

NATIONAL PARTNERSHIP AGREEMENT ON LEGAL ASSISTANCE SERVICES

Council of
Australian
Governments

An agreement between

- the **Commonwealth of Australia** and
- the **States and Territories**, being:
 - New South Wales
 - Victoria
 - Queensland
 - Western Australia
 - South Australia
 - Tasmania
 - the Australian Capital Territory
 - the Northern Territory

This Agreement will facilitate access to justice for disadvantaged people in Australia through the delivery of legal assistance services.

National Partnership Agreement on Legal Assistance Services

INTERGOVERNMENTAL AGREEMENT ON FEDERAL FINANCIAL RELATIONS

PRELIMINARIES

1. This National Partnership Agreement (the Agreement) is created subject to the provisions of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the IGA FFR.
2. In entering this Agreement, the Commonwealth and the States and Territories:
 - (a) recognise that they have mutual interest in working together to improve access to justice and resolve legal problems for the most disadvantaged people in Australia and maximise service delivery through the effective and efficient use of available resources; and
 - (b) are committed to progressing issues that affect the legal assistance sector and support the principles of the National Strategic Framework for Legal Assistance.
3. This Agreement:
 - (a) seeks to improve the targeting of legal assistance services to people facing disadvantage who have the greatest legal needs, including people experiencing, or at risk of, family violence;
 - (b) supports a holistic approach to addressing legal need through collaboration with, and coordinated service delivery between, legal and non-legal sectors, including by delivering appropriate and timely services to best meet people's legal needs;
 - (c) aims to empower and build resilience within the community to resolve legal problems; and
 - (d) sets out arrangements for the delivery of Commonwealth-funded legal assistance services by legal aid commissions and community legal centres.
4. This Agreement seeks to support a national legal assistance sector. While the terms of this Agreement apply only to Commonwealth funding for legal aid commissions and community legal centres, the principles set out in this Agreement are relevant for the broader sector, including Indigenous legal assistance providers and family violence prevention legal services.
5. This Agreement also provides funding for the Commonwealth's share of the wage increases arising from Fair Work Australia's decision on 1 February 2012 to grant an Equal Remuneration Order in the Social and Community Services (SACS) sector. The Commonwealth's commitment includes providing funding for its share of the wage increases for in-scope programmes. This funding will contribute to assisting the SACS sector with increased wage costs arising from recent Pay Equity Orders.

PART 1 – FORMALITIES

Parties to this Agreement

6. This Agreement is between the Commonwealth of Australia (the Commonwealth) and the States and Territories (the States).

Term of this Agreement

7. This Agreement will commence as soon as the Commonwealth and one other Party sign the Agreement and will expire on 30 June 2020, or on final performance reporting against the performance benchmarks and milestones. This Agreement may be terminated earlier or extended as agreed in writing by the Parties.

PART 2 – OBJECTIVE, OUTCOMES AND OUTPUTS

Objective

8. The objective of this Agreement is a national legal assistance sector that is integrated, efficient and effective, focused on improving access to justice for disadvantaged people and maximising service delivery within available resources.

Outcomes

9. This Agreement will facilitate achievement of the following outcomes:
 - (a) legal assistance services are targeted to priority clients with the greatest legal need;
 - (b) legal assistance service providers collaborate with each other, governments, the private legal profession and other services, to provide joined-up services to address people's legal and related problems;
 - (c) legal assistance services are appropriate, proportionate and tailored to people's legal needs and levels of capability;
 - (d) legal assistance services help people to identify their legal problems and facilitate the resolution of those problems in a timely manner before they escalate; and
 - (e) legal assistance services help empower people to understand and assert their legal rights and responsibilities and to address, or prevent, legal problems.

Outputs

10. The objective and outcomes of this Agreement will be achieved through:
 - (a) the delivery of efficient and effective legal assistance services within each State;
 - (b) participation by the States and the legal assistance sector in collaborative service planning, with guidance provided in Schedule A; and
 - (c) provision of Commonwealth SACS supplementation to Eligible Service Providers impacted by the Pay Equity Orders.

PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY

11. To realise the objective and outcomes of this Agreement, each Party has specific roles and responsibilities, as outlined below.

Roles of the Commonwealth

12. The Commonwealth agrees to be accountable for the following roles and responsibilities:
 - (a) providing a financial contribution to the States for the delivery of legal assistance services by legal aid commissions and community legal centres;
 - (b) monitoring and assessing performance in the delivery of legal assistance services under this Agreement to ensure that outputs are delivered and outcomes are achieved within the agreed timeframes;
 - (c) providing national guidance, oversight and support for collaborative service planning (Schedule A);
 - (d) specifying Commonwealth priorities and eligibility principles for the delivery of legal assistance services under this Agreement (Schedule B); and
 - (e) providing a forum to facilitate information sharing with the States regarding best practice delivery of legal assistance services.
13. Separate to this Agreement, the Commonwealth will administer the Expensive Commonwealth Criminal Cases Fund, under which legal aid commissions can apply, pursuant to guidelines, for reimbursement of legal costs incurred in expensive, complex Commonwealth criminal cases.

Roles of the States

14. The States agree to be accountable for the following roles and responsibilities:
 - (a) administering Commonwealth funding for the delivery of legal assistance services by legal aid commissions and community legal centres, in accordance with the Commonwealth priorities at Schedule B;
 - (b) in 2015-16 and 2016-17, distributing Commonwealth funding for the delivery of legal assistance services by specific community legal centres listed in Schedule C;
 - (c) determining the methodology for the distribution of Commonwealth funding for the delivery of legal assistance services by community legal centres (except for the funding referred to in clause 14(b)), informed by the outcomes of collaborative service planning;
 - (d) from 2017-18, distributing defined funding to community legal centres for family law services and family violence related services;
 - (e) ensuring that the Commonwealth supplementation for the SACS sector is distributed only to Eligible Service Providers, as defined in the National Partnership Agreement on Pay Equity for the SACS sector, through a clear and fair process that is consistent with the principles of procedural fairness set out in Schedule B of the SACS National Partnership Agreement;
 - (f) undertaking collaborative service planning, including meetings with the legal assistance sector, to improve coordination between service providers in the planning and delivery of services, with reference to the guidance at Schedule A;
 - (g) facilitating surveys of legal aid commission and community legal centre clients;

- (h) monitoring and assessing the delivery of legal assistance services under this Agreement; and
- (i) reporting to the Commonwealth on the delivery of legal assistance services under this Agreement, as set out in Part 4 – Performance Monitoring and Reporting.

