

# Submission to Australian Government

## Federal Budget 2021-2022

Community Legal Centres Australia  
5 February 2021



Community Legal Centres  
Australia

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## Introduction

Community Legal Centres Australia (**CLCs Australia**) is contributing this analysis to inform the 2021-2022 Federal Budget. We have collaborated with community legal centres (**CLCs**) and partners to develop recommendations on the allocation of maximum available financial resources to strengthen the community legal sector and support the communities we serve. CLCs Australia supports a focus on legal and social protection safety nets to assist individuals and communities experiencing discrimination and disadvantage.

Based on the trends noted by CLCs in the 2020 calendar year, a significant injection of funding is required for CLCs to be able to address legal need in the context of an equitable recovery from the bushfire crisis and on-going management of the COVID-19 pandemic.

CLCs Australia is the national peak body for the community legal sector. Our members are the eight state-based associations that represent over 170 CLCs. CLCs organise themselves into national networks around speciality areas of work, some by client group – such as the Older Persons Network and Women’s Legal Services Australia (WLSA). Others organise themselves by area of law – such as Economic Justice Australia (formerly known as the National Social Security Rights Network). We have drawn from their front-line experiences in developing our recommendations and endorsements.

CLCs Australia is also endorsing submissions made by partner organisations, including Change the Record and Australian Council of Social Services (ACOSS).

It is worth noting that CLCs across the country have continued to provide free and independent legal assistance to people and communities who experience discrimination and disadvantage across Australia throughout the COVID-19 pandemic and the bushfire crisis in 2019-2020. CLCs Australia has also been making calls for the Australian government to address unmet legal need. We strongly believe that more financial resources would enable all CLCs to meet legal need and increase early access to justice.

## CLCs, clients and communities

CLCs play an important, unique and complimentary role in providing legal help to individuals and groups of individuals in disadvantaged and socially excluded communities.

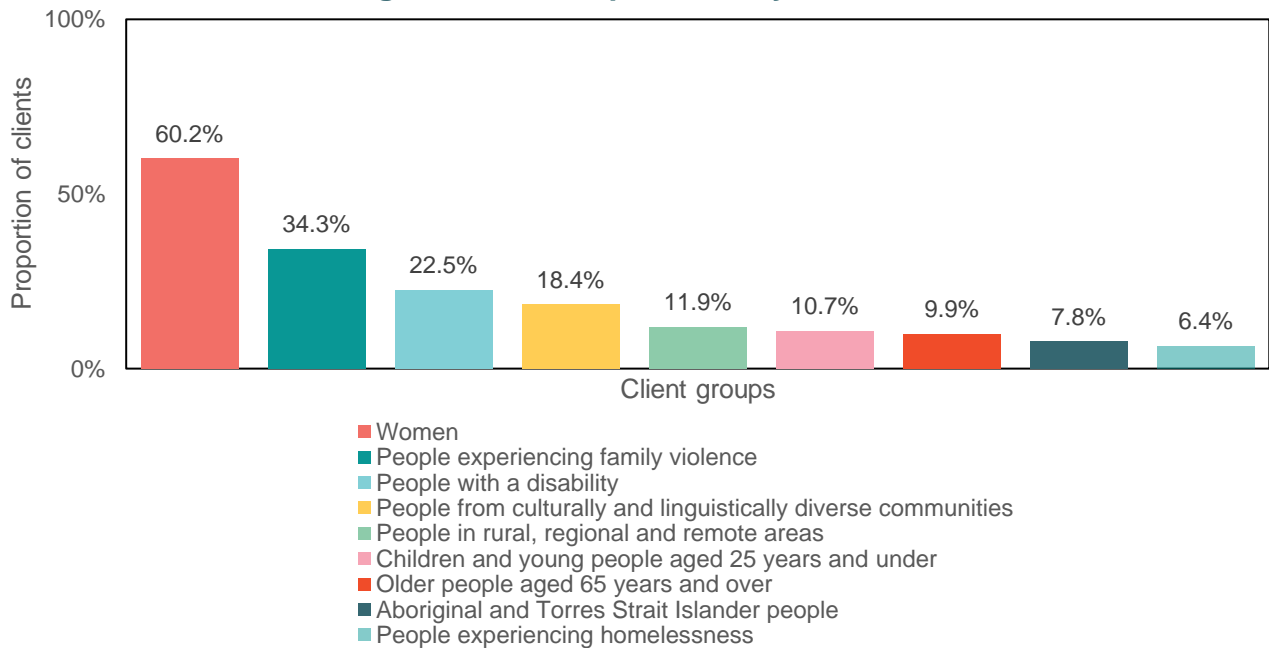
CLCs provide free legal help to hundreds of thousands of people, with a special emphasis on vulnerable and disadvantaged members of the community, every year. CLCs are a critical and unique part of the legal assistance sector. Embedded in local communities, CLCs work in a holistic, client-centred and multidisciplinary way. CLCs play a crucial and effective role in assisting people to resolve their legal problems at an early stage, and in meeting rising demand for legal assistance as well as contributing to systemic reform. Our services reach every community in Australia and often break the divide between urban and remote services.

