

A large, abstract teal graphic composed of several overlapping rounded shapes, resembling a stylized letter 'L' or a map of Australia, occupies the upper half of the page.

2026-27 Pre-Budget Submission

Submission to The Treasury | **January 2026**

National Legal Aid (NLA) represents the Chief Executive Officers of the eight Australian State and Territory Legal Aids (LAs)

Our ask

1. Supporting victim-survivors of domestic and family violence via reinstatement of FCFCoA case management pathway funding of \$17.1 million per annum

Legal Aids are facing a funding shortfall as a result of the 2021 Federal Circuit and Family Court of Australia (FCFCOA) reforms. This will impact service delivery if not addressed in the 2026 Budget. It is recommended that:

- 1.1 the **\$17.1 million** additional funding (plus indexation) provided nationally to Legal Aids in 2023-24 to address the impact of the 2021 FCFCoA reforms is reinstated and added to the baseline funding of Legal Aids within the National Access to Justice Partnership (NAJP), as a priority in the 2025-26 Budget
- 1.2 this funding forms part of a broader package that supports the extension of other programs and initiatives established as part of the FCFCoA reforms

Legal Aids are the main providers of family law legal representation to people experiencing disadvantage in Australia. In 2023-24 Legal Aids delivered approximately 31,000 family law representation grants, 15,000 family law duty services and over 7,000 Independent Children's Lawyer representation grants. Over 86% of all Legal Aid family law matters include a risk of domestic and family violence.

The funding shortfall will impact victim-survivors of domestic and family violence and result in:

- A reduction of the provision of family law legal aid grants nationally by approximately 2,000 matters, including Independent Children's Lawyer Program matters, general family law and family dispute resolution matters
- More restricted guidelines and longer waitlists to deliver family legal assistance services including private practitioner and in-house services
- Ongoing loss of family law practitioners willing to undertake legal aid matters

This will also impact on the goals of the FCFCoA reforms being achieved, including improving timeliness and reducing the detrimental impact on families and children, including victim survivors within the family law system.

2. Funding cliffs – migration legal services and disaster legal services

National Legal Aid has two programs facing funding cliffs in June 2026, which will cause them to close. To address this, we require:

- 2.1 Immediate and ongoing investment of **\$36 million** per annum to retain the Permanent Protection Visa Program across Legal Aids and Community Legal Centres
- 2.2 Immediate and ongoing investment of **\$20 million** per annum for the delivery of disaster response and recovery legal services nationally across Legal Aids, Community Legal Centres and Aboriginal and Torres Strait Islander Legal Services

If this funding were to be cut there would be no available legal assistance service for highly disadvantaged clients - at risk migrants, including victim-survivors of domestic and family violence and communities impacted by disaster.

The Permanent Protection Visa Program was established in early 2024 and provides legal advice and representation to people appealing permanent protection visa decisions at the Administrative Review Tribunal (ART) and the Federal Court. The Program aims to assist at risk, disadvantaged applicants to navigate the process. It also aims to support the ART and the Federal Court processes in terms of providing timely advice and representation that supports the reduction of the current backlog of appeal applications.

New South Wales and Victoria have received temporary funding over the past two years to deliver and co-ordinate disaster response legal services for disaster affected communities. Queensland continues to deliver a minimal service, despite receiving no ongoing funding for this. Each state delivers these services differently based on community need and scale of disaster events, taking a place-based approach.

Investment in an ongoing national disaster legal assistance response would deliver cost-benefits for government – particularly through the legal assistance focus on systemic changes to insurance to benefit disaster affected communities and support for communities to access insurance to re-build their lives following disasters.

There is no ongoing funding for these services from July 2026. Without funding, these services will be shut down.

3. Immediate and ongoing additional investment of \$7 million per annum for the NDIS Appeals Program to better meet demand

The NDIS Appeals Program currently assists people with disability to appeal a decision regarding their NDIS supports at the ART, supporting over 300 clients with legal representation and over 2,500 with legal advices per annum. However, the Program is only funded to provide legal representation to 18% of those undertaking appeals. This is in contrast with the National Disability Insurance Agency allocating over \$60 million in 2024-25 to lawyers who are engaged to respond to NDIS Appeals.

The NDIS Appeals Program was evaluated in 2025 and was found to not only assist people with disability to help ensure they are accessing the supports they need, but to also support the efficient management of the ART by providing advice about the merit of appeals and supporting people with disability to navigate the Tribunal process.

