

# Submission to the Fair Work Commission: Gender Undervaluation – Priority Awards

28 May 2025

## Acknowledgement of Country



1. Community Legal Centres Australia recognises that the land we work, live, and learn on is unceded Aboriginal land. Our office stands on Gadigal Land. We acknowledge Elders, both past and present. We acknowledge the First Nations workers in our sector across a great many Aboriginal lands on this continent and its surrounding islands, and we thank them for their generosity and persistence in supporting our sector to always be on a journey of learning and growth.

## Endorsements

2. This submission is endorsed by Economic Justice Australia, the national peak body for specialist social security legal services, and the Federation of Community Legal Centres, Victoria.
3. Several state community legal sector peaks have made independent submissions, including Community Legal Centres Qld, and Community Legal WA. Community Legal Centres Australia endorses these submissions, which are consistent with, and complement our own.

## The community legal sector

4. Community Legal Centres Australia is the national representative voice for the community legal sector. We are an independent, non-profit organisation set up to support community legal services to provide high-quality, free, and accessible legal, and related services to everyday people, especially people experiencing financial hardship, socio-economic disadvantage, discrimination, or domestic or family violence. The community legal sector helps hundreds of thousands of people every year to resolve their everyday legal problems before they snowball to hit crisis.
5. Our members are the eight state and territory community legal sector peak bodies and associations. Together, we represent a network of over 150 community legal centres (including thirteen Women's Legal Services), eleven Family Violence Prevention and Legal Services, and two Aboriginal and Torres Strait Islander Legal Services.
6. Centres employ a range of allied professional workers to provide holistic, trauma-informed and culturally safe support to help people untangle a range of legal and related problems all at once. Centres develop innovative community legal education and early intervention programs tailored to the communities they serve, to empower people to avoid legal problems altogether and to recognise and resolve them quickly when they arise. The largest area of work for the community legal sector is frontline domestic and family violence prevention and response services, making up 40-50% of work nationally.
7. Except for a very small minority of workers, the SCHADS Award is the award under which community legal sector workers are remunerated, or against which wages and entitlements in our sector are benchmarked. Many community legal centres are on the SCHADS Award, and for the centres with an Enterprise Agreement in place, most peg salary levels to SCHADS levels.

8. Community Legal Centres Australia ran its most recent *State of the Sector* survey between July and September 2024<sup>1</sup>. Unless otherwise stated, the data and statistics about our sector referred to in this submission are based on responses to this survey. Community Legal Centres Australia received 134 responses to this survey, representing a response rate of 81% of our sector.
9. The community legal sector is chronically underfunded. Centres are struggling to provide the services that people, communities, and governments expect. Legal need in the community is growing. More people need community legal support, and their cases are more complex. Nine out of centres nationally reported an increase in legal need in 2023-24 as compared to 2022-23.
10. The number of people seeking help and being turned away, because community legal centres do not have the resources to assist them, is increasing. In 2023-24, centres were forced to turn away approximately 7,500 people every week, including approximately 3,000 victim-survivors of domestic and family violence.

### The community legal sector workforce

11. Unsurprisingly, a significant proportion of community legal centre workers are legal practitioners. *Independent Review of the National Legal Assistance Partnership*<sup>2</sup> (the NLAP Review) estimates that around half of the community legal centre workforce in NSW and Victoria are solicitors. We have long made the argument that the SCHADS Award is not an appropriate framework for recruitment and retention of solicitors.
12. In addition to solicitors, centres employ a range of allied professional workers to prioritise trauma-informed, culturally safe practice. In 2023-24, 82% of centres employed allied professionals, including:
  - Social workers (44.6% of centres)
  - Education or training workers, including community legal education workers (35.4%)
  - Policy, campaigns or communications staff (31.5%)
  - Advocates including tenants' or disability advocates (29.2%)
  - Community development or engagement workers (26.9%)
  - Identified Aboriginal community engagement or support workers (25.4%)
13. Community Legal Centres Australia, state peak bodies, and many centres additionally employ workers in IT, web development, data analytics and similar roles.<sup>3</sup>
14. The community legal sector's workforce is highly skilled, values-driven, and overwhelmingly female. Recent workforce surveys have consistently found that between 70% and 85% of workers across our sector are women.<sup>4</sup> In 2023-24, the wages disparity experienced by workers across all community-based legal assistance providers continued to contribute to Australia's intractable gender pay gap.

