



**The Law Society**  
OF SOUTH AUSTRALIA

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# STATE ELECTION PLATFORM

**2026**



# Acknowledgement of Country

We acknowledge that we work on the traditional lands of the Kurna people, the original custodians of the Adelaide Plains and surrounding areas.

We pay our respects to their Elders past, present and emerging, and recognise their ongoing cultural and spiritual connection to this land.

We acknowledge the Kurna peoples' resilience in the face of historical injustice and their continuing contributions to the richness and diversity of this city.

We commit to fostering genuine reconciliation between First Nations and non-Indigenous Australians.



**The Law Society**

OF SOUTH AUSTRALIA

The Voice of the Legal Profession

# KEY ASKS

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## 1. Court resourcing

- Upgrade court infrastructure, technology, and access (including implementing the recommendations of the Royal Commission into Domestic, Family and Sexual Violence)
- Reduce court transcription costs
- Fund and train interpreters
- Enhance mediation services in courts

## 2. Legislative reform

- Implement a Human Rights framework
- Enhance legislative transparency and accountability
- Update the *Powers of Attorney and Agency Act 1984*
- Decriminalise sex work
- Implement recommended reforms to address harassment in the legal profession

## 3. Criminal justice

- Re-establish the Criminal Justice Taskforce
- Create a fairer Victims of Crime compensation scheme
- Build bail and post-release accommodation
- Enhance rehabilitation programs
- Implement the Optional Protocol to the Convention Against Torture

## 4. Youth justice

- Increase funding for youth diversionary programs
- Establish a Youth Justice Advisory Committee
- Fund a Nunga Court in the Adelaide Youth Court
- Raise the Minimum Age of Criminal Responsibility

## 5. Supporting the local profession

- Implement a policy for the procurement of legal services

## 6. Access to justice in regional areas

- Increase public funding to enhance access to legal services for people in regional, remote and rural areas

# EXECUTIVE SUMMARY

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The Law Society of South Australia is the peak body for the State's legal profession, representing more than 4,000 legal practitioners. As the voice of the profession, the Law Society has a duty to deliver robust, considered, and consistent advocacy on behalf of the profession.

The Law Society also has an important community-focused function, informing the public about important legal matters and advocating on issues that are in the interests of the community, such as enhancing access to justice and protecting people's fundamental rights.

The consequences of insufficient investment in the justice system over successive government terms are significant: major delays in resolving legal disputes and finalising criminal prosecutions; a lack of action on critical law reform affecting society's most vulnerable; young people cycling in and out of the criminal justice system without adequate support; and a local legal profession that is falling behind other states in terms of growth, to the detriment of the local economy.

Furthermore, the justice system faces profound new challenges, such as the rise of artificial intelligence, increased cybersecurity risks, and the proliferation of disinformation, which require significant investment to adequately address and to ensure that the community is served by an independent, fair, and efficient system of justice.

With the 2026 State Election approaching, this is a critical moment for our elected officials to map out a vision for a justice system that faithfully upholds the fundamental principles that hold society together and ensures everyone can exercise their basic right to seek justice, regardless of their circumstances.

# EXECUTIVE SUMMARY

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The Law Society has outlined its State Election priorities for the justice system, summarised as follows:

- Invest significantly in youth justice, by increasing funding for diversionary and intervention programs for at-risk young people, establishing a Youth Advisory Committee, creating a Nunga courtroom in the Youth Court, raising the minimum age of responsibility to 14, and developing bail mentoring programs for children.
- Develop a procurement policy for legal services delivered by South Australian businesses.
- Build a modern, fit-for-purpose District Court facility; provide critical disability access and technology upgrades to court buildings; and make infrastructure improvements in line with the recommendations of the Royal Commission into Domestic, Family and Sexual Violence.
- Reduce barriers to courts by mitigating transcript costs, increasing interpretive and translation resources, and expanding mediation services in courts.
- Implement important and overdue legislative reforms, such as establishing a Human Rights Act, overhauling the *Powers of Attorney and Agency Act*, and decriminalising sex work.
- Implement key recommendations from Equal Opportunity SA's two reports into sexual harassment in the profession.
- Re-establish the Criminal Justice Ministerial Taskforce to provide recommendations for improving the operation of the criminal justice system.
- Invest in the corrections system to build bail and post-release accommodation for women in the correctional system; enhance rehabilitation services for people while they're on non-parole periods and for those on reman; and implement legislation related to the Optional Protocol to the Convention Against Torture (OPCAT) in South Australia.
- Increase public funding to enable legal assistance services and private practitioners to provide legal services to people in regional, remote and rural areas