CLCs help a broad range of clients and communities. For example, in 2019-2020, the profile of the 702, 234 services to clients assisted nationally (noting the conservative nature of these numbers and that it does not include data of all our CLCs) is outlined in the graph below:<sup>1</sup>

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<sup>1</sup> Community Legal Assistance Services System (CLASS) Report between 1 July 2019 to 30 June 2020.

## Legal Assistance provided by Centres in 2019-2020



## Keys Areas of Law

Community legal centres provide services across a range of areas of law, primarily civil and family law. The top four areas of law in which centres provided services in 2019-2020 were:<sup>2</sup>

1. Family law (in particular, parenting arrangements)
2. Housing
3. Family violence protection orders
4. Credit and debt

## CLCs Australia's Submission

### Executive Summary and Recommendations

There is still a strong rationale for a whole-of-government approach to the funding of the work of the community legal sector. Firstly, the work of the sector cuts across a wide range of areas of law and policy including family law, credit/debt, consumer law, family violence, housing, elder abuse, employment and social security. Secondly, the sector targets its work to people who experience financial and social disadvantage and discrimination, as well as other matters that are in the public interest. As a result, the sector engages individually and collectively across areas of Commonwealth Government portfolio responsibility. This is even more important as we all work together towards equitable recovery from the 2019-2020 bushfire crisis and the ongoing COVID-19 pandemic. CLCs have first-hand experience of the ways communities continue to be affected and the ways adequate financial allocations in the Federal Budget help to build their resilience.

<sup>2</sup> CLASS Report between 1 July 2019 to 30 June 2020.

The Federation of Community Legal Centres Victoria has made a strident call that “[a] just and equitable recovery must: expand and entrench vital protections for financially disadvantaged [Australians]; improve the fairness and resilience of our housing systems; make sure no workers are left behind in [Australia’s] economic rebuild; embed access to justice for all victim-survivors of family violence and build on best practice legal supports in measures to respond to the ‘shadow pandemic’; protect the welfare and human rights of people in prison throughout the COVID recovery; and move towards a safer prison system; protect children and young people impacted by the crisis and keep them out of the justice system.”<sup>3</sup> We strongly support this call as it does not only apply to Victoria but to every jurisdiction across Australia.

CLCs Australia supports a Federal Budget that ensures funding for the continuation of essential social, economic and legal services as well as measures designed to support people and communities that need it most.

In 2014, the Productivity Commission of Australia recommended a \$200 million increase per annum as an interim measure (including \$120 million of Commonwealth funding). Although there have been very small increases, this recommendation has never been met. In 2018, the Law Council of Australia’s Justice Project recommended a \$390 million increase per annum, at a minimum.

This Federal Budget submission identifies recommendations and key legal areas in which additional investment would have a significant positive impact on the lives of individuals and communities, support high quality and efficient service delivery, and contribute to more effective operation of justice and related systems.

This submission addresses:

- the need for additional investment across the whole legal assistance sector to support community legal centres, Aboriginal and Torres Strait Islander Legal Services, Family Violence Prevention Legal Services and Legal Aid Commissions;
- the ways the community legal sector proposes to address unmet legal need, promote early access to justice and provide holistic services in 2021-2022;
- the urgent call for a national survey to determine legal need in the context of national equitable recovery in the aftermath of the 2020 bushfire and the COVID-19 pandemic;
- the need for additional investment in particular areas of law including:
  - keeping women, children and people experiencing family violence safe;
  - preventing and responding to elder abuse;
  - improving the social security system; and
  - consumer financial legal advice and assistance services, including the rights of people who rent.

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<sup>3</sup> This quote has been adapted to reflect a national perspective and is taken from Community Legal Centres Victoria’s report “A Just and Equitable Recovery: A Community Legal Sector Plan for Victoria” (2020). The full report is available: [https://d3n8a8pro7vnm.cloudfront.net/fclc/pages/756/attachments/original/1608087671/A\\_Just\\_and\\_Equitable\\_Recovery\\_web\\_Final.pdf?1608087671](https://d3n8a8pro7vnm.cloudfront.net/fclc/pages/756/attachments/original/1608087671/A_Just_and_Equitable_Recovery_web_Final.pdf?1608087671)

## Key recommendations by CLCs Australia

1. The Commonwealth Government should provide funding for a regular national survey of legal need, similar to the Legal Australia-Wide (LAW) Survey, to examine met and unmet legal need in Australia. As a minimum, for 2021-2022 one specific stream of funding to survey unmet legal need in the context of equitable recovery after the bushfire crisis and COVID-19 pandemic should be provided.
2. That the Commonwealth Government, as a minimum, extend the COVID-19 frontline legal assistance funding until 30 June 2025.
3. That the Commonwealth Government provide an additional \$2.3 million on a one-off basis to continue to support the enhancement of ICT capacity within community legal centres to work remotely, providing continuity of services and support without interruption.
4. That the Commonwealth Government provide an additional \$25.5 million per annum for the next 4 years so that each Centre can employ an additional generalist lawyer to address current unmet legal need.
5. That the Commonwealth Government provide an additional \$25.5 million per annum for the next 4 years so that each Centre can employ an additional specialist lawyer to meet areas of increased demand in economic and social equity issues.
6. That the Commonwealth Government provide an additional \$20.4 million per annum for the next 4 years so that each Centre can strengthen joined up and wrap around service delivery through the employment of social workers, financial counsellors and other professionals.

