

Law Council of Australia

The Justice Project

Final Report

Recommendations and Group Priorities

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OF AUSTRALIA

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Recommendations

The Justice Project's Recommendations are drawn from the Part 2 Chapters, which focus on different actors of the justice system, and what is most effective or necessary to serve the needs of people experiencing disadvantage across the board. The Methodology section of the Introductory Chapter further outlines this approach.

People – Building Legal Capability and Awareness Chapter

1.1 The future design of justice and related administrative systems should be nuanced, evidence-based and people-centred. It should be informed by, and responsive to, the likely legal capability - the knowledge, skills and readiness to act - of target users, given that it is often pivotal to their ability to negotiate such systems effectively.

1.2 In implementing:

- Recommendation 2.1, regarding the need for substantial additional investment in legal assistance services; and
- Recommendation 2.7, regarding dedicated funding to pursue technological innovation in the delivery of legal services to clients through evidence-based approaches,

specific funding should be available to ensure that tailored, effective, and accessible Community Legal Education and Information ('CLEI') strategies meet the needs of diverse Justice Project priority groups, having regard to lack of legal awareness and capability as a formidable, frequent barrier and CLEI as a key preventative tool in achieving access to justice.

1.3 Recognising the value of community awareness campaigns in reducing or addressing legal need, Commonwealth, state and territory governments should initiate or extend such campaigns to:

- overcome a lack of awareness of specific legal issues amongst key priority groups, including amongst people with intersectional disadvantage; and
- overcome broader community discrimination, misperceptions and/or stigma which contribute to poor justice outcomes,

including with respect to:

- elder abuse;
- family violence; and
- race, gender, disability, LGBTI+ and age-based discrimination.

Campaigns to increase community awareness of poorly understood, widespread legal issues should be accompanied by increased resourcing to legal services to accommodate additional demand.

1.4 The Law Council recognises and accepts responsibility for engaging with the Australian Curriculum, Assessment and Reporting Authority regarding the inclusion of targeted measures to support the Australian Curriculum: Civics and Citizenship to

build practical knowledge of everyday legal issues and how to address them effectively.

Legal Services Chapter

- 2.1 Commonwealth, state and territory governments should invest significant additional resources in Legal Aid Commissions, Community Legal Centres, Aboriginal and Torres Strait Islander Legal Services, and Family Violence Prevention Legal Services to address critical civil and criminal legal assistance service gaps. This should include, at a minimum, \$390 million per annum.
- 2.2 Commonwealth, state and territory government funding for legal assistance services should be determined by way of a transparent and evidence-based funding model that provides adequate, predictable, sustainable and long-term funding.
 - This model should be based upon evidence regarding legal need, provided through periodic legal need surveys as specified at Recommendation 7.8.
 - The Council of Attorneys-General should commission independent actuarial work which assesses the funding which is required to meet the shortfall in unmet legal need.
 - Consideration should also be given to agreeing national targets of the Australian population which should be covered by legal assistance services, having regard to their different roles, services and objectives.
- 2.3 The Law Council recognises and accepts responsibility for cooperating with pro bono organisations to ensure ongoing improvement in the recognition, encouragement, referral and adoption of best practice with respect to pro bono legal services.
- 2.4 The Law Council recognises and accepts responsibility undertaking future complementary research and the development of a position paper which focuses on the needs of 'the missing middle' and the most effective strategies available to the private legal profession, amongst others in the profession, to assist this group to access legal assistance.
- 2.5 To enable legal assistance services to build and maintain trust with individuals and communities who need legal help, governments should:
 - prioritise adequate, predictable, sustainable and long-term funding models for these services under Recommendation 2.2; and
 - provide ongoing funding pathways to enable innovative pilots and community-led initiatives which have demonstrated success to flourish longer-term, with specific funding allocated for their evaluation.
- 2.6 Commonwealth, state and territory governments should resource legal assistance services to employ non-legal liaison officers, such as Aboriginal and Torres Strait Islander, cultural, disability or youth liaison officers, to reach and build trust with specific client groups who have high levels of legal need but are unlikely to seek help, and to resolve clients' non-legal needs effectively.
- 2.7 Technological innovation should be pursued in the delivery of legal services to clients experiencing disadvantage, including through dedicated funding streams and

having regard to identified examples of what works in this area. At the same time, it should be recognised that digitally excluded groups may be left behind by technological innovation without due care being taken.

2.8 The Law Council recognises and accepts responsibility for:

- building on existing efforts to promote greater diversity within the legal profession, by seeking to increase its proportion of people who are culturally and linguistically diverse, LGBTI+, Aboriginal and Torres Strait Islander, people with disability and older people;
- adopting positive measures to increase and welcome diversity amongst the legal profession's client base;
- conducting a stocktake of the professional development training and other tailored resources available to assist the legal profession to build cultural competence, service accessibility and a more informed understanding of the diverse needs of people experiencing disadvantage, and act to address gaps; and
- working with the Council of Deans, promote measures to build a stronger undergraduate understanding of the social, economic and cultural context of the law and its operation with respect to people experiencing disadvantage.

2.9 As well as increasing support for Aboriginal and Torres Strait Islander community-controlled organisations to deliver legal services under Recommendation 7.2, governments should increase their funding and support for legal assistance services to deliver culturally safe, informed and accessible services to their core client populations, including through training and workplace diversity strategies.

2.10 Specialist legal assistance services should be supported to expand their reach, particularly to overcome geographic and jurisdictional inequity of access, including through outreach and referral networks.

2.11 Governments, peak legal assistance and legal professional bodies should cooperate to develop:

- strategies to overcome conflict of interest issues which preclude many disadvantaged people from accessing justice, including through additional investment to address a scarcity of legal services, minimum servicing standards and innovative approaches such as dedicated conflict of interest locums; and
- rural, regional and remote ('RRR') access to justice strategies to ensure an appropriate and tailored mix of services, publicly funded and private, in areas of critical need. These strategies should be planned and tailored to meet regional circumstances, and may include: rural placement, mentoring and incentive schemes, resourcing additional legal services, increasing legal aid rates, and strengthening practitioner referral networks (including to facilitate pro bono assistance).

2.12 Commonwealth, state and territory governments should fund and recognise the value of systemic law reform and policy advocacy work by legal assistance providers.

- 2.13 Commonwealth, state and territory governments should amend the National Partnership on Legal Assistance Services to remove the restriction on the use of Commonwealth funding by community legal centres to undertake law reform and policy advocacy work.
- 2.14 Commonwealth, state and territory governments should fund and support multi-disciplinary collaborations and service delivery approaches which address legal and non-legal needs, including health-justice partnerships and culturally safe, holistic service models delivered by community-controlled organisations. These should be underpinned by funding, policy and reporting frameworks which are stable, streamlined, and break down siloed portfolio approaches.
- 2.15 Legal assistance peak bodies and Health Justice Australia should, supported by the Law Council, pursue sector-to-sector partnerships which facilitate the expansion and delivery of multi-disciplinary collaborations to address legal and non-legal needs, and identify how key challenges can be overcome.
- 2.16 Governments should better support the legal professionals who deliver justice to marginalised groups, recognising their invaluable role in serving the community and preventing downstream costs to communities and individuals, by implementing relevant recommendations in this chapter. The role of the Law Council in implementing its respective recommendations in this chapter is also essential.

