

2021
ACCESS TO JUSTICE

Access to Justice Scorecard

Evaluating access to justice in Queensland



2021 Data analysis and report

Introduction

In its ninth year, Queensland Law Society's Access to Justice Scorecard has sought to assess the views of the legal profession in Queensland about Queenslanders' access to justice. The Scorecard is an initiative of the Queensland Law Society's Access to Justice and Pro Bono Law Committee, which is comprised of expert legal practitioners who have a thorough understanding of the issues relating to these important issues. Our committee is comprised of solicitors from community legal centres, Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Service and members of the private profession.

The Scorecard acknowledges and celebrates achievements in improving access to justice, identifies where improvements are necessary and proposes solutions to overcome barriers to accessing justice. The report provides a platform to assist Queensland Law Society in advocating for better access to justice in Queensland.

The Scorecard assesses whether laws achieve fair and intended outcomes in Queensland, and whether people have access to legal assistance when they need it. In 2021, QLS received 481 survey responses and responders gave access to justice in Queensland an overall score of 5.28 out of 10.

Methodology

The 2021 survey questions adopted some multiple choice questions from previous years to create a comparable timeline of access to justice across the years. However, there are a number of brand new questions in this year's survey which were designed to obtain data on issues not canvassed by previous surveys, such as the uptake of Low Bono or discrete task legal services.

Question 1

Using a scale 1-10, with 1 being very poor and 10 being very good, how would you score access to justice in Queensland?

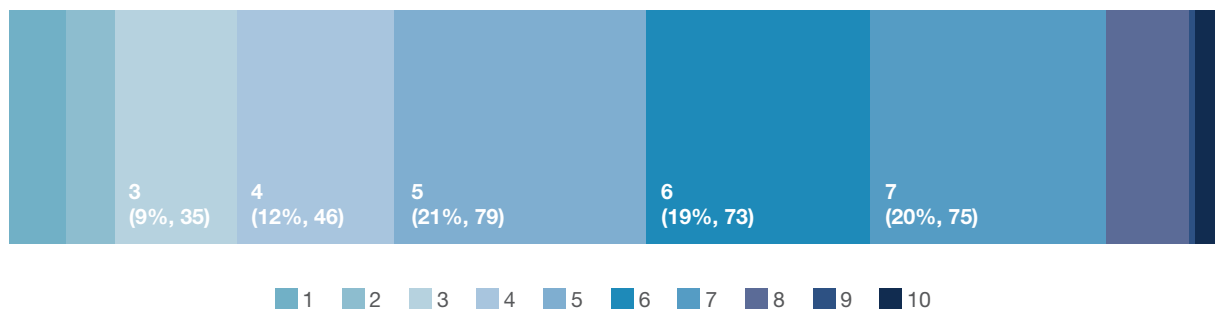
On a scale from 1 to 10, survey respondents were asked to score access to justice in Queensland. The average score in 2021 was 5.28, representing a slight decrease from last year. The *majority* (21%) of survey respondents scored access to justice in Queensland as a 5. Of note is the fact that responders have scored access to justice in Queensland consistently in the range of 5 since the inception of the survey. This indicates that there has been minimal impact on access to justice in Queensland over the past decade.

In this year's Scorecard, we drafted the list of barriers to accessing justice to include a number of obstacles contained in previous scorecards. Inability to access private legal representation due to affordability was featured as one of the top three barriers to access to justice. We also incorporated a list of new barriers which respondents agreed significantly impact access to justice, including:

- Difficulty accessing free legal assistance because of service availability (e.g. services are limited or unavailable for certain areas of law such as immigration law services)
- Lack of awareness of legal rights and what to do to take action
- Social barriers, such as homelessness, language, age and abuse

Again, the quality and scope of legal assistance services, the excellent pro bono work by lawyers, improvements in technology, and the travelling of courts and tribunals to regional Queensland, were all regarded as working well to support access to justice in Queensland.

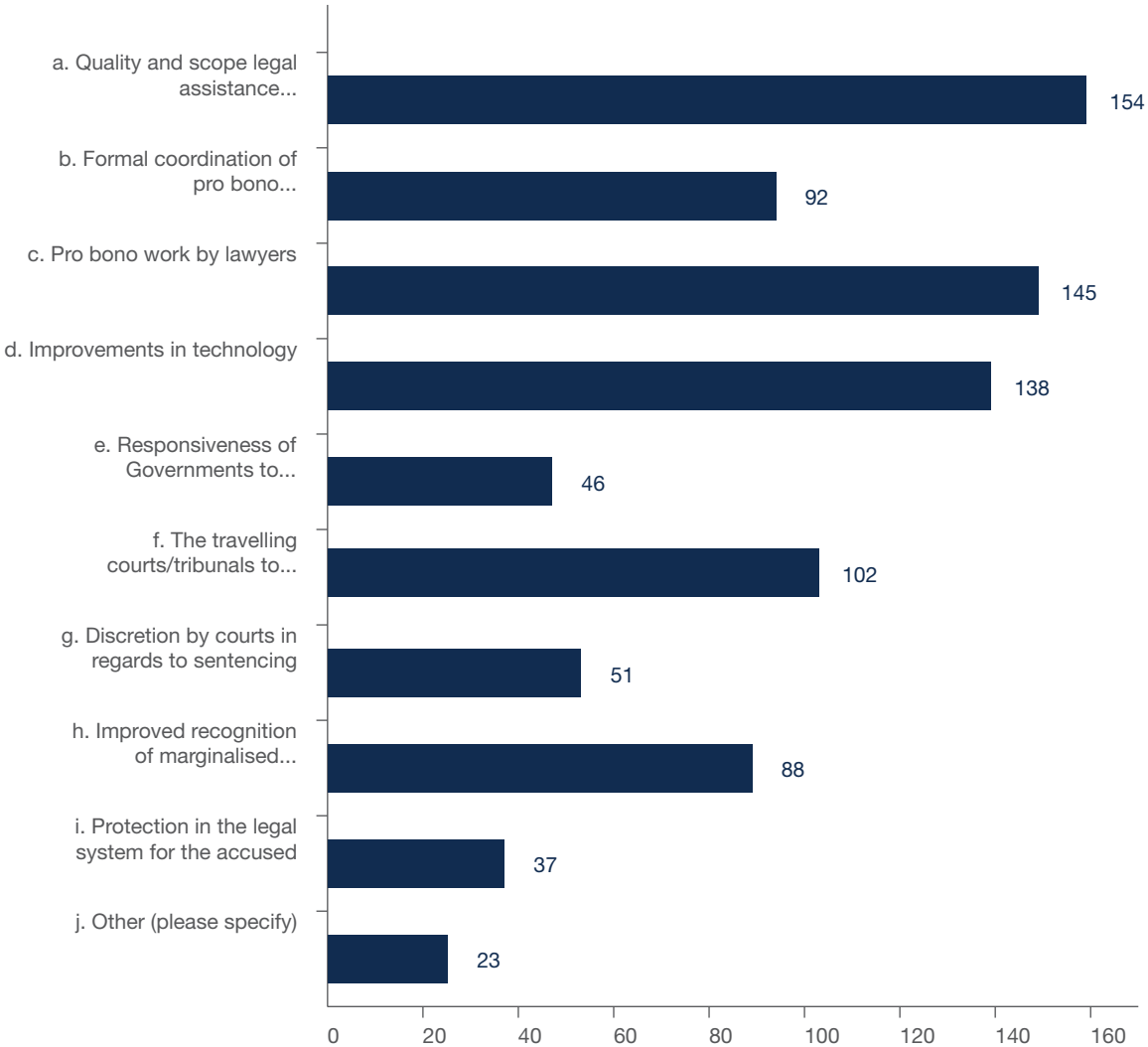
QLS continues to advocate for more sustainable, predictable long-term funding of the legal assistance sector through its legal policy submissions, direct advocacy and State and Federal Call to Parties statements.



