LIV Celebrating 150 years

Law Institute Victoria

2 September 2009

Senator Barnett
Chair
Senate Legal and Constitutional Affairs References Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By email to legcon.sen@aph.gov.au

Dear Senator

Re: Supplementary submission to the Inquiry into Access to Justice

The Law Institute of Victoria (LIV) welcomes the opportunity to provide this supplementary submission to the Senate Legal and Constitutional Affairs Committee *Inquiry into Access to Justice.*

This submission supplements the written submission made to the Committee by the LIV on 30 April 2008 and the oral submissions made to the Committee by LIV's representatives at the public hearing in Melbourne on 15 July 2009. The submission provides further information in relation to the following issues which arose at the public hearing:

- Evidence about underfunding of Aboriginal and Torres Strait Islander Legal Services; and
- Information about the Victoria Public Purpose Fund.

In addition, the following documents are provided to the Committee, as appendices to this submission, as requested at the public hearing:

- LIV policy statement on *Pro bono work* (appendix 1);
- Victorian Aboriginal Legal Service *Aboriginal English in the Courts Kit* (appendix 2)*;* and
- *Report into the Rural, Regional and Remote Areas Lawyers Survey* (July 2009), prepared by the Law Council of Australia and the Law Institute of Victoria (appendix 3).

Aboriginal and Torres Strait Islander Legal Services

In our oral submissions to the Committee, we noted the ongoing issue of underfunding of Aboriginal and Torres Strait Islander Legal Services (ATSILS). We noted our concern that on average ATSILS lawyers receive 20-25% less than equivalent Legal Aid Commission lawyers for conducting the same type of work, (in some cases the difference is as high as 48.22%). At the public hearing, we undertook to provide the Committee with more information about this funding issue and the evidence on which our submission is based.

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On 13 July 2009, the Australian Legal Assistance Forum (ALAF), a body comprised of the major legal aid client service deliverers in Australia,[1] wrote to the Attorney General to express concerns in relation to the underfunding of ATSILS. A copy of this correspondence is attached to this submission in appendix 4.

ALAF highlight that notwithstanding the extraordinary levels of disadvantage suffered by Aboriginal and Torres Strait Islanders, ATSILS are the most underfunded sector of all Legal Aid Service Providers for the work required of them, so that they continue to be funded well below mainstream levels.

ALAF note that ongoing underfunding of ATSILS has lead to recruitment and retention issues, as ATSILS lawyers generally have much lower salaries than their legal aid counterparts. Evidence of this pay disparity is contained in a remuneration comparison table prepared by ALAF, which compares salaries of 1st year, 3rd year, 5th year and senior solicitors and administrative assistants at all state and territory legal aid commissions against equivalent ATSILS salaries. A copy of this comparison table is attached in appendix 5 to this submission.

ALAF has called on the Attorney-General for additional funding to the ATSILS so that they are in a position to achieve standards of service delivery that are both consistent with mainstream service delivery standards and culturally appropriate, and which also enables strategic and business planning for the future.

We urge the Committee to consider the importance of funding for ATSILS in its consideration of access to justice for indigenous people. It is widely acknowledged that ATSILS are the preferred and most culturally appropriate providers of legal services to Aboriginal and Torres Strait Islander peoples and we urge the government to recognise their important role in achieving access to justice by immediately addressing ongoing funding issues.

Victorian Public Purpose Fund

At the public hearing, the Committee enquired about the operation of the Public Purpose Fund in Victoria and requested that the LIV provide more information.

Under the *Legal Profession Act 2004,* the Legal Services Board (the Board) is required to maintain a fund called the Public Purpose Fund.[2] The monies for the Public Purpose Fund are largely derived from the interest on clients' funds held in trust accounts by solicitors. Banks who manage solicitors' trust accounts are required to report daily to the Board on the total deposits, withdrawals and the balance of all trust accounts. Any interest earned on trust accounts is paid into the Fund. In addition, earnings from investments, fines as a result of hearings by the VCAT Legal Practice List, practising certificate fees, money transferred from the Legal Practitioner's Fidelity Fund are paid into the Public Purpose Fund.[3]

In each financial year the Board must pay out of the Fund and into the Legal Aid Fund established under the *Legal Aid Act* 1978 (Vic) an amount determined by the Board. Payments are also made from to:

- the Legal Services Board (under s.6.7.6)
- the Legal Services Commissioner (under s.6.7.7)
- the Victorian Civil and Administrative Tribunal Legal Practice List (under s.6.7.8)
- the Council of Legal Education and the Board of Examiners (under s.6.7.3(2)(a)(viii)) and
- the professional associations for continuing legal education programs (under s.6.7.14).

The Board has established a Grants Program to distribute surplus in the Public Purpose Fund. The Grants Program provides funding to organisations that aim to improve the administration and operation of laws, increase access to justice and inform and educate the wider community about legal services.[4] The surplus was lower than expected in 2007-08 because of a reduction in income due to the downturn in the financial markets during the year.

In FY 2007-08, the Board made the following grants out of the Public Purpose Fund ($000's):

- Victoria Legal Aid 31,860
- Leo Cussen Institute 2,145
- Department of Justice 1,900
- Victorian Law Reform Commission 1,640
- Victoria Law Foundation 1,650.[5]

The Board also made project grants $1,142m and major grants to the value of $7,023m.

Please refer to the Legal Services Board 2008 Annual Report at http://www.lsb.vic.gov.au/documents/LSBAR2008.pdf for more information.

Please contact Laura Helm, Policy Adviser, Administrative Law and Human Rights Section on lhelm@liv.asn.au or (03) 9607 9380 in connection with this submission.

Yours sincerely

Danny Barlow
President
Law Institute of Victoria

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[1] ALAF members are Law Council of Australia, National Aboriginal & Torres Strait Islander Legal Services Forum, National Legal Aid and the National Association of Community Legal Centres.
[2] *Legal Profession Act* 2004 (Vic), Part 6.7.
[3] *Legal Profession Act* 2004 (Vic), s.6.7.3.
[4] See http://www.lsb.vic.gov.au/Grants.htm.
[5] See Legal Services Board 2008 Annual Report, p75.

LIV Policy Statement

Pro Bono Work

A policy statement developed by the Access to Justice Committee

Date 24 January 2008

Queries regarding this policy statement should be directed to:
Contact person *Laura Helm*
Ph *(03) 9607 9381*
Email *lhelm@liv.asn.au*

Policy Statement

1. The LIV does not consider pro bono work to be a substitute for government's responsibility to provide adequate funding for free and accessible legal services.

2. However, the LIV supports the legal profession's ethical obligation to enhance access to justice for disadvantaged persons or charitable and community organisations, and promote the public interest, by encouraging the voluntary contribution of its members to undertake pro bono work.

3. The LIV considers pro bono work to include situations where a lawyer:

   a) without fee or without expectation of a fee or at a substantially reduced fee, advises and / or represents a client in cases where

      (i) the client has no other access to the courts or the legal system, or where such access is inadequate; and / or

      (ii) the client's case raises a wider issue of public interest;

   b) is involved in free community legal education and / or law reform;

   c) is involved in the provision of free legal advice and / or representation to charitable and community organisations.

4. Members who undertake pro bono work are subject to the same professional rules of conduct and ethical responsibilities as those practitioners who are remunerated for the legal services they render.

5. The LIV seeks to encourage the existing diversity of pro bono service provided by its membership, and therefore does not seek to differentiate between categories of pro bono work performed by reference to prioritising or valuing one type of pro bono work over another.

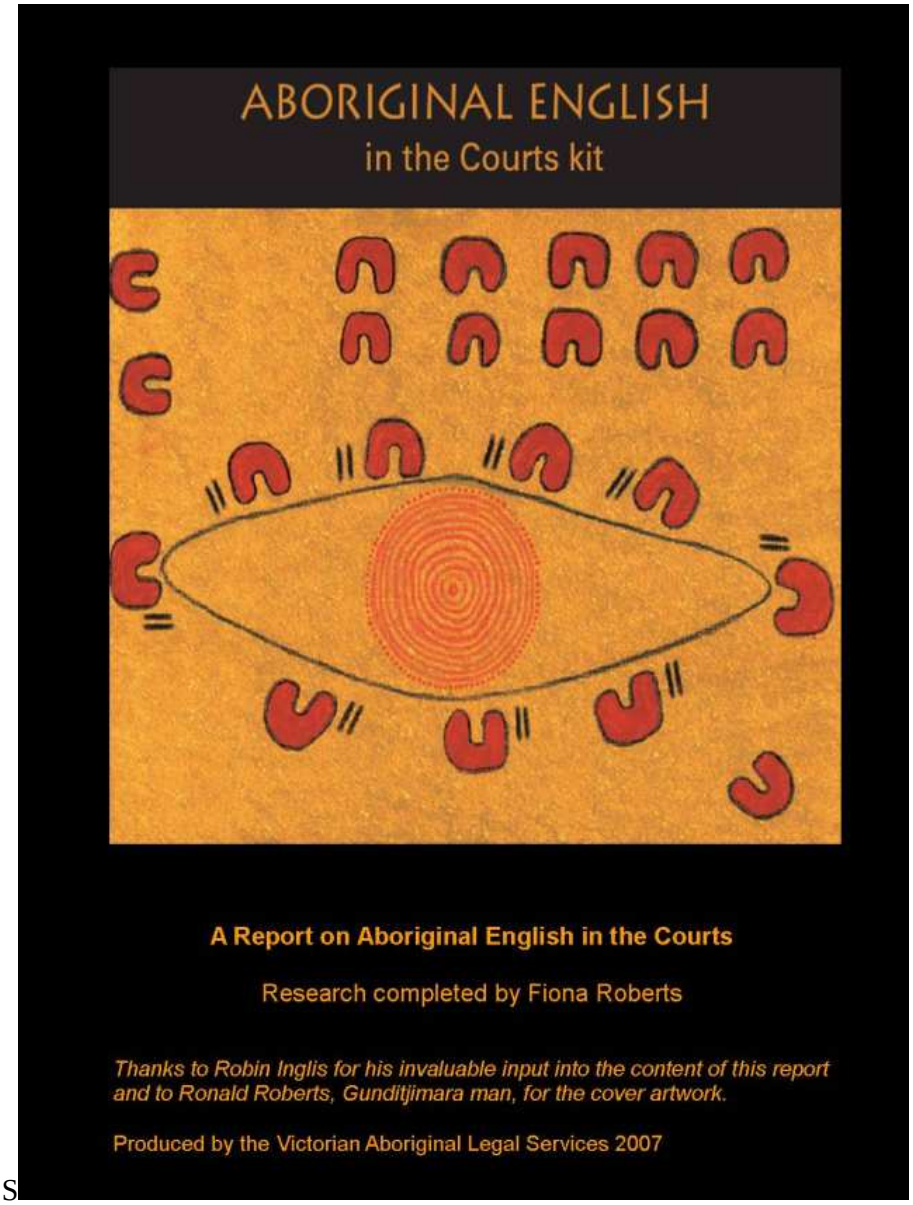
6. To preserve both the independence of the profession and the voluntary nature of pro bono work undertaken by its membership, the LIV does not support:

   (a) any attempt by a client to make the lawyer's retainer contingent on either

      (i) a decision by the lawyer as to whether pro bono work is undertaken; or

      (ii) the prioritising of any pro bono work so undertaken;

   (b) the fixing of aspirational targets for pro bono work.



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Artwork by Ronald Roberts, Gunditjimara, 2007

This painting is a symbolic representation of the Koori Court. The artist used traditional Aboriginal symbols to represent the important people and other elements that make up the Koori Court system. The series of circles within circles at the centre of the 'shield' shaped table is a symbol for a meeting place. Each person in the court room is represented in the same way (the red symbols) indicating that everyone is on a more even footing in this court system. The message sticks (II) beside each of the people seated at the table show us that everyone is able to have their say in the Koori Court, including the Indigenous Australian person appearing before the court.

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a) OVERVIEW OF THE USE OF ABORIGINAL ENGLISH (AE) IN THE COURTS

THE OVERALL OBJECTIVE OF THIS REPORT IS TO COLLATE INFORMATION ABOUT ABORIGINAL ENGLISH IN ORDER TO INFORM FUTURE STAFF TRAINING AND RESOURCES FOR PEOPLE WORKING IN THE COURTS, INCLUDING SOLICITORS AND MAGISTRATES.

Aboriginal English in court

Aboriginal English (AE) has been recognised as a form of English which differs from Standard Australian English (SAE) in a number of significant ways. This exploratory research project developed a checklist of different characteristics of AE. This checklist was used to assess how commonly AE was used in the Magistrates Courts and the Koori Courts of regional and metropolitan Victoria.

The results indicated that there were many examples of AE being used, however it was more common in the Koori Court than in the Magistrates Court. This may indicate that one of the success factors in the operation of the Koori Court is the greater use of AE.

In the Koori Court, Elders used more examples of AE than clients did. This may be connected to the age or cultural status of the Elders and the clients. It

may also reflect the Elders feeling more comfortable in the court environment than the clients do.

Magistrates who were observed in the Magistrates Court used less examples of AE than those observed in the Koori Court. This could be linked to one or more of the following: the different structure of each of the two courts, the different skills of the individual Magistrates, the level of interaction between the Elders and the Magistrates as well as the Magistrates varying levels of knowledge of AE.

Solicitors in the Victorian Aboriginal Legal Service (VALS) observed during this study used a similar level of AE in both courts and were familiar with most of the AE checklist items.

One of the aspects of AE that is difficult to study or observe is the extent to which clients are saying yes to questions when the answer may be no or not sure or something else (gratuitous concurrence). In trying to deal with this, previous linguistic-based research has suggested that asking indirect questions (rather than direct) may be a better way to gain an understanding of what is happening and this questioning approach could have relevance for most AE-SAE interactions. In a legal context, police and solicitors, when trying to gather evidence or take instructions might reduce their risk of misunderstanding by learning to recognise and use AE.

This research supports the proposition that AE is prevalent in the court setting but the understanding of it and the utilisation of it varies across different groups and in different settings. This study highlights the importance of training people in the legal system about AE and continuing to research how people use AE in this setting.

b) INTRODUCTION

There are many Aboriginal people in the west and north of Australia who speak no English or speak SAE as a second or third language. There have been calls for better interpreter services and more bilingual education.

Bilingual education funding has been cut. [1]. However language problems are wider and more subtle than this. Language issues extend across Australia and include South East Australian Aboriginal people who speak English.

In South East Australia, most Aboriginal people are assumed to speak SAE. Some non-Indigenous people mistakenly assume that this means Aboriginal culture and language forms are no longer relevant to these people. In varying degrees SE Australian Indigenous people speak a mix of AE and SAE. Linguists such as Eades (1997) tell us that the differences in grammar and meaning between this language and SAE are not immediately obvious to the average speaker of either language. Their apparent similarities mean that AE, in any of its forms, does not lend itself to formal interpretation.

There are attempts in some regions to record and rejuvenate Aboriginal languages which were previously commonly used. [2]

Speaking SAE and retaining cultural values and beliefs are not opposed to each other. There is considerable evidence that AE is different in many important respects to SAE as a result of the influence of culture and history.

Some understanding of AE would be useful for any non Indigenous person. The SAE speaker needs to have some knowledge of these differences if communication with AE speakers is going to be effective. There is a particular irony for lawyers in that impersonality, direct questioning and exact dates, times and distances are commonly used to 'get at the facts'. However, when dealing with AE speakers these strategies may create obstacles to understanding the events which have occurred.

[1] The article included as Appendix A provides an eloquent explanation of the importance of bilingual education.

[2] The Victorian Aboriginal Languages Corporation http://www.vaclang.org.au/ is active in this endeavour.

c) **THE OBJECTIVES OF THIS REPORT**

Objective 1

To summarise the key points in the HREOC Report by the Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma (2007), in the Queensland Aboriginal English Report, Eades (2000), in the Sally McAdam Report (2002), in the Aboriginal English: A Cultural Reader, Jay Arthur (1996) and in Koori English, Irruluma Guruluwini Enemburu (1989) in a form which will be useful for solicitors and paralegal staff in legal services.

Objective 2

To identify some of the key differences between AE and SAE and to discuss the impact that these differences can have on the communication that takes place between Indigenous clients and court officials, including solicitors and Magistrates.

Objective 3

To observe pre-court solicitor/client interviews involving Indigenous clients at both the Koorie Court and at the Magistrate's Court (at various locations including Melbourne, Broadmeadows and several regional locations including Swan Hill, Geelong, Ballarat and Shepparton) to compare and contrast the use of AE and SAE in each of these legal settings.

Objective 4

To observe court cases involving Indigenous clients in both the Koorie Court and at the Magistrate's Court (at various locations including Melbourne, Broadmeadows and several regional locations including Swan Hill, Geelong, Ballarat and Shepparton) to compare and contrast the use of AE and SAE in each of these legal settings.

Objective 5

To ask solicitors, court workers, including Elders (at the Koorie Court) and Client Service Officers (CSO) about their thoughts about the use of AE and SAE with their Indigenous Australian clients in a court setting, with a specific view to ascertain whether the court setting affect the language that is chosen to communicate with an Indigenous Australian client.

Objective 5

To identify some of the common language difficulties which occur between Indigenous Australian clients and solicitors when both AE and SAE are used to varying degrees.

Objective 6

To identify possible solutions to address the common language difficulties which occur between Indigenous Australian clients and solicitors when both AE and SAE are used to varying degrees.

SECTION 2 – LITERATURE REVIEW

Interest in the Issue

The purpose of this section is to outline the findings made around how the language used in the courts affects the experience of our Indigenous Australian clients. The findings have been collated from various reports including Calma (2007), Eades (2007, 2000), McAdam (2002) Arthur (1996).and Irruluma Guruluwini Enemburu (1989)

The further purpose of this manual overall will be to provide a guide to allow for better communication between our solicitors, Magistrates, Elders, court workers such as Aboriginal Liaison Program Co-ordinators or CSOs and our Indigenous Australian clients.

Aboriginal and Torres Strait Islander Social Justice Commissioner Calma's (2007) report investigated the common communication difficulties facing Indigenous Australian clients within the court setting. This report made several pertinent points in relation to this topic such as the point that for Indigenous Australian clients it is recommended that if required interpreters be available to be involved in the court process. One example that was given was that legal issues are often conveyed in an impersonal way or even in third person in some cases. AE and other Aboriginal languages don't use this depersonalised approach and the relationship with the speaker will affect what they will communicate.

The Australian Law Reform Commission (ALRC) found that;

> *"Difficulties of communication and comprehension are very real for many Aborigines… Many Aborigines speak non-standard English so that the way in which questions are asked, especially direct questions, may often lead to misunderstanding and incorrect answers being given."*

(ALRC as cited in Calma 2007:3)

Some of the common types of questions identified in the Calma (2007) report as creating communication difficulties for Indigenous Australian clients in the court system are; either /or questions, hypothetical questions, negative questions and questions that include the use of double negatives, figurative speech or abstract concepts or references.

Furthermore Calma goes on to say that culturally, communication difficulties can arise in several ways. For example, the use of direct questioning is generally considered rude in Aboriginal culture and may lead to the defendant answering 'I don't know' regardless of the truthful reply, because they consider the method of questioning inappropriate and rude. Another effect of this form of questioning on Indigenous Australian clients can be that their level of embarrassment at being asked a question in this way makes them appear visibly uncomfortable and may be misinterpreted as a sign of guilt or an avoidance of the question.

A further cultural issue highlighted by Calma is that of 'gratuitous concurrence'. This is when an Indigenous Australian client agrees with a question because they wish to keep the person asking the question happy. Eades puts this in the following way;

> *"….when Aboriginal people say "yes" in answer to a question it often does not mean 'I agree with what you are asking me". Instead it often means "I think that if I say "yes" you will see that I am obliging , and socially amenable and you will think well of me, and things will work out between us".*
>
> (Eades cited in Calma 2007:2)

On the subject of being asked to give specific information relating to time, dates and quantities, Indigenous Australians are not as familiar with giving a specific response. As a result, firstly they often provide responses that are non-specific and are more likely to relate something to something else ie. As

an answer to the question “How many drinks did you have?”, they could be as vague as ‘Oh must have been quite a few’ or specific in relating to another situation for eg. “Must be more than Freddie” (Eades 2000). The other consequence of Indigenous Australian’s unfamiliarity with giving specific responses is that they may unintentionally give inconsistent responses and could then be considered an unreliable witness.

The Calma report states that in Aboriginal culture it is not considered appropriate to mention the names of deceased persons because it is a form of disrespect to that person. [3] In regard to the naming of deceased persons, in many Indigenous Australian communities, the depiction or mention of a person who has passed away can cause great distress to people. Even using the same name as that of a deceased person, or a similar sound, can cause distress for a period of time. Some groups have a special term that is used instead of the deceased person’s name. It is also said that people working with or working within Indigenous Australian communities will know the time has come to use the prohibited name again when they hear locals using that name (see Footnote 3). . It is suggested that when in doubt about naming or visually showing someone who has passed away, ask people within that community for advice regarding that community’s protocol on such a matter.

Other considerations for communication with Indigenous Australians in the area of non-verbal communication include being aware that many Indigenous people will be reluctant to make direct eye contact as a show of respect and not, as a display of rudeness toward the person asking the questions.

The crucial research by Diana Eades, a leading authority on AE and the justice system, clearly states that Aboriginal clients can have their legal access restricted because of arising language difficulties or a communication breakdown in the courts (2000). A handbook called ‘Aboriginal English in the Courts’ was based on her work and it formed part of a project by the Queensland Government to develop a system to help the court communicate

[3] A reference to this cultural practice is found on the website of ‘All Media Guide to Fair and Cross Cultural Reporting’. I

more effectively with speakers of AE. The handbook gives the view that some acknowledgement and consideration of AE will bring about a more culturally effective way of communicating with Indigenous Australian clients in the court system. With this in mind, the report highlights a number of possible areas of differences between SAE and the various forms of AE that may be spoken by Indigenous Australians, including the methods of asking questions and the forms of non-verbal communication used to give a response.

This handbook refers to the use of AE in the courts in a Queensland setting. AE takes various forms across the continent. In content, these dialects range from those close to Aboriginal Kriol to others that are very close to SAE. Though much is shared between varieties of AE there are some significant regional differences.

Although the use of AE can vary between States, in particular, with Melbourne Victoria being a far more urban setting than the Queensland setting it remains the case that ‘it is easy to mistake an Aboriginal English speaker for a speaker of Australian Standard English’ (p. 6). The effect of this can be that during court proceedings, whether for civil or criminal matters, such a mistake can mean that evidence can be misinterpreted or lost. This can reduce access to justice (p. 6).

The handbook summarises and suggests solutions for key communication difficulties that may arise when working with Indigenous Australian people, and is intended for use by judges, magistrates, lawyers and ‘communication facilitators’, whose task it is to recognise and point out instances in which communication may have failed.

The handbook goes on to say that the knowledge/language gap which exists between lay people and the modern legal system can produce an experience of legal procedures and processes that is alienating and confusing. This experience is compounded for Aboriginal Australians by a substantial cultural gap,

It states in the handbook that there are a number of other factors that make communication in the courts between Indigenous Australians and non-Indigenous Australians more difficult. These factors include problems that arise in the court such as a lack of qualified interpreters, also known as communication facilitators, in Indigenous languages as well as a failure by the legal system to recognise the differences between AE and SAE. Additional problems can arise in the wider arena of Indigenous Australian communities where there is a general lack of understanding of the legal process and also of the subtle nuances of court discourse, especially in cross-examination.

The specific language problems that can arise when Indigenous Australians take part in court proceedings as identified by the handbook can be considered in two broad areas of;

1. The substantial cultural gap (such as the failure by the legal system to recognise the differences between AE and SAE). This can translate as the use of inappropriate questioning techniques and misinterpretation of non-SAE answers (lingo or plurals) answers by the legal profession. It could also include non-verbal gestures by Indigenous Australian clients such as periods of silence or avoidance of eye contact which may be misunderstood by judges and lawyers. The major recommendations given for lawyers, judges, and/or communication facilitators in regard to bridging the cultural language gap that exists are;

a. that they rephrase questions for witnesses/defendants and;
b. that they clarify any responses from Australian Indigenous clients for the sake of the jury, the Public Prosecutor, for the client and for themselves.

2. The pragmatics of language (the way in which people use language to communicate). Eades (2000) makes a similar point to Calma's views on pragmatics when she says that firstly Indigenous Australians require a more open ended questioning approach (more conversational and narrative, such as ' I'm wondering…') and secondly, on the matter of specification, Indigenous

Australians prefer to give specification of events or facts by relating information to something that is known or to a real event in the past or an anticipated event in the future, such as ‘Show me how long the stick was..’ instead of ‘How long was the stick?’

Eades states that the first problem of substantial cultural gap can be quite simply addressed by looking at the following recommendations;

- putting more time and resources into correct translation (training ‘communication facilitators’,
- educating the legal profession,
- making jury members (and solicitors) aware of cultural differences and allowing more time for cross-examination

She goes on to say however that the difficulties presented by pragmatics reflect cultural differences that require much more energy to reconcile. These recommendations include;

- Allowing cross-examination to take on a more conversational style
- permitting the submission of narrative accounts or qualitative (as opposed to quantitative) evidence

There is an assumption that when SAE is used to communicate between two or more parties, all parties will take away an equal understanding of what has taken place during that interaction. In other words the use of SAE will create a ‘shared meaning’ amongst those involved in the communication. A resulting mismatch in understanding then occurs between those who are fluent as communicators in SAE and those who are more fluent as communicators in AE. Such a mismatch in understanding occurs because the different people involved in the communication bring to the new communication situation all the rules and nuances of their own language as well as their idea of how the other language operates. This new communication situation is one where everyone is required to speak in the one dominant paradigm of SAE.

This can have negative consequences for AE speakers whose predominant language is not being spoken or perhaps not even being taken into consideration.

