



# Creating sustainable and resilient Community Legal Centres: a model for New South Wales

Independent Review National Legal Assistance Partnership 2020-2025  
Community Legal Centres NSW Submission

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Community Legal Centres NSW believes that it is the responsibility of government to provide long-term and sustainable core funding to provide free legal assistance to people experiencing deep and persistent disadvantage and dislocation, and assistance on particular matter types or legal issues of particular groups. Free legal assistance serves as the bedrock of a just and equitable society and access to justice is a fundamental human right. Without financial barriers, individuals can assert their rights, resolve legal disputes, and seek protection under the law.

Funding for free legal assistance is an investment in the wellbeing of communities, as it prevents legal issues from spiralling into crises, ultimately reducing the burden on social services and the broader economy. This funding upholds the principles of fairness and equality underpinning Australia's democratic framework, ensuring that justice is not contingent upon one's financial means. Ultimately, free legal assistance reinforces the rule of law, strengthens social cohesion, and reaffirms the government's commitment to the wellbeing and dignity of all its citizens.

Community Legal Centres deliver a multitude of benefits that extend beyond the individual to benefit the government and the broader community. They are instrumental in creating fairer, safer, and more inclusive societies while ensuring that all individuals, regardless of their circumstances, can assert their legal rights and regain control over their lives.

## **What Community Legal Centres do**

### **1. Provide equal access to justice**

Equal access to justice is a fundamental principle in any democratic society. It signifies that individuals, regardless of their financial status, have the same opportunities to seek legal remedies and protection. Without free legal services, individuals experiencing deep and persistent disadvantage might find themselves unable to afford legal representation, leaving them at a significant disadvantage in navigating complex legal processes. Providing free legal services levels the playing field, ensuring that justice is not a privilege but a right for all citizens. Community Legal Centres also provide specialist legal advice on particular areas of law.

### **2. Uphold human dignity**

Human dignity is a core value underpinning human rights and legal systems worldwide. When individuals confront legal challenges related to housing, employment, family, or personal safety, their dignity can be profoundly affected. Without access to legal support, they may feel helpless, exposed to unjust treatment, or even exploitation. Free legal services act as a crucial support system, preserving the dignity of individuals by providing them with the means to protect their rights and advocate for their wellbeing.

### **3. Prevent vulnerability and exploitation**

Deep and persistent disadvantage often renders individuals vulnerable to exploitation and abuse. Legal issues, such as housing disputes, workplace violations, or family law matters, can exacerbate this vulnerability. Without free legal services, individuals facing disadvantage may be at risk of being taken advantage of by unscrupulous actors or systemic injustices. These services offer protection and empowerment, allowing individuals to assert their rights and protect themselves from exploitation.

#### **4. Ensure safety and freedom from gender-based violence**

Providing free legal services is essential in ensuring safety and freedom from gender-based violence. Many Community Legal Centres empower victim-survivors to access legal remedies and protective measures, breaking the cycle of abuse. By offering support for complex legal challenges related to issues like restraining orders, custody, housing stability, and victim compensation, Community Legal Centres contribute to a safer, more equitable society where everyone can live free from fear and violence, reinforcing the broader societal benefits of equal access to justice.

#### **5. Enhance community stability**

Communities thrive when they are stable and cohesive. Legal issues can disrupt this stability, leading to homelessness, unemployment, or family breakdowns. By providing free legal services that resolve these issues, communities remain stable and resilient. This stability enhances the overall wellbeing of community members and equips them to address broader societal challenges more effectively.

#### **5. Promote equality**

Equality is a foundational principle in democratic societies. Disparities in access to justice based on socio-economic status undermine this principle. Providing free legal services bridges this gap and promotes greater equality. It sends a clear message that systemic inequalities in access to justice are unjust and unacceptable. By addressing these inequalities, societies move closer to achieving true equity.

#### **6. Foster social inclusion**

Social exclusion often takes hold in the face of persistent disadvantage. Legal barriers can isolate individuals from civic participation and community life. Access to free legal services acts as a catalyst for social inclusion, helping individuals overcome these barriers and reintegrate into society. They regain their voice, their agency, and their place within the broader community.

#### **7. Deliver economic benefits**

While the provision of free legal services requires an initial investment of resources, it can yield substantial long-term economic benefits. By preventing legal issues from escalating into crises, such as eviction, unemployment, or family breakdowns, these services save public resources. Additionally, they help individuals secure stable employment and housing, reducing their reliance on social services and ultimately benefiting the economy.

#### **8. Strengthen the rule of law**

A just society thrives when the rule of law is upheld consistently. Providing free legal services reinforces the foundations of the rule of law by ensuring that legal rights are not abstract concepts but practical tools accessible to every citizen. It strengthens the legal system's legitimacy and ensures that justice is not reserved for a select few.

## Community Legal Centres values

Community Legal Centres are values-driven organisations. We are deeply committed to a set of core values that guide our mission, shape our organisational structure, inform our methods, and drive us toward our ultimate goals. Our values define who we are and how we serve our communities.

### Community Legal Centres are:

**Providers of quality legal assistance:** We are committed to providing high-quality legal assistance, regardless of an individual's background or circumstances. Our services are grounded in integrity, professionalism, and a dedication to upholding the rights and dignity of all.

**Advocates:** We advocate for structural change to create a fairer, safer, and more inclusive society. Our work extends beyond individual cases to address systemic issues and promote lasting improvements in our legal and social systems.

**Community-based:** Being based in the community and deeply connected to it is fundamental to our identity and effectiveness. Our community-based approach ensures that our work is relevant, impactful, and responsive to local needs.

**Trauma-informed:** We prioritise safety and trauma-informed practices in our interactions with clients. Our approach ensures that individuals feel heard, respected, and supported as they navigate challenging legal situations.

**Innovative:** we embrace innovation as the driving force behind our approach to legal assistance. We continuously seek creative and forward-thinking solutions to address the evolving legal needs of our communities.

