

The impact of Australia's temporary
work visa programs on the
Australian labour market and on
temporary work visa holders

Senate Education and Employment References Committee

27 May 2015

Executive Summary

This submission makes the following recommendations:

- That employers and others involved in supply chains employing temporary work visa holders should obtain legal advice about their responsibilities under Australia's labour and safety laws to ensure compliance. Temporary migrant workers also need to be appraised of their rights and entitlements under Australian law.
- That this inquiry, or a new inquiry, examine the extent to which policy initiatives have been, or could be implemented to improve the delivery of legal services in rural areas, and compare the incentives provided to medical practitioners to live and work in rural areas with those available to members of the legal profession.
- That labour market testing (LMT) should not be a sponsor requirement for temporary workers. The Australian Government's 'noted' [response](#) to the recommendation of the [Independent Review into Integrity in the Subclass 457 Programme](#) (the Azarias report) that LMT be abolished, should be reviewed in this inquiry.

This submission notes that there is a pressing need for law and policy initiatives that increase the availability of legal services in rural, regional and remote areas. Employers and employees accessing Australia's temporary work visa programs, and others in the supply chain for labour market services need to be aware of their legal rights and responsibilities.

Introduction

1. This submission responds to the Senate Education and Employment References Committee's inquiry into [the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders](#), and in particular the terms of reference concerned with:
 - whether Australia's temporary work visa programs 'carve out' groups of employees from Australian labour and safety laws and, if so, to what extent this threatens the integrity of such laws;
 - the extent of any exploitation and mistreatment of temporary work visa holders; and
 - the impact of Australia's temporary work visa programs on training and skills development in Australia.
2. This submission includes contributions from the Migration Law Committee in the Law Council's Federal Litigation and Dispute Resolution Section. The Law Council is the peak national representative body of the Australian legal profession. It represents over 60,000 legal practitioners nationwide. A profile of the Law Council is at [Attachment A](#).

Background

3. Australia's temporary immigration intake primarily for work purposes includes:
 - Temporary Work (Skilled) (subclass 457) visa holders who are in Australia for up to four years as temporary skilled migrants. Labour market testing requirements apply, requiring employers to undertake testing of the labour market. 457 visa holders must also demonstrate minimum English language ability.
 - Working Holiday Makers aged 18–30, who are on extended holiday in Australia for up to twelve months with short-term work and study rights under working holiday visa arrangements that Australia has entered into with 31 countries. Visa holders must be able to demonstrate financial self-sufficiency and cannot have a dependent child. This visa has two sub-classes, 417 and 462. An annual limit applies to subclass 462 visas under the reciprocal arrangements agreed with each country other than the United States of America, and educational requirements also apply. 417 visas are uncapped;¹
 - Other temporary residents with Temporary Work visas (subclass 400 visa series which includes the Temporary Work (Short Stay Activity) visa, subclass 400 and the Training and Research visa, subclass 402, covering travel to Australia for such purposes as highly specialised short-stay work and training and research purposes;²
 - Temporary Work (Entertainment) visas, subclass 420, provide specialised temporary work in the entertainment sector;

¹ There were 183,428 first Working Holiday visas granted in 2013–14, a 12.8% reduction compared to 2012–13 and 45,950 second Working Holiday visas granted in 2013–14, an 18.2 % increase compared to 2012–13: Department of Immigration and Border Protection, [Working Holiday Maker Visa Programme Report 30 June 2014](#), 7.

² Approximately 40,894 visas in this subclass were granted in 2013–14, with 32,984 in the highly specialised work stream: Department of Immigration and Border Protection, *Annual Report 2013–14*, 72.

