibility should be extended to community-based legal services with priority for areas, including the Pilbara, facing the highest workforce challenges related to housing costs.⁴⁰⁶ This was also emphasised by the Review Report in discussion relating to Rec. 17 – *Rebasing community legal service providers*.⁴⁰⁷

25.3 NLAP Rec. of treatment in May 2024 federal budget

1. The NLAP Report recommended Commonwealth injection of funds for pay parity for ATSILS, FVPLS and CLCs with the LAC in their jurisdiction. The figures recommended for Commonwealth injection were:
 - 2024-5: \$66mill (\$35 mill for CLCs, \$25mill for ATSILS and \$6mill for FVPLS)
 - 2025-6: \$69mill (\$36 mill for CLCs, \$26mill for ATSILS and \$7mill for FVPLS)
2. The NLAP Report provided substantial information about differentials in wages and conditions but did not include the calculation about how recommended

⁴⁰⁵ Western Australia Department of Communities, Government Regional Officers Housing (Web Site) <https://www.wa.gov.au/organisation/departments-of-communities/government-regional-officer-housing-program>.

⁴⁰⁶ Pilbara Community Legal Centre, [Submission to the NLAP Review, 23 Oct 2023](#); CLCA, '[Community Legal Centres in Crisis: 1000 people turned away daily as demand surges](#)' (Media Release, March 2024).

⁴⁰⁷ NLAP Review Report p. 135: 'The Reviewer considers the levels of funding for each community sector provider (ATSILS, CLCs including those currently solely Commonwealth funded, FVPLS) should be reset, having regard to:- providing accommodation and/or appropriate allowances, equivalent to LAC staff, if staff live or work in regional and remote areas. This includes travel home for remote workers and relocation costs'.

Commonwealth injections were calculated.

- Disappointingly, the May 2024 federal budget only included two funding items, being \$16.9m for 4% indexation (compared to NLAP Report Rec. 39 of 4.5% indexation to be applied by all governments to all legal assistance providers)⁴⁰⁸ and \$27.2m for a pay increase for CLC, ATSILS, and FVPLS sectors, giving a total of \$44.1m. That is:

Table 6: Funding initiatives included in the May 2024 federal budget for 2024-5⁴⁰⁹

For 4% indexation on baseline legal assistance funding delivered via the National Legal Assistance for community legal centres, ATSILSs, and LACs ⁴¹⁰	\$16.9m
For a pay increase for community legal sector workers at community legal centres, ATSILSs and FVPLSs.	\$27.2m
Total	\$44.1m

- The figure of \$27.2m to reduce pay disparities was less than half of the \$66m recommended by the NLAP Review Report. In context, as shown on Table 7 below, the combined federal budget inclusion of \$44.1m was less than 5% of the total of \$969.6m sought by legal assistance sectors. It was also less than 20% of the \$234.6m+ Commonwealth increase for 2024-5 recommended by the NLAP Report (indexation of \$14.7m⁴¹¹ plus the items on NLAP Report Tables 12.1 and 12.2 (screen shots at Figure 20 below)⁴¹² i.e. \$14.7m plus +\$215.3m (Table 12.1) +\$4.6M (Table 12.2) = \$234.6m+.
- Information has not been identified about how the federal budget figure of \$27.2m for a pay increase for workers at CLC, ATSILS and FVPLS was calculated or the estimated level impact on reducing the wage gap with LACs for workers in each of the sectors in 4Rs areas.

⁴⁰⁸ NLAP Review Report p. 230 (boxed section). Estimated as follows at 235: ‘For the Commonwealth, the Reviewer estimates that for the funding proposed to be administered by AGD under A2JP, the cost in 2024-25 will be \$7.9 million for LACs, \$3.2 million for CLCs, \$2.6 million for ATSILS and \$1.0 million for FVPLS. The Commonwealth is likely to incur additional expenditure for those providers currently not administered by AGD, such as the Art Law CLC. The Reviewer does not have sufficient information to estimate budgetary impacts on states and territories.’

⁴⁰⁹ Community Legal Centres Australia, [May 2024: Federal Budget Response](#) (Online, May 2024).

⁴¹⁰ Also to note that the Community Legal Centres Australia, [Federal Pre-Budget Submission](#). Jan 2024 sought 4.6% increase on *all funding delivered through the NLAP* (p.5).

⁴¹¹ NLAP Review, p. 235: ‘For the Commonwealth, the Reviewer estimates that for the funding proposed to be administered by AGD under A2JP, the cost in 2024-25 will be \$7.9 million for LACs, \$3.2 million for CLCs, \$2.6 million for ATSILS and \$1.0 million for FVPLS. The Commonwealth is likely to incur additional expenditure for those providers currently not administered by AGD, such as the Art Law CLC. The Reviewer does not have sufficient information to estimate budgetary impacts on states and territories.’

⁴¹² NLAP Review Report, pp.232-233.

Table 7: Comparison federal budget, NLAP Report Rec. 25 and requests by sectors

	Federal budget allocation ⁴¹³			NLAP Review Rec. 25 for 24-5 to reduce pay disparities with LACs ⁴¹⁴	Total amount requested by CLCA, NATSLS, NFVPLSF and NLA
	Indexation	Reduce pay disparities with LACs	Total		
CLCs	\$2.4m ⁴¹⁵	\$6.9m	\$9.3m	\$35m	\$125m for funding and workforce crisis ⁴¹⁶
ATSILS	\$3.7m	\$11.7m	\$15.4m	\$25m	\$229m ⁴¹⁷
FVPLS	Nil as NIAA not NLAP funded	\$8.6m	8.6m	\$6m	\$60m into core funding ⁴¹⁸
LACs	\$10.8m	N/A	\$10.8m	N/A	\$555.6m ⁴¹⁹
Total	\$16.9m	\$27.2m	\$44.1m⁴²⁰	\$66m	\$969.6m

Figure 20: NLAP Report Tables 12.1 and 12.2⁴²¹

Table 12.1 Urgent recommendations – estimated cost 2024-25

Recommendation	2024-25
Recommendation 11: Self-determination review	\$0.3 million
Recommendation 13: Aboriginal interpreters	<i>Not costed</i>
Recommendation 17: Rebasing community service providers (partial for ATSILS and FVPLS)	\$16 million
Recommendation 18: Rates of grants of legal aid	\$44.0 million
Recommendation 19: Independent Children’s Lawyers	\$84.0 million
Recommendation 24: Workforce strategy	\$5.0 million
Recommendation 25: Remuneration of community sector workers	\$66.0 million

⁴¹³ Commonwealth Attorney-General, *Investing in Access to Justice and Improving Community Safety* (Media Release, 14 May 2024); CLC Australia, *May 2024: Federal Budget Response* (online)

⁴¹⁴ Figures in Rec. 25 of the NLAP Report.

⁴¹⁵ CLC Australia noted that this does not include indexation for ... ‘additional funding delivered to legal assistance providers in 2021, including the vulnerable women’s funding package, funding for legal assistance services for people experiencing mental health problems and for mental health workers in Domestic Violence Units and Health Justice Partnerships, and funding for sexual harassment and employment discrimination services under the Respect@Work reforms.’

⁴¹⁶ CLC Australia, *May 2024: Federal Budget Response* (online); CLC Australia, *Federal Pre-Budget Submission, 22 Jan 2024.*

⁴¹⁷ NATSILS, Budget treats First Nations justice as an afterthought’ (Media Release, 15 May 24). <https://www.natsils.org.au/wp-content/uploads/2024/05/NATSILS-media-release-Budget-reaction-2.pdf>

⁴¹⁸ NFVPLSF, *Federal Pre-Budget Submission 2024-5*; NFVPLSF, *Peak Body Calls for Critical Funds from Federal Budget* (Media Release 13 May 24) https://nationalfvpls.org/wp-content/uploads/2024/05/NFVPLS-Media-Release_Peak-Body-Calls-For-Critical-Funds-From-Federal-Budget_May-2024.pdf

⁴¹⁹ National Legal Aid, *Pre-Budget Submission 2024-5*, Dec 2024, the total consists of: Retaining National Disability Legal Service: \$6.6m; Retaining Veterans Legal Service \$8m; FCFCOA reforms: \$17m; Expand family and civil grants of aid; increase means test, increase private practitioner fees: \$484m; ICL: \$40m

⁴²⁰ Federal Budget 2024-5, Budget Paper 2, Receipt and Payment Measures, (Online 14 May 2024) p. 51 https://budget.gov.au/content/bp2/download/bp2_02_receipt_payment.pdf

⁴²¹ NLAP Review Report, pp. 232-3.

Total funding required	\$215.3 million
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Table 12.2 Architecture recommendations – estimated cost 2024-25

Recommendation	2024-25
Recommendation 1: Legal needs survey	\$3.0 million
Recommendation 7: Women's peak funding	\$0.25 million
Recommendation 18: Grants restructuring review	\$0.3 million
Recommendation 29: Justice Technology Innovation Fund Board	\$0.5 million
Recommendation 31: Better reporting	Not costed
Recommendation 36: Outcomes Framework	\$0.5 million
Recommendation 37: Performance indicators	Not costed
Recommendation 39: Data systems	Not costed
Total funding required	\$4.6 million

25.4 Under estimation of wage gap in 4Rs areas

- Figures in the NLAP Report indicate at least 4,750 FTE staff nationally combined for CLCs (3,500), ATSILS (1,100) and FVPLS (150-200) (see Table 13 below). While LACs are the largest single legal assistance sector (Table 13), LAC lawyers are about 42% of the total number of legal assistance sector lawyers, and LAC non-lawyer staff are about 55% of total number of legal assistance sector non-lawyers. The breakdown of staff between metropolitan and 4Rs areas was not indicated, however this is relevant because the wage gap for workers in community-based legal assistance services (ATSILS, FVPLS and CLCs) in 4Rs areas is likely to be greater (see paras 4-6 below).

Table 8: Estimated current legal assistance sector roles across Australia (in Full Time Equivalent positions 'FTE')

	Sector	Total	Lawyers	Non-lawyers
1	Legal Aid Commissions	4,600 ⁴²²	1,750 (38%)	2,850 (62%)
2	Community Legal Centres	3,500 ⁴²³	1,800 (51%)	1,700 (49%)
3	Aboriginal and Torres Strait Islander Legal Services	1,100 ⁴²⁴	572 (52%)	528 (48%)
4	Family Violence Prevention Legal Services	150-200 ⁴²⁵	67.5 to 90 (45%)	82.5 to 110 (55%)
5	Total community based (CLCs, ATSILS, FVPLS)	4,750-4,800	2,439.6-2,462	2,310.5-2,338

⁴²² NLAP Review Report, p.154

⁴²³ NLAP Review Report, p.155 which was noted to be across 179 CLCs. The estimate of the number of Centres in the more recent CLCA, *State of the Sector Survey Report 2022-23: A Sector in Crisis Report* (Online, March 2024) p. 14 is 165. Also to note that the State of the Sector estimated 3087.6 FTE positions (p. 14) with 1537.4 (49.8%) in a legal role.

⁴²⁴ NLAP Review Report, p.155.

⁴²⁵ NLAP Review Report, p.155 estimated to be 55% non-legal workforce and about 45% legal.

	Total (1 + 5) NLAP Review Report	9,400 ⁴²⁶	4,190-4,212	5,161-5,188
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Table 9: Current FTE legal assistance roles by sector with percentages

	Community legal (CLC/ATSILS/ FVPLS)				Total	LAC % of total	% rounded	
	LACS	CLCs	ATSILS	FVPLS			LAC	Comm.
Lawyers	1,750	1,800	572	67.5 to 90	4,190-4,212	41.7% - 41.5%	42%	58%
Non-Lawyers	2,850	1,700	528	82.5 to 110	5,161-5,188	55.2% -54.9%	55%	45%
Total	4,600	3,500	1,100	150-200	9,400	48.9%	49%	51%

- The NLAP Report included tables comparing salaries for LAC, Prosecutions, ATSILS, FVPLS and CLC staff. For example, Table 8.7 in the NLAP Report (copy below): ⁴²⁷

Table 8.7 Legal Assistance Sector – Average salary range

Provider	Graduate/Junior Lawyer	Experienced Lawyer	Senior Lawyer (5-7 years)	Senior Lawyer (7+ years)	Principal Lawyer/Director
LACs	\$72,000-\$93,000	\$96,000-\$111,000	\$116,000-\$127,000	\$132,000-\$147,000	\$152,000-\$165,000
CLCs (SCHADS)	\$76,000-\$89,000	\$94,000-\$98,000	\$102,000-\$107,000	\$111,000-\$116,000	\$120,000-\$126,000
ATSILS	\$72,000-\$81,000	\$82,000-\$90,000	\$91,000-\$102,000	\$105,000-\$123,000	\$126,000-\$147,000

Source: ACIL Allen analysis of awards and a sample of job advertisements.

The NLAP Report estimates regarding salaries were:⁴²⁸

Sector	Salaries % below LAC counterparts
CLCs	15-20% below
ATSILS	Similar but wider gap to CLCs below
FVPLS	20-30% below

- While a more refined calculation would reflect the differences in wages and conditions (combined) compared to LACs, taken with the workforce figures (Table 14), the estimates mean that about 58% of lawyers and 45% of non-lawyers in the legal assistance workforce are underpaid. This is the percentage of lawyers and non-lawyers in the legal assistance workforce, working for ATSILS, FVPLS and CLCs).
- In relation to 4Rs areas, it is notable that Legal Aid WA finds that its base cost for lawyers in regional offices is on average 24% higher than the base cost for Perth based lawyers (screenshot below).⁴²⁹

⁴²⁶ NLAP Review Report, p.153 “Based on data gathered through submissions, the Review estimates the legal assistance workforce has approximately 9,400 FTE positions. This includes both legal professionals and non-legal workers. Around half of workers in the sector are employed by LACs. The remainder is split between CLCs, ATSILS and FVPLS”. The totals in this column on the table are 9,350-9,400.

