

SURVEY REPORT



FIRST NATIONS LEGAL NEEDS ANALYSIS COMMUNITY LEGAL EDUCATION PROJECT

A REPORT PREPARED FOR LEGAL AID QUEENSLAND
SEPTEMBER 2020



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EXECUTIVE SUMMARY

The **First Nations Legal Needs Analysis Project** represents the first comprehensive analysis of the legal needs of the First Nations peoples of Logan.

The project aims to identify the legal needs and gaps in service delivery for the First Nations peoples of Logan in legal areas such as housing, criminal, wills, money, family, human rights, and elder abuse. The research is directed towards identifying priority areas of legal need and is intended to reduce barriers to legal information and services. Improved responses will be there to develop a culturally appropriate community legal education program for the First Nations peoples of Logan. Ultimately, it is hoped that this project will deliver access to justice, enhanced compliance with human rights norms and improved social justice outcomes for the First Nations peoples of Logan.



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ABOUT

OVERVIEW

The First Nations Legal Needs Analysis Project was a research study of the legal needs of First Nations peoples in Logan. The project was based at YFS Legal, a community legal centre in the Logan community that specialises in providing information, advice and representation for clients 10-24 years of age who find themselves needing help with criminal law and advice on family and civil law matters. Legal Aid Queensland funded the project by way of a grant through the Community Legal Education Collaboration Fund 2019-2020.

The First Nations Legal Needs Analysis Project represents the first comprehensive analysis of the legal needs of the First Nations peoples of Logan. The objectives and methodology of the project have been informed by a pilot project completed by Community Legal Centres Queensland ('CLCQ') in 2019.¹ The pilot project summarised the evidence of legal need in Queensland by using demographic information as a proxy for legal need, based on leading international and Australian research. A copy of the pilot project's final report is available on the CLCQ website.²

The project aimed to identify the legal needs and gaps in service delivery for the First Nations peoples of Logan in legal areas such as housing, criminal, wills, money, family, human rights, and elder abuse. The research is directed towards identifying priority areas of legal need and is intended to reduce barriers to legal information and services. Responses will be used to develop a culturally appropriate community legal education program for the First Nations peoples of Logan. Ultimately, it is hoped that this project will deliver access to justice, enhanced compliance with human rights norms and improved social justice outcomes for the First Nations peoples of Logan.

The project team developed a survey to gather information about service provision and needs arising within the community concerning a range of legal areas. This information was collected, primarily, through the participation of First Nations community members. Interviews were also conducted by the project team from relevant stakeholder organisations servicing the community. The draft survey was also forwarded to the Indigenous Lawyers Association of Queensland, Legal Aid Queensland, and the broader YFS Legal team.


DEMONSTRATED NEED FOR THE PROJECT

Multiple sources of data demonstrate that Logan City is home to many people experiencing significant disadvantage, with limited capacity to access mainstream legal support. As stated in the CLCQ 2016 Updated Evidence and Analysis of Legal Need, Logan has higher than average numbers of Indigenous residents, people who are socially or economically disadvantaged, culturally and linguistically diverse, people living in social housing and Centrelink recipients.³ These people need advice in areas like

¹ James Cook University, 'Project Overview', *Indigenous Legal Needs Project* (Web Page, 25 June 2020) <<https://www.jcu.edu.au/indigenous-legal-needs-project/project-overview>>.

² 'Evidence & Analysis of Legal Need', *Community Legal Centres Queensland* (Consultation Paper, August 2019) <https://communitylegalqld.org.au/sites/default/files/downloads/pages/evidence_and_analysis_of_legal_need_v3.pdf>.

³ Ibid.



tenancy, social security, debt, consumer issues, domestic violence, family law and child protection.⁴ Logan has relatively high incidences of matters in the Children’s Court of Queensland, child protection orders and domestic violence orders.⁵

9,817 people in Logan identified as Aboriginal or Torres Strait Islander in the 2016 Census (3.2% of the population). 3,850 of these were 14 or under. Logan is home to a growing community of young Aboriginal and Torres Strait Islander people.⁶

The Law and Justice Foundation of New South Wales indicate that 2,879 Aboriginal and Torres Strait Islander people aged 15 and over, in Logan, are on a low personal income.⁷ The same data suggests that 22,287 people in Logan overall are likely to need legal assistance due to low income and education. This indicates that around 13% of people in Logan are likely to need legal aid and are First Nations people.⁸

The survey conducted by the Law and Justice Foundation of New South Wales shows that disadvantage and legal problems go together. The more disadvantaged a person is, the more likely they are to have legal issues and need assistance to deal with these. Logan is a highly disadvantaged community, and within it, our First Nations people experience additional disadvantage.

