



Women's Legal Services Australia

# FEDERAL PRE-BUDGET SUBMISSION 2021/22

## *Women's Legal Services Australia National Costing Model 2020 -2030*

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### About WLSA

Women's Legal Services Australia (WLSA) is a national network of community legal centres specialising in women's legal issues, which work to support, represent and advocate for women to achieve justice in the legal system. We seek to promote a legal system that is safe, supportive, non-discriminatory and responsive to the needs of women. Some of our centres have operated for over 35 years.

Our members' principal areas of legal service work are family violence (family violence intervention orders), family law, child protection and crimes compensation. Our members also deliver training programs and educational workshops to share our expertise regarding effective responses to violence and relationship breakdown.

Across the country, Women's Legal Services deliver a diverse range of socio-legal service models to the most financially disadvantaged women in Australia. The majority of women we represent have experienced, or are still experiencing, family and domestic

Finally, both WLSA and its individual member services work to contribute to policy and law reform discussions, primarily focused on sexual and family violence, to ensure that the law does not unfairly impact on women experiencing violence and relationship breakdowns.

### Acknowledgement

WLSA would like to acknowledge and recognise the traditional custodians of the lands on which we work and live. We acknowledge and pay our respects to Elders past, present and emerging.

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



## Executive Summary

WLSA called on the Federal Government in October last for an additional \$25 million annual rescue package to employ an extra 139 staff across the country. This would directly prevent the turning away of 40% of women from Women's Legal Services across Australia due to lack of staff and resources.

The restrictions imposed because of COVID-19 have 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. This has placed even greater pressure on already strained specialist legal services

The call came after an economic analysis, conducted by Jim Stanford, economist at the Australia Institute, in September 2020, demonstrated that Women's Legal Services across Australia were having to turn away up to 50% of financially disadvantaged and marginalised women who are either referred in to their services or seek support directly and that \$25 million was required annually to service those at risk of violence seeking advice and representation urgently.

The national costing model conservatively predicted that over the next decade around \$225 million needs to be allocated to specialist women's legal services to meet current levels of unmet demand. The costing does not take into account emerging needs and growing demands caused by the pandemic.

WLSA members are seriously concerned about the lack of resource capacity that they have to meet the expected growing demand for specialist women's legal services across the country to address the complex needs of family violence victim survivors arising from the pandemic. This demand will continue to rise in the coming months and years ahead.

Last year we welcomed the Federal Government's announcement in 2020 of \$63.3 million additional funding for the legal assistance sector. This included \$49.8 million for legal assistance services, 40% of which was allocated to matters relating to domestic violence and \$13.5 million allocated for IT costs to support the sector's transition to delivering



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assistance virtually and online.<sup>1</sup> However, funds earmarked for family violence legal services were disproportionately distributed to legal aid commissions, services which many of our client's cannot access due to legal conflict (the perpetrator of family violence has already accessed the service). Consequently, women and children missed out on the specialist legal assistance provided by women's legal services which could have aided their recovery from family violence. Only 7% of the national family violence spend was allocated to women's legal services. That equated to \$3.5 million of the \$63.3 million distributed nationally.<sup>2</sup>

WLSA acknowledges that the Australian Government has allocated specific family and domestic violence-related funding for several specialist women's legal services, and other legal services, as part of the Women's Safety Package. This funding has facilitated access to legal help for women experiencing family and domestic violence across Australia through the operation of 15 specialist domestic violence units (DVU's) and 5 health justice partnerships (HJP's). In 2018, the evaluation of the units and partnerships conducted by Social Compass were positive and found that the units and partnerships had multiple benefits including increased legal access, literacy and positive legal outcomes. WLSA supports the national roll-out of these reforms across Australia. WLSA acknowledges that in November 2018, the Commonwealth Government announced an additional \$29.8 million to extend funding for these existing units over 3 years from 2019-2020.

Another critical challenge that needs addressing in this federal budget is the family law system and the significant part that it has to play in keeping women and children safe after relationship breakdown during the pandemic. To address this critical challenge, over the past five years WLSA has been seeking to ensure that all decision-makers implement WLSA's Safety First in Family Law<sup>3</sup> plan, which has been widely and well received across Australia. More recently we have been working with the family law courts on several reform initiatives, including supporting the development and roll out of the Federal Circuit Court's "Lighthouse Project" and the national COVID-19 list for urgent matters.

