Introducing NLAS(Language)

2021 Census

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The Foundation's NLAS indicators provide a comparative measure of the potential demand for not-for-profit legal assistance services across Australian geographic areas.

NLAS(Language) is a new NLAS indicator based on 2021 Census data and replaces NLAS(CALD). It is intended to support legal assistance service providers in identifying geographic areas where there is potential demand for translator and interpreter services.

Aboriginal and Torres Strait Islander languages are not included in this indicator, as there are more appropriate counts for services targeted at Aboriginal and Torres Strait Islander people and communities. However, given the importance of services catering for the language requirements of Aboriginal and Torres Strait Islander people, information on these languages is included as an annex to this report.

NLAS(Language) data is available in Excel

Download the spreadsheet to access NLAS counts and rates by state/territory, LGA, postcode, and Statistical Area (SA2 to SA4).

Check your Downloads folder.

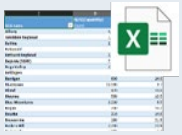
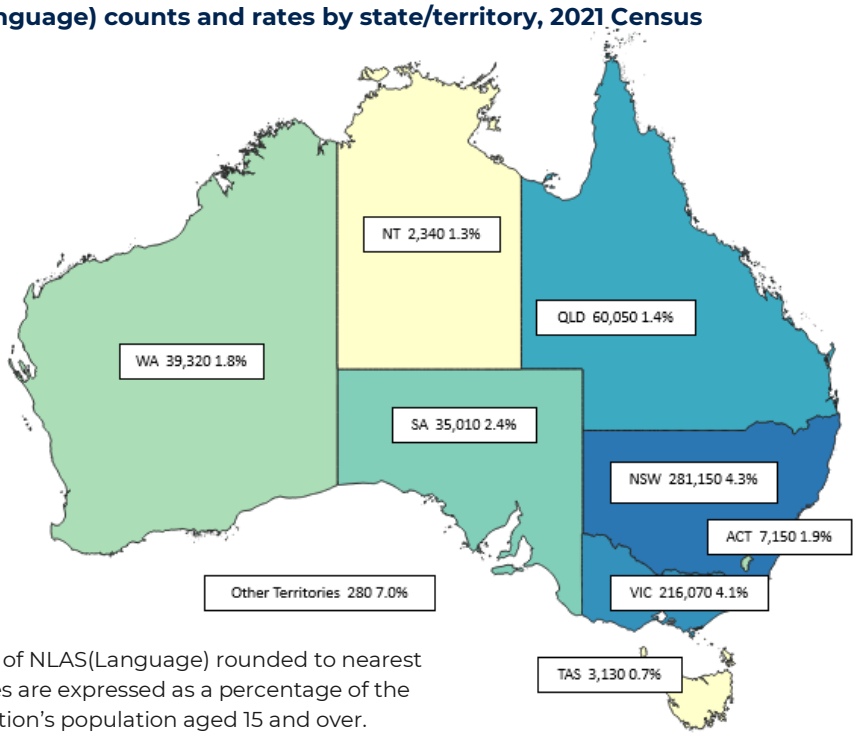


Figure 1 NLAS(Language) counts and rates by state/territory, 2021 Census



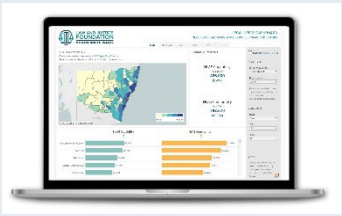
Counts of NLAS(Language) rounded to nearest 10. Rates are expressed as a percentage of the jurisdiction's population aged 15 and over.

Key points

- NLAS(Language) counts people aged 15 and over who:
  - Self-assess their proficiency in spoken English as poor (speak English not well or not at all)
  - Use a non-English language at home (other than Aboriginal and Torres Strait Islander languages, sign languages, and invented languages)
  - Have a personal income of under $52k per year.
- As the NLAS indicators count people, not clients, they give a more complete picture of potential demand for services, that includes potentially unmet legal need.
- The primary purpose of this indicator is to inform planning of interpreter and translation services, but it can also be used to inform the planning and delivery of culturally appropriate services for those immigrant communities who tend to be less proficient in the English language.
- The 2021 NLAS(Language) estimate is that there are 645,160 or 3.1% of people residing in Australia, that if they experience a legal problem, are likely to require public legal assistance services delivered in a language other than English.[1]
- This legal need is concentrated in specific geographic locations and is greatest for the older age groups, particularly women.
- Recency of arrival in Australia increases language related legal needs, but this need can persist for many years after arrival, particularly in the older age groups.
- Services to support those counted by NLAS(Language) may be enhanced through the use of interpreters or the translation of legal information and legal assistance documents. Building capacity in community-based services, to recognise legal issues and to provide referral support, is likely to enhance reach to these populations.
- In planning cultural and language related services it is also imperative that the needs of Aboriginal and Torres Strait Islander people are not overlooked. Additional to the NLAS(Language), 10,800 of the Australia-wide Aboriginal and Torres Strait Islander population reported poor English language proficiency. Nearly half of these reside in the NT.

NLAS dashboard

Visit the Law and Justice Foundation of NSW's website to access our Data and Dashboards resources page, including interactive maps of the distribution of NLAS(Language) and languages most commonly spoken across a range of Australian geographies.



1 All data included in this report is sourced from the Australian Bureau Australian Bureau of Statistics 2021 Census. TableBuilder Pro. Counting Persons, Place of Usual Residence, accessed between August and November 2023. While every attempt has been made to ensure accuracy, currency and reliability of the data in this document, the Foundation accepts no liability for the use of the data.

Need for Legal Assistance Services (NLAS) indicators

Need for Legal Assistance Services (NLAS) indicators count people who are most likely to need, and be eligible for, legal assistance services if they experience a legal problem.

They provide:

- **A measure of potential demand for public legal assistance services**
- **A broad-brush picture of the distribution of potential legal need across geographic areas**

Through legal needs surveys, we can identify sociodemographic characteristics that increase the risks of both experiencing a legal problem and needing assistance to resolve that problem. By applying these characteristics to ABS Census data, NLAS indicators translate research findings into measures of potential demand for services. Of course, NLAS counts are not a precise indication of how many services will be required as many external factors will drive that in practice, but instead they provide a comparable indicator of need across geographic areas against which – for instance – the distribution of service provision can be compared.

NLAS(Language) is one of the Foundation's 2021 ABS Census NLAS indicators. The others are currently NLAS(Capability) and NLAS(Community). **NLAS(Capability)** was designed to quantify potential demand for higher intensity legal assistance services, such as legal representation. It focuses on working-age population with very low personal income and low educational attainment. **NLAS(Community)** was designed to provide a count of people who could benefit from and meet the criteria for a range of community-based legal services. NLAS(Community) captures a wider population than NLAS(Capability) as it includes older people, uses equivalised household income, and with a higher threshold that aligns with median household income. For further information see Justice Issues 33[2].

The NLAS indicators were first derived from 2011 Census data (see Justice Issues 26[3]), and updated with the release of 2016 ABS Census data (see Justice Issues 28[4]). With each release of new Australian Bureau of Statistics (ABS) Census data, NLAS indicators' definitions are reviewed to reflect demographic trends such as changes in cost of living, how educational attainment varies across shifting age cohorts, and other factors, such as feedback on the use of indicators and changes to Census questions. Differences between NLAS population counts over the years are, therefore, to some extent an artefact of the changes in the way NLAS indicators are derived, so smaller absolute changes in counts should generally not be considered significant from a

2 Bellerose, D & Mirrlees-Black, C, 2023, *Need for Legal Assistance Services (NLAS) indicators - 2021 Census update*, Justice Issues 33, Law and Justice Foundation of NSW, Sydney.

3 Mirrlees-Black, C and Randell, SA, 2017, *Need for legal assistance services: developing a measure for Australia*, Justice Issues 26, Law and Justice Foundation of NSW, Sydney.

