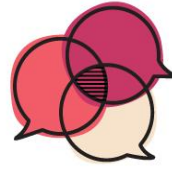




L | A | C | W
LAW & ADVOCACY
CENTRE FOR WOMEN



**Centre for
Innovative
Justice**

Submission to the VLRC inquiry into legal privilege and integrated legal assistance services

August 2026

About the Law and Advocacy Centre for Women

The Law and Advocacy Centre for Women Ltd (**LACW**) is a community legal centre located in Carlton and operating across Victoria. It is the only legal service in Victoria whose primary focus is to provide a gender-specific approach to assisting women, trans and gender diverse people who are in, or at risk of entering, the criminal legal system. LACW was established in 2016, specifically in response to the rising rates of imprisonment and criminalisation for women. Its mandate is to combat these trends by providing a holistic approach to women, trans and gender diverse people in the legal system, providing a wraparound service that combines legal advice and representation alongside case management to address the underlying causes of their criminalisation and imprisonment.

The majority of LACW's legal work is in the provision of criminal defence advocacy. Other areas of practice include family violence intervention orders, infringements and fines and victims of crime assistance. Aboriginal and Torres Strait Islander women comprise approximately 30% of LACW's client base.

About the Centre for Innovative Justice

The Centre for Innovative Justice (**CIJ**) is a research and reform body within RMIT University. The objective of the CIJ is to develop, drive and expand the capacity of the justice system to meet and adapt to the needs of its diverse users. The CIJ meets this objective by conducting rigorous research which focuses on having impact, taking research findings and developing innovative and workable solutions. The CIJ recognises that access to justice is about more than formal access to the courts or legal system redress. Interaction with legal system mechanisms can, for many people, cause significant further trauma and harm. For this interaction to function as a positive intervention instead, the CIJ recognises that people need to receive wraparound, multidisciplinary support that addresses the underlying causes of interaction with legal systems.

Acknowledgment of Country

The co-authors of this submission acknowledge that we operate from the unceded lands of the Wurundjeri people of the Kulin Nations. We pay our respect to their elders, past and present, and to the traditional owners and elders of the lands throughout Victoria on which we conduct our work.

We acknowledge that Aboriginal and Torres Strait Islander people experience disproportionate adverse impacts across the criminal legal, child protection and other intersecting systems – including as a result of discriminatory and racist policing practices, inter-generational trauma, ongoing rates of disproportionate child removal, and systemic failures leading to their gross over-representation in the prison system. We acknowledge the strength, resilience and leadership of Aboriginal and Torres Strait Islander people in continuing to resist these systems.

Sovereignty was never ceded.

LACW and CIJ support Treaty in Victoria.

Introduction

This joint submission is provided in response to the Victorian Law Reform Commission's Consultation Paper, *Legal Privilege and Integrated Legal Assistance Services* (June 2026) (**Consultation Paper**).

LACW and the CIJ have worked in partnership since 2017. The CIJ has supported LACW in developing, implementing and refining its integrated practice model, including through the secondment of Kat Ogilvie (a qualified Social Worker and the CIJ's Manager - Practice and Partnerships) to LACW in 2018 and delivering training to LACW's staff in relation to integrated practice processes. The CIJ has a broad interest in supporting the development of innovative and therapeutic responses to the issues faced by people in the justice system.

LACW service model

With reference to the four models described on page 6 of the Consultation Paper, LACW operates a **closely integrated model**. Lawyers and case managers (who are social support professionals) meet jointly with clients and share client information. LACW has operated this model since its inception, which distinguishes LACW from most integrated practice models operated by CLCs.

The majority of LACW's legal work is in the provision of criminal defence advocacy, representing 75% of our legal work in FY25. With some narrow exceptions and subject to a means test, eligibility for LACW assistance requires criminal charges to be on foot. Once a client is represented by LACW in respect of their criminal law matter/s, they become eligible for both Integrated Case Management Services and legal assistance with associated areas of legal need.

The other areas of LACW's legal practice target issues that disproportionately impact criminalised women, specifically: family violence intervention orders; infringements and fines, and victims of crime assistance (Financial Assistance Scheme applications). Our family violence intervention order practice focuses on women who are respondents to family violence intervention order applications, and a significant proportion of our work involves women who are misidentified as perpetrators in family violence incidents and/or are victim survivors of family violence themselves.

