# Quality and Risk Management

# Policy discussion paper

**August 2019**

This paper provides context and proposals to inform discussions and input from the Community Legal Services Program Reform (CLSP) Project – Quality and Risk Management Working Group, the Federation of Community Legal Centres (the Federation), Djirra and Victorian Aboriginal Legal Service (VALS), relevant parts of Victoria Legal Aid (VLA), and other key stakeholders, including the Victorian Department of Justice and Community Safety (DJCS).

The overall aim is to create a more modern and effective CLSP where there is consistent, sector wide quality assurance, risk management and good governance. In phase one of this project, VLA received considerable feedback that this structural uplift is required.

The impact of these reforms will ensure quality improvements at the program and service levels – resulting in higher levels of public confidence in the program, and more clients receiving the right services, in the right place, at the right time.

Consistent with feedback from CLCs, it is proposed that these reforms will complement and not duplicate existing quality and risk management frameworks. These frameworks include, but are not limited to:

* The [National Partnership Agreement on Legal Assistance Services (NPALAS)](https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Pages/National-Partnership-Agreement-on-Legal-Assistance-Services.aspx)
* National Association of Community Legal Centres (NACLC) [National Accreditation Scheme (NAS)](http://www.naclc.org.au/cb_pages/accreditation_spp.php)
* NACLC [National Professional Indemnity Insurance Scheme](http://www.naclc.org.au/cb_pages/insurances.php) (PII scheme)
* Relevant Victorian Legal Services Board and Commission (VLSB) policies,
* Those implemented by specialist Aboriginal legal services, Djirra and Victorian Aboriginal Legal Services (VALS), and
* VLA’s internal quality and risk frameworks.

We are conscious that in the course of identifying and proposing improvements, capacity building opportunities will also emerge. While these will ultimately be addressed through workforce development under phase three of the project, their interdependency with quality and risk management considerations remain clearly in view during this stage.

**Key Stakeholders**

Key stakeholders external to VLA that are important to the delivery of these reforms include: CLCs via Working Groups and the Federation, Djirra and VALS, the DJCS, Victorian Attorney General, other funders (including CLSP State Program Managers and other CLC funding programs), and the general public (via VLA’s website).

In VLA, stakeholders including Internal Legal Services, the Quality Audit team and VLA practice areas, the Project Governance Group, and the VLA Board.

### Timeframe

Several reforms will be implemented on 1 July 2020, while some reforms will require more time and effort. These reforms will be carried forward to the CLSP Reform Project Phase three (2020-21) and (2021-22). Other improvements will be ongoing and regularly reviewed as part of continuous quality improvement.

# Background and context

Under VLA’s Community Legal Services Funding Program (CLSP), VLA administers funding to 34 Victorian CLCs and the Federation. The funding framework has not been substantially changed since its inception in 1996.

In 2017, we initiated a review of the CLSP, to ensure that it aligns with current expectations regarding the planning and delivery of legal services and accountability for expenditure of public funds. In our consultation with CLCs it has been clarified that a modernised, fit for purpose and more open funding program is required.

### Collaborative change - what has been achieved so far

CLSP Reform Phase One, resulted in a [report](http://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-community-legal-services-program-reform-project-phase-one-final-report.pdf) (released in October 2018) that outlined [46 agreed actions](https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-clsp-reform-project-consolidated-table-of-actions-10-04-2019.docx).

Implementation of these agreed actions will help us to develop a more streamlined, transparent and accountable funding framework that meets the expectations set out in both the [*National Partnership Agreement on Legal Assistance Services* (NPALAS)](https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Pages/National-Partnership-Agreement-on-Legal-Assistance-Services.aspx) and the [Victorian Access to Justice Review](https://engage.vic.gov.au/accesstojustice) Report 2016. They will:

* provide greater transparency and certainty around funding decisions
* reduce the administrative burden on CLCs, and make reporting and compliance easier
* ensure self-determination of Aboriginal legal services is respected in any changes
* foster a focus on monitoring and reporting on outcomes
* foster a focus on quality performance standards and processes, and
* use technology to share information and resources with CLCs.

CLCs and VLA agree that these reforms are necessary and should be underpinned by transparent policies and procedures.

## CLSP reform, Phase 2 implementation

Phase two involves two stages of work.

Stage 1, during 2018-19: to deliver ‘quick win’ variations to the current Service Agreements and minor improvements to reporting documentation and templates. These changes are currently being tested by VLA and CLCs.

Stage 2, during 2019-20: to improve service standards and quality, risk management and good governance through a clearer identification or articulation of governing policies and procedures.

Changes to how funding is allocated is outside the scope of this Phase of work.

## Proposed changes for strengthening the CLSP

The next section of this paper is intended to inspire ideas and discussion for key stakeholders to consider the proposed changes to the current program. We expect this paper will generate positive reflections and views from the CLC sector.

To help scope the wide-ranging changes to deliver on the actions committed to in Phase One, we have clustered the work into four streams:

1. Funding – transparency, certainty and VLA’s role as a funder
2. VLA supporting Aboriginal self-determination and culturally safe services
3. Improved administration of funding
4. Capacity building and technology

The proposals below reflect input already received from stakeholders in Phase One. Where actions require more time and effort (and are therefore not delivered in full or out of scope for Phase Two) this is noted.

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# 1. Funding – transparency, certainty and VLA’s role as a funder

## a. General Principles

Under Strategy 22 VLA is committed to leading and acting in ways that build trust and deepen relationships with colleagues, partners and the community. VLA recognises the important role of CLCs in the mixed model of legal assistance service delivery in Victoria.

The CLSP Reform Project Phase One Final Report included several actions that can be characterised as guiding principles:

Action 1: As a major funder of CLCs, with a commitment to increasing the size of the CLC sector, VLA will take up a stronger and more decisive role in relation to funding decisions and ongoing monitoring of funded services.

Action 5: VLA will continue to support CLCs to operate using a mixed service approach, including by encouraging CLCs to advocate on behalf of their clients and communities. This will be noted in the new Agreement.

Action 13: VLA will not seek to inhibit early intervention or systemic advocacy activities in CLCs.

Action 44: VLA will consider its role as system coordinator and will support CLCs to continue to have direct relationships with multiple funders and different areas of government, as appropriate.

Each of these commitments are delivered via the proposed changes outlined in the following sections, particularly via new funding guidelines and a new CLSP Service Agreement. Additional supporting measures are outlined under each proposed change.

## b. Targeted funding – service quality and meeting legal need

**Proposed Change 1**

VLA will develop new funding guidelines for approval by the VLA Board:

* These guidelines will be fit for purpose, fair and transparent, and aligned to the NPALAS and the Access to Justice Review recommendations.
* The guidelines will articulate VLA’s commitment to support CLCs to operate using a mixed service approach including early intervention and systemic advocacy activities.

**Interdependencies and / or supporting measures**

* A supporting policy and procedure will be developed in relation to the administration of funding allocations to promote consistency of practice. This public policy and procedure will inform the development of new Expression of Interest / Application forms and processes.
* VLA will carry forward *Clause 3.1.6* from the current Service Agreement to the new Service Agreement. This clause outlines VLA’s commitment to support CLCs to operate using a mixed service approach.