**Responsive:** our responsiveness is rooted in our commitment to being attentive to the unique needs of each individual we serve. We adapt our services and strategies to provide timely and effective assistance.

**Embedded in the community:** We firmly believe in the power of being embedded in the communities we serve. This deep-rooted connection allows us to better understand and address the specific challenges and opportunities that exist within each community.

**Non-hierarchical:** We operate as non-hierarchical organisations, valuing the input and contributions of every member of our team. This collaborative approach fosters inclusivity, shared decision-making, and a sense of ownership among our staff and volunteers.

**Holistic:** Our holistic approach recognises that legal issues are often intertwined with social, economic, and personal factors. We address legal matters in the broader context of individuals' lives, considering the full spectrum of their needs.

**Flexible:** Flexibility is key to our success. We remain adaptable and agile, ready to pivot in response to emerging issues and changing circumstances. This flexibility enables us to provide the best possible support to those we serve.

**Creative:** Creativity is at the heart of our work. We encourage innovative thinking and creative problem-solving to find new ways to advance justice and equity for all members of our communities.

**Local:** We actively resist state-wide and large organisations from taking over our community-driven initiatives. We believe that being locally rooted, rather than engaging in "fly in/fly out" approaches, is essential for the well-being of our clients and communities.

**Connectors:** Building and nurturing relationships are at the core of our work. These relationships enhance our ability to provide referrals, collaborate within the sector, coordination with government and community organisations and advocate for meaningful law reform. They are the lifeblood of our mission.

In living out these values, Community Legal Centres strive to create a more just and equitable society. We are dedicated to serving our communities with compassion, integrity, and an unwavering commitment to justice for all.



## What is a sustainable Community Legal Centre?

Building a sustainable and scalable organisation involves thoughtful planning and flexibility to adapt to varying sizes, client needs, and legal matters. Community Legal Centres NSW has developed a model for a sustainable organisation that emphasises the importance of core funding, balancing frontline and support costs, workload sustainability, resilience, flexibility, and holistic support.

The current NLAP agreement provided many Community Legal Centres with core funding and this should continue under the next agreement. Core funding is particularly crucial for small organisations, which may struggle to secure project-specific grants consistently. With core funding, Community Legal Centres can maintain essential staff and resources, develop long-term strategies, and better respond to emerging legal issues.

Core funding empowers Community Legal Centres to become resilient organisations that can withstand challenges and contribute to sustained societal change. Resilience is achieved through financial stability, consistent service provision, and the ability to adapt to evolving legal landscapes. By offering ongoing core funding, the government and other stakeholders ensure that Community Legal Centres can fulfill their mission and continue to be a cornerstone of the Australian legal assistance system.

To determine what core funding should encompass, Community Legal Centres NSW conducted consultations with nearly all of our member centres and also conducted surveys on salaries and the operational costs for running a centre. The two main issues that made Community Legal Centres precarious were the inability to recruit and retain staff; underfunding support costs and underfunding the provision of holistic services. The strength of the sector is in the diversity of funding sources and diversity of services that Community Legal Centres provide.

The sector told us that a resilient organisation is one that can: recruit and retain staff; provide career pathways; provide a safe and culturally competent workplace; resource operational costs and overheads; fund free legal assistance for priority groups; can participate in community development; can advocate for law reform and policy change; can have robust IT systems; have strong governance; and support a volunteer workforce.

The key elements of a sustainable and scalable Community Legal Centre:

### **Ability to recruit and retain of staff**

Wages and conditions are key to recruitment and retention of quality staff in the Community Legal Centre sector. Community Legal Centre lawyers and allied staff receive lower wages than in equivalent organisations and this is seen as a key deterrent in the ability to staff centres. The lack of clear career pathways was also seen as limiting for many people. But the culture of Community Legal Centres, workplace conditions and opportunities for developing a practice of diverse areas of law were seen as positives. Properly resourced staff costs include:

- ☐ Wages: equivalency with like roles and organisations.
- ☐ Learning and development: career pathways, learning culture in the organisation.

### **Adequate support costs**

It was clear that scaling back of support costs leads to greater pressure on frontline staff. There is a continual temptation to save money in operational costs to focus on frontline services. Instead, funding should reflect sustainable workloads and be able to respond to shocks. Properly resourced operational costs and overheads includes funds for:

- ☐ Human Resources: risk management, monitoring and evaluation, data collection and analysis, innovation and administration.
- ☐ IT: funding for systems, support, cybersecurity, compliance with privacy laws and digital strategy.
- ☐ Governance: accreditation, insurance and board support.
- ☐ Cultural competency: partnerships with First Nations community-controlled organisations.
- ☐ Safety and wellbeing: trauma-informed practice; external supervision and debriefing.

### **Diversity of funding and services**

All Community Legal Centres are unique in size, client groups, and legal matters they address. Community Legal Centres range from small, grassroots organisations to larger, more established institutions. These differences in size are driven by factors such as geographical location, client demand, and the breadth of services offered. Smaller Community Legal Centres often serve specific local communities, whereas larger ones and specialist centres extend their reach to regional, state, or even national levels. This diversity in size ensures that the legal needs is met effectively.

Because of this diversity, the amount of funding needed for a sustainable Community Legal Centre also varies. Community Legal Centres themselves are best placed to decide how the funding is used and should have flexibility in how it is used.

Holistic and wrap around services supporting legal and other need are varied and are determined by the type of Community Legal Centre, service type, client type and area of law. Services may include:

- ☐ Physical presence in community with travel and outreach for centres in rural, regional and remote areas.
- ☐ Volunteer programs.
- ☐ Law reform, strategic litigation and Community Legal Education.
- ☐ Communications and media.
- ☐ Community development.
- ☐ Disaster preparedness, response and recovery.

