



Government of **Western Australia**
Department of **Justice**
Legal Assistance Branch

Legal Assistance Strategy 2022-2025



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Acknowledgement of Country

The Department of Justice respectfully acknowledges Aboriginal people as the traditional custodians of the land on which we work. We embrace the vast Aboriginal and Torres Strait Islander cultural diversity, including their languages, traditions and historical experiences, and recognise their continuing connection to culture, country, water and sky.

We pay our respects to Elders past, present and emerging.

The Department acknowledges the over-representation of Aboriginal and Torres Strait Islander people in the Western Australian justice system. The Department is committed to respectfully partnering with our Aboriginal and Torres Strait Islander colleagues, clients, communities and organisations.

Mission

We work collaboratively towards a fair, just and safe community, where people experiencing vulnerability and disadvantage are supported to understand and assert their legal rights, and where they have access to culturally safe, trauma informed, client-centred and timely legal assistance to address or prevent legal problems.

Executive Summary

A high-performing and well-functioning legal assistance sector is invaluable not only because of the positive impact it can have for an individual, but also because of the broader, public benefits to the community.

The development of this Legal Assistance Strategy has been informed by consultation with the legal assistance sector. It is intended to be a practical, flexible and proactive roadmap to support legal assistance service providers in collectively delivering legal assistance in a way which responds to the needs of Western Australia's diverse and geographically vast community. More broadly, this Strategy seeks to ensure that people experiencing vulnerability and disadvantage in Western Australia are best able to access appropriate and timely legal assistance irrespective of where they are located in the state.

Whilst the development of this Strategy is a requirement pursuant to the [National Legal Assistance Partnership 2020-2025 \(NLAP\)](#), this Strategy also seeks to go beyond the minimum requirements of the NLAP and in doing so build on the guidance that the NLAP objective and outcomes provide to the legal assistance sector.

This Strategy has three focus areas:

- **Focus Area 1: Client-centred legal assistance for people experiencing vulnerability and disadvantage**
This focus area seeks to provide a strengths-based framework where a client's articulated needs are the starting point of determining what, how and where legal assistance services are provided.
- **Focus Area 2: A strong, sustainable and responsive legal assistance sector which delivers quality services**
This focus area seeks to provide the support, tools and environments to enable a well-equipped workforce.
- **Focus Area 3: State-wide access to appropriate, timely legal assistance for people experiencing vulnerability and disadvantage**
This focus area seeks to use a quantitative and qualitative evidence-based approach to inform service planning and funding decisions.

The objectives under each focus area should be viewed through the lens of the Priority Client Group and Priority Areas of Law sections of the Strategy.

The forthcoming Legal Assistance Action Plan will set out how the Strategy will be implemented and how outcomes will be measured, including the ongoing monitoring and evaluation of the Strategy as a whole to ensure continuous and demonstrable improvement, progress and change.

It is acknowledged that there are a number of socio-economic and systemic barriers to individuals which cannot be overcome simply by the provision of legal assistance. This Strategy also seeks to work in conjunction with other State Government initiatives towards improving access to justice and achieving a fair, just and safe community for all Western Australians.

Definitions

The below definitions provide more context and clarity about how certain terms are used in Strategy.

Clients: refers to people who receive legal assistance services from legal assistance service providers, including people who receive a referral, or are recipients of community legal education. More information about different types of legal assistance service providers is set out in 'The Legal Assistance Sector' section below.

Justice system: refers to the various agencies and structures focussed on giving access to fair outcomes and protecting people's rights, whilst also ensuring the rule of law. It encompasses family, civil and criminal law, as well as policy, legislation and law reform.

Legal assistance services: refers to a range of services provided at no or low cost by legal assistance service providers, including information, referral, advice and representation. It covers the spectrum of the legal process, from information and advice services aimed at prevention and early intervention, to services for people who need a lawyer to represent them. It also includes individual services for individual clients, as well as community-focused services, such as community legal education.

