



Recruitment and retention of lawyers in regional, rural and remote New South Wales: Summary Report¹

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The problems associated with the recruitment and retention of solicitors in regional, rural and remote NSW are more nuanced than the broad 'city' versus 'country' divide commonly advocated. A census conducted by the Law and Justice Foundation of NSW of all private solicitors and public legal assistance solicitor positions in NSW indicated that problems in recruiting and retaining solicitors for publicly funded legal assistance work in RRR NSW were typically location specific and often position specific. The implication of this finding is that 'blanket' solutions that treat regional, rural and remote areas as a homogenous entity are unlikely to succeed.

This study has indicated that the more remote the area, the higher the likelihood of recruitment and retention problems. Solicitors working in remote and very remote areas of NSW not only deal with extremely testing physical environments but also the smallest number of solicitors to residents, a highly disadvantaged client base and a general lack of professional support and office infrastructure. The poor salary packages for solicitors employed by the public legal assistance services operating in these areas further increases the likelihood of attracting only relatively inexperienced solicitors and keeping them for relatively short periods of time.

BACKGROUND

Over recent years, there has been growing concern about the shortage of lawyers working in regional, rural and remote (RRR) areas throughout Australia (Law and Justice Foundation of NSW, 2003; Senate Legal and Constitutional References Committee, 2004; National Pro Bono Resource Centre, 2006; TNS Social Research, 2006; Legal Aid NSW, 2008; Law Council of Australia, 2009a). Public legal services for disadvantaged people in NSW have also reported difficulties in recruiting and retaining solicitors in RRR areas

¹ The full report published by the Law and Justice Foundation of NSW is Forell, S., Cain, M., and Gray, A. (2010), *Recruitment and retention of lawyers in regional, rural and remote New South Wales* <<http://www.lawfoundation.net.au/publications>>.

(Mundy, 2008). Difficulties are also reported in attracting sufficient private solicitors to undertake legal aid work (Legal Aid NSW, 2008).

Within a broader context of the social and economic decline experienced by rural Australia, the populations of many RRR areas have been decreasing for decades (HREOC, 1999; Cocklin and Dibden, 2004; Roberts, 2004). Mirroring this general decline, many country areas have lost doctors, dentists, teachers, lawyers and other professionals (Miles, Marshall, Rolfe and Noonan, 2004; Roberts, 2004; NSW Legislative Council, Standing Committee on State Development, 2006).

To-date, a limitation of much of the previous research into the availability of lawyers in RRR areas has been the tendency to focus on differences between country and city areas, with country areas treated as a homogenous whole (e.g. TNS Social Research, 2006; Law Council of Australia, 2009b). There has been at least some evidence, however, to suggest that recruitment and retention problems are more nuanced and vary from region to region and that there has not been a net loss of solicitors in RRR areas (Forell, Cain and Gray, 2010 pp. 10–12). The present research was undertaken to obtain more comprehensive, location-specific information on the recruitment and retention of lawyers in RRR NSW.

This study was undertaken by the Foundation on behalf of the NSW Legal Assistance Forum RRR Working Group and was funded in large part by the Australian Government Attorney-General's Department Social Inclusion Division.

AIM AND SCOPE OF THIS STUDY

The aim of this study was to better inform strategies to improve access to lawyers for disadvantaged people in rural and regional areas by:

1. identifying which areas of NSW are most affected by difficulties in recruiting and retaining lawyers practising in the public sector
2. exploring differences between areas of high and low lawyer retention in terms of potentially relevant characteristics of these areas
3. identifying likely reasons for success or otherwise in the recruitment and retention of lawyers in those areas.

Legal services to disadvantaged people in NSW are met through a combination of public (Legal Aid, Aboriginal Legal Services and Community Legal Centres) and private legal services (through grants of legal aid). While each of these services fundamentally operates independently of one another, they cannot be considered in isolation, particularly in regional areas which have few resident lawyers of any sort. For this reason, the current study commenced with an analysis of the distribution of *all* public and private solicitors in NSW.

The next step was to examine every solicitor position statewide within Legal Aid NSW, NSW Community Legal Centres (CLCs) and the Aboriginal Legal Service NSW/ACT (ALS). These services are the main not-for-profit services providing legal assistance to disadvantaged people in metropolitan and rural NSW.

The research also examined private solicitors delivering legal services to disadvantaged people in regional areas through assigned legal aid case work. This is in recognition of the fact that 56 per cent of all legally aided case work (i.e. grants of legal aid) in NSW is assigned to private lawyers (Legal Aid NSW, 2009).

It was beyond the scope of this study, however, to identify each and every legal service operating in NSW. This study has not attempted to quantify outreach services or duty solicitor services, nor does it consider the availability of other legal services such as pro bono work and legal assistance provided through community organisations. Rather, the study mapped the location of solicitors employed by the major public legal assistance services in each part of NSW in an attempt to identify the areas of the State in which recruitment and retention was most problematic and the reasons why this was the case. The accessibility/remoteness of areas in NSW was considered in this analysis (see Appendix).

METHOD

The study involved both quantitative and qualitative research methods. To provide the broad contextual picture, a snapshot was taken from the NSW Law Society's data on all solicitors holding a NSW practising certificate on 30 June 2009.

To explore recruitment and retention issues in public legal assistance agencies, a separate census was taken of all filled and vacant public legal assistance solicitor *positions* in NSW on 30 June 2009. This information was obtained from the three main public legal services in NSW — the ALS, NSW CLCs and Legal Aid NSW.

Recognising the role of the private sector in providing legal assistance to disadvantaged people, the study examined all legal aid grants assigned to private solicitors in 2008/09 and all registered private practitioner legal aid panel members during that time.

The study also included a survey of selected solicitors who either were working in or who had left public legal assistance service jobs in RRR areas (including nominally identified 'hard to recruit' areas). Managers responsible for staffing RRR legal services were also included among those surveyed.

THE DISTRIBUTION OF PUBLIC AND PRIVATE SOLICITORS IN NSW

On the snapshot date of 30 June 2009, there was a total of 19,381 private and public solicitors practising in NSW² or 296 solicitors for every 100,000 persons in NSW. Overall, the ratio of residents to locally based solicitors increased with the remoteness of the area. In NSW, the Inner Regional areas had a ratio of one resident solicitor for every 1,000 residents. This increased to one resident solicitor for every 2,000 residents in Outer Regional NSW. In the Remote and Very Remote areas of NSW, there was one resident solicitor for every 3,000 residents.

In addition, it is generally the case that the more remote and inaccessible the area in NSW, the higher the level of socio-economic disadvantage and the higher the proportion of Indigenous persons. These characteristics are commonly associated with higher levels of legal need (Coumarelos, Wei and Zhou, 2006).

It should further be noted that offices of the main public legal services in NSW are not evenly spread across NSW. In particular, there are no Legal Aid NSW offices located in Outer Regional, Remote or Very Remote areas of NSW (see full report). However, it could be argued that Legal Aid NSW offices in regional areas of the State provide a base from which the disadvantaged people in smaller rural towns and remote areas can be serviced. Compared to Legal Aid NSW and CLCs, there are more ALS offices reaching the more remote parts of the State. ALS offices are located in Outer Regional as well as Remote and Very Remote areas and, therefore, are in close proximity to the more disadvantaged communities in country NSW.