# The Community Legal Centre Sector in NSW: what we know

## Community Legal Centre staff

- Community Legal Centres in NSW include an estimated 677 FTE roles. This is based on responses to a Community Legal Centre NSW Sector Survey in May 2023.
- Salaries vary widely between Community Legal Centres, and salaries are predominantly set against the Social, Community, Home Care and Disability Services Industry Award (2010) (SCHADS).
- Almost 30 percent of centres also have an Enterprise Agreement.
- Community Legal Centres offer benefits, other than salaries, to staff including additional leave entitlements, flexible working, Time in Lieu/Flex Time, and salary sacrificing.

### Vacancy rate

In May 2023, 35.4 FTE positions were vacant across NSW Community Legal Centres. Positions are vacant for an average of 13 weeks.<sup>1</sup>

### Salary variances

Salaries for the same roles vary widely between Community Legal Centres and are consistently lower than the equivalent public sector role. The average variance in salary for the same role in a Community Legal Centre is \$47,715.

### Legal staff

There are approximately 356 FTE **solicitors** in NSW Community Legal Centres. This includes:

- 19 FTE Managing Solicitors who manage the organisation and legal practice;
- 23 FTE Principal Solicitors who manage the legal practice;
- 62 FTE Supervising/Senior Solicitors; and
- 240 FTE Solicitors.

The **median salary** for the 356 FTE solicitors in Community Legal Centres is between 10 percent and 35 percent lower than the equivalent government role at Legal Aid NSW. The average variance in salaries among legal staff in equivalent Community Legal Centre roles is \$52,643. To lift the median salary of current solicitors in the Community Legal Centre sector to equivalency with the median market salary, the sector requires approximately **\$5.9 million**.



**Graph 1: Comparison of Community Legal Centre and market salaries of legal roles**



Source: Community Legal Centre Remuneration Survey 2023 by Community Legal Centres NSW and NSW Public Sector Salary Rates 2023-24.

The median base salary for a **Solicitor** at a NSW Community Legal Centre is \$95,500. This is 10 percent lower than the equivalent Solicitor I-III at Legal Aid NSW. The variance in salary among Solicitors in Community Legal Centres is \$40,000. There are approximately 241 FTE Solicitors in Community Legal Centres. In order to bring the median Community Legal Centre salary of Solicitors up to equivalency with Legal Aid NSW, the Community Legal Centre Sector requires approximately **\$2.3 million dollars**.

The median base salary for a **Supervising/Senior Solicitor** at a NSW Community Legal Centre is \$105,500. This is between 29 percent and 35 percent lower than the equivalent Senior Solicitor roles (Grades IV and V) at Legal Aid NSW. The variance in salary among Supervising/Senior Solicitors in Community Legal Centres is \$50,000. There are approximately 62 FTE Supervising/Senior Solicitors in Community Legal Centres. In order to bring the median Community Legal Centre salary of Supervising/Senior Solicitors up to equivalency with Legal Aid NSW, the Community Legal Centre Sector requires between **\$1.8 to 2.5 million dollars**.

### **Non-legal staff: leadership, allied staff and operations**

There are approximately 321 FTE non-legal staff at Community Legal Centres in NSW. This includes:

- ☐ 43 FTE Leadership: CEOs/Executive Directors, Coordinators, Chief Operations Officers and Deputy CEO roles.
- ☐ 182 FTE in allied roles: social workers, financial counsellors, Community Legal Education workers, paralegals, Aboriginal community access workers, court support workers and advocates.
- ☐ 96 FTE in operational and support roles: human resources, finance, administration, fundraising, policy and law reform and communications.

There is a low ratio of leadership roles to other staff in Community Legal Centres, with about one leadership role per organisation. This is usually the CEO/Executive Director, or equivalent and is responsible for the overall management of the organisation, as well as financial management and strategic planning. Most Community Legal Centres do not have senior operational support such as Human Resources, ICT, Communications and office management positions.

There is a significant and wide range of salaries per equivalent positions across Community Legal Centres. The average variance in salary for the same non-legal role in a Community Legal Centre is \$48,461. This is up to \$105,000 in CEO/Executive Director roles. This is a huge difference for similar positions, after taking into account the varying sizes of Community Legal Centres.

When compared with their public service counterparts in Legal Aid NSW, non-legal staff are paid between 10 percent and 20 percent lower in Community Legal Centres. This is a conservative estimate given the relatively low number of positions and data available. In order to bring the median Community Legal Centre salary of non-legal positions up to equivalency with Legal Aid NSW or other equivalent roles, the Community Legal Centre Sector requires between **\$1.6 and \$3.2 million**.

**Graph 2: Comparison of Community Legal Centre and market salaries of operational roles**



Source: Community Legal Centre Remuneration Survey 2023 by Community Legal Centres NSW; Pro Bono Australia Salary Survey Report 2023 and NSW Public Sector Salary Rates 2023-24.

Community Legal Centres are dramatically underfunded in comparison to Legal Aid Commissions. Legal Aid Commissions receive a funding allocation that is adequate to pay for their operations and allows them to best determine how funds should be allocated to service delivery.

In comparison, Community Legal Centres are required to submit applications in competitive processes, often for project based and short-term funding tied to particular outcomes. NLAP funding allocations routinely under cost the indirect costs of a running a sustainable Community Legal Centre. Allocations don't allow for the flexibility required to address surges in legal need. Community Legal Centres lose out in the process of recruiting and training staff, by the time staff

are skilled up, the funding has finished, staff leave, community engagement and goodwill ceases. Community Legal Centres should be resourced in the same way as Legal Aid Commissions. Community Legal Centres NSW has attempted to provide an example of the increased funding required for sustainable organisations.

## Community Legal Centre costs

Community Legal Centres NSW surveyed our members on the cost of running a Community Legal Centre in NSW. The survey asked specifically about expenses for NLAP-funded programs. Forty-two percent of all NLAP funded Community Legal Centres responded to the survey.

