

Executive Summary

The Inner City Legal Centre (**ICLC**) was established in 1980 by a group of local community members who identified the need for a community legal centre in the local area.

ICLC's catchment area for general legal services stretches across Sydney's inner city and Eastern Suburbs. We provide state-wide services for those identifying as LGBTQI+, sex workers and vulnerable employees through the Employment Rights Legal Service, which we provide in collaboration with neighbouring CLC's Redfern Legal Centre and Kingsford Legal Centre.

All these services are provided by the ICLC off the smell of a proverbial oily rag.

Our 2022 EOFY income amounted to less than \$900,000.00. This was made up of funding received under the NLAP and a modest amount of grants and donations. Just about 100% of our income goes towards staff expenses. We receive grants and donations for everything else, including the rental subsidy for the converted underground Council carpark that is now our office. We have almost no budget for core operational expenses; our office fridge recently broke down and we briefly considered running a snap crowdfunding campaign to purchase a replacement.

Despite the resourcing inequality, we have been proudly supporting LGBTQI+ people and sex workers for more than forty years. For the majority of this time we have done so without any dedicated funding under the NLAP, as neither of these groups are priority populations. Grants, donations and volunteer labour keep our specialist services afloat. Although we have the established reputation for providing services to the LGBTQI+ and sex work communities, our available resources often do not match our reputation and the expectations of our community. Individual clients and community stakeholders often express shock and disappointment when we are unable to provide them with the comprehensive services that they need.

The lack of a dedicated and funded specialist service for LGBTQI+ people and sex workers in NSW is certainly an anomaly given our significant history in the Gay and Lesbian rights movement and Sydney being the birthplace of Mardi Gras. The ICLC has become the only specialist provider in NSW, apparently by default and without the support of dedicated funds.

Under the NLAP, specialist services exist for other priority groups, some prominent examples include the Aboriginal Legal Service, Senior Rights Service, Australian Centre for Disability Law and Women's Legal Service.

We are pleased that this review of the NLAP considers LGBTQIA+ people an "emerging" priority group for provision of dedicated legal assistance services. We agree.

Our team, like many other underfunded CLC's that will be making a submission to this review, experience high levels of staff turnover as a result of burnout, unrealistic workloads, vicarious trauma and stress. We regularly lose talented staff who move on to positions in government that are able to offer higher levels of remuneration and support. We regret that we often have no choice but turn eligible clients away as a result of our limited capacity. We are optimistic that the next iteration of the NLAP agreement will confront these systemic issues and increase support to the CLC sector as a whole.

It is our recommendation that the ICLC be awarded sufficient funds to formally establish a specialist CLC in NSW that will support LGBTQI+ sex worker communities. As the ICIC is already established and trusted in community, we are ideally placed to expand.

Costing for a dedicated LGBTQI+ Legal Service in NSW.

An annual grant of at *least* \$2 million dollars would enable the ICLC to develop a dedicated legal service for the LGBTQI+ community and sex workers. It is our view that this is the minimum amount that would be required to establish a dedicated legal service that is **safe** and **sustainable**.

By **safe**, we mean a workplace that supports staff wellbeing, is culturally competent, sets realistic workloads and is able to safeguard against burnout and vicarious trauma. By **sustainable**, we mean an organisation that can adapt and grow, can afford core operational expenses, can adapt to client demand and can absorb the impact of unexpected events. The ICLC's current budget does not support safety or sustainability.

We note that the Victorian Government recently awarded a contract to Fitzroy Legal Service to establish the specialist legal service Q+ Law in Victoria with \$1.6 million.¹ Q+ Law is a partnership between Fitzroy Legal Service and Queerspace to support LGBTQI+ people in Victoria. Our costings are partially based on this start up amount for Q+Law, taking into account the larger population in NSW.

¹ *Landmark Legal Service For Victoria's LGBTIQ+ Communities*, Victorian Justice and Community Safety, <https://www.justice.vic.gov.au/landmark-legal-service-for-victorias-lgbtq-communities>

This funding amount would support vital new operational and non-legal positions that would include IT, Communications, a volunteer co-ordinator, a full-time policy lawyer and community-based peer workers. We would also have sufficient funds to increase our reach to RRR areas by increased online resources and support. We could establish Health Justice Partnerships with specialist LGBTQ+ medical services. Our current funding is only able to cover legal and administrative positions, which alone cannot support a thriving and diverse community-based service.

