



16 October 2023

NLAP Review Submission

### **Acknowledgement of Country**

*We respect the Original peoples of the land on which we live and work, we acknowledge that the lands of Darug, Gundungurra, Wiradyuri, and other sovereign lands were illegally and forcibly taken without treaty or agreement and the sovereign rights of those First Nations are still intact and are to be respected.*

### *About us*

Central Tablelands and Blue Mountains Community Legal Centre (CTBMCLC) is a non-government organisation that provides free legal advice and representation to disadvantaged members of the community living in the Blue Mountains, Greater Lithgow, Bathurst, Oberon, and Orange regions of NSW. While our Centre is a generalist service, over 80% of our direct client work involves working with victims of violence, many of whom are women.

We are situated in two offices, one in Katoomba and one in Orange at either end of the geographical region that we serve. We have a Legal Aid office also at either end of our catchment however both offices serve a larger area, Penrith serving Western Sydney and Orange serving out to Parkes, Forbes, Cowra.

Our second office in Orange has only been possible this year due to the Flood funding received after the last Federal election. The sustainability of both offices will depend on a commensurate amount of funding being rolled into our core funding.

### **The Central Tablelands experience – a dearth of legal services**

It is our experience that clients in our region cannot access in-house Legal Aid lawyers largely due to lack of capacity. We have rarely had a successful referral from our centre to the local Legal Aid offices. We have on occasion been able to refer to the newer state-wide legal teams within Legal Aid however, those clients often report that phone services are difficult for them to build the necessary rapport with their lawyers.

In Orange, there is almost one DV incident every day. This equated to about 7.8 incidents per 1000 people, well over double the NSW average.<sup>1</sup> However, the Orange Legal Aid branch office has only one family lawyer who rarely acts for parents due to being conflicted.

Until 2007 Orange was not served by a community legal centre. CTBMCLC at the request of community organisations began providing services to Orange without any increase in funding. In 2023 CTBMCLC

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<sup>1</sup> NSW Bureau of Crime Statistics and Research, <https://www.bocsar.nsw.gov.au> › lga › orangelga

opened an office in Orange to better serve the region. It is beyond comprehension that a region with high rates of DV has not been provided with adequate legal assistance funding given that people experiencing domestic and family violence are well known to experience multiple legal problems. In addition, the region we cover has the 4<sup>th</sup> highest distribution of legal need by population according to the NLAS (capability) and NLAS (community) rates for regional NSW.<sup>2</sup> Yet CTBMCLC receives one of the lowest levels of NLAP funding in the state.

Our region is also one of those that have few private practitioners undertaking Legal Aid panel work. This is primarily so in the case of family law matters. While we agree with Legal Aid NSW's submission that many private practitioners have withdrawn from panel work due to the low fees, there is also a trend away from legal aid clients due to the complex nature of both the client's circumstances as well as the matter. Many clients present in challenging circumstances (often these same circumstances make them eligible for legal aid) and have complex needs, they may require the same advice to be provided to them several times. Many will need long appointments and a practitioner who is able to listen carefully and with patience.

Private practice being based around billable hours does not lend itself well to being patient and taking time. Our clients have experienced very poor services delivered by private practitioners acting on a grant of legal aid including grants being exhausted with no discernible benefit for the client.

The legal aid grants system is flawed as there are no performance management processes and so no assurance of any quality of service. Moreover, those who remain on the legal aid panel do not have to prove that they are competent in their practice, once on the panel they remain on the panel forever. This is particularly problematic when dealing with victims of domestic, sexual, and family violence as research and practice in this space has grown and developed rapidly in the last 5-10 years.

We strongly support our national peak's position in relation to the diversion of funding away from private practice into CLCs.

### **Data collection and consistency**

It has become evident that the issues with data collection and consistency will never be solved entirely unless there is *a source of authority* who can definitively answer questions. Current reporting processes are, frankly, completely insufficient and do not support continuous improvement and achievement of objectives, rather, they hamper the ability of services to appropriately respond to legal needs by inappropriately focussing on service targets.

The broader legal assistance sector was somewhat assisted by the implementation of the Data Standards Manual; however, this was hampered by the continual message from various government departments that the manual was a 'guide' and not meant to be definitive. Significant efforts were made by CLCs Australia to consult with the sector to develop the 'ready reckoner' tool, however, this is not widely used or promoted.

This has resulted in many different interpretations and CLCs continue to count matters in different ways. This has disadvantaged the sector when asked to tender or apply for funding as centres' numbers are inevitably compared to each other.