The survey categorised expenses into the following:

- ☐ **Salaries:** salary on costs (superannuation, workers compensation insurance, provisions for long service leave).
- ☐ **Direct Costs:** expenses directly related to the provision of services. (client disbursements, travel to clients, outreach costs, interpreters).
- ☐ **Rent**
- ☐ **Support Costs:** costs required to run the organisation.

### The most significant spend for Community Legal Centres is on staff salaries and oncosts:

- ☐ An average of 84 percent of all NLAP funding is used to employ staff that would directly or indirectly contribute to service delivery.
- ☐ 1 percent of NLAP funding is spent on staff wellbeing and professional development, both risk mitigation and regulatory compliance issues
- ☐ The remaining 15 percent of NLAP funding is divided into direct costs of service delivery (5 percent), premises (4 percent) and indirect costs (6 percent).

Community Legal Centres have a long tradition of prioritising client-facing services over investing in the sustainability of the organisation. This is driven not just by unmet legal need but the pressure of funders to deliver on targets.

This results in organisations underinvesting in key core costs and these ‘cost restraints result in challenging work conditions for staff who are overworked, underpaid and have low job security.’<sup>2</sup> The pressure of working in under-resourced environment with limited support, complex matters and clients with complex needs has led to high attrition and an inability to recruit has been exacerbated by the increased cost of living.

The following graph shows the average expenses for 2022-23 for Community Legal Centres in NSW.

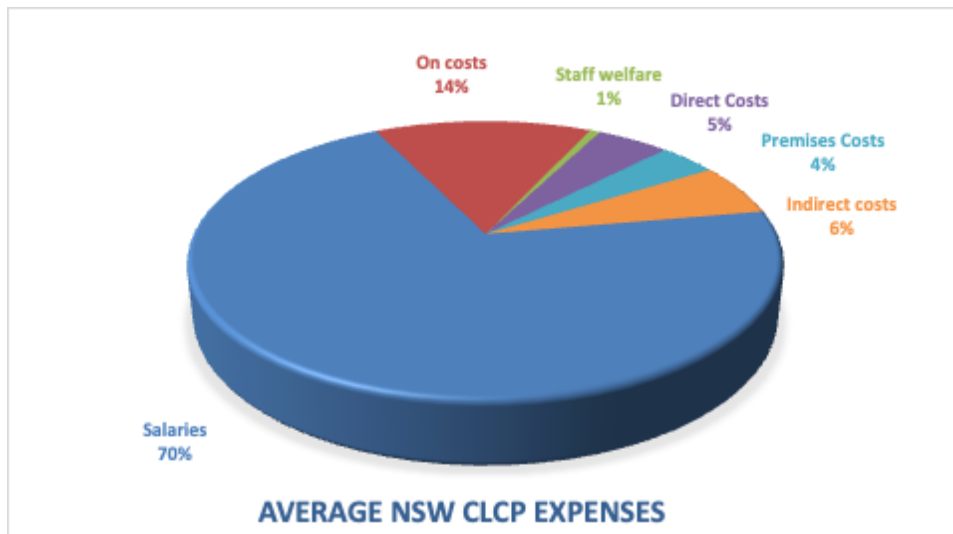


Figure 2 – the average Community Legal Centre expenses for 2022-23 for Community Legal Centres in NSW.

### Staffing Costs

Most Community Legal Centres support a mix of part time (48 percent), full time staff (45 percent) and casual staff (7 percent). This is not always the preference of employees, it is often about limited funding and an inability to offer fulltime positions. The impact on Community Legal Centres of a large part time workforce is that there can be an impact on continuity of service, on the length of time people remain in roles and in the cost of supervision, support and training.

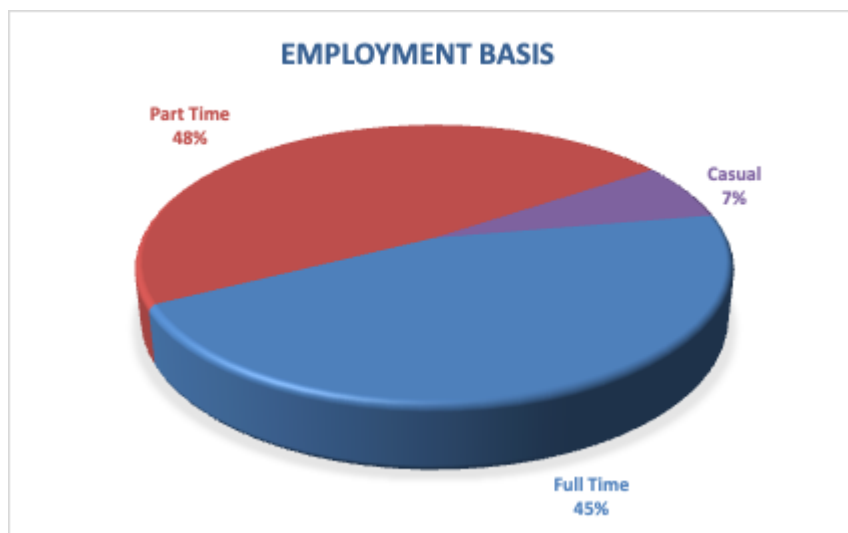


Figure 3 – Average staffing of Community Legal Centres in NSW on employment basis

