

27 October 2023

The Independent Review of the NLAP

By email only: submissions@nlapreview.com.au

Dear Dr Mundy,

Re: Community Legal Centres Queensland Submission to the Independent Review of the NLAP

Thank you for the opportunity to provide feedback on the Independent Review of the National Legal Assistance Partnership Agreement (NLAP).

Community Legal Centres Queensland (CLCQ) is the peak body representing 32 funded and unfunded community legal centres (CLCs) across Queensland. Our vision is for a fair and just Queensland. Our mission is to be a voice for the sector, to lead and support Queensland CLCs to deliver quality and accessible services to people experiencing disadvantage and bring about change for individuals and communities. CLCQ receives funding via the NLAP.

CLCs are independently operated, not-for-profit, community-based organisations that provide free legal advice under the NLAP to Queenslanders experiencing disadvantage and vulnerability.

CLCQ supports the submission made by Community Legal Centres Australia (CLCA), however submits further information and materials unique to the Queensland CLC context.

This submission is structured to reflect the CLCA submission, providing only additional comment where relevant.

CLCQ consents to:

- This submission being published on the Independent Review of the NLAP website;
- Being identified in the Report of the Review as having made a submission;
- This submission being quoted with attribution in the Report of the Review; and
- This submission being quoted anonymously in the Report of the Review.

We would be happy to provide further clarification on any of our response.

Yours faithfully



Rosslyn Monroe

Director

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Attachments:

CLCQ workforce survey summary report

Sector Client Survey: Final Report to DJAG 2023

Sector Client Survey: Benchmarking Report 2023

Blood from a Stone report

Paying what it takes report.

Queensland indexation report

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Acknowledgement

CLCQ acknowledges Aboriginal and Torres Strait Islander peoples as the original inhabitants of Australia and the traditional custodians of the continent, whose cultures are among the oldest living cultures in the world. We recognise the role and accept the responsibility that CLCQ has in advancing and respecting the rights of Aboriginal and Torres Strait peoples by working collaboratively with First Nations peoples and communities,

1. Introduction

CLCQ supports the Community Legal Centres Australia (CLCA) submission to the review. This submission provides supporting material to the CLCA submission with focus on the CLC experience of the administration and impact of NLAP in Queensland.

2. Legal assistance for Aboriginal and Torres Strait Islander peoples

The following section expands on the information provided in CLCA's submission under subheading 'Legal assistance for Aboriginal and Torres Strait Islander people'.

Systemic barriers continue to prevent Aboriginal and Torres Strait Island people's access to justice in Australia. Limited progress to date to meet Closing the Gap priority areas highlights that stronger steps are required to address the systemic and structural disadvantages of First Nations Peoples¹. Access to high quality and appropriately funded community legal centres is an essential element to addressing the current structural barriers faced by Aboriginal and Torres Strait Islander peoples.

First Nations peoples must be able to access legal assistance that is culturally appropriate and safe, accessible, and respectful. However, there must also be as much choice as possible to select a legal service that best meets the needs of First Nations clients. CLCs have not always received adequate funding to resource their staff and Centre to be culturally safe, instead, over-relying on First Nations staff - often without cultural loading.² Additionally, the workforce staffing issues are compounded for rural, regional, and remote Centres which further restricts the availability and capacity of legal assistance particularly in RRR communities.

Aboriginal community-controlled organisations (ACCO), including those in the legal assistance sector, have strong and positive relationships with Aboriginal and Torres Strait Islander peoples, embedded in communities, which enhances trust in the service and improves client outcomes. The appropriate resourcing of ACCO's in the legal assistance sector is a critical component of access to justice for First Nations peoples. This includes significant additional investment as outlined by CLCA,

The ACCO's in the Queensland CLC sector are the Aboriginal Family Legal Service Queensland, the Queensland Indigenous Family Violence Legal Service (both Family Violence Prevention Legal Services), First Nations Women's Legal Service, and the Institute for Urban Indigenous Health Legal Service. However, these services are under significant strain to meet the current client need, compounded by workforce shortages and growing case complexity.

¹ Productivity Commission, *Closing the Gap: Annual Data Compilation Report July 2023*, < <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report/snapshot-socioeconomic>.

² CLCQ define culture loading as First Nations employees paid an additional rate on top of the base salary in recognition of cultural load. See *CLCQ Working in Community Legal Centres in Queensland – Summary Report 2023* for further information.

Recommendation: Aboriginal Community Controlled Organisations providing legal assistance must be adequately funded as a core and critical part of the legal assistance sector.

Recommendation: Community Legal Centres must be funded to include employee benefits that support the employment, retention, and wellbeing of First Nations staff, such as cultural loading.

3. Effectiveness of the NLAP Agreement in Queensland

The following section expands on the information provided in CLCA's submission under subheading 'Effectiveness'.

While the NLAP Agreement in Queensland has embedded longer-term funding agreements and collaborative work, some associated processes, and gaps in the NLAP have detrimentally impacted Queensland CLC service delivery.

CLCQ joins CLCA in praising the NLAP for providing five-year funding security for CLCs in Queensland. This benefited the collation of State and Commonwealth funds in the distribution and agreement administration processes, which streamlined funding applications and reporting processes. The strongest benefit was however the stability and certainty this funding period provided for Centres.

a) Funding stability and gaps

The administration of the NLAP has not preserved State investment in Queensland CLCs despite State funding growing for both Legal Aid Queensland (LAQ) and Aboriginal and Torres Strait Islander Service (ATSILS). This has directly impacted the capacity of Queensland CLCs to provide core services to meet client demand that is increasing alongside Queensland's population growth.

The Queensland Government historically provided the greater proportion of funding support to Queensland CLCs, at a percentage split of State:Commonwealth of approximately 60:40. However over the course of the administration of the NLAP, the Commonwealth government has provided significant further investment in Queensland CLCs. This additional Commonwealth investment has changed the total funding pool for Queensland CLCs from \$132.997million to \$191.697million and resulted in a reversal of the State:Commonwealth funding proportions. The Commonwealth funding component now represents 58 per cent of

the total CLC funding, leaving State funding at only 42 per cent³. CLCQ supports the CLCA recommendation for a new national mechanism that requires State parties to contribute and establish benchmarks for State contributions.

However, the additional Commonwealth investment in Queensland CLCs has still not addressed the strains on core services created by population growth and associated demand. New Commonwealth funds have often been constrained, and only available for specific targeted service areas under highly programmatic models that are often time limited. This funding approach excludes the needs of CLCs to further resource the increased demand for services. Such funding packages should be designed and implemented in consultation with CLCs to ensure the funding achieves the best possible outcomes.

