



ACCESS TO JUSTICE

Standing Up for what is Fair and Just

So That Everyone Can Stand Up for what is Fair and Just

Access to justice shouldn't be dependent on the size of your wallet. Too many Australians are being marginalised by a legal system that is completely out of their reach. Legal assistance is not a privilege – it is the right of all Australians. The Greens are the only party to fund legal assistance based on actual need.

To live in a truly just society, we must have a legal system that can serve those who cannot afford to pay for legal representation, through to those that have no voice.

But what we currently have is far from a system that provides access to justice for all, and it's only getting worse.

It is not just the Greens that think this isn't good enough: the Government's own Productivity Commission also considered the situation dire, and urgently called for extra funding¹.

> RESTORING AND INCREASING LEGAL ASSISTANCE FUNDING

Legal assistance includes services such as the Legal Aid Commission, Aboriginal and Torres Strait Islander Legal Services, Family Violence Prevention Legal Services, and Community Legal Centres.

Community Legal Centres help over 200,000 clients each year. But they also turn away over 150,000 people in need of help every year – largely due to a lack of resources. Community Legal Centres need more resourcing to match this demand but the Government is slashing more and more funding from them.

Since 2007 there has been a net reduction in per capita funding for legal aid services², and from 2017 Malcolm Turnbull will cut a further \$34m out of community legal centres.

The Greens will reverse these cruel cuts to legal assistance, as well as fund the Productivity Commission's recommendations for extra funding³.

¹ Productivity Commission (2014) Access to Justice Arrangements

² Hannebery, J. (2014), *Access to Justice: A Comparative Analysis of Cuts to Legal Aid*, Monash University

³ Productivity Commission (2014) Access to Justice Arrangements

This will mean additional federal funding across the forward estimates of:

- **\$92.6m** for Community Legal Centres
- **\$290.04m** for Legal Aid Commissions
- **\$183.09m** for Aboriginal and Torres Strait Islander Legal Services
- **\$144.36m** for Family Violence Prevention Legal Services
- **\$6.99m** for legal service peak bodies.

That's an extra \$717 million of federal funding across four years for these essential legal services that allow our most disadvantaged and vulnerable citizens to access to justice.

This **includes \$6.99m across the forward estimates** for peak bodies to continue their vital role in things such as advocacy, accreditation and policy development for their members, with the following allocations:

- **\$4.5m** for National Family Violence Prevention Legal Services
- **\$1.67m** for National Association of Community Legal Centres
- **\$0.82m** for National Aboriginal & Torres Strait Islander Legal Services

With States and Territories matching the Productivity Commission's recommendations for extra legal assistance funding, split 40:60 with the Commonwealth, there will be a further \$320m in funding.

> DEFENDING THE ENVIRONMENT

The Abbott-Turnbull Government cut **ALL** federal funding for Environmental Defenders Offices in 2014 for purely ideological reasons.

This was another of their relentless attacks on the environment and all who advocate on its behalf.

The Greens will wholly reinstate federal funding for Environmental Defenders Offices at \$14.5m over four years (including indexation).

> CUTTING COURT COSTS

Although we were successful in blocking the Turnbull-Government's latest attempts at raising court fees by introducing a "divorce tax", court fees are still too expensive and prohibitive to our most disadvantaged citizens.

The Greens will invest \$143.25 million over the forward estimates to return Federal court fees to 2010-2011 levels, subject to indexation.

Our plan will also introduce a fee exemption category for clients who are represented in Federal courts on a pro bono basis.

> A NATIONAL SURVEY OF LEGAL NEED

The true picture of unmet legal need is unknown. One-off surveys of legal need have uncovered some alarming statistics. For instance: In a year around one half of all Australians will experience a legal problem. For half of these people, the problem will have a moderate to severe impact on their lives. Only one in two people will seek professional advice, and one in five will take no action at all⁴.

The reasons given for taking no action were often related to stress (30%), cost (27%) or simply not knowing what to do (21%)⁵.

A regular survey of legal need will identify what Australians, particularly those who are most disadvantaged, require to access and receive justice, and appropriate levels of resourcing to meet those needs.

The Greens have allocated **\$8m across the forward estimates** to fund a regular national survey of legal need.

> DIFFERENTIATION FROM OTHER PARTIES

In two and a half short years, the Abbott-Turnbull Government has made unprecedented cuts to legal assistance, crippling their ability to provide access to justice for those members of our society who are already facing great hardship, adversity, and injustice.

A recent report by the Human Rights Law Centre argued cuts, particularly to community legal centres and advocacy services had undermined our nation's democracy⁶.

⁴ Law and Justice Foundation of New South Wales (2012) Legal Australia-Wide Survey Legal Need in Australia

⁵ *ibid*

⁶ Human Rights Law Centre (2016) Safeguarding Democracy

Labor has merely said it "would look to reinstate some of the funding if elected"⁷.

The Greens agree with the Productivity Commission that partial restoration of cuts, or even full restoration of cuts, isn't enough: legal assistance in Australia is chronically underfunded, and only The Greens believe in social justice enough to provide the funding it so badly requires, so that all Australians have access to justice.

> FAMILY LAW ASSISTANCE

The Greens support the 5-step *Safety First in Family Law* plan from Women's Legal Services Australia in its entirety. We will put safety first in family law with a **\$60 million package** involving the following reforms:

Create a special process in family courts for domestic violence cases, supported by specialist workers placed in court registries along with specialist services based in courts to receive referrals. These workers and services would focus on early intervention and risk assessment - **\$5 million per year over 4 years**.

Reform the Family Law Act with a focus on safety and child protection. This would include removing the language of "equal shared time" and "equal shared responsibility" to focus on safety and risk to children. It would also include legal protections to stop a victim being directly cross-examined by their abuser.

Make family law safe for everyone by implementing the Family Law Council's 2012 recommendations on improving the system for clients from Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse Backgrounds, and by undertaking a comprehensive audit of barriers facing women with disabilities and women from regional communities and women in prison.

Provide legally assisted and supported family dispute resolution in domestic violence cases based on the highly effective 2012 Co-ordinated Family Dispute Resolution pilot. The Greens would commit **\$10 million per year over 4 years** to roll out this model at 10 sites around Australia, aiming for a national rollout as soon as possible.

Support women to financially recover from violence by streamlining small property settlements and simplifying family court processes.

Establish robust national accreditation and monitoring for family report writers with mandatory training on domestic violence, cultural competency and working with victims of trauma for all practitioners who prepare family reports.

Implement mandatory video recording of interviews with family report writers to bring the Family Court into line with

⁷ <http://www.abc.net.au/news/2016-02-23/government-cuts-to-legal-services-'undermining-democracy'/7191022>

standard practice in other jurisdictions such as workers compensation and investigations of child sexual abuse. This measure is additional to the *Safety First in Family Law* plan.

Deliver a comprehensive professional development package for family law judicial officers, and family law legal professionals, working with the Judicial College of Australia, the Australian Institute of Family Studies, State and Territory law institutes and bar associations.