# COURT RESOURCING

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## Key asks

### Improve court infrastructure, technology, and access

- Major upgrades to the Supreme Court Building to ensure it can accommodate a spillover from the District Court in the event that the Sir Samuel Way Building's infrastructure cannot accommodate the volume of matters coming through the system.
- A building assessment of the Sir Samuel Way Building, the results of which will inform a plan to significantly overhaul the Sir Samuel Way Building or build a new District Court facility that is fit for purpose and safe for court users.
- In the immediate term, implement Recommendations 114, 115, 116, and 117 of the Royal Commission into Domestic, Family and Sexual Violence.
  - **Recommendation 114:** The South Australian government resource the Courts Administration Authority to establish vulnerable witness suites with appropriate technology, infrastructure and staffing in a non-court building in metropolitan Adelaide.
  - **Recommendation 115:** The South Australian government undertake an audit of existing government buildings to identify opportunities to establish vulnerable witness suites in regional locations with a court presence.
  - **Recommendation 116:** The South Australian government resource the Courts Administration Authority to develop domestic, family and sexual violence safety standards for court infrastructure, informed by the Commissioner for Victims' Rights and victim-survivors with lived experience of the justice system. The new minimum safety standards should be used to inform a 10-year capital works plan.
  - **Recommendation 117:** The South Australian government establish a capital infrastructure fund for the Courts Administration Authority to meet the minimum standards via a staged approach.

# COURT RESOURCING

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## Key asks

### Reduce court transcription costs

- Commitment to waiving court transcript fees for all parties when provided electronically.
- In the alternative, transcript fees be reduced on a “budget-only” basis with an immediate reduction of 35% in court transcript fees for digital copies of transcripts.

### Fund and train interpreters

- Commitment to funding more interpreters and translators arranged by Courts.
- Funding for training and upskilling of indigenous interpreters.

### Enhance mediation services in courts

- Commitment to increase funding to the Courts Administration Authority specifically for the provision of increased mediation services and resourcing for mediation facilities.



## The issues

### **Improve court infrastructure, technology, and access**

South Australia's metropolitan courts precinct is simply unfit for purpose. The ageing infrastructure of South Australia's court buildings has been well-documented. The Sir Samuel Way Building in particular is approaching the end of its natural life, and the Society is not aware of any plans to future-proof the justice system when the District Court facility becomes structurally unviable.

The Society has previously and repeatedly identified serious deficiencies in the State's court buildings, particularly a lack of disability access, a lack of privacy due to bleak, cramped, and insufficient interview and waiting rooms, and unreliable audio-visual technology. These issues have also recently been highlighted in the Report of the Royal Commission into Domestic, Family and Sexual Violence which made a number of recommendations to upgrade the State's Court facilities in line with domestic, family, and sexual violence safety standards.

The State's Court buildings are not equipped to sufficiently manage demand. For example, the Society understands that major trials are forced to be delayed because the Courts cannot accommodate two multi-defendant trials at the same time.

If – or when - the Sir Samuel Way Building deteriorates to a condition that it is no longer usable, there are no other facilities equipped to hold jury trials.

## The issues

### Reduce court transcription costs

The cost of obtaining court transcripts remains a significant and long-standing problem that has serious consequences for court users. For example, the cost of a transcript for a one-week criminal trial can exceed \$10,000 – an expense typically borne by the client.

According to the Independent Auditor's Report for the Courts Administration Authority (CAA), in FY24 the CAA generated \$2,338,000 from transcript fees, up on \$1,796,000 in FY23. However, this income is not necessarily invested back into the courts, given the income is transferred to the State's consolidated account.

The Society strongly advocates for the complete waiver of transcript fees, due to the following concerns:

- the fees are prohibitive and create a significant barrier to access to justice;
- the fees create an unacceptable and unfair imbalance between parties where only one party is well funded; and
- transcripts are already produced and made available to the judiciary – meaning there is no additional cost incurred in passing the transcript on to parties electronically or by email.

The Society understands that some tribunals, including the South Australian Employment Tribunal, do not charge a fee for obtaining the transcript.

With advancements in technology, there are growing opportunities to reduce the cost of producing the transcript. Given that the transcript is already produced for the judiciary, the Society maintains that there should be no charge for sending transcripts electronically to legal practitioners or their clients.

## The issues

### Fund and train interpreters

Interpreters are fundamental to access to justice, particularly in the court setting. Where an interpreter is required, that will usually be by an individual who is at a disadvantage in a linguistically unfamiliar court setting.

Generally, if a party needs an interpreter that they or their witness may require, they arrange it themselves, although if a party cannot afford an interpreter the court may be able to arrange one.

The Society notes that there are many examples where a party may be legally represented but unable to afford the cost of an interpreter, including for example where they are:

- legally aided;
- funded by a community legal service;
- being represented at reduced fee or pro bono;
- on a middle / low income and narrowly miss the cut off for legal aid funding; or
- on a “deferred fee” payment arrangement.

Specifically, the Society understands that there is a significant shortage of Indigenous interpreters in court matters, which severely restricts access to justice for Indigenous clients. There are more than 40 different languages spoken within SA’s Indigenous community (with four languages considered “strong” according to the Aboriginal Lands Parliamentary Standing Committee), and specific cultural customs and practices that pertain to different Indigenous groups. It is important that the justice system acknowledges these complexities and that the system has access to interpretive services that can accommodate the particular needs of individual clients.

The Society acknowledges cultural issues can provide challenges in obtaining suitable interpreters, and considers the greatest issue is the lack of funding for the training and upskilling of Indigenous interpreters, as well as education to regular participants in court proceedings (including judges, court staff, and lawyers) with regards to best practice in providing interpretative services for Indigenous clients.