LACW's Integrated Case Management services provide wrap-around support to women facing criminal charges, linking them with the services and support they need to address the underlying causes of their criminalisation. LACW's Case Management team is comprised of professionals with significant experience working with criminalised women, in addition to qualifications in social work, law, AOD and family violence support. Staff in the Case Management team do not have mandatory reporting obligations.

LACW's Case Management team operates a Bail and Release Support Program called the BARS to Safety program. This program provides immediate and intensive point of release support to women exiting prison who have been in custody for a short period of time. Material aid including assistance with transportation, clothing, emergency accommodation, food and mobile phones are provided alongside intensive case management to ensure women are released into a safe environment which does not set them up to fail. It fills a gap

in service provision that otherwise sees women released from custody without the support needed to ensure their safe transition back into the community.

Questions

Question 1

Integrated legal assistance services involve the delivery of legal and social services by professionals working for the same organisation or partnership. Loosely integrated legal assistance services impose strict information barriers between lawyers and social service professionals providing services to clients. Closely integrated legal assistance services promote the joint delivery of legal and social services to clients at the same time, sometimes after obtaining client consent to potentially compromise privilege. How easy or difficult is it to implement these two models of integrated legal assistance services in practice?

LACW has operated a closely integrated model since its inception in 2016. The integrated practice is an inherent and fundamental part of LACW's service design and is strongly championed by LACW's leadership team and staff. The case management model was carefully designed to optimise the benefits of integration. Its scope and design are also intentionally restrained, with case managers linking clients with the (external) services and support they need to address the underlying causes of their criminalisation, rather than delivering those supports in-house. As this model was carefully designed and planned prior to LACW's inception – with consideration given to relevant issues including the operation of legal privilege – it has not been difficult to implement in practice.

Due to LACW's areas of practice (predominantly criminal law) and service delivery model, we almost exclusively represent clients when litigation is on foot. Occasionally, our lawyers will provide isolated advice to a client where charges (or intervention order paperwork) are yet to be filed, but that is generally in circumstances where litigation is reasonably and imminently anticipated. Further, a referral to Case Management will only be made in circumstances where litigation (usually a criminal prosecution) is on foot.

However, we are aware that there is a raft of different integrated practice models across the CLC sector and that various complexities arise in different contexts. For example, practices that provide predominantly legal advice, that employ mandatory reporters, that work with children, and that practice in areas such as Child Protection (none of which apply to LACW), face challenges which would hinder a closely integrated model.

Question 2

What are the benefits of integrated legal assistance services for clients, service providers and the justice system? Do you have case studies, examples or other evidence you can share?

There are clear benefits of integrated practice to both clients and workers, including:

- Better legal and social outcomes;
- Improved holistic and person-centred service provision;
- Improved engagement with people receiving a service and their experience of legal processes;

- Enhanced skills, knowledge and teamwork among lawyers and social support professionals;
- Addressing underlying causative issues to prevent legal issues reoccurring;
- Can reduce demand for (and costs around) services, including Child Protection, family violence, mental health, disability, housing services, primary health, as well as continually re-presenting to the court system.

The benefits of integrated practice for all people with legal issues are proven, however the multifaceted benefits specifically for women and gender diverse people with criminal legal issues are worth noting. Criminalised women and gender diverse people have complex and intersecting support needs, requiring gender-focused and tailored responses. These support needs are underpinned by experiences such as high rates of trauma from childhood abuse, as well as intimate partner violence and subsequent issues stemming from these experiences - which are recognised as primary drivers for women's contact with the criminal legal system.

Criminalised women enter the criminal legal system with near-universal experiences of trauma and victimisation and present with higher rates of physical and psychological ill health, as well as being far more likely to be a primary carer of dependent children or other family members. Criminalised women also cycle in and out of the prison system at a faster rate. Evidence consistently indicates that supports for criminalised women must include access to wraparound, holistic, person-centred services that address the underlying causes of legal system involvement.