Dispute Resolution Chapter

- 3.1 As part of Recommendation 7.8 (increasing the evidence base) governments should resource research bodies to undertake further independent research into the suitability of various alternative dispute resolution ('ADR') models for different groups of people experiencing disadvantage, noting that there is a lack of detailed research in this area. This research should investigate the benefits and risks of ADR models, and the necessary safeguards, accommodations and support which are needed to address any risks and to increase accessibility for different client groups.
- 3.2 Governments should consider funding the expansion of appropriate models of legally assisted ADR for more vulnerable client groups at risk of power imbalances, such as elder abuse and family violence victims. Relevant models include Legal Aid Commission Family Dispute Resolution programs, which employ safeguards including screening out inappropriate cases, 'shuttle' or remote conferencing and specially trained mediators.
- 3.3 Governments should support research into effective strategies to promote awareness of Ombudsmen and other complaint handling mechanisms amongst different groups of people experiencing disadvantage, having regard to the common pathways to this form of assistance that such groups commonly take.

Courts and Tribunals Chapter

- 4.1 It is of critical importance that the Commonwealth Government, working with state and territory governments, commission a full review of the resourcing needs of the judicial system, noting that there has not been any such review in recent decades. Alongside this review, governments should facilitate an open public discussion about the economic, social and civic importance of meeting the resourcing needs of courts and tribunals.

4.2 As a minimum standard, every tribunal should have the power to allow a party to be represented in proceedings, where it is deemed necessary to ensure a fair outcome in the proceedings, such as:

- if there is a power imbalance between the parties, for example the other party is evidently a repeat player or a professional advocate;
- a party clearly lacks legal capability;
- a party is particularly vulnerable – such as a potential victim of family violence or elder abuse; and
- the consequences of decision-making are highly significant to individual lives.

Guidelines should be developed to assist tribunals to exercise this power consistently with the minimum standard.

4.3 Guidelines regarding the applicability and use of fee exemptions and waivers should be made clearer and, as much as possible, more publicly known to court participants. Exemption categories and court discretion to grant exemptions should also be reviewed and broadened in certain jurisdictions.

Transcript fee waivers should be generally available to clients of legal assistance services and pro bono services.

4.4 State and territory governments should support the expansion and evaluation of communication intermediary schemes across Australian jurisdictions, involving appropriately qualified, trained and remunerated communication intermediaries who provide impartial and independent advice to the judicial system regarding the person's communication needs.

4.5 Commonwealth, state and territory evidence laws should be reviewed and, where appropriate, amended to allow and prompt a more flexible approach to adducing evidence from witnesses with complex communication needs. South Australian legislation could provide a model with respect to vulnerable witnesses, such as those with cognitive impairment or intellectual disability.

4.6 Australian courts and tribunals should review their current interpreter practices and procedures against the recommended standards set out in the Judicial Council of Cultural Diversity's *Recommended National Standards for Working with Interpreters in Courts and Tribunals*. Governments should provide courts and tribunals with adequate resources to ensure all courts and tribunals can implement these standards.

4.7 The National Judicial College of Australia should consider establishing a dedicated disability committee with experts on disability, including people with lived experience of disability. A primary purpose of the committee would be to develop and promote disability training for the judges, magistrates and tribunal members, with the overarching aim of championing cultural change and promoting judicial leadership with regards to disability. It would work closely with disability advocacy groups and people with lived experience of disability.

4.8 Following a mapping exercise regarding jurisdictional and/or regional need, state and territory governments should establish additional, and continue to support existing, specialist Aboriginal and Torres Strait Islander sentencing courts.

Aboriginal and Torres Strait Islander people and organisations should be involved in the design, establishment and evaluation of specialist Aboriginal and Torres Strait Islander sentencing courts.

- 4.9 Where required, courts and tribunals should be sufficiently resourced to employ, on an ongoing basis, cultural liaison officers or coordinators.
- 4.10 Governments should provide additional, ongoing funding and resources to maintain and, where required, expand rural and remote circuit courts, having regard to their important function in upholding the rule of law and fostering community engagement through a tangible local presence.
- 4.11 Where courts are not already doing so, they should be resourced to develop and implement community engagement initiatives with marginalised members of the community who tend to distrust the justice system. Data collection, monitoring and evaluation of such initiatives should be prioritised and developed in consultation with key stakeholders.
- 4.12 Further research should be undertaken to build the evidence base for the effectiveness of online courts, tribunals and dispute resolution forums in Australia in assisting people experiencing disadvantage. In particular, governments should prioritise research and policy development regarding:
- the forums in which online courts and tribunals are most appropriate;
 - the availability of sufficient technology to support their effective uptake, particularly in rural, regional and remote areas;
 - the relative benefits and disadvantages of online courts and tribunals, and to which parties these apply;
 - their likely impact upon disadvantaged online court and tribunal users, having regard to their technological and legal capability; and
 - the necessary safeguards which are needed to support disadvantaged users.
- 4.13 Having regard to the benefits of facilitating a more holistic and comprehensive resolution of a legal matter and promoting positive behavioural change in participants, and identified best practice examples, both mainstream courts and specialist courts should support the development and implementation of therapeutic jurisprudence and problem-solving approaches to judging for appropriate matters.
- 4.14 Given that problem-solving courts and therapeutic jurisprudence-based judging are only effective if underpinned by alternative, non-custodial sentencing options and diversionary programs, state and territory governments should:
- ensure there is legislative support for such sentencing options; and
 - in line with Recommendation 5.5, invest in accessible, disability-responsive and culturally appropriate support services and diversionary programs to underpin non-custodial supervisory sentences, especially in rural, regional and remote areas to ensure that there is greater parity with urban areas.

- 4.15 The National Judicial College of Australia or the Australasian Institute of Judicial Administration should continue to support the development of training for the judiciary regarding the practical application of therapeutic jurisprudence in diverse areas of judging, including in both mainstream courts and specialist courts.

Critical Support Services Chapter

- 5.1 Governments should prioritise support for prevention and early intervention approaches to avoid downstream legal problems. While the exact approaches required will vary depending upon the population and region targeted, and not all services are required for all groups, these relevantly include:
- holistic family support services;
 - mental health services;
 - drug and alcohol rehabilitation services;
 - healing, resilience and strength-based programs amongst Aboriginal and Torres Strait Islander peoples;
 - youth engagement and diversionary programs for young people at risk;
 - settlement orientation programs for recent arrivals;
 - behavioural change programs to overcome family violence; and
 - administrative assistance to obtain key identity documents and drivers licences for people in remote areas and recent arrivals.
- 5.2 As part of the preventative and early intervention approaches outlined under Recommendation 5.1, Commonwealth, state and territory governments should expand their support for piloting justice reinvestment initiatives. They should also establish a national, independent justice reinvestment body to provide expertise on these initiatives.
- 5.3 Governments should implement a National Justice Interpreter Scheme which ensures that:
- professional, appropriate and skilled interpreters are readily available and free to people from culturally and linguistically diverse backgrounds who cannot afford them, including Aboriginal and Torres Strait Islander peoples, recent arrivals, asylum seekers, and people who are trafficked and exploited, at all levels of the justice system, including legal assistance services;
 - interpreter services and courts are funded to enable the full implementation of the Judicial Council on Cultural Diversity's *Recommended National Standards for Working with Interpreters in Courts and Tribunals*; and
 - the Productivity Commission's Recommendation 22.3 regarding the development of a National Aboriginal and Torres Strait Islander Interpreter Service is implemented.