## The issues

### Enhance mediation services in courts

Additional funding to fund mediation services being available at all State Courts to meet increasing demand.

Mediation services have a role to play in providing support to overloaded courts and tribunals. Court users routinely have to face issues of cost, delay and uncertainty of outcome. All too often the cost of running to trial is disproportionate to the amount in dispute. Advancing matters to mediation in the first instance would have the benefit of streamlining matters towards resolution, and narrowing the matters in dispute.

Mediation is conducted by accredited mediators who have received formal training and are accredited in accordance with national mediation accreditation standards.

The District Court and Supreme Courts have made, in recent years, greater availability of judicial resources for mediation (as well as the provision of improved facilities such as the mediation suite). However, there is a backlog in accessing mediation services, which could be addressed by funding additional mediators for Court-ordered mediations.

As well as increasing the number of mediators available, it is important to provide adequate facilities (rooms) for mediation to be conducted.

# LEGISLATIVE REFORM

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## Key asks

### Implement a Human Rights framework

- Enactment of a Human Rights Act.
- Establish a joint Human Rights Scrutiny Standing Committee of the Parliament, with a mandate to examine all Bills and subordinate legislation for compliance with identified human rights (this could also be achieved by amending the existing Terms of Reference for the Legislative Review Committee to include a specific focus on the human rights identified).
- Introduce a requirement to provide a Statement of Compatibility with Human Rights for all proposed bills and subordinate legislation.
- Establish a Charter of Rights Select Committee of the Parliament to consult with South Australians and draft a legislative Charter of Rights.
- Implement corresponding updates to the *Equal Opportunity Act* to implement important recommendations from State and national reviews such as the positive duty to take reasonable measures to eliminate sexual harassment and discrimination.
- Establish a new combined office/commission of Human Rights and Equal Opportunity SA that is properly funded.



# LEGISLATIVE REFORM

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## Key asks

### Enhance legislative transparency and accountability

- Commitment from parties to undertake proper consultation with stakeholders, including the Law Society, on proposed legislative reform and regulation, and including referral by Parliament to the Legislative Review Committee and Social Development Committee as appropriate.
- Increase funding to ensure the Legislative Review Committee is adequately resourced to carry out its scrutiny functions.

### Update the *Powers of Attorney and Agency Act 1984*

- Commit to reforming the *Powers of Attorney and Agency Act 1984* in line with the recommendations included in SALRI's 2020 report.

### Decriminalise sex work

- The Government commits to the full decriminalisation of sex work, and engages in community consultation that examines how to most effectively implement a full decriminalisation model.

# LEGISLATIVE REFORM

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## Key asks

### Implement recommendations of the Equal Opportunity Commissioner's 2021 Review into harassment in the profession

- That the following recommendations from the 2021 review into harassment in the profession be immediately adopted by the Government:
  - *The amendment of the Equal Opportunity Act 1984 (SA) to impose a positive duty upon employers to take reasonable and proportionate measures to eliminate discrimination, sexual harassment, and victimisation.*
  - *The amendment of the Legal Practitioners Act 1981 (subject to appropriate consultation) to empower the Legal Profession Conduct Commissioner to conduct compliance audits and issue management system directions.*
  - *The amendment of section 93(2) of the Equal Opportunity Act 1984 to increase the time limits within which a complaint may be made.*

# LEGISLATIVE REFORM

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## Key asks

### Implement recommendations of the Equal Opportunity Commissioner's 2024 Review into harassment in the profession

- That the following recommendations from the 2024 review into harassment in the profession be immediately adopted (subject to consultation as to the optimal formulation) by the Government:
  - Amending the *Legal Practitioners Act 1981* to provide the Legal Profession Conduct Commissioner (LPCC) with powers (subject to appropriate review processes) to make interim orders imposing conditions on practising certificates where a legal practitioner poses a serious risk, or where it is otherwise in the public interest.
  - Amending the *Judicial Conduct Commissioner Act 2015 (SA)* to:
    - require the Judicial Conduct Commissioner to establish and publish guidelines on judicial conduct, having regard to national standards;
    - empower the Judicial Conduct Commissioner to investigate allegations of misconduct after a judicial officer has left their position, and to provide records to the LPCC if an investigation does not proceed.
  - Amending the *Legal Practitioners Act 1981 (SA)* to:
    - require that where the Law Society refers a matter to the LPCC, the complainant is advised of the referral and any other action taken, unless they request otherwise.

## The issues

### Implement a Human Rights framework

The Social Development Committee of State Parliament has tabled a unanimous report recommending the enactment of a Human Rights Act in South Australia. The Committee was comprised of members of a cross-section of parties, and unanimously recommended that:

- the various rights and protections across the State’s legislative instruments are consolidated into one comprehensive Human Rights Act;
- the Equal Opportunities Commission is transitioned to a Human Rights Commission; and
- a comprehensive consultation with the South Australian community is conducted on the model of Human Rights Act to be adopted.

The above aligns with the Law Society’s Policy Position “A Human Rights Framework for all South Australians”.

