

Family Violence Prevention Legal Services

Operational Framework

Family Violence Prevention Legal Services
Indigenous and Community Legal Services Branch
Social Inclusion Division
Attorney-General's Department
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Acknowledgments

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1 OVERVIEW

1.1 Aim of Operational Framework

The aim of this Operational Framework is to provide the minimum standards required for the formation, structure and management of the Family Violence Prevention Legal Services (FVPLS) Units. It should be read in conjunction with the following documents:

- Program Funding Agreement (PFA) including General Terms and Conditions for Funding Agreements Relating to Indigenous Programs, and
- FVPLS Policy Manual.

All staff, board directors and auspice body board members must receive training annually on the requirements set out in the Operational Framework. New staff must receive this training as part of the induction process. A copy of the Operational Framework must be provided by the chairperson or Unit Chief Executive Officer (CEO) or coordinator to all staff, steering and management committee members and, where relevant, the auspice body board.

The Operational Framework defines the way Units are to operate and the services to be provided. It supports the FVPLS in managing the operations of each Unit and, if applicable, relationships between an auspice body and steering committee. A Unit or auspice body that is unable to comply with any of the requirements contained within this Operational Framework must immediately inform the Attorney-General's Department (the Department) in writing of the non-compliance, the reason/s for non-compliance, and any steps being taken or proposed to be taken in order to achieve compliance.

In order to assist users of this Operational Framework, a checklist of requirements contained in Sections 3 and 4 appears at the conclusion of each of those sections. The checklists are by no means exhaustive; rather, they indicate the most important elements of Sections 3 and 4.

1.2 Guiding principles

The guiding principle for the FVPLS program is to assist Aboriginal and Torres Strait Islander peoples who are victims-survivors of family violence or sexual assault. Services must be accessible and appropriate for all victims-survivors of family violence or sexual assault, regardless of gender or age.

The principles that underpin the FVPLS program include, but are not limited to, the following:

- all individuals have the right to be free from violence
- family violence is unacceptable
- the community has a responsibility to work towards the prevention of family violence, and

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- community engagement and education is a key element in family violence prevention.

1.3 What is family violence?

Family violence occurs when a person physically or psychologically harms, threatens, dominates or controls another person, or attempts to do so. Family violence incorporates a wide range of behaviour; the most commonly acknowledged being physical violence, sexual assault, threats, intimidation, emotional abuse, social abuse and economic deprivation.

The Department acknowledges that Aboriginal and Torres Strait Islander families may have a diverse range of reciprocal ties of mutual obligation and support. The term ‘family violence’ refers to violence within a broad range of family relationships; for example, aunts, uncles, cousins, and children of previous relationships.

Sexual assault is any unwanted sexual act. This includes a range of unwanted or forced sexual behaviour including rape. Sexual assault is an act of violence. Units provide services to victims-survivors of sexual assault regardless of who committed the sexual assault.

The term ‘family violence’ is used in this Operational Framework as it is considered by many Aboriginal and Torres Strait Islander peoples to be more in keeping with a holistic approach to understanding violence in their communities.

1.4 What is a Family Violence Prevention Legal Services Unit?

FVPLS Units are funded by the Department for services related to victims-survivors of family violence or sexual assault. The Department recognises that Units may receive funding from other sources to provide complementary services.

The aim of the FVPLS Program is to provide holistic assistance to Aboriginal and Torres Strait Islander peoples who are victims-survivors of family violence or sexual assault.

The overall objective of the FVPLS Program is to provide culturally appropriate legal services and assistance to victims-survivors of family violence or sexual assault to prevent, respond to and reduce the incidence of family violence and sexual assault.

The primary functions of the Units are to provide legal assistance, casework, counselling and court support (see Section 2) to Aboriginal and Torres Strait Islander peoples who are victims-survivors of family violence or sexual assault.

Units also provide an emphasis on referral, education and early intervention and prevention services that will address family violence and its associated causes and effects.

Local Aboriginal and Torres Strait Islander communities are encouraged to take a lead role in the operations of the Units through representation on boards, steering committees and auspice bodies.

1.5 Who can be a client of Family Violence Prevention Legal Services?

Services should be made available only to Aboriginal or Torres Strait Islander peoples, their partners or carers. An Aboriginal or Torres Strait Islander person is defined as one who self-identifies as an Aboriginal or Torres Strait Islander person, and who is accepted as such by the relevant Aboriginal or Torres Strait Islander community. Each Unit must ensure that its services are accessible to Aboriginal and Torres Strait Islander peoples in the Unit's service region, regardless of age and gender.

Services may only be provided to a non-Aboriginal or non-Torres Strait Islander person where such services will provide a direct and substantial benefit to an Aboriginal or Torres Strait Islander person for example, when children are involved.

1.6 What services cannot be provided?

Units must not provide any services to perpetrators of family violence or sexual assault.

Units must not provide mediation services.

Legal casework must not be provided in relation to the following specific matters:

- commercial or business transactions
- conveyancing or administration of deceased estates unless the assistance is a necessary part of the matter for which assistance has been granted
- disputes internal to any organisation, including a FVPLS Unit, unless either the applicant for assistance or members of an Aboriginal and Torres Strait Islander community are likely to suffer significant hardship should assistance not be provided
- wrongful dismissal, discrimination or compensation matters
- broader criminal matters
- land and sea rights claims
- inquests, other than representation of a family member in relation to an inquiry into a death in custody, or
- defamation.

2 SERVICE DELIVERY

The Australian Government is moving towards service models that provide for more effective coordination and better value for money in delivering services for Aboriginal and Torres Strait Islander peoples. This is consistent with the Council of Australian Government's approach outlined in the National Partnership Agreement on Remote Service Delivery. The National Agreement which contributes to the Closing the Gap targets in the National Indigenous Reform Agreement, has been established to implement a new remote service delivery model that clearly identifies service standards, roles, responsibilities and parameters to ensure that Indigenous Australians living in remote communities access services that contribute to closing the gap in Indigenous disadvantage.

The primary focus of each FVPLS Unit is to provide culturally sensitive assistance to Aboriginal and Torres Strait Islander peoples who are victims-survivors of family violence or sexual assault.

Providing legal assistance, casework and court support to victims-survivors of family violence or sexual assault is the primary function of the FVPLS Units.

FVPLS Units deliver a range of the following services in a safe and culturally sensitive environment:

- legal advice and casework assistance
- court support
- counselling to victims of sexual assault
- assistance and support to victims of sexual assault
- child protection and support
- information, support and referral services
- community engagement
- referrals
- law reform and advocacy
- early intervention and prevention, and
- community legal education.

The safety and wellbeing of victims-survivors of family violence or sexual assault must be the priority for each Unit's response. Each Unit must provide victims-survivors with culturally appropriate practical assistance and emotional support in a safe and culturally sensitive environment, taking into account local protocols.

2.1 *Legal advice and casework assistance*

The main areas of legal service provision are:

- family violence restraining orders
- assisting victims-survivors of family violence and sexual assault
- child protection, including legal assistance to children and mandatory reporting requirements
- victim's compensation, and
- family law including child support (where it relates to family violence).

Legal assistance, including legal casework and court support to victims-survivors of family violence or sexual assault is the primary function of each Unit. Legal casework includes court representation, negotiation of settlements and ongoing case management for any matter relating to family violence.

At any time where a Unit has been unable to employ a solicitor, attempts must be made to brief out to a private solicitor where possible, or make appropriate referrals to another legal service provider such as a community legal centre or legal aid commission.

A solicitor may act for a client in matters that continue after the first appearance; for example, the final hearing of an application for a family violence restraining order. In fulfilling the common law duty of care towards a client, solicitors must take reasonable care in the provision of professional expertise, information or advice. Solicitors are responsible for complying with relevant State and Territory legal practice requirements.

Solicitors may assist victims-survivors of family violence or sexual assault to apply for victim's compensation. Solicitors should seek advice from legal professional bodies in their State or Territory in relation to establishing a trust account for the purpose of holding and disbursing funds obtained on behalf of clients who are awarded victim's compensation.

Units must reserve the right to charge a fee-for-service in relation to successful victim's compensation applications. Before representing a client in a victim's compensation matter, the solicitor must clearly explain to clients any costs involved and the process to be followed. Solicitors must adhere to the rules of the relevant State or Territory law society when charging fees for a victim's compensation application. Any fees received will be deemed Activity Generated Income as per the *General Terms and Conditions for Funding Agreements Relating to Indigenous Programs* and may be spent at the discretion of the Unit's board or auspice body on further service delivery for the Unit.