**Rationale**

Current practice

* The *Guiding Principles for CLC Funding Decisions* (attached and the end of this document)were approved by the VLA Board in 2012and is the currentframework for new funding allocations. For example, the principles were referenced in the administration of the CLC Innovation and Transformation Fund and for several other strategic grants.
* These principles have not been reviewed since 2012, and they have not been used to decide funding amounts and recipients of current ‘core’ CLSP funding.
* A strength of the community legal assistance sector is the commitment to a ‘mixed service approach’. This is a model that involves the provision of a combination of services (including, but not limited to) early intervention, information, advice, casework, strategic casework and litigation, court based advocacy and duty lawyer services, community legal education, campaigning and social change work, and policy and law reform activities.
* Arising from CLSP Reform Phase One consultations, a new *Clause: 3.1.6* was inserted in the CLSP Service Agreement via the 2019-20 Deed of Variation. This clause confirmed VLA’s support for CLCs to operate using a mixed service model.

Challenges with current practice

* The principles were drafted at a time when VLA was signalling changes in the CLSP and they have not been reviewed or updated since.
* Whilst the principles have been referenced by VLA in relation to the administration of some strategic grants, they are not used consistently and do not fully inform current decisions in relation to CLSP core funding.
* The principles are not publicly available on VLA’s website.
* There is a lack of detail and guidance in relation to needs planning, size and scale of CLCs, efficient service delivery models and client centred approaches.
* The principles are not weighted and/or measured.
* There is insufficient detail about what is required as a baseline for an organisation to be eligible for CLSP funding, and the current guidelines relate exclusively to currently funded services.
* The guidelines do not reference the NPALAS, the Access to Justice Review or VLA’s expectations as defined in the new CLSP Service Agreement, Deed of Variation 2019-20 or likely changes to the new Agreement from 1 July 2020.
* In the interests of achieving better consistency, transparency and fairness in the program (and funding decisions) CLCs (CLSP funded and unfunded) have requested that VLA be more explicit and transparent about the eligibility criteria for CLSP funding.
* The Principles do not account for the range of funding streams that VLA may be required to manage in its enhanced role under the Access to Justice reforms.
* CLCs have been urging VLA to develop fair and transparent guidelines and policies and procedures for administering funding. VLA agrees that this is necessary.
* Several CLCs have limited their service delivery to the provision of information and advice services only. This can result in vulnerable clients needing to engage with multiple services to achieve a satisfactory resolution of their legal problem. This approach can impede access to justice and may have the unintended consequence of deskilling of lawyers, who do not have the opportunity to undertake casework and litigation.

**Actions acquitted by this change**

Action 1: As a major funder of CLCs, with a commitment to increasing the size of the CLC sector, VLA will take up a stronger and more decisive role in relation to funding decisions and ongoing monitoring of funded services.

Action 2:VLA will allocate all future funding to services that can demonstrate capacity and capability to address legal need through providing a range of high-quality legal services.

Action 3:Develop more transparent criteria and eligibility for funding which is targeted to address legal need.

Action 5: VLA will continue to support CLCs to operate using a mixed service approach, including by encouraging CLCs to advocate on behalf of their clients and communities. This will be noted in the new Agreement.

Action 12:Set clear funding guidelines that avoid over-prescription of CLC activities and remain relatively stable over time.

Action 13: VLA will not seek to inhibit early intervention or systemic advocacy activities in CLCs.

Action 22:ensure the reporting mechanism and associated accountability has a stronger focus on appropriate identification of legal need, services designed to meet that need and assessment of outcomes and impact.

**Deliverables and timeframe**

* Funding Guidelines and a supporting policy and procedure by March 2020.
* New Service Agreement by March 2020.

**Proposed Change 2**

National Accreditation Scheme (NAS) will continue to be a condition of CLSP funding via a requirement in the Service Agreement. VLA sees benefit in strengthening the provisions relating to NAS by:

* Including a requirement in the Agreement that Centres will provide VLA with a summary of NAS and PII reports and quality improvement plans. The content of the report will be decided in consultation with the sector.
* Establishing a requirement (via the Service Agreement) that the Federation will notify VLA about any ‘significant’ performance concerns at a centre. The nature and seriousness of these concerns will be decided in consultation with the sector.
* Introducing additional minimum attributes, competencies and standards where the desk top review identifies gaps (see interdependencies and/or supporting measures below) or if VLA cannot access NAS and PII Scheme information.
* Focusing this stage of reform on working with Djirra and VALS on the development of standards for the new Agreement that respond to *Actions 15 & 46.*

**Interdependencies and/or supporting measures**

* VLA will work with the Federation to secure access to the NAS framework and PII scheme.
* VLA will conduct a desk top review of the NAS (and quality frameworks used by similar funding programs) alongside CLC best practice, VLSB policies and VLA legal practice requirements, and the effectiveness of new standards mandated through other CLSP state program agreements. The outcome of these reviews will help determine whether additional new requirements (e.g. training or membership to an appropriate body) are required to support quality improvements in CLC board and management capability.
* An updated *Centre of Concern* *Protocol* will support VLA to take an early intervention approach that is supportive of centres and focused on improvements to board and management capability.
* VLA guidance on the development of CLSP budgets will support CLCs to attribute a portion of centre CLSP funding toward enhancing board and management capability. The updated budget template will require centres to report on funds spent on activities in this area, and centres will be required to provide detail on activities via the workplan. A benchmark costing will be decided in consultation with the sector.
* VLA will work with the Federation to consider the support role that they might play in enhancing board and management capability. This could be via training, peer support and other initiatives to be decided.
* Attributes and competencies will also be explored as part of a review of CLCs and their access to VLA’s [Section 29A Practitioner Panel](https://handbook.vla.vic.gov.au/handbook/11-referral-and-practitioner-panels/section-29a-practitioner-panels) arrangements.
* An assessment of the level and type of legal need in Victoria (as part of collaborative service planning) may require some services to acquire new attributes and competencies to respond to new and emerging legal need.

**Rationale**

Current practice

* All CLSP funded services are accredited via NAS, and some CLCs are accredited via more than one scheme. Most CLSP funded services are covered by the NACLC National PII scheme, or an equivalent. In Victoria, some are insured via VMIA.
* As a result, for example, there may be minimum attributes and competencies including board and management capability standards set via NAS, but at present VLA has no visibility of the NAS or PII scheme (and associated frameworks, reports and individual centre improvement plans). Nor has VLA set, independent of NAS, minimum board and management capability standards. This makes it difficult for VLA to understand how quality and risk is managed at an individual centre or sector level.
* VLA funds CLCs via the CLC Support Package (part of the funding provided to the Federation via CLSP) specifically for CLCs to be members of the employer representative body, Jobs Australia. This investment is intended to enhance board and management capability to address OH&S and other industrial matters.
* CLSP funding to the Federation also supports the NAS accreditation process.

Challenges with current practice

* VLA does not currently set quality indicators related to board and management capability.
* VLA’s lack of visibility of NAS standards and quality improvement plans and reports, impedes opportunities for VLA to work with centres to address performance concerns through early intervention and support.
* VLA does not currently have adequate insight regarding board and management capability, except when there are serious concerns about a centres performance and a need to support centres to address these concerns. VLA is not always aware of concerns in a timely way.
* In tight financial operating environments, not all CLCs prioritise board and management development as part of their workplan or budget.