The recognition and understanding of AE 'pragmatics' in the courts with Indigenous Australian clients is *'essential to effective cross-cultural communication* (Eades 2007:7)' For example, as outlined earlier, an Indigenous Australian person in the court may not make eye contact with others during the court proceedings and may give the impression of avoidance of truth or an expression of guilt. However, if it is taken into account that the lack of eye contact is a culturally acceptable practice for Indigenous Australians, this situation could be read differently. [4]

Another non-verbal communication method used by Indigenous Australians is the use of silence (See Calma 2007). It is important to understand how silence is used by Indigenous people so that their non-verbal responses are not misinterpreted. When an Indigenous Australian client is silent for an extended period of time in the court setting it is not a sign that they are being non-compliant. The Indigenous client may use silence in a number of ways including when they want time to think or adjust to a situation, they feel that they have already answered the question or they do not understand what is being asked and are too embarrassed to seek clarification.

'Silence is important to many Aboriginal interactions, and unlike the use of silence in many Western interactions, it is not seen as an indication that communication has broken down.'

(Eades 2007:7)

The evidence of these differing approaches to both verbal and non-verbal communication by Indigenous Australians and non-Indigenous Australians

[4] Indigenous Australian people may not look at the people they are addressing while they are talking, "and it is easy to think "Are they listening to me?" Lack of eye contact should not be understood as someone's inability to deal with 'truth'." http://www.gu.edu.au/school/art/AMMSite/home.html

can be used to surmise that when people from different language groups come together and communicate primarily in the dominant language of SAE, they will not come away with a 'shared meaning' and an equal understanding of what has taken place during that interaction. The result of this communication breakdown could be that a difficulty will develop between two such groups in a court setting. This could also disadvantage the Indigenous client, who has been required to communicate in a language that is not necessarily their preferred means of communication.

The work done by Linguistic researcher, McAdam, (2002) for VALS about the writing of legal letters, supports Eades' (2000) research findings on the importance of the pragmatics of communication and how this can shape meaning. The pragmatics of a language can occur on several different levels including body language and the interpretation of body language or the form that the language takes, both personal and impersonal.

An additional level of pragmatics which can differentiate cultural groups is the choice of words that are used to describe the same action or a situation. An example of this is that in SAE a drunk person may be referred to as 'intoxicated' whereas if a more culturally acceptable AE phrase was used the person would be described as 'charged up'.

McAdams' research involved the generation of a list of commonly used legal written terms and some alternative words that could serve as a substitute. She also drafted some versions of commonly used Victorian Aboriginal Legal Service letters in a more personal and plain English style.[5] Many Indigenous Australian people will have problems understanding legal letters not simply because of the use of legal terms but also because of the impersonal language style. This reiterates the point that the pragmatics of language is an essential consideration when developing effective communication in the courts between two groups who are trying to understand each other.

[5] .Refer to Appendix E

Arthur (1996) said her interest in the subject was sparked in part by her realisation that people didn't know the language of AE existed. As Eades says '…It is only since the 1960's that linguists and educators have recognised it as a valid, rule-governed language variety' (2007:2). This realisation reinforces the idea that the language and cultural gap created for speakers of AE is often not even acknowledged let alone taken into account when communicating with Indigenous Australians, especially in a court setting.

Arthur states that AE is better thought of, however, as a continuum rather than a single language. At one end lies a form of English which differs from other Australian speech by only a few words; at the other is a language so different that it ceases to be AE and becomes another language altogether: Kriol. Arthur also emphasises the amount of regional variation.

Arthur goes on to say that the nature of Australian society can also prove a barrier to recognition and acceptance of AE. She states;

"Anglo-Celtic Australia has really limited language skills, almost every other part of the world is much more multi-lingual. We need to acknowledge that Aboriginal English exists; that it is not sub-standard, just different."

(Arthur 1996 :***)

The dictionary produced by Arthur is organised into chapters, in which words are grouped around a specific topic or experience - so there are sections entitled "Kin" (words for family and relationships), "Us Mob" (social interaction and feelings) and "Country" (words dealing with land). Eades (2000) also discusses how there are many SAE words that have slightly different meanings in AE. [6]

[6] See Appendix B in this report for a list of some of the significant words that have special meanings in Aboriginal English

The research discussed reinforces the idea that developing a mutual understanding of the Aboriginal way of communicating is pertinent. This is especially the case if we further consider that each client in the legal system, including Indigenous Australian clients, must be given the right to tell the court their story in such a way that allows them to be understood and also to understand the proceedings which take place. [17]

[7] References for Literature Review and other sections are found at the end of the full report

SECTION 3:
PURPOSE AND METHODOLOGY OF THE PROJECT

Malcolm (1995) defines AE as*:*

> *A range of varieties of English spoken by many Aboriginal people and some others in close contact with them which differ in systematic ways from standard Australian English at all levels of linguistic structure (sounds; word forms; syntax; vocabulary; meanings) and which are used for distinctive speech events, acts and genres. (p. 19)*

As Malcolm, et al. (1999) put it:

> *We have seen that the same English words and expressions can accommodate contrasting cultural schemas, so that speakers of standard English may think (on the basis of surface linguistic form) they are being understood by Aboriginal English speakers (and vice versa) but may be drawing on completely different inferences from the communication from those which were intended. (p. 74)*

The Purpose of the Project

The effect of lack of awareness about the features of AE by court officials, solicitors and Magistrates can be that it disadvantages Indigenous Australian clients. A part of this report is some exploratory research to observe court room language to identify examples of AE. We wanted to compare the extent to which the different parties such as Magistrates, Elders and solicitors as well as clients, appeared to be using AE. We also wanted to investigate whether there were different patterns in the use of AE and SAE in the Magistrates Court compared to the Koori Court.

The data collection instrument that we used drew on Eades (1997, 2000, and 2007) research and listed several of the common features that she identified as characteristics of AE.

The Methodology of the Project

The people observed during this study, which looked at the language that is used in the court system, included male and female Indigenous Australian clients, male and female criminal solicitors, male and female Magistrates and male and female Elders, as well as male and female CSOs . The observations were based around whether or not people from each of these groups demonstrated, by their use of language in the court setting, that they were using the language features of AE.

The study was conducted over several months. The research was undertaken by collecting data using prepared data collection sheets, with two different data collection sheets prepared for the before-court interviews and for the during-court proceedings, in both the Magistrate Courts and the Koori Courts of metropolitan Melbourne and regional Victoria.

The data collection sheets were designed to look at any evidence of the solicitors, the Magistrates, the Indigenous Australian client and the Elders using certain AE features, as adapted from the AE features identified by Eades in her extensive research around AE and the justice system.

Following the initial research which identified the major language features of AE, the first data collection sheet which is found in the next two sections of this report; Section 4A and 4B was designed. This data collection sheet was for the observation of the respective use of AE in the pre-court solicitor/ client interviews between the solicitors and their Indigenous Australian clients.

The second set of data collection sheets additionally looked at the use of AE by the various Magistrates and in the case of the Koori Court observations, the Elders of the court on the day of sitting.[8] ,

The data for the Client/Solicitor Pre-court data sheet was collected during the preliminary interviews that the solicitor conducted with the clients on the day of the court hearing. The CSO was often present for this interview also although their level of involvement in this interview varied. There was no data formally gathered that recorded the involvement of the CSO in these interviews.

The data for the Koori Court and Children's Koori Court Checklist and 'Magistrates and Children's Court Checklist' was gathered during the court hearing where the Indigenous Australian client, the solicitor, the Magistrate and, in the Koori Court, the Elders, were all present. This data looked specifically at the use of AE by the Magistrate, the solicitor and the Elders. It also looked at the use of AE by the client, mostly in relation to their use of non-verbal language.

The data was collected primarily by one part-time researcher of VALS, with some data collection gathered by students volunteering at VALS between June and August of the year of this study, 2007.

The data collected consisted in the main of Yes and No responses and this data was then collated into computer generated tables before being collated into a summarised representation of the collected data.

SECTION 4A
CLIENT AND SOLICITOR PRE-COURT INTERVIEWS
Table 1 Solicitor Responses
Table 2 Background and Client Responses

[8] See Appendix C and D

PRE-COURT OBSERVATIONS WITHIN THE COURT SETTINGS OF THE KOORI COURT AND THE MAGISTRATES COURT

> *"It is only since the 1960's that linguists and educators have recognised it (Aboriginal English) as a valid, rule-governed language variety".*
>
> *(*Eades 2007:2)

The solicitors were observed during the pre-court solicitor/ client interviews to see if they used examples of AE with their Indigenous Australian clients. Meeting the language needs of Indigenous Australian clients can be assisted by communicating in AE, as identified by researchers, Eades (2000) and Calma (2007) among others.

The aspects of AE that are seen as beneficial for effective and culturally aware communication with Indigenous Australian clients include building a relationship with the client, acknowledging and becoming aware of the clients background, allowing the client to explain events by relating them to the context (the experiences and relationships involved) and being clear and simple, both when explaining the process of the court and when taking instructions from the client.

The areas of AE looked at between the solicitors and their Indigenous Australian clients were;

- **Pragmatics (the way language is used and interpreted)**
- **Linguistics (pronunciation, grammar and vocabulary)**
- **Non-Verbal (gestures, eye contact , silence)**

These three areas of AE were looked at using the following questions as a guideline. Each of these questions identified at least one aspect of AE that may assist in better communication with Indigenous Australian people. One example of this, in the area of pragmatics, would be to allow Indigenous

clients to describe things by putting them into a context rather than by using quantitative specification. [9]

Client/Solicitor Pre-court Interview data sheet Client: Date:	Yes/No	Supporting Evidence
Table 1 Solicitor Responses		
TYPE OF HEARING: MATTER: Name of solicitor: Solicitor Responses		
1. Did they use a personal (familiar) **way of communicating** with the client rather than an impersonal (distant) approach?		
2. Did they build a case that **represented the client's cultural history** (included related family details) **as well as their legal history**?		
3. Did they allow client to explain events using a **contextual framework** (events, experiences and relationships involved) rather than using **quantitative specification** (time, quantity or date) ?		
4. Was **their body language inclusive of their client**? ie. Did they lean towards them, use hand/head gestures etc.		
5. Did they explain what will happen in court and their role as the solicitor?		
6. Did they make use of **any culturally appropriate language** such as 'charged up' not intoxicated? **List** examples used on the day.		

Table 2 Background and Client Responses

Background and Client Responses

a. How many times had client/solicitor met? First time 1 other time 3 or more

b. Was Client Service Officer present for this meeting? Yes No Sometimes

c. Did client ask questions relating to their matter? Yes No

d. Did client volunteer information relating to their matter? Yes No

e. What evidence did client give to demonstrate their understanding of the proceedings? eg. nodding, asking questions etc.

This data provides an indication of the extent to which different aspects of AE were observed during the solicitor/ client interviews. (see 'Client/Solicitor Pre-court data sheet' below)

[9] See Question. 3 below in the questions relating to the use of AE by solicitors

QUESTIONS RELATING TO THE USE OF AE BY SOLICITORS

For Table 1 'Solicitor Responses'

1. Did the solicitors use a personal (familiar) way of communicating with the clients rather than an impersonal (distant) approach?

2. Did the solicitors build a case that represented the client's cultural history (included related family details) as well as their legal history?

3. Did the solicitors allow clients to explain events using a contextual framework (events, experiences and relationships involved) rather than using quantitative specification (time, quantity or date)? [10]

4. Was the solicitor's body language respectful of their clients? ie Did they lean towards them, include them in the interaction with the use of gestures and eye contact?

5. Did the solicitors explain to the clients what would happen in court and did each of them explain their role as their solicitor?

6. Did the solicitors make use of any culturally appropriate language such as 'charged up' instead of 'intoxicated'?.

For Table 2 'Background and Client Response'

a. The number of times the client and solicitor had met before

1. [10] The focus of Question 3 is also referred to in this report as 'specification'. Where non-Aboriginal people use numbers, dates and names form a sequence (such as days and months), Aboriginal people tend to give a list, describe events or refer to the context. Eades (2000)

b. If the Client Service Officer or an Aboriginal court worker was present during the client/solicitor meeting/giving of 'instructions'.
c. Whether or not the client asked questions relating to their matter
d. Whether or not the client voluntarily gave forward information relating to their matter.
e. The evidence presented by the client that showed that they understood proceedings on the day (before court) such as nodding, the asking of questions, any paraphrasing of information given to them by solicitor.

SECTION 4 B
FINDINGS ABOUT CLIENT AND SOLICITOR PRE-COURT INTERVIEWS

1. Did the solicitors use a personal (familiar) way of communicating with the client rather than an impersonal (distant) approach?

Findings Generally solicitors used a personal approach.

Question 1

It was found that the majority of solicitors at VALS who were observed throughout this study demonstrated a reasonable awareness that it was important to communicate with their clients on a personal level. Several of the solicitors made reference to previous personal knowledge and/or experiences involving their client and tried to build up the context of the meeting taking place on that day. One solicitor made mention of the client being in much better health than during their last meeting, another asked a client about a tribal dance they had spoken about on the previous day.

It was also observed that the presence of the CSOs during these interviews appeared to make the client feel more comfortable. In addition, the questions the CSO asked the client often meant that there was more

revealed about the client's family background as well as their links to their community. It should be noted that CSOs employed by VALS only attended these client /solicitor interviews in regional areas.

2. Did the solicitors build a case that represented the client's cultural history (included related family details) as well as their legal history?

Findings: Generally solicitors did include cultural and family details

Question 2

The solicitors generally asked questions of the client that helped them to find our more about their family and cultural background. Three separate examples of this being done by three of the solicitors observed throughout this study included pursuing community connections they had with community services such as White Lion, speaking to the family members including the Aunties, the Gran and the Mum of a male client in custody at the local police station on the day of court and referring in an indirect way to difficult issues in another client's past by referring to him having seen a psychiatrist.

3. Did the solicitors allow the client to explain events using a contextual framework (events, experiences and relationships involved) rather than using quantitative specification (time, quantity or date)? [11]

Findings: Generally NO

Question 3

Questioning strategies fall under the language area of 'pragmatics' and it was found that VALS' tended to ask what is referred to in the literature as direct questions (Eades 2000) such as How long…? How much…? Where were you…? all of which related to measuring time, quantities or dates. The result when the solicitors took this approach was that many clients

struggled to understand and answer the question. The other outcome was that they gave an answer that could be seen as vague or un-specific. When one solicitor asked a client in his early twenties how long he had been in custody, the client found it hard to give the period of time using a specific quantity such as months and days. The client eventually agreed with the solicitor when coaxed that it was more than a month, after relating it to the time he had spent in the two remand centres that he had been held in. Another example of this was the following discussion between a VALS' solicitor and her client;

Solicitor

"How much had you been drinking on the day (of the offence)?"

Client

"Fair bit"

Solicitor

"How much?"

Later on during the same interview…

Solicitor

"How long have you known him?"

Client

"A while"

As Eades says,

> *'In the legal system, the awareness of Aboriginal English, and the skills available for dealing with speakers of Aboriginal English, are still quite low. …'*

Cross-cultural training in the legal profession is rare. Discussion held with stakeholders indicate that many people working within the legal system are unaware of the language problems that may exist, fail to grasp their full significance, or are unable to discern when these communication problems are occurring.

When discussing the use of specification to explain events, with the solicitors of this Legal Service, many of them acknowledged that this was an area where miscommunication could occur between them and their Indigenous Australian clients. However, most of the solicitors recognised that they had not previously been aware of this area of language difference between themselves and their clients. Several of the solicitors said that they were now much more aware of the different ways that their client might use specification and that they would be able to consider this more in their daily interactions with their clients, particularly when taking instructions from them.

Still on the point of using a specification to explain events, a solicitor of VALS cited a time when he was taking instructions from two young male Indigenous Australian clients. The interview related to offences involving the theft of several cars over a period of time. When he asked them *'Did you take a car from this place in July last year?'* they answered that they couldn't remember. When he persisted with; 'What about that green falcon?' they immediately responded with *'Oh, yeah, I remember that one, that was a good one!'* Perhaps this anecdote demonstrates that it helps Indigenous Australian clients to have an event contextualised for them to be able to clearly remember and discuss the details of that event. In this instance it was not helpful for the clients to be given a 'quantitatively specific' time such as last July, in order for them able to clearly remember and discuss the details of that event. But it was important for them to have been given details about the context as it related to the events, experiences and relationships surrounding the offending behaviour of the client.

Using a more contextual and narrative approach that allows for use of AE specification will provide more information but is likely to take a bit more time.

4. Was the solicitor's body language respectful of their client? ie Did they lean towards them, include them in the interaction with use of gestures and also make respectful use of eye contact?

Findings: Generally YES

Question 4

VALS' solicitors were generally able to relate to their clients well in regard to the body language that they used during the client/solicitor interviews.

5. Did the solicitors explain to the client what would happen in court and explain their role as their solicitor?

Findings: Generally YES

Question 5

It was noted that each solicitor who was observed during these interviews with their Indigenous Australian clients, gave a brief outline of their duty as a solicitor and made their clients very aware that they were there to act only on the basis of the instructions given by the client themselves.

It was also observed that generally Indigenous Australian clients will not ask any more questions than necessary about their case or perhaps do not ask any questions at all. Therefore this makes it even more necessary for the solicitors to explain their role and the process of court to their clients in a clear and simple way every time that they meet for the first time with a client.

6. Did the solicitors make use of any culturally appropriate language such as ‘charged up’ not ‘intoxicated’?

Findings: SOMETIMES

Question 6

Whether or not solicitors used culturally appropriate language or slang when talking to their clients was very much linked with the solicitor’s personal style and also with how long the solicitor and client had known each other. As an Indigenous staff member at VALS commented, solicitors need to choose their use of such words carefully otherwise they run the risk of being ‘try- hards’ and might be seen as ‘pretenders’ by their clients. It seemed from observation that using language that the client can relate to is a good thing. Perhaps one approach that could be tried by solicitors is to integrate the client’s language choices into their conversation, such as. if client says ‘sis’ and ‘bro’ all the time, solicitor may choose to include these words occasionally into their communication with the client. A client is more likely to accept this type of language from a solicitor if they have a long standing relationship with each other. For two of the female solicitors spoken to they mentioned that it was equally important for them that they strike a balance between culturally appropriate language and legalese to ensure that they gained their client’s respect and were seen also to use the language expected from a solicitor.

This issue was raised in the Sally McAdam research at VALS about the use of more informal language in legal letters. Some lawyers, and in one case an Indigenous Australian staff member, worried about being too informal and not being seen by the client as a proper lawyer.

Background and Client Responses

a. The number of times the client and solicitor had met before

It was beneficial for the solicitor to have met the client at least once before representing them in court, as this factor alone, definitely helped build a relationship of trust between client and solicitor. This factor was probably even more important for metropolitan appearances by the solicitors because, unlike in regional courts, they did not have the CSO present to help build the trust relationship with their client. Indigenous clients were seen to have a good relationship with the solicitors who made an effort to make them feel comfortable. One of the ways that solicitors did this was by referring to information they had found out about the client on a previous meeting such as family information or events that had taken place recently for the client such as attending a tribal dance performance.

b. If the CSO or an Aboriginal court worker was present during the client/solicitor meeting/giving of 'instructions'.

The CSO , particularly in regional areas of Victoria, is the 'keeper' of a great deal of important information about the client and their connection with the local Indigenous community, including their family relationships. From discussions with the solicitors at VALS during this study, their comments about the value or otherwise of having the CSO present during client/solicitor interviews are listed below.

One VALS' spoke of the way that the CSO can vouch for you as a solicitor and as a person. He saw this as a big help because the nature of solicitors meeting clients only briefly before representing them means that the trust would be difficult to build without the support of a known community member such as the CSO . This relates to the fact that traditionally relationships within Indigenous Australian culture are built over a long period of time.

Another solicitor held a mixed view about the role that a CSO played during the client /solicitor interview. She felt that most of the time it was not necessary for the CSO to attend the interview but there were some

instances when the CSO may sit in and was able to get the client talking about matters relating to their case, perhaps details that would not otherwise have been talked about in front of the 'gubba' solicitor. These details could then be shared with the solicitor before they attended court for the client.

c. Whether or not the client asked questions relating to their matter

It was found that it was more common for clients not to ask questions about their case than to do so.

d. Whether or not the client voluntarily gave forward information relating to their matter.

Whether or not the client gave information about their case voluntarily seemed to relate quite closely to how the information was asked for by the solicitor. If the solicitor sought the information by asking the client to explain events related to their case in a contextual way, they tended to get more detailed responses from the client than if they asked closed ended questions that asked for specific information relating to times, quantities or dates. One problem that was identified by the solicitors was that if this approach was used it took more time, time that simply wasn't available on an average court day with multiple cases to be heard and with clients often meeting their solicitor for the first time.

e. The evidence presented by the client that showed that they understood proceedings on the day (before court) such as nodding, the asking of questions, any paraphrasing of information given to them by solicitor.

There was a high incidence of nodding by the clients in response to their solicitors during these interviews. It was less common for the client to ask further questions relating to their matter but this did happen occasionally.

A General Summary of the Findings about the Client/Solicitor Pre-Court Interviews

The solicitors were found to be using many of the identified examples of AE during communication with their Indigenous Australian clients. During the pre-court solicitor client interviews, there was a relatively high number of examples of AE identified using the AE checklist (81%)

Each solicitor was successful at using a personal approach with their Indigenous Australian clients, at explaining their matter to the client as well as outlining their role as their representative solicitor.

Of all the examples of AE on the checklist the one least commonly used was questioning which allowed for the use of specification rather than dates, distances and times

A direct questioning approach rather than an indirect questioning approach made little allowance for the client to tell their story by relating the relevant events to their context. Instead when the solicitors sought instructions they emphasised the use of specific quantities relating to time, date and quantity to describe events.

For further evidence of solicitor use of AE refer to; Table 1 'Responses for solicitors' .and Table 2 'Background and Responses' for clients from the solicitor/client pre-court interviews.

In slightly more than half the matters observed the solicitor had met the client previously. In a third of the matters there was a CSO present during the interview. In over 80% of cases the client offered information about the matter. Almost half the clients asked questions about the matter.

The results shown in the following tables; Table 1 and Table 2, relate to the data collection sheet 'Client/solicitor Pre-Court interview data sheet'. [12]

Table 1: Pre-court solicitor and client interviews Solicitor Responses			
QUESTIONS	**YES**	**NO**	**N/A**
1	12	0	0
2	11	1	0
3	4	6	2
4	12	0	0
5	9	2	1
6	10	2	0
Total Responses	**58**	**11**	**3**
	81%	**15%**	**4%**

<u>Note for Table 1</u> Solicitor Responses
*A **YES** response to each question indicates that the solicitor demonstrated some use of AE. A **NO** response indicates that a solicitor did not make use of AE. A **N/A** response indicates that the use of AE was not applicable to this part of the interview.*

Table 2 : Pre-court solicitor and client interviews Background and Client Responses		
QUESTIONS	**YES (Qu 1 – *once))**	**NO (Qu 1 *more than once)**
a	5*	7*
b	4	8
c	5	7
d	10	2
Subtotal for Qu a-d	**24**	**24**
% for Qu a-d	**50%**	**50%**
e (Evidence of client understanding)	Nodded – 9 Asked qu – 3 Said 'yep' - 2	N/A

<u>Note for Table 2</u> Background and Client Responses
*A **YES** response to Questions a-d shows some background information and indicates some evidence that the client was engaged in the interview process. A **NO** response to Questions 1a-d shows some background information and indicates less evidence that the client was engaged in the interview process.*

[12] Found on p.22 in Section 4A of the report ' as Client/Solicitor Pre-Court interview data sheet'.

SECTION 5A
KOORI COURT AND MAGISTRATES COURT CHECKLISTS

COURT OBSERVATIONS OF THE KOORI COURT AND THE MAGISTRATES COURT

(5) The Koori Court Division must take steps to ensure that, so far as practicable, any proceeding before it is conducted in a way which it considers will make it ***comprehensible*** *to—*

(a) the defendant; and
(b) a family member of the defendant; and
(c) any member of the Aboriginal community who is present in court.

Magistrate's Court (Koori Court) Act 2002

WHAT WAS LOOKED FOR.?

The Magistrates, solicitors and Elders were observed during the court hearings. The court data checklist based on the work of Eades, identified language features of AE which are common amongst Indigenous Australian clients. The same checklist was used for the Magistrate, the solicitor and for the Elders. A different checklist within the same sheet, identifying the use of AE, was examined for the Indigenous Australian client. [13]

The checklist data was collated for each group to establish how often these groups of people in the court have used *AE*. Each time a 'Yes' response was recorded for the Magistrate, the solicitor or the Elders, it demonstrated that their use of AE was consistent with one of the checklist items chosen to help identify the use of AE (AE). The objective of doing this was to identify the extent to which the different participants utilised AE and whether there was

[13] APPENDICES C and D show the 'Koori Court and Children's Koori Court Checklist' and 'Magistrates and Children's Court Checklist' data collection sheets.

difference between the Magistrates and the Koori Court in the extent to which AE was used by these three groups of people.

COURT DATA QUESTIONS

1. Did the Magistrate/solicitors/Elders use a personal (familiar) way of communicating with the clients rather than an impersonal (distant) approach?
2. Did the Magistrate/solicitors/Elders build a case that represented the client's cultural history (included related family details) as well as their legal history?

3. Did the Magistrate/solicitors/Elders allow clients to explain events using a contextual framework (events, experiences and relationships involved) rather than using quantitative specification (time, quantity or date)?

4. Was the Magistrate's/ solicitor's/ Elders body language respectful of their clients? ie Did they lean towards them, include them in the interaction with the use of gestures and eye contact

5. Did the Magistrate/solicitors/Elders explain to the clients what would happen in court and did each of them explain their role as their solicitor?

6. Did the Magistrate/solicitors/Elders make use of any culturally appropriate language such as 'charged up' rather than 'intoxicated'?

