

Submitted to the Triennial Review of Legal Aid online on  
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## **Introduction**

### **Personal details**

#### **Submitter name:**

Dr Michelle Egan-Bitran

#### **What is your contact email address?**

#### **Are you submitting as an individual or on behalf of an organisation?**

Organisation

#### **Please choose any you are associated with:**

NGO, Registered charity

#### **Please provide any relevant information about your experience:**

The Foundation for Equity and Research New Zealand (FERNZ) is an independent charitable trust that conducts kaupapa Māori and equity centred research to inform public policy and community practice. FERNZ partners with government agencies, iwi, community organisations, and academic institutions to advance strategies that eliminate inequities and uphold Te Tiriti o Waitangi.

Thank you for the opportunity to provide our submission. We hope that our submission will lead to the improvement of New Zealand's Legal Aid system. We are happy to meet with Legal Aid to speak and potentially provide subject-matter expertise about ways in which changes can be implemented.

This submission aims to highlight the key issues that FERNZ considers must be reviewed and implemented for the Legal Aid system to operate in accordance with the purpose, under s 3 of the Legal Services Act 2011 ("the Act) and ensure the sustainability of the scheme. This includes a strong Māori and Disabled focus.

**If you are a former or current legal aid provider, please select the jurisdiction(s) you work/worked in**  
N/A

**If you selected 'other', please provide further details:**  
N/A

**What region(s) are you based in?**  
Auckland

**Please indicate if you consider your name, or any other identifying information, should not be released under the Official Information Act 1982 and why, and we will take that into account in the event of a request.**  
N/A

**Please clearly indicate in your submission if you consider your name, or any other identifying information, should not be released under the OIA and why, and we will take that into account in the event of a request.: N/A**

## **Part 1: Overarching questions for the legal aid review**

### **What is working well with the legal aid system, and what is not?**

FERNZ affirms that a robust legal aid system is essential to ensuring equitable access to justice, particularly for those facing compounded disadvantage due to intersectional identities and systemic inequities.

Legal aid remains a cornerstone of New Zealand's justice system, offering critical support to individuals who cannot afford legal representation. In addition to this, Kaupapa Māori and some Community Law Centres services are effective where available. Legal Aid and these services play a vital role in safeguarding the rights of vulnerable populations, including survivors of abuse in care, and those navigating complex legal challenges.

Legal Aid income thresholds to access Legal Aid are too low, excluding many in need. In addition to this, the application and service processes lack accessibility and cultural safety.

Legal aid needs to be strengthened, not diluted, through reforms that prioritise accessibility, cultural responsiveness, and sustainability. Any review or policy shift should be guided by the principle that justice is a right, not a privilege, and must actively work to dismantle barriers for those most at risk of exclusion.

### **2. What changes could be made to ensure the legal aid system is more efficient, of better quality, and better promotes access to justice in a cost-effective manner?**

#### Ensuring the legal aid system is more efficient

FERNZ is concerned about Legal Aid's use of the phrase "access to justice in a cost-effective manner." Access to justice should not be optional in New Zealand; it is a right protected by the New Zealand Bill of Rights Act 1990 ("BORA") and international law. Access to justice is not a discretionary service, it is a fundamental right, protected under the New Zealand Bill of Rights Act 1990 and affirmed by international human rights law. The State has a legal and moral obligation to ensure that all New Zealanders can access Justice. If this is not possible with the available funding, more funding must be allocated.

#### Ensuring the legal aid system is of better quality.

##### Remuneration

To ensure the legal aid system delivers better quality services, the remuneration rates must be the top priority. Inadequate pay has led to fewer lawyers being willing to provide legal aid, current providers being overwhelmed. This strain compromises service quality and directly impairs access to justice.

The 2021 Interim Redress Report by the Royal Commission of Inquiry into Abuse in Care underscored the critical nature of this issue:

The complexity of abuse in care claims makes a lawyer essential for survivors ... Most need legal aid, but the number of lawyers willing to work for legal aid rates on abuse in care cases has dwindled over the years to the point where there is more or less just one law firm, Cooper Legal, representing all survivors around the country.

