

Review of the allocation of funds from the Legal Practitioner Interest on Trust Accounts Fund

Final Report

December 2012

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COMMONLY USED ABBREVIATIONS

CCLSP:	Commonwealth Community Legal Services Program	
CLC:	Community	Legal Centre
CLSP:	Community	Legal Services Program
Commonwealth AGD: Commonwealth Attorney-General's Department		
DJAG:	Department of Justice and Attorney-General	
DoC:	Department of Communities, Child Safety and Disability Services	
DPC:	Department of the Premier and Cabinet	
LAQ:	Legal	Aid Queensland
LPA:	<i>Legal Profession Act 2007 (Qld)</i>	
LPITAF:	Legal Practitioner Interest on Trust Accounts Fund	
NACLC:	National Association of Community Legal Centres	
QTT:	Queensland Treasury and Trade	
SCLSP:	State Community Legal Services Program	
SPM:	CLSP State Program Manager	
VAQ:	Victim Assist Queensland, DJAG	

GLOSSARY OF TERMS

Community Legal Services Program (CLSP): See '4.1.11 Does allocating LPITAF funding to the community organisations align with the strategic objective of funding frontline services? If so, what types of allocations should be made?', page 34, and 'Attachment 4'.

Community organisations: deliver legal assistance services to Queenslanders and generally receive smaller amounts of funding per organisation than specified entities.

Legal assistance sector: a nationally recognised term that includes all legal assistance providers (legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander legal services, and family violence prevention legal services).¹ LPITAF and Queensland Government funding is allocated to LAQ and community organisations (including CLCs) for the provision of legal assistance services in Queensland. For further details, see '4.1.8 Respective roles of Commonwealth and Queensland governments in funding legal assistance services that receive LPITAF funding', page 26.

Legal assistance services: provision of legal services for free or on payment of an amount that is less than the cost of providing the service.

Regulatory functions: See '4.1.10 Does allocating LPITAF funding to the specified entities align with the strategic objective of funding frontline services?', page 30.

Specified entities: have statutory roles in the regulatory framework for Queensland's legal profession or the delivery of legal assistance services and generally receive the largest individual funding allocations.

¹ Council of Australian Governments, *National Partnership Agreement on Legal Assistance Services*, p. 4, viewed 30 August 2012, <http://www.federalfinancialrelations.gov.au/content/national_partnership_agreements/Other/Legal_Assistance_Services_NP.pdf>.

EXECUTIVE SUMMARY

The Attorney-General and Minister for Justice (the Attorney-General) has the authority to decide whether a payment should be made from the LPITAF to or for any of the entities or types of grants listed in the *Legal Profession Act 2007* (Qld) (LPA). The Department of Justice and Attorney-General (DJAG) has administered the Legal Practitioner Interest on Trust Accounts Fund (LPITAF) since 2004.

In recent years, approximately \$38 million per annum of LPITAF funds have been allocated to:

- administer the regulatory framework for Queensland's legal profession; and
- support access to legal services and advice for vulnerable Queenslanders.

LPITAF funding is currently allocated to two main groups of organisations:

- specified entities that have statutory roles in the regulatory framework for Queensland's legal profession or the delivery of legal assistance services and generally receive the largest individual funding allocations; and
- community organisations that deliver legal assistance services to Queenslanders and generally receive smaller amounts of funding per organisation.

The primary source of LPITAF revenue is interest received from all solicitors' trust accounts kept in Queensland where the clients do not specifically request that their money be invested in their own name. This is a variable funding source which has been significantly impacted by the recent global economic situation.

The Attorney-General asked DJAG to conduct the *Review of the allocation of funds from the Legal Practitioner Interest on Trust Accounts Fund* (the Review). The intended outcome was a model for transparent decision-making in relation to future LPITAF funding allocations that maximises service delivery to Queenslanders across the State, while ensuring the ongoing viability of the LPITAF.

Some LPITAF recipients have expressed concerns over deficiencies in the transparency around the current funding allocation processes, which have caused uncertainty and resulted in competitiveness between some funded organisations. They have also identified opportunities for improvement in strategic planning for the legal assistance sector in Queensland and insist that DJAG, in consultation with the Commonwealth Government, should take a lead role in maximising service delivery to Queenslanders across the state. Throughout the Review, DJAG worked closely with the current LPITAF recipients to ensure that the recommended model is practical and addresses the concerns and opportunities they identified.

In this Final Report, DJAG presents its key findings and makes 33 recommendations for the Attorney-General's consideration, based on the results of consultation, research, and analysis. A list of the recommendations is provided at Attachment 1. Together, the recommendations constitute the recommended model for the future allocation of LPITAF funds (the recommended model). The recommended model consists of two parts:

- PART A - Strategic framework for the allocation of LPITAF funds; and
- PART B - Administration of LPITAF funding allocations

PART A - Strategic framework for the allocation of LPITAF funds

DJAG found that clear strategic objectives should form the basis of the new model and recommends a set of six strategic objectives to promote frontline service delivery and accountability. There should be a clear link between each of the LPITAF funding allocations, the functions and services delivered with those allocations, and achieving the LPITAF strategic objectives.

The Review explored the current range of legal assistance services and service delivery models of LPITAF recipients. DJAG found that these models respond well to the legal needs of Queenslanders. However, a set of funding strategies is recommended to guide decision-making at a practical level to maximise service delivery across Queensland within these models. It is recommended that these strategies be reviewed triennially to ensure they remain responsive to community legal needs and continue to promote cost effectiveness.

The Review explored how to promote equitable access to specialist legal assistance services across Queensland. DJAG found that there are some cost effective initiatives already in use within the sector (for example, telephone lines and websites). DJAG recommends that, in 2013-14, LPITAF project funding should be offered for development of a plan to make access to specialist legal services more equitable across Queensland, building on the existing initiatives.

With the time and resources available, the Review was not able to identify any true duplication of legal services being delivered by LPITAF recipients. The Review did find that active and ongoing relationships between service providers and planning and coordination at the State-wide and regional levels are key to ensuring duplication does not occur. Legal Aid Queensland (LAQ) has a central support and coordination role in the legal assistance sector in Queensland. LAQ promotes communication, collaboration, and reduced duplication between services through Queensland's Legal Assistance Forums. The Review found that involvement of relevant LPITAF recipients in these forums should be promoted.

Based on the latest research and supported by the results of consultation, DJAG found that there are identifiable:

- geographical gaps or pressure points in the delivery of generalist legal assistance services across Queensland; and
- high prevalence vulnerable groups and legal problems in Queensland that would be best addressed through specialist services.

DJAG also found that the most cost effective way of allocating funding for the delivery of legal assistance services is to build on the existing service structure where possible and only fund the establishment of separate new services if necessary. Correspondingly, consultation identified that smaller services can struggle to remain viable.

It is recommended that, in 2013, DJAG should consult with the Commonwealth Government and legal assistance sector to:

- determine the geographical areas and high prevalence vulnerable groups and legal problems in greatest need of attention; and
- identify practicable measures that could be taken to improve services in those areas in future, including whether there are any geographical areas where a larger service or colocated services would be more cost effective than a number of smaller services.

The Review explored the respective roles of the Commonwealth and Queensland Governments in allocating funding to LPITAF recipients to provide legal assistance

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services in Queensland. There was widespread call for a sophisticated, collaborative approach between the two Governments in deciding which services each will fund. In future, DJAG should consult with the Commonwealth Government and other Queensland Government departments about their funding priorities and proposed allocations for each funding round and as required. The goal is the systematic simplification of funding arrangements for funded organisations and the respective Governments.

DJAG assessed the functions and services provided by each of the specified entities and the community organisations as a whole to determine whether allocating funding to them aligns with the proposed strategic objectives on frontline service delivery. In summary, DJAG found that the regulatory functions that are for the protection of and directly benefit Queenslanders who engage a legal practitioner are frontline service delivery and are appropriately funded from the LPITAF. However, the costs of issuing practising certificates to legal practitioners were found to be more appropriately funded by the practising certificate fees currently paid by legal practitioners. The allocations to LAQ and the community organisations for the provision of legal assistance services are for frontline service delivery.

LPITAF funding should be allocated to community organisations in three year cycles, balancing the need to provide certainty for funded organisations with the need to promote fiscal responsibility and accountability. The cycles should align with the Community Legal Services Program (CLSP) funding cycles, with the first commencing in 2014-15. There should be four types of LPITAF funding able to be allocated to community organisations:

- service delivery funding (provided under three year service delivery agreements, replacing recurrent and transitional funding);
- service development or improvement funding;
- project funding; and
- emergency funding.

To preserve the viability of the LPITAF, it is proposed that any of the four types of funding may be restricted or made unavailable in a three year funding cycle.

To improve accountability, funding allocated to specified entities from LPITAF and the Queensland Government Consolidated Fund (where relevant) should be provided under service delivery agreements. These agreements should be annual, timed to align with Queensland Government budget processes, and include annual performance targets to be reported against biannually.

PART B - Administration of LPITAF funding allocations

The proposed governance arrangements for the model include:

- DJAG continuing to have overall responsibility for administering the LPITAF;
- the Attorney-General remaining as ultimate decision-maker for funding allocations;
- establishment of a LPITAF Committee (with representatives from DJAG Executive Management, Queensland Treasury and Trade, and the Department of the Premier and Cabinet) to:

- oversee funding allocation processes (including triennial review of funding strategies and assessment of applications) and financial management of the LPITAF; and
- make recommendations to the Attorney-General for his consideration;
- for the allocation of funds to community organisations:
 - the Queensland Legal Assistance Forum being invited to provide information to inform the LPITAF Committee in its functions (facilitated by DJAG); and
 - funding continuing to be managed under the CLSP, with LAQ as the State Program Manager, performing the day to day management functions.

A two-stage application process for the allocation of LPITAF funds to community organisations should be trialled for the first three year funding cycle. The trial will determine whether a two-staged process achieves the desired goals of reducing duplication between applications and identification of opportunities for greater collaboration. Applicants should be notified of the outcomes of the funding allocations by 31 March at the latest for funding pertaining to the next financial year.

Under the CLSP, community organisations must adhere to comprehensive accountability and reporting requirements. DJAG found that those requirements suitably promote the accountable and transparent use of LPITAF funds. However, DJAG should seek relevant CLSP performance reporting information collected by LAQ on a regular basis and ensure that it is publicly reported.

In relation to the specified entities, it is proposed that accountability and transparency will be promoted through the annual service delivery agreements described above.

To improve accountability and transparency in the allocation of LPITAF funds overall, DJAG should:

- develop a dedicated LPITAF webpage to make information about the allocation process and outcomes accessible to applicants and the public; and
- develop an annual report on the allocation of LPITAF funds, including the links between the strategic objectives and the LPITAF funded functions and services, to be included in the DJAG Annual Report.

To implement the Review recommendations and address many of the concerns expressed by LPITAF recipients, DJAG would need to have a more intensive role in the administration of the allocation of LPITAF funds in future, including:

- policy, research, and administrative support for the LPITAF Committee;
- managing service delivery agreements with the specified entities;
- improved knowledge of and relationships with the legal assistance sector;
- working more closely with the Commonwealth AGD on an ongoing basis; and
- coordinating public reporting and maintaining the LPITAF webpage.

The proposed model incorporates practical measures to address the concerns and opportunities identified by current LPITAF recipients. Many have acknowledged this Review as a positive step towards DJAG's increased involvement in the legal assistance sector. DJAG looks forward to continuing to work closely with the LPITAF recipients to implement the Review recommendations, if endorsed by the Attorney-General, and on an ongoing basis.

1. INTRODUCTION

The Attorney-General and Minister for Justice (the Attorney-General) has the authority to decide whether a payment should be made from the Legal Practitioner Interest on Trust Accounts Fund (LPITAF) to or for any of the entities or types of grants listed in the *Legal Profession Act 2007* (Qld) (LPA). The Department of Justice and Attorney-General (DJAG) has administered the LPITAF since 2004. Its predecessor was administered by the Queensland Law Society (QLS).

In recent years, approximately \$38 million per annum of LPITAF funds have been allocated to:

- administer the regulatory framework for Queensland's legal profession; and
- support access to legal services and advice for vulnerable Queenslanders.

The Attorney-General asked DJAG to conduct the *Review of the allocation of funds from the Legal Practitioner Interest on Trust Accounts Fund* (the Review). The Review was timely, given the significant impact of the recent global economic situation on LPITAF revenue and the Queensland Government's strategic focus on improving accountability and revitalising frontline services. The intended outcome was a model for transparent decision-making in relation to future LPITAF funding allocations that maximises service delivery to Queenslanders across the state, while ensuring the ongoing viability of the LPITAF.

In this Final Report, DJAG presents its key findings and makes 33 recommendations for the Attorney-General's consideration, based on the results of consultation, research, and analysis. A list of the recommendations is provided at Attachment 1. Together, the recommendations constitute the recommended model for the future allocation of LPITAF funds (the recommended model). The recommended model consists of two parts:

- PART A - Strategic framework for the allocation of LPITAF funds
- PART B - Administration of LPITAF funding allocations

In summary, DJAG recommends:

- strategic objectives and funding strategies to guide decision-making about the allocation of LPITAF funds;
- building on existing initiatives to enhance collaboration and reduce the likelihood of duplication between legal assistance services in Queensland;
- consulting with the legal assistance sector and Commonwealth Government to identify practicable ways to address geographical pressure points and high prevalence vulnerable groups and legal problems in Queensland;
- consulting with the Commonwealth Government and other Queensland Government departments about their funding priorities and proposed allocations, with the goal of systematically simplifying funding arrangements for funded organisations and the respective Governments;
- governance arrangements for the allocation of LPITAF funds that balance improved accountability with industry input; and
- improving transparency through a LPITAF webpage and annual report.

2. THE REVIEW

2.1. Commencement

On 22 August 2012, the Attorney-General announced that DJAG would undertake the Review.

2.2. Terms of Reference

The Terms of Reference (TOR), which were tabled in the Queensland Parliament and made available on the DJAG website at <<http://www.justice.qld.gov.au/corporate/sponsorships-and-grants/grants>>, are as follows:

Objective

To establish a new model of transparent decision-making so that all LPITAF funding allocations are directed and applied in a manner that maximises service delivery to Queenslanders across the state, while ensuring the ongoing viability of the LPITAF.

Scope

1. DJAG is to review the current allocation of LPITAF funding provided to LPITAF recipients and the efficiency and effectiveness of current services delivered through these funding arrangements.

The review will consider the following elements, as applicable:

- the respective roles of the State and Commonwealth in funding LPITAF recipients, noting the differing areas of law that fall within the respective jurisdictions;
 - other sources of funding available to LPITAF recipients;
 - the current range of services provided by LPITAF recipients;
 - the suitability of the current service delivery models in responding to legal needs of Queenslanders;
 - the relative benefits of generalist and specialist services provided by LPITAF recipients and equitable access to these; and
 - the existence of current service gaps and/or duplication of legal services provided by LPITAF recipients, particularly with respect to:
 - areas of law covered;
 - geographical locations being serviced; and
 - the current mix of information, advice, casework and legal education.
2. DJAG is to make a recommendation as to a model for transparent decision-making in relation to the future recurrent and non-recurrent LPITAF funding allocations with particular regard to:
 - the purposes for which LPITAF funds should be allocated;
 - the funding process, including the criteria that organisations must meet to be eligible to be considered for funding;
 - accountability, including funding agreements and reporting requirements; and

- the nature of the funding (for example, recurrent or non-recurrent).

Consultation

3. DJAG is to take submissions from interested parties and key industry groups will be invited to participate in the LPITAF Review Industry Reference Group, including: Queensland Association of Independent Legal Services Inc; Legal Aid Queensland; Queensland Law Society; Bar Association of Queensland; Legal Services Commission; Supreme Court Library; and Queensland Public Interest Law Clearing House Incorporated.
4. DJAG will take into consideration the current review of the *National Partnership Agreement on Legal Assistance Services*.

Governance

5. A DJAG Steering Committee will be established to provide oversight and direction to the Review, with membership constituted by persons with suitable skills and experience.

Timeframe

6. DJAG is to report to the Attorney-General and Minister for Justice by **31 December 2012**.

2.3. Methodology

In undertaking this Review, DJAG has considered the latest research on the delivery of legal assistance services and conducted consultation as set out below. The resultant key findings and recommendations, which constitute the recommended model, are set out by subject area throughout this Final Report. A list of the recommendations is provided at Attachment 1.

2.4. Consultation

2.4.1. LPITAF recipients

DJAG worked closely with the current recipients of LPITAF funding to ensure that the proposed model is practicable and addresses areas they identified for improvement.

The organisations listed above (at point '3' of the TOR) participated in the LPITAF Review Industry Reference Group (IRG) which met on two occasions and provided additional feedback via email and telephone. The IRG generally supports the recommended model and individual recommendations. Any differing views expressed by individual IRG organisations are set out in the relevant parts of the Final Report.

The Discussion Paper was published on 8 October 2012 and made available on the DJAG website at <<http://www.justice.qld.gov.au/corporate/sponsorships-and-grants/grants>>. In response to requests from LPITAF recipients, it included detailed information about the current LPITAF: financial forecasts; funding allocations; and allocation processes. It posed questions to gather ideas for improvements.

Interested parties, including all 2012-13 LPITAF recipients, were invited to make submissions to the Review in writing by 2 November 2012. All 2012-13 LPITAF

recipients were invited to attend a consultation forum facilitated by DJAG on 19 October 2012 (during the submission period) to discuss: the parameters of the Review; the submission process; and the issues raised in the TOR and Discussion Paper. Fifteen organisations attended the forum.

Written submissions were received from the following 22 organisations:

- Aboriginal and Torres Strait Islander Women's Legal Services NQ Inc. (ATSIWLSNQ)
- Bar Association of Queensland (BAQ)
- Carers Queensland Inc. (Carers)
- Caxton Legal Centre Inc (Caxton)
- Centacare CFCS (Centacare)
- Commonwealth Attorney-General's Department (Commonwealth AGD)
- Court Network Inc. (Court Network)
- DV Connect Limited (DV Connect)
- Legal Aid Queensland (LAQ)
- Legal Services Commissioner, Legal Services Commission (LSC)
- Prisoners' Legal Service Inc. (PLS)
- Queensland Advocacy Incorporated (QAI)
- Queensland Association of Independent Legal Services Inc (QAILS)
- Queensland Law Society (QLS)
- Queensland Public Interest Law Clearing House Incorporated (QPILCH)
- Refugee and Immigration Legal Service Inc (RAILS)
- Supreme Court of Queensland Library (SCQL)
- The Advocacy and Support Centre Inc (TASC)
- Welfare Rights Centre Inc. (WRC)
- Women's Legal Service (WLS)
- Youth Advocacy Centre Inc (YAC)
- Youth and Family Service (Logan City) Inc. (YFS)
(includes the Logan Legal Advice Centre and the Logan Youth Legal Service)

The written submissions are available in full on the DJAG website at <http://www.justice.qld.gov.au/corporate/sponsorships-and-grants/grants>.

They were considered in detail by DJAG and are referenced in this Final Report.

A preliminary service mapping exercise was undertaken concurrently with the submission process. DJAG sought information from LPITAF funded community organisations to build an accurate high-level picture of the legal assistance services currently funded by LPITAF. The results, at 'Attachment 5', were taken into consideration during the Review and should be used as a basis for discussions with the legal assistance sector about future funding arrangements and improved public reporting.

Consulted organisations were supportive of the Review being conducted. Many expressed appreciation for the open and transparent Review processes.

2.4.2. State Program Manager, Community Legal Services Program (CLSP)

Intensive consultation was conducted with LAQ in its role as State Program Manager, CLSP (managing LPITAF funding allocated to community organisations) and in its broader central support and coordination role in the Queensland legal assistance sector.

2.4.3. Government

DJAG consulted with the Commonwealth AGD throughout the Review.

Queensland Government departments (Queensland Treasury and Trade, the Department of the Premier and Cabinet, and Department of Communities, Child Safety and Disability Services) were also consulted.

The Legal Services Board, Victoria and the Law Society of New South Wales were consulted in relation to their Public Purpose Fund (LPITAF equivalent) models.

2.4.4. Acknowledgement

DJAG would like to acknowledge these organisations for their input into the Review and looks forward to building on the goodwill and momentum that has been fostered throughout consultation.

3. FINANCIAL VIABILITY OF THE LPITAF

Exploration of the financial management of the LPITAF was outside of the scope of this Review. However, the variability of the LPITAF revenue source and the need to promote the ongoing viability of the fund have been primary considerations in the development of the new model for the allocation of LPITAF funds.

The primary source of LPITAF revenue is interest received from all solicitors' trust accounts kept in Queensland where the clients do not specifically request that their money be invested in their own name. The costs associated with operating solicitors' trust accounts, including special audits and reporting, are borne by solicitors.

The LPITAF revenue forecasting model was developed by the Queensland Treasury Corporation. This model forecasts revenue based on the key inputs of '90 Day Bank Bill interest rates' (which correlate with the Reserve Bank of Australia's [RBA] cash rate) and 'Transfer Duty estimates' for the current and next three financial years. A portion of the monies held in solicitors' trust accounts is conveyancing deposits. The LPITAF revenue forecasting model includes a scaling back of the baseline trust account revenue to reflect the impact of the expected progressive increased use of e-conveyancing (electronic property settlement).

The variability of the revenue source was evident in the 2008-09 financial year when, due to the global economic situation, the revenue and future viability of the LPITAF were significantly impacted.² LPITAF's predecessor was impacted similarly during the recessions of the early 1990s.

The LPITAF Statement of Financial Performance is provided at 'Attachment 2'. It sets out actual revenue and expenditure amounts for the 2004-05 to 2011-12 financial years and forecast amounts for the 2012-13 to 2015-16 financial years, current as at September 2012. The forecast amounts are updated in March and September each year. Current projections indicate that an operating surplus (where revenue exceeds expenditure) is not likely to be achieved until after the 2015-16 financial year. In the interim, the LPITAF Reserve will continue to be drawn upon to meet operating costs.

4. FINDINGS AND RECOMMENDATIONS

The TOR required DJAG to develop a new model of transparent decision-making for all LPITAF funding allocations. The recommended model consists of two parts:

- PART A - Strategic framework for the allocation of LPITAF funds
- PART B - Administration of LPITAF funding allocations

4.1. PART A – Strategic framework for the allocation of LPITAF funds

4.1.1. Current purposes for which LPITAF allocations can be made

The LPA establishes the LPITAF and provides the current legislative framework for its administration.³ LPITAF funds are prescribed to be used for public purposes. The entities specified in the LPA to or for which a payment can be made from the LPITAF (the 'specified entities') are:

- Legal Aid Queensland (LAQ);
- the Legal Practitioners' Fidelity Guarantee Fund (LPFGF) (managed and administered by the QLS);
- the Supreme Court of Queensland Library (SCQL);
- the Legal Services Commissioner (LSC);
- the Legal Practice Committee and the Queensland Civil and Administrative Tribunal (in their disciplinary capacities);
- the Legal Practitioners Admissions Board; and
- the QLS or Bar Association of Queensland (for part of the cost of their regulatory functions).⁴

² To illustrate, transfer duties increased from \$1.73 billion in 2004-05 to a peak of \$2.92 billion in 2007-08 and averaged at \$1.95 billion each year from 2008-09 to 2011-12. The 2012-13 forecast is \$1.96 billion. Also, from 2002 to 2008, the RBA cash rate increased from 4.25% to 7.25%. It decreased relatively sharply to a record low of 3% in 2009, and remained steady at 4.75% for most of 2011. However, the RBA cash rate is currently at 3%, equivalent to its record low.

RBA 2012, *Cash Rate Target: Interest Rate Changes*, viewed 6 February 2013, <<http://www.rba.gov.au/statistics/cash-rate/>>.

³ See Chapter 3, Part 3.3, Division 6 LPA, <<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/L/LegalProA07.pdf>>.

⁴ Section 289(1)(a)-(g) LPA.

LPITAF funding is currently provided to the specified entities, except the Queensland Civil and Administrative Tribunal and Legal Practitioners Admissions Board, primarily to fulfil their statutory roles (further detail is set out below at pages 30-35).

Additionally, the LPA lists the purposes for which the Attorney-General can decide a grant payment should be made from the LPITAF:

- *the advancement of law reform;*
- *the collection, assessment and dissemination of information concerning legal education, the law, the legal system, law reform, the legal profession and legal services;*
- *facilitating access to the legal system, legal information and education and legal services for members of the community, particularly economically or socially disadvantaged members of the community.*⁵

The LPA also provides for payments to be made to DJAG for the cost of administering the LPITAF.⁶

The legislative frameworks for the equivalent funds in New South Wales (NSW) and Victoria contain similar provisions regarding: payments for regulation of the profession; supplementation of their fidelity funds; legal aid; law reform; legal education; and legal research.⁷

4.1.2. Future purposes for which LPITAF allocations should be made

A number of factors were taken into account by the Review in determining the purposes for which LPITAF funds should be allocated in future, including:

- LPITAF funds are prescribed to be used for public purposes and as such they should be used as efficiently, effectively, and cost effectively,⁸ as possible;
- the variable nature of the LPITAF revenue;
- the Queensland Government and DJAG strategic objectives;
- legal assistance services funded by the Commonwealth Government;
- the functions and services that LPITAF funding is currently allocated to the specified entities and community organisations to provide;
- whether these funded organisations still require LPITAF funds to deliver those functions and services (for example, do they have another source of funding?);
- the legal needs of Queenslanders; and
- good practice in funding community organisations.