Our Proud History

Since the ICLC was formed in 1980, we have made numerous law reform submissions on legal issues concerning LGBTQI+ communities and sex workers. We have also published extensive CLE materials, recent examples include the [Spotlight On Inner City Community Legal Centre Sex Workers Legal Services](#) and [Spotlight On Inner City Legal Centre Trans & Gender Diverse Legal Service](#) podcasts.

In 2011, we undertook a comprehensive review of legal need in the LGBTQI+ Community,² which we hoped would make a compelling case for increased resources. Regrettably, this outcome did not materialise.

In preparation for this review, we are undertaking a similar survey in collaboration with the LGBTI Legal Service in Queensland that will be presented in the LGBTI Legal Service submission. It has been unnecessary for us to further persuade ourselves of the unmet legal need in our communities. We hold hope that on the occasion of this review, our State and Commonwealth funders will agree.

Please find annexed to this submission a copy of the ICLC LGBTQ+ Legal Service and Sex Worker Legal Service chronology and a 6 month snapshot of services provided to priority clients residing outside of the ICLC's catchment area.

We hope this service information will support a recommendation that a specialist service for LGBTQ+ communities and sex workers be formally established in NSW as a key outcome of this review.

The ICLC wishes to thank Squire Patton Boggs volunteer secondee Matthew Flanagan-Roberts and Practical Legal Training student Nick Maitland for preparing the bulk of this submission.

ICLC response to Review Questions

Legal Assistance for Aboriginal and Torres Strait Islander people

ICLC's focus is on advising the trans community via our Trans and Gender Diverse Legal Service (**TGDLS**), LGBTQI+ via our Safe Relationship Project (**SRP**) and sex workers via our Sex Worker Legal Service (**SWLS**). These services capture Aboriginal and Torres Strait Islander people. Presently Aboriginal and Torres Strait Islander people who are also LGBTQI+ or are sex workers have little choice in the services that meet their specific cultural needs.

ICLC is establishing a partnership with BlaQ, the peak Aboriginal Community-Controlled organisation for Aboriginal LGBTQI+ people and communities in NSW.

We regularly receive referrals from the Aboriginal Legal Service and other community legal centres for Aboriginal and Torres Strait Islander clients who are LGBTQI+ as these organisations recognise that a specialised service, this is especially pronounced for Aboriginal clients who are trans or gender diverse.

In our experience, many Aboriginal and Torres Strait Islander clients who are LGBTQI+, feel that the ICLC is a safe space for them to come to for advice related to those issues. It is our view that those clients should be supported to have choice in determining the service that will be the safest and most appropriate for them.

A diversity of available services is essential in situations where a conflict of interest may arise. Our SRP Project, for example works with LGBTQI+ people who are experiencing domestic violence. We are only able to assist one party in a relationship involving domestic violence, so it is important for us to have an alternative referral option for same sex couples in this situation. This is especially important for First Nations LGBTQ+ people who may be at higher risk of domestic and sexual violence.

To what extent has the NLAP achieved the overall objectives and outcomes?

Guiding Principle 1 of the National Strategic Framework provides that service delivery should focus on people facing disadvantage.

LGBTQI+ people and sex workers have been historically excluded as priority populations under the NLAP. We submit that the NLAP has not achieved its objectives in relation to these populations.

We understand that catchment-based funding is distributed on the basis of economic data in a geographic area. LGBTQI+ people and sex workers are not counted in the census, though they have always gravitated towards inner city areas as a place to find safety. Again, our current funding arrangement does not reflect the legal need demonstrated in the communities that we serve.

The ICLC has consistently funded specialised services using the limited and insufficient funds provided under the NLAP and through our own fundraising initiatives and precarious grant applications.

² *Outing Injustice: Understanding the Legal Needs of the lesbian, gay, bisexual, transgender and intersex communities in New South Wales*. Inner City Legal Centre, 2011.