- 5.4 The role of disability support workers and advocates should be expanded to assist people with disability who require it in their engagement with the justice system, particularly people with cognitive impairment or mental health conditions, to ensure fair procedure, supported decision-making, early intervention and successful exit strategies from institutions.
- 5.5 State and territory governments should invest in accessible, disability-responsive and culturally appropriate support services that underpin non-custodial supervisory sentences in rural, regional and remote areas to ensure that there is greater parity with urban areas.
- 5.6 State and territory governments should consider the introduction of Work and Development Order schemes, along the lines of the existing New South Wales model, in consultation with affected groups and their representative bodies.
- 5.7 In order to increase the likelihood that prisoners and detainees can successfully reintegrate into the community and reduce rates of recidivism, Commonwealth, state and territory governments should prioritise:
- prison/detention based therapeutic programs;
 - more widely available throughcare programs in custodial facilities and in the community; and
 - ensuring that people exiting prisons and detention facilities have access to secure and appropriate housing.

Such programs should have a particular focus on meeting women's needs, be culturally competent, and accessible to people with disability. They should also be more accessible to people on remand or on short sentences.

- 5.8 Having regard to the multiple ways in which lack of housing contributes to and exacerbates poor justice outcomes, legal, policy and service frameworks should be improved to prioritise homelessness prevention, through investment in safe, secure and appropriate housing, including crisis housing, for groups who are at risk of homelessness.

Investment in bail accommodation and bail support programs for remandees, and post-release accommodation for prisoners should also be prioritised.

Funded housing services should be culturally competent and inclusive.

- 5.9 State and territory governments should ensure that people with disability who have been found unfit to stand trial have access to alternative accommodation options that offer appropriate and joined-up services.

Broader Justice System Players Chapter

- 6.1 The Law Council, as advised by its constituent bodies, recognises and accepts responsibility for engaging with police representative bodies and/or relevant Ministers regarding the following proposals that police forces should:
- review, and where necessary develop, protocols/guidelines, training and/or programs in the following areas:

- promoting diversion from the criminal justice system where appropriate, including training on best practice approaches to exercising discretionary police powers;
- ensuring appropriate identification of primary perpetrators of family violence in incident responses, and avoiding issuing dual orders inappropriately against both parties;
- prioritising the protection of, and provision of support to, Aboriginal and Torres Strait Islander women and children subject to violence;
- improving understanding of forms of family violence that are under-reported or under-served, such as within LGBTI+ or culturally and linguistically diverse communities;
- increasing cultural competence of diverse groups' needs and experiences of the justice system, more informed awareness and identification of people with disability and referrals to appropriate support, and trauma-informed responses;
- addressing concerns regarding over-policing and under-policing with respect to particular groups, including Aboriginal and Torres Strait Islander people, people with disability, family violence victims and recent arrivals;
- expand diversity strategies, including employing additional police from diverse backgrounds and additional police liaison roles;
- expand partnerships with community organisations representing people experiencing disadvantage, including with Aboriginal and Torres Strait Islander leadership;
- review accountability and complaints mechanisms in line with the Australian Law Reform Commission's recent recommendations in its *Pathways to Justice* report; and
- introduce custody notification services in all jurisdictions.

6.2 The Law Council, as advised by its constituent bodies, recognises and accepts responsibility for engaging with detention bodies (prisons, youth detention and immigration detention centres) and/or relevant Ministers regarding the following proposals that these bodies should:

- review, and where necessary establish protocols which facilitate access to legal advice by prisoners and detainees;
- review, and where necessary adopt or expand training, guidelines and protocols to:
 - increase staff cultural competence and awareness;
 - build more informed awareness and identification of people with disability and referrals to appropriate support;
 - increase staff awareness of the prevalence and impacts of family violence amongst prisoners and detainees and ensure appropriate support;

- refer prisoners and detainees to culturally secure, gender and disability informed rehabilitative programs;
- better respond to the needs of LGBTI+ prisoners/detainees, including strategies for determining the placement of transgender and intersex people;
- adopt trauma informed approaches more broadly. This may include, where appropriate, limiting internal prison processes such as strip-searching that can aggravate trauma; and
- implement the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ('OPCAT') under compliance frameworks with clear accountability and transparency mechanisms. These frameworks should be developed by each state and territory, in consultation with the Commonwealth Government.

6.3 Government agencies (for example, social security, immigration, housing, child protection) which frequently deal with people experiencing disadvantage, and whose frontline decisions can increase demands for civil legal assistance, should:

- be responsive to the legal capabilities of target system users;
- consult with key communities affected by administrative policies and practices to enable the design of responsive and accessible service delivery;
- adopt plain English, accessible formats and the use of translators/interpreters in dealings and correspondence with the public;
- design internal departmental processes to handle complaints or mistakes to provide clear explanations to clients in accordance with a fair process;
- resource independent, accessible complaint systems, equipped with effective investigative and reporting powers; and
- enable effective recourse to judicial review for administrative decision-making, as well as full merits review for administrative decisions that will, or are likely to, affect the interests of a person.

6.4 A national review of Aboriginal and Torres Strait Islander children in child protection, and associated state and territory laws and practices should be conducted, in line with the Australian Law Reform Commission's recent recommendations.

As indicated at Recommendation 7.7, this should be complemented by a national target to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care as part of the Closing the Gap Framework. Addressing barriers to the full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle should be a priority.

Governments and Policymakers Chapter

7.1 A Council of Australian Governments Access to Justice Framework should be developed to engender a stronger cross-jurisdictional, whole-of-government commitment towards ensuring access to justice. This would commit to:

- whole-of-government recognition of access to justice, including access to timely and effective legal assistance, as a fundamental ingredient in preventing and overcoming disadvantage, tackling complex social problems; avoiding downstream government expenditure, and underpinning Australian democracy and the rule of law;
- driving a broader, less 'siloed' approach to justice issues through an agenda which addresses both legal and underlying needs through seamless approaches for different groups experiencing disadvantage;
- seeking to understand different groups' pathways into, through and out of the justice system, and targeting integrated responses to critical intervention points, including prevention and early intervention, crisis point and 'exit' strategies;
- providing a conceptual basis for more targeted national strategies which are designed to address acute, interrelated social and justice issues amongst particular groups, such as those set out at Recommendation 7.7;
- building systemic supports for flexible, tailored, and place-based solutions which build on local community strengths;
- building the public's understanding of everyday legal problems and how to address them; and
- building a nationally consistent data collection system and stronger evidence base across the justice system.

7.2 State and territory governments should provide substantial additional funding to Aboriginal and Torres Strait Islander community-controlled legal services, over and above Commonwealth funding levels, in line with the Productivity Commission's 2014 recommendation. At the same time, the Commonwealth should increase its own contribution to these services, given the growing, critical unmet legal needs amongst Aboriginal and Torres Strait Islander peoples and the unique role of such services in meeting their needs.

7.3 Justice Impact Tests should be introduced at the Commonwealth, state and territory level to facilitate the smoother development of laws and policies which have downstream impacts on the justice system. These tests should:

- consider the United Kingdom Justice Impact model as a potential guide, including its principle of agency accountability for downstream justice system costs;
- be mandatory for all government agencies and apply to justice impacts within both the civil and criminal justice systems;
- be overseen by central treasury or finance agencies, as well as justice departments;

- be conducted early in the policy development process;
- mandate early engagement with key justice sector representatives, including the legal assistance sector, courts and tribunals, corrections, youth justice and legal professional peak bodies to identify and assess likely impacts;
- incorporate mechanisms to account periodically for incremental and cumulative system impacts; and
- be subject to consistent evaluation to improve impact assessment mechanisms over time.

