



Law Council  
OF AUSTRALIA

Office of the President

5 February 2020

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By email: [REDACTED]

Dear [REDACTED]

### LEGAL ASSISTANCE SERVICE DATA REQUIREMENTS

1. The Law Council appreciates the opportunity to provide a submission to the Attorney-General's Department in response to the National Legal Assistance Partnership (NLAP) *Discussion Paper: Legal Assistance Service Data Requirements (Discussion Paper)*.
2. The Law Council is supportive of measures that will assist in a better understanding of the legal assistance sector, including consistency in data collection and tools that will enable greater analysis of legal need, provide for improved collaboration and planning, and contribute to evidence-based funding. Such measures, if implemented appropriately, will benefit the Australian community.
3. In addition to the practical implications of the proposed data requirements on frontline legal assistance services, there are also large numbers of Australian private lawyers undertaking work for legal aid commissions that will be impacted by any decision to increase or expand reporting requirements. In this regard, it is important to highlight that red tape associated with accepting legal aid work (in addition to remuneration matters) may act as a disincentive for the private profession.<sup>1</sup> Any proposed additional reporting obligations should therefore be proportionate to ensure that these identified barriers are not further exacerbated.
4. Detailed feedback on the practical impacts of the proposed data requirements are best addressed by those representing the specific bodies comprising the legal assistance sector. To this end, the Law Council is aware of several concerns raised by peak bodies within the legal assistance sector and provides support to the views advanced by those stakeholders.
5. In particular, the Law Council notes the concern with the potential for additional administrative burdens to be placed on frontline legal services in order to comply with the proposed data collection requirements. It is understood that for most services to

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<sup>1</sup> See for example, TNS Social Research 'Study of the participation of private legal practitioners in the provision of legal aid services in Australia' (March 2007).

collect and report on the data set as proposed, there will be a need for changes to internal systems and processes, and the onerous nature of the requirements will most likely require a redirection of resources.

6. The Law Council is aware that a number of these services are already under immense financial pressures, and any increased administrative burden will likely have an impact on service delivery. At the very least, the Law Council submits that any additional data collection or reporting obligations must be coupled with additional resourcing and support for those services impacted by the measures.
7. Further, the Law Council is aware of concerns that the high level of information to be recorded for each matter may result in individuals declining to proceed with assistance where they may be uncomfortable or unwilling to share such details, particularly where there is knowledge that the data may be provided to government, albeit on a deidentified basis.
8. For example, the proposed reporting would require unit level client and service data, as distinct from aggregated statistics which are currently provided pursuant to reporting under the National Partnership Agreement. There is a concern that a client, their legal issue, and other personal information may be identified from the unit level data sets that would need to be provided to respective States and Territories and reported to the Commonwealth.
9. Noting the additional time that will likely be required to capture data in the proposed fields, together with concerns regarding the levels of information relating to a client that is requested under the proposal, the Law Council urges the Australian Government to continue to work with the legal assistance sector to ensure that the level of data required under the proposal is no more than necessary to achieve the policy intentions identified in the Discussion Paper.

The Law Council looks forward to continuing to work with the Australian Government throughout the negotiation process as a member of the Advisory Group. In the first instance, please contact Nathan MacDonald, Principal Policy Lawyer, on (02) 6246 3721 or at [nathan.macdonald@lawcouncil.asn.au](mailto:nathan.macdonald@lawcouncil.asn.au), if you would like any further information or clarification.

Yours sincerely



**Pauline Wright**  
**President**