Question 2

In previous years the following were identified as aspects of the law that are working well for access to justice. From the list below, please select up to three areas which you believe best support access to justice in Queensland.

- a. Quality and scope of legal assistance services
- b. Formal coordination of pro bono assistance
- c. Pro bono work by lawyers
- d. Improvements in technology
- e. Responsiveness of Governments to changing requirements
- f. The travelling of courts/tribunals to regional Queensland
- g. Discretion by courts in regards to sentencing
- h. Improved recognition of marginalised groups
- i. Protection in legal system for the accused
- j. Other



The top four responses remain consistent with previous years, with the results from 2021 consistent with the results from 2018 (and 2019 and 2020 providing consistent results).

Interestingly, 'quality and scope of legal assistance services' was ranked number 4 in 2019 and 2020, but jumped markedly to number 1 this year (and in line with 2018 results). These results may show a shift away from the mere 'doing' of pro bono work (previously ranked number 1) towards the importance of quality and meaningful assistance, including through Low Bono and discrete task assistance (see further at questions 7 and 8).

The 'Other' comments also highlighted the following as working well for access to justice:

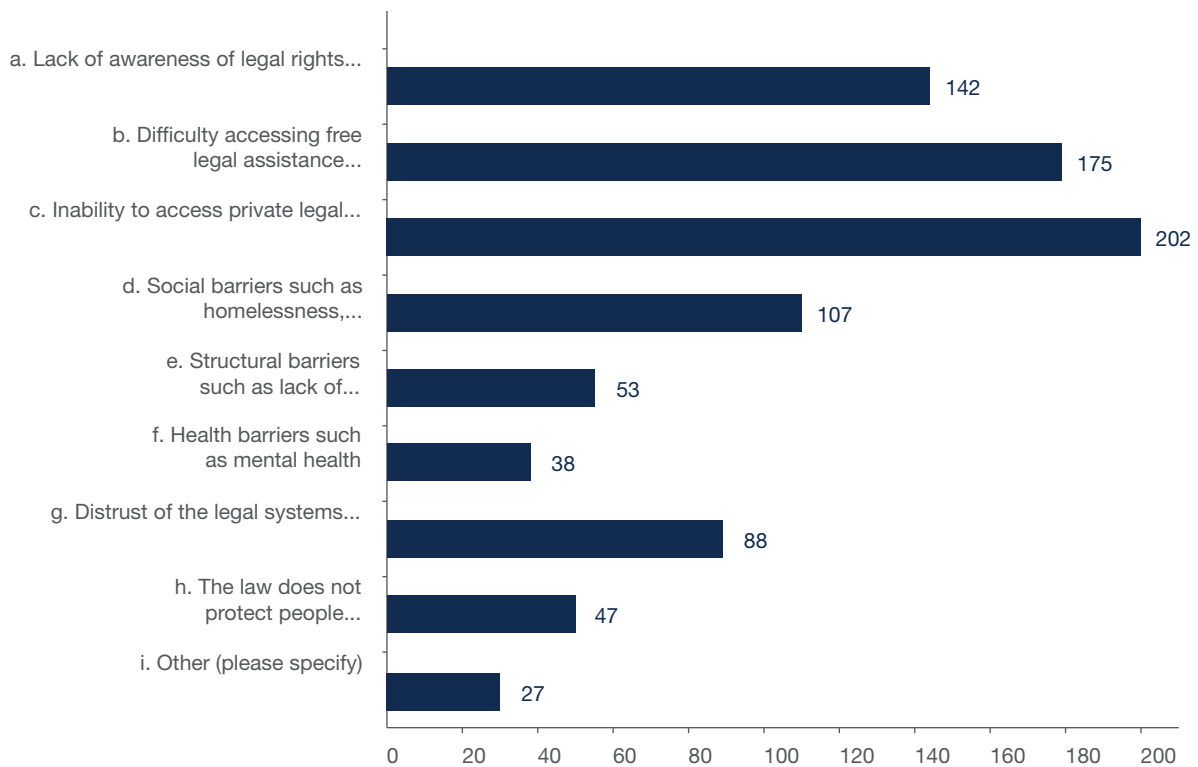
- the use of existing technologies as part of the COVID-19 pandemic (including phone and video link);
- Legal Aid Queensland's Duty Law services; and
- specialist courts and programs.

Question 3

From the list below, select up to three issues which you believe are the most significant barriers to accessing justice in Queensland

This questions focuses on barriers to access to justice in a holistic sense, including accessibility of legal assistance support and impediments to provision of effective assistance. The next question (Question 4) focuses on the barriers to accessing courts in particular.

- a. Lack of awareness of legal rights and what to do to take action
- b. Difficulty accessing free legal assistance because of service availability (e.g. services are limited or unavailable for certain areas of law such as immigration law services)
- c. Inability to access private legal representation because of cost
- d. Social barriers such as homelessness, language, age and abuse
- e. Structural barriers such as lack of culturally safe or trauma informed services
- f. Health barriers such as mental health
- g. Distrust of the legal system or fear of the legal process
- h. The law does not protect people in the way that it should
- i. Other (please specify)



Survey respondents identified the following issues as the top three barriers to accessing justice in Queensland:

- the costs of private legal representation;
- difficulty accessing free legal assistance because of services availability; and
- lack of awareness of legal rights and what to do to take action

While the survey options, cost of private legal representation and access to free legal assistance, are consistent with previous surveys, this is the first year that respondents could identify a lack of awareness of legal rights and what to do to take action as an access to justice barrier. In previous years, respondents identified the number of judges, magistrates and tribunal members in Queensland as being the third most identified barrier to accessing justice in Queensland.

The lack of awareness of legal rights and what to do to resolve a legal problem is a consistent theme present in the body of national legal needs research. Indeed, the research has found that many people will seek the advice and support of family, friends or health professionals before they seek the assistance of a lawyer, indicating a low awareness, or legal capability, to resolve everyday problems that may have a legal dimension.¹

The 'Other' category also demonstrated some consistent themes, including time delays, costs and access to courts and tribunals and a lack of use of technology in parts of the justice system to streamline processes and obtain efficiencies. There were also concerns that regional parts of Queensland were limited in their ability to use technology. Finally, we noted a theme present in this year's Scorecard relating to the barriers in accessing legal services due to cost, local availability, and greater barriers for people with multiple and complex needs.