The Ministry of Justice, as referenced in the same report, attributed the decline in legal aid providers to the volume and difficulty of the work required and the consistently low rates of remuneration. This paints a clear picture: without adequate financial support for legal professionals, the legal aid system cannot effectively serve those it is meant to protect.

## Ensuring the legal aid system better promotes access to justice

### Eligibility in general

For New Zealand's legal aid system to uphold meaningful access to justice, an urgent review of eligibility thresholds is essential. While current consultation documents deem this issue "out of scope," excluding it ignores one of the most fundamental barriers facing those in need. Any credible conversation on access to justice must include a re-evaluation of these thresholds.

It is widely acknowledged that the median income of households living below the poverty line exceeds current legal aid eligibility limits. A single applicant with no dependents, working full-time<sup>3</sup> on the minimum wage, earns \$20,436 a year above the maximum Legal Aid threshold. As of September 2025, the living wage, which is the threshold for a person to have "enough money to live with dignity," is \$60,216. To put it in perspective, the living wage to support the needs of two adults earning 1.5 incomes (\$90,324) with two dependents is \$16,716 more than the legal aid threshold for a partnered applicant with two dependents.

This gap underscores a stark truth: the legal aid system excludes far too many New Zealanders whose incomes are above the cut-off yet far below what is needed to afford legal representation. The disparity between eligibility and affordability is so wide that access to justice becomes illusory for deprived individuals and whānau.

### Eligibility for survivors of abuse in care

FERNZ acknowledges the efforts made to improve access to legal aid for survivors of abuse in care. Survivors of abuse in care should be eligible for legal aid as a right, similar to those under the Mental Health Act or in the Waitangi Tribunal. Their circumstances warrant recognition of the lifelong impact of abuse, including ongoing costs such as counselling, therapy, and other support services. These financial burdens often persist regardless of income thresholds, and many survivors lack the familial and social support networks that others may take for granted.

The Royal Commission recognised that legal representation was integral for survivors providing evidence to the Commission, especially for those asked to present evidence, written and oral. Section 18 of the Inquiries Act 2013 provides that funding may be made available for lawyers to provide legal assistance to persons who wish to participate or appear before the Inquiry, or who have an interest in the Inquiry. FERNZ supports the approach taken by the Royal Commission and Waitangi Tribunal. Legal Aid could be adopted for abuse in care claims; namely, if a person has an interest in obtaining redress for abuse in care, they are eligible for funding for legal assistance. Survivors deserve a system that acknowledges their unique vulnerabilities and provides equitable access to justice.

### Eligibility for children

At the core of all rights-based frameworks is the principle that every child must be treated with dignity and respect, particularly when seeking legal advice or interacting with the justice system.

The United Nations Committee on the Rights of the Child, in its recent Draft General Comment No. 27, urged member states to provide free legal aid to all children and to ensure accommodations for those facing disadvantage. The Committee emphasised that children in institutional settings, who are often among the most vulnerable, must have meaningful access to legal services.

FERNZ supports this and believes that Legal Aid needs to ensure equitable access for Māori, Pacific, Tamariki Whaikaha Māori and disabled children, migrant, and Rainbow children, including children in care should have civil legal aid available to them without barriers.

Currently children's access to justice is hindered by deep structural and systemic issues within the Legal Aid framework. While children in some circumstances have access to Youth Advocates and/or Lawyers for Child outside of the Legal Aid system, individuals in these roles are not usually experienced in civil matters, and civil matters are not funded by the Family or Youth Courts. Therefore, children would have to apply for legal aid to pursue a civil claim for damage they have suffered.

For children in care, applications for civil legal aid funding for a minor under 16 years old must be made by a person of full age and capacity. It is expected that this person would be the child's guardian. This creates a clear conflict of interest for children under the guardianship of the State who may wish to legally challenge the State.

Further, a person who applies for Legal Aid funding must undertake that they will make the required repayments to Legal Aid. This, again, creates a conflict of interest where the State is a child's guardian. It acts to deter children from seeking Legal Aid funding and prevents access to justice for children who do not have an adult in their life willing and able to make any required payments.

These issues are closely intertwined with the issue of legal aid being a loan in New Zealand, not a grant or entitlement. It would be unjust and unlawful to expect a child to incur a debt to pursue a civil claim. If New Zealand continues to administer legal aid in this manner, children will never have adequate access to justice. It is clear that New Zealand is falling short of its international law obligations in this area.