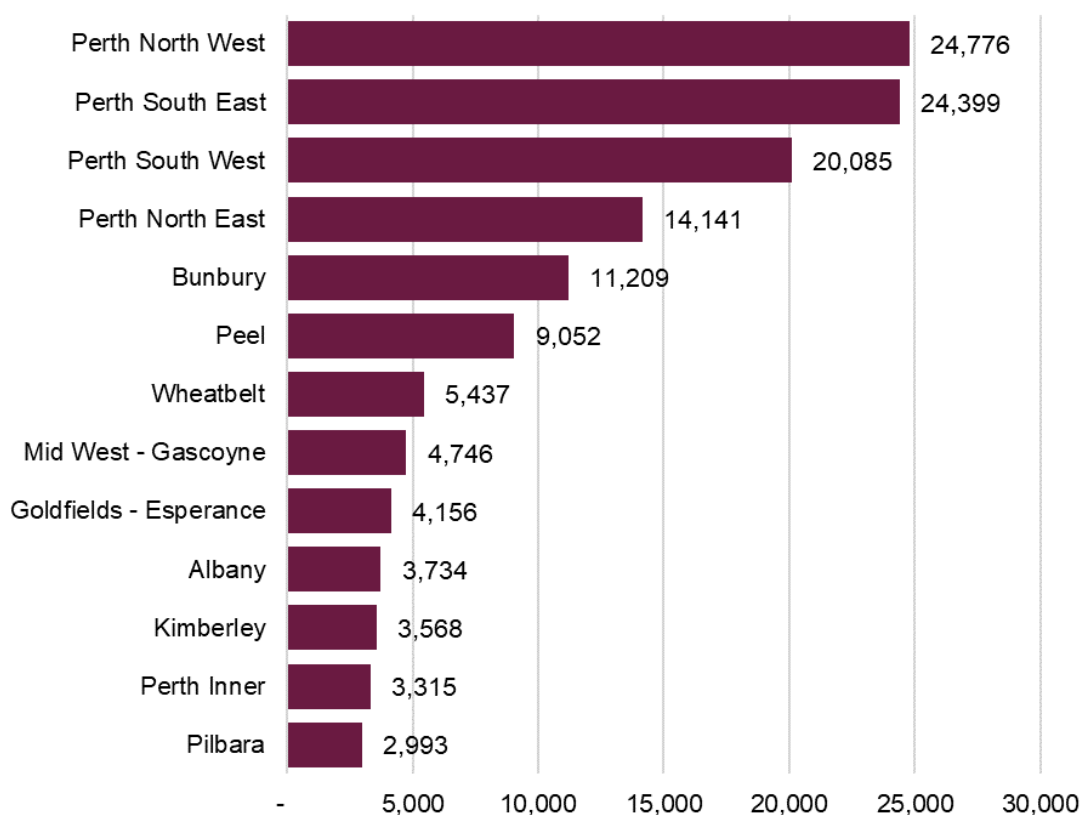
Estimated Legal Need in Western Australia

Figures 1 and 2 below provides a high level picture of estimated level and nature of legal need in Western Australia.

Figure 1 illustrates the geographic distribution of potential demand for legal assistance services in Western Australia. Figure 1 uses the NLAS (Capability) indicator developed by the Law and Justice Foundation NSW as a proxy measure of legal capability by identifying people aged 15 to 64, with low personal income, and who have a lower level of educational attainment.

Most of the Perth metropolitan and Peel regions are ranked among the top regions by potential legal need. This is largely reflective of the size of the underlying population. This pattern also holds true for regional WA.

