

Evaluation of the Tasmanian Legal Assistance Sector Final Report

December 2018

Contents

1.	Acknowledgements.....	5
2.	Executive Summary.....	6
	Key Findings.....	8
	Recommendations.....	10
3.	Introduction.....	13
3.1.	Terms of Reference.....	13
3.2.	Review approach.....	14
4.	Legal assistance services in Tasmania	15
	Service Providers.....	15
	Types of legal services available in Tasmania	16
	Funding sources	16
5.	Duplication in the legal assistance sector	19
	Shared coverage of the legal assistance sector.....	19
	Duplication.....	20
	CLE.....	22
	Streamlining processes.....	23
6.	Proposed future legal services	25
	Funding Streams.....	25
	Legal need in Tasmania	28
	Legal needs mapping.....	29
	Collaboration	34
	Effect of reduced Commonwealth funding in the NPA.....	35
7.	Funding sources.....	37
	Solicitors' Guarantee Fund (SGF).....	37
8.	Governance	43

Corporate governance.....	43
Boards.....	44
Accountability.....	45
Outcomes-based reporting.....	47
Streamlining services	49
9 . Well-recognised entry point for legal assistance	52
Well-recognised entry point.....	52
Referral guides	54
10 . Funding Methodology	56
Limited funding and access to justice.....	56
Funding models	57
Maintaining the status quo.....	58
Tendering.....	58
Grants process.....	60
Funding methodology to streamline services.....	61
Appendix A – Services Provided.....	62
Appendix B – Submissions received	68
Appendix C – Stakeholders Consulted	69
Appendix D – Evaluation Steering Committee Membership.....	70

ACRONYMS

Acronym	Meaning
CLASS	Community Legal Assistance Service System
CLCs	Community Legal Centres
CLCTAS	Community Legal Centres Tasmania
CLSIS	Community Legal Services Information System
DVU	Domestic Violence Unit
EDO	Environmental Defenders Office
FASS	Family Advocacy and Support Services
FVAP	Family Violence Action Plan
HCLS	Hobart Community Legal Service
LACT	Legal Aid Commission of Tasmania
LCLC	Launceston Community Legal Centre
LSP	Legal Service Provider
NACLCLC	National Association of Community Legal Centres
NWCLC	North West Community Legal Centre
PLS	Prisoner Legal Service
SAC	Sentencing Advisory Council
SGF	Solicitors' Guarantee Fund
TACLS	Tasmanian Aboriginal Community Legal Service
TasCOSS	Tasmanian Council of Social Services
TasLASP	Tasmanian Legal Assistance Service Providers
TLRI	Tasmanian Law Reform Institute
TRLS	Tasmanian Refugee Legal Service
TUT	Tenants' Union of Tasmania
WLST	Women's Legal Service Tasmania
WA	Worker Assist

I. Acknowledgements

The Committee would like to acknowledge the valuable input received throughout this review. This report reflects the expertise and significant contribution of the Tasmanian legal assistance sector, including community legal centres, the Legal Aid Commission of Tasmania, government, and non-governmental organisations.

The strong participation throughout the consultation process from a wide range of stakeholders has provided a valuable insight into the Tasmanian legal assistance sector. The Committee sincerely thanks all those who contributed to this report.

Finally, the Committee acknowledges and thanks the team who contributed to the review, including Pauline van Adrichem, Amanda Chrysler and Leesa Bevan.

2. Executive Summary

In December 2016, the then Attorney-General and Minister for Justice, the Hon Vanessa Goodwin MLC, requested that the Department of Justice conduct a review of the legal assistance sector in Tasmania. The request was in response to the reduction of Commonwealth funding to the sector via the *National Partnership Agreement (NPA) on Legal Assistance Services 2015–2020*.

The NPA outlines the amount of funding the Commonwealth will provide to the States and Territories to support the legal assistance sector in delivering legal assistance at no or minimal cost to the consumer. At the commencement of the NPA, the Commonwealth reduced their contribution to the sector in Tasmania when compared to previous agreements. The legal assistance sector received relief in the one-off additional transitional payment from the Commonwealth at the commencement of the NPA, and additional State funding each year of the NPA to date, to cover the funding shortfall. Due to the limited funding available, a review of the legal assistance sector was requested to ensure that the State receives the best value for money possible to meet the legal need of the most vulnerable members of the Tasmanian community.

In May 2018, the Steering Committee (the Committee) released a Consultation Paper, *Evaluation of the Tasmanian Legal Assistance Sector: Consultation Paper* (Consultation Paper), which provided an overview of the current legal assistance sector. The Consultation Paper's Terms of Reference addressed current and future arrangements, funding sources and governance. It also considered the appropriateness of the current funding allocations and services. In addition, the Consultation Paper addressed the purpose of Commonwealth and State funding, legal need in Tasmania, and consideration of the efficiency of the sector.

The Committee sought feedback on the Consultation Paper from a wide range of stakeholders spanning government organisations, the Legal Aid Commission of Tasmania (LACT), community legal centres (CLCs), the Tasmanian Aboriginal Community Legal Service (TACLS), peak bodies and associations, and others with an interest in the Tasmanian legal assistance sector. In response, the Committee received 19 written submissions. As part of the consultation, the Committee also conducted interviews with seven organisations providing additional feedback on the evaluation.

Based on the Terms of Reference, this report addresses two key concerns:

1. The current effectiveness of the legal assistance sector in addressing the legal need of vulnerable Tasmanians; and
2. If the current arrangements are not considered appropriate, advice on how best to address any identified issues and whether changes to the sector are required.

In assessing the legal assistance sector, the Committee took direction from the National Strategic Framework.¹ The National Strategic Framework sets out guiding principles to achieve the shared goal of a national, integrated system of legal assistance that is focussed on improving access to justice and maximising service delivery within available resources.² In order to meet the requirements of the National Strategic Framework, the Committee has reviewed the operation, administration and funding of the Tasmanian legal assistance sector and made the following findings and recommendations.

¹ Australian Government, Attorney-General's Department, *National Strategic Framework for Legal Assistance 2015-2020*.

² Ibid.

Key Findings

Duplication in the legal assistance sector

1. The delineation of the services provided by the LACT and CLCs has become less distinct over time, particularly in relation to civil matters and community legal education. The sector needs to refocus on ensuring that providers are delivering services to those who need them most.
2. Any duplication of family and criminal law services provided by the LACT and CLCs is necessary in order to respond to the high level of legal need and to provide for conflict of interests.
3. Specialist CLCs are best placed to offer expert legal assistance within their subject area and should continue to provide these services.
4. There appears to be a lack of strategic planning, collaboration and communication between legal service providers on the delivery of CLE.

Proposed future legal services

5. Due to the absence of strategic planning in the sector, key data and information was not available to the Committee in order to form a strong view on the current level of legal need in Tasmania.
6. Up-to-date evidence identifying legal need in Tasmania, and the correct types of services that would address legal need, would assist in informing the legal assistance sector in planning the delivery of legal services. There are a number of service gaps that are not met from within existing resources.
7. Strategic planning on behalf of legal service providers would have identified service gaps. This lack of adequate strategic planning is a result of appropriate resourcing of CLCs.
8. Collaborative service planning is vital to an effective legal services system; however, collaboration is hindered by funding uncertainty.
9. If the current funding levels are not continued for the remaining year of the NPA (2019–20), there will be a significant reduction in services across the legal assistance sector.

Funding sources

10. SGF grants have, at times, funded the core services of legal assistance providers.

11. There is no formal published guidelines around the purpose of the SGF grant or application process.
12. There is a lack of prescribed forms for SGF grants, including the application process and reporting format for grant recipients to respond to.

Governance

13. Legal service providers are not allocating sufficient time or effort to ensuring that their governance framework is contemporary and appropriate.
14. The level of 'good governance' varies across organisations, and there is not consistency in approach of standards.
15. There is currently no methodology to measure outcomes-based reporting, and while it should be an aspirational principle, at this point in time the sector is not equipped to support such a change in reporting.
16. The Committee has not received any evidence to support the merging of any existing CLCs in Tasmania.
17. Board evaluations are not adequately occurring within the legal assistance sector.

Well-recognised entry point for legal assistance

18. The well-recognised entry point is not a viable option for Tasmania, only adding an extra and unnecessary layer to the referral process.
19. Under the current arrangements, warm referrals already occur between legal service providers.

Funding methodology

20. Historical funding allocations do not appear to have been based on evidence of legal need or an outcome focus
21. A tender process would open up the field for other organisations to apply for funding to deliver legal services, and that those organisations may not be responsive to legal needs and community needs due to being unfamiliar with the sector.

Recommendations

Duplication

1. Legal service providers should better coordinate CLE programmes in collaboration with each other to ensure that the development of written online resources and education sessions are targeted to the services delivered by each provider.
2. The LACT should focus on its core functions of legal services for criminal and family law matters. In doing so, the LACT should give priority to providing grants of aid for unrepresented litigants facing a term of imprisonment, and unrepresented participants in family law parenting matters and child protection proceedings.
3. Whilst LACT practitioners should focus on criminal and family law matters, rather than develop the capacity of in-house practitioners to undertake civil work in an ad-hoc and short-term manner, the LACT should continue to fund the private profession to undertake this work, provided that the guidelines for the granting of aid are met.
4. CLCs should continue to provide non-means tested advice and legal tasks on criminal, family, and civil matters, and means tested representation services.
5. Specialist CLCs are best placed to offer expert legal assistance within their subject area and should continue to provide these services.

Proposed future legal services

6. Legal needs mapping should be initiated as soon as possible in order to inform decisions about funding and administration.
7. In order for the legal assistance sector to maintain the current levels of service, further State funding is required for the remaining year of the NPA.

Funding sources

8. SGF grants should not be used to fund the core business of legal service providers.
9. Formal guidelines and public communication of the purpose of the SGF grants should be established to provide greater transparency.
10. An independent panel should be established to assess applications and to provide recommendations to the Minister.
11. SGF grants should not be utilised for recurrent projects, other than those which provide significant value across the legal assistance sector.

12. A specific reporting format, including appropriate key performance indicators, should be introduced to improve the consistency of reports and guide recipients to the key issues that need to be addressed.

Governance

13. Future funding agreements should include a set of minimum governance requirements that encourage, for example, a strategic and/or business plan and risk register, and that increase in complexity as the sector becomes more attuned to a more robust governance model.
14. In order to meet the proposed new governance requirements, legal service providers would need to undertake appropriate governance training prior to the execution of the first funding agreement.
15. Immediate governance training requires one-off funding to be provided to legal service providers and additional nominal ongoing funding in order to continue professional development.
16. The Committee recommends that LSPs should maintain boards with a mix of skills, experience and expertise, including succession planning and rotation of board members with fixed terms.

Well-recognised entry point

17. A single-entry point/No Wrong Door approach should not be pursued at this point in time, as it will only add an unnecessary layer to the referral process.
18. A clear delineation of services, with the LACT returning its focus to criminal and family law matters, would provide clarity of services offered by each provider, without the need for a formal entry point.
19. Further training amongst legal assistance providers and community legal education regarding the redefined service offerings of each provider would aid in improving referral pathways.
20. The CLCTas online referral portal (www.lawaccesstas.org.au) should be further developed to provide more tailored information to meet individual needs.

Funding Methodology

21. There should be a gradual departure from historical allocations of funding, as it is not reflective of legal need. However, any departure from this funding methodology should be based on evidence of legal need and the ability of service providers to respond.
22. A competitive tender process should not be pursued in the current environment.
23. Grant applications with appropriate key performance indicators could be considered for future funding allocations, to assist in determining how to divide the funding to best meet legal need and outcomes.
24. A formal grants framework should be established as well as clear eligibility criteria and appraisal procedure of applications to ensure public funds are applied to best address legal need. Development of a grants framework should be in line with the Department of Treasury's Best Practice Guide.
25. The grants framework needs to outline clearly the purpose and expectation of the funding to each legal service provider, whilst allowing for some flexibility to respond to emerging legal need.

3 . Introduction

In December 2016, the then Attorney-General and Minister for Justice, the Hon Vanessa Goodwin MLC, requested that the Department of Justice conduct a review of the legal assistance sector in Tasmania. The request was in response to the reduction of funding to the sector via the National Partnership Agreement (NPA) on Legal Assistance Services 2015–2020.

The review was overseen by a Steering Committee (the Committee), which consists of representatives from government and non-government organisations. The Committee’s task was to consider the appropriateness of the current funding allocations and services delivered by the legal assistance sector, and provide recommendations to improve the efficiency of the sector where possible.

The review comprised of a detailed analysis of available documentation regarding the Tasmanian legal assistance sector, extensive consultation, and a formal process for written submissions. The findings outlined in this report will assist in informing future Tasmanian State Government funding arrangements for the legal assistance sector.