This framework would act as the foundation upon which laws would be made, by requiring that our lawmakers demonstrate that any laws they propose are compatible with fundamental human rights. It would be guided by the principles outlined in the Law Council of Australia’s Federal Human Rights Charter Policy Position (2020) and developed in consultation with the South Australian community.

The adoption of such a framework would be of great assistance in not only codifying the human rights that South Australians collectively consider to be important, but in ensuring such rights are given due consideration when laws or decisions are made about their lives. It would help to ensure that all South Australians are able to enjoy their human rights on an equal basis with each other. Creating a human rights framework won’t be an easy task but it is an important one.

## The issues

### Enhance legislative transparency and accountability

Transparency and accountability are critical in the development of draft legislation.

Where draft legislation is not properly scrutinised, it can at best cause confusion and, at worst, injustice and arbitrary interpretation. In some cases it might require remaking of or subsequent amendment to the Act or Regulations.

The Legislative Review Committee of the South Australian Parliament plays a critical role in reviewing and critiquing subordinate legislation, ensuring that the making of laws is transparent and accountable. The Society considers it critically important that key pieces of legislation which attract significant stakeholder feedback should be scrutinised by the Legislative Review Committee and supports proper and adequate resourcing for the Committee to undertake this important work.



## The issues

### Update the *Powers of Attorney and Agency Act*

The *Powers of Attorney and Agency Act 1984* has not been updated in over 40 years.

The Act provides for general powers of attorney and enduring powers of attorney, and makes other provision relating to powers of attorney and agency. Powers of attorney afford individuals autonomy and allow for the protection of one's financial and property interests, yet are also ripe for abuse.

Across 2020/21, the South Australian Law Reform Institute (SALRI), in consultation with the community and various stakeholders, conducted a review of the powers of attorney laws in South Australia. The report made 120 recommendations to clarify and improve the use and operation of powers of attorney.

Some of the report's key recommendations addressed concerns of financial abuse disproportionately affecting vulnerable adults (notably, older persons, persons with cognitive impairment, people with disability, persons of Aboriginal background, and culturally diverse persons), and laid out given evidence of attorneys acting against the interests of vulnerable persons they were entrusted with acting on behalf of.



## The issues

### Update the *Powers of Attorney and Agency Act* (continued)

In October 2021, then Attorney-General Vickie Chapman MP tabled an exposure draft Bill in the House of Assembly to repeal the original Act and implement a majority of the recommendations from SALRI's report.

During the consultation process, the Society's Succession and Elder Law, Country Practitioners', Property Law, and Administrative and Public Law Committees all broadly supported reforms to modernise the powers of attorney legislation, but noted further areas of important reforms not included in the draft Bill.

There has been no progress on updating the powers of attorney legislation since the consultation process initiated in 2021. The extensive feedback from the community and findings of the SALRI report underscore the urgent need for reforming the *Powers of Attorney Act* to protect the most vulnerable members of the community and ensure the proper use of these powers.



## The issues

### Decriminalise sex work

There have been several attempts over the past decade to reform sex work laws. Proposals have ranged from introducing a Nordic model, where the purchaser of sex work is criminalised, a spent convictions scheme to help sex workers exit the industry, to a full decriminalisation model.

The Law Society adopted a position in favour of full decriminalisation in 2016, and reaffirmed this position in 2023. The position was informed by the Society's Criminal Law, Industrial Relations and Women Lawyers Committees, and endorsed by the Society's Council. In the Law Society's view, decriminalisation of sex work is long overdue and is necessary to provide sex workers with basic workplace rights and improve the safety of those in the industry.

The criminalisation of sex work means that sex workers do not have fundamental workplace rights and protections. It also creates a stigma that creates a barrier for sex workers to seek medical, psychological, legal, or police assistance.

Sex workers should be able to access the same health and employment protections as any other worker. Sex workers should also be able to rely on law enforcement for protection, rather than be afraid to seek assistance due to the fear of being criminalised.

The decriminalisation of sex work would also facilitate the prosecution of those who have committed physical and sexual abuse against sex workers.

The Law Society acknowledges that people, mostly women, enter the sex industry via many paths, and that a portion of those in the industry have been subject to some form of coercion. In the Society's view, any form of criminalisation of the sex work industry inhibits law enforcement efforts to investigate and prosecute the abuse and mistreatment of people within the industry, while also stigmatising and marginalising those who choose to work in the industry.

## The issues

### **Implement the recommendations of the Equal Opportunity Commissioner's reviews into sexual harassment in the profession**

Equal Opportunity SA's Report into sexual harassment in the profession, released in January 2025, highlighted the ongoing issue of bullying, discrimination and sexual harassment within the legal profession.

While acknowledging progress, the Report underscores the need for continued efforts to eliminate these harmful behaviours. The Law Society is committed to a zero-tolerance approach and calls on the Government to implement the recommendations of this report, and the previous 2021 report, to address issues addressed in both reports.

A number of the Report's recommendations are aimed at implementing policies, procedures and protocols to address cultural hazards that enable mistreatment to persist. Several recommendations also involve establishing robust vetting measures to ensure legal practitioners being considered for senior counsel or judicial positions have consistently demonstrated respect and courtesy to colleagues.

The Law Society has previously corresponded with the Government, asking that, as a matter of propriety, it implements specific recommendations from both the 2021 and 2024 reports.