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<sup>2</sup>[http://www.lawfoundation.net.au/ljf/lawed15.nsf/9f2043ee7ccfa2ddca256f1200115808/cb8ce25c88cae0f68525897800043655/\\$FILE/JI\\_33\\_Need\\_for\\_Legal\\_Assistance\\_Services\\_\(NLAS\)\\_indicators\\_-\\_2021\\_Census\\_update.pdf](http://www.lawfoundation.net.au/ljf/lawed15.nsf/9f2043ee7ccfa2ddca256f1200115808/cb8ce25c88cae0f68525897800043655/$FILE/JI_33_Need_for_Legal_Assistance_Services_(NLAS)_indicators_-_2021_Census_update.pdf)

Key performance indicators for individual centres are based on the number of services provided and nothing more. These 'targets' remain in perpetuity, with an expectation from funding program managers that there is an increase in service numbers from year to year. These targets are based on historical figures that someone must have 'pulled from a hat' and any increase is hardly acceptable when indexation is not applied to the funding.

It is entirely nonsensical that one legal advice that may involve a straightforward employment law issue is equated with one family law advice for a victim of domestic sexual and family violence that covers several areas of law.

CLCs data is wholly unreliable as there is no consistent way of recording pieces of work. The CLASS database was never fit for purpose and many centres have moved to using case management systems built for legal practices that allow customisation and better data reporting.

Since the implementation of Actionstep as our case management system CTBMCLC has been able to meet our targets for the first time in 7 years. This is due to both efficiencies with the new system but also the ability to clearly see what data has and has not been entered.

The CLC sector, in the writer's view, requires significant investment to transition Centres away from paper-based, slow and inefficient systems.

Outcomes or impact measurement however is of course the preferred option of measuring the performance of legal assistance providers. Significant time, effort and funding should be allocated towards implementing a framework that suits the sector. Attachment 'A' is a theory of change that CTBMCLC have developed and attachment 'B' is the outcomes measurement framework. We by no means believe that this work is faultless, as this is our first attempt, and it will be refined over time as we begin to use the framework and gather outcomes data.

### **The role of States in allocating and distributing funding**

Historical funding amounts in the CLC sector are woeful, attachment 'C' is a crude record of CTBMCLC CLC funding over the last decade.

In 2018 the NSW Government declared that there would be a tender process for the allocation of funding. Two pools of funding were created with Pool 1 being existing funding and Pool 2 being around 2 million dollars for new projects or services. This led to division in the sector, although centres agreed that no-one should receive less, which led to centres applying for the same amount of funding they had previously received and spending significant time effort and in some cases money on tender writers for no discernible benefit.

The outcomes of the tender process were delayed causing insecurity for centres and with some unable to retain staff.

CTBMCLC was one of less than a dozen centres who had our targets increased by the 'independent panel' with no rationale provided. Further, the funding was made conditional upon meeting these targets. Requests were made for explanations however this was not forthcoming.

A silver lining of COVID meant that this condition was never enforced. However, the threat of our funding being reduced because we had not met targets was incredibly stressful. We strongly suggest that such conditional funding should be prohibited in a new national partnership agreement.

We suggest that there is as much guidance as possible from the Commonwealth to States and Territories in relation to how allocations of funding are made and with what conditions. This will avoid the inequitable differences that have occurred across jurisdictions.

Further, CTBMCLC would welcome contractual arrangements being negotiated directly with the Commonwealth or with our Peak bodies at state or national levels. The delegation in NSW to Legal Aid's Community Legal Centre Program Unit (CLCPU) has been fraught for many years and is being discussed in detail in other submissions. Our direct experience is that there is much time and effort wasted in reporting, on both a service detail level as well as financial. Each year questions are asked that reveal a lack of financial literacy within the unit.

Attachment 'C' is the CLCPU reporting requirements. In our experience, no other funding body has such onerous reporting requirements.

### **Advocacy and law reform and CLE**

Our centre was one that faced the "Brandis" funding cuts which together with the over-emphasis on frontline services meant that a part-time position for community legal education was defunded. Our centre has never had an advocacy or law reform worker. We recommend that NLAP compel centres to employ a law reform and a CLE worker as separate roles. Not only is this essential to be able to ensure that the voices of our clients are heard and inform government policy and law reform is also essential that staff assisting socio-economically disadvantaged clients can contribute to change for their ongoing wellbeing.

Without a strong recommendation around the importance of advocacy and law reform not for profit boards will tend to cut these roles when the emphasis is on frontline service delivery.

### **Caseloads and workloads**

There is much nuance that needs to be understood when talking about appropriate and manageable caseloads. Much of this nuance is around the type of work, the nature of the case as well as the circumstances of the client and the experience of lawyers. Comparing crime, family and civil caseloads is very difficult.

Discussions around reasonable numbers of cases or clients, is very similar to the conversations around targets. We suggest that more effort be put into considering outcome measurements.

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# Our theory of change

## THE PROBLEM

Addressing the legal issues faced by our clients often requires accessing both the legal and social support systems.

Our clients, who experience social and economic disadvantage, experience multiple barriers to accessing the range of supports they need.

