



National Legal Assistance Partnership Official Draft

FEEDBACK – MULTILATERAL AGREEMENT

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
Preliminaries			
1.			
2.			
Part 1 - Formalities			
Part 2 – Objectives, outcomes and outputs			
14(f) This clause indicates that one of the outcomes the NLAP seeks is improved organisational and staff capacity to respond to evolving service demand. We think this is beneficial and will help clarify what legal service providers are able to use NLAP funds for. We note, however, that should legal service providers invest in staff training, building organisational and staff data capability, evaluation of service models etc without additional funds, this will come at the cost of reduced resources for the provision of frontline legal assistance services.	Victoria Law Foundation		

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
Part 3 – Roles and responsibilities of each party			
<p>21(b) We note that the Commonwealth will be responsible for organising and facilitating forums at the national level with States and the legal assistance sector. While we are not a legal service provider, we may be able to share the expertise of our research, education and grants programs as is appropriate.</p>	<p>Victoria Law Foundation</p>		
<p>21(h) We note potential tensions arising from 21(h), 25(k) and 29(c) concerning responsibility for collection of nationally consistent data. 21(h) refers to Commonwealth responsibility for facilitating <i>improvements</i> to the collection of nationally consistent data and the National Data Standards Manual for Legal Assistance (DSM); 25(k) to State <i>responsibility</i> for ensuring legal assistance service data is collected and reported consistent with the DSM; and 29(c) provides for shared Commonwealth and State responsibility for <i>ongoing collection and transparent reporting</i> of agreed nationally consistent data and improvements to the DSM.</p> <p>Specifically, with respect to ‘improvements to the collection of nationally consistent data’, which presumably includes improving the quality, accuracy and consistency of the collection and reporting of legal assistance service data, we note that this appears to fall to the Commonwealth through 21(h), rather than the State through 25(k) or</p>			

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
<p>jointly through 29(c). As previously noted in our <i>Submission - NLAP Discussion Paper: Legal Assistance Service Data Requirements</i>, our Data Mapping Project indicates that significant investment is required to improve the quality, accuracy and consistency, and ultimately the utility of legal assistance service data.</p> <p>In 21(h). the commonwealth assumes responsibility for '<i>facilitating improvements to the collection of nationally consistent data and the DSM</i>'. In order to achieve this, appropriate resources will be critical.</p> <p>In our Data Mapping Project, we repeatedly heard from legal assistance providers that obtaining resources to improve data practices was an ongoing challenge and fundamental barrier to improved data practices.</p> <p>We submit that this is one area where both leadership and capacity building is required. We see significant benefit in improving the quality, accuracy and consistency of legal assistance data collection and reporting. It is vital for building a meaningful and useful evidence base.</p> <p>Without this, the wider NLAP policy aims to develop a meaningful and useful evidence base will be frustrated.</p> <p>25(k) See comments for clause 21(h) above.</p>			

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
<p>27. While clause 27 provides that States will not delegate their roles and responsibilities under the NLAP with respect to ATSILS, the primary work of ATSILS is criminal and child protection legal services, which involve State legislation, policy and action.</p> <p>We submit that an important question for Independent Review of the NLAP, as per clauses 77 and 78, should be the degree to which NLAP reforms have affected State and ATSIL relations and access to justice of Aboriginal and Torres Strait Islander people.</p>			
<p>29(c) See comments for clause 21(h) above.</p>			
<p>29(d) We note the intention to develop an outcomes-based framework for potential implementation from 1 July 2025. We submit that improving the quality, accuracy and consistency of output data will be essential to operationalising measures under an outcomes framework.</p> <p>We anticipate that our research program will provide insights which will be directly relevant to the development of any outcomes-based framework. In particular, we envisage that our survey and evaluative work will explore methods to measure aspects of legal knowledge, legal capability and attitudes to justice. The work will provide tools to better gauge outcomes both in legal assistance service and related settings.</p>			

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
Part 4 – Performance monitoring and reporting			
<p>32(a) We reiterate, as per our previous <i>Submission (NLAP Discussion Paper: Legal Assistance Service Data Requirements)</i> that our Data Mapping Project found inconsistency in the way in which priority client groups are measured across the legal assistance sector (e.g. the way people with a disability or mental illness etc. are identified and recorded). Data quality and consistency issues can be masked when aggregated. It is vital that there are efforts to improve consistent measurement and recording of priority client status.</p>	Victoria Law Foundation		
<p>32(b)(i) Disaggregating services by funding stream is likely to complicate legal assistance service data collection and analysis. Further clarification is required as to exactly what is meant by a ‘funding stream’ for the purposes of s32(b)(i), such as whether it is intended to apply only to Commonwealth and state and territory government legal assistance service funding or also applies to other government and funding sources (e.g. health, community services, homelessness, philanthropic funding etc.). Disaggregation by funding stream also potentially raises associated counting issues under the National Data Standards Manual (DSM). Having a mix of Commonwealth and state areas of responsibility is relatively common, such as advice provided on a mix of family law and family violence matters. It appears possible that one legal advice (or other type of service) that covered a mix of Commonwealth and state</p>	Victoria Law Foundation		

