



Eastern Community Legal Centre

Submission to the Victorian Law Reform
Commission – Inquiry into Legal Privilege and
Integrated Legal Assistance Services

August 2026

Eastern Community Legal Centre (ECLC)

Submission Summary

Community legal centres (CLCs) have a strong history of offering holistic responses to community members with complex legal and social problems, and in addressing barriers to justice. Collaborations between social workers and lawyers have been documented from the 1970s in Australia¹, including being part of ECLC's founding story in 1974².

More structured multidisciplinary team approaches with a range of disciplines have developed within CLCs over the past decade and a half, particularly with the emergence of health justice partnerships (HJPs)³.

The CLC sector has continued to enhance its understanding of multidisciplinary approaches through the leadership of Aboriginal Community Controlled Organisations (ACCOs), where Aboriginal-led, holistic and integrated service design represents deeply embedded Aboriginal approaches to healing and care.

The growing evidence of unmet legal need is impelling legal assistance services to continue to expand and adapt their role and develop new models that address access to justice barriers, particularly for people who face the most complex social, economic and structural disadvantage.

Over the last decade, ECLC has experienced firsthand the benefits of integrated legal assistance services for clients, service providers and the justice system. At their core integrated legal assistance services offer holistic, trauma-informed, client-centred and culturally safe approaches to meeting people's legal needs.

However, ECLC has also witnessed the impacts that the ambiguity of the law around privilege creates for practitioners and clients. ECLC strongly believes that if the law were to offer greater protection for communications between clients, lawyers and social service professionals in integrated legal service settings, this would allow practitioners to better respond to the interconnected legal, safety, social, financial, mental health and wellbeing issues experienced by clients.

Addressing the current ambiguity around privilege would decrease the burden on organisations needing to navigate this complexity and instead allow them to focus on delivering wraparound services to community members. It would create an authorising environment for the legal assistance sector to continue pioneering and innovating integrated legal assistance models that aim to resolve the access to justice gaps experienced by so many Australians.

It is from this deep understanding and commitment to multidisciplinary practice that the Centre welcomes the opportunity to contribute and provide recommendations to the Victorian Law Reform Commission's inquiry into Legal Privilege and Integrated Legal Assistance Services.

Recommendations

1. Establish a definition of 'integrated legal assistance services' that captures the varying levels of integration within and across different models.
2. Consider the implications of reform for social service professionals employed by CLCs distinctly from the implications for social service professionals employed by partner organisations.
3. Ensure that reforms to legal privilege do not conflict with the roles, responsibilities and disclosure requirements of organisations and professionals in the broader service system.
4. Ensure reforms to legal privilege address the inadequacy of the current dominant purpose test as it applies to integrated legal assistance settings.
5. The law should be amended to ensure protection for communications between clients, lawyers and social service professionals in integrated legal assistance service settings.
6. Further consultation should be undertaken with professional representative bodies who can provide advice on whether a social service professional privilege (whether qualified or absolute), would create irreconcilable challenges for social service professionals to meet their existing professional obligations/undertake their role when working in 'loosely' integrated legal assistance services.
7. Amend the dominant purpose test to ensure that privilege covers all communications between clients, legal practitioners and social service professionals where the dominant purpose is to 'access an integrated legal assistance service'.
8. Consult with sector peak bodies who represent the range of social service disciplines engaged in integrated legal assistance services, to ensure that any reform to the law in this area is undertaken in a way that does not inadvertently interfere with the range of other system settings in place or disclosure requirements.
9. Ensure that the implementation of new reforms include a plan and funding for the necessary training, professional development and resources to be developed and delivered to ensure legal practitioners and social service professionals are acquiring the relevant knowledge and skills to understand integrated legal practice as well as the relevant updates to the law on privilege in these contexts.

Client stories

ECLC highly values the confidentiality and privacy of its clients and yet many wish their stories to be heard. No real names are used in this submission and some details have been amended to protect privacy.

1. Background

ECLC acknowledges the Wurundjeri peoples of the Kulin Nation, the Traditional Custodians of the land on which the Centre communities live and work and pays deep respect to Elders past and present. ECLC deeply appreciates and celebrates the people, stories, traditions, culture, knowledge and strength of Aboriginal and Torres Strait Islander peoples and recognises the learning that comes from listening.

ECLC is a multidisciplinary legal service that works to prevent problems, progress fair outcomes and support the wellbeing and resilience of communities and community members in Melbourne's East.

ECLC has a longstanding commitment to working in partnership with local communities and services including family violence services, health services, community organisations, Aboriginal Community Controlled Organisations, local councils and community groups. This has enabled ECLC to ensure that people and communities are at the centre of service design and to explore opportunities across the prevention, early intervention and response continuum to provide holistic responses that seek to provide access to justice.

1.1. Multidisciplinary Practice

Since 2014, ECLC has developed more formalised health justice partnerships and multidisciplinary practice programs. Like many other Community Legal Centres (CLCs), these approaches developed organically due to the nature of ECLC being embedded in the local communities in its region; through the knowledge, skills and expertise of having a diverse and multidisciplinary workforce; as well as through philanthropic and government funding opportunities.

Over that time ECLC has been intentional in establishing governance and operational frameworks and made organisational changes to ensure that the Board and leadership team are equipped with the expertise required to govern and lead a multidisciplinary legal centre that is accessible to its communities.

This has enabled ECLC to not only develop the expertise to strengthen and support significant growth in designing and delivering integrated legal programs, but also in developing networks and resources to support the broader legal assistance sector.

ECLC currently offers six multidisciplinary practice programs, three of which are health justice partnerships (Mabels, WELS and ELSA) and three of which are based within the legal centre setting (SAGE, ROSE and Community Law Program – Integrated Practice Service).

Each program has been designed to best meet the needs of the specific client groups by considering alternative access points; engaging in strategic partnerships and providing services that vary in the level of integration of the multidisciplinary practice. Each of these elements have been informed by ECLC's deep knowledge of effective partnerships, multidisciplinary practice and an extensive risk management framework.

1.2. Health Justice Partnerships

Mabels

A Health Justice Partnership with Boorndawan Willam Aboriginal Healing Service (BWAHS) and three local councils, which provides early intervention legal, family violence and social support to women experiencing family violence within the Maternal and Child Health context. The program has also been expanded to a regional area and is led through a partnership with a Community Legal Centre and their local council.

WELS

A Health Justice Partnership with Eastern Health and BWAHS that embeds a legal program within Eastern Health's maternity services to provide legal, family violence and social support to women during and immediately after pregnancy.

ELSA

A Health Justice Partnership with Eastern Health that embeds a legal program across a range of healthcare services and teams to provide legal, social and financial counselling support to people experiencing elder abuse.

1.3. Multidisciplinary Legal Programs

SAGE

An intensive multidisciplinary legal, family violence and social support program for women and their children who are experiencing family violence, and who also face increased barriers to accessing the legal system, including: Aboriginal and Torres Strait Islander women, women from culturally and linguistically diverse backgrounds, women experiencing mental health challenges or disability and women who live regionally or are in other ways isolated. The program also has a health justice partnership with BWAHS to improve accessibility and cultural support.

ROSE

A multidisciplinary program that provides legal, financial counselling and social work advice, information and case management support to older people with increased vulnerability, experiencing or at risk of elder abuse. It includes a partnership with Oonah Aboriginal Health and Community Services (Oonah).

The ELSA and ROSE programs have been extensively and successfully [evaluated](#), and have enabled a number of key lessons, evidence and practical insights to support professionals working with older people.

The elder abuse responses (ELSA and ROSE) have hosted private lawyers seconded on a pro bono basis (for an extended period – often six months) who have contributed by undertaking research and occasionally assisting clients. The terms of the secondment ensure that these pro bono lawyers work within the closely integrated elder abuse response model under ECLC's management and close supervision.

Community Law Program – Integrated Practice Service

A service that integrates a mental health practitioner with community lawyers to better respond to the intertwined legal and psychosocial needs of people experiencing mental health challenges; a dependence on alcohol and/or other drugs; and, or homelessness, including those experiencing family violence or who use violence.

1.4. Multidisciplinary Practice Leadership

ECLC's governance structures and multidisciplinary leadership team has not only enabled the Centre to strengthen and expand its own integrated legal programs, but it has also placed ECLC in a unique position to establish networks, lead projects, and develop resources to support the broader legal assistance and related sectors.

In collaboration with these sectors, ECLC has led some key initiatives and developed a range of resources to support the continued growth of multidisciplinary legal programs. These include:

- [ECLC's Integrated Practice Framework – Summary \(2019\)](#)
- [The MARAM Framework and the legal assistance sector – Outcomes Report \(2021\)](#)
- Integrated Legal Practice Impact and Influence (2023 – 2025)
 - [Family Violence Roundtable](#)
 - [Multidisciplinary Practice Forum](#)
 - [Multidisciplinary Practice Workshop Series](#)
 - [Integrated Legal Practice – Impact & Influence Advisory Group: Strategic Advocacy & Initiatives regarding Multidisciplinary Practice](#)
- [Better Practice Principles](#) (originally published 2021, updated in 2025)
- [Governance Framework for Multidisciplinary Practice \(2025\)](#)

It is from this deep understanding and commitment to multidisciplinary practice that the Centre welcomes the opportunity to contribute to the Victorian Law Reform Commission's inquiry into Legal Privilege and Integrated Legal Assistance Services.

2. 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?

Implementing integrated legal assistance models cannot be described simply as either 'easy' or 'difficult'. Rather, there are a range of factors that influence how challenging it is for an organisation to implement these models in practice. An important consideration includes the definition of integrated legal assistance.

2.1. Defining integrated legal assistance services

ECLC defines integrated legal assistance services as:

“Legal assistance services who employ, or work in partnership with organisations that employ, social service professionals to provide multidisciplinary legal services. This involves lawyers and social service professionals working collaboratively to provide integrated legal and social support. The primary purpose of this approach is to enable people to safely and effectively address their legal needs by simultaneously addressing their interconnected support needs. In this service setting the role of the social service professional is focused on providing support that complements the legal support provided by the lawyer.”

Victorian legal services have designed and established a range of integrated legal assistance service models, with each model being designed to meet the various and diverse legal and interconnected needs of a range of community members.

Examples of integrated legal assistance models as documented in the 'Governance Framework for Multidisciplinary Practice (2025)':

- Health Justice Partnerships: Legal services integrated with health care settings
- Social service partnerships: Legal services integrated with family violence services, financial counselling, housing services or community support organisations
- Education partnerships: Legal services integrated with schools, universities, TAFEs or early childhood education centres

- Integrated practice programs: Lawyers employed alongside other professionals (such as social workers, financial counsellors, advocates) within the same organisation to deliver coordinated services
- Embedded CLCs: Community legal services operating as programs within larger community service organisations.
- Co-located services: Different professional services sharing physical space with structured collaboration
- Embedded partnerships: Legal professionals working within partner organisations with ongoing coordination
- Community partnerships: Formal collaboration arrangements between CLCs and community organisations⁴

As the Commission has identified, some models can be defined as 'loosely' integrated legal assistance services that impose strict information barriers between lawyers and social service professionals providing services to clients, whilst others can be defined as 'closely' integrated legal assistance services promoting the joint delivery of legal and social services to clients at the same time.

However, the level of integration rarely fits neatly within these two distinct models and rather there are a range of models that vary in their levels of integration along a spectrum from 'loosely' to 'closely' integrated. Some of these models operate across the spectrum, shifting between different levels of integration depending on the needs of the client, the service being provided, the different professional backgrounds of the practitioners and the design of the program. The level of integration can vary, even within the context of a single appointment.

The integrated models also vary in the way in which they engage the legal and social service professionals, with some legal services employing social service professionals within their organisation and others establishing partnership models with organisations that employ them. This distinction is important as it changes the operational and professional obligations that need to be considered and strongly influences the level of integration of professionals, and the manner in which services are delivered.

The implications of reform for social service professionals employed by CLCs will therefore differ greatly from the implications for social service professionals employed by partner organisations.

However, what should remain consistent within a shared definition of integrated legal assistance is that the substantive purpose of the service being provided is to provide 'legal assistance'. The social service professional's role in that service is to provide support that complements the legal support provided by the lawyer, enabling that client to access and/or remain engaged with legal advice and support.

