



1 August 2025

S25.16

Submission to the Ministry of Justice on the Triennial Review of Legal Aid

Introduction

1. The National Council of Women of New Zealand, Te Kaunihera Wāhine o Aotearoa (NCWNZ) is an umbrella group representing around 60 affiliated organisations and 300 individual members. Collectively our reach is over 200,000 with many of our membership organisations representing all genders. NCWNZ has 13 branches across the country.
2. NCWNZ's vision is a gender equal New Zealand and research shows we will be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ - in partnership with others - seeks to realise its vision of gender equality because it is a basic human right.
3. This submission has been prepared by the NCWNZ Parliamentary Watch Committee, drawing on NCWNZ policy and previous related submissions. In this submission, NCWNZ is providing a gender lens for the Triennial Review (the Review) of Legal Aid.

Executive Summary

4. NCWNZ has long campaigned for the improved accessibility of legal aid for disadvantaged groups of women, such as wāhine Māori and those belonging to other minority groups, migrant women, disabled women, rural women, single parents and those on low incomes or benefits.¹²

¹ NCWNZ. 2012. 115 years of resolution. 12.2.1.6. That this Conference of N.C.W. ask the Attorney-General to make provision for free legal aid in the Magistrates' Courts in all domestic proceedings, particularly for women. 1968. [Resolutions - National Council of Women of New Zealand](#).

² NCWNZ. 2022. Submission to the Ministry of Justice on Wayfinding for Civil Justice Strategy Consultation. [S22.12 Wayfinding for Civil Justice.pdf](#)

5. Our submission responds to the invitation in the Discussion Document³ to provide general feedback rather than answer the questions as posed. Our focus is to provide a gender lens to the Review’s overarching objective, i.e., “to ensure that the legal aid scheme is efficient and sustainable while also promoting access to justice.”
6. We support the Law Society’s position that the review must focus on how to ensure sustainable and fair access:

“Fundamentally, this cannot be a cost-cutting exercise – we would not want to see the range of eligible proceedings reduced, or eligibility thresholds reduced – they are already very low. Boiled down, we want a well-functioning and trusted justice system. This is important for everyone: defendants, victims, families, individuals facing legal issues across a broad range of areas and society more generally. We want a sustainable and fair legal aid system, which ensures that those who need a lawyer can access one, and that lawyers are appropriately remunerated.”⁴
7. When women don’t have fair and equal access to legal aid, it weakens democracy: violence and discrimination aren’t properly addressed, women lose economic power and personal empowerment, and they are unable to receive the legal protection that should be available to all people in Aotearoa New Zealand.

International Obligations

8. NCWNZ is concerned about any slowing of progress under Aotearoa’s obligations to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). In the Concluding Observations on the ninth periodic report of New Zealand, which we have summarised the key points as we see them below⁵:

“The Committee welcomed the progress achieved since the consideration in 2018 of the State party’s eighth periodic report (CEDAW/C/NZL/CO/8) in undertaking legislative reforms, in particular the adoption of The Legal Services Amendment Regulations 2022, which introduced reforms that increased women’s access to legal aid, removed payment charges, and eliminated interests on unpaid debts.”
9. In CEDAW’s report (section **E. Principal areas of concern and recommendations**⁶), the Committee made recommendations for the State party on legal aid for disadvantaged groups of women (11, see below), trafficking and exploitation in prostitution (23), women migrant workers and temporary workers (41), and marriage and family relations (44):

³ Ministry of Justice. 2025. The Triennial Review of Legal Aid Discussion Document. [FINAL-Triennial-Legal-Aid-Discussion-document.pdf](#)

⁴ New Zealand Law Society. Outlook for 2025. March 2025. [NZLS | Outlook for 2025](#)

⁵ Committee on the Elimination of Discrimination against Women. 2024. Concluding observations on the ninth periodic report of New Zealand. CEDAW/C/NZL/CO/9. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2FCO%2FNZL%2FCO%2F9&Lang=en

⁶ Ibid

“11. ... continue to **improve the accessibility of legal aid for disadvantaged groups of women, such as Māori and other minority women**, including by reinstating funding for the provision of cultural reports. The Committee also reiterates its previous recommendation to disseminate information about the legal remedies available to women to claim their rights, particularly in rural areas, and to strengthen gender sensitivity in the judiciary through training and increasing female representation.

