

# Evaluation of the Regional Solicitor Program

December 2009

# Evaluation of the Regional Solicitor Program

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**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Associate Director	Dr Ania Wilczynski
Senior Consultant	Samantha Ross and Jessie Connell
Support Staff	Lynda Jones
Job Code	KAJ16208
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# Executive Summary

## Introduction

The Regional Solicitor Program (the Program) is an initiative of Legal Aid NSW, which aims to provide better access to legal services for people in rural, regional and remote NSW. The Program is based on a 'partnership' model, in which Legal Aid NSW funds up to 75% of the salary of a private solicitor working at nine law firms in regional areas of NSW.

The initial funding for the Program was provided by the NSW Public Purpose Fund in 2006 for a period of two years. The Program commenced with the first solicitor being appointed in March 2007. It was intended that the Program would run for a minimum of two years in each location, and it has recently been extended until December 2009. It was intended that the subsidy would support Program Solicitors to develop over the course of the two years so that once the subsidy ceased they would have the skills necessary to make their position viable independent of the Program.

Legal Aid NSW has commissioned Urbis to conduct a longitudinal evaluation of the effectiveness of the program in two separate phases. The first phase involved an examination of placements made under the Program in the first year, and the second phase evaluated the Program again after 12 months. Following the first phase, additional funding for the Program was provided under the Regional Innovations Program in Legal Services (RIPLS), and it was extended to a further four locations.

There are four key components of the evaluation:

- an examination of the underlying rationale of the Program
- process and structure evaluation
- impact analysis
- cost-benefit assessment.

This is the draft final report for the evaluation, consolidating the findings of both phases.

## Overall outcomes and achievements of the program

The Program has achieved a number of outcomes and achievements over the two years of its operation for modest resources, including:

- Working in partnership with private law firms to place someone permanently on the ground in nine regional areas.
- Improving the availability and accessibility of legal aid advice and representation for clients in regional and rural areas, particularly those suffering financial and/or social disadvantage.
- Assisting Legal Aid NSW and other legal services/firms in instances where there are conflicts of interest. It was reported that this can be particularly common in regional areas, especially in cases involving Aboriginal people.
- Giving the Regional Solicitor the benefit of working on a broad range of cases and being mentored by senior members of their firm.
- Supporting the economic sustainability of regional and rural business, and in particular legal firms, through contributing to the financial revenue of private firms in geographically isolated areas.
- Improving access to legal services at a systemic level, by enabling law firms to hire additional solicitors.

The Program appears to have had a sustained and, in some cases, growing impact on access to legal services. The most substantial increases in output per firm (as measured by the number of grants approved for each firm per year) have occurred in criminal law, followed by family law. Relatively little impact has occurred in civil law. During the Program, most firms also experienced an increase in the dollar value of grants (compared with the pre-Program year).

## Factors supporting the success of the Program

There are a number of factors supporting the success of the Program.

- **Flexibility:** each of the nine locations has different needs and structures that require flexibility so that the placement of the solicitor can be tailored to the selected communities. As noted by Legal Aid NSW, the Program has significant ‘place management’ issues that, when effectively managed, can support the Program’s success.
- **Recruiting the ‘right’ Regional Solicitor:** the success of the Program in each area rested on finding a solicitor who was able to fit with the expectations of the firm and the culture of the town, handle the workload and the clientele, had interest and/or experience in the area of law where a gap existed and had a strong interest in equitable access to legal services.
- **Investment:** by private firms and other solicitors in most regions into mentoring and supporting the Regional Solicitor.
- **Leveraging resources and the experience of private firms:** partnering with private firms has enabled the Program to make effective use of the resources and knowledge of more experienced practitioners, with modest cost to Legal Aid NSW.
- **Relationship with regional Legal Aid NSW offices:** those Program Solicitors who have an established relationship with a regional Legal Aid NSW office nearby are linked into more effective social and professional networks which support mentoring, advice and ultimately make their position more sustainable.

## Limitations of the Program

There are some key limitations of the Program that may be considered in the future delivery of the Program:

- The social and professional isolation experienced by a number of Program Solicitors makes the ongoing viability of the Program uncertain in some areas.
- Most private firms and solicitors report that the Program Solicitor position might be untenable if the subsidy ceases, especially in cases where Program Solicitors are undertaking almost all legal aid work. There may be a need to consult further with individual firms about the commercial viability of the position if the salary subsidy is withdrawn, as most firms have received an increasing volume of grants of aid over time and some may be able to retain the Program Solicitor with the revenue from grants of aid.
- A number of stakeholders report that it is difficult to recruit skilled legal practitioners to the position<sup>1</sup>.
- External stakeholders perceive there to be a need to increase the profile of the Program and the level of practical training for Program Solicitors, especially in civil law.
- There is scope for the Program Solicitors to be better connected to other Legal Aid NSW services and legal/community services, consistent with the objectives of the Cooperative Legal Service Delivery (CLSD) Program of which Legal Aid NSW is a partner. (It should be noted that the CLSD

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<sup>1</sup> Legal Aid NSW has taken steps to address this by removing the requirement that applicants have a maximum of five years post-admission experience.

Program does not operate in all locations where the Regional Solicitor Program operates. Where CLSD is operative in a location, the Program Solicitors participate.)

## Cost Benefit Assessment

The overall findings of the cost benefit evaluation are that:

- The Program is substantially more costly than alternative approaches such as outreach based models, the addition of one additional solicitor at nine existing regional Legal Aid NSW offices, and establishment of a single additional Legal Aid NSW office.
- The alternative approaches mentioned above, in isolation, do not provide the same continuity of access, opportunity to develop and use local knowledge and relationships, variety of services and have the same degree of geographic reach as the Regional Solicitor Program.
- The Program is considerably less expensive than the establishment of sufficient Legal Aid NSW offices to produce comparable results in the areas mentioned above. (It would be reasonable to anticipate that the establishment of multiple additional Legal Aid NSW offices in regional NSW would have a far greater impact on access to legal aid services than the comparably modest Regional Solicitor Program.)

Therefore in terms of meeting the Program aims – which focus on increasing access to justice rather than cost issues – the Program appears to provide the preferable option.

The total ‘actual’ cost of the Program, based on the payment of grants for case and duty work and small advice, salary subsidy, relocation and recruitment payments, program coordination, administration and evaluation, is \$3,774,481. The ‘adjusted’ cost of the Program (i.e. the cost that would have been incurred if a solicitor had been appointed for the full 24 months at each firm) is \$3,912,134.. The average adjusted cost per firm, including the payment of grants of aid is \$434,682.

A number of key outcomes and benefits have been identified in this analysis:

- *Increase in legal aid work by private firms* – As previously reported (See Section 3.2), approved grants for all areas of law combined rose by 27% in the first year of the Program, with a further marginal increase in the second year<sup>2</sup>. This indicates that the Program has successfully met one of its objectives, which is to provide rural clients, particularly those suffering financial and/or social disadvantage, with improved access to legal advice and representation.
- *Incentive for firms to undertake more legal aid work* - Some firms reported that, without the salary subsidy, they would not undertake as much legal aid work. This is based purely on cost, as the choice would be between a higher-fee paying client and a Legal Aid NSW client.
- *Meeting target of 75% legal aid work* - Legal Aid NSW expressed concern during the phase one consultations that the targets set may not be met. However, firms participating in the Program reported that they are either close to meeting their target of 75% legal aid work, or in the great majority of cases are in fact exceeding the required proportion of work. In several firms, the Regional Solicitor was undertaking 100% legal aid work and in one instance this was overflowing onto other partners/solicitors in the firm.
- *Increase in variety of legal aid work undertaken by firms* - The firms consulted in this evaluation all stated that they were taking on considerably more work in the areas of Family Law and Care and Protection matters, and that they were taking on (usually for the first time) minor advice and assistance work and smaller cases. Grants data also indicate that firms are taking on more work in Family Law and more case-related work.

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<sup>2</sup> As previously noted, the increase is largely attributable to increases in Criminal and Family law, with limited impact on civil law.

- *Other cost efficiencies* - It would appear that there are other cost efficiencies of the Program such as familiarity with local court staff and systems, ready access to office facilities and continuity of community relations arising from permanent placement in each location.
- *Cost benefits for firms* - In some cases the Regional Solicitor Program has freed up other solicitors at firms, providing an opportunity to undertake more private work.
- *Supporting the legal system in rural NSW* - The Program facilitates the recruitment (or in the case of some new locations, retention) of solicitors at firms in NSW. This maintains access to a greater number of solicitors in these areas than might otherwise be available, and potentially contributes to the ongoing viability of these firms, as well as the number of solicitors performing legal aid work.

In addition to its achievements there were some less positive aspects raised relating to the cost of running and participating in the Program. These included reports from firms that payments and subsidies through the Program did not cover incidentals such as administration and travel, and activities such as case preparation. Given that the salary of the Program Solicitor is largely covered by a subsidy from Legal Aid NSW, in addition to grants of legal aid for work undertaken, these reports may require further clarification with firms.

Also raised was the possibility that the payments to firms in effect equate to a substantial 'loading' on the output by firms (as measured by the number and value of grants). However, it is uncertain whether the same increases in output would have occurred without these firms being enabled, through the Program, to hire additional solicitors. Finally, most firms doubted that they would be able to retain the Program Solicitor if the salary subsidy was withdrawn, which puts in question the long term sustainability of the Program. The necessary data for assessing the accuracy of these views were not available at the time of the evaluation, but the degree of variation between firms in legal aid work undertaken (indicated by analysis of grants data) suggests that there may also be variation in firms' capacity to retain the Program Solicitor without the subsidy.

## Suggested future directions

A number of suggestions were made at the conclusion of phase one of the evaluation. Legal Aid NSW has responded to many of these suggestions and the full details of the action taken to improve the Program are included in Appendix A. There remain some key areas for development that we believe will support the future delivery of the Program.

### *Provide administrative support and increase the level of direction received from the Commission*

It is recommended that the level of support and direction given to participating practices by Legal Aid NSW continue and be further strengthened through:

- Encouraging contact between Program Solicitors in the Program.
- Continuing the induction sessions run by Legal Aid NSW and ensuring that all Program Solicitors participate.
- Maintaining a designated contact in Legal Aid NSW to respond to requests for information and direction.
- Increase the promotion of the new Program guidelines (which were developed after the phase one evaluation).

We would also suggest that Legal Aid NSW:

- Facilitate relationships between Program Solicitors and nearby regional Legal Aid NSW offices, where possible.
- Assist firms in promoting the services of the Program Solicitor in targeted areas of law (including civil law where appropriate) among likely sources of referral.

- Formalise in the Program guidelines the obligation of firms to take steps towards assisting Program Solicitors to familiarise themselves with the local community as part of the induction process.

#### *Provide greater assistance with recruitment*

The significant challenge of attracting qualified professionals to regional and remote areas is not unique to this Program. However, more could be done to assist private firms in the Program through:

- Increasing the recruitment allowance to cover more of the time and financial costs associated with advertising the position and interviewing candidates.
- Using existing networks within Legal Aid NSW to a greater extent.
- Using any existing networks the Legal Aid NSW has in regional areas e.g. regional Law Societies, other Legal Aid NSW offices in regional locations.
- Raising the profile of the Program through advertising in universities, College of Law, the NSW Law Society website and/or other professional legal forums, in order to encourage the participation of high calibre candidates.

#### *Provide greater emphasis on professional development*

Possible options that could be considered to enhance the professional development opportunities for Program Solicitors include:

- Firms continuing, or taking on, a commitment to provide training and mentoring to their Regional Solicitor. This should be emphasised in the Program guidelines as a key responsibility for firms participating in the Program.
- Legal Aid NSW covering the travel costs associated with Program Solicitors attending Legal Aid NSW conferences and training sessions.
- Firms identifying professional development needs as soon as the Regional Solicitor commences in the job, and the employer and Legal Aid NSW identifying formal opportunities to undertake this training as soon as possible. There could be a separate budget allocation from Legal Aid NSW for this purpose.
- Providing Program Solicitors with access to a formal mentoring arrangement external to their respective law firm.
- Increase the training and advice available for Program Solicitors in relation to civil law, particularly civil matters which are not typically within the ambit of the work undertaken by the private firms. This may involve continuing education seminars and/or providing the details of an appropriately experienced civil law solicitor who can advise or supervise Program Solicitors in relevant matters.

#### *Assist practices to form better working partnerships with other legal services in their regional areas, such as the Duty Roster and other Legal Aid NSW Regional Programs*

- Communication with other programs and services and promotion of the Program could be achieved through using existing channels such as email lists of services and firms in different rural and remote areas.
- It is also recommended that the intended relationship of the Program to other services, including the basis for work allocation and the reasons for introducing the requirement of panel membership, be articulated in the Program guidelines.

## Beyond the two years

### *Maintain and expand the potential of the Program to respond flexibly to local needs*

This would involve integrating the 'place management' concepts already identified by Legal Aid NSW into the strategic planning of the Program. Flexibility in Program planning may apply to:

- minimum levels of post-admission experience (with appropriate caveats regarding professional development/training)
- the potential to share the subsidy between two solicitor positions or to supplement the salary of an administrative position to support the solicitor
- potential to use recruitment allowance towards other incentives, e.g. a vehicle.

### *Continue the Program*

We note that the Program has already been expanded to four new locations. It is also suggested that instead of removing the subsidy from existing firms, that Legal Aid NSW approaches firms on a case by case basis to determine the existing need for the subsidy to make that position viable. The process would require participating firms to demonstrate that the subsidy is required to maintain the Program Solicitor at each firm.

Where there is evidence that the position can be supported by the firm, then the subsidy could be gradually removed so that firms and private solicitors have an opportunity to transition to more private work or to legal aid work without the salary subsidy.

### *Reconsider the target group for the Program*

There appears to be some tensions between the Program's rationale - in that it is geared towards very young and relatively inexperienced solicitors - and the reality of the challenging work funded by Legal Aid NSW, which they are expected to do. This existing tension suggests that the Program:

- Be pitched at solicitors with a greater level of experience eg several years practising law (possibly more). (*We note that the requirement that solicitors have less than five years post-admission experience has now been removed*).
- Place a greater emphasis on professional development and support (as discussed above).

### *Further develop the application process so that firms must address set criteria on which selection is based*

Legal Aid NSW has established selection criteria that firms must address to be considered for the Program.

### *Participating practices should be notified of Legal Aid NSW's intention to either continue or cease the Program at least six months before the current Program funding ends*

It is important that Legal Aid NSW notifies all participating firms about its intentions for the Program as they will need to make decisions about retaining the current Program Solicitor and/or may need to recruit a replacement. If the Program ends, the firms will need to address their current legal aid workload, as it may be necessary to reduce this over a period of time due to the loss of the wage subsidy.

### *Continue to externally evaluate the program*

Whatever option is adopted for the future of the program, if it continues in some form the program should continue to be externally evaluated. If Legal Aid NSW decides it wishes the Program to have a greater priority to civil law matters, this should be a particular issue examined in the evaluation.

# 1 Introduction

The Regional Solicitor Program is a Legal Aid NSW initiative designed to improve the availability and accessibility of legal aid services to disadvantaged clients living in rural, regional and remote NSW. The Program funds up to 75% of the salary of a private solicitor in each of nine private law firms in regional areas of NSW. The initial funding for the Program in 2006 was provided by the NSW Public Purpose Fund for a period of two years. The Program commenced with the first solicitor being appointed in March 2007.

Legal Aid NSW has commissioned Urbis to conduct a longitudinal evaluation of the effectiveness of the Program in two separate phases. The first phase involved an examination of placements made under the Program to date, and the second phase has evaluated these placements again after 12 months. Following the first phase of the evaluation, further funding was provided by the Commonwealth Regional Innovations Program in Legal Services (RIPLS) to expand the Program to four additional locations.

This is the draft final report for the evaluation, consolidating findings from both phases.

## 1.1 Legal services in regional, remote and rural Australia

As is the case in many disciplines, the legal profession finds it difficult to recruit and retain enough qualified practitioners to work in regional and remote Australia. This has clear repercussions for the capacity of citizens of those communities to exercise their legal rights and obtain adequate legal representation. The difficulty of finding legal representation is one of numerous barriers limiting access to the legal system in geographically isolated areas. Other barriers include limited infrastructure, and a lack of access both to appropriate intermediaries and early intervention services. More remote areas are often 'technology poor', with varying quality of Internet access making it hard to use on-line assistance options.<sup>3</sup> This situation is compounded when those attempting to access the legal system also suffer financial and/or social disadvantage.

Improving the provision of legal services in regional and remote areas requires an understanding of the reasons why young professionals may or may not be attracted to working in these areas, as well as the range of incentives that may be effective in removing these barriers. Legal Aid NSW has made it a priority to improve access to legal services in rural, regional and remote locations and to encourage young solicitors to spend a period of time working outside metropolitan areas. The Regional Solicitor Program is an important aspect of implementing this priority.

## 1.2 Role of Legal Aid NSW

Legal Aid NSW assists socially and economically disadvantaged people to exercise their legal rights. As an independent statutory body established under the *Legal Aid Commission Act 1979 (NSW)*, Legal Aid NSW works closely with other providers of legal services and community agencies to promote equity of access to the law. There are a number of key stakeholders involved in the delivery of legal aid services including the NSW Attorney General's Office, LawAccess NSW, Community Legal Centres, Aboriginal and Torres Strait Islander Legal Services, the Law Society NSW, the NSW Bar Association, as well as private legal practitioners. Legal Aid NSW is under an obligation to ensure legal assistance is provided in the most effective, efficient and economical manner.<sup>4</sup>

In fulfilling its role, Legal Aid NSW aims to provide equitable access to services without members of the community being disadvantaged by cultural, linguistic and geographic barriers. Legal Aid NSW recognises the complex relationship that exists between access to the legal system and access to justice. In a previous evaluation of Legal Aid NSW Cooperative Legal Service Delivery (CLSD)

<sup>3</sup> L Schetzer, J Mullins, & R Buonamano, *Access to justice & legal needs, a project to identify legal needs, pathways and barriers for disadvantaged people in NSW. Background paper*. Law and Justice Foundation of NSW, Sydney, 2002 at 37.

<sup>4</sup> Section 12(a) of the *Legal Aid Commission Act 1979 (NSW)*.

Program, a sophisticated discussion of access and equity issues was presented.<sup>5</sup> While access to the legal system and procedural fairness are not necessarily sufficient to bring about access to justice, obstacles to legal services clearly limit opportunities to exercise legal rights that may bring about a just result. The meaning of access to justice was explored by the Australian Law Reform Commission (ALRC) in its Report, *Managing Justice: A Review of the Federal Civil Justice System*, where it was noted that:

*Access to justice can only ever mean, in broad institutional and systemic terms, relatively equitable access to the legal process.*<sup>6</sup>

Legal Aid NSW works to provide equitable access to the legal process in a number of ways. Some ways it does this is by:

- providing legal aid on a means tested basis across a range of areas of law and to a range of disadvantaged people, including Aboriginal and Torres Strait Islander people, people who are disabled, people from Culturally and Linguistically Diverse backgrounds, women and people who are institutionalised and/or experience mental illness
- providing advice clinics located across metropolitan and regional areas
- undertaking research into aspects of Legal Aid NSW including the different methods of providing legal aid
- initiating and carrying out educational programs designed to promote understanding by the public of their rights, powers, privileges and duties under the NSW law
- making recommendations to the Minister about matters relating to Legal Aid NSW
- providing information about appropriate referral services where Legal Aid NSW is not able to assist
- providing grants of legal aid for many civil, family, criminal, administrative law, mental health and veteran's matters.

In 2007-08 Legal Aid NSW provided 641,884 client services including representation, legal advice, information and community legal education.<sup>7</sup>

### 1.3 Rural Client Services Strategy

Legal Aid NSW has developed the Rural Client Strategy aimed at providing better access to legal services for rural, regional and remote communities in NSW. The Strategy covers a range of initiatives including outreach services, which involve Legal Aid NSW solicitors visiting locations in NSW without established Legal Aid NSW offices to provide legal advice tailored to the needs of that community. Outreach may include family law services, child support and veteran's affairs advice. The Regional Solicitor Program was developed in 2006 on a pilot basis as part of the Rural Client Services Strategy. It aimed to address difficulties in recruiting skilled practitioners to undertake LA work in rural, regional and remote locations.

### 1.4 Regional Solicitor Program

The Regional Solicitor Program is one of a number of initiatives designed to meet the needs of clients living in geographically isolated areas not serviced by Legal Aid NSW established offices. The Program

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<sup>5</sup> *Evaluation of the Cooperative Legal Service Delivery Model (CLSDM) Pilot*, Legal Aid Commission of NSW, August 2005 at 3.1.

<sup>6</sup> ALRC Report 89, *Managing Justice: A Review of the Federal Civil Justice System* at 1.81.  
<http://www.alrc.gov.au/inquiries/title/alrc89/index.htm>.

<sup>7</sup> Legal Aid NSW website viewed at 11 April 2008: <http://www.legalaid.nsw.gov.au/asp/index.asp?pgid=369>.

aims to ensure there are enough qualified legal practitioners available to undertake LA work in rural, regional and remote NSW. The objectives of the program are to:

- maintain and improve levels of legal aid services in rural, regional and remote areas of NSW
- increase involvement and capacity of law firms to do LA work
- provide employment opportunities for recently qualified solicitors.<sup>8</sup>

The Program is based on a 'partnership' model of service delivery, in which Legal Aid NSW partners with private law firms in regional areas. Salary subsidies are provided to these law firms to employ an additional practitioner, who will spend an agreed amount of time (up to 75%) on legal aid work. The salary subsidy is a maximum of 75% of \$70,000, however private firms are not limited from offering higher salaries as part of their recruitment strategy. The firm receives payment of professional fees for all legal aid services undertaken as part of the Program for case and duty related matters, as well as a flat fee of \$80 for 'minor advice and assistance'. In return, the firm assumes other responsibilities, such as the cost of professional indemnity insurance and the solicitor's remaining salary.

The Program covers a range of types of law. Some locations focus on specific areas, such as criminal and family law, while other locations provide the full scope of law types eligible to be covered by Legal Aid NSW.

## 1.5 Service system and policy context

The Rural Client Services Strategy and Regional Solicitor Program operate in a much broader service system and policy context relevant to this evaluation.

### 1.5.1 Cooperative Legal Service Delivery Program

In 2004, Legal Aid NSW established the CLSD Program which now operates in eight regions across NSW and emphasises a regionally-based approach to service delivery based on building cooperative and strategic networks of legal services and community organisations. These collaborative arrangements with other agencies recognise that people seek help in a diverse range of ways, not always identifying their problems as 'legal'. Effective, integrated and coordinated referral processes are critical to preventing a 'referral merry-go-round' in this context.<sup>9</sup>

The CLSD Program is structured around regional coalitions of legal service providers and community service organisations, made up of key representatives in each area. In implementing their strategic plans, the coalitions undertake local community education projects and outreach activities. The CLSD Program also works to improve pro-bono legal services from metropolitan firms and the quality of data collection across state agencies in order to promote evidence based planning and policy-making and delivery of legal services.

### 1.5.2 Legal Aid NSW Corporate Plan 2009-11 and the NSW State Plan

Improving access to justice and social inclusion are corporate objectives of the Legal Aid NSW Corporate Plan 2009-2011. One of the ways that Legal Aid NSW can improve access to justice and promote social inclusion is through improving access to legal assistance in rural and regional areas. Legal Aid NSW aims to strengthen relationships with private practitioners and work collaboratively to build partnerships with regional providers. Undertaking evaluations of existing programs enables Legal Aid NSW to measure its success in achieving these objectives.

