

SUBMISSION TO THE INDEPENDENT REVIEW OF THE NATIONAL LEGAL ASSISTANCE PARTNERSHIP AGREEMENT

27 OCTOBER 2023

INTRODUCTION

1. Community legal centres (CLCs) have been a vital component of the provision of legal assistance services in Australia for 50 years.
2. The NLAP needs to refocus on the unique value of CLCs to government and the opportunity to leverage desired social outcomes through appropriate investment in them through the next NLAP.
3. They are usually the complementary service to Legal Aid Commissions for assistance being provided to both parties.
4. They also extend the services provided by Legal Aid Commissions and the private profession to particular target cohorts, in particular areas of law, using evidence-led and collaborative service models and in particular locations.
5. They attract and coordinate hundreds of millions of dollars per annum of volunteer and pro bono assistance, providing excellent value for the funding dollar.
6. Being community based, highly accessible and focussed on entrenched disadvantage, they work collaboratively with other organisations in their community for holistic outcomes.
7. They are generalist and specialist providers of legal services, delivering a high volume of discrete legal services across nearly every area of law impacting financially disadvantaged persons.
8. Being independent, non-government, not-for-profit, they embrace multi-disciplinary, co-location, outreach and innovative approaches towards program design and delivery.
9. They are perceptive, flexible and highly responsive to the changing legal needs of their communities, able to pivot on a dime to respond to disasters and waves of legal need.

10. They are expert advocates in understanding what needs to change to achieve fairer laws and systems.
11. Caxton supports the submission of Community Legal Centres Australia and Community Legal Centres Queensland. We provide contextually relevant information in support of those submissions herein.

SNAPSHOT OF ONE OF AUSTRALIA'S LARGEST CLCs

12. Caxton Legal Centre is Queensland's oldest community legal centre established in 1976.
13. Caxton is one of the largest state-based community legal centres in Australia employing over 75 people and delivering 18 generalist and specialist programs.
14. It is rightly described as a metro generalist CLC servicing the Greater Brisbane Region, however in reality it has developed specialist expertise and over time received programmatic funding that supports those specialist practice areas, most of those being delivered as Statewide concerns.
15. Caxton delivers some of its statewide services as the lead CLC who partners with another CLC by way of a subcontract arrangement.
16. Most court services are delivered as the complementary service to Legal Aid Queensland.
17. In 2022-2023 NLAP core funding represented 27% of Caxton's total revenue. NLAP non-core funding represented a further 22%. The remainder was from other state and federal funding, university student clinics and donations.
18. Caxton has also been at the forefront of multi-disciplinary practice to support holistic service delivery. In addition to employing 36 lawyers, it employs 20 social workers and community support/liaison workers.
19. Caxton focusses on all stages of legal need: prevention, early intervention and response. One example of its early intervention approach is its health justice partnerships with hospital and health services across the Greater Brisbane Region.
20. Caxton delivers a high volume of services. In 2022-2023 it delivered 37,625 services.
21. Caxton also focusses on delivering accessible and trustworthy legal resources and self-help kits. Its flagship online legal resource, the Queensland Law Handbook, has over 300,000 visitors per annum.
22. Caxton coordinates the work of approximately 200 volunteers and pro bono providers. For every \$1 of funding Caxton receives we estimate that it delivers another \$1 worth of free services, doubling the value of government investment in our services.

COMPLEXITY OF FUNDING

23. The NLAP contributes to the complexity of funding that visits upon many CLCs. With a patchwork quilt of funding, Caxton delivers services across 18 programs each with their own eligibility criteria, KPIs, service guidelines, funding relationships and reporting/acquittals procedures. The administrative burden is crippling. This is represented in the table below.

	NLAP		Other		Multi-disciplinary	Statewide	Advocacy Activities
	Core	Other	Cmmth	State			
General Law & Human Rights							
Employment							
Workplace Sexual Harassment and Discrimination							
Consumer, Credit and Debt	*						
Seniors Legal and Support Service							
Seniors Financial Protections Service							
Elder Law Services (HJP)							
Coronial Law							
Queensland Retirement Villages and Parks Advice Service							
Family Law and DFV							
Family Law Duty Lawyer							
DFV Duty Lawyer							
Family Advocacy and Support Service							
Flood							
General Counselling							
Social Connections Program							
Court Plus for Men							
Multicultural Legal Service (Mental Health)							

*The Consumer Credit and Debt Service is mainly delivered via donations, a student clinic and volunteer/pro bono assistance.

