

A Framework for First Nations Cultural Capability in the Legal Profession



Acknowledgements

We, the partners of the First Nations Cultural Capability Uplift project, acknowledge the Aboriginal and Torres Strait Islander people as the First Peoples and Traditional Owners and custodians of the land, skies and waterways upon which our lives depend. We acknowledge and pay our respects to ancestors of this country, Elders, knowledge holders and leaders – past, present, and emerging. We recognise that First Nations peoples frequently experience inadequate interactions with legal practitioners, organisations, and the justice system, and that this lack of culturally appropriate and responsive advocacy and support often translates to poor outcomes. We acknowledge the ongoing leadership of Aboriginal communities and ACCOs in striving to improve justice outcomes and address these perpetual and ongoing inequalities.

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Note on terminology

The term 'First Nations people' is used throughout this document to describe Aboriginal and Torres Strait Islander peoples. This is a collective term used in Australia to refer to the First Nations peoples of the continent and surrounding islands. It encompasses two distinct cultural groups: Aboriginal peoples and Torres Strait Islander peoples. It is acknowledged that while some people use this term to describe themselves, others prefer nation- or Country-specific identifiers such as Wiradjuri or Meriam Mir, or regional terms like Koori or Murri.

Note on artwork

The artwork for the First Nations Cultural Capability Uplift Project was designed by Reanna Bono (Wemba Wemba and Wiradjuri). In Reanna's words, the artwork reflects the gum leaves used in a smoking ceremony and how those around are welcomed into the ceremony by the symbolic giving of a gum leaf. The leaves themselves all carry history and culture in their markings, while the smoke heals and cleanses. The gumnuts are representative of building the cultural capability of non-Indigenous practitioners, in that all essential elements needed to form a flower are cradled in the gumnut. After the practitioners have completed the cultural capability training, the skills, knowledge, behaviours and systems enable them to continue to work in a culturally responsive way and is instilled in them and will always remain, the same way a gumnut is left after the flower is gone.

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Foreword

This Framework provides the foundations for improving the experiences of First Nations peoples seeking legal support and assistance in Victoria. It looks to build the capabilities of those who provide legal (and non-legal) services to First Nations peoples.

Building those capacities in the legal profession, their staff and others associated with the legal system is critically important.

No-one providing any advice and support to another can do that properly or effectively unless they know who their client is. That is especially important when a client seeks legal advice and support, which is often a daunting experience. Knowing who your client is takes so much more than knowing their name. Who your client is reflects, and is the product of, their life, their experiences and their culture. Who your client is does not just affect the advice and support the client needs, it determines what advice they need, how that advice is given and what support they need to deal with the issues they are facing.

This is particularly so for First Nations clients. Most First Nations peoples will have negative experiences with the legal system, either themselves or through the experiences of family and loved ones. The level of distrust in the legal system amongst First Nations peoples is high and continues, based on a history where the administration of justice has more often been a lofty ideal rather than a lived reality.

Given that, it is all the more important for the legal profession to be more culturally responsive to help transform First Nations peoples' experiences of the legal system.

Too often a lawyer's need to know their client is swept aside by the lawyer saying, "I treat all my clients equally". But treating clients as if there were no differences between them ignores their different lives, experiences and cultures. Doing this in the

name of "equality" treats different people as if there were no differences. That is not equality. It is to perpetuate and reinforce disadvantage.

Nor is the need to know the client swept aside by the lawyer saying, "I treat all my clients with respect". The lawyer shows no respect for their client if they do not know who they are and know nothing of their life, experiences and culture. To act without knowledge of and regard for those elements of who the client is shows nothing but profound disrespect.

There can be no improving the experiences of First Peoples seeking legal support and assistance until lawyers, their staff and others become more culturally responsive and strive for better justice outcomes for their First Nations clients. This does not only assist First Nations clients. The proportion of First Nations legal and non-legal staff is ever increasing. There are First Nations in-house lawyers, partners at law firms, barristers and judicial officers. The legal profession generally is becoming more diverse. This Framework assists in making a better profession for everyone.

Becoming more culturally responsive is not a destination; it is a continuing journey. The Framework seeks to help lawyers and others start and continue that journey.

Timothy Goodwin

Yuin person and Barrister

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Formerly a Justice of the High Court of Australia





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Introduction

This First Nations Cultural Capability Uplift Framework (hereafter, the Framework) provides the foundation for improving the experiences of First Nations peoples seeking legal support and assistance in Victoria and for strengthening the likelihood of better justice outcomes.

It does so by identifying the knowledge, attitudes, and skills (otherwise referred to as practices and behaviours) that lawyers, paralegals, legal secretaries, and community support staff need to perform their duties and obligations in a culturally responsive and appropriate way. It has been designed specifically to underpin capability building of individuals providing legal and non-legal support services to First Nations peoples in Victoria, including both non-Indigenous and mainstream legal organisations and Aboriginal Community Controlled Organisations (ACCOs). **The Framework is First Nations-led and tailored specifically to the legal profession.**

The Framework addresses the needs and rights of First Nations peoples seeking legal services in Victoria. All First Nations peoples living in Victoria deserve legal assistance and representation which enables them to make informed choices, respects, appreciates, and upholds their cultural rights and needs, and contributes to improved legal outcomes. The Framework represents a commitment to long-term, fundamental change across the legal sector to achieve these outcomes, outcomes which cannot be achieved without an uplift in cultural capability.

This Framework forms the basis for designing and delivering tailored foundational training and practice guidance in First Nations cultural capability for the legal sector.



Background

It is well established that First Nations peoples in Victoria frequently experience inadequate interactions with legal practitioners, organisations, and the justice system, and that this lack of culturally appropriate and responsive advocacy and support often translates into poor outcomes. The overrepresentation of First Nations people in incarceration, and the high number of First Nations children in out of home care, are stark reminders of this.

Recognition of the need for the Framework emerged out of the Coronial Inquest into the tragic and preventable death of Aboriginal woman, Veronica Marie Nelson. Ms Nelson, a Gunditjmara, Dja Dja Wurrung, Wiradjuri and Yorta Yorta woman, was found dead on the concrete floor of her cell in Melbourne's Dame Phyllis Frost Centre on 2 January 2020, three days after being taken into custody. She had been refused bail for shoplifting. She was 37 years old. Coroner Simon McGregor found that Ms Nelson's legal representation was inadequate, falling short of the standard expected. She was unrepresented in her bail application. Along with bail reform and more Aboriginal people working in the justice system, Coroner McGregor urged that cultural awareness education and training become mandatory for Victorian lawyers through continuing professional development and practical legal training.

A First Nations Cultural Capability Framework for the legal sector in Victoria is needed for several reasons:

- First Nations peoples in Australia are a sovereign people with unique rights, as recognised in the United Nations Declaration of the Rights of Indigenous Peoples. They occupy a unique position accordingly, one that is not equivalent to that of other culturally and linguistically diverse groups within Australia.
- Victorian and Australian law have been fundamental to the historical colonial oppression and dispossession of First Nations peoples. Notwithstanding the good intentions of many, the legal and justice systems uniquely target First Nation peoples, creating and perpetuating inequities and harm.
- Culturally accessible, safe, and responsive legal services play a key role in reducing disadvantage and strengthening the justice equity outcomes experienced by First Nations peoples.

This Framework is a component of a broader project called the **First Nations Cultural Capability Uplift Project**.





How the Framework was developed

The Framework was developed through a partnership between the Victorian Aboriginal Legal Service (VALS), Victorian Legal Aid (VLA) and the Law Institute of Victoria (LIV), spanning a period of over three years. An Advisory Group, comprised of the following groups in addition to project partners, provided ongoing project oversight and guidance:

- Djirra
- Aboriginal Justice Caucus
- Indigenous Law and Justice Hub, Melbourne Law School, University of Melbourne
- Victorian Legal Services Board & Commission
- Commission for Children and Young People

A literature scan of relevant capability frameworks, particularly those relating to First Nations Cultural Capability, was conducted. This scan illustrated that while some sectors like the health profession and the public service have made inroads in defining First Nations cultural capability in their context, this had not previously been done for the legal profession.