Shared roles

15. The Parties share the following roles and responsibilities:
 - (a) endorsing the methodology for the distribution of Commonwealth funding in 2015-16 and 2016-17 to specific community legal centres listed in Schedule C;
 - (b) participating in biannual jurisdictional forums with legal assistance sector representatives, established and coordinated by States, to consider issues affecting the legal assistance sector, share best practice service delivery models and strengthen networks between service providers;
 - (c) agreeing the methodology for surveys of legal aid commission and community legal centre clients and a set of national survey questions¹, with the States to facilitate the surveys in accordance with clause 14(g) of this Agreement;
 - (d) meeting biannually on a bilateral basis with the Commonwealth to discuss the operation of this Agreement; and
 - (e) conducting evaluations and reviews of services and outputs delivered in accordance with Part 6 of this Agreement.
16. The Parties will meet the requirements of Schedule E, clause 26 of the IGA FFR by ensuring that prior agreement is reached on the nature and content of any events, announcements, promotional material or publicity relating to activities under this Agreement, and that the roles of both Parties will be acknowledged and recognised appropriately.

PART 4 – PERFORMANCE MONITORING AND REPORTING

Performance indicators

17. Progress towards the objective and outcomes of this Agreement will be informed with reference to the following performance indicators:
 - (a) the proportion of representation services delivered to priority clients. For reporting purposes, the States will report on a subset of priority clients comprising: children and young people (up to 24 years); people experiencing financial disadvantage; Indigenous Australians; older people (aged over 65 years); people experiencing, or at risk of, family violence; people residing in rural or remote areas; people who are culturally and linguistically diverse; and people with a disability or mental illness;
 - (b) the proportion of clients receiving quality services that are delivered appropriately to match clients' legal needs and levels of capability, as measured through client surveys;
 - (c) for legal aid commissions only, the number of facilitated resolution processes and the percentage of processes that result in a held conference reaching full or partial settlement of matters;

¹ The national survey questions can be incorporated into existing State surveys and/or asked in conjunction with State-specific survey questions.

- (d) from 2017-18, for community legal centres, the number of services delivered to clients experiencing or at risk of family violence, including the number of representation services, legal advices, duty lawyer services, and legal tasks, and
- (e) the number of legal assistance services delivered (comprising: information and referral; legal advice; legal task; duty lawyer services; dispute resolution; court/litigation and other representation; and community legal education), disaggregated by service type and law type.

Performance benchmarks

18. The Parties agree to meet the following performance benchmarks:
- (a) for legal aid commissions, 95% or more of representation services are delivered to people experiencing financial disadvantage – to be achieved by each State in each six month period from 1 July 2015 onwards;
 - (b) for community legal centres, 85% or more of total representation services are delivered to people experiencing financial disadvantage – to be achieved by each State in aggregate across all community legal centres in each six month period between 1 July 2015 and 30 June 2017; and
 - (c) for community legal centres, 90% or more of total representation services are delivered to people experiencing financial disadvantage – to be achieved by each State in aggregate across all community legal centres in each six month period from 1 July 2017 onwards.

Milestones

19. The Parties agree to meet the following milestones:
- (a) endorsement of the methodology for Commonwealth funding in 2015-16 and 2016-17 to specific community legal centres listed in Schedule C – upon signing this Agreement;
 - (b) report on the distribution of Commonwealth funding to community legal centres that outlines:
 - (i) the community legal centres that will receive funding in the relevant funding period – annually from 2015-16;
 - (ii) the State and Commonwealth funding profile for each community legal centre, separately identifying funding from a Public Purpose Fund (or equivalent), where applicable – annually from 2015-16;
 - (iii) the funding period (which may be longer than one year) – annually from 2015-16;
 - (iv) the provision of Commonwealth SACS supplementation to Eligible Service Providers impacted by the Pay Equity Orders – annually from 2015-16; and
 - (v) the distribution of defined funding to community legal centres and the supporting evidence for that distribution, including relevant evidence of legal need, relevant capability or expertise of community legal centres receiving funding and how the distribution was informed by collaborative service planning practices – annually from 2017-18.
 - (c) development of a Project Plan setting out how the collaborative service planning process will be implemented by 1 July 2016 – once in 2015-16;

- (d) implementation of collaborative service planning and provision of a progress report against the Project Plan – once in 2015-16;
- (e) conduct collaborative service planning – annually from 2016-17 – including:
 - (i) use of quality data sources as an evidence base to identify priority client groups and their locations;
 - (ii) participation in collaborative service planning meetings; and
 - (iii) provision of a report on key outcomes resulting from the service planning process;
- (f) facilitate two surveys of legal aid commission clients and two surveys of community legal centre clients, using standardised questions developed by the Parties, to assess whether services are tailored to meet clients' legal needs and capability levels – one survey per year from 2016-17, with a summary of survey results provided to the Commonwealth; and
- (g) conduct a case study within the sector of a service being delivered in a more effective, efficient or innovative way to better meet clients' legal needs and capability levels, and/or resolve legal problems in a timely way – one case study per year, with a summary of the case study provided to the Commonwealth, from 2016-17.