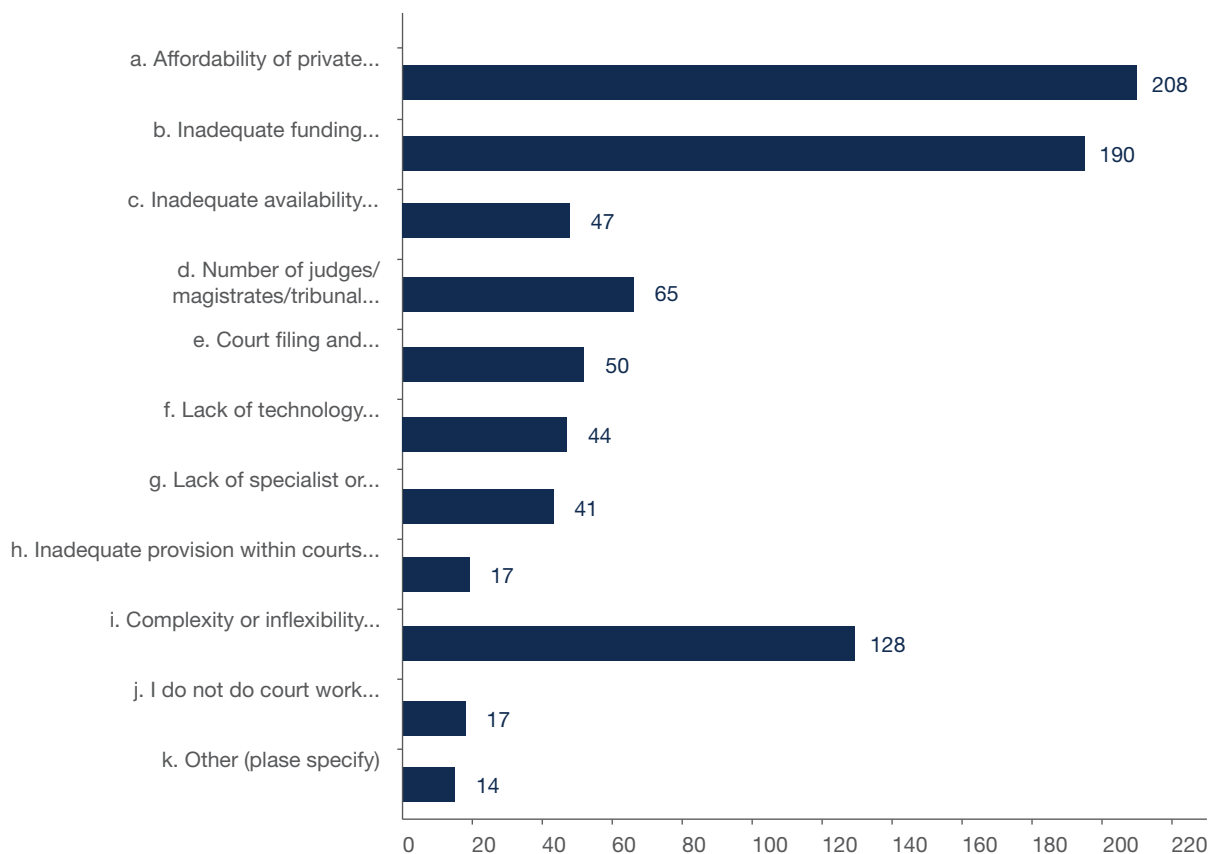
¹ Pleasence, P, Coumarelos, C, Forell, S & McDonald, HM 2014, Reshaping legal assistance services: building on the evidence base: a discussion paper, Law and Justice Foundation of NSW, Sydney.

Question 4

From the list below, select up to three issues which you believe are the most significant barriers to accessing courts in Queensland.

Accessibility of courts is an important component to ensuring access to justice for all. This question focuses on the barriers to that.

- a. Affordability of private legal representation
- b. Inadequate funding of the legal assistance sector – including community legal centres, Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Service and Queensland Indigenous Family Violence Legal Service
- c. Inadequate availability of task based assistance
- d. Number of judges/magistrates/tribunal members (State and Commonwealth) in Queensland
- e. Court filing and court administration fees
- f. Lack of technology to enable access to courts
- g. Lack of specialist or diversionary courts and tribunals
- h. Inadequate provision within courts for people with special needs
- i. Complexity or inflexibility of courts and court processes
- j. I do not do court work (if selecting this box, you do not need to select other boxes)



The two most significant barriers to accessing Queensland Courts each relate to a lack of legal representation.

Just under a quarter of all respondents (24.94%) identified the affordability of private representation as a significant barrier, and 23.16% of respondents identified the lack of legal assistance funding for court representation as another significant barrier. These responses speak to the perception that legal representation is necessary in order to have meaningful access to Queensland's Courts.

These results are consistent with the third identified barrier: complexity or inflexibility of Courts and Court processes (15.32% of respondents).

Given these barriers, individuals experiencing a legal problem will often find themselves as self-represented litigants involved in a complex and adversarial process, where they are at a serious disadvantage. Alternatively, individuals experiencing a legal problem will not participate in Court processes at all. The result is that meritorious claims are not pursued and unmeritorious claims are not defended.

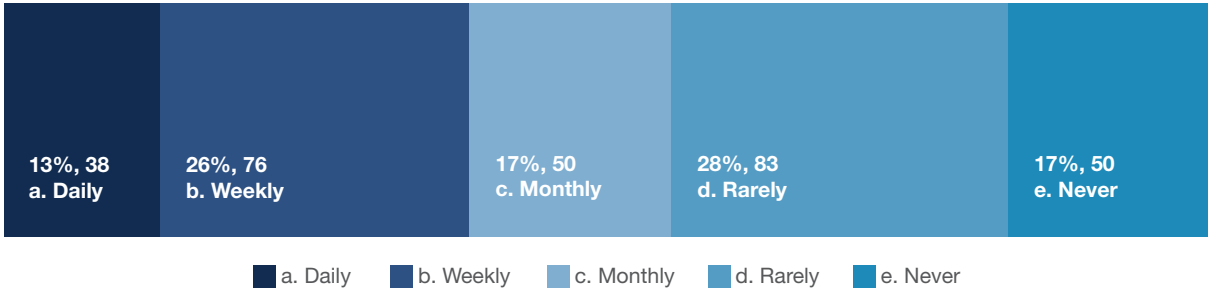
The comments received in response to this question highlight the limited use of technology in the Queensland's Courts, which, if used appropriately, would allow for the efficient and expeditious resolution of court matters.

Question 5 and 6

Question 5: How often do you turn away clients seeking your help with matters in your area of practice?

