


Response to Issues Paper: Review of the National Legal Assistance Partnership



1 November 2023

Contents

Health justice partnerships	3
Health Justice Australia	3
Introduction	4
Summary and recommendations	5
Recommendations	5
1. Legal need	7
2. Evidence, Outcomes and Research	8
i. Legal needs analysis.....	8
ii. Outcomes.....	9
iii. Evidence and Research.....	10
3. Efficiency and Effectiveness	11
i. Priority clients and wrap around services.....	12
ii. Early support.....	13
iii. Legal assistance for Aboriginal and Torres Strait Islander people.....	15
4. Supporting workforce capability and capacity	16
i. Remuneration.....	16
ii. Practitioner burnout.....	16
iii. Partnership capability.....	17
iv. Funding models and managing demand over time.....	18

Health justice partnerships

Health justice partnerships embed legal help into health care services and teams to improve health and wellbeing for:

- individuals, through direct service provision in places that they access
- people and communities vulnerable to complex need, by supporting integrated service responses and redesigning service systems around client needs and capability
- vulnerable populations through advocacy for systemic change to policies which affect the social determinants of health.

HJPs support populations that are particularly at risk of poor health and justice outcomes, like people experiencing domestic and family violence, people at risk of elder abuse, Aboriginal and Torres Strait Islander people, culturally and linguistically diverse communities and people experiencing poverty and inequality.

Health justice partnerships provide legal support across a wide range of needs, such as:

- Advocating for public housing tenants needing repairs to address untreated mould, or having handrails and other aids installed to continue living independently in their own homes;
- Assisting people with accumulated fines or debt that cause stress or act as a barrier to meeting health costs like filling prescriptions; and
- Advising on wills, powers of attorney and custody – the legal needs that can present at the most unexpected times, like following a diagnosis of serious illness.

These are just some of the many legal issues that people can face in life. By integrating legal services into health settings, we can improve access to justice, address the social determinants of health and increase wellbeing.

Health Justice Australia

Health Justice Australia is a national charity and centre of excellence supporting the effectiveness and expansion of health justice partnerships through:

- Knowledge and its translation: developing evidence and translating that evidence into knowledge that is valued by practitioners, researchers, policy-makers and funders.
- Building capability: supporting practitioners to work collaboratively, including through brokering, mentoring and facilitating partnerships.
- Driving systems change: connecting the experience of people coming through health justice partnerships, and their practitioners, with opportunities for lasting systems change through reforms to policy settings, service design and funding.

Introduction

Health Justice Australia welcomes the opportunity to contribute to the Issues Paper on the Review of the National Legal Assistance Partnership (NLAP).

Our work at Health Justice Australia spans the legal assistance and health and social services sectors. This submission is informed by our knowledge of health justice partnership as a strategy for improving access to justice that differs from stand-alone legal assistance, as well as a legal assistance strategy to improve health and wellbeing outcomes through accessible person-centred legal help.

Our contribution to the review responds specifically to the Terms of Reference focused on:

- an evaluation of effectiveness and challenges of service delivery including integration, collaboration and innovation of legal assistance service delivery within and beyond the justice system, including the value of legal help for health and human service outcomes broadly and;
- how the NLAP can support broader government priorities such as the National Plan to End Violence Against Women and Children, Australia's Disability Strategy, and the National Framework for Protecting Australia's Children.

In addition to this submission, we have also:

- provided an Annotated Bibliography summarising Health Justice Australia's original research, as well as other evidence about the impact of legal help and cross-sector partnering.
- convened a roundtable in September 2023, which provided a forum for input from health leaders in relation to legal assistance outcomes beyond the justice sector.

Health Justice Australia does not receive funding under the National Legal Assistance Partnership or associated funded programs. We have received sponsorship for our national conference from the Department of Social Services and the Attorney General's Department; and we are a funded advisory body under the Department of Health Peaks and Advisory Bodies Program (2022-2026).

This submission is endorsed by:

Danila Dilba Health Service

cohealth

Neami National

Summary and recommendations

For many people, life is complex, and issues affecting their individual and family wellbeing are rarely experienced in discrete or distinct ways. Unmet legal need compounds and intersects with other health, social and financial issues contributing to poor life outcomes. For some families this complexity can drive and entrench intergenerational disadvantage. In this context, single service responses may be inadequate, and the siloed nature of many service systems can exacerbate and add to the complexity in the lives of people they are here to help.

Health justice partnership responds to this complexity through the integration of legal help in health and social service settings. As the centre of excellence in health justice partnership, we support the capability of services across sectors to work in partnership in response to complex (multiple, intersecting) health and legal need, and build knowledge around the outcomes that this way of working can achieve.

Health justice partnership is not a single service model. Rather, it is a collaboration between services, building on existing local infrastructure and relationships to improve service delivery around complex and intersecting issues being seen in community. Health justice partnership increases the reach and impact of legal assistance by integrating legal help into the health, and increasingly social service, environments that are likely to be held in higher trust by the community generally and to be accessed by people with unmet legal need. It builds practitioner and service capability to see and respond to unmet legal need, and to deliver more effective and empowering client outcomes.