3.1. Terms of Reference

The Terms of Reference are as follows:

1. The legal assistance services currently provided by the sector as a whole and the numbers of individuals currently receiving those services from each provider.
2. Any duplication that may exist across the legal assistance sector and identify opportunities to streamline processes and increase collaboration to ensure that resources are used to deliver services effectively and as widely as possible given available funding.
3. The best combination of legal services delivered by the sector collectively in the future, given the reduced Commonwealth funding in the National Partnership Agreement on Legal Assistance Services 2015–2020.
4. The best use of other funding sources, including grants from the Solicitors’ Guarantee Fund, to deliver legal services or increase access to justice.

5. The current governance structures and budget positions of providers and whether there are ways to reduce administration and/or governance costs to ensure savings can be directed to delivering legal services to Tasmanians.
6. The merits of establishing a well-recognised entry point for Tasmanians to seek and receive legal assistance, with reference to the recent Productivity Commission review and other recent reviews of interstate legal assistance sectors.
7. Options, including methodology for the distribution of funding to legal assistance providers to deliver legal services.

3.2. Review approach

The review was undertaken by a Steering Committee comprising of members from government and non-government organisations, a coordinator and a secretariat. The Committee met on a monthly basis over the course of the review, providing guidance on the issues arising from the consultation, analysis of submissions, preliminary findings and development of the final report.

The review was informed by analysis of three key sources of data and information:

- Desktop analysis of a broad range of documentation and data supplied by stakeholders;
- 39 stakeholders were contacted for feedback, with 19 written submissions made in response to the consultation paper, which were focused on the Evaluation's Terms of Reference; and
- Interviews with seven organisations, spanning government, the LACT, CLCs, TACL, and others with an interest in the Tasmanian legal assistance sector.

Following the completion of the data collection phase, further Steering Committee meetings were held to make preliminary findings and to identify gaps or areas where contested findings needed further exploration. Additional consultations were held seeking further information/clarification. The findings and recommendations were developed by the Committee based on the data analysis and consultations.

4 . Legal assistance services in Tasmania

In Tasmania, the Commonwealth and the State both provide funding for the delivery of legal assistance services.

Service Providers

The main government-funded legal assistance services are provided by the LACT, CLCs and the private legal profession. The CLCs in Tasmania include the Hobart Community Legal Service (HCLS), Launceston Community Legal Centre (LCLC), North West Community Legal Centre (NWCLC), Tenants' Union of Tasmania (TUT), Women's Legal Service of Tasmania (WLST), TACLS, Worker Assist (WA), Environmental Defenders Office (EDO), Tasmanian Refugee Legal Service (TRLS), and Prisoners Legal Service (PLS).

The private profession also provides pro bono support and undertakes legally aided work for vulnerable and disadvantaged Tasmanians. In 2016–17, private legal practitioners delivered 61% of legally aided casework in Tasmania.³ As noted in the Victorian Access to Justice Review,⁴ engaging private practitioners extends access to legal assistance and increases the diversity of skills and experience that clients who are in need of legal assistance can draw on. It also assists where the LACT may have a conflict of interest, so a client eligible for legal aid can be assisted by a private practitioner.

The LACT is the largest government-funded legal assistance provider in Tasmania. The LACT provides free legal information, advice and education services to all Tasmanians and representation services are accessible to those who meet the eligibility guidelines. CLCs are independent community organisations that provide information, legal advice, representation, and community legal education to the public with a focus on the socially and financially disadvantaged who in many cases are unable to access other legal services.⁵

In Tasmania, there are three generalist CLCs that deliver legal services within specific geographic areas: North-West, North and South. The generalist centres provide advice on a broad range of matters including, but not limited to, welfare rights, child support,

³ Legal Aid Commission of Tasmania, *Legal Aid Commission of Tasmania Annual Report 2016-17* <<https://www.legalaid.tas.gov.au/about-us/annual-reports/>> p 24.

⁴ Victoria State Government, Department of Justice and Regulation, *Access to Justice Review Volume 2 Report and Recommendations August 2016* <<https://engage.vic.gov.au/accesstojustice>> p 294

⁵ Community Legal Centres Tasmania, *About Us* <<http://www.clctas.org.au/what/>>

crime, credit and debt, employment, neighbourhood disputes, and family law. The specialist centres include the WLST, TUT, TACLS, EDO, TRLS and WA.

There is a further subgroup of community-based legal assistance providers, which often rely on university students to deliver services under supervision. These services, which are predominantly volunteer based, are Community Engagement Tasmania Society, Student Legal Service and PLS.

Types of legal services available in Tasmania

In Tasmania, legal assistance services are provided for both criminal and civil matters. The criminal jurisdiction comprises of crimes and offences contained in both State and Commonwealth legislation. The civil jurisdiction is somewhat broader as it encompasses all other legal issues that are not crimes or criminal offences. Civil legal issues may be governed by State or Commonwealth legislation and includes family law, child protection, tenancy, bankruptcy, unfair dismissal, welfare rights, migration and discrimination.

The types of services delivered by legal assistance providers include information, advice, the completion of legal tasks, representation, duty lawyer services, facilitated dispute resolution, and community legal education—which includes both written resources and education sessions. The way in which these services are provided varies according to the service delivery model of each legal service provider.

Funding sources

The main sources of income for legal assistance providers in Tasmania are Commonwealth and State funding, and the SGF. Legal service providers may also receive grants from non-government organisations or through revenue raising activities.

Commonwealth funding

Commonwealth funding is derived from the National Partnership Agreement on Legal Assistance Services 2015–2020 (NPA). The NPA is an agreement between the Commonwealth and all States and Territories for the distribution of Commonwealth funding to Legal Aid Commissions and CLCs. The Tasmanian CLCs funded under the NPA are the HCLS, LCLC, NWCLC, TUT and the WLST.

The NPA significantly changed the funding arrangements for legal assistance providers when it was introduced. The administration of funding was transferred from the

Commonwealth to the State, and Commonwealth funding for both the LACT and CLCs was reduced significantly. To mitigate the NPA shortfall, the State Government provided additional funding to LACT and CLCs. However, uncertainty in respect of future funding caused concern amongst the legal assistance sector regarding how this would impact on their ability to deliver ongoing legal services.

In April 2017, the Commonwealth announced additional 'defined funding' for CLCs to deliver family law and family violence related services from 2017–18 to 2019–20. A variation to the NPA was negotiated to facilitate the distribution of this additional, specific purpose funding.

Under separate agreements, the Commonwealth also provides funding to the LACT to deliver Family Advocacy and Support Services (FASS) at family law courts across Tasmania, and to the WLST to deliver specialist family violence services in north-west and northern Tasmania.

State funding

The State provides funding to the LACT for State law matters including criminal law, 'Safe at Home' family violence services and child protection matters. The Department of Health and Human Services provides funding to the TUT for tenancy services.

The State also funds the shortfall in Commonwealth funding contained in the NPA to the LACT and CLCs.⁶ The current shortfall commitment ends on 30 June 2019. The projected Commonwealth shortfall in the NPA for 2019–20 is \$1.264 million (excluding the defined funding provided by the Commonwealth for CLCs).

In 2016–17, grants under the *Safe Homes, Safe Families – Tasmania's Family Violence Action Plan 2015–2020* were provided to the LACT and WLST.⁷ In 2015–16, these grants were provided to LACT, HCLS, LCLC, NWCLC and WLST.

⁶ Attorney-General's Department, *National Partnership Agreement on Legal Assistance Services 2015-2020* <<https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Documents/NationalPartnershipAgreementOnLegalServices.pdf>> at page 11.

⁷ Department of Premier and Cabinet Tasmania, *Safe Homes, Safe Families – Tasmanian's Family Violence Action Plan 2015-2020*. <http://www.dpac.tas.gov.au/__data/assets/pdf_file/0006/266073/Safe_Homes_Safe_Families_-_Action_plan.pdf>

Solicitors' Guarantee Fund (SGF)

The SGF is managed by the Solicitors' Trust, which is an independent statutory body established by the *Legal Profession Act 2007* (Tas) comprising of two legal practitioners and an accountant. The Trust makes investment decisions in relation to the SGF and makes decisions on the claims against the SGF arising from defaults on the part of law firms. The SGF consists mainly of interest generated by the monies standing to the credit of legal practitioners' trust funds (i.e. client funds being temporarily held by law firms). The money in the SGF is therefore not State Government funding.

If a surplus is available in the SGF, the Minister for Justice may invite the LACT or such other legal assistance schemes, the Law Foundation and any other person to make an application for a grant of money from the SGF.⁸ Grants from the SGF are not reliable, in that they are only available when there is a surplus. In recent years, many organisations have relied on these grants for the delivery of core services. Recipients often use grants to establish new programs or services to address a particular legal need in the community. However, unless grants are renewed, these services or programs come to an end, even though the legal need may still exist.

Other funding sources

Other funding sources such as grants from the Tasmanian Community Fund or Law Foundation, or funds raised through donations or fundraising are outside the scope of this evaluation. Neither the Commonwealth nor the State have any direct control over how these grants are allocated.

Number of individuals receiving legal assistance services from each provider

Due to the limited ability to capture consistent and reliable data in this space, the Committee cannot make a determination on the number of individuals that received legal assistance. The Committee, however, acknowledges that there are a number of service gaps that cannot be met from within existing resources.

⁸ *Legal Profession Act 2007* (Tas) section 634.

5. Duplication in the legal assistance sector

Key findings

1. The delineation of the services provided by LACT and CLCs has become less distinct over time, particularly in relation to civil matters and community legal education.
2. Any duplication of family and criminal law services provided by the LACT and CLCs is necessary in order to respond to the high level of legal need and to provide for conflict of interests.
3. Specialist CLCs are best placed to offer expert legal assistance within their subject area and should continue to provide these services.
4. There appears to be a lack of strategic planning, collaboration and communication between legal service providers on the delivery of CLE.

Shared coverage of the legal assistance sector

LACT and CLCs utilise different service delivery models, offering a wide range of services to assist clients depending on their needs. The types of services delivered by legal assistance providers include information, advice, the completion of legal tasks, representation, duty lawyer services, facilitated dispute resolution, and community legal education.

A list of service types offered by each service provider is contained in Appendix A.

As illustrated in Appendix A, LACT, HCLS, LCLC, NWCLC and WLST all offer some level of legal assistance for family law, civil and administrative law, and criminal law matters. Although each legal service provider (LSP) offers different levels of services, ranging from information services, legal advice, legal tasks and representation. It is difficult, particularly for someone seeking legal assistance for the first time, to navigate the system, determine the level of support they require, and ascertain which LSP offers which specific service.

The feedback received through the consultation suggests that the distinction between LACT and CLCs has become blurred over time, particularly in relation to civil matters and CLE. CLCs noted that LACT has moved away from its traditional core services of

family law and criminal law, and started delivering legal assistance services in civil matters. CLCs view this service creep as outside LACT's scope.

The LCLC submitted that it *"...believes that further clarity between the services could be achieved by limiting LACT legal services to criminal and family law matters, as has been the case historically. This distinction would allow for a clear separation of services and make referrals for all stakeholders and clients much easier."*⁹

In addition, TACLS submitted that *"...over the years there appears to have been a move in the LACT away from its traditional role of assisting people in summary criminal matters and an increase in its involvement in civil matters that were otherwise covered by the CLCs. As a result, there is now some duplication of civil assistance services and an increasing number of unrepresented people facing criminal charge often resulting in people facing terms of imprisonment yet ineligible for government funded legal assistance."*¹⁰

Furthermore, TasCOSS stated that its *"...members suggest the roles of legal assistance providers have traditionally been well defined and that the LACT should retain a focus on court representation and advice for criminal and family matters while allowing the CLCs to continue to provide advice on other matters for clients ineligible for legal aid... Members have indicated that the best approach is to refine the LACT focus on criminal and family matters and court representation, allowing other providers to manage civil and administrative law, minor criminal matters and other matters as required on a case by case basis."*¹¹

This perceived service creep by LACT is restricted to civil law matters and CLE. The duplication of legal assistance for family law and criminal matters between LACT and CLCs does not form part of this perception.

Duplication

As noted above, there is a strong view among CLCs that LACT should limit the scope of the legal assistance that it provides to family law and criminal law services. Where LACT

⁹ Launceston Community Legal Centre's submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 12.

¹⁰ Tasmanian Aboriginal Community Legal Service's submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 4.

¹¹ TasCOSS' submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 5.

is providing assistance in civil law matters and CLE, this is viewed as a duplication of the services that were traditionally provided by CLCs.

