

Principles for Funding of Legal Assistance Services

Administration of Funds by Legal Aid NSW and the Public Purpose Fund

- These Principles apply where funding is sourced from NSW consolidated revenue and discretionary spending from the Public Purpose Fund, and is provided for legal assistance services.
- Legal assistance services are casework services and non-casework services funded by the NSW Government or the Public Purpose Fund to Legal Aid NSW or through Legal Aid NSW to Community Legal Centres.

Legal Assistance Services Funding Principles

The following principles are to be applied when making decisions to allocate funds for legal assistance services:

1. Limited funds for legal assistance services should be directed primarily to activities that relate to the following:
 - (i) Provision of legal representation services with a focus on economically and socially disadvantaged individuals and vulnerable groups who may otherwise not have access to justice;
 - (ii) Activities which support or are ancillary to the provision of legal representation services;
 - (iii) Initial legal advice or minor legal assistance.
2. Further to principle 1, funds for legal assistance may also be directed to activities that relate to the following:
 - (i) Duty lawyer services;
 - (ii) Provision of information regarding the law and legal processes;
 - (iii) Referral services;
 - (iv) Alternative dispute resolution services;
 - (v) Community consultation, community legal education and training projects, and community capacity building;
 - (vi) Continuing professional development;
 - (vii) Provision of factual information, research and advice on law reform and policy issues focusing on systemic issues, such as issues affecting disadvantaged individuals and vulnerable groups to assist in policy development.

3. In addition NSW Legal assistance services funded by Legal Aid and Public Purpose funding will not include activities which may reasonably be described as political advocacy or political activism. This may include but is not limited to:
 - (i) Lobbying governments and elected officials on law reform and policy issues (that goes beyond the activities described at principle 2(vii));
 - (ii) Public campaigning and advocacy, including use of traditional and social media and participating in rallies or demonstrations for causes seeking changes to government policies or laws;
 - (iii) Conducting workshops directed to political activism (that goes beyond the activities described at principle 2(v));
 - (iv) Providing representation or advice (other than initial legal advice as described at principle 1(iii)) to activist groups, lobbying groups and action groups.
4. Legal Aid and Public Purpose funding should only be used to fund legal representation services where:
 - (i) An appropriate means test is used to ensure services are focused on economically and socially disadvantaged persons; and
 - (ii) A merit test is used to ensure only those cases that have reasonable prospects of success are funded.

However, a means and merit test need not be applied:

- (i) Where it is impractical to do so (for example, for duty lawyer services);
 - (ii) For criminal proceedings;
 - (iii) Where the person represented is a child, mentally ill, or disabled;
 - (iv) In exceptional circumstances where it is inappropriate to apply a means or merit test.
5. In addition, all NSW legal assistance services (other than initial legal advice as described at principle 1(iii)) funded by Legal Aid and Public Purpose Fund funding should take into account the extent to which providing legal representation would promote the public interest.
6. Legal assistance will only be taken to promote the public interest if the matter for which it is granted:
 - (i) Raises an issue of serious concern common to economically and socially disadvantaged individuals or vulnerable groups who may otherwise not have access to justice, or
 - (ii) An individual's rights are affected to the extent that there is a public interest in ensuring that they receive appropriate legal representation.