

# RECOMMENDATIONS

## Recommendation 1

**2.35** The committee recommends that the federal, state and territory governments jointly fund a comprehensive national survey of demand and unmet need for legal assistance services in Aboriginal and Torres Strait Islander communities, with particular identification of rural, regional and remote communities and Indigenous women's needs, to be jointly undertaken with state/territory legal aid commissions, community legal centres, Aboriginal legal services, National Legal Aid and the Law and Justice Foundation NSW.

## Recommendation 2

**2.38** The committee recommends that the federal, state and territory governments, in conjunction with relevant stakeholders, and using an evidence-based approach, review existing legal assistance service programs to determine whether the legal aid system is meeting the needs of the Australian people.

## Recommendation 3

**2.39** The committee recommends that the federal, state and territory governments, in conjunction with relevant stakeholders, and using an evidence-based approach, review existing funding programs for legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander legal services, and Family Violence Prevention Legal Services units with a view to sufficiently resourcing the legal aid system to meet the legal needs of the Australian people, including appropriate loadings for high needs areas such as remote, rural and regional areas.

## Recommendation 4

**2.87** The committee recommends that state/territory governments and legal professional associations throughout Australia take such steps as are necessary to:

- advertise and promote participation in formal pro bono schemes, including the National Pro Bono Aspirational Target scheme;
- mandate a pro bono legal work requirement for all classes of practising certificate, including those issued to government employees; and
- abolish the practising certificate fee for legal practitioners whose practise involves pro bono legal work only.

## Recommendation 5

**2.97** The committee recommends that the Australian Government investigate means by which small to medium sized legal firms could be encouraged to further participate in the provision of pro bono legal services.

## **Recommendation 6**

**2.123** The committee recommends that the federal, state and territory governments provide additional funding to legal aid commissions, community legal centres and Indigenous legal services with a view to expanding service delivery in rural, regional and remote areas. This funding must take into account the significant resources required by legal aid commissions, community legal centres and Indigenous legal services in undertaking resource-building initiatives in rural, regional and remote areas.

## **Recommendation 7**

**2.124** The committee recommends that incentives be considered to encourage lawyers to practice in rural, regional and remote areas.

## **Recommendation 8**

**3.81** The committee recommends that the federal, state and territory governments, in conjunction with relevant stakeholders, jointly develop and implement a national civil law program in identified high need areas.

## **Recommendation 9**

**3.110** The committee recommends that the Australian Government increase the level of funding for the Legal Aid Program with a view to sufficiently resourcing the legal aid system to meet the legal needs of the Australian people, including specific funding for community education programs and telephone advice schemes.

## **Recommendation 10**

**3.126** The committee recommends that the Australian, state and territory governments jointly develop and implement realistic and consistent national means test income and assets levels with an in-built mechanism for ensuring that the levels do not stagnate over time.

## **Recommendation 11**

**4.11** The committee recommends that each state and territory registry of the Federal Court of Australia be permanently staffed by a locally-based and legally trained registrar.

## **Recommendation 12**

**4.17** The committee recommends that the federal, state and territory governments create and fund a specific disbursement fund for pro bono matters, with eligibility criteria designed to promote the provision of pro bono legal services by the private legal profession.

## **Recommendation 13**

**4.23** The committee recommends that the federal, state and territory governments develop and implement uniform general disbursement funds throughout Australia to be accessed according to defined criteria with a view to easing the cost of justice for disadvantaged Australians.

#### **Recommendation 14**

**4.38** The committee recommends that the federal, state and territory governments enact legislation to abrogate the indemnity principle, to the extent necessary, to ensure that litigation costs can be awarded and recovered in pro bono matters.

#### **Recommendation 15**

**4.76** The committee recommends that the federal, state and territory governments, in conjunction with affected stakeholders, review and modernise existing legal aid fee scales including an inflator to promote participation of the private legal profession in legal aid service delivery.

#### **Recommendation 16**

**5.39** The committee recommends that the federal, state and territory governments commission research to quantify the economic effects that self-represented litigants have on the Australian justice system, including court, tribunal, other litigant, legal aid system and social welfare system costs.

#### **Recommendation 17**

**5.40** The committee recommends that the federal courts and tribunals should report publicly on the numbers of self-represented litigants and their matter types, and urges state and territory courts to do likewise.

#### **Recommendation 18**

**5.55** The committee recommends that the federal, state and territory governments jointly fund and establish a comprehensive duty solicitor scheme in identified high need areas throughout Australia with a view to reducing the length of litigation and increasing judicial efficiency in self-represented matters.

#### **Recommendation 19**

**5.61** The committee recommends that judicial and court officers receive training in relation to assisting self-represented litigants.

#### **Recommendation 20**

**6.47** The committee recommends that the Australian Government consider funding a number of restorative justice pilot programs in areas where there is an over-representation of minor offenders in the criminal justice system.

#### **Recommendation 21**

**6.56** In conjunction with Recommendation 1, the committee recommends that the federal, state and territory governments recognise the potential benefits of justice reinvestment, and develop and fund a justice reinvestment pilot program for the criminal justice system.

#### **Recommendation 22**

**7.23** The committee recommends that the Attorney-General's Department, in consultation with interested stakeholders, expedite the development of a new

funding model for the allocation of Australian Government funding to all community legal centres.

#### **Recommendation 23**

**7.60** Subject to increased accountability and transparency requirements, including measurable key performance indicators and benchmarks, the committee recommends that the federal, state and territory governments increase the level of funding for community legal centres with a view to sufficiently resourcing this sector of the legal aid system to meet the needs of the Australian people.

#### **Recommendation 24**

**7.63** In conjunction with Recommendation 22, the committee recommends that the Australian Government reconsider the eligibility criteria of the Community Legal Services Program with a view to allowing for the admission of suitable community legal centres throughout Australia.

#### **Recommendation 25**

**7.88** The committee recommends that the Australian Government provide the Federation of Community Legal Centres with some funding support for its proposed Community Legal Centre Graduate program and that future Community Legal Centre graduate schemes be similarly supported.

#### **Recommendation 26**

**8.27** The committee recommends that the federal, state and territory governments inquire into and report on joint funding for the Legal Aid for Indigenous Australians program and related services with a view to more equitably apportioning financial responsibility for Indigenous legal services funding.

#### **Recommendation 27**

**8.43** The committee recommends that the Australian Government increase the level of funding for Indigenous legal services with a view to sufficiently resourcing this sector of the legal aid system to meet the needs of Indigenous peoples, including appropriate loadings for extra service delivery costs.

#### **Recommendation 28**

**8.61** The committee recommends that:

- the federal, state and territory governments provide additional funding to court-based interpreter services in each state and territory with a view to expanding that service in high need areas; and
- the Australian Government commence a process of consultation to seek solutions to the translating difficulties associated with some Indigenous languages, with a view to reducing language barriers to access to justice.

### **Recommendation 29**

**8.77** The committee recommends that the federal, state and territory governments jointly, and in conjunction with affected stakeholders, review current salary levels across legal aid commissions and Aboriginal and Torres Strait Islander legal services, and propose salary level reforms for this sector of the legal aid system with a view to eliminating wage disparity.

### **Recommendation 30**

**8.78** The committee recommends the introduction of portable leave entitlements across legal aid service providers in Australia with a view to enhancing the retention of staff in these sectors.

### **Recommendation 31**

**8.134** The committee recommends that the Australian Government respond to this report no later than March 2010.