7.4 Commonwealth, state and territory governments should adopt law and policy development processes which ensure that the social impact of laws and policies upon diverse populations are better understood, measured and evaluated. These should:

- have regard to the potential of laws and policies to entrench disadvantage, including through unforeseen consequences;
- be evidence-based in their design, implementation and evaluation, particularly identifying their impacts upon different disadvantaged groups;
- where appropriate, consider the adoption of non-legislative policy alternatives to resolve complex social problems, with an emphasis on addressing the underlying issues which drive individuals' engagement with the justice system, particularly the criminal justice system;
- be based on respect for, and meaningful engagement with, the communities they will affect, having regard to their lived experience;
- include a stronger policy focus upon the needs and experiences of groups who are often 'invisible' in policymaking;
- adopt a measured approach to law and policy development to facilitate better consultation and knowledge about their likely impacts; and
- recognise and support the important role played by legal assistance services (Recommendations 2.12 and 2.13) and representative bodies in advocating for law and policy reform on behalf of people experiencing disadvantage.

7.5 Commonwealth, state and territory governments should adopt Aboriginal Justice Impact Assessments to ensure that the consequences for Aboriginal and Torres Strait Islander people of law and policy decisions are adequately accounted for and considered, and to prompt more meaningful community engagement.

7.6 Commonwealth, state and territory governments should (respectively, as appropriate) consider review and reform in the following priority areas of law, policy and practice, given their disproportionate impact on disadvantaged groups:

- fines, penalty and infringement notices;
- 'law and order' approaches, including the repeal of mandatory sentencing laws and reform of bail and parole laws and conditions which disproportionately affect such groups;
- youth justice laws, policies and practices;

- child protection systems, including their intersection with family violence protection systems;
- public housing, tenancy and eviction;
- unfitness to stand trial;
- asylum seeker and immigration detention; and
- certain social security laws and programs, particularly the Community Development Program and Cashless Debit Card Program.

7.7 Commonwealth, state and territory governments should adopt comprehensive, whole-of-government strategies or initiatives to drive improvements in specific areas of concern, including:

- the adoption of Closing the Gap targets and supporting frameworks to reduce rates of Aboriginal and Torres Strait Islander incarceration, family violence, and child removal;
- state and territory Disability Justice Plans where these are currently lacking, incorporating a focus on the needs of groups experiencing intersectional disadvantage, including Aboriginal and Torres Strait Islander peoples;
- establishing a Commonwealth LGBTI+ Human Rights Commissioner; and
- incorporating state and territory government responsibilities into the next National Action Plan on Trafficking and Exploitation.

7.8 Governments should lead a coordinated and sustained effort to improve data collection about the justice system and to fill knowledge gaps, particularly with respect to disadvantaged groups' interaction with the system, to ensure that decision-making and law and policy development is evidence-based. Relevant gaps include:

- a periodic Legal Australia Wide Survey as a general population survey, which is now well overdue;
- more targeted periodic surveys which explore the legal needs, pathways followed and outcomes of different groups experiencing disadvantage within the justice system;
- a serious commitment to learn 'what works', cost-effectively, for whom and in what circumstances to address community legal needs;
- a coordinated, long-term effort between Commonwealth, state and territory governments, courts and tribunals, the profession and the legal assistance sector, to improve justice sector data consistency and reliability to ensure that it is useful and readily available for planning and monitoring; and
- the establishment of an independent national justice reinvestment body, as recommended in Recommendation 5.2.

Group priorities

The group priorities are drawn from the Justice Project's Part 1 chapters, which provide a group-by-group analysis of the relevant legal needs, barriers, service gaps and laws, policies and practices for each Term of Reference group. They frequently overlap with the recommendations and elaborate upon what is particularly relevant to each group. The Methodology section of the Introductory Chapter further outlines this approach.

People with Disability Chapter

- Given the very high prevalence of legal need amongst people with disability, and the need for services to accommodate their varying and complex needs through appropriate support and adjustments, expand disability-aware legal assistance services, particularly in civil law and to RRR populations.
- Increase disability training, education and awareness raising initiatives for justice system personnel who are likely to have close contact with people with disability, including police, legal practitioners, judiciary and corrections officers. People with disability should be involved in developing training resources. Training should include consideration of trauma-informed and recovery-orientated approaches within the justice system.
- The National Judicial College of Australia should consider establishing a dedicated disability committee with experts on disability, including people with relevant lived experience of disability. A primary purpose of the committee would be to develop and promote disability training for judges, magistrates and tribunal members, with the overarching aim of championing cultural change with regards to disability. It would work closely with disability advocacy groups and people with relevant lived experience of disability in order to effect systemic legislative, social and cultural change.
- Increase resourcing of disability workers and advocates to provide support for people with disability who require it, particularly people with cognitive impairment or mental health conditions, at every stage of their involvement with the justice system. This includes adequate resources for legal assistance services to engage in sustainable partnerships with disability advocacy organisations.
- Commonwealth, state and territory evidence laws should be reviewed and, where appropriate, amended to allow a more flexible approach to adducing evidence from witnesses with complex communication needs.
- Governments should embrace and formally recognise supported decision making, including through the domestic implementation of the Convention on the Rights of Persons with Disabilities.
- Unfitness to stand trial laws should continue to be reviewed by state, territory and Commonwealth governments. A human rights-focused approach to law reform is encouraged. At a minimum, accused persons with disability who are at risk of being found unfit to plead should be provided with sufficient supports and reasonable adjustments to avoid, where appropriate, a finding of unfitness to plead. In circumstances where there is a determination that a person is unfit to stand trial, state and territory laws should provide for:
 - (a) limits on the period of detention that can be imposed;

- (b) regular and independent periodic review of detention orders, including reviews of the reasonableness and necessity of ongoing detention;
- (c) access to judicial review for all decisions relating to the detention of people with cognitive impairment, without charge or conviction; and
- (d) alternative non-custodial accommodation options that are sustainable, stable, secure, individualised and culturally responsive.
- State and territory governments should invest in the continued development of alternative accommodation options that are sustainable, stable, secure, rehabilitative and individualised for people who have been found unfit to stand trial.
- Governments and the broader justice sector should work together to address the intersectional needs of Aboriginal and Torres Strait Islander people experiencing disability by developing informed and culturally competent responses throughout the criminal justice system. This includes:
 - developing strategies to enable better identification of disability;
 - enabling better access to disability support services, including in RRR communities, as part of a preventative and early intervention approach and to rehabilitate those within the criminal justice system; and
 - addressing concerns regarding existing unfitness to stand trial laws, and the lack of alternative accommodation for those deemed unfit to stand trial.
- All persons who are experiencing economic disadvantage subject to applications under Guardianship and Administration and Mental Health legislation should receive free legal assistance and representation at the first instance hearing. Funding for disbursements for obtaining medical reports whenever there is an issue about the existence of mental health condition should be available.
- Governments should focus on increasing resources for targeted prevention and early intervention approaches and programs for people with disability, including through the sustainable funding of mental health services, rehabilitation programs and accessible community legal education, especially in RRR areas.
- Where it has not occurred already, state and territory governments should implement a Disability Justice Plan or Strategy. People with disability and other relevant lived experience should be involved in the development and implementation of any Disability Justice Plan.

People Experiencing Economic Disadvantage Chapter

- Commonwealth, state and territory governments should invest significant additional resources in legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander Legal Services ('ATSILS'), and Family Violence Prevention Legal Services ('FVPLS') to address critical civil and criminal legal assistance service gaps. This should include, at a minimum, \$390 million per annum.