As a stakeholder in the implementation of the NSW State Plan, Legal Aid NSW promotes social justice to reduce disadvantage. Legal Aid NSW implements the State Plan by identifying legal needs, providing

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<sup>8</sup> Legal Aid NSW, *Regional Solicitor Program – Discussion Paper on Future Directions*, 19 June 2009.

<sup>9</sup> Legal Aid NSW, 'Bringing it all together: A Partnership in Legal Service Delivery', Factsheet on the Cooperative Legal Service Delivery Program.

legal advice and education and working in partnership with other agencies including the NSW Legal Assistance Forum, the Aboriginal Legal Service (NSW/ACT) Ltd, Community Legal Centres and the NSW Law Society. Extending legal services to rural, regional and remote NSW also contributes to the implementation of the State Plan.

## 1.6 Changes to the Regional Solicitor Program following the phase one evaluation

In the period since the completion of phase one of the evaluation, Legal Aid NSW has made a number of changes to the Program, some of which are still in progress. One of the aims of the phase two evaluation has been to assess the effects of these changes on Program participants and on the success of the Program as a whole. Some of these changes have been in response to recommendations made in the phase one evaluation report. These changes are presented in greater detail in Appendix A, however they are summarised below to provide a context for this report.

The changes include:

- Extension of the Program in six existing locations to 31 December 2009 (where existing contracts would have concluded prior to that date).
- Expansion of the Program to an additional four firms; three of which have been allowed to use the Program to retain an existing employee. Of those, one solicitor had been previously employed as a legal clerk. In another firm where an existing solicitor has been nominated as the Regional Solicitor Program solicitor, the firm has advised that this will allow them to recruit a more inexperienced solicitor whilst the existing solicitor concentrates on legally aided clients.
- Temporary placement of a dedicated Program Coordinator, to develop the Program guidelines and a new induction program, and to oversee the phase two evaluation.
- Refinement and circulation of Program guidelines setting out criteria for selection of locations and firms, and responsibilities of participating firms in relation to management and development of the Program Solicitor.
- Removal of the upper limit on experience of five years' admission for a Program Solicitor.
- Assisting recruitment of Program Solicitors through publication of Program details and recruitment advertising on Legal Aid NSW website and through regional Law Society email networks.
- Allowing Program Solicitors access to electronic training and knowledge resources previously available only to Legal Aid NSW.

Legal Aid NSW is also preparing a Draft Discussion Paper on the Future Directions of the Program. The paper identifies a need for strategic planning to:

- develop Program objectives and goals to take into account community needs and 'place management' concepts (which relate to the need to manage the Program differently depending on the location)
- develop performance indicators and timelines to indicate what 'success' would involve
- provide or obtain adequate financial resources to enable realistic levels of subsidies to be provided over time
- develop knowledge management strategies to meet the needs of participating firms and solicitors.

Two other changes have been implemented within Legal Aid NSW more broadly, which both affect the Regional Solicitor Program. These are the electronic grants system and the practitioner panel system, both described below.

### *Introduction of the electronic grants system (ATLAS)*

All legal aid matters, including those handled directly through Legal Aid NSW offices, require an application for a grant of legal aid in order to receive funding. In March 2009, an online application system for grants of legal aid, called ATLAS, was introduced to replace the previous, paper based system.

### *Introduction of the practitioner panel system*

As a means of improving the delivery of legal aid services to the community, Legal Aid NSW introduced a Panel system in 2005. The Panel system is directly relevant to the Regional Solicitor Program as it applies to all private practitioners who work on behalf of legally assisted clients. Panels are being progressively implemented across a number of practice areas. On appointment to a Panel, practitioners sign a service agreement and agree to Legal Aid NSW practice standards and audit arrangements. Legal aid work is then assigned to practitioners appointed to a Panel.

Panels are intended to ensure transparency in the assignment process and agreement to the terms on which the relationship is conducted. It is also anticipated that Panels will provide:

- fair and reasonable distribution of work to private legal practitioners
- access to training and information sharing coordinated by Legal Aid NSW
- processes for quality control and risk management.

The degree of experience and expertise required for admission to each panel varies, for example the Serious Criminal Law Panel requires a high level of experience, whereas the General Criminal Law Panel requires only a moderate level.

While the original contracts did not require the Program Solicitor to be a member of a panel, instead requiring the solicitor to undertake work in the areas of law identified by Legal Aid NSW, the requirement was implied, in that it applied to all private practitioners undertaking legal aid work. In the last year of the Program, more prescriptive requirements regarding panel membership have been applied to firms, to ensure that gaps in access to legal services are addressed.

Legal Aid NSW has requested that participating Program Solicitors in each firm apply for membership of all generalist panels including care and protection panels for adults. Legal Aid NSW has also requested that solicitors seek membership of panels for representation of children in care and protection matters, noting that it may not be possible in all cases as eligibility for the children's care panel requires more extensive specialist experience than the other generalist panels.

The new Regional Solicitor Program guidelines expressly state the requirement that one solicitor at each participating firm be a member of one or more panels, or demonstrate a willingness to apply for membership. In addition, contracts for the newly participating firms include a requirement for the Program Solicitor to seek panel membership.

## 1.7 Objectives of this evaluation

The evaluation as a whole has four key components:

- examination of the underlying rationale of the Program
- process and structure evaluation
- impact analysis
- cost-benefit assessment.

## 1.8 Key components of the methodology

The evaluation was conducted in two phases. Phase one aimed to evaluate the four elements above one year after the Program's inception. Phase two aimed to update the findings of phase one with data and stakeholder feedback concerning the Program in its second year, including responses to changes made to Program administration following the phase one research. Both phases included a series of stakeholder interviews and analysis of administrative data.

The stakeholder interviews for phase one were conducted during July and August 2008, and were generally 30-60 minutes in duration. Interviews involving a similar format were conducted in phase two during August, September and October 2009. The Interim Report for the evaluation, prepared in September 2008 was circulated to key stakeholders for comment, including the regional law firms participating in the Program, the Law Society NSW and the Law Council of Australia. Their feedback has been incorporated into the draft final report.

Those consulted included:

- stakeholders who were able to comment on the Program as a whole, its underlying rationale, development, overall structure and perceived effectiveness, eg Program representatives from Legal Aid NSW (including those in policy level positions and those involved in the day to day administration of the Program), the NSW Law Society, NSW Legal Assistance Forum, Aboriginal Legal Service (NSW/ACT) Ltd, and the Department of Justice and Attorney General (DJAG)
- Program Solicitors and partners of participating private law firms in each location
- representatives of relevant organisations external to the participating firm e.g. local consumer advocacy groups/referral bodies, representatives of the local court system, regional representatives of CLSD and Community Legal Centres (these stakeholders were nominated by Legal Aid NSW as well as the participating firms and solicitors), regional Legal Aid NSW offices and regional Law Society of NSW representatives
- formerly subsidised individual practitioners who have left the Program, and partners in firms that are no longer participating in the Program
- firms and individual practitioners that have declined to participate in the Program, where available.

A list of stakeholders consulted is provided in Appendix B of this report.

## 1.9 Structure of this report

This report is structured as follows:

- Chapter 2 discusses the process and implementation of the Program
- Chapter 3 reviews the impacts of the Program
- Chapter 4 analyses the underlying rationale of the Program
- Chapter 5 analyses the cost-benefits of the Program
- Chapter 6 sets out the future directions and recommendations for the Program.

## 1.10 Limitations

This is a small-scale evaluation which has some limitations.

The evaluation has primarily drawn on research with stakeholders who are closely involved in the Regional Solicitor Program. While the perspectives of some external stakeholders were included in the research, the conclusions of the report largely rely on the self-report of participating solicitors and firms of the impact and effectiveness of the Program.

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The timeframes for the evaluation in both stages of the research precluded the opportunity to test and explore the findings of the analysis of grants data and cost-benefit evaluation with the participating firms.

The evaluation did not include consultation with clients of the Program, for logistical and ethical reasons. When designing the methodology, it was determined that the scope of the evaluation would not permit consultation with more than a handful of clients, which would provide limited insight into the impact of the Program on access. It is possible that insights into client satisfaction could be gained from consulting with a small number of Program clients, however it is also likely that clients' assessment of service quality would be strongly influenced by the outcome of the matter in which they were represented or advised, which may or may not actually reflect on the quality of service provided by the Program Solicitor.

## 2 The process and implementation of the Program

This chapter discusses the process and implementation of the Regional Solicitor Program. This includes:

- an overview of the Program and the participating firms
- recruitment to the Program
- the application process
- assistance with relocation
- administration and support from Legal Aid NSW
- structure of the subsidy.

### 2.1 Overview of the Program and participating private firms

The Program was approved for funding in December 2006. The Program officially commenced with the appointment of the first solicitor in Broken Hill in March 2007. It provides salary subsidies and other incentives to private law firms in up to ten regional and rural areas of NSW to employ an additional solicitor for a two-year period. In return, the solicitor employed must undertake an agreed amount of legal aid work (75% of their time). Between 2007 and 2009, the Program has operated in nine locations:

- Batemans Bay/Moruya
- Bega
- Murwillumbah
- Cowra
- Young
- Dubbo
- Taree
- Moree
- Broken Hill.

The Program was intended to run for a minimum of two years in each location, although as discussed below, some firms experienced delays due to difficulties in recruitment. The two year period commenced from the appointment of the first solicitor in each location and if a replacement solicitor was employed, they were only to be employed for a period that equated to the balance left from the original solicitor. However, due to the extension of the Program to the end of 2009, some firms may exceed the two year period.

One firm at Port Macquarie withdrew from the Program before the completion of the phase one evaluation. Three other firms ceased participation in the Program:

- Paul Walton at Broken Hill in October 2007
- McCabe Partners at Young in July 2008
- O'Reilly and Sochacki at Murwillumbah in May 2009.

In June 2009, Legal Aid NSW undertook to expand the Program to four new locations in the Central Tablelands, Far South West NSW, the Tamworth Area and Albury. At 31 August 2009, the Program is operational in these locations with appointment of Program solicitors finalised. However, these firms are not subject to the current evaluation.

### 2.1.1 Recruitment to the Program

Only two firms recruited Program Solicitors in the period after the phase one evaluation, therefore the findings in relation to recruitment are largely unchanged.

Firms advertised the position through local and national newspapers, on job vacancy websites such as Seek and My Career as well as through their networks. There were some challenges finding suitable candidates, however all nine firms did fill the positions and at the time of interview, almost all had a solicitor employed under the Program.

Nonetheless, overall firms have experienced significant difficulties in attracting suitable candidates to take up the Regional Solicitor position. This has represented the most significant challenge for the Program. The challenge of recruiting suitable solicitors is not unique to this Program. As discussed in Chapter 2 the legal profession (as with many other professions) experiences difficulties in recruiting and retaining qualified legal practitioners to work in rural, regional and remote areas.

Firms were provided an allowance of \$1,000 to cover the costs of recruiting an additional solicitor for the Program. In general, the cost of the exercise exceeded the allowance – in some instances quite significantly – due to the large amount of advertising required to fill the position. However, some firms were appreciative of this level of subsidy and did not expect more.

A future strategy could be to increase the limit of the allowance, in recognition of the recruitment challenges commonly experienced. However, it may be more valuable and cost effective for Legal Aid NSW to leverage its position in the legal sector to provide greater in-kind support for recruitment. Legal Aid NSW has undertaken to advertise the Program to applicants through its website and professional networks, but this has had no impact on firms currently in the Program as recruitment occurred before this assistance became available.

Legal Aid NSW has considered that a possible solution to overcome recruitment difficulties is for Legal Aid NSW to gather a pool of potential recruits, for example promote the Program to students who were assisted with study subsidies/scholarships funded by Legal Aid NSW and the Legal Aid NSW Graduate Program. The merits of this option may in part depend on the desired level of experience for solicitors employed under the Program (discussed further in Chapter 4).

### 2.1.2 Types of candidates for the Program

In most locations, partners and stakeholders felt that the Program Solicitors brought to the Program a good (or at least reasonable) level of skill and have since increased their capabilities in undertaking legal aid work. This has especially been the case where firms have employed a solicitor with previous legal experience. One firm was particularly impressed by the Program Solicitor they employed, emphasising how much effort the solicitor has made to connect with disadvantaged clients typically assisted by Legal Aid NSW.

Nonetheless, the general view of stakeholders was that overall, the pool of candidates applying for the Program has been limited both in terms of the number of applicants and their calibre. One firm felt that they were getting the 'bottom end' of the market; that is they could only attract mature age graduates or younger, less successful graduates who had not secured a job in the competitive metropolitan job market.

The types of candidates attracted to the Program appear to fall into the following six categories:

- Law graduates with no or minor experience, originally from a rural area and wanting to return to the country or their home town.
- Mature age law graduates who are unable to secure employment in the more competitive metropolitan market.
- Law graduates with no or minimal experience who are unable to get a job elsewhere and see the Program as an opportunity to gain experience and increase their employability in the more competitive metropolitan market.

- Young solicitors/recent graduates who are attracted by the opportunity to gain a good breadth of experience in a short timeframe, which could possibly take years to gain in a larger, city-based firm.
- Experienced solicitors/barristers who have previously practised in other rural or metropolitan areas and want to relocate for a 'sea/tree change'.
- Experienced solicitors from overseas but only just admitted in Australia.

Since the phase one evaluation, Legal Aid NSW has removed the upper limit of five years' experience for a Program Solicitor. This was in recognition that some of the less experienced Program Solicitors may have difficulty coping with legal aid work, and that some regional firms have limited capacity to adequately develop and mentor a young solicitor.

Most stakeholders consulted for phase two of the evaluation considered this change to be a very positive development. One partner believed that the Program should continue to target young and less experienced solicitors, believing they were more energetic and 'trainable', but accepted that other firms may have different needs to his own. Others suggested that the cost effectiveness of the Program to their firm had been dependent on finding a more experienced solicitor than was originally targeted by the Program, and that the removal of the limit simply ratified what they had already done.

### *Retaining Program Solicitors*

During the course of the Program, several Program Solicitors exited the Program early and this tended to be within their first three months of employment. Partners emphasised the importance of targeting candidates who desire to relocate from metropolitan areas, and who have an understanding of the challenges of working in a rural, regional or remote environments, as well as an ability to cope with the geographical and social isolation they may feel. One firm reported that they are 'selling a lifestyle, not just a job'.

As the early weeks of employment are apparently critical, it was widely agreed that a thorough induction process is an important means of encouraging retention.

Legal Aid NSW runs a one day induction session for Program Solicitors in the Program. This session covers an overview of the Program, the Program Solicitor's role, expectations of the solicitor and their work, as well as administrative procedures. This session is either held in Sydney before the solicitor relocates to take up their position, Legal Aid NSW recognises that this induction process is critical to the success of the Program. Nonetheless, some firms missed out on this induction due to problems with timing or availability to attend.

Those who had received an induction had attended a session at the Central Sydney office of Legal Aid NSW, and did not report receiving any complementary process on commencement at the firm. Legal Aid NSW has since developed a comprehensive induction process, and the new Regional Solicitor Program guidelines also stipulate that the firm has the responsibility to provide the solicitor with an induction of their own. However, a solicitor interviewed in phase two of the evaluation who left the Regional Solicitor Program said he lacked assistance with the social aspects of settling into the town; this area is not covered by the guidelines.

It is a practical reality that both the client group and nature of legal aid cases can be fairly challenging for Program Solicitors, particularly those who are young and inexperienced. This can be a particular problem for female solicitors in regional areas who may have their security compromised. One partner reported that in a small country town, it is highly probable that a solicitor will run into their client, and there were reported instances of threats being made against a Program Solicitor.

If the Program Solicitor has less than two years experience, they require a significant amount of mentoring and support from older, more experienced members of the firm. This time is not covered by the subsidy and is a large investment both in time and money. An alternate option is to employ more experienced solicitors; however they tend to seek higher salaries than the current salary cap.

It is intended that the removal of the five year limit on experience may result in the recruitment of solicitors who are more compatible with the work and conditions required of a Program Solicitor. It was

also suggested by Program Solicitors that the opportunity for pay increases and ongoing professional development would help maintain their interest in retaining their position.

As noted below in this chapter, assistance with practicalities such as accommodation searching, access to a suitable car, and a mobile phone may also assist with both attracting and retaining solicitors.

## 2.2 Application process to the Program

There were mixed views about the rigour of the application process. Most firms responded positively about the application process and recalled that the requirements were clear and allowed them to demonstrate why they should be selected. In contrast, some concerns were expressed by external stakeholders regarding the basis for the selection of the firms. However, these stakeholders may not have informed knowledge of the application process, or may have also applied for a place in the Program. One stakeholder felt that the Program should be expanded to allow Community Legal Centres to apply so that they could employ a Program Solicitor. This was because Community Legal Centres are already set up for disadvantaged clients and have a more developed understanding of case management and/or the need to follow up small matters for clients who have trouble accessing the justice system.

At the time of the phase one evaluation there was no defined set of criteria that firms must address to be considered for inclusion in the Program. To address this issue, Legal Aid NSW has set out in the new Program guidelines criteria for both inclusion of locations and selection of firms for participation in the Program.

As with recruitment of Program Solicitors, stakeholders suggested that the Program could be better promoted and explained to prospective firms. Two firms said that they had found the Program unexpectedly beneficial to their firm, in that it allowed them to take on legal aid work in a commercially rewarding manner, and that other firms would probably be interested in these benefits if they were understood. Legal Aid NSW have advised that the Regional Solicitor Program is now advertised through Monday Law Briefs, on the Legal Aid NSW website following discussions with each of the Regional Law Society Presidents.

## 2.3 Assistance with relocation

Legal Aid NSW provides up to \$5,000 to cover Program Solicitors' relocation expenses. Overall, both firms and the Program Solicitors were pleased with this level of assistance, and the claim process was reported to be straightforward.

Across firms, there was mixed understanding about the rules concerning the length of time a solicitor must remain with the Program to keep the relocation allowance, should they choose to leave the Program within the two years. Legal Aid NSW advised that it sought to re-claim the allowance from Program Solicitors exiting the Program before two years, which is in line with their contract. At the time of the consultations, this only related to one solicitor who had been in the Program for a year and was leaving due to the perceived high demands of the position and such recovery action was not pursued.

Two solicitors interviewed in phase two of the evaluation who had withdrawn from the Program stated that they would have liked more 'in-kind' assistance with relocation, in particular searching for appropriate accommodation, as they either found this process burdensome or disliked the living arrangements in which they found themselves. (It was not suggested by the solicitors that Legal Aid NSW should be responsible for offering this kind of assistance, however.)

### *Alternative packages*

One firm reported that it had negotiated an alternative with the Program Solicitor which had helped attract them to the position. Instead of paying the solicitor a relocation allowance, the firm paid (and was reimbursed for) a car allowance to allow the solicitor to purchase a more suitable vehicle for long travel. Other Program Solicitors said that having access to an appropriate vehicle would increase the attractiveness of the Program to applicants and assist with retention. Similar suggestions were made regarding mobile phones.

## 2.4 Administration and support from Legal Aid NSW

Overall, participating firms and solicitors were positive about the level of support and assistance received from Legal Aid NSW in the initial stages of the Program and its ongoing administration. There was not a large volume of contact reported, however most informants were pleased with the timeliness of responses to requests for information and clarification of Program policies.

A small number of firms commented on the lack of Program induction and written guidelines, stating that they used their own initiative to get started. It appears likely that this has led to a greater number of enquiries to Legal Aid NSW from participating firms and solicitors than may have been the case otherwise. It also appeared from the consultations that there are varying understandings of some aspects of the Program's (informal) guidelines amongst different firms/solicitors, and possibly some inconsistencies in their application between different Legal Aid NSW staff who have been responsible for the Program. Some also commented that it was only after they enquired that they found out they were eligible for certain benefits or aspects of the Program, and it would have been preferable to be told this upfront. However, the entitlements of each firm to claim fees under the Program is covered in the contract between the parties. For example the contract provides that the firm can claim fees for duty appearances, case approved applications and for advice and minor assistance.

In response to this feedback, Legal Aid NSW drafted and circulated new Program guidelines in 2009. The guidelines have been positively received by firms consulted for the evaluation, but this far into the current firms' period of participation, it appears their impact has not been great. In addition, confusion remains about some aspects of the Program's administration, in particular the availability and conditions for the \$80 payment for advice and minor assistance.

In the past, there were instances where both the firm and solicitor would have liked the Program administrators to be more proactive in maintaining a working relationship and providing more detailed information through an induction and ongoing feedback and assistance. However, in the second phase of the evaluation, participants felt that Legal Aid NSW had been taking a more hands-on approach to managing the Program in recent months.

### 2.4.1 Grant of aid

#### *Application process*

The grant of aid is a core part of providing services through Legal Aid NSW; this grant is given in cases where more than a legal advice session is required and clients will usually have to pay some money towards the cost of their case, depending on their individual circumstances. Private practitioners who perform work on behalf of Legal Aid NSW must apply for a grant to receive funding.

At the time of the phase one evaluation, applications were completed either on paper or electronically. Most participants said that the process for submitting/approving a grant of aid could be streamlined and the waiting periods for approval needed to be shortened.

The previous procedure was regarded as burdensome, particularly since all or the great majority of the solicitors' workloads consists of legal aid. It was reported that completing the paperwork was time-consuming for the Program Solicitors. Some firms also reported that they have had to employ additional administrative staff to cope with the workload and increase in paperwork. Nonetheless, some solicitors commented that the processes had become smoother and easier once they developed a close working relationship with the relevant section in the Legal Aid NSW head office that approves the grants as they became more familiar with how the grant approval system operates.

Partly in order to streamline the grants application process (for all applicants) a new Grants data base (ATLAS) was implemented, which was fully operational in March 2009. All practitioners both internal and external are required to lodge their applications with the Grants Division electronically, ensuring that the process of obtaining a grant of aid is the same for all practitioners.

Unfortunately, participants continue to report that the application process is overly time consuming and response times protracted. Several described the process as the most – or only – detrimental element of their participation in the Program. In some cases firms have chosen to take on matters at the firms'

expense while awaiting payment; in others, clients have needed to seek assistance elsewhere as they did not have time to wait for the result of the application.

Although a few Program Solicitors said that they were getting used to ATLAS, some said that the new system was more restrictive than the old, without being more efficient. One Program Solicitor commented that the new system did not allow solicitors and Legal Aid NSW staff sufficient opportunity to discuss applications. However, Legal Aid NSW maintains that there is an average five day lag in applications, which it expects will reduce over time.

It is important to note that ATLAS was only six months old at the time of interviews, and that users may need more time to become proficient at using the system. Furthermore, only a few firms had received training on ATLAS, and Legal Aid NSW is in the process of visiting firms to provide this training.

### *Grant amounts*

A separate issue raised by participants concerned the amount of assistance provided by a grant of aid. Particularly in relation to family law, grant amounts were believed to be insufficient to cover preparation time. It was suggested that it should be easier for applicants to be able to vary grant amounts during the lodgement process once the complexity of a case was established. It is important to note that all privately practising solicitors undergo the same grants application process when undertaking legal aid work, and therefore the implications of this feedback for the Regional Solicitor Program specifically are limited. It is also unclear why the value of grants would be of concern to firms when the position of Program Solicitor is heavily subsidised.

## 2.4.2 Admission to Panels

As previously discussed, it has been a requirement for several years that private practitioners undertaking legal aid work belong to relevant practitioner panels, although this requirement was not stated in the original Regional Solicitor Program contracts. Firms were unconcerned about the panels system in principle. They agreed that Program Solicitors should meet a standard that would allow panel membership either on joining the Program or through professional development received during the Program. However, a few firms reported difficulty with admission of the Program Solicitor to practitioner panels, and were concerned that these difficulties prevented them providing service to those in need. Three problems were experienced:

- some found the application process onerous
- firms reported protracted response times for their panel applications
- one firm reported that their Program Solicitor had been declined membership of a Serious Criminal Panel.