The distribution of all solicitors (public and private) by Region (i.e. Statistical Division) is mapped in Figure 1.

Only 6.6 per cent of solicitors were practising law in regional, rural or remote (RRR) areas of NSW. Notably, within the largest (but least populated) geographic region of NSW — the Far West — there were only ten practising solicitors registered with the NSW Law Society.

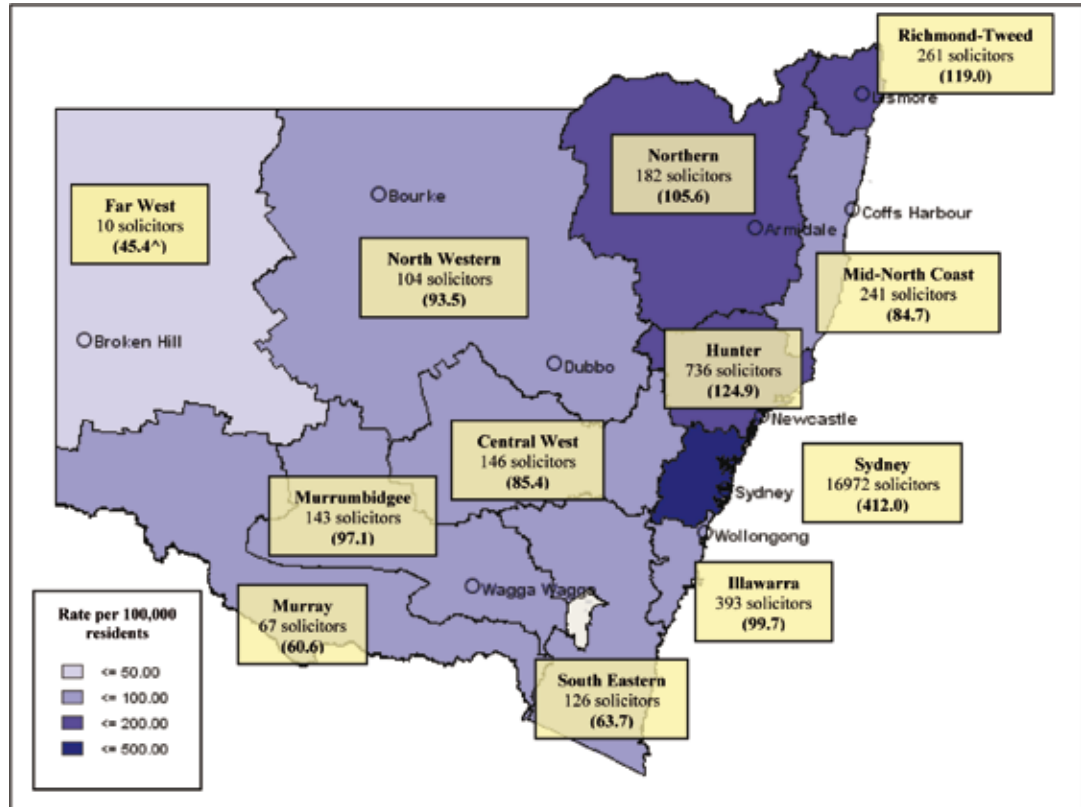
The Far West region also had the lowest rate (45.4) of solicitors per 100,000 residents. While the Far West has nothing like 100,000 residents, with a population of just 22,030 according to the 2006 Australian Census, its per capita rate of solicitors translates to one solicitor for every 2,000 persons living in this region.

Contributing to the uneven spread of solicitors across NSW, it was found that there were 19 Local Government Areas (LGAs) in NSW that did not have a single solicitor — private or public — based in the area on 30 June 2009 (Figure 2). All of these 19 LGAs were characterised by resident populations of less than 7,000 persons, relatively high levels of socio-economic disadvantage and, for 17 of these 19 LGAs, their populations were in actual or relative decline.

These findings would seem to suggest that in some areas, particularly the more remote and less populated parts of country NSW, there may not be enough legal work — private or public — to sustain a full-time *resident* solicitor.

² According to the Law Society of NSW an additional five per cent of solicitors were not practising at the time of the study's census. These were not included as part of the Law Society dataset. In addition, a further five per cent of solicitor records were not included in this study as they were missing postcode and practice type. The Law Society advised that records without postcode for main practice location and without a recorded practice type generally related to solicitors who were not currently employed or were 'between jobs'.

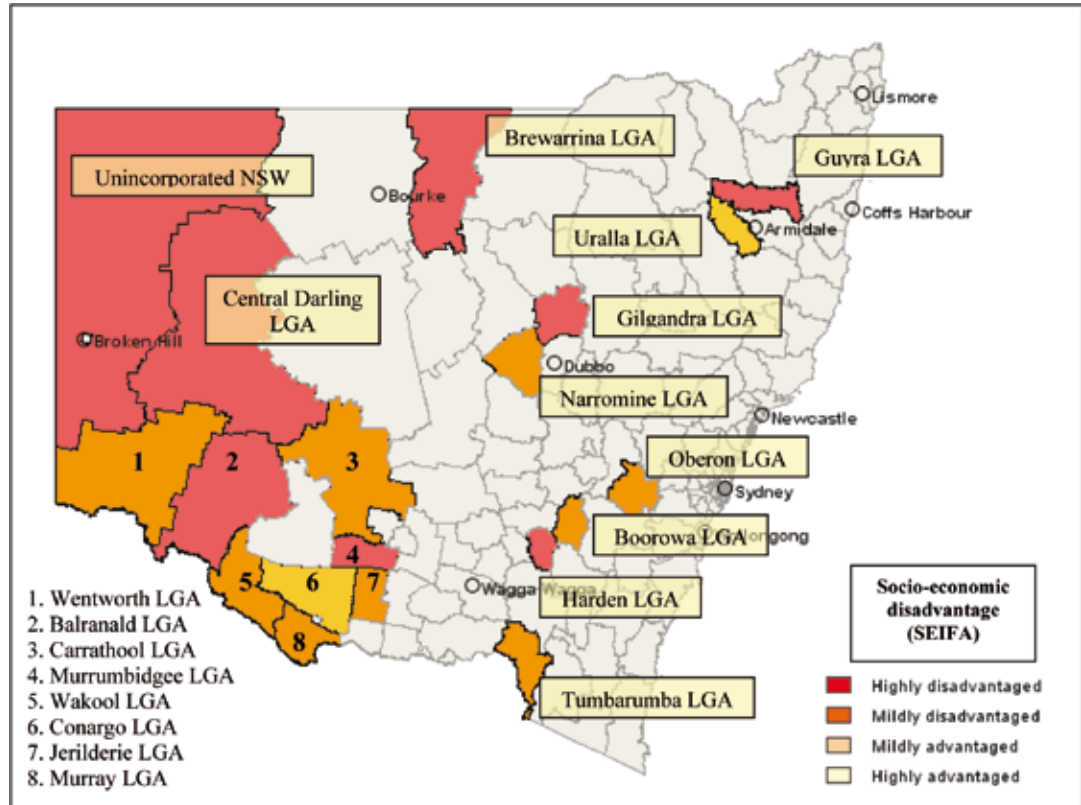
FIGURE 1: SOLICITORS WITH NSW PRACTISING CERTIFICATE — LOCATION OF PRINCIPAL PLACE OF PRACTICE AND RATE OF SOLICITORS PER 100,000 RESIDENTS BY NSW REGION (SD), 30 JUNE 2009



0 100 200 300 400 500 km

[^] The resident population for the Far West region, according to the 2006 Census, was only 22,030 (i.e. far less than 100,000).
Source: Law Society of NSW database (30 June 2009). Figure 7 in full report.