7. The AE language features examined for the Indigenous Australian client in the Client/Solicitor Pre-court interview data sheet found on page 22 included their use of non-verbal language such as silence, averting eye contact or gratuitous concurrence. While it was impossible to make a clear judgement about the frequency of gratuitous concurrence it is a feature of AE that must be considered.

The questions asked in the court setting also examined whether the Indigenous Australian client had asked questions independently, whether or not they had family support present on the day and whether or not they reacted in any way to comments by the Elders present in the court (Koori court only).

The questions are our first attempt at creating a checklist to help identify examples of AE being used. Aboriginal people and non-Aboriginal people will vary in the extent to which they use AE depending on their knowledge, experience and the context in which they are communicating. To the extent that courts are seen as white institutions we might expect Aboriginal people to use less AE in such a setting. On the other hand much of our use of language is patterned and unconscious so the extent to which any of us is conscious of choosing particular words, forms and syntax or able to become conscious of this will vary from individual to individual.

The question that asks about how much of the client's background or story is told in the case will sometimes be affected by the solicitor knowing whether the Magistrate is interested or disinterested in this sort of information. Some Magistrates insist on background information while others insist that the solicitor 'get to the point'.

Solicitors using AE words such as 'charged up' or 'gubba' is also problematic and several people said that the extent to which people did this was affected by how well they knew the person as well as how comfortable they felt using this language.

SECTION 5B

FINDINGS ABOUT THE KOORI COURT AND MAGISTRATES COURT CHECKLISTS

KOORI COURT TABLES

Table 1 of MAGISTRATES Checklist Examples of using AE in the Koori Court			
	Total Responses for Magistrate		
QUESTIONS	**YES**	**NO**	**N/A**
1	5	0	0
2	5	0	0
3	1	2	2
4	5	0	0
5	4	1	0
6	4	0	1
Total Responses	**24**	**3**	**3**
	80%	**10%**	**10%**

*<u>Note for Table 1</u> A **YES** response indicates that the Magistrate used communication that was consistent with the examples of AE used in the checklist. A **N/A** response indicates that the identified communication was not applicable to this court situation. For example the interaction was brief such as an adjournment.*

Table 2 of SOLICITORS Checklist Examples of using AE in the Koori Court			
	Total Responses for Solicitor		
QUESTIONS	**YES**	**NO**	**N/A**
1	5	0	0
2	3	1	1
3	2	0	3
4	5	0	0
5	5	0	0
6	0	5	0
Total Responses	**20**	**6**	**4**
	67%	**20%**	**13%**

*<u>Note for Table 1</u> A **YES** response indicates that the solicitor utilised examples of AE identified within that question from the checklist **N/A** response indicates that the identified communication was not applicable to this court situation. For example, the interaction was brief such as an adjournment.*

Table 3 CLIENTS Checklist Examples of using AE in the Koori Court			
	Total Responses for Client		
QUESTIONS	**YES**	**NO**	**N/A**
1a	4	1	0
2a	1	4	0
3a	5	0	0
4a	4	1	0
1b	5	0	0
2b	3	2	0
3b	1	4	0
4b	3	2	0
Total Responses	**26**	**14**	**0**
	65%	**35%**	**0%**

Table 4 of ELDERS Checklist Examples of using AE in the Koori Court			
	Total Responses for Elders		
QUESTIONS	**YES**	**NO**	**N/A**
1	5	0	0
2	5	0	0
3	3	0	2
4	5	0	0
5	4	1	0
6	2	3	0
Total Responses	**24**	**4**	**2**
	80%	**13%**	**7%**

MAGISTRATES COURT TABLES

Table 1a of MAGISTRATES Checklist Examples of using AE in the Magistrates Court			
	Total Responses for Magistrate (24 in sample)		
QUESTIONS	**YES**	**NO**	**N/A**
1	1	3	0
2	0	3	1
3	0	4	0
4	0	2	2
5	2	2	0
6	1	3	0
Total Responses	**4**	**17**	**3**
	16.5%	**71%**	**12.5%**

*<u>Note for Table 1a</u> A **YES** response indicates that the Magistrate demonstrated the language behaviours identified within that question. A **NO** response indicates that the Magistrate failed to demonstrate the language behaviours identified within that question. A **N/A** response indicates that the identified language behaviour was not applicable to this court situation.*

Table 1b of SOLICITORS Checklist Examples of using AE in the Magistrates Court			
	Total Responses for Solicitor (24 in sample)		
QUESTIONS	**YES**	**NO**	**N/A**
1	4	0	0
2	2	2	0
3	0	1	3
4	4	0	0
5	4	0	0
6	3	1	0
Total Responses	**17**	**4**	**3**
	71%	**16.5%**	**12.5%**

*<u>Note for Table 1b</u> A **YES** response indicates that the solicitor demonstrated the language behaviours identified within that question. A **NO** response indicates that the solicitor failed to demonstrate the language behaviours identified within that question. A **N/A** response indicates that the identified language behaviour was not applicable to this court situation.*

Table 1c of CLIENT Checklist Examples of using AE in the Magistrates Court			
	Total Responses for Client (16 in sample)		
QUESTIONS	**YES**	**NO**	**N/A**
1	1	1	2
2	3	1	0
3	2	2	0
4	2	2	0
Total Responses	**8**	**6**	**2**
	50%	**37%**	**13%**

Summary of the Koori court and the Magistrate Court Data tables.

The tables indicate that communication which is consistent with AE is quite common in Koori Courts but far less common in Magistrates Courts.

In the Koori Court, Elders and Magistrates provided the most examples of using AE where both groups scored 80%
Solicitors in the Koori Court and their clients in the same court setting scored slightly lower at 67% and 65% respectively.

In the Magistrates Court the rate of solicitor use of examples of AE (68%) is virtually the same as for Koori Courts (67%). However there is a dramatic difference in the extent to which Magistrates use AE in the Magistrates Court (13%). By comparison in the Koori Court setting, the Magistrates demonstrated the use of AE 80% of the time.

For the clients the rate of exhibiting common behaviour traits whilst in the court setting such as their use of non-verbal language features like silence, averting eye contact or gratuitous concurrence and whether they asked questions independently, had family support present on the day or reacted in any way to comments by the Elders present in the court (Koori court only), occurred at a lower rate in the Magistrates court. In the Magistrates court, the

use of AE by the Indigenous Australian clients was slightly lower, 50% compared to 65% in the Koori Court.

What do these tables tell us?

The number of cases observed was quite small so differences between individual solicitors and Magistrates may account for some of the patterns observed. The results are indicative rather than being statistically significant.

The most significant finding from this data about the Koori court and the Magistrates court points to the contrasting use of AE demonstrated by the Magistrates in the Magistrates court compared with the Koori court. What this data indicates to us is that the Magistrates are far less likely to utilise communication consistent with AE in the Magistrates Court than they are in the Koori Court.

The Magistrate's communication is far more culturally appropriate for the clients when they are in the Koori court, with it's much more culturally specific and narrative 'conversation around a table' approach.

We have not observed the same Magistrate in both the Koori Court and the Magistrates Court so we don't know how much a particular Magistrate changes their communication methods from one setting to another. There is also the possibility that the Magistrates in the Koori court have had more experience talking to Koori people prior to their involvement in the Koori Court and hence exhibit more AE in their communication. It is also possible that the presence of Elders and their use of AE helps the Magistrates learn AE.

The solicitors observed from VALS communicate using AE at a similar level within both court settings. This is interesting and raises the question; to what extent are VALS' solicitors consciously choosing to use AE? Alternatively, to what extent has it been learned or become the norm for these solicitors to use AE in all their work, irrespective of the court?

The data for the Indigenous Australian client in the two court settings shows the rate at which Indigenous Australians clients did in fact demonstrate the use of AE in these two different court settings. The use of AE by Indigenous Australians clients may lead to a 'misreading' of their responses by court officials such as Magistrates and solicitors. The overall rate of AE usage by the Indigenous Australian client was higher in the Koori court (65% of the time) when compared with the rate of AE usage in the Magistrates court (50% of the time). The greater use of AE by the Magistrate and the presence of Elders and their use of AE may contribute to some clients feeling more able to use AE.

It also has to be considered that many Indigenous Australian clients may not use AE at all (35% of the time in the Koori court and 37% in the Magistrates court) because they are equally fluent in SAE (SAE) and AE (AE) but have chosen to communicate in SAE. This would account for the recorded data that shows when clients have not demonstrated these common behaviour traits at all. Alternatively the intimidating nature of the court process may be reducing the extent to which clients use AE

The data for the Elders in the Koori court shows that they demonstrate examples of AE comparatively frequently, scoring 80% on the checklist.

Apart from language there were other differences which affected the extent of Elders participation in the court. Magistrates utilised Elders in different ways. Some invited comment only at the end of the case while others invited comment throughout the case.

An observation of the Elders and their role in how the Koori court is run would be that it appeared to be more beneficial for the Indigenous Australian client when the Magistrate opened up the court proceedings to allow ongoing contributions from the Elders rather than giving them a prescribed time to contribute at the end. When the Magistrate did this it enabled the Elders to play a more significant role in catering for the language needs of the clients such as allowing them to play the role of informal *'communication facilitators'*

Calma (2007) has recommended that *'communication facilitators'* should be utilised in courts..

SECTION 6:

STRATEGIES FOR SOLICITORS TO HELP THEM CATER FOR AE SPEAKERS IN THE COURT SYSTEM

> *'Throughout most of the educational, medical , community and legal organisations run and controlled by Koori people there is a strong notion that Koori English can be differentiated from what might be termed Standard Australian English (SAE).'*
>
> Irruluma Guruluwini Enemburu (1989:1)

The difference between SAE and AE is not necessarily readily apparent to speakers of either language. The extent to which AE is spoken by Indigenous Australians also varies and there are regional variations to AE.

If you consider the role of AE you are likely to be able to communicate more effectively with your Indigenous Australian clients.

Eades lists twenty different areas of difference under these three headings of linguistic, pragmatic and non verbal communication. [14] Reading Eades article on AE and how to avoid the pitfalls is highly recommended. Below are a few issues that highlight why this information is so important.

Things to be aware of in the areas of linguistics, pragmatics and non-verbal communication.

PRAGMATICS

Unlike the linguistic features of vocabulary or grammar, both of which are relatively easy to learn, pragmatics is about how people interact and is connected to socio-cultural context. Eades (2000) identifies gratuitous concurrence, questioning strategies, negative questions and specification as

[14] See APPENDIX B which lists the contents of her article entitled 'Aboriginal English in Courts'.

critical issues in this regard. These pragmatic related differences are more fundamental than learning alternative words to describe things, such as Jungais for police. Gratuitous concurrence refers to people agreeing because they want to establish a relationship rather than agreeing to the facts of a situation.

The use of gratuitous concurrence

This means answering 'yes' to a question because they 'want' to keep the questioner happy regardless of whether or not they actually agree with, or understand the question.

Agreement tendency has been recognised in social research for several decades as a problem in mainstream populations. Hence most questionnaires today use a mixture of questions to gather information. For example, some questions require a yes and some answer require a no to indicate the theme being researched.

At a commonsense level we are aware of situations where people agree with another simply to avoid conflict or because the other person is overbearing or more powerful. Gratuitous concurrence is slightly different in that it may be occurring because of a cultural belief that the relationship is more important than the detail of the question. There is no easy way to research this but the use of indirect questions to explore a topic during conversation may reduce the extent to which gratuitous concurrence has the opportunity to arise.

Questioning

Indigenous Australians more often use indirect questions by establishing a two way exchange, volunteering information of their own, and hinting at what they would like to find out. Instead of asking direct questions of your Indigenous Australian client it is better to do the following;

- Use hinting statements followed by silence, such as;

'I'm wondering about…..'

- Volunteering information for confirmation or denial, followed by silence;

'*It seems as if…'* OR *'People might say…'*

Specification

The way AE describes time, number and distance may be quite different to the standard western system. This is different to the common western thinking approach. Eades (2000) describes the difference succinctly below.

"Many court cases hinge on questions of precise times, amounts, numbers, distances and locations. Aboriginal witnesses are placed at a disadvantage when asked about details of this kind, because such formal systems of quantification are not part of their traditional languages.
There are radical differences between the Western and the Aboriginal ways of being specific. Aboriginal specification usually refers to non-countable events and situations, such as elements of climate, geography or social life. Where non- Aboriginal people use numbers, dates, and names from a sequence (such as days and months), Aboriginal people tend to give a list, describe events, or refer to the context."

Examples
How many people were there?
Answer: [*List of names*]

How long were you at the [hotel] for?
Answer: *Just drived in there, bought half a carton and took off again.*

The differences in pragmatics mean that unless lawyers and other court officials become familiar with AE there is a high risk of lost information. There is no foolproof method for dealing with these problems but using open ended questions, avoiding negative questions and allowing time for the client to explain what has happened will minimise the risk of significant miscommunication.

Apart from reading Eades (2007, 2000, 1996) it may be necessary to design some scenarios or exercises to help adapt western thinking patterns to include AE.

LINGUISTICS

The linguistic features that may differ between AE and SAE include kinship terms, use of lingo, prepositions, plurals and question signifiers.

The use of kinship terms

The Indigenous Australian family is an extended family (kinship network). Indigenous Australians commonly refer to non-biologically related people being their sister (sis) or brother (bro) or cuz. The terms Aunty and Uncle are used far more widely in Indigenous Australian culture than they are in non-Indigenous Australian cultures and a person is referred to as an Aunty or Uncle as a term of respect.

The use of lingo

Recorded examples of AE lingo used by the Indigenous Australian clients observed during this study in court and during interactions with court officials included;

- *'full finished'*, referring to a client having fully completed his suspended sentence.
- *'needle in the hun'* meaning needle in the backside,
- *'going horrors'* meaning the period of time following a big bout of drinking which is, as explained by the Client Service Officer from that region, 'crazy business – losing your mind' for an indefinite time.
- The characteristic addition of *'too'* on the end of sentences, for example, when the solicitor spoke about not having seen the client for a while the client answered *'haven't seen you for a while too'.*

Recorded examples of AE lingo used by the solicitors who were observed during this study in court and during interactions with Indigenous Australian clients included;

- *'off his face'* meaning drunk,
- *'pinched'* meaning stealing,

- *'dog of a magistrate'* meaning not the sort of magistrate you want to have your case heard before,
- *'you* were not in a good way' meaning not in good physical and general health at that time.
- *'Baby snatchers'* was used to refer to the Department of Human Services, who had custody of a client's children.
- *'Youse musta been'* and *'fella'* and *'whacked'* were other examples.

An example of misunderstanding in communication was observed when a Victorian Aboriginal Legal Service solicitor said of a client's behaviour, 'having a spat with them', meaning a fight. The client misunderstood his solicitor and he was angry because he thought that the solicitor had said that he'd 'spat at the coppers'.

The use of prepositions

In AE, the way a preposition (a word governing a noun or a pronoun) is used may not follow the pattern of SAE. Instead it will follow the grammatical pattern of local Aboriginal languages. This can lead to misunderstandings.

Example:

'I go back up to the policeman'

The intended meaning in SAE is *'I went back to the policeman'*

The use of plurals

In Standard English, the plural form of a noun is usually indicated by the addition of s or es to the end of a word, and, in agreement with this, the usual s is dropped from the present-tense form of the verb.

In AE, the plural is often signalled by context rather than being marked by the noun. Problems can arise when the context does not provide the necessary information:

Solicitors should check whether the sense is singular or plural. They could do this by asking further question of their client to clarify such as; *'Were all you kids with you?'*

The use of Question Signifiers

Question signifiers in AE are give using ' …is that right?' at the end of the sentence or with a rising intonation after a statement, instead of at the start, which would be the grammatical pattern of Standard Australian English. Question signifiers for SAE include 'Did..? ' When..?' ' Why..?'

CONCLUSION

The examples above highlight the range of ways that miscommunication may occur between SAE and AE. The pilot research highlighted that VALS' solicitors have either learned or assumed a number of aspects of Aboriginal English. Two aspects of AE which need further attention for some solicitors of this legal service were the use of open ended questions not direct questions to elicit information and allowing for the use of more narrative and less abstract descriptions of events (specification).

AE involves the use of lingo. The extent to which this was adopted by solicitors varied and there were differing opinions about how far solicitors should go in adopting this vocabulary.

The exploratory research indicated that there is much greater use of AE in Koori Court than in the Magistrate's court. There will be obvious time pressures on Magistrates and solicitors in the Magistrates court system which will operate against fully taking account of AE. However once there is greater recognition of AE and its varieties there will be more chance that courts will move to adjust their practice and better reflect the needs of Indigenous Australians.

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APPENDICES A - E

APPENDIX A

Radio National Transcripts:

February 20, 1999

Lingua Franca

Retaining bilingual education programs in Aboriginal schools

Jill Kitson: Welcome to Lingua Franca. I'm Jill Kitson. This week: why the Northern Territory government should retain bilingual education programs in Aboriginal schools.

Peter Adamson: It was costing a heck of a lot more money to support this minority of schools over and above the staffing formula, and ultimately, when you looked at the results, while you can't just go by results alone, these students on average, are performing worse than students that are in non-bilingual schools.

Jill Kitson: The Northern Territory Education Minister, Peter Adamson, speaking on The 7.30 Report earlier this week about the decision, announced late last year, to abolish bilingual education programs in Aboriginal schools. Elders of the affected Aboriginal communities, such as the Warlpiri at Yuendumu, 250 kilometres northwest of Alice Springs, are threatening to boycott the schools in protest.

The Federally-funded bilingual programs were introduced in the early '70s as a result of the then Federal Minister of Education, Kim Beazley Senior's decision to allow Aboriginal parents to choose the language of their children's schools. In a letter to The Australian last December, Mr Beazley explained that bilingual programs were favoured as the best route to mastery of English as a second language.

It was universal experience, he said, that if literacy were established in the mother tongue, the language of the heart, it was easier to switch to another language, in the case of Aboriginal Australians, English.

Dr Christine Nicholls is a socio-linguist at Flinders University. Before that, she was Principal Education Officer responsible for the curriculum of Bilingual Education in the Northern Territory Department of Education. Prior to that, she worked for almost a decade as the Principal of Lajamanu School in the Tanami Desert in the Territory, where Warlpiri is used alongside instruction in English.

She believes the Northern Territory should retain bilingual education in Aboriginal schools. Here she is to explain why.

Christine Nicholls: One very powerful argument for retaining these bilingual education programmes is the fact that the children in many instances enter the schooling process with no English whatsoever, so they don't actually understand what's going on when the instruction is exclusively in the English language - therefore a bilingual programme is very practical.

I'll tell a little story now, a story which goes against myself in a way. Not all that long after I'd arrived at Lajamanu, and before I had developed any real Warlpiri language ability, the Warlpiri preschool teacher reported in ill one morning. Of course, there were no relief teachers available because of Lajamanu's distance from metropolitan centres. As a result, I ended up teaching the preschoolers that morning. There were thirty or forty preschoolers in the room, it was about 45degrees, and when I arrived in the classroom, a virtual riot of little "ankle-biters" was taking place. One very young Warlpiri mother, still in her teens, whose child was in the class, and who was holding her newborn baby, was trying valiantly to hold the fort. I knew that I had to get the kids to sit down before we could do anything else, so I called out "Sit Down!" in a loud and authoritative voice. No response whatsoever! Several times I tried repeating this command but the children paid virtually no attention to me because they didn't actually understand what I was saying. In fact, I think a few of them thought that a white person yelling at them in a foreign language was very funny. I was extremely frustrated because normally I have no problems with discipline with children of any age, let alone 4 or 5 year olds! Eventually, in desperation, I asked the young woman with the baby how I should ask the children to "sit down" in Warlpiri and she whispered to me, "Nyinaya"- I loudly declaimed "Nyinaya!" to the kids and got an instant response - folded arms, straight backs, in short, I received their attention. After that, the young woman helped me and somehow we managed to get through the

rest of what turned out to be a very long morning.

I think this story also illustrates how non-Indigenous people working in such situations need a certain level of humility - in this case, I had to defer to a young woman many years my junior, who was not a trained teacher, who had in fact received hardly any western education, only a few years of primary school, who could barely read or write herself, and acknowledge that she had something significant to offer those children which I really couldn't. It also shows that while governments may, with the stroke of a legislative pen, decide to abolish or cut formal large "B" Bilingual Programmes, that in fact this will not alter the situation - it will remain a small "b" bilingual situation, whether or not the school is officially proclaimed as such, and that this needs to be addressed.

I'd like to make another point by reading an excerpt from the Warlpiri children's book "Jarnpa-Kurlu" written by June Napanangka Granites, a former teacher at Yuendumu School, another Warlpiri school. This is one of the stories that the Warlpiri teachers and the Warlpiri mothers who worked as volunteers in the school would enjoy reading to the children in Lajamanu School's "lap reading" programme, a programme in which the mothers would come in to the school every morning and either read to the children or listen to the children read to them - and it is really significant that all successful early childhood education has to be some kind of partnership between the school and the parents or extended family.

As you're listening to me read this story, a simple story which can be understood by very young Warlpiri children, it might be worthwhile to think about the point at which you tune out, if it's in a language that you don't understand. This is pertinent to the entire debate about bilingual education, as when these Warlpiri children come to school, most of them speak only their own language, and either no English, or very little English. It can be an extremely alienating experience even for adults to have to listen for long periods of time to a language they don't understand. For young children entering school for the first time, it can be an experience from which they never recover.

Jarnpa-Kurlu is a cautionary tale which imparts knowledge about the natural world, about animal behaviour, about appropriate interactions between animals and humans, as well as guidelines about what constitutes sensible and ethical human conduct, and as such I suppose it works in rather the same way that "Little Red Riding Hood" works for non-Indigenous children of European background. "Jarnpa-Kurlu" roughly translated means "Story about a Devil Man" and tells the story of a man and a woman who had several dogs. The group would

sleep around a windbreak near a fire. To cut a long story short, the dogs used to bark a lot at night which would really irritate the man in particular, because the barking would wake them up night after night. Little did they know that the dogs were actually barking at the evil Jarnpa, or Devil Man, who was sneaking up on them in the dark with the intention of killing them. The man looked for tracks in the morning but he couldn't see any, because the evil Jarnpa was like a Kurdaitcha who wore grass slippers made from woven spinifex, that didn't leave any tracks. So the man would say that the dogs were barking at nothing. One day the barking got to him so much that he decided to solve the problem for once and for all by cutting the dogs' ears off so they would no longer hear noises and would therefore never bark again. That same night, the Jarnpa crept up on the man and the woman and killed both of them. This is a rather scary, spooky story - there's a tension in it which builds because the reader knows that the dogs are barking on account of the Jarnpa creeping up.

Jarnpa-Kurlu

Yirrarnu June Napanangkarlu

Wati manu karntalpa-pala nyinaja maliki-patu-kurlu. Yunta-pala wiri yirrarnu manu warlu-pala yarrpurnu. Ngula-jangka jardalku kapala ngunami mata.

Mungalyurru-pala yakarra pardija. Yuntangka kapala nyinami. Maliki-patu kala parntarrimi yanjamirla.

Munga-patu-karirlalku-pala ngunaja. Ngula jarnpaju yardarni yanu ngurra yanka-kurraja. Jardalpa-pala ngunaja purda-nyanja-wangu.

Yarda-pala jarda-jarrija. Ngulalpa-palangu jarnpa jangkardu yura-kangu.

Maliki-paturlujulu jarnpaju purda-nyangu. Ngulalurla maliki-patuju jankardu warlkurr-manu.

Warnpa kapala ngunami purda-nyanja-wangu. Jarnpa kapalangu jangkardurnu yura-kanyi kutulku.

Maliki-paturlu kalu warlkurr-ngarrirni.

Mungalyurru-pala yakarra-pardinjarla yanu yitaki-maninjaku. Ngula watiji kuja wangkaja: "Nyiya-wiyi kalu nyampurluju malikirliji warlkurr-ngarrirni."

"Ngayi kalu warlka nyampuju maliki warrardampa warlkurr-

mani."

Karntaju ka jarda-juku ngunami purdanyanja-wangu. Watingki-jana maliki-ji langa-juku muurlpa-pajurnu purdanyanja-kujaku. Purdanyanja-wangu-karda-jana langaju muku-pajurnu.

Malikijilpalu purda-nyanja wangulku ngunaja. Ngula-palangu jarnpaju jangkardurnu yanu yunta-wana. Jirrama-juku-palangu jarda-kurra pakarnu.

The Northern Territory Government says it will transfer the current funding for bilingual education programmes to English-as-a-Second-Language (ESL) instruction in remote Aboriginal schools. In fact, I've been arguing for years that all non-Indigenous teachers in Aboriginal schools should have formal ESL qualifications, but in fact very few teachers actually have these at this moment in time.

It is difficult to interpret the Territory Government's decision, which is endorsed by Federal Government, as anything but a direct attack on the relatively few remaining "strong" Aboriginal languages and the human rights of their ever-decreasing number of speakers. The decision will also mean job losses for many of the dedicated bilingual education workers in remote rural communities, the majority of whom are Aboriginal people. In turn this will translate into even higher levels of unemployment amongst rural Australians.

This question of employment is a significant one. To give a brief example from my experience at Lajamanu, so committed was the community to the bilingual education programme that in 1982 ten Warlpiri adults worked full time for the entire year with no remuneration to create Warlpiri books for Warlpiri children to read in classrooms. This need to be borne in mind in these days of governments encouraging people to work for the dole.

The success of the programme could be measured in both academic and social terms. In 1989 Lajamanu school topped all government Aboriginal schools in the Territory in the Education Department's own externally-administered moderated testing programmes in English. Internal tests conducted in the school also showed a steady improvement in academic achievement over the years.

It still needs to be admitted that even in the bilingual schools academic results are well below those of their non-Indigenous counterparts. This is the result of a complex mosaic of interacting factors - not least of which are Indigenous poverty and poor health. Bilingual education is not a universal panacea.

