

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Group: 2**

**Program: 1.3**

**Question: BE14/087**

**Senator Singh asked the following question at the hearing on 26-29 May 2014:**

1. The Commonwealth has recently proposed a renegotiated service level agreement for CLCs. I note that an amendment to the CLC service level agreement removes an "avoidance of doubt" clause, Clause 5, on a CLCs capacity to engage in advocacy which is separate to which services are funded. Why was Clause 5 removed?
2. Was Clause 5 of the CLC service level agreement removed at the direction of the Attorney General?
3. Does the removal of Clause 5 of the CLC agreement indicate an intention to create doubt about CLC's capacity to advocate?
4. Did the Department consider the interaction between new service agreement and the Not-for-profit Sector Freedom to Advocate Act 2013? Are the changes consistent with that Act?
5. Has the Department received any direction from the Attorney-General on how to deal with obligations arising from the Freedom to Advocate Act in relation to this or any other matter?
6. Is the Commonwealth in discussions with the States or Territories, as an alternate revenue source for CLCs, on the provision of funding for law reform and legal policy activities?
7. Have any discussions, either by the Department or the Attorney-General been held with any state and/or territory governments about a new funding agreement in 2015 for legal assistance? If so, which Governments? When? What form did those discussions take? Please provide agendas, minutes and any action minutes and documentation in relation to these meetings and/or phone hook ups.
8. What will be the process for creating a new legal assistance funding agreement in 2015? Has the Attorney-General approved this process? If so, on what date did he sign a brief relating to this process?
9. What is the overall budget for the National Legal Advisory Body? Please confirm whether this funding has been cut by the Attorney-General.
10. Do any contracts managed by the Department contain any limitations or restrictions on advocacy or criticising Government policy? If so, please name each contact. When was it formed or created?
11. What are the specific clauses and/or sections which state this, or in effect, create a limitation or restriction?

12. Do any agreement managed by the Department contain any limitations on restrictions on advocacy or criticisms of Government policy? If so, please name each agreement. When was it formed or created?
13. What are the specific clauses and/or sections which state this, or in effect, create a limitation or restriction?
14. For each of the contracts and agreements, are there any particular reason, such as genuine commercial in confidence information, for this restriction?
15. Have any cuts to services which advocate on behalf of groups or individuals in Australian society been made? If so, which groups? How much funding has been cut?
16. Has any consultation occurred between the Department and any individuals and/or community groups about these changes? If so, what consultation process was used? Was it public? If not, why not? Are public submissions available on a website?
17. If no consultation has occurred, why not? Who made this decision? When was it made?
18. Did the Attorney-General meet with any stakeholders about changes to advocacy in their contracts and/or agreements? If so, when? Who did he meet with?
19. What are the current guidelines on Community Legal Centres? Please provide a web address. When were these developed? When were they published? Please confirm that these do not contain any restrictions or limitations on advocacy?
20. Is the Department working on new Guidelines for any legal assistance services? If so, which services? When did this start? Was this work being done before Additional Estimates in February 2014?
21. Will these guidelines start in mid-2015 with the start of a new Legal Assistance National Partnership?
22. If any new guidelines are being developed, has any public consultation occurred? If so, what is the process? Has this been publicly available on the Attorney-General's website? If not, why not? If so, when?
23. Will there be a new Legal Assistance National Partnership? If not, what will replace it? Has the legal assistance sector been consulted? If so, how? When?
24. Has the Attorney-General been briefed on a new National Partnership? If so, when? If not, why not? What were the date/s of the written brief/s?
25. Has the Department discussed a new National Partnership agreement with the Attorney-General? If so, when? If not, why not? Please provide agenda/s and minutes from this meeting.
26. On May 23, the Attorney-General said the 'core concept' of free speech was 'intellectual freedom'. Community lawyers provide informed, expert and useful contributions to public policy debates. Does the Government think that public bigotry is a more worthwhile exercise of 'intellectual freedom' than open debate about law reform by legal organisations with expertise in the field?

27. The Productivity Commission in its Draft Report on Access to Justice Arrangements said that ‘advocacy should be a core activity of LACs and CLCs’ on the basis that CLCs are uniquely placed to provide expert advice and that this is an efficient use of resources. Does the Government disagree with this conclusion? Does the Government have contrary advice?
28. Did the Government consult with any CLCs or peak bodies before deciding to withdraw funding for advocacy work? Did the Attorney-General’s Office or Department consult with agencies such as the ALRC which frequently seek comment from CLCs on law reform?
29. How many submissions have CLCs made to the federal government since 7 September 2013? Have any government reviews, inquiries or consultations sought submissions from CLCs since 7 September 2013? If so, which and when?
30. Has the Attorney-General’s Department sought submissions from CLCs since 7 September 2013?
31. Has the Attorney-General’s Office since 7 September 2013 approached any CLCs for advice, comment, or any form of input into proposed policy development or law reform? Please provide details.
32. Will the Government’s change in policy have the effect that no Commonwealth-funded CLC can engage in law reform work?
33. Will CLCs be able to work on law reform work out of hours?
34. What will the effect of the change in policy be where CLCs receive funding from both state and federal governments?
35. Will CLCs be able to provide submissions to the government when they are expressly sought by the government or an agency such as the ALRC?