A more comprehensive definition of integrated legal assistance services that more accurately reflects the range of integrated legal assistance models needs to be taken into consideration when contemplating any reform to privilege and how that would apply in different contexts.

Recommendation 1: Establish a definition of ‘integrated legal assistance services’ that captures the varying levels of integration within and across different models.

Recommendation 2: Consider the implications of reform for social service professionals employed by CLCs distinctly from the implications for social service professionals employed by partner organisations.

2.2. Designing integrated legal assistance services

Community legal centres (CLCs) have a strong history of offering holistic responses to community members with complex legal and social problems, and in addressing barriers to justice. Collaborations between social workers and lawyers have been documented from the 1970s in Australia⁵, including being part of ECLC’s founding story in 1974⁶.

More structured multidisciplinary team approaches with a range of disciplines have developed within CLCs over the past decade and a half, particularly with the emergence of health justice partnerships (HJPs)⁷.

The CLC sector has continued to enhance its understanding of multidisciplinary approaches through the leadership of Aboriginal Community Controlled Organisations (ACCOs), where Aboriginal-led, holistic and integrated service design represents deeply embedded Aboriginal approaches to healing and care.

The lack of a consistent or singular model reflects the inherently client-centred nature of integrated practice; it seeks to place the needs of the client group at its heart and is built to suit the organisation’s context and resources. This influences decisions around service design and the specific model adopted.

When establishing an integrated practice program, ECLC considers the needs of the community and the purpose of the service or program to determine whether a multidisciplinary approach is appropriate, the different disciplines that need to be engaged and the extent to which they are integrated.

Another key consideration is whether the community service professional is employed by ECLC, or whether ECLC enters into a partnership with another service who employs the social service professional. Although this consideration can often be influenced by funding, it is also informed by how the integration of legal assistance within the broader service systems can complement the support being offered in order to enhance access to justice. For example, health justice partnerships have been developed on the premise that “connecting health and legal care in the places that people already turn to for help, enabl(e) service systems to better meet the complex and compounding issues facing many of the people they serve”⁸.

2.2.1. Integrated Practice Framework

In 2019 ECLC developed an organisation-wide Integrated Practice Framework⁹ to guide how it designs, develops and delivers legal and related services and programs using an 'integrated practice' approach. The Framework promotes consistency and better practice across all the Centre's multidisciplinary services and programs.

Each of the multidisciplinary services and programs are required to develop and implement policies and guidelines that are aligned with the Integrated practice framework and that outline the:

- Vision and objectives of the service or program
- Rationale informing the level of integration
- Roles and responsibilities of each of the professionals
- Processes that support:
 - Multidisciplinary decision making
 - Client directed services
 - Balancing professional and ethical obligations
 - Management of client information
 - File management
 - Escalation of safety concerns

This framework ensures that ECLC's multidisciplinary services and programs are thoughtfully designed to manage and balance the Centre's responsibilities, whilst also protecting the client's rights and responding to their needs.

2.2.2. Integrated Practice – Better Practice Principles

In 2019 the Victorian Legal Services Board funded Eastern Community Legal Centre to draw on its expertise in integrated practice and bring together leaders in this emerging sector to develop a set of principles that could be shared with other CLCs implementing integrated practice programs.

As a result, ECLC developed the [Integrated Practice – Better Practice Principles](#), that outlined several key principles important in guiding integrated practice – Program Principles; Practitioner Principles and Person-centred Principles.

2.2.3. Governance Framework for Multidisciplinary Practice (Governance Framework)

In 2025 ECLC partnered with the Federation of Community Legal Centres to develop a practical Governance Framework for the legal assistance sector. The project was initiated by the Department of Justice and Community Safety and funded through the Commonwealth Department of Social Services' National Action Plan against Family, Domestic and Sexual Violence.

The framework was developed through consultation with CLCs from across Victoria that participated in a detailed survey about their multidisciplinary practice governance experiences, challenges and needs. The consultation confirmed that for CLCs “governance is both their biggest challenge and what makes partnerships succeed”¹⁰.

This [Governance Framework for Multidisciplinary Practice](#) shows how to build partnerships that work. It puts clients at the centre and shows how CLCs and partner organisations collaborate across disciplines, how three governance functions support that collaboration (strategic decisions, day-to-day coordination and professional practice) and how to maintain accountability to community voices, regulators and funders.

The Governance Framework builds on the Better Practice Principles. The principles describe what effective multidisciplinary practice looks like; the framework shows how to build the structures and processes that make it sustainable.

2.3. Conflict of roles and professional obligations

Both the Governance Framework and the Better Practice Principles identify the very real challenges that CLCs experience when they’re managing complex multidisciplinary arrangements and aim to provide some guidance that responds to that complexity.

As the Commission has very aptly outlined, CLCs providing integrated legal assistance services are constantly managing the conflicting professional obligations, particularly in how they relate to legal privilege, mandatory reporting, information sharing and confidentiality.

What is also of at least equal consideration, is how CLCs providing integrated legal assistance services manage conflicting professional obligations particularly when they relate to professional standards and requirements; organisational structures and service requirements; and professional roles and responsibilities.

Providing multidisciplinary services creates ethical tensions that would otherwise not exist. It requires organisations to have a deep understanding of the broader service system in which they exist and how their services may overlap, complement, enhance or compete with other services and professionals. It also requires organisations to establish clear governance structures for how they support their own workforce to work within this broader service system structure.

For integrated legal assistance services, this responsibility is amplified and requires organisations to develop clear policies and processes for multidisciplinary teams that provide additional support and clarity, including:

- the purpose, scope of practice and responsibilities of different roles;
- when the roles and responsibilities of multidisciplinary teams overlap, enhance or conflict with each other;

- what structures are in place to strengthen how professionals navigate the tensions; and
- how to ensure that services are client-centred – that the rights of clients are protected and that they are empowered to expect that services are responsive to their needs.

Although these policies and processes would also include direction in how professionals manage client information particularly regarding legal privilege, this is only one of the elements that need to be considered.

For ECLC, decisions about whether an integrated legal assistance service should be ‘loosely’ or ‘closely’ integrated are informed by the roles and responsibilities of the services and disciplines involved. Each model therefore adopts a level of integration suited to the participating organisations and disciplines, with practitioner roles and responsibilities adapted accordingly.

The example of the Mabels Program below illustrates this complexity of how different professionals approach the same client situation with legal and ethical frameworks.

ECLC welcomes reform that reduces uncertainty about legal privilege in integrated legal assistance services. However, reform should not transfer legal or operational burdens to partner services or social service professionals, or create new conflicts with their professional, ethical, safety and disclosure obligations.

Recommendation 3: Ensure that reforms to legal privilege do not conflict with the roles, responsibilities and disclosure requirements of organisations and professionals in the broader service system.

Mabels Program Case Study

A Health Justice Partnership (HJP) with Boorndawan Willam Aboriginal Healing Service (BWAHS) and three local councils, which provides early intervention legal, family violence and social support to women experiencing family violence within the Maternal and Child Health (MCH) context. The Mabels Program is delivered by a multidisciplinary team (employed by ECLC) of community lawyers and family violence advocates. Aboriginal women or mothers of Aboriginal children are also provided the option of having a BWAHS practitioner in the appointment.

Rationale for ECLC HJP with MCH	There is an elevated risk of family violence during pregnancy and after the birth of a child – Victorian MCH services reach almost every family after the birth of a child and are required to screen for family violence. An HJP in this context therefore connects health and legal care to a place that women are already accessing for help.
Rationale for Mabels partnership with BWAHS	Aboriginal and Torres Strait Islander people are at greater risk of experiencing family, domestic and/or sexual violence during pregnancy and following birth – and less likely to engage with non-Aboriginal Victorian MCH services because of the impacts of systemic discrimination. A partnership with an Aboriginal Community Controlled Organisation provides a safer, alternative pathway for Aboriginal women to access help.
Rationale for ECLC providing a multidisciplinary program	The early intervention design of the Mabels program ensures that women are accessing help at an earlier time in their experience where they are likely to still be in a relationship with the perpetrator, at a time that young babies and children are also experiencing family violence and when women may not have the language to communicate their experience, let alone articulated their needs for legal assistance. A multidisciplinary approach in this setting ensures that women have access to legal assistance that addresses the interconnected family violence legal, safety, social, financial, mental health and wellbeing issues.

Mabels multidisciplinary considerations

Role	Responsibilities	Ethical and legal obligations	Level of integration	Influence of legal privilege
ECLC Mabels Community Lawyer	Provides competent and accurate legal advice and where appropriate, ongoing legal representation in accordance with established rules of legal practice and legal practice framework and within centre policies & guidelines.	Legal Profession Uniform Act, Legal Profession Uniform Rules, Case Law & other relevant legislation (e.g. Evidence Act, Privacy legislation), the CLCA Risk Management Guide.	- Loosely or closely integrated – depending on client choice. - Can vary across appointments and within appointments.	- Major consideration that informs integration with Mabels Family Violence Advocate. - Important consideration when working with other Mabels partners.
ECLC Mabels Family Violence Advocate	Provides family violence support that improves access, increases engagement and enhances the Mabels program to respond to the legal needs of women and children by ensuring the safety, social and health needs of a client and their children are upheld.	ECLC's policies and processes that sit under the Legal Framework. Consideration of the Australian Association of Social Workers – (AASW) Code of Ethics.	- Loosely or closely integrated – depending on client choice. - Can vary across appointments and within appointments.	- Major consideration that informs integration with Mabels Community Lawyer. - Major consideration when determining the scope of the role. - Major consideration when working with other Mabels partners.
MCH service/nurse	Registered nurses who are specialised in women and children's health. Required to screen for family violence. Frequently navigating duty of care to the mother alongside their duty of care to the child.	Registration administered by Australian Health Practitioner Regulation Agency (AHPRA). Strict legal, ethical, and professional disclosure frameworks – including mandatory reporting and privacy around health information MARAM Framework, Family Violence Information Sharing Scheme (FVISS) and Child Information Sharing Scheme (CISS).	- Loosely integrated – important for the MCH to manage their role and responsibilities alongside but separate to the integrated legal assistance service. - Option of closely integrated upon client request and where this would facilitate access.	- Not the most important consideration as the conflicting roles and responsibilities is a more important consideration.

Role	Responsibilities	Ethical and legal obligations	Level of integration	Influence of legal privilege
BWAHS Case managers	Provide culturally safe, trauma-informed family violence support as part of the Mabels program. Provide ongoing case management to Mabels clients through BWAHS programs.	Privacy legislation – including Duty of Care and Failure to disclose. MARAM Framework, Family Violence Information Sharing Scheme (FVISS) and Child Information Sharing Scheme (CISS).	- Closely integrated with initial Mabels appointments. - Loosely integrated with ongoing case management services. - A co-operative model with BWAHS integrated family services or men's services. - Option of closely integrated with BWAHS programs upon client request and where this would facilitate access or continued engagement.	- Major consideration that informs integration with Mabels team with ongoing service provision. - Conflicting responsibilities of different roles a major consideration.

2.4. Implementing integrated legal assistance services

ECLC, alongside a number of CLCs in the legal assistance sector, has had the privilege of spending over a decade building knowledge and experience in designing, implementing and developing integrated legal assistance services. The success of these services has been demonstrated through numerous evaluation reports and has been further confirmed through research undertaken by the Victorian Law Foundation and presented in their Measure for Measure: A People-Centred Approach to Tailoring Justice report.¹¹

What is evident through this research and evaluation is that there are a vast array of models that have been proven to be successful because they have been designed and adapted to respond to people's specific legal needs, using the expertise, relationships and resources that are available.

However, there are also some consistent principles and elements underpinning this work that emerge, included below.

2.4.1. Strong governance

ECLC's 'Governance Framework for Multidisciplinary Practice (2025)'¹² clearly documents and illustrates the governance structures that are essential in supporting effective multidisciplinary practice. Without effective governance at the strategic, operational and practice level, implementing integrated legal assistance models can be extremely difficult.

ECLC has created internal structures and developed opportunities that bring together multidisciplinary professionals at each level of the organisation. This has enabled it to bring the knowledge, skills and experience of a range of practitioners to build the capacity to deliver programs that are able to better respond to the needs of the community and to support the continued development of multidisciplinary teams providing the services.

Within partnership models, ECLC has developed and implemented partnership governance structures that bring together the knowledge, skills and experience of multidisciplinary professionals at each level of the partnership.