The current strategic direction of the Queensland Government is articulated in the form of five pledges made to the people of Queensland:

- *Grow a four pillar economy;*
- *Lower the cost of living for families by cutting waste;*
- *Deliver better infrastructure and better planning;*
- *Revitalise frontline services⁹ for families; and*

⁵ Section 289(1)(h) LPA.

⁶ Section 289(1)(i) LPA.

⁷ Section 6.2.1 – 6.2.3, 6.7.1-6.7.10 *Legal Profession Act 2004* (Vic); Sections 285-291 *Legal Profession Act 2004* (NSW). See pages 17 to 19 of the Review Discussion Paper for a summary of these sections, available at: <http://www.justice.qld.gov.au/corporate/sponsorships-and-grants/grants>.

⁸ The option that achieves a defined outcome using the least resources.

- *Restore accountability in government.*¹⁰

The latter two pledges are the most relevant in relation to the legal assistance sector.

The DJAG *Strategic Plan 2012-2016* sets out DJAG's vision: '...a fair, safe and just Queensland'. It includes six objectives and various strategies that DJAG will pursue to achieve those objectives; the most relevant are extracted below (emphasis added).¹¹

<u>Objective</u>	<u>Strategies</u>
<i>Improve the administration of Queensland's justice system</i>	Continue to develop innovative models for frontline justice service delivery
<i>Improve frontline justice services for Queenslanders</i>	Provide information and support to help vulnerable people and the community protect their rights, meet their obligations and access our services
<i>Improve our organisational effectiveness</i>	Responsible financial management that contributes to the Government's fiscal strategies and targets through reassessment of service delivery priorities and delivery models Identify opportunities to redirect resources to frontline service delivery Robust governance practices

The results of consultation overwhelmingly support LPITAF funding being directed to revitalising the delivery of frontline justice services for Queensland families,¹² with eight submissions further stating that the highest priority should be services that assist vulnerable people and disadvantaged community members to access justice.¹³

Some submissions expressed support for the continued funding of the regulatory functions under the LPA.¹⁴ However, others considered that the regulatory functions could not be classed as frontline service delivery and, therefore, should not be allocated LPITAF funds. This issue is explored further in relation to each of the specified entities at '4.1.10 Does allocating LPITAF funding to the specified entities align with the strategic objective of funding frontline services?', page 30.¹⁵

In line with the Queensland Government and DJAG strategic objectives to improve accountability and pursue responsible financial management and robust governance practices, DJAG has identified that there is a need for improvements to be made to aspects of the following:

- ensuring that LPITAF allocations promote, efficiency, effectiveness, and cost effectiveness;

⁹ Services provided directly to the people of Queensland.

¹⁰ Queensland Government 2012, *Getting Queensland back on track: Statement of objectives for the community*, viewed 16 August 2012, <<http://www.premiers.qld.gov.au/government/assets/gov-statement-of-objectives.pdf>>.

¹¹ DJAG 2012, *Strategic Plan*, viewed 16 August 2012, <http://www.justice.qld.gov.au/_data/assets/pdf_file/0017/161522/djag-strategic-plan-2012-16.pdf>.

¹² See for example: LAQ submission, pp.6,13; YFS submission, p.2.

¹³ QLS submission, p.3; QAI submission, pp.7,8,12; QPILCH submission, Recommendation 2; RAILS submission, p.12; Centacare submission, p.5; QAILS submission, p.5; YAC submission, p.5; TASC submission, pp.1-2; Court Network submission, p.5.

¹⁴ QPILCH submission, Recommendation 2; BAQ submission, p.2.

¹⁵ YAC submission, p.5; TASC submission, pp.1-2; WRC submission, p.3.

- transparency around the allocation of LPITAF funds, particularly in proactively making relevant information available to organisations and the community; and
- contract management, monitoring, and reporting.

The recommended strategic objectives are set out in 'Recommendation 1' below.

Recommendation 1

A. Clear strategic objectives that align with the Queensland Government and DJAG's strategic objectives should form the basis of a new transparent decision-making model for allocating LPITAF funds. There should be a clear link between each of the LPITAF funding allocations, the functions and services delivered with those allocations, and achieving the LPITAF strategic objectives.

B. The strategic objectives for the allocation of LPITAF funds should be:

Frontline service delivery

- LPITAF funding will be directed to the provision of frontline justice services for Queenslanders;
- Priority will be given to services that assist vulnerable people and disadvantaged community members to access justice;

Accountability

- Allocations should promote, efficiency, effectiveness, and cost effectiveness;
- Allocations will take into account the need to maintain the ongoing viability of the LPITAF, including taking special measures if necessary to preserve its viability (for example, see Recommendation 18 regarding restricting or making unavailable one or more categories of funding in a funding cycle);
- Allocations will be made through robust governance mechanisms;
- Information about the allocation process and outcomes should be readily accessible to applicants and the community.

C. The LPA should be amended to broadly reflect the new strategic objectives for the allocation of LPITAF funds.

The QAILS and QPILCH submissions support amendment of the LPA to reflect the shift from the current funding priorities (see '4.1.1 Current purposes for which LPITAF allocations can be made') to the future funding priorities (see 'Recommendation 1').¹⁶ The Legal Services Commissioner submitted that the LPA should not be drafted too prescriptively.¹⁷

Further recommendations about improving accountability in the allocation of LPITAF funds are set out in 'PART B - Administration of LPITAF funding allocations' below.

4.1.3. Suitability of the current range of legal assistance services and service delivery models of LPITAF recipients in responding to the legal needs of Queenslanders

4.1.3.1. Complementary LAQ/community organisation service delivery model

LPITAF funding is currently provided to LAQ and community organisations, predominantly Community Legal Centres (CLCs), to deliver complementary legal assistance services across Queensland. This is consistent with the model

¹⁶ QPILCH submission, Recommendation 11; QAILS submission, p.5.

¹⁷ LSC submission, p.4.

recommended in the Australian Government's 2008 *Review of the Commonwealth Community Legal Services Program*:

*The role of CLCs should be to provide services which complement those of legal aid commissions and other service providers and which are coordinated with those providers within a cooperative service delivery framework.*¹⁸

LAQ works in partnership with the Commonwealth and Queensland Governments to support the sector. LAQ works collaboratively with CLCs. Its '...State-wide call centre operates as a service delivery hub for the legal assistance sector through its referrals of clients to CLCs'. LAQ also provides support to CLCs through '...access to free resources such as LAQ's continuing professional development program'.¹⁹ Further details about LAQ's coordination role in the legal assistance sector are set out at pages 21-22 below.

The *Economic Cost Benefit Analysis of Community Legal Centres* was commissioned by the National Association of Community Legal Centres (NACLC) and published in June 2012. It found that for every dollar of funding provided to CLCs \$18 worth of benefits are provided to the community. The benefits include: minimising costs to parties and governments by resolving legal matters more simply or at an earlier stage (particularly where that avoids the need to go to court or a tribunal); and avoidance of domestic violence and child abuse. Some of the greatest economic benefits are achieved through holistic case management which provides cost savings both inside and outside of the legal system. The report states that, considering the usual cost benefit ratio required to justify investment in physical infrastructure is around 1:2 or 1:3, the 1:18 ratio provides clear economic justification for funding CLCs.²⁰

DJAG concludes that LPITAF funding should continue to be provided to LAQ and community organisations to deliver complementary legal assistance services across Queensland.

4.1.3.2. Generalist/specialist legal assistance service delivery model

The Law and Justice Foundation of New South Wales' (LJF) *Legal Australia-wide Survey*²¹ (LAW Survey) and the *Legal Need in Queensland*²² subset provides authoritative guidance on the legal needs of Queenslanders. This was affirmed during consultation.²³ Released on 11 October 2012, it is the largest legal need survey ever conducted in the world, incorporating over 20,000 interviews conducted across Australia and drawing on empirical evidence from other Australian and international studies.²⁴

The LAW Survey found that legal education and information (or 'self help' services) can be an efficient and effective means of providing legal assistance to people who have a greater capacity to resolve their legal problems. However, more intensive services such as legal advice and casework should be provided to people who experience greater disadvantage, have less capacity to resolve their own legal problems, and/or

¹⁸ LAQ submission, p.9; Attorney-General's Department, Commonwealth of Australia 2008, *Review of the Commonwealth Community Legal Services Program*, Barton ACT.

¹⁹ LAQ submission, p.9.

²⁰ Storer J, Stubbs J & Lux C 2012, *Economic Cost Benefit Analysis of Community Legal Centres*, Bulli NSW, pp17 – 24, viewed 30 August 2012,

<http://www.communitylawaustralia.org.au/wp-content/uploads/2012/08/Cost_Benefit_Analysis_Report.pdf>.

²¹ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>.

²² Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Queensland*, Sydney NSW, viewed 14 November 2012, <<http://www.lawfoundation.net.au/ljf/app/&id=C0CCF51D639EE200CA257AA00020EE99>>.

²³ LAQ submission, p.13; QAILS submission, p.6; QLS submission, p.3; WRC submission, p. 4.

²⁴ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, pp iii, iv, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>.

who have more complex legal problems (for example, homeless people, people with mental health issues, and people with disability). Investing in more intensive services for vulnerable groups makes economic sense, considering that less than one-quarter (18%) of Queenslanders account for almost nine-tenths (82%) of the legal problems experienced.²⁵ Those services are often more effective if they are tailored to the needs of disadvantaged groups.²⁶ This 'two speed' model for delivery of legal services is promoted by the LJF.²⁷ These findings have implications for legal assistance service delivery models in Queensland at the sector-wide and individual organisation levels.

1) Sector-wide service delivery model

At the legal assistance sector level, the provision of general legal information and education to the broader community and 'self help' type services for people who have a greater capacity to resolve their legal problems need to be balanced with specialist, more intensive, services for specific vulnerable and disadvantaged groups. The Review has found that the generalist/specialist model of State-wide CLC service delivery currently operating in Queensland embodies this.

Generalist CLCs service a particular geographical area.²⁸ Specialist CLCs have expertise in responding to the needs of a specific client group or in a particular area of law.²⁹ Court Network submitted that generalist services are designed to reach the breadth or mass of communities while specialist services provide a greater depth of service to those who need it.³⁰ For example, gender and cultural factors have led to the identification of the need for and establishment of specialist services for women, particularly women fleeing domestic or family violence situations (eg. ATSILWSNQ, WLS).³¹

A common theme in consultation was that specialist services are a more efficient and effective way of providing legal assistance to defined target groups.³² The WRC submitted that this is because specialist services '...are able to build a body of knowledge, experience, resources and professional relationships'.³³ In its submission, the QLS noted that '[i]n order to provide these highly targeted services, CLCs employ workers with specialised skills, training and expertise. These specialist skills ... often result in better outcomes'.³⁴ Centacare was of the view that in relation to domestic and family violence matters the safety of clients, families, and staff is improved when the service providers are specialists.³⁵

QAILS noted that '...a generalist that does not work in [an] area all the time will take longer to provide the same outcome'.³⁶ Without access to specialist services, some vulnerable people are unable to access justice and others attempt to make their way

²⁵ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Queensland*, Sydney NSW, pp.30, 36, 74, viewed 14 November 2012, <<http://www.lawfoundation.net.au/ljf/app/&id=C0CCF51D639EE200CA257AA00020EE99>>.

²⁶ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, pp 44, 229, 231-232, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>.

²⁷ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Queensland*, Sydney NSW, p.iv, viewed 14 November 2012, <<http://www.lawfoundation.net.au/ljf/app/&id=C0CCF51D639EE200CA257AA00020EE99>>; Carers submission, p.9.

²⁸ Legal Aid Commission of NSW 2006, *Review of the NSW Community Legal Centres Funding Program: Final Report*, pp.25-26, viewed 10 September 2012, <www.clcnsw.org.au/public_resource_details.php?resource_id=40>.

²⁹ Legal Aid Commission of NSW 2006, *Review of the NSW Community Legal Centres Funding Program: Final Report*, p. 2, viewed 10 September 2012, <www.clcnsw.org.au/public_resource_details.php?resource_id=40>; QAILS submission, p.1; RAILS submission, p. 5; TASC submission, p.1.

³⁰ Court Network submission, p.2.

³¹ QAILS submission, p.2; ASTIWLS NQ submission, p.8. DJAG acknowledges that both men and women can be victims or perpetrators of domestic violence.

³² RAILS submission, p. 5; Carers submission, p.7; DV Connect submission, p. 7; WLS submission, pp1-3.

³³ WRC submission, pp.1-2.

³⁴ QLS submission, p.2.

³⁵ Centacare submission, p.2.

³⁶ QAILS submission, p.4.

through the legal system unassisted, leading to inefficiencies and delays for the individual and the system.³⁷

Many generalist services provide some level of advice about specialist areas of law, although more complicated advice needs to be obtained from a specialist centre.³⁸ The results of consultation clearly showed that generalist services have limited capacity to conduct intensive specialist casework,³⁹ with four submissions noting that generalist CLCs are already operating at or beyond capacity.⁴⁰ In the main, they are also said to lack expertise in specialist areas of law.⁴¹ The QLS submission ‘...stresses that there is a need for both specialist and generalist community legal services in Queensland’.⁴²

The relationships and referral pathways between generalist and specialist services are critical to the efficient and effective operation of the generalist/specialist model because they assist community members to access the right services as early as possible.⁴³ Specialist services tend to provide a significant amount of training and support to generalist services and there is an interdependent, collaborative relationship that has developed between them.⁴⁴ LAQ submitted that these linkages could be further developed and sectoral planning improved (addressed below).⁴⁵

Comparably, the NSW Community Legal Centres Program operates under a substantially similar service delivery model with generalist centres spread geographically across the State and specialist centres operating to address the needs of vulnerable and disadvantaged clients (for example: people with disability; victims of domestic and family violence; refugees; and Aboriginal women). Specialist services also service prevalent and complex legal problems (for example: consumer law).⁴⁶

2) Individual service delivery models

DJAG has found that the service delivery models of individual LPITAF funded community organisations and LAQ respond well to the legal needs of Queenslanders by:

- each providing a range of services from less intensive for clients better able to resolve their legal problems to more intensive for those less able to help themselves or where legal problems are more complex (for further details see ‘Attachment 5’); and
- each tailoring their specific range of services to their target area or clients.

DJAG recommends a set of funding strategies (set out in ‘Recommendation 2’ below) that will guide decision-making at a practical level to maximise the delivery of legal services across Queensland within these sector-wide and individual service delivery models. The QAI and YAC submissions expressly support this proposal.⁴⁷

³⁷ RAILS submission, p.5; Centacare submission, p.1.

³⁸ QAILS submission, p.3.

³⁹ QLS submission, pp.1-2; Commonwealth AGD submission, p.6; Carers submission, p.8.

⁴⁰ QAILS submission, p.4; QLS submission, p.2; ATSIWLSNQ p.10; LAQ submission, pp.12 – 18.

⁴¹ WRC submission, pp.1-2.

⁴² QLS submission, p.2.

⁴³ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, pp. 44, 45, 241, 246, viewed 31 October 2012,

<<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>; Court Network submission, p.2; LAQ submission, pp.10,12 – 18; QAI submission, pp.9-10; WLS submission, p.2; WRC submission, pp.1-2.

⁴⁴ Commonwealth AGD submission, p.6; QAI submission, pp.9-10; WLS submission, p.2; WRC submission, pp.1-2; QAILS submission, p.3; Centacare submission, p.2; Legal Aid Commission of NSW 2006, *Review of the NSW Community Legal Centres Funding Program: Final Report*, p. 3, 108-121, viewed 10 September 2012, <www.clcnsw.org.au/public_resource_details.php?resource_id=40>.

⁴⁵ LAQ submission, p. 12.

⁴⁶ Legal Aid New South Wales 2012, *Annual Report 2011-2012*, Sydney NSW, pp.35, 132, viewed 14 November 2012, <http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0013/15241/Annual-Report-2011-2012-complete.pdf>.

⁴⁷ QAI submission, p. 12; YAC submission.

Recommendation 2

A. The strategic objectives should be supported by a set of funding strategies that guide decision-making at a practical level to maximise the delivery of legal assistance services across Queensland. The funding strategies should be reviewed triennially by the LPITAF Committee (see Recommendation 21) to ensure they remain responsive to community legal needs and continue to promote cost effectiveness.

B. The LPITAF funding strategies should be:

- LAQ and community organisations should continue to deliver complementary legal assistance services across Queensland;
- The provision of general legal information and education to the broader community and 'self help' type services for legally capable people need to be balanced with specialist services for specific vulnerable and disadvantaged groups;
- Generalist services should be, as much as practicable, accessible across Queensland; this should primarily be achieved by addressing geographical gaps based on evidence of need;
- The need for development or enhancement of specialist services for vulnerable and disadvantaged groups will be identified through consideration of: empirical research on legal need (including high prevalence vulnerable groups and legal problems); current Queensland Government priorities (for example: new legislation); and increasing the reach of specialist services across Queensland; and
- Build on existing service delivery structure where possible and only fund the establishment of separate new services if necessary (see page 26 below).

Recommendation 3

Applicants applying for LPITAF funding to deliver legal assistance services should be required to demonstrate that they have referral pathways in place to other relevant services (for example: specialist to generalist and generalist to specialist).

4.1.4. Equitable access to specialist services

The PLS noted in its submission that the greatest economies of scale are achieved when specialist services do not operate on geographical boundaries (for example, when they produce materials and forge inter-organisational relationships on a State-wide basis).⁴⁸ The QLS and QAILS submitted that a commitment to a substantial increase in funding would be required if specialist services were to be expanded to provide truly equitable access State-wide.⁴⁹

A more cost effective approach would be to build on low cost initiatives already in use within the legal assistance sector to enhance access to specialist services (including for people in regional, rural or remote areas):

- specialist services providing training and support to generalist services (depending on the scale, additional resources could be required);⁵⁰
- phone lines, particularly toll-free, which are already operational in at least ten relevant community organisations in Queensland (additional funding would be required to enhance those phone lines or establish new ones for other specialist services);⁵¹

⁴⁸ PLS submission, pp.2-4.

⁴⁹ QAILS submission, pp.2-3; QLS submission, p.2.

⁵⁰ QAILS submission, p.4; QLS submission, p.2; WLS submission, p.3.

⁵¹ QAILS submission, p.2; LAQ submission, p. 12; DV Connect submission, p.6; QLS submission, p.2; Caxton submission, p.3. ATSIWLSNQ submission, p.9; YAC submission, p.4; WLS submission, p.4; WRC submission, p.2; TASC submission, p.1.

- fact sheets and other legal information, used both as community legal education materials and as reference materials for generalist services, available on relevant websites;⁵² and
- videoconferencing, including use of Government infrastructure.⁵³

YAC and ATSIWLSNQ submitted that the above service delivery mechanisms cannot replace face to face service delivery. However, they can be used to complement it and ensure that people who are unable to access the relevant service face to face at least have some access.⁵⁴

YAC submitted that a broader investigation should be undertaken as to how technology in general could be used to support CLCs and LAQ to deliver services to vulnerable and disadvantaged Queenslanders.⁵⁵ The LAW Survey and QPILCH support this approach.⁵⁶

LAQ stated that it:

*... would support project funding being allocated to enhance state-wide accessibility to specialist CLCs. One option would be to investigate the feasibility of setting up a telephone service similar to Law Access in New South Wales.*⁵⁷

The QLS agreed and stated that such a central access point would involve a small amount of funding that would increase the efficient use of other funding allocated to services by ensuring clients are quickly directed to the most appropriate service.⁵⁸

Recommendation 4

In 2013-14, LPITAF project funding (see Recommendation 18) should be offered for development of a plan for making access to specialist legal services more equitable across Queensland through cost effective measures, including:

- the use of technology (telephone lines, videoconferencing, and websites); and
- information and training provided to generalist services.

4.1.5. Is there any duplication of legal services provided by LPITAF recipients?

With the time and resources available, the Review was not able to identify any true duplication of legal services delivered by LPITAF recipients, either through consultation or the concurrent preliminary service mapping exercise (the results of which are at 'Attachment 5'). The following extract from the QAILS submission is representative of what the Review did find on this point:

It is rare for true 'duplication' to occur amongst QAILS members because of good networks and communication. CLCs are particularly keen to avoid doing work that is already being done elsewhere, because their resources are already stretched so tight. It is important to note that just because two services offer the same or similar service does not mean there is unnecessary duplication; it may in fact be that both services are operating at capacity and they are of course, servicing different clients. Conflict of interest

⁵² QAILS submission, p.3; QLS submission, p.2; WRC submission, p.2.

⁵³ LAQ submission, p. 12; WRC submission, p.2; QAILS submission, p.3; TASC submission, p.1.

⁵⁴ ATSIWLSNQ submission, p.9; YAC submission, p.4.

⁵⁵ YAC submission, pp.5-6.

⁵⁶ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, p. 245, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>; QPILCH submission, Recommendation 13.

⁵⁷ LAQ submission, p. 12.

⁵⁸ QLS at the IRG meeting on 7 December 2012.

*issues mean it is important to have multiple service providers in some areas. This is especially noticeable in regional areas that may only have one CLC option, and so if one party has already used the service, the other party can effectively be barred from access to service.*⁵⁹

The Review found that the keys to ensuring duplication does not occur are: active and ongoing relationships between service providers; and planning and coordination at the State-wide and regional levels. In Australia, Legal Assistance Forums "... are a primary mechanism through which agencies collaborate in the planning, design and delivery of public legal assistance".⁶⁰

LAQ has a central support and coordination role in the legal assistance sector in Queensland. DJAG values the way that LAQ works in partnership with the Commonwealth and Queensland Governments to support the sector. LAQ promotes communication, collaboration, and reduced duplication between services through the Queensland Legal Assistance Forum (QLAF), twelve Regional Legal Assistance Forums (RLAFs) across Queensland, and Community Legal Education Assistance Forum (CLEAF).⁶¹

The purpose of the QLAF is to '...consider opportunities for improved coordination and targeting of services between legal assistance service providers, as well as the linking of legal aid services with other service providers...'.⁶² Its membership is comprised of a representative from each of the following organisations: LAQ, BAQ, QLS, Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (ATSILS), QAILS, QPILCH, Queensland Indigenous Family Violence Legal Service, Commonwealth AGD, and DJAG.⁶³

The purpose of the twelve RLAFs is to assist in reducing service duplication, foster inter-service relationships, share information on local legal needs and strategies to address them, and report to the QLAF on those matters. The core membership of each RLAF is comprised of: ATSILS, CLCs, and LAQ.⁶⁴

The CLC peak body in Queensland is the Queensland Association of Independent Legal Services Inc (QAILS). QAILS promotes the development of, collaboration between, and funding for CLCs.⁶⁵ QAILS hosts two meetings per annum that are attended by most CLCs and communicates to its members information about 'what is going on in the sector'.⁶⁶

The participation of LPITAF recipients in the QLAF, RLAFs and specialist LAFs (whichever is most relevant to their service and location) should be promoted to reduce instances of duplication, promote linkages, and share knowledge and resources across the legal assistance sector in Queensland.

See '4.2.2 Application and assessment' below for discussion about avoiding duplication in the funding application process.

⁵⁹ QAILS submission, p.14.

⁶⁰ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, p. 223, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>.

⁶¹ Queensland Legal Assistance Forum, *What is QLAF?*, viewed 18 September 2012, <<http://qlaf.org.au/>>.

⁶² Queensland Legal Assistance Forum, *Who participates in QLAF?*, viewed 18 September 2012, <<http://qlaf.org.au/>>.

⁶³ Queensland Legal Assistance Forum, *Who participates in QLAF?*, viewed 18 September 2012, <<http://qlaf.org.au/>>.

⁶⁴ LAQ submission, pp.9, 13; Queensland Legal Assistance Forum, *Regional Legal Assistance Forums*, viewed 18 September 2012, <<http://qlaf.org.au/>>.

⁶⁵ Queensland Association of Independent Legal Services Inc, *QAILS*, viewed 18 September 2012, <www.qails.org.au>; QAILS submission, p.14.

⁶⁶ QAILS submission, p.14.

Recommendation 5

All community organisations that receive LPITAF funding must commit to and demonstrate participation in the QLAF, RLAF, specialist LAF or other similar group. What constitutes 'participation' will be defined for each individual organisation in the context of which group is most relevant to their service and location and included in their service delivery agreement.

4.1.6. Are there any gaps in legal assistance services provided by LPITAF recipients?

4.1.6.1. Geographical gaps or pressure points in generalist service delivery

The *National Legal Needs & Strategic Planning Project: Queensland* was commissioned by the NACLC and published in February 2012.⁶⁷ It includes findings by Local Government Area (LGA) in relation to: key indicators of legal need; calculated legal need; probability of legal need; and a gap analysis. The YAC and RAILS submissions specifically support this report as a recent authoritative source of information about legal need in Queensland.⁶⁸ DJAG has overlaid onto those findings the *Queensland Government population projections to 2031: Local Government Areas* as a method of determining what geographical areas have both current gaps in and potential future need for increased legal assistance service delivery.⁶⁹ The results are set out below.

