

NORTHERN TERRITORY COMMUNITY LEGAL CENTRES JOINT SUBMISSION TO THE NPA REVIEW

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This submission builds on the Review site visits. Due to resource constraints, the NT CLCs have chosen to focus on key issues in the NT, in line with the Review’s Terms of References. We welcome additional discussions with the Reviewers and Government.

ABOUT OUR SERVICES

Darwin Community Legal Service

DCLS began in 1991 when volunteer lawyers provided free legal advice sessions in Darwin and surrounds. Over time, the service expanded its geographical coverage and the range of matters on which it provided assistance. DCLS provides legal advice, assistance and representation, systemic advocacy, and advocacy support for individuals across the Top End of the Northern Territory.

DCLS identifies laws and procedures that operate as barriers to justice and works to change them through law reform campaigns. These systemic issues are identified through feedback from clients and advice from the broader community. DCLS also participates in law reform activities initiated by other organisations, including government-initiated reviews of legislation, regulations, and procedures.

DCLS provides community legal education (CLE) about legal rights and responsibilities across the whole community, with a particular focus on human rights, discrimination law, and social justice. DCLS seeks to involve other agencies in the design and delivery of CLE. Topics for these sessions are determined by community consultations, discussions with clients, and analysis of DCLS client data.

DCLS offers a specialist Tenants Advice Service NT wide which provides community-based advice and advocacy service for residential tenants across the whole of the NT.

Advocates support and empower those with disabilities and promote seniors' rights and access to services. Specialist project work focuses on elder abuse and NDIS appeals. DCLS aims to be a fearless, independent advocate which is visible and vocal on issues of injustice and disadvantage. We seek to be widely used and well regarded by the general community for our skilled advocacy, and for our ability to help clients obtain just outcomes. The various parts of the organisation support a holistic approach to dealing with issues of concern to our community and supporting access to basic rights, recognising the multiple layers of disadvantage often experienced in the NT.

Central Australian Women's Legal Service

Central Australian Women's Legal Service (CAWLS) was incorporated in April 1996 with the first AGM being held on 17 June 1996. This was the culmination of many years of hard work by a dedicated group of women legal practitioners who had been providing free legal advice on a voluntary basis to women in Central Australia. The women seeking assistance were primarily victims of domestic violence who had no other access to legal service due to issues of conflict.

In July 2000 CAWLS commenced auspicing the Domestic Violence Legal Service funded by the Northern Territory Government Department of Justice. At this time CAWLS and DVLS were separate entities, informally integrated and co-located. These two services later merged and with the introduction of funding under the Commonwealth Government Women's Safety Package and Indigenous Advancement Strategy CAWLS has grown into an essential and dynamic legal service that delivers services for all women in the Central and Barkly regions.

CAWLS is a trauma informed Community Legal Service for women, based in Alice Springs and Tennant Creek providing free confidential legal information and advice to all women in

the Central Australia and Barkly regions. A large component of our service delivery is related to women at risk of or experiencing domestic and family violence and the interconnected legal issues that accompany this including family law, child protection, tenancy matters and victims of crime compensation.

CAWLS provides Community Legal Education to the wider community and contributes to law and policy reform and advocacy campaigns to raise awareness of legal issues affecting women both on a local and national level.

During 2017/18 CAWLS enhanced and expanded outreach delivery to women in the local community and remote areas including the Barkly. We also further developed our client services to ensure all women are provided with a wrap-around, holistic, culturally safe and trauma informed response to all legal and interconnected matters.

In 2017/18 CAWLS received funding from five different streams from the Commonwealth Government and the Northern Territory Government. The funding allows CAWLS' to provide a generalist legal service to all women in Central Australia and Barkly region, a drop in domestic and family violence legal service, Community Legal Education as well as services through our Specialist Domestic Violence Unit incorporating a Health Justice Partnership.

Katherine Women's Information and Legal Service

KWILS is a community led organisation that was initiated by the Wurli Wurlinjang Aboriginal Corporation and the Katherine Regional Aboriginal Legal Aid Service. At its inception in 1997, KWILS aimed to provide legal assistance to isolated women, particularly those experiencing domestic violence with priority given to Indigenous women and remote women living on pastoral stations in the wider Katherine region.

