

NATIONAL FAMILY VIOLENCE PREVENTION
LEGAL SERVICES

WORKING TO ACHIEVE IMPROVED JUSTICE OUTCOMES FOR ABORIGINAL AND TORRES STRAIT ISLANDER
VICTIMS/SURVIVORS OF FAMILY VIOLENCE AND SEXUAL ASSAULT

National Family Violence Prevention Legal
Services Forum submission

***Review into the National Partnership
Agreement on Legal Assistance Services***

October 2018

The National Family Violence Prevention Legal Services Forum (**'the National FVPLS Forum'**) welcomes the opportunity to provide this submission to the Review of the National Partnership Agreement on Legal Assistance Services.

The National FVPLS Forum has endorsed and contributed to the submission by the Australian Legal Assistance Forum ('ALAF') and now makes the following, further brief comments.

About the National FVPLS Forum

The National FVPLS Forum is the national, peak body for the fourteen Family Violence Prevention Legal Services (**'FVPLSs'**) across Australia which provide culturally safe and specialist legal and non-legal assistance and support to Aboriginal and Torres Strait Islander victim/survivors of family violence– predominantly women and children. FVPLSs also deliver essential community legal education and early intervention and prevention activities.

The National FVPLS Forum provides a leading, national voice on preventing and addressing violence against Aboriginal and Torres Strait Islander people – predominantly women and children. It was established in May 2012 and works in collaboration across member FVPLS services to increase access to justice for Aboriginal and Torres Strait Islander victim/survivors of family violence. Nationally, more than 90% of FVPLS clients are women.

The NFVPLS Forum undertakes policy and law reform work to identify systemic issues in need of reform and advocate for strengthened law and justice outcomes for Aboriginal victims/survivors of family violence and sexual assault. As well as working collaboratively with other peak bodies in the sector, our individual services often develop their own relationships, referral pathways and programs with community legal centres (**'CLCs'**). The on-the-ground working relationships with Forum members and collaborative national level advocacy between our peak bodies means that we are well placed to provide evidence as to the importance of the National Association of Community Legal Centres (**'NACLC'**).

National FVPLS Forum members are:

- Aboriginal Family Law Service Western Australia (Perth HO, Broome, Carnarvon, Kununnura, Geraldton, Kalgoorlie, Port Hedland)
- Aboriginal Family Legal Service Southern Queensland (Roma)
- Binaal Billa Family Violence Prevention Legal Service (Forbes)
- Central Australian Aboriginal Family Legal Unit Aboriginal Corporation (Alice Springs HO, Tennant Creek)

- Djirra – formerly Aboriginal Family Violence Prevention and Legal Service Victoria (Melbourne HO, Mildura, Gippsland, Barwon South West and shortly also Echuca-Shepparton, La Trobe Valley, Ballarat and Bendigo)
- Family Violence Legal Service Aboriginal Corporation (Port Augusta HO, Ceduna, Pt Lincoln)
- Many Rivers Family Violence Prevention Legal Service (Kempsey)
- Marninwarnitkura Family Violence Prevention Unit WA (Fitzroy Crossing)
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council Domestic and Family Violence Service (Alice Springs, NPY Tri-state Region)
- Queensland Indigenous Family Violence Legal Service (Cairns HO, Townsville, Rockhampton, Mount Isa, Brisbane)
- Southern Aboriginal Corporation Family Violence Prevention Legal Service (Albany, WA)
- Thiyama-li Family Violence Service Inc. NSW (Moree HO, Bourke, Walgett)
- Warra-Warra Family Violence Prevention Legal Service (Broken Hill)
- North Australian Aboriginal Family Legal Service (Darwin HO, Katherine)

About FVPLSs

FVPLSs were established over 16 years ago in recognition of:

- the gap in access to legal assistance for Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault (predominantly women);
- the high number of legal conflicts within Aboriginal and Torres Strait Islander Legal Services (**‘ATSILS’**); and
- the high rates of family violence within Aboriginal and Torres Strait Islander communities.

FVPLSs are unique, experienced and specialist service providers, delivering culturally safe and holistic legal and non-legal services within which Aboriginal and Torres Strait Islander culture is acknowledged and celebrated.

FVPLSs provide legal assistance, casework, counselling and court support to Aboriginal and Torres Strait Islander adults and children who are victim/survivors of family violence. Legal services are provided to victim/survivors in matters related to:

- Family Violence

- Family law
- Child protection
- Victims of crime assistance

Where resources permit, some FVPLSs also provide assistance with other civil law issues relating to family violence such as tenancy, infringements, police complaints, child support and Centrelink issues.