# CRIMINAL JUSTICE SYSTEM

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## Key asks

### Create a fairer Victims of Crime compensation scheme

- Repeal of section 20(3)(a)(i) of the *Victims of Crime Act 2001* so that the arbitrary reduction in financial loss compensation is removed.
- The cap on legal costs for practitioners undertaking victims of crime matters be increased to \$2,500 (indexed) per claim.
- Judicial discretion to waive or reduce Victims of Crime levies in circumstances of serious financial hardship.

### Re-establish the Criminal Justice Taskforce

- Re-establish the Criminal Justice Ministerial Taskforce and commit to meeting at least quarterly to review the operation of the criminal justice system, provide feedback on proposed criminal reforms, and make recommendations to improve the operation of the system and justice outcomes for parties.
- Develop terms of reference for the Taskforce that examines the performance of all stakeholders (including police, prosecution, courts, corrections, rehabilitation services), collects relevant data relating to the criminal justice system; regularly reports on performance indicators of the system; and facilitates consultation to identify strategies to improve the criminal justice system, particularly in terms of addressing court delays, enhancing access to justice, and upholding procedural fairness.
- Provide the Taskforce with the resources and powers to map the causes of delay in the criminal justice system, analyse data, receive regular feedback from Taskforce members and other stakeholders about pain points in the system, and produce practical recommendations for reducing delays.

# CRIMINAL JUSTICE SYSTEM

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## Key asks

### Build bail and post-release accommodation

- Commit to building bail and post-release accommodation for women, including the provision of funding to enable Seeds of Affinity to offer its accommodation to women on bail and exiting custody. This funding must cover staff to supervise and support women to find long-term accommodation and to operationalise the service.
- Increase investment in services to support women who exit custody to:
  - access secure, affordable housing.
  - access services to treat mental health and addiction issues.
  - access parenting and child welfare resources that prioritise the best interests of the child.
- Commitment to investing in transitional accommodation in regional areas for Indigenous women exiting prison.
- Investment in temporary, transitional and longer-term accommodation options for adults being released from prison (including on bail and remand). This should include accommodation that provides immediate access to safe places post-release, and access to vital civil and social services
- Investment in transport infrastructure to enable recently released prisoners to access safe accommodation and essential services.

# CRIMINAL JUSTICE SYSTEM

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## Key asks

### Enhance rehabilitation programs

- Increase access to rehabilitation programs for people on remand, by increasing funding and removing any policy that prevents access prior to sentencing including enabling access on a “no admission” basis.
- Commit to ensuring that, where prisoners serve the non-parole period of their sentence on remand, prisoners are offered the opportunity to undertake targeted rehabilitation program(s) prior to exiting prison.

### Implement the Optional Protocol to the Convention Against Torture

- Commit to widely consulting on a new OPCAT Bill and subsequently implementing legislation to give effect to the Optional Protocol to the Convention Against Torture (OPCAT) in South Australia.



## The issues

### Create a fairer Victims of crime compensation scheme

The Victims of Crime Scheme is close to crisis point. There has been a drastic reduction in practitioners taking on victims of crime matters. In regional areas, victims of crime practitioners are almost non-existent, despite significant demand. On top of this, victims eligible under the scheme are subject to an arbitrary discount on economic loss compensation. These factors mean that victims of crime who have no other recourse for recompense are struggling to access the compensation they need and deserve.

Currently under Section 20(3)(a)(i) of the *Victims of Crime Act 2001*, when victims are awarded a level of compensation based on their economic loss and medical expense payments, they will receive the first \$2000 in full, plus 75% of the remainder of their compensatory award. This 25% reduction is an arbitrary and unjustified reduction in entitlements.

Some real-life examples of the unfair and potentially devastating impact of the current compensation formula include:

- a victim suffered multiple stab wounds to the body resulting in widespread residual scarring to the body and facial region. The estimation for scar revision surgery was \$15,000. Due to the application of the formula (allowing recovery of \$2,000 plus 75% of the balance) the victim was left with a shortfall of \$3,250 for the surgery;
- a victim suffered dental injuries following an incident of domestic violence. The cost of relevant implant and crown procedures was estimated at \$19,000. After the application of the formula the victim was left with a shortfall of \$4,250 for the surgery; and
- a victim suffered a loss of income totalling \$28,000 after tax. After the application of the formula the victim was left with a shortfall of \$6,500 for loss of wages.

The 2023-24 annual report of the Attorney-General's Department indicated that the Victims of Crime fund is sitting on \$227 million, a \$17 million increase from the previous year. The fund's main purpose should be to fairly compensate victims for pain and suffering and financial loss.

## The issues

### Re-establish the Criminal Justice Ministerial Taskforce

The Criminal Justice Ministerial Taskforce was a quarterly meeting that comprised the Attorney-General, members of the Judiciary, members of the ODPP, members of SAPOL, representatives of the Law Society, and others, to discuss important developments and proposals in the criminal justice system. The last meeting was in April 2024, but it appears to be discontinued.

