



National Legal Aid

September 2022

National Legal Aid represents the directors of the 8 Australian State and Territory legal aid commissions. This booklet describes the role of legal aid commissions in delivering legal assistance services.



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## Providing legal assistance

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**8** legal aid  
commissions



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over **1.5** million services  
in 2021-22

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2021-22  
funding

**\$938m<sup>1</sup>**

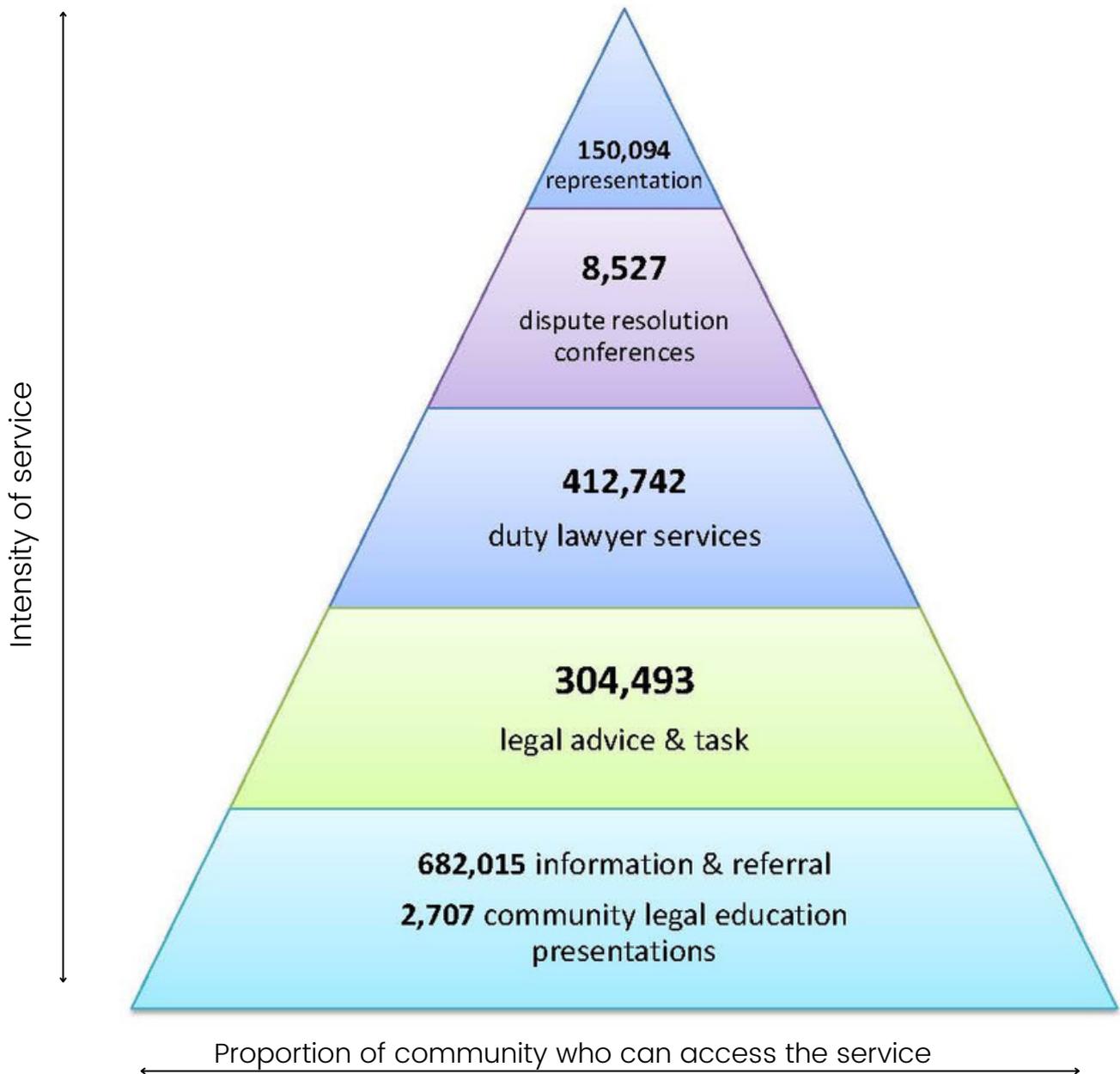
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**78** offices around the  
country

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National Legal Aid [www.nationallegalaid.org](http://www.nationallegalaid.org)