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<sup>1</sup> Prime Minister's Media Statement, Update on Coronavirus measures, 6 May 2020 access at: <https://www.pm.gov.au/media/update-coronavirus-measures-050520>

<sup>2</sup> Senate Estimates 21/10/2020 questioning from Senator Larissa Waters of AGD witnesses

<sup>3</sup> [http://www.wlsa.org.au/campaigns/safety\\_first\\_in\\_family\\_law](http://www.wlsa.org.au/campaigns/safety_first_in_family_law)



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We recommend that these risk-screening pilots, namely the *Lighthouse Project*, should be rolled out nationally across all family law court registries in Australia as a matter of priority so that all women and children can feel safe and supported, not just those who are fortunate enough to be able to access the pilot programs. Further, recent developments that have seen the courts deliver virtual non-place based hearings across Australia under the COVID-19 list should be maintained. This list is for urgent matters, including family and domestic violence, which are related to COVID-19. WLSA submits that the effective operation of the COVID-19 family law list depends largely on it being supported by access to legal advice and representation and effective referrals to other professionals.

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## Role of Specialist Women's legal services in meeting the complex socio-legal needs of family violence victims

1. Experiencing family and domestic violence can drive social disadvantage, exposing women to a complex web of legal and non-legal problems and reducing their capability to address legal issues that need to be addressed. Victim-survivors of family and domestic violence often encounter personal and systemic barriers to getting legal, financial and social work service assistance. Integrated models of legal and social services working collaboratively together are increasingly being used to address the many varied needs of clients at the same time, when they present.
2. Models of integrated service are an innovative response to evidence that legal issues rarely exist in a vacuum and often result in, or arise from, a mixture of problems related to health, housing, finances, mental health, employment, education and family. 'Integration' can take different forms including co-location, multidisciplinary teams or partnerships with other community services.
3. Specialist women's legal services are:
  - in a unique position to be able to provide integrated wraparound socio-legal services, including financial counselling and social work support services to assist women experiencing domestic violence to protect themselves and their children and to financially and emotionally recover from family and domestic violence. Ongoing integrated legal, social and financial case management empowers women to make safe decisions and to manage the relationship breakdown by enabling them to understand complex legal and financial rights. In some cases, this can save lives. An early and integrated initial response also saves the Government money over the longer term. Advice and representation ensures that women leaving family violence seek and are awarded what they are entitled too, reducing the burden on the tax base.
  - vital in empowering and supporting women to claim their legal rights and ensure women can exercise agency, by providing them with a choice of legal assistance services. Staff of these services also have a thorough understanding of the nature and



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dynamics of domestic and family violence, impact of trauma and are able to recognise intersecting and compounding forms of disadvantage and enact appropriate strategies to respond.

- able to provide innovative, integrated services in sexual, family and domestic violence, family law and child protection and successfully fill the cross jurisdictional gaps between the different systems. Specialist family and domestic violence lawyers and social service professionals are readily able to identify interconnected life issues and provide early assistance before issues reach crisis point.

4. Recognising the role that specialist women's legal services play in assisting victim – survivors, the Financial Counselling Foundation last year provided three-year funding for 10 family and domestic violence financial counsellor positions throughout Australia, the majority to be placed within community legal services which work with family and domestic violence victim survivors. The Foundation *“hopes that these 10 one-off grants in other jurisdictions, will encourage those other Governments to make these new positions permanent after the Foundation's funding ceases”*<sup>4</sup>. Women's legal services who have been provided with funding include:

- Women's Legal Service NSW
- Women's Legal Service Queensland
- Central Australian Women's Legal Service
- Women's Legal Service WA
- Women's Legal Service SA
- Women's Legal Service Tasmania

## Costing unmet legal demand - WLSA's National Costing Model

5. Data for the National Costing Model was developed after each WLSA member conducted an audit of unmet need experienced by their service for the 2019/20

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<sup>4</sup> [FC Foundation | Funded Projects \(financialcounsellingfoundation.org\)](https://www.financialcounsellingfoundation.org/)



financial year. The figures were provided to Jim Stanford, as the basis for a National Costing Model and establishing agreed benchmarks. Non-staff costs were provided by each service on the basis of past expenditure and were then benchmarked for remote areas and non-remote areas. The aggregate data is presented in **Appendix A – national funding ask briefing paper**.

