



Justice Responses to Sexual Violence: Response to Issues Paper 49

Aboriginal Family Legal Service WA

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Introduction

Aboriginal Family Legal Service (AFLS) welcomes the opportunity to provide a submission to the Australian Law Reform Commission's inquiry into how the justice system responds to sexual violence.

AFLS is a Family Violence Prevention Legal Service (FVPLS) providing specialist legal assistance and integrated social supports to Aboriginal and Torres Strait Islander victims of family and domestic violence (FDV) and sexual assault. As the largest FVPLS in Western Australia, AFLS has been leading innovation in the delivery of tailored, culturally safe, trauma informed and client centric services that meet the holistic needs of Aboriginal people for over a decade.

AFLS has a unique understanding of the complex context in which Aboriginal people experience family, domestic and sexual violence, directly informed by an understanding of the specific drivers of violence against Aboriginal women and children in the communities we service. This is complemented by our knowledge of the broader social, cultural and political context in which family and domestic violence is perpetrated by and against Aboriginal people. Every day we work with clients who continue to be displaced and discriminated against by the systems that dispossessed Aboriginal people from their land, their culture and their communities at the time of colonisation.

The intersection between sexual assault and family and domestic violence is well-established; in 2022, the WA Government's Women's Report Card revealed that WA had the highest rate of reported family and domestic violence related sexual assault offences against females across the states, and that reports of family and domestic violence related sexual assaults against women increased from 47.5 per 100,000 females in 2018 to 61.6 per 100,000 in 2021.¹ Sexual assault is frequently an element of broader patterns of coercive control, relationship dependence, power imbalance and violence. Aboriginal women generally experience multiple risk factors for sexual assault, and in rural and remote Western Australia specifically, Aboriginal women are 45 times more likely to be assaulted by their spouse or partner than non-Aboriginal women.²

AFLS seeks to provide feedback to the Law Reform Commission given the importance of this inquiry to Aboriginal people in Western Australia specifically and across the country more broadly. We have a particular vested interest in promoting improved access to justice and safety outcomes for Aboriginal victims of sexual violence as a feature of FDV, who often describe the criminal justice process as confusing, frightening and traumatic.

AFLS submission to selected terms

Reporting the experience of sexual violence safely

- a. What reforms or recommendations have been implemented in your state or territory? How are they working in practice? What is working well? What is not working well?

It is our experience that the majority of victim survivors do not engage with the justice system due to barriers including a well-founded fear that the justice system will not provide a safe or effective response. Sexual violence perpetrated in the context of family and domestic violence is often

¹ Department of Communities, Government of Western Australia, 'Women's Report Card: 2022', August 2022, [Women's Report Card \(www.wa.gov.au\)](http://www.wa.gov.au).

² McCalman, Bridge and Jongen, 'Responding to Indigenous Australian Sexual Assault: A Systematic Review of the Literature', January 2014, [Responding to Indigenous Australian Sexual Assault: A Systematic Review of the Literature - Janya McCalman, Francesca Bridge, Mary Whiteside, Roxanne Bainbridge, Komla Tsey, Crystal Jongen, 2014 \(sagepub.com\)](http://www.sagepub.com).

perceived as less believable, and for Aboriginal victim survivors in particular, a lack of reporting is fuelled by racism, shame, lack of appropriate supports and potential adverse consequences.³

Women experiencing gender-based violence, including family violence and sexual assault, face myriad challenges when confronted by the justice system. They may be dealing with the trauma of assault, the stress and confusion of legal proceedings, the financial and emotional cost of separation, the complexities of a loved one facing imprisonment, and the frustration of an uncoordinated and bureaucratic justice system. For Aboriginal women, the added complexities and difficulties faced by clients in matters of family and domestic violence and other layers of trauma can lead to non-reporting of sexual violence. In Western Australia, the absence of a comprehensive, well-resourced and culturally safe Victims of Crime service means that more often than not, victims have no continuity of assistance which can lead to their disengagement from the justice system.

AFLS recently partnered with Women's Legal Service WA (WLSWA) and Ruah Legal Services (RLS) under a federally funded pilot program to provide independent legal advice and support to victim-survivors of sexual assault as they navigate their way through the criminal justice system. The effective hand-in-hand provision of culturally safe, trauma informed and client centric legal and other services for victim survivors of sexual assault that are responsive to the compounding challenges experienced by victims in accessing and staying engaged with the justice system is a best practice model for ensuring victims can report their experiences of sexual violence safely.⁴ The pilot program is being overseen by the Office of the Commissioner for Victims of Crime in Western Australia.

In their submission to the Commonwealth Attorney General's Department *Scoping the development of specialised and trauma informed legal services for victims and survivors of sexual assault – Discussion Paper*, the Victorian Victims of Crime Commissioner argued that without access to legal advice from an independent, trusted source (separate to the prosecution), the complexity of the justice system continues to be a barrier to meaningful victim participation.⁵ The Commissioner highlighted that victims may be unaware of, or misinterpret, their information and participatory rights and entitlements.

The AFLS, WLSWA and RLS model seeks to address the concerns of the Commissioner by combining each of the respective partner's specialist cohort expertise (Aboriginal and Torres Strait Islander people, women, and men), to deliver a suite of shared legal services to victim survivors of sexual assault at key points of disclosure, pre-reporting, reporting as otherwise necessary. Services include:

- Assistance deciding whether to report to police and understanding options (where applicable)
- Getting police to take victim survivors' complaints seriously in cases where police responses are not sufficient
- General legal advice and preparation for the various stages of the criminal justice system

³ Australian Institute of Health and Welfare, Australian Government, 'Family, domestic and sexual violence: Aboriginal and Torres Strait Islander People', April 2024, <https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/aboriginal-and-torres-strait-islander-people>.

⁴ Hon. John Quigley and Hon. Sue Ellery, Government of Western Australia, 'Legal support pilot to assist sexual assault victims', September 2023, <https://www.wa.gov.au/government/media-statements/Cook-Labor-Government/Legal-support-pilot-to-assist-sexual-assault-victims-20230920>.

⁵ Victims of Crime Commissioner Victoria, 'Submission to Scoping the development of specialised and trauma informed legal services for victims and survivors of sexual assault – Discussion Paper', May 2023, [Response 1055067688 to Scoping the development of specialised and trauma-informed legal services for victims and survivors of sexual assault - Attorney-General's Department - Citizen Space \(ag.gov.au\)](https://www.victimsofcrime.vic.gov.au/Response%201055067688%20to%20Scoping%20the%20development%20of%20specialised%20and%20trauma-informed%20legal%20services%20for%20victims%20and%20survivors%20of%20sexual%20assault%20-%20Attorney-General's%20Department%20-%20Citizen%20Space%20(ag.gov.au)).