4 Mirrlees-Black, C & Randell, S, 2018, *Locating demand: updating the Need for Legal Assistance Services indicators: 2016 Census data*, Justice issues 28, Law and Justice Foundation of NSW, Sydney.

planning perspective. However, larger relative shifts in counts may well reflect changes in underlying demand between geographic areas. NLAS(CALD) was first derived in 2015 in recognition of the specific needs of communities who speak a language other than English.

NLAS(Language) is a development of NLAS(CALD) which recognises that the service planning value of this indicator is primarily in understanding the potential demand for translated materials and interpreter services, and the benefits of connecting with local community groups.

Legal needs of people with poor English proficiency

Legal need arises where the law is relevant to the progress or resolution of an issue, problem or dispute. Need for legal assistance services arises where a person experiencing legal need would benefit from, and qualify for, such publicly funded services. There are good reasons to expect that people with poor English proficiency would be particularly likely to benefit from legal assistance should they experience legal issues, but likely to face barriers in accessing these services. The barriers to help-seeking may be language-related or cultural, and extenuated by limited personal resources and capability, particularly amongst more recent humanitarian arrivals. A lack of knowledge of Australian laws and legal rights may exacerbate access to justice barriers. Some groups may have a fear and mistrust of government and legal systems, arising prior to their settlement in Australia. Visa and other concerns may inhibit help seeking from what are perceived as government bodies. Some cultures may be more prone to the shame and fear associated with legal problems, religious or social barriers may inhibit help-seeking outside the community, or lack of awareness or perceived cost may undermine access to legal assistance. For those with poor English proficiency, in addition to the challenges they face in identifying the opportunities for assistance, interpreter services and translated legal information material may not be available; there may be a lack of awareness and sensitivity to the needs of specific cultures amongst service providers; and potentially a lack of availability of female interpreters and lawyers for women in certain cultural groups. [5]

Findings from legal need surveys

Legal needs surveys, such as the Foundation's Legal Australia Wide (LAW) survey and, more recently, the Victora Law Foundation's Public Understanding of Law Survey (PULS) are the main source of information on the legal needs of people from culturally diverse and non-English speaking communities.[6] By asking people directly about their experiences, these surveys do not require respondents to appreciate the legal aspect of their issue or to have accessed any services. They therefore provide the most complete picture of legal need in terms of problem

5 Coumarelos, C, McDonald, H M, Forell, S, & Wei, Z, 2015, *Collaborative Planning Resource - Service Planning*, Law and Justice Foundation of NSW, Sydney.

6 The surveys and the ABS Census take a slightly different approach to how non-English language use is measured. The survey findings reported here relate to respondents who reported mainly or most often speaking a language other than English at home.

prevalence, and the range of actions taken in response to problem experience.

Legal problem experience

People with a non-English main language reported significantly lower levels of legal problem experience in the LAW survey (42.9% compared to 50.2% of the 15+ general population). They were, though, more likely to report health related legal issues (3.5% compared to 3.3%) and similar levels of employment, housing, personal injury and rights related issues. This may reflect less exposure to some types of legal problems, such as problems arising from various economic activities. It may, though, also reflect differential reporting in the survey context, due to language and cultural differences.

Although the findings are not directly comparable due to differences in methodology, the Victorian legal needs survey, PULS also found that prevalence of legal problem experience was significantly lower amongst people whose main language was not English (35.0% compared to 45.4%), and this persisted when other socio-demographic characteristics were controlled for. [7]

Response to legal problems

People with a non-English main language were found to be more likely to ignore their legal problems (29.7% compared to 17.6% of LAW Survey respondents whose main language was English). When they did take action, they were less likely to seek advice from a professional (legal or non-legal). The more recent Victorian findings confirm this to some extent, with people whose main language is not English more likely to do nothing (5.6% compared to 3.8%) and less likely to have used professional assistance (45.0% compared to 51.8%). However, the latter difference does not persist when other demographic and problem related characteristics are controlled for.[8] What PULS shows, though, is that recent arrivals have very different help seeking strategies. In particular, handling a problem alone or with the help of family or friends, was most marked for those who had arrived in Australia within the past 5 years (65.1% handled their problem in this way, compared to 44.0% of Australian born respondents).

The LAW Survey found that there were two distinct groups of people with language related legal needs.[9] The first group included respondents who only spoke languages other than English, who were more likely to be female, older, retired, with a disability and have lower educational attainment. The second group spoke English, but as a secondary language, and were more likely to be male, younger, students, have a higher educational attainment, and be working or unemployed. Both groups were more likely to be living in major cities and on lower incomes than people who spoke English as a main language. Both groups were less likely to experience legal problems overall, but also less likely to take action and seek advice for the legal problems they experienced. This may be explained in part by the much lower awareness of public legal assistance services than people whose main language is English.

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7 Balmer, N J, Pleasence, P, McDonald, H M, & Sandefur, R L 2023, *The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need*, Victoria Law Foundation, Melbourne.

8 See Table 4.4 and Table A3.16, page 207 in Balmer, N J, Pleasence, P, McDonald, H M, & Sandefur, R L, 2023, *The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need*, Victoria Law Foundation, Melbourne.

9 People, J, 2013. *Legal need and main language across Australia.* Updating Justice 34, Law and Justice Foundation of NSW, Sydney.

The 2021 ABS Census

Missing data

The person completion rate for the 2021 Census was an excellent 95.8%, but not everyone answered every question.[10] An important concern when utilising Census data to compare counts between geographic areas and populations, is whether there is any systematic bias in missing data. For some Census questions, the extent of missing data increases with increasing area disadvantage, as measured by Socio-Economic Indexes for Areas (SEIFA).[11] For example, the percentage of residents aged 15+ not answering either the language question or the proficiency question, ranged from 2.9% in the least disadvantaged ten per cent of areas, to 8.8% in the most disadvantaged.[12]

There are various methods to respond to missing data. The ABS, for example, imputes a response using other Census records, for some variables, including sex and age.[13] In line with the corrections made to other NLAS indicators, the approach we have taken here assumes that the proportion of the resident population who *would* have met the NLAS(Language) criteria *if* they had answered all the Census questions used to derive the indicator, is the same proportion as in the population that *actually* answered the relevant Census questions. The proportion is calculated using data only from those that did answer all the questions, and then multiplied by the resident population count for the geography of interest. In practice this is likely to remain an undercount, given that the proportion meeting the NLAS criteria is likely to be higher amongst those that were missing on these questions.[14]

In 2021 the Census was available to complete online or on paper. Translated versions of the questions were not offered, although the accompanying information was available in 48 languages, and the ABS provided assistance via telephone, Facebook and YouTube.[15] Each household member was asked whether they used a language other than English at home. If 'yes' they were asked to record which language (if they spoke more than one language other than English, they were asked to record the one they used most often).

10 Australian Bureau of Statistics, *Understanding data quality*, Census methodology, reference period 2021, released 28/06/2022.

11 Mirrlees-Black, C, 2023, *Making the invisible visible: using Census data to measure potential demand for human services*. Paper presented at the Australian Social Policy Conference 2023, Canberra.

12 This analysis used ENGLP and SEIFA IRSD Deciles for SA1s, residents aged 15 and over. Australian Bureau of Statistics 2021 Census. TableBuilder Pro. Counting Persons, Place of Usual Residence, accessed 10/11/2023.

13 The primary imputation method used for the 2021 Census is known as hotdecking. This involves randomly selecting a donor record and copying the relevant responses to the record requiring imputation. The donor record will have similar characteristics and must also have the required variables stated. In addition, the donor record will be located geographically as close as possible to the location of the record to be imputed. In 2021, administrative data was used in hotdecking imputation to improve the selection of donors. Australian Bureau of Statistics, *How the data is processed*, Census methodology, reference period 2021, released 26/08/2022.

14 A further limitation is that there is no straightforward method to correct for the specific type of foreign language spoken by those who did not provide this information. In theory, with access to person level data, it may be possible to impute language, using the method outlined at footnote 13 above.