Figure 1: NLAS Capability

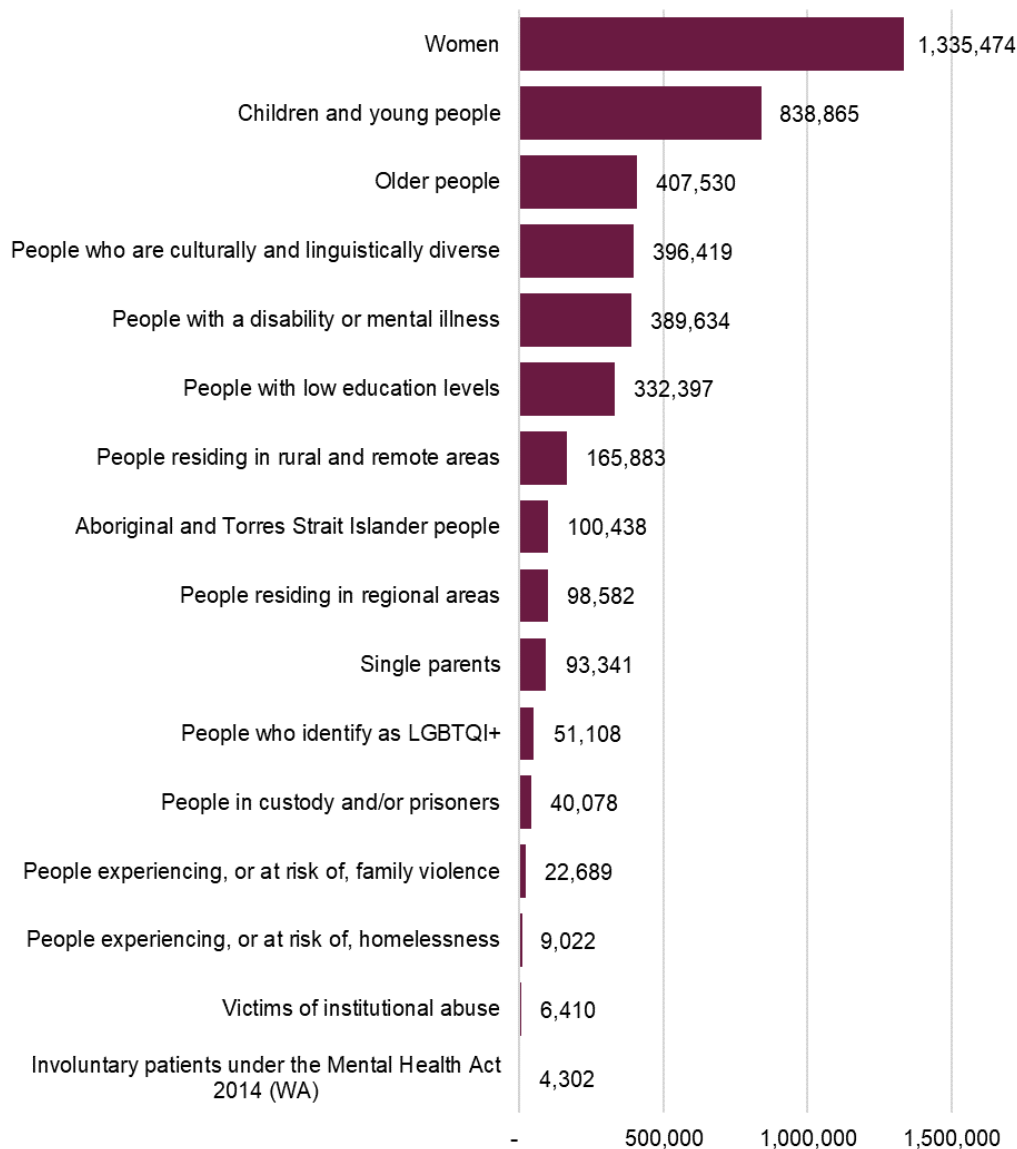


The geographic regions in Figure 1 predominately align with the existing Statistical Area Level 3 (**SA3**) and Statistical Area Level 4 (**SA4**) regions as defined by the Australian Bureau of Statistics. The only deviation from these ABS-defined regions is that the Mandurah SA3 region was expanded to incorporate Waroona (usually aligned to Bunbury), Byford Mundijong and Serpentine-Jarrahdale (usually aligned to Perth South East) and Murray (usually aligned to Wheatbelt); and then designated as the Peel region.

Figure 2 represents the number of Western Australians within each of the Priority Client Groups. It is noted that there is overlap between the Priority Client Groups, with some people falling into multiple Priority Client Groups. For that reason, the total number of people within each of the Priority Client Groups exceeds the number of people in Western Australia who may potentially require legal assistance.

