



# Darwin Community LEGAL SERVICE

Level 2, 75 Woods St, Darwin NT 0800  
GPO Box 3180, Darwin NT 0801

P 08 8982 1111 or Freecall 1800 812 953

E [info@dcls.org.au](mailto:info@dcls.org.au) W [www.dcls.org.au](http://www.dcls.org.au)

ABN 42 840 626 724

## Eligibility and Priority Guidelines for Legal Assistance and Seniors and Disability Rights Services

Darwin Community Legal Service Inc.

Dated: 10<sup>th</sup> August 2021

Darwin Community Legal Services is located on Larrakia country. We acknowledge the Larrakia people as the Traditional Owners of the Darwin region and we acknowledge the Traditional Owners of the land throughout the Northern Territory. We pay our respects to Elders past, present and emerging.



free legal advice and information | general legal service | tenants' advice service  
seniors and disability rights service | older person's abuse information line  
Darwin Community Legal Service



## Contents

<b>ABOUT THE GUIDELINES .....</b>	<b>4</b>
Background - DCLS structure and resources.....	4
Guidelines .....	5
<b>1. General Law, Tenants' Advice and Volunteer Advice Sessions.....</b>	<b>6</b>
1.1 Advice, information, referral – via GLS, TAS & VLS.....	6
1.2 Legal casework assistance – GLS and TAS .....	9
1.3 Applying for legal casework assistance.....	11
1.4 Conditions which apply to legal casework assistance .....	12
1.5 Ceasing legal casework assistance.....	13
<b>2. Seniors and Disability Rights Service (SDRS).....</b>	<b>13</b>
2.1 Advocacy service for older adults.....	14
2.2 Advocacy service for people with a disability .....	15
2.3 NDIS applications, reviews, and appeals .....	16
2.4 Criteria and conditions for SDRS advocacy assistance.....	16
<b>3. Appeal rights – GLS, TAS and SDRS .....</b>	<b>18</b>
3.1 First tier appeal .....	18
3.2 Second tier appeal .....	19
<b>4. Feedback, problem solving and complaints .....</b>	<b>20</b>
4.1 Feedback and problem solving .....	20
4.2 Complaints .....	20





## ABOUT THE GUIDELINES

Darwin Community Legal Service ('DCLS') is a non-profit service established by the community in 1991 to:

- Facilitate provision of legal advice and assistance to the community,
- Provide community legal education, and
- Advocate for people who are socially or economically disadvantaged and whose inability to access the legal system aggravates or perpetrates their disadvantage.<sup>1</sup>

DCLS focuses on community empowerment and advocates for positive change to law and the legal system with and for community members.

Community empowerment aims to:

- enable individuals and groups to influence matters that affect them and contribute to positive change for the benefit of others they care about, and
- improve wellbeing, caring, understanding, fairness and justice.

We participate in many community issues, organising, community legal education and advocacy.

### ***Background - DCLS structure and resources***

DCLS is governed by a volunteer community board of management and has over 25 staff and 60 volunteers (mainly lawyers, legal academics and law students), who contribute their time for free.

DCLS's resources consist of different kinds of funding, especially under Commonwealth government and NT programs, and in-kind resources such as time contributed by volunteers and practical giving for projects and events.

DCLS manages the resources available at the time to provide assistance via staff and volunteers. DCLS does have funds to pay external lawyers.

---

<sup>1</sup> DCLS Constitution, Objects and purposes cl 2.





DCLS applies priorities which particularly focus on:

- DCLS's purposes
- funding availability and requirements
- community needs, and
- availability of services in addition to DCLS.

DCLS applies a multi-disciplinary socio-legal approach, with strong internal and external collaboration to maximise forms of support, advocacy and assistance for clients.

There are currently four teams:

- General Legal Service (GLS)
- Tenants' Advice Service (TAS)
- Volunteer Advice Sessions (VAS)
- Seniors and Disability Rights Service (SDRS)

Each team has priorities, set out below.