In particular, concerns were raised through the consultation process about the level of assistance LACT was able to provide in specialist areas. For example, where LACT stated that they offer legal assistance for environmental and neighbourhood dispute (see Appendix A), the EDO submitted that *“(g)iven the complexity of planning and environmental law, we query the efficiency of any other services providing this advice and urge centres to refer matters to EDO Tasmania.”*¹² Furthermore, TasCOSS noted that *“(w)here a service offers holistic and/or specialist advice for women, for Aboriginal Tasmanians, for workers, for refugees, for tenants and for prisoners, for example, these services should retain their own advice services.”*¹³

Similarly, the LACT acknowledged a duplication of services between legal service providers (LSPs):

*“The LACT believes that the current legal assistance structure is fragmented, with a collection of providers delivering services that often overlap and may fall outside their traditional funding models... This causes confusion for the Tasmanian community and it is important that any future service delivery model provides clear delineation of services across each legal assistance sector organisation, both in relation to early intervention services and representation services.”*¹⁴

However, where there is a duplication of legal assistance for family law and criminal law matters between LACT and CLCs, the Committee deems it necessary. This is due to the high level of legal need for these services as well as providing for adequate referrals should a conflict of interest arises (when a service provider cannot assist a client because they have acted for the other party to the dispute in a previous matter). Without an alternative service provider, these clients may have nowhere else to seek legal assistance. This issue is particularly exacerbated in rural and regional areas, where there are few or no alternatives.

¹² Environmental Defenders Office’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 4.

¹³ TasCOSS’ submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 5.

¹⁴ Legal Aid Commission of Tasmania’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 7.

The Committee recommends that the LACT should focus on its core functions of legal services for criminal and family law matters. Whilst LACT should maintain this focus, rather than develop the capacity of in-house practitioners to undertake civil work in an ad-hoc and short-term manner, the LACT should continue to fund the private profession to undertake this work, provided that the guidelines for the granting of aid are met.

CLCs should provide non-means tested information, advice and legal tasks on criminal, family and civil matters, and means tested representation services. This is with the exception of specialist CLCs, TUT, WA EDO and TRLS, which should continue to provide legal assistance specific to their area of expertise.

CLE

The Committee noted the importance of CLE as an early intervention tool, and in disseminating legal information to a wide audience. Both the LACT and CLCs deliver CLE services, through education session and written resources. The Committee noted that there appears to be a lack of strategic planning about which LSPs would provide CLE on any given topic, and limited collaboration and communication among the organisations when planning CLE activities. In addition, there is no central agency that holds information as to where and when CLE will be delivered, what topics will be covered, or the target audience.

A greater degree of collaboration between LSPs would minimise duplication and improve cost efficiency. By providing a system of coordination/planning of CLE between LSPs, cost reductions could be made by ensuring that topics are not duplicated. This in turn would ensure that resources are not unnecessarily diverted in researching, preparing and delivering material that could otherwise be delivered by a LSP with specialised knowledge of the topic. In addition, this would minimise the resources spent on behalf of each LSP to maintain databases, fact sheets and other material, which could lead to inconsistent, inaccurate or out of date legal information if not properly resourced and maintained.¹⁵ A further benefit of collaborative planning is that LSPs would gain a greater awareness of upcoming CLE and be able to promote this across various providers, thus increasing attendance and exposure.¹⁶

¹⁵ The Law Society of Tasmania's submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 3.

¹⁶ Ibid.

The Law Society of Tasmania provided suggestions to improve collaboration between LSPs in delivering CLE:

“Some of the providers have areas of specialist expertise that could be utilised by other providers and minimise duplication. Papers and presentations should be made available between each of the providers through a centralised web site to avoid the duplication of CLE activities unnecessarily. A model of having a single provider of CLE would dilute the quality of service provided given the specialist knowledge held by some of the providers but a central system of co-ordination between the providers would be an equally satisfactory solution provided that each provider engaged meaningfully with that collaboration.”¹⁷

The Committee endorses this recommendation by the Law Society of Tasmania.

Furthermore, LACT submitted that *“(i)mproved coordination of CLE activities in the legal assistance sector would ensure a wider reach and more even distribution. Efficiencies could be achieved by identifying the best placed services in the various locations to deliver CLE programmes, and providing opportunities for collaboration, particularly in specialised areas of law, rather than different providers delivering similar CLE sessions across various geographic areas. CLE activities could be better targeted to meet community needs without the duplication of activities and resources and avoid confusion within the community.”¹⁸*

In coordinating and delivering CLE, the Committee acknowledge the benefit of increased targeting of information to advocates and people who are directly involved in the service delivery of the specified topic area. An example provided to the Committee was in relation to child protection proceedings. It was identified that there was an opportunity to provide greater targeting of CLE to advocates, guardians, persons involved in the care of children and young people, and other non-legal service providers.

Streamlining processes

The consultation process has identified opportunities to streamline processes and increase collaboration between LSPs, to ensure resources are used to deliver services as effectively and efficiently as possible given available funding. With regards to duplication,

¹⁷ The Law Society of Tasmania’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 3

¹⁸ Legal Aid Commission of Tasmania’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper, page 9.

the key themes arising are a level of 'service creep' from LACT into civil areas and the lack of coordination and planning of CLE among LSPs.

It is the recommendation of the Steering Committee that LSPs realign the legal assistance they offer to their traditional core responsibilities. This would provide for CLCs delivering services covering civil, family and criminal matters. Specialist LSPs would provide assistance specific to their area, i.e. tenancy law for TUT, environmental and planning law for EDO, etc. LACT would focus on their core functions of providing legal advice and representation for family and criminal law matters. By doing so, greater clarity would be provided to the general public as to what each LSP covered, as well as cost savings by ensuring that services were delivered within the expertise of each LSP.

It is the recommendation of the Steering Committee that LSPs should better coordinate CLE programmes to ensure that the development of written online resources and education sessions are targeted to the services delivered by each LSP.

Recommendations

1. That the LACT should focus on its core functions of legal services for criminal and family law matters. Whilst CLCs should provide non-means tested advice and legal tasks on criminal, family and civil matters, and means tested representation services. With the exception of the specialist CLCs (TUT, WA, EDO and TRLS) which continue to provide legal assistance specific to their area of expertise.
2. Whilst LACT practitioners should focus on criminal and family law matters, rather than develop the capacity of in-house practitioners to undertake civil work in an ad-hoc and short-term manner, the LACT should continue to fund the private profession to undertake this work, provided that the guidelines for the granting of aid are met.
3. Legal service providers should better coordinate CLE programmes in collaboration with each other to ensure that the development of written online resources and education sessions are targeted to the services delivered by each provider.

6 . Proposed future legal services

Key findings

1. Due to the absence of strategic planning in the sector, key data and information was not available to the Committee in order to form a strong view on the current level of legal need in Tasmania.
2. Up-to-date evidence identifying legal need in Tasmania, and the correct types of services that would address legal need, would assist in informing the legal assistance sector in planning the delivery of legal services. There are a number of service gaps that are not met from within existing resources.
3. Strategic planning on behalf of legal service providers would have identified service gaps. This lack of adequate strategic planning is a result of appropriate resourcing of CLCs.
4. Collaborative service planning is vital to an effective legal services system; however, collaboration is hindered by funding uncertainty.
5. If the current funding levels are not continued for the remaining year of the NPA (2019–20), there will be a significant reduction in services across the legal assistance sector.

Funding Streams

As discussed at Chapter 4, in Tasmania the Commonwealth and the State both provide funding for the delivery of legal assistance services.

Commonwealth funding

The NPA allocates Commonwealth funding to States and Territories for distribution to legal aid commissions and CLCs, and outlines reporting obligations and other responsibilities.

With respect to the LACT, the Commonwealth NPA funding allocation is a fixed amount, and has been reduced significantly when compared to the previous funding agreement.

With respect to CLCs, in 2015–16 and 2016–17 a specific amount was quarantined for the NWCLC and WLST, and the remainder was distributed by the State to HCLS, LCLC and TUT. The quarantined amount maintained funding levels for NWCLC and WLST at

the level of the previous year, but the other CLCs faced significant Commonwealth funding reductions in 2015–16 and 2016–17.

At the commencement of the NPA, to mitigate the impact of the funding reductions, the Commonwealth provided Tasmania \$650,000. This amount was allocated between the LACT and CLCs equally, and split over two years. The CLC portion of the allocation was provided to the HCLS, LCLC and TUT.

In 2017–18, the quarantine no longer applied, and the NPA provided a total amount for the States to divide between CLCs. The methodology for this division needed to be informed by the outcomes of Collaborative Service Planning.

The projected funding reduction in the NPA for 2017–18, commonly referred to as the ‘funding cliff’, would have seen a reduction of approximately 40% in core general NPA funding to CLCs. However, in May 2017 the Commonwealth announced \$1.367 million over three years in additional funding (referred to as ‘defined funding’) for CLCs, which was targeted to the delivery of family law and family violence related services in Tasmania. This defined finding did not fully reinstate Commonwealth funding for Tasmanian CLCs when compared to 2014–15 funding levels, and, due to the specific purpose of the funding, it did not assist CLCs with their core funding and service delivery. No additional funding was provided under the NPA for the LACT.

NPA Priority Groups

The NPA recognises that government resources should be foremost directed to people facing disadvantage. To support this, the NPA sets out Australian Government priorities for funding expenditure by legal aid commissions and CLCs. The NPA requires legal assistance service providers to plan and target their services to people who fall within one or more of the listed priority client groups.¹⁹

Children and young people (up to 24 years)	Indigenous Australians
Older people (aged over 65 years)	People experiencing, or at risk of family violence
People experiencing, or at risk of, homelessness	People in custody and prisoners

¹⁹ National Partnership Agreement on Legal Assistance Services, Schedule B, cl B2 & B3.

People residing in rural or remote areas	People who are culturally and linguistically diverse
People with a disability or mental illness	People with low education levels
Single parents	

Although the list is for guidance only and not exhaustive, the NPA recognises that a large proportion of legal problems experienced by the community are concentrated within these priority groups.²⁰

State funding

The State provides additional funding to the Tasmanian legal assistance sector.

National Partnership Agreement – shortfall funding

The Tasmanian Government committed to provide funding of \$2.5 million across the 2017–18 and 2018–19 financial years to offset the previously expected reduction in Australian Government funding to legal assistance services. The Commonwealth funding shortfall for 2019–20 is \$1.264 million (excluding defined funding).

Criminal law and civil law services

In 2017-18, the LACT received \$7.156 million in State funding to deliver legal services for State matters including crime, family violence and child safety. This amount includes the State contribution of \$456,000 to cover the NPA shortfall. The 2017–18 State Budget includes core-funding allocations to the LACT in the forward estimate.

Other family violence services

The *Safe Homes, Safe Families – Tasmania’s Family Violence Action Plan* allocates \$1.2 million over 4 years to increase legal assistance services for people experiencing family violence, or at risk of experiencing family violence.

Tenancy services

The Department of Health and Human Services provides core funding to the TUT to deliver tenancy services. In 2017–18, funding of \$206, 609.95 was provided to the TUT.²¹

²⁰ *National Partnership Agreement on Legal Assistance Services*, Schedule B, cl B4.

²¹ Department of Health and Human Services Annual Report 2016-17, https://www.dhhs.tas.gov.au/__data/assets/pdf_file/0005/355577/DHHS_Annual_Report_2017-18.pdf at page 82.

Environmental Defenders Office Tasmania

EDO Tasmania receives no Commonwealth funding, and limited State Government funding of \$8,750.²²

Legal need in Tasmania

In Australia, research into legal need has identified groups of people who are more likely to experience legal problems and are less able to avoid, identify, mitigate or resolve such problems.²³ ‘Legal need’ is defined as legal issues that individuals have not been able to resolve effectively by their own means.²⁴ With limited availability of public funding, it is important that government-funded legal assistance be provided to this cohort. Targeted services aid in ensuring that limited public funds are primarily used to assist those facing the most severe problems and are least able to otherwise access help.²⁵

To assist with identifying groups of people most likely to be in need of legal assistance, the Law and Justice Foundation published the Legal Australia Wide Survey (LAW Survey) in 2012. The aim of the LAW Survey was to examine legal need across Australia including the nature of legal problems, the pathways to resolution and to identify the demographic groups that are particularly vulnerable to experiencing legal problems.²⁶

The findings of the LAW Survey provide a solid evidence base to identify commonalities and characteristics of people likely to be in need of legal assistance. The report found that people who experience one or more indicators of disadvantage, including illness or disability, low levels of education, single parenthood, unemployment, low income and/or living in remote areas, were likely to have legal problems with a limited capacity to address them.²⁷ This list of indicators is not exhaustive.

The LAW Survey suggests that the prevalence of legal problems is high. It established that 48% of Tasmanian survey respondents reported experiencing one or more legal problems

²² Environmental Defenders Office Tasmania <<http://www.edotas.org.au/wp-content/uploads/2014/01/EDO-Tasmania-Annual-Report-2017-2018.pdf>> at page 12.

²³ Pleasence, P, Coumarelos, C, Forell, S & McDonald, HM 2014, *Reshaping legal assistance services: building on the evidence base: a discussion paper*, Law and Justice Foundation of NSW, Sydney, page 5.

²⁴ Johnsen JT, ‘Legal Needs in a Market Context’ in Regan, Paterson, Goriely and Fleming (eds) *The Transformation of Legal Aid* (2009), 205-232.