Case study: Disadvantages caused by lack of government consultation.

The Commonwealth government provided \$5 million for flood response support to Queensland CLCs following the March 2022 floods across Southeast Queensland. However, this was done without consultation with the CLC sector about what was needed, creating confusion and challenges for Centres and clients.

Consequently, the funding scope was narrowly targeted to direct disaster recovery legal services only, excluding any work that would address disaster preparation, build community resilience, or broader adaptation efforts through legal work and community legal education, despite this being part of an appropriate long-term response.

This lack of funding flexibility was a missed opportunity in communities where individuals do not often present as 'flood victims', but as a result of the impact of the stress and strain of experiencing a climate disaster. Recognition in the funding parameters, through consultation with CLCs, of the complex and intertwined legal issues at the individual and collective level that arise from climate disasters would have enabled a more relevant, practical, and beneficial, funding package for vulnerable Queenslanders.

Programmatic funding has also contributed to a funding disparity amongst Queensland CLCs. There have been more opportunities for specialist CLCs, than generalist CLCs who provide place-based services, over the course of the NLAP to attract the additional Commonwealth funds.

While the five-year funding contract term has provided stability for Centres, it does limit opportunities to adapt the service agreement and reporting to align with changes in demand.

³ Based on figures provided by DJAG to CLCQ in December 2022 indicating Commonwealth funding of \$110.392million and State funding of \$81.305million.

While the Queensland government has been open to CLCs adjusting output reporting over the course of a service agreement, this implies a change in effectiveness of services rather than outcomes.

b) Collaborative Service Planning

The current NLAP has a strong focus on collaborative service planning. However, there have been several challenges with how collaborative planning was implemented in Queensland including issues with different funding allocations; tendering requirements, and capabilities to support collaborative planning.

Collaborative service provision is inherent to the way CLCs support their clients, encompassing non-legal issues that clients experiencing marginalisation and disadvantage may experience. CLCs understand that positive outcomes for clients and communities cannot be achieved through siloed work, and most Centres across Queensland have a long history of working closely with other legal and non-legal services to ensure their clients have warm and supported pathways to supports they need. However, making collaborative work a funding requirement has influenced the focus, nature, and outcomes of these collaborative partnerships, as well as imbuing the process with a paternalistic lens from close government scrutiny that other bodies in the legal assistance sector are not subjected to.

Different funding requirements in the legal assistance sector: Through the tender process for five-year funding agreements, Queensland CLCs were required to demonstrate in their applications how their services are collaborative with both government and other services. This included working with local service providers to develop and maintain collaborative services to address both legal and non-legal needs. However, no other legal assistance sector providers were required to demonstrate this to receive funding under the NLAP Agreement, placing additional requirements on CLCs. The use of competitive tendering as the main funding distribution method in Queensland undermines genuine collaboration opportunities and can inhibit innovation between CLC partners.

Absence of specific funding of collaborative service planning: No funds have been specifically quarantined for legal assistance collaborative service planning. The only available funds for collaborative service planning were those retained by DJAG for CLC projects. Some of these funds were used to support collaborative service planning processes and projects for the whole legal assistance sector, without direct financial contributions from LAQ or ATSILS despite them being included in this beneficial work. The implementation of any collaborative plan developed also rely on existing resources or limited funding grants which must be applied for, presenting challenges to the operationalising of good intentions and ideas.

Lack of Department of Justice and Attorney-General capability to support and facilitate collaborative service planning: DJAG has outsourced the facilitation of collaborative service planning to CLCQ. However, the membership of the legal assistance forum where the collaborative service planning occurs, is dictated by DJAG rather than by the members and what organisational relationships best assist their client groups. Collaborative work pathways

can therefore be difficult to even identify, let alone holistically and strategically plan for. This work is further compounded by the power dynamics created through the distinctions in funding requirements across members. LAQ and ATSILS are participants in all legal assistance forums, despite not being required to under their funding agreements which can impact motivation and connectivity to the forum and collaborative process. These power dynamics between LAQ, ATSILS and CLCs can also impact expectations regarding responsibility for collaborative work to be with the CLC, compounding an already drained sector.

Any future funding mechanism that has a similar requirement for collaboration across the legal assistance sector must be properly resourced and focused on better outcomes for communities. The existing model allows for a cynical view that a resource-stretched legal assistance sector is 'duplicating', and that collaboration somehow guards against this. An effective and considered strategy for legal assistance at the Commonwealth and State level, that trusts the expertise of the community legal sector would manage any risk of 'duplication' and ensure that a joined-up service system in the purchasing of services in the community.

Recommendation: Programmatic funding packages targeting specific legal needs must be developed in consultation with Community Legal Centres or their representatives.

Recommendation: There must be a national mechanism which requires State government funding to Community Legal Centres and establishes benchmarks for State government funding contributions to the legal assistance sector and Community Legal Centres.

4. Legal Needs - the Queensland context

The following section expands on the information provided in CLCA's submission under subheading 'Legal needs'.

Limited increases in service funding, coupled with rising social and economic inequity, has significantly hindered Queensland CLCs' capacity to respond sufficiently to the needs of their communities.

Legal assistance services must be responsive to changes in need, but the current climate does not support such determinations and adjustments.⁴

⁴ Principle 1, *National Strategic Framework for Legal Assistance 2019*

CLCQ supports CLCA's call for a regular comprehensive legal needs analysis to inform future service planning and legal assistance strategy. However, further resourcing is already needed to meet the current needs of Queensland CLC clients.

This section will consider three areas regarding legal need with relevance to Queensland.

1. Demographics and population growth
2. Geography
3. Legislation and policy changes

a) Queensland demographics and population growth

Based on existing data and analysis, approximately 50 per cent of the Queensland population are likely to experience a legal problem each year, making population size an important consideration for CLC service delivery and funding allocation.⁵

Queensland has faced the largest population increase of any Australian state or territory with a growth rate of two per cent compared to the national average of just over one per cent.⁶ Brisbane had the largest national population increase in 2021-2022, and Regional Queensland was the fastest growing regional area in the same period with growth highest along the Gold and Sunshine Coasts and Hervey Bay regions. Recent figures reveal that the South-East will increase by almost 2.2 million to around 6 million by 2046.⁷ Funding for CLCs is not keeping pace with population growth.