Legal casework must not be provided in relation to the following specific matters:

- commercial or business transactions
- conveyancing or administration of deceased estates unless the assistance is a necessary part of the matter for which assistance has been granted

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- disputes internal to any organisation, including a FVPLS Unit, unless either the applicant for assistance or members of an Aboriginal and Torres Strait Islander community are likely to suffer significant hardship should assistance not be provided
- wrongful dismissal, discrimination or compensation matters
- broader criminal matters
- land and sea right claims
- inquests, other than representation of a family member in relation to an inquiry into a death in custody, or
- defamation.

2.2 *Court support*

This may include providing assistance to the client attending court. It may also include enhancing the client's awareness of the court processes and procedures assisting the client to make informed decisions.

2.3 *Counselling to victims of family violence or sexual assault*

Each Unit must provide counselling services to victims-survivors of family violence or sexual assault, and to children in need of child protection. Counselling must be provided by trained and qualified staff with membership or eligibility for membership of relevant professional associations such as the Australian Counselling Association. Should counselling staff not be available, attempts must be made to refer clients to another counselling service provider or to purchase the relevant services.

Counselling services will not be provided in relation to:

- relationship issues
- personal issues
- mentoring
- supervision, or
- debriefing of counsellors employed by other organisations.

2.4 *Assistance and support to victims of sexual assault*

All services provided by a Unit in response to family violence must also be available to victims-survivors of sexual assault, regardless of who committed the sexual assault.

2.5 *Child protection and support*

Units have an obligation to provide services to children who have experienced, witnessed or are at risk of family violence or sexual assault, or where they are the child of a client who has experienced or is at risk of family violence or sexual assault. Units should have procedures in place to cater for the needs of children. In addition, each Unit should provide facilities, whether on or off site, for children who seek support and assistance.

Professional staff in FVPLS Units may be subject to State or Territory legislation relating to mandatory reporting of child abuse. All Unit staff must be aware of which staff members are mandated to report instances of suspected child abuse. Information regarding the reporting of child abuse, together with details of State and Territory based services that assist children in need, is available at the website of the National Association for the Prevention of Child Abuse and Neglect at <<http://www.napcan.org.au>>.

2.6 Information, support and referral services

Practical support and assistance must be available at each Unit, and may include:

- information regarding support services available to victims-survivors
- child protection services
- referral to relevant local services; for example, hospitals, community health centres, supported accommodation services and police, and
- referral to other agencies; for example, housing departments and Centrelink.

Unit staff must provide support and referral services to victims-survivors. In the first instance, staff should direct those seeking assistance to the appropriate service provider. Should any assistance being sought be refused, staff may advocate on behalf of clients seeking access.

Should the services of a women's refuge be required, staff must take active steps to ensure that the refuge nearest to the Unit accepts the Unit's client.

FVPLS Units cannot provide mediation services as this may result in a conflict of interest which would reduce their ability to represent clients. However, clients may be supported where appropriate by a staff member attending mediations as an advocate or support person.

Where quality programs and services for perpetrators are available, they can be actively promoted by FVPLS staff. Pamphlets or other relevant materials may be displayed for the use of clients and their families.

Where a community, day or night patrol service operates and exists in a FVPLS service area, the FVPLS and patrol service providers must have a formal referral process and procedure in place.

2.7 Community engagement

Reducing family violence issues within the broader community is a critical element in improving people's long-term safety and wellbeing. Units must work towards reducing the incidence of family violence and related offences through actively facilitating and supporting locally driven community initiatives.

Unit staff must take a leadership role by actively seeking out potential service providers and other agencies in order to develop a community-wide, collaborative approach to the

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development of local services and programs. These partnerships will include government, non-government and private providers, and could be in the form of community interagency networks and meetings.

A number of approaches can be used for community engagement including community development projects, community awareness activities, early identification and prevention projects, and education and information-sharing sessions.

Units will be required to develop a stakeholder management plan and provide the Department with a copy of this plan as per the performance indicator reporting required under the PFA.

2.8 *Early intervention and prevention projects*

Early intervention and prevention is the process of intervening in the cycle of family violence or sexual assault. Units are encouraged to provide projects that promote changes in behaviour and attitudes of individuals and the community. Early intervention and prevention is a response to the high levels of family violence and sexual assault within Aboriginal and Torres Strait Islander communities. Such projects will need to demonstrate an understanding of the issues facing Aboriginal and Torres Strait Islander peoples and demonstrate an understanding of how family violence or sexual assault impacts on the relevant communities.

The following areas have been prioritised by the Department:

- preventing self-harm, suicide and substance abuse
- strengthening community resolve against family violence
- building self-esteem
- encouraging youth to achieve personal goals
- developing community role models
- addressing Elder abuse
- healing, and
- stopping family violence recidivism (no services can be provided to perpetrators).

Early intervention and prevention projects will be funded through a FVPLS Unit from 2009-10. Applicants for early intervention and prevention projects other than those operating as an FVPLS Unit will need to enter into sub-contracting arrangements with the relevant FVPLS Unit. Such arrangements will require the approval of the Department.

2.9 *Community legal education*

Community legal education is aimed at reducing the level of family violence in Aboriginal and Torres Strait Islander communities through:

- providing legal education adapted to suit local communities

- improving Aboriginal and Torres Strait Islander peoples understanding of Australian Law
- working with Aboriginal and Torres Strait Islander communities to manage the relationship between customary law, Australian law and human rights
- educating and mentoring Aboriginal and Torres Strait Islander youth and women, and
- encouraging community members, particularly youth, women and Elders to speak out about family violence.

2.10 Law reform and advocacy

Law reform and advocacy allows a Unit to directly influence policy relating to issues affecting social justice for Aboriginal and Torres Strait Islander peoples. This may include the development of submissions for legislation and managing stakeholder relationships with State and Territory Governments on family violence and sexual assault issues.

A Unit may advocate for a culturally appropriate mediation service if one is not available within the community. Where appropriate, a client may be supported in mediation sessions by a staff member who attends in the capacity of that client's advocate or support person, however FVPLS Units must not provide mediation services.

Unit staff may also advocate for a separately funded and operated culturally sensitive perpetrator program to operate in the service area.

Should an auspice body receive funding for a program aimed at perpetrators, it is essential that any program or activity is not delivered where perpetrators may come into contact with clients of the FVPLS Unit. It is important that the community understands that the FVPLS Unit is a service for victims-survivors of family violence or sexual assault.

Where high-quality programs and services for perpetrators are available, these can be actively promoted by Unit staff. Pamphlets and other relevant materials may be displayed for use by clients and their families.

3 GOVERNANCE

Corporate governance is the system by which a business or corporation is controlled and directed, especially with regard to regulation of decision-making procedures. Corporate governance is mainly the responsibility of the board as a group. The governing board performs its duties with the support of management and staff, in line with members' decisions, the constitution and the law, and ideally in partnership with stakeholders.

Corporations and incorporated bodies will be in a good position to build and develop in a healthy way if they:

- have clear objectives and functions
- operate in ways that respond to and accommodate their particular circumstances, and
- have members who understand their constitution (rules).

Tips for good corporate governance

1. Keep register of members up-to-date

Make sure the register has the following information for every person who is or has been a member:

- the person's name and address
- the date that person became a member
- the date that person ceased to be a member (if applicable)

(Note: the *register of members* is a continuing record and if kept correctly, it will help to resolve any disputes about who is a member.)

2. Know your role and responsibilities

Make sure the directors fully understand their role and responsibilities

3. Know your constitution (rules)

Know your constitution (rule book). Encourage your members to learn about it.

4. Know your financial position

Make sure you know about the financial position, or use your auditor more often (approximately every three months) to check that your staff are managing the finances properly (a good auditor will do this for the directors).

5. Taxes

Make sure that tax matters are handled correctly, in particular the Goods and Services Tax (GST), Pay As You Go (PAYG) and Fringe Benefits Tax (FBT). Make sure the Superannuation Guarantee contributions are paid for all your staff.

6. Attendance at meetings

Make sure a director is at every meeting when the funding agency(s) come to visit.

7. Insurance

Make sure the corporation's property is insured. Check that insurance policies including professional indemnity insurance are renewed on (or before) the due date.

8. Assets

Be careful to only use the corporation's assets in line with funding conditions (most will say that personal use is not allowed). Better still, make a policy about this for everyone to see and use.

9. Minutes of meetings

Make sure you keep minutes of every meeting of the corporation. Minutes should say what type of meeting you had (AGM, general meeting or directors meeting, what day it was held, who came, and what decisions were made).