Although implementing and delivering integrated legal assistance services can be 'difficult', these governance structures can make it 'easier' and provide the guidance that is necessary in: developing and implementing information sharing and confidentiality protocols; professional ethics guidance; and risk management strategies.

2.4.2. Shared vision and clear purpose that is client-centred

Providing effective integrated legal assistance services that fulfill the needs of people can be extremely difficult. It often requires actively challenging the 'traditional' manner in which legal services have been delivered and reimagining responses that better meet the legal needs of people and communities.

This often requires a commitment that places the client at the centre of the service design and identifies a clear vision and purpose that is shared within an organisation or across a

partnership. This builds the essential foundation that ensures that organisations, teams and practitioners are aligned in their objectives and can understand the benefits of working through the professional and ethical challenges that arise.

It also ensures that the service design not only allows, but promotes client empowerment and self-determination to make choices about the model of service provided to them.

2.4.3. Policies and processes that support multidisciplinary practice

ECLC always seeks to ensure that services and programs are designed and delivered in a way that protects the integrity of the Legal Practice Framework. More recently as a multidisciplinary CLC with a multidisciplinary workforce, it has also needed to support a range of different professionals who may have their own professional rules of conduct and code of ethics, that also make them accountable to their profession and not just to their employer.

This has required developing a deep understanding as well as robust policies and clear processes about how to comply with the professional and ethical obligations of different disciplines. This not only requires multidisciplinary leadership and decision-making, role clarity and vigorous risk management processes; but also a supportive organisational culture that ensures all practitioners feel understood, respected and supported.

2.4.4. Legal, ethical and operational complexity

Implementing integrated legal assistance services is neither simply easy nor difficult. The level of challenge depends on the service model, the professionals and organisations involved, the needs and choices of clients, and the governance, policies and processes supporting the work. ECLC has developed and refined these organisational settings over more than a decade, including its definition of integrated practice and developed sector resources that support implementation. These settings make integrated practice achievable, but they do not remove the legal, ethical and operational complexity.

3. 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?

3.1. Benefits for the justice system

Unsurprisingly, integrated legal assistance services have evolved at the same time as increasing financial and social pressures – including high cost-of-living, severe housing shortages, increased mental health strain, social isolation and elevated levels of family violence and elder abuse. These pressures have undoubtedly created additional barriers to people accessing legal services, thereby restricting their ability to navigate or use the legal system to seek protection or access justice.

The Victorian Law Foundation's Public Understanding of Law Survey (PULS,) found that people only sought advice from a legal service for just over 20% of their legal problems, yet 70% experienced stress because of their legal problem. Furthermore, its findings showed that people and groups experiencing multiple or intersectional disadvantage were widely shown to be at increased risk of experiencing a range of legal and related problems; and also experienced the greatest adverse consequences when their legal needs were unmet.¹³

The National Legal Assistance Partnership (NLAP) review highlighted an even starker reality that the data attempting to capture the legal need in Australia, is not capturing the unmet legal need for people who are not even aware that they were experiencing a legal problem, or who are being turned away from services.¹⁴ It also affirmed findings from the PULS survey that the impact of unmet legal need on individuals and communities is severe, is greatest on the most disadvantaged Australians and has far-reaching impacts on life outcomes.¹⁵

A number of royal commissions in recent years have made findings about the failures of current systems to ensure access to justice. These reports have been at both State level (including the Royal Commission into Family Violence and the Royal Commission into Victoria's Mental Health System) and the Federal level (including the Royal Commission into Institutional Responses to Child Sexual Abuse; Royal Commission into Aged Care Quality and Safety; and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability). Their reports commonly include descriptions of 'broken systems' that are failing to meet the needs of the community and in many cases causing harm; and recommendations centred around 'consumer led approaches' and more 'integrated service systems' that respond to the holistic needs of people and communities.

The growing evidence of unmet legal need is impelling legal assistance services to continue to expand and adapt their role and develop new models that address access to

justice barriers, particularly for people who face the most complex social, economic and structural disadvantage.

Over the last decade, ECLC has experienced firsthand the benefits of integrated legal assistance services for clients, service providers and the justice system. At their core integrated legal assistance services offer holistic, trauma-informed, client-centred and culturally safe approaches to meeting people's legal needs.

These models are providing innovative and effective opportunities to break down access to justice barriers in the service system. This can mean the difference between someone accessing legal assistance for their complex life problems or not, or people giving up on the legal system being able to respond to their needs, especially for those who face multiple barriers. When the people who are most in need of accessing justice, are not able to access the justice system, it continues to perpetuate systemic discrimination. At this broader level, integrated legal assistance can address structural and systemic barriers to accessing legal assistance.

A clear example can be found through the health justice partnerships with BWAHS for the Mabels, WELS and SAGE programs. These partnerships have enabled ECLC to bear greater witness to the systemic discrimination and its impacts experienced by First Nations women and their children. This is also evident in the disproportionate number of First Nations women impacted by family violence and misidentified as perpetrators of violence; the number of First Nations families under child protection investigation and the number of children being removed from families. It is undeniable that the systems that are supposed to ensure safety for people and their communities, are the same systems that can cause harm.

ANROWS research confirmed that early engagement with culturally safe, legal and related supports is key to supporting Aboriginal women and children to remain safe together.¹⁶ Integrated legal assistance models that partner with Aboriginal Community Controlled Organisations provide access and support in a way that the legal assistance sector alone cannot. They provide a critical point of access for First Nations and culturally diverse communities and not only enable, but empower First Nations communities to engage with the justice system and assert their rights. This ensures that the justice system can continually improve their capacity to be culturally informed and accountable.

The shared knowledge and expertise that emerges from integrated legal assistance services increase the opportunities for systemic advocacy and policy reform. It is because of these benefits that ECLC and many other CLCs persevere in the continued development and advocacy for integrated legal assistance models.

3.2. Benefits for service providers

The shared knowledge and expertise that emerges from integrated legal assistance services also have major benefits for service providers. ECLC has a series of program evaluation reports that have informed the continued development of not only the

integrated legal assistance models being delivered, but also the continued development of the Centre as a multidisciplinary legal service. The Federation of CLCs also has an extensive list of Integrated Services Evaluation Reports on their website providing a broader evidence base of the successes and challenges of integrated legal assistance, but ultimately the benefits.

The benefits for service providers were made abundantly clear to ECLC through the 2018 Mabels Evaluation Report: 'Mabels Changes Everything - How a Health Justice Partnership is quietly transforming legal and family violence support in Maternal and Child Health services'.

Mabels changes:

- where and how support is provided - by embedding a legal program within the MCH service and within a safe and trusted location;
- the experience of seeking advice for women - a multidisciplinary approach that supports women to receive legal, family violence, safety and social support that is tailored to their pace and readiness;
- how the needs of babies and children are considered in an early intervention family violence partnership - through a wraparound partnership that supports women to parent safely and to keep children safe, whilst experiencing family violence;
- how quickly women receive support - by providing a program that is designed to proactively engage with women in a timely way, within the service setting they are already accessing;
- the confidence, knowledge and practice of MCH Nurses - through shared service delivery experience and both informal and informal professional development opportunities;
- the practice of the multidisciplinary team members - by building a shared capability across the partnership organisations;
- access to justice for women - by providing accessible and meaningful legal advice and support at an earlier time in a women's experience of family violence
- access to justice for Aboriginal women - by partnering with Aboriginal services to providing culturally safe and confidential legal information and support, particularly in relation to child protection; and,
- access to justice for culturally and linguistically diverse women - by providing culturally safe and confidential legal information and support, particularly in relation to migration concerns.¹⁷

A quote from an Enhanced MCH Team Leader, with over 30 years of experience sums this up fittingly -

"Mabels has changed our practice. It has changed everything, in such an incredibly positive way. And it makes me really emotional when I think of all the women we have seen that we couldn't do anything much for, and now we can".¹⁸

The Mabels partnership model is well presented through a video that was developed to celebrate Mabels' 10-year anniversary – [10 Years of Mabels](#).

Similarly further Mabels evaluations (can be shared in confidence upon request) and evaluations across ECLC's integrated legal assistance services, including the [Elder Abuse Programs](#) and [HEAL Program](#) (now Integrated Practice Service), continue to show evidence of benefits and identify opportunities for continued learning and development.

3.3. Benefits for practitioners

Integrated practice creates significant opportunities for shared learning and strengthening of practice because of the way the professions are required to collaborate to inform and learn from each other.

Integrated practice obliges practitioners to spend a lot of time together, sharing professional knowledge and expertise, displaying different approaches to client-centred practice, sharing their own professional judgments, communicating various concepts with different terminology and language and developing a 'shared practice'.

This exposure to another discipline and their expertise especially shapes the way that lawyers are able to engage with clients and understand the complexity of the problems they are experiencing, strengthening the legal work that needs to be undertaken. It also enables practitioners to provide a trauma informed, culturally informed and strengths-based approach that is responsive to the people's intersectional needs.

While retaining their areas of specialisation, practitioners are supported to better understand the bigger picture, and the interconnectedness of legal, safety, social, financial, mental health and wellbeing issues clients experience.

The shared practice also extends across partnerships and organisations. As one MCH Nurse Team Leader observed after just one year of the Mabels program being implemented,

"There has been a shift in attitude and approach of nurses, particularly in the way they ask questions about family violence – it's more subtle, opening up discussions for examples in terms of relationship changes after the birth of a baby".

Similarly, one of the Mabels lawyers reported that:

"My ability to practise law in relation to family violence has been vastly enhanced by working alongside the family violence advocate who has enhanced my understanding of the safety implications of legal actions, and the nurses who have been able to teach me so much about the impacts of family violence on a child's development."

ECLC's multidisciplinary practice experience has also influenced the development of a workforce that brings together primary prevention, early intervention and crisis response specialists to work alongside each other with a shared vision to not only respond to the legal problems of individuals and communities but to help prevent those problems before they occur.

This experience working across the prevention continuum, particularly in elder abuse, highlights the benefits of fostering collaboration and mutual learning. Creating regular opportunities for practitioners to share learning and expertise has enabled a richer understanding of the complex and evolving nature of elder abuse across disciplines. This exchange of knowledge has enhanced workforce capability and supported a more connected, evidence-informed approach to program planning and delivery.

3.4. Benefits for clients

At its heart, integrated practice brings together different disciplines to better meet a person's needs better than any single discipline could alone. Through experience and as documented in every evaluation report, integrated legal assistance services support clients to achieve legal, social and wellbeing outcomes that would otherwise have been unattainable. It particularly creates greater opportunity to provide a more just and safer experience of the legal system for people who face the greatest barriers and systemic discrimination.

The benefits for clients can be best represented by the client stories below, particularly in the words that 'Fatima' shared herself.

A. Fatima's Story

My name is Fatima and I want to thank ECLC for providing me with legal help. I would like to share my story, so you understand why the help I was given has changed my life and the life of my sons.

I came to Australia following an arranged marriage and started living with my husband and his aunt and uncle. I did not know that my husband had a drug and alcohol problem and was committing crimes until the police started coming to our house. Drugs, police, crime, court and violence became a normal part of my life in Australia.

My husband's physical, emotional and mental abuse started as soon as I arrived in Australia. His aunt and uncle became part of the abuse, they controlled where I went, monitored my calls, listened to my conversations and watched over me all the time as my husband's violence increased.

I was in a new country, did not know anyone, had no money and the only people in my life were my abusers. They constantly abused me and threatened me that if I did anything against their wishes, I would be deported. I felt trapped and lost all desire to keep living. My husband's aunt and uncle were forcing me to have a baby. They told

me that if I had a son my husband would change. When I fell pregnant with twins, they threatened to send me back to the country I was from and as a single pregnant woman, I would bring shame on my family.

My twin sons were born, and my husband's abuse became worse – only this time it included the twins. I was very scared for my sons and my life. He and his aunt and uncle threatened to take my sons and have me deported and that they would make sure I would never be allowed to see them again. I did everything I was asked to do, just so my sons and I could be together, and so I would not be separated from them. My life was like living in a war zone.

After my sons were born, they had health problems and I was told this was because of what happened when I was pregnant and the violence that continued afterwards. The hospital reported it to child protection. I told child protection everything and they worked secretly with me and helped me leave the house with my sons. The police got an Intervention Order against my husband. My ex-husband and his family did not give up despite the Intervention Order. They took me to court wanting contact with the twins. I had no one to support me, and everything was overwhelming and frightening.

