



Access to legal assistance is fundamental in a fair society, but chronic underfunding and increasing demand means that too many Victorians are not receiving the legal help they need. The Greens are committed to funding legal assistance to the level that is needed.

In a just society no one is above the law, and everyone is equal before the law. But for more and more Victorians, seeking legal advice, pursuing a case, or having representation in court is simply beyond their financial means.

The justice system is an essential public service that must be accessible to all, not just the wealthy. The Greens are committed to ensuring that every Victorian has access to legal assistance.

## OUR PLAN

The Legal Assistance Sector is in crisis. A real commitment to fixing the problem is long-overdue.

### The Greens will:

- **Provide \$132 million over four years to the legal assistance sector (including Victoria Legal Aid, Community Legal Centres and Aboriginal Legal Services).<sup>i</sup>**
- **Allocate government legal assistance funding over four year periods, so providers are able to better plan and deliver services.**
- **Prioritise legal assistance funding to areas where it is most needed, including: summary crime; family violence services; integrated services for complex needs clients; and, Aboriginal and culturally appropriate services.**
- **Advocate for the Commonwealth Government to formalise a transparent, long-term state and federal government funding agreement for legal assistance.**

## UNPRECEDENTED DEMAND

Peak legal bodies point to population growth, 'tougher' laws, rising social inequality and the prevalence of mental illness, intellectual disability, brain injury, drug use, alcoholism and homelessness to explain the rapid increase in the number of people coming into contact with the criminal justice system.

This is placing huge pressures on our court system to resolve a higher number of more complex criminal cases, as well as legal assistance providers to provide basic legal support to those who need it.



Free services such as 'duty lawyers' offer last-minute help to people who are at court for a hearing without a lawyer. However, limited resources mean that duty lawyers are unable to help everyone in this situation.

Victoria Legal Aid now estimates the demand for legal assistance grants and duty lawyer services for summary crime will increase by 95 per cent and 75 per cent respectively between the years 2014 to 2021.<sup>ii</sup>



## NOT A FAIR FIGHT

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Because legal providers need are helping a higher number of clients with more complex criminal matters, many people with matters considered less serious do not qualify for free legal assistance, particularly in the civil jurisdiction.

Studies show that the vast majority of people who are 'self-represented' either can't afford representation and/or can't obtain legal aid.<sup>iii</sup>

In court, most self-represented people lack understanding of the complex court rules and laws, and so are significantly disadvantaged when presenting their case.

Every case should be judged on its merits, not the level of representation that a person can afford.

## THOSE IN NEED TURNED AWAY

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Community legal centres (CLCs) are locally-based not-for-profit organisations that are focussed on helping people ineligible for legal aid who cannot afford a private lawyer. In 2016-17, CLCs delivered legal services to more than 52,000 Victorians.<sup>iv</sup>

Every CLC is closely linked to the needs in its community, offering generalist or specialist legal advice, duty lawyers, education and direct casework in areas such as family, tenancy, employment, and consumer law.

Importantly, CLCs are an essential part of the Victorian response to family violence, providing urgent legal support as well as facilitating non-legal support such as emergency housing when needed.

Despite their importance, CLC services are subject to insecure short-term funding from both the state and Commonwealth governments.

In 2014-15, Commonwealth funding cuts directly led to 32,495 Victorians being turned away from CLCs due to insufficient resources.<sup>v</sup>

Turning away Victorians who need urgent help simply isn't good enough. We must secure a long-term funding model for CLCs.

## A FUNDING CRISIS

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Lack of legal assistance is a national crisis. The Law Council of Australia now estimates a minimum of \$390 million per annum of additional funding is required for public civil and criminal legal support.<sup>vi</sup>

In Victoria, a 2016 Government review also recommended increasing the state's funding of legal assistance.<sup>vii</sup>

Despite this the Andrew's Government has only provided moderate increases in funding for legal assistance, and demand remains well above the level of support that is available.

In 2016-17, Victoria Legal Aid recorded a \$10.9 million financial deficit simply to maintain their level of service to the public. Clearly, this level of underfunding is unsustainable.

## WE ALL PAY THE PRICE

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Successive governments have underfunded legal aid and CLCs, but every Victorian bears the cost of underfunding public legal assistance.

When many people can't afford legal advice, a higher number of legal problems are unresolved early, which often leads to more serious and costly escalations of these problems down the track.

Moreover, underfunding of legal assistance incurs a greater costs the community over time, as lack of legal representation in the courts means longer trials, and more trials being adjourned and appealed due to inadequate representation.<sup>viii</sup>

Properly funding legal assistance is not just a matter of upholding fundamental rights and fairness, it is also vital to improve the cost-effectiveness and efficiency of the entire justice system.

The Productivity Commission interpreted the expression 'access to justice' the same as 'making it easier for people to resolve their disputes'.<sup>ix</sup> In the interests of economics as well as justice, we must ensure that every Victorian is able to resolve their legal disputes.



<sup>i</sup> Victorian Legal Aid *Submission to the Access to Justice Review*, March 2016. <https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-access-to-justice-submission.pdf>

<sup>ii</sup> Victorian Legal Aid *2017-18 Midyear Report*. <https://www.legalaid.vic.gov.au/about-us/our-organisation/annual-report-2016-17/midyear-reports>

<sup>iii</sup> Australian Government Productivity Commission Inquiry Report *Access to Justice Arrangements* Vol 1, No.72, P.490. <https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-volume1.pdf>

<sup>iv</sup> Federation of Community Legal Centres (Vic) Inc *Annual Report 2016-17*. <https://d3n8a8pro7vhmx.cloudfront.net/fclc/pages/30/attachments/original/1519967170/FCLC-AR-2017.pdf?1519967170>

<sup>v</sup> Federation of Community Legal Centres (Vic) Inc *Submission to the Victorian Government Access to Justice Review*, March 2016.

[https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/6314/8609/4222/Submission\\_69\\_-\\_Federation\\_of\\_Community\\_Legal\\_Centres.pdf](https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/6314/8609/4222/Submission_69_-_Federation_of_Community_Legal_Centres.pdf)

<sup>vi</sup> Bailes, M *Justice State of the Nation* President, Law Council of Australia the National Press Club, Canberra, 14 March 2018.

<sup>vii</sup> Victorian State Government *Access to Justice Review Summary Report* August 2016, Recommendation 6.21, P.36. [https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/9814/8601/7130/Access\\_to\\_Justice\\_Review\\_-\\_Summary\\_and\\_recommendations.PDF](https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/9814/8601/7130/Access_to_Justice_Review_-_Summary_and_recommendations.PDF)

<sup>viii</sup> Derkley, K *Going it Alone* Law Institute Journal, 1 May 2017.

<https://www.liv.asn.au/Staying-Informed/LIJ/LIJ/May-2017/Going-it-alone>

<sup>ix</sup> Australian Government Productivity Commission Inquiry Report *Access to Justice Arrangements* Vol 1 No.72, P.3.