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<sup>1</sup> Community Legal Centres Australia (2024) *More than legal services: Preventing crises, strengthening communities*, published November 2024, available online: <https://clcs.org.au/sots/>

<sup>2</sup> Dr Warren Mundy (2024), *Independent Review of the National Legal Assistance Partnership Final Report*, published March 2024, available online: <https://www.ag.gov.au/legal-system/publications/independent-review-national-legal-assistance-partnership-2020-25>

<sup>3</sup> We are unable to provide specific numbers of workers in these types of roles as we did not include this role type in our State of the Sector survey, but anecdotally we know that these roles are very common.

<sup>4</sup> See for example: Community Legal Centres Queensland (2023) *Working in Community Legal Centres in Queensland: Summary report*: <https://www.communitylegalqld.org.au/wp-content/uploads/2023/11/Workforce-Survey-Summary-Report-2023-.pdf>; the Federation of Community Legal Centres (Victoria) and the Victorian Law Foundation's 2022 report, *Working in*

15. Due to funding constraints, many professional workers (mostly women) across our sector work in part-time roles. In 2023-24 there were an estimated 4,186 workers in the community legal sector nationally, filling an estimated 3,411 full-time-equivalent roles.

### Community legal sector workforce challenges

16. There are not enough workers in the community legal sector to meet the needs of the communities we serve. To meet community need, the community legal sector needs, and is ready to onboard, an additional 1,582 FTE workers.
17. As of 30 June 2024, 64% of centres nationally had unfilled positions, for a combined total of 333 unfilled roles nationally. Only 4% of centres reported having enough staff to meet legal need in their communities. In 2023-24, centres advertised over 1,000 vacant positions. It took centres an average of 3 months to fill roles, with regional and remote centres experiencing greater challenges.
18. The greatest challenge in attracting and retaining staff for community legal centres in 2023-24 was inadequate remuneration. When asked to rate the various challenges faced in attracting and retaining staff, with 1 being “did not impact our ability at all” and 5 being “made it extremely challenging to attract and retain workers”, the highest rated challenge was ‘remuneration’ with an average 3.9 rating. Two thirds of centres rated this challenge either 4 or 5 out of 5. The next highest rated challenges were ‘lack of career pathways’, ‘vicarious trauma’ and ‘workload’.
19. In June 2023, Dr Warren Mundy was appointed by the Commonwealth Government to undertake an independent review of the National Legal Assistance Partnership 2020-25 (NLAP). Its final report was published in March 2024, presenting the review’s findings and making 39 recommendations to inform future funding arrangements.
20. The findings of the NLAP Review in relation to community legal sector workforce issues reflect the experiences of workers across our sector, and the findings of successive national *State of the Sector* surveys, including that:
- Wages and conditions across the legal assistance sector are consistently lower than the private sector and some public sector employers. These discrepancies are largest for mid-late career lawyers. An absence of mid-career solicitors in the legal assistance sector, due to remuneration and workload issues, means there is no pipeline of people to fill senior roles.
  - Within the legal assistance sector, there are further large differences between the wages earned by workers at Legal Aid Commissions, across all role types, and workers in the community legal sector. Legal Aid Commissions also offer better entitlements than community legal sector providers. This can include higher levels of financial assistance to relocate to a new location for work, higher superannuation contributions, and better support and training opportunities.
  - The disparity in pay and entitlements between Legal Aid Commissions and community-based legal assistance providers results in workforce distribution that doesn’t always reflect community needs (with many early career lawyers and other professionals starting out in the community legal sector and then moving to Legal Aid Commissions and the public or private sector to seek better pay.)

