

# COUNTRY REPORT AUSTRALIA

NATIONAL LEGAL AID



PREPARED FOR: INTERNATIONAL LEGAL AID GROUP  
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## **ACKNOWLEDGEMENT OF COUNTRY**

*National Legal Aid acknowledges the Traditional Owners of Country throughout Australia and recognises their continuing connection to lands, waters and communities. We pay our respects to Aboriginal and Torres Strait Islander cultures; and to Elders past and present.*

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# I. ABOUT LEGAL AID IN AUSTRALIA

## I.1 Statistics

**Name:** Australia

**Population:** 27.2 million<sup>1</sup>

**GDP:** \$1.72 trillion (USD) in 2023<sup>2</sup>

**Poverty line:** 50% of median income or AUD \$489/week (single adult)<sup>3</sup>

**Percentage of population living in poverty:** 13.4% living below 50% of median income<sup>4</sup>

**Number of practising lawyers in Australia:** Est. 90,329<sup>5</sup>

## I.2 Australia is a Federation

Australia is a federation. It has a geographically, culturally, and economically diverse population of 27.2 million spread across six states and two territories:

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

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<sup>1</sup> Australian Bureau of Statistics, [National, State and Territory Populations, June 2024](#)

<sup>2</sup> World Bank Group, [‘GDP \(current US\\$\) – Australia’](#) (Dataset, 2023)

<sup>3</sup> ACOSS & UNSW, [Poverty In Australia 2022: A snapshot](#)

<sup>4</sup> Ibid.

<sup>5</sup> Urbis, [2022 National Profile of Solicitors](#)

The Federal Government (also referred to as “the Commonwealth”) has constitutional responsibility for specific national issues. Each state and territory has its own government that is responsible for all other issues.

Commonwealth legislation mainly governs family law upon the breakdown of a relationship (including issues about with whom children should live and the division of property), social security, immigration, employment, consumer protection and certain types of criminal law, such as crimes in relation to national security.

State and territory legislation governs all other criminal law, child protection, family violence and some civil law types such as mental health and housing.

### 1.3 The Australian Legal Assistance Landscape

Legal assistance in Australia is provided by four main groups of providers, each of which receives funding from either or both the Commonwealth and respective state or territory governments.

The four main funded providers are:

- Legal Aid Commissions (LACs)
- Aboriginal and Torres Strait Islander Legal Services (ATSILSs)
- Family Violence Prevention Legal Services (FVPLSs)
- Community Legal Centres (CLCs).

All four types of providers offer a mix of services from legal education to casework for individuals and groups of clients. Services are provided through mixed service delivery models; that is, using both in-house lawyers and private practitioners to deliver legal aid services. While there is variation in the size of organisation and some focus on a particular client group (such as First Nations people and communities, victim-survivors of domestic and family violence or people with a disability), all four types of service providers have a strong focus on holistic services.<sup>6</sup> In addition, various schemes of pro bono assistance and volunteering by private firms and/or lawyers exist.

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<sup>6</sup> Productivity Commission, [Access to Justice Arrangements](#) (Inquiry Report Overview No. 72, 5 September 2014), p. 665-7

Good relationships and co-operative arrangements exist between legal assistance service providers. These relationships and arrangements ensure that services are stretched as far as possible and that issues such as legal conflicts are addressed. They also ensure that people receive the service most appropriate to their individual need.

Nationally, relationships and co-operation are supported by the [Australian Legal Assistance Forum](#) constituted by representatives of the peak bodies for all legal assistance providers.

The balance of this report focuses on LACs.

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## 2. LEGAL AID ORGANISATION/AUTHORITY

### 2.1 Legal Aid Commissions and National Legal Aid

There are eight independent LACs in Australia, one in each of the states and territories. Each LAC is set up by statute to provide legal assistance to disadvantaged people. The LACs are the largest providers of legal assistance services in Australia and accordingly receive the majority of government funding. As such, they service most Australians who receive publicly funded legal assistance. LAC services are provided across the country from 78 offices and numerous outreach locations, including to many regional, rural and remote areas of Australia.

National Legal Aid (NLA) represents the eight LACs. NLA is chaired by CEOs on a rotating basis and managed by an appointed Executive Director.

The purpose of NLA is to lead and encourage a national system of legal aid that allows disadvantaged people to access justice, to ensure the legal assistance sector is adequately funded and to provide a forum for collaboration at a national level between government, stakeholders, community and legal assistance providers to develop best practice legal assistance.

### 2.2 Legal Aid Commission Services

LACs are the main legal assistance service providers to people experiencing disadvantage, providing approximately 1.7 million instances of legal assistance and approximately 150,000 grants of aid across Australia annually.<sup>7</sup> These services include:

- Representation services in cases before courts or tribunals, including Independent Children's Lawyers (ICLs) in Commonwealth family law matters, and separate representatives for children in state and territory court child protection matters.
- Family law dispute resolution services, which are child focused and may be child inclusive.
- Family Advocacy and Support Services, including duty lawyer services at family law courts including non-legal support services for people affected by family violence.
- Duty lawyer services at criminal law courts and some civil law courts and tribunals.