The CLCQ notes that the existence of ‘spiralling problem sequences’ is common for people experiencing disadvantage.⁹ It also cites evidence that people who experience multiple difficulties take longer to seek assistance for legal problems. Legal education and early intervention are strategies to prevent legal issues contributing to a crisis spiral.

The Productivity Commission reported widespread concern that the civil justice system is too slow, too expensive, and too adversarial, recommending parties resolve their disputes using other mechanisms such as tribunals and ombudsman services.¹⁰

‘Community legal education, legal information (including self-help kits) and minor advice help ensure that parties are better equipped to do so. Better coordination and great quality control in the development and delivery of these services would improve their value and reach’.¹¹

Further, the Australian Law Reform Commission acknowledges the suggestion that ‘a combination of preventative education, community engagement, support services and legal assistance (as both early

⁴ ‘Disability and health inequalities in Australia’, *VicHealth* (Research Summary, 22 August 2012) <<https://www.vichealth.vic.gov.au/media-and-resources/publications/disability-and-health-inequalities-in-australia>>.

⁵ ‘Evidence & Analysis of Legal Need’ (n 2).

⁶ ‘Queensland Regional Profiles Indigenous Profile Logan (C) Local Government Area (LGA)’, *Queensland Government Statistician’s Office* (Report, 30 March 2020) <<https://statistics.qgso.qld.gov.au/qld-regional-profiles>>.


⁷ ‘2018 Collaborative Planning Resource’, *Law and Justice Foundation of New South Wales* (Report, March 2018) <<http://www.lawfoundation.net.au/reports/2018cpr>>.

⁸ *Ibid.*

⁹ ‘Evidence & Analysis of Legal Need’ (n 2).

¹⁰ Australian Government Productivity Commission, ‘*Access to Justice Arrangements*’ (Inquiry Report No 72, 5 September 2014) 2.

¹¹ *Ibid.*



intervention and response) are all crucial parts of the continuum of services to address and reduce family violence against Aboriginal and Torres Strait Islander women and children'.¹²

First Nations people are a priority for legal education and support. Indigenous Australians tend to experience legal problems in the areas of crime, consumer and government-related matters, with 39% reporting multiple legal problems.¹³ It is an uncomfortable truth that Aboriginal and Torres Strait Islander people are 13 times more likely to be imprisoned than non-Indigenous people.¹⁴

Last year, YFS Legal supported 91 people who identify as Aboriginal or Torres Strait Islander (6.5% of clients). We would like to increase those numbers as we believe many people in Logan are not accessing the help they need when they need it. Therefore, the project aims would be including empowering First Nations people to identify and address legal problems early, increasing understanding of legal rights and responsibilities, and improving access to – and cultural competence of – legal services and other relevant supports in Logan.

CONSULTATION AND ENVIRONMENTAL SCAN

To date, there has been no specific research or legal needs analysis conducted to determine the legal needs or gaps in legal services experienced by our First Nations community in Logan. Before implementing a sustainable community legal education program focusing on the needs of Logan's First Nations community, it is essential to understand and identify the legal needs of Aboriginal and Torres Strait Islander people.

YFS Legal is part of YFS Ltd ('YFS'), a leading human services provider in Logan that works with vulnerable people to address a range of issues including legal problems, financial issues, homelessness, domestic violence, youth disengagement, family pressures, mental health recovery and substance use.

Legal services have been a core part of YFS since the organisation began more than 30 years ago. It evolved from working with young people and their families through Beenleigh Children's Court, which led to the formation of the Logan Youth Legal Service. In the 1990s, YFS worked with local solicitors to initiate an accessible, free general legal advice service for people who had limited access to legal support, particularly people with limited financial resources. This advice service and our youth justice service merged in 2011 to become YFS Legal.

YFS Legal and the broader YFS teams are committed to providing an environment in which Aboriginal and Torres Strait Islander people feel safe to access our services and resources. Further, YFS is committed to building and strengthening partnerships and empowering Aboriginal and Torres Strait Islander people in making decisions and achieving outcomes they want.

¹² Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Final Report No 133, December 2017) 24.

¹³ 'Evidence & Analysis of Legal Need' (n 2).

¹⁴ *Change the Record* (Web Page, 2019) <<https://changetherecord.org.au/>>.