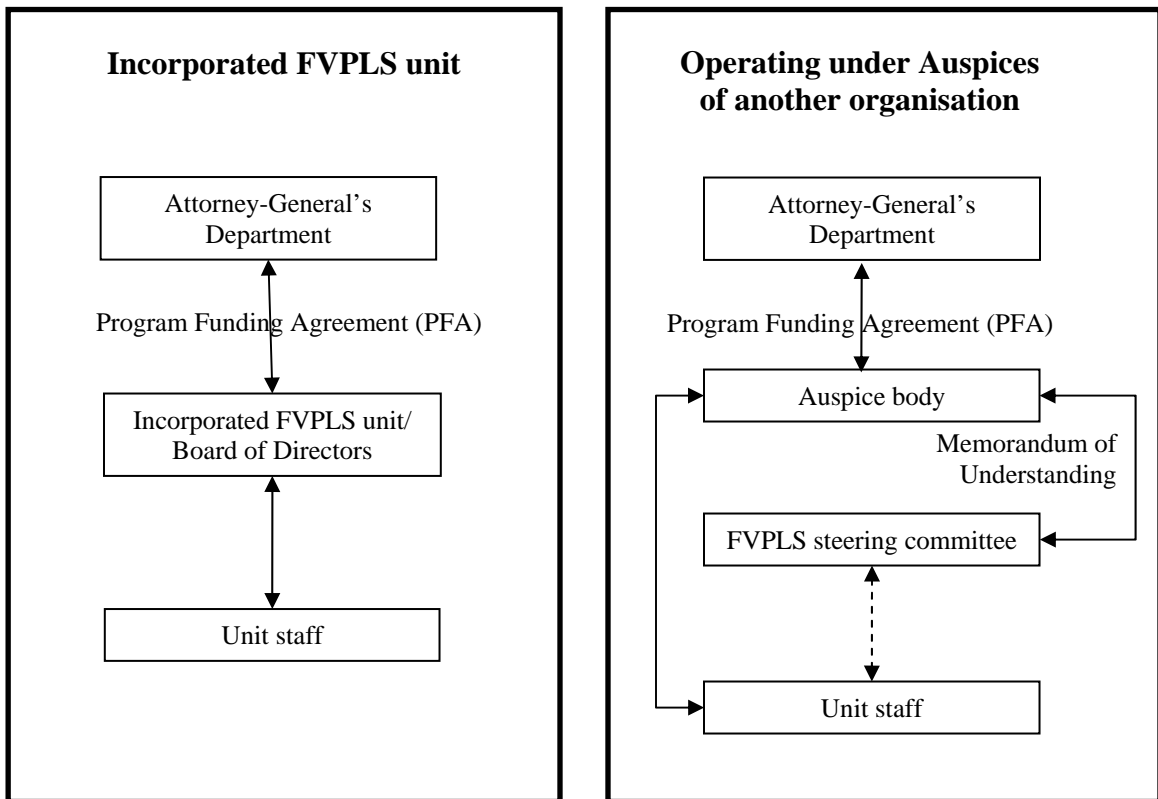
10. Annual general meeting (AGM)

Make sure you have an AGM every year (usually before 30 November).

The practice of good corporate governance ensures members of boards, steering committees and auspice bodies are aware of their responsibilities, take those responsibilities seriously and are willing to evaluate their own effectiveness. Committees and auspice bodies perform their duties with the support of Unit management and staff. Through good corporate governance, the potential of FVPLS Units will be maximised and maintained, enabling Units to deliver the best possible services to clients. The Department requires directors of boards, steering committees and auspice body boards to undertake governance training annually.

It is important that the community within the identified service area is aware of the Unit, its role, the staff, services and timeframe for intended visits.

3.1 Structure



3.2 *Roles and responsibilities*

3.2.1 *Attorney-General's Department*

The Department funds the FVPLS through a PFA. The PFA is a contract between the Department and each incorporated Unit or auspice body. The Department is responsible for monitoring the compliance of Units and auspice bodies with the requirements of the PFA, including the *General Terms and Conditions for Funding Agreements Relating to Indigenous Programs* and this Operational Framework. If a Unit is in breach of any of the requirements stated in these documents, the Department may withhold funding or exercise any of its other rights under the PFA until any breach has been addressed.

The Department promotes capacity building within Units by providing professional development training to ensure that appropriate organisational structures, processes and systems are in place to facilitate the effective operation of FVPLS Units.

3.2.2 *Board of Directors (Incorporated Body)*

The primary role of the board is to provide leadership and direction in relation to the strategic vision of an incorporated Unit, and to foster engagement with local communities. Legal responsibility for all matters relating to an incorporated Unit, including accountability and compliance with the PFA, rests with the boards. The board appoints the Unit CEO or coordinator, but has no involvement in the day-to-day operation of the Unit.

The board should be predominantly comprised of Aboriginal and Torres Strait Islander representatives of the service area and should not favour a particular community group, language group or family group. The board should include members of the broader community, regardless of gender.

Board directors need to be seen by the community to be strong advocates for the prevention of family violence and sexual assault. No member of a board should be perceived by the community to be personally associated in any way with family violence or sexual assault.

The Department encourages boards to include professional expertise within their governance structure through the inclusion of critical friends. Critical friends may include any person with professional skills who would benefit the operation of the board and the FVPLS such as an accountant or legal professional.

3.2.3 *Auspice body*

The role of an auspice body is to provide leadership and direction in relation to the strategic vision of the Unit, and to reflect the needs of the community.

The auspice body is responsible for the financial and performance management of the Unit. It is the responsibility of the auspice body to ensure compliance with the obligations and requirements of the contractual relationship with the Department as

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contained in the PFA, including the *General Terms and Conditions for Funding Agreements Relating to Indigenous Programs*.

The auspice body is responsible for the appointment of the Unit CEO or coordinator and must take an active role in developing an open and transparent process for selection of members of the Unit steering committee. Unless the steering committee becomes a separate legal entity and takes responsibility for the PFA from the auspice body, the Department will continue to work with the auspice body.

Following selection and appointment of the steering committee, the auspice body must formally acknowledge these appointments at the next meeting of the auspice body. A record of the appointments must be kept in the minutes of that meeting. The auspice body will provide the steering committee with copies of minutes of all meetings or parts of meetings that relate to the FVPLS Unit.

The auspice body will work with the steering committee to define the roles and responsibilities that govern the relationship between these bodies until finalisation of a formal Memorandum of Understanding (MOU) (refer Section 3.3). The auspice body must ensure that the MOU is accessible to, and understood by, members of the steering committee and staff. The auspice body must work with the steering committee to oversee the Unit's administrative arrangements.

The auspice body is the employer of Unit staff and must develop a fair and transparent staff selection process. It must ensure that appropriate employment policies are developed and implemented, and that staff employment conditions comply with the relevant State or Territory legislation; for example, occupational health and safety, equal opportunity and anti-discrimination legislation. Any process for Unit staff recruitment should comply with the specific condition in the PFA that relates to recruitment.

Auspice body board members need to be seen by the community to be strong advocates for the prevention of family violence and sexual assault. No member of an auspice body board should be perceived by the community to be personally associated in any way with family violence or sexual assault.

3.2.4 *Steering committee*

The role of the steering committee is to provide a link between the Unit, the community and the auspice body. It must report, gather information, put forward recommendations and provide information to the board of directors of the auspice body that reflects the views and needs of the community. The steering committee has no involvement in the day-to-day operation of the Unit.

The steering committee is bound to follow the MOU that has been jointly developed with the auspice body. The steering committee must acknowledge that the auspice body has a legal responsibility to the Department for the financial and performance management of the Unit, and must not in any way undermine the legal position of the auspice body or its

standing within the community. The steering committee will meet on a regular basis and will provide copies of minutes of its meetings to the auspice body.

The steering committee must be separate from the auspice body and must not include members or employees of the auspice body or the Unit. The committee should be predominantly comprised of Aboriginal and Torres Strait Islander representatives of the service area and should not favour a particular community group, language group or family group. The committee may include members of the broader community, regardless of age or gender.

Steering committee members need to be seen by the community to be strong advocates for the prevention of family violence and sexual assault. No member of a steering committee should be perceived by the community to be currently personally associated in any way with family violence and sexual assault.

3.2.5 *Chairperson*

The role of the chairperson is to lead the relevant board, steering committee or auspice body board so that it operates effectively. The chairperson must have a clear understanding of the distinction between board and management functions.