## IF WE DO THIS...

Engage the most vulnerable

Build relationships and trust

Provide practical and realistic options

Offer legal advice and advocacy

Offer legal and social system navigation

Support self advocacy

## OUR CLIENTS WILL EXPERIENCE THIS IN THE SHORT TERM...

Those who most need it come to us for help

Clients tell their story and feel heard

Clients understand their rights and options and feel empowered to make choices

Clients feel supported in their legal case and have a voice in the system

Clients are connected to and engage with the range of supports needed to reduce the underlying causes of their issues

Clients feel confident to self advocate

## WHICH LEADS TO THESE CHANGES IN THE MEDIUM TERM...

Our clients address their legal issues to their satisfaction

Our clients experience a greater sense of safety and security, reduced stress and improved wellbeing

## SO THAT IN THE FUTURE...

Our clients understand their options and know where to go for help in the legal and social systems should issues arise.

They seek the help they need, when they need it.

And they can self-navigate and self-advocate, or know where to get support if they cannot.

Impact Measurement Framework working document - Legal and Tenancy Teams											
The problem we are trying to solve is: Addressing the legal issues faced by our clients often requires accessing both the legal and social support systems. Our clients have experienced increased economic disadvantage, experienced trouble in accessing the range of supports they need. These barriers are especially high for clients experiencing, or at risk of domestic and family violence and clients with mental health issues.											
Strategic Activities We do this...	Indicator We will know this because...	Data sources And we will find the data here...	Short term outcomes Do our clients experience this in the short term...	Indicator We will know this because...	Data source And we will find the data here...	Medium term outcomes Which leads to these changes in the lives of our clients in the medium term...	Indicator We will know this because...	Data source And we will find the data here...	Long term outcomes Do that ultimately our clients experience this...	Indicator We will know this because...	Data source And we will find the data here...
<b>Engage the most vulnerable</b> Engage clients experiencing social and economic disadvantage through strong referral networks targeted to vulnerable activities and services, strong web/social media presence building our reputation in the community and the support sector	Arranged drop-in by (a) referral source, (b) disadvantaged (c) self priority access	CRM CLASSICS Consider Satisfaction Panel	People experiencing social and economic disadvantage, and especially people experiencing risk of domestic and family violence, with help to address legal problems, and what may be underlying social issues.	Conversion rate from first contact to reaching advice/legal services, with help to address legal problems, and what may be underlying social issues.	Client survey CLASSICS	Client have addressed their legal issues to their satisfaction					
<b>Build relationships to facilitate trust and empowerment</b> Invest in building trust. Investing in high quality staff with a holistic mindset, which provides, an extension of our clients' other support systems	% clients report being believed, respected and supported by staff % who would come back if needed legal support in the future % report clients (same/different case) warm referrals	Client survey	Clients feel their advice, feel heard and supported	% clients report they feel heard by CTSM/CLC and feel confident they will be supported to resolve issues	Client survey Client feedback emails	Client attend A/Ds where appropriate Client achieve appropriate parenting plans Police are held to account					
<b>Provide practical and needed advice</b> Provide our clients with information, advice and a range of options legal and otherwise relevant to their client's circumstances which are designed to address their circumstances that guide or that they are part of their best interests	% clients report provided with options relevant to circumstances % understand options and what to do next/How to access those options % clients have a better understanding of the family law system	Client survey	Clients feel empowered to make informed choices about how to resolve their concerns	% clients report they understand their rights and options, feel confident to make informed choices	Client survey Client feedback emails	Clients believe they get a better outcome because of our support Client experience a greater sense of family safety Client experience reduced stress Client experience improved wellbeing					
<b>Offer legal advice and advocacy</b> Provide legal advice, representation and/or advocacy to create negotiations or legal tribunals and courts where relevant	% clients who are offered further advice/representation and/or advocacy % of outcomes which are claims, payments, A/Ds resolutions	CLASSICS	Clients feel less stress regarding their legal/emergency case	% clients report they feel supported (see above) feel confident to pursue their case feel less stress	Client survey Client interviews	Clients have addressed their tenancy issues to their satisfaction Evictions are prevented Homelessness is prevented Increased time to find new accommodation is achieved Compensation is achieved Hearst reduction is achieved Safer housing conditions More secure housing conditions	% matters where legal/tenancy issues resolved + satisfaction survey % of clients with specific outcomes resolved + multi-issue coming in and resolution going out	CLASSICS CRM Client Survey PFI 2nd assessment	Our clients know where to go for help should issues arise in the future	% of returning clients (same or new issue) feel confident who self refer % of clients reporting that after their interaction with CTSM/CLC they feel a better informed on legal options % confident to take action to resolve their legal issues with help or through self-advocacy % confident they know where to go to ask for help with legal or social issues (see above) NOTE: Ideally there will be FOLLOW UP REFERRALS TO THE CTSM/CLC SERVICES/OUTREACH AFTER INTERACTING WITH CTSM/CLC Client doing case studies	CRM Client survey Client self-interviews, case meetings etc
<b>Offer system navigation</b> Support our clients to access their own support sector and other support services they may need to resolve their issues, through what we do as a coordinated action to appropriate service providers	% clients for whom assessment of non-legal needs is conducted % of clients who are assessed as having non-legal needs/beyond scope of CTSM/CLC (diagnosed by other staff) % clients who have non-legal needs/beyond scope of CTSM/CLC who are referred refer to outside CTSM/CLC (diagnosed by staff or client)	CRM Client survey	Clients are connected to, and engage with, the range of supports they desire or need to address, or prevent the escalation of, their legal issues related to the underlying social and/or economic disadvantage which are contributing to their legal issues	% clients requiring connection to other services or supports (see outcomes above) % of those referred to other services who take up those referrals/engage with the non-legal services (diagnosed by staff or client)	Client survey Client interviews/Staff interviews for case studies	Increased time to find new accommodation is achieved Compensation is achieved Hearst reduction is achieved Safer housing conditions More secure housing conditions	Client interviews/Staff interviews	Our clients do not use the help they need, when they want it			
<b>Support self-advocacy</b> Offer information and advice to empower clients to take their own course	Reduced downloads of fact sheets/leaflets More inquiries relating to self-help info % clients reporting self-advocacy by type of support provided	Website data CLASSICS Client survey	Clients feel confident to address legal issues on their own behalf	% clients who self-advocate after seeking advice % clients who report they feel confident to self-advocate during the support of CTSM/CLC	Client survey Client interviews/Staff interviews Client casebook reading reports Client self-interviews/Client casebook outcomes Client feedback emails	Improved wellbeing Reduced stress Clients believe they get a better outcome because of our support					