It is noted that the Serious Criminal Panel requires significant experience in the area of serious crimes, due to the complexity of issues involved in representing clients charged with such offences and the responsibility of Legal Aid NSW to provide suitably qualified practitioners to represent these clients.

Nonetheless, these issues contributed to a broader concern by some firms that the role of the Program Solicitor lacked clarity in relation to other legal aid providers (including those on particular Panels), and that the Program Solicitor role was being undermined as a result. The RSP solicitor is now requested to become a member of the relevant panel to ensure that work can be easily allocated to them. Several firms suggested that the Program Solicitor was not appropriately prioritised in the allocation of legal aid work in the local area, including duty roster work, and a view was expressed that requirements such as the grants process and panel membership further hampered the Program Solicitors' ability to service clients. This issue is discussed further in section 3.3.4.

It has been suggested by Legal Aid NSW that RSP participants may need further education on the panel system (as well as the current training on the ATLAS system). Legal Aid NSW maintains that solicitors employed through the Program would be unlikely to have the required amount of experience for specialist Panels (e.g. Serious Criminal Panel), but that most work comes through the general Panels which are relatively straightforward to join. The new guidelines state that where required, a more experienced solicitor from the firm may take on complex matters and this will count towards the hours of

legal aid work undertaken by the Program Solicitor. This was viewed by practitioners as a positive aspect of the Program.

### 2.4.3 Appropriateness of the two year timeframe

Stakeholders and participants continued to support the two year timeframe for placement of the Program Solicitor. The two years allows the Program Solicitor to develop networks within the area, to gain an understanding of any issues that exist in the community and to familiarise themselves with the nature of the work required.

However, it appears that attitudes regarding extending the Program Solicitor's contract have altered. The prevailing view during the phase one evaluation was that after two years the Program Solicitor would want to move on, and the area would be ready for a new practitioner. In phase two the view appears to be that it would be desirable for the Program Solicitor to stay beyond two years, as it has taken this amount of time for him or her to become appropriately skilled and financially beneficial to their firm.

Yet, as the conclusion date for the Program draws near, some (though not all) partners expressed uncertainty about the ongoing viability of the Program Solicitor position at the firm if the subsidy ceased. These firms had not made plans that would allow the retention of the Program Solicitor in this event. This was a source of concern for partners and Program Solicitors alike. However two firms reported having sufficient work to retain the solicitor in the absence of the Program and intended to do so. One partner suggested that if the subsidy was gradually decreased over time it would be easier for firms to retain the solicitor. One Program Solicitor would like the option to go to another area but to remain in the Program if she is no longer retained in her present firm.

### 2.4.4 Selection of rural, regional and remote areas

A scoping exercise was undertaken by Legal Aid NSW to select 22 possible locations for the Program, which was then narrowed down to ten regions. The exercise involved running a variety of reports to identify the legal aid activity taking place in different regional and remote areas. It examined the number of firms doing legal aid work and the type of work they were doing (criminal, family or civil) to identify gaps and areas of need.

Although expressions of interest were requested from law firms in the area, there was no further consultation work undertaken with firms in different localities about both the met and unmet demand for legal aid work in the area, the number of firms undertaking this work, and the potential impact of the Program if it were introduced. There was consultation undertaken with the Law Society of NSW including the Regional Law Society Presidents. Nonetheless it appears that the localities selected have had ample legal aid work and in most areas, the impact on other firms in the area has not been great. As noted, the selection criteria for locations are now published in the Program guidelines to promote transparency in this process.

However, in one extreme example, it was reported that the Program Solicitor had to take on 100% of the legal aid work in their area, since the other firms who had previously conducted legal aid work ceased doing so as soon as the Program Solicitor commenced in the position. This was reportedly unmanageable for one person due to the intense workload and associated stresses of legal aid cases. The solicitor subsequently left the Program to take up another position elsewhere. This example illustrates the importance of adequate scoping and consultation with legal firms in the proposed area before introduction of the Program.

Several firms suggested during the phase two consultations that locations to the Far West of NSW were in greatest need of additional legal aid services, due to low levels of existing representation, high levels of crime, ongoing difficulties with recruiting and retaining solicitors locally and the travel distances required for outreach to these locations. One of the new locations for the Program is in the Far South West. Legal Aid NSW has also established monthly Regional Outreach Clinics at Brewarrina and Moree to provide family and civil advice and minor assistance to clients in the Far North West. The service at Brewarrina coincides with one of the fortnightly criminal law clinics held by the Aboriginal

Legal Service. The Regional Solicitor Program also operates at Moree. However, it is noted that there may still be a need for increased service in the Far North West (Walgett etc).

### 2.4.5 Professional development

It is regarded as critical that Program Solicitors receive access to regular professional development, particularly since the Program is aimed at less experienced solicitors. This is also particularly important for those with less practice experience in relevant areas before they commenced employment with the Program.

The Program Solicitors have access to Legal Aid NSW conferences and their registration fee is covered under the Program. However this does not take into account the high cost of travel from some areas and the professional time out of the office. It was commented that this can be a significant cost for a small regional firm to bear. It was suggested that Program Solicitors should be treated in the same way as other Legal Aid NSW staff, and have their total travel costs for attending conferences and training reimbursed.

Some also suggested that there be greater emphasis on provision of professional development opportunities in other ways. Some examples of how this may be implemented were noted by stakeholders, including:

- identifying professional development needs as soon as the solicitor commences in the job, and the employer and Legal Aid NSW identifying formal opportunities to undertake this training as soon as possible; a separate budget allocation may be required from Legal Aid NSW for this purpose
- providing Program Solicitors with access to a formal mentoring arrangement for both the professional/technical and social aspects of the role.

It was also suggested that some of the training available to Program Solicitors could be made available to other solicitors and administrative staff in their firms regularly engaged in legal aid work. A few firms noted with appreciation that their administrative staff had, along with others, received training on the grants system.

Legal Aid NSW is extending the availability of its other internal training resources to Program Solicitors, but this has not affected the current participants as yet.

## 2.5 Structure of the subsidy

The structure of the subsidy received by firms appears to reflect the amount of legal aid work that they are undertaking in most cases. All solicitors and firms reported that at least 75% of the solicitors' work is legal aid. Indeed, in almost all instances it was reported that all or almost all of the solicitors' work has consisted of legal aid, from as soon as they started in the position or very shortly thereafter. Some examples were cited where firms experienced a huge increase in legal aid work which they report is not sufficiently covered by the subsidy or the grant payments, especially the office overheads and administrative costs that resulted from this surge in work.

The original intention of the subsidy was to mitigate some of the cost impact on firms of bringing an inexperienced solicitor 'up to speed' over a two year period. The intention was that after this time, solicitors would be settled in their firm and competent enough to earn an unsubsidised salary from the firm.

However, most firms have diverged from this strategy in one way or another. Several used the subsidy to offer a higher salary and attract a more experienced solicitor than they would otherwise be able to afford. One firm split the subsidy between a junior and senior solicitor, covering part of each salary itself and involving both solicitors in private as well as legal aid work. Another firm with solicitors in two locations used the subsidy to fund the hours solicitors spent on legal aid matters in each location, rather than having the Program Solicitor travel between locations. Although it is not the intention of the Program to subsidise the administrative aspects of legal aid work, one firm reported that the subsidy

has enabled them to hire an extra administrative assistant (which has been necessary to manage the workload generated by the Program).

These firms appreciated this flexibility, and considered the steps they had taken to be crucial to the success of the Program in their area. They were generally doubtful that they would be able to afford to retain the solicitor without the subsidy.

## 3 Impact analysis

This chapter discusses the impact of the Program, including both the achievements and limitations. This includes:

- the overall impact of the Program
- the impact on private firms participating in the Program
- the impact on the Program Solicitors
- impact on clients
- impact on other Legal Aid NSW services.

### 3.1 Overall outcomes and achievements of the Program

The Program has achieved a number of outcomes and achievements. These include:

- Working in partnership with private law firms to place someone permanently on the ground in nine regional areas. It is a significant achievement in itself that private firms have signed up for the Program given that the nature of legal aid work can be very demanding, and not very commercially rewarding, even with the subsidy.
- Improving the availability and accessibility of legal aid advice and representation for clients in regional and rural areas, particularly those suffering financial and/or social disadvantage. This includes providing access to a broader range of legal aid work in some locations – for instance some firms reported that the Program has allowed them to expand into other areas of legal aid work they had not practiced in previously (e.g. family law).
- Providing access through private firms to minor assistance and advice, and to representation in small matters (which firms previously would have been disinclined to accept).
- Providing a wage subsidy for firms to undertake more legal aid work, which reduces the strain on regional Legal Aid NSW offices if there is a Legal Aid NSW office near the Regional Solicitor Program location.
- Employing solicitors in regional areas gives them a better understanding of local needs, and there is scope to build connections and relationships in the community. This should result in more referrals and further improved access to legal services for disadvantaged members of the community.
- Assisting Legal Aid NSW and other legal services/firms in instances where there are conflict of interest issues. It was reported that this can be particularly common in regional areas, particularly in cases involving Aboriginal people.
- Giving the Program Solicitor the benefit of working on a broad range of cases and being mentored by senior members of their firm.

### 3.2 Impact on firms' capacity to undertake legal aid work

#### 3.2.1 Introductory notes

As an approved grant is required for every legally aided matter (except minor advice/assistance), the number of grants approved for each firm per year is a useful measure of output per firm for that period. Grants data has been provided for the year prior to commencement of the Program (2006-07) and the first and second years of the Program (2007-08 and 2008-09) to inform assessment of the Program's impact on participating firms' capacity to provide legally aided services.

Legal Aid NSW provided data relating to applications, approved grants and refusals for these periods, split into individual areas of law and case and duty related payments. Analysis of these data therefore

provides not only a measure of overall output by firms, but also demonstrate trends in output in each area of law and in case-related matters. This can shed light on the Program’s impact on the variety of services available to Legal Aid NSW clients. In addition to the number of grants, data were also provided on the dollar value of grants. Comparing trends in the number and dollar value of grants over the pre- and post-Program periods indicates whether the dollar value of grants has increased in the latter period, a further measure of Program output. However, these results should be treated with caution, as firms have noted in interviews that one of the positive impacts of the Program is that it has allowed them to take on *smaller* matters that they would usually be unable to afford to accept. Therefore, ‘bigger is not necessarily better’.

It is noteworthy that, in the 2008-09 period, the guidelines for grants of legal aid generally were tightened due to budget constraints.

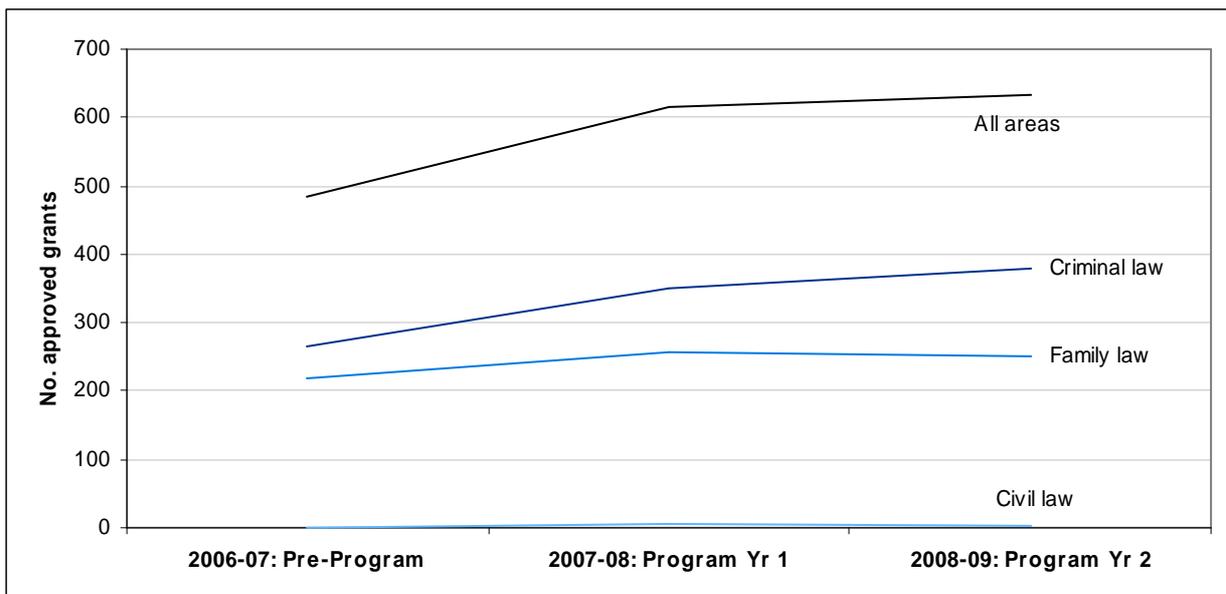
It should also be noted that the role may have been undertaken by more than one solicitor due to resignations from the position/firm. Lag time in re-filling these positions may have impacted on the amount of legal aid work undertaken (see details provided in Chapter 5, Table 1 and Appendix D). At the time of reporting, three firms had ceased participating in the Program after seven 15 and 24 months respectively. At the time of the phase two evaluation, all other firms had employed a Program Solicitor for a total period of at least 18 months.

### 3.2.2 Summary of trends relating to work undertaken

#### Overview

- The Program appears to have had a sustained and, in some areas, growing impact on access to legal services in the areas of criminal and family law. Relatively little impact is evident in civil law, where there are few cases in the sample group (see Figure 1).
- During the Program, most firms experienced an increase in the number and dollar value of grants (compared with the pre-Program year).
- Summary findings for areas of law are presented below, with results discussed in greater detail in Section 3.3.

Figure 1 – Summary of Program impact on output: approved grants for all areas and each individual area of law



### All areas of law combined

- The number of approved grants for all areas combined rose by 27% in the first year, from a total of 484 grants in 2006-07 to 615 in 2007-08. It then rose further to 633 grants in 2008-09 (a 3% increase on 2007-08 levels). These increases are attributable almost entirely to criminal and family law.
- The total dollar value of grants increased between the year prior and the first year of the Program and continued to climb in the second year of the Program.
- Five out of the nine firms showed either a continued increase in their total number of approved grants on the pre-Program year or an increase in the first Program year followed by a period of stabilisation. These trends align with expectations of a Program such as this, and it is encouraging to see them in the majority of firms.

### Criminal law

- The number of approved grants for criminal law rose by 33% in the first year, from 264 grants in 2006-07 to 351 in 2007-08. It then rose by another 8% from 2007-08 levels (to 379 grants in 2008-09), suggesting that the Program has had a substantial impact on participating firms' capacity to provide legally aided services in the area of criminal law.
- The dollar value of criminal law grants rose by 38% between 2006-07 (\$388,081 per annum) and 2007-08 (\$536,037), and then by 33% between 2007-08 and 2008-09 (\$713,261). There was a greater increase in value than number of grants, which may suggest that firms took on cases of an increasing size as a result of the Program, as well as a greater volume of cases.

### Family law

- The number of grants for family law increased by 17% from 219 in 2006-07 to 257 in 2007-08, and stabilised at 252 in 2008-09 (slightly below 2007-08 levels, but still well above the pre-Program benchmark).
- A lower proportion of applications were approved for family law than criminal law, which reflects the inherently greater complexity of grant applications for family law and the particular impact on family law of the tightening of the Legal Aid NSW guidelines for grants. It is possible that the Program could have had an even greater impact on this area of law if these guidelines had not been tightened.
- The dollar value of grants for family law increased by 31% in the first year, from \$355,171 in 2006-07 to \$464,390 in 2007-08, and then stabilised in the second year (remaining at \$469,022 in 2008-09). This is similar to the trend for the number of grants.

### Civil law

- Applications and grants peaked in the first year of the Program, and decreased considerably in the second year. In the year prior to the Program, only one civil law grant was applied for and approved in this area. In 2007-08 a total of 24 applications were made and seven granted; in 2008-09, 10 applications were made and two were granted.
- The dollar value of these grants remained unchanged over the period 2006 to 2009.
- It is noteworthy that the proportion of grants approved, as well as the overall number, is low. This may suggest that the Program could have greater impact on access in civil law if more grants were approved<sup>10</sup>.

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<sup>10</sup> It should be noted that the reasons for refusal were not analysed, so it is possible that the applications were made for matter types or clients that do not fall within the jurisdiction, means or merit test.

**Casework and minor advice**

- Grants data indicate that the Program has had a substantial impact on the amount of casework undertaken, with the dollar value of case grants almost doubling over the years 2006-09. The Program has also increased the amount of minor advice/assistance provided to Legal Aid NSW clients by firms, as discussed further in section 3.3.3.

**Variations in firms' output**

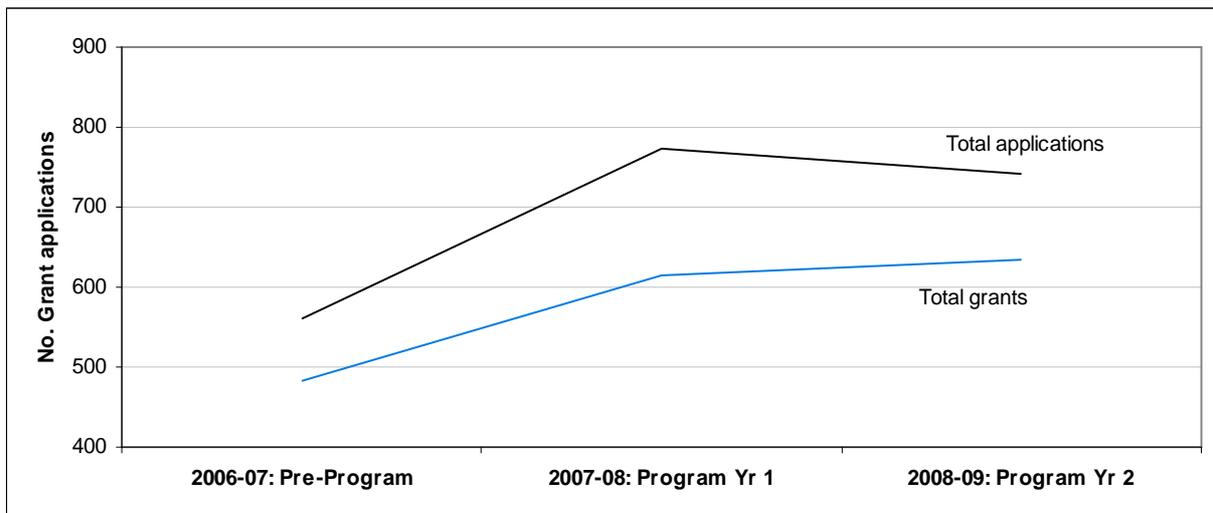
- The objective of this analysis is not to rank individual firms according to the number or dollar value of grants they received for any or all areas of law, but to explore *changes* in these figures between the pre-Program and Program periods. However, it is notable that the level of overall output, in both numbers of grants and the dollar value attached to them, varied considerably between firms.

**3.2.3 Grants and payments in all areas of law**

*Results for all firms collectively*

Figure 2 sets out the total number of grants applied for and approved in the year prior to the Program and the first two years of the Program. The results indicate that both applications and grants to the firms collectively increased from the year prior to the Program (2006-07) and remained stable, above the pre-Program levels, in the second year of the Program (2008-09). Approved grants rose by 27% from a total of 484 in 2006-07 to 615 in 2007-08. They then rose further to 633 grants in 2008-09 (a 3% increase on 2007-08 levels).

Figure 2 – Total applications and grants, all firms and areas of law, 2006-09



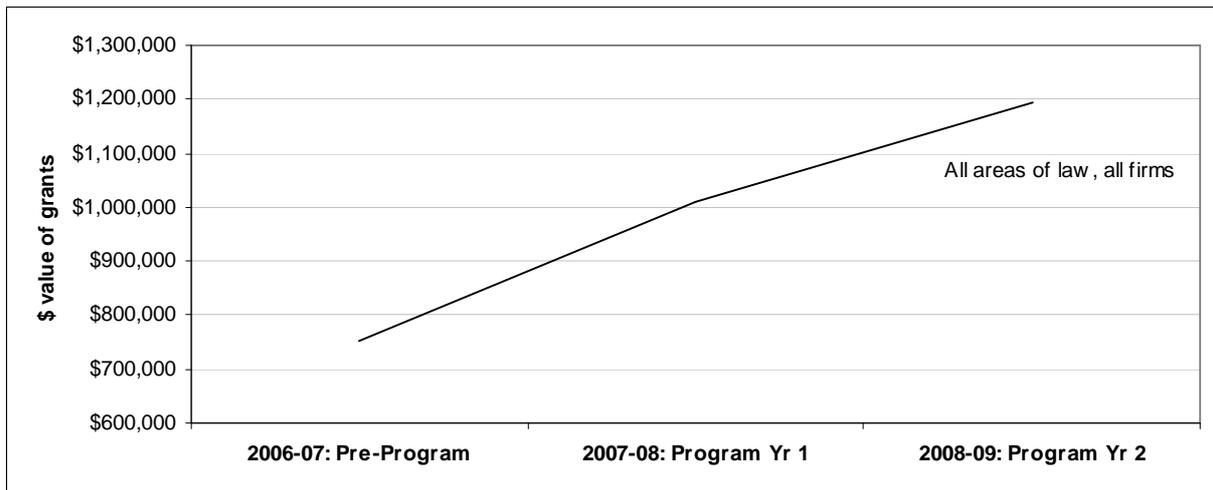
The data also show a concurrent drop in the proportion of applications approved from 86% in 2006-07 to 79% in 2007-08, but then a recovery to 85% in 2008-09. These trends suggest that the tightening of guidelines in 2008-09 did not have a noticeable impact on the approval of grants within the Program.

Figure 3 shows that the *total dollar value of grants* also increased between the year prior and the first year of the Program. The dollar value trends differ from those relating to the number of grants approved in two respects:

- Whereas the number of approved grants almost plateaued after the first year of the Program, the dollar value of grants continued to climb in the second year of the Program.
- The increases in dollar value over time are more pronounced than increases over time in the number of grants, in both the first and second year:

- Year one saw a 34% increase in dollar value (from \$753,774 per annum in 2006-07 to \$1,011,108 per annum in 2007-08), compared with a 27% increase in the number of grants approved.
- Year two saw an 18% increase in dollar value from 2007-08 levels (to \$1,193,639 per annum), compared with a 3% increase in the number of grants approved.

Figure 3 – Total grant amounts, all firms and areas of law, 2006-09



**Offset against Program costs**

The increase in access to legal services suggested by the above findings can be analysed in the context of costs to run the Program. This is discussed in detail in section 5.5 of the report.

*Results for individual firms*

Figure 4 shows the number of approved grants (for all areas of law) to individual firms participating in the program, over the same period as the above results. The findings show that there was some variation in results between firms.

Five firms experienced an increase in the number of approved grants – either in both years (three firms) or just in the first year then a plateau in the second year (two firms). Such trends align with expectations of a Program such as this, and it is positive to see that five out of the nine firms display such trends.

Of the remaining four firms:

- Two experienced a year-on-year decline from pre-Program numbers of grants (one of these firms ceased participation in the Program during this period).
- Two experienced what might be described as a ‘mountain’ effect – increasing their number of approved grants in the first year of the Program, only to fall back to or below pre-Program levels in the second year. The latter of these two firms (where numbers fell below pre-Program levels) has also since ceased participation in the Program.

Trends in the *dollar value of grants* to individual firms were similarly varied, and the same five firms which experienced sustained growth in the number of grants also received larger grants in either one or both years (not always the same pattern).

Of the three firms that received grants of the lowest dollar value, two have left the Program. Differences in dollar value of grants are also attributable to differences in area of specialisation, with civil law attracting much smaller grants than criminal law, which in turn attracted smaller grants than family law.