The chairperson is responsible for the conduct of regular committee or board meetings, and for the timely completion of the Unit's budget and financial reports. Other responsibilities include overseeing the induction and training of new committee members or board members, and ensuring that each member has clearly defined roles and responsibilities. The chairperson is to ensure that the committee or board has a performance management plan in place for the Unit CEO or coordinator.

The chairperson acts as a representative of and spokesperson for the committee or board. All formal communication between the Department and a management committee or auspice body will be directed through the chairperson of the legal entity.

It is the Department's expectation that the chairperson or any other board director or committee member does not get involved in the day to day administration of the FVPLS Unit.

3.2.6 *Funds controllers*

A funds controller is an individual or an agency who is appointed by the Department to administer Government funds in accordance with the *General Terms and Conditions for Funding Agreements relating to Indigenous Programs* of funding on behalf of a FVPLS provider.

The funds controller is appointed by the Department to assist the FVPLS provider who may be having difficulties in successfully administering the funding and/or has a deficiency in its administration, governance or service delivery.

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The appointment of a funds controller is considered by the Department as a temporary measure until the FVPLS provider can demonstrate improvement in its ability to successfully administer the Department's funds consistent with the *General Terms and Conditions for Funding Agreements relating to Indigenous Programs* and any Program Specific Conditions.

3.3 Memorandum of Understanding

Arrangements between an auspice body and steering committee must be formally detailed in a jointly developed and signed MOU. This document addresses risk management and clearly describes the roles and responsibilities of both the auspice body and the steering committee.

The MOU must be signed within one month of the date that the steering committee is formally recognised by the auspice body, and a copy must be submitted to the Department within two weeks of it being signed.

The MOU should address the following matters, and how they will be addressed in the operating arrangements between the Unit and the auspice body:

- the auspice body's management role and powers, including limitations on delegation authority
- the auspice body's responsibilities, including monitoring and reporting to the Department or to the relevant Aboriginal and Torres Strait Islander Coordination Centre (ICC)
- the role and responsibilities of the Unit steering committee
- process for replacement of steering committee members
- procedures for the steering committee to report information, decisions, activities, etc, to the auspice body
- governance issues
- financial control procedures
- disputes and complaints resolution processes
- the procedure for dealing with potential, perceived or real conflicts of interest
- accommodation requirements including consideration of any safety issues that may arise; for example, where a victim-survivor of family violence may be in the same building or shared communal space as a perpetrator, and
- monitoring by the Department of compliance with the terms and conditions of the MOU.

3.4 Confidentiality

Documented policies and procedures for safeguarding client confidentiality must be developed by each Unit and effectively communicated to all staff. These policies must clearly explain any circumstances under which confidentiality requirements must be set

aside due to the requirements of mandatory reporting provisions in State or Territory legislation relating to family violence. Clients must be informed of the confidentiality policy. As part of the induction process, new staff members must be trained in these confidentiality procedures.

Confidentiality requirements apply to all Unit staff, the board of directors, steering committee members and the auspice body board. All staff, board of directors, steering committee members and auspice body board members must sign the Declaration of Confidentiality and Code of Conduct as set out in the *FVPLS Policy Manual*. Staff must understand that a breach of client confidentiality may be deemed to be a breach of their conditions of employment and may result in the termination of their employment. For board of directors and auspice body board members, a breach of confidentiality may result in their removal from the board or auspice body.

Each Unit must ensure that all information relating to clients is kept confidential unless the client consents in writing to the disclosure of the information. The Department may require access to client files, as described in the *General Terms and Conditions for Funding Agreements Relating to Indigenous Programs*. Access to personal information would require prior client permission, even in the context of an audit.

Each Unit must ensure that separate client files are maintained for legal and counselling services, and that these files are secured in accordance with the provisions of the *Policy Manual*. Under no circumstances can members of any board, steering committee or auspice body have access to client files.

3.5 Conflict of interest

A conflict of interest arises where an employee of a Unit or a member of a board, auspice body or steering committee is in a position to obtain a benefit that derives from that person's association with the Unit, committee or auspice body. This section is not referring to legal professional conflict of interest.

A conflict of interest is deemed to occur regardless of whether the benefit accrues to the staff, committee or auspice body member or to an acquaintance, friend, family member or organisation with which that person has an association. The benefit may be financial or non-financial in nature. Further information is contained in the *Policy Manual*.

For a conflict of interest to exist it is not necessary to show that a person attempted to obtain a benefit or may in fact obtain a benefit; it is sufficient that a person could be perceived to be in a position to obtain a benefit. Both perceived and actual conflicts of interest can erode trust in the integrity of an organisation and can result in the loss of community support.

The Department recognises that, particularly in rural and remote areas, conflict of interest may be difficult to avoid. Therefore, it is essential that each Unit, committee and auspice body formalises a process for dealing with any conflict of interest that may arise. Each Unit must ensure that clients are aware of this process.

Example

Conflict of interest

A member of a staff recruitment selection panel is a close friend of one of the applicants.

In order to eliminate any perception of bias, the selection panel member declares the conflict of interest and decides not to participate in any part of the selection process.

Example

Conflict of interest

A person requests legal assistance from a unit in relation to a sexual assault. However, the unit's solicitor has represented the other party in a previous matter.

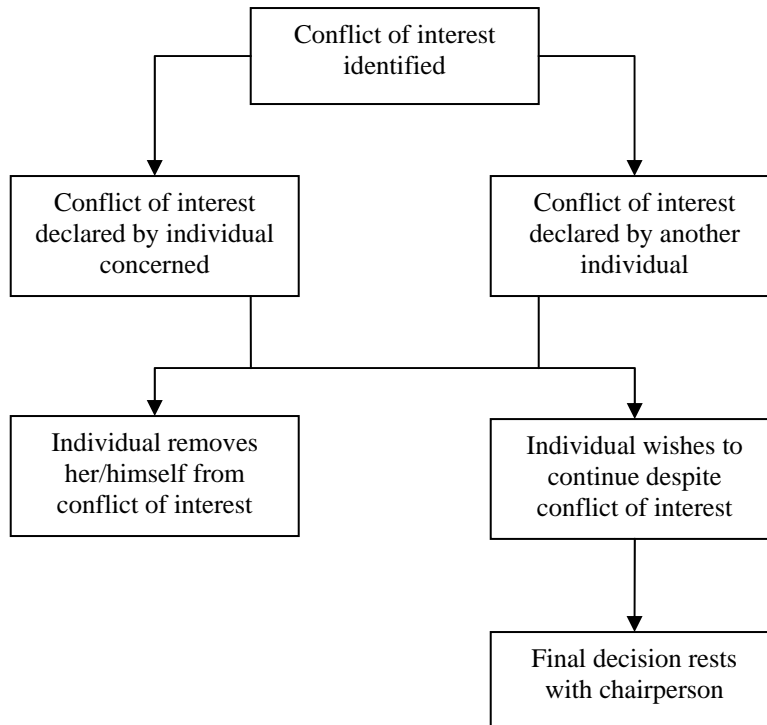
As a result, the solicitor is unable to provide assistance in the current matter.

Example

Conflict of interest

Should a relative or friend of the counsellor seek assistance from the counsellor, the counsellor should only provide services to that person if no alternative counsellor is available. Similarly, the counsellor should not provide services to more than one member of a family unless the consent of all parties has been first obtained. Should more than one family member approach the counsellor for services, referrals should be made to alternative service providers as appropriate.

The following diagram illustrates a formal conflict-of-interest process.



3.6 *Complaints handling*

A complaint may relate to the standard of services provided, or to the diligence, competency, behaviour or attitude of staff. Complaints may represent an opportunity to improve practices and procedures, or may enable a Unit to enhance its reputation as a responsive and responsible organisation.

Each Unit must establish a formal complaints-handling process to manage all complaints, including complaints received from:

- clients
- community members
- other services providers, and
- employees or members of Units, boards, auspice bodies and steering committees.

The process must be accessible and transparent. A sign detailing the process must be displayed in the public waiting area of each Unit. The sign should be displayed in all relevant languages. A person wishing to make a complaint must be confident that the complaint will be taken seriously and will be handled fairly and promptly. The complainant should be informed of progress in dealing with the complaint. Staff should avoid taking a defensive or aggressive stance in response to receiving a complaint, and should maintain impartiality and be courteous and helpful when dealing with a complaint.

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A complaint may be made either verbally or in writing. Should the complaint be delivered verbally, the person receiving the complaint must make a written record of the complaint.

A complaint should be resolved immediately to the satisfaction of all parties. Simple complaints that are resolved immediately at the initial point of contact need not be formally recorded.

