

Western Australia's Courts and Tribunals – Review of jurisdiction, process and procedure and Supreme Court fees

To

THE HON. JANINE PRITCHARD
INDEPENDENT REVIEWER

Law Society Contact

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Date

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Western Australia's Courts and Tribunals – Review of jurisdiction, process and procedure and Supreme Court fees

The Law Society makes this submission to the Hon. Janine Pritchard, the Independent Reviewer, appointed by State Attorney-General, the Hon. Dr Tony Buti MLA, to conduct a review of Western Australia's Courts and Tribunals.

Introduction

The Law Society of Western Australia (the Law Society) is the peak professional association for lawyers in Western Australia. Established in 1927, the Law Society is a not-for-profit association dedicated to the representation of its members and the enhancement of the legal profession through leadership and advocacy on law reform, access to justice and the rule of law.

By letter dated 21 August 2025, the Hon Janine Pritchard wrote to the President of the Law Society inviting feedback from the Society on potential changes to the jurisdiction, processes and procedures of the State's courts and tribunals (the Review). The letter enclosed the Review's Terms of Reference which are included in this submission at Appendix A.

The purpose of the Review as set out in the Terms of Reference is to:

1. Examine the current jurisdictional arrangements of some of Western Australia's courts and tribunals, at both a whole-of-system and individual jurisdiction level with a view to:
 - Improving the administration of justice;
 - Reducing the time to trial;
 - Increasing process and procedural efficiency; and
2. Identify opportunities for increased cost recovery of Supreme Court fees.

The Review does not:

- Consider issues concerning court room accommodation;
- Consider resourcing for the judiciary and justice agencies;
- Examine sentencing policy or individual case outcomes;
- Consider matters within the exclusive jurisdiction of federal courts; or
- Propose changes that compromise judicial independence or procedural fairness.

The Law Society is an advocate for an effective, efficient and fair legal and judicial system as an essential component of the rule of law in Western Australia. In the Law Society's *2025 State Election Campaign – Better Access to Justice for All Australians*, the Society called for reforms directly relating to the issues under consideration in the Review across four key areas:

- A Well-Functioning Legal System
 - Implement the recommendations of the Mundy Review and ensure adequate funding of legal assistance is given the highest priority.
 - complete a comprehensive audit of court facilities and infrastructure across metropolitan and regional WA.
 - Implement the recommendations of the State Infrastructure Strategy in relation to improving court infrastructure.
- Civil Justice Reform
- Criminal Justice Reform
- Youth Justice Reform.

Summary of the Law Society's response to the Review

Between August and October 2025, the Law Society consulted with members to inform this submission as follows:

1. The Review's Terms of Reference were circulated to the Chairs of the Access to Justice, Administrative and Migration Law, Alternative Dispute Resolution, Commercial Law, Costs, Country Practitioners, Courts, Criminal Law, Employee Relations, Elder Law and Succession, Property, Environment, Town Planning and Local Government, In-house and Government Lawyers, Personal Injury and Workers Compensation, Taxation and Young Lawyers Committees. The Review was an agenda item for Committee meetings held in August and September 2025.
2. The Law Society convened a Working Group comprising Committee Chairs and Committee members as well as interested Law Society members. The Working Group was invited to provide feedback to the Society in relation to their areas of experience and expertise.
3. Between 29 August and 12 September 2025, the Law Society commissioned a survey of members to ascertain the views of Western Australian legal practitioners on the issues raised by the Review. Twenty-two responses were received with feedback addressing the major themes of monetary jurisdiction thresholds, subject-matter jurisdiction, Supreme Court fees and a range of specific recommendations for process and procedural changes to courts and tribunals.
4. On 22 September 2025, the Working Group held a roundtable to discuss the feedback provided by Law Society members in response to the survey, comments sent directly to the Law Society and discussion in various Committee meetings. Following the roundtable, Working Group members were invited to provide additional feedback on their areas of expertise to inform the Law Society's submission.
5. On 14 October 2025, the Hon Janine Pritchard met with members of the Working Group, Law Society President Gary Mack, Chief Executive Officer Kate Wellington, Director Susie Moir and Law Society staff to discuss the Review and the feedback received from the Working Group and survey. At this meeting the Hon Janine Pritchard identified the items of feedback she considered were within the scope of the Review.
6. The Hon. Janine Pritchard requested additional comments on several key areas of reform and invited the Law Society to prepare a written submission.

