The Bulletin

The Law Society
OF SOUTH AUSTRALIA

July 2026

Care and Support Providers

Recalibrating Rights: Structural Transformation and Risk in the 2026 NDIS Reforms

The National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 represents a significant recalibration of Australia's disability support framework. This article examines the implications of these changes.

Cheryll Rosales **July 2026**

Disability **Administrative Law**

The ***National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026*** ('the Bill') represents a significant recalibration of Australia's disability support framework. Although framed as a response to escalating fiscal pressures, the proposed reforms extend well beyond budgetary restraint. They materially alter the structure of access, planning, and decision-making under the ***National Disability Insurance Scheme Act 2013*** (Cth) ('NDIS Act').

At the writing of this Article, more than 4000 submissions have been received (over a two-week time frame) by the Senate Community Affairs Legislation Committee, and three days of public hearings have been held on the proposed Bill. An interim report was produced by the Committee in July 2026, with a final report expected mid-August 2026. A final debate and vote is expected in the Senate shortly afterwards.

The NDIS has traditionally operated as a rights-based statutory scheme, conferring enforceable individual entitlements grounded in personalised assessment. As the Full Federal Court observed in *McGarrigle v National Disability Insurance Agency*, it is a beneficial and remedial framework in which policy considerations cannot displace statutory criteria.[1]

The central question raised by the proposed 2026 reforms is whether that character is being preserved in substance, or whether the Scheme is evolving into a system increasingly shaped by fiscal constraint, administrative standardisation, and executive control. This article argues that the reforms create a risk of systemic exclusion, particularly where individuals fall outside the Scheme without access to viable alternative supports. These risks are most visible in regional, rural, remote and very remote (4Rs) contexts, where service availability is already limited.

The reform agenda is driven by a widely acknowledged need to ensure the long-term financial sustainability of the NDIS, given its rapid growth and projected expenditure trajectory. Without intervention, the Scheme risks becoming fiscally unsustainable, potentially undermining its capacity to support future participants. In that sense, measures to constrain costs, improve consistency, and clarify eligibility are both rational and necessary. However, there is a corresponding risk that the pace and rigidity of reform may outstrip the system's capacity to adapt, particularly in the absence of fully developed "foundational supports" outside the NDIS. Without adequate alternative services in place participants may experience gaps in essential support, deterioration in functioning, or increased reliance on crisis systems such as health and housing. The challenge, therefore, is not whether reform should occur, but how to ensure that it is sequenced and implemented with sufficient safeguards so that efforts to protect the Scheme's sustainability do not create harm for the people it is designed to support.

Overview of the Reform Framework

The Bill introduces a package of reforms aimed at constraining Scheme growth and tightening eligibility. Key features include:

- a stricter approach to eligibility and permanence under pt 2 of the NDIS Act,
- the introduction of a functional capacity framework for assessing disability,
- limiting supports to those directly linked to qualifying impairments,
- expanded ministerial powers to reduce funding across support categories,
- authorisation of automated administrative decision-making, and
- strengthened compliance and civil penalty regimes.

Collectively, these measures shift the Scheme away from purely individualised assessment toward a hybrid model incorporating system-level controls and centralised oversight.

From Expansion to Constraint

The reforms reflect a significant shift toward system containment. Historically, Scheme administration centred on individual entitlement – particularly through the application of s 34 and the concept of “reasonable and necessary supports”.[2] The Bill retains this framework but overlays it with mechanisms designed to limit growth and control expenditure at a system level.

The current NDIS reforms are designed to make plan funding more predictable, consistent and financially constrained. A key change is the move to explicit total plan budgets combined with “funding periods” where funding is released in instalments rather than all at once. This limits spending within defined time frames and prevents participants from exhausting their funding early. Any unspent funds may roll forward within a plan but do not carry over into a new plan, reinforcing a “use it within limits” approach.