Having gender responsive, wraparound, and integrated supports means that criminalised women are not only able to address the underlying causes of the legal issue/s (leading to better legal and social outcomes) but are also supported in gender responsive and trauma-informed ways throughout the process. This looks like not having to repeat their story to multiple services (including details of charges, which can be a source of shame for people); being far more likely to stay engaged throughout sometimes lengthy legal processes; preventing people from being on a 'referral roundabout' in a siloed support sector; early identification of legal and social support needs; and building crucial trust with people who may have been let down by services throughout their life. This approach in turn prevents people from presenting to the legal system multiple times for the same issue and provides pathways out of the criminal legal system. All this is alongside the professional growth that occurs for practitioners involved in a closely integrated practice model.

Criminal law is a unique space in terms of the highly sensitive and personal nature of information that may be disclosed during the running of a matter. LACW's experience is that clients tend to be apprehensive about disclosing information about their criminal matters (or experiences which culminated in their criminalisation) to external support workers, due to fear of prejudice or collateral consequences caused by subsequent information sharing. These risks are particularly acute in Victoria, due to mandatory reporting obligations and information-sharing schemes. This creates a barrier to engagement with social supports that may address the underlying causes of criminalisation.

LACW's ability to provide social work and case management support within a criminal defence practice (and with the protection of legal privilege) creates a sense of trust in discretion and confidentiality, which enables a global understanding of need and risk; enables shared knowledge and planning; and ultimately supports positive outcomes.

These benefits have been recognised by several judicial officers, including:

- A regional magistrate who described LACW's case management plan as "the best plan and opportunity [the client] will get."
- A County Court Judge, who published the following comments in her reasons:

[102] [Addressing the LACW lawyer and LACW social worker] ... *thank you so much for becoming involved when you did and your efforts, not just to bring the matter to conclusion, but the way you have done that with great humanity, looking after [CLIENT] and supporting her, not just in a legal sense but in other ways as well. I have been singing the praises of the Law and Advocacy Centre for Women as loudly and to as many people as I can.*¹

The benefits of LACW's integrated model are also demonstrated in the following de-identified case studies:

Katie

When Katie was referred to LACW two years ago she had a long history of criminalisation and involvement with support services. However, she was not able to engage with any of her workers due to her transience. Although she had public housing, she was sleeping rough and was frequently remanded for very brief periods and then bailed. Her previous lawyer and her care team were not linked, which meant that she was often remanded and bailed without the input or knowledge of her outreach workers. Katie was referred to LACW, which took over her case. Katie's LACW lawyer made a referral for LACW case management, with the goal of coordinating supports to prevent this cycle from continuing.

LACW's case manager joined Katie's care team and was able to communicate with them about the legal processes she was subject to. They could work together towards coordinated bail applications and a smoother release process, including her home being cleaned and secured before bail applications, organising material aid to be immediately available, arranging support workers to provide transport, and working with her to create post-release task lists for support workers. Her LACW lawyer was also able to be kept in the loop about her engagement with workers.

Having stable and reliable workers and LACW's trauma-informed approach, including empowering her to make decisions about workers and other matters affecting her life, has led to a decrease in her offending, longer periods in the community, a stronger connection with her workers and referrals for specialist workers under her NDIS package.

Jessica

Jessica has a complex mental health diagnosis, including suicidal ideation, and struggles with substance use. She has a history of self-harm and frequent hospitalisations and has made threats to her workers. She lashes out when she feels unsafe. Jessica has been supported by several services who are specialised in working with complex clients, but her

¹ https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCC/2026/320.html?context=1;query=mcfarlane;mask_path=au/cases/vic/VCC

support was ended when her behaviour was deemed too difficult to manage. Without adequate support in the community, she was unable to engage with legal processes.

Jessica engaged LACW's legal service, and a referral was made to LACW's case management team. Jessica's LACW case manager was able to work intensively with Jessica to build trust and set boundaries. Jessica had felt shame about sharing her legal matters with her other support workers, but she felt safe discussing them with her LACW case manager. Her case manager made a referral to DFFH's Multiple and Complex Needs Initiative for oversight, consultation, and to hold services accountable for the work they committed to undertake.

As a result of this advocacy, Jessica has had an offer of housing and a referral to a specialised psychologist. She has been able to attend assessments and court dates to progress her legal matters. She feels well supported by her LACW lawyer and case manager as she knows that they are working towards the same goals and can share information between themselves, so she doesn't have to repeat her story.