Each team has a Team Leader, or a Coordinator. The Principal Solicitor is ultimately responsible for the legal practice and the DCLS Executive Officer is responsible for DCLS's operations.

## ***Guidelines***

These Guidelines outline:

- DCLS's legal services
- priorities and criteria
- client rights of review
- feedback, problem solving and complaints





## 1. General Law, Tenants' Advice and Volunteer Advice Sessions

### 1.1 Advice, information, referral – via GLS, TAS & VLS

DCLS provides free initial legal advice, legal information, and referral in person, by phone and by web conference.

We provide these services:

- during business hours, and twice a week in the evenings, from our office in Darwin,
- on Saturday mornings about once a month at Casuarina,
- on Monday evenings about once a month at Palmerston,
- at community locations in the Darwin and Palmerston region (e.g., at shelters and other community services), and
- at other locations, depending on resources at the time.

#### General Legal Service (GLS)

The General Legal Service provides **initial free legal information, referral, and legal advice** to everyone in the **GLS service area** with priority to:

- people in **GLS priority groups**,
- who are experiencing **financially hardship**.

However, people are excluded due to conflict of interest, business or commercial matters, criminal matters, and landlords in tenancy matters.

The GLS also provides **legal casework assistance** (subject to additional criteria (see 1.2 below) and collaborates in community legal education and law and related reform.

#### *GLS service area*

The GLS service area is Darwin and surrounds and the Palmerston area with the ability to assist people from other regions across the NT where appropriate and where staff and any other relevant resources are available.





### *GLS priority groups*

GLS priority groups include:

- Aboriginal and Torres Strait Islander people
- older people (over 50 for Aboriginal people and over 65 years for others)
- people experiencing or at risk of family violence
- people in custody
- children and young people under 25 who are vulnerable, including care leavers people whose human rights, health, wellbeing or livelihood is at risk
- people in remote and rural areas
- people with a disability or mental illness
- people who are homeless or are at risk of becoming homeless
- people who have difficulty accessing services due to literacy, cultural or linguistic needs or any other reason
- single parents.

### *GLS financial hardship*

Financial hardship includes being reliant on Centrelink or having income equivalent to or below Centrelink. We also consider your personal responsibilities, your living costs, debts, savings and other assets.

This means test does not apply to legal information, referral and advice except in periods of high demand where the means test ensures priority for people experiencing financial hardship.

### Tenants' Advice Service (TAS)

TAS provides legal assistance (including information, referral, advice, advocacy and legal casework assistance) to private, public and social housing tenants and prospective tenants in the NT, including people living in boarding houses, caravan parks, town camps or in supported accommodation. TAS also provides educational resources and community legal education to community groups and services.





## TAS service area

NT wide

### *TAS priority groups*

TAS priority groups include:

- children and young people (under 25)
- people experiencing financial disadvantage
- Aboriginal and Torres Strait Islander people
- older people (aged over 65 years)
- people experiencing, or at risk of, family violence
- people residing in urban, rural or remote areas
- people who have difficulty accessing services due to cultural or linguistic needs
- people with a disability or mental illness.

TAS does not provide legal advice to:

- lessors/landlords/real estate agents / body corporates
- organisations / corporations/associations etc., including community service providers
- head tenants in dispute with sub-tenants
- co-tenants in dispute with other co-tenants, except in some circumstances (e.g. where there is domestic or family violence)
- tenants in commercial tenancies

### *TAS financial criteria*

TAS services are inclusive of people who are experiencing financial hardship.

TAS services are not means tested but TAS will prioritise people experiencing financial hardship.

### **Volunteer Advice Sessions (VAS)**

DCLS offers regular legal advice sessions staffed by volunteers out of hours, available in person, by phone and web conference.

These sessions offer legal information, legal advice and referral and some limited additional legal assistance subject to capacity on the day.