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<sup>7</sup> National Legal Aid, [Submission to the Review of the National Legal Assistance Partnership](#), October 2023, p. 7



- Legal advice, task assistance (such as letter writing, advocating on someone's behalf and assistance with drafting documents) and information services face to face, by telephone, and online.
- Non-legal advocacy.
- Community legal education, including publications, information sessions and workshops, also via web and social media.
- Strategic litigation, law reform and advocacy services.

LAC services are provided to the most disadvantaged people in Australia – in 2022-2023 of the 151,000 legal aid approved matters, 100% were for financially disadvantaged clients, 24% were for Aboriginal or Torres Strait Islander people (or 74% for Legal Aid Northern Territory (LANT) and 37% for Legal Aid Western Australia (LAWA), and a significant proportion of those accessing family and civil law services were women and children.<sup>8</sup> Over 86% of all family law legally aided matters included issues of domestic and family violence.<sup>9</sup> Approximately 25% of clients receiving intensive legal assistance self-identified as a person with a disability based on 2020-21 data.<sup>10</sup>

Applications for grants of legal aid are subject to means, merits and guidelines testing. These criteria are applied in a context of limited funding and competing priorities. Grants of legal aid are generally subject to a contribution payable by the applicant. LACs can place charges over a person's property to cover the cost of a contribution. The amount can then be recovered when the client sells their property.

Nationally in 2022-23, more than 72% of grants of legal aid for representation were assigned to private practitioners, with the remaining 28% assigned to in-house lawyers.<sup>11</sup> Payment to private practitioners is generally by hourly rate for the work undertaken and/or fixed fees for types or stages of work.

LACs also provide family dispute resolution services that utilise mediation to support parties to avoid escalating their disputes to court. Conferences are chaired by family dispute resolution practitioners who are accredited pursuant to family law legislation. At least one of the parties to the dispute must be in receipt of a grant of legal aid and the legally aided party will be legally represented. Non-legally aided parties may be legally represented or choose to self-represent. Family dispute resolution for property law issues has been very limited due to funding and eligibility restrictions.

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<sup>8</sup> [Ibid](#), p. 12.

<sup>9</sup> National Legal Aid internal review of 100 family law files in each Legal Aid Commission. Over 800 files were reviewed.

<sup>10</sup> [Ibid](#), p. 8. Note: data is an underrepresentation due to limitations in data collection and reliance on self-reporting.

<sup>11</sup> [Ibid](#), p. 8.

LACs use their evidence base drawn from their practice experience to support strategic litigation and advocacy and law reform efforts at a jurisdictional and national level. These efforts are aimed at addressing systemic injustice, reducing disadvantage, and improving the experience of people interacting with the justice systems.

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### 3. BUDGET AND FUNDING ARRANGEMENTS

#### 3.1 Legal Aid Commission Funding

The LACs are individually funded from three main sources: In 2022-23, LACs received total funding of AUD \$1,095,433, made up of:

- \$328,292 from the Commonwealth
- \$654,634 from State and Territory Governments
- \$67,860 from public purpose/statutory interest on trust funds
- \$44,647 from other income.

#### LEGAL AID COMMISSIONS' INCOME 2022-23

(EXCLUDING FUNDING AND EXPENDITURE FOR COMMUNITY LEGAL CENTRES AND  
EXPENSIVE COMMONWEALTH CRIMINAL CASES FUNDS)

|                | <b>Total<br/>income<br/>\$AUD</b> | <b>% from federal<br/>government</b> | <b>% from<br/>state/territory<br/>governments</b> | <b>% from<br/>Special<br/>trust &amp;<br/>Statutory<br/>Interest</b> | <b>% from<br/>other<br/>income</b> |
|----------------|-----------------------------------|--------------------------------------|---|--|------------------------------------|
| <b>2022-23</b> | \$1,095,433                       | 30.0%                                | 59.7%   | 6.2%   | 4.1%                               |

Australia's legal aid budget is capped on an annual basis. As a rule, commonwealth funding must be used for commonwealth law matters (including family law, commonwealth criminal law, and welfare law), while state funding must be used for state law matters (including most criminal matters and some civil matters).

Commonwealth funding for legal aid per capita has reduced by 3 per cent over the past decade, as per capita spending dropped from \$18.59 to \$18.10. State and territory per capita spending grew by almost 30 per cent over the same period, from \$21.94 to \$28.40.<sup>12</sup>

## 3.2 Funding Allocation Models

The Commonwealth's financial contribution to legal assistance is allocated between the states and territories using Commonwealth funding allocation models. These funding allocation models take account of a range of factors, such as population, but are applied to fixed and limited sums of money.

## 3.3 Current Funding Arrangement

Currently, Commonwealth funding for the legal assistance sector is provided through the [National Legal Assistance Partnership 2020-2025](#) (NLAP).<sup>13</sup> Under the NLAP, the states and territories each receive Commonwealth funding for each of the LACs, ATSILSs, and CLCs, with fixed amounts allocated to each group of service providers.

An independent review of NLAP was conducted in 2023-24, with the [final report](#) released in May 2024.<sup>14</sup> The report identified how Australia's legal assistance sector has been neglected by the Government and recognised that legal need continues to increase in Australia, and that significant proportions of the population – including over 1.5 million people living below the poverty line – are ineligible for legal assistance under current means tests. The review recommended that funding levels be increased and provided on a continuous long-term basis, rather than the current short-term grants that make it difficult for organisations to plan.

