

Indigenous Legal Needs Project



INDIGENOUS LEGAL NEEDS PROJECT: NT REPORT

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LIST OF ACRONYMS

ABS	Australian Bureau of Statistics
ARIA +	Accessibility/Remoteness Index of Australia Plus
ASIC	Australian Securities and Investment Commission
ATSILS	Aboriginal and Torres Strait Islander Legal Service
CAAFLU	Central Australian Aboriginal Family Law Unit
CAALAS	Central Australian Aboriginal Legal Aid Service
CAWLS	Central Australian Women's Legal Service
CDEP	Community Development Employment Program
CINOP	Children In Need Of Protection
CLAF	Contingency Legal Aid Fund
CLC	Community Legal Centre
CLE	Community Legal Education
CSO	Customer Service Officer
COAG	Council of Australian Governments
DCF	Department of Children and Families
DCLS	Darwin Community Legal Service
DVLS	Domestic Violence Legal Service
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FVPLS	Family Violence Protection Legal Service
GBM	Government Business Manager
ICC	Indigenous Coordination Centre
ICHO	Indigenous Community Housing Organisation
IFVPLS	Indigenous Family Violence Prevention Legal Service
ILNP	Indigenous Legal Needs Project
JCU	James Cook University
KWILS	Katherine Women's Information Legal Service
MOU	Memorandum of Understanding
NAAFVLS	North Australian Aboriginal Family Violence Legal Service
NAAJA	North Australian Aboriginal Justice Agency
NPARIH	National Partnership Agreement on Remote Indigenous Housing
NT	Northern Territory
NTADC	Northern Territory Anti-Discrimination Commission
NTER	Northern Territory Emergency Response
NTLAC	Northern Territory Legal Aid Commission
SEAM	School Enrolment and Attendance through Welfare Reform
SIHIP	Strategic Indigenous Housing and Infrastructure Program
TEWLS	Top End Women's Legal Service
VOC	Victims of Crime

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EXECUTIVE SUMMARY

This report presents key findings and recommendations based upon research conducted in 2011 by the Indigenous Legal Needs Project (ILNP) in the Northern Territory (NT).² The ILNP aims broadly and on a national level:

- to identify and analyse the legal needs of Indigenous communities in non-criminal areas of law (including discrimination, housing and tenancy, child protection, employment, credit and debt, wills and estates, and consumer-related matters); and
- to provide an understanding of how legal service delivery might work more effectively to address identified civil and family law needs of Indigenous communities.

The research reported upon is based on focus groups and interviews with legal and related stakeholders. The eight focus communities in the NT were Darwin, Wadeye, Katherine, Bulman, Tennant Creek, Alice Springs, Papunya and Alpururulam. These sites are classified as follows: Darwin (Accessible), Alice Springs, Katherine (Remote), Tennant Creek, Papunya, Wadeye, Alpururulam, and Bulman (Very Remote).

Sixteen focus groups were held with a total of 149 Indigenous community members in the eight communities. Separate women's and men's focus groups were conducted. The proportion of female participants was 52.3% and the proportion of male participants was 47.7% of the total focus group participants.

Over 60 stakeholder interviews with organisations servicing or working within the nominated communities were conducted to explore the experiences, perspectives and understandings of those providing legal or related services. A full list of stakeholders interviewed in the NT can be found in Appendix B of this report.

Focus group participants also completed a 10 page questionnaire (see Appendix A). The issues covered in the questionnaire include housing and tenancy, neighbourhood disputes, wills and intestacy, victims' compensation, stolen generations and stolen wages, employment, social security, family matters, discrimination, accident and injury, education, credit and debt, consumer issues and taxation. The identified issues generally followed those used in other large scale legal needs projects (see for example Coumarelos et al 2006) with additional questions relating to specific Indigenous concerns (for example, stolen generations, stolen wages, Basics Card). Some matters such as police complaints, native title or intellectual property were omitted from the questionnaire for practical reasons, in particular due to the size of the document and the time it takes to complete. Consistent with other civil law needs analyses, family and domestic violence was treated as a criminal matter rather than civil law. Some civil law issues not identified in the questionnaire arose in focus group discussions and in stakeholder interviews. They are dealt with in Section 3.15 of the Report.

Housing and Tenancy

Housing, and in particular tenancy, emerged as *the predominant* legal issue in focus groups and during stakeholder interviews, with over 50% of both men and women identifying housing issues.

² Further information about the ILNP is available at the website: <http://www.jcu.edu.au/ilnp/>

Repairs and maintenance were identified in focus groups as the principal area of dispute or problem arising in tenancies (identified by nearly 50% of participants as the reason for a tenancy dispute or concern). Rental payments and, to a lesser extent, overcrowding and evictions, also emerged as key issues of concern.

Focus group participants queried why they were required to pay rent when repairs and routine maintenance were not being carried out by their landlord, as well as whether they should be held financially liable for certain repairs. Overcrowding also led to tenancy-related, as well as a number of other, associated legal issues (such as debt).

Problems arising in relation to repairs and maintenance were to some extent connected with NTER-related policy changes, with a degree of community and stakeholder dissatisfaction expressed with respect to implementation of policy in this area.

Remote public housing tenants are required to sign a tenancy agreement with Territory Housing and are subject to, and covered by, the *Residential Tenancies Act* as well as *Remote Public Housing Tenancy Rules*. Amounts of rent payable upon such properties are aligned with rent payable under public housing in urban areas, and represent an increase from rents payable pre-NTER. According to Territory Housing, payment of 'fair rent' is linked with completion of repairs and maintenance and provision of other support services.

Territory Housing also states that improvised dwellings should incur no rent and legacy dwellings should *not* incur, in most cases, higher rents than previously. Residents of these two types of housing do not need to sign tenancy agreements with Territory Housing, but those residing in legacy dwellings must sign an 'occupancy agreement'. According to Territory Housing, neither of these dwellings is subject to the *Residential Tenancies Act*. A number of legal services do not endorse this view and the issue remains unresolved in law.

Stakeholders directly link problems in housing with these policy changes. For example:

Housing and tenancy is becoming a bigger problem throughout, and that's largely because of the changes following the NTER, so now that we've got actual leases on remote communities and town camps. That's turning into a big change for everybody. For most, it's probably the first time they've had any involvement with leasing (Indigenous Legal Service staff).

Housing and tenancy is a massive issue in the Territory because since the Intervention [which has had a focus on improved housing] there are still a lot of people who live in sheds. So they'll have a corrugated roof, no water, no nothing, and that's called an 'improvised dwelling' under the legislation. And some people are being charged rent for these little shacks [when they shouldn't be] (Legal Aid staff).

More general issues in relation to tenants' rights arise separate to any recent policy changes in the NT:

The pipes are broken, the sewerage is leaking out, the windows were broken when we moved in, all complaints about that. That's where I think there could be good assistance with legal, non-criminal [matters]. Just so that they know when they sign the lease they need to check all these things before they move in... They'll come in and say we signed the lease on this house and it's got none of this and none of that and the pipes broken... Often they sign the lease without going through the checklist like you or I would (Statutory Authority staff).

Aboriginal people have little access to the private rental market. It appears in some instances that discrimination may be an issue, but overall the private rental market is competitive and real estate agents are therefore able to pick and choose tenants. Consequently, losing public housing tenancies, including by way of eviction for a range of reasons, may be particularly problematic for Indigenous tenants, given problems with accessing other types of tenancies and housing.

Only one in three Aboriginal people who identified an issue with housing sought legal advice or assistance. Indigenous women were 5.4 percentage points less likely than Indigenous men to seek legal advice (31.7% of women compared with 37.1% of men), despite Indigenous women identifying a dispute with their landlord with greater frequency than Indigenous men.

The importance of being able to access quality legal help and advocacy around housing, as well as the impact of a lack of access to legal assistance in this area, was identified by a number of stakeholders and focus group participants. As we discuss further in this Report, we see housing as a key priority area of legal need.

Neighbourhood issues

Neighbourhood issues emerged as a priority legal issue for Indigenous participants in ILNP focus groups, although it was identified much less frequently by stakeholder organisations. Indigenous women were significantly more likely than Indigenous men to identify problems in this area. The percentage of Indigenous women identifying such disputes was 24.2 percentage points *higher* than that of Indigenous men or nearly three times greater (38.5% of Indigenous women compared with 14.3% of Indigenous men).

Noise was most commonly identified as the cause of the dispute or problem, then fences/boundaries (or absence of fences), and animals.

The proportion of Indigenous women seeking legal assistance for such disputes was 28.9 percentage points *lower* than that of Indigenous men (26.7% of women compared with 55.6% of men)

One hurdle that may present itself when Indigenous people seek legal assistance with such matters is internal policies of Indigenous Legal Services that prevent the service from dealing with disputes between family groups or within communities. In this case these policies would appear to disadvantage Aboriginal women.

Wills and Estates

Very few participants had completed wills: only 10.1% of all focus group participants. Indigenous women were more likely than Indigenous men to have completed a will.

There may be a perception among Indigenous focus group participants that wills are only useful where there are significant amounts of money or property to be distributed. The value of having a will for clarifying other posthumous wishes (such as burial place, guardianship of children or transfer of intellectual property rights) may not be well understood by Indigenous communities.

However 61% of those participants who had *not* completed a will *would like legal advice to do so*. There is clearly significant unmet legal need in this area which was acknowledged by legal service providers:

People die with money in the bank and they [the family] don't know how to access it. There is no education going out to the communities towards it. It's only when the legal services go out that people want to find out about it. There is a great big gaping hole there (Legal Aid staff).

We get a lot of enquires about that, at least a couple a day. Dealing with death and early death is just such a real issue for people in communities and so if you've had someone die, which you have, in your family, then you'll want to know if you can get any money out of it (Indigenous Legal Service staff).

Victims of Crime Compensation

Slightly fewer than 15% of participants reported being the victim of a violent crime over the last couple of years. Some 55% of victims identifying as a victim of violent crime sought compensation. The percentage was much higher for women than men, at 82%, compared to 22%.

Factors limiting access to compensation included:

- dependency on Indigenous Legal Services, Legal Aid and Community Legal Centres for assistance;
- remoteness;
- conflict of interest;
- lack of access to specialist advice services;
- that proper entitlements to compensation for ongoing injuries or disabilities can be exacerbated by lack of accessibility to medical, psychological and other specialist services.

As one stakeholder commented:

Let's say an Aboriginal person in a remote community is assaulted and claims a psychological injury because of that. How are you going to get them assessed by a psychologist? With great difficulty I would have thought. There's two parts to that. One is getting them from the remote community to the psychologist or getting the psychologist to the remote community. The second is the standard testing that psychologist's use... it has no real bearing or application for Aboriginal people. Now that's not necessarily a fault in the VOC scheme, but it really is one of those issues of complexity, remoteness, communication - all those sorts of things that mitigate against either people applying for it, or maximizing their entitlements under it (Registrar).

We conclude that there is a significant unmet legal need in relation to victim's compensation, particularly for Aboriginal men.

Employment

Overall, 19.6% of all participants identified having experienced an employment-related dispute or problem. Indigenous men and women experienced problems in this area at almost the same rate (19.5% of women and 19.7% of men).

Disputes over pay and unfair dismissal were the most frequently identified employment-related issues. In response to questions asking them to identify predominant legal issues in this area, stakeholders also suggested that they commonly dealt with 'some unfair dismissal....some people not paid at all or [in]correctly on outstations' (Indigenous Legal Service staff); and, further, that 'unfair dismissal is the most common...a lot of work health as well' (Indigenous Legal Service staff).

Other stakeholders also raised problems in relation to the Community Development Employment Program (CDEP) and Shires. Some of the relevant issues may relate to concerns around NT and Commonwealth government policy, rather than being actionable in a legal sense.

Accessing paid employment generally was also raised as an issue, but whether this constitutes a legal issue, again, is not always clear. Where the decision to deny an Indigenous person a job is discriminatory, including if employment is *unreasonably* denied on the basis of a criminal record or under-qualification, there may be a legal issue with a legal remedy.

Some 33.3% of all participants identifying an employment-related dispute or problem had sought legal advice or assistance. The proportion of Indigenous women seeking legal assistance for employment issues was 39.5 percentage points higher than Indigenous men (53.8% of women compared with 14.3% of men). The issue of unmet legal need is thus particularly pronounced for Aboriginal men.

Social Security

Problems relating to Centrelink payments have emerged as a priority legal issue in the NT. Some 73.2% of all participants identified being in receipt of an allowance, with the proportion of Indigenous women receiving benefits 18.7 percentage points higher than that of Indigenous men (82.1% of women compared with 63.4% of men).

Some 69.4% of all participants in receipt of benefits were subject to Income Management, with the proportion of Indigenous women 16.2 percentage points higher than that of Indigenous men (76.2% of women subject to Income Management compared with 60% of men).

Overall, 29.1% of all participants receiving Centrelink payments identified having experienced a dispute or problem in this area, with the proportion of Indigenous women being 6.2 percentage points higher than Indigenous men (31.7% of women compared with 25.5% of men).

Only 11.1% of participants sought legal advice or assistance for identified Centrelink issues. Indigenous women were much less likely to seek assistance than Indigenous men for problems in this area (5.6% of women compared with 22.2% of men).

There is a significant need for legal assistance in this area, and this is particularly the case for Aboriginal women, who are *more likely* to be receiving Centrelink payments, *more likely* to be on Income Management, *more likely* to be experiencing problems with Centrelink, and *less likely* to seek legal assistance than Aboriginal men.

The most common issues identified related to underpayment/reduced payments and to the Basics Card. Some problems were related to associated credit and debt, as the following stakeholders acknowledged:

[With Basics Card quarantining] ... when the intervention arrived, and suddenly 50% of everyone's welfare payments were quarantined, overnight people suddenly said 'well how am I going to pay for that car loan, how can I pay for this, you know, consumer loan I've got for the fridge I purchased... The intervention threw up a lot of issues like this (Statutory Authority staff).

If a white person in town gets a \$25,000 debt [from] Centrelink, 9 times out of 10 they'll know that that might be right, or that it might not be right, and they'll go and seek some advice on it. Whereas our clients, [we] have someone who has been paying off \$80/week for

15 years and they've still got \$10,000 left, and we can dispute this! (Indigenous Legal Service staff).

Problems relating to the ineffectiveness of Centrelink's engagement and communication with Indigenous recipients were also raised:

You can imagine if you've got a language barrier... if English is your third or fourth [language] and then you've got to go into Centrelink, and anything to do with Centrelink you've got to get on a phone - it's not actually serviced here. Now you imagine trying to explain all that when you're second or third English speaking... So if you have an acquired brain injury or you're an alcoholic or whatever your problem is, where do you go? ... Centrelink is a big issue; it's been going on for a number of years, just the treatment of Aboriginal people going in there (Statutory Authority staff).

Whilst community responses to the Basics Card and Income Management in the NT are mixed, some problems or issues reported by community members relate to the limited number, location and type of stores in which the Basics Card can be used; stigma attached to having to use the card, sometimes at designated check-outs in stores; and Indigenous people not being able to (learn to) manage their own finances.

Issues arising in a social security context may not always have a legal remedy; where benefits are suspended in accordance with law and policy, for instance. The participants in Papunya, for example, explained that they are getting their Centrelink payments cut because their children are not attending school. But one legal service provider raised potential (legal) issues arising in a situation where parents believe their children are at school, but the school reports their absence, with benefits subsequently affected due to alleged truancy.

Family Matters

Focus group participants were asked if they had a problem in the last couple of years in relation to residence of, or contact with, children, or child support. Some 12.2% of respondents indicated that this had been the case for them. The frequency of response was roughly equal between men (11.3%) and women (13%).

A recurring theme in the discussion of family law issues among legal service providers was a sense of inapplicability of the system to Indigenous clients. For example,

The family law system doesn't appear to be addressing the needs of community clients and therefore they don't seek assistance from the Family Court. It's all too slow, it's all too far away, and it's just not an Indigenous way of handling things. Having said that, children and family matters are massive, and in my opinion there needs to be much more representation of people in those sorts of matters (Legal Aid staff).

The difficulties are compounded by remoteness, cultural dynamics and inadequate levels of legal service provision. The requirement for mediation was said to be an additional aspect of the system that was ill suited to Indigenous clients.

A total of 6.8% of focus group respondents indicated that in the last two years they had had an issue with a child being removed into care; family members taking a child and not returning them; or problems relating to fostering, adoption or guardianship. Four times the number of women (10.4%) reported this as men (2.8%).

Care and Protection matters were said to represent a significant load for courts: 'After criminal matters, the care and protection of children is quite a significant jurisdiction' (Registrar). The

provision of adequate representation for all parties was also a repeated theme in stakeholder interviews, including access to legal advice to parents before a court date. At times, an inability to provide all parties with adequate levels of legal representation compromises access to justice for some parties.

Experiences of disempowerment in dealing with child protection agencies can lead to a failure to understand or assert legal rights, which can have huge ramifications for families. The importance of adequate legal advice in these situations is clear. It is particularly worrying, therefore, that there is widespread concern among legal service providers about the frequency with which orders are made in the absence of parents:

A lot of parents are signing temporary protection agreements...you can sign an agreement with the Department that the child go into care for two months and that can be renewed a further three times. So you can end up with a kid in care for 6 months... and they never recommend that people get legal advice. I have never had a parent come to me and say 'the department wants me to sign this, can you explain it to me', but I have had an awful lot of parents at the end of 6 months, when they go to court because the agreement has expired, and I say to them well the kid has been in care for six months and they say 'yeah we signed a temporary protection agreement'. I say 'can you tell me what that means?' 'Nup'. Nothing. That's a huge issue because by then you have had a child in care for 6 months and it is very hard to fight in court (Indigenous Legal Service staff).

There was also a perception among some legal practitioners that there was a movement by the courts towards more significant orders earlier in the care and protection process. In addition there was a sense among focus group participants that the NTER had brought an increase in child removal. This is substantiated by the rapid rise in child protection notifications and substantiated cases between 2007/08 and 2009/10.

Between 6.8% and 12.2% of participants identified family law problems including child protection. The seriousness of the situation in relation to child protection in particular was also widely noted by legal service providers and other stakeholders.

Discrimination

Discrimination has emerged as a major issue during both focus groups and stakeholder interviews conducted in the NT. Overall, nearly a quarter of all focus group participants (22.6%) identified having experienced discrimination, with Indigenous men and women reporting at almost the same rate (22.4% of women and 22.9% of men).

Employment and health care were the most common areas of discrimination identified by participants, and almost unanimously, discrimination was identified as based upon race rather than upon any other ground. Other areas identified included police and shops as the contexts in which discrimination had occurred.

The policy context in the NT has had some effect upon the type and extent of discrimination related legal need. Participants and stakeholders identified that the NTER had almost certainly increased levels of discrimination experienced by Indigenous people. Some identified the NTER as itself discriminatory. As one focus group participant stated, 'discrimination is happening for everybody ... And the Intervention is the worst one. They have taken over the rights of black people ... every right that we have' (Darwin Men's Focus Group Participant).

A staff member from a Statutory Authority identified discrimination against Indigenous people as most likely to arise in dealings with police and in goods and services (including in the form of Indigenous people being (disproportionately) subject to surveillance in shops), and in relation to consumer matters and alcohol consumption:

People think they can say what they like to Aboriginal people without having any recourse. I have been away a short period and I have come back and it's [like it is] peoples' god forsaken right to do what they feel like to Aboriginal people. It's a bit of a worry (Statutory Authority staff).

Just over a fifth (or 21.4%) of focus group participants who had identified discrimination as an issue also sought legal advice or help. Indigenous women and men were equally likely to have sought assistance.

Levels of discrimination are likely to be under-reported. At play is a level of acceptance or resignation in relation to discrimination, a lack of knowledge about rights, and difficulties in actually 'naming' an incident as discrimination:

It's that really insidious stuff: you can walk down the street and see it every single day, every single minute. But to be able to point at particular things and say 'that's racial discrimination' that's quite difficult (Indigenous Legal Service staff).

Most Aboriginal people, the homeless ones, most of them, they just put up with it...they just think there's nothing they can do. They don't know that you can go to the law and take 'em up for discrimination and whatever. They don't know about them things (Katherine Women's Focus Group Participant).

Accident and Injury

Accident and injury emerged as a significant legal area in the NT. Overall, 22.3% of all participants identified an issue of this type, with the proportion of Indigenous men identifying such an issue at 3.8 percentage points higher than that of Indigenous women (24.3% of men compared with 20.5% of women).

Participants most commonly identified motor vehicle accidents (over 50% of responses) and work injury (33% of responses) as sites for injuries sustained through accidents. Stakeholder legal services also identified motor vehicle accidents as a prevalent legal issue arising for Indigenous clients.

Injury related to medical treatment also arises for Indigenous clients, according to stakeholder legal services.

We get a lot of medical negligence complaints. Not many of them go very far. They are again notoriously difficult to prove... [as] actual negligence (Indigenous Legal Service staff).

Legal advice or assistance was sought in relation to compensation and/or insurance for an accident or injury-related issue in roughly a quarter (or 24.2%) of cases where people had identified a problem in this area (23.5% of men and 25% of women).

Education

Education emerged as a major legal need amongst Indigenous focus group participants. Overall, 40.5% identified attending or being responsible for someone attending an educational institution. Indigenous women were 11.9 percentage points more likely than Indigenous men to be responsible for

someone attending or themselves attending an educational institution (46.2% of women compared with 34.3% of men).

Some 33.9% of all participants who positively responded to this question also reported having experienced an education-related dispute or problem. Indigenous men were 13.1 percentage points more likely than Indigenous women to have experienced an education-related issue (28.6% of women compared with 41.7% of men). Bullying was the most common issue identified.

Legal services identified a number of issues in relation to education, not all of which are likely to constitute legal issues for which there is a legal remedy. Legal issues that were identified related to direct and indirect discrimination.

Some 20% participants who had identified an issue in this area had sought legal advice or help. Although the numbers are very small, Indigenous women were more likely than Indigenous men to have sought assistance, although Indigenous men were more likely to identify a problem in this area.

Credit and Debt Issues

Overall, 18.4% of focus group participants said that they had had legal action threatened against them in the last two years for failure to pay a bill or repay a loan. Indigenous women were 7.8 percentage points more likely than Indigenous men to have been threatened with legal action for a debt (22.1% of women compared with 14.3% of men).

Stakeholders commented that:

[A major problem is] unaffordable loans. So, now we have a law that requires responsible lending. In the past we haven't. It's just people that have been locked into huge car loans and personal loans and credit card difficulties. People who are being harassed by debt collectors... A lot of people do have their credit record ruined (Statutory Authority staff).

Credit and debt's a big issue. You get a lot of small shop owners who let Aboriginal people from community book up money and the shop owners take their key cards and they get their pin numbers and take as much money as they want out of these key cards (Indigenous community organisation worker).

If we can see real legal problems with the formation of the contract we can deal with that, because of language issues or financial literacy and things like that. A good example is a client who spent most of his life in jail, got out and thought 'where do I get money for a car?' and walked into a bank and they gave him a loan for about \$25K. He has very low English and no financial literacy skills. So after a bit of a fight we got that waived. (Indigenous Legal Service staff)

One stakeholder suggested that debts most commonly arise in relation to phones, unpaid credit cards and motor vehicle repairs (Registrar). Fines were another major area leading to debt:

We are seeing fines not just double but triple and quadruple over a period of time. I just think that is an issue of a systemic injustice, there has to be a cap on how much an individual fine can increase, and there have to be meaningful waiver systems as well. There is a real difficulty in terms of converting to community work. In Victoria they have a system with a special circumstances list, where certain court ordered fines can be waived on the basis of homelessness, mental health...here, although there is an exceptional circumstance provision, it is virtually ignored (Indigenous Legal Service staff).

In total, 6.8% of all focus group participants said that they had a problem relating to their credit reference rating or to bankruptcy. This was exclusively identified as an issue by women participants (13%).

Consumer Issues

Focus group participants were asked about the types of problems that they had experienced as consumers in the last couple of years. These included problems accessing or finding superannuation, a dispute with a bank or other financial institution, a dispute over insurance, problems with contracts, commercial scams or other situations where a person paid for goods or services they did not receive.

Some 12% of all focus group participants said that they had experienced a problem accessing or finding superannuation, or that they had had a dispute with a bank or other financial institution over the last couple of years. Men (12.9%) were more likely to identify this issue than women (10.5%).

Some 4.8 % of participants said that they had had a problem with insurance. Although the numbers are small, more than twice the number of men than women identified this as an issue (7.1% compared to 2.6%).

One stakeholder commented that:

Financial consumer matters like superannuation, insurance, funeral plans, unclaimed monies is becoming a big one too at the moment. ...If your banking institution or financial institution loses contact with you, then that money gets rolled into general revenue. So [there is]... a huge pool of [unclaimed] money [belonging to Aboriginal people and organisations]. The largest amount of lost money in the NT.... [is] \$150,000. [This was from] one of the most impoverished communities in the Northern Territory – a huge amount of money... It's just inconceivable that this money has just been sitting there. Letters went unanswered... You go out to these communities, and there's often a council office or something. You can see the mail sitting there, a lot of it.... You see a lot of commercial sort of matters, sometimes there's debt collection, sometimes they're in relation to bank accounts, or superannuation accounts or something (Statutory Authority staff).

Some 7.5 % of focus group respondents reported a problem with scams or contracts in the last couple of years. This was explained as including matters like funeral funds, used car sales, photographic deals or high-pressure sales. Men (8.6%) were slightly more likely to report a problem in this area compared to women (6.6%). It should be noted that the recorded numbers may be lower than what is actually experienced because the questions do require the participants to identify, to some degree, sales approaches as 'scams'. This was reflected in the following statement from a legal service provider:

A lot of people don't identify their problems as legal problems...with consumer stuff, we find we have a lot of unconscionable contracts, but people just know that they are getting bills from Telstra or Austar, but they don't identify that as a legal problem. So it is hard when we walk up to a group of people and say 'hi, we're [a legal service] and these are the things we can help you with. It's hard to explain it [civil law issues] anyway generally, and it's hard to explain it in language that people understand, especially when we don't have interpreters (Indigenous Legal Service staff).

Similarly, issues were raised in relation to the level of understanding that people have that they have entered into a contract, or what the terms of such contracts are. One emerging area of concern was in relation to the sale of photographs by 'people who sit in the shopping centres. The idea is that you get

baby photos taken and you pay it off over a period of time, and you don't actually see the photos until you've finished paying for them, and it can be quite a lot of money, up to \$1500 over a period of time' (Indigenous Legal Service staff). The issue is compounded where the company chooses a name that suggests that they are an Indigenous company offering services for Indigenous people; here, consumers are more likely to trust that they are being offered a fair deal. Similar comments were made in relation to the selling of funeral funds to Indigenous people, and to the high likelihood that traders in this way may deliberately 'target' their products to Indigenous consumers.

Car dealerships and motor vehicle repairs were also identified as areas where vulnerable Indigenous consumers may be 'scammed' or 'ripped off':

A lot of car yards in town have sold Aboriginal people crap vehicles and deliberately got, deliberately organised credit for them without checking their background but just to stack up the numbers so that their commissions can be warranted. Yes. That's a major issue (Indigenous Community Organisation worker).

Focus group participants were also asked whether they had a problem with not getting either goods or services they had paid for: 6.2% of participants reported this problem. Women were slightly more likely (6.6%) to have an issue in this area than men (5.7%). Other issues with 'not getting what you paid for' included being sold whitegoods without a warranty, and a range of issues around motor vehicles.

In relation to signing people up for mobile contracts which may come with a range of issues, legal services said that 'mobile phone companies are a huge problem and I think for some of those, clearly that is targeted' (Indigenous Legal Service staff). This was said to be especially clear when 'there are a lot of people being signed up for contracts for mobiles that don't have reception in remote communities' (Indigenous Legal Service staff).

Another service provider said,

Financial literacy is a huge issue, just having people understand the value of money, understanding where it is all going, paying for utilities and telecommunications. I've seen a few cases of bill shock with mobile telephones... We've got a lot of stuff going through the Ombudsman. It's not unusual to see someone come in with a [\$3000-5000] bill. I've got one at the moment for a young lady who's got a \$5000 bill on a \$59 plan and [the telecommunications company's] reply was 'well we did send her a text message when her bill had got up to \$2800 to let her know she's got high usage', and you think for an 18 year old girl on Abstudy don't you think she would have needed that message probably after about \$100, not \$2800? (Indigenous Community Organisation worker).

Consumer issues were said by legal service providers to be a category of unidentified legal need; that is, an area where avenues of legal redress exist and could be pursued, but where people did not necessarily identify the problems that they were having as legal in nature. There are also cultural issues that make it problematic to challenge and question as an Indigenous consumer, or more pressing problems might eclipse difficult or longstanding debts. This was reflected in the following stakeholder comments:

Consumer legal needs are not being met. There is so much going on in community, they are exhausted. They see this government mob again. They need a tap fixed. There is just so much going on for them. Consumer issues just get put into the back of their mind, it is not their priority. The broken tap is more important (Statutory Authority staff).

Consumer issues do feel like a very big problem for Aboriginal people. We are seeing only the tip of the iceberg. There's a level of acceptance amongst Aboriginal people that this is

how we are treated, nothing will be done if we raise it, who do we raise it with? (Statutory Authority staff).

Knowledge of civil law issues and community legal education

A number of community members raised the fundamental issue of the low levels of understanding of what constitutes civil law. Comment about the lack of knowledge of civil law was echoed by legal service providers:

I think that's one of the big needs in terms of civil stuff. People don't realise a lot of the time, aren't able to issue spot or work out where the avenues of address might be, or do it in a timely fashion (Indigenous Legal Service staff).

Without knowledge of what civil law is, and what avenues of redress might be available for these issues, the prospects of realising legal entitlements are obviously very low.

Taking into account the low levels of knowledge around civil law, it is clear that legal education around civil law issues is a priority both as direct community legal education, and also for Aboriginal service providers who take a role in advising or advocating for community members who may themselves have limited knowledge of civil and family law.

Both the need for, and the difficulties involved in, the provision of community legal education was canvassed by Indigenous legal services. These difficulties include, among other things, resourcing, funding agreement requirements and issues around delivery of community legal education into remote areas.

Legal Service Delivery

Many participants, both in focus groups and stakeholders, identified a gap in civil and family law service provision. Participants noted that Indigenous people need help with a range of pressing legal problems other than those arising in a criminal law context, and yet legal services often emphasise the latter.

This gap in service provision was acknowledged by legal service providers, and also frequently discussed by other stakeholders. It was suggested that if there was capacity to more effectively and consistently commit resources to addressing Indigenous civil and family law needs, lawyers would have many more clients coming forward for help in these areas than is the case now.

It keeps coming back to a well-resourced Aboriginal legal aid service that can do civil work... we've got to improve access to the civil law system by Aboriginal people by having a well funded Aboriginal legal aid service that provides civil assistance...because without that, the walls are just too thick and too high. And that is very much reflected from where I sit where the number of Aboriginal litigants from remote communities are pretty well none, and those that do access it will always be represented by a NAAJA lawyer... There is no doubt that Aboriginal people are well and truly overrepresented in the criminal law system ... and I would say well and truly unrepresented in the civil law system (Registrar).

Indigenous people need assistance in negotiating the often formal and very complex civil and family law system. Lawyers may need to provide non-legal assistance to help with this 'negotiation' process, including administrative-type work such as filling in forms and with the difficult bureaucratic systems (such as Centrelink or Territory Housing), which could themselves be improved. Barriers to access also arise in the context of language and cultural differences and low levels of literacy in Indigenous communities.

Further, *non-legal* services and agencies in contact with Indigenous people may also need to be more pro-active in ensuring that legal problems they come across with Indigenous clients are dealt with appropriately, including by way of referral to legal assistance. These agencies, though, may not have sufficient legal knowledge or appropriate connections with legal services to enable this to occur.

Client-Practitioner Communication

Indigenous people may not feel sufficiently comfortable in approaching legal services and lawyers for assistance, and this will inhibit access to services. One participant in Alice Springs stated, ‘actually there are a lot of people who are terrified of talking to a lawyer, ‘cause they don’t know what to say’ (Alice Springs Women’s Focus Group Participant).

Indigenous focus group participants indicated that communication breakdowns between lawyers and Indigenous clients may be due to the complexity of the law and the fact that some lawyers are not able to effectively interpret this complexity for them, particularly given language and literacy issues referred to briefly above.

Trust, respect, and a good understanding of a lawyer’s role and capacity were identified as important factors contributing to an effective legal service, including in terms of building relationships on remote communities over time.

Problems were also discussed relating to finding suitably qualified, high quality and gender and culturally appropriate interpreters who are available to assist lawyers.

Interactions Between Legal Service Providers

Legal services report working, to some extent, to ensure that gaps in service delivery (based on geography, gender, area of law, *inter alia*) are minimised, including by way of referring clients to each other, by making decisions about the type of matters they cover, and by trying to collaborate, in general, rather than duplicate. Some of the ways that legal services work together, predominantly under informal arrangements, are set out in Section 2. Issues, including gaps in service delivery, still remain, however.

It was also suggested that having good links with *non-legal services* is important, as these other agencies may well need to link clients up with lawyers. One example would be having financial counsellors readily available to communities, who could then refer clients to lawyers, ‘because it might not be a legal issue on the face of it at the start, but it certainly will be’ (Indigenous Legal Service staff).

Limitations Arising from Levels of Resourcing

In many instances, stakeholders and some focus group participants referred to problems with funding (including both instability and insufficiency) as impacting on Indigenous access to justice in civil and family law areas.

The way expenditure of resources is prioritised in order to assist with criminal, rather than other legal issues, was also discussed. Some called for decisions relating to funding to more accurately reflect need in civil and family law areas.

Lack of funds for Indigenous legal services means that recruitment and retention of quality legal staff is also very difficult.

Agency Policies that Impact on Service Delivery to Indigenous Clients

Legal service provider policies may also impact negatively upon accessibility. Relevant policies might relate to means and merit testing or to the type of matter that services may or may not take on, for instance. Other policies which may disadvantage some Aboriginal people include restrictions on doing commercial matters, and internal policies of Indigenous Legal Services which prevent the service from dealing with disputes between family groups or within communities.

Priority Legal Needs

In determining the priority areas for non-criminal law matters for Indigenous people in the NT, we have considered the responses of focus group participants in both questionnaires and discussion and the views of stakeholders and organisations delivering services to the focus sites. We also note that some areas of legal need such as child protection have such serious consequences (loss of children) that, although the percentage of participants identifying legal need in this area was comparatively low, the seriousness of the problem, the associated consequences and the views of stakeholders also influence our determination of priority areas. We also note some areas of legal need are influenced by gender. It should be noted that we do not assess whether there is an effective legal remedy available for the areas of legal need which have been identified.

There were two areas of law raised in the focus group questionnaire in which more than 25% of all participants indicated that they had experienced a legal problem in the last two years. These were:

- housing (54.1%)
- neighbourhood disputes (27%).

On the basis of focus group participant responses, we identify **housing as a priority area**. Issues involving **neighbourhood disputes** were particularly seen as a priority area of concern by Indigenous women.

There were a further four areas of law that were identified by more than 18% of respondents as having caused them some problem in the same time frame. They were:

- discrimination (22.6%)
- accident and injury (22.3%)
- employment (19.6%)
- credit and debt issues (18.4%).

We note further below the importance of **discrimination and credit and debt as priority areas** from the above list.

In relation to social security, 73.2% of all focus group participants were in receipt of Centrelink payments and of these 29.1% identified a potential legal problem. We identify **social security as a priority area** because of the significant proportion of people who are dependent on Centrelink payments, the majority of whom are also subject to Income Management.

In relation to family matters between 6.8% and 12.2% of participants identified problems with child contact etc., or child protection matters. We view **child protection in particular as a priority area**: legal needs relating to child protection have such serious consequences that, although the percentage of participants identifying legal need in this area was comparatively low, the seriousness of the

problem and consequences also influence our view that it is a priority area, particularly, also because of the identified lack of legal assistance to parents. We also note that focus group participants identified this area as a priority in discussion, even though they may not have identified family law as an issue that they personally were dealing with.

Credit and debt, and consumer issues are also considered a priority. Overall, 18.4% of focus group participants said that they had had legal action threatened against them in the last two years for failure to pay a bill or repay a loan. Difficulty in repaying loans was the most prevalent credit and debt issue identified by focus group participants. Consumer issues were identified by stakeholders in particular as an area of unmet legal need. It is difficult to distinguish consumer issues from credit and debt because of the intertwined nature of these areas in the experiences recounted. On the basis of both participant responses to issues relating to debt and loan repayments as well as the stakeholder information relating to consumer issues we identify these areas as a priority.

Discrimination emerged as a priority issue in both focus groups and stakeholder interviews conducted in the NT. Overall, nearly a quarter of all focus group participants (22.6%) identified having experienced discrimination. There is a level of acceptance in relation to discrimination, a lack of knowledge about rights, and difficulties in ‘naming’ an incident as discrimination, potentially leading to under-reporting of this issue. Because discrimination impacts on all areas of social life from health services, to housing, to employment, to education, and because there appears to be a large unmet legal need in this area, we regard it as a priority legal need.

We raise the *potential* for considering wills and estates as a possible priority area because of unmet legal need: very few Aboriginal people have wills and many people indicate a desire to have assistance to complete a will.

Another way of considering **priority legal areas in civil and family law is by gender**. In many of the legal issues discussed in this Report there were pronounced gender differences both in the identification of issues and in the likelihood of seeking legal advice or assistance. In relation to housing, neighbourhood disputes and social security, Aboriginal women were more likely to identify an issue or problem but much less likely than men to seek assistance. The issue was particularly pronounced in relation to neighbourhood disputes and social security (women were half as likely as men to seek advice in relation to neighbourhood disputes, and four times less likely than men in relation to social security).

In relation to victim’s compensation, employment, family law and child protection, and credit and debt, Aboriginal men were less likely than women to seek assistance. The issue was particularly pronounced in relation to victim’s compensation and credit and debt (men were four times less likely as women to seek victim’s compensation, and nearly five times less likely than women to seek advice in relation to credit and debt).

PART 1 CONTEXT

1. THE ILNP

1.1 Introduction and Background

This report presents key findings and recommendations based upon research conducted in 2011 by the ILNP in the NT. The material presented herein was current as at the time of, and respective laws and policies may have changed since, the research conducted in 2011.

The ILNP is a national research study of the civil and family law needs of Indigenous Australians. The project is based at the Cairns Institute, James Cook University (JCU). The objectives and methodology (see further below) of the ILNP have been informed by a pilot project completed for the NSW Legal Aid Commission in 2008 by members of the ILNP research team. The pilot project presented research relating to the civil and family law needs of Indigenous people in NSW.³

To date, there have been few large-scale surveys of legal needs in Australia, and none that specifically assess Indigenous civil and family law needs. Analysis of the legal needs of Indigenous Australians has been largely focussed on criminal law and/or has been particular to specific jurisdictions or communities.

The ILNP aims, on a national level, to:

- identify and analyse the legal needs of Indigenous communities in non-criminal areas of law (including discrimination, housing and tenancy, child protection, employment, credit and debt, wills and estates, and consumer-related matters, *inter alia*); and
- provide an understanding of how legal service delivery might work more effectively to address identified civil and family law needs of Indigenous communities.

ILNP research is intended to benefit Indigenous people by improving Indigenous access to civil and family law justice. The ILNP seeks to inform culturally appropriate and effective responses to civil and family law needs by legal services, which should then deliver better access to justice, greater compliance with human rights norms and positive social justice outcomes for Indigenous people.

The ILNP has been funded by the Australian Research Council by way of a Linkage Project grant for a three year period, commencing from February 2011. The research is being undertaken in collaboration with 12 project partners, including both legal services and academic institutions. These partnerships provide financial and other support to the ILNP, including assistance in development of methodology and in organising fieldwork. In the NT, the NT Legal Aid Commission (NTLAC), the North Australian Aboriginal Justice Agency (NAAJA), the Central Australian Aboriginal Family Law Unit (CAAFU) and the North Australian Aboriginal Family Violence Legal Service (NAAFVLS) are ILNP project partners.⁴

³ Cunneen, C and Schwartz, M (2008) *The Family and Civil Law Needs of Aboriginal People in New South Wales*, University of NSW, available at:

http://www.jcu.edu.au/ilnp/public/groups/everyone/documents/technical_report/jcu_083446.pdf

⁴ A full list of project partners is available on the ILNP website at:

Over 2011-2013, the ILNP is conducting research in a total of 32 Indigenous communities or ‘focus sites’, located in four jurisdictions; Victoria, NT, Western Australia and Queensland (see further below). Combined with the completed NSW research, the ILNP research will provide a comprehensive picture of Indigenous civil and family law needs in Australia. The national coverage is achieved because focus sites are spread across urban, regional, rural and remote communities in the aforementioned jurisdictions (see further below in 1.3), and more than 85% of Indigenous people in Australia live in Queensland, the NT, NSW, Western Australia and Victoria.

A report presenting an analysis of civil and family law needs and of the effectiveness of current legal service delivery in responding to these needs will be prepared and presented by the ILNP upon completion of fieldwork in each of the four focus jurisdictions. These reports will be made available on the ILNP website as they are finalised. The ILNP is also intending to disseminate ILNP research findings in ways that optimises accessibility for the broader community, in particular for Indigenous communities (including through social media tools, where appropriate). There will also be further reporting on data provided by project partner legal services and indicating levels and nature of Indigenous usage of legal services in civil and family law areas.

The NT Report is the first report to be published by the ILNP and is based upon fieldwork completed in the NT during August – November 2011.

1.2 NT Report Structure

The NT Report seeks to provide:

- enhanced understanding of the civil and family law needs of Indigenous people in the NT, including by identifying *priority* needs in relevant areas of law, with an emphasis upon material gathered directly from select Indigenous communities; and
- a discussion of current legal service delivery to Indigenous clients, including gaps in service delivery and barriers to effective access to legal services.

The report is divided into two parts.

Part 1 provides background to the report and the ILNP. It consists of Sections 1 and 2.

Section 1 provides detail in relation to the ILNP, including methodology. It also sets out brief demographic and other information for each of the NT communities or focus sites which have been the focus of ILNP research. Contextual information about the communities in question is relevant to the consideration of legal needs and of legal service delivery.

Section 2 provides information relating to current legal service delivery in the NT, focusing on work within Indigenous communities. For the most part, material in this section has been provided by legal services in the NT.

Part 2 provides an analysis of qualitative data gathered by the ILNP in the NT. It consists of Chapters 3 - 6.

Section 3 considers, separately, fourteen different areas of civil and family law. It discusses the type and extent of legal needs in the NT in the nominated areas of law and is based upon qualitative data gathered at select NT communities or focus sites, as well as data from focus group questionnaires.

Section 4 explores *priority* areas of legal need, again drawing upon qualitative data gathered at each of the focus sites in the NT.

Section 5 looks at how effectively legal service delivery is currently meeting civil and family law needs for Indigenous communities in the NT. This material is also drawn from qualitative data collected at each of the NT focus sites.

1.3 Methodology⁵

The ILNP data has been gathered through Indigenous focus groups (involving completion of a structured questionnaire and group discussion), as well as through targeted stakeholder interviews relating to a select number of Indigenous communities across the NT (see further below).

The focus of this report is upon the presentation and analysis of primarily qualitative data. The data has been analysed to provide information in relation to Indigenous communities' legal requirements. This data also provides some indication as to how effectively these needs are currently being met and what can be done to improve access to and quality of legal service delivery in a civil and family law context for Indigenous people in the NT. The report includes, in particular, baseline quantitative data representing the nature of civil and family law needs among the Indigenous men and women who participated in focus groups. The quantitative data is an important indication of the key concerns of *focus group participants*. As we note further below, the focus groups were held in a variety of different NT locations. However, it is important to recognise that the quantitative data cannot be read simply as a representative sample of all Indigenous people in the NT. The data reflects the issues raised by Indigenous focus group participants in a variety of locations from very remote communities to the city of Darwin.

The ILNP is a study of policy and practice in a practical context, lending itself to a qualitative research framework. This has provided information relating to aspects of people's lives that civil and family law may touch, Indigenous communities' experiences of legal services, and of the factors that inhibit use of those services. It has also enabled a relatively small number of targeted interviews and consultations to provide information-rich data to facilitate insight into less quantifiable matters (such as cultural, historical, environmental and other issues) that impact on legal needs and the use of services, and into the attitudes and experiences of individuals towards those services.

⁵ Although the first part of the project had been previously completed in NSW in 2008, it was necessary to revisit some aspects of the methodology to ensure that it was appropriate for NT communities, including very remote communities. Methodology also needed to be adjusted in accordance with community needs. For instance, it was expected that language and literacy issues might need to be addressed in some communities beyond the requirements in NSW, and for this reason the format of the questionnaire used in NSW was changed to accommodate these potential issues. Further, focus groups as originally envisaged (and as used in NSW) were not possible in every community.

1.3.1 Focus Sites: Identification and Selection

As indicated above, the ILNP qualitative research is centred on 32 focus sites or Indigenous communities, with eight sites selected in each of the four focus jurisdictions.⁶ In 2011, the ILNP visited eight Indigenous communities in the NT to gather the data which underpins the analysis provided in this report. The sites were selected prior to commencement of fieldwork and in consultation with NT project partners. Selection was based upon sites' geographical distribution across the NT, as well as with reference to the Accessibility/Remoteness Index of Australia Plus (ARIA +) classifications of remoteness,⁷ given that issues of practical access to services are important considerations in this research.

The ILNP sites are intended to provide representation of remote, rural, regional and urban communities according to the ARIA + classifications. At the outset, it was clear, given the remoteness of large parts of the NT, that it would not be possible to select equal numbers of communities from each of these four categories. The majority of the communities selected in the NT, including the town of Tennant Creek, are classified as 'very remote'. The 'ARIA +' definition of 'very remote' is a place that is 'locationally disadvantaged with little accessibility of goods, services and opportunities for social interaction'. Rural, regional and urban communities are those that are 'moderately accessible', 'accessible' and 'highly accessible' in terms of respective capacities to access goods and services.

Based on their knowledge of relevant communities in the NT, our research partners also suggested sites because of particular civil or family law issues or accessibility issues arising for specific communities.

The eight focus communities in the NT were **Darwin, Wadeye, Katherine, Bulman, Tennant Creek, Alice Springs, Papunya** and **Alpurrurulam**.

These sites are classifiable with reference to ARIA + as follows:

Accessible:	Darwin
Remote:	Alice Springs, Katherine
Very remote:	Tennant Creek, Papunya, Wadeye, Alpurrurulam, and Bulman

⁶ For a list of all communities the ILNP is travelling to in each jurisdiction, see

http://www.jcu.edu.au/ilnp/about/JCU_083394.html

⁷ ARIA+ is widely accepted as Australia's most authoritative geographic measure of remoteness. Indexes of remoteness are derived from measures of road distance between populated localities and service centres. These road distance measures are then used to generate a remoteness score for any location in Australia, with values ranging from 0 (high accessibility) to 15 (high remoteness).

Highly Accessible is defined as relatively unrestricted accessibility to a wide range of goods and services and opportunities for social interaction; **Accessible** is defined as some restrictions to accessibility of some goods and services and opportunities for social interaction; **Moderately Accessible** is defined as significantly restricted accessibility of goods and services and opportunities for social interaction; **Remote** is defined as very restricted accessibility of goods, services and opportunities for social interaction; **Very Remote** is defined as very little accessibility of goods, services and opportunities for social interaction. See <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=6442459569>, 9.

1.3.2 Focus Groups: Location and Composition

At each of the project sites, qualitative data was collected primarily through participation of Indigenous community members in focus groups.⁸ These focus groups were fundamental in gathering information about:

- the nature and extent of legal needs;
- levels of satisfaction with and effectiveness of current service delivery models; and
- limitations of the current system.

In each community, two separate focus groups were held - one group for men and one for women.⁹ It was envisaged that the focus groups would comprise a minimum of six members, with an optimum attendance of ten people per group.¹⁰ Participants in each group ultimately ranged in numbers from seven to eleven (see Table 1.1), and the sampling method for focus groups was purposive sampling (Sarantakos 2005: 164). Attendees were paid \$50 to cover any expenses arising from their participation and refreshments were provided. Focus groups were sound recorded in every instance. Participants contributed anonymously, and throughout the report are only identified in the contributions they made by gender and location (such as *Wadeye Women's Focus Group Participant*).

The men's groups were facilitated by a male interviewer from the ILNP and the women's groups by a female interviewer. Facilitators were assisted in running the focus groups by local, Indigenous focus group coordinators. Most commonly, an Indigenous man and/or woman residing within the relevant community undertook this work for the ILNP, with potential coordinators initially identified by project partners or stakeholder organisations with knowledge of the communities in question.¹¹

The researchers corresponded with the coordinators on a number of occasions leading up to the focus groups to provide information about the research, discuss expectations for the focus groups and make practical arrangements. Focus group coordinators were provided, in advance of an ILNP visit, with a letter setting out the work that was required in order to coordinate focus groups and detail relating to the ILNP. The coordinators were employed by the ILNP, in particular, to invite community members to attend the relevant focus group, to explain to them the purpose of the focus group and to arrange for an appropriate venue for the group to meet at. In inviting participants, focus group coordinators were asked to include participants representing a cross-section of their communities, as far as possible; that is, representatives from different family or kinship groups and ranging in age and social circumstances, who would attend as individuals to give a personal perspective about how or whether civil and family law issues arose in their daily life and the ways in which they were being or might be

⁸ For a schedule of visits to relevant communities in 2011, see http://www.jcu.edu.au/ilnp/progress/JCU_083398.html

⁹ On one community a separate men and women's focus group was not held as each participant participated individually or in very small groups (again separated by gender).

¹⁰ Between five and ten people is the optimum size for gathering information in this manner (Sarantakos 2005: 196).

¹¹ On two communities, a non-Indigenous, community-based stakeholder organisation, working closely with the local Indigenous community and identified by our project partners and/or other stakeholder organisations as having capacity to undertake the coordinator's role, assisted with both the men and women's focus group.

addressed.¹² Focus group coordinators were paid for the time spent in organising and attending the groups.¹³

Table 1.1 indicates that upon completion of the fieldwork in the NT, sixteen (16) focus groups had been held, with a total of 149 Indigenous community members participating out of a maximum of 160 participants. The proportion of female participants compared with male participants was 4.4 percentage points higher (52.3% female participants and 47.7% male participants).

Table 1.1 Location and Gender of Focus Group Participants

	Focus Group Participants					
Location	Male		Female		Total	
	No	%	No	%	No	%
Alice Springs	8	42.1	11	57.9	19	100.0
Alpurrurulam	10	50	10	50	20	100.0
Bulman	9	52.9	8	47.1	17	100.0
Darwin	8	44.4	10	55.6	18	100.0
Katherine	10	52.6	9	47.4	19	100.0
Papunya	9	50	9	50	18	100.0
Tennant Creek	10	50	10	50	20	100.0
Wadeye	7	38.9	11	61.1	18	100.0
Total	71	47.7	78	52.3	149	100.0

Table 1.2 shows that participants represented a spread of age groups from 18-24 years to those 55 years and older. The female participants tended to be older than the male participants, overall, with 44.2% of female participants being 45 years or older compared to 32.4% of male participants.

Table 1.2 Age Range of Focus Group Participants

	Focus Group Participants					
Age	Male		Female		Total	
	No	%	No	%	No	%
18-24	11	15.5	12	15.6	23	15.5
25-34	21	29.6	18	23.4	39	26.4
35-44	16	22.5	13	16.9	29	19.6
45-54	11	15.5	11	14.3	22	14.9
55+	12	16.9	23	29.9	35	23.6
Total	71	100	77	100	148	100.0

Excludes 1 missing case: N=148

¹² Focus group coordinators were advised that those working in organisations in relevant areas (such as women's refuges or financial counselling) need not attend the focus groups as they would be asked to contribute by way of stakeholder interviews.