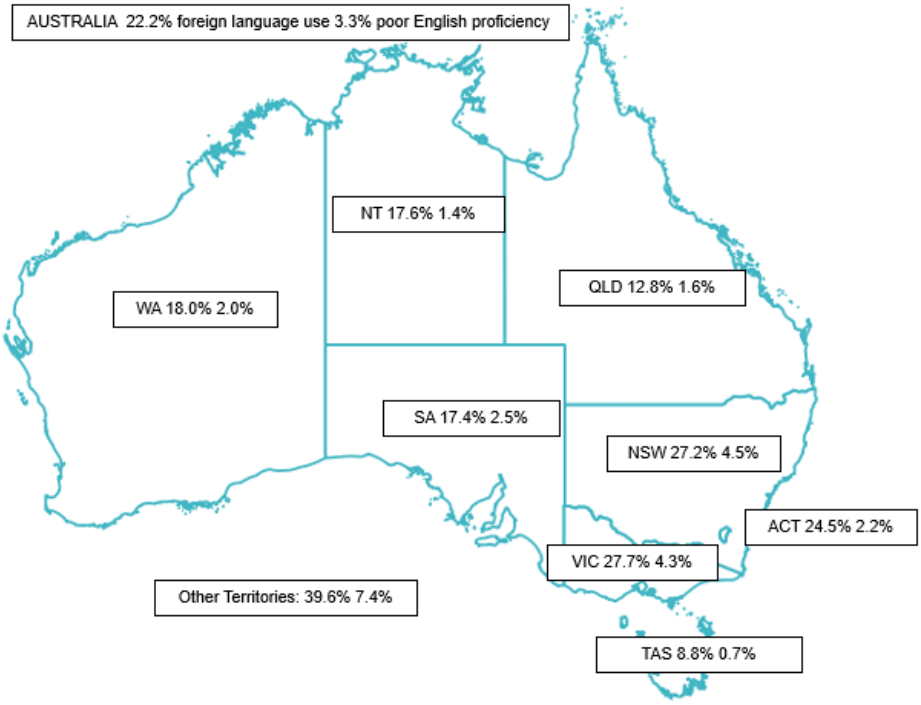
15 Fang, J, 2021, *Why isn't the census translated into languages other than English?* ABC News article posted 9 Aug 2021.

Then they were asked to answer a separate question about how well they spoke English.[16] [17] The ABS Census does not, therefore, provide an indicator of the *main* language spoken at home that is directly comparable to that used in the above surveys, as it isn't possible to discern whether it is English, or the other language(s), that people may identify as their main language. It can, though, be used to identify the non-English language most often used at home.

Non-English language use

For the purpose of NLAS(Language), sign languages and Aboriginal and Torres Strait Islander languages are not counted, as it is important that groups such as these, with separate and distinct support and cultural needs, are considered separately and not obscured by inclusion in other counts. Also excluded from the NLAS(Language) count are invented and inadequately described languages. Counting recognisable foreign languages only, 22.2% of Australian residents aged 15 or over, use such a language at home, ranging from 8.8% in Tasmania to 39.6% in Other Territories [18](Figure 2).

Figure 2 Percentage of 15+ population (a) using a foreign language and (b) reporting poor English speaking proficiency, by State/Territory (2021 ABS Census)[19]



16 Sample Census paper forms can be viewed on the ABS website, under Census media hub/Resources/Education.

17 An additional Census question asks about needing assistance with communication, and the reason for this. These questions are solely used to screen out those reporting needing assistance with communication due to poor English proficiency from the Census data on disability (needs assistance with core activities).

18 Other Territories include: Jervis Bay Territory; Christmas Island; Cocos Keeling Islands and Norfolk Island.

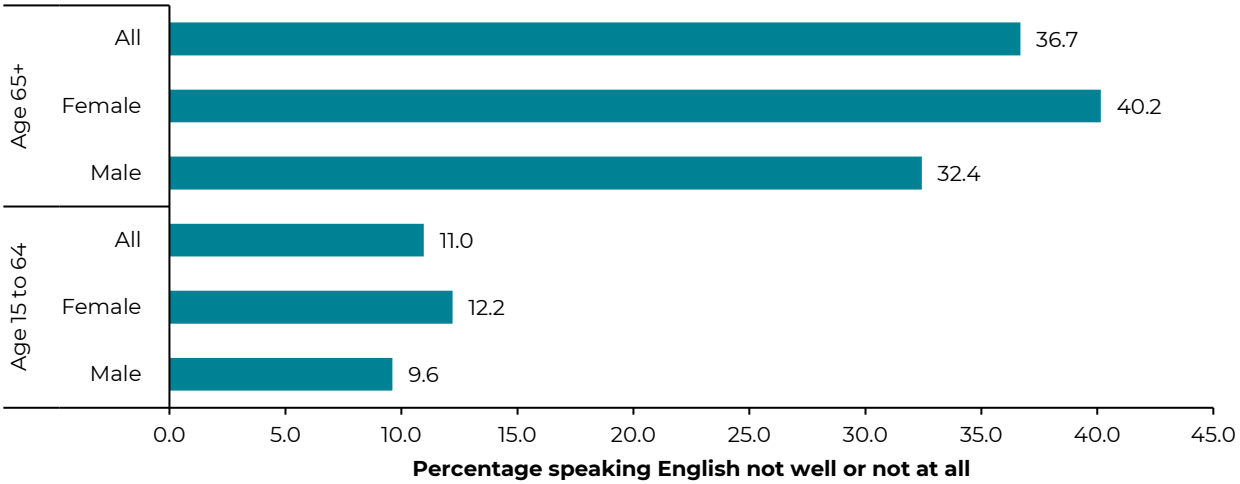
19 English proficiency percentages exclude respondents not stating a foreign language. The percentages are of the 15+ population.

Language proficiency

The 2021 Census assessed language proficiency by asking those who report using a language other than English at home, how well they spoke English. The options were: 'Very Well', 'Well', 'Not well', 'Not at all'. This measure is inevitably a subjective self-assessment, so each category may encompass a broad and potentially overlapping range of ability. Nevertheless, it is probably a reasonable indicator of a person's confidence in their use of English, and their preference for assistance in some circumstances. Overall, of the 22.2% of Australian residents aged 15 and over who reported speaking a foreign language at home, 57.9% said they also spoke English very well, 27.1% well, 12.0% not well, and 2.9% not at all.[20]

There is no prescribed definition of poor English proficiency, so here we have inferred that a response of 'not well' or 'not at all' are indicative of requiring language support, giving an overall percentage of Australian residents having poor proficiency of 14.9%.[21] However, this average masks a considerable age and a gender disparity, with a significant proportion of older females reporting poor English proficiency (Figure 3).[22] There are also considerable variations in proficiency by jurisdiction, ranging from 0.7% of the Tasmanian 15+ population reporting poor English proficiency, to 7.4% of those residing in Other Territories (see Figure 2).

Figure 3 Percentage of population speaking a foreign language and with self-assessed poor English proficiency, by age and sex[23]



20 Use of a language other than English may include languages other than the use of a foreign language. Residents reporting the use of a language other than a foreign language, including Australian Indigenous languages and sign languages, are not included in the counts here. This analysis excludes from the denominator residents who did not answer the language question and/or the proficiency question. N = 4,606,124

21 The ABS recognise the aggregation of these two categories for reporting purposes. Australian Bureau of Statistics, *Language Standards*, reference period 2016, released 03/08/2016.

22 It cannot be ruled out, of course, that there may be systematic biases by age and sex in the self-assessment of English proficiency. However, as perceived personal capability no doubt affects confidence in the use of English, self-assessed proficiency is considered to be a valid measure in this context.

23 Included in this analysis are all people aged 15 and over that speak a foreign language at home.

NLAS(Language)

NLAS(Language) definition

NLAS(Language) has been designed to offer public legal assistance providers information on the extent of potential demand for translated materials and interpreter services in specific geographic areas. In addition to the foreign language and English proficiency criteria, a personal income[24] threshold of $52,000 per year is therefore incorporated to restrict the count to those likely to meet the qualifying criteria for community based and non-representation services.[25] The full definition is provided at Annex A, but in summary it counts Australian residents who are:

- Aged 15 or over, and
- Have a personal income of less than $52,000 per year, and
- Speak a foreign language at home, and
- Have poor English language speaking proficiency.