- The Law Council recognises and accepts responsibility undertaking future complementary research and the development of a position paper which focuses on the needs of 'the missing middle' and the most effective strategies available to the private legal profession, amongst others in the profession, to assist this group to access legal assistance.
- Technological innovation should be pursued in the delivery of legal services to clients experiencing disadvantage, including through dedicated funding streams and having regard to identified examples of what works in this area. At the same time, it should be recognised that digitally excluded groups may be left behind by technological innovation without due care being taken.
- The Commonwealth Government, working with state and territory governments, should commission a full review of the resourcing needs of the judicial system.
- Guidelines regarding the applicability and use of fee exemptions and waivers should be made clearer and, as much as possible, more publicly known to court participants. Exemption categories and court discretion to grant exemptions should also be reviewed and broadened in certain jurisdictions.
- Transcript fee waivers should be generally available to clients of legal assistance services and pro bono services.
- Having regard to the multiple ways in which lack of housing contributes to and exacerbates poor justice outcomes, legal, policy and service frameworks should be improved to avoid unnecessary evictions into homelessness and prioritise homelessness prevention, through investment in safe, secure and appropriate housing, including crisis housing, for vulnerable groups who are at risk of homelessness.
- Government agencies (eg social security) which frequently deal with people experiencing disadvantage, and whose decisions can increase demands for civil legal assistance, should consider adapting their processes to enable more accessible, transparent decision-making.
- Justice Impact Tests should be introduced at the Commonwealth, state and territory level to facilitate the smoother development of laws and policies which have downstream impacts on the justice system.
- Governments should adopt law and policy development processes which ensure that the social impact of laws and policies upon vulnerable populations, including economically disadvantaged people, are better measured and evaluated.
- All state and territory governments should consider the adoption of Work and Development Order schemes, along the lines of the existing NSW model.
- Commonwealth, state and territory governments should (respectively, as appropriate) consider review and reform in the following priority areas of law, policy and practice, given their disproportionate impact on disadvantaged groups, including:
 - fines, penalty and infringement notices;
 - 'law and order' approaches'; and

- certain social security laws and programs, particularly the Community Development Program and Cashless Debit Card Program.
- Periodic Legal-Australia Wide Surveys should be conducted to better measure the legal needs of the general population, as well as more targeted surveys and research which explores the legal needs and outcomes of different groups experiencing disadvantage within the justice system, including self-represented litigants.

LGBTI+ People Chapter

- Commonwealth, state and territory governments should create a dedicated LGBTI+ position at Commonwealth, state and territory levels to address the absence of LGBTI+ concerns from policy initiatives.
- Invest in building an evidence base regarding LGBTI+ engagement with the justice system and legal need, having regard to the research needs set out in this chapter.
- Recognise distinct groups represented by the LGBTI+ acronym, and craft tailored legal and policy responses, including through genuine consultation with multiple diverse participants.
- Commonwealth, state and territory governments should engage in law reform to address existing inequalities and create consistency, with reference to human rights frameworks, including by working towards:
 - Consistent anti-discrimination protections across jurisdictions.
 - Uniform and consistent recognition of parenting rights across jurisdictions.
- Consistent approaches should apply to identity documents across government agencies and jurisdictions. Legislation should uniformly ensure that surgery is not required in order for an individual to change their gender on their Birth Certificate.
- Commonwealth, state and territory governments should consult with LGBTI+ people when developing family violence policy and implementing family violence responses. Responses, including public awareness strategies, should recognise different experiences and types of family violence. Specialist family violence services, including inclusive accommodation services, should be expanded.
- Commonwealth, state and territory governments and the Law Council should continue to support the legal and broader justice system to continue the development of policies and processes to ensure they are inclusive, welcoming and sensitive towards the needs of LGBTI+ people. This could include:
 - encouraging services to obtain Rainbow Tick Accreditation;
 - implementing ongoing training programs to build cultural competence, as well as LGBTI+ specific protocols and guidelines; and

- implementing diversity and engagement measures, including through increasing the number of LGBTI+ police liaison officers.
- State and territory governments should support, fund and expand specialist LGBTI+ legal services. Funding for these services should recognise the importance of supporting services to engage in both advocacy and CLEI efforts, as both are essential to achieving access to justice for this group. Commonwealth, state and territory governments should invest in public awareness campaigns as an important means of overcoming discrimination and marginalisation of this group within the broader community.

Prisoners and Detainees Chapter

- Commonwealth, state and territory governments should increase the availability of legal assistance services to prisoners, with a particular emphasis on civil and family law matters, and on expanding the availability of specialised prisoner legal services where needed.
- State and territory governments should expand access to legal assistance and information to prisoners through the use of technology (including videoconferencing) that complements rather than replaces face-to-face legal services and court processes.
- Having regard to the underlying causes and drivers of imprisonment, Commonwealth, state and territory governments should shift towards evidence-based policies and laws which are designed to keep communities safe and to respond to effectively to crime, while avoiding the disproportionate and costly imprisonment or detention of particular groups, including:
 - Aboriginal and Torres Strait Islander peoples (including women and young people)
 - people on remand; and
 - people with disability.
- Commonwealth, state and territory governments should prioritise investment in bail accommodation and bail support programs for remandees, and post-release accommodation for former prisoners and parolees, particularly for women and people with disability.
- Commonwealth, state and territory governments should develop criminal justice policies and procedures that recognise the distinct criminogenic profile of women offenders.
- State and territory governments should increase funding and support for prison/detention based therapeutic programs and throughcare programs, including those which are linked to legal assistance, with adequate provision for robust evaluation. Such programs should have a particular focus on meeting women's and young people's needs, be culturally competent, and be accessible to people with disability and people on remand or serving short sentences.
- Corrections and youth detention facilities should review, and where necessary establish, protocols which:

- facilitate access to legal advice by prisoners and juvenile detainees;
 - increase staff cultural competence and awareness;
 - build more informed awareness and identification of people with disability and referrals to appropriate support;
 - increase staff awareness of family violence amongst prisoners and juvenile detainees, and provide appropriate support as necessary;
 - refer people to culturally secure, gender and disability informed rehabilitative programs as appropriate; and
 - adopt trauma-informed approaches to respond to the needs of prisoners and juvenile detainees who have experienced high levels of trauma, such as many women prisoners and young people.
- To implement OPCAT, compliance frameworks with clear accountability and transparency mechanisms should be developed by each state and territory government, in consultation with the Commonwealth Government.

Aboriginal and Torres Strait Islander People Chapter

- Commonwealth, state and territory governments should respect the right of self-determination for Aboriginal and Torres Strait Islander people, including through meaningful engagement in policy development and implementation. Community controlled organisations should be supported to play a leading role in improving access to justice for Aboriginal and Torres Strait Islander peoples. The priorities contained in the Redfern Statement and the Blueprint for Change should be recognised as the preferred frameworks for working with this group.
- Commonwealth, state and territory governments should:
 - address the funding shortfall for ATSILS, FVPLS, legal aid commissions and community legal centres, including through a strong focus on addressing unmet civil legal need. To do so, it will be necessary to quantify the full extent of unmet need for Aboriginal and Torres Strait Islander people; and
 - address geographical gaps in legal service coverage for remote areas.
- State and territory governments should contribute to the funding of ATSILS and FVPLS over and above existing Commonwealth funding levels.
- Ongoing cultural competence training, informed and led by Aboriginal and Torres Strait Islander people and organisations, should be provided to: lawyers, judicial officers, police, corrections and broader justice system professionals who work with Aboriginal and Torres Strait Islander peoples. Strategies to increase the employment of Aboriginal and Torres Strait Islander peoples across these professions should be adopted. Aboriginal and Torres Strait Islander organisations should be appropriately resourced to engage in this work.
- Governments should address underlying disadvantage that precipitates civil legal need and interaction with the criminal justice system for Aboriginal and

Torres Strait Islander people, by improving access to: housing and crisis accommodation, holistic family support programs, programs for young people at-risk, drug and alcohol rehabilitation services and mental health services.