²⁵ Pleasence, P, Coumarelos, C, Forell, S & McDonald, HM 2014, *Reshaping legal assistance services: building on the evidence base: a discussion paper*, Law and Justice Foundation of NSW, Sydney, page 26.

²⁶ Coumarelos, C, Macourt D, People J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey S, 2012 *Legal Australia-Wide Survey: legal need in Australia*, Law and Justice Foundation of NSW, Sydney 46.

²⁷ *Ibid*, page 47.

in the 12 months prior to the interview.²⁸ This equates to approximately 192,000 people aged 15 years and over in Tasmania experiencing a legal problem, of which 35,000 experienced two problems, and 79,000 people reported experiencing three problems or more.²⁹

Furthermore, the Justice Project identified the key unmet pressures of legal need as being criminal law amongst people experiencing economic disadvantage, as well as a wide range of key civil needs including child protection, family law and evictions for public housing matters.³⁰

Legal needs mapping

It is imperative that, with limited funding, legal services best address legal need. Feedback received from the consultation suggested that some legal needs mapping has been undertaken by legal assistance providers. At the commencement of the NPA, the Commonwealth funded the Law and Justice Foundation of New South Wales to develop a Collaborative Service Planning Resource for each jurisdiction to assist with the collaborative service planning process. Some providers have indicated that they have not utilised the planning resource to inform service delivery because they identified that it was not user-friendly or not fit for purpose for their organisation. Legal assistance providers advised that they use their own service data to identify priorities, and plan the delivery of services; however, the Committee noted that often providers were reactive rather than proactive in addressing legal needs in the community.

Whilst the LAW Survey provides a good basis of identifying areas of legal need, the Committee is mindful that the report was published in 2012, based on interviews conducted in 2008.³¹ Current evidence identifying legal need in Tasmania would assist in informing the legal assistance sector..

Legal needs mapping is a critical aspect to inform service planning, and ways to achieve this needs to be considered. The Committee recognises that it is imperative that mapping is initiated as soon as possible. The Committee acknowledges that legal needs mapping

²⁸ Ibid, page 74.

²⁹ Ibid, page 57. This calculation is based on June 2008 Tasmanian population numbers.

³⁰ Law Council of Australia, *The Justice Project Final Report*, August 2018 at page 9.

³¹ Ibid, page 53.

can be achieved by various forums, including at a Commonwealth or State level, or via well-informed strategic planning.

If this was to occur, the collective views received from the consultation process are that analysis of legal need in Tasmania should be carried out by an independent organisation such as a university/research institution, which has specialist and analytical research skills.³²

Unmet legal need

Whilst formal, up-to-date and comprehensive legal needs mapping has not been undertaken at this stage, this review has identified a number of service gaps that cannot be met from within existing resources. Addressing these gaps will require additional funding.

Whilst there are number of other gaps raised, the below service gaps were significantly highlighted by stakeholders.

- Self-represented litigants facing a term of imprisonment;
- Self-represented participants in child safety matters;
- Self-represented participants in family law proceedings;
- Self-represented litigants in the Mental Health Tribunal;
- Environmental and Planning law; and
- Elder abuse.

Self-represented litigants facing a term of imprisonment

The main area of unmet legal need raised throughout the consultation process is for self-represented litigants facing a term of imprisonment. There has been an increase in unrepresented litigants appearing in courts because of ineligibility for legal aid assistance, including people who ought to have been afforded legal assistance³³:

“The clearest example of this is those in custody. The Law Society’s criminal lawyers have expressed frustration at decisions to refuse aid for persons in custody seeking bail... The strict application of the merits test in this circumstance has significant consequences in

³² See submissions to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper from the Tasmanian Aboriginal Community Legal Service at page 3, the Women’s Legal Service Tasmania at page 5, TasCOSS at page 4, and National Association for Community Legal Centres at page 5.

³³ The Law Society of Tasmania’s submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 3.

that it affects the freedom of persons in custody. It is difficult to envisage a more disadvantaged group.”³⁴

The Committee received concerns from defence lawyers, CLCs, the Director of Public Prosecutions and the Courts in relation to unrepresented litigants and the affects that this has on the criminal justice system.³⁵ The Director of Public Prosecutions noted that “...the provision of legal assistance to individuals who have been charged with indictable crimes is of the utmost importance. All charges are serious and have the potential to have significant ramifications for accused persons. Court processes and procedures are difficult for individuals to navigate without the assistance of a legal practitioner. When individuals are unrepresented it creates additional challenges for the prosecution and the courts.”³⁶

Submissions received from the Supreme Court of Tasmania and the Magistrates Court of Tasmania highlight the impact of a lack of legal representation as being a key issue for Courts alongside an apparent inconsistency in relation to grants of legal aid.³⁷ The Chief Magistrate stated that “...consideration needs to be given to a funding scheme which provides adequate opportunity for litigants to make informed decisions about their charges and the relevant matters that need to be canvassed with the Court. Increasingly, litigants who are not represented also have literacy and language barriers, which further compounds the access to justice issues. In addition to compromising access to justice, these issues also place a significant impact on court and judicial resources.”³⁸

This concern was mirrored by the Supreme Court, stating that the availability of legal aid to defendants in the criminal jurisdiction is imperative.³⁹

“The unavailability of legal aid would be unfair to any person charged with a serious offence, and any reduction to legal aid funding in the criminal jurisdiction would be likely

³⁴ Ibid at page 3.

³⁵ Submissions to the Evaluation of the Tasmanian Legal Sector consultation paper by the Law Society of Tasmania at page 3, Tasmanian Aboriginal Community Legal Centre at page 9, the Director of Public Prosecutions at page 1, the Magistrates Court of Tasmania at page 1 and the Supreme Court of Tasmania at pp 1-2.

³⁶ The Office of the Director of Public Prosecutions’ submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 1.

³⁷ The Magistrates Court of Tasmania’s submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 1.

³⁸ Ibid.

³⁹ The Supreme Court of Tasmania’s submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 1.

to result in a greater proportion of unrepresented accused persons, longer trials, and greater backlogs.”⁴⁰

As noted at Chapter 5 of this report, the Committee recommends that the LACT should focus on its core functions of legal services for criminal and family law matters. Direction of resources and funding away from criminal law matters has arguably had a profound effect on the eligibility of grants of legal aid for litigants facing terms of imprisonment. It is for this reason that the Committee recommends that priority should be given by LACT to provide grants of aid for unrepresented litigants in these matters.

Self-represented participants in child protection matters

A further area of unmet legal need has been identified for self-represented participants in child protection proceedings. The Law Society of Tasmania has stated that *“it is difficult to secure (legal aid) funding for interim or full hearings in this area. Parents (guardians) are frequently denied funding if a separate representative is appointed, which creates an unfair burden on the separate representative then dealing with two unrepresented parties as well as representing the interests of the child an attempting to remain impartial and independent.”⁴¹* The Chief Magistrate raised further concerns for self-represented litigants involved in child protection proceeds stating that without representation, litigants are required to deal with complex material, legal concepts and procedures without legal assistance.⁴²

As noted above, the Committee recommends that the LACT should focus on its core functions of legal services for criminal and family law matters. In doing so, the LACT should give priority to providing grants of aid for unrepresented participants in child protection proceedings.

Environmental and planning law

The review has identified the under-resourcing of environmental and planning law matters delivered by the EDO as a gap in service delivery. Since the Commonwealth’s decision to cease funding the EDO in 2013, it has not been subject to the NPA. The EDO receives nominal State funding from the Department of Justice and the Department of Primary

⁴⁰ Ibid.

⁴¹ The Law Society of Tasmania’s submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 5.

⁴² The Magistrates Court of Tasmania’s submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 1.

Industries, Parks, Water and Environment, as well as client contributions, court costs, fundraising, donations and membership fees. “Without investment of additional government resources to support delivery of ‘priority’ services, demand is likely to continue to exceed capacity.”⁴³

Furthermore, the EDO notes the impact of self-represented litigants at the Resource Management and Planning Appeal Tribunal (RMPAT):

*“Self-represented litigants generally have a limited understanding of the legal and technical aspects of planning, and of Tribunal procedures. This inexperience can...place an additional burden on the Tribunal and other parties in dealing with irrelevant or poorly argued matters. Even with strong grounds, self-represented litigants are at a disadvantage when faced with an opposing party who has engaged experienced counsel or experts.”*⁴⁴

The Committee acknowledges the complexity of the environmental and planning law jurisdiction, especially in light of the recent amendments to the legislation, and the specialist service provided by the EDO. The EDO operates very efficiently on a small budget, and additional funding is required to meet the current level of demand, and to reduce the impact of self-represented litigants at RMPAT.

Elder abuse

The review identified an emerging area of legal need for older persons, particularly in relation to elder abuse. The Committee however acknowledges that Commonwealth and State Government are actively working to address this issue. The Council of Attorneys-General (CAG), which consists of Attorneys-General from the Australian Government, all states and territories, and the New Zealand Minister for Justice, is currently overseeing development of a *National Plan to Respond to the Abuse of Older Australians*. CAG is also overseeing work to implement recommendations of the Australian Law Reform Commission’s Report *Elder Abuse – A National Legal Response* and to develop options for greater consistency of national arrangements for financial enduring powers of attorney. Development of the *National Plan* will inform updates to *Protecting Older Tasmanians from*

⁴³ The Environmental Defenders Office’s submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 2.

⁴⁴ *Ibid*, page 5.

Abuse: Tasmania's Elder Abuse Strategy, which was first implemented in 2011 and reviewed in 2014. This work is being led by the Department of Communities Tasmania.

Collaboration

The Committee's view is that collaboration means working together in this sector to ensure that all Tasmanians, in particular disadvantaged Tasmanians, are provided with an appropriate level of legal assistance to resolve their legal disputes within the parameters of available funding. Overall feedback from the legal assistance sector found that collaboration is positive albeit hindered by funding uncertainty.

As discussed at Chapter 4 of this report, the State has provided funding to the LACT and CLCs to cover the shortfall in Commonwealth funding contained in the NPA.⁴⁵ However, State funding to 'top up' the NPA shortfall has been applied on a year-to-year basis. The current shortfall commitment ends on 30 June 2019.

Due to this funding uncertainty, the Committee identified that organisations may be reluctant to share ideas or announce projects they are working on to avoid losing a competitive advantage. This was raised by LCLC, stating that "*it has been difficult to establish 'whole of sector' collaboration due to the instability of funding and literally working, financially, from 'year to year'. This environment has not allowed for long-term negotiations and strategy planning.*"⁴⁶ The WLST reiterated this point, noting that forward planning of projects within the legal assistance sector has stopped due to uncertainty of one-year funding contracts.⁴⁷

Collaborative Service Planning

The NPA requires the State, NPA-funded organisations and other stakeholders to engage in Collaborative Service Planning (CSP). The two main elements are:

- Evidence and analysis of legal need, which requires that States use an evidence base to identify priority clients and the geographic locations in which people have the highest levels of legal need and target legal assistance services accordingly; and

⁴⁵ Attorney-General's Department, *National Partnership Agreement on Legal Assistance Services 2015-2020* <<https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Documents/NationalPartnershipAgreementOnLegalServices.pdf>> at p 11

⁴⁶ Launceston Community Legal Centre's submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 16.

⁴⁷ Women's Legal Service Tasmania's submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 29.

- Attending and participating in CSP meetings to discuss strategies for the delivery of legal services.

With respect to the purpose of the meetings, the issues to be canvassed are varied. The issues includes discussion about using evidence of legal need to inform the delivery of legal services, the efficiency and effectiveness of service delivery models, and strategies to streamline services and reduce any unnecessary duplication.

The Committee supports Equal Opportunities Tasmania's (EOT) view that collaborative service planning is a vital adjunct to an efficient and effective legal services system.⁴⁸ The EOT further submitted "...collaboration of this nature requires appropriate resourcing to allow improved levels of consultation both within the legal assistance sector and between the legal assistance sector and non-legal service providers."⁴⁹

Effect of reduced Commonwealth funding in the NPA

The Tasmanian Government's commitment to provide additional funding to offset the reduction in Commonwealth funding under the NPA, in order to maintain funding levels to pre-NPA levels, expires on 30 June 2019.

The review has highlighted that any reduction in funding to the LACT and CLCs would grossly affect the services that each provider could offer and that the current business models could not operate on less funding. This would lead to a reduction of services offered, the amount of grants of legal aid lessening or in some cases, closure, or partial-closure of services.

The legal assistance sector does not have the capacity to absorb any reduction of funding from the current levels. The Committee has been unable to identify areas within the legal assistance sector where material savings could be made, nor a possible redirection of funding from other areas, which would be able to meet the shortfall in funding from the current levels post 30 June 2019.

⁴⁸ Equal Opportunities Tasmania's submission to the Evaluation of the Tasmanian Legal Sector consultation paper at page 21.

⁴⁹ Ibid.