Reporting arrangements

20. The States will provide six-monthly reports to the Commonwealth demonstrating, in accordance with Table 1:
 - (a) performance against the relevant milestones for reporting periods specified in Table 1; and
 - (b) from the March 2016 report onwards, performance against indicators and benchmarks for the previous six month period (January to June for September report, July to December for March report).
21. When reporting on the relevant indicators and benchmarks, States will report separately on the services delivered by legal aid commissions and community legal centres. For services delivered by community legal centres, performance information is to be aggregated to the State level.
22. Table 1 summarises the performance indicators, benchmarks and milestones States are required to report for each six-month period.

Table 1: Reporting arrangements

Performance indicators, benchmarks and milestones	Reporting period	Report due date
Reporting for 2015-16 estimated financial contributions		
<ul style="list-style-type: none"> • Endorsement of the methodology for the distribution of Commonwealth funding to community legal centres listed in Schedule C (clause 19(a)). 	N/A	N/A – signature of this Agreement constitutes endorsement
<ul style="list-style-type: none"> • Project Plan on collaborative service planning (clause 19(c)); and 	2015-16	30 September 2015
<ul style="list-style-type: none"> • Report on the distribution of community legal centre funding (clause 19(b)). 	2015-16	
Reporting for 2016-17 estimated financial contributions		
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); and • Progress report on the implementation of collaborative service planning (clause 19(d)). 	July to Dec 2015 July to Dec 2015 2015-16	31 March 2016
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); and • Report on the distribution of community legal centre funding (clause 19(b)). 	Jan to June 2016 Jan to June 2016 2016-17	30 September 2016
Performance indicators, benchmarks and milestones	Reporting period	Report due date
Reporting for 2017-18 estimated financial contributions		
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); • Conduct, and provide a summary on, a case study within the sector (clause 19(g)); and • Collaborative service planning (clause 19(e)). 	July to Dec 2016 July to Dec 2016 2016-17 2016-17	31 March 2017
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); • Facilitate and provide a summary on, a client survey • Report on the distribution of community legal centre funding (clause 19(b)) 	Jan to June 2017 Jan to June 2017 2016-17 2017-18	30 September 2017

Reporting for 2018-19 estimated financial contributions		
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); • Conduct, and provide a summary on, a case study within the sector (clause 19(g)); and • Collaborative service planning (clause 19(e)). 	July to Dec 2017 July to Dec 2017 2017-18 2017-18	31 March 2018
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); • Facilitate, and provide a summary on, a client survey (clause 19(f)); and • Report on the distribution of community legal centre funding (clause 19(b)) 	Jan to June 2018 Jan to June 2018 2017-18 2018-19	30 September 2018
Reporting for 2019-20 estimated financial contributions		
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); • Conduct, and provide a summary on, a case study within the sector (clause 19(g)); and • Collaborative service planning (clause 19(e)). 	July to Dec 2018 July to Dec 2018 2018-19 2018-19	31 March 2019
<ul style="list-style-type: none"> • Performance indicators (clause 17); • Performance benchmarks (clause 18); • Facilitate, and provide a summary on, a client survey (clause 19(f)); and • Report on the distribution of community legal centre funding (clause 19(b)) 	Jan to June 2019 Jan to June 2019 2018-19 2019-20	30 September 2019

23. The States will also provide the Commonwealth with a final report due by 30 September 2020:
- (a) including the conduct and outcomes of collaborative service planning in 2019-20 in accordance with clause 19(e);
 - (b) including the summary of a case study, conducted in 2019-20 in accordance with clause 19(g);
 - (c) including a summary of client survey results, for a survey conducted in 2019-20 in accordance with clause 19(f);
 - (d) demonstrating for the six month period (July to December 2019) performance against the indicators and benchmarks in accordance with clauses 17 and 18; and
 - (e) demonstrating for the six month period (January to June 2020) performance against the

indicators and benchmarks in accordance with clauses 17 and 18.

24. Where existing systems do not facilitate the collection of data required to be reported under this Agreement, the Parties will agree the proxies to be used for those items (or the item not reported) until such time as systems are implemented to record those items.

PART 5 – FINANCIAL ARRANGEMENTS

Financial contributions

25. The Commonwealth will provide a total financial contribution to the States of \$1305.492 million in respect of this Agreement, comprising:
- (a) \$1070.651 million for legal aid commissions;
 - (b) \$175.372 million for community legal centres;
 - (c) \$37.599 million for specific community legal centres listed in Schedule C; and
 - (d) \$21.870 million for SACS supplementation for community legal centres.
26. The Commonwealth’s estimated financial contribution to the operation of this Agreement, made through National Partnership payments to the States paid in accordance with *Schedule D – Payment Arrangements* of the IGA FFR, is shown in Table 2.
27. The Commonwealth’s financial contribution will be allocated between the States using evidence-based funding allocation models from 2015-16.
28. The first payment of defined funding in 2017-18 will be made on written agreement of all Parties to the variation of this Agreement to include that funding.
29. The Commonwealth’s financial contribution will not be reduced where the States secure funding from other activity partners through innovative and collaborative partnerships.

Table 2: Estimated Commonwealth financial contribution for legal assistance services²

(\$ million)	2015-16	2016-17	2017-18	2018-19	2019-20	Total
Estimated total budget	250.942	257.144	261.514	265.880	270.012	1305.492
New South Wales	74.648	76.625	77.757	78.821	79.811	387.662
Legal aid commissions	63.208	64.072	64.822	65.583	66.248	323.933
Community legal centres	6.865	7.853	9.016	9.137	9.269	42.139
Community legal centres (Schedule C)	4.204	4.204	-	-	-	8.409
Community legal centres - defined funding			3.271	3.329	3.392	9.992
SACS	0.371	0.496	0.648	0.772	0.902	3.189
Community legal centres total	11.44	12.553	12.935	13.238	13.563	63.729
Victoria	57.579	59.158	60.148	61.131	62.056	300.072
Legal aid commissions	47.912	48.642	49.287	49.939	50.518	246.298
Community legal centres	5.424	6.085	6.836	6.938	7.046	32.329
Community legal centres (Schedule C)	3.652	3.652	-	-	-	7.304