EFFECTIVENESS OF NLAP AGREEMENT

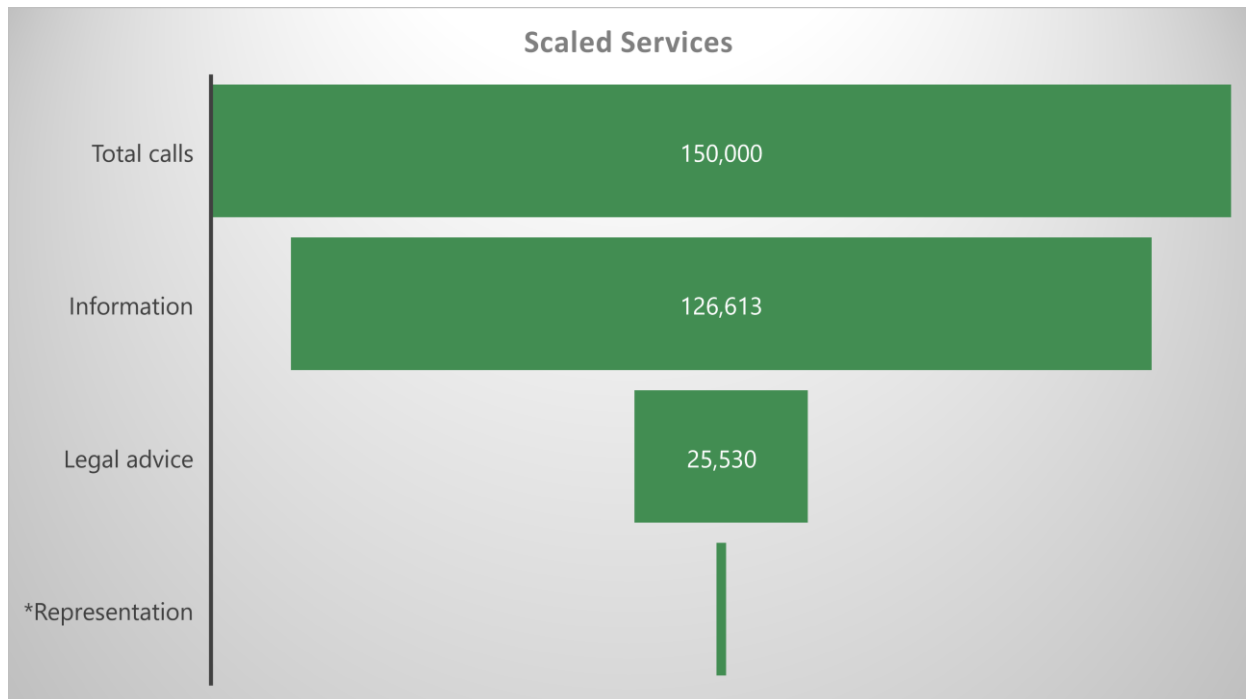
24. What has worked well for Caxton under the NLAP has been:
 - a. zero cuts to core funding level – provides stability and certainty to service delivery
 - b. longer-term funding agreement – again provides stability and certainty to service delivery
 - c. introduction of additional funding for specialist areas – addresses some specific areas of unmet legal need (for example, workplace sexual harassment and discrimination as per the Respect@Work report and mental health legal services) and coincided with areas of law in which Caxton held existing expertise
 - d. collaboration – at Caxton’s request, there has been the inclusion in NLAP service agreements the service type ‘stakeholder engagement’ (to catch collaborative activities) which ought to be standard given the expectation and capacity for there to be a strong focus on collaborative service planning and delivery.

25. What has not worked well for Caxton under the NLAP agreement has been:
 - a. no real increase to core level funding to respond to real change in demand – for example, when the Human Rights Act Qld was introduced in 2020, this involved a new category of legal problem type that must be considered in almost all general legal advice and representation settings but with no increased capacity to manage this (Caxton reduced service delivery in other legal areas to compensate).
 - b. no increase to core funding to respond to population growth – Brisbane had the largest national population increase in 2021-2022 but with no commensurate increase in funding to CLCs who service this area.
 - c. inadequate indexation of Commonwealth funding – triggers reduction in services when unable to match increase in awards, superannuation, and operational costs.
 - d. domestic and family violence – there is inadequate funding to Caxton as a generalist CLC to respond to domestic and family violence. 48% of Caxton’s clients are affected by domestic and family violence.
 - e. competitive process – with a competitive tender process focussed on value for money services, CLCs are forced to commit to high volume service models in lieu of representation services (see below for further discussion of this) and it stifles collaborative opportunities between CLCs.
 - f. the tender document – there is confusion about and limitations on the evidence to be provided to secure ongoing and appropriate levels of core funding for legal need which will not dissipate over time (for example, general civil, crime, family law, domestic and family violence demand does not decrease in a funding cycle) versus what evidence is to be provided to elicit additional core funding for local and statewide unmet legal need. Also, the tender document is impossibly confining when seeking to demonstrate this evidence across multiple legal problem types/geographical regions/target cohorts.

LEGAL NEED

Turn Away Data

26. Turn away data is difficult to capture at every level and reveals only a small part of the iceberg of unmet legal need.
27. As a measure of 'turn aways', Caxton can provide, for consideration, data in relation to its scaled service delivery from the last 5 years between 1 July 2018 and 30 June 2023.



*Representation services numbered **1,451**.

28. In respect of the above data:
 - a. Of the 150,000 calls we were able to answer and provide information to 126,613 people. We were not able to answer approximately 25,000 calls. This is the first level of 'turn away' figures which is near to 16%. Our phone system does not track all missed calls so this is a conservative figure.
 - b. Only 17% of calls for assistance get a legal advice appointment when triaged via our eligibility criteria. The second level of 'turn away' figures is therefore 83%. In our experience most people who call our centre are not denied a legal service due to financial circumstance, instead they are denied a legal service due to the criteria we have set around areas of law and scope that we will assist with. It is fair to assume that a percentage of these people are able to self-help with the legal information and referrals provided but others need legal advice and we are unable to provide that due to lack of capacity or scope of service. We cannot say with accuracy what percentage that is but it would be at least 50% of all callers.
 - c. We have assisted less than 1% of people with representation/casework services. This is the third level of 'turn away'; people who are completely underserved with discrete legal assistance. We estimate that 1 in 3 people who receive legal advice need

representation services but are turned away due to lack of capacity. We cannot estimate for how long they would need representation because that depends on multiple factors.