- Enhancing victim understanding of their options in relation to civil litigation, financial compensation and restorative justice
- Ensuring that victims are aware of their rights and entitlements
- Supporting victims throughout their interactions with police
- Providing advice about rights in relation to evidentiary disclosure
- Protecting counselling records and any other confidential and sensitive documents from being inappropriately accessed
- Preparing a victim impact statement
- Alleviating possible disengagement or distress by victims where they feel sidelined by the criminal justice process because they are not a party to the proceeding
- Advice and help preparing an application for criminal injuries compensation
- Advice and help applying for a restraining order
- Supporting victims to manage intersecting and concurrent legal problems
- Accessing the Victim Notification Register
- Supporting victims to access practical and psychosocial supports to address co-occurring unmet non-legal needs.

By providing victims with access to legal advice from an independent, trusted source, separate to the prosecution, the pilot model is making meaningful strides to address the barriers identified by the Commissioner as key causes of secondary victimisation of victim survivors of sexual assault by the justice system. Further, by integrating legal assistance with social supports, the service delivery model enables victims to receive comprehensive support that matches the reality of their needs following sexual violence, beyond the demands of their legal matter.

We nevertheless have concerns regarding the potential for overwhelm of lawyers employed under the AFLS, WLSWA and RLS partnership by the sheer number of potential clients and scope of what the role involves. We strongly support increased investment by the State and Federal Government into this scheme.

- b. How can accessing the justice system and reporting be made easier for victim survivors? What would make the process of seeking information and help, and reporting, better?

Per the Victorian Commissioner for Victims of Crime:

Academics and legal expertise suggest that effective participation in the criminal justice system for sexual assault complaints may never be achieved without some degree of independent legal representation. Victims' legal rights, preferences and wellbeing can be better protected in the courtroom through a model that not only provides broad based legal advice and assistance 'around' the just process, but also enables independent legal representation for complainants during some trial/hearing processes.⁶

The gap in culturally safe, trauma informed, client centric and adequately resourced legal services for victim survivors of sexual assault, separate to the prosecution, must be addressed as a priority by State and Federal Governments across Australia. The pilot program being delivered by AFLS, WLSWA and RLS in Western Australia is currently in early stages of operation and will be evaluated in 2025-26;

⁶ Victims of Crime Commissioner Victoria, 'Submission to Scoping the development of specialised and trauma informed legal services for victims and survivors of sexual assault – Discussion Paper', May 2023, [Response 1055067688 to Scoping the development of specialised and trauma-informed legal services for victims and survivors of sexual assault - Attorney-General's Department - Citizen Space \(ag.gov.au\)](#).

however, pending the outcome of the evaluation, we strongly support increased long-term financial commitments by State and Federal Government agencies into the service delivery model.

With comprehensive expertise in the delivery of integrated legal and social services to victims of sexual assault across the entire state of Western Australia, including in rural, regional and remote areas, the three pilot partners are leveraging their combined knowledge of best practices, expertise in tailoring and localising service delivery to be responsive to victims' needs, extensive legal infrastructure and state-wide networks of stakeholders to enable victim survivors' to protect themselves and their children from violence and abuse, promote safety and enable financial and emotional recovery, while also empowering victims to make informed decisions and exercise their legal and financial rights.

We further note the introduction of intermediary programs in other jurisdictions across Australia, which assist criminal justice stakeholders to communicate clearly with victims and witnesses who are giving evidence in police interviews and during court proceedings. The intermediary scheme in Victoria has been widely acknowledged as a successful and much-needed reform, praised for increasing access to justice and driving positive change in the practice and attitudes of police, lawyers and judges.⁷ Intermediaries are:

Language specialists who help ensure that the questioning of witnesses with communication difficulties is conducted in a way that is developmentally appropriate, respectful and most likely to produce reliable evidence.

Intermediaries assist with communication in police interviews and court. Overall, they [intermediaries] help to reduce the stress felt by the witnesses they work with and they make trials more efficient.⁸

We strongly support the introduction of a similar legislative scheme to make intermediaries available for complainants in sexual offence matters in Western Australia.

Criminal justice responses to reports of sexual violence

Police responses to reports of sexual violence

- a. What reforms or recommendations have been implemented in your state or territory? How are they working in practice? What is working well? What is not working well?

For victims of sexual violence who experience such violence as a feature of family and domestic violence, the intimacy of knowing their perpetrator and of assaults occurring in their home makes reporting to police complex. Some studies show that up to 90% of violence against Aboriginal women goes unreported, for reasons including profound police mistrust and/or police inaction, and fear that reporting to police may result in child removal, incarceration and perpetrator misidentification.⁹ When victims do report to police about their experience of sexual violence, many report unsatisfactory police

⁷ Victorian Law Reform Commission, 'Improving the Justice System Response to Sexual Offences: Report', November 2021, <https://www.lawreform.vic.gov.au/publication/improving-the-justice-system-response-to-sexual-offences-report/15-expanding-access-to-justice-for-victim-survivors-of-sexual-violence/>.

⁸ Victorian Law Reform Commission, 'Improving the Justice System Response to Sexual Offences: Report', November 2021, <https://www.lawreform.vic.gov.au/publication/improving-the-justice-system-response-to-sexual-offences-report/15-expanding-access-to-justice-for-victim-survivors-of-sexual-violence/>.

⁹ Djirra, 'Submission on the Victorian Law Reform Commission's Consultation Paper on Stalking', August 2021, https://www.lawreform.vic.gov.au/wp-content/uploads/2021/12/41_Djirra.pdf.

responses that are too slow, sexist and racist.¹⁰ For Aboriginal women who are victims of sexual violence, positioning police as the central pillar of Australia's family violence, including sexual violence, response system raises complex issues. Per Buxton Namisnyk's 2022 research into domestic violence policing of First Nations women in Australia:

Colonial policing practices and police violence have gendered impacts on First Nations women. First Nations women have long reported concerns that police fail to administer domestic violence laws fairly or equitably. Domestic violence laws may also negatively impact First Nations women, particularly where the law's context or administration may be paternalistic, or it may lack sensitivity to First Nations women's racialized realities. Given issues of over-policing and high levels of incarceration of First Nations people, domestic violence policing may also produce criminalising outcomes for victims of violence, for instance where police arrest First Nations women for unrelated criminal matters when responding to domestic violence callouts.¹¹

In Western Australia, the Ombudsman's investigation into police responses to assault in the family home reported anecdotal evidence that:

- "...the response [by police to call outs from Indigenous victims] is very poor... one incident [at the refuge] was life threatening and [police had to be called] 3 or 4 times and they waited an hour before the police actually responded."
- "Police say for Aboriginal women it's particularly inappropriate to charge the offenders because of the family repercussions."
- "[The police] don't take [assault in the family home in the Indigenous community] seriously and they don't show the women any compassion... it's pretty much across the board."¹²

AFLS does receive referrals from specialist police family and domestic violence teams, however the number and regularity of referrals is largely dependent on the nature of the relationship between the local AFLS office and their respective police station.