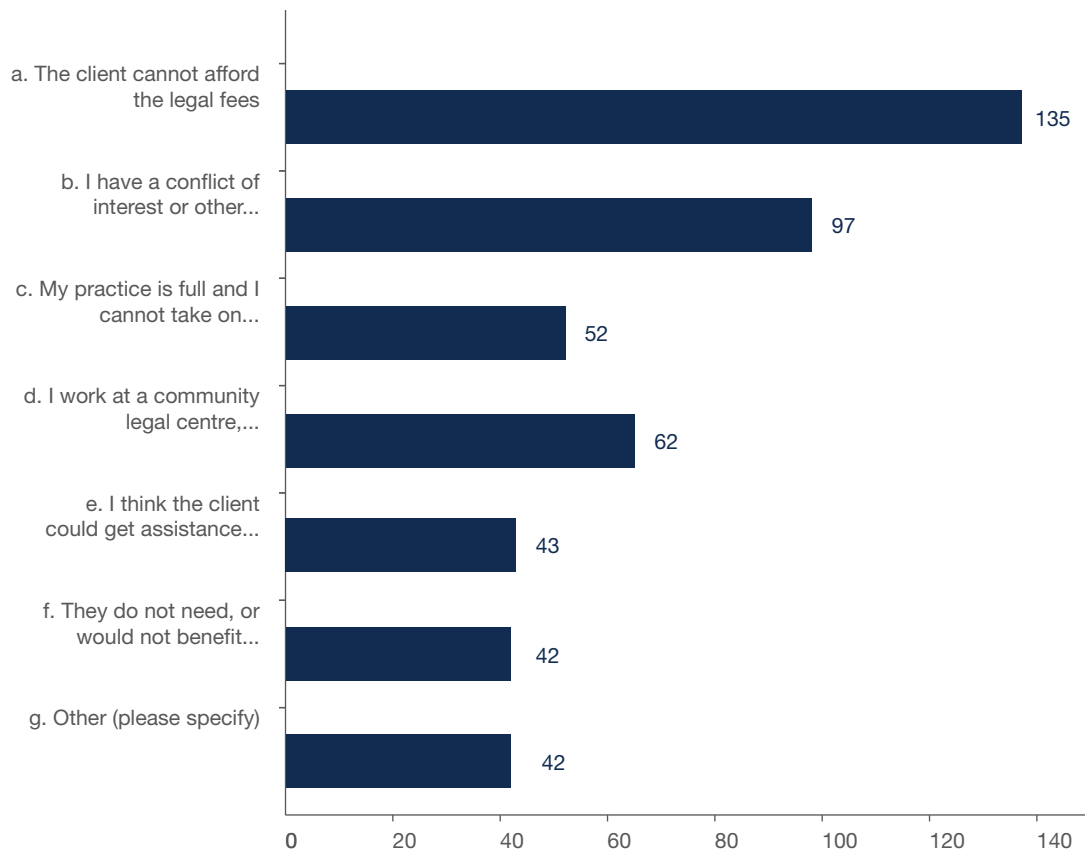
This may be because of a number of reasons, and the next question (Question 6) looks at those in more detail.

- a. Daily
- b. Weekly
- c. Monthly
- d. Rarely
- e. Never



Question 6: If you are turning away clients seeking your help, what are the three main reasons you cannot assist them?

- a. The client cannot afford the legal fees
- b. I have a conflict of interest or other ethical concern
- c. My practice is full and I cannot take on any new work
- d. I work at a community legal centre, Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Service and Queensland Indigenous Family Violence Legal Service, and there are resource constraints
- e. I think the client could get assistance from Legal Aid Queensland and I do not do Legal Aid Queensland work
- f. They do not need, or would not benefit from, a lawyer
- g. Other (please specify)



The 2021 Scorecard was the first year the survey has asked for details surrounding the number of clients that solicitors are turning away, together with details as to why solicitors cannot provide their legal services. In particular, QLS was interested in collecting data as to whether this may be an item to consider in ensuring Queenslanders are able to access to justice.

Of concern, nearly 40% of respondents indicated that clients are being turned on a daily or weekly basis.

The cost of legal services is the number one reason for turning away clients, accounting for nearly 30% of all responses. Similarly, a common theme in 'Other' comments were clients who were ineligible for Legal Aid funding, but unable to afford private fees (even on a Low Bono arrangement). This included, for example, a number of comments focusing on the disconnect between the quantum of a claim and the substantial work (and cost) involved in progressing a claim, even where it is meritorious.

Related to this, the Scorecard results indicated that 24% of clients were turned away due to resource constraints of firms or community legal centres. When combined with the results above, this represents over 50% of the reasons for why solicitors are turning clients away.

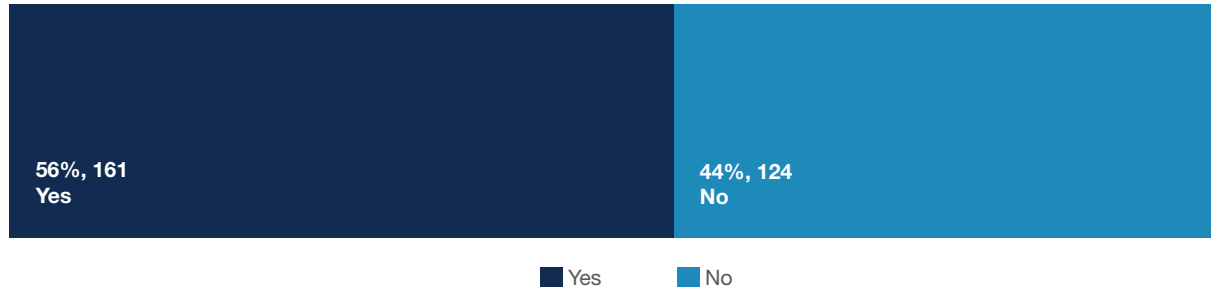
These results present a significant concern from an access to justice perspective, where clients may be unable to access legal assistance due to the costs involved or limited resources available to them, despite having a meritorious claim. To a degree, Low Bono or discrete task assistance may be a way to resolve this, with one 'Other' comment noting that clients often only needed advice on how to approach their issue and then return to formalise agreements.

Of the 'Other' comments, 9 also noted the area as being outside of their speciality.

Question 7

Do you undertake Low Bono or discrete task legal services?

'Low Bono' can be a discounted fee for work (rather than charging no fee), unbundled or limited scope services (where only discrete tasks are performed, rather than full representation), passing on the benefits of improved efficiencies or back end processes, or provision of self-help tools.



If you offer Low Bono or discrete task legal services, what works well and what does not?

This was a new question in the 2021 Scorecard. The survey sought information regarding the extent of Low Bono work undertaken by lawyers.

There is substantial data available about Pro Bono work done by the legal profession. Large commercial firms have Pro Bono programs through which they provide assistance to eligible individuals who would otherwise not be able to access the legal services offered by the firm. These Pro Bono programs are often in areas of law in which the firm may not otherwise practise (for example lawyers may volunteer at a homeless persons clinics)

It has been thought, based on anecdotal evidence, that smaller firms which already have an individual client base are less likely to do pure Pro Bono work, but more likely to do Low Bono work to facilitate access to justice for some clients in their usual areas of practice.