I remember the day I came to your office and spoke to the lawyer; she told me that two people would be working on my case. I did not know at that time that these two people would help give me my life back and save my sons from something so horrible. I start shaking when I think about it.

These two people (family violence advocate and lawyer) believed in my story, they understood me like I could not even understand myself at the time. I told them everything and they got it. I felt safe for myself and my sons, and I started to have hope for us. I listened to every word they said, I trusted every word they spoke, their voices were all I had to work with.

They put my story to the court, and I got the strength from them and knew how to tell my story to the court. I gained so much strength and power from them. I became more determined to save my sons and myself, and I knew I had the team to help me do this.

The court process was very difficult, we had to fight for my sons, there were so many challenges, but I never felt alone in my fight. My ex-husband and his family continued to lie and deny everything and we went to trial. The orders were finally made for him to have no contact with the twins. I am glad to say that my ex-husband is now in prison for his crimes.

The team helped me build the courage and strength so I could face my ex-husband and his family at court. After the trial I was able to stand outside the courthouse with the ECLC team and breathe the Australian air, for the first time since I came here. I could feel the warmth of the sun on my skin, and I could hear people's cheerful and excited voices, as if it was the first time. I told them that I felt for the first time that

Australia is my home, and I belong here. I felt that I got my life back and my ex-husband and his family had no power to control me and my sons any longer.

I feel proud that I was able to fight for myself and my sons. My sons and I are safe here and we have a future, and that day was our first day of freedom. I have so much hope and a life of freedom is something that I thought was not possible for us. I am going back to my studies, my sons are recovering slowly, it will take some time, but we have so much hope in a life of freedom.

This would not have been possible without your staff. I owe my sons' lives and my life to them. I thank you ECLC, and the team for everything.

B. Tim's story

Background

Tim is a young Aboriginal man who was referred to ECLC by a financial counsellor. After he had missed several appointments with the Community Law team, ECLC's Intake Officer recognised that he was experiencing a range of complex and intersecting needs and referred him internally to the HEAL program.

At the time, Tim was facing more than seven criminal charges relating to property damage, handling stolen goods and possession of a weapon, as well as several outstanding fines. He had also recently been detained by Victoria Police and taken by ambulance to an emergency department under the Mental Health Act after displaying erratic behaviour and expressing thoughts of suicide and harm towards a family member.

Tim had been diagnosed with generalised anxiety disorder, bipolar affective disorder, attention deficit hyperactivity disorder and substance misuse. He was receiving ongoing care from his GP and was waiting for case management through a local mental health service. He described his life as "chaotic". He was grieving the recent death of a friend by suicide, had lost more than \$4,000 through gambling, had run out of medication in the days before his hospital presentation, and was experiencing family conflict and homelessness.

Tim had previously been referred to a psychologist and alcohol and other drug services but had found it difficult to remain engaged.

Response

The HEAL Client Advocate made repeated attempts to contact Tim. When they eventually spoke, Tim explained that he felt stressed and hesitant about engaging with a legal service. The Client Advocate reassured him that HEAL could provide coordinated legal and psycho-social support, and Tim agreed to attend an Integrated

appointment with the Client Advocate and Community Lawyer at a time that better suited him.

HEAL adapted its approach to Tim's circumstances. Although attending at scheduled times remained difficult, flexible appointments and persistent follow-up helped him stay connected. Over time, the team built trust with him and supported him to share the information needed to address his legal and wellbeing needs.

HEAL also connected Tim with an Aboriginal Community Controlled Organisation, where he established a positive relationship with an alcohol and other drug outreach worker. He began attending Narcotics Anonymous meetings and secured casual employment.

There were periods when Tim returned to substance use, but he continued attending HEAL appointments and progressing his legal matters. The Community Lawyer and Client Advocate supported him at the court hearing. Tim pleaded guilty to the charges and was able to articulate his remorse. He was sentenced to a 12-month good behaviour bond without conviction, an outcome that he was very pleased with.

Outcome

The HEAL team remained in contact with Tim after the Court hearing and helped him apply to have his outstanding fines withdrawn based on special circumstances. After he moved to another region, the team supported him to connect with local services. Tim also began receiving psychiatric treatment from the Continuing Care Team at his local mental health service.

With coordinated legal, health and culturally safe support in place, Tim felt that his life was gradually getting back on track and was optimistic about continuing his recovery.

C. John and Elizabeth's story

Background

John, 73, and Elizabeth, 69, have been married for 20 years. It is a second marriage for both, and each has adult children from previous relationships. Elizabeth had recently been diagnosed with mild dementia but continued to live at home and make her own decisions.

Elizabeth's daughter, Pamela, lived nearby and held enduring power of attorney for Elizabeth's financial and personal matters. John became concerned when household items went missing after Pamela's visits and he noticed unexplained use of Elizabeth's credit card. The spending had created several thousand dollars of debt, which placed significant pressure on the couple because they both relied on the age pension. Pamela said the purchases were for groceries and cleaning supplies.

John was also worried that Pamela could access the couple's myGov accounts because she had helped them establish online access to Centrelink. John did not feel confident using the internet.

John contacted several family violence services because he believed that he and Elizabeth were being financially abused. One service advised that Elizabeth would need to contact them herself as she was the victim, but when he informed them of her dementia, they informed him that this meant she could not give instructions to a lawyer as she did not have capacity. Another service assisted only women and children and referred John to a men's helpline, which supported people who use violence rather than victim-survivors. John eventually saw a local newspaper advertisement for ROSE that described elder abuse and recognised similarities with his situation.

Response

John contacted ROSE and arranged a telephone appointment with an advocate, financial counsellor and lawyer. He discussed the service with Elizabeth, who agreed that they should find out more about their rights and options.

After the initial appointment, the financial counsellor notified the bank of the suspected financial abuse. The bank removed Pamela's access, waived the credit card debt on compassionate grounds and established direct payments for the couple's bills. The financial counsellor also recommended telephone self-service through Centrelink. With support from the ROSE advocate, John contacted Centrelink who were able to make changes that made the couple's account easier to manage and prevented Pamela from accessing it in the future.

The lawyer explained a number of legal options to John, including writing to Pamela about the missing property and financial abuse, applying for an intervention order to prevent her from visiting the home, and/or changing the enduring power of attorney. John was interested in an intervention order but wanted Elizabeth to be comfortable with any action. Elizabeth shared his concerns but did not want to confront Pamela directly or take a step that might affect her daughter's career and their relationship.

After considering her options, Elizabeth decided to appoint John and her other daughter, Phoebe, jointly as her attorneys. Phoebe then supported Elizabeth to explain the change to Pamela.

Outcome

The couple's immediate financial risks were reduced; their accounts were made more secure and Elizabeth retained control over decisions affecting her life. John remained concerned about Pamela's behaviour and asked the ROSE advocate to check in with him regularly. ROSE also referred him to a private lawyer for assistance with preparing his will.

The coordinated response gave John and Elizabeth practical protection while respecting Elizabeth's choices, capacity and family relationships.

D. Lowanna's story

Background

Lowanna, an Aboriginal woman, and her children, Jarrah and Willow, first met ECLC's team through the Mabels program. The team helped Lowanna apply for a Family Violence Intervention Order against Willow's father, Simon, and then referred her to the SAGE program for more intensive support.

Lowanna was experiencing several pressures that affected her ability to engage with legal processes. She had been diagnosed with complex post-traumatic stress disorder following severe childhood neglect and abuse. Persistent family violence perpetrated by Simon had intensified her symptoms.

Lowanna was particularly fearful of losing care of Willow because earlier family law proceedings had resulted in Jarrah living with Jarrah's father. Simon repeatedly threatened to have Willow removed from Lowanna's care and made numerous unsubstantiated reports to police and child protection alleging that Lowanna used methamphetamines and left Willow unattended. This repeated contact was especially distressing because, during her own childhood, Lowanna had not received protection from either agency when she needed it.

Legal appointments and court events frequently triggered Lowanna's trauma responses, making it difficult for her to attend or provide instructions at critical stages of her case.

Response

The SAGE Family Violence Advocate and Community Lawyer prioritised trust, flexibility and emotional safety. They offered appointments at short notice when Lowanna felt able to participate, followed up consistently when she could not, and shortened appointments when continuing became overwhelming. Together with Lowanna, they developed a plan to help her feel safer and more supported throughout the legal process.

The Advocate also helped Lowanna reconnect with a local Aboriginal support service to strengthen cultural safety and collaboration. Workers from that service attended important legal appointments and court events with her.

Even with this support, Lowanna found it too distressing to provide all the detail needed for Further and Better Particulars in her intervention order application. With her permission, the Advocate obtained key information from agencies that had previously supported her. The team also worked with Lowanna's trauma counsellor so that

particularly distressing information could be provided with direct therapeutic support and strategies to protect her emotional safety.

Outcome

With this coordinated support, the SAGE lawyer filed detailed Further and Better Particulars and Lowanna secured a further 12-month Intervention Order protecting her and the children. This also assisted Lowanna with her family law matter, with the SAGE lawyer being able to negotiate Final Parenting Orders in accordance with Lowanna's wishes without a contested final hearing.

Lowanna's experience demonstrates how flexible, trauma-informed and culturally safe integrated services can support a person experiencing family violence to participate in legal processes. It also shows how collaboration with an Aboriginal support service can strengthen safety, connection and legal and psycho-social outcomes.

4. 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?

4.1. Managing legal privilege and disclosure requirements

As the question highlights, 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. Although ECLC is confident that it has applied a robust, considered and diligent approach to delivering integrated practice so that the professional reporting obligations do not compromise a client’s legal privilege, this is untested, and the ambiguity around whether integrated practice may compromise a client’s ability to retain legal privilege remains an ongoing concern.

The concern arises through the possibility that:

- an opposing party arguing that the presence of the social service professional has led to a waiver of legal privilege;
- an opposing party arguing that the communication was not for the dominant purpose of legal advice due to the involvement of the social service professional; or,
- a claim that privilege has been waived due to the social service professional having to act on their professional reporting obligations.

The principles and approaches that ECLC has developed over the last decade to manage this risk are outlined below. However, the Centre needs to ensure that it continues to remain alert and attentive to the emerging risks to the legal practice framework, alongside the risk to clients. This creates an ongoing commitment and burden for the organisation and the practitioners leading and delivering services.

4.1.1. Client choice

One of the ways that this risk is managed is by offering clients a choice – wherever possible – about the model of service provided to them, and to inform clients about the risks associated with an integrated model. ECLC places the client at the centre of service design by recognising the individual needs of community members and the different responses they require to ensure that each client’s needs and safety is prioritised.

This requires clients to not only be clearly informed about how the model of service provided to them may affect their rights, but also about the benefits of receiving

integrated support. This not only happens at the beginning of service delivery, but also throughout the service being provided to them so that they can remain informed and in control of their information. This should occur at any point where there is a potential risk to their safety and/or their rights, or where there is an opportunity for them to make a choice about how they would like to manage a potential risk to their safety and/or their rights.

ECLC also seeks to ensure that there is consistency across the service policies and processes so that the choices provided to one client do not inadvertently affect the rights and choices of other clients.

For example, the Mabels model allows for there to be variability in the level of integration that a client chooses because Mabels provides short term interventions that would include a series of discrete appointments where the level of integration could be easily identifiable.

However, the SAGE program provides women with intensive support throughout their experience of the family violence legal system, including through their interactions with the family law system, often over many years. Therefore, the SAGE model is always integrated and is designed on the premise that all support provided by the multidisciplinary practitioners is for the purpose of legal advice and ongoing litigation. Variability in this model for one client, could impact the integrity of the legal model for other clients.

As the Commission has identified this imposes a constraint on clients, forcing them to choose comprehensive legal and social support, or the preservation of their fundamental legal rights.

4.1.2. Dominant purpose test

Another key concern around waiver of privilege is the uncertainty about whether communications within integrated legal assistance services will be able to meet the 'dominant purpose' test.

One of the key benefits of these models is that they enable clients to build trust with the lawyer and social service professional through this joint model of support. This relationship of trust means that clients are prepared to share more information about themselves and their circumstances, allowing them to receive more accurate legal advice and are more likely to remain engaged with the service in circumstances where they would have otherwise ordinarily withdrawn.