Figure 4 – Grants in all areas of law by firm, 2006-09

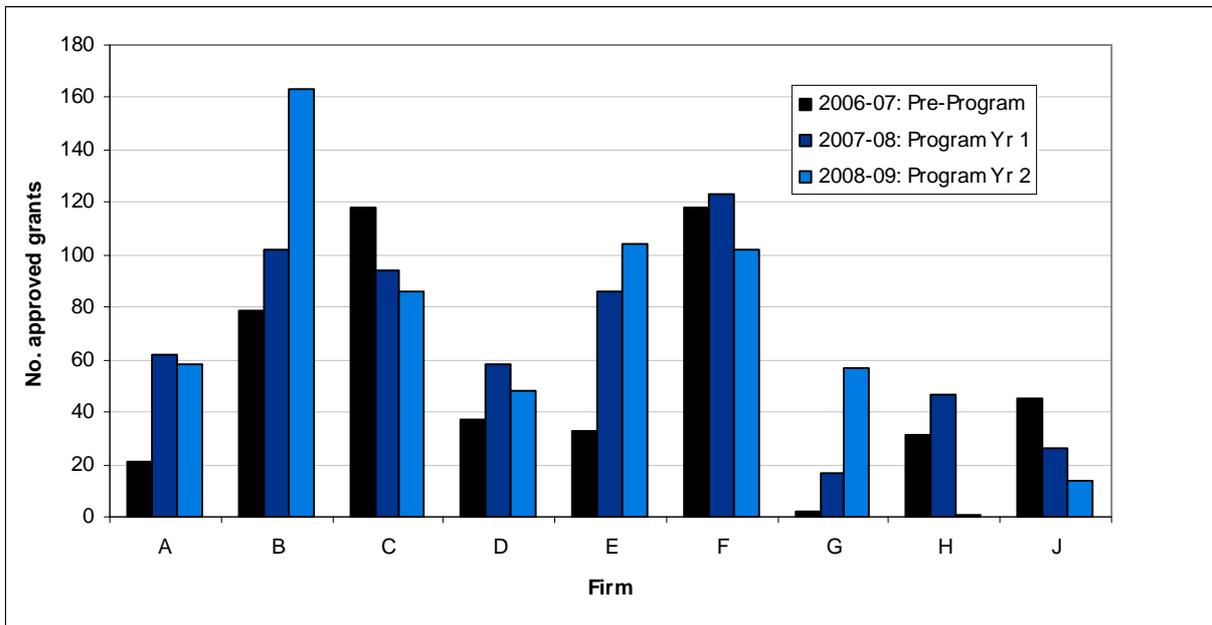
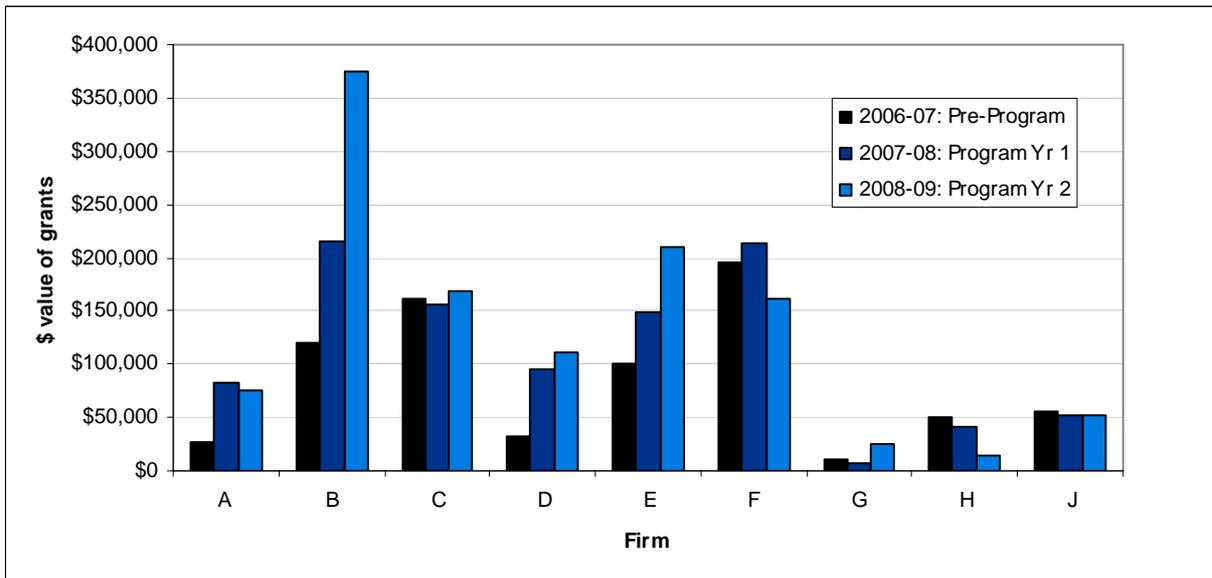


Figure 5 – Grant amounts in all areas of law by firm, 2006-09



### 3.2.4 Criminal law grants and payments

#### Results for all firms collectively

The most common type of legal service provided by firms through Legal Aid NSW was criminal law. Over the years 2007-08 and 2008-09 in which the Program was operational, 796 applications were made and 730 grants were approved.

Figure 6 charts over time the number of applications and approved grants to firms collectively, relating to criminal law.

- Applications and grants followed a similar trajectory, increasing substantially in the first year of the Program and stabilising (remaining at a similar high level) in the second year.

- The vast majority of applications were approved in each period, and the proportion of applications approved in 2008-09 (94%) was higher than it had been in the previous two years.
- The number of approved grants rose by 33% from 264 in 2006-07 to 351 in 2007-08 and rose a further 8% (from 2007-08 levels) to 379 in 2008-09. This suggests that the Program has had a substantial impact on participating firms' capacity to provide legally aided services in the area of criminal law.

Figure 6 – Criminal law grant applications and approvals, all firms, 2006-09

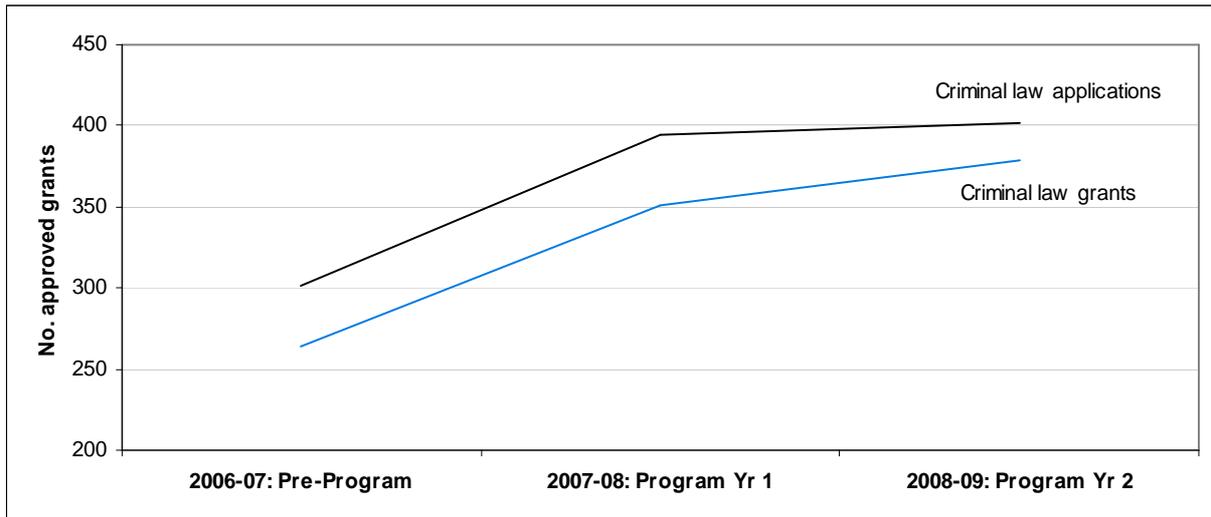
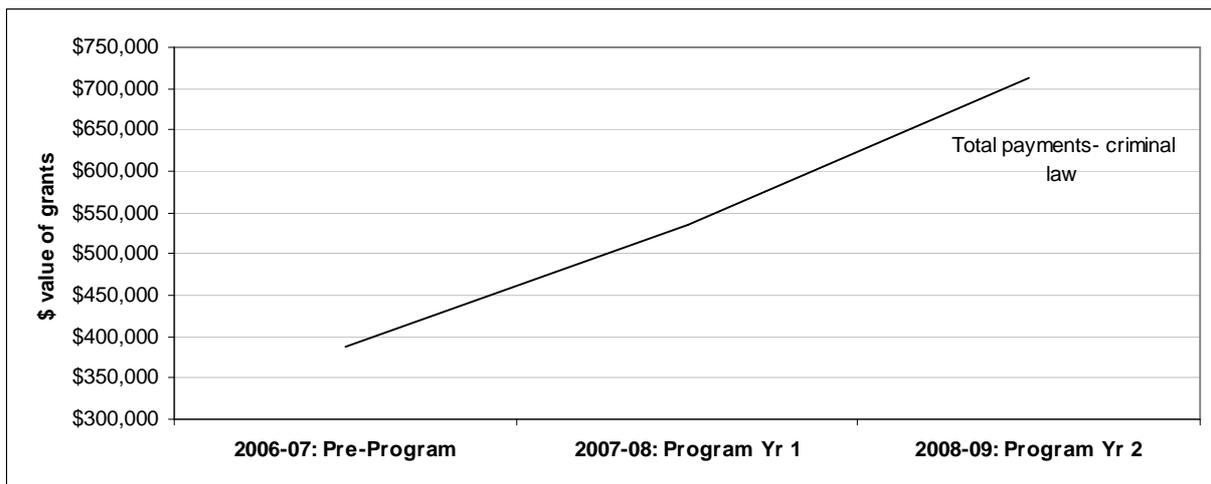


Figure 7 charts the dollar value of criminal law-related grants for all firms. The figure indicates an almost continuous rate of increase between 2006-07 and 2008-09. The dollar value of grants rose 38% from \$388,081 in 2006-07 to \$536,037 in 2007-08 and a further 33% (on 2007-08 levels) to \$713,261 in 2008-09.

Figure 7 – Grant amounts for criminal law, all firms, 2006-09



*Results for individual firms*

Figure 8 below charts the number of criminal law-related grants over the years 2006-09 for individual firms. The chart shows that six of the nine firms followed a trajectory of either continual growth (four firms) or initial growth followed by stabilisation (two firms) over the two years of the Program. Both are patterns that would be anticipated for a Program such as this.

Of the remaining three firms, two ceased participation in the Program.

Figure 8 – Grants for criminal law by firm, 2006-09

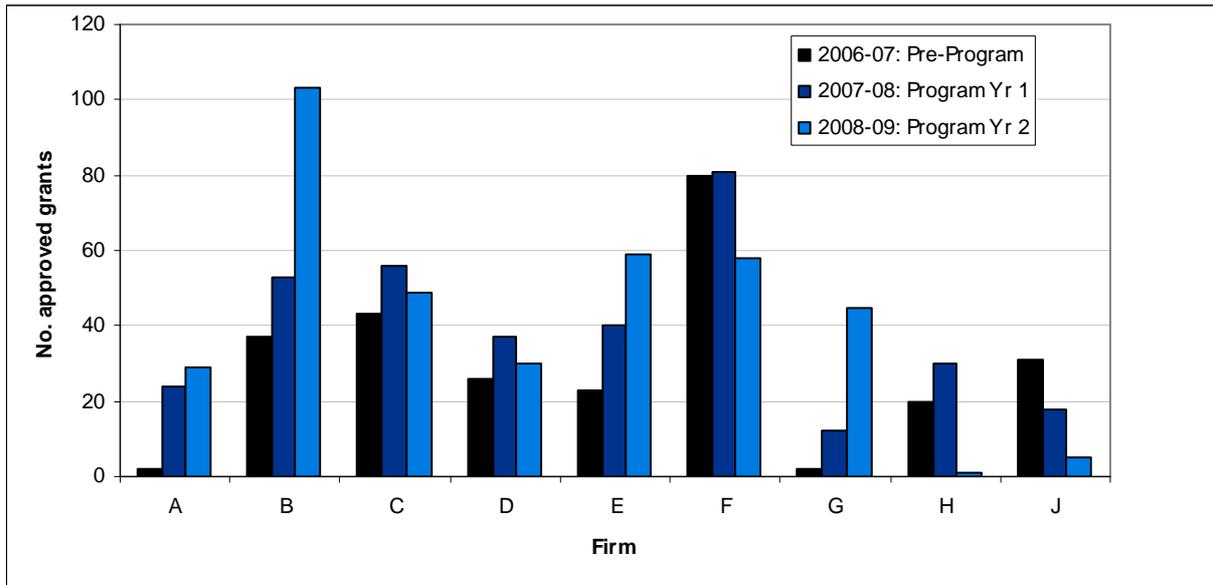
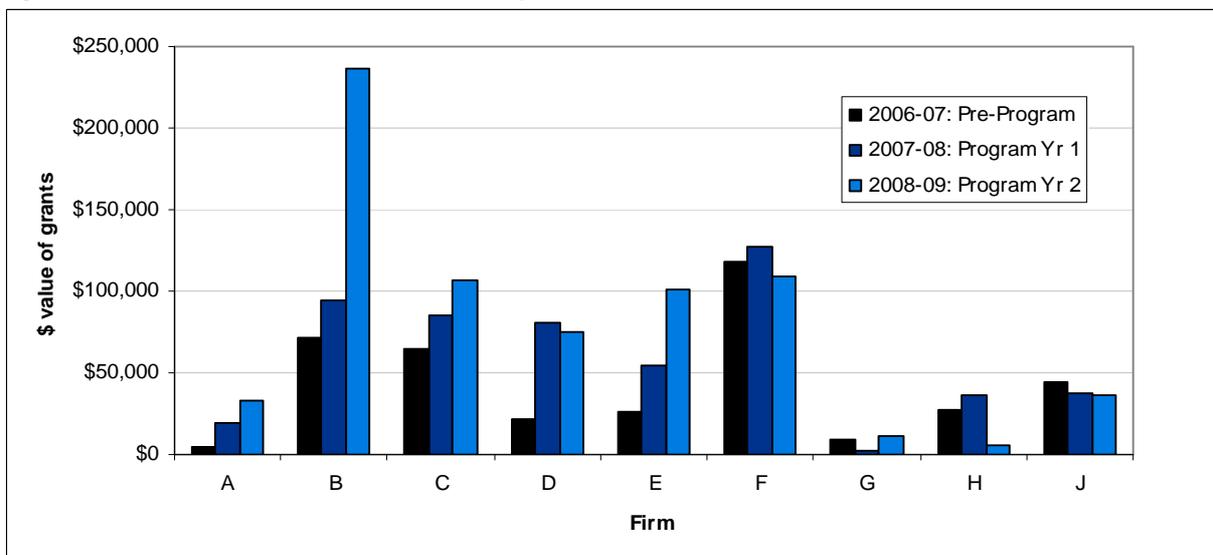


Figure 9 shows the dollar value of grants relating to criminal law, for each firm, over the same time period. Five of the nine firms received grants of increased value in the first year of the Program and equal or greater value than this in the second year of the Program.

One firm experienced an unusual trend – a *decrease* in the first year of the Program followed by an *increase* above pre-Program levels in the second year of the Program.

Figure 9 – Grant amounts for criminal law, by firm, 2006- 09



As with the results relating to all areas of law, there was considerable variation between firms in both the number and dollar value of grants for criminal law work. As criminal law-related work is the most commonly provided type of service for solicitors involved with legal aid, it is unsurprising that firms with high levels of output overall (measured by grants and their dollar value) also had high levels of output in criminal law specifically.

### 3.2.5 Family law grants and payments

#### *Results for all firms collectively*

Family law was the second most commonly provided type of legal service by participating firms. In the years the Program was operational (2007-08 and 2008-09) a total of 686 applications were made and 509 grants received in relation to family law matters.

Figure 10 below charts the number of grants relating to family law for all firms in the Program, and shows that the number of grants increased by 17% in the first year (from 219 in 2006-07 to 257 in 2007-08) and then stabilised at 252 in 2008-09.

Although the number of grants increased in the first year of the Program, the *proportion* of applications approved decreased in this period from 84% to 72%, before recovering slightly to 76% in the second year. A lower proportion of applications were approved for family law than criminal law.

The closing of the gap between applications and approvals in the second year of the Program seems to have resulted from a reduction in the number of applications in this period; this may have been caused by firms reacting to low approval rates in the previous period. It therefore appears that the Program has had a positive impact on firms' capacity to provide family law services, but that the impact may have been limited by funding restrictions affecting this area of law.

Figure 10 – Family law grant applications and approvals, all firms, 2006-09

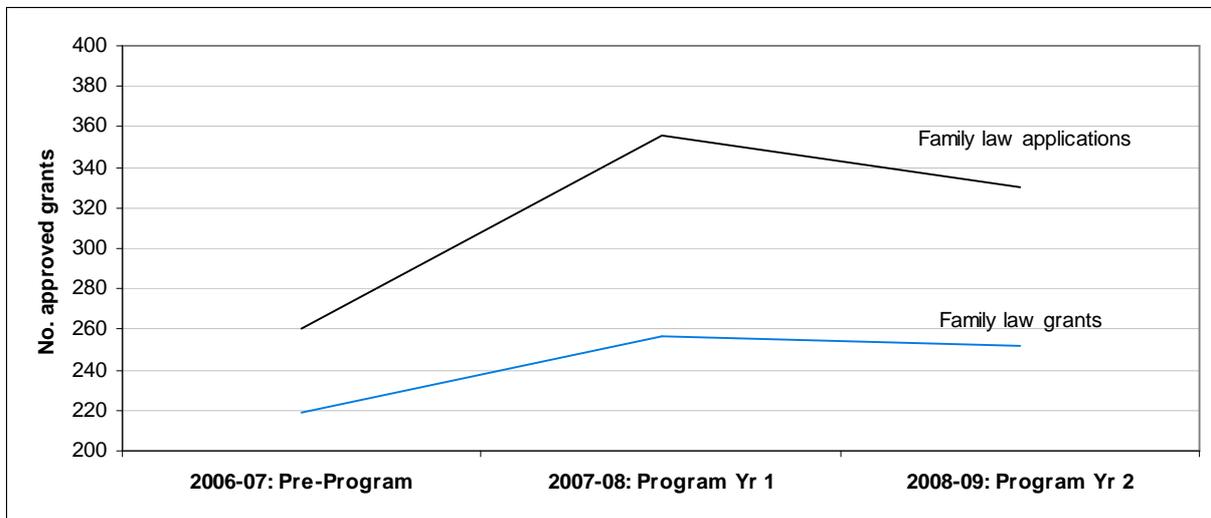
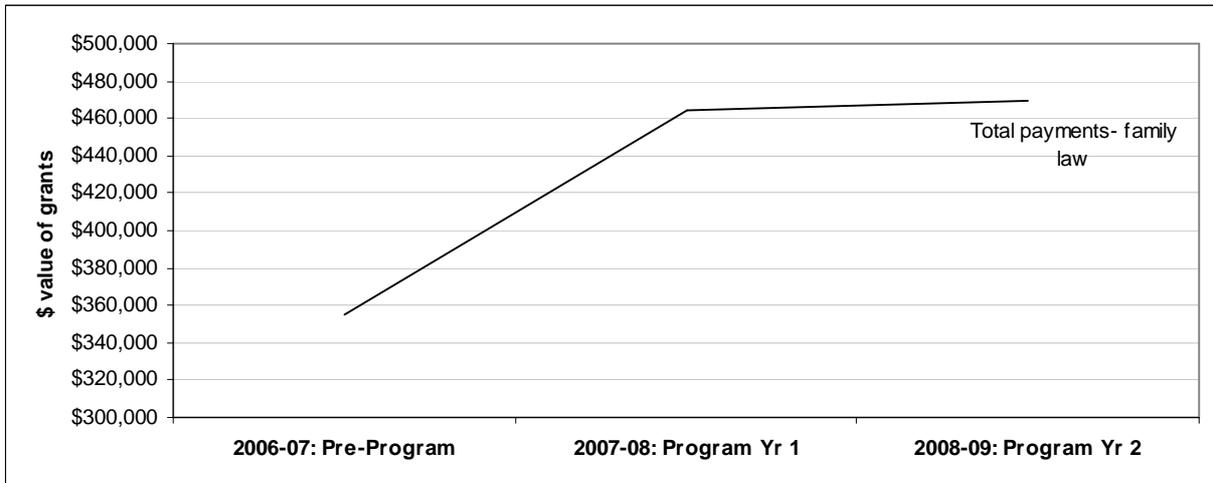


Figure 11 relates to the dollar value of grants for family law, which increased by 31% in the first year (from \$355,171 in 2006-07 to \$464,390 in 2007-08) and then levelled out (remaining at \$469,022). This is similar to the trends for numbers of grants, suggesting that there was no change in the size or complexity of family law cases undertaken as a result of the Program or resulting from the changes to family law guidelines due to budget restrictions.

Figure 11 – Grant amounts for family law, all firms, 2006-09



*Results relating to individual firms*

Figure 12 shows trends in the number of grants relating to family law over the same period, by individual firm. It shows that six of the nine firms experienced a level of growth in activity that would be expected as a result of this Program:

- four received increased numbers of grants in both the first and second years of the Program
- another two experienced an increase in the first year of the Program and then stabilised (ie did not increase but still remained above the pre-Program level).

Once again, three firms experienced a decline in the number of grants over the Program period; these included two that have ceased participation in the Program.