For these purposes, Low Bono was defined as working at a discounted rate, doing discrete tasks (rather than whole representation), passing on to client cost saving efficiencies from technology enabled back office processes, or providing self-help tools to assist clients to represent themselves.

The survey supported the anecdotal evidence, with 55.44% of survey respondents indicating that they undertake Low Bono work. There was a very high response rate to the question for information about what works well and what does not for Low Bono work, providing a rich source of information about the benefits and challenges of Low Bono work.

Survey respondents identified that Low Bono works well when the scope is clearly identified and the client understands exactly what work is being done by the lawyer and what work the client will need to do.

Survey respondent described how they incorporate Low Bono in their practices:

We like to assist clients where we can and some clientele fees are 'LowBono' upon consultation with the principal of the firm. Generally it is not profitable for our firm however many lower fees clients we have are clients that have retained us previously. The lower fee structures are purely at the principal's discretion.

and the benefits that can flow:

My lowbono or pro Bono Clients tend to be ones for him I had previously acted privately. Rather than send them away when they run out of money, I continue acting on a low fee or no fee basis. This works for me because I am satisfied that I'm giving my expertise to a meritorious case. It works for the client because they appreciate the value of what is being provided.

Respondents also articulated the difficulties of working in this way:

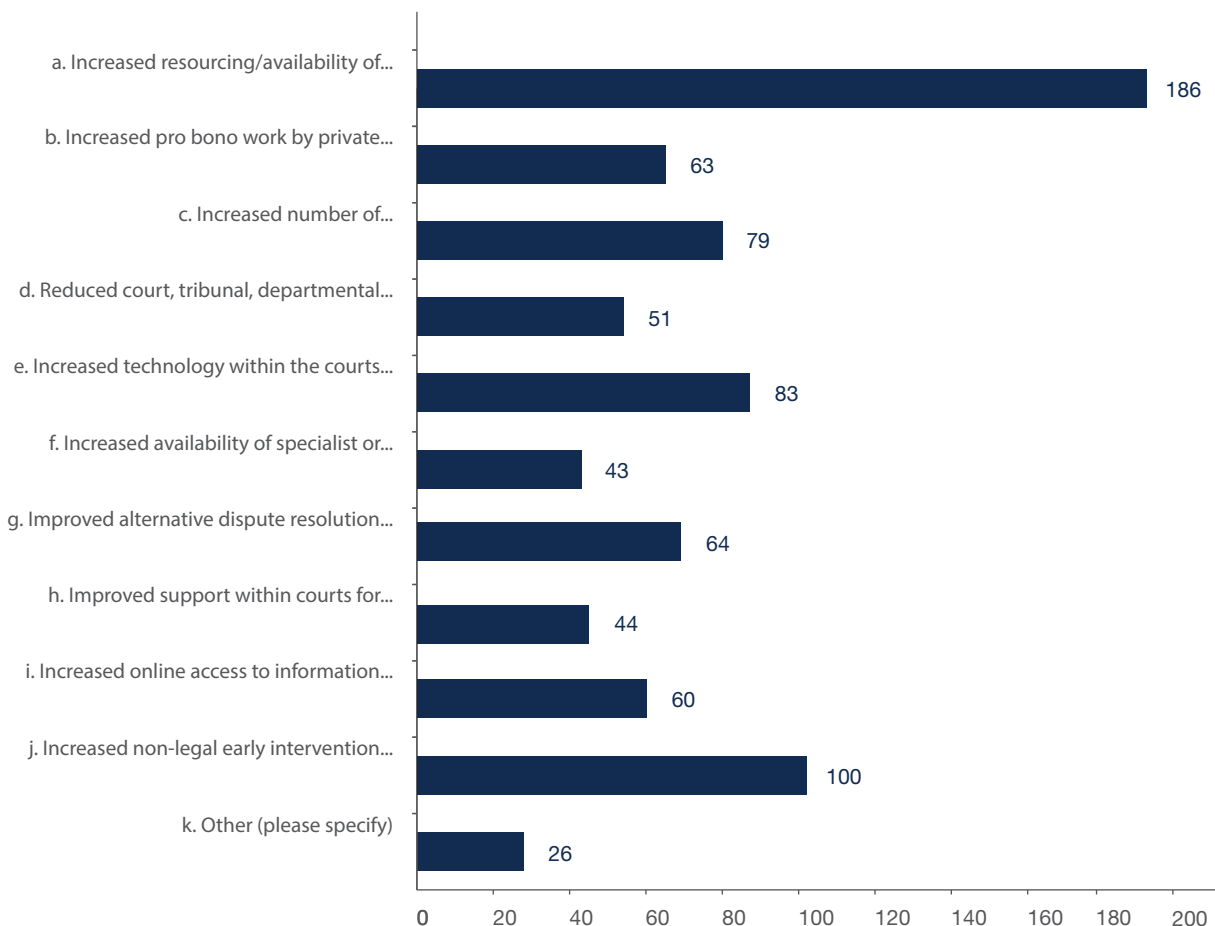
This type of work is risky, it is always difficult to limit the scope of work and often the communication required to ensure the scope of work and the apportionment of tasks is clear, is uneconomical. There is often confusion as to who is doing what, and the client's naturally seek to expand the scope and pass on as many tasks as possible. There is also the risk of miscommunication, missed tasks and timeframes. I have found that the way it works well is when such tasks are limited to specific documents/ submissions as opposed to 'background representation'. The Client can then rely on the written material and manage the matter on their own behalf.

The clients who can only afford discrete tasks (eg drafting a court document) usually end up needing assistance with the other tasks involved in running a legal proceeding and it is difficult to stop the creep of scope. Low Bono is useful but hard to sustain for a small practice.

Question 8

Select up to three factors which you believe would most significantly improve access to justice in Queensland

- a. Increased resourcing/availability of community legal centres, Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Service and Queensland Indigenous Family Violence Legal Service
- b. Increased pro bono work by private practitioners
- c. Increased number of judges/magistrates/tribunal members (State and Commonwealth) located in Queensland
- d. Reduced court, tribunal, departmental and other fees/costs (e.g. costs in accessing justice other than legal fees)
- e. Increased technology within the courts and tribunals (e.g. video/teleconferencing; online filing)
- f. Increased availability of specialist or diversionary courts and tribunals (State and Commonwealth)
- g. Improved alternative dispute resolution services
- h. Improved support within courts for people with special needs and marginalised groups
- i. Increased online access to information about laws and legal rights and processes
- j. Increased non-legal early intervention and general support services (e.g. financial counsellors, mental health workers)
- k. Other (please specify)



The survey respondents identified increased resourcing and availability of community legal centres, Legal Aid Queensland, Aboriginal and Torres Strait Islander legal Service and Queensland Indigenous Family Violence Legal Service as the factor that would most significantly improve access to justice in Queensland. This was followed by increased non-legal early intervention and general support services (e.g. financial counsellors, mental health workers) and increased technology within Queensland courts and tribunals (e.g. video/telephone conferencing, online filing).