## Additional recommendations

7. The Commonwealth Government should provide additional funding to enable the community legal sector to deliver enhanced casework, legal representation and wrap around services (such as family dispute resolution) in civil, family law, child protection and family violence matters is required.
8. CLCs Australia supports the recommendations made by WLSA, a national network of CLCs Australia, in its submission to the 2021-2022 Federal Budget requesting the Government to consider additional funding for the community legal sector to be able to provide specialist services in better ways and through a consistent integrated model.
9. The Commonwealth Government should provide community legal centres with additional funding to provide legal advice and related assistance to older people experiencing abuse and legal problems as a result of the disproportionate effect of public health measures to address the pandemic on this particular group of clients.
10. Community legal centres are in a unique position to be able to provide integrated wraparound socio-legal services, including financial counselling and social work support services to assist clients in aged care and those that need to recover from physical violence and financial abuse.
11. CLCs Australia emphasises the need for additional Commonwealth funding for community legal centres to assist people with their social security-related matters,

particularly in light of the above issues which in many cases require legal assistance to resolve and contribute to the significant unmet legal need in this area.

12. CLCs Australia supports and endorses the recommendations for reform made by Economic Justice Australia, a national network of CLCs Australia, in its submission to the 2021-2022 Federal Budget. See below for more information.

13. CLCs Australia endorses the recommendations proposed by CLCs that specialise in tenants' rights and consumers' rights, including the Tenants' Union of NSW and Consumer Action Victoria. See below for more information.

## Investment in the Legal Assistance Sector

There are four publicly-funded legal assistance services: Community Legal Centres, Aboriginal and Torres Strait Islander Legal Services (ATSILS), Family Violence Prevention Legal Services (FVPLS) and Legal Aid Commissions (LACs) and each play an important, unique and complementary role in providing legal help to people across Australia.

A number of key inquiries and reports have recommended an increase in overall funding available to the legal assistance sector to address critical and immediate needs:

- in 2014, the Productivity Commission of Australia recommended a \$200 million increase per annum as an interim measure (including \$120 million of Commonwealth funding); and
- in 2018, the Law Council of Australia Justice Project recommended a \$390 million increase per annum, at a minimum.

Although there have been recent increases to funding through the National Legal Assistance Partnership (NLAP), they have been small with respect to what is needed to address unmet legal need and guarantee early access to justice on the basis of equality for all persons living in Australia. The community legal sector has been under-funded for many years and the ongoing effects of under-resourcing are keeping groups of individuals from accessing legal assistance optimally. The levels of Commonwealth (as well as State and Territory Government) funding are insufficient to meet rising demand for services in the last eighteen months since the bushfire crisis began, which was followed by the COVID-19 pandemic. The sector has confirmed a surge in services in each State whenever COVID-19 restrictions are lifted and the trend is likely to continue in the 2021-2022 financial year.

## Regular Legal Need Survey to Support the Legal Assistance Sector

'Legal need' is defined as legal issues that individuals have not been able to resolve effectively by their own means.<sup>4</sup> The distinction between 'met' and 'unmet' legal needs is an important one. The assessment of legal need, both by individual CLCs to inform their approach to service delivery and at a jurisdiction-wide level, is a vital element of an effective legal assistance sector. Understanding and measuring legal need in Australia and having access to accurate and recent data underlies effective service delivery and planning across the justice system, including the legal assistance sector. It is also important that the

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<sup>4</sup> JT Johnsen (2009), 'Legal Needs in a Market Context' in F Regan, P Paterson, T Goriely and D Fleming (eds) *The Transformation of Legal Aid*, 205-232.



legal need of particular groups, including Aboriginal and Torres Strait Islander people, is appropriately considered as part of mapping legal need.

At a national level the Legal Australia-Wide (LAW) Survey, undertaken in 2008, is the key piece of work that captures legal need in Australia. However, this work is over thirteen years old and needs to be updated. Accordingly, there is a need for funding of a regular national survey of legal need, similar to the LAW Survey, to examine met and unmet legal need in Australia. This approach was supported and recommended by the Productivity Commission in 2014 who recommended that a more contained survey should be repeated on a regular basis and ‘regular surveys should be undertaken to better measure unmet need of particular groups, including Aboriginal and Torres Strait Islander people’.<sup>5</sup>

### **Recommendation 1:**

The Commonwealth Government should provide funding for a regular national survey of legal need, similar to the Legal Australia-Wide (LAW) Survey, to examine met and unmet legal need in Australia. As a minimum, for 2021-2022 one specific stream of funding to survey unmet legal need in the context of equitable recovery after the bushfire crisis and COVID-19 pandemic should be provided.