The Law Society's submission includes current issues within Courts and Tribunals, makes recommendations for reform, sets out the impact of such recommendations and proposes items for further consideration by government. The Law Society's Young Lawyers Committee provided the additional proposals in section 6 of this submission for attracting and retaining junior practitioners in family and criminal law.

1. Monetary Jurisdiction

1.1 Magistrates Court

| Issues | Recommendations |
|---|---|
| <ul style="list-style-type: none"> The monetary jurisdiction of the Magistrates Court has remained unchanged despite inflation. Costs recovery is poor for successful parties in the Magistrates Court. | <ul style="list-style-type: none"> Increase the maximum threshold from \$75,000 to \$100,000. Allow for greater cost recovery in Minor Case claims by creating a tiered costs system akin to the New South Wales rules. Review Minor Case Rules and requirements for leave (for example in insurance matters). |

| Impact of proposed reforms |
|--|
| <ul style="list-style-type: none"> The increase in jurisdiction can be offset by changes to the Court's subject matter jurisdiction in relation to building, planning and strata disputes outlined below. |

1.2 District Court

| Issues | Recommendations |
|---|--|
| <ul style="list-style-type: none"> District Court monetary jurisdiction should be increased in line with inflationary pressures. The lack of equitable jurisdiction in the District Court means some forms of civil claims must be filed in the Supreme Court when they are otherwise within the monetary jurisdiction of the District Court. | <ul style="list-style-type: none"> Increase the monetary jurisdiction threshold to \$1 million. Establish an equitable jurisdiction for matters up to \$1 million excluding complex land applications. |

| Impact of proposed reforms |
|--|
| <ul style="list-style-type: none"> Improved administration of justice by having clear jurisdictional boundaries between the Courts. |

2. Subject matter Jurisdiction

2.1. *Building Act, Dividing Fences Act, Strata Titles Act*

| Issues | Recommendations |
|---|--|
| <ul style="list-style-type: none"> • These types of disputes often involve self-represented litigants who are less familiar with Court rules and processes. • The State Administrative Tribunal (SAT) is a more appropriate forum for neighbourhood disputes. | <ul style="list-style-type: none"> • Remove jurisdiction from Magistrates Court and District Court and vest in SAT. • Bring Western Australia into line with Queensland and the Australian Capital Territory where these matters are dealt with in their respective Tribunals. • Complex land matters remain in the Supreme Court jurisdiction. |

| Impact of proposed reforms |
|---|
| <ul style="list-style-type: none"> • A decrease in applications being filed in the District Court and Magistrates Court. • SAT offers a less formal process and cost-effective jurisdiction for self-represented parties and early opportunities for parties to mediate issues. |

3. Improvements to Processes and Procedures

3.1. Courts

3.1.1. Court of Disputed Returns (Magistrates Court)

| Issues | Recommendations |
|---|---|
| <ul style="list-style-type: none"> • Since 1 January 2019, 12 applications relating to local government elections have been filed in the Court of Disputed Returns for determination by a Magistrate. • The State Solicitors Office represents the Electoral Commission and cannot provide independent assistance to the Court. | <ul style="list-style-type: none"> • Empower Magistrates to appoint Counsel Assisting for applications to the Court of Disputed Returns. |

| Impact of proposed reforms |
|--|
| <ul style="list-style-type: none"> • Improved co-ordination of hearings through an independent advocate. • Expedited passage of electoral disputes will reduce the Court resources required to hear these matters. |