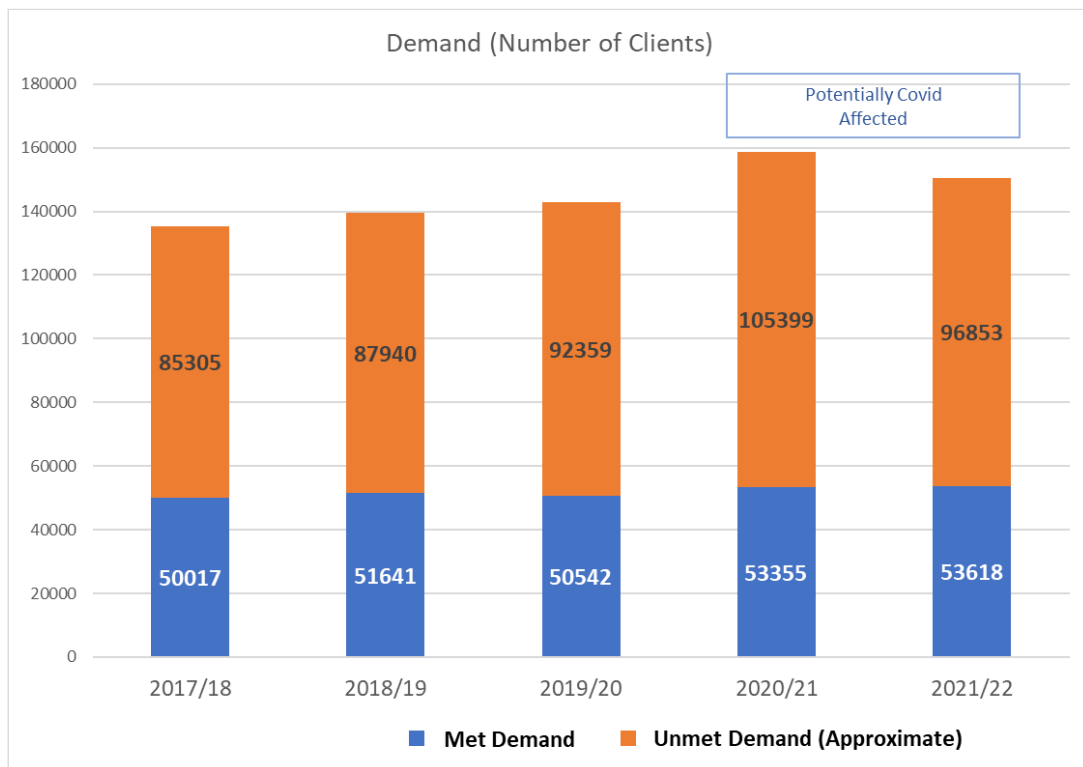
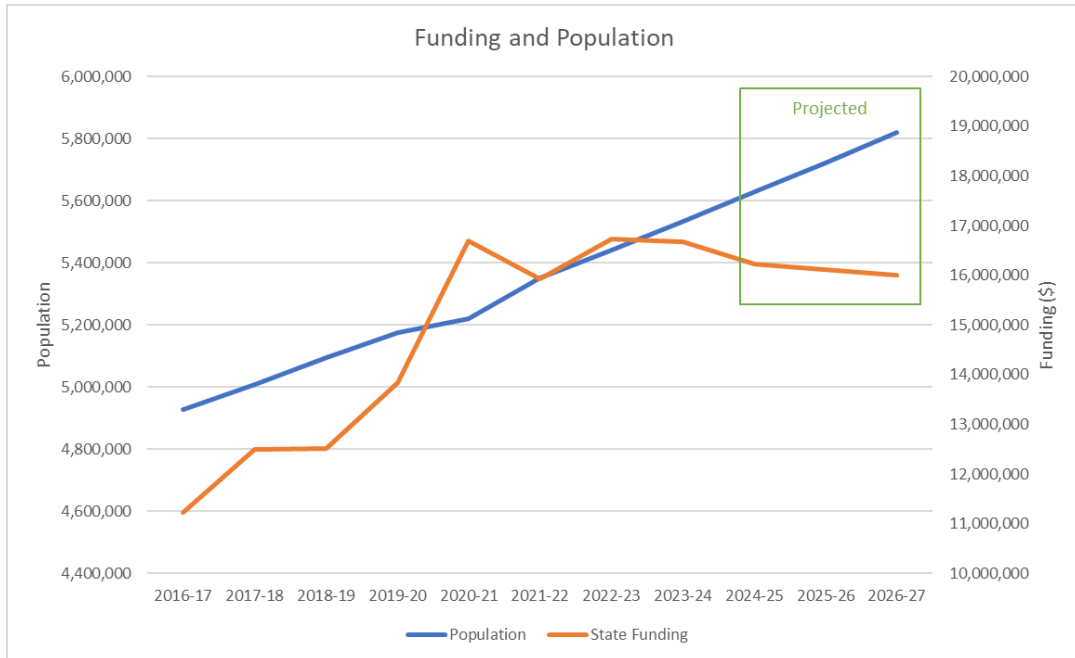
Queensland CLCs help 51,000 Queenslanders every year, but assess the turnaway rate is almost double this amount due to a lack of resourcing. There is a real risk that the number of people across Queensland unable to access legal assistance in a timely manner will significantly impact the running of Courts and legal processes, and often compounds the costs of services required due to the increase in complexity by the time services are accessed.

⁵ NSW Law and Justice Foundation law survey; <https://public.tableau.com/app/profile/law.and.justice.foundation.of.nsw/viz/NationalLegalNeedsdashboard/NEEDS-AGGSA>;

[http://www.lawfoundation.net.au/ljf/site/templates/LAW_Qld/\\$file/LAW_Survey_Qld.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_Qld/$file/LAW_Survey_Qld.pdf)

⁶ <https://www.qgso.qld.gov.au/issues/3071/population-growth-highlights-trends-ql-2023-edn.pdf#:~:text=Queensland%E2%80%99s%20annual%20growth%20rate%20increased%20to%202.0%25%20in,Queensland%E2%80%99s%20population%20grew%20by%206.2%25%20or%20311%2C556%20persons.>

⁷ 'South-East Queensland is growing' Media Statement, Deputy Premier Dr Steven Miles: <<https://statements.qld.gov.au/statements/98331>> 31 July 2023.



The demands arising due to population growth are further compounded for Centres through changes in the complexity of the work. The recent CLCQ workforce surveys showed that over the past twelve months staff in Queensland CLCs felt their workloads to be more complex and

challenging,⁸ Further, most staff believe there are insufficient resources to provide the required assistance to meet clients' needs, and not enough staff to meet client demand.⁹

b) Queensland geography

Queensland is the second most decentralised State in Australia.¹⁰ While 70 per cent of Queenslanders reside in the South-East, the sheer size and vastness of the State creates significant barriers for access to justice in rural, regional and remote areas. The vastness, and population growth of Queensland presents unique challenges for legal service delivery compared to the rest of Australia.