Figure 12 – Grants for family law by firm, 2006-09

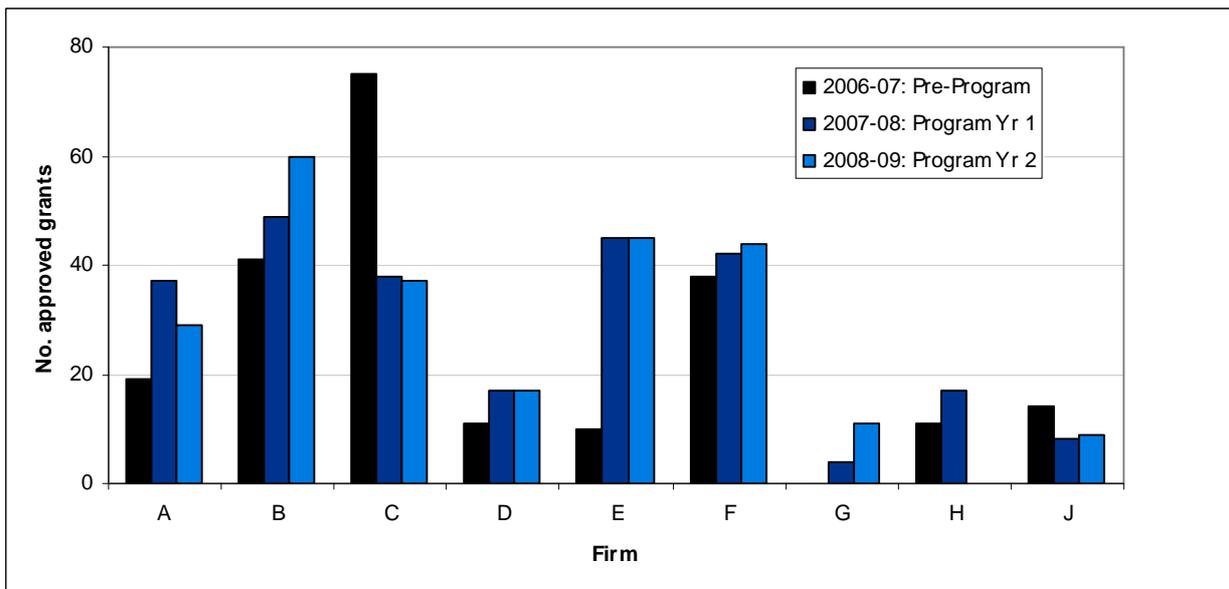


Figure 13 shows trends in the dollar value of family law grants by firm. It shows that:

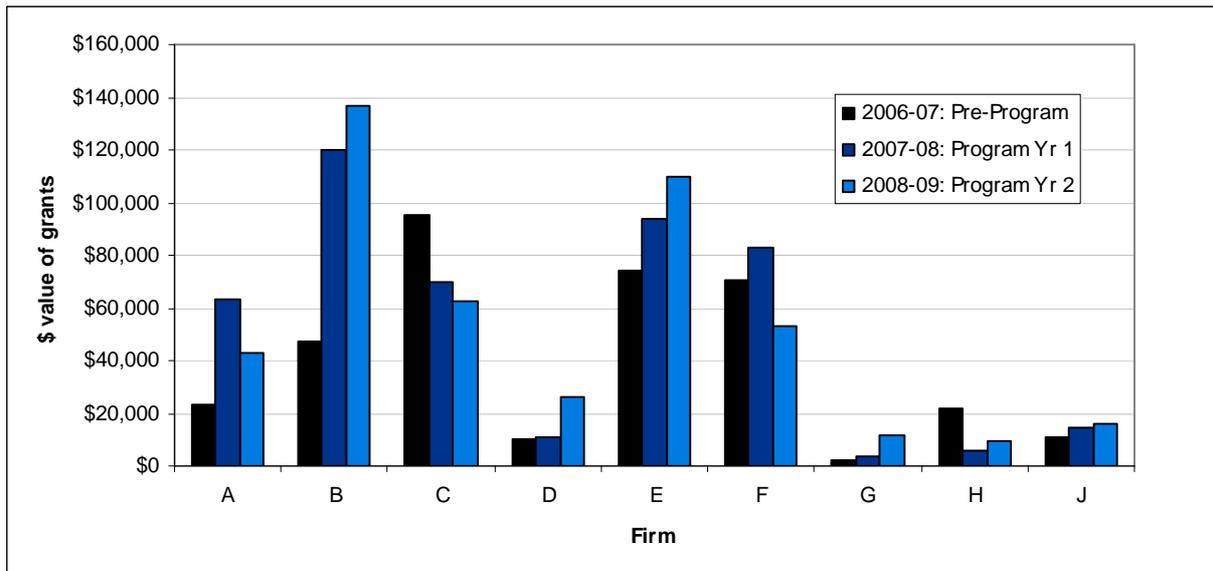
- four firms experienced an increase in dollar value of these grants over both years of the Program
- another one firm experienced an increase in the second year but not the first year

- the remaining firms experienced a decline in the dollar value of family law grants in either the second or both years of the Program.

Thus, consistent with the overall results for this area, the increases in the volume of work in family law during the Program period were *not* matched by increases in complexity or size of individual matters.

As with criminal law, there was considerable variation between firms in the total number of family law-related grants approved and their dollar value over the two years of the Program.

Figure 13 – Grant amounts for family law, by firm, 2006-09



### 3.2.6 Civil law grants and payments

Legally aided work in civil law is comparatively rare – only one civil law grant was applied for and approved in the year prior to the Program. As shown in Figure 14, both the number of applications and grants peaked in the first year of the Program (24 applications made and seven granted in 2007-08) and then decreased considerably in the second year (10 applications and two granted).

As discussed in section 3.3.3 in relation to limitations of the Program, some external stakeholders stated that they did not perceive the Program Solicitors to be sufficiently trained or skilled in the area of civil law. They also stated that because of these perceptions they were increasingly disinclined to refer people to the Program Solicitors to receive advice and/or representation for civil law matters. To improve the Program outcomes in the area of civil law, these stakeholders suggested that it might be useful to increase the training available to Program Solicitors in civil law matters.

Similar to family law, it is noteworthy that the gap between applications made and granted closed in the second year, concurrent with a pronounced decrease in the number of applications. The dollar value of these grants remained unchanged over the period 2006 to 2009 (Figure 15).

Due to the limited activity in this area, results are not shown here by individual firm.

It is likely that the lack of approved grants in civil law is due to the following combination of factors:

- *Lack of experience of Program Solicitors in civil law* – relatively inexperienced solicitors, such as those involved in this Program, are less likely to have gained experience in the area of civil law than family or criminal law. Representatives of other legal services expressed concern that Program Solicitors were inadequately experienced to represent clients in civil law matters (see section 3.3.3).
- *Eligibility criteria for legally aided representation in civil law matters*- these criteria are very stringent, and include types of matters of a potential complexity well beyond the skills and experience of a

Program Solicitor (e.g. human rights matters). Representation in some areas (e.g. migration law) may be unlikely in certain regional areas where there is not a large migrant population.

- *Civil law matters may be handled via minor assistance and advice* – it is likely that the most common types of civil law-related matters could be addressed through the provision of minor assistance and advice, and not require representation. Data on minor assistance and advice were not available disaggregated into areas of law for the full period 2006-09 in order to test this assumption.
- *Lack of awareness that legally aided civil law services are offered by the Program Solicitor* – given the small number of applications, it is possible that very few inquires were made by or on behalf of clients in relation to civil law. The referral pathways relating to civil law are unlikely to be as established as those for criminal law in particular (e.g. local courts and police).

Figure 14 – Civil law grant applications and approvals, all firms, 2006-09

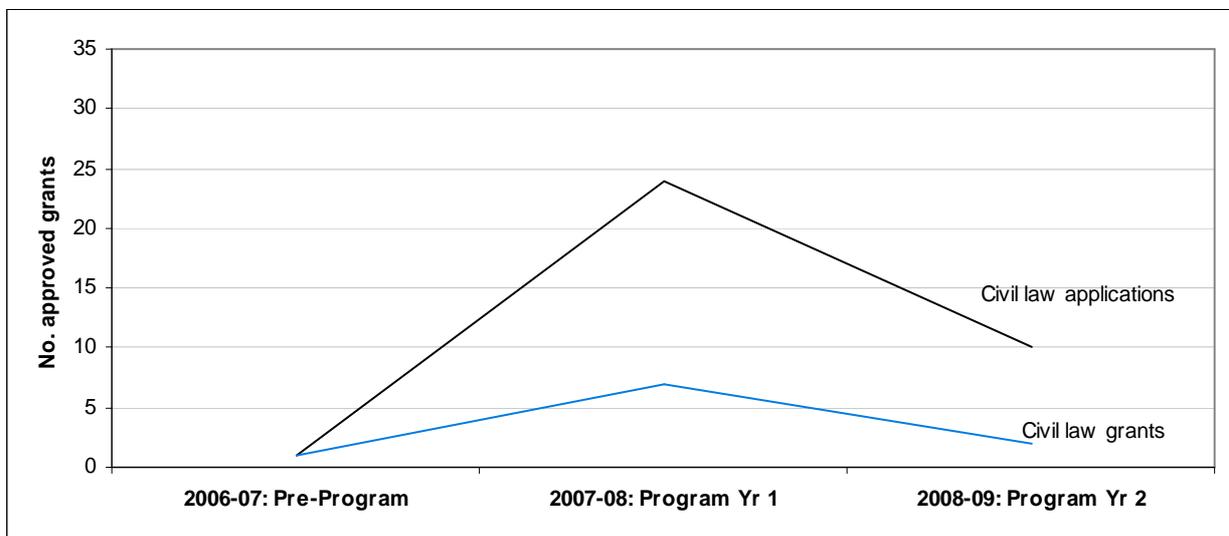
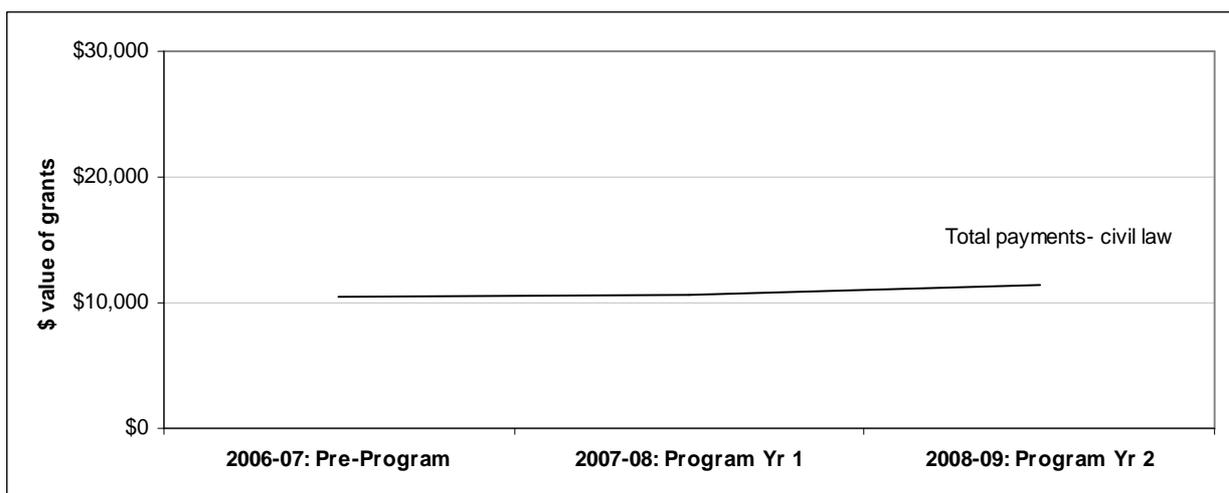


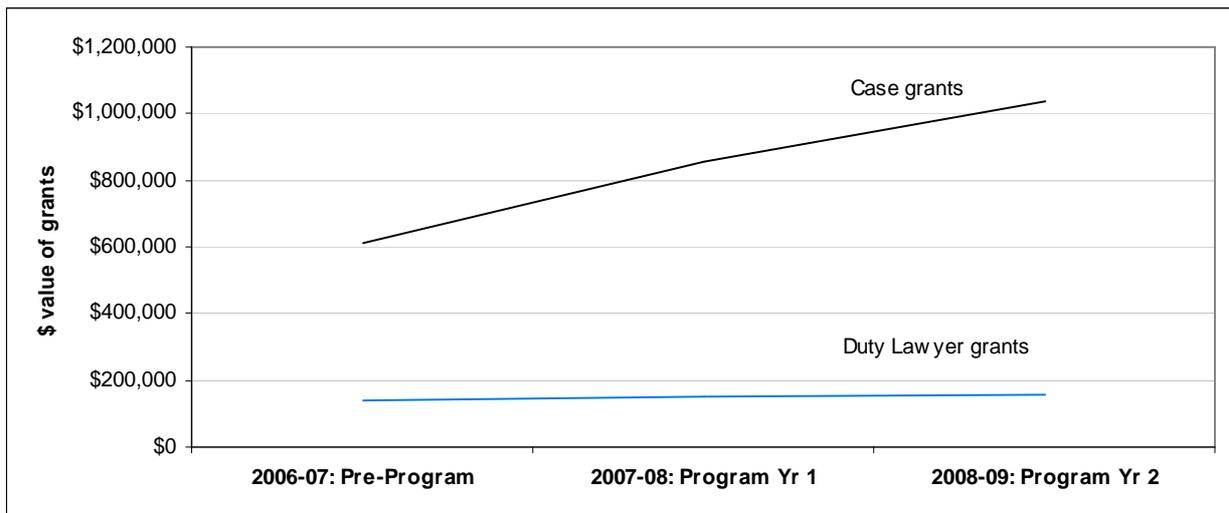
Figure 15 – Civil law payments, all firms, 2006-09



### 3.2.7 Case and duty related payments

The Program is intended in part to extend the availability of legal aid and private firms' involvement in legal aid work beyond listing on the Duty Roster. Figure 16 shows sustained growth in the dollar value of case grants received by participating firms (from \$611,631 in 2006-07 to \$858,844 in 2007-08 and \$1,039,060 in 2008-09), while the dollar value of duty-related grants remained almost unchanged in this period. This suggests that the Program has increased the capacity of participating firms to undertake case-related work, which is a significant gain in the 'depth' and variety of access as well as volume.

Figure 16 – Case and duty related grant amounts, all firms, 2006-09



### 3.2.8 Advice and minor assistance

Payment for advice and minor assistance was not available to private firms prior to the commencement of the Program, and has only been available to private firms participating in this Program. As a result, firms performed little or no minor assistance prior to the Program.

Data available for 2008-09 show that there were over 650 claimed instances of minor assistance during this year alone. However, not all firms have claimed payments for minor assistance. The consultations with participating firms confirmed that only some firms are offering minor assistance and advice (under the definition of the Program), and indicate varied levels of awareness of the payment available for this service. Solicitors considered the payments for minor advice and assistance to be important in increasing access to justice. In some instances the short advice session enabled the solicitor to resolve the matter for the client without needing to apply for a grant of aid.

Further analysis of the matter type and area of law in minor assistance would provide further insights into the impact of the Program in each practice area.

### 3.2.9 Note on cumulative trends for individual firms

The objective of this analysis has not been to rank individual firms according to the number or dollar value of grants they received for any or all areas of law. For the purposes of this evaluation it is more relevant to explore *changes* in these figures between the pre-Program and Program periods.

Nonetheless, it is evident that the level of overall output, in both numbers of grants and the dollar value attached to them, has varied considerably between firms. Across all areas of law combined, four of the nine firms carried 69% of the approved grants in the two years of the Program (2007-08 and 2008-09).<sup>11</sup>

<sup>11</sup> Firm B (265 approved grants), Firm F (225) Firm E (190) and Firm C (180).

Similarly, in the two areas of law which comprise the bulk of legal aid work, the same four firms received the highest number of grants, which between them comprised 68% of grants to all firms for criminal law and 71% of grants to all firms for family law. This may be due to differences in firm size and population in the areas covered by the Program, as well as varying levels of success in hiring and retaining a Program Solicitor. However, among the 'top four' firms, only one has been in the Program continuously for 24 months.

It is noteworthy that one of these firms did not experience sustained increases in output in the Program period, but remained at a comparably high level of output before and during the Program. Rather than increasing the firm's capacity to provide legally aided services, the Program may have allowed it to *continue* providing a high volume of these services.

The firm with the fewest approved grants, which has withdrawn from the Program, received 40 grants in total. The average number of grants per firm over the Program period was 139, which gives an indication of the considerable variation between firms in the number of approved grants.

There was also considerable variation in the total dollar value of grants received by firms during the two years of the Program, ranging from a high of \$589,371<sup>12</sup> over the two years down to \$31,036<sup>13</sup>. The average dollar value was \$244,972 but the values ranged from \$31,106 to \$589,371.

### 3.3 Participant and stakeholder perceptions of Program impact

#### 3.3.1 Impact on private firms participating in the Program

##### *Outcomes*

Three key benefits of the Program for firms were identified in the consultations. One is the public's heightened awareness of the firms' provision of legal services to disadvantaged members of the community. One firm reported that the Program is seen as making an important contribution to the firm's community profile. One partner commented that 'the Program is a good opportunity to provide services to parts of the community that get a rough deal, to demonstrate a sense of justice and fairness'.

Most of the firms' partners have a background or keen interest in social justice and were already undertaking legal aid work through the duty roster. However in contrast to this, one firm reported that prior to commencing the Program they had been turning away legal aid work due to costs, but they now encourage it across the firm.

A second benefit of the Program for firms is that due to the wage subsidy provided, the Program absorbs some of the risk of taking on more legal aid work, or more legal aid work of particular kinds (e.g. family law), or employing another solicitor more generally. For small regional firms, there can be significant cost and risk involved in taking on another solicitor, particularly in the early stages when the solicitor may be requiring considerable support before getting 'up to speed' with the job. There was a general view that firms would have been trying to fund the position from their own pocket and therefore the subsidised Program Solicitor position was a bonus. All firms had previously taken on legal aid work, however the amount varied greatly. Overall, firms reported a growth in the amount of family law legal aid work undertaken and some had taken on civil matters.

A third – and in some cases significant – benefit for firms is that in at least some cases, it has given firms an opportunity to undertake more private work. In some instances it was reported that the Program has resulted in other solicitors in the firm (typically partners) doing less legal aid work than previously, and the Program Solicitor taking over all or most of this work.

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<sup>12</sup> Firm B.

<sup>13</sup> Firm G.

### *Limitations*

The main limitation of the Program for participating firms is that there has generally been a fairly significant amount of time involved in mentoring and supporting the Program Solicitors, particularly in their initial stages of employment and for those solicitors who have come to the job with less experience. However, in general, the amount of time has markedly decreased over time as solicitors become more familiar with the job. None of the participating firms felt that the amount of support required had been inordinate.

It is also unclear whether the Program will help resolve employment difficulties in regional law firms (this issue is discussed further in Chapter 4). Most firms were unsure whether they would continue with the Program when funding ends and some firms reported that this is partly due to broader succession issues that firms need to consider if they remain in the Program, since it focuses mainly on family and some criminal law. This would narrow the firms' expertise, as the Program Solicitors are only undertaking a subset of work that most regional firms currently or usually undertake.

## 3.3.2 Impact on the Program Solicitors

### *Outcomes*

The Program offers some solicitors the potential to receive an extensive amount of supervision, mentoring and coaching. One firm reported that it was committed to providing supervision, attending court with the solicitor, and giving them access to accredited specialists in the firm to review their legal aid cases, as required.

More experienced Program Solicitors reported that the Program enabled them to broaden their areas of practice.

Overall, the current Program Solicitors still in the Program appear to have settled into their new towns and have indicated that they will remain in the area if the Program continues.

### *Limitations*

The Program has involved a steep learning curve and was reported to be a demanding role by a number of the solicitors, particularly those with less previous experience. One solicitor reported feeling overwhelmed by the workload and complexity of some cases. This highlights the tensions between the target group and the aims of the Program, which are discussed in detail in Chapter 4. The grants system was also a frequent source of stress for Program Solicitors. The applications process was considered onerous and lengthy and several believed it was overly difficult to obtain these necessary funds from Legal Aid NSW. Comments by Program Solicitors about grant amounts have also been discussed in section 2.4.1.

Program Solicitors' success in settling into their role appears to have depended on their ability to get involved in the social life of the town, satisfaction with the town's services and amenities, capacity to cope with the complexity of cases and workload associated with legal aid work, and the amount of mentoring and support (including administrative support) they received from the firm. There has historically been some variation in these factors from one location to another.

## 3.3.3 Impact on clients

### *Outcomes<sup>14</sup>*

The objective of the Program is to improve access to legal advice and representation for rural clients, particularly those suffering financial and/or social disadvantage. Overall, it appears that the Program is meeting this objective. One Program Solicitor commented that:

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<sup>14</sup> As noted in section 1.10, the impact of the Program on clients can only be assessed based on the analysis of grants data in section 3.2 and the perceptions of stakeholders who did not include clients themselves.

*It is a fantastic Program for rural people who are disadvantaged and unaware of their rights – sometimes they are not interested in pursuing assistance until they are in front of a Magistrate.*

It appears that the Program has had a particularly significant impact on access to legal services relating to family law, as firms which had not previously provided family law services to clients receiving legal aid now found it more financially viable to do so.

Another area of particular impact has been the provision of minor advice to Legal Aid NSW clients, which private firms previously did not engage in. The payment of \$80 per minor advice session, available exclusively to firms participating in the Program, has enabled some firms to provide a high volume of this service to Legal Aid NSW clients. However, some firms have only recently become aware that this payment is available, and some confusion remains about how to claim the payment, and what constitutes minor advice that is payable. One regional Legal Aid NSW officer also expressed concern that minor assistance being carried out within the Program did not include appropriate referrals or documentation for the client. Therefore, there is scope to increase the impact of the Program in terms of quality of service delivery.

Firms also reported that participation in the Program allowed them to take on smaller legal aid matters than would otherwise be commercially feasible. Some firms had also taken on more Care and Protection matters as a result of the Program.

Communities have benefited from the Program, as it has allowed firms to dedicate a solicitor to legal aid work. In some areas, firms reported that they are gradually building a profile, which results in service providers and community groups referring clients to them. However, there is considerable scope to increase the profile of the Program Solicitor in most areas – particularly since firms are not permitted by Legal Aid NSW to advertise that they are in the Program – and increase community awareness of the legal services available. It is therefore likely that more promotion or awareness of the Program would increase the demand for legal aid work, but most Program Solicitors are already spending all, or almost all of their time on legal aid work. However, it could be difficult for the solicitors to meet any increased demand in the absence of any further staffing resources being made available by Legal Aid NSW.

### *Limitations*

Concerns have been expressed by a small minority of stakeholders about the quality of advice and representation provided through the Program. The firms that have been able to attract an experienced solicitor report that clients benefit greatly as they 'receive a quality service and assurance of a proper hearing'. However some solicitors in the Program are young and newly graduated from law school - one Program Solicitor, who had previously worked as a barrister, was concerned that a less experienced solicitor may not be able to deal with some of the more challenging ethical issues in entering a plea. Consistently, one less experienced Program Solicitor reported that:

*I'm dealing in things I don't have experience in... there's no time for professional development. It's very depressing turning up for matters I don't have any experience in. I'm frequently in at 6am and often here till 7pm. I don't have time to learn all the areas I'm expected to practise in.*

Some stakeholders identified civil law as an area of weakness for Program Solicitors. The range of different matters involved in representing clients in civil law matters means that without specialising in civil law it can be difficult to provide satisfactory representation. An external stakeholder noted that a practice had developed of not referring civil law matters to Program Solicitors because of their minimal experience in these matters.

Stakeholders in a couple of locations likewise raised concerns about the limited court experience of some Program Solicitors. Some stakeholders considered it problematic that not all firms have suitably qualified solicitors, which has made them reluctant to refer people onto them. Moreover, they reported that while there may be a service available, if it is not a quality service, then it has not addressed the issue of equitable access for rural clients.

### 3.3.4 Impact on other legal aid services

#### *Impact on other firms in the region*

There had been fear expressed that the Program would reduce that amount of legal aid work undertaken by other law firms in the area. From the consultations conducted, this does not appear to have occurred (other than in the instance noted below), especially where the duty roster system has continued to operate and shares the legal aid work between firms. It is apparent in some areas that there is a huge demand for legal aid services, and consequently there is little to no risk of firms missing out on work. In most areas it was reported that there are only a small number of firms conducting legal aid work. Overall, the general view has been that, in most locations the Program has met a significant unmet latent demand for legal aid services.

In some areas the continuance of the duty roster once the Program Solicitor commenced work was viewed negatively by participating firms who report that it undermines their role, particularly when the duty roster solicitor travels a considerable distance to provide services in their area. For example, one firm commented that

*It doesn't make sense for an outside firm to travel up to (here) to do the duty roster role when there is a funded service... There should be more of an emphasis on the Program Solicitor. I understand that may take work away from (other areas) but you need to think about geography.*

At least two firms reported that solicitors from out of town have visited the area to conduct half day advice sessions. In their view, this should be the role of the Program Solicitor and such advice sessions would serve to not only provide access to legal services but would also build their profile in the community and improve awareness of the Program.

Nonetheless, during phase one of the evaluation, a firm not involved in the Program reported that it is now conducting 20% less legal aid work than before the Program commenced (and reported that another firm in the area had the same experience). Concerns were expressed that there is now not enough legal aid work to go around in that area, particularly given that:

- A nearby Legal Aid NSW office employs a solicitor to visit the area three days a week (in addition to the Program Solicitor). It was felt that the population of the area (30,000) did not justify having both these solicitors employed. It was suggested that the Program should only operate in areas with a population over 100,000.
- The decline in the property market has had a negative impact on the amount of private legal work available in regional areas, and legal firms would therefore like the opportunity to do more legal aid work if possible.