Cohort size for the Priority Client Groups is broadly reflective of the specificity of population estimates. For example, ‘women’ is a fairly general cohort and may encompass a wide range of vulnerabilities, compared to ‘involuntary patients under the *Mental Health Act 2014* (WA)’, which focusses on a specific vulnerability.¹

Figure 2: Priority Client Groups



¹ While most Priority Client Groups were identified using publicly available data from the Australian Bureau of Statistics, there are some exceptions including:

- *People in custody and/or prisoners* and *People experiencing, or at risk of, family violence*: internal data held by the Department of Justice
- *People who identify as LGBTQI+*: [Estimates of Australia’s non-heterosexual population](#) from Charles Darwin University
- *Victims of institutional abuse*: [National Redress Scheme Participant and Cost Estimates](#) from the Royal Commission into Institutional Responses to Child Sexual Abuse
- *Involuntary patients under the Mental Health Act 2014 (WA)*: [Annual Report 2020-21](#) from the Mental Health Advocacy Service.

In addition to the above estimate of the level and nature of legal need in Western Australia, there is ongoing work being undertaken to collate and analyse evidence of the level and nature of legal need by way of the WA Legal Needs Report and the Legal Needs Service Data Tool:

- The 2022 WA Legal Needs Report will provide a snapshot of the estimated level and nature of legal need in Western Australia, with reference to geographic regions, Priority Areas of Law and Priority Client Groups.
- The Legal Needs Service Data Tool will synthesise legal assistance service provider data and legal needs indicators, providing an ongoing statistical narrative of legal need in Western Australia and how it is met.

Both the 2022 WA Legal Needs Report and the Legal Needs Service Data Tool will provide a quantitative evidence base which informs service planning and funding decisions. The Department's ongoing consultation with the legal assistance sector and other stakeholders about on the ground experiences contributes to the qualitative evidence base.

The 2022 WA Legal Needs Report and the Legal Needs Service Data Tool will use data from a range of sources, including the Australian Bureau of Statistics, the Courts and the Western Australian Police to develop legal needs indicators to estimate the level of legal need in Western Australia. However, it is acknowledged that this does not completely overcome the challenge identifying and documenting unmet legal need and measuring the statistically obscured population who do not obtain the legal help they need, either because they are not aware of their legal rights, or because there is not appropriate, accessible legal assistance available to them.

It is also acknowledged that the WA Legal Needs Report and the Legal Needs Service Data Tool are both long term projects. As part of this Strategy, it is intended that the Legal Needs Service Data Tool and future versions of the Report are updated and refined with current data over time.

Funding

The Department of Justice is responsible for administering a number of Commonwealth and State funding streams to legal assistance service providers for the delivery of legal assistance services. The total amount of funding administered by the Department of Justice is subject to change based on the needs of the sector. In 2022-2023, the Department of Justice will distribute approximately \$128 million to the State's legal assistance sector, including approximately \$60.8 million from the Commonwealth under the NLAP. These funds support the sector to deliver a range of essential frontline services.

State and Commonwealth funding may also be provided via the Department of Justice for unforeseen circumstances and events. This includes \$16.5 million funding provided to the legal assistance sector since 2020 to respond to the increased demand for legal assistance services during the COVID-19 pandemic, Tropical Cyclone Seroja in the state's mid-west and the Afghanistan crisis.

Some legal assistance service providers also receive funding outside of that administered by the Department of Justice, including other Commonwealth funding streams, other State funding streams, non-government grants, charitable gifts, donations and fundraising.

Focus Area 1: Client-centred services for vulnerable people

This focus area seeks to ensure that a client's articulated needs are the starting point of determining what legal assistance services are provided, as well as how and where they are delivered. It also recognises the importance of holistic assistance.

- Aboriginal people are recognised as the First Peoples of this country. Their legal and non-legal needs flowing from their over-representation in the justice system, including as a result of historical policies disproportionately impacting Aboriginal communities, as well as the principle of self-determination are taken into account when making legal assistance service delivery decisions.
- People are supported and informed to understand and exercise their rights through both individual services for individual clients, as well as community-focused services, such as community legal education.
- People have clear pathways which lead to equitable access to, and receipt of, efficient, effective, culturally safe and trauma-informed legal assistance that they need.
- Legal assistance is appropriate and reflects clients' vulnerabilities, circumstances and needs, with particular focus on individual Priority Client Groups and those living in rural, regional and remote areas.
- Legal assistance service providers provide, or otherwise facilitate access to, holistic and wraparound services, including by working with other (legal and non-legal) service providers.

Focus Area 2: A strong, sustainable and responsive legal assistance sector which delivers quality services

This focus area seeks to provide the support, tools and environments to enable a well-equipped legal assistance sector workforce.