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- Special Category visa subclass 444 holders who are citizens of New Zealand in Australia under the Trans-Tasman Travel Arrangement, implemented in 1973, which allows almost unrestricted travel between Australia and New Zealand for each country's citizens;³
 - Seasonal work for programme participants from various islands of the South Pacific and Timor Leste;⁴ and
 - Sponsored workers under Labour Agreements.⁵
4. Visa fees and charges apply and vary according to the visa applied for and the number and age of additional visa applicants. Visa conditions are prescribed in the [Migration Regulations 1994](#) (Cth).
 5. The Law Council notes that the Productivity Commission is currently inquiring into the regulation of Australia's immigration permanent and temporary intake with a view to recommending policy options to:

*improve the income, wealth and living standards of Australian citizens, improve the budgets and balance sheets of Australian governments, minimise administration and compliance costs associated with immigration, and provide pathways both for Australian citizens to be altruistic towards foreigners including refugees, and for Australia's international responsibilities and obligations to foreign residents to be met.*⁶

Temporary work visa programs and Australia's labour laws

6. Australia's labour laws protect temporary migrant workers.
7. The *Fair Work Act 2009* (Cth) and state employment laws and awards regulate the pay, conditions and workplace entitlements of all workers in Australia, whether citizens or migrants. The [National Employment Standards](#) apply to employees protected by the Fair Work Act, including temporary migrant labour according to the [Fair Work Ombudsman](#).
8. The Fair Work Commission can review the terms of single-enterprise agreements that apply to farm workers as it did in the case of *Mitolo Group Pty Ltd* [\[2014\] FWC 7682](#) where the National Union of Workers (the NUW), being a bargaining representative for the Agreement, successfully challenged some detrimental clauses in the agreement, including a reduced Saturday penalty payment, that were not offset by more beneficial terms. The Commission found that the draft agreement did not satisfy the 'better off overall test' (BOOT) and required further consultations to resolve certain matters.
9. Notwithstanding the availability of statutory protections and entitlements, the Law Council is aware of repeated and serious breaches of those entitlements, particularly by labour hire firms, as evidenced by some of the examples that follow.

³ Australian Government, Productivity Commission, [Migrant Intake into Australia: Issues Paper](#), May 2015, 6–9.

⁴ 12,000 visa places were available over 4 years 2012–16. The programme is managed by the Department of Employment with DIBP managing the visa processes: Department of Immigration and Border Protection, *Annual Report 2013–14*, 72.

⁵ As at 30 June 2014 190 labour agreements were in place with 47 under negotiation: Department of Immigration and Border Protection, *Annual Report 2013–14*, 70.

⁶ Australian Government, Productivity Commission, [Migrant Intake into Australia: Issues Paper](#), May 2015, iii.

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10. There have been very few cases taken to the Migration Review Tribunal (MRT)⁷ regarding Working Holiday (Temporary) (Class TZ) Subclass 417 visa application decisions, which suggests that legal advice is not being sought by temporary work visa holders. In the case of 1417296 [\[2015\] MRTA 409](#) (4 March 2015) the MRT found that the applicant's oral evidence was credible and that she had been paid cash in hand, had not had PAYG taxation instalments deducted, and had not received entitlements such as superannuation and Workcover during her employment with the Covino farm.⁸ The Tribunal noted that Covino Farms had 'been the subject of numerous complaints, 34 improvement notices and one prohibition notice from the workplace safety watchdog since 2007' most of which were understood to have been complied with.
11. Allegations that workplace law has been breached can be investigated by a range of regulatory bodies including the Fair Work Ombudsman. Examples of compliance activity include:
- In January 2015 the Fair Work Ombudsman issued a warning to growers, accommodation providers and labour hire contractors that unlawful treatment of vulnerable backpackers and seasonal workers would not be tolerated, and that those participating in illegal practices could be held liable as accessories.
 - The Ombudsman's Regional Services Team was educating stakeholders and reviewing compliance across Australia within the fruit and vegetable growing supply chains in its three-year Harvest Trail initiative.⁹
 - Since August 2014 the Ombudsman's Overseas Worker's Team has been reviewing the wages and conditions of overseas workers in Australia on the 417 Working Holiday visa following a spike in complaints since 2012.
 - Fair Work inspectors work with employers to ensure that record-keeping and pay slip obligations, rates of pay, allowances and loadings, and meal breaks, are as required by law.
12. In May 2015 the Assistant Minister for Immigration and Border Protection, the Hon Michaelia Cash, advised in a media release that the Department was investigating the employment of 417 visa holders by on-hire labour firms. She also noted that
- The Fair Work Ombudsman has dealt with over 6000 requests for assistance from visa-holders, recovered more than \$4 million in outstanding wages and entitlements, provided advice and assistance to over 5000 overseas workers and visa-holders who have called the Fair Work Infoline and commenced more than 50 legal actions in relation to visa holders.*¹⁰
13. This investigation of labour-hire firms is welcome, and needed according to Tasmanian contributors to this submission. Many employers in Tasmania use labour hire companies to engage short-term staff for peak harvesting and picking seasons. They report that workers complain that the labour hire firm is not providing the pay

⁷ To be part of the Administrative Appeals Tribunal following the passage in May 2015 of the *Tribunals Amalgamation Bill 2014*.