PROJECT TEAM

Queries about the First Nations Legal Needs Analysis Report should be directed, at first instance, to Candice Hughes at YFS Legal on (07) 3826 1500 or by email at CandiceH@yfs.org.au.

Candice Hughes

Candice Hughes is a proud Kamilaroi woman, mother, and wife. She is a solicitor with YFS Legal, a community legal centre in Logan, focusing on youth justice. Candice has an interest in access to justice and social services by vulnerable people and disadvantaged groups. She is passionate about supporting and advocating for the human rights of our First Nations peoples. Candice contributes to several Committees including the Indigenous Lawyers Association of Queensland's Management Committee, Legal Aid Queensland's First Nations Advisory Committee, the Queensland Human Rights Commission's Aboriginal and Torres Strait Islander Advisory Group, and Community Legal Centre Queensland's Management Committee.

Nerida Brazier

Nerida Brazier is a Noonuccal bunji (North Straddie woman) who has lived in Logan City since she was a small child. As the HR & Payroll Officer at YFS, Nerida is the face to new employees and supports the recruitment of First Nations peoples. Nerida is the administrator on the Reconciliation Team and works in collaboration with the Logan Elders on projects for YFS. Having worked as a disability support worker for over 10 years, Nerida strongly believes in empowering First Nations peoples with a disability and working with them to be more confident, independent in controlling their life and claiming their human rights.

Wyatt Cook-Revell


Wyatt Cook-Revell is proud to have family connections to Birri Gubba, Gooreng Gooreng, Wangan Jagalingou and Wakka Wakka country. Wyatt is a student at the Queensland University of Technology studying a Bachelor of Laws (Honours) after completing high school at Ipswich Grammar School through an Australian Indigenous Education Foundation Scholarship. Wyatt is a member of QUT's Indigenous Australian Advisory Committee, the 2020 recipient of the Bar Association of Queensland's Indigenous Law Student Program and the First Nations Officer of the QUT Law Society. Wyatt is passionate about the need for the Queensland legal profession to have greater representation of Aboriginal and Torres Strait Islander legal professionals.

PARTICIPANTS

SAMPLE

The project was centred upon the First Nations peoples of Logan. The Logan region comprises of Beaudesert, Beenleigh, Browns Plains, Jimboomba, Loganlea, Carbrook, Springwood and Kingston. As of the 2016 Census, 9,817 people in the Logan region identify as Aboriginal and Torres Strait Islander, accounting for 3.2% of the population of the region.¹⁵ The project attempts to distribute evenly across age groups to represent a broad range of First Nations people in the Logan region.

¹⁵ 'Queensland Regional Profiles Indigenous Profile Logan (C) Local Government Area (LGA)', *Queensland Government Statistician's Office* (Report, 30 March 2020) <<https://statistics.qgso.qld.gov.au/qld-regional-profiles>>.



A sample of 84 respondents across the Logan region opted to complete the survey. The survey covered various legal problems relating to civil, criminal, and family law. These legal problems were categorised into seven groups – money, housing, wills, human rights, older people, family and criminal. The sample included a broad range of age groups and comprised of 72 respondents identifying as an Aboriginal person, five respondents identifying as a Torres Strait Islander person and seven people identifying as both an Aboriginal and Torres Strait Islander person. While broadly representative of the population of Aboriginal and Torres Strait Islander people in the Logan region, the survey is likely to have underrepresented some Aboriginal and Torres Strait Islander people who may not have felt comfortable completing the survey.¹⁶ Notably, the survey is expected to have underestimated the level of disengagement because a considerable proportion of the Aboriginal and Torres Strait Islander community is already over-surveyed.

METHOD

Data collection of Aboriginal and Torres Strait Islander people must be handled with care due to the complex legal and ethical terrain.¹⁷ Given that Aboriginal and Torres Strait Islander people are recognised as the target demographic, data collection needs to be undertaken in a culturally and linguistically sensitive manner. Therefore, both paper and electronic surveys formed the methods of data collection.

The target demographic may not have readily available access to the internet to complete an electronic survey. This is a strong and viable reason for using paper surveys, as the electronic surveys may not reach the target audience. Through consultation with the primary and secondary stakeholders, we hoped that they would encourage their clients to complete the surveys. Paper surveys have the advantage of being able to do this by way of serving the survey as a hard copy document.

An electronic survey method has a variety of advantages. The electronic survey is immediately accessible for those who have access to the internet and can be included in emails and social media. For some Aboriginal and Torres Strait Islander people, protecting their right to privacy is paramount to gathering honest feedback.¹⁸ The electronic survey allowed them to make a survey response anonymously and could have encouraged more to take part. Using an electronic survey platform such as SurveyMonkey, provides real-time results and the ability to perform in-depth analysis of the data that is collected.