## Access to services

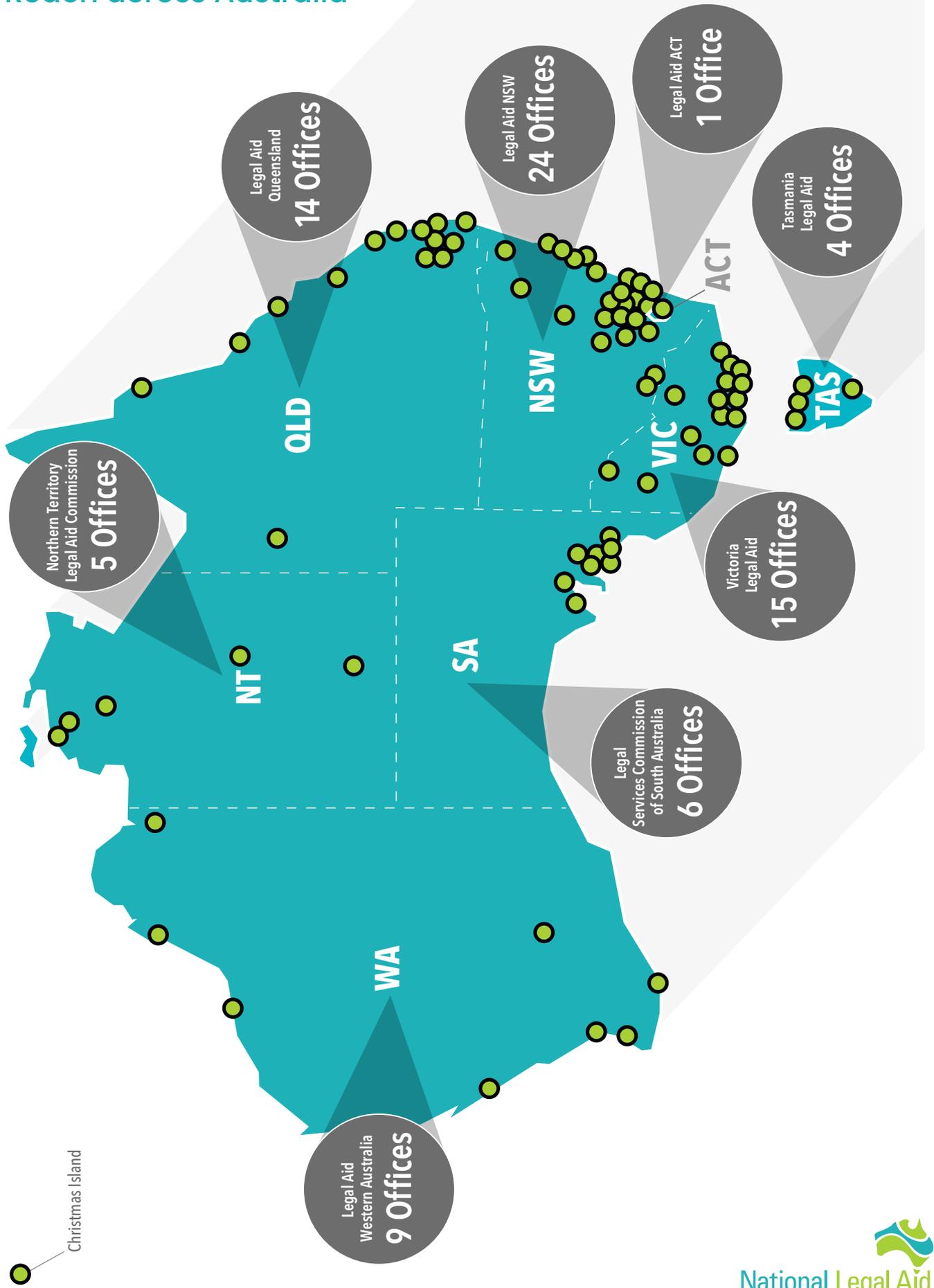


Sources: 2021-22 National Legal Aid Statistics <https://nla.legalaid.nsw.gov.au/nlareports/> and legal aid commissions.

**Notes:**

- i) Duty lawyer services include Family Advocacy and Support Services.
- ii) Legal advice includes work accompanying the advice, e.g. drafting of legal letters, telephone advocacy on someone's behalf etc.
- iii) Data will be a significant undercount for information and referral services.

