

Evaluation of Legal Aid NSW Civil Law Service for Aboriginal Communities



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‘Carrying forward’ artwork

The artwork, ‘Carrying forward’, was commissioned to represent and inspire this evaluation report. It was painted by 21-year old Jessie Waratah Simon Fitzpatrick, who has Aboriginal family ties to several places across NSW in which CLSAC works. The spiralling red and orange background depicts a basket being immersed in fresh water, with bubbles bursting through, evoking the energy of the water in the landscape, with its flow and restraint. The concentric circles forming the border are waterholes around which life can be sustained. These waterholes remind us of the different communities around NSW that CLSAC serves, with communities each having their own resources to draw on and needs yet having similarities too. CLSAC workers have a strong network and basket of tools to carry forward, to assist communities and individuals, with the right timing and relationships to overcome issues now, and to strengthen the lives of future generations.

Contributors

This report has been written by Associate Professor Megan Williams and Dr Mark Ragg. Megan is Wiradjuri and has Anglo-Celtic heritage, with training and experience in western social science and Indigenous health research. Mark has Anglo-Celtic heritage, and medical and journalism training and experience. We are both contributing editors of social journalism for health organisation Croakey.org, have large families and are parents of young adults, live in the inner-west of Sydney, and have worked in several urban and regional communities in Australia.

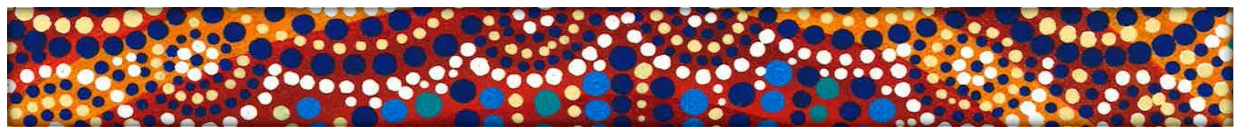
We would like to acknowledge the openness and honesty of all who spoke to us – those who use CLSAC, those who brought people to meetings, those in community organisations and statewide services that we met, and those passers-by who stopped for a chat, all of whom enriched our knowledge and experience.

We thank the generous staff of CLSAC, particularly Dara Read, Jemima McCaughan and Merinda Dutton – without your trust, insights, connections, practical support and long list of other contributions, this evaluation and critical reflection would not have been possible.

We acknowledge the valuable contributions of Legal Aid NSW staff more broadly, who gave their time and energy freely. We would also like to thank members of the Evaluation Reference Group, who guided and encouraged us and contributed their knowledge freely.

We know that many people have contributed a substantial amount of time to CLSAC; we acknowledge those who previously worked for CLSAC, those in Legal Aid NSW, those in community-based organisations and those many community members who have shaped CLSAC.

Finally and most importantly, together with CLSAC, we are grateful to Aboriginal and Torres Strait Islander community Elders and leaders who welcomed us and supported this CLSAC evaluation.



Cultural foreword

It should go without saying that Aboriginal and Torres Strait Islander people in NSW are diverse, and our communities have nationhoods and identities of their own. There is no 'one Aboriginal or Torres Strait Islander identity', or 'cultural competence' for service providers to attain, despite there being some key similarities among our communities and identities. These differences and similarities have been variously influenced by history, including 'traditional' pre-colonisation culture, and also invasion and colonisation, dispossession and violence from British forces. The reality now is that we are faced with a three-fold challenge of truth-telling about the past and how it informs the present, taking responsibility for the many pressures of the present, and generating the best possible circumstances for wellbeing of future generations and the environment.

It should go without saying too that Aboriginal and Torres Strait Islander people are not an Anglo culture and are in many ways different to Anglo-Australians. However, the current policy context is one of 'mainstreaming' (Sullivan, 2011), with community-controlled organisations being grossly under-funded compared to demand and despite evidence of success (Bartlett & Boffa, 2005; Sullivan, 2011; Holland, 2018), and with the expectation instead that Aboriginal and Torres Strait Islander peoples' needs will be better met by services designed for and by the mainstream Anglo-Australian population.

Preceding this policy shift to mainstreaming, assimilation of Aboriginal and Torres Strait Islander people into the British-based ruling state was mandated, until at least the mid-1960s (Wolfe, 2006). Many current university lecturers, textbooks, managers and mentors came from these assimilationist times, and even before that, their educators and families were raised in times that saw Aboriginal and Torres Strait Islander people segregated from Australian society.

Unless actively and critically queried and transformed, assimilationist tendencies can still be infused in many systems, workplaces and practices today. These assimilationist tendencies are potent when mixed with current directions of mainstreaming, because they assert the rightfulness of the dominant majority for everyone. They overlook the value all cultures have to each other to bring about improvements for everyone. They also overlook the exclusion of minority populations, who are easily hidden in statistics about the 'whole population' or blamed when presented in 'community snapshot' statistics.

Well-educated staff knowing about Aboriginal and Torres Strait Islander peoples' disempowerment and low social status, knowing and using the statement 'issues stem from colonisation', and knowing that Aboriginal and Torres Strait Islander people have the right to self-determination according to the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007) is not enough to bring about change. It is action informed by these concepts that is required.

For action to occur, mainstream services have to not only 'provide services to', and 'make more accessible' their services: they as services have to change, to allow themselves to be changed by Aboriginal and Torres Strait Islander peoples' experiences, knowledge, ways of doing business, and ways of conceptualising issues and their solutions.

Even though Aboriginal and Torres Strait Islander people might only be 3% of the general Australian population (Australian Bureau of Statistics (ABS), 2017), they experience far greater burden of ill-health, poverty, incarceration and racism than the 97% mainstream population (Australian Institute of Health and Welfare, 2016). Further, many Aboriginal and Torres Strait Islander people experience racism frequently in health and social services (Paradies & Cunningham, 2012; Ziersch, Gallaher, Baum, & Bentley, 2011). Such inequity indicates a society existing in contravention of human rights, unaccountable to its own



policies, unable to make change and ignorant to opportunities for growth from incorporating Indigenous peoples' knowledges.

The Civil Law Service for Aboriginal Communities (CLSAC) is an example of a mainstream, government-funded service consciously attempting to enact policy, human rights instruments and evidence for best practice in meeting the needs of Aboriginal and Torres Strait Islander people. It has been invited by Aboriginal and Torres Strait Islander communities to do more work together.

Also, CLSAC is acting to address poverty as a key intergenerational determinant of Aboriginal and Torres Strait Islander peoples' health and wellbeing. It is surprising how few interventions are funded or committed to this, with programs more targeted at individual-level interventions to increase employment or make lifestyle changes such as reducing smoking, which can also be seen as the outcomes of entrenched poverty, rather than funds being allocated to prevention, community development and empowerment.

Hence the authors of this report sought to understand (1) how a mainstream government service works with Aboriginal and Torres Strait Islander communities; (2) how capacities are built within the service to support Aboriginal and Torres Strait Islander staff and develop cultural competencies of other staff; and (3) how a government legal service impacts on the health and wellbeing of Aboriginal and Torres Strait Islander people, with access to justice being a determinant of health and wellbeing.

This evaluation report provides some insights into these points, but is not comprehensive enough to answer other questions Aboriginal and Torres Strait Islander people have about mainstream service delivery, including: "Is this decolonising legal practice?" and "Is this trauma-informed legal practice?"

Other key questions remain: "Why aren't the same funds provided to Aboriginal and Torres Strait Islander community-controlled services?", "How can we get all mainstream services to operate this way, or better?", "Should we be assessing for cultural competence and tying it to performance reviews?" and "Where does this sit with the Uluru Statement?"

If Aboriginal and Torres Strait Islander people were truly self-determining, as is our right, services would be community-controlled and would begin from a different position. For one, our population is young, with around half being under the age of 20 (ABS, 2018). Therefore, we would emphasise and invest in prevention of legal, social and health issues. We would promote healing programs as the foundation, then sensitively identify the range of other spiritual, emotional, physical, social and financial needs that individuals have, and that communities experience, in line with the Aboriginal and Torres Strait Islander definition of health (National Aboriginal and Torres Strait Islander Health Strategy Working Party, 1989). We would draw more on informal caring and care connectors, between family and formal services (Haswell, Williams, Blignault, Grande, & Jackson Pulver, 2014). We would have clear strategies to build Aboriginal and Torres Strait Islander workforces now and for the future, and certainly, all mainstream staff would undergo multi-stage cultural awareness and safety training. We would operate in ways that extend our local cultural identity and protocols into mainstream services, for the benefit of the 97% and their increasing incarceration, obesity, suicide, poverty and social inequality.

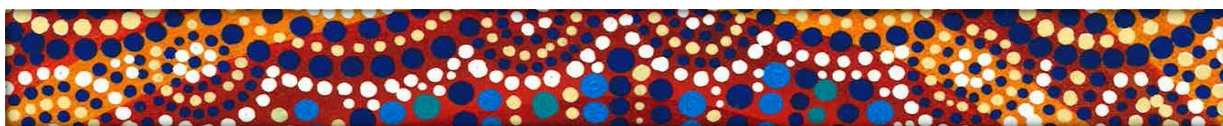
This relates simply to the statement: 'If you get it right for Aboriginal and Torres Strait Islander people, you can get it right for everyone'.



CLSAC staff in the community

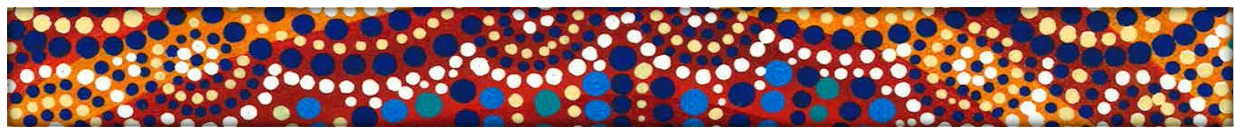


Landscape of an outreach day



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Executive summary

The mixed-methods, Aboriginal-led evaluation of the Civil Law Service for Aboriginal Communities (CLSAC) shows it is an informed, warm and compassionate legal service for Aboriginal and Torres Strait Islander people and communities that works together with selected communities and prisons to deliver the civil law services those communities want in a way those communities want.

Over five years, CLSAC's growth has been both rapid and thoughtful, while operating within the constraints of resources and the landscape. It has extended its reach into more communities, building partnerships with community-based and statewide services, and achieving good results with individual clients and for families and communities.

It shows respect for the locations into which it is invited, engages deeply, and works in accordance with Aboriginal and Torres Strait Islander people's values and processes.

Its staff are skilled and dedicated, with a mix of legal and non-legal positions. Its success depends on the contribution of both Aboriginal and Torres Strait Islander cultural knowledge and legal knowledge, and its continued success depends on recognising both equally. Other critical success factors are its client focus, its depth of engagement in communities, its deep respect for Aboriginal and Torres Strait Islander culture, the relationships it builds, the time it takes and the flexibility it offers. CLSAC has a supportive service home in Legal Aid NSW and the support of staff. It has strategies to develop Aboriginal and Torres Strait Islander professionals, to develop cultural awareness of all staff, and to engage in broader sectoral and societal developments to support Aboriginal and Torres Strait Islander people.

CLSAC has grown to a point where it can critically reflect, consolidate, and plan to ensure its sustainability and its strategic growth in trying to meet Aboriginal and Torres Strait Islander people's civil law needs.

Aboriginal and Torres Strait Islander people in prisons and in communities in NSW will benefit if CLSAC and Legal Aid NSW can:

- ensure that all Aboriginal and Torres Strait Islander people in NSW have access to the type of services that CLSAC offers
- install and support Aboriginal and Torres Strait Islander leadership of CLSAC, as it envisions
- broaden CLSAC's offering beyond civil law to help identify and meet all the legal needs of its clients
- work across sectors to include access to social and emotional wellbeing support, given its connection to people with urgent, complex and/or unmet legal needs
- ensure CLSAC transfers the skills developed to Aboriginal and Torres Strait Islander communities and, where appropriate, other legal services.



Introduction

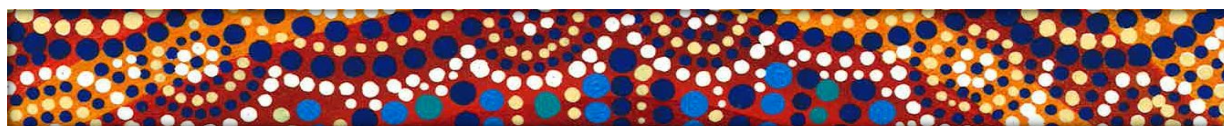
Discussions about CLSAC evaluation occurred between author Megan Williams and CLSAC staff and Legal Aid NSW leadership intermittently across a three-year period, during which written plans were made and revised, the working relationship developed, and budget and timeframe devised.

In June 2018 Legal Aid NSW commissioned a size- and time-limited evaluation of CLSAC. The aim was 'to identify and assess the impact and value of the service to Aboriginal and Torres Strait Islander clients and communities, as well as the unique way that it is delivered'.

Approval for the evaluation was obtained from the UTS Human Research Ethics Committee (ETH18-2740) and the Ethics Committee of Corrective Services NSW (letter of 12 November 2018).

The Ngaa-bi-nya (said naarbinyah, in Wiradjuri) framework for evaluating Aboriginal and Torres Strait Islander programs and services was used (Williams, 2018). The evaluation occurred over a six-month period through:

- interviews:
 - 17 individual face-to-face interviews with staff, stakeholders and community members, and two via telephone
 - three group interviews with staff
 - six individual face-to-face interviews with service users in the community
 - four interviews via audio-visual link with Aboriginal and Torres Strait Islander women in prison
- focus group discussions: two with CLSAC staff in Sydney, with some staff joining by audio-visual link, and one in a regional office
- analysis of service use and outcome data provided by CLSAC
- document review:
 - CLSAC and Legal Aid NSW plans, forms, reports, speech notes and surveys
 - research on legal needs, legal capability, outreach services, legal assistance services, access to justice as a determinant of health and social and emotional wellbeing
 - reviews such as those of Cunneen and Schwartz (2008), the Productivity Commission (2014) and Cameron Review (Legal Aid Commission of NSW, 2018)
 - foundational documents such as the National Partnership Agreement (Council of Australian Governments (COAG), 2015) and the Indigenous Legal Assistance Program
- observation – field trips to:
 - north-west NSW, to which Sydney-based CLSAC staff do outreach, with one CLSAC lawyer, one CLSAC financial counsellor and two Legal Aid lawyers, one specialising in family law and child protection matters, and the other in Work and Development Orders



- north-east NSW, served by staff from a regional Legal Aid office, varying at times with one to two CLSAC lawyers and two Legal Aid lawyers and community service providers.

On field trips, we carried out interviews, and we observed, and thought, and wrote, and thought some more.

We carried out a survey of clients, adapted from the Legal Aid NSW client satisfaction survey. However only four surveys were completed due to the complexity of having a survey carried out in privacy, administered by a person not associated with CLSAC, and preceded by a formal written consent-to-participate process. As the sample size was so small, no results have been reported.

Our work was supported by an Evaluation Reference Group. A wide range of Legal Aid NSW staff and key stakeholders from community organisations and government services were invited to participate in this; the group of approximately 15 people met three times to discuss arrangements for outreach, data collection processes, early hunches from data collection and interpretation of findings.

We also discussed hunches and draft findings with an Evaluation Advisory Group comprising the senior management of CLSAC and Legal Aid NSW, with UTS Professor Chris Cunneen – co-author of the 2008 review which set in train the events that led to CLSAC's formation – participating in one meeting.