In 2024, the Commonwealth and states and territories negotiated a new funding partnership for legal assistance. Commencing 1 July 2025, the new [National Access to Justice Partnership](#) (NAJP)<sup>15</sup> will provide \$3.9 billion over five years to support the [National Strategic Framework for Legal Assistance](#).<sup>16</sup> The NAJP states it will contribute to integrated, efficient, effective and appropriate legal assistance

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<sup>12</sup> Impact Economics and Policy, [Justice on the Brink: Stronger Legal Aid for a Better Legal System](#) (Final Report, November 2023), p. 7.

<sup>13</sup> [National Legal Assistance Partnership 2020-25](#)

<sup>14</sup> Warren Mundy, [Independent Review of the National Legal Assistance Partnership 2020-25 – Final Report](#), May 2024.

<sup>15</sup> [National Access to Justice Partnership](#)

<sup>16</sup> [National Strategic Framework for Legal Assistance 2015-20](#)

services, which are focussed on improving outcomes and keeping the justice system accessible for people experiencing vulnerability and financial disadvantage, within available resources.

Under the NAJP, states will administer Commonwealth funding in accordance with Commonwealth priorities, which are:

- a. family law matters;
- b. combating gender-based violence against women and children, particularly Aboriginal and Torres Strait Islander women and children;
- c. alleviating cost of living pressures such as employment, welfare, housing and financial disputes; and
- d. Closing the Gap and reducing incarceration rates for Aboriginal and Torres Strait Islander adults and youth.<sup>17</sup>

Commonwealth funding must be prioritised for the delivery of frontline legal assistance services, which includes legal assistance providers' reasonable operational costs that support service delivery, or to directly enable NAJP funded legal assistance providers to undertake activities required by the NAJP.<sup>18</sup>

The states and territories also provide funding direct to LACs in amounts determined by respective budget processes. The NAJP requires that service provider data intended to support the provision of meaningful analysis and insight which supports legal assistance service delivery and facilitate a greater understanding of the delivery of legal assistance services.<sup>19</sup>

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<sup>17</sup> [Op cit](#), Sect I 6, p. 6.

<sup>18</sup> [Ibid](#), Sect 55, p. 18.

<sup>19</sup> [Ibid](#), Sect D9

## 4. ELIGIBILITY FOR LAC LEGAL REPRESENTATION AND FUNDING SHORTFALL

The 2014 report of the Australian Government's Productivity Commission, *Inquiry into Access to Justice Arrangements*, found that approximately 14% of the Australian population is living in poverty and only 8% of the population would be eligible for legal aid.<sup>20</sup> This latter figure remains unchanged a decade later.<sup>21</sup> "While the LACs' income and assets tests are based on the national means tests thresholds, the reality of fixed budgets means that LACs have not been able to keep updating the thresholds to keep pace with inflation",<sup>22</sup> and that "Client profile data from LACs confirms the welfarisation of legal aid".<sup>23</sup>

The recent commitment to 5 years of funding under the NAJP represents an increased investment across the legal assistance sector. In addition, the NAJP streamlines funding arrangements by consolidating several separate funding agreements for certain programs into baseline funding for legal assistance.

However, due to ongoing demand, this funding will not address critical funding pressure points for LACs identified in the Productivity Commission's 2014 report. In particular, the funding is insufficient to cover any increase to the Legal Aid means test, which will continue to limit access to legal aid to only 8% of Australian households. This means that clients need to be well under the poverty line to access to legal representation.

### 4.1 Legal Need

Currently, there is not a routine process for collecting evidence of the national level of legal need. As noted by the Productivity Commission, improving data collection is paramount to ensuring that the Australian public and government can have confidence that legal needs are being met. The most recent nation-wide survey of legal need was the 2012 Legal Australia-Wide Survey (LAW Survey).<sup>24</sup> This found legal problems affected around 8.5 million Australians each year, at that time almost half the population.<sup>25</sup> Further, those who experience more than one legal problem are likely to be at risk of

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<sup>20</sup> [Access to Justice Arrangements](#), p. 1021-22.

<sup>21</sup> [Justice on the Brink: Stronger Legal Aid for a Better Legal System](#)

<sup>22</sup> [Access to Justice Arrangements](#) p. 716.

<sup>23</sup> *Ibid* p. 717.

<sup>24</sup> Christine Coumarelos et al, [Legal Australia-Wide Survey: Legal Need in Australia](#) (Final Report, August 2012) vol. 7.

<sup>25</sup> *Ibid*.

experiencing disadvantage, including having a disability, being a single parent, identifying as Aboriginal or Torres Strait Islander, or being unemployed.

In 2023, the Victoria Law Foundation released the first volume of The [Public Understanding of Law Survey](#) (PULS) to explore how people experience, understand and navigate law and everyday life problems. The report found that legal problems were common, with 42% of respondents reporting they had experienced a legal issue.<sup>26</sup> However, only 21% of respondents contacted a legal service for help resolving their matter, and a further 36% either handled problems alone (32%) or did nothing (4%).<sup>27</sup> Ultimately, the report estimates that 78% of legal need went unmet.<sup>28</sup> to explore how people experience, understand and navigate the law and everyday life problems. The report found that legal problems were common, with 42% of respondents reporting they had experienced a legal issue.<sup>29</sup> Of these respondents, only 21% had contacted a legal service for help resolving their matter, while 50% had ignored it entirely.<sup>30</sup> Ultimately, the report estimates that 78% of legal need went unmet.<sup>31</sup>

A [third volume of the PULS](#)<sup>32</sup> report released in 2024 found that just over one-fifth of people surveyed facing a justiciable problem obtained help from legal services, with an even split between public and private legal services. Overall, 60% of PULS respondents indicated they had been able to get all the expert help they needed, with 20% strongly agreeing they had. The remaining 40% felt they were not able to get the expert help they needed, with 9% strongly disagreeing.