Example of Evidence of Unmet Legal Need – Elder Abuse

29. In February 2022, a joint submission of five CLCs was provided to the State Government demonstrating and quantifying the need for increased funding to address elder abuse in Queensland. Caxton has permission from the four CLCs to provide a copy of this submission to the Independent Reviewer.
30. These five CLCs are existing providers of free legal and social work support for older persons at risk of, or experiencing, elder abuse, mistreatment, neglect or financial exploitation. They also provide free community education about elder abuse and related topics.
31. Elder abuse is a complex issue. There needs to be preventative, early intervention and responsive service delivery. The interventions need to be trauma-informed, multi-disciplinary, DFV-informed, client-centred and culturally safe. Casework must be the overwhelming service model available. This cannot be a cheap model.
32. The costing model was based on a statewide prevalence and needs gap analysis, and an estimate of what was needed to address current concerns, and to ensure continued capacity to meet increased need due to aging population, socio-economic disadvantage, remoteness, Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities.
33. The submission estimated that only about 12 per cent of the estimated need was met by current funding. To address the unmet need, it was recommended that funding should be increased by \$46.56 million over the next five years. After that submission, funding was increased by \$2.7m.
34. This goes not only to the point of what specific level of investment is needed to meet a particular unmet legal need. It also says, if there is evidence that it takes over \$50m to address unmet legal need in only one area of law and in only one state, the quantum of funding required to address unmet legal need across all areas of law and all regions of Australia is going to be so staggering that governments are likely to only ever provide a fraction of funding commensurate with meeting need. Ipso facto, it begs the question to what extent should Caxton and other CLCs, in a competitive tender process, be required to prove evidence of unmet legal need for their core funding to be returned to them and expanded twofold, threefold, or even tenfold.

Another Example of Unmet Legal Need - Financial Rights

35. NLAP fails to address the disparity of investment made in some jurisdictions but not in others to address unmet legal need for certain legal areas. One example that Caxton has observed is in the area of financial rights (consumer credit & debt).
36. The LAW Survey found that the most common legal problem reported was consumer law (21% of respondents).
37. Caxton delivers a Consumer, Credit and Debt Service with funding and donations that total around \$150,000pa. By virtue of demand and by virtue of our expertise, this is made available statewide. This means we do not impose a geographical boundary but we do impose our usual eligibility criteria related to scope, disadvantage and target cohorts.

38. The service's capacity is 0.6FTE who is based at Caxton. Discrete and (extremely limited) representation services are delivered in person and remotely/online.
39. In addition to the NLAP core funded 0.6FTE there is a 0.6FTE capacity which is provided through a non-recurrent donation that ends on 30 June 2024.
40. Services are supplemented by a university student clinic and a volunteer/pro bono clinic supervised by the existing 0.6FTE staff member.
41. Legal Aid Queensland have a small team (maybe 2.0FTE) who also deliver financial rights legal assistance.
42. In six jurisdictions there is a specialist financial rights/consumer law service.
 - a. Financial Rights Legal Centre NSW
 - b. Consumer Action Law Centre Victoria
 - c. Consumer Credit Hotline Tasmania
 - d. Consumer Law Centre (Care) ACT
 - e. Consumer Credit Legal Service Western Australia
 - f. Consumer Credit Law Centre South Australia (State funded)
43. The Northern Territory does not have a specialist service.
44. In multiple unsuccessful NLAP tender processes, Caxton has identified the need for a similar financial rights service to be funded in Queensland. At the moment, rising costs of living and unmanageable debt is driving up demand but there is no mechanism under NLAP during a funding cycle to make the case for a sustainable investment to address this jurisdictional, disproportionate nonsense in funding allocation.
45. Contingency funding for this type of service is insufficient and unsustainable. For Caxton to properly deliver a Statewide Financial Rights Service similar to what is being delivered in the other jurisdictions and to meet obvious unmet need, funding would have to be at least:
 - a. 1.0FTE Co-ordinator
 - b. 4.0FTE Greater Brisbane Region
 - c. 6.0FTE allocated across the Gold Coast, Sunshine Coast, Darling Downs, Wide Bay, Rockhampton, Mackay, Townsville, Cairns and Mt Isa
 - d. at a total cost of around \$2m per annum.
46. It is worthwhile considering the financial reports of Financial Rights Legal Centre and Consumer Law Action Centre, each with revenue of over \$3-\$4m per annum, to benchmark the requisite investment.

FORECAST OF AREAS AND LEVELS OF FUTURE DEMAND

47. Earlier this year Caxon undertook a 2032 strategic planning process. We examined predictions about future legal need which highlighted several areas.

Ageing Population

48. As trillions of dollars pass from one generation to the next, and as people live longer and look for extended employment opportunities, increased social participation, additional health and care services, we are going to need a substantial investment in elder abuse services and other ageing rights services. With respect to the former, the National Elder Abuse Prevalence Study reveals 1 in 6 older Australians experience elder abuse. The Commonwealth government provides limited non-NLAP funding to 12 sites across Australia.

Democracy & Social Inclusion

49. As we experience increased geopolitical shifts, climate change inertia, potential disasters/pandemics, there will need to be a greater investment in defending democracy rights and social inclusion rights including cultural and diversity rights.

Data and Privacy

50. The digital and data explosion will need to be met with an investment in the protection of security, privacy and data rights to counteract a tsunami of potential data-driven harms, especially to already disadvantaged cohorts.

Health

51. Health equity is already strained and will be further strained by growing health service needs as our population ages and the social determinants of health weighted against disadvantaged persons impacts our health service capacity. There will need to be considerable investment in legal assistance services that promote and protect rights to health services including mental health services.

Gig economy Small Business and New-Type Workers

52. We are not meeting the legal needs of traditionally employed workers who cannot access justice let alone addressing the legal need arising out of the complex rights and responsibilities of gig workers, small business and emerging worker-types in a flux marketplace. Realisation of workers' rights will grow in complexity over the next 5 – 10 years.

Users of Violence/Offenders

53. As policy shifts towards working more intentionally and holistically with users of violence/offenders to increase the safety of victim-survivors and the community, there will need to be an increased investment in multidisciplinary legal-social support services for that person, whose legal issues intersect with entrenched disadvantage, mental health and addiction issues, and intergenerational trauma, as well as supports for all parties to participate in criminal justice alternatives.