Framework drafts were developed and then tested with the Advisory Group and with a wider group of stakeholders, using a range of data collection methods (see Appendix). A number of lived experience experts also provided critical input, including First Nations people in custodial settings and recent clients of VALS and we extend our gratitude to them for the generous sharing of their stories and insights.

We recognise VLA and LIV's early leadership in the project and particularly their championing of the need for a strengths-based approach to build cultural capability and knowledge across the profession and their considerable consultation efforts.



Framework scope and objectives

The Framework is directed at the Victorian legal profession in its entirety. This comprises legal practitioners including magistrates, solicitors, barristers, in-house lawyers, paralegals, legal secretaries, law students, community support roles and community service officers. The Framework is designed to:

- Identify and scope a range of domains of capability in terms of knowledge, attitudes and skills that are critical to the delivery of legal support and representation to First Nations peoples at the individual level.
- Support the legal profession to recognise cultural capability in relation to First Nations peoples as best practice and as a foundational part of fulfilling their duties as lawyers.
- Provide the foundation for the development of First Nations Cultural Capability Uplift training to the whole legal sector in Victoria.
- Provide the basis for the development of First Nations cultural capability training and practice guidance to the whole legal sector in Victoria.

It is important for Victorian legal practitioners to understand that building capability requires a broader commitment to a journey of continuous learning and improvement. Practice change can be challenging, and practitioners need support and opportunities to reinforce their learning.

An uplift of capability is best approached as an ongoing process of acquiring new knowledge, skills, and competencies in the flow of day-to-day practice.



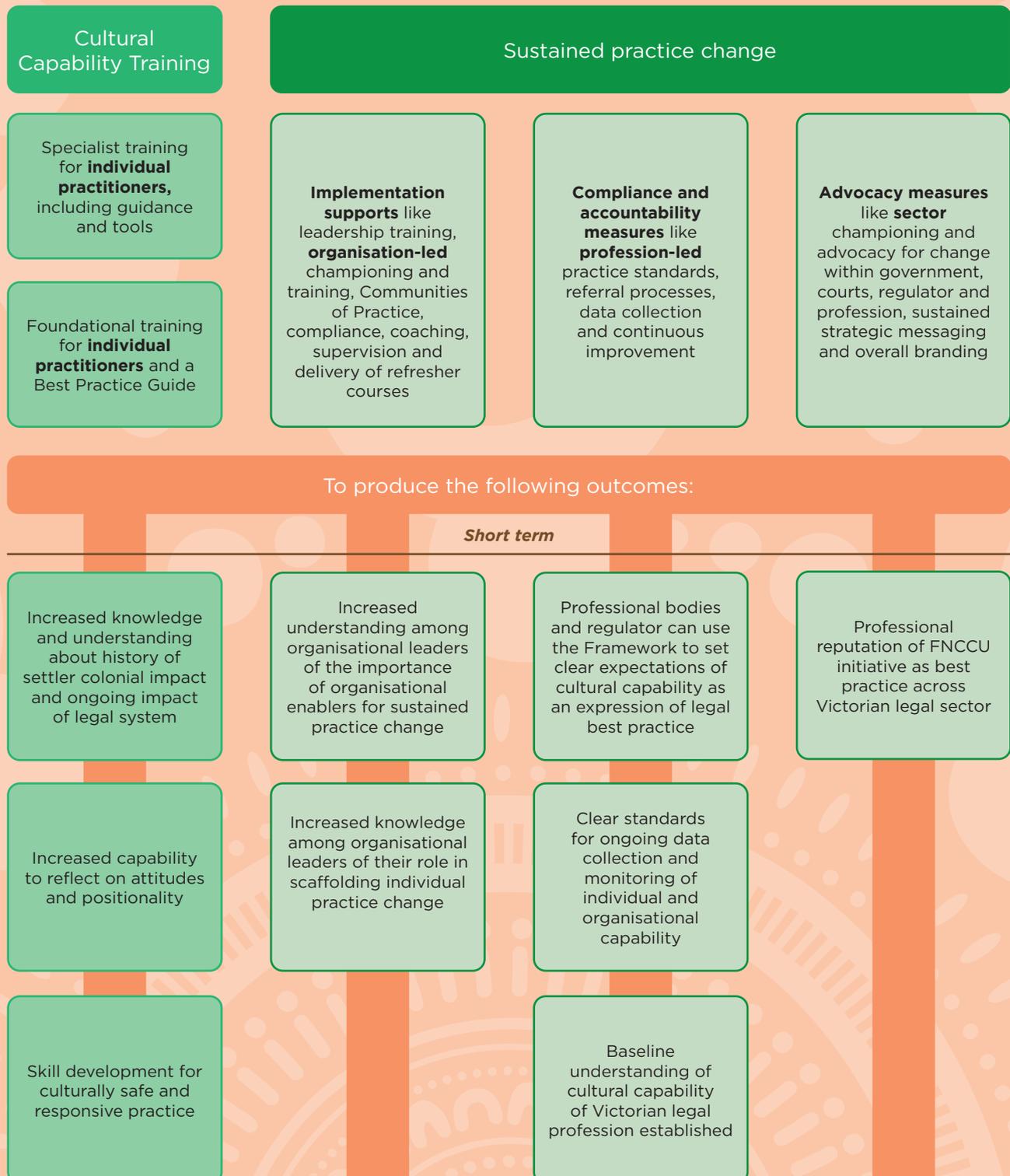
The Framework in its broader context

For the legal profession to be culturally capable in its practice with First Nations people, it is simply not enough to offer one-off training. This is important, but not sufficient to support sustained improvement in professional behaviour and skill. VALS, LIV and VLA are clear that there are four enablers of this change- training, implementation support, compliance and accountability, and advocacy. The theory of change overleaf sets this out.

First Nations Cultural Capability Uplift for the Victorian legal profession

A Theory of Change

The Victorian legal profession needs cultural capability uplift to better support and represent First Nations clients safely and responsively within a legal and justice system that has been racist and continues to do harm. To change this, the system must change through a combination of **individual** uplift and **organisational** and **professional** change.



Medium-long term

Increased confidence to deliver culturally safe and responsive services

Consolidation and reinforcement of skills acquired by individual practitioners

The regulator promotes and strongly encourages uptake of the cultural capability training

Recognition of need of cultural capability uplift across legal sector grows

Increased delivery of culturally safe and responsive practices

Visible organisational leadership commitment to supporting practice change

Embedded and ongoing data collection to monitor capability

Enabling organisational policies, resources and processes in place

Training completion rates are reported publicly and to a First Nations-led compliance body

Goals:

- First Nations clients are culturally safe, respected and empowered in their engagement with all aspects of the Victorian legal profession.
- Everyone in the Victorian legal profession knows their responsibility in creating this and are accountable to it.
- Everyone in the Victorian legal profession is supported in ensuring this.

Underpinning evidence for key activities:

- The Yoorrook Justice Commission recommended comprehensive, First Peoples-led cultural awareness training for lawyers and the judiciary (Recommendation 37). It was noted that this change requires not only training but review of all relevant policies, procedures and protocols as well as the justice system more broadly. This aligns with the Priority Reform 3 in the National Agreement on Closing the Gap, which calls for the transformation of organisations and the improvement of mainstream institutions more generally.
- Implementation science research has established that training for professional behaviour change is necessary but not sufficient to sustain that change; it must be accompanied by a range of other implementation support strategies within the practitioner's setting or organisation.
- Systems thinking helps us to understand that when seeking to address a complex problem, we need to unpack and address multiple reinforcing factors that will enable this change, including policies, practices, resource flows, relationships and connections, power dynamics and mental models.