Where a complaint cannot be resolved immediately, or if in resolving a complaint, specific responsibilities are given to the complainant, details of the complaint should be recorded. Verbal agreements that are made in the resolution of the complaint need to be confirmed in writing. These complaints should be recorded.

Where a complaint cannot be resolved immediately:

- take details of the name and contact number of the complainant
- take details of the complaint, and the date and time the complaint is made
- ask as many relevant questions as necessary
- pass information on to the appropriate person
- ensure that the name, position and telephone number of the person handling the complaint is provided to the complainant, and
- ask the person handling the complaint to endeavour to contact the complainant within one working day of receipt of the complaint to inform the complainant how long it will take to address/resolve the matter and other avenues they can take, if appropriate.

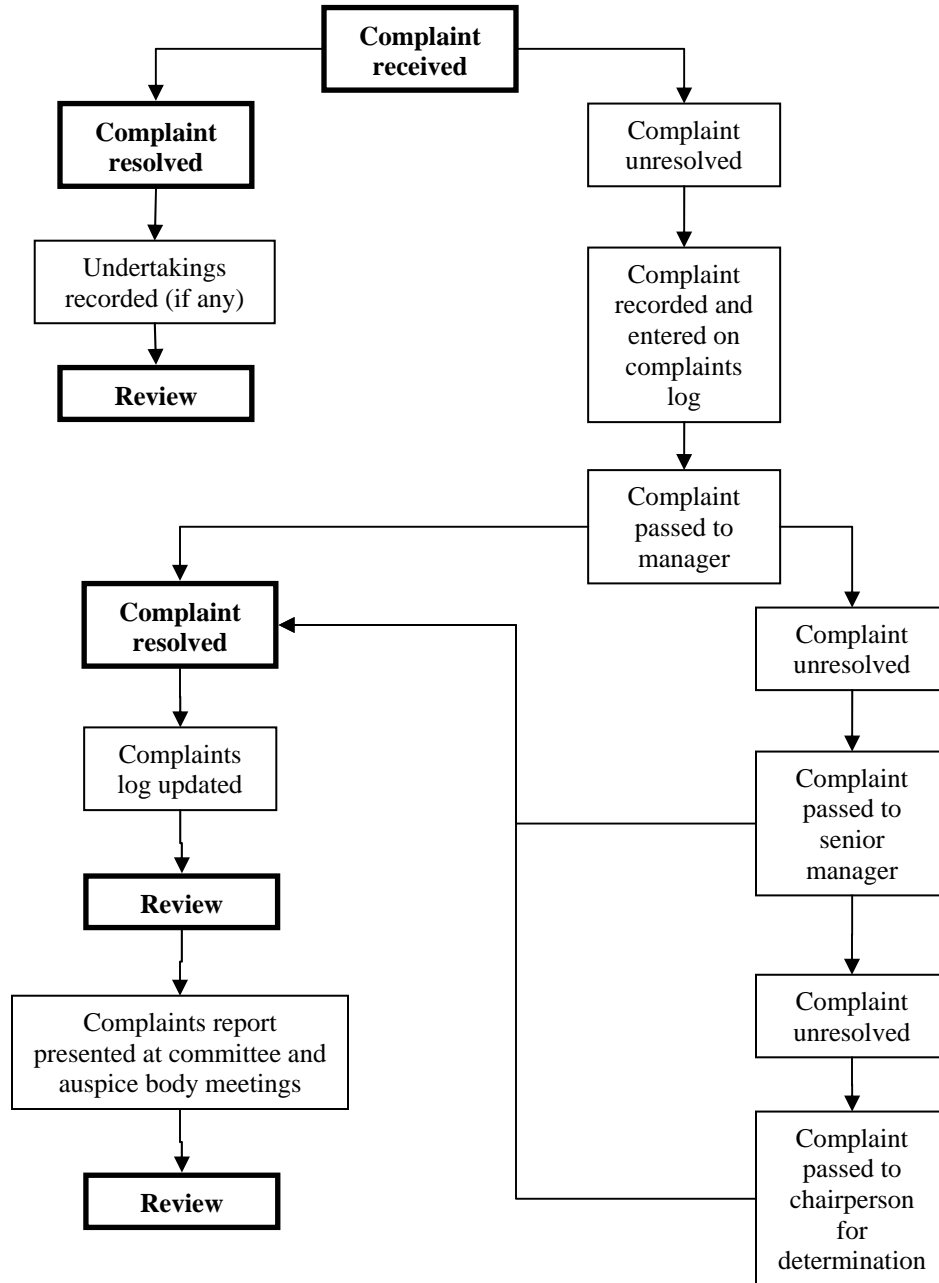
All steps should be taken to ensure that the problem that led to the complaint does not arise again. Where a formal complaint is made, an investigation into the procedures that led to the complaint must be undertaken.

A log that tracks the progress and outcome of complaints must be maintained. As a minimum, the log should include:

- complainant's name, address and contact details
- date of complaint
- nature of complaint
- name of person handling complaint, and date received by that person
- date complaint resolved or finalised, and
- date of review of complaint.

Board of directors, steering committee and auspice body meetings must include as a standing agenda item a report on complaints received since the previous meeting, and any outstanding unresolved complaints. The steering committee must report any complaints or any unresolved complaints to the auspice body. Any positive feedback from external sources should also be reported in this way. The complaints log, together with details of any complaints, must be made available to the Department upon request. Access to personal information will require prior client permission.

The following diagram is an example of a complaints-handling process:



3.7 Checklist

In order to assist users of this Operational Framework, the following checklist indicates the most important elements of Section 3. It is by no means an exhaustive list of the contents of this section.

- Incorporate good governance practices into policies and procedures**
- Memorandum of Understanding developed and signed**
- Declaration of Confidentiality and Code of Conduct signed by all staff, committee members and auspice body board members**
- Conflict-of-interest procedures developed and implemented**
- Complaints-handling process developed and implemented**

4 ADMINISTRATION

4.1 *Location of services*

The geographic area serviced by the Unit, as negotiated with the Department, should be clearly defined and publicly displayed in the public waiting area of each Unit and on all resource materials and publications.

To ensure that clients have access to an effective service, Units need to be located close to identified high-need areas or significant Aboriginal and Torres Strait Islander communities. Special attention must be paid to the needs of clients from remote communities that are not serviced by other providers. In determining the location of service outlets, each Unit must have regard to the location of related services such as courts, police, women's refuges, safe houses and hospitals.

A balance will need to be struck between considerations of accessibility and cost should a Unit wish to relocate or expand its current premises or services. This needs to be approved by the Department. Outreach arrangements using field officers, also known as community education or legal workers, have been shown to be an effective method of reaching people in need, particularly in rural and remote locations. Strategies must be targeted at meeting the needs of clients at the community level, and to address any disadvantage that may result from remoteness or language difficulties.

If a FVPLS Unit identifies a need for a new service area, a request must be submitted to the Department for consideration and approval. Under no circumstances are FVPLS Units to provide services in areas that are not approved by the Department. The request must include justification for the change to the service area including data and statistics from police, hospital, courts, and other stakeholder groups to justify the requested changes or expansion.

4.2 *Staffing*

Boards and auspice bodies, in consultation with the CEO or coordinator, are responsible for the recruitment and employment of Unit staff. They must ensure that appropriate employment policies are developed and implemented, and that staff employment and conditions comply with the relevant State or Territory legislation; for example, occupational health and safety, equal opportunity and anti-discrimination legislation. Any process for Unit staff recruitment should include appropriate representation; for example, one board member and the Unit CEO or coordinator in accordance with the specific conditions of the PFA, including Departmental staff as determined by the Department. The Department must be advised of any staff vacancies or changes within 14 days of the event occurring.

Boards, steering committees and auspice bodies must ensure that all staff and associated personnel are fit and proper persons to be associated with the FVPLS. Such people must be fully committed to addressing family violence or sexual assault and to promoting

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behaviours that demonstrate leadership in this area. No person associated with a Unit, board, committee or auspice body can be a perpetrator of family violence or sexual assault.

Each Unit should undertake appropriate checks and screenings (including criminal record checks) to determine the suitability of all board of directors, steering committee or auspice body members and staff. The Unit should also consider the views and perceptions of the community.

Some Units face difficulties recruiting skilled staff. Specific measures may be required to attract and retain quality staff. Incentives to employ skilled people may be considered by the board, steering committee and auspice body in consultation with the Department. Consideration must be given to local people who can be trained and retained within the community.