6. The model demonstrates that the current level of unmet need for family law assistance is around 40% of all women who present to our services. It also demonstrates that an immediate injection of around \$25 million is needed annually to employ 139 extra staff across Australia and to resource our services so that we can meet current demand levels.
7. The model takes into account some of the additional costs associated with remote service provision including, for example, additional vehicles and satellite phones to facilitate some community legal education visits to regional communities. However, the funding request is based on a conservative assessment of unmet need. It does not include service provision in all remote communities which facilitate a circuit court or bush court. The focus of bush court sittings is on criminal proceedings. For every perpetrator of family violence facing criminal charges, there is a victim who requires socio-legal support to engage effectively with the court, including providing evidence, seek appropriate protection through the civil protection order schemes and exercise their right seek compensation to support them to recover from the violence they have experienced. We encourage the Federal Government to review funding arrangements for court circuits and bush courts with a view to ensuring that female victims and women who have used violence to resist abuse both have the opportunity to be represented by a specialist women's legal service.
8. Over the next decade a conservative estimate, based on the national costing model, an additional \$225 million needs to be allocated.
9. This model does not take into account the anticipated and predicted need as the full effects of the COVID-19 pandemic unfold.

### Emerging legal needs

10. Women's Legal Services Australia members have all experienced an increase in complexity of matters during COVID-19. We have seen an increase in COVID-19



related family law matters where COVID-19 restrictions have been used as a tool to increase the level of control and coercion over the mother. We have been and are concerned for the safety of children and adult victim-survivors. This has resulted in an increased intensity in the case work.

11. The number of matters in the legal and justice system involving allegations of family and domestic violence is expected to increase. Sexual, family and domestic violence services across Australia have seen a marked increase in women seeking assistance with family and domestic violence matters over the past five years, as public discussion around the issue has grown momentum. This will likely further increase with the announcement of the Australian of the year, Grace Tame drawing further attention to sexual assault and family violence. We have also seen an increase in the criminalisation of women who have experienced family and domestic violence. Research has also clearly demonstrated that domestic and family and domestic violence during and post natural disasters increases and that domestic and family and domestic violence reported around the world during COVID-19 has increased. Research recently published by the Australian Institute of Criminology has confirmed this increase.<sup>5</sup> WLSA members urge the Federal Government to take this all into account when developing the next federal budget.

### **Equitable distribution of funding to meet the needs of family and domestic violence victims**

12. Last year we welcomed the Federal Government's announcement in 2020 of \$63.3 million additional funding for the legal assistance sector. This included \$49.8 million for legal assistance services, 40% of which was allocated to matters relating to domestic violence and \$13.5 million allocated for IT costs to support the sector's transition to delivering assistance virtually and online.<sup>6</sup> However, funds earmarked for family violence legal services were disproportionately distributed to legal aid commissions, while women and children missed out on the specialist legal assistance provided by women's legal services which could have aided their recovery from family violence. Many of our clients

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<sup>5</sup> The prevalence of domestic violence among women during the COVID-19 pandemic | Australian Institute of Criminology (aic.gov.au)

<sup>6</sup> Prime Minister's Media Statement, Update on Coronavirus measures, 6 May 2020 access at: <https://www.pm.gov.au/media/update-coronavirus-measures-050520>



cannot access generalist legal aid services due to legal conflict (the perpetrator has accessed the service first).

13. Questioning by Senator Larissa Waters at the Senate Estimates Hearings last October revealed that Women's Legal Services across Australia only received **7%** of the total funding pool allocated to legal assistance services for matters relating to family violence (\$3.4million).<sup>7</sup> There are approximately 18 services operating in Australia which can't meet current demand levels let alone increased demand caused by COVID-19.