How the Framework is organised

This Framework is structured according to a set of capability domains and underpinning principles (see Figure 1).

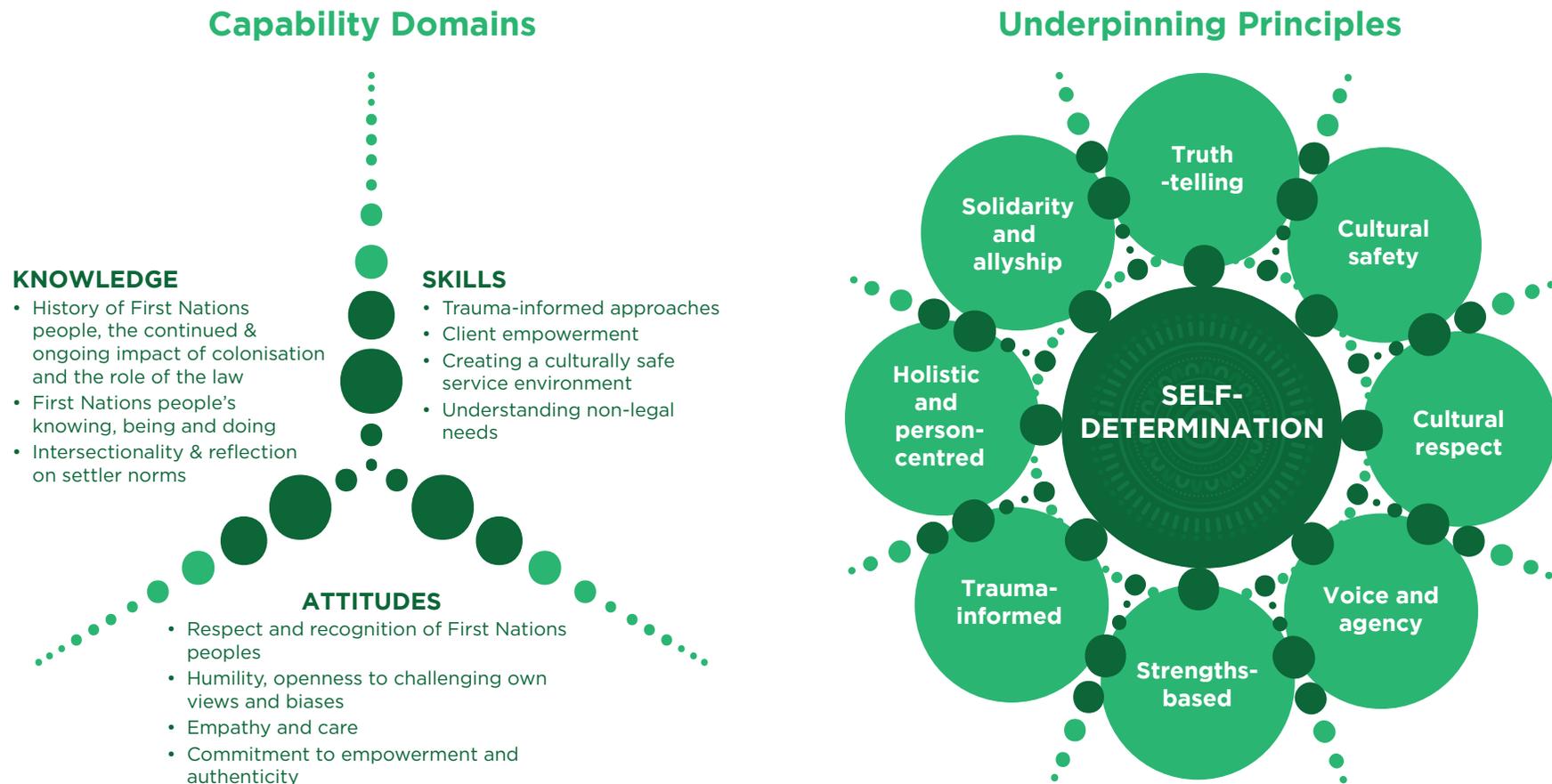
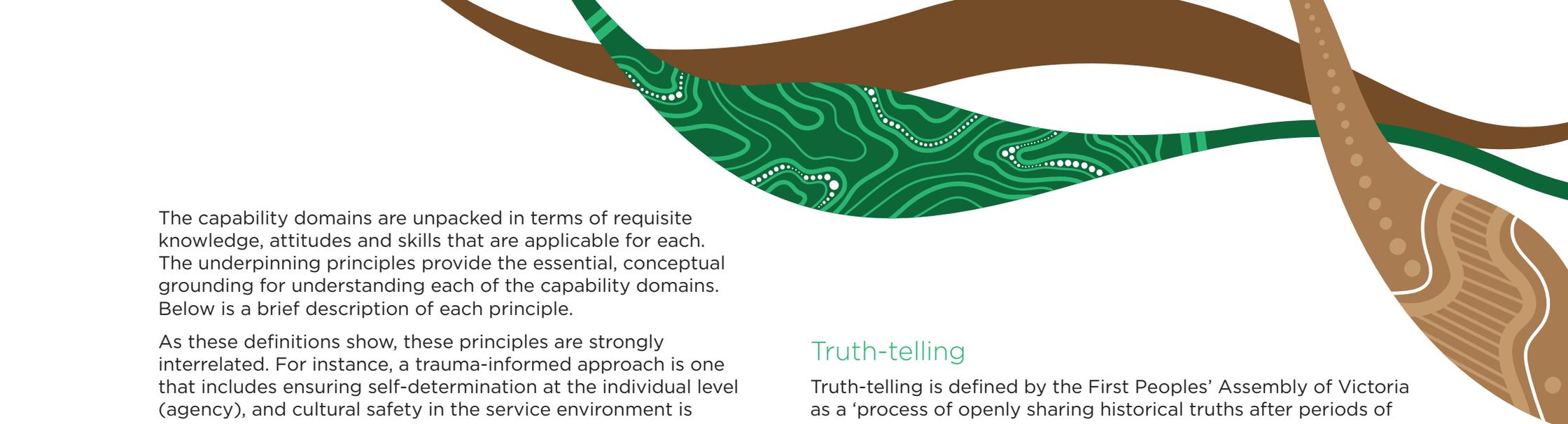


Figure 1 How the Framework is organised



The capability domains are unpacked in terms of requisite knowledge, attitudes and skills that are applicable for each. The underpinning principles provide the essential, conceptual grounding for understanding each of the capability domains. Below is a brief description of each principle.

As these definitions show, these principles are strongly interrelated. For instance, a trauma-informed approach is one that includes ensuring self-determination at the individual level (agency), and cultural safety in the service environment is fundamentally also about showing cultural respect. Given the interdependency of these principles, most capability domains are underpinned by several.

Self-determination

The first and overarching principle of the Framework is self-determination. This is a collective right of First Nations peoples to determine and control their own destiny. It is a right of First Nations peoples to exercise autonomy in their own affairs and to maintain and strengthen distinct political, legal, economic, social and cultural institutions.

Self-determination involves a substantive transfer of power, control, decision making and resources from government and the non-Indigenous service sector to First Nations communities and their organisations. It requires programs and resources that can assist them in rebuilding their own decision-making capabilities. Self-determination and self-government are essential bases for making sustained improvements in the social and economic conditions of First Nations peoples. The complexity of achieving this within an existing dominant culture-colonial context cannot be overstated.

Truth-telling

Truth-telling is defined by the First Peoples' Assembly of Victoria as a 'process of openly sharing historical truths after periods of conflict to allow societies to move forward in a more inclusive way, based on justice and human rights' (2021). In practice, this means empowering individuals to share their own stories and truth, and in turn ensuring that this truth is recognised and acknowledged.