<i>Community legal centres - defined funding</i>			3.071	3.114	3.160	9.344
SACS	0.591	0.779	0.954	1.140	1.332	4.796
Community legal centres total	9.667	10.516	10.861	11.192	11.538	53.774
Queensland	50.060	51.401	52.372	53.328	54.239	261.400
Legal aid commissions	41.691	42.456	43.148	43.850	44.493	215.638
<i>Community legal centres</i>	4.869	5.331	5.712	5.812	5.919	27.644
<i>Community legal centres (Schedule C)</i>	2.512	2.512	-	-	-	5.023
<i>Community legal centres - defined funding</i>			2.266	2.301	2.339	6.906
SACS	0.988	1.102	1.246	1.365	1.488	6.189
Community legal centres total	8.369	8.945	9.224	9.478	9.746	45.762
Western Australia	29.021	29.851	30.547	31.309	32.047	152.775
Legal aid commissions	23.480	24.030	24.538	25.053	25.534	122.635
<i>Community legal centres</i>	2.329	2.478	3.523	3.600	3.680	15.611
<i>Community legal centres (Schedule C)</i>	2.718	2.718	-	-	-	5.435
<i>Community legal centres - defined funding</i>			1.746	1.766	1.787	5.299
SACS	0.494	0.625	0.740	0.890	1.046	3.795
Community legal centres total	5.541	5.821	6.009	6.256	6.513	30.140
South Australia	19.483	19.789	20.047	20.312	20.559	100.190
Legal aid commissions	15.699	15.879	16.034	16.191	16.326	80.129
<i>Community legal centres</i>	0.348	0.411	2.418	2.444	2.472	8.092
<i>Community legal centres (Schedule C)</i>	3.188	3.188	-	-	-	6.377
<i>Community legal centres - defined funding</i>			1.231	1.244	1.257	3.732
SACS	0.248	0.311	0.364	0.433	0.504	1.860
Community legal centres total	3.784	3.91	4.013	4.121	4.233	20.061
Tasmania	7.274	7.303	7.391	7.479	7.561	37.008
Legal aid commissions	5.747	5.804	5.853	5.903	5.945	29.252
<i>Community legal centres</i>	0.830	0.783	0.944	0.952	0.961	4.471
<i>Community legal centres (Schedule C)</i>	0.597	0.597	-	-	-	1.193
<i>Community legal centres - defined funding</i>			0.452	0.456	0.460	1.367
SACS	0.100	0.119	0.142	0.168	0.195	0.724
Community legal centres total	1.527	1.499	1.538	1.576	1.616	7.756

(\$ million)	2015-16	2016-17	2017-18	2018-19	2019-20	Total
Australia Capital Territory	5.787	5.813	5.914	6.019	6.119	29.653
Legal aid commissions	4.665	4.741	4.811	4.881	4.946	24.044
Community legal centres	0.170	0.107	0.690	0.700	0.709	2.376
Community legal centres (Schedule C)	0.870	0.870	-	-	-	1.740
Community legal centres - defined funding			0.296	0.298	0.301	0.896
SACS	0.082	0.095	0.117	0.140	0.163	0.597
Community legal centres total	1.122	1.072	1.103	1.138	1.173	5.609
Northern Territory	7.090	7.204	7.338	7.482	7.619	36.733
Legal aid commissions	5.548	5.653	5.747	5.843	5.931	28.722
Community legal centres	0.386	0.374	0.983	0.999	1.015	3.757
Community legal centres (Schedule C)	1.059	1.059	-	-	-	2.118
Community legal centres - defined funding			0.467	0.472	0.477	1.416
SACS	0.097	0.118	0.141	0.168	0.196	0.720
Community legal centres total	1.542	1.551	1.591	1.639	1.688	8.011
Total Commonwealth Contribution	250.942	257.144	261.514	265.880	270.012	1305.492

² Figures may not add due to rounding.

Use of Commonwealth funds

30. Commonwealth legal aid commission funding will be used for Commonwealth law matters only, except:
 - (a) where State law matters relating to the safety or welfare of a child are connected with family law proceedings;
 - (b) where State law matters relating to a person's safety are connected with family law proceedings; or
 - (c) in discrete assistance or community legal education, regardless of whether the matter relates to Commonwealth or State laws.
31. The use of Commonwealth funding for the delivery of legal assistance services by legal aid commissions and community legal centres under this Agreement will be informed by outcomes of collaborative service planning and the Commonwealth priorities and eligibility principles in Schedule B.

Payments

32. Subject to the States meeting the requirements set out in Part 4 – Performance Monitoring and Reporting and in clauses 33 to 38 below, the Commonwealth will make six-monthly payments to the States for the delivery of legal assistance services undertaken under this Agreement. The total estimated financial contribution for each six month period would be equal to half of the

Commonwealth's estimated financial contribution to each State in the relevant financial year, and is expected to be paid in July and January for each financial year, subject to clauses 35, 37 and 38.

