

ACCESS TO JUSTICE

Introduction

NSW Young Lawyers is the largest body of young and newly practising lawyers, and law students, in Australia with over 15,000 members. Each lawyer under 36 years of age and/or in their first five years of practice, and each law student, within NSW is a Member of NSW Young Lawyers.

NSW Young Lawyers Members represent a significant proportion of the legal profession in NSW. This statement of policy reflects the views of the Members of NSW Young Lawyers. It does not reflect the views of The Law Society of New South Wales.

Pro bono work

NSW Young Lawyers is of the view that performing pro bono work (that is, work performed without fee or at a substantially reduced fee) is an important ethical obligation of its Members. More than a 'learning experience' or a 'marketing opportunity', it is an end in itself.

Fulfilling that ethical obligation requires the cooperation not only of NSW Young Lawyers Members, but also the cooperation of the organisations in which they work.

NSW Young Lawyers Members should:

- Seek out opportunities to perform pro bono work that are appropriate to their skill and experience, for example through:
 - NSW Young Lawyers projects;
 - employer-sponsored programs;
 - volunteering opportunities at community legal centres; or
 - taking on appropriate pro bono matters; and
- Be advocates for participation in pro bono work in their organisations, and advocates for access to justice in their activities with NSW Young Lawyers.

It is recommended that employers of NSW Young Lawyers Members should:

- Incentivise the performance of pro bono work;
- Ensure that key performance indicators reflect an appreciation within the organisation for the high value of pro bono work; and
- Seek out opportunities to support pro bono programs and organisations through sharing knowledge and resources, in addition to more traditional sponsorship approaches.

Public funding

The ethical obligation of the legal profession to participate in pro bono work is not a substitute for adequate and secure funding for Legal Aid, community legal centres, and other publicly funded legal resources. NSW Young Lawyers is of the view that the social cost of reduced funding to these institutions exceeds the transitory financial benefit of that reduction.

Changes in funding to providers of free legal assistance have resulted in a growing class of clients who are ineligible for Legal Aid or assistance through a community legal centre, but are also unable to afford private legal representation without financial hardship.

These organisations should not only be sufficiently funded to continue to provide access to legal advice and representation, but also to continue to:

- perform policy and law reform advocacy functions;
- provide publicly accessible resources about the law, such as publications, seminars and online tools; and
- provide targeted services to the most vulnerable groups in society (including by providing services at times and in locations that are most accessible to those clients).

Innovation

NSW Young Lawyers is of the view that innovation and technological change can improve access to justice by reducing the cost of delivery of legal services. That proposition applies to the more efficient provision of pro bono legal services, and to paid legal services, where services could be provided through a fee structure within the means of a greater number of clients.

When considering the use of technology, NSW Young Lawyers Members should also consider any impact of that technology on privilege and confidentiality.

Fee arrangements that go beyond the traditional time-based costing structure can also improve access to justice by providing clients with greater certainty about the cost of paid legal services. This includes not only fixed fee and capped fee arrangements, but also event-based fee arrangements, where discrete fixed fees are charged based on how the case progresses.

NSW Young Lawyers Members can be ambassadors for innovation and technological change in their organisations.

NSW Young Lawyers Members should consider how they can:

- make communication with clients easier and more convenient for the client, for example through the use of videoconferencing;
- use existing technology platforms such as online court programs to reduce, where possible, the cost of litigation;
- promote the use of Alternative Dispute Resolution where appropriate to reduce the cost of litigation and to increase access to justice;
- make legal services more accessible to clients, for example through the use of online services to reach youth clients and regional clients;
- introduce time and cost savings that improve the affordability of services for the client, for example through the use of automation and document management systems; and
- manage the cost of legal services to cost-conscious clients through the use of fixed, capped, or event-based fee arrangements.