Case study: Geographic barriers to accessing legal assistance.

*Community legal centres are located throughout Queensland, with regional centres providing services across large areas. Outreaches are critical to expanding the geographical reach. **Central Queensland Community Legal Centre** covers an area more than 208,000 square kilometres. By working in partnership with local regional agencies they not only provide services to people in the Rockhampton area, but also to Biloela, Emerald, Gladstone, and Mt Isa. Partnerships with local services ensure that appropriate referrals and support are provided to local people who need access to legal help. Many clients feel more comfortable with a face-to-face appointment. Videocall appointments are not an appropriate option for many clients due to either limited access to technology or low technology literacy.*

Queensland is also the most disaster-prone state in Australia, due to its unique geography. Deloitte Access Economics recently found that:

- Queensland is expected to incur the largest increase in costs related to natural disasters of any state. In both a high and low emissions scenario, Queensland will account for nearly 40% of national costs.¹¹
- Population centres in South-East Queensland and North-East New South Wales will see the greatest increase in natural disaster costs as warmer oceans will enable tropical cyclones to move further south and increase exposure in these areas. Many of these regions will also see increased flood risk and rapid population growth.¹²

From a legal assistance perspective, acute population growth alongside forecasted, increasing compound extreme weather events is significant, and demonstrates the need to scale up disaster legal work in Queensland and expand coverage to meet legal need amidst a fast-growing population.

⁸ See *CLCQ Working in Community Legal Centres in Queensland – Summary Report 2023*.

⁹ *Ibid.*

¹⁰ Queensland Government Statistician's Office, *Queensland compared with other jurisdictions, Census 2021* <<https://www.qgso.qld.gov.au/issues/11951/qld-compared-other-jurisdictions-census-2021.pdf>>

¹¹ Deloitte Access Economics (2021) *Update to the economic costs of natural disasters in Australia*, 12.

¹² *Ibid.*, 13.

The increasing occurrence of extreme weather events creates further barriers for travel to legal services and/or Courts. Some of CLCQ's regional members incur considerable financial and time cost in providing coverage in rural regional and remote locations. CLCs in regional areas have struggled to keep up with demand on core services, relying more and more on volunteers to assist meet client legal need. This places the CLC sector in a precarious financial position. Core services should be sustainably funded and not reliant on standalone tenders or short-term project funding.

CLCQ also supports CLCA's submission regarding the challenges and costs of providing services in regional, rural and remote (RRR) contexts and for funding models that support face-to-face services in RRR communities. CLCs in RRR contexts also face particular recruitment and retention challenges, which impacts on capacity to meet usual demand levels. Advances in technology has increased the ability of legal services to provide assistance to people in need, however, reliance on phone or videocall appointments for legal services is not a sufficient solution to address the gaps created by Queensland's geography. This is particularly relevant when providing services to First Nations peoples in Queensland where intergenerational trauma is still present from ongoing systemic racism following a profoundly violent history of both the Frontier Wars and massacres, and the enslavement of Aboriginal, Torres Strait Islander, and South Sea Islander peoples.

Providing effective legal support to Aboriginal and Torres Strait Islander peoples and communities requires workers and organisations to invest time and resources into building reciprocal relationships and genuine trust. This must be done in person. Aboriginal and Torres Strait Islander peoples are over-represented in the criminal justice and child protection systems – both key areas requiring critical legal assistance and advocacy. Accessible in-person legal assistance for all persons, but particularly for First Nations peoples, is essential to ensuring access to justice. Until transport barriers are removed to enhance travel to regional hubs, legal support services must be adequately resourced to provide in-community assistance across the whole of Queensland.

c) Legislation and policy changes influence legal need

Changes to legislation and government policy are a significant driver of legal need. This can be difficult for CLCs to plan for or predict. The inflexible nature of funding mechanisms, particularly around advocacy and law reform, further impacts CLCs' ability to respond effectively.

Case study: Human Rights Act 2019 implications for practice

In 2019 the Queensland government introduced the Human Rights Act (HRA) enshrining important protections for people and communities experiencing disadvantage and vulnerability, and to ensure public entities are exercising their powers in accordance with human rights. While a very welcome reform, additional funding was not provided for direct legal assistance with these new protections and processes.

Caxton Legal Centre recognised the importance of direct assistance with the HRA, regardless of additional funding to do so. Caxton undertook extensive work to redevelop their resources and programs to a human rights approach, and to provide support to those exercising their rights under the HRA. However, without additional funding to make these changes, Caxton needed to reduce service delivery in other areas, and ceased support in fencing and neighbourhood disputes despite years of providing this advice.

Similarly, in 2023 when the Queensland Government made the decision to override the HRA to allow young people to be held in adult watch houses as a proxy for youth detention centres, CLC workload was profoundly impacted without any additional resourcing or funding. CLCs working with young people increased their advocacy for young people to seek bail, which also involved the additional holistic support finding stable and safe accommodation and supports. This legislative change was made without notice, and with limited consultation, with the CLC sector, but created significant impact on workload and capacity to respond to clients with other legal needs.

Recommendation: Fund and conduct regular comprehensive legal needs analysis to inform service planning and legal assistance strategy.

Recommendation: Increase funding allocation for regional, rural and remote Community Legal Centres in Queensland to reduce the impact geographic barriers have on access to legal assistance.

Recommendation: Ensure legal assistance funding mechanisms are responsive to the increase in legal need that which arises from changes in legislation and/or government policy.

5. Roles and responsibilities

The following section expands on the information provided in CLCA's submission under subheading 'Roles and responsibilities'.

The current administration and management procedures of funding agreements under NLAP have created an inappropriate hierarchy amongst the Queensland legal assistance sector, where parts of the sector are required to report to others. This has created conflicts of interest, delays in funding rollouts, and a lack of cohesion across a sector that should be equitable and collaborative.

The difference in roles and responsibilities between legal assistance sector bodies impacts the efficiency and continuity of service delivery for Queensland CLC clients. This is compounded by the lack of strategic oversight by State or Commonwealth on service design or choice across the legal assistance system. CLC service models are heavily scrutinised through tender processes, whereas other parts of the legal assistance service system are not interrogated in the same way.