3.2. Civil jurisdiction

3.2.1. Reform of Civil Rules and Regulations

| Issues | Recommendations |
|--|--|
| <ul style="list-style-type: none"> The current Rules, Regulations, Practice Directions and forms are complex, use archaic language and are difficult to interpret. The Supreme Court Consolidated Practice Directions exceed 530 pages and are difficult to navigate. There are inconsistencies in Rules between jurisdictions, for example, the costs consequences following an offer of compromise in Rule 42A <i>District Court Rules 2005</i> (WA) are not reflected in the O24A of the Rules of the Supreme Court 1971 (WA). | <ul style="list-style-type: none"> Adopt Uniform Civil Procedure Rules applicable to all Courts, similar to the <i>Uniform Civil Procedure Rules 2005</i> enacted in New South Wales. |

| Impact of proposed reforms |
|---|
| <ul style="list-style-type: none"> Consistency in the administration of civil matters across all jurisdictions. Modern, plain language Rules can be easily understood by represented and unrepresented parties, with less reliance on lengthy Practice Directions. Clear and consistent rules will increase process and procedural efficiency in all jurisdictions, improve access and the administration of justice and may reduce the time to trial. |

3.2.2. Review and reduction of Magistrates Court Forms / Template forms

| Issues | Recommendations |
|---|---|
| <ul style="list-style-type: none"> There are too many individual and duplicated Magistrates Court Forms for different types of applications. The requirement to file and serve Affidavits of Service for each document wastes time and costs. Current procedures require the same information to be duplicated. The locked template forms in all jurisdictions are difficult to complete. | <ul style="list-style-type: none"> Simplify and reduce the number of forms. Eliminate the requirements to duplicate information in numerous forms for the same application. Enable legal practitioners registered with e-Courts to complete and upload non-template forms. |

| Impact of proposed reforms |
|--|
| <ul style="list-style-type: none"> • Simplified forms will reduce time spent fixing duplication errors and will reduce costs for represented parties. • Less forms will reduce the workload of the Magistrates Court in processing applications. • Legal practitioners can more accurately complete the information required without restrictions imposed by templates. |

3.2.3. Review of the *Civil Judgments Enforcement Act*

| Issues | Recommendations |
|--|---|
| <ul style="list-style-type: none"> • Judgment creditors are burdened with the costs of attending hearings without the debtor filing a Form 38. • If a judgment debtor has been served with a means inquiry summons and fails to appear, the judgment creditor must locate the debtor and provide the information to the Sheriff/Bailiff. | <ul style="list-style-type: none"> • Amend the Act and Rules to require a Form 38 to be filed before holding a means inquiry, which may enable an assessment on the papers. • If a judgment debtor has been served with a means inquiry summons and fails to appear, enable a warrant to issue. |

| Impact of proposed reforms |
|---|
| <ul style="list-style-type: none"> • Reduction of means inquiry hearings and delay in resolving enforcement applications. • Alleviates a cost burden of judgment creditors having to pursue judgment debtors to enable arrests by the Sheriff/Bailiff. • Warrants will facilitate appearances by judgment debtors to have the matters finalised. |

3.2.4. Civil Duty Registrar

| Issues | Recommendations |
|--|---|
| <ul style="list-style-type: none"> • Interlocutory applications can be used to delay listing matters for trial, especially in the District Court. • Self-represented litigants file incorrect forms, and parties fail to comply with orders and with no consequences for non-compliance. | <ul style="list-style-type: none"> • A Duty Registrar list in each Court which deals with procedural queries, compliance issues and clarify rule-based uncertainties. • The Registrar must be empowered to enforce non-compliance with the Rules and to escalate more complex interlocutory and procedural issues to a Judge. |

| Impact of proposed reforms |
|---|
| <ul style="list-style-type: none"> • Triaging and streamlining procedural matters reduce the need for judicial officers to deal with these issues in substantive hearings. • Enables litigated matters to be dealt with more efficiently. |

| Impact of proposed reforms |
|---|
| <ul style="list-style-type: none"> • If introduced in the District Court, this will assist case management issues for civil matters and allow them to be listed for trial earlier. |

3.2.5. Magistrates Court judicial support officers

| Issues | Recommendations |
|--|--|
| <ul style="list-style-type: none"> • The Magistrates Court deals with large volumes of defended matters which require judgments and reasons for decision. • Magistrates are not allocated particular judicial support officers and those officers are not legally trained or experienced | <ul style="list-style-type: none"> • Judicial support officers in the Magistrates Court should have legal qualifications which enable them to assist Magistrates with judgments. • The Magistrates will be able to issue decisions in a more efficient manner. |

| Impact of proposed reforms |
|--|
| <ul style="list-style-type: none"> • A more efficient and effective Magistrates Court. • Reduction in the time taken to deliver judgments. |