⁴²⁷ NLAP Review Report, p.158.

⁴²⁸ NLAP Report, p.157.

⁴²⁹ Legal Aid WA, [NLAP Review Submission, October 2023](#), p.15.

Figure 21: Screen shot Legal Aid WA NLAP Review submission

The base cost to employ a lawyer in Perth at Specified Calling Level 2.4 is around \$175,000 including salary and overheads such as finance, IT and HR support. In 2022/23, it cost 24% more on average to employ a lawyer in one of our regional offices.

Table 5.1: Additional cost of employing a lawyer in WA regional office in 2022/23

Region	Additional Costs	Total Costs	Percentage
Broome	\$95,899	\$270,405	35%
Sth Hedland	\$94,333	\$268,319	54%
Karratha	\$126,953	\$301,459	73%
Geraldton	\$28,734	\$203,240	16%
Carnarvon	\$24,832	\$199,399	14%
Kununurra	\$68,509	\$243,015	39%
Kalgoorlie	\$37,265	\$211,771	21%
Albany	\$9,437	\$183,944	5%
Bunbury	\$21,336	\$195,842	12%
Total	\$507,298	\$2,077,394	24%

The additional costs for regional lawyers include District Allowances, Aircon Subsidies, Annual Leave Travel Concession, Government Regional Officer Housing (GROH) program payments, additional annual leave, re-location costs (\$10,000), travel costs for relief (based on 1 week) and an adjustment for office accommodation costs. This does not include travelling to outreach or circuit locations.

5. The estimates in the NLAP Review can also be compared with research by Community Legal Centres Queensland (CLCQ) published in November 2023,⁴³⁰ which found that:
 - wages for CLC workers in Queensland were on average 22% below Legal Aid Queensland and increased funding was required to close this gap, and
 - a further increase in funding was required:
 - for an additional 20% loading for the 160 FTE staff working in rural, regional and remote Queensland,⁴³¹ plus
 - cultural loading of \$5600 per worker for the estimated 60 First Nations staff.⁴³²

6. If the CLCQ estimate of a 42% gap for CLC workers in RRR areas (22% + 20%) holds true for comparable areas in other jurisdictions – the gap in wages and conditions for CLCs workers in 4Rs areas would be higher than the figures in the NLAP Review Report. Considering wage differentials, the figures would be higher still for ATSILS and highest for FVPLS.

7. The extent to which the \$27.2mill funding for the pay increase for CLCs, ATSILS and FVPLS in the May 2024 federal budget (outlined at 25.3 above) is likely to reduce the

⁴³⁰ CLC Australia, *Federal Pre-Budget Submission, Jan 2024*, p. 9 referring Community Legal Centres Qld, *Pre-budget Submission to the Queensland State Government, Nov 2023* ('CLC Qld').

⁴³¹ Ibid CLC Qld, p. 3.

⁴³² Ibid, p 4: cultural loading based on \$5,600 (includes allowance and 12% superannuation) for 60 First Nations Workers.

wage gap is unknown. Estimates should be made public by the Commonwealth including estimated impact on pay gaps in 4Rs areas by sector.

25.5 Wages and conditions LAC comparison tool needed

1. The NLAP Review Report did not outline indicative FVPLS, ATSILS and CLCs costings to move staff onto LAC equalised conditions. In any event, a tool is needed for community-based legal assistance services to estimate the amount required to move all staff onto LAC conditions like-for-like (including all applicable loadings and allowances for 4Rs locations).
2. The tool should be accompanied by a methodology to facilitate projections which include consideration of staffing profiles, estimated staff progression against pay scales and staffing levels. Support should be available to help complete the calculations including alternative scenarios needed by the services concerned.
3. If LAC conditions do not include cultural loading for First Nations workers, the relevant (agreed) figure should be included in the tool.

Rec 26 – HECS-HELP Forgiveness Scheme

Recommendation 26 – HECS-HELP Forgiveness Scheme

Commencing in 2025-26, the Australian Government should establish a HECS-HELP forgiveness scheme for rural, regional and remote community sector lawyers and those in private practice doing substantial legal assistance work, and should leverage the learnings of similar schemes currently administered for the medical and teaching workforces.

Under the assumption that HECS-HELP balances are only forgiven after 5-years of continuous service, the cost of the first cohort (commencing in 2026-27) will be realised in 2030-31, estimated to be \$6 million.

States and territories should fund an extension to the scheme to cover LAC lawyers working in regional areas to avoid distortions in the legal assistance labour market.

1. As outlined in the article reflected in the screen shot below, ⁴³³the proposal for HECS-HELP debt relief has strong resonance as a specific, practical measure to help alleviate pressing legal workforce issues in regional areas.

Figure 22: ABC North Coast News Report⁴³⁴

⁴³³ Elloise Farrow-Smith, 'Law associations call for student debt relief as regional, rural lawyer shortage worsens', 18 June 2024, ABC North Coast, [Online](#).

⁴³⁴ Ibid.

Law associations call for student debt relief as regional, rural lawyer shortage worsens

ABC North Coast / By Eloise Farrow-Smith

Posted Tue 18 Jun 2024 at 9:18am, updated Tue 18 Jun 2024 at 11:51am



Tracey Rendall says she is turning potential clients away because of a lack of lawyers at her firm. (ABC North Coast: Hayworth Ross)

- **In short:** Lawyers say a shortage of workers outside metropolitan areas is straining the court system and leaving people in need without help.
- They say people are representing themselves in court, which can double the average time it takes to hear a case and lead to people owing large amounts of money.
- **What's next?** There are calls for the government to relieve student debt for lawyers who work in regional and rural areas.

26.1 HECS-HELP forgiveness scheme supported; fine tuning needed

1. The establishment of a HECS-HELP forgiveness scheme for community legal sector lawyers in 4Rs areas, and lawyers in private practice in 4Rs areas undertaking substantial legal assistance work, is strongly supported. However, the details need to be resolved quickly in consultation with stakeholders including place-based community-owned 4Rs legal services.
2. The excellent work by the Law Council of Australia relating to student debt forgiveness should be fully considered and the Law Council should be centrally involved in consultations.⁴³⁵
3. The forgiveness of balances 'after 5-years of continuous service' proposed in Rec. 26 would be substantially harsher than the comparable medical scheme (screenshot

⁴³⁵ Law Council of Australia, [HELP debt reduction and indexation relief for legal practitioners working in rural, regional and remote locations, Position Paper](#), Dec 2023.

below). The medical scheme includes waiver of indexation on outstanding HELP debt amounts for the period the person resides, and completes eligible work, in rural, remote or very remote areas.⁴³⁶ This relates to a sliding scale which factors in the degree of remoteness and provides for steps of one-half and full forgiveness.⁴³⁷

Figure 23: Screenshot from *HELP Debt Reduction for Rural Doctors and Nurse Practitioners Fact Sheet*⁴³⁸

Partial elimination [50%] is available once half the required amount of time is completed.

Also, from 1 January 2022, doctors and nurse practitioners will be eligible for a **waiver of indexation** on outstanding HELP debts for the period they reside in and complete eligible work in a rural, remote or very remote area.

Table 1: example pathways to achieving Program milestones

Geographic location	Medical Practitioner [6 year degree]	Medical Practitioner [4 year degree]	Nurse Practitioner [2 year degree]	Outstanding HELP debt reduction
MM3-5	3 years	2 years	1 year	50%
MM3-5	6 years	4 years	2 years	100%
MM6-7	1.5 years	1 year	0.5 years	50%
MM6-7	3 years	2 years	1 year	100%

- On the other hand, an area where the medical scheme would be too restrictive, compared to the needed legal assistance scheme is the limitation of the medical scheme to locations MM3-7 of the Modified Monash Model (categories below).⁴³⁹ That is, development of the legal scheme should include consideration of hub / network operations for 4Rs areas, including drive-in-drive out, fly-in-fly out. For example, ATSILS, FVPLS or CLC staff based in Darwin or Townsville (MM2)⁴⁴⁰ undertaking substantial work in MM3-7 areas.

⁴³⁶ Ibid.

⁴³⁷ Department of Health and Aged Care, *HELP Debt Reduction for Rural Doctors and Nurse Practitioners, Fact Sheet* (Online, Sept, 2023) https://www.health.gov.au/sites/default/files/2023-09/fact-sheet-help-for-rural-doctors-and-nurse-practitioners_0.pdf ('Fact Sheet'); *HELP Debtor Guidelines (Health Practitioners) 2023* under the *Higher Education Support Act 2003* (Cth), Division 144 relates to 'Special measures for location preferred HELP debtor (health practitioner).

⁴³⁸ Ibid. Fact Sheet.

⁴³⁹ Department of Health and Aged Care, Modified Monash Model (Web Page, visited 11 June 2024) <https://www.health.gov.au/topics/rural-health-workforce/classifications/mmm>

⁴⁴⁰ Modified Monash Model locator tool is online at: <https://www.health.gov.au/resources/apps-and-tools/health-workforce-locator>

Table 10: Modified Monash Model⁴⁴¹

MM category	Inclusions
MM 1	Metropolitan areas: Major cities accounting for 70% of Australia’s population. All areas categorised ASGS-RA1.
MM 2	Regional centres: Areas categorised ASGS-RA 2 and ASGS-RA 3 that are in, or within 20km road distance, of a town with a population greater than 50,000.
MM 3	Large rural towns: Areas categorised ASGS-RA 2 and ASGS-RA 3 that are not in MM 2 and are in, or within 15km road distance, of a town with a population between 15,000 and 50,000.
MM 4	Medium rural towns: Areas categorised ASGS-RA 2 and ASGS-RA 3 that are not in MM 2 or MM 3 and are in, or within 10km road distance, of a town with a population between 5,000 and 15,000.
MM 5	Small rural towns: All other areas in ASGS-RA 2 and 3.
MM 6	Remote communities: All areas categorised ASGS-RA 4 and islands that are separated from the mainland in the ABS geography and are less than 5km offshore. Islands that have an MM 5 classification with a population of less than 1,000 without bridges to the mainland (2019 Modified Monash Model classification only).
MM 7	Very remote communities: All other areas that are categorised ASGS-RA 5 and populated islands separated from the mainland in the ABS geography that are more than 5km offshore.

5. The legal scheme should also address non-continuous periods of employment e.g. for family responsibilities, absences due to health and compassionate reasons.

26.2 HECS-HELP forgiveness: all 4Rs community legal staff, all HECS-HELP debts

1. In relation to community-based legal assistance services in 4Rs areas, targeting HECS-HELP forgiveness only to lawyers would be insufficient to address staff shortages in service areas. Additionally, a wide range of qualifications are relevant, and in the case of lawyers - non-law qualifications (such as a double degree, or further study) - are generally positive.
2. Consequently, it is proposed that HECS-HELP forgiveness for 4Rs areas should apply to all staff of community-based legal assistance services and to all HECS-HELP of this cohort (not limited to law, not limited to one tertiary qualification and not limited to qualifications that are completed).

26.3 HECS-HELP forgiveness and LAC staff lawyers in 4Rs areas

1. The inclusion of LAC staff lawyers in 4Rs areas in HECS-HELP forgiveness is also supported as part of the general need for more lawyers providing legal assistance in 4Rs areas. The basis of the proposal in Rec. 26 that the States and Territories fund extension of the HECS-HELP forgiveness scheme to LAC lawyers working in regional areas, is not explained in the Review Report. As the proposed scheme involved HECS-

⁴⁴¹ Department of Health and Aged Care, Modified Monash Model (Web Page, visited 11 June 2024)
<https://www.health.gov.au/topics/rural-health-workforce/classifications/mmm>

HELP forgiveness by the Commonwealth, State and Territory funding involvement seems unnecessary.

24.4 Other initiatives related to education

1. HECS-HELP forgiveness was the only education related strategy in the NLAP Review. However, the submission by the 4Rs Network raised a range of education issues. These are outlined in the response to Rec.24 Workforce Strategy (above).

Rec 27 – Use of baseline funding

Recommendation 27 – Use of baseline funding

The Reviewer considers current interpretations restricting baseline funding to the provision of legal services inhibits service provider flexibility and the development of holistic wrap-around services. The Reviewer recommends that the A2JP make clear that funding provided under it may be used in pursuit of all of its outcomes and is not limited to the employment of lawyers and their direct support staff. Such a provision should be included in service contracts.

27.1 Support for reducing restrictions on ways baseline funding is used

1. Rec. 27 relates to how baseline funding can be utilized, proposing that it be made clear that lawyers and non-lawyers can be engaged with baseline funding and baseline funding can be used for wraparound services. Rec. 27 is supported.

