# Victoria Legal Aid and the Law Institute of Victoria partnering to develop a First Nations Cultural Capability Framework

All First Nations clients deserve access to culturally appropriate legal services that make them feel safe, respected and listened to.

Our justice system, with its origins in colonialism, continues to disempower and dispossess First Nations people. The Yoorrook Justice Commission hearings and recent coronial recommendations have highlighted the devastating impacts of such systems and practices on First Nations people, families and communities and the urgent need to improve the way lawyers work.

As a profession, it is our responsibility to ensure that legal services are as culturally safe as possible and informed by the voices of First Nations clients and communities.

Victoria Legal Aid (VLA) and the Law Institute of Victoria (LIV) are collaborating to develop a First Nations Cultural Capability Framework, to support Victorian legal practitioners in meeting their responsibilities to First Nations clients. This commitment reflects their organisational roles and responsibilities to prescribe practice standards for legally aided services and to promote professional practice and set specialisation standards respectively.

We are working with Aboriginal community-controlled legal organisations and First Nations networks to ensure First Nations voices are centred in the framework.

Implementation of the First Nations Cultural Capability Framework will lead to better outcomes for First Nations clients in the justice system and promote culturally safe workplace practices.

## What the First Nations Cultural Capability Framework will do

The framework will support a continuous learning journey for legal professionals that better provides for legal representation that:

* is culturally informed
* is culturally safe
* achieves the best outcomes for First Nations clients.

The framework will establish standards of practice that identify the knowledge, skills and behaviours required for lawyers to provide culturally safe and responsive legal services to First Nations clients. The framework will also inform culturally safe workplace practices in relation to First Nations colleagues and organisations.

The framework is a foundational step, which will be embedded within legal practitioners’ existing obligations. Once developed, it will provide a consistent structure for implementation across the sector through, for example, best practice guidelines, continuing professional development (CPD)/legal training, quality measures and standards, VLA panel entry and LIV specialist accreditation. The LIV will promote adoption of the framework by the sector. VLA will incorporate the framework into practice standards for all lawyers providing legal aid services.

## Why we need a First Nations Cultural Capability Framework

Culturally safe and responsive assistance is essential in providing competent and professional services which empower First Nations clients to make informed choices about legal options. Many legal practitioners are not adequately equipped to do this.

The colonial structure of the Victorian legal system fails to recognise and respect First Nations law/lore that has governed all aspects of First Nations people’s life for millennia and continues today through the strength of culture and community.

Working to improve cultural awareness and safety across the legal sector also aligns with a national commitment to achieve all three tenets of the Uluru Statement from the Heart, which are supported by the LIV and VLA.

## How the First Nations Cultural Capability Framework is being developed

The obligation to develop these capabilities lies with the legal profession. The collaboration between VLA and LIV recognises our institutional responsibility to ensure that the provision of legal services is informed by the voices of First Nations clients and communities.

The framework is being developed through a process founded on principles of respect, accountability and collaboration, and prioritises First Nations voices and expertise.

Our working group includes representatives from:

* Victorian Aboriginal Legal Service
* Djirra
* Commission for Children and Young People
* Victorian Legal Services Board and Commissioner
* Indigenous Law and Justice Hub, Melbourne Law School, University of Melbourne.

This project is supported and funded by the Victorian Legal Services Board. It is occurring in the context of other sector initiatives led by Community Legal Centres, the Judicial College, the Victorian Bar and others to uplift the capability of lawyers to deliver culturally safe services.

## Progress to date

Through preliminary consultations, LIV and VLA have socialised a draft framework concept with key sector partners. From August, VLA and LIV will convene a series of three workshops with representatives drawn from across the sector to develop the framework. Each workshop will build upon and refine the framework principles and capabilities. The draft framework will be further refined through targeted consultation, for launch in mid-2024.

## More information

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## Definitions

‘**Cultural capability** is a broad term that encompasses cultural awareness, cultural safety and cultural competence.’[[1]](#endnote-1)

**Cultural safety**

The concept of cultural safety emerged from the late 1980s and is drawn from the work of Māori nurses in Aotearoa (New Zealand). A commonly used definition of cultural safety is:

*‘An environment that is safe, where there is no assault, challenge, or denial of their identity, of who they are and what they need. It is about shared respect, shared meaning,
shared knowledge, and experience, of learning, living, and working together with
 dignity and truly listening.’[[2]](#endnote-2)*

Culturally safe practices include actions which recognise and respect the cultural identities of others and safely meet their needs, expectations, and rights. Conversely, culturally unsafe practices are those that ‘diminish, demean, or disempower the cultural identity and well-being of an individual’.[[3]](#endnote-3)

Cultural safety is determined by the person on the receiving end of the interaction or service.

1. ‘Aboriginal Cultural Capability Toolkit’ *Victorian Public Sector Commission* <https://vpsc.vic.gov.au/workforce-programs/aboriginal-cultural-capability-toolkit/aboriginal-cultural-capability/> [↑](#endnote-ref-1)
2. Williams, R. (2008), Cultural safety; what does it mean for our work practice? Australian and New Zealand Journal of Public Health, 23(2):213-214. [↑](#endnote-ref-2)
3. Council of New Zealand. (2002). Guidelines for cultural safety, the treaty of Waitangi, and Māori health in nursing and midwifery education and practice. Wellington: Nursing Council of New Zealand. [↑](#endnote-ref-3)