Cultural safety

Cultural safety is multifaceted. It is an environment in which First Nations peoples feel welcome, where First Nations histories are visible, First Nations identities are supported, and First Nations experiences are respected. The client should feel that their Indigenous identity is valued – they should feel safe from cultural abuse and racism, whether overt or covert. The service provider should also have self-awareness about their own cultural values and biases, and the power dynamics of colonisation and its ongoing effects on the relationship between First Nations and non-First Nations peoples. Cultural safety creates a space for those who are often silenced to voice their concerns. The extent to which cultural safety is present is determined by the First Nations person on the receiving end of the interaction or service.

Cultural respect

Conceptually, cultural respect strongly overlaps with cultural safety. Cultural respect is facilitated when cultural values, differences and strengths are respected and inherent rights and traditions are recognised, protected, and advanced (Australian Health Ministers' Advisory Council, 2016). Prioritising cultural respect ensures that systems are safe, accessible, and responsive for the First Nations peoples accessing them.

Voice and agency

First Nations peoples need to be able to exercise control over matters directly affecting them through processes which enable voice, autonomy, and empowerment. Legal services should display respect for clients' agency and rights and work to support them in advancing both. Another way to understand this is *relational accountability*; the need for reciprocal, two-sided practices that reflect meaningful relationships and collaboration, rather than one-sided approaches to care or service (Wilson, 2008).

Strengths-based

A strengths-based approach is a way of working that focuses on abilities, knowledge, and capacities rather than deficits, or things that are lacking. The intention of this approach is to identify the assets or strengths that can be built upon and used to manage risks. Another way to think about this is *complex personhood*; acknowledging the balance of strengths and harms and holding strength and resilience in tandem with systemic violence to provide a fuller understanding of First Nations experiences (Tuck, 2009).

Trauma-informed

Trauma-informed practice 'puts the realities of the client's trauma experiences at the forefront in engaging with the client and adjusts the practice approach informed by the individual client's trauma experience' (Katz and Halder, 2016). A trauma-informed approach does not necessarily require a service to provide therapeutic treatment addressing the symptoms of trauma.

Holistic and person-centred

A holistic approach, in the context of the social and emotional wellbeing of First Nations peoples, is recognised as encompassing the importance of connection to land, water and skies, culture, spirituality and ancestry, and how these affect the wellbeing of the individual and the community (Gee et al, 2014). Intimately related with a holistic approach is a person-centred approach, which stresses the importance of individualised and tailored support that centres the client as an individual human being, and not as a matter to be addressed (Australian Commission on Safety and Quality in Health Care). This could encompass understanding a client's family dynamics, or their wider aspirations following the resolution of their matter.

Solidarity and allyship

Solidarity, in the context of working with First Nations clients, requires non-Indigenous people to reflect on and adapt their behaviours in ways that actively support the perspectives, priorities, and self-determined causes of First Nations peoples. This fosters deeper accountability, shifting the focus from individual identity to a sustained, ongoing commitment to shared goals, such as creating culturally safe workplaces and challenging racism. A closely related concept in this context is allyship.



Implementing the Framework

This Framework will be supported by a foundational training package for individual practitioners, as well as a best practice guide. The Framework is a foundational step, providing a consistent structure for building individual capability across the Victorian legal sector. Delivery of training and resources in relation to specialist areas of the law will be rolled out in future phases of this project. While the Framework focuses on individual capability, it has utility beyond this.

Individual practitioners can use the Framework as a reference for identifying areas in which they need to grow their own cultural capability and structure their professional development journey.

Organisational leaders can use the Framework as a reference for identifying areas in which their staff may need to grow, as well as championing the importance of the cultural capability of their practitioners. Leaders can also use the Framework to identify organisational-level changes, like policies, procedures, and leadership development, to facilitate sustained uplift at the organisational level.

Professional bodies and the regulator can use the Framework as a key informing document to set clear expectations of cultural capability as an expression of legal best practice.





The Framework

Vision: The vision of this Framework is that First Nations clients are culturally safe, respected and empowered in all aspects of their engagement with the Victorian legal profession.

About the structure: This Framework is structured according to three key elements of learning in relation to First Nations Cultural Capability:

- **Knowledge** concerns learning facts, data, or about practices through education. This can lead to understanding which comes from comprehending the interconnectedness and implications of the information known.
- **Practices** are the skills or new behaviours you have opportunities to try out in training and then apply back in the workplace.
- **Attitudes** are the dispositions, values, and orientations that shape how knowledge is received and how practice is enacted. They support your ability to engage in ethical, accountable, and culturally safe legal practice with First Nations Peoples.

Knowledge to develop	Practices or skills to build	Supporting attitudes
1. Understand the history of First Nations peoples and the continuing impact of dispossession, oppression and intergenerational trauma on First Nations peoples and communities		
Applicable principles: Self-determination – cultural safety – cultural respect – trauma-informed		
Understand the history of Indigenous and non-Indigenous relations in Australia, and the ongoing impacts of past and current settler colonial government policies and practices, including discrimination, racism. Understand the history of Indigenous and non-Indigenous relations in Australia, and the ongoing impacts of past and current settler colonial government policies and practices – including discrimination, racism, and intergenerational trauma – on First Nations peoples. m and intergenerational trauma on First Nations peoples.		<ul style="list-style-type: none"> • Respect for and honouring of world’s oldest continuous First Nations cultures. • Respect for the unique position Aboriginal and Torres Strait Islander peoples hold in Australian society as the First Nations peoples of the continent. • Respect for the resilience, strength, and connectedness of First Nations peoples in the face of historical and ongoing dispossession, discrimination, and trauma. • A social justice orientation.

Knowledge to develop

Practices or skills to build

Supporting attitudes

2. Understand the specific ways in which Australian law has been and continues to be central to colonisation, dispossession, and intergenerational trauma, and continues to adversely impact First Nations peoples

Applicable principles: Self-determination – cultural safety – cultural respect – trauma-informed

Understand the historical relationship of First Nations peoples to the legal sector (including, but not limited to the concept of terra nullius, legislative regimes of 'protection', constitutional exclusion of First Nations peoples of Australia, native title rights)