For over two decades, KWILS has continued to expand its specialist services to disadvantaged and isolated women, particularly those who face additional barriers for reasons including race, culture, disability, language, poverty, age and sexuality.

KWILS services are provided by a small high performing team and is overseen by a community-based voluntary management committee.

KWILS provides advice, information, casework and legal education on a range of issues including but not limited to:

- Domestic and Family Violence;
- Child Protection;
- Family Law;
- Employment;
- Government complaints;
- Victims of Crime compensation;
- Motor Vehicle accidents;
- Tenancy;
- Adult Guardianship;
- Credit, Debt and Consumer;
- General Civil Law.

KWILS provides advice clinics, duty lawyer services, outreach services, legal education and law and policy reform. KWILS aims to provide holistic and client-centred services. We are informed by a feminist framework that recognises the rights of women as central.

KWILS promotes legal support that is safe, respectful and responsive to the needs of women accessing justice. We have an excellent record in actioning and advancing the rights of all women in the Katherine region.

Top End Women's Legal Service

TEWLS is a specialist community legal centre focused on the advancement of women's civil rights. Founded in 1996, we are funded by the Commonwealth Departments of the Attorney General and Prime Minister & Cabinet to provide high quality, responsive, and culturally appropriate legal advice, casework, community legal education, and advocacy to women living in the Greater Darwin region.

TEWLS services are provided by a small team of 5, over 25 regular and long-term volunteers, and via pro-bono partnerships. We provide advice and assistance in a number of areas of law, including:

- Family law;
- Domestic and family violence;
- Housing and tenancy;
- Consumer law;
- Debts, fines and welfare rights;
- Sexual assault;
- Discrimination;
- Compensation for victims of crime; and
- Complaints about government and other services.

We provide specialist outreach services for Aboriginal and Torres Strait Islander women in town communities within Greater Darwin and proximate Indigenous communities, women incarcerated in the Darwin Correctional Precinct, women at the Royal Darwin Hospital through a Health Justice Partnership, and culturally and linguistically diverse women within the Greater Darwin region through adult migration English programs.

In the 17/18 FY, TEWLS provided assistance to over 2,500 women with legal information, referral, advice, casework and representation. Over 1250 women received information or referral. Over 650 women received legal advice on more than 1,000 matter types. Over 500 women received legal casework assistance. Staff attended over 125 community outreach locations. Over 25 Submission, Advocacy, and Community Legal presentations were delivered on salient issues.

Almost all clients presented with a complex matrix of interrelated legal matters and or vulnerabilities that required, and received, a dedicated holistic focus. Over 20% were homeless, without income, with a disability or mental health condition, and speak English as a second language. Over 60% had domestic violence indicators, and over 60 % of all clients were financially disadvantaged.

NORTHERN TERRITORY CONTEXT

The demographic, cultural, linguistic, geographic, economic and historic characteristics of the Northern Territory differ extensively compared with other Australian jurisdictions. As such, the Northern Territory presents unique and challenging factors for community legal assistance providers and funding bodies.

The additional costs of service delivery in the Northern Territory derives from a highly complex and multifaceted environment. There is ample evidence in the public domain on the disproportionate level of disadvantage in the Northern Territory particularly for Indigenous and Culturally and Linguistically Diverse people accessing justice.

This submission will briefly summarise some factors that result in additional considerations and costs of service delivery in this jurisdiction. We strongly believe that recognition, greater evidence and adequate funding is required to address these factors to ensure sufficient, effective and appropriate service delivery in the community legal sector.

A one size fits all approach is not applicable to the Northern Territory, and furthermore between different regions within the Northern Territory. An appropriate weighting needs to be applied to recognise the complexity of providing access to justice in the NT in the same way this is recognised in the delivery of health and education services.

Highly complex legal needs and multiple layers of disadvantage

CLC clients usually present with a multitude of complex legal issues affecting themselves and their families. These may touch on domestic violence, child protection, family law, housing, employment, and credit and debt. It is not unusual for one client to present such a vast array of legal need. In addition, there are a multitude of complex social and health outcomes intertwined with the legal matter that requires a coordinated support group across different service providers.

