

BRIEFING PAPER

LEGAL ASSISTANCE FUNDING

THE **ESSENTIAL** MEMBERSHIP FOR
THE LEGAL PROFESSION

Prepared by the Law Society of Western Australia

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LEGAL ASSISTANCE FUNDING

Issue

In 2014, the Productivity Commission recommended an additional \$200 million in legal assistance funding be provided by the Federal and State Governments. The Western Australian Government's share is \$8 million.

However, notwithstanding that recommendation, legal assistance funding has continued to face setbacks while demand for services has increased, putting the sector in crisis.

Background

In conjunction with the Law Council of Australia, the Law Society of Western Australia has been advocating for increased legal assistance funding.

The Federal Government announced that its 2017 Budget would cut legal assistance funding by 30% (or \$35 million), which would have devastated Community Legal Centres (CLCs) and Aboriginal and Torres Strait Islander Legal Services. However, after a strong campaign the Government announced that the planned cuts would be cancelled, although no increases will be made as recommended by the Productivity Commission.

Legal Aid WA has noted an increasing level of unmet legal need in the community and increasing demand for its services. In particular there are strong demands on funding for assistance in criminal law matters in the Magistrates Court, a range of civil law matters (including those linked to financial hardship and elder abuse), and child protection matters.

In the Budget Review for 2017-2018, the Australian Government stated it would provide \$261.5 million funding for legal aid services and CLCs, an increase of \$4.4 million from 2016-2017.¹ In forward estimates, it was predicted that funding would again increase by another \$4.4 million in 2018-19, and another \$4.1 million in 2019-20 to \$270 million.²

In the 2019-20 budget, the Commonwealth Government allocated almost \$20 million in additional funding for legal assistance services.³ Whilst the government funding is slowly increasing, it has not yet reached the funding amounts recommended by the Productivity Commission.

Policy position

The Law Council of Australia

The LCA Legal Aid Matters Campaign was endorsed by all constituent bodies.

In March 2019, the Law Council issued a media release that stated the Law Council had highlighted the dire state of legal assistance funding in Australia as a matter of critical importance in their 2019-20 Pre-Budget Submission. The Law Council states that a boost of at least \$310 million a year is required to address critical gaps in the system.⁴

The President of the Law Council of Australia, Arthur Moses SC said, "Commonwealth legal aid funding is at its lowest in decades. In 1997 the Federal Government spent \$11.22 per capita. Today, it is spending less than \$8 per capita. Many living under the poverty line are ineligible."⁵

In April 2019, the Law Council stated that the legal assistance funding increase of less than \$20 million in the 2019-20 Budget falls well short of the additional \$310 million per year needed to provide adequate access to justice to Australians at risk.⁶

The Law Society of Western Australia

The Law Society of Western Australia coordinated the "Legal Aid Matters" campaign in Western Australia, including having:

- promoted with key stakeholders the agreed messages that are published by the Law Council of Australia;
- written to all Western Australian Members of

Parliament regarding the issues with legal assistance funding and seeking a commitment that they will reverse any funding cuts made at both the State and Commonwealth level;

- emailed members with the link to the Legal Aid matters website;
- engaged with stakeholders to join campaign “Alliance”;
- published case studies highlighting the effect that the legal aid crisis has on real people.

Funding Implications

N/A

NOTES

1. ‘Legal aid and legal assistance services’, Parliament of Australia (Web page) <https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201718/LegalAid>.
2. Ibid.
3. Attorney-General for Australia, ‘Budget increase provides funding certainty for legal assistance services’ (Media Release, 2 April 2019).
4. Law Council of Australia ‘Lives are being destroyed – legal assistance funding needs urgent review, huge budget boost’ (Media Release, 7 March 2019).
5. Ibid.t
6. Law Council of Australia, ‘\$20m funding increase, single national legal assistance mechanism do little to address huge ‘justice deficit’ (Media Release, 2 April 2019).

Policy Position

The Law Society of Western Australia continues to promote the Law Council of Australia’s Policy Statement: Legal Assistance Funding and seek the support of the Commonwealth Government to immediately provide a further \$120m to cover civil legal assistance, with the States and Territories contributing \$80m, making a total of \$200m, as recommended by the Productivity Commission.