

**National Strategic
Framework for Legal
Assistance 2015-20**



Purpose

The National Strategic Framework for Legal Assistance (the Framework) sets out guiding principles to achieve the shared goal of a national, integrated system of legal assistance that is focused on improving access to justice and maximising service delivery within available resources. Legal assistance services should be high quality, culturally appropriate and complementary. They should be delivered in accordance with access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness.

Introduction

Legal problems are widespread in Australia and there is significant unmet legal need, which cannot be met within existing Commonwealth, state and territory funding levels. Many people experience multiple legal problems of a civil, family and/or criminal nature at the same time. If left unresolved, legal problems can escalate and trigger non-legal problems, such as health and social welfare issues. They can also impact adversely on a person's broader life circumstances and their ability to participate effectively in society.

Legal problems are highly prevalent amongst groups in society that experience economic, social and other disadvantage. People facing disadvantage often experience higher rates of legal need, and come into contact with the justice system more frequently, than the general population. Often, it is these people who are more susceptible to, and less equipped to deal with, legal problems. Indigenous Australians, in particular, face greater disadvantage and experience significantly higher rates of incarceration than other people.

Legal assistance services help the most disadvantaged people in our community receive the legal support they need to engage effectively with the justice system. These crucial services help maintain the rule of law by working to ensure that the law is applied to all people equally and that fundamental rights, such as the presumption of innocence and the right to a fair trial, are upheld. Legal assistance services help achieve timely, cost-effective, fair and equitable outcomes for disadvantaged people and assist them to understand and protect their legal rights and responsibilities.

To effectively and most efficiently address the legal needs of disadvantaged people, legal assistance services should work with other legal and community services to pursue the development of an integrated system of legal assistance. Meaningful cooperation between all participants in the justice system helps to achieve the timely and effective resolution of matters.

Legal assistance services are a key component of the wider justice system. They make a significant contribution to the overall efficiency of the justice system, including the operation of courts and tribunals. Legal assistance services also reduce costs for other taxpayer-funded services and provide socio-economic benefits to those receiving assistance.

Overview of the Framework

The Framework provides the overarching legal assistance policy for Commonwealth, state and territory funding arrangements. It encompasses all Commonwealth, state and territory government-funded legal assistance services (legal aid commissions, community legal centres and Indigenous legal assistance services), irrespective of funding mechanism or quantum.

It sets out aspirational principles to guide legal assistance policy development, service delivery and sector planning. The Framework encourages a unified and coordinated approach by governments and the legal assistance sector to enhance access to justice in Australia and help focus finite resources towards areas of greatest legal need. It provides additional context for government service priorities.

The Framework is not a funding agreement or a performance measurement document. There is no reporting under the Framework. Funding arrangements, from whatever government source, separately outline objectives, outcomes, outputs and performance indicators that are realistic and measurable. These arrangements are informed by the guiding principles promoted in the Framework.

The Framework was developed through the cooperation of the Commonwealth and state and territory governments, with input from the legal assistance sector. Commonwealth, state and territory governments endorsed the Strategic Framework by majority through the National Justice and Policing Senior Officials Group (NJPSOG), demonstrating a mutual commitment to legal assistance. Victoria supports the principles of the Framework but does not endorse it.

The Framework may be reviewed or amended to ensure that the principles and outcomes remain relevant for Commonwealth, state and territory governments and the legal assistance sector throughout its duration. Any review or amendment should be made in consultation with state and territory governments, the legal assistance sector, the NJPSOG and the Law Crime and Community Safety Council, where relevant.

Principles

1

FOCUS SERVICE DELIVERY ON PEOPLE FACING DISADVANTAGE

Legal assistance services focus on, and are accessible to, people facing disadvantage.

Context

A large proportion of legal problems experienced by the community are concentrated within disadvantaged groups, particularly Indigenous Australians. People facing disadvantage are more susceptible to multiple and substantial legal problems. They are also less likely, or unable, to identify or manage legal problems themselves. Failure to address legal problems often impacts upon broader life circumstances, triggering other legal and non-legal problems and often resulting in, or furthering, entrenched disadvantage.

Given the finite resources available, it is important that legal assistance services are directed to those most in need. Governments and the legal assistance sector must continue to work together to identify legal need and shared priority client groups and services. Targeting strategies and outreach services may sometimes be necessary to reach and assist people facing disadvantage and with the greatest legal need.

Outcomes

1.1 Legal assistance services are accessible to people facing disadvantage and with the greatest legal need.

Legal assistance services are appropriate, proportionate and tailored to people’s legal needs and capabilities.

Context

Legal assistance services seek to achieve fair and equitable outcomes for people in the most efficient and cost-effective way possible.

To best meet people’s legal needs, where practicable, a client-centred approach should be used to tailor services to people’s individual legal needs and capabilities (which include varying levels of knowledge and skills, as well as different broader personal circumstances). To facilitate this, service delivery models should be multifaceted and integrate a range of strategies to cater for different capability levels. Such strategies may include, but are not limited to, outreach services, information and other assistance for self-represented parties, dispute resolution and multi-disciplinary partnerships with legal and non-legal organisations. This also includes the provision of dedicated, culturally appropriate legal assistance services for Indigenous clients.