#### Eligibility for kinship carers

Changes to legal aid may negatively impact on people with responsibility for dependent family, whanau, or kin. This includes grandparents raising grandchildren and other kinship carers often face considerable legal costs associated with applying to the court for guardianship or parenting orders while having to try and navigate legal systems. Once again, intersectional multiple identities and systemic inequities sees that Māori grandparents raising grandchildren are overrepresented in this group.

#### Key changes to promote efficiency and equity:

- Reframe priorities: Shift the focus from cost recovery to rights-based service delivery. Justice must be accessible, inclusive, and culturally responsive, not budget driven.
- Raise income and asset thresholds.
- Streamline applications, support early intervention services.
- Recognise and fund Kaupapa Māori and disability-led services.
- Invest in capability: Mandating cultural safety and disability training for providers.
- Ensure accessible communication.
- Provide sign language interpreters for Deaf and Hard of Hearing clients.
- Offer alternative formats for Blind and low-vision individuals.
- Use plain language and visual tools for those with intellectual or sensory disabilities.
- Support communication strategies for neurodiverse clients.
- Remove structural barriers: Without these supports, the legal system continues to exclude those most in need. This perpetuates inequity and undermines the principle of equal protection under the law.

We suggest that legal aid reform must be guided by the principle that justice is a right, not a privilege. Efficiency should never come at the expense of fairness, dignity, or inclusion. A truly effective system is one that serves everyone, especially those who have historically been left behind.

**Ensuring the legal aid system is more cost effective:**

**Is there anything else you would like to add?**

**3. What would be the consequences of limiting the availability of legal aid?**

**Who might be most affected?**

**Your answer:**

Limiting the availability of legal aid directly undermines the fundamental purpose of the Act, to promote access to justice, and given that the eligibility thresholds are not currently being reviewed, limiting the availability is a particularly egregious proposition. As noted, the system is already overly exclusive of those who require it, and further restrictions would deepen the systemic inequity.

As explicitly acknowledged in the preamble of the discussion document, the groups most likely to be affected would be the demographics who are currently the biggest users of Legal Aid, which are: Māori and Pasifika, disabled, and those with mental health issues. These communities are also disproportionately represented among New Zealand's most deprived and vulnerable populations. As the most vulnerable in society, people in these demographics are statistically more likely to be at risk of being victimised and require legal assistance.

The impact of restricted access can be seen in the rise of self-represented litigants.

Between 2015 and 2023, the percentage of court cases that involved a self-represented civil litigant in the District Court increased from 52% to 72%. It is well-acknowledged in the legal sphere that self-represented litigants cause a burden on the legal system, stifling efficiency and leading to worse outcomes for litigants.

As former Law Society president Tiana Epati observed, "[o]rdinary people are accessing a system but not accessing justice." FERNZ shares this sentiment. There is a reason why lawyers study for many years and need to practice for at least one and a half years to practice as Legal Aid lawyers unsupervised. Legal Aid recognises the need for supervision for junior lawyers, a natural consequence would be for Legal Aid to recognise the dangers of not ensuring justice is accessible and thereby, not encouraging self-represented litigants.

Any move to limit the availability of legal aid would deepen existing inequalities, reduce legal process efficiency, and directly contravene the promotion of access to justice. Inadequate access to justice can cause further distrust in the State, particularly for those who have already suffered abuse at the hands of the State. Further, when people have no access to legal representation, there is a real risk of them resorting to unlawful means to resolve disputes or seek redress. This can include acts of violence in the community and retaliatory behaviour. Ensuring accessible legal aid and justice services is, therefore, not only a matter of equity but essential for maintaining social order and legal integrity. Justice system legitimacy among marginalised communities will decline.

**4. Is there anything else you would like to tell us about the legal aid system and how it could be improved?**

**Your answer:**

FERNZ calls for Te Tiriti o Waitangi, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the United Nations on the Rights of the Child (Children's Convention) to be embedded and obligations being met.

Legal Aid governance and reform need to support whānau-centred and culturally grounded legal pathways and include lived experience.