Human Rights

54. In jurisdictions such as Queensland, there needs to be funding to deal with human rights advice and representation in complaints processes. If we end up with a federal human rights act or charter this may become an Australian-wide concern. Human rights violations arise in many common general legal issues. It takes longer to give legal advice to cover this issue. It adds to legal tasks being delivered. It adds to casework being undertaken. We estimate this addition amounts to approximately 20% of the time spent on service delivery. Caxton has reduced some of its general areas of law in order to provide a complete service to clients. NLAP must make

provision for a general uplift to address this gap otherwise other legal issues will continue to be cut from service provision to make room.

ROLES AND RESPONSIBILITIES

55. Caxton's experience is that the relationship between the Commonwealth Attorney-General's department and Caxton could be strengthened in a way that translates into improvements in program design and delivery, NLAP administration, collaboration and client outcomes. Similarly, communication with the State Attorney-General's department could be improved, acknowledging that this more naturally occurs, but there is not nearly the same degree of consultation and collaborative service planning with our State Attorney-General's Department as there is with other state departments from whom Caxton receives funding. It is unknown what impact NLAP has on this but, from our experience with other departments, the communication with both federal and state governments could be improved to include:
- a. Regular, defined, and purposeful catch-ups including open two-way feedback
 - b. Targeted consultation and co-design in relation to identifying legal need and how to prevent and respond to it, and identifying systems reform need
 - c. Contribution to research, outcome measures, data sets, evaluations, program design, planning and reviews
 - d. Communities of practice for legal assistance services delivering similar specialist services across Australia
56. In terms of the administration of funding for the Family Advocacy and Support Service, Caxton's experience is that the administration of court-based services funding by Legal Aid Queensland has enabled effective distribution of resources and collaborative planning to deliver both in-person and remote services across most circuits in Queensland.
57. In terms of the administration of funding more broadly where Legal Aid Commissions are not an effective 'partner' in service delivery, however this occurs, it is desirable that the administrator has:
- a. No conflicts of interest
 - b. Considerable knowledge of how funding allocation will address legal need, how programs will meet funding objectives and how new or expanded funding will need to be afforded sufficient lead-in time for recruitment, service planning and start-up
 - c. A mandate to transparently articulate the rationale for the allocation of funding across the legal assistance sector so that collaboration and program design/planning can be aligned with funding objectives
 - d. A mandate to distribute funding to each part of the legal assistance sector at the same point in time, in particular, that the funding not be allocated to Legal Aid Commissions in

advance of it being distributed to CLCs who then lose staff to Legal Aid and have no opportunity to engage in collaborative service planning with LACs

- e. A mandate to provide an opportunity for collaborative service planning with all other providers
58. The existing objective of NLAP to support disadvantaged individuals and priority groups who are otherwise unlikely to secure legal advice and/or representation remains appropriate.
59. In addition to the current priority cohorts, NLAP should recognise:
- a. Families who are bereaved – Caxton delivers a Statewide Coronial Legal Service. Bereaved families may have many questions about the circumstances of the death of their loved one. In addition to the shock, grief and loss they are experiencing, coronial processes can cause further trauma to family members who may feel unable to participate in the coronial process which they find overwhelming and alienating. The Queensland Audit Office's 2018 report *Delivering Coronial Services* highlighted the need to enhance the support that families and witnesses receive in the coronial system acknowledging that participants in the coronial process (particularly families) have difficulty navigating the system without support and their interests are not being adequately represented in comparison with other parties.
 - b. Unemployed or underemployed people – Caxton delivers the Queensland Employment Law Service which assisted 609 clients in 2022-2023. Unemployment is currently running at 3.7% but it will inevitably increase. Underemployment statistics are not as readily available. During the pandemic, Caxton's employment law service was its most in-demand service. The LAW Survey shows that unemployed people have increased vulnerability to legal problems with increased prevalence of legal problems overall, substantial legal problems, multiple legal problems and problems from the following eight problem groups: consumer, credit/debt, crime, family, government, health, housing and rights. Unemployed people had lower levels of 'taking-action' and lower levels of seeking advice when they took action. They also had lower levels of favourable outcomes for their legal problems.

RURAL REGIONAL REMOTE

60. In the context of people who are residing in rural or remote areas of Queensland, these individuals often experience high socio-economic disadvantage and compounded barriers to accessing justice. Because staffing these areas can be challenging and because of higher operational costs, when Caxton delivers a statewide service, it has adopted different service models, depending on the level of investment government is making, which are listed below in order of what costs the least to what costs the most.

Service	Model	Funding pa
Qld Consumer Credit & Debt Service (NLAP core)	Metro-based 1.2FTE Mostly phone/online Mostly advice only Volunteers clinic and student clinic delivers bulk of services	\$150,000*
Qld Employment Law Services (NLAP core)	Metro-based 2.0FTE In person, phone/online in Greater Brisbane Region Phone/online for statewide Advice and casework up to completion of dispute resolution process	\$300,000**
Family Advocacy and Support Service (NLAP other)	Complementary court-based service to LAQ 4.0FTE Multi-disciplinary legal, social work, men's support, mental health In person in Brisbane and circuit courts within 500kms Phone-online circuits outside 500kms	\$580,000
Qld Coronial Legal Service (NLAP other)	Divided into north and south region 4.0FTE (approx.) Sub-contract northern CLC Multi-disciplinary legal-social work Advice, casework, inquest representation (travel to courts statewide)	\$686,000
Queensland Retirement Villages and Parks Advice Service (State other)	Metro-based 5.0FTE Multi-disciplinary legal-social supports In person, phone/online in Greater Brisbane Region Phone/online for statewide with some outreach CLE outreach statewide	\$714,000
Qld Workplace Sexual Harassment and Discrimination Service (NLAP other)	Metro-based and regional CLCs 6.0FTE Multi-disciplinary legal-social supports Sub-contract 50% to a gendered (women) CLC Also 3 x CLCs delivering standalone service 1.0FTE x 3 Total 9.0FTEs	\$2.4m (total amount of funding to all orgs)
Seniors Legal and Support Service (State other) – Caxton delivers the Brisbane service	Statewide, separate CLCs and other orgs funded to deliver services plus a helpline Multi-disciplinary legal-social supports In person, home visits, hospital and aged care visits, phone/online, HJP Community engagement and education Total FTEs unknown	\$7m (total amount of funding to all orgs)

*50% funded by donation. Funding to stand-alone service in NSW and Victoria is between \$3m-\$4m per annum.