The level of assistance provided should also be proportionate to people’s legal needs and capabilities, and the complexity of legal problems faced. This ensures that resources are used most effectively.

Legal assistance services should continue to explore the use of technology to maximise the reach of services.

Outcomes

- 2.1 Legal assistance services are high quality, relevant, delivered respectfully and focused upon improving people’s outcomes.
- 2.2 Culturally appropriate legal assistance services are accessible and available to Indigenous Australians and people from culturally and linguistically diverse communities.
- 2.3 Service models deliver the right mix of legal assistance services to meet people’s legal needs and capabilities, where practicable.
- 2.4 Innovative service models are used to improve legal assistance services and better address legal need.
- 2.5 Legal assistance service costs are proportionate to the complexity and significance of the legal matter and the person’s capability.

Legal assistance services, government services and other services collaborate to provide joined-up services to address people’s legal and other problems.

Context

People often experience multiple legal problems at the same time, including criminal, civil and family matters. These legal problems often coexist with, or are triggered by, non-legal problems. In many cases, non-legal professionals are the first or only points of contact for people in need of legal help. Collaboration between the legal assistance sector and with non-legal professionals enables people’s problems to be dealt with holistically and can result in more favourable outcomes. However, fully joined-up services are costly to implement and should only be pursued where appropriate and practicable within resource limitations.

Individuals should have improved access to opportunities for resolving legal problems no matter how they make contact with the system. Clear referral pathways and joined-up services facilitate this. To improve access to front-line services, legal assistance services should coordinate with each other and collaborate with governments, non-legal services and the private legal profession. Strong partnerships across the sector facilitate a holistic approach to problem resolution, seeking to address people’s legal and other problems. An integrated, system-wide approach also fosters a ‘no wrong door’ culture, making the path towards justice easier to navigate.

Evidence-based, collaborative service planning can help legal assistance services focus on identified areas of legal need, maximising service delivery within existing resources. It also supports the evaluation of existing services and improves service delivery to people experiencing disadvantage. Service planning also informs decisions around where services should be joined-up, balancing the benefit of providing such services against the cost, taking into account the resources available to service providers.

Outcomes

- 3.1 Legal assistance services deliver complementary services, joined-up where appropriate, that are focused on meeting people’s legal needs.
- 3.2 Where appropriate and practical, legal assistance services collaborate with community services to assist them to identify legal problems, make appropriate legal referrals, and identify and address systemic causes of legal problems.
- 3.3 Legal assistance services focus on identified areas of legal need, including through collaborative service planning.
- 3.4 Sector planning and service delivery are evidence-based and informed by accurate, reliable and consistent data.

Legal problems are identified and resolved in a timely manner before they escalate.

Context

It is well acknowledged that the failure to address legal problems often leads to problems escalating or cascading into multiple problems. This results in increased social and economic costs to people and to governments.

The legal and community services sectors should continue to work together to ensure that people are directed to the most appropriate services to resolve their legal problems in a timely manner, avoiding the need for court or tribunal appearances wherever possible. Earlier intervention services (including, but not limited to, information, legal advice and community legal education) can resolve legal problems before they arise or escalate, and help to identify and address systemic causes of legal problems. The use of alternative dispute resolution services and restorative justice programmes are encouraged, where appropriate.

Where court proceedings are necessary, legal assistance services contribute to the efficiency of the courts and tribunals, including by assisting self-represented parties to present their case as effectively as possible. Meaningful cooperation between legal assistance services, prosecution services, relevant authorities and courts and tribunals can assist to facilitate the resolution of matters.

In these ways, the legal assistance sector can contribute to the overall efficiency of the wider justice system and deliver better outcomes for disadvantaged people.

Outcomes

- 4.1 Legal assistance services offer a range of timely intervention services and use the most appropriate service type to address and resolve people's legal problems.
- 4.2 Matters are resolved quickly and cost effectively, including through the use of alternative dispute resolution where appropriate.

People are empowered to understand and assert their legal rights and responsibilities and to address, or prevent, legal problems.

Context

People will continue to have legal problems. Many people are unaware that they have legal problems or that legal remedies exist, and take no action to resolve their legal problems. The successful resolution of legal problems is highly dependent upon a person's level of knowledge and capability. While it is not possible to address all unmet legal need, it is important to empower people to understand their legal rights and how they can access legal assistance.

Community legal education provides people with the basic skills to identify and resolve legal problems early and to prevent legal problems from occurring or escalating. Access to information and support facilitates positive participation in the justice system, particularly for Indigenous communities. It also builds resilience in communities, enhancing access to justice for disadvantaged people and strengthening the rule of law.

Outcomes

- 5.1 People have access to information about their legal rights, responsibilities and the options they have for action.
- 5.2 Community legal education is tailored appropriately for different groups, coordinated across the jurisdiction, aligned with shared priorities and not duplicated unnecessarily.
- 5.3 People are equipped with increased skills and knowledge to help resolve future problems.