

11 November 2025

The Hon. Dr. Tony Buti MLA
Attorney General
Dumas House
2 Havelock Street
WEST PERTH WA 6005

By email: Minister.Buti@dpc.wa.gov.au

Dear Attorney General

STANDING COUNCIL OF ATTORNEYS-GENERAL: REVIEW OF LEGAL AID RATES

I refer to the upcoming Standing Council of Attorneys-General (SCAG) meeting and take this opportunity to express the Law Society of Western Australia's support for a SCAG-led review of legal aid grant rates.

I **enclose** a letter dated 7 November 2025 from the Law Council of Australia to the Hon. Michelle Rowland MP, Commonwealth Attorney General, requesting this issue be added to the agenda for the next SCAG meeting.

The Law Society shares the Law Council's concerns in relation to the critical impact of declining numbers of private legal practitioners undertaking legal aid work. Direct consequences of a diminishing legal assistance sector include limiting access to justice for vulnerable Western Australians, creating additional workload for judicial officers through the increase in self-represented litigants and compounding existing delays in the administration of justice.

The broad range of issues resulting from poor remuneration rates identified by National Legal Aid through the Private Practitioner 2024 Census and by Dr Warren Mundy in the 2024 Independent Review of the National Legal Assistance Partnership Final Report (the Mundy Report) reflect the experience of Law Society members and members of the wider legal profession who accept grants for legal aid matters in Western Australia.

The Law Society's State Election Campaign *Better Access to Justice for All Western Australians* included a call for additional funding for the legal assistance sector. Although a review of this funding was excluded from the terms of reference for the current Independent Review of Western Australia's Courts and Tribunals, the Law Society urges the State Government to consider the beneficial effects on the State justice system of increasing funding for legal practitioners undertaking this important work.

I welcome the opportunity to discuss these issues with you and look forward to confirmation of their inclusion at the SCAG meeting.

If you have any questions or wish to discuss the above, please contact Susie Moir, Director Advocacy and Professional Development on smoir@lawsocietywa.asn.au or telephone 9324 8600.

Yours sincerely

A handwritten signature in black ink, appearing to read "G. Mack".

Gary Mack
President

Enc.

7 November 2025



The Hon Michelle Rowland MP
Commonwealth Attorney-General
PO Box 6022
House of Representatives
Parliament House
CANBERRA ACT 2600

By email: attorney@ag.gov.au

Dear Attorney-General

Standing Council of Attorneys-General: Review of legal aid rates

The Law Council of Australia welcomes the Australian Government's commitment to a fair and just legal system, and acknowledges the increased funding announced as part of the National Access to Justice Partnership that commenced on 1 July 2025. This commitment is an important first step in addressing the significant unmet legal need that exists around the country.

We remain, however, highly concerned with the ongoing sustainability of the delivery of legal aid services in Australia. As you are aware, more than 70 per cent of approved applications for legal aid are assigned to private practitioners. Each year, these practitioners deliver over 100,000 cases involving Australians in times of legal need. These practitioners are vital to their communities, both because of the legal aid services they provide, but also because they provide local access to legal services in much of regional Australia. They cannot sustain their practices with the current rates paid for legal aid services.

A recent census conducted by National Legal Aid has revealed that many in the legal profession are seeking to reduce or altogether cease their legal aid work in the near future.¹ Many firms that, until recently, were able to offer legal aid services have already had to make the hard decision to stop. This has already resulted in a drastic decline of solicitors and barristers able to provide vital legal services across Australia. This will have devastating consequences for vulnerable Australians in need who cannot be expected to self-navigate through the court system and for regional communities, which rely on local solicitors for their pro bono activities and their contributions to civil society in regional towns where they are the mainstay of many community organisations.

There are complex reasons for this looming workforce crisis, however a fundamental barrier for the private profession is the difficulty in maintaining a financially viable legal practice while still accepting legal aid matters. Simply stated, the fees paid by Legal Aid Commissions (and the fact that some work is unpaid altogether) do not meet the costs of running a business. The majority of legal aid work is undertaken by women, and by sole or small legal practices. Many are located in regional areas.

¹ See National Legal Aid, *Legal Aid Private Practitioners: 2024 Census* (5 February 2025).

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They simply cannot continue to support access to justice, pay their staff and keep their doors open.

Data provided to the Law Council indicates that, across a range of family law property and parenting disputes, payments received from legal aid commissions are consistently between 25 and 30 percent of what would otherwise have been costed had the same matter been taken on privately.² Dr Warren Mundy has found that, in each jurisdiction reviewed, legal aid fees paid to private solicitors providing legal assistance were consistently less than half the rate paid to private solicitors on government legal service panels.³

The Law Council is acutely aware of the pressures that a decline in practitioners undertaking legal aid has already placed on the justice system, including that:

- some Legal Aid Commissions cannot find lawyers willing to act, at all, in legally aided matters in some locations (for example, independent children's lawyers or party-party litigation in family law);
- this increases the cost of representation, as fewer practitioners have to cover larger areas, with increased travel time and cost; and
- there are more self-represented parties in proceedings, which has the effect of escalating costs and delay, as well as adding to the workload of our courts.

Noting that the funding of legal aid is a shared responsibility between the Commonwealth, State and Territory Governments, we are strongly supportive of this issue being considered at the upcoming meeting of the Standing Council of Attorneys-General (**SCAG**). A SCAG-led review of the fee structure and associated issues relating to the administration and delivery of legal aid will be a critical step towards averting the pending crisis, and we urge you to support this body of work.

I would welcome the opportunity to speak with you about these issues ahead of the upcoming SCAG meeting. In the first instance, please contact Ms Leonie Campbell, General Manager of Policy at leonie.campbell@lawcouncil.au or on (02) 6246 3754.

Yours sincerely

Elizabeth Shearer
Executive Member

² Law Council of Australia, *Independent Review of the National Legal Assistance Partnership Submission*, 27 October 2023, 17.

³ Dr Warren Mundy, *Independent Review of the National Legal Assistance Partnership: Final Report* (March 2024), 137.