**Actions acquitted by this change**

Action 7: Set new minimum standards for CLC board and management capability.

Action 8: Ensure that all future funding is allocated to services that comply with existing and/or new risk management frameworks and continuous learning and quality improvement; for example, the CLC National Accreditation Scheme (NAS) and the PII Risk Management Guide, and/or other frameworks to be developed and agreed with the sector.

Action 9: Ensure that all funded CLCs meet agreed attributes and competencies (acknowledging differences between CLCs) and with due consideration of the unique needs of rural, regional and remote (RRR) services, CLC specialisations and centres receiving multi-source funding, particularly where VLA is not the major funder. These attributes will be regularly reviewed.

Action 15: Ensure that all CLSP reforms respect the right of self-determination for Aboriginal people, including the right of Aboriginal organisations to be community led and controlled.

Competencies will be adopted to ensure that non-Aboriginal controlled CLCs can provide culturally competent and safe legal services to Aboriginal people.

Action 46:VLA will ensure that any streamlining of funding arrangements occurs in consultation with affected Aboriginal Community Controlled Organisations (ACCOs) and does not undermine their self-determination and autonomy. We will continue to acknowledge and respect the importance of both of those characteristics of ACCOs.

**Deliverables and timeframe**

* A new CLSP Agreement including strengthened NAS requirements by March 2020.
* A new CLSP Cultural Safety Framework by December 2020.
* VLA will review CLC access to VLA’s [Section 29A Practitioner Panel](https://handbook.vla.vic.gov.au/handbook/11-referral-and-practitioner-panels/section-29a-practitioner-panels) Arrangements by June 2020.

## c. Coordination and collaboration

**Proposed Change 3**

VLA will require a stronger and more intentional focus on service coordination and collaborative planning for the delivery of legal assistance, that most effectively responds to unmet legal need in the new Service Agreement.

* To support improved coordination of funding, a new clause will also be included in the Service Agreement to confirm that basic information about all funding received by a centre, is shared with VLA as part of the centre workplan and updated, as required, in progress reports.
* A key priority is to improve family violence service coordination and collaborative planning, to ensure better access to justice for all parties involved in family violence matters. VLA will consult with the CLC sector on a revised and improved *Schedule 8 – Family Violence Services*. Agreed targets will be set and monitored to ensure that all funded services comply with any new requirements.

**Interdependencies and / or supporting measures**

* The workplan template will be updated to support the Service Agreement changes and informed by the experience of CLCs and VLA with the trial template in 2019-20.
* VLA will scope current funding arrangements between Government (State and Commonwealth) and CLCs to identify opportunities to improve and/or facilitate other funding of CLCs through CLSP, and to reduce the reporting burden on centres and to enhance service coordination.
* Where funding remains separately administered, VLA will work with CLCs and other funders to consider improved coordination and streamlined reporting. This may include protocols or other arrangements to facilitate transparency and communication, and to reduce the administrative burden on funded CLCs wherever possible.
* VLA will continue to support centres to consider opportunities for combining diverse funding sources, toward the development of innovative services and advocacy. These opportunities can be proposed by centres through their Workplan and monitored through regular reporting arrangements.
* Partnership Principles between VLA and the Federation that support better clarity of roles and foster constructive collaboration, will be finalised.
* VLA’s Sector Engagement and Service Design Program will provide CLCs with tools and data, and where possible, work alongside CLCs to undertake collaborative planning.

**Rationale**

Current practice

* Across all government funding arrangements there is a renewed policy emphasis on the need for *better coordination and collaboration between services and sectors.* In the legal assistance sector, for example, service innovations including [health justice](https://www.healthjustice.org.au/) and other partnership models have challenged (and in some cases changed) the way that sections of the legal assistance and allied sectors contemplate service design.
* Collaborative planning at multiple levels (national, state, regional/local) is a requirement under the NPALAS and is consistent with the approach and direction in Victoria.
	+ The Collaborative Planning Committee (a recommendation of the Access to Justice Review) will support collaboration at a state level.
	+ VLA (with CLCs) are continuing to roll out and support collaborative planning at a regional level and with respect to specialist areas of law.
* As part of the Access to Justice review implementation, VLA has an enhanced supporting, coordination and collaboration role in the legal assistance sector. This includes convening the Collaborative Planning Committee.
* Reliable and comprehensive data is a key requirement for effective collaborative service planning. VLA is investing in data modelling to enhance the sophistication of our legal need data analysis. The current methodology used in placed based and specialist service planning, includes a focus on strategies to work collaboratively to address service gaps.
* [The Royal Commission into Family Violence](http://www.rcfv.com.au/Report-Recommendations) resulted in 227 recommendations that are directed at improving the foundations of the current family violence service system. The Commissioner has called on all services to transform the way that we respond to family violence. For the legal assistance sector, better coordination and collaborative legal service planning is a crucial part of responding to this call for reform.
* CLCs currently have direct relationships and Agreements with multiple funders. VLA is supportive of these relationships and multi-source funding.

Challenges with current practice

* Whilst there are excellent examples of the legal assistance sector working in a planned and coordinated way, there are significant inconsistencies and different levels of sophistication across the CLSP. Current practice does not ensure that all clients are able to receive the right services in the right place at the right time.
* VLA is both the CLSP funding administrator and a partner in legal assistance service provision. This multi-dimensional relationship has strengths and challenges.
* VLA supports (and at times facilitates) CLCs to have direct relationships with funders, but there may be opportunities for VLA to play a more constructive role in coordination of funding to reduce the reporting burden on centres and to better support access to justice. These opportunities have not been fully mapped or pursued.
* We also see opportunities through enhanced coordination for centres to consider opportunities for combining diverse funding sources toward the development of innovative services and advocacy, whilst maintaining a high level of accountability to funders.
* There is a need to increase sector capacity in interpreting data, developing strategic partnerships and undertaking client-centred service design. This will be a strong focus for Phase 3 of CLSP Reform.
* VLA recognises the lack of resourcing for collaborative planning at present, and the need to sufficiently resource this work to be effective.

**Actions acquitted by this change**

Action 1: As a major funder of CLCs, with a commitment to increasing the size of the CLC sector, VLA will take up a stronger and more decisive role in relation to funding decisions and ongoing monitoring of funded services.

Action 2:VLA will allocate all future funding to services that can demonstrate capacity and capability to address legal need through providing a range of high-quality legal services.

Action 14: Ensure there is stronger alignment/integration of all legal assistance sector reforms, including CLSP Reform.

Action 16: Ensure that co-ordination of legal assistance service delivery is a cornerstone of future funding agreements.

Action 36: Consider and promote opportunities for CLCs and VLA to collaborate through short term funding opportunities.

Action 37: VLA and CLCs will consult with each other at the start of funding cycles to ensure joint planning and development of joint bids, where appropriate.

Action 44: VLA will consider its role as system coordinator and will support CLCs to continue to have direct relationships with multiple funders and different areas of government, as appropriate.

**Deliverables and timeframe**

* Revised Service Agreement and Workplan template with a stronger focus on service coordination and collaboration (particularly in relation to family violence services) by March 2020.
* Federation in collaboration with VLA finalises Partnership Principles by December 2019.
* New CLSP Funding Guidelines by March 2020.

