

**Pre-Budget Submission  
2023-2024**

**Submission to the Treasurer**

**27 January 2023**

## Acknowledgement

We acknowledge the family and domestic violence victim-survivors with whom we work and whose voices and experiences inform our advocacy in the hope for positive change.

WLSA members operate from many different locations across Australia. Across these locations, we acknowledge the Traditional Owners of Country, recognise their continuing connection to land, water and community, and pay respect to Elders past and present.

## Who we are

Women's Legal Services Australia (WLSA) is a national network of 13 specialist Women's Legal Services in each State and Territory across Australia, specifically designed to improve women's lives through gender-led and trauma-informed specialist legal representation, support, and advocacy.

## What we do

WLSA members provide high quality free legal services, including representation and law reform activities, to support women's safety, access to rights and entitlements, and gender equality. We seek to promote a legal system that is safe, supportive, non-discriminatory, and responsive to the needs of women. Some of our services have operated for almost 40 years.

The principal areas of law that our members assist with are family law, family violence intervention orders, child protection, migration law, victims of crime compensation, employment law and discrimination law. Some of our members also assist with criminal law and civil law. Our members also deliver training programs and educational workshops to share our expertise regarding effective legal responses to violence and relationship breakdown.

The majority of our members' clients have experienced, or are still experiencing, family and domestic violence. WLSA members have specialist expertise in safety and risk management, maintaining a holistic and trauma-informed legal practice, providing women additional multidisciplinary supports, including social workers, financial counsellors, and trauma counsellors, for long-term safety outcomes.

WLSA members approach the legal issues facing women and their experience of the legal system within a broader analysis of systemic gender inequality. We are committed to providing individual services whilst also working towards deeper legal and cultural change to redress power imbalances and address violence and gender inequality. We contribute to policy development and law reform to ensure that the law does not unfairly impact on women experiencing violence and relationship breakdown.

## Contact us

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## Executive Summary

While the Albanese Government must be commended for the focus on measures to advance gender equality and end violence against women and children in the October 2022 Budget, services that are vital to the safety and recovery of women and children experiencing violence, such as specialist legal assistance services for women, continue to be underfunded. In the 2023-24 Budget, we hope to see a commitment to providing significant and sustainable funding for Women's Legal Services to ensure women and children have the supports they need to live safely and free from family, sexual and domestic violence.

### Fixing broken promises to specialist Women's Legal Services

In the 2021-22 Budget announced on 11 May 2021, Women's Legal Services were promised an additional \$129 million over four years by the Morrison Government. Unfortunately, only \$60 million or 46.5 per cent of this funding was received by Women's Legal Services – this equates to only \$15 million per year across 13 organisations. The remaining 53.5 per cent of funding was provided to Legal Aid Commissions and Community Legal Centres that provide services to both men and women, including perpetrators of violence against women and their children.

This funding came after Women's Legal Services highlighted that over 40 per cent of women seeking assistance must be turned away due to lack of staff and resources. An economic analysis conducted by the Australia Institute in September 2020 demonstrates that at least \$25 million is required annually to ensure that financial disadvantaged and marginalised women at risk of violence can receive specialised legal assistance.

Without additional funding, Women's Legal Services will continue to be forced to turn hundreds of women at risk of violence away each year and will not be able to provide women with the support they need to be safe and recover from violence. WLSA members are seriously concerned about their lack of capacity to meet demand, which will continue to increase in the years ahead as victim-survivors of family violence have increasingly complex needs, particularly in the wake of the COVID-19 pandemic.

To fix these funding issues, and to ensure that promises cannot be broken again in future, WLSA is seeking a dedicated funding stream for Women's Legal Services that would ensure that funding earmarked for women reaches its intended recipients. At a minimum, we seek funding to ensure that all Women's Legal Services can operate a base model for best practice service delivery that will meet the needs of the women who are most in need of our assistance.

### Expanding the work of Women's Legal Services to assist more women

In addition to the core funding that Women's Legal Services receive under the National Legal Assistance Partnership (NLAP), there are a number of programs and services that could be expanded, or new services that could be established, to increase the availability of legal and support services for women. We are seeking additional funding to provide/continue to provide:

- health justice partnerships and domestic violence units;
- migration law assistance for women on temporary visas experiencing violence;
- employment and discrimination law assistance for victim-survivors of sexual harassment and other gendered workplace issues;
- independent legal advice, casework and representation services for victim-survivors of sexual violence to navigate the criminal justice system and access alternative avenues for redress and recovery; and
- legal assistance with Hague Convention cases for women experiencing family and domestic violence.