Our knowledge about the impact of collaborative approaches to unmet legal need stems from our work with over 100 health justice partnerships nationally, and we are learning about the funding and policy structures that can support or undermine the effectiveness of legal assistance delivered beyond the justice system. Health Justice Australia provides this input to the Issues Paper to identify:

- what can be learnt from health justice partnership about unmet legal need,
- how this intersects with other, particularly health and social, problems and
- the value and role of NLAP in funding the capacity of legal services to engage in integrated, person-centred service approaches focused on improving health and wellbeing.

A key finding from our work is the importance of resourcing monitoring, evaluation and other research – at both a sector level and at an individual service level – to ensure lessons are captured and shared, and to build the evidence base on the role, value and impact of different ways to address unmet legal need.

Recommendations

- 1) Support efforts to scale and learn from the impact of health justice partnership and other integrated service approaches through the establishment of a Legal Assistance Collaboration Fund. The Fund should:
 - Be supported through dedicated financial investment from NLAP.
 - Provide a mechanism through which non-justice portfolios (health, social services) can invest in support of collaborative approaches that integrate legal assistance beyond justice settings to improve health and social outcomes.

- Enable services to invest in the 'glue' for integrated service approaches in non-justice settings i.e., the capability (skills, processes) and capacity (people and other resources) to support effective partnering, including the service capability and capacity to evaluate this work.
- 2) Support continuous learning across the legal assistance sector, at both the service and sector level. This would include supporting individual services to have the capacity and capability to collect data and use it to improve and learn from their work, and supporting sector-wide efforts to understand what difference is made by legal assistance (including but not limited to those of health justice partnership and other integrated services). As part of this investment, funding should be committed to research (led by the sector) to:
- Better understand the contribution of partnership and integration to the capability and capacity of services to respond to intersecting, complex need.
 - Evaluate the impact/contribution of legal assistance strategies and services to the costs and impact of government services/agendas more broadly.
- 3) NLAP should invest in 'Building the Evidence Base' as recommended in National Legal Aid's statement to the Review.
- 4) Recognise the core role of the NLAP in supporting learning, development and innovation across the legal assistance sector. This includes committing dedicated funding for the duration of the next NLAP, to organisations with distinct roles in:
- Creating, translating and disseminating knowledge about the value of legal assistance across and beyond the legal assistance sector
 - Building the capability of practitioners and services, and the broader service system
 - Providing quality, timely policy advice to Government.

1. Legal need

Access to justice evidence¹ identifies that many people vulnerable to intersecting legal and other issues do not benefit from legal assistance due to access, affordability and availability of appropriate legal services. The factors contributing to unmet legal need are complex: their influences include individual and community perceptions of the law and legal processes, as well as previous experiences of legal assistance interaction.

Health justice partnership emerged from the evidence that there are people experiencing unmet legal need who may never seek existing or available legal help, but who are likely to talk about their legal problems in a setting of trust such as a health or social service. Initially a strategy to improve access to justice, our work is showing that legal help can have an additional benefit beyond access to justice, in supporting the health and wellbeing outcomes that are the intended impact of services beyond the justice system.

Health justice partnership is also a response to the increasing recognition that how service systems respond to complex health, social and legal issues can exacerbate unmet legal need, escalate other issues that impact on health and wellbeing, and often undermine people's recovery from crisis and/or trauma.

As summarised in Health Justice Australia's Annotated Bibliography provided to the Review, emerging evidence identifies important considerations for defining and measuring met and unmet need, including:

- how legal need intersects with, and compounds complex health and social issues in the lives of individuals, families and communities, including the long-term impacts of unrecognised legal need
- how, when and where people seek help for complex issues, and the capacity and capability within non-justice service sectors to identify, capture and respond to the issues where legal need is present
- the service settings where unmet legal need is concentrated for particular cohorts and communities accessing those services for help. This is need that may not be identified or understood from broader geographical legal needs data
- how the mindsets, knowledge and experiences of practitioners in non-justice settings influence the identification of unmet legal need and how they interact with legal assistance providers in responding to their client's needs
- the role of multi-disciplinary service partnership and integrated responses in identifying and reaching those people with unmet legal need who won't otherwise seek help; and increasing their timely access to legal assistance.

¹ See, eg, P Pleasence et al., *Reshaping legal assistance services: building on the evidence base: a discussion paper*, Law and Justice Foundation of NSW (Sydney, 2014), [http://www.lawfoundation.net.au/ljf/site/articleIDs/D76E53BB842CB7B1CA257D7B000D5173/\\$file/Reshaping_legal_assistance_services_web.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/D76E53BB842CB7B1CA257D7B000D5173/$file/Reshaping_legal_assistance_services_web.pdf); P Pleasence and NJ Balmer, *How People Resolve 'Legal' Problems: A report to the Legal Services Board*, PPSR (United Kingdom, 2014), <https://research.legalservicesboard.org.uk/wp-content/media/How-People-Resolve-Legal-Problems.pdf>; C Coumarelos et al., *Legal Australia-Wide Survey: Legal need in Australia* (Sydney: Law and Justice Foundation of NSW, 2012), [http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf).

