

MEDIA RELEASE

\$88M LEGAL AID INJECTION A POSITIVE BUT INCOMPLETE INVESTMENT IN NSW JUSTICE

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NEW SOUTH WALES
BAR ASSOCIATION

An \$88 million injection by the NSW Government into the state's chronically underfunded legal aid system is a step in the right direction and long overdue but must be followed by further funding to improve justice, according to the New South Wales Bar Association.

NSW Attorney-General Mark Speakman has announced the funding increase will be delivered over the next four years to 2023-24. The package includes a staggered increase in the base hourly rates for counsel undertaking legal aid matters and structural changes aimed at increasing allocations for lawyers to undertake critical pre-trial work with their clients to prepare for criminal matters.

"The Association has consistently raised concern about the adverse impacts of underfunding legal aid on access to justice and the quality of justice in NSW," the President of the New South Wales Bar Association Tim Game SC said today.

"The Attorney-General's commitment to funding legal aid is a positive first step. We thank the Government for listening to the concerns of the community and the legal profession, in circumstances where these concerns have gone unheard for years by successive governments.

"Nevertheless, a one-off investment staggered over four years will not go very far to meet the current unmet need or provide continued funding security for the system," Mr Game said.

"The \$88 million announced is only about a third of what Legal Aid NSW advised was desperately needed. The urgently requested increase of \$236.8 million would have potentially reduced trial lengths in the District Court.

"Further sustained funding is urgently required and we look forward to working with the Government, Legal Aid NSW and the Parliament to ensure sufficient and ongoing resourcing of this important system.

"Underfunding legal aid continues to adversely impact clients, victims and witnesses of crime, and places further pressure on an already overstretched court system. Equal and fair access to the law is undermined by the reality that, without legal aid, many people are not able to afford legal representation in criminal, civil or family law matters.

"Accordingly, the Association will continue our ongoing discussions with Legal Aid NSW concerning funding legal aid fees for counsel under section 39 of the *Legal Aid Commission Act 1979* (NSW) and will continue to advocate to Government for adequate funding," said Mr Game.

"As the volume of legal aid work and length of court delays continue to grow, ensuring adequate funding of legal aid fees would have a substantial impact on efficiencies in the justice system.

"The current subsidisation of the justice system by the legal profession regrettably continues and comes at a great personal and financial cost to barristers who have been willing to represent clients in legal aid matters. Once unpaid hours and overheads are taken into account, some barristers undertaking legal aid matters find themselves working for around half of the minimum wage.

“The structural changes to be introduced go some way towards correcting the problem, but the Association is concerned that the increased allowances for preparation time are not sufficient to ensure that lawyers are adequately paid for the critical work required to enable them to properly advise clients and prepare matters for court.

“More must be done to provide ongoing and sufficient funding for this important system. The Commonwealth Government must take its share of the responsibility for the current legal aid crisis as a 50:50 partner with State Governments, a commitment it has failed for many years to keep.

“Federal funding is falling hundreds of millions of dollars short of what is required to meet current demand. With the Federal Budget heading back into the black, there is an opportunity to invest in this critical justice infrastructure that impacts upon the whole community,” Mr Game said.

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