## **Meeting Legal Needs in the Current Environment**

The community legal sector is uniquely placed to respond to the changing needs of local communities and address the priority legal issues that have arisen due to the bushfire crisis and COVID-19 pandemic. Feedback from CLCs indicates that there has been an increase in demand for legal help with social security, employment, tenancy, consumer credit, debt, insurance, policing, seniors’ rights, family violence and child protection, as well as an increase in the complexity and urgency of legal matters.

CLCs Australia welcomes the National Cabinet’s funding announcement of \$63.3 million for the legal assistance sector made in May 2020. Despite the advances, the demand for legal services is likely to continue to spike during the COVID-19 equitable recovery phase. The provision of additional funds to the community legal sector in 2021-2022 – as well as ensuring that funding until 30 June 2025 – would make it possible to ensure basic rights and needs are guaranteed to communities who experience the most discrimination and disadvantage.

Future policy decisions should not undermine the importance of the community legal sector. Based on over thirty years of experience, the community legal sector has found that after every economic downturns and natural disaster, the need for community legal services increases.

### **Example 1:**

The Consumer Action Law Centre reported that between 2 July and 2 November 2020, their legal advice line service saw a 58% increase in email enquiries from consumers, from 67 per month average in 2019, to 106.75 per month. This is despite their chatbot diverting 39% of inquiries (for example, interstate residents or higher income earners).

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<sup>5</sup> Productivity Commission of Australia, Access to Justice Arrangements Inquiry Report No 72 (September 2014) Appendix J, Table J.1.



In the three years to the end of 2019, there was a 173% increase in emails to their advice service. In the last five months of 2020, they experienced a further 58% increase for email/online enquiries from consumers these past 5 months and consider it is fair to assume that the demand to the legal team to respond to consumer enquiries will continue to grow. This likelihood is heightened by the fact that the COVID-19 Centrelink support will end in March 2021 which will likely result in more consumers contacting the service.

**Example 2:**

WLSA reports 40% of women from Women's Legal Services across Australia are turned away due to lack of staff and resources.

The restrictions imposed because of COVID-19 have increased the danger for at-risk women by confining many in their homes with potentially violent partners and increasing the opportunities for coercive control, as well as creating significant financial stress. This has placed even greater pressure on already strained specialist legal services.

**Recommendation 2:**

That the Commonwealth Government, as a minimum, extend the COVID-19 frontline legal assistance funding until 30 June 2025.

**Recommendation 3:**

That the Commonwealth Government provide an additional \$2.3 million on a one-off basis to continue to support the enhancement of ICT capacity within community legal centres to work remotely, providing continuity of services and support without interruption.

**Recommendation 4:**

That the Commonwealth Government provide an additional \$25.5 million per annum for the next 4 years so that each Centre can employ an additional generalist lawyer to address current unmet legal need.

**Recommendation 5:**

That the Commonwealth Government provide an additional \$25.5 million per annum for the next 4 years so that each Centre can employ an additional specialist lawyer to meet areas of increased demand in economic and social equity issues.

**Recommendation 6:**

That the Commonwealth Government provide an additional \$20.4 million per annum for the next 4 years so that each Centre can strengthen joined-up and wrap-around service delivery through the employment of social workers, financial counsellors and other professionals.

## Investing in Collective Resilience: Specific Legal Areas of Concern

This section contains recommendations identified by specialised CLCs that relate to specific areas of law.

### Keeping People, Especially Women and Children, Safe from Family Violence

CLCs are at the frontline of providing crucial expert legal advice and related help to people experiencing family violence. Over 34% of people helped by CLCs in the 2019-2020 financial year reported they were experiencing family violence.<sup>6</sup> It must be noted that this data snapshot doesn't even include entries in the CLASS system after the surge of service requests after lockdown measures were lifted in most States in the second half of 2020 (July-December 2020).

As a direct result of inadequate funding specialist women's legal services had to turn away around 40% of the financially disadvantaged victim-survivors reaching out for their assistance due to lack of staff and resources. A national economic costing analysis undertaken by the Australian Institute on behalf of WLSA has confirmed an additional \$25 million in federal funding is needed to resource this subset of specialist women's socio-legal services to meet demand over the next year.

Last year the community legal sector welcomed the Federal Government's announcement in 2020 of \$63.3 million additional funding for the legal assistance sector. Despite the increased funding, some specialised services have pointed to gaps. For instance, WLSA reports that since the funds earmarked for family violence legal services were disproportionately distributed to ensure perpetrators and victim-survivors had equal access, many women and children missed out on the specialist approach provided by women's legal services.

#### Example 3:

CLCs providing specialised services on family violence and older persons reported peaks in calls when lockdown measures were eased in every State. An increase in physical abuse has been noted across services.

Senior Rights Victoria recently undertook a review and found that there was no actual increase in calls received but there was a significant trend shift in terms of increasing physical abuse complaints.

#### Example 4:

Women's Legal Services Australia members have all experienced an increase in complexity of matters during COVID-19. They have seen an increase in COVID-19 related family law matters where COVID-19 restrictions have been used as a tool to increase the level of control and coercion over the mother. Women's legal services have been and are

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<sup>6</sup> CLCs Australia 2019-2020 data snapshot (referred to at the beginning and in the appendix as well)

concerned for the safety of children and adult victim-survivors. This has resulted in an increased intensity in the case work.