- The people with the right skill sets are in the right roles in the right locations at the right times.
- Supported recruitment, training, remuneration and professional development of staff, particularly in relation to rural, regional and remote areas, to ensure high quality services for clients.
- Mental health and wellbeing support structures are embedded.
- Funding arrangements, including but not limited to longer terms, are implemented where possible, to support high quality service delivery, investment in development pathways and employment certainty within a sustainable sector.
- Cohesive, sector-wide workforce planning is fostered.

Focus Area 3:

State-wide access to appropriate, timely legal assistance for people experiencing vulnerability and disadvantage

This focus area seeks to use a qualitative and quantitative evidence base to guide a whole of sector, systemic response to legal need.

- Aboriginal people's legal needs flowing from their over-representation in the justice system, including as a result of historical policies disproportionately impacting Aboriginal communities, as well as the principle of self-determination are taken into account when making legal assistance service planning decisions, particularly in relation to the location and type of services provided.
- Each legal assistance service provider has a clearly defined role, which reflects the strengths and expertise of different legal assistance service providers, contributes to a joined-up system and is responsive to current and emerging legal needs over time.
- Priority Client Groups, Priority Areas of Law and geographic-based legal needs inform the development of legal assistance service provider roles and minimum level and standard of service.
- The legal assistance sector is supported to deliver an appropriate mix of services which seeks to meet legal need in Western Australia in an effective, efficient and economic way, and legal assistance service providers are supported to deliver innovative services, including digital solutions, and to work collaboratively with legal and non-legal service providers.
- Legal assistance services directed at communities play an integral prevention and early intervention role in the system to address legal need.
- Legal assistance service providers contribute to policy development and law reform.
- The challenges of delivering legal assistance services in rural, regional and remote Western Australia are identified and addressed and the particular needs of rural, regional and remote clients inform state-wide access to services.
- People with lived experience inform system and service design, planning, implementation and evaluation.
- A qualitative and quantitative evidence base is used to demonstrate how legal need is met, as well as to identify unmet legal need. Collaborative service planning and funding decisions are informed by a qualitative and quantitative evidence base to ensure appropriate, timely legal assistance is delivered within available resources.
- The legal assistance sector demonstrates its impact at both an individual service and a system level, and an impact evaluation culture is fostered.

Priority Client Groups

Legal assistance services are focussed on people experiencing financial or social disadvantage.

The following priority client groups were identified either in the NLAP, or through consultation with the legal assistance sector, in recognition that some groups of people experiencing vulnerability and disadvantage are more likely to face legal problems and less able to access legal assistance. Legal assistance service providers are still able to assist clients who fall outside of these groups.

It is also acknowledged that the legal assistance sector must be responsive to changing client needs and that new and emerging priority client groups may be identified over time.

- Aboriginal and Torres Strait Islander people
- Children and young people (up to 24 years)
- Involuntary patients under the Mental Health Act 2014 (WA)
- Older people (aged over 65 years or Aboriginal and Torres Strait Islander people aged over 50 years)
- People experiencing, or at risk of, family violence
- People experiencing, or at risk of, homelessness
- People in custody and/or prisoners
- People residing in regional, rural or remote areas
- People who are culturally and linguistically diverse
- People who identify as LGBTQI+
- People with a disability or mental illness
- People with low education levels
- Single parents
- Victims of institutional abuse
- Women
- People who fall into multiple priority client groups

Priority Areas of Law

The following priority areas of law have been either identified in the NLAP, or have been identified as Western Australian-specific priorities through consultation with the legal assistance sector. Legal assistance service providers are still able to assist clients seeking assistance outside of these areas of law.

It is also acknowledged that the legal assistance sector must be responsive to changing client needs and that new and emerging priority areas of law may be identified over time.

