



# AFFORDABLE, ACCESSIBLE, FAIR CREATING A JUSTICE SAFETY NET

*The Greens' plan for equitable access to justice for all Australians*

Access to justice means Australians are able to seek legal assistance based on the merit of their claim – not the size of their wallet. A caring society ensures all Australians have a right to legal assistance when they need it, no matter who they are.

Equitable access to justice is a cornerstone of a modern caring democratic society. Without it, the rule of law is fatally weakened – only available to some members of society and not others.

Across Australia, courts and legal assistance services are under increasing pressure to meet demand and hundreds of thousands of Australians are being failed by a costly and complex legal system.

The Australian Greens believe that access to justice is the right of all Australians. Our plan is paving the way to a fairer, more equitable Australia.

## > SMARTER, FAIRER, MORE CARING

Unless we resource justice properly now, we will all pay for it down the track. Our plan responds to calls from the judiciary, practitioners, legal assistance advocates and other concerned Australians to urgently address chronic underfunding.

**The Australian Greens' plan for access to justice will include an investment of \$842.6 million over the forward estimates by:**

- **Increasing legal aid funding by 50%.**
- **Doubling funding to community legal centres.**
- **Doubling funding for Indigenous family violence prevention legal services.**
- **Increasing funding to Indigenous legal assistance services including Aboriginal and Torres Strait Islander Legal Services (ATSILS) by 50%.**
- **Addressing the impact of rising court fees by returning court fees to 2010-11 levels, amending the application form for exemptions from court fees to remove ambiguity and introducing a fee exemption category for clients who are being represented on a pro bono basis.**

## > INCREASING LEGAL AID FUNDING

The Greens recognise access to justice needs both resources and policies that overcome social, economic and cultural disadvantages to restore equality before the law. We understand the importance of legal aid services for the most disadvantaged and marginalised in our community; those who need, but cannot afford, access to private legal representation.

The Australia Institute estimates around 1.7 million Australians encounter a legal problem each year and almost half a million of those people will not receive legal advice because of financial reasons or lack of knowledge.<sup>i</sup> Legal costs are a heavy burden for Australians and many people turn to government-funded legal assistance services – only to find they are ineligible for support or face long waiting periods.

Unlike education and healthcare in Australia, there is no safety net for legal help and too many Australians remain marginalised by a legal system which is completely out of their reach.

The tight rationing of legal aid is leading to a situation where only the poorest and the richest Australians can ever hope to obtain legal representation – the many who sit in between often find the legal system inaccessible.<sup>ii</sup>

In recent years, we have seen Liberal state governments slashing funding to Legal Aid, putting pressure on the court system, leaving people unrepresented in serious trials and risking injustice.

That's why we are proposing a 50% increase in Commonwealth legal aid funding in 2014-15, to be maintained over the following three years. This funding increase will ensure that thousands more Australians are able to get the legal advice they need, making sure access to legal assistance does not become a privilege, but remains the right of all Australians.



## > DOUBLING FUNDING FOR COMMUNITY LEGAL CENTRES

Community legal centres are independent, non-profit, non-government organisations providing an integrated, community-based service focused on advice, problem solving and working with other agencies to address connected legal, financial, social and health problems.<sup>iii</sup> Over 80% of the people helped by community legal centres earn less than \$26,000 a year.

Some community legal centres specialise in assisting women, Aboriginal and Torres Strait Islander peoples, tenants or people with a mental illness to navigate the legal system.

Community legal centres are currently unable to meet increasing demand. According to survey results from Community Law Australia, 72% of community legal workers reported they were forced to turn clients away due to lack of resources and funding.<sup>iv</sup> Reports show that the shortage of legal services is one of the most significant issues facing the community sector, second only to housing shortages.

The Australian Greens recognise that some of Australia's most vulnerable people rely on the services provided by community legal centres. That's why we are committing to doubling funding to community legal centres in 2014-15 and maintaining that funding over the subsequent three years.

Increasing funding to community legal centres makes good economic sense – investment in legal services now will save money in the future. A 2006 study showed for every dollar spent on a community legal centre, the government saves \$100 at later points in the justice system.<sup>v</sup>

More importantly, increasing funding to community legal centres is about caring for and protecting Australian people. It's about people-focused, compassionate policy.

## > INCREASING FUNDING FOR INDIGENOUS PEOPLE'S LEGAL SERVICES

Statistics show legal problems are more prevalent among vulnerable groups, including Aboriginal and Torres Strait Islander peoples, the unemployed, single parents and those whose main income is a government payment.<sup>vi</sup>

Survey results from the Law and Justice Foundation of New South Wales show that Aboriginal and Torres Strait Islander people are more likely to experience multiple legal problems – including government, health and rights-related issues – and they are less likely to finalise their legal problems.<sup>vii</sup> This suggests Aboriginal and Torres Strait Islander Australians require greater levels of legal assistance in order to resolve their legal issues and achieve positive outcomes.

The poorest legal outcomes happen where people are unable to take appropriate action due to cost, stress or a lack of information. It is vital that we increase funding to Indigenous legal services so that more Aboriginal and Torres Strait Islander peoples have access to legal advice and representation. This will have a number of positive outcomes including addressing incarceration rates, which are currently 15 times higher for Indigenous Australians than the rest of the Australian population.<sup>viii</sup>

Our plan includes doubling funding to Indigenous family violence prevention legal services in 2014-2015. We will also increase funding to Indigenous legal assistance services, such as those provided by the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) by 50%.

