



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: CLC/EErg:1775148

30 August 2019

The Hon. Mark Speakman SC MP  
Attorney General  
GPO Box 5341  
SYDNEY NSW 2001

Dear Attorney,

### **Fees Paid to Private Practitioners in Legally Aided Matters – Business Case**

In 2018 the Law Society made submissions to Legal Aid NSW as part of its review of fees paid to private practitioners for legally aided work.

We understand that Legal Aid's business case for the reform of fees remains under Government consideration, and we would appreciate an update as to any progress towards increasing the Legal Aid rate for private practitioners.

We are of the view that without an immediate increase in funding to allow for proper remuneration to attract private practitioners of sufficient skill and expertise, Legal Aid will struggle to continue to provide a mixed service delivery model.

The current problem is a combination of a low hourly rate paid to private practitioners, and insufficient time claimable under the fee scales. It is often not possible for a private practitioner to properly discharge their professional responsibilities within allocated timeframes. In our view, it is due to private practitioners working many additional unpaid hours to assist the most socially and economically disadvantaged clients, that has kept the system going for so long. This situation is no longer sustainable.

Many solicitors, particularly experienced solicitors, have reported that they take on legally aided work at a loss and view conducting Legal Aid matters as a pro bono service. While pro bono work is a highly commendable and long-standing tradition of the profession, it is not a substitute for a properly funded legal aid system.

If fee amounts and timescales for undertaking work are not increased in the near future, then there will continue to be a withdrawal of experienced solicitors from legally aided matters. This is resulting in the juniorisation of legal aid work, and a diminution in the quality of legally aided matters. If left unaddressed, there is a risk that the mixed service delivery model will collapse due to insufficient numbers of private practitioners undertaking legally aided work.

We reiterate our support for an urgent increase in funding for Legal Aid NSW, and look forward to hearing from you at your earliest convenience.

Yours sincerely,

Elizabeth Espinosa  
**President**

THE LAW SOCIETY OF NEW SOUTH WALES

170 Phillip Street, Sydney NSW 2000, DX 362 Sydney  
ACN 000 000 699 ABN 98 696 304 966

T +61 2 9926 0333 F +61 2 9231 5809  
[www.lawsociety.com.au](http://www.lawsociety.com.au)