**historically NLAP 'other' then rolled into core funding

61. What this reveals is that statewide service delivery that includes more than a metro-based centre delivering phone-online only services to regional, rural and remote areas, will cost up to 20 times more. For a legal problem type like elder abuse which requires a multi-disciplinary,

casework approach, this investment is justified but is still a considerable underinvestment. Overall this table demonstrates the current NLAP funding for statewide service delivery is patchy and critically lacking.

COMPLEXITY

62. The value of CLCs to government investment is their unique ability to take on the responsibility to deliver services to people with significantly complex matters. This is due to several reasons:
- a. The nature of CLCs who have, for almost 50 years:
 - i. worked closely with their communities and other service providers to respond to complex and inter-related needs, building up close relationships with organisations in the local areas for referrals and collaborative service delivery. Caxton holds close relationships with hundreds of government and non-government organisations.
 - ii. utilised holistic, multi-disciplinary service models including lawyers, social workers, community educators, non-lawyer advocates (eg: industrial advocates), financial counsellors, First Nations engagement workers, domestic and family violence workers. These service models are built to address complexity in a way that preferred suppliers and pro bono lawyers cannot provide and to a lesser extent Legal Aid Commissions can provide.
 - iii. spearheaded innovative models to increase accessibility for persons who experience entrenched disadvantage including health justice partnerships:
 1. Caxton delivers a multicultural health justice partnership for people with intersecting legal issues x mental health issues x CALD background.
 2. Caxton delivers an elder abuse service incorporating a health justice partnership with hospitals, a partnership with a First Nations health service and dedicated First Nations workers to older First Peoples who have experienced abuse, violence and neglect.
 3. Caxton delivers wrap-around legal services, men's supports, social supports and mental health supports to people who are engaged in family law proceedings and are affected by domestic and family violence, across federal and state courts.
 - iv. willingly and capably worked with particular cohorts who experience complexity by virtue of intersecting disadvantage and who experience service barriers specifically due to policy approaches:
 1. Caxton ran a state government funded Men's Bail Support Program for 4 years which was externally evaluated as being highly successful but was defunded due to policy considerations.
 2. Caxton is delivering a 12 month pilot program Court Plus for Men which provides casework supports to men who use violence.
 3. Caxton recently ran strategic litigation to have the detention of young people in watchhouses in Queensland declared unlawful.

- b. The pressures placed on CLCs to use a small proportion of the overall legal assistance funding pot to be the service of last resort and deliver targeted and proportionate services. This has necessarily resulted in triage criteria focussed on intersectional disadvantage and complexity. In 2022-23 of Caxton clients:
- 48% had been impacted by domestic and family violence
 - 90% experienced financial disadvantage (97% for representation services)
 - 5% identified as Aboriginal or Torres Strait Islander peoples (11% for representation services)
 - 27% reported a disability (44% for representation services)
 - 20% were older persons (44% for representation services)
 - 25% were single parents
 - 9% spoke a language other than English (11% for representation services)
 - 5.5% live in rural or remote areas (7% for representation services)
63. Responding to complexity requires casework/representation services. It cannot be managed through single or multiple discrete services. The NLAP review should consider the ratio of expenditure on casework/representation services as compared with discrete legal services provided by Legal Aid Commissions including preferred suppliers and make the same comparison for CLCs. Our analysis of Legal Aid Queensland reports compared with our own data show enormous disparities in this ratio with significantly less funding being able to be utilised for casework/representation services to manage some of the most complex clients and issues.
64. Caxton perceives that what NLAP is currently doing each NLAP cycle is shifting the burden of service delivery to the hardest to reach cohorts through some of the hardest to deliver activities (multi-disciplinary, collaborative, trauma-informed, DFV-informed, intersectional, culturally safe) to CLCs, who indeed have the expertise to deliver, without due acknowledgement of the level of funding required to deliver on an expectation that is not required of Legal Aid Commissions including preferred suppliers.
65. Futurists tell us that with automation upon us, well over half of today's professions are predicted to disappear within the next two decades. However the trend toward labour automation won't be uniform across all industries and professions and some may remain insulated for a long time. In particular, professions that must manage complex issues and relationships will be exceedingly difficult to automate. In fact there will be greater reliance on services like CLCs that can tolerate and manage complexity, especially as it relates to making gains on our sustainable development goals which seek to address entrenched disadvantage and exclusion. CLCs deserve better recognition and value placed on the services they deliver to address issues that have intersecting access to justice problems and unmet development goals at their core.