All staff working with victims-survivors of family violence including sexual assault must have adequate professional support and access to debriefing opportunities. As a proactive measure, each Unit should develop a debriefing process and professional support service for staff in order to reduce stress, trauma and day-to-day work pressures. Each FVPLS Unit has a line item within their budget to meet these costs.

All staff are responsible for service provision only during their normal hours of employment as insurance coverage may not be provided outside normal working hours. Any requests for assistance that are made outside normal working hours should be discouraged and referrals made to other providers such as police, hospitals, crisis line or counsellors operating out-of-hours services. Each Unit should investigate its level of insurance coverage for services provided outside normal working hours, and advise staff accordingly.

4.2.1 Chief Executive Officer or Coordinator

Each Unit must employ a full-time CEO or coordinator depending on the structure of the organisation.

Unit's requests to recruit a CEO will be considered by the Department based on meeting the following criteria:

- recognition as a medium or large organisation in accordance with the description under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*
- recognition by the Department as delivering services across more than one identified service area and/or
- in receipt of funding from multiple sources.

All other Units will be required to recruit a coordinator.

The CEO or coordinator is employed by the incorporated FVPLS Unit or auspice body and must be an individual who has demonstrated experience in managing a legal practice or multidisciplinary organisation and has tertiary qualifications in a relevant field such as management.

CEOs will be required to work at a much higher level than a coordinator, for this reason there is an expectation that they will have higher skill levels and qualifications.

The CEO or coordinator is responsible for day-to-day management of Unit staff and the overall service delivery for the Unit. The range of duties performed by the CEO or coordinator will include administration, management and stakeholder management, as well as other tasks as required. The CEO or coordinator must be aware of any obligations and responsibilities that professional staff members have under legislation to a professional registration body.

The CEO or coordinator is also responsible for the provision of secretariat services to the steering committee or board of directors, including the provision of reports and taking of minutes, etc, and must take a lead role in supporting the chairperson of any board, steering committee or auspice body.

Where a Unit is in an auspice relationship, a key role of the CEO or coordinator will be the management of the working relationship between the auspice body and steering committee. In addition, the CEO or coordinator must maintain a close working relationship with the Department's Program Officers.

If the position of CEO or coordinator becomes vacant and it is likely to be vacant for more than one month, the Unit must advise the Department within 14 days of the vacancy occurring of the steps being taken to address the situation.

The CEO or coordinator should not be part of the service delivery team in an ongoing way as this will distract the CEO or coordinator from the day to day operations of the organisation, financial and performance management and compliance with the funding agreement.

4.2.2 Counsellor

The family violence-sexual assault counsellor must be suitably trained and qualified to provide counselling services to victims-survivors of family violence or sexual assault including children, and have membership or eligibility for membership of a relevant professional organisation such as the Australian Counselling Association. The family violence-sexual assault counsellor should undertake work related to family violence-sexual assault counselling, therapeutic interventions, training and education.

It is recommended that all family violence-sexual assault counsellors be provided with appropriate professional clinical supervision on a monthly basis by a qualified practicing psychologist. Such supervision may be provided by face-to-face interaction or telephone.

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4.2.3 *Solicitor*

Each Unit must employ two full-time solicitors. Their responsibility is to provide legal services as required by the Unit, and as outlined in Section 1 of this Operational Framework.

Clients must be provided with independent legal representation. Where an auspice body is an organisation such as an Aboriginal and Torres Strait Islander legal services provider, community legal centre or legal aid commission, care must be taken to ensure no conflict of interest exists and that advice from State or Territory law societies has been obtained and complied with.

It is important that the CEO or coordinator of the FVPLS Unit ensures that all legal practice requirements are adhered to.

All solicitors recruited by Units must meet the relevant State or Territory legal practice requirements. A principal solicitor is required to hold an unrestricted practice certificate. If a solicitor is appointed that does not have an unrestricted practice certificate, the solicitor is required to be supervised as per the relevant legal practice requirements of their state or territory.

When selecting a supervisor for a solicitor, care must be taken to avoid conflict of interest for clients eg. a service provider who may be acting for perpetrators of violence. A solicitor may be supervised by a solicitor who meets the relevant legal practice requirements and is employed by a different FVPLS Unit. In extenuating circumstances, and with the consent of the relevant law society, supervision may be provided by a solicitor from private practice, a legal aid commission or a community legal centre.

The provision of legal services is the primary focus of FVPLS Units. Should a Unit be unable to secure the services of two full-time solicitors for a period of one month or longer, consideration must be given to briefing out the work, employing a part-time solicitor or initiating another arrangement to ensure that clients are provided with legal services. If legal services are not provided, the Department may seek proportionate reimbursement of funds.

4.2.4 *Administration Officer*

Each unit must employ an administration officer who is responsible for maintaining day to day administrative services in order to meet FVPLS requirements and support the operations of the units.

It is the Department's expectation the administration officer reports to the CEO or coordinator and their primary responsibilities would include but not be limited to:

- provision of friendly, efficient reception services to all clients in person and over the telephone
- organisation of incoming and outgoing mail and delivering incoming facsimiles

- provision of information and forms for intake procedures
- maintenance of records including file management procedures
- organisation of adequate office supplies and stationery
- provision of assistance and support to other Unit staff as directed by the CEO or coordinator
- photocopying records or documents for clients and for internal requirements, and
- ensuring the front desk or counter is attended at all times.

4.2.5 Community Legal Education Workers

Some FVPLS Units are funded for a Community Legal Education (CLE) Worker to provide legal education to Aboriginal and Torres Strait Islander communities with the aim of reducing community and, in particular, family violence. Under the guidance of the FVPLS CEO or coordinator, CLE workers will work with communities to assist them develop their own solutions to solve their own problems to prevent family violence.

The CLE worker will undertake outreach and community development work while based in an FVPLS Unit. The CLE worker is required to have a work plan approved by the relevant authority from within the Unit.

The role of the CLE worker is vital in developing an understanding of Australian law in remote and rural areas. An understanding of the law will, in particular, empower women children and Elders and help victim-survivors make informed decisions in relation to family violence and sexual assault. It will also ensure that Aboriginal and Torres Strait Islander peoples understand the relationship between customary law, Australian law and human rights.

Primary responsibilities

- refer all requests for legal support to qualified practising solicitors
- provide community legal education through community development activities adapted to suit local community needs
- improve Aboriginal and Torres Strait Islander people's understanding of Australian law
- explain to Aboriginal and Torres Strait Islander peoples the relationship between customary law, Australian law and human rights
- encourage community members to speak out about family violence
- refer people needing legal assistance to the FVPLS solicitors if they are victims of family violence or sexual assault, or other legal service if necessary
- if deemed necessary, increase awareness of the FVPLS program
- attend meetings and/or workshops as required by the FVPLS Unit

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- provide community education regarding family violence and sexual assault issues
- participate in the development of educational programs about family violence or sexual assault and related issues
- prepare regular progress reports to management on the CLE program, and
- act in a professional manner upholding the values and policies of the FVPLS Unit.

4.3 *External legal service providers*

4.3.1 *Brief-outs*

A Unit may brief out a client’s matter to an external private solicitor or to a pro bono solicitor, provided that all of the following conditions have been satisfied:

- the client must qualify for legal assistance from a FVPLS Unit (refer Section 1.5)
- the Unit must be unable to assist the client due to a shortage of staff solicitors, other pressures of work, a lack of expertise in the particular matter or a conflict of interest
- sufficient funds are available to meet the costs of the brief-out, and
- appropriate, accessible and timely assistance is not available to the client through Aboriginal and Torres Strait Islander legal services providers, the legal aid commission or a community legal centre.

The Unit must ensure that any services delivered under a brief-out arrangement are performed in accordance with this Operational Framework. Each Unit should establish and maintain a list of solicitors who are prepared to accept brief-outs on the terms and conditions established by the Unit, and who are capable of providing culturally appropriate legal services to Aboriginal and Torres Strait Islander clients.

In managing brief-out arrangements, the Unit must establish terms and conditions governing brief-outs to external solicitors, including details of fee scales where applicable, monitoring processes, account payment arrangements and procedures to resolve any disputes that may arise. In setting fee scales, the Unit should examine fee scales applied by the legal aid commission operating in the same jurisdiction, and should ensure that its own fees do not exceed those paid by the relevant legal aid commission for comparable matters. Where counsel is to be briefed, counsel’s fee must be set in accordance with the fee scale established by the Unit and the terms of the brief must be confirmed in writing to counsel at the time that the brief is delivered.