Gympie and South Burnett were the only LGAs to have all of the following: moderate to high levels of socioeconomic disadvantage; a high number of people likely to experience legal need; a low to very low level of servicing by CLCs; and moderate to high levels of projected population growth. There are no CLCs within the boundaries of those two LGAs.⁷⁰ Although, '... the Taylor Street Community Legal Service provides a weekly face-to-face outreach service in Gympie and a monthly face-to-face outreach service in Tin Can Bay'.⁷¹

The Gold Coast, Cairns, Logan and Fraser Coast have both a high number and proportion of adults likely to experience legal need.⁷² Four LGAs with high legal need have low levels of servicing despite there being a CLC located within their boundaries: Gold Coast; Sunshine Coast; Southern Downs; and Mackay, which also has high projected population growth.⁷³

The following LGAs demonstrate high levels of the indicators of legal need, a high proportion of adults likely to experience legal need (although a lower number compared to other LGAs), and high levels of socioeconomic disadvantage: Cherbourg, Palm Island, Naprunum, Aurukun, Woorabinda, Yarrabah, Wujal Wujal, Kowanyama, Northern Peninsula Area, Doomadgee, Torres Strait Island, Mornington, Pormpuraaw, Lockhart River, Hope Vale, Mapoon, and Torres. Many of these LGAs had the lowest

⁶⁷ Stubbs J, Lux C & Wilson L 2012, *National Legal Needs & Strategic Planning Project: Queensland*, viewed 17 September 2012, <http://www.nacalc.org.au/cb_pages/legal_needs_assessment_framework.php>.

⁶⁸ RAILS submission, p.13; YAC submission, p.6.

⁶⁹ Office of Economic and Statistical Research, Queensland Treasury, Queensland Government 2011, *Queensland Government population projections to 2031: Local Government Areas*, viewed 2 November 2012, <<http://www.oesr.qld.gov.au/products/publications/qld-govt-pop-proj-lga/qld-govt-pop-proj-lga-2011-edn.pdf>>.

⁷⁰ Stubbs J, Lux C & Wilson L 2012, *National Legal Needs & Strategic Planning Project: Queensland*, pp. 61-70, viewed 17 September 2012, <http://www.nacalc.org.au/cb_pages/legal_needs_assessment_framework.php>.

⁷¹ QAILS submission, p.15.

⁷² Stubbs J, Lux C & Wilson L 2012, *National Legal Needs & Strategic Planning Project: Queensland*, p. 54, viewed 17 September 2012, <http://www.nacalc.org.au/cb_pages/legal_needs_assessment_framework.php>.

⁷³ Stubbs J, Lux C & Wilson L 2012, *National Legal Needs & Strategic Planning Project: Queensland*, pp. 61-70, viewed 17 September 2012, <http://www.nacalc.org.au/cb_pages/legal_needs_assessment_framework.php>.

levels of CLC servicing relative to likely legal need. They are small, remote communities and are in the most disadvantaged parts of Queensland and Australia.⁷⁴

The above analysis indicates that there are identifiable geographical gaps or pressure points in the delivery of legal assistance services across Queensland. However, this is a preliminary analysis. Further work should be done to determine the areas in greatest need and what practicable measures can be taken to improve services in those areas in future. The IRG insists that, to obtain the most efficient and effective results from this work, DJAG must undertake it in consultation with the legal assistance sector and the Commonwealth Government. This should be done in 2013. See 'Recommendation 7'.

4.1.6.2. High prevalence vulnerable client groups and legal problems: specialist legal need

People with disability and Aboriginal and Torres Strait Islander people are high prevalence vulnerable client groups. Given the low economic status of these disadvantaged groups, they are in greatest need of free or low cost legal help.⁷⁵

People with disability had the most consistently high prevalence of legal problems across the different measures used in the LAW Survey.⁷⁶ The LAW Survey definition of disability included mental health issues.⁷⁷ QPILCH submitted that access to specialist legal services for people with mental health issues and/or intellectual disability needs to be improved in Queensland.⁷⁸

People from an Aboriginal or Torres Strait Islander background had high levels of multiple legal problems and lower levels of taking action and finalisation of legal problems.⁷⁹ Overcoming Indigenous legal access and finalisation issues requires, at the very least, ensuring that legal services are culturally appropriate.⁸⁰ QAILS submitted that many Aboriginal or Torres Strait Islander people are best served by specialist Indigenous legal services and the demand for those services far exceeds what ATSILS can currently supply.⁸¹ ASTIWLSNQ submitted that there is a specific need for culturally appropriate legal services for Aboriginal and Torres Strait Islander women, particularly those in crisis situations.⁸² Relevant considerations include:

- *Women have frequently been conflicted out of obtaining legal services [from ATSILS] due to the prevalence of male clients of the service.*⁸³
- *Levels of literacy and legal literacy among Aboriginal and Torres Strait Islander women, particularly in regional and remote areas, is still lower than elsewhere.*

⁷⁴ Stubbs J, Lux C & Wilson L 2012, *National Legal Needs & Strategic Planning Project: Queensland*, pp. 9-48, viewed 17 September 2012, <http://www.nalc.org.au/cb_pages/legal_needs_assessment_framework.php>.

⁷⁵ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, p. 246, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>.

⁷⁶ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, pp. 232-235, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>; Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Queensland*, Sydney NSW, pp. 75, 166, viewed 14 November 2012,

<<http://www.lawfoundation.net.au/ljf/app/&id=C0CCF51D639EE200CA257AA00020EE99>>.

⁷⁷ See Appendix A2, 'Comparison of sample and population profile: Disability status' in Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>.

⁷⁸ QPILCH Submission, Recommendation 18; QPILCH at IRG meeting on 7 December 2012.

⁷⁹ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, p. 246, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>.

⁸⁰ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Australia*, Sydney NSW, pp. 235-237, 245-6, viewed 31 October 2012, <<http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>>; Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Queensland*, Sydney NSW, pp. 76, 166, viewed 14 November 2012,

<<http://www.lawfoundation.net.au/ljf/app/&id=C0CCF51D639EE200CA257AA00020EE99>>.

⁸¹ QAILS submission, p.3.

⁸² The ASTIWLSNQ submission, in particular pp.5-9 and 13, provides significant detail and references on this point.

⁸³ ASTIWLSNQ submission, p.8.

*The experience of many indigenous women with the legal system has been extremely negative and the processes can be intimidating and confusing.*⁸⁴

The Caxton and PLS submissions support the development of specialist Indigenous legal services as a priority.⁸⁵

It is inherently cost effective to invest in the development of specialist legal services that target some of the most prevalent legal problems experienced by Queenslanders. The LAW Survey found that the legal problem groups with the highest prevalence rates in Queensland were consumer (goods, services) (20.8% of all respondents), crime (offender, victim) (14.1%), housing (neighbours, owned housing, rented housing)(12.6%) and government (fines, government payments) (11.5%).⁸⁶ This finding was noted by QAILS and the Commonwealth AGD in their submissions.⁸⁷ QAILS noted further that '... in Queensland, specialist consumer legal advice is currently funded on a non-recurrent basis (through LPITAF)'.⁸⁸

Caxton submitted that:

- the LAW Survey's identification of consumer law amongst major areas of unmet legal need in Queensland reflects Caxton's recent experience of rapid increase in demand for these services;⁸⁹
- the Australian Government does not currently fund a free consumer credit legal service in Queensland, notwithstanding that it does in other states;⁹⁰ and
- the only specialist consumer law services available in Queensland are the Consumer Protection Unit at LAQ, a lawyer at Cairns Community Legal Centre, and a lawyer at Caxton (the two CLC consumer lawyers receive LPITAF Grants Fund Transitional funding).⁹¹

The above analysis indicates that there are identifiable high prevalence vulnerable groups and legal problems in Queensland that would be best addressed through specialist services, including:

- people with disability (particularly people with mental health issues and/or intellectual disability);
- Aboriginal and Torres Strait Islander people (services should complement and not overlap with ATSILS' service delivery); and
- consumer legal problems.

The IRG agrees with the results of the analysis, however, it acknowledged that this is a preliminary analysis and urges DJAG to work in consultation with the Commonwealth Government and legal assistance sector to confirm these results and identify practicable measures that can be taken to improve services in those areas in future. This work should be done in 2013. See 'Recommendation 7' below.

In line with the DJAG strategic priority of delivering frontline justice services to vulnerable people and the community, DJAG provides funding allocations from the

⁸⁴ ASTIWLSNQ submission, pp.9, 13.

⁸⁵ Caxton submission, p.8; PLS submission, p.6.

⁸⁶ Coumarelos C et al 2012, *Legal Australia-wide Survey: Legal Need in Queensland*, Sydney NSW, pp. 74, 155, viewed 14 November 2012, <<http://www.lawfoundation.net.au/ljf/app/&id=C0CCF51D639EE200CA257AA00020EE99>>.

⁸⁷ QAILS submission, p.14; Commonwealth AGD submission, p.1.

⁸⁸ QAILS submission, p.14.

⁸⁹ Caxton submission, p.4.

⁹⁰ Consumer Action Law Centre (Vic), Consumer Credit Legal Centre (NSW) and Consumer Credit Legal Service (WA).

⁹¹ Caxton submission, p.4.

Queensland Government Consolidated Fund to Community Justice Groups (CJGs). CJGs can be the first service that an Indigenous person with a legal issue has contact with in the community. CJC services include: providing cultural submissions to courts during bail and sentencing processes; supporting victims, offenders and families with understanding court processes and orders; referring victims and offenders to and supporting them to remain engaged with support services and programs; and providing general support with various applications and documentation, including those for: Births, Deaths and Marriages, declaration of dry places, victim impact statements and Victim Assist Queensland.

Ensuring that clients receive the most appropriate services as early as possible promotes efficient and effective service delivery. To this end, it is proposed that where a CJC and LPITAF funded community organisation deliver services in the same area, they should network with and make appropriate early referrals to one another. It is suggested that these arrangements could also assist some LPITAF funded community organisations to increase their local cultural awareness. In 2013-14, where these networks do not exist, DJAG will facilitate initial contact on a location by location basis. These networks and referral pathways should be promoted by including them as a condition of funding in the service delivery agreements of relevant organisations from 2014-15.

Recommendation 6

Where a CJC and LPITAF funded community organisation deliver services in the same area they should network with and make appropriate referrals to each other. In 2013-14, where these networks do not exist, DJAG will facilitate initial contact on a location by location basis. These networks and referral pathways should be promoted by including them as a condition of funding in their service delivery agreements from 2014-15.

4.1.7. The efficient and effective allocation of LPITAF funds

It was clear from the results of consultation that the most cost effective way to allocate funding for the delivery of legal assistance services is to build on the existing service structure where possible and only fund the establishment of separate new services if necessary (reflected in 'Recommendation 2').⁹² It was also observed that smaller services struggle to remain viable over time.⁹³ LAQ submitted:

*Each regional area in Queensland should have a well-resourced generalist CLC to respond to the needs of the local population and to complement LAQ services. In some regions, this might be best achieved through consolidating existing CLCs rather than establishing new ones. A similar level of generalist CLCs should also be available in the Brisbane region.*⁹⁴

QPILCH stated that collocation of services can assist to achieve the same outcomes. The IRG agreed that both concepts warrant further exploration.⁹⁵

DJAG agrees that building on the existing service structure would, as a general rule, be more cost effective as it will allow for the majority of any additional funding that is allocated in future to be applied to frontline service delivery rather than property or administration costs. In some areas, larger generalist services or collocated services might be more cost effective than a number of smaller services for the same reasons.

⁹² LAQ submission, p.14; Caxton submission, p.8; QAI submission, p.13; QLS submission, p.4.

⁹³ LAQ submission, p.14.

⁹⁴ LAQ submission, p.10.

⁹⁵ IRG meeting on 7 December 2012.

Recommendation 7

There are identifiable:

- geographical gaps or pressure points in the delivery of generalist legal assistance services across Queensland; and
- high prevalence vulnerable groups and legal problems in Queensland that would be best addressed through specialist services.

In 2013, DJAG should consult with the Commonwealth Government and legal assistance sector to:

- determine the areas in greatest need of attention; and
- identify practicable measures that could be taken to improve services in those areas in future, including whether there are any geographical areas where a larger service or colocated services would be more cost effective than a number of smaller services.

4.1.8. Respective roles of Commonwealth and Queensland Governments in funding legal assistance services that receive LPITAF funding

4.1.8.1. National Partnership Agreement on Legal Assistance Services (NPA)

The Commonwealth Government funds four legal assistance programs: legal aid commissions (LACs), community legal centres (CLCs), Aboriginal and Torres Strait Islander legal services (ATSILS) and family violence prevention legal services (FVPLS). These programs deliver a range of legal services to people who are disadvantaged or at risk of becoming disadvantaged.

The NPA sets out the broad strategic framework for the delivery of these services. It commenced on 1 July 2010 and will remain in effect until 30 June 2014.

The objective of the NPA is:

*A national system of legal assistance that is integrated, efficient and cost-effective, and focused on providing services for disadvantaged Australians in accordance with access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness.*⁹⁶

The NPA also provides the funding and performance reporting framework for the delivery of Commonwealth funded services by state and territory LACs. The NPA sets out the priorities for that funding, which are summarised below:

- family law matters involving children or family violence;
- Commonwealth criminal law matters where the defendant is a child or at risk of imprisonment;
- Commonwealth civil law matters involving:
 - grants of aid under the War Veterans Legal Aid Scheme;
 - social security or other Commonwealth benefits;
 - migration matters where other assistance is not available;

⁹⁶ Council of Australian Governments, *National Partnership Agreement on Legal Assistance Services*, p. 4, viewed 30 August 2012, <http://www.federalfinancialrelations.gov.au/content/national_partnership_agreements/Other/Legal_Assistance_Services_NP.pdf>.

- Commonwealth employment, equal opportunity and discrimination cases; and
- Commonwealth consumer law matters.⁹⁷

Priority for Commonwealth legal aid funding is also given to applicants who are in the following special circumstances:

- a language or literacy problem, intellectual, psychiatric or physical disability;
- a person's remote locality making it difficult to obtain legal assistance or where the person would otherwise be at risk of social exclusion; and
- where the applicant is a child.

Commonwealth legal aid funding is also used for:

- the provision of early intervention legal education, information, advice, assistance and advocacy services (regardless of whether the matter type comes within Commonwealth or state law); and
- legal representation of individuals whose legal problems involve a mixture of Commonwealth family law issues and state law family violence and/or child protection issues.⁹⁸

The Commonwealth maintains separate funding agreements for CLCs, ATSILS, and FVPLS that are consistent with the objectives of the NPA (see below).

The Queensland Government funds LAQ to deliver legal assistance for State matters, including: criminal; consumer; anti-discrimination; domestic violence; and child protection matters.

The TOR required DJAG to take into consideration the current review of the NPA. The independent NPA review is due to be finalised by 30 June 2013. It will consider the four Commonwealth funded legal assistance programs as a national system. It will evaluate the quality, efficiency, and cost effectiveness of the four programs and their contribution to a holistic, integrated national legal assistance system.

The Commonwealth submitted that the NPA review will enable development of a sound evidence base to inform future government decisions and that the Commonwealth is willing to work with the Queensland Government to develop a coherent and efficient legal assistance sector using the findings of that review.⁹⁹

4.1.8.2. Aboriginal and Torres Strait Islander Legal Services (Indigenous Legal Assistance and Policy Reform Program)

The Commonwealth Government has an agreement with Aboriginal and Torres Strait Islander Legal Services (Qld) Limited to deliver the following legal assistance services to Aboriginal and Torres Strait Islander people across Queensland:

- *information, initial legal advice, minor assistance and referral;*
- *duty lawyer assistance; and*

⁹⁷ Council of Australian Governments, *National Partnership Agreement on Legal Assistance Services*, Schedule A, p. 14, viewed 30 August 2012, <http://www.federalfinancialrelations.gov.au/content/national_partnership_agreements/Other/Legal_Assistance_Services_NP.pdf>.

⁹⁸ Council of Australian Governments, *National Partnership Agreement on Legal Assistance Services*, Schedule A, p. 13, viewed 30 August 2012, <http://www.federalfinancialrelations.gov.au/content/national_partnership_agreements/Other/Legal_Assistance_Services_NP.pdf>.

⁹⁹ Commonwealth AGD Submission, p.3. Further information and consultation materials are available at <<http://www.ag.gov.au/Legalaid/Pages/ReviewoftheNationalPartnershipAgreementonLegalAssistanceServices.aspx>>
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- *legal casework services for criminal, civil and family law matters.*¹⁰⁰

4.1.8.3. Family Violence Prevention Legal Services

This program, designed to complement state and territory initiatives, provides:

*... culturally sensitive assistance to Indigenous victim-survivors of family violence and sexual assault through the provision of legal assistance, court support, casework and counselling.*¹⁰¹

4.1.8.4. Community Legal Centres (CLCs)

In 2012-13, CLCs in Queensland have been approved to receive:

- a total of \$5.064 million in funding from the Commonwealth Government;
- a total of \$7.5 million in funding from the LPITAF; and
- a total of \$1.9 million in funding from the Queensland Government.

In its submission, the Commonwealth AGD stated that data from the Community Legal Services Information System (CLSIS) indicates that at least 50% of CLC clients seek assistance with State matters.

A common theme in the submissions was that it is almost impossible to separate Commonwealth and State matters in many instances of legal service provision. The following examples were given of matters often found to be inextricably linked:

- *federal family law and state family violence protection laws;*¹⁰²
- *employment and occupational health and safety laws are governed by both state and federal legislation;*¹⁰³
- *consumer protection law is federal law yet there is legislation covering debts and contracts that comes under state jurisdiction;*¹⁰⁴
- *immigration and refugee law is federal, yet clients affected by these laws often have overlapping legal issues that come within state jurisdiction, such as workplace health and safety matters, employment issues and family violence protection matters.*¹⁰⁵

Consultation revealed that strict demarcation between the services that the Commonwealth and Queensland Governments fund is problematic, would result in Queenslanders in need of legal assistance 'falling through the cracks', and is not advisable. Instead, there was widespread call for a more sophisticated, collaborative

¹⁰⁰ Australian Government Attorney-General's Department, *Indigenous Legal Assistance and Policy Reform Program*, viewed 30 August 2012, <<http://www.ag.gov.au/Indigenouslawandnativetitle/Indigenouslawprograms/Pages/IndigenousLegalAidandPolicyReformProgram.aspx>>.

¹⁰¹ Australian Government Attorney-General's Department, *Family Violence Prevention Legal Services*, viewed 30 August 2012, <<http://www.ag.gov.au/Indigenouslawandnativetitle/Indigenouslawprograms/Pages/FamilyViolencePreventionLegalServices.aspx>>.

¹⁰² RAILS submission, pp.2-3; QAILS submission, p.13; ATSIWLSNQ submission, p.16.

¹⁰³ RAILS submission, pp.2-3.

¹⁰⁴ RAILS submission, pp.2-3.

¹⁰⁵ RAILS submission, pp.2-3.

approach between the Commonwealth and Queensland Governments in deciding which services each will fund.¹⁰⁶ On this point, Caxton submitted that:

*Ideally, an outcome of the LPITAF Review and the National Partnership Agreement Review would be the establishment of a forum in which both levels of government can engage with stakeholders including Legal Aid Queensland and QAILS to develop a strategic framework to guide future decision making.*¹⁰⁷

The QPILCH submission supports this approach.¹⁰⁸

Recommendation 8

A. For each funding round and as required, DJAG should:

- consult with the Commonwealth Government and other Queensland Government departments about their funding priorities and proposed allocations, with the goal of systematic simplification of funding arrangements for funded organisations and the respective Governments; and
- invite the Commonwealth Government to jointly consult with the legal assistance sector in Queensland to obtain State-wide, regional, and individual service information to inform funding decisions (through the existing QLAF forum).

B. The results of this Review, overlaid with the results of the NPA review will form the evidence base for the LPITAF funding allocations in the first three year funding cycle, commencing in 2014-15.

4.1.9. Current LPITAF funding allocations

A high level breakdown of the 2012-13 LPITAF allocations to the specified entities and community organisations as a whole is set out in 'Table 1' below.

Table 1

Overall LPITAF Allocations 2012-13		
	TOTAL FUNDING	FUNDING %
Bar Association of Queensland	147,323	0.40%
Queensland Law Society	1,007,186	2.73%
Legal Services Commission	5,381,463	14.61%
Legal Practice Committee	49,231	0.13%
Legal Aid Queensland	18,934,600	51.41%
Supreme Court Library	3,041,025	8.26%
Community Organisations - Recurrent	5,780,893	15.69%
Community Organisations - Non-Recurrent	1,491,724	4.05%
Sustainability & Service Enhancement	500,000	1.36%
Emergency Grants	500,000	1.36%
TOTAL ALLOCATIONS	\$ 36,833,445	100.00%

4.1.10. Does allocating LPITAF funding to the specified entities align with the strategic objective of funding frontline services?

The current LPITAF allocations to specified entities are based on the allocations that were in place when administration of the LPITAF transferred from the QLS to DJAG in 2004. Although that funding has been indexed to the Consumer Price Index (CPI) annually and the specified entities have made budget submissions and accounted for

¹⁰⁶ QAILS submission, p.13; QAI submission, p.6; Caxton submission, p.3.

¹⁰⁷ Caxton submission, p.3.

¹⁰⁸ QPILCH submission, Recommendation 12.

expenditure, the purposes for which LPITAF funding has been allocated to them have not been fundamentally examined since 2004.

The majority of LPITAF funds allocated each financial year (approximately \$37 million per annum in recent years) are provided to the specified entities, predominantly to fulfil their statutory duties under the LPA and associated activities.

4.1.10.1. Queensland Law Society (QLS)

The total amount of direct LPITAF funding that has been allocated to the QLS per annum in recent years is \$1 million. This was primarily for the regulatory function of issuing solicitors' practising certificates. With approval, it has also been applied to activities that the QLS identified as being associated with issuing practising certificates: the provision of free legal advice for solicitors; counselling services for solicitors; and Law Council of Australia membership fees.

Since 2004, Queensland Government policy has been that practising certificate fees should be first applied to the cost of the regulatory functions performed by the QLS and supplementation from the LPITAF would be considered only to the extent that the costs of regulation could not reasonably be met through those fees or other revenue sources.

DJAG considers that the issuing of practising certificates to solicitors and related functions performed by the QLS are not direct provision of frontline justice services for Queenslanders. A practising certificate is a legal practitioner's 'licence' to practice and make a living. Therefore, it is appropriate for related administration costs to be paid for by practitioners (see also '4.1.1 Current purposes for which LPITAF allocations can be made' above for the results of consultation on funding the regulation of the legal profession from the LPITAF). DJAG concludes that the long-standing policy position described above should remain.

Although the legal profession and the number of practising certificates being issued have grown in recent years, the amount of direct LPITAF funding allocated to the QLS has not been reduced in line with the policy position. DJAG concludes that it should now be reduced to the extent that the practising certificate revenue covers the QLS' regulatory expenses. The QLS supports this proposal, subject to a reassessment if the number of practising certificates being issued per annum declines significantly. DJAG agrees.

The QLS also receives LPITAF funding indirectly through a memorandum of understanding (MOU) with the Legal Services Commission (LSC), primarily for the investigation of complaints against solicitors referred to it by the LSC. See '4.1.10.3 Legal Services Commission' below. The above proposal does not impact the MOU.

Recommendation 9

The amount of direct LPITAF funding provided to the QLS to perform its regulatory functions should be reduced to the extent that the practising certificate revenue covers the QLS' regulatory expenses.

This recommendation does not impact on the LPITAF funds the QLS receives through the MOU with the LSC.

There is provision in the LPA that allows for payments to be made to or for the Legal Practitioners' Fidelity Guarantee Fund (LPFGF).¹⁰⁹ The LPFGF exists to reimburse

¹⁰⁹ Section 289(1)(b) LPA.

persons who suffer pecuniary loss through stealing or fraudulent misappropriation of money or property entrusted to a solicitor.¹¹⁰ Financial assistance from the LPITAF has not been necessary to make the payments required from that fund. It has been fully funded (including administration costs) by a separate annual levy on solicitors since 2004-05. There is provision for any shortfall to be met by practitioner levies.¹¹¹ To ensure the ongoing viability of the LPFGF, the QLS can cap the amounts payable from the LPFGF or individual claims or classes of claims.¹¹² The QLS can make phased, partial, or pro rata payments from the LPFGF to maintain the balance of that fund.¹¹³

The Victorian legislation provides for payments to be made to its Fidelity Fund if there are insufficient funds in it.¹¹⁴ The NSW legislation allows for discretionary payments to be made for supplementation of its Fidelity Fund.¹¹⁵

Given that the LPFGF operates for the protection of Queenslanders who engage a lawyer, it is appropriate for there to be provision in the LPA that allows for payments to be made from the LPITAF to or for the LPFGF. However, it should be made clear in the LPA that any such payment would only be considered if all other LPFGF funding sources and payment options have been exhausted. The IRG, including the QLS, supports this proposal.¹¹⁶

Recommendation 10

There should continue to be provision in the LPA that allows for payments to be made from the LPITAF to or for the LPFGF. However, it should be made clear that any such payment would only be considered if all other LPFGF funding sources and payment options have been exhausted.

4.1.10.2. Bar Association of Queensland (BAQ)

For the same rationale as set out above in relation to solicitors' practising certificates, it is appropriate to require barristers to fund the administration costs associated with their practising certificates.

The function of investigating complaints against barristers can be distinguished. This function is for the protection of Queenslanders who engage a barrister and has a direct impact on community members. Therefore, complaints investigation aligns with the strategic objective of focussing LPITAF funding on frontline service delivery. The BAQ supports these conclusions.¹¹⁷

The BAQ received \$147,000 in LPITAF funds in 2012-13. Originally, the BAQ allocation was for two positions; one to issue practising certificates to barristers and the other to assist the LSC in the investigation of complaints against barristers. However, the whole amount is now applied to investigatory functions. The issuing of practising certificates is funded by practising certificate fees paid by barristers.¹¹⁸

Recommendation 11

The BAQ should receive LPITAF funding for the costs associated with its regulatory function of investigating complaints against barristers.