¹³ It was not always easy to find community members who could undertake this work for the ILNP, for various reasons, including movement of people in and out of remote communities for funerals or other matters. In Papunya and Alpurrurulam, where coordinators were not immediately available when we arrived in these communities, project partner staff, and/or local community members and service providers assisted us to either find a coordinator or focus group participants.

1.3.3 Focus Groups: Process

The focus groups were semi-structured to provide participants with an opportunity to raise issues they considered important to them and to allow open discussion to explore new themes as they emerged. This approach allowed people to answer questions on their own terms, but still provided structure for comparability across gender and community (May 2001).

At each focus group, prior to working through the questionnaire, a participant Information Sheet and Consent Form was provided to all participants outlining the purpose of the research, the voluntary nature of participation and the ability to withdraw from the consultation at any time, an assurance of the confidentiality and anonymity of individuals in participating in the research, and the contact details of the researchers for any complaints or questions concerning the conduct of the research.

During each focus group, participants completed a structured questionnaire, asking them to identify whether they had experienced a range of civil or family law issues over the recent years and what legal or other action they had taken, if any, in response to those issues. The issues identified in the questionnaire generally followed those used in other large scale legal needs projects (see for example Coumarelos et al 2006) with additional questions relating to specific Indigenous concerns (for example, stolen generations, stolen wages, Basics Card). Some matters such as police complaints, native title or intellectual property were omitted from the questionnaire for practical reasons, in particular due to the size of the document and the time it takes to complete. Consistent with other civil law needs analyses, family and domestic violence was treated as a criminal matter rather than civil law. The treatment of family and domestic violence as a criminal issue does not reflect a view that this issue is an unimportant legal need experienced by Indigenous people. Victims of violence were however identified in the context of access to victim's compensation schemes. Other hybrid orders (for example, anti-social behaviour orders) were treated as criminal. However, it is important to note that all of these issues could be and often were discussed in focus groups and by stakeholders, although they were not covered by specific questions in the questionnaire. Other civil law issues that arose in stakeholder interviews are dealt in Section 3.15 of the Report. Project partners were given the opportunity to provide input into the questionnaire.

The focus group questionnaires nominated specific areas of civil and family law and generally asked participants to identify:

- whether any legal issues or problems had presented themselves in the specified areas of law over the last couple of years, with a brief description of the nature of any issues or problems arising;
- whether legal advice or help was sought and if so, from whom; and
- how they resolved any issues that had arisen.¹⁴

Though the questions set out in the questionnaire are specific to particular areas of law, comments relating to legal issues other than those included on the questionnaire arose during both stakeholder interviews and focus group discussion. Discussion in relation to these other legal issues is provided in **Section 3**.

¹⁴ The questions differed from this format in a few instances, where they were specific to circumstances in the NT or otherwise. Participants were asked if their Centrelink benefits were subject to Income Management, for instance. By way of further example, with respect to wills and estates, participants were asked if they had completed a will; if so, they were asked who assisted them with this, and if not, they were asked if they would like to do so and who they might seek assistance from to do this.

Through the questionnaires, participants were able to identify how many legal incidents they had experienced and to give a picture of their legal needs. The questionnaires also provided information concerning the nature and frequency of legal assistance that participants were likely to seek and whether they were able to achieve a satisfactory outcome for a legal problem they were experiencing (either through legal assistance provided or otherwise).

During the focus group, the ILNP facilitator and focus group coordinator worked through all the questions on the questionnaires as they were being completed by participants in order to overcome any barriers to completion. It was often necessary to work more closely with individual participants or with participants in groups (kept as small as possible) to ensure that participants had an opportunity to respond effectively to the questions posed. Literacy and language issues, in particular, were evident in all communities, including in more central locations such as Darwin. Many Indigenous participants found it difficult to read through and follow the questionnaire. A reasonable number of participants were not able to complete the written parts of the questionnaire on their own, and these parts had to be filled in on their behalf by others assisting.

The focus group questionnaire is attached as **Appendix A**, and responses to it form the basis of the data presented in **Part 2** of this report.

Participants were also invited to participate in a group discussion after completion of the questionnaire. This discussion was led by the ILNP facilitator and focus group coordinator. It allowed participants to expand on the legal issues they had experienced and had identified in the questionnaire. Participants also identified at this point barriers to accessing legal services and proposed changes that they thought would be effective in overcoming the shortfalls that they had identified. The discussion covered a range of common questions to allow comparison and to ensure that a focus was maintained on key themes central to the research (Patton 1990). Group discussions were held in five of the eight communities visited.¹⁵ Analysis of the focus group discussions are included in **Part 2** of the report.

The ILNP tried to ensure travel to each of the focus sites in the NT at the same time as solicitors and other staff of the project partner legal services. The intention of organising visits in this way was to ensure that community members, including focus group participants, could be linked in with legal advice and information if required – particularly where legal issues arose during focus groups for which participants needed assistance. Direct referrals of focus group participants to solicitors were made on several occasions.

1.3.4 Stakeholder Interviews

Interviews were also conducted with staff and representatives from relevant stakeholder organisations servicing or working with the nominated communities. Stakeholder interviews provided data used to explore the experiences, perspectives and understandings of those providing legal or related services.

Again, purposive sampling was relied upon to identify relevant stakeholders for interview, with organisations and agencies selected to ensure information-rich interviews. Stakeholders were selected

¹⁵ There were no focus group discussions held in Alpururulam or Bulman, and no focus group discussion held with female participants in Wadeye. In Alpururulam and Bulman participants were not gathered together at any time as a group, but were assisted to complete the questionnaire in very small groups or, most commonly, as individuals, largely due to literacy and/or language issues. The situation was further complicated in Alpururulam because of the absence of local focus group coordinator. In Wadeye, literacy and language issues meant that the questionnaire took a long time to complete in the women's focus group, and participants had no further time to discuss issues as a group upon its completion.

on the basis of their direct role in civil and family law service provision (or associated support services) to Indigenous clients, provided either to a particular community or to Indigenous communities on a statewide basis. The majority of stakeholders interviewed were those providing services in the focus sites.

Stakeholder organisations interviewed included:

- legal service providers (family and civil law solicitors, office managers, client service officers, community legal education (CLE) and law/policy reform staff and Indigenous staff), including Community Legal Centres (CLCs), project partner legal services, Aboriginal and Torres Strait Islander Legal Services (ATSILS) and others;
- key community-based Indigenous organisations and groups (working in areas such as housing, family violence, health and family relationships);
- community-based organisations and NGOs working with Indigenous communities in areas related to civil and family law issues (such as family relationship breakdown, tenancy or homelessness, credit and debt (financial counsellors) and family violence);
- local court registrars;
- Shire council and health clinic staff, and Government Business Managers (GBMs) on remote communities; and
- government or quasi-government agencies (such as the Australian Securities and Investment Commission (ASIC), the NT Anti-Discrimination Commission (NTADC), Indigenous Coordination Centres (ICC)).

Stakeholder interviews elicited information in relation to stakeholder perceptions of Indigenous legal needs and of the use and limitations of the current legal service provision model. Areas of discussion included:

- the most common types of non-criminal matters that Indigenous people access their organisation for;
- the perceived nature and extent of the civil/family law needs of Indigenous people;
- the current relationship of their organisation with legal service providers (including CLCs, ATSILS, project partner legal services and private practitioners) and their understanding of (other) legal service provider policies that bear on the provision of civil and family law services to Indigenous people; and
- any perceived gaps in or barriers to current service delivery and proposed changes to increase access or effectiveness for Indigenous clients.

1.3.5 Stakeholder Anonymity

Interviews were in nearly all cases sound recorded. Participant Information Sheets and Consent Forms were provided to all stakeholder organisations prior to interview. A full list of stakeholders interviewed in the NT is attached as **Appendix B**.

Stakeholders were assured of their anonymity when they were interviewed for the ILNP. To maintain this confidentiality, we have identified stakeholders in a general way according to their service and provided their site location throughout this report, as follows:

- Non-Indigenous organisations providing support in the community (for example, financial counsellors) are referred to as *community organisation worker*. If the person is Indigenous, then they are referred to as an *Indigenous community organisation worker*.
- Community legal centre lawyers and private solicitors are referred to as *Legal practitioners*.
- Those working at Aboriginal Legal Services, including Indigenous Family Violence Prevention Legal Services (IFVPLS), are referred to as *Indigenous Legal Service staff*. This includes solicitors and support staff.
- Legal Aid staff members (solicitors and support staff) are referred to as *Legal Aid staff*.
- Registrars are referred to as *Registrar*.
- Statutory Authorities such as the ASIC and the Anti-Discrimination Commission are referred to as *Statutory Authority staff*.

To preserve anonymity, no locations are given in relation to stakeholder comments.

1.4 ILNP Communities in the NT

In the following section we provide a brief socio-demographic snapshot of the eight communities chosen for the research in the NT. The level of accessibility for communities in the NT is generally poor. The data shows a much lower personal and household income for Indigenous people compared to non-Indigenous people. The data also shows a greater number of people per bedroom and larger household size for Indigenous people, and a much higher level of rented accommodation. Comparisons were not made between Indigenous and Non-Indigenous people on household tenure because in many communities the very small number of non-Indigenous people and the nature of their employment and housing supply (for example, police officers, nurses, teachers) made such a comparison problematic.

1.4.1 Alice Springs¹⁶

Alice Springs is located 1290km from Darwin, and is accessible all year round by road and air. The town has 25,186 residents (as at 2011), of which 4,689 are Indigenous (constituting 18.8% of the total local population) (see **Table 1.3**).¹⁷ Alice Springs is defined as a remote community with very restricted accessibility of goods, services and opportunities for social interaction.

Legal Services

- CAAFLU
- NTLAC
- NPY Women's Council¹⁸
- CAWLS
- CAALAS

¹⁶ Information relating to Alice Springs is taken from the NT Government's Bushtel website: http://www.bushtel.nt.gov.au/northern_territory/nt_section?comm_name=Alice+Springs.

¹⁷ This data includes Alice Springs' town camps.

¹⁸ NPYWC provides legal services to women who reside on communities outside Alice Springs, when they are in Alice Springs. For further detail, see NPYWC website: <http://www.npywc.org.au/>.

Table 1.3 Alice Springs: Indigenous and non-Indigenous Persons by Sex

Indigenous status	Male	Female	Total
Indigenous persons	2201	2488	4689
Non-Indigenous persons	9178	9232	18410
Indigenous status not stated	1176	911	2087
Total	12555	12631	25186

Table 1.4 Alice Springs: Selected Medians and Averages

Median/Average	Indigenous persons/ households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	24	35	33
Median total personal income (\$/weekly)	347	940	866
Median total household income (\$/weekly)	1058	1788	1691
Median rent (\$/weekly)	155	320	300
Average number of persons per bedroom ²⁰	1.4	1.1	1.2
Average household size ²¹	3.3	2.5	2.6
Proportion of dwellings that need one or more extra bedrooms (%)	16.3	4.0	6.1

¹⁹ Australian Bureau of Statistics (ABS) (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Alice Springs*, Canberra: ABS, Catalogue No. 2002.0; available at http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/community/profile/IREG701?opendocument&navpos=100

²⁰ Average number of persons per bedroom, average household size and proportion of dwellings needing one or more extra bedrooms excludes 'Visitors Only' and 'Other non-classifiable' households.

²¹ Average household size is applicable to number of persons usually resident in occupied resident dwellings, including partners, children and others temporarily absent on Census Night (with a maximum of 3 temporary absentees counted only).

Table 1.5 Alice Springs: Tenure and Landlord Type for Households with Indigenous Persons²²

Tenure/Landlord Type	Total
Owned outright	85
Owned with mortgage	373
Rented:	
▪ real estate agent	164
▪ Territory housing authority	464
▪ from parent/other relative or another person	91
▪ housing cooperative, community or church group	21
▪ other landlord ²³	36
▪ landlord type not stated	19
<i>Total rented</i>	<i>795</i>
Other tenure type	12
Landlord type not stated	19
Total	1,452

1.4.2 *Alpurrurulam* ²⁴

Alpurrurulam (or Lake Nash) is a very remote community located approximately 550 km east of Tennant Creek. It is accessible via the Barkly Highway from Tennant Creek (approximately 8 hours drive), and from Alice Springs via the Sandover Highway (also approximately 8 hours drive). The community is also accessible via Camooweal, a small town just inside the Queensland border, and Mt Isa (Qld). Mt Isa is the largest town nearest to Alpurrurulam, however the community, being based in the NT, needs largely to rely upon service provision from centres some distance away (Tennant Creek and/or Alice Springs). Access to the community is difficult or impossible during the wet season for up to three months.

Alpurrurulam has 444 residents (as at 2011), of which 415 are Indigenous (constituting 93.4% of the local population). Population size may vary over months, however (see **Table 1.6**). Alpurrurulam is defined as a very remote community with very little accessibility of goods, services and opportunities for social interaction. Alpurrurulam is currently serviced by:

- Barkly Shire Council
- Government Business Manager (GBM)
- School
- Police station

²² A household with Indigenous person(s) is any household that had at least one person of any age as resident at the time of Census who identified as being of Aboriginal and/or Torres Strait Islander origin.

²³ Comprises dwellings being rented through a 'Residential park (includes caravan parks)', 'Employer-Government' and 'Employer-other employer'. This category applies to all following tables relating to housing and tenure.

²⁴ Information accessed from NT Government website and Barkly Shire website: http://www.bushtel.nt.gov.au/northern_territory/community_search_display?comm_num=203 and <http://www.barkly.nt.gov.au/our-communities/alpurrurulam/>. See also Bowchung Consulting (2011), *Community Safety and Wellbeing Research Study (CSWRS): Alpurrurulam (Lake Nash) Community Analysis Report*, Department of Families, Housing, Community Services and Indigenous Affairs, p. 5

- Community store
- Aged care centre
- Remote health centre

Legal Services

- NTLAC outreach

Demographic data: Alpururulam ²⁵

Table 1.6 Alpururulam: Indigenous and non-Indigenous Persons by Sex

Indigenous status	Male	Female	Total
Indigenous persons	205	210	415
Non-Indigenous persons	19	10	29
Indigenous status not stated	0	0	0
Total	224	220	444

Table 1.7 Alpururulam: Selected Medians and Averages

Median/Average	Indigenous persons/households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	22	40	23
Median total personal income (\$/weekly)	257	949	263
Median total household income (\$/weekly)	779	2250	1008
Median rent (\$/weekly)	60	50	60
Average number of persons per bedroom	1.7	1.0	1.6
Average household size	5.2	1.4	4.6
Proportion of dwellings that need 1 or more extra bedrooms (%)	46.5	0.0	38.8

²⁵ ABS (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Alpururulam*, Canberra: ABS, Catalogue No. 2002.0; available at: http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/communityprofile/ILOC70700201?opendocument&navpos=100.

Table 1.8 Alpururulam: Tenure and Landlord Type for Households with Indigenous Persons

Tenure/Landlord Type	Total
Owned outright	0
Owned with mortgage	0
Rented:	
▪ real estate agent	0
▪ State or Territory housing authority	70
▪ from parent/other relative or another person	0
▪ housing cooperative, community or church group	3
▪ other landlord	0
▪ landlord type not stated	0
<i>Total rented</i>	73
Other tenure type	0
Landlord type not stated	0
Total	73

1.4.3 *Bulman*²⁶

Bulman is located approximately 312km north-east of Katherine and is accessible from Katherine by road (3-4 hours). However, the road to Bulman may be impassable at certain times in the wet season. Bulman has 290 residents (as at 2011), of which 275 are Indigenous (constituting 94.8 % of the local population) (see **Table 1.9**). It provides resources to nearby smaller communities and homeland centres and outstations. Bulman is defined as a very remote community with very little accessibility of goods, services and opportunities for social interaction.

Bulman is currently serviced by:

- Roper Gulf Shire
- Police station
- Health service
- School
- Community store
- Women's centre
- Centrelink agent
- General Business Manager

Legal Services

- NAAJA outreach

*Demographic data: Bulman*²⁷

²⁶ Information accessed from NT Government Bushtel and Roper Gulf Shire websites:

http://www.bushtel.nt.gov.au/northern_territory/community_search_display?comm_num=587
and http://www.ropergulf.net.au/index.php?option=com_content&view=article&id=65&Itemid=5.

²⁷ ABS (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Bulman*, Canberra: ABS, Catalogue No. 2002.0; available at:
http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/communityprofile/ILOC70500302?opendocument&navpos=100.

Table 1.9 Bulman: Indigenous and non-Indigenous Persons by Sex

Indigenous status	Male	Female	Total
Indigenous persons	121	154	275
Non-Indigenous persons	6	5	11
Indigenous status not stated	4	0	4
Total	131	159	290

Table 1.10 Bulman: Selected Medians and Averages

Median/Average	Indigenous persons/households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	23	55	24
Median total personal income (\$/weekly)	245	287	247
Median total household income (\$/weekly)	714	0	714
Median rent (\$/weekly)	120	0	90
Average number of persons per bedroom	2.3	1.0	2.2
Average household size	5.3	1.5	4.8
Proportion of dwellings that need 1 or more extra bedrooms (%)	58.3	0.0	52.5

Table 1.11 Bulman: Tenure and Landlord Type for Households with Indigenous Persons

Tenure/Landlord Type	Total
Owned outright	0
Owned with mortgage	0
Rented:	
• real estate agent	0
▪ State or Territory housing authority	34
▪ from parent/other relative or another person	0
▪ housing cooperative, community or church group	0
▪ other landlord	0
▪ landlord type not stated	0
<i>Total rented</i>	<i>34</i>
Other tenure type	0
Landlord type not stated	0
Total	34

1.4.4 Darwin

Darwin is the capital city of the NT. Darwin has 72,930 residents (as at 2011), of which 6,157 are Indigenous (constituting 8.4% of the local population) (see **Table 1.12**). Darwin is defined as an

accessible with some restrictions to accessibility of some goods and services and opportunities for social interaction.

Legal Services

- NTLAC
- DVLS
- DCLS
- NAAJA
- NAAFVLS
- TEWLS

Demographic data: Darwin²⁸

Table 1.12 Darwin: Indigenous and non-Indigenous Persons by Sex

Indigenous status	Male	Female	Total
Indigenous person	2,965	3,192	6,157
Non-Indigenous persons	30,676	28,756	59,432
Indigenous status not stated	4,186	3,155	7,341
Total	37,827	35,103	72,930

Table 1.13 Darwin: Selected Medians and Averages

Median/Average	Indigenous persons/households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	23	34	34
Median total personal income (\$/weekly)	438	928	899
Median total household income (\$/weekly)	1315	1856	1809
Median rent (\$/weekly)	270	375	360
Average number of persons per bedroom	1.3	1.1	1.2
Average household size	3.1	2.5	2.6
Proportion of dwellings that need 1 or more extra bedrooms (%)	12.0	4.9	5.6

²⁸ ABS (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Darwin*, Canberra: ABS, Catalogue No. 2002.0; available at: http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/communityprofile/LGA71000?open=document&navpos=100.

Table 1.14 Darwin: Tenure and Landlord Type for Households with Indigenous Persons

Tenure/Landlord Type	Total
Owned outright	193
Owned with mortgage	601
Rented:	
▪ real estate agent	349
▪ State or Territory housing authority	584
▪ from parent/other relative or another person	206
▪ housing cooperative, community or church group	100
▪ other landlord	81
▪ landlord type not stated	17
<i>Total rented</i>	<i>1,337</i>
Other tenure type	29
Landlord type not stated	199
Total	2,359

1.4.5 Katherine ²⁹

Katherine is located approximately 270km south-east of Darwin on the Katherine River. Katherine has 9,187 residents (as at 2011), of which 2344 are Indigenous (constituting 25.5% of the local population) (see **Table 1.15**).³⁰ Katherine is defined as a remote community with very restricted accessibility of goods, services and opportunities for social interaction.

Legal Services

- NTLAC
- NAAJA
- KWILS

Demographic data: Katherine ³¹**Table 1.15 Katherine: Indigenous and non-Indigenous Persons by Sex**

Indigenous status	Male	Female	Total
Indigenous persons	1118	1226	2344
Non-Indigenous persons	3088	2912	6000
Indigenous status not stated	456	387	843
Total	4662	4525	9187

²⁹ Information relating to Katherine is taken from the NT Government's Bushtel website:
http://www.bushtel.nt.gov.au/northern_territory/community_search_display?comm_num=14071.

³⁰ This data includes Katherine's town camps.

³¹ ABS (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Katherine*, Canberra: ABS, Catalogue No. 2002.0; available at:
http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/communityprofile/IARE705005?open=document&navpos=100.

Table 1.16 Katherine: Selected Medians and Averages

Median/Average	Indigenous persons/households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	25	33	31
Median total personal income (\$/weekly)	301	894	758
Median total household income (\$/weekly)	921	1682	1533
Median rent (\$/weekly)	120	210	200
Average number of persons per bedroom	1.5	1.1	1.2
Average household size	3.4	2.5	2.7
Proportion of dwellings that need 1 or more extra bedrooms (%)	21.5	3.7	7.9

Table 1.17 Katherine: Tenure and Landlord Type for Households with Indigenous Persons

Tenure/Landlord Type	Total
Owned outright	30
Owned with mortgage	115
Rented:	
• real estate agent	48
▪ State or Territory housing authority	174
▪ from parent/other relative or another person	37
▪ housing cooperative, community or church group	97
▪ other landlord	40
▪ landlord type not stated	11
<i>Total rented</i>	<i>407</i>
Other tenure type	7
Landlord type not stated	103
Total	662

1.4.6 Papunya³²

Papunya is located 240km west of Alice Springs via the Tanami Highway. Papunya is accessible by road all-year round, although rain can have some impact upon accessibility of (solely) dirt road access to the community. Papunya has 417 residents (as at 2011), of which 376 are Indigenous (constituting 90.2% of the local population) (see **Table 1.18**). Papunya is defined as a very remote community with very little accessibility of goods, services and opportunities for social interaction

Papunya is a Territory Growth Town, part of the NT Government's *Working Future* initiative.³³ It is currently serviced by:

³² Information relating to Papunya taken from the NT Government's Bushtel website and the NT Working Future website: http://www.bushtel.nt.gov.au/northern_territory/nt_section?comm_name=Papunya and http://www.workingfuture.nt.gov.au/Territory_Growth_Towns/Papunya/Papunya.html.

- MacDonnell Shire Council
- Government Business Manager (GBM)
- Community store
- Police station
- Remote health centre
- Aged care centre

Legal Services

- CAAFLU outreach
- CAALAS outreach

Demographic data: Papunya³⁴

Table 1.18 Papunya: Indigenous and non-Indigenous Persons by Sex

Indigenous status	Male	Female	Total
Indigenous persons	170	206	376
Non-Indigenous persons	19	19	38
Indigenous status not stated	3	0	3
Total	192	225	417

Table 1.19 Papunya: Selected Medians and Averages

Median/Average	Indigenous persons/households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	23	38	24
Median total personal income (\$/weekly)	207	1265	233
Median total household income (\$/weekly)	1041	1166	1083
Median rent (\$/weekly)	63	0	35
Average number of persons per bedroom	2.1	1.0	1.7
Average household size	5.2	1.7	4.5
Proportion of dwellings that need 1 or more extra bedrooms (%)	44.9	0.0	35.5

³³ For further information on Territory Growth Towns, and on Papunya in particular, go to the NT Working Future website: http://www.workingfuture.nt.gov.au/Territory_Growth_Towns/Papunya/Papunya.html.

³⁴ ABS (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Papunya*, Canberra: ABS, Catalogue No. 2002.0; available at: http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/communityprofile/ILOC70201101?opendocument&navpos=100.

Table 1.20 Papunya: Tenure and Landlord Type for Households with Indigenous Persons

Tenure/Landlord Type	Total
Owned outright	0
Owned with mortgage	0
Rented:	
▪ real estate agent	0
▪ State or Territory housing authority	38
▪ from parent/other relative or another person	0
▪ housing cooperative, community or church group	0
▪ other landlord	0
▪ landlord type not stated	0
<i>Total rented</i>	38
Other tenure type	0
Landlord type not stated	10
Total	48

1.4.7 Tennant Creek ³⁵

Tennant Creek is a major town in the Barkly Tablelands. It is located approximately 1015kms from Darwin and 507kms north of Alice Springs. It is accessible all year round via the Stuart Highway. Tennant Creek has 3060 residents (as at 2011), of which 1591 are Indigenous (52% of the local population) (**Table 1.21**).³⁶ Tennant Creek is defined as a very remote community with very little accessibility of goods, services and opportunities for social interaction. Tennant Creek is currently serviced by Barkly Shire Council, a permanent courthouse, police station, and a school.

Legal Services

- CAAFLU
- CAALAS
- NTLAC

*Demographic data: Tennant Creek*³⁷

Table 1.21 Tennant Creek: Indigenous and non-Indigenous Persons by Sex

Indigenous status	Male	Female	Total
Indigenous persons	777	814	1591
Non-Indigenous persons	616	591	1207
Indigenous status not stated	131	131	262
Total	1524	1536	3060

³⁵ Information relating to Tennant Creek is taken from the NT Government's Bushtel website:
http://www.bushtel.nt.gov.au/northern_territory/nt_section?comm_name=Tennant+Creek.

³⁶ This data includes Tennant Creek's town camps.

³⁷ ABS (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Tennant Creek*, Canberra: ABS, Catalogue No. 2002.0; available at:
http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/communityprofile/IARE707005?open=document&navpos=100.

Table 1.22 Tennant Creek: Selected Medians and Averages

Median/Average	Indigenous persons/households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	25	41	32
Median total personal income (\$/weekly)	287	940	634
Median total household income (\$/weekly)	1086	1577	1403
Median rent (\$/weekly)	113	123	115
Average number of persons per bedroom	1.7	1.1	1.4
Average household size	4.1	2.1	2.9
Proportion of dwellings that need 1 or more extra bedrooms (%)	35.9	2.3	15.6

Table 1.23 Tennant Creek: Tenure and Landlord Type by Dwelling Structure for Households with Indigenous Persons

Tenure/Landlord Type	Total
Owned outright	17
Owned with mortgage	46
Rented:	
▪ real estate agent	19
▪ State or Territory housing authority	103
▪ from parent/other relative or another person	29
▪ housing cooperative, community or church group	55
▪ other landlord	24
▪ landlord type not stated	5
<i>Total rented</i>	235
Other tenure type	3
Landlord type not stated	33
Total	334

1.4.8 Wadeye³⁸

Wadeye is located 270km south-west of Darwin in the Daly River Reserve at the mouth of the Fitzmaurice River. By road, it is 417kms from Darwin and by air, approximately 1 hour flying time. Road access is only possible in the dry season, but the air-strip at Wadeye is all-weather (never closed).³⁹

³⁸ Information on Wadeye taken from NT Working Future website and NT Government's Bushtel website: http://www.workingfuture.nt.gov.au/Territory_Growth_Towns/Wadeye/Wadeye.html and http://www.bushtel.nt.gov.au/northern_territory/community_search_display?comm_num=426.

³⁹ Originally a mission (Port Keats), the NT Government handed over local government to the Kardu Numida Council in 1978, when the community's name was changed to Wadeye. In 1994, a traditionally based institution of governance called Thamarrurr emerged and developed to the point where in March 2003, the Thamarrurr

Wadeye is the sixth most populous town in the NT and the largest Indigenous community. In Wadeye, there are 1927 Indigenous persons out of a total population of 2113 (as at 2011), or 91.1% of the total population (**Table 1.24**). The population is relatively fluid, however, with 29% moving frequently and for periods of time between associated communities and Darwin town camps. During wet season, the Wadeye population increases as people use the community as a centre to access services.

Wadeye is a Territory Growth Town - part of the NT Government's Working Future initiative.⁴⁰ Wadeye is defined as a very remote community with very little accessibility of goods, services and opportunities for social interaction. The community is currently serviced by:

- Victoria Daly Shire
- Community store and takeaway
- Police station
- Safe house
- School
- Remote health centre

Legal Services

- NAAJA outreach
- NAAFVLS outreach

Demographic data: Wadeye⁴¹

Table 1.24 Wadeye: Indigenous and non-Indigenous Persons by Sex

Indigenous status	Male	Female	Total
Indigenous persons	941	986	1927
Non-Indigenous persons	95	80	175
Indigenous status not stated	5	6	11
Total	1041	1072	2113

Regional Council was established (replacing Kardu Numida Council) and given local government authority. This Council represented the 20 local clan groups of the region of Thamarrurr. In 2008, Wadeye became part of the Victoria Daly Shire and the Shire took over local government. The Shire Council consults local community members through a Local Board.

⁴⁰ For further information on Territory Growth Towns, and on Wadeye in particular, go to the NT Working Future website: http://www.workingfuture.nt.gov.au/Territory_Growth_Towns/Wadeye/Wadeye.html

⁴¹ ABS (2011), *Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous) Profile: Wadeye*, Canberra: ABS, Catalogue No. 2002.0; available at: http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/communityprofile/ILOC70400502?opendocument&navpos=100.

Table 1.25 Wadeye: Selected Medians and Averages

Median/Average	Indigenous persons/households with Indigenous person(s)	Non-Indigenous person(s)/other households	Total
Median age of persons	19	34	21
Median total personal income (\$/weekly)	162	1093	191
Median total household income (\$/weekly)	735	1731	904
Median rent (\$/weekly)	64	0	46
Average number of persons per bedroom	2.3	1.2	2.0
Average household size	6.0	1.8	5.0
Proportion of dwellings that need 1 or more extra bedrooms (%)	66.9	0.0	51.2

Table 1.26 Wadeye: Tenure and Landlord Type by Dwelling Structure for Households with Indigenous Persons

Tenure/Landlord Type	Total
Owned outright	0
Owned with mortgage	0
Rented:	
▪ real estate agent	0
▪ State or Territory housing authority	238
▪ from parent/other relative or another person	0
▪ housing cooperative, community or church group	7
▪ other landlord	10
▪ landlord type not stated	3
<i>Total rented</i>	<i>258</i>
Other tenure type	0
Landlord type not stated	0
Total	258

2. THE NT SERVICE DELIVERY CONTEXT

The following information on current legal service delivery has been provided, to some extent, directly by the legal services listed below, upon written request and specifically for the purpose of inclusion in this report. All services were invited to provide information on their respective service delivery for this purpose, however not all services responded. Where information was not provided, material was drawn from publicly available sources (legal services' websites), where available. Some of the material is also taken from interviews conducted with legal services as part of the ILNP fieldwork (including in instances where legal services did not respond to the written request for information on service delivery for inclusion in this report). Legal services were also provided with an opportunity to comment on the following information prior to publication in this report.

2.1 Aboriginal and Torres Strait Islander Legal Services (ATSILS)

2.1.1 North Australian Aboriginal Justice Agency (NAAJA)⁴²

NAAJA has offices in Darwin, Nhulunbuy and Katherine. In the Civil Law Section there are 12 civil solicitors (Darwin 8, Katherine 3 and Nhulunbuy 1) and 4 welfare rights solicitors (Darwin 3 and Katherine 1). Ashurst Australia⁴³ funds one of the civil solicitor positions in Katherine as a secondee. One of the welfare rights positions is funded through one-off funding, for one year only.

NAAJA operates legal advice clinics in Darwin, Palmerston, Darwin prison, Katherine and some Katherine town camps, Nhulunbuy and Yirrkala. Civil and welfare rights lawyers hold regular clinics in the remote communities of Wadeye, Wurrumiyanga, Milikapiti, Jabiru, Gunbalunya, Ramingining, Milingimbi, Maningrida, Borroloola, Gapuwiak, Galiwinku, Groote Eylandt, Bulman, Ngukurr, Timber Creek, Yarralin, Beswick, Barunga Lajamanu and Kalkarindji. The regularity of visits to these communities varies from once a month to once every three months. At least two solicitors travel for each visit – most commonly a civil solicitor and a welfare rights solicitor.⁴⁴

NAAJA civil solicitors provide advice and representation in a number of civil law areas, including:

- complaints about government services and departments (for example, police, prison officers);
- compensation claims against police and other government departments (negligence, false imprisonment, assault);
- coronial inquests;
- adult guardianship matters;
- forfeiture or seizure of property where property was used to take liquor, kava or drugs into a restricted area or in the commission of a crime;
- child protection matters (including a duty service);
- volatile substance abuse matters;
- statutory compensation (such as motor accident and victims of crime compensation);
- consumer matters (credit, debt, motor vehicle sales and repairs);
- health care complaints;
- discrimination and human rights.

NAAJA's welfare rights solicitors provide legal advice and representation in relation to Centrelink

⁴² Description drawn from website (<http://www.naaja.org.au/>) and correspondence with the service.

⁴³ Formerly Blake Dawson.

⁴⁴ Shortages of staff in legal services in Katherine may impact upon legal service delivery. NAAJA advised (in July 2012) that it had been the only civil service provider in the Katherine region for the past few months; email, NAAJA, 11 July 2012.

(such as debts and income management) and remote housing (such as priority housing applications, repairs, debts and terminations).⁴⁵

Under the Commonwealth Attorney-General's Department 'Service Delivery Directions' NAAJA is able to provide assistance in family law matters involving children. However, in 2012 this service was suspended. This was due to a combination of factors, including NAAJA having insufficient funding to provide this service effectively, and the significant increase in child protection (CINOP) work NAAJA now undertakes. CINOP matters are identified by NAAJA as being more demanding from a casework perspective due to changes in the Court's management of the matters coming before it and an increase in the number of applications being made.⁴⁶

The Advocacy Section in NAAJA is responsible for CLE. Until recently there have been two CLE workers to service the Top End of the NT. Their focus has been largely around urban projects and some targeted work on five specific communities. NAAJA has recently received funding from the Commonwealth Attorney General's Department for two CLE lawyers and a field worker to work with 'Night Patrol' workers in remote communities. This funding is for one year. In the past, the CLE team has had a criminal law focus (rather than civil and/or family law) but it is hoped that this will change with the increased staff levels. NAAJA's civil section, with its focus on casework, has limited capacity for civil law CLE, but is engaged in capacity building with service providers.

The Welfare Rights team, jointly managed by the Civil (for casework) and Advocacy (for policy and CLE) sections, is funded to do CLE, and is engaged in a number of projects (such as radio scripts in Indigenous languages on Centrelink issues, including reporting your income). However, with its casework, policy work and capacity-building work, there are insufficient resources available for the team to undertake any substantial CLE programs.

In terms of law reform, NAAJA has a focus on both civil and criminal law issues. Recent civil and family law issues about which NAAJA has contributed submissions include ATM fees, a range of remote housing issues, family law, child protection and adult guardianship.

NAAJA does not have any formal arrangements with other service providers (in terms of working with Indigenous clients or in relation to Indigenous legal service delivery), however the service does work collaboratively with NTLAC and in particular its outreach solicitors to ensure that as many communities as possible are provided with an advice service. Further, as NTLAC only provides advice (and very limited casework), referrals for more complex casework in civil law matters are made from NTLAC to NAAJA and/or other agencies. Where possible, both NTLAC and NAAJA act as agents for each other in the communities they visit.

NAAJA meets regularly with NTLAC and other relevant service providers in Darwin and Katherine. NAAJA welfare rights solicitors attend regular legal service provider meetings with FaHCSIA and Territory Housing. NAAJA participates in quarterly, regular meetings of the NT Legal Services Forum to discuss issues of concern and these are then raised again at the NT jurisdictional forum (approximately 2 times a year), which also includes staff from the NT Department of Justice and the Commonwealth AGs.

⁴⁵ NAAJA does not cover areas of civil law excluded from service provision by the Commonwealth Attorney-General's service delivery directions. NAAJA identifies excluded areas as including business related transactions, land and sea rights, and defamation, *inter alia*; email, NAAJA, 11 July 2012.

⁴⁶ Email, NAAJA, 11 July 2012.

2.1.2 Central Australian Aboriginal Legal Aid Service (CAALAS)⁴⁷

CAALAS has offices located in Alice Springs and Tennant Creek. CAALAS services an area of approximately 90,000 square kilometres from Elliott in the north to the South Australian, Western Australian and Queensland borders.

CAALAS' largest area of legal practice is criminal however the service also provides civil, welfare rights and family law services. CAALAS operates CLE, prisoner parole and youth justice advocacy projects. CAALAS currently employs four and a half civil lawyers, two welfare rights lawyers, two family/care and protection lawyers and a community legal education lawyer.

CAALAS provides ongoing civil law information, advice and casework services in Alice Springs and Tennant Creek in areas which include:

- seized motor vehicles;
- assistance to victims of crime;
- medical negligence;
- housing, landlord/tenant disputes, rent;
- discrimination;
- employment law;
- work health;
- personal injury;
- debt or consumer problems;
- adult guardianship;
- motor vehicle accidents;
- Mental Health Review Tribunal representation;
- police complaints;
- prison complaints and transfers; and
- deaths in custody

CAALAS also provides ongoing information, advice and casework welfare rights legal services in Alice Springs, including assistance with Centrelink and public housing. Further, CAALAS provides ongoing information, advice and casework family law services in Alice Springs, including in relation to residence and contact, and care and protection issues.

CAALAS travels to remote Central Australian communities, including Papunya, to provide community legal education and advice and casework assistance. Outreach trips are usually conducted by welfare rights and community legal education lawyers, who will refer new civil and family matters to appropriate lawyers within the service. Where remote outreach is required to communicate with existing CAALAS clients, family and civil lawyers will conduct the outreach. CAALAS family lawyers travel to Tennant Creek quarterly to provide information, advice and case work services. Similarly, where CAALAS has prisoner parole project clients on parole in remote communities, staff from the project will conduct outreach as required in order to support continuing rehabilitation.

CAALAS conducts outreach trips to various communities based on community requests and interest and client needs in the community. Currently, CAALAS regularly visits (at least once every two

⁴⁷ Description drawn from website (<http://www.caalas.com.au/>) and correspondence with the service.

months) the communities of Finke, Yuelumu, Ntaria, Santa Teresa, Mutitjulu and Kaltukatjara. CAALAS irregularly visits communities as requested, including Haasts Bluff, Mt Leibig, Papunya, Imanpa, Alpurrurulam and others.

CAALAS currently conducts policy and law reform through its two welfare rights lawyers and an Advocacy Manager. CAALAS' law reform initiatives span criminal, civil, welfare rights and care and protection issues. CAALAS' law reform priorities are determined by CAALAS' Board, based on the work of the organisation's frontline staff.

CAALAS does not have any formal service arrangements with other legal service providers with respect to civil and family law or community legal education service delivery. CAALAS has an MOU with NTLAC, but this revolves around criminal law practice.

CAALAS has informal connections and partnerships with local legal services including NTLAC, the Central Australian Women's Legal Service (CAWLS) and the Central Australian Aboriginal Family Legal Unit (CAAFLU) through a Central Australian Community Legal Education network, and through other relationships between the legal services. These partnerships enable CAALAS and other legal services to share resources in servicing remote communities where there is a need for more than one provider to attend (for instance, in delivering CLE) and to share information about outreach plans to avoid duplication in servicing communities. As the NTLAC Outreach Service only provides legal advice and very limited casework, CAALAS regularly accepts referrals for casework from NTLAC.

2.2 Family Violence Protection Legal Services (FVPLS)

2.2.1 Central Australian Aboriginal Family Law Unit (CAAFLU) ⁴⁸

CAAFLU is based in both Tennant Creek and Alice Springs. CAAFLU visits Papunya and a number of other Indigenous communities.

Generally, CAAFLU has three and a half solicitors providing legal services to Aboriginal victims of domestic and family violence and sexual assault. Matters covered include domestic violence restraining orders, victims of crime compensation, housing, child protection and family law matters where domestic violence is involved. Casework, representation, advice and referral are offered, as well as counselling and support services.

CAAFLU currently has one solicitor providing services to the Papunya community. Together with a client service officer, the solicitor travels to Papunya every 6-8 weeks to attend the bush court circuit, to attend to client follow-ups, and to touch base with other service providers in the community. Current funding does not allow visits to Papunya other than for bush court.

Solicitors undertake policy/law reform work as issues arise and where their caseload allows. In the past, CAAFLU's CLE workers have also worked collaboratively with CAALAS's CLE solicitor delivering CLE workshops at relevant Indigenous service providers, upon request. CAAFLU has also produced a DVD called *Super Law* as a CLE tool. CAAFLU has signed an MOU with Central Australian Women's Legal Service (CAWLS).

⁴⁸ Description drawn from website (<http://www.caaflu.com.au/>) and correspondence with the service.

2.2.2 North Australian Aboriginal Family Violence Legal Service (NAAFVLS)⁴⁹

NAAFVLS is based in Darwin and Katherine. The primary focus of the organisation is to provide assistance to Aboriginal and Torres Strait Islander adults and children who are victims of family violence, including sexual abuse. NAAFVLS can assist with restraining orders, emergency housing, and victim's compensation, and provides advice and representation, referrals, and CLE.

NAAFVLS assists in the provision of the following services:

- information, support and referral services;
- community awareness and prevention initiatives;
- referral to mediation services and to perpetrator programs;
- legal advice and casework assistance;
- counseling to victims of family violence and sexual assault;
- assistance and support to victims of family violence and sexual assault; and
- child protection and support.

2.3 Northern Territory Legal Aid Commission (NTLAC)⁵⁰

NTLAC is a Territory wide legal service provider with offices in Alice Springs, Tennant Creek, Darwin and Katherine (see further detail in relation to offices below). NTLAC provides a range of services, including in relation to the legal needs of Indigenous clients, as follows.

Legal Information and Referral

NTLAC provides face-to-face and telephone legal information and referral services across the NT, including in relation to the civil legal needs of Indigenous clients as part of its early intervention and prevention work.

The Legal Aid Helpline can be accessed across the NT via NTLAC's 1800 number, Monday to Friday from 9 am to 4 pm. A call back service is offered to callers outside of those times. The Legal Aid Helpline is staffed by dedicated paralegal staff members, who have access to specialised resources and training to enable them to provide information and referral to appropriate agencies, including advice within legal aid. Interpreters are available through the Helpline if required.

Duty Lawyer Services

NTLAC provides duty lawyer services in relation to family law and child protection proceedings.

Advice and Grants of Aid

- Family Law

NTLAC provides a duty lawyer service and advice in family law matters, including in relation to spending time with children and property disputes. Advice clinics are available weekly in Darwin, Palmerston and Alice Springs or by telephone to people living outside of these locations. The Commission also holds face-to-face advice clinics in Katherine. The regularity of these clinics changes according to demand.

⁴⁹ Description drawn from website (<http://www.naafvls.com.au>) and correspondence with the service.

⁵⁰ See also website: <http://www.ntlac.nt.gov.au/>

NTLAC grants aid for legal representation in relation to family law in accordance with the Commission's guidelines. These guidelines outline the priority areas for a grant of aid and other considerations, such as a means and merits test. The guidelines place an emphasis on grants of aid for primary dispute resolution in preference to aid for litigation.

NTLAC has a Family Dispute Resolution Practice offering dispute resolution services with an independent chair and the facility to draw up consent orders between parties. If eligible, parties to Family Dispute Resolution may be allocated a grant of aid and be represented either by an in-house practitioner from NTLAC or a private practitioner. If ineligible for aid, a party may attend Family Dispute Resolution unrepresented or self-fund their representation.

- Civil Law

NTLAC provides advice and a duty lawyer service to parents in relation to proceedings under the *Care and Protection of Children Act 2007* (NT). NTLAC grants aid for legal representation to respondent parents in these proceedings where the applicants meet the NTLAC means and merit test. No remote courts are gazetted to hear matters in this jurisdiction so proceedings are held in Darwin, Katherine, Tennant Creek, Alice Springs or Nhulunbuy.⁵¹

NTLAC's services include civil advice and grants of aid in civil law matters, including to Indigenous persons. Civil grants of aid are usually limited to investigation and assessment of the likely prospects of success of a civil claim. If the investigation finds reasonable prospects of success and of recovering funds from the other party, the applicant may apply to the Contingency Legal Aid Fund ('CLAF'). CLAF is available to fund disbursement-only costs associated with a civil claim for applicants whose matter has been determined to have merit and whose legal costs are being met by way of a Contingency Fee Agreement with a private practitioner.

Outreach Project and Indigenous Community Liaison Officers

NTLAC has an outreach project from its Darwin, Katherine and Tennant Creek offices, which provides information sessions, education workshops, legal advice and minor assistance to people in communities prescribed under the NTER legislation. This work has covered issues such as tenancy matters (including systemic breaches of residential tenancy legislation); credit and consumer debt (including inability to service (car) loans due to financial hardship); unclaimed superannuation or death benefits; police complaints (discrimination); and issues around lack of services (such as public transport). The Commission employs two full time and one part time lawyer and two Indigenous Community Liaison Officers to work on the outreach project.

The geographical reach of this Project is determined by a number of factors, including community demand, volume of legal issues presented and working towards 'filling the gap' (that is, provision of a service to regions not already serviced by ATSILS). Where possible, outreach activities are planned and delivered in conjunction with other legal and related services such as Aboriginal and women's legal services, the ADC, Consumer Affairs and the ASIC.

CLE

CLE work forms part of the early intervention and prevention work of NTLAC. NTLAC considers legal education to be crucial to providing more effective service delivery, including through working with organisations such as the CLCs, ATSILS and FVPLS services. NTLAC has a range of resources

⁵¹ NTLAC also auspices the Domestic Violence Legal Service (DVLS) (see below).

available to mainstream audiences, which are developed specifically for Indigenous communities. Examples of relevant initiatives which are Indigenous-specific or focussed, are as follows:

- *Cop This!* Booklet, DVD and Learning Sequence

This material has been developed in partnership with the NT Police and Department of Education. The resources are aimed at teaching young people about their rights when dealing with police in the Northern Territory, including civil law rights to complain about police actions. The DVD features young people from Bagot Community in Darwin, and the artwork in the booklet and learning sequence is the winning entry in a youth-week art competition run throughout high schools. The learning sequence is structured to fit in with the NT Education Curriculum Framework for Middle Schools. The *Cop This!* DVD and Learning Sequence are available online and have been widely distributed to schools, youth centres and other organisations throughout the NT.

- *Aboriginal language DVDs*

Three educational DVDs have been developed as part of NTLAC's Indigenous Families Project to provide community members in regions of the NT with access to legal education about their rights and responsibilities under the Australian legal system in an appropriate language and context. Each DVD responds to a specific area of legal education identified by the communities involved.

- The first DVD *Romgu Dhukarr Dhiyal (A Meeting of Two Laws): A Cross-Cultural Legal Education video in Yolngu Matha* was made in conjunction with the Marthakal Homelands Resource Centre, and was filmed at Galiwinku, Elcho Island. The DVD is recorded in Yolngu Matha with English subtitles and draws on existing knowledge of structures of Yolngu law and governance to explain foundational concepts about the Australian Legal System.
- The second DVD *Family Problems: Your Rights When Things Go Wrong* was made in Tennant Creek and is recorded in Warlpiri and Warumungu languages with English subtitles, as well as in an English language version. The Tennant Creek DVD provides education about two interrelated areas of law, domestic violence and child protection.
- The third DVD *Family Problems: Your Rights When Things Go Wrong* commences with the Tiwi creation story, Murtunkala, before leading into a story about family violence and going to court. The DVD was made on the Tiwi Islands and is recorded in Tiwi with English subtitles. The Tiwi DVD incorporates traditional skin group mediation and modern community court processes to explain how traditional systems can be used to resolve modern disputes.

- Child Protection Factsheet

This Factsheet explains child protection laws and where to get further advice. With cooperation between the NT Department of Families and Children, the Factsheet is often given to remote clients when being served with legal documents about children said to be at risk of harm.

- Relevant Projects in Development

NTLAC is also working collaboratively with legal services, including ATSILS, to develop CLE resources. These include a Fines Kit (to assist service providers to support remote clients to pay their fines) and a Remote Tenancy Booklet and DVD.

NTLAC offices

- Darwin

NTLAC has a small team of 6 Family lawyers (full time equivalent), who are mostly based in the Darwin office. Family law advice clinics are provided from the Darwin office and those solicitors also attend the NTLAC Palmerston office on a weekly basis and provide face-to-face advice there. Ongoing assistance may be provided under a grant of aid where applicants are eligible.

Face to face civil advice sessions of 30 minutes duration are provided from the Darwin office twice a week and from the Palmerston office once a week.

- Katherine

The staffing of the Katherine office consists of a criminal law solicitor and a part time outreach solicitor. A family lawyer currently provides a visiting advice clinic from the Katherine office on a monthly basis. The visiting family lawyer also provides a duty lawyer service to parties to child protection proceedings. Civil advice is provided by telephone from the Darwin or Palmerston offices.

NTLAC established the Katherine Legal Service Providers Meeting, which is attended by legal services in the region on a monthly basis. This enables services to share information at the regional level about service provision gaps and opportunities to work collaboratively.

- Tennant Creek

The Commission has an office at Tennant Creek, which from February 2012 has been permanently staffed by a solicitor. The solicitor undertakes a combination of remote outreach (described above) and office/court based work. Legal assistance is available in civil law and child protection work. Civil law work consists of advice and minor assistance where the client is eligible. Clients requiring family law assistance in these matters are referred to the NTLAC office in Alice Springs.

The presence of a solicitor and Indigenous Community Liaison officer in the Tennant Creek office has increased the level of access to legal assistance available to Indigenous people in the Barkly Region. Further, due to being located in a small regional town, the staff members working in the Tennant Creek office place a high emphasis on inter-agency referral and collaboration with both legal and related services. For example, one successful model utilised involves the Outreach Lawyer, when in remote communities, arranging for clients from remote communities to receive assistance from other services, such as financial counsellors, via Skype.

- Alice Springs

One family lawyer is based in the Alice Springs office and undertakes a mixture of legal advice and representation in family law and child protection matters. Face-to-face and telephone civil advice clinics are available from the Alice Springs office.

- Remote communities identified by this project

NTLAC provides a regular outreach service to Alpururulam and has also in the past provided regular outreach services to Bulman and some outreach services to Papunya, all in accordance with the Outreach Project described above.⁵²

⁵² NTLAC does not currently service Bulman, however may do so if requested to by the community.

Relationship with other legal services

The Commission also has protocols in place with NAAJA and CAALAS relating, primarily, to service provision in ‘bush’ or remote courts.

NTLAC also meets regularly with relevant service providers to discuss how service delivery in the NT can be improved. In the past, this collaboration led to an MOU whereby a family lawyer was partially funded by the Commission to work in the NAAJA Katherine office for a one-year trial period.

In 2011 the Inaugural NT Legal Assistance Forum was created in partnership with NT Legal Services and the Law Society of the NT. Members of the partnership have committed to meet regularly to share information about service provision in the NT and to work collaboratively to resolve shared issues.

In 2007 NTLAC established the Community Legal Education Network. This Network is comprised of legal and related service providers in the NT. Network meetings are held on a 6-weekly basis and provide an information sharing opportunity to services as well as a forum to plan collaborative projects such as ‘Child Protection Matters’ Factsheets and ‘Fines Kit’. Each of these resources has been developed for remote communities.

NTLAC continues to work collaboratively in remote service provision through the Outreach Teams at a regional level.

