

# Law Council of Australia Country Report 2025

## About the Law Council of Australia

1. The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice and general improvement of the law.
2. The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close and effective relationships with counterpart legal professional bodies throughout the world, particularly in the Asia-Pacific region.
3. The Law Council was established in 1933, and represents its Constituent Bodies: 16 Australian State and Territory law societies and bar associations, and Law Firms Australia. Through this representation, the Law Council acts on behalf of more than 107,000 Australian lawyers.

## Activities

### **Anti-Money Laundering and Counter Terrorism Financing**

4. In 2023, the Australian Government announced its intention to extend the anti-money laundering and counter terrorism financing (**AML/CTF**) regime to so-called “Tranche 2” entities, which includes the Australian legal profession. The proposed extension would be triggered when a legal practitioner prepares or carries out transactions relating to a “designated service” for a client.
5. The Law Council commissioned an independent expert to analyse the vulnerabilities of the Australian legal profession to money laundering and terrorism financing risk, and published that report in October 2023.<sup>1</sup>
6. The Law Council made a series of submissions to the Attorney General’s Department to inform the development of the Anti-Money Laundering and Counter-terrorism Financing Amendment Bill 2024 and during the Parliamentary Inquiry into the Bill.<sup>2</sup>
7. On 10 December 2024 the AML/CTF Amendment Act received Royal Assent. The Law Council continues to engage with government including in relation to new AML/CTF Rules and is supporting the profession to prepare for and familiarise themselves with new requirements and to update compliance processes.

### **Access to Justice**

8. Throughout 2024, the Law Council advocated for an uplift in funding for Australia’s legal assistance sector, which has been chronically under resourced over many years and was facing significant uncertainty with the National Legal Assistance Partnership Agreement (NLAP) due to expire in 2025.

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<sup>1</sup> Law Council of Australia, *Anti-money laundering vulnerabilities analysis* <<https://lawcouncil.au/policy-agenda/regulation-of-the-profession-and-ethics/anti-money-laundering-vulnerabilities-analysis>>.

<sup>2</sup> See for example, Law Council of Australia, *Inquiry into the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024* <<https://lawcouncil.au/resources/submissions/inquiry-into-the-anti-money-laundering-and-counter-terrorism-financing-amendment-bill-2024>>; Law Council of Australia, *Supplementary Submission: Anti-Money Laundering and Counter Terrorism Financing Amendment Bill 2024* <<https://lawcouncil.au/resources/submissions/supplementary-submission-anti-money-laundering-and-counter-terrorism-financing-amendment-bill-2024>>.

9. As well as making submissions and meeting with parliamentarians and federal departments, the Law Council launched the Access to Justice for All campaign in July 2024.<sup>3</sup>
10. The Law Council welcomed the finalisation of a new National Access to Justice Partnership (**NAJP**) on 26 November 2024, which will provide \$3.9 billion in funding over five years (an increase of nearly \$800 million when compared with the current agreement). However, the additional funding under the NAJP still falls far short of the amount required.
11. The Law Council will continue to advocate for additional funding required to fully implement the recommendations arising from the recent independent review of the NLAP,<sup>4</sup> and address key areas of unmet legal need facing many Australians.

### **Child Justice**

12. A key objective under the Law Council's Operational Plan for 2024-25 is to work with stakeholders, policymakers, and the media to revive the national case for evidence-based, culturally appropriate and effective responses to justice issues concerning children and young people.
13. The Law Council has undertaken significant policy and advocacy work calling for improved responses to child justice issues which reflect Australia's international obligations and help address over-incarceration of Aboriginal and Torres Strait Islander people. This includes an advocacy focus on raising the minimum age of criminal responsibility across Australia, Australia's implementation of the Optional Protocol on the Convention Against Torture and the expansion of therapeutic and diversionary justice responses.<sup>5</sup>
14. This work has gained further momentum following the release of Australia's National Children's Commissioner's report *Help Way Earlier! How Australia can transform child justice to improve safety and wellbeing* in August 2024 and a series of concerning developments relating to child justice across the nation.<sup>6</sup>

### **Client-Legal Privilege**

15. The Law Council has actively engaged with the Australian Government as it progresses policy responses to concerns relating to the misuse of client legal privilege (**CLP**), which prompted a number of parliamentary inquiries.
16. The Australian Government has been progressing a significant number of reforms across a broad range of matters relating to CLP, including a whole-of-government review of the use of CLP in Commonwealth investigations, jointly led by the Attorney-General's Department and Treasury.