¹⁶ Sebastian Harenberg et al, 'Experiences of trauma, depression, anxiety, and stress in western-Canadian HEMS personnel' (2018) 3(2) *Journal of Community Safety & Well-being* 1.

¹⁷ 'Indigenous data' *Australian National Data Service* (Web Page, 2 September 2019) <<https://www.ands.org.au/working-with-data/sensitive-data/indigenous-data>>.

¹⁸ Australian Law Reform Commission, *For Your Information: Australian Privacy Law and Practice* (Report No 108, 12 August 2008) 345-350.



THE SURVEY

The survey was developed with reference to numerous resources including, but not limited to, the pilot project completed by CLCQ in 2019,¹⁹ the National Legal Needs Strategic Planning Toolkit,²⁰ the National Legal Needs and Strategic Planning Project,²¹ Analysis Assessment Understanding,²² and the Legal Australia-wide Survey.²³ The survey included a 12-section questionnaire focusing on money, housing, wills, human rights, older people, family, criminal and legal help.

Draft questions were prepared by the project team and were sent to the Logan District Aboriginal and Torres Strait Islander Corporation for Elders ('Logan Elders') for consultation. The draft survey was also reviewed by Mr Ben Grimes, lecturer in law at Charles Darwin University, who specialises in communication issues in the criminal justice system and cross-cultural legal education. Mr Grimes provided feedback on several communication issues with the survey draft including, but not limited to:

- Avoiding prepositions when talking about time-related concepts.
- Identifying that past perfect tense, ambiguous and legal language are known to be problematic.
- Querying whether there will be potential confusion between Aboriginal uses of the term 'elder' and Standard English use of the term 'elder'.
- Recognising the need to specify 'old people' as a better alternative to make it clear that this applies to all old people.

Mr Grimes' comments are provided in **Appendix A**.

At the conclusion of the draft survey consultation period, the final survey document was completed. A fact sheet was developed [**Appendix B**], and the final survey was printed in hard-copy and uploaded onto SurveyMonkey [**Appendix C**].

STAKEHOLDERS

Relevant stakeholder organisations were invited to participate in interviews with members of the project team.

It was intended that these interviews would provide insight into the experiences, perspectives and understanding of those providing legal and/or legal support services to First Nations clients.

Stakeholder organisations were selected based on their direct role in service provision (or associated support services) to First Nations clients residing in the Logan region.

Stakeholder organisations identified for interview included:

- Aboriginal and Torres Strait Islander Community Health Service
- Benevolent Society

¹⁹ 'Evidence & Analysis of Legal Need' (n 2).

²⁰ 'National Legal Needs Strategic Planning Toolkit', *National Association of Community Legal Centres* (Guide, September 2016) <http://www.naclc.org.au/resources/National_Legal_Needs_Report_Australia.pdf>.

²¹ Judith Stubbs and Associates, *National Legal Needs & Strategic Planning Project* (Final Report, February 2012).

²² Murray Malee Community Legal Service, *Analysis Assessment Understanding* (Interim Report, March 2015).

²³ Law Foundation of Australia, *Legal Australia-Wide Survey: Legal Need in Australia* (Report, 20 February 2014).

- Burringilly Community Care
- Communities for Children Logan – Salvation Army
- Gallang Place Aboriginal & Torres Strait Islander Corporation
- Gunya Meta
- Inala and Browns Plains Centrelink
- Logan District Aboriginal and Torres Strait Islander Corporation for Elders
- Logan Hospital
- Mabel Park State High School
- Mob Connectors
- Murrigunyah
- Ngutani-Lui Aboriginal and Torres Strait Islander Cultural Centre
- Relationships Australia
- Stronger Smarter Institute
- Structured Family Participation Program
- The Murri School, Acacia Ridge
- Woodridge State High School
- Yugambah Museum Language & Heritage Research Centre.

The project team also attended numerous community events including the Murri Christmas Event organised by the Logan Elders and the Murrigunyah Market Day.

SITE VISITS

The project team completed visits to stakeholder organisations and conducted stakeholder interviews. Below is a list of the stakeholder organisations visited to date, with relevant dates of visits.

Aged and Disability Advocates Australia (ADA Australia)


On 3 March 2020, the project team visited Karen Williams, Human Rights Manager, at ADA Australia's Geebung office. ADA Australia is a not-for-profit, independent, community-based advocacy and education service with more than 25 years' experience in supporting and improving the well-being of older people and people with disability. ADA Australia offers a range of services in the areas of advocacy, guardianship, education, and information.