2.4 Community Legal Centres (CLCs)

2.4.1 Top End Women’s Legal Service (TEWLS)⁵³

TEWLS is based in Darwin. TEWLS’ services include free legal advice sessions, ongoing casework, CLE and law reform. TEWLS also provides information and guidance to government, community groups and others in relation to issues affecting TEWLS clients and women in general, as well as support for, and participation in community-based initiatives that aim to improve social justice for TEWLS clients and women in general.

TEWLS provides in-house legal advice services and fortnightly legal advice outreach services. In terms of working with Indigenous clients, TEWLS’ advice service has some focus on 6 local Indigenous communities in and around Darwin (including as outreach) and assisting women in prison (Women in Prison Project). Clients assisted in prison would, in general, be of Indigenous background given their high rates of incarceration. Further, and in particular, TEWLS’ service provision policy has some focus on providing legal services to women who face ‘additional discrimination for reasons such as, but not limited to, race, culture, language, poverty, age, disability and sexuality’.

Areas of civil and family law covered by TEWLS include family law, police complaints, immigration, employment, domestic violence (including orders), discrimination, victims of crime compensation, motor vehicle accidents, care and protection, debt and some tenancy law, *inter alia*.⁵⁴

⁵³ Description drawn from website (<http://www.tewls.org.au/>) and correspondence with the service.

⁵⁴ Housing issues are likely to be referred to NAAJA or the Tenants Advice Service at DCLS. TEWLS works strategically around housing (for instance, in relation to the nature of tenancies in town camps and associated legal implications).

2.4.2 *Domestic Violence Legal Service (DVLS)*⁵⁵

DVLS has a focus on domestic violence and family violence in Darwin and the greater Darwin area, and in particular, on providing advice in relation to options available to those that have experienced violence of this type. As well as advice, DVLS also offers court representation in applications for domestic violence orders. DVLS assists with orders either by entering into relevant negotiations with police (who have taken out, or are taking out an order) or by applying directly on behalf of clients. DVLS offers a duty service to victims of violence at Darwin courthouse, and it is through this service, in particular, that DVLS assists a number of Indigenous clients (particularly members of the long-grass community). DVLS has two lawyers only.

Family law, criminal law, credit and debt, victim's compensation, care and protection, tenancy and immigration issues arising during client contact with DVLS solicitors would be referred to other agencies.

2.4.3 *Darwin Community Legal Service (incorporating Tenants Advice Service) (DCLS)*⁵⁶

DCLS has no Indigenous-specific service delivery policy, although it has an access and equity policy, which means the service works to ensure it is accessible to Indigenous community/people. DCLS *Guidelines* also refer to prioritising 'disadvantaged /marginalised' persons. DCLS also has no Indigenous-specific programs/practice, although there has been, to date, some focus at DCLS in policy development and law reform on Indigenous issues.

DCLS offers the following services.

- Generalist legal advice/service at three locations (clinics) in and around Darwin city. DCLS offers outreach as part of this generalist advice. This service does not include much outreach travel, but can provide advice by way of telephone for those facing isolation due to geographic location or mobility issues etc. The service seeks to engage specifically with Indigenous clients.
- DCLS' welfare rights service is Darwin-focused, but endeavours to assist those outside Darwin by telephone (including Indigenous clients). This is however difficult due to limited resources. DCLS has been instrumental in the development of the positions of 'welfare rights outreach' solicitors at NAAJA and CAALAS (as part of a response to the NTER).
- Disability services include a paralegal, with some focus on disadvantaged/marginal clients (including Indigenous clients), Disability Discrimination Advocate and Age and Disability Advocacy Team, which provides non-legal assistance. The latter has more Indigenous clients than the Disability Discrimination Advocate and has conducted projects with remote Indigenous communities around disability and aged care advocacy issues and skills.
- DCLS also provides a part time homelessness legal service, which is a new service providing assistance to long-grass communities in Darwin, amongst other things.
- The Tenants Advice service at DCLS is territory-wide, and assists some Indigenous clients. DCLS notes changes in tenancy law in the NT, which mean that the *Residential Tenancies Act 1999* (NT) now covers all community housing, including remote area housing, but indicates that it cannot provide comprehensive assistance to remote communities. Whilst DCLS does not exclude remote housing tenants, it does not have resources to meet current

⁵⁵ Description drawn from correspondence with the service.

⁵⁶ Description drawn from website (<http://www.dcls.org.au/>) and correspondence with the service.

demand (in term of numbers and complexity of housing complaints) on remote communities. DCLS understands that NAAJA is assisting some remote tenants. It is engaged in policy and CLE projects with other agencies in this area, including NAAJA and NTLAC.

- Credit/debt advice and assistance (not casework) is provided one day per fortnight by phone or in Darwin.
- A Family Relationships Centre (FRC) position provides advice to those using the FRC mediation but there are not many Indigenous people using the mediation service, and thus DCLS does not assist many Indigenous clients in this area.

DCLS has no formal relationship with ATSILS in the NT. DCLS notes that staff turnover makes it especially hard to establish and maintain relationships between services. DCLS does attend relevant network meetings (for instance, the CLE network convened by NTLAC).

2.4.4 Central Australian Women's Legal Service (CAWLS)⁵⁷

CAWLS provides information, advice and representation, law reform advocacy and CLE services. CAWLS assists with domestic violence orders (including as part of a duty lawyer service at the courthouse), family law (property and children-related issues), care and protection, discrimination, employment, credit and debt, tenancy, and criminal and other compensation claims. CAWLS provides some outreach services.

2.4.5 Katherine Women's Information and Legal Service (KWILS)⁵⁸

KWILS provides advice and information within the Katherine region (including Katherine town, town camps, communities in the Roper Gulf and Victoria Daly Shires). KWILS' clientele is predominantly Indigenous, and KWILS principally assists with advice and casework in relation to family law and domestic and family violence issues. KWILS does not assist with criminal law.

⁵⁷ Description drawn from website (<http://cawls.org.au/>) and correspondence with the service.

⁵⁸ Description drawn from website (<http://www.kwils.com.au/>) and correspondence with the service.

PART 2 LEGAL NEEDS ANALYSIS

3. INDIGENOUS LEGAL NEEDS

Section 3 of the Report provides analysis of various legal needs which arose through focus group discussions and interviews with stakeholders in the NT. The areas covered here include housing and tenancy, neighbourhood disputes, wills and intestacy, victims' compensation, stolen generations and stolen wages, employment, social security, family matters, discrimination, accident and injury, education, credit and debt, consumer issues and taxation. The order in which civil and family law legal needs are discussed below follows the ordering of the questionnaire which focus group participants were requested to complete. Discussion on the priority areas of legal need can be found in Section 4.

In most cases we have provided graphs showing the proportion of focus group participants identifying various issues, the specific type of problem they had, and whether they sought legal assistance. Reference is made throughout to the relevant Tables in Appendix C.

3.1 Housing and Tenancy

Housing, and in particular tenancy, emerged as *the predominant* legal issue in focus groups and during stakeholder interviews.

Focus group participants were asked whether they had experienced in the last couple of years:

- a problem or dispute with their landlord over issues such as rents, repairs, evictions, relocations, bond and/or overcrowding;
- a problem or dispute involving supported accommodation (such as hostels or nursing homes) in relation to fees, services and/or standards; and/or
- any other housing related issue for which they had sought legal advice or assistance, including buying or selling a home or seeking council approval for building applications.

Participants were also asked if they had sought any legal advice or help in relation to a housing or tenancy-related dispute or problem.

3.1.1 Disputes with Landlords – Tenancy

Housing, and especially tenancy, was identified during focus group discussions as the civil law issue of greatest concern, and for which legal assistance is likely to be required. In the women's focus group in Darwin, for instance, participants were unanimous in identifying housing as the major legal issue for Indigenous people in the NT.

Figure 3.1 Participants Identifying Housing Issue or Problem

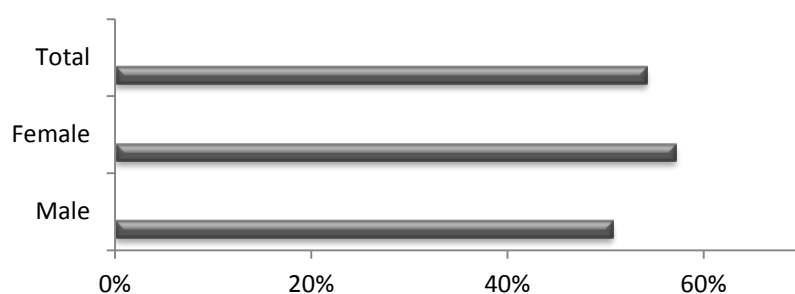
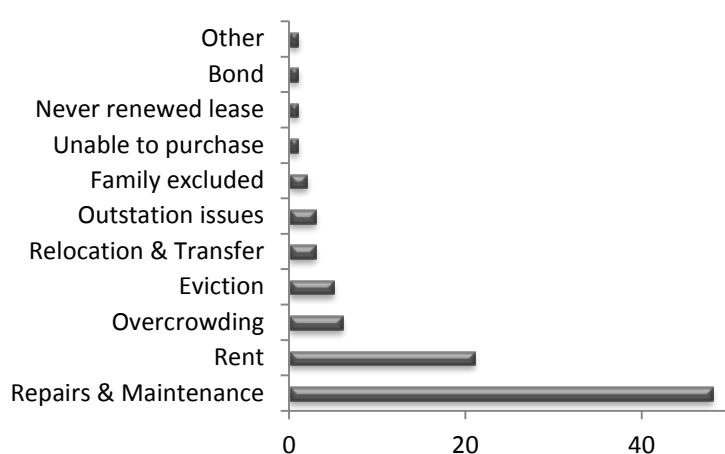


Figure 3.1 shows participant responses to the question asking whether they had experienced problems or disputes with a landlord. This graph shows that overall, **54.1%** of all focus group participants identified disputes or problems with landlords. The percentage of Indigenous women identifying such disputes was 6.4 percentage points higher than that of Indigenous men (see **Table 3.1**).

Figure 3.2 indicates that repairs and maintenance were identified in focus groups as the primary area of dispute or problem arising in tenancies. Of 92 responses provided to this question, 48 (or nearly 50%) identified repairs and maintenance as the reason for a tenancy dispute or concern. Rental payments and, to a lesser extent, overcrowding and evictions, also emerged as key issues of concern. Note that participants may have identified in their responses more than one area of dispute or problem (see **Table 3.3**).

Figure 3.2 Reason Identified for Housing Dispute or Problem



NT-Specific Policy Context

It is worth briefly considering the housing policy context in the NT, as a number of housing-related issues identified during focus groups and stakeholder interviews, particularly those arising in the context of tenancies, are at times connected with recent policy changes in the NT - most commonly, those arising under the NT's Emergency Response (NTER) or NT 'Intervention'. These policy changes appear to have led to heightened legal need, although, as the following comment suggests, an increase in lawyers in the NT as part of the NTER may mean that issues that pre-date the NTER are now simply being aired more frequently:

Because the Intervention allowed more lawyers to come on, it's hard to tell whether there are more issues since the intervention or whether there is just more awareness around it now that there are more lawyers to deal with it (Legal Aid staff).

The NTER policy changes in housing are as follows:

- (i) The Council of Australian Government's (COAG) National Partnership Agreement on Remote Indigenous Housing (NPARIH)⁵⁹ (incorporating the Strategic Indigenous Housing and Infrastructure Program (SIHIP)) has since 2007 worked on improving housing infrastructure across 73 remote

⁵⁹ COAG (2007) National Partnership Agreement on Remote Indigenous Housing (NPARIH); go to: http://www.federalfinancialrelations.gov.au/content/national_partnership_agreements/indigenous.aspx

Indigenous communities and some town camps and ‘community living areas’. It promises to deliver over 900 new houses, over 400 ‘rebuilt’ of existing houses and 2500 refurbishments by 2013.⁶⁰ The goals of NPARIH are to reduce overcrowding, ensure properties are well maintained and managed, improve conditions of existing housing and increase new housing.⁶¹

For the sixteen NT communities allocated capital works under NPARIH, a ‘whole-of-township lease’ (40-99 years) or ‘40 year housing precinct lease’ is required with the Commonwealth prior to commencement of construction. A number of communities have signed such leases. As part of completion of more minor work under NPARIH, from 2007, 64 communities prescribed under the NTER have compulsorily signed five-year leases with the Commonwealth (due to expire in August 2012).

(ii) Prior to the NTER, housing services on remote communities were generally provided by Indigenous Community Housing Organisations (ICHOs). ICHOs set rents, and repaired and allocated houses. Local community councils generally operated as ICHOs. Community councils also dealt with other community-based issues, including community infrastructure and municipal services. Residents paid a ‘poll tax’, or fixed sum of between \$30-40 per fortnight per resident, to ICHOs. These payments were not sufficient to ensure construction of new houses or adequate completion of repairs and maintenance to houses. There were very few tenancy agreements and residents were not covered by existing tenancy law under this previous scheme.⁶²

The NT Government’s Territory Housing now manages housing on remote communities, as an agent for the Commonwealth where five-year or longer leases have been entered into. Territory Housing, however, has subcontracted delivery of housing services to what are known as ‘super’ Shires and a small number of local Indigenous housing organisations (or housing associations). In 2008, these Shires replaced groups of local community councils previously in place on remote communities. The Shires deal with a range of community-based issues, including repairs and maintenance of housing, as well as delivery of municipal and essential services. Each Shire covers a number of communities across a large geographical area. According to the Commonwealth Ombudsman, this in itself ‘marks a significant change to the way Indigenous communities are funded, serviced and managed’.⁶³ Within these larger regional shires, there are smaller local offices located on communities that serve as ‘shopfronts’, to deal with housing issues (like allocations and repairs) in communities as they arise.

(iii) Territory Housing, in 2010, announced a Remote Public Housing Management Framework, which ensures that remote housing is based upon an urban public housing model. Again, the Commonwealth Ombudsman has identified this as a ‘major transformation of housing services’.⁶⁴ There are now changed rental arrangements and standardised tenancy agreements and documents.

Under the new model, there are three categories of housing on remote communities, directly linked with the construction work being carried out in:

⁶⁰ For Territory Housing policy on this issue see:

http://www.housing.nt.gov.au/_data/assets/pdf_file/0008/85679/rfs43_rhnt_parameters_Jan12.pdf

⁶¹ COAG (2007), 5.

⁶² Rosenmann and Clunies-Ross (2011), ‘The New Tenancy Framework for Remote Aboriginal Communities in the Northern Territory’, 7(24) *Indigenous Law Bulletin*, p.11. Department of Housing, Local Government and Regional Services, *Operational Policy – December 2009: Remote public housing policy*, 17.

⁶³ Commonwealth Ombudsman (2012), *Remote Housing Reforms in the Northern Territory*, Report 03/2012, 6.

⁶⁴ *Ibid*, 15.

- *improvised dwellings* (including makeshift dwellings such as humpies, with residents of such dwellings being ‘effectively homeless’⁶⁵)
- *legacy dwellings* (un-refurbished or rebuilt dwellings, considered habitable); and
- *remote public housing* (SIHIP refurbished, rebuilt or new housing stock, considered compliant with the *Residential Tenancies Act 1999 (NT)*).

According to Territory Housing, improvised dwellings should incur no rent and legacy dwellings should *not* incur, in most cases, higher rents than previously.⁶⁶ Residents of these two types of housing do not need to sign tenancy agreements with Territory Housing, but those residing in legacy dwellings must sign an ‘occupancy agreement’. According to Territory Housing, neither of these dwellings is subject to the *Residential Tenancies Act*, but a number of legal services do not endorse this view and the issue remains unresolved in law.⁶⁷

Remote public housing tenants are required to sign a tenancy agreement with Territory Housing and are subject to, and covered by, the *Residential Tenancies Act* as well as *Remote Public Housing Tenancy Rules*.⁶⁸ Amounts of rent payable for such properties are aligned with rent payable under public housing in urban areas, and represent an increase from rents payable pre-NTER.⁶⁹ According to Territory Housing, payment of ‘fair rent’ is linked with completion of repairs and maintenance and provision of other support services.⁷⁰

Stakeholders provided comments which directly link problems in housing with these policy changes. Some examples follow.

People weren’t wanting specific tenancy advice [on remote communities]. Their issues around housing were so much broader. We can advise people about their rights under the *Residential Tenancies Act* and how to make a small claim and stuff like this. [They] were talking about massive issues around housing that were way bigger than what we have the expertise for... We would do what we could to advise them. But it is much bigger.... On some communities they are still talking about negotiating the land and the leasing agreements that underpin the tenancy agreements that are being put in place and we can’t assist with this (Legal Practitioner).

Housing and tenancy is becoming a bigger problem throughout, and that’s largely because of the changes following the NTER, so now that we’ve got actual leases on remote communities and town camps. That’s turning into a big change for everybody. For most, it’s probably the first time they’ve had any involvement with leasing (Indigenous Legal Service staff).

There’s a transition phase at the moment, there’s a rental process happening. So people now have to pay rent out of their Centrelink [benefits] for their housing, whereas they haven’t always had that in place (Statutory Authority staff).

⁶⁵ Ibid.

⁶⁶ Amounts generally correspond to the previous poll tax; Rosenmann and Clunies-Ross (2011), 13. See Territory Housing Fact Sheet: *Remote Public Housing Rent*, available at http://www.housing.nt.gov.au/_data/assets/pdf_file/0018/138222/rfs37_remote_rent_Jan12.pdf

⁶⁷ See further Commonwealth Ombudsman (2012), 16.

⁶⁸ The tenancy agreements in question arguably impose conditions upon tenants that surpass those to which public housing tenants might ordinarily be subject to; see Rosenmann and Clunies-Ross (2011), 14.

⁶⁹ See

http://www.housing.nt.gov.au/remotehousing/information_for_remote_tenants/remote_rent_and_other_charges

⁷⁰ See http://www.housing.nt.gov.au/_data/assets/pdf_file/0009/97839/rhnt_fs_rentq_and_a_Jan12.pdf

Housing and tenancy is a massive issue in the Territory because since the Intervention (which has had a focus on improved housing) there are still a lot of people who live in sheds. So they'll have a corrugated roof, no water, no nothing, and that's called an 'improvised dwelling' under the legislation. And some people are being charged rent for these little shacks [when they shouldn't be] (Legal Aid staff).

[There are] people not understanding the process of signing documents. They don't necessarily understand what they are signing. Not having access to advice, not having access if they are aggrieved with the process... Basically they are being shut out of the process and not having any avenues to get help... not even knowing who the landlord is, perhaps (Indigenous Legal Service staff).

[Re: poll tax]: If there are fifteen people living in the house, then fifteen people pay for it. The payment is not for the house, it's for the occupants within the house. So you have people paying \$1000 a week for a tin shed... this is the effect of that. It's a tenancy agreement rather than a lease, so it is outside the *Residential Tenancy Act*.... [which means] fewer rights (Indigenous Legal Service staff).

The problem that Territory Housing has is that they don't write receipts for rent payments. It's not ideal. For a lot of community people, their money operates away from their hands, so you might get your credit card payments made automatically, so you don't really look at your bill. Well it's that much worse for Indigenous people because you know how they have that basics card, they might get their rent taken out of their Centrelink payments, they get their electricity taken out, they get this taken out, they get that taken out. So what they have in the end is a small quantity of money and a Basics Card to buy groceries with and there is no automatic statement that comes to you to show what money has come out. Territory Housing doesn't issue receipts and when you raise it with them and say 'such and such is paying rent on her improvised dwelling', they say to you 'ooh are they? Ooh they shouldn't be doing that. Can you get us something that will show that?' That's a huge thing, being dissociated from your money (Legal Aid staff).⁷¹

Problems arising in relation to repairs and maintenance are at least to some extent connected with NTER-related policy changes, with a degree of community and stakeholder dissatisfaction expressed with respect to implementation of policy in this area.

Some focus group participants stated that changes to Territory Housing policy means that they now have to pay for any repairs to their houses. They indicated that they did not sign any contracts when these changes took place and had not sought legal advice or assistance regarding these issues. One participant explained that 'it is happening all over the Territory. They've all been having the same problems' (Wadeye Men's Focus Group Participant). Another participant explained that he was experiencing problems with getting repairs done to his house. The participant indicated he was required to sign a contract with Territory Housing in order to get the repairs in question done and that his rent was subsequently increased. The participant, however, thought that when the repairs were eventually done, they were only 'superficial'; the house looked 'better' from the outside, but none of

⁷¹ If tenants of remote public housing receive Centrelink benefits, they must have their rent direct debited from their benefits (unlike other public housing tenants) (*Remote Public Housing Tenancy Rules*, cl. 14), according to Rosenmann and Clunies-Ross (2011), 13.

the major structural concerns relating to it were addressed (Papunya Men's Focus Group Participant).⁷²

In the context of the Shires' takeover of the outstations and homelands, one participant indicated that community members have to pay council rates for these areas of land, but that they are not receiving adequate services from the Shire or otherwise (Alice Springs Women's Focus Group Participant).⁷³

Tenancy Issues in General

As is clear from the ABS data provided in **Section 1.4**, in all ILNP focus communities in the NT, tenancies are, in the majority of cases, managed by a public or (to a lesser extent) community-based housing authority. Commonly, tenancy disputes or problems identified in stakeholder interviews or focus groups concerned Territory Housing.

Issues that were identified by focus group participants in this context may sometimes be related to how well Territory Housing engaged with their Indigenous clients. At a most basic level, one male focus group participant indicated that he didn't understand how Territory Housing 'worked' (Papunya Men's Focus Group Participant). Another participant explained that they had incurred a debt with Territory Housing, but that they did not understand what the debt was for (Tennant Creek Women's Focus Group Participant).

Repairs and Maintenance and/or Rent

Focus group participants and stakeholders frequently identified both delays in completion or non-completion of repairs and maintenance, as well as their quality, as a significant problem. For instance, one male focus group participant explained that a lot of houses in Wadeye are damaged, and that it can take up to one to two months to get repairs done (Wadeye Men's Focus Group Participant). One Statutory Authority also noted that people are signing leases on properties and *then* complaining of the condition of the house, but that the tenants did not know that they needed to inspect the property prior to moving in.

The pipes are broken, the sewerage is leaking out, the windows were broken when we moved in, all complaints about that. That's where I think there could be good assistance with legal, non-criminal. Just so that they know when they sign the lease they need to check all these things before they move in.... They'll come in and say we signed the lease on this house and it's got none of this and none of that and the pipes broken.... Often they sign the lease without going through the checklist like you or I would (Statutory Authority staff).

On remote communities such as Wadeye, getting repairs and maintenance done is reported as being especially difficult, as one legal service provider noted:

Septic tanks not working, people saying that they need a tradie to go out there to do XYZ and the tradie just not going, or not being able to go because of the weather. That's massive (Legal Aid staff).

And then rents and repair...repair complaints don't get resolved until [Indigenous legal service] gets involved and takes it straight to the top, including public health issues such as sewerage.

⁷² See also Commonwealth Ombudsman (2012), 34ff.

⁷³ On the issue of homelands and recent housing-related policy changes, see for instance, Amnesty International (2011) *'The land holds us': Aboriginal Peoples' right to traditional homelands in the Northern Territory*, available at <http://www.amnesty.org.au/indigenous-rights/comments/26216>.

It's an ideal opportunity to have people within the community [in work] – Indigenous residents in the community who are 'Mr Fix-Its' – but that doesn't happen. They get non-Indigenous contractors who charge the earth to do dodgy work (Indigenous Legal Service staff).

Complaints relating to repairs and maintenance also often appear to be directly connected with issues relating to rent, the second most problematic area for focus groups in terms of tenancy. For instance, focus group participants queried why they were required to pay rent when repairs and routine maintenance were not being carried out by their landlord, as well as whether they should be held liable financially for certain repairs.

A male focus group participant identified the negative impact that a Territory Housing debt associated with repairs and damage to property may have upon future tenancies:

When you move out, they hit you. I'm still paying off my bill you know, and that's just for a little flat. They do no work on it ... but when you move out they come and hit you for a big ass big bill for the things they wouldn't fix up while you were living there. I can't get a house now until I pay that [Territory Housing debt] off ... and then you got a five-year wait after that (Tennant Creek Men's Focus Group Participant).

To some extent, complaints or issues relating to both repairs and maintenance and rent may arise as a result of policy changes introduced under the NTER, as noted above – although it is not always possible to identify to what extent.

In [one community], only five of the thirty or so houses that were supposed to be renovated have received renovations. Despite the poor conditions of these houses, rental costs have continued to escalate (Katherine Women's Focus Group Participant).

Issues relating to rent alone include the fact that people are paying rent in houses, but they don't live in them anymore. People don't know how to notify of their departure from a house and therefore they just remain on a lease (Indigenous Community Organisation worker).

Overcrowding, Eviction, Private Tenancies and Home Ownership

Overcrowding and housing shortages in the NT were raised by stakeholders and focus group participants.⁷⁴ According to one participant, in some cases there are twenty people living in one house. Sometimes people are 'lying on the floor' (Katherine Women's Focus Group Participant). One stakeholder noted as follows:

Housing is also shocking. There are no houses available. This means there is overcrowding and also sleeping out rough. They are called shelter areas. They sleep in the tall grass and trees behind town. I did bring them blankets once as part of [a community-based organisation] (Indigenous Community Organisation worker).

Overcrowding leads to tenancy-related, as well as a number of other, legal issues (such as debt and consumer-related issues):

⁷⁴ According to Gibson, the concentration on building housing and other infrastructure on a small number of larger communities (to develop them as 'hub towns') means that other communities, including homelands and outstations (of which there are more than 500 across the NT), miss out on improved resourcing. For instance, no new houses will be built on the bulk of Indigenous communities, despite severe levels of overcrowding: Gibson, P (2010) *Working for the Basics Card in the Northern Territory*, Jumbunna Indigenous House of Learning (UTS) Sydney, available at <http://www.jumbunna.uts.edu.au/pdfs/JIHLBP12.pdf>.

The person on the lease can quite often get left with fairly large bills and face evictions due to large family groups coming and staying. So for instance, if you have a couple in a three bedroom house they might have sort of another 12 or 13 people that come to stay for a while, which then potentially runs up large telephone bills, which whoever's name it is in gets lumbered with, large power bills, sometimes damage can happen to the place, a bit of disruption around the neighbourhood and then police get involved. There's certainly big issues there and that comes down to shortages of housing stock... There just hasn't been enough public housing (Indigenous Community Organisation worker).

We've got overcrowding, it's really, really bad. We've got like 20 per 2-3 bedroom house, family members. So that makes it difficult too. That increases and escalates everything to do with family (Statutory Authority staff).

You might have a nuclear family and then you get family members that come in from out of town, they will stay at that residence. They don't pay any rent 'cause they're not used to paying rent... It just escalates. You will see an increase in domestic violence, damage, mess, dogs, deterioration of houses... it's a huge, huge problem here (Indigenous Legal Service staff).

A number of comments were made indicating that Indigenous people frequently find it difficult, if not impossible, to compete for private tenancies, given current housing shortages in the NT. This may be due to a number of factors (including in some instances discrimination, see **Section 3.9**), but overall the private rental market appears to be competitive and real estate agents are able to pick and choose tenants. Consequently, losing public housing tenancies, including by way of eviction for a range of reasons, may be particularly problematic for Indigenous tenants, given problems with accessing other types of private housing.

Poor education levels, lack of job skills, which affects the capacity to earn decent money, which affects the capacity to be in the market for those types of [private] property. All Aboriginal people can do is put their name down for government housing (Indigenous community organisation worker).

In terms of eviction generally, one stakeholder noted how easy it is to be evicted from public or community-based housing.

They are making the new houses, so if you move out of your house today, they are putting that house as an alcohol free zone. So you come along to rent the house now, and its alcohol free, if you drink alcohol there now and the police get called out, you could get evicted.... It doesn't make sense, cause you can't drink down the main street, you can only drink in a pub, so if you've got an alcohol ban in a pub, you can't even have a drink at home... They are trying to do that with more of the Department of Housing houses (Statutory Authority staff).

Anti-social behaviour is a huge one, and it's one that we take pretty seriously, because if somebody gets evicted for that reason, it effectively bars them from public housing forever, because the rules say that you can't get back onto the list for two years after you've been evicted for that, and during that time you need to engage in the private property market, which our clients just aren't capable of doing... And the problem with anti-social behaviour is that it's usually other family members coming into the house, but whoever is on the lease is the one who suffers – and they are usually elderly or frail and can't control their family members (Indigenous Legal Service staff).

Legal issues arising in relation to an Indigenous person's access to, or transition into the private rental market (including post-eviction), were raised in focus groups. One participant explained that despite the severe shortage of private rental accommodation in Katherine, public housing tenants are still expected to move into private rentals once they earn a certain amount of income (Katherine Women's Focus Group Participant). One participant had a friend who had lived with her husband, two sons, a daughter and her sister. They were all working. As soon as her husband passed away, she was told to move out, at a day's notice, because the household was earning too much money. The participant stated that 'she didn't even get the chance to bury her husband before they told her to get out' (Katherine Women's Focus Group Participant).

Transition to home ownership was also discussed in focus groups. Participants raised concerns in relation to Territory Housing policy and procedure and its impact upon home ownership. Some perceived the policies in question, or their implementation, as leading to unfair or unjust outcomes. A female participant had hoped to purchase her family home from Territory Housing after her mother had passed away. Her family had rented the home for over sixty years. The participant stated that in April 2010, Territory Housing brought in a policy stating that they would not sell any of their homes.⁷⁵ The participant continues as follows:

Even considering that there's been long-term tenants over sixty years renting, all of a sudden you come up under a policy that just come up yesterday ... and to a point now we've been fighting for eleven months. I'm actually moving out of the house today and it's been a nightmare in doing that. We just find that the policies are so cold, they're callous, they're just heartless... they don't understand the situation of families. For us it's been a family home ... we had the grannies there on the weekend crying... and I fought really hard, but I couldn't come in to [Indigenous Legal Service] 'cause I was working. I'm saying I don't want to live in Territory Housing. I want the opportunity to purchase ... and we've done so much home improvements ... and its cost us a lot of money ... but we've got to walk away with nothing (Darwin Women's Focus Group Participant).

Another male participant commented similarly:

I been living in my place for 60 years. I got the house brand new. Three times in nine years, I put in an application to purchase the house and I got no acknowledgment from them at all. I even went in there, and they refused to talk about it. So, as my last resort I saw [a lawyer from Indigenous Legal Service] and she gave me a good helping hand, but we still haven't got anywhere. [The lawyer explained that the participant's house is valued at approximately \$800,000, despite the fact that the house is completely run down, with no major repairs done on the property].... And my next door neighbour, she put in to buy the house too... and they kicked her out because the house had to be pulled down (Darwin Men's Focus Group Participant).

This same participant added that his neighbour's house was never pulled down, but that Territory Housing moved 'some white people in'.

⁷⁵ A moratorium was introduced in April 2010, but appears to have been lifted in part. Territory Housing comment on moratorium is available at: http://www.territoryhousing.nt.gov.au/public_housing/buying

3.1.2 Legal Advice for Tenancy Issues

Figure 3.3 shows participant responses to the question asking whether legal advice or assistance was sought for a dispute or problem with a landlord. Just over a third (or **34.2%**) of those who had identified a tenancy-related dispute or problem sought legal advice. Indigenous women were 5.4 percentage points less likely than Indigenous men to seek legal advice (31.7% of women compared with 37.1% of men), despite Indigenous women identifying a dispute with their landlord with greater frequency than Indigenous men (see **Table 3.4**).

Figure 3.3 Participants Who Sought Legal Advice for Tenancy Dispute or Problem

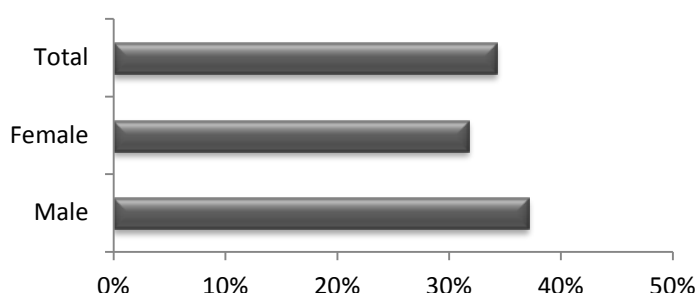
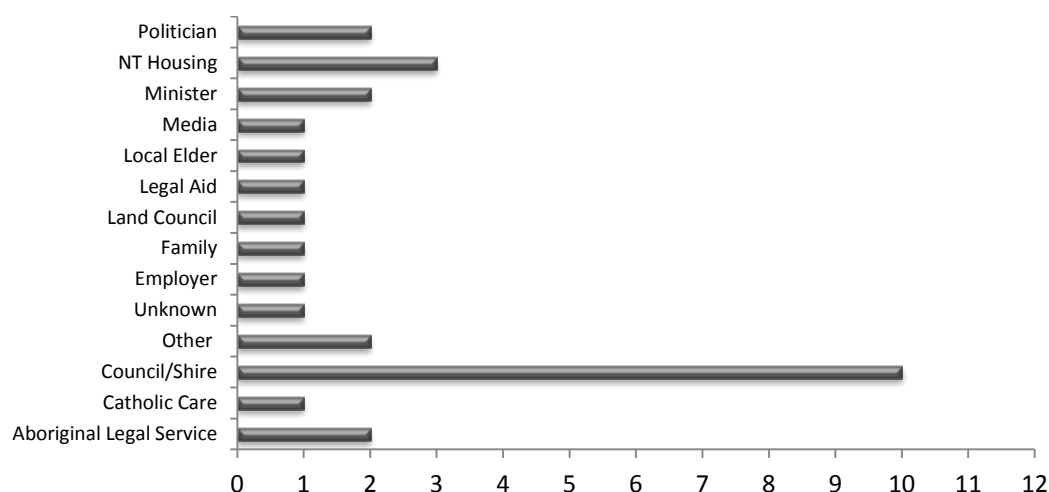


Figure 3.4 indicates that participants generally sought assistance with tenancy-related issues not from legal services, but from the relevant Councils or Shires or from Territory Housing itself. Overall, there were 29 responses to this question. Of these, 10 identified Councils and/or Shires as the source of legal advice or help and three identified Territory Housing. These statistics may reflect stakeholder and focus group comments suggesting that it is difficult to source (free) legal assistance for tenancy issues and problems (see **Table 3.9**).

Figure 3.4 Source of Legal Advice Provided to Participants for Tenancy Issue



Legal service stakeholders suggested that often Indigenous people do not know their rights in this area, and are reliant on the ‘authorities’ for information and assistance (such as Territory Housing). This leads to disadvantage for Indigenous people. There are obvious issues arising where individuals source housing-related advice from the very authorities that control access to present and future housing. The importance of being able to access quality independent legal help and advocacy around

housing, as well as the impact of a lack of access to legal assistance in this area, was identified by a number of stakeholders and focus group participants.

For example, one focus group participant from Darwin was informed that she would be evicted from her home (a private rental) due to rental arrears. The participant in question paid the rental arrears, and was later informed by the Commissioner (at the Commissioner of Tenancies hearing) that given that the rental arrears had been paid, and that she had not received a notice from the real estate agent informing her to repay the rental arrears, she would not need to return for the next hearing. A week later the participant received a notice of eviction from the real estate agent. The participant returned to court to try to appeal the decision, only to be informed that because the real estate agent had followed correct procedures, nothing further could be done. The participant was forced to vacate the premises (Darwin Women's Focus Group Participant).

Legal service providers also noted as follows:

We've had a lot of good victories with housing recently, and its forced some systemic change and a more consultative process with us just because of some of the cases we've taken on... and if you pull out of those services, then...and the same with police complaints, we don't have a lot of huge successes there, but at least it is some process of keeping the system on its toes (Indigenous Legal Service staff).

Further, an Indigenous Community Organisation worker stated as follows: 'Community gets frightened to stand up and say something for themselves (in relation to housing). They are always frightened to speak up. They don't know it is their right. With a lawyer, they can quietly speak to the lawyer who can then stand up for them.'

Legal assistance for housing-related issues is not always available. When participants in Darwin were asked if any of them had sought legal advice regarding housing issues, one woman explained that she was forced to seek private legal assistance because she was over the income threshold. Another participant suggested that there are no free legal services that you can go to for housing problems (Darwin Women's Focus Group Participant). A female focus group participant had helped an Indigenous woman who had been living in her home (public housing) for 15-18 years. The woman in question had two children in foster care. Someone reported that she had been renting out her room and she was subsequently served with an eviction notice. After a long and drawn out legal battle (of five or six months duration), the woman was finally able to stay in her home.

So there was a great outcome out of it, but it's the process that we had to go through. You couldn't even get a lawyer to assist you. [Indigenous Legal Service] couldn't help; [community legal service] wouldn't sign off on the affidavit. So, we had to do all this process ...It's like trying to be a bush lawyer (Darwin Women's Focus Group Participant).

In terms of capacity of lawyers to provide assistance with housing, one Indigenous Legal Service also said that without civil lawyers funded under the NTER, there would be no or limited legal assistance for housing disputes. 'Again, our capacity... it's our welfare rights lawyers dealing with remote tenancy issues. We don't get specific funding to deal with that' (Indigenous Legal Service staff).

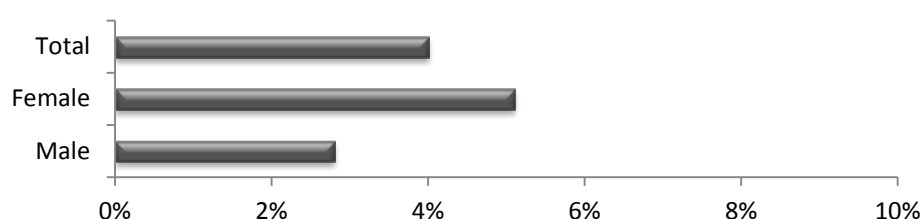
In Katherine, on the other hand, there was general consensus among participants that there is little point in seeking legal advice or help regarding housing issues – not so much because there are no available lawyers but because 'there's the fear of the repercussions. If you go to a lawyer, they may get harsh on you as a tenant ... so you really can't buck the system'. It is difficult to genuinely

challenge landlords: ‘You can talk and talk but nothing will be done’ (Katherine Women’s Focus Group Participant).

3.1.3 Disputes Related to Supported Accommodation

Figure 3.5 provides baseline data for participant responses to the question asking whether they had experienced a dispute or problem in relation to supported accommodation. Overall, only **4%** of all participants identified a dispute or problem of this nature, with Indigenous women nearly twice as likely as Indigenous men to have had an issue arise in this area (5.1% of Indigenous women compared with 2.8% of Indigenous men) (see **Table 3.5**). Only one male participant and no female participants of those who had identified a problem in relation to supported accommodation had sought legal advice (see **Table 3.7**).

Figure 3.5 Participants Identifying Supported Accommodation Issue or Problem



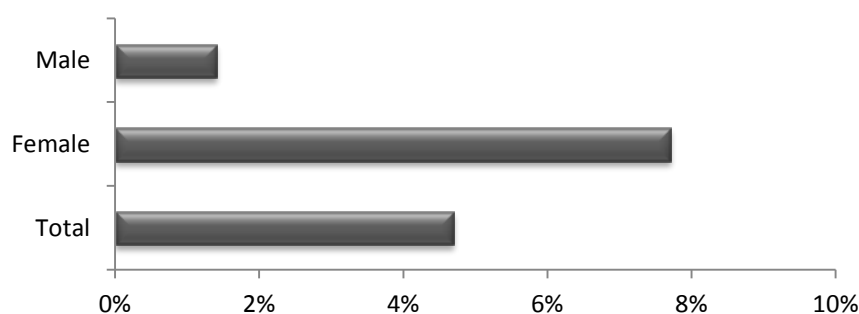
The predominant issues causing concern in this area were fees and strict regulations or rules imposed on persons accessing supported accommodation (see **Table 3.6**). A woman participating in the focus group in Darwin remarked as follows:

Crisis accommodation is in crisis. Crisis accommodation that is out there and offered to our people is ridiculous. The prices that they offer... You got hostels, you got community homes that are ripping off people in the community (Darwin Women’s Focus Group Participant)

3.1.4 Other Legal Needs Relating to Housing

Figure 3.6 shows participant responses to the question asking whether they had sought legal advice or assistance in relation to another housing issue (such as sale or purchase of a house). Overall, **4.7%** of all participants identified having sought advice or assistance for other housing issues. Indigenous women were overwhelmingly more likely than Indigenous men to have done so with some 7.7% of Indigenous women compared with 1.4% of Indigenous men (see **Table 3.8**).

Figure 3.6 Participants Who Sought Legal Advice for Other Housing Issue



3.2 Neighbourhood Issues

Neighbourhood issues emerged as a significant legal issue for Indigenous participants in ILNP focus groups.

Focus group participants were asked whether they had experienced a dispute or problem with neighbours over such things as fences or boundaries, noise, privacy, animals; and if so, to briefly describe the nature of the dispute or problem. Participants were also asked if they had sought any legal advice or help in relation to a neighbourhood dispute or problem.

Figure 3.7 shows participant responses to the question asking whether they had experienced a problem or dispute with neighbours. This graph shows that overall, **27%** of all focus group participants identified neighbourhood disputes as an issue.

Indigenous women were significantly more likely than Indigenous men to identify problems in this area. The percentage of Indigenous women identifying such disputes was 24.2 percentage points higher than that of Indigenous men or nearly three times greater (38.5% of Indigenous women compared with 14.3% of Indigenous men) (see **Table 3.10**).

Figure 3.7 Participants Who Identified Neighbourhood Dispute

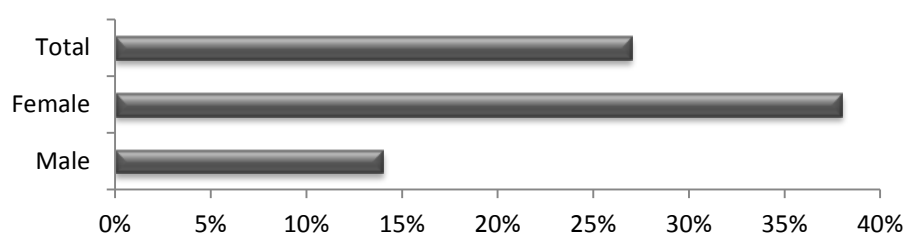


Figure 3.8 shows that disputes or problems with neighbours arose with greatest frequency for Indigenous focus group participants in Wadeye, Darwin and Alice Springs. Disputes or problems of this type were identified by 50%, 47.1% and 42.1% of all participants in these three communities, respectively. The communities identifying such issues with the least frequency were Papunya (0%) and Bulman (5.9%) (see **Table 3.11**).

Figure 3.8 Participants Who Identified Neighbourhood Dispute by Community

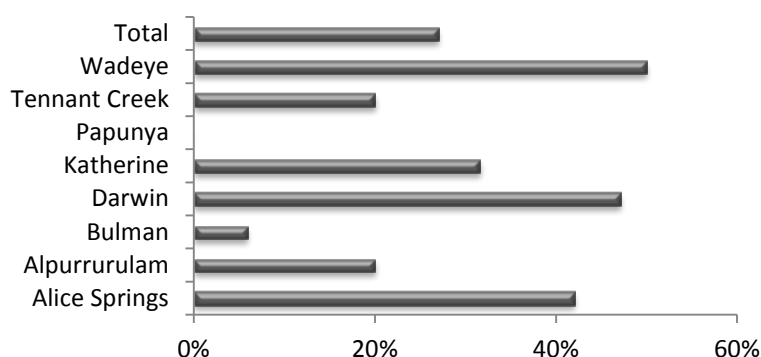
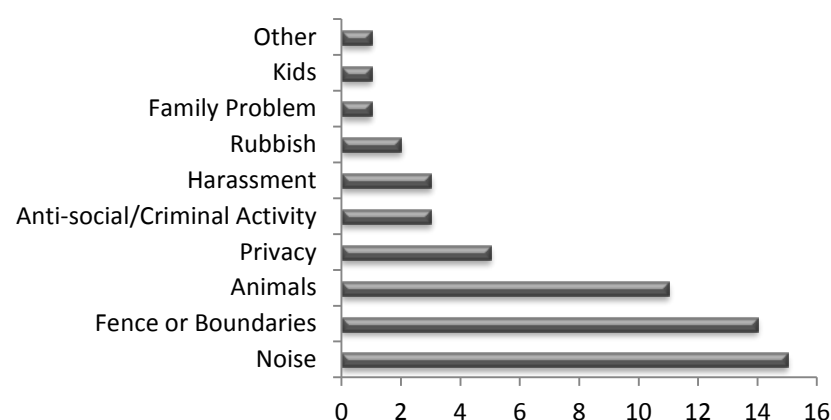


Figure 3.9 provides baseline data for participant responses to the question asking what the nature of the neighbourhood disputes in question had been. Of the 56 responses provided to this question, noise was most commonly identified as the cause of the dispute or problem (by 15 participants), then fences

or boundaries (by 14 participants), animals (by 11 participants) and privacy (by 5 participants) (see also **Table 3.12**).

Figure 3.9 Reasons Identified for Neighbourhood Disputes

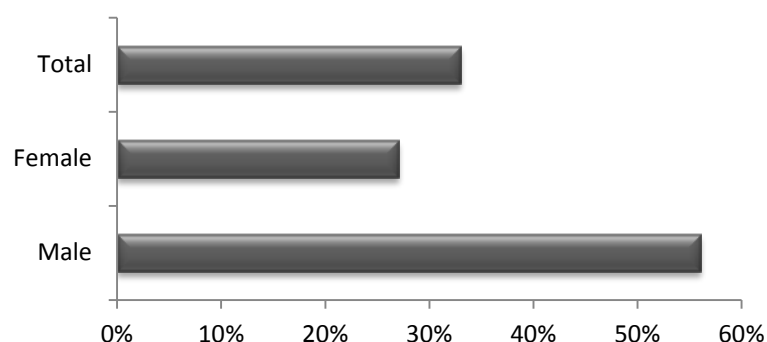


Focus group participants provided some examples of disputes or problems arising in this area. One participant had a dispute with her neighbour who had complained about her dog barking (Katherine Women's Focus Group Participant). A participant located in Wadeye explained that kids from another community come through at night and break things and make a lot of noise. There were also a lot of problems with dog fights in this community (Wadeye Men's Focus Group Participant).

3.2.1 Neighbourhood Disputes and Obtaining Legal Advice

Figure 3.10 indicates that **33.3%** of all participants identifying an issue with neighbours had sought legal advice or assistance. The proportion of Indigenous women seeking legal assistance for such disputes was 28.9 percentage points lower than that of Indigenous men (26.7% of women compared with 55.6% of men) (see **Table 3.13**), despite Indigenous women identifying having experienced neighbourhood disputes with significantly greater frequency than Indigenous men.

3.10 Participants who Sought Legal Advice for Neighbourhood Problem



One hurdle that may present itself when Indigenous people seek legal assistance with such matters is internal policy of Indigenous Legal Services, which may prevent these services from dealing with disputes between family groups or within communities.

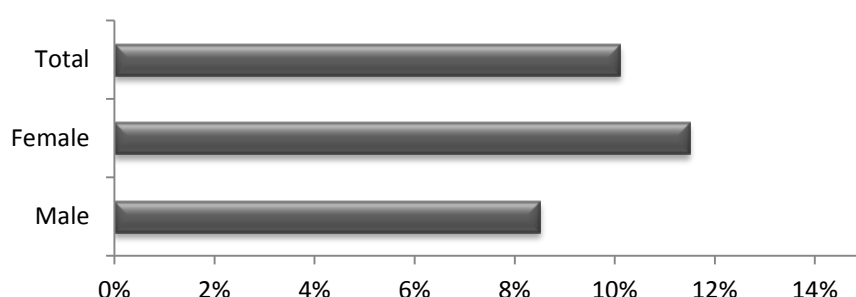
3.3 Wills and Estates

Participants were asked if they had completed a will and if so, whether they had received legal advice to do so, and who had provided that advice. Participants who had not completed a will were asked if they would like legal advice to do so, and if so, who they would prefer to approach for that advice or assistance.

Participants were also asked if they had ever had to take charge of someone's estate after they had died (that is, acted as executor); or if they had ever been involved in any disputes over a deceased estate.

As the following data indicates, very few participants had completed wills. As one financial counsellor working in an Indigenous, community-based organisation indicated, 'every person I've seen here has died without leaving a will' (Community Organisation worker). **Figure 3.11** shows participant responses to the question asking whether participants had completed a will. This graph shows that overall, only **10.1%** of all focus group participants (15 participants in total) had completed a will. Indigenous women were more likely than Indigenous men to have completed a will (11.5% of women compared with 8.5% of men) (see **Table 3.10**).

Figure 3.11 Participants Who Have Completed a Will



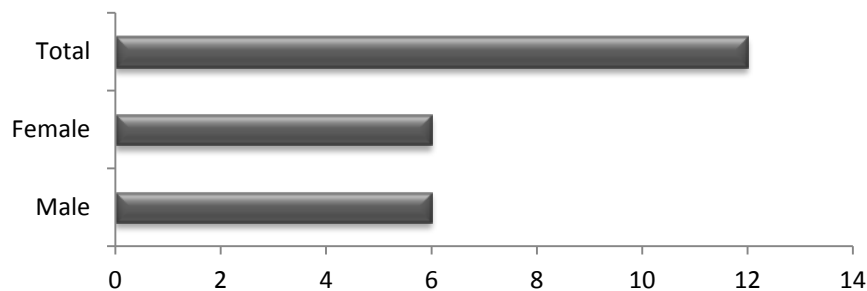
Participants may not have sufficient knowledge about the utility of completing a will and/or how to complete one, and this may account for the very low numbers of participants who had done so. There may be a perception among Indigenous focus group participants that wills are only useful where there are significant amounts of money or property to be distributed. The value of having a will for clarifying other posthumous wishes (such as burial place, guardianship of children or transfer of intellectual property rights) may not be well understood.⁷⁶ A community-based organisation suggested that many Indigenous people are not aware of the utility of wills. However, this organisation stressed that

[they] should know about leaving a will as it's not just about property. There's also important stuff about artefacts and paintings [that can be put into wills]. The wrong family ends up taking things away from the right family without a will. If a person is an artist, they lose their Viscopy (copyright) rights. This might go to a cousin brother because that person is more overpowering (Community Organisation worker).

⁷⁶ See discussion of intellectual property rights and wills at Ayres, R (2011) 'Arts Law Update: Indigenous Wills Project; 7(22) *Indigenous Law Bulletin* 5 <http://www.austlii.edu.au/au/journals/ILB/2011/2.html>

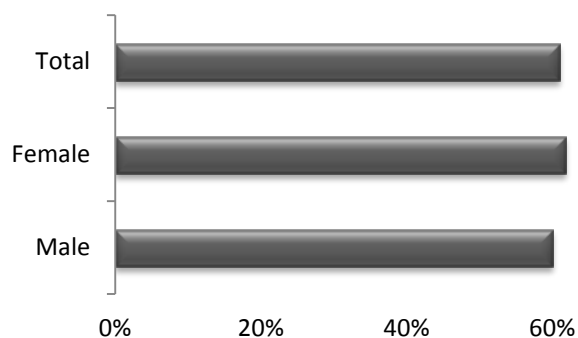
The majority of participants who had completed a will had done so in collaboration with a lawyer. **Figure 3.12** indicates that of the 15 participants who had completed a will, 12 participants (6 women and 6 men) had received legal advice to do so. This perhaps indicates that improved access to legal advice and assistance in this area may increase the likelihood that Indigenous people will complete a will (see **Table 3.15**).

Figure 3.12 Participants Who Have Received Advice in Completing a Will



As **Figure 3.13** indicates, **61%** of those participants who had *not* completed a will *would like legal advice to do so* (61.8% of Indigenous women and 60% of Indigenous men).

