

# Summary: Eligibility and Prioritisation Guidelines for Legal, Advocacy and Related Services

Darwin Community Legal Service



*Endorsed by DCLS Inc Board of Directors, June 2016*

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## **Introduction**

This summary describes the legal services and programs offered by DCLS, and explains the applicable eligibility and, where relevant, prioritisation requirements and considerations and should be read in conjunction with the Eligibility and Prioritisation Guidelines for Legal, Advocacy and Related Services (the 'Guidelines').

## **ADVICE AND INFORMATION SERVICES**

### ***General Legal Service (GLS)***

DCLS's General Legal Service provides legal assistance (including information, advice and ongoing assistance) to anyone in the Top End of the NT in relation to a broad range of civil law matters with a focus on the following arrears of law and/or communities:

- Welfare rights
- Employment
- Disability discrimination
- Homeless people or people at risk of homelessness
- LGBTI people/community
- Credit and debt (C&D clients may be assisted by all staff of DCLS or referred to the specialist C&D Legal Service run in conjunction with the AGS.)

Advice cannot be given in the following types of legal matters:

- urgent family law matters
- criminal matters requiring legal representation
- sale or purchase of property and conveyancing
- probate or wills
- commercial matters
- immigration
- tenancy matters for landlords, and
- native title.

## ***Tenants' Advice Service (TAS)***

TAS provides legal assistance (including information, advice and ongoing assistance) to private and government housing tenants in the NT including people living in boarding houses, caravan parks, town camps or in supported accommodation, and to people in the process of renting including information to housing providers where it is in the interests of their tenants.

TAS does not provide legal advice or other services to lessors, real estate agents, head tenants in dispute with sub-tenants, housing management services, community housing providers, or in relation to commercial tenancies.

TAS workers may provide information and legal advice by telephone, to housing advocates and housing workers who seek advice and assistance on behalf of a tenant where the client is identified and a signed authority is obtained from the tenant.

## **CASEWORK SERVICES – GLS AND TAS**

### ***Casework Criteria***

In deciding whether or not the GLS or TAS are to provide casework in an individual case, the following criteria must be met:

- Casework must be consistent with DCLS's obligation to provide high quality and timely professional services to all clients.
- the matter must have a reasonable chance of success. Success includes protecting client rights or improving the client's situation.
- the client is experiencing financial disadvantage.
- the client does not themselves have the capability required to advocate or act in the matter and no alternative casework assistance is available.
- DCLS's Legal Practice has the relevant expertise, either in-house or from volunteers or pro bono partners, in that matter.
- staff and volunteers have the appropriate workload capacity.

Casework may otherwise be approved in exceptional circumstances in accordance with the terms of the Guidelines.

### ***Prioritisation criteria for casework***

In the event that DCLS must prioritise the provision of casework due to insufficient resources, a matter that falls within one or more of the most of the following categories is given priority:

For GLS, matters which fall within one of the National Partnership Agreement 2015-20 priority client groups or clients identified by DCLS as priority groups under the Guidelines.

For GLS and TAS, matters where the client has the greatest legal needs, have the potential to benefit more disadvantaged or vulnerable people than the client and matters involving difficult to reach or vulnerable groups in which service may improve the capacity of that group to access assistance.

### ***Applications for casework***

Clients seeking casework assistance must complete an application for casework form. Undertakings of ongoing assistance must not be given until a formal decision on the application has been made. Applications are to be given to the Principal Solicitor and discussed at the file review or intake meeting or in urgent matters at any time to the Principal Solicitor. The solicitor or advocate must communicate the decision to take on – or not - the matter to the client on the same or next business day. If approved the solicitor or advocate should open a casework file. If casework assistance has been refused the solicitor or advocate must communicate that to the client and inform them of their options for reconsideration. A client whose application for casework assistance has been refused may ask the Principal Solicitor, or in the case of a TAS matter, the Principal Solicitor and the TAS Team Leader together, or the Executive Director to reconsider the request. Clients must pay disbursements unless waived by prior agreement.

### ***Ceasing assistance***

Clients should be informed at the time of entering into a retainer of the terms under which DCLS may end the retainer and cease to act. They are:

- Where the Principal Solicitor forms the view that DCLS is unable to obtain adequate instructions.