LABOUR MARKET

Remuneration

66. Community Legal Centre lawyers are the lowest (or equal to the lowest with ATSILS and FPVLS) paid in the legal profession.
67. The legal assistance sector is highly gender-segregated, with CLCs being female-dominated. At Caxton over 90% of our lawyers identify as female. This pattern in CLCs has persisted for decades. The pay gap is disproportionately affecting females and must be addressed with policies aimed at gender pay equity in mind.
68. For our Centre, the negative impact of this in terms of recruitment and retention is felt:
 - a. the least at entry level graduate lawyer (restricted lawyer) role where there is an abundance of in-house Practical Legal Training students and paralegals, student legal clinic attendees and general university leavers who are vying for a limited number of graduate roles (for our Centre, this is paid at level 4 SCHADS).
 - b. to a limited extent at the PAE2+ years junior lawyer role where the person moves to a level 5 SCHADS and due to limited experience must still be competitive in the marketplace.
 - c. most significantly in the PAE5+ years senior lawyer role where typically the person has reached the highest paypoint at level 5/6 SCHADS, the CLC needs them to exercise their extensive expertise and also supervisory/management/program responsibilities, these responsibilities are more accurately classified at level 6/7 SCHADS, but limited funding prevents structural changes being made to facilitate the promotion. At this point the person is an attractive option to both Legal Aid Commissions and private practice who can offer higher paid positions to exercise these responsibilities.
 - d. most significantly in the PAE10+ years principal lawyer role where typically the person has reached the highest paypoint at level 8 SCHADS and the remuneration for this level of responsibility is completely out of step with what is paid at Legal Aid Commissions and private practice. In CLCs these principal lawyers typically exercise higher duties than their counterparts in Legal Aid Commissions because they don't have the infrastructure (eg: executive levels, HR supports) to buffer them from organisation responsibilities in addition to their principal lawyer roles.
69. From 2019 to 2022, a period during which approximately a dozen staff moved to Legal Aid Queensland or private practice, Caxton performed a remuneration review, which included contacting other CLCs in Queensland. We looked at the Pro Bono Centre Salary Survey. We learnt that our closest comparison was to be made with Legal Aid Queensland because in private practice equivalent roles were being paid at 100-500% more which seemed to be an unreachable comparison to make in the not-for-profit sector. Our analysis revealed that our employees were being paid between 15-25% less than Legal Aid Queensland staff for equivalent roles and in our high areas of risk this was at the higher end of this range.
70. Below is a table showing this comparison.

Lawyer	Caxton	LAQ comparison
Graduate/Restricted	SCHADS Level 4 \$77,584 – 83,460	PO3 \$90,529 – 98,616
Unrestricted/Junior Lawyer PAE2+ years	SCHADS Level 5 \$88,712 - \$92,768	PO4 \$104,773 – 112,678
Experienced Lawyer PAE5+ years (no supervisory role)	SCHADS Level 5.3 \$92,768	PO5 \$117,661 – 126,010
Senior Lawyer PAE5+ years (supervisory role)	SCHADS Level 6.1-6.3 \$96,928 - \$101,244	
Senior Lawyer PAE7+ years (coordinator)	SCHADS Level 7.1-7.3 \$104,832 - \$109,252	PO6 \$130,106 – 137,515
Principal Lawyer/Director PAE10+ years	SCHADS Level 8.1-8.3 \$113,776 - \$118,258	

71. The NLAP must include a mechanism for the calculation of a general uplift of funding to CLCs to enable them to pay their staff an adequate wage. At Caxton that would need to be:
- a. at the least, an equivalent remuneration to what staff employed by Legal Aid Commissions receive for roles with equivalent responsibilities – an uplift of at least between 15-25%.
 - b. an extra amount to attract and retain staff in specialist areas of law and in regional, rural and remote areas – uplift of at least between 10-20%.
 - c. an extra amount to manage workplace conditions including psychosocial hazards of working in a sector more vulnerable to vicarious trauma and burnout – on our calculations, a cost of \$3,000pa per 1.0FTE for training, individual and group supervision and workplace adjustments.

VOLUNTEERS AND PRO BONO SUPPORTS

72. CLCs hold unique value to government in their ability to attract and coordinate volunteers and pro bono services.
73. For each \$1 paid to Caxton to deliver services, we believe (but cannot prove beyond our volunteer survey and rudimentary calculations due to lack of resources) we deliver another \$1 through our coordination of volunteers and pro bono services.

74. Caxton has conservatively estimated that its 200+ volunteers and the pro bono law firms it partners with, deliver over 11,000 hours per annum, directly to Caxton clients under our supervision or directly to Caxton by way of organisation supports.
75. We believe that this would be easily doubled if we were able to record the number of hours spent by our pro bono providers doing casework for clients once a matter has been fully referred to them (we have no line of sight on these hours).
76. Costing that out at the absurdly conservative rate of \$150 per hour, 11,000 hours is valued at over \$1.65m. However we know that this is at least 3 times less than the true minimum hourly rate of our pro bono lawyers, many of whom are experienced practitioners and/or partners, and approximately 8-10 times less than the hourly rate of barristers (quite a few of whom have taken silk) who provide pro bono assistance to our clients. The accurate hours is probably more likely to be 20,000 and at a realistic average hourly rate of \$450, this gives a total of \$9m.
77. Valuable lawyer time is wasted on administration associated with coordinating volunteers. The NLAP needs to focus on volunteer/pro bono coordination as part of the Labour Market review and show due recognition to the enormous value for money that Caxton and other CLCs provide to government in attracting and coordinating volunteers.
78. Given government is likely getting 50-100% return on investment in CLCs who engage volunteers (or who could be if they had administrative supports), NLAP should make appropriate provision by resourcing volunteer coordination at least by 5% per annum of core funding.

PREVENTION

79. The Issues Paper says that prevention and early intervention work that is undertaken with NLAP funding includes community legal education, stakeholder engagement, legal advice, referrals, legal tasks, dispute resolution, non-legal services and law and legal services reform. It also says that prevention and early intervention can also take the form of integration with non-legal services, such as financial counselling or social workers, to allow for improved outcomes for clients and reduction of lawyer efforts on non-core legal work.
80. With respect, none of this except community education would fall within the understanding of prevention work.
81. Prevention describes work done across communities, organisations and society in settings where people live, learn, work, and socialise to stop a legal problem happening in the first place. A prevention approach works to change the underlying social conditions that produce and drive the legal need. Examples of this could include:
 - a. A whole of industry initiative to address gender-based structural inequities – as a means of preventing workplace sexual harassment
 - b. A campaign to address ageism – as a means of preventing elder abuse
 - c. Targeted CLE to communities vulnerable to a particular financial product – as a means of preventing consumer law issues
82. Stakeholder engagement could lead to a prevention initiative being identified and delivered in collaboration but in and of itself is not prevention work.
83. It is drawing an impossibly long bow to say that legal advice, referrals, legal tasks, dispute resolution, non-legal services and integration with non-legal services could operate as prevention activities.