2. Evidence, Outcomes and Research

Health Justice Australia endorses National Legal Aid's statement, 'Building the Evidence Base' relating to mechanisms and investment through NLAP 'to measure and assess whether people experiencing disadvantage are provided with access to justice and that legal assistance services are providing support that meets the needs of the community'.

i. Legal needs analysis

We support the recommendation for a national legal needs analysis, recognising the foundational work of:

- the Law and Justice Foundation of NSW in the Legal Australia Wide (LAW) survey² and in developing the Need for Legal Assistance Services (NLAS) indicators.³
- and, most recently the Victorian Law Foundation, through the Public Understanding of Law Survey⁴ (PULS).

A better and more timely understanding of people's legal capacity, and attitudes and experiences of the justice sector, is a core component of building the evidence base. Whilst the PULS is state-based, this ground-breaking work provides an important foundation to be drawn upon for national application. Should this national analysis be undertaken by the Australian Bureau of Statistics it will be important to make the data available to those researching the nature of legal needs and strategies to respond to that need.

Data about the legal need experienced by 'priority populations' that are intersecting with non-legal services is key to understanding where legal need manifests in service systems beyond the legal assistance sector, targeting legal assistance, and providing early (or timely) legal intervention. For instance, notwithstanding the presence of legal need in someone's life, people may be seeking help in health and social service settings to address other immediate concerns or crises. Indeed, the interaction of unmet legal need with other problems can compound and even hold people in disadvantage. Yet existing legal need in these contexts may not be identified in geographic legal needs analysis. This points towards the need for the collection of comprehensive data and analysis of unmet legal need including but not limited to geographic analysis.

While we support the recommendation for national legal needs analysis, we note that legal needs analysis largely focuses on the capacity of individuals to identify and respond to their own legal need. What is missing from such analysis is the role that others may play in identifying and referring individuals for support. Our work demonstrates the potential benefits of improving the capacity of non-legal practitioners to identify and respond to unmet legal need in the people they serve, ensuring that service systems help to overcome the barriers that individuals face to seeking legal assistance. Such a perspective moves the focus from not only individual capability, but also to the capability of systems to provide support. Investment in

² Coumarelos, C, Macourt, D, People, J, MacDonald, H.M., Wei, Z, Iriana, R & Ramsey, S (2012). Legal Australia-Wide Survey: legal need in Australia, Law and Justice Foundation of NSW, Sydney

³ See: Law and Justice Foundation, Need for Legal Assistance Services (NLAS) indicators [Law and Justice Foundation - Need for Legal Assistance Services \(NLAS\) indicators - 2021 Census update. Justice Issues paper 33 \(lawfoundation.net.au\)](https://www.lawfoundation.net.au/need-for-legal-assistance-services-nlas-indicators-2021-census-update-justice-issues-paper-33)

⁴ Balmer, N.J., Pleasence, P., McDonald, H.M. & Sandefur, R.L. (2023). The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need. Melbourne: Victoria Law Foundation.

sector-led research could help build the evidence base on the benefits and impact of building non-legal practitioner capability to recognise unmet legal need.

ii. Outcomes

An NLAP outcomes framework that is ‘simple, meaningful and achievable and articulates the national, sector wide outcomes that measure the impact of legal assistance’, is a key component of the evidence base needed to understand the value of legal assistance intervention.

There has been positive progress across the sector since the Productivity Commission inquiry into Access to Justice Arrangements.⁵ For example, the work underway through the Victorian Collaborative Outcomes Working Group (to which Health Justice Australia contributes) offers important insight to inform a national approach. An NLAP outcomes framework will need to be met with dedicated investment to build the capability and capacity of the sector to implement consistent data collection and analysis to inform future service design and delivery. It will also require dedicated resourcing for research to answer questions about impact that require rigorous and comparative methodologies, and that produce results that can be generalisable beyond a single setting.

Currently, most monitoring and measurement captures activity of legal assistance, without the ability to identify what difference has been made by that activity. For many individuals and families being held in disadvantage, legal issues do not occur in isolation and likely involve a range of legal issues (requiring different forms of legal advice), intersecting with health, social and other problems. Legal intervention can therefore only go so far to improve an individual’s whole of life circumstances. As evidenced in the PULS research, even when legal advice is obtained, legal need often remains unmet, either because problems last two years or more (one of the elements of the definition of unmet legal need), because advice was insufficient, or both.

The PULS found that unmet legal need was routine, and where legal need is unmet there is no access to justice. In addition, people are often not getting what they need from legal services. Beyond analysis of legal need, of those PULS respondents who obtained help from one or more legal services, 35% indicated they had not obtained all the expert help needed⁶.