On this basis, in order for the legal assistance sector to maintain the current levels of legal service to disadvantaged Tasmanians, further State funding is required for the remaining year of the NPA. Funding to the sector at the completion of the current NPA in 2020 will be dependent on any future Commonwealth and State agreements; however, any reduction in funding from the current levels could not be absorbed by the sector without a dramatic reduction in services.

Recommendations

1. Legal needs mapping should be initiated as soon as possible in order to inform decisions about funding and administration.
2. In order for the legal assistance sector to maintain the current levels of service, further State funding is required for the remaining year of the NPA.

7 . Funding sources

Key findings

1. SGF grants have, at times, funded the core services of legal assistance providers.
2. There are no formal published guidelines around the purpose of the SGF grant or application process.
3. There is a lack of prescribed forms for SGF grants, including the application process and reporting format for grant recipients to respond to.

Solicitors' Guarantee Fund (SGF)

The SGF is administered and managed by the Solicitors' Trust, which is an independent statutory body established by the *Legal Profession Act 2007* (Tas) comprising of two legal practitioners and an accountant.⁵⁰ The SGF consists of interest generated by the monies standing to the credit of legal practitioners' trust funds. The SGF therefore does not hold government funds.

In accordance with the *Legal Profession Act*, the SGF is used to compensate clients of legal practitioners who have defaulted on their fiduciary responsibilities⁵¹ and to cover the costs of the operation of the Legal Profession Board and the Legal Profession Disciplinary Tribunal.⁵² The SGF is also used to issue grants for purposes approved by the Minister for Justice. With respect to issuing grants, only the excess funds over the prescribed minimum amount held in the SGF can be distributed by the Minister.⁵³ The current prescribed minimum threshold is \$8.7 million.⁵⁴ If an excess is available in the SGF, the Minister for Justice may invite the LACT or such other legal assistance scheme, the Law Foundation, and any other person to make an application for a grant of money for the SGF.⁵⁵ The Act is silent on the criteria for grants, so this is a matter for the Minister to determine.

⁵⁰ *Legal Profession Act 2007* (Tas) s634.

⁵¹ *Ibid* at section 358(2)(a).

⁵² *Ibid* at section 358(2)(b).

⁵³ *Ibid* at section 358(2)(e) and s361.

⁵⁴ *Legal Profession Regulations 2008* (Tas), Regulation 67A.

⁵⁵ *Legal Profession Act 2007* (Tas) section 361.

Application process

Invitations to apply for a SGF grant have either been an open or closed process. Previous open application rounds have been advertised in the 'Mercury', 'The Examiner' and 'The Advocate' newspapers. Closed applications were not advertised, and invitations to apply were targeted to a limited number of organisations.

In previous rounds, invitees were advised that priority would be given to applications that addressed any of the following outcomes:

- An increase in the number of people receiving free or low cost legal services;
- An improvement in the quality of legal services provided to the public;
- An improvement in the range of legal services provided to the public;
- An improvement in the operation of the justice system; and
- An increase in community awareness of the law, legal services or the justice system, including the provision of education and training.

Applications are reviewed by the Department of Justice and recommendations are provided to the Minister for Justice. The Minister reviews the applications and recommendations to determine the successful applicants.

Grant deeds / Terms and conditions

In 2015, grants were formalised by way of grant deeds for recipients that were legal entities and terms and conditions for non-legal entities. This was to provide a mechanism to monitor the performance of the approved purpose of the funds properly and to ensure that grant monies are spent appropriately.

The grant deeds require recipients to provide a final report to address the approved purpose and provide a financial report to acquit the grant. Terms and conditions require annual reports and a final report when the approved purpose has been completed, including proof of eligible expenditure. The Minister can request interim reports. The key performance indicators are generally limited to what is outlined in the approved purpose. No specific guidance has been provided to recipients in relation to the format of the reports.

Reform of the SGF process

Overall, the main concerns expressed to the Committee in relation to the SGF process relate to the uncertainty as to the continuity of grants, the use of grant funds for core services, increasing the transparency of the purpose and application process, calls for longer-term funding cycles and reporting requirements.

Uncertainty of funding

At times, grants may be provided for the delivery of core services. However, grants from the SGF are not secure, in that they are only available when there is a surplus. The period of time between rounds varies significantly, from 23 months to 7 months. This means that it is difficult for service providers to plan if grants are not ongoing. A major concern raised during the consultation process was that in years when there is no surplus available, availability of core legal assistance services would be affected, which in turn would impact access to justice.⁵⁶

Use of funds for core services

It was further expressed that SGF grants should not be used for funding of core services but that this should be properly canvassed in the organisation's core funding. As highlighted by the EDO, "*funding of the legal assistance sector to deliver in key priority areas should not rely on the SGF – additional government resources should be committed to ensure that priority areas can be serviced.*"⁵⁷ The Committee recommends that SGF grants not be used to fund their core business.

Transparency of the purpose of grants

As the *Legal Profession Act* is silent on the purpose for which funds are to be administered, the Minister advises applicants of a list of factors that will be given priority.⁵⁸ A number of legal service providers expressed a concern that the factors are politically driven, and a desire for there to be greater transparency about the purpose of the grants allocated.⁵⁹ As

⁵⁶ LCLC's submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 21, LACT's submission at page 19, LST's submission at page 11, WLST's submission at page 41, and TasCOSS' submission at page 9.

⁵⁷ EDO's submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 7.

⁵⁸ An application is to contain such information as the Minister directs; *Legal Profession Act 2007* (Tas) section 361(4).

⁵⁹ CLCTas' submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 8, and EDO's submission at page 7.

noted by the Sentencing Advisory Council, “*the lack of formal published guidelines around the purpose of the grant, the lack of information around how applications will be dealt with and assessed, and the inability for applicants to speak to their applications apart from a specific request for more information, contributes to uncertainty around, and reduces confidence in, the conduct of process.*”⁶⁰

In order to address such concerns, the Committee recommends the establishment and public communication of formal guidelines to provide greater transparency.

This could include;

- What purposes grants should address;
- The process for applying for a grant;
- How it will be assessed;
- The decision-making process and how that will be communicated; and
- The role of the applicant in this process.⁶¹

Transparency of the application process

There is currently no prescribed application form, with each application differing in the approach and level of information provided. The applications are received by the Secretary of the Department of Justice and are assessed against the list of priorities communicated to the applicants by the Minister. Each application is assessed as to whether it meets the relevant criteria, and then recommendations are provided to the Minister documenting reasons for each recommendation. It is then at the discretion of the Minister as to which applications are successful.⁶²

There is support from the legal assistance sector for the use of a standardised application form to ensure that applicants address clear, consistent criteria.⁶³

⁶⁰ Sentencing Advisory Council’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 3.

⁶¹ As per suggested guidelines from the Sentencing Advisory Council’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 3

⁶² *Legal Profession Act 2007* (Tas) s 361(5).

⁶³ EDO’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 7.

There was also support from the legal assistance sector for an independent panel to assess applications, which would promote the view that assessment will be impartial.⁶⁴ A recent report on the NSW Public Purpose Fund (“NSW Review”) recommended a panel to assess applications that include “*members with deep experience and insight into the issues that confront disadvantaged individuals and groups who require access to the justice system.*”⁶⁵ The Committee recommends that an independent panel to assess applications be established, consistent with the recommendations of the NSW Review.

The consultation with stakeholders did not produce a uniform agreement from the legal assistance sector as to the constitution of the panel, however it is the Committee’s view is that the panel could include representations of the following organisations; the Law Society of Tasmania, a representative of the Attorney-General’s Office, a CLC representative, and, the Chair of Solicitors’ Trust. The independent panel would provide an assessment, recommendations and supporting reasons for the decisions to the Minister for determination.

Longer-term funding cycles

Currently, SGF grants are for a specified period of up to 12 months. The NSW Review recommended introducing “*funding cycles longer than one year so that the recipient organisations can better budget and plan their operations.*”⁶⁶ Several legal assistance providers, seeking for a similar practice be adopted in Tasmania, supported this view.⁶⁷

The Solicitors’ Trust advises that for longer-term funding cycles to be adopted within the current legislative framework, “*...it would be necessary for a grant providing for payments by instalments over time to be treated as a grant from the surplus available at the time of the grant. The grant could then be paid by instalments over time as directed by the Minister. A grant for*

⁶⁴ SAC’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 3, LST’s submission at page 11, CLCTas’ submission at page 7 and WLST’s submission at page 39.

⁶⁵ Department of Justice (NSW), *Report of the Steering Committee on the NSW Public Purpose Fund*, September 2018 < <https://www.justice.nsw.gov.au/justicepolicy/Documents/steering-committee-on-the-nsw-public-purpose-fund.PDF>> at page 18.

⁶⁶ *Ibid.*

⁶⁷ EDO’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 7, LCLC’s submission at page 21, LST’s submission at page 10 and LACT’s submission at page 20.

longer-term funding would therefore reduce the amount available for distribution to other potential grant recipients.”⁶⁸

The Committee recommends that SGF grants should not be utilised for recurrent projects, other than those which provide significant value across the legal assistance sector, due the risk around uncertainty of funding. The value of longer-term funding must be weighed against the potential benefit of funding multiple applications.

Reporting

As noted above, grant deeds require recipients to provide a final report to confirm the funds were used for the approved purpose, and provide a financial report to acquit the grant. Each grant recipient differs in the information and depth of reporting. It is therefore recommended by the Committee that a specific reporting format, including appropriate key performance indicators, be introduced to improve the consistency of reporting, and guide recipients to the key issues that need to be addressed. This will also assist in assessing whether grant recipients meet their obligations under the grant deed.

Recommendations

1. SGF grants should not be used to fund the core business of legal service providers. Formal guidelines and public communication of the purpose of the SGF grants should be established to provide greater transparency.
2. An independent panel should be established to assess applications and to provide recommendations to the Minister.
3. SGF grants should not be utilised for recurrent projects other than those which provide significant value across the legal assistance sector.
4. A specific reporting format, including appropriate key performance indicators, is introduced to improve the consistency of reports and guide recipients to the key issues that need to be addressed.

⁶⁸ The Solicitors’ Trust’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 2.

8. Governance

Key findings

1. Legal service providers are currently not allocating sufficient time to ensuring that their governance framework is contemporary and appropriate.
2. The level of 'good governance' varies across organisations, and there is not consistency in approach of standards.
3. There is currently no methodology to measure outcomes-based reporting, and while it should be an aspirational principle, at this point in time the sector is not equipped to support such a change in reporting.
4. The Committee has not received any evidence to support the merging of any existing CLCs in Tasmania.
5. Board evaluations are not adequately occurring within the legal assistance sector.

Corporate governance

Corporate governance is defined as the system by which companies are directed and controlled. Board directors are responsible for the governance of their companies, ensuring they are well run.⁶⁹ Within the context of the legal assistance sector, it is the requirement that board members govern their entity within the best interest of their membership and organisation, within legislative requirements.

Principles of good governance include:

- Lay solid foundations for management and oversight;
- Structure the board to add value;
- Promote ethical and responsible decision making; and
- Recognise and manage risk.⁷⁰

Governance arrangements for the LACT and CLCs funded by the NPA have been considered as part of this Evaluation. It does not include non-NPA funded legal assistance providers.

⁶⁹ Sir Adrian Cadbury, *Report of The Committee on the Financial Aspects of Corporate Governance*, (1 Dec 1992), Burgess Science Press, paragraph 2.5.

⁷⁰ ASX Corporate Governance Council, *Corporate Governance Principles and Recommendations*, 3rd Edition (27 March 2014)

Boards

Regular and close monitoring of the management of an organisation is required by a governing board to ensure both accountability and compliance.

For a board to discharge its role, a board must perform the following functions;

1. Strategic direction – participate with management in setting policies, objectives and performance target for the organisation to meet.
2. Resources – make available to management the resources to achieve the strategic plan;
3. Performance – monitor the organisation’s performance against its strategies and objectives; and
4. Compliance – ensure that adequate internal processes are in place to comply with legal and accounting requirements.

The Committee recommends that LSPs should maintain boards with a mix of skills, experience and expertise,⁷¹ including succession planning and rotation of board members with fixed terms.

LACT

The composition of the Board is relatively new, and is a result of recommendations made by the Honourable Peter Evans.⁷² The former Attorney-General and Minister for Justice, the Honourable Dr Vanessa Goodwin MLC, commissioned the Hon Peter Evans to review the LACT including its governance arrangements.

The *Legal Aid Commission Act* was amended in October 2016 to reduce the number of Board members from 10 to 5. The Board members are eligible to be paid a fee, except for the Director of the LACT.

CLCs

CLCs are independent incorporated associations and have separate Boards or Management Committees. Members of these Boards or Committees include legal professionals, government and non-government sector employees and members from the community. Each organisation has its own Constitution. Board/Committee members are volunteers, and therefore do not receive any remuneration. Governance costs comprise mainly of the

⁷¹ Kiel, Nicholson, Tunny and Beck, *Better Practice in Governance and Accountability*, 2012.