FIGURE 2: NSW LOCAL GOVERNMENT AREAS (LGAs) WITHOUT A REGISTERED PRACTISING SOLICITOR AND LEVEL OF SOCIO-ECONOMIC DISADVANTAGE (SEIFA), 30 JUNE 2009



0 100 200 300 400 500 km

Sources: Law Society of NSW database (30 June 2009) and ABS SEIFA data (2006). Figure 8 in full report.

TABLE 1: DISTRIBUTION OF LEGAL AID NSW, ALS AND CLC SOLICITOR POSITIONS BY REGION, 30 JUNE 2009

Region (SD)	CLCs (NSW)		ALS (NSW/ACT)		Legal Aid NSW		Total	
	N	%	N	%	N	%	N	%
Sydney*	131	77.5	31	35.6	353	80.0	515	73.9
Hunter	6	3.6	6	6.9	18	4.1	30	4.3
Illawarra	10	5.9	6	6.9	19	4.3	35	5.0
Richmond-Tweed*	6	3.6	3	3.4	14	3.2	23	3.3
Mid-North Coast	0	0	7	8.0	10	2.3	17	2.4
Northern	3	1.8	8	9.2	4	0.9	15	2.2
North Western	3	1.8	12	13.8	9	2.0	24	3.4
Central West	0	0	3	3.4	5	1.1	8	1.1
South Eastern	0	0	3	3.4	0	0	3	0.4
Murrumbidgee	0	0	6	6.9	9	2.0	15	2.2
Murray	6	3.6	0	0	0	0	6	0.9
Far West	4	2.4	2	2.3	0	0	6	0.9
Total	169	100.0	87	100.0	441	100.0	697	100.0

* Includes specialist CLCs providing statewide services. One specialist CLC located in Richmond-Tweed.

Note: Highlighted cells indicate that the region did not have solicitors from that particular public legal service.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009). Table 15 in full report.

Without necessarily discounting the possibility of outreach services or duty lawyer services operating in these areas,³ it is possible that residents of these 19 LGAs travelled elsewhere, perhaps to their closest regional centre, to obtain legal assistance. However, it is also possible that in these areas (like other disadvantaged areas) some people with a legal problem may not have sought help at all (Coumarelos et al, 2006).

There are important differences between the number and distribution of private solicitors and public legal assistance solicitor positions in NSW. To begin with, on the census date only four per cent of solicitors practising in NSW worked in Legal Aid, CLC or ALS solicitor positions.

Secondly, it appears that the more remote (and disadvantaged) the area, the higher the ratio of public or community legal sector solicitors compared to private solicitors. For example, while the Far West region had the *lowest* ratio of resident solicitors to population in NSW (45 solicitors versus a NSW average of 296 solicitors for every 100,000 persons), it had the *highest* ratio of resident public legal assistance solicitors to population in NSW (25 public

legal assistance solicitors compared with a NSW average of approximately 10 public legal assistance solicitors for every 100,000 persons).

Some regions have fewer public legal assistance services (and solicitors) than others. South Eastern had only an ALS office (no CLC or Legal Aid NSW), Murray had only a CLC (no ALS or Legal Aid NSW). There were no CLCs in the Mid-North Coast, Central West, South Eastern or Murrumbidgee regions. The presence of a CLC, a Family Violence Prevention Legal Service and the ALS in Broken Hill contributed to the higher per capita rate of public legal assistance solicitors in the Far West, even though there was no Legal Aid NSW office in this region.

The number of CLC, ALS and Legal Aid NSW solicitor positions located in each Region is provided in Table 1.

Regional differences in solicitor availability by area of law

To appreciate the potential impact of recruitment and retention issues in any one area, the availability of public legal assistance solicitors and solicitor positions also needs to be considered in the context of three additional factors: the mix of public to private solicitors performing public legal assistance work in each area; the types of law practised by each solicitor; and any other legal services provided to residents in each area. Two examples highlight these points.

With a reasonably sized population of 198,000 people, South Eastern region appeared to have the least number of public legal assistance positions based in the region. It had no public legal assistance

³ For example, the Women's Legal Service located in Sydney flies a solicitor and a senior solicitor into Bourke for one week each month to work in the Bourke/Brewarrina Family Violence Prevention Legal Service. The monthly outreach clinics to Dareton and Wentworth funded under Legal Aid's Regional Outreach Clinic Program and the weekly clinic in Taree (funded by the local Cooperative Legal Service Delivery Program) are additional examples. Furthermore, many rural localities have a local court and duty lawyer services are provided. A local court was located in 10 of the 19 LGAs that did not have a resident solicitor. However, in many small towns, the court is a circuit court and sits infrequently; in some locations, as seldom as ten times a year. Furthermore, the duty lawyer available in circuit courts is a solicitor who travels into the town when the court is sitting.

TABLE 2: DISTRIBUTION OF VACANT AND OTHERWISE UNOCCUPIED PUBLIC LEGAL ASSISTANCE SOLICITOR POSITIONS BY NSW REGION (STATISTICAL DIVISION), 30 JUNE 2009

Region (SD)	Filled by incumbent		Vacant		Filled by Non-incumbent		All solicitor positions	
	N	%	N	%	N	%	N	%
Sydney	289	56.1	33	6.4	193	37.5	515	100.0
Hunter	24	80.0	1	3.3	5	16.7	30	100.0
Illawarra	26	74.3	2	5.7	7	20.0	35	100.0
Richmond-Tweed	15	65.2	3	13.0	5	21.7	23	100.0
Mid-North Coast	11	64.7	3	17.6	3	17.6	17	100.0
Northern	14	93.1	1	6.7	0	0.0	15	100.0
North Western	17	70.8	3	12.5	4	16.7	24	100.0
Central West	6	75.0	0	0.0	2	25.0	8	100.0
South Eastern	3	100.0	0	0.0	0	0.0	3	100.0
Murrumbidgee	13	86.7	2	13.3	0	0.0	15	100.0
Murray	5	83.3	0	0.0	1	16.7	6	100.0
Far West	2	33.3	2	33.3	2	33.3	6	100.0
NSW	425	61.0	50	7.2	222	31.9	697	100.0

Note: Row percentages add up to 100 per cent. Highlighted cells indicate that the region had an above average percentage of solicitor positions in that particular category.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009). Table 18 in full report.

solicitor practising civil law (no CLC), only one part-time resident Legal Aid solicitor providing family law services, and three ALS solicitors providing criminal law support, and then only to Indigenous clients. However, complementing the work of these public legal assistance solicitors were local private lawyers who were assigned grants of legal aid. In 2008/09, South Eastern region had 37 private solicitors on the Legal Aid NSW criminal law panel, 31 on the family law panel, 16 private solicitors on the care and protection panel and nine on the civil law panel (a solicitor may be a member of more than one panel). In terms of actual grant activity in 2008/09, there were 1,329 grants of legal aid assigned to private solicitors based in the South Eastern region — 63 per cent for criminal matters, 21 per cent for family matters and 16 per cent for care and protection matters. Only six grants were assigned for civil matters.