## **Part 2: Questions on the specific proposals for change**

### **Proposal 1: Reducing the administrative burden placed on legal aid providers**

#### **5. Are there issues relating to administrative burden that we have not captured?**

Yes

##### **If yes, what other issues are there?**

The current application process is inaccessible for many disabled clients. The current administrative processes are repetitive and for many clients the steps across agencies are re-traumatising. Finally, many lawyers are overwhelmed by the administrative burden, with inadequate support.

#### **6. Have we identified all appropriate options for reducing the administrative burden of legal aid?**

Yes

#### **7. If no, what have we missed? Are any of the options identified not appropriate?**

Trusted referrer pathways to Whānau Ora and advocates, the inclusion of standing approvals for long-term users and accessible digital platforms and simplified multi-issue forms be added to help reduce the administrative burden of legal aid.

#### **What changes could be made that have the biggest impact on reducing the administrative burden of providing of legal aid?**

**Other.**

##### **If other: what would have the biggest impact?**

We believe that the use of benefit status as income proxy, offering multi-year eligibility and the funding of legal navigators and administrative staff support would have the biggest impact on reducing the administrative burden of providing legal aid.

#### **Why did you choose these options? What specific changes would you like to see within the options?:**

### **Proposal 2: Increasing provider remuneration to encourage lawyers to provide legal aid.**

#### **8. Are there remuneration issues we have not captured?**

Yes

##### **If yes, what other issues are there?**

The discussion document acknowledges some concerns but fails to fully grasp the extent to which remuneration is an issue. It overlooks the widespread dissatisfaction among Legal Aid lawyers and the growing number of practitioners who refuse to take on Legal Aid work due to its financial unsustainability. This includes junior and Māori lawyers being deterred from entering legal aid.

As noted in a letter from the Criminal Bar Association to the Minister of Justice dated 18 March 2024:

No other profession in New Zealand has had to endure a total and consistent failure to adjust remuneration despite the complexities and expectations of the job increasing. ... Since 1999, the guideline hourly rates for legal aid providers have increased by about 21%, while wage inflation has been 129%.

This stark disparity illustrates how Legal Aid lawyers have absorbed decades of underfunding while continuing to meet rising client needs, regulatory demands, and case complexity. Complex, culturally sensitive work is not recognised and is underpaid. There is also no compensation for travel or disability accommodations. Without urgent and meaningful reform, the Legal Aid profession will continue to

contract, a trend that poses serious risks.

Clients will face reduced access to justice, particularly those most vulnerable.

Remaining Legal Aid lawyers will shoulder unsustainable workloads, increasing the risk of burnout and further attrition.

Remuneration reform is not just a matter of fairness; it is essential to preserving the integrity and viability of the Legal Aid system.

**9. Have we identified the appropriate options for improving provider remuneration?**

**No**

**If no, what have we missed? Are any of the options identified not appropriate?**

Fair and just remuneration would see the recognition and funding for complexity loading and cultural engagement in cases. There is also a need for training subsidies and supervision incentives to support practice.

In addition to this, FERNZ recommends that staffing support in relation to Māori and disabled is provided for within legal aid funding.

**10. What changes would have the biggest impact on improving coverage and provider sustainability for the legal aid scheme?**

Increases to fixed fees, such as an uplift to some or all fees, new fees for standard tasks, and/or significant redesign of the structure of fee schedules., Further increases to hourly rates, or targeted increases to specific rates for certain proceedings, as well as increases to hourly rates for non-lawyers., Fixed increases for specific disbursements (e.g. travel, office disbursements, etc). Changes to remuneration for the time spent on tasks related to the administration of legal aid grants such as the preparation of amendment to grant (ATG) applications.

**If other: what would have the biggest impact?**

Increases to the hourly rates and review fixed fee caps for all lawyers providing Legal Aid would have the biggest impact. The current rates do not reflect the complexity, responsibility, or emotional labour involved in legal aid work. As a result, we have a shortage of lawyers providing legal aid, as lawyers are choosing to stop providing legal aid and/or are dis-incentivised from providing it.

The Legal Aid Scheme also needs to fund Māori- and disability-led firms and outreach and support internship pathways and junior retention.