Figure 3.13 Participants Who Would Like Legal Advice to Complete a Will



There is clearly significant unmet legal need in this area. Without further education and increased awareness, as well as access to legal and/or appropriate other help to assist in completion of wills, Indigenous people may not identify their existing legal need, and may not then seek appropriate assistance for completion of a will.⁷⁷

The lack of knowledge in relation to wills is borne out by comments from focus group participants. Some participants indicated that they were not sure whether they needed legal advice in order to complete a will. One participant in Alice Springs stated there was not enough information regarding how to complete wills (Alice Springs Men's Focus Group). Another participant had completed a will obtained from the post office, but she didn't know if it would be legally binding:

⁷⁷ See discussion in a NSW context in Vines, P (2011) 'Making wills for Aboriginal people in NSW', 49(8) *University of NSW Faculty of Law Research Series 2011: Working Paper 33*, available at <http://law.bepress.com/unswwps-flrps11/art33/>

I don't know if you need to have that will done legally, and not one from the post office. Or is it got to be done by a lawyer ... to make it acceptable? (Katherine Women's Focus Group Participant).

A number of stakeholders suggested that more community education is definitely needed in this area. A staff member from an Indigenous Legal Service states: 'We don't get many enquiries at all I imagine it's just an education thing – that people don't really think about it.' Another legal service noted as follows:

[We are] not currently doing wills, but [there has been] a pilot project of wills for people in aged care [to ensure] that people are buried back on country and not in town. Town is cheaper and family pockets the difference. People have no idea what a will is (Indigenous Legal Service staff).

The data provided in **Figure 3.13** indicates that a significant proportion of participants would like advice to complete a will. According to stakeholders, however, Indigenous people may only seek legal help in this context *after a relative has died* and when they *wish to access property of the deceased person* (who is likely to have died intestate), rather than in order to complete a will. The following comments support this view:

Wills and estates... we do that particularly poorly in the NT. There's a lot of people passing away. They pass away intestate. There's just no one doing these matters (Statutory Authority staff).

People die with money in the bank and they [the family] don't know how to access it. There is no education going out to the communities towards it. It's only when the legal services go out that people want to find out about it. There is a great big gaping hole there (Legal Aid staff).

Up here, there has been some knowledge spread, to the extent that when you go into a community, everybody is clamouring to access such and such's superannuation. There is always inquiries about it... people have an awareness of what superannuation is and what death benefits are. But there is not as good an awareness of what wills are (Legal Aid staff).

Super doesn't form part of an estate. [It's a] problem when a super company makes cheques out to the estate rather than to one of beneficiaries, then it's difficult to get your hands on it without significant legal work. Public trustee has to accept the referral – and they refuse to administer estates that are not significant in value (Indigenous Legal Service staff).

We get a lot of enquires about that, at least a couple a day. Dealing with death and early death is just such a real issue for people in communities and so if you've had someone die, which you have, in your family, then you'll want to know if you can get any money out of it (Indigenous Legal Service staff).

Finally, legal services may not be able to meet demand in this (potentially very large) area of legal need:

Wills, probate, chasing up deceased super is really where people are obviously interested because money's involved, and when people pass away it's just a nightmare [because the service is unfunded/inexpert to help in that area]... I think that would have to be the area where we say to people we're sorry, but we can only help you in that limited way (Indigenous Legal Service staff).

Legal need arises in this area, in particular, because ‘in terms of conducting internet searches with tax file numbers (to locate superannuation), people aren’t skilled up and don’t have the opportunity to do that themselves’. Obtaining birth and death certificates is also difficult.

We say we just provide advice but ultimately for people to successfully deal with those issues we either have to refer them to another legal service that does provide casework or we need to provide very detailed advice (Indigenous Legal Service staff).

If there are disputes, Indigenous legal services may not be able to assist.

We don’t deal with disputes between family groups or within communities. For example, we get a lot of people who have disputes with other people in the family about where a body should go after someone has died. We have a factsheet and we say, ‘go to the community justice centre’. There is a legal solution but we’re not going to help you with it (Indigenous Legal Service staff).

Finally, not all stakeholder legal services thought that completion of a will was always a positive thing for Indigenous people.

If you die intestate without assets it’s not really a terrific problem, but if you die with some peculiar will and you only have very limited assets – the car you owned ten years ago that you don’t own anymore – that’s just going to make it harder for people (Indigenous Legal Service staff).

3.3.1 Deceased Estates

Figure 3.14 provides baseline data for participant responses to the question asking whether participants had had to take charge of a deceased estate. This graph shows that overall, only **10.3%** of all focus group participants had been required to take on this role. Indigenous women were 13.2 percentage points less likely than Indigenous men to have taken charge of a deceased estate (3.9% of women compared with 17.1% of men) (see **Table 3.17**).

Figure 3.14 Participants Identifying Having to Take Charge of Estate After a Death

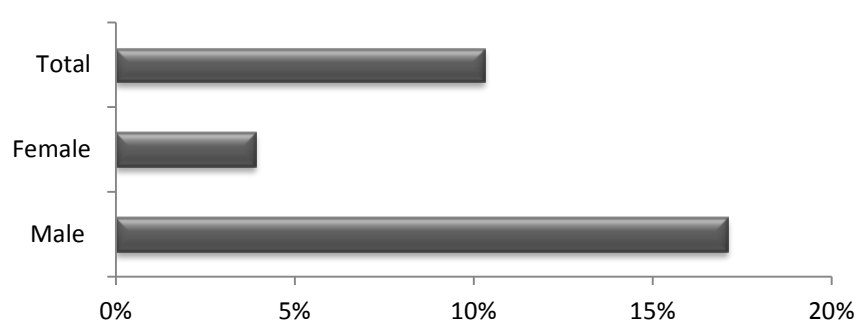
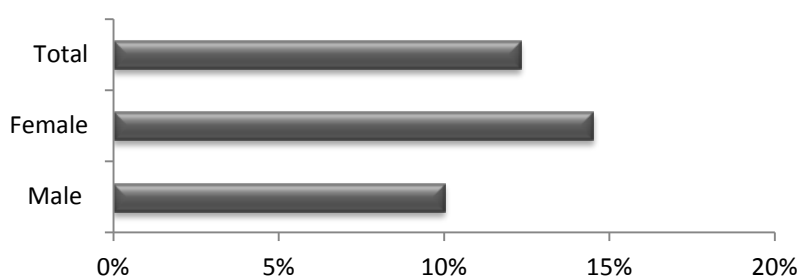


Figure 3.15 shows participant responses to the question asking whether participants identified a dispute over a deceased estate after death. This graph shows that overall, **12.3%** of all focus group participants had identified a dispute in this context. Indigenous women were 4.5 percentage points more likely than Indigenous men to identify such a dispute (14.5% of women compared with 10% of men) (see **Table 3.18**).

Figure 3.15 Participants Identifying a Dispute Over Deceased Estate After a Death

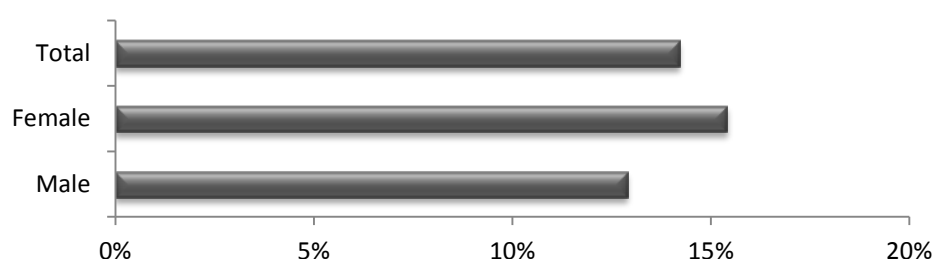


In terms of the nature of disputes relating to deceased estates, one participant was involved in a dispute over the appropriate location to bury a deceased family member (Katherine Men's Focus Group Participant).

3.4 Victim's Compensation

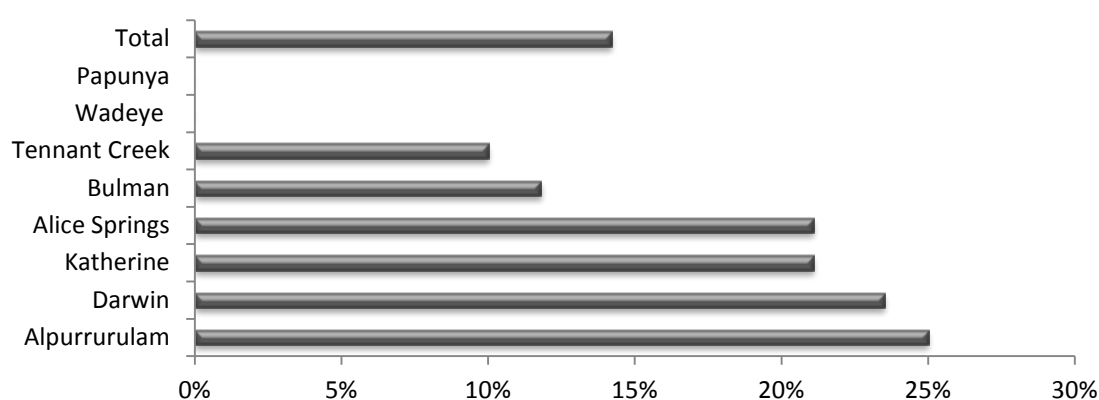
Focus group participants were asked whether, over the last couple of years, they had been the victim of a violent crime. As **Figure 3.16** shows, slightly less than 15% of participants reported being victimised. The proportion of women victimised was slightly higher than men (see **Table 3.19**).

Figure 3.16 Participants Identifying as a Victim of Violent Crime



The reporting of victimisation varied significantly by community. As shown in **Figure 3.17** below, focus group participants in Alpururulam reported the highest levels of victimisation.

Figure 3.17 Participants Identifying as a Victim of Violent Crime by Community

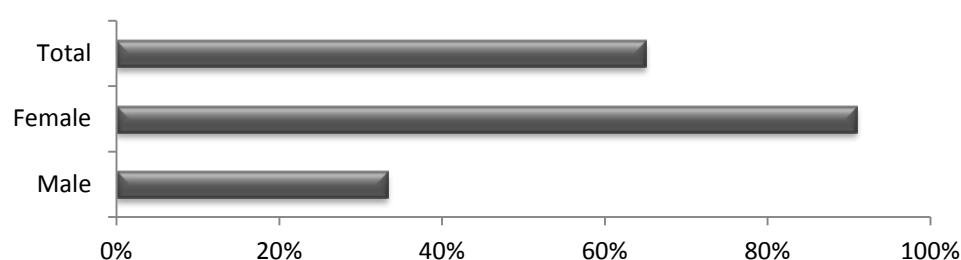


Knowledge and awareness of the victim's compensation scheme varied significantly by gender. As shown in **Figure 3.18** below, 90% of women who were victims of violent crime indicated knowledge

of the scheme, compared with just over 30% of men (see Table 3.21). These findings were confirmed in stakeholder interviews: ‘Men are less aware than women...we always get lots of [women]’ (Legal Aid staff).

Despite variations by gender and location, generally stakeholders thought there was a good awareness of the scheme: ‘Just because of the sheer prevalence of it... if someone from a particular community gets a large payout, the next time you go back to that community ‘oh so and so broke my finger’ (Indigenous Legal Service staff).

Figure 3.18 Participants Identifying as Victim of Violent Crime Who Knew About the Victim’s Compensation Scheme



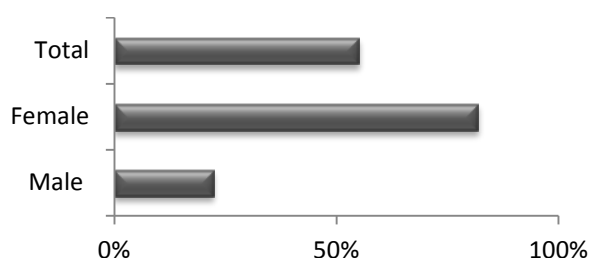
However, some examples of a lack of knowledge regarding victim’s compensation emerged from some stakeholder interviews:

This lady only came to us for false imprisonment. The police stepped on her foot and broke her foot while they were falsely imprisoning her. So I got her medical record and found all this evidence of just horrific violence from her partner. And she didn’t realise that she had the ability to make a victims of crime claim. [She] would never have engaged with us on either matter if it weren’t for the crime referral and the coincidence of finding that. So, just a basic lack of knowledge and familiarity with basic rights [can] affect the service (Indigenous Legal Service staff).

Some thought that fear of retribution might also deter victims from taking action. One community-based organisation noted that ‘a lot of victims are not getting compensated. They are scared to follow through on this as they think they might be attacked. The Legal Aid Commission must tell them that their rights are covered, and that it is confidential’ (Community Organisation worker).

As Figure 3.19 shows, 55% of victims identifying as a victim of violent crime sought compensation. The percentage was higher for women than men, at 82%, compared to 22% (see Table 3.22).

Figure 3.19 Participants Identifying as a Victim of Violent Crime Who Sought Victim’s compensation



Stakeholder interviews revealed a range of reasons limiting access to justice in relation to victim's compensation. With a dependency on Indigenous Legal Services, Legal Aid and CLCs, remoteness and conflict of interest emerged as two of the issues restricting access to victim's compensation. In relation to the former, one Katherine Women's Focus Group Participant noted that she was forced to pay for legal representation for her victim's compensation claim. The participant explained that this was because the perpetrator already had legal representation from NAAJA.

In relation to remoteness, the following stakeholder noted:

Just the fact that they are very remote causes a problem. For example, victims of crimes assistance... you have got to fill out quite a complicated form. I'd have trouble filling it out! Usually you have got to take it to a local police station to get it witnessed, you've got to post it into this victims of crimes mob in the city. If they want to contact you they've really got a problem, you may have a telephone or you may not have telephone. You may have a postal address or you may not have a postal address, you might live on an outstation or something where there is no post. A lot of the language that's used is very unfamiliar...very, very difficult for a remote Aboriginal person to access the Victims of Crimes assistance program. So what happens? Usually, NAJAA will go out [to remote communities] and people would come in and say this and this happened, NAJAA will sit down with them and help them fill out the form and then take carriage of the matter. So the contact point will be the NAAJA office, not the person directly. And the next time NAJAA goes out the community; they will find that person and say I just want to tell you what's going on with your victims of crime application. So those issues of remoteness, capacity to contact people quickly, language barriers, and all those things, mitigate against people actually getting access to the victims of crime assistance program, and they are the same sort of things that mitigate against them accessing civil law generally. So it really is an access to justice issue (Registrar).

Lack of access to specialist services also emerged as a factor limiting access to compensation:

Let's say an Aboriginal person in a remote community is assaulted and claims a psychological injury because of that. How are you going to get them assessed by a psychologist? With great difficulty I would have thought. There's 2 parts to that. One is getting them from the remote community to the psychologist or getting the psychologist to the remote community. The second is the standard testing that psychologist's use... it has no real bearing or application for Aboriginal people. Now that's not necessarily a fault in the VOC scheme, but it really is one of those issues of complexity, remoteness, communication - all those sorts of things that mitigate against either people applying for it, or maximizing their entitlements under it (Registrar).

Furthermore, proper entitlements to compensation for ongoing injuries or disabilities can be exacerbated by lack of accessibility to specialist services:

The other big problem with compensation up here is also for ongoing disabilities and deterioration after it's been assessed – (NT) victims are at a huge disadvantage compared to other states. It's made worse because of the remoteness of the victims and accessibility to [specialist] medical treatment (Indigenous Legal Service staff).

A further problem is the assessment schedule for compensation, which requires that injuries have to reach a minimum threshold or compensation is not provided:

You've got a schedule of injuries and each injury is worth a certain amount. And injuries have to add up to at least \$7,500 before you get any money. My goodness that's a difficult concept to explain, so I normally just say, 'they've said you've got a problem but your problem isn't big enough to get money' (Indigenous Legal Service staff).

Finally it was noted that culture, such as the expectations of kinship obligations, may limit access to victim's compensation:

I've got one [client] who could get a huge payout for a horrific sexual assault but to do that she needs the support of her community. [However] she doesn't want to bring them in. There are avoidance relationships. The people who know can't speak out because it's their brother, so she is probably going to miss out (Indigenous Legal Service staff).

3.5 Stolen Wages and Stolen Generations

Participants were asked whether they were a member of the stolen generations and/or entitled to money held in Aboriginal Trust Funds or as stolen wages. Participants were also asked if they had identified membership or an entitlement, whether they had had any help or advice about making a claim and whether they were pursuing any claim.

Figure 3.20 provides baseline data for participant responses to the question asking whether they identified as a member of the stolen generations. This graph shows that overall, **15.4%** of all participants identified as members of the stolen generations, with Indigenous women identifying as members at 5.2 percentage points higher than Indigenous men (17.9% of women compared with 12.7% of men) (see **Table 3.23**).

Figure 3.20 Participants Identifying as a Member of the Stolen Generations

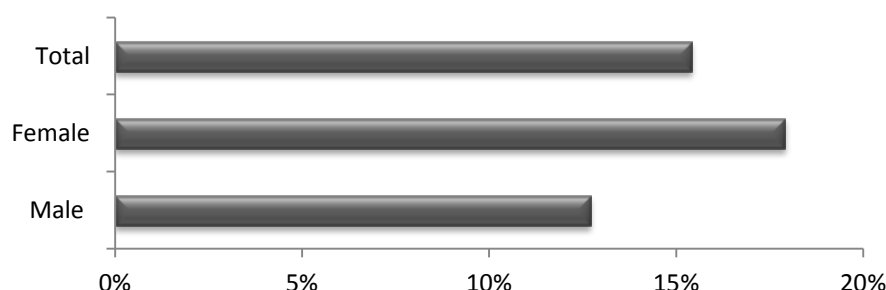


Figure 3.21 shows participant responses to the question asking whether they identified an entitlement to stolen wages. This graph shows that overall, **8.1%** of all participants identified such an entitlement, with the proportion of Indigenous women identifying an entitlement at 2 percentage points higher than that of Indigenous men (9% of women compared with 7% of men) (see **Table 3.25**).

Figure 3.21 Participants Identifying as Being Entitled to Trust Fund/Stolen Wages Compensation

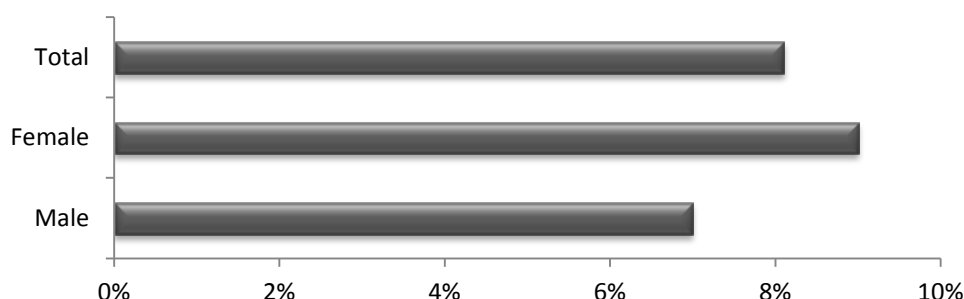
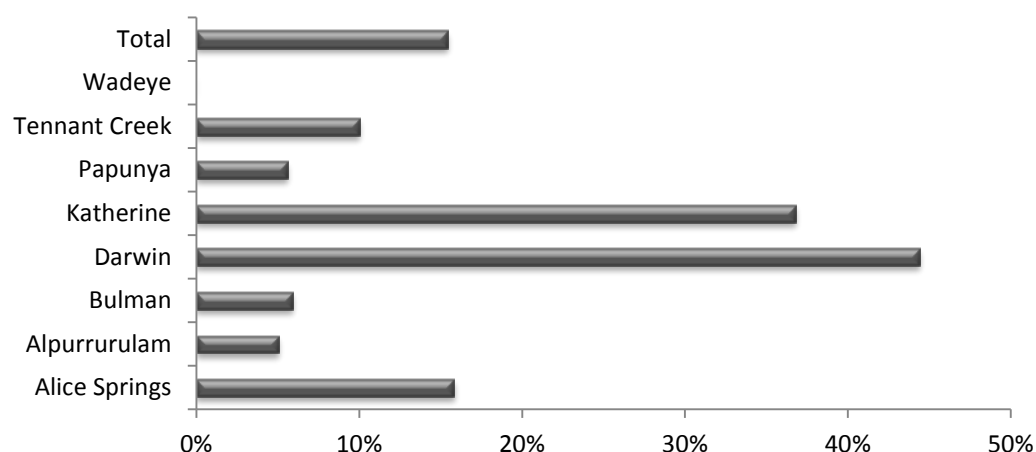


Figure 3.22 shows that membership of stolen generations or entitlement to stolen wages disputes was identified with greatest frequency for Indigenous focus group participants in Darwin, Katherine and Alice Springs. Membership or entitlement was identified by 44.4%, 36.8% and 15.8% of all participants in these three communities, respectively. The communities identifying membership or entitlement with the least frequency were Wadeye (0%) and Alpururulam (5%) (see **Table 3.24**).

Figure 3.22 Participants Identifying as a Member of the Stolen Generations/Stolen Wages by Community



Remarking on the stolen generations generally, one participant in Katherine remarked, ‘it affects our next generation, and all the generations, you know ...’ (Katherine Women’s Focus Group Participant). A legal service provider also suggested that membership of stolen generations is more likely to be identified by community members than any entitlement to stolen wages.

With respect to stolen wages, according to another legal service provider, this was ‘not something that really comes up in casework or advice’, including because there is no formal compensation scheme in the NT in this area. It has ‘come up a handful of times, often in the context of deceased estates. My dad worked for the police as a tracker for 20 years...no clear answers on that’ (Indigenous Legal Service staff). One community-based organisation also indicated that stolen wages does arise as an issue:

You get people come in from time to time saying that ‘someone didn’t pay me correctly’. And it’s really hard I s’pose to follow up because a lot of it is people who worked on stations. A lot of stuff we get is somebody will come in and say ‘Oh I worked at such and such a station in the early 90’s, can you find my superannuation for me’. When the reality of it was that it was sort of like a bit of a board [situation]... people were getting fed, roof over their head, do

some work, and get a bit of like cash money as well. It wasn't... superannuation (Indigenous Community Organisation worker).

A participant who did put a claim in for stolen generations stated that he 'got a lawyer up from Darwin... and of course there is very little communication ... and you're right in the middle of it all, and you don't know what's going on (Alice Springs Men's Focus Group Participant).

3.6 Employment

Focus group participants were asked whether they had experienced disputes or problems in the area of employment in the last couple of years (for instance, in relation to matters such as bullying, working hours, unfair dismissal, or pay) and if so, what the nature of such disputes or problems had been.

Participants were also asked whether they had sought legal advice or help in relation to an employment-related issue. Employment emerged as a significant legal issue in the NT.

Figure 3.23 provides baseline data for participant responses to the question asking whether they had experienced an employment-related dispute or problem. This graph shows that overall, **19.6%** of all participants identified having experienced a dispute or problem of this type, with Indigenous men and women having experienced problems in this area at almost the same rate (19.5% of women and 19.7% of men) (see **Table 3.26**).

Figure 3.23 Participants Identifying an Employment Dispute

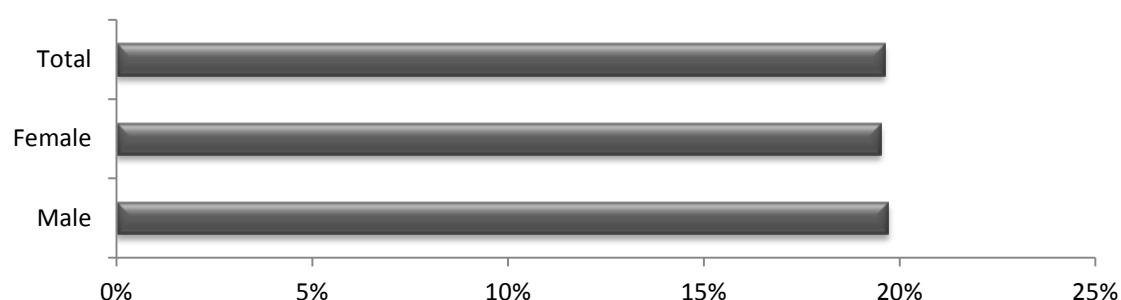
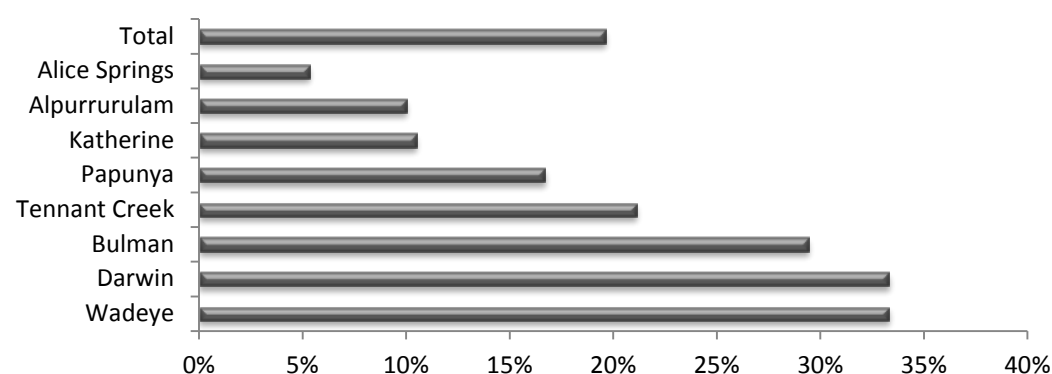


Figure 3.24 shows that Indigenous focus group participants in Wadeye, Darwin and Bulman were more likely to identify an employment-related dispute or problem. An issue of this type was identified by 33.3% of both Darwin and Wadeye participants and by 29.4% of all Bulman participants. The community least likely to identify employment-related disputes was Alice Springs (at 5.3% of all participants) (see also **Table 3.27**).

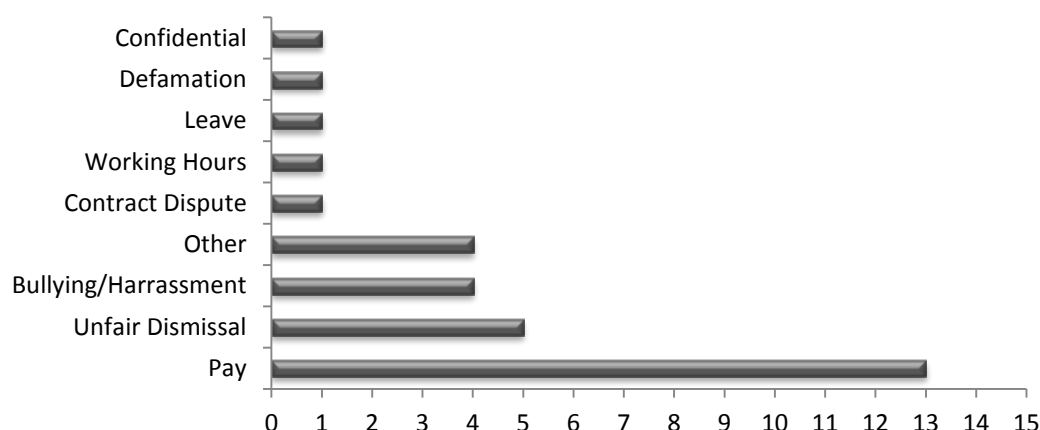
Figure 3.24 Participants Identifying Employment Dispute by Community



3.6.1 Nature of Employment Issues

Figure 3.25 shows participant responses to the question asking them to identify the nature of their employment-related issue. Of 31 responses provided to this question, 13 participants identified pay and 5 participants identified unfair dismissal as the basis of their employment-related issue (see **Table 3.28**).

Figure 3.25 Reason Identified for Employment Dispute



In response to questions asking them to identify predominant legal issues in this area, stakeholders also suggested that they commonly deal with ‘some unfair dismissal....some people not paid at all or [in]correctly on outstations’ (Indigenous Legal Service staff); and, ‘unfair dismissal is the most common... a lot of work health as well’ (Indigenous Legal Service staff). One Statutory Authority stakeholder suggested that there is ‘a lot of family disruption that disrupts employment [for Indigenous people]’:

If someone dies and [the employee is] way over at Alpururulam and they’ve got to go over for ceremonial business there’s nothing you can do. But they haven’t always got 60 days spare to get paid. So then they can’t keep a job or they don’t get paid and it’s all very confusing for them (Statutory Authority staff).

A community-based organisation also stated that Indigenous people do not have ‘much knowledge about industrial relations, getting paid correctly’:

In remote communities, because people don’t know, they just turn up to work and don’t realise they are not being paid correctly, not until you go in there and say ‘this is what you should be getting’ and then they can say ‘well I’m only getting this why’s that? ... You have to ask the question. Then, of course, there are those that say they’ve been working there for a while and they are still under this CDEP. You mean, you haven’t been employed... you’ve been working [under CDEP] for 17 years? 17 years on CDEP. How can you cop that? (Community Organisation worker).

Other stakeholders also raised problems in relation to the CDEP (Community Development Employment Program) and Shires. Some of the relevant issues may relate to concerns around NT and Commonwealth government policy, rather than being actionable in a legal sense. Concerns appear to relate in part to the post-2007 creation of ‘super’ Shires, and the effects, in combination with changes

to CDEP under the NTER, that this has had on communities (specifically, in terms of employment) (see also **Section 3.1.1 Housing** for discussion relating to creation of super Shires, and **Section 3.9 Discrimination**).

The policy context for CDEP has been changing over recent years. Introduction of the NTER initially led to the scrapping of CDEP in the NT. However with the change in the Federal Government, the abolition of CDEP did not go ahead as intended. Instead, most CDEP participants were now immediately to be paid the equivalent of Newstart allowance through Centrelink (rather than paid a CDEP wage by CDEP providers) (and were to be also subject to Income Management). Previously, CDEP workers were eligible for extra money (or 'top up') for working over 30 hours per week⁷⁸, but there are reports of some workers under the revised scheme receiving the equivalent of Newstart for full time work.⁷⁹ Further, there were also reports of reliance placed upon CDEP participants by the Shires as a 'free labour pool' under the policy changes, able to 'deliver a host of municipal services' without needing to be paid regular wages.

A legal service provider stated, in this context: 'It seems to me that there was a lot of pain and anguish about those local governance issues (the changes from local council to super Shires) and about... employment, and about decision making within the community and the loss of power' (Indigenous Legal Service staff). Further, similar comments identifying potential legal issues include the following. Cuts to the CDEP may also have potential impacts upon housing issues, according to one legal service.

Cuts in rates of pay with changes to CDEP, even though doing the same job. Used to be councils with reasonably well paid CDEP, not Shires, and the CDEP top up doesn't apply to most people and soon won't apply to anyone. This is a legislated scheme.... [and that means] no legal recourse. Issues of holding back back-pay that was owed by the Shire, paid out over a period of time, but people might be dead by then (Legal Aid staff).⁸⁰

With employment issues in community it comes round to pay, and the changes to CDEP... With the loss of CDEP, CDEP used to have jobs like parks and gardens, and crews would go out and clean everyone's gardens. That's gone. So if you want your garden cleaned and you live out at Rockhole, you have to call up and [the housing organisation] are going to charge you a couple of hundred dollars. Well people don't have a couple of hundred dollars. And there are all these blokes sitting around doing nothing wishing they had a job (Legal Aid staff).

Other CDEP-related issues were also noted:

We've found not only for employment matters but matters where we have to demonstrate previous employment that CDEP records are not very well kept. I've got one at the moment where this fellow would probably get some loss of earnings, but we can't prove that he was

⁷⁸ Gibson (2010) *Working for the Basics Card in the Northern Territory*, UTS Sydney, 4.

⁷⁹ *ibid*; Gibson states, 'No matter what hours people put on their time sheets, CDEP providers can only pay the equivalent of Centrelink payment'.

⁸⁰ See further discussion in Gibson 2010 and Altman J & Jordan, K (2009) 'The untimely abolition of the Community Development Employment Program', Topical Issue No. 5/2009, Centre for Aboriginal Economic Policy Research (CAEPA), available at <http://caepr.anu.edu.au/Publications/topical/2009TI5.php>. For Commonwealth Government policy around abolition of CDEP, see: <http://www.workplace.gov.au/NR/rdonlyres/31071644-F73A-46BF-82D2-59046CF5057D/0/CDEPNTQuestionsandAnswers.pdf> (accessed July 2012).

working at the time because there just aren't any records. So that is a problem (Indigenous Legal Service staff).

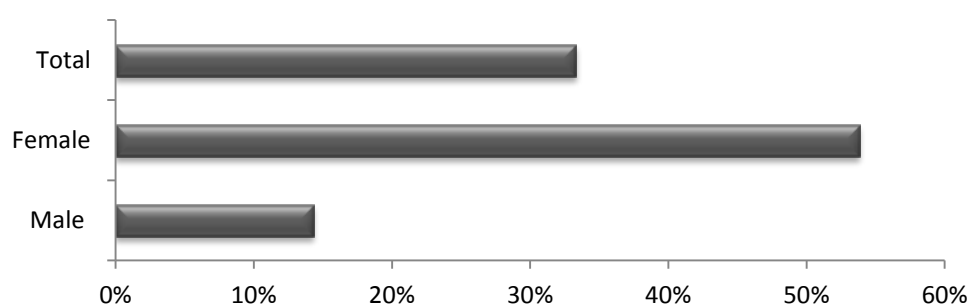
Accessing paid employment generally was also raised as an issue, but whether this constitutes a legal issue, again, is not always clear. As one Indigenous, community-based worker stated, 'with employment, its mostly about getting a job.' For instance, participants explained that there are not enough jobs in Papunya, and even when there are jobs it is too difficult for Aboriginal people to get the necessary training required for these jobs. One participant in Papunya also explained that for those Aboriginal people with criminal records on this community, it is impossible to get employment (Papunya Men's Focus Group Participant). Where the decision to deny an Indigenous person a job is discriminatory, including if employment is *unreasonably* denied on the basis of a criminal record or under-qualification, there may be a legal issue with a legal remedy (see further **Section 3.9 Discrimination**).

The blurred line between voluntary and paid work on communities, and whether workers are entitled to payment when working on or for their community and community organisations, also arose as an issue. Women in Wadeye talked about having to volunteer, and never being paid for their work in the clinic, for example. One community-based organisation also stated as follows:

Health workers would normally have problems. Most of the time, in the middle of the night, the community doesn't actually knock on the door of nurses. They knock on the door of the [Indigenous] health worker, because they are the ones they can talk with, they can communicate with. They normally just still do their job but they don't get paid for it because it's not part of their phone call or call out (Community Organisation worker).

Figure 3.26 indicates that **33.3%** of all participants identifying an employment-related dispute or problem had sought legal advice or assistance. The proportion of Indigenous women seeking legal assistance for employment issues was 39.5 percentage points higher than Indigenous men (53.8% of women compared with 14.3% of men) (see **Table 3.29**). As noted above, however, Indigenous women and men identified employment issues at about the same rate.

Figure 3.26 Participants Who Sought Legal Advice Regarding Employment Dispute



3.7 Social Security

Problems relating to Centrelink payments have emerged as a priority legal issue in the NT. Focus group participants were asked to identify if they were currently in receipt of any type of allowance, and if so, (i) whether their Centrelink payments were subject to Income Management and (ii) whether they had experienced any problems or disputes with Centrelink in relation to payments in the last couple of years, such as underpayments or overpayments, incurring a debt, getting cut off benefits, or the Basics Card.

Figure 3.27 shows that overall, **73.2%** of all participants identified being in receipt of a Centrelink allowance, with the proportion of Indigenous women receiving benefits 18.7 percentage points higher than that of Indigenous men (82.1% of women compared with 63.4% of men) (see **Table 3.30**).

Figure 3.27 Participants Identifying Receipt of Centrelink Allowance

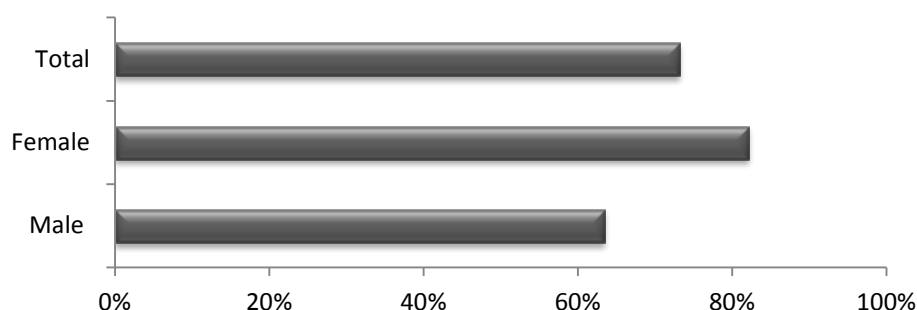
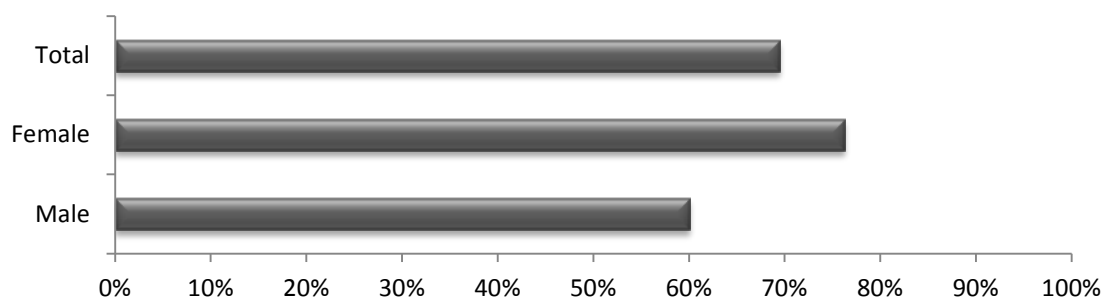


Figure 3.28 shows that overall, **69.4 cent** of all participants in receipt of benefits were subject to Income Management, with the proportion of Indigenous women subject to Income Management 16.2 percentage points higher than that of Indigenous men (76.2% of women compared with 60% of men) (see **Table 3.31**).

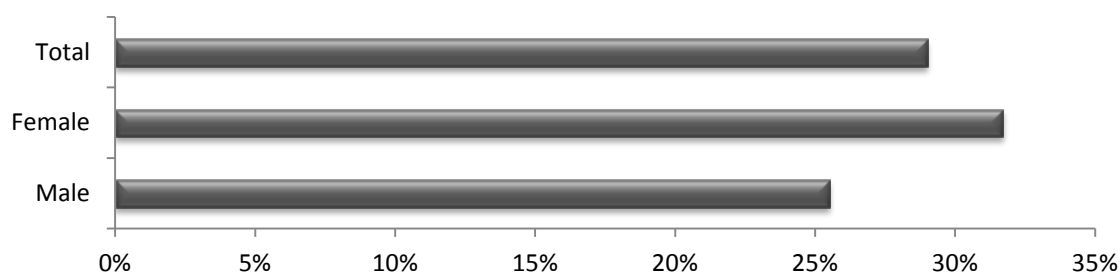
Figure 3.28 Participants Identifying Centrelink Payments Being Subject to Income Management



3.7.1 *Extent and nature of Centrelink and Social Security-Related Issues*

Figure 3.29 provides baseline data for participant responses to the question asking whether they had experienced a dispute or problem in relation to Centrelink payments. This graph shows that overall, **29.1%** of all participants receiving Centrelink payments identified having experienced a dispute or problem in this area, with the proportion of Indigenous women experiencing problems in this area 6.2 percentage points higher than that of Indigenous men (31.7% of women compared with 25.5% of men) (see **Table 3.32**).

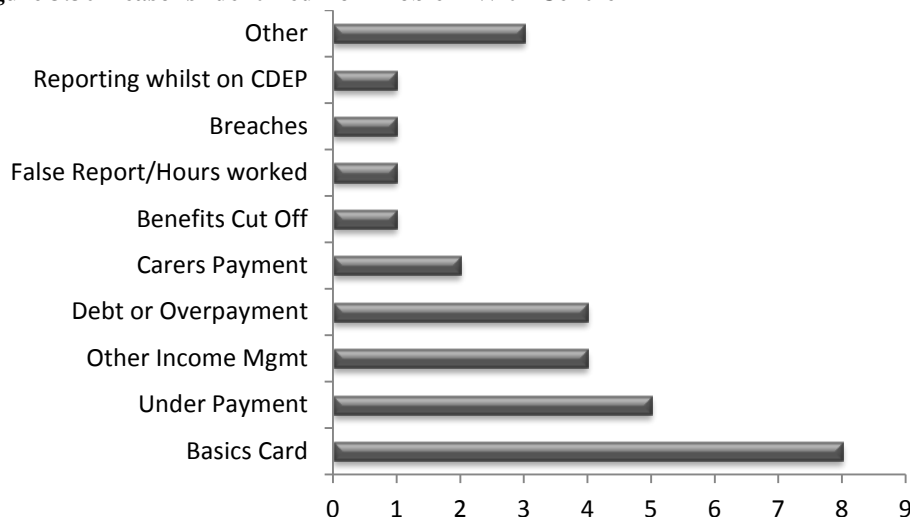
Figure 3.29 Participants Identifying a Problem With Centrelink



Again, some of the issues identified in this area relate to NT-specific policy changes - including introduction of the Basics Card and the Commonwealth's linking of receipt of welfare benefits with school truancy in the NT. Where relevant, the appropriate policy context is briefly outlined below.

Figure 3.30 shows participant responses to the question asking them to identify the nature of their dispute or problem with Centrelink. The most common issues identified in this area related to the Basics Card and to underpayment/reduced payments. Of the 30 responses provided to this question, 8 participants identified the Basics Card and 5 participants identified underpayments and/or reduced payments as the basis of their dispute or problem (see **Table 3.34**).

Figure 3.30 Reasons Identified For Problem With Centrelink



Centrelink's Engagement with Clients

Problems relating to the ineffectiveness of Centrelink's engagement and communication with Indigenous recipients were raised, as the following comments suggest.

One [Centrelink] letter read: 'Dear Sir, you have been identified as a disengaged youth'. And I thought, 'well, you've lost him already!' So communication is a difficulty given that people don't speak English all the time and don't necessarily read it even if they speak it well. Centrelink has a little way to go (Legal Aid staff).

So you can imagine if you've got a language barrier... English is your third or fourth [language] and then you've got to go into Centrelink, and anything to do with Centrelink you've got to get on a phone [including to register for Basics Card]. It's not actually serviced here. Now you imagine trying to explain all that when you're second or third English speaking... So if you have an acquired brain injury or you're an alcoholic or whatever your problem is, where do you go?... Centrelink is a big issue; it's been going on for a number of years, just treatment of Aboriginal people going in there (Statutory Authority staff).

[One major issue is] following up where Centrelink has made a mistake from not acknowledging information that's already been given to them... so just actually assisting [Indigenous] people to manage the relationship with a really big bureaucracy (Legal Practitioner).

Basics Card

Given that it has been frequently identified as problematic, it is worth briefly outlining key aspects of the Basics Card scheme.

The Basics Card was introduced into the NT as part of the NTER's Income Management measures in 2007. Income Management was seen by the Commonwealth Government as a way of controlling how welfare recipients spend their money (and was directed, in this context, towards preventing child abuse and neglect, in part). The Income Management scheme or measure included introduction of the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007 (Cth)*, which provided for the quarantining of at least 50% of government allowances payable to welfare recipients initially located on 73 Indigenous communities. The quarantined portion of benefits could only be expended upon priority items such as electricity bills, food and health.

From 2008, recipients were able to use a Basics Card (similar to an EFTPOS card, but without capacity to make cash withdrawals) to spend part of this quarantined portion at specified stores, with items such as alcohol unable to be purchased on the Card.⁸¹ From mid-2010, Income Management applied Territory-wide, including in Alice Springs and in Darwin. Welfare recipients are now no longer always obligated to use the Basics Card. It is possible to apply for exemptions.

Whilst community responses to the Basics Card and Income Management in the NT are mixed, some problems or issues reported by community members relate to the limited number, location and type of stores in which the Basics Card can be used; stigma attached to having to use the card, sometimes only at separate check-outs in stores; and Indigenous people not being able to (learn to) manage their own finances.⁸²

ILNP participants expressed varying views regarding the effectiveness of Income Management and the Basics Card. All of the older participants in Katherine, for instance, were pleased with the introduction of the Basics Card. 'It stops the humbug. At least I know that next week there will be something left in the Basics Card so I can go and get them some tucker' (Katherine Women's Focus Group Participant). Others were not so content with the Basics Card scheme.

Some people want to be on Basics Card, but get knocked back by Centrelink. One woman's niece had a medical problem... Centrelink said she can't have a Basics Card because she lives in town. People can't understand what the criteria is for why they should be on the Basics Card. There isn't proper explanation for the people in the communities. People are being treated like they are a child (Indigenous Community Organisation worker).

⁸¹ For further discussion, see for instance Sutton, J (2008) 'Emergency welfare reforms: a mirror to the past?' 33(1) *Alternative Law Journal* 27; see also Commonwealth Ombudsman (2012), *Review of Income Management Decisions in the Northern Territory*, available at: http://www.ombudsman.gov.au/files/review_of_centrelink_income_management_decisions_nt.pdf and Buckmaster, L, Ey, C and Klapdor, M (2012) *Income Management: an overview*, Parliamentary Background Note, Parliament of Australia, 21 June 2012, available at: http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/1727168/upload_binary/1727168.pdf;fileType=application%2Fpdf

⁸² See for instance, Equality Rights Alliance (2011) *Women's Experience of Income Management in the Northern Territory*, Canberra, available at: http://www.equalityrightsalliance.org.au/sites/equalityrightsalliance.org.au/files/docs/readings/income_management_report_v1-4_0.pdf

I reckon that Basics Card is pretty shit... you got to ring up and ask them to put money on the Basics Card, and they asking you what you want to do with that money... It makes you feel small, 'ya know. I don't need that, you know (Tennant Creek Men's Focus Group Participant).

[It's about] control...like with the Basics Card... you can only shop at Woolworths or Coles. No-where else. That's shit, that is (Darwin Men's Focus Group Participant).

A female participant in Papunya explained that she is having problems with her Basics Card and the amount of money she is receiving from Centrelink as part of this. The participant has not spoken to a Centrelink worker about this concern (Papunya Women's Focus Group Participant). One legal service identified having to do a lot of CLE in relation to the Basics Card (Indigenous Legal Service staff).

Stakeholders also had some negative comment. One organisation suggested that deductions were taken out for school lunches but that community members actually don't always get something in return for the deduction. Children can be in a different school from the one for which deductions are being made, for example (Indigenous Community Organisation worker).

The whole Basics Card thing has been a degrading initiative. It's accepted, once again, but people have always been against it from day one and our strong leaders up here are dead against it. We are trying to do everything we can to eradicate it from our lives. It's degrading on our men - forced initiatives that we have to accept and we can't do anything about (Indigenous Community Organisation worker).

Introduction of the Basics Card has also led to some consumer-related problems, as the following comment suggests:

[With Basics Card quarantining]... when the Intervention arrived, and suddenly 50% of everyone's welfare payments were quarantined, overnight people suddenly said 'well how am I going to pay for that car loan, how can I pay for this, you know, consumer loan I've got for the fridge I purchased...The Intervention threw up a lot of issues like this (Statutory Authority staff).

Underpayments, Debts and Being Cut Off Benefits

Issues around communication between Centrelink and welfare recipients referred to above may lead to some of the legal issues that participants identified in this area, including debts – in terms of both understanding the debt in question and how it arose.

One focus group participant spoke about a requirement that he has to report to Centrelink the amount of hours he works. He has recently been advised that he has been overpaid and will now have to repay the amount owing. The participant does not believe he has inaccurately reported his hours. He has been to Centrelink a number of times and asked to speak to the manager. He reports that the manager won't see him. The participant has now decided to seek legal advice over this matter (Wadeye Men's Focus Group Participant).

Further comments in relation to debt include the following, again illustrating lack of understanding of recipients about how a debt was incurred and how to respond to it effectively:

The difficulty is that for a lot of our clients, this is something that ‘happens’ to them – a Centrelink debt ‘happens’ to them, and it’s not something they feel much power or capacity to engage with (Indigenous Legal Service staff).

If a standard white person in town gets a \$25,000 debt [from] Centrelink, 9 times out of 10 they’ll know that that might be right or that it might not be right, and they’ll go and seek some advice on it. Whereas our clients, [we] have someone who has been paying off \$80/week for 15 years and they’ve still got \$10,000 left, and we can dispute this! (Indigenous Legal Service staff).

There were also some problems in relation to underpayment or incorrect payments. For instance, one participant explained that her son has separated from his wife and he has two sons. Her son has partial custody of the children, but Centrelink will not acknowledge that he has children in his care. Her son has shown Centrelink court documents clearly stating that he has half custody of his children, but he still cannot receive any financial assistance (Darwin Women’s Focus Group Participant).

Truancy and Benefits

The following comments were provided in relation to Commonwealth Government policy in the NT connecting parents’ receipt of welfare payments with school truancy. From January 2009, a number of NT communities were part of a trial of the Commonwealth’s *Improving School Enrolment and Attendance through Welfare Reform* (SEAM) initiative. SEAM uses possible suspension of income support payments to encourage parents to support their child(ren)’s attendance at school.⁸³ SEAM originally commenced on six communities in the NT, including Wadeye, but was expanded to further communities in 2011.⁸⁴

One legal service suggested at the time of interview (in 2011) that there did not appear to be any major issues arising in Katherine in relation to this policy: ‘I haven’t come across anyone who has had their money cut because their kids aren’t going to school. I imagine that will come though’ (Legal Aid staff). The same legal service continues as follows:

Once the laws [connecting school attendance with Centrelink payment] come in across all communities, services are going to have their hands full. It’s going to have a massive effect on all communities. And I’m not quite sure where to from here with it because if our mob are not getting money...those kids are going to get into more stuff (Legal Aid staff).

Others suggest that benefits are already being cut back in the NT where there is truancy. The participants in Papunya explained that they are getting their Centrelink payments cut because their children are not attending school.

Issues arising in this context may not always have a legal remedy, where benefits are suspended in accordance with law and policy. But one legal service provider raised potential legal problems and issues arising in a situation where parents believe their children are at school, but the school reports their absence, with benefits subsequently affected:

⁸³ For Commonwealth Government information on SEAM, including links to the SEAM evaluation, see <http://www.deewr.gov.au/schooling/programs/pages/seam.aspx>. For comment, see Cowling, S (2009) ‘Suspending welfare payments to promote school attendance: strange logic, unlikely outcomes and a better way’, paper presented at ACOSS National Conference, 2-3 April 2009, available at http://www.childrenyoungpeopleandfamilies.org.au/info/social_justice/research/?a=41463

⁸⁴ See Macklin media release, 14 November 2011, <http://www.jennymacklin.fahcsia.gov.au/node/1297>

I think the legal services are going to be full on trying to handle it – the duty of care from the education department. Like if parents are sending kids on the school bus, thinking that they are going, and then the kid wags, and then their Centrelink benefit gets played with, whose duty of care is it? The parents are doing their job; they think the kids are going to school, why does it come back to the parents? (Legal Aid staff).

In Wadeye too, the wife of one participant has had her Centrelink payment reduced because the school has reported that their children have not been attending school. The participant explained that he believes his children go to school every day (Wadeye Men's Focus Group Participant). Difficulties in ensuring school attendance are further discussed in **Section 3.11 Education**.