The report examined the relationship between different levels of individual skills and confidence-related legal capabilities and problem-solving strategies, noting a strong relationship between practical legal literacy and the problem-solving strategy. Individuals with lower skills and confidence had an increased likelihood of seeking legal advice, however these individuals were more likely to have court or tribunal proceedings brought against them, rather than bringing proceedings against others. These individuals were also more likely have low trust in lawyers, experienced legal problems with longer duration, were

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<sup>26</sup> [Report - Everyday Problems and Legal Need | The Public Understanding of Law Survey](#), p. 45.

<sup>27</sup> Ibid. p. 99.

<sup>28</sup> Ibid. p. 10.

<sup>29</sup> Nigel J. Balmer et al, [The Public Understanding of Law Survey \(PULS\) Volume 1: Everyday Problems and Legal Need](#) (Final Report, 2023).

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Nigel J. Balmer, [The Public Understanding of Law Survey \(PULS\) Volume 3: A New Perspective on Legal Need and Legal Capability](#) (Final Report 2024).

more often unhappy with problem outcomes or progress, as well as being most likely to disagreeing they got all the help they needed.<sup>33</sup>

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<sup>33</sup> Nigel J. Balmer, [\*The Public Understanding of Law Survey \(PULS\) Volume 3: A New Perspective on Legal Need and Legal Capability\*](#), Key Findings.



## 5. QUALITY ASSURANCE

LACs implement a range of quality assurance measures to ensure high quality service delivery. Measures include:

- **Supervision and mentoring:** all in-house LAC lawyers receive supervision, mentoring, and training.
- **Professional development:** continuing professional development (CPD) is provided for all in-house LAC lawyers and may be provided by LACs to members of the private profession who are prepared to undertake work on a grant of legal aid and to other legal assistance service providers.
- Respective state and territory professional bodies also require lawyers to undertake compulsory CPD in connection with holding a practising certificate. This is generally a minimum of 10 hours per year, and there are requirements that CPD relates to each of ethics, professional skills, practice management or business skills, and substantive law.
- **Panel operation:** LACs allocate grants of legal aid determined by panels which are generally based in the respective area of practice. Some specialist panels have also been established, e.g., for serious crime, and appointment as an ICL in family law proceedings. Audits of grants and/or inhouse files may be undertaken in relation to quality.
- **Other requirements for practitioners:** generally, LAC lawyers are required to hold a practising certificate and comply with CPD requirements. There are, however, additional requirements e.g., ICLs, are required to have successfully completed the National ICL Training Program, to have a minimum of five years practice in family law, and in line with State and Territory requirements to hold the respective State or Territory “working with vulnerable people” card.
- **Client surveys:** LACs run regular client surveys to gauge client satisfaction and any areas of improvement. The surveys have a high uptake by clients who also provide detailed feedback on improvements indicating a high level of engagement and trust between LACs and clients. Overall client satisfaction ranges from 62% - 78%, with those receiving legal representation having a much higher level of satisfaction.<sup>34</sup>

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<sup>34</sup> National Legal Aid, [Submission to the Review of the National Legal Assistance Partnership](#), October 2023, p. 8.

- **Complaints:** LACs have complaint mechanisms that allow clients and community members to raise quality concerns about LAC lawyers and services. These complaint mechanisms operate in addition to complaint functions associated with professional bodies and independent regulators.

NLA runs two comprehensive training and professional development programs.

## WITH YOU

[With You](#) is a national training program for trauma-informed, rights-based legal services to people experiencing distress, mental health concerns or suicidality. With You has been developed through a review of domestic and international literature, analysis of existing best practice in the legal assistance sector, and national consultations with 534 people across Australia. The training is available to employees of LACs, ATSILS, FVPLS and CLCs. In particular, the [With You Trauma-Informed Organisational Toolkit](#) provides practical guidance from the legal assistance sector, for the sector, on all aspects of service design, organisational culture, leadership and management. The Toolkit showcases best practice from approximately 40 legal services across Australia.

## THE NATIONAL INDEPENDENT CHILDREN'S (ICL) LAWYER PROGRAM

The National ICL Program supports ICLs across Australia to advocate for children's best interests in family law proceedings. The Program provides a comprehensive suite of services including mandatory national accreditation training and mentoring, and offers exclusive access to tailored online resources, training courses and professional development opportunities. The [ICL website](#) offers valuable information, news and resources for both ICLs and the public about the role of ICLs in the family law system.

The [Safe & Together: An Introduction to the Model for Independent Children's Lawyers e-course](#) was launched in March 2025. Funded by NLA and developed in collaboration with the National ICL Program by the Safe & Together Institute, the e-course is designed specifically for ICLs across Australia. It follows the adoption in 2021 by the Federal Circuit and Family Court of Australia and the Safe & Together Institute's whole-of-court training package.