The NLAS(Language) population is, therefore, relatively economically disadvantaged, but also significantly disadvantaged in respect of communication and the accessibility of English language-based services.

NLAS(Language) by age and sex

People counted in NLAS(Language) are found in every age and sex group, but the profile is skewed to females, who make up 61.4% of the count, and to the 65+ age cohort, who comprise 42.4%.

The percentage of Australians who meet the NLAS(Language) criteria increases with increasing age cohort, to nearly one in ten (9.9%) of Australian women aged 80 and over being included in the count, and 7.7% of men, with potentially significant implications for the design of those services targeted at the older age groups (Figure 4).

That the NLAS(Language) count is predominantly found in the older age groups, and, except for the youngest age groups, women predominate, contrasts with the LAW Survey findings, which identified a younger cohort. [26] This will reflect that, in contrast to the LAW Survey, poor English proficiency is qualifying criteria for inclusion in the NLAS count, which in practice means

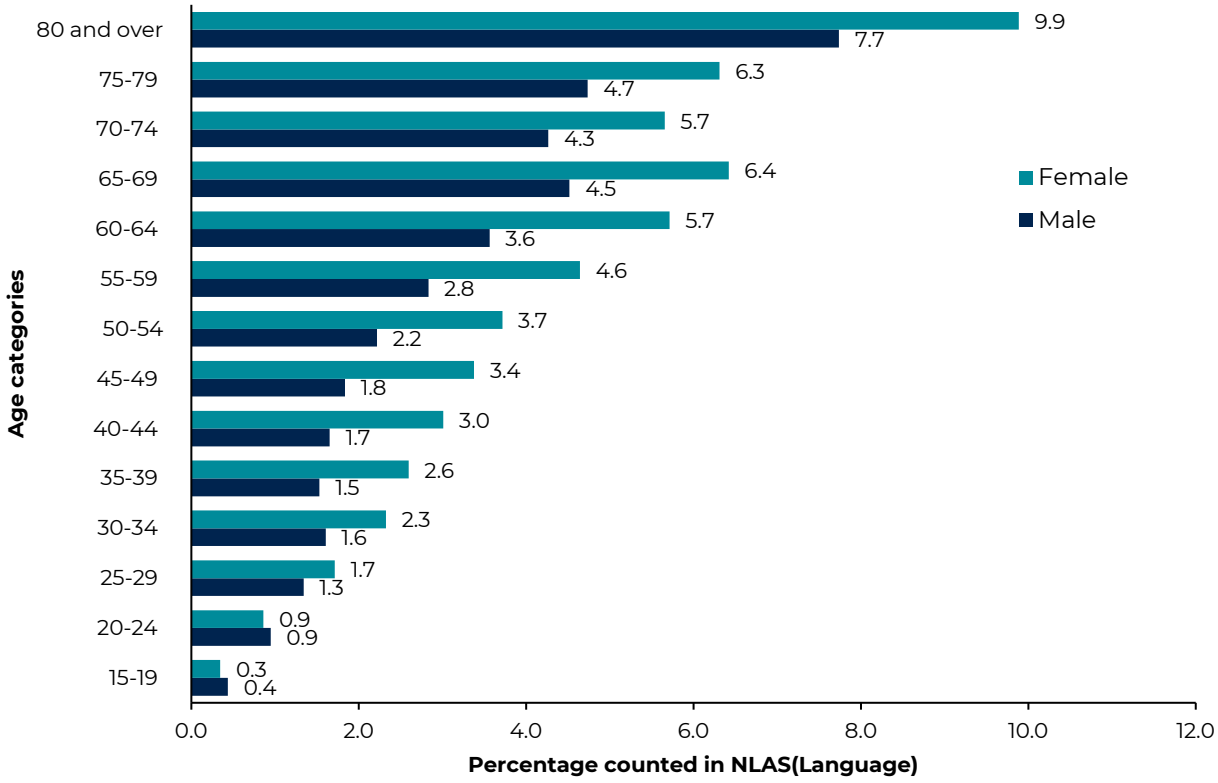
24 Although household, rather than personal, income is often used in practice to assess eligibility, the relevant household income measure is not available at suburb level, a geography that is likely to be of interest in planning these types of services. Personal income is also the more relevant indicator for services targeted at those at risk of family and domestic abuse.

25 It is worth noting, that amongst those with a personal income of $52,000 per year, or less, the rates of non-English language use and poor English speaking proficiency, are higher than the population overall: 25.1% spoke a foreign language at home (compared to 22.2% of all 15+), and of these, 21.3% reported poor English proficiency (compared to 14.9% of all 15+).

26 People, J, 2013, *Legal need and main language across Australia*, Updating Justice 34, Law and Justice Foundation of NSW, Sydney.

the count excludes younger residents who, despite mainly speaking another language, have a relatively good command of the English language. This is a reminder that although NLAS(Language) is a useful tool for planning services specifically to address language barriers, it does not include in the count those amongst the culturally and linguistically diverse populations who are more confident in their English language skills, but may nevertheless be less likely to seek legal assistance or be aware of public legal assistance services, perhaps due to cultural barriers.

Figure 4 Percentage of 15+ Australians included in NLAS(Language) count, by age and sex



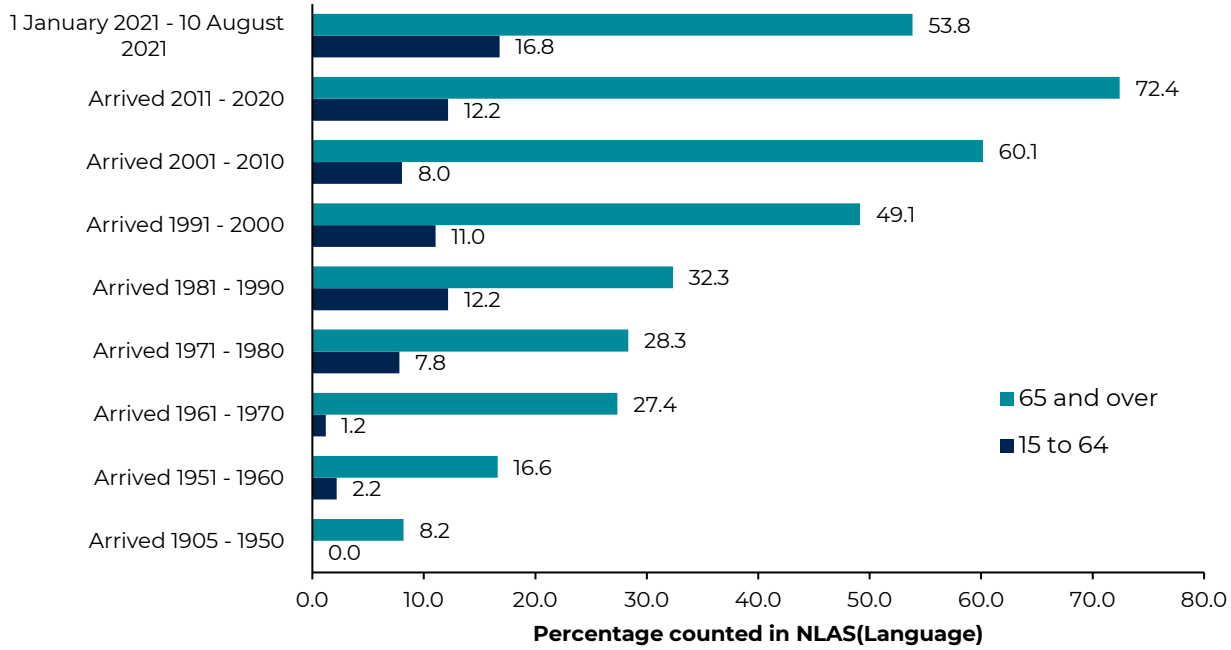
NLAS(Language) by number of years of residence in Australia

The impacts of language proficiency will interact with length of time living in Australia. As well as the opportunity to learn or improve on English language competence, longer settlement periods generally support increased understanding of legal rights and obligations, and awareness of legal and other support services, as well as greater integration within the community.

