**Mixed Service Model Position statement**

## Purpose

The effective provision of legal assistance requires insightful, imaginative policy making, and an ability to mobilise resources and engage the commitment of the many people and organisations in Victoria who want to improve access to justice. Despite an almost constantly constrained funding environment, the development of legal aid in Victoria has been driven by a growing understanding of legal need and its causes, creative policy experimentation, and the combined efforts of government, private lawyers and community-based organisations.

We have produced this position statement to articulate the strengths of the mixed service model that has evolved to deliver services to Victorians in legal need, and to identify key success factors and challenges for the future. We are facing increasing demand in an environment of potential funding scarcity as a result of COVID-19-driven pressure on public sector budgets. These pressures, our responsibility for coordinating legal assistance, and our desire to constantly improve services to those in need are the genesis of this position statement. We will use this position statement to guide future decisions about how VLA, in collaboration with our partners and stakeholders, shapes the mixed service model to respond to current and future challenges.

## Context

Victoria Legal Aid (VLA) delivers, and co-ordinates the delivery of, a wide range of legal information, advice and assistance services to the Victorian community, focusing on those people who are most disadvantaged and in need. Under the *Legal Aid Act 1978* (Vic), we coordinate the provision of these services by paying private solicitors and barristers, administering funding to community legal centres, and delivering services through our own staff practice. This is the ‘mixed service model’ for legal assistance services.

The private legal profession has always offered some services to people who are vulnerable and disadvantaged. Over the past 50 years, its members have been joined in their efforts by CLCs and VLA. During that time, our collective understanding has grown about the many different ways that disadvantage affects people, how they respond to their circumstances, and how they engage with the justice system.

VLA’s services have consequently grown to embrace the many different types of need, so that we are now responsible for providing information for community members, and the service agencies that assist them (such as community health and welfare services), as well as providing advice and representation in criminal, family and civil law matters. Services provided by CLCs and private lawyers have also developed to match client needs and have adjusted to the changing justice environment.

Depending on the type of matter and a client’s circumstances, we might provide or fund duty lawyer assistance at court, initial advice and minor work, or full representation in court proceedings. If we identify a problem that has widespread consequences for many people, such as the Robodebt recovery policy, we will launch strategic litigation that can improve outcomes for many people, not only for a particular client.

The Victorian and Commonwealth governments channel most of their funding for legal aid through VLA and they expect us to deliver effective outcomes for our clients as efficiently as possible.

Changes to the *Legal Aid Act 1978* (Vic) in 2018 gave us more responsibility for planning and coordinating legal assistance, apart from the services provided by Aboriginal organisations such as the Victorian Aboriginal Legal Service and Djirra. The right to self-determination is fundamental for Aboriginal organisations that are making decisions affecting their clients. We fully support that right and the right to have services delivered in places of cultural safety. We also welcome the opportunity to support and work in partnership with Aboriginal services when we have common goals.

Our Strategy 22 policy sets out our priorities – listening to our clients and meeting their diverse needs; making sure our services have impact through evidence and feedback-informed design; and building trust and deepening relationships with colleagues, partners and the community. Our Client First strategy elaborates on how we prioritise our clients’ needs, both as individuals and as members of diverse communities. This Mixed Service Model Position statement explains the strengths of multi-provider delivery systems, and how we will strengthen our relationships with our service partners.

## Benefits of the mixed service model

As legal assistance services have expanded to reflect new needs and evolving understandings of how the justice system works, new possibilities have become available about how different types of service providers could respond to those needs.

### Private practitioners

Private practitioners and barristers deliver much of the legally aided casework services, especially in criminal and family law. In 2018-19, 73 percent of criminal law grants and 85 percent of family, youth and children’s grants were allocated to private practitioners.

Private practitioners bring specialist legal expertise to their cases. Their large share of legally aided cases means that they play an essential role in the smooth operation of the court system, especially in the criminal justice sector.