33. Commonwealth payments in 2015-16 for legal assistance services will be made subject to the States providing performance reports demonstrating that relevant milestones have been met, in accordance with Table 1.
34. Commonwealth payments from 2016-17 for legal assistance services delivered by legal aid commissions will be made subject to the States providing performance reports, in accordance with Table 1:
 - (a) demonstrating that the performance benchmark at clause 18(a) and relevant milestones have been met; and
 - (b) providing information against the performance indicators.
35. For the performance benchmark at clause 18(a), six-monthly payments between 2016-17 and 2019-20 will be made on a pro rata basis where the State delivers at least 90% but less than 95% of representation services to people experiencing financial disadvantage, subject to all other performance requirements for the relevant reporting period being met. For example, where the State delivers 90% of representation services to people experiencing financial disadvantage, a payment of 90% of legal aid commission funding for the relevant reporting period will be made, subject to all other performance requirements for the relevant reporting period being met. Where the State delivers 95% or more of representation services to people experiencing financial disadvantage, the full six-monthly payment will be made, subject to all other performance requirements for the relevant reporting period being met.
36. Commonwealth payments from 2016-17 for legal assistance services delivered by community legal centres (including payments for community legal services listed in Schedule C and Commonwealth SACS supplementation) will be made on a six monthly basis subject to the States providing performance reports, in accordance with Table 1:
 - (a) demonstrating that the relevant performance benchmarks at clause 18(b) or (c) and relevant milestones have been met; and
 - (b) providing information against the performance indicators.
37. For the performance benchmark at clause 18(b), six-monthly payments between 2016-17 and 2017-18 will be made in full where the State delivers 85% of representation services to people experiencing financial disadvantage in aggregate, subject to all other performance requirements for the relevant reporting period being met.
38. For the performance benchmark at clause 18(c), six-monthly payments between 2018-19 and 2019-20 will be made on a pro rata basis where the State delivers, in aggregate, at least 85% but less than 90% of representation services to people experiencing financial disadvantage, subject to all other performance requirements for the relevant reporting period being met. For example, where the State delivers 85% of representation services to people experiencing financial disadvantage, a payment of 85% of total community legal centre funding for the relevant reporting period will be made, subject to all other performance requirements for the relevant reporting period being met. Where the State delivers 90% or more of representation services to people experiencing financial disadvantage in aggregate, the full six-monthly payment will be made, subject to all other performance requirements for the relevant reporting period being met.

Project management risk

39. Having regard to the agreed estimated costs of delivering Commonwealth legal assistance services, a State will not be required to pay a refund to the Commonwealth if the actual cost of delivering the services is less than the agreed funding provided. Similarly, the States bear all risk should the costs of delivering legal assistance services exceed the agreed funding provided. The Parties acknowledge that this arrangement provides the maximum incentive for the States to deliver projects cost effectively and efficiently.

PART 6 – GOVERNANCE ARRANGEMENTS

Enforceability of this Agreement

40. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

Review of this Agreement

41. In accordance with clause E23 of the IGA FFR, this Agreement is time limited. To assess the degree to which the agreed objective, outcomes and outputs have been achieved, and inform decisions regarding the appropriate treatment following its expiry, a review of the Agreement will be scheduled to be completed approximately 18 months prior to its expiry.
42. In reviewing this Agreement, the Parties should consider:
- (a) the States' progress towards achieving the objective, outcomes and outputs;
 - (b) whether legal assistance services are effective, efficient and appropriate, including whether the services represent value for money, which will be informed by the cost of service delivery, among other things;
 - (c) the appropriateness of the objective, outcomes, outputs, performance indicators, performance benchmarks, milestones and reporting arrangements; and
 - (d) the outcomes of the Reform of the Federation White Paper.
43. Subject to the outcomes of the review, the Parties should consider if further funding beyond the term of this Agreement is required to continue the delivery of Commonwealth-funded legal assistance services. If the Parties agree that further funding beyond the expiry of this Agreement is required, they will consider this issue when framing their budgets, noting that the necessary policy and budget authority, including in relation to new policy reforms, are subject to the outcomes of budget processes at both the Commonwealth and State levels.

Variation of this Agreement

44. This Agreement may be amended at any time by agreement in writing by all the Parties.
45. A Party to this Agreement may terminate their participation in the Agreement at any time by notifying all the other Parties in writing.

Delegations

46. The Commonwealth Attorney-General is authorised to agree and amend Schedules to this Agreement on behalf of the Commonwealth and to certify that performance against the benchmarks and milestones specified under this Agreement has been achieved, so that payments may be made.

47. Respective State Ministers with portfolio responsibility for legal assistance are authorised to agree and amend Schedules to this Agreement on behalf of their State or Territory.
48. The Commonwealth Attorney-General may delegate the assessment of performance against the benchmarks and milestones and the authorisation of related payments to senior Commonwealth officials, having regard to the financial and policy risks associated with those payments.

Dispute resolution

49. Any Party may give notice to other Parties of a dispute under this Agreement.
50. Officials of relevant Parties will attempt to resolve any dispute in the first instance.
51. If a dispute cannot be resolved by officials, it may be escalated to the relevant Ministers and if necessary, the relevant Ministerial Council.

Interpretation

52. For the purposes of this Agreement:
 - (a) *Defined funding* is Commonwealth funding provided to community legal centres to be used for family law services and family violence related services, from 2017-18, as set out in Table 2.
 - (b) *Discrete assistance* means information, referral, legal advice, non-legal support and legal task.
 - (c) *Family violence related services* are services provided by a community legal centre to assist a client to deal with issues arising from or connected with family violence, as defined in section 4AB of the *Family Law Act 1975* (Cth). This may include, but is not limited to, legal issues such as family law, intervention orders, child protection matters, housing, credit and/or debt, social security, mental health and employment, and referral to and coordination with other relevant support services.
 - (d) *Financial disadvantage* means a person who does not have the means to pay for their legal representation without incurring serious financial difficulty, including a person who:
 - (i) is in receipt of Centrelink benefits as their main source of income; or
 - (ii) satisfies a means test applied by a legal aid commission; or
 - (iii) is exempt from the legal aid means test, such as a person seeking merits review of decisions about eligibility for Commonwealth military entitlements or military compensation payments and children; or
 - (iv) has an income equal to or below the *Henderson Poverty Line*; or
 - (v) cannot access finances temporarily due to circumstances outside of their control. For example, a person experiencing, or at risk of, family violence who cannot access finances without risk to their personal safety or the safety of others.
 - (e) *Legal assistance sector* includes community legal centres, family violence prevention legal services, Indigenous legal assistance providers and legal aid commissions.
 - (f) *Representation services* are where a legal assistance service provider has carriage of a matter in an ongoing, representative capacity and include dispute resolution, court/tribunal and other representation services. To assist with reporting purposes:

- (i) for community legal centres, until such time as a new data reporting system(s) is implemented:
 - 1 for clause 17(a) the Community Legal Services Information System fields 'medium casework' and 'major casework' align with this definition;
 - 2 for clauses 18(b) and 18(c), the Community Legal Services Information System field 'major casework' aligns with this definition; and
- (ii) for legal aid commissions, for clauses 17(a) and 18(a) the term 'grant of aid' aligns with this definition.