Alongside these structural controls, reforms are tightening what funding can be used for and how budgets are determined. Legislative changes introduce clearer definitions of what constitutes an NDIS support, reducing flexibility. Future planning will also rely more heavily on standardised support needs assessments, intended to produce more consistent and comparable budgets across participants rather than highly individualised funding outcomes. The Bill further reinforces this by refining the “reasonable and necessary” test, linking supports directly to functional impairment accepted as qualifying for the Scheme, and enabling stronger controls over plan reassessment and funding decisions.

The resulting risk is that fiscal objectives may begin to influence statutory decision-making, despite not being an independent criterion under the NDIS Act.

Administrative Design and Decision-Making

A defining feature of the proposed reforms is the increasing reliance on functional assessment tools, structured planning frameworks, and automated processes; now playing a central role in determining access and funding.

While these mechanisms promote efficiency and consistency, they risk displacing individualised evaluative judgment. Where outcomes are heavily shaped by algorithmic outputs or preconfigured funding bands, there is a real question whether the statutory task is being fully exercised.

Decisions should be made through an active intellectual process, rather than by mechanical application of predefined criteria. If decision-makers treat system-generated outputs as determinative, this may constitute a failure to exercise discretion. The critical issue is whether such tools operate as guides or as de facto decision-makers.

Eligibility Tightening and Constructive Exclusion

Eligibility tightening is the primary mechanism through which the reforms operate. The strengthened permanence requirement introduces a clearer expectation that applicants exhaust all appropriate and available treatment options before qualifying under ss 24-25 of the NDIS Act.[3] This raises the evidentiary threshold for access by requiring more comprehensive clinical material demonstrating that a condition is fully treated, stabilised, and unlikely to improve. It narrows the pathway to entry by shifting the focus from diagnosis alone to a more demanding assessment of whether all interventions have been pursued and found ineffective.

This requirement extends to existing participants through reassessment processes, where the question of permanence may be revisited as part of ongoing eligibility and planning decisions. Participants may be required to demonstrate not only that their condition remains permanent, but that they have continued to pursue, or have exhausted, any further treatment, rehabilitation, or recovery oriented options that could reduce their functional impairment. This creates an ongoing obligation, particularly for conditions where treatment pathways evolve over time (such as psychosocial disability or certain physical conditions).

As a result, the permanence criterion risks operating as a mechanism for the gradual recalibration of eligibility and support levels, rather than a once and for all threshold at the point of entry. Where participants cannot demonstrate that all reasonable treatment options have been exhausted, or where new interventions are identified as potentially beneficial, this may justify reductions in supports or changes to funding on reassessment, even if the participant remains within the Scheme. In this way, the requirement reinforces the broader reform direction toward tighter access, continuous scrutiny of eligibility and incremental constraint of plan funding.

Ministerial Powers and System-Level Funding Controls

A key structural shift lies in the introduction of broad ministerial powers to regulate funding across categories of support. These powers allow for system-wide funding reductions without individual reassessment. In effect, funding may be reduced below what would otherwise be assessed as reasonable and necessary on an individual basis.

In this way, funding reductions may occur not only through individual reassessment decisions, but also through top down regulatory settings that systematically narrow plan budgets across the Scheme. This represents a departure from participant-centred entitlement toward centralised resource allocation.

Foundational Supports and the Risk of a Coverage Gap

The reforms increasingly rely on supports outside the NDIS – often described as "foundational supports". These supports, however:

- are not established by statute;
- do not confer enforceable legal rights;
- vary significantly in availability and quality.

This creates a material risk that individuals will be excluded from the NDIS without access to reliable alternatives. Decisions made on the existence of alternative supports may leave individuals vulnerable where those supports are not available in practice.

Geographical Inequality as a Structural Lens

The effects of the reforms are most visible in 4Rs communities. In these settings, service availability, workforce shortages and geographic isolation amplify the impact of eligibility tightening and funding constraints. Criteria that assume access to treatment may function as practical barriers to entry, while funding assessed as adequate may be insufficient in the absence of available providers.

The 4Rs therefore operate as a structural lens, revealing how statutory entitlements are shaped not only by legal rules but by service markets, administrative systems and the availability of alternative supports.