### *VAS service area*

Face to face in Darwin, plus by phone or web conference for people in the NT or where the legal problem is in the NT.





### *VAS priority groups and financial criteria*

Volunteer Advice Sessions are open to everyone to receive one-off advice from a volunteer solicitor. People are not excluded due to their income or financial circumstances.

People are excluded due to conflict of interest, business or commercial matters, criminal matters, landlords in tenancy matters.

Follow up assistance by the Volunteer Advice Sessions can be approved by the Supervisor on the day and people can be referred to the GLS, TAS or SDRS for further initial advice or assistance or to other appropriate services.

## **1.2 Legal casework assistance – GLS and TAS**

**Legal casework assistance** means legal work on your case. For example:

- investigating and reporting to you on your legal prospects of success,
- working with you to submit or proceed with a complaint or a legal application, or
- representing you in negotiations or before a court or tribunal.

The following criteria apply to:

- whether the GLS or TAS will provide legal casework assistance, and
- if so, the nature and extent.

### **GLS - priority groups, financial hardship, and areas of law**

The GLS provides **legal casework assistance** to priority groups experiencing financial hardship in GLS priority areas of law.

*GLS priority groups and financial hardship* are outlined above at 1.1

The **priority areas of law** for the GLS are the following relating to basic rights:

- social security, veterans and other government payments including qualifying, conditions, debts, appeals
- employment including conditions, entitlements, discrimination, dismissal
- human rights and anti-discrimination







- credit and debt including contesting liability and hardship arrangements
- consumer law including goods, services and motor vehicles sales and repairs
- adult guardianship where rights, autonomy or wellbeing are at risk.
- safety and security of older people from abuse
- National Disability Insurance Scheme appeals
- crime victim's compensation
- other areas of law involving social justice issues impacting on rights of vulnerable groups

GLS does not provide legal casework assistance in the following areas of law, due to factors such as avoiding overlap with other services or matters being outside DCLS's scope and resources:

- child protection
- criminal matters
- defamation
- family law matters
- immigration matters
- Native Title
- wills and the administration of deceased estates
- workers' compensation
- medical negligence
- tenancy advice to landlords
- sale or purchase of property and conveyancing
- commercial matters (including witnessing the execution of loan agreements, mortgages and other loan security documents, advice to businesses or a body corporate)





## GLS and TAS – legal casework criteria

In deciding whether the GLS or TAS will provide legal casework assistance in your case, we consider whether you:

	GLS	TAS
Are in the relevant service area or have a legal problem which can be addressed in the relevant service area	✓	✓
Are in a priority group	✓	✓
Are experiencing financial hardship	✓	
Are seeking assistance an area of law where DCLS can assist	✓	✓
Meet the <i>legal casework criteria</i> (below)	✓	✓

### ***Legal casework criteria***

The legal casework criteria are:

- whether you can self-advocate,
- whether you may be able to receive the legal help you seek in another way e.g., via a private lawyer, another non-profit legal service, legal aid scheme or pro bono legal initiative,
- whether the matter has reasonable prospects of protecting or advancing your rights, interests, or situation,
- whether the matter raises systemic or public interest issues and the extent to which it stands to benefit others as well, and
- whether DCLS is likely to have sufficient resources and capacity to provide the assistance sought.

### **1.3 Applying for legal casework assistance**

- Casework assistance is provided if you request it and the Principal Solicitor, Team Leader or a Solicitor authorised by the Principal Solicitor considers and approves assistance in accordance with these guidelines.
- The decision whether to provide the legal casework assistance you seek will be communicated to you within a reasonable time. A reasonable time will usually





mean within 5 working days, but this varies in cases of urgency.

- If the assistance is offered, you will receive Terms of Engagement for your consideration. This will outline the assistance offered and the conditions (see 1.3 below).
- If the assistance sought is not offered, you will receive information about your rights of review.
- If you are receiving legal casework assistance and you later seek additional assistance about the same or a different matter, the above criteria apply to the new request.
- If casework assistance is approved and you wish to proceed, your signed Terms of Engagement will be kept on your file.