Aboriginal evaluation

CLSAC's focus on Aboriginal communities was matched by the use of an Aboriginal evaluation framework, Ngaa-bi-nya (said naarbinyah), which means to 'examine, try and evaluate' in the language of the Wiradjuri people of central NSW to whom author Megan Williams belongs.

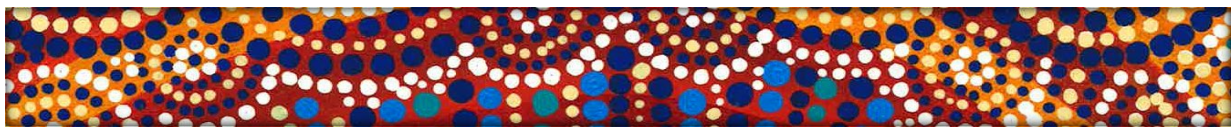
Ngaa-bi-nya is a practical guide to the evaluation of Aboriginal and Torres Strait Islander health and social programs, with a range of prompts to stimulate data collection and analysis of factors for success in service delivery. Ngaa-bi-nya's prompts were developed from reviews of evidence about success from Aboriginal and Torres Strait Islander perspectives, as well as human rights instruments and insights from program evaluations by, with and for Aboriginal and Torres Strait Islander peoples.

Table 1: Ngaa-bi-nya evaluation framework domains

Landscape	What are the broad 'landscape' factors that influence programs such as history and policy including the role of Aboriginal and Torres Strait Islander people in program development?
Ways of working	To what extent do processes of the program represent Aboriginal and Torres Strait Islander peoples' values, priorities, needs and practices?
Resources	What were the range of financial, human and material resources drawn on, including informal supports and in-kind contributions?
Learnings	What outcomes and impacts were notable, as well as critical insights and progress achieved towards goals?

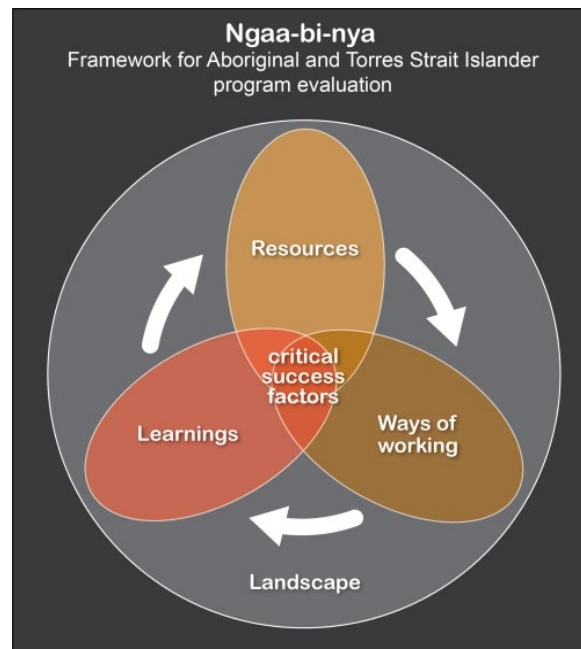
Source: Williams (2018)

As Figure 1 below indicates, the resources, ways of working and learnings of a program occur in a broad landscape context. Ngaa-bi-nya's specific prompts for each of these domains help tease out complexity, local cultural protocols, needs and aspirations, and stimulate us to understand where power for decision making is located. All of the prompts



in the domains of Ngaa-bi-nya reflect Aboriginal and Torres Strait Islander evidence, values, processes and aspirations. They represent an Aboriginal standpoint from which to examine the likely relevance and beneficence of programs and their activities for Aboriginal and Torres Strait Islander people, communities and/or services

Figure 1: Ngaa-bi-nya evaluation framework



Source: Williams (2018, p. 10)

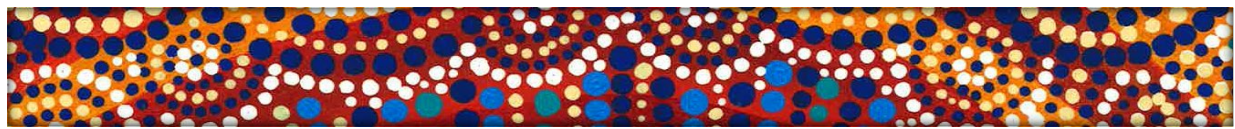
Reading this report

This evaluation report is both independent of and influenced by the knowledge and experience of those working in and supporting CLSAC. It is aimed at a broad audience including CLSAC and Legal Aid NSW staff and Board, the legal assistance sector, governments, community service providers and researchers.

The report is arranged to follow the domains of the Ngaa-bi-nya framework. It starts with describing the broad contextual landscape that CLSAC occurs within, looks at CLSAC's ways of working, identifies CLSAC's resources then examines learnings about the impact of CLSAC. It then moves to describe features of CLSAC which need to be maintained if CLSAC is to continue successfully, and looks at the potential future of CLSAC. Within each of these, the following are generally included:

- background information
- data collected and drawn on, and our overall findings
- quotes from participants
- related recommendations.

Quotes from participants are de-identified. Those with an asterisk* are *not* Aboriginal or Torres Strait Islander people.



CLSAC context

Looking back

Historically, Aboriginal and Torres Strait Islander people have not used mainstream public legal services as much as their legal needs suggest (Pleasance, Coumarelos, Forell, & McDonald, 2014). In 2008, a report commissioned by Legal Aid NSW into the civil law needs of Aboriginal and Torres Strait Islander people formally recommended:

- ongoing cultural awareness training for all staff
- improving outreach
- employing field officers
- increasing the use of audio-visual links
- offering targeted community legal education
- establishing a telephone advice line
- establishing an Aboriginal and Torres Strait Islander reference group (Cunneen & Schwartz, 2008).

Informally, its 191 pages are encapsulated by the words of one Redfern Aboriginal and Torres Strait Islander community member:

Employ an Aboriginal person and go to community ... get involved in our community and our culture and the things that we do ... come into the community centre and talk about what you do ... get an understanding of who we are and what kind of people we are...

Show us a bit of initiative and a bit of oomph, mate, and show us that you do give a damn, rather than just sitting behind the office and answering the phone. Get out there, get amongst it. (Cunneen & Schwartz, 2008, p. 147)

Legal Aid NSW showed a bit of oomph and improved services, but with much more required for rural and remote Aboriginal communities. In 2013, predatory behaviour by consumer lease traders prompted Legal Aid to develop a short-term project in four remote communities called *Money Counts*, aimed at addressing consumer scams and other money worries such as bills, fines and debts.

At that time, the Australian Government significantly de-funded Aboriginal and Torres Strait Islander-led community services (Strakosch, 2013; Russell, 2016). These cuts followed a long history of politicised, inequitable changes in policy approaches and funding for services to Aboriginal and Torres Strait Islander people, competition between services increasing, and the shift to more mainstream services being funded (Sullivan, 2011). The Aboriginal Legal Service (NSW/ACT) (ALS) and others providing a broad range of legal services found their capacity reduced, and largely stopped offering civil law services to concentrate on family and criminal matters.

The response to *Money Counts* was immense, with many people seeking help and an overwhelmingly positive response from community workers (CLSAC, 2018).

In that same year, Legal Aid NSW received 12 months funding under the National Partnership Agreement on Homelessness to establish a service for Aboriginal women leaving custody. The funding enabled a partnership project with Corrective Services NSW and Housing NSW to assist Aboriginal and/or Torres Strait Islander women in Silverwater Women's Correctional Centre transition from custody into the community. The Legal Aid



NSW component focused on the legal needs of Aboriginal and Torres Strait Islander women, particularly in relation to housing.

In 2014-15, Legal Aid NSW combined *Money Counts* with the *Aboriginal Women Leaving Custody* project to form the Civil Law Service for Aboriginal Communities (CLSAC, 2018).

Around this time the Commonwealth Government's Department of Prime Minister and Cabinet devised new mechanisms for funding services for Aboriginal and Torres Strait Islander people, including the Indigenous Advancement Strategy (IAS), which has since been shown to be ineffectively implemented and lacking in evaluation (Australian National Audit Office, 2017). Further funding cuts have occurred, layering on top of ongoing distrust of governments for forced child removal (Human Rights and Equal Opportunity Commission, 1997; McGlade, 2012) and interpersonal racism in mainstream service settings (Paradies & Cunningham, 2012; Ziersch, Gallaher, Baum, & Bentley, 2011).

Not surprisingly the recent mainstream government policy and funding landscape has reinforced distrust among many Aboriginal and Torres Strait Islander people for government services, with concern about the capacity of mainstream services to meet Aboriginal and Torres Strait Islander community needs, and scepticism about the likelihood of meaningful partnerships, resource sharing and accountability to occur in culturally relevant ways (Altman & Hinkson, 2007; Bartlett & Boffa, 2005; Sullivan, 2011).

It is within this context that CLSAC, as a Legal Aid NSW service, has a vision that:

Aboriginal people are self-determining. Government and non-government agencies work in partnership with Aboriginal people. As a result, strong networks of relationships are able to address the civil law needs of Aboriginal people. (CLSAC, 2014, p. 1)

CLSAC was established to be:

... client-focused ... easy to access, easy to use, culturally sound, holistic and ... able to adapt, within the resources available, to the needs of our clients. (CLSAC, 2014, p. 1)

CLSAC staff understand they must have a range of strategies for its work, to reflect the great diversity of NSW Aboriginal communities and people.

Its funding was \$2.1m in 2017-18.

Policy and evidence fit

CLSAC works within the *National Partnership Agreement on Legal Assistance Services* by addressing 'civil law problems that are likely to have a significant adverse impact if not resolved' (COAG, 2015).

CLSAC offers outreach services, which can assist clients to avoid losing their home, to reduce debts, to receive compensation, to have driving restrictions removed or reduced and to gain improved access to Centrelink benefits and other government support (Forell & Gray, 2009).

Legal outreach services are known to provide a circuit-breaker, and they can motivate people to seek further help (Forell & Gray, 2009). In improving service accessibility, outreach can reduce stress and improve health and wellbeing (Forell & Gray 2009).

Aboriginal and Torres Strait Islander Australians are as capable as other Australians at finalising civil law problems (Wei & McDonald, 2018). However, they are more likely than other Australians to have experienced multiple and compounding legal and health



problems (Australian Institute of Health and Welfare, 2016) and the risk is that these cause other problems including for subsequent generations.

Unresolved civil law problems are recognisably a determinant of health and wellbeing at individual, family and community levels, in that they are about financial wellbeing and economic security. Income is known to be an determinant of health and wellbeing; income and material wealth or lack thereof is inherited and positions people on a social hierarchy, with those with lowest incomes being shown to have worse health and wellbeing due to constraints on access to health care, means of prevention of health issues occurring or worsening, and also the way poorer people are treated in health care (Wilkinson & Marmot, 2003). Further, financial hardship causes stress on the individual, erodes the cultural capital of a community when they are 'just surviving' and limits opportunities for growth and empowerment (Walter & Saggars, 2007). Low income and poverty too are risks for criminal justice system involvement (Sharkey, Besbris, & Friedson, 2017). Aboriginal and Torres Strait Islander people are particularly negatively affected, being already over-represented in the justice system (ABS, 2018).

The need for a dedicated civil law service arises because of the lack of services to communities where disadvantages exist and continue or worsen, and because people who are highly disadvantaged find it more difficult than others to resolve legal problems (McDonald & Wei, 2018). The need for a dedicated civil law service for Aboriginal communities in NSW is not just about being place-based or outreaching to improve access for Aboriginal and/or Torres Strait Islander people in regional and remote areas where there are fewer services than urban centres; a growing body of literature demonstrates that Aboriginal and Torres Strait Islander people regularly experience racism when accessing mainstream services, including in urban areas, and that a range of strategies are required to address this and improve service accessibility (Mazel, 2016; Kelaher, Ferdinand, & Paradies, 2014; Paradies, 2007) including dedicated rather than generalist services (Bennett, Green, Gilbert, & Bessarab, 2013).

While Aboriginal and Torres Strait Islander people are a 'priority group' under the National Partnership Agreement for government service delivery, many Aboriginal and Torres Strait Islander people are also part of other priority groups, with 48% of those over 15 having a low income, 9% having a disability, 35% having a lower educational attainment and 19% living in outer regional or remote areas (Randell, Mulherin, & Mirrlees-Black, 2018). This 'intersectionality' further reduces accessibility of services, because of service providers' limits to and reluctance in addressing complexity holistically, funding arrangements only addressing a section of issues, and siloes in agencies and their policies reinforcing this dynamic (Avery, 2018).

Funding

CLSAC sits within a landscape of other legal services used by Aboriginal and Torres Strait Islander people, including the ALS, the network of community legal centres (CLCs), local private solicitors and pro bono divisions of larger law firms, as well as the rest of Legal Aid NSW. The legal assistance sector has been shown to generate net benefits to the community (Productivity Commission, 2014).

CLSAC aims to work in partnership with, and not replace or compete with, these other service providers. It aims to operate either where other services aren't, or where those other services can't meet need.

We're trying to assist our clients to use other services because we're not there at all times. We shouldn't be taking away the roles of people who are there. (CLSAC staff)



It is a reality of CLSAC that while Aboriginal and Torres Strait Islander self-determination is envisioned, this is to occur within the context of a mainstream government service setting. Questions about this were asked of and by participants throughout this evaluation. Their answers largely reflect the current funding climate and the political will that drives funding being skewed to mainstream services, Aboriginal and Torres Strait Islander community-controlled services not being invested in sufficiently to meet demand, and there not being adequate funding of legal, health and community support services to meet Aboriginal and Torres Strait Islander people's needs (Holland, 2018; Howitt & McLean, 2015; Sullivan, 2011).

Aboriginal and Torres Strait Islander communities have experienced countless government programs being established and/or piloted and not further funded, with government funding being short-term, and investments being in funding mainstream services rather than developing Aboriginal and Torres Strait Islander workforces and services (Holland, 2018; Howitt & McLean, 2015; Sullivan, 2011).

While the Commonwealth Attorney-General's Department seeks a national, integrated system of legal assistance (COAG, 2015), it is a reality that the legal assistance sector has long been underfunded compared to need (Productivity Commission, 2014), and therefore such integrated and coordinated assistance is extremely challenging to provide. Currently funds for Indigenous Legal Assistance Programs (ILAP) are 'quarantined' for Aboriginal and Torres Strait Islander Legal Services (ATSILS) (Commonwealth Attorney-General's Department Legal Services Policy Division, 2018), however are inadequate to meet needs and are comparatively less than what mainstream legal assistance services receive (National Aboriginal and Torres Strait Islander Legal Services (NATSILS), 2017).

At the time of writing, and with the end of the National Partnership Agreement on Legal Assistance Services 2015-2020 in sight, the current Coalition government indicated ILAP funds may no longer be quarantined for ATSILS but a single 'National Mechanism' put in place (Attorney-General for Australia, 2019). There are concerns this will threaten independence (Law Council of Australia, 2019), increase competition between Legal Aid Commissions (LACs), CLCs and Family Violence Prevention Legal Services (FVPLS), as well as create unnecessary competition (Change the Record, 2019); these services are generally larger and have higher-paid and more experienced staff than ATSILS (NATSILS, 2017). The ILAP has been formally evaluated as beneficial and worthy of continuation (Cox Inall Ridgeway, 2019), even in the context of being insufficiently funded to meet demand and need (NATSILS, 2017). The end of the ILAP was foreshadowed despite ATSILS being shown to offer culturally-relevant services, respectful of the diversity of Aboriginal and Torres Strait Islander communities and protocols, and their local needs, resources and ways of doing business (Cox Inall Ridgeway, 2019).