It also provides a response that meets the client at their own pace. In the context of an integrated legal assistance appointment, whilst a client might attend to seek legal advice, the focus of that discussion might shift during the course of an appointment. The client might be facing eviction due to unpaid rent while also trying to manage large gambling debts and unpaid fines, or the client may be having suicidal thoughts as a result of the stress of a court hearing the following week. In these scenarios, the legal advice might be part of the appointment, but it might not take up the majority of the appointment. Or the entire focus might shift to supporting that client through that moment.

In these particularly complex scenarios, it is not possible for the lawyer to provide legal advice until the client is calm and able to engage with, understand and respond to that advice. This is particularly critical for clients with complex and multiple barriers to access, particularly around trauma and/or mental health challenges.

These examples demonstrate how challenging it is for integrated legal assistance services to feel confident that they will satisfy the 'dominant purpose' test in the face of any challenge. It is ECLC's very strong concern that it would be artificial to argue that the 'dominant purpose' of the abovementioned appointments is legal, if existing case law examples were followed. It is simply not possible to be confident that a court would support a broader, more inclusive definition of 'legal advice' or 'dominant purpose'.

ECLC's view is that 'legal advice' should have a broad interpretation and encapsulate the service and support that is provided through integrated legal assistance services.

Over more than a decade of providing integrated legal assistance services, the Centre has gained greater depth and understanding of:

- the information and communication that is necessary for people to receive legal advice and support, especially when they are experiencing family violence, elder abuse, mental health challenges or other complex life problems; and
- the extent to which legal problems are almost always deeply interconnected to other life problems or challenges.

This is what informs the understanding of what 'dominant purpose' means when considering the design of its integrated legal assistance models.

When providing services within the legal practice framework, all practitioners regardless of their discipline are required to provide support around a person's legal needs, and where appropriate provide referrals for additional support.

Within the Mabels program, around 1 in 4 clients are choosing to make their first disclosure of family violence. This is because of the trusted nature of having a program embedded within their maternal and child health service, but also because of the protection of their information.

Although clients are choosing to speak to a lawyer, they can be reluctant to disclose the full details of their experience of family violence within the first appointment and instead talk about patterns of behaviours, experiences and impacts, on both them and their child/ren. The client may attend multiple appointments to talk about the possibility of separation and how this might increase their safety and the safety of their child/ren, their living arrangements, and parenting after separation.

The information presented in a 'lawyer only' appointment is not often different from the information presented in an 'integrated' appointment, yet in the integrated setting there is greater ambiguity around legal privilege and dominant purpose.

However, for many clients, the family violence advocate is able to provide additional support for clients who may find it more difficult to share their information with a lawyer; may be experiencing additional barriers that make it harder to disclose family violence; are fearful of the repercussions of disclosing family violence; and/or need strategies to keep them and their child/ren safe whilst exploring their legal options.

Through all of this the lawyer may be discussing intervention orders, child protection, parenting arrangements and preparing the client with information that would be important in future family law proceedings.

What becomes evident by delivering these services is that the disclosure of more thorough information allows the client to build trust with the service and in turn they are more likely to trust the legal information and legal options presented to them, and therefore able to engage with the legal system in seeking safety for themselves and their children. Fundamentally, it allows clients to receive legal assistance, which is a critical marker of meaningful access to justice.

4.1.3. Role clarity

ECLC is careful and diligent in ensuring practitioners have clarity about their role and the expectations associated with a social service professional working within a legal framework. Each social service professional brings a wealth of knowledge and skills, but in order to work effectively within the legal framework, often the role descriptions for a social service professional will be constructed and confined to providing support that is interconnected and complements the legal support provided by the lawyer.

Although ECLC makes every attempt to ensure that these roles are developed to be as effective as possible, it often means that social service professionals are restricted in the support they are able to provide or the model may require for there to be variability to the level in which they are integrated. This constrains the support that is available to clients, or it burdens the clients to choose between the support or risk to their legal privilege.

It also becomes challenging to be able to adequately support professionals from diverse disciplines to utilise the skills and expertise in which they are trained, whilst aligning themselves to work within a legal framework. Although this can sound simple in theory, even when individual practitioners employed by one organisation to work in integrated programs understand that they are making a commitment to practice within the legal framework, the practical application of this can be frustrating, constraining and in conflict with their personal values and goals.

If the law around privilege was clarified, this would not change the expectation that social service professional would work within the legal framework in terms of the role they played in supporting the client. Their role would still be tied to supporting that client through their legal matter.

However, the assurance about their right to be present in the appointment and provide that support that they are expertly trained to provide would alleviate that practitioner from a significant burden of stress that is carried through each client appointment. In addition, practitioners would feel less constrained about a basic matter such as taking notes. This is currently discouraged in some integrated legal assistance services, as it reduces the risk to clients' information being exposed, should a subpoena be issued. However, this also adds to the burden on the social service practitioner and restricts their practice, as they cannot rely on their notes to support the client in an ongoing way as they would normally do.

It is likely that the Centre is taking a conservative approach in the support that can be provided by a social service professional in order to protect legal privilege. It also provides additional boundaries around the role of the social service professional who is not able to provide any support to the client separate to the lawyer and is not privy to information or file notes from 'lawyer only' services. This can create some practical barriers that are inconvenient to the client and may require them to repeat their story that they had already separately disclosed to the lawyer.

4.1.4. Professional obligations

In its integrated legal assistance programs, ECLC is committed to understanding the disciplines it is employing (or those employed by its partner organisations), and any professional and ethical obligations required of them.

The Centre designs each social service professional's role carefully to ensure it provides support that interconnects with and complements the legal support in that program. ECLC's ensures that the professional standards and disclosure requirements of the social service professionals it employs do not conflict with the fulfilment of their roles within its policies and processes.

Strong interprofessional understanding has also been a critical element in strengthening and growing the integrated practice programs. This includes ensuring the establishment of training, capacity-building sessions and induction processes that ensure that practitioners delivering integrated practice programs are really clear about what professional obligations different practitioners have and why. This ensures that practitioners are attuned to the risk to privilege and are to when obligations of other practitioners might be invoked. These processes provide clarity for addressing these circumstances, and practitioners are supported to work through these situations.

It is often assumed that a clash of professional obligations will occur regularly in the delivery of integrated legal assistance services. However, the Centre's experience is that such assumptions may be less about professional obligations conflicting, and instead perhaps associated with incorrect assumptions about the professional obligations of different disciplines.

For instance, there are often concerns raised about how to balance the obligations of a lawyer alongside the obligations of a social worker who has mandatory reporting

obligations around risk and child safety. However, social workers are not under mandatory reporting obligations – it will depend on their organisational requirements. Of course, social workers do have different ethical obligations to a lawyer, which will at times appear to conflict with the lawyer’s duties of confidentiality.

However, in terms of a direct ‘clash’ of professional responsibilities, this circumstance has not transpired as often as might be assumed. Instead, it is much more common that when there are concerns around child safety, the concerns are shared by both the lawyer and the social service professional. This is where the extensive program planning, governance structures and interprofessional understanding all play a crucial role in supporting the successful operation of ECLC’s integrated legal assistance programs.

4.1.5. Supervision, support and reflective practice

Each of the elements discussed above require service providers to have well developed governance structures, policies and processes that are robust yet flexible. Managing the ambiguity of the potential clash of obligations, as well as the uncertainty around the application of privilege, makes it difficult for professionals, regardless of their discipline, to confidently work in these services.

Each professional must have access to adequate supervision to ensure they can debrief appropriately, work through ethical dilemmas in a timely manner and discuss any issues around managing their professional obligations. Reflective practice is also important and providing dedicated time and support for practitioners to critically reflect on their professional experiences and judgements enhances practice and skills.¹⁹ Providing a strong team culture of reflective practice builds confidence for practitioners that problem-solving the professional or ethical concerns that arise can lead to creative solutions that are client-centred.²⁰

Whilst ECLC has developed strong capability in how it supports multidisciplinary teams, the constant layer of uncertainty around legal privilege imposes undue pressure on individual practitioners and the organisation to provide suitable supports. Recruiting and retaining practitioners who are prepared to work within this ambiguity, especially when they see it as a risk to their professional standards, as well as to the clients they are supporting, adds an additional level of difficulty.

Providing greater clarity around legal privilege would make working in these models more appealing for practitioners across disciplines and would enable a larger pool of candidates when organisations are recruiting for these roles.

It would also provide the legal assistance sector with a greater authorising environment to develop a broader workforce of expertise in confidently designing, implementing, developing and advocating for innovative models, greatly impacting their ability to provide true access to justice.

Recommendation 4: Ensure reforms to legal privilege address the inadequacy of the current dominant purpose test as it applies to integrated legal assistance settings.

5. 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?

5.1. Potential benefits for the justice system and service providers

As outlined earlier, there has been increasing and overwhelming evidence of the extent of unmet legal need in Australia, and the detrimental and inequitable impacts this has for individuals and communities. ECLC alongside a number of CLCs have pioneered innovative integrated legal assistance models to respond to the needs of people experiencing the most disadvantage.

More recently Governments and funders have been increasingly encouraged and willing to support the idea of collaborative models. The Victorian Royal Commission into Family Violence (2016) specifically urged the Government “strengthen innovation in the development and implementation of family violence policy and foster collaboration between different service systems” to work through how “distinct underlying principles, service delivery models and theoretical frameworks [of different sectors and service systems] create barriers to service integration, collaboration and innovation”.²¹ The Victorian Access to Justice Review (2016) recommended governments offer support for more flexible and integrated responses, specifically “supporting integrated service delivery ... for cross-portfolio co-ordination between justice and human services areas...where there are demonstrated legal needs for tailored or targeted services to reach particular client groups.”²²

This has enabled projects and initiatives that were once funded through grants programs and philanthropic funding to be provided Government funding. Governments have made even broader commitments as can be seen through the ‘Early Intervention Investment Framework’ embedded by the Victorian Government from the 2021–2022 Budget²³ and the National Access to Justice Partnership (NAJP, 2025) that provided clarity on affirming scope to fund social service professional roles alongside lawyers in legal assistance.²⁴

Yet despite positive developments with the themes of ‘increased collaboration and more integrated service systems’ more commonly a focus of public policy, there have been minimal government-led policy frameworks within which these models have developed or been directly supported.

Ensuring the law enhances the protection for communications in integrated legal assistance service settings would decrease the burden on organisations needing to

navigate this complexity and instead allow them to focus on delivering the services for community members. It would also create an authorising environment for the legal assistance sector to continue pioneering and innovating integrated legal assistance models that aim to resolve the access to justice gaps experienced by so many Australians.

This has the potential to have immeasurable benefits for how the legal assistance sector is able to resolve the legal problems faced by people experiencing family violence, elder abuse, mental health challenges or other complex life problems. This is explored in more detail in relation to family violence below.

5.1.1. Family violence as a key issue

Family violence continues to present as a stark example of a societal crisis that demonstrates the legal system's failure to meet community expectations and needs.

One woman is killed nearly every week in Australia due to family violence. This rate has continued, despite efforts and reforms.

Overwhelmingly and unsurprisingly the legal and social needs and remedies in providing safety to women and children experiencing family violence are unavoidably and inextricably intertwined. However, the system and service responses continue to be siloed.

From the experience of ECLC's clients, for women and children experiencing family violence the fear of coming into contact with authorities and the legal system is intimidating, confusing and unsafe. It can also deter them from disclosing family violence and accessing the family violence service system. For women and children who face disproportionate barriers to accessing the legal system, and increased discrimination when they do, the legal support they receive at this time can be life-changing for them and their children.

Yet, despite significant reform and transformation in the way Victoria prevents and responds to family and sexual violence, legal assistance remains insufficiently integrated into the broader systemic response to family violence.

ECLC continues to advocate for the integration of legal assistance, particularly multidisciplinary legal programs and health justice partnerships, within the broader family violence system.

Based on this experience, delivering evidence-based, family violence legal programs that support women to access and remain engaged with the legal system would make the biggest difference to victim-survivors' safety, wellbeing, healing and recovery. It would substantially strengthen trust, ensure equitable access to protection, improve justice responses, reduce the likelihood of re-traumatisation and assist in addressing systems abuse experienced through the legal system.