Conclusion

The 2026 reforms do not formally displace the rights-based architecture of the NDIS, but they materially alter how it operates in practice.

The cumulative effect of the proposed reforms is a system in which access and funding are increasingly constrained, standardised and conditional.

The central risk is not merely reduced generosity but systemic exclusion, where individuals are diverted from the Scheme without access to viable alternatives. Participants may remain formally within the NDIS while experiencing diminishing levels of support or fall outside it altogether into systems that cannot meet their needs.

The future of the Scheme will depend on whether statutory criteria continue to govern decision-making in substance, or whether they are progressively overtaken by administrative design and fiscal constraint. For practitioners, advocates and decision-makers, the imperative remains clear: to ensure that the legal framework continues to anchor decision-making and that efficiency-driven reforms do not erode the original intentions at the core of the NDIS.

Cheryll Rosales is a solicitor at Uniting Communities Law Centre, Co-Convenor at CLCA National Regional, Rural, Remote and Very Remote (4R's) Network and a member of the Law Society of South Australia's Justice Access Committee.

Endnotes

1 *McGarrigle v National Disability Insurance Agency* (2017) 251 FCR 305, 317–18 [46]–[49].

2 *National Disability Insurance Scheme Act 2013* (Cth) ss 3, 4, 34.

3 *National Disability Insurance Scheme Act 2013* (Cth) ss 24–25.

A Rights-Based Future: The importance of advocacy in aged care

The Aged Care Act 2024 represents a significant transformation of Australia's aged care system. This article explores a key feature of the Act, the formal recognition of advocacy.

Tara Simpson **July 2026**

Elder Law

The ***Aged Care Act 2024*** (the Act) commenced on 1 November 2025 and represents a fundamental reform of Australia's aged care system. Prompted by the findings of the Royal Commission into Aged Care Quality and Safety[1], the new legislation replaced the *Aged Care Act 1997* and reshapes the way aged care is conceptualised and delivered by moving from a provider-focused model to a rights-based framework centred on the dignity, autonomy, and wellbeing of older people. The Royal Commission's key recommendations focused on:

- Improving dignity, respect and safety for older Australians.
- Embedding person-centred care.
- Establishing a needs-based entitlement provided through high-quality aged care services.

- Enhancing provider accountability.
- Strengthening regulation, oversight and complaints handling.

The previous framework was regarded as being overly focused on funding models and provider compliance, with insufficient emphasis on the experiences and rights of older people. The new Act addresses this deficiency by establishing a rights-based system, placing older Australians at the centre of all decision-making, service delivery, and regulatory oversight.

A Shift in Philosophy

The most defining characteristic of the Act is its philosophical reorientation. It moves away from a system designed primarily to regulate funding flows and service provision toward one that is grounded in human rights principles.

This new approach recognises older people not as just passive recipients of care, but as active decision-makers who are entitled to autonomy, respect and participation in all aspects of their lives. It aligns with contemporary international frameworks promoting person-centred care and supported decision-making, ensuring that services adapt to individuals rather than expecting individuals to conform to systems.

Providers are no longer judged solely on compliance with procedural standards, but also on their ability to uphold rights, deliver meaningful outcomes and respect individual preferences.[2] Regulatory mechanisms have been strengthened to ensure that these obligations are enforceable, creating a system that is both more accountable and more transparent.

Enshrining Dignity in Law

Central to the operation of the Act is the introduction of the Statement of Rights[3] which articulates the fundamental entitlements of older people receiving government-funded aged care.

These rights include:

- The right to be treated with *dignity, respect, and compassion*
- The right to *make decisions about one's own life*, including care and services
- The right to *independence and participation* in society
- The right to receive *safe and high-quality care*
- The right to *express concerns or complaints without fear of reprisal*

Under the Act, providers are required to demonstrate that their practices align with these rights, and failure to do so may result in regulatory intervention.