As would be expected, at least amongst the older age groups aged 65 and over, the proportion meeting the NLAS(Language) criteria decreases with increasing length of residence in Australia. Although the proportion is relatively low for the most recent arrivals, this may be an artefact of the characteristics of recent arrivals that participated in the Census. The profile by year of arrival for younger people is more varied, and this may reflect their varying

likelihood of having undertaken education in Australia and/or employment, both of which would be expected to improve English language skills.

Figure 5 Rate of NLAS(Language) by year of arrival in Australia, by age group[27]



NLAS(Language) by employment status

Understanding the extent and nature of community engagement and the service interactions that people are having, is relevant to considering how to reach the NLAS(Language) population. The ABS Census doesn't provide a great deal of information in this regard, so other sources of information, in particular local knowledge, will be of most value here. It is worth noting, though, that the majority of the NLAS(Language) population are not participating in the labour force (71.7%, compared to 33.1% of the 15+ population).[28]

27 Included in this chart are all persons aged 15+ who were born overseas and who at the time of the 2021 Census, intended to stay in Australia for more than one year. Visitors intending to stay for less than one year are excluded.

28 This is not just a reflection of the older age profile of the NLAS(Language) population: 48.5% of males aged 15 to 64 stated they were not in the labour force, and 63.2% of females. The equivalent percentages for the general population are 17.8% and 23.9%. These calculations include 'not stated' in the base, so in practice the percentages may be higher.

Geographic location of NLAS(Language) population

Not surprisingly, the NLAS(Language) populations are extremely clustered in specific geographic locations across the country. Of the 15,350 suburbs across Australia, about 11,890 have no residents meeting the criteria. The suburbs where this population is concentrated are predominantly metro, with 93.3% living in a major city (where 72.0% of the 15+ population reside, Table 1).

Table 1 Distribution of NLAS(Language) across ABS Remoteness Areas

Remoteness Area	15+ Population	NLAS(Language)			
	Distribution	Count	Distribution	Rate	Most common languages
	%	n	%	%	
Major Cities of Australia	72.0	601,960	93.3	4.0	Mandarin, Vietnamese, Cantonese
Inner Regional Australia	17.9	21,650	3.4	0.6	Mandarin, Vietnamese, Kurdish
Outer Regional Australia	8.1	13,970	2.2	0.8	Mandarin, Vietnamese, Italian
Remote Australia	1.1	820	0.1	0.4	Vietnamese, Mandarin, Thai
Very Remote Australia	0.7	720	0.1	0.5	Malay, Vietnamese, Mandarin
No usual address	0.2	500	0.1	1.3	Mandarin, Vietnamese, Spanish
Australia	100.0	645,160	100.0	3.1	Mandarin, Vietnamese, Cantonese

Source: Australian Bureau of Statistics 2021 Census. TableBuilder Pro. Counting Persons, Place of Usual Residence, accessed 22/11/2023.

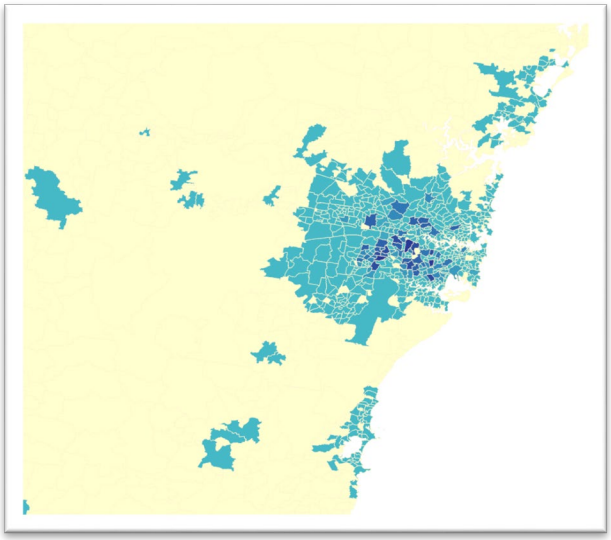
Notes: Only places that the ABS define as major cities are included in this category. Darwin and Hobart, for example, are not included, but some non-state capitals are. Counts are rounded to nearest 10, so do not add to total.

The extent of concentration of NLAS(Language) in a small number of metro-based suburbs is shown for illustrative purposes only in the Figure 6 maps for the Sydney and Melbourne and surrounding areas. Within Sydney, the highest NLAS(Language) counts (and top 3 reported languages) are in the suburbs of Auburn (Mandarin, Cantonese, Turkish); Cabramatta (Vietnamese, Cantonese, Khmer); and Campsie (Mandarin, Cantonese, Korean). Within Melbourne, the highest counts are in the suburbs of St Albans (Vietnamese, Cantonese,

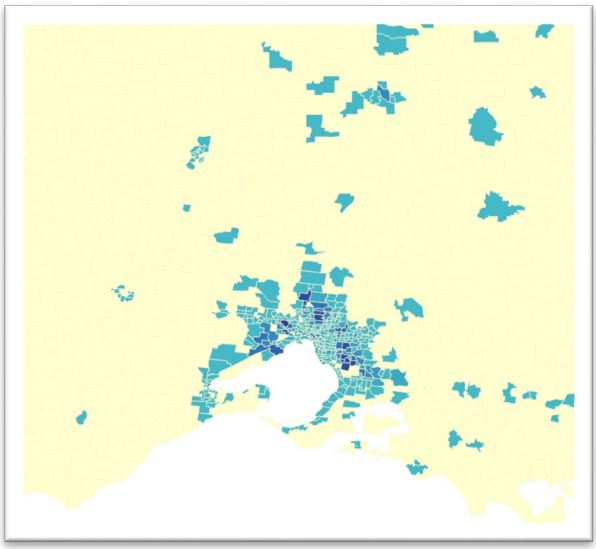
Macedonian); Springvale (Vietnamese, Mandarin, Cantonese) and Noble Park (Vietnamese, Khmer, Mandarin).[29]

Figure 6 Distribution of NLAS(Language): suburbs with any residents included in the NLAS(Language) count are shown in blue, with the counts greatest in the darker blue suburbs

Sydney and surrounding areas



Melbourne and surrounding areas



Languages used

The value of separately identifying the NLAS(Language) population is that it is restricted to people who will likely qualify for public legal assistance and have specific language and/or culturally related needs because of their poor proficiency in English. The top four most commonly used languages in the NLAS(Language) population are Mandarin, Vietnamese, Cantonese and Arabic (Table 2).[30] These are therefore likely to be the most in demand languages for translation and interpretation services experienced by legal assistance providers. However, it is vital to keep this under review as the profile of languages spoken in Australia has changed dramatically over the last ten years and is expected to continue to do so.[31]

At the Australia-wide level, in terms of the top ten languages spoken, the NLAS(Language) profile is not too dissimilar to other population groups. For example, in the general (15+) population, after English, Mandarin is the most common foreign

29 The languages spoken by the NLAS(Language) population for other parts of Australia is available on request to the Foundation at research@lawfoundation.net.au.

30 The ABS Australian Standard Classification of Languages (ASCL) was last reviewed in 2016 and is currently under review prior to the 2026 Census. It includes nearly 400 specific languages and about 100 supplementary codes: 'not further defined' ('nfd' when enough information exists to partially code a response, but not enough to code it to the most detailed category), 'not elsewhere classified' ('nec' where there isn't a specific category in the classification) or 'inadequately described' (where responses are not specific enough to be included in any level of a category).

