

May 28 2025

Submission to the Fair Work Commission

Gender Undervaluation – Priority Awards

About Community Legal Centres NSW

1. Community Legal Centres NSW (CLCNSW) is the peak representative body for 41 Community Legal Centres in New South Wales. We represent the views of Community Legal Centres to the government and broader community. CLCNSW supports, represents and advocates for our members, and the legal assistance sector more broadly, with the aim of increasing access to justice for people in NSW. More information about CLCNSW and our work is available [here](#).

About the community legal sector

2. Community Legal Centres are non-government organisations that provide free legal services people experiencing deep and persistent disadvantage and dislocation.
3. Community Legal Centres help people every year to resolve everyday legal problems in areas like housing, relationships, debts and money problems, and discrimination. People trust Community Legal Centres to support them early, before legal problems snowball to crisis point. Our services keep people in jobs and homes, and out of debt, hospitals, courts, and prisons.
4. Community Legal Centres carry out integral frontline domestic and family violence work. Our sector plays a crucial role in preventing and responding to domestic and family violence. Frontline family law and family violence services make up the largest area of work for our sector.

Workforce profile

5. Most Community Legal Centre staff are legal practitioners. The 2024 Independent Review of the National Legal Assistance Partnership 2020-25 conducted by Dr Warren Mundy (the NLAP Review) estimated that around half of the Community Legal Sector workforce in NSW are solicitors.¹
6. Most Community Legal Centres employ a mix of part-time staff, full-time staff and casual staff. According to a survey of the sector, with 32 Centres responding, the average total staff per Community Legal Centre in NSW was 30. The average full-time equivalent load for these Centres was 23.
7. Many people's legal issues are connected to other social and financial problems. Community Legal Centres provide holistic support that recognises the impacts of trauma and direct and indirect discrimination on people's ability to access justice. Because of this, in addition to solicitors most Community Legal Centres employ allied professional workers, including:
 - Social workers
 - Education or training workers, including community legal education workers
 - Policy, campaigns or communications staff
 - Advocates including tenants' or disability advocates
 - Community development or engagement workers
 - Identified Aboriginal community engagement or support workers
8. The sector is highly feminised. According to the NLAP Review, 70% of the Community Legal Centre workforce are women. The report cites a ratio of "approximately 2.2 female solicitor... for every male solicitor", the highest rate of feminisation in the legal assistance sector.²
9. The sector is also relatively young. While age is not a reflection of talent and legal nous, this demography reflects a dynamic where structural barriers to financial security and career progression threaten a hollowing out of the legal assistance sector, particularly the Community Legal Sector. Material factors such as lower salaries, limited opportunities for promotion, underemployment and job insecurity because of structural resource constraints within the sector, create imperatives for legal practitioners to seek better-paying opportunities at Legal Aid Commissions and other practices after a period of employment at a Community Legal Centre.

¹ Dr Warren Mundy (2024), *Independent Review of the National Legal Assistance Partnership Final Report*, published March 2024, <<https://www.ag.gov.au/legal-system/publications/independent-review-national-legal-assistance-partnership-2020-25>>

² NLAP Review, page 156.

Client profile and services delivered

10. In 2023-24, Community Legal Centres in NSW provided 145,441 services to 60,009 people including:

- 41,883 people experiencing financial disadvantage;
- 12,698 people with disability;
- 10,089 people experiencing or at risk of family violence;
- 5,767 Aboriginal and/or Torres Strait Islander people;
- 12,879 people whose main language spoken at home is not English; and
- 4,926 people in rural, regional, remote and very remote areas.

11. This was an increase of 11 percent on the previous year. 88% of Centres responding to our annual sector survey reported an increase in demand compared to 2022-2023.

12. Our Centres report that not only is demand for services increasing year on year, but the complexity of legal need is increasing as persistent disadvantage and legal issues compound. This progressive increase in complexity has also been confirmed by numerous inquiries and reports over the last decade.³ This phenomenon is especially pronounced in remote and very remote areas.