Funding is required for full legal representation of disadvantaged clients in family law, child protection and family violence matters, including for wrap around services, access to litigation and family dispute resolution (FDR). WLSA launched a revised five step plan for Safety First in Family Law in November 2019 with Rosie Batty.<sup>7</sup> The safety first in family law plan is a five-step plan to creating a family law system that keeps women and children safe and despite intense advocacy efforts on the part of the sector, the resources needed have not become available.

Another critical challenge that needs addressing in the 2021-2022 federal budget is the family law system and the significant part that it is playing in keeping women and children safe after relationship breakdowns during the pandemic. To address this critical challenge, over the past five years WLSA has been seeking to ensure that all decision-makers implement WLSA's Safety First in Family Law<sup>8</sup> plan, which has been widely and well received across Australia.

#### **Recommendation 7:**

The Commonwealth Government should provide additional funding to enable the community legal sector to deliver enhanced casework, legal representation and wrap around services (such as family dispute resolution) in civil, family law, child protection and family violence matters is required.

#### **Recommendation 8:**

CLCs Australia supports the recommendations made by WLSA, a national network of CLCs Australia, in its submission to the 2021-2022 Federal Budget requesting the Government to consider additional funding for the community legal sector to be able to provide specialist services in better ways and through a consistent integrated model.

### **Preventing and Responding to Elder Abuse**

Community legal centres are experts at working with people and their families where an older person is experiencing elder abuse. Older persons represented over 9.9% of all people helped by community legal centres in 2019-2020 and there is significant and rising demand for legal help relating to experiences of elder abuse, physical violence, and neglect.

Community legal centres:

- provide older people with holistic, wrap-around, client-centred and often multidisciplinary services and many implement good practice responses to address elder abuse;
- have been documenting the complex legal problems that have been amplified through inadequate COVID-19 measures and are directly affecting older persons and are likely to hamper equitable recovery efforts if not addressed;
- are imbedded in communities and have strong partnerships and relationships with other community services which means CLCs are able to provide older people with

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<sup>7</sup> [http://www.wlsa.org.au/campaigns/safety\\_first\\_in\\_family\\_law](http://www.wlsa.org.au/campaigns/safety_first_in_family_law)

<sup>8</sup> Ibid

referrals to other services that can assist with housing, health and aged care, financial counselling and assistance;

- undertake a significant number and range of community legal education and awareness sessions and campaigns around abuse which educate and empower older people and others who encounter abuse in professional or employment roles (for example, medical and allied health professionals, aged care workers, support and respite workers, Justices of Peace, and similar); and
- develop resources for primary prevention activities.

We welcomed the Commonwealth Government's provision of \$22 million in the 2018-2019 Federal Budget to establish a number of specialist elder abuse units, health justice partnerships and case management and mediation services to assist older people experiencing abuse. However, the funding was only sufficient to establish a handful of units/partnerships/service and we are already halfway into the trials. Moreover, based on the pilots funded by Attorney General's department, there is something to consider in terms of the models being trialled. There are three models being trialled. Two out of the three models are delivered by CLCs and legal aid bodies (specialist elder abuse unit and health justice partnerships jointly) and one model is delivered by relationships services (case management and mediation model) only. The third model is not supportive of legal services being a primary feature of service delivery. CLCs Australia supports ongoing funding for the first two models because of the confirmed benefits of integrated legal and non-legal services to adequately respond to elder abuse.

Given the limited existing funding and significant need, we recommend provision of additional funding to community legal centres to ensure older people experiencing abuse can access the legal help they need, building on the Government's existing commitment. Further, a greater number of representation services should be made available for older people who are affected by financial abuse via targeted funding for assistance in addressing irresponsible financial lending practices associated with intergenerational arrangements.

#### **Example 5: Emerging legal issues relating to the COVID-19 vaccine**

Some specialist CLCs are already discussing whether an older person that refuses the COVID-19 vaccine will be able and legally allowed to do so. Some older persons with full legal capacity in aged care may be forced to be vaccinated and our CLCs already note that clear legal frameworks have not been developed yet to provide clarity and direction. Thus, legal issues may emerge if the vaccine is rolled out on the mandatory basis for older persons.

#### **Recommendation 9:**

The Commonwealth Government should provide community legal centres with additional funding to provide legal advice and related assistance to older people experiencing abuse and legal problems as a result of the disproportionate effect of public health measures to address the pandemic on this particular group of clients.

#### **Recommendation 10:**

Community legal centres are in a unique position to be able to provide integrated wraparound socio-legal services, including financial counselling and social work support

services to assist clients in aged care and those that need to recover from physical violence and financial abuse.

## Strengthening the Social Security System

We support the analysis provided by Economic Justice Australia (EJA) and ACOSS in their 2021-2022 budget submissions. As stated by EJA “the reduction of the Coronavirus Supplement from \$550 to \$250 per fortnight is affecting over 1.4 million job seekers still relying on JobSeeker Payment, Parenting Payment or Youth Allowance in a crowded labour market. People whose lives were transformed by the effective doubling of non-pension payment rates are now unable to afford the essentials – food, accommodation and medications. The complete removal of this supplementary payment from April 2021 will plunge people back to unacceptably low rates that have been broadly criticised as entrenching extreme poverty.”