Whether services are delivered by ATSILS or LACs, CLCs or FVLPSs, current funding and the future projected increase of only \$20 million (Attorney-General for Australia, 2019) will not address legal needs of Aboriginal and Torres Strait Islander people (NATSILS, 2018; Productivity Commission, 2014). The government's own Productivity Commission recommended an increase in \$200 million alone is required for civil law services (Law Council of Australia, 2019; Productivity Commission, 2014).

There are concerns too that civil and family law issues are often intertwined and escalate to criminal law issues (Schwartz & Cunneen, 2009). Given the extent of unmet civil law need and the rate of incarceration of Aboriginal and Torres Strait Islander people being the highest in the world (ABS, 2018) a range of services are urgently required. NATSILS advocates that Aboriginal and Torres Strait Islander services are best placed to meet the legal needs of Aboriginal and Torres Strait Islander communities (NATSILS, 2018). The evaluation report of ILAP promotes direct agreements about legal services being made with Aboriginal and Torres Strait Islander communities through their self-determined and



community-driven services and processes, and as a priority in any future policy developments and funding arrangements (Cox Inall Ridgeway, 2019).

Further, a range of services and service delivery models are also required to respond to locational and cultural diversity and for consumer choice (Bennett et al, 2013). Mainstream and government services are only as effective as those employed to staff them (Kelly et al., 2015; Thompson & Thackrah, 2019). If culturally unsafe and mismanaged in relation to Aboriginal and Torres Strait Islander community need, they contribute to disengagement and worsening of issues experienced (Thackrah & Thompson, 2013), and in CLSAC's context could risk legal issues worsening, contributing to further intergenerational disadvantage.

There is a vast body of literature and commentary that clearly indicates lessons of the past to avoid in service delivery by mainstream organisations with Aboriginal and Torres Strait Islander communities, including short-term programs, fly-in-fly-out workers, lip service to community needs, having other agendas and no evaluation (Sullivan, 2011; Thorpe, Arabena, Sullivan, Silburn, & Rowley, 2016).

CLSAC positioning

CLSAC has several strategies to avoid or overcome many of the problems caused by other mainstream organisations working with Aboriginal and Torres Strait Islander communities, and many of these are identified in sections below. Overall, CLSAC recognisably has a solid commitment internally to continuing to work with Aboriginal communities in NSW, with a range of strategies for community engagement and responsiveness to needs, employing and developing Aboriginal and Torres Strait Islander staff and leadership, and recruiting staff experienced in working respectfully with Aboriginal and Torres Strait Islander communities.

However, during the evaluation, comments that 'people don't know whether CLSAC will be around in years to come' were heard in each community visited, from service providers and community members.

Given that CLSAC is a permanent service of Legal Aid NSW, and given the poor history of government service delivery in Aboriginal and Torres Strait Islander communities, CLSAC could increase public trust by Legal Aid NSW leadership making a clear statement of commitment that CLSAC will continue to be funded and supported. CLSAC could also increase public trust by making a three-year commitment to each community it enters, and renewing those commitments and plans for service delivery regularly.



How CLSAC operates

The first words of CLSAC's 'vision for an ideal future', in its strategic plan are that 'Aboriginal people are self-determining' (CLSAC, 2014, p. 1). CLSAC takes care to acknowledge that it is invited into communities, and seeks their guidance, to support rather than replace local and community services.

To achieve self-determination, CLSAC's vision is for Aboriginal and Torres Strait Islander leadership of CLSAC, as well as strong partnerships and networks occurring to address civil law needs of Aboriginal and Torres Strait Islander people. The evaluation data revealed many examples and details of partnerships occurring, and these are one of the key resources supporting CLSAC. They are explored in more detail in the 'A closer look at CLSAC resourcing' section further below; first, the range of communities and people served by CLSAC are outlined as well as the structure of CLSAC and its model of service.

People and communities served

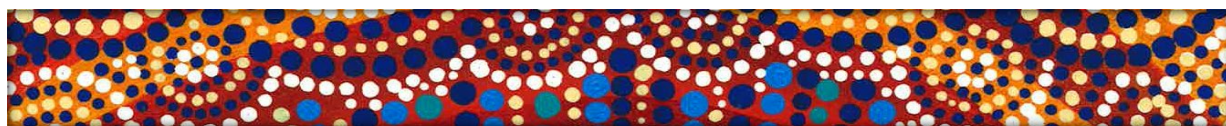
CLSAC works across much of NSW and offers:

- regular outreach to 22 communities, designed in part by those communities
- outreach to Silverwater Women's Correctional Centre, Mary Wade Correctional Centre and Dillwynia Women's Correctional Centre
- a free telephone advice service to all who require it.

The communities and prisons to which CLSAC delivers services are diverse. Each prison has distinct operating procedures, staffing and numbers. Each community has different histories, different languages, different cultural practices, different structures and different services available.

CLSAC plans which communities and prisons to serve through a process that can take 6-12 months, and which takes into account the nature and extent of the population, legal need, legal and other services, community organisation, community politics and venues. CLSAC analyses data from the ABS and the NSW Bureau of Crime Statistics and Research, and data about fines and debt. It also draws on the knowledge and experience of its organisations, staff members, community-based networks and formal networks such as the Cooperative Legal Service Delivery program to identify emerging and growing problems. For example, it learned that unscrupulous companies were targeting Aboriginal and Torres Strait Islander communities in Dareton and Lake Cargelligo, so offered services in those places.

There are many steps to setting up a new service in prisons (the *Aboriginal Women Leaving Custody* service as part of CLSAC), including holding community legal education sessions and special events with a civil law focus. Promotion of the benefits of CLSAC helps encourage people to use the service. For example, among Aboriginal and Torres Strait Islander women in prison, CLSAC has demonstrated many benefits including resolving tenancy issues by appealing negative classifications, making submissions to retain current tenancies, making priority housing submissions, supporting bail applications and listing negative consequences of further incarceration, and assisting in other necessary preparations for life after release from prison. Aboriginal and Torres Strait Islander women in prison interviewed indicated they had used CLSAC in a multitude of ways with a wide range of successes. They told other women about this assistance, and encouraged other women to also get help, and openly promoted CLSAC to women as well as to staff.



In this regard, one CLSAC staff member said:

Prison education officers seem to love us coming. We do provide organised activities for the women... staff do refer to us or ask us for help. (CLSAC staff)*

While CLSAC has expanded the number of places it operates, it has done so with the understanding that the legal needs of Aboriginal and Torres Strait Islander people are not fully identified or met (Pleasance et al, 2014; Productivity Commission, 2014), whether that be in urban, regional or remote areas.

Many of the communities CLSAC serves are in regional and remote areas, and the locations to which Aboriginal and Torres Strait Islander women leaving prison return to are outside urban areas. Some communities, such as those of the NSW north coast, are not remote geographically, but are very poorly serviced by governments and the private sector. As one Legal Aid NSW lawyer said:

We would only be seeing a fraction of the people who need it. There are communities very close by who have no way of getting here. There is no public transport, driving is not an option, needing fuel and also getting people with a license and a car... (Legal Aid NSW lawyer)*

Most interviewees raised concerns about the civil law needs of Aboriginal and Torres Strait Islander people across NSW and in prisons not being met:

I am sure there are many people around here who we are not seeing, even though we see so many. They all have family who they say need help too, and they tell us about the problems people are having... they say 'I'll tell [such-and-such] to come. There are definitely more people we could see. (CLSAC staff)

I pointed my cousin to the service. She's done a really good job telling my other cousin. But there's still people in here who don't know. (CLSAC client in prison)

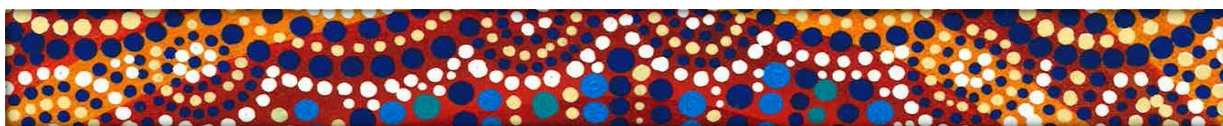
Across all locations evaluation was conducted in, most interviewees spoke of there being a great need to make civil law assistance services more available for Aboriginal and Torres Strait Islander people.

Structure of CLSAC

The CLSAC model of service includes community engagement, collaboration on local service design and delivery, outreach, follow-up, casework and representation, a telephone service and community legal education. CLSAC and its outreach is mostly coordinated from the Central Sydney Legal Aid NSW office, with three staff based in regional Legal Aid NSW offices. Staff in all these locations also conduct outreach services to other locations, sometimes on their own, and most often as part of a broader Legal Aid team.

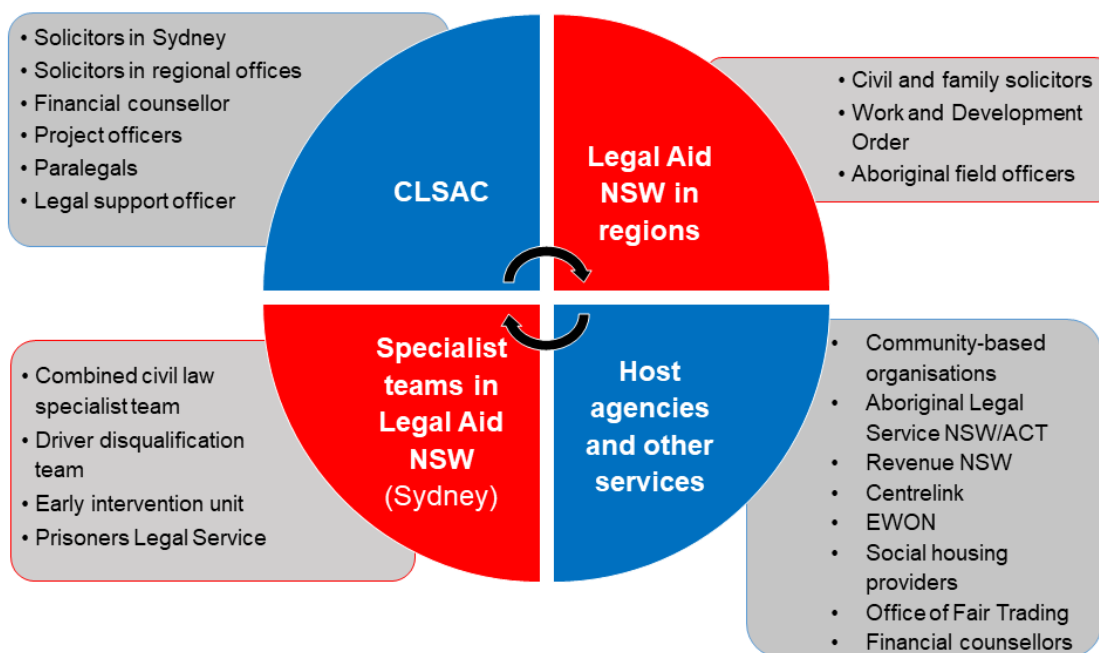
In order to clarify the way CLSAC provides civil law services, Figure 2 below was developed initially by the evaluation team based on data collected and understandings gained, and then with feedback from CLSAC senior staff. The top half of Figure 2 below signifies the Sydney-based CLSAC office and range of roles, and that CLSAC is supported by and has a small number of staff in regional Legal Aid NSW offices.

The bottom half of Figure 2 indicates the other key staffing of CLSAC outreach – that partnerships are an essential part of the outreach service delivery model, and these partnerships are an essential resource that CLSAC draws on and supports. These partnerships are with Aboriginal and Torres Strait Islander community services, other community services, with other teams within Legal Aid NSW, and with other government agencies. A wide network of support from within Legal Aid NSW supports the outreach and



CLSAC's model of service, as do local non-government services and supports. There is cross-over between the quadrants at times and roles and services in the grey rectangle boxes changes, depending for example on services available in communities, and arrangements made to meet needs and availability of staff. Arrangements and partnerships are negotiable and flexible, and according to primary and secondary critical success factors identified later in this report.

Figure 2: Model of staffing of outreach



The staffing and partnerships that support CLSAC are explored in more detail later in this report.

Client focus

The CLSAC service model is client-focused, while operating within resource constraints. It aims to provide holistic civil law services to Aboriginal and Torres Strait Islander communities at the time and place of their choosing, and to women in prison on a regular basis. The service operates on the basis that the law is a tool to solve problems, and culturally-relevant strategies are required to provide legal services to Aboriginal and Torres Strait Islander people.

Most of CLSAC's services are offered face-to-face, the value of which is shown by existing evidence (Pleasant et al, 2014) and by many clients:

It's easier to talk in person. You trust them better as a person. (Client)

When offering face-to-face services, CLSAC operates on a drop-in, rather than appointment, basis. Clients are asked a number of questions about their life, and potential other problems. Meetings in community settings are unhurried.

They take their time – they treat you as a person. (Client)

The fact that we meet clients where they are at is part of our success. And flexible – not requiring them to go to a mainstream advice clinic with an appointment time.



The drop-in basis is part of the success, and so is meeting them in places where they are comfortable to be. (CLSAC staff)

Seeing people face-to-face is important. We're dealing with a group of people who don't trust government services, understandably, so going out physically on a regular basis builds trust. (CLSAC staff)*

Providing civil law services to Aboriginal and Torres Strait Islander women in prison is very different, but there are also key working principles and practices occurring where possible such as being unhurried, following up, and connecting to further supports that the women require. There are complexities due to being in prison, such as the women not being able to make or receive telephone calls when required, not being able to take notes to help remember details, and "a lot of stress", as one Aboriginal woman in custody said.

CLSAC also offers community legal education in selected locations, such as Silverwater Women's Correctional Centre and communities it knows are being targeted by unscrupulous people and businesses.

CLSAC provides a telephone service that operates from 9am to 5pm, Monday to Friday. Callers are triaged, then offered the opportunity to speak to a CLSAC solicitor on duty, or to go the next outreach if they are in a location serviced by CLSAC. Callers can be referred to other Legal Aid NSW services. They are also offered information about other relevant and available local community-based services and supports.

The telephone helpline is promoted widely in the communities it serves by posters, postcards, letter, phone calls and word-of-mouth, although not prominently on Legal Aid NSW's website and rarely using social media.

Understanding the context of the client's life

CLSAC understands the client exists within their family context, within their community, and within a context of disenfranchisement and racism common to many communities.

On first meeting a client, CLSAC uses an assessment tool that aims to uncover unmet legal and non-legal needs, which it describes as a triage tool or as a legal health check-up.

This serves several purposes. It allows CLSAC to understand the full range of issues a client faces. It allows the client to understand how problems can be addressed, and to prioritise them. It builds legal capability, in that clients get to understand what issues can be addressed by a legal approach. And it sets in train a process where CLSAC and the client are able to work together over a period to address potentially all the legal issues the client faces.

The whole thing about the legal health check is that we are digging for problems. This client comes in for a fine and we are assessing what the needs are... If you dig, you have to do something about it. (CLSAC staff)*

Sometimes we're just breaking down the barriers for people – connecting them with the right people, helping them interpret documents and forms, navigating the bureaucracy. (CLSAC staff)

Reflects best practice

CLSAC reflects best practice in legal outreach services for mainstream populations which are:

- planned and targeted, addressing unmet legal need in a defined client group, community or place, and addressing gaps in available services



- engaged with target client groups and with local services that assist those groups
- coordinated across practice areas and with external agencies
- client-centred, recognising that clients often have complex and interrelated legal and non-legal issues and face significant barriers in accessing legal assistance
- consistent in service delivery, with options for assistance between visits
- resourced and sustainable within a broader service framework, with options available should an outreach not continue
- evaluated to ensure the outreach is achieving its aims and complying with best practice (Forell, McDonald, Ramsey, & Williams, 2013).

