

July 2025

Triennial Legal Aid Review

Good Shepherd New Zealand Submission

About Good Shepherd New Zealand

Good Shepherd New Zealand (GSNZ) is a charitable non-governmental organisation focused on two of the biggest issues facing women and girls in New Zealand — poverty and family violence — and challenges that stem from these. We want women, girls and their families to be safe, strong, well and connected.

We make a positive impact for women and families faced with two specific challenges:

- High-cost unmanageable debt
- Economic abuse and harm from family violence.

GSNZ provides alternative lending options at a low cost — no-interest loans up to \$15k for essential items, services and debt consolidation. We also negotiate with lenders to reduce high-cost debt on behalf of clients, e.g. to reduce a \$20k high-cost loan to \$10k which the client can immediately repay through our no-interest loan.

Through our specialist family violence economic harm service we work with and for people who have experienced abuse to remove unjust debt (debt they were forced to take on or that was taken out without their knowledge) and to reduce unreasonable and/or unmanageable debt. We also help people access government entitlements, grant opportunities, and improved access to essential services through things like reduced and capped energy costs.

Our services help to reduce harm while providing people with new opportunities. Our efforts to drive and support system change help stop harm before it happens and reduce the impact of harm when it has occurred.

The comments below will only relate to family and civil legal aid, as these are the areas our clients most engage with.

Issues we see in the legal aid system

In our services, we see people who struggle to access justice, particularly in our family violence economic harm service (FVEH service). Economic abuse is a form of family violence that uses coercive, controlling, and threatening behaviour to restrict or remove a person's financial freedom, autonomy, and security. It is experienced in close personal relationships, particularly intimate partner relationships, and often occurs alongside other family violence behaviours.

Economic abuse can cause serious harm, but the pathways for legal recourse are not simple. Many victims go through the Courts system to gain sole legal guardianship of their children or retain relationship property, but experience many difficulties in accessing justice, proving the abuse caused, and paying legal fees.

Good Shepherd NZ research has found that women feel badly let down by legal systems. Many women who have left an abusive relationship struggle financially and are not able to afford lawyers. While legal aid is available for those under income thresholds, economic abuse may limit women's abilities to get this as it can appear on paper that they have income or assets, even if they do not have access to them. For example, we have clients who earn six-figure salaries and are not eligible for legal aid, even though an abusive partner controls this income and the client has no access to this money. Additionally, eligibility thresholds are different for those with or without children. Victim-survivors may not have custody of their children during a child custody dispute, which decreases the maximum income threshold to get legal aid (despite the fact it's likely they are still paying costs associated with their children) and makes it harder to regain custody. If they are granted legal aid, it is a repayable loan, which contributes to indebtedness and impacts financial wellbeing at a time where women are particularly vulnerable to financial hardship.

There is some evidence¹ to show that people are being forced to represent themselves due to a lack of legal aid lawyers available, or rack up significant debts to Government through legal aid loans, to access the courts system. Legal aid for the purposes of a protection or other order for family violence is usually required to be written off, but there is not public data on the prevalence of this

¹ https://www.nzherald.co.nz/nz/continued-rise-in-legal-self-representation-adding-to-justice-delay-concerns/L3DBYU5PONDD3JZSXX4257VKQI/#google_vignette

and legal aid granted for childcare disputes (for example) may still be repayable even if family violence is present.

The fear of having to pay high legal fees and legal aid debt can deter people from applying even if they do qualify. With no options for legal advice and assistance, women may stay in abusive relationships because they feel trapped with no alternatives. Access to information about legal rights and entitlements facilitates women leaving because it breaks the power an abuser has in controlling the narrative, and gives women the tools to map out a pathway to independence. Access to formal justice is especially important in family violence situations where there is an established pattern of control and manipulation, and an abuser is unwilling to engage in informal justice. There is evidence to show that those who access legal advice and representation fare much better in resolving these conflicts than those who do not.