Conversely, the employment of the Program Solicitor in one rural area had an unexpected negative effect when all other firms withdrew from legal aid work, leaving the participating firm and solicitor to undertake a huge volume of work – this is discussed in detail in Section 2.5.

Notwithstanding the concerns expressed about the duty roster system, it is important that more than one firm engages in legal aid work to deal with conflicts of interest that commonly arise in remote areas. This means that a firm is not able to represent more than one party in legal proceedings due to conflict of interest, which is problematic in family law cases or in criminal cases where there are multiple accused. In one area, the local Magistrate was keen to highlight the difficulty of finding suitable and timely representation in Care Proceedings, and conflicts of interest create a challenge for Legal Aid NSW in such instances. Overall, the Program appears to be adding to the availability of legal aid services rather than taking work away from other firms.

It is clear that the inclination of other firms to conduct legal aid work in the areas where the Program is operating varies from location to location. Therefore, there is a need to tailor approaches to the allocation of legal aid work, promoting and 'positioning' of the services of the Program Solicitor to each location. This should ensure that the Program Solicitor is fully utilised but not overloaded, and that wherever possible a variety of firms continue to do legal aid work.

### *Coordination with other Legal Aid NSW services*

There appears to be considerable confusion by participating firms about the role of the Program and where it sits in relation to other Legal Aid NSW services such as the duty roster, and advice sessions given by nearby Legal Aid NSW offices. Furthermore, consultation with a range of stakeholders in both phases of the evaluation, including local court representatives, legal practitioners from the Aboriginal Legal Service and domestic violence and health service providers revealed variable – but generally a very low – level of awareness and recognition of the Program. This suggests that there could be better linkages with a range of other programs (e.g. to encourage referrals).

Several participating partners and solicitors reported that the above services appear to be competing with the Program rather than complementing or supporting them. They felt that they should become the main community point of contact for Legal Aid NSW services. On the other hand, a firm which conducts legal aid work but is not participating in the Program, expressed concern that not too much work be channelled through this Program, to the exclusion of other private firms.

Some firms also suggested that more regular referral from other services, as would occur with a Legal Aid NSW office, could be facilitated, including community health centres, hospitals, drug and alcohol services, GPs and child care centres.

Due to large distances, most Program Solicitors did not regularly interact with a regional Legal Aid NSW office (the aim of the Program is of course to provide services where there is no office nearby). However, the solicitor in Dubbo had regular contact with the Legal Aid NSW office there and has benefited from access to their office resources (e.g. Audio Visual Link system) and the strong mentoring relationships that have developed with the staff. It is possible that more long-distance mentoring and peer support could be facilitated between other Program Solicitors and regional Legal Aid NSW offices.

Legal Aid NSW suggested that more communication may be required between the Legal Aid NSW Program areas to provide a more coordinated approach to service delivery. Legal Aid NSW could also take a more proactive role in promoting the Program through their communication channels within Legal Aid NSW, the regional Legal Aid NSW offices and service providers.

## 4 Meeting the underlying rationale

This chapter discusses whether the Program has satisfied the underlying rationale of the Program, which is to:

- provide rural clients, particularly those suffering financial and/or social disadvantage, with improved access to legal advice and representation
- provide employment opportunities for young solicitors in rural communities.

### 4.1.1 Employment opportunities for young solicitors in rural communities

The Program has provided employment opportunities for young solicitors in rural communities, but it appears to face the same problems that many professions have in recruiting suitable employees to the country. This was evidenced by the considerable recruitment activity firms undertook, the number of candidates interviewed and the number of Program Solicitors leaving the Program early. To this end, the Program does provide opportunities but does not offer a solution to the recruitment difficulties; the nature of the work may mean that the positions are not filled for the full two years and beyond.

Legal Aid NSW has recently amended the guidelines to enable firms to use the Legal Aid NSW website and networks to publicise recruitment for the Program, however the effectiveness of this strategy is as yet untested.

It is also unknown whether the Program will provide a longer term solution to recruitment problems. There was evidence that the Program has the potential to contribute to a few firms' succession planning and therefore their continued viability. This in turn contributes to access to legal representation in rural areas more broadly, particularly given the inability of firms to represent opposing clients.

### 4.1.2 Improved access to legal advice and representation

#### *Outcomes*

The Program does appear to have increased access to legal services for geographically isolated and disadvantaged Australians. Section 3.2 provides clear evidence that the amount of legal aid work undertaken by firms collectively has increased substantially during the Program period, which has clear and positive implications for access. The consultations suggested that a greater number of people are receiving legal aid services than before this Program commenced. It is likely that in the absence of this Program, some or possibly many people may have gone unrepresented.

In some locations, the nearest Legal Aid NSW office might be some distance away. This represents a significant barrier as Legal Aid NSW clients may not have access to private transport, making it very difficult and time-consuming to visit an office. For example, in one location the nearest Legal Aid NSW office was an hour drive away but buses only ran several times a day, meaning that it could easily take a day to get there and back.

One solicitor reported that the potential of the Program may not yet be fully realised and may reach more disadvantaged people as their profile and awareness of Legal Aid NSW increases in the community.

#### *Limitations*

Each of the nine locations where the Program is operating has its own distinctive set of characteristics that impact on the success of the Program. As noted in the draft Discussion Paper prepared by Legal Aid NSW in response to phase one of the evaluation, the administration of the Program involves significant 'place management' issues, which need to be addressed in order to meet the needs of selected communities.<sup>15</sup> This existence of place management issues means that the Program operates differently in each location, and that the circumstances facilitating its success may vary. Generally, the

<sup>15</sup> Legal Aid NSW, *Regional Solicitor Program – Discussion Paper on Future Directions*, (Draft) 19 June 2009 at 7.

effective operation of the Program has been supported by the flexibility of Legal Aid NSW in allowing the participating firms to tailor the Program to different local structures and resources.

There also appears to be some tensions between the Program's rationale – in that it is geared towards very young and relatively inexperienced solicitors – and the reality of the challenging work funded by Legal Aid NSW, which they are expected to do. This work covers three substantive areas of law (family, criminal and civil) in which the Program Solicitor will have no or very limited experience, if they are in the intended target group for the Program. It was noted that generally even Legal Aid NSW staff would only be working in one of those areas at a time.

As discussed in Section 3.3, concerns were expressed by several external stakeholders that the Program Solicitor was not adequately experienced to take on some legal aid cases and therefore clients may be receiving a lower standard of service.

In a number of locations, it appeared that previously the partner or senior members of the firm had undertaken legal aid work, but this work was now being undertaken exclusively or primarily by the Program Solicitor. This has therefore meant that a much less experienced solicitor is undertaking legal aid work than was the case before the introduction of the Program, while the senior member(s) of the firm focus more on private legal work (which is more commercially lucrative).

This existing tension suggests that either the Program should either:

- Be pitched at solicitors with a greater level of experience e.g. several years practising law (possibly more).

or

- Place a greater emphasis on professional development and support e.g. identifying up front professional development needs and ensuring formal training and support is available for the solicitor. This could include providing a budget allocation from Legal Aid NSW for this purpose. A further option is organising for a formal mentor, possibly outside the firm, and also emphasising that this is an important role of the employer.

As discussed previously, Legal Aid NSW has recently removed the upper limit of five years' experience for the Program Solicitor, in recognition of the need to attract more experienced solicitors to the Program. This change allows firms the option to employ either a more or less experienced solicitor. Where firms continue to prefer newly admitted solicitors, it will be important that the firm itself is able to offer adequate supervision, support and mentoring on a day to day basis, as well as facilitating their involvement in training offered by Legal Aid NSW.

Some stakeholders in phase two of the evaluation identified limitations with the delivery of Legal Aid NSW services by private firms. These limitations related to private solicitors being less familiar with case management concepts, or being less inclined to 'make a few calls' or 'write a couple of letters' to follow up for their clients, which may be more likely to occur in a Legal Aid NSW office or a Community Legal Centre because they are accustomed to working with disadvantaged clients. It was also noted that Program Solicitors were inundated with work and might have less time to follow-up with clients.

## 5 Cost benefit evaluation

### 5.1 Introduction

This chapter provides the findings of the cost benefit evaluation component of the evaluation.

For the purposes of this component of the evaluation, Legal Aid NSW provided data for all nine participating firms. This included:

- Costs associated with the Program by year for the 2006-07, 2007-08 and 2008-09 financial years, including payments for advice and minor assistance, subsidy of each Program Solicitor's salary, reimbursements for recruitment and relocation expenses.
- Annual costs associated with other actual or hypothetical initiatives which might improve access to affordable legal services in regional and rural NSW. These include operating costs for a small regional Legal Aid NSW office, yearly salary and on-costs for a single Legal Aid NSW solicitor, expenses and professional time for a Legal Aid NSW solicitor to provide advice and minor assistance on a 'fly-in-fly-out' basis, and administration costs and payments to private firms and community legal centres participating in a fortnightly or monthly outreach clinic.

.As noted previously, the Program Solicitor role may have been undertaken by more than one solicitor due to resignations from the position/firm. At the time of reporting, three firms had ceased participation in the Program.<sup>16</sup> In addition, variations in the length of time each firm has retained a solicitor have produced differences in the 'cost' of the Program per firm, as a salary was only paid during the periods when a Program Solicitor was employed at each firm. Therefore, an 'adjusted' cost per firm has also been calculated, taking the total number of months each firm had employed a Program Solicitor, calculating a real monthly cost and then extrapolating this over a uniform period of 24 months.

The overall finding of the cost benefit evaluation is that, when the cost of grants of aid is taken into account, the Program is considerably more expensive than most alternative models considered. However, viewed in isolation, only one alternative- the addition of multiple additional Legal Aid NSW offices- provides an equivalent level and range of access to justice. This option would cost a great deal more than the Regional Solicitor Program.

### 5.2 Cost of the Regional Solicitor Program

Table 1 outlines the various components of the cost of the Regional Solicitor Program, and presents both 'actual' and 'adjusted' total costs.

The total 'actual' cost of the Program, based on the payment of fees for advice and minor assistance, salary subsidy, relocation and recruitment payments and Program costs is \$815,960. The 'actual' cost including payment of grants for case and duty work, is \$3,774,481.

Adjusted costs (i.e. the cost that would have been incurred if a solicitor had been appointed for the full 24 months) are higher for firms where there has not been a Program Solicitor employed for the full period. Thus the total adjusted cost of the Program is \$953,613. The average adjusted cost per firm was \$96,572. The total cost of the Program, based on adjusted firm costs and including payment of grants for case and duty work, is \$3,912,134.

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<sup>16</sup> McCabe Partners John Paul Walton and O'Reilly and Sochaki.

Table 1 – Overall Program costs

Payments to firms	2006-07	2007-08	2008-09	Total (actual) cost	Adjusted cost <sup>17</sup>
Firm A 24 months	\$16,000	\$47,741	\$20,500	\$84,241	\$84,241
Firm B 24 months to date <sup>18</sup>	\$0	\$59,852	\$54,876	\$114,728	\$114,728
Firm C 22 months to date	\$0	\$50,634	\$45,712	\$96,346	\$104,663
Firm D 24 months to date	\$0	\$47,885	\$50,337	\$98,222	\$98,222
Firm E 21 months to date	\$0	\$67,823	\$32,058	\$99,881	\$112,086
Firm F 18 months to date	\$0	\$31,314	\$52,040	\$83,354	\$105,854
Firm G 19 months to date	\$1,000	\$26,890	\$26,958	\$54,848	\$65,800
Firm H 15 months	\$28,405	\$53,208	\$0	\$81,613	\$128,863
Firm J 7 months	\$17,519	\$745	\$0	\$18,264	\$54,693
<i>Total payments to firms</i>	<i>\$62,924</i>	<i>\$386,092</i>	<i>\$282,481</i>	<i>\$731,497</i>	<i>\$869,150</i>
Whole of Program costs	2006-07	2007-08	2008-09	Total (actual) cost	Adjusted cost
Information services/interpreters	\$0	\$989	\$12,124	\$13,113	
Evaluation	\$0	\$0	\$30,412	\$30,412	
Coordination <sup>19</sup>	\$13,646	\$13,646	\$13,646	\$40,938	
<i>Total whole of Program costs</i>	<i>\$13,646</i>	<i>\$14,635</i>	<i>\$56,182</i>	<i>\$84,463</i>	
Total costs	2006-07	2007-08	2008-09	Total (actual) cost	Adjusted cost
<b>Grants paid to firms</b>	<b>\$753,774</b>	<b>\$1,011,108</b>	<b>\$1,193,639</b>	<b>\$2,958,521</b>	
<b>TOTAL excluding grants</b>	<b>\$76,570</b>	<b>\$400,727</b>	<b>\$338,663</b>	<b>\$815,960</b>	<b>\$953,613</b>
<b>TOTAL including grants</b>	<b>\$830,344</b>	<b>\$1,411,835</b>	<b>\$1,532,302</b>	<b>\$3,774,481</b>	<b>\$3,912,134</b>

<sup>17</sup> Firm-related costs were adjusted in this column to reflect the different lengths of time a Regional Solicitor was employed, and indicate what the cost would have been had the solicitor been employed for a full 24 months. See report text for method.

<sup>18</sup> At August 2009 when the data was supplied by Legal Aid NSW.

<sup>19</sup> Includes salary costs for the people who have performed this role as well as office costs (printing etc). This cost has been estimated for the purposes of the evaluation and to allow comparison with alternative initiatives. In practice, salary costs for coordination are absorbed into the general Legal Aid budget and do not come out of Regional Solicitor Program funding.

### 5.3 Alternative options to the Program

Table 2 compares the Regional Solicitor Program with service delivery models that provide only minor assistance and advice. Although all of these models have the potential to result in case representation if matters progress to this stage, the cost of grants for case representation by a private solicitor is omitted to facilitate direct comparison. It is important to note, therefore, that the programs in this table that involve private solicitors (ie the Regional Outreach Clinic Program and Regional Solicitor Program) would increase in cost with the volume of representation undertaken.

Table 3 analyses the comparative costs of providing the full range of legal aid services, i.e. advice, minor assistance, representation and duty services. The model includes the cost of grants paid to private firms participating in the Regional Solicitor Program, which do not apply when legal aid services are provided by Legal Aid NSW solicitors.

It is beyond the scope of this report to suggest an appropriate or feasible level of expenditure to maximise access to legal services for disadvantaged people in rural NSW. However, the conclusions that can be drawn from the comparison are discussed below.

Table 2 – Estimated yearly cost of various rural Legal Aid NSW programs that provide advice and minor assistance and may lead to representation

Initiative	Description	Estimated annual cost <sup>20</sup>	Potential impact on access
Regional Solicitor Program	A solicitor with one or more years' experience is placed at a private firm in nine regional locations without a Legal Aid NSW office, with salary and other costs subsidised by legal aid, to work on an agreed amount of legal aid work. The figure for this table excludes the grants paid to firms to undertake case work.	\$476,806	Potential to provide continuous, locally-based, dedicated access to advice and minor assistance in areas where there is no Legal Aid NSW office. As the estimated cost in this example excludes payments for case and duty work, these services are not included.
Rural Outreach Clinic Program	An experienced solicitor from a local private firm or Community Legal Centre conducts a fortnightly or monthly session in an area that does not have a Legal Aid NSW office, providing advice and minor assistance only. The estimate provided is based on establishing the ROCP in nine locations.	\$114,421	Potential to provide regular, but not continuous access to a (sometimes local) experienced solicitor, for advice and minor assistance. Potential for case related work to be referred elsewhere or taken on by that firm through a grant of aid (the cost of which is not included in this table).
Fly-in Fly-Out-regular outreach	A Legal Aid NSW solicitor travels to various locations within the region surrounding their office, to conduct sessions of advice and minor assistance. The cost estimate is based on excursions taking place within a single work day on a fortnightly basis (26 occurrences per year).	\$10,241	Potential to provide access to advice and minor assistance within the region surrounding a Legal Aid Office, on the dates the fortnightly excursions occur.
Fly-in Fly-Out-extended outreach	A Legal Aid NSW solicitor travels from Sydney to tour a regional area without a Legal Aid NSW office and conduct sessions of advice and minor assistance at a number of set locations. The cost estimate is based on excursions of four days' duration and four occurrences per year.	\$9,102	Potential to provide access to advice and minor assistance within a large, defined region at set locations and times, during the periods the four excursions occur.

Table 2 indicates that:

- Other models, such as the Regional Outreach Clinic Program, and models that involve a Legal Aid solicitor travelling within, or beyond, their local area, are considerably less expensive than the Regional Solicitor Program (even excluding grants of aid from the Program's cost).

<sup>20</sup> For the Program, an annual cost has been derived by dividing the total adjusted cost shown in Table 1 by two, for the two years the Program was 'live' at the time the relevant data were recorded.

- The less expensive alternatives offer access at a set time and date on a fortnightly to monthly basis, or in the case of extended outreach, four times a year, rather than a 75% of full time basis as offered by the Regional Solicitor Program.

Table 3 – Estimated yearly cost of various rural Legal Aid NSW initiatives for the provision of advice, minor assistance, duty work and representation

Initiative	Description	Estimated annual cost <sup>21</sup>	Potential impact on access
Regional Solicitors Program	A solicitor with one or more years' experience is placed at a private firm in nine regional locations without a Legal Aid NSW office, with salary and other costs subsidised by Legal Aid NSW to work on an agreed amount of legal aid work. The estimated cost given here includes payments made to firms as grants to undertake legal aid case work/representation.	\$1,965,067	Potential to provide continuous, locally-based, dedicated access to advice, minor assistance, legal representation and case work in areas where there is no Legal Aid NSW office.
Additional Legal Aid NSW solicitors	Hiring one additional solicitor at nine existing regional Legal Aid NSW offices (the same number of locations as the Program), on 75% of Full Time Equivalent (FTE). <sup>22</sup>	\$566,231	Potential to increase access to legal advice and representation on various matters, primarily in areas already served by a Legal Aid NSW office.
Single additional Legal Aid NSW office	Establishment of a small regional office. The minimum estimate is based on budgeted annual expenditure for a small metropolitan office employing two solicitors and two FTE administrative staff. The larger estimate is based on the budgeted annual expenditure for a small regional office that employs 4.2 FTE solicitors (one of whom works/provides services at another location) and two FTE administrative staff.	\$631,600 to \$860,000	Potential to increase access to legal advice, minor assistance and representation across all practice areas in its location and surrounding region. Potential to provide outreach and Continuing Legal Education (CLE) within one particular vicinity.
Multiple additional Legal Aid NSW offices	Establishment of nine additional offices, based on the range of costs shown above, multiplied by the number of locations serviced by the Regional Solicitor Program.	\$5,684,400-\$7,740,000	Potential to greatly increase access to legal advice, minor assistance and representation across all practice areas in nine regional areas that do not currently have a Legal Aid NSW office. Also has the potential to provide outreach and CLE.

<sup>21</sup> For the Program, an annual cost has been derived by dividing the total adjusted cost shown in Table 1 by two, for the two years the Program was 'live' at the time the relevant data were recorded.

<sup>22</sup> To facilitate comparison with the Program Solicitor whose salary is 75% subsidised.

Table 3 indicates that:

- When the value of grants of aid is included in program costs, the Regional Solicitor Program is considerably more expensive than the establishment of a single additional Legal Aid office, and the addition of a single solicitor at nine existing regional Legal Aid offices.
- While both the establishment of a single additional Legal Aid office, and the addition of a single solicitor at nine existing regional Legal Aid offices, would increase access to a variety of legal services at a lesser cost than the Regional Solicitor Program, this impact would be experienced only in the vicinity of the new office, or in the vicinity of existing Legal Aid offices (except during extended outreach excursions, if these were undertaken).
- As most Regional Solicitor Program locations were selected in consideration of serviceability by a regional Legal Aid office<sup>23</sup>, neither of the above alternatives would be likely to maintain current levels of access to all areas involved in the Program.
- The only alternative presented in this table that is likely to have a comparable impact on access in terms of geographic reach, continuity of access and representation, and local knowledge is establishment of several additional Legal Aid NSW offices. (It is likely that the establishment of multiple additional Legal Aid NSW offices in regional NSW would have a far greater impact on access to legal aid services than the comparably modest Regional Solicitor Program.)
- The Regional Solicitor Program operates at a fraction of the cost of establishing a sufficient number of additional Legal Aid NSW offices to make a comparable impact on access when the above factors are taken into account.

It may also be possible to offer a comparable level of access though a combination of these models, for example additional solicitors at existing regional Legal Aid NSW offices where these are located up to two hours drive from a current Program Solicitor, combined with a smaller number of additional offices where there is not an existing office, and augmented through the three outreach models shown in the tables (i.e. the two fly in fly out arrangements and the Rural Outreach Clinic Program). Determining a mix that would comparably address needs at a lesser cost than the Regional Solicitor Program would require in-depth analysis of a range of factors which is beyond the scope of this evaluation.

As discussed in previous sections of this report, a potential limitation on the Regional Solicitor Program's effectiveness is the lack of experience of some Program Solicitors and its flow-on impacts on the quality of representation provided. The alternative models shown in Tables 2 and 3 may provide access to more experienced solicitors than are currently available through the Program, which may have implications for quality of service to clients.

The above discussion has related primarily to the means of addressing access to legal services in rural NSW, in an 'immediate' sense. It is important to note that the Regional Solicitor Program has also sought to maintain and improve access on a more long term, systemic level, by encouraging firms to hire additional solicitors (and in the case of some new locations, to retain existing solicitors). Of the alternatives presented above, only the Regional Solicitor Program, through provision of the salary subsidy, actively promotes the retention of solicitors performing legal aid work at private firms. In addition, the models involving additional solicitors at new or existing Legal Aid offices would increase the number of solicitors working in rural NSW and in so doing provide comparable systemic benefits.

## 5.4 Program outcomes and benefits

The data provided by Legal Aid NSW for the cost benefit evaluation demonstrate that the Program has achieved a number of outcomes and benefits; this is supported by qualitative evidence from the in-depth interviews with firms and their perceptions of cost-efficiencies.

A number of key outcomes and benefits have been identified in this analysis:

<sup>23</sup> According to the Program guidelines, selection is based on analysis of data 'identifying regions of greatest socio-economic disadvantage and/or geographical isolation not serviced by Legal Aid NSW offices';

- *Increase in legal aid work by private firms* – As previously reported (See Section 3.2), approved grants for all areas of law combined rose by 27% in the first year of the Program, with a further marginal increase in the second year<sup>24</sup>. This indicates that the Program has successfully met one of its objectives, which is to provide rural clients, particularly those suffering financial and/or social disadvantage, with improved access to legal advice and representation.
- *Incentive for firms to undertake more legal aid work* - Some firms reported that, without the salary subsidy, they would not undertake as much legal aid work. This is based purely on cost, as the choice would be between a higher-fee paying client and a Legal Aid NSW client.
- *Meeting target of 75% legal aid work* - Legal Aid NSW expressed concern during the phase one consultations that the targets set may not be met. However, firms participating in the Program reported that they are either close to meeting their target of 75% legal aid work, or in the great majority of cases are in fact exceeding the required proportion of work. In several firms, the Program Solicitor was doing 100% legal aid work and in one instance this was overflowing onto other partners/solicitors in the firm.
- *Increase in variety of legal aid work undertaken by firms* - The firms consulted in this evaluation all stated that they were taking on considerably more work in the areas of Family Law and Care and Protection matters, and that they were taking on (usually for the first time) minor advice and assistance work and smaller cases. Grants data also indicate that firms are taking on more work in Family Law and more case-related work.
- *Other cost efficiencies* - It would appear that there are other cost efficiencies of the Program such as familiarity with local court staff and systems, ready access to office facilities and continuity of community relations arising from permanent placement in each location.
- *Cost benefits for firms* - In some cases the Regional Solicitor Program has freed up other solicitors at firms, providing an opportunity to undertake more private work.
- *Supporting the legal system in rural NSW* - The Program facilitates the recruitment (or in the case of some new locations, retention) of solicitors at firms in NSW. This maintains access to a greater number of solicitors in these areas than might otherwise be available, and potentially contributes to the ongoing viability of these firms, as well as the number of solicitors performing legal aid work.