### **1.4 Conditions which apply to legal casework assistance**

If you receive legal casework assistance the conditions will be in the Terms of Engagement. The conditions apply from the start and are ongoing while assistance is being provided.

The conditions include:

- Staying in contact – you need to keep your contact details up to date and be contactable by DCLS.
- Change in circumstances – you need to keep DCLS up to date in case this affects something about your case or your eligibility for DCLS assistance.
- Legal ethical issues – if something happens in or in relation to your case that means DCLS is compromised or at risk of breaching legal ethical rules or other relevant standards - assistance will cease.
- Case expenses – DCLS does not have the resources to pay expenses (e.g. court filing fees, professional reports or barrister’s fees). If case expenses need to be paid, and they can’t be waived or covered in another way, your case may face obstacles which DCLS cannot address.
- DCLS capacity – whether DCLS has enough staff capacity at a particular time to continue to provide the assistance to you.
- Case and client – DCLS may cease assistance if it is determined:
  - your case ceases to have reasonable prospects of success,
  - the cost of providing assistance becomes too high for DCLS,
  - your conduct is unacceptable (e.g., threatening, abusive or harassing), or
  - you need supports which are beyond DCLS’s resources.





## **1.5 Ceasing legal casework assistance**

DCLS will cease providing legal casework assistance in your matter where the conditions of assistance are not met. For example, if:

- You do not return the signed Terms of Engagement.
- DCLS is unable to obtain instructions after reasonable attempts.
- The matter lacks reasonable prospects of success due to lack of evidence or any other reason.
- DCLS is unable to continue to provide the service due to resource issues.
- A conflict of interest has arisen which cannot be managed.
- You have been violent, threatening, abusive, harassing or disrespectful and DCLS is concerned for the safety or wellbeing of staff or any other person if assistance was to continue.
- Continuing to act for you would breach the law or professional legal ethics.
- Case expenses have arisen which DCLS does not pay, and non-payment is blocking further assistance to you (e.g., a report is needed but can't be obtained).
- You do not follow the reasonable advice of the solicitor or you act contrary to the advice to your detriment, compromising DCLS's ability to act/assist.

## **2. Seniors and Disability Rights Service (SDRS)**

The DCLS Seniors and Disability Rights Service (SDRS) provides advocacy through supporting and empowering seniors and people with disabilities to protect/promote their rights/interests including accessing services needed.

### **What is Advocacy?**

Advocacy in all its forms seeks to guarantee that people are able to:

- Have their opinions and concerns heard.
- Have their views and wishes genuinely considered when they are affected by decisions
- Uphold and preserve their rights

Advocacy is a process of supporting and enabling people to:

- Articulate their views and concerns
- Access information and services
- Explore choices, preferences, and opportunities
- Protect and promote their rights and responsibilities

Advocacy does not include providing legal advice or assistance.





## Types of Advocacy

**Individual** – Assisting a person or group to achieve their objectives.

**Systemic** – Working to bring about social and structural change and mobilise others to be part of that process of change.

## Focus of Advocacy

Advocacy is issue-based. Advocates assist clients with a particular matter or problem. Advocates may take on several matters for one client.

### **2.1 Advocacy service for older adults**

SDRS provides advocacy services to people who are 65 years or older, or 50 years or older where they identify as Aboriginal and/or Torres Strait Islander, when:

- Their families or representatives live in the Top End of the Northern Territory, and
- The older person is receiving, applying for or considering applying for:
  - Australian Government subsidised Residential Aged Care Services,
  - Home Care Package,
  - Commonwealth Home Support Program, or
  - Flexible Care Services.

SDRS can provide information about the rights and responsibilities of an older person to ensure that they understand and can assert their rights in the following areas:

- 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.