This Taskforce was an important mechanism for reviewing the effectiveness of the criminal justice system and criminal laws, as it gave the legal profession a direct line to government, facilitating the sharing of information and insights about the criminal justice process, and making recommendations to improve the criminal jurisdiction for all parties. The Society considered the Taskforce an important review and accountability tool, and is concerned that without input from the profession and other users of the system, the system will not operate as well as it should.

In the Society's view, there have been many instances of criminal legislation being passed without adequate consultation by the current and former governments, giving rise to a number of oversights that could have been ironed out prior to the introduction and passage of legislation. This places a considerable burden on stakeholders such as the Society and existing oversight mechanisms such as the Legislative Review Committee to raise and ventilate these concerns during the Parliamentary process.

Some examples include:

- Laws to electronically monitor suspected arsonists that did not include a mechanism for interim orders to be made, therefore creating considerable delay in the application and enforcement of such orders, meaning that persons of interest may be subject to monitoring orders well after the bushfire season has passed.
- Laws to implement youth treatment orders, which impose mandatory drug treatment for young people, against the advice of medical experts.

# CRIMINAL JUSTICE SYSTEM

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- Including a presumption against bail to an increasing number of offences with a view to responding to community sentiment, forcing a judicial officer's hand instead of having the option to consider and give due weight to the complicated circumstances before them.
- Regulations to allow police security officers to carry out certain functions of police officers, but which abrogate arrest rights, meaning a person apprehended by a police security officer does not have to be informed of their arrest rights until they are delivered to a police officer.
- Amendments to the regime for confiscating vehicles in South Australia which revoked the ability to enter into a payment plan and penalised the owner (rather than driver) of the vehicle, having the potential to impact financially disadvantaged South Australians.
- The introduction of laws to allow e-scooters on roads, without licensing requirements, insurance obligations, or design standards for e-scooters, and without distinguishing between e-scooters that can travel up to 10kph on footpaths and those that can travel 25kph on roads, thus creating significant challenges in policing e-scooter use in pedestrian environments.

Another critical issue within the criminal justice system is the increase in court delays. South Australian courts are experiencing the longest delays in the country, causing distress, uncertainty, anxiety and frustration to victims, witnesses, defendants and other Court users.

Complex matters such as Operation Ironside and other multi-defendant matters have exacerbated the delays. The impact of delays in forensic analysis has been particularly profound, and with a new forensics facility not due for completion until 2030, backlogs are likely to balloon even further unless urgent action is taken to address these delays.

# CRIMINAL JUSTICE SYSTEM

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The Law Society understands there is a chronic shortage of bail accommodation for women, particularly Indigenous women.

This is despite the State Government recently revealing that an extra 34 beds, in addition to a new 40-bed facility already being constructed, will be built to boost the capacity of the Adelaide Women's Prison by 29 per cent.

As it stands, there are only four available beds at Catherine House for women on bail. Women on home detention bail and women charged with aggravated offences are ineligible for these beds. To have just four beds available for women on bail, and for these beds to be conditional, is in the Law Society's view completely unacceptable and not only creates a cycle of re-offending but puts women at significant risk of serious harm.

Further, Port Augusta has a transitional accommodation facility for Indigenous men, but there is no equivalent facility for Indigenous women.

Many women who leave prison or who are granted bail do not have stable housing to go to. This means they are either released into homelessness or into a dangerous home environment (a significant proportion of women on remand have been victims of domestic violence) or remanded in custody due to lack of accommodation options.

## The issues

### **Build bail and post-release accommodation (continued)**

South Australia has the highest percentage of unsentenced female prisoners in Australia, with more than 60 per cent of female prisoners on remand.

There are a significant number of inmates in Adelaide Women's Prison who could be out on bail or parole if they had suitable accommodation. There is limited crisis and transitional accommodation for women who are released from prison, and the housing crisis exacerbated this problem, as those in transitional accommodation struggle to find a private rental.

Last year, the State Government supported Seeds of Affinity – a non-profit organisation that supports women in and leaving prison - to acquire its own premises. The facility has 15 single rooms with bathrooms, but the Government has not provided the funding to enable these rooms to be used to house women in crisis.

The upshot is that there are women who are exiting prison and sleeping rough, or returning to a place where they have suffered abuse, or simply unable to access a transitional accommodation service to help them secure long-term affordable housing.



## The issues

### Enhance rehabilitation programs

In November 2023, the Justice Reform Initiative reported that in South Australia 45% of adults in prison are on remand. South Australia has the highest percentage of unsentenced female prisoners in Australia, with more than 60% of female prisoners on remand.

The Society is concerned by reports of prisoners being unable to access rehabilitation programs before their non-parole period expires and being released at the end of their head sentence without completing a rehabilitation program. It is important that those in custody and on remand have timely access to rehabilitation services to improve reintegration into society and reduce re-offending.

The Society understands that it is difficult to access rehabilitation programs while on remand, as these limited services are prioritised for prisoners with serious offences and longer prison sentences. It is understood rehabilitation programs in South Australian prisons are generally prioritised for sentenced prisoners, particularly those serving longer or more serious sentences. Offenders are assessed for program eligibility only after sentencing and an individualised sentence plan is developed at that point. This means that an individual held on remand who has not yet been convicted are often excluded or not eligible for therapeutic or offence-specific programs.