Bilingual education won't work social magic, and neither will any other approach on its own, but it is the best current option available, if properly supported and resourced, and if Aboriginal communities want it.

In terms of my personal experience, the major argument for the continuation of the bilingual programmes isn't academic, at least not at this point in history - and here I'll return to some of my earlier comments. Aboriginal-controlled bilingual programmes give Aboriginal parents and extended families a real place in their children's education. Indigenous-controlled bilingual education programmes put Aboriginal teachers into Aboriginal classrooms as "real" teachers; assist the Aboriginalisation of schools, thereby acting as circuit-breakers to continuing welfare dependence; improve relations between community members and schools; increase school attendance; legitimate and strengthen the minority language and thereby raise the self-esteem of both adults and children. In accordance with the most fundamental tenet of educational practice, learning in one's own first language first allows children to move from the known to the unknown in their schooling, enabling them to acquire a second language with greater ease. ESL and bilingual education are mutually supportive - a quality ESL programme is an essential part of any successful bilingual programme. As Mandawuy Yunupingu, lead singer of Yothu Yindi, and formerly the principal of Yirrkala Bilingual School so eloquently puts it, "If you have control over both languages, you have double power".

Jill Kitson: Dr Christine Nicholls, of Flinders University of South Australia. And that's all for this edition of Lingua Franca.

APPENDIX B

Aboriginal English in the Courts

Diane Eades

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Table of contents

WORDS WITH SPECIAL MEANINGS IN ABORIGINAL ENGLISH

Many Standard English words have slightly different meanings in Aboriginal English.

Examples

- country ..... land/friend
- shame ..... [no exact equivalent]

A complex mixture of embarrassment and shyness that can result from various situations, particularly when a person is being singled out for rebuke or for praise

- learn ..... teach
- sing out ..... call out
- mob ..... group
- Lingo ..... Aboriginal language
- debil debil ..... evil spirit
- grow [a child] up ..... raise [a child]/bring [a child] up
- by 'n' by ..... soon
- growl ..... scold
- choke down ..... pass out/go to sleep
- charging on ..... drinking
- drone ..... park people

Once again, these are only examples and it should not be assumed that every speaker of Aboriginal English will use these words or attach the same meanings to them.

Aboriginal society pays close attention to the finetuning of relationships between individuals, an attention that traditional Aboriginal languages reflect in their rich set of first- and second-person pronouns.

Examples

- I I
- we/me'n'him/me'n'her/ me'n'you ..... we (two people)
- we/usmob/me'n'them/me'n'youse/ me'n'yousemob ..... we (more than two)
- you ..... you (one person)
- youtwo/youtwofella/ youse ..... you (two people)
- youmob/yousemob/ youse ..... you (more than two)

Standard English vocabulary is also inadequate when it comes to expressing kinship, so some English words have acquired different shades of meaning in Aboriginal English. Usually the meaning is extended to reflect the broader kinship network.

Examples (traditionally oriented communities)

- mother ..... biological mother and her sisters
- father ..... biological father and his brothers
- cousin-brother .... father's brother's son
- cousin-sister ..... mother's sister's daughter

Examples (less traditionally oriented communities)

- auntie ..... female relative of an older generation
- uncle ..... male relative of an older generation
- cuz (cousin) ..... any relative of the same generation
- sister .....any female Aborigine (often used by urban Aborigines to express solidarity)
- brother .....any male Aborigine (often used by urban Aborigines to express solidarity)

Why is this a problem?

While many of these differences in usage are unlikely to cause difficulties in the courtroom, the danger is that in some cases questioners and witnesses will be at cross purposes, and that juries will be seriously misled. This danger is most real with kinship terms, because a witness could seem to be giving contradictory evidence about one person while in fact referring at different times to two (or more) people.

How can the problem be avoided?

- Try to use a communication facilitator from the same community as the witness or someone with significant experience dealing with that community, e.g. someone with relatives from there.
- Check that you've understood the answer:

Example

He came home by 'n' by—that's soon, right?

- Whenever there is reference to a kinship term, check who is being referred to, if possible by using names:

Examples

You went to stay with your mother—that's Margaret, right?

Your cousin-sister—what's her name, then?

- If necessary, clarify the biological relationships between people:

Example

Your auntie—that's your mother's sister?

	Appendix C 'Koori Court and Children's Koori Court Checklist' data collection sheets.	
	For the Magistrate (Name of Magistrate -)	Y/N
	1. Did they use a personal (familiar) **way of communicating** with the client rather than an impersonal (distant) approach?	
	2. Did they consider factors that related to **the client's cultural history** (included related family details) **as well as their legal history**?	
	3. Did they allow client to explain events using a **contextual framework** (events, experiences and relationships involved) rather than using **quantitative specification** (time, quantity or date) ?	
	4. Was **their body language respectful of their client**? ie. Did they lean towards them, use hand/head gestures etc.	
	5. Did they explain what will happen in court and their role as the magistrate?	
	6. Did they make use of **any culturally appropriate language** such as 'charged up' not intoxicated? **List** examples used on the day in space given below.	
	For the Solicitor (Name of Solicitor -)	Y/N
	1. Did they use a personal (familiar) **way of communicating** with the client rather than an impersonal (distant) approach?	
	2. Did they build a case that **represented the client's cultural history** (included related family details) **as well as their legal history**?	
	3. Did they allow client to explain events using a **contextual framework** (events, experiences and relationships involved) rather than using **quantitative specification** (time, quantity or date) ?	
	4. Was **their body language respectful of their client**? ie. Did they lean towards them, use hand/head gestures etc.	
	5. Did they explain what will happen in court and their role as the solicitor?	
	6. Did they make use of **any culturally appropriate language** such as 'charged up' not intoxicated? **List** examples used on the day.	

	For our Indigenous Australian client	Y/N
	Is there any evidence of the following behaviour traits by this client?	
	Note: The following behaviour traits are recognised as commonly used by many Indigenous Australians and may lead to a 'misreading' of their responses by court officials such as magistrates and solicitors.	
	1. Use of **extended periods of silence** when asked to give a response	
	2. **Avoidance of direct eye contact**	
	3. **Use of gratuitous concurrence** (in simple terms this means saying yes' to keep the person asking the question happy rather than giving a truthful response.)	
	4. Use of other **non-verbal responses such as eyes downward looking towards their feet during court proceedings**	
	Is there any evidence of these additional behaviour traits by this client in the Koori court setting?	
	1. Client tried to tell their story or gave evidence in their own words.	
	2. Client reacted to the presence or comments of the Elders or family members in some way ie. shame, showed emotion	
	3. Client asked for further clarification of what was happening to them during the court proceedings	
	4. Client had family support at the table on the day of the court proceeding.	
	For the Elders	Y/N
	1. Did they use a personal (familiar) **way of communicating** with the client rather than an impersonal (distant) approach?	
	2. Did they consider factors that related to **the client's cultural history** (included related family details) **as well as their legal history**?	
	3. Did they allow client to explain events using a **contextual framework** (events, experiences and relationships involved) rather than using **quantitative specification** (time, quantity or date) ?	
	4. Was **their body language respectful of their client**? ie. Did they lean towards them, use hand/head gestures etc.	

	5. Did they (or someone else on their behalf) explain what will happen in court and their role as the elder?	
	6. Did they make use of **any culturally appropriate language** such as 'charged up' not intoxicated? **List** examples used on the day.	
	FOOTNOTE: For Qu. 3 of the court data collection sheet which asks of the Magistrate, the solicitor and the Elders; *'Did they allow client to explain events using a contextual framework (events, experiences and relationships involved) rather than using specific quantification.* For eg. the specific question: *'How many drinks did you have?' might* be answered either vaguely, as in *'Oh, must have been quite a few'* or through being specific in relation to another situation or context, such as: *'Must be more than Freddie'.*	

	APPENDIX D 'Magistrates and Children's Court Checklist' data collection sheet.	
	Magistrates Court and Children's Court Checklist - Date: Location:	
	Type of Hearing: Matter:	
	For the Magistrate (Name of Magistrate -)	Y/N
	1. Did they use a personal (familiar) **way of communicating** with the client rather than an impersonal (distant) approach?	
	2. Did they consider factors that **represented the client's cultural history** (included related family details) **as well as their legal history**?	
	3. Did they allow client to explain events using a **contextual framework** (events, experiences and relationships involved) rather than using **quantitative specification** (time, quantity or date) ?	
	4. Was **their body language respectful of their client**? ie. Did they lean towards them, use hand/head gestures etc.	
	5. Did they explain what will happen in court and their role as the magistrate?	
	6. Did they make use of **any culturally appropriate language** such as 'charged up' not intoxicated? **List** examples used on the day in space given below.	
	For the Solicitor (Name of Solicitor -)	Y/N
	1. Did they use a personal (familiar) **way of communicating** with the client rather than an impersonal (distant) approach?	
	2. Did they build a case that **represented the client's cultural history** (included related family details) **as well as their legal history**?	
	3. Did they allow client to explain events using a **contextual framework** (events, experiences and relationships involved) rather than using **quantitative specification** (time, quantity or date) ?	
	4. Was **their body language respectful of their client**? ie. Did they lean towards them, use hand/head gestures etc.	

	5. Did they explain what will happen in court and their role as the solicitor?	
	6. Did they make use of **any culturally appropriate language** such as 'charged up' not intoxicated? **List** examples used on the day.	
	For our Indigenous Australian client	Y/N
	Is there any evidence of the following behaviour traits by this client?	
	Note: The following behaviour traits are recognised as commonly used by many Indigenous Australians and may lead to a 'misreading' of their responses by court officials such as magistrates and solicitors.	
	1. Use of **extended periods of silence** when asked to give a response	
	2. **Avoidance of direct eye contact**	
	3. **Use of gratuitous concurrence** (in simple terms this means saying yes' to keep the person asking the question happy rather than giving a truthful response.)	
	4. Use of other **non-verbal responses such as eyes downward looking towards their feet during court proceedings**	
	FOOTNOTE: For Qu. 3 of the court data collection sheet which asks of the Magistrate, the solicitor and the Elders; *'Did they allow client to explain events using a contextual framework (events, experiences and relationships involved) rather than using specific quantification.* For eg. the specific question: *'How many drinks did you have?' might* be answered either vaguely, as in *'Oh, must have been quite a few'* or through being specific in relation to another situation or context, such as: *'Must be more than Freddie'.*	

APPENDIX E

Sample Plain English legal letters, Sally McAdams

Letter Ai: Original Version

0 Dear *******

1 ****** Law Matter***

2 We refer to the above named matter and enclose herewith Affidavit prepared on your behalf.

3 Please can you peruse the said Affidavit ensuring the contents therein are true and correct. If there are any amendments to be made to the said document, please can you contact this Service to provide your further instructions in this matter.

4 If there are no amendments to be made to the said Affidavit, please can you swear the said document in the presence of a Court Registrar, Solicitor, Justice of the Peace or Sergeant-In-Charge of a Police Station. We note that the witness and Yourself are required to sign the said Affidavit on each page, where indicated, before returning to this Service in the enclosed stamped, self-addressed envelope.

5 If you have any further queries please contact this Service on *** or toll free on 1800 ***.

6 Yours faithfully

VICTORIAN ABORIGINAL LEGAL SERVICE CO-OPERATIVE LIMITED

[name of solicitor]
Solicitor.

Letter Ai: Alternative 1

0 Dear ********

1 ***** Law Matter**

2 This letter is about [case details]. I have enclosed with this letter an Affidavit I have prepared for you.

3 Please can you read this Affidavit carefully and make sure it is correct. If there are any changes that need to be made, please can you contact me to tell me what they are.

4 If there are no changes that need to be made to the Affidavit, please can you swear the said document in the presence of a Court Registrar, Solicitor, Justice of the Peace or Sergeant-In-Charge of a Police Station. Both you and the witness need to sign the Affidavit on each page, where indicated, before you return it to this Service in the enclosed stamped, self-addressed envelope.

5 If you have any questions, please contact this Service on *** or toll free On 1800 ***.

6 Yours faithfully

VICTORIAN ABORIGINAL LEGAL SERVICE CO-OPERATIVE LIMITED

[name of solicitor]
Solicitor.

Letter Ai: Alternative 2

0 Dear ******

1 …

2 This is [name], your solicitor. The last time you and I spoke, we talked about *** [case details]. I'm writing this letter to ask you to have a look at this Affidavit which I have enclosed with this letter.

3 I need you to read this Affidavit carefully and make sure it is right. If you think there is anything we should change, can you please call me and tell me about it.

4 If you think the Affidavit is right as it is, you will need to sign it in front of a witness. The people who can be a witness are: a Court Registrar, a solicitor, or a Justice of the Peace or Sergeant-In-Charge of a Police Station. Both you and the witness will need to sign the Affidavit on each page, where it says. Then you will need to send it back to me. I have included a stamped, self-addressed envelope so you can do this easily.

5 If you want to ask any questions, please call me on ****

6 Yours faithfully
[name of solicitor]
Solicitor.

VICTORIAN ABORIGINAL LEGAL SERVICE CO-OPERATIVE LIMITED

Law Council
OF AUSTRALIA

Report into the Rural, Regional and Remote Areas Lawyers Survey

Prepared by the Law Council of Australia
and the Law Institute of Victoria

July 2009

Acknowledgements

The Law Council is grateful for the extensive assistance provided by the Law Institute of Victoria in developing the survey and compiling this report.

July 2009

Table of Contents

"...country Australia is facing a crisis in the area of access to justice..."

Executive Summary

Introduction

The Law Council is concerned that ongoing problems in recruiting and retaining legal practitioners in country Australia is negatively impacting on the ability of individuals residing in rural, regional and remote (RRR) areas to access legal services.

Like many other professional groups, such as doctors and nurses, lawyers in regional areas are experiencing increasing difficulties in attracting and retaining suitable staff. These recruitment problems have a direct effect on the legal sector's ability to service the legal needs of regional communities.

Many law firms and community legal centres are unable to find suitable lawyers to fill vacancies when they arise and are being impeded by the drain of corporate knowledge caused by a constant turnover of staff. There is also evidence to suggest that this situation will deteriorate further in the next five to ten years as a large number of experienced principals retire.

In March 2009, the Law Council coordinated a nationwide survey of legal practitioners in RRR areas. The survey was conducted in order to obtain empirical support for anecdotal evidence which indicates that there is a shortage of legal practitioners in regional areas of Australia. The online survey was sent by the law societies in each state and the Northern Territory to their members working in RRR areas. Practitioners were given four weeks to complete the survey.

The survey elicited strong support from the country legal community with a response rate of 24% (in total 1,185 practitioners completed the survey).

The Law Council gratefully acknowledges the extensive assistance provided by the Law Institute of Victoria in undertaking the survey.

Main findings

The survey data shows that:

- In a time of unprecedented economic crisis, a large number of legal practices in country Australia do not have enough lawyers to service the legal needs of their communities. Overall, 43% of principals surveyed indicated that their practice currently does not have enough lawyers to serve their client base.
- A large number of legal practitioners, many of whom are sole practitioners, will retire in the next five to ten years. Sole practitioners made up 46% of all responses to the survey. Of this group, 30% have been practising in country areas for more than 21 years and almost 36% of these practitioners do not intend to be practising law in the next five years. Overall, 42% of the legal practitioners who responded to the survey do not intend to practise law in five years time. It is necessary to find skilled practitioners to fill these gaps, or else many legal businesses may close for want of successors.
- Principals of country firms are extremely worried about the future of the profession in their regions. In particular, the principals who responded to the survey cited succession planning as their biggest concern (71%), followed by concerns about attracting additional lawyers to the firm (58%) and about attracting lawyers to replace departures (51%).

- Many young lawyers are intending to leave their work in RRR areas to seek better remuneration or work in the city. Of the younger lawyers surveyed (20-29 years), 30% indicated that they only intended to practise in their area for less than two years. For this group, remuneration is also extremely important, with 25% indicating that they would leave the country for better pay. Further, 28% of this younger age group would leave their current firms to join a city based firm and 15% would leave to start a new career.
- Country practitioners undertake a significant amount of legal aid work, with 51% of respondents indicating that their firm accepted legally aided matters. Of those firms, the majority (50%) dealt with more than 30 cases per year. These findings support the *2006 TNS Report, Study of the Participation of Private Legal Practitioners in the Provision of Legal Aid Services in Australia*, which found that law firms in regional and remote areas provide larger quantities of legal aid work than do their city counterparts. A reduction in the numbers of RRR lawyers undertaking legal aid work is making it difficult for country people to access legal aid and place increasing pressure on the remaining services.
- Lawyers are integral to country communities providing significant pro bono assistance and undertaking voluntary work within their communities. More than 64% of respondents indicated that their firm undertakes pro bono work, and 71% of respondents undertake other unpaid voluntary work within their area.

Overall, the survey results indicate that there is a significant problem for access to justice in regional Australia. Action is required to ensure that viable practices are retained and country Australians are able to access legal services within their communities. The loss of legal practices will impact negatively on rural and regional commercial infrastructure and also on the community life of country towns.

Results

Methodology

The survey, a copy of which is included as Appendix A, was electronically distributed to 5,974 legal practitioners[1] across Australia. In New South Wales, the survey was sent to all legal practitioners working outside of Sydney and Newcastle. All legal practitioners from the Northern Territory and Tasmania were invited to participate in the present study. In Queensland, the survey was sent to all legal practitioners working outside of Brisbane and the Gold Coast. In South Australia, the survey was sent to all lawyers working outside of Adelaide. In Victoria, those legal practitioners who belong to a Country Lawyers Association were invited to participate in the study. Finally, in Western Australia, the survey was sent to all lawyers working outside of Perth.

The overall response rate was 24% or 1185 respondents. The respective response rates for each of the States and Northern Territory (the jurisdictions) are included below in Table 1.

Table 1. Survey response rate

Respondents	NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Number of practitioners notified of the survey	2348	477	1452	100	620	867	110	5,974
Number of respondents	298	91	232	35	82	418	29	1,185
Response rate (%)	**13**	**19**	**16**	**35**	**13**	**48**	**26**	**24**

Victoria had the highest response rate of 48%. However, it should be noted that Victoria was the only jurisdiction where the survey was distributed both electronically and by providing a hard copy to each legal practitioner in Victorian RRR areas.

1 The surveys were sent to members, including associate members such as students and articled clerks/trainees, of the Law Societies in each state and the Northern Territory. Therefore, the respondents were not all necessarily admitted to practice.

Participants' demographics

Gender

Despite some variations among the jurisdictions,[2] the results indicated that males comprised 52% and females 48% of all respondents. It should be noted however, that the Northern Territory and Victoria showed the greatest variation between the respondents, with a notably higher proportion of females responding to the survey in the Northern Territory (60%) and of males in Victoria (63%).

Age

The largest proportion of respondents were aged between 30 and 39 years of age (31%), followed closely by the 50 to 59 age category (25%). A further 10% of the respondents were aged 60 or older. Thus, more than a third of all respondents (35%) are either nearing or past the retirement age. The findings in relation to the respondents' ages for each jurisdiction are included below as Figure 1.[3]

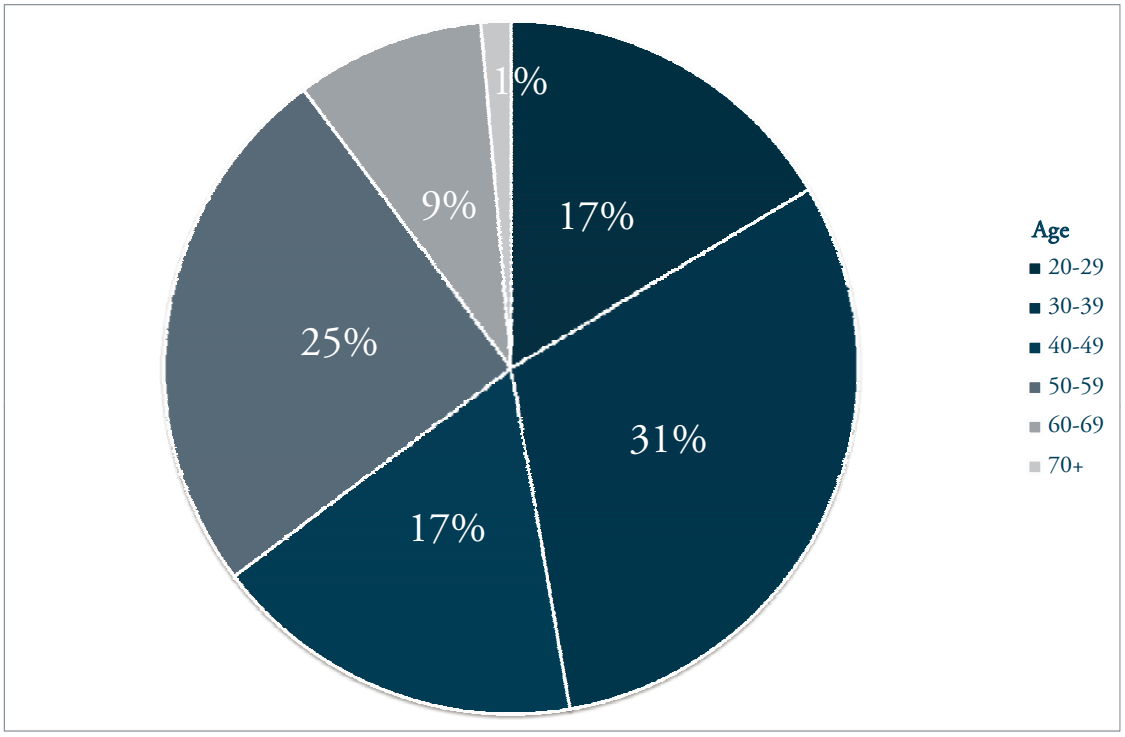


Figure 1.
Participants' age

Place of birth

The results indicated that 45% of the legal practitioners who responded to the survey were born in a RRR area, 44% in a capital city and 11% were born overseas. Queensland RRR legal practitioners appear more likely to remain in these areas, as indicated by the fact that 56% of these practitioners were born in RRR areas. On the other hand, legal practitioners from South Australia were more likely to move from the city to a RRR area, as 54% of these practitioners were born in a capital city. The complete findings in relation to the participants' place of birth for each jurisdiction are included in Table B3 in Appendix B.

Cross-sectional analysis indicated that those legal practitioners born in an Australian capital city were likely to practise law in a RRR area longer than those born in an Australian RRR area or overseas.[4] Specifically, 31% of those legal practitioners born in a capital city had been practising law in a RRR area for 21 or more years, compared to 29% of those born in a RRR area and 21% of those born overseas.

2 Refer to Table B1 in Appendix B.

3 Refer to Table B2 in Appendix B.

4 Refer to Table C1 in Appendix C.

Education

Mode of study

The majority of respondents completed their university degrees on campus (88%). RRR legal practitioners from New South Wales (26%) and Queensland (27%) were most likely to complete their degrees as distance students. On the other hand, those from Tasmania were least likely (3%) to complete their degrees as distance students. Table B4 in Appendix B contains the complete findings for each jurisdiction in relation to the mode of study.