Importantly, the Statement of Rights reflects a broader cultural shift. It challenges long-standing assumptions about ageing, dependence and risk. It affirms that older people retain the right to make decisions even where those decisions involve risk or may differ from professional advice.

The Role of Advocacy

Within a rights-based system, advocacy is essential. While legislation creates rights, advocacy helps to ensure that those rights are realised in practice, particularly for vulnerable older people who may have difficulty in communicating and asserting their preferences.

Section 23(10) – Statement of Rights, of the Act provides:

(10) An individual has a right to be supported by an advocate or other person of the individual's choice, including when exercising or seeking to understand the individual's rights in this section, voicing the individual's opinions, making decisions that affect the individual's life and making complaints or giving feedback.

and

Section 25(3)(f) – Statement of Principles, of the Act provides:

(3) The Commonwealth aged care system supports individuals to:
. . .
(f) engage with, and be supported by, independent aged care advocates (if the individual so chooses), including through receiving information, education and advocacy in relation to accessing, or seeking to access, funded aged care services.

A defining feature of advocacy is its independence. Advocates are not part of the service delivery system and are guided exclusively by the wishes, preferences and consent of the older person. This is important in situations of power imbalances within aged care settings, and particularly so for older people who may be vulnerable due to their cognitive impairment, social isolation, language barriers or complex care needs.

In such circumstances, advocates play a vital role in ensuring that older people are heard, respected and protected.

Aged Care Advocacy

The Older Persons Advocacy Network (OPAN) is the national body responsible for delivering aged care advocacy services under the Australian Government's National Aged Care Advocacy Program (NACAP).

OPAN operates through a network of state and territory organisations, ensuring that advocacy services are accessible across Australia. Individuals and families can access support through the Aged Care Advocacy Line (1800 700 600), which connects callers to local advocacy services.

In South Australia, advocacy services are delivered by the Aged Rights Advocacy Service (ARAS), the state's member organisation within OPAN.

ARAS[4] has been supporting older South Australians since 1990 and provides a free, confidential and independent service to older people receiving or seeking aged care services.

ARAS advocates:

- Support individuals to understand their aged care rights and entitlements
- Assist with accessing and navigating aged care services
- Help resolve concerns, complaints, or disputes with providers
- Promote self-advocacy and empowerment
- Provide education to the community and service providers

ARAS also provides specialist support, including:

- Aboriginal advocacy services
- Financial advocacy services
- Support for individuals experiencing or at risk of elder abuse

Supported Decision-Making

The new Act embeds concepts such as choice and control as core principles. It introduces mechanisms to support decision-making, including the establishment of a Registered Supporter role enabling older people to nominate someone to assist them in expressing their will and preferences, recognising that individuals may need assistance to make decisions without relinquishing control.

The primary role of a Registered Supporter is to assist an older person to understand information relevant to their care and to be able to express their preferences. The role does not confer decision-making authority; rather, the supporter must act in a way that promotes and gives effect to the older person's will, preferences and rights. This approach reinforces the principle that capacity is not binary and older people should be supported to remain active participants in decisions affecting their lives for as long as possible, consistent with the broader rights-based framework established under the Act

The key differences in the roles of Advocates and Registered Supporters are:

- Advocates are rights protectors and remain independent.
- Registered Supporters are facilitators of decision-making within the older person's support network.

These roles are complementary rather than interchangeable:

- Registered Supporters assist older people to participate in making or communicating decisions
- Advocates help to ensure those decisions are respected and upheld.

This dual approach strengthens the position of older people receiving aged care services by:

- Promoting their participation in decisions about their care
- Protecting their rights
- Ensuring accountability of service providers.

Responsibilities of Providers and the System

The success of a rights-based framework depends on its implementation. The Act introduces a range of responsibilities for providers, workers, and regulators to ensure that the Statement of Rights is upheld in practice.

Provider Responsibilities

Providers must:

- Deliver care that is consistent with the Statement of Rights
- Support choice and control in care planning and service delivery
- Provide clear, accessible information to consumers
- Facilitate access to independent advocates
- Respond effectively to complaints and feedback.