- To address over-imprisonment:
 - Commonwealth, state and territory governments should commit to Justice Targets, as part of their Council of Australian Governments Closing the Gap Framework, which provide national accountability mechanisms and drive coordinated action on Indigenous incarceration.
 - Commonwealth, state and territory governments should resource and expand justice reinvestment trials.
 - Mandatory sentencing regimes which disproportionately incarcerate Aboriginal and Torres Strait Islander people should be abolished in all states and territories.
 - Imprisonment arising from fine default should be abolished in all jurisdictions. All states and territories should consider the adoption of Work and Development Order schemes, along the lines of the existing New South Wales model.
 - State and territory governments should reform bail and parole laws which are unnecessarily contributing to high Aboriginal and Torres Strait incarceration rates, including bail and parole conditions with which many Aboriginal and Torres Strait Islander people are unable to comply.
 - Access to bail and parole accommodation and support programs should be expanded.
 - Culturally sensitive non-custodial sentencing options, co-designed by Aboriginal and Torres Strait Islander community-controlled organisations and run by them or in partnership with them, should be readily available in all jurisdictions and RRR locations, underpinned by sufficient culturally appropriate, trauma-informed services.
 - Commonwealth, state and territory governments should develop comprehensive criminal justice policies and procedures that recognise the distinct criminogenic profile of women offenders. Policies and laws should prioritise diversionary options for women, community-based prevention and early intervention support programs that facilitate healing, holistic family support programs, education and training programs, bail reform, specialist family violence courts and culturally safe programs for women in prison and exiting prison. Sentencing considerations could also be reviewed to enable the impact of a primary caregiver's imprisonment on children and dependents to be considered.
 - All state and territory governments should legislate to implement custody notification services.
 - Police protocols and guidelines should, where appropriate and community safety is not at risk, prioritise warnings and diversion over arrest.

- Culturally competent prison rehabilitation, through-care and post-release accommodation support programs should be expanded, including tailored programs for Aboriginal and Torres Strait Islander women.
- A National Justice Interpreter Scheme should be implemented, so that professional, trained interpreters are readily available and free at all stages of the criminal and civil justice process to Aboriginal and Torres Strait Islander peoples and other culturally and linguistically diverse ('CALD') groups with insufficient means.
- Courts should be supported to provide culturally appropriate support services and to ensure the facilitation of specialist sentencing courts.
- Police protocols and guidelines should prioritise the appropriate recognition and provision of support to Aboriginal and Torres Strait Islander women and children who are subject to family violence. Protocols should ensure that police do not act on outstanding warrants when responding to incidents of family violence, or inappropriately issue cross-orders against both parties.
- Governments and the broader justice sector should work together to address the intersectional needs of Aboriginal and Torres Strait Islander people experiencing disability by developing informed and culturally competent responses throughout the criminal justice system. This should include:
 - developing strategies to enable better identification of disability;
 - enabling better access to disability support services, including in RRR communities, as part of a preventative and early intervention approach, and to rehabilitate those within the criminal justice system;
 - co-locating disability support workers with Aboriginal community-controlled legal services; and
 - addressing concerns regarding existing unfitness to stand trial laws, and the lack of alternative accommodation for those caught by these provisions.
- Regarding child protection systems:
 - the Aboriginal and Torres Strait Islander Child Placement Principle should continue to inform child protection policy and addressing barriers to its full implementation should be a priority;
 - a national target to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care should form part of the Closing the Gap framework; and
 - a national review of Aboriginal and Torres Strait Islander children in child protection, and associated state and territory laws and practices, should be implemented, as recommended by the Australian Law Reform Commission.

People who Experience Family Violence Chapter

- Commonwealth, state and territory governments should increase funding to relevant courts, including the Family Court of Australia, the Family Court of

Western Australia and the Federal Circuit Court of Australia, as well as state and territory courts, to better respond to the increases in demand produced by an increased national emphasis on addressing family violence.

- Commonwealth, state and territory governments should ensure stable and adequate funding of legal assistance services for victims and perpetrators of family violence in order to meet rising demand, including resourcing specialist service providers to deliver culturally competent services, especially to those from CALD backgrounds, Aboriginal and Torres Strait Islander people and LGBTI+ people.
- Having regard to the multiple ways in which lack of housing and crisis accommodation contributes to homelessness and prevents people from leaving violent relationships, legal, policy and service frameworks should be improved to prioritise homelessness prevention. This should include investment in safe, secure and appropriate housing, including inclusive crisis housing for people experiencing family violence and laws, policies and practices that enable victims to remain in their family home (such as through the use of ouster clauses, safe-at-home measures and alternative housing for perpetrators).
- Mandatory family violence education should be provided to all legal practitioners as part of their continuing legal education requirements, if not on an annual basis then at least on the basis of one hour/unit every two years. Core competencies should be developed for legal practitioners, in consultation with key stakeholders.
- Commonwealth, state and territory governments should invest in ongoing education for judicial officers and professionals working within the family courts and within state and territory courts, about the nature of family violence. Consideration should also be given to the accreditation of family report writers. Additionally, ongoing education and training should be provided to staff in broader support services, such as health and welfare, to help them identify and respond to family violence.
- Commonwealth, state and territory governments should invest in tailored, evidence-based rehabilitative behaviour change programs for perpetrators to break the cycle of violence in families as well as evaluations to ensure their effectiveness. This should include expanded access to culturally competent programs, including programs designed for LGBTI+ relationships.
- Governments should increase their policy focus on addressing the specific needs of children in family violence responses, recognising the extent of harm to children who have been exposed to family violence, including intergenerational cycles of trauma, violence and disadvantage.
- Commonwealth, state and territory governments should invest in evidence-based prevention and early intervention initiatives, such as holistic family support programs and education campaigns, without diverting from frontline responses, as well as evaluations to ensure their effectiveness. In particular governments should prioritise education for children and young people, focused on respectful relationships and the nature of family violence.
- Police services should undergo ongoing education and training regarding appropriate practices in the context of investigations and prosecutions regarding situations involving family violence. Police protocols should be

reviewed to ensure that police do not act on outstanding warrants when responding to incidents of family violence, or inappropriately issue dual family violence orders. This review should prioritise the appropriate recognition and provision of support to Aboriginal and Torres Strait Islander women and children who are subject to family violence.

- State and territory governments should address problems associated with the nexus between the child protection system and the family violence system. This may include reviewing child-protection protocols and oversight mechanisms and providing ongoing comprehensive training on the nature of family violence to child protection workers, in addition to cultural competence training.
- Commonwealth, state and territory governments should consult with diverse groups of women and LGBTI+ people when developing family violence policy and implementing family violence responses. Responses, including public awareness strategies, should recognise different experiences and types of family violence.
- Commonwealth, state and territory governments should continue to work toward addressing fragmentation of the system by:
 - Addressing problems related to intersecting court jurisdictions, by increasing links between courts and supporting courts to specialise where possible.
 - Creating single, visible gateways into the system that combine multiple services and are capable of providing referrals to specialised services.
 - Developing processes to facilitate information sharing, risk assessment and other forms of networking across different court jurisdictions, government agencies and services, and these should be accompanied by comprehensive privacy frameworks.