Additionally, CLSAC also reflects best practice in outreach and collective wellbeing promotion by Aboriginal and Torres Strait Islander services, with services:

- connecting with local Traditional Owners, Elders and community leaders
- learning about history and cultures of the local area
- introducing self, family, and relationships with Aboriginal and Torres Strait Islander people
- negotiating physical location and use of space and resources
- introducing new services to outreach, and role-modelling to them culturally-safe engagement
- sharing resources including information, knowledge, networks and food
- remembering and celebrating achievements of individuals and in the community.

With individuals, CLSAC demonstrates commitment to many of the specific Aboriginal and Torres Strait Islander ways of working identified in the Ngaa-bi-nya framework:

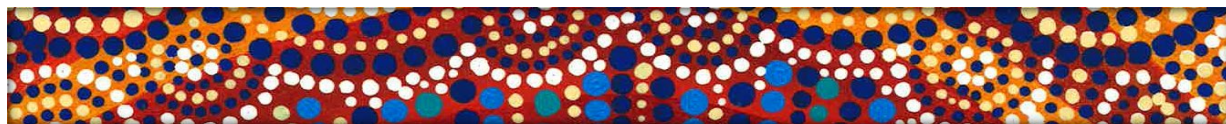
- trauma-informed, connecting to options for support and healing
- seeking to address access to justice as a determinant of health, as well as other determinants including housing, income and skills development
- engaging with family members
- sustained efforts to follow-up services users and solutions to meet their needs (Williams, 2018).

As such, CLSAC's work frequently demonstrates respect for the critical success factors demonstrated in support services for other populations of Aboriginal and Torres Strait Islander people, including young people (Haswell, Blignault, Fitzpatrick, & Jackson Pulver, 2013).

In the field, there is little reliance on technological devices, file sharing software or apps which, although they are often proffered as solutions to overcome the tyranny of distance, don't suit all people, and can't be relied on in rural and remote areas of Australia (Forell et al, 2013).

Addressing problems people face

In the early days (2013-14) of CLSAC, most clients had problems with consumer issues or housing, which reflects the history of CLSAC's establishment as the amalgam of two projects, the *Money Counts* project and the *Aboriginal Women Leaving Custody* project. The relatively narrow scope of these two projects was reflective of short-term funding at



the time, yet allowed Legal Aid NSW to focus on issues that were critical for people at that time.

The *Money Counts* and related consumer issues were largely problems from renting household goods, unfair contracts and breaches of consumer laws by credit providers including payday lenders. The *Aboriginal and Torres Strait Islander Women Leaving Custody* project often worked on housing issues including challenging classifications preventing women accessing housing, as well as getting and retaining housing while in custody.

Early successes from these two projects enabled Legal Aid NSW to understand the breadth of civil law issues Aboriginal and Torres Strait Islander people were facing, along with the use of legal needs assessments with Aboriginal and Torres Strait Islander people in communities. Permanent funding allocated by Legal Aid NSW allowed CLSAC to be established, to then plan for and provide a broader and more holistic service, being more responsive to the range of needs experienced in communities.

Now, CLSAC addresses a broader range of civil law problems, the most common of which include:

- disputes with financial services providers like banks, insurers, credit providers and superannuation funds
- issues with other goods and services including utilities, such as large bills or having amenities cut off
- consumer law issues such as rental contracts, scams, faulty products, funeral or other insurance
- housing matters such as disputes with landlords, evictions, access to housing (including for those leaving custody), rent issues and mortgage problems
- fines
- employment matters such as unfair dismissal, access to entitlements, bullying, harassment and discrimination
- problems obtaining identification documents like birth certificates and passports
- issues with Centrelink such as debts, access to payments, and decisions made by Centrelink
- issues with the NDIS
- discrimination, complaints against government departments and mistreatment by the police or in detention
- Stolen Generations compensation
- support for victims of crime.

These problems are ones that many people wouldn't realise could be solved through a legal framework.

Collaboration in communities

CLSAC collaborates with many community-based organisations including Aboriginal land councils, Aboriginal health services and the ALS. These are essential to collaborate with because they are self-determining Aboriginal community-controlled services with local leadership and knowledge, they provide essential services, and they are well placed to identify people with legal problems to refer to CLSAC.



In the community, CLSAC services are delivered where Aboriginal community leaders and service providers identify they should be – radio stations, health services, land councils, parks, community hubs, drug rehabilitation centres, and refuges. For example:

- in 2015-17, CLSAC partnered with Literacy for Life, Brewarrina, to conduct community legal education and advice clinics for each cohort of students
- in Condobolin, CLSAC is based at the Central West Family Support Group and the Condobolin Aboriginal and Torres Strait Islander Health Service
- in Moree, CLSAC is based at the ALS and partners with the Maayu Mali Drug & Alcohol Residential Rehabilitation Service to provide community legal education and advice services to residents
- in Bodalla, CLSAC is based at the local Aboriginal Land Council
- as part of the outreach to Silverwater Correctional Centre, CLSAC has a strong two-way referral pathway with both Women's Legal Service and the Community Restorative Centre
- in Tabulam, Coraki, Boggabilla and Toomelah, outreach is regularly held in conjunction with Centrelink services, and in Tabulam and Coraki, also with the Northern Rivers Financial Counselling Service
- in Bourke, CLSAC is based at a variety of services including the CatholicCare women's safe house
- in Kelso, CLSAC is based at the Kelso community hub where it has a health justice partnership with Marathon Health, a primary health care organisation delivering services to regional Australia.

CLSAC also collaborates with national and state government agencies, such as the Australian Securities and Investments Commission (ASIC) and Energy & Water Ombudsman NSW (EWON), to both deal with individual matters and to bring about regulatory or policy change.

There are many possible ways of collaborating in the legal assistance sector, as described by Pleasance et al (2014). Figure 3 below identifies how, as the two arrows on the right show, the more time goes by and trust develops (moving in the direction the arrow is pointing), services tend to be able to be integrated and collaborative. However, if services are autonomous (the left arrow moving in the other direction, opposite to time and trust) they tend to recognise each other's offerings to the community, and network or coordinate rather than work together. Autonomy is important for the effective operation and responsibilities of services to their Boards, stakeholders and funding, certainly, but in community settings where people have multiple issues, autonomous services can seem more as siloes, risking supplantation of services, as well as gaps and confusion.

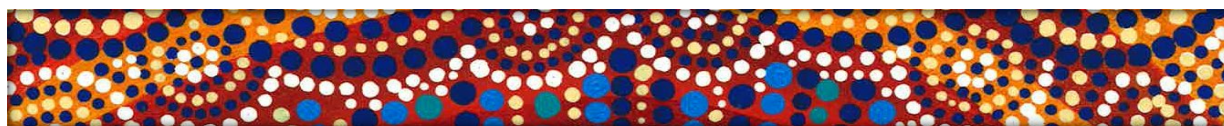
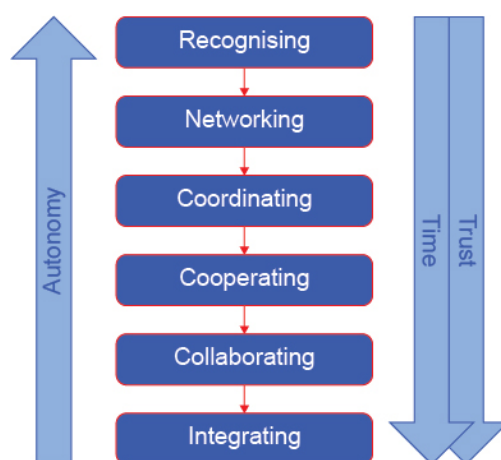


Figure 3: Working with others to deliver services: A continuum of ‘joined-up services’



Source: Pleasance et al (2014), adapted from Himmelman (2002) and Rush et al (2008)

CLSAC evaluation data collected showed that it is flexible – it works with different stakeholders in different ways, according to the environment it operates within. Depending on context as well as available resources, CLSAC can move between networking, coordinating, cooperating and collaborating – as indicated on the continuum of ‘joined-up services’. Much Aboriginal and Torres Strait Islander health and social work literature, policies and plans for addressing poor social determinants of health, and legal services for Aboriginal and Torres Strait Islander people have indicated that the range of locally available services are best ‘joined-up’ to ensure people don’t fall through gaps in services, and to reflect the holistic concept of health that Aboriginal and Torres Strait Islander people have, that often overlap (Anderson, 1988; Bennett et al, 2013; Carson, Dunbar, Chenhall, & Bailie, 2007; Muru Marri with Blignault & Arkles, 2015).

A feature of CLSAC’s approach is the use of events. It takes part in events such as Law Week, where many services come together. It also organises its own events. For example, after thorough community consultation, it organised an event in East Dubbo in collaboration with Revenue NSW, Centrelink, Housing NSW, the ALS and the local community legal centre. At that event, people were assisted by Revenue NSW to lift driving sanctions and waive fines. CLSAC has partnered with the pro bono divisions of private law firms to put on ‘wills days’ where people can get assistance to prepare a will, and with the NSW Registry of Births Deaths and Marriages to help people obtain a birth certificate.

These events are driven by community need. They are a gateway to, not a replacement for, the regular service provided through outreach. They can be promoted in a way that is relevant to Aboriginal and Torres Strait Islander people using social media and community networks. In interviews, events were mentioned favourably by many clients and community organisations as drawing attention to the services available, as providing a service the community wanted, as being community-building and as offering a common purpose for service providers.

CLSAC staff provide regular feedback to the community groups that refer clients to them. This is welcomed by the community groups, supports CLSAC’s links with the community and builds capacity. One community member commented that they would appreciate regular higher-level feedback of the activities of CLSAC. This could take place as a quarterly email or newsletter noting the number of clients seen and the community groups worked with.



Working with Aboriginal and Torres Strait Islander women in and leaving custody

The CLSAC engagement with Silverwater, Mary Wade and Dillwynia women's correctional centres operates on many of the same principles as other CLSAC services. However there are some key differences:

- almost all of the women have multiple and highly complex needs, with high prevalence of trauma and family violence experiences, mental health issues and cognitive impairment
- there are fewer services to refer women to or link with for assistance
- it can be extremely difficult to keep in touch with the women, as they can be moved around NSW without notice, with CLSAC not routinely provided with contact details in prisons or the community post-prison release
- working with women in custody is very intense, particularly by videolink, because of audio and visual limitations and because women cannot be supported in person
- most of the women have serious and multiple legal issues of concern when entering custody, to do with children and housing
- most are homeless when they leave custody, if they were not already before.

The work of CLSAC includes trying to maintain any existing accommodation and/or trying to find accommodation on release, reducing barriers to obtaining housing, and identifying and following-up legal avenues available to women to challenge decisions about their housing needs, history and future allocation.

CLSAC staff provide information in clear pieces, with priorities agreed by the women, and next steps identified.

Staff show overwhelming commitment to following up information, services and strategies to resolve civil law issues the women have.

Staff demonstrate great commitment to following women up after their release from custody.

The feedback from clients is very positive.

I was in custody and I didn't know what to do. I rang the number on the library wall and they came to the gaol to see me. They've helped – I got a good result. It could have been much harder for me, but it's turned out well, it could be a fresh start.

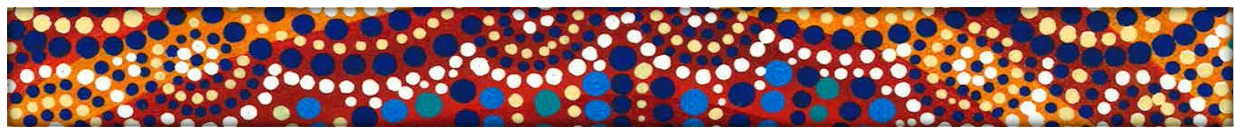
[The solicitor's] really good. She takes her time with me. She rang me, checking on me. She still keeps in touch.

I hear they do other things, not just housing. There's a bit of other stuff going on – I'm going to talk to them about it. (Client)

The availability of CLSAC staff is important.

When we go to Silverwater, ... it works because we're not crime lawyers. We're a lot more contactable – they're in court all day and we're not. (Former CLSAC staff)*

The multiple disadvantages of Aboriginal and Torres Strait Islander women in custody, leaving custody and post-release cannot be understated. The risks for reincarceration are great, and centre largely on poor accessibility and availability of services to meet their



needs in the community, with great burden on family members and risks for ongoing removal of children.

Advocacy

CLSAC advocates for systemic change by:

- working directly with agencies such as ASIC and EWON and Australian Competition and Consumer Commission. These collaborations assist individual clients, but also support those agencies in their efforts to bring about structural change
- making or contributing to submissions to enquiries such as:
 - Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, particularly regarding funeral insurance in Aboriginal communities
 - the Senate Standing Committee on Economics' Inquiry into credit and financial services targeted at Australians at risk of financial hardship
- making or contributing to submissions to reviews such as
 - the Financial Services Council's consultation draft of the Life Insurance Code of Practice
 - the federal Treasury's review of the rules surrounding the early release of superannuation
- making or contributing to submissions regarding reparations for members of the Stolen Generations and advocating to governments for change
- appearing before senate committees
- pursuing cases in courts and tribunals to address legal issues with significant impact on Aboriginal and Torres Strait Islander people such as funeral insurance, consumer leases and housing issues
- participating in advocacy with other organisations, across sectors
- advocating for changes to eligibility for housing.

With housing At that time, someone could be absent from their property for a holiday or for rehab for six months, but only for three months if you were in custody. Not long after (Legal Aid released a report with recommendations) Housing NSW extended it to six months to bring it in line with the rest of their housing policy. We considered that to be a big win. (Former CLSAC staff)*

It has supported a client to appear before the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

CLSAC is supporting clients in their applications to the Stolen Generations Reparations Scheme. Based on its casework and knowledge of the harm faced by its clients, CLSAC is advocating to improve the scheme so as to allow all Aboriginal and Torres Strait Islander people who were removed by government prior to 1969 to achieve redress, not just those eligible under current criteria.

In 2013 CLSAC complained to ASIC about the behaviour of the consumer leasing company Make It Mine Finance Pty Ltd (ACN 130 102 411). After investigations, ASIC took civil action in the Federal Court. In 2015 the Federal Court awarded penalties totalling



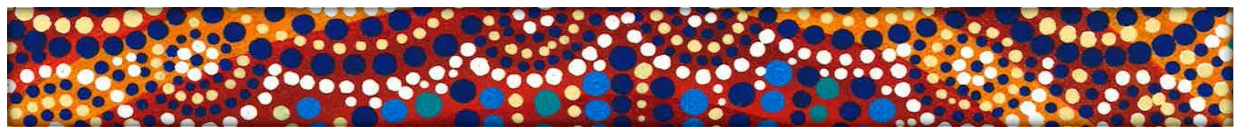
\$1.25 million against Make It Mine Finance for breaching consumer credit laws, including its responsible lending obligations (ASIC, 2015).

After complaints by CLSAC, ASIC investigated and found The Rental Guys failed to meet their responsible lending obligations when renting white goods and furniture. The Rental Guys then repaid \$100,000 to regional customers (ASIC, 2017).

This advocacy is part of, not an addition to, CLSAC's representation of clients. It is welcome and useful, but relatively contained, given the long history of systemic abuses faced by Aboriginal and Torres Strait Islander people.

Stopping those abuses, and reversing the decades of disadvantage, will take a substantial effort by many individuals and organisations in Australia.