27.2 Definition of ‘baseline’ funding needed

1. The term ‘baseline’ is used in the NLAP to refer to Commonwealth ‘baseline’ funding to LACs, ATSILS and CLCs, referring to named amounts. However, the term ‘baseline’ is not defined (NLAP including Cl.98 Interpretation).
2. The NLAP Review Report refers to ‘rebasings’ as funding being realigned to the level/amount of funding needed for sustainable service provision in the service’s operating context. While the Review Report does not define ‘baseline’, the Report envisages substantial additional contributions which go into baselines. For example, NLAP Review Rec. 24 – *Remuneration of community legal assistance workers* recommends that the Commonwealth funding to bring CLC, ATSILS and FVPLS up to LAC equivalence should be ‘embedded in baseline funding going forward’.
3. As outlined above, especially in response to Rec. 15 – *Reduction of fragmentation* and Rec. 17 – *Rebasing community legal service providers*, it is important to ensure that program funds, which need to remain identifiable for specific reasons, are not included in baselines *in a way* which would impinge on this aspect. This does not mean that the funds should not be in baselines, the issue is how funds for specific

purposes are identified in baselines.

4. It would be useful for the Commonwealth, States, Territories and sector peaks to collaborate to achieve a definition of 'baseline' which clarifies the meaning and helps:
 - maximise recurrent funding
 - reduce administrative burdens, and
 - achieve objectives about funding conditions including the identifiability and adequacy of funding amounts related to certain purposes.

Rec 28 – Advocacy and law reform

Recommendation 28 – Advocacy and law reform

The Reviewer accepts that strategic advocacy and law reform activities that seek to identify and remedy systemic issues, and so improve access to justice and reduce demand for frontline services. This work should be recognised and encouraged as core work for the sector.

As such, the Reviewer recommends that the A2JP primary agreement explicitly acknowledge the importance of advocacy and law reform in the work undertaken by all legal assistance providers covered by the A2JP and that this inform the establishment of baseline funding recognising the different levels and types of work undertaken by different providers.

Governments should consider how pooled funding arrangements might be put in place in smaller jurisdiction to support existing collaboration by legal assistance providers to undertake this work.

28.1 Strategic advocacy and law reform as core work: supported

1. It is agreed, and strongly supported, that strategic advocacy and law reform should be recognised and encouraged as core work for legal assistance sectors.
2. Strategic advocacy and law reform relating to 4Rs areas is also relevant to whether and how the next NLAP addresses structural issues regarding access to legal assistance, access to justice, and rights inclusion and wellbeing – of those in 4Rs areas. These aspects are outlined in Parts I, II and III in **The Backgrounder**.
3. Resources for strategic advocacy and reform work by legal service network peaks is also supported (NATSILS, FNAAFV, CLCA) and for legal issues peaks such as Economic Justice Australia and service peaks such as Women's Legal Services Australia (Rec. 7).

28.2 Funding for sector advocacy in under-resourced jurisdictions

1. Funding, or increased funding, is needed for community-based legal assistance sector strategic input and advocacy in jurisdictions which lack sufficient resources for this purpose. This includes input in relation to law reform and undertaking projects.

2. The relevant arrangements are likely to be different between jurisdictions and should be decided upon by the community-based legal service sectors concerned. Where a sector has one provider in a jurisdiction (such as NAAJA as the only ATSILS in the NT) that organisation should also receive sufficient funding for advocacy, law reform and related projects.
3. All jurisdictions have multiple CLCs, and as outlined above at 2.4.4 para 9, those jurisdictions with insufficient funds, should receive funding to facilitate combined advocacy, law reform and projects enabling establishment of properly funded staff positions. This would also facilitate additional participation in advocacy, law reform and projects via peaks and networks.
4. In jurisdictions with more than one FVPLS, there should be funding for combined advocacy, law reform and projects by these FVPLS, and in jurisdictions with one FVPLS there should be sufficient funding to the FVPLS for this.
5. The above also reflects that the smaller jurisdictions of the Northern Territory, South Australia and Tasmania have highly underserved geographic areas, and substantially less access to support such as that provided by the Victorian Law Foundation, the NSW Law and Justice Foundation, and philanthropic collaborations.

28.3 Advocacy by Indigenous women's legal services

1. The First Nations Women's Legal Service Queensland ('FNWLSQ') outlined funding needs to increase research and advocacy. This aspect should be included in rebasing the FNWLSQ and Wirringa Baiya Aboriginal Women's Legal Centre being the two ACCO women's legal services in Australia.
2. Input from these services about resources for additional collaborative advocacy should also be sought.
3. For related discussion see Rec. 7 – Women's funding stream especially: 7.3 – *Additional funding for Women's Legal Services Australia* response at 7.4 – *Aboriginal and Torres Strait Islander Women's Legal Services* and 7.5 – *Aboriginal and Torres Strait Islander Women's Network*.

28.4 Funding for 4Rs advocacy and law reform

1. The 4Rs Network submission to the NLAP Review noted ways in which legal needs in the 4Rs and impacts of policy and legislative changes in 4Rs areas, are often not reflected. The submission called for ways of increasing responsiveness to 4Rs areas, including facilitating advocacy and mutual support by 4Rs community-based legal

services.

2. The submission called for establishment of a National 4Rs Access to Justice Strategy and Action Plan, reconceptualising the NLAP to achieve responsiveness and accountability to 4Rs, federal portfolio consideration and funding responsibility for legislative and policy impacts on 4Rs legal needs, as well as:
 - funds for services in the 4Rs Network to meet – by holding a conference, and
 - funds for the 4Rs Network to operate, including staff positions.
3. These recommendations by the 4Rs Network (which are outlined in **The Backgrounder** at Part I, II and III) were not discussed in the Review Report, however all still apply.

Rec 29 – Technology funding

Recommendation 29 – Technology funding

The Reviewer recommends the Commonwealth establish a Justice Technology Innovation Fund to:

- fund the development, trial and evaluation of technological solutions and digital tools for the legal assistance sector, including the application of artificial intelligence technologies
- consider opportunities for expanding the deployment of digital tools across all jurisdictions that have been successfully evaluated
- explore technology partnerships between legal assistance providers, governments and other community organisation.

The Fund should be governed by a Board comprising of no less than six people and no more than ten people. The Board ~~must at all times~~ be able to demonstrate the following skills are present.

- an understanding of the use of technology by people within the priority groups
- an understanding of the provision of legal assistance services in Australia
- an understanding of the deployment of technology to community-based organisations, and in particular ACCOs
- assessment, risk management and governance of high risk grant programs
- venture capital and start-ups
- cyber security
- ethical issues including those related to the law and the application of technology
- application of technology to the resolution of disputes
- the training of workers in the use of legal technology systems
- Aboriginal and Torres Strait Islander data sovereignty and self-determination

The Commonwealth should provide initial funding of \$5 million in 2025-26 with supporting contributions to be made by all governments and other parties over the life of the A2JP.

The fund may accept funding from non-government sources subject to the approval of the Commonwealth Attorney General who should publish guidelines for such contributions alongside and investment guideline for the fund no later than 30 June 2025.

Initial annual funding of \$0.5 million be provided in 2024-25 and 2025-26 by the Commonwealth to meet these governance objectives and to recruit the Board. Remuneration of directors should be determined by the Remuneration Tribunal. The remuneration of the Board and the other expenses of the fund should be funded by the Commonwealth.

29.1 Rec 29 supported: but First Nations and 4Rs inclusion required

1. Rec. 29 regarding establishment of a Justice Technology Innovation Fund is supported, however larger funding allocations would also be supported especially for concentrated collaborations relating to priorities, including 4Rs areas.
2. The Fund and its governance should also be structured, framed and resourced to:
 - Enable ACCOs and First Nations people to lead in relation to the needs and responses to First Nations people (Closing the Gap Target 17)⁴⁴² and include directions from the work of the First Nations Digital Inclusion Advisory Group.⁴⁴³
 - Ensure responsiveness, inclusion and suitability for 4Rs areas.
3. In relation to each of these, context such as that highlighted by Economic Justice Australia in the recent submission regarding the First Nations Digital Inclusion Roadmap should be reflected, this includes:
 - Levels of access to wifi / internet
 - Digital logistics including practicalities of access to online accounts
 - Community user characteristics including factors in digital literacy and capabilities⁴⁴⁴
4. The Fund should be accompanied by guiding principles about advancing the following:
 - Human rights-centre design and deployment of new and emerging technologies.⁴⁴⁵

⁴⁴² Closing the Gap [Target 17](#): Outcome: 'Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision-making regarding their own lives;' Target 17: By 2026, Aboriginal and Torres Strait Islander people have equal levels of digital inclusion.'

⁴⁴³ First Nations Digital Inclusion Advisory Group (Website): <https://www.digitalinclusion.gov.au/digital-inclusion-and-target-17>

⁴⁴⁴ Economic Justice Australia, Submission to First Nations Digital Inclusion Advisory Group consultation regarding First Nations Digital Inclusion Roadmap, 17 July 2024 ([Online](#)); Consultation web site: <https://www.infrastructure.gov.au/have-your-say/roadmap-first-nations-digital-inclusion>

⁴⁴⁵ Accords with recommendations by the Australian Human Rights Commission for example: Human Rights Commission, Human Rights in the Digital Age: Additional Material Submitted to the UN Global Digital Compact, Submission to the United Nations' Office of the Secretary-General's Envoy on Technology 30 April

- Closing the Gap.⁴⁴⁶
- Face-to-face legal assistance service delivery, including wrap around assistance, in 4Rs areas reflecting the needs of clients and communities and patterns of digital access and inclusion.⁴⁴⁷
- 4Rs geographically inclusive and empowering approach for all NLAP priority groups and priority areas.⁴⁴⁸
- Legal workforce needs, especially relating to legal assistance services in 4Rs areas,⁴⁴⁹including Northern Australia.⁴⁵⁰

Rec. 30 – Term of A2JP

Recommendation 30 – Term of A2JP

Despite the benefits of a longer agreement, given the scope of the reform challenge proposed by the Reviewer, the A2JP should have a five-year term commencing 1 July 2025.

The costs and benefits of a longer term should be considered by the next review.

The Reviewer recommends that the term of future service provider funding agreements should match the term of the A2JP. In particular, short duration core funding agreements for FVPLS and some CLCs must be replaced by five-year agreements commencing 1 July 2025.

2023 ([Online](#)); Australian Human Rights Commission, *Human Rights and Technology Project Final Report* May 2021 ([Online](#)).

⁴⁴⁶ All outcome areas including Target 17.

⁴⁴⁷ Amber Marshall, 'A new rural digital divide? Taking stock of geographical digital inclusion in Australia. *Media International Australia*', (2024) 190(1) 68-84 ([Open access](#)); Julian Thomas, Anthony McCosker, Sharon Parkinson et.al, *Measuring Australia's Digital Divide: Australian Digital Inclusion Index: 2023* (ARC Centre of Excellence for Automated Decision-Making and Society, RMIT University, Swinburne University of Technology, and Telstra) ([Online](#)); Australian Digital Inclusion Index, First Nations Dashboard ([Online](#)), 2023; Daniel Featherstone, Julian Thomas et.al., Mapping the digital divide: Measuring Digital Inclusion and Media Use in Remote Aboriginal and Torres Strait Islander Communities 2021-24: Wadeye, NT Community Outcomes Report 2022 (ARC Centre of Excellence for Automated Decision-Making and Society, 12 July 2023, [Online](#)).

⁴⁴⁸ Having regard to the Report of the Regional Telecommunications Review, due to be completed by 31 December 2024 ([Online](#)); NLAP priority groups were discussed by the NLAP Review Report leading to Rec. 8, priority areas include financial disadvantage, areas of law related to personal safety, economic rights, housing, due process, liberty and others.

⁴⁴⁹ Addressed in this submission especially in response to NLAP Review Rec. 24 – Workforce Strategy.

⁴⁵⁰ Northern Australia is defined in s.5 of the Northern Australia Infrastructure Facility Act 2016 (Cth), s.5 definition of Northern Australia, discussed in **The Backgrounder** at II.III *4Rs proficient collaboration and connectivity*.

30.1 – Term of the next NLAP should avoid dislocation in 4Rs

1. ‘Subject to funding’ employment contracts are common among community-based legal assistance sectors, and longer funding periods are highly desirable for workforce objectives and service planning.
2. A principle of maximising service continuity, and minimising funding uncertainty, especially in 4Rs areas, should be applied to the length of the next NLAP.
3. If the rebasing and step phases proposed in the Review Report were to take some years, funding uncertainty may apply to a substantial part of a 5-year NLAP. Additionally, as the focus the next NLAP starts at least two years out, the whole period of the next NLAP could involve uncertainty.
4. The proposal to apply rebase, step, trend and pass through to the next NLAP is supported.⁴⁵¹ This should make the funding context substantially more responsive and realistic with positive adjustments over the period. These factors support a longer term for the next NLAP.
5. The proposal in Rec. 30 to ensure funding agreements which are less than the term of the NLAP be brought up to the term, is supported.

Rec 31 – Better coordination and reporting by the Commonwealth

Recommendation 31 – Better coordination and reporting of legal assistance funding by the Commonwealth

The Reviewer considers that there would be significant transparency improvements and administrative efficiencies gained from the consolidation of Commonwealth legal assistance funding administration in the Attorney-General’s Department. To this end

- administrative arrangements should be put in place to ensure funding from non-AGD Commonwealth sources is provided through AGD with appropriate monitoring arrangements designed to minimise the number of service provider compliance engagements and contact points
- AGD should maintain an appropriate data set on all Commonwealth legal assistance funding to facilitate the publication of an annual Legal Assistance Funding Statement with the Budget Papers
- AGD should make public a consolidated database of all Commonwealth, State and Territory funding provided to legal assistance providers covered by the A2JP.

⁴⁵¹ NLAP Review Report at 7.1, p. 133 and following.