3.2.6. e-Courts

| Issues | Recommendations |
|---|--|
| <ul style="list-style-type: none"> • The capacity to upload documents and other forms of evidence is extremely limited. Documents/evidence has to be brought to Court on usb or other portable devices which creates a security risk, or be emailed to the Associate. Materials filed using alternative methods are not always uploaded onto the portal. • Wizard/template forms are very difficult for practitioners to use. • Administrative matters such as consents for adjournments, mediation and availability of hearing dates currently requires case management through hearings or correspondence. | <ul style="list-style-type: none"> • Expand e-Courts to enable different types of documents and evidence to be uploaded by practitioners and parties. • Use file sharing sites to facilitate electronic trials. • Expand e-Courts to enable practitioners and parties to nominate available dates for hearing through the portal. • Implement a system for responding to complaints/issues about the use of e-Courts. The Law Society can assist with court-user group to test the forms and provide suggestions for amendments. |

| Impact of proposed reforms |
|---|
| <ul style="list-style-type: none"> • Flexibility allows the Court and practitioners/parties to be more efficient in filing and listing matters. • Documents and evidence will be filed in one place and not require additional contact with Court staff outside of e-Courts. This reduces security risks with confidential information. |

3.2.7. Alternative Dispute Resolution

| Issues | Recommendations |
|---|---|
| <ul style="list-style-type: none"> Lack of effective mediation available in the Magistrates Court, leading to more defended hearings. There is a reluctance for Supreme and District Court judges to refer issues to referees for preliminary determination on the papers. Inconsistent approaches by mediators across different Courts. | <ul style="list-style-type: none"> Implement mediation similar to SAT and the Supreme Court for Magistrates Court civil claims. Referees can determine issues in dispute which are currently dealt with by judges. The costs of referee determination would be borne by the parties. Ongoing mediation education and training for judges and registrars. |

| Impact of proposed reforms |
|--|
| <ul style="list-style-type: none"> Formal mediations are likely to be more successful in achieving settlements than pre-trial conferences before registrars who are not trained in ADR. Early intervention with mediation in the Magistrates Court will reduce the numbers of trials or at least narrow the issues in dispute for a defended hearing. Increased use of referees will reduce the hearing days required for complex civil trials in the District and Supreme Courts. Brings WA into line with other state courts and the Federal Court. Education for and training of mediators enables more consistent approaches in the mediation process. |

3.2.8. Electronic Witnessing

| Issues | Recommendations |
|---|--|
| <ul style="list-style-type: none"> Electronic witnessing regulations introduced during COVID-19 to enable remote witnessing of affidavits and other declarative documents should be reinstated. It can be difficult for rural practitioners and sole practitioners/small firms and practitioners with overseas clients to access authorised witnesses where an independent witness is required. | <ul style="list-style-type: none"> Reintroduce electronic witnessing provisions on a permanent basis. |

| Impact of proposed reforms |
|--|
| <ul style="list-style-type: none"> Flexibility allows the Court and practitioners/parties to be more efficient and to reduce costs, particularly in suburban, regional and rural areas and for practitioners with remote or overseas clients. |

3.3. Criminal jurisdiction

3.3.1. Review and reform of the *Sentencing Act*

| Issues | Recommendations |
|---|---|
| <ul style="list-style-type: none"> • Sentencing discount provisions are unnecessarily complex. The Act requires any discount (for example, for a plea of guilty) to be applied to the gross sentence before mitigating factors are taken into account. This makes it very difficult for practitioners to provide accurate advice on penalty. • The current mechanism provides little incentive for an early plea of guilty. This is particularly relevant for intra-familial sex offence cases where the victims benefit from the closure provided by a plea. • There are inconsistent approaches by judicial officers in the application of s9AA of the Act as to whether it is applicable to penalties other than terms of imprisonment. | <ul style="list-style-type: none"> • Amend the <i>Sentencing Act</i> to provide clear provisions for discounts, modelled on the New South Wales legislation. • The review of s9AA of the Act should clarify whether discount provisions are applicable to penalties other than terms of imprisonment, for example, imposition of fines. |

| Impact of proposed reforms |
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| <ul style="list-style-type: none"> • Certainty in the range of sentencing options enables practitioners to give accurate advice and will incentivise early pleas of guilty. |