There are other effective tactics available to CLSAC, such as using test cases, working proactively with the media, having a strong public profile, a strong social media profile and using online advocacy such as e-newsletters, opinion polls and petitions (Public Health Advocacy Institute of Western Australia, 2013). While government-funded services are often restricted in the amount and tone of advocacy that they do, CLSAC's clients and the general public will benefit if its funding and status can be maintained while taking a more public approach to advocacy.



A closer look at CLSAC resourcing

People

CLSAC has dedicated and enthusiastic staff who go the extra distance. They take their time with clients, showing diligence, persistence and compassion. They show deep respect for clients, recognising the complex issues they often experience, and the underlying factors. These factors are often extreme, multiple and compounding and include clients' experiences of trauma, grief and loss, intergenerational poverty, geographic and social isolation, disabilities, previous poor treatment by mainstream services, multiple services being involved in their lives, and threats of issues worsening.

CLSAC staff are faced with these multiple and at times competing needs and must engage sensitively in order to connect and get necessary information from clients, to work with them as the cases require. They must navigate complexity quickly, to synthesise and prioritise civil law issues, and then communicate clearly with clients in a way that their next steps are informed, viable and understood.

CLSAC staff put much effort into following-up clients, with well-developed strategies for this – a very difficult and much needed aspect of the work.

As well as CLSAC solicitors requiring mature legal practice to navigate client, community and geographical issues and complexity, they must also have, for example, nuanced personal skills in cross-cultural communication, conflict management, decision making, making referrals to other supports, reframing issues and advocating with other government agencies for information and change to occur.

Aboriginal Women Leaving Custody project staff must also work with women in their context of profound loss while incarcerated – loss often of their children and life in community, housing, possessions, personal records and files, and sense of self, autonomy and control. They must communicate in highly controlled circumstances, where the women have no privacy nor support for the emotional upheaval that comes with discussing legal problems. Women accessing the *Aboriginal Women Leaving Custody* project are regularly moved in or between prisons without notice to them or to CLSAC, and are released to often very precarious circumstances without reliable contact details, supports or plans. Again, the follow-up strategies of staff are many and varied to ensure civil law needs can be resolved and to prevent worsening.

Ascertaining personal information as well as information about circumstances, strengths, risks and context from Aboriginal and Torres Strait Islander people by relative 'outsiders' is difficult, requiring time, nuanced skills and self-awareness (Bennett et al, 2013; Haswell et al, 2013). Staff are required to work at a 'cultural interface' (Nakata, 2007) of their own culture, the local culture and that of the organisation, demanding ongoing critical self-reflection and assistance from others to do this (Bennett, Power, Thomson, Mason, & Bartleet 2016). There is an onus on the CLSAC staff member to ensure ongoing reflection on their role in power relations with Australia's Indigenous peoples, and to do what they can to avoid a deficit discourse about Aboriginal and Torres Strait Islander people, coming to a human-rights and trauma-informed understanding of issues, being able to recognise and honour Indigenous knowledges, cultural care practices and ways of relating, and identifying strengths among clients, their families and communities to draw on and reinforce.

These are elements of client engagement and legal practice that arguably do not arise in other legal services, require constant consideration, and occur in addition to the complexity



of Aboriginal and Torres Strait Islander people's lives which are often marked by multiple disadvantages and more traumatic events compared to mainstream Australians.

On the one hand such understandings, principles and practices could seem a burden on staff, to develop and hold. On the other, they are also enriching and informative, when one values Aboriginal and Torres Strait Islander people and cultures as having wisdom useful for other cultures. But from here too though, potentially stems frustration and despair, when Aboriginal and Torres Strait Islander knowledges are not respected or used by mainstream services or general community members, but paternalism, sidelining or denigration instead occur.

Networks across CLSAC, Legal Aid NSW, local supports and organisations to whom to refer are vital for staff to feel supported and have avenues for making progress. They do also however take additional time to develop.

Aboriginal staff, on top of the technical skills required such as legal, financial, communication and consultation, were clearly recognised as bringing cultural knowledge and skills, along with networks of enormous importance.

There's a lot of value that Aboriginal people bring ... in terms of relationships with communities, breaking down barriers [to] the legal system, and Aboriginal and Torres Strait Islander [staff] don't necessarily get the recognition that they deserve.
(CLSAC staff)

As this quote indicated, Aboriginal staff might be recognised by CLSAC staff, but there are real concerns they are not recognised more openly. This issue is discussed further in a separate section below.

There are some opportunities for staff at all levels to have skills challenged and for growth including working in new locations and in teams, submission writing and working with the media.

CLSAC has discussions around career progression, and is aware of staff members' hopes and plans.

The sense of team is highly regarded and appreciated by CLSAC staff; CLSAC operates generally with a positive and supportive mood, with regular and structured team meetings, celebrations of anniversaries and milestones, and other opportunities to strengthen the team including sharing outreaches to communities. These connections were appreciated and vital in regional offices, as well as across Legal Aid NSW more generally, to continue the development of CLSAC.

Partnerships

CLSAC sees informal partnerships as an essential element of its work.

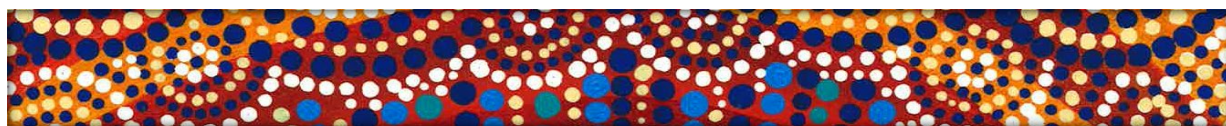
It relies on its community-based partners to allow it into the community, to establish a basis for trust by the community, to refer clients to it and provide physical locations in which to conduct engagement activities.

It relies on the intellectual property of partners to supply knowledge and connections it doesn't have.

The partnerships allow CLSAC to provide outreach that would otherwise be beyond its capacity.

Other benefits of partnerships identified by interviewees:

- Aboriginal and Torres Strait Islander leadership or co-design of activities, events and processes



- enhancing the range of services available to a community member at any one time
- creating more personal referral pathways
- co-case management, within confidentiality and role boundaries
- opportunity to uncover systemic issues and coordinate responses
- help connect with mainstream services that have been difficult for community members to work with – “it assists clients to use these services” (Community service provider)
- “dealing together with resistance and judgements... about Aboriginal and Torres Strait Islander people” and building awareness of social and policy issues affecting community members (Community service provider).

In partnerships, CLSAC offers legal services to the clients and builds legal capability within individuals and communities, and offers partners those same resources and intellectual property.

Partnerships came about in many different ways. For example, CLSAC is part of the Cooperative Legal Service Delivery program where it operates. Partnerships also arise from networks and relationships of individual workers – some that already existed in local areas, or made efforts to develop for and with CLSAC. For most, communication was regular, as was general information sharing. Developing and maintaining partnerships is considered core work and foundational to CLSAC being able to conduct outreach services, connect with community members and follow up with clients.

At times, there may be overlaps with partners, with multiple organisations available to provide services to the population. However, where overlap does occur, it provides choice to service users and reduces the risk that legal services’ rules around conflict of interest will leave some people unrepresented.

As one community service provider reflected: “It’s the spirit of working together not in competition” that keeps their partnership with CLSAC occurring.

Very few of the partnerships CLSAC has with other services have a formal basis.¹ This allows flexibility, minimises paperwork and allows more time to concentrate on work with and for clients. However, some partners have noted that a formal memorandum of understanding or service-level agreement would:

- minimise the risk that a change in personnel could disrupt partnerships, as has happened at times
- strengthen the hand of partners to maintain the partnership
- bring more accountability to the relationships.

While partnerships require the opportunity and resources to grow to meet service-user demand, as one community service provider also asserted: “We need to protect them from change”. This is ensuring they are part of the structural business of how services operate, rather than only relying on networks and relationships of individual workers.

Being in a sector with limited funds and high demand, there is tension in some of the relationships with other legal services. A cooperative approach to legal service is intended and at times planned for, but structures of organisations, timing of funding and decision making and other system-level factors influence these relationships and contribute to tensions. Teams within Legal Aid NSW may essentially be competing for funding and

¹ There is a formal health justice partnership with Marathon Health to provide legal services at Kelso.



opportunities, and competing externally with community legal centres, the ALS and LawAccess NSW (which provides online and telephone information and advice for NSW residents).

As an added layer of complexity, Legal Aid NSW administers Commonwealth and state funding for community legal centres, and recent changes to the methodology used to distribute that funding have the potential to disrupt a sector that has operated in much the same way for four decades. These relationships require conscious negotiation, mapping and planning to ensure that services cooperate to provide the range of necessary services to communities.

The current NPA and the ILAP require sector-wide collaborative service planning between all legal assistance providers. The NSW Legal Assistance Forum (NLAF) working group on collaborative service planning was established in 2018 to develop a more comprehensive approach to collaborative service planning.

The NLAF working group comprises representatives from Legal Aid NSW, CLCs (NSW), the ALS, LawAccess NSW, the Law and Justice Foundation, and the Department of Justice. Its initial workplan includes:

- agreeing on geographic catchments for NSW
- undertaking a legal needs analysis by catchment
- mapping existing legal assistance services within catchments
- establishing regional working groups for each catchment
- identifying the initial service planning priorities for regional working groups
- organising quarterly meetings for the working groups.

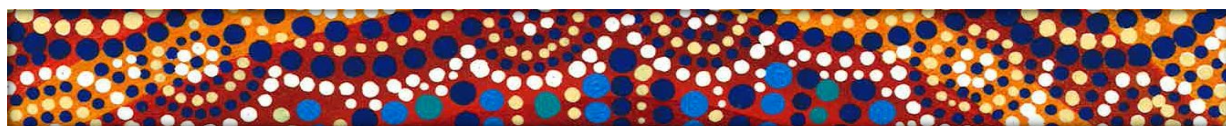
To date CLSAC has not been involved in this working group.

Cultural knowledge and work

There are two main perspectives on this ‘cultural knowledge’. One is the cultural knowledge Aboriginal and/or Torres Strait Islander staff have, develop and contribute to CLSAC. The other is the knowledge about Aboriginal and Torres Strait Islander cultures, and the interface with one’s own culture and honest knowledge of one’s own potential biases, fears and motivations that all staff should have.

The quote presented earlier indicated concern by a non-Indigenous CLSAC staff member that Aboriginal and Torres Strait Islander staff’s cultural knowledge is under-recognised. This theme came up in a majority of interviews conducted, with stakeholders, Aboriginal and/or Torres Strait Islander staff, other CLSAC staff and service users alike. Concerns were about:

- lack of recognition of work hours when formal and informal roles are combined
- high levels of worry and effort in having blended professional and community roles
- insufficient support by others, including those who do not have the experience or personal awareness to better understand Aboriginal and Torres Strait Islander cultural ways, or those who have implicit bias or discriminatory attitudes
- having to be a cultural educator or interpreter for other staff, including staff more senior in position or age



- lack of financial remuneration for additional hours worked, skills drawn on and 'level' worked at
- conflicting messages about being highly valued on the one hand yet not so valued enough as to have career progression or pathways support or other recognition
- standard career progression criteria not reflecting the reality of working with Aboriginal and Torres Strait Islander communities and the varied tasks required – no formal opportunities to record or use these for career progression.

The 'double burden', 'cultural load' or 'invisible load' on Aboriginal and Torres Strait Islander staff in healing professions is often discussed, particularly in relation to Aboriginal and Torres Strait Islander health workers (Bond, 2018). Still there are few publications about Aboriginal and Torres Strait Islander health worker experiences, even though they are among the biggest workforce of Aboriginal and Torres Strait Islander people; literature about experiences of Indigenous solicitors is scant globally. Available literature and commentary reflects similar points as listed above, and the unique contributions of Aboriginal and Torres Strait Islander staff are becoming more recognised including by peak bodies in health (Australian Indigenous Doctors' Association, 2017; Indigenous Allied Health Association, 2018; National Aboriginal and Torres Strait Islander Health Worker Association, 2016). There are current research projects about Aboriginal and Torres Strait Islander health career pathways, but still little attention on career development as such.

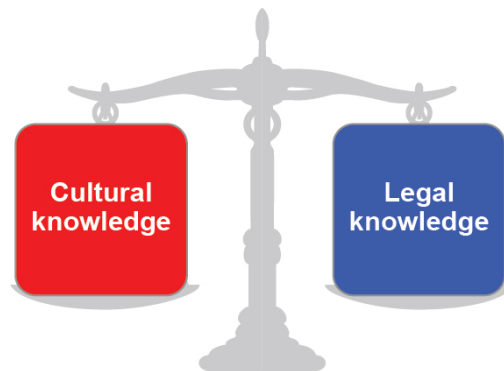
All groups who were involved in the CLSAC evaluation indicated that they very highly regarded Aboriginal and/or Torres Strait Islander staff, held them in awe, wished more people could have the well-rounded skills they did, and offered encouragement to them to keep pursuing legal practice including into leadership roles in Legal Aid and in Indigenous policy more broadly.

Developing Aboriginal and Torres Strait Islander cultural awareness and cultural competence is also vital for all CLSAC and Legal Aid NSW staff, regardless of their cultural background. Interviewees reported that skills development to work in cross-cultural contexts was not well addressed in their tertiary-level legal practice training, nor on the job. Some CLSAC staff already had experience with Aboriginal and Torres Strait Islander communities prior to their CLSAC appointment, and had gained this through mentoring from Aboriginal and Torres Strait Islander people in other roles, organisations and community connections. CLSAC offered some opportunities to develop cultural awareness including through training, community engagement activities and there was much support for this to continue, through internal team opportunities and external connections in the community.

Whichever perspective, Aboriginal and Torres Strait Islander cultural knowledge of staff is vital to the operation of CLSAC. Without it, CLSAC would be *just another bunch of lawyers* (CLSAC staff*). Hence, Figure 4 values cultural and legal knowledge equally; they might not be equal in a philosophical sense but in a practical sense. For CLSAC, legal information could not be effectively imparted without cultural knowledge of how to best do so, and without the knowledge of legal issues and in the context of Aboriginal and Torres Strait Islander peoples' lives, CLSAC would not be so well-placed to work in such a focussed way to resolve matters of concern.



Figure 4: Making law and justice accessible for Aboriginal and Torres Strait Islander communities



It is important to note here that not all roles in CLSAC are solicitor roles. Figure 4 also therefore denotes that while CLSAC is primarily a legal context and aims to achieve legal outcomes, a range of roles are required to do this.

Cultural safety frameworks are becoming more frequently developed by mainstream and government services and CLSAC staff discussed their interest and motivation for developing one. It is best if connected to a broader Legal Aid NSW framework or other such strategy, and a review of progress toward the Legal Aid NSW Reconciliation Action Plan 2013-2018.



The impact of CLSAC

This section describes the impact of CLSAC on clients, communities and other sections of Legal Aid NSW.