## Building the capacity of WLSA as a national peak body

In September 2022, WLSA members made the decision to work towards establishing WLSA as a national peak body, responsible for ensuring that Women’s Legal Services have a national voice on policy and law reform issues impacting our clients, building the capacity of Women’s Legal Services to provide best practice services, and providing a forum for staff to collaborate and support each other. We are seeking funding to establish WLSA as a national peak body.

We look forward to working with the Albanese Government to ensure that women across Australia have access to the legal assistance and other supports they need to be safe and recover from violence.

## Recommendations

1. Allocate significant and sustainable funding to Women’s Legal Services to meet demand for assistance and to operate a best practice service delivery model, including expansion of health justice partnerships, domestic violence units, and other integrated service models.
2. Establish a dedicated funding stream for Women’s Legal Services under the National Legal Assistance Partnership (NLAP).
3. Fund Women’s Legal Services to establish a national peak body.
4. Fund a Women’s Legal Service to establish a national service that can assist women and their children with Hague Convention matters.
5. Fund Women’s Legal Services to establish, or expand an existing, migration law practice to assist women on temporary visas experiencing violence.
6. Increase funding for the pilot program for ‘specialised and trauma-informed legal services for victim-survivors of sexual assault’ and enable all Women’s Legal Services to provide services to victim-survivors of sexual violence to support their recovery and engagement with the criminal justice system.
7. Fund Women’s Legal Services to establish, or expand an existing, employment and discrimination law practice to assist women with gender-based workplace issues, including sexual harassment.

## Costings

Recommendation	Investment
<b>Recommendations 1 and 2:</b> Establish a dedicated funding stream for Women’s Legal Services under the NLAP and allocate significant and sustainable funding to Women’s Legal Services to meet demand for assistance and to operate a best practice service delivery model.	In addition to existing funding provided to Women’s Legal Services under the NLAP: <b>Option 1:</b> An additional \$9,993,302 per year to meet the minimum investment recommended by the Australia Institute (plus indexation) to meet current levels of unmet demand. A copy of the economic analysis can be provided on request. <b>Option 2:</b> An additional \$20,125,000 per year to ensure that all Women’s Legal Services can establish a base model for best practice service delivery (plus indexation). A detailed breakdown of costs can be provided on request. <b>Option 3:</b> An additional \$68,965,207 over the next two years to address the failure to allocate the funding promised to Women’s Legal Services in the 2021-22 Budget, and thereafter an additional \$32,248,000 per year as originally promised (plus indexation).
<b>Recommendation 3:</b> Fund Women’s Legal Services to establish a national peak body.	A minimum of \$575,000 per year (plus indexation). A detailed breakdown of costs can be provided on

	request.
<b>Recommendation 4:</b> Fund a Women’s Legal Service to establish a national service that can assist women and their children with Hague Convention matters.	A minimum of \$1,125,000 per year (plus indexation). A detailed breakdown of costs can be provided on request.
<b>Recommendation 5:</b> Fund Women’s Legal Services to establish, or expand an existing, migration law practice to assist women on temporary visas experiencing violence.	A minimum of \$4,156,250 per year (plus indexation) for all Women’s Legal Services to establish or continue to operate a migration law practice. This would enable Women’s Legal Services to collectively assist 1000 to 1500 women per year, depending on the type of service provided. A detailed breakdown of costs can be provided on request.
<b>Recommendation 6:</b> Increase funding for the pilot program for ‘specialised and trauma-informed legal services for victim-survivors of sexual assault’ and enable all Women’s Legal Services to provide services to victim-survivors of sexual violence to support their recovery and engagement with the criminal justice system.	A minimum of \$3,900,000 per year (plus indexation). A detailed breakdown of costs can be provided on request.
<b>Recommendation 7:</b> Fund Women’s Legal Services to establish, or expand an existing, employment and discrimination law practice to assist women with gender-based workplace issues, including sexual harassment.	A minimum of \$10,974,250 per year (plus indexation). A detailed breakdown of costs can be provided on request.