3.3.2. Creation of Specialist First Nations Sentencing Court

| Issues | Recommendations |
|--|---|
| <ul style="list-style-type: none"> • The sentencing Courts established in other jurisdictions, such as the Koori Court in Victoria, provide meaningful benefits and supports services for offenders. • In 2021, the Law Society published a Briefing Paper on First Nations Specialist Courts, noting the positive impact of the pilot program in Kalgoorlie that was discontinued in 2015. • The measures of success of a First Nations Specialist Court must be broader than recidivism and include the positive impact on the behaviour of offenders, positive impacts on families, victims and the community in engaging in the criminal justice system in a culturally meaningful way and the government's stated objectives to address 'closing the gap'. | <ul style="list-style-type: none"> • Creation of a Specialist First Nations Sentencing Court in Perth and regional Western Australia. • The Courts should take into account the following requirements modelled on the feedback provided in relation to the Murri Court in Queensland: <ul style="list-style-type: none"> ○ Considered and planned consultation with elders and senior persons from the proposed locations of Specialists' Courts; ○ Identification of the most suitable and culturally appropriate elders and senior members to be involved; ○ Access to treatment, intervention and rehabilitation programs to address the causes of offending behaviour; |

| | Recommendations |
|--|---|
| | <ul style="list-style-type: none"> ○ Preparedness to model the Specialist Courts in line with the identified needs of each individual region rather than adopting a ‘one size fits all’ approach; ○ The use of culturally appropriate processes identified through a meaningful consultation process to facilitate sharing of cultural knowledge and information, such as an interpreter service; ○ A specially trained magistrate/judge who is provided with regional specific cultural training; and ○ Clear and consistent operating procedures that also allow for local flexibility. |

| Impact of proposed reforms |
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| <ul style="list-style-type: none"> • These Courts provide a direct opportunity for government to reduce the rate of reoffending and therefore incarceration rates of First Nations people. • Sentencing in the Specialist Courts has the potential for more efficient sentencing through early pleas of guilty and to have meaningful impact on the relationship between First Nations people and the criminal justice system. |

3.3.3. Review and reform of the *Criminal Procedure Act 2004*

| Issues | Recommendations |
|--|---|
| <ul style="list-style-type: none"> • Lack of police expertise in laying correct charges. • The <i>Criminal Procedure Act</i> is antiquated. • Delay in expert reports of months (for example, drug certificates). • Inefficient expert reports produced. • Inexperience of prosecutors and shortage of defence lawyers. | <ul style="list-style-type: none"> • Statutory Review of the Act and Regulations. • Require shortened time frames for evidence <ul style="list-style-type: none"> ○ Prosecution disclosure <4 weeks. ○ Defence response <10 weeks or need leave to extend. ○ Alibi evidence early. ○ Expert reports early, not 4 weeks before trial. • Adopt the ‘front loading’ approach taken by the Court of Appeal to allow matters to be listed expeditiously. • Review Legal Aid policies to increase education and experience for junior practitioners. • Review police and prosecutor education and training to increase accuracy of charges. |

Impact of proposed reforms

- A ‘whole of system’ approach will increase efficiency and improve the administration of justice, impacting time to trial, length of trials and appeals/re-trials.
- Improvements to expedite evidence will encourage early pleas and reduce trials.

3.4. Internal Court processes and procedures

The Law Society recommends Government, in consultation with the Heads of Jurisdiction consider the following improvements to processes and procedures in Western Australian Courts and SAT:

Recommendations

- Providing judges with additional time to prepare judgments.
- Allowing flexible and part-time positions for judicial officers to attract a more diverse range of applicants, to assist with up-skilling judicial officers and to support the mental health and wellbeing of the judiciary.
- Review of allocation of civil and criminal caseload allocation in the District Court to ensure judges maintain experience in civil matters.
- Improve technology, acoustics and infrastructure in courts in regional and suburban areas to enable more trials to be listed outside of Perth.
- Increase the use of video conferencing for civil matters and increase provision generally to allow remote attendance by practitioners (by video conference or telephone) for directions hearings and other minor matters, without overriding the Court’s discretion to make orders for in-person attendances.
- Expedite single judge appeals from the Magistrates Court to Supreme Court to ensure appeals are finalised efficiently.
- Increase referral of complex criminal matters to the Supreme Court to ease the burden on District Court criminal lists.
- Provide additional training for Magistrates Court staff to ensure a consistent approach in processes across registries in respect of commonly filed forms, such as notices of consent for adjournments and applications for remittal to other Courts.
- Allow civil matters to be added to the CMC list on request and provide a path for judge-managed civil cases in the District Court.
- A separate review of the Wardens Court jurisdiction should be undertaken. The Wardens Court has both a judicial function and an administrative function in relation to the Department of Mines, Petroleum and Exploration. Careful consideration is required before these functions are separated.

4. Supreme Court fees

| Issues | Recommendations |
|--|---|
| <ul style="list-style-type: none"> • Fees are an access to justice issue. The Supreme Court’s jurisdiction is broad and the amount of fees, particularly filing fees, should not be a barrier to litigants accessing the Court. • Increasing filing fees disproportionately impacts less-resourced litigants. • An increase in fees must take into consideration: <ul style="list-style-type: none"> ○ The impact on all litigants, not just well-resourced litigants. ○ Prejudice against unsuccessful parties who may be penalised by payment of increased fees (for example, in mortgage recovery actions). | <ul style="list-style-type: none"> • If filing fees are significantly increased, the increases should apply to particular thresholds, for example, an increase applies to claims over \$1 million, then \$5 million, then \$10 million. • Alternatively, the fee structure should be modelled on the Federal Court to incentivise settlement. • Fees should be assessed and judicial discretion applied when a matter is being listed for a defended hearing. • The assessment should include: <ul style="list-style-type: none"> ○ The estimated use of Court resources (number of future hearing days); ○ The conduct of the parties; ○ The number of days previously expended of judge/judicial officer time for interlocutory matters; and ○ Consideration of the financial position of well-resourced parties. • The Court must retain a discretion as to the payment of all Court fees, even when the threshold for increasing fees (for example, after 10 hearing days) has been met. • Review of the current categories of corporate, individual and concessional fees to ensure small business concessions are appropriately applied on the basis of financial position, not number of employees. |

| Impact of proposed reforms |
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| <ul style="list-style-type: none"> • Increased cost recovery of fees in complex, resource-heavy litigation involving well-resourced litigants. • Assessment of fees will potentially incentivise parties to settle. |

5. Judicial education

| Issues | Recommendations |
|---|--|
| <ul style="list-style-type: none"> Education is a legislative requirement for members of the State Administrative Tribunal and Prisoner’s Review Board but is not a requirement for judicial officers in the Supreme, District and Magistrates Courts. | <ul style="list-style-type: none"> Judicial education must be included in the remit of a State Judicial Commission. Implementation of resources such as bench books and sentencing data relevant to Western Australia. |

| Impact of proposed reforms |
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| <ul style="list-style-type: none"> Regular education for judicial officers should lead to consistent approaches and outcomes in civil and criminal matters, improving the administration of justice and leading to less appeals and re-trials. Education can address issues of judicial misconduct. Education and supporting resources will improve the mental health and wellbeing of judicial officers. |

6. Attraction and retention of junior family and criminal lawyers

| Issues | Recommendations |
|--|---|
| <ul style="list-style-type: none"> There is a significant shortage of family lawyers undertaking legal aid matters and private client matters. There is a shortage of criminal lawyers, both defence and prosecution, particularly in superior Court and complex trials. Lawyers who begin their careers as family or criminal lawyers experience high levels of stress, trauma and burnout, and are leaving those areas of law. Legal Aid remuneration is insufficient to attract private lawyers. Junior practitioners are not receiving sufficient trial and advocacy experience when matters are briefed to external Counsel. | <ul style="list-style-type: none"> Universities: <ul style="list-style-type: none"> Encourage law schools to promote these areas of law through practical training. Move mandatory criminal law units to the penultimate year of law courses, or introduce an additional mandatory criminal law unit in the penultimate year of law courses. Introduce resilience and trauma training as part of a professional practice unit (noting that law students and lawyers considering practising in these areas may hesitate when they consider the content/matters they will deal with). Create job boards for criminal and family law related clerkships and graduate positions to assist students to engage with smaller law practices. Incentivise firms to create paid clerkship positions. |