31.1 Better coordination and reporting support intended outcomes

1. The thrust of Rec. 31 about the need for better coordination and reporting relating to legal assistance funding by the Commonwealth is supported including the objectives of
 - improving monitoring
 - minimising the number of service provider compliance engagements and contact points
 - achieving Commonwealth reporting against an appropriate data set, and
 - achieving a publicly available consolidated data base of all Commonwealth, State and Territory funding to service providers covered by NLAP.
3. Whether this requires all federal funding from non-AGD sources to be provided through ADG (per Rec. 31) should be evaluated in more detail to assess whether the proposed centralisation is required to achieve the objectives and any potentially adverse effects on specific programs and priority groups. For example, situations where current non-AGD program arrangements reflect expertise / capabilities in relation to the program, subject matter and/or the funding recipients including their geographic contexts.
4. Additionally, the 4Rs submission to the NLAP Review highlighted that there are many examples of portfolio areas whose activities relate to community legal needs, which are not showing responsibility for portfolio area access to justice impacts. How this problem and dynamic would be affected by AGD centralisation should be considered. For example, which portfolio area is responsible for access to social security legal help, including in 4Rs areas? As the historical transfer of funding for social security legal help from the Department of Social Security to AGD ultimately resulted in these funds being homogenised and becoming non-identifiable, it is hard to see a positive in how this has worked out for accountability for proper levels of access to social security legal help including in 4Rs areas.

31.2 Better coordination and reporting for priorities including 4Rs areas

1. Better coordination and reporting by the Commonwealth should address all priority groups and issues relating to the next NLAP. This includes coordination and reporting relevant to Closing the Gap priorities. It should also include priorities relating to access to legal assistance in 4Rs areas, areas of law and wraparound services.
2. Monitoring arrangements should be adequate for effective monitoring and evaluation to occur. This includes monitoring levels of Commonwealth, State and Territory funding contributions and the adequacy for the intended purposes. Monitoring should be able to help answer questions such as:

- Whether funding provided by the Commonwealth for access to social security legal assistance, is sufficient, including in 4Rs areas, and
 - Whether funding provided from all sources for access to legal assistance to promote the safety and wellbeing of women and children is sufficient, including in 4Rs areas.
3. AGD should publish a consolidated database of all Commonwealth, State and Territory funding provided to legal assistance providers covered by the next NLAP which is continually available and updated at least quarterly.

Rec 32 – Improved Commonwealth involvement

Recommendation 32 – Improved Commonwealth involvement

At the Commonwealth level, overarching guidelines must be established, setting a standard framework within which state and territory governments are to operate. These should be reflected in the Outcomes Framework and other A2JP documentation. The Commonwealth must play a leading co-ordinating role, providing clarity and certainty around roles and responsibilities.

To address widespread concerns of community legal sector providers about the absence of Commonwealth involvement and administrative challenges experienced with some with state and territory administrative arrangements, the Commonwealth, through AGD, should be a party to future funding deeds.

Peaks, the Commonwealth, state and territory governments should build on existing agreements to develop proforma service agreements for each of the four service provider types within the relevant jurisdiction.

32.1 Improved Commonwealth involvement and 4Rs

1. Resolving difficulties in and with States and Territories where these have been experienced, is supported. It is noted that the arrangements which have pertained have occurred at the same time as gross underfunding of access to legal assistance, including and especially in 4Rs areas.
2. The expertise and resources of the Commonwealth, State and Territory processes to fully reflect and support Closing the Gap priorities, and all priorities under NLAP, including all priority groups, policy and program priorities in 4Rs areas, should be promoted and ensured by revised arrangements.
3. The revised arrangements should demonstrate accountability to 4Rs communities and regions, including maximising responsiveness to 4Rs contexts. This reiterates a theme in the 4Rs submission to the NLAP Review that NLAP has not delivered horizontal

accountability to 4Rs, it has instead mainly focused on vertical lines between levels of government.

Rec 33 – LACs not to administer funding

Recommendation 33 – LACs not to administer funding

The Reviewer recommends that states and territories departments should be responsible for the administration of funding provided by the Commonwealth for ATSILS, LACs and CLCs. The ability to delegate to government agencies other than the relevant policy department the responsibility for the administration of Commonwealth funding to a legal assistance providers should not be a feature of the A2JP.

33.1 LACS not to administer funding: agreed

1. The recommendation that LACs do not administer funding is agreed.
2. Funding administration should be sufficiently resourced and attuned for effectiveness in relation to 4Rs areas.

Rec 34 - Cth money for Cth matters

Recommendation 34 – Commonwealth money for Commonwealth matters

The principle of 'Commonwealth money for Commonwealth matters' for the use of monies provided to LACs as set out line clause 63 of NLAP should not be continued in the A2JP wherever a state or territory gives an explicit commitment to provide funding over the life of the A2JP.

This increased flexibility will enable LACs to more effectively address emerging complex issues, including those associated with the cost of living such as mortgage and financial stress, tenancy and homelessness

34.1 Two senses of 'Cth money for Cth matters'

1. This section relates to LAC use of Commonwealth funds as relevant to Rec. 34. This is one of two senses in which the term 'Commonwealth money for Commonwealth matters' is used. The second sense, which relates to the broader issue of the basis of Commonwealth, State and Territory funding responsibilities, is discussed in response to Rec. 34 – *Sharing the funding task*.

34.1.1 Use of money provided to LACs

1. The discussion in the Review Report regarding Rec. 34 about 'Commonwealth money for Commonwealth matters' outlines the current Commonwealth requirement that

restrict LACs use of Commonwealth funds for Commonwealth matters. This relates to clause 63 of the NLAP which provides:

63. Commonwealth baseline funding for Legal Aid Commissions will be used for Commonwealth law matters only, except:

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

2. The Commonwealth can provide additional funding at the Commonwealth's discretion (cl 5). Such funding can be provided under a bilateral schedule to NLAP or outside the NLAP.

3. Cl. 63 is accompanied by insufficiency of Commonwealth funding to LACs in multiple respects including insufficient:

- Commonwealth baseline funding
- Commonwealth additional funding
- Commonwealth funding for access to legal assistance for Commonwealth priorities, including priority groups and areas of law (NLAP cl.60(c) and NLAP Schedule A)
- Commonwealth funding for safety nets, such as considering the capacity of each jurisdiction to contribute.

4. The submission to the NLAP Review by NTLAC outlined the effect in relation to NTLAC funding:

Legal Aid NT grants of legal aid for NT law representation matters must be funded by Northern Territory funding. For NAAJA, NT law representation matters are funded with Commonwealth funding.

Legal Aid NT's high, and growing proportion of Aboriginal and Torres Strait Islander clients because of NAAJA conflict, combined with a relatively small budget for NT law matters, means that the NLAP model is not sustainable for Legal Aid NT.⁴⁵²

5. This example highlights how funding levels and funding arrangements which sit behind cl. 63 are compounded by its operation.

⁴⁵² NT Legal Aid, *Submission to the NLAP Review*, 25 Oct 2023, p.5, a further example related to Mental Health Tribunal matters and civil law matters at pp. 22-23.

6. The reasons given by the Review Report for ceasing cl.63 of the NLAP were summarised as follows:

The Reviewer considers the principle of ‘Commonwealth money for Commonwealth matters’ should be abandoned because:

- it is a legal fiction
- it is antithetical to delivering integrated, client-focused wraparound services
- there is no legal or policy reason why this principle should apply to LACs, but not other legal assistance providers funded by the Commonwealth
- it is currently observed in the breach with Commonwealth money provided to LACs regularly used in state and territory matters in a family breakdown context
- it unnecessarily adds administrative and reporting complexity for LACs, with no apparent policy or client benefit.⁴⁵³

7. However, the Review proposed that lifting the restriction in cl 63 should only relate to jurisdictions which made acceptable funding commitments for the next NLAP. That is, the Review Report stated:

If the Commonwealth was confident of the states and territories providing funding for legal assistance providers that met governments’ joint desired outcomes, then the protection this principle provides would be unnecessary

To get to this point would involve governments receiving mutual assurances, through A2JP, that their (hopefully common) specified policy outcomes for criminal, civil, family, and administrative law will be delivered by LACs and other legal assistance providers. Governments would make mutual commitments to provide annual funding in accordance with the agreement. NLAP provides the Commonwealth with no such assurances.

If the Commonwealth cannot gain a commitment from a state or territory to provide funding as agreed over the life of A2JP, regrettably the Commonwealth should continue to apply this principle to its funding for that state or territory in the same way as it currently does also proposed that the restriction should continue.⁴⁵⁴

8. That is, the Reviewer does not recommend the removal of cl. 63 as a matter of principle regardless of the amounts or details of Commonwealth, State and Territory funding. This larger issue, about the impacts on the needs that legal assistance funding by the Commonwealth, States and Territories are intended to address - including needs and unmet needs in 4Rs areas – is at stake. The need for adequate funding on access to legal assistance in the NT, and other jurisdictions with a high ratio

⁴⁵³ NLAP Review Report, p. 210.

⁴⁵⁴ NLAP Review Report, p. 210.

of unmet legal need in 4Rs areas, should be the guiding concern.

9. As outlined below at 35.4.2 – *Adequacy of shared funding approach by Cth, States and Territories*, the treatment of ‘Commonwealth money for Commonwealth matters’ should be first approached by resolving funding levels – starting with the full amount needed, and how each jurisdiction (such as the Commonwealth and NT, in the NT example above) will contribute.

34.1.2 Funding responsibilities between the Cth, States and Territories

1. The limitation about *LAC use of Commonwealth funds*, is one of two senses in which Commonwealth funds for Commonwealth matters is relevant.
2. The second sense, which relates to *funding responsibilities* between the Commonwealth and the States and Territories, is discussed below in response to Rec. 35 – *Sharing the funding task*. As outlined at 35.4.2, the discussion in the NLAP Review Report about the principles which should apply, point to some of the reasons why jurisdictional responsibility for certain matters can be important. However, safety nets are also needed to ensure objectives are met.

Rec 35 – Sharing the funding task

Recommendation 35 – Sharing the funding task

Outside those service providers to be directly funded by the Commonwealth (FVPLS and those CLCs currently funded by the Commonwealth outside NLAP) the Commonwealth and each state and territory should agree and commit to minimum funding contributions over the life of the A2JP. The minimum amounts to be funded by each government in respect of each state and territory should be specified in a bilateral schedule to the A2JP bearing in mind the timing issues discussed in chapter 12.

Funding from the Commonwealth to the states and territories for the administration of NLAP should not continue in the A2JP with all governments adequately funding their own administrations in recognition of the fiscal benefits that they receive from the provision of legal assistance as discussed in section 3.2 of this Report. These resources are more appropriately devoted to funding legal assistance providers.

35.1 Sharing the funding task

1. Rec. 35, that the Commonwealth and each state and territory commit to funding contributions which do not to fall below agreed minimums over the life of the A2JP, is supported. The minimums should aim to ensure coverage of actual service operating costs, levels of legal need, and geographic access, including in 4Rs areas.
2. The minimums should be set in a way which focuses on transparency and accountability for objectives and intended impacts. The mechanism should enable

funding sufficiency to be gauged, and adjusted responsively, over time.

3. The approach to specifying minimums should enable Commonwealth, State and Territory responsibility for specific agreed matters. For example, that the Commonwealth contribution should be a specified minimum fraction relating to certain groups, legal assistance sectors, legal needs, geographic areas and areas of law. The approach should be functionally suited to ensuring sufficient funds for access to legal assistance by First Nations people and other priority groups including people in 4Rs areas (discussed further at 35.4 – Cth and State/Territory funding responsibilities).

35.2 FVPLS and CLCs directly funded by the Cth

1. The Review Report recommended that ‘the Commonwealth should remain sole funder of FVLPS’,⁴⁵⁵ and of the CLCs the Commonwealth currently solely funds including the Arts Law Centre and the Environmental Defenders Office.⁴⁵⁶ As the Commonwealth is not the sole funder of all FVPLS,⁴⁵⁷ the Arts Law Centre or the EDO, - if it was intended to express that that Commonwealth funding should not be reduced, where funding is also provided by States or Territories, or other sources, this would be strongly supported to help increase funding.
2. In relation to FVPLS, the Productivity Commission recommended in 2014 that ‘state and territory governments should also contribute to the funding of services provided by ATSILS and FVPLS’.⁴⁵⁸ The Review Report continued this general theme, making strong recommendations that this should occur in relation to ATSILS.⁴⁵⁹ The reasons advanced include those like the conclusions by the Productivity Commission in 2014 that:

“as a consequence, state and territory governments have little incentive to consider how their policies impact on the demand for the services of these two legal assistance providers (FVPLS and ATSILS).”⁴⁶⁰
3. The implementation by States and Territories of Closing the Gap compliant commissioning guidelines is likely to increase State and Territory funding allocations

⁴⁵⁵ NLAP Review Report, p. 207.

⁴⁵⁶ Ibid.

⁴⁵⁷ For example: Djirra Annual Report, 2022-3 Djirra, [Financial Report 2022/3](#) (Online) p.13; QIFVLS [Annual Financial Statement 2023](#) (Online), p.16; Aboriginal Family Legal Service WA, [Annual Financial Report 2023](#) (Online), p.18.

⁴⁵⁸ Productivity Commission, [Access to Justice Arrangements, Productivity Commission Inquiry Report Vol 1](#), No 72, 5 Sept 2014, p. 29.

⁴⁵⁹ NLAP Review Report, pp. 207-208.