53. Types of legal assistance services are defined in the National Legal Assistance Data Standards Manual 2015 (version 1).

The Parties have confirmed their commitment to this agreement as follows:

Signed for and on behalf of the Commonwealth of Australia by

The Honourable Malcolm Turnbull MP
Prime Minister of the Commonwealth of Australia
[Day] [Month] [Year]

Signed for and on behalf of the State of New South Wales by

The Honourable Gladys Berejiklian MP
Premier of the State of New South Wales
[Day] [Month] [Year]

Signed for and on behalf of the State of Queensland by

The Honourable Anastacia Palaszczuk MP
Premier of the State of Queensland
[Day] [Month] [Year]

Signed for and on behalf of the State of South Australia by

The Honourable Jay Weatherill MP
Premier of the State of South Australia
[Day] [Month] [Year]

Signed for and on behalf of the Australian Capital Territory by

Andrew Barr MLA
Chief Minister of the Australian Capital Territory
[Day] [Month] [Year]

Signed for and on behalf of the State of Victoria by

The Honourable Daniel Andrews MLA
Premier of the State of Victoria
[Day] [Month] [Year]

Signed for and on behalf of the State of Western Australia by

The Honourable Mark McGowan MLA
Premier of the State of Western Australia
[Day] [Month] [Year]

Signed for and on behalf of the State of Tasmania by

The Honourable Will Hodgman MP
Premier of the State of Tasmania
[Day] [Month] [Year]

Signed for and on behalf of the Northern Territory by

**The Honourable Michael Gunner
MLA** Chief Minister of the Northern Territory of Australia
[Day] [Month] [Year]

Collaborative service planning

NATIONAL PARTNERSHIP AGREEMENT ON LEGAL ASSISTANCE SERVICES

This schedule provides guidance on the elements of collaborative service planning.

OVERVIEW

- A1 Under this Agreement, the Parties will work together with the legal assistance sector to coordinate and maximise the reach of services and to ensure that services are directed where they are most needed.
- A2 The outcomes of collaborative service planning will inform the distribution of Commonwealth and State funding to community legal centres within each jurisdiction. This process will facilitate a holistic and objective approach to decision-making about the distribution of this funding.

ELEMENTS OF COLLABORATIVE SERVICE PLANNING

- A3 There are two key elements of the service planning process.

Evidence and analysis of legal need

- A4 The first element of service planning is that the States use an evidence base to identify priority clients and the geographic locations in which people have the highest levels of legal need. This will enable the States to identify and analyse evidence of disadvantage, as a proxy for legal need, and target legal assistance services within their jurisdiction accordingly.
- A5 The States could develop a new evidence base, or could use existing evidence bases. The evidence used should, at minimum, include:
 - (a) the Census and/or socio-economic data produced by the Australian Bureau of Statistics;
 - (b) information from the Law and Justice Foundation of New South Wales.
- A6 To identify and analyse data, the States could use reports or tools including, but not limited to:
 - (a) community profiles used by local councils that include demographic data;
 - (b) the Legal Needs Assessment Framework and Toolkit produced by the National Association of Community Legal Centres;
 - (c) reports that include demographic and socio-economic analysis using relevant indicators by geographic spread;
 - (d) other local and relevant data from regional planning reports, crime statistics and information on debt recovery.

Collaborative service planning meetings

A7 The second element of service planning is that the States will conduct collaborative service planning meetings, the frequency of which is expected to be twice a year but is to be agreed with the Commonwealth, to promote discussion of strategies for the delivery of services within their jurisdiction.

A8 The States will invite representatives from:

- (a) the relevant State/Territory government;
- (b) the Commonwealth; and
- (c) legal aid commissions, community legal centres and Indigenous legal assistance providers.

Service planning meetings could also include representatives from other legal or non-legal service providers or organisations.

A9 Using evidence and analysis of legal need, service planning meetings should consider, at minimum:

- (a) the different locations of services delivered by legal aid commissions, community legal centres and Indigenous legal assistance providers within the jurisdiction;
- (b) the mix of legal assistance services available;
- (c) strategies to achieve proportionate service responses—for example that, where practicable, services are appropriate to clients' legal needs and levels of capability;
- (d) the coordination of community legal education at a State/Territory level; and
- (e) the efficiency and effectiveness of service delivery models.

A10 Discussions should consider strategies to streamline services and reduce any unnecessary duplication, including but not limited to:

- (a) more efficient and effective ways of using available resources;
- (b) reallocating resources;
- (c) changing service delivery approaches;
- (d) adjusting triage practices;
- (e) collaborating or co-locating with other service providers;
- (f) consolidating outreach services and/or locations;
- (g) sharing telephone helplines and websites; and
- (h) merging administrative functions.

Commonwealth priorities and eligibility principles

NATIONAL PARTNERSHIP AGREEMENT ON LEGAL ASSISTANCE SERVICES

This schedule provides guidance on the prioritisation of legal assistance services delivered by legal aid commissions and community legal centres.