13. This has had the effect of forcing Community Legal Centres to either do more work with less resources, shut down new intake for periods of time, or turn prospective clients away. Community Legal Centres are squeezed by increasing demand, increasingly complex demand, workforce attrition and real term funding cuts because of inadequate indexation.

Funding

14. The majority of a Community Legal Centre's budget is spent on staff salaries and on-costs. Community Legal Centres in NSW are chronically underfunded and in dire need of increased resources to address the wage inequality and workforce retention issues weakening our sector, and meet the complex demand of our clients.

15. The NLAP Review reconfirmed the inadequacy of Community Legal Centre base funding.

³ Commonwealth Attorney-General's Department (2024) [Independent review of the National Legal Assistance Partnership 2020-25 Final Report](#); Productivity Commission (2014) [Access to justice arrangements – Inquiry report](#); Law Council of Australia (2018) [The Justice Project – Final report](#).

16. In November 2024, the Standing Council of Attorneys General agreed on the terms of the National Access to Justice Partnership Agreement 2025-2030 (NAJP), the successor Agreement to the National Legal Assistance Partnership (NLAP).
17. In base funding terms, the NAJP provides a marginal Commonwealth funding uplift of \$3-3.5 million per year to Community Legal Centres in NSW over the life of the Agreement, and a guarantee of current funding in real terms from the NSW government.
18. The Commonwealth uplift is indexed by Wage Cost Index 1, an index which is lower than both the Wage Price Index and Consumer Price Index.⁴ That is, the Commonwealth contribution to the NAJP is explicitly planned to produce real terms funding cuts.
19. This funding envelope presents the same funding problem experienced under the NLAP – it's not enough to meet need now, and we know future growth in demand for legal assistance will far exceed the value of indexation. This will place more pressure on already-stretched Community Legal Centres, and the allied public and community services Community Legal Centres work with.
20. Community Legal Centres NSW provided a comprehensive submission to the NLAP Review.⁵ The submission included guidance on what a sustainable level of funding for Community Legal Centres in NSW would be at their 2022-23 level of staffing and operation.⁶
21. Based on the updated modelling and the lower-than-needed contribution from the Commonwealth under the NAJP, we estimate that NSW government core funding will need to increase to \$31 million per annum, indexed by 4.5% year on year to reflect real costs, to ensure a sustainable workforce and prevent further reductions in service capacity.
22. Additional base funding and loading will be required to create new services or expand existing services to provide complete geographic coverage of Community Legal Centre services in NSW, and to provide targeted funding for services for people belonging to marginalised groups.

⁴ [Per the NAJP](#): “xxxv. Wage Cost Index 1 comprises a wage cost component (Wage Price Index of the previous year to December, weighted by 75%, less 1.2 percentage point productivity offset) and a non-wage cost component (Consumer Price Index of the previous year to December, weighted by 25%). Estimated growth in the Wage Cost Index 1 over the forward estimates is outlined in the Commonwealth Budget Paper 3 each year.”, page 32

⁵ Available at: <https://www.clcnsw.org.au/clcnsw-submissions-independent-review-national-legal-assistance-partnership>

⁶ CLC NSW, [A model for a sustainable and resilient Community Legal Centres](#), page 22.

Pay disparity

23. Median salaries for FTE solicitors in Community Legal Centres are between 10 percent and 35 percent lower than the equivalent role at Legal Aid NSW. The average annual variance in salaries among legal and non-legal staff in equivalent Community Legal Centre roles is more than \$50,000. The average annual variance in salaries among executive directors and CEOs in equivalent Community Legal Centre roles is more than \$100,000.⁷
24. The National Access to Justice Partnership Agreement stipulates that states and territories have responsibility for ‘distributing funding provided by the Commonwealth for the purpose of reducing pay disparity between employees of Legal Aid Commissions and employees within Aboriginal and Torres Strait Islander Legal Services, Community Legal Centres, Women’s Legal Services and Family Violence Prevention and Legal Services.’⁸ The funding stipulated in the Agreement is not sufficient to achieve pay parity with Legal Aid Commissions.