**Why did you choose these options? What specific changes would you like to see within the options?**

Increases to the hourly rates and review fixed fee caps for all lawyers providing Legal Aid would have the biggest impact. The current rates do not reflect the complexity, responsibility, or emotional labour involved in legal aid work. As a result, we have a shortage of lawyers providing legal aid, as lawyers are choosing to stop providing legal aid and/or are dis-incentivised from providing it.

The Legal Aid Scheme also needs to fund Māori- and disability-led firms and outreach and support internship pathways and junior retention.

**Proposal 3: Improving incentives for junior counsel to provide legal aid.**

**11. Are there other issues concerning the engagement of junior lawyers, or barriers to the progression of supervised and junior lawyers, that we have not captured?**

**Yes**

**If yes, what other issues are there?**

Currently a dual burden exists for lead providers, managing their own caseloads while supervising junior

lawyers without remuneration, this results in limited supervision and mentoring, which leads to the slower development and progression of junior lawyers. This ultimately negatively impacts the junior lawyer, the client, and the supervising provider.

In addition to this, as noted previously poor pay, high and complex caseloads deter junior lawyers and Māori lawyers from entering legal aid. These groups are also affected by ongoing systemic bias. These issues need to be addressed.

**12. Have we identified the appropriate options for supporting junior counsel to engage in legal aid work?**

No

**If no, what have we missed? Are any of the options identified not appropriate?**

If the Legal Aid Scheme is to support more junior counsel in engaging with legal aid work, mentoring and peer supervision need to be funded, training pathways into Kaupapa Māori and disability justice also need to be created, along with the provision of cultural and disability competence certification options.

**13. What changes would have the biggest impact on enabling more junior lawyers to provide legal aid, improving coverage and provider sustainability for the legal aid scheme?**

- Funding incentives for senior providers to engage junior counsel, e.g. an increased fee for lead providers to cover the cost of supervision/mentoring, or a flat fee per hearing/day.
- Enabling separate payment for lead lawyers to provide supervision to supervised lawyers.
- Introducing a formal mentor/mentee framework, with funding for approved mentors.
- Looking at incentives to encourage criminal legal aid lawyers to progress to higher levels of legal aid work (e.g. from PAL 2 to PAL 3 cases), or for supervised lawyers across civil, family, and criminal to progress to lead provider.

**Other.**

**If other: what would have the biggest impact**

To enable more junior lawyers to provide legal aid, funding of internships in Community Law Centres and within the Public Defence Service is required. The creation of early career scholarships for legal aid trainees would also have a significant impact on growing the junior legal aid workforce.

Finally, while the requirements to become, or advance levels as a provider exist to assure the quality of the legal services being provided under the legal aid scheme, funding lead providers to supervise and mentor junior staff is an essential element to ensuring an adequate level of quality of the scheme. This also allows for supervised providers to learn the skills to progress to become lead providers, who then supervise new junior lawyers.

**Why did you choose these options? What specific changes would you like to see within the options?**

See previous comments.

**Proposal 4: Ensuring value for money and reducing spend on specialist reports.**

**14. Do you have a view about why the number of specialist reports might be increasing?**

Yes

**If yes, what do you think is causing the increase?**

We consider that there are several reasons that specialist reports might be increasing. One reason could be the increasing focus on and understanding of psychological and mental health conditions, requiring psychiatric and psychological reports to be used in court. Secondly due to systemic needs not being addressed earlier, including trauma and disability. Finally, there is greater complexity in criminal, family, and cultural contexts.



**15. Are there issues with specialist reports that we have not captured?**

Yes

**If yes, what other issues are there?**

There is currently a lack of cultural and disability competence, inconsistent quality and cost effectiveness of these reports and delays in the writing of specialist reports affects timely access to justice.

**16. Have we identified all the appropriate options for ensuring value for money from specialist reports while preserving access to justice?**

Yes

**If no, what have we missed? Are any of the options identified not appropriate?**

The Legal Aid Scheme needs an accredited list of approved, culturally safe report writers. Guidelines are needed to standardise scope and relevance of the specialist reports.

**17. What changes to the content and processes for specialist reports do you think would be most effective in ensuring value for money while preserving access to justice?**

Introducing an accreditation system or panels of approved report writers/service providers.,

**Other. If other: what would have the biggest impact?**

We recommend:

- The development and funding of training in trauma-informed and culturally grounded assessments.
- The triaging of assessments is also needed as early as possible.
- In-house or community-based report services who are trauma-informed and culturally grounded.