23. ... strengthen investigations and prosecutions of perpetrators of trafficking in women and girls and ensure early identification and referral of trafficking victims to appropriate services, **including legal aid and rehabilitation programmes**.

41. ... strengthen support for women migrant workers, including by addressing their increased accommodation costs, providing visa support for family members and **ensuring their affordable and free access to legal aid services**.

44. ... amend its legislation and provide capacity building to judges to ensure that gender-based violence is adequately taken into account in court decisions on child custody and visitation rights. It also recommends that the State party **strengthen women’s access to legal aid in divorce proceedings**, if necessary free of charge, in particular in rural areas.

Key Issues for Women

Threshold of Eligibility

10. The likelihood that women applying for legal aid are experiencing financial hardship is high.
11. There is still much to be done to reduce the gender pay gap. Progress has slowed: New Zealand’s gender pay gap currently sits at 8.2%. Women (in particular, wāhine Māori and Pacific, ethnic, and disabled women) continue to experience persistently poorer labour market outcomes. This is reflected by higher rates of unemployment, underutilisation, and underemployment, as well as the persistent pay gaps when compared to men. Median hourly earnings for all women is \$32.08 compared to \$34.95 for all men (as at June 2024). However, certain groups of women are further disadvantaged; whereas European women have median hourly earnings of \$33.70, Asian women earn \$30.00, wāhine Māori earn \$29.71, and Pacific women earn \$29.00.⁷
12. It is with this in mind that NCWNZ urges the government to reconsider adjusting the legal aid thresholds to inflation. The “sinking lid of legal aid eligibility and the cost of legal representation” was already being reported back in 2021⁸. Should this situation continue, even more of those who were previously eligible for legal aid will be excluded from the system because they cannot afford the legal fees.

⁷ NCWNZ. 2025. Education and Workforce Select Committee on the Employment Relations (Employee Remuneration Disclosure) Amendment Bill. S25.02. [S25.2 Employment Relations \(Employee Remuneration Disclosure\) Amdt Bill.pdf](#)

⁸ RNZ. Oct 2021. Wage Earners, pensions no longer qualify for legal aid. [Minimum wage earners, pensioners no longer qualify for legal aid | RNZ News](#)

Data to Track Needs

13. NCWNZ endorses the recommendation that data on all legal aid applications be collected and analysed to better understand the population's needs and make evidence-based decisions on this critical scheme, given that the Discussion Document reports: "There are significant data gaps across the legal aid scheme concerning legal aid clients. It is expected that improved collection and analysis of demographic data across the legal aid system will be a key recommendation from the current triennial review."
14. We note with particular interest the demographic data from the 2017 calendar year as it pertains to the effect of changes on women:⁹

"In 2017, there were significant differences by gender across different categories of legal aid. While **more than half (57%) of family legal aid clients were female**, most civil and criminal legal aid clients, 71% and 75% respectively, were male. Differences in the gender breakdown between different categories of legal aid are likely to have continued. If this is the case, **changes to family legal aid settings resulting from this review could have a disproportionate effect on women**, whereas changes to civil and criminal legal aid could have a more significant impact on men."