System Responsibilities

The broader system, including regulators and government agencies, must:

- Monitor and enforce compliance with standards
- Promote transparency and public accountability
- Support access to advocacy and information services
- Ensure equitable access to services across diverse populations.

These responsibilities create a framework in which rights are not merely described but actively operationalised through policy, practice and oversight.

Conclusion

The *Aged Care Act 2024* represents a landmark reform, redefining aged care in Australia as a system grounded in rights, dignity and person-centred care.

The introduction of a Statement of Rights signals a clear commitment to ensuring that older people are treated with respect, empowered to make choices and supported to live meaningful lives.

The effectiveness of this framework depends on its practical implementation. In this context, advocacy will play a crucial role. Organisations such as OPAN and ARAS in South Australia ensure that rights are not only recognised in law but are realised in practice. By providing independent, confidential and person-centred support, advocates help to bridge the gap between policy and lived experience.

Tara Simpson is the director of Aged Rights Advocacy and Legal Service Ltd.

Endnotes

1 Royal Commission into Aged Care Quality and Safety final report 1 March 2021

2 Aged Care Act 2024, section 24 – Effect of Statement of Rights

3 Aged Care Act 2024, section 23

4 Aged Rights Advocacy Services: Tel: 08 8232 5377, Email: **aras@agedrights.asn.au**

The Other Role: Being a Lawyer and a Carer

Lawyer and YLP Legal Principal Maggie Yarak reflects on raising two sons with autism while building a legal career and how lived experience inspired the creation of Adelaide's first autism-friendly law firm and advocacy for a more inclusive profession.

Maggie Yarak **July 2026**

Disability **Administrative Law**

The legal profession is often characterised by long hours, demanding workloads and an expectation that practitioners will always be available to meet the needs of clients and employers. While these pressures affect many lawyers, they can be particularly challenging for those who also carry significant caring responsibilities.

For me, the roles of lawyer, carer and disability advocate are inseparable. Each has shaped the other, influencing not only the way I practice law but also how I view the profession and the changes that are needed to ensure it remains accessible to talented practitioners whose lives do not fit the traditional model.

My journey into the world of disability advocacy was not planned. Like many parents, I had expectations about what family life might look like. Those expectations changed dramatically after the diagnosis of my eldest son, Samuel, with Autism Spectrum Disorder (ASD) shortly before his second birthday. At the time, I was an in-house solicitor and had already spent almost a decade building my legal career.

Adding to the challenge, I also had a six-month-old baby, Isaac. When Isaac was just over two years old, he too was diagnosed with ASD. Today, he is almost 15 years old and remains non-verbal.

Like many parents of children with disabilities, I found myself learning a completely new language almost overnight. Suddenly, my world involved therapy appointments, assessments, specialist reports, school meetings and navigating support systems that often seemed overwhelming and difficult to access.

At the same time, I was attempting to continue building a legal career within a profession that, at least at that time, offered little flexibility for practitioners with significant caring responsibilities.

The practical realities of raising two children with autism affected every aspect of family life. Samuel did not toilet train until he was five years old. Isaac was not toilet-trained until he

Maggie Yarak and her family

was seven. Everyday activities that many families take for granted required additional planning, support and patience.

Schooling presented its own challenges. Finding an environment that could appropriately support the boys' needs was critical. Eventually, we secured places at Modbury Special School. Initially, this was not the outcome we had envisioned. We had hoped our children would attend a school closer to home and follow a more conventional educational pathway.

However, what we discovered was a school community that embraced our family, understood our challenges and worked alongside us. Looking back, that support made an enormous difference. It reinforced the importance of inclusion and demonstrated what can happen when organisations genuinely understand and accommodate diversity rather than simply acknowledge it.

Unfortunately, my experience in legal workplaces was not always the same.

At the time, flexible work arrangements were far less common than they are today. The organisations I worked for expected lawyers to be physically present in the office for long hours. Working from home was not considered a realistic option, even when children were unwell or family circumstances required additional support.