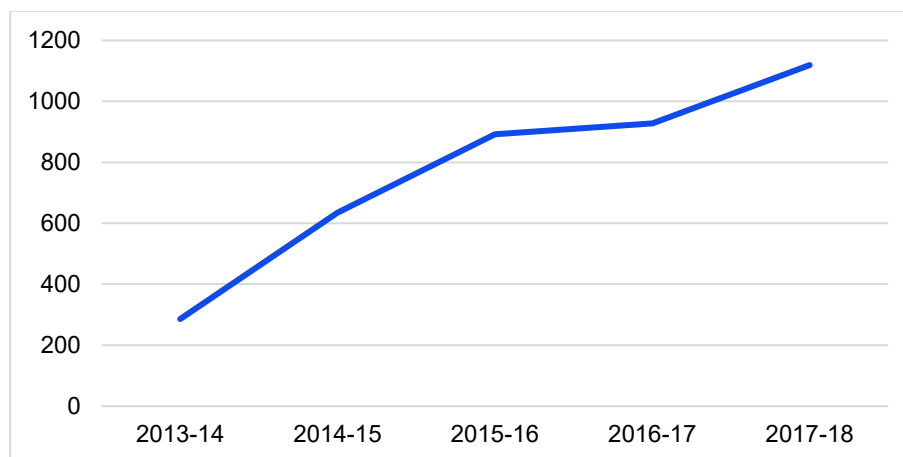
Growing number of clients

The number of clients has risen steadily from 286 in 2013-14 to 1119 in 2017-18 (see Figure 5). Yet in no interview was the idea put forward that CLSAC had gone close to meeting demand.

If the current pattern continues, it is likely that CLSAC will reach further into the communities that it currently services, and will add new communities.

This will place demands on its resources and will require an increase in human and financial resources.

Figure 5: Number of clients per year



Source: CLSAC

Young people

According to the Legal Australia-Wide (LAW) Survey, the peak age at which Aboriginal and Torres Strait Islander people experience legal problems is 18-24, with a general decline in legal problems after that (Wei & McDonald, 2014).

CLSAC data shows the majority of their clients are aged 25-54, with a fairly even spread over that age group.

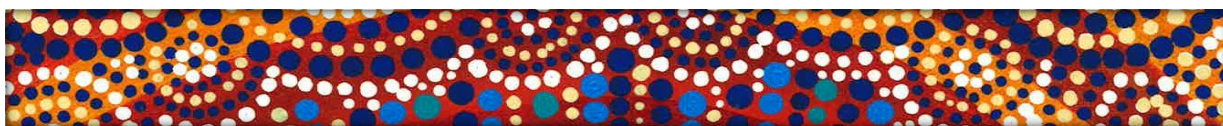
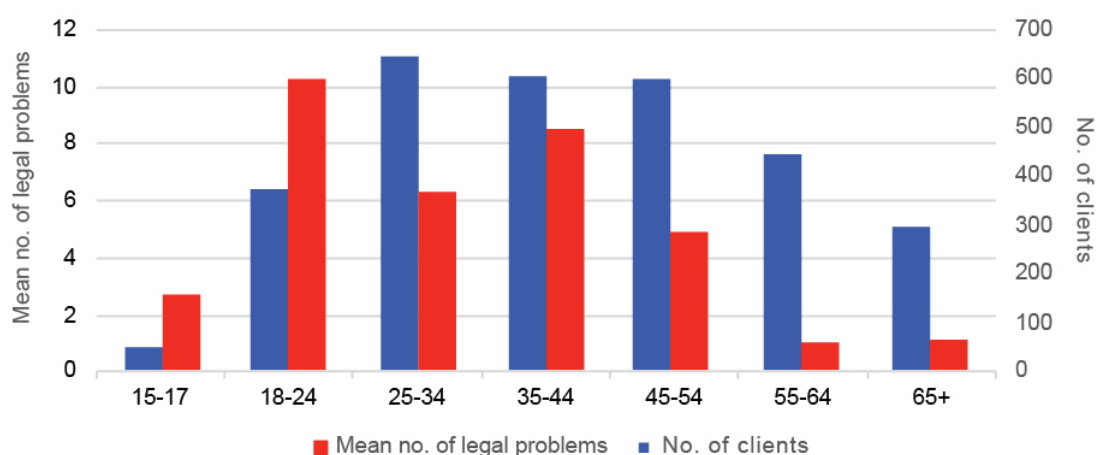


Figure 6: Number of legal problems v age of clients



Sources: Wei and McDonald (2014); CLSAC

It is possible, although not certain, that CLSAC is more effective at picking up potential clients in older age groups than in younger age groups.

It is beyond the scope of this evaluation to explore this possible disparity more thoroughly, and the reasons behind it. However, it is appropriate for CLSAC to inquire with Elders and community members whether it is reaching an appropriate number of young people.

Good outcomes for clients

Clients report financial benefits as a result of seeing CLSAC.

Among those who had debt reduced, waived or not pursued, the average benefit was \$5,250.

For those who obtained money, either through refund or as compensation, the average gain was \$5,818.

Overall, at the time of reporting, CLSAC had obtained benefits of \$1.792 million for its clients.

Clients also reported feeling better.

My debt's gone – it's a lot less stress, mate. (Client)

And generally, the outcomes were as good as or better than CLSAC staff expected. Figure 7 offers a sample of outcomes.

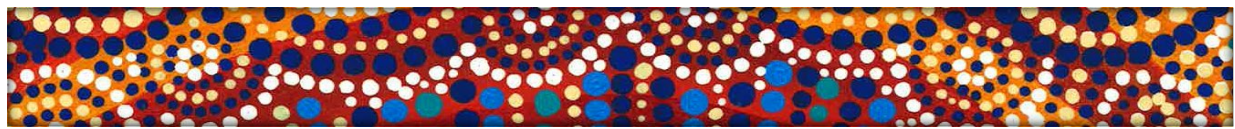
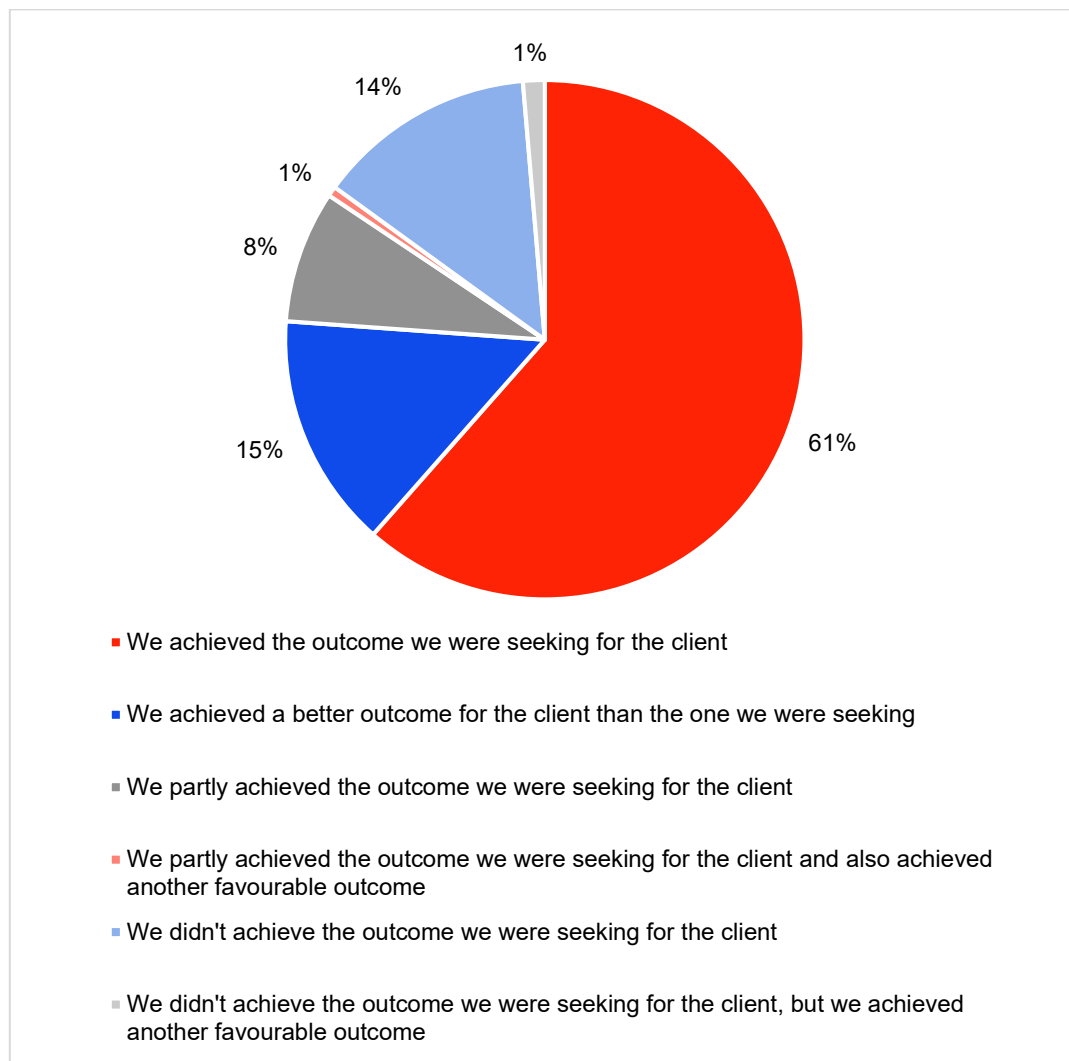


Figure 7: Outcomes from CLSAC's perspective



Source: CLSAC

Likely growth in legal capacity

The work of CLSAC appears to build legal capability, which addresses both the personal skills and knowledge of an individual, along with structural issues such as remoteness and the local service environment, through:

- encouraging clients to recognise that they have a legal problem
- encouraging clients to recognise that they have a legal right
- being available when there is a readiness to act.

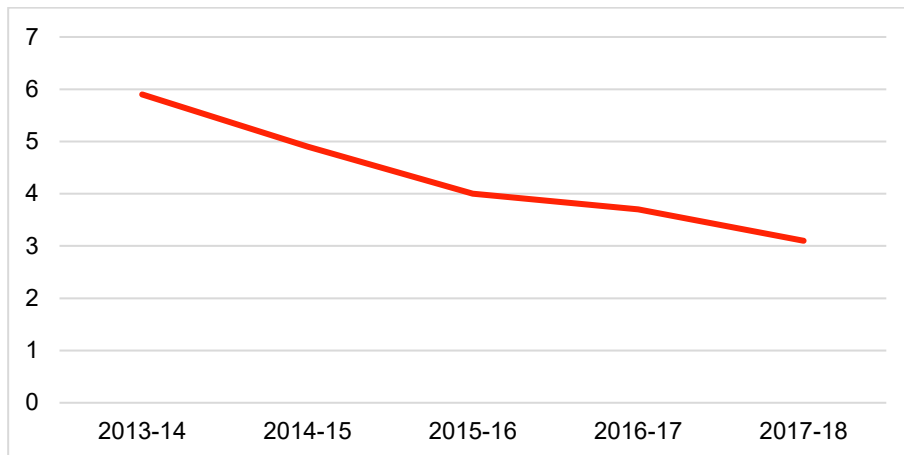
The evidence is three-fold:

- a decline in the number of services per client
- a decline in the time taken to seek help after the problem arises
- the views of community members.



The decline in the number of services per client (see Figure 8) suggests either that some of the previous unmet legal need is being met, or that clients are able to solve more legal problems without help than before, or both.

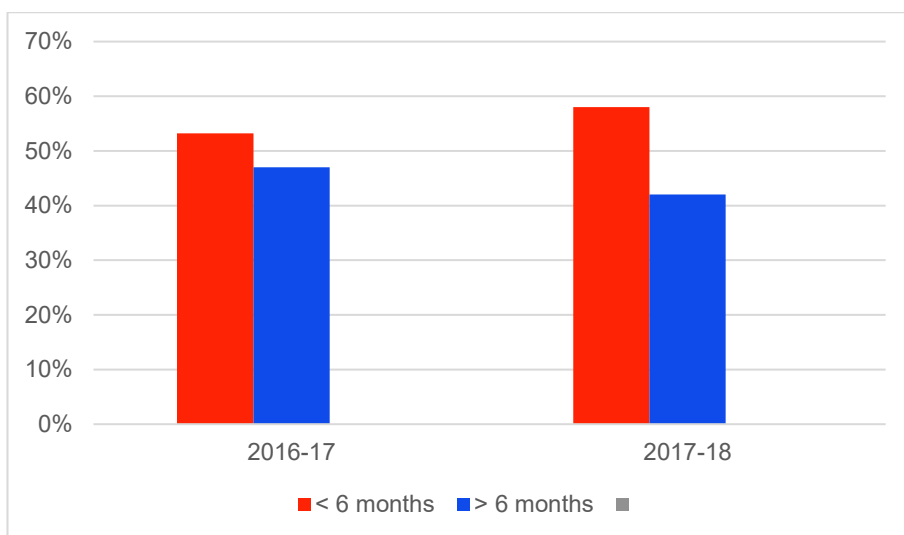
Figure 8: Number of services per client



Source: CLSAC

Over the past two years, the proportion of clients holding onto their problem for less than six months before seeking help has increased while those waiting longer than six months has decreased (see Figure 9). This suggests either that CLSAC is becoming better known, or better trusted, or that clients' legal capability is increasing.

Figure 9: Time taken to seek help



Source: CLSAC

Finally, we have the evidence of clients and CLSAC staff. For example:

We have clients who return ... and say 'my stuff's all fine, but I've told my brother he needs to talk to you about Centrelink, or his electricity, or something else'.

We have one young man who just keeps bringing friends and relatives along, all with different issues, and pushes them onto us. Empowerment not only means clients recognising recurring issues in their own lives and finding ways to deal with



them, but recognising issues in the rest of the community and directing them towards us, or towards other solutions. (CLSAC staff)*

Multi-level empowerment

The CLSAC data showed many ways and ‘levels’ that it works at to address civil law needs of Aboriginal and Torres Strait Islander people. This isn’t just about engaging with individuals, but also with communities and organisations, and at system levels. In some ways these multi-level actions were planned for, but were largely based on local need, opportunities, requests and significance including to other individuals, communities and services.

For individual clients, as indicated in sections above, issues addressed included identifying and understanding legal problems and rights, addressing debts, accessing benefits, reducing numbers of issues, reducing stress, inspiring hope, freedom and autonomy, and inspiring referrals to assist others.

For individual service users, but broader than just one-on-one consultations, CLSAC provides community legal education sessions, telephone services, outreach and follow-up, to ensure individuals are not left on their own, unsure of next steps or with unanswered questions. This multi-layering of services and follow up, as well as visibility in and contribution to the local community also works against the individualised ‘rescuing’ of more traditional social welfare models of service and is also more connected to local social realities than traditional legal practice (Haswell et al, 2014). The following quote indicates how the individual sense of empowerment can assist a person in making other community connections:

...they had been empowered to advocate for themselves. One of them was a housing issue – this person felt more comfortable liaising directly with Housing NSW, they had developed a relationship with their client service officer, they were able to put things in place to ensure they didn’t lose their tenancy. (CLSAC staff).

Through inter-organisational partnerships, CLSAC works across the legal assistance sector, financial counselling, Aboriginal and Torres Strait Islander services including land councils, health services and community hubs. These partnerships bring about community events, referral pathways, follow-up avenues and staff support.