**Why did you choose these options? What specific changes would you like to see within the options?**

**Proposal 5: Reviewing quality assurance processes.**

**18. Are there any issues concerning quality assurance processes that we have not captured?**

Yes

**If yes, what other issue are there?**

Māori and disabled users of Legal Aid have varied experiences. Legal Aid needs to be culturally safe and accessible, yet currently, often lawyers lack cultural, disability and trauma awareness – this needs to be addressed.

**19. Have we identified all the appropriate options for improving the quality of legal aid?**

No

**If no, what have we missed? Are any of the options identified not appropriate?**

It is essential that legal aid lawyers are supported to build their capability and capacity to be empathetic and can communicate in accessible ways. Issues of a lack of engagement or preparation in some cases also need to be addressed.

**20. What key improvements could ensure quality of representation while minimising administrative burden?**

Streamlining or changing the approval process, to make it easier and reduce the administrative burden of applying to become a legal aid lawyer., Reassessing the approval requirements and settings in the Legal Services (Quality Assurance) Regulations 2011 to ensure they are fit for purpose., Reassessing the approval levels, for example splitting criminal PAL 3 into categories of cases with adjusted rates of

remuneration to reflect differences in complexity across these cases., Other

**If other: what would have the biggest impact?**

Four key improvements need to be made to ensure access to justice, quality of representation and minimising administrative burden would be to:

1. Address the lack of providers and in doing so ensuring that current providers are not overloaded with clients.
2. Mandate cultural safety and disability training and quality frameworks.
3. Incentivise early resolution and collaborative models.
4. Ensure accessible communication:
  - a. Provide sign language interpreters for Deaf and Hard of Hearing clients
  - b. Offer alternative formats for Blind and low-vision individuals
  - c. Use plain language and visual tools for those with intellectual or sensory disabilities
  - d. Support communication strategies for neurodiverse clients
  - e. Embed client feedback loops and peer review systems.

**Why did you choose these options? What specific changes would you like to see within the options?**

**Proposal 6: Bulk funding and procurement of legal aid services**

**21. What are the benefits and/or disadvantages of bulk funding?**

Not Answered

**22 What types of proceedings would be appropriate to manage via a bulk funding model? What types of proceedings would be appropriate to manage via a bulk funding model?**

**23 If you are a legal aid provider, would you be interested in participating in a bulk funding trial**

Not answered

**If yes, please provide further information on the type of legal aid you provide, as well as your contact details so we can follow up if needed:**

**Proposal 7: Increasing repayments from legal aid recipients.**

**24. Should users of legal aid be required to repay more of their legal aid cost?**

No

**Please provide any further information:**

FERNZ strongly disagrees with any proposal that increases repayment obligations of Legal Aid recipients. As noted above in the response to Question 2, the eligibility thresholds are already set at unjustifiably low levels. This means that those who can access Legal Aid are already in poverty and not in a position to repay Legal Aid.

We consider the opposite should be implemented; namely that Legal Aid should be a grant, not a loan. This is the case in comparable jurisdictions. For example, in New South Wales, Australia, legal aid recipients pay contributions but are not left with a debt as a result of obtaining legal aid. In Queensland, Australia, recipients of legal aid may have to make an initial contribution to legal aid depending on their income, but again, they are not left with a debt. The European Union has recognised that legal aid recipients should only “pay reasonable contributions towards the costs of proceedings.”

**25. What impact will increasing repayment amounts have on legal aid users?**

Increasing repayment amounts would deter people from applying for legal aid, even when they qualify and need legal representation. As noted in the discussion document, the 2018 Legal Aid Review found that repayment obligations already act as a deterrent, therefore, raising them further would intensify

the pre-existing barriers.

Higher repayments compound the financial strain on New Zealand's lowest-income earners. It is unjust to push these vulnerable people deeper into poverty simply for exercising their right to justice.

The prospect of debt deters individuals from defending themselves or enforcing their rights due to a fear that accessing Legal Aid will spiral into a long-term financial burden.