⁸ The applicant's evidence was consistent with investigative media reports such as: Emma Field, "Covino Farms, in Gippsland, accused of using illegal workers and providing unsafe work conditions", *The Weekly Times*, 26 March 2014; Emma Field, "Overworked and Underpaid claim", *The Weekly Times*, 26 March 2014.

⁹ Australian Government, Fair Work Ombudsman, [Harvest Trail Campaign](#), 2014.

¹⁰ Australian Government, Assistant Minister for Immigration and Border Protection, Michaelia Cash, [Media release: Allegations of worker exploitation](#), 5 May 2015.

and conditions which were represented to them. Often this has started with agents in the worker's own country advertising that applicants can enjoy a holiday in Australia and that temporary work will be found for them. Some offer to pay the person's airfare on the basis that they can pay it back from their earnings.

14. Employers have reported that there have been serious misunderstandings about these issues which have resulted in the amount of money which they are being paid being substantially reduced because of costs imposed on them by the labour hire contractor: repayment of airfare, transport, a bed, a job finder fee, and no adequate explanation about what piecework means. The latter is especially not clearly explained.
15. The agents in the workers' home country are locals, and they in turn have links with their countrymen in labour hire firms operating in Tasmania. These firms aggressively assert their authority, and menace the workers if they try to complain or ask questions.
16. Farmers say that they are quoted a contract price for the labour plus an administration fee which, on the face of it, seems reasonable for what the farmer believes will be the hourly rate of pay, but which workers say is impossible to obtain from some labour hire firms led by people from the same country as the temporary migrant.
17. A case reported in Tasmania (6 January 2014) on *A Current Affair* TV program involved Burlington Berries, a Cressy farm at the centre of an alleged foreign worker scam. As a result of the exposure, the farm took the workers on itself after learning they were being exploited by a labour contract firm.
18. The program spoke to the workers, the majority of whom were Korean and Taiwanese who said they were getting paid as little as \$4 an hour and forced to sleep in overcrowded accommodation. Complaints about conditions lead to instant dismissal and language difficulties made them vulnerable to exploitation. The employer ceased the arrangement with the labour hire company and directly employed the staff themselves. Employers advise that a lack of regulation regarding third-party labour hire firms, particularly in the horticultural industry is problematic for agricultural companies.
19. The examples noted above confirm the need for employers, labour hire firms and temporary work visa holders to obtain legal advice about the lawfulness of their activities.

Occupational health and safety laws

20. Migrant workers are also protected under the Model Work Health and Safety (WHS) Act, model WHS regulations, model Codes of Practice and a National Compliance and Enforcement Policy, that most Australian jurisdictions have adopted or aim to adopt and implement in a harmonised way.¹¹ 'Worker' is defined in the model Act, in addition to workers 'in a prescribed class', police officers and persons working while carrying on a business, including:

¹¹ See: Australian Government, Safe Work Australia, [Jurisdictional progress on the model work health and safety laws](#). Victoria is not adopting the model Act but claims to have best practice legislation. See: Occupational Health and Safety Act 2004 (Cth) s 5 "employee" means a [person](#) employed under a contract of employment or contract of training (see also subsection (2) including police officers and persons employed by the Crown). The [Work Health and Safety Bill 2014](#) (WA) has extended the definition of "worker" to exclude prisoners and others.

work as an employee, contractor, subcontractor, self-employed person, outworker, apprentice or trainee, work experience student, employee of a labour hire company placed with a 'host employer' and volunteers.¹²

21. Recommendation 6 of the June 2013 report of the Senate Standing Committee on Legal and Constitutional Affairs, [Framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements](#) states:

3.80 The committee recommends that the immigration program be reviewed and, if necessary, amended to provide adequate bridging arrangements for 457 visa workers to pursue meritorious claims under workplace and occupational health and safety legislation.