FVPLSs also provide an important community legal education and early intervention and prevention function, with services designing and delivering a range of community workshops and programs to prevent, reduce and educate about family violence. Many FVPLSs also provide cultural awareness and family violence information, education and advocacy to the broader legal, family violence and community services sector, as well as policy advice and input to Government at State, Territory and Federal levels.

FVPLSs have adopted a holistic wrap-around service delivery model that prioritises legal service delivery while recognising and addressing the multitude of interrelated issues that our clients face. Nationally, more than 90% of FVPLS clients are Aboriginal and Torres Strait Islander women and children.

FVPLSs are funded through the Indigenous Advancement Strategy under the Department of Prime Minister and Cabinet. FVPLSs do not currently receive any funding through the National Partnership Agreement on Legal Assistance Services.

Prior to 2014, FVPLSs were administered under a National FVPLS Program. This was disbanded in 2014 when FVPLSs were rolled into the Indigenous Advancement Strategy and required to compete for funding through an open, competitive tender process. The FVPLS sector is currently undergoing a national review initiated by the Department of Prime Minister and Cabinet and being conducted by Charles Darwin University. As part of the review, the National FVPLS Forum is calling for the re-establishment of a stand-alone, National FVPLS Program with a dedicated and increased allocation of funding for FVPLSs and the National FVPLS Forum.

Response to NPALAS Review:

1. Relationship between CLCs and FVPLSs

CLCs and FVPLSs play distinct and complementary roles. As outlined above, FVPLSs are specialist Aboriginal and Torres Strait Islander services dedicated to assisting Aboriginal and Torres Strait Islander people who experience family violence – predominantly women and their children. CLCs deliver a broad range of essential services for the broader community – with a focus on assisting vulnerable and disadvantaged communities and those who would otherwise be unable to access legal assistance. CLCs can support Aboriginal and Torres Strait Islander peoples’ right to self-determination and cultural safety by facilitating referrals to FVPLSs for specialist, culturally safe assistance. Where CLCs have expertise in areas that FVPLSs do not practice (or where FVPLSs have a legal conflict), CLCs also receive referrals from FVPLS services and provide services to Aboriginal and Torres Strait Islander clients. In some instances, CLCs and FVPLSs work collaboratively to strengthen outcomes for mutual clients ensuring the efficient use of resources and expertise to support the complex needs of vulnerable Aboriginal and Torres Strait Islander people.

In addition, most FVPLSs are members of State and Territory CLC associations and therefore NACLIC. This enables FVPLSs to access NACLIC services such as accreditation and insurance. Without this mechanism through NACLIC, affording appropriate sector accreditation and insurance policies would be challenging for many FVPLSs given their size and funding constraints.

The separation of sectors and funding streams for CLCs, as ‘mainstream’ (or non-Aboriginal) community legal services, and FVPLSs and ATSILS, as Aboriginal and Torres Strait Islander legal service providers, is essential and must be preserved. Preservation and appropriate resourcing for separate programs and funding streams for Aboriginal service providers respect the unique and important role and expertise of our services in providing specialised, targeted services, and it is a key mechanism for Aboriginal and Torres Strait Islander self-determination and community control. FVPLSs, as specialist, culturally safe, Aboriginal and Torres Strait Islander-controlled services, are best placed to support Aboriginal and Torres Strait Islander people experiencing or at risk of family violence and to work with our communities to respond and prevent to family violence.

2. Funding – quantum and certainty

There is a vital need for increased funding to CLCs and the legal sector as a whole. In 2014 the Productivity Commission recommended an additional \$200 million per annum in funding for the legal assistance sector (including CLCs, FVPLSs, ATSILS and Legal Aid Commissions).¹ In 2018, the Law Council of Australia released its Justice Report which found critical civil and criminal legal assistance service gaps and recommended increased Commonwealth, State and Territory Governments provide increased investment into the legal sector – specifically, a minimum of \$390 million per annum.²

In addition, there is a critical need for increased funding certainty. Currently, many CLCs (like FVPLSs) are subject to short-term funding contracts with no ongoing funding certainty. This has a range of adverse impacts on services and serious flow-on impacts to clients and communities. For example, it necessitates considerable time, resources and strain– time and resources which could otherwise be directed towards increased client service delivery and to monitoring, evaluating, learning and innovating to achieve stronger outcomes. Funding insecurity can also create uncertainty for clients, communities and partners limiting access to support and assistance for vulnerable people and impairing the potential for new partnerships, collaborations and innovations in service delivery. There is a critical need for increased funding certainty for CLCs and all legal assistance services which could be achieved by way of long-term funding contracts with a minimum of 5 years duration.