Other

Some comments were also made in relation to Centrepay. Indigenous clients of one service found it difficult to keep track of money being deducted through Centrepay, for example. Generally, according to this service, 'there is no information on a Centrepay statement. (Indigenous people) can go and ask someone, but not everyone can do this or has the capacity or knows that they can. This statement might cover a lot of bills (but) their statement is illegible' (Community Organisation worker).

3.7.2 Centrelink and Legal Advice

Only **11.1%** of participants sought legal advice or assistance for identified Centrelink issues. Indigenous women were much less likely to seek assistance than Indigenous men for problems in this area (5.6% of women compared with 22.2% of men) (see **Table 3.35**).

Whilst Centrelink engages with some remote communities quite effectively, according to one stakeholder, the need to have independent legal advisors in addition to, or in order to connect community members with Centrelink was also identified.

Centrelink does go out to communities and that can be quite useful, especially if they are in the community at the same time as you are. Then you can refer to them and they can go over and then come back to you, and quite a lot of things can be ironed out. But there are problems with Centrelink (Legal Aid staff).

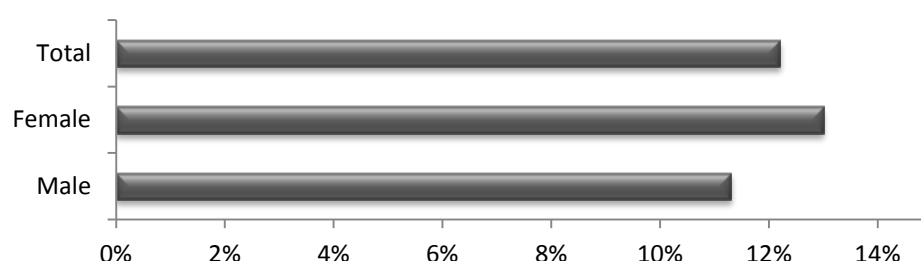
3.8 Family Matters

Issues arising in relation to family law generally centred on matters involving children. While there were not relatively high numbers of focus group respondents who nominated that family law issues had applied directly to them over the last two years, issues around custody/access of children and child protection were widely canvassed. One Indigenous legal service provider commented that members of the board of the organisation did not readily distinguish between family law and child protection systems:

Maybe that's because every time there is a family problem child protection gets involved! It is linked so much more in Aboriginal communities than non-Aboriginal communities...so people realising that they can sort out issues without child protection getting involved I think is a real issue (Indigenous Legal Service staff).

Focus group participants were asked whether they had experienced a problem in the last couple of years in relation to residence of, or contact with, children, or child support.

Figure 3.31 Participants Identifying a Child Support, Contact or Residence Issue



Some 12.2% of respondents indicated that this had been the case for them. The frequency of response was roughly equal between men (11.3%) and women (13%) (See **Table 3.36**).

A recurring theme in the discussion of family law issues among legal service providers was a sense of inapplicability of the system to Indigenous clients:

The family law system doesn't appear to be addressing the needs of community clients and therefore they don't seek assistance from the Family Court. It's all too slow, it's all too far away, and it's just not an Indigenous way of handling things. Having said that, children and family matters are massive, and in my opinion there needs to be much more representation of people in those sorts of matters (Legal Aid staff).

I don't have many family law clients, basically for the reason that the family law system, I think I realise more and more everyday, just doesn't fit the realities of Aboriginal clients (Indigenous Legal Service staff).

My experience of it is when families are within their family groups, family law is not perhaps as needed, because there are alternative dispute solutions. But people up here now move around and marry into different communities and lots of people, I think, don't have access to family law. We have had some people talk to us about 'my-ex took off with the kids, she is their mother and there is nothing I can do because culturally that was ok and appropriate. But I wanted them returned.' Also we see a lot of traditional people having children with non-traditional people and those people fall through the gap because traditional people, perhaps, don't have that understanding of what our legal system could provide. Whereas their non-traditional partner might choose to access the family law justice system (Indigenous Legal Service staff).

One of the biggest things to come up is recovery orders, and I've made quite a few applications for them. Then the issue is keeping people engaged and coming back to court to get final orders; that's a real difficulty that we have. Which, you know, also ties back to how we explain things to say 'look, it is a really long process'. But people only want to come in and tell their story once and then once they get their recovery order that whole concept of final orders is just not [well understood] (Indigenous Legal Service staff).

The difficulties are compounded by remoteness, cultural dynamics and inadequate levels of legal service provision:

We have very few traditional Indigenous family law clients. We do have family law clients in remote communities, it's really difficult to provide service to them because a lot of the requirements of the legislation are difficult to meet. For example we just did this case where mum's [in one location] and dad's in [a different place], and there has been some domestic

violence, and he is very stressed about not being able to have a relationship with his children. But he's not from that area so traditional family meetings won't work because (the mother) is community represented and he's on his own effectively. So he has come to us to talk about it to us and see how he can access his children. But I feel uncomfortable negotiating directly with her, because she's unable to get legal representation as we are the only organisation that will travel remotely and she is not interested in being involved in the process. We have tried to refer them to family dispute resolution, that doesn't work because they will only do it by the telephone remotely and you can't get both parties telephone access, also language issues...We haven't come up with a solution yet.' (Indigenous Legal Service staff).

The requirement for mediation was said to be an additional aspect of the system that was ill-suited to Indigenous clients:

[Mediation is] still really only suiting the needs of more educated and urban clients. Another issue in terms of mediation is who is allowed to attend. Because quite often grandparents really do have a lot of that decision making power, but only the parents, or the parties in dispute, can attend that mediation. So I think some kind of scope for broadened community mediation, a community justice centre...there needs to be a service to be modelled for mediation centres to be visiting remote communities (Indigenous Legal Service staff).

Some communities still have very strong law and I think in those communities perhaps where there is that respect for the elders and the people making the decision, they do have good mediation. But in communities where there is a breakdown, so there is no understanding of the family law act yet, but perhaps a breakdown in the reliance people have on the traditional law, then it's less fair (Indigenous Legal Service staff).

In response to the question of how family law issues are resolved if Indigenous people prefer not to use the family law system, one legal service provider said as follows:

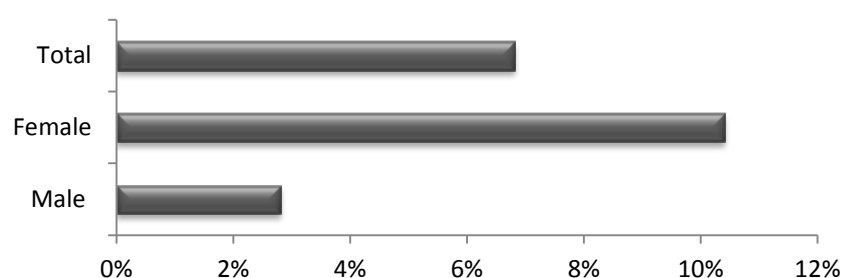
Grandma, aunty picks up the pieces. That's seems to be what happens. Because so often, there is not a lot of money so it's not as though you are going to have a property dispute, so generally matters are about children. And often there are problems with alcohol, or other sort of problems so it's sort of whoever is coping best at the time wins. And that is organised within families. And often it is extended family members who pick up the pieces. People are frightened, in my experience, of going to the Family Court, because they associate it with DCF. So if your husband is beating you up and you want to go to the Family Court and say 'I want to have custody of the children', you are scared silly that DCF is going to swan in and say, 'oh, dad's beating up the children, that's not in the best interest of the children, you are not protecting the children from dad, we'll take the children or we'll give the children to aunty x or aunty y' – you are much better resolving the issue within your own family group (Legal Aid staff).

3.8.1 *Child Protection*

Focus group participants were asked whether in the last two years they had had an issue with:

- a child being removed into care;
- family members taking a child and not returning them; or
- problems relating to fostering, adoption or guardianship.

Figure 3.32 Participants Identifying Child Removal Issue



A total of 6.8% of respondents indicated that this had been a problem for them, with four times the number of women (10.4%) reporting this as men (2.8%) (See **Table 3.37**).

There was some sense among focus group participants that the NTER had brought an increase in child removal. This view is corroborated by the rapid rise in child protection notifications and substantiated cases between 2007/08 and 2009/10.⁸⁵ Participants in the Katherine women's focus group explained that with the introduction of the Intervention, all foster parents [including family members] were forced to complete a compulsory training course in order to become foster parents. For those foster parents who did not complete the required training, their children were taken from their care. In the words of the participants:

Since the Intervention, they've taken all our kids. It's like stolen generation again. That's what it seems like (Katherine Women's Focus Group Participant).

Care and protection matters were said to represent a significant load for courts: 'After criminal matters, the care and protection of children is quite a significant jurisdiction' (Registrar). The involvement of the courts was itself a significant issue in terms of access to justice:

With our remote clients, the courts generally don't hear any civil matters when they go out bush so for child protection matters the parents are out bush but we're here dealing with all the court matters, so they are not participating in that process and not understanding what's going on or the implications if I don't turn up to court or if I don't give instructions to my solicitor (Indigenous Legal Service staff).

On the child protection list this month we had six families in and three were represented - so half. The other parents weren't even present in court (Indigenous Legal Service staff).

The provision of adequate representation for all parties was a repeated theme in stakeholder interviews, including access to legal advice to parents before a court date: 'There are some caseworkers who are good about getting us on the phone early...but there is no official notification system' (Indigenous Legal Service staff). Other observations of the operation of this area of law

⁸⁵ Northern Territory Government (2010) *Growing Them Strong Together*, Summary Report of the Board of Inquiry into the Child Protection System in the NT, Northern Territory Government, Darwin, 21.

continue this theme of paucity of legal assistance and lack of understanding of the legal issues.⁸⁶ The absence of parties when orders are being made was of particular concern:

First of all, the Act in the Northern Territory says that a final order cannot be made until all [parties] have been served. The Chief Magistrate is trying to amend that section of the legislation so that now final orders can be made if the parties haven't been served. And that's problematic for obvious reasons. It's one thing if you absolutely can't find the parents, but the problem that we find is that there is no real interface often between the Department of Child Protection and the parents. Parents are given applications with no interpreters, they are spoken to without interpreters, they're just given a chunk of paper and they don't understand what they are to do with it. Depending on the office you are dealing with in terms of care and protection, some offices will pay for the parents to be brought to court and help them out so they can have access to justice somewhat. Under the legislation and under the policy there is no requirement on the department to assist the family once they have served. The outcome is that it is up to the legal services/caseworkers as to whether they will help them to access a solicitor (Indigenous Legal Service staff).⁸⁷

Legal Services have no funding to fly the parents in for court, the department says they don't have funding, and the courts say it's not their responsibility. And yet there is a legal requirement that parents must be at court (Indigenous Legal Service staff).

Affidavit material is appalling. Failure to genuinely assess family carers is appalling. I had to list something for hearing in order to get them to do an assessment, and they have done that and are looking at reunification... I had to list it to get them to do their job (Indigenous Legal Service staff).

We are having decisions made like that the educational outcomes in a remote community are low therefore the children should remain with foster carers in Darwin. That's the attitude of the court (Indigenous Legal Service staff).

At times, an inability to provide all parties with adequate levels of legal representation compromises access to justice for some parties:

The issue there is that there are multiple parties but limited services. You might have one party represented by a firm in town, and then you might have family who is estranged and need different representation, there are often potential multiple parties and you've got limited places of referral when you've got conflict situations... At the moment private firms represent

⁸⁶ Concerns have been expressed, in particular, in relation to 'Family Way Placements' which occur in the NT. Here, Indigenous children are placed in the care of family members of the parent, in the absence of a long term protection order and without the necessity to extend any provisional or temporary protection orders for the child. The placement is, in one sense, voluntary and informal in nature. However, concerns relate to both the 'legality and propriety' of this practice, including on the basis that the consent provided by parents may be questionable on occasion and because of the lack of ongoing financial assistance provided by the Department to support the placement once it is made. See discussion, for example, in the Northern Territory Government (2010) *Growing Them Strong Together*, Full Report of the Board of Inquiry into the Child Protection System in the NT, Northern Territory Government, Darwin, pp. 331, 348.

⁸⁷ The Supreme Court has now handed down four decisions on appeals in the child protection jurisdiction. They provide useful guidance for the Court and practitioners on the reasoning process required in the assessment of protection applications. In particular, the Court is required to notify parties and give them an opportunity to comment if it is considering making an order which differs from that sought by the Department in its application.

children in child protection matters. They're doing the job but they're not really equipped to ... because of cultural stuff... some of them are shocking. That would be great if we could do that, because we're much better equipped. But then there are conflict issues and we'd have to set up a whole separate section (Indigenous Legal Service staff).

There was also a perception among legal practitioners that there was a movement by the courts towards more significant orders earlier in the care and protection process:

The bench is now making decisions where children are removed unless you can show that it's in the best interest of the child to be with the family immediately, then the court is making long term orders instead of short term orders. If long term orders are made, it's a decision that the children can't be [placed] with their family. We are currently going through the process of trying to appeal some of those decisions so [they don't become] the benchmark that is set. That's going to be a huge problem if that's what happens, if we start having those applications having long term orders made straight away I think that the whole child protection system will collapse... It's really in a bad state at the moment, child protection. With the changes that the Chief Magistrate is implementing and that move towards long-term orders – without the department even making an application for long term orders (Indigenous Legal Service staff).

Other major issues were said to include 'the lack of professionalism and expertise of DCF staff - that's been the biggest one'.

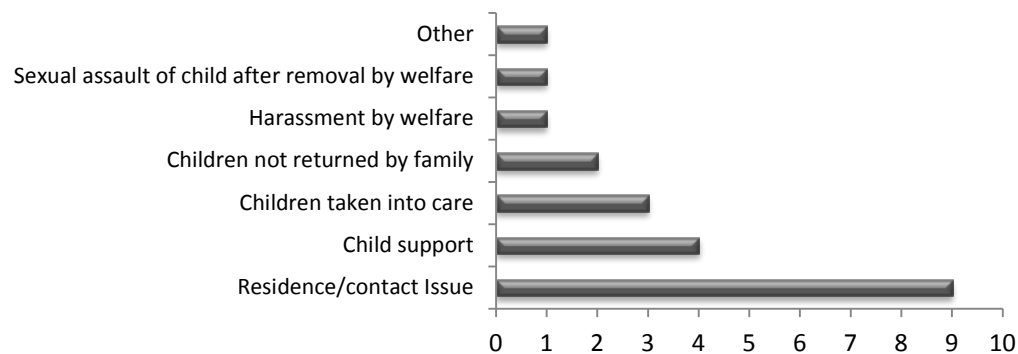
[Understaffing in DCF] means that cases aren't allocated to a particular caseworker which makes it really hard to liaise on behalf of client with DCF. A client might call and say I haven't had access, so you call and try to find the caseworker, or the other thing that happens is that the case has been put in a filing cabinet and when the order comes up for review they say, 'oh the mother hasn't seen the child for 3 years, we're going to go for another order until the child is 18 (Indigenous Legal Service staff).

One focus group participant explained that after having two of her children removed from her care, 'I had to wait two to three months to get an appointment [with DCF]' (Katherine Women's Focus Group Participant).

The geographic realities noted above pose challenges beyond courtroom processes. For example, paucity of local carers in non-metropolitan communities mean that many children in care are placed in Darwin, which is often far from family, making it impossible to have enough visits to move towards reunification (Indigenous Legal Service staff). Concerns were also raised about foster carers moving out of jurisdiction: 'It's creating a new stolen generation' (Legal Aid staff).

This range of issues was reflected in the responses given by focus group participants to a question asking about the nature of the family law issues they had recently experienced that related to children. As set out in **Figure 3.33**, the majority of the issues identified revolved around residence or contact issues, with child support and issues involving DCF being the next most common issues.

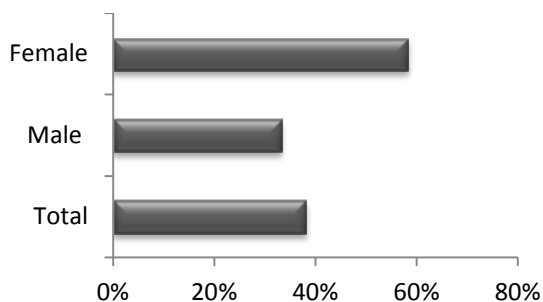
Figure 3.33 Type of Family Law Issue Relating to Children



One focus group participant explained that there was a need for more assistance for parents in the community in relation to child care: a lot of parents have their children removed, but there appeared to be no help for parents to prevent this happening (Wadeye Men's Focus Group Participant).

Figure 3.34 shows that of those who identified a family law/child protection issue, women (58.3%) were more likely than men (33.3%) to seek legal advice (see **Table 3.40**).

Figure 3.34 Participants Who Sought Legal Advice in Relation to Family Law/Child Protection Issue

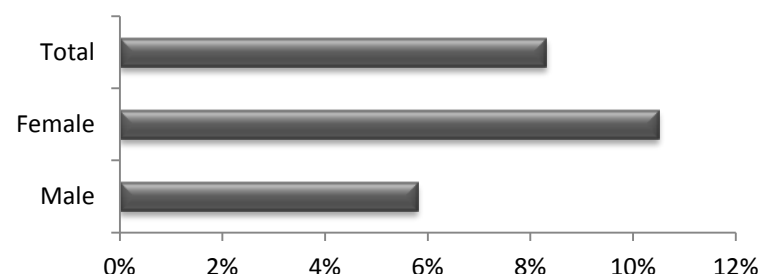


One focus group participant explained that he was helping a couple whose child had been removed. They tried to seek legal advice, but were told they had to wait six months to see a lawyer (Darwin Men's Focus Group Participant). Legal service providers discussed the implications of low levels of staffing in being able to provide adequate levels of service:

When you have a system that is so badly flawed as our child protection system is, you need to have solicitors who are actually running around sorting stuff. In my opinion, the system that [this legal service] has at the moment is not effective...we don't have the funding for it... We don't know what's going on out in the communities. There was for a long time this practice of DCF where they would say that they have decided that mother X is not doing a good job. So they would go out and say to mother X, 'we don't think you are doing a good job, we think that Auntie Y would do a better job, pop child with Auntie Y or we will go to court and get orders to take the child'. So of course mother X puts the child with Auntie, but there has been no scrutiny of the whole process. Who knows that auntie is that wonderful? A busy DCF worker who's just arrived in the community that day, [forms] the opinion, chucks the kid over. You need lawyers, in the position like what I am in, who can go out to the community and listen to the complaints. I think that is a real priority that we just don't have funding to do (Legal Aid staff).

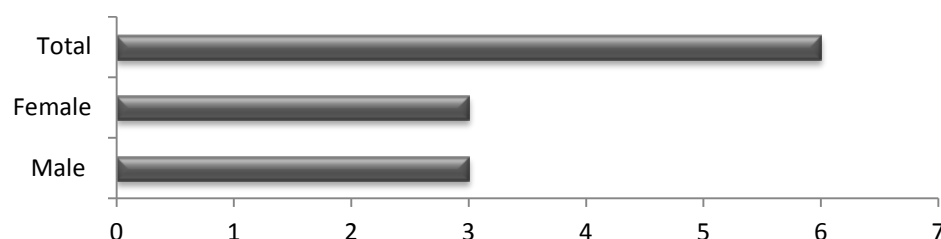
Some 8.3% of focus group participants indicated that they had had disputes over property following the breakdown of a relationship. Although numbers are very small, double the number of women identified a dispute in this area (see **Table 3.41**).

Figure 3.35 Participants Identifying Property Dispute Post-Separation or Divorce



Of those who identified a property dispute following separation or divorce, half (six out of twelve) sought legal advice as shown in **Figure 3.36**. The same number of men and women sought assistance.

Figure 3.36 Participants Who Sought Legal Advice Regarding Property Dispute

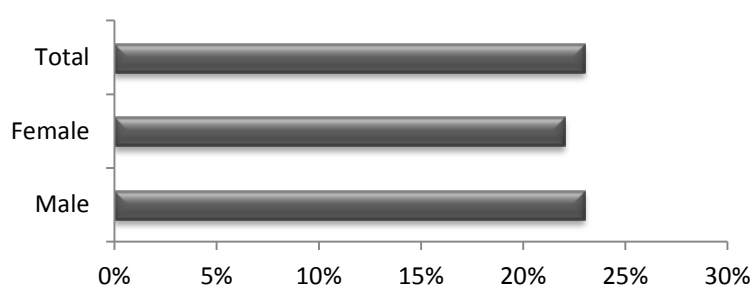


3.9 Discrimination

Discrimination emerged as a major area of priority need during both focus groups and stakeholder interviews conducted in the NT. Focus group participants were asked whether they had experienced racial and/or other types of discrimination over the last couple of years (including on the basis of age, marital status and/or gender, *inter alia*). When discrimination had occurred, participants were also asked in what context it had arisen (such as in clubs and pubs, in government service provision, or in employment, for example). Participants were asked if they had sought legal advice or help in relation to discrimination.

Figure 3.37 shows that overall, nearly a quarter of all focus group participants (**22.6%**) identified having experienced discrimination, with Indigenous men and women identifying having experienced this issue at almost the same rate (22.4% of women and 22.9% of men) (see **Table 3.45**).

Figure 3.37 Percentage of Focus Group Participants Identifying Discrimination Issue

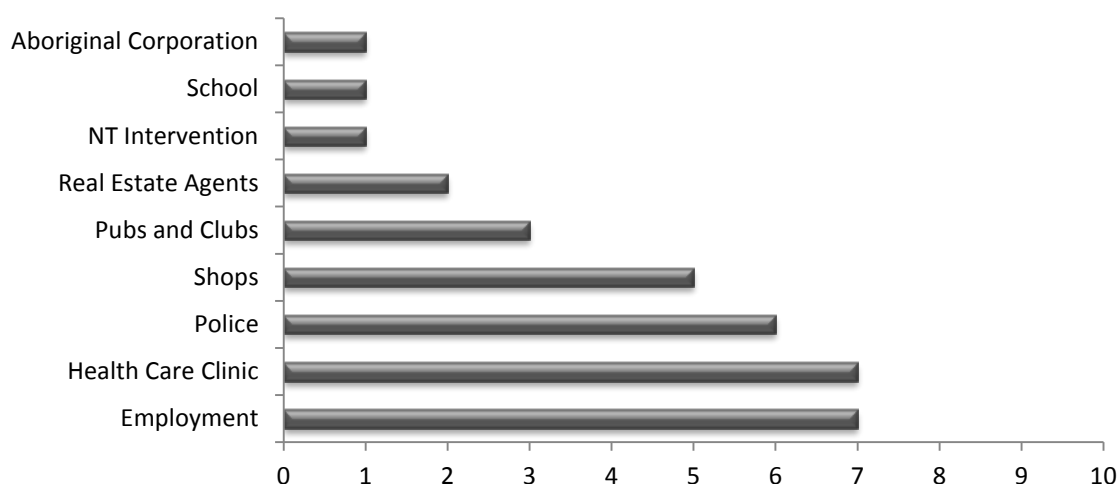


3.9.1 The Nature of Discrimination

Participants were asked to identify the nature of the discrimination experienced. Of the 33 participants who had identified discrimination as an issue, 30 participants named the discrimination as being *racially* based and only one participant defined their experiences as being age-based (see **Table 3.47**). Stakeholders also focused upon racial discrimination as an issue during interviews, rather than discrimination upon any other ground.

Figure 3.38 indicates employment and health care were the most common areas of discrimination identified by participants. Of the 33 responses to the question asking participants to identify the reason for discrimination, 7 participants identified that discrimination had arisen in an employment context and 7 participants identified discrimination in the context of health care provision. Further, 6 participants identified police and 5 participants identified shops as the contexts in which discrimination had occurred (see **Table 3.47**).

Figure 3.38 Place of Discrimination Nominated by Those Who Identified it as an Issue



The NTER

The policy context in the NT has had some effect upon the type and extent of legal needs in the area of discrimination. Participants and stakeholders identified that the NTER had almost certainly

increased levels of discrimination experienced by Indigenous people. Some identified the NTER as itself discriminatory.⁸⁸ As one focus group participant stated:

It all comes back to that Intervention... because they haven't consulted Indigenous people in regards to those big blue signs outside of all our communities that got 'no alcohol, no pornographic' ... I never seen those signs outside Canberra... It's discrimination (Tennant Creek Men's Focus Group Participant).

According to one staff member from a Statutory Authority in the NT, as a result of the NTER there appears to be a widespread assumption that Indigenous people cannot be trusted: 'Since the Intervention, that has been reinforced ten-fold', the staff member claims, and 'people aren't aware that even though the Intervention is in, it hasn't stopped all their rights'. Further, discrimination may not only have increased, but may have become more blatant post-NTER, as this same staff member explains:

People think they can say what they like to Aboriginal people without having any recourse. I have been away a short period and I have come back and it's [like it is] peoples' god forsaken right to do what they feel like to Aboriginal people. It's a bit of a worry.

But, just as discrimination is perceived as having increased as a result of the NTER, so too have other problems and issues. Extra resources provided to agencies, including legal services, to cope with the latter increased problems and issues might not therefore have been directed, as a priority, towards discrimination against Indigenous people.

NAAJA and the Legal Aid Commission are really under the pump as well on how they are funded... A lot of the Aboriginal organisations are happy in one sense from the Intervention because it has given them extra money to do what they can do. But like all Indigenous areas, they then try to load them up as much as possible...and its areas like ours and the mental health stuff that they are going to pull back on (Statutory Authority staff).

A staff member from a Statutory Authority identified discrimination against Indigenous people as most likely to arise in dealings with police and in goods and services, including in the form of Indigenous people being disproportionately subject to surveillance in shops, and in relation to consumer matters and alcohol consumption.

Racial vilification arose as an issue too in focus group discussions, although it was not specifically identified in the focus group questionnaires. Many of the Katherine focus group participants agreed that various forms of racism in the town were common, and that verbal forms of racism were especially bad: 'Some white people see black people on the street ... and they yell out 'black bastard'' (Katherine Men's Focus Group Participant).

Focus group participants rarely raised instances of indirect discrimination, including in both questionnaires and discussion – although stakeholders, particularly legal service providers, did identify potential incidents of this type. This may be due to community members having less awareness of this type of discrimination. Further, whilst indirect discrimination provisions at a Federal

⁸⁸ For further discussion of racial discrimination and the NTER, see, for example, Australian Human Rights Commission (2011) *The Suspension and Reinstatement of the RDA and Special Measures in the NTER*, available at: http://www.hreoc.gov.au/racial_discrimination/publications/rda-nter/NTERandRDAPublication12%20December2011.pdf and Calma, Tom (2010) 'The Northern Territory Intervention: it's not our dream', 27(2) *Law in Context* 14-41.

level would apply to relevant incidents in the NT, significantly, the *Anti-Discrimination Act 1992* (NT) does not cover instances of indirect discrimination.⁸⁹ A staff member from one Statutory Authority raised this issue, and the potential that having such provisions in place in the NT might hold for Indigenous people:

There's a whole heap of issues, and one is that if we have indirect [discrimination], it obviously gives a whole heap of recourse for people, particularly Aboriginal people. But the reality is that our office wouldn't be able to accommodate the complaints [due to staffing issues] (Statutory Authority staff).

Employment and Health Care

Employment was one of the two most frequently identified areas of discrimination, along with health care provision. One focus group participant attended a training course with mostly non-Indigenous people to become a health worker. He felt he was treated unfairly because of his Aboriginality and, as part of this, was accused of stealing one of the staff member's cigarettes, which he denied doing (Bulman Men's Focus Group Participant). Another participant has been working as an Aboriginal health worker for 20 years and reported finding it difficult to challenge discrimination she faces at work. She claims that her non-Indigenous co-workers 'rubbish me when I go working with them... and I stand up to them, but then they really put you down' (Katherine Women's Focus Group Participant).

Some of the issues raised in relation to discrimination in employment are, again, related to the NTER. Whilst implementation of NTER measures may not give rise to potential legal action, a legal service provider explained policy changes in the NT leading to abolition of the CDEP and to introduction of 'super' Shires as leading to discrimination, in at least one instance, as follows (see discussion of policy changes and employment-related legal issues in **Section 3.6**):

People who have been working their whole lives could have been trained up... I came across one man in Galiwinku on Elcho [Island] who worked for the CDEP 20 years in a mechanics shop and then they brought shires in and the shire employed [family members] over him (Legal Aid staff).

This same stakeholder also provided the example of one educated Indigenous woman in a (remote) community and her attempts to seek employment as a Government Business Manager (GBM), a measure also introduced into Indigenous communities as part of the NTER:

I asked her 'why aren't you a GBM?' and she said, 'I asked the current GBM how I apply to become a GBM and he said to me 'you'll never be employed, because you come from this community and they don't want community members applying for the position on the basis that you could be part of one faction of the community and not look after all parts of the community''. I mean... that's discrimination. It's the very people who should be in the job that are being told you need not apply. And if you go to any community now... they are run by white people... whereas the old council were almost always run by Indigenous communities (Legal Aid staff).⁹⁰

With respect to health care clinic services, participants reported feeling that the white doctors and nurses at the clinic in Wadeye discriminate against them. One participant explained that these

⁸⁹ See *Anti-Discrimination Act 1992* (NT), ss. 19 and 20.

⁹⁰ See further discussion, Gibson (2010) *Working for the Basics Card in the Northern Territory*, UTS Sydney.

workers abuse him: ‘When they speak, they hurt your feelings... and you [are only] trying to ask them to help’ (Wadeye Men’s Focus Group Participant).

Shops

A number of comments relating to service provision in shops dealt with alcohol and the introduction of laws in the NT which required that identification be sighted prior to sale of alcohol to customers.⁹¹ As one stakeholder suggested, the legislation disproportionately affects Indigenous people because they are less likely to have ID (Statutory Authority staff). Discrimination in this context may potentially constitute both direct and indirect discrimination.

You know how you have to have ID to buy alcohol in the Territory. Indigenous people would approach the liquor store, and security guards would bar their way and say ‘do you have ID?’ If a white person rocks up, they get let straight through, then you make your selection or not, and when you get to the counter *then* you get asked for ID. Aboriginal people weren’t even allowed into the store, the suggestion being that they might shoplift, or they might not have the intention of buying. With shoes – they have this rule that you have to wear shoes to buy alcohol [but that is selectively enforced along racial grounds]. There is a lot of discrimination that goes on that is just nasty undermining stuff. It’s not huge, but it’s embarrassing to be checked before you have even entered the store (Legal Aid staff).

One stakeholder suggested, in this context, that a major store in the NT ‘had been banned from only ‘ID-ing’ Aboriginal people when they walk in the door’ (Indigenous Legal Service staff).

In another context, a participant approached a store in Wadeye about renting a television. The store had a sign clearly stating that they do rentals, however the store worker informed the participant when she entered to store that this was not the case. The participant explained that she pointed to the sign and said: ‘In other words, you don’t rent things to people of my colour... and she just said ‘Yes’ to me, straight out’ (Katherine Women’s Focus Group Participant).

Another female participant explained that there is a non-Indigenous man who works in a local store in Katherine who frequently yells only at Indigenous children. ‘I said to him, ‘you’re a redneck. I’ve seen a lot of white kids, and all other different colour kids come in here, but you only scream at the black ones’’. Although the participant didn’t consider seeking legal advice at the time, she wishes that she had (Katherine Women’s Focus Group Participant).

Finally, a participant recounted how three young Indigenous kids aged between 11 and 12 were suspected of stealing from the local supermarket in Katherine. They were allegedly handcuffed and dragged from the supermarket to the local police station: ‘I thought that was low. These are just kids’ (Katherine Women’s Focus Group Participant).

Police

Allegations of discrimination raised by Indigenous people against police may have pre-dated the NTER, but as the following comment from one stakeholder suggests, recent legislative changes

⁹¹ Since July 2011, photo identification is required in order to purchase alcohol. By scanning customers’ ID, suppliers are able to identify whether a customer is on a ‘Banned (‘problem’) Drinker’ Register, and to therefore refuse supply of alcohol. For information on the NT Government’s alcohol reforms – *Enough is Enough Alcohol Reforms* - go to:

<http://www.justice.nt.gov.au/justice/alcoholreformnt/enough-enough-alcohol-reforms/index.html>.

increasing police powers in this jurisdiction, including those introduced by the Commonwealth, have exacerbated existing issues:⁹²

And then you've got the police pulling you up in Katherine or Darwin and checking your bags because they know you live in a quarantined area or a town camp, and they take the grog off you without asking you where you are going. 'What is it? Where do you go to?' ... If you have a carton in your car then nobody asks, but if you are walking down the street because you don't have a car, suddenly the cops have a right to hassle you about it. And for a long time, cops would actually take alcohol from people who weren't even drinking it, they were just carrying it off to a place where they *could* drink it, but police would intervene and say, 'no, this is a public place, you can't *have* alcohol' (Legal Aid staff).

Other Areas

Comments relating to other areas where discrimination was experienced include the following.

There has been speculation about discrimination because [of persons being] denied private rental (Indigenous Legal Service staff).

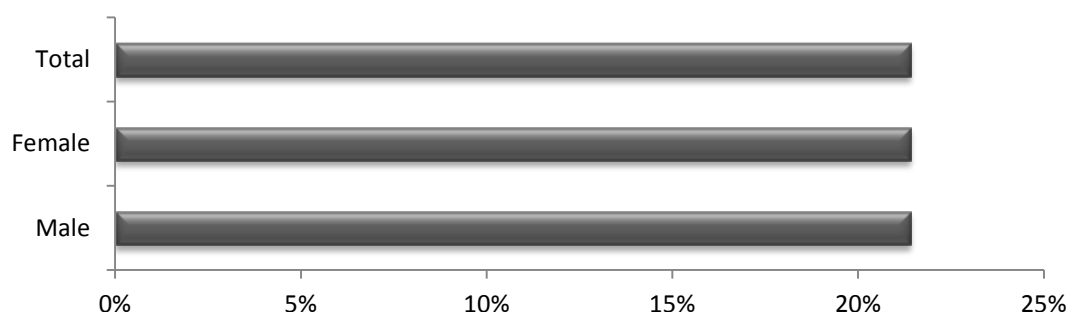
I get Aboriginal people who fly here into town to do shopping, and they have already paid for a return flight, but then they turn up and they get told they are too big [that is, their body weight is too much] and they can't fly (Statutory Authority staff).

There is no social justice to it in regards to appealing [parole decisions], and that disproportionately affects Aboriginal people because the majority of Aboriginal people are in prison. We wrote to them and their comeback was basically, 'it's ok, people on the board are trustworthy.' And so they may be, but that's just not equitable in this country (Statutory Authority staff).

3.9.2 Discrimination and Legal Advice

Figure 3.39 shows that just over a fifth (or **21.4%**) of focus group participants who had identified discrimination as an issue also sought legal help. Indigenous women and men were equally likely to have sought assistance (21.4% of both men and women) (see also **Table 3.48**).

Figure 3.39 Participants Identifying Discrimination as an Issue Who Sought Legal Advice



⁹² For some discussion of increases in police powers, see, for example, Pilkington, J (2009) *Aboriginal Communities and the Police's Taskforce Themis: Case studies in remote Aboriginal community policing in the Northern Territory* <http://www.naaja.org.au/documents/Themis%20Report.pdf>

As suggested by a number of stakeholders and focus group participants, the first significant hurdle to accessing legal advice in this area may be identification of discrimination as a legal issue for which there is a legal remedy. As one stakeholder suggests, whilst discrimination certainly exists in the NT, for Indigenous people it may be 'just a negative, nasty part of life [rather than being considered a legal issue]... The people are just used to it, it's just rife in the Territory' (Legal Aid staff). Other stakeholders and focus group participants also commented on the ubiquity of discrimination. These comments indicate that there is a level of resignation about discrimination, a lack of knowledge about rights, and difficulties in 'naming' an incident as discrimination.

I find that a lot of Warumungu people (the dominant language group in Tennant Creek), they don't understand the law system properly... When they are being discriminated against, they don't know... It's like two separate worlds here... and it's happening everyday (Tennant Creek Men's Focus Group Participant).

Growing up in Tennant Creek ... you tend to grow up with those things all around you. Your parents, your grandparents, they grew up with white people standing over them. And kids and young people today... things might have changed a lot... but that feeling's still there. You know if you walk into that bar and the white person talks to you in the wrong way, a lot of Warumungu people, they wouldn't answer them back... We need to get out there and let people know that you can't be spoken to like that... and if you do be treated the wrong way, you can do this and that [seek legal help]. But all of the people in Tennant, they don't know. They end up just putting their hands up and walking away (Tennant Creek Men's Focus Group Participant).

Definitely with pubs/clubs, although a difficult one to prove. If you've got a client who's gone into a club and caused trouble because they are a bit drunk, it is difficult to argue that they were refused entry because of their race (Indigenous Legal Service staff).

Lawyers may frame discrimination as a different type of legal issue for these reasons.

Discrimination is an interesting one. We get the occasional complaint of racial discrimination, which are notoriously difficult to establish, but we get it feeding particularly into employment a lot. Although with the employment ones we tend to settle them on other bases, so we might allege discrimination and that is often enough to rattle the chains a bit then we'll settle on basis of other issues that came up [such as unfair dismissal] (Indigenous Legal Service staff).

One significant issue is the capacity of anti-discrimination agencies, in particular the NTADC, to engage with Indigenous communities so as to inform them of their rights in this area, particularly post-NTER. A point was made previously in this context in relation to indirect discrimination: 'There needs to be a real engagement now with Aboriginal people, and there is a huge lack of that' (Statutory Authority staff). This stakeholder continues as follows:

People don't even know that they have any rights... Aboriginal people getting treated pretty badly, they won't make a complaint because then there is the other drama [of whether an agency will] have time or staff to sit down and assist.

Indigenous people may have little awareness of the existence or work of agencies tasked to administer anti-discrimination law, including the NTADC. In Wadeye, for instance, when participants were asked if they were aware of this agency, only one participant knew what it was. Similarly, the NTADC reports: 'We do our best. I called the Human Rights Commission and said, 'we never see you

guys...most people don't know who you are''. The NTADC itself suggests that statistics indicate that further engagement with Indigenous communities is required, but that resources restrict capacity in this regard.⁹³

3.10 Accident and Injury

Accident and injury emerged as a significant legal issue in the NT. Participants were asked whether in the last couple of years, they had been involved in a car accident where there was damage to either their own or another's vehicle; and whether they had suffered an injury outside the home (as part of medical treatment, a work-related injury or due to an accident in a supermarket, for instance). Participants were also asked to briefly describe the nature of the accident or injury in question, and whether injuries suffered required medical treatment. Participants were further asked to identify whether they had sought legal advice in relation to compensation and/or insurance for an issue of this type.

Figure 3.40 shows participant responses to the question asking whether they had experienced an accident or injury-related issue. This graph shows that overall, **22.3%** of all participants identified an issue of this type, with the proportion of Indigenous men identifying such an issue at 3.8 percentage points higher than that of Indigenous women (24.3% of men compared with 20.5% of women) (see **Table 3.49**).

Figure 3.40 Participants Identifying Accident or Injury-Related Issue

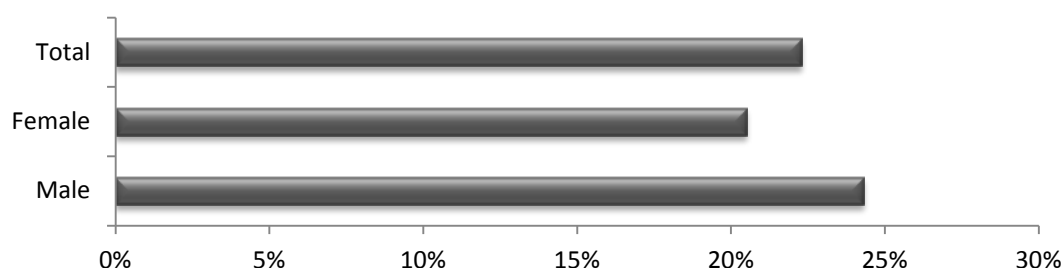
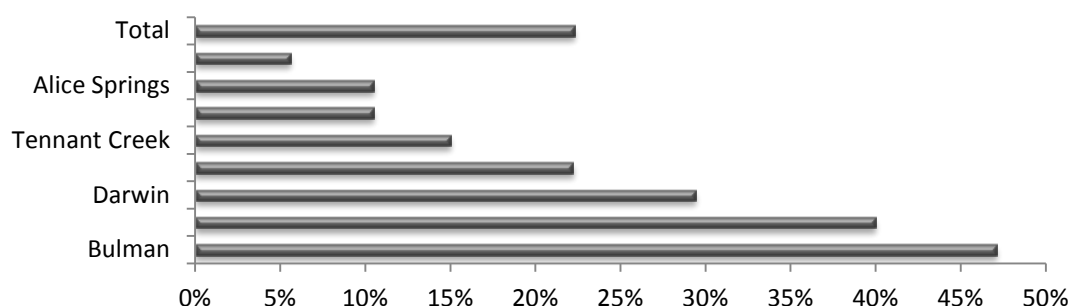


Figure 3.41 shows that Indigenous focus group participants in Bulman, Alpururulam and Darwin were more likely to identify having experienced an accident or injury-related issue. An issue of this type was identified by 47.1%, 40% and 29.4% of all participants on these three communities, respectively. The community least likely to identify an issue of this type was Wadeye (at 5.6% of all participants) (see also **Table 3.50**).

⁹³ The NTADC estimates that Indigenous people only lodged five to ten per cent of 350 individual ADC complaints in 2010-2011.

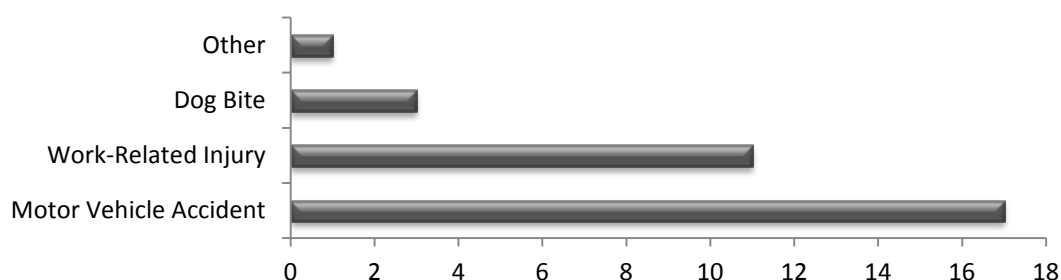
Figure 3.41 Participants Identifying Accident or Injury-Related Issue by Community



3.10.1 Nature and Seriousness of Accident and Injury-Related Issues

Figure 3.42 provides baseline data for participant responses to the question asking them to identify the nature of their accident or injury-related issue. Participants identified that issues of this type most commonly related to motor vehicle accidents and work injury. Of the 32 responses provided to this question, 17 participants identified their accident or injury-related issue as related to a motor vehicle accident and 5 participants identified it as a work-related injury (see **Table 3.51**).

Figure 3.42 Type of Accident/Injury-Related Issue



Stakeholder legal services also identified motor vehicle accidents as a prevalent legal issue arising for Indigenous clients, as well as issues associated with claims for compensation in this area:

We get lots of claims for that, lots of inquiries ‘can we get money for such and such’s accident’ – car accidents mostly (Indigenous Legal Service staff).

Motor vehicle accident compensation is huge. We have arguments with TIO on all sorts of different grounds. A particularly proactive claims assessor who thinks he knows an awful lot on Indigenous culture, particularly marriage, is going out and finding wives from 20 years ago and trying to suggest that they are still married traditionally and therefore entitled to compensation when their ex-partner has passed away... weird. And we’ll have to appeal these, and the appeals are very lengthy and time consuming (Indigenous Legal Service staff).

Motor car injury matters are particularly difficult for our clients to understand because, for one thing, it takes a long time for the body to heal, and so you’ve got a lot of waiting, a lot of doctor’s appointments and so forth. There is a very strong assumption that because you’ve had an accident that you’re going to get compensation. That’s not the case. In the Territory you have to be 5% or more permanently impaired otherwise nothing. For a lot of clients they’re very lucky and heal very well, so no 5% impairment (Indigenous Legal Service staff).

Injury related to medical treatment also arises for Indigenous clients, according to stakeholder legal services, but it may be difficult to base any legal claim upon it, as one legal service suggests, as there may not always be a clear, causal link between medical treatment and injury.

We get a lot of medical negligence complaints. Not many of them go very far. They are again notoriously difficult to prove... [as] actual negligence. A lot of our clients, you've got a lot of people who go to hospital for some sort of serious medical complaint and then they decide they don't want to be in hospital anymore so they abscond and/or they don't come back for follow up treatment and then when they end up... or something goes awful, [something] has gone wrong that's related to the original condition, then it's really quite reasonable for the doctor to say 'well this was the advice; that condition required this treatment and it wasn't followed up and this is what happened as a result'. We've also got the problem that a lot of our clients have multiple illnesses so they end up being very sick people, they go into hospital and die of some complication and family comes to see us and say well those doctors, it's their fault (Indigenous Legal Service staff).

Amputation is a big one: why did so and so lose their foot, then their leg. And it's related to diabetes and renal failure and all that sort of thing, so it's very difficult to actually pin that down as negligence. We do have some that are very obviously negligence, like bleeds to death on the operating table because they haven't organised ... blood properly (Indigenous Legal Service staff).

Figure 3.43 identifies the degree of seriousness of accident and injury suffered by participants, measured in terms of whether the latter required medical treatment. In response to the question asking participants whether they had required medical treatment for an accident or injury-related issue, **78.8%** of all participants identified having to seek such treatment. Indigenous men were substantially more likely to have sought treatment than Indigenous women (88.2% of men compared with 68.8% of women) (see **Table 3.52**).

Figure 3.43 Participants Requiring Medical Treatment for Accident/Injury-Related Issue

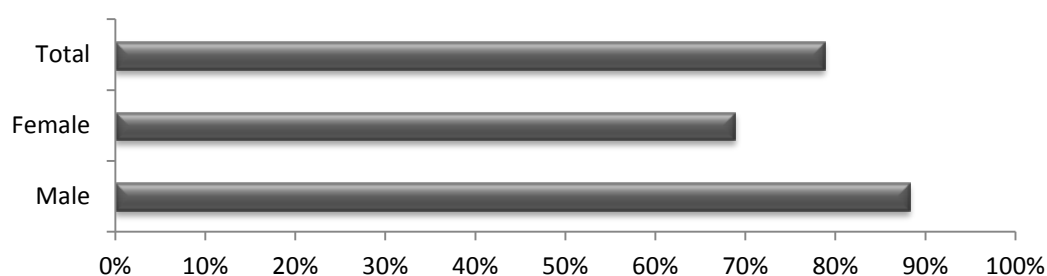
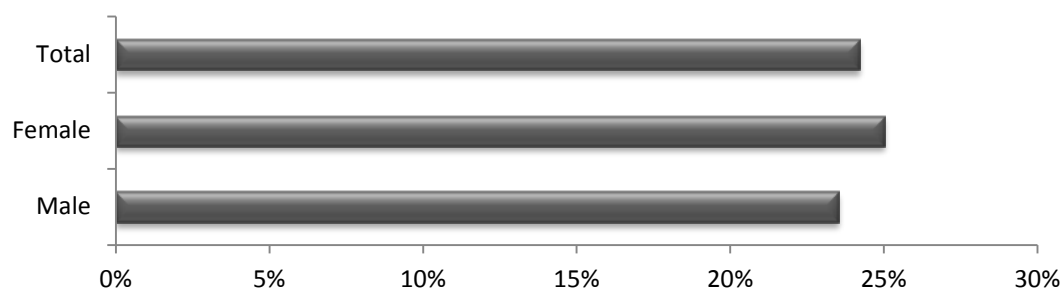


Figure 3.44 shows that almost a quarter (or **24.2%**) of those who had identified an issue of this type had sought legal advice or help (23.5% of men and 25% of women) (see **Table 3.53**).

Figure 3.44 Participants Who Sought Legal Advice Regarding Compensation &/or Insurance for Accident/Injury-Related Issue



One stakeholder legal service identified that assisting one client with a motor vehicle accident claim may increase community awareness, and hence contact between the legal service and other potential claimants in the community around legal issues of this type:

If we're successful with a remote client particularly, if we're successful in getting them large compensation for the death of a family member or something like that, then suddenly everyone remembers that so-and-so passed away in a motor car accident a few years ago and they will come and see us (Indigenous Legal Service staff).

On the other hand, *not* having such awareness or access to lawyers who are able to assist in this area may jeopardise relevant legal entitlements:

Motor accident compensation scheme... I know that when I used to work at [Indigenous Legal Service] we used to come across people who were well out of time for the scheme simply because they knew absolutely nothing about it... Unless someone can find a [Indigenous Legal Service] lawyer to help them fill out the forms and follow the process through, it won't happen (Registrar).

3.11 Education

Education emerged as a priority legal need amongst Indigenous focus group participants. Participants were asked if in the last couple of years they were responsible for a young person attending school, TAFE or university, and/or had attended themselves; and if so, whether they had encountered any problems with issues such as expulsion, bullying or harassment, HECS or other fees. Participants were also asked if they had sought legal advice or help in relation to issues in this area.

Figure 3.45 shows participant responses to the question asking whether they were either attending an educational institution, or were responsible for a young person attending. This graph shows that overall, **40.5%** identified attending or being responsible for someone attending an educational institution. Indigenous women were 11.9 percentage points more likely than Indigenous men to be responsible for someone attending or themselves attending an educational institution (46.2% of women compared with 34.3% of men) (see **Table 3.54**).

Figure 3.45 Participants Identifying Responsibility for Young Person Attending School, TAFE or University; or Attending Themselves

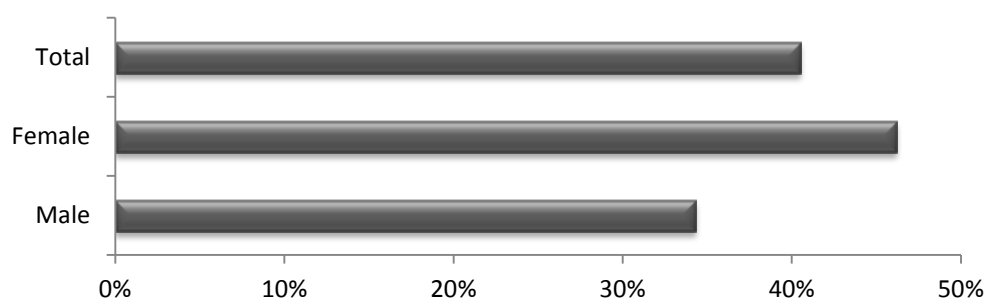


Figure 3.46 provides baseline data for participant responses to the question asking whether they had experienced an education-related dispute or problem. It shows that overall, **33.9%** of all participants who positively responded to the question on education also reported having experienced an education-related dispute or problem. Indigenous men were 13.1 percentage points more likely than Indigenous women to have experienced an education-related issue (28.6% of women compared with 41.7% of men) (see **Table 3.55**).