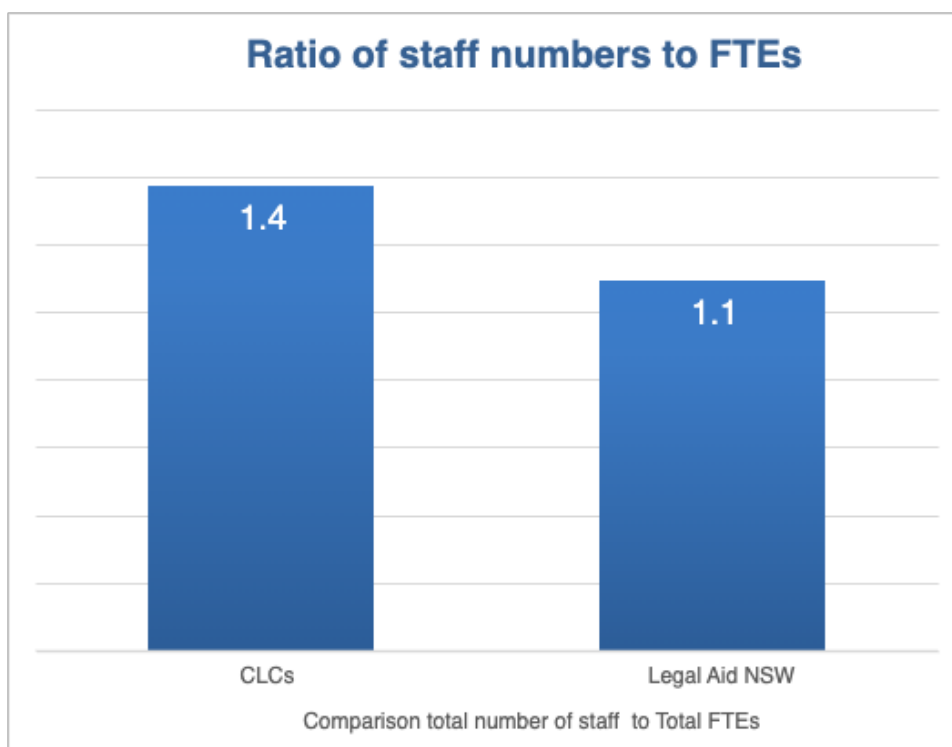


Figure 4 – Ratio of number of employees for each Full-Time Equivalent role  
(data from Legal Aid NSW Annual Report 2021-2022 and Community Legal Centres NSW survey)

### Comparing Community Legal Centres and Legal Aid in NSW

- ☐ Community Legal Centres have a higher ration of part-time employees than Legal Aid NSW.
- ☐ Community Legal Centres employ, on average, 1.4 employees to fill each Full-Time role. By comparison, Legal Aid NSW employs 1.1 people to fill each Full-Time role.<sup>3</sup>

### The cost of part-time employees

The under-investment in Community Legal Centres is compounded by the additional costs of a large part-time workforce. Part-time employees require the same employment support and training as full-time employees. The cost of staff welfare in workplaces with a high proportion of part-time staff is greater than for those organisations with a high proportion of full-time staff. Community Legal Centres incur a high cost of support for their largely part-time workforce.

### The cost of employees on contract

Short term and project funding does not allow Community Legal Centres to offer permanent positions. Recruitment and training can take months, reducing the capacity and effectiveness of the service. By the time staff are competent, the funding has ended, and staff leave. New legislation at the end of 2023 will require that contract staff are made permanent over time. Project funding will continue to make permanent employment difficult to achieve and will require centres to allocate funds for redundancies at the project end.

### **Gendered workforce**

Staff in Community Legal Centres are predominantly women. Many are underemployed in part-time roles. Many are on short-term recurring contracts and there is little investment professional development and wellbeing. These roles do not provide secure employment that provides personal benefits such as being able to get a loan or access parental leave. They eventually leave the sector taking their knowledge and skills.

### **First Nations staff**

First Nations staff are also often employed part time as a reflection of limited funding. Under employment and financial insecurity is an issue identified in Closing the Gap.

### **Staff wellbeing**

Paying what it takes found that ‘not-for-profits universally underinvested in their core capacity’.<sup>4</sup> This is the case for Community Legal Centres and our survey found that only 1 percent of NLAP funding is spent on staff wellbeing. Across the 32 centres that receive NLAP funding this is \$5,754 per centre. Community Legal Centres significantly underspend on staff wellbeing and development such as:

- ☐ Trauma-informed practice providing professional supervision and support to reduce the impact of vicarious trauma and burnout on the mental health and resilience of staff;
- ☐ Inclusive practice and cultural safety training and development providing a safe workplace and service; and
- ☐ Staff training and development providing ongoing opportunities for professional development and aids staff retention.

### **Trauma-informed practice**

An allocation for the Employee Assistance Program for centres was provided by the Community Legal Centre Program Unit to Community Legal Centres NSW for 3 years. In the first year, the cost of the Employee Assistance Program rose more than 30 percent and additional funds had to be provided. Employee Assistance Program is not available to volunteers in centres. This is concerning as student volunteers often provide the first point of contact for people seeking assistance and are inexperienced in working with people who have experienced trauma.

The organisation has a responsibility for the wellbeing of volunteer staff and the inability to refer volunteers to Employee Assistance Program is a significant risk and additional expense for centres. Delivery of a trauma informed practice for staff costs approximately \$5,000 per person each year for monthly professional supervision and debriefing and training through a specialised program such as BlueKnot.

### **Inclusive practice**

Community Legal Centres work with vulnerable client cohorts including those specified in NLAP. To work with people effectively and respectfully centres need to develop inclusive and safe spaces for clients and staff with lived experience. Developing an inclusive practice requires resources to develop organisational capability, develop their workforce ensure consumer participation, provide a welcoming and accessible organisation, and create policies and procedures for disclosure and documentation to ensure culturally safe and acceptable services.<sup>5</sup>



Community Legal Centre staff working with vulnerable client cohorts have limited access to the specialised training that is required to work with, for example, survivors of gender-based violence (Family Violence/Domestic Violence and sexual assault), asylum seekers, LGBTIQ people or First Nations people.