CLCQ works closely alongside Queensland CLCs to increase the accessibility, profile, and resourcing of the sector. Inefficient and confusing funding rollouts detrimentally impact each of these factors through delays and requires additional burdensome administrative processes for CLCs that is not required of other legal assistance services for the same funding.

a) Who should administer and manage the legal assistance sector funding?

CLCQ supports the CLCA position that no part of the legal assistance sector should administer or manage another. To do so creates power imbalances across a legal assistance sector that should be commensurate in their knowledge, expertise, and authority.

b) Department of Justice and Attorney-General delegation to Legal Aid Queensland

In Queensland, the Department of Justice and Attorney-General are the NLAP reporting agency, however CLCs are required to provide their financial and performance reports to Legal Aid Queensland (LAQ), a fellow legal assistance sector body. LAQ then forwards the relevant NLAP reports to DJAG. This has established both a superfluous administrative process when there are already limited administrative funds, and an unnecessary power imbalance across a legal assistance sector that should be commensurate in their knowledge, skill, and authority. Administration of one part of the legal assistance sector by another also raises conflict of interest concerns, particularly if there is competition for funding or program opportunities. It can also be a barrier to collaboration in the coordination of service delivery.

Bi-lateral agreement administration in Queensland

The timely allocation of funding through bi-lateral agreements under NLAP have been problematic in Queensland due to the over reliance on competitive tendering processes for programmatic funding.

Case study: Significant Delays to the 2021 Federal Budget Funding

The allocation of the 2021 Federal Budget funding took seventeen months in Queensland CLCs. The May 2021 Federal Budget announced funding for legal assistance, including for workplace sexual harassment and supporting persons with mental health conditions. In October 2021 the Queensland Attorney-General signed the bi-lateral agreement under NLAP for this new funding. This agreement provided funding over four years for Queensland CLCs to the amounts of \$4.351 million for workplace sexual harassment support and \$4.2million for supporting people with mental health conditions. In May 2022 twelve months after the funding was announced, the Queensland Department of Justice and Attorney-General called for tenders from CLCs for these funds. The tenders closed one month later in June 2022. The Queensland Attorney-General announced the successful tenderers for the sexual harassment funding in September, and the successful mental health support tenderers in October 2022. However, once successful tenderers were announced there were further delays due to service agreement variations, staff recruitment, and program roll-out.

LAQ faced no delays in receiving their allocation of the sexual harassment services funds. Consequently, LAQ benefited in recruiting experienced staff, including from CLCs.

The delays for CLCs were two-fold: there was a lack of clarity regarding the purposes of the Federal funding; and the State government refused to engage with CLCs for program co-design to best optimise the funding, so the allocation process was not clear like it was for LAQ. CLCQ advocated to the Queensland government to utilise a co-design process for the workplace sexual harassment funding to benefit from the specialist knowledge of the CLCs already providing services on that issue.

CLCQ support CLCA's call for the Commonwealth to issue clearer guidelines to the States on funding allocations when delivering on Commonwealth Government priorities, including timeframes for allocation, specifically dates by which legal assistance providers should receive their funding.

Recommendation: No part of the legal assistance sector should administer or manage another.

Recommendation: Guidelines must be developed regarding timeframes for funding allocations to ensure that tendering processes do not unnecessarily disadvantage CLCs in delivering vital legal services to vulnerable communities.

6. Funding Models – both Distribution and Quantum

The following section expands on the information provided in CLCA’s submission under subheading ‘Funding models’.

a) Indexation

Queensland CLCs are experiencing significant financial pressure due to the increasing cost of delivering services. Drivers of increased costs include:

- costs associated with the annual wage increase decision by the Fair Work Commission;
- the incremental increases to superannuation rates up to 12 per cent; and
- the increased costs associated with maintaining the physical infrastructure to deliver services in the community.

These increased costs are only compounded by the major workforce and remuneration issues that are highlighted elsewhere in this submission.

The Queensland Government does apply indexation to the State component of funding. These amounts are set every year. In 2021-2022 this amount was set at 5.07 per cent and in 2022-2023 the amount has been set at 5.63 per cent, noting at the time of writing, that those additional funds were yet to be received by Centres for the current financial year. Queensland CLCs funded through NLAP have been excluded from any Commonwealth indexation increases which has resulted in a regressive funding arrangement and detrimental workforce and client supports.

Early in 2023, CLCQ (in partnership with Queensland Council of Social Service and other peak body partners) commissioned the University of Western Australia Business School (UWA) to examine indexation arrangements in funding social services in Queensland. The final UWA report is provided as an **attachment** to this submission. The examination of the expenditure of social service organisations, which included some CLCs, and the opaque calculation of indexation rates of government found that the increase in expenditure of organisations was between 6.73 per cent and 15.73 per cent. The UWA report notes that this places significant financial pressure on social service organisations, resulting in a risk to government that they are unable to contract an appropriate service mix for vulnerable individuals and communities.

b) Real cost of services

In 2017, CLCQ undertook a project to find cost saving for Queensland CLCs. The final report of that project, “Blood from a stone” is provided as an **attachment** to this submission. Overall,

the project identified limited areas for cost savings for CLCs in their operating budget due to the under investment in expenditure not specifically related to the providing direct services. This underinvestment is consistent with benchmark research across the social community sector, including:

- Deloitte Access Economics 2016 report, “Forecasting the Future: Community Service Industry Alliance”¹³;
- Productivity Commission 2010 Research Report, “Contribution of the Not-for-Profit Sector”; and
- Social Venture Australia and Centre for Social Impact 2023 report “Paying what it takes: Funding indirect cost to create long-term impact”¹⁴.

The “Paying what it takes” report found that indirect costs such as IT, finance, and HR, comprise 33 per cent of the total cost of running a not-for profit enterprise. This far exceeds the amounts organisations are typically funded and is in no way an indicator of how efficient or effective a not-for-profit enterprise is in their impact in the community.

Over the course of the NLAP, there have also been changes in the regulatory environment that impacts CLC’s obligations as organisations and employers. A notable example of this is the changes to Work Health and Safety laws that require employers to manage psycho-social hazards. It has long been recognised by CLCs that looking after workers’ mental health is critical to providing services in the community. With a positive legal obligation, CLCs also bear additional costs in ensuring the proper supports are put in place. Queensland CLCs tell us that while Employee Assistance Programs (EAPs) are an important part of this, they often are not intensive enough for people experiencing vicarious trauma, so additional resources of intensive psychological support need to be found in an already stretched CLC budget.

Recommendation: Indexation must be applied to CLC funding every financial year as standard practice for both Commonwealth and State funding.

Recommendation: In line with existing reports, funding for CLCs must encompass the entirety of high quality service provision including practical items of office space, IT, administration and HR.