Each Unit must allocate within its budget an amount that may be used for brief-out payments during the relevant accounting period, and must set up records and processes to ensure that expenditure is kept within appropriate limits. The Unit must be able to identify, at any time, the amount committed to external lawyers by way of brief-out fees.

4.3.2 Referrals

In contrast to a brief-out, a referral occurs when a Unit considers that a person can be more appropriately serviced by another organisation and refers the person to the other organisation for assistance.

Example

Referrals

A unit is approached for assistance in a family law matter that is unrelated to family violence. These circumstances do not fall within the guidelines of FVPLS service provision. Therefore, the client is referred to another legal practice.

4.3.3 Agents

Should a Unit need to employ an agent to deliver services—for example, where part of the proceedings in a case are conducted interstate—the Unit should first seek assistance from another FVPLS Unit within the appropriate jurisdiction. Only if there is no Unit in the service area or if that Unit is unavailable to serve as agent in the case should an external service provider be approached.

4.4 Planning

4.4.1 Strategic plan

A strategic plan is a valuable tool that enables staff to consider long-term objectives and evaluation of the service. It should include the vision and/or mission statement of the Unit and the Unit’s objectives over the ensuing three-year period. It must focus on the Unit, its goals, performance, outcomes and clients.

The board of each Unit is responsible for developing a strategic plan in consultation with the CEO or coordinator and staff of the Unit. Where a Unit is operating under the auspices of a corporation or other organisation, the auspice body is responsible for developing the strategic plan in consultation with the steering committee, Unit CEO or coordinator and staff. Plans prepared on behalf of a Unit must be separate from any overall plan of its auspice body.

A strategic plan must be developed within six months of the commencement of each Unit’s operations and must be reviewed and updated annually by the CEO or coordinator and the board or auspice body.

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4.4.2 Operational plan

The aim of an operational plan is to turn a strategic plan into action, linking an operational plan to the objectives of a strategic plan. It is a functional management tool that details information including individual tasks, staff responsible for those tasks, and a timeline for task completion.

An operational plan must be developed by the CEO or coordinator in consultation with Unit staff and the management or steering committee. Strategies to service clients at the Unit and by outreach should also be identified, and consideration should be given to the changing requirements of client needs during the life of the plan.

An operational plan must be developed within six months of the commencement of each Unit's operations and must be reviewed and updated annually by the CEO or coordinator and the board of directors or steering committee.

4.4.3 Stakeholder management plan

The FVPLS program relies on the relationships that the FVPLS provider builds with other services.

The stakeholder management plan is for the Unit to determine how the relationships with the stakeholders will be managed and maintained.

A stakeholder management plan will:

- identify all interested parties (internally and externally to the FVPLS)
- evaluate various stakeholder interests and influences
- determine stakeholders expectations
- describe the influence the FVPLS has or will have on stakeholder groups (including any who may feel disadvantaged by the program's success) and
- include a strategy to meet the needs of stakeholders and to manage stakeholder engagement.

A review of the stakeholder management plan should take place quarterly throughout the funding lifecycle. If at anytime it is determined that the management of stakeholders is not proving as effective as expected then a review of the stakeholder management plan is required.

4.5 Reporting

4.5.1 Data collection

Data collection is a critical element of the planning process and forms part of each Unit's reporting obligations to the Department. Data may be audited by the Department. Data collection requirements are determined by the Department, and it is the responsibility of

the Unit CEO or coordinator to comply with these requirements. All materials used in the collation of data must be retained by the Unit and stored appropriately.

4.5.2 Assessing client satisfaction

The views and perspectives of clients or of people who have participated in service delivery form an important source of information to Units. Units must ensure that clients are offered the opportunity to appropriately and privately provide feedback on their experience with the services provided. Units must provide documented procedures for assessing client satisfaction. Copies of client satisfaction must be filed and compiled information must be made available to the Department upon request.

4.5.3 Stakeholder feedback

Stakeholder feedback reporting will be undertaken in the 1st and 3rd quarter of each financial year. Units will be required to provide the Department with the contact details of 8 organisations who can provide feedback on the contribution of early intervention and prevention, community legal education and community engagement activities and general FVPLS service delivery. A program officer from the Department will follow-up with a sample of these organisations to collect feedback on the following questions:

- are you satisfied with the professionalism of the staff you deal with in the FVPLS,
- are you satisfied with the way the FVPLS works with other community organisations,
- are you satisfied with the services that the FVPLS provides to the community, and
- do you have any suggestions for improvement.

The Department may contact other relevant stakeholders to collect information as deemed necessary. Units will be provided with feedback as part of this process.

4.5.4 Performance indicators

The Department will measure the performance of all Units utilising a common set of mandatory performance indicators. In relation to each funded Unit the Department will assess:

- how much has been done
- how well it has been done, and
- whether the project achieved what was expected.

This will include a mix of quantitative and qualitative indicators and measures. Service standards apply to all FVPLS Units and each Unit's performance will be assessed against the level and quality of its compliance with these service standards. Each Unit must provide performance indicator reports as required under the PFA. The Department may include additional project specific performance indicators and measures at its discretion.

Reports to be completed and returned to the Department include:

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- Stakeholder Feedback Report due with 1st and 3rd quarter reports
- Performance Indicator Report due quarterly
- Periodic Financial Statements due quarterly
- Strategic Plan due 31 December each year
- Stakeholder Management Plan due 31 December each year, and
- Operational Plan due 31 December each year.

4.5.5 Performance monitoring

Where particular risks are identified by the Department, a Unit may be required to undergo some form of performance monitoring. The Department will give the Unit involved reasonable notice of such performance monitoring, which may be conducted either by the Department or by an external service provider appointed by the Department for that purpose. As part of the performance monitoring process, the Department may require access to a Unit's documents, plans and/or documented procedures as per clause 17 of the *General Terms and Conditions for Funding Agreements Relating to Indigenous Programs*.

4.5.6 Financial reporting

The Department requires all Units to provide financial reports in accordance with the *General Terms and Conditions for Funding Agreements Relating to Indigenous Programs*. The financial statements must provide the quarterly expenditure, year to date expenditure and annual budget, as per the line items in the PFA.

4.6 Funding variations

As needs and circumstances can change significantly, Units may apply to the Department for a variation to the existing PFA, or for one-off funding. All requests for variations or additional funding must be made in writing by the chairperson of the boards or auspice body as appropriate, and must be addressed to the Director of the FVPLS Section within the Indigenous and Community Legal Services Branch of the Department. Requests must set out the reasons that additional funding is required and details of intended purchases or expenses. The Department undertakes to seek the delegate's decision for the variation within 14 days from date of receipt of the request. For further information, refer to the procurement guidelines contained in the *General Terms and Conditions for Funding Agreements Relating to Indigenous Programs*.

Funding requests for an increase in salaries throughout the financial year will not be considered as these types of requests should be considered through the budget negotiation process during the application for funding assessment period. Salaries for all positions should be paid in accordance with the relevant Award or registered Enterprise Bargaining Agreement.

4.7 Updating Unit information

Each Unit should advise the Department in a timely manner of any change to personnel and Unit contact details, including street address, postal address, fax numbers, telephone numbers and email addresses, including changes to contact details for boards, steering committees and auspice bodies.

4.8 Checklist

In order to assist users of this Operational Framework, the following checklist indicates the most important elements of Section 4. It is by no means an exhaustive list of the contents of this section.

- CEO or Coordinator, solicitor and counsellor employed**
- Conflict-of-interest procedures developed and implemented**
- Recruitment and employment policies developed and implemented**
- External service providers sourced**
- Strategic, operational and stakeholder management plans developed and implemented**
- Data collection procedures implemented**

5 SERVICE STANDARDS

Each Unit must ensure that services are delivered in the most efficient and effective manner possible. Service standards apply to all FVPLS Units and each Unit's performance is assessed against the level and quality of its compliance with these service standards.

Units will be required to comply with the following five service standards:

- provision of legal services
- accessibility and cultural sensitivity
- cooperation and relationships with other service providers
- organisational management, and
- assessing client satisfaction and managing complaints.

The service standards and supporting documentation must be effectively communicated to all staff. New staff must receive service standards training as part of the induction process.

5.1 Standard for provision of legal services

This standard establishes the foundations of an organised approach to the provision of legal services. Its attributes deal with information and referrals, the provision of legal advice and casework management.

This standard reflects the fact that people often place a high level of reliance on the legal advice that they receive. This reliance underlines the importance of the quality of advice offered and interaction that occurs between the legal adviser and the client. This standard also reflects that legal advice and casework often entail added support processes beyond representation in court; for example, assisting people to make a telephone call or write a letter.