Through community engagement, partnerships and relationships CLSAC also participates in, hosts and helps organise community events, advises on community issues, connects other people and role models this to clients. The following quote shows how community connections also assist individuals:

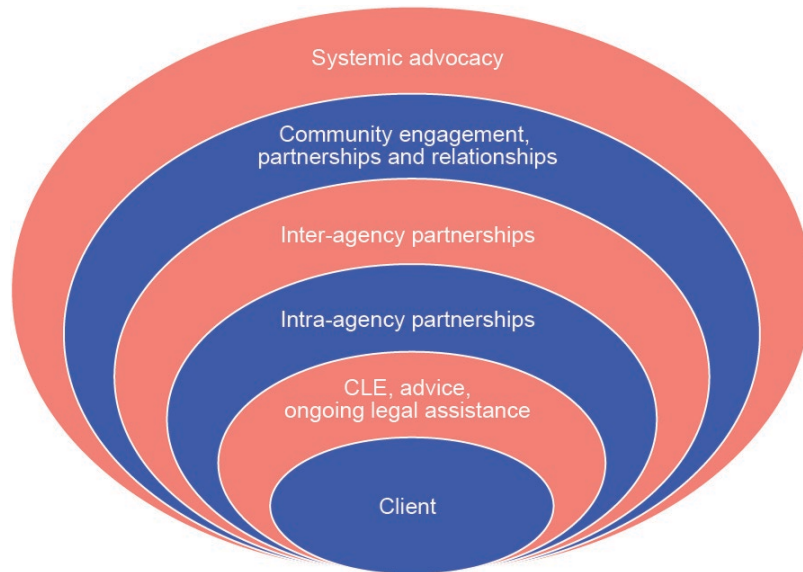
By having the connection we do with the communities, this empowers them in their own affairs. (CLSAC staff)

Systemic advocacy has also been reported on earlier, including through partnerships with national and state government agencies, appearances before commissions and committees, media engagements, complaints and submission writing. These all influence the context in which civil law services operate, how client-level issues are understood, and in turn influence access to justice for individuals.

Figure 10 below shows these multiple levels of empowerment.



Figure 10: Multiple levels of empowerment



Multi-level empowerment models are often clearly identified in Aboriginal and Torres Strait Islander health and wellbeing services, and are recognised as essential to good practice with Aboriginal and Torres Strait Islander peoples (Jackson Pulver, Williams, & Fitzpatrick, 2019). They recognise that change at one level is likely to also influence change at another, for the better or worse. They also denote that change at one level is required to also bring about change at another – that individuals do not exist in a vacuum, and that individual Aboriginal and Torres Strait Islander people's lives particularly have been highly influenced by factors outside their control and decisions made and cultures operating at the societal and system levels (Marmot, 2011).

A multi-level empowerment model reflects and helps activate the Aboriginal definition of health, which is holistic (National Aboriginal Health Strategy Working Party, 1989) and again indicates actions are required across sectors and levels of society in order to realise improvements, healing the past and planning for the future (Schultz et al, 2014).

Impact on Legal Aid NSW

According to interviews with CLSAC and some Legal Aid NSW and broader stakeholder staff, CLSAC has contributed to changes within Legal Aid NSW and in the ways other services work with Legal Aid NSW. While this was not a focus of evaluation questions, the following points highlight the benefits of CLSAC's processes and principles, such as:

- seeing Aboriginal and Torres Strait Islander clients as a priority
- the approach to setting up an outreach (longer and deeper consultation)
- the model of outreach (involving longer time periods and place-based and event-based outreach)
- focusing on a client group rather than a type of legal problem
- doing a legal health check-up and seeking to spot a client's legal problems, other than the one they sought help with
- looking at legal problems in their cultural and community context
- establishing an outcomes framework



- including a financial counsellor in the team
- establishing a telephone service
- using multiple strategies for follow-up, being conscious to reduce barriers to losing clients until matters are finalised
- addressing issues that disproportionately affect Aboriginal and Torres Strait Islander people, such as funeral insurance, consumer leases and Stolen Generations issues
- improving referrals and connections with a range of Aboriginal and Torres Strait Islander formal and informal supports and services in local areas, to share with others.

These points largely derive from culturally-relevant ways of working with Aboriginal and Torres Strait Islander peoples – which are generally more holistic, intergenerational, responsive to identifying and addressing social determinants of health and wellbeing, and engaging with families and communities (Haswell et al, 2013; Williams, 2018).



Critical success factors

Working more holistically acknowledges and takes some responsibility for the context in which individuals exist, and thus make decisions, experience legal risks and require support to resolve them.

As stated earlier, CLSAC operates a warm and compassionate legal service that attempts to meet the needs of its clients, within its resourcing constraints.

But CLSAC's ways of working are beyond that. Earlier, personal attributes of CLSAC staff were outlined; below is a list of critical success factors that include personal attributes as well as holistic strategies. Identification of these were prompted by use of the Ngaa-bi-nya framework, as well as data collection, and engagement with experts and advisors throughout the evaluation to understand program logic and influencing factors.

From this range of data, we have drawn out those elements without which CLSAC would not be successful. The primary factors critical to CLSAC's success are:

- cultural knowledge
- legal knowledge
- client focus
- deep engagement
- deep respect
- supportive service home.

These are supported by secondary factors critical to CLSAC's success:

- compassion
- trust
- relationships
- time
- flexibility
- support by staff
- support for staff.

These are depicted in Figure 11 below, and briefly explained after that.

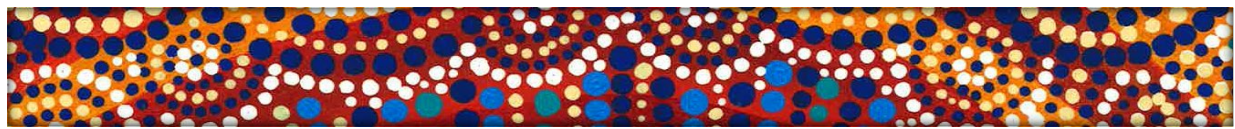
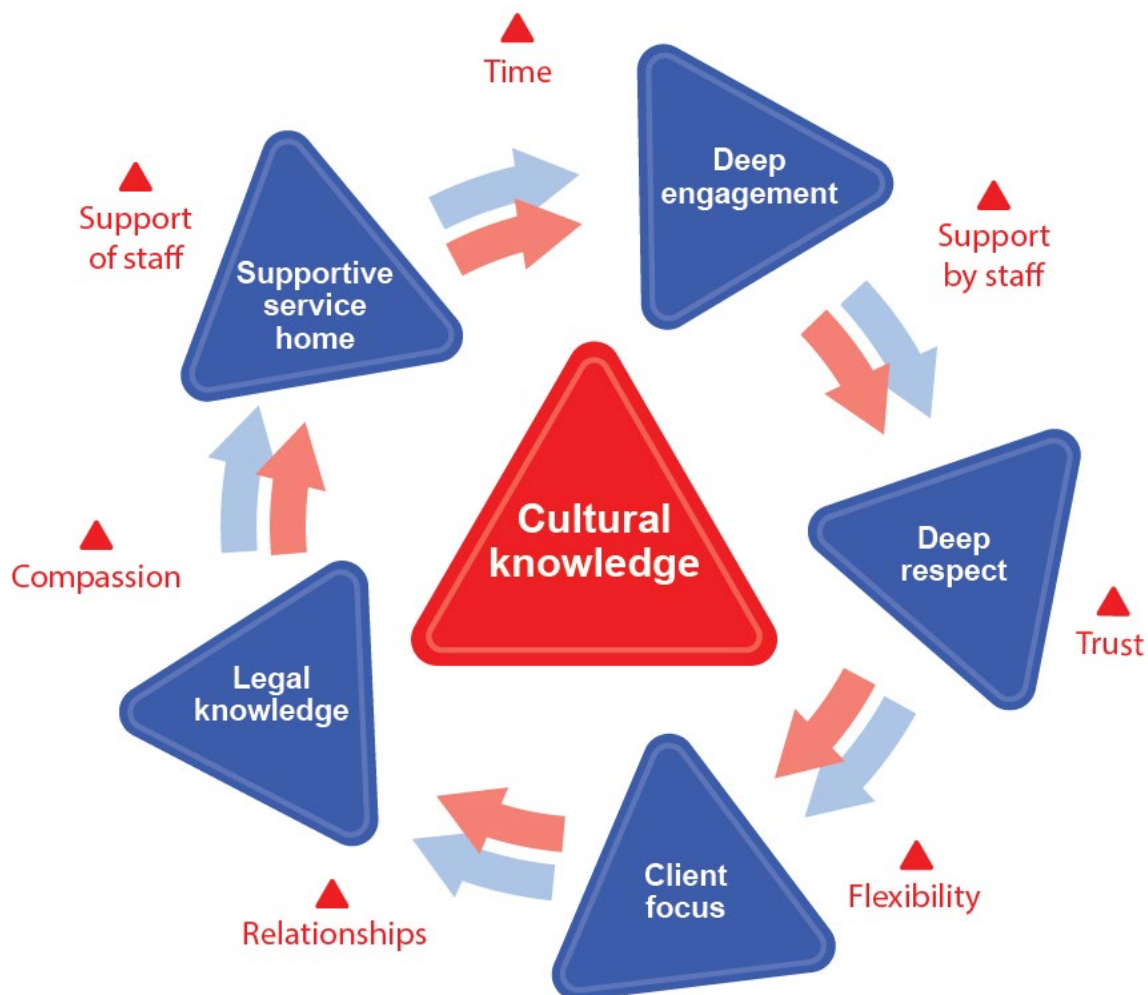


Figure 11: Critical success factors



Source: Williams & Ragg (2019)

Primary critical success factors

The primary critical success factors are indicated in Figure 11 as large triangles.

The **cultural knowledge** is embedded in Aboriginal and/or Torres Strait Islander staff's own identity, connections, locatedness in and experience of local histories and protocols, and motivation to convey that to CLSAC staff, assisting and enhancing their self-awareness, roles and boundaries, to deliver flexible services attuned to and accepted by communities in which the service is located.

The **legal knowledge** is essential to providing a legal service, supported by clarity of information and options conveyed by, to and with clients, prioritisation of needs and actions, follow-up and identification of future risks and strengths.

The **client focus** in practical terms means holding outreaches when and where it suits clients, in a way that suits them, and engaging respectfully about their lives to see how CLSAC can support and empower them.



The **deep engagement** is place-based and is with individuals, communities, community partners, with the client's life and circumstances, with the legal and other issues faced by the client, and with the structural issues that are part of the reasons those legal and other issues exist. Deep engagement only comes from commitment to this, and the other critical success factors.

Deep respect is evidenced by being informed about local history and cultural protocols, providing staff with access to and updates on cultural awareness training, local information and supporting partners to connect sensitively to Aboriginal and Torres Strait Islander individuals and communities, as well as understanding power dynamics and the right of clients to their own solutions.

Supportive service home means secure funding, organisational champions, working relationships with other divisions and teams, good governance, support in advocacy and lobbying about systemic issues and reform, and a fit with national and state policy. At a practical level we note that Legal Aid NSW leadership supports CLSAC to operate in a manner required by Aboriginal communities, recognises there is ongoing unmet legal need and understands that there are opportunities available to it to continue to grow.

Secondary critical success factors

The secondary critical success factors are indicated in Figure 11 as small triangles.

The **compassion** is for the clients, for the communities and for each other as staff working amid complexity, profound and entrenched poverty, exclusion of Aboriginal and Torres Strait Islander people from decision making, and multiple experiences of trauma. Compassion is evidenced by being human rights-informed with an ethical framework, being culturally reflexive, trauma-informed, non-judgemental and cognisant of complexity and compounding issues.

Trust, as witnessed in the following quote:

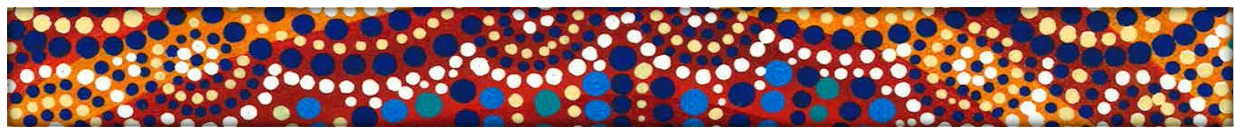
I have a client who I originally saw for help with a birth certificate. She's a young woman who has been in custody and she's had all her children removed, and she's told me a number of times that she doesn't trust lawyers because of what happened with her kids.

Since I helped her get her birth certificate, she now just drops in to the office, and she'll talk to me if she sees me down the street, and she'll talk to me if something comes up. She now goes out of her way to contact me and says: 'What do you think about this, can I do anything about this?' To me, being in the community is part of facilitating accessibility of the legal system, and breaking down barriers due to how people distrust lawyers and government services. (CLSAC staff)

The **relationships** with clients, communities and partners are fundamental to the trust that encourages clients to keep connected to CLSAC until their issues are resolved and even then come back, bring family and friends and promote the service via word-of-mouth. A client's trust in advisers is crucial to their disclosing or concealing information (Buck, Smith, Sidaway, & Scanlon, 2010).

Time is important – time to establish the right service in the right community, time to talk to clients and community members, time to act, time to wait, time to chase up.

Flexibility means the ability to offer different types of joined-up services in different communities, depending on the nature of the community, the legal need and the services available, and to hold outreaches when and where communities want them. Coumarelos et al (2012) says:



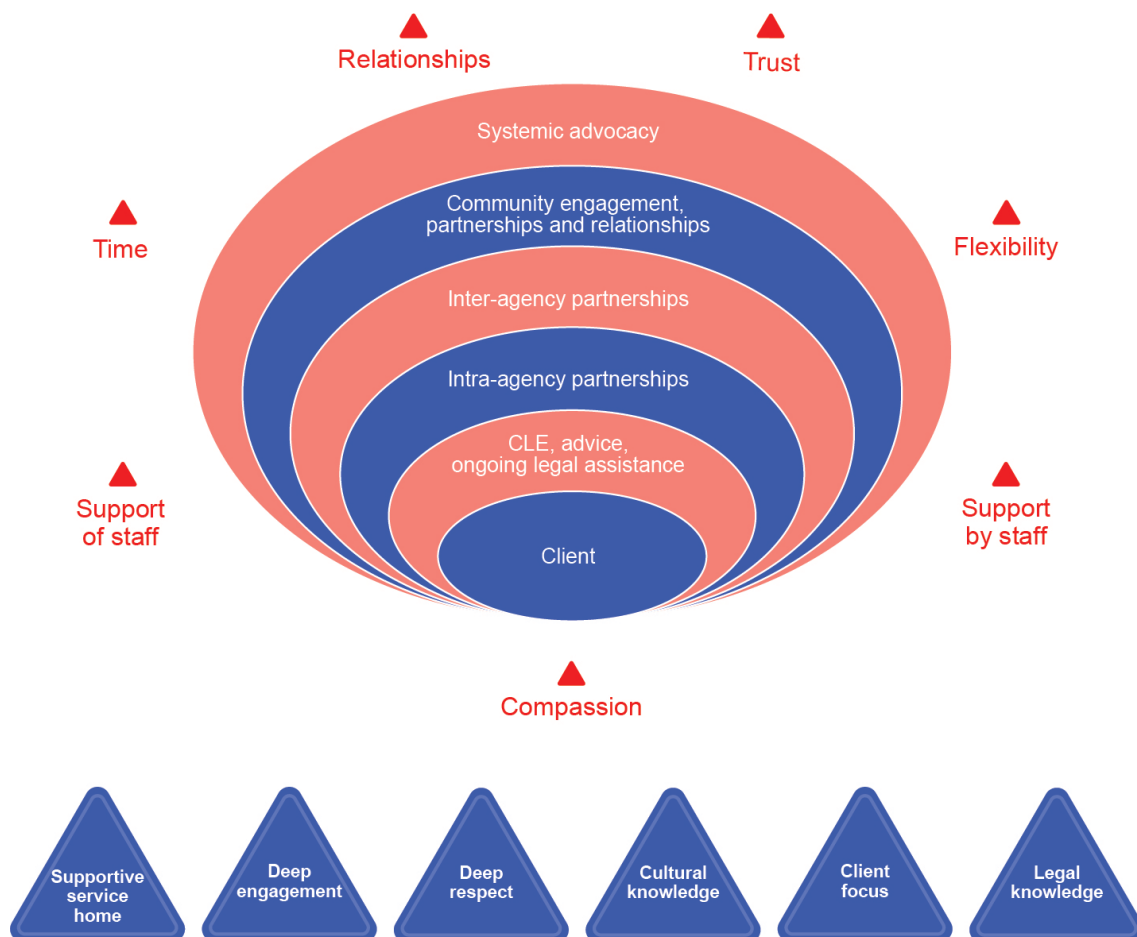
No single strategy will successfully achieve justice for all people. Rather, the approach to justice must be multifaceted and must integrate a raft of strategies to cater for different needs.