⁷² The Honourable Peter Evans, *Review of Legal Aid Commission of Tasmania*, (March 2015)

time required to prepare documentation for board meetings by staff employed at each organisation.

The NPA funded CLCs are all members of CLCTAS which is a member of the National Association of Community Legal Centres (NACLC). NACLC is the peak national body for CLCs in Australia. In 2010, as a joint initiative, NACLC and State and Territory CLC associations launched a National Accreditation Scheme (NAS)⁷³. According to NACLC:

“The NAS is an industry based certification process for CLCs that supports and recognises good practice in the delivery of community legal services. The NAS provides a quality assurance process that gives CLCs, funding bodies and clients confidence that CLCs are operating according to good practice and industry standards. The NAS promotes a culture of on-going continuous quality improvement.”⁷⁴

All NPA funded CLCs are NAS accredited.

It is the Committee’s findings that LSPs are currently not allocating sufficient time to ensuring that their governance framework is contemporary and appropriate. In addition, the level of ‘good governance’ varies across organisations, and there is not consistency in approach of standards.

Accountability

Grant agreements with the LACT and CLCs govern funding distribution and include accountability measures such as budget and reporting requirements.

LACT

The functions of the LACT are prescribed in section 6 the *Legal Aid Commission Act 1990*.

The main sources of Commonwealth funding for the LACT are governed by the NPA and the Family Advocacy Support Service Project Agreement. Both of these agreements have various reporting requirements, service delivery criteria and client eligibility guidelines.

⁷³ National Association of Community Legal Centres, Accreditation (SPP)
http://www.naclc.org.au/cb_pages/accreditation_spp.php

⁷⁴ National Association of Community Legal Centres, Accreditation (SPP)
http://www.naclc.org.au/cb_pages/accreditation_spp.php

State funding for core services is determined through the Budget process. The *Legal Aid Commission Act 1990* imposes a number of requirements in relation to estimates of expenditure, annual reports and provision of financial information. For instance, prior to the start of a financial year, the proposed expenditure and revenue budget has to be submitted to the Minister for Justice.⁷⁵ A report on the LACT's activities and financial matters relating to the previous financial year is required by 31 October every year.⁷⁶ The LACT commenced publishing Quarterly Reports on all its activities in 2017. Other State funding allocations have specific quarterly reporting requirements, such as the monies provided under the FVAP.

The LACT records service data in accordance with the Data Standards Manual for all services it delivers where possible, as well as other information such as the reasons for grants being approved or rejected.

CLCs

Grant agreements with each CLC govern Commonwealth funding provided under the NPA and State shortfall funding. There are a number of reporting obligations consistent with the requirements in the NPA, however the agreements include other accountability measures, such as:

1. Budget;
2. CLSP workplan and targets;
3. Progress reports;
4. 6 and 12 month financial reports;
5. Audited financial statement;
(including a specific audit of NPA funding, SACS declaration and a certificate of compliance that funds were used in accordance with the funding agreement)
6. Excess surplus report if a CLC intends to carry over more than 15% in surplus funds to the next financial year; and
7. Annual report.

⁷⁵ *Legal Aid Commission Act 1990* (Tas) section 42.

⁷⁶ *Ibid*, section 48.

CLCs are also required to record service data in CLASS. Service data is used to satisfy reporting requirements under the NPA and other funding streams. Non-NPA funding, such as grants under the FVAP, may have other reporting requirements.

The Committee recommends that future funding agreements need to include a set of minimum governance requirements that encourage, for example, a strategic, business plan and risk register, and that increase in complexity as the sector becomes more attuned to a more robust governance model.

The Committee further recommends that, in light of the broad level of inadequate governance capability, funding LSPs to undertake appropriate governance training prior to the execution of the first funding agreement that incorporates the abovementioned criteria is an imperative.

Outcomes-based reporting

The service data reported by legal assistance providers is usually based on the number and types of services delivered, not necessarily the outcomes of services or time spent on delivering services.

The LACT records time spent in their system, but it is not a measure that is reported on. For CLCs, time spent is only required to be recorded for closed representation services. The options for 'estimated time spent' vary from 1-5 hours, 6-20 hours, 20-50 hours or more than 50 hours. The total number of services or time-spent data on representation services, for example, does not provide an indication as to the outcomes achieved.

The Productivity Commission suggested that:

“A lack of data on outcomes undermines the ability of legal assistance providers to target their resources effectively, as they are unable to identify what types of services are providing the greatest benefit (relative to costs) to their clients and the wider community.”⁷⁷

⁷⁷ Productivity Commission 2014, Access to Justice Arrangements, Inquiry Report No. 72, Canberra report page 707.

And that:

“Not only will an improved understanding of outcomes enable providers and governments to better direct resources, it may make providers less vulnerable to excessive tightening in times of fiscal restraint by allowing them to demonstrate the benefits (including to government) of the services they provide.”⁷⁸

The Victorian Federation of CLCs published a paper that examines outcomes-based reporting.⁷⁹ The paper notes five high level outcomes to be reported against. These outcomes are:

1. People experiencing disadvantage have increased access to justice;
2. Community members have increased capability to understand and address their legal issues;
3. CLCs and stakeholders have increased capability to provide integrated responses to the needs of people experiencing disadvantage;
4. Decision makers address systemic injustices; and
5. CLCs are capable, sustainable and able to respond to the legal needs of people experiencing disadvantage.⁸⁰

The majority of feedback received from LSPs was that they would like to move towards an outcome based model, which would better represent the depth of services that they provide. The Steering Committee is of the view, however, that there is currently no methodology to measure this reporting method, and while it should be an aspirational principle, at this point in time the sector is not equipped to support such a change in reporting.

⁷⁸ Ibid, page 708.

⁷⁹ Federation of Community Legal Centres, *Victorian Community Legal Sector: Outcomes Measurement Framework* (December 2017)

⁸⁰ Federation of Community Legal Centres, *Victorian Community Legal Sector: Outcomes Measurement Framework* (December 2017) at page 4.

Streamlining services

As part of the review, the Committee considered various initiatives to streamline services to reduce administrative and/or governance costs.

The requirements of collaborative service planning in the NPA at A10 state that:

Discussions should consider strategies to streamline services and reduce any unnecessary duplication, including, but not limited to:

- a. *More efficient and effective ways of using available resources;*
- b. *Reallocating resources;*
- c. *Changing service delivery approaches;*
- d. *Adjusting triage practices;*
- e. *Collaborating or co-locating with other service providers;*
- f. *Consolidating outreach services and/or locations;*
- g. *Sharing telephone helplines and websites; and*
- h. *Merging administrative functions.*

Resource sharing and co-location

In Tasmania, resource sharing already occurs to a limited extent. Office space may be offered to other organisations for use, memoranda of understandings have been entered into to support clients, and the HCLS and TUT are co-located.

Single CLC entity

The Productivity Commission found that, as most CLCs are small in scale, significant resources are allocated to administration. The Productivity Commission suggested that amalgamation of centres may address these administration costs. It said:

“The Commission supports amalgamation as a way of reducing administrative costs and freeing up resources for front line services and sees a voluntary approach, rather than one dictated as part of a funding agreement, to be preferable.”⁸¹

A single CLC entity would lead to there being two main providers of legal assistance in the State, the LACT and one state-wide CLC. Another option proposed would be merging

⁸¹ Productivity Commission 2014, Access to Justice Arrangements, Inquiry Report No. 72, Canberra, page 31.

generalist CLCs to become one organisation, and the specialist centres remaining independent. Significant concerns were raised about such proposals, in particular that:

- Combining up to 30 years of client details and data creates conflicts of interest;
- The costs of winding up separate organisations to become one are significant;
- Volunteer support may be lost; and
- Creating one large entity to create an economy of scale would diminish the ability of legal assistance providers to be adaptive and reactive to community needs, resulting in service gaps.

The Committee has not received any evidence to support the merging of any existing CLCs in Tasmania.

Budget and Expenditure

The Committee has received detailed financial information provided in confidence from LSPs for consideration, including the cost of administration and solicitor wages.

Value for money

The Productivity Commission observed that:

“The mixed model of legal assistance service provision (using in-house and private lawyers) is successful, but the sustainability of the model is in question. Financial incentives will be required to attract private practitioners to perform essential legal assistance work, particularly in rural and remote areas. Legal assistance providers should have the freedom to use in-house lawyers where it is more efficient and effective to do so.”⁸²

As part of the Review of the LACT, a report was produced to compare the cost of in-house versus private lawyers for the delivery of legal assistance services.⁸³ The Review found that the cost of performing grants of legal aid in-house was much greater than the cost of having the private profession do the work.⁸⁴ In response, the LACT said that the Review did not have access to all the necessary data to be able to make such a finding:

⁸² Ibid, page 703.

⁸³ The Honourable Peter Evans, Review of Legal Aid Commission of Tasmania, March 2015, attachment 1.

⁸⁴ Ibid. page 37.

“The Review has used the Visual Files file management system as if it was a performance management system. The data that would allow the Review to determine the complete cost per grant (new grants and extension of grants) is not currently captured. Legal Aid Commissions around Australia have traditionally not undertaken time costing or an activity recording process. Without this data, it is not possible to determine the cost per grant as the Review purports to do.”⁸⁵

The LACT has requested an independent accounting firm to produce a cost comparison. It is anticipated that this report will be finalised in 2018. The report will provide more information as to the efficiency of the mixed model.

The issue of wage differences between providers was raised for the purpose of assessing value for money. The Committee has considered this issue but notes that wages vary across the government-funded and private sector. To draw conclusions based on wages would require consideration of existing salaries paid to staff employed by CLCs and the LACT, and compare that to the type of work practitioners are required to undertake. The Committee has determined that, for the purposes of the evaluation, it will not pursue this line of enquiry. The assessment of value for money is discussed further in Chapter 10.

Recommendations

1. Future funding agreements need to include a set of minimum governance requirements that encourage, for example, a strategic and/or business plan and risk register, and that increase in complexity as the sector becomes more attuned to a more robust governance model.
2. In order to meet the proposed new governance requirements, legal service providers would need to undertake appropriate governance training prior to the execution of the first funding agreement.
3. Immediate governance training requires one-off funding to be provided to legal service providers and additional nominal ongoing funding in order to continue professional development.
4. The Committee recommends that LSPs should maintain boards with a mix of skills, experience and expertise, including succession planning and rotation of board members with fixed terms.

⁸⁵ Legal Aid Commission of Tasmania, *Response to the Review of Legal Aid Commission of Tasmania*, 2015, page 7.

9 . Well-recognised entry point for legal assistance

Key findings

1. The well-recognised entry point is not a viable option for Tasmania, only adding an extra and unnecessary layer to the referral process.
2. Under the current arrangements, warm referrals already occur between legal service providers.

Not knowing where to go for advice or assistance is a barrier to accessing justice, particularly when a person does not have the financial means to pay for a lawyer. Effective referral pathways are therefore crucial to ensure that people with legal issues are directed to the most appropriate service for assistance.

Currently, there are many entry points into the sector. However, as indicated by the LAW Survey, a large percentage of the Tasmanian population does not seek advice when faced with a legal problem.⁸⁶ The Productivity Commission has stated that “it can be difficult to identify the right legal assistance and to find the right information to resolve a legal problem.”⁸⁷ To address this barrier, the development of a well-recognised entry point into the legal assistance sector was recommended.⁸⁸ The Commission emphasised that:

Well-recognised entry points are not intended to be the only way into the civil justice system, but as highly visible ‘first ports of call’ that many people can use to get information, minor advice or referrals to other services.⁸⁹

Well-recognised entry point

The Productivity Commission stated that the benefit of a well-recognised entry point is that it assists individuals to access the most appropriate service at the earliest opportunity easily, limiting the potential of legal issues compounding or exacerbating, as well as avoiding referral fatigue.⁹⁰

⁸⁶ Coumarelo C, Macourt D, People J, MacDonald HM, Wei Z, Iriana R & Ramsey S, 2012, *Legal Australia-Wide Survey: legal need in Tasmania* Law and Justice Foundation of NSW, Sydney, page 213.

⁸⁷ Productivity Commission Inquiry Report, *Access to Justice Arrangements* No. 72, Volume 2 (2014) at page 168.

⁸⁸ Ibid at Chapter 5.

⁸⁹ Ibid at page 167.

⁹⁰ Ibid.

In order to develop well-recognised entry points, the Commission recommended that:

“Legal aid commissions should coordinate with the other members of their Legal Assistance Forums to build on their existing telephone helplines and websites. Minor advice for straightforward matters, including Commonwealth matters, should be provided in all jurisdictions. Referrals, including warm referrals, to other services should occur as appropriate, based on the ‘no wrong door’ principle. Once the well-recognised entry point is established, other legal assistance providers should reconsider whether resources should still be allocated to their existing telephone helplines.”⁹¹

As a result of this recommendation, the LACT put forward a proposal to establish a well-recognised entry point in Tasmania called ‘No Wrong Door’. The proposal was based on the LACT using its existing telephone advice service, a targeted marketing campaign and the development of clear guidelines for referrals with other legal assistance providers.