### In-house services

VLA operates one of the largest legal practices in Victoria. Our lawyers provide advice and duty lawyer services, as well as representation in criminal, family and civil matters. Our civil lawyers handle the bulk of our civil matters and run strategic litigation cases. In-house lawyers build up particular specialties, such as family violence cases and matters under the *Crimes (Mental Impairment) Act 1998* (Vic) and are skilled at assisting clients with complex needs*.* The proportion of work undertaken in criminal and family law generates a critical mass of knowledge and experience in those areas that benefit the whole organisation.

VLA Chambers is our in-house group of specialist barristers, predominantly undertaking criminal defence work, who represent clients and provide in-house advice to our solicitors.

We also use our in-house lawyers and other staff to design and operate our information, call taking and triage services. VLA is a well-known agency and is often the first port of call for people seeking legal help. Our Legal Help website receives almost three million visits annually and we are investing heavily in our digital strategy to make our online services as accessible and efficient as possible. Our Community Legal Education program develops high quality information for use by community members and those who are already in the system.

VLA’s Assignments and corporate services ensure that our services are delivered as effectively and efficiently as possible, and support our relationships with our partners and stakeholders.

### Community legal centres

Community legal centres (CLCs) have developed to meet the needs of their local communities and cohorts of people who experience particular disadvantage or need specialist advice, such as in mental health, consumer credit and youth law. They are a vital part of the legal assistance sector, providing advice, information and referral services, and community education. They are also a source of new and innovative models of service delivery, such as their early investigation and adoption of the health-justice partnerships model, which has now been widely replicated.

The tripartite nature of the mixed service model gives Victoria’s legal aid system many strengths, including:

* a comprehensive service structure across Victoria, with a capacity to identify and rectify gaps in provision,
* a capacity to deliver the most effective service to different types of client through specialisation of skills, experience and knowledge,
* clients are able to choose their provider, and alternative providers are available if there is a conflict of interest,
* adaptability of services to meet emerging demands, sometimes at short notice, such as the rapid change to online operations during the COVID-19 crisis,
* a resilient system that is not completely reliant on one type of provider,
* innovation, generated by different providers’ business needs and their commitment to reform and improvement,
* system feedback loops through different types of providers, and
* broad stakeholder support for legal assistance generated through each provider’s networks.

## Challenges for the mixed service model

The diverse nature of the mixed service model provides broad coverage, flexibility and resilience, but also presents challenges for the effective and efficient operation of the system. Key success factors for the model include:

### Clear strategy and purpose

We work with our service partners to plan and co-ordinate the work needed to achieve our common goals and to meet the expectations of our stakeholders. Our service partners necessarily have their own goals and agendas, not all of which are relevant to VLA or support its program. We work with our service partners to generate a common understanding of the priorities for delivering services and the goals that we all aspire to, while also respecting the independence and variable agendas of each system participant. Strategy 22 articulates our core vision and was developed in collaboration with our partners. We will continue to develop new policies, such as this document, to provide greater transparency and understanding for our partners and stakeholders.

### Trust and collaboration

Collaboration between participants in the mixed model is critical to achieving a common vision for the legal assistance sector. We recognise that to the extent that service providers are dependent on VLA for some of their funding, either through casework or block grants, it is important that communication about decisions must be clear, consistent and timely. Consistent standards must be applied across the system, and changes must be developed in consultation with partners wherever possible.

System governance arrangements should be established to foster regular communication. The establishment of the Collaborative Planning Committee in 2018 was a key milestone in our relations with partners and stakeholders.

Trust can also be built by sharing resources and mutual support, such as making professional development programs available to partners, and smoothing shared operational processes, such as the grants administration process.

### Sustainability

As coordinator and primary funder of the mixed service model, VLA has a special responsibility to enable its partners to maintain their participation in the legal assistance sector. The responsibility is not to guarantee the continuing viability of each individual provider, but to create the conditions within which private practitioners and CLCs can deliver effective services for those in legal need.