The value of legal assistance differs for each person, and a focus on a ‘legal’ outcome does not capture the contribution of legal support to a person’s improved health and wellbeing. Health justice partnership offers an opportunity to take a broader view of impact. Through our work, we are supporting integrated service responses, such as health justice partnership, to connect legal assistance to non-justice outcomes. This includes how legal assistance can support health and social outcomes, as well as how the health service may improve the capacity of an individual to achieve and sustain legal outcomes.

⁵ Productivity Commission (2014), Access to Justice Arrangements, Inquiry Report No. 72, Canberra

⁶ Balmer, N.J., Pleasence, P., McDonald, H.M. & Sandefur, R.L. (2023). The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need. Melbourne: Victoria Law Foundation p.10.

Integrating legal assistance with health and social services can also play an important role in providing trauma informed support to clients, in addition to, or despite, a successful legal outcome. In one recent evaluation of a health justice partnership, a client reflected that the partnership had a role in making them feel:

‘...safe and supported, heard and believed, and in giving them back control or agency. This led to an increased sense of self-worth. Contributing to these outcomes, the partnership provided a safe and supportive environment for clients through trauma informed practice including establishing a pathway of trust through warm referrals, minimising the need for a client to re-tell their story’⁷

An NLAP outcomes framework also needs to capture the contribution of legal assistance beyond individual justice outcomes. We see two key levels at which outcomes need to be captured to identify the value of legal help:

a) Meso (service system) level outcomes. In our work, we are demonstrating the role of partnership and collaboration in contributing to the capability of services and practitioners in responding to complex, intersecting need (e.g., health or social services staff identifying legal issues and knowing where to seek help). This is the capability that is valued by health and social services, indirectly benefiting clients, for example through building confidence and skills of frontline services in responding to complex need.

b) Macro system level outcomes. Law reform and systemic advocacy are core activities of legal service provision, and the outcomes from this work are recognised and valued through NLAP. Multidisciplinary service approaches (such as HJP) can bring a unique perspective through a shared lens on cross-government policy and service design challenges. Unfortunately, this aspect of working in partnership is not yet well understood or resourced.

iii. Evidence and Research

While monitoring data from individual services is one component of an evidence base, alone it cannot provide the depth of insight that is needed to understand what legal need is being met, what is left unmet, and the contribution of legal assistance as it relates to cross-government policy frameworks and broader wellbeing outcomes beyond individual clients and a specific focus on justice outcomes.

National Legal Aid’s Statement builds on recommendations from the 2014 Productivity Commission Access to Justice Arrangements Inquiry Report, proposing an NLAP evaluation framework with a ‘commitment of resources to evaluation design and implementation at the commencement of a new program and that prioritises analysis of innovative service delivery and service delivery that focuses on emerging issues to assist in informing service delivery design and implementation across the legal assistance sector.’⁸

The capability and capacity for data reporting and evaluation differs across the legal assistance sector. Reporting requirements already place significant burden on services, and evaluations largely focus on exploring activities through a justice lens related to distinct funding contracts, or budget initiatives. A

⁷ HJA (forthcoming research report) Sustaining Health Justice Partnerships

⁸ National Legal Aid Statement ‘Building the Evidence Base’ (2023) forthcoming submission to the NLAP Review.

national evaluation framework will need to be met with investment in building the data infrastructure and monitoring and evaluation capability across the sector.

The Annotated Bibliography which accompanies this submission summarises the most relevant evidence about the value of legal assistance beyond justice. We strongly support NLA's recommendation for a Research Agenda. This Agenda needs to be led by the legal assistance sector, and support purposeful, client-centric research, including longitudinal studies. Such research should not only focus on experiences and outcomes within the legal assistance sector but should also build understanding how the legal assistance sector connects to other service systems. This would include building the evidence base in relation to:

- when and why collaboration (services delivered in partnership or through integration) is needed
- the value of legal help to integrated responses
- outcomes of integrated approaches for the client, services and practitioners, and the broader service system
- experiences of integrated service responses from the perspectives of clients (lived experience)
- the value of legal assistance beyond the justice frame, in health, social policy and from perspective of wellbeing, as both an outcome and indicator
- the value and role of community expertise and place-based approaches in supporting local client-focused service collaboration.

3. Efficiency and Effectiveness

Health justice partnership works towards both health equity and access to justice goals by services working together on health and legal issues that may hold people in disadvantage.⁹ Policy design and funding needs to reflect what it takes to provide legal assistance collaboratively; across activity, service design and outcomes measurement including; and beyond justice measures.

The evidence consolidated in our Annotated Bibliography provides further insight into health justice partnership as a person-centred response to the social determinants of health. Issues commonly addressed in health justice partnerships include mental health, family violence and family law, financial issues and housing. Comprehensive early support for individuals and families (that may include legal assistance), also reduces level of demand across legal, health, social and justice systems. For example, health justice partnership is a way of contributing civil law assistance as part of early support for families experiencing domestic and family violence, and who are vulnerable to experiencing family law, child protection, housing and debt issues¹⁰.