| | Recommendations |
|--|---|
| | <ul style="list-style-type: none"> • Financial incentives by state and federal governments: <ul style="list-style-type: none"> ○ Provide financial incentives such as subsidy or reduction in HELP debt/student loans for young practitioners in a family or criminal law PLT placement, which requires a commitment from the practitioner to continue working in these areas for a set period. ○ Provide structured internships for law students, paid clerkships and graduate positions at the Office of the Director of Public Prosecutions, State Solicitors Office, Legal Aid and the Aboriginal Legal Service. The DPP currently requires practitioners to be admitted. • Legal Aid: <ul style="list-style-type: none"> ○ Review and increase Legal Aid funding at a state and federal level. ○ Encourage in-house trial advocacy training for junior Legal Aid practitioners, rather than briefing external Counsel. ○ Require external Counsel to provide mentoring for junior practitioners as a condition of being on Legal Aid panels. • The legal profession: <ul style="list-style-type: none"> ○ Include mandatory CPD on resilience and trauma training as part of restricted practice. ○ Create job boards for criminal and family law job vacancies. ○ Require supervisor/senior lawyers in practice areas which expose junior practitioners to traumatic or potentially traumatic/triggering case work to complete trauma-informed practice management and leadership training to learn how best to support junior staff exposed to such work. ○ Increase access to mental health resources and support for lawyers of all levels of experience exposed to traumatic issues, particularly for practitioners engaged in emotionally draining areas such as child protection, criminal and family law. |

Impact of proposed reforms

- Law schools are uniquely positioned to promote the social justice aspects of the legal profession.
- Legal Aid reform is essential to ensure practitioners are properly remunerated. More private practitioners will be willing to undertake legal aid matters.
- Junior practitioners who receive more advocacy experience are more likely to continue to practise in those areas.
- Financial incentives to reduce student debt will be an attractive motivation.
- Increased support for junior practitioners will improve the mental health and wellbeing of young lawyers.

Appendix A: Terms of Reference

Western Australia's Courts and Tribunals – Review of jurisdiction, process and procedure and Supreme Court fees

Mission

To improve the administration of justice in Western Australia.

Purpose

The purpose of this review is to:

1. Examine the current jurisdictional arrangements of some of Western Australia's courts and tribunals, at both a whole-of-system and individual jurisdiction level, with a view to:
 - o improving the administration of justice;
 - o reducing time to trial; and
 - o increasing process and procedural efficiency.
2. Identify opportunities for increased cost recovery of Supreme Court fees.

Background

Western Australia's court and tribunal system comprises a range of courts with overlapping and complementary jurisdictions, including (but not limited to) the Supreme Court, District Court, Magistrates Court (including Industrial Magistrates), Warden's Court, Children's Court, and State Administrative Tribunal. Administrative support to these Courts and Tribunals is provided by the Department of Justice.

There are a range of significant and ongoing issues impacting Western Australia's courts and tribunals. These include increases in demand across all areas of the system; court facilities that are not necessarily fit for purpose; the complexity and scale of matters; procedures and legislation that may need further review in light of advancing technology; and jurisdictional limits not keeping pace with real world costs.

These issues impact the volume of cases being managed by judicial officers and support staff; the time to trial and/or finalisation; cost of matter finalisation; and the navigability of the court and tribunal system.

This, in turn, affects all stakeholders in the justice system, including legal professionals, victims and their families, accused persons and their families, vulnerable persons and members of the public interacting with courts and tribunals. Most profoundly, trust in the justice system may be decreased and access to justice delayed.

One particular issue that requires examination and may be appropriate for reform is the fee structure for civil litigation in the Supreme Court – particularly in respect to what are known as 'well resourced litigants', which are usually large corporations engaged in the litigation of complex

commercial disputes. The management and trial of such matters is administratively costly for the State, and the fees in the civil jurisdiction in no way reflect the actual cost to the Court of dealing with these matters. A review of the Supreme Court's civil fee structure – particularly for complex commercial litigation, in a manner that bears in mind the resources of litigants – could realise cost-efficiencies for the State.