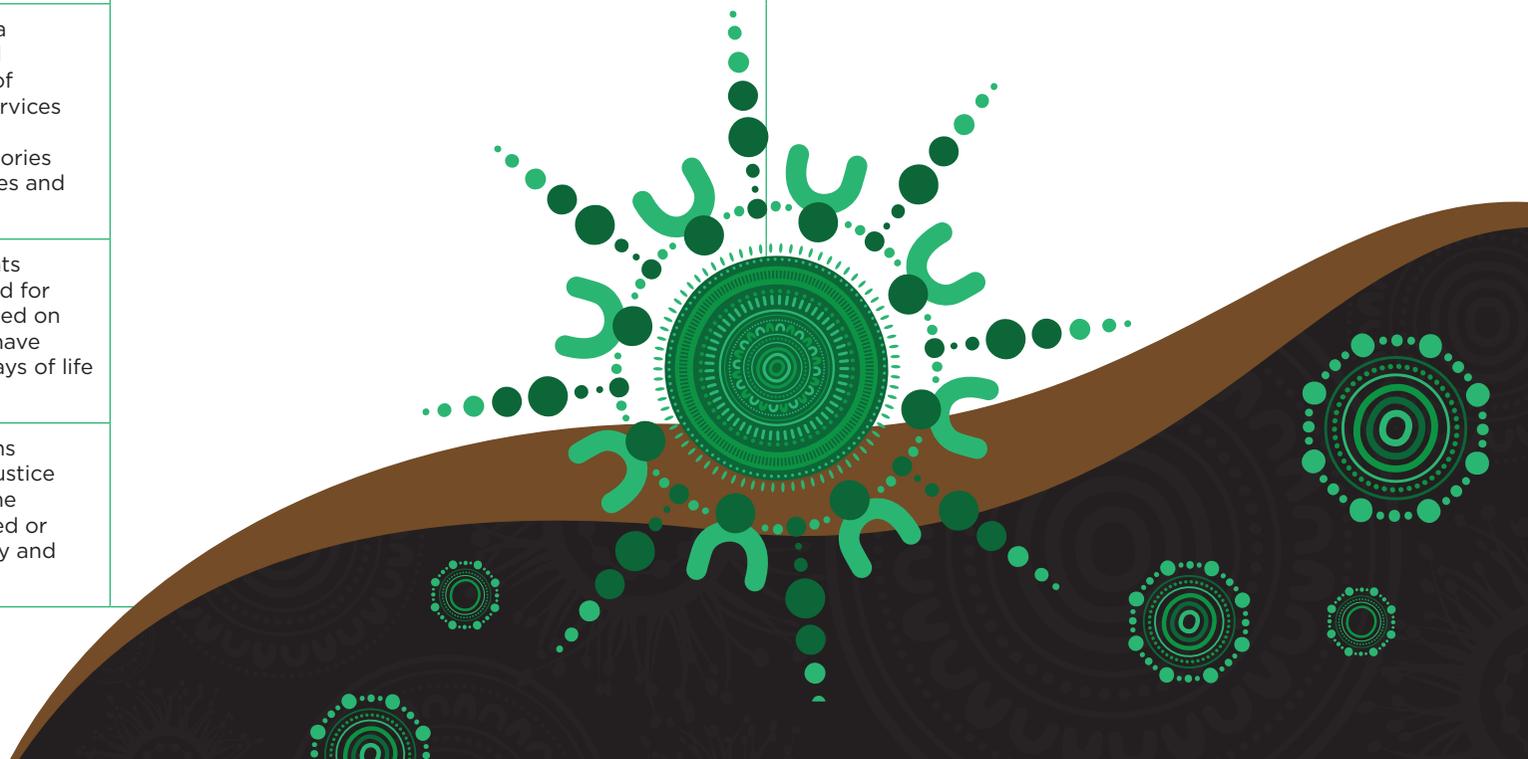
Understand how the legal history of Australia and the settler law of the contemporary justice system, including its institutions, continues to affect First Nations peoples in Victoria and Australia (including, but not limited to, criminalisation, disproportionate incarceration and child removal rates, harm and deaths in custody). Understand the ways that ostensibly neutral laws impact differently on First Nations people and communities to compound inequities.

Understand how the legal history of Australia and contemporary discriminatory justice and other systems and institutions feed distrust of government and mainstream systems and services by First Nations peoples, and their possible reluctance to seek support and share their stories for fear of unwarranted intervention in families and communities.

Understand the collective and individual rights that are specifically recognised and protected for Indigenous communities and individuals, based on the understanding that Indigenous peoples have distinct cultures, histories, languages, and ways of life that should be respected and protected.

Understand the specific rights of First Nations peoples to self-determination in relation to justice laws, policies, and practices, together with the many ways in which these have been achieved or are being advanced within Victoria, nationally and internationally.

- Humility.
- Openness to challenging own views and biases.
- Respect for the resilience, strength, and connectedness of First Nations peoples in the face of historical and ongoing dispossession, discrimination, and trauma.
- Respect for and appreciation of cultural difference and rejection of racism, cultural stereotyping and dominant culture colonial constructions of First Nations cultures, and a sense of responsibility and accountability to respectfully call out instances where this is operating.
- A social justice orientation.



Knowledge to develop

Practices or skills to build

Supporting attitudes

3. Understand and reflect upon settler norms, ideas, and practices

Applicable principles: Self-determination – cultural safety – cultural respect – trauma-informed

Understand how dominant culture subject positioning works to inform assumptions and judgements about First Nations peoples.

All non-Indigenous staff engage in self-reflection to:

- Recognise cultural subject positioning and understand how dominant culture colonialism perpetuates adverse impacts at individual, organisational, sector, institutional and systemic levels.
- Identify privilege, cultural values and biases and worldview, how these can adversely affect the way you perceive your client, First Nations peoples and organisations, and how you can influence the way you analyse the matter and represent your client.
- Acknowledge and learn from mistakes and foster ongoing self-awareness and critical analysis.

- Humility.
- Openness to challenging own views and biases.
- Respect for the resilience, strength, and connectedness of First Nations peoples in the face of historical and ongoing dispossession, discrimination, and trauma.
- Respect for and appreciation of cultural difference and rejection of racism, cultural stereotyping and dominant culture colonial constructions of First Nations cultures, and a sense of responsibility and accountability to respectfully call out instances where this is operating.
- A social justice orientation.

4. Understand First Nations peoples' world belief systems and ways of knowing, being and doing

Applicable principles: Self-determination – cultural safety – cultural respect – trauma-informed

Understand how First Nations ways of knowing, being and doing encompass belonging, lore, cultural protocols, (re)connection, collectively, interconnectedness, intergenerational learning, knowledges, and relationships (including a more expansive and inclusive conception of family and kin). Understand that these may vary between different First Nations peoples.

Understand that non-First Nations legal practitioners cannot appropriate First Nations ways of knowing, being and doing, but have a responsibility to develop understanding of these.

Consider how your First Nations client's more expansive conception of family and kin may give rise to potential conflicts of interest and manage these appropriately.

Consider your client's more expansive definition of family and kinship when assessing and advising on legal options (e.g., placement options in child protection proceedings).

Respectfully ask your client if they identify as a First Nations person and, while exercising non-judgement and acceptance, respectfully explain what this means in regard to entitlement to protections and other legal avenues.

Ask your client how they would like to be referred to, for example: Aboriginal, First Nations, Indigenous, by Country or Clan.

- Humility.
- Openness to challenging own views and biases.
- Respect for and honouring of world's longest surviving First Nations culture.
- Respect for First Nations peoples' ways of knowing, being and doing.
- Respect for the resilience, strength, and connectedness of First Nations peoples in the face of historical and ongoing dispossession, discrimination, and trauma.
- Respect for and appreciation of cultural difference.

Knowledge to develop

Practices or skills to build

Supporting attitudes

4. Understand First Nations peoples' world belief systems and ways of knowing, being and doing *(continued)*

Applicable principles: Self-determination – cultural safety – cultural respect – trauma-informed *(continued)*

Understand the rights to and importance of a First Nations person's connection to Country, culture, kin, and community, and the inherent strength and protective nature of this connectedness. Understand that connectedness to culture may be well established and strong, or more emergent for different First Nations people.

Recognise the diversity of First Nations histories, cultures, customs, lore.

If you are aware a client has First Nations ancestry but does not identify, respectfully explain how identifying may affect your advice about their legal options and the services available to them. Respect the client's decision and do not question their status any further as this runs the risk of being harmful to their sense of self and is racist.

With your client's consent, inform relevant parties that your client is a First Nations person.

Consider how your First Nations client's relationships with family, kin, community, and other support services may affect safeguarding of their confidentiality.

Include in your assessment of your client's matter consideration of connection to culture, community, kin, and country, to inform how you represent and promote their best interests.

When assisting and representing your First Nations client, with their consent, provide decision makers and other parties with contextual information about your client's cultural obligations and connections and explain their relevance to the application of laws, policies, procedures, and programs.

Explore with your client how their cultural obligations and connections may affect or be affected by legal processes and outcomes (e.g. attending Sorry Business may conflict with bail conditions).

- Rejection of racism, cultural stereotyping and dominant culture colonial constructions of First Nations cultures, and a sense of responsibility and accountability to respectfully call out instances where this is operating.
- A social justice orientation.

5. Understand intersectionality and its implications for practice

Applicable principles: Self-determination – voice and agency – strengths-based – holistic and person-centred

Understand the way that systems of power compound and amplify inequality for First Nations peoples. For example, racism and gender inequality can impact access to suitable housing – similarly, discrimination can exacerbate seeking help in family violence situations.