CLCs Australia also supports the analysis about the unintended negative effects of certain policies and programmes on specific groups of clients and endorses the detailed analysis included in EJA’s budget submission.

### **Recommendation 11:**

CLCs Australia emphasises the need for additional Commonwealth funding for community legal centres to assist people with their social security-related matters, particularly in light of the above issues which in many cases require legal assistance to resolve and contribute to the significant unmet legal need in this area.

### **Recommendation 12:**

CLCs Australia supports and endorses the recommendations for reform made by Economic Justice Australia, a national network of CLCs Australia, in its submission to the 2021-2022 Federal Budget. More specifically:

**12.1:** Permanently increase social security income support payment rates, and provide supplementary payments that reflect specific costs people face, as proposed by ACOSS.

**12.2:** Permanently abolish the newly arrived residents waiting period (NARWP) for Special Benefit; or in the alternative, extend the suspension of the Special Benefit NARWP to at least 30 June 2022.

**12.3:** Provide all New Zealand citizens living in Australia with access to Special Benefit.

**12.4:** Extend the list of visa sub-classes that attract Special Benefit, with extended coverage including:

- i. Bridging Visas, all sub-classes
- ii. Student Visa
- iii. Temporary Resident (Skilled Employment) Visa
- iv. Pacific and Seasonal Worker Visa
- v. Temporary Graduate Visa.

**12.5:** Amend s 737(1) of the Social Security Act to enable full-time students to access Special Benefit. In the alternative, we propose that policy guidelines regarding administration of s 729 of the Social Security Act be amended by the Secretary of the Department of Social Services to enable full-time students holding a Safe Haven Enterprise Visa access to Special Benefit.

**12.6:** Abolish the Community Development Program (CDP) and replace it with the comprehensive alternative model originally proposed by the Aboriginal Peak Organisations NT (APONT) - the Fair Work and Strong Communities: Remote Development and Employment Scheme (RDES).

**12.7:** Cease compulsory income management. Provide people with the option to continue engagement with the Cashless Debit Card program or income management on a voluntary basis, or leave the schemes.

**12.8:** Allocate substantial additional funding to enable Services Australia to employ additional Centrelink social workers, particularly given COVID-19 impacts, and the rise in risk and incidence of domestic and family violence and homelessness.

**12.9:** Resource Services Australia to enable engagement of additional Multicultural Service Officers, Remote Servicing Teams and Indigenous Service Officers.

**12.10:** Invest in adequate Services Australia staffing to provide oversight of automated decision-making processes, and support for people having issues with new automated systems.

**12.11:** Provide funding to enable establishment of a Centrelink nationwide specialist hotline for community legal centre advocates.

**12.12:** Provide additional funding to community legal centres serving regional and remote communities, to enable provision of specialist legal advice assistance on social security issues, particularly regarding the Community Development Program, compulsory income management and the Cashless Debit Card program.

### **Recommendation 13:**

CLCs Australia endorses the recommendations proposed by CLCs that specialise in tenants' rights and consumers' rights, including the Tenants' Union of NSW and Consumer Action Victoria:

**13.1:** We support the increase in spending for public and community housing from the federal government.

**13.2:** We also recommend the winding back of negative gearing and capital gains tax deductions, especially without any requirement for good quality housing or good practice in property management.

**13.3:** We also recommend that the National Housing and Homelessness Agreements (or whatever subsequent programs may be named into the future) that provide funding to the states and territories for their social housing and homelessness sector response should include a requirement that states and territories do not maintain legislative frameworks in their residential tenancy laws that drive homelessness and poor quality housing, for instance through maintaining 'no grounds' evictions provisions. This is an appropriate way to ensure the effective use of federal funds in the housing sector.

**13.4:** We recommend allocations to ensure telecommunications, tenancy, energy and financial services consumers are protected.

## Endorsement of Submissions by CLCs Australia Partner Organisations

CLCs Australia also supports the recommendations made by the ACOSS and Change the Record in their budget submissions.

CLCs Australia supports and endorses the Six Steps to Recovery and Renewal proposed by ACOSS as well as the sixteen recommendations included in their 2021-2022 Budget Priorities Statement.

CLCs Australia supports Change the Record's calls for investment in justice reinvestment and community-controlled strategies included in Change the Record's budget submission. As clearly articulated by Change the Record in the submission this is essential to reversing the trend of escalating rates of incarceration, and family violence, disproportionately experienced by Aboriginal and Torres Strait Islander peoples." More specifically, we endorse: 1) the establishment of a national Justice Reinvestment Body; 2) adequate and additional funding to realise the Closing the Gap reforms, and 3) secure and adequate funding for the National Family Violence Prevention Forum.

## Further Information and Contacts

CLCs Australia would welcome the opportunity to provide further information to the Committee.

