



Submission to the Independent Review of the National Legal Assistance Partnership 2020-2025

26 October 2023

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The Tarwirri logo was designed by artist Mandy Nicholson proud
Wurundjeri-willam / Dja Dja wurrung / Ngurai illum wurrung woman.

Acknowledgement

1. Tarwirri pays its deepest respect to traditional custodians across Australia and its islands, particularly Elders past, present and emerging. Tarwirri acknowledge all Aboriginal and Torres Strait Islander peoples and pay respect to their knowledge, Country, cultures, communities, and continued histories. Tarwirri strongly notes that sovereignty has never been ceded.

Executive Summary

2. The Indigenous Law Students and Lawyers Association of Victoria Tarwirri Incorporated ('Tarwirri') welcomes the opportunity to contribute and provide a submission to the Attorney General's Department Independent Review of the National Legal Assistance Partnership ('NLAP') via the National Legal Assistance Partnership Review Issues Paper.
3. Tarwirri is not a Community Legal Centre ('CLC'). However, Tarwirri is the only association for Aboriginal and Torres Strait Islander law students, law graduates and legal professionals in Victoria. Tarwirri also supports the Aboriginal and Torres Strait Islander communities to its best capabilities by referring community members to CLCs to seek legal advice.
4. The purpose of this submission is to outline the strong requirement for increased funding for CLCs to be specifically directed towards improving and addressing cultural safety concerns and requirements in workplaces which impact Aboriginal and Torres Strait Islander peoples.

About Tarwirri

5. Tarwirri is the not-for-profit membership body based in Victoria comprising Aboriginal and Torres Strait Islander legal professionals, law graduates and law students. Tarwirri aims to support and enhance the representation, professional profile, and excellence of its members within the Victorian legal landscape and the broader communities. In addition, we recognise our place within the Victorian Aboriginal and Torres Strait Islander communities by contributing to the awareness of legal and policy issues affecting Aboriginal and Torres Strait Islander peoples.
6. The Tarwirri Committee and Executive Officer is comprised of highly dedicated Aboriginal lawyers and law students, all of whom have various legal skills in numerous areas of law and a strong commitment to Tarwirri.
7. A Tarwirri full membership is available and complimentary to anyone who:
 - Is an Aboriginal and/or Torres Strait Islander person;
 - Is studying law in Victoria; or
 - Who has graduated in law from a university or other institution and currently resides in Victoria; or

- Who is studying or has previously graduated in law at a university or other institution outside Victoria, and;
 - Who currently resides in Victoria and whose membership is approved by the committee.
8. Tarwirri aims to engage with members during their studies and support their transition into the legal profession. Tarwirri seeks to support the achievement of members' individual aspirations and career development by representing and promoting Aboriginal and Torres Strait Islander legal professionals.
 9. Tarwirri supports its members in various ways, including providing assistance and support regarding legal skills and information programs, access to clerkships, internships and job placement opportunities, access to scholarships and bursaries, advice on job applications, cover letter and resume writing, access to mentors, among others.
 10. Tarwirri has approximately 150 members on its member register. A membership audit is currently being undertaken. Members range from law students and law graduates to legal professionals.

Data of Aboriginal and Torres Strait Islander Peoples Practising Law

11. As per the Victorian Legal Services Board and Commissioner ('VLSB') Report 2021-2022 practising year, there were 26,651 lawyers with a legal practising certificate in Victoria, with less than 1% of Victorian lawyers identifying as Aboriginal and/or Torres Strait Islander.¹
12. The Australian Bureau of Statistics ('ABS') reported that 3.8% of the Australian population identifies as Aboriginal and/or Torres Strait Islander, meaning that the legal profession is not representative of the national population.²

What is Cultural Safety and Awareness?

13. Cultural safety and awareness in the workplace refer to the inherent safety and protection of Aboriginal and Torres Strait Islander peoples. Cultural safety is fundamentally different from cultural competency in that it exceeds recognition and understanding. A culturally safe workplace will undoubtedly thrive over one which is not.³

¹ [2022 Victorian Legal Services Board and Commissioner Annual Report](#), p. 24.

² Australian Bureau of Statistics. (2021, June 30). *Estimates of Aboriginal and Torres Strait Islander Australians*. ABS. <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/latest-release>.

³ Australian Human Rights Commission, *Cultural Safety Background Paper*, January 2018; Ruth DeSouza, 'Wellness for All: The Possibilities of Cultural Safety and Cultural Competence in New Zealand' (2008) 13(2) *Journal of Research in Nursing* 125.