31 Zhang, L, Tsung, L, Qi, X, 2023, *Home language use and shift in Australia: Trends in the new millennium*, Frontiers in Psychology, Volume 14, 09 February 2023.

language used at home, followed by Arabic and Vietnamese. Amongst the NLAS(Capability) population, who we have identified as the people *most* at need of public legal assistance if they were to experience a legal problem, Arabic is the most common non-English language (Table 2). However, there are some differences. For NLAS(Language), deviations from the general population profile will primarily reflect variations in English proficiency between cultural groups, while for NLAS(Capability) these differences reflect variations in educational attainment and income. Which languages should be prioritised by legal assistance providers, will, therefore, depend on which population groups are being targeted for services and/or the local area in which they operate.

Table 2 Top ten languages used at home, other than English, within Australian population groups, in decreasing order[1]

NLAS(Language)	All population 15+	NLAS(Capability)[2]
Mandarin	Mandarin	Arabic
Vietnamese	Arabic	Vietnamese
Cantonese	Vietnamese	Mandarin
Arabic	Cantonese	Cantonese
Greek	Italian	Greek
Italian	Greek	Italian
Korean	Punjabi	Turkish
Spanish	Hindi	Punjabi
Punjabi	Spanish	Assyrian Neo-Aramaic
Khmer	Tagalog	Thai

Source: Australian Bureau of Statistics 2021 Census. TableBuilder Pro. Counting Persons, Place of Usual Residence, accessed 22/11/2023.

Notes:

1. Only includes people who speak a language other than English at home. Language reported is the most often used at home, other than English.
2. For a definition and further information on NLAS(Capability), see Justice Issues 33.

Not only is the NLAS(Language) population heavily concentrated in specific geographic localities, but so too are specific languages. The relevant languages for translation and interpreter services will therefore vary considerably across localities. The most common languages spoken by the NLAS(Language) population in each jurisdiction are shown in Table 3. A spreadsheet of language by SA4 is available to download (see box below), and details of most common foreign languages for other geographies are also available in the NLAS dashboard.

Table 3 Top ten languages spoken at home by the NLAS(Language) population, by jurisdiction

	New South Wales	Victoria	Queensland	South Australia	Western Australia	Tasmania	Northern Territory	Australian Capital Territory	Other Territories
1	Mandarin	Mandarin	Mandarin	Vietnamese	Mandarin	Mandarin	Mandarin	Mandarin	Malay
2	Cantonese	Vietnamese	Vietnamese	Mandarin	Vietnamese	Nepali	Greek	Vietnamese	Mandarin
3	Vietnamese	Cantonese	Cantonese	Italian	Cantonese	Cantonese	Vietnamese	Cantonese	Min Nan
4	Arabic	Greek	Korean	Greek	Italian	Vietnamese	Thai	Korean	Cantonese
5	Korean	Italian	Spanish	Cantonese	Arabic	Arabic	Cantonese	Arabic	Norfolk-Pitcairn
6	Greek	Arabic	Thai	Hazaragi	Korean	Greek	Hakka	Spanish	Indonesian
7	Italian	Turkish	Arabic	Nepali	Thai	Karen	Indonesian	Punjabi	Fijian
8	Spanish	Punjabi	Punjabi	Khmer	Burmese	Persian[2]	Punjabi	Croatian	
9	Assyrian[3]	Khmer	Japanese	Arabic	Punjabi	Korean	Filipino	Italian	
10	Thai	Macedonian	Italian	Punjabi	Karen	Punjabi	Nepali	Greek	

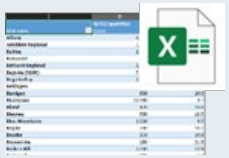
Source: Australian Bureau of Statistics 2021 Census. TableBuilder Pro. Counting Persons, Place of Usual Residence, accessed 22/11/2023.
Notes:
1. NLAS(Language) population sorted by number stating each language (other than English) most often used at home, with the first row the most frequently reported language. Only the main non-English language used at home is included here. This analysis does not correct for missing data and is based only on those responding to the language, proficiency and income questions. The total sample for this analysis is 594,357.
2. Persian, excluding Dari.
3. Assyrian Neo-Aramaic.

Top non-English languages by SA4

The top 3, 6 and 10 non-English languages spoken by Australian residents that meet the criteria for NLAS(Language) are available for the SA4 (region) geography within each state and territory in Excel.

Download the spreadsheet *(check your Downloads folder)*

Other geographies are available on request to the Foundation, or accessible through the NLAS Dashboard. Contact us on research@lawfoundation.net.au.



Discussion

Language barriers are significant in all forms of interaction, but especially so in the legal context, where the precise interpretation of language can have a significant impact on its meaning and consequences. Low proficiency in English creates barriers to access to justice, such as:

- lengthy delays in hearing cases, which can be especially challenging for those experiencing financial hardship, domestic and family violence or separation from children
- people being held on remand for extended period of time without access to legal advice
- defendants pleading guilty to charges they do not understand, or to expedite a process that they find particularly challenging and uncomfortable.

Due to the large range of languages spoken across Australia, the provision of translated materials and interpreters is likely to be restricted not only by the availability of people who can interpret specific languages but also the financial constraints that beset the legal assistance sector. The NLAS(Language) indicator is intended to assist in identifying where the need for translated/interpreter services is greatest, to inform an efficient allocation of language specific resources. That is, which types of language services where, will deliver the greatest bang for the buck.

Although its main purpose is to provide an indication of the relative distribution of need across geographic locations, the total NLAS(Language) count of 645,160 may also provide a reasonable representation of the extent of the potential demand and the challenges this inevitably poses for public legal assistance providers. This is because although NLAS(Language) is a count of the number of *people* likely to need, and qualify for, public legal assistance should they experience a legal problem, in practice individuals may access a service on multiple occasions. Given that the LAW survey found that 42.9% of respondents whose main language was not English experienced a legal problem in a year, and many of these will experience multiple problems, potential demand for translated/interpreter services could plausibly be of similar order of magnitude to the number of people meeting the NLAS(Language) criteria.

There are, of course, many examples of the successful delivery of language specific services to culturally and linguistically diverse (CALD) communities by the legal assistance sector. For example, many educational and legal information resources have been translated for non-English speakers. The Foundation's 2014 review of Legal Aid NSW community legal education and information hardcopy resources[32] identified that about a quarter of these were, at that time, available in at least one other language, and this has no doubt increased significantly with the move to predominantly online resources.[33] Legal Aid NSW now has a 'Ways to get help' section available on its website in over 30 different languages. Many community legal centres (CLCs) also have readily available links to translated information, or indeed the functionality for translation embedded into

32 Forell, S & McDonald, HM, 2015, *Community legal education and information at Legal Aid NSW: activities, costs and future planning*, Law and Justice Foundation of NSW, Sydney.

33 The Foundation recommended that due to the variable quantities required, and their sporadic use, translated and language specific resources should move online for download as and when required.

their websites.[34] However, for people with limited legal capability due to language barriers and/or other factors, community legal information resources are only a preliminary step in the help seeking pathway, as they are unlikely to provide sufficient support in themselves.[35]

A particular issue for recent arrivals, and those lacking the capability to locate and utilise community legal information resources, is even being aware of the existence of public legal assistance providers. Raising the capability of those working with CALD communities, to identify potential clients for legal assistance services, is therefore an important strategy in increasing reach to these groups. Developing the 'legal capability' of these so-called 'problem noticers' can be achieved through professional development opportunities, such as Legal Aid NSW's workshops and webinar series "Legal Words for Interpreters and Bilingual workers"[36]; or, co-locating legal outreach services with community groups; or, through more formalised partnerships. The Foundation's evaluation of Legal Aid NSW's partnership with Settlement Services International Inc (SSI) concluded that the model of Legal Aid partnering with migrant resource centres, successfully increased legal assistance to CALD communities, particularly in West and South West Sydney.[37]

Although technology in the form of video-conferencing, machine learning and Artificial Intelligence sourced translation, is delivering new possibilities in the provision of translated services, the challenges remain significant in the context of delivering legal information to a non-legal audience, particularly for those sectors of the population without access to, or confidence in the use of, such options. At this point, therefore, the involvement of humans remains essential to this type of service provision.[38]

Recognising the importance of providing in-person services to the CALD community, Western Sydney CLC's Multicultural Legal Service offers free legal information, referrals or advice, including access to an interpreter for those living within its catchment area. Legal Aid's Refugee Service is a state-wide specialist service helping refugees understand their rights and responsibilities, and advertises that clients can make an appointment to see a lawyer, for advice on a range of civil and family legal problems, at several locations across West and South West Sydney. Potentially available to assist with the provision of services is the Translating and Interpreting Service (TIS). This is an interpreting service delivered by

34 See for example, Redfern Legal Centre's drop down menu on its Home page that will translate the website into one of 79 languages. Accessed 28 November 2023.