⁴⁶⁰ Aboriginal Family Legal Service WA, [Submission to the NLAP Review, Oct 2023](#) p. 9-10 quoting the Productivity Commission Report at p. 29.

to FVPLS⁴⁶¹ reflecting the specialist nature of these services provided by and for First Nations people and the importance in these jurisdictional contexts including for First Nations people and communities in 4Rs areas.⁴⁶²

4. Governments should make an affirmative commitment regarding FVPLS funding, especially relating to 4Rs areas.

35.3 States and Territories fund their NLAP admin. costs in A2JP

1. It is agreed, as stated in Rec. 35, that NLAP administration costs should not reduce funding available for legal assistance.
2. Most jurisdictions are likely to have the capacity to absorb these costs. However, jurisdictions such as the NT, TAS and SA may struggle with the risk of negative effects on NLAP administration impacting services. including those in and for 4Rs areas. Consequently, the Commonwealth should provide funding to jurisdictions as needed to ensure capacity for NLAP administration.

35.4 Cth and State/Territory funding responsibilities

1. The Commonwealth, States and Territories should look to other examples of constructive fiscal collaboration to help overcome the problematic dynamics which have affected NLAP and related legal assistance funding arrangements.
2. That is, to overcome the problematic dynamics which have diverted focus on ensuring the resources and directions required for full access to legal assistance and positive outcomes and impacts.

35.4.1 Cth /State & Territory matters and statistical collection

1. It is noted that the question of the funding sources (Commonwealth and/or State/Territory) and funding amounts, are unrelated to the collection of statistics.
2. Statistical collection includes recording whether the assistance relates to Commonwealth law or State/Territory law ('primary law type').⁴⁶³ These statistics, combined with the collection of 'problem type',⁴⁶⁴ aim to enable services, sectors, governments and stakeholders, to monitor and estimate how funds are being used.

⁴⁶¹ Outlined in response to Rec. 11 – *Self-determination in existing services*, at 11.5 above

⁴⁶² See the National Family Violence Prevention Legal Service Forum, [Submission to the NLAP Review, Oct 2023](#) pp. 10-11; Aboriginal Family Legal Service WA, [Submission to the NLAP Review, Oct 2023](#) especially at pp. 5 & 12.

⁴⁶³ Commonwealth Attorney-General's Department, [National Legal Assistance Data Standards Manual \(Version 3\) - 1 July 2021](#), pp. 20, 28 and 37.

⁴⁶⁴ *Ibid*, p. 20, 28, 38 and 41.

Service statistics should also help shed some light when considering the adequacy of funding compared to levels of legal need. For example, by priority group and area of law (e.g. geographic access to social security legal assistance).

3. It is also important to note that there is a difference between service providers highlighting, on the one hand, that many client matters involve a mix of federal and state/territory law and funding arrangements must not intrude on the client's need for holistic assistance – and, on the other - the issue of how, as between the Commonwealth, States and Territories, *funding contributions should be determined*.

35.4.2 Adequacy of shared funding approach by Cth, States and Territories

1. Unfortunately, as outlined in the Law Council's submission, the notion of Commonwealth funds for Commonwealth matters has a tarnished reputation.⁴⁶⁵ This is due to the Commonwealth advancing this framework from 1996 to reduce Commonwealth LAC expenditure.⁴⁶⁶ Perversely, this model was not a Commonwealth commitment to ensure access to legal assistance relating to federal law or federal priority groups, rather it asserted Commonwealth discretion. While the Commonwealth was reducing its funding, and not ensuring access to legal assistance for matters under Commonwealth law, the Commonwealth argued that the States and Territories were not meeting their responsibility for funding legal assistance for matters under State and Territory law.
2. This Commonwealth approach was a central aspect in a highly problematic dynamic, which failed to foreground accountability for access to legal assistance and the needs of priority groups including in 4Rs areas.
3. An alternative, *progressive* approach to 'Commonwealth funds for Commonwealth matters', where 'matters' included priority groups and Commonwealth policy priorities – could have played out differently. That is, by substantially increasing Commonwealth contributions, providing a strong example, progressive leadership, and promoting collaboration with the States and Territories.
4. Research by PwC commissioned by the Law Council indicated changes in LAC funding on a real per capita basis since 1996-7 have effectively reversed the proportion of federal and state/territory contributions compared to 1996-7:

⁴⁶⁵ Law Council of Australia, *Submission to the NLAP Review*, Oct 2023 ([Online](#)) 14.

⁴⁶⁶ Statement by Attorney-General Daryll Williams 'Law and Justice for All Australian's 1996-7 budget' 20 August 1996, which outlined issues with federal funding of LACs ([Online](#)); NLAP Review Report, p. 19.

Table 11: PwC figures about real per capita changes in Commonwealth, State/Territory contributions to Legal Aid Commission funding 1996/7 compared to 2023/4⁴⁶⁷

	1996-7	2023-4
Cth	\$13.95	\$11.03 ⁴⁶⁸
States/Territories	\$7.98	\$24.27

5. While LAC funding is only one part of federal contributions to legal assistance sectors, as outlined by the Law Council, there is a convincing case for the Commonwealth to take equal responsibility for LAC funding overall.⁴⁶⁹
6. Applying a progressive approach, additional Commonwealth LAC funding would not result in a reduction in State or Territory funding overall in any jurisdiction, and the Commonwealth’s contribution at an additional higher, customised, proportion would apply in the NT, TAS and SA reflecting the context in each of these jurisdictions.
7. The NLAP Review Report estimated of the total funding for legal assistance provided by LACS, ATSLS, CLCs and FVPLS combined – that 58% was provided by States and Territories and 42% by the Commonwealth.⁴⁷⁰ The adoption of a principle that federal funding should be at least 50% overall would consequently be progressive.
8. Commonwealth leadership, accountability and provision of safety nets should apply to legal assistance funding responsibilities. Examples include ensuring access to legal assistance:
 - By First Nations people
 - By people in 4Rs areas, and
 - To all, including in 4Rs areas, in specified federal areas of law including social security.
9. In all areas where States and Territories should contribute, as a matter of fairness or for other reasons, the Commonwealth must however complete the picture in terms of the balance of the resource needs when States and Territories do not meet expectations.
10. At different points in the NLAP Review Report, the Reviewer recommends that funding responsibility should rest with the jurisdiction ‘causing’ the need for legal assistance funding and at others that it should be fully shared. For example:

⁴⁶⁷ Law Council of Australia, *Submission to the NLAP Review*, Oct 2023 ([Online](#)) 14.

⁴⁶⁸ Reducing year-on-year from 2023-4 over the next four years, *ibid*.

⁴⁶⁹ Law Council of Australia, *Submission to the NLAP Review*, Oct 2023 ([Online](#)) 14-15.

⁴⁷⁰ NLAP Review Report, p. 107.

- Rec 19 – Rates of grants for ICLs, includes:

For the duration of A2JP, where lawyers are appointed to independently represent children under state or territory laws (such as in some care and protection matters) state and territory governments should fund LACs to remunerate these lawyers in accordance with the relevant jurisdictional court scales. This should support adequate supply lawyers for state and territory matters and avoid them showing a preference for matters in the Family Courts.⁴⁷¹

- Rec 22 – Legal Assistance Impact Assessment, includes:

Irrespective of which service provider type is impacted, the government causing the change in demand must provide funding to meet that need on an ongoing basis by altering its contribution to baseline funding. For example, if changes in state bail laws lead to increased demand for criminal services from ATSILS, the state should provide the relevant additional funding.⁴⁷²

- Referring to States and Territories not meeting funding responsibilities in relation to ATSILS, while benefiting from Commonwealth funding to ATSILS:

A state or territory that takes the benefits but shifts the costs is shirking its funding responsibilities.⁴⁷³

- Rec. 6 – Disaster legal assistance – includes the following (‘should be shared’):

Governments should develop funding packages for immediate deployment in the event of disasters, noting that these would sit outside baseline funding but would be able to be deployed in a flexible, tailored and responsive fashion. The initial size and scope of these packages should be determined with review mechanisms in place to adapt within weeks of the disaster event. The Commonwealth should share the costs of these packages equally with the states and territories.

11. The fact that there are reasons pointing to a principle of jurisdictions taking responsibility in some areas and jurisdictions sharing responsibilities in others needs to be reflected with a safety net to ensure legal assistance needs are still met when a government’s funding responsibilities are not fulfilled.

12. Consequently, the following are supported:

- a. A progressive approach to setting minimum levels of Commonwealth, State and Territory funding contributions which address the actual costs and funding levels required considering levels of legal need, including and especially in 4Rs areas.

- b. Specification of:

⁴⁷¹ NLAP Review Report, p. 145.

⁴⁷² NLAP Review Report, p.145.

⁴⁷³ NLAP Review Report, p.207

- i. Minimum Commonwealth funding fractions in areas requiring Commonwealth leadership and/or Commonwealth accountability.
 - ii. Minimum Commonwealth funding fractions relating to certain groups, legal assistance sectors, legal needs, geographic areas and areas of law where this is likely to be required, or beneficial, for positive effects. The same relating to States and Territories.
 - iii. The arrangements about which jurisdiction/s have responsibility for the ultimate safety relating to certain groups, legal assistance sectors, legal needs, geographic areas and areas of law and any other aspects.
- c. Timely, transparent and collaborative monitoring and evaluation of the adequacy of Commonwealth, State and Territory contributions (and specification arrangements related to contributions) compared to levels of need and intended outcomes.

Rec 36 – Outcomes Framework

Recommendation 36 – Outcomes framework

The Commonwealth, state and territory governments should agree an Outcomes Framework for the legal assistance sector. This should include a national set of outcomes and indicators with robust and consistent data to monitor progress towards national priorities and inform future policy and funding decisions. To the greatest extent possible, this should leverage previous work already done by the Commonwealth, state and territory governments and sectoral peaks.

Service contracts with providers should address a subset of the outcomes agreed by governments and their reporting obligations should be limited to these.

As a matter of urgency, the Commonwealth should appoint consultants to develop an Outcomes Framework for the A2JP for agreement prior to the commencement of the A2JP. In developing this framework, regard should be had to previous work and involve consultation with state and territory governments and service provider peaks. This is estimated to cost \$0.5 million in 2024-25.

SCAG should consider and adopt this framework, or a variant of it, no later than 30 June 2025.

36.1 Outcomes Framework required: must include 4Rs

1. As noted in the 4Rs submission to the NLAP Review, quoted by the Reviewer at p. 215, the current NLAP does not measure outcomes. Establishing a new Outcomes Framework is supported.
2. However, the 4Rs submission emphasised the need for a new Outcomes Framework to *sit under a revised concept for the next NLAP*. This is a reformed

concept of the NLAP, which applies ***a tripartite approach***.

3. A tripartite approach would structure recognition of, and accountability to, groups intended to be benefited by the new NLAP *into the agreement itself*. This reflects contemporary approaches to collaboration which include, rather than exclude, the rights holders the exercise is about. The Closing the Gap Agreement is a leading example.
4. A tripartite approach would upgrade the NLAP from according no presence or high-level relevance to these groups. Put differently, currently, all of these, including Aboriginal and Torres Strait Islander people, people with disability, young people, older people and people in regional, rural, remote and very remote areas (which include all other priority groups) – are made peripheral by the concept of NLAP as compact between governments.
5. The new concept for NLAP should instead reflect learnings from the Closing the Gap Agreement, which demonstrate that high level collaboration between levels of government can be innovated, enlivened and animated through a tri-partite approach.
6. In summary, the next NLAP should include *accountability* to priority groups including people in regional, rural, remote and very remote areas.

Rec 37 – Performance indicators and Data Standards Manual

Recommendation 37 – Performance indicators and Data Standards Manual

The performance indicators that underpin the A2JP should be revised to focus on Outcomes Framework set out in Recommendation 37 and have particular focus on the delivery on the Priority Reforms of the National Agreement on Closing the Gap.

The Data Standards Manual should then be redrafted to reflect the new set of performance indicators and address concerns raised by legal assistance providers and include elements relating to the costs of service provision.

The Commonwealth should lead engagement with state and territory officials and service providers to increase uptake of the DSM, ensuring alignment of definitions.

37.1 Performance indicators and DSM: supported

1. The changes outlined in Rec. 37 are important and should be fully resourced and implemented collaboratively. The changes should aim to:
 - Ensure continuity / comparability with previously collected statistics for comparison, baselines, monitoring, evaluation, planning and management.
 - Ensure statistics can be extracted geographically including for 'Northern Australia', aligned with the Northern Australia federal policy priority.
 - Avoid systems which carry metro assumptions and disadvantage service provision in or for 4Rs areas.

Rec 38 – Data systems

Recommendation 38 – Data systems

The Reviewer accepts the position put by a large number of stakeholders that CLASS should be replaced at the earliest opportunity without disrupting normal service delivery.

The Commonwealth should fund the development and effective implementation of (including training in) a legal assistance sector-wide data collection platform to provide a national repository that can collate data from other front end data entry applications. For the avoidance of doubt, this system should collect data on all services and sources of funding, including those services funded by the states and territories and any funded by the Commonwealth outside A2JP.

The platform should be implemented across all sub-sectors and should replace CLASS. Fields should be linked to the outcomes framework.

Once developed, provision of data to this system should be a condition of receiving A2JP funding.

The A2JP should require governments to commit to maximising the use of existing data collection points when providing additional funding for pilot programs. To the extent that data fields must be added, this must be agreed between the Commonwealth, the government providing the funding and the relevant peaks.

Efforts should be made to minimise duplication with ABS data collection and to align the systems to the greatest extent possible having regard to the costs of system development, user costs, and compliance and data security requirements.