Early referral to culturally safe, trauma informed specialist legal assistance like that provided by AFLS and the other FVPLS units across Western Australia is critical to ensuring improved access to justice. If victims do not have access to independent legal assistance when making a report or statement to police, and further if their compounding legal problems are not quickly identified and resolved, they can escalate into more significant issues including homelessness, child removal, criminal behaviour and imprisonment.

We also note that Police can provide assistance to victims in getting Family Violence Restraining Orders (that may relate to sexual assaults), but they hardly ever do this in practice. We note that there seems to be a tendency in Western Australia particularly, compared to anecdotal evidence from other

¹⁰ Natalie Taylor and Judy Putt, 'Adult sexual violence in Indigenous and culturally and linguistically diverse communities in Australia', September 2007, <https://www.aic.gov.au/publications/tandi/tandi345>.

¹¹ Emma Buxton-Namisnyk, 'Domestic Violence Policing of First Nations Women in Australia: 'Settler' Frameworks, Consequential Harms and the Promise of Meaningful Self-Determination', The British Journal of Criminology, Vol. 62, Issue 6, November 2022, <https://www.aic.gov.au/publications/tandi/tandi345>.

¹² Ombudsman Western Australia, 'An investigation into the Police Response to Assault in the family home', September 2003, https://www.ombudsman.wa.gov.au/Publications/Documents/reports/Police_Response_to_Assault_in_the_Family_Home.pdf.

jurisdictions, that Police prefer victims to access the services of legal assistance providers in circumstances where the Police could do more themselves.

- b. What are your ideas for improving police responses to reports of sexual violence? What can be done?

AFLS recommends:

1. More rigorous education and training for police in relation to investigating sexual violence (including as a feature of family and domestic violence), including mandatory and ongoing cultural awareness and capacity assessment training.
2. Further education for police to always refer Aboriginal people to ACCOs for timely legal advice.
3. Continued funding for legal assistance services to provide culturally safe and trauma informed support to victim survivors of sexual violence (separate to the prosecution), including for the pilot project model being implemented by AFLS in partnerships with WLSWA and RLS, pending evaluation of the program.

Regarding recommendation 1, we have been unable to source a public copy of the WA Police Force's Family Violence Training and Assessment Strategy 2023-2025 and as such have limited information on the extent of the Police Force's training in relation to investigating sexual violence, including as a feature of family and domestic violence. We do note that Victoria Police has established the Centre of Learning for Family Violence with external academic governance to improve family violence education at all levels in the organisation. The Centre delivers career-long family violence training tailored to rank, role and accountabilities, supported by state-wide, regionally based dedicated training officers to boost accessibility and uptake. The Centre builds police understanding of the nature and drivers of family violence and improves capability to deal with the complexity and volume of family violence demand, and has expanded its focus to incorporate sexual offences education components over time.¹³ We strongly support the introduction of a similar training model for the Western Australian Police Force, to improve police capability to respond appropriately to family violence, including sexual violence, across the state.

Regarding recommendation 3, given the barriers to reporting to police and the difficulties in successfully prosecuting sex offences, legal representatives for victim survivors are critical to advocating for the rights of victim survivors throughout the process and ensuring that it meets their needs. AFLS strongly supports the injection of further funding in the pilot service delivery model to increase the scope and scale of services available to victims of sexual violence. Additional resourcing would allow AFLS and the partner services to provide advice and advocacy with and on behalf of the victim of their views and interests at increased scale, including:

- Outlining and clarifying police and court processes, including what reporting to police involves, what to expect from a police investigation, and what the trial process will require of them
- Liaising with specialist police for sexual assault victim survivors
- Getting police to take victim survivors' complaint seriously in cases where police response is not appropriate
- Following up with police regarding investigations
- Assisting victims to understand decisions not to charge or proceed

¹³ Victoria Police, 'Policing harm, upholding the right: Victoria Police strategy for family violence, sexual offences and child abuse 2018-2023', 2018, <https://www.police.vic.gov.au/family-violence-sexual-offences-and-child-abuse-strategy>.

- Assisting victim survivors to make complaints where the police response has been inappropriate and insensitive, or where they were never provided with an investigation outcome.

Civil proceedings and other justice responses

Restorative justice

- a. What reforms or recommendations have been implemented in your state or territory? How are they working in practice? What is working well? What is not working well?

AFLS supports restorative justice models being offered to victims as part of a suite of options, following an assessment of risk related to ongoing physical and psychological safety. We note and endorse the Aboriginal Legal Service of Western Australia's (ALSWA) comments regarding guidelines relating to restorative justice programs and processes that address sexual assault and family violence offences, in response to the Standing Committee of Attorney's General Discussion Paper on National Guidelines or Principles for Restorative Justice Programs and Processes for Criminal Matters:

ALSWA supports the development of specific guidelines for these types of cases [sexual assault and family violence offences] and suggests the following issues need to be addressed in such guidelines:

- *Safety, security and voluntary participation of victims as a primary consideration*
- *The human rights of victims and offenders be respected and protected*
- *Availability of appropriate alternatives such as video conference or shuttle mediation to protect victims where necessary*
- *Incorporation of a range of services and organisations to provide additional support for victims and offenders*
- *Recognition of specific issues arising in these matters, including:*
 - *Attitudes towards women*
 - *The vulnerability of children and their need for specific support, and*
 - *Power relationships and imbalances between victim and offender.*¹⁴

With respect to restorative justice models operating for Aboriginal people in Western Australia, we note that Aboriginal Sentencing Courts are a mechanism to provide culturally appropriate, individualised court experiences and alternative sentencing options to custodial sentences for Aboriginal people. The only specialist court in Western Australia is the Barndimalgu Aboriginal Family Violence Court in Geraldton, which provides a more culturally appropriate and therapeutic court-based model for addressing Aboriginal family violence in Geraldton, and includes local Aboriginal community members in the court-based case management process. Consistent with commentary that Aboriginal Sentencing Courts may be more aptly described as a form of therapeutic justice than restorative for victims¹⁵, an evaluation of the Barndimalgu Court found that those offenders who completed Barndimalgu were less likely to reoffend compared to those who were eligible but didn't

¹⁴ Aboriginal Legal Service of Western Australia, 'Submission to the National Justice CEOs Group, Standing Committee of Attorneys-General: National Guidelines or Principles for Restorative Justice Programs and Processes for Criminal Matters', September 2011, https://www.als.org.au/wp-content/uploads/2011/09/publications_Submissions_Restorative_Justice_National_Guidelines_ALSWA_Submission_Sept_2011.pdf.