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*Community Legal Centres in Victoria: Results from the Community Legal Centres Workforce Project:*

<https://www.victorialawfoundation.org.au/research-publications/working-in-community-legal-centres-in-victoria-building-and-maintaining-a-sustainable-workforce>; and Dr Warren Mundy’s (2024) *Independent Review of the National Legal Assistance Partnership Final Report*: <https://www.ag.gov.au/legal-system/publications/independent-review-national-legal-assistance-partnership-2020-25>

- Staff attrition – driven by low wages, unrealistic workloads, short-term contracts, burnout, and vicarious trauma – is a significant issue across the community legal sector. This impacts service delivery and further strains an already overburdened workforce. It can also discourage employers from investing in their employees.

21. The NLAP Review made a range of recommendations in reference to the community legal sector workforce crisis. One of these was that the Commonwealth Government provide additional funding in 2024-25 and 2025-26 to increase remuneration for all workers in community-based legal assistance providers. The Review recommended the Commonwealth invest \$66 million in 2024-25 and \$69 million in 2025-26 to close the pay gap for workers in community-based providers.

### Commentary on the Fair Work Commission’s preliminary determination

22. We agree with the Fair Work Commission’s recognition that community sector workers paid in line with the SCHADS Award are often paid undervalued wages based on gender. However, we note that the determination will exacerbate rather than alleviate this problem for many workers in our sector.

23. The SCHADS Award is used as the benchmark for community legal sector wages and employment entitlements but currently does not helpfully describe the work of community legal sector workers. The complexity and diversity of work carried out by workers across a range of roles in our sector is not adequately recognised by the SCHADS Award in its current form. The SCHADS Award inappropriately links career advancement principally to the number of people being supervised rather than to other elements of leadership and high-level work.

24. We observe that the proposed classification draws mostly from aged care and disability frameworks, which do not reflect or easily map to the types of work and roles in our sector. The type of specialised and crucial work carried out by workers in the aged care and disability sectors is qualitatively very different to the type of work done by workers in the community legal sector. The solution to a classification system that is not fit for purpose is not to replace it with another similarly inappropriate classification system designed for an entirely different sector.

25. Rates of pay for workers in our highly feminised sector are already significantly below wages for comparable roles at public sector legal assistance providers, but the provisional decision in this matter will see salaries for some levels decrease further. The levels of the SCHADS Award most likely to drop – levels 3, 4, 5 and 6 – are the levels on which most community legal sector workers are paid.<sup>5</sup>

26. In the 2024-25 budget, the Commonwealth provided \$27.2 million to deliver a pay increase for community legal sector workers at community legal centres, Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention and Legal Services. This targeted injection was a first step towards pay parity with Legal Aid Commissions. Some state jurisdictions have similarly injected funds with the express purpose of increasing wages in the community legal sector.

27. In this context, a determination that pulls wages backwards for those same workers makes no sense and runs counter to government policy. The changes being proposed by the Commission fail to adequately reflect the professional expertise of community legal sector workers, undermine governments’ aim to support long-term viability of our sector by moving towards pay parity, and will increase the gender pay gap.

28. The Commission’s assurance that currently employed workers’ wages will not go backwards provides little to no reassurance to workers in our sector, for a few reasons:

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<sup>5</sup> Based on anecdotal evidence from our member centres’ job advertisements listed on our jobs board over recent years and supported by the wages ranges set out in chapter 8 of the NLAP Review.

- It is very common for workers to spend many years of their career in our sector, but only a few years at a time at each individual centre, often moving between organisations. The proposed changes will mean that many workers will be unable to move from one organisation to another without taking a pay cut.
- It won't make sense for our member centres to employ people in the same roles but on different wages within the same organisation.
- As outlined above, the community legal sector is desperately trying to fill vacant roles. Safeguards for current workers alone will not solve this problem. Exacerbating the difficulties in recruiting for vacant roles will also increase the pressure on current staff.

## Proposals

29. The Commission should ensure no community legal sector workers' wages are decreased. Workers in our sector are already underpaid. Any changes that further depress wages in our highly feminised sector will widen the gender pay gap, exacerbate community legal sector workforce attraction and retention issues that limit people and communities' access to crucial supports, and contradict a clear government agenda to reduce pay disparity.
30. We support the view of the Australian Services Union that Schedules B and C should be paused, and that current rates be maintained while an improved, fit-for-purpose classification structure is developed for the sector.