¹¹⁰ Section 395 LPA.

¹¹¹ Section 369 LPA.

¹¹² Section 396 LPA.

¹¹³ Section 397 LPA.

¹¹⁴ Section 6.7.13 *Legal Profession Act 2004* (Vic).

¹¹⁵ Sections 289 and 292 *Legal Profession Act 2004* (NSW).

¹¹⁶ IRG meeting on 7 December 2012; QLS email 13.12.12.

¹¹⁷ BAQ submission, pp.1-2; BAQ at IRG meeting on 7 December 2012.

¹¹⁸ BAQ submission, pp.1-2.

The costs of its regulatory functions in relation to practising certificates issued to barristers are funded by the practising certificate fees paid by barristers.

4.1.10.3. Legal Services Commission (LSC)

The LSC is primarily funded by allocations from the LPITAF (\$5.4 million in 2012-13), although it also receives an allocation of \$100,000 per annum from the Queensland Government Consolidated Fund. It is provided with LPITAF funding to perform disciplinary investigations of legal practitioners as a result of complaints from clients, including coordinating assistance from the BAQ and QLS. The LSC also works towards the prevention of future complaints. It is responsible for the oversight and regulation of incorporated legal practices. Any surplus LSC funding not otherwise committed is returned to the LPITAF annually at year end.

DJAG has found that the LSC's regulatory functions are for the protection of and directly benefit Queenslanders who engage a lawyer. This aligns with the allocation of LPITAF funds to frontline services. Therefore, it is appropriate for the LSC to continue to be funded from the LPITAF.

Recommendation 12

The LSC should continue to receive LPITAF funding to cover the cost of performing its regulatory functions.

4.1.10.4. Legal Practice Committee (LPC)

Under the LPA, the LPC has responsibility for hearing lower level disciplinary matters brought by the LSC against lawyers. The LSC receives additional LPITAF funding for a part-time administration officer, sitting fees, and transcript costs (\$50,000 in 2012-13) to carry out its statutory function of providing administrative support to the LPC.¹¹⁹ Any surplus funding is returned to the LPITAF annually at year end.

DJAG has found that the LPC's functions are also for the protection of and directly benefit Queenslanders who engage a lawyer. Therefore, the LSC should continue to receive recurrent allocations of LPITAF funds to support the LPC.

DJAG has approached the Legal Services Commissioner about simplifying the processes and paperwork associated with the LSC's LPITAF allocations. It has been agreed that the LSC's main allocation and the funds the LSC receives to support the LPC should be allocated and reported on together in future.

Recommendation 13

The LSC should continue to receive recurrent allocations of LPITAF funds to support the LPC, although those funds should be included in the LSC budget to streamline funding allocation and reporting processes.

¹¹⁹ Section 625 LPA.

4.1.10.5. Supreme Court of Queensland Library (SCQL)

The SCQL maintains a centralised collection of legal materials and provides research services to allow the courts to properly administer justice according to law and allow all Queenslanders equal access to legal materials so they can properly defend their legal rights. Users of library services include: the judiciary; legal profession; government officers; school and university students; and the general public. The main collection is in Brisbane, there are local collections in eight regional centres, and 24/7 online services are available across Queensland.¹²⁰ DJAG found these are frontline services.

In recent years, the SCLQ has received \$3 million per annum in LPITAF funds (70% of the SCQL's funding). The majority of the library's services are provided for free. However, modest fees are charged for certain services, including photocopying. The library also undertakes projects on a cost recovery basis or through sponsorships, grants or donations.¹²¹

Recommendation 14

The SCQL should continue to receive funding allocations from the LPITAF.

4.1.10.6. Legal Aid Queensland (LAQ)

LAQ has received additional recurrent funding from the Queensland Government Consolidated Fund since 2009-10 to provide a more secure funding source to support the provision of legal aid services to vulnerable Queenslanders and reduce the variability associated with funding these services from the LPITAF. This appropriation has reduced the reliance by LAQ on LPITAF from \$37.9 million in 2009-10 to \$18.9 million in 2012-13.

In 2012-13, \$107.9 million was allocated to LAQ as follows:

- \$18.9 million from the LPITAF;
- \$45.5 million from the Queensland Government Consolidated Fund; and
- \$43.5 million from the Commonwealth Government.

LAQ is a statutory authority that provides legal information, advice, and representation to financially disadvantaged Queenslanders. It specialises in criminal, family, and civil law. The information and advice services are free to all Queenslanders. To be eligible for representation, a person must meet LAQ's means and merit test guidelines.¹²²

LAQ is the largest provider of legal assistance services to financially disadvantaged Queenslanders. It has a State-wide service delivery infrastructure, including: offices in Brisbane and 13 regional locations; State-wide telephone services; a grants of aid program that funds legal representation across Queensland by a network of over 300 private law firms; and outreach advice services to remote Aboriginal and Torres Strait Islander communities.¹²³

LAQ provided the following examples of frontline services it delivers that are essential to the effective functioning of Queensland's justice system:

- *the provision of duty lawyers across Queensland magistrates and childrens courts, without which those courts would be unable to effectively function*

¹²⁰ SCQL submission, p.3.

¹²¹ SCQL submission, pp.1-7.

¹²² LAQ 2012, *Who we are & what we do*, viewed 19 September 2012, <<http://www.legalaid.qld.gov.au/about/Pages/About-us.aspx>>.

¹²³ LAQ submission, pp.3, 5, 6-8.

- *the provision of legal representatives for defendants in criminal law trials without which trials of serious offences would be unable to proceed*
- *the provision of experienced counsel to support criminal law court circuits*
- *the provision of court-ordered separate representatives for children in child protection matters*
- *the provision of legal representation to victims of domestic violence.*¹²⁴

DJAG concludes that the services delivered by LAQ are properly categorised as the direct delivery of frontline justice services to Queenslanders. Therefore, LAQ should continue to receive funding allocations from the LPITAF.

Recommendation 15

LAQ should continue to receive funding allocations from the LPITAF.

4.1.11. Does allocating LPITAF funding to the community organisations align with the strategic objective of funding frontline services? If so, what types of allocations should be made?

4.1.11.1. Summary of funding received and services provided by community organisations

The types and amounts of LPITAF funds allocated to each community organisation in 2012-13 are set out in 'Attachment 3'. A summary of services provided by LPITAF funded community organisations is set out in 'Attachment 5'.

4.1.11.2. Recurrent funding

The recurrent LPITAF allocations to community organisations substantially reflect the allocations that were in place when administration of the LPITAF transferred from the QLS to DJAG in 2004, indexed by CPI annually. To date, the purposes for which recurrent LPITAF funding is allocated to community organisations have not been fundamentally examined by DJAG.

In 2012-13, community organisations have been approved to receive approximately \$7.8 million in LPITAF funding, representing 21% of the allocations, and \$1.9 million from the Queensland Government Consolidated Fund. See 'Attachment 3' for a detailed breakdown. The bulk of those funds are recurrent, obtained for CLCs by LAQ under s289(1)(a) of the LPA through the annual budget process described above, and administered under the Community Legal Services Program (CLSP). However, LPITAF Grants Fund Transitional funding is administered directly by DJAG (see below).

The CLSP is comprised of the Commonwealth Community Legal Services Program (CCLSP) and the State Community Legal Services Program (SCLSP), funded by allocations made by the Commonwealth and Queensland Governments respectively (see '4.1.8 Respective roles of Commonwealth and Queensland Governments in funding legal assistance services that receive LPITAF funding' above). LAQ, as the State Program Manager, manages the CLSP on behalf of the Commonwealth and Queensland Governments.

¹²⁴ LAQ submission, p.7.

The objective of the CCLSP is to:

*... contribute to the provision of access to legal assistance services for disadvantaged members of the community and those with special needs and/or those whose interests should be protected as a matter of public interest through the provision of funding to community-based organisations.*¹²⁵

For the purposes of the CCLSP, CLCs:

- *provide a range of assistance on legal and related matters to people on low incomes and those with special needs; and*
- *provide services which complement and extend the services provided by legal aid commissions and the private profession.*¹²⁶

Further information on the CLSP is provided at 'Attachment 4'.

DJAG found that, on the whole, these types of services directly align with the following proposed LPITAF strategic objectives:

- LPITAF funding will be directed to the provision of frontline justice services for Queenslanders; and
- Priority will be given to services that assist vulnerable people and disadvantaged community members to access justice.

Therefore, a funding allocation should be able to be made from the LPITAF to a community organisation where the individual allocation will promote the strategic priorities and funding strategies.

Recommendation 16

A funding allocation should be able to be made from the LPITAF to a community organisation where the individual allocation will promote the strategic priorities and funding strategies.

4.1.11.3. LPITAF Grants Fund

Approximately \$1.5 million of LPITAF funds was allocated through the LPITAF Grants Fund process each financial year. These grants were last available in the 2009-10 financial year and were ceased in 2010-11 because of the reduction in LPITAF revenue caused by the global economic situation.

LPITAF Grants Fund allocations were made on an annual basis with the maximum grant term being two years. The allocated funds were administered entirely by DJAG.

Many LPITAF Grants Fund grants were for one-off projects. However, these grants were also allocated for piloting service initiatives and those found to be meritorious were invited to apply for recurrent funding. If it was granted, the additional recurrent funding was managed through the CLSP. The piloting of service initiatives through this mechanism was less than ideal because it meant that enhancements to existing services or the establishment of new ones occurred in the absence of a strategic plan to maximise service delivery.

¹²⁵ Australian Government Attorney-General's Department, *Commonwealth Community Legal Services Program: Guidelines*, p.4, viewed 28 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/Commonwealth-Community-Legal-Services-Program-.aspx>>.

¹²⁶ Australian Government Attorney-General's Department, *Community Legal Services Program*, viewed 28 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/default.aspx>>.

In 2009-10, at the time of cessation of the LPITAF Grants Fund process, there were twelve initiatives being delivered by nine CLCs that were to be considered for recurrent funding from 2010-11. Recurrent funding has not been approved for these initiatives, primarily due to the variability of the LPITAF revenue. However, they have been funded non-recurrently each year since 2010-11. This funding has continued to be administered through DJAG and is referred to as LPITAF Grants Fund Transitional Funding.¹²⁷ QAI and QAILS submitted that the LPITAF Grants Fund Transitional Funding arrangement has caused uncertainty from year to year for both community organisations (impacting on staff retention) and their clients (as casework had to be restricted or closed down by the end of each financial year).¹²⁸ This was exacerbated in some previous years by final decisions about funding for the next financial year not being made or communicated to organisations until June.

4.1.11.4. Sustainability and Service Enhancement Funding

Since 2010-11, \$500,000 per annum has been set aside for LPITAF funded community organisations to apply for additional non-recurrent Sustainability and Service Enhancements funds. This process was initiated subsequent to the cessation of the LPITAF Grants Fund, in the context of the prevailing economic conditions.

The purpose of this funding is to enable CLCs to create or increase efficiencies in their existing operations, including: systems; processes; and services. These funds assist CLCs to achieve and maintain a balanced budget and assist with sustainability pressures. The initiative must be:

- a new, one-off, short-term project that will be completed within one year; and
- designed to save on future recurrent costs or increase services able to be provided within existing recurrent funding.

The Review has found that this contraction of LPITAF non-recurrent grants funding (from the LPITAF Grants Fund to the smaller Sustainability and Service Enhancement Funding) is a prudent measure that should assist to preserve the ongoing viability of the LPITAF. Therefore, the expansion and contraction of non-recurrent LPITAF funding should continue in future to respond to the prevailing economic conditions and preserve the ongoing viability of the LPITAF (see 'Recommendation 18', part B).

4.1.11.5. Emergency Grants

\$500,000 per annum of LPITAF funds are set aside for Emergency Grants. An example of an Emergency Grant is the \$150,000 provided to the Caxton Legal Centre in 2010-11 to provide services required by community members as a result of the floods.

Any organisation currently receiving recurrent LPITAF funding can apply for an Emergency Grant at any time. Applications are received and assessed by DJAG and approved by the Attorney-General. Funds allocated to community organisations are administered through the CLSP.

The Review finds that the Emergency Grants arrangement is prudent, particularly in the current tight fiscal environment, as it allows for emergency community legal needs to be quickly responded to.

¹²⁷ Further information about the LPITAF Grants Fund, including documentation, is available at: <http://www.justice.qld.gov.au/corporate/sponsorships-and-grants/grants>.

¹²⁸ QAI submission, p.13; QAILS submission, p.8.

4.1.11.6. Types of funding allocations to be made from the LPITAF to community organisations in future

Based on lessons learned by DJAG from the previous types of LPITAF funding allocations (discussed above) and the results of consultation (set out below), DJAG proposes that four types of LPITAF funding allocations should be able to be made to community organisations in future. These are set out in 'Recommendation 18' below.

Fourteen of the 22 submissions to the Review provided feedback, summarised here, that directly led to the development of the four proposed funding categories and the three year funding cycle.¹²⁹ There needs to be distinct types of funding for service delivery, service development, and projects. Service development funding needs to include clear pathways to progress to service delivery funding (for example, proven results evidenced by an outcomes evaluation). A three year funding cycle minimises uncertainty from year to year. It allows funded organisations to undertake strategic and operational planning, maintain consistency in service delivery, and retain and develop staff (difficulties retaining staff is a prominent sustainability issue for CLCs).

In line with the Government's commitments to fiscal responsibility and accountability, a three year funding cycle will allow the LPITAF Committee (see 'Recommendation 21') to review the funding strategies and allocations triennially to ensure they respond to contemporary community legal needs and promote cost effectiveness. Comparably, a three year funding cycle is maintained by the Department of Communities, Child Safety and Disability Services (DoC) in relation to the majority of its service grants.

The NPA Review is due to be completed by 30 June 2013. It is likely that a replacement for the NPA will be negotiated in 2013-14. The Commonwealth Government is working to extend the current CLSP agreements (due to expire on 30 June 2013) until 30 June 2014. Therefore, the first three year LPITAF funding cycle should commence in 2014-15.

See 'Attachment 6' for a diagram of the recommended three year funding cycle.

Recommendation 17

LPITAF funding should be allocated to community organisations in three year cycles. The cycles should generally align with the Community Legal Services Program funding cycles, with the first commencing in 2014-15.

Recommendation 18

A. There should be four types of LPITAF funding allocations that can be made to community organisations:

1. Service delivery funding

Service delivery funding should be provided under three year service delivery agreements (see 'Recommendation 28'). A reassessment should be undertaken every three years to ensure funds are being allocated to initiatives that best address the strategic objectives and funding strategies. This type of funding would replace the categories of funding currently known as 'recurrent funding' and 'transitional funding'.

2. Service development or improvement funding

¹²⁹ QLS submission, pp.4-5; YAC submission, p.6; RAILS submission, p.15; QAILS submission, pp.7-8; TASC submission, p.2; WRC submission, p.6; QAI submission, p.14; QPILCH submission, Recommendation 9; Carers submission, p.9; Centacare submission, p. 5; DV Connect submission, pp.7-8; SCQL submission, p.10; Court Network submission, p.7; LAQ submission, see for example p.10.

This funding should be available for up to three years for new services or improvements to services to be piloted within a three year funding cycle. For example, this funding could be provided on the basis that the first year could involve establishment (including recruitment) and reduced running costs, the second year will involve full running costs and evaluation, and the third year will involve full running costs. The evaluation would be conducted in the second year to allow the initiative to be considered for service delivery funding in the next three year cycle.

This funding would only be offered for a funding cycle if it is anticipated that sufficient service delivery funding will be available for successful initiatives from the next funding cycle.

3. Project funding

This funding should be available for one-off projects that will produce a predetermined product or outcome with no ongoing costs. Project funding could be provided for any period of time up to three years. Potential project topics might be identified by the LPITAF Committee (see 'Recommendation 21').

4. Emergency funding

DJAG should continue to set aside an amount per annum of LPITAF funds for matters of an emergent nature. The amount should be reassessed for each three year funding cycle.

B. Any of the four types of funding may be restricted or made unavailable in a three year cycle if special measures are required to preserve the viability of the LPITAF.

C. The amount of funding available in each category will be reviewed by the LPITAF Committee, decided by the Attorney-General, and published at the start of each funding round, although whether the whole of that amount is allocated will depend on an assessment of the proposals received in that funding round.

4.1.12. Indexation

Recurrent LPITAF funding provided to the specified entities and community organisations has been indexed by the Consumer Price Index (CPI) annually. LPITAF funding is not used to index other funding (for example, State, LPITAF, or Commonwealth Government contributions to State or Commonwealth wage increases).

Fifteen of the 22 submissions expressed the need for indexation of LPITAF service delivery funds to continue because salaries, rent, electricity, and other costs all increase over time. Without indexation, the number of hours of frontline service delivery would decrease over time and foster uncertain employment conditions, impacting on staff retention and organisational stability.¹³⁰

Recommendation 19

LPITAF service delivery funding allocations to specified entities and community organisations should continue to be indexed by CPI each financial year, unless special measures are required to be put in place in any three year cycle to preserve the viability of the LPITAF. LPITAF is not drawn upon to index other funding (for example, State, LPITAF, or Commonwealth Government contributions to State or Commonwealth wage increases).

¹³⁰ SEQ submission, p.10; QLS submission, p.5; QAI submission, p.14; LAQ submission, p.14; QAILS submission, p.8; TASC submission, p.2; ASTIWLSNQ, p.14; Carers submission, p.9; Centacare submission, p.6; DV Connect submission, p.8; WRC submission, p.6; RAILS submission; YAC submission, p.6; Court Network submission, p.8; LSC submission, p.4.

4.2. **PART B - Administration of LPITAF funding allocations**

The administration of LPITAF funding allocations has historically been different for the two main groups of recipients (specified entities and community organisations). Some parts of the recommended model apply to both. However, DJAG has found that some differences will need to remain (as indicated throughout this Report) due to the distinct nature of the functions they perform:

- Specified entities:
 - have statutory roles in the regulatory framework for Queensland's legal profession or the delivery of legal assistance services;
 - those that perform functions for the regulation of the legal profession (LSC, QLS, BAQ) are the only organisations that perform those respective functions; and
 - generally receive the largest individual LPITAF funding allocations.
- Community organisations:
 - deliver legal assistance services through a complex, interconnected service delivery model;
 - are greater in number; and
 - generally receive smaller amounts of LPITAF funding per organisation.

4.2.1. **Governance**

4.2.1.1. Comparable governance models

In Victoria, the Legal Services Board (a public authority which is primarily responsible for regulation of the Victorian legal profession) is responsible for maintaining the Public Purpose Fund (LPITAF equivalent) and making payments for regulatory activities. Discretionary or grants payments require the approval of the Attorney-General.¹³¹

In NSW, the equivalent fund is managed and controlled by four Trustees, including two from the Law Society and the Director-General of the NSW Department of Attorney General and Justice. Regulatory payments are approved by the Director-General. Discretionary payments are made only with the concurrence of the Attorney-General.¹³²

Victim Assist Queensland (VAQ), DJAG is responsible for administering grants to victim support services. A DJAG panel assesses and ranks applications based on their responses to eligibility and selection criteria. Recommendations for the allocation of funds are made to the Attorney-General for his consideration and final decision.

DoC administers project and service grants under various funding programs across a range of service areas. DoC assesses the applications in accordance with eligibility and selection criteria and in consideration of local needs, existing service provision, and geographical spread. Recommendations for funding are made to the Minister for Communities, Child Safety and Disability Services who makes the final decision.

In considering potential good governance models for the LPITAF, DJAG found that the basic elements of the typical governance structure of an institutional fund (funds that

¹³¹ Sections 6.2.1, 6.2.3, 6.7.1(1), 6.7.6-6.7.8, and 6.7.10 *Legal Profession Act 2004* (Vic), <<http://www.legislation.vic.gov.au>>.

¹³² Section 285(1), 286, 287, 289, and 290 - 292 *Legal Profession Act 2004* (NSW), <<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+112+2004+cd+0+N>>.

operate with minimal risk and operating costs to ensure reliable return on investment for their clients) should be adopted. In the context of the LPITAF, those elements are:

- a committee to make recommendations to the Attorney-General, comprised of DJAG and non-DJAG members; and
- clearly defined roles, responsibilities, and policies.

4.2.1.2. Governance of LPITAF funding allocations to date

Queensland moved from a law society administration model to a government administration model with the commencement of the LPA on 1 July 2004. The LPA provides that the Attorney-General has the authority to decide whether a payment should be made from the LPITAF. If the Attorney-General decides that a payment should be made, the decision must include the amount of the payment and any conditions. The Director-General of DJAG: must make recommendations to the Attorney-General to aid in this process; can require a potential beneficiary to submit a budget (including information about the administration of the potential beneficiary); and makes payments from the LPITAF on written instructions from the Attorney-General.¹³³ See 'Attachment 7' for a diagram of the current model.

The Grants Fund Committee assessed LPITAF Grants Fund applications (see '4.1.11.3 LPITAF Grants Fund' above) and made recommendations to the Attorney-General, via the Director-General, for consideration and approval. The following representatives constituted that committee:

- Attorney-General's representative (Supreme Court Justice);
- Director-General's representative (the Deputy Director-General, DJAG);
- Director, Strategic Policy, DJAG;
- Director, Courts Innovation Program (Community Justice Groups), DJAG;
- Director, Financial Services, DJAG;
- Chief Executive Officer, LAQ (or nominated representative); and
- State Program Manager, CLSP, LAQ.

That Committee was not involved in considering or making recommendations about the allocation of the bulk of LPITAF funds (recurrent funding).

4.2.1.3. Governance of LPITAF funding allocations in future

4.2.1.3.1. Overall administration

LAQ, QAI, and RAILS submitted that DJAG should continue to administer the LPITAF, with LAQ specifying that the Attorney-General should remain as the ultimate decision-maker for funding allocations.¹³⁴

Recommendation 20

DJAG should continue to have overall responsibility for administering the LPITAF and the Attorney-General should remain as ultimate decision-maker for funding allocations.

¹³³ Sections 289-291 LPA.

¹³⁴ LAQ submission, pp.5, 14; QAI submission, p.17; RAILS submission, p.16.

4.2.1.3.2. LPITAF Committee

Eight submissions clearly support the establishment of a LPITAF Committee to oversee the allocation of LPITAF funds to promote accountability and transparency. The submissions varied on their suggestions as to the composition of such a committee.¹³⁵

Some submissions suggested that a Supreme Court Judge should be the chair of the Committee because they could be independent, frank, and fearless in putting forward recommendations to the Attorney-General.¹³⁶ Conversely, WLS submitted:

*WLS has concerns about a Supreme Court Judge forming part of the committee as the work of the committee would not be within their area of expertise or experience and they may not have a broad knowledge of access to justice issues in Queensland.*¹³⁷

DJAG concluded that the administration of the LPITAF is a function properly performed by the administrative arm of government. However, DJAG agrees that good governance arrangements demand representation on the LPITAF Committee from organisations other than DJAG. It is proposed that involving representatives from Queensland Treasury and Trade (QTT) and the Department of the Premier and Cabinet (DPC) will provide the required external viewpoint.

4.2.1.3.3. Input from LPITAF recipients

The wealth of knowledge and experience of organisations that have a sector-wide view should be taken into consideration in the allocation of LPITAF funding to community organisations. Some interested parties advocated for the inclusion of those types of organisations on the LPITAF Committee (for example, LAQ, QAILS, QLS, or QPILCH).¹³⁸ However, others expressed concerns that participation by those organisations in assessing applications for funding could give rise to perceived or actual conflicts of interest.¹³⁹ QPILCH suggested that conflicts could be dealt with by organisations declaring them and absenting themselves when required.¹⁴⁰

QAILS submitted that some CLCs expressed concerns about LAQ being on the former LPITAF Grants Committee or being the first filter for whether or not applications meet selection criteria. There was concern about LAQ being 'at the decision-making table' while CLCs are not. QAILS also submitted that the more strategic work, supporting the LPITAF Committee to make decisions about planning and priorities, should be done by a DJAG secretariat rather than LAQ.¹⁴¹ TASC and WRC expressed agreement.¹⁴²

Best practice for the allocation of funding to community organisations in Queensland involves the clear separation of roles between applicants, assessors, and approvers.¹⁴³ Therefore, DJAG could not recommend that any of the organisations that currently receive or would be likely to apply for LPITAF funding in future should be sitting

¹³⁵ Centacare submission, p.6; QPILCH submission, Recommendation 10 (2); LSC submission, p.4; LAQ submission, p.11; QAILS submission, pp.9-10; QAI submission, p.15; TASC submission, p.2; YAC submission, p.5.

¹³⁶ QAILS submission, pp.9-10; QAI submission, p.15; QPILCH submission, p.38.

¹³⁷ WLS submission, p.5.

¹³⁸ QPILCH submission, Recommendation 9; LSC submission, p.4; LAQ submission, p.11; QAILS submission, pp.9-10; QLS at the IRG meeting on 7 December 2012.

¹³⁹ QAI submission, p.16; Caxton submission, p.1.

¹⁴⁰ QPILCH at the IRG meeting on 7 December 2012.

¹⁴¹ QAILS submission, p.10

¹⁴² TASC submission, p.2; WRC submission, pp.6-7.

¹⁴³ Auditor-General of Queensland, Queensland Government, *Report to Parliament No. 3 for 2011: Follow up of 2008 audit on administration of grants and funding to community organisations by local government in Queensland*, Brisbane QLD, p.26, viewed 7 December 2012, <http://www.qao.qld.gov.au/files/file/Reports/2011_Report_No.3.pdf>.

members of the LPITAF Committee, which will be responsible for making recommendations about funding allocations directly to the Attorney-General.