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# Appendix 1

## What are Community Legal Centres?

There are 179 community legal centres nationally. In 2019-2020, we know that 142 Centres provided just over 702,000 services to almost 195,000 people across Australia.

1. Community legal centres play a **unique but complementary role** to the other legal assistance providers and community services
2. Community legal centres are **independent, community-based organisations** that are **imbedded in and responsive to community**
3. Community legal centres provide **holistic, client-centred, wrap-around, safe and appropriate services**
4. Community legal centres deliver **efficient, effective and innovative services**
5. Community legal centres often comprise **multidisciplinary** teams and service delivery models
6. Community legal centres provide **high quality services** and are supported by a strong national quality service framework focused on continuous improvement
7. Community legal centres use frontline service delivery to inform broader systemic work, including **law reform, policy and strategic advocacy**

### Services provided by the community legal centre sector in 2019-2020 to people nationally<sup>9</sup>



<sup>9</sup> The statistics provided in this infographic are based on data from 142 Centres who use the Community Legal Assistance Services System (CLASS) during the 2019/20 financial year.

The sector includes a wide range of CLCs which differ significantly in size and operation, but which together form a vital fabric of services which play a role in ensuring clients and communities can access the types of help that they need. CLCs include:

- generalist CLCs that provide legal assistance to people in a particular geographic region (catchment area) in relation to a wide range of areas of law, including family law and family violence, credit and debt, consumer law, social security, migration, tenancy, discrimination, employment and child protection
- generalist CLCs that also have specialist programs that reach a wider catchment area and/or target a particular client group or area of law
- specialist CLCs which provide services to a particular target group, for example women, refugees and asylum seekers, older people, children and young people, people with a disability, LGBTIQ people and people experiencing homelessness
- specialist CLCs which provide services in a particular specialist area of law, for example consumer and credit, social security, employment, tenancy and environmental and planning law
- a number of national centres (and centres with national services) and several that provide cross-border services, or have offices in multiple jurisdictions, and
- stand-alone centres and a number that are sponsored as part of larger organisations.

CLCs also work together in National Networks to share information and good practice and undertake policy and advocacy work.<sup>10</sup>

CLCs provide a range of services including information, referral, legal advice, non-legal support, duty lawyer services, and casework including representation services. CLCs also utilise a range of early intervention and preventative strategies such as community legal education and community development, individual skill building, systemic advocacy and law and policy reform activities. More broadly, CLCs also play a key role in community engagement, developing and facilitating partnerships between legal assistance providers and legal and non-legal services (for example, domestic violence organisations, community health organisations, housing services and drug and alcohol services), and developing and maintaining referral networks and protocols.

CLCs provide supplementary services and activities in offices, communities and health care settings across Australia. For 2019/2020 CLCs produced 1565 Community legal education resources and conducted 6615 community legal education activities. During the same period, 9822 stakeholder engagement initiatives and 2914 law reform efforts were also undertaken.

Importantly, CLCs:

- are imbedded in and understand their communities (whether geographical or based on a characteristic or experience), tailor services to meet local or specific needs in ways that are appropriate and familiar, and have sufficient flexibility to be able to adapt service delivery responses quickly in response to changing legal need
- provide client-centred, wrap-around, holistic and culturally appropriate services

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<sup>10</sup> As of December 2020, The National Networks include: National Social Security Rights Network, Women's Legal Services Australia, Aboriginal and Torres Strait Islander Women's Network, Older Persons Legal Services Network, Employment Law Network, Disability Rights Network, Human Rights Network, Animal Law Network, Police Accountability Network, Youth Advocacy Network, Women's Safety Package Network and the National Association of Tenant Organisations.

- deliver efficient, effective and innovative services
- often comprise multidisciplinary teams and service delivery model
- increasingly many centres have multidisciplinary teams and service models,
- have strong national quality service systems focused on continuous improvement, in particular the National Accreditation Scheme which we coordinate
- use frontline service delivery to inform broader systemic work, including law reform, policy and strategic advocacy
- are able to increase the capacity and services of centres through utilising significant volunteer programs and pro bono
- are designing and implementing innovative approaches and solutions to working with clients and addressing legal problems.

## Benefits, Efficiency and Value of Sector and Service Delivery

The work of the community legal sector has significant benefits for the individuals that CLCs assist, their families and communities, the governments and the broader community. The Productivity Commission has highlighted that the work of CLCs generates savings for government and the community, noting that the ‘positive spill-over or flow on effects to the wider community from providing legal assistance services’<sup>11</sup> justify government involvement in, and funding of, legal assistance services. It has also highlighted that in many types of disputes, the avoided or flow-on costs are greater than the cost of providing funding to legal assistance services to provide the assistance.<sup>12</sup> Other reviews of the sector have also outlined the key benefits of the sector, including:

- ensuring that legal rights can be enforced;
- preventing civil problems from escalating into criminal matters;
- avoiding costs to other government services; and
- improving the efficiency of court proceedings.<sup>13</sup>

The 2018 NSW Review of Community Legal Services noted that community legal centres ‘deliver tangible benefits both to individuals and the broader community’ and that the ‘services provided by CLCs are also delivered at very low cost to government. CLCs are extremely efficient, leveraging volunteer and pro bono support to maximise the total hours, dollar value and range of services they provide’.<sup>14</sup>

The Final Report of the Banking Royal Commission also acknowledged that ‘the legal assistance sector and financial counselling services perform very valuable work. Their services, like financial services, are a necessity to the community. They add strength to customers who are otherwise disadvantaged in disputes with financial services entities’.<sup>15</sup>

The sector is committed to achieving the best possible outcomes for our clients and communities through the delivery of efficient, effective and innovative services and commitment to continuous improvement. As part of this, CLCs are at the forefront of

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<sup>11</sup> Productivity Commission of Australia, *Access to Justice Arrangements Inquiry Report No 72* (September 2014) 666.