Clients often need to secure food, shelter, a shower, clean clothes, bus fare, access to medical attention and secure environment before we even start to address their legal problem. All CLCs in the NT are active in making sure fundamental social and economic needs are dealt with as part of the pathway to addressing legal issues.

Workforce

Workforce issues for NT CLCs are significant particularly due to the locality, and salary levels well below equivalent positions within the Legal Aid Commission and the Aboriginal Legal Aid Service as a consequence of available funds. Workforce issues include a reduced labour pool, the cost of recruiting and retaining quality staff, reduced employment retention levels and the orientation and training of staff. The cost of professional development is high in the NT particularly where remote based staff must travel long distances for access to it.

Operational

Additional operational costs are also a significant factor for NT CLCs. These include the extremely high rental costs, insurance, financial services and communications services,

travel and extra time required to provide genuine access to those who are extremely disadvantaged. Funding directed at high operational costs reduces resources on the frontline where it is needed most.

Cultural considerations

The four Northern Territory Community Legal Centres provide culturally competent and appropriate legal services to a range of clients. This is particularly the case for Aboriginal and Torres Strait Islander peoples, and people from culturally and linguistically diverse backgrounds including refugees.

Many clients in the Northern Territory are Indigenous who have English as a later language and many have literacy issues. Notwithstanding the logistical challenges that face Indigenous people while trying to access justice, culture conceptualisation and language is a particularly significant one. Whilst CLCs employees include senior and knowledgeable Indigenous staff, services must ensure all staff are appropriately trained, can readily use interpreters and where possible have client support officers. These are additional and significant costs of service delivery.

All mainstream services deal with high proportions of Aboriginal clients (i.e. they are not dealt with primarily by Indigenous specific services) because almost a third of the population are Aboriginal and are the most disadvantaged and the most in need of essential services in the NT.

Remote service delivery

Together, the NT CLCs cover an extensive geographic range. The cost of having a large catchment area is significant, particularly in remote areas with a lack of infrastructure, high fuel costs, staff allowances and expensive accommodation.

State and Territory investment

Unlike every other Australian jurisdiction, the Northern Territory Government does not provide investment to supplement the National Partnership Agreement funding to CLCs. This is a relevant jurisdictional factor that should be taken into consideration.

Case studies detailed in [Attachment A](#) provide a snapshot on NT CLC service delivery.

EFFECTIVENESS, EFFICIENCY AND APPROPRIATENESS OF FUNDING ARRANGEMENTS

Secure funding and policy priorities facilitate strategic planning, service provision, service outcomes, and improved access for justice. The withdrawal of funds part way through the 2015 Agreement, followed by restitution with a different policy overlay, disrupted the provision of legal services.

Key recommendations and statements:

- Ensuring certain, predictable, long term and sustainable funding to NT CLCs is vital in ensuring our services can operate effectively.
- NT CLCs operate in a region of extreme disadvantage and inadequate services. In order to support access to justice a holistic service model is required. This is achieved by cobbling together a patchwork of funding agreements that absorb considerable resource in administration. A sustainable level of base funding recognising that resolving a legal problem requires far more than legal assistance is required.
- The funding allocation model should be transparent, consistent and evidence based. It should effectively consider the additional costs of service delivery in the Northern Territory. An appropriate weighting needs to be applied to recognise the complexity of providing access to justice in the NT in the same way as this is recognised in the delivery of health and education services.
- For services to work and plan effectively, funding agreements should be for five years.
- Additional costs borne by service providers since the introduction of the National Partnership Agreement include CLASS and CPI salary increases that have not been covered by indexation. NPA funding should account for these additional costs. There is no indexation of funding nor any provision of increase according to increased need.
- The administration of funding should remain independent of legal assistance providers.
- There should be no move to tender-based funding in legal assistance funding. As a small jurisdiction, tender based funding in the Northern Territory would undermine service collaboration and partnerships.
- The NPA needs to adequately recognise, account for and fund according to the expertise and experience of specialist services and generalist services in regard to specific areas of law. Generalist Community Legal Centres have flexibility to respond to the needs of their community and to deal with the relevant circumstances and barriers faced by their community. Specialist legal services, such as women's legal services, bring in-depth knowledge and tailored delivery that support access for particular groups and deliver significant impact.