Aboriginal and Torres Strait Islander Community Health Service ('ATSICHS') Child and Family Centre

On 11 February 2020, the project team met with Joanne Doyle of ATSICHS Child and Family Centre. ATISCHS Child and Family Centre provide a community space with a range of services to help Aboriginal and Torres Strait Islander people, working with families to support them and their kids. Located in Waterford West, ATSICHS Child and Family Centre provides a range of early childhood, parenting, health, and support services.

Beenleigh Housing & Development Company Ltd

On 11 February 2020, the project team met with Aunty Robyn Williams of Beenleigh Housing & Development Company Ltd. Beenleigh Housing & Development Company Ltd is an Aboriginal and Torres Strait Islander organisation that strives to support, enhance and transform the lives of its members in culturally supportive and regenerative ways. The Beenleigh Housing & Development



Company Ltd was established in 1994 as a not-for-profit and is centred upon a strong community-based movement aligned with Indigenous ways of knowing and Indigenous ways of doing.

Burringilly Aboriginal Corporation

On 15 January 2020, the project team met with Aunty Chris Watego and Elders at the Burringilly Aboriginal Corporation. Burringilly Aboriginal Corporation is Logan City's peak body representing the interests of Aboriginal and Torres Strait Islander Elders and their families. Established in 1990, the team at Burringilly Aboriginal Corporation offers community care services for elders, people with a disability and their carers in the Indigenous community of the Brisbane South Region.

ITEC Group Australia

On 15 January 2020, the project team met with Rachel Pollard, Disability Coordinator, of ITEC Group Australia. ITEC Group Australia provides program and support relating to health, disabilities, youth, families, community development and housing. ITEC Group Australia specialises and prides themselves in matching services for Aboriginal and Torres Strait Islander people.

Logan Central Police Station

On 21 January 2020, the project team met with Sefa Pati and Chris Le Ray of the Logan District Cross Cultural Liaison Unit, Logan Central Police Station. The Logan District Cross Cultural Liaison Unit promotes and maintains relationships with multicultural and Indigenous communities, through open communication, mutual understanding, respect, tolerance, and trust. The Logan District Cross Cultural Liaison Unit also initiates, facilitates, and contributes to community consultation, education, and awareness programs.

Logan Elders

On 1 November 2019, the project team visited Aunty Margaret Finlay and Aunty Sheryl Banks. The project team supplied the Elders with a draft survey for their approval. Aunty Margaret forwarded the survey to the Elders, and it received endorsement in December 2019. The Logan Elders is the peak advocacy and information service providing a vital link between community organisations and the Aboriginal and Torres Strait Islander people of Logan.

Logan Hospital

On 22 January 2020, the project team visited Ronald Doyle, Hospital Liaison Officer, at the Logan Hospital. The scope of practice of the Aboriginal and Torres Strait Islander Hospital Liaison Officer is diverse across the hospital. Hospital Liaison Officers assist in breaking down any perceived barriers of communication so that Aboriginal and Torres Strait Islander patients and/or their families have a better understanding of their hospitalisation and treatment.

Mabel Park State High School

On 11 February 2020, the project team visited Aunty Laurel Bray and a group of Aboriginal and Torres Strait Islander students at Mabel Park State High School. Mabel Park State High School is in Logan City with approximately 900 students between years 7 and 12. The Aboriginal and Torres Strait Islander students at Mabel Park State High School have an exclusive 'hang-out' space with a kitchenette, technology and various cultural items.

Relationships Australia

On 15 January 2020, the project team visited Aunty Rose Elu of Relationships Australia, Eight Mile Plains. Aunty Rose Elu is an elder from Saibai Island in the Torres Strait and is currently a counsellor

and Indigenous adviser at Relationships Australia. Relationships Australia is a leading provider of relationship support services for individuals, families, and communities. Relationships Australia offers services around the country that include counselling, family dispute resolution (mediation) and a range of family and community support and education programs.

Salvation Army

On 29 January 2020, the project team met with Uncle Barry Watson, Elder in Residence, Community for Children, Salvation Army Logan. Communities for Children programs provide integrated services for families, particularly vulnerable and disadvantaged families, to improve child wellbeing and development, safety, and family functioning; and to help build stronger, more resilient families and communities.

