

BRIEFING PAPER

LEGAL ASSISTANCE FUNDING

THE **ESSENTIAL** MEMBERSHIP FOR
THE LEGAL PROFESSION

Prepared by the Law Society of Western Australia

lawsocietywa.asn.au

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LEGAL ASSISTANCE FUNDING

Issue

In 2014, the Productivity Commission recommended an additional \$200 million in legal assistance funding to 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 Law Council 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 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 community legal centres (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

Due to a surge in mining industry profits and tax revenue boosting Commonwealth funds, the Australian Government expects to deliver a \$4.1 billion surplus to the 2019-20 budget.³ This could be used as a further argument for the allocation of funding to legal aid services and CLCs.

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

The Law Society of Western Australia

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

- promoted with key stakeholders the agreed messages that are published by the Law Council Australia;
- written to all Western Australian Members of Parliament regarding the issues with legal assistance funding and seeking a commitment 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. Brett Worthington, ‘Australia’s budget deficit slashed, with surplus forecast for next year’, ABC News (News article, 17 December 2018) <<https://www.abc.net.au/news/2018-12-17/josh-frydenberg-forecasts-federal-budget-surplus-next-year/10625838>>.
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.

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, comprising a total of \$200m, as recommended by the Productivity Commission.