<sup>3</sup> Law Council of Australia, *Access to Justice For All* <<https://lawcouncil.au/access-to-justice-for-all>>.

<sup>4</sup> Dr Warren Mundy, Independent Review of the National Legal Assistance Partnership 2020-25 – Final Report (March 2024) <<https://www.ag.gov.au/sites/default/files/2024-06/NLAP-review-report.PDF>>.

<sup>5</sup> See for example, Law Council of Australia, *Youth Justice* <<https://lawcouncil.au/policy-agenda/criminal-law-and-national-security/youth-justice>>; Law Council of Australia, *General Comment No. 27 on Children's Rights to Access to Justice and Effective Remedies* <<https://lawcouncil.au/resources/submissions/general-comment-no--27-on-children-s-rights-to-access-to-justice-and-effective-remedies>>; Law Council of Australia and Australian Medical Association, *Recommendation to raise minimum age of criminal responsibility welcomed* (Media Release, 23 August 2024) <<https://lawcouncil.au/publicassets/2a3219f9-0e61-ef11-94a8-005056be13b5/LCA%20%20%20AMA%20MR%20-%202024%2008%2023%20-%20Youth%20Justice%20Report.pdf>>.

<sup>6</sup> Anne Hollonds, 'Help Way Earlier! How Australia can transform child justice to improve safety and wellbeing' (Report, 2024) <<https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>>.

17. The Law Council established a Client Legal Privilege Working Group in March 2024 and has been working closely with government departments to ensure that principles of CLP are understood and observed by Government and Commonwealth regulators.

### **Migration**

18. The Law Council has advocated for proportionate and rights-based legislative responses to recent decisions of the High Court of Australia that significantly impacted Australia's migration law framework: *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] HCA 37 and *YBFZ v Minister for Immigration, Citizenship and Multicultural Affairs* [2024] HCA 40.<sup>7</sup> It has expressed its disappointment with the rushed passage of laws through the Australian Parliament which have conflicted with Australia's international human rights obligations on multiple fronts.
19. More broadly, the Law Council has called for improvements to the integrity of migration law reform processes and consultations – particularly where reforms relate to removal processes, 'character test' cancellations or refusals, asylum seeking processes and immigration detention.

### **Mandatory sentencing**

20. The Law Council has for many years opposed the use of mandatory sentencing regimes which prescribe mandatory minimum sentences upon conviction for criminal offences.<sup>8</sup> It considers that mandatory sentencing laws are arbitrary, and limit the individual's right to a fair trial by preventing judges from imposing a penalty based on the unique circumstances of each offence and offender. It maintains that there is no convincing evidence regarding its efficacy, and instead, potentially results in unjust and disproportionate sentences and increases the likelihood of recidivism.
21. The Law Council has expressed grave concern regarding the recent incorporation of mandatory sentencing in federal laws, including as part of the Federal Government's responses to the NZYQ and YBFZ decisions, certain hate crimes and a broad range of terrorism offences.<sup>9</sup>

### **Diversity and Inclusion and eliminating sexual harassment in the legal profession**

22. The Law Council recently completed a review of its *National Model Framework Addressing Sexual Harassment for the Australian Legal Profession* in light of reforms to the Federal anti-discrimination and workplace relations legislative frameworks.<sup>10</sup> The Law Council is progressing changes to the National Model Framework in order to promote standards of excellence and best practice and support individuals, businesses and organisations across the profession to be aware of and comply with their legal obligations.
23. The Law Council is shortly to publish its *Equitable Briefing Policy* report for the year 2023-24 and is also conducting its second review of its *Equitable Briefing Policy*,

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<sup>7</sup> See, e.g., Law Council of Australia, *Migration Amendment (Removal and Other Measures) Bill 2024* <<https://lawcouncil.au/resources/submissions/migration-amendment-removal-and-other-measures-bill-2024>>; Law Council of Australia, *Migration Amendment Bill 2024* <<https://lawcouncil.au/resources/submissions/migration-amendment-bill-2024>>.