DATA ENTRY


Given that the survey was printed in hard copy, the hard copy surveys needed to be entered into the SurveyMonkey system. For this exercise only, the project team received administrative support. The Legal Administrator spent the requested time compiling the completed hard copy surveys and entering the results in the online SurveyMonkey system. The Legal Administrator also completed survey results tracking spreadsheet to record the work completed (see below). There were 53 hard copy surveys completed. 31 surveys were completed online.

Date of survey	Location of sampling	Note of demographic	Data entered - SurveyMonkey	Number of surveys
13.12.2019	Murrigunyah Market Day	Market in Woodridge with not a lot of attendance. Surveys were predominantly filled by higher educated First Nations people.	17.01.2020	29 (some do not identify as Aboriginal or Torres Strait Islander)
15.01.2020	Burringilly	Community Elders	17.01.2020	7 (some responses do not identify as Aboriginal or Torres Strait Islander)
11.02.2020	Mabel Park State High School	First Nations students between grade 7 and grade 12	14.02.2020	14 entered
12.02.2020	yourtown		14.02.2020	2 entered
25.02.2020	Logan Hospital		28.02.2020	1 entered

EVALUATION OF DATA

IMPORTANCE OF LEGAL NEEDS ANALYSIS

It has been long recognised that Aboriginal and Torres Strait Islander people in Australia have a high level of sophisticated legal needs that are often not met by existing legal services. The 1994 National Aboriginal and Torres Strait Islander Social Survey ('NATSISS') showed that 17% of Aboriginal persons



aged 13 years and over reported using legal services during the previous twelve months.²⁴ The proportion of Aboriginal and Torres Strait Islander people in the 2002 NATSISS who said using legal services in the last twelve months had risen to 20%.²⁵ It has previously estimated that some 31% of the Aboriginal and Torres Strait Islander people in Australia require legal service – criminal, family or civil.

Research into the legal needs of Aboriginal and Torres Strait Islander people has been primarily focussed on the area of criminal law. This is mainly due to the over-representation of Indigenous people in the criminal justice system. The demand for assistance in criminal matters means that the Aboriginal and Torres Strait Islander Legal Service ('ATSILS') predominantly provide legal aid services for criminal matters.²⁶ However, only 11 respondents spoke to ATSILS when they needed help with a legal problem.

The survey results identify a growing demand for human rights, wills, and elder abuse (and neglect) matters. The interest in these areas of law could be attributed to the introduction of Queensland's new human rights legislation, and the need for older people to be adequately protected. The prevalence of human rights, wills and elder abuse matters among respondents highlight the need for community legal centres, such as YFS Legal, to continue to engage in civil legal practice. Additionally, the predicted prevalence of criminal law matters among respondents emphasises the importance of community legal centres, such as YFS Legal, to engage in culturally competent criminal law practice.

Access to Justice

A sound understanding of the non-criminal law needs of Aboriginal and Torres Strait Islander people is essential to ensuring access to justice.²⁷ Inaccessibility of civil law services compromises the ability of Aboriginal and Torres Strait Islander people to realise their full legal entitlements. It also introduces a danger that civil law issues can escalate to criminal acts, resulting in charges and perpetuation of the cycle of criminal overrepresentations.

Improved understanding and servicing of the legal needs of Aboriginal and Torres Strait Islander communities across a range of civil law spheres – money, housing, wills, human rights and older people (elder abuse and neglect) will assist in the provision of adequate access to justice. It is essential to acknowledge the existing barriers that Aboriginal and Torres Strait Islander people face in accessing legal services. There are three well-documented areas of importance: socio-economic disadvantage, cross-cultural issues, and language issues.


Cultural awareness is crucial to provide active legal service to Aboriginal and Torres Strait Islander people. The provision of services – legal advice, education, and advocacy – to Aboriginal and Torres Strait Islander people can be difficult and far more time consuming than comparable work in non-Indigenous Australian communities. Engagement with Aboriginal and Torres Strait Islander

²⁴ Merridy Malin and Debra Maidment, 'Education, indigenous survival and well-being: emerging ideas and programs' (2003) 32 *The Australian Journal of Indigenous Education* 32, 85-100.

²⁵ Australian Bureau of Statistics, 'Aboriginal and Torres Strait Islander Population, 2016', *Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016* (Web Page, 31 October 2017) <<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20Population%20Article~12>>.

²⁶ Melanie Schwartz and Chris Cunneen, 'From crisis to crime: the escalation of civil and family law issues to criminal matters in Aboriginal communities in NSW' (2009) 7(15) *Indigenous Law Bulletin* 18, 18-21.