14. The AGD indicated at the same Senate Estimates Hearing, that they had received detailed proposals from the states and territories setting out how they intended to distribute the funding quarantined for domestic violence legal assistance (\$163million) under the National Legal Assistance Partnership 2020-2025 (NLAP). We note that a significant proportion of the funding, needs to be directed equitably towards specialist women's legal services around the country. These legal support services are crucial to enable women (and their children) to navigate their way through the family law system safely.

### Resourcing a safer family law system

15. For the past 10 years WLSA has been advocating for Safety First in Family Law.<sup>8</sup> WLSA's Safety First in Family Law plan was publicly re-launched with the support of Rosie Batty, former Australian of the Year and OAM, in 2019.<sup>9</sup> The plan, which has been endorsed by over 90 organisations across Australia, includes 5 steps for reform to keep women and children safe:

- i. Strengthen family violence response in the family law system
- ii. Provide effective legal help for the most disadvantaged
- iii. Ensure family law professionals have real understanding of family violence
- iv. Increase access to safe dispute resolution models

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<sup>7</sup> Senate Estimates 21/10/2020 questioning from Senator Larissa Waters of AGD witnesses

<sup>8</sup> [http://www.wlsa.org.au/campaigns/safety\\_first\\_in\\_family\\_law](http://www.wlsa.org.au/campaigns/safety_first_in_family_law)

<sup>9</sup> <https://www.news.com.au/national/politics/politicians-should-embrace-a-fivestep-plan-to-combat-family-violence/news-story/d0bf391997e8b867c6455fd2cbfda990>



- v. Overcome the gaps between the family law, family violence and child protection systems.
16. Over the past year WLSA has been working closely with the Family Law Courts to improve the safety of women and children navigating the family law system in Australia.
17. We welcome the initiative of the Chief Justice of the Family Court of Australia and Chief Judge of the Federal Circuit Court of Australia, the Hon Will Alstergren, which has led to the establishment and expansion of a special COVID-19 list where parenting matters related to COVID-19 can be urgently listed and dealt with within 72 hours. This list is for urgent matters, including family violence, that are related to COVID-19. WLSA submits that the effective operation of the COVID-19 family law list depends largely on it being supported by access to legal advice and representation. Funding recently announced for the legal assistance sector needs to be directed towards specialist women's legal services around the country. These legal support services are crucial to enable women (and their children) to navigate their way through the family law system safely.
18. In 2019 the Australian government committed to funding pilots in four family court registries across Australia to trial family violence risk assessments, case management, triage and specialist family violence lists over the next two years. For women experiencing family violence and relationship breakdown, this reform initiative will mean that women and children who enter the family law system will receive the safety supports and case management they need in the early stages. We believe this is a significant reform initiative because nearly 70 % of matters the court is currently dealing with involve allegations of family violence.
19. We recommend that these risk-screening pilots, which have been since named the *Lighthouse Project*, should be rolled out nationally across all family law court registries in Australia as a matter of priority so that all women and children can feel safe and supported, not just those who are fortunate enough to be able to access the pilot programs. Further, recent developments that have seen the courts deliver virtual non-place based hearings across Australia be adapted to enable the *Lighthouse Project* to have as far a reach into regional and remote areas as possible.



## ATTACHMENT A

### WLSA's National Costing Model Briefing Paper

#### Background

Specialist women's legal services are chronically underfunded and are struggling to meet the complex legal, financial and social needs of vulnerable and disadvantaged Australian women experiencing relationship breakdown and family violence.

The restrictions imposed because of COVID-19 have 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. This has placed even greater pressure on already strained specialist legal services.

To address the predicted increase in demand as a result of COVID-19, WLSA and Jim Stanford, Director of the Centre for Future Work at the Australia Institute, together developed a National Costing Model, in September this year.

Data for the National Costing Model was developed after each WLSA member conducted an audit of unmet need experienced by their service for the 2019/20 financial year. The figures were provided to Jim Stanford, as the basis for a National Costing Model and establishing agreed benchmarks. Non-staff costs were provided by each service on the basis of past expenditure and were then benchmarked for remote areas and non-remote areas.

#### Summary of national costings

The model demonstrates that the current level of unmet need for family law assistance is around 40% of all women who present to our services.

It also demonstrates that an immediate injection of around \$25 million is needed annually to employ 139 extra staff across Australia and to resource our services so that we can meet current demand levels. Over the next decade a conservative estimate of around \$225 million needs to be allocated.

