

ACCESS TO JUSTICE FOR ALL

FUND JUSTICE | EMPOWER COMMUNITIES

SUPPORTING PRIVATE PRACTITIONERS TO DELIVER ACCESS TO VITAL SERVICES

How the system works

The Australian legal aid system operates under a 'mixed model' of service delivery where Legal Aid Commissions (LACs) brief out matters to members of the private legal profession at significantly reduced rates. This allows LACs to draw on both in-house expertise and the experience, acumen and geographic reach of the private profession.

According to the recent [Justice on the Brink Report](#) commissioned by National Legal Aid, **72 per cent of legal aid approved matters are assigned to private practitioners**. This is despite those practitioners receiving appallingly low rates of compensation for this difficult and complex work.

The system is at breaking point

It is becoming increasingly unviable for the private profession to offer support to legal aid clients under current conditions—especially in regional and remote communities. Data provided to the Law Council indicates that across a range of family law property and parenting disputes, payments received from LACs are consistently **just 25–30 per cent of what would otherwise have been received** had the same matter been taken on privately.

While it is not expected that legal aid rates should match private fees, they must at the very least, be set at a level which supports practitioners to be able to sustain an effective and viable legal aid practice. Private practitioners cannot be expected to continue to take on grants that do not cover the costs or reflect the significant level of work required.

As a result of the funding crisis, there has been a significant decline in the number of private practitioners able to undertake legal aid work. As has been noted by National Legal Aid, this is particularly impacting the provision family law work:

- In Victoria, the number of firms undertaking legal aid family law work has **reduced by more than 50 per cent** in nine years.
- In South Australia there has been a **26 per cent reduction in available family law private practitioners** since 2018.
- In Queensland there has been a **32 per cent reduction** in available family law private practitioners just since June 2021.

What this means

Australians in regional areas—including women and children escaping domestic and family violence—are bearing the brunt of this funding crisis. More and more, they are unable to access the legal support they need. **With 86 per cent of legal aid family law grants involving risks of family violence**, this poses real risks to families' and children's wellbeing. The provision of legal aid helps to protect the safety and rights of individuals, and greatly enhances their capacity to rebuild their lives and care for their children.

The **Commonwealth has a responsibility to adequately fund legal assistance**, especially in the area of family law. Successive Governments have failed miserably to meet this responsibility. **It is time now to step up** as part of current negotiations and ensure that these vital services are viable and available to Australians in need all across the country.

For more information visit [A2J4All.au](https://www.a2j4all.au)