

# Commonwealth Priorities

## NATIONAL LEGAL ASSISTANCE PARTNERSHIP

### PRELIMINARIES

- A1 This Schedule provides guidance on the prioritisation of mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services.

### NATIONAL PRIORITY CLIENT GROUPS

- A2 The States will ensure that legal assistance services are focussed on people experiencing financial disadvantage.
- A3 The States will ensure that legal assistance services are planned and focussed to people who fall within one or more of the following national priority client groups (in alphabetical order):
- (a) Aboriginal and Torres Strait Islander people;
  - (b) children and young people (up to 24 years);
  - (c) older people (aged over 65 years or Aboriginal and Torres Strait Islander people aged over 50 years);
  - (d) people experiencing, or at risk of, family violence;
  - (e) people experiencing, or at risk of, homelessness;
  - (f) people in custody and/or prisoners;
  - (g) people residing in rural or remote areas;
  - (h) people who are culturally and linguistically diverse;
  - (i) people with a disability or mental illness;
  - (j) people with low education levels; and
  - (k) single parents.
- A4 The list of national priority client groups recognise that certain cohorts of vulnerable people facing disadvantage are more likely to experience legal problems, less likely to seek assistance and/or less able to access services for a range of reasons.
- A5 The legal assistance sector is not excluded from assisting clients that fall outside these groups.

## STATE-SPECIFIC PRIORITY CLIENT GROUPS

- A6 In addition to the national priority client groups, States may identify other priority client groups that may be specific to their respective jurisdiction. The State will ensure the legal assistance sector plan and target their services to these additional client groups.
- A7 If a State identifies additional priority client groups, these should be listed in its Legal Assistance Strategy (Schedule C).

## COMMONWEALTH SERVICE PRIORITIES

### General principles

- A8 Commonwealth funding must be prioritised:
- (a) for the delivery of frontline services and focused on meeting the legal needs of individuals, with a specific focus on priority clients; and
  - (b) to directly enable legal assistance providers to undertake activities required by the NLAP.
- A9 Mainstream, specialist and Aboriginal and Torres Strait Islander specific legal assistance services must be delivered in a manner consistent with the National Strategic Framework.
- A10 Family or civil law disputes should be resolved through alternative dispute resolution processes rather than through litigation, where appropriate.
- A11 The legal assistance sector should consider whether other services (legal as well as non-legal) may be relevant to a client's needs and make referrals to these services where appropriate. Suitable collaborative arrangements should be established for this purpose.

### National and jurisdictional emergencies

- A12 The legal assistance sector should endeavour to ensure the continued delivery of legal assistance services during national or jurisdictional emergencies, taking into consideration:
- (a) the safety of individuals who will be responsible for the delivery of legal assistance services;
  - (b) the safety of those in receipt of legal assistance services; and
  - (c) the appropriateness of continuing to deliver legal assistance services during a national or jurisdictional emergency.

### Family law priorities

- A13 Legal assistance services related to family law should focus on:
- (a) matters where the safety or welfare of children are at risk;
  - (b) matters involving allegations of family violence;
  - (c) matters involving complex issues about the living arrangements, relationships and financial support of children; and
  - (d) assisting people with property settlement matters if they are experiencing financial disadvantage or are at risk of homelessness.

A14 For Legal Aid Commissions, the representation of children in family law proceedings and family dispute resolution processes should also be a focus.

### **Commonwealth civil law priorities**

A15 Legal assistance services related to Commonwealth civil law should focus on:

- (a) bankruptcy matters;
- (b) consumer law matters;
- (c) employment matters;
- (d) extradition matters;
- (e) human rights and anti-discrimination matters;
- (f) insurance law matters;
- (g) migration matters; and
- (h) social security law matters (including matters relating to military entitlements and military compensation claims).

A16 The list of Commonwealth civil law areas is for guidance only. The legal assistance sector should consider how to best meet civil law need collectively (arising from Commonwealth or State laws).

### **Commonwealth criminal law priorities**

A17 Legal assistance services related to Commonwealth criminal law should focus on:

- (a) matters where the defendant is a child;
- (b) matters where the defendant is being charged with a criminal offence for which a sentence of imprisonment is likely to apply should the defendant be found guilty; and
- (c) assisting persons being detained in custody.

### **Lobbying activities**

A18 The NLAP does not prohibit legal assistance providers from engaging in lobbying activities. Legal assistance providers, funded under the NLAP, are not to use Commonwealth resources or funding provided under the NLAP to undertake lobbying activities, except as specified in Clause A23.

A19 The NLAP does not restrict what legal assistance providers can do with their State or pro bono funding and resources. The manner in which legal assistance providers use non-Commonwealth funding and resources is a matter for those organisations.

A20 Legal assistance peak bodies, rather than legal assistance providers, should undertake public campaigns with respect to any administrative, legislative or policy decisions, including undertaking strategic policy, law reform and related activities.

- A21 Under the NLAP, the following activities do not constitute lobbying and can be conducted by legal assistance providers with Commonwealth funding provided under the NLAP:
- (a) community legal education activities;
  - (b) communications with a committee of the Parliament;
  - (c) communications with a Minister or Parliamentary Secretary, unless that communication is intended to unduly influence the outcome of a grant or procurement process or unduly influence a Commonwealth administrative, legislative or policy decision;
  - (d) making a submission or providing factual information and/or advice to an inquiry, Royal Commission, government, parliamentary or other relevant body, Minister, Parliamentary Secretary, Committee of a Parliament, or Member of a Parliament on systemic factors affecting justice issues;
  - (e) identifying and raising awareness of systemic or structural issues affecting the legal and justice system, or that impact the outcome for one or more clients, or affect the delivery of legal assistance services with a legal assistance peak body, inquiry, Royal Commission, government, parliamentary or other relevant body, Minister, Parliamentary Secretary, Committee of a Parliament, or Member of a Parliament;
  - (f) communications in response to a call for submissions;
  - (g) communications in response to a request for tender or similar processes; or
  - (h) responses to requests by government representatives for information or policy development.
- A22 Legal assistance providers funded under the NLAP must prioritise the use of Commonwealth funding for the delivery of frontline legal assistance services and/or undertaking activities required under the NLAP.
- A23 Notwithstanding Clause A18, Aboriginal and Torres Strait Islander Legal Services are permitted to undertake lobbying activities within the definition in Clause 98(n) ii, but must prioritise the delivery of frontline legal assistance services.