¹⁵ Centre for Innovative Justice, 'Innovative justice responses to sexual offending – pathways to better outcomes for victims, offenders and the community', May 2014, <https://cij.org.au/cms/wp-content/uploads/2018/08/innovative-justice-responses-to-sexual-offending-executive-summary.pdf>.

participate.¹⁶ Nevertheless, in the context of sexual violence perpetrated as a feature of family and domestic violence, the evaluation reported that victims described being satisfied with the Court program, that case coordinators restored a level of confidence and trust in victims, and that they received emotional support, advice and counselling throughout the process. The evaluation did however note that Aboriginal women did continue to report feelings of shame and unfamiliarity with the service, and a feeling that they were being 'punished' further by attending. AFLS is concerned that failure to properly resource Aboriginal controlled legal assistance service providers, such as the FVPLS units, to support victims to meaningfully engage with the restorative justice process, if that is their wish, will negatively impact on their experience of the justice system and risk their retraumatisation.

- b. What are your ideas for implementing restorative justice as a way of responding to sexual violence?

AFLS strongly urges:

1. The reintroduction of Aboriginal Sentencing Courts in Western Australia, enshrined in legislation as a division of the Magistrates Court, based on the Victorian Koori Courts model, per the Magistrates' Court (Koori Court) Act 2002.
2. Adequate investment in wraparound services for such courts so that community-based sentences and diversionary programs are available to the Magistrate to order.
3. Adequate investments in culturally safe case coordination for victims to ensure they receive adequate emotional and social support, have increased safety, restore their confidence and self-esteem, understand the court process and have access to services that address other issues they may be facing. Courts must have strong governance with evaluation of outcomes localised to each respective community and tailored to the complex and diverse needs of victims.
4. Adequate investments in Aboriginal controlled legal assistance services such as the FVPLS units to support victims to meaningfully engage with the restorative justice process in a culturally safe and trauma informed way.

Civil litigation

- a. Which of the measures listed above are likely to most improve civil justice responses to sexual violence?

In the context of civil justice responses to sexual violence experienced by Aboriginal people, AFLS strongly supports increased government funding for the FVPLS units across Australia, including AFLS, which provide comprehensive legal assistance for victims of family violence and sexual assault across the core law areas of family violence restraining orders, family law, care and protection, redress and criminal injuries compensation. At AFLS, our team of in-house social workers concurrently deliver intensive case management to ensure clients' holistic needs could be met beyond the demands of their legal matters. This includes walking alongside clients as they engage with the legal and child protection systems, supporting their healing and enabling them to connect to other service providers such as medical services and drug and alcohol facilities as necessary. Legal and social staff work together with clients to fully explore their legal and social issues and to ensure that staff have the right information to maximise successful outcomes for clients in all matters.

¹⁶ Government of Western Australia Department of the Attorney General, 'Evaluation of the Metropolitan Family Violence Court and Evaluation of the Barndimalgu Court: Evaluation Report', December 2014, https://department.justice.wa.gov.au/files/fvc_evaluation_report.PDF.

In the 2022-23 financial year, 860 West Australians accessed AFLS's suite of prevention, response and intervention services across the core specialist areas of our practice. Our client numbers increased by 43.81% in the 4 years between 2019-20 and 2022-23, from 598 to 860. AFLS provides high quality integrated services at scale that are value for money; a Charles Darwin University evaluation of the FVPLS units reported that FVPLS service strategies and activities actively contributed to reducing costs to the legal, court and child protection systems by:

- Lowering rates of breaches of Family Violence Restraining Orders with resulting reduced consequences for perpetrators and victims.
- Supporting victims to negotiate parenting plans and property settlements out of court settlements in family law matters.
- Supporting extended family members to apply to care for children outside of the court system.
- Increasing the likelihood of perpetrators pleading guilty through support to the victim to be actively engaged in the legal case against the perpetrator and to appear in court.
- Reducing rates of drop-out from legal processes by victims.
- Supporting more successful prosecutions and more appropriate sentences.¹⁷

Yet, our funding has remained restricted and continues to limit our capacity to meet demand for our service delivery, let alone actual demand for legal assistance and social services by those potential victims who experience barriers to accessing our services for reasons such as geographical location and language barriers.

In 2023-24, the State Budget provided \$18.9 million for community legal services and Legal Aid WA to support access to legal assistance for people in need.¹⁸ The Budget included no substantial funding for the FVPLS units, beyond minor funding to transition the units out of COVID-19 Access to Justice funding arrangements. This meant AFLS had to cut our staffing profile by two Aboriginal Family Advocates (social workers), which had a negative impact on our capacity to intensively support our high traumatised and vulnerable cohort of clients.

In November 2023, the State Government made a \$72.6 million commitment to fund new crisis beds, primary prevention, intervention, education and recovery initiatives, to stop family and domestic violence. The announcement included \$12 million in grants to support primary prevention and Aboriginal family safety.¹⁹ We received advice from the Department of Communities that the Aboriginal family safety portion of the \$12 million in grants will be allocated through a competitive tender process, rather than through the use of restricted processes or direct approaches in procurement. We note that the use of such approaches is articulated as a key priority of the Whole-of-Government Aboriginal Community Controlled Organisation (ACCO) Strategy for community services to Aboriginal People. We further note that this Strategy is Cabinet-in-Confidence, scheduled for release on 21 May 2024.

We highlight that AFLS has historically struggled with the State Government's siloed approach to funding service delivery, whereby the Department of Communities, reporting to the Minister for Prevention of Family and Domestic Violence, argues that AFLS is a legal service and so should seek

¹⁷ Charles Darwin University – Northern Institute, *'Family Violence Prevention Legal Services: Evaluation Report'*, 2019, <https://www.niaa.gov.au/sites/default/files/publications/fvpls-evaluation-national-report.pdf>.

¹⁸ Government of Western Australia, *'Stronger, Safer Communities: Western Australia State Budget 2023-2024'*, May 2023, <https://www.ourstatebudget.wa.gov.au/2023-24/communities.html>.