84. Typically the service type of 'stakeholder engagement' has not been a prioritised service type for government investment in legal assistance services, evidenced in Queensland by it not appearing in boilerplate deliverables tables provided by the Department of Justice and Attorney-General, despite the original tender documents requiring extensive evidence of capacity to collaborate and partner, and only more recently included when Caxton pressed for this to be a recognised service type in NLAP add-on funding (eg: workplace sexual harassment and discrimination funding and mental health funding).
85. On the other hand, CLE has always been a supported service type and CLCs are strong providers of targeted CLC to the priority cohorts their centres provide services to. The problem is that when CLE and front line services are both vying for limited staff time, the preference will most often be to deliver front line services and for CLE to be squished around that. This does not allow for any research to be done about evidence-led prevention approaches and for best practice co-design and co-delivery to occur. Even in a larger organisation like Caxton we struggle to carve out dedicated CLE resources with NLAP funding because of the high volume of services that must be delivered, caused by the competitive tender process and the proportionately small funding made available to the CLC sector.
86. In Queensland, small CLE collaboration grants (\$25,000) are barely worth the effort of applying for given they must evidence an existing arrangement between various organisations to collaborate on the production and delivery of CLE resources/activities, are time consuming in the application and acquittals process, must be supervised as projects added on to a lawyer's already full load, and cannot realistically be set up to address and evaluate the type of KPIs needed to evidence the impact of a prevention activity on a particular legal issue.
87. NLAP needs to show leadership on:
 - a. Research into what drives particular legal need.
 - b. Research into what prevention activities work to prevent that legal need from arising.
 - c. Investing in CLCs to do more evidence-led CLE prevention work through by funding ongoing CLE roles directed towards prevention, which will need at least 0.5FTE in each location and up to 2.0FTE in larger CLCs
 - d. Investing in CLCs to do more evidence-led collaborative community engagement work to deliver on prevention targets
 - e. Evaluation and review of the activities through an outcomes measurement framework.

EARLY INTERVENTION

88. Again, with respect, most of the activities referred to in the Issues Paper are not specifically early intervention activities. Yes, early intervention can mean early in the process of resolving a legal dispute, which could feasibly include any stage before litigation commences or is finalised. Preferably, it would refer to early noticing of the potential legal problem, early problem solving, early systems integration and early harm reduction.
89. Caxton's delivers three programs which are best practice examples of this, one of them being NLAP funded:
 - a. Health Justice Partnership (not NLAP funded) delivered in hospitals and health services, training health professionals to notice and refer risk of elder abuse, legal services

embedded in the hospital working with social support offerings, continued assistance post discharge. This type of service enables health professionals to pick up on the early warning signs, for example neglect, coercive family decision-making, financial exploitation, and bring those concerns early to the lawyer and together they can work with the older person to address the risks or early experiences of elder abuse before significant harm results.

- b. Mental Health Justice Partnership (NLAP other funded) delivered in a multicultural health service, training mental health professionals and bicultural workers to notice and refer risk of general legal issues, multicultural advocate and legal services embedded in the health service. The type of service tackles squarely the access barriers for persons with mental health issues from a CALD background to have potential or existing legal issues picked up and addressed early before they escalate into irretrievable criminal or civil legal problems.
 - c. Seniors Financial Protections Service delivered as an outreach to the community in settings where people nearing retirement gather, to have conversations about finances and planning for later life and to implement strategies that will protect against financial abuse. When this service is delivering CLE about how to avoid financial transactions, it is acting as a prevention initiative. When this service is having one-on-one conversations with individuals it is acting as an early intervention initiative.
90. Ideally NLAP would deliver a whole of legal problem stages approach so that funding was directed in packets that enabled a CLC to undertake prevention, early intervention and response initiatives. In particular, the HJP model needs to be made available across a broader range of legal issues and to CLCs who have interest, capacity and opportunity to partner with health services in this way.
91. Aiming higher, NLAP would be working with a whole of government approach to deliver funding packets that enliven partnering across whole of government concerns that include the need for legal assistance.

ADVOCACY

92. From 1 July 2018 to 30 June 2023, Caxton has been engaged in 183 law reform/advocacy activities. These have included:
- a. Confidential consultations with government on proposed laws
 - b. Submissions on draft legislation
 - c. Appearances at inquiries
 - d. Advocacy for new laws (eg voluntary assisted dying legislation, human rights act)
 - e. Consultation on systems and policy design and reform
 - f. Contribution to draft national and state plans and strategies
 - g. Founding of national peak organisation in new areas of law (eg: founding director of Elder Abuse Action Australia delivering Compass a national knowledge hub on elder abuse)
 - h. Advisory groups, task forces, Law Society committees
 - i. Service evaluations

93. This work is done mainly out of love. It is not unusual for our state government to introduce a raft of new laws late in the year with limited time for consultation. Staff work into the wee hours of the morning to produce well-considered submissions, working with difficult data points and managing complex client stories and confidentiality, to provide insights into how laws and systems can be fair for people who are disproportionately impacted by them and who have no voice to advocate for change.
94. Advocacy is a key activity of Caxton. Not only is our input sought and highly valued by government (our stakeholder survey confirms that), this is work that our staff want to do because every day they notice how unfair laws impact their clients and they want to do something to get the desired change.
95. Caxton's Theory of Change recognises how unfair laws, service system failures and structural barriers contribute to inequality and injustice. We say that what we will do to address this is strategic law, policy and systems reform activities. Yet these activities are often done after hours (this is currently being typed after midnight!).
96. Government wants our input and needs our input. Our high volume of legal and non-legal client work means we are well positioned to make a meaningful contribution. There ought to be at least 0.5FTE in each smaller CLC and at least 2.0FTE in larger CLCs designated for advocacy work and clear permissions in service agreements.