Similarly, the Central West region, with a general population of 171,000, had no public legal assistance solicitor practising civil law (no CLC), only one public legal assistance solicitor providing family law services, and seven public legal assistance solicitors practising criminal law. However, private solicitors based in the Central West region handled 1,117 grants of legal aid in 2008/09 — 38 per cent for criminal matters, 42 per cent for family matters and 18 per cent for care and protection matters. Only 20 grants were assigned for civil matters.

The availability of private practitioners willing to undertake public legal assistance work is a key consideration to the delivery of legal services in RRR areas, given that private solicitors are more

evenly distributed across the State and undertake a considerable proportion of legal aid work.

MAJOR REGIONAL DIFFERENCES IN LAWYER AVAILABILITY, RECRUITMENT AND RETENTION

The data collected from the major public legal assistance services on filled and vacant solicitor positions indicates considerable regional variation in recruitment and retention issues, both in terms of actual vacancies and in terms of the numbers of positions filled by a non-incumbent, such as a locum or a junior solicitor acting up in the position (Table 2).

While the overall vacancy rate of 7.2 per cent for NSW does not appear alarming, the Far West, Mid-North Coast, Murrumbidgee, Richmond-Tweed and North Western regions had vacancy rates which were higher than the State average. The Far West had the highest vacancy rate, with one-third of its six public legal assistance solicitor positions vacant at the time the census was taken. In addition, a further two public legal assistance solicitor positions in the Far West were occupied by someone other than the incumbent.

While vacancies and non-incumbent filled positions are valid indicators of recruitment and retention difficulties, other measures, including the short times that positions remained filled or the long periods that vacant positions remained unfilled, give a more complete picture of the recruitment and retention difficulties experienced in different parts of NSW.

Furthermore, recruitment and retention issues must also be considered in the context of whether public legal assistance solicitor positions existed in a region in the first place. This is crucial given that there are no resident Legal Aid NSW solicitor positions based in areas that are more remote than Inner Regional NSW, and there are no CLCs situated in the Mid-North Coast, South Eastern and Murrumbidgee regions.

Considering all these indicators together, the parts of NSW which were identified as having the most difficulties in terms of the availability, recruitment and retention of solicitors for public legal assistance services were the Far West, Murrumbidgee and North Western regions. These three regions are described in terms of their major recruitment and retention issues.

Far West

- With a total of only 10 private and public solicitors, Far West had the lowest per capita rate of solicitors in NSW (one resident solicitor for every 2,000 persons). Therefore, the loss of even a single solicitor from this area will have a major impact.
- Two of six public legal assistance solicitor positions in this region were vacant (33% compared to the State average of 7%) on the census date.
- Two of the four occupied public legal assistance solicitor positions were filled by a non-incumbent.
- All ALS and CLC positions had been filled for relatively short (below average) periods of time.
- Far West was an area of high volatility in terms of recruitment and retention issues, which is likely to exacerbate access to justice issues for disadvantaged people.
- There was no Legal Aid NSW office in the region (and, therefore, no possible retention or recruitment issues for this service).
- Noting there were only six private solicitors based in the Far West, there were no care and protection panel members and just one civil law panel member in this region.

Murrumbidgee

- Murrumbidgee had one resident solicitor for every 1,000 residents.
- There were nine Legal Aid NSW and six ALS solicitor positions in this region (but no CLC office in this region).

- Two of the 15 public legal assistance solicitor positions were vacant (13% compared to the State average of 7%).
- All ALS and Legal Aid NSW positions had been filled for only relatively short (below average) periods of time. Four of the five ALS solicitors had been in the position for no more than six months. The Legal Aid NSW solicitors had been in the positions for an average of seven months (compared to the State average of 19 months).
- Based on population share, this region had fewer than expected private solicitor panel members across all areas of law.

North Western

- North Western had one resident solicitor for every 1,000 residents.
- There were nine Legal Aid NSW, 12 ALS and three CLC solicitor positions in this region.
- Three of the 24 public legal assistance solicitor positions were vacant (12.5% compared to the State average of 7%).
- Both the vacant Legal Aid NSW positions had remained unfilled for 10 months (double the State average).
- The ALS and Legal Aid NSW positions had been filled for only relatively short periods of time. The average time ALS solicitors had been in the position was 12 months (compared to the ALS State average of 42 months). Six of the 11 filled ALS positions had been occupied for no more than six months. The Legal Aid NSW solicitors had been in the positions for an average of seven months (compared to the State average of 19 months).
- This region had no private solicitor civil law panel members and, based on population share, fewer than expected care and protection private solicitor panel members.

Other regions with noteworthy issues

While Far West, Murrumbidgee and North Western regions stood apart, other regions had their own lawyer availability, recruitment and/or retention difficulties.

Murray, South Eastern, Central West and Mid-North Coast regions

South Eastern only had one part-time Legal Aid family law solicitor based in the area, as well as three

ALS solicitors (although two were based in the ACT). The Murray had only a CLC based in the area (no ALS or Legal Aid NSW office), while Central West and the Mid-North Coast had ALS and Legal Aid offices but no CLC.

Compared to the Far West, Murrumbidgee and North Western regions, these four regions had less concentrated recruitment and retention issues. For example, in the Murray and Central West, retention appeared to be the issue, with positions in the ALS and Legal Aid NSW offices occupied for shorter than average periods.

Hunter

Focusing on retention indicators, the average length of time in an ALS position in the Hunter was 18 months lower than the State average for ALS positions. The average length of time in a CLC position in this area was 15 months less than the State average for CLC positions.

Richmond-Tweed

Those interviewed from the Richmond-Tweed region spoke in glowing terms of the area, its professional network and the standard and range of legal work available. They described it as an area which attracts and retains solicitors. However, our census indicated that there was a relatively high vacancy rate (13%) for public legal assistance solicitor positions in this region and almost one in four positions were filled by a non-incumbent.

Interviewees noted that a number of solicitors in this region had moved between different legal jobs in the area (including between public legal assistance services). The amount of movement from job to job *within* the region was made possible by the relatively large number of legal services in the area and employment opportunities within these services. Among those interviewed were solicitors who had moved from the local ALS and local CLC to the local Legal Aid NSW office, as well as ex-public sector solicitors who had moved to private practice in the area. Differences between the agencies in pay and working conditions were identified as contributing to these movements.

Sydney

RRR areas were not the only parts of NSW that experienced recruitment and retention difficulties. Of all the regions, Sydney had the highest proportion (38%) of public legal assistance solicitor

positions occupied by a non-incumbent. This figure was inflated by the high number of non-incumbent positions in Legal Aid NSW.