Where offered, programs for individuals on remand are limited, basic and generalised – for example, basic literacy and numeracy, or sobering up programs. Offence-specific programs are generally not offered to prisoners until they are convicted of an offence. When individuals serve their sentence while on remand, they often do so without access to rehabilitation or intervention programs. As a result, they may be released having received (or the opportunity to receive) no support or services aimed at addressing their offending behaviour.

## The issues

### Implement the Optional Protocol to the Convention Against Torture

The United Nations Optional Protocol to the Convention Against Torture (OPCAT) reaffirms that torture and other cruel, inhuman or degrading treatment or punishment constitute serious violations of human rights.

Australia has ratified the OPCAT however South Australia has yet to implement the protocol to protect people against mistreatment in detention.

The OPCAT calls for the protection of prisoners against torture and other cruel, inhuman or degrading treatment or punishment, by non-judicial means of a preventive nature, based on regular visits to places of detention.

The OPCAT Implementation Bill 2021 (SA) was introduced in August 2021. As the name suggests, the purpose of the OPCAT Bill was to implement the OPCAT in South Australia. The OPCAT Bill passed the House of Assembly but lapsed with the proroguing of Parliament. While the Society supports the introduction of an OPCAT legislation, the Society had some concerns about the 2021 Bill and recommends consultation with key stakeholders prior to introducing a new Bill.

OPCAT offers a proactive, transparent, and internationally accountable, approach to preventing torture and ill treatment, in places of detention. However, absent local implementation, these protections remain unavailable to South Australians.

# YOUTH JUSTICE

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## Key asks

- A significant increase in investment, secured on an ongoing basis in youth diversionary and early intervention programs designed to keep young people out of the criminal justice system and out of youth detention.
- Establish a Youth Justice Advisory Committee with a six-month reporting time frame to review youth offending and legislative and policy responses.
- The Advisory Committee should include:
  - Guardian for Children and Young People.
  - Commissioner for Children & Young People.
  - Commissioner for Aboriginal Children & Young People.
  - A representative from SAPOL.
  - A representative from the Law Society.
  - A representative from the judiciary.
  - A representative from SACOSS.
  - A representative from the Attorney-General's office.
- Commit to funding for a culturally appropriate Nunga courtroom within the Adelaide Youth Court.
- Raise the Minimum Age of Criminal Responsibility for criminal responsibility from 10 years to 14 years, by amending section 5 of the *Young Offenders Act 1993 (SA)*.
- Establish bail mentoring programs for children in the criminal justice system.

## The issues

Investing in the future of the State's vulnerable and disadvantaged children has never been more critical. The current term of Parliament has seen numerous reforms to address youth crime and several reports into our youth justice and child protection systems.

The Law Society is particularly concerned that legislative reform targeted at youth crime could significantly increase the number of children in detention and notes that the cost of implementing the punitive measures of the legislation far exceeds any recent additional spending on programs aimed at addressing the root causes of youth offending.

The Law Society understands that the youth detention system is already stretched beyond functional capacity and recent reforms will add to pressure in the detention system rather than addressing diversionary measures which the Society considers are key to reducing criminality.

Breaching a bail agreement is the most common youth crime in South Australia. An ongoing cycle of young people being arrested and kept in police custody for breaching a bail condition, such as contacting certain family members or friends, tends to further entrench young people in the criminal justice system, especially if they do not receive support to address the root causes of their conduct. A revolving door of punishment and release for disadvantaged children who lack any stability in life will more than likely set them up to fail.

## The issues

The Law Society understands there are a cohort of young people who cycle in and out of detention, but do not receive holistic intervention or diversionary support. It is essential that, if a child comes into contact with the criminal justice system, especially if that child is a repeat offender, they can receive intensive intervention and diversionary support. The government's discussion paper in 2024, "Minimum Age of Criminal Responsibility – alternative diversion model," proposed raising the age of criminal responsibility and establishing an alternative diversion model for at-risk children who engage in harmful behaviours. This included the establishment of "safer places" where children can be taken by police in the event of the commission of anti-social or harmful behaviour, with strict limits as to the length of time a child can be held in a "safer place".

The government has since advised that raising the age of criminal responsibility is no longer a priority, and has not advised on any progress made in relation to its alternative diversion model.

The Law Society strongly supports a non-custodial but intensive and multi-disciplinary diversionary approach that provides holistic support for children, but also has mechanisms to keep children accountable for their behaviour and monitors the impact of these programs on their behaviour.



## The issues

Recent legislative reforms disproportionately affect children in care and Indigenous youths. Some of the Society's key concerns include:

- a presumption against bail in certain cases, which would likely substantially increase the number of children in detention.
- fixed and excessive non-parole periods in detention for young people.
- lack of funding and access to rehabilitation programs and mental health supports for young people in detention.
- breaching bail is statistically the most common youth offence and reasons for breaches include impractical bail conditions, lack of bail support for young people, and the traumatic personal circumstances of young offenders.

The Law Society and legal experts call for South Australia to fulfill its international obligations and raise the minimum age for criminal responsibility to 14 years old. Exposing children as young as 10 years old to the criminal justice system increases their probability of entering a "life of crime". Disadvantaged children are grossly over-represented in detention and young children would have better outcomes from early intervention and prevention services.