DJAG concluded that the best way to incorporate valuable input from organisations that have sector-wide knowledge is to build upon the existing QLAF mechanism. QAILS submitted that it would be best to establish a separate group as the QLAF's function is to maximise service coordination.¹⁴⁴ However, DJAG and LAQ have concerns about creating another group with the same membership.¹⁴⁵ Therefore, DJAG concludes that, in relation to the allocation of funds to community organisations:

- DJAG should seek information from the QLAF to inform the LPITAF Committee's triennial review of the funding strategies (to be overlaid with research conducted by DJAG – see 'Recommendation 22'); and
- QLAF member organisations should be invited to directly address the LPITAF Committee to provide information during the application assessment process.

DJAG and the LPITAF Committee should also seek advice from other relevant peak bodies and applicants when necessary.¹⁴⁶

4.2.1.3.4. Financial Management

The financial management of the LPITAF was outside of the scope of this Review. However, to promote the ongoing viability of the LPITAF, it is recommended that the LPITAF Committee should also have oversight of its financial management. This will include approving the financial statements and forecasts prepared by DJAG Finance biannually and overseeing the LPITAF investment strategy. As a result, the LPITAF Committee will be well placed to decide on the amounts available for allocation in any three year funding cycle (see 'Attachment 6' for a diagram of the cycle) and to take any special measures necessary to preserve the viability of the fund.

YAC and QAI submitted that a chartered accountant or actuary should sit on the committee.¹⁴⁷ DJAG Finance (qualified accountants) currently provides financial information and advice to DJAG Management, the Director-General and Attorney-General. The LPITAF Financial Statements are audited annually by the Queensland Audit Office. DJAG seeks advice from Queensland Treasury Corporation as required to validate forecasting assumptions. DJAG reports annually to the Queensland Government on the LPITAF financial performance and forecasts. It is proposed that this information and advice will be provided to the LPITAF Committee and that a Queensland Treasury and Trade representative will be on the Committee. Together, these measures should provide the required amount of financial rigour.

Given that the LPITAF Committee will have operational, policy, and financial oversight functions, its membership should include Executive Management from those three respective areas of DJAG.

Recommendation 21

- A.** A LPITAF Committee should be established to have oversight of the LPITAF funding allocation processes, including:
- reviewing the funding strategies and amounts available for allocation for each type of funding triennially;
 - overseeing funding application processes;

¹⁴⁴ QAILS submission, pp.9-10.

¹⁴⁵ LAQ at IRG meeting on 7 December 2012.

¹⁴⁶ Centacare submission, p.6; QAILS email 12.12.12.

¹⁴⁷ YAC submission, p.5; QAI submission, p.15.

- assessing applications;
 - endorsing the service delivery agreements; and
 - overseeing accountability and reporting requirements.
- It should also oversee the financial management of the LPITAF.

The LPITAF Committee would make recommendations on all of the above to the Attorney-General, through the Chair, for his consideration and final decision.

The membership of the LPITAF Committee should be:

- Director-General, DJAG (Chair);
- Deputy Director-General, Justice Services, DJAG;
- Assistant Director-General, Strategic Policy, Legal and Executive Services, DJAG;
- Assistant Director-General, Corporate Services, DJAG;
- a representative from Queensland Treasury and Trade; and
- a representative from the Department of the Premier and Cabinet.

B. In relation to the allocation of funds to community organisations:

- DJAG should seek information from the QLAF to inform the LPITAF Committee's triennial review of the funding strategies (to be overlaid with research conducted by DJAG – see 'Recommendation 22');
- QLAF member organisations should be invited to directly address the LPITAF Committee to provide information during the application assessment process; and
- DJAG and the LPITAF Committee should seek advice from other relevant peak bodies and applicants when necessary.

4.2.1.3.5. DJAG role

QAILS has been seeking a closer, stronger working relationship between DJAG, the Commonwealth Government, QAILS, and other legal assistance services for many years. It anticipates that the benefits would include a more strategic approach to funding legal assistance services in Queensland.¹⁴⁸

The IRG insisted, and DJAG agrees, that it is essential that DJAG has a more intensive role in the administration of the LPITAF in future, including the additional responsibilities set out in 'Recommendation 22' below.¹⁴⁹

Recommendation 22

DJAG should have a more intensive role in the administration of the allocation of LPITAF funds in future, including:

- policy, research, and administrative support for the LPITAF Committee;
- more intensive liaison with and seeking information from the QLAF;
- managing service delivery agreements with the specified entities;
- a more active role in managing the relationship with LAQ as the SPM, including meeting with LAQ regularly to receive and discuss CLSP financial and performance reporting information;
- increased knowledge of and improved relationships with the legal assistance sector through attendance at QLAF and some RLAF meetings;
- working more closely with the Commonwealth AGD (including developments post the NPA review) and other Queensland Government departments on an ongoing basis with the goal of systematically simplifying funding arrangements for funded organisations and the respective Governments; and

¹⁴⁸ QAILS email 12.12.12.

¹⁴⁹ IRG meeting on 7 December 2012.

- coordinating public reporting on LPITAF allocations and maintaining LPITAF webpage content (see 'Recommendation 31').

This can only be achieved through the establishment of an ongoing dedicated position within DJAG. The costs associated with that position will be met by DJAG.

4.2.1.3.6. State Program Manager

The CLSP is managed on behalf of the Commonwealth and State governments by the LACs in Queensland, Victoria, New South Wales, Tasmania, and Western Australia. The South Australian program is administered by the South Australian Attorney-General's Department. The Commonwealth AGD directly manages the comparatively smaller programs in the territories.

The vast majority of interested parties support the continued allocation of LPITAF funds to community organisations through the CLSP and LAQ remaining as the State Program Manager (SPM), performing the following functions:

- the day to day management of the service delivery agreements;
- provision of funds; and
- monitoring and reporting.¹⁵⁰

Conversely, QPILCH expressed concerns about LAQ remaining as the SPM; advocating instead for all funding related functions to be performed by DJAG and the service coordination functions to be performed by LAQ.¹⁵¹

To have an agency other than LAQ performing the SPM functions for LPITAF funding would result in a greater administrative burden for the community organisations and the State.¹⁵² Many CLCs expressed that they have a long standing, close and productive relationship with LAQ as the SPM.¹⁵³ LAQ has a significant amount of corporate knowledge of the complex service delivery models used in the legal assistance sector that would take another agency a considerable amount of time and resources to replicate.¹⁵⁴ LAQ has existing sector networks and coordinates the Legal Assistance Forums in Queensland.

DJAG has concluded that LPITAF funding allocated to community organisations should continue to be managed under the CLSP by LAQ as the SPM. This is the most cost effective option (for both the administration of the fund and the administrative burden on community organisations). It achieves the aim of ensuring accountability for expenditure of public purpose funds while avoiding unnecessarily burdening the sector by running parallel programs with different reporting requirements.

The Commonwealth AGD has an agreement with LAQ as the SPM and more actively manages the relationship than the Queensland Government does. For example, the Commonwealth AGD meets with LAQ and other SPMs on a quarterly basis to discuss CLSP performance and reporting. Each SPM provides a written report on issues in their State for the meeting. The Commonwealth AGD also liaises with each SPM individually on any particular CLSP issues in their State, including financial management and compliance.

¹⁵⁰ YAC submission, p.7; LAQ submission, p.11; QAILS submission, p.10; TASC submission, p.2; WRC submission, pp.6-7; DV Connect submission, p.8; YFS submission, p.3; LAQ submission, p.9.

¹⁵¹ QPILCH submission, QPILCH emails 10.12.12 and 12.12.12.

¹⁵² WRC submission, pp.6-7.

¹⁵³ RAILS submission, p.16; DV Connect submission, p.8; YFS submission, p.3.

¹⁵⁴ RAILS submission, p.16; YFS submission, p.3.

Recommendation 23

A. LPITAF funding allocated to community organisations should continue to be managed under the CLSP by LAQ as the State Program Manager.

B. A service delivery agreement should be developed between DJAG and LAQ for this purpose. DJAG should actively manage the agreement, including meeting with LAQ regularly to receive and discuss CLSP financial and performance reporting information.

See 'Attachment 8' for a diagram of the recommended model.

4.2.2. Application and assessment

The following application and assessment requirements should apply in addition to those outlined at '4.2.1.3 Governance of LPITAF funding allocations in future' above.

4.2.2.1. Specified entities

Currently, LPITAF funds are allocated to the specified entities through the following annual budget process:

- DJAG seeks a budget submission from each of the specified entities, consisting of predominantly financial information including actual and forecast income and expenses;
- DJAG undertakes a rigorous assessment of those submissions and makes recommendations to the Attorney-General;
- the amounts to be allocated are approved by the Attorney-General; and
- the amounts are noted by the Queensland Government through its annual budget processes (see 'Attachment 7' for a diagram of the current model).

The Legal Services Commissioner submitted:

The current arrangements for the allocation of funds from LPITAF to the entities specified in section 289(1)(a)-(g) of the Act want for both transparency and public accountability in relation to the processes by which funds are allocated, the purposes for which funds are allocated and organisational performance in meeting those purposes.¹⁵⁵

Carers Queensland supports this assertion.¹⁵⁶ DJAG has concluded that all future budget submissions from specified entities should include a breakdown of types and number of services that would be provided with the funding sought. This will inform the performance targets proposed to be included in the service delivery agreements (see '4.2.4 1.1.1 Accountability and reporting requirements' below). It is proposed that information about the purposes, processes, and organisational performance regarding the allocation of LPITAF funds to all organisations will be publicly accessible on a dedicated webpage (see 'Recommendation 31').

Recommendation 24

A. All future LPITAF budget submissions made by the specified entities should include a breakdown of the types and number of services that will be provided with the funding they are seeking.

¹⁵⁵ LSC submission, p. 1, see also pp.4-5.

¹⁵⁶ Carers submission, p.11;

B. If the specified entity also receives funding from the Queensland Government Consolidated Fund they should be required to submit one combined budget submission seeking funding from both sources.

LAQ supports this recommendation.¹⁵⁷

See 'Attachment 8' for a diagram of the recommended model.

4.2.2.2. Community organisations

See 'Attachment 7' for a diagram of the current funding allocation model.

The comparable VAQ and DoC funding allocation processes require written funding applications and applicants may be called upon to provide further information.

QAILS, YAC, Caxton, and QPILCH submitted that there should be a two-stage application process.¹⁵⁸ Caxton in particular expressed concerns about organisations submitting applications in previous years for duplicate proposals.

The IRG, particularly LAQ and QPILCH, suggested that a two-stage application process for the allocation of LPITAF funds to community organisations would provide the following benefits:

- early identification of any duplication or opportunities for collaboration between applications; and
- reducing the workload for applicants as they would only need to prepare a long-form application if they made it through to the second stage of the process.

QAILS expressed that a two-stage application process should only apply to service development or improvement funding and funding for larger projects; to apply it to the other funding types is unnecessary.¹⁵⁹

On balance, DJAG has concluded that a two-stage application process should be trialled for the first funding cycle as set out in 'Recommendation 25' below. The trial will establish whether a two-stage application process achieves the desired outcomes. The process can be refined or changed for the following funding cycle.

QAILS and QPILCH have expressed that DJAG should have responsibility for receiving and screening funding applications for duplication, rather than the SPM.¹⁶⁰ It is thought this will reduce the likelihood of any concerns arising over perceived conflict or bias. DJAG should screen the funding applications to identify whether there is any duplication or opportunities for collaboration amongst them and, if so, notify the relevant organisations so that they can address those issues.

Recommendation 25

A. A two-stage application process for the allocation of LPITAF funds to community organisations should be trialled for the first funding cycle, commencing in 2014-15. It should apply to all four funding types and involve:

¹⁵⁷ LAQ submission, pp.5-6; LAQ at IRG meeting on 7 December 2012.

¹⁵⁸ QAILS submission, pp.9-10 (further in QAILS email 12.12.12); YAC submission p.7; Caxton submission, p.5; QPILCH submission, Recommendation 10 (2).

¹⁵⁹ QAILS at IRG meeting on 7 December 2012; QAILS email 12.12.12.

¹⁶⁰ QAILS email 12.12.12; QPILCH email 12.12.12.

Short form:

- community organisations submitting a short form (one page) to DJAG;
- DJAG identifying whether there is any duplication or opportunity for collaboration amongst the applications and, if so, notifying the relevant organisations so they can address these matters and amend their applications; and
- the LPITAF Committee assessing the applications and inviting those that best address the strategic objectives and funding strategies to submit a long form application.

Long form:

- invited community organisations submitting a long form application to DJAG; and
- the LPITAF Committee assessing the applications and making recommendations to the Attorney-General for his consideration and final decision.

B. DJAG will consult with the community organisations to determine if the trial two-stage application process achieved the desired outcomes: early identification of duplication and opportunities for collaboration; and reduced workload for applicants.

See 'Attachment 8' for a diagram of the recommended model.

Caxton observed that the main area where duplication of legal services might occur is in the preparation of materials for and delivery of Community Legal Education, particularly within the Commonwealth funded services.¹⁶¹ However, Caxton and QAILS are of the view that the Community Legal Education Assistance Forum, a relatively recent initiative coordinated by LAQ, is invaluable to ensuring new CLE materials do not duplicate existing materials.¹⁶² QAILS also noted the nation-wide efforts to reduce duplication in this area through the NACLC's Community Legal Education and Reform Database.¹⁶³

The QLS expressed a strong view that DJAG has a key role to play in maintaining a central repository of information about the allocations made and services delivered for LPITAF funding.¹⁶⁴ That information should be available on the LPITAF webpage (see 'Recommendation 31') and applicants would be required to check that their application does not duplicate existing services or projects before it is submitted. They should also be required to check the community legal education materials on the QLAF website if relevant.

Recommendation 26

A. DJAG should maintain information about the allocations made and services delivered for LPITAF funding on the proposed LPITAF webpage (see Recommendation 31 regarding the proposed webpage).

B. Community organisations submitting a short form should be required to declare that they have checked the LPITAF webpage (and the community legal education materials on the QLAF website if relevant) to ensure their proposal does not duplicate existing services or projects.

¹⁶¹ Caxton submission, p.5.

¹⁶² Caxton submission, p.5; QAILS submission, p.14.

¹⁶³ QAILS submission, p.14.

¹⁶⁴ QLS at IRG meeting on 7 December 2012.

4.2.3. Timing of notification and payments

In recent years, the approval for the annual LPITAF budget has not been received until close to the end of the preceding financial year. Consequently, some payments to community organisations for the first quarter have been made after the start of the quarter. This has caused uncertainty for the community organisations.

Seven interested parties submitted that applicants should be notified of the outcomes of the funding allocations by 31 March at the latest (for funding commencing as of 1 July the next financial year). This will give organisations three months to plan, advertise for and recruit staff, and manage clients' matters and expectations.¹⁶⁵

Recommendation 27

Applicants should be notified of the outcomes of the funding allocations by 31 March at the latest for funding commencing as of 1 July the next financial year.

4.2.4. Accountability and reporting requirements

4.2.4.1. Specified entities

To improve accountability, funding allocated to specified entities from LPITAF and the Queensland Government Consolidated Fund (where relevant) should be provided under service delivery agreements. These agreements should be annual and timed to align with Queensland Government budget processes. DJAG should work with each specified entity to develop appropriate annual performance targets to be included. The specified entities should be required to provide biannual performance reports (in addition to the current quarterly financial reporting). LAQ in particular supports biannual performance reporting.¹⁶⁶

Currently, LAQ is the only specified entity that DJAG has a formal service delivery agreement with (for the provision of legal assistance services, not the SPM role). Signed in 2008, the LAQ agreement should be updated to reflect the recommended model. DJAG should work with LAQ to ensure that the LAQ performance targets complement those required of it under Commonwealth Government funding arrangements (a national legal assistance data standardisation process is running parallel to the NPA review).

Recommendation 28

A. LPITAF funding allocations to specified entities should be provided under annual service delivery agreements.

B. DJAG should work with each specified entity to develop appropriate performance targets for inclusion in its agreement (the LAQ targets should complement those required under Commonwealth Government funding arrangements).

C. Specified entities should be required to submit six monthly performance reports in addition to the current quarterly financial reporting.

¹⁶⁵ QAILS submission, p.8; YAC submission, p.7; TASC submission, p.2; WRC submission, p.6; QAI submission, p.13; Centacare submission, p.6; LAQ submission, p.11.

¹⁶⁶ LAQ email 12.12.12.

4.2.4.2. Community organisations

VAQ funded organisations are required to complete a service agreement, comply with the conditions of funding, and participate in performance monitoring processes. They are required to report against annual targets for the delivery of outputs. Organisations that receive DoC funding must enter into an agreement with DoC, including the agreed services to be provided and financial and performance reporting.¹⁶⁷

As discussed above, the community organisations are provided with the bulk of their LPITAF funding through the CLSP. The CLSP funding agreements are three year tripartite agreements between the Commonwealth, LAQ, and the funded organisation. The CLSP funding agreements for organisations that receive only SCLSP funding are between LAQ and the funded organisation and are substantially the same as the tripartite agreements (the Commonwealth specific provisions are removed).

There are common accountability and administrative requirements for all funding (Commonwealth, LPITAF, and Queensland Government) provided under the CLSP. Services are to be provided in accordance with: the relevant CLSP funding agreement; the Guidelines; and the CLSP Service Standards. A funded organisation must submit a CLSP Plan prior to commencement of the agreement, including objectives, strategies, and performance indicators specific to the organisation.

The funded organisation must also submit an Annual Budget, Annual Activity Targets, and Annual Report to LAQ. The Annual Report must contain: information about the funding and services provided under the agreement; outcomes information (including at least two case studies); the extent of volunteer and pro bono work; collaboration with other local service providers; funding received from other sources; and audited financial statements. Data (on core service activities) is required to be submitted monthly, Funds Reports biannually, and Progress Reports biannually or annually (depending on the level of the organisation's funding). Further information about the administration, accountability, and reporting requirements under the CLSP is set out in 'Attachment 4'.

DJAG has found that the CLSP reporting requirements suitably promote the accountable and transparent use of public purpose funds. This was overwhelmingly supported by the results of consultation.¹⁶⁸ However, the CLSP performance reporting information obtained by LAQ needs to be provided to DJAG on a regular basis. DJAG should then ensure that the public reporting of relevant performance information occurs (see '4.2.6 Public reporting on LPITAF allocations' below).

Interested parties submitted that the tripartite CLSP agreement is more in line with the Queensland Government's red tape reduction strategy than separate agreements. Separate agreements for Commonwealth and Queensland Government administered funding paid to the same organisation for substantially similar services would create an unnecessary burden on community organisations and divert their already stretched resources away from frontline service delivery.¹⁶⁹ The Commonwealth AGD is also focussed on reducing red tape for not-for-profit organisations and supports the continued use of the tripartite CLSP agreements.¹⁷⁰

The tripartite reporting requirements provide an overall picture of the delivery of CLSP services in Queensland. Separate reporting would make identification of opportunities for collaboration and avoiding duplication more difficult.¹⁷¹

¹⁶⁷ Department of Communities, Child Safety and Disability Services, Queensland Government, *Funding and Grants*, viewed 26 November 2012, <<http://www.communities.qld.gov.au/gateway/funding-and-grants>>.

¹⁶⁸ QLS submission, p.5; LAQ submission, pp.16-17; Carers submission, p.11; QAILS submission, p.12; TASC submission, p.4; DV Connect submission, p. 8; Court Network submission, pp.9-10; WRC submission, p.7; RAILS submission, p.16; YAC submission, p.8.

¹⁶⁹ QAILS submission, pp.10-11; LAQ submission, pp. 10,15; TASC submission, p.2; YAC submission, p.8; RAILS submission, p.16; WRC submission, p.7; Centacare submission, p.6; Court Network submission, p.10.

¹⁷⁰ Commonwealth AGD submission, pp.4-5.

¹⁷¹ QAILS submission, pp.10-11; TASC submission, p.2.

Recommendation 29

A. All LPITAF funding allocated to community organisations should be provided under the CLSP.

B. If a community organisation also receives Commonwealth Government funding under the CLSP, it should be required to enter into one tripartite agreement.

4.2.5. Acquittal of unspent funds

4.2.5.1. Specified entities

QAILS submitted:

It seems that QLS and LAQ have accumulated surpluses with LPITAF funds. Given the large budgets of these organisations some QAILS members believe it would be appropriate that LPITAF funds were not allowed to be held as surpluses from year to year, but others believe that all grant recipients should be treated the same way and should be allowed to carry over 15%.¹⁷²

The QLS submission states that there should be provision for unspent funds to be returned to LPITAF and reallocated. However, generally, organisations should be held to account for unspent funds (including reasons provided to DJAG) and provide a business case as to how the organisation proposes the funds should be spent.¹⁷³

DJAG has concluded that the specified entities should be required to acquit unspent funds so they can be returned to the LPITAF, unless they are to be retained and used for another purpose approved by the LPITAF Committee.

4.2.5.2. Community organisations

LAQ submitted that there are many valid reasons why a CLC might end up with a surplus at the end of a financial year, including: staff vacancies and recruitment delays; or the relevant project might be delayed or extended. LAQ is of the view that to require all unspent funds to be returned by CLCs at the end of each financial year would be administratively burdensome, particularly on the CLCs. LAQ further submitted:

In accordance with the Service Agreement, CLCs are allowed to carry forward 15% of their recurrent funding on an annual basis. Where surplus funds exceed the 15%, CLCs are required to do a submission setting out for what purpose they intend to use the surplus funds available. Usually, the funding would be used for the purpose of increasing service delivery.

In the event that a CLC consistently had significant carry over funds at the end of each financial year and those surplus funds continued to grow, then in those instances consideration could be given to reviewing the funding available to the CLC.¹⁷⁴

Seven submissions generally support the LAQ position, with a few adding that the current arrangements provide community organisations with a small buffer that allows them to cope with unforeseen circumstances.¹⁷⁵

¹⁷² QAILS submission, p.13.

¹⁷³ QLS submission, p.5.

¹⁷⁴ LAQ submission, pp.17-18.

¹⁷⁵ QAILS submission, p.13; TASC submission, p.4; WRC submissions, p.8; RAILS submission, p.17; QAI submission, p.17; DV Connect submission, p.9; YAC submission, p.8.

Other organisations submitted that unspent funds should be dealt with on a case by case basis and organisations should be able to retain those funds to use in the following financial year if the purpose for which they are seeking to do so is approved by DJAG.¹⁷⁶

DJAG has concluded that the costs of implementing a blanket requirement for community organisations to acquit all unspent funds back to DJAG on an annual basis (administrative burden on CLCs, LAQ, and DJAG and potential disruption to CLC service delivery) outweigh the benefits (the return of relatively small amounts of LPITAF funds). Therefore, the current acquittal and carry over arrangements for community organisations as articulated by LAQ above should remain in place, with the relevant submissions being made to the proposed LPITAF Committee.

Recommendation 30

A. The specified entities should be required to acquit unspent funds so they can be returned to the LPITAF, unless they are to be retained and used for another purpose approved by the LPITAF Committee.

B. Community organisations should continue to be able to carry forward 15% of their funding on an annual basis. Additional funding can only be retained and used if it is for a particular purpose approved by the LPITAF Committee.

4.2.6. Public reporting on LPITAF allocations

Currently, DJAG publishes the LPITAF Statement of Financial Performance and the amounts paid to the specified entities and community organisations as a whole with the DJAG Financial Statements annually.¹⁷⁷ LAQ publishes the total amount of funding (LPITAF, State, and Commonwealth combined) that is provided to each organisation under the CLSP in its Annual Report.¹⁷⁸

Legal Aid NSW administers funding from the NSW Public Purpose Fund (LPITAF equivalent), State and Commonwealth to 36 CLCs under the NSW CLSP. A breakdown of funding provided to each CLC is set out in the Legal Aid NSW Annual Report.¹⁷⁹

To ensure reporting on the LPITAF allocations is readily accessible to applicants and the community, a dedicated LPITAF webpage should be developed on the DJAG website. It is proposed that the following information should be published on the LPITAF webpage:

- relevant sections of the LPA;
- clearly defined roles and responsibilities for the administration of the LPITAF;
- the strategic priorities and funding strategies;
- funding available for allocation in each funding type (community organisations);
- the application process, requirements, and forms;
- amounts of funding allocated to each organisation;

¹⁷⁶ QLS submission, p.5; Centacare submission, p. 8; Court Network submission, p.11; Carers submission, p.11.

¹⁷⁷ For example, see the DJAG *Financial Statements for the financial year ended 30 June 2012*, available at: http://www.justice.qld.gov.au/_data/assets/pdf_file/0005/170546/djag-financial-statments-2012.pdf.

¹⁷⁸ Legal Aid Queensland 2012, *Annual Report 2011-12*, p.31, viewed 5 September 2012, <<http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2012/5412T1086.pdf>>

¹⁷⁹ Legal Aid New South Wales, *Annual Report 2010-11*, viewed 22 August 2012, <<http://www.legalaid.nsw.gov.au/publications/annual-reports/annual-report-2010-2011>>.

- functions and services provided with those funds (data and case studies will be obtained through the existing CLSP reporting mechanisms for CLSP organisations); and
- an annual report on the allocation of LPITAF funds, including the links between the strategic objectives and the LPITAF funded functions and services, to be included in the DJAG Annual Report.¹⁸⁰

These proposed improvements to public reporting on the LPITAF allocations will: promote accountability; improve transparency; assist to avoid duplication in service delivery;¹⁸¹ and increase industry and public confidence.