Consider how systems of power may be intersecting to exacerbate your client's experience of discrimination (racism, exclusion from services, etc).
Think about the support they need in this context, and the representation you will give them as a result.

- Openness to challenging own views and biases.
- Respect for and appreciation of cultural difference.

Knowledge to develop

Practices or skills to build

Supporting attitudes

6. Enable access and engagement

Applicable principles: Self-determination – cultural safety – cultural respect – voice and agency – strengths-based – trauma-informed – holistic and person-centred

Understand factors that create or mitigate barriers to First Nations peoples accessing services and how to support First Nations clients to overcome these barriers. For example, shame may affect a First Nations client's interactions, capacity, and willingness to share information and seek support.

Ensure your client feels heard, validated and that their concerns are taken seriously.

Explore sensitively with your First Nations client how their personal experience with the legal and other social systems may influence their interactions with your service and the legal system more generally.

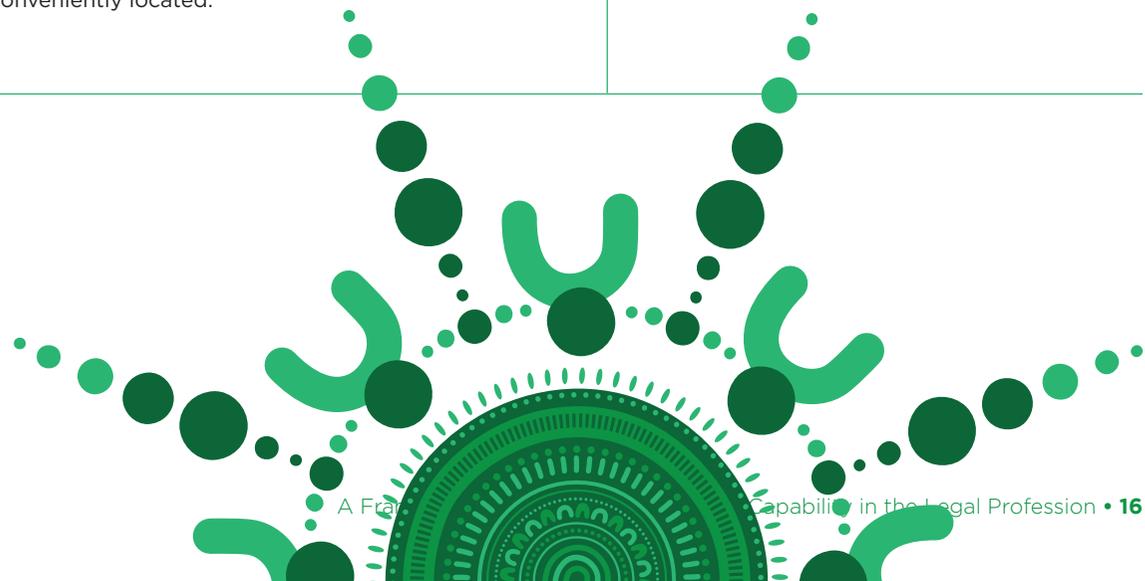
Explore with your First Nations client what support needs they may have in accessing and engaging with you and your service.

For instance, clients may need assistance with transport, childcare, language and literacy support, accompaniment by support people or a nominated ACCO or Traditional Owner Organisation.

Explore your client's their expectations about your availability via phone or face to face meetings, and whether there is somewhere more comfortable to meet than an office environment.

When referring a First Nations client to another practitioner, firm or support service, consider whether the individual or organisation receiving the referral can provide a culturally safe and responsive service and where possible is conveniently located.

- Humility.
- Openness to challenging own views and biases.
- Respectful curiosity.
- Respect for the resilience, strength, and connectedness of First Nations peoples in the face of historical and ongoing dispossession, discrimination, and trauma.
- Rejection of racism, cultural stereotyping and dominant culture colonial constructions of First Nations cultures, and a sense of responsibility and accountability to respectfully call out instances where this is operating.



Knowledge to develop

Practices or skills to build

Supporting attitudes

7. Create a culturally safe, welcoming, and affirming service environment

Applicable principles: Self-determination – cultural safety – cultural respect – voice and agency – strengths-based – trauma-informed

Understand the importance of upholding the cultural safety of First Nations clients and providing a welcoming and affirming service environment for First Nations people. Understand the ways in which this can be achieved, such as through supporting clients to share their story as needed and framing those stories around strength and aspiration rather than exclusively challenges or deficits.

Discuss with your First Nations client what they need from you or your practice to feel culturally safe, e.g. what culture means to them and what feels culturally significant. Call out overt or covert cultural abuse and racism.

Allow more time to build trust and rapport. Seek to relate to your client on a person-to-person level from a place of mutual respect. Wherever possible, seek to put clients at ease and use plain language.

Support clients to tell their own unique story. Practice deep listening without judgement. Allow more time to discuss and understand your client's aspirations in the context of their matter.

If you are uncertain about a cultural matter or its relevance, ask for more information from your client, local and Traditional Owner Organisation or ACCO, or seek advice from someone with cultural expertise.

If it is not possible to uphold your client's rights to cultural safety within existing legal processes, bring this to the attention of decision makers and other parties as appropriate.

In some instances, it may be in your client's interests to proceed within the context of an unsafe process because not doing so may lead to a less safe outcome.

Endeavour where possible to provide consistent, responsive, and timely support.

- Sensitivity, empathy, and care.
- Authenticity.
- A social justice orientation.

Knowledge to develop

Practices or skills to build

Supporting attitudes

8. Understand and consider First Nations peoples' non-legal needs

Applicable principles: Self-determination – cultural safety – cultural respect – voice and agency – strengths-based – trauma informed – holistic and person-centred

Understand the relationship of non-legal needs to legal matters for First Nations people.

When receiving a referral of a First Nations client, ensure it includes contextual information (e.g., housing-related or family violence needs) beyond the immediate legal matter.

When referring a First Nations client to another legal practitioner, firms or organisations include contextual information beyond the immediate legal matter, with your client's informed and express consent.

Explore, with your client's permission, possible non-legal issues (strengths and protective factors, risks, needs, aspirations) relevant to the matter to inform how you represent and promote their best interests. View your client as a whole person rather than seeing and reacting to them as a person in legal crisis or need.

Ensure clients can review and amend information you collect about them and explore with your client whether and how this information could be used in their best interests.

Explore with your First Nations client whether they need assistance with **referral and linkage** to culturally safe and responsive services, and what additional support they may need throughout the legal process, including family and community connection, ACCO support, Traditional Owner Organisations and other wrap around services. Act to make these connections with your client where appropriate and possible.

- Openness to challenging own views and biases.
- Respectful curiosity and care for the whole person.
- Respect for the resilience, strength, and connectedness of First Nations peoples in the face of historical and ongoing dispossession, discrimination, and trauma.
- Rejection of racism, cultural stereotyping and dominant culture colonial constructions of First Nations cultures, and a sense of responsibility and accountability to respectfully call out instances where this is operating.
- A social justice orientation.

Knowledge to develop

Practices or skills to build

Supporting **attitudes**

9. Take a trauma-informed approach

Applicable principles: Self-determination – cultural safety – cultural respect – voice and agency – strengths-based – trauma-informed – holistic and person-centred

Understand the prevalence of trauma within First Nations communities, its sources resulting from colonisation, and how it impacts individually and collectively.

Recognise the signs of trauma in your clients and adjust your practice, including how to avoid causing further harm, using best practice guidance.

Apply the recognised elements of a trauma-informed approach to First Nations client interactions to ensure they are sensitive, responsive, and supportive.
Actively seek to resist re-traumatisation in working with First Nations clients.

- Openness to challenging own views and biases.
- Sensitivity, empathy, and care.
- Commitment to client empowerment.
- Respect for the resilience, strength, and connectedness of First Nations peoples in the face of historical and ongoing dispossession, discrimination, and trauma.