- Rolling funding should be applied for the length of an agreement and a new agreement negotiated a significant time before the expiry of the old. To stop funding in June and effectively not provide funding until October means services can't plan, lose staff, must cross-subsidise from other buckets of money and must curtail operations in the busiest time of year in the middle of the dry/cool season.
- Additional investment in governance, training, capacity building, and recruitment would better enable longevity and sustainability of services.

Adequacy of funding

Our effectiveness, efficiency and ability to achieve quality outcomes all hinges on the funds available to undertake our work.

Current levels of Commonwealth funding and lack of any Northern Territory funding under the NPA is insufficient to meet critical legal need in the Northern Territory. CLCs are frequently put in the position of determining who has access to justice because of the extent of unmet need.

The full picture must be considered when discussing investment in the legal assistance sector. If investment leads to better access to justice, this leads to overall savings to the state, community and individual. There is a false economy if savings delivered by increased investment are not taken into account. Under-investment leads to greater costs in the system in the areas of courts, prisons, impact on the economy, health care, housing and child protection. The Law Council has estimated that there is a need for at least an extra \$390m pa across the criminal and civil law spectrum.

COLLABORATION

NT Community Legal Centres have strong relationships and collaborative partnerships, with high level connectivity across the entire legal service and related sectors. Strength based collaboration, based on recognised expertise and specific geographic service areas, ensures high level cost effective service provision in response to multi-faceted complex client vulnerabilities, and a sparsely spread and small population.

Key recommendations and statements:

- The Northern Territory has a strong culture of collaboration. Collaboration spans across a wide range of service providers of social and economic support as well as among the four community legal centres and other legal assistance providers. Collaboration with a wide range of social services is fundamental to delivering access to justice.
- Collaborative service planning is costly to services in time and resources. Specific and additional funding should be provided to NT community legal centres, to enable them to fully undertake and engage in meaningful collaborative service planning.
- Funding should ensure services can meet face to face to undertake meetings or adequate funding that allows access to proper technology to allow services to interact meaningfully.
- Collaborative service planning should include service delivery as well as community legal education, law and policy reform and advocacy work.
- Holistic service provision and a wider view on collaboration is required. People experiencing disadvantage are more likely to experience multiple legal and non-legal needs and therefore a holistic approach to service delivery is the reality in the Northern Territory.
- Funding provided to the Northern Territory Association of Community Legal Centres could benefit collaborative service planning in the Northern Territory.

UTILITY OF PERFORMANCE MONITORING AND REPORTING ARRANGEMENTS

NT Community Legal Centres provide holistic, client-centred, wrap around and appropriate services. Our services have multidisciplinary teams. We are highly experienced in providing legal assistance to vulnerable people and create real and meaningful outcomes for people's lives daily. NT CLCs are extremely cost efficient, effective and innovative.

- Reporting does not reflect the CLC impact and output. Occasions of service do not reflect complexity or time required to deal with legal and related issues. Level of disadvantage is associated with heightened vulnerability to unresolved ongoing legal problems. Finalisation decreases with each indicator of disadvantage, legal processes take longer and the matter is usually complex, difficult to resolve or intractable by the time a disadvantaged person finds legal assistance. (Wei, No 56, June 2018).
- There is no nexus between reporting requirements and objectives and outcomes. KPIs are based on number of clients, broad service categories, and client satisfaction by way of a client survey and do not appropriately represent outcomes. There is no differentiation between simple and complex legal problems, the assistance the client might require in communicating the problem, or the impact of other issues that may need to be resolved.
- Providing representation and assistance to a person who is disadvantaged does not equal access to justice. However, early intervention to address these barriers through reform and strategic advocacy is generally a more efficient and effective way of supporting access to justice.
- Performance focuses also on number of clients at risk of domestic and family violence (DFV) and those that are financially disadvantaged. Clients are at times reluctant to declare these factors either, due to concern of the consequences as well as fear of being judged. In the NT context, mandatory reporting of DFV make the potential consequences and risk to a victim very real. The reporting of these is also not reflective of context as DFV issues are rarely dealt with in the family law jurisdiction in the NT but are categorised in this way for reporting purposes.
- Volunteer clinics increase the statistics but place additional pressure on staff and it is difficult to regulate quality. Walk in, universal access services do not service those most in need.
- Comparisons are difficult to make and may not be appropriate – outcomes will vary from place to place and individual to individual and so it is difficulty to say that X is the outcome to problem Y across the board. It there is a reliance on counting alone then there is always going to be inconsistency. CLASS is still having teething problems but restricted as it is to data collection it will never give a true indication of either demand or progress towards the objective.
- It is vital to recognise and value the importance of prevention and early intervention of CLCs and their capacity to highlight and address systemic issues. This includes