Recruitment and workforce retention

25. Community Legal Centres’ heavily feminised workforce is significantly underpaid and underemployed compared to the Legal Aid workforce. This causes chronic problems with recruitment, retention and morale.
26. These issues were highlighted in the NLAP Review:

Staff retention is a consistent issue experienced across the sector. It limits the quantity and efficiency of legal assistance provided by the sector. Difficulties stem from uncompetitive remuneration, an overworked workforce, short-term fixed contracts, a lack of opportunities for career progression, workplace infrastructure and regional locations of many jobs in the sector.

27. Our sector survey asked Centres what the main challenges were in recruiting and retaining staff. Remuneration was considered the main obstacle, followed by ‘lack of career pathways’, ‘vicarious trauma’ and ‘workload’.

⁷ CLC NSW, *A model for a sustainable and resilient Community Legal Centres*, pages 8-10.

⁸ National Access to Justice Partnership, 26(j) ‘Role of the States and Territories’, page 9.

< <https://federalfinancialrelations.gov.au/sites/federalfinancialrelations.gov.au/files/2024-12/agreement-national-access-to-justice-partnership-signed.pdf> >

28. 90% of Community Legal Centres responding to the 2023-24 sector survey reported staff resignations in the 2023-2024 financial year, with an average of 4.4 resignations per Centre. The average time taken to fill vacancies was 2.3 months.
29. As noted in point 6, many Community Legal Centre staff are employed part time. This is not always the preference of employees – rather, it is often about limited funding and an inability to offer full-time positions. The result of a large part-time workforce is impacts on continuity of service, on the length of time people remain in roles and in the cost of supervision, support and training.
30. Many Centres are also unable to provide secure employment that provides personal benefits such being able to get a loan or access parental leave.

The FWC preliminary decision

31. Provision of holistic legal assistance, particularly to people experiencing complex trauma and persistent disadvantage is highly specialised, complex and diverse work. The sector's long-held view has been that the SCHADS Award does not appropriately reflect the nature and complexity of the work undertaken by Community Legal Sector employees.
32. In our understanding, the Fair Work Commission's preliminary decision could result in pays at Levels 3, 4, 5 and 6 dropping. These are the grades at which Community Legal Sector employees are remunerated, particularly Levels 5 and 6.
33. In CLCNSW's view the effect of this would be to exacerbate our current staff recruitment and retention issues and worsen gender wage equity in the legal assistance sector and legal profession at large.
34. Most Community Legal Centres employ staff under the SCHADS Award. While most solicitors practicing in NSW are not remunerated under the SCHADS Award, the vast majority of solicitors who are remunerated under the SCHADS Award are women.
35. A minority of CLCs have Enterprise Bargaining Agreements, usually with above-Award salaries and conditions pegged to the SCHADS Award.
36. The FWC's decision could create an imperative for underfunded, overworked, administratively lean Community Legal Centres to a) enter Enterprise Bargaining Agreements, creating a further cyclical administrative burden; b) systematically set above-Award pay rates which would foreseeably vary according to the relative financial positions of Centres, creating inconsistency across the sector and

intra-sectoral competition; or c) hire new staff at lower wages than continuing staff in the same or similar roles, creating internal pay disparities.

37. The decision would also directly contradict the stated goals of the National Access to Justice Partnership, by reducing remuneration of Community Legal Centre staff compared to Legal Aid Commission staff.

Recommendation

38. We therefore conclude that:

39. The Fair Work Commission should ensure no Community Legal Centre worker's wages are decreased as a result of the Award review.

40. The Fair Work Commission should agree with the Australian Services Union's proposal that Schedules B and C should be paused, and that current rates be maintained while an improved, fit-for-purpose classification structure is developed for the community sector.