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Submission to the Independent Review of Commonwealth Disaster Funding

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Submitted by: Community Legal Centres Australia

Q1. What experience have you had with Commonwealth disaster funding support?

The Australian community legal sector has extensive experience responding to legal needs arising from disasters. In 2009, centres in Victoria responded to the Black Saturday bushfires. The Black Summer bushfires (2019-20) impacted centres in Queensland, NSW, Victoria, and South Australia. Throughout 2021 and 2022 centres across NSW, Victoria, South Australia, Western Australia, and Queensland responded to unprecedented flooding disasters. Many centres have been impacted by multiple disasters over the years. E.g., Townsville Community Law has responded to monsoonal and flooding events in 1998, 2010-11, 2012 and 2019, and tropical cyclones in 1997, 2000, 2006 and 2011. In many instances, centres and staff are directly impacted by events, as well as contributing to response and recovery efforts.

This experience has taught us that communities value place-based services, from local organisations they already know and trust to be around long-term. People impacted by disasters benefit from the holistic, integrated, trauma-informed model we provide. Our support helps people manage the full range of legal and related needs impacting their lives during and following disasters.

Community legal services receive Commonwealth funding (usually via state government disaster legal assistance programs administered by Justice Departments or Legal Aid Commissions) to deliver disaster legal assistance services when disasters are declared. Overall, in our experience:

1. Governments direct too little funding to disaster preparedness and planning. Community legal centres have been unable to allocate funding for prevention or disaster-resilience work, including interagency coordination and collaboration to prepare for future events. Funding even modest resilience-building programs is an investment rather than a cost. Resilience and capacity building should be considered both in relation to the legal assistance sector, and to communities at highest risk.
2. Funds take too long to reach impacted communities. Services in NSW and QLD communities impacted by the 2022 floods did not receive allocated disaster funding until June 2023. Centres in Western Australia are yet to receive funding to support communities in the Kimberley impacted by the January 2023 floods. Funding delays disrupt service delivery as well as centres' ability to support and retain staff long-term.



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3. Sector consultation is inadequate. Proper consultation with all legal assistance providers is critical to making decisions that promote equity of service delivery and effective targeting so that services reach priority clients with the highest levels of legal need. National, state, and territory community legal sector peak bodies would welcome the opportunity to make a greater contribution to plans for disaster funding allocation and administration.

4. Funding periods should account for long-term recovery. Disasters can create or exacerbate a range of legal issues, including problems with insurance, housing, income and social security, credit and debt, and destroyed legal documents. Legal needs continue years after the disaster event. While some issues will arise immediately, in many cases it takes months or years for people to recognise that their problems are legal and seek help. Communities will benefit from more flexible funding periods, rather than funds pegged to short-term disaster responses.

Q2. How could Commonwealth funding support communities to reduce their disaster risk?

Need for place-based disaster-related legal assistance services will grow as climate change drives more frequent, more severe disasters. The community legal sector is significantly underfunded to meet existing community need for assistance with everyday legal problems. Inadequate funding is exacerbated by inflexible funding contracts, which prevent many centres from developing contingency funds for emergencies and require centres to continue to meet contracted service targets even during disaster response efforts.

Disasters compound legal need and make it even more difficult for stretched centres to respond. Sufficient, sustainable, and flexible funding would enable community legal services to prepare effectively for and respond quickly and efficiently to disasters. Importantly, it would enable services (particularly those in communities predicted to be most impacted by future disasters) to respond to community need at every stage of the disaster cycle, including prevention and preparedness.

The community legal sector receives no funding for disaster risk reduction, disaster preparedness or community resilience-building. Centres tend to receive small, time-limited grants after a disaster is declared to contribute to response and recovery. Some funding contracts require services to expend all funding within 12 months, with no provision to rollover. This means services cannot make funding available to respond to emerging crises. This approach makes it difficult for centres to respond quickly to community need and to develop and retain institutional expertise. It also creates unnecessary duplication and administrative burdens.

In 2020, eight NSW community legal centres received Commonwealth funding to support responses to the 2019-20 bushfires. They used this to add telephone advice lines, backfill positions, provide outreach services, boost digital service delivery, create resources, and more. However, this funding was not renewable, and many have not been able to maintain additional capacity. When the next disaster strikes, these centres may receive new funding, but many will essentially start from scratch in building service capacity to respond to the disaster. Short-term funding in response to disasters is welcome, but funding communities early to build resilience and preparedness is a better, more efficient model.

Commonwealth funding should support resilience training for community legal sector workers. Effective disaster preparedness, response and recovery training can support sector workers to build disaster-specific knowledge and skills and enhance trauma-informed practice skills. Our communities would





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benefit from funding for a nationally led training program for community legal services, and the development of best-practice response programs that could be adapted for local need and scaled up quickly to deal with surge demand.

Commonwealth funding could also support disaster resilience through improved focus on and access to community education, and preparedness and prevention programs for communities. Community legal centres specialise in delivering community legal education. We are perfectly placed to deliver community education on disaster-related legal issues like understanding the significance of preparing important documents, housing and tenancy laws, social security, and financial literacy, including understanding insurance. This information can help insulate communities from the ripple effects of disasters. Community legal services should be adequately funded to do vital community education work.

