



## Speaking out, loud and proud

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**Image:** *Jayne Christian joined colleagues to blow the whistle on Legal Aid NSW - photo Manny Zervos*

In June 2021, Baramadagal Dharug diyin woman and social justice lawyer Jayne Christian joined colleagues to blow the whistle on Legal Aid NSW, her employer of eight years. Their allegations of systemic racism – relating to the recruitment, promotion and treatment of First Nations and racially marginalised employees – set in motion location-specific and organisation-wide cultural reviews, and Anti-Discrimination Board complaints are now pending.

Jayne graduated from UNE with a Bachelor of Arts/Bachelor of Laws in 2012 and has since worked in private practice, and federal and state public service roles. Here she describes the courage and toll her actions have taken – and why she would do it all over again.

### **Tell us about your career in Legal Aid NSW.**

First I was a family lawyer, then a consumer lawyer and most recently I worked in child support. It has always been on the frontline. Typically, beautiful, genuine people go into Legal Aid because they want to make a difference; I'm one of those people. For 15 months I worked in Broken Hill and it was just me and a laptop in a detached building with no official

office, coupled with a lot of travel, often in 40-degree temperatures, dealing with both very sad and serious issues. It was very challenging.

### **What happened in June 2021?**

Racism had been a constant within Legal Aid NSW since my early days as an administration officer, when I was discouraged from identifying as Aboriginal. They made it clear that they did not want Aboriginal people working in the office, despite policies to the contrary.

When I was leaving Broken Hill, I was applying for jobs that I was more than qualified for but wasn't even getting interviews. That's the first time I called Legal Aid out, in 2018, but they shut me down and I moved into a temporary contract role. Then I saw the same thing happen to a colleague in June 2021 and I had to speak up.

I was entitled to public interest disclosure protection but the protection laws are inadequate. Those who speak up are generally the ones who are punished. I became known as a problem person and was made to feel unwelcome and unsafe. I also applied for a higher-level position while the racism complaint was on foot internally, and the two people handling the racism review were the same two recruiting for that position. It was no surprise that I didn't get that job.

### **What can racism look like in the workplace?**

I have this internal barometer for racist behaviour. You know what's coming even before anything is said. Sometimes it takes the form of people asking you lots of questions about your heritage that cut straight to the heart of your Indigeneity; other times you can feel like they are weighing up whether you deserve to be there or not. Often, white people in management can't see the problem, even when you explain it to them. Or they know it's not right, but don't think it's as bad as it is.

### **Were you concerned about the fallout from your whistle-blowing?**

Initially I thought it would be ridiculous if I had to walk away from my job or career because of my stance. But then I reached a place of peace. I didn't want to use my efforts, talents and intelligence serving an organisation that didn't have my back as an Aboriginal person. I couldn't be part of a culture of silence.

Everyone knows the worst thing you can do is make a complaint to HR, yet that is the only avenue you have available to raise issues of racism. We are asked to bring our whole selves into the workplace, but there's no protections for us when we do.

### **You and your colleagues aired your grievances in an ABC television 7.30 report. What was the reaction to it?**

A lot of people reached out to me – people of colour, white women who had had issues with the way they were treated in Legal Aid and had called it out but been shut down. Many people shared their experiences and lent their support. There were 13 Aboriginal staff members attached to my office at the time and we united to meet regularly with the Legal Aid NSW CEO, so as not to let the complaint be swept under the carpet, but it took a lot of effort.

Bryce Wilson, an Aboriginal man and another UNE alum, was a colleague at the time the cultural review commenced in the Newcastle offices. He brought just as much energy and noise to pushing back on the racism.

### **What has to change?**

I would like employers to have a positive duty to provide a work environment not only free of sexual harassment and abuse but also racism. It needs to be regarded in the same way and eliminated. We have to get serious.

The law is flawed in so many ways and it's a blunt instrument. It should be there to protect all people, but laws drafted by white people cannot possibly be fit for everyone, including Aboriginal and diverse people. So we need legal reform.

### **What advice would you give to someone considering blowing the whistle on injustice?**

Do it loud and proud. Nothing changes if nothing changes. I realised that nothing had changed because I hadn't changed the way I was responding to racism in the workplace. In choosing to speak up about it, you have to know yourself really well; you have to know why you are doing it and balance your own self-interests and broader community interests.

Another thing to be prepared for is that what you want and how you see yourself changes when you go through something like this. You grow a lot. Your mental health is tested, but I have been well supported throughout by my family and inner circle.

I am aware of too many Aboriginal employees who have walked out of roles because of racism and there is no record of it. If Legal Aid is considered one of the better pockets of the public service, then what's happening in the worst?

Australia is so far behind other countries in terms of relations with First Nations peoples. We are the only Commonwealth country without a treaty, and all of that comes from racist thinking.

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