# Dedicated funding for Women's Legal Services

## **Ensuring that women have access to justice is crucial for achieving gender equality.**

Women who experience family and domestic violence are more likely to experience social disadvantage and be exposed to a range of legal and non-legal problems. Legal problems often result in further problems in relation to health, housing, finances, mental health, employment, education, engagement with the criminal justice system, and increased vulnerability.

Women often encounter personal and systemic barriers to accessing legal assistance, financial counselling and social work support, particularly women who are experiencing family and domestic violence. That is why Women's Legal Services specialise in providing tailored, wrap-around support to women that is led by women, trauma-informed and meets a range of legal and non-legal needs.

## **Investment in specialist, integrated wrap-around services is cost effective and saves women's lives.**

Women's Legal Services are in a unique position to provide integrated wrap-around services, including legal assistance, financial counselling and social work support. These supports assist women to protect themselves and their children from violence and abuse, promote safety and enable financial and emotional recovery. These supports also empower women by enabling women to make informed decisions and exercise their legal and financial rights, which in some cases can save lives.

Investment in Women's Legal Services to provide integrated wrap-around services to women is a cost-saving measure. Early intervention through the early provision of legal assistance prevents legal and other problems from escalating, and reduces costs to government in the long term. Legal assistance ensures that women who are leaving abusive and violent relationships are better able to exercise their rights and are awarded what they are entitled to, which reduces the burden on government.

## **Women's Legal Services require additional funding to meet demand and establish best practice service delivery models.**

The restrictions imposed due to COVID-19 increased the danger for at-risk women by confining many in their homes with potentially violent partners and increasing the opportunities for coercive control, as well as creating significant financial stress. The impact of this continues to be felt, as Women's Legal Services continue to face increasingly high demand for assistance from women who have experienced, or are experienced, family and domestic violence.

While Women's Legal Services received an additional \$15 million per year in the 2021-22 Budget, this is less than half of what was promised, and there was a different allocation across the States and Territories. This means that some services have only seen a small increase – enough to meet rising costs rather than increase services. This is despite the fact that demand for assistance with family and domestic violence and related matters has escalated since COVID-19, and there is still an urgent need to expand our services to support women's safety.

Further investment is needed to ensure that Women's Legal Services are able to meet demand and establish a consistent base model for service delivery. Women's Legal Services are seriously concerned about their limited resources and capacity to meet the demands for assistance across the country. Additional funding is also needed to ensure that Women's Legal Services can engage in outreach and remote service delivery to make services more accessible to women across Australia.

An economic analysis conducted by the Australia Institute in September 2020 demonstrates that at least \$25 million is required annually to ensure that financial disadvantaged and marginalised women at risk of violence can receive specialised legal assistance. Without additional funding, Women's Legal Services will be forced to continue to turn women away from the vital assistance they need to be safe and recover from violence and abuse.

Women’s Legal Services have a unique approach to service delivery which requires a tailored and flexible funding approach. As noted above, our integrated and holistic approach to service delivery means we provide wraparound support to women that addresses a range of legal and other support needs. We require funding that is flexible and enables us to provide access to social workers, financial counsellors, cultural safety staff and other community services through in-house staff and partnerships with other organisations, including Health Justice Partnerships. An overview of the Women’s Legal Service approach to service delivery is at Attachment A.

**We need a dedicated funding stream and a direct relationship with the Commonwealth Government to ensure funding is allocated as promised.**

There has been a concerning trend of funding earmarked for women being allocated to mainstream Community Legal Centres and Legal Aid Commissions by the State and Territory governments. Women’s Legal Services were only allocated 46.5 per cent of the \$129 million the Morrison Government promised would be dedicated to assisting vulnerable women. Further, only 7 per cent of the COVID-19 legal assistance funding intended for victim-survivors of family and domestic violence was distributed to Women’s Legal Services nationally. There have also been disparities between different jurisdictions in how the funding is allocated.