Q3. Please describe your understanding of Commonwealth disaster funding processes.

Our members' experience is that Commonwealth disaster funding processes are unclear. Centres report feeling very excluded from decision-making around funding allocation, even when they are the primary provider of legal assistance in an impacted area. We appreciate that the Legal Assistance Relief and Recovery Package proposal being developed by the Commonwealth Attorney-General's Department and NEMA seeks to facilitate greater scrutiny of disaster legal assistance funding. However, in our view there would be merit in requiring even greater clarity regarding the allocation and distribution of this funding. For example, it is useful for legal assistance providers to know exactly how much Commonwealth funding has been earmarked specifically for legal assistance, as opposed to other areas of disaster response. Legal assistance providers are often asked to pitch proposals for disaster response services in a vacuum, with no sense of the total government funds that might be available. A sense of the overall legal assistance budget helps us in planning our emergency responses and the scaling of our services within communities.

Improved transparency and accountability around funding processes would deliver more certainty for the community legal sector and would increase our trust in government procurement objectives. As a result, it would likely lead to better legal outcomes for people most at risk of harm from bushfires, floods, cyclones, and other climate disasters.

Q4. Are the funding roles of the Commonwealth, states and territories, and local government, during disaster events clear?

Our members report that funding roles are not clearly defined, which can lead to a range of issues and frustrations. For example, in Western Australia, following the January 2023 Kimberly flooding, various state government agencies put together a joint application package for Commonwealth disaster funding (one for the social domain and one for the built domain). The Department of Justice worked quickly and put pressure on individual services – including community legal service – to contribute to its application for social domain funding. The department then sent the application to the coordinating agency, the Western Australian Department of Fire and Emergency Services. Some other agencies put in non-conforming bids, which made the state Cabinet approval process for the application very lengthy. Once approved at the state level, the application now must go through federal approval processes, which are ongoing.





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As a result, community legal services are still waiting to receive funding to support their disaster response work. Services in disaster-impacted areas are struggling to meet usual need, let alone additional need. These services are seeing a lot of opportunity to do prevention and early intervention work in the communities impacted by the floods – particularly in the areas of credit and debt, renting and housing, expected increases in domestic and family violence, identity documentation issues, and more – but their capacity to do this work is extremely limited while they await funding. The fact that these centres do not have clear timelines on when funding will be approved and distributed further frustrates efforts to plan to support their disaster-impacted communities.

The lack of clear definition and delineation surrounding funding roles can also lead to more onerous reporting obligations for our members. Many centres in receipt of disaster funding are being required to report more frequently and to different state and commonwealth bodies, which cuts into already limited centre capacity.

Q5. Is there any further information you would like to provide?

Community Legal Centres Australia is the national representative voice for the community legal sector. Our members are the eight state and territory community legal sector peak bodies. Together, we represent over 160 community legal centres, Women's Legal Services, Family Violence Prevention Legal Services and Aboriginal and Torres Strait Islander Legal Services across Australia. Our sector's expertise is grounded in the stories of the 180,000 people who engage community legal services each year and who experience first-hand the barriers to accessing justice that exist in our legal systems. Collectively, we recognise that climate change – and the worsening disasters it drives – are justice issues. Climate disasters most severely impact the people and communities we represent, that is, people who experience social and economic barriers to equality, and who are most often failed by our laws, policies, and justice systems.

As highlighted by Community Legal Centres Queensland, disaster payments can often entrench existing inequalities. For instance, recovery packages that assist individuals to preserve their private property are often of little benefit to people with fewer assets such as renters or people experiencing homelessness. This injustice is particularly relevant for First Nations peoples and communities. Connection to Country can make the trauma and loss associated with disasters more profound for First Nations people than for non-Indigenous people. It is vital that funding associated with responding to disasters ameliorates, rather than exacerbates, inequality.

Many laws and systems exacerbate disaster risks and impacts, and hinder community recovery. Communities on the NSW South Coast experienced back-to-back crises in 2019-21 (bushfires, the COVID-19 pandemic, and floods), which put pressure on the local rental market. Many renters have been forced into precarious housing or homelessness in the years following these disasters. Fairer NSW renting laws on rent prices, evictions and short-term letting could have protected many disaster-impacted renters from these adverse ongoing impacts.

A key part of our sector's work is to challenge and change unfair and unjust laws through law reform and policy advocacy. From our deep connections to the communities we work with, and our everyday contact with people most impacted by unfair laws, the community legal sector is well-placed to identify (and advocate for changes to) damaging laws. This work benefits not just our sector's client base but all





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of society. In recent years, our sector has championed vital reforms including environmental and planning law reform, family law reform, fines reform, social security law reform, renting law reform, sexual harassment law reform, and more. With additional Commonwealth funding for advocacy, the community legal sector could deliver more impactful law reform work to reduce people and communities' level of disaster risk.

In closing, we note that several community legal sector state peak bodies (NSW, Queensland, and South Australia) have made direct submissions to this review. We endorse those submissions.



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