Unstable income creates significant risk for our specialist services. The ICLCs' Sex Worker Legal Service historically receives grants of support from the City of Sydney Council, however these funds ceased at the time of sex work being partially decriminalised in NSW. Despite partial decriminalisation, legal need has not abated. We are experiencing an increase in requests for legal assistance from sole traders and employees in sexual services venues. This advice often relates to workplace rights and WHS, it is highly specialised and the clients are often particularly at risk of exploitation by employers and clients

The ICLC's Trans and Gender Diverse was founded in 2018 by the ICLC in partnership with Dentons. It is the first pro bono legal service in Australia established specifically to meet the needs of the trans and gender diverse community. Dentons provide secondees for the provision of this service, which continues to expand at a rapid pace, however core ICLC funding has not expanded to support adequate supervision and training of Denton's secondees to provide this service. In our experience, it is not possible to fully outsource our critical work to pro bono, particularly as all CLC's are required to provide supervision and comply with data entry standards under our insurance, accreditation and funding agreements.

The ICLC's Safe Relationship Project was established in 2009 to provide advice, support and representation to LGBTQI+ people who are experiencing domestic violence or escaping an abusive relationship. The project remains fundamental for providing court representation and support during proceedings and applications for Domestic Violence Orders (ADVO). For LGBTQI+ clients, our service alleviates the fear and stress of attending court and sources many clients who otherwise may have not been to apply for an ADVO. The SRP is just one of several incarnations of projects to support LGBTQI+ that ICLC has been pioneering since 1980. We receive no specialist funding to operate this service, even though it is the only one of its kind in NSW.

We are currently crowdfunding to cover the cost of our one full time SRP solicitor, as our core annual funding for DV/SV services is less than the wage of one full time position.

Our clients must be included as priority populations in the next phase of NLAP funding if the NLAP Guiding Principles are to be realised.

Legal needs

To what extent does current legal assistance meet the overall scale and breadth of the legal needs of disadvantaged Australians?

ICLC Response:

Services funded under the NLAP do not currently meet the scale and breadth of the legal needs of our LGBTQI+ and sex worker priority groups.

As above, LGBTQI+ people are not counted in the census, nor are they counted as a priority group under the NLAP.

Accordingly allocation of resources for health, welfare and legal support services for this community is, at best, guesswork.

We have observed a particular need to increase the level of legal assistance and support provided to the transgender community and to sex workers. Both groups continue to report alarming levels of discrimination and vilification and personal experiences of domestic and sexual violence.

Case Study:

We are acting in the District Court for a sex worker who has not been paid for services delivered and defrauded by their client. As our client is claiming battery, the total value of the claim runs into thousands of dollars. To date we have successfully obtained a suppression order to protect the identity of the sex worker, noting the stigma and discrimination sex workers often experience in the legal system,

This case study demonstrates the multiple legal issues that can arise for sex workers, this matter involves sexual assault (battery), unpaid debts, discrimination and a police complaint.

Case Study:

Usually, a person must wait for 3 years after relocating to NSW to change their name on a birth certificate, this poses an obvious hardship for trans people seeking to affirm their name on identity documents. We assisted a transgender refugee with her application for an expedited change of name with the NSW Birth Deaths and Marriages, which is usually only granted by the Registrar in exceptional circumstances.

Roles and responsibilities

What roles should the Commonwealth and the jurisdictions play in determining or administering funding distribution between legal assistance service providers?

Beyond noting that both the Commonwealth and the States should invest in dedicated services for LGBTQI+ communities and sex workers, we defer to the NSW and Commonwealth peaks on this matter.

Disadvantaged groups

Are there other systemically disadvantaged groups, either existing or emerging, who are not supported adequately?

Sex Workers and LGBTQI+ people have always existed. We appreciate the opportunity increase our specialist legal services for these groups if they are identified as priorities in the next NLAP.

We further note that the legal issues experienced by these groups evolve over time in response to changing legal and political landscapes.