Support by staff means the willingness to learn, to give of themselves, not just their knowledge, and to be the one to take the extra step to make it happen. It also includes attention to record-keeping, team processes and to other team members.

Support for staff means mechanisms for regular communication, training, role-modelling, counselling and providing safe spaces to de-brief.

These critical success factors, combined with the multiple levels of engagement, are depicted together in Figure 12 below, as an overall CLSAC service model, informed by the multiple datasets of the evaluation.

Figure 12: Overall CLSAC service model



It is important that to maintain its success, CLSAC maintains a focus on the critical factors that contributed to that success.



CLSAC of the future

This section examines how CLSAC might operate in the future. It is based on the assumption that, given all the data presented, it will continue to be supported, and will be resourced to continue its growth.

Developing Aboriginal and Torres Strait Islander leadership

Aboriginal and Torres Strait Islander people have been described as a 'population in transition' from having been colonised only in the last few generations and not yet regaining population numbers. As a consequence, the Aboriginal and Torres Strait Islander population is very young, with only small but growing numbers of professionals in leadership positions across health, housing and justice sectors (Jackson Pulver et al, 2019).

CLSAC seeks to employ Aboriginal and Torres Strait Islander staff, with nine of the 20 staff identifying as Aboriginal and/or Torres Strait Islander. Employment of Indigenous staff is recognised in the literature as fundamental to Indigenous peoples' self-determination and empowerment (Marmot, 2011).

At the time of formally conducting the evaluation, none of the current senior solicitors in CLSAC leadership positions identified as Aboriginal and/or Torres Strait Islander, although since draft evaluation findings were presented, CLSAC advertised and appointed a senior solicitor to an Aboriginal and/or Torres Strait Islander-identified position.

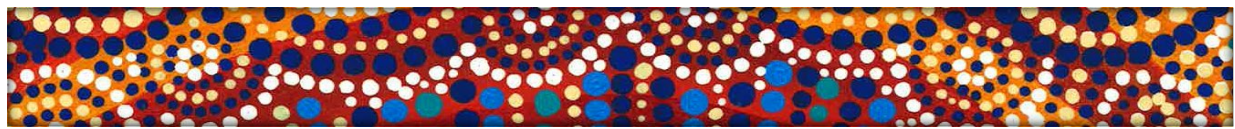
There was a strong sense from stakeholders, from other Legal Aid staff and from CLSAC staff, that CLSAC should have Aboriginal and Torres Strait Islander leadership. Participants held that this may contribute to deeper engagement with communities, deeper understanding of and respect for local cultural protocols, and would strengthen relationships with communities. The quotes below highlight the difference between operating a service 'for' Aboriginal and Torres Strait Islander people, or 'by' Aboriginal and Torres Strait Islander people:

There's tremendous value in having Aboriginal leadership, in it being led by a person who really has an understanding of the culture and needs of the community. If it's Aboriginal-led, then it's having Aboriginal people work with other Aboriginal people to decide what services are needed, and where, and how. That's self-determination. The engagement would be better, it would promote the service better, and they would understand the community dynamics more. (Community service provider)

The Civil Law Service for Aboriginal Communities should be led by Aboriginal staff. From conversations with colleagues ... there is still a feeling of privilege dictating what Aboriginal communities need, and how best they need it. I don't think anyone thinks it's coming from a bad place ... I think it's coming from a really good place ... but it's been the elephant in the room from the beginning that the senior positions are not held by Aboriginal staff members. (Service provider)*

These quotes provide insights into the value of Aboriginal staff leading the delivery of services for Aboriginal people. More broadly, they reflect that Aboriginal people identify with each other, with shared cultures, histories, positions in Australian society, and nuanced understandings of relational protocols (Jackson Pulver et al, 2019).

It is worth noting that in the legal assistance sector, some organisations have de-coupled the leadership of the organisation from the position of senior legal leadership. For example, Legal Aid NSW, the ALS and some community legal centres have Aboriginal



and/or Torres Strait Islander leadership, while the senior solicitor may or may not identify as Aboriginal and/or Torres Strait Islander.

CLSAC can continue its commitment to developing future Aboriginal and Torres Strait Islander leadership through junior legal officer roles, traineeships, staff support mechanisms and career pathways planning.

Service expansion

It is on the minds of all staff to whom we spoke that there are people living within communities that CLSAC serves that do not know of its existence, and that there are other communities in need that CLSAC does not go to. Despite CLSAC being well-known in some communities and well-used; overall there is the sense that many more people have civil law needs, and many more people could benefit from assistance identifying and resolving these. Further, CLSAC is not currently able to meet the demand for services for Aboriginal and Torres Strait Islander women in prison.

In its broad inquiry into the legal assistance sector, the Productivity Commission (2014, p. 2) said:

While there is some scope to improve the practices of legal assistance providers, this alone will not address the gap in services. More resources are required to better meet the legal needs of disadvantaged Australians.

Evaluation data collected indicated that expansion of CLSAC was required, and possible. This is a propitious time to plan the service of the future.

There are ongoing clear needs for dedicated civil law services for Aboriginal and Torres Strait Islander people and communities, because of the multiple disadvantages and gaps. There are also overwhelming demands for CLSAC financial counselling. There are also ongoing community development and community capacity building tasks, and deeper, more holistic client support to do.

CLSAC does not strategically or routinely access funding from potentially related sectors of Indigenous affairs, public health or community development, despite access to justice being a determinant of health and wellbeing at individual and community levels and if addressed may bring about access to further support such as for legal needs (Haswell et al, 2014). Further CLSAC's model of service in part reflects community development principles and strategies (Bennett et al, 2013) and relevant funding opportunities could be explored to support service expansion, in partnership with Aboriginal communities in NSW.

CLSAC could extend its marketing in an attempt to become known to all Aboriginal and Torres Strait Islander members of the communities it serves.

Currently, it is known by different names in different communities. It is also clear that, based on the marketing material viewed during the evaluation period, it promotes only some of the range of services it offers.

It would also benefit CLSAC, and avoid confusion among service providers and community members, to develop a consistent name for use across all communities and sectors, and its own visual identity with logo. Having a consolidated visual identity is common among Aboriginal and Torres Strait Islander services, programs and projects in other sectors such as health, family, child and youth services and local Aboriginal and Torres Strait Islander corporations. If developed for CLSAC and used for promotional materials and for social media, it is likely to promote greater recognition and information sharing (Hart, Greenfield, & Johnston, 2005). Aboriginal and Torres Strait Islander people are known as confident, fast uptakers and users of social media (Rice, Haynes, Royce, & Thompson, 2016), and many not-for-profits now have a strong presence on the internet, on social media and via



email networks to promote their services and advocate for social change, now frequently referred to as e-advocacy (Goldkind, 2014).

CLSAC could also advertise the range of services it provides. For example, at the time of review it did not promote that it dealt with matters relating to treatment by police.

What services to offer

As described earlier, CLSAC largely offers civil law services with the addition of a financial counsellor – this choice of services is driven by a combination of the service's beginnings and its clients' need. At times CLSAC works collaboratively with other teams within Legal Aid NSW, and other services.

While its services are appreciated, there is a clear sense among communities that it needs to expand its range of offerings.

A lot of people want info and help around child support and family matters, and child custody matters. I know they're only civil lawyers, but we need criminal advice on the ground as well, because the ALS has had to really cut back. There's people going to court regularly, and they don't have any face-to-face contact around criminal law. (Community leader)

And more bluntly:

If someone turns up to a civil law service and they desperately need a care and protection lawyer, and [they] can't provide one, [they've] failed that person. (Mainstream service provider)*

These views are supported by evidence that two-thirds of Aboriginal and Torres Strait Islander people who have multiple disadvantages have legal problems, and the average number of legal problems is six (Wei & McDonald, 2014).

To continue to operate along the lines of the professional boundaries between civil law, criminal law and family law challenges CLSAC's desire to be client-centred. It is beyond the scope of this evaluation to recommend exactly what the model should be, but it is clear that there is the need for a broader range of services, and that CLSAC can develop the capacity to deliver them.

That capacity can be broadened through:

- building on relationships with other divisions of Legal Aid NSW, as well as other legal services such as community legal centres and the ALS, to co-design services for and with communities; and/or
- building on relationships with non-legal services, whether in financial counselling, or in health and wellbeing, or in social work, to deliver services; and/or
- employing more staff.

Staff mix to support that service offering

If someone was trying to emulate this by trying to get a bunch of lawyers together to do legal work, that wouldn't be properly transposing what is working. [There's something about] ... knowing ways of connecting with community, knowing that if outreach numbers drop a bit, going out and connecting with key people, building up trust again if there was low engagement, knowing who to call to put on a community event that would go gangbusters. There are certain skills that are needed to support the lawyers that are integral. (CLSAC staff)*



At the moment, solicitors do legal work, service planning, community development, marketing and more. We note that their non-legal workload was heavier than usual at the time of the evaluation, due to an unfilled project officer position. While this range of work offers them to broaden their skills and experience, and allows solicitors to build excellent connections with clients and communities, a more balanced staff mix would have:

- direct client work led by solicitors and financial counsellors
- community liaison and marketing led by field officers or community liaison officers
- service planning and sector and stakeholder mapping and engagement by community development officers, to increase service reach and alignment with other services
- contributing to Cooperative Legal Service Delivery and regional and state planning and policy
- support to both provided by paralegals and project officers.

We witnessed CLSAC's financial counsellor providing support and practical advice on community outreach. Community members interviewed provided overwhelmingly positive feedback, commenting that they wanted more financial counselling to be offered, particularly by an Aboriginal and Torres Strait Islander financial counsellor.

Where to base staff

The CLSAC team is based in both Sydney and regional offices, with a weighting towards Sydney. Placement of CLSAC staff in regional Legal Aid offices has occurred and been successful.

Having a strong Sydney office offers a coordinating centre, with connection to the broader Legal Aid NSW environment, and centralised communication, recruitment and team-building processes. The Sydney office can take an overall statewide view to identify statewide compared to local or regional issues. This statewide perspective and Sydney location is important for systemic advocacy including through connections to other statewide or national services.

But being based in communities offers greater opportunities to know the communities and build trust, improving reach and engagement, and building on the strengths of existing Legal Aid NSW offices.

We heard evidence of such strengths of regional Legal Aid NSW offices having CLSAC, as well as difficulties faced, for example, when there is only one CLSAC staff member in a regional office.

The benefits of having more staff located where the clients and communities are in towns across NSW far outweigh the counter-arguments, while there is a strong argument for maintaining the Sydney office for coordination. Regional office location is instrumental to develop working relationships, identify community need and demand, and work in locally-relevant ways with communities, as well as be part of and shape the different regional office ways of working. Where CLSAC has a presence in a regional office, a solicitor should at the very least be supported by a field officer or community liaison officer.

Further evaluation

This CLSAC evaluation was size- and time-limited, to identify and assess the impact and value of the service to Aboriginal and Torres Strait Islander clients and communities, as well as describe the unique way it is delivered. Use of the Ngaa-bi-nya evaluation



framework (Williams, 2018) provided useful prompts to stimulate a range of data collection to ensure information of value to Aboriginal and Torres Strait Islander people was gathered as much as possible. Regular data collection occurring by CLSAC is valuable and important to continue, along with further evaluation, and translation of findings to others in the legal assistance sector and addressing justice as a determinant of health and wellbeing.

Translation activities

This evaluation did not set out to compare CLSAC service delivery with that of other parts of Legal Aid NSW, nor with services offered by Aboriginal and Torres Strait Islander legal services, nor with community legal services.

However it is possible that the way in which it provides legal services to Aboriginal communities and clients, while being part of a mainstream organisation, will be of interest to others.

Legal Aid NSW and other legal aid commissions will be able to consider whether any of these learnings are appropriate for translation into their services.

And into the future

The CLSAC model of service has been identified in this report. CLSAC can be considered an exemplar of how a mainstream service works with Aboriginal and Torres Strait Islander people and communities.

CLSAC critical success factors are worthy of further investment in by Legal Aid NSW, and worth emulating by other mainstream services. The primary factors critical to CLSAC's success are:

- cultural knowledge
- legal knowledge
- client focus
- deep engagement
- deep respect
- supportive service home.

These are supported by secondary factors critical to CLSAC's success:

- compassion
- trust
- relationships
- time
- flexibility
- support by staff
- support for staff.

CLSAC, as an example of a successful mainstream service, is not to be positioned in competition with Aboriginal and Torres Strait Islander community-controlled legal services. In respect of the ongoing reality and extent of unmet legal need, a range of services are required and greater resourcing of these are required. A greater overall number of services and staff are required to reach the diverse and often very remote locations Aboriginal and Torres Strait Islander people are in, and to work across the multiple domains of life that



affect Aboriginal and Torres Strait Islander people, recognising access to justice as a determinant of health, wellbeing and socio-economic status across generations.

At all times Aboriginal and Torres Strait Islander people have the right, and must in practical terms, be in control of service planning, implementation and evaluation of services that affect their lives (UN, 2007).

In this sense, the learnings from this CLSAC evaluation must be shared with Aboriginal and Torres Strait Islander communities and their organisations, for their benefit and to inform partnerships with Legal Aid services.

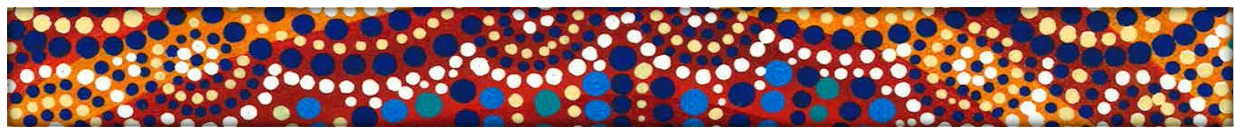
As CLSAC develops, it must take action to upskill the younger generations of Aboriginal and Torres Strait Islander people in communities about civil law and how CLSAC operates, to ensure it continues beyond personal relationships, and to reach more people.

As long as we're accepted by the communities when we go out there, we'll keep going. (CLSAC staff)

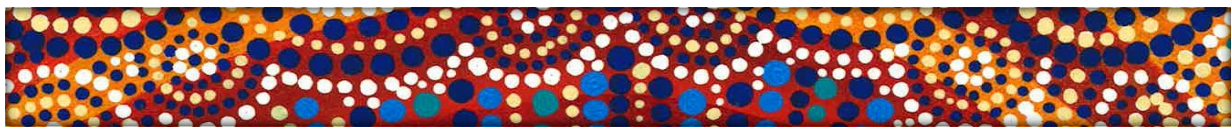


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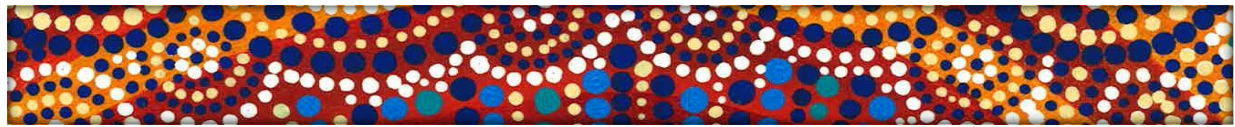
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