PRIORITY CLIENTS

- B1 The legal assistance priority client groups recognise people whose capability to resolve legal problems may be compromised by circumstances of vulnerability and/or disadvantage. People who fall within the priority client groups are more likely to experience legal problems, less likely to seek assistance and/or less able to access services for a range of reasons.
- B2 Legal assistance service providers should focus their services on people experiencing financial disadvantage.
- B3 Where appropriate, legal assistance service providers should also plan and target their services to people who fall within one or more of the priority client groups (in alphabetical order):
 - (a) children and young people (up to 24 years);
 - (b) Indigenous Australians;
 - (c) older people (aged over 65 years);
 - (d) people experiencing, or at risk of, family violence;
 - (e) people experiencing, or at risk of, homelessness;
 - (f) people in custody and prisoners;
 - (g) people residing in rural or remote areas;
 - (h) people who are culturally and linguistically diverse;
 - (i) people with a disability or mental illness;
 - (j) people with low education levels; and
 - (k) single parents.
- B4 The list of priority client groups is for guidance only and is not exhaustive. Service providers are not excluded from assisting clients that fall outside these groups.

COMMONWEALTH SERVICE PRIORITIES

- B5 The use of Commonwealth funding provided under this Agreement by legal aid commissions and community legal centres should be broadly consistent with the principles and service priorities set out in this Schedule, where applicable.

General principles

- B6 Commonwealth funding should be directed to the delivery of front-line services and focused on meeting the legal needs of priority clients.
- B7 Commonwealth funding should not be used to lobby governments or to engage in public campaigns. Lobbying does not include community legal education or where a legal assistance service provider makes a submission to a government or parliamentary body to provide factual information and/or advice with a focus on systemic issues affecting access to justice.
- B8 Legal assistance service providers should deliver timely intervention services to resolve clients' legal problems sooner, or prevent them from arising altogether.
- B9 Family or civil law disputes should be resolved through alternative dispute resolution processes rather than through litigation, where appropriate.
- B10 Legal assistance service providers should consider whether other services (legal as well as non-legal) may be relevant to a client's needs and make referrals to these services where appropriate. Suitable collaborative arrangements should be established for this purpose.

Family law priorities

- B11 Family law services should focus on:
- (a) matters involving allegations of family violence;
 - (b) matters where the safety or welfare of children are at risk;
 - (c) matters involving complex issues about the living arrangements, relationships and financial support of children; and
 - (d) assisting people with property settlement matters if they are experiencing financial disadvantage or are at risk of homelessness.
- B12 For legal aid commissions, the representation of children in family law proceedings and family dispute resolution processes should also be a focus.

Civil law priorities

- B13 Legal assistance service providers should focus on assisting people with civil law problems that are likely to have a significant adverse impact if not resolved. For example, where there are implications for a person's safety, health and wellbeing, access to government benefits and pensions, or homelessness status.
- B14 Key Commonwealth civil law areas are listed below (in alphabetical order):
- (a) bankruptcy matters;
 - (b) consumer law matters;
 - (c) employment matters;

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

B15 The list of Commonwealth civil law areas is for guidance only. Legal assistance service providers should consider how to best meet civil law need collectively (arising from Commonwealth or State laws), within available resources.

B16 Legal assistance service providers should respond collectively to emerging civil law issues identified through service planning, such as providing legal help for victims of natural disasters.

Commonwealth criminal law priorities

B17 Commonwealth criminal law services should focus on:

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

COMMONWEALTH ELIGIBILITY PRINCIPLES

B18 This section sets out the Commonwealth's directions for assessing the financial eligibility of applicants for Commonwealth-funded representation services.

B19 Legal assistance service providers should consider the financial status of prospective clients when providing representation services to ensure that intensive services are provided to financially disadvantaged clients.

B20 Legal assistance service providers may seek client contributions to improve their financial sustainability and to fund additional front-line services.

B21 Applicants should be exempt from legal aid commission means tests when seeking the merits review of decisions about eligibility for Commonwealth military entitlements or military compensation payments.

B22 In assessing an applicant's eligibility, legal aid commissions should disregard any of a person's property that is subject to a restraining order or confiscation order under the *Proceeds of Crime Act 2002* (Cth) or is likely to be covered by such an order.

Legal aid commission means tests

B23 Legal aid commissions apply a means test to determine the financial eligibility of applicants. The key features of this means test are set out below.

Income test

B24 The income test will generally be satisfied where an applicant is in receipt of Centrelink benefits as their main source of income.

B25 The test may also be satisfied if the applicant's income is below an eligibility threshold after deductions are made for income tax, housing costs and support provided to dependents. The Commonwealth's preference is for income thresholds to be referable to an established measure of disadvantage, such as the Henderson Poverty Line.

B26 It is at the discretion of legal aid commissions to set thresholds for financial eligibility.

Assets test

B27 The assets test will generally be satisfied if the total value of an applicant's assets is below an eligibility threshold. Exemptions are made for allowable assets, which include an amount of equity in the applicant's principal place of residence, a motor vehicle, tools of the trade and household goods.

B28 It is at the discretion of legal aid commissions to set the eligibility threshold and exemptions for allowable assets.

Client contributions

B29 Where an applicant's income or assets are above the eligibility threshold, legal aid may still be granted with contributions from the applicant based on their financial capacity and/or the estimated cost of the legal matter.

General discretion

B30 Legal aid commissions may exercise discretion in special circumstances to grant legal aid to a person who does not satisfied its means test.

Specific community legal centres

NATIONAL PARTNERSHIP AGREEMENT ON LEGAL ASSISTANCE SERVICES

This schedule specifies the community legal centres that will receive guaranteed Commonwealth funding in 2015-16 and 2016-17.

LIST OF COMMUNITY LEGAL CENTRES

- C1 Table 1 sets out the minimum amount of Commonwealth funding that will be provided to specific community legal centres, subject to clauses C2 and C3. This Schedule does not prevent the States from providing additional funding to the community legal centres listed in this Schedule.
- C2 A State may withhold Commonwealth funding to a community legal centre listed in this Schedule if that community legal centre ceases to operate, fails to comply with reasonable reporting requirements established by a State, and/or ceases to deliver legal assistance services in accordance with this Agreement.
- C3 A State must obtain agreement in writing from the Commonwealth to withhold funding under clause C2 and to redirect that funding to other community legal centres in that State.