As a parent of children with disabilities, this created constant tension between my professional obligations and my responsibilities at home. There were many occasions where I felt I was being asked to choose between being the lawyer my employer expected and the mother my children needed.

The reality is that caring responsibilities do not operate according to business hours. Therapy appointments cannot always be scheduled outside working time. Schools call during the day. Children become overwhelmed, unwell or require support with little notice.

For lawyer-carers, flexibility is not a luxury. It is a necessity.

Yet the traditional legal profession has often been built around assumptions that practitioners can dedicate unlimited time to work and that career progression is measured by visibility, availability and hours spent in the office.

These assumptions can inadvertently exclude talented lawyers who happen to have responsibilities outside the workplace.

My career changed when respected practitioner Michelina Guarna offered me a flexible role within her firm.

More importantly, she offered me an opportunity to build a future that accommodated both my professional ambitions and my family responsibilities.

Less than two years later, once both boys had commenced school, I took over the practice.

Owning my own firm proved transformative.

For the first time, I was able to structure my professional life around the realities of caring for my children while continuing to practice law at a high level. I could manage school drop-offs and pick-ups, attend therapy appointments and respond to family needs without feeling that I was compromising my professional obligations.

This flexibility remains essential today. Although both boys are now older, they are not yet independent enough to use public transport on their own. Their support needs continue, albeit in different ways.

Running a firm has also given me a unique perspective on workplace culture within the legal profession.

One of the ongoing challenges for lawyer-carers is the perception that flexibility somehow reflects a lack of commitment. There can be a misunderstanding that because someone structures their day differently, they are less invested in their career.

In reality, many carers become exceptionally efficient because they have no choice. They learn to prioritise, manage competing demands and maximise every available hour.

What often goes unseen is the invisible workload that exists outside the office.

For parents of children with disabilities, there are countless additional responsibilities. There are therapy appointments, medical reviews, school meetings, support coordination and advocacy obligations. There is also the emotional labour involved in continually advocating for your child and navigating systems that are often under-resourced and difficult to access.

One of the more challenging aspects of my journey has been Isaac's non-verbal communication. While his communication skills improve every year, there are still moments where it is difficult not fully knowing what he is thinking or what he needs.

Parents of children with disabilities often learn to celebrate milestones that others may take for granted. Progress may come more slowly, but every achievement represents determination, resilience and growth.

Despite the challenges, there have been extraordinary rewards.

One of the greatest is knowing that I have successfully built a legal career while remaining actively involved in my children's lives. There were certainly times when I questioned whether it was possible to do both.

Looking back, I am proud that I found a pathway that allowed me to continue practising law without sacrificing my role as a parent.

Another reward has been the opportunity to speak openly about our experiences.

When I share our family's story, I am often struck by the positive response. Colleagues, clients and members of the profession frequently express appreciation for the honesty and vulnerability involved in discussing disability, neurodiversity and caring responsibilities.

These conversations matter because they help break down stereotypes and create greater understanding.

Many people have limited exposure to autism and neurodiversity. By sharing lived experience, we create opportunities for others to better understand the challenges, strengths and realities faced by neurodiverse individuals and their families.

Over time, I came to realise that my lived experience could also inform my professional practice.

As a lawyer, I found myself uniquely positioned to advocate for change within the profession and to encourage greater awareness of neurodiversity from both an employee and client perspective.

This advocacy ultimately led to the creation of Adelaide's first autism-friendly law firm.

The concept was simple but important. Many traditional legal environments can be overwhelming for neurodivergent individuals. Bright lighting, busy reception areas, complex communication styles and unfamiliar processes can create unnecessary barriers.

By designing a practice that actively considers the needs of neurodiverse clients, we sought to provide a legal service that was not merely accessible in theory but genuinely inclusive in practice.

The response from the community has been overwhelmingly positive.

Importantly, being autism-friendly is not only about physical environments. It is also about communication, understanding and respect. It involves recognising that clients may process information differently, require additional time or benefit from alternative methods of engagement.