## d. Transparency

**Proposed Change 4**

VLA will develop a new an online portal that provides a single point for information related to CLSP including funding guidelines, information about grants and other opportunities, reporting requirements, and shared data.

* VLA will advance development of this proposal to ensure that it coincides with other capacity building work that is undertaken in Phase three of this project. A working group will be established for CLCs to be consulted in the development of the portal.
* VLA will ensure that reasonable limits are placed on the sharing of information, including by appropriately safeguarding the privacy and confidentiality of client and service information. A policy and procedure will be developed to define these limits.

**Interdependencies and / or supporting measures**

* VLA will share our service data through collaborative planning tools to support with service design and planning.

**Rationale**

Current practice

* CLSP information is primarily shared via email and limited information is available on the VLA website. Interactions between VLA and funded CLCs is conducted almost exclusively through email and by phone.
* Data is shared on a case by case basis or ad hoc and is not generally publicly available or accessible.

Challenges with current practice

* VLA’s current CLSP mode of operation is no longer fit for purpose. It is inefficient and lacks consistency and transparency.
* Most publicly funded agencies are currently considering opportunities for working more efficiently including through effective use of technology and other innovation.
* An online portal is an opportunity to streamline communications, reduce the time and effort that is spent on reporting and compliance, while making information more consistent and transparent.
* The timing and purpose of project at VLA presents an opportunity for the legal assistance sector to build a fit for purpose, user-friendly online system and templates that will support innovation, efficiency and better use of shared data.

**Actions acquitted by this change**

Action 17:Ensure that there is (a) greater transparency around funding arrangements and (b) better public access to service data. This will include establishing reasonable limits on shared information to uphold privacy and confidentiality of client and service information.

**Deliverables and timeframe**

* CLSP Online Portal Project Plan by March 2020.

## e. Certainty

**Proposed Change 5**

VLA will work with Government (Commonwealth and State) to secure the necessary commitments that will enable VLA to enter into multi-year funding arrangements with centres:

* VLA will also work collaboratively with the DJCS (and in consultation with the CLC sector) to settle the period of the upcoming Agreement.
* It is proposed that the new agreement will align with the duration of the NPALAS, while providing some flexibility to respond to updated legal needs analysis within the period of the NPA. One option for consideration, is a three-year funding agreement with an option for a two-year extension. VLA proposes that this and other options need further exploration with CLCs and the DJCS in time for settling the new Agreement.

**Interdependencies and / or supporting measures**

* Development of a new Service Agreement that provides a multi-year funding arrangement to CLSP funded centres.

**Rationale**

Current Practice

* CLSP Service Agreements for the period of this NPALAS (2015-20) have been one to two years in duration.
* The funding amount that centres have received has been confirmed annually, and typically at the end of the financial year, or early in the new financial year.

Challenges with current practice

* It is acknowledged by VLA that it can be difficult for centres to acquit their collaborative and longer-term service planning objectives without funding certainty.
* VLA’s submission to the review of the NPALAS highlighted the need for timely funding certainty to enable CLCs to efficiently and effectively plan their budgets and service delivery.
* The Commonwealth Government’s formal response to the NPALAS review report is not yet known.
* Some CLCs have also highlighted that funding uncertainty affects their capacity to attract and retain quality staff and maintain market competitiveness with other legal assistance providers, including VLA.

**Actions acquitted by this change**

Action 11: VLA will work within its role, power and authority to ensure timely notification and disbursement of funding to CLCs.

Action 39: Develop options to improve funding certainty for CLCs, with full consideration of the significant potential implications for VLA’s prudential financial management.

Action 40: VLA will act within its role and authority to enter into longer term agreements with CLCs, where appropriate.

**Deliverables and timeframe**

* VLA will seek to secure the necessary commitments from State and Commonwealth governments to enable a multi-year Service Agreement by March 2020.

## VLA supporting Aboriginal self-determination and culturally safe services

**Proposed Change 6**

VLA will prioritise the development of minimum cultural safety standards for the new Service Agreement. VLA will work closely with Djirra and VALS to develop the standards.

**Interdependencies and / or supporting measures**

* VLA will undertake a desk top review of current centre approaches to cultural safety and competency. The desktop review will be shared with the sector and support Djirra and VALS to provide critical advice and leadership to VLA and CLCs on the development of cultural safety standards.
* VLA recognises that some centres will require support, capacity building and a transition period, to implement the standards. This will form part of CLSP Reform Phase three, and will facilitate:
	+ Access of CLSP funded services to VLA’s formal training detailed within Aboriginal Cultural Learning Strategy, and other culturally significant opportunities and events;
	+ Access to appropriate legal practice training, resources and support.
* VLA will continue to support Djirra and VALS to expand and develop their services to address unmet legal need. This will include through the development of joint funding bids, where appropriate.

**Rationale**

Current Practice

* There are currently no specific cultural safety standards required under the CLSP Agreement (*CLSP Service Standards*, Schedule 4).
* [VLA’s Reconciliation Action Plan July 2019–21](https://www.legalaid.vic.gov.au/about-us/our-organisation/reconciliation-action-plan#RAP) (RAP) builds on the foundation establishedthrough our [first RAP](https://www.legalaid.vic.gov.au/about-us/what-we-do/access-and-equity/reconciliation-action-plan)and makes reconciliation part of our everyday business. The RAP was developed in consultation with VLA’s First Nations Staff Network, Djirra, VALS and Reconciliation Australia. The focus for this Action plan is on *Relationships, Respect and Opportunities*. This proposal responds directly to the RAP Section 15.2: *Collaborate with Aboriginal legal services where possible to influence private practitioners and CLCs to improve cultural safety and culturally responsive services*.
* The Commonwealth Government Priorities and Eligibility Criteria under the NPALAS identifies Aboriginal and Torres Strait Islander clients as a priority for receiving legal assistance. It is assumed that the new NPALAS will have a stronger focus on service capability to address the legal needs of Aboriginal and Torres Strait Islander clients.

Challenges with current practice

* The Service Agreement does not currently set minimum cultural safety standards.
* VLA’s lack of visibility of NAS standards and quality improvement plans and reports, impedes opportunities for VLA to work with centres under the NAS to improve the cultural safety of centres.
* The lack of CLSP cultural safety standards means that there is no prudent way for VLA to monitor the capacity of, and target support to, non-Aboriginal services to provide culturally safe services.
* Under the NPALAS, Aboriginal clients are listed as a ‘priority’ in Schedule B, but there is no reference in the NPALAS to service standards and capability, or the unique role of ACCOs.

**Actions acquitted by this change**

Action 15:Ensure that all CLSP reforms respect the right of self-determination for Aboriginal people, including the right of Aboriginal organisations to be community led and controlled. Competencies will be adopted to ensure that non-Aboriginal controlled CLCs can provide culturally competent and safe legal services to Aboriginal people*.*

Action 46: VLA will ensure that any streamlining of funding arrangements occurs in consultation with affected Aboriginal Community Controlled Organisations (ACCOs) and does not undermine their self-determination and autonomy. We will continue to acknowledge and respect the importance of both of those characteristics of ACCOs.

**Deliverables and timeframe**

* New minimum Standard/s in the Agreement by March 2020.
* Policies and procedures to support new Standard/s by December 2020.
* Support and capacity building is provided in CLSP Reform Phase three.