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
<p>legal issues would be counted as one legal advice, and would be recorded as one primary law type, but could possibly be reported for both Commonwealth and state funding streams. If so, this would be a return to some previous counting practices that the DSM was intended to reform.</p> <p>Further guidance as to how to count and report by funding stream is required to support consistent sector-wide practice.</p>			
<p>32(b)(iv) There is benefit in clarifying if and how ‘indicators of disadvantage’ are intended to be distinguished from ‘priority client groups’. Doing so may also have implications for the DSM.</p>	<p>Victoria Law Foundation</p>		
<p>32(c) From our experience, including from our current Data Mapping Project, we expect that referral data will be one of the more problematic and patchy data fields. We further understand that some legal assistance providers have customised referral destinations to facilitate consistent (within organisation) data collection. Where referral data is collected (which appears far from universal) significant cleaning and coding is likely to be required to make sense of data.</p>	<p>Victoria Law Foundation</p>		
<p>32(d)(i) Training and capacity building for other services is a common feature of some legal assistance service models (e.g. legal outreach, integrated practice, effective referral pathways etc.). This often takes the form of community legal education (CLE), such as CLE to non-legal service</p>	<p>Victoria Law Foundation</p>		

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
<p>providers (as per the DSM). It would be beneficial to clarify whether, and if so how, 'training and capacity building' differs to CLE under the DSM, and to clarify what service counting and reporting framework applies.</p>			
<p>32(d)(ii) This appears to be a new reporting category. Currently, it appears that this type of service would be recorded as CLE to 'other legal service providers' or 'other stakeholders' under the DSM. Again, clarification of expected practices would be beneficial and better support sector-wide consistency.</p>	<p>Victoria Law Foundation</p>		
<p>40(f) We submit that further work is required to develop a more meaningful set of questions for inclusion in biennial client surveys. Rather than using the existing questions which are limited in utility and are inconsistently applied, there is significant opportunity and value in asking a limited set of new and improved questions where the benefits of the survey are seen to outweigh the burden in collection. We also see opportunity in asking judicious questions relevant to gauging client outcome information. This may help inform development of an outcomes-based framework as per clause 29(d). To yield meaningful results, valued by the sector as well as the Commonwealth, it is essential that the survey methodology is transparent and fully considered, experienced survey researchers are involved, and wording of Commonwealth questions is standardised in its implementation.</p>	<p>Victoria Law Foundation</p>		
<p>Part 5 – Financial arrangements</p>			

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
<p>51. As noted with respect to 14(f), we see significant benefit in clarifying what NLAP funding can be used for, and that data collection and reporting, as required under the NLAP, falls within the meaning of frontline legal assistance services. We again note widespread understanding across the legal assistance sector that Commonwealth funding was previously expressly limited to the provision of frontline legal assistance service.</p> <p>We also reiterate that should legal service providers decide to invest in efforts to build organisational and staff capacity to collect and report service data, that this will almost certainly come at the cost of reduced resources available for the provision of frontline legal assistance services. And further, given observed disparity in data capability across the legal assistance sector, some organisations may need to invest more heavily in improving data capability than others.</p> <p>We also note, however, that while wording similar in effect to clause 51 is contained in A8(b), that A21 and A22 direct legal assistance providers funded under the NLAP to prioritise delivery of frontline legal assistance services. To avoid confusion, we submit that wording of A21 and A22 should be consistent with clause 51.</p>	<p>Victoria Law Foundation</p>		
Part 6 – Governance arrangements			

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
<p>77. We note that an Independent Review of the NLAP should be completed by approximately the end of the 2023 calendar year. Given that the data requirements detailed in D12 and D13 will change during the life of the NLAP, we note that legal assistance service data available to inform the Independent Review may be limited, and may preclude meaningful analysis of impact and trend over time.</p>	<p>Victoria Law Foundation</p>		
<p>78.(a-d) We note that the Independent Review of the NLAP is likely to experience difficulty bringing data to bear on questions of achievement of overall objectives and outcomes of the NLAP; the appropriateness of the NLAP for achieving those objects and outcomes and delivering its outputs; and determining whether mainstream, specialist and ATSIL services have been delivered in an effective, efficient and appropriate manner.</p> <p>As such, consideration should be given at an earlier stage to possible collection of other information to inform Independent Review of the NLAP.</p> <p>See also the comments at clauses 27 and 77.</p>	<p>Victoria Law Foundation</p>		
<p>Schedule A – Commonwealth priorities</p>			
<p>A21 See comments for clause 51 above.</p>	<p>Victoria Law Foundation</p>		
<p>A22 See comments for clause 51 above.</p>	<p>Victoria Law Foundation</p>		

Comments by Clause	Organisation/ States commenting	Commonwealth response	Revision to NLAP Official Draft?
Schedule B – Collaborative Service Planning			
B4 We see benefit in collaborative service planning being separated from funding allocation decisions, including reduced tensions between legal assistance service providers in those jurisdictions where legal aid commissions are likely to have a dominant role in collaborative service planning.	Victoria Law Foundation		
Schedule C – Legal Assistance Strategy and Action Plan			
Schedule D – Legal Assistance Service Data			
D12–D15 We await further information on the shape of NLAP data requirements, and in the interim, refer to our <i>Submission - NLAP Discussion Paper: Legal Assistance Service Data Requirements</i> . See also comments for clause 77 above.	Victoria Law Foundation		