The course aims to enhance ICLs ability to advocate for the children's best interests from a trauma-informed and domestic and family violence-informed lens, to identify protective parenting, coercive controlling behaviours and the profound impacts of family violence on children. The e-course helps ICLs

acquire new skills and perspectives to elevate their practice in working on cases involving DFV and coercive control using the Federal Circuit and Family Court of Australia's endorsed Safe & Together model's unique terminology, principles, and components.

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## 6. PUBLIC LEGAL EDUCATION

Initiatives to raise awareness of legal assistance services include:

- community legal education publications and activities
- training for community workers
- phone and webchat lines
- outreach targeted to particular needs in many regional and remote locations
- health justice partnerships
- domestic violence legal and social support services located in the courts and in the community
- media engagement, national and local
- strategic advocacy and law reform
- self-help resources for people who may be ineligible for a grant of aid for legal representation.

Information about how to access, or further access, legal assistance services is provided through all the above channels.

### 6.1 Amica: online tool to assisting families during separation

**amica** is a national online service that can be used by separating couples in Australia to make parenting arrangements and to divide property and money. Funded by the Commonwealth and designed by family lawyers, amica's artificial intelligence (AI) was built to provide a suggested division of assets consistent with what a lawyer or court would recommend. Since its launch in June 2020, over 13,000 matters have been registered with amica, over 5,000 individual asset divisions have been suggested<sup>35</sup>, and the amica website has received more than 1.5 million page views.<sup>36</sup> An indicator of amica's success is the social benefit being delivered to Australians who have empowered themselves with information and the value to those who have gone on to receive a suggested division from amica's AI or finalised their separation through one of the formal agreements generated by amica.

Based on an average cost of legal advice for such matters of \$20,000 per person, users have saved more than \$80 million (AUD) by using amica.<sup>37</sup>

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<sup>35</sup> [amica website](#)

<sup>36</sup> [Annual Report Legal Services Commission 2023-24](#), p. 38.

<sup>37</sup> *Ibid.*

## 7. ALTERNATIVE SOURCES OF LEGAL SERVICES

As noted in Section 1.3 of this Report, while LACs provide the majority of legal assistance in Australia, three other key groups of providers also provide legal assistance.

### ABORIGINAL AND TORRES STRAIT ISLANDER LEGAL SERVICES (ATSILSS)

ATSILS have over 40 years' experience in providing culturally safe legal advice, assistance, representation, CLE, advocacy, law reform activities and prisoner through-care to Aboriginal and Torres Strait Islander peoples in contact with the justice system.<sup>38</sup> ATSILS advocate at the national and international level for the rights of Aboriginal and Torres Strait Islander peoples within the justice system, as well as form broader system change to reform the justice system and work to ensure that Aboriginal and Torres Strait Islander peoples have equitable access to justice.<sup>39</sup>

During 2022-23, there were 209,484 legal services completed by ATSILSs nationally, of which:

- 70% were duty lawyer services (147,002 services)
- 19% were representation services (39,096 services)
- 7% were legal advice services (15,354 services).<sup>40</sup>

### COMMUNITY LEGAL CENTRES (CLCS)

CLCs are independent community organisations that deliver high-quality, rights-based, and integrated services to people in need. CLCs support people experiencing financial hardship, social disadvantage, housing issues, domestic or family violence, discrimination, and other legal and social issues, provide a safety net to prevent people's legal problems from escalating.

While some CLCs are generalist centres, others are specialist centres working in certain areas of law and/or with specific client groups. Specialities include employment law, environmental justice, immigration and refugee law, social security and economic justice, renters' rights, seniors' rights and elder abuse, young people, issues for Aboriginal and Torres Strait Islander women and children, or public interest litigation.

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<sup>38</sup> National Aboriginal and Torres Strait Islander Legal Services, [Submission to the Independent Review of the National Legal Assistance Partnership 2020-25](#), p. 12.

<sup>39</sup> [NATSILS website](#)

<sup>40</sup> Australian Bureau of Statistics, [Legal Assistance Services 2022-23](#).

In 2022-23, CLCs delivered over 674,000 services to people across Australia, including referrals, legal advices, duty lawyer services and legal representations. They also delivered around 37,000 non-legal services, such as counselling and social work.<sup>41</sup>

## **WOMEN'S LEGAL SERVICES AUSTRALIA**

Women's Legal Services Australia (WLSA) is the national peak body for 13 specialist Women's Legal Services in each state and territory across Australia, including two First Nations Women's Legal Services. WLSA provides a national voice for Women's Legal Services to influence policy and law reform, and advocate to increase access to gender-specialist, integrated legal services for women. Women's Legal Services provide high quality free legal services for women, including legal advice and representation, support services and financial counselling, community legal education, training for professionals, and engage in advocacy for policy and law reform.

## **FAMILY VIOLENCE PREVENTION LEGAL SERVICES**

Family Violence Prevention Legal Services are Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) that provide holistic, specialist, culturally safe legal and non-legal support to Aboriginal and Torres Strait Islander peoples experiencing or at risk of family violence – predominantly women and their children. FVPLS provide a “wrap around”, holistic, service delivery model because they understand it is necessary to address the interconnected factors that cause family violence, as well as the needs of First Nations people affected by family violence.<sup>42</sup>

## **PRIVATE LEGAL SECTOR**

Beyond funded legal assistance, the over two thirds of solicitors in Australia work in private practice. As of October 2022, there were 16,514 private law practices in Australia, up from 16,393 in 2020. Most were sole practices (84%), followed by law practices with two to four principals (9%). Across Australia, there were only 70 law practices with 21 or more principals. Almost half (32) were based in New South

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<sup>41</sup> Community Legal Centres Australia, [Annual Report 2023-23](#), p. 8.