Acknowledging that a replacement for CLASS will take a number of years, governments should work with service provider peaks to 'optimise' the use of the system with a focus on reducing reporting to data this is particularly useful.

38.1 Data systems – 4Rs areas

1. The points made in response to Rec. 37 also apply in response to Rec. 38.

2. Additionally, tailored training and support will be required in 4Rs areas. This should be grounded in 4Rs experience and contexts.

Rec 39 - Temporary indexation

Recommendation 39 – Temporary indexation

To determine funding in 2024-25, 2023-24 funding should be indexed at a rate of 4.5% to which amounts from other funding recommendations should be added. It is estimated this will cost the Commonwealth \$14.7 million in 2024-25.

In the event that the baselining exercise has not been completed in time to set funding for 2025-26 for any given community legal assistance provider, its funding be set at a level 10% higher than that provided in 2024-25.

In subsequent years, until the baselining exercise is completed, its funding should be increase by 10% each year.

39.1 Temporary indexation

1. Rec. 39 has two parts, indexation in 2024-5, being the last year of the current NLAP and indexation if the baselining exercise has not been completed in time to set funding for 2025-6. Each of these is responded to in turn.

39.1.1 Indexation in 2024-5

1. Considering the inadequate rate of indexation under NLAP (estimated by the Reviewer to be 1.6 % for 2024-5), a higher rate of indexation of 4.5% on 2023-4 funding for 2024-5 was recommended as a temporary measure until the start of the next NLAP. The recommendation related ‘to all service providers and all funding streams provided by all governments’.⁴⁷⁴ The Reviewer noted that the rate of 1.6% compared to the year-on-year change in the consumer price index in the December 2023 quarter of 4.1%.⁴⁷⁵ The suitability of 4.5% indexation for legal assistance services in 4Rs areas was not discussed. As noted in response to Rec. 21 – *Indexation*, there are unaddressed issues about the formulation of indexation rates and lack of focus on responding to the generally higher cost of living and cost of inputs for service provision in 4Rs areas.
2. The indexation allocation in the May 2024 federal budget, of \$16.9mill for ATSILS, CLCs and LACs (Table 6 at 25.3 above) was welcome, but it was disappointing for reasons previously discussed⁴⁷⁶and for no apparent indexation loading, or related adjustment, for services in 4Rs areas facing higher costs.

⁴⁷⁴ NLAP Review Report, p. 235, also at 230.

⁴⁷⁵ NLAP Review Report, p. 235.

⁴⁷⁶ Above at 25.3.

39.1.2 Temporary indexation of 10% until service's baselining completed

1. The context of the recommended temporary indexation of 10% until a services' baselining (rebasings) is completed is outlined by the Reviewer as follows, which anticipates that rebasing may still be occurring in 2025-6, and potentially in 2026-7 and 2027-8:⁴⁷⁷

“The Reviewer accepts new funding baselines for all service providers will not be completed before A2JP commences. Therefore, for those service providers a mechanism needs to be found to determine funding in 2025-26, and potentially 2026-27 and 2027-28. Any such mechanism is necessarily arbitrary and should be as simple as possible. A possible approach for CLCs, ATSILS and FVPLS is to index funding in 2024-25 by 10% to identify 2025-26 funding amounts. The base funding in 2024-25 should include remuneration increases set out in recommendation 25. This funding should continue to be indexed by 10% each year until the baseline assessment has passed through to funding. All other additional funding should be indexed in accordance with recommendation 21. A similar approach should be adopted for LACS, with funding from recommendations 18 and 19 excluded but subject to indexation under recommendation 21.

The Reviewer notes that indexation under recommendation 21 is likely to be in the order of 5% to 6%, depending on service provider type and macro-economic developments. It therefore seems unlikely there is a potential for a windfall as it is difficult to see that any service provider, particularly in the community sector, does not need an increase in its baseline funding of under 15% today.’

3. The possibility of any service's rebasing not being completed in time to set funding for 2025/6 is not supported, for reasons discussed above in relation to Rec. 2 especially at 2.2 – *Step phase and geographic coverage*.
4. It is agreed that it is difficult to see that any service provider, particularly in the community sector, does not need a baseline funding increase of less than 15% (para 2 in the quote above). The Reviewer does not give the basis of the estimate of a minimum of 15%. It is of major concern that this underestimate is the reason for the 10% temporary indexation proposal where rebasing has not been completed.
5. Figures discussed above at 25.4 – *Under estimation of wage gap in 4Rs areas* indicate that lifting staff salaries and entitlements of community-based services to LAC equivalent levels in 4Rs areas, is likely to involve higher figures than those estimated by the Reviewer. For example, if the 42% increase estimated by CLCQ to address the wage gap for RRR CLCs in Queensland⁴⁷⁸ is applied to current

⁴⁷⁷ NLAP Review Report, p. 235.

⁴⁷⁸ Discussed above at 25.4, where the additional inclusion of the cultural loading is also noted.

employee expenses for services in or for 4Rs areas – taking into account that the employee expenses component is often 70% or more of a service’s annual expenditure, just this item (without cultural loading, increased staff numbers, travel costs and service area coverage) would be about a 22% increase in *total annual grant income* of services, as shown by the scenarios below.

Table 12: Scenarios - 4Rs CLCs⁴⁷⁹

Annual grant income	% spent on employee expenses ('A')	% increase on employee expenses (examples) ('B')	New total annual grant income (A+B)	% increase in total annual grant income (approx.)
\$1.5m	70% i.e. \$1,050,000	40% i.e. +\$420,000	\$1,920,000	22%
\$2.8m	75% i.e. \$1,875,000	42% i.e. +\$787,500	\$3,587,500	22%
\$4.0m	72% i.e. \$2,880,000	42% i.e. +\$1,209,600	\$5,209,600	23%

6. Once actual expenditure on employee expenses is factored in,⁴⁸⁰ plus cultural loading, underfunding of other input costs including travel, the cost of additional staff⁴⁸¹ and increased service area coverage - it is highly likely that the minimum increase of double current funding for community-based legal services, recommended by the 4Rs Network, will be required.
7. Consequently, the recommended temporary indexation rate of 10%, where rebasing has not occurred, is substantially insufficient especially for community-based legal services in 4Rs areas. This problem should be addressed by:
 - Rebasing in a streamlined and timely way in time for the start of the next NLAP and in any event by 1 July 2025.

⁴⁷⁹ Calculation the annual income x % expenditure on salaries and conditions = \$ increase + annual income = new total annual income, and this expressed as a percentage increase on the current income.

⁴⁸⁰ Some examples of the percentage of total budget expenditure on employee expenses by community-based legal services in 4Rs areas in 2022/3 are: Barwon CLC (Vic) 85.67%; Central Queensland Community Legal Service 85.13%; North West CLC (Davenport, TAS) 83.95%; Western Community Legal Service (Dubbo NSW): 83.56%; Hunter Community Legal Service: 82.14%; Peel Community Legal Service (Mandurah WA) 81.99%; Northern Rivers CLC: 81.28%. Sources: Barwon Community Legal Service, *ACNC Annual Income Statement 2023* ([Online](#)); Central Queensland Community Legal Service, *ACNC Annual Income Statement 2023* ([Online](#)); North West CLC, *ANC Annual Income Statement 2023* ([Online](#)); Western Community Legal Centre, *ANCN Annual Income Statement 2023* ([Online](#)); Hunter Community Legal Service, *ACNC Annual Income Statement 2023* ([Online](#)); Peel Community Legal Service, *ACNC Annual Income Statement 2023* ([Online](#)); Northern Rivers CLC NSW, *ACNC Annual Income Statement 2023* ([Online](#)).

⁴⁸¹ Survey responses by CLCs for the CLCA, *State of the Sector Survey Report 2022-23: A Sector in Crisis Report* ([Online](#), March 2024) p. 14, indicated that an average increase of 12 additional staff were needed among CLCs (including unfunded) which would increase the current average of 19 FTE staff to 31 FTE (about a 47% increase).

- Rebasing all services for current staff and operations within this time frame leaving as few issues as possible carried over.
- Establishing a rate of temporary indexation which (i) is realistic to the much higher levels of likely rebasing increases than the 15% estimated by the Review Report, (ii) minimises disadvantage to impacted services and communities.

Attachment 1A: Volunteers with CLCs metro and 4Rs

About the tables below

1. Table A1.1 lists CLCs (services which are members of one of the 8 state or territory CLC Association as listed in the CLCA 2022-3 State of the Sector Report).⁴⁸² The table indicates the location of the main office as metro or 4Rs, based on ASGS Edition 3. The column titled 'Volunteers' shows the number volunteers (head count) in the estimate indicated on the 2023 Information Statement Return to the Australian Charities and Not-for-Profit Commission, with the web link to the return.
2. Table A1.2 outlines where an ACNC Information Statement is not a source for this information.
3. Limitations of the data:
 - a. 131 services are included (Table A1.1) and 36 are not the latter are listed on Table A1.2 are in one of three categories: Info Statement is not a source (20), ORIC registered no ACNC Info Sheet required (11) and not ACNC registered (5).
 - b. The ACNC returns may not reflect a uniform approach by organisations to answering the question which asks for an estimate of the number of volunteers.⁴⁸³
 - c. The head count of volunteers does not indicate time contributed, a calculation of dollar value or the nature and extent impacts.
 - d. The tables do not show variables such as service budgets, staff numbers, or volunteer type / characteristics (including if local).

Table A1.1 Volunteers per ACNC returns 2022-3

	Service	Main office ⁴⁸⁴		Volunteers ⁴⁸⁵		Web link ⁴⁸⁶	Comments regional law schools
				Metro	4Rs		
1	Ability Rights Centre (IDRS) (NSW)	Metro		150		Web link	
2	AED Legal (Vic)	Metro		30		Web link	
3	Anika Legal (Vic)	Metro		63		Web link	
4	Animal Defenders Office	Metro		23		Web link	
5	Animal Law Institute (Vic)	Metro		15		Web link	

⁴⁸² CLCA, *State of the Sector Survey Report 2022-23: A Sector in Crisis Report* ([Online](#), March 2024).

⁴⁸³ The 2023 Information Statement Guide, deals with 'volunteers' at point 11 (ACNC, [Online](#))

⁴⁸⁴ Main office / head quarter location per Australian Bureau of Statistics, *Australian Statistical Geography Standard (ASGS) Edition 3*, Remoteness Area, (Jul 2021-Jun 2026), Metro = Major cities ([Interactive Map Online](#)).

⁴⁸⁵ Source: Annual Information Statement lodged by these services with the Australian Non-Profit and Charities Commission.

⁴⁸⁶ Web link to ACNC 2023 Annual Information Statement.

6	ARC Justice (Bendigo)		4Rs		0	Web link	
7	Arts Law Centre of Australia	Metro		340		Web link	
8	Australian Centre for Disability Law	Metro		44		Web link	
9	Australian Pro Bono Centre	Metro		19		Web link	
10	Ballarat and Grampians CLC		4Rs		11	Web link	
11	Barwon CLC (Vic)		4Rs		37	Web link	
12	Basic Rights Qld	Metro		5		Web link	
13	Bayside Community Legal Service (Qld)	Metro		85		Web link	
14	Cairns Community Legal Service		4Rs	6		Web link	JCU Cairns campus close by
15	Care Consumer Law (ACT)	Metro		60		Web link	
16	Canberra Community Law	Metro		65		Web link	
17	Caxton Legal Centre (Qld)	Metro		200		Web link	
18	Central Australian Women's Legal Service		4Rs		1	Web link	
19	Central Coast CLC (NSW)		4Rs		16	Web link	
20	Central Queensland CLC		4Rs		8	Web link	
21	Central Tablelands & Blue Mountains CLC (Katoomba HQ)	Metro		8		Web link	
22	Circle Green (WA)	Metro		60		Web link	
23	Citizens Advice Bureau WA	Metro		200		Web link	
24	Community Justice Services (SA) (HQ Christies Beach)	Metro		4		Web link	
25	Consumer Action Law Centre (Vic)	Metro		2		Web link	
26	Consumer Credit Legal Service WA	Metro		47		Web link	
27	Darwin Community Legal Service		4Rs		65	Web link	CDU Darwin campus close by
28	Disability Discrimination Legal Service (Vic)	Metro		25		Web link	
29	Eastern Community Legal Centre	Metro		40		Web link	
30	Environmental Defenders Office (EDO)	Metro		159		Web link	
31	Environmental Justice Australia	Metro		31		Web link	
32	Far West Community Legal Centre		4Rs		0	Web link	
33	Financial Rights and Legal Centre (NSW)	Metro		5		Web link	
34	First Nations Women's Legal Service Qld.		4Rs		2	Web link	
35	Fitzroy Legal Service	Metro		170		Web link	
36	Gold Coast CLC and Advice Bureau	Metro		60		Web link	
37	Goldfields CLC		4Rs		0	Web link	

38	Gosnells CLC (WA)	Metro		20		Web link	
39	Great Southern CLC (Albany WA)		4Rs		12	Web link	
40	HIV/AIDS Legal Centre (NSW)	Metro		35		Web link	
41	Hobart Community Legal Centre		4Rs		18	Web link	Uni of TAS campus close by
42	Human Rights Law Centre (Vic)	Metro		13		Web link	
43	Hunter CLC		4Rs		55	Web link	Uni of Newcastle campus close by
44	Illawarra Community Legal Centre		4Rs		20	Web link	Uni of Wollongong campus close by
45	Immigration Advice and Rights Centre (NSW)	Metro		24		Web link	
46	Inner City Legal Service	Metro		120		Web link	
47	Inner Melbourne CLC	Metro		13		Web link	
48	International Social Service Australia	Metro		8		Web link	
49	Job Watch Inc (Vic, TAS and QLD workers)	Metro		190		Web link	
50	Justice Connect	Metro		17		Web link	
51	Justice and Equity Centre (NSW) was PIAC	Metro		50		Web link	
52	JusticeNet SA	Metro		8		Web Link	
53	Justice Support Centre (NSW)	Metro		0		Web link	
54	Katherine Women's Information & Legal Service		4Rs		0	Web link	
55	Kimberley CLC		4Rs		3	Web link	
56	knowmore (national)	Metro		10		Web link	
57	Launceston CLC		4Rs		34	Web link	
58	Law and Advocacy Centre for Women (Vic)	Metro		20		Web link	
59	LawRight	Metro		500		Web link	
60	LGBTI Legal Service (Qld)	Metro		150		Web link	
61	Macarthur Legal Centre (Metro & 4Rs)	Metro		1		Web link	
62	Mackay Regional CLC		4Rs		18	Web link	
63	Marrickville CLC	Metro		500		Web link	
64	Mental Health Legal Service (Vic)	Metro		45		Web link	
65	Midland Information, Debt and Legal Advocacy Service	Metro		2		Web link	
66	Mid North Coast CLC (NSW)		4Rs		4	Web link ⁴⁸⁷	CSU campus in Port Macquarie close by
67	Monash Law Clinics						

⁴⁸⁷ Advocacy Law Alliance, *Annual Report 2022-3*, Mid North Coast Community Legal Centre, p. 51.