The proposal for a single state-wide telephone number was not supported by a number of stakeholders for the following reasons:⁹²

- The LACT advice line is the most utilised advice line in Australia,⁹³ so Tasmania already has a well-recognised advice line, with good relationships and warm referrals between services. Current relationships should be formalised and improved instead.
- The issue identified by the Productivity Commission, that there is confusion about the range of options for legal assistance services, does not apply in Tasmania. The Inquiry Report is referring to larger jurisdictions with several providers located within one geographic location.
- In a difficult financial climate, establishing a representative committee to set the protocols and oversee the pilot would divert resources from service delivery unnecessarily. Promoting one telephone line would not reduce the operating costs of CLCs or LACT, and therefore would not create any financial benefits for the sector.
- Promoting the LACT advice line would diminish the status of the service of CLCs, which have worked hard to raise and establish their profiles within communities.

⁹¹ Ibid, recommendation 5.2 at page 41.

⁹² CLCTas’ submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 6, LCLC’s submission at page 4, TACLS’ submission at page 12.

⁹³ Productivity Commission Inquiry Report, *Access to Justice Arrangements* No. 72, Volume 2 (2014) at page 169.

- Utilising the LACT solicitors to triage and refer clients would not be an efficient use of LACT resources, and there are questions as to whether referring clients from a lawyer to another service is best for the client.
- Limited ability to ensure that referrals were accurately occurring and that there was not an overrepresentation of in-house LACT referrals.

The Committee does not support a single-entry point/No Wrong Door approach. An additional entry point will only add an extra and unnecessary layer to the referral process. Under the current arrangements, warm referrals already occur between legal service providers.

The Committee reiterates its recommendation to provide a clear delineation of services, with the LACT to focus on core services to criminal and family law matters. If this were to occur, a formal single-entry point would not be required, as there would be a clear distinction of services offered by each provider. Further training amongst legal assistance providers and community legal education regarding the redefined service offerings of each provider would aid at improving referral pathways.

Referral guides

Based on initial stakeholder feedback, legal assistance providers have developed their own referral guides. The LACT has a referral list available online and has formal and informal referral arrangements with other organisations. The referral list includes legal and non-legal service providers. The LACT also maintains a list of Tasmanian private practitioners to refer people to for grants of aid.

CLCs have their own referral guides and policies. The Commonwealth funded CLCTas to develop an online portal to assist people to find and contact legal assistance providers in Tasmania. The website (www.lawaccesstas.org.au) launched in 2018. Whilst recognising that the website offers comprehensive information about services available, the Committee recommends that the website should be further developed to provide more tailored information to meet individual needs. The Committee considers that the Legal Aid

Commission of South Australia's website 24Legal represents an excellent example of tailored web based legal information in the sector.⁹⁴

Recommendations

1. A single entry point/No Wrong Door approach should not be pursued at this time.
2. A clear delineation of services, with the LACT focusing on its core functions of legal services for criminal and family law matters,, would provide clarity of services offered by each provider, without the need for a formal entry point.
3. Further training amongst legal assistance providers and community legal education of the redefined service offerings of each provider would aid at improving referral pathways.
4. The CLCTas online referral portal (www.lawaccessstas.org.au) should be further developed to provide more tailored information to meet individual needs.

⁹⁴ <http://24legal.lsc.sa.gov.au/>

10. Funding Methodology

Key findings

1. Historical funding allocations do not appear to have been based on evidence of legal need or an outcome focus
2. A tender process would open up the field for other organisations to apply for funding to deliver legal services, and that those organisations may not be responsive to legal needs and community needs due to being unfamiliar with the sector.

An effective funding methodology provides a clear, transparent method to distribute funding to best address a particular need or achieve a particular purpose. In Tasmania, funding allocations for CLCs have been based on maintaining historical allocations and effective lobbying to address areas of legal need. Federal funding for the LACT is determined by the Commonwealth, and the State allocation is part of the annual Budget process.

Limited funding and access to justice

The Productivity Commission identified that with limited funding availability for legal assistance services, determination of whether legal assistance providers are providing the right mix of services to the right clients in the right areas of law and in the right locations is crucial.⁹⁵

The LAW Survey provided two main recommendations to improve access to justice for disadvantaged Australians. Firstly, that providers deliver holistic services that integrate legal and non-legal services to address problem clusters.⁹⁶ Secondly, that providers utilise multiple strategies to address legal need.⁹⁷

These strategies include:

- Legal information and education;
- Self-help strategies;

⁹⁵ Productivity Commission 2014, Access to Justice Arrangements, Inquiry Report No. 72, Canberra, page 704.

⁹⁶ Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, Legal Australia-Wide Survey: legal need in Australia, Law and Justice Foundation of NSW, Sydney, page 208.

⁹⁷ Ibid.

- Accessible legal services;
- Non-legal advisers as gateways to legal services;
- Integrated legal services;
- Integrated response to legal and non-legal needs;
- Tailoring of services for specific problems; and
- Tailoring of services for specific demographic groups.⁹⁸

Legal problem clustering refers to an increased likelihood for certain problem types to lead to multiple problem types occurring at the same time.⁹⁹ For instance, relationship breakdown may lead to disputes about arrangements for children and property division, as well as housing stress and financial difficulties. Three main legal problem clusters have been identified, namely:

1. Family and credit/debt problems;
2. Employment, personal injury, health and rights; and
3. Consumer, crime, government and housing related problems along with money problems (excluding credit/debt).¹⁰⁰

This is useful in informing what types of legal services need to be delivered to address problem clusters, including consideration of joined up services to address one or more problems to prevent further problems from developing.

The findings above are important to inform any future funding and service delivery models so as to improve access to justice within available resources.

Funding models

Some of the funding model options considered through the consultation process include maintaining the status quo, tendering, a grants process based on addressing identified legal need, or streamlining services to better meet demand. Each option is examined further below.

⁹⁸ Ibid.

⁹⁹ Pleasence, P, Coumarelos, C, Forell, S & McDonald, HM 2014, Reshaping legal assistance services: building on the evidence base: a discussion paper, Law and Justice Foundation of NSW, Sydney, page 10.

¹⁰⁰ Ibid.

Maintaining the status quo

Maintaining the status quo means supporting the existing division of funding between providers. By extension, if the pool of funding becomes smaller, funding for each organisation would also be reduced in equal proportions. Views on this funding allocation differed amongst stakeholders. LCLC supported maintaining the status quo,¹⁰¹ with the benefit that providers know how to deliver services within their usual allocation and aim to maximise service delivery. On the other hand, the LACT opposed maintaining the status quo as it “...is not flexible or responsive to those in the Tasmanian community experiencing the highest level of legal need.”¹⁰²

Historical funding allocations do not appear to have been based on evidence of legal need and may be impacted by an organisation’s ability to lobby effectively. The NPA requires that parties engage in collaborative service planning to inform the distribution of Commonwealth and State funding to community legal centres.¹⁰³ The elements of collaborative service planning include analysis of legal need and participation in collaborative service planning meetings to promote discussion of strategies for the delivery of services. As such, the status quo should only be maintained if it represents the most effective model to address legal need in the community.

The Committee recommends moving away from historical allocations of funding, as it is not reflective of legal need to a more outcome focussed method of reporting. However, any departure from this funding methodology should be based on evidence of legal need and the ability of service providers to respond. Without a robust model and methodology to assess legal need and base funding distribution upon, withdrawal of historical funding represents a significant risk to the current delivery of services.

Tendering

In the legal assistance sector context, tendering would refer to inviting bids for the supply of goods and services. Bids are considered against a set of criteria to ensure that the successful applicant can deliver the required services, that services will be of the required quality and that it provides good value for money. The main benefit of tendering is that it

¹⁰¹ LCLC’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page4.

¹⁰² LACT’s submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 24.

¹⁰³ National Partnership Agreement on Legal Assistance Services 2015-20, Schedule A, A2.

creates a level of competition, which allows Governments to receive the best outcome for the expenditure of public monies.

There are two tendering options, open competitive tendering or a targeted tender process.

Competitive open tender process

A competitive open tender process involves the publication of an “open for bids notice” inviting eligible organisations to put in bids. Applying this process to the legal assistance sector, it is likely that any organisations able to deliver legal services would be eligible to apply. Currently, Tasmanian distributes NPA funding to five specific CLCs. A public open tender process may lead to new providers delivering NPA-funded services, or a re-allocation as to the amount of funding an organisation receives to deliver services.

Targeted tender process

A targeted or direct/limited submission sourcing process refers to a limited number of organisations being asked to put in bids to deliver goods and services. A targeted tender process may commence by way of an expression of interest (EOI). The EOI can be used as a means to prequalify or short-list suppliers based on their technical, managerial or financial capacity, in order to reduce the cost of tendering by restricting the issue of formal tenders to those suppliers with demonstrated capacity.¹⁰⁴ Such a process could therefore limit the number of organisations invited to apply for funding.

The general limitation of a targeted tender process is that it does not necessarily create the same level of competition as an open tender process. Arguably, Governments may therefore not receive the best value for money.

Concerns

The concerns raised by stakeholders, in relation to an open tender process, were that it would open up the field for other organisations, both locally and nationally, to apply for funding to deliver legal services, and that those organisations may not be responsive to community needs due to being unfamiliar with the sector. If existing legal assistance providers were unsuccessful in a tender process, and new organisations received funding, it would also result in a significant loss of goodwill, knowledge and experience. It is on this

¹⁰⁴ Department of Treasury and Finance, *Purchasing Goods and Services, A Guide for Government Buyers*, Version 14.3, September 2017, page 14.

basis that the Committee does not recommend a tender based model for funding distribution.

Grants process

A Government grants process is different from a tender process. A grants process is used when public money is applied to community activities, to achieve aims and objectives consistent with Government policy and agency output objectives.¹⁰⁵ Grants may be governed by legislation or regulation, or be subject to Cabinet, Ministerial or other discretion.¹⁰⁶ A grant is defined as any payment to a non-government organisation or individual on conditions unilaterally imposed by an agency.¹⁰⁷ There are minimum prescribed conditions that Government agencies providing one-off or an ongoing grants program need to meet.¹⁰⁸

Since the Commonwealth transferred administration of NPA funding to the State, the Tasmanian Government has not requested applications for grants in order to distribute NPA funding. The NPA allocates a specific amount to the LACT, which the Department of Justice provides to it. With respect to CLCs, the funding for NWCLC and WLST was quarantined in the NPA for two years, and the funding for HCLS, LCLC and TUT was allocated by the Department of Justice based on maintaining existing funding levels (where possible) including the allocation of State top-up funds. The NPA and funding agreements with providers outline the purpose of funding. There was support from the consultation for a grants process, with LCLC submitting that it is the preferred funding model that could be utilised to provide long-term grants, distributed upon an evidence-based demonstration of legal need.¹⁰⁹

Tenders are not a feasible option at this stage and therefore a grants framework may be a more suitable option. The Committee recommends that for future allocations of NPA and State funding, a request for grant applications could be considered with Key Performance Indicators to assist in determining how to divide the funding to best meet legal need. A formal grants scheme would need to be established as well as clear eligibility

¹⁰⁵ Department of Treasury and Finance, Best Practice Guide for the Administration of Grants, Fourth Edition, December 2013.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid. page 2.

¹⁰⁸ Treasurer's Instruction No 709, Grant Management Framework, 1 July 2011.

¹⁰⁹ LCLC's submission to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper at page 26.

criteria and appraisal procedure of applications to ensure public funds are applied to best address legal need. Development of a grants framework should be in line with the Department of Treasury's Best Practice Guide.¹¹⁰

Funding methodology to streamline services

Streamlining services would require a clear delineation of what services are provided by the LACT and CLCs, and in what location. As noted at Chapter 6, the Committee recommends a realignment of what each legal assistance provider does, with the LACT returning to its core functions of legal services for criminal and family law matters. Any future grants framework will need to outline the purpose and expectation of the funding outcome to each legal service provider clearly, whilst allowing some flexibility to respond to emerging legal need.

Recommendations

1. Gradual departure from historical allocations of funding, as it is not reflective of legal need. However, any departure from this funding methodology should be based on evidence of legal need and the ability of service providers to respond to the quantifiable outcomes in the grant.
2. Grant applications with appropriate key performance indicators could be considered for future of funding allocations, to assist in determining how to divide the funding to best meet legal need and outcomes.
3. A formal grants framework would need to be established as well as clear eligibility criteria and appraisal procedure of applications to ensure public funds are applied to best address legal need. Development of a grants framework should be in line with the Department of Treasury's Best Practice Guide.
4. The grants framework needs to clearly outline the purpose and expectation of the funding to each legal service provider, whilst allowing for some flexibility to respond to emerging legal need.