These responses are consistent with the 2020 results, further supporting the importance of increased legal assistance services and emphasising the importance of integrated services suitable for vulnerable and disadvantaged people. The identification of technology as a factor that would improve access to justice has overtaken access to pro bono representation, which was listed in the top 3 in the 2020 Scorecard. Pro bono work by private practitioners has fallen to sixth place in the 2021 Scorecard.

The 'Other' category themes included:

- the availability of Low Bono services or unbundled services;
- the availability of alternative dispute resolution or mediation;
- better resources for self-representative litigants; and
- services that are more responsive to the needs of First Nations people and people with complex legal and other needs.

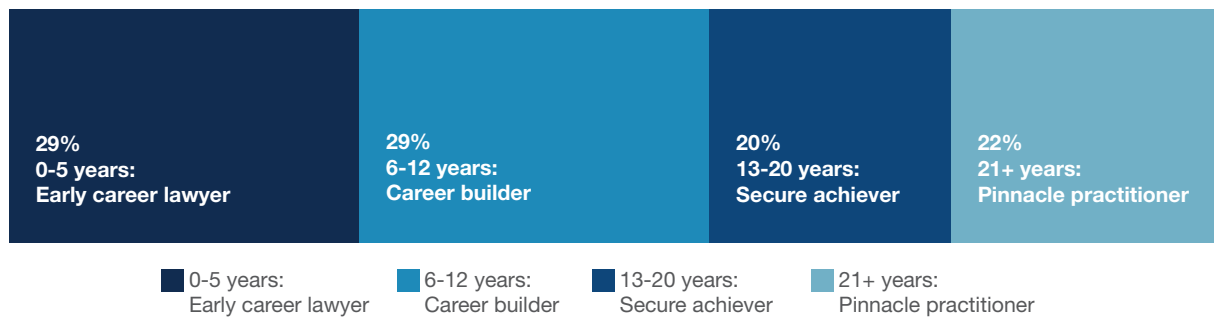
Question 9

Demographic information

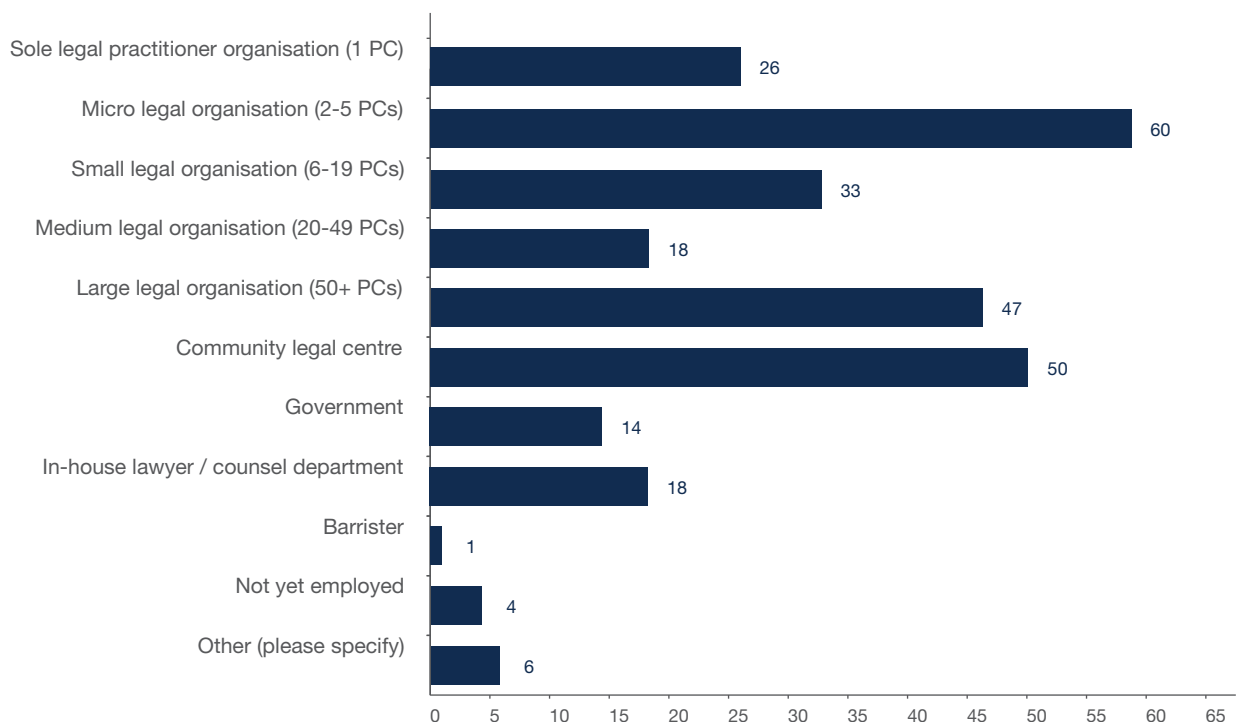
What is your current Post Admission Experience?

- 0-5 years: Early career lawyer
- 6-12 years: Career builder
- 13-20 years: Secure achiever
- 21+ years: Pinnacle practitioner

The majority of responders were early career lawyers and career builders, which made up 58% of total responses.



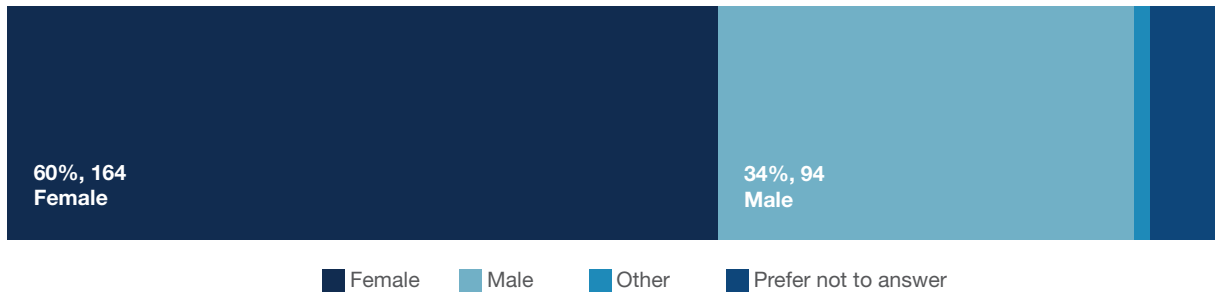
What is your current organisation type?



The majority of survey respondents came from micro legal organisations, with 2-5 Practising Certificate holders, closely followed by community legal centres.

What is your gender?

The majority (59%) of survey respondents to this question identified as female, while 24% identified as male and 17% preferred to not answer this question.