This undermines the justice system's basic promise of equal access and could have serious safety implications.

As repayments rise, more people will choose to navigate the justice system alone rather than risk debt. As noted above in response to Question 3, New Zealand is already experiencing an increase in self-represented litigants, which creates strain on the justice system. Increasing repayment amounts would only exacerbate this issue, which in turn clogs up the courts and the wider justice system. This would likely increase costs for the Ministry of Justice, not reduce these.

An increase in repayment amounts will disproportionately affect marginalised communities such as Māori, Pasifika, disabled people, and beneficiaries. This shift would risk widening existing inequities. Furthermore, this could amount to indirect discrimination under the Human Rights Act 1993.

Pursuing higher repayments demands additional resources for billing, debt recovery, and enforcement actions. The 2009 Legal Aid review warned that administration costs were already unsustainable. These costs divert funds from being spent on legal work for clients.

**26. Should the options available for enforcing and collecting legal aid debt be strengthened or expanded to make it easier for debt to be collected?**

No

**Please explain your answer:**

If the eligibility thresholds remain unchanged, and the scheme remains inequitable and inaccessible, then expanding powers to enforce repayment or increasing collection efforts is manifestly unjust. Doing so would be directly inconsistent with the purpose of the Legal Services Act 2011, which requires that legal aid be provided in a manner that best serves the interests of justice.

Instead of stronger enforcement, there should be a more accessible and express waiver mechanism on just and equitable grounds. Many users of legal aid already face severe financial, mental health, or social disadvantages; formalising and streamlining the waiver process would bring the scheme more in line with its stated purpose.

FERNZ strongly affirm that the current rule prohibiting legal aid recovery from abuse-related settlement payments must remain unchanged. Removing or weakening this protection would be unconscionable and compound harm suffered by survivors when they finally receive some form of modest redress for State and faith-based abuse.

**Proposal 8: Increasing the role of the Public Defence Service**

**27. Are there issues concerning the role of the PDS that we have not covered?**

Yes

**If yes, what other issues are there?**

As previously stated, the Public Defence Service has a key role to enable more junior lawyers to provide legal aid, including the funding of internships within the Public Defence Service.

**28. Should the PDS be supported to accept more legal aid cases overall, or more PAL 3 and PAL 4 criminal cases?**

Not Answered

**Please explain your answer:**

**29. Could the PDS taking on more cases assist to address workload and well-being issues for private lawyers?**

Not Answered

**Please explain your answer:**

**Proposal 9: Restructuring provider remuneration to fairly reflect the work involved and support timely resolution.**

**30. Are there issues concerning provider remuneration structures that have a negative impact on timely resolution that we have not captured?**

Not Answered

**If yes, what other issues are there?**

**31. Have we identified the appropriate options for restructuring fees to provide fairer remuneration for criminal cases that resolve early?**

Not Answered

**If no, what have we missed? Are any of the options identified not appropriate?**

**32. Are there other changes to the criminal fee schedules that might promote early case resolution where appropriate, or that would provide fairer remuneration for cases that resolve early?**

Not Answered

**Please explain your answer:**

**33. Are there specific changes to provider remuneration that would help encourage earlier resolution in civil and family legal aid cases?**

Not Answered

**Please explain your answer:**

**Proposal 10: Minimising reassignments of lawyers**

**34. Are there issues with the reassignment of legal aid cases that we have not captured?**

Not Answered

**If yes, what other issues are there?**

**35. Are there other ways to minimise the reassignment of legal aid cases or to reduce the impacts of reassignment?**

Not Answered

**Please explain your answer:**

**Proposal 11: Clarifying the role of Duty Lawyers in cases that can be resolved without a grant of aid.**

**36. Are there other issues concerning duty lawyers' involvement in less serious criminal cases that we**

**have not captured?**

Not Answered

If yes, what other issues are there?

**37. Have we identified the appropriate options that would address the problem identified for these legal aid applications?**

Not Answered

If no, what have we missed? Are any of the options identified not appropriate?

**38. Is it feasible to expect duty lawyers to provide more services in cases where the offence is punishable with a term of imprisonment of less than six months?**

Not Answered

Please explain your answer:

**39. What barriers might prevent duty lawyers from acting in these cases?**