## **Elder Abuse Information Line**

SDRS also provides an Elder Abuse Information Line that offers information, referrals and education about elder abuse to anyone calling from anywhere in the Northern Territory.

The target group includes:

- Older 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.

## **2.2 Advocacy service for people with a disability**

SDRS provides individual and systemic advocacy for people with disabilities, their family or carer(s) in the Top End including Cox Peninsula, Darwin, Jabiru, Katherine, Litchfield, Pine Creek Palmerston, Tiwi Islands and East Arnhem Shire.

SDRS can assist clients to make complaints and resolve issues that may arise with the National Disability Insurance Scheme (NDIS), disability service providers or issues of discrimination. SDRS supports people with disabilities NT wide in appealing decisions under the NDIS.

SDRS can provide information to people with disabilities, their families or carer(s) to ensure that they understand and can assert their rights including:

- Being supported by an advocate
- Being consulted before decisions are made that affect them, including about where they live and the care and services, they receive
- Gaining access to quality services or to community activities
- Being treated with dignity and with respect – including with regards to their culture
- Maintaining independence
- Accessing an interpreter
- Feeling safe
- Resolving problems in supported employment
- NDIS applications and planning

SDRS also undertakes advocacy in the form of community education, the production of information fact sheets and engaging in policy and law reform.





### **2.3 NDIS applications, reviews, and appeals**

SDRS provides advocacy for people with disabilities or their families/carers who are making an access request to become a participant of the NDIS scheme.

If already a participant, SDRS can assist and provide information relating to plan implementation, plan reviews and appeals.

SDRS can provide information and assistance to people with disabilities, their families or carers to ensure that they understand the requirements to access the NDIS.

SDRS provides education and information to health providers and other support workers, specifically to raise awareness of the essential criteria necessary to meet the disability requirements, and how to assist applicants access the scheme.

Where NDIS access is rejected, SDRS can advocate on behalf of the applicant and provide information and assistance to submit a request for an internal review of the decision to reject access.

If that is unsuccessful SDRS can also assist in accessing and utilizing the next level of appeal in Administrative Appeals Tribunal.

Advocates can also attend planning meetings to support the applicant exercise choice and control in the pursuit of their goals as they construct plans that will facilitate the delivery of support and services.

Where a participant considers that the plan does not meet their needs and goals, SDRS can provide advocacy and support to seek a review of the plan.

### **2.4 Criteria and conditions for SDRS advocacy assistance**

The following criteria apply to SDRS advocacy assistance:

- Free from conflict of interest
- Likely to add value in trying to advance the person's wellbeing
  - able to identify how the assistance would contribute to advancing the person's wellbeing





- able to receive information needed to provide the assistance
- able to maintain contact
- able to maintain constructive collaboration
- able to provide assistance free from harassment, abuse or risk to safety of staff and others
- SDRS has resources / capacity to provide the assistance
- Provision of assistance by SDRS is equitable in the context of many people needing assistance
- SDRS will not assist where this would
  - involve dishonesty or illegality, or
  - be unethical or disreputable.

The criteria for SDRS advocacy assistance apply to start with and continue while assistance is being provided.

SDRS advocacy assistance begins with the SDRS Client Consent which outlines the advocacy matter and the conditions of assistance. The Client Consent is signed and returned in advance.







### 3. Appeal rights – GLS, TAS and SDRS

There are rights of appeal if:

GLS and TAS	SDRS
<ul style="list-style-type: none"><li>Your application to DCLS for legal casework assistance is refused by DCLS or you object to limitations placed on the nature or extent of the assistance.</li></ul>	<ul style="list-style-type: none"><li>Your application to the SDRS for support and/or advocacy assistance is refused by SDRS or you object to limitations placed on the nature or extent of the assistance.</li></ul>
<ul style="list-style-type: none"><li>Your legal casework assistance is terminated by DCLS</li></ul>	<ul style="list-style-type: none"><li>Your support and/or advocacy assistance is terminated by SDRS</li></ul>

In these cases, there is a two-tier appeal process. If you need an interpreter or someone to help you explain your position, please tell a staff member who will arrange appropriate support.