The high number of non-incumbent filled positions in Legal Aid NSW was partly a function of the numerous opportunities for temporary solicitor appointments within the organisation. These included designated rotational positions and special projects work, which allow solicitors to gain experience across different practice areas. Temporary positions may also be used to cover vacancies arising from flexible work arrangements such as extended leave, parental leave and secondment opportunities.

Regional differences in solicitor characteristics

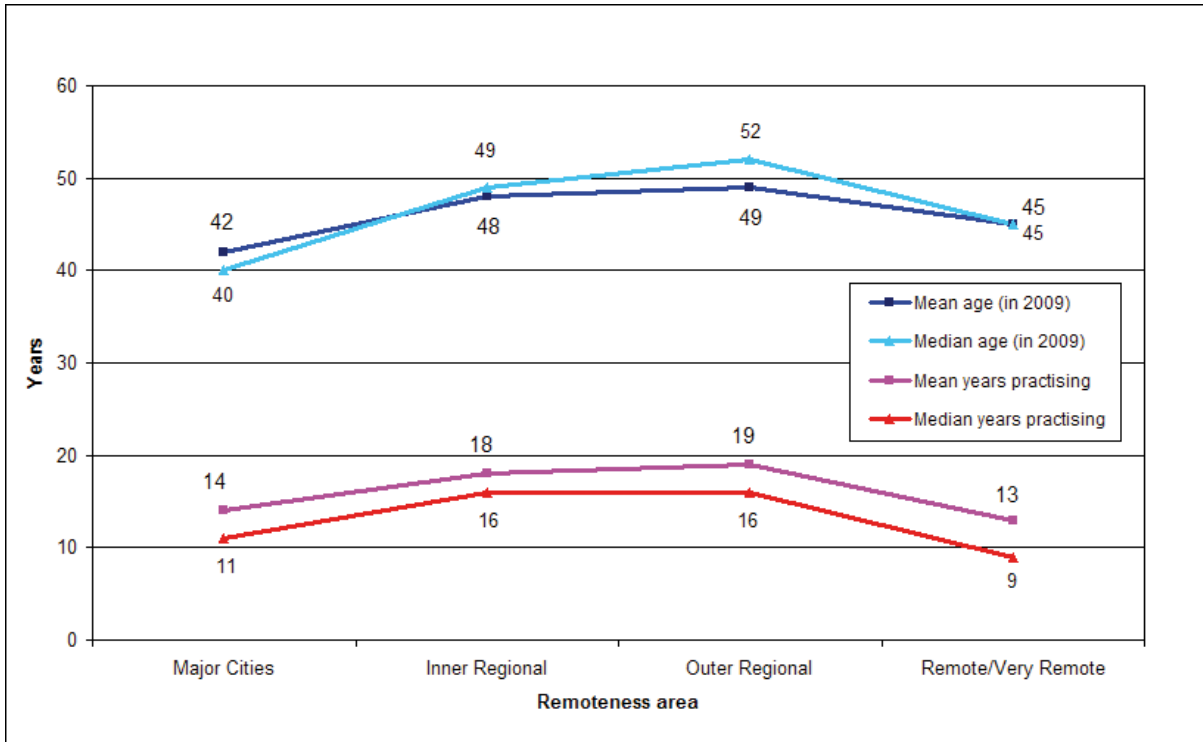
Another variable to be considered in the discussion of recruitment and retention is the regional variation in the characteristics of lawyers attracted to work in RRR areas. The two major sources of data for this information were the NSW Law Society data and the qualitative interviews.

The Law Society data indicated that the average age of solicitor increased from the 'Major Cities' to Inner Regional and Outer Regional parts of the State, before decreasing slightly in the Remote/Very Remote areas. The years of experience as a solicitor showed a similar but more pronounced pattern in that years of experience dropped more steeply in the Remote/Very Remote areas (Figure 3).

Together these points show that solicitors based in the more remote areas of NSW were generally not only younger but the least experienced, whereas solicitors in Inner and Outer Regional areas of NSW were both older and more experienced than solicitors elsewhere in the State (including Sydney, which is where most new solicitors receive their initial training).

This finding is of interest given the high levels of disadvantage in Remote/Very Remote areas and the particular difficulties faced by lawyers in these regions. As noted from the interviews, these difficulties included challenging clients, high volume and stressful work, adverse work environments, being remote from supervision and support, and being distant from social and family networks. Given these difficulties, it would seem that solicitors in Remote and Very Remote areas would require *more* rather than *less* experience in order to sustain quality legal services.

FIGURE 3: NSW SOLICITORS — AGE AND YEARS OF EXPERIENCE BY REMOTENESS AREA (ARIA+), 30 JUNE 2009



Source: Law Society of NSW database (30 June 2009). Derived from Table 12 in full report.

REGIONAL DIFFERENCES IN RECRUITMENT AND RETENTION: WHAT MADE THE DIFFERENCE?

RRR areas in NSW are not homogenous in terms of their capacity to attract and retain public sector lawyers. There were some rural and regional areas which appeared more attractive to public and private sector lawyers than others, and these areas seemed better able to retain skilled and experienced solicitors for longer periods.

The interviews with lawyers working in or who had left the ALS, Legal Aid NSW, CLCs and private firms undertaking legal aid work in RRR NSW provided some insights into the factors which influenced their decision to stay or go from an area. Chief among these reasons were:

- personal reasons (such as family issues)
- the nature of the work and professional development opportunities offered
- the opportunity to save money
- lifestyle, including social and community networks and distance from ‘home’.

Particular attention was paid to how these factors may vary from area to area.

A key observation arising from the interviews was just where lawyers considered ‘home’. All except

one of the lawyers interviewed were born in Sydney, interstate or overseas. With all of the interviewed lawyers having attended city (NSW or interstate) universities, each had (at least some) social and family networks in areas other than the RRR areas in which they were working.

A common theme given for leaving a rural area involved personal reasons, such as a solicitor needing or wishing to return to family, or the solicitor’s partner taking a job elsewhere. Notably, these reasons did not reflect any particular characteristic of the current work location, aside from the fact that the RRR location was distant from the place to which the solicitor returned.

The opportunity to get a legal job, or to obtain particular legal experience, appeared to be an important lure for some solicitors to rural public legal assistance positions, and this appeared to hold regardless of where these work opportunities were located in RRR NSW.

I had just graduated from law school and I needed that experience badly and [this] was an ideal job for me, it didn’t matter where I would be working ... gave me an opportunity to do civil law work. (Interview 1)

While this warrants further examination, it appeared that interviewees who took positions with Legal Aid NSW, CLCs or the ALS in order to get experience were less selective about the location in RRR NSW they went to, compared to people who moved to a rural location for lifestyle reasons. Similarly, people seeking the opportunity to work with disadvantaged Indigenous communities were prepared to go to remote and very remote locations. However, this group of lawyers also tended to have a finite timeframe in mind for their return to ‘the city’.