People who have been Trafficked and Exploited Chapter

- Introduce a national statutory compensation scheme for victims of human trafficking and slavery in Australia, which recognises psychological harm suffered by victims, is not dependent on cooperation with authorities, and which allows victims who are not permanent residents/citizens to remain in Australia until their applications are processed.
- Strengthen local responses to trafficking and exploitation through improving identification of victims and referring identified victims to appropriate support. This should include:
 - engaging in further research on the barriers to identification of victims of trafficking and exploitation in Australia, and addressing these barriers; and
 - delivering effective training on the indicia of trafficking and exploitation and referral pathways to frontline officers of government agencies. This training should be compulsory and ongoing for child protection workers, police and health workers, and also available as required to community lawyers, non-government organisations and relevant third-party stakeholders.

- Revise the threshold for access to the Support Program (Program) and the Human Trafficking Visa Framework (Framework), which requires a victim to make a 'significant contribution to an investigation' to reflect a human rights-based approach. Preferably, access to the Program and Framework should be de-linked from cooperation with law enforcement in any investigation. If that is not possible, then at a minimum:
 - In cases of forced marriage, participation or willingness to participate in any investigation should not be required in order to access the Program and Framework.
 - In all other cases, access to the Program and Framework should be granted based on the willingness of the victim to contribute to an investigation, rather than a 'significant contribution'.
- Improve data collection on trafficking and exploitation in Australia to ensure evidence-based policy development and service delivery, including through:
 - developing and implementing a consistent approach to data collection as between relevant Commonwealth agencies and state and territory agencies;
 - filling gaps in existing data through coordination between referral agencies and support services; and
 - creating a national reporting mechanism for forced marriage, including instances in which a successful intervention has prevented a forced marriage.
- Engage with community stakeholders to improve education and awareness raising campaigns to prevent forced marriage, with a particular focus on targeting young people in schools, including in regional, rural and remote areas.
- Introduce forced marriage protection orders, which should provide a pathway for access to the Family Law Watchlist, where there is a concern that a victim or potential victim of a forced marriage will be unlawfully removed from the country (regardless of their age). These orders should be included on a national database.
- Engage with vulnerable communities and employers in high-risk industries to raise awareness about labour exploitation, especially outside urban centres, and improve oversight of employers in high-risk industries.
- Undertake independent evaluations of the efficacy of government and non-government programs that address human trafficking and slavery, from a human rights-based perspective.
- Continue funding the Australian Institute of Criminology's ongoing research series on human trafficking, including the development of a monitoring program on human trafficking in order to better understand the incidence of human trafficking, slavery and slavery-like practices in Australia.
- Improve coordination between Commonwealth, state and territory governments and civil society to strengthen response to trafficking and

exploitation, including through incorporating responsibilities for state and territory governments into the National Action Plan (NAP).

- Ensure dedicated and continuous funding for the NAP, including stable funding for programs operated by civil society that form part of Australia's response to human trafficking.
- Improve integration of programs operated by civil society that form part of Australia's response to human trafficking with the NAP, including through articulating the role of civil society and linking the programs to the outcomes of the NAP.

Recent Arrivals Chapter

- Work with recent arrival communities to build their legal literacy and general knowledge of the Australian system of law and government during the initial settlement and later phases.
- Ensure that information about the law, particularly regarding key legal issues experienced by recent arrivals, is provided in a range of languages, as well as Easy English, and is available in a range of accessible modes (radio, audio-visual, face-to-face, peer-to-peer, as well as printed and online material).
- Ensure that free, appropriately skilled interpreters are available to assist recent arrivals at every stage of their interaction with the justice system, in line with the Judicial Council of Cultural Diversity's best practice guidelines.
- Prioritise face-to-face, intensive and free assistance allowing additional time for services (eg client appointments or court services) to meet recent arrivals' needs including in civil matters such as employment, housing and tenancy and consumer issues.
- Expand employment of cultural or community liaison officers in legal assistance services, courts and tribunals and other key justice sector players (eg police) to build trust amongst recent arrival populations.
- Expand access to free specialised legal assistance in RRR areas with high recent arrival populations, including through outreach or referral networks.
- Resource key justice sector players (legal assistance services, courts and tribunals, police, administrative departments) to increase their cultural competence and cultural diversity.
- Support collaborations to build multi-disciplinary knowledge and referrals between legal and non-legal organisations, such as settlement/migrant services.
- Increase independent accountability mechanisms to overcome concerns about under- and over-policing of recent arrivals.
- Address a lack of secure, low-cost housing for recent arrivals, as this can exacerbate associated legal problems with landlords.
- Address gaps in evidence about recent arrivals, their legal needs and their experiences of the justice system, including through targeted surveys and

research, and improved justice data collection which better captures the cultural, linguistic and gender diversity of users as well as their outcomes.

Children and Young People Chapter

- Commitment by state and territory governments to long-term, stable investment in specialist, joined-up legal services for children and young people, especially in RRR areas and jurisdictions where no specialist service exists.
- Investment in better exit strategies, including wraparound supports, transition services, throughcare and appropriate, safe and affordable accommodation, to prevent youth homelessness and avoid contact with the criminal justice system for children and young people exiting government institutions, including the child protection systems and youth detention.
- State and territory governments should support the expansion and evaluation of communication intermediary schemes across Australian jurisdictions, involving appropriately qualified, trained and remunerated communication intermediaries who provide impartial and independent advice to the judicial system regarding the communication needs of the child or young person.
- Australian governments should increase the age of criminal responsibility to at least 12 years of age, subject to *doli incapax* being in place, and should not detain children under 14 years of age, except in the most serious of cases.
- Commonwealth, state and territory governments should (respectively, as appropriate) consider review of and reforms to improve the child protection systems.
 - Consideration should be given to the intersections between the child protection systems and the family violence protection systems and juvenile justice systems.
 - Particular regard should be had to measures that prioritise early intervention; adopt trauma-informed and culturally appropriate practice; and are developed in consultation with children and young people with lived experience of the child care and protection systems.
 - Priority should be given to reviewing and addressing the overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care, including through:
 - a national review of Aboriginal and Torres Strait Islander children in child protection, and associated state and territory laws and practices, in line with the Australian Law Reform Commission's recent recommendations;
 - development of a national target to eliminate the overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care as part of the Closing the Gap Framework; and
 - addressing the barriers to the full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.

- Commitment by state and territory governments, supported by the Commonwealth government, to improving the juvenile detention systems through implementing evidence-based policy and practice, having particular regard to:
 - the recommendations made by the Royal Commission into the Protection and Detention of Children in the Northern Territory relating to juvenile detention facilities, the child care and protection system, bail and bail support and accommodation services, and courts; and
 - the Australian Commissioners and Guardians' *Statement on Conditions and Treatment in Youth Justice Detention* to 'guide improvements in each jurisdiction and promote national consistency regarding the conditions and treatment in youth justice detention'.
- Governments should support the role of independent statutory officers who have a mandate to promote the best interests and uphold the rights of children and young people generally and in particular, children and young people in the care systems and in the youth justice systems.

