# Guide to asking about Aboriginal and Torres Strait Islander status

## Introduction

This guide is for volunteers involved in Disaster Legal Help Victoria (DLHV). It provides guidance on how to ask standard questions about whether a person seeking assistance identifies as Aboriginal or Torres Strait Islander and what services and referral to offer in response. Asking about Aboriginality for mainstream legal services is important to determine referral options and may also be relevant to how legal assistance or advocacy services are provided (for instance consideration of Aboriginal child placement principles for child protection matters or whether Koori Court is an option for a criminal matter).

## Why do we ask this question?

Asking if people seeking our help identify as Aboriginal or Torres Strait Islander is an important part of ‘closing the gap’ between Aboriginal and non-Aboriginal justice outcomes. It is important to ask rather than make an assumption based on appearance or other attributes. Asking this enables us to:

* consider appropriate options for the way in which legal advice and/or representation is provided (for instance Koori Court options or involving Koori support staff)
* make referrals to non-legal Aboriginal services or to Aboriginal legal services
* measure the impact of particular strategies on levels of access to services by Aboriginal and Torres Strait Islander peoples.

## When to ask

Asking about Aboriginal or Torres Strait Islander status is a standard assessment question for legal advice services.

Volunteers seeing clients for DLHV matters should ask this question when completing a Legal Advice Record (LAR).

## How to ask

Explain that we ask a standard set of questions to help us work out the best service available and that responses are confidential. When you get to the question about Aboriginality, ask it in a straightforward manner in the following way:

‘Do you identify as Aboriginal or Torres Strait Islander?’ or ‘Are you of Aboriginal or Torres Strait Islander background /descent’

If they answer ‘Yes’, ask:

‘Are you Aboriginal, Torres Strait Islander or both?’

Don’t make an assumption about whether a person is Aboriginal or Torres Strait Islander based on their appearance. It is not possible to determine a person's Indigenous status on the basis of appearance, surname or even birthplace.

You should not make comments about whether or not the person looks or seems Aboriginal or probe the person for information about which particular group they are from. It is not necessary to know this for the purpose of initial assessment for legal services.

## What to do with the response

### Where the person chooses to seek advice from a Victoria Legal Aid or community legal centre lawyer

Record the person’s Aboriginal and Torres Strait Islander status on the LAR form, so that the lawyer(s) assisting them can advise the person fully, including considering Koori Court options for criminal matters, applying relevant eligibility criteria for grant of aid matters and providing a culturally sensitive service in other ways.

### Offer choice of legal service provider where possible

Aboriginal or Torres Strait Islander people have a right to choose to access either a mainstream service (like Victoria Legal Aid (VLA) or a community legal service) or an Aboriginal legal service – Victorian Aboriginal Legal Service (VALS) or Aboriginal Family Violence Prevention and Legal Service (FVPLS Victoria). Consider the best way to offer this choice to the person. For instance, you could say:

‘On the basis of what you have told me, I can make an appointment for you to see one of our lawyers. I can also let you know that the Victorian Aboriginal Legal Service/Aboriginal Family Violence Prevention and Legal Service lawyers may be able to assist you – would you prefer me to refer you there?’

In some circumstances, it may be that because of the legal matter, the person’s income or because of a conflict of interest, a lawyer from your service is not able to assist, but a lawyer from VALS or FVPLS Victoria may be able to. In these situations, offer information about VALS or FVPLS Victoria to a potential client and support them to access the service – see the [referral guide](#_Referral_guide_–).

### Provide warm referrals where possible

If the person wants to be linked with VALS or FVPLS Victoria, where possible make a warm referral (by phone or email). If the person agrees, you may also be able to provide the Aboriginal service with the information the person provided to you during the assessment – for instance the matter and their personal circumstances, such as disability, homelessness or employment status. This avoids people having to repeat information they have already provided.

### Consider non-legal referrals

Referrals to appropriate non-legal services could also be relevant and will be most successful where there is an established relationship between your service (community legal centre, Legal Help, VLA practice area or regional office) and the other service. They could include: Aboriginal or mainstream services offering health or support services, Aboriginal Housing providers, Aboriginal co-operatives, Aboriginal Healing centres, Aboriginal Housing or drug and alcohol recovery or rehabilitation programs for Aboriginal clients or Aboriginal employment programs.

## Referral guide – referring to VALS and FVPLS Victoria

| **Victorian Aboriginal Legal Service (VALS)** | **Family Violence Prevention Legal Service (FVPLS Victoria)** |
| --- | --- |
| * **Aboriginal people in custody**
* **Criminal matters**
* **Family law** (children, family violence and child protection)
* **Civil Law** (eg police matters, human rights and discrimination, victims of crime, coronial inquest/death in custody, Wills/guardianship, tenancy, motor vehicle property damage, neighbourhood disputes, employment law, credit and debt)

VLA also provide appointments at VALS Preston office for clients with Centrelink matters. | Provides assistance to victims/survivors of family violence and/or sexual assault and people at risk of family violence or sexual assault in relation to: * **Family Violence**
* **Family Law**
* **Child protection**
* **Victims of Crime**

Where resources permit, FVPLS Victoria will also assist with civil law matters arising from family violence such as police complaints, housing, debt, Centrelink or Child Support matters. |
| **Free call 1800 064 865** **Business line:** (03) 9418 5999Or see the [VALS](http://vals.org.au/locations) for contact details of relevant regional office.**Offices (staffed by Client Services Officers) in:*** Bairnsdale
* Ballarat
* Heywood
* Melbourne
* Mildura
* Shepparton
* Swan Hill

Outreach lawyers also regularly visit regional areas to assist clients with criminal matters. | **Free call 1800 105 303****Business line: (03)** 9244 3333    Or see the [FVPLS Victoria](http://www.fvpls.org/) for contact details of relevant regional office.**Offices In:*** **Collingwood (services entire Melbourne metropolitan region and other regions not listed on this page)**
* **Warrnambool (services Barwon South West region)**
* **Bairnsdale (services Gippsland region)**
* **Mildura (services Mildura, Wentworth and Robinvale)**

Outreach services also available. |

## Other Aboriginal services

**Victorian Aboriginal Health Service**

Phone: (03) 9419 3000 (Fitzroy)

Phone: (03) 9403 3300 (Preston)

Offer a wide range of health and well-being services including medical practitioners, family counselling and health promotion programs. See the [Victorian Aboriginal Health Service](http://www.vahs.org.au/) website.

**Victorian Aboriginal Child Care Association (VACCA)**

Phone: (03)9287 8800 (Preston)

Provides programs and services to reinforce Aboriginal culture and encourage best parenting practices including foster care and kinship care programs and support.

**Aboriginal Housing Victoria**

Phone: (03) 9403 2100 (Fitzroy)

Housing provider for Aboriginal people in Victoria with over 1500 properties around the state.