## 5.5 'Cost' of Program output

Section 3.2 of this report discusses the increases in output by firms in the areas of criminal and family law during the Program, which suggest that the Program has had a substantial impact on access to legal services in these areas of law in the locations it operates. The increase in access suggested by these findings can also be analysed in the context of costs to run the Program.

It is noteworthy that the output indicated by \$1,011,108 in grants being received by firms coincided with \$386,092 in Program costs relating to firms (largely in the form of salary subsidies). Similarly, the activity in 2008-09 demonstrated by \$1,193,639 in grants coincided with payments of \$282,481 to firms. Thus it is arguable that the gains in access suggested by the above trends came with a substantial 'loading' in the form of Program costs, which represented 38% of the value of grants in the first year of the Program and 24% in the second year of the Program.

However, it is also legitimate to speculate on whether the increases in legal aid work by these firms, evidenced by the increases in grants, would have occurred at these firms had they not received the subsidy and reimbursements they did through the Program. The fact that there was a substantial upward trend between the pre-Program year and the Program period in criminal and family law, and the comments by partners consulted for the evaluation, suggests the increases would not have occurred (at least to their actual extent) without the outlay by Legal Aid NSW.

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<sup>24</sup> As previously noted, the increase is largely attributable to increases in Criminal and Family law, with limited impact on civil law.

It is also important to regard the Regional Solicitor Program in the context of the many initiatives that have been introduced by governments and other agencies to tackle the well documented difficulties in attracting skilled professionals to rural areas. Generally these initiatives involve some form of incentive to enable or encourage people to practice in these areas, and sufficiently powerful incentives are generally expensive.

## 5.6 Drawbacks and limitations

### 5.6.1 Costs to firms

Several of the participating firms have reported in our consultations that their involvement in the Program has had a negative impact on the company balance sheet, and they have had to cover additional costs which are not recognised in the current Program contract. For example, one firm has needed to employ additional administrative staff to cope with the extra demands that the Program directly placed on the firm through the claims and receipts processes. Further, the Program does not allow for any contingency when the Program Solicitor takes annual leave; the flow of legal aid work (which is not as lucrative as other work) is directed on to other partners.

As discussed in Section 2.4.1, several firms also reported that their actual costs in providing legal aid services, particularly in preparing for family law cases, exceeded the value of grants received from Legal Aid NSW (although this feedback needs to be viewed in consideration of the salary subsidy firms are also receiving for the Program Solicitor).

Travel is another example of additional uncompensated cost created by the Program. The remote locations result in a significant amount of travel when visiting clients or attending court in nearby areas. The costs of travel (in professional time and out-of-pocket costs) are not currently covered by Legal Aid NSW under the Program. This creates a financial disincentive for firms to take on cases that will require large amounts of travel.

A future concern for firms is that the salaries of the Program Solicitors are likely to increase on an annual basis. For example, in the first year they may be on \$70,000 which is a good salary for regional areas and acts as an incentive to apply and take part in the Program. However, in the second year, the Program Solicitor may want a pay increase as they become more experienced. This is an issue for consideration by firms and Legal Aid NSW. Some Program Solicitors said that they would expect a salary increase if they were to continue beyond the two year period.

### 5.6.2 Sustainability and ongoing Program costs

The subsidy on which the Program is based was structured to temporarily cover the cost of an inexperienced solicitor while they developed to a point where they could generate an income to cover the cost of their salary. However, this has not transpired in practice, with firms expressing doubt that they could afford to retain the Program Solicitor without the subsidy. This is due largely to the apparent need for a more experienced solicitor in most settings than was allowed for in planning the Program.

When asked their views on re-allocating the salary subsidy in order to expand the Program to other areas, most firms considered that this would result in 'proven' firms becoming unable to continue offering the services developed while subsidised, in order to fund the establishment of the Program in 'unproven' firms which may or may not succeed in meeting the Program's objectives. One Partner suggested that a firm would only be able to withstand removal or reduction of the subsidy if it the Program Solicitor did no more than 60% legal aid work (as opposed to 75% or more reported by all firms) as private work was more lucrative and a solicitor undertaking more private work would be better able to 'pay their own way'. It is worth noting that the amount of private work available is known to vary between locations, which would influence how many firms shared this view. However, a number of participating firms stated that if the Program ceases in their area, it would be preferable to gradually phase out the salary subsidy so that the Program Solicitor can gradually adjust to the new circumstances.

The implication of these comments is that the Program is unlikely to become self-sustaining, although it will continue to be cost efficient in comparison with establishment of additional Legal Aid NSW offices.

In the absence of complete financial data for individual firms, in particular the formula each firm uses to determine the financial viability of solicitor positions, it is not possible to assess the accuracy of the views expressed above in relation to the sustainability of the Program Solicitor role. However, as noted in section 3.2.9, there is considerable variation in the volume of legal aid work conducted by firms in the Program, which may influence their comparative ability to sustain the role without the subsidy.

It is also important to note that the grants records supplied by Legal Aid NSW were not clearly attributed to individuals within firms (e.g. sometimes only the firm name would be given); therefore the grants may have been generated by multiple individuals, rather than the Program Solicitor alone.

It is therefore likely that further consultation with firms about the viability of retaining the Program Solicitor if the subsidy ceases may be beneficial, to assess the financial sustainability of the position on an individual firm basis.

## 6 Conclusions and future directions

### 6.1 Conclusions

Overall, the Program has been effective in meeting its objectives and has had marked achievements for a relatively modest initiative. The key outcomes of the Program to date include:

- working in partnership with private law firms to place someone permanently on the ground in nine regional areas
- improving the availability and accessibility of legal aid advice and representation for clients in rural, regional and remote areas, particularly those suffering financial and/or social disadvantage; this includes providing access to a broader range of legal aid work in some locations
- providing a salary subsidy for firms to undertake more legal aid work
- assisting Legal Aid NSW and other legal services/firms in instances where there are conflicts of interest.

There have been some challenges experienced by participants in the Program. The two key issues have been overcoming recruitment difficulties and secondly, dealing with tensions between the Program's target group and the ideal level of experience to undertake legal aid work. Another potential limitation of the Program is that the increases in legal aid work undertaken by participating firms appear to have been almost exclusively in the areas of criminal and family law, with very little case related activity in civil law. This may be due to the stringent eligibility criteria for receiving legally aided representation in civil law matters, and it is possible that the majority of matters relating to civil law encountered by Program Solicitors do not proceed past advice and minor assistance. However, it may also be affected by a lack of community awareness that the Program Solicitor can assist in this area and by a view that Program Solicitors are insufficiently experienced to do this work.

The cost benefit evaluation indicates that the Program is more expensive than 'outreach' based alternatives, the addition of one Legal Aid NSW office, and nine additional solicitors at existing Legal Aid NSW offices, but considerably less expensive than establishment of multiple Legal Aid NSW offices. It is unlikely that any alternative, other than the establishment of several Legal Aid NSW offices, could provide the same depth and variety of access with the same geographic reach as the Regional Solicitor Program. Therefore in terms of the Program aims – which focus on increasing access to justice rather than cost – the Program appears to provide the preferable option.

It is also important to note that the Program, unlike other models, has potentially made an investment in rural law at a systemic level, by making viable the employment (or in the case of three new locations, retention) of solicitors who might otherwise be seeking employment in urban areas.

Most firms indicated that they would not be able to retain the Program Solicitor if the salary was unsubsidised and the grants data suggests that only two firms are generating a sufficient volume of grants of aid to fund the position and provide a profit for firms. It may be desirable for Legal Aid NSW to clarify this issue with individual firms. Regardless of the results of this consultation with firms, it is likely that they will find it easier to adjust, in the event of ceasing the subsidy, if it is withdrawn gradually over time.

The following section details a number of suggested ways forward for consideration by Legal Aid NSW. As noted in the Introduction at Section 1.5.3, Legal Aid NSW has already responded to many of the suggestions made in the interim report for phase one of the evaluation. As the effects of many of the changes are yet to have an impact on the Program, we have still included below the suggestions made in the interim report with some key additional suggestions for the future improvement and development of the Program. Full details about how Legal Aid NSW has already begun responding to these suggestions are included in a table in Appendix A.

### 6.1.1 For current participating practices

#### *Provide administrative support and increase the level of direction received from the Commission*

It is recommended that the level of support and direction given to participating practices by Legal Aid NSW continue and be further strengthened through:

- Encouraging contact between Program Solicitors in the Program. This could include creating a group email list of Program Solicitors (subject to their permission) to allow them to contact each other and create a support network. This is especially important for less experienced solicitors and those who are newly relocated to a remote area. Legal Aid NSW could also explore other strategies to encourage contact, such as Program Solicitors visiting each other if they go to each others' locations, and networking sessions at the Legal Aid NSW annual conferences.
- Continuing the induction sessions run by Legal Aid NSW and ensuring that all Program Solicitors participate.
- Maintaining the designated contact in Legal Aid NSW to respond to requests for information and direction.
- Increase the promotion of the new Program guidelines (which were developed after the phase one evaluation) so that Program Solicitors have clear direction about the objectives and functions of the Program; the role and responsibilities of the participating firm and the Program Solicitor; the processes for Program reporting and claims; the scope of the Program; and other Program entitlements (e.g. professional development). In phase one of the evaluation, it was envisaged that such a document would reduce the number of enquiries directed to the Legal Aid NSW.

We would also suggest that Legal Aid NSW:

- Facilitate relationships between Program Solicitors and nearby regional Legal Aid NSW offices. Where possible, this may include inviting the Program Solicitors to relevant team building events, on-site training or social events. Where this is not feasible, it may involve organising an initial face-to-face meeting followed by email/telephone contact to provide local support to the solicitor.
- Assist firms in promoting the services of the Program Solicitor in targeted areas of law (including civil law where appropriate) among likely sources of referral, such as local courts, Police, community organisations offering financial counselling, social workers, Centrelink branches and so on.
- Formalise in the Program guidelines the obligation of firms to take steps towards assisting Program Solicitors to familiarise themselves with the local community as part of the induction process, especially if they have relocated for the Program. This may include arranging introductions with local members of the community, police and/or Magistrates or the Cooperative Legal Service Delivery Program in communities where it is operating.

#### *Provide greater assistance with recruitment*

The significant challenge of attracting qualified professionals to regional and remote areas is not unique to this Program or the legal sector. Nonetheless, it represents the major challenge for the Program and more could be done to assist private firms in the Program through:

- Increasing the recruitment allowance to cover more of the time and financial costs associated with advertising the position and interviewing candidates.
- Using existing networks within Legal Aid NSW, such as tapping into the pool of law students who received funding from Legal Aid NSW while studying, the Legal Aid NSW Graduate Program and students who complete their Practical Legal Training with Legal Aid NSW but do not have a solicitor position at Legal Aid NSW. Although this may not attract more experienced solicitors to the Program, it may increase the overall pool of talented solicitors who apply for the Program.

- Using any existing networks the Legal Aid NSW has in regional areas e.g. regional Law Societies, other LAC offices in regional locations.

We would also suggest that Legal Aid NSW:

- Assist in recruiting high calibre candidates by raising the profile of the Program through advertising in universities, College of Law, the NSW Law Society website and/or other professional legal forums.

#### *Provide greater emphasis on professional development*

Given that the Program is targeted at less experienced solicitors, and that Program Solicitors are required to practise across three significant substantive areas of law, access to professional development activities is critical.

Overall, firms recognise the importance of supporting their Program Solicitor and providing training and mentoring. In most cases, the Program Solicitor has had access to partners who are experts in their chosen area of law.

Possible options that could be considered to enhance the professional development opportunities for Program Solicitors include:

- Firms continuing, or taking on, a commitment to provide training and mentoring to their Program Solicitor. This should be emphasised in the Program guidelines as a key responsibility for firms participating in the Program.
- Legal Aid NSW covering the travel costs associated with Program Solicitors attending Legal Aid NSW conferences and training sessions.
- Firms identifying professional development needs as soon as the Program Solicitor commences in the job, and the employer and Legal Aid NSW identifying formal opportunities to undertake this training as soon as possible. There could be a separate budget allocation from Legal Aid NSW for this purpose.
- Providing Program Solicitors with access to a formal mentoring arrangement external to their respective law firm.
- Allocation of Program Coordination responsibilities to a dedicated (but not full time) person to implement and administer all aspects of the Program. The formal allocation of all program-related responsibilities to a single contact person would meet the needs identified by Program Solicitors for increased communication and support from Legal Aid NSW. This role may include regular communication with Program Solicitors while they settle in to their new roles, and possibly promoting networking and training opportunities for Program Solicitors to increase their professional development and reduce the isolation experienced in some locations. The coordinator role may require more time and resources in the initial phases while solicitors settle in and then less investment over the course of their placement. It is also anticipated that the role would be assisted and streamline substantially through circulation and promotion of Program guidelines, amended as suggested by other recommendations made in this chapter.
- Increase the training and advice available for Program Solicitors in relation to civil law, particularly civil matters which are not typically within the ambit of the work undertaken by the private firms. This may involve continuing education seminars and/or providing the details of an appropriately experienced civil law solicitor who can advise or supervise Program Solicitors in relevant matters.

#### *Assist practices to form better working partnerships with other legal services in their regional areas, such as the Duty Roster and other Legal Aid NSW Regional Programs*

There is scope to improve the links between the Program and other Legal Aid NSW programs. For example, the Program is currently working in isolation from other services such as the Duty Roster System. Communication with other programs and services and promotion of the Program could be achieved through using existing channels such as email lists of services and firms in different rural and remote areas. It is also recommended that the intended relationship of the Program to other services,

including basis for work allocation, and reasons for introducing the requirement of panel membership, are articulated in the Program guidelines.

### 6.1.2 Beyond the two years

#### *Maintain and expand the potential of the Program to respond flexibly to local needs*

This would involve integrating the 'place management' concepts already identified by Legal Aid NSW into the strategic planning of the Program. Without increasing the administrative burden of the Program disproportionately, this approach would mean that to a degree, the Program is managed on a site-by-site basis. Flexibility in Program planning may apply to:

- minimum levels of post-admission experience (with appropriate caveats regarding professional development/training)
- the potential to share the subsidy between two solicitor positions or to supplement the salary of an administrative position to support the solicitor
- potential to use recruitment allowance towards other incentives, e.g. a vehicle.

#### *Continue the Program*

We note that the Program has already been expanded to four new locations. It is also suggested that instead of removing the subsidy from existing firms, that Legal Aid NSW approaches firms on a case by case basis to determine the existing need for the subsidy to make that position viable. The process would require participating firms to demonstrate that the subsidy is required to maintain the Program Solicitor at each firm.

Where there is evidence that the position can be supported by the firm, then the subsidy could be gradually removed so that firms and private solicitors have an opportunity to transition to more private work or to legal aid work without the salary subsidy.

The rationale for managing each firm individually is that while many firms stated that the Program Solicitor position was not independently viable. The analysis of grants data reveals that at least some firms are undertaking a volume of legal aid work that should be sufficient to support a solicitor on the current Program Solicitor's salary.

#### *Reconsider the target group for the Program*

There appears to be some tensions between the Program's rationale - in that it is geared towards very young and relatively inexperienced solicitors - and the reality of the challenging work funded by Legal Aid NSW, which they are expected to do. This work covers three substantive areas of law: family, criminal and civil. These are three large and substantive areas of law in which the Program Solicitor will have no or very limited experience, if they are in the intended target group for the Program. This existing tension suggests that the Program:

- Be pitched at solicitors with a greater level of experience e.g. several years practising law (possibly more). (*We note that the requirement that solicitors have less than five years post-admission experience has now been removed*).
- Place a greater emphasis on professional development and support e.g. identifying up front professional development needs and ensuring formal training and support is available for the solicitor. As stated above, the need for further training and support is greatest in the area of civil law. Professional development could include having a budget allocation from Legal Aid NSW for this purpose. A further option is organising for a formal mentor for each Program Solicitor, possibly outside the firm, and also emphasising this is an important role of the employer.

#### *Further develop the application process so that firms must address set criteria on which selection is based*

Legal Aid NSW has established selection criteria that firms must address to be considered for the Program. A selection committee is then formed to make recommendations to the CEO on the most

meritorious firm against those selection criteria. As these criteria were only developed in June 2009, they did not impact upon the existing firms but were used to select firms for participation in expansion to the four new regions.

*Participating practices should be notified of Legal Aid NSW's intention to either continue or cease the Program at least six months before the current Program funding ends*

It is important that Legal Aid NSW notifies all participating firms about its intentions for the Program as they will need to make decisions about retaining the current Program Solicitor and/or may need to recruit a replacement. If the Program ends, the firms will need to address their current legal aid workload, as it may be necessary to reduce this over a period of time due to the loss of the wage subsidy.

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## References

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Legal Aid Commission of NSW, *Evaluation of the Cooperative Legal Service Delivery Model (CLSDM) Pilot*, August 2005, <http://www.legalaid.nsw.gov.au/asp/index.asp?pgid=712>.

ALRC Report 89, *Managing Justice: A Review of the Federal Civil Justice System* at 1.81  
<http://www.alrc.gov.au/inquiries/title/alrc89/index.htm>.

Legal Aid NSW, 'Bringing it all together: A Partnership in Legal Service Delivery', *Factsheet on the Cooperative Legal Service Delivery Program*, <http://www.legalaid.nsw.gov.au/asp/index.asp?pgid=712>.

NSW Legal Aid Commission *Annual Report 2006-2007*, NSW Legal Aid Commission, Sydney

# Appendix A      Legal Aid NSW responses to phase one report recommendations

## Regional Solicitor Program

### Legal Aid NSW responses to recommendations of phase one interim evaluation report

Suggestions made in phase one interim report	Legal Aid NSW response
<p><b>For current participating practices</b></p> <p><i>Provide administrative support and increase the level of direction received from Legal Aid NSW</i></p> <p>It is recommended that the level of support and direction given to participating practices by Legal Aid NSW continue and be further strengthened through:</p> <ul style="list-style-type: none"> <li>Developing Program guidelines that clearly stipulate: the objective and function of the Program; the role and responsibilities of the participating firm and the Regional Solicitor; the processes for Program reporting and claims; the scope of the Program; and other Program entitlements (eg professional development). It is envisaged that such a document would reduce the number of enquiries directed to Legal Aid NSW.</li> </ul>	<p>Legal Aid NSW has :</p> <ul style="list-style-type: none"> <li>developed guidelines for the Program as recommended;</li> <li>circulated these guidelines to all firms currently participating in the Program as well as new firms invited to submit expressions of interest; and</li> <li>published the guidelines on the Legal Aid NSW Intranet.</li> </ul>
<ul style="list-style-type: none"> <li>Encouraging contact between Program Solicitors in the Program. This could include creating a group email list of Program Solicitors (subject to their permission) to allow them to contact each other and create a support network This is especially important for less experienced solicitors and those who are newly relocated to a remote area. Legal Aid NSW could also explore other strategies to encourage contact, such as Program Solicitors visiting each other if they go to each others' locations, and networking sessions at the Legal Aid NSW annual conferences.</li> </ul>	<ul style="list-style-type: none"> <li>Legal Aid NSW has created a group email list of Program Solicitors and invites Program Solicitors to attend Legal Aid NSW conferences.</li> </ul>
<ul style="list-style-type: none"> <li>Continuing the induction sessions run by Legal Aid NSW and ensuring that all Program Solicitors participate.</li> </ul>	<ul style="list-style-type: none"> <li>Legal Aid NSW has developed an induction program for new Program Solicitors and will meet travel expenses for attendees.</li> </ul>
<ul style="list-style-type: none"> <li>Maintaining the designated contact in Legal Aid NSW to respond to requests for information and direction.</li> </ul>	<ul style="list-style-type: none"> <li>Legal Aid NSW has appointed a Program Co-ordinator on a temporary basis.</li> </ul>

<p><i>Provide greater assistance with recruitment</i></p> <p>The significant challenge of attracting qualified professionals to regional and remote areas is not unique to this Program or the legal sector. Nonetheless, it represents the major challenge for the Program and more could be done to assist private firms in the Program through:</p> <ul style="list-style-type: none"> <li>▪ Increasing the recruitment allowance to cover more of the time and financial costs associated with advertising the position and interviewing candidates.</li> <li>▪ Using existing networks within Legal Aid NSW, such as tapping into the pool of law students who received funding from Legal Aid NSW while studying; also through the Legal Aid NSW Graduate Program and students who complete their Practical Legal Training with Legal Aid NSW but do not have a solicitor position at Legal Aid NSW</li> <li>▪ Using any existing networks the Legal Aid NSW has in regional areas e.g. regional Law Societies, other Legal Aid NSW offices in regional locations.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legal Aid NSW has publicised the Program through regional law societies and regional offices and provided reimbursement for recruitment expenses as before.</li> <li>▪ It has also removed the requirement that Program solicitors have less than 5 years experience, allowing firms more freedom of recruitment. It has also allowed participating firms to engage their existing staff as the Program Solicitor thereby avoiding problems of recruitment.</li> </ul>
<p><i>Provide greater emphasis on professional development</i></p> <p>Given that the Program is targeted at less experienced solicitors, and that Program Solicitors are required to practice across three significant substantive areas of law, access to professional development activities is critical.</p> <p>Overall, firms recognise the importance of supporting their Program Solicitor and are providing the necessary training and mentoring. In most cases, the Program Solicitor has had full access to all partners who are experts in their chosen area of law.</p> <p>Possible options that could be considered to enhance the professional development opportunities for Program Solicitors include:</p> <ul style="list-style-type: none"> <li>▪ Firms continuing, or taking on, a commitment to provide training and mentoring to their Program Solicitor. This should be emphasised in the Program guidelines as a key responsibility for firms participating in the Program.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Program guidelines set out the responsibilities of participating firms to train and support the Program Solicitor and identify their ongoing professional development needs.</li> </ul>

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<ul style="list-style-type: none"> <li>Legal Aid NSW covering the travel costs associated with Program Solicitors attending Legal Aid NSW conferences and training sessions.</li> </ul>	<ul style="list-style-type: none"> <li>Program Solicitors are allowed free attendance (but not travel costs) at Legal Aid NSW conferences.</li> </ul>
<ul style="list-style-type: none"> <li>Firms identifying professional development needs as soon as the Program Solicitor commences in the job, and the employer and Legal Aid NSW identifying formal opportunities to undertake this training as soon as possible. There should be a separate budget allocation from Legal Aid NSW for this purpose.</li> </ul>	<p>See above responses.</p>
<ul style="list-style-type: none"> <li>Providing Program Solicitors with access to a formal mentoring arrangement.</li> <li>Participants in the Program having full access to all electronic training materials produced by Legal Aid NSW; these should be promoted and made available on commencement of the Program.</li> </ul>	<ul style="list-style-type: none"> <li>Legal Aid NSW has arranged for Program Solicitors to have access to its electronic Learning Management System for training resources.</li> </ul>
<ul style="list-style-type: none"> <li>Creation of a Regional Solicitor Program Coordinators Position to implement and administer all aspects of the Program.</li> </ul>	<ul style="list-style-type: none"> <li>Legal Aid NSW has appointed a Program Solicitor Co-ordinator on a temporary basis. The Co-ordinator's responsibilities include developing an induction program and providing support and access to training resources.</li> <li>Legal Aid NSW has also removed the requirement that Program Solicitors have less than 5 years' post-admission experience.</li> </ul>
<p><i>Assist practices form better working partnerships with other legal services in their regional areas, such as the Duty Roster and other Legal Aid NSW Regional Programs</i></p> <ul style="list-style-type: none"> <li>There is scope to improve the links between the Program and other Legal Aid NSW programs. For example, the Program is currently working in isolation from other services such as the Duty Roster System. In addition the Program also has limited contact with the CLSDP.</li> <li>There is scope to increase communication with other programs and services and to promote awareness of the Program through existing channels such as existing email lists of services and firms in different rural and remote areas.</li> </ul>	<ul style="list-style-type: none"> <li>The Program Solicitor Co-ordinator will develop linkages with Legal Aid ANSW practice areas, regional offices and other programs such as the Duty Solicitor Scheme and the Cooperative Legal Service Delivery program, as well as facilitating referrals from LawAccess and other agencies.</li> </ul>