## 3. Improved administration of funding

## a. Reformed Service Agreement

**Proposed Change 7**

VLA will finalise a new Agreement by March 2020. This Agreement (with supporting policies and procedures) will be developed in consultation with the sector. The new Agreement will:

* Refer to existing (and additional new standards, where required) quality and risk management standards and frameworks.
* Include references to service guidelines and standards that are aligned to the new NPALAS.
* Include a stronger emphasis on individual service, regional and sector wide planning, and the effective use of evidence and data to inform the targeting of service provision.
* Include an updated feedback, complaints and dispute settlement mechanism with links to a new and transparent policies and procedures.
* Variations to the current Service Agreement requiring CLCs to maintain information about their services provision and a clear complaints mechanism via *Schedule 4, (K) & (I)* will be carried forward to the new Agreement.

**Interdependencies and / or supporting measures**

* A new NPALAS is scheduled to commence 1 July 2020. The intention is to introduce the new CLSP Agreement to align with the timing and content of the new NPALAS.

**Rationale**

Current Practice

* VLA’s current CLSP Agreement began with a two-year Agreement in 2015-17. Since then, minor changes have been made annually through Deeds of Variation.
* The Agreement is largely a stand-alone document that has been supplemented with annual Deeds of Variation and very limited policies and procedures. While reforming the Agreement, our intention is to strengthen the Agreement through the formulation of policies and procedures that give more clarity and guidance to enable VLA and CLCs to have clarity about their obligations and expectations to be able to deliver on the program objectives.
* The CLSP Reform Project is facilitating wide ranging reforms that would not be reflected in the Service Agreement if it remained unchanged.
* The Agreement is not currently publicly accessible. VLA’s intention is to make the 2020 Service Agreement publicly accessible, initially via the VLA website, and eventually through the public access point of the new online portal.

Challenges with current practice

* The current CLSP Agreement falls short of present-day expectations of public funded Agreements and funding programs.
* There is sector wide support for a new Agreement that prioritises requirements for funded agencies to plan and design quality services to address legal need that has been identified through a sophisticated evidence base and data collection system.
* There is also sector wide support for an Agreement that places a stronger emphasis on quality and risk management and dispute resolution. Currently there are insufficient policies and procedures to clearly articulate and support the implementation of this focus.
* Apart from VLA’s website and Annual Report, there is currently no publicly accessible platform for sharing CLSP service data and information. This is inconsistent with current Government and community expectations of publicly funded organisations.

**Actions acquitted by this change**

Action 18:Design a new, shorter and clearer Agreement that is connected to service quality and includes detailed and transparent policies and procedures that will clarify expectations, mutual responsibilities and complaints mechanisms.

Action 19: Ensure that the new funding and service agreement clarify individual service guidelines.

Action 20: Incorporate minimum service standards into the new Agreement.

Action 21: Ensure that funded CLCs are responsible for maintaining information about their service provision on the most effective shared portal.

Action 26: Identify new and existing quality frameworks that will enhance the funding and service agreement and CLC standards and quality.

Action 34:Include a clear complaints mechanism in the new Agreement that is for all parties and mutually binding.

**Deliverables and timeframe**

* New Service Agreement with supporting policies and procedures by March 2020.

## b. Modernised workplan

**Proposed Change 8**

Several CLCs are currently trialling a revised CLSP Workplan template. Critical feedback will inform the development of a new Workplan template that will include variations, to:

* Reflect the requirements under the new Service Agreement and a new NPALAS;
* Enhance a CLSP focus on outcomes measurement;
* Support coordinated serviced and sector planning;
* Ensure alignment with other key CLSP Reforms; and
* Support improved consistency of data and information provided to VLA.

**Interdependencies and / or supporting measures**

* VLA will collect feedback from the participating CLCs to inform the development of the new Workplan template.
* New measures and tools will be introduced at support CLCs to draft Workplans.
* VLA will consider the design of the new Workplan template to enable CLCs to submit plans and reports to multiple funders.

**Rationale**

Current Practice

* VLA has received considerable feedback from CLCs about the need for a new Workplan template that will enhance the quality of plans and reports.
* Early in 2019 the CLSP Workplan Working Group designed and settled minor changes to the Workplan template. All CLCs were provided with the option to rollover their 2018-19 Workplan (after reviewing and updating with current information if necessary) for 2019-20. Alternatively, CLCs could trial the revised Workplan template and provide feedback to VLA on its efficacy. Several CLCs opted to participate in the trial.

Challenges with current practice

* The current CLSP Workplan template does not fully reflect the key requirements of the NPALAS or CLSP, for example, there is insufficient commentary regarding collaborative planning and service design, evidence to support the prioritisation of client groups (the Commonwealth Priorities and Eligibility Criteria) and milestones related to compliance with risk management frameworks and service standards.[[1]](#footnote-1)
* The standard and quality of CLC Workplans varies considerably and VLA does not currently provide any programmatic support (for example annual training), and minimal guidance notes have only recently been embedded in the template.
* A significant number of Workplans are submitted late to VLA. This causes downstream impacts and inefficiencies in funding administration.
* VLA has been inconsistent in its approach to reviewing and providing feedback on Plans and Reports.

**Actions acquitted by this change**

Action 14: ensure there is stronger alignment/integration of all legal assistance sector reforms, including CLSP Reform.

Action 25: replace the existing CLSP Workplan with a newly developed, fit for purpose CLSP Service Plan.

**Deliverables and timeframe**

* A new Workplan template by March 2020.

## c. Reporting and performance accountability

**Proposed Change 9**

Through CLSP Reform implementation VLA is seeking to balance the need to maintain funder confidence in the effectiveness of organisations receiving CLSP funding and public confidence in the use of public funds with the reporting requirements CLCs currently experience under multiple funding arrangements.

VLA will work with CLCs and the Federation to continually review and improve the CLSP planning and reporting systems. VLA will fully consider any opportunities that are advanced by CLCs and the Federation, that aim to reduce the compliance burden on CLCs, while increasing the quality of information and data that is submitted to VLA.

A more intensive review of the system will also be conducted in the final year of each future Agreement.

**Interdependencies and / or supporting measures**

* CLCs are currently trialling several minor changes to the CLSP Workplan and reporting templates (as part of the 19-20 Service Agreement). These include a new date for submission of Workplans and their Provisional Excess Surplus Proposal, and minor variations to the Budget and Funds Reports. A revised progress report template will be developed and trialled toward the end of 2019 to align with the trial Workplan template.
* These changes (and feedback from the trials) will be reviewed by the Quality and Risk Management Working Group, to inform elements of the new 2020 Agreement and associated reporting and compliance measures and templates.
* VLA’s approach going forward is *continuous quality improvement*. CLSP systems will be regularly reviewed and improved in line with the timeframes of future service Agreements.
* VLA will continue to investigate and analyse the systems of other state and territory CLSPs (and other Government funding systems) to consider opportunities for implementing new best practice planning and reporting requirements to CLSP in Victoria.
* VLA will work with the sector to improve data collection systems (and analysis of this data) to inform service design and reduce our current reliance on traditional narrative based reporting methods.

**Rationale**

Current Practice

* Prior to the CLSP Reform Project, CLSP had not been substantially changed since its inception in 1996.