22. Since 1 July 2013, a bridging period of 90 consecutive days has been available to primary subclass 457 visa holders who have left their sponsoring employer to find a new sponsor or leave Australia, and extensions are available in some circumstances.¹³

23. The Australian Government has advised:

This time period allows visa holders to pursue meritorious claims under workplace and occupational health and safety legislation before ... consideration is given to cancelling the visa. ...

If a person is undergoing medical treatment in Australia in relation to a workplace injury, then they may be eligible for Medical Treatment (Subclass 602) visa. To be eligible for this visa the applicant would need to provide a medical treatment plan that includes an end date for the treatment.¹⁴

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| <p>24. The Law Council recommends that employers and others involved in supply chains employing temporary work visa holders obtain legal advice about their responsibilities under Australia's labour and safety laws to ensure compliance. Temporary migrant workers also need to be appraised of their rights and entitlements under Australian law.</p> |
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Access to legal advice in rural and regional areas

25. The Law Council of Australia [Rule of Law Policy Statement on Rule of Law Principles](#) (2011) states that everyone should have access to a competent and independent lawyer of their choice in order to establish and defend their rights.
26. The Law Council of Australia has urged the Attorneys-General on the Law, Crime and Community Safety Council (LCCSC) to commit more funding to legal assistance services. While this year's Budget reverses some of the 2014 cuts to those services,

¹² Safe Work Australia, [Guide to the Work Health and Safety Act](#), 2012. See also: [Work Health and Safety Act 2011](#) (Cth) s 7; [Work Health and Safety Act 2011](#) (ACT) s 7; [Work Health and Safety Act 2012](#) (SA) s 7; [Work Health and Safety Act 2011](#) (NSW) s 7; [Work Health and Safety Act 2011](#) (Qld) s 7; [Work Health And Safety \(National Uniform Legislation\) Act](#) (NT) s 7; [Work Health and Safety Act 2012](#) (Tas) s 7.

¹³ Australian Government, Department of Immigration and Border Protection, Changes to the Subclass 457 program: Employer Sponsored Workers, <<http://www.immi.gov.au/skilled/changes-457-program.htm>>

¹⁴ Australian Government, [Australian Government response to the Senate Inquiry report: The Framework and Operation of subclass 457 Visas, Enterprise Migration Agreements and Regional Migration Agreements](#), July 2014, 8.

the level of funding has failed to keep pace with population growth and inflation, and there is a significant decrease in real terms over the forward estimates.

27. The Law Council is concerned that ongoing problems in recruiting and retaining legal practitioners in rural, regional and remote (RRR) areas is negatively impacting the ability of country Australians, including farmers employing migrant workers, and employees working temporarily in rural areas, to access legal services.
28. The 2014 Report of Productivity Commission's [Access to Justice Arrangements Inquiry](#) recommended that the Australian Bureau of Statistics conduct regular legal needs surveys to measure both legal need and unmet legal need, and should survey underrepresented groups including people living in remote areas, from 1 July 2016. The Government response to the inquiry is not yet available. The Commission also recommended that legal assistance and relevant non-legal service providers be encouraged 'to coordinate their services in order to provide more outreach and holistic services where appropriate and need is greatest.'¹⁵
29. In 2008–09 the Law Council's Recruitment and Retention of Lawyers Working Group considered and proposed various other recruitment and retention strategies, including various initiatives that the Australian Government could implement. These included:
 - an increase in the zone tax offset available from the Australian Taxation Office for taxpayers who live or work in RRR areas;
 - waiving FBT liabilities on employer payments of employee benefits which apply to both new lawyers and experienced lawyers looking for a career change;
 - monetary allowances, subsidies and bonuses for relocation or remaining in an RRR area;
 - repaying completely or partially HECS-HELP or FEE-HELP liabilities for legal practitioners who practice in RRR areas for a certain number of years;
 - providing scholarships for law students from RRR areas; and
 - increasing opportunities for clinical placements in RRR areas for law students and graduates.

