

Landmark Legal Aid survey flags lawyer shortage

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- National Legal Aid (NLA) is launching results from our first national survey of over 1,000 Legal Aid private lawyers.
- Private lawyers deliver over 70% of the over 150,000 legal aid grants every year.
- The supply of private lawyers is reaching crisis levels, with a third planning to do less legal aid work in the next 5 years.
- Legal Aid lawyers value the work and giving back to the community, but there are barriers that limit their availability.
- NLA calls on the Standing Council of Attorneys-General to commit to a review of private lawyer fees, grants and funding options.

A first-of-its-kind national legal survey has shone a light on who the lawyers are that deliver essential legal aid representation

Private lawyers deliver over 70% of the over 150,000 grants of aid approved nationally every year and are the engine room of access to justice for people experiencing disadvantage.

The national survey reveals private lawyers value legal aid work but are unable to take on a full capacity of legal aid matters because the payments they receive are far below market rates. The average hourly legal aid rate for private lawyers hasn't changed in 10 years in some states and is around three times less than lawyers can earn privately.

This means there are no private lawyers available to do legal aid work in some rural and regional areas.

NLA represents Australia's Legal Aid Commissions and is calling on the Standing Council of Attorneys-General to commit to a review of Legal Aid Commission fees and grants structures and identify funding options that can support a greater commitment of resources.

The survey shows:

- 85% of private lawyers are concerned about the high level of unpaid work they are doing on legal aid cases
- one in five private lawyers doing legal aid work are unsure if they will continue to do so (because of very low fees for these matters)
- 77% of private lawyers are concerned that limited time and funding for legal aid matters can impact on the quality of their work
- 11% of survey respondents said they will definitely stop doing legal aid work this year.

The survey results underline our growing concerns about a lack of legal aid support in many parts of Australia. For example:

- in Qld in the past 2 years, there has been a 32% decrease in the number of private lawyers doing legal aid work
- in the ACT, 50% of private lawyers say they plan to stop doing legal aid work
- in NSW, wait times to find a private lawyer to represent a legal aid client have blown out, with a 34% increase in the number of requests before a lawyer can be found.

“This survey shows for the first time the commitment and value of private lawyers delivering legal aid work. They are a critical part of the system and make a real difference for clients but there is a huge financial disincentive for lawyers to do legal aid work,” says NLA Executive Director Katherine McKernan.

“Over the past decade there has been a widening gap between legal aid pay rates and the market rate for legal services. Many lawyers are no longer doing legal aid work because it won’t cover their business overheads.

“The survey indicates that in five years time the legal aid sector could collapse, meaning we would be unable to find lawyers to represent disadvantaged clients. That includes victim-survivors of family and domestic violence, vulnerable children, and First Nations people.

“Without that crucial assistance, the entire justice system could grind to a halt.”

Regional impacts

Private sector lawyers are particularly essential in regional areas. For example, Legal Aid NSW is entirely reliant on private lawyers to deliver services in some regional locations in that state. In NSW about 35% of private lawyers are based in regional areas and 34% of Legal Aid clients are also in regional communities.

“Private lawyers doing legal aid work deliver a crucial public service and can make a profound difference to the lives of the nation’s most disadvantaged. Without access to a lawyer, we risk worsening postcode injustice in regional areas where legal aid offices may not be nearby,” Ms McKernan said.

Case studies: “I lie awake at night ... it breaks my heart”

Family lawyer Kymberlei Goodacre is the principal lawyer at Coffs Law Co in NSW and handles various legal aid matters. She earns a third of her usual rate for legal aid work compared to privately funded cases. “I lie awake at night wondering if we have enough cash flow to pay staff and run the business. It’s at the point where we have to do less legal aid work because it’s not financially viable to do it. It breaks my heart,” she said.

Ann Korzeniecka, the director of Platinum Legal in WA, has been doing legal aid work for almost two decades. She does family law matters related to separation and parenting, and she assists children as an Independent Children’s Lawyer.

Ann gets paid \$171 an hour for legal aid work but can earn \$575 an hour privately.

“It would be much easier not to do legal aid work and only take private work instead because financially it is a better option. I can make more money in less hours doing private work. But then who would do this work? It’s so important; someone needs to do it.”

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