Challenges with current practice

* There is currently no programmatic or timely approach to continuous quality improvement in the CLSP reporting and accountability systems and framework.
* CLCs and the Federation (as clients of these systems) have historically had very minimal input to the design of the CLSP reporting and performance accountability framework.
* There are vast differences in the quality and standard of reporting across the CLSP.
* The current data systems are underdeveloped (and therefore unreliable), and there are differences in individual CLC capability to collect and manage client service data. These data system shortcomings give rise to an over-reliance on narrative based reporting. This is an inefficient use of time and resources for CLCs and VLA, adding to the reporting and compliance burden that many CLCs experience.

**Actions acquitted by this change**

Action 6: Rand align reporting and compliance to improve overall efficiency and reduce any unnecessary burden on VLA and CLCs.

Action 24: Ensure that any changes to performance accountability are fit for purpose and not unreasonably burdensome.

Action 27: Research and consider the application of templates and tools that will reduce the compliance burden on CLCs and enhance the quality of reporting.

Action 45: Consider opportunities for improving and reducing multiple reporting requirements.

**Deliverables and timeframe**

* A new CLSP Agreement is confirmed by March 2020 with associated reporting and compliance mechanism and templates confirmed by May 2020.
* Continuous quality improvement is ongoing. A review of the reporting and compliance system and templates will be conducted in the final year of each future CLSP Agreement.

**Proposed Change 10**

The new CLSP Workplan and reporting templates will include a stronger focus on outcomes measurement. Where appropriate, VLA will draw upon the Federation’s Outcomes Framework.

**Interdependencies and / or supporting measures**

* VLA will work with the Federation and other key stakeholders (including the DJCS, VLSB and Victoria Law Foundation) to consider opportunities for implementing capacity building initiatives that will improve sector-wide capability in service planning and outcomes measurement.

**Rationale**

Current Practice

* There are vast differences in the appreciation and application of outcomes measurement across the CLSP. Some of the early adopters of this approach are exhibiting best practice, while others are continuing to focus on activities and outputs.

Challenges with current practice

* There are inconsistencies in individual service approaches to outcomes measurement. This makes it difficult to assess individual service outcomes and the overall impact of CLSP.
* There has been limited ongoing and programmatic training and capacity building in outcomes measurement (apart from the significant work undertaken by the Federation to develop the Outcomes Framework, funded by the CLC Innovation and Transformation Fund).
* Size and scale of services may be a factor. Some of the larger centres with more internal capacity appear more able to recruit trained staff with the necessary skills to undertake outcomes measurement.

**Actions acquitted by this change**

Action 22: ensure the reporting mechanism and associated accountability has a stronger focus on appropriate identification of legal need, service designed to meet that need and assessment of outcomes and impact.

**Deliverables and timeframe**

* A new Workplan template by March 2020.
* Capacity Building Plan as part of CLSP Reform Phase three by August 2020.
* Capacity building efforts will be planned for delivery in Phase three (2020-21 and 2021-2022 and ongoing.

**Proposed Change 11**

VLA will create a new financial reporting process and templates informed by:

* Feedback from CLCs who have trialled the revised Budget and Funds Report templates in 19-20
* Australian Accounting Standards to ensure alignment, and
* Any relevant changes to the NPALAS.

**Interdependencies and / or supporting measures**

* VLA will review other State and Territory programs and their approaches to financial reporting, to consider further opportunities for streamlining reporting arrangements in Victoria.
* VLA will seek to include a new condition in the Agreement for centres to provide information to VLA about their non CLSP funding and information about how the combination of funding contributes to the organisation’s financial sustainability and supports service provision.
* VLA will work with the sector on the development of a model set of indicators for organisational and financial health, that will become a condition of the new Agreement.
* Further consultation with the sector will assist with the development of criteria for selecting financial auditors.

**Rationale**

Current Practice

* The current system for CLSP financial reporting requires centres to submit an annual budget when submitting their Workplan.
* Centre reports against these budgets and Workplans every six months.
* Currently, some CLCs provide information about all their funding, and others only report on the funding that they receive from VLA.

Challenges with current practice

* There are differences of opinion in the sector regarding the finance templates and the content of reporting. We aim to settle these different approaches through more consultation via the relevant working groups, and feedback on current trials. It may be that we need some flexibility and allowance for a combination of approaches due to the variety of models and or size and scale of centres.
* VLA has not fully considered or utilised user-centred design approaches in the development of its CLSP reporting requirements.
* There are inconsistencies in the standards and quality of reporting.
* Confirming the content of budgets and reports is time consuming for both VLA and CLCs at present.
* There are significant inconsistencies for costings in CLC budgets (for example, the portion of funding that is ascribed to administration and management).

**Actions acquitted by this change**

Action 28: Rationalise financial reporting in line with the Australian Accounting Standards.

Action 29: Work with financial experts to design a model set of indicators for setting and reviewing funded services’ organisational health.

Action 30: Define criteria for selecting financial auditors to assist CLCs.

Action 31: Provide clearer guidance to funded services about standardised costings in budgets, considering CLC independence and the considerable differences between CLCs.

Action 32:Undertake consultation on an optimal financial reporting method that is not through CLASS.

**Deliverables and timeframe**

* The Financial Working Group will reconvene in October 2019 to consider learnings from trials and to consider future improvements.
* New financial reporting arrangements and standards are ready for the new Agreement by March 2020.
* VLA will work with the sector (including other funders) to develop costing guidance for individual line items in CLC budgets by June 2020.

**Proposed Change 12**

VLA will develop a revised policy and procedure to replace thecurrent VLA Policy Framework responding to concerns about CLC operations or performance (often referred to as *Centres of Concern Protocol and* attached at the end of this document*)*. The new policy and procedure will:

* Link to the requirements under the Agreement.
* Articulate VLA’s preferred approach to engage at the earliest possible stage to provide supports to centres that are aimed at resolving concerns before issues escalate.

**Rationale**

Current Practice

* VLA’s funding Agreement and the Centres of Concern Protocol are the key guiding documents for VLA’s decision making in relation to monitoring, intervening and responding to centres of concern.

Challenges with current practice

* In combination, the Agreement and the Protocol have been useful, although limited instruments for guiding VLA’s responses to supporting centres early, when problems arise.
* The Protocol is not publicly available, and it is not well known or understood by all CLCs.
* The Protocol has not been significantly reviewed or updated since it came into effect more than five years ago.
* Some CLC staff have said that VLA’s approach to dealing with concerns and dispute settlement is one sided and that it occurs without transparency and needs review.

**Actions acquitted by this change**

Action 33**:** Develop new policies and procedures for dealing with centres where there are performance concerns.

Action 34: Include a clear complaints mechanism in the new Agreement that is for all parties and mutually binding.

**Deliverables and timeframe**

* Revised policy and procedure replace Victoria Legal Aid Policy Framework: responding to concerns about CLC operations or performance (the Centres of Concern Protocol) and linked to the new Agreement by March 2020.

## d. Short term and project funding opportunities

**Proposed Change 13**

VLA will develop a new framework for the administration of short-term funding. This framework will provide:

* Greater transparency (grant information and guidelines will be publicly available); and
* New and improved requirements, including that CLCs will be required to pursue opportunities for better coordination and collaboration between CLCs and allied services.