Of particular concern is the time to trial for criminal matters, especially in the District Court, which is the result of several factors. Courtroom accommodation is being addressed as part of a separate piece of work by the Department of Justice, and this will take some time to resolve. The resourcing of Courts and Tribunals is under regular review. In the interim, it is critical to look at whether efficiencies can be made to reduce time to trial or at least prevent it from increasing while the court accommodation and other issues are addressed.

In short, Western Australia needs a faster, more accessible, and less expensive justice system. A review will be undertaken, informed by consultations with stakeholders and building on work to date.

Scope

The review will:

- Include the Supreme Court, District Court, Magistrates Court (including Industrial Magistrates), Warden's Court, Children's Court, and State Administrative Tribunal.
- Consider existing jurisdictional thresholds, both monetary and subject-matter based, and make recommendations for reform.
- Consider whether any particular types of matters currently within the jurisdiction of these courts and tribunals could be more efficiently or appropriately dealt with by other statutory bodies, or by other courts and tribunals.
- Consider and make recommendations for process and procedural changes that would make courts and tribunals, or the justice system broadly, more efficient, more accessible or less expensive.
- Consider the Supreme Court's civil litigation fee structure and identify options that support partial and/or full cost recovery for matters involving 'well resourced litigants'.
- Build on existing work and research by the Department of Justice and other key bodies, like the WA Law Reform Commission, where possible.
- Compare practices in other Australian jurisdictions, where relevant.
- Be informed by consultation with stakeholders, including the judiciary, legal profession, and court and tribunal staff.

Exclusions

The review will not:

- consider issues concerning court room accommodation;
- consider resourcing for the judiciary and justice agencies;
- examine sentencing policy or individual case outcomes;
- consider matters within the exclusive jurisdiction of federal courts; or
- propose changes that compromise judicial independence or procedural fairness.

Methodology

The review will involve:

- Analysing and building on key work to date by the Department of Justice.
- Review of relevant literature and research to identify areas of potential change in Western Australia.
- Targeted stakeholder consultations.
- Development of a final review report (as below).

Deliverables

The Independent Reviewer will provide a final review report outlining:

- Overview of consultations;
- Findings and recommendations;
- Analysis of procedural or legislative reform proposals (e.g. risk, benefit and high-level cost implications, where relevant).

Timeframe

The Final Review Report is to be completed and provided to the Attorney General by 31 January 2026.

Resourcing

The review will be led by an Independent Reviewer, supported by the Parliamentary Secretary to the Attorney General and two Department of Justice policy/project officers.

Stakeholders

It is proposed the following stakeholders be interviewed by the Independent Reviewer (supported by the Parliamentary Secretary and/or project officers as necessary):

Judiciary

- President of the Court of Appeal
- Chief Justice of the Supreme Court
- Chief Judge of the District Court
- Chief Magistrate
- Magistrates Society of WA
- President of the Children's Court
- President of the State Administrative Tribunal
- Solicitor General
- State Solicitor
- Chief Commissioner of the WA Industrial Relations Commissioner
- Other members of the judiciary, as agreed with Heads of Jurisdiction, such as:
 - Industrial Magistrate
 - Mining Wardens

Non-Government stakeholders

- CEO/Director of Aboriginal Legal Service of WA
- CEO of the Aboriginal Family Legal Service
- Criminal Lawyers Association
- Law Access
- President of the Law Society of WA
- Representatives from Community Legal Centres
- WA Bar Association
- Other stakeholders as identified by the Reviewer

Statutory bodies and other government stakeholders

- Chemcentre
- Commissioner for Victims of Crime
- Department of Mines Petroleum and Regulation (Warden's Court)
- Director General, Department of Justice
- Deputy Director General, Court and Tribunal Services, Department of Justice
- Director of Legal Aid WA
- Director of Public Prosecutions
- Leadership of the WA Police Force, as identified by the Commissioner of Police (including Police Prosecutions)
- Public Advocate
- Public Trustee
- Other Courts and Tribunal Staff, as agreed with the Deputy Director General, Courts and Tribunal Services
- Other stakeholders as identified by the Reviewer