Fee and grant levels should be set to allow our partners to continue to deliver services to agreed targets and standards. Many private practitioners have commented on the difficulty of earning a reasonable living from legal aid fees and have chosen not to continue accepting such work. We will seek to understand the extent of the recent decline in participation by private lawyers, the reasons for it and whether the quality of funded services is declining if experienced solicitors and barristers are leaving the field.

We also know that the prolonged deferral and adjournment of matters (including criminal trials) due to the COVID-19 pandemic is having a detrimental impact on our private practitioner partners. The pandemic is also leading to significant changes in the way that courts manage matters, some of which are likely to continue once restrictions are lifted. In particular, courts are more actively case managing matters, and expecting practitioners to progress matters more outside the courtroom. This has implications for the way matters are referred to private practitioners and the fees that are available.

Innovation is a key requirement for sustainability, and we will encourage new ideas and investigate new service delivery options with our partners, including alternative funding arrangements to ensure that our fee structure is fit for purpose.

### Data and Technology

The availability of flexible and responsive online technologies and good quality data is essential for improving our client services and our relations with our partners, and for discharging our planning and coordination responsibilities.

Data provide the evidence for discussion and decision-making within and between system partners. The most recent National Legal Assistance Partnership agreement recognises the importance of good quality data and has a strong emphasis on improving current systems of collection and reporting.

VLA’s Digital First and Data strategies are driving many improvements to our systems and data collection and analysis. Implementation of the strategies will provide the foundation for many of the other improvements that are sought for the system. Other justice system entities, such as the courts and Victoria Police, and our service partners, especially in the community sector, also recognise the importance of effective information systems and accurate data and are working to improve their technology platforms, and data collection and analysis strategies.

We are also sponsoring work being undertaken by the Victoria Law Foundation to investigate legal need and the ways in which people understand their legal problems. This valuable research will provide new data to help us and our partners to target those people and areas most in need and to inform the development of their client strategies.

## Priorities and next steps

In seeking to improve the effectiveness of our mixed service model, we will prioritise the following initiatives:

### Building trust and collaboration

The strength of our mixed model services is dependent on the strength of our relationships with partners and stakeholders. Strategy 22 has identified this as a key priority for VLA and we have formulated strategies to work towards this goal. We will build on these strategies and the establishment of the Collaborative Planning Committee to strengthen our partnership arrangements, including seeking out opportunities for informal networking and knowledge sharing. We will work with our partners in each of our practice domains to identify possible reform and improvement projects that we can work on together.

### Harnessing data and technology

The mixed service model has evolved in piecemeal fashion over the past 40 years. The need for better data and practice insights about client need and the response of the legal assistance sector to such need is essential for maximising the benefits our clients receive from our limited resources, and as we enter an era of enhanced service coordination. It also improves our ability to accurately measure ours and the system’s performance.

We will continue to roll out our Digital Legal Aid and data strategies to build our data capability so that we can make the best possible decisions about the allocation of resources and the funding of new initiatives. We will continue to work with our partners and stakeholders to promote the sharing of data and information and the co-ordination of data collection approaches and methodologies.

We will generate better experiences for our clients and partners in their dealings with us by strengthening our use of technology. By improving our client support systems, we will provide better information and support to our clients, and better referral pathways. We are also building a partner portal for private lawyers and CLCs to support our service partners, including through the provision of practice resources and training and development opportunities. We will be developing a better conversation across the sector about the potential of technology to improve services for our clients and collaboration across the sector.

**Sustainability**

We are committed to assisting the mixed model to adapt to new ways of working during the COVID-19 recovery phase. This includes providing referral and allocation methods to private firms and CLCs that reflect changes to court practice, and setting appropriate fees to reflect changes to the way that services are provided. This will require additional funding in some cases.

The challenges of sustaining service provision are particularly acute in regional Victoria, where there is often a shortage of private lawyers able or willing to undertake legal assistance work. Our Regional Services Model project will be used as a template for developing our mixed service model approach. We will collect and analyse data about our regional clients’ needs and the current availability of services, and develop responses that are innovative, effective and efficient. We will do this in collaboration with our partners and stakeholders, and the assistance of the Collaborative Planning Committee.