**Interdependencies and / or supporting measures**

* VLA will draft revised Expression of Interest templates that will be consistently applied for all future grants.
* VLA will review its Innovation and Transformation Grants Program, the International Student Worker Rights Legal Service and the CLC Temporary Visa Program, for any learnings that might inform future approaches to VLA’s administration of short-term strategic and minor grants.
* Standardised costings for these grant opportunities will be considered in relation to the needs and requirements of the grant program, with due recognition of the special needs of rural, regional and remote services, and other costs that might be associated with making projects and services accessible to priority client groups and communities.

**Rationale**

Current Practice

* VLA’s current approach to the administration of short-term grants has been on a case by case basis, with the input of key stakeholders including the Federation and other funders.
* Short term grant opportunities have generally been promoted and available to existing CLSP funded services, or those that are members of the Federation.

Challenges with current practice

* There is no transparent framework and policies for the for the effective administration of short-term grants.
* VLA is currently administering grants on behalf of Government departments other than DJCS. In the future, VLA may undertake more of this work.

**Actions acquitted by this change**

Action 35:Develop a new framework (linked to the New Agreement) for short-term grants that improves notification, funding criteria, allocations and monitoring and reporting.

Action 36:Consider and promote opportunities for CLCs and VLA to collaborate through short-term funding opportunities.

Action 37: VLA and CLCs will consult with each other at the start of funding cycles to ensure joint planning and the development of joint bids, where appropriate.

Action 38:VLA will consider the additional costs that might need to be factored in for RRR centres and other centres with special needs and expenses.

**Deliverables and timeframe**

* VLA will develop a new framework for the administration of short-term grants by June 2020.

## 4. Capacity building and technology

**Proposed Change 14**

VLA will establish a Capacity Building and Technology Working Group to support efforts to embed CLSP reforms. The primary task for this group will be to identify workforce development needs and opportunities, including a focus on further developing sector wide capability in outcomes measurement and evidence-based planning, and the effective use of technology where related to CLSP reform.

There is also an opportunity for this group to consider user-centred design approaches in future improvements of the CLSP.

**Interdependencies and / or supporting measures**

* VLA is developing development an Education Strategy to assist VLA to focus resources on the efficient and effective delivery of considered, quality education products to VLA staff and practice partners, including CLCs.

**Rationale**

Current Practice

* The current focus of VLA and the CLSP is on program administration and reform.
* CLCs and VLA are eager to consider collaborative opportunities for capacity building including collaboration on the effective use of technology.
* The majority of CLCs have now engaged with Legal Help Online. This has been an excellent opportunity for VLA and CLCs to test how we work together on the development and rollout of technology-based solutions. The Collaborative Services Planning work is another excellent example.
* CLCs and VLA agree that there is a significant opportunity for improving the CLSP program through the development of an online portal. VLA is committed to working with the sector on the development of this tool.

Challenges with current practice

* Historically, the focus of VLA has been on funding administration (reporting and compliance), not program development.
* Additionally, there has not been enough focus on user-centred design in developing the administrative components of the CLSP.

**Actions acquitted by this change**

Action 4:Support workforce skill and knowledge development in evidence-based planning.

Action 10: Ensure that CLCs have the same access as VLA does to professional tools and development opportunities.

Action 23L Prioritise the development of skills and aptitude in client outcomes measurement.

Action 41: VLA will take immediate action to support CLCs to get better access to professional learning and practice development tools.

Action 42 Consider an appropriate dashboard and/or online portal for the CLC Funding and Development Program.

Action 43: Explore opportunities for the effective use of technology in the delivery of legal services.

**Deliverables and timeframe**

* The Capacity Building and Technology Working Group is established by October 2019.
* CLCs are surveyed about their learning objectives and needs in relation to CLSP reform by July 2020.
* The CLSP Online Portal Project Plan is finalised by March 2020.

# 5. Attachments

**1. VLA guiding principles for CLC funding decisions**

**Adopted by the VLA Board in December 2012**

* VLA will prioritise increases in funding to centres located in population growth areas and areas of relatively high unmet need and disadvantage
* VLA will not prioritise increased funding to small generalist centres (in their current form) located close to each other and in areas that are increasingly gentrified
* Funding will be prioritised to centres that show a willingness to implement a more efficient service-delivery model, including through shared staff or management of centres, or moves towards amalgamation of smaller centres
* Funding will be prioritised to centres that show they are more effectively targeting their services to need, including through:
	+ effective local legal needs assessment and planning
	+ co-location of services in health and other settings
	+ triage using clearly articulated service guidelines, giving priority to priority clients
	+ collaboration and coordination with other legal assistance services including VLA offices
	+ undertaking effective strategic advocacy and legal education work targeted to legal need in their community, rather than just advice services
* VLA will require centres to demonstrate how they develop, maintain and evaluate the quality of their service delivery and its outcomes.

**2. Victoria Legal Aid Policy Framework:**

**responding to concerns about CLC operations or performance**

**Context**

Under the *Legal Aid Act 1978*, Victoria Legal Aid (VLA) is obliged to ensure that legal assistance is provided in the most efficient and effective way, including where the Legal Aid fund is provided to community legal centres (CLCs).

VLA also has a responsibility to ensure that CLCs receiving VLA, Victorian Government and Commonwealth CLSP funds are meeting their obligations under their CLSP Service Agreements and providing appropriate services to their target communities.

The CLSP Service Agreement provides VLA with authority to assess and approve workplans, audit and review CLCs, suspend or withhold funds, allege breaches and/or terminate agreements. The current service agreement provides limited detail in respect of the approach VLA ordinarily intends to take, where the quality of the services provided by a CLC is in issue or where there are other serious concerns about performance.

This policy framework sets out VLA’s intentions where it holds concerns about a centre’s performance or operation and is intended to apply to instances in which VLA may seek to act in respect of a centre of concern.

It is important that VLA has confidence that funds being provided to CLCs are being efficiently and effectively spent and managed. It is also important that CLCs have confidence in the process VLA uses in reaching decisions about funding to CLCs and particularly in dealing with CLCs that are experiencing problems or may be in breach of their service agreement. Where this occurs, VLA will, where possible:

* notify the CLC promptly of concerns regarding performance and possible breaches of the service agreement, providing an outline of the basis for the concerns
* give the CLC opportunities and support to remedy or address these issues
* give the CLC reasonable notice of any proposed decision likely to have a significant detrimental impact on the CLC and the opportunity to respond before a final decision is made.

**What is a ‘centre of concern’?**

VLA monitors the performance of CLCs in several ways. These include through the review of plans, budgets and reports from CLCs under the service agreement, through visits and other meetings with CLC staff and boards / committees of management, through the receipt of feedback about CLC performance and the receipt of complaints about CLCs.

The following list provides examples of issues that may lead VLA to become concerned about a CLC:

* Repeated failure to lodge plans and reports due under the service agreement, on time and to a standard acceptable to VLA[[2]](#footnote-2)
* Failure to effectively target resources via evidence-based plans, casework guidelines, service delivery structures or other methods that have been informed by adequate planning and analysis of legal need
* Sustained poor client, case and other activity outputs or outcomes or failure to meet targets
* Poor financial management or reporting (including consistent overspending or underspending without reasonable explanation or poor financial risk management)
* Significant and sustained staff turn-over such that centre operations are seriously impacted
* Significant changes in Board or Committee of management membership
* Credible complaints about performance by service-users or stakeholders
* Other breaches of the service agreement, particularly sustained breaches
* Centres that are unable to demonstrate that funding is being used effectively considering the VLA Guiding Principles for CLC funding decisions (read as a whole).