¹⁹ Hon. Roger Cook and Hon. Sabine Winton, Government of Western Australia, *'More than \$70 Million to stop family and domestic violence'*, November 2023, <https://www.wa.gov.au/government/media-statements/Cook-Labor-Government/More-than-%2470-million-to-stop-family-and-domestic-violence--20231128>.

funding from the Department of Justice, while the Department of Justice purports that AFLS is a family violence service and so should seek funding support from the Department of Communities. This is despite AFLS providing combined legal and social services in an integrated, best practice model for Aboriginal people, families and communities.

The FVPLS units have further suffered from consistent exclusion of funding distributed by the Department of Justice through the National Legal Assistance Partnership (NLAP), including the Vulnerable Women's funding stream of the NLAP, despite funding eligibility requirements for such funding streams including registration as a service provider through the peak body Community Legal Western Australia, which the three FVPLS units are members of. We have consistently seen both Departments fund non-Aboriginal organisations to deliver programs designed to meet the needs of Aboriginal communities, against advice that Aboriginal Community Controlled Organisations would be better placed to do so.

At a Federal level, the 2022-2023 Federal Budget provided \$1.3 billion over 6 years for measures to address family, domestic and sexual violence under the first phase of the new *National Plan to End Violence Against Women and Children 2022-2032*. This included \$194 million over five years towards First Nations family safety initiatives to be implemented in line with priorities identified in the *Aboriginal and Torres Strait Islander Action Plan*, per the Australian Government's commitment to addressing violence against women and children in First Nations communities.

While we support any tangible investment in prevention, early intervention, response and recovery to support all women to be safe from family and domestic violence, the \$1.3 billion pales in comparison to the \$20+ billion each year that family and domestic violence is estimated to cost the Australian economy.²⁰ This includes costs associated with the pain, suffering and premature mortality of victims; the health system; the costs of children witnessing and living with violence (we note that at 30 June 2023 there were 5,174 children in care, 59.3% of which were Aboriginal); police, incarceration, court system, counselling and prevention program costs; being absent from work; replacing damaged property; loss of income; social welfare payments; victim compensation payment and other government services.²¹

We highlight that FVPLS agencies around Australia, including AFLS, which are the only services across the country that deliver a combination of specialised legal and non-legal family violence prevention services and programs to Aboriginal and Torres Strait Islander people specifically, have historically been and continue to be chronically underfunded. Funding for the FVPLS agencies is not based on legal need or the actual costs of providing services unlike other legal assistance providers, which was a criticism of the Productivity Commission in 2014 that recommended Commonwealth funding for FVPLS providers should "be allocated according to models that reflect the relative costs of service provision and indicators of need given their priority clients and areas of law."²² We have, however, seen no change to the FVPLS funding model since that time.

²⁰ Australia Institute of Health and Welfare, Family, domestic and sexual violence: Economic and financial impacts, 24 November 2023, <https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/economic-financial-impacts>.

²¹ Australia Institute of Health and Welfare, Family, domestic and sexual violence: Economic and financial impacts, 24 November 2023, <https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/economic-financial-impacts>.

²² Productivity Commission, "Access to Justice Arrangements: Productivity Commission Inquiry Report", 2014, p 28.

We note that in Western Australia, the State Government's cost and demand funding model is significantly more flexible and adaptable to changing circumstances for service providers receiving core baseline funding (not including AFLS). The WA cost and demand funding model, for example, adjusts funding allocation in the forward budget years annually, based on the projected costs of delivering services informed by the most recent financial year's actual results. This model factors in both cost and demand pressures, applying drivers such as the Consumer Pricing Index, Wages Pricing Index, and projected population growth, especially concerning vulnerable client groups.²³ Federal funding models, alternatively, lock in funding five years in advance and as projected demand increases or decreases, funding can be modified in response. Resources are designated based on the projected future costs of service delivery, guided by the most recent actual demand.²⁴

In the lead up to the 2023-24 Commonwealth Budget, the FVPLS units across the country advocated for an additional \$40 million in annual funding to provide essential legal and non-legal frontline family violence prevention services, programs and supports to Aboriginal people affected by family violence, to no avail. The 23-24 Budget confirmed the current funding levels for the FVPLS units, but failed to meet the funding increases required.

In 2022, the Department of Justice (WA) engaged ACIL Allen to develop a WA Legal Needs Report, to indicate the estimated level and nature of legal need in the state. In the specific context of legal assistance services for Aboriginal people affected by family and domestic violence, the Report found that Aboriginal people are disproportionately impacted by key risk factors which contribute to higher levels of need for legal assistance services. Regarding unmet legal need, which the Report refers to as the 'statistical inference of need for legal assistance which is not serviced according to observable provider data', the Report concludes that for every person:

- With a potential need of legal assistance in civil law matters, there were approximately 0.43 weighted services delivered
- With a potential need of legal assistance in child protection matters, there were approximately 0.005 weighted services delivered
- With a potential need of legal assistance in restraining order matters, there were approximately 0.61 weighted services delivered
- With a potential need of legal assistance in family law matters, there were approximately 0.24 weighted services delivered.²⁵

The Report noted the distribution of services rates generally indicated differences between metropolitan and regional areas, with the Perth metropolitan and Peel regions reporting higher service-to-need ratios compared to regional Western Australia. This is consistent with our personal observation that there is insufficient investment in the legal assistance sector generally in Western Australia resulting in significant unmet legal need, and specifically in the provision of legal assistance in regional and remote communities.

We therefore strongly encourage increased financial investment by State and Federal Government agencies into service delivery by the FVPLS units, including AFLS, as a mechanism to ensure the

²³ Legal Aid Western Australia, 'NLAP Review Submission: October 2023', October 2023, <https://nlapreview.com.au/uploads/media/LegalAidWA-1703116468.pdf>.

²⁴ Legal Aid Western Australia, 'NLAP Review Submission: October 2023', October 2023, <https://nlapreview.com.au/uploads/media/LegalAidWA-1703116468.pdf>.

²⁵ ACIL Allen report to Government of Western Australia – Department of Justice, 'Assessment of the Currently Legal Needs in Western Australia: Final Report', 2022, <https://www.wa.gov.au/system/files/2022-12/WA-Legal-Needs-Summary-Report.pdf>.

improved accessibility of culturally safe, trauma informed and client centric legal assistance for victims of sexual violence.

Compensation schemes

- a. What changes to compensation schemes would best promote just outcomes for victim survivors of sexual violence?

Criminal Injuries Compensation Scheme

The following comments are made in relation to the Criminal Injuries Compensation Scheme.

Awareness and accessibility

In AFLS's experience, there is a general lack of awareness among eligible clients and broader communities of the right to claim Criminal Injuries Compensation (CIC), and a lack of agencies that provide services to support clients to complete a CIC application, particularly in regional and remote locations. In some circumstances, if claimants do receive assistance for their CIC application from a legal assistance provider, they may only receive initial advice, or they may be charged a portion of their final payment.