Family Law

- Matters where the safety or welfare of children are at risk
- Matters involving allegations of family violence
- Matters involving complex issues about the living arrangements, relationships and financial support of children
- Assisting people with property settlement matters if they are experiencing financial disadvantage or are at risk of homelessness
- For Legal Aid WA, the representation of children in family law proceedings and family dispute resolution processes

Civil Law

- Bankruptcy matters
- Child protection matters
- Consumer law matters
- Employment matters
- Extradition matters
- Human rights and anti-discrimination matters
- Insurance law matters
- Migration matters
- Restraining order matters
- Social security law matters
- Tenancy matters

Criminal Law

- Matters where the defendant is a child
- Matters where the defendant is being charged with a criminal offence for which a sentence of imprisonment is likely to apply should the defendant be found guilty
- Assisting persons being detained in custody

National and jurisdictional emergencies

The legal assistance sector should endeavour to ensure the continued delivery of legal assistance services during national or jurisdictional emergencies, taking into consideration:

- The safety of individuals who will be responsible for the delivery of legal assistance services.
- The safety of those in receipt of legal assistance services.
- The appropriateness of continuing to deliver legal assistance services during a national or jurisdictional emergency.

The Legal Assistance Sector

This section provides high level descriptions of the various legal assistance service providers which make up the legal assistance sector. These descriptions are intended to be a starting point for the development of clearly defined roles in the future.

Aboriginal Legal Service of WA

Aboriginal Legal Service of WA (**ALSWA**) is an Aboriginal community controlled not-for-profit organisation which provides state-wide culturally safe legal assistance services in the areas of criminal, civil and family law to Aboriginal and Torres Strait Islander people.

ALSWA operates the Custody Notification Service, Bail Support and Prison In Reach Service, the Youth Engagement Program and the Work and Development Program as well as undertaking law reform, community legal education and advocacy activities.

ALSWA has a head office in Perth, and provides regional services out of their offices in Albany, Broome, Bunbury, Carnarvon, Derby, Geraldton, Halls Creek, Kalgoorlie, Kununurra, Northam and South Hedland.

ALSWA attends 29 regional and remote circuit court locations and numerous Aboriginal communities as part of its civil outreach service delivery.

Family Violence Prevention Legal Services

Family Violence Prevention Legal Services (**FVPLSs**) are specialist Aboriginal community controlled, not-for-profit organisations which provide legal and other holistic, culturally safe and trauma informed services to Aboriginal and Torres Strait Islander people experiencing or at risk of family violence and sexual assault. They provide assistance in family law, criminal injuries compensation, care and protection, and family violence restraining order matters. They also undertake community legal education, early intervention and prevention, law reform, policy and advocacy activities.

There are three FVPLSs which provide legal assistance and non-legal supports in the following regions:

- West Kimberley
- East Kimberley (including the Fitzroy Valley)
- Gascoyne
- Mid-West
- West Pilbara
- Wheatbelt
- Goldfields
- Great Southern
- Perth metropolitan

Outreach services are provided across each regional area to remote Aboriginal townships and communities.

Community Legal Centres

Community legal centres (**CLCs**) are independent, not-for-profit organisations which provide free or low cost legal assistance services to people who are experiencing vulnerability and disadvantage including financial disadvantage. CLCs' predominant areas of expertise are civil and family law, however as flexible and responsive organisations, they set their organisational and service delivery priorities in response to the legal and related needs of the communities they serve. They often work in partnership with non-legal support services to provide multi-disciplinary, holistic assistance. They also undertake community legal education, law reform and advocacy activities.

There are 15 generalist CLCs, which provide place based legal assistance services to a defined geographic region. There are 8 specialist CLCs, which provide legal assistance services in relation to a specific area of law or client group.

Geographic regions include:

- Kimberley
- Pilbara
- Mid-West & Gascoyne
- Goldfields – Esperance
- Wheatbelt
- Peel
- South West
- Great Southern
- Perth metropolitan – Inner
- Perth metropolitan – North East
- Perth metropolitan – North West
- Perth metropolitan – South East
- Perth metropolitan – South West

Specialist areas of law include:

- Tenancy
- Immigration
- Employment
- Consumer
- Consumer Credit
- Environment
- Welfare Rights

Specialist client groups include:

- People with mental health issues
- People at risk of, or experiencing homelessness
- People with disabilities
- People from Culturally and Linguistically Diverse backgrounds
- People at risk of, or experiencing family and domestic violence
- Older people
- Women
- Youth

Legal Aid WA

Legal Aid WA is a statutory agency which provides free or low-cost legal assistance in the areas of civil law, criminal law and family law. The level of assistance differs depending on the type of law, a person's financial position and available resources at the time.

