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Closing the justice gap for the missing middle

A [position paper](#) released today by the Law Council of Australia seeks to ensure all Australians have effective access to justice.

“A guiding principle of the rule of law is equality before the law,” Law Council of Australia President, Dr Jacoba Brasch QC said. “This means all people must be equally protected by the law. If legal services are financially out of reach of any Australian, then we have failed to uphold this principle.”

“When it comes to access to justice in this country, we have a ‘missing middle’. This is the group of individuals who do not meet eligibility criteria for publicly funded legal services yet lack the resources to afford a private lawyer’s assistance for all or part of their legal matter.”

The Productivity Commission found in its Access to Justice Arrangements report that: “Even many relatively affluent Australians could not afford a lawyer if they had a serious legal issue. Legal assistance providers also indicated that those refused a grant of legal aid (on the basis of means) cannot necessarily afford to engage a private lawyer — there is a ‘justice gap’.”

“Initiatives to improve access to justice have understandably concentrated on supporting Australians facing the most complicated and compounded forms of social and economic disadvantage. However, we must also turn our collective efforts to closing the justice gap for all,” Dr Brasch stressed.

“Particular sectors of our community may be more likely to fall within the missing middle,” Dr Brasch said. “These include older persons, people living in rural, regional and remote (RRR) areas, women, single parents, LGBTQI+ people, children and young people, people with a disability, migrants, and people experiencing family violence.”

The Law Council’s Position Paper, [Addressing the Legal Needs of the Missing Middle](#), outlines a range of strategies for meeting the legal needs of the missing middle.

“It will require a multifaceted approach and support from both policymakers and the legal profession to remove the barriers faced by the missing middle. The strategies unveiled today will provide a foundation for the Law Council to advocate for and achieve positive change.”

Key strategies identified include: increased funding for legal assistance services; low-bono services; legal expenses insurance; self-representation resources; and ombudsmen services.

“A significant proportion of Australians falling within the missing middle are located in RRR areas,” Dr Brasch explained. “The Law Council will continue to encourage policy options for promoting the recruitment, retention, and succession of lawyers in RRR areas, which could include expanded adoption of RRR-focused curriculums in undergraduate law training and targeted rural placement, mentoring and incentive schemes.”