## CLCP Funding received

### 2012-2013

FRC	57340
CTH	104142
<b>STATE</b>	<b>181401</b>
STATE CP /PPF	101877
	444760

### 2013-2014

CTH	105705
ERO	17554
STATE	184780
STATE ERO	3079
FRC	58201
PPF	99329
	468648 5% increase

### 2014-2015

Commonwealth CLSP	107,607
Commonwealth FRC	59,248
Commonwealth ERO	11,826
State CLSP	189,159
State ERO	5,131 0.7% increase
State PPF	89,518
State Care & Protection	9,500 new program
	<b>471,989</b>

### 2015-2016

	includes FRC
Commonwealth CLSP	171,861 rolled in
Commonwealth ERO	19,573
State CLSP	193,888
State ERO	11,127
State PPF	89,518
State Care & Protection	19,000
	<b>485,967</b> 2.9% increase

### 2016-2017

Commonwealth CLSP	177,017
Commonwealth additional funding for 2016-2017	41,669
Commonwealth ERO	31,408
State CLSP	198,541
State ERO	9,566
State PPF	98,469

State Care & Protection	19,950	
	<b>576,260</b>	18% increase
<b>2017-2018</b>		
Commonwealth CLSP	177,017	
		just allocated -
Commonwealth Family Law/F	41,669	no reason given
Commonwealth ERO	31,408	-2% decrease
State CLSP	203,207	
State ERO	11,950	
State PPF	98,469	
		last year of this
State Care & Protection	19,950	funding
	<b>563,720</b>	
<b>2018-2019</b>		
cth	177,017	
state	203,207	
ppf	98,469	-1.9% decrease
flfv	42,407	
sacs ero	31,408	
	<b>552,508</b>	
<b>2019-2020</b>		
cth	179,950	
		state tender
		NSW AG
		purported to
		roll PPF into
		state CLCP
sacs	31,409	funding
		Targets
		increased by
		"Panel" without
		any rationale
		and funding
		made
		conditional
		upon meeting
flfv	43,210	targets
state ero	17,296	
state inclu ppf \$98 k	335,663	
	<b>607,528</b>	9.9% increase



**20-21**

Baseline plus 1.8% top up \$	183,188.96	
2 Baseline: Family Law and/or Far	43988.2	
3 NSW Pool 1 inclu PPF \$98k	\$335,663.00	
5 SACS supplementation	35938.02	
6 SACS adjustment \$ 15,764.09	15764.09	
	<b>614,542.27</b>	1.1% increase

**21-22**

cth	218105	
FL FV	44779	
state incl ppf	335663	
sacs	21560	
	<b>620107</b>	0.9% increase

**22-23**

cth	218105	
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had to apply for  
this funding and  
total pool was  
not allocated -  
bumped up to  
100k for 23/24

FL FV	44780	and 24/25
CTH INDEXATION	6102	
STATE	298097	
PPF	74627	
	<b>641711</b>	3.4% increase