<sup>42</sup> [First Nations Advocates Against Family Violence](#) website.

Wales. While practices with 21 or more principals represent less than 1% of total practices, they employ 19% of solicitors in Australia.<sup>43</sup>

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<sup>43</sup> [2022 National Profile of Solicitors](#), p. 3.

## 8. HOLISTIC LEGAL SERVICES

There are many national and state-based legal assistance sector initiatives that support a holistic service delivery response. As indicated above, this report focusses on LACs, however all four main groups of providers have holistic services and work in partnership with non-legal service providers and each other to best address local needs.

Generally, LACs have relationships with community-based organisations and agencies delivering social support services to support a holistic approach to resolving issues. LACs are increasingly employing social support workers on staff and seeing the benefits for clients.

The LACs' **Family Advocacy and Support Services** provide assistance in family court matters to people who have experienced family violence or have used or are alleged to have used family violence. FASS recognises that matters involving family violence are often very complex, and clients may be more vulnerable and require more assistance than in other matters. The service is primarily a court-based, walk-in service through which clients receive assistance from a lawyer and social worker. While the lawyer assists with the family law and other legal matters, the social worker assists with the surrounding non-legal issues. FASS social workers can assist clients to access social services including welfare, counselling, housing, drug and alcohol programs, and behaviour change programs. The lawyer and social worker also collaborate with the client, the court, and the police, to provide safety planning where necessary.

A 2018 evaluation found FASS was an effective and important program that filled a gap in service provision to family law clients and suggested a number of program enhancements and systemic changes to improve outcomes for families at risk.<sup>44</sup> A further evaluation is currently underway.

Some of the many examples of state and territory based holistic services are included at Attachment A to this Report.

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<sup>44</sup> Inside Policy, [An Evaluation of the Family Advocacy and Support Services Final Report](#), 2018.



## 9. UN SDG STANDARD 16.3

- *SDG 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all.*

### 9.1 Closing the Gap

In 2020, a [National Agreement on Closing the Gap](#) (the National Agreement) was enacted to enable Aboriginal and Torres Strait Islander people and governments to work together to overcome the inequality experienced by Aboriginal and Torres Strait Islander peoples, and achieve life outcomes equal to all Australians.<sup>45</sup>

The National Agreement was developed in partnership between Australian governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) and includes 19 national socio-economic targets. Key targets relating to law and justice are that Aboriginal and Torres Strait Islander adults and young people are not overrepresented in the criminal justice system, and that Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system.<sup>46</sup>

The ongoing disadvantage and systemic racism faced by Aboriginal and Torres Strait Islander people is reflected in the disproportionate levels of legal assistance being provided to First Nations peoples. Despite comprising just over 3% of Australia's total population, 24% of clients receiving legal aid grants in 2022-2023 were First Nations people, with this figure rising to 37% in Western Australia and 74% in the Northern Territory.

LACs provide legal assistance services alongside ATSILS and FVPL and, with CLCs, play an important role in supporting First Nations communities to have choice in legal assistance provider. LACs also have a role where there are instances of conflict of interest. LACs have developed several different service delivery approaches and resources in collaboration with First Nations communities to assist in better ensuring that their services are culturally safe and meeting community need.

For example, Legal Aid NSW has two services that specifically support First Nations Communities: the Civil Law Service for Aboriginal Communities and the Family Law Service for Aboriginal Communities. For more details see Attachment A.

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<sup>45</sup> [National Agreement on Closing the Gap: At A Glance.](#)

<sup>46</sup> [National Agreement on Closing the Gap.](#)

NLA is currently developing a new Strategic Plan to update the current [NLA's Strategic Plan 2021-24](#). The new Plan will prioritise the Closing the Gap targets and priority reforms. The Plan will focus on self-determination, as well as aiming to be adaptable as treaty and other processes occur across jurisdictions and ensure data sovereignty and collection that includes an understanding of the intersectionality of issues for First Nations communities. It will also emphasise the need to work in collaboration with and support of Aboriginal Community Controlled Organisations (ACCOs), as well as ensuring culturally safe service delivery by LACs.

## 9.2 Strategic Advocacy

LACs promote the rule of law through their status as independent statutory bodies. By maintaining independence from the government, LACs can assist citizens to hold the government to account for errors and injustices. LACs also have an important role in advocating for the reform of laws that adversely affect LAC clients.

### IMPROVING THE EVIDENCE BASE ON THE NEED FOR GREATER LEGAL ASSISTANCE FUNDING

One of NLA's most significant achievements around improving the evidence base was the release of [Justice on the Brink](#),<sup>47</sup> published with Impact Economics in November 2023. The report found that Australia's already underfunded legal assistance sector is under severe pressure from growing demand and needs urgent increased funding to continue delivering vital services for the community.