Additional funding of **\$7 million per annum** would not only support people with disability through the appeals process, but it would also assist in improving the efficiency of the ART and help reduce the current application volume and backlog.

Further information on these asks is provided at **Attachment A**.

Attachment A

Supporting victim-survivors of domestic and family violence, via reinstatement of Legal Aid FCFCoA case management pathway funding

Legal Aids are facing a funding shortfall created as a result of the 2021 Federal Circuit and Family Court of Australia (FCFCOA) reforms. This will impact service delivery if not addressed in the 2026 Budget. It is recommended that:

- The \$17.1 million additional funding (plus indexation) provided nationally to Legal Aids in 2023-24 to address the impact of the 2021 FCFCoA reforms be reinstated and added to the baseline funding of Legal Aids within the NAJP, as a priority in the 2025-26 Budget.
- This funding form part of a broader package that supports the extension of other programs and initiatives established as part of the FCFCoA reforms.

Government provided funding for Legal Aid in 2022 - 24 to address the increased costs to Legal Aids arising from the reforms, however funding was not provided in 2024/25 and has not been included in the National Access to Justice Partnership (NAJP) Legal Aid baseline funding. The amount provided in 2023/24 was \$17.1 million.

The increased costs of the FCFCoA case management reforms continue to impact the capacity of Legal Aids' service delivery. Legal Aids are yet to see any reduction in trial related costs (as intended by the 2021 reforms) that would offset the funding pressures and additional front-end costs for Legal Aids as a result of the introduction of the case management pathway. Consequently, the one-off funding was utilised by Legal Aids to increase family law legal aid grants in recognition of the additional hours of work required of practitioners to prepare documentation and prepare for and attend additional court events. This was considered necessary to retain family law practitioners willing to undertake legal aid work. A portion is also being used for Legal Aids in-house service delivery including family dispute resolution to manage increased demand for these services.

NLA is working in close partnership with the FCFCoA to identify opportunities to enhance efficiencies in the case management pathway to offset the disproportionate impact of the reforms for Legal Aids. However, these increased costs for Legal Aids will continue during the lifetime of the NAJP. Consequently, our analysis indicates that the NAJP funding allocation represents only a minor increase to funding for the majority of Legal Aids and a deficit amount for four: Legal Aid Queensland (-\$1.2

million), Victoria Legal Aid (-\$1.13 million), Legal Aid NSW (-\$687,000) and Legal Services South Australia (-\$509,000). This circumstance has led to service delivery restrictions and service cuts in some Legal Aids, with further restrictions being considered, and will result in service delivery being lower than it was under the National Legal Assistance Partnership. These restrictions will primarily impact victim-survivors and people at risk of domestic and family violence.

The funding shortfall will result in:

- A reduction of the provision of family law legal aid grants nationally by approximately 2,000 matters, including Independent Children’s Lawyer Program matters, general family law and family dispute resolution matters
- More restricted guidelines and longer waitlists to deliver family legal assistance services including private practitioner and in-house services
- Ongoing loss of family law practitioners willing to undertake legal aid matters

This will also impact on the goals of the FCFCoA reforms being achieved, including improving timeliness and reducing the detrimental impact on families and children within the family law system.

Permanent Protection Visa Program

The Permanent Protection Visa Program was established in early 2024 and provides legal advice and representation to people appealing permanent protection visa decisions at the ART and the Federal Court. The Program aims to assist at risk, disadvantaged applicants to navigate the process. It also aims to support the ART and the Federal Court processes in terms of providing timely advice and representation that supports a reduction of the current backlog of appeal applications.

\$36 million per annum has been provided to Legal Aids and Community Legal Centres to deliver the Program.

This Program became operational in July 2024 and the legal assistance sector has expanded its service delivery capacity, developed a national referral agreement with the Federal Court and supported the ART as it transforms its services to provide targeted referrals to legal assistance services. For example, in the first 3 months of operation Legal Aid NSW, Victoria Legal Aid and the Legal Services SA have delivered 70 legal representations and over 550 information and advice services.

The number of appeals applications remains high and averages at almost 2,000 per month. It is expected that this will continue to increase as a consequence of changing migration policy and legislation.