It is incumbent on government to ensure that the law reflects the way practice has evolved in this sector, to support access to justice.²⁵

5.2. Potential benefits for practitioners and clients

Although ECLC has witnessed the overwhelming benefits of integrated legal assistance services, it has also been privy to the impacts that the ambiguity of the law around privilege creates for practitioners and clients. It strongly believes that if the law were to offer greater protection for communications between clients, lawyers and social service professionals in integrated legal service settings, this would allow practitioners to better respond to the interconnected legal, safety, social, financial, mental health and wellbeing issues experienced by clients.

Whilst the Centre places great importance on offering clients choice about the types of services they want to access and the model that they believe would best meet their needs, it can also be apparent that in many instances this 'choice' is constrained by the risks they need to manage.

As outlined earlier, the Mabels program offers clients the greatest matrix of choice about which practitioners they want working alongside the lawyer. The choices made not only shift across appointments but also within appointments and practitioners are expertly ensuring clients are offered the opportunities to continue to make informed choices at pivotal times. Over eleven years of Mabels service delivery, ECLC has gained significant insights into how clients are making decisions.

Some typical scenarios are provided below.

Scenario 1

A client that does not yet understand or accept that they are experiencing family violence chooses a 'lawyer only' appointment because they, "just want to ask a legal question".

However, it often then transpires that as a client starts identifying the patterns of behaviour they are experiencing as family violence, this can increase their awareness of risk and fears to their safety. At this point, clients are again offered the option of an 'integrated' appointment. In high-risk situations the family violence advocate may join the appointment part way through to offer the client some safety planning for when they return home to their partner, or where there is less risk, a subsequent appointment may be scheduled.

Impact

Whilst this level of choice fits within a client empowerment model, it potentially represents a delay in providing clients with a service that meets their interconnected needs and increases their safety. It likely requires the client to have to retell at least part of their story to the family violence advocate who wasn't part of the initial appointment, creating a less trauma-informed experience. Additionally, this creates service delivery delays, increasing the time that other clients might be waiting for an appointment. It

would be a much better scenario if the client could have received the integrated service from the beginning so that time and resources are not wasted.

Scenario 2

A client chooses a 'lawyer only' appointment because the risk to their legal privilege has been explained to them and they are not prepared to put their privilege at risk.

The client may be extremely fearful and at high risk of family violence and may have serious concerns about the impact of the violence on their child and they have identified that they need legal advice to help them to navigate their options. However, during the appointment the client may feel like the legal options provided to them by the lawyer would only increase the risk to their safety, or the options feel completely out of reach. The legal advice may also conflict with the family violence support they are being provided by other services, particularly around parenting decisions. Although the lawyer may be offering the choice of an 'integrated' appointment, the client is more fearful of the repercussions of a risk to their privilege.

Impact

This scenario presents the irreconcilable dilemma of a client having to make a decision which could potentially have major implications: choosing between having a holistic service that can appropriately respond to their interconnected legal, family violence and safety needs whilst risking their privilege; or, obtaining legal advice but then having to navigate the safety information separately and having to then rationalise both sets of sometimes conflicting advice whilst protecting their privilege. This can delay or prevent a client being able to engage with their legal options in seeking safety from family violence for themselves and their children. It also prevents any opportunity for early intervention, and instead exposes them to further harm and relies on a crisis intervention that often places a greater strain on the service system.

In contrast, the SAGE program that is funded by Government to provide multidisciplinary support, is a model of service that is always integrated and is designed on the premise that all support provided by the multidisciplinary practitioners is for the purpose of legal advice and ongoing litigation. Variability in this model for one client, could impact the integrity of the legal model for other clients and therefore clients are provided limited choices within this program.

Scenario 3

A client chooses to risk their legal privilege because the only way they can receive adequate legal assistance for complex legal issues is through an 'integrated' program. The client has tried to access 'traditional' modes of legal support, but they find it difficult to remain engaged. They experience a number of additional barriers which make it very

difficult to trust and engage with systems and services. They are therefore provided with the option of choosing a legal program that can appropriately respond to their interconnected legal, family violence and safety needs whilst risking their privilege; or not receiving legal assistance.

Impact

This scenario demonstrates the ethical challenges that impact the choice that clients are 'empowered' with, and the burden a client must carry by making this choice. It also increases the responsibility of the organisation needing to ensure due diligence that the structures, policies and processes guiding the program are as protective of the client's privilege as they can be. This can create rigidity within a program that would otherwise rely on flexibility. An example of this would be limiting the role of the family violence advocate working in this program to never extending the support that they are able to provide outside of the strict boundaries set in the program. This is not only frustrating and challenging for the client, but also for the practitioners who would otherwise prefer to be more client-centred in their approach.

Ensuring the law enhances protection for communications in these settings would decrease the burden on practitioners and clients needing to navigate this complexity and allow multidisciplinary teams to provide clients with legal assistance that is better able to respond to their needs. This opportunity is not just a 'nice to have' from a client's perspective. In many situations this can be the difference between whether or not a client:

- accesses a service;
- maintains their engagement with a service; and,
- is able to rely on the legal system to provide protection and safety.

Mabels client: "[The FV Advocate] knowing the kind of things that you need, and having someone practical alongside her tell you: actually these are the pathways in order to have these [things]. It's kind of genius actually. Having both of them there, I guess it's two sides of the mind. One is giving you an action plan. One is saying this is what you need, and the other one is putting it into action."

Recommendation 5: The law should be amended to ensure protection for communications between clients, lawyers and social service professionals in integrated legal assistance service settings.

6. Question 5 –

Are you in favour of establishing:

- 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
 - b. 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? Why or why not?
-

ECLC appreciates the approach of the Commission in suggesting reform options that could apply to integrated legal assistance services to potentially enhance access to justice. Each reform option deals with a specific set of circumstances that are currently being managed by the sector without clear legislative guidance. Therefore, ECLC is in favour of the law enhancing protection of communications to ensure clients and practitioners across our sector can access these integrated and multidisciplinary practice programs with confidence. In terms of the specific options proposed by the Commission, ECLC's position is set out below.

6.1. 5a. Social service professional privilege for 'loosely' integrated models

ECLC acknowledges the potential benefits of introducing a 'social service professional privilege', but holds some concerns about how this would operate in practice. This is primarily because ECLC's experience in delivering integrated legal assistance services has been dedicated to providing 'closely' integrated models and has limited experience with models that fit the Commission's 'loosely' integrated description. ECLC would defer to the services who deliver 'loosely' integrated legal assistance models for their expertise. However some considerations are included below.

6.1.1. Benefits of a social service professional privilege

Trauma informed

ECLC sees this reform option as a positive step in encouraging courts and the service system to take a more victim-focused and trauma-informed approach to court processes. From ECLC's experience in delivering family violence services this reform option could specifically be of great benefit to victim-survivors of family violence by:

- enabling them to resist the production of documents that might otherwise cause significant trauma by having their sensitive and confidential information exposed through the court process;
- shielding them from having their sensitive and personal information weaponised against them through the legal/court processes; and,

- providing them with an additional layer of protection by restricting sensitive information from being shared which might expose them to risk (i.e. details of safety planning or services attended).

Consistency of laws across States

In addition to the above, introducing a social service professional privilege would offer Victorians a provision which has a similar focus to the “confidential relationship privilege” which exists in the Australian Capital Territory, New South Wales, Western Australia and Tasmania. Whilst acknowledging that this is not exactly the same law, ECLC supports consistency of laws across States and Territories, particularly when this concerns the treatment of confidential information of victim-survivors of family violence, who may be most significantly impacted by having to grapple with different laws across State/Territory borders. This is of particular concern with clients who live in regional areas close to the New South Wales border.

6.1.2. Possible negative consequences of a social service professional privilege

Qualified privilege may create greater complexity

As the Commission has noted, the “professional confidential relationship privilege” which operates in the Australian Capital Territory, New South Wales, Western Australia and Tasmania, offers qualified privilege only. This means that “the court may compel disclosure if the desirability of the evidence being given is greater than the harm of disclosure to the client claiming privilege” (para 6.13).

The Commission has indicated that any social service professional privilege would likely be qualified, consistent with other non-legal privileges. Although upholding such a privilege would benefit clients, the process of asserting and defending it may itself cause significant stress and further trauma, particularly where a client cannot obtain legal representation.

The proposed provision is also unclear as to who would bear the onus of establishing the privilege. If the client were required to assert it and demonstrate that the relevant conditions were satisfied, the reform would place a substantial procedural and evidentiary burden on the person whose confidential information is at risk.

The example provided by the Commission in relation to the recent revelations around exposure of confidential information from counselling records by 1800RESPECT²⁶ demonstrates the challenges posed by a qualified privilege in these circumstances. ECLC also shares the concerns highlighted by the Commission (at paragraph 7.14) that the risk of exposure of confidential information through a subpoena might act as a deterrent to people accessing these services at all, where a qualified privilege does not provide a guarantee that the privilege will be upheld.

Accordingly, if this reform proceeds, ECLC considers that an absolute privilege would be preferable because it would provide greater certainty and avoid requiring clients to litigate the protection of sensitive information.

Unclear interaction with existing obligations/roles of social service professionals

It is unclear how a new social service privilege would interact with a social service professional's existing professional obligations and the manner in which they are accustomed to working. There are currently a wide range of disciplines who work as social service professionals in a legal assistance setting. Each of these disciplines has quite specific professional obligations. As has been outlined earlier, when the social service professional is working in a 'closely' integrated legal assistance setting alongside a lawyer, it is reasonable to view that role in the confines of legal service delivery and therefore falling within the operation of legal privilege.

However, for a social service professional working in a 'loosely' integrated legal assistance setting, their role will presumably be more broadly defined. This would mean that the social service professional in that setting will operate in a way that aligns with more 'traditional' expectations of that role. This is likely to mean that the social service professional will have a duty of care to the client and perhaps to any children and is likely to undertake a significant degree of advocacy on their client's behalf. This may therefore involve the sharing of information in order to advocate for them and/or connect them with additional services. This will be very much dependent on the role and responsibilities of the practitioner, the professional obligations relevant to the particular discipline of the practitioner and, the health or social service agency's own policies and processes.

For the social service professional to be concerned about the operation of a social service privilege as an overlay to their role, this may create complexity and confusion about what that social service professional can and can't do for the client, for fear of acting inconsistently with the privilege. This may cause that social service professional to feel overly constrained in their role, which would be a detriment to the support they can provide for the client.

Recommendation 6: Further consultation should be undertaken with professional representative bodies who can provide advice on whether a social service professional privilege (whether qualified or absolute), would create irreconcilable challenges for social service professionals to meet their existing professional obligations/undertake their role when working in 'loosely' integrated legal assistance services.

6.2. New category of legal privilege for 'closely' integrated models

This submission has already comprehensively detailed the benefits of 'closely' integrated legal assistance services for clients, service providers and the justice system; the impacts of the ambiguity around whether integrated practice may compromise a client's ability to retain legal privilege; and, the benefits of the law enhancing protection for communication for the justice system, service providers, practitioners and clients.

As has already been identified, the current law around privilege does not align with legal service delivery in 'closely' integrated legal assistance settings, creating the potential for a legal challenge that could stifle these models. The work of practitioners within 'closely' integrated legal services are by their nature highly interconnected, so that it is impractical to fully separate the tasks performed by the different practitioners. The interconnected nature of these models is what makes it difficult to have confidence that the 'dominant purpose' test has been met.

ECLC is very concerned about the possible impacts if these models were to be exposed to challenge in a court proceeding, and the Court took a narrow interpretation of 'dominant purpose'. This would likely lead to existing 'closely' integrated models facing significant operational constraints and therefore have a severe impact on service continuity for existing clients. Such a development would almost certainly halt the positive continued development of such models, which would have devastating impacts for the legal assistance sector in attempting to provide access to justice for clients.

ECLC has strongly advocated for clarity in the law in this area for a number of years and first identified and raised this issue publicly in 2018 through a recommendation in the landmark "It couldn't have come at a better time" – Early Intervention Legal Assistance report. This report contained significant evidence around the impact of integrating legal assistance with family violence advocacy in a local health setting. It described the successful Mabels model of early intervention legal assistance for women and children experiencing family violence, but also highlighted the significant limitations placed on these types of models by the current law of privilege.

Since this report, the Mabels model has moved from project funding (originally primarily from the Victorian Legal Services Board Grants Program) to Victorian Government funding that also expanded the program to a third local government area. Philanthropic funding has since expanded the program to a regional area, where a partner CLC has been able to replicate and adapt the model to a regional setting. This expansion has occurred because of the overwhelming benefits and impacts provided through this program, and despite the challenges faced by the organisation and practitioners in managing the complexity of delivering integrated legal assistance services.