While mainstream services may assist some women, it has been repeatedly recognised that women-led specialist legal services are best placed to meet the unique legal needs of women. Mainstream services generally do not specialise in integrated responses to domestic and family violence, and often prioritise representation for perpetrators facing criminal penalties over legal advice and safety support for victims. We also note that there may be barriers to victim-survivors accessing mainstream services in smaller jurisdictions due to legal conflict where perpetrators have already sought assistance. Further, the funding provided under the National Legal Assistance Partnership can be used by mainstream services to support operational capacity building, scaling up and other overhead costs, which ultimately contributes to supporting service delivery for both men and women, and both perpetrators and victim-survivors.

A solution to ensure this does not happen in future is a dedicated funding stream for the 13 specialist Women’s Legal Services. This would ensure that State and Territory governments cannot make decisions to allocate funding intended for services for women to mainstream legal services that assist perpetrators of violence against women. This would also ensure that there is national consistency in funding allocation, as well as funding certainty for Women’s Legal Services.

**Recommendation 1:** Allocate significant and sustainable funding to Women’s Legal Services to meet demand for assistance and to operate a best practice service delivery model, including expansion of health justice partnerships, domestic violence units, and other integrated service models.

**Recommendation 2:** Establish a dedicated funding stream for Women’s Legal Services under the National Legal Assistance Partnership (NLAP).

## A national peak body for Women’s Legal Services

Women’s Legal Services are distinct from other Community Legal Centres, with a unique approach to providing gender-led, specialist services that are tailored to the specific needs of women. As such, Women’s Legal Services are increasingly working collaboratively across Australia as a distinct sector which has its own gender-led national voice, strategic priorities, service delivery model, and community of practice.

Due to the increasingly complex needs of victim-survivors of domestic and family violence, increasing demand for specialist women’s legal assistance, and the growth of Women’s Legal Services in recent years,



there is also an increasing need for WLSA members to work together to strengthen capacity and resources, work towards best practice, learn from each other and grow to be better placed to assist women.

WLSA has the potential to be a valuable and effective national peak body for the specialist Women's Legal Services. With additional funding, WLSA would be well positioned to provide a national voice on law reform and policy development, contribute to the national policy debate on key reforms for women's safety and equality, and to keep government informed about the impact of policy and law reform on women and their children.

With additional funding, WLSA could also play a national coordinating role to enhance service delivery and build capacity across all Women's Legal Services, which was highlighted as a priority in the National Plan to End Violence Against Women and Children 2022 - 2032.

Without dedicated funding, it is difficult for WLSA to perform a peak body role, including coordinating engagement with government on law reform or policy development, communicating with government about funding requirements and service delivery needs and impacts, or providing feedback on the impact of government reforms on women's safety. We also note there is currently limited or no funding for individual Women's Legal Services to engage in policy and law reform work.

We are seeking funding specifically for WLSA to operate as a national peak body for Women's Legal Services. Funding should cover the cost of at least 3 FTE, including salary and oncosts, and these roles could be auspiced by an individual Women's Legal Service to minimise operational and infrastructure costs.

**Recommendation 3:** Fund Women's Legal Services to establish a national peak body.

## Legal assistance for women and their children with the Hague Convention

We are pleased that the Albanese Government amended the *Family Law Regulations 1984* (Cth) to clarify that allegations of family and domestic violence can be considered before return orders are made for children under the Hague Convention. However, further reform is needed to ensure that the Hague Convention cannot be used as a weapon to engage in systems abuse against women and children, and to protect the safety of women and children experiencing family and domestic violence.

WLSA is working closely with Hague Mothers, an international project supported by the feminist charity FiLiA which aims to end the injustices created by the Hague Convention. Hague Mothers have made a number of recommendations to the Albanese Government for reform to improve the safety of women and children in Convention cases. This includes a recommendation that the government fund legal assistance for the parent who has taken the child overseas, which is currently only provided for the parent who is left behind.

Women who have taken their child overseas are often fleeing from domestic and family violence. The application for the return of the child to Australia is made by the government, and the Commonwealth Government pays the legal costs. This results in perpetrators of family and domestic violence receiving free legal assistance, while the victim-survivor does not.

As Hague Mothers have noted, "there is a huge inequality in legal representation for taking mothers and left-behind fathers which adds to the imbalance in these matters. Funding for both parents is required. This is a matter of equity but would also reduce trauma for children and could prevent inappropriate returns. The effect of the operation of the current arrangement is state-sanctions systems abuse, where the motivations of the taking parent are rendered irrelevant, and the often abusive motivations of the left-behind parent are ignored."