Case Study

We are currently working with a client who has a historic “homosexual offence” conviction on his record. The client lives in regional NSW and is not in the ICLC catchment area for generalist services. We are currently assisting him to draft submissions to have the conviction expunged. The ICLC has produced a fact sheet on this area of law and we are known to be the specialist CLC for this work in NSW.

In NSW, there are currently no protections from discrimination against sex workers as a protected attribute for either current or former sex workers. In 2020, a private members bill (was introduced to amend the *Anti-Discrimination Act 1977* (NSW) to make it unlawful to discriminate against persons on the ground that the persons are, or have been, sex workers. Ms Abigail Boyd, MLC noted that the Bill intended to protect sex workers from discrimination:

Sex workers are routinely discriminated against for their chosen occupation. They are denied housing, refused services and forced to endure the entrenched stigma embedded deep within our society, day in and day out. It is time for that to end.

There is evidence that the assault and harassment of sex workers is under reported. The Australian Centre for the Study of Sexual Assault found that the primary reason for non-reporting by sex workers is a lack of faith that the police and courts will hold offenders accountable...Addressing some problems directly will help to address other problems indirectly.

We note that the Bill was not passed and the issues raised remain unchanged for sex workers in NSW.

Regional, rural, remote

How should the challenges of service delivery in regional, rural, and remote locations be addressed through future agreements?

The ICLC is funded to deliver services to residents in Sydney’s inner city. Our capacity to adequately provide services to our priority clients in RRR areas is severely curtailed by our geographic and funding constraints.

We are aware of one other specialised service provider for sex workers in all of Australia, Southside Justice in Melbourne, Victoria.

There are some services for trans people also in Victoria (Q+ Law) and Queensland (LGBTI Legal Service), but nowhere in the rest of Australia.

We know that our priority clients are especially vulnerable in RRR areas. Increased resourcing for specialist services would enable an expansion in web-based resources and online service delivery, which would increase our ability to reach isolated clients in RRR areas.

Funding models

To what extent does the funding model support appropriate distribution and quantum of Commonwealth resources to meet current and future needs?

We repeat our position that in order for our specialised service to be **safe** and **sustainable**, our core funding must be increased to no less than \$2 million per annum and subject to indexation and other appropriate increases over time.

Demand over time

What time frame is most appropriate for the next national legal assistance partnership agreement, and how can flexibility be embedded to accommodate changing needs?

ICLC Response:

The demand for ICLC services over time has dramatically increased, particularly from the LGBTQI+ people and sex workers. Over the past 3 years, the percentage of individuals that the ICLC has advised that identify as part of the LGBTQI+ community has doubled in size.

This ICLC has experienced high volumes of staff turnover as a result of burnout. Ideally, the next NLAP agreement would be implemented as soon as possible and with flexibility built in to accommodate surges in demand and to respond to emerging legal issues.

Case Study

We are appearing for a victim of online harassment and vilification in a personal Apprehended Violence Order application for a transgender woman. Our client has been repeatedly targeted by a group of 'sex based rights' activists for playing soccer in her local club. The client lives in a RRR area, so we are undertaking travel and an overnight stay to the local courthouse at our own expense.

Wrap around services

How can holistic service provision reduce the demand for legal assistance services?

We wish to employ peer workers and access workers who will work alongside our legal team to deliver CLE and who are appropriately able to enter community spaces increase access into our service. We know from experience that this is best practice and what works.

Holistic, peer supported services increase trust and knowledge amongst community about the services that we provide.

Since 2009, ICLC has partnered with ACON to produce "Fair Play" at the Mardi Gras party and associated events.

Fair Play aims to inform, support and educate members of sexuality and gender diverse communities on health, safety and rights issues when attending Mardi Gras and other events where police drug operations occur. Fair Play volunteers are on site at the Mardi Gras events to share legal and safety information with party-goers, monitor and document the operations of NSW Police and provide support to people who have been searched or questioned by police.

This is one of our most successful projects and partnerships, which requires significant fundraising and volunteering resources each year as it is not a project that our current funding is able to support.

Early intervention

Should legal assistance funding include activities that at an early stage reduce or prevent legal need, including activities not purely of a legal character?

Yes. We support education and early intervention services embedded within CLC's.