Rural, Regional and Remote ('RRR') Australians Chapter

- Governments must acknowledge and act on their responsibility to ensure effective access to justice where there is market failure in RRR areas, particularly in regions with declining populations.
- Governments, peak legal assistance and legal professional bodies should develop:
 - strategies to overcome critical conflict of interest issues which preclude many vulnerable people from accessing justice in RRR areas, including through additional investment to address a scarcity of legal services, regional service planning processes and minimum servicing standards; and
 - RRR access to justice strategies to ensure an appropriate and tailored mix of services, publicly funded and private, in areas of critical need, including through rural placement, targeted mentoring and incentive schemes, additional legal services and increased legal aid rates.
- To enable a more nuanced analysis and policy responses regarding the shortages of solicitors in RRR areas, national data collection regarding solicitors should, over time, seek to capture more detailed, consistent information regarding: the local presence of solicitors according to ABS area classifications, the nature of legal services provided, core client types, and the capacity in which solicitor services are undertaken (eg sole practitioners, private firms, government, corporate or publicly-funded legal assistance services).
- Expand the adoption of RRR-focused curriculums in undergraduate law training.
- Specialist legal assistance services should be supported to expand their reach, particularly to overcome geographic and jurisdictional inequity of access, including through outreach and referral networks;

- Technological innovation should be pursued in the delivery of legal services to clients experiencing disadvantage, including through dedicated funding streams. At the same time, a nuanced, evidence-based and people-centred approach is needed to avoid leaving digitally excluded groups behind.
- Additional funding and resources are required to maintain and, where required, expand RRR circuit courts, having regard to their important function in upholding the rule of law and fostering community engagement through a tangible local presence.
- A full-scale court and tribunal resourcing review should also include consideration of the need to ensure that courts adopting specialist and/or problem-solving approaches are more readily available to RRR residents.
- Decisions regarding moves towards online courts, tribunals and dispute resolution forums in Australia should be based on a strong evidence base. Governments should prioritise research and policy development regarding:
 - the forums in which online courts and tribunals are most appropriate;
 - the availability of sufficient technology to support their effective uptake, particularly in RRR areas;
 - the relative benefits and disadvantages of online courts and tribunals, and to which parties these apply;
 - their likely impact upon disadvantaged online court and tribunal users, having regard to their technological and legal capability; and
 - the necessary safeguards which are needed to support disadvantaged users.
- Expand community-based sentencing options in RRR areas, including through the availability of accessible and appropriate critical support services and diversionary programs.
- Research and review the extent to which alternative dispute resolution is available and taken up in RRR communities, and how this might be increased in the future.
- Expand support services which are lacking in many RRR communities, including interpreters, access to stable, secure housing options, bail accommodation and support, alcohol and rehabilitation services, counselling and mental health services and family violence support services.
- Adopt law and policy development processes which better ensure that the social impact of laws and policies upon RRR populations, having regard to their diversity, are better measured, evaluated and anticipated. This should have particular regard to the circumstances of RRR communities which are close to state and territory borders.
- Resource bodies which conduct research and/or advocate on RRR law and policy issues commensurate with other sectors.
- Resource strategies to build awareness of legal issues and responses amongst RRR communities.

Asylum Seekers Chapter

- To achieve more efficient, sustainable and fairer outcomes regarding asylum seekers' protection claims, and reduce downstream pressures on courts and tribunals:
 - reinstate Immigration Advice and Application Assistance Scheme funding for all asylum seekers in need, regardless of their mode of arrival; and
 - ensure access to free, qualified and trained interpreters for asylum seekers at all stages of their protection visa claims.
- Review policies and procedures to facilitate prompt access to legal assistance amongst asylum seekers in detention or in offshore processing centres.
- Establish a legislative framework which:
 - ensures that asylum seekers are only detained where it is necessary, reasonable in all the circumstances and proportionate to a legitimate purpose, based on a detailed assessment of an individual's particular circumstances and clear objective criteria;
 - ensures that detention is subject to statutory maximum limits and effective, statutory periodic review requirements; and
 - ensures that the best interests of the child be a primary consideration in all actions concerning children. Detention of children, which should only occur as a matter of last resort and for the shortest appropriate period of time, should be community-based detention.
- Review Australia's offshore detention and turnbacks policies in accordance with the principles and obligations set out in the Law Council's Regional Processing Policy Statement and its Asylum Seeker Policy, and with a view to achieving more sustainable, cost-effective solutions.
- Enact and apply a consistent legal process for determining protection status that does not discriminate against applicants based on their mode of arrival.
- Ensure that asylum seekers who enter Australia are not penalised for doing so without a valid visa, provided they present themselves to authorities without delay and show good cause for their entry and presence.
- Replace temporary protection visas with durable, permanent protections for those found to invoke Australia's protection obligations.
- Enable access to full merits review for all administrative decisions concerning the protection status of asylum seekers, regardless of their mode or timing of arrival.
- Appoint an independent legal guardian for all unaccompanied minors who arrive in Australia.
- Review statutory frameworks regarding asylum seekers to ensure that Executive decisions which fundamentally affect them, including their liberty, possible removal and right to make protection claims, should be made

according to principles laid down by parliament, and are subject to meaningful judicial oversight.

Older Persons Chapter

- Relax the legal aid means and assets tests and expand grants of aid in civil law matters to more appropriately meet the needs of older persons.
- Legal assistance services should be properly resourced to provide specialist advice and support for older persons, including tailored support for sub-groups of older persons, such as Aboriginal and Torres Strait Islander people, CALD groups, LGBTI+ and older women experiencing or at risk of homelessness.
- Specialist legal assistance services for older persons urgently need to be expanded in regional, rural and remote areas.
- Greater development and dissemination of curriculum, professional development and community legal education resources that focus on elder law issues, particularly elder abuse, with the aim of enhancing community understanding and expertise of elder law issues across the public and private profession. Community Legal Education should include strategies to empower older people to identify and prevent elder abuse.
- The Commonwealth Government should establish a well-coordinated, sufficiently resourced central referral service that older people can access to obtain basic information about their legal rights, where to obtain legal assistance and other support services, and available mechanisms to uphold their rights.
 - The services to which older people are being referred must similarly be adequately resourced to ensure that they can effectively respond to the anticipated increase in demand for services resulting from referrals.
- Governments should develop appropriate and tailored measures to support older persons' effective participation in alternative dispute resolution proceedings, such as discrimination complaint proceedings, elder mediation and conciliation.
 - This should include robust safeguards to address significant power imbalances between parties and/or other barriers which inhibit older persons' willingness or ability to participate in proceedings, such as a reluctance to self-advocate.

People who are Homeless Chapter

- Future government policies that address homelessness should recognise the essential role legal assistance plays in preventing and reducing homelessness, and accordingly, there needs to be commitment to reliable, secure and recurrent funding of specialist homelessness legal services and related critical supports.
 - Funding arrangements should support existing specialist services to better serve the legal needs of people experiencing homelessness in RRR areas, as well as support the establishment of specialist homeless legal clinics in jurisdictions that lack specialist services, notably the Northern Territory and Tasmania.

- Having regard to the multiple ways in which lack of housing contributes to and exacerbates poor justice outcomes, legal, policy and service frameworks should be improved to prioritise homelessness prevention, through investment in safe, secure and appropriate housing, including crisis housing, for vulnerable groups who are at risk of homelessness.
 - Vulnerable groups include women and children escaping domestic and family violence, children transitioning from State care, recently released prisoners and Aboriginal and Torres Strait Islander peoples, especially those living in regional, rural and remote communities.
 - Investment in bail accommodation and bail support programs for remandees, and post-release accommodation for prisoners should also be prioritised.
 - Funded housing services should be culturally competent and inclusive.
- Investment in better exit strategies, including wraparound supports, transition services, throughcare and affordable accommodation, to prevent homelessness amongst those exiting government institutions, including the child protection system, detention, hospitals and mental health facilities.
- State and territory governments should review and where appropriate amend laws that criminalise homelessness, including public nuisance offences, penalty/infringement notices and street sweeping. In reviewing relevant laws, governments should consider alternative measures to law enforcement and the criminal justice system to regulate and address homelessness.
- Problematic tenancy laws, policies and practices, such as three strikes policies with respect to evictions from public housing, enforcement of public housing debt against victims of family violence, negative former tenancy classifications and 'no cause' eviction provisions, should be reviewed, with a view to achieving an appropriate balance between the human rights of tenants at risk of homelessness with the rights of property owners.