Centacare submitted that transparency in the funding allocation process and reporting will provide additional benefits within the sector, including decreasing competitiveness and encouraging increased collaboration between organisations.¹⁸²

Organisations that receive LPITAF funding should also have to report on the LPITAF funding received and the functions and/or services provided in their Annual Reports.¹⁸³ DJAG should work with each of the specified entities to determine what data is appropriate for each. Community organisation reporting should be based on the reporting information they already provide under the CLSP.

Recommendation 31

- A.** A dedicated LPITAF webpage should be developed on the DJAG website.
- B.** DJAG should develop an annual report on the allocation of LPITAF funds, including the links between the strategic objectives and the LPITAF funded functions and services, to be included in the DJAG Annual Report.
- C.** Each organisation that receives LPITAF funding must acknowledge and report on the use of those funds in its Annual Report.

This Final Report makes findings and recommendations about the purposes for which LPITAF funds should be allocated and the processes by which those funds should be allocated and monitored. As these recommendations are most recent in time and reflect the Queensland Government and DJAG strategic objectives, the bulk of the findings and recommendations should apply equally to both LPITAF and any Queensland Government Consolidated Fund funding allocated to the specified entities and community organisations. Using the same policies and processes to allocate and monitor allocations from both sources will be a more efficient and effective use of funding by both DJAG as administrator and the funded organisations.

Recommendation 32

The findings and recommendations in the Final Report (including funding application and assessment processes) should apply equally to both LPITAF and any Queensland Government Consolidated Fund funds allocated to the specified entities and community organisations, unless otherwise indicated.

¹⁸⁰ The proposal for an annual report is supported by: LAQ submission, p.18; LSC submission, pp.1, 5; QAILS submission, p.13; QLS submission, p.6; YAC submission, p.9; WRC submission, p.8; QPILCH submission, Recommendation 14; QAI submission, p.17; TASC submission, p.4; Carers submission, p.11; Centacare submission, p.9.

¹⁸¹ WRC submission, p.8.

¹⁸² Centacare submission, p. 9.

¹⁸³ LSC submission, p.2; QPILCH submission, Recommendation 14.

It is important to ensure that the model for the allocation of LPITAF funds remains contemporary and that changes or improvements made throughout implementation are communicated to applicants and the community.

Recommendation 33

In conjunction with the first triennial review of the funding strategies (in the first half of 2016), a report should be completed on the implementation of the recommendations from this Review, whether the model is working in practice, and any other improvements that have been or should be made to the model.

5. CONCLUSION

The Attorney-General asked DJAG to conduct this Review. The intended outcome was a model for transparent decision-making in relation to future LPITAF funding allocations that maximises service delivery to Queenslanders across the State, while ensuring the ongoing viability of the LPITAF.

In this Final Report, DJAG presents its key findings and makes 33 recommendations for the Attorney-General's consideration, based on the results of consultation, research, and analysis. Together, the recommendations constitute the recommended model. In summary, the recommended model includes:

- strategic objectives and funding strategies to guide decision-making about the allocation of LPITAF funds;
- building on existing initiatives to enhance collaboration and reduce the likelihood of duplication between legal assistance services in Queensland;
- consulting with the legal assistance sector and Commonwealth Government to identify practicable ways to address geographical pressure points and high prevalence vulnerable groups and legal problems in Queensland;
- consulting with the Commonwealth Government and other Queensland Government departments about their funding priorities and proposed allocations, with the goal of systematically simplifying funding arrangements for funded organisations and the respective Governments;
- governance arrangements for the allocation of LPITAF funds that balance improved accountability with industry input; and
- improving transparency through a LPITAF webpage and annual report.

DJAG worked closely with the current recipients of LPITAF funding to ensure that the proposed model is practical and addresses areas they identified as needing improvement. Throughout consultation, LPITAF recipients have acknowledged this Review as a positive step towards DJAG's increased involvement in the legal assistance sector, including improved relationships and a lead role in strategic planning to maximise the delivery of services across Queensland. DJAG looks forward to continuing to work closely with the LPITAF recipients to implement the Review recommendations, if endorsed by the Attorney-General, and on an ongoing basis.

List of recommendations

Recommendation 1

A. Clear strategic objectives that align with the Queensland Government and Department of Justice and Attorney-General's (DJAG) strategic objectives should form the basis of a new transparent decision-making model for allocating Legal Practitioner Interest on Trust Accounts Fund (LPITAF) funds. There should be a clear link between each of the LPITAF funding allocations, the functions and services delivered with those allocations, and achieving the LPITAF strategic objectives.

B. The strategic objectives for the allocation of LPITAF funds should be:

Frontline service delivery

- LPITAF funding will be directed to the provision of frontline justice services for Queenslanders;
- Priority will be given to services that assist vulnerable people and disadvantaged community members to access justice;

Accountability

- Allocations should promote, efficiency, effectiveness, and cost effectiveness;
- Allocations will take into account the need to maintain the ongoing viability of the LPITAF, including taking special measures if necessary to preserve its viability (for example: see Recommendation 18 regarding restricting or making unavailable one or more categories of funding in a funding cycle);
- Allocations will be made through robust governance mechanisms;
- Information about the allocation process and outcomes should be readily accessible to applicants and the community.

C. The *Legal Profession Act 2007* (Qld) should be amended to broadly reflect the new strategic objectives for the allocation of LPITAF funds.

Recommendation 2

A. The strategic objectives should be supported by a set of funding strategies that guide decision-making at a practical level to maximise the delivery of legal assistance services across Queensland. The funding strategies should be reviewed triennially by the LPITAF Committee (see Recommendation 21) to ensure they remain responsive to community legal needs and continue to promote cost effectiveness.

B. The LPITAF funding strategies should be:

- Legal Aid Queensland (LAQ) and community organisations should continue to deliver complementary legal assistance services across Queensland;
- The provision of general legal information and education to the broader community and 'self help' type services for legally capable people need to be balanced with specialist services for specific vulnerable and disadvantaged groups;
- Generalist services should be, as much as practicable, accessible across Queensland; this should primarily be achieved by addressing geographical gaps based on evidence of need;
- The need for development or enhancement of specialist services for vulnerable and disadvantaged groups will be identified through consideration of: empirical research on legal need (including high prevalence vulnerable groups and legal problems); current Queensland Government priorities (for example: new legislation); and increasing the reach of specialist services across Queensland; and

- Build on existing service delivery structure where possible and only fund the establishment of separate new services if necessary.

Recommendation 3

Applicants applying for LPITAF funding to deliver legal assistance services should be required to demonstrate that they have referral pathways in place to other relevant services (for example: specialist to generalist and generalist to specialist).

Recommendation 4

In 2013-14, LPITAF project funding (see Recommendation 18) should be offered for development of a plan for making access to specialist legal services more equitable across Queensland through cost effective measures, including:

- the use of technology (telephone lines, videoconferencing, and websites); and
- information and training provided to generalist services.

Recommendation 5

All community organisations that receive LPITAF funding must commit to and demonstrate participation in the Queensland Legal Assistance Forum (QLAF), Regional Legal Assistance Forum (RLAF), specialist legal assistance forum or other similar group. What constitutes 'participation' will be defined for each individual organisation in the context of which group is most relevant to their service and location and included in their service delivery agreement.

Recommendation 6

Where a Community Justice Group (CJG) and LPITAF funded community organisation deliver services in the same area they should network with and make appropriate referrals to each other. In 2013-14, where these networks do not exist, DJAG will facilitate initial contact on a location by location basis. These networks and referral pathways should be promoted by including them as a condition of funding in their service delivery agreements from 2014-15.

Recommendation 7

There are identifiable:

- geographical gaps or pressure points in the delivery of generalist legal assistance services across Queensland; and
- high prevalence vulnerable groups and legal problems in Queensland that would be best addressed through specialist services.

In 2013, DJAG should consult with the Commonwealth Government and legal assistance sector to:

- determine the areas in greatest need of attention; and
- identify practicable measures that could be taken to improve services in those areas in future, including whether there are any geographical areas where a larger service or colocated services would be more cost effective than a number of smaller services.

Recommendation 8

A. For each funding round and as required, DJAG should:

- consult with the Commonwealth Government and other Queensland Government departments about their funding priorities and proposed allocations, with the goal of systematic simplification of funding arrangements for funded organisations and the respective Governments; and
- invite the Commonwealth Government to jointly consult with the legal assistance sector in Queensland to obtain State-wide, regional, and individual service information to inform funding decisions (through the existing QLAF forum).

B. The results of this Review, overlaid with the results of the National Partnership Agreement on Legal Assistance Services (NPA) review will form the evidence base for the LPITAF funding allocations in the first three year funding cycle, commencing in 2014-15.

Recommendation 9

The amount of direct LPITAF funding provided to the Queensland Law Society (QLS) to perform its regulatory functions should be reduced to the extent that the practising certificate revenue covers the QLS' regulatory expenses.

This recommendation does not impact on the LPITAF funds the QLS receives through the Memorandum of Understanding with the Legal Services Commission.

Recommendation 10

There should continue to be provision in the LPA that allows for payments to be made from the LPITAF to or for the Legal Practitioners' Fidelity Guarantee Fund (LPFGF). However, it should be made clear that any such payment would only be considered if all other LPFGF funding sources and payment options have been exhausted.

Recommendation 11

The Bar Association of Queensland (BAQ) should receive LPITAF funding for the costs associated with its regulatory function of investigating complaints against barristers.

The costs of its regulatory functions in relation to practising certificates issued to barristers are funded by the practising certificate fees paid by barristers.

Recommendation 12

The Legal Services Commission (LSC) should continue to receive LPITAF funding to cover the cost of performing its regulatory functions.

Recommendation 13

The LSC should continue to receive recurrent allocations of LPITAF funds to support the Legal Practice Committee, although those funds should be included in the LSC budget to streamline funding allocation and reporting processes.

Recommendation 14

The Supreme Court of Queensland Library (SCQL) should continue to receive funding allocations from the LPITAF.

Recommendation 15

LAQ should continue to receive funding allocations from the LPITAF.

Recommendation 16

A funding allocation should be able to be made from the LPITAF to a community organisation where the individual allocation will promote the strategic priorities and funding strategies.

Recommendation 17

LPITAF funding should be allocated to community organisations in three year cycles. The cycles should generally align with the Community Legal Services Program (CLSP) funding cycles, with the first commencing in 2014-15.

Recommendation 18

A. There should be four types of LPITAF funding allocations that can be made to community organisations:

1. Service delivery funding

Service delivery funding should be provided under three year service delivery agreements (see Recommendation 28 regarding funding agreements). A reassessment should be undertaken every three years to ensure funds are being allocated to initiatives that best address the strategic objectives and funding strategies. This type of funding would replace the categories of funding currently known as 'recurrent funding' and 'transitional funding'.

2. Service development or improvement funding

This funding should be available for up to three years for new services or improvements to services to be piloted within a three year funding cycle. For example, this funding could be provided on the basis that the first year could involve establishment (including recruitment) and reduced running costs, the second year will involve full running costs and evaluation, and the third year will involve full running costs. The evaluation would be conducted in the second year to allow the initiative to be considered for service delivery funding in the next three year cycle.

This funding would only be offered for a funding cycle if it is anticipated that sufficient service delivery funding will be available for successful initiatives from the next funding cycle.

3. Project funding

This funding should be available for one-off projects that will produce a predetermined product or outcome with no ongoing costs. Project funding could be

provided for any period of time up to three years. Potential project topics might be identified by the LPITAF Committee (see Recommendation 21).

4. Emergency funding

DJAG should continue to set aside an amount per annum of LPITAF funds for matters of an emergent nature. The amount should be reassessed for each three year funding cycle.

B. Any of the four types of funding may be restricted or made unavailable in a three year cycle if special measures are required to preserve the viability of the LPITAF.

C. The amount of funding available in each category will be reviewed by the LPITAF Committee, decided by the Attorney-General, and published at the start of each funding round, although whether the whole of that amount is allocated will depend on an assessment of the proposals received in that funding round.

Recommendation 19

LPITAF service delivery funding allocations to specified entities and community organisations should continue to be indexed by CPI each financial year, unless special measures are required to be put in place in any three year cycle to preserve the viability of the LPITAF. LPITAF is not drawn upon to index other funding (for example: State, LPITAF, or Commonwealth Government contributions to State or Commonwealth wage increases).

Recommendation 20

DJAG should continue to have overall responsibility for administering the LPITAF and the Attorney-General should remain as ultimate decision-maker for funding allocations.

Recommendation 21

A. A LPITAF Committee should be established to have oversight of the LPITAF funding allocation processes, including:

- reviewing the funding strategies and amounts available for allocation for each type of funding triennially;
- overseeing funding application processes;
- assessing applications;
- endorsing the service delivery agreements; and
- overseeing accountability and reporting requirements.

It should also oversee the financial management of the LPITAF.

The LPITAF Committee would make recommendations on all of the above to the Attorney-General, through the Chair, for his consideration and final decision.

The membership of the LPITAF Committee should be:

- Director-General, DJAG (Chair);
- Deputy Director-General, Justice Services, DJAG;
- Assistant Director-General, Strategic Policy, Legal and Executive Services, DJAG;
- Assistant Director-General, Corporate Services, DJAG;
- a representative from Queensland Treasury and Trade; and
- a representative from the Department of the Premier and Cabinet.

- B.** In relation to the allocation of funds to community organisations:
- DJAG should seek information from the QLAF to inform the LPITAF Committee's triennial review of the funding strategies (to be overlaid with research conducted by DJAG – see 'Recommendation 22');
 - QLAF member organisations should be invited to directly address the LPITAF Committee to provide information during the application assessment process; and
 - DJAG and the LPITAF Committee should seek advice from other relevant peak bodies and applicants when necessary.

Recommendation 22

DJAG should have a more intensive role in the administration of the allocation of LPITAF funds in future, including:

- policy, research, and administrative support for the LPITAF Committee;
- more intensive liaison with and seeking information from the QLAF;
- managing service delivery agreements with the specified entities;
- a more active role in managing the relationship with LAQ as the SPM, including meeting with LAQ regularly to receive and discuss CLSP financial and performance reporting information;
- increased knowledge of and improved relationships with the legal assistance sector through attendance at QLAF and some RLAF meetings;
- working more closely with the Commonwealth Attorney-General's Department (AGD) (including developments post the NPA review) and other Queensland Government departments on an ongoing basis with the goal of systematically simplifying funding arrangements for funded organisations and the respective Governments; and
- coordinating public reporting on LPITAF allocations and maintaining LPITAF webpage content (see Recommendation 31).

Recommendation 23

A. LPITAF funding allocated to community organisations should continue to be managed under the CLSP by LAQ as the State Program Manager.

B. A service delivery agreement should be developed between DJAG and LAQ for this purpose. DJAG should actively manage the agreement, including meeting with LAQ regularly to receive and discuss CLSP financial and performance reporting information.

Recommendation 24

A. All future LPITAF budget submissions made by the specified entities should include a breakdown of the types and number of services that will be provided with the funding they are seeking.

B. If the specified entity also receives funding from the Queensland Government Consolidated Fund they should be required to submit one combined budget submission seeking funding from both sources.

Recommendation 25

A. A two-stage application process for the allocation of LPITAF funds to community organisations should be trialled for the first funding cycle, commencing in 2014-15. It should apply to all four funding types and involve:

Short form:

- community organisations submitting a short form (one page) to DJAG;
- DJAG identifying whether there is any duplication or opportunity for collaboration amongst the applications and, if so, notifying the relevant organisations so they can address these matters and amend their applications; and
- the LPITAF Committee assessing the applications and inviting those that best address the strategic objectives and funding strategies to submit a long form application.

Long form:

- invited community organisations submitting a long form application to DJAG; and
- the LPITAF Committee assessing the applications and making recommendations to the Attorney-General for his consideration and final decision.

B. DJAG will consult with the community organisations to determine if the trial two-stage application process achieved the desired outcomes: early identification of duplication and opportunities for collaboration; and reduced workload for applicants.

Recommendation 26

A. DJAG should maintain information about the allocations made and services delivered for LPITAF funding on the proposed LPITAF webpage (see Recommendation 31 regarding the proposed webpage).

B. Community organisations submitting a short form should be required to declare that they have checked the LPITAF webpage (and the community legal education materials on the QLAF website if relevant) to ensure their proposal does not duplicate existing services or projects.

Recommendation 27

Applicants should be notified of the outcomes of the funding allocations by 31 March at the latest for funding commencing as of 1 July the next financial year.

Recommendation 28

A. LPITAF funding allocations to specified entities should be provided under annual service delivery agreements.

B. DJAG should work with each specified entity to develop appropriate performance targets for inclusion in its agreement (the LAQ targets should complement those required under Commonwealth Government funding arrangements).

C. Specified entities should be required to submit six monthly performance reports in addition to the current quarterly financial reporting.

Recommendation 29

- A.** All LPITAF funding allocated to community organisations should be provided under the CLSP.
- B.** If a community organisation also receives Commonwealth Government funding under the CLSP, it should be required to enter into one tripartite agreement.

Recommendation 30

- A.** The specified entities should be required to acquit unspent funds so they can be returned to the LPITAF, unless they are to be retained and used for another purpose approved by the LPITAF Committee.
- B.** Community organisations should continue to be able to carry forward 15% of their funding on an annual basis. Additional funding can only be retained and used if it is for a particular purpose approved by the LPITAF Committee.

Recommendation 31

- A.** A dedicated LPITAF webpage should be developed on the DJAG website.
- B.** DJAG should develop an annual report on the allocation of LPITAF funds, including the links between the strategic objectives and the LPITAF funded functions and services, to be included in the DJAG Annual Report.
- C.** Each organisation that receives LPITAF funding must acknowledge and report on the use of those funds in its Annual Report.

Recommendation 32

The findings and recommendations in the Final Report (including funding application and assessment processes) should apply equally to both LPITAF and any Queensland Government Consolidated Fund funds allocated to the specified entities and community organisations, unless otherwise indicated.

Recommendation 33

In conjunction with the first triennial review of the funding strategies (in the first half of 2016), a report should be completed on the implementation of the recommendations from this Review, whether the model is working in practice, and any other improvements that have been or should be made to the model.

	2004-05 Actual \$	2005-06 Actual \$	2006-07 Actual \$	2007-08 Actual \$	2008-09 Actual \$	2009-10 Actual \$	2010-11 Actual \$	2011-12 Actual \$	2012-13 Forecast \$	2013-14 Forecast \$	2014-15 Forecast \$	2015-16 Forecast \$
	30/06/2005	30/06/2006	30/06/2007	30/06/2008	30/06/2009	30/06/2010	30/06/2011	30/06/2012	30/06/2013	30/06/2014	30/06/2015	30/06/2016
Statement of Financial Performance												
Revenue												
Interest from Solicitors' Trust Accounts - Former Regime	2,951,487	-	-	-	-	-	-	-	-	-	-	-
Interest from Solicitors' Trust Accounts	33,189,226	36,085,028	45,151,723	55,154,601	35,192,600	27,931,327	34,879,454	34,261,378	28,405,182	33,323,069	36,487,174	37,015,841
Interest Revenue	769,537	1,476,844	2,715,117	4,352,759	3,704,251	1,920,971	1,549,436	1,206,210	644,641	641,413	653,009	675,692
Transfer of Former Trust Fund Balances	8,171,153	-	-	-	-	-	-	-	-	-	-	-
Fees and Fines - Penalty Orders	-	26,900	70,100	23,000	70,250	12,000	16,500	25,000	25,000	25,000	25,000	25,000
	\$45,081,403	\$37,588,772	\$47,936,940	\$59,530,360	\$38,967,101	\$29,864,298	\$36,445,390	\$35,492,589	\$29,074,823	\$33,989,482	\$37,165,184	\$37,716,533
Expenditure												
Grants Identified - Monthly Distributions (adj for Receivables)	23,037,732	22,737,089	27,082,919	40,496,274	48,707,038	52,043,492	44,025,623	35,339,080	31,578,617	33,855,324	35,194,561	36,587,409
Grants General - Distributions	255,249	1,297,778	1,530,200	1,781,759	1,843,428	1,493,869	1,121,473	1,355,277	2,491,724	2,249,495	2,299,475	2,351,454
Administration Expenses	255,633	150,400	245,553	394,664	361,306	376,120	-	-	-	-	-	-
Bank Charges	139	161	40,244	57,543	67,683	46,311	27,907	22,157	22,157	22,157	22,157	22,157
Other	-	-	-	-	-	-	7,500	-	-	-	-	-
Contingency - Banking Guarantee	-	-	-	-	-	-	-	-	-	-	-	-
Contingency - CLCs	-	-	-	-	-	-	-	-	-	-	-	-
Contingency - General	-	-	-	-	-	-	-	-	-	-	-	-
Contingency - LPFGF	-	-	-	-	-	-	-	-	-	-	-	-
Contingency - Other	-	-	-	-	-	-	-	-	-	-	-	-
	\$23,548,753	\$24,185,428	\$28,898,916	\$42,730,240	\$50,979,455	\$53,959,792	\$45,182,503	\$36,716,515	\$34,092,499	\$36,126,976	\$37,516,194	\$38,961,020
Net Surplus (Deficit)	\$21,532,650	\$13,403,344	\$19,038,024	\$16,800,120	(\$12,012,354)	(\$24,095,494)	(\$8,737,112)	(\$1,223,926)	(\$5,017,675)	(\$2,137,494)	(\$351,010)	(\$1,244,487)

Attachment 3

Types and amounts of LPITAF funds allocated to each community organisation in 2012-13

Note: The LPITAF Wage Increase was provided to organisations that did not receive the 2009 State Wage Increase.

LPITAF Funding - 2012 / 2013 Community Legal Services Program (CLSP)

Centre	LPITAF Recurrent	LPITAF Wage Increase WOG Extra	LPITAF Sustainability & Service Enhancements 2012-13	LPITAF Emergency Funding 2012-13	LPITAF ex-Grants Fund Transitional 2012-13	Additional Non-Recurrent Funding 2012-13	Total LPITAF Funding
ATSI Women's Legal & Advocacy Service Inc	79,379						79,379
ATSI Women's Legal Services NQ Inc	38,465						38,465
Banana Shire Community Legal Service (Auspiced by Anglicare Central Queensland Limited, Biloela Office)	103,967						103,967
Bayside Community Legal Service Inc	85,736						85,736
Cairns Community Legal Centre Inc	83,747		47,800		136,929		268,476
Care Goondiwindi Association Inc	91,548						91,548
Carers Queensland Inc	201,365						201,365
Caxton Legal Centre Inc	133,428				110,797	19,126	263,351
Centacare: Catholic Diocese of Rockhampton (Centacare is the official welfare service arm of the Catholic Church incorporated within the Roman Catholic Trust Corporation of the Diocese of Rockhampton)	128,318	15,769					144,087
Central Queensland Community Legal Centre Inc	67,455		30,400				97,855
Court Network Incorporated	201,365				154,424		355,789
DVConnect Ltd	103,967						103,967
Gladstone Community Legal Advice Program (Auspiced by Gladstone City Council)	103,967		29,788				133,755
Gold Coast Legal Service (Citizens Advice Bureau & Gold Coast Legal Service Inc, formerly Highway Legal Service (Citizens Advice Bureau & Highway Legal Service-Gold Coast Inc))	160,277		80,000				240,277
Indigenous Legal Services Qld Limited	77,976	9,776					87,752
Logan Legal Advice Centre Association Inc (Auspiced by (YFS) Youth & Family Service (Logan City) Inc, formerly Logan Legal Advice Centre trading name)	91,548		21,100				112,648
Logan Youth Legal Service (Auspiced by (YFS) Youth & Family Service (Logan City) Inc)	73,925						73,925
Mackay Regional Community Legal Centre Inc	201,365		2,581				203,946
Moreton Bay Regional Community Legal Service Inc (formerly Peninsula Community Legal Service Inc)	85,737						85,737
North Queensland Women's Legal Service Inc-Cairns&Townsville	186,646				74,944		261,590
Nundah Community Legal Service (Auspiced by Nundah Community Support Group Inc)	91,548		45,900				137,448
Pine Rivers Community Legal Service (Auspiced by Pine Rivers Neighbourhood Association Inc, formerly Petrie Community Legal Service)	178,043						178,043
Prisoners' Legal Service Inc	169,325	6,939	50,300				226,564
Queensland Advocacy Incorporated	103,967				297,076		401,043
Queensland Aged & Disability Advocacy Inc	103,967						103,967
Queensland Association of Independent Legal Services Inc-Secretariat	201,365						201,365
Queensland Public Interest Law Clearing House Incorporated	366,126	3,469			273,380		642,975
Refugee and Immigration Legal Service Inc (formerly South Brisbane Immigration & Community Legal Service Inc)	282,086	12,820					294,906
Roma Community Legal Service Inc	150,688						150,688
South West Brisbane Community Legal Centre Inc	301,732		81,516		53,346		436,594
Suncoast Community Legal Service Inc	163,068				42,547		205,615
Taylor Street Community Legal Service (Auspiced by Hervey Bay Neighbourhood Centre Inc)	106,468						106,468
Tenants' Union of Queensland Inc	112,268						112,268
The Advocacy & Support Centre Inc-Toowoomba Community Legal Service	342,757	10,409	8,100				361,266
The Advocacy & Support Centre Inc-Ipswich Community Legal Service	152,666						152,666
Townsville Community Legal Service Inc	62,214		30,000				92,214
Welfare Rights Centre Inc	174,442				79,155		253,597
Women's Legal Service Inc	146,284					250,000	396,284
Youth Advocacy Centre Inc	87,801		64,400				152,201
	5,596,996	59,182	491,885	-	1,222,598	269,126	7,639,787
Emergency Funding Pool - LAQ	124,715						124,715
Onhold Funding			8,115	500,000			508,115
	5,721,711	59,182	500,000	500,000	1,222,598	269,126	\$ 8,272,617

Further information on the Community Legal Services Program (CLSP)

Legal Aid Queensland (LAQ) administers the CLSP on behalf of the Commonwealth and Queensland Governments. Its role is to:

- *manage the day-to-day operations of the Program;*
- *monitor compliance with the terms and conditions of the Service Agreement by each CLC funded under the Program;*
- *undertake Service Standards audits; and*
- *take a lead role in coordinating Program related activities within [Queensland].¹*

The CCLSP defines the core activities of CLCs as:

- provision of information;
- provision of advice;
- casework;
- community legal education; and
- law reform and legal policy.²

The CCLSP provides funding for the delivery of generalist and specialist services. Most of the funded CLCs are generalist services that deliver the core activities across a broad range of legal matters, reflecting the needs of their local communities (eg. family law, discrimination and consumer rights law). Some generalist CLCs also deliver specialist services. Specialist services provide services in a particular area of law or to a particular client group. The sub-programs through which the Commonwealth Government provides CCLSP funding are:

- Generalist centres;
- Child Support Scheme Legal Services Program;
- Disability Discrimination Legal Services;
- Environmental Defender's Office Program;
- Welfare Rights Services;
- Women's legal services;
- Youth legal services;
- Civil litigation projects (available where a dispute contains some element of social injustice but the person is either ineligible for legal aid, unable to afford a private solicitor or unable to access a pro bono service);
- Clinical Legal Education Program (to promote public interest lawyering with university students and improve the quality of, and access to, legal

¹ Australian Government Attorney-General's Department, *Commonwealth Community Legal Services Program: Guidelines*, p.10, viewed 28 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/Commonwealth-Community-Legal-Services-Program-.aspx>>.