Detaining one child for one-year costs \$1.3 million - preventing even one child from being detained would help fund diversionary programs to keep children out of detention.

# SUPPORTING THE LOCAL PROFESSION

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## Key asks

- Develop a procurement policy for legal services delivered by South Australian businesses that prioritises South Australian businesses, provides opportunities for legal businesses of all sizes to compete for contracts, incentivises the development of specialist legal skills and expertise in South Australia, and provides opportunities for local legal businesses to partner with interstate and global legal businesses on tenders that require specialist or niche expertise.



# SUPPORTING THE LOCAL PROFESSION

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## The issues

### Implement a policy for procurement of legal services

The growth of the South Australian legal profession is the slowest in Australia. According to the recently released National Profile of Solicitors, there has been a 23% growth in the number of solicitors in SA since 2011. The national average is 69%.

The Law Society notes that the South Australian government's procurement framework, including the South Australian Industry Participation Policy, is explicitly designed to give South Australian businesses a full, fair, and reasonable opportunity to participate in government contracts.

The Law Society acknowledges that the Crown Solicitor's Office (CSO) is the main provider of legal services to the Government, and that public authorities may engage external legal practitioners where appropriate and with CSO approval.

Treasurer's Instruction 10 (TI10) requires law firms to apply for a pre-qualification register to be considered for government agency work. But the Law Society is not aware of a government policy that specifically relates to engaging local legal practices.

In the Law Society's view, South Australian legal firms should be prioritised in the tender process for legal services provided to State Government agencies (including statutory authorities), in circumstances where it is appropriate to engage external legal services. Further, the local legal profession should be supported to compete with interstate counterparts for private sector work, by incentivising the upskilling of local practitioners and encouraging the expansion of legal services in SA.

While SA's legal profession is comparatively small, it does have a mix of generalist and specialist legal expertise capable of conducting a significant amount of legal work.

The Law Society recognises that the State Government (and private enterprise) may at times require legal expertise and a breadth of services that might not be presently available in SA. However, this should be addressed by developing a procurement model that encourages local practices to develop specialist expertise and incentivises interstate or global practices to establish a presence in SA.

# SUPPORTING THE LOCAL PROFESSION

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The procurement policy should have the following key objectives:

- Support South Australia's legal practices of all sizes.
- Consider the overall economic and societal impact of procurement decisions.
- Strengthen the capability, diversity, and resilience of the South Australian legal profession.
- Incentivise South Australian practices to build capacity in niche and specialist areas

The following list outlines some of the key elements that the legal services procurement policy should cover:

- An overarching objective that South Australian legal services are given appropriate preference in government procurement.
- A process for evaluating the broader economic, employment, and social impact of government procurement decisions.
- South Australian firms to be prioritised where they demonstrate the capacity to deliver the required services.
- Criteria for defining a South Australian legal firm.
- A process that ensures small and medium-sized businesses have the capacity to compete for contracts against larger businesses.
- In tenders for specialist legal services, South Australian legal firms to be given opportunities to partner with interstate or global firms to provide these services.
- Measures to encourage firms to develop expertise in specialist areas.
- Where it is reasonable for interstate or global firms to be awarded contracts, preference to be given to firms that have a South Australian presence, are committed to establishing a South Australian presence, or are committed to partnering with South Australian firms to deliver the work.
- Measures to encourage interstate or global firms to provide training and professional development opportunities to South Australian practitioners.
- A transparent process for reporting on contracts awarded to South Australian and non-South Australian legal businesses

# ACCESS TO JUSTICE IN REGIONAL AREAS

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The Law Society continues to advocate for greater access to justice for those living in regional, remote and rural areas. Disadvantaged and vulnerable people in regional South Australia face particularly severe barriers to justice – their limited resources to access legal services are compounded by a lack of available legal services outside of metropolitan Adelaide.

The Law Society has conducted several visits to regional areas to speak to local practitioners about the challenges they are facing in serving clients. One of the main pain points is the lack of legal aid or legal assistance funding in regional areas. Very few solicitors with a private practice outside of metropolitan Adelaide can take on legal aid work as it is simply unviable. A further challenge is the absence of public funding for clients and witnesses to travel long distances to court appearances or to comply with requirements imposed by a court.

Country practitioners, and experts such as family report writers, are shouldering the travel expenses of supporting vulnerable clients.

In light of this critical issue, the Law Society has provided all Parties a copy of the **2025-26 State Budget Submission** as an annexure to this submission, to re-emphasise its call for greater investment in legal aid and legal assistance services in regional, remote and rural areas to ensure that:

- practitioners can provide face-to-face appointments with vulnerable clients;
- community legal centres can provide working conditions to attract sufficient staff and implement necessary trauma and cultural sensitivity training to handle complex matters;
- ensure the legal needs of First Nations people in regional and remote areas are met; and
- grants of aid are expanded for people in remote, regional and rural areas, at least to the extent that it addresses gaps identified in the State Government's legal needs assessment.



# **The Law Society**

OF SOUTH AUSTRALIA