Question 3

Integrated legal assistance services may compromise a client's ability to retain legal privilege and expose their private information, including through the professional reporting obligations of social service professionals. Do you have case studies, examples or other evidence that indicate how easy or difficult it is for lawyers, social service professionals or clients to manage information disclosure requirements and requests in this context?

For the reasons outlined above, LACW's integrated practice model does not compromise a client's ability to retain legal privilege. The model has been designed to preserve legal professional privilege over all information within the service, through the operation of litigation privilege and the dominant purpose test, and to minimise any conflict or difficulty in relation to information disclosure requirements. As a practice, we would be guided by the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* in determining whether circumstances warrant the disclosure of confidential client information (e.g. in circumstances of imminent harm).

Question 4

Should the law enhance protection for communications between clients, lawyers and social service professionals in integrated legal assistance service settings? Why or why not?

Yes, we consider the immense benefits of integrated practice models could be enhanced through greater protections for communications between clients, lawyers and social service professionals in integrated legal assistance service settings. However, our answer is subject to our answers to Questions 5 and 7 below.

Question 5

Are you in favour of establishing:

a. a social service professional privilege that would enhance protection for communications between clients and social service professionals in loosely integrated legal assistance service settings and/or

As we do not operate a loosely integrated practice, we refer the VLRC to the Federation of Community Legal Centres' submission on this point.

While enhancing protection for communications between clients and social service professionals is welcome, the establishment of a new category of professional privilege raises complex issues which have the potential to carry detrimental unintended consequences for the sector and its clients.

We consider it crucial that the CLC sector and the VLRC are very clear about precisely what problem a new category of privilege is trying to solve. Answering this question requires a careful mapping of integrated practices across the sector. For example, the issues that prompted the referral of this inquiry to the VLRC may not present as issues in other integrated models or may not present in the same way. Further, the issues canvassed in the consultation extend beyond questions of privilege to questions of service design and staff education and training. When this analysis is done and a risk assessment is conducted, it may be that the answer to the problem extends beyond questions of privilege or lies outside the realm of privilege altogether, particularly if the proposed solution would not have a national application.

b. a new category of legal privilege that would enhance protection for communications between clients, lawyers and social service professionals in closely integrated legal assistance service settings?

We are in favour of establishing a new category of legal privilege in these circumstances, but only if there is no change to the scope and elements of the existing legal privilege, *other than to adjust the threshold for the purpose of the communications*. This is discussed in response to Question 7 below.

Question 7

If you support a new category of legal privilege for closely integrated legal assistance service settings, do you have a view on the scope, elements, eligibility requirements or implications of the privilege? We are particularly keen to hear your views on the definition of closely integrated legal assistance services, eligibility requirements for the privilege, a safety exception to the privilege, and the implications of the privilege for social service professionals.

We are concerned that a new category of legal privilege attaching to confidential communications made between a client, lawyer and social service professional for the purpose of accessing integrated legal assistance services could carry the risk of eroding the client's protection under the existing legal professional privilege. This risk would manifest if the scope or elements of the new privilege carry a *lower level of protection* than existing legal privilege in some or all circumstances; for example, if the privilege is qualified or contains a safety exception. We would therefore be strongly opposed to any new *legal privilege* which:

- is not absolute;
- does not protect all communications;

- does not cover disclosure to both courts and investigative bodies; or
- includes any kind of safety exception (unless identical to the existing exceptions applicable to lawyers under Legal Profession Uniform Law).

If a new category of legal privilege contained any of these settings, the risk of unintended consequences would outweigh the potential benefits.

However, a new category of legal privilege could potentially be functional and beneficial in integrated practices **if the only difference is the purpose of the communications**. If the dominant purpose of the communications was ‘**obtaining *integrated legal services***’, most interactions involving both a lawyer and a social services professional would be captured, regardless of whether the client’s most pressing needs take the discussion down a predominantly non-legal path. Amending ‘dominant purpose’ to ‘appreciable purpose’ would broadly achieve the same aim, although we consider that a dominant purpose of ‘obtaining integrated legal services’ would be a more straightforward test to apply.

If this narrow reform option were pursued, we consider that the benefits of this specific setting would outweigh the risks.

[REDACTED]