# Reach across Australia



## Responsive legal assistance

### Key points

Legal aid commissions (LACs) are the main providers of legal assistance services in Australia,<sup>1</sup> and provide nearly all the legal assistance representation services at courts and tribunals.

In 2021–22 LACs provided in excess of 1.5 million services (in all law types) to people across the country. These services were delivered from LAC offices and by way of outreach including through health justice partnerships.

### Background

National Legal Aid (NLA) is guided by belief in the rule of law and the importance of an effective, efficient, independent justice system which is accessible to everyone. These are the cornerstones of a civil and democratic society.

LAC services are provided consistently with the priorities specified by inter-governmental partnership agreements on legal assistance services and with the state and territory enabling legislation of the respective LAC. The current agreement is the National Legal Assistance Partnership (NLAP) for 2020–2025, which commenced on 1 July 2020.

Litigation is a response of last resort for LACs and the NLAP also specifies that “Family or civil law disputes should be resolved through alternative dispute resolution processes rather than through litigation, where appropriate.”<sup>2</sup>

### Legal representation services

Legal representation services include legal representation in fully contested matters including the provision of independent children’s lawyers and child representatives as requested by the family law courts and child protection courts respectively, as well as full legal representation services for parties with matters predominantly in the family law, family violence, child protection, and criminal law courts.

### Duty lawyer services and family violence Family Advocacy Support Services

Duty lawyer services are provided in civil law courts and tribunals including the family law courts, the Administrative Appeals Tribunal, and as many local courts as possible including state and territory family violence courts. “The presence of duty lawyer services on the day at court has been proven to contribute to the effectiveness and efficiency of the court process for both the client and the court or tribunal.”<sup>3</sup>

Family Advocacy and Support Services (FASS) are provided at registries of the family law courts to assist families experiencing domestic violence as they move through the family law system. The FASS integrates duty lawyers with specialist family violence workers and mental health support workers to help families navigate between the federal and state court systems and connect people with trauma-informed help such as risk assessments and safety planning.

[1] Productivity Commission 2014, Access to Justice Arrangements, Inquiry Report No. 72, Canberra vol 2 667.

[2] National Legal Assistance Partnership 2020–25, Clause A10.

[3] An evaluation of Legal Aid NSW’s Early Intervention Unit Duty Service at Parramatta Family Law Courts, Law and Justice Foundation, 2012 found that the duty service contributed to the efficiency and effectiveness of the court process by: diverting matters that should not have been in court and advising and assisting clients to take the most appropriate course of action; and contributing to the resolution of matters on the day through the drafting of documents, including providing a ‘reality check’ with clients – while explaining the processes and implications and negotiating with other parties for clients.

## Responsive legal assistance – continued

### **Dispute resolution services**

Dispute resolution services are provided as a necessary first step in all matters which are appropriate for such service delivery. All LACs operate programs which provide legally assisted models of dispute resolution conferences, and which achieve very high settlement rates, e.g. in 2021-22 the national average settlement rate was 77%. The LACs organise conferences, including providing the Chairperson for these conferences, and ensure parties who qualify for a grant of legal aid are legally represented.

Whenever settlement is achieved these services avoid the cost of resources associated with court proceedings, including the cost of court administration and hearing time.

### **Legal advice, information and referral services**

The legal advice, information and referral services, and community legal education, are non-means tested services designed as prevention and early intervention strategies. These services are provided on-line, by phone, and face to face.

LACs produce information and self-help resources and provide community legal education services to further support self-representing parties with various problem types.

### **COVID-19**

In March 2020 LACs moved with relative agility to deliver the majority of legal assistance services online, maintaining legal assistance and social support services, and supporting the safety of our community.