<sup>12</sup> See, eg, Productivity Commission of Australia, *Access to Justice Arrangements Inquiry Report No 72* (September 2014) Appendix K, 1054.

<sup>13</sup> Alan Cameron, *Review of NSW Community Legal Services* (2017), [2.4.2].

<sup>14</sup> *Ibid*, 5, 6.

<sup>15</sup> Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report* (2019), 491.

leveraging better outcomes through a variety of means and the peak bodies such as CLCs Australia further support and enhance the efficiency of operations and service delivery.

## Strategic Policy, Advocacy and Law Reform Work

Community legal centres have a long and successful history of bringing about systemic change through policy, advocacy and law reform. This work is crucial in identifying and encouraging reform of laws, policies and practices that are not operating effectively or equitably.

The different services CLCs provide are interrelated - assisting individual clients through advice and casework enables Centre lawyers to not only assist the individual, but also identify laws, policies and practices that adversely or inequitably impact on disadvantaged people or vulnerable groups in the community. As a result, CLCs are in an excellent position to identify recurring causes of legal problems, such as unclear laws, or unlawful or unfair practices.

As a sector we see firsthand the impact of existing laws, policies and practices on people and communities. Building on this experience and expertise, as a sector we have developed a *A Vision for Justice: The Community Legal Sector's Priorities for a Fairer and More Equal Community*<sup>16</sup> as a blueprint for reform across a number of key policy areas. It recommends reforms in particular areas of law or of relevance to particular groups, however we acknowledge issues of intersectionality and that in some cases the recommendations apply to a number of people and groups within the community.

The value of our advocacy and policy/law reform work has been recognised in a number of contexts, including the Productivity Commission Inquiry into Access to Justice Arrangements. In its report, the Productivity Commission stated that CLCs play a key role in law reform, policy and advocacy, that it should be a 'core activity' of CLCs and that 'in many cases, strategic advocacy and law reform can reduce demand for legal assistance services and so be an efficient use of limited resources'.<sup>17</sup>

## Commitment to Quality Services and Continuous Improvement

Community legal centres are subject to a number of governance arrangements and accountability requirements, including:

- the National Accreditation Scheme's (NAS) continuous assessment of CLCs against the Scheme's Accreditation Criteria and Standards
- the Mandatory Standards of our Risk Management Guide (RMG)
- obligations arising from CLCs' status as companies and associated incorporations, and in many cases as charities and not-for-profit organisations duplicated at a Commonwealth and State and Territory levels
- requirements arising under Commonwealth, state and territory government funding agreements and the terms of funding arrangements with other bodies such as philanthropic organisations

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<sup>16</sup> <https://clcs.org.au/sites/default/files/2020-04/200415%20Vision%20for%20Justice.pdf>

<sup>17</sup> Productivity Commission of Australia, Access to Justice Arrangements Inquiry (2014) Final Report, Vol 2, 709.

- memoranda of understanding and agreements made in relation to formal partnerships and collaborations
- legal profession regulation and ethical obligations contained in legislation, Solicitors Conduct Rules (or equivalent) and case law, and
- professional regulation requirements of other professionals who work with or within CLCs, such as social workers and counsellors, youth workers, and accountants.

## The National Accreditation Scheme

The National Accreditation Scheme (NAS) plays a vital role in quality assurance for all CLCs as well as in directly informing the work of peak bodies in providing training and support across the sector in areas identified through the accreditation of CLCs.

The NAS is an industry-led quality assurance partnership between CLCs Australia and the eight state and territory CLC associations. The Scheme was developed in 2010 to provide an industry-based certification process for CLCs that supports organisational development and gives recognition to good practice in the delivery of community legal services. We are currently rolling out the third phase of the NAS.

Full members of state and territory CLC associations are required to participate in the NAS and demonstrate that they satisfactorily comply with or they are actively working towards satisfactory compliance with the Accreditation Criteria. The Accreditation Criteria include the 17 NAS Standards listed in the NAS *Guidelines* and the Mandatory Standards of the Risk Management Guide.

Being a rigorous and consistent national scheme, funding bodies have expressed support for the NAS as a strong quality assurance framework for delivery of legal assistance services. The scheme has successfully replaced and/or supplemented a number of state government led reviews or audits of service standards, and a number of other funding bodies have expressed support for the NAS as a strong quality assurance framework for the delivery of legal assistance services.