²⁷ Ibid.



communities, particularly young people, needs to be engaging and delivered in a culturally appropriate environment.

ENGAGEMENT

It cannot be ignored that only 84 people responded to the survey of the nearly 10,000 people identifying as either an Aboriginal or Torres Strait Islander person in the Logan area. The response rate to this survey represents less than 1% of the Aboriginal and Torres Strait Islander population in Logan at the 2016 census. It, therefore, raises the question about the usefulness of this data for Indigenous people and the broader community when the evidence remains scant.²⁸ There is no denying that there has been extensive reporting on the outcomes for Aboriginal and Torres Strait Islander people across the whole of the community. It follows that the extensive reporting involved community-based research. While other surveys of this kind have been led by non-Indigenous Australians, this project has been led by Aboriginal Australians. Despite this, the results still lack the suitable measure of rigour to identify the potential for increased use of research to improve the outcome for Aboriginal and Torres Strait Islander people.

It is necessary to consider the processes used to engage with the Aboriginal and Torres Strait Islander people of Logan. The project team attended the Burringilly Aboriginal Corporation, Logan's peak body representing the interests of Aboriginal and Torres Strait Islander Elders and their families and interviewed Elders at the centre. Given the parallels between older people and the need to get their estate in order before diminished testamentary capacity, it is unsurprising that issues affecting older people, particularly the creation of a will, was their priority concern. The surveys undertaken on the site visit to Burringilly did not involve placing a document in front of the Elders and asking them to complete it. Instead, the engagement process involved introductions, having morning tea with them, and identifying the legal problems with the Elders through conversations. The survey from each Elder was then completed by the project team member after identifying their legal problems through the 'yarn'.

A similar approach was undertaken when interviewing Aboriginal and Torres Strait Islander high school students at Mabel Park State High School. Given the significant gap that exists in the evidence base, an Indigenous evaluation tool should be considered to help achieve positive outcomes for Aboriginal and Torres Strait Islander people. The project team identified that the consultation performed at Burringilly was the most effective way to engage with Aboriginal and Torres Strait Islander people. The data supports this hypothesis, as Burringilly has the highest response rate. Moving forward, a tool for practitioners surveying and creating community legal education programs for First Nations peoples would be advantageous. The tool would help to increase the effectiveness and efficiency of the planning for, administering and responding to First Nations peoples at different points in the project cycle. The role of local Aboriginal and Torres Strait Islander people in the project process should always be an essential component of the research and relationship building process.²⁹

²⁸ Australian Government Productivity Commission, *Indigenous Evaluation Strategy* (Productivity Commission Issues Paper, June 2019) 90.

²⁹ *Ibid* 4.



RESULTS


This paper examined the design, development and piloting of a tailored survey for the First Nations peoples of Logan.³⁰ The survey aimed to assess the legal need of First Nations peoples of Logan and expose the gaps in service delivery to appropriate target, prioritise and improve community legal education. A strength of the survey lies in its synthesis of the perceptions of the project team and respondents' results. Survey development started in a routine manner with the project team, searching the literature and identifying routine data. By reflecting and building on what has been learned by past experiences, the project team was able to test small changes in its development sequentially and detect and amend design problems early. Each phase built on the findings of former steps, allowing the survey to be tailored for the Aboriginal and Torres Strait Islander community context and be delivered in ways appropriate to the literacy level of the Aboriginal and Torres Strait Islander population. The final questions fit well together to comprehensively reflect the organisations and people that Aboriginal and Torres Strait Islander people go to seek legal help. National policy highlights the importance of tailored measures for local Aboriginal and Torres Strait Islander people. However, given the complexity of survey development processes, concomitant resourcing to support their development is needed.

Although there is a range of survey instruments available to measure legal needs, our literature research suggests that the instruments are rarely or inconsistently used to inform the decision making for engaging effectively with Aboriginal and Torres Strait Islander people. This might be because of a reluctance by legal professionals, and other service providers, to ask questions about Aboriginal and Torres Strait Islander engagement because of valid fears about the lack of cultural knowledge and best practice for engaging with Aboriginal and Torres Strait Islander people. The willingness of people to complete the survey suggested that these concerns may be related more to the process and procedure of engagement rather than the survey development. The reluctance by organisations to measure the legal need of Aboriginal and Torres Strait Islander people also might be caused by the difficulties and resource requirements of conducting research into Indigenous legal need, concern that the service may not have the capacity to manage the potentially high level of legal problems reported in surveys, or concern that template survey instruments might not be relevant for application with Aboriginal and Torres Strait Islander people. The project team found that, if developed collaboratively with Aboriginal and Torres Strait Islander services and tested with local Aboriginal and Torres Strait Islander Elders, a survey can be useful for determining First Nations people's legal need.