Where services do offer comprehensive assistance, we are unaware of promotion of those services, including AFLS, the other FVPLS units and the broader Community Legal Centre sector, outside of the services themselves. There are no links to any legal services on the CIC: Victims of crime webpage on the Commissioner for Victims of Crime's website: [Criminal injuries compensation: Victims of crime \(www.wa.gov.au\)](http://www.wa.gov.au). Rather, the site is suggestive that people need to apply themselves, referring people accessing the page directly to the CIC application forms and guidelines. We further note that whilst the Sexual Assault Resource Centre (SARC) provides non-crisis support assistance for applicants to the National Redress Scheme, that assistance seems to be limited for CIC applicants.

The AFLS service delivery model is unique in that we provide CIC assistance to clients in addition to our legal and broader integrated services, at no cost, and in a culturally safe and trauma informed way. AFLS, for example, employs Aboriginal support staff to assist clients to recount difficult stories and engage with the CIC process in a way that is suitable and safe for them. The level of intensive support provided to clients under the AFLS integrated service delivery model, whereby they may receive concurrent intensive case management assistance from a social worker to address their needs beyond the demands of their legal matter, is critical to the successful lodging of CIC applications with the greatest possibility of returning the best possible financial outcome for the claimant. Regarding the accessibility of the compensation scheme without facilitated support, the availability of online access to portals is no use to people who do not have a computer, and even for those who do have access to one, it is our experience that they require assistance in this regard. Obtaining and providing early payment for medical reports for the purposes of completing a CIC application is also a complicated process for which many applicants require assistance.

For services like AFLS who do provide culturally safe and trauma informed assistance to Aboriginal victims of sexual violence in applying for Criminal Injuries Compensation, we struggle with the costs associated with seeking medical FOIs; AFLS receives no funding from our funding bodies to cover the cost of disbursements, and clients cannot afford those costs. This is another barrier to accessing the system and more broadly to accessing justice.

Eligibility

If claimants are not aware of their ability to claim for their victimisation, they are unlikely aware of the 3 year time limit imposed on their claim. The limit itself is restrictive where multiple claims are envisaged, and conversely, there is a lack of awareness that people can in fact claim after 3 years but will need reasons and submissions. While Assessors are generally considerate in waiving the time limit if valid reasons are given, for example trauma, remoteness, literacy skills or lack of legal advice, it is another significant hurdle to overcome.

We note a recent tendency by Assessors in situations where a claim has been made and it is alleged that the victim was not aware that they have other claims available, to assume that victims “must have been aware” and therefore do not have any delay argument. In practice, our clients tend to focus on the issue that is in front of them at the time, rather than thinking about previous experiences of victimisation. In these circumstances, there is significant time and work that service providers such as AFLS must put in to rebut these assumptions.

There is a clear demand for increased availability of information about the right to claim CIC and, with particular respect to Aboriginal victims of sexual violence, promotion of legal assistance services that can provide culturally safe and trauma informed legal assistance for claimants. In raising awareness of assistance available, the need for legal assistance in the event of out of time claims – especially where there are complex multi-claims – should be made clear. We note that the Legal Aid WA brochure on compensation for victims of crime does advise that legal advice should be sought where it has been more than three years since the offence happened, but this is a simplistic approach that provides no guidance on where or how to access legal assistance.

We have additional concerns regarding the refusal of compensation for clients if they have engaged in criminal behaviour, in circumstances where that behaviour constitutes minor breaches of the law or summary matters for which they are not charged. Examples include:

- Claimants disclosing that they were using illegal drugs prior to a sexual assault, which were supplied to them by the perpetrator of the sexual assault.
- Claimants driving a vehicle unlicensed, for the purposes of escaping a violent situation.
- Claimants living in a house where there are unlicensed firearms that belong to the perpetrator of their violence, but being charged by the police because with possession of unlicensed firearms because they are on the lease.

In these and other similar situations, there should be greater consideration of the circumstances in which victims become involved in criminal activity.

Adequacy

It is our perspective that the current maximum compensation amount is inadequate for sexual offences, particularly in circumstances where multiple offences occurred over a period of time, often with very serious and debilitating consequences, usually incorporated into experience of serious and pervasive family and domestic violence. The \$150,000 total amount is trifling in comparison to some possible common law claims, which are dependent on having the money to run them, which leads to inequity within the community.

We consider that there should be a special compensation category for sexual offences, and revision of the current system whereby if there are co offenders, the claimant can normally only make one claim. We support the introduction of a separate category whereby if a victim is sexually abused by multiple offenders out of the same event, separate claims can be made against each offender, rather than all counts being treated as one offence.

We further consider that the amount of compensation should be paid at the current rate, without any historical cap. Backdating compensation to the time of the offence quite often means the scale for old historical matters equates to very little in modern day society. We support further consideration of revision of the CIC scheme where compensation payments are made in instalments, similar to the Redress scheme.

We strongly support increased accessibility of culturally safe and trauma informed financial counselling services for victims, where compensation is received. Access to financial counselling services is essential to supporting victims to maintain financial control of their compensation award, which can often be the largest sum of money they have ever had or received. Counsellors need to be embedded in culturally appropriate services and available to provide ongoing, meaningful support to clients to ensure they can achieve what they want to do with their eventual compensation.

Timeliness

The length of wait for assessment of a CIC claim can be up to 12-18 months from the lodgement of a claim, after the delay of obtaining psych reports, which can take 6-12 months, and delays in Police providing timely information for applications and in obtaining medical information. While the provision of adequate assistance from a lawyer or specialist advisor can help to move this process along, this is nevertheless a significant amount of time from lodging to awarding of a claim, during which claimants are typically anxious about the outcome of their application.

We also note that in some circumstances victims may miss out from believing they 'must' submit a claim within the 3 year timeframe, not realising that sometimes all medical needs cannot be assessed after 3 years, and this can be a valid reason for a time extension. Assessors may pick this up, but not always.

We would like to see improved timeliness of assessment of claims where possible, particularly in circumstances where assessors from the start have all the necessary information they need to make an adequate assessment.

Training

We strongly support training and education for workers' compensation bodies on the nature, drivers and impacts of sexual harassment. Claimants are not eligible to make a claim under the CIC scheme if they are able to make a claim under Workforce Compensation or a Motor Vehicle Accident Claim, which are subject to similar time limits. Community education regarding people's rights to claim under those schemes must be given the same attention and awareness as Criminal Injuries Compensation.