10. Uphold client rights in decision making

Applicable principles: Self-determination – cultural safety – cultural respect – voice and agency – strengths-based – trauma-informed – holistic and person-centred

Understand what ‘voice’ and agency mean at the individual First Nations client level and how to enable this.

Develop skills to involve your First Nations client (and, where appropriate, their family) in planning and informed decision making at every stage. Take a collaborative approach where possible. Be clear about which decisions your client is empowered to make, versus those that remain the responsibility of the practitioner.
Communicate clearly and support your client to develop legal literacy as needed to be able to make informed choices.
When appropriate, support your First Nations client to advocate and speak for themselves. Create the space to centre their voice.

- Humility.
- Sensitivity, empathy, and care.
- Authenticity.
- Commitment to client empowerment.

Knowledge to develop

Practices or skills to build

Supporting **attitudes**

11. Understand and apply specific laws, policies and programs relating to legal practice specialisations

Applicable principles: Self-determination – cultural safety – cultural respect – voice and agency – strengths-based – trauma-informed – holistic and person-centred

<p>Understand the laws, policies, and guidance specific to First Nations people in your specialised area of legal practice (e.g. sentencing reform, the Youth Justice Act, Bail, Child Protection).</p>	<p>Advocate for the distinct rights of First Nations clients to be upheld in the context of your specialist practice (e.g. upholding Aboriginal Child Placement Principle, ensuring Aboriginal identity is factored into a bail application, etc).</p>	<ul style="list-style-type: none"> • Openness to challenging own views and biases. • A social justice orientation.
<p>Understand that laws, policies, procedures, and programs which are not specific to First Nations people may have the potential to be applied in ways that support cultural safety.</p>	<p>Where appropriate, refer your client to alternative forums and pathways with their consent.</p>	

12. Establish meaningful relationships with First Nations practitioners and First-Nations-led legal and other support services

Applicable principles: Self-determination – cultural safety – cultural respect – strengths-based – trauma-informed

<p>Know about the First Nations communities and history in the area where you practice, including Elders, Traditional Owner Organisations and other significant community members.</p>	<p>Take time to establish and maintain respectful and genuine relationships with culturally safe legal and other social services, especially ACCOs and Traditional Owner Organisations, where available.</p> <p>Engage ACCOs and Traditional Owner Organisations in a reciprocal partnership to draw on their expertise in service design and capability building.</p> <p>Consult and collaborate with ACCOs and Traditional Owner Organisations when designing, planning, delivering, and evaluating services and programs for First Nations people.</p> <p>Establish warm referral networks with culturally safe legal and other social services, especially ACCOs and Traditional Owner Organisations where available.</p>	<ul style="list-style-type: none"> • Authenticity. • Respect for and valuing of the agency, perspectives, expertise, experience, and priorities of First Nations staff.
<p>Understand that ACCOs and Traditional Owner Organisations are located in a history of struggle, and that to engage meaningfully with them means understanding how this shapes their support of their community.</p>		
<p>Become informed about local ACCOs, Traditional Owner Organisations and other service providers that deliver culturally safe and responsive services in order to facilitate more effective referral and linkage of your clients.</p>		

Knowledge to develop

Practices or skills to build

Supporting attitudes

13. Contribute to the advancement of self-determination by First Nations peoples in Victoria

Applicable principles: Self-determination – cultural respect – solidarity and allyship

Understand what self-determination means for First Nations peoples in Victoria and Australia across legal and social systems. Understand the ways in which you and your practice can support self-determination in solidarity with First Nations communities.

Engage in local cultural events, celebrations, and commemorations to show solidarity with First Nations peoples and local ACCOs and Traditional Owner Organisations.

Take time to establish and maintain respectful and genuine relationships with ACCOs and Traditional Owner Organisations, where available and appropriate, to explore how you can support First Nations self-determination in Victoria.

- Openness to challenging own views and biases.
- Humility.
- A social justice orientation.





Glossary

The key terms and acronyms used throughout this document are defined below.

Term	Definition
Aboriginal and Torres Strait Islander People	A collective term used in Australia to refer to the First Nations peoples of the continent and surrounding islands. It encompasses two distinct cultural groups: Aboriginal peoples and Torres Strait Islander peoples. While some people use this term to describe themselves, others prefer nation- or Country-specific identifiers such as <i>Wiradjuri</i> or <i>Meriam Mir</i> , or regional terms like <i>Koori</i> or <i>Murri</i> .
ACCO	An Aboriginal Community Controlled Organisation is an independent legal entity owned, initiated, operated, and governed by Aboriginal and/or Torres Strait Islander people.
Colonialism	A structure of power, not an event, which establishes and maintains settler dominance through land theft, racial hierarchy, and the erasure of Indigenous sovereignty.
Colonisation	The ongoing process by which settler states assert control over Indigenous lands, bodies, and knowledges through legal, political, economic, and cultural means.
Complex personhood	A concept recognising that individuals and communities cannot be reduced to stereotypes of oppression but hold contradictions, agency, and resilience alongside pain and struggle.
Culture	Culture refers to the shared and evolving systems of knowledge, values, practices, and relationships that shape how individuals and communities live and make meaning. In First Nations contexts, culture is not symbolic or static – it is lived, relational, and inseparable from sovereignty, law, kinship, language, and resistance. First Nations scholars emphasise that culture is political and a site of power, identity, and survival.
Cultural abuse	The use of cultural identity, traditions, or knowledge as a means of harm, control, or assimilation.
Cultural capability	The skills, knowledge, behaviours, and systems that are required to plan, support, improve and deliver services in a culturally respectful and appropriate manner.
Cultural subject positioning	The way individuals are situated within cultural, social, and political structures. It influences how they experience the world, how they are seen by others, and how power is distributed.
Dispossession	The removal of First Nations peoples from their lands, waters, cultures, and kinship systems through colonial invasion, law, and violence.
Dominant culture	The norms, values, beliefs, and practices of the group(s) in power, often positioned as neutral, objective, or universal. In settler-colonial societies, dominant culture usually reflects whiteness, patriarchy and Western thought systems.
Dominant culture colonialism	A form of colonialism that combines the occupation of Indigenous lands by white settlers with systems of whiteness that erase and replace First Nations sovereignty.

Term	Definition
First Nations Peoples	The original and continuing sovereign custodians of the lands now occupied by colonial powers. In this context, the term refers specifically to Aboriginal and/or Torres Strait Islander peoples.
Humility	In relation to this Framework, humility is an ongoing practice of self-reflection and self-critique, cultural humility acknowledges that one can never be fully “competent” in another’s culture. In a First Nations context, cultural humility also means recognising the limits of one’s knowledge, confronting discomfort, and decentering one’s own authority in favour of listening deeply and acting respectfully in alignment with First Nations-led knowledges and practices.
Intersectionality	A framework for analysing how forms of discrimination (such as racism, sexism, colonialism, classism, ableism, and homophobia) intersect and reinforce one another. In a First Nations context, intersectionality highlights how colonialism, racism, and gendered violence shape the experiences of Aboriginal and Torres Strait Islander women, LGBTIQ+ people, disabled people, and other marginalised within dominant systems.
Indigenous	A broad term used to refer to First Nations Peoples, including Aboriginal and Torres Strait Islander people. There is critique that the term homogenises distinct cultures and nations. While sometimes used strategically for political solidarity, the term should always be used with care, recognising its limitations and respecting community preferences for Nation-based identifiers.
Intergenerational trauma	The transmission of trauma across generations resulting from historical and ongoing colonisation, including dispossession, the Stolen Generations, systemic racism, and state-sanctioned violence.
LIV	Law Institute Victoria
Lore	First Nations law, authority, and governance systems that are grounded in Country, culture, kinship, and community.
Non-legal needs	The social, economic, and health-related factors that impact a person’s ability to engage with and receive adequate support from legal systems.
Privilege	The unearned advantages and assumptions of normalcy, authority, and belonging experienced by white people from dominant cultures in a society structured by racism.
Racism	Racism is the process by which systems and policies, actions and attitudes create inequitable opportunities and outcomes based on a person’s race.
Self-determination	Self-determination is the right of First Nations communities to govern and make decisions about political, cultural, social, and economic matters on First Nations terms.
Sovereignty	The inherent authority of First Nations peoples to govern themselves and their lands, based on law, culture, and relational responsibilities that long predate colonisation.
VALS	Victorian Aboriginal Legal Service
VLA	Victoria Legal Aid
Ways of being, doing and knowing	Ways of being refers to the systems through which people understand existence, identity, and their relationships to the world, or ontology. A way of doing refers to the values and actions that guide how people live in the world or axiology. A way of knowing refers to how knowledge is created, held, and shared, or epistemology.