68	Moonee Valley Legal Service	Metro		60		Web link	
69	My Community (Qld)	Metro		200		Web link	
70	North and North West CLC (NSW)		4Rs		1	Web link	
71	Northern CLC (Broadmeadows Vic)	Metro		31		Web link	
72	Northern Community Legal Service Inc (SA)	Metro			6	Web link	
73	North Queensland Women's Legal Service		4Rs		8	Web link	JCU Cairns campus close by
74	Northern Rivers CLC (NSW)		4Rs		8	Web link	SCU Lismore campus close by
75	Northern Suburbs CLC (WA)	Metro		12		Web link	
76	North West CLC (TAS)		4Rs		0	Web link	
77	Peel CLC (WA)	Metro		5		Web link	
78	Peninsula CLC (Vic)	Metro		95		Web link	
79	Pilbara CLC		4Rs		8	Web link	
80	Prisoners' Legal Service (QLD)	Metro		22		Web link	
81	Queensland Advocacy for Inclusion	Metro		20		Web link	
82	Redfern Legal Centre	Metro		295		Web link	
83	Refugee Advice and Casework Service (NSW)	Metro		111		Web link	
84	Refugee and Immigration Legal Service (Qld)	Metro		120		Web link	
85	Refugee and Immigration Legal Centre (Vic)	Metro		600		Web link	
86	Regional Alliance West (WA)		4Rs		1	Web link	
87	Roma Mitchell CLC (SA)	Metro		15		Web link	
88	Ruah Legal Services WA	Metro		16		Web link	
89	SCALES (Perth)	Metro		88		Web link	
90	Seniors Legal Service (NSW)	Metro		6		Web link	
91	Southport Community Legal Service (Qld)	Metro		10		Web link	
92	Shoalcoast CLC (NSW)		4Rs		2	Web link	
93	Social Security Rights Victoria	Metro		9		Web link	
94	Street Law CLC (WA)	Metro	2			Web link	
95	Suncoast CLC	Metro		92		Web link	
96	Sussex Street CLC (WA)	Metro		25		Web link	
97	South East Monash Legal Centre	Metro		100		Web link	
98	SouthPort Community Legal Service (Vic)	Metro		10		Web link	
99	Southside Justice (Vic) (2022 Annual Info Statement)	Metro		0		Web link	

100	South West CLC (Bunbury WA)		4Rs		1	Web link	
101	Tasmanian Aboriginal Legal Service		4Rs		2	Web link	Uni TAS campus close by
102	Tasmanian Refugee Legal Service		4Rs		20	Web link	Uni TAS campus close by
103	TASC National (Toowoomba Qld)		4Rs		20	Web link	USQ campus in Toowoomba close by
104	Tenants Queensland	Metro		10		Web link	
105	Tenants' Union of NSW	Metro		14		Web link	
106	Tenants' Union of Tasmania		4Rs		10	Web link	Uni TAS campus close by
107	Tenants Victoria	Metro		25		Web link	
108	Toongabbi Legal Centre (NSW)	Metro		30		Web link	
109	Top End Women's Legal Service		4Rs		30	Web link	CDU campus in Darwin close by
110	Townsville Community Law		4Rs		80	Web link	JCU campus in Townsville close by
111	Victorian Aboriginal Legal Service	Metro		45		Web link	
112	Villamanta Disability Rights CLC	Metro		9		Web link	
113	Wallumatta Legal (NSW & Vic)	Metro		12		Web link	
114	Welfare Rights and Advocacy (WA)	Metro		3		Web link	
115	Welfare Rights Legal Centre NSW	Metro		85		Web link	
116	Western NSW CLC		4Rs		0	Web link	CDU has a campus in Dubbo close by
117	Western Sydney CLC	Metro		25		Web link	
118	Westjustice (Vic)	Metro		75		Web link	
119	Westside Community Lawyers (SA)		4Rs		4	Web link	
120	Wheatbelt CLC (WA)		4Rs		1	Web link	
121	Wurringa Baiya Aboriginal Women's Legal Centre	Metro		6		Web link	
122	Women's Legal Centre ACT & Region	Metro		44		Web link	
123	Women's Legal Service NSW	Metro		25		Web link	
124	Women's Legal Service Qld	Metro		250		Web link	
125	Women's Legal Service SA	Metro		35		Web link	
126	Women's Legal Service TAS		4Rs		14	Web link	Uni of TAS campus close by
127	Women's Legal Service Vic	Metro		0		Web link	
128	Women's Legal Service WA	Metro		50		Web link	
128	Working Women's Centre (SA)	Metro		5		Web link	
129	Youth Advocacy Centre (QLD)	Metro		19		Web link	
130	Youthlaw (VIC)	Metro		35		Web link	

131	Youth Law Australia	Metro		170		Web link	
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Table A1.2 Where ACNC Information Statement not a source

CLC not identified in ACNC Information Statement - Where the estimate of volunteers relates to the whole entity for which the CLC is one program. ⁴⁸⁸	
1	Aged and Disability Advocacy Australia with an estimate of 8 volunteers which provides a range of programs including ADA Law (Qld) ⁴⁸⁹
2	Anglicare Victoria with an estimated 2098 volunteers provides emergency aid, family services, supported housing, financial counselling and many other programs and manages Gippsland Community Legal Service ⁴⁹⁰
3	ANU Student Association with an estimate of 100 volunteers which provides a range of services for ANU students including the ANUSA Legal Service . ⁴⁹¹
4	Asylum Seeker Resource Centre based in Melbourne with an estimated 535 volunteers, which provides humanitarian services (food, housing, counselling, other supports) pathways to gain employment, social enterprises providing employment and the Asylum Seeker Resource Centre Human Rights Law Program (CLC) . ⁴⁹²
5	Banyule Community Health with an estimated 105 volunteers which provides medical and allied health and early intervention services and the West Heidelberg Community Legal Service ⁴⁹³
6	Comm Unity+ in Victoria with an estimated 30 volunteers which provides a Neighbourhood Centre, community services and the Brimbank Melton CLC ⁴⁹⁴
7	Council of the Ageing Victoria with an estimated 103 volunteers provides advocacy, information, networking and related services and provides the Seniors Rights Victoria ⁴⁹⁵
8	Encircle Community Services Ltd in Queensland with an estimated 141 volunteers provides family and community services in the North Brisbane area, and provides the Pine Rivers Community Legal Service ⁴⁹⁶
9	First Step Program Ltd in Victoria with an estimate of 14 volunteers provides medical, counselling, NDIS and other supports relating to addiction and mental health, and provides First Step Legal CLC ⁴⁹⁷
10	Hervey Bay Neighbourhood Centre Inc with an estimate of 300 volunteers which provides many community inclusion and support services, is a QSTARS partner and manages the Wide Bay Burnett Community Legal Service . ⁴⁹⁸

⁴⁸⁸ The ACNC Information Statement only has a field for the total number for the organisation (i.e. no field to report the number for the CLC in this situation).

⁴⁸⁹ ACNC, Aged and Disability Advocacy Australia ([Online](#)); Web: <https://adaaustralia.com.au/> and <https://adalaw.com.au/>

⁴⁹⁰ ACNC, Anglicare Victoria Inc. ([Online](#)); Web: <https://www.anglicarevic.org.au/> and <https://www.gcls.org.au/>

⁴⁹¹ ACNC, ANU Students Association ([Online](#)); Web: <https://anusa.com.au/>

⁴⁹² ACNC, Asylum Seeker Resource Centre ([Online](#); Web: <https://asrc.org.au/>

⁴⁹³ ACNC, Banyule Community Health ([Online](#)); Web: <https://bchs.org.au/services/whclegal/>

⁴⁹⁴ ACNC, Comm Unity Plus ([Online](#)); Web: <https://www.comm-unityplus.org.au/legal-services>

⁴⁹⁵ ACNC, Council of the Ageing Victoria ([Online](#)); Web: <https://seniorsrights.org.au/>

⁴⁹⁶ ACNC, Encircle Community Services Ltd ([Online](#)); Web: <https://encircle.org.au/pine-rivers-community-legal-service/>

⁴⁹⁷ ACNC, The First Step Program Ltd ([Online](#)); Web: https://www.firststep.org.au/first_step_legal

⁴⁹⁸ ACNC, Hervey Bay Neighbourhood Centre ([Online](#)); Web: <https://wbbcls.com.au/>

11	Hub Community Projects Inc, in Qld with an estimated 70 volunteers provides a Neighbourhood Centre and HUB Community Legal ⁴⁹⁹
12	The Institute for Urban Indigenous Health Inc in Qld with an estimate of 1 volunteer is an Indigenous health, social and research service which also provides a CLC ⁵⁰⁰
12	Intouch Multicultural Centre Against Family Violence with an estimated 15 volunteers is a statewide specialist family violence service providing case management, training, and other services including providing the Intouch Legal Centre (Vic) ⁵⁰¹
13	Mallee Family Care with an estimated 82 volunteers provides community services including homelessness, family and foster support, NDIS and the Mallee Family Care Community Legal Centre ⁵⁰²
14	Northside Connect Inc. with 100 volunteers which provides the Nundah Neighbourhood Centre, Domestic Violence and Family Support Program and the Brisbane North Community Legal Service ⁵⁰³
15	The Sexual Assault & Family Violence Centre (The SAFV Centre) (locally known as Emma House) with an estimate of 9 volunteers provides crisis support services including counselling, crisis accommodation and community services and provides Emma House Domestic Violence Services Legal Program ⁵⁰⁴
16	Uniting Communities SA is the incorporated and ACNC registered entity, which is exempted from ACNC published reporting, Uniting Communities provides homelessness, family support, disability and other community support and advocacy services and provides and the Uniting Communities Law Centre ⁵⁰⁵
17	University of Melbourne Students' Union with an estimated 1,250 volunteers provides student services including the
18	Upper Murray Family Care with an estimated 70 volunteers provides child, family, aged, disability and community services, and provides the Hume Riverina Community Legal Centre ⁵⁰⁶
19	Whittlesea Community Connections Inc with an estimate of 200 volunteers provides community services, family violence support, community transport, settlement services and volunteer supports and provides the Whittlesea Community Connections Community Legal Service . ⁵⁰⁷
20	YFS Ltd. with an estimate of 26 volunteers is a community service in Logan City, Brisbane, with 26 volunteers, which provides homeless, domestic and family violence, family, and youth support services and financial counselling and the YFS Legal Centre . ⁵⁰⁸
CLC is ACNC registered but is an Indigenous Corporation reporting via ORIC ⁵⁰⁹	
1	Aboriginal Family Legal Services Southern Queensland ⁵¹⁰

⁴⁹⁹ ACNC, HUB Community Projects (Online); Web: <https://www.hubcommunity.org.au/community-legal-centre>

⁵⁰⁰ ACNC, Institute for Urban Indigenous Health (Online); Annual Report, 2022/3 (Online), p. 58; Web: <https://www.iuih.org.au/>

⁵⁰¹ ACNC, Intouch Multicultural Centre Against Family Violence (Online); Web: <https://intouch.org.au/intouch-legal-centre/>

⁵⁰² ACNC, Mallee Family Care (Online); Web: <https://www.malleefamilycare.org.au/> and <https://mfcllegalcentre.com.au/>

⁵⁰³ ACNC, Northside Connect Inc (Online); Web: <https://northsideconnect.org.au/legal-service/>

⁵⁰⁴ ACNC, The Sexual Assault and Family Violence Centre (Online); Web: <https://www.safvcentre.org.au/>

⁵⁰⁵ ACNC, Uniting Communities (SA) (Online); Web site: <https://www.unitingcommunities.org/service/legal-services>

⁵⁰⁶ ACNC, Upper Murray Family Care (Online); Web site: <https://umfc.com.au/> and

⁵⁰⁷ ACNC, Whittlesea Community Connections Inc (Online); Web site: <https://www.whittleseacommunityconnections.org.au/> and <https://www.whittleseacommunityconnections.org.au/community-services/community-legal-services/>

⁵⁰⁸ ACNC, YFS Ltd (Online); Web: <https://www.yfs.org.au/yfs-legal/>

⁵⁰⁹ ORIC returns do not include number of volunteers.