This list is not exhaustive or exclusive. Depending on a centre’s circumstances, other issues may give rise to concern about it.

**Policy framework for addressing concerns about centres**

Where VLA has concerns about a centre such as those set out above VLA intends to apply an escalating set of interventions.

In the usual course of events VLA will undertake the following steps:

1. **Informal communication and support**
	1. **Informal communication of concern:** VLA will make contact with an appropriate contact at the centre (generally the CLC manager, or someone else appropriate depending on the circumstances giving rise to the concern), outlining the concerns and the basis for the concerns, and offering support or advice. This communication will generally take place informally via email and a phone call.
	2. **Support to the centre, including:**
* feedback on what the concerns or issues are (especially regarding the quality of reports)
* clarification of what is expected
* advice as to how the issues could be addressed and resolved.
1. **Formal communication of concerns to Chair of Board / Committee of management**
	1. **Communication to Chair:** If VLA continues to have concerns, either because the issues raised in stage 1 above are not rectified or because they recur within a short period of time, VLA will write to the CLC Chair, outlining the nature of the concerns and the basis for the concerns. Such correspondence will set out the process that VLA will follow either to investigate these concerns further or to seek a response or action from the centre. These steps may include a service standards audit, financial audit or management review of the organisation pursuant to the Service Agreement. The letter will provide an opportunity for the Committee to meet with VLA and will include notice that VLA intends informing the Federation of Community Legal Centres (Vic) Inc (the Federation) that VLA holds concerns about the centre.
	2. **Opportunity to respond:** The Chair of a centre will be given reasonable time to respond to the formal notification, before any of the steps noted above in this clause are undertaken by VLA, and where possible will be consulted by VLA about what a reasonable time for such a response might be. The Chair will also be provided with an opportunity to object to the Federation being notified of the fact that there is a concern about their centre, with reasons for any objection. VLA will consider any objection but may nonetheless notify the Federation.
	3. **Notification of concern to the Federation of CLCs:** Subject to the above, VLA will also inform the Federation of the above correspondence to facilitate the Federation’s role in supporting CLCs to meet their funding or other obligations. VLA will not share detailed information with the Federation that has not been provided to the CLC or where the CLC has requested that detailed information not be provided.
	4. **Formal notification if VLA’s concerns are resolved or addressed through the centre’s response to the concerns:** VLA will inform the CLC Chair (and manager, if appropriate) in writing in the event the concerns have been addressed or resolved and will make clear what is likely to occur if the same or similar concerns arose in the future. If the Federation were informed about the fact that there were concerns about the centre, VLA will also notify them that the concerns have been addressed or resolved.
2. **Notification of breach of service agreement or of risk of loss of funding**
	1. **Communication to chair:** If the concerns are still not rectified to VLA’s satisfaction, or if further investigation by VLA indicates a breach of the service agreement, VLA will again write to the CLC Chair, notifying the centre that it considers that it is in breach of the service agreement or is otherwise at risk of having its funding reduced or terminated. VLA’s correspondence will include information about the nature of action contemplated by VLA. VLA will give the CLC a reasonable opportunity to respond to the breach of the service agreement, or possible loss of funding, before a final decision is made. This letter will include notice that VLA intends informing the Federation that VLA holds concerns about the centre and has issued notification of breach or risk of loss of funding. As at 2b above, the Centre may object to the provision of notice to the Federation.
	2. **Notification of breach or potential loss of funding to the Federation of CLCs and Commonwealth:** Subject to its consideration of any objection, VLA will inform the Federation of the above correspondence as soon as practicable after sending of this letter.
	3. **Notification if VLA’s concerns are resolved or addressed:** If the concerns have been addressed or resolved following the steps outlined in step 3a above, VLA will inform the CLC Chair in writing and will make clear what is likely to occur if the same or similar concerns arose in the future. If the Federation were informed about the fact that there were concerns about the centre, VLA will also notify them that the concerns have been addressed or resolved and about any conditions and arrangements for monitoring of continued improvement or arrangements to avoid similar issues in the future.
3. **Notification of action by VLA:**
	1. **Communication with Chair:** Following the opportunity to respond to the formal notification in step 3a above, VLA may decide under the service agreement that there has been a breach of the agreement and may exercise its rights under clauses 23.1.1 or 25.1. VLA may also decide to terminate an agreement under clause 25.2 of the Service Agreement, or determine to not renew a service agreement, or to reduce funding as part of its annual budgeting process. In ordinary circumstances, VLA will clearly articulate the reasons for the decision and any steps the organisation may take in response to the decision. In the event of a breach not giving rise to termination of the agreement, VLA will comply with clause 23.1 of the Service Agreement. VLA will provide formal written communication of its decision to the Chair of the affected centre as soon as possible after the decision is made.
	2. **Notification of decision to the Federation of CLCs:** As soon as practicable after sending of this letter, VLA will inform the Federation of the above correspondence.

**This policy framework is not exhaustive**

This policy framework sets out the usual process that VLA will adopt with centres of concern. However, it cannot exhaustively list the situations in which VLA acts as a funder of CLCs and therefore this policy framework is not intended to cover all VLA funding decisions.

While VLA will try to operate in accordance with this policy framework wherever possible in good faith, there may be occasions when VLA is unable to apply some of the stated interventions. Such situations include (but are not limited to):

* Government reduction in funding for CLCs
* Significant changes in government policy for the application of CLC funding (where the corpus of that funding does not reduce but the focus must shift)
* Where VLA becomes aware of particularly serious or urgent concerns or breaches of the service agreement with a CLC.

The failure to complete one or more of the interventions set out in this policy framework does not give rise to any legally enforceable rights or expectations (noting that the entire agreement between VLA and CLCs is set out in the CLSP Agreement).

**Role of the Federation**

While this is a policy of Victoria Legal Aid, the Federation has indicated it will undertake the following process whenever the Federation receives notification of correspondence as part of the above process. This process is consistent with the Federation’s Membership Policy.

On each occasion where the Federation receives notification of correspondence between VLA and a CLC as described in 2b or 3c above, the Federation will contact the CLC Chair as soon as practicable to offer support.

Support offered will vary depending on a range of factors including the nature of the matter, the merits of the matter and the ability of the CLC to deal with the matter itself or to seek external assistance itself. Support offered may include:

* Meeting to clarify issues of concern
* Providing support and assistance including information, advice or referral to appropriate internal or external expertise
* Facilitating access to mentors and similar support from other CLCs
* Capacity building support including training, providing precedents, or other resources on on-site assistance with tasks
* Advocacy support, such as negotiation with VLA in support of, on behalf of and under the authorised instructions of the member CLC.

Given the Federation’s status as the peak body for Victorian community legal centres and a member-based organisation, the decision to accept support from the Federation and the details, scope and timeframe for support will be at the discretion of the CLC.

1. The revised Workplan template that is currently being trialled by several CLCs, includes some but not all the requirements referred to above). [↑](#footnote-ref-1)
2. VLA intends to provide standardised written guidance on what is an acceptable standard for each of the plans and reports. [↑](#footnote-ref-2)