General Comments on review

We are strongly supportive of changes that expand the legal aid system and ensure more people can access justice. However, while we understand the need to focus on financial sustainability for the scheme to continue in its current form, we are concerned that given the current fiscal environment, options that provide cost-saving may be prioritised over access to justice. As noted above, we already see many challenges in the current regime. Any changes to the system should be focused on reducing inefficiencies of process and incentivising more lawyers to be part of the legal aid system, not adding additional financial burdens on users of legal aid. Limiting the availability of legal aid would seriously impact those already at the margins, the women and children experiencing violence.

We also note that many of the challenges experienced by people will not be solved by simply increasing the legal aid workforce or improving efficiency. These are necessary and important changes, but we do not believe the review goes far enough to address difficulties in accessing justice. The below recommendations are out-of-scope of the current review, and are likely to incur costs that aren't feasible in the current fiscal environment. However, we want to note them for posterity and to ensure they are captured somewhere in the Ministry of Justice's records/summary of submissions.

- The next review should seek to understand how asset and eligibility limits restrict victim-survivors of family violence from seeking justice. The legal aid

eligibility threshold needs to be reflective of real-life circumstances – particularly for those facing financial barriers due to economic harm or abuse. Ideally, there would be no maximum income threshold for victim-survivors of family violence.

- Legal aid should be wiped for victims of family violence in all instances, not just protection orders, recognising the unique vulnerabilities and additional costs they face. It would also be helpful if legal aid could extend for a few months after a court process is complete, as it is common for an abuser to keep trying to re-engage through litigation abuse and victim-survivors end up paying for lawyers to navigate this.
- Free legal services should also be expanded to ensure access to other forms of legal advice, for which people can't get legal aid. Someone trying to leave an abusive relationship will need initial advice on their legal obligations, and there are challenges accessing free advice (e.g. due to geographic distribution).
- We also note that if protection orders and related applications were simpler and more accessible, clients may not need legal aid for these matters in the first place.

Specific comments on proposals

Proposals that affect legal aid as a whole

We are generally supportive of suggestions that increase the capacity, efficiency, and capability of the legal aid regime. This is particularly necessary where there is a lack of geographic spread in smaller regional towns. We hear from our clients that they are often unable to access legal aid because there are not enough lawyers available, or that they are assigned a lawyer only to be transferred on because their workload is too high. This is particularly difficult for those in smaller, regional areas with fewer options available.

In relation to Proposal 3, there needs to be checks to ensure that legal aid lawyers should have proven experience and capability in the relevant area of law. This is particularly important given the legal complexities and safety considerations in cases related to family violence. Currently, some clients are represented by lawyers unfamiliar with family or civil law, which impacts the quality of their

representation. Our clients often note a disparity in the quality of legal advice they receive, particularly as their ex often has more money for lawyers.

Proposals that affect civil and family legal aid

We categorically oppose any changes that require people to repay more of their legal aid, especially for those accessing legal advice for family violence related cases. Organisations such as Women's Refuge may provide advice and information to victim-survivors of violence who reach out to them, but what many victim-survivors need is formal legal representation. Yet legal advice is prohibitively expensive for many. In 2016, the average hourly charge out rate for seeing a lawyer was \$292.70 and this is likely to have increased. Legal aid bridges an essential gap in the provision of the right to justice.

The costs associated with legal aid are already a factor putting people off accessing justice. To create harsher enforcement or increasing repayment amounts would likely increase this practice. For someone paying multiple coerced debts, bills, and lacking access to money this is likely an impossible charge to meet, particularly as court processes can sometimes last many years. There are obvious system failings that result in victim-survivors of family violence economic abuse being unable to access the supports they need to escape the relationship. To increase repayments would be to risk more women staying in violent relationships due to a lack of other options or supports. Given the existing challenges, and high rates of violence towards women in New Zealand, this is an unacceptable risk.