- Where the clients fails on more than one occasion to provide instruction within a reasonable time.
- Where DCLS becomes unable to continue to provide the service.
- Where the client has been physically violent or has threatened violence.
- Where, after being warned a client has been abusive or disrespectful of staff.
- Where continuing to act for the client would be a breach professional ethics, rules or conduct or the law or that it is assessed that the matter has no prospects of success.
- Where the client has failed to pay disbursements as outlined in the retainer.

### ***Family Relationships Centre Referrals***

Information and advice is available on parenting issues to people undertaking, or attempting to undertake, family mediation within the Family Relationship Centre (FRC) in Darwin.

Referrals to this service are made through the FRC.

## **COMMUNITY LEGAL EDUCATION (CLE)**

GLS conducts CLE that is consistent with the priorities, strategies and distribution discussed at Territory legal assistance service planning meetings and as consistent with the NPA. DCLS conducts regular meetings to discuss and decide on appropriate CLE to be delivered across the whole practice with attendance by the Principal Solicitor and/or Executive Director, all legal team leaders. Planning is informed by a NPA service planning meeting report, legal needs assessments and client service data, feedback and the expert input from the service provider teams. TAS and ADAS, have their own funding requirements for the public awareness and education they are to provide and are factored into DCLS CLE planning.

## **LAW AND POLICY REFORM**

GLS conducts law and policy reform consistent with the NPA General Principles. The NPA stipulates that funding should not be used to lobby government or to engage in public campaigns. GLS may make submissions to government or a parliamentary body, which contains content that is “factual information and/or advice on systemic issues affecting access to justice.” Decisions on law reform work will be undertaken at a formal meeting which includes relevant team members and the Principal Solicitor and/or Executive Director.

DCLS's specialist services that are funded from other sources are not restricted in the way as those funded under the NPA. ADAS and TAS funding support systemic advocacy. TAS undertakes law and policy reform within the scope of TAS services. It requires this work to be relevant to the needs of tenants in general and in accordance with a documented plan and a community development framework.

## **AGED AND DISABILITY ADVOCACY SERVICE (ADAS)**

ADAS provides information, referrals, practical assistance, support and advocacy for older adults and people with a disability. The service may be a one-off or may involve ongoing assistance. In relation to ongoing casework, consideration is given to the capacity of the service and staff workloads. ADAS does not provide legal advice or legal representation.

ADAS services the following client groups:

### ***Advocacy Service for Older Adults***

ADAS assistance is available to older adults being 65 years or older or 50 years or older for persons who identify as Aboriginal and/or Torres Strait Islander and their families or representatives who live in the Top End of the Northern Territory and who receive Australian Government subsidised residential aged care services, Home Care Packages or Flexible Care Services or are applying or considering applying for any of these Australian Government subsidised services.

ADAS can provide information about the rights and responsibilities of an older adult in the areas of:

- obtaining information and being consulted and heard.
- accessing an interpreter.
- deciding where to live.
- deciding about care needs.
- gaining access to and ensuring quality care and services.
- obtaining respect for their culture.
- being treated with dignity and respect, and maintaining independence.
- feeling safe.
- making and pursuing a complaint about a residential or home care service.
- reading and drafting correspondence.

## ***Advocacy Service for People with a Disability***

ADAS provides individual and systemic advocacy for people with disabilities and their family or carer to resolve problems associated with their disability that may arise with the National Disability Insurance Scheme (NDIS) or with the person's support providers in the Local Government Areas of Cox Peninsula, Darwin, Jabiru, Katherine, Litchfield, Palmerston, Tiwi Islands and East Arnhem Shire.

ADAS can provide information to people with disabilities; their families or carers to ensure that they understand and can assert their rights in these areas:

- being supported by an advocate.
- being provided with information and consulted before decisions are made that affect them including about where they live and the care and services they receive.
- undertaking employment.
- gaining access to quality services or even just to community activities.
- being treated with dignity and with respect – including for their culture.
- maintaining independence.
- accessing an interpreter.
- feeling safe.
- making and pursuing a complaint.

ADAS also runs an Elder Abuse Information Line that provides information, referrals and education about elder abuse to anyone calling from anywhere in the Northern Territory. Their target group includes people who have or think they may have experienced elder abuse, and family, friends, neighbours or other community members worried that someone they know is experiencing or is at risk of elder abuse.

ADAS undertakes advocacy strategies in the form of community education, fact sheets and policy and law reform submissions.