As the peak, Community Legal Centres NSW provides training opportunities to staff in the sector at no cost. This is possible because speakers are sourced from within the legal assistance sector, not for profits, and government. Specialised training in trauma informed, inclusive practice and cultural safety comes at a cost. While there are occasions where costs can be shared across centres, it is usually limited to small groups of up to 20 people with a cost of up to \$8,000 per day. At a minimum, there is an expectation that staff would attend First Nations cultural safety training at least twice a year. This is an investment that is greater than resources allow. A centre reports that the annual cost of delivering a culturally safe practice with a team of three First Nations staff is almost \$400,000.

The underspend on staff wellbeing and training and development is an organisational risk in terms of psychosocial wellbeing, workers compensation claims, burnout and staff retention in the organisation and in the broader legal assistance sector. It also impacts on the design and execution of service delivery.

# A new funding model for Community Legal Centres in NSW

## Costs to consider when funding a sustainable organisation

Resilient, sustainable and responsive Community Legal Centres can deliver long term impacts on complex social issues. Community Legal Centres must be provided with sufficient long term core funding to ensure that centres can deliver impact, keeping the justice system within reach of people in deep and persistent disadvantage.

As independent organisations, Community Legal Centres have different organisational structures and service models based on location (metropolitan, RRR), whether they are a generalist place-based centre, or a specialist centre and whether they are a stand-alone Community Legal Centre or a Community Legal Centre running multiple programs with diverse sources of income. All have different resource requirements and tailor their response to the need they address and the community they serve. While there are similarities, core funding cannot be a one-size fits all. For centres to be able to respond to unmet need they require the flexibility within their funding to create a staffing and service model that serves their purposes.

### Funding legal assistance costs

NLAP funding allocations have been based on historical decisions that are no longer apparent but no Community Legal Centre should have a reduction in funding. Instead, to create a sustainable and resilient sector, the following measures are required:

#### Increase funding based on the unmet legal need of people in deep and persistent disadvantage

The recently released NCOSS online Mapping tool<sup>6</sup> and Data dashboard<sup>7</sup> maps poverty and financial disadvantage in NSW to SA2 and can be overlaid with catchment areas of place-based generalist Community Legal Centres. Following the Cameron Review, generalist Community Legal Centres catchments are allocated by postcode. Almost all of NSW is geographically allocated across centres.<sup>8</sup> A similar mapping exercise could be done for state-based and national specialist service (see our Submission to the NLAP review at 4.2, page 16 for examples of data used with this mapping tool. Community Legal Centres NSW has not attempted to develop a cost formula for meeting unmet legal need.

#### Fund surges in legal need in disasters

Changes in legislation and policy and new initiatives create additional demand for legal services. This surge needs to be factored in in the roll out by government and resourced appropriately. For sudden disasters like floods and fires, the legal assistance sector needs resources to respond. This requires that there is existing capacity within Community Legal Centres to respond immediately to people needing legal assistance. Centres also need an ability to access resources quickly to upscale the workforce to assist in the medium to long term. This doesn't happen overnight, recruitment and training may take several months once funding is received. Recently we have seen funding take over 12 months to be allocated to centres to respond to the 2022 floods.

### **Increase funding for workforce sustainability**

Increased funding for workforce sustainability is required to bring staff salaries and salary oncosts in Community Legal Centres and at Aboriginal and Torres Strait Island Legal Services into line with staff at Legal Aid Commissions. Investment in staff retention in the legal assistance sector is crucial. Staff have a particular knowledge and skill set that is not common in the legal profession and retaining and developing skilled and experienced staff contributes to the sustainability of centres and their ability to provide services.

Increase funding required to meet the costs of workforce sustainability includes:

- ☐ Increased funding for staff wellbeing and professional development is required to retain staff, and reduce the risk to staff of psychosocial issues. This will also reduce the risk to organisations of claims. Community Legal Centres NSW has attempted to provide an example of the increased funding required to meet the costs of ensuring staff wellbeing.
- ☐ Increased core funding for a sustainable organisation based on a model that “provides enough money for non-profits to pay for all their operations, not just programs and services”.<sup>9</sup>

### **Fund automatic annual increases to cover increased costs in operations and mandatory salary and superannuation increases**

Each year, Community Legal Centres are faced with the uncertainty about whether they will receive CPI or indexation to cover increased fixed and mandatory costs. Centres go into each new financial year not knowing whether what they will receive will cover the increased costs or when they will receive it. In real terms allocated increases have not covered costs, resulting in an erosion in funding each year and a necessary reduction in staff and services. Funding should be increased at 1 July each year by a) CPI to cover direct operational costs and b) indexation to cover wages and on costs that includes an allowance for additional costs to accrued leave.

## Funding program support costs

### Program support costs

Program support costs for a Community Legal Centre include:

- ☐ IT systems and cyber security;
- ☐ risk management;
- ☐ marketing;
- ☐ human resources;
- ☐ strategy development;
- ☐ strategic capability;
- ☐ leadership;
- ☐ learning and development;
- ☐ measurement and evaluation;
- ☐ finance and accounting support; and
- ☐ Board governance and training.

Our survey demonstrate that the current NLAP does not provide Community Legal Centres with enough funding to cover the real costs of running a community-based legal practice. While many centres have alternative funding sources for project work, NLAP should meet the core costs of a sustainable service so that Community Legal Centres can deliver legal assistance to people experiencing deep and persistent disadvantage.

Our survey indicates that, Community Legal Centres only allocate 6 percent of NLAP funding to organisational expenses:

Cost	Percentage of total
<b>Communications and Information Technology</b>	2.1%
<b>Finance and Accounting</b>	1.2%
<b>Office costs</b>	1.7%
<b>Insurance</b>	0.61%
<b>Governance, including fees, permits and memberships</b>	0.5%
<b>TOTAL</b>	<b>6.07%</b>

The analysis by Social Ventures Australia and the Centre for Social Impact of 16,000 charities using the Australian Charities and Not-for-Profits Commission data finds that average indirect costs of the not-for-profits they analysed was 33 percent of the total costs.<sup>10</sup> According to the analysis of data from the Australian Charities and Not-for Profits Commission Community Legal Centres under-allocate and under-represent 27 percent of indirect total costs.