Appendix

Stakeholder consultation activities undertaken

Consultation type		Number	Attendees
Advisory group meetings		15	Core stakeholders
1:1, small group consultations and written feedback		57	Individuals and organisations*
Workshops	Cross-sector	3	n=66 attendees spanning 18 organisations*
	Frontline staff including Community Support Officers	1	n=18 participants, all First Nations people from four organisations
	Djirra staff	1	n=9 participants
Reflection circle		1	First Nations people who participated in the workshops
Consultations with lived experience experts	Telephone interviews	12	n=12 VALS clients (mix of gender, legal matter, outcome)
	Drop in discussions	2	n=36 First Nations peoples in Ravenhall Correctional Centre n=20 First Nations peoples in Dame Phylis Frost Centre

*The following organisations were represented in at least one workshop, 1:1 or small group consultation: VALS, Djirra, Aboriginal Justice Caucus, Indigenous Law & Justice Hub (University of Melbourne Law School), Commission for Children and Young People (Victoria), LIV, VLA, Victorian Legal Services Board, Tarwirri – Indigenous Lawyers and Law Students Association of Victoria, Federation of Community Legal Centres, Victorian Bar, Judicial College of Victoria, Court Services Victoria, Dhumba Murrum Djerring (Koori) Unit of Court Services Victoria, Office of Public Prosecutions, Victorian Aboriginal Child and Community Agency, VLA First Nations Staff Network, VLA Panel Practitioners, LIV sections and committees, Leo Cussen Centre for Law, College of Law, ACAP University College, Monash University, La Trobe University, RMIT, LegalAid NSW and NSW Law Society, Victorian Department of Justice and Community Safety, Victorian Attorney-General's Department, Criminal Bar Association, Office of Public Prosecutions, Aboriginal Health Service and Victorian Bar Association.

References

- Australian Commission on Safety and Quality in Health Care. (n.d.). *Person-centred care*. Retrieved April 16, 2025, from <https://www.safetyandquality.gov.au/our-work/partnering-consumers/person-centred-care>
- Australian Health Ministers' Advisory Council's National Aboriginal and Torres Strait Islander Health Standing Committee. (2016). *Respect Framework 2016-2026. For Aboriginal and Torres Strait Islander health. A national approach to building a culturally respectful health system*.
- Australian Human Rights Commission. (n.d.). *What is racism?*. Australian Human Rights Commission. Retrieved May 2, 2025, from <https://humanrights.gov.au/our-work/race-discrimination/what-racism>
- Australian Law Reform Commission (ALRC). (2018). *Pathways to justice: Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples* (ALRC Report 133). Sydney: ALRC.
- Behrendt, L. (2003). *Achieving social justice: Indigenous rights and Australia's future*. Annandale, NSW: Federation Press.
- Creative Spirits. (n.d.). Explainer: What is self-determination? Retrieved from <https://www.creativespirits.info/aboriginalculture/selfdetermination/what-is-self-determination>
- Crenshaw, K. (1989). Demarginalising the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1989(1), 139-167.
- First Peoples' Assembly of Victoria. (2021). *Truth-telling: Frequently asked questions*. Retrieved April 16, 2025, from <https://firstpeoplesvic.org/wp-content/uploads/2021/03/tt-faqs.pdf>.
- Foley, G., Schaap, A., & Howell, E. (2014). *The Aboriginal Tent Embassy: Sovereignty, Black Power, Land Rights and the State*. London: Routledge.
- Frankenberg, R. (1993). *White women, race matters: The social construction of whiteness*. Minneapolis: University of Minnesota Press.
- Gee, G., Dudgeon, P., Schultz, C., Hart, A., & Kelly, K. (2014). Social and emotional wellbeing and mental health: An Aboriginal perspective. In P. Dudgeon, H. Milroy, & R. Walker (Eds.), *Working together: Aboriginal and Torres Strait Islander mental health and wellbeing principles and practice* (2nd ed.). Department of the Prime Minister and Cabinet, Australian Government, Canberra.
- Hromek, D. (2023). What is cultural safety and how do we design for it? *Architecture Australia*.
- Katz, S., & Haldar, D. (2016). The pedagogy of trauma-informed lawyering. *Clinical Law Review*, 22(1), 1.
- Moreton-Robinson, A. (2015). *The white possessive: Property, power, and Indigenous sovereignty*. Minneapolis: University of Minnesota Press.
- Nakata, M. (2007). *Disciplining the savages, saving the disciplines*. Canberra: Aboriginal Studies Press.
- National Indigenous Australians Agency. (n.d.). Priority reforms. Retrieved April 16, 2025, from <https://www.closingthegap.gov.au/national-agreement/priority-reforms>
- Ramsden, I. (2002). *Cultural safety and nursing education in Aotearoa and Te Waipounamu* (PhD thesis). Victoria University of Wellington.
- Smith, A. (2016). Indigeneity, settler colonialism, white supremacy. In D. Martinez HoSang, O. LaBennett, & L. Pulido (Eds.), *Racial formation in the twenty-first century* (pp. 66-90). Berkeley: University of California Press.
- The Learning Engineer's Knowledgebase. (n.d.). *Knowledge-attitude-behavior (KAB) framework*. Retrieved April 22, 2025, from [https://lekb.org/index.php/Knowledge-attitude-behavior_\(KAB\)_framework](https://lekb.org/index.php/Knowledge-attitude-behavior_(KAB)_framework).
- Tervalon, M., & Murray-García, J. (1998). Cultural humility versus cultural competence: A critical distinction in defining physician training outcomes in multicultural education. *Journal of Health Care for the Poor and Underserved*, 9(2), 117-125. <https://doi.org/10.1353/hpu.2010.0233>
- Tuck, E. (2009). Suspending damage: A letter to communities. *Harvard Educational Review*, 79(3), 409-428. <https://doi.org/10.17763/haer.79.3.n0016675661t3n15>
- United Nations. (2007). *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, GA Res 61/295, UN GAOR, 61st sess, 107th plen mtg, Supp No 49, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007)*. Retrieved from https://social.desa.un.org/sites/default/files/migrated/19/2018/11/UNDRIP_E_web.pdf
- Veracini, L. (2010). *Settler colonialism: A theoretical overview*. Basingstoke: Palgrave Macmillan.
- Wartoft, N. (2024, March 7). The power of continuous learning: Strategies for professional development in the workplace. *Training Magazine*. Retrieved from <https://trainingmag.com/the-power-of-continuous-learning-strategies-for-professional-development-in-the-workplace>
- Watson, I. (2015). *Aboriginal peoples, colonialism and international law: Raw law*. London: Routledge.
- Wilson, S. (2008). *Research is Ceremony: Indigenous Research Methods*. Halifax & Winnipeg: Fernwood Publishing.
- Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research*, 8(4), 387-409.
- Yoorrook Justice Commission. (2023). *Interim report*. Melbourne: Yoorrook Justice Commission. Retrieved from <https://yoorrookjusticecommission.org.au/>



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