**The answer to the honourable senator’s question is as follows:**

1. The clause was removed to implement government policy.
2. No.
3. No.
4. Yes.  
  
Yes.
5. As part of the process to implement the Mid-Year Economic and Fiscal Outlook legal assistance savings measure, the department prepared revisions to the guidelines for the Community Legal Services Programme and the Indigenous Legal Assistance Programme for the Attorney-General’s consideration. The proposed revisions took into account the provisions of the *Not-for-profit Sector Freedom to Advocate Act 2013*. The Attorney-General approved these revisions on 30 June 2014.

6. No.

7. The Government is currently considering what legal assistance funding arrangements will commence from 1 July 2015, including whether there will be a new National Partnership Agreement.

The department has met with representatives of state and territory departments of justice to discuss findings of the Productivity Commission's draft report on access to justice arrangements and the review of the National Partnership Agreement on Legal Assistance Services. These were informal meetings without agendas or minutes, and were not specifically about a new funding agreement.

Departmental officers met with counterparts from the following jurisdictions on the following dates:

- Northern Territory – 21 May 2014
- Victoria – 28 May 2014
- South Australia – 2 June 2014
- New South Wales – 4 June 2014
- Tasmania – 24 June 2014
- Western Australia – 30 June 2014
- Queensland- 10 July 2014.

Departmental officers are scheduled to meet with representatives the ACT Department of Justice in the week commencing 21 July 2014.

8. New funding arrangements for legal assistance from 1 July 2015 will be decided as part of Government budget processes.

The Government will be informed by a number of reports, including the Productivity Commission's inquiry into access to justice arrangements, and the review of the National Partnership Agreement on Legal Assistance Services.

9. There is no specified budget for the National Legal Assistance Advisory Body (NLAAB). Costs associated with attendance by members at NLAAB meetings are paid by the department as needed. Costs may include travel, accommodation and meal expenses; attendance fees are not paid. Secretariat services are provided by the Attorney-General's Department within existing resources.

10. Please see answer to QoN 175

11. Please see answer to QoN 175

12. Please see answer to QoN 175

13. Please see answer to QoN 175

14. Please see answer to QoN 175

15. Please see answer to QoN 175

16. Please see answer to QoN 175

17. Please see answer to QoN 175

18. Please see answer to QoN 175

19. The Commonwealth Community Legal Services Programme guidelines are available at:  
[www.ag.gov.au/LegalSystem/Legalaidprograms/LegalServicesProgram/Pages/default.aspx](http://www.ag.gov.au/LegalSystem/Legalaidprograms/LegalServicesProgram/Pages/default.aspx)

The revision of the guidelines current at the time of Budget Estimates was developed in early 2010 and published in August 2010.

The guidelines did not contain any restrictions or limitations on advocacy.

20. New revisions of the guidelines for the Community Services Legal Programme (CLSP) and the Indigenous Legal Assistance Programme (ILAP) were developed in early 2014, and were approved by the Attorney-General on 30 June 2014.

21. No. The revised guidelines for the CLSP and ILAP programmes will commence prior to mid-2015.

22. Amendments were made to implement government policy and public consultation was not undertaken.

23. The Government has not decided what legal assistance funding arrangements will commence from 1 July 2015, including whether there will be a new National Partnership Agreement.

The department has met with various legal assistance forums and peak bodies to discuss generally the findings of the Productivity Commission's draft report on access to justice arrangements and the recent review of the current NPA.

Departmental representatives attended the following legal assistance forums on the following dates:

- ACT Legal Assistance Forum – 15 May 2014
- NT Legal Assistance Forum – 21 May 2014
- Victorian Jurisdictional Forum – 28 May 2014
- South Australian Legal Assistance Forum – 2 June 2014
- NSW Legal Assistance Forum – 4 June 2014
- Tasmanian Jurisdictional Forum – 23 June 2014
- Western Australian Legal Assistance Forum – 1 July 2014
- Queensland Legal Assistance Forum – 10 July 2014

Departmental representatives attended meetings of the following peak bodies on the following dates:

- The Australian Legal Assistance Forum – 14 May 2014.
- The National Aboriginal and Torres Strait Islander Legal Assistance Services Forum – 18 June 2014.
- The National Association of Community Legal Centres Executive – 19 June 2014.

The department will attend the National Legal Aid meeting on 17 and 18 July 2014.

24. It is not appropriate to comment on advice to ministers.

25. It is not appropriate to comment on advice to ministers.
26. The Australian Government has decided to focus legal assistance funding on front-line services to disadvantaged individuals.
27. The department is considering the Productivity Commission's draft findings and recommendations, noting that its final report is yet to be released.

In its draft report, the Commission considered that advocacy should be a core activity, but found issues relating to the funding of these services to be less straightforward.

There are finite resources available for the funding of legal assistance services, and there is great demand for these services from vulnerable Australians. In these circumstances, there is a need for Government to establish priorities in order to direct services to those most in need of assistance.

28. No.
29. To provide the level of detail requested would involve an unreasonable diversion of resources for the department.
30. Yes.  

On 31 March 2014, the department sought feedback via ACIL Allen Consulting on the draft reports relating to the review of the National Partnership Agreement on Legal Assistance Services. Input was sought from the review's Advisory Committee, which includes representatives from the National Association of Community Legal Centres (NACLC).
31. The Attorney-General meets with representatives of community legal centres (CLCs) from time to time.
32. No. The guidelines determine that Commonwealth funds cannot be used for that purpose.
33. Yes, providing Commonwealth funds are not used.
34. The requirement only relates to Commonwealth funding. Each state or territory government will determine its own position on the acceptable use of its funding.
35. Yes.