Legal Aid WA's services include legal information and referrals, including via community legal education, telephone Infoline, and the info chat and info bot options on its website, legal advice, legal tasks, dispute resolution and mediation and legal representation, including duty lawyer services and grants of legal aid for ongoing assistance. Legal Aid also deliver holistic services with non-legal support to connect clients to the social support services they need.

Legal Aid WA has ten offices (Perth, Bunbury, Albany, Kalgoorlie, Geraldton, South Hedland, Broome, Kununurra and Christmas Island), 16 Virtual Offices, and regularly visits 53 outreach locations.

Law Access

Law Access is a state-wide, not-for-profit, pro bono referral service.

Law Access facilitates pro bono legal assistance in civil, criminal and family law matters for those who cannot afford a lawyer and cannot access other low or no cost legal services. To

maximise the impact of pro bono contributions, Law Access assesses the need for assistance, legal merit and whether resolution of the matter may have a broader positive effect for vulnerable groups in the community.

Law Access promotes and facilitates pro bono engagement both on individual matters and through projects with broader benefit. Law Access works collaboratively with other legal assistance service providers and stakeholders on projects and law reform issues to improve access to justice.

Pro Bono Lawyers

Pro bono lawyers are lawyers who provide pro bono legal services. The Australian Pro Bono Centre defines 'pro bono legal services' as follows:

1. Giving legal assistance for free or at a substantially reduced fee to:-
 - a. individuals who can demonstrate a need for legal assistance but cannot obtain Legal Aid or otherwise access the legal system without incurring significant financial hardship; or
 - b. individuals or organisations whose matter raises an issue of public interest which would not otherwise be pursued; or
 - c. charities, other not-for-profit organisations or social enterprises, in each case where their sole or primary purpose is to work in the interests of low income or disadvantaged members of the community, or for the public good;
2. Conducting law reform and policy work on issues affecting low income or disadvantaged members of the community, or on issues of public interest;
3. Participating in the provision of free community legal education on issues affecting low income or disadvantaged members of the community or on issues of public interest; or
4. Providing a lawyer on secondment at a community organisation (including a community legal organisation) or at a referral service provider such as a Public Interest Law Clearing House.²

Community Legal WA

Community Legal Centres Association (WA) Inc (**CLWA**) is a peak organisation which advocates for a fair Western Australia, in which everybody has equal access to justice. CLWA provides membership services to its CLC members, representing their views, and supporting collaboration and the development of a strong, sustainable sector.

Community Legal WA also advocates on CLCs' behalf to government and other stakeholders in relation to administrative, legislative or policy decisions, including undertaking strategic policy, law reform and related activities.

² Australian Pro Bono Centre, [Definition of Pro Bono](#)

Annexure 1: NLAP Objective and Outcomes

Objectives

Clause 13:

The objective of the NLAP is to contribute to integrated, efficient, effective and appropriate legal assistance services which are focussed on improving outcomes and keeping the justice system within reach for vulnerable people facing disadvantage, within available resources.

Outcomes

Clause 14:

The NLAP will facilitate achievement of the following outcomes, outlined within the National Strategic Framework:

- (a) legal assistance services are focused on, and are accessible to, people facing disadvantage;
- (b) legal assistance services are delivered in a client-centric manner in order to better consider people's legal needs and capabilities;
- (c) legal assistance and other service providers and governments collaborate to provide integrated, client-centric services to address people's legal and other problems;
- (d) legal assistance services are provided at an appropriate time, which best addresses an individual's legal needs, including preventative action when appropriate;
- (e) legal assistance services empower people and communities to understand and assert their legal rights and responsibilities and to address, or prevent, legal problems; and
- (f) legal assistance providers are supported to build the capacity of their organisations and staff, to ensure they can effectively respond to evolving service demand.

Clause 15:

The NLAP will also support the delivery of Aboriginal and Torres Strait Islander specific legal assistance services, consistent with self-determination as defined under the NLAP, in order to facilitate achievement of the following outcomes:

- (a) enable and empower Aboriginal and Torres Strait Islander people in addressing their legal needs; and
- (b) improve access to justice outcomes for Aboriginal and Torres Strait Islander people.

Clause 16:

Achieving the outcomes of the NLAP are a shared responsibility of the Commonwealth and the States.