<p><b>Beyond the two years</b></p> <p><i>Reconsider the target group for the Program</i></p> <ul style="list-style-type: none"> <li>Place a greater emphasis on professional development and support e.g. identifying up front professional development needs and ensuring formal training and support is available for the solicitor. This could include having a budget allocation from Legal Aid NSW for this purpose. A further option is organising for a formal mentor, possibly outside the firm, and also emphasising this is an important role of the employer.</li> </ul>	<ul style="list-style-type: none"> <li>Legal Aid NSW has removed the requirement that Program Solicitors have less than 5 years' post-admission experience.</li> <li>See earlier responses.</li> </ul>
<p>Organise for a position to be specifically created within Legal Aid NSW. The position would be responsible for:</p> <ul style="list-style-type: none"> <li>developing guidelines and procedures</li> <li>developing and conducting an induction Program</li> <li>conducting regular reports, reviews and audits to ensure that the areas of need identified, continue to be the areas with the greatest need and that firms provide the required level of service delivery (75%)</li> <li>developing partnerships with the other regional and rural Programs that Legal Aid NSW runs to ensure a coordinated approach to service delivery.</li> </ul> <p>This position could also address the issues regarding the point of contact for the participating firms in the Program and ensure a level of consistency.</p>	<ul style="list-style-type: none"> <li>Legal Aid NSW has appointed a Program co-ordinator on a temporary basis. The co-ordinator's responsibilities include administering and monitoring the program, as well as developing and conducting an induction program and providing support and access to training resources.</li> <li>The Program co-ordinator will develop linkages with Legal Aid NSW practice areas, regional offices and other programs such as the Duty Solicitor Scheme and the Cooperative Legal Service Delivery program, as well as facilitating referrals from LawAccess and other agencies.</li> </ul>
<p><i>If the Program is extended, a scoping study should be conducted by Legal Aid NSW</i></p> <p>If the Program is rolled out further, it is recommended that systematic scoping of future planned locations takes place. This exercise would identify areas which have unmet demand and/or are isolated from the nearest Legal Aid NSW office either through distance or lack of suitable transport.</p> <p>Further to this, the scoping work would identify firms that are currently undertaking legal aid work, the types and number of firms undertaking it, the capacity or need to increase the amount of legal aid work done in the area,</p>	<ul style="list-style-type: none"> <li>Legal Aid NSW had undertaken such a scoping exercise for the purpose of its expansion to four new regions in 2009. Other issues identified here will be considered in the light of the final evaluation now underway.</li> </ul>

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<p>and the potential impact of introduction of the Program. Ideally the Program should be targeted at locations where there appears to be a high level of unmet demand for legal aid work. It is possible that there is still unmet demand in areas where the Program is currently operating, however most participating firms are meeting, or exceeding their target amount of legal aid work and would not be able to address this potential unmet need. There may be scope to fund more than one firm and/or more than one solicitor per firm if the firm covers a number of court locations or has a number of office locations in a rural area if there is demand.</p>	
<p><i>Further develop the application process so that firms must address set criteria on which selection is based</i></p> <ul style="list-style-type: none"> <li>▪ At present there is no set of criteria that firms must address to be considered for the Program. It is recommended that Legal Aid NSW further develops the application process to include set criteria that practices are evaluated on for selection to participate in the Program.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Legal Aid NSW had developed guidelines and selection criteria and provided such information as part of its information package when calling for expressions of interest for the expansion to four new regions in 2009. All applications were carefully evaluated in accordance with the selection criteria for participation in the program.</li> </ul>
<p><i>Participating practices should be notified of Legal Aid NSW's intention to either continue or cease the Program at least six months before the current Program funding ends</i></p> <p>It is important that Legal Aid NSW notifies all participating firms about its intentions for the Program as they will need to make decisions about retaining the current Program Solicitor and/or may need to recruit a replacement. If the Program ends, the firms will need to address their current legal aid work load, as it may be necessary to reduce this over a period of time due to the loss of the wage subsidy.</p>	<ul style="list-style-type: none"> <li>▪ Legal Aid NSW endeavours as far as possible to give notification in advance to participating firms of its intention to extend or to cease the program; the currently participating firms have been extended to 31 December 2009 or later to allow for the release of the final evaluation and to enable Legal Aid NSW to consider its findings and recommendations.</li> </ul>

We also note the preparation of a Draft Discussion Paper by Legal Aid NSW which identifies key strategies to implement the suggestions made in the interim report. The Discussion Paper also identifies a need for strategic planning to support the Regional Solicitor Program in order to:

- develop program objectives and goals to take in to account community needs and “place management” concepts
- develop performance indicators and timelines to indicate what “success” would involve
- provide or obtain adequate financial resources to enable realistic levels of subsidies to be provided over time
- develop knowledge management strategies to meet the needs of participating firms and solicitors.

## Appendix B List of stakeholders consulted

## B.1 List of stakeholders consulted

- Representatives from firms and the Program Solicitors participating in the Program:
  - Batemans Bay -Elizabeth Fleming & Associates
  - Bega - Clark Rideaux
  - Murwillumbah - O'Reilly & Sochacki
  - Cowra - Marion Rose & Co
  - Young - McCabe Partners
  - Dubbo - North & Badgery
  - Taree - Walker Smith
  - Moree - Stuart Percy & Associates
  - Broken Hill - Paul John Walton Solicitors
- Private practices in some Program locations which are not participating in the Program
- Program Solicitors who have exited the Program
- Program managers of the Program from Legal Aid NSW
- Legal Aid NSW staff administering the CLSD model
- Representatives from:
  - Department of Justice and Attorney General (DJAG)
  - Far North Court Law Society
  - Far West Law Society
  - Far West Community Legal Centre
  - Far South Coast and Monaro Law Society
  - Mid-North Coast Law Society
  - North & North-West Law Society
  - Orana Law Society
  - Riverina Law Society
  - Legal Aid NSW offices in Dubbo, Nowra and Lismore
  - Cowra Court House
  - Bega Court House
  - Broken Hill Court House
  - Taree Court House
  - Murwillumbah Court House
  - Aboriginal Legal Service
  - Domestic Violence, Family Support and Sexual Assault services
  - Law Society Rural Issues Committee.

\* Some stakeholders did not participate in a full interview, but did provide general comments on the Program and Legal Aid NSW services/availability.

# Appendix C      Discussion guides for phase two of the evaluation

# Regional Solicitor Program Evaluation

## Discussion guide for partners

### Overview

Urbis (a social research consulting firm) has been commissioned by Legal Aid NSW to evaluate the Regional Solicitor Program.

The evaluation aims to examine the effectiveness of the Program by evaluating the placements made under the Program in 2008 and then to evaluate these placements again in 2009. This is now the second phase of the evaluation, following the interim evaluation.

We are currently speaking with a range of key informants (practices and solicitors who have taken part in the program, people involved in managing the Program and other stakeholders). Today I will be asking you a range of questions on your experience of the Program. It should take up to 30 minutes.

### Confidentiality statement

Please note that we'll treat everything you say in this interview as confidential and no individuals or their views will be personally identified in the report, including direct quotes. The report will only list the names of the organisations consulted.

### Introductions

1. Can you please tell me a little about your firm - how many practitioners, years of establishment, main areas of law practised, client profile, amount of legal aid work undertaken prior to involvement in the Regional Solicitor Program?
2. What were the key motivators for your practice in applying to join the program?

### Underlying rationale of the program

3. The stated aims of the Regional Solicitor program are:
  - providing employment opportunities for young lawyers in rural communities
  - providing rural clients, particularly those suffering financial and/or social disadvantage, with improved access to legal advice and representation.

How appropriate are these objectives? Why do you say that?

Was there a problem with recruitment or retention of solicitors to do legal aid work before the program?

Legal Aid NSW has a network of panel practitioners willing to accept legal aid work. Should another objective of the Regional Solicitor Program be to attempt to address gaps in the network of practitioners on Legal Aid NSW panels in specified areas or types of legal matters?

## Process and structure evaluation/Implementation of the Program

4. Can you please describe each of the following elements of the Program, including its strengths and weaknesses?
  - The process of applying to take part in the Program?
  - The process of recruiting a solicitor for the Program?
5. How can the Program assist in future with the retention of solicitors at participating firms? What are the key issues the Program needs to address in order to retain solicitors?
6. What support has your firm received in the day to day administration of the Program? How adequate has this been? Why do you say that?
7. What training and support do you believe should be provided to participating solicitors by Legal Aid NSW and how should it be provided? (e.g. attendance at Legal Aid NSW training/conferences, induction, e-learning possibilities)
8. The Program was specifically targeted at young solicitors with five years' experience or less but this requirement has now been removed; do you agree and why?
9. It is the intention of the Program that solicitors placed in firms stay with the firm for two years. Is there a need to review this requirement? Why/why not?
10. Do you believe the structure of the subsidy your firm receives for participating in the program reflects the amount of legal aid work currently undertaken by the firm? Why do you say that?
11. What would your response be if, at the completion of the two year placement, the salary subsidy is ceased or scaled back by Legal Aid NSW to enable sufficient funding to expand the RSP to other locations or other firms within your area? And, what are your views about the need for expansion of the RSP in your area/other areas across NSW?
12. Can you indicate what your views are on retaining the participating solicitor after the 2 years of placement are completed if salary subsidy is scaled back or ceases? If not, what are the reasons and what type of incentive would be required to retain the solicitor beyond the placement, i.e. is the ongoing employment of the solicitor dependent upon some level of salary subsidy?
13. Does the Regional Solicitor program link to any other programs or services for regional practices? How could this aspect of the program be improved?
14. Thinking about the overall structure of the Regional Solicitor program and how it is operated, what are the main improvements required?

*For firms that have withdrawn from the program only:*

15. What were the main reasons your firm decided to withdraw from the program?
16. In future, how can Legal Aid NSW ensure the ongoing participation of firms in the Regional Solicitor program?

## Impact analyses

17. Has participation in the Regional Solicitor Program had any significant impact on your firm (positive or negative)? Has it led to any changes in:
  - a. the type of work you do;
  - b. the amount of legal aid work solicitors in your firm do; or

- c. the characteristics of the clients you see?
18. What do you think has been the overall impact of the program on access to legal services in your local area and what have been the influencing factors/barriers?
  19. Has the overall amount of legal aid work undertaken by your firm changed as a result of the RSP? Please provide some details.
  20. To what extent has the Program encouraged solicitors to practice in your local area? What factors have influenced the capacity of the Program to fulfil this goal?
  21. Overall, what have been the key outcomes/main achievements of the Program in your area? To what do you mainly attribute these outcomes/main achievements?
  22. Are there any particular needs of clients in your area that have emerged that you think have not been met by existing programs and services? If so, what are these needs, and how might they be best addressed?
  23. How, if at all do you think the Program affected other firms in your area that are not involved in the program?

## Cost benefit

24. How has your firm's involvement in the Program affected it from a cost efficiency perspective? Can you provide examples?
25. Has the combination of salary subsidy and payment of legal fees made participation in legal aid work commercially feasible for your firm? Why/why not?
26. Would it continue to be viable for your firm to operate at the current capacity without the salary subsidy?
27. Do you believe there are more cost –effective ways to better meet the goal of improving access to legal services in regional areas? Please elaborate.
28. Do you believe there are more cost-effective ways to better meet the goal of encouraging solicitors to practice in regional areas? Please elaborate.

## Developments over the course of the program

29. You have recently received revised program guidelines from Legal Aid. How familiar are you with these?
30. If you are familiar with the guidelines, how have they impacted your experience of participating in the program?
31. The guidelines may not have had a major impact on your firm at this time, but how do you think they will impact the program in future? What sort of improvements or limitations are they likely to bring about?

## Other

32. What advice, if any, would you give to other firms/solicitors that are considering taking part in the Program?
33. Are there any other comments that you would like to make that are relevant to this evaluation?
34. Thinking about why your firm decided to apply to participate in the Program, has the Program met your expectations? Why do you say that?

# Regional Solicitor Program Evaluation

## Discussion guide for solicitors

### Overview

Urbis (a social research consulting firm) has been commissioned by Legal Aid NSW to evaluate the Regional Solicitor Program.

The evaluation aims to examine the effectiveness of the Program by evaluating the placements made under the Program in 2008 and then to evaluate these placements again in 2009. This is now the second phase of the evaluation, following the interim evaluation.

We are currently speaking with a range of key informants (practices and solicitors who have taken part in the Program, people involved in managing the program and other stakeholders). Today I will be asking you a range of questions on your experience of the Program. It should take up to 30 minutes.

### Confidentiality statement

Please note that we'll treat everything you say in this interview as confidential and no individuals or their views will be personally identified in the report, including direct quotes. The report will only list the names of the organisations consulted.

### Introductions

1. Can you please tell me a little bit about yourself- where you're from originally, how many years you've been practising, your main areas of practice, any previous legal aid work undertaken, etc? (if not previously interviewed for interim evaluation)
2. How did you find out about the Regional Solicitor Program? What were the key things that motivated you to participate in the Program?
3. Prior to joining the Program, did you have any prior experience of working in a regional law firm or other personal or family connection to living in a regional area?

### Underlying rationale of the program

4. The stated aims of the Regional Solicitor Program are:
  - providing employment opportunities for young lawyers in rural communities
  - providing rural clients, particularly those suffering financial and/or social disadvantage, with improved access to legal advice and representation.

How appropriate are these objectives? Why do you say that?

Legal Aid NSW has a network of panel practitioners willing to accept legal aid work. Should another objective of the Regional Solicitor Program be to attempt to address gaps in the network of practitioners on Legal Aid NSW panels in specified areas or types of legal matters?

### Process and structure evaluation/Implementation of the Program

5. Legal Aid NSW is currently reviewing the way in which the Regional Solicitor Program provides induction, support and training to participating solicitors. Can you please describe

each of the following elements of the program, including the strengths, weaknesses and suggestions for improvement?

- The process of applying to take part in the Program?
  - The induction process for the Program?
  - Relocating and starting up at the firm?
  - Support for your partner/family if you relocated with them?
  - Ongoing professional support/training and personal support offered through the program?
6. Do you believe the structure of the subsidy your firm receives for participating in the Program reflects the amount of legal aid work you undertake with the firm? Why do you say that?
  7. Has the experience of being involved in the Program met with your expectations? Why do you say that?
  8. What do you think can be done to encourage firms and individual solicitors to participate in the Program in future?
  9. The program was specifically targeted at young solicitors with five years' experience or less but this requirement has now been removed; do you agree and why?
  10. It is the intention of the Program that solicitors placed in firms stay with the firm for two years. Is there a need to review this requirement? Why/why not?
  11. Can you indicate what your views are on staying on with the firm after the two years of placement are completed?
  12. How can the Regional Solicitor Program assist in future with the retention of solicitors at participating firms? What are the key issues the Program needs to address in order to retain solicitors? (good to ask this of all interviewed solicitors)

*For solicitors who have left the program only:*

13. How long did you stay at (participating firm)?
14. What were the key factors in your decision to leave?

## Impact analyses

15. Thinking about why you applied to join the Program, has the Program met your expectations? Why do you say that?
16. To what extent, if any, has the Program encouraged you to continue to practice in a regional area? What factors have influenced the capacity of the Program to fulfil this goal?
17. Overall, what have been the Program's impacts on you both as a solicitor and as an employee?
18. What do you think has been the overall impact of the Regional Solicitor Program on access to legal services in your local area and what have been the influencing factors/barriers?
19. Are there any particular needs of clients in your area that have emerged that you think have not been met by existing programs and services? If so, what are these needs and how might they be addressed?
20. Overall, what do you see as the key outcomes/main achievements of the Program in your area? To what do you mainly attribute these outcomes/achievements?

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## Cost benefit

21. Can you comment on how your firm's involvement in the Program affected it from a cost efficiency perspective? Can you provide examples?
22. Do you believe there are more cost-effective ways to better meet the goal of improving access to legal services in regional areas? Please elaborate.
23. Do you believe that there are more cost-effective ways to better meet the goal of encouraging solicitors to practice in regional areas? Please elaborate.

## Other

24. What advice, if any, would you give to other firms/solicitors that are considering taking part in the Program?
25. Are there any other comments that you would like to make that are relevant to this evaluation?

# Regional Solicitor Program Evaluation

## Discussion guide for stakeholders

### Overview

Urbis (a social research consulting firm) has been commissioned by Legal Aid NSW to evaluate the Regional Solicitor Program.

As you may be aware, the Regional Solicitor Program has been operating since early 2007 and is designed to improve the availability and accessibility of legal aid services to disadvantaged clients living in rural, regional and remote NSW.

The evaluation aims to examine the effectiveness of the Program by evaluating the placements made under the Program in 2008 and then to evaluate these placements again in 2009. This is the second phase of the evaluation, following on an interim evaluation. .

We are currently speaking with a range of key informants (practices and solicitors who have taken part in the program, people involved in managing the program and other stakeholders). Today I will be asking you a range of questions on your experience of the program. It should take up to 30 minutes.

### Confidentiality Statement

Please note that we'll treat everything you say in this interview as confidential and no individuals or their views will be personally identified in the report, including direct quotes. The report will only list the names of the organisations consulted.

### Introductions

1. Can you please tell me about your role/organisation and its/your involvement in or experience of the Regional Solicitor Program?

### Underlying rationale

2. The stated aims of the Regional Solicitor program are:
  - providing employment opportunities for young lawyers in rural communities
  - providing rural clients, particularly those suffering financial and/or social disadvantage, with improved access to legal advice and representation.

How appropriate are these objectives? Why do you say that?

Was there a problem with recruitment or retention of solicitors to do legal aid work in the local area before the program?

Legal Aid NSW has a network of panel practitioners willing to accept legal aid work. Should another objective of the Regional Solicitor Program be to attempt to address gaps in the network of practitioners on Legal Aid NSW in specified areas or types of legal matters?

### Process and structure evaluation/implementation of the program

3. Thinking about the overall structure of the Regional Solicitor program, its key elements and how it is operated, what are its key strengths and weaknesses and what are the main area for

improvement? *(prompt: application and recruitment processes, remuneration, conditions and supports for firms/individuals, promotion of Program)*

4. How replicable is the Program? What implementation factors need to be considered for future delivery?
5. Does the Regional Solicitor Program link to any other programs or services for regional practices? How could this aspect of the program be improved?
6. The Program was specifically targeted at young solicitors with five years' experience or less but this requirement has now been removed; do you agree and why?
7. It is the intention of the Program that solicitors placed in firms stay with the firm for two years. Is there a need to review this requirement? Why/why not?
8. What are your thoughts on ceasing or scaling back the salary subsidies paid to participating firms after the two year placement in order to enable sufficient funding to expand the Program to other locations or other firms within the area? And what are your views about the need for expansion of the Program in your area/other areas across NSW?
9. How can the Program assist in future with the retention of solicitors at participating firms? What are the key issues the Program needs to address in order to retain solicitors?

## Impact analysis

10. What do you think has been the overall impact of the Program on access to legal services in regional areas? Why do you say that?

*(For local stakeholders only)*

11. What do you think has been the overall impact of the Program on access to legal services specifically in your local area?
12. What factors have influenced access to legal services by disadvantaged people in your area? To what extent has the program been able to overcome barriers to access?
13. To what extent has the Program encouraged solicitors to practice in your local area? What factors have influenced the capacity of the program to fulfil this goal?
14. Overall, what do you think have been the key outcomes/main achievements of the Program in your area? Have there been any unintended outcomes?
15. Are there any particular needs of clients in your area that have emerged that you think have not been met by existing programs and services? If so, what are these needs, and how might they be best addressed?
16. How, if at all, has the Program affected other law firms in your area that are not involved in the Program?

## Cost –benefit analysis

17. Do you believe there are more cost-effective ways to better meet the goal of improving access to legal services in regional areas? To better meet the goal of encouraging solicitors to practice in regional areas?
18. What are the key lessons to be learnt from the implementation of the Program?
19. Are there any other comments that you would like to make that are relevant to this evaluation?

## Appendix D Additional Program data

## APPENDICES

## D.1 Program Solicitors' participation details

Region	Firm	Solicitor	Start date	Finish date	Length of placement
MURWILLUMBAH	O'Reilly & Sochaki	A1	May 2007	May 2008	13 months
		A2	June 2008	May 2009	11 months
BATEMANS BAY	Elizabeth Fleming & Associates	B1	June 2007	Feb 2008	9 months
		B2	April 2008	Sept 2009	15 months to date
DUBBO	North & Badgery	C1	Sept 2007	Dec 2008	16 months
		C2	Jan 2009	Sept 2009	6 months to date
BEGA	Clarke Rideaux & Associates	D1	July 2007	Sept 2009	24 months to date
COWRA	Marion Rose & Co	E1	Oct 2007	Sept 2009	21 months to date
TAREE	Walker Legal	F1	Jan 2008	Jan 2010	18 months to date
MOREE	Stuart Percy & Co	G1	July 2007	August 2007	2 months
		G2	Jan 2008	March 2009	15 months
		G3	May 2009	Dec 2009	2 months to date
YOUNG	McCabe Partners	H1	May 2007	July 2008	15 months
BROKEN HILL	Paul Walton & Co	J1	March 2007	Oct 2007	7 months

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D.2 Regional Solicitor Program – Panel membership of Program Solicitors

FIRM	SOLICITOR	STATUS	PANELS OF RSP SOLICITOR	PANELS OF OTHERS IN FIRM
ELIZABETH FLEMING	MICHAEL MEADE	Ongoing	GENERAL CRIME	GENERAL CRIME
			CARE (ADULTS)	CARE (ADULTS)
			FAMILY LAW	CARE (CHILDREN)
				FAMILY LAW
				CIVIL LAW
NORTH & BADGERY	JANI SIMPSON	Ongoing	GENERAL CRIME	CARE (ADULTS)
			FAMILY LAW	CARE (CHILDREN)
				FAMILY LAW
CLARK RIDEAUX	TONY CULLINAN	Ongoing	GENERAL CRIME	GENERAL CRIME
			CARE (ADULTS)	
			FAMILY LAW	
			CIVIL LAW	
MARION ROSE & CO	JOANNE COLLINGS	Ongoing	GENERAL CRIME	GENERAL CRIME

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			CARE (ADULTS)	CARE (ADULTS)
			CARE (CHILDREN)	CARE (CHILDREN)
			FAMILY LAW	FAMILY LAW
WALKER LEGAL	JIM CORCORAN	Ongoing	GENERAL CRIME	
			CARE (ADULTS)	
			FAMILY LAW	
STUART PERCY	STEVEN REEVES	Ongoing		GENERAL CRIME
				SERIOUS CRIME
				CARE (ADULTS)
				CARE (CHILDREN)
				FAMILY LAW
OREILLY & SOCHACKI	MARK BOYS	CONCLUDED	GENERAL CRIME	GENERAL CRIME
			CIVIL LAW	
			FAMILY LAW	