Evident Cultural Concerns within Workplaces

14. Discrimination against Aboriginal and Torres Strait Islander peoples is one of Australia's most predominant forms of discrimination. Aboriginal and Torres Strait Islander peoples experience numerous disadvantages, including in the workplace, compared to the general population. The Diversity Council of Australia's Inclusion@Work Index found that 38% of Aboriginal and/or Torres Strait Islander employees had personally experienced harassment and/or discrimination in the previous 12 months, which is the highest rate of workplace discrimination and harassment of any demographic group.⁴
15. The Diversity Counsel of Australia also reported that Aboriginal and Torres Strait Islander employees consistently report the highest levels of exclusion in workplaces, with 1 in 2 reported experiencing some form of discrimination or harassment the previous year. It is also reported that Aboriginal and Torres Strait Islander employees are twice as likely as non-Indigenous employees to have experienced discrimination and harassment in the previous 12 months.⁵
16. Research (Gari Yala – Speak the Truth: Centring the experiences of Aboriginal and/or Torres Strait Islander Australians at work) from the Jumbunna Institute of Indigenous Education and Research and Diversity Council Australia on the experiences and insights of 1,033 Aboriginal and Torres Strait Islander employees or various workplaces are shown below:
 - Aboriginal and Torres Strait Islander employee's insights about sharing their cultural background:
 - i. 78% said that sharing their Aboriginal and Torres Strait Islander background at work is vitally important, but it can be complicated;
 - ii. 63% experience high identity strain – the strain Indigenous employees feel when they, or others, view their identity as not meeting the norms or expectations of the dominant culture in the workplace;
 - iii. 44% reported hearing racial slurs sometimes, often or all the time
 - iv. 39% carry the burden of a high cultural load, which comes in the form of extra work demands and the expectation to educate others;
 - v. 38% reported being mistreated because of their Indigenous background sometimes, often or all the time; and
 - vi. 59% reported experiencing appearance racism – receiving comments about the way they look or 'should' look as an Aboriginal or Torres Strait Islander person;
 - Racism in the workplace significantly impacts job satisfaction; Aboriginal and Torres Strait Islander employees were:

⁴ The Diversity Council of Australia's Inclusion@Work Index 2021-2022. <https://www.dca.org.au/inclusion-work-index-2021-2022>.

⁵ Ibid.

- i. 2.5 times less likely to always be satisfied with their job compared to those who rarely or never experienced unfair, racist treatment;
 - ii. 3 times less likely to always recommend their workplace to other Indigenous peoples; and
 - iii. 2 times as likely to be looking for a new employer in the next year.
- Workplace supports are ineffective for Aboriginal and Torres Strait Islander peoples:
 - i. Only 1 in 3 people received workplace support when they experienced racism; and
 - ii. Only 1 in 5 worked in organisations with both a racism complaint procedure and anti-discrimination compliance training that included reference to Indigenous discrimination and harassment.⁶

Concerns Expressed by Tarwirri Members

17. Over the years, Tarwirri has received concerns from members regarding cultural safety, lack of cultural awareness and direct and indirect racism within the legal workplaces in which they are employed. Tarwirri has been addressing these concerns on an individual basis and is ensuring that members receive the required support, such as counselling and wellbeing services, from specific providers. Members who have experienced these issues tend to resign or leave the legal sector. This impacts their health, wellbeing, future professional careers and financial situation, among others.
18. Tarwirri is in the process of creating a survey regarding cultural safety concerns and practices, including any racism and discrimination someone may have experienced within their current or previous workplace/s. The survey results will provide Tarwirri with a thorough understanding of what members are experiencing and what steps Tarwirri can take to support its members in this aspect.
19. The adverse effects of cultural safety issues, discrimination, and racism, including physical and mental health impacts, as well as feelings of exclusion and safety worries, are extensive.⁷

Specific Funding Allocated to CLCs to Focus on Cultural Safety is Fundamental

20. Although most CLCs have cultural safety and awareness training for their employees and volunteers, among others, how the training is conducted, whether it is compulsory, and how often it is administered is unknown. The research and statistics previously provided indicate that the training (currently in place) may not be highly effective, and it is evident that further action is required to build safer workplaces for Aboriginal and Torres Strait Islander staff. The funding provided to

⁶ Diversity Council Australia/Jumbunna Institute (Brown, C., DAlmada-Remedios, R., Gilbert, J. OLeary, J. and Young, N.) *Gari Yala (Speak the Truth): Centreing the Work Experiences of Aboriginal and/or Torres Strait Islander Australians*, Sydney, Diversity Council Australia/Jumbunna Institute, 2020.

⁷ Shepherd BMC Medical Education (2019) 19:14. Doi: 10.1186/s12909-018-1450-5.

CLCs is likely 'spread thin' and allocated to areas where it is believed to be most required. Therefore, increasing funding to CLCs would provide CLCs with the opportunity to focus more on cultural necessities; suggestions include creating and sourcing adequate training providers, mandating the training, implementing other cultural activities and education sessions on top of the training, conducting workplace surveys regularly, hold sessions on the colonial history and previous policies that have shaped Australia today, and revising recruitment practises (ensuring cultural needs such as leave for cultural reasons is upheld), and creating a designated position for someone to uphold these requirements would also be ideal.

21. Cultural safety and awareness training should be implemented and made mandatory in all CLCs nationwide. By doing this, a flow-on-effect will naturally occur and thus increase diversity and representation, which is also beneficial to clients and those who seek assistance from the CLCs. It is imperative that CLCs provide opportunities for critical self-reflection in order to combat racism and unconscious bias, and adequate cultural safety and awareness training can do this. Representation of Aboriginal and Torres Strait Islander peoples at all levels in an organisation is vital to creating safe, respectful and inclusive workplaces.
22. Government commitment to ongoing funding is essential to support CLCs to continue operating in a fair and just manner; however, further funding is required and will benefit not only employees but clients and the broader communities, thus also working towards the National Agreement on Closing the Gap.



Tekan Cochrane

Executive Officer

Indigenous Law Students and Lawyers Association of Victoria Tarwirri Incorporated

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