Workforce and Additional Support

15. NCWNZ acknowledges the importance of considering changes in the legal aid process that address system settings and administrative arrangements, and applauds the review for doing so. We wish to record our support for building and sustaining an expert workforce, and in the career pathways for women related to the legal aid scheme.
16. NCWNZ calls for careful application of the budget¹⁰ to ensure it covers side or additional costs. An example would be the need for a translator for non-english speakers, particularly where there are complex issues to resolve like domestic violence, human trafficking, and forced prostitution.
17. The CEDAW report noted the risk of cuts in access to expertise, particularly when it comes to cultural reports, which limits awareness in the right of fair trial among Māori and other minority women, and could result in a lack of trust in the judiciary system:

"The Committee also notes with concern the budgetary cuts for the provision of cultural reports to judges and judicial officers to support court proceedings, which poses additional barriers for Māori and other minority women in civil and criminal proceedings before domestic courts, in addition to a lack of confidence in the judiciary, limited

⁹ Ministry of Justice. 2025. The Triennial Review of Legal Aid Discussion Document. [FINAL-Triennial-Legal-Aid-Discussion-document.pdf](#)

¹⁰ [Budget 2025 targets court backlogs, \\$95 million boost for legal aid - Law News](#)

awareness of their right to a fair trial and of existing laws protecting them and their justiciability, as well as lack or a lack of attention or gender sensitivity by authorities.”¹¹

Implementing Legislation

18. NCWNZ is concerned that intended improvements through the implementation of legislative change may not be realised due to budgetary constraints to accessing legal aid. An example for NCWNZ is the implementation of the Crimes Legislation (Stalking and Harassment) Amendment Bill. Our submission requests:

“appropriate budget provisions are planned and made for the implementation of the Bill’s provisions, for a public anti-stalking education programme, for mandatory rehabilitation programmes for stalking offenders, and for comprehensive support services for victims of stalking.”

19. Promoting and reporting on the legal aid scheme should be included as a component of public education. NCWNZ, in our bi-annual Aotearoa New Zealand Gender Attitudes Survey, tracks public perspectives concerning how we are doing in terms of achieving gender equality. Results on attitudes about online harassment provide an insight into gender-based opinions regarding stalking and harassment.

20. Although most male and female respondents agreed that “online harassment is a serious problem” (74% agreed overall), “male respondents were less likely to agree that online harassment has an effect on how women are treated in real life (66% of male respondents compared with 76% of female respondents). They were also less likely to agree that women more than men are exposed to online harassment (63% of male respondents compared with 57% of female respondents).”

Unintended Consequences

21. NCWNZ urges the government to avoid the use of a solely income-based eligibility system, which could fail to properly address issues of domestic abuse that can include economic control. Some women may in fact be in a household with sufficient income to pay for their legal fees but they are denied access to it.

22. Our concern extends to the increase in loan repayment to a broader scale of the population, which brings with it the risk that vulnerable people will be discouraged from seeking legal aid because of the fear of future economic burden.

23. Moreover, people unable to access legal aid or fund a lawyer, or who lose trust in legal services, will be more likely to represent themselves in court. Self-represented cases are more costly for the government. For example, reducing access to legal aid, besides reducing the quality of the trial, may lead to more appeal cases. Such an initiative is

¹¹ Committee on the Elimination of Discrimination against Women. 2024. Concluding observations on the ninth periodic report of New Zealand. CEDAW/C/NZL/CO/9. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FCO%2FNZL%2FCO%2F9&Lang=en

especially important in the context of the Māori community, which is overrepresented in the judicial system, and for which the use of expertise, such as cultural report, is particularly useful.

24. We also wish to raise the possibility that tightening the requirements for access to legal aid may merely push costs of not resolving legal issues to other sectors, such as health care or child protection.

Conclusions

25. NCWNZ welcomes the Triennial Review of Legal Aid. Our focus continues to be addressing areas of concern identified for New Zealand in CEDAW reporting. Additionally, NCWNZ strongly suggests ensuring that there is sufficient resourcing to implement Bills where women are particularly impacted, such as the Crimes Legislation (Stalking and Harassment) Amendment Bill.
26. NCWNZ urges that particular attention be given to the women who are most impacted by inadequate access to legal aid: wāhine Māori and women belonging to ethnic minority groups, migrant women, disabled women, rural women, single parents and those on low incomes or benefits.



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