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| <ol style="list-style-type: none">30. The Law Council recommends that this inquiry, or a new inquiry, examine the extent to which policy initiatives have been, or could be implemented to improve the delivery of legal services in rural areas, and compare the incentives provided to medical practitioners to live and work in rural areas with those available to members of the legal profession. |
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Labour market testing provisions for 457 visa occupations

31. The Australian Government has not accepted the recommendation of the Azarias Report that labour market testing (LMT) be abolished. That review noted that in the Australian context LMT has proven ineffective, and that the OECD found that employer-conducted labour market testing was not 'fully reliable'.¹⁶

¹⁵ Australian Government, Report of the Productivity Commission's [Access to Justice Arrangements Inquiry](#), Recommendations 5.1, 5.3, 25.1 at 41–2 and 71.

¹⁶ John Azarias, Jenny Lambert, Prof Peter McDonald and Katie Malyon, [Robust New Foundations: Streamlined, Transparent and Responsive System for the 457 Programme](#), 2014, rec 2, 14, 51 and

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32. The Migration Law Committee is of the view that
- there has been an inconsistent application of Departmental policy since the introduction of LMT provisions, in particular in relation to the evidence which must be provided to satisfy the requirement; and
 - LMT imposes an administrative burden in forcing employer sponsors to advertise positions. It is not a requirement to demonstrate that no suitable person could be found, so the point of the LMT requirement is unclear.
33. The Committee remains opposed to LMT for 457 visa occupations because it imposes unnecessary burdens and costs on employers. LMT is regulated by instruments that specify:
- [the period in which LMT must be undertaken](#);
 - the [occupations which are exempt](#) from LMT;
 - where [LMT is not required due to international trade law obligations](#), including the [Japan Australia Economic Partnership Agreement Determination 2014](#).
34. Agencies such as the Departments of Employment, and Education and Training, and employers generally, can access information about skills shortages through publication such as the [Skilled Occupations List \(SOL\) and Consolidated Sponsored Occupations List \(CSOL\)](#). The Australian Government has committed to retaining and improving this list in its response to the recommendations of the Azarias report, and in addition, has agreed to establishing a dedicated labour market analysis resource to support a new a new tripartite ministerial advisory council. The CSOL will list occupations at Skill Level 3 and above, and will amended to include skilled occupations which can be shown to exist in the community but which may not be on the ANZSCO list; and, by refining the list in cases where there may be integrity or appropriateness concerns. The Government may address occupations not on the list, which are usually referred to as semi-skilled, as part of the Labour Agreement regime.¹⁷
35. The Law Council does not support labour market testing for 457 visa occupations as this will impose unnecessary burdens and costs on firms when the Department of Employment and relevant employer bodies can confirm the existence of skills shortages by publications such as the Skilled Occupations List (SOL) and CSOL.¹⁸
36. Migration lawyers tend to regard prescriptive labour market testing as an unwelcome and unnecessary layer in the migration process that does not otherwise address the skills shortage. The costs to a business of engaging a 457 visa holder are a disincentive to users of the program and are the key reason that they would prefer to employ an Australian. Application fees for 457 visas are also usually paid by the sponsoring employer, and are quite high at \$1,035. In 2013 the Law Council wrote:

It is worthy of note that many of our many members were practising in the 1990s when LMT was compulsory as part of

[Australian Government response to the Independent Review into the integrity of the subclass 457 programme](#), 2015.

¹⁷ [Australian Government response to the Independent Review into the integrity of the subclass 457 programme](#), 2015, recs 1.1, 1.2, 3.1.

¹⁸ Migration Regulations 1994 - Specification of Occupations, a Person or Body, a Country or Countries - [IMMI 14/048 - F2014L00749](#).

the company sponsored temporary visa program. It was our experience that those requirements were poorly managed, largely ineffective and honoured more in form than substance. It remains our strong opinion that the current legislative emphasis on market rates and training benchmarks is significantly more effective than reverting to the former LMT requirements. These requirements were considered and abandoned in 2001 after a DIAC review.¹⁹