As the Commission has highlighted in the Consultation Paper:

"...the development of legal privilege has not kept up with innovations in legal service delivery. All Australian governments now fund and promote integrated legal assistance services. These services combine free legal assistance with free social support, such as health care or specialised family violence advocacy, to improve access to justice for people experiencing disadvantage"

From a policy perspective, it is incongruous for governments to fund and promote service delivery models which are potentially exposing organisations and clients to risk.

For these reasons, ECLC supports reform that that would enhance protection for communications relating to and between clients, lawyers and social service professionals in 'closely' integrated legal assistance service settings to provide assurance that communications within 'closely' integrated legal assistance settings are prima facie protected.

ECLC is in favour of reform to the law that provides clarity that legal professional privilege extends to 'closely' integrated legal assistance services. Exactly what form this should take (whether requiring a "new category" in legislation or through an updated and clarified 'dominant purpose' test which clearly incorporates integrated legal assistance services), will hopefully become clearer through the Commissions current consultation. An exploration of some of this in more detail is contained in ECLC's response to Question 7 below.

7. Question 6 –

If you support a social service professional privilege for loosely integrated legal assistance service settings, do you have a view on the scope, elements, eligibility requirements or implications of the privilege? If so, what is it?

As indicated in greater detail above at Question 5, ECLC is reluctant to support the introduction of a social service professional privilege but would defer to the services who deliver ‘loosely’ integrated legal assistance models for their expertise. However some considerations are included below.

ECLC's service delivery models do not in practical terms resemble the ‘loosely’ integrated model as described by the Commission, and as outlined in Question 3, ECLC makes every effort to comply with the legal practice framework by ensuring that the models are ‘closely’ integrated.

Although ECLC would be keen for any reform options that made client information less vulnerable to a subpoena, with limited practice experience in managing social service professionals in these settings, ECLC has chosen not to offer a position on the detailed aspects of such a provision, nor the practical implications if this were introduced.

Any new provision establishing a new social service professional privilege would need to consider the specific perspectives of the range of social service professionals engaged in ‘loosely’ integrated legal assistance services to whom the proposed privilege would apply.

If those perspectives are not obtained by the Commission through this current consultation period, it is suggested that further consultation would need to be undertaken with specific representative sector bodies to ensure that the proposed privilege does not interfere with policy or practice settings that are carefully balanced to support and protect clients in these settings in other ways.

8. 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? If so, what is it?

We are particularly keen to hear your views on the definition of 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.

ECLC is in favour of reform to the law that provides clarity that legal privilege extends to 'closely' integrated legal assistance services. As indicated at question 5 above, exactly what form this should take (whether requiring a "new category" in legislation or through an updated and clarified "dominant purpose" test which clearly incorporates integrated legal assistance services), will hopefully be clarified through the Commissions current consultation. ECLC's views on some of the details to be considered in implementing this reform are contained below.

8.1. Definition of integrated legal assistance services

As discussed at the beginning of this submission, ECLC proposes the following definition of 'integrated legal assistance services':

"Legal assistance services who employ, or work in partnership with organisations that employ, social service professionals to provide multidisciplinary legal services. This involves lawyers and social service professionals working collaboratively to provide integrated legal and social support. The primary purpose of this approach is to enable people to safely and effectively address their legal needs by simultaneously addressing their interconnected support needs. In this service setting the role of the social service professional is focused on providing support that complements the legal support provided by the lawyer."

Alongside this definition, the following clarifying statements should be incorporated into the reform to address any ambiguity:

- 'Legal assistance services' includes CLCs, Victoria Legal Aid and partnered pro bono lawyers.²⁷
- 'Clients of legal assistance services' include clients of CLCs as well as clients of partnered services.²⁸
- 'Social service professionals' includes professionals engaged by a legal assistance service to support access to justice for clients of that service.²⁹

8.2. Scope of a new category of legal privilege

8.2.1. Courts and investigative bodies?

The Commission's view that a new category of privilege should be available to clients in respect of both courts and investigative bodies is supported. As the Commission has pointed out, creating a different standard for courts and investigative bodies is likely to unnecessarily complicate the reform in this area and make it more difficult for clients by having to adapt their expectations in different matters, and for practitioners by having to adapt their program operations for different matters.

This would be difficult for clients to understand, especially when they are already dealing with complexities in the issues they are already seeking assistance with. Any reform should aim to make the law relating to privilege less rather than more complex for clients accessing integrated legal assistance services.

Further complexity is added if a client is consulting an integrated legal assistance program for problems which might relate to both court proceedings and administrative bodies. It is difficult to see how this could be viable in practice. It would not be uncommon, for example, for a victim-survivor of family violence to have intervention order proceedings running alongside a child protection investigation. Similarly, it would not be unusual for a respondent in intervention order proceedings to simultaneously be the subject of a police investigation arising from the same facts and circumstances.

8.2.2. Absolute or qualified?

ECLC supports the Commission's proposal that the new privilege should be absolute. A qualified privilege would leave clients of integrated legal services less protected than clients of traditional legal services, arguably undermining the very purpose of reform in this area. It leaves the door open to additional disputes about whether a communication should be considered privileged and is likely to create additional, unnecessary complexity and trauma for clients already managing complex life circumstances. Further court hearings for the purpose of debating whether privilege ought to apply in a particular matter will also place additional strain on limited resources in legal assistance services. Legal assistance services are already significantly under-resourced when it comes to their ability to represent clients through court proceedings. A qualified privilege is only likely to stretch these resources more thinly.

8.2.3. Safety exception to the privilege

ECLC has concerns about the introduction of a safety exception to a new category of privilege. If a safety exception was included in the terms proposed in the Consultation Paper, this could have the impact of significantly undermining the operation of the privilege itself. This is because a safety exception might effectively result in clients accessing integrated legal assistance services ending up with a lower standard of privilege than clients accessing traditional legal services.

From an access to justice perspective, a two-tiered approach to legal privilege that would undermine an entitlement that clients currently have is not supported.

There is concern that some clients might be deterred from accessing an integrated legal assistance service if there is a safety exception, knowing that they will be potentially exposed to a lower standard of protection. There is concern that some clients might be deterred from accessing an integrated legal assistance service if there is a safety exception, knowing that they will be potentially exposed to a lower standard of protection. There is a risk that some of the clients who would benefit most from these services would be deterred from accessing the support they need.

In fact, integrated legal assistance services play a significant role in promoting safety and addressing risk. Clients who would not otherwise access support services because of concerns about exposure to reporting obligations, are more likely to receive the support needed to address the complex issues they are facing and be supported to address safety concerns.

The managing of practitioners' professional and ethical obligations - which includes how practitioners assess and support client safety - is already a primary consideration when designing integrated legal assistance programs. Imposing a new safety exception on the operation of these programs is likely to create confusion and uncertainty for practitioners and clients.

ECLC has strong governance structures in place, including risk escalation policies and procedures to support practitioners in addressing risk to client safety that arise in the course of this work. These internal policies and procedures are designed to ensure that organisational structures support compliance with legal requirements as well as any professional rules and regulations governing practitioners.

8.3. Elements of a new category of legal privilege

8.3.1. Which forms of communication?

ECLC agrees with the proposed view expressed by the Commission (at paragraph 7.37) that it would be preferable for any extended/clarified privilege to cover all forms of communication whether that communication is written or verbal. As has been clarified earlier, legal problems rarely exist in isolation. This is especially the case for clients assisted by CLCs, who often attend with a range of interconnected legal issues, or legal issues combined with other social or personal life challenges. 'Closely' integrated legal practices address these issues holistically, integrating the expertise and specialist communication methods of different professionals.

The ability of these models to establish trust with clients seeking assistance is critical in supporting clients to provide full instructions. If the type of communication able to be protected is too tightly restricted, it creates unnecessary complexity for practitioners trying to meet client needs and obtain full instructions. It might also place an artificial barrier on clients and their advisers seeking to establish trust and rapport.

ECLC would also support a clarification that legal privilege for integrated legal assistance services should apply to communications in these settings which are undertaken for the purpose of legal assistance, including both legal advice and litigation. A broader purpose of 'legal assistance' may be an important consideration in ensuring the reform accommodates the different models and settings of integrated legal assistance services.

8.3.2. What should confidential mean?

As noted in the Consultation Paper, it is often necessary for social services professionals to utilise client information to advocate on a client's behalf with other organisations (e.g. applying for housing; advocating with a debt collection agency). It therefore seems reasonable that a new category of legal privilege should provide for the use of 'confidential information' for reasonable purposes in this way, provided that this was done in a way that is consistent with the maintenance of the privilege.

ECLC would support a definition of confidential information that enables disclosures by social service professionals in circumstances where this is required to support the delivery of integrated legal assistance.

8.3.3. What should the purpose of the communication be?

As has been discussed at Question 3, the dominant purpose test as it currently stands does not offer clarity that integrated legal assistance models are covered by legal privilege. ECLC therefore supports reform that clarifies or extends the existing dominant purpose test within the context of integrated legal assistance services.

ECLC submits that the 'dominant purpose' test should be updated to provide that communications are covered by privilege if they are made for the dominant purpose of 'obtaining integrated legal assistance services'.

If the definition of integrated legal assistance services is clear in:

- describing the role of the social service professional; and,
- establishing the purpose of this method of service delivery,

then an updated dominant purpose test that includes obtaining integrated legal assistance, should clarify that legal privilege extends to the circumstances contemplated throughout this submission.

It is hoped that these combined reforms will have the effect of clarifying that all communications made for the dominant purpose of obtaining integrated legal assistance will be covered by legal privilege, including communications between:

- the client, lawyer and social services professional;
- the lawyer and social services professional without the presence of the client (for example in case strategy or case management meetings necessary to support integrated legal assistance service delivery); and,
- the social services professional and the client without the lawyer present.

It is a reality, for example, of integrated legal practice that social services professionals will need to have some conversations with a client independently outside of joint appointments with the lawyer, to support the client's legal matter. Assisting a client to secure housing for example, may be both necessary for the client's capacity to effectively receive legal assistance and critical to demonstrating that they have stable accommodation in their criminal, child protection or family law proceedings.

Consequently, where issues have been discussed within the context of a joint integrated legal assistance appointment, it would not be reasonable for privilege to be waived if the client then discusses those same issues independently with the social services professional.

It would likely make a new privilege unworkable if clients were required to monitor what they could and couldn't say, to which professionals within the relevant service, about the very issues they are seeking integrated legal assistance with. It would also create continued complexity for practitioners to have to track what had and hadn't already been addressed in a joint legal appointment and to adopt different note-taking practices depending which context their conversation with the client had occurred in.

Extending or clarifying that privilege applies to 'closely' integrated legal assistance settings by making the above suggested alteration to the dominant purpose test would appear to be consistent with the rationale of Justice Finn in his judgment in *Pratt Holdings v Commissioner of Taxation* [2004] FCAFC 122 (12 May 2004) (*Pratt Holdings v Commissioner of Taxation*).

In *Pratt Holdings v Commissioner of Taxation*, Justice Finn analyses "the nature of the function [the third party] performed for [the client]"³⁰. He goes on to state that:

*"If that function was to enable the principal to make the communication necessary to obtain legal advice it required, I can see no reason for withholding the privilege from the documentary communication authored by the third party"*³¹.

Justice Finn continues as follows:

42. Whether a natural person or a corporation, a party seeking to obtain legal advice may not have the aptitude, knowledge, skill and expertise, or resources to make adequately, appropriately or at all such communication to its legal adviser as is necessary to obtain the advice required. Such is commonplace today where advice is sought on complex and technical matters. To deny that person the ability to utilise the services of a third party to remedy his or her own inability or inadequacy unless he or she is prepared to forego privilege in the documents prepared by the third party, is to disadvantage that person relative to another who is able adequately to make the desired communication to a legal adviser by relying upon his or her own knowledge, resources, etc.