These adjustments are not difficult to implement, but they can have a profound impact on a person’s experience of the legal system.

The legal profession has made significant progress in recent years in relation to diversity and inclusion. However, there remains considerable work to be done in supporting carers and improving awareness of neurodiversity.

Greater workplace flexibility is part of the solution. So too is a broader recognition that excellent lawyers come from a wide range of backgrounds and life experiences.

The profession benefits when practitioners are able to bring their whole selves to work without feeling they must conceal important aspects of their lives.

Lawyers who are carers bring valuable skills to practice. They are often highly organised, resilient, adaptable and empathetic. They understand complexity, advocate fiercely and develop creative solutions to difficult problems.

These are qualities that strengthen the profession rather than diminish it.

My experience has taught me that success does not always follow the path we originally imagined. Sometimes the challenges we face become the foundation for our greatest contributions.

For me, caring for two sons with autism has shaped not only the person I am but also the lawyer I have become.

It has reinforced the importance of empathy, flexibility and advocacy. It has shown me the power of creating environments where people feel understood and supported. Most importantly, it has demonstrated that legal excellence and caring responsibilities are not mutually exclusive.

The challenge for our profession is to ensure that future generations of lawyer-carers are able to thrive in both roles without having to choose between them.

Maggie Yarak is Principal at YLP Legal – Your Legal Partner.

Beyond Enrolment: The role of support providers in educational justice for young people in care

This article by Kirsten Ball explains why children in care require a distinct and tailored response and why this matters for legal practitioners.

Kirsten Ball **July 2026**

Child Protection **Guardianship** **Education**

In June 2026, the Australian Government House of Representatives Standing Committee commenced an Inquiry into the factors driving educational attainment. The inquiry examines why outcomes vary across the education journey.

This article explains why children in care require a distinct and tailored response and why this matters for legal practitioners.

Educational access is a fundamental right. For children in care, the state assumes responsibilities as both guardian and service provider. Yet current outcomes suggest the system does not consistently meet its obligations.

For legal practitioners, educational attainment should not be regarded as a peripheral issue. Educational engagement is one of the strongest predictors of long-term well-being, social participation and economic independence, playing a foundational role in shaping life outcomes.[1] When children disengage from education, the consequences are personal, legal, economic, systemic and intergenerational.

Children in Care in South Australia

South Australia has approximately 4,900 children and young people living in out-of-home care at any given time, a figure that has steadily increased in recent years.[2]

Each child in care brings strengths, hopes, relationships and cultural identity that can support learning, wellbeing and belonging. These strengths sit alongside experiences of abuse, neglect, family breakdown and placement instability. Aboriginal children are significantly overrepresented in the care system, yet our care system does not adequately recognise culture, family, kinship and connection to Country as sources of protective strength.

Only around 57 per cent of children in care complete Year 12, dropping to approximately 30 per cent for those in residential care, with many leaving the academic pathway at or soon after Year 10.

Research suggests each early school leaver carries a combined fiscal and social lifetime cost approaching $1 million, reflecting increased reliance on welfare, health and justice systems, alongside lost productivity and well-being.[3]

At a population level, around 40 per cent of 24-year-olds are not fully engaged in education, employment or training.[4] For young people leaving care, this disparity is significantly more pronounced. By age 18, 23% of young people in residential care are in the workforce,[5] around 90 per cent rely on income support and around 30 per cent experience homelessness in the first year after leaving care.[6]

The link between educational engagement and long-term well-being is well established. Completion of secondary education correlates with improved health outcomes, greater economic participation, and reduced involvement in the justice system. For children in care, these are key protective factors against the known risks associated with statutory systems, including homelessness, income insecurity and social exclusion.

Why School Is Different for Children in Care

Educational disengagement among children in care is not a reflection of their capacity or motivation. It reflects the conditions in which they are expected to learn.