Overall, evidence identifies how legal assistance contributes to the setting of cross-government policy and funding priorities, including the National Plan to End Violence Against Women and Children, the National

⁹ Forell, S (2021) Working together for client wellbeing: an outcome of health justice partnership, Health Justice Australia, Sydney

¹⁰ Forell, S and Nagy, M. (2021) Health justice insights: Health justice partnership as a response to domestic and family violence, Health Justice Australia, Sydney

Mental Health and Suicide Prevention Agreement, the National Framework for Protecting Australia's Children, and the Australia's Early Years Strategy.

Through our work we are building the knowledge around the key enablers for the effectiveness and efficiency of integrated service responses. This includes the need for investment in:

- the capacity (resources and people) and capability (skills, mindsets, and confidence) of practitioners to partner in person-centred practice, and
- research to better understand the contribution of partnership and integration to the capability and capacity of services to respond to intersecting, complex need.

Legal assistance services prioritise people most vulnerable to experiencing legal issues and who have lower 'legal capability'. However, legal assistance practitioners alone are not equipped to respond to the issues they are seeing, and partnering with non-legal providers provides a holistic response that recognises the interconnectedness of social and legal needs. Non-legal workers, who are often seeing clients in settings of trust, can link people experiencing legal need with legal help, whilst simultaneously 'holding' the trust of the client, keeping them engaged in the service system. But that too requires legal capability – to recognise the issue as one with a legal solution, to know where and when to seek that help.

i. Priority clients and wrap around services

Across the health justice landscape, we see a spectrum of different forms of integration and collaboration in a range of health and social care settings, including domestic, family and sexual violence response services, community health services, mental health and wellbeing centres, alcohol or other drug (AOD) services, hospitals and Aboriginal and Torres Strait Islander community-led services. These settings provide the opportunity to scale legal help through health and community services.

For some health justice partnerships, such as those working in response to domestic, family and sexual violence, this involves working with people who have experienced trauma, and who are dealing with a range of complex legal and non-legal issues. As a result, clients often need long term and intensive support. Due to trauma, they may struggle to participate in legal processes or may disengage for extended periods of time. They may have negative experiences of the criminal justice system and are engaged in support services they trust for their social and health concerns.

Through partnership approaches that bring legal help into settings focused on healing and recovery, this reorientates shared service delivery towards a shared purpose, with all outcomes, including legal outcomes, in support of this shared recovery goal. For instance, in a sexual assault service working in a long-term health justice partnership with a community legal centre, the partnership provides a safe and supportive environment for clients through trauma informed practice, including establishing a pathway of trust through warm referrals, minimising the need for a client to re-tell their story repeatedly. Counselling staff on site are able to provide clients with personal support in legal processes as well as provide the expert reports required for legal processes, with input from the lawyers to help navigate legal processes and client expectations.

Mental health and wellbeing services are supporting people who are seeking assistance for their mental distress or ill-health, but they may also be experiencing a range of legal issues. People may be in crisis due

to the intersecting issues they are seeking help for: if not addressed, they may exacerbate mental distress and individual and family wellbeing.¹¹

Since 2021 Health Justice Australia has been working with mental health provider Neami National to build, sustain and learn from health justice partnership. Neami and Health Justice Australia developed and used site-based legal needs and opportunity assessment methods, that use service data and staff insights to identify:

- The type of legal issues that consumers (clients) are vulnerable to and presenting with;
- The capability of Neami's (all non-legal) staff to identify and respond to these issues, including their confidence, skills, knowledge, relationships, together with remit, role and resources; and
- The understanding and attitude of Neami's staff to lawyers and the law.

A wide range of legal issues are experienced by Neami's consumers, most commonly credit, debt and social security issues, housing, family law and family violence (core issues for health, social policy, wellbeing outcomes). Two-thirds (67%) of respondents (Neami's staff) indicated that they spent around 50% or more of their time 'responding to these types of issues'.¹²

Staff felt they need more support to address legal issues facing their clients, particularly more knowledge of other services, connections with professionals in other organisations and connections with community; and additional processes, tools, and resources, and time to manage their case load. The results identify the value of connections between legal assistance services and the service sites where people with legal need are seeking help. Secondary consultation and collaborative assistance through health justice partnership also builds these practitioner capabilities¹³.

ii. Early support

Currently the emphasis of legal assistance investment, and the general understanding of the role of legal intervention, is at a point of crisis. Early intervention or early support is often defined in relation to the timing of a legal process. However, 'early' in a legal process may be 'late' in terms of the complexity of underlying issues in the lives of individuals and families, and the impact that these issues ultimately have once they reach crisis point¹⁴.