Table 1: Commonwealth financial contribution for specific community legal centres

Centre Name	2015-16	2016-17	Total
New South Wales			
Central Coast Community Legal Centre	\$389,185	\$389,185	\$778,370
Far West Community Legal Centre	\$456,515	\$456,515	\$913,030
HIV/AIDS Legal Centre	\$92,458	\$92,458	\$184,916
Kingsford Legal Centre	\$276,260	\$276,260	\$552,520
Macquarie Legal Centre	\$437,553	N/A	\$437,553
Mid-North Coast Community Legal Centre	\$313,950	\$313,950	\$627,900
Mt Druitt and Area Community Legal Centre	\$259,661	N/A	\$259,661
Northern Rivers Community Legal Service	\$452,290	\$452,290	\$904,580
Public Interest Advocacy Centre	\$120,000	\$120,000	\$240,000
Redfern Legal Centre	\$217,191	\$217,191	\$434,382
Shoalcoast Community Legal Centre	\$417,264	\$417,264	\$834,528
South West Sydney Legal Centre	\$428,976	\$428,976	\$857,952
Welfare Rights Centre (NSW)	\$343,191	\$343,191	\$686,382
Western Sydney Community Legal Centre	N/A	\$697,214	\$697,214
New South Wales Total	\$4,204,494	\$4,204,494	\$8,408,988

Centre Name	2015-16	2016-17	Total
Victoria			
Brimbank Melton Community Legal Centre	\$226,647	\$226,647	\$453,294
Broadmeadows Community Legal Service	\$241,777	N/A	\$241,777
Casey Cardinia Community Legal Service	\$281,997	\$281,997	\$563,994
Consumer Action Law Centre	\$270,918	\$270,918	\$541,836
Darebin Community Legal Centre	\$177,138	\$177,138	\$354,276
Eastern Community Legal Centre	\$401,770	\$401,770	\$803,540
Loddon Campaspe Community Legal Centre	\$207,387	\$207,387	\$414,774
Murray Mallee Community Legal Service	\$454,004	\$454,004	\$908,008
Northern CLC	N/A	\$241,777	\$241,777
Inner Melbourne Community Legal	\$209,643	\$209,643	\$419,286
Justice Connect – Victoria	\$154,883	\$154,883	\$309,766
Springvale Monash Legal Service	\$422,620	\$422,620	\$845,240
Western Community Legal Centre Ltd (formerly Wyndham Legal Service Inc.)	\$234,018	\$234,018	\$468,036
Whittlesea Community Legal Service	\$232,736	\$232,736	\$465,472
Youthlaw (Vic)	\$136,307	\$136,307	\$272,614
Victoria Total	\$3,651,845	\$3,651,845	\$7,303,690
Queensland			
Aboriginal and Torres Strait Islander Women's Legal Services North Queensland	\$173,488	\$173,488	\$346,976
Cairns Community Legal Centre	\$340,341	\$340,341	\$680,682
Gold Coast Community Legal Centre and Advice Bureau	\$393,697	\$393,697	\$787,394
Youth and Family Service (YFS)	\$187,247	\$187,247	\$374,494
Pine Rivers Community Legal Service	\$206,086	\$206,086	\$412,172
South West Brisbane Community Legal Centre	\$133,103	\$133,103	\$266,206
Suncoast Community Legal Service	\$107,653	\$107,653	\$215,306
Taylor Street Community Legal Centre	\$253,163	\$253,163	\$506,326
Tenants Queensland	\$69,580	\$69,580	\$139,160
Townsville Community Legal Service	\$306,583	\$306,583	\$613,166
Basic Rights Queensland	\$340,687	\$340,687	\$681,374
Queensland Total	\$2,511,628	\$2,511,628	\$5,023,256
Western Australia			
Bunbury Community Legal Centre	\$312,372	\$312,372	\$624,744

Centre Name	2015-16	2016-17	Total
Consumer Credit Legal Service (WA)	\$259,405	\$259,405	\$518,810
Gosnells Community Legal Centre	\$380,171	\$380,171	\$760,342
Kimberley Community Legal Services	\$477,002	\$477,002	\$954,004
Northern Suburbs Community Legal Centre	\$432,900	\$432,900	\$865,800
Peel Community Legal Service	\$138,139	\$138,139	\$276,278
Pilbara Community Legal Service	\$342,346	\$342,346	\$684,692
Welfare Rights and Advocacy Service	\$285,240	\$285,240	\$570,480
Wheatbelt Community Legal Centre	\$90,000	\$90,000	\$180,000
Western Australia Total	\$2,717,575	\$2,717,575	\$5,435,150
South Australia			
Northern Community Legal Service	\$578,835	\$578,835	\$1,157,670
Riverland Community Legal Service	\$442,924	\$442,924	\$885,848
South East Community Legal Service	\$482,212	\$482,212	\$964,424
Southern Community Justice Centre	\$620,279	\$620,279	\$1,240,558
Welfare Rights Centre (SA)	\$338,956	\$338,956	\$677,912
Women's Legal Service (SA)	\$725,251	\$725,251	\$1,450,502
South Australia Total	\$3,188,457	\$3,188,457	\$6,376,914
Tasmania			
North West Community Legal Centre	\$209,148	\$209,148	\$418,296
Women's Legal Service (Tas)	\$387,353	\$387,353	\$774,706
Tasmania Total	\$596,501	\$596,501	\$1,193,002
Australian Capital Territory			
Canberra Community Law	\$473,647	\$473,647	\$947,294
Women's Legal Centre (ACT & Region)	\$396,170	\$396,170	\$792,340
Australian Capital Territory Total	\$869,817	\$869,817	\$1,739,634
Northern Territory			
Central Australian Women's Legal Service	\$382,016	\$382,016	\$764,032
Darwin Community Legal Service	\$677,099	\$677,099	\$1,354,198
Northern Territory Total	\$1,059,115	\$1,059,115	\$2,118,230
Overall Total	\$18,799,432	\$18,799,432	\$37,598,864