Additional funding

With the advent of the "user friendly" online application scheme we were informed that additional resources would be made available to provide people with the tools they needed to more easily complete their CIC applications; however, in our experience this has never really come about, and claims are often too complex for a "Do it Yourself" approach. Victims of Crime services were cut back over recent years, with much of their work now confined to the crisis area. This in itself lends to gaps in service delivery, including initial assistance regarding CIC claims.

We strongly support increased State and Federal Government funding for services like AFLS, that already provide a unique CIC service model specifically for Aboriginal victims of family, domestic and sexual violence. Increased financial investment in services such as AFLS would improve the capacity of the organisation to:

- a. Employ paralegals or similar to prepare statements, get medical and Police FOI, make an initial assessment and draft letters to Assessors, following which a lawyer could provide legal advice as settle all documents to go for assessment; and
- b. Employ additional dedicated support staff for CIC to provide culturally secure emotional and administrative support to victims.

National Redress Scheme

With respect to the accessibility of the National Redress Scheme, we refer you to **Appendix 1** for AFLS's recent submission to the Joint Standing Committee on the Implementation of the National Redress Scheme Discussion Paper: Inquiry into the operation of the National Redress Scheme.



Response to Discussion Paper: Inquiry into the operation of the National Redress Scheme

Aboriginal Family Legal Service WA

February 2023

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1 Introduction

Aboriginal Family Legal Service (AFLS) welcomes the opportunity to provide a submission on the operation of the National Redress Scheme (the Scheme).

AFLS is an Aboriginal controlled Family Violence Prevention Legal Service (FVPLS), providing specialist legal assistance and non-legal supports to Aboriginal people experiencing or at risk of family violence and sexual assault across seven regions in Western Australia. AFLS offices are located in Broome, Kununurra, Kalgoorlie, Geraldton, Hedland, Carnarvon and Perth, from which outreach services are delivered to over 30 remote Aboriginal townships and communities.

AFLS became a Redress Support Service from July 2022 and has been supporting Aboriginal people to access the Scheme ever since.

AFLS seeks to provide feedback to the Joint Standing Committee on Implementation of the National Redress Scheme Discussion paper: Inquiry into the operation of the National Redress Scheme, due to the importance of this area of practice to Aboriginal people in Western Australia, who face real barriers to accessing the Scheme and to accessing legal assistance to support them to engage with the Scheme more broadly.

AFLS will concentrate feedback within our submission to the experiences of Aboriginal peoples engaging with the Scheme.

2 Lived experiences of AFLS clients and availability of legal support

Aboriginal people experience a significant number of barriers to accessing the National Redress Scheme, including greater difficulty in accessing the supports and services required for them to engage with the Scheme. They face language barriers, geographical barriers, cultural barriers, lower levels of education, housing instability, greater rates of mental and physical health issues, disproportionate representation in the prison system, and an entrenched fear of the government institutions offering redress for the offences committed against them.

For Aboriginal people living in any of the more than 200 remote Aboriginal communities across Western Australia, access to services is even more restricted. In these communities, traditional ways of life are paramount; people still go hunting and gather bush tucker, there is limited housing, education and employment opportunities are scarce, access to technology and internet is restricted, and travel to and from these communities can be long and difficult. English is rarely spoken and reading skills are lacking.

In the specific context of the National Redress Scheme, it is AFLS's experience that there is an overwhelming lack of awareness of the operation of the Scheme both in these remote Aboriginal communities and more broadly across the state of Western Australia. Where there is awareness, engagement is limited by the barriers described earlier in this section.

AFLS makes the following recommendations regarding improving access to and operation of the Scheme for Aboriginal clients:

Recommendation 1: Greater investment into Aboriginal Community Controlled Organisations as Redress Support Services to enable better access to the Scheme for Aboriginal people

Aboriginal people seeking Redress have unique needs related to their experiences of institutional child sex abuse, which traverse legal and non-legal spheres. The processes surrounding the Scheme, both

legal and non-legal, are complex and particularly difficult to navigate; this is even more so for Aboriginal people from remote communities.

To support those people to engage effectively with the Redress process and enable better access to the Scheme, there must be greater investment by the State and Federal Governments into Aboriginal Community Controlled Organisations (ACCOs) as Redress Support Services. There are currently three Aboriginal-controlled organisations working as Redress Support Services in Western Australia, all of which have limited funding and resources which creates limited capacity to be able to meet the needs of all the Aboriginal people seeking to access the Scheme in Western Australia.

We refer to the Western Australian Council of Social Services and the Noongar Family Safety and Wellbeing Council, which in their report on partnering with Aboriginal Community Controlled Organisations made the following observations about the potential for ACCOs to deliver trusted services with stronger outcomes for Aboriginal people (2019):

Aboriginal people have a fundamental right to self-determination. Wherever possible, ACCOs should deliver community led solutions and services... based on the recognition that each community and their circumstances are unique. Local community leaders are best placed to determine the 'right mix'; of service type; governance structure; program approaches and measures of success.²⁶

Further, we refer to the National Family Violence Prevention Legal Service Forum's submission to the Australian Law Reform Commission (2018) on the Review of the Family Law System, and their commentary on best-practice support for Aboriginal people requiring legal and non-legal supports:

Rather than draining resources in establishing new entities for service delivery and system oversight, which will create additional layers of bureaucracy and associated barriers for Aboriginal and Torres Strait Islander people, it is more safe, equitable and effective to invest in existing specialist and culturally safe services like FVPLSs to enable them to expand, build capacity and address unmet need.

Mainstream one-stop-shop service delivery models are unlikely to be able to address the many risks and barriers faced by Aboriginal people in the legal system – particularly Aboriginal people experiencing family violence. Indeed, initiatives that aren't centred around the experiences of Aboriginal and Torres Strait Islander women and children may present as yet another system failure.²⁷

In the context of the National Redress Scheme, the same principles apply; it is more safe, equitable and effective to invest in existing specialist and culturally safe, Aboriginal-controlled services as Redress Support Services, to enable them to support Aboriginal clients to access the Scheme and to have their needs met. Making informed decisions about whether to proceed with making a Redress application and when and how to seek legal assistance to commence a court action are core components of a person's engagement with the Redress Scheme, and for Aboriginal people those engagements will be best supported by Aboriginal Community Controlled Organisations. The capacity for ACCOs to recruit and build the capabilities of Aboriginal staff members to engage with clients in

²⁶ <https://wacoss.org.au/wp-content/uploads/2019/06/Partnering-with-Aboriginal-Community-Controlled-Organisations-to-deliver-trusted-services-with-stronger-outcomes-Report-1.pdf>

²⁷ National Family Violence Prevention Legal Services Forum, 'Submission to the Australian Law Reform Commission: Review of the Family Law System Discussion Paper', November 2018, https://www.nationalfvpls.org/images/files/20181130_National_FVPLS_Forum_Submission_to_the_ALRC_Family_Law_Review_Discussion_Paper.pdf

culturally safe and trauma informed ways cannot be understated. Greater investment into Aboriginal-controlled Redress Support Services in Western Australia is required to enable Aboriginal-controlled services to effectively support Aboriginal people. That investment must include sufficient funding to enable those organisations to regularly travel on outreach to remote and really remote Aboriginal communities to provide assistance and ongoing support; this would minimise the need for Aboriginal people to find a way to travel long distances and find accommodation to access the Scheme, which are currently significant barriers to access.