Noting the controversy surrounding the Safe Schools program, which led to its cancellation in 2017, it is our view that early intervention, support and education services are especially critical for LGBTQ+ young people.

Advocacy

Should legal assistance funding be provided to legal assistance providers for advocacy and law reform activities?

Yes. We urgently require a fulltime law reform and policy officer at the ICLC.

We are regularly invited to comment on issues that impact our communities, most notably by government service providers and members of parliament.

With fewer than 8 FTW staff, we struggle to fully and equally participate in these discussions, especially in the context of current resource constraints, coupled with ongoing the stress of achieving the service deliverables that are set in our funding agreements.

Efficiency

To what extent are administrative processes of governments placing unnecessary regulatory burdens on funded legal assistance providers and creating additional demand for legal need?

Administrative and reporting burdens remove CLC staff from our important work on the front line and cause increased levels of stress in already overworked staff. This is acutely felt at the ICLC as we are a smaller centre.

We trust CLCA and CLCNSW will provide a comprehensive response to this well established concern.

Commonwealth administrative review

How might Commonwealth administrative review processes, including appeals, be reformed to reduce demand for legal assistance services and improve outcomes for clients?

We defer to CLCA and CLCNSW.

Labour market

How does workforce supply and remuneration impact on the provision of legal assistance services?

This is an ongoing and well documented systemic concern for the CLC sector. The ICLC has recently said goodbye to two extremely bright and talented lawyers who have moved on to roles at Legal Aid NSW.

High turnover increased other costs over time through recruiting processes and retraining, which adds to our overall operating costs and fatigue amongst staff who stay in the sector.

Further, repeated exposure to domestic and sexual violence cases in particular places a great strain on lawyers who are likely to experience heightened stress and burnout.

We recommend that NLAP funded CLC's should receive a level of funding that would permit wage structures to be on par with our Legal Aid counterparts.

Data

To what extent are the current supporting processes sufficient to support continuous improvement and achievement of objectives?

As highlighted elsewhere in this submission, LGBTQI+ communities and sex workers are not currently counted in the census, or as a priority population under the NLAP.

We recommend this be amended for all services in receipt of NLAP funding.

We further support moving away from numerical targets in favour of development of impact measurement frameworks for CLC's.

Appendix

Chronology of ICLC work supporting the LGBTQ+ and sex worker communities in NSW

The following chronology highlights some of our work advancing LGBTQI+ and sex worker rights in NSW:

- 1988: ICLC attended St Vincent's Hospital in Sydney to assist patients with AIDS to draw up their wills.
- 1993: ICLC and the Gay and Lesbian Rights Lobby introduced the Lesbian and Gay Legal Rights Service.
- 1994: ICLC formally launches the Lesbian and Gay Wills Project.
- 1995: ICLC is involved in a discrimination test case in the Federal Court for an HIV woman denied access to clinical drug trials on the basis of childbearing capacity.
- 1996: ICLC wins a first of its kind HIV and homosexual vilification case in NSW.
- 1998: ICLC is involved in a case in which a transgender inmate sues the Department of Corrective Services for breach of duty of care.
- 2000: ICLC assists a client who has been denied a war widow's pension on the basis that the Veterans Entitlement Act 1986 excluded same sex couples from eligibility.
- 2000: ICLC involved in pilot project at Waverley Court for Gay and Lesbian Domestic Violence Court Assistance service.
- 2005: ICLC involved in a discrimination test case for a transgender client denied access to gender affirmation surgery.
- 2007: ICLC acts for a transgender woman who was denied an amended passport by the Federal Government because she was married. The Department of Foreign Affairs and Trade was ordered to issue her a passport that says female.
- 2009: ICLC establishes the world first legal advice service for intersex people.
- 2009: ICLC establishes the world first Safe Relationships Project assisting same sex relationships, transgender people and intersex people who have experienced domestic violence.
- 2009: Fair Play (originally known as Project Blue) was launched by ICLC, Sydney Gay and Lesbian Mardi Gras, ACON and the NSW Gay and Lesbian Rights Lobby as an initiative to inform, support and educate members of the LGBTQI+ community on health, safety and rights issues when attending Mardi Gras events.
- 2012: ICLC establishes a specialist sex worker legal service.
- 2014: ICLC delivers community legal education to 13 locations throughout NSW with training to provide participants confidence to work with LGBTQI+ people.
- 2018: ICLC launches the Transgender Legal Service in partnership with Dentons.
- 2020: ICLC act in Re: Imogen, the leading authority on access to gender affirming medical care for transgender young people in The Family Court.