For example, family adversity has detrimental impacts on the health and wellbeing of children across the life course, increasing the lifetime risks of anxiety, depression, suicidality, obesity, cancer, and heart disease. Mitigating these impacts early in life should be a public mental health priority because these conditions are common, preventable, and inequitably distributed. More than half of all Australian children have been exposed to two or more adversities by the age of 11 years, with adversities clustering in children from low socioeconomic backgrounds and minority ethnic and linguistic groups.

11 Nagy, M. and S. Forell (2020). Legal help as mental healthcare. Health Justice Insights. Sydney, Health Justice Australia

12 Health Justice Australia (2022). Legal need in mental health services: A data snapshot.

13 Rajan, R, Carlow, M, Forell, S and Nagy, M (2021) Secondary consultation: a tool for sharing information and transferring knowledge in health justice partnership, Health Justice Australia, Sydney

14 Forell, S. (2015). Is early intervention timely? Justice issues. Sydney, Law and Justice Foundation of New South Wales. 20.

Childhood adversity may be understood as another lens on legal need and the *antecedents* of legal need: issues that if not addressed, lead to escalating outcomes. In the child and family hubs established as part of the Centre of Research Excellence (CRE) into Childhood Adversity and Mental Health, 90% of participating families in the Victorian hub and 88% of those in the NSW hub reported at least one ‘adversity’ affecting their children. 74% of families in the Victorian Hub and 68% of families in the NSW hub reported that at least one of these adversities were ‘outside the home’, issues such as money, housing, employment and isolation. Four out of five families (78% of families in the Victorian hub and 81% of those in the NSW hub) reported one or more adversities ‘within the home’ (e.g., parental ill health or disability, and/or alcohol or drug use, child neglect or abuse, harsh parenting, family conflict and family violence)¹⁵.

Through crime prevention evidence, we also know that family and child adversity are connected to poor justice outcomes. Early support for families, including positive parenting and around early education and transition to school, is well placed to support both health and justice outcomes.¹⁶

Integrating legal assistance into multi-disciplinary child and family hubs provides the opportunity to identify and address legal issues that may go unaddressed, and which can often dominate clinical encounters with families, lead to missed appointments, disrupt the practitioner-client relationship and worsen health outcomes¹⁷

Through the work of the CRE, Health Justice Australia has supported the integration of legal assistance into two community health services.¹⁸ Whilst there is more to learn about impact, the inclusion of help with civil and family law issues in these integrated hubs increases the range of ways practitioners can work together to address family adversity. For example, there has been an increase in the awareness of health staff around how local legal services can support families facing adversity, building their legal capability to recognise what is a legal issue and connect people to appropriate help.

Child protection systems aim to protect children who are at risk of abuse or neglect, or whose families cannot provide care and protection. Yet, these systems are not ‘effective in improving life chances for vulnerable children and families.’¹⁹ The National Framework for Protecting Australia’s Children²⁰ identifies the need for a national approach to ‘early intervention and targeted support’, also known as ‘early support’. This recognises that ‘the best way to protect children is to prevent child abuse and neglect from happening in the first place’ by providing ‘families with the assistance they need before they come into contact with the statutory child protection system’.²¹

The role of legal help is a gap in most family support services, and in the policy directions on early support. Currently, the emphasis of legal assistance, including ‘early intervention’, for child protection is focused on

¹⁵ Hall, T., et al. (2023). "Identifying and responding to family adversity in Australian community and primary health settings: A multi-site cross sectional study." *Frontiers in Public Health* **11**: 1147721.

¹⁶ Homel R *et al.* (2015). "Preventing the onset of youth offending: The impact of the Pathways to Prevention Project on child behaviour and wellbeing." *Trends & issues in crime and criminal justice* no. 481. Canberra, Australian Institute of Criminology.

¹⁷ Hall, T., et al. (2023). "Identifying and responding to family adversity in Australian community and primary health settings: A multi-site cross sectional study." *Frontiers in Public Health* **11**: 1147721.

¹⁸ Community health services (CHSs) provide state-funded primary healthcare in Victoria, to people with, or at risk of, poorer health.

¹⁹ Tune, D. (2015). *Independent Review of Out of Home Care in New South Wales* [Final Report P.6].

²⁰ Australian Government. (2021). *Safe and Supported: The National Framework for Protecting Australia’s Children 2021-2031*. P. 26

²¹ Chia, J. (2023). *Health justice partnership as early support for children and their families*. Sydney, Health Justice Australia

'early' in the statutory process, i.e., once a notification has been made to child protection, rather than in the prevention of that notification by addressing the underlying legal and other needs that give rise to an identified risk in the first place.