37. There are significant cost incentives for hiring and training Australian employees and disincentives for hiring overseas. These include the costs for the business to locate a prospective skilled foreign worker and relocate them here if they are not already in Australia, costs associated with obtaining necessary DIBP approvals, assimilation to an Australian workplace, health insurance and, at the end of the engagement, the cost of repatriating the sponsored employee and family back to their home country. Many corporate clients offer significant relocation assistance packages such as short term accommodation whilst the family sources suitable accommodation, as well as assistance with payment of school fees, where relevant. Not uncommon are annual trips to the home country for the sponsored employee and family. Furthermore, the compliance related costs in relation to meeting sponsorship obligations are a deterrent to engaging a foreign employee.
38. As a result of these costs, Australian employers usually seek to fill vacancies with locals first. Employers advertise positions locally, use recruitment agents and attend career fairs at Universities around Australia to attract graduates. The costs of on-boarding a foreign worker as well as the on-going sponsorship obligations make engaging a 457 visa holder a last resort. A common refrain from small to medium enterprises is that if an Australian is able to do the job advertised they would employ them first. The regulatory requirements involved in taking the steps to become a sponsor are overwhelming for some and act as a deterrent to filling vacancies.
39. The Law Council recommends that labour market testing (LMT) should not be a sponsor requirement for temporary workers. The Australian Government's 'noted' [response](#) to the recommendation of the [Independent Review into Integrity in the Subclass 457 Programme](#) (the Azarias report) that LMT be abolished, should be reviewed in this inquiry.

Visa impacts on training and skills development

40. The Law Council remains of the view that the 457 visa program is a strong contributor to Australia's national training effort. This visa program creates competitiveness within the Australian economy, draws in overseas qualifications and experience, introduces new skills to the Australian workforce, and enhances staff training through intra-company transfers. This program also facilitates Australia's participation in the global economy and enhances links within our region.
41. The 457 visa program is a vital to means of solving temporary skills shortages. Business can rely on the demand driven program to access sponsored workers who can meet an immediate need for skills. For large projects requiring major investment, business has the confidence of knowing that it can access skills required, when needed, to confidently plan for the future.
42. The training benchmarks required to be met by sponsors of foreign workers holding 457 visas require employers to pay for staff training. As a result, training provided by

¹⁹ [Submission 24](#), Migration Amendment (Temporary Sponsored Visas) Bill 2013, 2.

sponsors in the 457 visa program is stimulating Australia's national training efforts. The Law Council welcomes the Australian Government's support for the recommendations in the Azarias Report that the current training benchmarks 'be replaced by an annual training fund contribution based on each 457 visa holder sponsored, with the contributions scaled according to size of [the] business.

43. The Law Council welcomes the Australian Government's endorsement of the recommendation that any funding raised by way of a training contribution from sponsors of 457 visa holders be invested in:
- training and support initiatives for disengaged groups, particularly youth who have fallen out of the school system;
 - apprentices/trainee programmes for target groups, including Indigenous Australians and those in rural and regional areas;
 - mentoring programmes and training scholarships for the vocational training and higher education sectors that address critical skills gaps in the current Australian workforce. Target sectors include those industries, such as nursing and the IT sector, that rely heavily on 457 workers;
 - training and support initiatives for sectors of critical national priority, including industries experiencing significant increase in labour demands, such as the aged care and disability care sectors.²⁰
44. The Law Council also welcomes the Government's support for the Azarias Report's recommendation that sponsors be required to include as part of the signed employment contract a summary of visa holder rights prepared by the department, and the Fair Work Ombudsman's Fair Work Information Statement, and that the Department's website content be made more accessible to 457 visa holders.²¹

²⁰ [Australian Government response to the Independent Review into the integrity of the subclass 457 programme](#), 2015, Recs 6.1–6.4.

²¹ [Australian Government response to the Independent Review into the integrity of the subclass 457 programme](#), 2015, Rec 12.1–2.

Attachment A: Profile of the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Large Law Firm Group, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar
- The Large Law Firm Group (LLFG)
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of more than 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the constituent bodies and six elected Executive members. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive members, led by the President who normally serves a 12 month term. The Council's six Executive members are nominated and elected by the board of Directors.

Members of the 2015 Executive are:

- Mr Duncan McConnel, President
- Mr Stuart Clark, President-Elect
- Ms Fiona McLeod SC, Treasurer
- Dr Christopher Kendall, Executive Member
- Mr Morry Bailes, Executive Member
- Mr Ian Brown, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.