I have only come for 12 to 18 months. I don't want to live in a RRR area. (Interview 4)

The social justice imperative was also a drawcard for many solicitors to work in the community legal sector and, in the case of private lawyers, to do legal aid work. However, this motivation is not necessarily unique to public legal assistance positions in RRR areas.

While the lawyers interviewed generally indicated that they did not go to work in rural community sector jobs ‘for the money’, the opportunity to save money was consistently raised as a factor relevant to decisions to take, stay in or leave a country job. Some solicitors were drawn to certain RRR areas by the lower cost of living and were prepared to consider their salary level in this context. Many left the job (often to go to a higher paying public legal sector job if it was available) for financial reasons. What was noted from the interviews was that where the work stress was high, the costs of living high, and/or the lifestyle poor (i.e. in very remote parts of NSW), the salary package became a far more prominent reason for staying in or leaving a RRR area.

... financially there is no benefit to being out here, you actually need to want to be out here ... you need a bigger financial incentive to get people out here, or travel benefits, the package, not much can be done to change the place or the job. (Interview 19).

One reason that ALS and CLC solicitors gave for leaving their country position was to take a job in Legal Aid NSW which, as a general rule, provided a higher salary level for equivalent positions. The salary data collected through the census of public legal assistance solicitor positions bore this out (Table 4).

The salary in Legal Aid NSW was roughly one-third higher than most similarly graded positions in CLCs and the ALS. The issue for rural areas is that Legal Aid NSW offices are located in cities or major regional centres and, therefore, are based no further out than Inner Regional areas of NSW. Should solicitors in remote areas wish to change jobs, including going to work for Legal Aid NSW, they are usually lost from the more remote communities.

Consistent with earlier research, the availability of a professional and personal network in a region did appear to help sustain solicitors in rural areas. Solicitors working in the Richmond-Tweed region, in part, attributed their interest in staying in the area to the relatively strong legal fraternity in the region as well as a shared interest in social justice issues. Other regions, including the Far West, were in the process of building these types of networks. By contrast, personal and professional isolation was given as a reason for leaving RRR areas that lacked such features.

TABLE 4: MEAN AND MEDIAN ANNUAL SALARIES* FOR LEGAL AID NSW, ALS AND CLCs SOLICITORS, 30 JUNE 2009

Agency	Grade	Annual salary	
		Mean	Median
Legal Aid NSW	Principal solicitor [^]	\$109,099	\$104,151
	Senior solicitor	\$106,184	104,151
	Solicitor	\$82,670	\$85,650
	<i>All Legal Aid solicitors</i>	<i>\$87,548</i>	<i>\$88,955</i>
ALS (NSW/ACT)	Principal solicitor	\$106,500	\$106,500
	Senior solicitor	\$63,417	\$63,500
	Solicitor	\$55,507	\$50,000
	<i>All ALS solicitors</i>	<i>\$58,883</i>	<i>\$52,000</i>
CLCs (NSW)	Principal solicitor	\$68,070	\$67,000
	Senior solicitor	\$65,741	\$66,500
	Solicitor	\$53,896	\$53,534
	<i>All CLC solicitors</i>	<i>\$59,155</i>	<i>\$55,577</i>

* Based on calculation of mid-point salary. [^] Or equivalent solicitor position in Legal Aid NSW.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009). Table 21 in full report.

STRATEGIES TO ADDRESS RECRUITMENT, RETENTION AND LAWYER AVAILABILITY ISSUES

It was beyond the scope of the present study to evaluate initiatives which have been trialled across different sectors to attract and retain professional staff in different rural, regional and remote areas in Australia. Within the legal sector, prominent examples include the Western Australian Country Lawyers Program and the Legal Aid NSW Regional Solicitor Program.

However, the results of this study do suggest that any new strategies take the following points into account:

1. The realities of recruitment, retention and lawyer availability problems:
 - some RRR areas are experiencing economic, social and population decline⁴ and resident services, including legal services and private solicitor numbers, are expected to continue to decline accordingly
 - in general, the more remote the area, the greater the level of disadvantage, the more difficult the legal working conditions and the greater the difficulty in attracting and retaining lawyers, especially experienced lawyers
 - some RRR areas are especially vulnerable to recruitment and retention problems and, without innovative solutions, will generally attract only relatively inexperienced solicitors and/or solicitors prepared to stay for a fixed and relatively short period of time
 - given the challenging nature of legal work in the more remote parts of the State, a more senior solicitor may be needed, as a minimum, to staff these offices.
2. Different RRR areas have their own unique characteristics. Some RRR areas have recruitment and retention difficulties and some do not. The difficulties experienced vary from region to region and not all RRR areas are equally difficult to staff. Consequently, a single ‘blanket’ solution is unlikely to work. In fact, any ‘RRR-wide’ scheme that does not differentiate rewards to focus on the remote, problematic areas may simply make already attractive (and less problematic) parts of coastal and inner regional NSW even more attractive.

⁴ See Figure 5 in the full report for a map of projected population changes (2006 to 2016) for NSW LGAs outside of Sydney.

While office infrastructure and support were not the main reason given by solicitors for leaving a RRR public legal assistance position, limited office assistance and support did appear to wear solicitors down, particularly in stressful and high volume work environments. Interviewees also highlighted the need for effective supervision of solicitors who had accepted positions in regional areas in order to get experience and locum support for leave and training opportunities. This appeared to be a particularly critical issue in the more remote offices.

The remoteness of a legal office’s location was a characteristic that, from both the qualitative and quantitative data, increased the degree of difficulty to fill solicitor positions and to retain staff in these positions for any length of time. Remote offices were described as difficult, isolated and lonely places to work. Solicitor and managers interviewed for this study expressed the view that the long-term retention of solicitors may remain a challenge in remote areas, regardless of what strategies were introduced and what incentives were offered. This suggests that strategies aimed at better managing the reality of short-term retention may be more appropriate.

...regularly it would happen that we just ended up with one solicitor doing the work of two and regularly solicitors who weren't genuinely experienced enough to do the work of the senior let alone the work of the senior plus a missing junior. (Interview 7).

Finally, the research indicated that, as might be expected, there are idiosyncratic reasons for solicitors leaving a position or RRR location. For instance, personality clashes, difficulties between management and staff, and challenging external players in the justice system can affect solicitor retention in any public legal service, regardless of where the office is located.

3. Solutions to address recruitment and retention issues in RRR areas need to be both location-specific and problem-orientated. That is, solutions need to be individually tailored to specific problems and their impact and effectiveness monitored and assessed.
4. The results of this study, including interviews with rural solicitors and managers, support frameworks, strategies and solutions that are responsive to the particular needs of hard to staff areas. For instance:
 - differentiation of remuneration and conditions packages to provide greater benefits in those areas experiencing the most difficulties in attracting and retaining solicitors who have the right skills and experience
 - priority consideration for a move to a more favourable location and/or a more senior position after a remote area posting (where applicable to the organisation)
 - provision of appropriate office infrastructure and clerical and para-legal support. This includes the capacity to use up-to-date information technology to facilitate communication and support
 - building professional networks in RRR areas, such as through the Cooperative Legal Service Delivery Program⁵ and interagency professional networks
 - in terms of technology, consider trialling video conferencing technology in remote offices (with a high turnover of less experienced staff) in order to provide adequate supervision, mentoring and professional advice/support for resident staff
 - if contemplating investing in extra personnel, consider a locum solicitor system which provides support for small rural offices which are under staffed or would otherwise be un-staffed during a solicitor's absence (training, holidays, illness) and/or where there is higher staff turnover).
5. The disparity in the salaries of similarly graded solicitor positions between the CLCs, the ALS and Legal Aid NSW almost certainly contributes to the movement of solicitors from the CLCs and the ALS to Legal Aid NSW and the private sector.