Legal practice

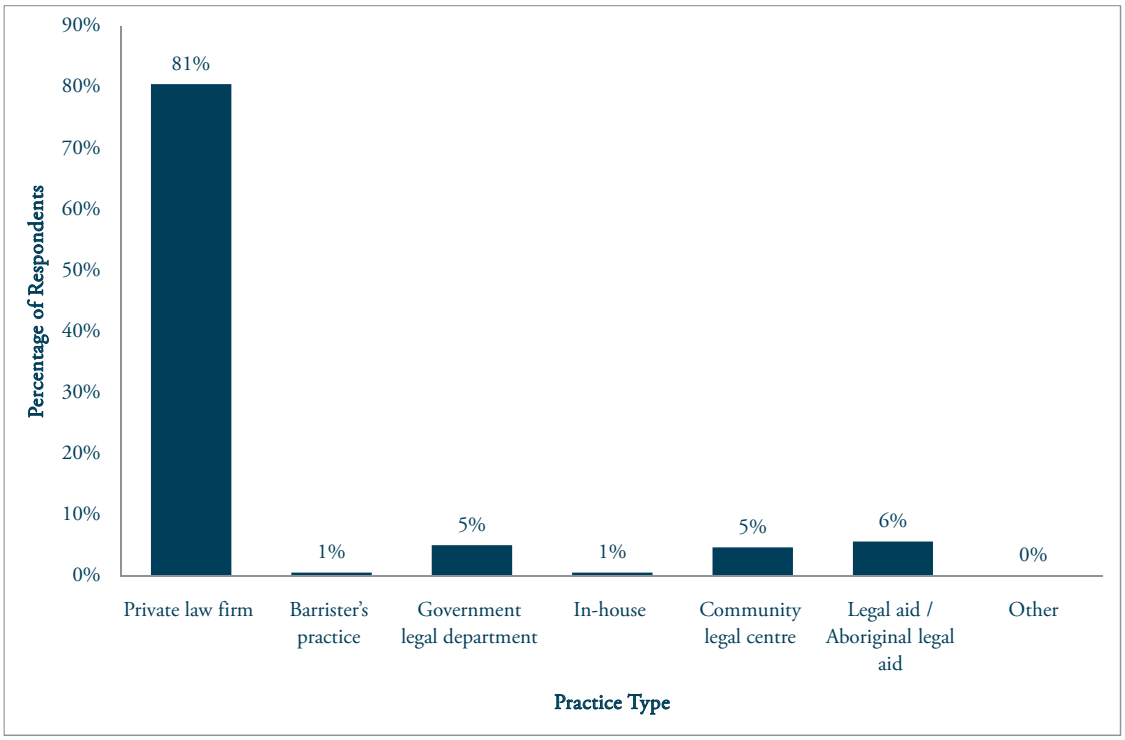
Admission to practice

Most of the respondents (99%) were legal practitioners. Only 11 respondents had not yet been admitted to practice.[5]

Practice type

The majority of the respondents (81%) were private law firm practitioners, in particular those from Victoria (98%) and Tasmania (94%). It is interesting to note that only 33% of participants from the Northern Territory were private law firm practitioners. The findings for each jurisdiction regarding the participants' practice type are included below in Figure 2.[6]

Figure 2. Participants' practice type



Main areas of practice

The most common areas of practice included wills and probate (66%), conveyancing (60%), and commercial/business law (60%). The least common area of practice was taxation law (7%). The findings for each jurisdiction in relation to the main areas of practice are shown below as Figure 3.[7]

5 Refer to Table B5 in Appendix B.

6 Refer to Table B6 in Appendix B.

7 Refer to Table B7 in Appendix B.

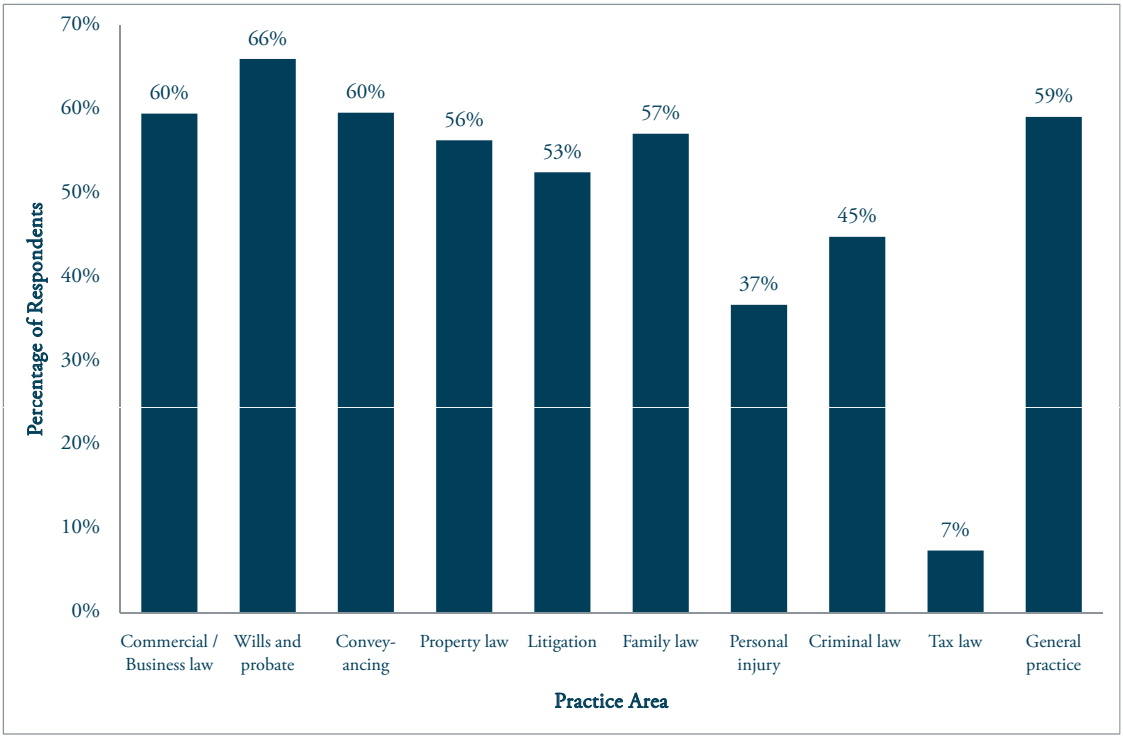


Figure 3. Participants' main areas of practice

Employment status

The majority of the respondents (49%) were employee solicitors, followed closely by principals (45%). The Northern Territory had the highest number of employee solicitors (73%), whereas Victoria had the highest number of principals who responded to the survey (57%). The complete findings for each jurisdiction in relation to the respondents' employment status are contained in Table B8 in Appendix B.

Income

The most commonly cited income range was between $50,001 and $60,000 (14%). The income distributions for the respondents are included in Table B9 in Appendix B.

Number of principals in RRR firms and organisations

Findings regarding the number of principals in RRR firms for each of the jurisdictions are contained in Table B10 in Appendix B. Nearly half of the respondents (46%) indicated that their practice had one principal. This finding is significant, given that only 18% of those who responded to this question were in a firm or an organisation with two principals. The finding that the overwhelming majority of practices are single-principal firms or organisations is concerning in view of the results discussed below which indicate that 42% of the respondents do not intend to practise in a RRR area for more than five years.[8] Based on these findings, succession planning and the potential impact on access to justice by RRR communities must be addressed by the profession.

Number of employee legal practitioners in RRR firms and organisations

Similar to the findings in relation to the number of principals in the firms and organisations, most RRR legal practices have only one to two employee legal practitioners (34%), particularly in Western Australia (48%). In the Northern Territory, on the other hand, only 10% of practices have one to two employee legal practitioners, with 31% of practices employing between 16 and 35 legal practitioners. The complete findings for each jurisdiction in relation to the number of employee legal practitioners in RRR firms and organisations are included in Table B11 in Appendix B.

8 Refer to Tables B15 and B16 in Appendix B.

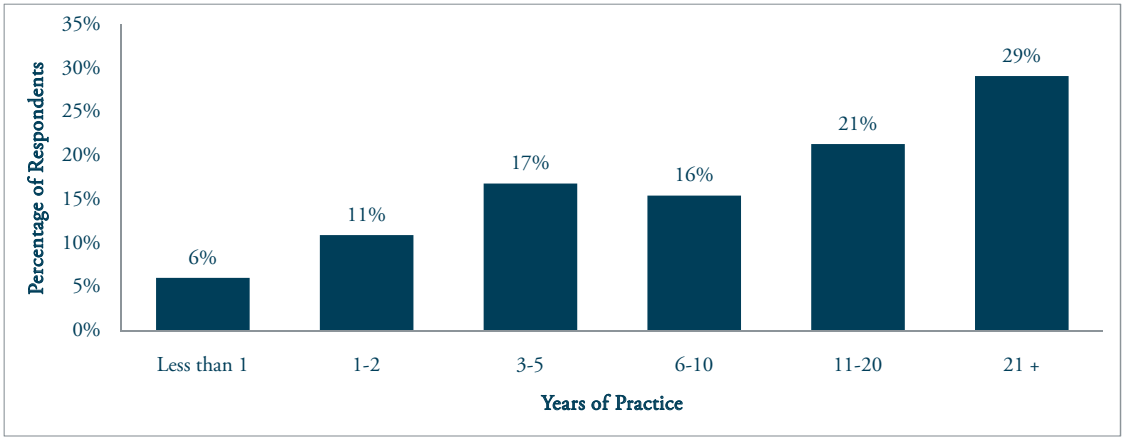
Number of non-legal staff in RRR firms and organisations

Most of the firms and organisations in RRR areas employ between six and 15 non-legal employees (29%), followed closely by three to five non-legal staff (24%). Table B12 in Appendix B contains the complete findings for each jurisdiction in relation to the number of non-legal staff employed in RRR firms and organisations.

Length of practice

Experienced legal practitioners with more than 21 years of practice comprised the largest group of the respondents for the current study (29%). The complete findings regarding the length of practice for each jurisdiction are included in Table B13 in Appendix B and are shown below as Figure 4.

Figure 4.
Length of practice



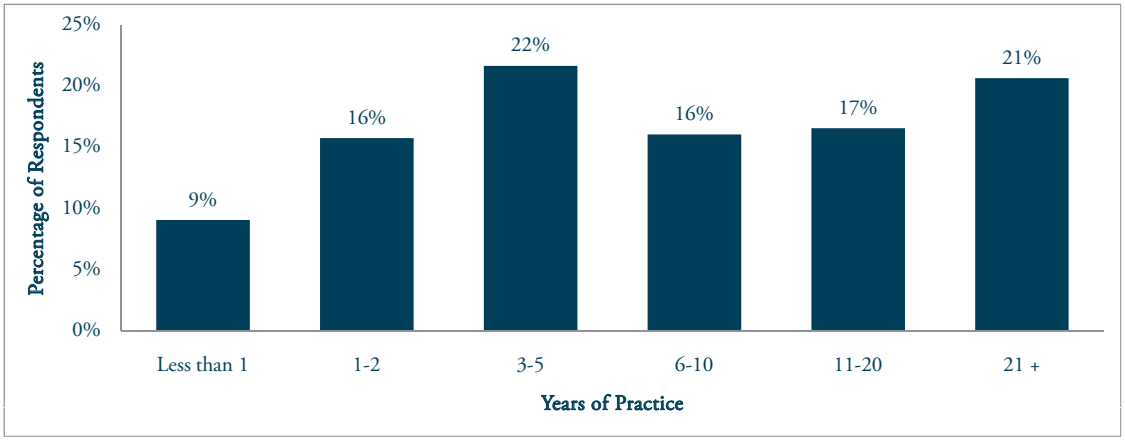
Practice in RRR areas

Length of practice in RRR areas

The largest proportion of legal practitioners indicated that they have been practising in a RRR area for three to five years (22%). This finding is closely followed by that for 21 years or more of practice in a RRR area (21%). The respondents least frequently indicated that they have been practising in a RRR area for less than one year (9%). This finding is concerning in view of the above results indicating that more than one third of all respondents are nearing retirement age, and may present problems in terms of succession planning in the near future. The complete findings regarding the length of practice in a RRR area for each jurisdiction are included in Table B14 in Appendix B and are shown below as Figure 5.

There was a significant difference between the percentage of employee solicitors who have practiced law in a RRR area for more than ten years (13%) and that of principals (74%).[9]

Figure 5.
Length of practice
in a RRR area



9 Refer to Table C17 in Appendix C.

It is arguable therefore that those employee solicitors who do not become principals within ten years are very unlikely to remain in the RRR areas.

Furthermore, findings also indicated that 42% of legal practitioners did not intend to practise in a RRR area for a significant period of time. These practitioners indicated that they intended to leave a RRR area in the next one to five years. The complete findings regarding the respondents' intention to leave a RRR area for each jurisdiction are included in Table B15 in Appendix B and are shown below as Figure 6.

Cross-sectional analysis indicated that 43% of employee solicitors and 69% of graduates/trainees/articled clerks do not intend to continue to practise in a RRR area for more than five years.[10] Analysis also indicates that the largest percentage of those practitioners who have been practising law in a RRR area for six or more years are aged 50-59 (37%).[11] Of these practitioners, 63% have been practising in a RRR area for over 21 years.

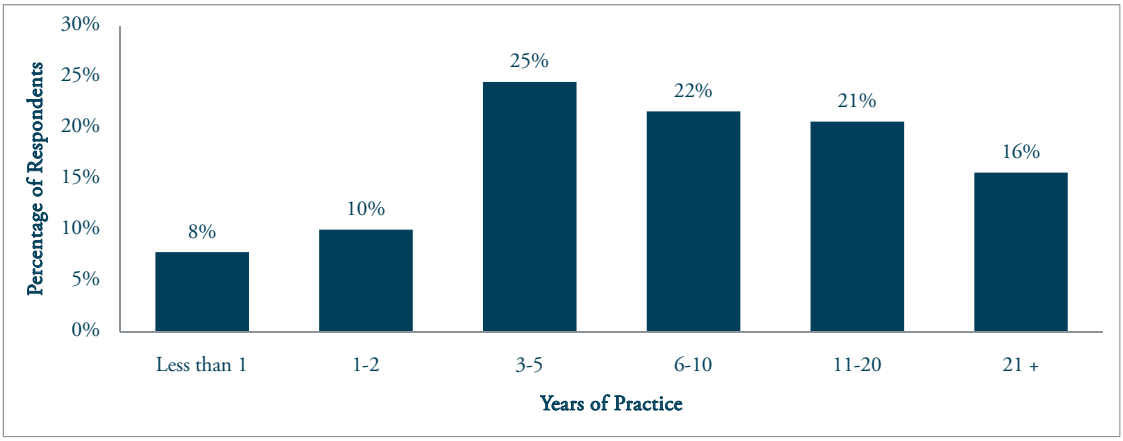


Figure 6. Intention to continue to practice in a RRR area

Main reasons for working in a RRR area

As indicated in Table 2, in response to the question about the main reasons for working in a RRR area, the greatest number of respondents cited 'flexibility to balance family and work', followed by 'work/life balance generally' and 'enjoyment of country lifestyle generally'. 'Partner works in the area' and 'opportunity to earn a good income' were the least frequently cited reasons for working in a RRR area by the participants.[12]

Table 2. Reasons for working in a RRR area

Reasons for working in RRR area	NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Nature of the legal work	261	86	198	32	70	287	24	136.9
Community involvement	257	76	195	31	67	281	23	132.9
Flexibility to balance family and work	264	75	206	28	71	298	22	137.7
Work/life balance generally	270	83	213	29	75	329	24	146.1
To gain legal experience	228	77	182	29	64	235	19	119.1
Extended family located in area	238	66	181	27	70	273	21	125.1
Opportunity to earn a good income	227	71	188	27	64	223	21	117.3
Partner works in the area	222	65	182	21	63	220	19	113.1
Enjoy the country lifestyle	269	82	207	33	67	338	23	145.6
Other	75	23	71	6	26	74	9	40.6

10 Refer to Table C18 in Appendix C.

11 Refer to Table C4 in Appendix C.

12 Excluding the 'other' category, as these responses were not analysed.

Main reasons for leaving the current firm

The findings indicated that the most common reason RRR legal practitioners across Australia would leave their current firm was retirement (20%).

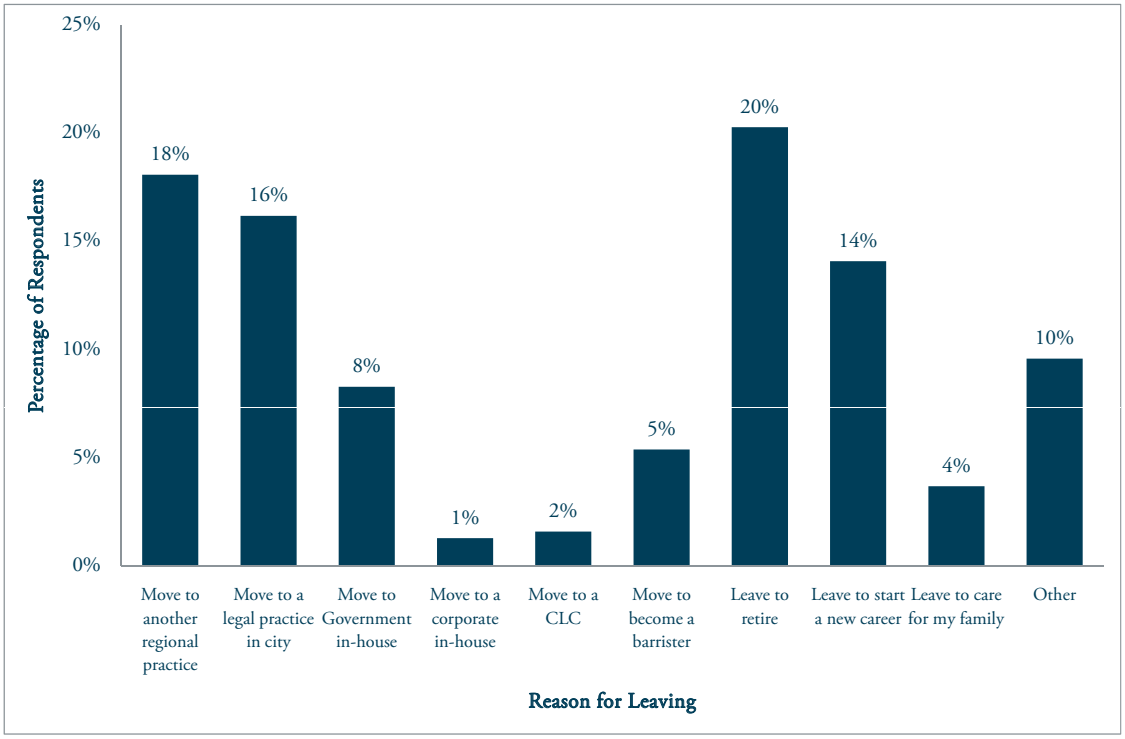
Legal practitioners in the Northern Territory were least likely to consider retirement as the main reason for leaving their firm (8%). For these legal practitioners the most commonly cited reason for leaving their practice was in order to move to a Government in-house position (23%). However, it is important to note of the 91 legal practitioners from the Northern Territory that responded to the survey, the majority were aged 30-39 (41%).

On the other hand, Victorian legal practitioners were most likely to consider retirement as the main reason for leaving their current firm. Of these practitioners, more than a third (35%) would leave the practice of law to retire. This finding is significant in view of the fact that 51% of Victorian legal practitioners who responded to the survey were aged 50 or older.

A further relevant finding of the present study is that 16% of legal practitioners surveyed indicated that the most common reason why they would leave their current firm was in order to move to a legal practice in the city, particularly in South Australia (23%) and Tasmania (20%).

Table B16 in Appendix B contains the complete findings regarding the most likely reason for leaving their current firm for each of the jurisdictions. These findings are also included below as Figure 7.

Figure 7. Most likely reason for leaving the current firm



Main reasons for moving from a RRR area

As indicated in Table 3 below, in response to the question about the main reasons for moving from a RRR area, the greatest number of respondents cited family reasons, closely followed by retirement and better remuneration. In Victoria in particular, retirement was cited by 254 legal practitioners as the main reason for moving from a RRR area, and family reasons by 234 legal practitioners. Isolation and changing practice areas were identified by the smallest number of participants as reasons for moving from a RRR area.[13]

13 Excluding the 'other' category, as these responses were not analysed.

Reasons for moving from RRR area	NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Change practice areas	174	65	148	23	55	157	17	91.3
Leave practice of law to start a new career	196	64	162	22	56	183	19	100.3
Better remuneration	207	70	168	26	62	199	20	107.4
Increased professional development opportunities	193	71	163	29	61	179	19	102.1
Move to city for lifestyle reasons	172	72	157	24	62	175	18	97.1
Retire	203	63	169	25	61	254	19	113.4
For family reasons	213	73	179	24	61	234	22	115.1
My partner's relocation	181	66	160	19	62	154	18	94.3
Isolation	160	65	144	24	52	142	15	86.0
Other	58	19	49	7	18	50	7	29.7

Table 3.
Most likely reasons for moving from a RRR area

Effect of gender on the intention to move from a RRR area and leave the current firm[14]

Cross-sectional analysis revealed that males were most likely to move from a RRR area in order to retire (31%), followed by family reasons (19%). Retirement was also the most common reason male legal practitioners would leave their current firm (38%).

Better remuneration was the most common reason female practitioners would move from a RRR area (20%), followed closely by family reasons (19%) and partner's relocation (17%). Most commonly, female respondents indicated that they would leave their current firm to move to either another legal practice in their regional area (24%) or a legal practice in the city (19%).

Effect of age on the intention to move from a RRR area and leave the current firm[15]

Those legal practitioners aged between 20 and 29 consider better remuneration as the most likely reason for moving from a RRR area (25%). If these practitioners were to leave their current firms, they were most likely to move to a legal practice in the city (28%) or move to another legal practice in their regional area (24%). Based on these findings, it is arguable that younger practitioners move to legal practices in the city due to better remuneration being offered by these firms when compared to RRR firms.

Furthermore, more than half (52%) of the legal practitioners in this age group did not intend to continue practising in a RRR area for more than five years. Arguably, this finding is concerning in view of the fact that a large number of legal practitioners, many of whom are sole practitioners, will retire in the next six to ten years.

Family reasons were most often cited as the reason for moving from a RRR area by the 30-39 and 40-49 age category. These practitioners were also more likely to leave their current firms in order to move to another legal practice in their regional area (27% and 28% respectively for the two age groups).

Finally, retirement was the most common reason for moving from a RRR area for those aged 50-59, 60-69 and 70 and older. Similarly, retirement was the most common reason these practitioners would leave their current firm (44%, 75% and 74%, respectively for the three age groups).

14 Refer to Tables C10 and C11 in Appendix C.

15 Refer to Tables C5, C6 and C7 in Appendix C.

Effect of place of birth on the intention to move from a RRR area and leave the current firm[16]

The place of birth[17] generally had no impact on the reasons why practitioners moved from a RRR area. Specifically, those legal practitioners born in an Australian capital city and overseas cited retirement (22% and 23% respectively), family reasons (18% for both categories) and better remuneration (16% and 15% respectively) as the most likely reasons for moving from a RRR area. However, those practitioners born in an Australian RRR area considered family reasons as the most likely reason to move from a RRR area (21%), followed closely by retirement (18%) and better remuneration (16%).

Effect of practice type on the intention to move from a RRR area and leave the current firm[18]

Retirement was the most common reason for moving from a RRR area regardless of the practice type the legal practitioners were involved in,[19] except in the case of personal injury practitioners. For these practitioners, family reasons were most commonly cited (19%). Family reasons were the second most common reason for moving from a RRR area for all practitioners, except as indicated above for personal injury practitioners, where retirement was the second most common reason (16%).

Similar findings were obtained in relation to the reasons why practitioners would leave their current firms. Retirement was the most common reason for leaving the current firm regardless of the practice type,[20] except in the case of personal injury practitioners where moving to another legal practice in their regional area was most commonly cited (22%).

The second most common reason for leaving the current firm for all practitioners, except as indicated above for personal injury practitioners, was a move to another legal practice in their regional area.

Effect of practitioner's role on the intention to move from a RRR area and leave the current firm[21]

The intention to move from a RRR area was largely dependant on whether the legal practitioner was on the one hand a principal of the firm or an employee solicitor or graduate/trainee/articled clerk on the other. Principals were most likely both to move from a RRR area (32%) and to leave their current firms (42%) in order to retire.

Better remuneration however was the most likely reason employee solicitors (22%) and notably graduates/trainees/articled clerks (38%) would move from a RRR area. Interestingly, employee solicitors were more likely to leave their current firms in order to move to another legal practice in their regional area (28%), whereas graduates/trainees/articled clerks were most likely to move to a legal practice in the city (42%).

Effect of number of principals in the firm on the intention to move from a RRR area and leave the current firm[22]

Retirement was the most common reason for moving from a RRR area for those legal practitioners practising in firms with a smaller number of principals, whereas family reasons were most commonly cited by those practising in larger firms (six or more principals). Specifically, those practising in firms with one, two and three to five principals

16 Refer to Table C3 in Appendix C.

17 Namely, Australian capital city, Australian RRR area and overseas.

18 Refer to Tables C15 and C16 in Appendix C.

19 Commercial/business law – 24%; Wills and probate – 24%; Conveyancing – 25%; Property law – 25%; Litigation – 20%; Family law – 21%; Criminal law – 20%; Tax law – 25%; and General practice – 24%.

20 Commercial/business law – 29%; Wills and probate – 29%; Conveyancing – 29%; Property law – 29%; Litigation – 25%; Family law – 25%; Criminal law – 25%; Tax law – 30%; and General practice – 29%.

21 Refer to Tables C19 and C20 in Appendix C.

22 Refer to Tables C23 and C24 in Appendix C.

were most likely to move from a RRR area due to retirement (20%, 23% and 23% respectively) and those practising in firms with six to nine and more than ten principals were most likely to move due to family reasons (25% and 18% respectively).

The findings were less consistent in relation to reasons why practitioners would leave their current firms. Those practising in firms with one and two principals were most likely to leave those firms in order to retire (28% and 31% respectively). Legal practitioners practising in firms with three to five principals and more than ten principals were most likely to leave those firms in order to move to another legal practice in their regional area (23% and 29% respectively). Finally, those practising in firms with six to nine principals were most likely to leave those firms in order to move to a legal practice in the city (25%).

Legal aid, pro bono and voluntary work undertaken by RRR practitioners

Legal aid

Across Australia, 593 respondents (51%) indicated that their firm accepted legally aided matters.[23] Firms in Queensland were least likely to accept legally aided cases (32%), followed by the Northern Territory (40%). However, it should be noted that 67% of the respondents from the Northern Territory were not employed by private law firms, which could explain why these practitioners were less likely to accept legally aided cases. The same was not true for Queensland.

Of those firms which accepted legally aided matters, the majority (50%) dealt with more than 30 cases per year.[24] It should be noted that a large proportion of the participants were unsure about the number of legally aided cases their firms undertook each year. Therefore, it is possible that the number of firms dealing with a large number of legally aided cases is higher than the current finding of 50%. Figure 8 below shows the number of legally aided cases undertaken by the firm in the last twelve months.

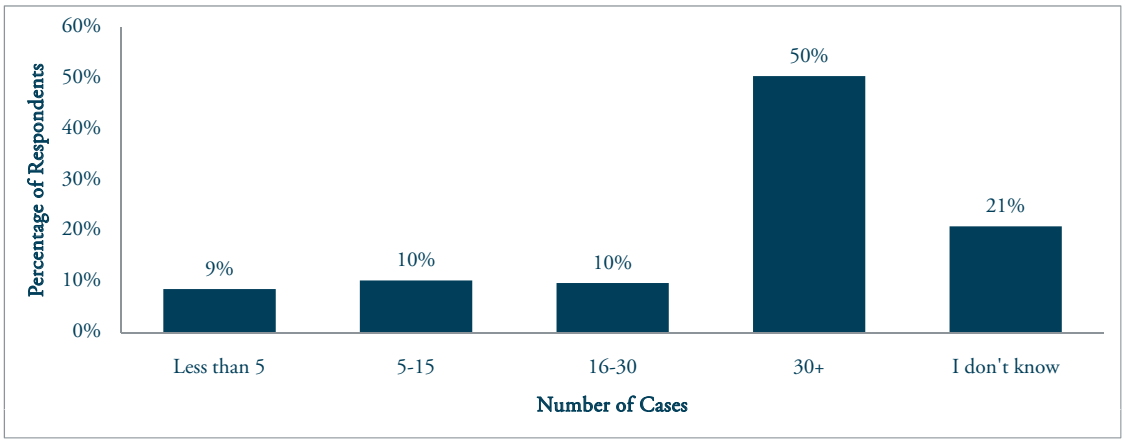


Figure 8. Number of legally aided cases undertaken by the firm in the last 12 months

Pro bono and other voluntary work

Across Australia, 766 respondents (64%) of the sample, indicated that their firm accepted matters on a pro bono basis. Furthermore, 847 respondents (71%), undertake other voluntary work within the community. Tables 4a and 4b below contain the complete findings for each jurisdiction in relation to the provision of pro bono legal services and involvement with other voluntary work.