In May 2024, NLA saw the first ever release of [national legal assistance data](#) by the Australian Bureau of Statistics (ABS).<sup>48</sup> Whilst it does not include all legal assistance service delivery funded by Commonwealth and state governments, it was an important step towards understanding the contribution of legal assistance providers in supporting access to justice. Improving data collection and reporting to provide a strong evidence-base for strategic planning and funding advocacy remains one of NLA's key objectives.

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<sup>47</sup> [Justice on the Brink: Stronger Legal Aid for a Better Legal System](#).

<sup>48</sup> Australian Bureau of Statistics, [Legal Assistance Services 2022-23](#).

In July 2024, NLA published the [Funding Legal Aid Options Paper](#) by Impact Economics and Policy.<sup>49</sup> The paper found that an additional \$484 million per year is required as a minimum to keep a skeletal system functioning. The paper canvassed several options for increased legal assistance funding.

## RESPECT@WORK

In November 2023, the Attorney-General introduced the *Australian Human Rights Commission Amendment (Costs Protection) Bill* to Parliament that sought to implement recommendation 25 of the Respect@Work Report. NLA, as a key member of the Power to Prevent Coalition, submitted to the review of the cost model for Commonwealth anti-discrimination laws. After months of advocacy, NLA welcomed the passing of this Bill into law in September 2024. It was a landmark reform that will go a long way in removing the financial barriers that prevent victims of workplace discrimination and sexual harassment from seeking justice.

## NEW ADMINISTRATIVE REVIEW TRIBUNAL

In March 2024, NLA gave evidence to an inquiry into the *Administrative Review Tribunal (ART) Bill 2023* to establish a unified, cohesive Tribunal with flexible powers and procedures to best meet the needs of applicants. NLA and Economic Justice Australia advocated extensively to shape the ART Bill and maintain two tiers for social security appeals matters. The Bill was passed in May 2024 and the new Tribunal was established in November 2024. NLA continues to work with the Tribunal to ensure it works in a person-centred, trauma-informed manner.

## SUBMISSIONS

In the last financial year, NLA wrote 19 submissions, with some notable examples of the importance of advocacy being:

- *The Inquiry into Migration Amendment (Removals and Other Measures) Bill 2024* – advocacy outlined significant concern over empowering the Minister to either return vulnerable asylum seekers or otherwise expose them to disproportionate mandatory imprisonment in Australia;

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<sup>49</sup> Impact Economics, [Funding Legal Aid Options Paper](#).

- The Inquiry into the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track) Bill 2024* - advocacy focused on the need for co-design and person-centered approaches; and
- The Inquiry into the *Family Law Amendment Bill 2023*, - advocacy highlighted a need for inclusion of explicit provision that family violence is a factor to be accounted for in determining a property settlement.

Examples of national law reform submissions can be accessed via:

<https://www.nationallegalaid.org/resources-2/nla-submissions/>

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## 10. OTHER

### 10.1 Most Innovative Project 2023 – 2024

#### PRIVATE PRACTITIONERS' CENSUS

In February 2025, NLA will launch the 2024 Legal Aid Private Practitioners' Census. This project was designed and delivered by the University of New South Wales' Social Policy Research Centre (UNSW SPRC). It is the first of its kind in Australia and the second ever globally.

Private lawyers are critical to delivering legal aid services, particularly in regional and remote areas of Australia. However, LACs face widescale challenges in attracting and retaining private practitioners to deliver legal assistance services, given that the fees provided to private practitioners has stagnated. Due to under-resourcing, some LACs have not been able to increase their fees at all and are providing the same amount per hour to private practitioners as they were in 2014. This results in market supply risks in delivering essential legal representation, such as for victim-survivors of domestic and family violence.

The Private Practitioners' Census was undertaken to provide national insights into barriers to access to justice.. Over 1000 private lawyers shared their experience delivering legal aid, giving insights into who is delivering legal aid, who is accessing it, where there are shortfalls in service delivery, and what needs to be done to maintain access to justice via Legal Aid services.

Key results of the survey include:

#### *Characteristics of Legal Aid Private Practitioners*

- 54% have delivered legal aid for over a decade
- 32% are the only paid employee in their practice
- 28% are in very small practices, with only 2-4 paid staff
- The majority of private practitioners are women.

#### *Percentage of respondents identified the following types of cases as common in their practice*

- Domestic and family violence – 45%
- Summary crimes – 45%
- Family law - 40%

- Indictable or serious crimes – 40%.

#### *Percentage of respondents identified the following barriers to legal aid work*

- Having to perform un-renumerated work is a difficulty – 85%
- Trying to do quality work with limited time and resources is a difficulty - 77%
- Time needed to engage with legal aid clients has increased – 83%
- Growth in the level of support required to engage with legal aid clients – 65%
- Travelled over 200km one way to deliver legal aid - 38%.

In relation to their future plans, when legal aid comprises most of the current caseload of private practitioners, 42% would prefer to do less, 20% of Private Practitioners are unsure if they will continue in 12 months and 11% wish to cease delivering legal aid.

## 10.2 Most disappointing trend 2023-2024

### **MINIMUM AGE OF CRIMINAL RESPONSIBILITY**

A key concern in the last 12 months has been the backwards movement on efforts to raise the Minimum Age of Criminal Responsibility (MACR). NLA strongly supports a national co-ordinated approach to raising the minimum age of criminal responsibility to at least 14 years old. In all jurisdictions in Australia, except in the Australian Capital Territory, the MACR is set at 10 years of age. This means that children as young as 10 can be apprehended, prosecuted and detained.