QLS Initiatives

ADVOCACY

QLS has 29 legal policy committees covering a range of different practice areas. Our committees are comprised of over 350 members who volunteer their expertise, knowledge and valuable time to advocate for good law for the public good. Their dedication enables QLS to develop sound and balanced submissions to government when seeking legislative and policy reform. Our committee members come from a range of professional backgrounds, ensuring that our advocacy is truly representative on key issues affecting practitioners in Queensland and the industries in which they practice.

In the 2020-21 financial year, QLS made a total of 247 submissions, provided evidence at 11 Parliamentary Public hearings and attended 160 stakeholder consultations, many of which aimed to improve access to justice for Queenslanders.

Some of our significant submissions included:

- Parole delays
- Use of Technology in the Federal Courts
- Youth Justice and Other Legislation Amendment Bill 2021
- Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2020
- Indigenous Voice Proposals
- Inquiry into processing visa classes which provide for family and partner reunions
- Access to the COVID-19 vaccination program for people in Queensland correctional facilities and youth and detention facilities
- Using technology to hold meetings, sign and send documents
- Voluntary Assisted Dying Bill 2021
- Reform of the Australian Charities and Not-for-profits Commission secrecy provisions – Recommendation 17 of the ACNC Review
- Women’s Safety and Justice Taskforce: Discussion Paper 1
- Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021
- Inquiry into serious vilification and hate crime
- The Missing Middle project
- Rural, Regional and Remote Lawyers and Communities – National Strategic Plan
- Queensland Sentencing Advisory Council re request for review of draft guide on sentencing of children
- Submission to Department of Children, Youth Justice and Multicultural Affairs re access to legal representation in youth detention facilities
- Submission to Attorney-General re Justice Legislation (COVID-19 Emergency Response – Proceedings and Other Matters) Regulation 2020
- Implementation of the National Action Plan to Reduce Sexual Harassment: National Model Policy and best practice recommendations for complaints
- Mental Health Review Tribunal Proceedings
- Accessibility and disability inclusion within Queensland Courts - Judicial Mentoring
- Exposure draft - Migration Amendment (Protecting Migrant Workers) Bill 2021
- Public Health and Other Legislation (Further Extension of Expiring Provisions)
- Inquiry into Independent Assessments

More generally, we continue to advocate for better resourcing and funding to the courts and tribunals, Legal Aid Queensland, Aboriginal and Torres Strait Island Legal Services and community legal centres. We have consistently raised the need to increase the level of funding to the legal assistance sector to respond to the legal needs of the community and ensure access to justice for all people in Queensland.

In 2021, QLS developed and finalised the QLS Access to Justice Policy Position. The Access to Justice Policy Position is an initiative of the QLS Access to Justice and Pro Bono Law Committee, and is designed to act as a framework to guide QLS's policy activities and advocacy in a way that is consistent and transparent.

1. Alternative Dispute Resolution

QLS's Alternative Dispute Resolution Committee has undertaken significant work directed towards the establishment of a dispute resolution hub in Queensland. The Hub is designed to provide a single platform for accessing dispute resolution service providers in Queensland, in order to increase ease of access to dispute resolution services. The Committee's work on this project has included convening a working group comprised of members of the judiciary, government departments and the profession.

In addition, the Committee has engaged with the courts about ways in which disputes can be referred for ADR. If disputes can be resolved outside of a courtroom, this will lessen the burden on court resources.

2. Children's Law

QLS recognises that children occupy a vulnerable space in our society. In our submission on the Youth Justice and Other Legislation Amendment Bill 2021, QLS highlighted the long-term and detrimental effects of punitive justice and advocated instead for early intervention and diversionary programs. QLS has also continued to advocate for policies and laws that ensure children and young people are not held in police watch houses.

QLS has also advocated for improved access to legal representation in youth detention centres, and access to the COVID-19 vaccination program for people in Queensland youth detention facilities.

QLS has continued its advocacy on raising the minimum age of criminal responsibility from 10 to at least 14 years. The age of criminal responsibility is the age a child is considered capable of understanding they have done something wrong and can be dealt with in the criminal justice system. Our position is consistent with contemporary neuroscience and child development research, which suggests children as young as 10 do not have the capacity for the type of rational and consequential thinking required for criminal intent.

QLS commented on several pieces of legislation dealing with child protection matters. In these submissions, the Society raised concerns about the impact of the reforms on children and young people, specifically Aboriginal and Torres Strait Islander children and young people.

3. Criminal Law

In our advocacy, QLS emphasises the need for criminal law reform to be evidence-based and subject to comprehensive consultation and consideration. We have consistently advocated against legislative reform that erodes cornerstone principles of judicial discretion and the presumption of innocence by, for example, introducing mandatory sentencing, non-parole periods and presumptions against bail.

Notably, in a submission to the Treasurer in April 2021, QLS raised concerns about the considerable delays in decision-making about parole applications, amendments, suspensions and cancellations in Queensland. QLS advocated for increased resources for the Parole Board of Queensland and raised the need for oral hearings in parole applications, to ensure that applicants for parole are provided with an adequate opportunity to present their case. In our letter, QLS also highlighted the need for adequate services to support people on parole, including greater availability of public housing and reintegration and support services.

Criminal Law Committee members have also engaged with a range of stakeholders, including the Queensland Sentencing Advisory Council, Queensland Police Service, judiciary and departmental officers on a range of issues including with respect to COVID-19 court lock down responses, call over lists and evaluation proposals for the Queensland Intermediary Scheme Pilot Program.

4. Domestic and family violence

QLS recognises that domestic and family violence has a devastating impact on individuals and Australian communities. Domestic and family violence can impact on practitioners, as well as their clients, employees, family members, colleagues and friends. QLS continues to advocate for long-term measures to prevent violence against women and their children and improve gender equality, as well as immediate measures to protect women, including by providing more and better resourced frontline services.

In November 2020, QLS released the Domestic and Family Violence Best Practice Framework in collaboration with Legal Aid Queensland. The new Best Practice Framework builds on the 2016 QLS Domestic and Family Violence Guidelines and brings together the combined expertise of both organisations.

QLS responded to the Queensland Women's Safety and Justice Taskforce's Discussion Papers. In its submission, QLS acknowledged the devastating impact of coercive control on women and children as well as the gaps in the current system in appropriately responding to those impacts. In designing a response to coercive control, QLS recommended the government take a multi-faceted approach, including the implementation of comprehensive and well-resourced training and education campaigns. QLS highlighted the significant scope for improvement within current systems and processes, as well as the need for any new offence to be carefully and specifically defined to avoid unintended consequences. The work of the Women's Safety and Justice Taskforce is expected to continue into 2022.

QLS has also expressed support for the adoption of a consistent definition of domestic and family violence across jurisdictions. A consistent definition of domestic and family violence would play an important role in shaping the national conversation. In a practical sense, a consistent definition would assist in providing procedural benefits, including improved consistency and clarity in matters that cross jurisdictions, and would make the various legislative schemes easier to interpret and navigate for litigants.