23 Refer to Table B17 in Appendix B.

24 Refer to Table B18 in Appendix B.

Table 4a. Acceptance of instruction in pro bono matters

Pro Bono and other Voluntary Work		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Firm provides pro bono services	%	59	34	62	86	66	77	61	64
	N	174	31	144	30	54	316	17	766
Firm does not provide pro bono services	%	41	66	38	14	34	24	39	37
	N	121	60	87	5	28	97	11	409
Total respondents		**295**	**91**	**231**	**35**	**82**	**413**	**28**	**1175**

Table 4b. Involvement with other voluntary work

Pro Bono and other Voluntary Work		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Respondent undertakes other voluntary work	%	74	55	70	80	61	77	79	71
	N	220	50	161	28	49	317	22	847
Respondent does not undertake other voluntary work	%	26	45	30	20	40	23	21	29
	N	77	41	70	7	32	94	6	327
Total respondents		**297**	**91**	**231**	**35**	**81**	**411**	**28**	**1174**

Firms from South Australia were most likely to provide legal services on a pro bono basis (86%). Practitioners from this State were also most likely to undertake other voluntary work within the community (80%).

Cross-sectional analysis indicated that those firms with more than ten principals were most likely to provide pro bono services to the community (80%).[25] Firms with between six and nine principals were least likely to provide pro bono services (66%).

Legal practitioners practising in firms with two principals were most likely to undertake other volunteer work with their community (81%), whereas those practising in firms with six to nine principals were least likely to undertake other volunteer work (63%).[26]

Matters of concern to principals of RRR firms

Only principals were required to consider whether their practice had enough lawyers to service their client base and the community and what matters concerned them about their practice. Table B19 in Appendix B indicates that 49% of all respondents were principals.[27]

Servicing the client base

The findings indicated that nearly half of the principals (43%) believe that their practice does not have enough lawyers to service its client base. This was particularly the case for the Northern Territory and South Australia, where 71% and 67% of principals respectively, considered that their firms had a shortage of lawyers to service their client base. The complete findings for each jurisdiction in relation to the ability of firms to service their client base are included in Table B20 in Appendix B and as Figure 9 below.

25 Refer to Table C25 in Appendix C.

26 Refer to Table C26 in Appendix C.

27 It should be noted however that not all principal respondents answered these questions and therefore the sample sizes varied for these responses.

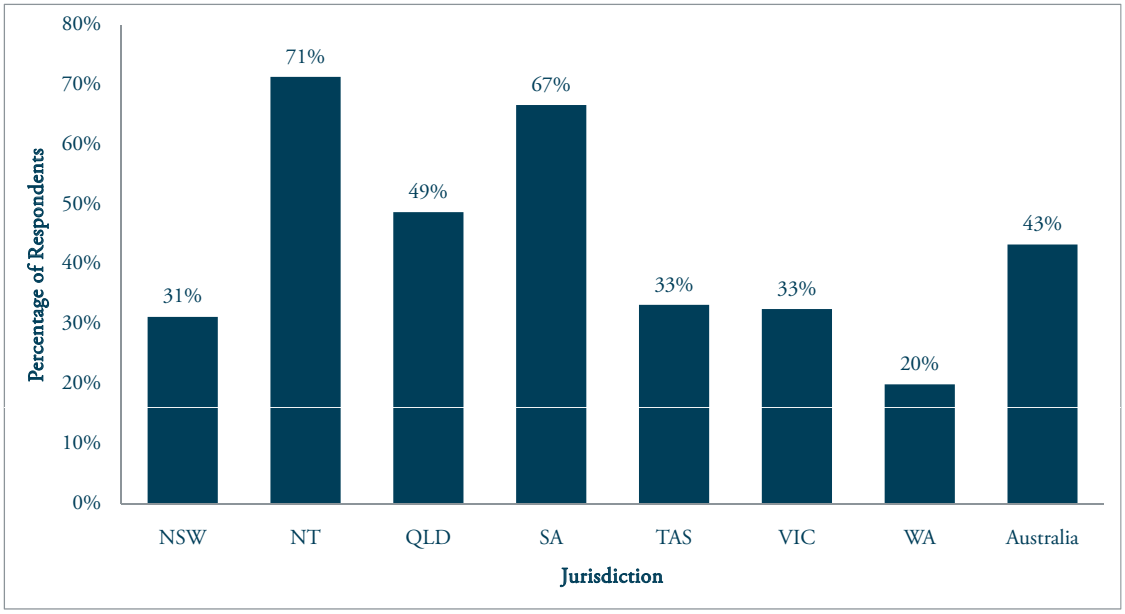


Figure 9. Principals who believe that the practice does not have enough lawyers to serve the client base

Servicing the legal needs of the community

Similarly, the findings above in relation to servicing the client base were also reflected in principals' views about their firm's ability to service the legal needs of the community. Specifically, 45% of principals believed that their practice did not have enough lawyers to service the legal needs of the community. It is interesting to note however that in relation to the needs of the community, only 33% of principals from Western Australia, which was the lowest compared to all other States and the Northern Territory, considered that their practice had enough lawyers to service the needs of the legal community. This finding appears to indicate that the principals in Western Australia are able to service their current clients, but may not be able to take on new clients and meet the needs of the community at present. Similarly, 57% of the principals in the Northern Territory considered that their firms had a shortage of lawyers to service the legal needs of their community. On the other hand, firms in New South Wales (29%) and Tasmania (32%) were least likely to consider that their firms did not have enough lawyers to meet the legal needs of their communities.

Table B21 in Appendix B contains the complete findings for each jurisdiction in relation to the ability of firms to service the legal needs of their communities, which are included below as Figure 10.

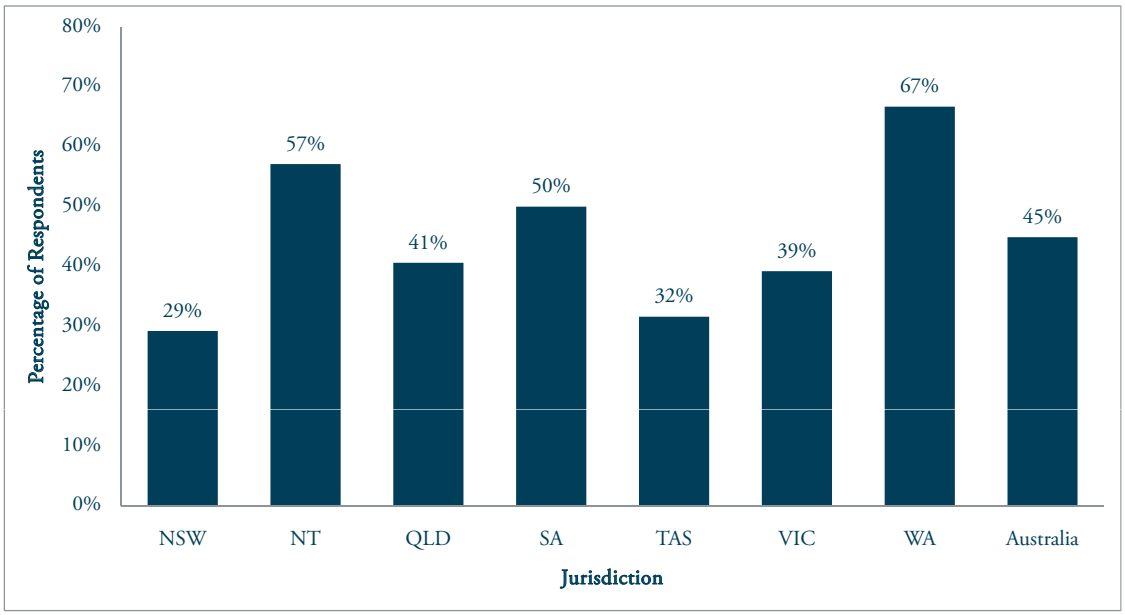


Figure 10. Principals who believe that the practice does not have enough lawyers to service the legal needs of the community

Number of additional lawyers required

Those principals who indicated that their firms did not have enough lawyers to service the legal needs of the community were required to indicate the number of additional lawyers they considered were required by their firm. Apart from principals in South Australia, most principals considered that their firm required two additional lawyers. In South Australia, one and three additional lawyers were most frequently cited as required by the firms' principals. In Victoria, 41 principals indicated that their firm required an additional two lawyers. In the Northern Territory, 20% of principals believed that their firm required between ten and twelve additional lawyers. The findings indicate that an additional 476 legal practitioners are required to adequately service the needs of RRR communities.

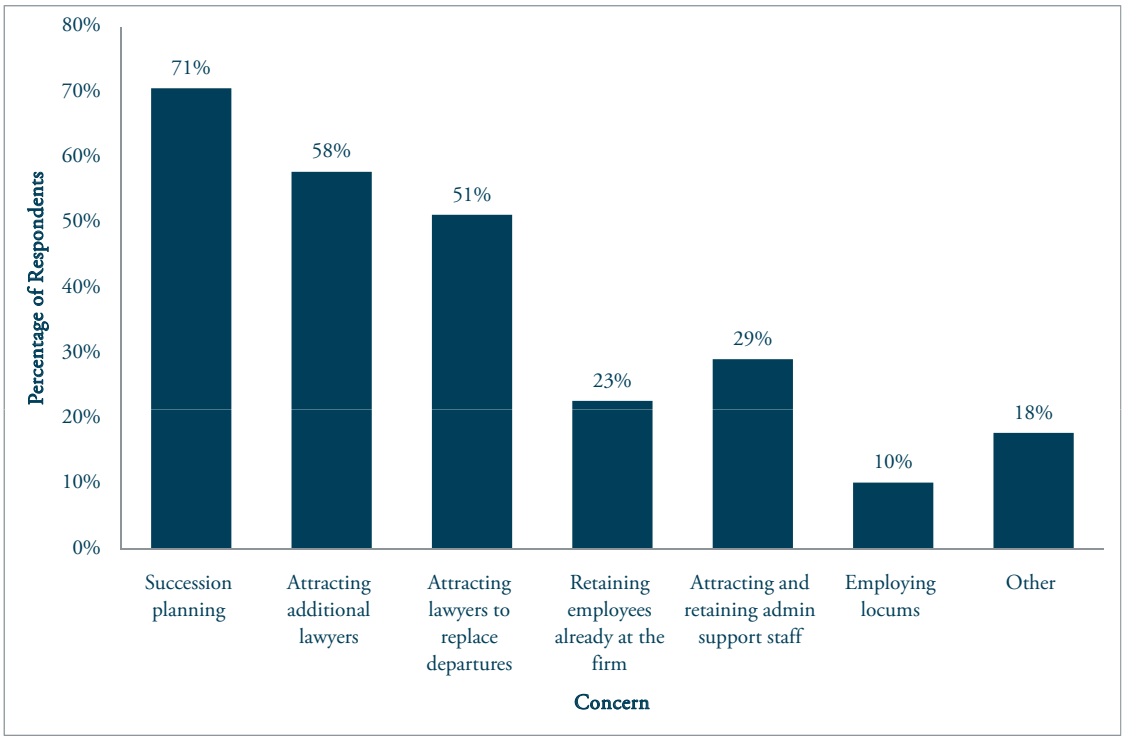
Table B22 in Appendix B contains the complete findings for each jurisdiction in relation to the number of additional lawyers required by the firms.

Matters of concern about the future of the firm and its personnel

Succession planning was the most commonly cited matter of concern about the future of the firm and its personnel for principals (71%). Attracting additional lawyers (58%) and attracting lawyers to replace departures (51%) were also significant concerns for principals. Table B23 in Appendix B contains the complete findings for each jurisdiction in relation to the matters of concern about the future of the firm and its personnel. These findings are included below as Figure 11.

Cross-sectional analysis indicated that succession planning was the most common cause of concern for most practitioners regardless of the number of principals in the firm, except in the case of more than ten principals. No principal considered succession planning as a concern for a firm with ten or more principals.[28] However, attracting additional lawyers (29%) and retaining employees (29%) were the most commonly cited concerns for these principals.

Figure 11. Matters of concern about the future of the firm and its personnel



28 Refer to Table C29 in Appendix C.

Similarly, succession planning was the most common cause of concern for those principals who employed a smaller number of employee solicitors.[29] Attracting additional lawyers was the most common concern for principals who employed 16-35 (25%) and more than 35 employee solicitors (30%).

Finally, succession planning was also the most common cause of concern for principals regardless of the number of non-legal staff, except in the case of firms with more than 35 non-legal staff members.[30] In this instance, attracting additional lawyers was the most common concern (26%).

29 1-2 employee solicitors = 30%; 3-5 employee solicitors = 32%; and 6-15 employee solicitors = 28%.

30 Refer to Table C31 in Appendix C.

Conclusion

The findings of the present study support the anecdotal evidence which indicates that there is a shortage of legal practitioners in RRR areas of Australia. Nearly half of the RRR practices currently do not have enough lawyers to service their client base. The most concerning shortages are currently being experienced by the legal profession in the Northern Territory, South Australia and Queensland.

The current situation is likely to become more serious in the coming years due to the fact that a large number of legal practitioners, many of whom are sole practitioners, will retire in the next six to ten years. Furthermore, a significant number of legal practitioners do not intend to practise law in the next five years.

Succession planning is a major cause of concern for practitioners in RRR areas and failure to ensure that skilled practitioners are replacing departures will have a serious negative impact on RRR areas and the access to justice by these communities. Given that many young lawyers are intending to leave their work in RRR areas to seek better remuneration or work in the city, succession planning will become even more of an issue for RRR firms and community sector legal centres.

In view of the finding that RRR practitioners undertake a significant amount of legal aid work, and contribute to their communities by undertaking pro bono and other voluntary work, it is extremely important that the current and potentially future shortage of legal services provided to RRR communities are addressed.

Appendix A: The Survey

Rural, Regional & Remote Areas Lawyers Survey

Law Council OF AUSTRALIA

actlawsociety

The Law Society of New South Wales
THE PROFESSIONAL'S CHOICE

Queensland Law Society

THE LAW SOCIETY OF SOUTH AUSTRALIA

The Law Society OF TASMANIA

Law Institute Victoria

The Law Society OF WESTERN AUSTRALIA

As the new President of the Law Council and on behalf of your local law society, I invite you to take part in the Law Council's survey for lawyers working in rural, regional and remote areas (RRR) of Australia.

There is increasing concern at the steady decline in the number of legal practitioners working in RRR areas. Anecdotally, there are indications that this problem may get worse in coming years as large numbers of practitioners in rural areas retire. This will have a long-term impact on the ability of people in the bush to access legal services, including legal aid.

The Law Council is committed to working with your local body to promote and support country lawyers and their communities. We have established a Recruitment and Retention Working Group to examine initiatives for the recruitment and retention of lawyers in various sectors. The Working Group is focusing its efforts at present on the problem of recruitment and retention of lawyers in RRR areas.

We are undertaking a survey of all lawyers working in RRR areas to obtain data on their profile and experiences, including information on succession planning and retirement.

I urge you take the time to participate in this survey. The information you provide us will help the Law Council and your local law society to better understand the extent of the problem and also assist in formulating strategies to attract lawyers to RRR areas.

Yours sincerely,

John Corcoran
President, Law Council of Australia

About My Region

The state/territory where I work most is:

- ☐ ACT
- ☐ New South Wales
- ☐ Northern Territory
- ☐ Queensland
- ☐ South Australia
- ☐ Tasmania
- ☐ Victoria
- ☐ Western Australia

The town where my office is located is:

The postcode of my office is:

About Me

I am:

- ☐ Male
- ☐ Female

I was born in:

- ☐ A capital city in Australia
- ☐ RRR Australia
- ☐ Overseas

My age group is:

- ☐ 20 – 29
- ☐ 30 – 39
- ☐ 40 – 49
- ☐ 50 – 59
- ☐ 60- 69
- ☐ 70 plus

I completed my law degree at:

University

Campus

I completed my degree as a distance student:

- ☐ Yes
- ☐ No

I have been admitted to practice:

- ☐ Yes
- ☐ No

If yes, I was admitted to practice in (year):

I have been practising law, excluding any career breaks, for the following length of time:

- ☐ Less than 1 year
- ☐ 1 – 2 years
- ☐ 3 – 5 years
- ☐ 6 – 10 years
- ☐ 11 – 20 years
- ☐ 21 plus years

I have been practising law in a RRR area for:

- ☐ Less than 1 year
- ☐ 1 – 2 years
- ☐ 3 – 5 years
- ☐ 6 – 10 years
- ☐ 11 – 20 years
- ☐ 21 plus years

I intend to continue practising law in a RRR area for:

- ☐ Less than 1 year
- ☐ 1 – 2 years
- ☐ 3 – 5 years
- ☐ 6 – 10 years
- ☐ 11 – 20 years
- ☐ 21 plus years

The reasons I choose to work in a RRR area are best described as (please rank according to relevance, where 1 is the most relevant):

- ☐ Nature of the legal work
- ☐ Community involvement
- ☐ Flexibility to balance family & work
- ☐ Work/life balance generally
- ☐ To gain legal experience
- ☐ Extended family located in area
- ☐ Opportunity to earn a good income
- ☐ Partner works in the area
- ☐ Enjoy the country lifestyle generally
- ☐ Other .....

If I were to leave my current firm, I would be most likely to:

- ☐ Move to another legal practice in my regional area
- ☐ Move to a legal practice in the city
- ☐ Move to Government in-house position
- ☐ Move to a corporate in-house position
- ☐ Move to a community legal centre
- ☐ Move to become a barrister
- ☐ Leave the practice of law to retire
- ☐ Leave the practice of law to start a new career
- ☐ Leave to care for my family
- ☐ Other .....

If I were to move from a RRR area, this would most likely be due to (please rank according to relevance, where 1 is the most relevant):

- ☐ Change practice areas
- ☐ Leave the practice of law to start a new career
- ☐ Better remuneration
- ☐ Increased professional development opportunities
- ☐ Move to city for lifestyle reasons
- ☐ Retire
- ☐ For family reasons
- ☐ My partner's relocation
- ☐ Isolation
- ☐ Other .....

About My Firm

My organisation/firm is best described as:

- ☐ Private law firm
- ☐ Barrister's practice
- ☐ Government legal department
- ☐ In-house corporate legal team
- ☐ Community legal centre
- ☐ Legal aid / Aboriginal legal aid
- ☐ Other .....

My firm mainly practices in (select all that apply):

- ☐ Commercial / Business law
- ☐ Wills and probate
- ☐ Conveyancing
- ☐ Property law
- ☐ Litigation
- ☐ Family law
- ☐ Personal injury
- ☐ Criminal law
- ☐ Tax law
- ☐ General practice

My role is best described as:

- ☐ Principal
- ☐ Employee solicitor
- ☐ Graduate solicitor/articled clerk/trainee
- ☐ Other .....

My income range is:

- ☐ Under $40,000
- ☐ $40,001-50,000
- ☐ $50,001-60,000
- ☐ $60,001-70,000
- ☐ $70,001-80,000
- ☐ $80,001-90,000
- ☐ $90,001-100,000
- ☐ $100,001-110,000
- ☐ $110,001-120,000
- ☐ $120,001-130,000
- ☐ $130,001-140,000
- ☐ $140,001-150,000
- ☐ $150,001-175,000
- ☐ $175,001-200,000
- ☐ $200,001-225,000
- ☐ $225,001-250,000
- ☐ More than $250,001

Including yourself (if applicable), how many principals are in your firm?

- ☐ 1
- ☐ 2
- ☐ 3 – 5
- ☐ 6 – 9
- ☐ More than 10
- ☐ Not applicable

Including yourself (if applicable), how many employee legal practitioners are in your firm?

- ☐ 1 – 2
- ☐ 3 – 5
- ☐ 6 – 15
- ☐ 16 – 35
- ☐ More than 35
- ☐ Not applicable

How many non-legal staff are employed in your firm (based on total number of employees)?

- ☐ 1 – 2
- ☐ 3 – 5
- ☐ 6 – 15
- ☐ 16 – 35
- ☐ More than 35
- ☐ Not applicable

Legal Aid / Pro Bono

My firm currently accepts instructions for legally aided matters:

- ☐ Yes
- ☐ No

If yes, in the last 12 months, how many legally aided cases has your firm taken instructions in?

- ☐ Less than 5
- ☐ 5 – 15
- ☐ 16 – 30
- ☐ More than 30
- ☐ I don't know

My firm provides pro bono services other than for legally funded cases:

- ☐ Yes
- ☐ No

I undertake other volunteer work within my community:

- ☐ Yes
- ☐ No

Questions for Principals

Does your legal practice currently have enough lawyers to serve your client base?

- ☐ Yes
- ☐ No

Does your legal practice currently have enough lawyers to serve the legal needs of your community?

- ☐ Yes
- ☐ No

If no, how many lawyers do you think you need?

The following things concern me about the future of my firm and its personnel:

- ☐ Succession planning – finding lawyers/ principals interested in and able to take over the practice
- ☐ Attracting additional lawyers/principals to allow the practice to grow
- ☐ Attracting lawyers/principals to replace departures
- ☐ Retaining employees already at the firm
- ☐ Attracting and retaining good legal/admin support staff
- ☐ Employing locums
- ☐ Other .....

Further Surveys

Are you willing to participate in further surveys aimed at finding out more information about the profile and experiences of regional, rural and remote lawyers?

- ☐ Yes
- ☐ No

If yes, please enter your contact details:

Name

Title

Company

Address

Appendix B: Response Tables

Table B1. Participants' gender

Gender		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Male	(%)	50.8	39.6	51.5	57.1	58.5	62.5	46.4	52.3
	N	151	36	112	20	48	257	13	637
Female	(%)	49.2	60.4	48.5	42.9	41.5	37.5	53.6	47.7
	N	146	55	119	15	34	154	15	538
Total respondents		**297**	**91**	**231**	**35**	**82**	**411**	**28**	**1,175**

Table B2. Participants' age

Age group		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
20–29	(%)	17.9	16.5	21.7	14.3	22.0	15.1	7.1	16.4
	N	53	15	50	5	18	62	2	205
30–39	(%)	24.9	40.7	26.0	34.3	30.5	16.8	42.9	30.9
	N	74	37	60	12	25	69	12	289
40–49	(%)	20.5	20.9	23.4	8.6	20.7	17.5	10.7	17.5
	N	61	19	54	3	17	72	3	229
50–59	(%)	22.6	17.6	23.8	31.4	17.1	31.3	32.1	25.1
	N	67	16	55	11	14	129	9	301
60–69	(%)	13.8	3.3	5.2	11.4	8.5	15.8	3.6	8.8
	N	41	3	12	4	7	65	1	133
70 plus	(%)	0.3	1.1	0	0	1.2	3.6	3.6	1.4
	N	1	1	0	0	1	15	1	19
Total respondents		**297**	**91**	**231**	**35**	**82**	**412**	**28**	**1176**

Table B3. Participants' place of birth

Place of birth		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
RRR area	(%)	51.2	41.8	55.8	40.0	47.6	44.3	32.1	44.7
	N	152	38	129	14	39	179	9	560
Capital city	(%)	41.4	42.9	29.9	54.3	46.3	43.1	50.0	44.0
	N	123	39	69	19	38	174	14	476
Overseas	(%)	7.4	15.4	14.3	5.7	6.1	12.6	17.9	11.3
	N	22	14	33	2	5	51	5	132
Total respondents		**297**	**91**	**231**	**35**	**82**	**404**	**28**	**1,168**

Table B4. Participants' mode of study

Mode of study		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Distance student	(%)	26.0	8.8	26.8	5.7	2.5	10.9	3.6	12.0
	N	77	8	62	2	2	44	1	196
On campus	(%)	74.0	91.2	73.2	94.3	97.5	89.1	96.4	88.0
	N	219	83	169	33	79	360	27	970
Total respondents		**296**	**91**	**231**	**35**	**81**	**404**	**28**	**1166**

Table B5. Participants' admission status

Admission		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Admitted	(%)	99.0	98.9	99.1	100.0	98.8	99.0	100.0	99.3
	N	294	90	229	35	81	406	28	1163
Not admitted	(%)	1.0	1.1	0.9	0	1.2	1.0	0	0.7
	N	3	1	2	0	1	4	0	11
Total respondents		**297**	**91**	**231**	**35**	**82**	**410**	**28**	**1174**

Table B6. Participants' practice type

Organisation/Firm		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Private law firm	(%)	85.9	33.0	87.0	91.4	93.9	98.1	75.0	80.6
	N	255	30	200	32	77	410	21	1025
Barrister's practice	(%)	0	3.3	0	0	1.2	0	0	0.6
	N	0	3	0	0	1	0	0	4
Government legal department	(%)	1.7	27.5	2.2	2.9	1.2	0	0	5.1
	N	5	25	5	1	1	0	0	37
In–house corporate legal team	(%)	1.7	0	2.2	0	0	0.2	0	0.6
	N	5	0	5	0	0	1	0	11
Community legal centre	(%)	1.4	4.4	3.5	0	1.2	1.2	21.4	4.7
	N	4	4	8	0	1	5	6	28
Legal aid / Aboriginal legal aid	(%)	7.4	24.2	3.0	2.9	2.4	0.2	0	5.7
	N	22	22	7	1	2	1	0	55
Other	(%)	2.0	7.7	2.2	2.9	0	0.2	3.6	2.7
	N	6	7	5	1	0	1	1	21
Total respondents		**297**	**91**	**230**	**35**	**82**	**418**	**28**	**1181**