The Greens believe all Australians have the right to legal assistance and to have their legal problems resolved in a fair and timely manner. We have an opportunity to improve outcomes for Aboriginal and Torres Strait Islander peoples through an increase in funding to legal services which work on their behalf. This is all part of creating a fairer system which benefits all Australians – not just those in privileged positions.

## > ADDRESSING RISING COURT FEES

A 2013 Senate Inquiry into the impact of rising federal court fees found the unprecedented increases to court fees in 2010 and 2013 'have inhibited access to justice in Australia'.<sup>ix</sup>

Evidence from academic experts, peak bodies in the legal profession and representatives of legal assistance providers showed increases in court fees have had practical impacts on individuals and families.<sup>x</sup>

The Greens' plan to improve access to justice addresses the Inquiry's recommendations.

We will invest \$137.7 million over the forward estimates to return Federal court fees to 2010-2011 levels, subject to indexation.

We will amend the application form for exemptions from paying court fees, in the Federal Court of Australia and the Federal Circuit Court of Australia, to remove any ambiguity concerning the ability of clients of Community Legal Centres to access a fee exemption.

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

The Greens believe it is merit, not income, which should determine whether people can seek redress through the courts. Our plan to return court fees to 2010-2011 levels will improve access to justice for a great number of Australians.



## > WHY OUR PLAN IS DIFFERENT

- **The current environment** for access to justice in Australia is bleak. The old parties are failing the hundreds of thousands of Australians who currently have unmet legal needs.
- **Access to the legal system is becoming less and less attainable** for many Australians, particularly Aboriginal and Torres Strait Islander Australians, the unemployed and single parents. Our plan is to make justice a reality for all Australians – not just those who can afford expensive legal representation.
- **The Greens** have a long-term commitment to access to justice. In 2013, we initiated a Senate Inquiry into the impact of Federal Court fee increases since 2010.
- **Our plan** will pave the way for more Australians to receive legal assistance and have help to solve their legal problems. The Greens remain a strong, caring, progressive voice for improved access to justice.

<sup>i</sup>The Australia Institute, *Justice for All* (2012), 2.

<<https://www.tai.org.au/file.php?file=../IP8%20Justice%20for%20all.pdf>>

<sup>ii</sup>The Australia Institute, *Justice for All* (2012), 1.

<<https://www.tai.org.au/file.php?file=../IP8%20Justice%20for%20all.pdf>>

<sup>iii</sup>Community Law Australia, *Unaffordable and out of Reach: The Problem of Access to the Australian Legal System* (2012), 6.

<[http://www.communitylawaustralia.org.au/wpcontent/uploads/2012/07/CLA\\_Report\\_Final.pdf](http://www.communitylawaustralia.org.au/wpcontent/uploads/2012/07/CLA_Report_Final.pdf)>

<sup>iv</sup>National Association of Community Legal Centres, *Poor funding means too many turned away from free legal help* (2013)

<[http://www.naclc.org.au/cb\\_pages/news/Poorfundingmeanstoomanyturnedawayfromfreelegalhelp.php](http://www.naclc.org.au/cb_pages/news/Poorfundingmeanstoomanyturnedawayfromfreelegalhelp.php)>

<sup>v</sup>Institute for Sustainable Futures, *The Economic Value of Community Legal Centres* (2006), 4.

<<http://www.isf.uts.edu.au/publications/edgertonpartridge2006economicvalue.pdf>>

<sup>vi</sup>Law and Justice Foundation of New South Wales, *Legal Australia-Wide Survey: Legal need in Australia report* (2012).

<[http://www.lawfoundation.net.au/ljf/site/templates/LAW\\_AUS/\\$file/LAW\\_Survey\\_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf)>

<sup>vii</sup>Law and Justice Foundation of New South Wales, *Legal needs of Indigenous people in Australia* (2013), 2.

<[http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/\\$file/UJ25\\_Legal\\_needs\\_of\\_Indigenous\\_people\\_FINAL.pdf](http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/$file/UJ25_Legal_needs_of_Indigenous_people_FINAL.pdf)>

<sup>viii</sup>Australian Bureau of Statistics, *Prisoners in Australia* (2012), 8.

<[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/24B61FAA213E5470CA257B3C000DCF8A/\\$File/45170\\_2012reissue.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/24B61FAA213E5470CA257B3C000DCF8A/$File/45170_2012reissue.pdf)>

<sup>ix</sup>Senate Legal and Constitutional Affairs References Committee, *Impact of federal court fee increases since 2010 on access to justice in Australia*, Chair's recommendations (2013), 49.

<[http://www.aph.gov.au/parliamentary\\_business/committees/senate\\_committees?url=legcon\\_ctte/court\\_fees/report/report.pdf](http://www.aph.gov.au/parliamentary_business/committees/senate_committees?url=legcon_ctte/court_fees/report/report.pdf)>

<sup>x</sup>Senate Legal and Constitutional Affairs References Committee, *Impact of federal court fee increases since 2010 on access to justice in Australia*, Chair's recommendations (2013), 49.

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