Recommendation: Adequately fund legal assistance services to ensure they are able to meet their obligations to employees regarding wellbeing, particularly in providing

¹³ <https://www.deloitte.com/au/en/services/economics/analysis/forecasting-future-community-services-queensland.html>

¹⁴ <https://www.csi.edu.au/research/paying-what-it-takes-funding-indirect-costs-to-create-long-term-impact/>

specialised trauma response work and that CLCs can adequately manage workplace psycho-social hazards.

7. Structurally disadvantaged groups

The following section expands on the information provided in CLCA's submission under subheading 'Disadvantaged groups'.

Many people within our community face significant and unique barriers to accessing legal assistance and, in turn, justice. The national client priority groups list is an important mechanism to ensure there is a consistent and equitable approach to the delivery of legal assistance services.

Advocating for the rights of people who are most at risk of experiencing injustice is a shared mission for all CLCs. An expansion of the national priority client groups is required to ensure it accurately reflects people who experience structural disadvantage in our community.

It is noted that the Queensland government expanded the National priority client groups listed in the 2020-2025 NLAP agreement. Queensland currently recognises three additional client groups:

- People who identify as LGBTIQ+
- Refugees and migrants
- Women

CLCQ strongly supported the expansion of the Queensland priority client group as it recognised the barriers faced by many cohorts in our community to access legal assistance and justice.¹⁵

CLCQ supports the priority cohorts of the current NLAP, and the additional client groups included in the CLCA submission to be included in the future national mechanism. Additionally, there must continue to be discretion available for CLCs regarding the provision of legal services¹⁶. CLCs are experts at assessing and equitably prioritising the provision of support for clients most in need. CLCs must not be prevented from assisting clients who do not fall within the listed groups as this risk excluding clients who face other significant barriers.

CLCQ supports a mechanism that encourages the intersectional approach to the prioritisation of client groups. When people experience multiple, intersecting forms of structural disadvantage it has a '*compounding effect on [their] susceptibility to legal problems*'.¹⁷

¹⁵ CLCQ member, Refugee, and Immigration Legal Services (RAILS) recommends that the 'Refugees and migrants' category should be updated to be 'asylum seekers, refugees and humanitarian entrants' to be fully inclusive of this group.

¹⁶ *National Legal Assistance Partnership*, Commonwealth Priorities, Schedule A, A5.

¹⁷ Department of Justice and Attorney- General, 2022, *Queensland Legal Assistance Strategy – National Legal Assistance partnership 2020-25*, 15.

a) Insights from the Queensland Client Survey

Each year CLCQ is funded to coordinate all Queensland CLCs to administer a survey of their Centre clients during the month of May.¹⁸

The consistent features of the client surveys have been:

- The average satisfaction across all client groups has been consistently high (between 3.44 and 3.85 out of 4)
- The demographics of clients who completed the survey are generally comparable to and consistent with the demographic data collected by the Centres in their client management systems.
- Client response rates to the survey have consistently returned at approximately 25 per cent of clients who received a service from a Queensland CLC in May.

The most recent 2023 report to DJAG and Benchmarking report are **attached** to this submission.

Recommendations: The list of priority groups under the new national mechanism should be expanded.

8. Wrap-around (holistic) services and early intervention

The following section expands on the information provided in CLCA's submission under subheading 'Wrap-around services and early intervention'.

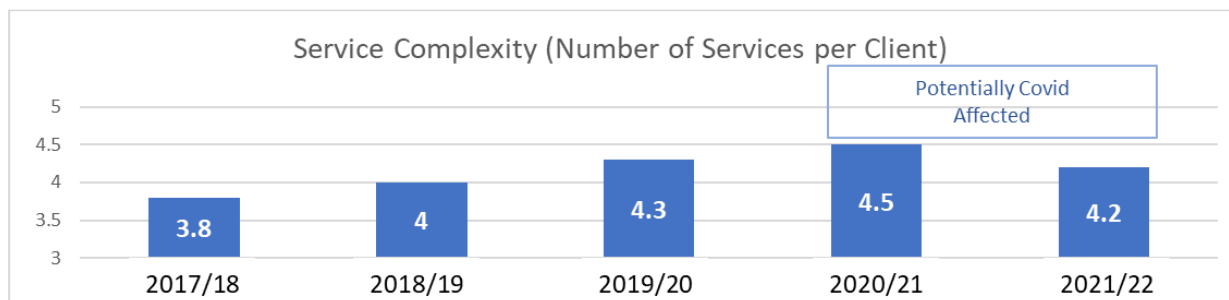
CLCs provide specialised legal support services that cater to clients living with diverse challenges that often intersect, and compound, or are compounded by legal issues. A core part of providing legal assistance to clients with complex needs is ensuring that the associated non-legal needs and challenges are also supported or addressed. Many CLCs have formed

¹⁸ CLCQ supports centres to prepare for the client survey, provides an electronic survey form, analyses the data on a centre level and a whole of State level. An overall aggregated data report is prepared for the Department of Justice and Attorney-General and individual CLCs report to DJAG based on their centre's results. The survey consists of 10 questions, 5 questions that were provided by the Federal Government under NLAP (the 'Colmar Brunton' 5) and 5 additional questions that support the mapping of the CLC Theory of Change in the [CLCQ Impact Toolkit](#), developed in 2018. CLCQ have supported the survey process in 2018, 2021, 2022 and 2023. There was no client survey in 2020, due to the interruptions caused by the pandemic.

positive collaborative relationships with relevant community services, while others have in-house social workers, financial counsellors, or First Nations community engagement workers. This holistic support model strengthens client engagement with the CLC, the advice provided, and their associated rights and responsibilities, and enhances outcomes for the client in their legal matter or process. However, the clients engaging with CLCs who are requiring holistic supports are increasing, and now outgrowing the capacity.

a) Increasing complexity

The CLCQ workforce survey, in addition to CLASS data and discussions with Centres, clearly indicates that both the urgency and complexity of legal matters being faced by CLC clients is increasing. Many clients present with multiple legal issues and are often at crisis point by the time they contact a CLC. People receiving help from Queensland CLCs now require an average of four services to resolve their legal problem.



The complexity of legal issues, often compounded by a client's intersecting needs across multiple areas, elevates the importance of holistic services. Holistic supports work to mitigate against service delivery gaps, overcome barriers to the service itself, and improve or enhance accessibility.