*US research has shown that one of the key drivers of this vulnerability is insufficient funding of not-for-profit 'indirect costs' – for example, HR, IT and finance. This is called the 'non-profit starvation cycle', in which funders having inaccurate expectations of how much overhead is needed to run a not-for-profit means these organisations underrepresent their costs. This leads to a sector starved of the necessary core funding required to create resilient not-for-profits delivering long-term impact on complex social issues.<sup>11</sup>*

Community Legal Centres do not receive adequate core funding to pay what it takes to support effective sustainable services. Insufficient investment in Community Legal Centres core capacity has pushed them into running lean, underspending on indirect costs. The *Pay what it takes* report states this approach is ‘one that provides enough money for non-profits to pay for all their operations, not just programs and services’.<sup>12</sup>

### **Governance and Financial Systems**

Allocations for governance costs are very low for Community Legal Centres as most operate with volunteer Boards and Management Committees. Community Legal Centres are professional organisations, they operate legal practices, and have responsibilities for staff. To be strategically capable, meet the national accreditation standards and regulatory and compliance obligations, centres require good financial systems and sound governance. This comes at significant cost. Meeting these costs is a core component of operating a sustainable organisation.

### **Reporting, evaluation and outcomes measurement (a requirement under NLAP)**

There requires significant investment in developing models, frameworks and systems and requires an investment in staff time and skills in data collection, analysis, evaluation and reporting. The reporting load for centres is significant and the cost is not acknowledged.

### **Human Resources**

Increasingly, recruitment and training, and monitoring of staff wellbeing, requires more time and resources. With the difficulties in recruitment and retention in the last few years, this places a burden on centres in the employment market and on staff who are often covering more than one role. This is a risk to the centre in terms of Workplace Health and Safety issues but also carries an additional financial risk as staff work additional hours and don’t take their accumulated leave. Centres need to be resourced to ensure they have the capacity to manage their obligations to staff and volunteers.

### **Regulatory compliance and reporting**

In addition to the costs for a not for profit in quality control and regulation compliance, as legal practices, Community Legal Centres are highly regulated and need to comply with national accreditation standards, the Risk Management Guide and Public Indemnity Insurance cross check as well as mandatory Continuing Professional Development and registration for solicitors.

### **Information and Communications Technology and communications**

Client management software, ICT and communications systems and around the clock attention to cyber security requires ongoing investment in systems, their maintenance and staff skills. Community Legal Centres are not adequately funded to invest in future-proofing their IT systems, often working with out-of-date equipment and with systems insufficient to their needs. Knowledge of ICT systems is low. Many centres do not have in house ICT support and the external support is based on an emergency management approach leaving them open to cyber breaches. An injection of additional funding into ICT for not for profits during covid saw substantial gains in the use of up-to-date technology that created efficiencies and better tools for monitoring and reporting. Three years later, not for profits are falling behind again. With the forecasted closure of CLASS, the national data depository and client database, centres will likely have to find commercial alternatives. This will come at a cost in terms of change management, upskilling and

training, licences, and maintenance. Up to date ICT systems and tools attract skilled staff who see access to these resources as essential to their work.

### **Insurance**

The cost of insurance for Community Legal Centres has increased consistently over the last 5 years, as premiums and deductibles for mandatory insurances increased significantly across the wider insurance market. The need to mitigate this risk is essential by ensuring Community Legal Centres have the organisational capacity and systems to operate efficiently and effectively and manage organisational risk. Even when risks have been mitigated, errors can occur. Funds must be set aside as provision for at least one claim against the centre. Community Legal Centres do not have sufficient funds to set aside for such a contingency.

### **Leadership and collaboration**

As organisations, Community Legal Centres need to have the resources to invest in governance, leadership and collaboration. Volunteer Boards have limited time to devote to running an organisation and a legal practice. Legally responsible for the organisation and for staff, Boards need access to professional development and must be provided with the required information to make informed decisions. The traditional model of one person holding the role of both Executive Director and Principal Solicitor is no longer sustainable. Community Legal Centres should have the capacity to develop a senior leadership team that is responsible for meeting the legal and professional obligations of an organisations and can make makes strategic decisions to address legal need.

*Paying what it takes* found that financially vulnerable not-for-profits are less inclined to initiate and participate in internal and cross sector collaboration.<sup>13</sup> This inhibits their potential to achieve impact. The expectation is that a Community Legal Centre can operate and work with government at the same level as government and corporate can operate. Often, it is one person from a Community Legal Centre that might attend a meeting on law reform with whole teams from government.

### **Innovation**

Community Legal Centres, are by their very nature, flexible and innovative. However, to be able to make changes to service delivery to respond to legal need, centres require some flexibility and untied funding that they can use to implement those changes.

### **Indexation**

Community Legal Centres require sufficient indexation of funding each year to cover increases in Superannuation Guarantee and pay rates equivalent to the National Wage Case Decision (NWC). Most Community Legal Centre employees are paid at or above an award or have EA's that offer the NWC percentage increase each year.

Annual indexation must be provided to increase all employment provisions, such as Annual Leave and Long Service Leave entitlements for staff. These provisions are set aside at *current* rates of pay but must be paid out at *future* (indexed) rates of pay when the leave is paid out or taken.

CPI must also be provided as costs of rent, utilities and consumables increase.



Without adequate CPI and indexation each year, Community Legal Centres essentially face a funding cut. Often, the only option is to reduce staff to cover increasing costs, significantly impacting on service delivery.

### **Multi-year funding**

Community Legal Centres NSW supports 5-year plus funding cycles. This reduces organisational vulnerability, aids staff retention, and allows Community Legal Centres to plan for the future. The issue has been that even with a 5-year funding, at the end of the funding cycle, there is great uncertainty, undermining the point of longer-term funding and putting organisations and services at risk.

