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The long-term costs of underfunding legal aid

Legal aid plays a key role in ensuring all Australians have access to justice and must be adequately resourced, according to the Law Council of Australia.

“Since 1997, Commonwealth Governments of all shades have dramatically reduced the share of legal aid funding when compared with the contributions of state and territory governments” Law Council of Australia President, Dr Jacoba Brasch QC said.

“At that time, the Commonwealth provided around 55 per cent of total legal aid funding across jurisdictions, but today its stands at just 33 per cent. Clearly, the Commonwealth needs to match state and territory contributions. This would increase annual legal aid funding by hundreds of millions of dollars.”

National Legal Aid statistics indicate that 130,567 civil, criminal and family legal aid matters were assigned to practitioners in the 2020-21 financial year.

“Whilst we acknowledge and welcome the significant financial and human resources that have been committed to family law, there is still great demand being placed on the entirety of the justice systems around the country, and the bigger concern is unmet need,” Dr Brasch said. “How many Australians eligible for legal aid are missing out and what is the impact on them and their families, both short and long-term?”

“As highlighted in our recent The Lawyer Project Report, investing in legal aid is economically strategic. Research shows that if legal problems are unresolved, costs shift to other areas of government spending like health care, child protection, housing and incarceration. It has been estimated the cascading costs of unequal access to justice are 2.35 times those of direct spending on legal aid services.”

Members of the profession explored this issue last night during an online webinar hosted by the Law Council of Australia.

A panel of eminent members of the legal and economic sectors discussed the downstream social and economic impacts of Commonwealth funding of legal aid in Australia and how the shortfall could be resolved. Panel members were: Mr Michael Brennan, Chair, Productivity Commission; Mr Jeremy Thorpe, Chief Economist, PwC Australia; and Ms Louise Glanville, Chief Executive Officer, Victoria Legal Aid

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