Recommendation 2: Greater investment into Aboriginal Interpreting Services to enable access to the Scheme for Aboriginal people who do not speak English as a dominant language

There has been a chronic neglect of the need for interpreting and translating services to support service delivery for Aboriginal clients generally across sectors, and specifically those clients located in regional and remote communities requiring access to legal assistance and related non-legal supports. A key foundation in being able to deliver fair and equal administration of justice is effective communication and understanding of language and cultural protocol; this is critical to the empowerment and self-determination of Aboriginal people. We refer to a 2020 study published by the Australian National University, which found that Indigenous language users are significantly more likely than English-only speakers to report that they have been treated unfairly because they are Aboriginal:

...the probability of reporting experiences of discrimination increases with increased Indigenous language proficiency... This correlation is likely to result from language use increasing the visibility of Indigeneity to non-Indigenous people.²⁸

The same research revealed that speaking Indigenous languages is strongly associated with indicators of wellbeing related to actions over which Indigenous individuals, families and communities can exert agency and self-determination:

...people speaking languages other than English are less likely to report psychological distress than those speaking only English. More consistently positive results have also been found for physical health and health risk factors... the Australian Bureau of Statistics revealed that Indigenous people aged 15-24 years who speak Indigenous languages are less likely to have shown health risk behaviours such as consuming alcohol at risky levels or using illicit substances.²⁹

In the context of the National Redress Scheme, the use of translating and interpreting services is required to ensure that written and verbal information about the Scheme is available to be communicated to all those who may need it, and that people engaging with the Scheme can do so in culturally safe and supported environments. The services of organisations such as Aboriginal Interpreting Western Australia, for example, should be utilised; the service can translate information into language, develop resources such as radio recordings, pamphlets and talking posters, and provide interpreting services direct to clients to enable their improved access to the Scheme.

²⁸ https://caepr.cass.anu.edu.au/sites/default/files/docs/2020/8/CAEPR_WP_no_137_2020_Dinku_et_al.pdf

²⁹ https://caepr.cass.anu.edu.au/sites/default/files/docs/2020/8/CAEPR_WP_no_137_2020_Dinku_et_al.pdf

Recommendation 3: Greater access to Aboriginal-controlled counselling services for Aboriginal people interacting with the Redress Scheme

The lack of investment by State and Federal Governments into local, Aboriginal-controlled counselling services in regional communities across Western Australia is disappointing, and if addressed would form part of an effective effort to improve Aboriginal people's access to the Redress Scheme.

Aboriginal people's experiences of systemic racism and discrimination since colonisation, including dispossession of land, removal of children, interrupted cultural practices, disproportionate rates of criminalisation and incarceration, economic exclusion and poverty, continue to manifest in the intergenerational trauma experienced by Aboriginal people in this current lifetime. Across the country, there is ongoing demand for access to Aboriginal-led healing programs, to assist Aboriginal families and communities to recover from and manage the impacts of their traumatic experiences. Blagg et al. (2020), for example, suggest that Aboriginal Law and Culture must play a significant role in healing, noting that Law and Culture "form the basis for maintaining social order and harmonious relations and ensuring cultural continuity".³⁰ They suggest that cultural models should underpin work with Aboriginal victims and offenders to assist with health issues, trauma, healing and other issues that impact their wellbeing and their ability to function to their full capacity within their communities.

In the context of the National Redress Scheme, we are concerned that there is little to no Aboriginal-controlled counselling infrastructure across regional Western Australia, which is not only critical to the healing of Aboriginal people from the impacts of intergenerational trauma, but also specifically the impacts of institutional child sex abuse, and the ongoing support required to relive that trauma.

The following case study provides insight into the experiences of Aboriginal people accessing counselling services in regional Western Australia:

Case Study:

Client A is living in a remote community in the Midwest. It takes her three hours to travel to Geraldton to access Redress Support Services. She does not own her own car and has to borrow one to travel. She would like to access counselling support, but there are no counselling services near where she lives. She could travel to a closer regional town which is 2 hours travel time, where a male counsellor travels to twice a week; however, she doesn't feel comfortable talking to a male. Her only option to see a female counsellor face to face is to borrow a car and travel three hours to Geraldton. This is difficult to sustain on a regular basis and is costly.

Client A is middle aged and speaks English well. There are many Aboriginal people who live remotely, who are elderly and who do not speak English very well. They may also not have the ability to travel as easily as client A. Accessing counselling for people in these circumstances, and on an ongoing basis, would be very difficult.

There is an obvious demand for greater investment into Aboriginal-controlled counselling services across Western Australia, which could specifically offer culturally appropriate, trauma informed support to Aboriginal people engaging with the Redress Scheme. Regarding access to counselling in remote Aboriginal communities, adequate investment is required to ensure that those Aboriginal organisations providing services can travel and provide outreach services in those communities.

³⁰ <https://anrowsdev.wpenginepowered.com/wp-content/uploads/2020/07/Blagg-RR-LawCulture.1.pdf>

3 Accessibility and funding for support services

The general accessibility of Redress Support Services for Aboriginal people specifically is limited by the fact that there are a limited number of Aboriginal-controlled services currently funded to provide this support around Australia, and further a lack of investment in Aboriginal interpreting services across the state. In Western Australia, there are only three Aboriginal-controlled Redress Support Services, and 8 services in total. The overwhelming demand for those services has meant they are operating almost always at capacity, with long waiting lists of people seeking support to access the Scheme.

Further, the requirement for those services to provide outreach to regional, remote and really remote communities has left gaps in service delivery for Aboriginal people in particular, as has the lack of access for people in prison to the services required to assist them to engage with the Scheme.

In AFLS's personal experience, due to the limited amount of funding available to us to deliver Redress Support Services, we have only been able to engage two staff members to undertake Redress Support work for AFLS across the Midwest, Gascoyne and Perth Metropolitan (Belmont and Victoria Park) regions. We have found that the best way to assist our clients in accessing the Scheme is to provide services face to face; however, the amount of funding allocated to our service makes it difficult to provide the kind and level of support required where it is most needed, in regional and really remote areas.