This model does not take into account the anticipated and predicted need as the full effects of the COVID-19 pandemic unfold.



Table 1: Detail of Base Year Cost Components

Positions	Regions													Total Staff	Total Cost
	WLS VIC	WLS NSW	WBAWLC NSW	WLS WA	WLS TAS	WLS ACT	WLS QLD	North QLD	CAWLS	TEWLS	KWILS	WLS SA	ATSIWLSQ		
Director/Senior Admin	1	0	0	0	1	1	0	3	1	0	0	1	0	8	\$1,504,000
Lawyers/Solicitors	7	10	3	6	2	4	7	6	4	3	4	8	1	65	\$11,456,250
Social Worker	2	2	0	1	2	1	1	0	2	1	2	2	0	16	\$2,444,000
Financial Counsellor	1	1	0	1	1	0	1	0	2	1	2	1	0	11	\$1,680,250
Other Education, Communications & Outreach	0	0	0	1	1	0	0	0	1	1	0	2	0	6	\$916,500
Community Access & Client Support	0	3	2	0	0	0	0	0	2	1	1	0	0	9	\$1,374,750
Admin	2	0	1	3	1	0	4	2	2	0	1	0	1	17	\$1,997,500
Intake & Para-legal Officers	0	0	0	0	1	2	0	0	0	0	0	3	1	7	\$822,500
<b>TOTAL STAFF</b>	<b>13</b>	<b>16</b>	<b>6</b>	<b>12</b>	<b>9</b>	<b>8</b>	<b>13</b>	<b>11</b>	<b>14</b>	<b>7</b>	<b>10</b>	<b>17</b>	<b>3</b>	<b>139</b>	<b>\$22,195,750</b>
Non-staff Costs (1)	\$195,000	\$240,000	\$90,000	\$180,000	\$135,000	\$120,000	\$195,000	\$495,000	\$630,000	\$315,000	\$450,000	\$255,000	\$135,000		\$3,435,000
<b>TOTAL COST</b>															<b>\$25,630,750</b>
(1) Non-staff cost benchmarks applied for remote areas (\$45,000/FTE) and non-remote areas (\$15,000/FTE).															



Table 2: Summary of New Positions by Occupation

Director/Senior Admin	8
Lawyers/Solicitors	65
Social Worker	16
Financial Counsellor	11
Other Education, Communications & Outreach	6
Community Access & Client Support	9
Admin	17
Intake & Para-legal Officers	7
<b>TOTAL</b>	<b>139</b>



Table 3: Summary of New Positions by Region

WLS VIC	13	North QLD	11
WLS NSW	16	ATSIWLSQ	3
WBAWLC NSW	6	CAWLS	14
WLS WA	12	TEWLS	7
WLS TAS	9	WLS SA	17
WLS ACT	8	KWILS	10
WLS QLD	13	<b>TOTAL</b>	<b>139</b>



Table 4: Staff Cost Benchmarks

Position	Salary	Including 17.5% Loading
Director/Senior Admin	\$160,000	\$188,000
Lawyers/Solicitors	\$150,000	\$176,250
Social Worker	\$130,000	\$152,750
Financial Counsellor	\$130,000	\$152,750
Other Education, Communications & Outreach	\$130,000	\$152,750
Community Access & Client Support	\$130,000	\$152,750
Admin	\$100,000	\$117,500
Intake & Para-legal Officers	\$100,000	\$117,500



Table 5: Annual Cost Escalation for the next 10 years

Category	Years										Cumulative Total
	Base Year	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	
Staff	\$22.2	\$22.8	\$23.3	\$23.9	\$24.5	\$25.1	\$25.7	\$26.4	\$27.0	\$27.7	\$248.7
Non-Staff	\$3.4	\$3.5	\$3.6	\$3.7	\$3.8	\$3.9	\$4.0	\$4.1	\$4.2	\$4.3	\$38.5
Total	\$25.6	\$26.3	\$26.9	\$27.6	\$28.3	\$29.0	\$29.7	\$30.5	\$31.2	\$32.0	\$287.2
Costs escalated at 2.5% per year (RBA inflation target).											