35 Forell, S, McDonald, H M, 2015, *Beyond great expectations: modest, meaningful and measurable community legal education and information*. Justice Issues 21, Law and Justice Foundation of NSW, Sydney.

36 Plain Language Law, No. 124, October 2023. E-newsletter, Law and Justice Foundation of NSW, Sydney.

37 McDonald, H M, Forell, S, Wei, Z, Williams, S A, 2014, *Reaching in by joining-up: evaluation of the legal assistance partnership between Legal Aid NSW and Settlement Services International*, Law and Justice Foundation of NSW, Sydney.

38 For a review of the current state of play see: Wahler, M E, 2018. *A word is worth a thousand words: Legal implications of relying on machine translation technology*, *Stetson Law Review, 48, p.109*; and the following resources:

Owen, C, Murphy, M-F, 2023, *Virtual Justice? Exploring AI's impact on legal accessibility*, Norton Rose Fulbright, Australia.

Lionbridge, 2023, *Can AI translation replace professional translation services?, Generative AI's applications and limitations in translation*, blog post 7 July 2023.

Perlman, A, 2023, *The implications of ChatGPT for legal services and society*, The Practice Magazine, March/April 2023, Center on the Legal Profession, Harvard Law School, Cambridge.

the Department of Home Affairs, for agencies and businesses that need to communicate with non-English speaking clients. The potential value of TIS for the provision of legal assistance services was noted by the Australian Pro Bono centre, which identified that pro bono legal services should not entail the payment of interpreter's fees and recommended the extension of TIS to such services.[39]

Finally, although the focus here is on foreign languages, it should be remembered there are other groups not included in the NLAS(Language) count that are also disadvantaged when seeking help from services that are predominantly delivered in spoken and/or written English, including people with a disability using non-verbal forms of communication and, of course, Australian First Nations people speaking one of the many Indigenous languages. Further information on the latter group is included in Annex C.

39 Australian Pro Bono Centre, 2018, *Access to interpreters in pro-bono legal work*. Sydney.

ANNEXES

ANNEX A - Definition of NLAS(Language)

Definition of NLAS(Language)	
The rate of people 15+ is calculated by dividing the count in the left column by the count in the right column. The NLAS count is computed by multiplying the resulting rate by the resident 15+ population for the relevant geographic area.	
Persons aged 15 and over (AGEP)	Persons aged 15 and over
AND Speak a language other than English at home (LANP) (Excluded: English, Indigenous, invented, sign, non-verbal, inadequately described, not stated)	Who also responded to LANP (so, excluding 'not stated')
AND Proficiency in English is poor (ENGLP = not well or not at all)	Who also responded to ENGLP (so, excluding 'not stated on LANP' and 'not stated on ENGLP')
AND Personal Income is between Nil and $999 per week (INCP)	Who also provided an income on INCP (so, excluding 'not stated' and 'not applicable')
Source: 2021 ABS Census TableBuilder Pro, Counting Persons, Place of Usual Residence	

ANNEX B – NLAS(Language) regional distribution in NSW

As the Foundation predominantly services NSW, we include here information on the distribution of the NLAS counts across NSW.

Distribution of NLAS(Language) in NSW by SA4

Within NSW, Sydney-South West and Sydney-Inner South West had the highest NLAS(Language) population counts at 58,760 and 57,650 respectively, followed by Sydney–Parramatta at 46,670.

Table B1: NLAS(Language) rates, counts and distribution by SA4, NSW, 2021

SA4	Rate	Count	Distribution
	%	n	%
Capital Region	0.5	1,050	0.4
Central Coast	0.7	1,900	0.7
Central West	0.4	640	0.2
Coffs Harbour - Grafton	1.0	1,200	0.4
Far West and Orana	0.3	290	0.1
Hunter Valley excl Newcastle	0.3	800	0.3
Illawarra	2.0	5,190	1.8
Mid North Coast	0.2	460	0.2
Murray	0.7	760	0.3
New England and North West	0.5	690	0.2
Newcastle and Lake Macquarie	0.7	2,340	0.8
Richmond - Tweed	0.3	590	0.2
Riverina	1.5	2,010	0.7
Southern Highlands and Shoalhaven	0.4	560	0.2
Sydney - Baulkham Hills and Hawkesbury	3.7	7,730	2.7
Sydney - Blacktown	4.8	14,870	5.3
Sydney - City and Inner South	4.9	14,570	5.2
Sydney - Eastern Suburbs	1.9	4,160	1.5
Sydney - Inner South West	11.6	57,650	20.5
Sydney - Inner West	6.8	17,510	6.2
Sydney - North Sydney and Hornsby	3.9	13,410	4.8
Sydney - Northern Beaches	1.2	2,670	0.9
Sydney - Outer South West	2.6	6,090	2.2
Sydney - Outer West and Blue Mountains	1.4	3,620	1.3
Sydney - Parramatta	11.7	46,670	16.6
Sydney - Ryde	7.4	12,390	4.4
Sydney - South West	15.7	58,760	20.9
Sydney - Sutherland	1.3	2,520	0.9
No usual address (NSW)	1.8	180	0.1
Source: Australian Bureau of Statistics 2021 Census.			

Distribution of NLAS(Language) in NSW by CLSD

There are currently 12 Cooperative Legal Service Delivery Program (CLSD) areas in NSW, made up of clusters of LGAs that support inter-agency collaboration. Not all residents of NSW fall into a CLSD catchment. In particular, there are no CLSD partnership in the Greater Sydney region. Due to the geographically concentrated NLAS(Language) population within the Greater Sydney area, over 95% of the NLAS(Language) population does not reside in a CLSD region. The CLSD regions with the highest NLAS(Language) population counts are the Hunter (3,140) and the Central Coast (2,630) regions, followed by the Riverina (2,130).[40]

The NLAS(Language) rates, expressed as a percentage of the 15+ population, present a different picture, with the Riverina (1.4%), Greater Albury (0.7%) and Kempsey-Nambucca (0.7%) having the highest rates. The highest rate, not surprisingly, is for areas without a CLSD, at 6.0%.

Table B2: NLAS(Language) rates, counts and distribution by CLSD region, NSW, 2021

CLSD Region	Count [2]	Rate [3]	Distribution [4]
	n	%	%
Central Coast	2,630	0.6	0.9
Central Tablelands	830	0.4	0.3
Central West	250	0.4	0.1
Far West	60	0.3	0.0
Greater Albury	720	0.7	0.3
Hunter	3,140	0.6	1.1
Kempsey-Nambucca	1,420	0.7	0.5
Moree	30	0.3	0.0
Northern Rivers	590	0.3	0.2
Riverina	2,130	1.4	0.8
South Coast	1,270	0.5	0.5
Taree-Forster	340	0.2	0.1
Not in a CLSD[1]	267,590	6.0	95.2

Source: Australian Bureau of Statistics 2021 Census. TableBuilder Pro. Counting Persons, Place of Usual Residence, accessed 23/11/2023.

Notes:

1. Not all areas are included in the CLSD program, most notably the Sydney metro area. CLSD region definitions are as confirmed by Legal Aid in February 2023.
2. Some CLSDs catchments overlap. Where this is the case, the NLAS count has been included in both relevant CLSD areas. This means the sum of counts exceeds the total NLAS population living in the CLSD areas. Counts are rounded to the nearest 10.
3. Rates are expressed as a percentage of each CLSD region's resident population aged 15 and over. These percentages are calculated using the denominator of the resident population of all LGAs in the CLSD region, including LGAs that may be in the catchment of another CLSD region.
4. This column shows the distribution of the NLAS population across all CLSD regions.