Health justice partnership can provide holistic support in a timelier way, particularly where legal help is not typically provided by maternal or family support services. By incorporating legal assistance into early support for children and their families, services have the opportunity to better address the underlying health, legal and other problems that drive interaction with the child protection system, responding to the early signs of problems or challenges and intervening before issues compound or get worse²².

iii. Legal assistance for Aboriginal and Torres Strait Islander people

As the issues paper recognises, Aboriginal and Torres Strait Islander people are over-represented across the justice system, and face barriers to accessing legal assistance. Aboriginal and Torres Strait Islander people also have disproportionately poorer health and social outcomes, with key socio-economic priorities and reforms under Closing the Gap identified as relevant for NLAP. The contribution of legal assistance to these priorities goes well beyond outcomes related to criminal justice.

Across our network of over 100 health justice partnerships, 14 involve Aboriginal and Torres Strait Islander community-controlled health, social and/or legal services. The evidence²³ is clear that community-led service approaches are key to improving social, health and justice outcomes through culturally responsive, safe service provision that recognises the intersectionality of issues in the lives of Aboriginal and Torres Strait Islander people.

There are many reasons why Aboriginal and Torres Strait Islander people may seek or need to be referred to legal help from non-Aboriginal services. A contributing factor is high demand, as well as gaps in capacity exacerbated by ongoing challenges around sustainable funding for community-controlled legal services.

Partnership between Aboriginal and Torres Strait Islander community-controlled services, and non-Indigenous led organisations supports the capacity of services to respond to legal and other intersecting needs of Aboriginal and Torres Strait Islander people. However, to support self-determination, partnerships must centre Aboriginal knowledge and leadership, with this being reflected in funding, governance and business practices. Self-determination also extends to the understanding of quality and success in the delivery of services and sovereignty over the data used to assess impact and value.

The structure and administration of funding for Aboriginal and Torres Strait Islander legal services (ATSILS) has restricted the capacity for ATSILS to engage in partnership-based work and innovation in service approaches, compared to the rest of the legal assistance sector. The result has been structural disadvantage for ATSILS to explore approaches that improve early support and prevention of crisis.

²²Chia, J. (2023) Health Justice Australia Health justice partnership as early support for children and families <https://healthjustice.org.au/resource/insights-paper/health-justice-partnerships-as-early-support-for-children-and-their-families/>

²³ See: <https://www.niaa.gov.au/sites/default/files/publications/niaa-closing-the-gap-annual-report-2022.pdf>

4. Supporting sector learning and innovation, and building workforce capability and capacity

Health justice partnership is a way of redesigning service systems to improve the effectiveness of health and legal services and practitioners in responding to complex intersecting need. It does this by building the knowledge, skills, mindset, resources, remit and connections to provide more comprehensive person-centred care to people with complex intersecting legal and other need. Health justice partnership supports efficiency of investment across government, not only through improved outcomes for people seeking help, but also by increasing the capability and understanding of health and non-legal staff to know where to go when legal issues arise in future, thereby increasing the reach of the interventions.

Community legal education (CLE) is a core function of legal assistance services. Partnership across sectors, which enables non-legal services to be the recipients of CLE, increases the reach and impact of CLE beyond individuals. CLE supports the capacity of non-legal services to better recognise and more effectively respond to legal need.

However, to enable health and legal services and practitioners to effectively partner, they need to be supported through administrative and funding structures that invest in building the capability and capacity of services to undertake this change in the way they work.

i. Remuneration

There is a recognised workforce crisis in the community legal sector around the recruitment and retention of staff, as there is across the broader health, social and community service landscapes. Aboriginal and Torres Strait Islander community-controlled organisations, and services in rural, regional and remote areas are disproportionately impacted, experiencing even greater challenges around recruitment and retention of staff.

Underpinning this crisis are inconsistencies and inequity in remuneration across the legal sector. Increases in the remuneration of lawyers and other professionals working in the community legal assistance sector is undoubtedly needed to attract new graduates and to support professional development pathways for existing practitioners. This inequity in remuneration needs to be considered within the context of other Government initiatives, for example, recent Commonwealth Government measures relating to pay indexation in the social and community service sectors excluded legal assistance services funded through NLAP.

ii. Practitioner burnout

The Covid-19 pandemic has made even more visible the risk of isolation and fatigue among health, legal assistance and other practitioners. Global trends point to the organisational and systemic drivers of burnout among frontline workers.

The prevention of burnout among health, social and legal service practitioners is in itself a valuable outcome. It is also a factor that is likely to shape or influence the outcomes achieved by integrated approaches such as health justice partnership, because practitioners who are struggling themselves are unlikely to be able to respond appropriately to complex problems in the lives of the patients or clients

seeking help. While more evidence is needed here, early insights from our work measuring burnout across the services we work with suggests that well-resourced partnership (with strong leadership capability) may contribute to reducing burnout by equipping practitioners with a broader range of tools, providing them with greater workplace flexibility, and supporting them to undertake work closely aligned with their values.²⁴

The World Health Organisation describes burnout as an ‘occupational phenomenon’ rather than a medical condition²⁵. These dynamics reflect how the structure of work can enhance or undermine practitioner and service leaders’ capability and wellbeing. The current administrative and reporting structure of NLAP, as well as the competitive nature of funding to the community legal assistance sector impacts innovation across the sector, as well affecting the individual wellbeing of practitioners. Decisions made in the context of these administrative, reporting and funding structures have the potential to support practitioner capability and protect against burnout of practitioners. Conversely, decisions in the absence of this understanding have the potential to erode capability and drive or exacerbate burnout. These decisions set the structures within which services are delivered. They impact directly on the wellbeing of the workforce relied upon to achieve service outcomes in the community.