43. For the law to provide such an incentive not to utilise the services of third parties in such circumstances is to undercut the privilege itself. It would not facilitate access

*to effective legal advice nor would it facilitate effective communication with legal advisers for the purpose of obtaining legal advice.*³²

Whilst this case contains facts in an entirely different context to that of legal assistance providers and their clients, the principles articulated align with the changes ECLC has proposed above to clarify the application of the 'dominant purpose test' to 'closely' integrated legal assistance services. There is a strong policy argument that if such an extension can be clarified in the law for commercial contexts, a comparable extension should also be provided for individuals, especially those community members who are seeking legal advice facing the most complex of circumstances.

As the Commission observes in the Consultation Paper:

"At common law, legal privilege can only be expanded to incorporate novel circumstances if doing so would further, rather than impede, the administration of justice. Where the delivery of social services is critical to the safe and accessible provision of legal services in integrated legal assistance service settings, the new legal privilege appears to meet this criterion".³³

At this stage, ECLC is open to considering a new 'appreciable purpose' test as the alternative solution proposed by the Commission. However, ECLC does have some concern that introducing the less familiar term 'appreciable' might cause more confusion for clients and practitioners to adapt to considering how an appreciable purpose test is to be applied. In addition, an 'appreciable purpose' test would mean that, in some circumstances, practitioners might still feel cautious about whether a particular communication was 'connected enough' to a legal purpose to qualify for the privilege. Rather, if the test was a 'communication where the dominant purpose is obtaining integrated legal assistance services', alongside a suitable definition of 'integrated legal assistance services', it is suggested that this is a much more straightforward test to apply.

8.3.4. Eligibility requirements for the privilege

Trying to specifically define the group of clients who would benefit from this privilege comes with some complexity. The clients accessing assistance through the legal assistance sector's integrated legal assistance services already satisfy a range of criteria around disadvantage, complex needs, marginalisation, safety risk due to family violence. Therefore, a need for further criteria to describe the type of client to whom the privilege might be available seems unnecessary and unhelpful. If the definition of 'integrated legal assistance services' is made appropriately, defining the group of clients that can access the privilege should not be necessary.

ECLC strongly agrees with the Commission's statement that "[p]roviding greater certainty about when the new legal privilege could be relied upon could be a key benefit of the privilege"³⁴. However, it is cautious about supporting new regulatory or accreditation schemes on community legal centres.

An additional accreditation scheme to be imposed on CLCs would add to an already burdensome administrative load for CLCs, with existing accreditation requirements creating a significant workload for CLCs. CLCs already comply with all legal practice requirements, agency governance requirements (including the ACNC) and the sector's own National Accreditation Scheme.³⁵

ECLC is also cautious about supporting additional application processes in respect of any new regulatory scheme³⁶ to govern integrated legal assistance services. CLCs are already stretched to undertake a significant administrative load in funding applications, accreditation requirements and reporting requirements for funded programs. However, it may be possible to impose a simple regulatory scheme that allows CLCs to register as say a 'closely' integrated legal practice" from which flows a presumption that legal professional privilege will apply to all practitioners employed in that legal practice.

The existing Continuing Professional Development (CPD) scheme for legal practitioners could be used to support the legal sector to manage an expanded law on privilege. Training and professional development delivered through this scheme could be an efficient way to use an existing quasi-accreditation scheme to ensure legal practitioners are acquiring the relevant knowledge and skills to understand integrated legal practice as well as the relevant updates to the law on privilege in these contexts. This could be achieved either through introducing a specific category of CPD points for practitioners practising in integrated legal assistance services or that all practitioners are required to acquire an additional category of accreditation points for integrated legal practice. It is acknowledged, however, that adding a new category of CPD points which may not relate to the wide range of legal practitioner roles may not be a practical option.

In addition, social service professionals across different disciplines involved in integrated legal assistance services could have their own correlating CPD requirements within relevant schemes, to ensure understanding and capability in the operation of legal privilege and integrated legal assistance services more broadly.

There is also much potential for legal and other sectors to collaborate on the design and delivery of a multidisciplinary training model or resources, which address the specific skills and knowledge required to support legal practitioners and social service professionals working in these models. ECLC has led an example of such cross-sectoral training, by working with Safe+Equal and Family Safety Victoria, to design and co-deliver MARAM Comprehensive Risk Assessment and Management Training adapted for the legal assistance sector. This training is an exemplar of how a collaborative training model can meet the professional development needs of a diverse group of disciplines.³⁷

If this type of collaborative professional development is to be incorporated to support any proposed reforms, it is essential that dedicated funding is allocated for its development and delivery. It is also essential that the design and delivery of any such professional development material is overseen by organisations and practitioners (representative of the

range of disciplines working in these models) who have led and deeply understand integrated legal assistance practice.

8.3.5. Implications of the privilege for social service professionals

A reform to the law which clarifies the operation of privilege for social service professionals working in integrated legal assistance settings is likely to be strongly supported by this range of disciplines and the sector representative bodies who guide their professional practice.

However, there must be specific consultation with the disciplines who will be impacted by any proposed reform to ensure the reforms operate with integrity alongside other service settings designed to support practitioners doing this work, and in particular, settings designed to support the safety and wellbeing of clients of these services.

Any reform to this area must be able to adapt to the range of models which the legal assistance sector has developed to deliver integrated legal assistance, including models in which CLCs employ social service professionals directly, and models in which CLCs partner with other organisations to deliver integrated legal assistance.

ECLC's 'closely' integrated legal assistance models are almost always delivered with practitioners employed, or seconded from partner organisations. For these models, it is anticipated that social service professionals will be relieved to have clarity that their communications in these models are covered by privilege.

Inconsistency with other Australian jurisdictions

ECLC notes the potential complexities which may arise if a new legal privilege were to be enacted in Victoria which operates differently to laws of evidence in other Australian jurisdictions. Whilst inconsistency across jurisdictions is not ideal, the Commission has acknowledged that the law of evidence is still not identical across all Australian jurisdictions, despite efforts to do so through the Uniform Evidence Law.³⁸ As such, ECLC's view is that the lack of a uniform approach on this issue is not a strong policy reason for Victoria to not amend Victorian laws of evidence for the better.

The Commission outlines the possibility of relying upon Section 79 of the *Judiciary Act 1903* (Cth) to apply a potential new privilege to federal proceedings being heard in Victoria, where there is found to be 'a gap' in federal laws.³⁹ Whilst it is difficult to be certain of an outcome in any given case, ECLC is reassured by the fact that Section 79 offers an avenue to support the application of the new privilege to federal matters heard in Victoria.

As the Commission finally notes, a national adoption of this privilege would be a straightforward way to address inconsistencies across jurisdictions on this issue,⁴⁰ providing significant relief for clients and practitioners grappling with multi-jurisdictional matters. If Victoria is able to lead the way in implementing such a significant reform, ECLC would be hopeful that other states and territories might consider replicating the Victorian provisions in their own evidence law.

Recommendation 7: Amend the dominant purpose test to ensure that privilege covers all communications between clients, legal practitioners and social service professionals where the dominant purpose is to 'access an integrated legal assistance service'.

Recommendation 8: Consult with sector peak bodies who represent the range of social service disciplines engaged in integrated legal assistance services, to ensure that any reform to the law in this area is undertaken in a way that does not inadvertently interfere with the range of other system settings in place or disclosure requirements.

Recommendation 9: Ensure that the implementation of new reforms include a plan and funding for the necessary training, professional development and resources to be developed and delivered to ensure legal practitioners and social service professionals are acquiring the relevant knowledge and skills to understand integrated legal practice as well as the relevant updates to the law on privilege in these contexts.

9. Key Contacts

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Notes

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- ² ECLC history documentary videos: www.eclc.org.au/50
- ³ Forell, S (2018) [Mapping a new path: The health justice landscape](#), 2017, Health Justice Australia, Sydney
- ⁴ ECLC & Federation of CLCs, [Governance Framework for Multidisciplinary Practice](#), 2025, p. 6
- ⁵ Davidson, J et al (n 1), p. 384.
- ⁶ ECLC history documentary videos: www.eclc.org.au/50
- ⁷ Forell, S (n 3)
- ⁸ Forell, S, and Nagy, M (2019) [Joining the dots: 2018 census of the Australian health justice landscape](#), Health Justice Australia, Sydney
- ⁹ <https://eclc.org.au/wp-content/uploads/ECLC-Integrated-Practice-Framework-External-Summary-1.pdf>
- ¹⁰ ECLC & Federation of CLCs, [Governance Framework for Multidisciplinary Practice](#), 2025, p2.
- ¹¹ McAloon, B., Rychner G., Mansfield Y. & Burgess B. (2026). [Measure for Measure: A People-Centred Approach to Tailoring Justice](#). Melbourne: Victoria Law Foundation
- ¹² ECLC & Federation of CLCs (n 10)
- ¹³ Balmer, N. J., Pleasence, P., McDonald, H. M. & Sandefur, R. L. (2023), [The Public Understanding of Law Survey \(PULS\), Volume 1: Everyday Problems and Legal Need](#), Victoria Law Foundation, Melbourne, pp. 10, 3, 14 and 6
- ¹⁴ [Independent Review of the National Legal Assistance Partnership](#) (2024), p. 41
- ¹⁵ Ibid p. 44
- ¹⁶ Langton, M., Smith, K., Eastman, T., O'Neill, L., Cheesman, E., & Rose, M. (2020). [Improving family violence legal and support services for Aboriginal and Torres Strait Islander women](#) (Research report, 25/2020). Sydney: ANROWS
- ¹⁷ Keating, C., Effective Change Pty Ltd, Mabels Changes Everything: How a health justice partnership is quietly transforming legal and family violence support in Maternal and Child Health services – Final Evaluation Report, July 2018 (Unpublished), pp. 5-9
- ¹⁸ Ibid p. 10
- ¹⁹ Reflective Practice For Lawyers (Victorian Legal Services Board & Commissioner) , see: <https://lsbc.vic.gov.au/lawyers/practising-law/lawyer-wellbeing/reflective-practice-lawyers#reflective-practice-for-early-career-lawyers> ; Reflective Practice: Putting Theory into Practice (Law Society of Alberta), see: <https://learningcentre.lawsociety.ab.ca/mod/page/view.php?id=341&forceview=1>
- ²⁰ See discussion contained in Leering, M. (2017). Enhancing the legal profession's capacity for innovation: the promise of reflective practice and action research for increasing access to justice. *Windsor Yearbook of Access to Justice / Recueil annuel de Windsor d'accès à la justice*, 34(1), 189–221. (see: <https://doi.org/10.22329/wyaj.v34i1.5012>)
- ²¹ State of Victoria, [Royal Commission into Family Violence: Summary and recommendations](#), Parl Paper No 132 (2014–16), p. 7
- ²² Government of Victoria, [Access to Justice Review: Volume 1 Report and Recommendations](#), August 2016, p. 189
- ²³ [Early Intervention Investment Framework](#), also in [Victorian Budget papers](#) since 2021–22
- ²⁴ [National Access to Justice Partnership 2025–2030](#), Cl. 56, p.18
- ²⁵ Eastern Community Legal Centre, [Submission: Consultation on the Second Action Plan \(National Plan to End Violence Against Women and Children 2022–2032\)](#), July 2026

²⁶ Victorian Law Reform Commission, [Legal Privilege and Integrated Legal Assistance Services](#), June 2026, (paragraph 7.14)

²⁷ Ibid (paragraph 7.41)

²⁸ Ibid (paragraph 7.42)

²⁹ Ibid (paragraph 7.43)

³⁰ *Pratt Holdings Pty Ltd v Commissioner of Taxation* [2004] FCAFC 122 (12 May 2004), paragraph 41 (see: https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2004/122.html?context=1;query=Pratt%20Holdings%20Pty%20Ltd%20v%20Commissioner%20of%20Taxation;mask_path=)

³¹ Ibid paragraph 41

³² Ibid paragraphs 42–43

³³ Victorian Law Reform Commission (n 26) paragraph 7.29

³⁴ Ibid paragraph 7.52

³⁵ See: <https://clcs.org.au/services/accreditation-2/> and https://www.fclc.org.au/national_accreditation_scheme

³⁶ Victorian Law Reform Commission, (n 26) paragraph 7.56

³⁷ Eastern Community Legal Centre, [Submission: Consultation on the Second Action Plan \(National Plan to End Violence Against Women and Children 2022-2032\)](#), July 2026, pp. 29-31

³⁸ Victorian Law Reform Commission, (n 26) paragraphs 7.59–7.62

³⁹ Ibid paragraphs 7.63–7.65

⁴⁰ Ibid paragraph 7.67