Figure 3.46 Participants Identifying Education-Related Issue

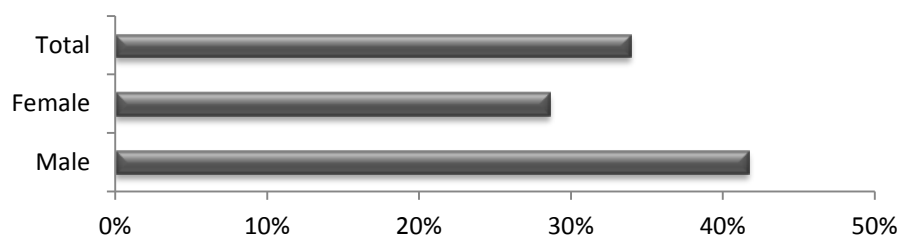
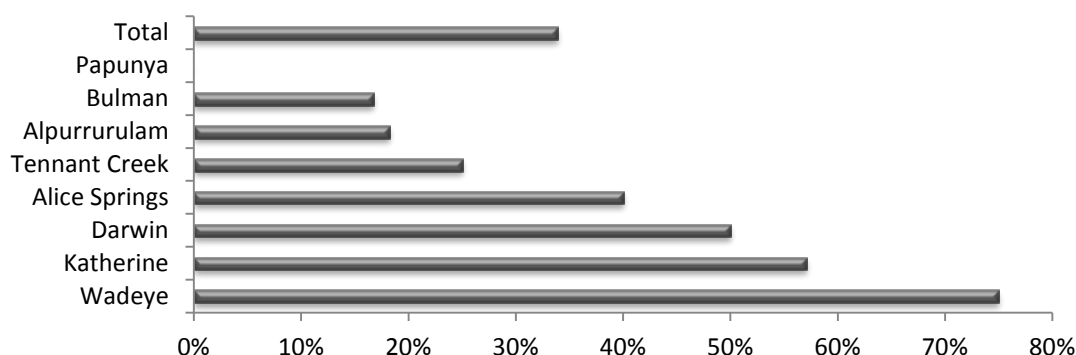


Figure 3.47 shows that Indigenous focus group participants in Wadeye, Katherine and Darwin were more likely to identify an education-related issue. An issue of this type was identified by 75%, 57.1% and 50% of all participants in these three communities, respectively. The community least likely to identify an education-related issue was Papunya (0% of all participants) (see **Table 3.56**).

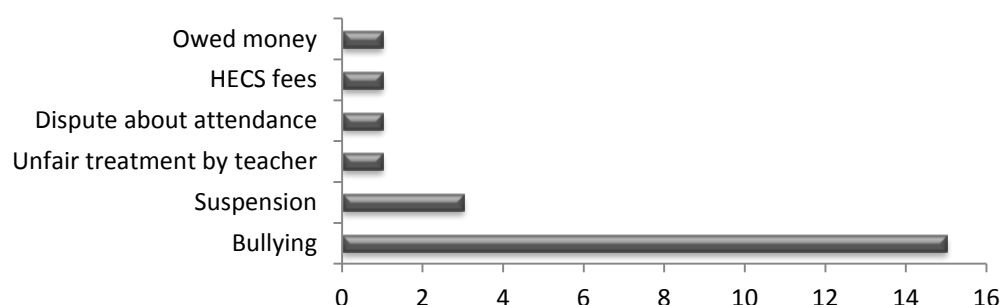
Figure 3.47 Education Issue by Community



Participants were asked to identify the nature of the education-related problem or dispute experienced. Again, a single participant may have identified more than one issue. **Figure 3.48** shows that of 22 responses provided to this question, 15 participants identified bullying as the cause of the problem or

dispute. Bullying was thus the most common issue leading to an education-related dispute or problem (see **Table 3.57**).

Figure 3.48 Type of Education Issue Identified



Legal services identified a number of issues in relation to education, not all of which are likely to constitute a legal problem for which there is a legal remedy. Some issues referred to, however, may constitute direct and/or indirect discrimination:

Complaints about school, whether it be principals not allowing bilingual education to take place...or a lack of consultation...a real feeling of loss of control over the schools and when you've got such a critical point in education of Indigenous kids and the community trying to come forward and suggest ideas and have a discussion with the school about how they can help get kids to school in the first place, study for the full day as opposed to just pulling the gate shut...things not being communicated to parents, excessive discipline – although no parent has wanted to pursue that in the end, but I've heard some pretty disturbing things (Indigenous Legal Service staff).

We have no input into the school. No Aboriginal language in the school. No involvement in planning the curriculum. They have cut back on the Aboriginal staff (Indigenous Community Organisation worker).

([Indigenous] kids with bad hearing get picked on. My grandson was made to sit down in the corner, teachers are being unfair to people with handicap. Kids love going to school, but they are not being treated properly or looked after properly (Indigenous Community Organisation worker).

Further, difficulties that Indigenous people may have in accessing higher quality education – with the latter more likely to be in 'white areas and zoned out where Indigenous communities are' – were also raised, but these difficulties, again, may not constitute a legal issue (Statutory Authority staff). The inference here is that remote education is poorer quality than education that can be accessed by non-Indigenous children. 'Principals of remote schools [have] to get up at 6 o'clock and pick up kids, make breakfast, do the cleaning because they have no support. The education department that's looking after these schools can do a lot more to aid these communities and it's just not happening' (Indigenous Legal Service staff). Further, one participant also explained that at Papunya, there are problems with supervision of children after school, especially for parents who are working (Papunya Men's Focus Group).

A number of comments relate specifically to the linking by the Commonwealth Government of suspension of Centrelink benefits with school truancy. This issue is discussed in **Section 3.7 Centrelink**, as the specific *legal* issue likely to arise when payments are suspended will be social security-related (reinstatement of benefits). In terms of truancy generally, however, which may give

rise to a range of legal issues other than just suspension of benefits, one participant commented as follows. These comments highlight the contemporary social context in which carers must try to ensure adequate school attendance, or be penalised.

We've got children in today's time ... you can't even tell them to get to school. You got grandmother's looking after children today. How can grandmothers force these children to go to school? (Darwin Women's Focus Group Participant).

A lot of kids don't want to go to school. Parents have little control over truant kids. There are maybe Aboriginal Education Officers, but [they are] not sure what they can do. There's no discipline (Indigenous Community Organisation worker).

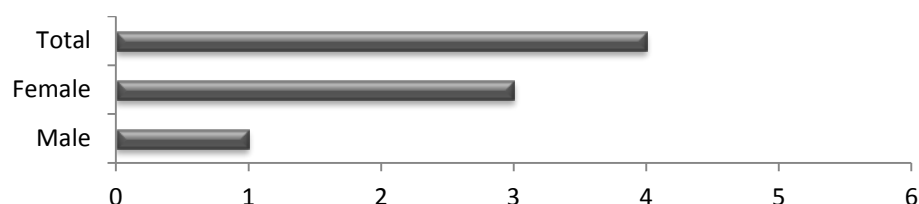
Further, another comment by a legal service provider stakeholder suggests that in the context of the NTER, disciplining children appeared to become more problematic; a point that may also be relevant to the issue of school truancy.

I think the introduction of (the NTER) meant that community members felt they were prohibited from disciplining children. There was a feeling that any traditional form of authority was being spurned by the law (Indigenous Legal Service staff).

3.11.1 Education and Legal Advice

Figure 3.49 shows participant responses to the question asking whether legal advice or assistance was sought in relation to problems or disputes in education.

Figure 3.49 Participants who Sought Legal Advice for in Relation to Education Issue



Only four of the 20 participants (20%) who had identified an issue in this area had sought legal advice or help. Although the numbers are very small, Indigenous women were more likely than Indigenous men to have sought assistance, although Indigenous men were more likely to identify a problem in this area (see **Figure 3.51** above) (see also **Table 3.58**).

3.12 Credit and Debt

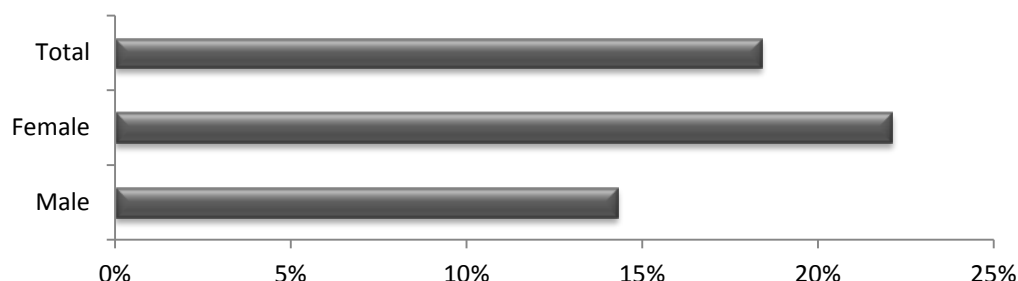
When asked about credit and debt issues experienced by Indigenous people in the Northern Territory, one interviewee summarised their views as follows:

It's too hard for remote Aboriginal people, they just don't have the knowledge of the services that are out there. Perhaps more importantly, the capacity to access the services because they are so remote, because there are such language difficulties and because it is so bloody complex for them to apply (Registrar).

Overall, **18.4%** of focus group participants said that they had had legal action threatened against them in the last two years for failure to pay a bill or repay a loan. Indigenous women were 7.8 percentage

points more likely than Indigenous men to have been threatened with legal action against them (22.1% of women compared with 14.3% of men) (see **Table 3.59**).

Figure 3.50 Participants Identifying a Problem with Paying a Bill or Loan Where Tender Has Threatened Legal Action



Legal practitioners described the range of issues that they deal with that concern credit and debt:

If we can see real legal problems with the formation of the contract we can deal with that, because of language issues or financial literacy and things like that. A good example is a client who spent most of his life in jail, got out and thought ‘where do I get money for a car?’ and walked into a bank and they gave him a loan for about \$25K. He has very low English and no financial literacy skills. So after a bit of a fight we got that waived (Indigenous Legal Service staff).

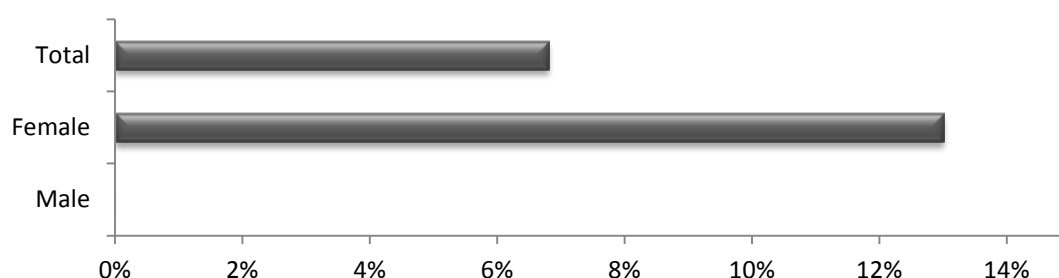
[A main problem is] unaffordable loans. So, now we have a law that requires responsible lending. In the past we haven’t. It’s just people that have been locked into huge car loans and personal loans and credit card difficulties. People who are being harassed by debt collectors, particularly in relation to Telstra debts at the moment. So we are seeing massive \$15,000 Telstra debts that are being clocked up by mobile or internet sort of downloads.... You’d find it very difficult to recover from... A lot of people do have their credit record ruined (Statutory Authority staff).

Lots of bank loans that people couldn’t afford to pay... [one major bank] has effectively acknowledged and written off debts made between certain dates because they understand they are effectively bad debts (Legal Aid staff).

You get a lot of small shop owners who let Aboriginal people from community book up money and the shop owners take their key cards and they get their pin numbers and take as much money as they want out of these key cards... I could name three shops around the corner who are doing it (Indigenous Community Organisation worker).

In total, 6.8% of all focus group participants said that they had a problem relating to their credit reference rating or to bankruptcy. As **Figure 3.51** illustrates, this was exclusively identified as an issue by female participants, and some 13% of women identified it as an issue in focus groups.

Figure 3.51 Participants Identifying a Problem Relating to Credit Reference Rating &/or Bankruptcy Problem



Issues of this nature were said to be connected to levels of financial literacy more generally, which in turn are related to access to levels of effective (non-legal) services in this area:

A fair number of clients have needed financial advice, counselling or just someone to just sit down with and explain what it means to save and budget and that sort of thing and it's been impossible to find. We know that there are groups that do go out into communities to provide that service, but it's really been hard to coordinate and really hard to tee up. You know, we can't provide that financial advice and there comes a point where that's a referral we need to make. But in terms of providing an effective response - someone to go and give quality time and sit down with those people...getting someone out there is driving me nuts (Indigenous Legal Service staff).

Sometimes you can get a good outcome but it doesn't help the larger problem. For example, you might get a Centrelink debt cleared but they don't understand why the debt was there in the first place or how to avoid it happening again (Indigenous Legal Service staff).

In the words of one focus group participant, commenting on his attempts to affect the repayment of a bank loan:

I went to the bank last year ... asked them how much I owed, and they said \$30,000. I went to the bank the next year and asked them how much I owed and they still said \$30, 000. I get \$2000 per fortnight [in compensation payments]. They take \$1200 out ... I just deal with them myself. You don't ask for help, you help yourself. That's what I been taught from small (Darwin Men's Focus Group Participant).

Stakeholders also talked about problems with loans:

(There is limited) awareness of the (loan) contract. Not just the total amount, but with interest what they are really up for. We talk to them about shopping around. Some companies can be very intimidating to clients once in arrears (Community Organisation worker).

The breakdown of credit/debt issue identification by community is shown below in **Table 3A**. Most commonly, issues were identified by the Darwin focus groups.

Table 3A Focus Group Participants Identifying: (a) Debt Problem Where Lender Has Threatened or Taken Legal Action; (b) Problem with Credit Reference Rating, Guarantor for Another's Loan; and/or in Relation to Bankruptcy

Location	(a)	(b)	Total
	No	No	No
Alice	3	1	4
Alpurrurulam	3	1	4
Bulman	6		6
Darwin	7	5	12
Katherine	3	1	4
Papunya	1		1
Tennant Creek	4	2	6
Wadeye			
Total	27	10	37

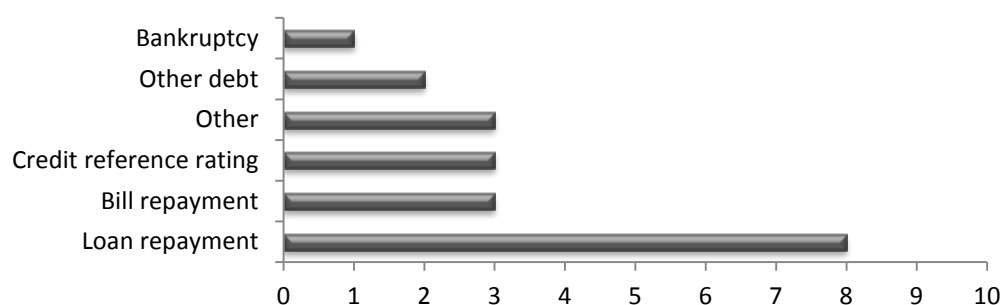
NB. A total of 27 individuals identified 37 issues across both categories. 10 individuals identified both (a) and (b) above as issues – five of these individuals were in Darwin and the rest spread across other focus group communities. All 10 individuals identifying both (a) and (b) as issues were women.

Difficulty in repaying loans was the most prevalent credit and debt issue identified by focus group participants. In relation to unmanageable levels of credit card debt, one stakeholder commented that ‘people get them while on a job and then lose the job and debts keep accumulating’ (Indigenous Legal Service staff). Although numbers are small, loan repayment was identified with more than double the frequency of any other credit/debt concern. One stakeholder suggested that debts most commonly arise in relation to phones, unpaid credit cards and motor vehicle repairs (Registrar). According to one legal service, there is a real need for a finance legal service, in particular.

I can see a real place for a finance law civil service...Finance, that's difficult, that's different, and you do need to know the sneaky tricks. Some things wouldn't occur to me as something to advise the client about.... Either that might be training for a regular lawyer like me, or it might be... I think that is a real gap, one of the biggest civil law gaps (Legal Aid staff).

Figure 3.52 shows that the most common reason cited by focus group participants for a credit debt issue was loan repayments.

Figure 3.52 Reason Identified for Credit/Debt Issue



Focus group participants were asked whether they had sought legal advice in relation to either a credit/debt problem or in relation to their credit reference rating, being a guarantor or in relation to bankruptcy.

Figure 3.53 Participants Identifying: (a) Debt Problem Where Lender Has Threatened or Taken Legal Action; (b) Problem with Credit Reference Rating, Guarantor for Another’s Loan; and/or in Relation to Bankruptcy, Who Sought Legal Advice or Help

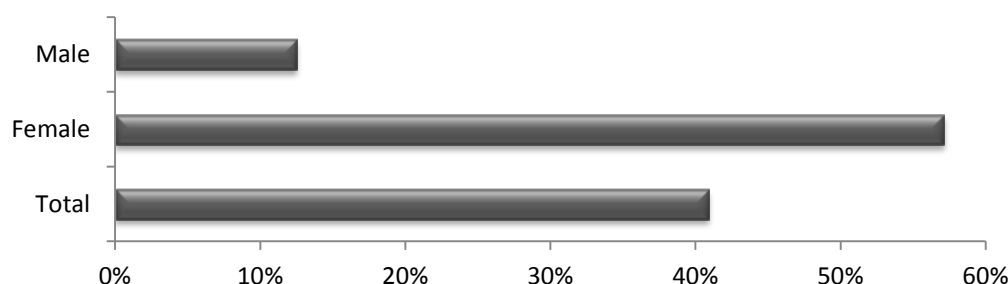


Figure 3.53 shows that 40.9 % of participants who identified a debt problem, credit reference rating problem or bankruptcy issue sought legal advice. Women were much more likely to do so than men (57.1% compared to 12.5%).

Fines were an issue of particular concern, because of the possibility of escalation of non-payment of fines to cancellation of license and ultimately, as a funnel into the criminal justice system.

In the Territory, if you get a fine, you have to pay it, or else your license gets suspended. So there is a big push for people to pay their fines off (Legal Aid staff).

A default in payment plans leads to gaol. I think this is a big problem with our legislation, that civil debts are leading to gaol, which doesn't happen in Victoria for example. And also the penalties attached to each fine are monumental because you have a fine and you have a victim's levy and both the levy and the fine attract the enforcement penalty of non-payment at particular times (Indigenous Legal Service staff).

A lack of knowledge about how to deal with fines is a central part of the problem:

We are seeing fines not just double but triple and quadruple over a period of time. I just think that is an issue of a systemic injustice, there has to be a cap on how much an individual fine can increase, and there have to be meaningful waiver systems as well. There is a real difficulty in terms of converting to community work. In Victoria they have a system with a special circumstances list, where certain court ordered fines can be waived on the basis of homelessness, mental health...here, although there is an exceptional circumstance provision, it is virtually ignored (Indigenous Legal Service staff).⁹⁴

It's such a big issue, but again the fact that people are so disempowered by the process means they continue to accrue fines; they have no means of actually getting their fines sorted out... When we are in bush courts, we can do some CLE around fines to raise awareness about how you can just get your fines sorted out. Recently the fines recovery unit went to Port Keats on

⁹⁴ For some detail on 'special circumstances' as it arises in matters involving fines in Victoria, see <http://www.homelesslaw.org.au/page/502/application-for-revocation-if-the-client-has-special-circumstances->

the day of court, it made such a big difference, so that they don't keep accruing (Indigenous Legal Service staff).

3.13 Consumer

Focus group participants were asked about the types of problems that they had experienced as consumers in the last couple of years. These included problems accessing or finding superannuation, a dispute with bank or other financial institution, a dispute over insurance, problems with contracts, commercial scams or other situations where a person paid for goods or services they did not receive.

The responses can be broken down, community by community, as shown below in the **Table 3.2**. Bulman and Darwin were the communities where consumer issues were most frequently identified.

Table 3B Consumer Issues by Community

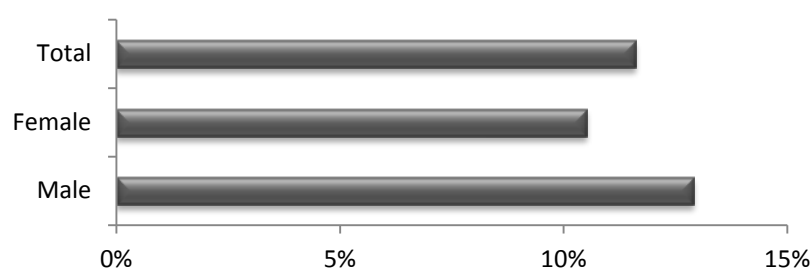
Location	Financial Institution	Insurance	Commercial Scams	Other Consumer Issues	Total
	No	No	No	No	No
Alice	2	1	1	2	6
Alpururulam	3		1	1	5
Bulman	2	2	5		9
Darwin	3	1	4	5	8
Katherine	2	1			3
Papunya	3	1			4
Tennant Creek	1			1	1
Wadeye	1	1			2
Total	17	7	11	9	44

NB This is the total number of consumer issues identified by community – it is not the total number of individuals identifying consumer issues as some individuals may have identified more than one type of issue.

The breakdown of the types of consumer problems experienced across all focus communities included finding and accessing superannuation, disputes with banks, disputes over telephone contracts, and disputes insurance, pay TV contracts, faulty and undelivered goods, insurance and vehicle repair (see **Table 3.69**).

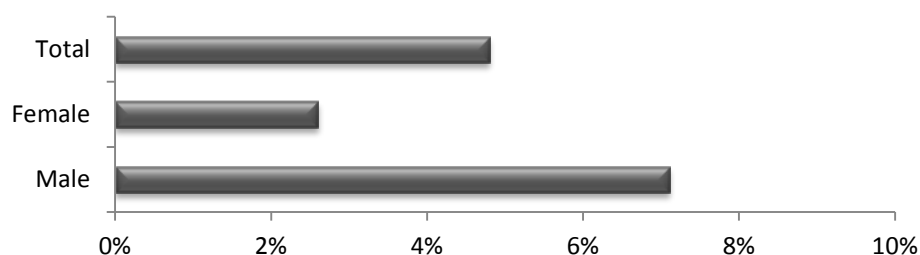
As shown in **Figure 3.54**, some 12% of all focus group participants said that they had experienced a problem accessing or finding superannuation, or that they had had a dispute with a bank or other financial institution over the last couple of years. Men (12.9%) were more likely to identify this issue than women (10.5%).

Figure 3.54 Participants Identifying a Problem with Superannuation &/or Financial Institution



As shown in **Figure 3.55**, 4.8 % of participants said that they had had a problem with insurance. Although the numbers are small, more than twice the number of men than women identified this as an issue (7.1% compared to 2.6%).

Figure 3.55 Participants Identifying a Problem with Insurance



One stakeholder commented as follows.

Financial consumer matters like superannuation, insurance, funeral plans, unclaimed monies is becoming a big one too at the moment... If your banking institution or financial institution loses contact with you, then that money gets rolled into general revenue. So [there is]... a huge pool of [unclaimed] money [belonging to Aboriginal people and organisations]. The largest amount of lost money in the NT... is \$150,000... [This was from] one of the most impoverished communities in the Northern Territory – a huge amount of money... It's just inconceivable that this money has just been sitting there. Letters went unanswered... You go out to these communities, and there's often a council office or something. You can see the mail sitting there, a lot of it.... You see a lot of commercial sort of matters, sometimes there's debt collection, sometimes they're in relation to bank accounts, or superannuation accounts or something (Statutory Authority staff).

Further, whilst superannuation 'doesn't appear to be relevant to Indigenous people because they are not living as long as people in mainstream Australia' (Statutory Authority staff), it *is* of relevance and an issue that Indigenous people require more legal and other assistance with, particularly as it arises in the context of wills and estates (see also **Section 3.3**).

First of all, people don't understand super and some people will argue that super is totally irrelevant for Indigenous people anyway.... And then, they don't understand the insurances, and the life insurance that might be linked to an insurance policy and superannuation policy included in it. Then there's all the ID requirements which people are struggling with. So even if you do have a will, often the names are different from the names on super policies or insurance policies. There's appalling stories of people who have been entitled to a superannuation payout, and who have been assisted at the point of death in their hospital bed [with] legal documentation, but the super funds have then rejected the claims later. Most people just don't have anything to claim, but sometimes when they do there's no real assistance being provided there (Statutory Authority staff).

A community-based organisation suggested that 'superannuation has been the flavour of the month, probably of the last couple of years I s'pose, because you have organisations like the tax office (and ASIC) putting publications out for Indigenous people... So people are now starting to talk about it

and they come here a lot to sort of seek assistance with it - how can I find it, how can I locate it, how can I access it'. This organisation continued:

A lot of my clients, being Centrelink recipients, depending on the super company can access if they've been on Centrelink payments continuously for six months under financial hardship provisions. And I s'pose the thing is for a lot of Aboriginal people is that, and especially the way it is going now, is that with their shorter life expectancy there's not that sort of importance of saving to retirement, having that big nest egg. A lot of people think I am not going to make it to 60 or 65, I wouldn't mind having that money now. It's really hard to encourage people to say you need to save for when you are 65 and retirement, when the cold hard facts are that the person is not going to reach that age and have any benefit of the super (Indigenous Community Organisation worker).

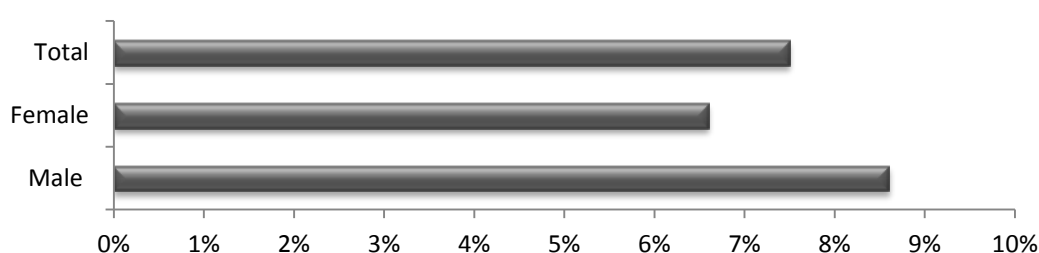
In terms of bank-related problems, issues relating to ATMS were also raised by some stakeholders:

Some ATMs are private and can charge so much money for transactions. As they only let people take out a little bit of money each time, this can add up for each transaction. Might be \$10 per transaction. This happens in town too, but on communities especially. They are more disadvantaged. They control your money more because people don't have access to regular ATMs in town (Community Organisation worker).

There's been a taskforce looking at ATMs. Fees are a big issue. They need to access machines to look at their balance, for a start. ATMs should be free. They might check their balance more than once – a few times or more [daily]. This can cost \$3.50 - \$10 per transaction (Indigenous Community Organisation worker).⁹⁵

As shown below in **Figure 3.56**, some 7.5 % of focus group respondents reported a problem with scams or contracts in the last couple of years. This was explained as including things like funeral funds, used car sales, photographic deals or high-pressure sales. Men (8.6%) were slightly more likely to report a problem in this area compared to women (6.6%).

Figure 3.56 Participants Identifying Problem with 'Scams' or Contracts



It should be noted that the recorded numbers may be lower than what is actually experienced because the questions do require the participants to identify, to some degree, sales approaches as 'scams'. This was reflected in the following statement from a legal service provider:

⁹⁵ See Australian Financial Counselling and Credit Reform Association (AFCCRA) (2010) ATM Fees on Indigenous Communities, West End, Queensland, available at: <http://www.financialcounsellingaustralia.org.au/getattachment/Corporate/Publications/Reports/ATM-Fees-in-Remote-Indigenous-Communities.pdf>

A lot of people don't identify their problems as legal problems...with consumer stuff, we find we have a lot of unconscionable contracts, but people just know that they are getting bills from Telstra or Austar, but they don't identify that as a legal problem. So it is hard when we walk up to a group of people and say 'hi, we're [a legal service] and these are the things we can help you with. It's hard to explain it [civil law issues] anyway generally, and it's hard to explain it in language that people understand, especially when we don't have interpreters (Indigenous Legal Service staff).

Similarly, issues were raised in relation to the level of understanding that people have that they have entered into a contract, or what the terms of such contracts are. Pay TV presents a good case study of this:

...people not understanding their repayment obligations, and the other big thing is people not understanding that they have to return the box, which then means that I've got a few clients who are then on the credit blacklist because they haven't returned the box and you have a three hundred dollar bill. And the clients think 'I've disconnected it why are they sending me more bills' and don't do anything about it. And then you've got a bad credit rating, you've defaulted on that (Indigenous Legal Service staff).

One emerging area of concern was in relation to the sale of photographs by 'people who sit in the shopping centres. The idea is that you get baby photos taken and you pay it off over a period of time, and you don't actually see the photos until you've finished paying for them, and it can be quite a lot of money, up to \$1500 over a period of time' (Indigenous Legal Service staff). The issue is compounded where the company chooses a name that suggests that they are an Indigenous company offering services for Indigenous people. In this case, consumers are more likely to trust that they are being offered a fair deal:

We have a couple who have just spent \$800 on a couple of portraits, a mug and a stubby cooler. We are investigating that...the client said to me 'I heard they might be shonky, but with a name like [company name] I just thought they couldn't be because they are obviously working for Aboriginal people (Legal Aid staff).

A similar comment was made in relation to the selling of funeral funds to Indigenous people, and to the high likelihood that traders in this way may deliberately 'target' their products to Indigenous consumers.

In relation to [a certain funeral fund], that wasn't an Indigenous corporation but it almost promoted itself as being one. So, it used the Aboriginal flag, it used the word Aboriginal in the title. So that was another organisation that was targeting. Over the years it stopped misusing those sorts of terms and images. For many years... businesses have regarded Indigenous consumers as easy targets for selling some products (Statutory Authority staff).

Car dealerships and motor vehicle repairs were also identified as areas where vulnerable Indigenous consumers may be 'scammed' or 'ripped off':

We also get a lot of: 'I've taken my car in to get fixed, they've quoted me \$6000, but I've only got \$3000 and I don't know how I'm going to pay the rest', and then the car gets gotten rid of, or lost. So, lots of car issues, because a car for lots of community people is really, really important. There's no public transport, there are huge distances, so if you don't have a

car, you have to go to these little crap stores, where it costs a fortune and the food's not great. So a car's a huge thing and people are getting ripped off all the time (Legal Aid staff).

A lot of car yards in town have sold Aboriginal people crap vehicles and deliberately got, deliberately organised credit for them without checking their background but just to stack up the numbers so that their commissions can be warranted. Yes. That's a major issue... With car dealerships, that's been an issue for a long time. That's why when you go to communities and you'll see decent cars that are buggered because something was wrong with them. They've only driven that car back to that community and it dies on them. It's just seen as 'no it doesn't work anymore, we'll just leave it' (Indigenous Community Organisation worker).

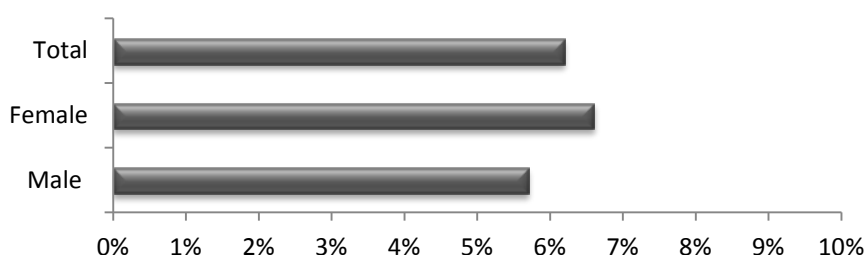
Lots of issues with motor vehicles: a lot of community people get a big whack of money at one point in time, whether it is for royalties or something else, so you've got the money, you need a motor car, you drive up to Darwin for a short period of time, go to a car yard and without doing the proper check, have bought a lemon, and then 'what do I do now, I've got a lemon' (Legal Aid staff).

Oh dodgy repairs. People getting charged, people don't get quotes to start with and then people get told 'oh we don't know, it could be \$1000, it could be \$5000'. You know, and it's like, well you probably wouldn't say that to me (non-Indigenous stakeholder staff member) if I asked for it (Community Organisation worker).

We had a guy who bought a write-off that had just had a coat of paint. He had no idea (Statutory Authority staff).

Figure 3.57 shows that 6.2% of participants reported a problem with not getting goods or services they had paid for. Women were slightly more likely (6.6%) to have an issue here than men (5.7%).

Figure 3.57 Participants Identifying a Problem with Goods/Services Paid For



Examples of 'not getting what you paid for' included being sold whitegoods without a warranty (Legal Aid staff), and a range of issues around automobiles. Examples given included where mechanics asked for payments upfront, then changed the price after work had commenced, and added storage fees when the customer could not immediately pay the inflated price:

What the mechanics do is they say, 'oh yeah, it's going to cost \$4000 to fix your car, give me the \$4000 before I even start'. So they pay the money, and then they say 'oh no it's going to cost you \$6000', so they keep collecting this money or they accept money in deposit...Our clients haven't understood forfeiture of deposits (Indigenous Legal Service staff).

In relation to signing people up for mobile contracts which may come with a range of issues, legal services said that 'mobile phone companies are a huge problem and I think some of those (cases) clearly are targeted' (Indigenous Legal Service staff). This was said to be especially apparent when

‘there are a lot of people being signed up for contracts for mobiles that don’t have reception in remote communities’ (Indigenous Legal Service staff). A third legal service provider said:

Everyone’s got problems with phone companies. It might be because they didn’t realise it’s going to cost them an arm and a leg to have their mobile phone in community, or they might have a mobile phone that they thought would work on community and they don’t (Legal Aid staff).

An Indigenous community-based organisation also indicated that phone contracts were a big problem, stating that ‘with phones, we can talk to them about cooling off periods. But if they don’t get the actual phone in the cooling off period, then this is useless. They can’t challenge on the basis it doesn’t work as they don’t have it in time’. Another Indigenous community-based organisation also commented in this context:

It’s a big issue. For a lot of Aboriginal people now, they are starting to get into smart phones and starting to download data and they are just not aware of the costs associated. When people use the term ‘get a free phone’, and ‘you get a free call’, so the way these caps are sold you don’t have to pay anything up front for the phone so it’s sold to them as free, and then when they say you get \$200 worth of calls, so you’re getting all these free calls and free data, and most of the people that I speak to say ‘well I just assumed that once I’d used up my allowance it’d just turn off until the next month round’ (Indigenous Community Organisation worker).

Capacity for advocacy around consumer issues can be closely linked with financial literacy (see also **Section 3.12**). For instance, a participant in the Darwin men’s focus group said of a one year, interest free loan that he took out: ‘I believe I paid it off, and eventually I paid more than what I got a loan for. And the merchandise that I got a loan for was not working ... and I told the people I got the loan from that this is a never-ending loan’ (Darwin Men’s Focus Group Participant).

Financial literacy is a huge issue, just having people understand the value of money, understanding where it is all going, paying for utilities and telecommunications. I’ve seen a few cases of bill shock with mobile telephones... We’ve got a lot of stuff going through the Ombudsman. It’s not unusual to see someone come in with a [\$3000-5000] bill. I’ve got one at the moment for a young lady who’s got a \$5000 bill on a \$59 plan and [the telecommunication company’s] reply was ‘well we did send her a text message when her bill had got up to \$2800 to let her know she’s got high usage’...For an 18 year old girl on Abstudy don’t you think she would have needed that message probably after about \$100, not \$2800? (Indigenous Community Organisation worker).

There was some discussion with stakeholders about whether Indigenous communities were targeted for scams, high-pressure sales and unconscionable contracts, discussed previously in brief:

It’s difficult to sort that out really; the vulnerability is huge. If you have fairly a loose way of getting people into contracts, which might work fine with somebody with English skills, then take that unmodified into remote communities, then is it deliberate? Yeah it kind of is but if it is the same method that they usually use in town I guess they think they can get away with it (Indigenous Legal Service staff).

Car dealerships have, you know, I feel they have targeted, Indigenous people, companies selling everything from water coolers to photography. Recently there was a complaint about a

charity in Alice Springs that was signing people up for direct debits, and walking people into the banks in Alice Springs mall to sign up for direct debits. This was a private company acting on behalf of a charity... But once again, [Aboriginal people] were seen as an easy target. They won't say no. 'Here's a picture of an impoverished African kid, would you like to sponsor them?' (Statutory Authority staff).

Some issues are door-to-door sales, telemarketing. Is it targeted? Hard to say, but the door-to-door sales definitely is as they are approaching particular communities. With telemarketing, often it is just fortuitous. They are just generating lists of phone numbers. You might find a vulnerable person though, who then provides contact with other vulnerable persons. They are then on a gold mine. Often the door-to-door stuff just lacks transparency and accountability (Statutory Authority staff).

Consumer issues were said by legal service providers to be a category of unidentified legal need; that is, an area where avenues of legal redress exist and could be pursued, but where people did not necessarily identify the problems that they were having as legal in nature:

There's a certain amount of education that needs to take place with Indigenous customers, particularly from remote areas. They'll come in and buy a car and then you know they'll drive it back to Borroloola and then complain that the car's broken. But then someone else has taken the car fishing for a month and totally trashed it (Indigenous Legal Service staff).

As identified here, the existence of this unidentified legal need ties in closely with the need to conduct CLE about the range of issues that fall within consumer law.

There are also cultural issues that make it problematic to challenge and question as an Indigenous consumer. Stakeholders report that consumer-related problems loom large in Indigenous communities, but that they might not always be visible and/or prioritised by community members, who are busy dealing with (often) more pressing problems. This may mean that levels of consumer-related legal need reported in the focus groups under-represents the real level of need in communities in the NT. Some examples of comments highlighting key cultural issues arising in this area are set out below.

Consumer issues do feel like a very big problem for Aboriginal people. We are seeing only the tip of the iceberg. There's a level of acceptance amongst Aboriginal people, that this is how we are treated, nothing will be done if we raise it, who do we raise it with? (Statutory Authority staff).

[Indigenous people] trust people very easily. They trust that the traders will do the right thing. They have no access to independent information. If I go and sell something, they believe it if the trader says it will work. There is not that wariness. They might not share information if they have been ripped off... there is shame there (Statutory Authority staff).

Consumer legal needs are not being met. There is so much going on in community, they are exhausted. They see this government mob again. They need a tap fixed. There is just so much going on for them. Consumer issues just get put into the back of their mind, it is not their priority. The broken tap is more important (Statutory Authority staff).

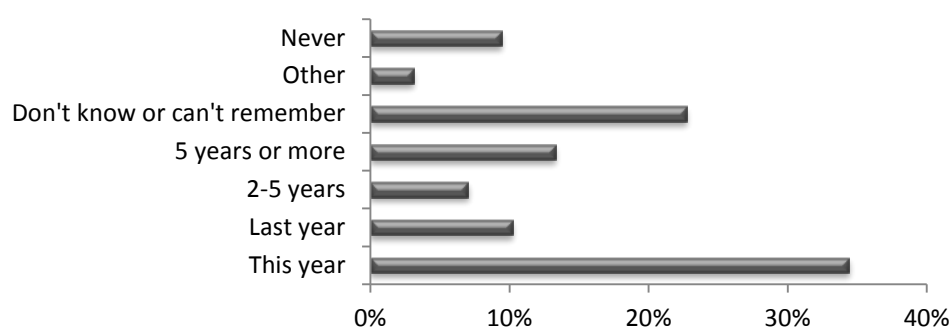
A strong relationship can develop over time between traders and buyers for Aboriginal people. It is almost like 'family'. This creates dependency. A trader might provide book up, for example, or pay for them to get a taxi to their store. The cycle of debt develops. They buy

it because the trader is a nice man. There is no critical thinking, no choice. They are tied up in the relationship. There are some sweeteners along the way. It looks good, but the big picture is actually a shocker (Statutory Authority staff).

3.14 Taxation

Focus group participants were asked to record the year when they last completed a tax return. As shown in **Figure 3.58**, around 45% of participants said that they had done so in the last two years. Around 10% of participants said that they had never filled out a tax return, and around 23% didn't know or couldn't remember.

Figure 3.58 Date of Most Recent Tax Return



Slightly more than one in three participants (34.2%) had reported completing the current year's tax return, and a further 10.2% reported completing the previous year's return. The completion of tax returns was not always reflected in the understandings of legal service providers around this issue: 'I have never come across someone trying to fill out a tax return, and I'm presuming that it's because it's not being done. I have seen someone going through offering to help with returns but they are charging an arm and a leg' (Legal Aid staff).

Legal services did nominate tax issues as a category of service for which there was a real need, although not one that always needed legal advice as much as assistance navigating administrative hurdles. In relation to tax debts, one stakeholder said:

Just assisting the clients to contact the tax department and arrange a payback, just doing it, just 'press one', just doing with all that sort of stuff. It's not really advice, they just need help dealing with the department...20 mins and it was all fixed and the client was really happy. It wasn't really even legal advice (Indigenous Legal Service staff).

However, dealing with the Australian Taxation Office on behalf of clients presented a number of issues:

Don't get me started. If you ring up the ATO, they've got confidentiality concerns and they're not going to hand out Jo Blog's tax file number. Meanwhile, Jo Blogs is dead, so you can't get authorities (Legal Aid staff).

The issues most likely to arise around tax were said by another legal service to be failure to complete a tax return, or a failure to correctly complete the paperwork. In addition, 'we had one rather big issue with a 'bush taxman' – he came around and did everyone's tax returns, made one attempt to call them, and then kept the tax. Apparently tax agents can do that if they can't get hold of a person and the money can get paid to them' (Indigenous Legal Service staff).

3.15 Other civil and family law issues

Areas of civil law other than those covered by the focus group questionnaire were also raised by stakeholders. Discussion of additional areas of civil law centred around the following themes:

3.15.1 Police complaints and corrections issues

One stakeholder commented that, ‘police complaints have always been a steady source of work. I think it’s pretty clear that with the increased policing in [the region] there are more and more inexperienced officers out there... we do get a lot of excessive force complaints, that’s probably the most common one, and unprofessional language’ (Indigenous Legal Service staff). Another service confirmed the central place that police complaints have in their work: ‘In some respects this is still the wild west so police complaints are really important’ (Indigenous Legal Service staff).

False imprisonment was another area of complaint that took in both police conduct and administrative errors by the court or corrective services: ‘...errors made by the court in properly entering information into their system... then also Corrections make mistakes in keeping people in for too long, one of the matters we’re talking about 67 days over, which is quite significant...we try to hammer it as hard as we can in the hopes they might stop doing it’ (Indigenous Legal Service staff).

Another Aboriginal legal service outlined that they used a combination of formal complaints (via the Ombudsman or through civil actions) and informal contact with police to raise issues of concern. Examples of when formal complaints were lodged with the Ombudsman included where capsicum spray was used on asthma sufferers, and where a man was arrested after a brawl, and ‘even though he broke his arm, the coppers took him to the clinic, and they looked at his head but not his arm...He spent the night in jail with a broken arm’. Civil action was taken in cases of assault and false imprisonment: ‘[There have been] some pretty major assaults over the years. One of the really good tricks is grabbing the back of someone’s head when you are taking them into the paddy wagon and saying ‘mind your head’ and smashing their faces on the paddy wagon’ (Indigenous Legal Service staff).

However, legal avenues were not always the preferred method of dealing with concerns with aspects of police practice. Informal complaints have ‘proven to be a really effective mechanism... it’s not a formal process but we’ve got some really good results out of it’. In some cases, ‘mutual respect agreements’ have been drawn up, detailing how communities should respect the police and the law, and how the police should respect communities and traditional law. In one case where community was unhappy with the conduct of a police officer, ‘the Elders went to the superintendent of the area again and again with instances when he was not being respectful’ and he was ultimately removed from that posting (Indigenous Legal Service staff).

Prison support was also nominated by one Aboriginal legal service as a significant mechanism for proactively addressing the civil and family law needs of that group. Tenuousness of funding was raised as a threat to the continuity of this service.

One of the key things that it has done is put our staff inside the prisons. A whole bunch of the family law issues that previously would have been [unresolved] – in prison, if they can miraculously make a call to [Indigenous Legal Service], then it would go to the switch, and they may or may not get a chance to see you. Now, that stuff can be dealt with by our prison

support officers. Just today there was a really good example of an urgent family law matter which was immediately sent [to be attended to]...it's such an important thing... all prisons have to do is tick a box...and we will immediately come in and see them, usually the same day, and instantly put a referral through... and a lawyer will come and see them usually within a week (Indigenous Legal Service staff).

3.15.2 Governance and corporations law

A number of legal services raised corporations law, and particularly directors duties, as issues that arose but which services were largely unable to deal with because they fell outside their funding guidelines: 'One of the big referrals we make to pro bono firms is one of those kind of disputes when someone is a director and hasn't understood what their obligations are and doesn't handle funds properly and then they get in trouble' (Indigenous Legal Service staff). Similarly, another service spoke of 'a few who have been signed up as directors of companies who really haven't understood their obligations at all and have copped massive debts through their personal liabilities for various company activities' (Indigenous Legal Service staff).

Issues also arose in relation to interactions between the Office of the Registrar of Indigenous Corporations and member corporations. One legal practitioner said, 'I've got real issues with how they interact with Aboriginal corporations and their directorship. You know, I had an instance a couple of weeks ago where it was so outrageously fraudulent what they were doing and the thing is the people who have to carry the can for this if it blows up are these directors who have no idea what their responsibilities are' (Indigenous Legal Service staff).

3.15.3 Health

One legal service identified complaints around provision of health care as representing a significant area of legal need. Health care complaints arising out of understaffing and under-resourcing of remote clinics were the most common issue. Other complaints included allegations of incorrect diagnoses, or where 'clients [are] not understanding what their medical conditions are or their prognoses because of the lack of interpreters. The lack of interpreters is a major issue because people don't get information about anything'. In addition, lack of access to suitably qualified doctors or psychologists to provide ongoing treatment for mental health issues was said to give rise to a number of problems (Indigenous Legal Service staff).

A particular concern was raised around the management of morgues, and in relation to the fact that no one agency has responsibility for morgues in remote communities. One example was given of a situation in which a man who had committed suicide and the power had failed in the morgue for several days, by which time the body had decomposed such that it was unable to be viewed. Advocacy around these issues was said to be a legal need that was not recognised as such by Indigenous people: 'That's the sort of thing, like I said, of people not realising what's a legal issue and what's not and that they can complain about it' (Indigenous Legal Service staff). A complaint to the Ombudsman about this case was said to be precipitating legislative changes aimed at assigning responsibility for morgues in remote communities (Indigenous Legal Service staff).

Another issue raised by legal service providers is the limited legal support available for people before the Mental Health Review Tribunal facing involuntary admission on the grounds of mental illness. In 2009 and 2010, both NAAJA and NTLAC ceased providing duty lawyer services because of a lack of

adequate funding. People appearing before the tribunal are now generally represented by a private lawyer. There is a general concern that this approach fails to provide continuity in representation for clients, who have no existing or ongoing relationship with their lawyer. For Aboriginal clients there are particular concerns about a lack of cultural competency and the lack of support that is provided by NAAJA's Client Service Officers (who can, for example, assist people to contact family and with issues around return to community). There appears to have been a significant decrease in the use of Aboriginal interpreters since NAAJA ceased providing duty lawyer services and this has been highlighted as a significant concern by the Community Visitors Program NT.

PART 3 PRIORITY NEEDS AND SERVICE DELIVERY

4. PRIORITY AREAS

This section of the report identifies the priority areas of legal need for Indigenous people in the Northern Territory, based on the experiences of focus group attendees as participants in the legal system, the levels of identified need as disclosed in the focus group questionnaires, and the reflections of interviewees more generally. The purpose of this discussion is to provide some guidance to legal service providers in the Northern Territory in matching the allocation of (often scant) resources to the areas of highest identified need.

The complexity of legal needs of Indigenous clients has been noted in previous publications.⁹⁶ Indigenous people often present with layers of legal needs, combined with non-legal needs relating to, for example, health issues, trauma, disability or literacy/numeracy issues. This has significant implications for providing services to Aboriginal clients.

4.1 Knowledge of civil law issues

I don't think no one really understands what their right is (Tennant Creek Women's Focus Group Participant).

A lot of our mob don't know about the legal system unless we start talking (Alice Springs Women's Focus Group Participant).

A number of community members raised the fundamental issue of the low levels of understanding of what constitutes civil law. Without knowledge of what civil law is, and what avenues of redress might be available for these issues, the prospects of realising legal entitlements are obviously very low:

I reckon the people in this community don't know nothing about these issues [raised in the questionnaire]. There needs to be whole community awareness... there should be face to face meetings with the community, with legal aid, the housing mob... coming together as one and asking questions from the people... about the law, what rights we have... and the housing mob, the legal mob giving us advice (Tennant Creek Women's Focus Group Participant).

A lot of Warumungu people don't know about what legal aid services are there for. They think the only thing those services are there for, are the courts, for fighting, or when you are in trouble with the police ... they don't know that there's other stuff there that you can see legal aid about (Tennant Creek Men's Focus Group Participant).

Comment about the lack of knowledge of civil law was echoed by legal service providers:

If a standard white person in town gets a \$25K debt on their Centrelink, 9 times out of 10 they'll know that it might be right, or that it might not be right, and they'll go and seek some

⁹⁶ Cunneen and Schwartz (2008) *Civil and Family Law Needs of Aboriginal People*, New South Wales Legal Aid Commission. Sydney: See Chapter 1.

<http://www.legalaid.nsw.gov.au/data/portal/00000005/public/68525001257471253543.pdf>;

Cunneen, C. and Schwartz, M. (2008) 'Funding Aboriginal and Torres Strait Islander Legal Services: Issues of Equity and Access', *Criminal Law Journal*, vol. 32, no 1, Feb 2008, 38-53.

advice on it. Whereas our clients, [we] have someone who has been paying off \$80/week for 15 years and they've still got \$10K left, and we can dispute this! (Indigenous Legal Service Staff).

[There is] a general lack of knowledge of civil law rights at all. Especially remote people... it is about understanding that it's a legal problem... 'what's this document?' - oh it's nothing important because there are so many other things going on. It's also about the immediacy of what's going on in their lives. If someone has died or someone in their family has gone to jail, then that takes precedence (Indigenous Legal Service Staff).

I think that's one of the big needs in terms of civil stuff. People don't realise a lot of the time, aren't able to issue spot or work out where the avenues of address might be, or do it in a timely fashion (Indigenous Legal Service Staff).

Additionally, there was a sense that going to see a lawyer might be stigmatised as something reserved for forced interactions with the criminal law, and that the complexity of the civil legal system precluded most people from advocating for themselves:

Maybe some people feel a bit ashamed of going to see a lawyer, [because they think] well that's for criminal stuff, so they don't want to be seen seeing the lawyers because that might mean they've got criminal problems or something (Indigenous Legal Service Staff).

As a general proposition you'd say this: Do Aboriginal people in the Territory access the civil law system? To a very large degree not. The answer to why that is the case will cover a whole lot of issues. Complexity, like it or not, it's a very complex system. Its intimidating in many respects and really for those two reasons alone, most Aboriginal people they wouldn't attempt it without the assistance of a lawyer... the instances of self-represented Aboriginal people getting involved in the civil law jurisdiction is just nothing (Registrar).

4.2 Community legal education

Unless and until you can increase Aboriginal people's understanding of what the civil law system is all about and how it works it is going to be very difficult to really improve access... how can you access something if you don't know what it does and how you can use it and how it can help you? (Registrar).

Taking into account the low levels of knowledge around civil law, it is clear that legal education around civil law issues is a priority both as direct community legal education, and also for Aboriginal service providers who take a role in advising or advocating for community members.

There was extended discussion of this in the Tennant Creek Women's focus group, in which one participant suggested that there was a need for more joint workshops that bring together legal services, housing services and the community. Another participant suggested that legal services need to hold workshops or information sessions for the community, and that they should also train an Indigenous person to be able to speak to others in the community about the type of services provided and how to access those services. When asked what barriers exist regarding current service delivery models, one participant explained that there is generally inadequate knowledge in the community regarding the nature and type of legal services provided. Similarly, in the Wadeye men's focus group, when asked for suggestions regarding ways to improve current legal services, one participant replied

that: 'what we need is to run more workshops... so that young people can understand' (Wadeye Men's Focus Group Participant).