STRATEGIC LITIGATION

97. Strategic litigation would have to be the most underfunded service type in CLCs. Despite Caxton's size, it would only be able to run about 2-3 large pieces of strategic litigation per year. As a service type they sit outside the run of the mill representation service because they usually take years to conclude. They usually have high impact and address desirable outcomes for social inclusion and human rights realisation, but they require allocation of considerable resources, even with pro bono supports.
98. Often the CLC conducting strategic litigation has specialist knowledge in the area. Caxton has particular expertise in running strategic discrimination and human rights litigation. They also hold the client relationship and may be supporting them with wraparound non-legal supports.
99. NLAP ought to recognise CLCs as important providers of strategic litigation and provide funding for these cases to be brought. Ideally, a centre like Caxton's would have at least 2.0FTE allocated towards strategic litigation and that there would be separate recognition in KPIs for this type of work (as a separate service type so that it is well understood how resources are being applied when a service has not been closed and therefore traditionally can't be counted or recognised in KPI reporting).

EFFICIENCIES

100. Caxton often fields requests for assistance from other CLCs for policies, procedures, service design and organisation supports, deliverables calculations, data collection and reporting processes, financial strategies, risk management issues, workplace management issues, up-to-date referral lists etc.
101. We ourselves reach out for help on a not infrequent basis. We are often looking for a gold star version of one of the above. We talk to CLCs all around Australia to try to get that. We

participate in CEO and COO networks amongst community service providers. We participate in communities of practice, often looking for those quality resources/procedures/IT solutions.

102. It would help if there could be an additional consultation process to identify possible ways to improve efficiencies. Perhaps the work of NLAP is to coordinate that and ensure there is funding to implement anything that looks like it will benefit the whole sector.

DATA

103. NLAP should articulate a data strategy (through a consultative process):
- a. Human-rights based approach in relation to data collection including how the issues of participation, disaggregation, self-identification, transparency, privacy, security, and accountability are being managed.
 - b. Measurement framework inclusive of outcomes as well as outputs. Caxton is in the throws of developing a program logic for each service, referenced back to our Theory of Change and to an Measurement Framework. It would be most useful if NLAP were to take the lead on articulating outcomes investment.
 - c. Rationale for how the data will be used to inform other aspects of NLAP.
 - d. Balancing the need for data with the burden of data collection on the legal assistance sector.

OPPORTUNITIES

104. Caxton has been exploring the use of optimised search engines/AI to increase the accessibility of our existing legal information resources. To make the search results highly relevant and the summary of the law accurate, we limited the scope of the applied technology to the content of our Queensland Law Handbook.
105. We have also been exploiting the use of apps and other software integrations for in-house efficiencies.
106. We have been in contact with other CLCs who are leaning more heavily into digital solutions to increase accessibility and we remain open to how and when Caxton can use technology to improve client-centred services and manage finite resources.
107. NLAP might best articulate, alongside its data strategy, a digital strategy for improving legal assistance services including how that will fund CLCs to undertake transformative work, perhaps as project funding that is made available to all CLCs early in the next NLAP cycle.
108. The development of a digital strategy will need to be consultative as there are things that are working well and not working so well with some of the technology solutions adopted by the legal assistance sector.

SUMMARY

109. In summary, NLAP would really assist Caxton if it:
- a. Bore the burden of fairly defining, measuring and quantifying legal need (including by consultation with CLCs) for the purpose of increasing the whole bucket of federal and

state government allocation to legal assistance funding instead of asking Caxton and other CLCs to prove this every 3-5 years.

- b. Recognised the value and capacity of Caxton and other CLCs to deliver legal assistance services as the main provider of complementary services to Legal Aid Commissions and also as unique providers of multi-disciplinary and specialist services, by increasing the weighting of funding provided to CLCs to at least 20% of total legal assistance funding.
- c. Eliminated the need for existing NLAP funded CLCs, meeting their KPIs, to competitively tender for the return of their core funding every 3-5 years. A higher reach would be co-design procurement processes.
- d. Maintained a minimum of 5 years funding and ideally increased this to 7-8 years for any core or additional NLAP funded services.
- e. Rolled into core funding (whilst still being able to track independently the KPIs) additional NLAP funded services to avoid staggered funding cycles and service delivery uncertainties.
- f. Appropriately index funding allocations. The Queensland government recently responded well to evidence of inadequate indexation to meet the rate of inflation, rising costs of service delivery and wages increases set by the Fair Work Commission. It increased indexation by several percent although there is no ongoing formula being applied each year and it has been slowly rolled out since 1 July 2023.
- g. Transparently and automatically adjusted funding indexation for relevant and predictable variables that impact legal need over the course of a funding cycle such as population growth, unemployment, disasters, etc.
- h. Provided, in relation to emergency/surge or new/emerging legal need:
 - i. a clear mechanism for Caxton and other CLCs to provide evidence within a funding cycle
 - ii. a means for that evidence to be assessed nation-wide (where it is obviously not a localised issue)
 - iii. a highly responsive, fair and transparent allocation of additional resources to meet that need
- i. Increased funding by 20% for human rights legal issues to be addressed in the provision of legal services without having to cut other areas of law.
- j. Increased funding by 20% at the least to address CLC wage injustices.
- k. Provided frameworks for larger projects that need to be undertaking including a data strategy and digital strategy.
- l. Resourced data, reporting and evaluating at 2.5% per annum of core funding
- m. Provided an early allocation of funding for digital enhancements and efficiencies at 5% of core funding.
- n. Recognised the enormous value for money that Caxton and other CLCs provide to government in attracting and coordinating volunteers by resourcing volunteer coordination at 5% per annum of core funding.