Increased investment in the legal assistance sector must also include specific resourcing for peak bodies, such as NALC (and the National FVPLS Forum and NATSILS).

Greater Commonwealth leadership, whole of government approaches to funding and support of the sector, as well as increased State/Territory Government funding is important for the ongoing success, consistency and collaboration of the sector and the proper administration of the law to protect and promote the rights of our most vulnerable and marginalised people and communities.

3. Importance of a well-resourced peak body, and capacity to undertake law reform, policy and advocacy work

Appropriately resourced peak bodies are critical in supporting the effective operation of the sector and driving important law reform, policy and advocacy work. Through our experience

¹ Productivity Commission of Australia, Access to Justice Arrangements Inquiry Report No 72 (2014) 743.

² Law Council of Australia, Justice Project (2018) rec 2.1

working primarily with Aboriginal women, FVPLSs understand the importance of providing and supporting a voice to vulnerable and legally disadvantaged clients. At a national level, we collaborate regularly with NACLCL to deliver much needed legal support and high level advocacy to the communities we work with.

NACLCL undertakes national advocacy and representation on behalf of the CLC sector and the people and communities with whom its services work. It also provides support to services in the sector (including FVPLSs) through the provision of training, education and capacity building activities. It also administers an important sector-led accreditation scheme which is utilised by many FVPLSs and provides a strong foundation for good governance, continuous improvement and capacity to demonstrate outcomes, reliability and attract additional resources.

NACLCL contribute to the evidence base that informs improved government policy development and decision-making. This is achieved through a diverse range of activities including research, data collection and analysis, policy development, expert advice and participation in roundtables, sector consultations and written submissions. NACLCL work collaboratively and in partnership with other peak bodies, including the National FVPLS Forum to do this.

Peak legal assistance bodies such as NACLCL and the National FVPLS Forum provide a voice to, and for, the community legal sector. We ensure that the voices and lived experiences of our clients and practitioners inform legal, policy and system design. This work plays an important role in translating on-the-ground experiences into meaningful change for marginalised people in Australia. Adequate resourcing of peak bodies, such as NACLCL (and indeed the National FVPLS Forum), is crucial to ensure that the diverse legal needs of people and communities across Australia can be communicated with clarity to Federal and State governments as well as other stakeholders. This is fundamental to ensuring the fair and efficient operation of the law.

The NPA currently restricts the use of Commonwealth funds for law reform, policy and advocacy work. Removing these restrictions on CLCs would be an important step in recognising and valuing the contribution that legal services on the ground can make to this vital systemic work and the development and implementation of laws and policies.

4. Data

Since 2003, FVPLSs have used CLCs data management systems, initially the Community Legal Services Information System (CLCIS) and now the Community Legal Assistance Services System

(CLASS) which replaced CLSIS in March 2017. CLASS is now the primary database for FVPLSs and FVPLSs are required to use it to manage and record data concerning clients, legal cases and advices, and to report to our funders the Department of Prime Minister and Cabinet.

NALC was funded to develop and rollout CLASS, but has reported that the funding provided was insufficient given the scale and complexity of the project and did not enable comprehensive work, tools and education resources to be produced to support the sector and ensure consistency across services. As a result, there have been considerable challenges with CLASS – most notably, an inability of CLASS to produce reports for a number of months following being rolled out which meant FVPLSs were unable to process and provide required data to our funders.

More broadly with respect to data for FVPLSs, there are ongoing challenges around the reliability and consistency of data given the difference in service models across CLCs and FVPLSs, the types of work undertaken and complexity of issues our clients present with.

Additional resourcing is required to improve CLASS functionality, as well as additional funding for the sector as a whole (including individual FVPLSs and CLCs) to strengthen organisational capacity to monitor and evaluate data – not just in a limited compliance sense but to promote continuous improvement, evaluation, learning and innovation.

5. Conclusion

In closing, thank you again for the opportunity to provide input to this Review and to emphasise the important, unique and complementary roles of CLCs, FVPLSs, NALC and the National FVPLS Forum and opportunities to increase resourcing and capacity for these critical sectors.

Should you have any questions in relation to this submission, please don't hesitate to contact Laura Vines on behalf of the National FVPLS Forum Secretariat on (03) 9244 3311 or via lvines@djirra.org.au