The incorporation of the Legal Australia-Wide Survey meant that all important aspects of legal areas were covered. Some legal areas might have been missed because of the decisions made about removing these. However, the participatory process provided confidence that the final questions measure the intended legal areas and resulted in a survey instrument that identified the critical areas of legal need for the Aboriginal and Torres Strait Islander people of Logan. The result of the collaborative dialogue between the project team and prospective respondents, particularly at Burringilly and Mabel Park State High School promoted the development of an optimal survey instrument for the local context and participants.

The project was developed in response to Aboriginal and Torres Strait Islander service delivery needs, and the collaborative approach resulted in the direct translation of results to inform quality

³⁰ Janya McCalman et al, 'The development of a survey instrument to assess Aboriginal and Torres Strait Islander students' resilience and risk for self-harm' (2017) 2(19) *Frontiers in Education* 2, 3.



improvement in culturally competent community legal education. For example, in the absence of other data available, the identified high levels of multiple legal problems in criminal law, human rights and wills and estates prompt YFS Legal to improve their community legal education in these areas, particularly as the education relates to First Nations peoples. The prevalence of legal issues relating to human rights, wills and estates and family is identified as a strength upon which YFS Legal could support by offering community legal education in these areas to Logan’s Aboriginal and Torres Strait Islander people. Implementation of community legal education will determine whether strategies developed in response to the survey results will translate into higher levels of legal knowledge and understanding in the First Nations community. These examples provide support for the value of the locally developed survey instrument that effectively engages with Aboriginal and Torres Strait Islander people.

Limitations of our design methodology include the limited sample size for the survey results, which have not yet been large enough. Further, each phase of development could have been more extensive and rigorous but was limited by the resource constraints of the research project. Finally, the survey relies on respondents who are ready and willing to participate in data collection. The project team was aware that Aboriginal and Torres Strait Islander people are already over-surveyed in the community.

It must be noted that an important result of this project has been the strengthening of existing, and the development of new relationships between YFS Legal and Aboriginal and Torres Strait Islander community members and local organisations within the Logan District. YFS Legal greatly values these relationships which ultimately result in better outcomes for Aboriginal and Torres Strait Islander people experiencing legal issues. The survey results are provided in **Appendix D**.

CONCLUSION

The survey demonstrated that respondents had multiple legal problems. It is possible that methodological issues, such as the small numbers of respondents and the underestimation of the level of disengagement, may have militated against observing a higher number of significant results.³¹ Nevertheless, given the tendency to experience multiple legal problems, Aboriginal and Torres Strait Islander people are likely to benefit from a more holistic or client-focused approach to their problems. Furthermore, the provision of community legal education would also help reduce barriers that stop Aboriginal and Torres Strait Islander people from accessing legal help.

While a multitude of community legal education initiatives have been undertaken, they fail to take a culturally competent approach to community legal education. Further, such actions also tend to focus on the criminal rather than civil law matters, given the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system. It has been observed that Aboriginal and Torres Strait Islander legal services across Australia tend to focus on criminal law matters, and there is a paucity of Aboriginal and Torres Strait Islander legal services for civil law.

The present results more firmly entrench civil law needs amongst the multiple legal needs that should be addressed for Aboriginal and Torres Strait Islander people in a community legal education program. The results suggest that the scope of Aboriginal and Torres Strait Islander legal services needs to be broad enough to address criminal and civil law need comprehensively. They suggest that a community legal education program, which aims to reduce Aboriginal and Torres Strait Islander disadvantaged,

³¹ Law and Justice Foundation of New South Wales, ‘Legal needs of Indigenous people in Australia’ (2013) 25 *Updating justice* 1, 2.



should also include the aim of increasing legal capability and effectively meeting legal needs in all areas of law, including civil law.



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APPENDICES

APPENDIX A: COMMENTS FROM BEN GRIMES



APPENDIX A - BEN
GRIMES COMMENT -



APPENDIX B: FINAL PROJECT FACT SHEET



APPENDIX B - FINAL
PROJECT FACT SHEET



APPENDIX C: FINAL PROJECT SURVEY



APPENDIX C - FINAL
PROJECT SURVEY.pdf



APPENDIX D: FINAL SURVEY RESULTS (SUMMARY DATA)



APPENDIX D - FINAL
SURVEY RESULTS - S1