40 CLSD regions are based on LGAs and may change over time. Therefore, comparisons over time are not recommended. For example, the Kempsey-Nambucca CLSD region has recently added an additional two LGAs and therefore now represents a larger area and population than it did previously.

ANNEX C - Aboriginal and Torres Strait Islander languages

NLAS(Language) is designed to count people who may, due to cultural and language barriers, require specialised legal assistance if they experience legal problems. Aboriginal and Torres Strait Islander languages are not included in the count in recognition that there are more appropriate indicators of Aboriginal and Torres Strait Islander populations. In planning cultural and language related services however, it is imperative that the needs of Aboriginal and Torres Strait Islander people are not overlooked.

A 2018 Australian Law Reform Commission report of an inquiry into the incarceration rate of Aboriginal and Torres Strait Islander people, notes that the right to be able to understand legal proceedings is well-established in both domestic and international law, as is the right to an interpreter.[41] Yet, the inquiry revealed the many challenges to upholding these rights in the Northern Territory, leading to potential serious miscarriages of justice.

The creation of specialised interpreting services, and protocols and training for the police and legal professionals are among a range of initiatives in recent years to address this problem. The Blurred Borders legal communication tools that use visual art, plain language and storytelling to enhance communication to support effective legal dialogue is an example of resources used by service providers to reduce cultural and linguistic barriers.[42]

However, issues persist: a chronic lack of interpreters for less common languages, retention of interpreters employed on a casual basis, but also, as Dr Dima Rusho explored in her thesis, broader cultural challenges and complex issues of power imbalance.[43]

Census data is but one source of information on the potential extent of legal related need, and is included in this report primarily as a reminder of the importance of engagement with Aboriginal and Torres Strait Islander communities to better understand and adequately respond to their specific requirements.

Languages other than English

A total of 88,370 Aboriginal and Torres Strait Islander people (11.4% of this population) reported speaking a language other than English at home in the 2021 Census, whatever their proficiency in English.[44] There are, however, large differences between states and territories. The Northern Territory shows a very different profile to other jurisdictions, with nearly two-thirds (64.0%) of its Aboriginal & Torres Strait Islander population speaking a language other than English at home, followed by WA (15.0%), SA (12.0%) and QLD (10.5%).

41 Australian Law Reform Commission, 2017, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples, Final Report No 133*, Chapter 10 Access to Justice.

42 Legal Aid Western Australia, 2019, *Blurred Borders Legal communication tools - Process review and evaluation, Final report*, Blurred Borders project, Perth.

43 Rusho, D, 2022. *Cross-currents: Indigenous language interpreting in Australia's justice system*, Thesis. Monash University, Melbourne.

44 Excluding non-verbal and invented languages, the non-verbal category includes babies who cannot yet speak.

Aboriginal and Torres Strait Islander languages

In the ABS Australian Standard Classification of Languages (ASCL), Aboriginal and Torres Strait Islander languages are classified under the 'Australian Indigenous Languages' broad language group, further broken down into nine narrow groups (listed below), and a further 196 specific languages.[45]

1. Arnhem Land and Daly River Region Languages (46 specific languages)
2. Yolngu Matha (29)
3. Cape York Peninsula Languages (18)
4. Torres Strait Island Languages (3)
5. Northern Desert Fringe Area Languages (14)
6. Arandic (7)
7. Western Desert Languages (16)
8. Kimberley Area Languages (13)
9. Other Australian Indigenous Languages (50)

Amongst Aboriginal and Torres Strait Islander people who reported speaking a language other than English, a majority (87.1%, which is 10% of the Australia-wide Aboriginal and Torres Strait Islander population) reported an Australian Indigenous language as the language other than English that they speak most often at home (Table C1, next page).

Nearly half of this group reside in the Northern Territory.

45 The 'Australian Indigenous languages' broad group also includes 21 supplementary codes such as 'not further defined' (when enough information exists to partially code a response, but not enough to code it to the most detailed category in the classification), 'not elsewhere classified' (where there isn't a specific category in the classification) or 'inadequately described' (when responses are not specific enough to be included in any level of a category).

Table C1 Aboriginal and Torres Strait Islander people who speak an Australian Indigenous language at home, 2021

State/territory	Speak an Australian Indigenous language	Distribution between state/territory	% of those who speak a language other than English	% Aboriginal and Torres Strait Islander population [2]
	n	%	%	%
New South Wales	5,200	6.7	64.0	1.9
Victoria	1,010	1.3	40.6	1.6
Queensland	19,020	24.7	80.5	8.4
South Australia	4,310	5.6	89.7	10.8
Western Australia	11,210	14.6	92.8	13.9
Tasmania	180	0.2	51.6	0.6
Northern Territory	35,780	46.5	98.4	63.0
Australian Capital Territory	260	0.3	50.3	3.0
Australia [1]	76,980	100	87.1	10.0

Source: ABS 2021 Census
Notes:
1. Figures for Australia include Australian Other Territories.
2. Percentages of Aboriginal and Torres Strait Islander population exclude those who did not answer the Census language question.

The most commonly reported specific languages are Yumplatok (Torres Strait Creole), Kriol, Djambarrpuyngu and Pitjantjatjara.

However, it is not possible from Census data alone to precisely ascertain the use and spread of Aboriginal and Torres Strait Islander languages due to the large number of people who reported speaking an Aboriginal or Torres Strait Islander language without further specifying which language (4,200 or 4.7% of those who reported using a language other than English at home)[46], or specifying a language *group* rather than a specific language, or providing insufficient detail. This results in relatively high counts in supplementary language categories such as 'not further defined', 'not elsewhere classified', or 'inadequately described'.

Poor proficiency in English

A total of 10,800 Aboriginal and Torres Strait Islander people (1.3% of the Australia-wide Aboriginal and Torres Strait Islander population) reported poor proficiency in English, that is they do not speak English well, or do not speak it at all. Given the estimated rate of Census undercount within the Aboriginal and Torres Strait Islander population[47], and the plausible postulate that

46 When completing the Census online, the answer option 'Yes, Aboriginal and/or Torres Strait Islander language' is displayed at the top (right below 'No, English only') at the language question if people have identified as Aboriginal or Torres Strait Islander earlier on. When that option is selected, a text box is displayed to allow specifying a language but that is marked as being 'optional'.

47 The 2021 Census net undercount was estimated at 0.7% overall, but the net undercount for the Aboriginal and Torres Strait population was estimated at 17.4%. Australian Bureau of Statistics, *2021 Census overcount and undercount*, reference period 2021, released 28/06/2022.

people who do not speak English well are perhaps less likely to complete the Census, figures presented here are likely underestimates.

There are large differences between jurisdictions, with nearly half of those reporting low proficiency in English residing in the Northern Territory (8.4% of the NT Aboriginal and Torres Strait Islander population) and a quarter in Queensland.

Table C2 Aboriginal & Torres Strait Islander people with poor English proficiency, 2021

State/territory	Poor proficiency in English	Percentage of the Aboriginal and Torres Strait Islander population	Distribution between state/territory
	n	%	%
New South Wales	860	0.3	8.0
Victoria	370	0.6	3.4
Queensland	2,700	1.1	25.0
South Australia	490	1.2	4.5
Western Australia	1,140	1.3	10.6
Tasmania	40	0.1	0.4
Northern Territory	5,150	8.4	47.7
Australian Capital Territory	40	0.5	0.4
Australia [1]	10,800	1.3	100

Source: ABS 2021 Census
Notes:
1. Figures for Australia include Australian Other Territories.

The languages most commonly reported by those with low English proficiency in the Northern Territory are Djambarrpuyngu, Kriol, Murrinh Patha, Luritja, Anindilyakwa, Kunwinjku and Alyawarr.

Introducing NLAS(Language) – 2021 Census

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