Both the need for, and the difficulties involved in, the provision of community legal education (CLE) were canvassed by Indigenous legal services:

The difficulty is having CLE activities in which people wish to engage or that are effective... so that's the difficulty, especially in the context of the NT Intervention - we've got endless meetings, surveys, consultations, focus groups. People are a bit exhausted... I think it is absolutely crucial though. It's a real basic education on things, that people just have no idea of their rights (Indigenous Legal Service Staff).

The difficulty is that for a lot of our clients, this is something that 'happens' to them – a Centrelink debt 'happens' to them, and it's not something they feel much power or capacity to engage with. And when we talk about CLE the problem, [what we mean is] that we think of CLE in terms of running an education session or getting people together for a meeting or producing another brochure, but that doesn't penetrate very far, and taps into people being sick of turning up to meetings...when we talk about community engagement more, it's actually much more about how we are delivering our services so that it has a lasting effect, [for example] in the criminal justice area we are starting to do a bit more work with community justice groups, night patrols and other people, so that if we build up their knowledge it diffuses through. So I think there is a massive role for CLE, but it depends what you mean by that. If you mean another DVD and brochure, then that's wasting our time (Indigenous Legal Service Staff).

Effective community legal education will have the advantage of building ongoing relationships between legal service providers and community, which in turn may address some of the complex issues involved in providing services to remote clients:

Getting the message out there that this stuff is available [is a priority]. Clients also don't tend to have documents and keep documents, so a lot of the work that we might do preliminary to anything is gathering those documents. And trying to find people, as well. Keeping in contact with people. The logistics of giving advice is just [difficult]... because people might change their contact details, we then can't find them... and we still have to comply with court deadlines without being able to get instructions (Indigenous Legal Service Staff).

This short case study from an Indigenous legal service provider shows the power of (in this case, informal) community education in activating individuals to access their legal entitlements:

We had this case out in [a remote community] where we recently got someone nearly 200K motor accident compensation for her husband who had passed away. And the next time we went back there we had everyone who was related to someone who had died in a car accident in the last 20 years [come and see us], who previous to that had no idea that there was any possibility of compensation for something like that... I mean, what incredible community legal education is it when someone in your community gets \$200,000 for a motor vehicle accident when her husband dies! Suddenly everyone knows about that stuff! (Indigenous Legal Service Staff).

4.3 Priority areas of legal need

4.3.1 Determining priority areas

In determining the priority areas for non-criminal law matters for Indigenous people in the NT, we have considered the responses of focus group participants in both questionnaires and discussion and the views of stakeholders and organisations delivering services to the focus sites. As we have noted elsewhere in this Report, we are not assessing whether there is a legal remedy available for the areas of need which have been identified.

Two dynamics that cut across the areas of need are worth specific mention. The first can be understood as a dynamic of escalation; where civil law issues are left unaddressed or unresolved, they can worsen to become criminal matters.⁹⁷ The second is a kind of lateral escalation, or snowballing, where unresolved civil law issues give rise to further civil law issues, leading to a complex of legal needs that were, at least in part, created through the very failure to address the initial legal concerns. This dynamic is evident, for example, where unresolved credit and debt issues, created in part through consumer law matters like high pressure sales or scams, contribute to a failure to meet other financial obligations, including rent and/or utilities. This points to the interrelationship between different areas of law, and of the particular need to approach clients with complex needs in a holistic manner, to maximise the benefit of the legal advice or support being offered.

There were two areas of law raised in the focus group questionnaire for which more than 25% of all participants indicated that they had experienced a legal problem in the last two years. These were:

- housing (54.1%)
- neighbourhood disputes (27%).

There were a further four areas of law that were identified by more than 18% of respondents as having caused them some problem in the same time frame. They were:

- discrimination (22.6%)
- accident and injury (22.3%)
- employment (19.6%)
- credit and debt issues (18.4%).

In relation to social security, 29.1% of those participants who were in receipt of Centrelink payments⁹⁸ identified a potential legal problem. In relation to education, 33.9% of those participants who were either in education themselves or were responsible for someone else in an educational setting⁹⁹ identified a potential legal problem. Not all focus group participants were affected by either education or social security. However, it is clear that for those who were, there was a high level of legal need. In particular we identify social security as a priority area because of the significant proportion of people who are dependent on Centrelink payments, the majority of whom are also subject to Income Management.

Focus group participants answered several questions in relation to family matters, including children's residence and contact issues, child support, child protection, and disputes relating to property, money,

⁹⁷ Schwartz, M. and Cunneen, C. (2009) 'From Crisis to Crime: The Escalation of Civil and Family Law Issues into Criminal Matters in Aboriginal Communities in NSW' *Indigenous Law Bulletin*, vol. 7, no 15, 18-2.

⁹⁸ Some 73.2% of all focus group participants fell within this category.

⁹⁹ Some 40.5% of all focus group participants fell within this category.

or superannuation. Between 6.8% and 12.2% of participants identified family law problems including child protection. We view child protection in particular as a priority area. We note that some areas of legal need such as child protection have such serious consequences (loss of children) that, although the percentage of participants identifying legal need in this area was comparatively low, the seriousness of the problem and associated consequences also influence our view that this is a priority area. In addition, although focus group respondents may not have nominated family law issues (in particular child protection) as having occurred in their own lives in the last two years, focus group and stakeholder discussion located the area as one of significance.

4.3.2 Differences between Communities

Some focus groups expressed views in discussion about what the priority areas of need were in their communities. It is important to note that priority areas of legal need will vary from one community to another. A participant in the Alice Springs men's focus group, for example, suggested that the main priority areas in relation to civil law matters in that location were discrimination and housing. Another participant expressed the view that housing and family matters were the areas of greatest priority. The women's group in Alice Springs suggested that housing, credit and debt and bullying in education were the most urgent priorities. In the Tennant Creek women's group, there was general agreement that housing was the area of greatest concern, and, in particular, the issue of overcrowding. The high level of need for advice and information in Katherine was evidenced by the number of participants seeking answers to questions regarding a range of legal matters. Most queries pertained to family matters, housing, and credit and debt. There was thus variation in identified need across locations.

4.4 Unmet Legal Need: Credit and Debt/Consumer issues

It is important to note that focus groups responses are only one way of identifying priority legal areas. Identification of issues by focus groups presupposes a recognition of certain events or experiences as having a legal dimension, and particularly in relation to civil law, this is not always readily done. As such, there may be areas of *unrecognised* legal needs which are significant both in the extent of the need, and in the impact that these unmet needs have in community.

Consumer issues were identified by stakeholders in particular as an area of *unmet legal need*. For example:

[Consumer protection is] huge: referring people to the bulk debt negotiations... dealing with Telstra and some of the banks...waiving debts for people from dodgy situations (Indigenous Legal Service staff).

Specific problems identified by focus group participants included problems accessing or finding superannuation, a dispute with bank or other financial institution (12% of focus group participants), a dispute over insurance (4.8% of focus group participants), problems with contracts, commercial scams (7.5% of focus group participants) or other situations where a person paid for goods or services they did not receive (6.2% of focus group participants). Focus group questionnaire responses may, however, underreport problems in this area, as people may struggle to identify a 'legal' problem in the issues that they are having as part of their participation in focus groups, as well as more generally.

Consumer-related issues also came up in a number of other areas, indicating their prevalence, including in the context of discrimination (such as in relation to goods and services), accident and injury (insurance), superannuation in deceased estates, Centrelink (impact of Basics Card on repayments for white goods, for instance) and credit and debt-related matters. However, issues may

not have been identified in these different contexts as ‘consumer-related’ problems. It is also sometimes difficult to distinguish consumer issues from credit and debt because of overlaps between these areas of experience.

Although many people in the mainstream community may have consumer-related problems to deal with, arising as a result of low consumer literacy, low financial literacy, low legal literacy or low literacy more generally, for Indigenous people this is likely to be *more* pronounced. A lack of knowledge of consumer rights not only makes it difficult for Indigenous people to identify a consumer-related legal issue as it arises, but also disadvantages them in their dealings with traders, landlords and service providers, making them more susceptible to scams, for instance. Whether or not there is deliberate targeting Indigenous people is not always easy to discern. Sometimes there is clear targeting, sometimes not. Using a mainstream model of, for instance, signing people up to a TELCO contract, *is likely* to disadvantage Indigenous people due to low levels of consumer and/or other literacy or language factors, leading to heightened legal need in this area. Further, as Indigenous people have less access to justice, they will be less likely to find out that they can challenge contracts or payment requirements, for instance, or that they have a legal remedy and that there are services available that can assist.

Overall, 18.4% of focus group participants said that they had had legal action threatened against them in the last two years for failure to pay a bill or repay a loan. Difficulty in repayment of loans was the most prevalent credit and debt issue identified by focus group participants.

On the basis of both participant responses to issues relating to debt and loan repayments as well as the stakeholder information relating to consumer issues, we identify these areas as a priority.

4.5 Unmet Legal Need: Wills and Estates

We raise the *potential* for considering wills and estates as a possible priority area because of unmet legal need. Very few Aboriginal people have wills and many people indicate a desire to have assistance to complete a will.

Overall, only 10.1% of all focus group participants (15 participants in total) had completed a will. However, 61% of those participants who had *not* completed a will would like legal advice to do so:

Wills is a real unmet need. Lots of community people want wills because people are always dying, and they want to access superannuation or money that the deceased may have, and that’s really difficult because nobody ever gets a tax file number, nobody gets a birth certificate, nobody gets a death certificate...its’ a big fat nuisance, lawyers hate it. If there was a service that went around doing wills, that would be fantastic (Legal Aid staff).

We note that the failure to complete a will can complicate access to existing financial assets of the deceased as well as cause significant community and kinship disputes over burial.

4.6 Unmet Legal Need and Gender Differences

Another way of considering priority legal areas in civil and family law is by gender. In many of the legal issues discussed in this Report there were pronounced gender differences both in the identification of issues and in the likelihood of seeking legal advice or assistance.

In relation to housing, neighbourhood disputes, and social security, Aboriginal women were more likely to identify an issue or problem but much less likely than men to seek assistance. The issue was

particularly pronounced in relation to neighbourhood disputes and social security (women were half as likely as men to seek advice in relation to neighbourhood disputes, and four times less likely than men in relation to social security).

In relation to victim's compensation, employment, family law and child protection, and credit and debt, Aboriginal men were less likely than women to seek assistance. The issue was particularly pronounced in relation to victim's compensation and credit and debt (men were four times less likely as women to seek victim's compensation, and nearly five times less likely than women to seek advice in relation to credit and debt).

There are important considerations which arise from these gendered differences when considering how legal service providers respond to particular issues. We have already identified social security and credit and debt /consumer issues as priority legal needs and we discuss these in more detail in later sections. Specifically in relation to gendered differences we note below neighbourhood disputes and victim's compensation.

4.6.1 Neighbourhood disputes

Overall 27% of focus group participants identified problems with neighbourhood disputes. However, Aboriginal women were *three times more likely* than men to identify this area of need (38.5% compared to 14.3%). Interestingly, there was very little discussion among stakeholders concerning problems with neighbourhood disputes, perhaps because it is partially considered within housing problems more generally or it is only seen as an issue when it escalates into a criminal law matter. At one level neighbourhood disputes may be seen as relatively minor, frequent occurrences without effective legal remedy.¹⁰⁰ However, we also note that neighbourhood disputes can have serious causes and consequences including racial discrimination, evictions and criminalisation, and may also reflect other issues including over-crowding and poor quality housing.

For Aboriginal women, housing and problems with neighbours were by far the most frequently identified issue in the focus group questionnaires (57.1% and 38.5% respectively), and in both areas although Aboriginal women identified the problem more often than men, they were far less likely than men to seek advice or assistance. In the case of disputes with neighbours, only one in four Aboriginal women sought assistance compared to one in two Aboriginal men.

In this context we view disputes with neighbours as a priority area. The particular importance of this issue for Aboriginal women should be considered in legal service provider responses.

4.6.2 Victim's compensation

Access to victim's compensation is also an area which showed marked gender differences. Aboriginal men and women were roughly equal in identifying that they had been a victim of a violent crime in the last few years (12.9% of men compared to 15.4% of women). However when those who reported victimisation were asked whether they had pursued a victim of crime compensation claim there were marked differences by gender. Slightly more than four out of every five Aboriginal women who reported victimisation also sought compensation. In contrast, a little over one in every five Aboriginal men who reported victimisation also sought compensation.

Most of the stakeholder discussion in relation to victim's compensation identified various issues concerning access to justice, and these have been canvassed in **Section 3.4**. We note here, however,

¹⁰⁰ NT LAC communication 29/10/12.

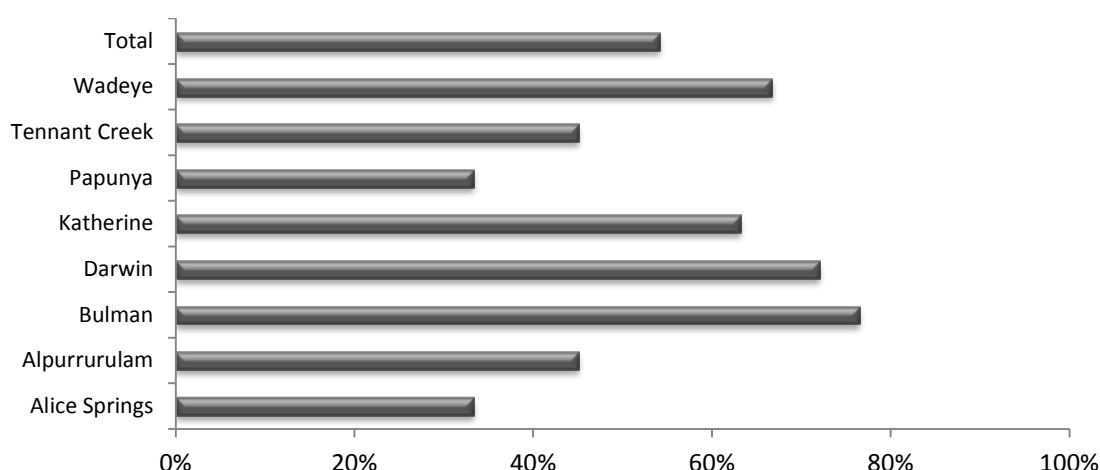
that legal service provider approaches to CLE and assistance in relation to victim's compensation may need to consider the differing levels of knowledge about the issue of compensation between Aboriginal men and women.

4.7 Housing

Housing is an issue. All our clients have a housing issue. Essentially everyone here is homeless so everyone is in crisis and it's getting worse all the time... They've all got debts for non-payment of rent or damage to the houses. It's a crisis. It's a mess. It's a disaster.... like fifteen people in every house... more even (Indigenous Legal Service staff).

54.1% of focus group participants said that they had had a dispute in relation to their housing in the last two years. As shown in **Figure 3.59** disputes involving landlords arose with greatest frequency in Bulman, Darwin and Wadeye. Disputes of this type were identified by 76.5%, 72.2% and 66.7% of all participants in these three communities, respectively. Alice Springs and Papunya focus groups identified a dispute with landlords with the least frequency, but even in these two communities 33.3% of all participants identified having experienced a dispute of this nature. There was no clear trend linking frequency of housing matters with remoteness.

Figure 3.59 Participants Identifying Housing Issue by Community



The types of problems that were the source of the disputes overwhelmingly concerned repairs and maintenance (48 out of 80 total complaints) and issues around rent (21 out of 80 complaints). The types of issues raised are exemplified by the comments of a focus group participant from a remote community who explained that he had been waiting for three weeks to have his blocked toilet fixed by Territory Housing - a problem he claimed was occurring every few months. He queried why he needed to continue paying rent, despite the fact that he cannot use his toilet (Bulman Men's Focus Group Participant). Another focus group participant stated that Territory Housing claimed he had caused damage to his rental property. The participant in question denied responsibility for the damages in question, indicating that they had resulted from Territory Housing's failure to undertake any repairs on the property (Alice Men's Focus Group Participant).

A legal service provider commented as follows:

There are always lots of complaints about the repairs not being adequate, the repairs being faulty; there are lots of complaints about that. Then the fact that rent has generally gone up as

a result of the repairs; that is an issue. Overcrowding is always an issue. You have lots and lots and lots of family members in the one house, 10 family members in 2 bedroom units (Legal Aid staff).

Only 34.2% of people who said that they had experienced problems with their landlord sought legal advice in relation to those disputes. The ramifications of the huge level of need, and relatively low levels of legal resolution sought, are extremely significant:

Because rents are so expensive and scarce, if an Indigenous couple are in a house and something goes wrong for whatever reason the real estate agents are very quick to get rid of them and they're just left there on the street (Indigenous Legal Service staff).

There are important connections between housing-related problems and other social and legal issues, which also suggest that housing should be identified as a priority issue. Poor quality housing, overcrowding and housing shortages all impact on general community wellbeing. Legal and broader social issues other than those directly related to housing may emerge as a result of problems with tenancies. These may include, for example, child protection, health, credit and debt and educational performance:

Why debts occur in some instances... with the nature of housing, when you've got large extended families coming and going, one person puts the phone on, and they'll go away and do whatever and other people come in and rack the bill up huge (Indigenous Legal Service staff).

The lack of housing in Papunya (and resultant over-crowding issues) was of particular concern for Papunya's focus group participants: 'I think education comes with the problems with housing. Children can't sleep at night... that's why so many kids are missing out on education' (Papunya Men's Focus Group Participant). Another participant in Darwin explained that if people are being treated badly by housing authorities (for example, being forced out of their homes, not having repairs done) that this also has a negative impact on the community, especially the community's children (Darwin Men's Focus Group Participant).

An Indigenous Legal Service in Katherine identified housing and tenancy as the most prevalent legal matters that clients present with:

Housing and tenancy, overcrowding – that's just a huge issue... and the availability of housing. And then of course that has a lot of flow on effects in terms of child protection...girls won't go home to the house until everyone is comatose (Indigenous Legal Service staff).

Housing-related problems (especially eviction and homelessness) are major stressors for Indigenous people. Access to adequate shelter is a basic human right, and underpins stability in many other areas of life (hence housing problems impacting negatively on education, health, for instance). Overcrowding and poor quality housing, in a state of (sometimes considerable) disrepair, also impacts negatively on social and economic development and leads to a range of other problems (such as neighbourhood disputes).

4.8 Discrimination

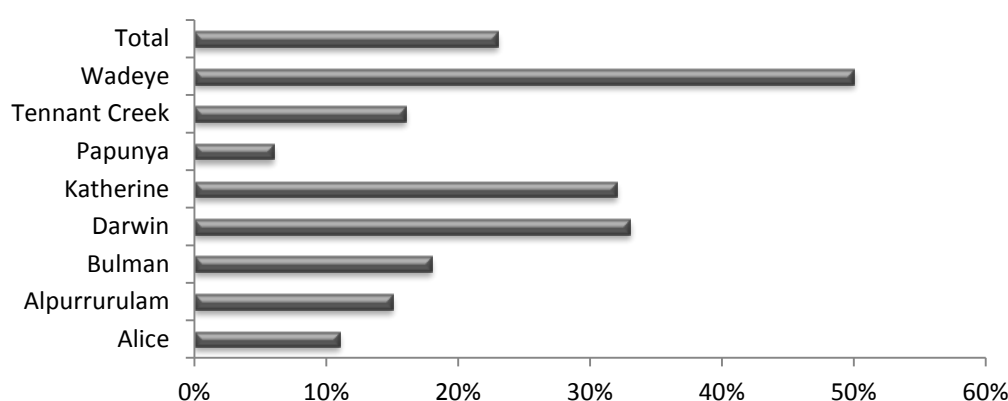
The police, the courts, the whole lot, the *Liquor Act*, just across the board – it's just unbelievable. Where do you start? (Legal Aid staff).

Discrimination was nominated in each focus site as an ingrained reality. Many expressed the view that the extent of discrimination experienced has been exacerbated by the advent of the NTER:

‘Discrimination is happening for everybody... And the intervention is the worst one. They have taken over the rights of black people... every right that we have’ (Darwin Men’s Focus Group Participant).

In focus groups, discrimination was nominated as a problem experienced by nearly a quarter (22.6%) of participants in the last few years. As shown in **Figure 3.60** respondents in Wadeye, Darwin and Katherine were more likely to identify having suffered discrimination: 50%, 33.3% and 31.6% of all participants in these three communities respectively. The community least likely to identify discrimination was Papunya (at 5.9% of all participants) (see **Table 3.46**).

Figure 3.60 Focus Group Participants Identifying Discrimination by Community



However, it is worth noting that these reported experiences are likely not to reflect the true level of legal need among these communities. This is because people may identify instances of discrimination not as actionable legal events, but rather as an intolerable but entrenched part of life. In addition, as discussed in Section 3.9.2 above, the questionnaire responses are unlikely to extend to instances of indirect discrimination, which are not protected by NT law (but which are covered by Federal legislation), or to other grounds upon which a complaint of discrimination may be made (such as gender or impairment). As such, there is likely to be a substantial level of unrecognised legal need beyond that identified.

Sorry to be so blatant... They can do anything to us, and services are just going to chase their tails trying to fix up the mess (Legal Aid staff).

Most Aboriginal people, the homeless ones, most of them, they just put up with it [racial discrimination]... they just think there’s nothing they can do. They don’t know that you can go to the law and take ‘em up for discrimination and whatever. They don’t know about them things (Katherine Women’s Focus Group Participant).

It’s that really insidious stuff: you can walk down the street and see it every single day, every single minute. But to be able to point at particular things and say ‘that’s racial discrimination’ that’s quite difficult (Indigenous Legal Service staff).

Of the 33 people who said that they had been victims of discrimination recently, nearly 80% of people did not seek legal advice or redress.

Thus discrimination emerges as a priority area for a host of reasons. It was among the areas of law most often identified by focus group participants as presenting problems for them. Further, taking into account indirect discrimination and more ‘insidious’ forms of discrimination, the level of legal need is likely to be substantially higher still. In addition, a number of the issues that were identified by focus group participants as problems in employment, consumer concerns, housing and education, were actually complaints of discrimination in an alternative context.

The specific impact of the NTER heightens the need for information, education and advice about discrimination related issues:

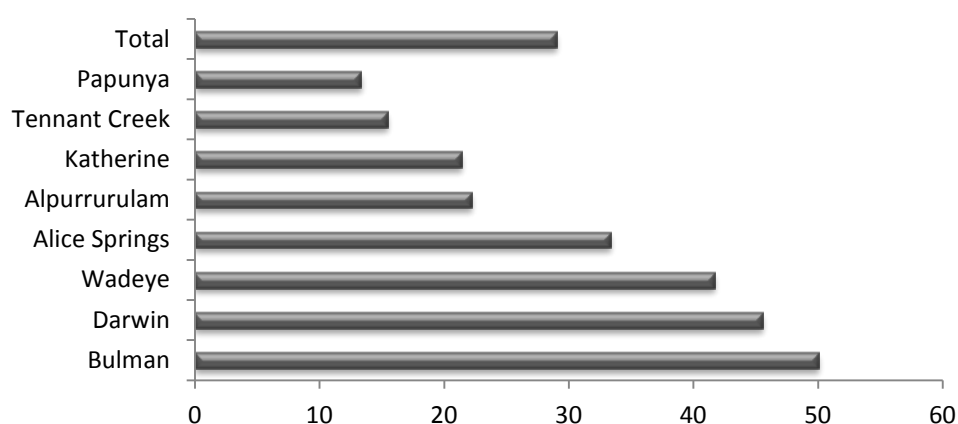
The Intervention gave police all these extra powers, and then the Territory responded by giving the police even more powers to enter and search people, and to prohibit liquor in public places and therefore giving the police the right to search in all sorts of areas that they never used to have. And it’s this insidious thing where it almost becomes normal. You’re not so outraged. Initially you are outraged at having to pass over your ID every time you buy alcohol. But you get used to almost anything. The changes to the Commonwealth legislation compounded by the changes to the Territory legislation, it’s just dropped everybody’s standards. It’s just whittling away... It’s normal for police to harass people (Legal Aid staff).

Finally, the disempowering and offensive nature of discriminatory incidents means that victims are left vulnerable to responding in ways that leave them in danger of contact with the criminal justice system. The less avenues for meaningful redress are available, the more likely this type of escalation is to occur. In discussing some of the racist comments and verbal abuse experienced by participants in Katherine, one male participant stated, ‘If someone spoke to me like that, I’d punch ‘em. Soon as I punch ‘em, I’d be going to jail for it’ (Katherine Men’s Focus Group Participant).

4.9 Social Security

Just over 73% of focus group respondents were receiving payments from Centrelink. Some 29.1% of this group said that they had experienced a dispute or problem with their Centrelink payment. As shown in **Figure 3.61** participants in Bulman, Darwin and Wadeye were more likely to identify a dispute or problem: 50%, 45.5% and 41.7% of all participants in these three communities respectively. The community least likely to identify an issue of this type was Papunya (at 13.3% of all participants) (see **Table 3.33** in the appendix).

Figure 3.61 Participants Identifying a Problem with Centrelink by Community



As noted in discussion of Social Security in Section 3.7, issues with Income Management, and the Basics Card in particular, represented around 27% of all identified social security disputes. Problems concerning underpayments or overpayments are interwoven with dissatisfaction about the Income Management regime and about the level of customer service provided by Centrelink more generally. All of these dynamics point towards a priority area of need, where effective legal services are extremely important. A legal service provider confirmed that social security debts are a huge issue:

[We deal with] lots of Centrelink debts. If you have somehow misinformed Centrelink about your situation and you've racked up this massive big debt, how the hell are you ever going to pay that debt? And is it a justified debt? Is Centrelink right that you are responsible for accruing that debt, that you were mistaken and not them? That often happens because there are often communication problems between Centrelink and communities (Legal Aid staff).

Suspension of Centrelink benefits for not fulfilling criteria related to applying for jobs is an example of a real difficulty associated with social security for some communities. A legal service provider discussed the limited employment opportunities on remote communities and the requirement that some recipients actively look for work as a condition of payment of benefits:

All the time...Centrelink will cut people's money if they don't attend enough job appointments. It's absurd because you live in a community where there are 20 identified jobs, [and] many, many, many, many, many people living in the community. Not everybody in that community will be able to get one of those jobs. You have to apply for three jobs a fortnight. It's a big fat waste of time. People get disillusioned; people don't apply for those jobs. The money's cut. They still have kids to feed (Legal Aid staff).

One focus group participant spoke of the difficulty caused when people are cut off from Centrelink, given that the time for reinstatement is usually eight weeks. This highlights the importance of effective legal advocacy in this area:

NAAJA now has a specific person whose job is to address these sorts of issues with Indigenous clients. Since the intervention, the feds have funded a position in Darwin and Alice Springs and possibly Katherine specifically to assist people with social security and Centrelink stuff. And that's proved really positive I think. The Centrelink spread is pretty good in that they've got offices in the bigger communities, but it's not really, how would you say it... Aboriginal people are not likely to stand on their digs and say 'that's bloody well wrong'...they are not likely to do that, without advocacy or someone who knows the system it is very difficult for them to challenge Centrelink. So that's been a positive thing (Registrar).

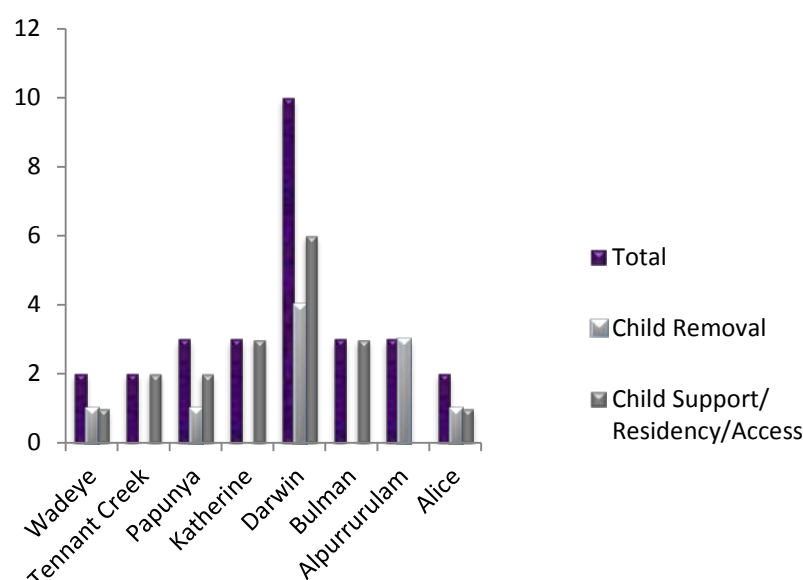
Social security disputes were also identified as a potential site for escalation to criminal law issues. As stated by one focus group participant: 'They (Centrelink staff) can talk down to you, but as soon as you put a bit of 'tone' in your voice ... it's, 'I'll get the cops out'' (Tennant Creek Men's Focus Group Participant). This provides further reason for identification of this area of law as a priority area. As noted in Section 3.7, the linking of entitlement to benefits with school attendance is likely to increase even further the urgency of advocacy in this area.

4.10 Family Law

At least two participants in each focus site had a recent child support, residence/access or child removal issue (see **Table 3.39**). As shown below in **Figure 3.62** there was a particular spike in these

types of matters in Darwin, where 10 out of 18 participants indicated that they had experienced these types of matters in the last two years.

Figure 3.62 Family Law and Child Protection Matters Relating to Children by Community



Interviewees pointed to the continuing impact of historical factors affecting the interaction between Aboriginal people and child protection agencies:

Looking really big picture: you're working with people who have the history of the stolen generation and who are very distressingly compliant with welfare agencies. Welfare people have often said to me 'oh people just hand their kids over' and I say, 'yeah, that's because you are rocking up there and saying that you are from welfare and you ask, give me the kids!' These are incredibly, incredibly disempowered people who then - you have all these other social pressures in terms of overcrowding and what not all this interplay means that a lot more kids come under the gaze of DCF (Indigenous Legal Service staff).

These factors increase the necessity for effective legal service provision in this area, particularly because the ramifications for contact with the child protection regime are so significant. It is particularly worrying, therefore, that there is widespread concern among legal service providers about the frequency with which orders are made in the absence of parents:

So often you don't even have the parents at the court. The court will always err on the side of caution. They will always listen to what the DCF worker has to say. But you have dreadful affidavits, no mum and dad there to defend themselves, it's a shambles (Legal Aid staff).

As noted in Section 3.8 above, there was a sense among focus group participants that the NTER had brought an increase in child removal, and a perception among service providers that courts were moving towards making more long term orders earlier in the care and protection process. Experiences of disempowerment in dealing with child protection agencies can lead to a failure to understand or

assert legal rights, which can have huge ramifications for families. The importance of adequate legal advice in these situations is clear:

Five percent of clients will understand the paper that they've signed. And there are still no interpreters being used in any of this. A lot of parents are signing temporary protection agreements...you can sign an agreement with the Department that the child go into care for two months and that can be renewed a further three times. So you can end up with a kid in care for 6 months... and they never recommend that people get legal advice. I have never had a parent come to me and say 'the department wants me to sign this, can you explain it to me', but I have had an awful lot of parents at the end of 6 months, when they go to court because the agreement has expired, and I say to them well the kid has been in care for six months and they say 'yeah we signed a temporary protection agreement'. I say 'can you tell me what that means?' 'nup'. Nothing. That's a huge issue because by then you have had a child in care for 6 months and it is very hard to fight in court (Indigenous Legal Service staff).

In relation to family law more generally, the lack of knowledge about this system, and its varying relevance to Indigenous communities was a relevant feature of servicing Indigenous clients:

We find that there are two major problems. The first one being that nobody knows anything about family law and that's fair, why would you opt into the family law system when you have got another system of law culturally that's appropriate. But for the clients that it's not appropriate for, it's really difficult to service and I think that it could be partly rectified by [this Indigenous Legal Service] not being the only service that's funded to travel remotely for family law (Indigenous Legal Service staff).

5 OBSERVATION OF LEGAL SERVICE DELIVERY

5.1. General Observation on Servicing Indigenous Clients

Focus groups and stakeholders alike identified a gap in civil and family law service provision for Indigenous communities. Participants noted that Indigenous people need help with a range of pressing legal problems other than those arising in a criminal law context, and yet legal services often emphasise the latter:

They [legal aid services] are focusing more on criminal, but there's a lot of civil issues too... for example, employment. A lot of Aboriginal people don't know that if they're sacked on the spot... they don't know how to get help from the lawyers (Alice Springs Women's Focus Group Participant).

Criminal [legal assistance] has always been top heavy. That person can come through that door ten times and they'll keep servicing them. We've got civil issues and family issues... that when they take their children away, you can't even fight for your kids (Darwin Women's Focus Group Participant).

When asked how legal services could be improved, participants expressed that there was a need for lawyers to become 'stronger advocates for Aboriginal people' (Alice Springs Men's Focus Group).

This gap in service provision was acknowledged by legal service providers, and also frequently discussed by other stakeholders. It was suggested that if there was capacity to more effectively and consistently commit resources to addressing Indigenous civil and family law needs, lawyers would have many more clients coming forward for help in these areas than is currently the case. There is certainly demand in Indigenous communities for increased service provision in civil and family law areas, and current resourcing of this service provision means that demand is largely unmet:

There is really an issue with resourcing. I think we do a good job with filling a gap, but it would be really good to be able to undertake regular, strictly civil outreach work and know you had the capacity to act on it. So it's still a big unknown exactly how much work is out there and to some degree it is something we haven't really wanted to know the answer to. So there is a good service being provided, but it's the tip of the iceberg (Indigenous Legal Service staff).

I think the service delivery is vastly inadequate. I mean honestly, we could be going to every one of our communities weekly or fortnightly [for non-criminal law work], and we would have a regular stream of people...Wadeye is one of the biggest communities in the territory, and we go there once a month. We could be there once a fortnight and we could have twice as many people (Indigenous Legal Service).

For detail in relation to the range of civil and family law service delivery currently provided see **Section 2**.

Access to justice is problematic for Indigenous people in all areas of law. Participants raised familiar issues in this context, such as suggesting that lawyers need cross-cultural training or to otherwise build their capacity to engage effectively with Indigenous clients. Some of these issues are discussed below.

One significant difficulty identified by many was that civil or family law problems generally require that a person actively make a decision to seek a legal remedy and to challenge the status quo. This is something that may be difficult to do, culturally, for Indigenous people, especially where they are without a legal advocate or have insufficient knowledge to identify a problem as a legal issue.

Indeed, a general lack of knowledge of rights in civil and family law areas itself presents significant barriers for Indigenous communities.

There are all those barriers to overcome; remoteness, communication, complexity. Just having the knowledge of what your rights are so that when something happens you've got some concept of what you can do about it from a legal perspective or from a civil law perspective (Registrar).

There is no doubt that Aboriginal people are well and truly overrepresented in the criminal law system ... and I would say well and truly unrepresented in the civil law system. The criminal law system is largely thrust upon people; they don't have any choice about it... Civil law is not like that, so unless and until you are able to overcome a lot of those issues... I think that there are cultural issues as well. I don't think Aboriginal people necessarily want to jump into a civil law dispute in the same way that you and I might if we'd been done over in a contract or something like that. So there are cultural factors there, but that doesn't change the fact that if people do want to access the system, there should be ways and means for them to do that. And the only real means for [Aboriginal people] to do it [challenge in civil law] at the moment is through the Aboriginal Legal Service and the Legal Aid Commission (Registrar).

When knowledge about legal entitlements is increased, more Indigenous people will be likely to seek assistance for civil and family law matters. Lawyers have a crucial part to play in increasing knowledge in order to improve access to justice, including through CLE and by increased service provision in these areas of law. In this respect, adequate funding of legal services is an absolute prerequisite to access to justice for Indigenous people in civil and family law:

It keeps coming back to a well-resourced Aboriginal legal aid service that can do civil work. Because again, legal aid services, the emphasis is always on the criminal work because that's the most time pressure, people tend to go to jail or the penalties are that they can be incarcerated. So understandably, a lot of priority and resources are put into the criminal law side of things and not a lot put into the civil law side of things... But that is, at this stage, one of the very few mechanism we've got to improve access to the civil law system by Aboriginal people, is by having a well-funded Aboriginal legal aid service that provides civil assistance... because without that, the walls are just too thick and too high. And that is very much reflected from where I sit where the number of Aboriginal litigants from remote communities are pretty well none, and those that do access it will always be represented by a NAAJA lawyer. It's not a fix-all, [but] it's a very important component (Registrar).

We need more lawyers, to do DCF matters, to do wills, to do tax returns, to do family stuff. I think the more we go out, the interest people show in us is developing exponentially, just because people are becoming aware that they can make complaints about such and such... I think the needs will grow as a result (Indigenous Legal Service staff).

One of the lawyers interviewed provided a very good example of the particular communication issues that might arise in the context of Indigenous-lawyer communication, and how not being aware of the latter might have negative impacts. The comment also illustrates, importantly, the differences in the

way civil and family law issues are perceived or will be raised by Indigenous people, compared to criminal law issues:

Indigenous clients that I see, they don't volunteer stuff. If I went to a community and said, 'Hi, I'm a lawyer, do you have any legal problems that you want help with?' I'd get this look of embarrassment from most people because they would think that I was suggesting that they had *criminal* problems. So what I tend to do when I go into community is I say, 'I'm here, and I'm here to see whether you've got any problems that I can help with like do you have any fines, or any debts that you want help with'. And suddenly everyone has a fine or a debt that they want to discuss. And then you start to get into the issues, 'Why do you have a \$10,000 debt when you're on Centrelink? Why did that happen, why did that bank give you that loan?' But people don't volunteer things (Legal Service staff).

5.2 Literacy Issues, Complexity of Forms and Lack of Assistance

Lawyers working to address Indigenous civil or family law problems need to 'start at the very beginning' without assumptions about knowledge and capacity of Indigenous clients in these areas of law. Indigenous people often need assistance in negotiating the often formal and very complex civil and family law system:

An effective service would take [Aboriginal litigants] under their wing, and assist them in navigating the complexity and the language and all that sort of stuff to help set them free to advocate for themselves or organise for a pro-bono lawyer to advocate for them... So it would be about ensuring that people knew what the civil law system was for and what you had to do to get access to it, and then once you did, as with any sort of positive discrimination I suppose, in the early days, you take people under your wing to help them navigate the system (Registrar).

Lawyers may need to provide non-legal assistance to help with this 'negotiation' process, including administrative-type work such as filling in forms. Barriers to access arise in the context of low levels of literacy in Indigenous communities:

A lot of the work that we do is not strictly legal work. It's administrative work - the superannuation, the 'victims' comp', the motor accidents claims. If someone had a degree of literacy they could do that themselves (Indigenous Legal Service staff).

The first complex thing you have to do to access this system is fill out forms, often quite complicated forms. They could be simplified...we could allow for email lodging of documents in the civil jurisdiction in the court (Registrar).

Sometimes Indigenous legal needs in these areas requires lawyers to assist Indigenous people with negotiation of the difficult bureaucratic systems they are bound to interact with (such as Centrelink or Territory Housing), which could themselves be improved. Part 2 discussed some of the problems arising due to ineffective engagement between some government agencies and Indigenous clients.

There is a component that is hand holding through bureaucracies and some of it is social welfare and some of it is referrals... It's a really holistic approach, and a lot of things that aren't legal (Indigenous Legal Service staff).

There are other ways [to improve Indigenous interactions with the civil law system] that involve government organisations like the Victims of Crime mob and Centrelink really

working hard at making their services more available on remote communities and by really trying to demystify the civil law process (Registrar).

5.3 Issues Involving Referral, Conflict and Lack of Assistance

Stakeholders noted that simply referring a client off to another service, without offering further help with this, might well mean that the client will not receive the assistance they need. As the following legal service provider notes, Indigenous clients may not have sufficient familiarity with or ‘cultural literacy’ in relation to mainstream processes and agencies for a cold referral to be sufficient:

There is a basic lack of cultural literacy among many of our clients. They don’t understand our role in the process, they don’t understand the role of government agencies and have difficulty understanding how all those institutions work. And that means we are starting from a much lower base in terms of assisting our clients to engage, and also assisting our clients to effectively take control and responsibility for their own legal needs. So it’s much harder to do a simple referral: in other circumstances you might say ‘ok, that’s a matter you should go and see the ombudsman [about]’ and that would be the end of your involvement, whereas I think there is a much greater need for heavily assisted referrals (Indigenous Legal Service staff).

Further, *non-legal* services and agencies in contact with Indigenous people may also need to be more pro-active in ensuring that legal problems they come across with Indigenous clients are dealt with appropriately, including by way of referral to legal assistance. These agencies, though, may not have sufficient (legal) knowledge or appropriate connections with legal services to enable this to occur.¹⁰¹

There are lost opportunities for referrals...I had a poor gentleman who had been totally ripped off by a phone company. You know, money out of his bank account for alleged free goods. Anyway he went to Centrelink and they said to him ‘oh, never do that again!’ Instead of, let’s call up and make an appointment for you with NAAJA... Agencies being more proactive about referring people... And not just on their business, like Centrelink matters or housing matters, but other business (Indigenous Legal Service staff).

5.4 Level of Friendliness and Attentiveness Given to Clients

Another issue that may inhibit access is that Indigenous people may not feel sufficiently comfortable in approaching legal services and lawyers for assistance. One focus group participant in Alice Springs stated that ‘actually there are a lot of people who are terrified of talking to a lawyer, ‘cause they don’t know what to say’ (Alice Springs Women’s Focus Group Participant).

Stakeholder and focus group participants were asked what would make a legal service effective in the services it might offer to Indigenous people. There was some discussion in this context relating to Indigenous communities’ basic distrust of the legal system and of lawyers, a sense that neither was really ‘on their side’. As one woman stated in Darwin, ‘they should be standing up for the peoples’ rights and representing them in a correct manner... They just don’t represent us’ (Darwin Women’s Focus Group Participant). Another participant explained that he believes if Aboriginal people could see how legal services operate, ‘it would encourage them to put more confidence in the lawyers, or the legal system... realising then that people care for them... It’s taken a long time for people to see that this system wants to fight for us’ (Darwin Men’s Focus Group Participant).

¹⁰¹ Although see, for instance, regular meetings between NAAJA solicitors and Territory Housing staff in Section 2.1.

One participant said that there needed to be a permanent presence of legal services in Tennant Creek, and that these services need to be more ‘inviting ... not some big flash cars and things’.

An effective service would almost be welcoming, [rather than] ‘Tell me what you are here for and I’ll help you fill out the form, this is what you’ve got to do, and then you’ve got to come back here on a certain date, and you have to be here on time otherwise the whole thing might fall over...’ (Registrar).

Trust, respect, and a good understanding of a lawyer’s role and capacity were identified as important factors contributing to an effective legal service, including in terms of building relationships on remote communities over time. Legal victories are only part of the equation for good legal service provision for Indigenous clients; it is equally important that

... people feel like they have been listened to and treated with respect, that their problems have been taken seriously. So part of that is front end work on expectation, and also making sure that people understand the limited role that the legal system has, and explaining things to people like ‘there may be an outcome but it’s not going to be worth the effort’. I mean, that can be very hard to explain to someone, especially when they are upset about something... understanding is really important (Indigenous Legal Service).

And it’s then, if we are there less frequently, it’s hard to keep in touch with clients. If we were in Wadeye every week, it would mean that if we didn’t see a client for two or three visits it wouldn’t be such a big deal... but if we are there once a month and they don’t see us for two or three visits, we’re having trouble getting in contact with them, those things impact significantly on our ability to provide [services]... There is a certain momentum to providing this service... if we for whatever reason aren’t there for a few months then we lose that continuity and the community loses the sense of trust that they build up (Indigenous Legal Service).

One participant also suggested that a service should ‘talk to the person who’s in trouble, explain to them what they’re up against... explain to them their rights... but you don’t get that now’ (Tennant Creek Men’s Focus Group Participant). Another male participant from Tennant Creek indicated that lawyers should engage in proper consultation, with adequate time given to explain to people what their options are.

As an indication of the importance of trust, the following example is provided. Indigenous clients may only want to talk to a lawyer (or other legal service staff) where there is some established relationship. When asked if participants would seek legal advice if they experienced any civil law issues, one participant in Darwin responded, ‘No ... because when this is the first time for people who travel across [to Darwin from the communities]... they only deal with people they know now (Darwin Men’s Focus Group Participant).

A related point is the necessity for some for a legal service to have *Indigenous* staff available to liaise between lawyers and clients. Focus group participants in Alice Springs stated as follows:

There’s some [legal] educational materials out there, but I think people don’t have the confidence to go up and knock on the lawyers door ... unless they’ve got an Aboriginal person working in that legal service (Alice Springs Women’s Focus Group Participant).

I would have Aboriginal people working there... training as paralegals... then they can have one to one consultation with our people coming through the door, and then refer them on to the lawyers... and good education programs and good legal advice (Alice Springs Women's Focus Group Participant).

A number of participants agreed that there need to be Indigenous field officers or legal liaison persons to go out to the community and to speak to people about legal matters. One participant pointed out that there should be male and female workers working in Indigenous-specific roles within legal services (Tennant Creek Women's Focus Group Participant). A number of legal services do have Indigenous-specific staff, as noted in **Section 2**.

5.5 Breakdown in Client-Practitioner Communication

Indigenous focus group participants indicated that communication break downs between lawyers and Indigenous clients may be due to the complexity of the law and the fact that some lawyers are not able to effectively interpret this complexity for them, particularly given language and literacy issues.

'Lawyers shouldn't use big terms. Speak English. They should just speak simple plain English to people, you know. Not bringing in big hard words that we've never heard of', said one participant in Tennant Creek. Another participant from the same community suggested that 'you got a community where English is people's second language. They are flat out trying to understand English, let alone the law system' (Tennant Creek Women's Focus Group Participants). In Alice Springs too, a focus group participant explained that the major problem with current legal service delivery for Indigenous people was language barriers (Alice Springs Men's Focus Group Participant). 'What they [legal aid lawyers] are doing wrong is that they are not engaging Aboriginal people with language to explain to people in plain English ... They're still using their own legal jargon' (Alice Springs Women's Focus Group Participant).

We want Aboriginal people [employed in legal aid services] who can speak language ... and being able to speak that plain English to people... let them know exactly where they stand legally... instead of beating around the bush and talking in that legal jargon. Because, they are talking in their own language, and they forget that they're talking to Aboriginal people (Alice Springs Women's Focus Group Participant).

Participants wanted more frequent use of interpreters to assist with this: 'One thing I noticed too is that [legal aid lawyers] don't use much interpreters', noted a participant in the Tennant Creek Men's Focus Group.

Lawyers acknowledged these difficulties and the importance of addressing them. One Indigenous Legal Service lawyer in Alice Springs stated: 'I guess it's also on the cultural level the language difficulties. It is also having a service where there is enough experience within the service to be able to deliver things in an appropriate way'.

Problems were discussed relating to finding suitably qualified, high quality and gender and culturally appropriate interpreters who are available to assist lawyers. Good interpreters, for example, may be in demand for all sorts of 'non-interpreting' work, which may provide a more stable or higher income. It is worth providing a number of comments in relation to this issue, as it is a fundamental and significant problem hindering communication and of course, inevitably, effective access to justice.

That (using interpreters) is a huge issue, almost every day. Volunteers, they don't always show up. It's part of the whole cultural thing: as much as we can we try and employ people in house who have good language skills. Though we've got a regular contact with the Aboriginal Interpreter Service... but they have their own issues with staff, to do with continuity of work and being able to offer reasonable career paths and continuity of work, so people tend to drift around a bit. And problems with formal qualifications that people have (Indigenous Legal Service staff).

I don't know that the hourly rate [of pay for interpreters] is the problem, but the fact that it is a bit of an unknown quantity of hours that they're going to be used, it is all a bit sporadic. So when something comes up urgently they may not be able to find anyone or they might have something better to do or they might be out bush, so there are problems getting particular languages from time to time, and what those languages are shift... that's a daily issue. (Indigenous Legal Service staff).

There is a real shortage of skilled interpreters. So you may have an excellent interpreter in Darwin, but you've got your client out bush, and using that interpreter by telephone is not the best means of communication. Or you're out bush and there is no interpreter at a particular level to get the information. Or the only interpreters for a particular language in Darwin are female and you have to go to a male prison - that makes it difficult to get information as well (Indigenous Legal Service staff).

[The lack of interpreters] means that matters are not picked up at all. They are either pushed off, or not proceeded with... Interpreters who aren't themselves culturally competent, who don't interpret directly because of wanting to please, recruiting interpreters from remote communities who don't have a western education background. Everyone wants a piece of a good interpreter and there's not enough to go round. People with the skills for interpreting prefer to get other skilled work rather than the piecemeal work that interpreting offers (Indigenous Legal Service staff).

I guess the advantage with something like a community development approach, is that we do have people who are trained interpreters who are members of our group. It is very much a community issue in terms of what the languages are, but we do employ interpreters and we are lucky that the group has interpreters within it. In terms of the long-term approach, NAAJA has previously produced a lot of materials in language. There has been a series of court and Domestic Violence Order DVD materials and they were produced in multiple languages. I think the idea is, and this is where we are moving in the future, is that by working with individual communities there will be generation of resources by those groups in conjunction with the CLE worker and conveniently uploaded onto YouTube and other formats as well. Then that can be in multiple languages, and because it is generated by those individuals, we are hoping that there will be a far greater identification with the messages and interest in those packages. That is part of our long-term strategy (Indigenous Legal Service staff).

5.6 Issues Concerning Flexibility in Service Delivery

The comment below from a Registrar suggests that Indigenous people based in cities, where services are supposedly more accessible, still face barriers inhibiting access to justice that all Indigenous people face. One of these is the 'time-rigid' nature of the legal system generally:

Remoteness is one important aspect. For urban Aboriginal people in Darwin itself the other ones equally apply; the complexity, the forms that have to be filled out, the communication, English as a second language issue and that sort of thing. And by its nature the court process is very rigid...if you miss the bus, or you haven't got money for a taxi or something and you miss an appointment, there can be quite strong sanctions for that here... so it is a very time-rigid system, which culturally Aboriginal people don't always have the capacity to work within, nor see the need for it a lot of the time... so all the other issues are certainly there. The only issue that is not there is remoteness (Registrar).

This same issue may arise within legal service delivery, where clients need to attend for appointments for example, but may fail to do so for any number of reasons. Given this, suggestions were made in relation to the need for legal services seeking to work effectively with Indigenous clients to be 'time-flexible'; or as one lawyer in Alice Springs suggested, legal services should be 'providing flexible service.' This would mean for a service that 'when people just rock up to the door, we try and see them, because otherwise we might not see them again for a long time, and also get as much information from them as we can to make future contact possible' (Indigenous Legal Service staff).

5.7 Interactions between Legal Service Providers

Legal services report working, to the degree that their capacity allows, to ensure that gaps in service delivery (based on geography, gender, area of law, for example) are minimised. This may include by way of referring clients to each other, by making decisions about the type of matters they cover, and by trying to collaborate, in general, rather than duplicate. Some of the ways that legal services work together, predominantly under informal arrangements, are set out in **Section 2**. Gaps in service delivery still remain, however.

There is a constant referral processes between all of the services. Sometimes more successful than others I suppose. Everyone over the last few years has been put into a position where they're able to do more outreach work than they have been previously, that's why NTLAC has been going out. We confer with them about where they're going and what they are doing so we try not to duplicate services out there... In other circumstances where there is a need for more than one service provider to go out there, we will share resources. This week for example, we've had a trip out to a few communities and...the Women's Legal Service has gone along with us for an educational point of view. We've got an MOU with NTLAC, which revolves really around criminal practices. Their civil practice is really non-existent (Indigenous Legal Service staff).

I think more energy needs to go into referral pathways. I guess it's relationship building really. Regular meetings could help with that (Indigenous Legal Service staff).