#### 3.1 First tier appeal

If you wish to seek a reconsideration of the decision refusing or limiting legal casework assistance or SDRS support and/or advocacy, you need to apply in writing by filling out the *Appeal Decision to Refuse Assistance* Form (available from DCLS), choose the first-tier appeal option and attach any relevant paperwork.

You can apply for a reconsideration within 3 calendar months of you being notified of the decision, although this time can be extended by the Principal Solicitor and/or the Executive Officer if satisfied that there are exceptional circumstances.

The first-tier appeal includes considering any additional information you provide with your appeal.

- For GLS and TAS matters, a lawyer who was not involved in the original decision will consider your application.
- For SDRS matters, a senior DCLS staff member who was not involved in the original decision will consider your application.

You will be notified of the outcome in writing.





If the original decision is upheld and you wish to dispute this, you have a right to request a further review (second-tier appeal).

### **3.2 Second tier appeal**

You will need to make the request for consideration of your matter in writing, providing any new information, the reasons for your appeal, and any supporting documentation.

Apply by filling out the *Appeal Decision to Refuse Assistance* Form, choosing the second-tier appeal option, and attach any relevant paperwork.

You can apply for a second-tier appeal within 3 calendar months of you being notified of the first-tier appeal decision. This time can be extended by the Principal Solicitor, the Executive Officer or by the Second Tier Appeal Panel for the matter if satisfied there are exceptional circumstances.

The second-tier appeal is heard by a Panel of three and includes considering any additional information you provide with your appeal.

The Panel will consist of:

- a lawyer from outside DCLS,
- a member of the DCLS Board of Directors, and
- a DCLS staff member not involved in the previous two decisions, which for GLS and TAS matters will normally be a lawyer.

You will be notified of the subsequent decision in writing.

There are no further levels of appeal.





## 4. Feedback, problem solving and complaints

### 4.1 Feedback and problem solving

DCLS welcomes and values informal and formal feedback including feedback that suggests solutions to any problems.

You can give feedback and provide input by:

- Communicating with a DCLS staff member including a Team Leader, the Principal Solicitor or the Executive Director
- Completing the client satisfaction survey
- Using the feedback form (available at and from DCLS and on the website)
- Responding to any requests for input from DCLS.

### 4.2 Complaints

You have the right to bring concerns to attention including the right to complain. You can do this by raising your concerns:

1. Via DCLS processes which, depending on the matter might be with the:
  - DCLS person/people concerned
  - relevant Team Leader
  - DCLS Principal Solicitor or Executive Officer

You can contact the relevant person by calling DCLS, dropping in or emailing.

Ph: 08 8982 1111 or 1800 812 953  
Address: 75 Woods Street, Darwin  
Post: GPO Box 3180, Darwin NT 0801  
Email: [info@dcls.org.au](mailto:info@dcls.org.au)

If the complaint is not resolved informally, you can opt for it to be treated as a complaint for which you are seeking a formal response.

2. Via the DCLS Appeal rights procedure (see. 3 Appeal Rights, above)
3. With the legal professional standards body:

Manager Regulatory Services  
Law Society Northern Territory





GPO Box 2388, Darwin NT 0801

<https://lawsocietynt.asn.au/community/complaints.html>

4. With the relevant DCLS funding body

For legal services, complaints can be made to:

NT Department of Attorney-General and Justice

Grants Manager, Legal Services Coordination

Ph: 08 8935 7777

Mail: GPO Box 1722 Darwin NT 0801

Email: [agd.communications@nt.gov.au](mailto:agd.communications@nt.gov.au)

For other DCLS services, the DCLS Executive Director will advise of the relevant funding body on request (use the DCLS contacts above). This is due to the number of funding sources.