Consequently, it is critical that the PPV Program funding is continued to not only support people experiencing disadvantage to navigate the appeals process, but to also assist the ART and the Federal Court in reducing the backlog and implementing timely and efficient processes. Given the investment in standing up the Program, to cut it within 2 years of operation is not an effective use of resources.

Disaster Legal Assistance

Disasters are becoming more frequent, more destructive, more widespread, impacting larger numbers of people, and for longer periods, resulting in concentrated and escalating demand for legal services.

For example, in NSW since 1 January 2020 the Legal Aid NSW Disaster Response Legal Service (DRLS) has provided over 12,400 disaster related services to over 5,000 clients including over 2,800 helpline calls and over 9,500 legal services. At the peak of service delivery between March and July 2022, Legal Aid NSW lawyers simultaneously attended eleven Recovery Centres across Northern NSW and Greater Sydney as well as over 20 Recovery Assistance Points and pop-up events and coordinated the wider legal assistance sector response.

Disaster response legal assistance has become a specialised and expansive area of law which includes:

- Insurance
- Housing and tenancy
- Grants
- Environmental and planning issues
- Income support

It is critically important to provide an early response to communities to assist with matters such as:

- Temporary accommodation
- Insurance claims and disputes
- Saving tenancies
- Financial hardship
- Accessing grants

- Employment law entitlements
- Accessing motor vehicles (vital transport in regional areas)

Disasters span jurisdictions particularly for cross-border communities and for clients navigating national insurance law.

New South Wales and Victoria have received temporary funding over the past two years to deliver and co-ordinate disaster response legal services for disaster affected communities. Queensland has been delivering a skeleton service using existing resources. Each state delivers these services differently based on community need and scale of disaster events, taking a place-based approach.

The capacity to service demand is hampered by short term funding, with the regular loss of skilled expertise due to insecure employment. Without commitment to ongoing funding at a national level the co-ordination, scale and geographical coverage of the disaster response will be significantly reduced and communities, particularly in rural and remote areas of Australia, will not receive support.

Disaster legal assistance is a cost benefit investment for governments. In particular, the legal assistance provided to people impacted by disaster and the systemic advocacy undertaken (for example, with insurance companies) represents significant savings by reducing the need for government funded support.

A total of **\$20 million** per annum for the delivery of disaster response and recovery legal services nationally across Legal Aids, Community Legal Centres and Aboriginal and Torres Strait Islander Legal Services is required. This includes a baseline legal assistance service and the capacity to stand up place-based legal assistance in disaster affected areas. This could be jointly funded by the Commonwealth and State/Territories and could expand upon existing arrangements developed by the National Emergency Management Agency as part of the Disaster Recovery Funding Arrangements.

NDIS Appeals Program

National Legal Aid is seeking a funding commitment of an additional **\$7 million** per annum that would expand the NDIS Appeals Program to better meet demand.

The Commonwealth Government has provided funding for a national NDIS Appeals Program to Legal Aids since 2016. The NDIS Appeals Program includes advice clinics and legal representation at the ART and Federal Court. In 2023-2024 Legal Aids provided legal representation to over 300 people and over 2,500 legal advices as part of the Program.

The funding agreement for the Program is due to expire on 30 June 2026. It is understood that this has been extended for a further two years until June 2028 with a view to assessing the need for the Program alongside a review of the disability advocacy program. The Program remains under-resourced, and a commitment limited to 2 years of baseline funding will continue to create operational challenges in terms of meeting demand, managing rising costs associated with medical and other reports and retaining staff. Most importantly, the current amount allocated means that most applicants are unable to access legal representation for NDIS Appeals, which places them at significant disadvantage and is resulting in barriers to access justice. Currently, legal representation is limited to approximately 18% of people who lodge NDIS appeals.

The approximately \$5 million baseline funding allocated to Legal Aids for the NDIS Appeals Program per annum is in comparison to NDIA expenditure of approximately \$60.7 million to external law firms in 2024-25 to represent it at the ART.

The NDIS Appeals Program was evaluated in 2025. The evaluation concluded that legal assistance for NDIS appeals resulted in better outcomes for clients, helped clients be more informed and prepared, enhanced access to justice and fairness, reduced delays, supported the fair and efficient operation of the ART and the NDIS (including by filtering out non-meritorious cases), and represented value for money.

To better meet demand, it is proposed that an additional **\$7 million** per annum is provided to expand the NDIS Appeals Program so that it could increase its service delivery to provide a total of approximately 5,000 advices and 700 legal representations per annum.