### **Operational costs**

Rent, utilities, and consumables have increased over recent years and are expenses that cannot be avoided. There is little to be achieved in investigating organisational efficiencies in Community Legal Centres. Operational costs continue to increase annually and a failure to cover these costs annually with reference to CPI means the capacity of the funding is decreasing. These costs should be met each year with reference to CPI.

### **Travel**

The funding allocation for specialist Community Legal Centres does not recognise their state-wide or national remit and as with place based/generalist RRR centres, the significant cost of travel to the most vulnerable communities is not adequately provided for in funding allocations. Collectively, this reduces the impact services can have in assisting vulnerable communities in non-metro areas. Funding should be provided to ensure that each centre can meet their obligations to engage with communities and clients.

## Preliminary costings

**Table: Summary of estimated cost of increased funding for workforce and operations**

From LANSW Annual Report	TOTAL FUNDING 2021-2022	% of funding	Increase to salaries	Increase to salary oncosts	Staff wellbeing-trauma informed practice	Staff wellbeing-inclusive practice	Core funding for indirect costs	TOTAL
Commonwealth funding	18,412,977	56% of total	4,654,280	837,770	1,517,600	716,800	4,971,504	<b>12,697,954</b>
NSW Government and Public Purpose Fund	14,180,737	44% of total	3,656,935	658,248	1,192,400	563,200	3,828,799	<b>9,899,582</b>
	\$32,593,714	100%	\$8,311,215	\$1,496,018	\$2,710,000	\$1,280,000	\$8,800,303	<b>\$22,597,536</b>

*Figure 1 An estimation of the additional funding required to support workforce retention and sustainable organisations. This does not include the cost of funding based on legal need*

- Community Legal Centre funding increase is based on a percentage of Community Legal Centre NLAP funding published in the Legal Aid NSW Annual Report 2021-2022
- Cost to **increase salaries** is calculated at 85 percent of total NLAP funding as centres report in our survey that this is the percentage they spend on salaries (85% of total NLAP funding x uplift of 30 percent) to bring Community Legal Centre salaries up to parity with Legal Aid Commissions
- Cost to **increase salaries-oncosts** (superannuation, leave loading, long service leave and workers compensation) is calculated at 18 percent of above figures for salaries
- Cost to **Staff wellbeing-trauma informed** practice calculated at \$5,000 per staff member doing client facing work-lawyers and support staff (542 staff x \$5,000 each )
- Cost to **Staff wellbeing-inclusive practice** calculated at \$40,000 (external training x 2 a year plus \$20,000 developing inclusive practice) per centre x 32 NLAP centres
- Cost to **increase core funding for indirect costs** is calculated at 27 percent of total NLAP funding. This is based on the figure of 33 percent in *Pay what it takes* less the 6 percent centres report in our survey as currently spending.

## Recommendations

1. Increase funding for operational costs by 27 percent to ensure that indirect costs are adequately funded to support sustainable organisations.
2. To ensure workforce sustainability, raise wages by approximately 30 percent, plus 18 percent wage oncosts, to achieve parity with Legal Aid NSW and provide resources for staff wellbeing to provide a safe workplace through trauma informed and inclusive practices.
3. Incorporate short-term project funding to existing level of funding to create baseline funding.
4. Provide evidence-based funding for the legal need of people experiencing deep and persistent disadvantage and emerging areas of unmet need.

5. Provide access to funding for changes to or surges in legal need and disasters.
6. Create an innovation fund.
7. Develop a model for funding Community Legal Centres with centres who receive funding from other Government sources.

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<sup>1</sup> Community Legal Centres NSW Sector Survey May 2023

<sup>2</sup> Paying what it takes: funding indirect cost to create long-term impact Social Ventures Australia and the Centre for Social Impact (2022) at page 25

<sup>3</sup> Legal Aid NSW Annual Report 2021-2022 states that they had 1,312.50 Full Time Equivalent (FTE) staff and actual staff 1,428

<sup>4</sup> Paying what it takes: funding indirect cost to create long-term impact. Social Ventures Australia and the Centre for Social Impact (2022)

<sup>5</sup> Rainbow Tick, A framework for LGBTIQ cultural safety, Rainbow Health Victoria, La Trobe University 2020

<sup>6</sup> **Online Mapping Tool:** Allows users to filter the data for different population groups, by different variables, and to see the results for small geographic areas - equivalent to suburbs and towns – across NSW.

<sup>7</sup> **Data Dashboard** (updated August 2023). Allows users to drill-down to individual small geographic areas to see poverty rates for different variables, how they compare to NSW averages, and how they have changed since 2016.

<sup>8</sup> Generalist Community Legal Centres in NSW are allocated geographic regions so that theoretically the whole state is covered. Where areas are identified as under-serviced the local Community Legal Centre should be engaged in developing additional services rather than a new centre being opened. We have learnt that while the outreach model has its challenges, in less densely populated areas with high need there are often no solicitors or support staff living in the area. This makes staffing impossible. In these situations, outreach models from the closest generalist centre and specialist services should be resourced to appropriately.

<sup>9</sup> Paying what it takes: funding indirect cost to create long-term impact Social Ventures Australia and the Centre for Social Impact (2022) at page 10.

<sup>10</sup> Paying what it takes: funding indirect cost to create long-term impact. Social Ventures Australia Social Ventures Australia and the Centre for Social Impact (2022)

<sup>11</sup> Paying what it takes: funding indirect cost to create long-term impact. Social Ventures Australia and the Centre for Social Impact (2022)

<sup>12</sup> Paying what it takes: funding indirect cost to create long-term impact. Social Ventures Australia and the Centre for Social Impact (2022) at page 10

<sup>13</sup> Paying what it takes: funding indirect cost to create long-term impact. Social Ventures Australia and the Centre for Social Impact (2022)