having funds to undertake community legal education, community development and relationship building, policy, advocacy and law reform.

- The NPA should be amended to remove restriction on the use of Commonwealth funding for certain aspects of this work.

ATTACHMENT A: NT CLC CASE STUDIES

The additional costs of service delivery in the Northern Territory derives from a highly complex and multifaceted environment. There is ample evidence in the public domain on the disproportionate level of disadvantage in the Northern Territory.

The demographic, cultural, linguistic, geographic, economic and historic characteristics of the Northern Territory differ extensively compared with other Australian jurisdictions. As such, the Northern Territory presents unique and challenging factors for community legal assistance providers and funding bodies.

This section provides a brief snapshot on some of the legal and non-legal issues clients present with at NT CLCs. The complex legal and non-legal problems, compounded by widespread vulnerability and disadvantage present additional considerations and costs to NT CLCs.

Non-legal needs of clients

DCLS provides outreach based at St Vinnies to people from remote communities and homeless people who camp in the park next door. One old man in a wheelchair had inquired several times about talking to a lawyer but pulled away and diverted his eyes on a number of occasions. Some of our staff also volunteer at Orange Sky. Orange Sky is helping to positively connect people experiencing homelessness through free laundry, showers and conversation.

The man finally asked to be assisted to have a shower and borrowed some second hand clothes so that he could go and see a lawyer. He had felt ashamed to discuss his matter when he was uncomfortable with how he looked and felt. DCLS is active in making sure fundamental social and economic needs are dealt with as part of the pathway to addressing legal issues.

Interest-only loan, forever

DCLS assisted a client who lives in a remote area and does not read or write. The client had taken out an interest-only loan from a bank about 11 years ago to buy whitegoods, furnishings and other household items. He did not understand the terms of the loan and despite paying a significant sum over 11 years, the principal remained unchanged.

DCLS negotiated the loan with the bank which resulted in approximately half of the debt being written off, with the balance transferred to a principal and interest loan at a low fixed interest rate.

Safety and security

Bill*, an elderly man, was referred to DCLS by a social worker from the Royal Darwin Hospital. The social worker suspected that Bill was suffering from elder abuse and that family members were accessing his bank account and taking his money.

Bill could not find his keycard and requested support to obtain a new one. Once Bill had given our advocates authority to act on his behalf, they arranged a new card, delivered it to Bill and gave him advice on keeping his accounts safe.

Domestic Violence and Safety Planning

Laura* is an Aboriginal woman from a remote community. Laura experienced serious physical assault from her partner and was transferred from her remote community clinic to Alice Springs Hospital. A CAWLS' lawyer provided her with initial advice at the hospital and linked in with her again at the Alice Springs Women's Shelter once she was discharged.

Laura had engaged with the police at the hospital and the social workers. Laura did not have the protection of a domestic violence order as her current order was expiring. Given the severity of the violence, this was a very important part of keeping Laura safe.

CAWLS was able to provide Laura with legal assistance and support representing Laura in Court in order to upgrade and extend her domestic violence order against her ex-partner and assisting Laura with a victim of crime application for her injuries sustained from the domestic violence.