<sup>8</sup> Law Council of Australia *Mandatory Sentencing Policy* (May 2014) <<https://lawcouncil.au/publicassets/2c6c7bd7-e1d6-e611-80d2-005056be66b1/1405-Policy-Statement-Mandatory-Sentencing-Policy-Position.pdf>>

<sup>9</sup> Law Council of Australia, *Mandatory sentencing is not the answer* (Media Release, 6 February 2025) <<https://lawcouncil.au/media/media-releases/mandatory-sentencing-is-not-the-answer>>.

<sup>10</sup> Law Council of Australia, *Policy Statement - National Model Framework Addressing Sexual Harassment for the Australian Legal Profession* <<https://lawcouncil.au/resources/policies-and-guidelines/policy-statement-national-model-framework-addressing-sexual-harassment-for-the-australian-legal-profession>>.

which forms part of the Law Council's longstanding commitment to promote inclusion, diversity and gender equality within the legal profession.<sup>11</sup>

24. The Law Council is currently collaborating with the International Bar Association (IBA) as part of its '50:50 by 2030' *Global Research Project – a global, longitudinal study into gender equity in the legal profession*.<sup>12</sup> The project seeks to identify the statistical disparity between men and women at senior levels of the legal profession, assess the effectiveness of measures and initiatives introduced to address this disparity, and provide a blueprint for legal professions around the world to achieve gender parity at the highest levels by 2030. The IBA has selected Australia as one of the 16 target jurisdictions for the study, and the Law Council is assisting the IBA to publish a report on Australia in 2025.

### **Artificial Intelligence and Technology**

25. The Law Council has engaged with the Federal Government on a wide range of technology-related issues, including the regulation of artificial intelligence, online safety, privacy and cybersecurity.<sup>13</sup>
26. In February 2025, the Law Council provided a submission to the Attorney-General's Department's Consultation Paper on the use of automated-decision-making by government and public-sector agencies.<sup>14</sup>

### **Climate change and the Environment**

27. The Law Council has provided significant submissions in relation to climate change legislation and environmental law, including climate-related financial disclosures, legal and regulatory responses to 'greenwashing', reforms to Australia's environmental protection framework and the impact of climate risk on insurance premiums and availability of insurance.<sup>15</sup>

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<sup>11</sup> Law Council of Australia, *Equitable Briefing Policy* <<https://lawcouncil.au/policy-agenda/advancing-the-profession/equal-opportunities-in-the-law/national-model-gender-equitable-briefing-policy>>.

<sup>12</sup> International Bar Association, *Gender Equality at the Top: seeking parity across the board for women in the legal profession* <<https://www.ibanet.org/gender-equality-in-the-legal-profession/>>.

<sup>13</sup> See for example, Law Council of Australia, *Review of AI and the Australian Consumer Law* <<https://lawcouncil.au/resources/submissions/review-of-ai-and-the-australian-consumer-law>>; Law Council of Australia, *Online Safety Amendment (Social Media Minimum Age) Bill 2024* <<https://lawcouncil.au/resources/submissions/online-safety-amendment-social-media-minimum-age-bill-2024>>; Law Council of Australia, *Privacy and Other Legislation Amendment Bill 2024* <<https://lawcouncil.au/resources/submissions/privacy-and-other-legislation-amendment-bill-2024>>; Law Council of Australia, *Cyber Security Legislative Package 2024* <<https://lawcouncil.au/resources/submissions/cyber-security-legislative-package-2024>>; Law Council of Australia, *Criminal Code Amendment (Deepfake Sexual Material) Bill 2024* <<https://lawcouncil.au/resources/submissions/criminal-code-amendment--deepfake-sexual-material--bill-2024>>.

<sup>14</sup> Law Council of Australia, *Use of Automated Decision-making by Government: Consultation Paper* <<https://lawcouncil.au/resources/submissions/use-of-automated-decision-making-by-government-consultation-paper>>.

<sup>15</sup> Law Council of Australia, *Climate-related financial disclosure: exposure draft legislation* <<https://lawcouncil.au/resources/submissions/climate-related-financial-disclosure-exposure-draft-legislation>>; Law Council of Australia, *Inquiry into Nature Positive (Environment Protection Australia) Bill 2024 and related Bills* <<https://lawcouncil.au/resources/submissions/inquiry-into-nature-positive-environment-protection-australia-bill-2024-and-related-bills>>; Law Council of Australia, *Impact of Climate Risk on Insurance Premiums and Availability* <<https://lawcouncil.au/resources/submissions/impact-of-climate-risk-on-insurance-premiums-and-availability>>.