Table B7. Participants' main area of practice

Main area of practice		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Commercial / Business law	(%)	60.1	33.0	65.8	62.9	74.1	70.9	50.0	59.5
	N	178	30	152	22	60	295	14	751
Wills and probate	(%)	71.0	16.5	63.2	80.0	72.8	80.1	78.6	66.0
	N	210	15	146	28	59	333	22	813
Conveyancing	(%)	71.3	13.2	61.5	62.9	76.5	78.4	53.6	59.6
	N	211	12	142	22	62	326	15	790
Property law	(%)	56.8	26.4	57.6	57.1	66.7	69.0	60.7	56.3
	N	168	24	133	20	54	287	17	703
Litigation	(%)	51.0	35.2	49.8	54.3	63.0	57.2	57.1	52.5
	N	151	32	115	19	51	238	16	622
Family law	(%)	59.8	33.0	53.3	68.6	60.5	67.1	57.1	57.1
	N	177	30	123	24	49	279	16	698
Personal injury	(%)	30.7	24.2	34.6	60.0	51.9	26.9	28.6	36.7
	N	91	22	80	21	42	112	8	376
Criminal law	(%)	48.7	40.7	35.1	68.6	30.9	46.6	42.9	44.8
	N	144	37	81	24	25	194	12	517
Tax law	(%)	9.8	4.4	6.5	5.7	8.6	13.0	3.6	7.4
	N	29	4	15	2	7	54	1	112
General practice	(%)	58.8	36.3	54.6	85.7	55.6	58.2	64.3	59.1
	N	174	33	126	30	45	242	18	668
Total respondents		**296**	**91**	**231**	**35**	**81**	**416**	**28**	**1178**

Table B8. Participants' employment status

Role		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Principal	(%)	48.2	15.4	43.0	51.4	45.1	57.2	53.6	44.8
	N	143	14	99	18	37	238	15	564
Employee solicitor	(%)	46.5	72.5	50.9	45.7	48.8	35.8	42.9	49.0
	N	138	66	117	16	40	149	12	538
Graduate /articled clerk / trainee	(%)	1.7	2.2	1.7	0	4.9	1.4	0	1.7
	N	5	2	4	0	4	6	0	21
Other	(%)	3.7	9.9	4.4	2.9	1.2	5.5	3.6	4.5
	N	11	9	10	1	1	23	1	56
Total respondents		**297**	**91**	**230**	**35**	**82**	**416**	**28**	**1179**

Table B9. Participants' income distributions

Income range		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Under $40,000	(%)	12.9	2.3	6.5	17.7	8.6	10.3	3.9	8.9
	N	37	2	14	6	7	39	1	106
$40,001–$50,000	(%)	10.5	3.4	15.0	8.8	9.9	10.5	0	8.3
	N	30	3	32	3	8	40	0	116
$50,001–$60,000	(%)	16.1	19.1	10.8	14.7	17.3	11.8	7.7	13.9
	N	46	17	23	5	14	45	2	152
$60,001–$70,000	(%)	11.5	18.0	7.9	23.5	7.4	9.2	7.7	12.2
	N	33	16	17	8	6	35	2	117
$70,001–$80,000	(%)	8.4	11.2	9.4	5.9	7.4	8.2	15.4	9.4
	N	24	10	20	2	6	31	4	97
$80,001–$90,000	(%)	7.0	13.5	11.2	0	6.2	4.2	7.7	7.1
	N	20	12	24	0	5	16	2	79
$90,001–$100,000	(%)	6.3	6.7	7.5	2.9	11.1	7.9	11.5	7.7
	N	18	6	16	1	9	30	3	83
$100,001–$110,000	(%)	5.6	3.4	6.1	11.8	2.5	8.4	7.7	6.5
	N	16	3	13	4	2	32	2	72
$110,001–$120,000	(%)	3.9	4.5	1.9	0	3.7	4.0	0	2.6
	N	11	4	4	0	3	15	0	37
$120,001–$130,000	(%)	2.8	2.3	6.5	2.9	2.5	5.5	11.5	4.9
	N	8	2	14	1	2	21	3	51
$130,001–$140,000	(%)	1.8	2.3	2.3	0	2.5	1.8	3.9	2.1
	N	5	2	5	0	2	7	1	22
$140,001–$150,000	(%)	3.9	3.4	3.3	0	3.7	2.6	3.9	3.0
	N	11	3	7	0	3	10	1	35
$150,001–$175,000	(%)	4.6	6.7	4.7	11.8	4.9	5.8	15.4	7.7
	N	13	6	10	4	4	22	4	63
$175,001–$200,000	(%)	3.2	2.3	1.9	0	1.2	2.6	3.9	2.2
	N	9	2	4	0	1	10	1	27
$200,001–$225,000	(%)	0.4	0	0	0	4.9	3.4	0	1.2
	N	1	0	0	0	4	13	0	18
$225,001–$250,000	(%)	0.7	0	0.9	0	2.5	0.5	0	0.7
	N	2	0	2	0	2	2	0	8
More than $250,000	(%)	0.7	1.1	4.2	0	3.7	3.2	0	1.8
	N	2	1	9	0	3	12	0	27
Total respondents		**294**	**91**	**230**	**35**	**81**	**399**	**26**	**1156**

Table B10. Number of principals in RRR firms and organisations

Number of principals		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
1	(%)	47.5	31.9	42.0	60.0	28.4	41.0	67.9	45.5
	N	141	29	97	21	23	169	19	499
2	(%)	15.2	15.4	15.2	22.9	16.1	20.2	21.4	18.1
	N	45	14	35	8	13	83	6	204
3–5	(%)	21.6	13.2	22.1	5.7	21.0	27.7	0	15.9
	N	64	12	51	2	17	114	0	260
6–9	(%)	7.4	9.9	10.0	0	7.4	4.9	3.6	6.2
	N	22	9	23	0	6	20	1	81
More than 10	(%)	2.0	6.6	2.2	0	21.0	4.9	3.6	5.8
	N	6	6	5	0	17	20	1	55
Not applicable	(%)	6.4	23.1	8.7	11.4	6.2	1.5	3.6	8.7
	N	19	21	20	4	5	6	1	76
Total respondents		**297**	**91**	**231**	**35**	**81**	**412**	**28**	**1175**

Table B11. Number of employee legal practitioners in RRR firms and organisations

Number of employee legal practitioners		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
1–2	(%)	42.1	9.9	30.9	44.1	31.7	34.1	48.2	34.4
	N	125	9	71	15	26	140	13	399
3–5	(%)	26.6	17.6	29.1	38.2	14.6	26.0	18.5	24.4
	N	79	16	67	13	12	107	5	299
6–15	(%)	14.5	25.3	22.6	0	20.7	20.4	7.4	15.8
	N	43	23	52	0	17	84	2	221
16–35	(%)	1.4	30.8	3.9	0	23.2	3.7	14.8	11.1
	N	4	28	9	0	19	15	4	79
More than 35	(%)	4.0	6.6	3.5	2.9	2.4	2.9	3.7	3.7
	N	12	6	8	1	2	12	1	42
Not applicable	(%)	11.5	9.9	10.0	14.7	7.3	12.9	7.4	10.5
	N	34	9	23	5	6	53	2	132
Total respondents		**297**	**91**	**230**	**34**	**82**	**411**	**27**	**1172**

Table B12. Number of non-legal staff in RRR firms and organisations

Number of non–legal staff		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
1–2	(%)	14.1	14.3	15.6	22.9	11.0	9.7	17.9	15.1
	N	42	13	36	8	9	40	5	153
3–5	(%)	23.6	14.3	20.4	37.1	18.3	21.3	32.1	23.9
	N	70	13	47	13	15	88	9	255
6–15	(%)	32.3	23.1	35.9	28.6	34.2	37.2	14.3	29.4
	N	96	21	83	10	28	154	4	396
16–35	(%)	10.8	24.2	16.5	2.9	22.0	18.1	17.9	16.1
	N	32	22	38	1	18	75	5	191
More than 35	(%)	8.1	13.2	7.4	5.7	12.2	8.5	10.7	9.4
	N	24	12	17	2	10	35	3	103
Not applicable	(%)	11.1	11.0	4.3	2.9	2.4	5.3	7.1	6.3
	N	33	10	10	1	2	22	2	80
Total respondents		**297**	**91**	**231**	**35**	**82**	**414**	**28**	**1178**

Table B13. Participants' length of practice

Length of practice		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Less than 1 year	(%)	6.7	4.4	6.9	8.6	7.3	5.1	3.6	6.1
	N	20	4	16	3	6	21	1	71
1–2 years	(%)	11.5	18.7	11.7	22.9	3.7	8.3	0	11.0
	N	34	17	27	8	3	34	0	123
3–5 years	(%)	13.1	26.4	16.9	20.0	20.7	10.3	10.7	16.9
	N	39	24	39	7	17	42	3	171
6–10 years	(%)	16.5	20.9	16.9	5.7	20.7	13.2	14.3	15.5
	N	49	19	39	2	17	54	4	184
11–20 years	(%)	20.9	20.9	22.5	14.3	18.3	13.9	39.3	21.4
	N	62	19	52	5	15	57	11	221
21 plus years	(%)	31.3	8.8	25.1	28.6	29.3	49.1	32.1	29.2
	N	93	8	58	10	24	201	9	403
Total respondents		**297**	**91**	**231**	**35**	**82**	**409**	**28**	**1173**

Table B14. Length of practice in a RRR area

Length of practice in RRR area		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Less than 1 year	(%)	8.8	15.4	9.1	8.6	7.3	7.5	7.1	9.1
	N	26	14	21	3	6	31	2	103
1–2 years	(%)	17.2	25.3	17.0	25.7	9.8	8.5	7.1	15.8
	N	51	23	39	9	8	35	2	167
3–5 years	(%)	17.2	24.2	19.6	25.7	22.0	14.4	28.6	21.7
	N	51	22	45	9	18	59	8	212
6–10 years	(%)	13.1	14.3	18.7	5.7	22.0	13.9	25.0	16.1
	N	39	13	43	2	18	57	7	179
11–20 years	(%)	19.2	14.3	19.1	8.6	12.2	14.4	28.6	16.6
	N	57	13	44	3	10	59	8	194
21 plus years	(%)	24.6	6.6	16.5	25.7	26.8	41.4	3.6	20.7
	N	73	6	38	9	22	170	1	319
Total respondents		**297**	**91**	**230**	**35**	**82**	**411**	**28**	**1174**

Table B15. Intention to continue to practice in a RRR area

Intention to continue practice in RRR area		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Less than 1 year	(%)	5.1	15.4	4.8	11.8	4.9	5.1	7.4	7.8
	N	15	14	11	4	4	21	2	71
1–2 years	(%)	10.1	15.4	11.3	8.8	8.5	8.6	7.4	10.0
	N	30	14	26	3	7	35	2	117
3–5 years	(%)	21.2	33.0	22.9	14.7	18.3	24.5	37.0	24.5
	N	63	30	53	5	15	100	10	276
6–10 years	(%)	22.2	12.1	21.2	26.5	29.3	24.9	14.8	21.6
	N	66	11	49	9	24	102	4	265
11–20 years	(%)	27.3	16.5	22.5	20.6	19.5	22.7	14.8	20.6
	N	81	15	52	7	16	93	4	268
21 plus years	(%)	14.1	7.7	17.3	17.7	19.5	14.2	18.5	15.6
	N	42	7	40	6	16	58	5	174
Total respondents		**297**	**91**	**231**	**34**	**82**	**409**	**27**	**1171**

Table B16. Most likely reason for leaving the current firm

Most likely reason for leaving current firm		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Move to another legal practice in my regional area	(%)	24.0	10.2	22.7	14.3	18.5	18.5	18.5	18.1
	N	71	9	52	5	15	76	5	233
Move to a legal practice in city	(%)	10.5	9.1	18.8	22.9	19.8	13.6	18.5	16.2
	N	31	8	43	8	16	56	5	167
Move to Government in–house position	(%)	5.4	22.7	7.9	11.4	6.2	4.4	0	8.3
	N	16	20	18	4	5	18	0	81
Move to a corporate in–house position	(%)	2.4	1.1	1.3	0	2.5	1.5	0	1.3
	N	7	1	3	0	2	6	0	19
Move to community legal centre	(%)	1.0	4.6	1.3	2.9	0	1.7	0	1.6
	N	3	4	3	1	0	7	0	18
Move to become a barrister	(%)	5.4	11.4	1.3	2.9	8.6	4.6	3.7	5.4
	N	16	10	3	1	7	19	1	57
Leave the practice of law to retire	(%)	19.9	8.0	18.3	22.9	16.1	34.8	22.2	20.3
	N	59	7	42	8	13	143	6	278
Leave the practice of law to start a new career	(%)	18.2	12.5	14.4	11.4	23.5	10.5	18.5	14.1
	N	54	11	33	4	19	43	5	169
Leave to care for my family	(%)	6.8	3.4	6.1	0	2.5	3.4	3.7	3.7
	N	20	3	14	0	2	14	1	40
Other	(%)	6.4	17.1	7.9	11.4	2.5	7.1	14.8	9.6
	N	19	15	18	4	2	29	4	91
Total respondents		**296**	**88**	**229**	**35**	**81**	**411**	**27**	**1167**

Table B17. Acceptance of instruction in legally aided matters

Legal Aid		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Firm accepts instructions for legally aided matters	(%)	53.7	39.6	31.6	60.0	65.9	57.4	46.4	50.7
	N	159	36	73	21	54	237	13	593
Firm does not accept instructions for legally aided matters	(%)	46.3	60.4	68.4	40.0	34.2	42.6	53.6	49.4
	N	137	55	158	14	28	176	15	583
Total respondents		**296**	**91**	**231**	**35**	**82**	**413**	**28**	**1176**

Table B18. Number of legally aided cases undertaken by the firm in the last 12 months

Number of Legally Aided Cases		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Less than 5	(%)	9.4	11.4	8.2	4.8	9.4	8.5	8.3	8.6
	N	15	4	6	1	5	20	1	52
5–15	(%)	8.8	20.0	0	14.3	5.7	14.8	8.3	10.3
	N	14	7	0	3	3	35	1	63
16–30	(%)	12.0	5.7	5.5	14.3	5.7	8.9	16.7	9.8
	N	19	2	4	3	3	21	2	54
More than 30	(%)	51.6	42.9	74.0	61.9	39.6	49.6	33.3	50.4
	N	82	15	54	13	21	117	4	306
I do not know	(%)	18.2	20.0	12.3	4.8	39.6	18.2	33.3	20.9
	N	29	7	9	1	21	43	4	114
Total respondents		**159**	**35**	**73**	**21**	**53**	**236**	**12**	**589**

Table B19. Principals

Principal		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Yes	(%)	48.7	15.4	43.7	51.4	45.7	58.4	53.6	49.0
	N	144	14	101	18	37	243	15	632
No	(%)	51.4	84.6	56.3	48.6	54.3	41.6	46.4	51.0
	N	152	77	130	17	44	173	13	546
Total respondents		**296**	**91**	**231**	**35**	**81**	**416**	**28**	**1178**

Table B20. Principal's view regarding whether the practice has enough lawyers to serve the client base

Servicing Client Base		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Practice has enough lawyers to serve the client base	(%)	68.8	28.6	51.2	33.3	66.7	67.4	80.0	56.6
	N	22	2	22	2	22	116	4	190
Practice does not have enough lawyers to serve the client base	(%)	31.3	71.4	48.8	66.7	33.3	32.6	20.0	43.4
	N	10	5	21	4	11	56	1	108
Total respondents		**32**	**7**	**43**	**6**	**33**	**172**	**5**	**298**

Table B21. Principal's view regarding whether the practice has enough lawyers to serve the legal needs of the community

Servicing the Community	NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Practice has enough lawyers to serve the legal needs of the community (%)	70.8	42.9	59.4	50.0	68.4	60.8	33.3	55.1
N	102	6	60	9	26	149	5	357
Practice does not have enough lawyers to serve the legal needs of the community (%)	29.2	57.1	40.6	50.0	31.6	39.2	66.7	44.9
N	42	8	41	9	12	96	10	218
Total respondents	**144**	**14**	**101**	**18**	**38**	**245**	**15**	**575**

Table B22. Number of additional lawyers required

Number of Additional Lawyers Required	NSW	NT	QLD	SA	TAS	VIC	WA	
1	12	–	14	3	3	26	3	
2	14	3	18	1	4	41	3	
3	5	–	4	3	2	12	–	
4	7	1	3	–	2	3	2	
5	2	1	–	1	–	2	–	
6	–	1	–	1	–	–	–	
7	–	–	–	–	–	1	–	
8	–	–	–	–	–	2	–	
9	–	–	–	–	–	–	–	
10	–	1	–	–	–	1	–	
11	–	–	–	–	–	–	–	
12	–	1	–	–	–	–	–	
Additional lawyers needed	93	43	74	25	25	199	17	476
Total respondents	**41**	**8**	**41**	**9**	**12**	**89**	**8**	

Table B23. Matters of concern about the future of the firm and personnel

Matters of concern about the future of firm and personnel		NSW	NT	QLD	SA	TAS	VIC	WA	AUS
Succession planning	(%)	64.6	61.5	65.4	66.7	75.0	80.9	80.0	70.6
	N	93	8	66	12	27	195	12	350
Attracting additional lawyers	(%)	44.4	69.2	55.5	61.1	69.4	51.5	53.3	57.8
	N	64	9	56	11	25	124	8	297
Attracting lawyers to replace departures	(%)	45.8	69.2	44.6	44.4	58.3	42.7	53.3	51.2
	N	66	9	45	8	21	103	8	260
Retaining employees already at the firm	(%)	7.6	30.8	20.8	16.7	52.8	23.2	6.7	22.7
	N	11	4	21	3	19	56	1	115
Attracting and retaining good legal/admin support staff	(%)	11.8	38.5	30.7	27.8	41.7	26.6	26.7	29.1
	N	17	5	31	5	15	64	4	141
Employing locums	(%)	2.8	15.4	5.9	11.1	16.7	6.2	13.3	10.2
	N	4	2	6	2	6	15	2	37
Other	(%)	28.5	23.1	16.8	22.2	2.8	11.2	20.0	17.8
	N	41	3	17	4	1	27	3	96
Total respondents		**144**	**13**	**101**	**18**	**36**	**241**	**15**	**556**

Appendix C: Cross-Sectional Analysis

Rural, Regional & Remote Areas Lawyers Survey Analysis

Place of birth

Table C1. I have been practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Australian capital	8.5%	45	11.7%	62	16.8%	89	14.2%	75	17.4%	92	31.4%	166
Australian RRR	6.8%	30	14.1%	62	17.5%	77	16.9%	74	15.9%	70	28.7%	126
Overseas	11.5%	14	16.4%	20	19.7%	24	15.6%	19	16.4%	20	20.5%	25

Table C2. I intend to continue practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Australian capital	4.0%	21	8.2%	43	23.5%	124	21.6%	114	23.9%	126	18.8%	99
Australian RRR	6.8%	30	10.0%	44	21.0%	92	26.5%	116	23.7%	104	11.9%	52
Overseas	4.9%	6	13.9%	17	27.0%	33	19.7%	24	20.5%	25	13.9%	17

Table C3. If I were to move from a RRR area, this would most likely be due to:

	Change practice areas		Leave the practice of law to start a new career		Better remuneration		Increased professional development opportunities		Move to city for lifestyle reasons		Retirement		For family reasons		My partner's relocation		Isolation		Other	
Australian capital	3.2%	18	11.7%	65	15.8%	88	7.7%	43	6.1%	34	21.9%	122	18.1%	101	10.8%	60	1.6%	9	3.1%	17
Australian RRR	3.4%	16	9.1%	43	14.7%	70	8.2%	39	8.8%	42	18.1%	86	20.6%	98	8.4%	40	1.9%	9	6.7%	32
Overseas	3.6%	5	9.5%	13	15.3%	21	7.3%	10	6.6%	9	23.4%	32	18.2%	25	8.0%	11	1.5%	2	6.6%	9

Age group

Table C4. I have been practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
20 – 29	27.2%	52	36.1%	69	34.0%	65	2.6%	5	0.0%	0	0.0%	0
30 – 39	8.7%	22	17.1%	43	21.4%	54	34.5%	87	18.3%	46	0.0%	0
40 – 49	4.2%	9	7.5%	16	17.8%	38	20.6%	44	36.4%	78	13.6%	29
50 – 59	1.7%	5	4.1%	12	8.6%	25	6.9%	20	15.5%	45	63.2%	184
60 – 69	0.8%	1	3.8%	5	6.8%	9	9.1%	12	9.8%	13	69.7%	92
70 plus	5.6%	1	0.0%	0	5.6%	1	0.0%	0	0.0%	0	88.9%	16

Table C5. I intend to continue practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
20 – 29	8.9%	17	21.5%	41	21.5%	41	18.3%	35	7.3%	14	22.5%	43
30 – 39	7.2%	18	8.4%	21	14.0%	35	13.6%	34	24.0%	60	32.8%	82
40 – 49	5.2%	11	2.8%	6	14.6%	31	23.0%	49	44.6%	95	9.9%	21
50 – 59	1.7%	5	3.8%	11	25.1%	73	38.1%	111	27.8%	81	3.4%	10
60 – 69	4.5%	6	14.4%	19	49.2%	65	22.0%	29	4.5%	6	5.3%	7
70 plus	0.0%	0	33.3%	6	33.3%	6	0.0%	0	5.6%	1	27.8%	5

Table C6. If I were to move from a RRR area, this would most likely be due to:

	Change practice areas		Leave the practice of law to start a new career		Better remuneration		Increased professional development opportunities		Move to city for lifestyle reasons		Retirement		For family reasons		My partner's relocation		Isolation		Other	
20 – 29	5.5%	12	8.8%	19	25.3%	55	10.6%	23	12.0%	26	0.9%	2	17.1%	37	15.7%	34	1.8%	4	2.3%	5
30 – 39	2.5%	7	10.7%	30	18.2%	51	9.3%	26	8.6%	24	3.6%	10	25.0%	70	15.4%	43	1.8%	5	5.0%	14
40 – 49	4.0%	9	14.3%	32	17.0%	38	9.4%	21	6.7%	15	11.2%	25	21.4%	48	9.4%	21	1.8%	4	4.9%	11
50 – 59	3.0%	9	10.2%	31	9.8%	30	6.2%	19	5.6%	17	35.1%	107	17.7%	54	3.9%	12	2.0%	6	6.6%	20
60 – 69	1.5%	2	6.6%	9	2.9%	4	2.9%	4	2.2%	3	64.0%	87	11.8%	16	0.7%	1	1.5%	2	5.9%	8
70 plus	0.0%	0	0.0%	0	5.9%	1	0.0%	0	5.9%	1	70.6%	12	11.8%	2	0.0%	0	0.0%	0	5.9%	1

Table C7. If I were to leave my current firm, I would be most likely to:

	Move to another legal practice in my regional area		Move to a legal practice in the city		Move to Government in-house position		Move to a corporate in-house position		Move to a community legal centre		Move to become a barrister		Leave the practice of law to retire		Leave the practice of law to start a new career		Leave to care for my family		Other	
20 – 29	24.2%	46	27.9%	53	7.9%	15	1.6%	3	2.1%	4	4.2%	8	0.0%	0	15.3%	29	11.1%	21	5.8%	11
30 – 39	26.6%	67	17.1%	43	8.7%	22	3.6%	9	1.6%	4	5.6%	14	4.4%	11	15.9%	40	8.7%	22	7.9%	20
40 – 49	28.3%	60	16.5%	35	4.2%	9	0.9%	2	0.5%	1	6.6%	14	12.3%	26	19.3%	41	2.4%	5	9.0%	19
50 – 59	13.1%	38	8.3%	24	4.8%	14	1.4%	4	1.7%	5	3.8%	11	44.3%	128	15.9%	46	0.7%	2	5.9%	17
60 – 69	10.7%	14	3.1%	4	0.8%	1	0.0%	0	0.0%	0	0.0%	0	74.8%	98	4.6%	6	0.0%	0	6.1%	8
70 plus	10.5%	2	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	73.7%	14	0.0%	0	5.3%	1	10.5%	2

Gender

Table C8. I have been practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Male	5.4%	33	5.8%	35	11.0%	67	12.5%	76	19.4%	118	45.9%	279
Female	11.7%	57	22.5%	110	25.6%	125	18.8%	92	13.1%	64	8.4%	41

Table C9. I intend to continue practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Male	3.6%	22	6.9%	42	25.2%	153	27.0%	164	23.1%	140	14.2%	86
Female	7.2%	35	12.7%	62	20.1%	98	19.1%	93	24.0%	117	16.8%	82

Table C10. If I were to move from a RRR area, this would most likely be due to:

	Change practice areas		Leave the practice of law to start a new career		Better remuneration		Increased professional development opportunities		Move to city for lifestyle reasons		Retirement		For family reasons		My partner's relocation		Isolation		Other	
Male	3.4%	22	11.2%	73	11.5%	75	5.8%	38	7.8%	51	30.5%	199	19.4%	127	3.2%	21	1.7%	11	5.5%	36
Female	3.2%	17	9.1%	48	19.8%	104	10.5%	55	6.7%	35	8.2%	43	19.0%	100	17.1%	90	1.9%	10	4.4%	23

Table C11. If I were to leave my current firm, I would be most likely to:

	Move to another legal practice in my regional area		Move to a legal practice in the city		Move to Government in-house position		Move to a corporate in-house position		Move to a community legal centre		Move to become a barrister		Leave the practice of law to retire		Leave the practice of law to start a new career		Leave to care for my family		Other	
Male	18.0%	109	10.7%	65	3.1%	19	1.2%	7	0.8%	5	5.1%	31	38.0%	230	16.0%	97	0.5%	3	6.6%	40
Female	24.3%	118	19.3%	94	8.6%	42	2.3%	11	1.9%	9	3.3%	16	9.5%	46	13.4%	65	9.9%	48	7.6%	37