This may also result in a movement of solicitors from more remote areas to inner regional areas and urban areas.

6. Recent graduates, including career change solicitors, are a major source of staff for many rural and remote offices, especially given the relatively low salaries offered in some organisations. These relatively inexperienced solicitors require appropriate professional supervision and mentoring, particularly in remote, isolated and challenging environments, yet difficulties attracting senior lawyers to these areas impedes this.
7. Particularly in the absence of a capacity to offer higher salaries, it may be pragmatic to accept the reality of short-term retention in remote locations and to structure services to accommodate this, rather than expect or hope that solicitors will stay for longer periods. (A 'hub and spoke' system, whereby staff are based in a regional office but spend fixed periods at remote offices, is already being trialled in remote NSW by the ALS, and is worth monitoring into the future.)
8. It may never be realistic to provide resident solicitors/legal services in certain particularly remote areas. These areas may simply not have the population to sustain a viable legal practice, whether that is a private practice or a public legal assistance service. Alternative models of legal service delivery such as outreach or 'fly in fly out' models may be more appropriate. Just which strategies are best suited to each particular area is beyond the scope of this research or its findings but represents an important topic for future research.

This study highlighted deficiencies in the information available to fully understand and explain the problems associated with providing legal services to disadvantaged people in RRR areas. Important areas for future research include:

- monitoring over time changes in the availability of private and public solicitors, with particular emphasis on regional contrasts and broader demographic and social changes
- mapping the location and distribution of all legal services in NSW, including outreach, pro bono and other services

⁵ The Cooperative Legal Service Delivery Program (CLSD) brings together government, community and private sector agencies in a regional and cooperative approach to delivering legal services <<http://www.legalaid.nsw.gov.au>>.

- examining whether the availability of lawyers in a region affects the number of requests for grants of legal aid being made in that region
- analysing the above questions in the context of research into met and unmet legal need.

Finally, this study has identified benefits and flexibility which come with being a statewide service. Both Legal Aid NSW and the ALS NSW/ACT have some capacity to move staff between their city and different regional and rural offices. Staff vacancies may be covered by other solicitors employed by these organisations, subject to flow-on staffing constraints. In contrast, CLCs, which operate largely independently of one another, and with varying sources of funding, do not have this flexibility. Strategies to provide CLCs with more capacity to cover shortages in RRR areas may warrant further consideration.

CONCLUSION

Given the level of concern about the recruitment and retention of RRR lawyers, the small number of vacancies found among public legal assistance positions in RRR NSW was unexpected. While the overall vacancy rate was low on this study's census date, regional variations in vacancies were identified. Areas also differed in terms of the proportion of solicitor positions occupied by non-incumbents and the length of time for which positions had been filled.

What was also noteworthy was how few public legal assistance positions were based in some regions. In these regions then, concerns with the availability of solicitors in RRR areas may not have been due to *vacant* positions but rather due to a lack of public legal assistance solicitor positions in the first place. That noted, it is possible that legal services in such areas were being delivered through other models, such as outreach and private lawyers performing legal aid work. While the numbers of private solicitors undertaking legal aid work was examined, it was beyond the scope of this study to assess the overall level and adequacy of legal service delivery in these regions. This represents a major topic for future research.

It was also beyond the scope of this study to examine the factors which drive the placement of private law firms versus not-for-profit legal services, apart from noting that private practice is driven more

by economic sustainability. Public legal assistance services, on the other hand, appear to be located in response to legal need as well as other historical, political and strategic factors. That said, the two sectors are interdependent. Some rural law firms rely on the legal aid work they are assigned in order to survive. Equally, the public legal sector relies on private practitioners to deliver services to disadvantaged clients, particularly in areas where there are insufficient numbers of in-house solicitors. Private and public legal practices can also act both as competition and as a source of solicitor recruitment within a particular location.

The study indicated that remote parts of NSW were having more difficulties than other regions in recruiting and retaining public legal assistance solicitors. Indeed, remote NSW was marked by the smallest number of solicitors to residents, residents with the highest level of disadvantage, and particular difficulties in attracting and retaining suitably experienced staff. In addition, the level of solicitor turnover was noticeably higher in these areas and, as a consequence, legal service provision was less consistent. It is these parts of RRR NSW which may require the introduction of new and innovative strategies as well as additional funding in order to address recruitment and retention problems. This may include addressing the obvious discrepancies in salaries for solicitors employed by the three public legal services, which may be contributing to the loss of public legal assistance solicitors from the more remote CLC and ALS offices to the Legal Aid NSW offices based in inner regional and city areas.

There needs to be a range of strategies to address solicitor shortages where they occur, with individual solutions that are area specific, problem specific and, in some cases, position specific in order for legal services to attract and retain the best solicitor to a particular position. Ideally, services need the capacity to offer different incentives in order to cater for the different motivations to work in RRR areas. For instance, a more seasoned and experienced solicitor may be the best person for a remote area position and the solution may be to tailor a package that is attractive to senior solicitors. Of course, this would require appropriate funding. Furthermore, consideration needs to be given to what may constitute the most viable and sustainable form of legal service delivery to problematic RRR areas in the long term.

The continuing economic and social decline in many parts of RRR Australia is considered to be inevitable. Declining populations in many RRR areas are likely to cause a further loss of private solicitors and, therefore, a loss of solicitors available to do legal aid work. In these circumstances public legal assistance services in RRR areas would need to be retained and in fact bolstered, assuming this is possible. Alternatively, private solicitors in declining areas may become more dependent on legal aid work to sustain their rural practices. Regardless, alternative models of legal service delivery may be increasingly necessary in these areas.

In NSW, a range of legal services is provided by each of Legal Aid NSW, the ALS, 35 different CLCs, Commonwealth funded family violence prevention legal services, a large number of private law firms and others. While these services are interrelated and do work together, there is no overarching coordinated approach to the distribution and provision of legal services for disadvantaged people in RRR NSW. Yet the issues of lawyer availability, recruitment and retention in regional, rural and remote areas affect all legal services. While strategies need to be location specific and problem orientated, a coordinated approach to the provision of public legal services in country NSW should be seriously considered.