⁵¹⁰ ACNC, Aboriginal Family Legal Service Southern Queensland (Online)

2	Aboriginal Family Legal Service (WA) ⁵¹¹
3	Binaal Billa Family Violence Prevention Legal Service which is provided by Yoorana Gunya Family Healing Centre Aboriginal Corporation ⁵¹²
4	Central Australian Aboriginal Family Legal Unit ⁵¹³
5	Djirra ⁵¹⁴
6	Family Violence Legal Service Aboriginal Corporation (SA) ⁵¹⁵
7	Queensland Indigenous Family Violence Legal Service ⁵¹⁶
8	North Australian Aboriginal Family Legal Service ⁵¹⁷
9	Marninwarntikura Women's Resource Centre ⁵¹⁸
10	Southern Aboriginal Corporation Family Violence Prevention Legal Service ⁵¹⁹
11	Thiyama-li Family Violence Service ⁵²⁰
CLC not ACNC registered	
1	Kingsford Legal Centre ⁵²¹
2	Monash Law Clinics ⁵²²
3	Worker Assist Tasmania ⁵²³
4	University of Newcastle Legal Centre ⁵²⁴
5	Young Workers Centre (Vic) ⁵²⁵

⁵¹¹ ACNC, Aboriginal Family Legal Service (WA) ([Online](#))

⁵¹² ACNC, Yoorana Gunya Family Healing Centre Aboriginal Corporation ([Online](#))

⁵¹³ ACNC, Central Australian Aboriginal Family Legal Unit ([Online](#)).

⁵¹⁴ ACNC, Djirra ([Online](#))

⁵¹⁵ ACNC, Family Violence Legal Service Aboriginal Corporation ([Online](#))

⁵¹⁶ ACNC, Queensland Indigenous Family Violence Legal Service ([Online](#))

⁵¹⁷ ACNC, North Australian Aboriginal Family Legal Service ([Online](#))

⁵¹⁸ ACNC, Marninwarntikura Women's Resource Centre ([Online](#))

⁵¹⁹ ACNC, Southern Aboriginal Corporation ([Online](#))

⁵²⁰ ACNC, Thiyama-li Family Violence Service ([Online](#))

⁵²¹ KLC an unincorporated initiative within UNSW, KCLS reports publicly on an annual calendar year basis ([Annual Reports](#), Online).

⁵²² Monash Law Clinics Inc. Annual Report 2022/3 ([Online](#)) is provided in association with the Faculty of Law Monash University.

⁵²³ Worker Assist Inc: <https://workerassist.org.au/>

⁵²⁴ University of Newcastle Legal Centre ([Web Page](#)) is an unincorporated initiative within the University of Newcastle.

⁵²⁵ Young Workers Centre (Vic): <https://www.youngworkers.org.au/>

Attachment 1B: Social security legal assistance workforce: education and training

As outlined at 24.9.6 there is currently no national social security legal assistance workforce plan and no national training plan. This is against a backdrop of:

- unmet social security legal needs, and
- insufficient supply of lawyers, paralegals and other workers trained in social security law.

The table below gives a sense of social security legal education and training relating to community-based legal assistance.

Table 13: Social security legal education and training in relation to legal assistance sectors in Australia

Course/training type	Comments / examples
In-house training of staff and relevant volunteers	<ul style="list-style-type: none"> • Specialist social security legal services including: BasicRights QLD; Canberra Community Law; Social Security Rights Victoria, Townsville Community Law; Welfare Rights NSW, Welfare Rights and Advocacy (WA)⁵²⁶
Sector/s: worker seminars	<ul style="list-style-type: none"> • Social Security Rights Victoria⁵²⁷ • Welfare Rights NSW⁵²⁸ • BasicRights Queensland⁵²⁹
Sector worker community of practice	<ul style="list-style-type: none"> • Economic Justice Australia⁵³⁰
VET accredited training	<ul style="list-style-type: none"> • None identified⁵³¹ <ul style="list-style-type: none"> ○ Note though that CH51122 Diploma of Financial Counselling (required to work as a Financial Counsellor), includes CHCLEG002 - Interpret and use legal information⁵³²
LLB/JD/LLM	

⁵²⁶ Web links are on the Economic Justice Australia legal assistance page ([Online](#)).

⁵²⁷ Social Security Rights Victoria (Community worker [training schedule](#)).

⁵²⁸ Welfare Rights Centre NSW ([Community Worker Training schedule](#)).

⁵²⁹ Basic Rights Queensland ([Web Site](#)).

⁵³⁰ Economic Justice Australia provides an ongoing network, annual conference and promotes training opportunities: <http://www.eja.org.au>

⁵³¹ Training.gov.au is the National Register of Vocational Education and Training (VET) in Australia: <http://www.training.gov.au> For example, CHC qualifications (Community Services) <https://training.gov.au/Training/Details/CHC> do not include income support or social security, this includes CHC42021 - Certificate IV in Community Services.

⁵³² Financial Counselling Australia, 'Become a Financial Counsellor' ([Online](#)); CHC51122 Diploma of Financial Counselling: <https://training.gov.au/Training/Details/CHC51122>; CHCLEG002: <https://training.gov.au/Training/Details/CHCLEG002>

Classroom topic taught social security law course ⁵³³	<ul style="list-style-type: none"> • None identified
LLB/JD	
Classroom topic taught could which includes social security law topic/s	<ul style="list-style-type: none"> • Murdoch University: LLB323 - Social and Welfare Law includes social security law, landlord and tenant, public housing, criminal injuries compensation, domestic violence, semester long elective course.⁵³⁴ • Southern Cross University - LAWS2057 Welfare Law – term long course with 6 modules: Welfare State & Access to the Law; The family, Domestic violence, Youth, Income Support, Housing⁵³⁵ • Western Sydney University – LAWS3061 Public Health Law – elective includes module on welfare (social security) law as regulation of the public health risks of food insecurity.⁵³⁶
Clinically taught social security law course ⁵³⁷	<ul style="list-style-type: none"> • One identified • Monash University: LAW4813 - Social Security Advocacy Clinic - Developed in 2020 by Monash University with Social Security Rights Victoria, ran successfully most trimesters between Dec 2020 and Dec 2023 (currently not offered due to lack of resources).⁵³⁸ The course involves social security law, policy and procedure training for students followed by the students working in a group 1 day a week under supervision in relation to social security related advice and casework. Course groups averaged about 5-6 students per clinical period (total 15-18 students per year).
Clinical courses which include, or may include, social security exposure	<ul style="list-style-type: none"> • ANU / Canberra Community Law collaboration providing LAWS4268/LAWS6268 Community Law Clinic – areas of law include social security, disability discrimination, sem 1 and 2 each year, students undertake 1 day a week for c. 10 weeks, max

⁵³³ In Australia most law courses focusing on substantive law are classroom topic taught and consider sources of law and what the law is including caselaw. These courses are typically taught via lectures, with or without tutorials. Critical dimensions may be included applying different perspectives and exploring law and policy / law in context / law and social justice.

⁵³⁴ Murdoch University, Handbook, LLB323 ([Online](#)).

⁵³⁵ Southern Cross University, Course list, LAWS2045 Welfare Law ([Online](#)).

⁵³⁶ Western Sydney University, Course list, LAWS2061 ([Online](#)).

⁵³⁷ Clinically taught law courses focus on learning through experience (experiential learning), involving actual or simulated legal matters. Substantive law relevant to the clinical work is often introduced through workshops with a practice focus. Clinical courses may relate to one or more areas of law and all aim to develop legal skills. See for example: Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings, Peter Joy, Mary Anne Noone and Simon Rice, *Australian Clinical Legal Education Designing And Operating A Best Practice Clinical Program In An Australian Law School*, ANU Press ([Online](#), 2016)

⁵³⁸ Monash Law, Social Security Rights Victoria Clinic, [YouTube video](#) (2.46min); Social Security Rights Victoria, Annual Report 2022-3 ([Online](#)), p. 52; Monash Handbook: [LAW4813 In-house clinical placement: client legal assistance](#)

	<p>10 students per sem.⁵³⁹</p> <ul style="list-style-type: none"> • Charles Darwin University LWA298 – Legal Clinic and Darwin Community Legal Service may include student exposure to social security matters, 10-day placement.⁵⁴⁰ • James Cook University Law LA4014 Clinical Legal Students and Legal Placement students with Townsville Community, may include exposure to social security law⁵⁴¹ • Monash University: LAW4328 Professional Practice (LLB) / LAW5050 Professional Practice (JD)⁵⁴² includes lectures on social security law, policy and procedure and some students in the clinical placement are involved in providing advice and delivering casework, under supervision in social security matters at the internal review, AAT stage and in the Federal Court; LAW4330 Family Law Assistance Program (family law clinical unit), includes a seminar focused on social and economic rights;⁵⁴³ LAW4813 In-house clinical placement: some student clinical placements via this unit involve varying degrees of supervised social security casework.⁵⁴⁴ • Murdoch University all clinical units LLB333,⁵⁴⁵ LLB334⁵⁴⁶ LLB336⁵⁴⁷ and LLB338⁵⁴⁸ may include student exposure to social security law. These cases are most often referred to or worked with the help of specialist CLC (WRAS). • University of Melbourne: LAWS90189 - NDIS & Disability Benefits Clinic – NDIS and legal issues relating to disability support pension, orientation, lectures, clinical work 1 day a week x 12 weeks.⁵⁴⁹ • University of Newcastle Legal Centre ('UNLC') offers free legal clinics that address matters such as social security, a law student
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⁵³⁹ Community Law Clinic ANU courses [LAWS4268](#) and [LAWS6268](#) (co-taught), Course topics include: introduction to public interest law; professional responsibilities; legal practice skills - legal writing, interviewing, casework skills, advising; substantive law in relation to tenancy, Social Security and Disability Discrimination; and law Reform; Community Law Clinic; Canberra Community Law, Annual Report 2022-3 ([Online](#)) p. 43 consisting of 7 students in sem 1 and 10 in sem 2.

⁵⁴⁰ CDU Legal Clinic [LWA298](#) Focus with DCLS is areas of the legal practice to which students are allocated, may include some social security exposure.

⁵⁴¹ Townsville Community Law, Annual Report 2021-2 ([Online](#)); Clinic and legal placements JCU courses: [LA4014 - Clinical Legal Studies](#) and [LA4041 - Legal Placement](#).

⁵⁴² Monash University, LAW4328 Professional Practice ([Online](#)).

⁵⁴³ Monash University, [LAW4330 - Family law assistance program: Professional practice](#)

⁵⁴⁴ Monash University, [LAW4813 - In-house clinical placement: Client legal assistance](#)

⁵⁴⁵ Murdoch University; <https://handbook.murdoch.edu.au/units/03/LLB333>

⁵⁴⁶ Murdoch University; <https://handbook.murdoch.edu.au/units/05/LLB334>

⁵⁴⁷ Murdoch University; <https://handbook.murdoch.edu.au/units/07/LLB336>

⁵⁴⁸ Murdoch University; <https://handbook.murdoch.edu.au/units/05/LLB338>

⁵⁴⁹ Melbourne Law School, MLS Clinics ([Web Site](#)).

	<p>completing the University of Newcastle Practice Program meets with the client first, and then with the UNLC solicitor or volunteer lawyer.⁵⁵⁰ Law students participating in the UNLC may have other opportunities to engage with social security legal assistance matters.</p> <ul style="list-style-type: none"> • University of NSW - JURD7303/ LAWS3303 (Kingsford Legal Centre Community Law Clinic (Intensive)),⁵⁵¹ JURD7304/LAWS7304 (Kingsford Legal Centre Community Law Clinic (Non- Intensive));⁵⁵² JURD7305/LAWS3305 (Kingsford Legal Centre Employment Law Clinic (Intensive));⁵⁵³ JURD7540/LAWS3240 (Kingsford Legal Centre Family Law Community Education Clinic)⁵⁵⁴ - Student may learn about social security law in the above courses through assisting with advice and casework that is either directly about social security law (advice on payments, assisting in internal review request, assisting in AAT work) or indirectly related to social security law (how social security laws will interact with their other legal issues). • University of Tasmania: LAW344 Public Interest Law Clinic includes a case study relating to Centrelink and student clinic work is likely to include some social security queries.⁵⁵⁵
Other courses with social security content	<ul style="list-style-type: none"> • University of Tasmania: LAW231 Disability, Mental Health and the Law⁵⁵⁶ includes a dedicated lecture on social security system, focusing on Jobseeker and DSP.

⁵⁵⁰ University of Newcastle, School of Law and Justice, Free Legal Clinics ([Web Page](#)).

⁵⁵¹ University of NSW, [JURD7303/ LAWS3303](#) (Kingsford Legal Centre ('KLC') Community Law Clinic (Intensive)).

⁵⁵² University of NSW, [JURD7304/LAWS7304](#) (KLC Community Law Clinic (Non- Intensive)).

⁵⁵³ University of NSW, [JURD7305/LAWS3305](#) (KLC Employment Law Clinic (Intensive)).

⁵⁵⁴ University of NSW, [JURD7540/LAWS3240](#) (KLC Family Law Community Education Clinic).

⁵⁵⁵ University of Tasmania, [Public Interest Law Clinic \(LAW344\)](#).

⁵⁵⁶ University of Tasmania, [Disability, Mental Health and the Law \(LAW231\)](#).