When asked how NTLAC fits in with the civil work that one Indigenous Legal Service provider is doing in this area of law, the following response was provided:

They don't have an in house civil law section. They do care and protection matters, they just started doing duty service again in the family matters court where they pulled out six months ago because of funding...They don't have any in-house civil solicitors except a couple of outreach solicitors. Generally they will be limited as well. They won't have the capacity to take on casework, they would give advice and minor assistance only... So there is really a need. They have targeted communities that NAAJA can't really go to, so it's an important role that they are taking on (Indigenous Legal Service staff).

Another point was also made in this context. It was suggested that having good links with *non-legal services* is also important, as these other agencies may well need to link clients up with lawyers. One example would be having financial counsellors ‘readily available for communities’ who could refer to lawyers, ‘because it might not be a legal issue on the face of it at the start but it certainly will be’ (Indigenous Legal Service staff).¹⁰²

5.8 Limitations Arising from Levels of Resourcing

In many instances, stakeholders and some focus group participants referred to problems with funding (including both instability and insufficiency) as impacting on Indigenous access to justice in civil and family law areas. This is clearly an important point for many.

The reality is they haven’t got enough resources to represent countrymen properly [even] in the criminal justice system. If you are unlucky enough to be countryman, and your only recourse is to a NAAJA lawyer, then you can bet your representation is going to be the best that they can give, but it’s going to be very little, quite frankly, because of the lack of resources. They are just so flat out. They haven’t got time to spend with clients, and we’ve experienced this first hand (Indigenous Community Organisation worker).

Increased funding to Indigenous legal services *in general* is urgently required so that the needs of Indigenous communities in the NT can be met. ‘Look at the Aboriginal population in the Territory’, said one participant from Darwin (Darwin Women’s Focus Group Participant). ‘We need more Government money... [but] it doesn’t come’, said another woman from the same Darwin focus group. Indigenous legal services, like other Indigenous-focussed programs or services, may be set up to fail without adequate resourcing:

We need more funds from the government... and we need Aboriginal people to run these programs so that we’re going to get positive outcomes... And we can make things work, but they don’t want us to make things work (Darwin Women’s Focus Group Participant).

The way expenditure of resources is prioritised in order to assist with criminal, rather than other legal issues, was also discussed. Some called for decisions relating to funding to more accurately reflect need in civil and family law areas:

With the Aboriginal legal aid services, I don’t think it’s the legal aid services themselves [that is the problem], it’s the funding ... The funding is cut back, and it’s really back to front – ‘arse about’ is the way I’d call it. Because there are certain things they can represent, but the ‘grey’ bit they can’t do... and so if a legal person is trying to help someone, they got to check on their funding. Maybe some kind of reports, like this sort of thing (the ILNP), will get some common sense back into the Federal Government with their funding (Alice Springs Women’s Focus Group Participant).

The non-Indigenous legal services get money from the NT Government. Because it’s seen as discriminatory because we’re black, we get money from the Commonwealth. The Territory Government does not provide us with a service, here, in this legal service... I know they’re flat strap. I know most of the money goes to criminal. There’s limited [money] that goes to family or civil, yet I don’t where they’ve hidden the data that’s coming through the door ... We got more now... [the Aboriginal Legal Service is] not with us... fighting Territory

¹⁰² See NTLAC’s initiative to connect remote communities with financial counsellors through Skype in **Section 2.3**.

Housing, fighting the commercial law, fighting the deaths (Darwin Women's Focus Group Participant).

'What's more important to us is our family. And there's this much money in that family section, you know... There needs to be more money in those areas (Darwin Women's Focus Group Participant).

Money is another big thing obviously, for litigation matters. Not being able to fund expert evidence or fund barristers (Indigenous Legal Service staff).

Funding needs to be sustainable enough, and sufficient, so that expectations are not raised within Indigenous communities, only to be dashed due to restrictions on assistance that can be offered by legal services:

One of the impacts for us is that the outreach work that we've been able to do is really good, we've had a bigger presence in communities. Especially in areas where the criminal courts don't travel to which we've never really been able to do systematically before, but the downside to that is that we've always known that the civil and family law work is out there if you go looking for it but it doesn't always find you in the same way that criminal work finds you. So if you go out looking for the work that's good, but if do that without the capacity to actually do the work... So it's really 'arse-about', if you like. You need the services on the ground to be able to carry through with what your promise is to community. You go out there and say to people 'What are your problems?', and they tell you what their problems are and you say 'Well, sorry, we can't do anything about that' (Indigenous Legal Service staff).

Problems in relation to the way legal services are funded (the timing and inconsistency, rather than just amounts of funding), and how this impacts on service delivery were also raised by a number of stakeholders:

It would be great if our funding cycles were longer and we were then able to say to communities, this year we'll be in your community on these days for 2012. At the moment we can't do that. We say 'we'll be here every month for the next couple of months'. You can't instil confidence in the community in your service when you are working in that way...it's just embarrassing (Indigenous Legal Service staff).

There was at the time of interview in 2011 a fair amount of comment by legal services of uncertainty around whether funding increases under the NTER were going to be sustained. This uncertainty makes it difficult to operate an effective legal service. A reasonable proportion of the legal assistance currently being provided in the NT in relation to housing (by welfare rights solicitors), for instance, or on particular communities (such as the NTLAC outreach to Alpuururulam) is dependent upon funding that has been provided as part of the NTER (see **Section 2**).

The obvious difficulty is that the NTER introduced a raft of legislative change, and just because they are not going to call it the NTER anymore, that doesn't mean those changes are going to be repealed. So it's increased the workload and changed everything. If they don't withdraw those changes are going to remain so all that extra work will remain. The best example of that is the Income Management stuff, the new regime after the NTER stuff finishes, Stronger Futures, they will not talk about Income Management, because it's no longer part of the NTER or Stronger Futures, it's mainstream policy so they won't even have the conversation. We're left with the legacy of it and it has a bigger effect here and a bigger

effect on Aboriginal people but it's not an NTER specific policy anymore. So whether they will fund it is a very big question (Indigenous Legal Service staff).

We have had more funding than we have ever had before...that is all probably about to reduce and we are about to go backwards. I think that is potentially going to be really hard. The civil section is feeling it already, where they have been able to operate at a particular level. And the level hasn't reduced, but the number of people doing it has reduced and that isn't very conducive to a good working environment and it's not very conducive to (staff) retention (Indigenous Legal Service staff).

We've tried over the last few years to increase the resources we have to increase the strength in the family and civil areas. We've been able to do that but in the funding cycle that is coming back to us, it's not looking all that rosy, and that's partly because of the Intervention and partly because of fiscal responsibility at the Commonwealth level. The position we've been in is that we're funded to a certain amount to carry out a contract basically, and that's not very much money. But we've been able to bolster it up with other little pockets of money that are just year to year and we've been lucky that we've been able to secure that, but we have been less lucky with that lately, we've also had a lot of knockbacks. So that just reduces our own raw capacity and that means we're getting closer to having to exist on the strict contract money we've got. The big problem with that is that is the uncertainty. I'll give you an example. We built a significant practice around the NTER and we've got no idea about next year, no hint of whether it will be continued at all or whether it will continue in another form or just to a lesser degree. Which means that we're in a situation where we have to think about that now, and if we get people whose contracts are up and don't renew them, there's a big question about whether we fill [the empty positions]...Do we get people to fill those positions? Once you've got those funds and positions you've got flexibility about who can be placed where and provide services across the board. But when they're uncertain we can't really commit long term to what staffing level we're going to have next year (Indigenous Legal Service staff).

Lack of funds for Indigenous legal services means that recruitment and retention of quality legal staff is very difficult, as discussed briefly immediately above in relation to uncertainty in funding cycles. Legal services are not able to offer Indigenous people effective legal advocacy where they are unable to employ quality lawyers.¹⁰³ Staff turnover also impacts on relationship-building that is so important in forging good connections with Indigenous communities and between legal and other services.

Focus group participants and stakeholders raised this issue. One participant in Darwin suggested that there is, in general, a need for more lawyers in Aboriginal legal services (Darwin Women's Focus Group Participant). Another woman participating in the same focus group noted as follows. 'I know there's a lot of lawyers who come up here and they're getting shit money ... and we don't have [the funding] to keep those good lawyers, to retain them ... 'cause there are some good lawyers, great ones'. Lawyers agreed that 'if you want to attract and retain good staff you have to pay them. There is always someone leaving, but I think that is always going to be the case in remote areas' (Indigenous Legal Service staff).

The other thing that impacts significantly is recruitment and retention: that's been a big issue for us so it means that our Nhulunbuy office doesn't have a civil lawyer because we haven't

¹⁰³ See for instance NAAJA's comment that shortages of staff in legal services in Katherine meant that for a significant period of time it had been the only civil service provider in the Katherine region (**Section 2.1**).

been able to recruit a civil lawyer with appropriate qualifications out of head office. And that means that that area has been either not serviced or grossly underserved for a very long time...it means that some of those communities are simply not having their needs met and no one else does it (Indigenous Legal Service staff).

Legal services are predominantly located in centres, such as Alice Springs or Katherine (see **Section 2**). Being able to put resources into a permanent legal service presence on remote communities, therefore, would make a huge difference to service delivery, according to some stakeholders. An Indigenous Legal Service in Katherine noted that Centrelink have agents in Indigenous communities. Similarly, this service suggests 'if legal services providers had CSOs (customer service officers) in selected communities it would provide those communities with access to legal services - a shopfront type thing from a person, 24 hours day.' This cannot occur if funding is not increased, however. 'This is a funding restraint. It would be such a clear assistance to us. I think we rely a lot on people's goodwill and people in the communities who are more familiar with us and who we have really good relationships with' (such as safe houses), 'but it's not a formal arrangement at all. People who help are unpaid and it relies on their goodwill and that they have time to do it... If we had someone like that (CSOs) in our communities it would make our job so much better. We'd be more efficient and more importantly our clients would get better service (Indigenous Legal Service staff).

Others also identified a need to have Indigenous 'representatives' of legal services on communities, particularly in the context of irregularity of legal service provision. Some arrangements do exist, but as noted by the legal services in Katherine (above) and in Darwin (below), these remain informal. If similar initiatives could be properly funded, this would benefit communities, both in terms of access to justice and as an effective community development strategy.

In terms of needs of the community, I guess a stronger capacity to do a sort a sustained engagement in a range of different communities to address those fundamental issues. And then, something we have been pushing for a bit has been for in-community triage workers, who are people we would work with...people in the community...who essentially do issue spotting for us, get on the blower and say... In light of the deficiency [of having no field officers] I think that would address it by training up local people so that they could be these triage workers to direct our people and timing well with limitation periods and also knowing whether or not there are avenues to address things that appear [in a particular community]. We already have a couple of people that work with government agencies, like one of our (community) members who works as a Centrelink agent. She is just a trouble-shooter for the community. So if anything happens she and a couple other ladies are really proactive on asking us for immediate help. They have also developed good relationships with [another lawyer] (Indigenous Legal Service staff).

5.9 Agency Policies that Impact on Service Delivery to Indigenous Clients

Legal service provider policies may also have potential to impact negatively upon accessibility. Relevant policies might relate to means and merit testing or to the type of matter that services may or may not take on, for instance. Stakeholders and focus group participants have provided some examples, as follows.

We've got a restriction on doing commercial matters. And the failure with that is that it can be very small commercial matters and our clients or potential clients end up with no legal representation because of that blanket rule (Indigenous Legal Service staff).

One legal service provided the example of an artist who has commissioned work for sale. This person 'can't get any representation because they can't afford private representation. Not NAAJA policy, but funding guidelines from the Commonwealth Attorney General' (Indigenous Legal Service staff).

We can't get that involved with Aboriginal corporations because of funding guidelines. We get a lot of complaints about [Aboriginal corporations] and we are trying to work out what we can and can't do around it (Indigenous Legal Service staff).

One of the things I'd like to see under the Aboriginal Legal Services is [better services] for people like myself that *do* work ... I have to go out and spend \$1800 [to access legal help]. Why couldn't I come through here (NAAJA) at a cheaper price? There should be another arm of NAAJA that's for Aboriginal people who are working and that are able to pay some money toward their legal service. People from refugee and ethnic communities... they get more services than we do (Darwin Women's Focus Group Participant).

In this context, legal services report having to constantly prioritise the work that they can take on, in large part with reference to the resources available to them. They also indicate that they try to be as inclusive and flexible in spite of (or in the interpretation of) existing policies, so as to ensure that as much assistance as possible is provided to Indigenous clients and that policies do not impede access to justice:

There is a means test, which is along the same lines as the Legal Aid test that was introduced a few years ago. It doesn't actually impact on many of our clients at all, but we apply it more these days than we have in the past. There are certain restrictions in family law matters, so we're not supposed to, we've got to follow certain criteria and refer people off for mediation and that sort of thing, which is often mandated under the *Family Law Act* anyway. We're not supposed to do child support stuff. We do some - there is always a clause that where there is a particular disadvantage, we can (Indigenous Legal Service staff).

The policies here in the last few years have come more into line with what exists in Legal Aid Commissions in terms of priority areas of work... with the means testing as an example of that, and certain areas we will and won't go into... It was actually very reflective of the work we were already doing anyway... we'd made those decisions along the way (Indigenous Legal Service staff).

Over and above what comes from the funding bodies, each of the services set their own parameters in terms of what their own resources allow them to do or not do. Because what we are given by the funders is 'priority areas' and not sort of strict guidelines about you will do this or that. There is a certain priority gradient and it is all hinged on what the resources will let us do... We haven't set those sorts of boundaries, but other service providers have and have limited themselves geographically... we haven't done that (Indigenous Legal Service staff).

We try and see everybody, I guess, depending on how easy they are. We've got to look very carefully at the merits and the reasonable prospects. I suppose every case is arguable, but [we ask] 'could we get anywhere with this?' We have to think about this fairly closely... Does the benefit outweigh the costs in terms of our resource? (Indigenous Legal Service staff).

Depending on how busy we are, it might impact on the tendency to make referrals rather than keep something in house. We have had situations in the family sections in the past where we

have had to stop taking on new work for a period of time. Those rules always bend when there are urgent situations or where there is no prospect of referral. When that happens, we have always had a referral plan in place and have sent them across to a Legal Aid Commission and say we don't have the capacity. They have been short periods and they haven't been very often (Indigenous Legal Service staff).

According to a number of Indigenous participants, however, formal, legal services' policies *do* impact and may not actually accurately reflect or respond to relevant needs and issues arising for Indigenous people. There is some acknowledgement of this by legal services. The following comment on policy relating to referrals if there is a conflict of interest illustrates the impact of this policy on Indigenous men:

The biggest [civil or family law] gap that we see is for male clients. So if for some reason we're conflicted and can't assist a male civil law client there really isn't anywhere to refer them to. Legal aid doesn't do it and the other legal services are all for females. So that's a real problem. Unless it was the type of matter that a private lawyer might look at as a no win no fee, which doesn't happen. So that's a huge gap (Indigenous Legal Service staff).

Throughout this report, there are other examples of how relevant needs are not met due to legal service policy relating to, for example, when and where lawyers are able to travel to which remote communities; the extent to which criminal law may be prioritised over civil and family law and what type of civil law, for instance, is covered by a legal service; where and when interpreters will be used; how much CLE or law reform a service can take on; and reliance upon informal rather than formal working relationships between legal services.

Legal services indicate that often their hands may be effectively 'tied' by the way they are funded to deliver services. The following comment illustrates the difficult decisions legal services must make in terms of trying to use resources as effectively as possible in order to meet *all* legal needs.

The other difficulty that is associated with that is that we've got non-civil lawyers out there collecting work for us and a lot of this stuff could be dealt with on the spot if it was a civil lawyer giving the advice or taking the instructions. But it's a Catch 22 because that means we've got all this extra work and there is more work trying to contact remote clients again to get further instructions which just means that we don't have the capacity ourselves to do the outreach. So that is something else that we'll have to think of in the new year, I think, is whether it is going to be more efficient to bite the bullet and send civil lawyers on some of these trips. We've been having difficult conversations internally... But the real problem is that if we don't do this, no one does (Indigenous Legal Service staff).

As one participant indicated, however, to date, 'there's no one capturing all this stuff (legal needs) to shape and change policies... There's no-one capturing what concerns we might have' (Darwin Women's Focus Group Participant). Perhaps increased knowledge of the nature of Indigenous legal needs and issues in civil and family law may have some impact upon service delivery for Indigenous communities with respect to civil and family law issues.

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APPENDIX A: FOCUS GROUP QUESTIONNAIRE

INDIGENOUS LEGAL NEEDS PROJECT

Focus Group Questionnaire

State: _____ Ct: _____ S: _____

This questionnaire is anonymous - we don't need your name on this form. Please ☒ the answers as required.

Age 18-24 ☐ 25-34 ☐ 35-44 ☐ 45-54 ☐ 55 and over ☐

WHEN YOU ANSWER these questions we would like you to think back over the last couple of years.

1. HOUSING AND TENANCY

Have you had any problems or disputes over your house involving your landlord (this might involve Territory Housing or State Housing Commission, the Shire Council, local community council or a private landlord)?

YES ☐ NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the dispute or problem about (eg rent, repairs, eviction, relocation or transfer between houses, bond, overcrowding)?

Did you seek legal advice or get help?

YES ☐

NO ☐

Who did you get help from?

How did you resolve this dispute or problem?

Have you had any disputes or problems with supported accommodation? This might involve a hostel (such as Aboriginal Hostel or shelter), aged care, nursing home or a retirement village? It might involve yourself or someone you care for.

YES ☐

NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the dispute or problem about (eg fees, the service provided, standards, etc)?

Did you seek legal advice or help?

YES ☐

NO ☐

Who did you get help from?

How did you resolve this dispute or problem?

Over the last couple of years, has there been any other time you have used legal help or advice for housing (eg buying and selling a home or unit, applying for Territory or State Housing or priority housing, seeking council approval for building applications, etc)?

YES ☐

NO ☐

If you answered YES, please complete the following questions:

Who provided the advice or help?

How did you resolve this problem or dispute?

2. NEIGHBOURS

Have you had any problems or disputes with neighbours over such things as fences or boundaries, noise, privacy, animals?

YES ☐

NO ☐

If you answered YES, please complete the following questions:

What was the problem or dispute about?

Did you seek legal advice or help?

YES ☐

NO ☐

Who provided the help?

How did you resolve this problem or dispute?

3. WILLS and ESTATES

Have you completed a will?

YES ☐

NO ☐

If yes, did you get any advice from anyone?

YES ☐

NO ☐

Can you remember who it was? Was it a lawyer? Was it a legal centre? Was it a friend or a relative?

If you haven't completed a will, would you like to get legal advice on completing one?

YES ☐

NO ☐

Who would you approach for that advice or help?

Have you ever had to take charge of someone's estate after they died (ie as the executor for a deceased estate)?

YES ☐

NO ☐

Have you been involved in any disputes over a deceased estate (eg have you had a problem getting access to a family member's estate)?

YES ☐

NO ☐

How did you resolve this problem or dispute?

4. VICTIMS COMPENSATION

Over the last couple of years, have you been the victim of a violent crime? YES ☐ NO ☐

If you answered YES, please complete the following questions:

Did you know about the victim's compensation scheme?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Did you seek victim's compensation?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Who did you go to for help and advice? _____		

5. STOLEN WAGES, STOLEN GENERATIONS

Are you a member of the Stolen Generations?

YES ☐ NO ☐

Do you think you may be entitled to any money that was held in Aboriginal Trust Funds (eg Stolen Wages)

YES ☐ NO ☐

If you answered YES, please complete the following questions:

Have you had any help or advice about making any claims?	
YES <input type="checkbox"/>	NO <input type="checkbox"/>
Who provided the help? _____	
Are you pursuing any claims for compensation?	
YES <input type="checkbox"/>	NO <input type="checkbox"/>

6. EMPLOYMENT

Over the last couple of years, have you had any problems or disputes in your job over things like pay, superannuation, unfair dismissal, working hours, award conditions, leave, union membership, bullying, harassment or other working conditions?

YES ☐

NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the problem or dispute about?

Did you seek legal advice or help?

YES ☐

NO ☐

Who provided the help?

How did you resolve this problem or dispute?

7. SOCIAL SECURITY AND CENTRELINK

Are you receiving any type of allowance specifically for Aboriginal people (such as ABSTUDY, CDEP or the Indigenous Cadetship program)? Are you receiving any other type of allowance through Centrelink (such as Youth Allowance, Newstart Allowance, Austudy, sickness or disability allowances, age pension, widow pension, Veteran Affairs pension, parenting payment, child care payment, baby bonus, carer payment)?

YES ☐

NO ☐

Are your Centrelink payments subject to Income Management?

YES ☐

NO ☐

Have you had any problems or disputes over payments with Centrelink over the last couple of years (such as overpayments or underpayments, getting cut off benefits, incurring a debt, problems with the Basics Card)?

YES ☐

NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the problem or dispute about? _____

Did you seek legal advice or help?

YES ☐

NO ☐

Who provided the help?

How did you resolve this problem or dispute?

8. FAMILY MATTERS

Over the last couple of years, have you had any problems about residence or contact arrangements, such as custody or access, in relation to your children or grandchildren? Have you a problem with family members taking children away (and not returning them)? Have you had problems in relation to child support payments?

YES ☐

NO ☐

Have you had any problems in relation to children being taken into care, or problems about fostering, adoption or guardianship?

YES ☐

NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the problem? _____

Did you seek legal advice or help?

YES ☐

NO ☐

Who provided the help?

How did you resolve this problem or dispute?

Have you been through a separation or divorce over the last couple of years and, as a result, have you had a problem or dispute over property, money or superannuation?

YES ☐NO ☐

If you answered YES, please complete the following questions:

Did you seek legal help or advice?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Who provided the help?		
<hr/>		
How did you resolve this problem or dispute?		
<hr/>		

9. DISCRIMINATION

Over the last couple of years, have you had any problems with racial discrimination or other types of discrimination (such as because of your age, your marital status, your gender or sexuality, religion, or because of a disability)? By discrimination: we mean being treated less favourably because of your race, etc

YES ☐NO ☐

If you answered YES, please complete the following questions:

Briefly what type of discrimination was it and where did it occur (eg bank, real estate agent, your job, government service, club, etc)		
<hr/>		
Did you seek legal help or advice?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Who provided the help?		
<hr/>		
How did you resolve the problem?		
<hr/>		

10. ACCIDENT AND INJURY

Over the last couple of years, have you been involved in a car accident where there was damage to either your vehicle or the other vehicle or suffered an injury outside the home (eg accident in shopping mall, or as a result of medical treatment) or a work-related injury?

YES ☐

NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the nature of the injury?	
<hr/>	
Did any of these injuries require medical treatment?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Did you seek legal help or advice about compensation and/or insurance?	
YES <input type="checkbox"/> NO <input type="checkbox"/>	
Who provided the help?	
<hr/>	

11. EDUCATION

Over the last couple of years, have you been responsible for a young person attending school, TAFE or university, or have you attended yourself?

YES ☐ NO ☐

During this time have you encountered any problems with issues such as suspension or expulsion, bullying or harassment, HECS or other fees?

YES ☐ NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the problem? <hr/>	
Did you seek legal help or advice?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Who provided the help?	
<hr/>	
How did you resolve the problem?	
<hr/>	

12. CREDIT AND DEBT

Over the last couple of years, have you had any problems with paying a bill or loan or other debt where the lender has threatened or taken out legal action against you?

YES ☐ NO ☐

Have you had any problems or disputes over your Credit Reference Rating or as a guarantor for someone else's loan, or in relation to possible bankruptcy?

YES ☐ NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the problem? _____	
Did you seek legal help for any of these matters?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Who provided the help? _____	
How did you resolve the problem? _____	

13. CONSUMER

Over the last couple of years, have you any problems accessing or finding your superannuation? Or any dispute with a bank or credit union or financial institution (eg over your account balance, bank fees or other matters)?

YES ☐ NO ☐

Over the last couple of years, have you any problems with insurance (eg a dispute over a claim or premium, or not being able to get insurance in the first place)?

YES ☐ NO ☐

Over the last couple of years, have you any problems with any types of 'scams' or contracts involving things such as funeral funds, door to door sales, TV or mobile phone plans, used cars?

YES ☐ NO ☐

Have you had any other type of problem where you paid for something and didn't get what you paid for?

YES ☐ NO ☐

If you answered YES, please complete the following questions:

Briefly, what was the problem? _____	
Did you seek legal help or assistance?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Who provided the help? _____	
How did you resolve the dispute or problem? _____	

13. TAXATION

In what year did you last complete a tax return? _____

APPENDIX B: STAKEHOLDER INTERVIEWS

ILNP STAKEHOLDER INTERVIEWS CONDUCTED IN THE NT

Alice Springs

NT Shelter
Tangentyere Council
Australian Red Cross
Central Land Council
CatholicCare NT
Registrar, Courthouse
Central Australian Aboriginal Legal Aid Service (CAALAS)
Waltja Tjutangku Palyapayi
Central Australian Womens Legal Service (CAWLS)
Relationships Australia
Anglicare
United Voice Union
NPY Women's Council
NT Council of Social Services

Alpurrurulam

Centrelink Remote Servicing Team
Barkly Shire Council
Health Clinic staff
NT Police

Darwin

Council for Aboriginal Alcohol Program Services (CAAPS)
Domestic Violence Legal Service
United Voice Union
Registrar, Courthouse
Darwin Community Legal Service
Anglicare
Dawn House
Australian Red Cross
Somerville Community Services
Family Relationships Centre
Australian Competition and Consumer Commission (ACCC)
Australian Securities and Investment Commission (ASIC)
North Australian Aboriginal Justice Agency (NAAJA)
North Australian Aboriginal Family Violence Legal Service (NAAFVLS)
NT Legal Aid Commission (NTLAC)
Top End Women's Legal Service (TEWLS)
CatholicCare NT
Larrakia Nations
Anti Discrimination Commission
Working Women's Centre
Yilli Rreung Housing Aboriginal Corporation
NT Shelter

Katherine

NT Legal Aid Commission
North Australian Aboriginal Justice Agency
Sunrise Health Service

Wurli Wurlinjang Health Service
Katherine Women's Information and Legal Service
Katherine Regional Aboriginal Health and Related Services (KRAHRS)
Registrar, Courthouse
Somerville Community Services
CatholicCare NT
Fred Hollows

Papunya

Shire Council
Government Business Manager (GBM)

Tennant Creek

Julalikari
Central Australian Aboriginal Family Legal Unit
CatholicCare NT
Indigenous Coordination Centre
Council of Elders and Respected Persons
Australian Red Cross
Tennant Creek Women's Refuge
NT Legal Aid Commission
Centrelink

Wadeye

Health Clinic staff
Centrelink
Shire Council
Government Business Manager (GBM)
Thamarrurr Regional Authority Aboriginal Corporation (TRAAC)
Thamarrurr Development Corporation (TDC)
Wadeye Safe House
Women's Centre

APPENDIX C

FOCUS GROUP DATA TABLES

3.1 HOUSING AND TENANCY

Table 3.1 Number and Percentage of Focus Group Participants Identifying Housing and/or Tenancy Dispute or Problem with Landlord

Housing/Tenancy	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	36	50.7	44	57.1	80	54.1
No	35	49.3	33	42.9	68	45.9
Total	71	100.0	77	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.2 Percentage of Participants Identifying Housing and/or Tenancy Dispute or Problem with Landlord by Geographical Location

Location	Housing Issue	
	Yes	No
	%	%
Alice	33.3	66.7
Alpururulam	45	55
Bulman	76.5	23.5
Darwin	72.2	27.8
Katherine	63.2	36.8
Papunya	33.3	66.7
Tennant Creek	45	55
Wadeye	66.7	33.3
Total	54.1	45.9

N=149

Table 3.3 Reason Identified for Housing/Tenancy Dispute or Problem with Landlord

Type	No.
Repairs & Maintenance	48
Rent	21
Overcrowding	6
Eviction	5
Relocation & Transfer	3
Outstation issues	3
Family member(s) not permitted/not welcome to reside in government housing property	2
Not being able to purchase government housing after long tenancy (60 yrs)	1
Never renewed lease	1
Bond	1
Other	1

Table 3.4 Number and Percentage of Participants Identifying Housing and/or Tenancy Dispute or Problem with Landlord Who Sought Legal Advice or Help

	Focus Group Participants					
Legal Advice	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	13	37.1	13	31.7	26	34.2
No	22	62.9	28	68.3	50	65.8
Total	35	100.0	41	100.0	76	100.0

Excludes 4 missing cases. N= 76

Table 3.5 Number and Percentage of Focus Group Participants Identifying a Problem or Dispute with Supported Accommodation

	Focus Group Participants					
Supported Accommodation	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	2	2.8	4	5.1	6	4
No	69	97.2	74	94.9	143	96
Total	71	100.0	78	100.0	149	100.0

N=149

Table 3.6 Reason for Supported Accommodation Dispute or Problem

Type	No
Strict rules	2
Fees	2
High rent	1
Complaint about conditions	1
Culturally inappropriate	1

Table 3.7 Number of Participants Identifying a Supported Accommodation Dispute or Problem Who Sought Legal Advice or Help

	Focus Group Participants		
Legal Advice	Male	Female	Total
	No.	No.	No
Yes	1	0	1
No	1	3	4
Total	2	3	5

Excludes 1 missing case. N=5

Table 3.8 Number and Percentage of Focus Group Participants Identifying Use of Legal Help or Advice for Other Housing Issue

Housing	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	1	1.4	6	7.7	7	4.7
No	70	98.6	72	92.3	142	95.3
Total	71	100.0	78	100.0	149	100.0

N=149

Table 3.9 Source of Legal Advice/Help Provided to Focus Group Participants for Housing Issue

Provider	No.
Aboriginal Legal Service	2
Catholic Care	1
Council/Shire	10
Other	2
Unknown	1
Employer	1
Family	1
Land Council	1
Legal Aid	1
Local Elder	1
Media	1
Minister	2
NT Housing	3
Politician	2

3.2 NEIGHBOURS

Table 3.10 Number and Percentage of Focus Group Participants Identifying a Dispute or Problem with Neighbours

Neighbour Issue	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	10	14.3	30	38.5	40	27
No	60	85.7	48	61.5	108	73
Total	70	100.0	78	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.11 Percentage of Participants Identifying a Dispute or Problem with Neighbours by Geographical Location

Location	Issue with Neighbour	
	Yes	No
	%	%
Alice	42.1	57.9
Alpururulam	20	80
Bulman	5.9	94.1
Darwin	47.1	52.9
Katherine	31.6	68.4
Papunya	0	100
Tennant Creek	20	80
Wadeye	50	50
Total	27	73

Excludes 1 missing case: N=148

Table 3.12 Reason Identified for Dispute or Problem with Neighbours

Type	No.
Noise	15
Fence or Boundaries	14
Animals	11
Privacy	5
Anti-social/Criminal Activity	3
Rubbish	2
Harassment	3
Family Problem	1
Kids	1
Other	1

Table 3.13 Number and Percentage of Participants Identifying a Dispute or Problem with Neighbours Who Sought Legal Advice or Help

Legal Advice	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	5	55.6	8	26.7	13	33.3
No	4	44.4	22	73.3	26	66.7
Total	9	100.0	30	100.0	39	100.0

Excludes 1 missing case. N=39

3.3 WILLS AND INTESTACY

Table 3.14 Number and Percentage of Focus Group Participants Who Have Completed Will

	Focus Group Participants					
Completed Will	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	6	8.5	9	11.5	15	10.1
No	65	91.5	69	88.5	134	89.9
Total	71	100.0	78	100.0	149	100.0

N=149

Table 3.15 Number of Focus Group Participants Who Received Advice in Completing Will

	Focus Group Participants					
Advice	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	6		6		12	
No	0		2		2	
Total	6	100.0	8	100.0	14	100.0

Excludes 1 missing case; N=14

Table 3.16 Number and Percentage of Focus Group Participants Who Would Like Legal Advice To Complete A Will

	Focus Group Participants					
Seek Legal Advice	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	39	60	42	61.8	82	61
No	26	40	25	36.8	51	38.3
Not Sure	0	0	1	1.5	1	0.8
Total	65	100.0	68	100.0	134	100.0

Excludes 1 missing case; N=133

Table 3.17 Number and Percentage of Focus Group Participants Identifying Having to Take Charge of Estate After Death

	Focus Group Participants					
Take Charge of Estate	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	12	17.1	3	3.9	15	10.3
No	58	82.9	73	96.1	131	89.7
Total	70	100.0	76	100.0	146	100.0

Excludes 3 missing cases; N=146

Table 3.18 Number and Percentage of Focus Group Participants Identifying a Dispute Over Deceased Estate After Death

Dispute Over Deceased Estate	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	7	10	11	14.5	18	12.3
No	63	90	65	85.5	128	87.7
Total	70	100.0	76	100.0	146	100.0

Excludes 3 missing cases; N=146

3.4 VICTIMS COMPENSATION

Table 3.19 Number and Percentage of Focus Group Participants Identifying as A Victim of Violent Crime

Victim of Crime	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	9	12.9	12	15.4	21	14.2
No	61	87.1	66	84.6	127	85.8
Total	70	100.0	78	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.20 Percentage of Participants Identifying As A Victim of Violent Crime by Community

Location	Victim of Violent Crime	
	Yes	No
	%	%
Alice	21.1	78.9
Alpurrurulam	25	75
Bulman	11.8	88.2
Darwin	23.5	76.5
Katherine	21.1	78.9
Papunya	0	100
Tennant Creek	10	90
Wadeye	0	100
Total	14.2	85.8

Excludes 1 missing case: N=148

Table 3.21 Number and Percentage of Participants Identifying As A Victim of Violent Crime Who Knew About the Victims Compensation Scheme

Knew of Scheme	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	3	33.3	10	90.9	13	65
No	6	66.7	1	9.1	7	35
Total	9	100.0	11	100.0	20	100.0

Excludes 1 missing case; N=20

Table 3.22 Number and Percentage of Focus Group Participants Identifying As A Victim of Violent Crime Who Sought Victims Compensation

Sought Compensation	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	2	22.2	9	81.8	11	55
No	7	77.8	2	18.2	9	45
Total	9	100.0	11	100.0	20	100.0

Excludes 1 missing case; N=20

3.5 STOLEN GENERATIONS / STOLEN WAGES

Table 3.23 Number and Percentage of Focus Group Participants Identifying as a Member of the Stolen Generations

Stolen Generations	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	9	12.7	14	17.9	23	15.4
No	62	87.3	64	82.1	126	84.6
Total	71	100.0	78	100.0	149	100.0

N=149

Table 3.24 Percentage of Participants Identifying Stolen Generations / Stolen Wages by Community

Location	Stolen Wages / Stolen Generations	
	Yes	No
	%	%
Alice	15.8	84.2
Alpururulam	5	95
Bulman	5.9	94.1
Darwin	44.4	55.6
Katherine	36.8	63.2
Papunya	5.6	94.4
Tennant Creek	10	90
Wadeye	0	100
Total	15.4	84.6

Excludes 1 missing case: N=

Table 3.25 Number and Percentage of Focus Group Participants Identifying as Being Entitled to Trust Fund/Stolen Wages Compensation

Aboriginal Trust Fund	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	5	7	7	9	12	8.1
No	65	91.5	71	91	136	91.3
Maybe	1	1.4	0	0	1	0.7
Total	71	100.0	78	100.0	149	100.0

N=149

3.6 EMPLOYMENT

Table 3.26 Number and Percentage of Focus Group Participants Identifying An Employment Dispute or Problem

Employment	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	14	19.7	15	19.5	29	19.6
No	57	80.3	62	80.5	119	80.4
Total	71	100.0	77	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.27 Percentage of Participants Identifying an Employment Dispute or Problem by Community

Location	Employment	
	Yes	No
	%	%
Alice	5.3	94.7
Alpururulam	10.0	90
Bulman	29.4	70.6
Darwin	33.3	66.7
Katherine	10.5	89.5
Papunya	16.7	83.3
Tennant Creek	21.1	78.9
Wadeye	33.3	66.7
Total	19.6	80.4

Excludes 1 missing case; N=148

Table 3.28 Reason Identified for Employment Dispute or Problem

Type	No.
Pay	13
Unfair Dismissal	5
Bullying, Harassment (including Sexual Harassment)	4
Other	4
Contract Dispute	1
Working Hours	1
Leave	1
Defamation	1
Confidential	1

Table 3.29 Number and Percentage of Participants Identifying a Dispute or Problem with Employment Who Sought Legal Advice or Help

Legal Advice	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	2	14.3	7	53.8	9	33.3
No	12	85.7	6	46.2	18	66.7
Total	14	100.0	13	100.0	27	100.0

Excludes 2 missing cases; N=27

3.7 SOCIAL SECURITY AND CENTRELINK

Table 3.30 Number and Percentage of Focus Group Participants Identifying Receipt of Centrelink Allowance

Allowance	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	45	63.4	64	82.1	109	73.2
No	26	36.6	14	17.9	40	26.8
Total	71	100.0	78	100.0	149	100.0

N=149

Table 3.31 Number and Percentage of Focus Group Participants Identifying Centrelink Payments As Being Subject to Income Management

Income Management	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	27	60	48	76.2	75	69.4
No	18	40	15	23.8	33	30.6
Total	45	100.0	63	100.0	108	100.0

Excludes 1 missing case; N=108

Table 3.32 Number and Percentage of Focus Group Participants Identifying a Dispute or Problem With Centrelink in Relation to Payments

Centrelink	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	12	25.5	20	31.7	32	29.1
No	35	75.5	43	68.3	78	70.9
Total	44	100.0	63	100.0	107	100.0

Excludes 2 missing cases; N=107

Table 3.33 Percentage of Participants Identifying Centrelink Problem by Geographical Location

Location	Centrelink Issue	
	Yes	No
	%	%
Alice	33.3	66.7
Alpururulam	22.2	77.8
Bulman	50	50
Darwin	45.5	54.5
Katherine	21.4	78.6
Papunya	13.3	86.7
Tennant Creek	15.4	84.6
Wadeye	41.7	58.3
Total	29	71

N=108

Table 3.34 Reason Identified for Dispute or Problem with Centrelink

Type	No.
Basics card	8
Underpayment, reduced payment	5
Other income management	4
Debt or overpayment	4
Other	3
Carers payment	2
Cut off benefits	1
False report of hours of employment	1
Breaches	1
Reporting to Centrelink for benefit though working on CDEP	1

Table 3.35 Number and Percentage of Participants with Centrelink Problem Who Sought Legal Advice or Help

	Focus Group Participants					
Legal Advice	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	2	20	1	5.6	3	10.7
No	8	80	17	94.4	25	89.3
Total	10	100.0	18	100.0	28	100.0

Excludes 1 missing case. N=39

3.8 FAMILY MATTERS

Table 3.36 Number and Percentage of Focus Group Participants Identifying a Dispute or Problem in Relation to Children's Residence/Contact and/or Child Support

	Focus Group Participants					
Residence/ Contact and/or Child Support	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	8	11.3	10	13	18	12.2
No	63	88.7	67	87	130	87.8
Total	71	100.0	77	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.37 Number and Percentage of Focus Group Participants Identifying Children Being Taken into Care; Family Taking Children and Not Returning Them; and/or Problems Relating to Fostering, Adoption or Guardianship

	Focus Group Participants					
Child Removal, Fostering Issue	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	2	2.8	8	10.4	10	6.8
No	69	97.2	69	89.6	138	93.2
Total	71	100.0	77	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.38 Nature of Family Law Issue Relating to Children

Type	No.
Residence/contact issue	9
Child support	4
Children taken into care	3
Children not returned by family	2
Harassment by welfare	1
Sexual assault of child after removal by welfare	1
Other	1

Table 3.39 Family law and child protection matters relating to children by location

Location	Child Support/ Residency/ Access	Child Removal	Total
Alice	1	1	2
Alpururulam		3	3
Bulman	3		3
Darwin	6	4	10
Katherine	3		3
Papunya	2	1	3
Tennant Creek	2		2
Wadeye	1	1	2
Total	18	10	28

NB. This is the total number of issues relating to children identified by community. The total number of individuals who identified an issue with either family law and/or child protection was 22 (with six individuals – the majority of whom were in Darwin – identifying both categories). See Table 3.40 below

Table 3.40 Number and Percentage of Participants Identifying a Family Law/Child Protection Issue In Relation to Children Who Sought Legal Advice or Help

Legal Advice	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	3	33.3	5	58.3	8	38.1
No	7	66.7	8	41.7	14	61.9
Total	9	100.0	13	100.0	22	100.0

Table 3.41 Number and Percentage of Focus Group Participants Identifying Problem or Dispute in relation to Property, Money or Superannuation Post-Separation or Divorce

Property	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	4	5.8	8	10.5	12	8.3
No	65	94.2	68	89.5	133	91.7
Total	69	100.0	76	100.0	145	100.0

Excludes 4 missing cases; N=145

Table 3.42 Percentage of Participants Identifying Problem or Dispute in Relation To Property, Money or Superannuation Post- Separation or Divorce

Location	Property Issue	
	Yes	No
	%	%
Alice	0	100
Alpururulam	20	80
Bulman	0	100
Darwin	35.3	64.7
Katherine	0	100
Papunya	0	100
Tennant Creek	5.3	94.7
Wadeye	5.9	94.1
Total	8.3	91.7

N=145

Table 3.43 Number of Participants Identifying a Problem or Dispute In Relation To Property, Money or Superannuation Post-Separation or Divorce Who Sought Legal Advice

Legal Advice	Focus Group Participants		
	Male	Female	Total
	No.	No.	No.
Yes	3	3	6
No	1	5	6
Total	4	8	12

Table 3.44 Nature of Legal Advice Provided in Response to Problem or Dispute Relating to Property, Money or Superannuation Post-Separation or Divorce

Type	No.
NAAJA	2
Relationships Australia	1
Police	1
Politician	1
Media	1
Private lawyer	1
Community legal sector	1

3.9 DISCRIMINATION

Table 3.45 Number and Percentage of Focus Group Participants Identifying Discrimination as an Issue

Discrimination	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	16	22.9	17	22.4	33	22.6
No	54	77.1	59	77.6	113	77.4
Total	70	100.0	76	100.0	146	100.0

Excludes 3 missing cases; N=146

Table 3.46 Percentage of Participants Identifying Discrimination as an Issue by Community

Location	Discrimination	
	Yes	No
	%	%
Alice	11.1	88.9
Alpururulam	15	85
Bulman	17.6	82.4
Darwin	33.3	66.7
Katherine	31.6	68.4
Papunya	5.9	94.1
Tennant Creek	15.8	84.2
Wadeye	50	50
Total	22.6	77.4

Excludes 3 missing cases: N=146

Table 3.47 Reason Identified for Discrimination Issue

Type	No.
Racial Discrimination	30
Age Discrimination	1
Location	
Employment	7
Health Care Clinic	7
Police	6
Shops	5
Pubs and Clubs	3
Real Estate Agents	2
NT Intervention	1
School	1
Aboriginal Corporation	1

Table 3.48 Number and Percentage of Participants Identifying Discrimination As An Issue Who Sought Legal Advice or Help

Legal Advice	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	3	21.4	3	21.4	6	21.4
No	11	78.6	11	78.6	22	78.6
Total	14	100.0	14	100.0	28	100.0

Excludes 5 missing cases; N=28

3.10 ACCIDENT AND INJURY

Table 3.49 Number and Percentage of Focus Group Participants Identifying Accident or Injury-Related Issue

Accident/Injury	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	17	24.3	16	20.5	33	22.3
No	53	75.7	62	79.5	115	77.7
Total	70	100.0	78	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.50 Percentage of Participants Identifying Accident or Injury-Related Issue by Community

Location	Accident/Injury Related Issue	
	Yes	No
	%	%
Alice	10.5	89.5
Alpururulam	40	60
Bulman	47.1	52.9
Darwin	29.4	70.6
Katherine	10.5	89.5
Papunya	22.2	77.8
Tennant Creek	15	85
Wadeye	5.6	94.4
Total	22.3	77.7

N=148

Table 3.51 Nature of Accident/Injury-Related Issue

Type	No.
Motor Vehicle Accident	17
Work-Related Injury	11
Other	3
Dog bite	1

Table 3.52 Number and Percentage of Participants Identifying Accident/Injury-Related Issue Requiring Medical Treatment for Injuries

	Focus Group Participants					
Medical Treatment	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	15	88.2	11	68.8	26	78.8
No	2	11.8	5	31.3	7	21.2
Total	17	100.0	16	100.0	33	100.0

Table 3.53 Number and Percentage of Participants Identifying Accident/Injury-Related Issue Who Sought Legal Advice or Help in Relation to Compensation and/or Insurance

	Focus Group Participants					
Legal Advice	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	4	23.5	4	25	8	24.2
No	13	76.5	12	75	25	75.8
Total	17	100.0	16	100.0	33	100.0

3.11 EDUCATION

Table 3.54 Number and Percentage of Focus Group Participants Identifying Responsibility for Young Person Attending School, TAFE or University; or Having Attended Themselves

	Focus Group Participants					
Participation in Education	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	24	34.3	36	46.2	60	40.5
No	46	65.7	42	53.8	88	59.5
Total	70	100.0	78	100.0	148	100.0

Excludes 1 missing case; N=148

Table 3.55 Number and Percentage of Focus Group Participants Identifying Responsibility for Young Person Attending School, TAFE or University Having Attended Themselves Who Encountered Problems with Issues Such As Suspension, Bullying or Fees

	Focus Group Participants					
Education Issue	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	10	41.7	10	28.6	20	33.9
No	14	58.3	25	71.4	39	66.1
Total	24	100.0	35	100.0	59	100.0

Excludes 1 missing case; N=59

Table 3.56 Percentage of Participants Identifying an Education-Related Issue by Community

Location	Education Issue	
	Yes	No
	%	%
Alice	40	60
Alpurrurulam	18.2	81.8
Bulman	16.7	83.3
Darwin	50	50
Katherine	57.1	42.9
Papunya	0	100
Tennant Creek	25	75
Wadeye	75	25
Total	33.9	66.1

N=59

Table 3.57 Nature of Education-Related Issue

Type	No.
Bullying	15
Suspension	3
Unfair treatment by teacher	1
Dispute about attendance	1
HECS fees	1
Owed money	1

Table 3.58 Number and Percentage of Participants Identifying a Dispute or Problem in relation to Education Who Sought Legal Advice or Help

Legal Advice	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	1	11.1	3	27.3	4	20
No	8	88.9	8	72.7	16	80
Total	9	100.0	11	100.0	20	100.0

3.12 CREDIT AND DEBT**Table 3.59 Number and Percentage of Focus Group Participants Identifying a Problem with Paying a Bill or Loan or Other Debt Where Lender Has Threatened or Taken Out Legal Action**

Bill or Loan	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	10	14.3	17	22.1	27	18.4
No	60	85.7	60	77.9	120	81.6
Total	70	100.0	77	100.0	147	100.0

Excludes 2 missing cases; N=147

Table 3.60 Number and Percentage of Focus Group Participants Identifying a Problem or Dispute in Relation to Credit Reference Rating; as Guarantor for Another's Loan; and/or in Relation to Bankruptcy

Credit Reference, Bankruptcy	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	0	0	10	13	10	6.8
No	70	100	67	87	137	93.2
Total	70	100.0	77	100.0	147	100.0

Excludes 2 missing cases; N=147

Table 3.61 Focus Group Participants Identifying: (a) Debt Problem Where Lender Has Threatened or Taken Legal Action; (b) Problem with Credit Reference Rating, Guarantor for Another's Loan; and/or in Relation to Bankruptcy

Location	(a)	(b)	Total
	No	No	No
Alice	3	1	4
Alpururulam	3	1	4
Bulman	6		6
Darwin	7	5	12
Katherine	3	1	4
Papunya	1		1
Tennant Creek	4	2	6
Wadeye			
Total	27	10	37

NB A total of 27 individuals identified 37 issues across both categories. 10 individuals identified both (a) and (b) above as issues – five of these individuals were in Darwin and the rest spread across other focus group communities. All 10 individuals identifying both (a) and (b) as issues were women.

Table 3.62 Reason Identified for Credit/Debt Related Issue

Type	No.
Loan repayment	8
Bill repayment	3
Credit reference rating	3
Other	3
Other debt	2
Bankruptcy	1

Table 3.63 Focus Group Participants Identifying: (a) Debt Problem Where Lender Has Threatened or Taken Legal Action; (b) Problem with Credit Reference Rating, Guarantor for Another's Loan; and/or in Relation to Bankruptcy, Who Sought Legal Advice or Help .

	Focus Group Participants					
Legal Advice	Male		Female		Total	
	No.	%	No.	%	No	%
Yes	1	12.5	8	57.1	9	40.9
No	7	87.5	6	42.9	13	59.1
Total	8	100.0	14	100.0	22	100.0

N=22; missing cases=5

3.13 CONSUMER

Table 3.64 Number and Percentage of Focus Group Participants Identifying a Problem Accessing or Finding Superannuation, or a Dispute with Bank or Other Financial Institution

	Focus Group Participants					
Superannuation or Financial Institution	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	9	12.9	8	10.5	17	11.6
No	61	87.1	68	89.5	129	88.4
Total	70	100.0	76	100.0	146	100.0

Excludes 3 missing cases; N=146

Table 3.65 Number and Percentage of Focus Group Participants Identifying a Problem with Insurance

	Focus Group Participants					
Insurance	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	5	7.1	2	2.6	7	4.8
No	65	92.9	74	97.4	139	95.2
Total	70	100.0	76	100.0	146	100.0

Excludes 3 missing cases; N=146

Table 3.66 Number and Percentage of Focus Group Participants Identifying a Problem with 'Scams' or Contracts (Funeral Funds, Used Cars, Etc.)

	Focus Group Participants					
Scam	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	6	8.6	5	6.6	11	7.5
No	64	91.4	71	93.4	135	92.5
Total	70	100.0	76	100.0	146	100.0

Excludes 3 missing cases; N=146

Table 3.67 Number and Percentage of Focus Group Participants Identifying Other Problem Where Participants Didn't Get What They Paid For

Didn't Get What Paid For	Focus Group Participants					
	Male		Female		Total	
	No.	%	No.	%	No.	%
Yes	4	5.7	5	6.6	9	6.2
No	66	94.3	71	93.4	137	93.8
Total	70	100.0	76	100.0	146	100.0

Excludes 3 missing cases; N=146

Table 3.68 Consumer Issues by Community

Location	Financial Institution	Insurance	Commercial Scams	Other Consumer Issues	Total
	No	No	No	No	No
Alice	2	1	1	2	6
Alpurrurulam	3		1	1	5
Bulman	2	2	5		9
Darwin	3	1	4	5	8
Katherine	2	1			3
Papunya	3	1			4
Tennant Creek	1			1	1
Wadeye	1	1			2
Total	17	7	11	9	44

NB This is the total number of consumer issues identified by community – it is not the total number of individuals identifying consumer issues as some individuals may have identified more than one type of issue.

Table 3.69 Reason Identified for Consumer Problem

Type	No.
Superannuation – Access and Entitlements	5
Dispute with Bank (Balance, Fees, Other)	5
Telephone Contract Dispute	4
Insurance (Declined Claim or Policy)	4
Vehicle Repairs/Sales	3
Other Faulty Goods/Goods Undelivered	2
Pay TV Dispute	2
Other	1

3.14 TAX RETURN

Table 3.70 Date of Most Recent Tax Return by Percentage

Date	Percentage
This year	34.4
Last year	10.2
2-5 years	7
5 years or more	13.3
Don't know or can't remember	22.7
Never	9.4
Other	3.1