The use of integrated legal services and partnerships to ensure complex needs are met has become an increased priority for CLCs. To date there has not been adequate modelling or funding recognition by governments of the costs of delivering integrated legal services, nor have the costs associated with effective collaboration been reflected in funding allocations by any level of government. If service integration and collaboration remain outcome priorities, there should be adequate funding provision to the CLC sector for their delivery.

Recommendations: Funding allocations must prioritise meeting people's needs holistically.

9. Advocacy

The following section expands on the information provided in CLCA's submission under subheading 'Advocacy'.

CLCQ supports the CLCA submissions regarding law reform and advocacy, and their call for specific resourcing to undertake this work as a legitimate investment in emerging and future legal need.

Queensland CLCs have faced a number of barriers to active engagement in systemic advocacy including:

- Tender processes, based on the principles of the National Strategic Framework, which facilitate individual service responses, rather than broader systemic work which may prevent the same legal issues arising for vulnerable clients. This was compounded during a period where there were against using Commonwealth funds for proactive reform work. Systemic advocacy benefits vulnerable clients through preventing unnecessary, or unnecessarily complicated, legal needs arising
- Service agreements prioritising outputs rather than outcomes as indicative of program performance. Such reporting requirements build a performance culture of 'keeping client numbers up' as often advocacy work requires significant time that can only be reported as one output, despite the impact of the work.
- Law reform and advocacy work has generally been undertaken by CLCs at scale, so smaller CLCs find it difficult to engage in this work without coordination.
- Recent messaging from the Commonwealth government indicates that additional funding should only be used for direct services. This was the case in the allocation of flood response funding to Queensland CLCs in 2022.

Community lawyering and advocacy has the significant advantage of being informed not only by evidence and best practice, but also the lived experience of some of the most vulnerable and marginalised community members. This expertise and lens can assist corporations and governments to ensure policies are actioned in ways that are true to intent, and not perpetuating disadvantage, or even discrimination. Community lawyer advocacy has profound capacity to inform positive social change.

Systemic advocacy sits apart from other types of lawyering and can consequently be part of an attraction and retention of workforce strategy for the sector. Therefore properly resourcing law reform and advocacy has a direct and positive impact on the CLC workforce strains currently occurring. Advocacy and law reform work can provide an important respite for frontline workers engaged with client work and can be one part of an effective strategy to manage the impact of vicarious trauma on workers. CLCQ confirms CLCA's proposal for CLC peak bodies to be proactively engage in this work and below in Opportunities we have set out that CLCQ, with proper resources, could provide more coordination on advocacy and law reform to properly elevate the voices of CLCs and their communities on shared issues.

The importance of advocacy to systemically improve laws is illustrated in this case study from Caxton Legal Centre. Advocacy in the context of disaster legal work is highly preventative and can mitigate harm to many people impacted by disasters. This work is as important as individual assistance and must be funded as part of an integrated approach for funding disaster legal assistance under the NLAP.

Recommendations: Advocacy should be recognised in the new national mechanism as a core function of CLC work and funded accordingly.

Case study: Impact of Law Reform in Disaster Legal Assistance

In 2011, Caxton Legal Centre delivered flood recovery legal work funded by a series of small grants. The service provided casework support to more than 200 flood-affected individuals and families. Most clients at that time had had their insurance claims refused, but with legal intervention from lawyers more than 50% of clients received a fully paid claim despite the initial refusal.

Following the 2022 SEQ/NNSW flood, Caxton again delivered assistance to the flood-affected community. Back in 2011, Caxton, with others, had also undertaken a lot of law reform work in insurance law to fix what they saw as systemic problems with coverage, insurance sales practices, and how insurance disputes were handled. This work resulted in reforms to the Insurance Contracts Act 1984 (Cth) as well as changes to practices within many individual insurers. As a result, the 2022 floods meant fewer outright denials of claims for impacted clients. Instead, affected households were more concerned about rebuilding factors such as the ballooning costs and underpaid insurance claims, and more families looking for government intervention including buy backs, and deeper concerns about further repeat events.

10.Efficiency

The following section expands on the information provided in CLCA's submission under subheading 'Efficiency'.

While the administration of NLAP in Queensland has provided efficiencies in reporting for CLCs i.e. fewer funding processes for distribution and rolling up State and Commonwealth

reporting under one service agreement, there have been greater inefficiencies for reporting on funding via bilateral agreements.

CLCQ is itself experiencing reporting duplication at present, with monthly and quarterly reporting both required for a 12-month project under the 2021 & 2022 Qld Flooding – Category C – Flexible Funding Grants Program. We have been advised that grantees are required to report more frequently to enable the state entity (Queensland Reconstruction Authority) to on-report to the Commonwealth. This is an example of reporting inefficiency caused by dual State/Federal funding arrangements.

Recommendations: There should be minimum reporting under the new national mechanism to meet baseline accountability requirements, reducing duplication and red tape.

11. Data

The following section expands on the information provided in CLCA's submission under subheading 'Data'.

Data Systems

A key concern in the transition from NLAP to a new national mechanism is the end of Community Legal Assistance Service System (CLASS) by June 2025. This is a critical piece of infrastructure for Queensland CLCs for the collection of service data, reporting to government and conflict checking.

There are some Queensland CLCs who are already investigating moving to proprietary Client Management Systems (CMS), but in the main, the Queensland CLC sector are not actively thinking about or planning their future needs post-2025 in the absence of CLASS. This is partly because there is ambiguity about the future of CLASS, and generally there is little IT capability and few resources in the sector, making it difficult to individually investigate the options and determine the best fit.

The development and implementation of CLASS has been a challenge throughout the NLAP due to several factors:

- The Commonwealth hand balling the development of a key piece of software to CLCA, which was outside their core function;

- An underinvestment by the Commonwealth for both software development and business transition processes;
- An insufficient time (12 months) to develop and roll-out new software;
- An overpromise by CLCA of CLASS' functionality, due to their inexperience in software development and maintenance.

Most Queensland CLCs have been obliged to use CLASS to report to the Queensland Government, so system replacement is not only critical to services in the community but also to government and their reporting under a new mechanism. While CLCQ hopes to play a supporting role for Queensland CLCs in a transition to new system/s, the time frame for transition is very short and the budget in CLCs for this does not exist.

a) Output/Outcomes reporting

As noted above, Queensland CLCs provide significant output data to government about their services. There has been no evidence over the course of NLAP about whether this data is used to develop legal assistance strategy or policy, but there is plenty of experience that it is used to monitor compliance with service agreements. CLCQ supports CLCA's call for a shift to impact evaluation in the new funding mechanism and that data and reporting are financially supported to transition to new data systems and any changes to reporting.