There are many compelling reasons for raising the MACR to at least 14. These include consideration of the cognitive and emotional development of young children, the stigmatising and criminogenic effect of the criminal justice system and custody on young children, as well as the over representation of particularly at-risk groups in the criminal justice system, including Aboriginal children, children experiencing mental health issues, children with cognitive disabilities and children in out-of-home care. NLA is disappointed to note that, despite this evidence, several jurisdictions have moved in the wrong direction on the MACR.

- In August 2024 the Victorian Government abandoned its commitment to raising the minimum age to 14 years.

- In October 2024, the Northern Territory lowered its MACR back to 10 years of age, just over a year after raising the age to 12.
- In December 2024, the Queensland Government passed legislation to subject children and young people to the same sentencing as adults for serious offences, as well as removing detention as a last resort in the youth justice system.

### 10.3 Biggest challenges for 2025

#### DISASTER LEGAL SERVICES

As disasters become more frequent, destructive and widespread, impacting larger numbers of people, it is critically important for governments to fund legal assistance disaster services to assist with specialised matters relating to disaster support. NLA strongly advocates for funding for the delivery of disaster response and recovery legal services nationally, to respond to the emergence of disaster legal assistance as an ongoing and priority area of need for communities. It is a specialised area of legal assistance that provides a cost-benefit to government in terms of minimising the financial and other impacts of disaster on individuals and by supporting individuals and communities to access insurance and other entitlements. Without this assistance, people and communities impacted by disaster would rely even further on government resources and support in recovering from disaster.

In October 2024, the House of Representatives Standing Committee on Economics published a report on the inquiry into insurer's responses to 2022 major flood claims, [Flood failure to future fairness](#). The report highlighted the critical service that the legal assistance sector and other community organisations provide for the most disadvantaged communities affected by floods.

The Committee commented:

*Without the efforts of legal aid solicitors, financial counsellors and the broader community sector, many more flood victims would have faced financial and personal ruin.*

Disaster legal assistance funding to date has been short-term, piecemeal and focused on the crisis response. Ongoing funding is required to provide community support across the lifetime of disaster impact and to enable systemic issues to be addressed. The establishment of an ongoing national disaster legal service would require minimal investment for a maximum return that would support individuals

and communities impacted by disaster to recover quickly and limit any ongoing trauma. This is supported by the recommendation in *Flood failure to future fairness*, which recommended that a portion of the additional funding package announced to the legal assistance sector during 2025-2030 be allocated to the work of disaster recovery.

NLA will continue to advocate for a commitment from governments to provide ongoing funding for a national disaster legal service to meet this important and growing area of legal need.

## **DOMESTIC AND FAMILY VIOLENCE**

LACs are a critical frontline service in the domestic and family violence sector, providing over 32,000 family law grants of aid and over 14,000 domestic and family violence duty lawyer services nationally each year. They also provide over 6,000 grants of aid so that lawyers can independently represent the views and needs of children in the family law court.

In NSW alone, Legal Aid has seen a 61 per cent increase in duty lawyer services provided by the Domestic Violence Unit (DVU) and a 36 per cent increase in calls to its DVU hotline, with 60 women waiting to be called on any given day.

NLA continues to advocate for increased legal aid funding in the face of increased demand, calling on governments to prioritise the impact legal assistance can make for victim-survivors of gender-based violence by allocating funding that will allow more women and children to access legal representation in the Family Court.

## **UNDER-RESOURCING OF LEGAL ASSISTANCE.**

Consistent with previous years, the inability to maintain and improve service delivery due to rising costs continues to be a major challenge. As noted above, only 8% of Australians qualify for a grant of aid, despite 13% of the population living in poverty. This leaves 1.5 million people living below the poverty line but unable to access legal assistance under the current means tests. As demonstrated in the Private Practitioners' Census, there are real concerns that private practitioners are withdrawing or are planning to withdraw from undertaking legal aid work due to the challenging nature of the work and the comparatively low levels of remuneration.

NLA welcomed the finalisation of the 5-year National Access to Justice Partnership in November 2024.



However, NLA is concerned that whilst the additional funding provided to LACs will enable continuation of family law service delivery, due to ongoing demand it will not address critical funding pressure points:

- There will be no expansion of Legal Aid family law or independent children's lawyer program legal representation services, creating continued unmet demand and resulting in disadvantaged victim-survivors missing out on support.
- There will be no increase to the Legal Aid means test, which will continue to limit access to Legal Aid to only 8% of Australian households, resulting in clients needing to be well under the poverty line to access legal representation.
- Private practitioner fees will be unable to be raised to appropriate levels, which will continue to create market supply issues in delivering services, particularly in rural and remote areas of Australia.

NLA will continue to work with the Commonwealth and state and territory governments to look at options to address these ongoing service delivery gaps and looks forward to working in partnership across the sector to develop integrated approaches to providing legal assistance, particularly in relation to gender-based violence.

## CONCLUSION

More information about National Legal Aid and links to each state/territory LAC are available at [National Legal Aid | Access to justice for all Australians](#)

Inquiries can be directed to the NLA at [nla@nationallegalaid.org.au](mailto:nla@nationallegalaid.org.au)