QLS supports education of legal professionals on domestic and family violence. This skill and knowledge is critical to developing practitioners' ability to identify risk and to advise and respond appropriately. The family law specialist accreditation program officially includes domestic and family violence as a possible area of examination in the national course syllabus. Additionally, QLS Council have recently approved the inclusion of Family Violence and Safety as a topic under the mandatory core CPD area. QLS will now commence work on relevant definitions and guidance.

5. Family law

The QLS Family Law Committee have continued to engage in family law reform processes. QLS has consistently advocated for better resourcing in the legal assistance sector, including Legal Aid Queensland, community legal centres and Aboriginal and Torres Strait Islander legal services. Sustained budget cuts to this sector impacts the ability of a significant proportion of the community to obtain access to specialist family law advice; additional funding is essential to improve access to the family law system and reduce costs.

QLS has worked closely with the Family Court and Federal Circuit Court ahead of the amalgamation of the Courts on 1 September 2021. QLS has provided regular updates to practitioners on operational and procedural changes, including harmonised rules and forms, in preparation for the commencement of the new Court.

Finally, the Committee have continued to engage with the Australian Institute of Family Studies to promote a research project on compliance with parenting orders, how the enforcement regime operates and how well the legal options for responding to non-compliance with parenting orders work. This coincides with the introduction of a National Contravention List, introduced in the Federal Circuit and Family Court of Australia on 1 September 2021, which aims to address the expectation that all parties will comply with orders of the court.

6. First Nations

QLS, in consultation with the First Nations Legal Policy Committee, continues to advocate on issues that affect Aboriginal and Torres Strait Islander communities. Our First Nations Legal Policy Committee provides valuable insights to ensure that our advocacy appropriately considers and reflects the perspectives and interests of Aboriginal and Torres Strait Islander Peoples. QLS is continuing to build relationships with key Aboriginal and Torres Strait Islander stakeholders and seek input on a range of issues

On 4 May, QLS hosted the Royal Commission into Aboriginal Deaths in Custody Report's 30th Anniversary Discussion Panel. The event generated insightful, solution-focused discussion about the issues affecting overrepresentation of First Nations Peoples in the criminal justice system.

Notably, QLS also provided a submission to the Voice Secretariat on Indigenous Voice Proposals, where we outlined the positions for constitutional enshrinement of a Voice to Parliament.

7. Human Rights

In 2020, QLS established the Human Rights and Public Law Committee, following the passage of the *Human Rights Act 2019* (Qld). The Committee was established to consider issues relating to public law in the political system, administrative decision-making and legislative review processes.

QLS continues to integrate human rights considerations into its submissions on law reform, highlighting the need for Government to adopt a robust human rights framework in line with the *Human Rights Act 2019* (Qld).

8. Elder, Health and Disability, Succession

The Health & Disability Law, Succession Law and Elder Law Committees continue to make submissions to advance the rights and interests of marginalised groups, including: older people; people with disabilities; culturally and linguistically diverse people; LGBTI communities; and, people with impaired decision-making capacity.

The Committees have been involved in numerous submissions relating to access to justice issues at a Commonwealth level. For example, the Committees have provided three rounds of feedback on the proposed national register of enduring powers of attorney to combat elder financial abuse. The Committees are also actively engaging with the Law Council of Australia and other constituent bodies to advocate for nationally consistent laws regarding enduring powers of attorney, as well as a model enduring document, to ensure consistency across jurisdictions and simplify the implementation of the proposed national register.

Further, the Elder Law Committee has been actively engaging with various amendments to aged care legislation, including advocating for further clarity and increased consultation in relation to the regulation of restrictive practices in residential aged care settings and their interaction with current State-based legal frameworks.

At a State level, the Committees continue to prepare the legal profession for the commencement of the *Voluntary Assisted Dying Act 2021* (Qld) on 1 January 2023, and are advocating for changes to Commonwealth criminal laws relating to the use of carriage services for suicide related material to ensure equity of access across regional, rural and remote Queensland to the voluntary assisted dying scheme (i.e. to ensure that Queenslanders will be able to use telehealth services as part of the voluntary assisted dying process).

The Committees also continue to pursue policy reforms that will prevent the abuse of older persons, including the preparation of an Elder Abuse Joint Issues Paper in conjunction with the Queensland Public Advocate.

Additionally, the Committees have been involved in research investigating potential changes to the dispute resolution framework for disputes arising in retirement villages and/or manufactured home parks, and have advocated for changes to the Banking Code of Conduct to ensure adequate safeguarding measures for customers with impaired decision-making capacity, hearing impaired customers and First Nations customers.

As the COVID-19 pandemic continues to evolve, the Committees have also been instrumental in advocating for access to restricted facilities (including hospitals, disability accommodation and residential aged care facilities) by legal practitioners to facilitate essential legal services that must be conducted face to face. As a result of this advocacy, the Chief Health Officer granted an exemption to allow practitioners entry to residential aged care facilities in the event that essential legal services could not be undertaken via videoconference or other remote technology.

9. Technology and the Law

There is a significant demographic of people that have not traditionally been able to access legal services in appropriate and affordable ways. Along with properly funded legal assistance services and pro bono programs, technology may provide a way for this 'missing middle' to access legal services by making it more affordable, or by facilitating different, not-for-profit business structures.

Technology can improve access to justice by:

- A. Improving efficiency and supporting cost reductions in the legal services market by streamlining back-end processes, administration and research, and reducing the costs and time associated with managing a case.
- B. Simplifying information about legal processes and issues by providing plain English information in accessible and interactive formats.
- C. Enabling legal practitioners to provide their services to clients remotely, increasing access to justice for vulnerable or remotely located clients who find it difficult to travel to the offices of solicitors.
- D. Allowing parties and their legal representatives to access a court file or appear in court when this may otherwise be difficult due to barriers including:
 - a. Their geographical location;
 - b. the cost involved;
 - c. work, family and caring responsibilities;
 - d. difficulties physically accessing a courthouse or courtroom due to a disability or health condition.

The Scorecard data has highlighted the integral role that technology can play in enhancing access to justice.

QLS aims to support the legal profession in embracing technology in the practice and delivery of legal services. In 2019, the QLS Council established the Innovation Committee. The Innovation Committee's primary purpose is to assist members with the changes associated with the future of legal services and to best position the profession to remain relevant through this disruption.

QLS continues to advocate for electronic filing and document management in Queensland courts and is currently consulting on the development of these systems. Queensland is a decentralised state with the highest number of regional legal practitioners in the country. Electronic court filing is currently available in the Federal Court and in other state jurisdictions across Australia. While some Queensland jurisdictions allow for some electronic filing and document access, this is limited. An electronic filing system and case management system is currently being developed for some jurisdictions and QLS is advocating for its expansion to all courts and in QCAT.

QLS has maintained that court users and judicial officers should be able to use existing technology to easily and cost effectively conduct matters in an electronic environment - both prior to, and at trial stage. In this regard, our members have proposed a comprehensive end-to-end electronic court process. Ideally, this would be a seamless and entirely paperless system.

These improvements to the court system require an investment in system development but also court infrastructure, particularly in regional courthouses.



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