Recommendations: CLCs should appropriately resourced to meet data requirements for both service agreement obligations and support better understanding of the outcomes of CLC work.

12.Labour Market

The following section expands on the information provided in CLCA's submission under subheading 'Labour Market'.

CLCQ agrees with, and emphasises, the CLCA submission regarding workforce issues, particularly for rural, regional, and remote Centres. Workforce gaps and need for workforce support are critical issues that significantly impact the delivery of specialised and consistent services to communities.

Queensland CLC service levels are at risk of being reduced due to ongoing shortages of appropriately experienced lawyers and other client support professionals.

Work undertaken by CLCQ across the Queensland CLC sector indicate a number of critical factors requiring urgent attention and resourcing to ensure CLCs can continue to provide essential services to vulnerable and marginalised Queenslanders.

a) Workforce Survey

In September 2023 CLCQ undertook a comprehensive workforce survey of Queensland CLCs. Two surveys were administered: an organisational survey provided to managers to collect data on the whole organisation; and an individual worker survey regarding experiences of working in CLCs.

A comprehensive report of the data is attached.

The key themes from both surveys are:

- Current service levels are at risk of being reduced due to workforce shortages of lawyers and other allied professionals;
- The factors leading to workforce leaving CLCs are uncompetitive salaries and limited career paths due to funding levels and insecure funding;
- Frequent staff turnover and the inability to recruit experienced staff leads to increased costs for CLCs;
- The psycho-social toll of the work is not sustainable for the CLC workforce or recognised through remuneration.
- CLCs are inclusive, accessible, and diverse workplaces which create a welcoming service for vulnerable and marginalised client and community groups, but often lack sufficient resources to make CLCs universally accessible, particularly for CLC staff.

The Queensland CLC workforce is more diverse than other parts of the legal assistance sector. The CLCQ workforce survey also indicated the intersectionality of workers in the sector, highlighting the need for CLCs to be prioritising an inclusive, respectful, safe, and accessible environment for their staff as well as their clients. Approximately eight per cent of the CLC workforce identified as First Nations. This is a possible positive indication of the shared values, respect, and safety offered across the sector, however, also indicates a need for appropriate supports and resourcing for First Nations employees: sector turn-over, workload demands, and the over-reliance on cultural expertise of First Nations staff (with or without cultural loading) risks employee wellbeing and retention.

The recruitment of CLC workforces is particularly challenging in rural and regional Queensland. For example, a member in North Queensland has had ten staff vacancies in their service since April 2022 and have only been able to fill three of those roles. Attracting and retaining suitably qualified staff to regional Queensland is compounded by the cost of and lack of housing options across the State.

b) Impact of changes to employment law

Amendments to the *Fair Work Act 2009* (Cth) (FWA) will also impact the stability of the Queensland CLC workforce due to concerns about how they will impact contracts and contract periods in an industry often relying on programmatic funding to employ staff. These amendments come into effect in December 2023.

Due to the nature of CLC funding, either for five years or for a limited program period, CLCs have often employed staff on contracts in line with funding timeframes, which are then renewed if funding is extended. However, the FWA amendments prohibit successive fixed-term employment contracts, requiring employers to make their employees permanent. While there is an exception for when government funding is likely to end, CLCQ has received advice that indicates that CLCs will not fall within that exception. Consequently, if CLCs do not have ongoing funding certainty by early 2025 when the next service agreement is due to be negotiated, then services may cease prior to the end of the financial year to accommodate redundancy periods for staff.

This tenuous funding and contracting position is further complicated by the upcoming Queensland State election in October 2024. If new national funding arrangements are not agreed by August 2024, when the Queensland government will go into caretaker mode, State-based funding distribution timeframes are likely to be pushed out beyond March 2025, resulting in less than three months' notice of any changes to service funding. This may trigger the potential cessation of some CLCs services due to an inability to contract or employ staff in line with the FWA requirements. Commonwealth and State funding for Queensland CLCs must be confirmed by mid-2024, so that the State election does not detrimentally impact the capacity of CLCs to sufficiently staff their Centres.

Recommendations: The baseline funding for CLCs should be increased to maintain and grow its workforce, to ensure continuity of service and care in the community.

13. Opportunities

The following section expands on the information provided in CLCA's submission under subheading 'Opportunities'.

Peak bodies

Sustainable funding for CLC peak bodies to support CLCs and provide member services is critical to the overall sustainability of the sector by reducing some overhead cost such as insurances and professional development and enhance collaboration and innovation.

CLCQ undertakes a range of activities to support Queensland CLCs. There are ongoing core activities for which CLCQ receives funding for just over 3 FTE staff. The sustainability of the organisation and its functions is supported by a variety of time-limited projects, many of which arguably require ongoing efforts beyond the life of the project. CLCQ, in consultation with its members, has decided not to undertake advocacy work in substantive areas of law, deferring to CLCQ members' expertise. However, there is a role for CLCQ to coordinate law reform and

advocacy efforts of members when there are shared client groups and interest. CLCQ's capacity to undertake this work is minimal under the current funding amounts.

Following are the core and project activities of CLCQ over the last 5 years.

Core activities:

- Administer the National Accreditation Scheme across 32-member CLCs
- Provide national Professional Indemnity Insurance scheme local coordination, including coordinating the cross-check process
- Regular low cost or no cost training and development opportunities through an annual webinar program, annual State conference and annual Leadership Forum
- Coordinate the annual client survey (more details above)
- Regular liaison with Queensland government through Department of Justice and Attorney General and other legal assistance partners, such as through the Queensland Legal Assistance Forum
- Regular communication through newsletters and social media to member CLCs, partners and the general public
- Advocacy to and liaison with government on funding and funding administration
- Coordination of members on topic-based areas, such as workforce issues, supporting CLC in COVID-19 responses etc.

Project work:

- Development and implementation of a sector digital strategy
- Human Rights Act training
- Facilitating regional service planning through Regional Legal Assistance Forums (RLAFs) across regional Queensland
- Demand Management project to support CLC to take an evidence-based approach to targeting services
- A series of trainings on well-being, vicarious trauma, and trauma-informed practice
- Development of a sector First Nations strategy
- Leadership Development training
- Workforce support, including workforce survey
- Developing a community of practice to support disaster resilience

CLCQ supports the CLCA submission for funding of state and national peaks for CLCs as both State and Commonwealth government benefit from a coordinated, supported and connected CLC sector, with a centralised CLC peak for the development of policy and administration settings under a national funding mechanism.

Recommendations: Peak services should be recognised as an important and efficient voice of CLCs and be funded at a sustainable level for all its core activities.