## Supporting an improved service delivery system

- Delivery in excess of 1.5 million services to the public.
- Delivery of 190,548 family and domestic violence, child protection and family law legal representation and advice services.
- Family dispute resolution – 77% national settlement rate.
- Participating in the National Summit on Women's Safety, and National Plan to Reduce Violence against Women and their Children consultation workshops and survey.
- Supporting women's economic security – family law property mediation pilots
  - NLA gratefully acknowledges the support of the Commonwealth government for the delivery of this pilot.
- Family Violence and Cross-examination of Parties Scheme
  - administered by LACs on behalf of the Commonwealth, protecting victims of family violence from being directly cross-examined by alleged perpetrators.
- Independent children's lawyers (ICLs)
  - appointment and provision of ICLS.
  - dedicated website [icl.gov.au](http://icl.gov.au) and suite of publications to provide information and resources to the public about the role of the ICLs in family law proceedings, and also the professional development and mentoring of those undertaking the role.<sup>4</sup>
  - ICL training program comprising online and face to face training modules and tested learnings.
- Family Advocacy and Support Services (FASS)
  - at the registries of the family law courts
  - delivering legal assistance and social support services to families with family law matters who have been affected by family violence.
  - Family Violence Law Help website [familyviolencelaw.gov.au](http://familyviolencelaw.gov.au) is a family violence and family law community legal education resource developed by NLA to complement FASS. This national website houses family violence resources and information about FASS in each state and territory.
  - NLA gratefully acknowledges Commonwealth government support of the FASS.
- amica – an online dispute resolution system [amica.gov.au](http://amica.gov.au) which assists separating couples in Australia to resolve their family law disputes with less reliance on formal pathways.
  - NLA gratefully acknowledges the sponsorship of the Commonwealth government in developing amica.
- Your Story Disability Legal Support – Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability [yourstorydisabilitylegal.org.au](http://yourstorydisabilitylegal.org.au)
  - Your Story Disability Legal Support is a free national service, providing information and legal advice to people about safely sharing their story with the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.
  - The Commonwealth government funds NLA and the National Aboriginal and Torres Strait Islander Legal Services to deliver the national service.
- Defence and Veterans Legal Service – Royal Commission into Defence and Veteran Suicide [defenceveteranslegalservice.org.au](http://defenceveteranslegalservice.org.au)
  - Defence and Veterans Suicide Legal Service is a free, national service that provides independent information and legal advice to support Australian Defence Force personnel and veterans, as well as their families, carers and supporters, to safely share their experiences with the Royal Commission into Defence and Veteran Suicide.
  - The Commonwealth government funds NLA to deliver the national service.

[4] In response to the release of the Australian Institute of Family Studies Independent Children's Lawyers Study Final Report 2nd edition, June 2014, and with NLA taking on sole responsibility for independent children's lawyer training as from May 2017.

## Supporting an improved service delivery system – continued

- Consumer outcomes
  - Membership of the Australian Banking Association Consumer Outcomes Group and participation in the development of customer focused guidelines.
  - Providing legal assistance to disadvantaged consumers which was recognised by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry as often of critical importance to the customer's position making a large difference to their situation.
- What's the law? Australian law for new arrivals
  - What's the law? was produced for national use in the Adult Migrant English Program (AMEP) and addresses 10 commonly experienced legal issues. The kit includes a DVD with 10 photo stories, information for teachers and activity sheets. The kit was evaluated in 2014 with teachers and in 2016 a research study, focusing on one of the What's the law? modules, found that it improved the participants understanding of the law. The study was published in 2018 in the Journal of Law and Social Policy.
  - This resource was developed by the eight Australian state and territory legal aid commissions, and inspired by the resource Getting to know the law in my new country, produced by the Footscray Community Legal Centre in Victoria.
- National consultations and submissions, including in response to parliamentary inquiries and reviews by the Australian Law Reform Commission, ensuring an experience informed national response. For example:
  - Family law
    - Review of the Ban on Direct Cross-examination under the Family Law Act 1975 (March 2021)
    - Family Law Amendment (Federal Family Violence Orders) Bill 2021, Senate Legal and Constitutional Affairs Committee Inquiry (July 2021)
    - Standing Committee on Social Policy and legal Affairs Inquiry into family, domestic and sexual violence (June 2020 to April 2021)
    - Joint Select Committee on Australia's Family Law System (Sept 2019 to Oct 2020)
    - Review of the family law system by the Australian Law Reform Commission (Sept 2017 to March 2019)
    - Family Law Amendment (Parenting Management Hearings) Bill 2017, Senate Legal and Constitutional Affairs Committee Inquiry
    - Family Law Amendment (Family Violence and Other Measures) Bill 2017 Exposure draft and public consultation paper and the Senate Legal and Constitutional Affairs Committee Inquiry
    - Family Law Amendment (Family Violence and Cross-examination of Parties) Bill 2017 Exposure draft and public consultation paper, Commonwealth Attorney-General's Department
    - Parliamentary inquiry into a better family law system, House of Representatives Standing Committee on Social Policy and Legal Affairs.
  - Elder abuse
    - National Register of Enduring Powers of Attorney, Commonwealth Attorney-General's Department Consultation Paper (August 2021)
    - Australian Law Reform Commission Elder Abuse Inquiry, Issues Paper and Discussion Paper (June 2016 to June 2017)
- Hosting the International Legal Aid Group (ILAG) Conference 2021
  - ILAG's mission is to improve evidence-based policy-making in the field of poverty legal services through discussion and dialogue relating to international developments in policy and research.