Snapshot of ICLC Legal Services to LGBTQI+ and Sex Workers

The information included below is a snapshot of the LGBTQI+ and sex worker legal services provided by the ICLC during 2016. This information was captured from a review of advice files before being destroyed as part of ICLC's 7 year file destruction policy.

So the below is a historic snapshot of our services to communities that reside outside of our catchment area. If we were to review the data from the last financial year, we would observe similar trends, with increased services delivered to the Trans community.

The below table provides location, demographic and service types delivered to our priority client groups, the majority of whom reside outside of ICLC's catchment area. We have deliberately broadened the geographic areas in the below table to avoid inadvertently identifying individual clients.

Location	LGBTQI+ or Sex Worker	Matter Type	Other party	Brief Description
Within ICLC catchment area				
Northern Sydney	Sex worker	Civil / SRP	Individual	Sex Worker- debt dispute
Inner City	Yes	Crim	Individual	Victim of sexual violence
Northern Sydney	Sex worker	Civil / SRP	Individuals	Sex Worker- defamation on social media
Inner City	Sex worker	Civil / SLS	Individual	Sex Worker- defamation on social media
Sydney	Sex worker	Civil / SLS	Individual	Sex Worker- robbery
No fixed address	Sex worker	Civil / Employment	Employer	Sex Worker- wages / entitlement / debt owed to client
Outside ICLC catchment area – Within 20km of Sydney CBD				
Inner West	LGB	Civil	Individuals	Restraining Order
Inner West	LGB	Criminal	NSW Police	Minor drug offences
Inner West	Trans	Civil	Education institution	Discrimination- Gender identity
Inner West	Trans	Civil	Corporation	Discrimination- Gender identity
Inner West	Trans	Civil	State Government- Sydney Trains	Discrimination- Gender identity
Inner West	LGB	Family Law	Individual	Same sex family planning
Southerland Shire	LGB	Family Law	Individuals	Same sex family planning
Central Coast	Sex worker	Crim	Individual	Sex Worker- charged with assault
Parramatta Shire	Trans	Family Law	Individuals	Advised minor on medical transition
Inner West	Trans	Family Law	Individuals	Family law, transgender child
Inner West	Trans	Family Law	Individuals	Family law, transgender child
Bankstown Region	Trans	Family Law	Individuals	Family law, transgender child
Easter Suburbs	Trans	Family Law	Individuals	Family law, transgender child
Parramatta Shire	Trans	Family Law	Individuals	Family law, transgender child
Inner West	Trans	Criminal	NSW Police	Court procedure
Bayside	Trans	Criminal	NSW Police	Court procedure
North Western Suburbs	LGB	Civil	Education institution	Discrimination- Gender identity
Inner West	Trans	Civil	Corporation	Discrimination- Gender identity
Inner West	Trans	Crim / SRP	Individual / NSW Police	Revoke ADVO
Inner West	Trans	Civil / SRP	Parent	AVO against parent
Outside ICLC catchment area – More than 20km from Sydney CBD				
Western Suburbs	Trans	Family Law	Individuals	Family law, transgender child
South West Sydney	Sex worker	Civil / Employment	Employer	Sex Worker- unsafe work environment
South West Sydney	LGB	Family Law	Individuals	Same sex family planning
Outside ICLC catchment area – Regional NSW				
Far Western	Trans	Employment	Education institution (Employer)	Discrimination- Gender identity
Far Western	Trans	Civil	Corporation	Discrimination- Gender identity
Far Western	Trans	Family Law	Individual	Shared parenting arrangement
Blue Mountains	Trans	Family Law	Individuals	Advised minor on medical transition
Mid-North Coast	LGB	Criminal	NSW Police	Gov / Admin complaints against Police