CAWLS also provided Laura with non-legal support she needed. CAWLS engaged in safety planning with Laura and liaised with the police and Court in order to ascertain the whereabouts of the offender and the status of his criminal matters. There were ancillary non-legal matters, including issues with her Centrelink payments and housing options which had become critical post-separation as Laura had moved out of her shared home with her ex-partner. CAWLS linked Laura in with Centrelink and helped her with her housing options.

Laura is now living back with her family in another remote community with stable housing, there is a full non-contact domestic violence order in place against the offender and he is in jail. These factors have enabled Laura to begin rebuilding her life after extremely traumatic circumstances flowing from the family violence.

Child Protection

Sarah* is a 16 year old Aboriginal young woman from Timber Creek with a 1 month old baby. She had been living with her boyfriend and his family in Katherine prior to giving birth. After their baby was born she returned to her partner's house but soon realised it was not a safe place for her and her baby. She contacted Territory Families for assistance who placed both mother and child with a respite carer.

Sarah was referred to KWILS by Territory Families and we were able to provide assistance to Sarah on identifying safe family members that could provide accommodation for her and her baby, and advocating on her behalf to Territory Families. Within days Sarah's aunt in Darwin was approved as a respite carer and she was on a bus from Katherine to Darwin and a safe accommodation.

This matter was opened and closed within 2 weeks and demonstrates the advantages of "preventative" lawyering whereby the family unit remains intact.

Housing

Tracey* is a 28 year old widowed Aboriginal mother. Her partner and the father of their 5 children committed suicide soon after she fell pregnant with their 5th child. She lives in accommodation provided by a nationwide NGO. KWILS was approached by Tracey with the aid of her family support worker because of difficulties she was facing from her in-laws. There were issues around demand-sharing and blame over her partner's death. Tracey was devoid of personal agency and autonomy in her home and family.

KWILS provided advice, initially on Tracey and her landlord obtaining a Trespass Notice for the family home to regulate unwanted and unwelcome visitors. When this course of action proved ineffectual KWILS provided legal assistance and representation in obtaining a

number of Domestic and Family Violence Orders through the Local Court. Through the collaborative assistance and support of KWILS and several other agencies Tracey regained her confidence and control over the future of herself and her 5 children.

Discrimination

Tenille* is an Aboriginal woman living on a remote Aboriginal community. Tenille often journeys into Darwin to visit and spend time with family and is a member of a local sports club. During one of TEWLS' visits to Tenille's community, Tenille told TEWLS staff about her most recent attendance to the sports club, where she and her sister had been refused entry as a consequence of their living on their community. Tenille told TEWLS that she felt shamed by the sports club's conduct and asked TEWLS for help about what she could do.

TEWLS advised Tenille of her rights under the NT Anti-Discrimination legislation and assisted Tenille to contact the sports club to resolve the issue before moving through the legislation's conciliation processes. TEWLS was successful in seeking a prompt response from the sports club, and with discrimination being found to have occurred, the sports club offered Tenille and her sister an apology and compensation. Tenille instructs that she felt supported and culturally safe during the complaint process and now knows how to help herself and any family who experience the same discrimination.

Following TEWLS' advocacy on behalf of Tenille, TEWLS was contacted by the Board of the sports club for assistance in seeking training and education for staff so that Tenille's experience would not occur again. As a consequence of Tenille's complaint, the sports club have actively progressed their staff's understanding and practise of anti-discrimination legislation, leading to better outcomes for future patrons.

Employment Law

Sophie* is a young CALD woman on a student visa. She requires the assistance of an interpreter and lives with her extended family. While she was completing high school, Sophie undertook casual work for a local company, where she was employed as a sub-contractor. Sophie's contract provided that she was to issue invoices to the company after completing her work and that the company would pay Sophie directly according to the invoice. Sophie attended TEWLS after not being paid by the company for a significant amount of work.

TEWLS represented Sophie in her small claim application to the Northern Territory Civil and Administrative Tribunal. The Tribunal found that the company was in breach of contract in not paying Sophie and made orders in Sophie's favour. After the company failed to comply with the Tribunal's orders, TEWLS advised Sophie regarding enforcement processes, where Sophie will now have to commence proceedings interstate.

While the matter is yet to be finalised, Sophie instructs that she is glad that she stood up to the company with TEWLS assistance.