Table C12. My firm mainly practices in:

	Commercial / Business law		Wills and probate		Conveyancing		Property law		Litigation		Family law		Personal injury		Criminal law		Tax law		General practice	
Male	12.7%	438	14.1%	485	13.7%	472	12.0%	413	10.2%	350	10.6%	366	5.9%	203	8.1%	280	1.8%	63	10.7%	369
Female	11.9%	284	13.2%	313	12.9%	306	11.2%	266	10.2%	242	12.7%	301	6.4%	152	8.5%	203	1.8%	43	11.2%	267

Practice type

Table C13. I have been practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Commercial / Business law	7.5%	54	12.3%	89	17.5%	126	14.8%	107	15.5%	112	32.4%	234
Wills and probate	7.3%	58	11.4%	91	16.8%	134	14.5%	116	16.0%	128	34.0%	271
Conveyancing	7.1%	55	11.3%	88	17.0%	132	14.2%	110	16.2%	126	34.2%	266
Property law	6.8%	46	12.2%	83	16.3%	111	14.1%	96	16.2%	110	34.3%	233
Litigation	8.3%	49	13.5%	80	18.9%	112	14.4%	85	15.0%	89	29.9%	177
Family law	8.8%	59	12.7%	85	17.4%	116	14.4%	96	16.5%	110	30.1%	201
Personal injury	8.7%	31	16.1%	57	20.3%	72	12.4%	44	13.8%	49	28.7%	102
Criminal law	9.1%	44	13.1%	63	18.5%	89	15.1%	73	16.4%	79	27.8%	134
Tax law	8.5%	9	13.2%	14	17.9%	19	16.0%	17	17.9%	19	26.4%	28
General practice	6.6%	42	12.4%	79	18.9%	120	14.2%	90	14.9%	95	33.0%	210

Table C14. I intend to continue practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Commercial / Business law	4.0%	29	10.0%	72	23.4%	169	24.8%	179	21.5%	155	16.2%	117
Wills and probate	4.1%	33	9.3%	74	23.6%	188	24.5%	195	22.7%	181	15.7%	125
Conveyancing	3.5%	27	10.0%	78	24.2%	188	24.2%	188	22.3%	173	15.8%	123
Property law	3.4%	23	9.7%	66	25.1%	170	23.6%	160	21.7%	147	16.5%	112
Litigation	4.2%	25	9.0%	53	22.0%	130	23.1%	136	24.6%	145	17.1%	101
Family law	4.5%	30	10.1%	67	22.6%	150	22.6%	150	23.6%	157	16.6%	110
Personal injury	6.2%	22	7.6%	27	21.5%	76	23.2%	82	23.2%	82	18.1%	64
Criminal law	5.4%	26	8.9%	43	22.2%	107	21.8%	105	24.5%	118	17.0%	82
Tax law	6.7%	7	9.5%	10	19.0%	20	22.9%	24	20.0%	21	21.9%	23
General practice	5.2%	33	9.6%	61	25.3%	160	22.6%	143	22.3%	141	15.0%	95

Table C15. If I were to move from a RRR area, this would most likely be due to:

	Change practice areas		Leave the practice of law to start a new career		Better remuneration		Increased professional development opportunities		Move to city for lifestyle reasons		Retirement		For family reasons		My partner's relocation		Isolation		Other	
Commercial / Business law	2.4%	18	10.6%	81	14.3%	109	7.1%	54	7.8%	59	24.0%	183	19.1%	145	8.7%	66	1.7%	13	4.3%	33
Wills and probate	2.8%	24	10.2%	88	15.0%	130	7.5%	65	7.6%	66	24.2%	209	18.5%	160	7.8%	67	1.9%	16	4.5%	39
Conveyancing	2.9%	24	10.5%	88	14.8%	124	6.8%	57	7.2%	60	25.0%	209	18.9%	158	7.5%	63	1.9%	16	4.5%	38
Property law	2.5%	18	11.2%	82	14.2%	104	7.5%	55	7.0%	51	25.2%	184	18.5%	135	7.8%	57	1.6%	12	4.5%	33
Litigation	3.2%	21	11.1%	73	15.8%	104	7.7%	51	7.9%	52	19.7%	130	19.1%	126	9.4%	62	1.8%	12	4.4%	29
Family law	2.6%	19	10.7%	78	16.8%	123	7.7%	56	8.3%	61	20.8%	152	18.6%	136	8.2%	60	1.9%	14	4.4%	32
Personal injury	3.5%	14	10.3%	41	14.4%	57	9.3%	37	8.8%	35	16.4%	65	18.9%	75	9.3%	37	3.0%	12	6.0%	24
Criminal law	3.7%	20	10.0%	54	18.0%	97	8.0%	43	6.5%	35	19.5%	105	18.6%	100	8.7%	47	2.0%	11	4.8%	26
Tax law	2.0%	2	6.1%	6	13.1%	13	7.1%	7	6.1%	6	25.3%	25	23.2%	23	10.1%	10	1.0%	1	6.1%	6
General practice	2.9%	20	9.4%	65	14.6%	101	7.2%	50	6.9%	48	23.6%	163	19.7%	136	8.5%	59	1.7%	12	5.5%	38

Table C16. If I were to leave my current firm, I would be most likely to:

	Move to another legal practice in my regional area		Move to a legal practice in the city		Move to Government in-house position		Move to a corporate in-house position		Move to a community legal centre		Move to become a barrister		Leave the practice of law to retire		Leave the practice of law to start a new career		Leave to care for my family		Other	
Commercial / Business law	19.8%	142	15.0%	108	4.7%	34	1.9%	14	1.0%	7	2.4%	17	28.6%	205	15.3%	110	4.7%	34	6.5%	47
Wills and probate	21.9%	174	14.2%	113	4.3%	34	1.4%	11	1.1%	9	3.1%	25	29.0%	230	14.1%	112	3.9%	31	6.9%	55
Conveyancing	21.2%	164	13.7%	106	4.3%	33	1.4%	11	1.2%	9	3.0%	23	29.3%	227	14.6%	113	4.3%	33	7.2%	56
Property law	20.6%	139	14.3%	97	4.3%	29	1.5%	10	1.0%	7	2.5%	17	29.3%	198	14.9%	101	4.1%	28	7.4%	50
Litigation	21.6%	127	16.5%	97	4.9%	29	1.9%	11	1.4%	8	3.9%	23	24.5%	144	13.6%	80	4.8%	28	7.0%	41
Family law	20.9%	139	16.2%	108	5.1%	34	1.5%	10	1.2%	8	4.4%	29	25.3%	168	13.1%	87	4.5%	30	7.8%	52
Personal injury	21.8%	76	18.9%	66	5.2%	18	1.4%	5	0.9%	3	4.6%	16	21.5%	75	14.9%	52	4.9%	17	6.0%	21
Criminal law	19.5%	94	15.8%	76	5.2%	25	1.2%	6	1.2%	6	6.4%	31	24.7%	119	13.5%	65	4.8%	23	7.5%	36
Tax law	19.8%	21	18.9%	20	2.8%	3	2.8%	3	0.9%	1	3.8%	4	30.2%	32	12.3%	13	3.8%	4	4.7%	5
General practice	18.9%	120	15.3%	97	5.7%	36	1.7%	11	1.1%	7	2.8%	18	29.0%	184	13.9%	88	4.1%	26	7.6%	48

Role

Table C17. I have been practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Principal	1.8%	10	2.6%	14	9.3%	51	12.6%	69	25.0%	137	48.8%	268
Employee solicitor	13.3%	63	25.9%	123	28.8%	137	18.9%	90	8.2%	39	4.8%	23
Graduate / trainee	78.9%	15	15.8%	3	5.3%	1	0.0%	0	0.0%	0	0.0%	0
Other	2.1%	1	10.6%	5	4.3%	2	19.1%	9	8.5%	4	55.3%	26

Table C18. I intend to continue practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
Principal	2.9%	16	5.5%	30	22.4%	123	28.2%	155	29.7%	163	11.3%	62
Employee solicitor	8.0%	38	13.3%	63	21.7%	103	18.6%	88	18.1%	86	20.3%	96
Graduate / trainee	10.5%	2	26.3%	5	31.6%	6	21.1%	4	0.0%	0	10.5%	2
Other	2.2%	1	13.3%	6	33.3%	15	17.8%	8	15.6%	7	17.8%	8

Table C19. If I were to move from a RRR area, this would most likely be due to:

	Change practice areas		Leave the practice of law to start a new career		Better remuneration		Increased professional development opportunities		Move to city for lifestyle reasons		Retirement		For family reasons		My partner's relocation		Isolation		Other	
Principal	2.6%	15	12.5%	72	9.3%	54	5.9%	34	6.2%	36	32.2%	186	19.6%	113	4.0%	23	1.9%	11	5.9%	34
Employee solicitor	3.9%	20	8.5%	44	21.7%	112	9.7%	50	8.3%	43	7.4%	38	19.2%	99	15.3%	79	1.7%	9	4.1%	21
Graduate / trainee	8.3%	2	4.2%	1	37.5%	9	12.5%	3	8.3%	2	4.2%	1	8.3%	2	12.5%	3	0.0%	0	4.2%	1
Other	3.7%	2	5.6%	3	7.4%	4	9.3%	5	7.4%	4	29.6%	16	20.4%	11	9.3%	5	1.9%	1	5.6%	3

Table C20. If I were to leave my current firm, I would be most likely to:

	Move to another legal practice in my regional area		Move to a legal practice in the city		Move to Government in-house position		Move to a corporate in-house position		Move to a community legal centre		Move to become a barrister		Leave the practice of law to retire		Leave the practice of law to start a new career		Leave to care for my family		Other	
Principal	16.1%	88	9.1%	50	3.5%	19	0.5%	3	0.9%	5	4.8%	26	41.5%	227	15.4%	84	2.6%	14	5.7%	31
Employee solicitor	27.8%	131	21.2%	100	7.8%	37	1.9%	9	1.7%	8	4.2%	20	6.4%	30	14.6%	69	7.0%	33	7.4%	35
Graduate / trainee	21.1%	4	42.1%	8	5.3%	1	0.0%	0	0.0%	0	0.0%	0	5.3%	1	15.8%	3	5.3%	1	5.3%	1
Other	4.3%	2	2.1%	1	8.5%	4	12.8%	6	2.1%	1	2.1%	1	31.9%	15	8.5%	4	6.4%	3	21.3%	10

Number of principals

Table C21. I have been practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
1	7.4%	35	11.3%	53	17.7%	83	14.9%	70	19.1%	90	29.6%	139
2	10.1%	19	10.1%	19	16.0%	30	13.8%	26	16.0%	30	34.0%	64
3 – 5	8.8%	22	16.0%	40	14.4%	36	15.2%	38	12.8%	32	32.8%	82
6 – 9	6.9%	5	12.5%	9	26.4%	19	15.3%	11	15.3%	11	23.6%	17
More than 10	10.2%	5	26.5%	13	24.5%	12	8.2%	4	18.4%	9	12.2%	6
Not applicable	5.3%	3	19.3%	11	17.5%	10	29.8%	17	15.8%	9	12.3%	7

Table C22. I intend to continue practising law in a RRR area for:

	Less than 1 year		1 – 2 years		3 – 5 years		6 – 10 years		11 – 20 years		21 plus years	
1	5.7%	27	10.2%	48	24.0%	113	26.0%	122	21.5%	101	12.6%	59
2	5.3%	10	5.3%	10	25.0%	47	23.9%	45	24.5%	46	16.0%	30
3 – 5	4.4%	11	11.6%	29	20.0%	50	22.8%	57	24.8%	62	16.4%	41
6 – 9	5.6%	4	15.3%	11	16.7%	12	15.3%	11	25.0%	18	22.2%	16
More than 10	8.2%	4	4.1%	2	16.3%	8	16.3%	8	30.6%	15	24.5%	12
Not applicable	1.8%	1	7.1%	4	28.6%	16	21.4%	12	25.0%	14	16.1%	9

Table C23. If I were to move from a RRR area, this would most likely be due to:

	Change practice areas		Leave the practice of law to start a new career		Better remuneration		Increased professional development opportunities		Move to city for lifestyle reasons		Retirement		For family reasons		My partner's relocation		Isolation		Other	
1	3.9%	20	11.3%	58	16.2%	83	7.2%	37	6.1%	31	19.7%	101	19.3%	99	8.8%	45	2.1%	11	5.3%	27
2	3.3%	7	7.5%	16	13.1%	28	8.4%	18	11.7%	25	22.9%	49	19.2%	41	7.0%	15	2.3%	5	4.7%	10
3 – 5	1.9%	5	11.4%	30	15.2%	40	8.7%	23	5.3%	14	23.2%	61	18.3%	48	10.3%	27	0.8%	2	4.9%	13
6 – 9	1.3%	1	7.8%	6	11.7%	9	6.5%	5	10.4%	8	19.5%	15	24.7%	19	14.3%	11	1.3%	1	2.6%	2
More than 10	2.2%	1	11.1%	5	26.7%	12	6.7%	3	8.9%	4	8.9%	4	17.8%	8	11.1%	5	0.0%	0	6.7%	3
Not applicable	8.6%	5	8.6%	5	12.1%	7	10.3%	6	6.9%	4	17.2%	10	17.2%	10	12.1%	7	3.4%	2	3.4%	2

Table C24. If I were to leave my current firm, I would be most likely to:

	Move to another legal practice in my regional area		Move to a legal practice in the city		Move to Government in-house position		Move to a corporate in-house position		Move to a community legal centre		Move to become a barrister		Leave the practice of law to retire		Leave the practice of law to start a new career		Leave to care for my family		Other	
1	19.6%	92	11.9%	56	4.9%	23	1.5%	7	2.1%	10	3.8%	18	27.9%	131	16.0%	75	4.7%	22	7.5%	35
2	21.4%	40	18.2%	34	3.7%	7	1.1%	2	0.5%	1	6.4%	12	30.5%	57	11.2%	21	0.5%	1	6.4%	12
3 – 5	22.7%	56	17.8%	44	5.3%	13	0.8%	2	0.0%	0	2.4%	6	21.9%	54	15.8%	39	5.7%	14	7.7%	19
6 – 9	19.4%	14	25.0%	18	5.6%	4	2.8%	2	1.4%	1	4.2%	3	18.1%	13	9.7%	7	9.7%	7	4.2%	3
More than 10	28.6%	14	12.2%	6	8.2%	4	4.1%	2	2.0%	1	8.2%	4	4.1%	2	22.4%	11	4.1%	2	6.1%	3
Not applicable	17.5%	10	0.0%	0	17.5%	10	5.3%	3	0.0%	0	7.0%	4	22.8%	13	12.3%	7	8.8%	5	8.8%	5

Table C25. My firm provides pro bono services other than for legally funded cases:

	Yes		No	
1	66.9%	315	33.1%	156
2	74.6%	141	25.4%	48
3 – 5	69.0%	171	31.0%	77
6 – 9	65.8%	48	34.2%	25
More than 10	79.6%	39	20.4%	10
Not applicable	41.1%	23	58.9%	33

Table C26. I undertake other volunteer work within my community:

	Yes		No	
1	71.3%	335	28.7%	135
2	81.0%	153	19.0%	36
3 – 5	76.3%	190	23.7%	59
6 – 9	63.0%	46	37.0%	27
More than 10	72.9%	35	27.1%	13
Not applicable	69.6%	39	30.4%	17

Table C27. Including yourself (if applicable), how many employee legal practitioners are in your firm?

	1 – 2		3 – 5		6 – 15		16 – 35		More than 35		Not applicable	
1	58.2%	273	20.5%	96	5.1%	24	0.0%	0	0.2%	1	16.0%	75
2	32.4%	61	38.8%	73	16.0%	30	2.1%	4	0.5%	1	10.1%	19
3 – 5	16.8%	42	37.6%	94	37.6%	94	3.2%	8	0.8%	2	4.0%	10
6 – 9	4.2%	3	18.1%	13	50.0%	36	25.0%	18	2.8%	2	0.0%	0
More than 10	0.0%	0	2.0%	1	14.3%	7	40.8%	20	42.9%	21	0.0%	0
Not applicable	19.3%	11	17.5%	10	8.8%	5	3.5%	2	15.8%	9	35.1%	20

Table C28. How many non-legal staff are employed in your firm (based on total number of employees)?

	1 – 2		3 – 5		6 – 15		16 – 35		More than 35		Not applicable	
1	25.2%	119	37.1%	175	21.6%	102	3.6%	17	0.8%	4	11.7%	55
2	3.2%	6	25.8%	49	60.0%	114	10.0%	19	1.1%	2	0.0%	0
3 – 5	0.4%	1	4.8%	12	56.6%	142	33.1%	83	5.2%	13	0.0%	0
6 – 9	0.0%	0	0.0%	0	17.8%	13	52.1%	38	30.1%	22	0.0%	0
More than 10	0.0%	0	0.0%	0	4.1%	2	18.4%	9	75.5%	37	2.0%	1
Not applicable	22.8%	13	19.3%	11	5.3%	3	1.8%	1	24.6%	14	26.3%	15

Table C29. The following things concern me about the future of my firm and its personnel:

	Succession planning		Attracting additional lawyers for growth		Attracting lawyers to replace		Retaining employees		Attracting and retaining good support staff		Employing locums		Other	
1	32.3%	190	19.9%	117	15.8%	93	6.0%	35	10.9%	64	4.4%	26	10.7%	63
2	32.2%	93	23.9%	69	21.5%	62	8.0%	23	8.3%	24	2.1%	6	4.2%	12
3 – 5	29.0%	97	23.1%	77	23.1%	77	11.1%	37	9.3%	31	0.6%	2	3.9%	13
6 – 9	29.5%	18	24.6%	15	18.0%	11	11.5%	7	13.1%	8	0.0%	0	3.3%	2
More than 10	0.0%	0	29.4%	5	11.8%	2	29.4%	5	23.5%	4	0.0%	0	5.9%	1
Not applicable	21.4%	6	25.0%	7	17.9%	5	10.7%	3	14.3%	4	3.6%	1	7.1%	2

Number of Employee Legal Practitioners

Table C30. The following things concern me about the future of my firm and its personnel:

	Succession planning		Attracting additional lawyers for growth		Attracting lawyers to replace		Retaining employees		Attracting and retaining good support staff		Employing locums		Other	
1 – 2	30.4%	173	20.7%	118	17.5%	100	8.1%	46	11.8%	67	3.5%	20	8.1%	46
3 – 5	31.5%	92	22.9%	67	22.9%	67	11.0%	32	6.8%	20	1.4%	4	3.4%	10
6 – 15	27.6%	60	25.8%	56	24.4%	53	9.2%	20	8.3%	18	0.5%	1	4.1%	9
16 – 35	19.4%	7	25.0%	9	13.9%	5	19.4%	7	19.4%	7	0.0%	0	2.8%	1
More than 35	0.0%	0	30.0%	3	20.0%	2	20.0%	2	20.0%	2	0.0%	0	10.0%	1
Not applicable	36.5%	66	19.9%	36	13.3%	24	1.7%	3	9.9%	18	5.5%	10	13.3%	24

Number of non-legal staff

Table C31. The following things concern me about the future of my firm and its personnel:

	Succession planning		Attracting additional lawyers for growth		Attracting lawyers to replace		Retaining employees		Attracting and retaining good support staff		Employing locums		Other	
1 – 2	33.2%	62	17.1%	32	15.5%	29	4.3%	8	12.8%	24	5.3%	10	11.8%	22
3 – 5	34.7%	121	20.6%	72	18.1%	63	6.9%	24	10.6%	37	4.0%	14	5.2%	18
6 – 15	30.4%	146	24.4%	117	22.7%	109	9.8%	47	8.3%	40	1.3%	6	3.1%	15
16 – 35	26.7%	55	23.3%	48	20.4%	42	13.1%	27	11.7%	24	1.0%	2	3.9%	8
More than 35	15.8%	6	26.3%	10	18.4%	7	13.2%	5	18.4%	7	2.6%	1	5.3%	2
Not applicable	24.2%	15	17.7%	11	3.2%	2	0.0%	0	6.5%	4	3.2%	2	45.2%	28

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ALAF
Australian Legal Assistance Forum

Law Council of Australia
National Aboriginal & Torres Strait Islander Legal Services Forum
National Legal Aid
National Association of Community Legal Centres

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The Hon. Robert McClelland MP
Attorney-General
Parliament House
Canberra
ACT, 2601

13th July 2009

Dear Sir,

Re: Aboriginal and Torres Strait Islander Legal Services

As indicated at meetings with you and representatives of the Commonwealth Attorney-General's Department we wish to formally raise our concerns in relation to the underfunding of the Aboriginal and Torres Strait Islander Legal Services (ATSILS).

The extreme disadvantage suffered by many Aboriginal and Torres Strait Islander communities in Australia is widely acknowledged. We confirm our collective experience as Legal Aid Service Providers is that Aboriginal and Torres Strait Islanders are the most disadvantaged clients in the communities we serve.

It is also widely acknowledged that ATSILS are the preferred and most culturally appropriate providers of legal services to Aboriginal and Torres Strait Islander peoples. We confirm that this also accords with our experience.

Notwithstanding the extraordinary levels of disadvantage suffered by Aboriginal and Torres Strait Islanders, the indigenous legal services are the most underfunded sector of all Legal Aid Service Providers for the work required of them, ie they still continue to be funded well below mainstream levels.

A particular ongoing issue for the ATSILS is that poor funding means that recruitment and retention of experienced lawyers who are prepared to undertake the highly demanding work required is very difficult. ATSILS lawyers generally have much lower salaries than their legal aid counterparts. There are high attrition rates with many ATSILS lawyers resigning to take up

positions with Legal Aid Commissions (Commissions). The key reasons for this are:

(1) Superior remuneration; and
(2) Better and more certain resourcing to Commissions.

The above enables the Commissions to offer stability, appropriate training, support, and career paths, which the ATSILS currently cannot offer employees to anywhere near the same extent.

Remuneration levels around the country within and between jurisdictions are generally different being tied to various awards involving different criteria, descriptions and scales, however on average the ATSILS lawyers receive less than Commission lawyers for the same sort of work. There are of course, other issues which compound the challenges faced by ATSILS lawyers, eg language and extra travel required by remoteness. Attached please find a table which was circulated to the individual organisations referred to therein seeking completion and with the aim of producing a page at a glance indication of the national picture in relation to salaries.

The issue of inability to attract and retain experienced staff could in part be addressed by an increase in funding to enable pay parity. It would also be addressed by the introduction of portability of all forms of leave entitlements across Legal Aid Service Providers around the country. Without the loss of leave entitlements, lawyers would be much more likely to transfer between Legal Aid Service Providers. It would also increase the chances of keeping experienced lawyers within the Legal Aid Sector generally.

ALAF therefore calls for additional funding to the ATSILS so that they are in a position to achieve standards of service delivery that are both consistent with mainstream service delivery standards and culturally appropriate, and which also enables strategic and business planning for the future. Until this is achieved the justice system will continue to fail Aboriginal and Torres Strait Islander peoples.

ALAF requests your advice as to how the Commonwealth intends to address the issues raised above.

If you wish to discuss this matter or require further information please do not hesitate to contact me on 03 9269 0247.

Yours sincerely,

Bevan Warner
Chairperson ALAF
CEO Victoria Legal Aid

ALAF
Australian Legal Assistance Forum

Law Council of Australia
National Aboriginal & Torres Strait Islander Legal Services Forum
National Legal Aid
National Association of Community Legal Centres

Date: May 2009

LEGAL AID COMMISSIONS - ATSILS REMUNERATION TABLE					
	1st year Solicitor	**3rd year Solicitor**	**5th year Solicitor**	**Senior Solicitor**	**Administrative Assistant**
NTLAC	$48,276	$61,897	$71,015	$81,019	$44,893
NAAJA	$45,000	$55,000	$65,000	$85,000	$40,500
LANSW	$57,691	$65,578	$72,974	$91,638 - $107,735 (LOIV to LOVI)	$48,173 - $52,370
NSWALS	$45,000	$52,000	$62,500	$68,500 - $106,500 (Grade 3 to PLO Grade 6)	Not provided
LAQ	$48,657	$63,843	$73,874	$83,100	$43,160
ATSILs (Qld) Ltd	$44,000 - $56,000	$56,000 – $65,000	$67,000 - $75,000	$77,000 - $100,000	$31,000 - $42,000
LAACT	$54,390	$62,099	$69,403	$78,627- $97,704	Legal Support Officer (Based on ACT govt ASO2/3) $40,609 - $49,919
ALSNSWACT as at 03/2008	$45,500		$60,000	$75,000	$29,800 - $44,500
VLA	$50,671	$55,000	$60,000	$68,000	$37,258
VALS Co-op Ltd	Legal Officer - Level 1 $45,968 - $47,632	Legal Officer - Level 2 $49,036 - $50,648	Legal Officer - Level 3 $52,156 - $53,768	Legal Officer - Level 4 $59,592 - $66,144	$28,800 - $29,172 Level 1 $38,688 - $44,044 Level 6
LSCSA	$51,406	$57,514 - $62,101 Levels 1 & 2	$67,003 Level 2 max	$73,544 - Level 3 $115,476 - Level 5	$44,705 - $51,504 ASO2/3
ALRM	$42,187	$42,197 - $48,192 Levels 1 & 2	$42,187 - $48,192 Levels 3 & 4	$55,218 - $65,506 Level 5	$31,117 - $54,159 Levels 1 - 8
LAWA	$64,368	$69,704	$74,498	$105,107 - $129,477	$45,271 - $49,160
ALSWA (Inc)	$50,128	$52,442	$57,096	$64,610	$38,376
LACTas	$42,391	$53,848	$69,682	$84,283 - $114,868	$41,318 - $43,922
TAC	$42,000	$54,000	$70,000	$115,000	N.A.