## Looking forward: working for fair justice

- Implementation and review of the National Legal Assistance Partnership Agreement 2020–25.
- Advocating for continued service delivery to support women's economic security including through the extension of the family law property mediation pilot.
- Advocating for appropriate funding for ICLs.
- Working with Government in relation to the Draft National Plan to end Violence Against Women and Children 2022–2032, and family law and family violence inquiries:
  - Family Law Amendment (Federal Family Violence Orders) Bill 2021, Senate Legal and Constitutional Affairs Committee
  - Inquiry into family, domestic and sexual violence, Standing Committee on Social Policy and Legal Affairs
  - Joint Select Committee on Australia's Family Law System
  - Review of the family law system by the Australian Law Reform Commission.
- Participating in and responding to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, helping individuals to tell their story.
- The provision of legal assistance services to help prevent and respond to elder abuse with specialist response units networked to the community.

## Working together: legal assistance service providers

Legal assistance in Australia is provided by four main groups of providers, each of which receives funding from either or both of the Commonwealth and respective State or Territory governments.

The four main funded providers are:

- Legal aid commissions
- Aboriginal and Torres Strait Islander Legal Services
- Family Violence Prevention Legal Services
- Community legal centres.

“While all four providers offer a mix of services from legal education to casework for individuals and groups of clients, the targets for their services differ, as do their size. All four employ mixed service delivery models, with a focus on holistic services.”<sup>5</sup>

The mixed service delivery model involves the use of both in-house lawyers and private lawyers who are prepared to work for legal aid rates which are significantly less than market<sup>7</sup> rates. In addition to the contribution made by private lawyers through the mixed service delivery model there are various schemes of pro bono assistance and volunteering.

### **Relationships between legal assistance providers**

Good relationships and co-operative arrangements exist between legal assistance service providers. These relationships and arrangements ensure that services are extended as far as possible, and that issues such as legal conflict are addressed. They also ensure that people receive the service most appropriate to their individual need.

Nationally, relationships and co-operation are supported by the Australian Legal Assistance Forum constituted by representatives of the peak bodies for all legal assistance providers  
<https://www.nationallegalaid.org/alaf/>

Locally, providers also meet regularly for jurisdictional service planning purposes and to ensure that referral networks, including in relation to non-legal support for clients, are strong.

There is a strong alliance between NLA and Legal Aid Services New Zealand. This legal aid alliance facilitates the sharing of information, the showcasing of initiatives, and contributes to the development of best practice.

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[5] Productivity Commission 2014, Access to Justice Arrangements Inquiry Report No. 72, Canberra, 767.

# NATIONAL LEGAL AID (NLA) STRATEGIC PLAN 2021-2024

## NLA VISION

- A primary voice for the legal assistance sector and those experiencing legal need
- Thought leaders in the legal assistance sector, proactively influencing policy
- A unified voice for all Legal Aid Commissions

## NLA PURPOSE

- To lead and encourage a national system of legal aid that allows disadvantaged individuals to access justice
- To ensure the legal assistance sector is adequately funded
- To provide a forum for collaboration at a national level between government, stakeholders, community and legal assistance providers, to develop best practice legal assistance

### GOAL 01

INCREASE CORE FUNDING FOR LEGAL AID COMMISSIONS

- Contribute to the NLAP mid-term Review
- Establish compelling case for the next NLAP

### GOAL 02

INFLUENCE FAMILY LAW POLICY AND FUNDING

- Advocate for legislative and service delivery reform that will enhance access to justice
- Increase funding for family law representation

### GOAL 03

ADDRESS ABORIGINAL AND TORRES STRAIT ISLANDER JUSTICE

- Provide culturally appropriate services
- Reduce over-representation in the criminal justice system and deaths in custody

## STRATEGY

## HOW NLA WILL WORK - OUR WORK WILL BE:



Evidence based



In partnership with others



Putting clients at the centre of what we do



Recognising the role of legal and non-legal advocates in advice giving, prevention and early intervention, advocacy and law reform

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