¹¹⁰ Department of Treasury and Finance, Best Practice Guide for the Administration of Grants, Fourth Edition, December 2013.

Appendix A – Services Provided

The broad problem types used are from the CLSIS data dictionary. The LACT uses a different data dictionary, so in submitting its service profile, other problem types were included such as ‘Mental Health’ and ‘Relationships Act’. For the purposes of comparing service and problem types, the data consistent with the CLSIS data dictionary has been included in the charts below.

The data in the charts must be interpreted with caution, as it does not represent the number of services delivered for each problem type. For example, five organisations may deliver legal task services for credit and debt matters, but it may be that one organisation delivers three legal task services in a financial year, whereas another organisation may deliver one-hundred of such services. Furthermore, the geographic reach of organisations varies.

Chart I: Providers and service types

Service Provider	Service Type										
	Website	Online legal resource	Links to other orgs	CLE	Information	Telephone advice	In person advice	Legal tasks	Duty lawyer	Representation	Court / Tribunal
LACT	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HCLS	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
LCLC	✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✗
NWCLC	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓
TUT	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WLST	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓
WA	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓
EDO	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓
Total	8	6	8	8	8	8	8	8	4	7	7

Chart 2: Information services and problem types

Domain	Problem type	Service Provider							
		LACT	HCLS	LCLC	NWCLC	TUT	WLST	WA	EDO
Family Law									
	Child support	✓	✓	✗	✓	✗	✓	✗	✗
	Child/spousal maintenance	✗	✓	✓	✓	✗	✓	✗	✗
	Contact and residency	✓	✓	✓	✓	✗	✓	✗	✗
	Divorce and separation	✓	✓	✓	✓	✗	✓	✗	✗
	Family and domestic violence	✓	✓	✓	✓	✗	✓	✗	✗
	Property	✓	✓	✓	✓	✗	✓	✗	✗
	Child protection	✓	✓	✗	✓	✗	✓	✗	✗
	Other family law	✓	✓	✓	✓	✗	✓	✗	✗
Civil and administrative law									
	Tenancy	✓	✓	✓	✓	✓	✓	✗	✗
	Credit and debt	✓	✓	✓	✓	✗	✓	✗	✗
	Immigration law	✓	✓	✗	✓	✗	✓	✗	✗
	Government/administrative law	✓	✓	✓	✓	✗	✓	✗	✗
	Government pensions/allowances	✓	✓	✓	✓	✗	✓	✗	✗
	Consumer complaints	✓	✓	✓	✓	✗	✓	✗	✗
	Motor vehicle	✓	✓	✓	✓	✗	✓	✗	✗
	Wills/probate	✓	✓	✓	✓	✗	✓	✗	✗
	Environment	✓	✓	✗	✓	✗	✓	✗	✓
	Injuries	✓	✓	✗	✓	✗	✓	✓	✗
	Discrimination	✓	✓	✓	✓	✗	✓	✗	✗
	Employment	✓	✓	✓	✓	✗	✓	✗	✗
	Neighbourhood disputes	✓	✓	✓	✓	✗	✓	✗	✓
	Other civil law incl restraint orders	✓	✓	✓	✓	✗	✓	✗	✗
Criminal law									
	Offences against persons	✓	✓	✗	✓	✗	✓	✗	✗
	Offences against property and other	✓	✓	✓	✓	✗	✓	✗	✗

Chart 3: Legal advice services and problem types

Domain	Problem type	Service Provider							
		LACT	HCLS	LCLC	NWCLC	TUT	WLST	WA	EDO
Family Law									
	Child support	✓	✓	✗	✓	✗	✓	✗	✗
	Child/spousal maintenance	✗	✓	✓	✓	✗	✓	✗	✗
	Contact and residency	✓	✓	✓	✓	✗	✓	✗	✗
	Divorce and separation	✓	✓	✓	✓	✗	✓	✗	✗
	Family and domestic violence	✓	✓	✓	✓	✗	✓	✗	✗
	Property	✓	✓	✓	✓	✗	✓	✗	✗
	Child protection	✓	✓	✗	✓	✗	✓	✗	✗
	Other family law	✓	✓	✓	✓	✗	✓	✗	✗
Civil and administrative law									
	Tenancy	✓	✓	✓	✓	✓	✓	✗	✗
	Credit and debt	✓	✓	✗	✓	✗	✓	✗	✗
	Immigration law	✗	✗	✗	✗	✗	✓	✗	✗
	Government/administrative law	✓	✓	✓	✓	✗	✓	✗	✗
	Government pensions/allowances	✗	✓	✓	✓	✗	✓	✗	✗
	Consumer complaints	✓	✓	✓	✓	✗	✓	✗	✗
	Motor vehicle	✓	✓	✓	✓	✗	✓	✗	✗
	Wills/probate	✓	✗	✓	✓	✗	✓	✗	✗
	Environment	✓	✓	✗	✓	✗	✓	✗	✓
	Injuries	✓	✓	✗	✓	✗	✓	✓	✗
	Discrimination	✓	✓	✓	✓	✗	✓	✗	✗
	Employment	✓	✓	✓	✓	✗	✓	✗	✗
	Neighbourhood disputes	✓	✓	✓	✓	✗	✓	✗	✓
	Other civil law incl restraint orders	✓	✓	✓	✓	✗	✓	✗	✗
Criminal law									
	Offences against persons	✓	✓	✗	✓	✗	✓	✗	✗
	Offences against property and other	✓	✓	✗	✓	✗	✓	✗	✗

Chart 4: Legal tasks and problem types

Domain	Problem type	Service Provider							
		LACT	HCLS	LCLC	NWCLC	TUT	WLST	WA	EDO
Family Law									
	Child support	×	✓	×	✓	×	✓	×	×
	Child/spousal maintenance	×	✓	✓	✓	×	✓	×	×
	Contact and residency	✓	✓	✓	✓	×	✓	×	×
	Divorce and separation	✓	✓	✓	✓	×	✓	×	×
	Family and domestic violence	✓	✓	✓	✓	×	✓	×	×
	Property	✓	×	✓	✓	×	✓	×	×
	Child protection	×	✓	×	✓	×	✓	×	×
	Other family law	✓	✓	✓	✓	×	✓	×	×
Civil and administrative law									
	Tenancy	×	✓	✓	✓	✓	✓	×	×
	Credit and debt	✓	✓	✓	✓	×	✓	×	×
	Immigration law	×	×	×	×	×	✓	×	×
	Government/administrative law	×	✓	✓	✓	×	✓	×	×
	Government pensions/allowances	×	✓	✓	✓	×	✓	×	×
	Consumer complaints	✓	✓	✓	✓	×	✓	×	×
	Motor vehicle	✓	✓	✓	✓	×	✓	×	×
	Wills/probate	×	×	✓	✓	×	×	×	×
	Environment	×	×	×	✓	×	×	×	✓
	Injuries	✓	×	×	✓	×	✓	✓	×
	Discrimination	×	✓	✓	✓	×	✓	×	×
	Employment	×	✓	✓	✓	×	✓	×	×
	Neighbourhood disputes	✓	✓	✓	✓	×	✓	×	✓
	Other civil law incl restraint orders	✓	✓	✓	✓	×	✓	×	×
Criminal law									
	Offences against persons	✓	✓	×	✓	×	✓	×	×
	Offences against property and other	✓	✓	×	✓	×	✓	×	×

Chart 5: Representation services (no court representation)

Domain	Problem type	Service Provider							
		LACT	HCLS	LCLC	NWCLC	TUT	WLST	WA	EDO
Family Law									
	Child support	N/A	✓	✗	✓	✗	✓	✗	✗
	Child/spousal maintenance	N/A	✓	✓	✓	✗	✓	✗	✗
	Contact and residency	N/A	✓	✓	✓	✗	✓	✗	✗
	Divorce and separation	N/A	✓	✓	✓	✗	✓	✗	✗
	Family and domestic violence	N/A	✓	✓	✓	✗	✓	✗	✗
	Property	N/A	✗	✓	✓	✗	✓	✗	✗
	Child protection	N/A	✗	✗	✓	✗	✓	✗	✗
	Other family law	N/A	✗	✓	✓	✗	✓	✗	✗
Civil and administrative law									
	Tenancy	N/A	✓	✓	✓	✓	✓	✗	✗
	Credit and debt	N/A	✓	✗	✓	✗	✓	✗	✗
	Immigration law	N/A	✗	✗	✗	✗	✓	✗	✗
	Government/administrative law	N/A	✓	✓	✓	✗	✓	✗	✗
	Government pensions/allowances	N/A	✓	✓	✓	✗	✓	✗	✗
	Consumer complaints	N/A	✓	✓	✓	✗	✓	✗	✗
	Motor vehicle	N/A	✓	✓	✓	✗	✓	✗	✗
	Wills/probate	N/A	✗	✓	✓	✗	✗	✗	✗
	Environment	N/A	✗	✗	✓	✗	✗	✗	✓
	Injuries	N/A	✗	✗	✓	✗	✓	✓	✗
	Discrimination	N/A	✓	✓	✓	✗	✓	✗	✗
	Employment	N/A	✓	✓	✓	✗	✓	✗	✗
	Neighbourhood disputes	N/A	✓	✓	✓	✗	✓	✗	✗
	Other civil law incl restraint orders	N/A	✓	✓	✓	✗	✓	✗	✗
Criminal law									
	Offences against persons	N/A	✓	✗	✓	✗	✓	✗	✗
	Offences against property and other	N/A	✓	✗	✓	✗	✓	✗	✗

Chart 6: Court representation services only

Domain	Problem type	Service Provider							
		LACT	HCLS	LCLC	NWCLC	TUT	WLST	WA	EDO
Family Law									
	Child support	×	✓	×	×	×	✓	×	×
	Child/spousal maintenance	×	✓	×	×	×	✓	×	×
	Contact and residency	✓	✓	×	×	×	✓	×	×
	Divorce and separation	×	×	×	×	×	✓	×	×
	Family and domestic violence	✓	✓	×	×	×	✓	×	×
	Property	×	×	×	×	×	✓	×	×
	Child protection	✓	×	×	×	×	✓	×	×
	Other family law	✓	×	×	×	×	✓	×	×
Civil and administrative law									
	Tenancy	×	×	×	✓	✓	✓	×	×
	Credit and debt	×	✓	×	✓	×	✓	×	×
	Immigration law	×	×	×	×	×	×	×	×
	Government/administrative law	×	✓	×	×	×	✓	×	×
	Government pensions/allowances	×	✓	×	✓	×	✓	×	×
	Consumer complaints	×	✓	×	✓	×	✓	×	×
	Motor vehicle	×	✓	×	×	×	✓	×	×
	Wills/probate	×	×	×	×	×	×	×	×
	Environment	×	×	×	×	×	×	×	✓
	Injuries	×	×	×	×	×	✓	✓	×
	Discrimination	×	✓	×	×	×	✓	×	×
	Employment	×	✓	×	×	×	✓	×	×
	Neighbourhood disputes	×	✓	×	×	×	✓	×	×
	Other civil law incl restraint orders	✓	✓	×	×	×	✓	×	×
Criminal law									
	Offences against persons	✓	✓	×	✓	×	✓	×	×
	Offences against property and other	✓	✓	×	✓	×	✓	×	×

Appendix B – Submissions received

Submissions to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper were received by the following organisations:

- Commissioner for Children and Young People Tasmania
- Community Legal Centres Tasmania
- Department of Health and Human Services
- Director of Public Prosecutions
- Environmental Defenders Office
- Equal Opportunity Tasmania
- Hobart Community Legal Service
- Launceston Community Legal Centre
- Legal Aid Commission of Tasmania
- Magistrates Court of Tasmania
- Mental Health Tribunal
- National Association of Community Legal Centres
- North West Community Legal Centre
- Sentencing Advisory Council
- Solicitors' Trust
- Supreme Court of Tasmania
- Tasmanian Law Reform Institute
- Tasmanian Aboriginal Community Legal Service
- TasCOSS
- The Law Society of Tasmania
- Women's Legal Service Tasmania

Appendix C – Stakeholders Consulted

The following organisations provided further consultation in regards to the Evaluation of the Tasmanian Legal Assistance Sector Consultation Paper:

- Environmental Defenders Office
- Hobart Community Legal Service
- Launceston Community Legal Centre
- Legal Aid Commission of Tasmania
- North West Community Legal Centre
- Tasmanian Aboriginal Community Legal Service
- Women’s Legal Service Tasmania

Appendix D – Evaluation Steering Committee Membership

Ms Kristy Bourne, Deputy Secretary Administration of Justice, Department of Justice

Mr Matthew Verney, Principal, Matthew Verney lawyers

Dr Kim Backhouse, Executive General Manager, Operations, Oak Possibility Tasmania

Ms Erin Wise, Assistant Director Strategic Policy and Projects Department of Treasury