² Australian Government Attorney-General's Department, *Commonwealth Community Legal Services Program: Guidelines*, p.23, viewed 28 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/Commonwealth-Community-Legal-Services-Program-.aspx>>.

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assistance for socially and economically disadvantaged members of the community);

- Indigenous Women's Outreach Project; and
- Rural women's outreach lawyer services.³

Specific funding is also provided for Family Relationship Centre partnerships, Family Law Duty Lawyer services, Consumer Credit, Older Persons, Regional Rural and Remote, Homeless Persons, and Family Violence/Victims Rights.

CCLSP funding is generally provided to CLCs on a recurrent basis, provided that their performance continues to meet the terms and conditions of the funding agreement.⁴ Additional one-off funding may be provided under the agreement. An agreed surplus amount may be carried over to the next financial year. There is provision for unused funds to be recovered by the Commonwealth or LAQ.⁵

To be eligible for annual CLSP funding, an organisation must be a duly incorporated body under relevant Commonwealth, state or territory law operating pursuant to its constitution. As part of incorporation, each organisation is required to have a management committee (or equivalent entity) as its governing body.

In allocating any new or additional CCLSP funds, the Commonwealth Government assesses the demand for services, capacity of existing service providers, and amount of funds available. If a new service provider is required, a competitive selection process is advertised and undertaken.⁶

There are common accountability and administrative requirements for all funding provided under the CLSP. CLSP funded services are to be provided in accordance with: the relevant CLSP funding agreement; the Guidelines; and the CLSP Service Standards. A funded organisation must submit a CLSP Plan prior to commencement of the agreement, including objectives, strategies and performance indicators specific to the organisation.

The funded organisation must also submit an Annual Budget, Annual Activity Targets, and Annual Report to LAQ. The Annual Report must contain: information about the funding and services provided under the agreement; outcomes information (at least two case studies); the extent of volunteer and pro bono work; collaboration with other local service providers; funding received from other sources; and audited financial statements. Data (on core service activities) is required to be submitted monthly through the Community Legal Service Information System (CLSIS) database,⁷ Funds Reports six monthly, and Progress Reports biannually or annually (depending on the

³ Australian Government Attorney-General's Department, *Community Legal Services Program*, viewed 28 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/default.aspx>>.

⁴ Australian Government Attorney-General's Department, *Commonwealth Community Legal Services Program: Guidelines*, p.13, viewed 28 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/Commonwealth-Community-Legal-Services-Program-.aspx>>.

⁵ Australian Government Attorney-General's Department, *Triennial Service Agreement: Relating to the provision of community legal services 1 July 2010 – 30 June 2013*, viewed 29 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/Commonwealth-Community-Legal-Services-Program-.aspx>>.

⁶ Australian Government Attorney-General's Department, *Commonwealth Community Legal Services Program: Guidelines*, p.13, viewed 28 August 2012, <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/Commonwealth-Community-Legal-Services-Program-.aspx>>.

⁷ Further information about the CLSIS database is available at: <<http://www.ag.gov.au/Legalaid/CommunityLegalServicesProgram/Pages/Community-Legal-Service-Information-System---CLSIS.aspx>>.

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level of the organisation's funding). Each funded CLC is required to conduct a client satisfaction survey at least once during the agreement period and provide the key results in its following Progress Report.

The Commonwealth or LAQ may suspend quarterly payments until the organisation has performed its obligations under the agreement. A Performance Improvement Plan may be issued where problems are identified that do not warrant suspension of payments.

At least once during the period of the CLSP funding agreement, LAQ seeks stakeholder organisation feedback on the funded organisation, including in relation to: accessibility and responsiveness of service delivery; appropriateness and effectiveness of referrals; and the extent of collaboration with other service providers.

Funding received and services provided by community organisations that receive LPITAF funding

A preliminary service mapping exercise was undertaken concurrently with the submission process. DJAG sought information from LPITAF funded community organisations to build an accurate high-level picture of the legal assistance services currently funded by LPITAF. The results, set out below, were taken into consideration during the Review and should be used as a basis for discussions with the legal assistance sector about future funding arrangements and improved public reporting.

Notes

‘FTE’ refers to the number of full-time equivalent employees (not limited to those employed with LPITAF funding).

To demonstrate the mix of services offered by community organisations, ‘Types of services’ are categorised primarily as follows: information; CLE (community legal education); advice; casework; law reform and legal policy; training to other legal practitioners; court support; and mediation.

‘FRC’ - Family Relationship Centre.

‘MV’ - Motor Vehicle.

‘DV’ - Domestic Violence.

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
Aboriginal and Torres Strait Islander Women's Legal Advocacy Service Inc	3	Generalist	Aboriginal Women	Metropolitan and outer regional Brisbane	Family Law DV Child Protection Debts, Wills, Estates, discrimination, victims assist, tenancy, employment matters.	Information Advice Casework CLE Law Reform & Legal Policy Court Support Family Support Family Violence	Unknown	\$78,360	Unknown	Nil	N/a	Commonwealth \$214,954 State \$36,653
Aboriginal and Torres Strait Islander Women's Legal Services NQ Inc.	2	Specialist	Aboriginal women	The centre is operated in offices in Cairns and Townsville and services the areas from Sarina in the South, North to Torres Strait Islands, West to Mt Isa and the Northern Territory border and Palm Island (44% outer Townsville, 28% Yarrabah, Palm Island, Normanton, Coen, and other rural and regional areas). Toll-free phone advice.	Family Law Child Protection Applications/Orders Family Or Domestic Violence Injuries Compensation	Information Advice Casework Representation CLE Law Reform & Legal Policy Family Violence	Commonwealth \$240,200	\$37,971	Unknown	Nil	N/a	State \$4,343
Banana Shire Community Legal Centre	1	Generalist	All	Banana Shire and other regions, including Woorabinda, Gladstone, Central Highlands and the Far West Regions of	General legal advice	Information Advice Casework CLE Law Reform & Legal	Unknown	\$102,633 Provision of legal advice and assistance, legal education, research	Unknown	Nil	N/a	State \$9,925

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
				Central Queensland		Policy Emergency & accommodation support, counselling and referral services & DV Court support		and law reform to assist addressing the unmet legal needs				
Bayside Community Legal Centre Inc	1	Generalist	All	Capalaba, Alexandra Hills, Cleveland, Victoria Point, Wynnum, Manly, Redland Bay, Moreton Bay Islands and other suburbs located within the Bayside area.	General legal advice	Information Advice Casework CLE	Unknown	\$84,636	Unknown	Nil	N/a	State \$26,807
Cairns Community Legal Centre Inc	3.5	Generalist & Specialist	All Disability Discrimination Consumer SLASS	Far North Queensland (Core Centre). North Queensland (DDLs).	Criminal, Family & Civil Law Traffic Matters Consumer Rights Employment Discrimination Neighbourhood disputes	Information Advice Casework CLE Law Reform & Legal Policy Seniors Legal & Support Service Disability discrimination FRC	Unknown	\$82,672	Unknown	\$135,172 - Consumer Law Service	220 clients; 368 advices; 64 new cases; 10 CLE; and 2 law reform activities.	Commonwealth \$247,503 State \$10,831
Care Goondiwindi Association Inc	1	Generalist	All	Goondiwindi Regional Shire and Northern NSW (50kms south of border approx.) Total area combined approximately 40,000 sq. kilometres.	General legal advice	Information Advice Casework	Unknown	\$90,373	Unknown	Nil	N/a	State \$21,425
Carers Queensland Inc	2	Specialist	Carers of people with impaired decision making capacity	State-wide Queensland	Support and advice to carers of people with impaired decision making capacity with matters before or with the Office of the Adult Guardian, the Guardianship and Administration Tribunal and the Office of the Public Trustee of Queensland. Aim – build carers' capacity to manage their legal responsibilities on their own.	Information Advice Casework Direct client assistance Representation services		\$198,781 Support families through guardianship processes. Ensure that the intent of the legislation is fully realised to protect the individual with impaired decision making capacity.	Unknown	Nil	N/a	State \$22,490

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
Caxton Legal Centre Inc	6.75	Generalist & Specialist	All Consumer SLASS Family Law Child Support Clinical Legal Education Duty Lawyer FRC	Caxton does not hold any formal geographic boundaries to its services, however in practice its catchment area is limited by the fact that it does only provide telephone advice in limited circumstances. Accordingly, Caxton's service delivery is generally limited to those clients that are able to attend face to face interviews	Consumer Law Employment Law Family Law General Service	Information Advice Casework CLE Law Reform & Legal Policy Seniors Legal & Support Service Social Work Service Clinical Legal Education Program FRC Child Support Service Family Law Duty Lawyer Representation (Limited)	Unknown	\$131,716	Unknown	\$109,374 - Consumer Law Service – Specialist service Legal Advice Casework	276 clients 301 advices 73 cases closed	Commonwealth \$685,478 State \$83,096
Centacare CFCS	1.25	Specialist	Men who are perpetrators of domestic violence.	Sunshine Coast – Cooloola region (Gympie, Caloundra, Maroochydore, Nambour & Noosa Courts). Service delivery is via outreach face to face at courts.	Domestic Violence	Information Advice CLE	Early Intervention for Men who use Domestic & Family Violence	\$141,464 Provide assistance to perpetrators of Domestic Violence and Family Violence in the Magistrates Courts in the Sunshine Coast Region	1 x Specialist (Contract runs from 1.7.2010- June 2013)	Nil	N/a	Nil
Central Queensland Community Legal Centre Inc	3	Generalist	All	Central Queensland region.	General Legal Advice	Information Advice Casework CLE Law Reform & Legal Policy FRC	Unknown	\$66,589	Unknown	Nil	N/a	Commonwealth \$256,486 State \$6,149
Court Network Incorporated	2	Specialist	Distraught victims, defendants, witnesses and their families	Brisbane (Transitional – Brisbane, Cairns & Townsville)	Provide information, support and referrals to persons attending Court – victims of crime, people accused of crime, families etc.	Advice	Information and Referral Service	\$198,781 – victims, defendants, witnesses and families.	Unknown	\$152,442 – Access to Justice – Qld High Demand Courts & Tribunal	Train volunteers (Brisbane nil, Cairns 13, Townsville 6)	State \$22,490
Court Network Queensland services	3.94	Generalist incorporating specialist programs in response to identified complex needs	Broad scope -victim witness defendant, family and friends	Brisbane Supreme & District Courts and the Brisbane CBD Courts/Tribunal, Cairns and Townsville court complexes (cross jurisdictional	Information, support, referral and advocacy to all persons attending court	Information, support, referral and advocacy	Govt funding: Information support, referral and advocacy	\$201,365* Qld Higher Courts	Information, support, referral and advocacy to over 16,772 court users (2011-12)	\$154,424 – Qld High Demands Courts & Tribunal (Brisbane Magistrates Court, QCAT, Cairns and Townsville)	Information, support, referral and advocacy to over 25,873 court users (2011-12). Recruit and train volunteers in Cairns and	No other source in QLD

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
											Townsville	
DV Connect Limited	1	Specialist	Men appearing in court for Domestic Violence matters.	Brisbane, Beenleigh, Ipswich, Holland Park, Richlands, Wynnum, and Cleveland (and State-wide by phone)	Domestic Violence	Court support (including legal and court process information and referral to support services) to men attending court in relation to applications for Domestic Violence Protection Orders.	Mensline	\$102,633 - general assistance, information, and professional support counselling to men appearing in court as victims or perpetrators of domestic and family violence.	Unknown	Nil	N/a	State \$12,227 Department of Communities \$2.45 million Department of Communities and Queensland Health \$408,088
Gladstone Community Legal Advice Program	1	Generalist	All	Face to face and/ or telephone delivery to the Gladstone Region, including Mt Larcom to the North, Agnes Water/ 1770 to the South and Boyne Valley to the West.	General legal advice	Information Advice Casework CLE	CLC creation – unmet need	\$102,633	Unknown	Nil	N/a	State \$9,925
Gold Coast Legal Service	4.75	Generalist/Specialist	All FRC & Financial Counselling	The service area is to covers the geographic area and surrounds of the Gold Coast, being north to Beenleigh, south to the Coolangatta border and west to Mount Tamborine.	Family Law Child Support DV Parenting Plans Separation/divorce Consumer issues MV accidents Small Claims Minor Debts Neighbourhood disputes Minor crime	Information Advice Casework CLE FRC Financial Counselling	Unknown Gold Coast Family Law Clinic	\$158,220 also Provision of weekly family law clinics	Unknown	Nil	N/a	Commonwealth \$260,201 State \$44,529
Indigenous Legal Services Qld Limited	0.75	Specialist	Homeless persons	Cairns and expanding into Mareeba. The centre provides services at a number of emergency accommodation centres and welfare agencies across Cairns and surrounding districts.	Mostly civil legal services including debts, fines, guardianship, victim of crime compensation, discrimination, mental health, bankruptcy	Information Advice Casework CLE Law Reform & Legal Policy Mediation	Unknown	\$86,145	Unknown	Nil	N/a	Unknown
Logan Legal Advice Centre	1 (supported by volunteers and legal students)	Generalist	All	Logan and surrounding areas	Family Civil Criminal	Information Advice CLE Law Reform & Legal Policy FRC	Unknown	\$90,373	Include: 2644 information sessions 1024 face to face advice sessions	Nil		Commonwealth \$17,661 State \$21,425
Logan Youth Legal Service	3	Specialist	Young people aged 10-17 years	Logan and surrounding areas on face to face basis but whole of	Child Protection Criminal Law Young people's	Information Advice Representation	Unknown	\$72,976	Unknown	Nil	N/a	Commonwealth \$84,297 State \$123,378

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
				Queensland via email and phone services.	issues	Casework CLE Law Reform & Legal Policy						
Mackay Regional Community Legal Centre	2	Generalist	All	Local authority areas of Mackay regional Council, Isaac Regional Council and the Whitsunday Regional Council.	General legal advice	Information Advice Casework CLE FRC	Unknown	\$198,781 Generalist service – LPITAF - \$217,036	Unknown	Nil	N/a	Commonwealth \$56,327 (FRC partnership) State \$18,255 1 year only migration expenses – LPITAF - \$2,415
Moreton Bay Regional Community Legal Service Inc	1	Generalist	All	Redcliffe Peninsula Region including Deception Bay and Caboolture (from 9 July 2012	General legal advice	Information Advice Casework CLE	Unknown	\$84,637	Unknown	Nil	N/a	State \$26,806
North Queensland Women's Legal Service Inc	5.75	Generalist	Women	From Sarina south, west to the Northern Territory border and north to the tip of Cape York Peninsula, including the Torres Strait Islands.	Family law and domestic violence Sexual harassment Discrimination DV Child Care & Protection	Information Advice Casework CLE Law Reform & Legal Policy FRC Family Violence	Unknown	\$184,251 Elder & Multicultural Outreach & Legal Education	Unknown	\$73,982 - Unmet legal need among disadvantaged north Queensland women	Minor assistance clinics – 146 women assisted; 12 workshops conducted	Commonwealth \$396,994 State \$31,642
Nundah Community Legal Service	1	Generalist	All	Nundah, Toombul, Clayfield, Ascot, Wavell Heights, Aspley, Bracken Ridge, Deagon, Sandgate.	General legal advice	Information Advice CLE	Unknown	\$90,373	Unknown	Nil	N/a	State \$21,425
Pine Rivers Community Legal Service	2	Generalist	All	The Pine Rivers area and surrounding districts.	General legal advice	Information Advice Casework CLE FRC	Unknown	\$175,758	Unknown	Nil	N/a	Commonwealth \$119,868 State \$30,700
Prisoners' Legal Service Inc.	5.7 staff 5 volun teers	Specialist	Queensland Prisoners and their families	State-wide Queensland.	Safe Way Home Program: Parole CLSP: Prison Law	Safe Way Home Program: Information Advice Casework CLE CLSP: Law Reform & Legal Policy	LPITAF: \$173,760 CLSP: Commonwealth \$70,516 State \$122,719 FaHCSIA: Financial Counselling \$90,000	\$173,670	1409 advices 51 cases 24 500+ CLE resources distributed 18 CLE talks to prisoners Visits to all 14 Queensland prisons Monthly representations	Nil	2011-12 LPITAF Sustainability 785 advices 10 cases Visits to all 14 Queensland prisons.	Commonwealth \$70,516 State \$122,719

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
									before Queensland Parole Boards			
Queensland Advocacy Incorporated (QAI)	Legal – 2.62 Non- legal – 1. 2 Volu nteer s – 1.8	Specialist	Vulnerable people with disability in Queensland	State wide Queensland	Human Rights Legal Service (HRLS) – guardianship and administration, restrictive practices and involuntary treatment. (<i>Disability Services Act, Guardianship and Administration Act, Forensic Disability Act and Mental Health Act</i>)	Information Advice Casework CLE Law Reform Submissions	HRLS – Community Legal Services Program (CLSP): \$114,860 Purpose: assist people with disability subject to restrictive practices and involuntary treatment	HRLS recurrent until 2015 - \$114,860	Information – 136 Advices – 76 Cases – 19 opened and 62 closed Representation – MHC: 1, MHRT: 6 and QCAT: 5			
					Mental Health Legal Service (MHLS) – mental health law and guardianship and administration. (<i>Mental Health Act, Guardianship and Administration Act and Information Privacy Act</i>)	Information Advice Casework CLE Law Reform Submissions	MHLS – LPITAF: \$159,051 Purpose: assist people receiving involuntary treatment for a mental illness			MHLS nonrecurrent and expires on 30 June 2013 - \$159,051	Information – 39 Advices – 155 Cases – 171 opened and 293 closed Representation – MHRT: 144 and QCAT: 2	Mental Health Review Tribunal (MHRT) Tender – fluctuating amount of up to \$3,000 dependent upon the number of client referrals. Purpose – to provide for legal representation before the MHRT in relation to confidentiality order applications
					Justice Support Program (JSP) – criminal justice system	Information Advice Casework CLE	JSP – LPITAF: \$134,212 Purpose: non- legal advocacy and support for people with disability who are involved with the criminal justice system, to access supports to address any			JSP non- recurrent and expires on 30 June 2013 - \$134,212	Information – 20 Advices – 40 Cases – 38 opened and 27 closed	

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
							offending behaviour and prevent further involvement with the criminal justice system.					
Queensland Aged & Disability Advocacy Inc	1	Specialist	Aged persons and persons with disabilities	QADA provides advocacy services throughout Queensland and is linked to the national aged care advocacy network and the Queensland community. The legal advocacy services are likewise provided throughout Queensland.	Supporting older people, people with a disability and their carers in QCAT matters and broader legal matters.	Information Casework CLE Law Reform & Legal Policy	Unknown	\$102,633	Unknown	Nil	N/a	State \$12,227
Queensland Association of Independent Legal Services	2	N/a	CLCs	Queensland	N/a	N/a	LPITAF	\$198,781	Unknown	Nil	N/a	<i>\$76,216 from Commonwealth Attorney- General's Department to employ a Regional Accreditation Coordinator as part of the National Accreditation Scheme</i> <i>\$11,000 per year in membership fees</i>
Queensland Public Interest Law Clearing House Inc (overview this row – details in following rows)		Generalist/ Specialist	Pro Bono administrativ e – homeless – mental health – self- representati on in Supreme, District Courts and QCAT	Queensland	Contracts Human Rights Disability Incorporated associations Insurance Mental Health Pensions and allowances/social security Property	Cases CLE Law Reform & Legal Policy		\$364,686 Statewide Legal Referral and Education Service; Self Representation Civil Law Service; Self-Representation Civil Law Service - Brisbane Supreme & District (1/10/2007))	Unknown	\$85,449 – Pro Bono Referral Services; \$53,088 – Rural Regional Remote Project; \$131,335 – Self- Representation Civil Law Service – QCAT	Unknown	Commonwealth \$71,190 State \$34,171
	3.8	<i>Public Interest Referral Service</i> Generalist	Public interest and dis- advantaged for pro bono referral	Queensland	All civil	Assessment and referral; occasional representation	Source LPITAF recurrent (for 2 positions only)	Amount \$237,359 Purpose To provide pro bono referral services in public interest cases	Types All Number 170 applications and 138 referrals			Source M'ship fees, University clinic fees, Donations, Fundraising Amount \$140,000

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
												Purpose Pay staff, maintain services
	1	QLS/Bar Pro Bono Referral Service Generalist	Disadvantage	Queensland	All civil	Assessment and referral; occasional representation	Source LPITAF Grants			Amount \$85,449 Purpose To provide pro bono referral services in non- public interest cases	Types All Number 277 applications and 76 referrals	Source QLS&BAQ Amount \$20,000 Purpose To augment funding provided by LPITAF to operate the scheme
	.5	RRR Project Generalist	RRR	Queensland	All civil	Assessment and referral; occasional representation; Capacity building	Source LPITAF Grants (for 6 months per year)			Amount \$53,088 Purpose Extend pro bono services to RRR areas	Types Assessm't & travel to RRR areas Liaising with other providers and firms Number Numerous travel	
	3	Homeless Persons' Legal Clinic Specialist service targeting the homeless with generalist services	Homeless	Brisbane Toowoomba Townsville	All civil Family and crime referral	Information and advice Minor assistance Representation Referral Research and prevention	Source DOC Amount \$197,400 (non-recurrent) Purpose To provide legal assistance to people who are homeless or at risk of homelessness					Source AGD Amount \$71,190 Purpose To provide legal assistance to people who are homeless or at risk of homelessness
	.8	Mental Health Law Practice Specialist	People with mental illness	Queensland	All civil casework. Advocacy in MHRT	Information and advice Minor assistance and Referral	Source UQ Amount \$16,000 Purpose Expand mental health civil law and advocacy services				Types Advice, minor assistance referral Number 41 new files	
	1.6	Self Represent- ation Service (Courts) Specialist	Self-rep litigants (SRS): State Courts	Brisbane	All civil	Discrete task assistance, referral and mediation	Source LPITAF recurrent (for 1.5 positions only)	Amount \$161,498 Purpose To assist self represent-ed litigants navigate the court system	Types All civil Number Discrete task assistance to litigants in person in the Supreme and District Courts and Court of Appeal.		Types Self represent- ation Number 157 applications 309 appts	

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
	1.5	<i>Self Represen- tation Service (QCAT)</i> Specialist	QCAT	Queensland	Children, discrim, G&A, tenancy and disciplinary	Discrete task referral and mediation	Source LPITAF Grants			Amount \$131,335 Purpose Discrete task assist-ance to litigants in QCAT	Types Advice, minor/major assistance and referral Number 194 applications 241 appts	
	.6	<i>Self Represen- tation Service (Federal Courts)</i> Specialist	Federal Court	Brisbane	Bankruptcy employ-ment Discrim.	Discrete task referral and mediation	Source AGD Amount \$30,000 Purpose Conduct SRS pilot for litigants in person in Fed Ct and Fed Mags Ct					Source Fed Court Amount \$23,000 Purpose Conduct SRS pilot for litigants in person in Fed Ct and Fed Mags Ct
	.2	<i>Adminis- trative Law Clinic</i> Specialist	All	Queensland	Adminis-trative law	Minor assistance and referral	Source Bond University Amount \$27,000 Purpose To assist people with administrative law problems					
Refugee & Immigration Legal Service Inc	5.6	Specialist	Refugees	Brisbane area through its physical location, but provides state-wide services as well	Immigration matters DV & visa issues CLE about Australian Legal System	Information Advice Casework CLE Law Reform & Legal Policy	Unknown	\$294,906 Refugee Legal Support; General Legal Education for Refugees	Unknown	Nil	N/a	Commonwealth \$163,564 State \$126,977
Roma Community Legal Service	3	Generalist & Specialist	All	Western Queensland	Family Child Contact Civil Criminal	Information Advice Casework CLE child contact/supervision/c hangeover advocacy court representation in Magistrates Court	Commonwealth, State and LPITAF	\$148,754	Unknown	Nil	N/a	Commonwealth \$38,061 State \$100,947
South West Brisbane Community Legal Centre Inc	5	Generalist & Specialist	All Youth Justice Child Protection	South West Brisbane, Inala and surrounding districts including Booval, Goodna, Ipswich and beyond.	Youth Justice Child Protection Family Law Wills & estates POA's, Consumer matters, MV accidents, Civil (excluding PI matters) Neighbourhood	Information Advice Casework CLE Law Reform & Legal Policy FRC Child Protection & Legal Advocacy	Unknown	\$297,860 Child Protection advice and casework; Youth Criminal Law Advocacy Service	Unknown	\$52,661 Logan Outreach, Child Protection Legal & Advocacy Service	Attend Beenleigh Children's Court weekly; 85 court appearances.	Commonwealth \$50,485 State \$174,788