Women's Legal Services are well placed to establish a national legal service that can assist women who are involved in a Hague Convention matter, particularly where they have taken the child overseas and are experiencing family and domestic violence. Women's Legal Services have specialist expertise in providing trauma-informed assistance to women, along with wrap-around integrated supports that may be able to support women to remain in the country with their children. A national service could be established by one Women's Legal Service through an auspice arrangement.

**Recommendation 4:** Fund a Women's Legal Service to establish a national service that can assist women and their children with Hague Convention matters.

## Supporting women on temporary visas experiencing violence

There are currently 8 Women's Legal Services across Australia funded to provide migration law services to women on temporary visas experiencing violence as part of a pilot funded through the Department of Social Services. We were pleased additional pilot funding was announced in the October 2022 Budget, however we are concerned this is only a short-term lifeline for this critical service.

This pilot has demonstrated an effective model for providing legal assistance and other supports to women on temporary visas to ensure they are able to live safely and free from violence, whether by remaining in Australia or returning to their home country. The Women's Legal Services that have developed migration law practices under this pilot are keen to continue provide these services, and it would be a devastating loss of skills and expertise if the migration practices were defunded.

We also note that a few Women's Legal Services were not funded under the pilot, including Central Australian Women's Legal Service (CAWLS) who fund their migration law services through COVID-19 legal assistance grant funding, which is due to end shortly. We are seeking Commonwealth funding for all Women's Legal Services to be able to establish migration law services or expand their existing services as part of delivering holistic legal assistance to women in all jurisdictions.

**Recommendation 5:** Fund Women's Legal Services to establish, or expand an existing, migration law practice to assist women on temporary visas experiencing violence.

## Independent legal representation for victim-survivors of sexual violence

There is increasing recognition that victim-survivors are participants in the criminal justice system, and therefore require their own independent legal representation to assist with navigating the system and understanding their rights and entitlements, as well as to support victim-survivors to experience more positive outcomes and to access alternative avenues to meet their needs.

We were pleased to see \$8.4 million over three years in the October 2022 Budget allocated for a pilot to provide victim-survivors of sexual assault with greater access to dedicated legal services to support their recovery and engagement with the criminal justice system.

Many Women's Legal Services are already working with victim-survivors of sexual assault and delivering services, as far as existing resources allow. Women's Legal Services offer support that is trauma-informed and includes integrated services that respond to the range of legal and other support needs of victim-

survivors of sexual violence. The tailored support we provide to women and their families makes specialised Women’s Legal Services best-placed to support victim-survivors throughout their entire engagement with the criminal justice system.

We are seeking funding for all Women’s Legal Services to be engaged in this pilot to ensure that victim-survivors in every State and Territory jurisdiction can access a pilot site.

**Recommendation 6:** Increase funding for the pilot program for ‘specialised and trauma-informed legal services for victim-survivors of sexual assault’ and enable all Women’s Legal Services to provide services to victim-survivors of sexual violence to support their recovery and engagement with the criminal justice system.

## Employment and discrimination law assistance for women

Women experiencing gendered violence, including in a workplace context, are likely to have a range of legal needs that require assistance. Women experiencing sexual harassment may require assistance with multiple legal issues beyond employment and discrimination matters, including in relation to victims of crime compensation, restraining orders, defamation, and administrative law. Services that can provide cross-jurisdictional legal assistance to women that span a range of legal issues will be particularly useful to enhance women’s safety and recovery.

Women’s Legal Services in the ACT, New South Wales, Northern Territory, Queensland and Tasmania currently provide assistance with employment and/or discrimination law. The services provided include information and support to women to advocate directly with employers where this is their preference, legal assistance, advocacy, education, and workplace training. The integrated model of service delivery means that women are provided with wrap-around support and culturally secure legal assistance across the variety of issues women who are facing problems at work also present with, particularly women who have experienced trauma and violence.

Additional investment is needed to ensure that all Women’s Legal Service across Australia can assist women with employment and discrimination law matters.

**Recommendation 7:** Fund Women’s Legal Services to establish, or expand an existing, employment and discrimination law practice to assist women with gender-based workplace issues, including sexual harassment.

# Attachment A – Service delivery approach