Service and staff commitment to health justice partnerships needs to be underpinned by adequate resourcing and investment in the capability of practitioners to partner. This investment should also extend to funding data collection and evaluation of collaboration.

iii. Partnership capability

When Health Justice Australia first worked with health justice practitioners in 2016 to set out the key health justice partnership outcomes²⁶, practitioners identified the benefit of having a broader range of expertise at hand to deal with intersecting problems in people’s (patients/clients) lives. Practitioners also recognised that working in a new, insecure, and unfamiliar environment (such as a health justice partnership) or speaking a new workplace language could have a negative impact on their wellbeing.

Hence, in order to benefit from the positive outcomes related to working in integrated, collaborative service environments, with multi-disciplinary teams, practitioners and service leaders require partnership and collaborative skills that go beyond professional legal training. These skills are increasingly being recruited for within legal assistance services to support integrated service approaches, and require development of capability, and professional pathways for those leaders and practitioners working in this space.

There is also a need to invest in ongoing research to understand these capability needs to support sector workforce development. This includes considerations relating to peer mentoring and structured support for

²⁴ Health Justice Australia supported participation of practitioners working health justice partnership in the Global Workforce Burnout Study, see here: [2021 Burnout Report \(infinite-potential.com.au\)](https://infinite-potential.com.au/2021-burnout-report/).

²⁵ See: World Health Organisation (2019), [Burn-out an "occupational phenomenon": International Classification of Diseases \(who.int\)](https://www.who.int/news-room/fact-sheets/detail/burnout-occupational-phenomenon) (accessed October 9, 2023)

²⁶ See: Health Justice Australia and Centre for Social Impact (2020) Health justice partnership theory of change [Health justice partnership theory of change - Health Justice Australia](#)

practitioners working in multi-disciplinary environments, particularly in rural, regional and remote areas where they may not readily access professional support structures.

iv. Funding models and managing demand over time

Short-term funding, competitive grant processes, and the fracturing of funding on the basis of jurisdiction, undermine innovation in legal assistance service delivery²⁷. This impacts on the capacity and willingness of services to invest in partnership approaches ('the glue'), including the time needed to build foundational relationships across service sectors, identify shared goals and resource allocations, and to invest in building capability around partnership of frontline staff. The Productivity Commission has previously recommended Australian governments should require all programs (of over \$10 million) delivering community services through not-for-profit organisations to set aside a proportion of the program budget to a program related social innovation fund. The Productivity Commission recommended that the fund 'should support trials of new approaches to service delivery, including evaluation of their cost-effectiveness'²⁸.

We recommend this approach be taken through the next NLAP, to support service confidence and capacity in pursuing health justice partnership and other cross-sector integrated service approaches, attract investment from other portfolios in support of integrated services approaches for health and social outcomes, and to ensure evidence gathering and shared learning from these innovations.

iv. Supporting sector learning, development and innovation

The legal assistance sector has undergone considerable transformation through the period of the current NLAP. Examples include the leadership of services in initiating health justice partnership and other integrated service approaches, the sector-led investment in exploring shared outcomes, as well as the innovation of services in response to recent natural disasters across Australia.

The next NLAP has an opportunity to bring coherence, strategy and planning to the continuing evolution of the sector, by recognising the role and value of:

- Creating, translating and disseminating knowledge about the value of legal assistance across and beyond the legal assistance sector
- Building the capability of practitioners and services, and the broader service system
- Providing quality, timely policy advice to Government.

We recommend that this be recognised as a core function under the next NLAP, with a dedicated funding stream to support this work.

²⁷ The Commonwealth Government, Department of Social Services, is currently undertaking a consultation exploring the administration and funding arrangements of community sector organisations, 'A stronger, more diverse and independent community sector' - [A stronger, more diverse and independent community sector | engage.dss.gov.au](https://engage.dss.gov.au). This consultation is relevant to and should have implications for design and administration of funding to the community legal assistance sector, and we urge the NLAP review to consider this whole of Government process.

²⁸ See: Productivity Commission (2010) XLVIII Recommendation 9.5, Contribution of the Not-for-Profit Sector, Research Report, Canberra.



P +61 2 8599 2183
E healthjustice@healthjustice.org.au
W www.healthjustice.org.au

Health Justice Australia is a charity registered with the Australian Charities and Not-for-profits Commission. Health Justice Australia is endorsed as a public benevolent institution and has deductible gift recipient status (generally, donations of \$2 or more are tax deductible, depending on your taxation circumstances).

Health Justice Australia ABN 55 613 990 186