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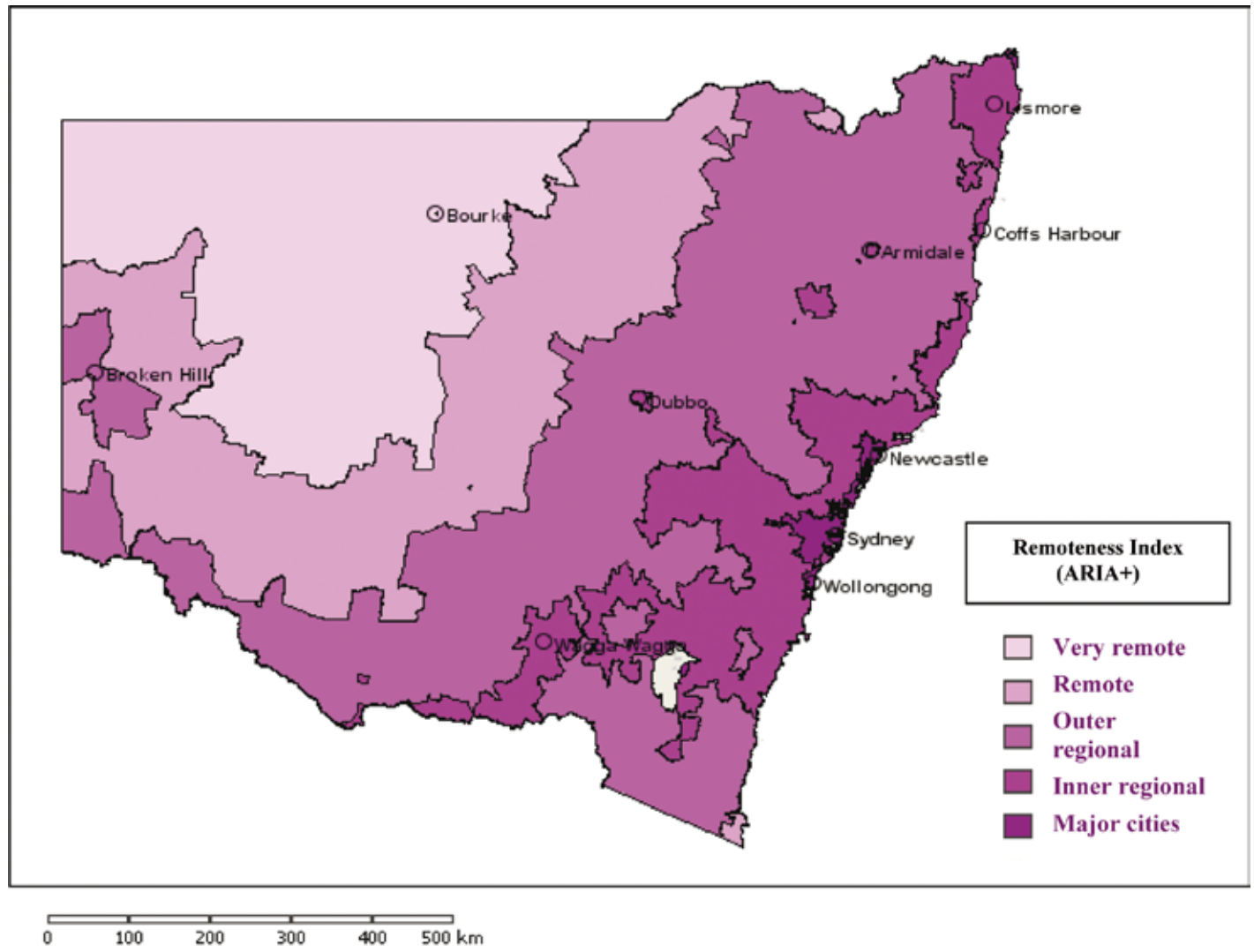
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APPENDIX

FIGURE A1: REMOTENESS AREAS FOR NSW



Source: Accessibility/Remoteness Index of Australia (ARIA+) — 2006 Australian Standard Geographical Classification (Australian Bureau of Statistics, 2006).

The Justice Issues Series

The *Justice Issues* series is a series of research reports that take advantage of a shorter format to disseminate key findings from the Foundation's research. These reports:

- draw together common themes emerging from the findings from other Foundation research
- report results of shorter, targeted studies and/or
- summarise key research findings.

1. *Pathways to justice: the role of non-legal services*

Explores the prevalence of non-legal services as the 'first port of call' for socially or economically disadvantaged people with legal problems. It looks at why disadvantaged people with legal problems seek help from non-legal services, how non-legal services respond to the legal needs of their clients and identifies challenges non-legal services face in assisting clients with legal problems. It suggests strategies to facilitate non-legal services as effective pathways to legal assistance, and examines ways in which legal practitioners and services can support non-legal services in this role.

2. *Taking justice into custody: the legal needs of prisoners — summary report*

As a summary of the research report *Taking Justice into Custody*, this report describes the range of criminal, civil and family law problems facing inmates as they move through the incarceration process. It summarises the opportunities that inmates have to access legal assistance in prison, as well as the personal, systemic and cultural factors which, together or separately, compromise those opportunities.

3. *Fine but not fair: fines and disadvantage*

Fines have a disproportionate impact on the lives of disadvantaged people, particularly those who are homeless, mentally ill, young, on low incomes, in prison or recently released. This report illustrates how these groups are more vulnerable to being fined and how debts arising from fines can further compound existing disadvantage. It details the complexity of the fine enforcement system in NSW and examines options to lessen the impact of fines and fine enforcement on disadvantaged people.

4. *NSW Legal Needs Survey in disadvantaged areas: Campbelltown*

5. *NSW Legal Needs Survey in disadvantaged areas: Fairfield*

6. *NSW Legal Needs Survey in disadvantaged areas: Nambucca*

7. *NSW Legal Needs Survey in disadvantaged areas: Newcastle*

8. *NSW Legal Needs Survey in disadvantaged areas: South Sydney*

9. *NSW Legal Needs Survey in disadvantaged areas: Walgett*

Justice Made to Measure reported on a survey across six different disadvantaged areas of NSW to ascertain the types of legal issues facing people in these areas, and to understand how people deal with their legal problems. This series of six bulletins separately report the survey results of each of these areas, as well as incorporating data for these areas on expressed legal need from the Foundation's Data Digest Project. These aim to give service providers information to assist them with planning local services and formulating policy. Where appropriate, contrasts with the other disadvantaged areas are provided.

10. *Cognitive impairment, legal need and access to justice*

Cognitive impairment includes intellectual disability, dementia, mental illness and brain injury resulting from an accident, illness or substance abuse. This report highlights the legal issues commonly experienced by people with cognitive impairment, explores the barriers they face in accessing legal assistance and in participating in legal processes, and outlines strategies to address these barriers.

11. *The legal needs of people with different types of chronic illness or disability*

People with a chronic illness or disability are particularly vulnerable to experiencing legal problems and have difficulty resolving their legal problems. Using data from the NSW Legal Needs Survey, this report compares people with different types of chronic illness or disability on their incidence of legal problems, their rates of taking action in response to these problems, and their resolution rates.

12. *Outreach legal services to people with complex needs: what works?*

This report draws together the best available research evidence on outreach legal services to disadvantaged clients with complex needs. This systematic review indicates that to effectively reach and assist these 'hard-to-reach' clients, outreach legal services need, from the outset, to form and maintain strong links with target communities and the services which support them. The review highlights the features of appropriate service provision to these target groups through the use of outreach, and the associated implications for staffing and resources.



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