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
					disputes Credit & Debt	Advice & representation for young people under 18 years						
Suncoast Community Legal Service	2	Generalist	All	The greater Sunshine Coast Area; generally understood to be the area covered by the Sunshine Coast Regional Council.	General legal services	Information Advice Casework CLE Law Reform & Legal Policy	Unknown	\$160,975	Unknown	\$42,001 Development of Regional Outreach Program	42% advices given from outreach; 11 education sessions	Commonwealth \$16,782 State \$34,378
Taylor Street Community Legal Service	2	Generalist & Specialist	All SLASS	Fraser Coast, Bundaberg, North Burnett and Cooloolia Coast regions Weekly face-to-face outreach service in Gympie and monthly face- to-face outreach service in Tin Can Bay	General legal services	Information Advice Casework CLE Law Reform & Legal Policy Seniors Legal & Support Service FRC	Unknown	\$105,102	Unknown	Nil	N/a	Commonwealth \$145,611 State \$9,586
Tenants' Union of Queensland	2	Specialist	Tenants	Queensland	Tenancy advice	Information Advice Casework CLE Law Reform & Legal Policy	Unknown	\$110,827	Unknown	Nil	N/a	Commonwealth \$18,614 State \$83,260
The Advocacy & Support Centre	7.5	Generalist/ Specialist	All Disability Law Project SLASS Collaborativ e Family Law QCJC RWOLS FRC	Generalist service provides advice and casework services throughout the Toowoomba area whilst the Disability Law Project provides services to both the Toowoomba and Ipswich areas. The Rural Women's Legal Outreach Service has been divided into three main sectors and provides assistance at Cunnamulla/St George, Charleville and Roma, Miles/Tara/Chinchilla and Warwick/Stanthorpe/Dalby /Millmeran and Goondiwindi Outreach clinics are conducted in St George, Goondiwindi, Stanthorpe, Roma, Charleville and Warwick.	Family law including divorce, parenting, property, child support, DV, debt, traffic, MV accidents, Peace and good Behaviour, Neighbourhood disputes and dividing fences. Crime – initial advice and referral.	Information Advice Casework CLE Law Reform & Legal Policy Seniors Legal & Support Service Family Law Clinical Education Rural Women's Outreach Legal Service Queensland Criminal Justice Centre Disability Law Project FRC	Unknown	\$348,135 Disability Legal Service; QCJC	Unknown	Nil	N/a	Commonwealth \$344,365 State \$147,052

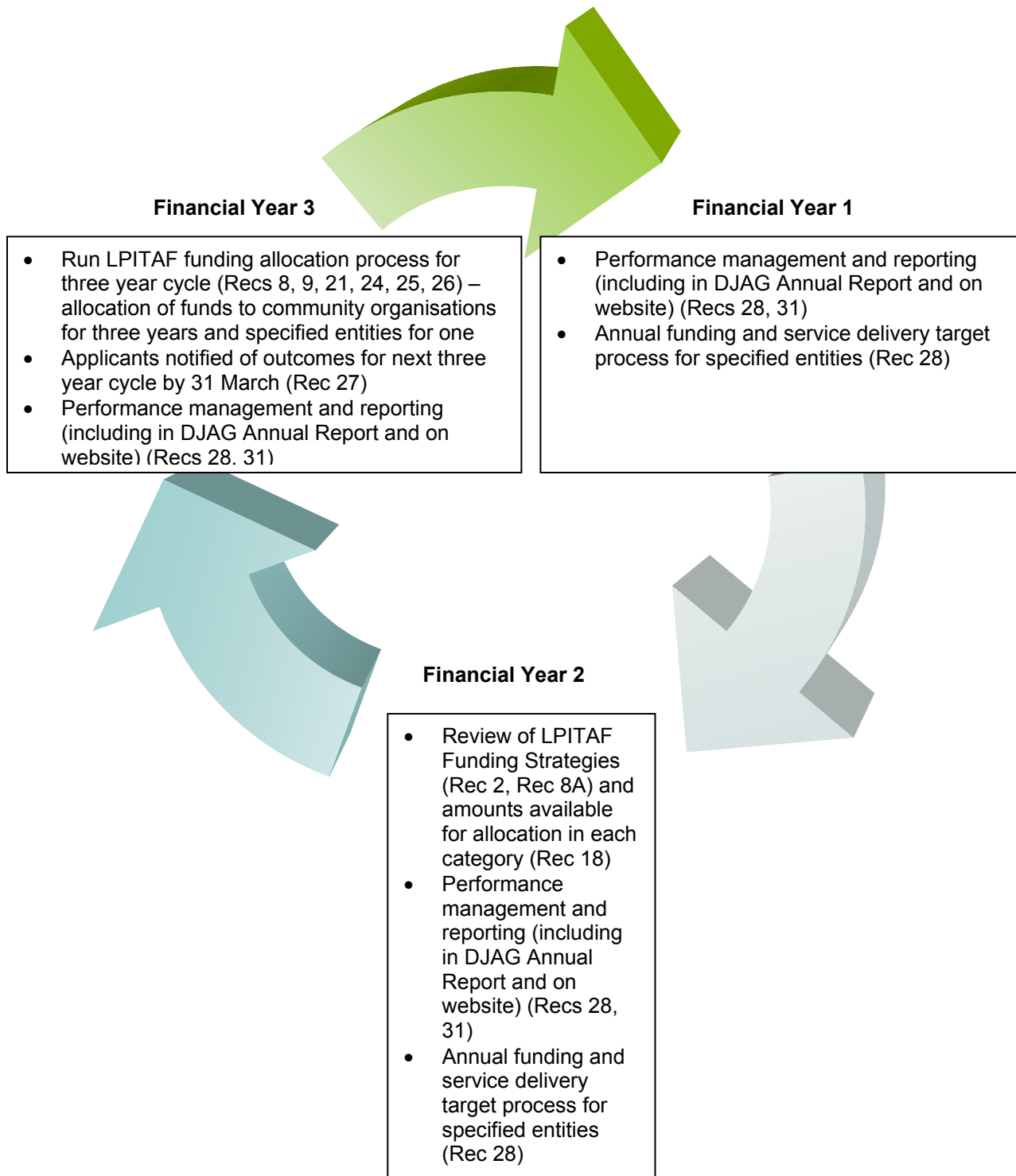
Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
The Advocacy & Support Centre-Ipswich	1.5	Generalist	All	Ipswich and surrounding area	Family Law Divorce, Child Support, Separation, Children's matters Child Protection MV accidents (property damage only) Police matters – traffic, crime advice only, DV, Consumer complaints Centrelink	Information Advice Casework CLE	Unknown	\$150,707	Unknown	Nil	N/a	State \$14,090
Townsville Community Legal Service	3	Generalist & Specialist	All SLASS Welfare Rights FRC	North Queensland,	General legal services	Information Advice Casework CLE Law Reform & Legal Policy Seniors Legal & Support Service. Homeless Service FRC Welfare Rights	Unknown	\$61,416	Unknown	Nil	N/a	Commonwealth \$215,411 State \$25,920
Welfare Rights Centre Inc.	6.5 Solicitors = 3 Other = 3.5	Specialist	People having problems with Centrelink and People experiencing disability discrimination	Social Security – from northern NSW up to Townsville. Disability Discrimination – from NSW border up to Mackay.	Social Security Disability Discrimination	Information Advice Casework CLE Law Reform & Legal Policy	Commonwealth CLSP \$257,339 State CLSP\$138,357 For the provision of community legal services in relation to social security and disability discrimination	\$172,203 For the provision of community legal services in relation to social security	During the previous financial year, WRC gave 1362 social security advices and closed 278 social security cases. LPITAF recurrent funding makes up 31% of WRC funding currently. Therefore 422advices and 86 cases can reasonably be	\$78,139 For Counsellor Advocate position. This role runs the telephone advice service, focussing on timely early intervention before problems escalate.	616 advices 37 cases opened Submissions to Senate inquiry Presentations to UQ social work and law students Factsheets on Youth Allowance and Income Management	Community Legal Education Program \$8,550 – for a CLE project with Tenants' Union of Qld (who received half the funds) to run CLE activities in Cherbourg in conjunction with the local Barambah Justice Group. Donations: \$1,500 Sponsorship \$8,000

Organisation	FTE	Generalist/ Specialist	Target client group/s	Geographical areas covered	Areas of law covered	Types of services	Main sources of funding (source, amount and purpose)	Recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 recurrent LPITAF funding (types, number)	Transitional/ non-recurrent LPITAF funding (amount and purpose)	Services provided with 2011-12 non- recurrent/ transitional LPITAF funding (types, number)	Other sources of funding (source, amount and purpose)
									attributed to the LPITAF recurrent funding. Law Reform and CLE activities are also provided with this funding.			
Women's Legal Service Inc	7.75	Specialist	Women	Queensland	Family; Child Maintenance Support; Domestic Violence; General Law	Information Advice Casework CLE Law Reform & Legal Policy FRC Family Violence	Unknown	\$144,407 Rural, Regional & Remote Access Solicitor	Unknown	Nil	N/a	Commonwealth \$463,168 State \$174,694
Youth Advocacy Centre Inc	7.4	Specialist	Young people 10 and over involved in or at risk of involvement in the youth justice and/or child protection systems	Usually: Caboolture to Beenleigh, Ipswich to Cleveland but can be further, particularly for YBASS More limited assistance (information, possibly telephone advice) outside South East corner area CLE delivered around the State	Predominantly: Youth Justice Child Protection Education Provide information, advice and referral (where appropriate) on other legal issues as they affect young people (family law, tenancy, consumer, income support, beneficiaries under a will etc)	Information Advice Casework General advocacy CLE Law Reform Legal Policy Social welfare services - information, advice and advocacy and support within systems and forums such as courts (including victims of crime) schools, housing, Centrelink; individual and family counselling; bail accommodation support, etc.	CLSP: Cwth \$97,252 State \$96,344 Homelessness Program, Dept of Communities (DoC) – Youth Support Advocate, rent Family Support Program DoC – Family Support Advocate Youth Justice Services, DJAG - Director and YBASS (includes brokerage)	\$86,674	Together with the monies received from the Cwth and State - legal and CLE services (described in columns 3-6)	Nil	N/a	\$50,000 was received from the Pratt Foundation for 2011-12 to address the wages shortfall following the Pay Equity decisions.

Attachment 6

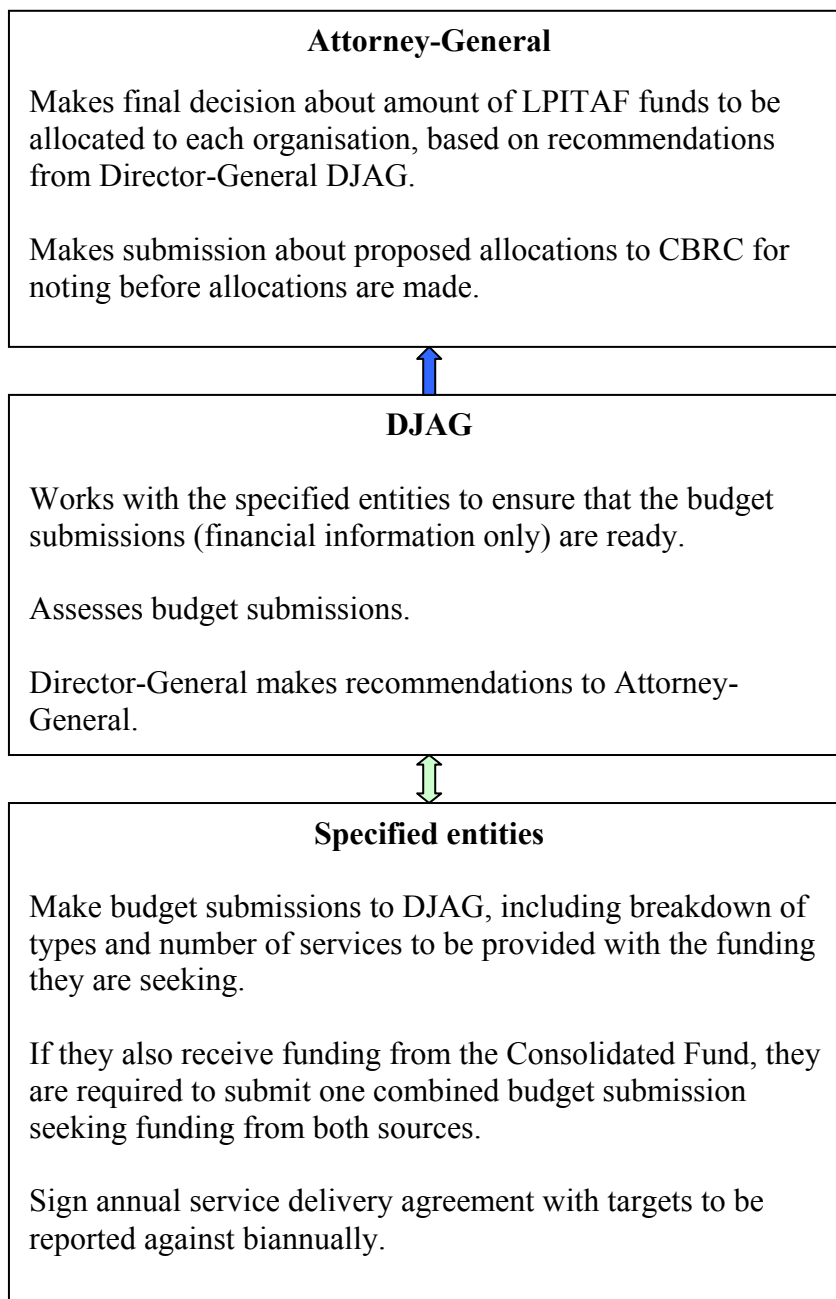
Recommended model for the allocation of funds from the Legal Practitioner Interest on Trust Accounts Fund:

Diagram of three year funding cycle (proposed to commence in 2014-15)

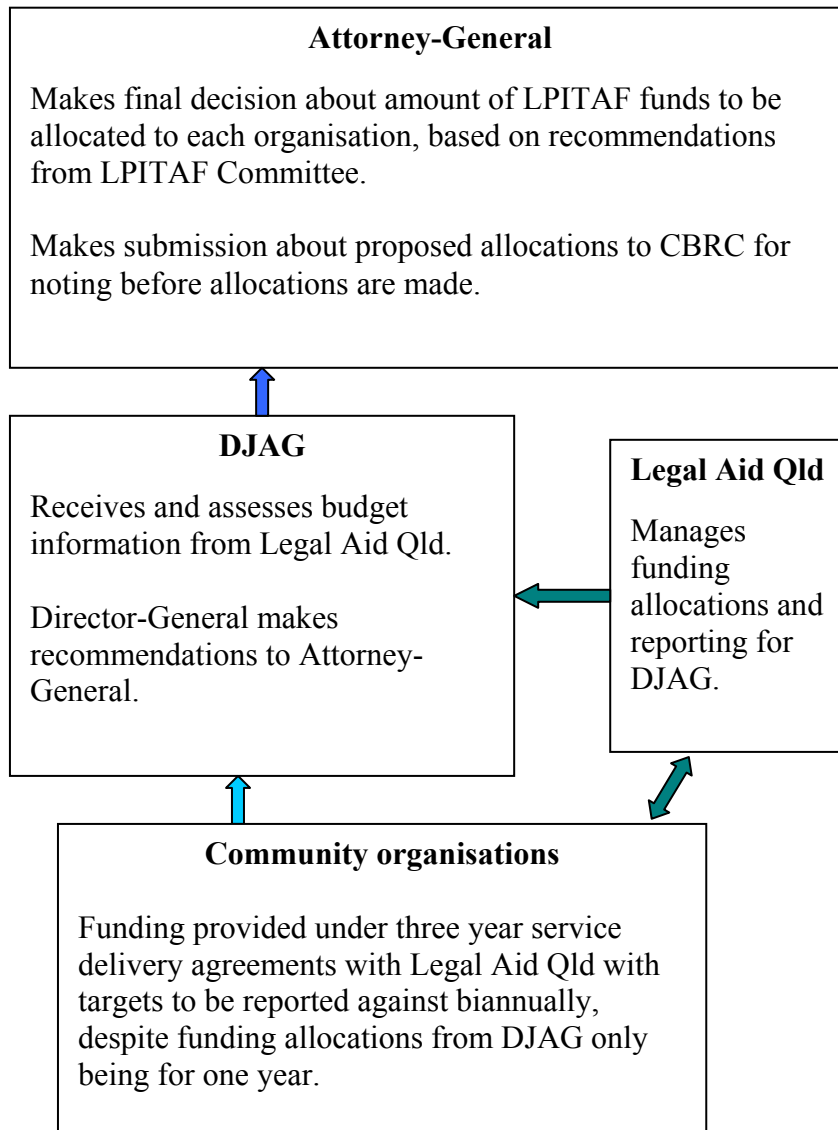


Current model for allocation of LPITAF funds: Diagram

Funding allocations: Specified entities (annual allocations)

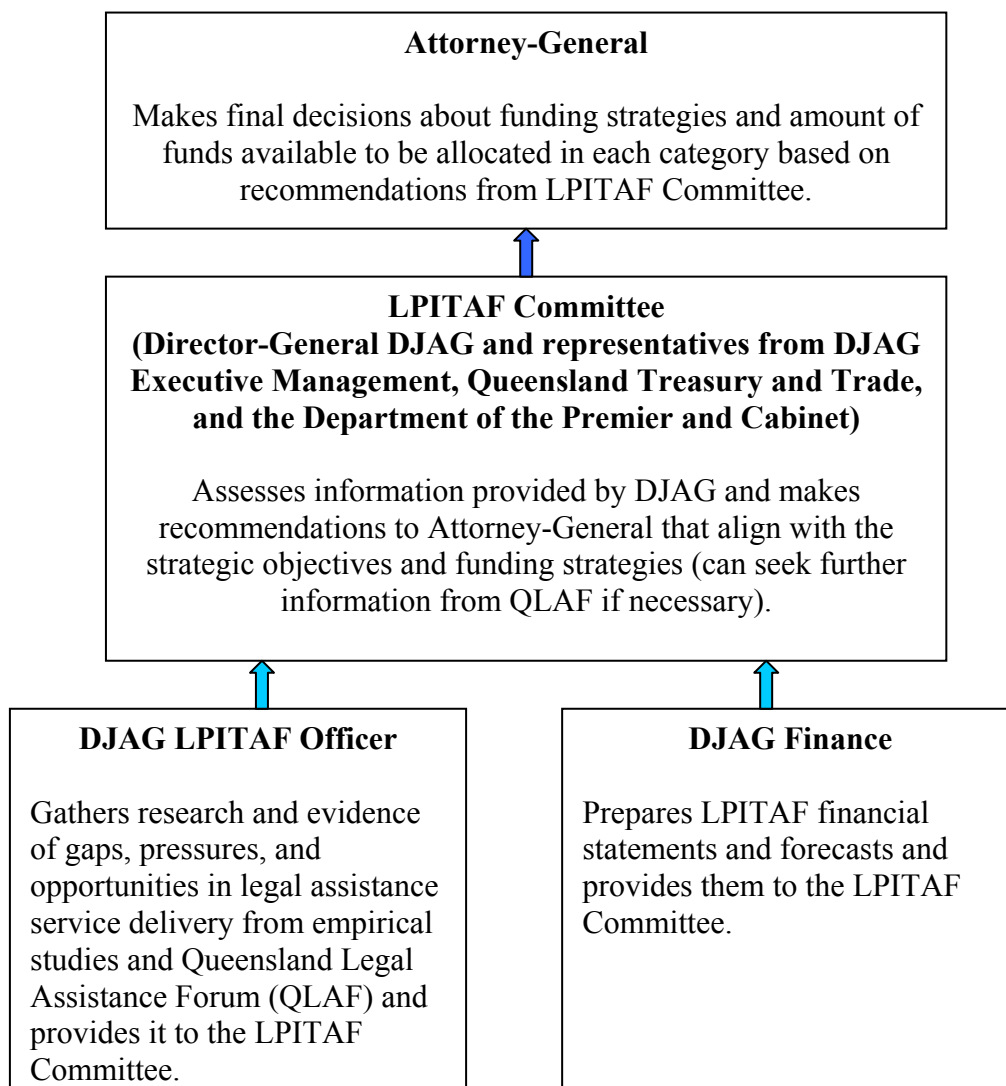


Funding allocations: Community organisations (annual allocations)

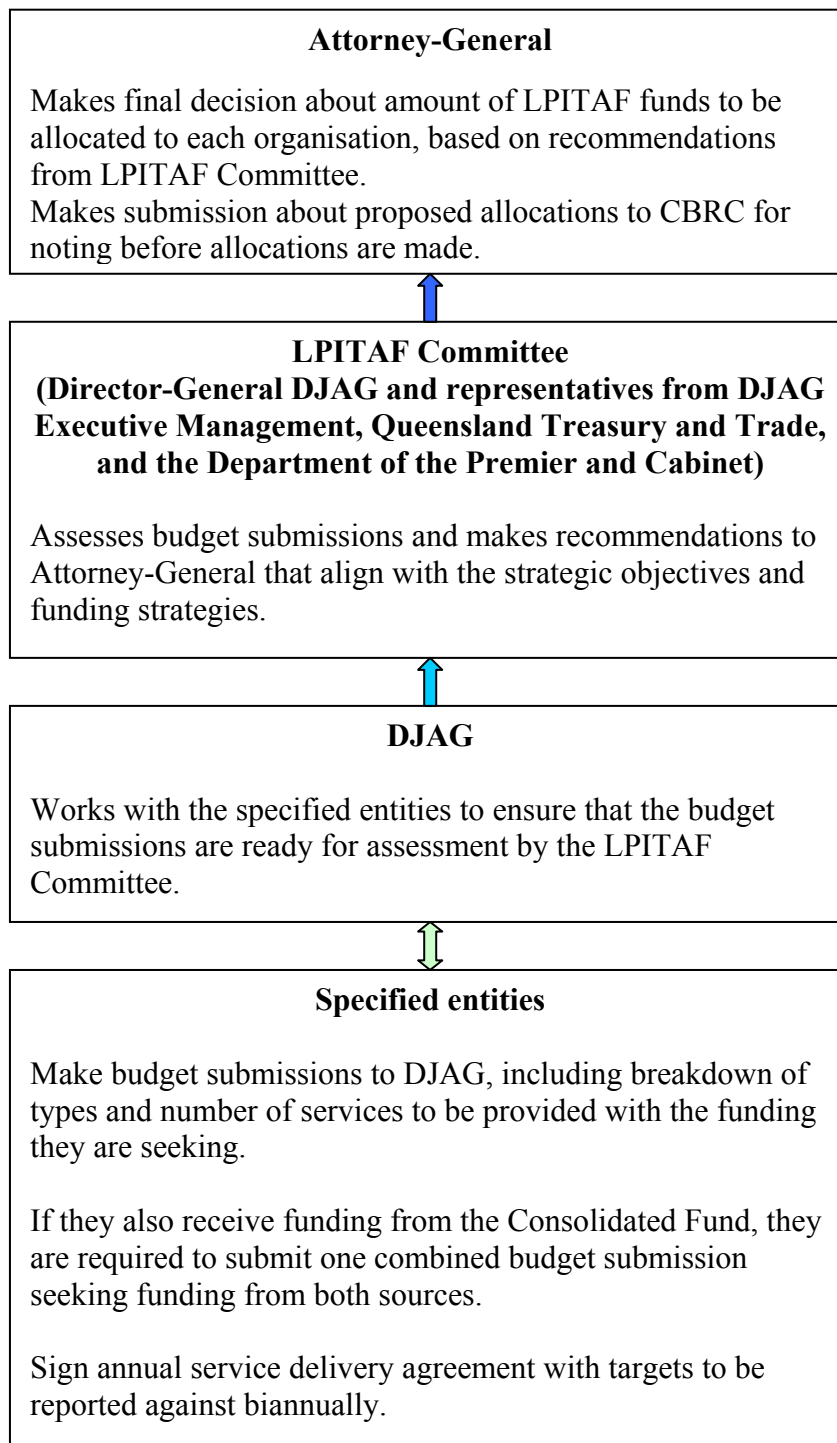


Recommended model for allocation of LPITAF funds: Diagram

Decisions about funding strategies and amount of funds available to be allocated in each category in a three year funding cycle



Funding allocations: Specified entities (annual allocations within three year cycle)



Funding allocations: Community organisations (triennial allocations)

A two-stage application process, labelled (1) and (2) below, will be trialled for the first funding cycle which commences in 2014-15. See pages 47-48 of the Final Report for further details.