5.1.1 The standard

Units provide clients with information, advice, casework and/or referral services that are:

- in accordance with the Operational Framework
- within Units areas of competence
- clear and up to date
- adequate to establish all identifiable and relevant legal options and, where relevant, limitation dates
- appropriate to the needs and circumstances of the client,
- provided in a way that avoids any actual or perceived conflict of interest, and
- in compliance with relevant State and Territory legislation.

5.1.2 *Attributes of the standard*

- Documented procedures for advice, in accordance with legal professional standards of the relevant State or Territory jurisdiction, that require the service to:
 - comply with requirements for professional insurances
 - assess prospective clients' eligibility to receive services
 - complete advice sheets or records, including the name and contact details of every client, and a summary of associated immediate support provided
 - record advice provided and limitation dates
 - check advice provided, recording all relevant information, facts and instructions regarding the legal issues, where appropriate
 - ensure there is no conflict of interest, and
 - maintain client confidentiality. The FVPLS must clearly explain to clients the procedures for client–service contact and service–client contact; the type and purpose of client information collected, retained and used by the service; and circumstances under which the service provider may have a duty to disclose client information.
- Documented procedures for casework, in accordance with legal professional standards of the relevant State or Territory jurisdiction that require the service to:
 - comply with requirements for professional insurances
 - complete case records, including the name and contact details of every client, names of other parties and a summary of support provided
 - record instructions, advice, and limitation dates
 - ensure there is no conflict of interest
 - check advice provided, where appropriate, and
 - maintain client confidentiality. The service must clearly explain to clients the procedures for client–service contact and service–client contact; the type and purpose of client information collected, retained and used by the service; and circumstances under which the service provider may have a duty to disclose client information.
- Documented procedures for dealing with circumstances where staff are unable to provide advice on a matter, requiring the service to:
 - inform people if the service is unable to provide the advice sought, and
 - provide appropriate referral options in accordance with the standard for cooperation and relationships with other service providers.
- A current certificate of professional indemnity insurance cover for the provider.
- Current unrestricted practicing certificate or equivalent under which the practice operates.

- Compliance with any other requirements of the relevant regulatory body for legal practitioners.
- Evidence of staff training in procedures related to the provision of legal services. This training should be carried out at induction for all new staff, and on at least a biannual basis for existing staff.

5.2 Standard for accessibility and cultural sensitivity

This standard provides the foundation for ensuring that services are provided in a culturally sensitive manner, and are accessible to those clients who are most in need. The Operational Framework provides guidance on eligibility for assistance.

Accessibility and cultural sensitivity are fundamental to the effective provision of legal services for Aboriginal and Torres Strait Islander people.

5.2.1 The standard

Units are actively committed to providing a culturally sensitive and accessible service for clients who meet the eligibility requirements.

5.2.2 Attributes of the standard

- Documented procedures for ensuring services are delivered in a culturally sensitive and appropriate manner. As a minimum, these procedures should include:
 - policies and procedures for ensuring staff are aware of cultural sensitivities when dealing with local communities
 - consideration of the importance of cultural understanding and sensitivity on the part of staff during the recruitment process
 - cultural awareness training as part of the induction process for new staff, and an ongoing cultural education program
 - flexible modes of service delivery; such as, hours of operation that meet the needs of clients and their communities, and
 - strategies for communicating with clients who experience language barriers.
- Documented procedures for providing services to clients in remote localities. These procedures should be targeted to meet the needs of clients in the area covered by the FVPLS Unit and should include strategies for servicing the needs of clients who cannot be easily reached by the Unit's solicitors or who may be disadvantaged by reason of cultural background, remoteness or language difficulties.
- Documented procedures for evaluating the satisfaction of clients with the cultural sensitivity of the services provided. These procedures must be in accordance with the standard for assessing client satisfaction and managing complaints.
- Evidence of training in procedures related to accessibility and cultural sensitivity. This training should be carried out at induction for all new staff, and on at least a biannual basis for existing staff.

5.3 Standard for cooperation and relationships with other service providers

Units are encouraged to promote effective relationships with other relevant service providers within their service area. The provision of information about appropriate referral options and the making of referrals are important ongoing activities of each Unit.

This standard establishes the foundations of an organised approach to this activity. It deals with referrals to other legal services, private practices and community organisations.

5.3.1 The standard

Units form effective relationships with other relevant service providers to better meet clients' needs.

5.3.2 Attributes of the standard

- Documented procedures, appropriate to the size, nature, location and coverage of the Unit, for making referrals to other legal service and counselling providers, including Aboriginal and Torres Strait Islander legal service providers, community legal centres, legal aid commissions and private legal practices, that require the Unit to:
 - establish the appropriateness of a referral
 - prevent a conflict of interest in making a referral to a practice or agency
 - provide at least two options to people receiving referrals where more than one option exists
 - maintain a contact list for community legal centres, legal aid commissions, other legal service providers and relevant private practice options, and
 - check at least annually that other relevant community organisations and practitioners have the capacity to provide services to people referred by the Unit.
- Documented procedures for making referrals to other community services relevant to people seeking assistance, that require the Unit to:
 - establish the appropriateness of a referral
 - maintain a contact list for relevant community services options, and
 - provide informational pamphlets or other printed information in relation to community services to which people are referred.
- Evidence of training in procedures related to cooperation and effective relationships with other service providers. This training should be carried out at induction for all new staff, and on at least a biannual basis for existing staff.

5.4 Standard for organisational management

The standard for organisational management provides a broad framework for the management of the services to be delivered.

Section 5 – Service standards

Details remain the responsibility of each Unit. However, the standard highlights the importance of effective management in achieving a high quality of service delivery and outcomes for clients.

5.4.1 *The Standard*

Units manage their operations efficiently in accordance with applicable professional and ethical standards.

5.4.2 *Attributes of the standard*

- Documented policies and procedures appropriate to the location and coverage of the Unit that require it to:
 - promote community involvement in service management
 - undertake required financial management and reporting, and asset management
 - manage, supervise and train staff
 - identify, prioritise and manage risks associated with the provision of services and other activities, and
 - plan, implement, monitor and evaluate the delivery of services, taking account of the standard for assessing client satisfaction and managing complaints.
- Documented procedures for the management of information and data, appropriate to the location and coverage of the Unit that require the Unit to:
 - maintain a complete and accurate collection of data in a timely manner
 - ensure secure and appropriate use of data
 - ensure that personal information is maintained in line with the requirements of the National Privacy Principles and Information Privacy Principles contained in the *Privacy Act 198*
 - back up data regularly from all computer systems
 - maintain equipment and have the capacity to obtain appropriate technical support
 - file and store paper documents and files for the required statutory period in a manner that facilitates easy access and complies with best practice records management, and
 - provide data to the Department in the required format.
- Documented policies and procedures for safeguarding client confidentiality, including a method for ensuring those policies and procedures are effectively communicated to all staff. New staff members are to receive training on these confidentiality policies and procedures as part of the induction process.
- Documented procedures for regularly reviewing client files to ensure that:
 - clients receive high-quality, professional services
 - all critical deadlines are met, and

- services are provided in accordance with the requirements of the Operational Framework.
- Evidence of training in procedures related to organisational management, particularly in regard to confidentiality and to identifying and managing conflict of interest. This training should be carried out at induction for all new staff, and on at least a biannual basis for existing staff.

5.5 Standard for assessing client satisfaction and managing complaints

The views and perspectives of clients or of people who have participated in service delivery form an important source of information to Units. This standard covers information received by way of general feedback and information coming forward in the form of a complaint.

5.5.1 The standard

Units offer clients the opportunity to provide feedback on their experiences with the service. Units also have a responsibility to manage complaints in a prompt, fair and consistent way.

5.5.2 Attributes of the standard

- Documented procedures appropriate to the location and coverage of the service for the management of client feedback. These procedures must:
 - ensure that clients are offered the opportunity to appropriately and confidentially provide feedback on their experience with the services provided,
 - encourage people from diverse cultural and linguistic backgrounds to participate, and
 - ensure that all feedback data is considered in case reviews, and is followed up.
- Documented procedures appropriate to the location and coverage of the Unit for the management of complaints from clients. These procedures must:
 - clearly describe and effectively promote the complaints-handling process, and
 - reflect principles of natural justice and a commitment to consider all complaints.
- Ensure information in the form of brochures, pamphlets, posters or other appropriate formats explaining complaints processes be available to clients and prospective clients.
- Evidence of training at induction for all new staff and, on at least a biannual basis for existing staff, in procedures related to assessing client satisfaction and managing complaints.