Children in OoHC are significantly more likely to experience placement instability, disrupted schooling and fractured peer relationships, creating cumulative patterns of disengagement, decreased satisfaction and lower completion rates. These challenges are compounded by having higher rates of trauma, neurodevelopmental disorders (including autism and ADHD[7]) and mental health challenges, affecting emotional regulation, cognitive development, concentration and sense of safety.

The busy, structured and group-oriented environment of a typical school compounds these challenges leading many to operate in a heightened state of vigilance. Behaviour often labelled as “non-compliant” or “disruptive” is more accurately understood as behavioural communication: an expression of stress, unmet need or lack of safety. Yet too often, schools respond with exclusion rather than understanding. Children in care are four times more likely to be suspended than their peers.[8]

From a legal and policy perspective, this raises an important question: to what extent do current disciplinary practices inadvertently entrench disadvantage for a cohort already subject to state intervention?

Educational trajectories are often shaped not by a young person’s capability, but by whether systems recognise and respond to complexity. The emphasis should be on the system responding effectively to the need versus the child being punished for their trauma experiences.

A Fragmented System

These outcomes point to systemic failure of the adults, institutions and structures responsible for supporting children in care.

A defining feature of the experience is fragmentation. Education, child protection, housing, disability, mental health and justice systems operate within distinct frameworks, funding models and accountabilities.

For the young person, these systems converge in daily life. Placement changes disrupt schooling. Court processes impact attendance. Support services often operate in parallel rather than in partnership. Key transition points - moments when stability and continuity are most critical, are often when systems are least aligned.

This creates a system in which young people are expected to adapt, rather than the system adapting to them. For children already navigating trauma, instability and loss, this is an expectation few can meet without sustained support. Without stable, trusted relationships in care and educational settings, engagement becomes increasingly difficult and withdrawal becomes a rational response. Other young people are excluded from learning environments with a label that they are ‘too difficult’, further reinforcing their internal belief system that they are not good enough.

Beyond Enrolment: What Drives Engagement

Enrolment alone does not lead to improved engagement or achievement for young people who have experienced trauma or other vulnerabilities. What makes the difference is the presence of sustained, relational support that actively assists young people to trust, to persist and to succeed.

Emerging models of practice point toward the importance of integration - bringing together education and support providers in ways that centre relational safety, flexibility and individualised pathways. Alternative education settings, including Special Assistance Schools (SAS), are increasingly recognised as vital components of the broader education landscape.

Junction Australia's partnership with YouthInc (SAS) provides one example of this approach in practice. Integrating Junction's therapeutic care and coaching support with the hands-on, real-world, personally meaningful project-based learning style of Youth Inc, the model prioritises consistency, safe and trusted relationships and student agency. Early indications include improved educational engagement, greater connection to community and support networks and clearer pathways into further education and employment.

For some young people, this is the first time education has felt relevant, safe and worth persisting with.

Critically, it is extending support beyond enrolment, beyond placement changes, beyond the transition from care and beyond state funding parameters.

Implications for Legal Practice

The theme of "support providers" is particularly relevant to the legal profession.

Whether acting as independent children's lawyers, representing parents or working within government and community sectors, lawyers influence the lives of children in care.

Legal practitioners:

- Influence decisions about care placement stability and continuity of schooling as a basic right
- Advocate for educational continuity and relational stability as core components of a child's best interests
- Intersect with systems where disengagement manifests
- Hold a position from which systemic issues can be identified and elevated

Understanding the educational context of children in care is central to effective advocacy.

A Collective Responsibility

The Parliamentary Inquiry into educational attainment presents an opportunity to reconsider how systems support children in care.

The persistent disengagement of children in care is not simply an education issue. It is a justice issue, a social policy issue and a collective responsibility.

Children in care do not lack aspiration. As many have told us, they want what any young person wants: love, stability, someone who believes in them and a future with purpose and opportunity.

The task is not to make them fit the system. It is to build systems around them that enable them to thrive with safe, trusted adults walking alongside them on their learning journey.

Support providers are critical partners. Their insights, drawn from direct practice with young people, offer legal practitioners valuable guidance on what works, what supports are available and where systems continue to fall short.

The question is whether our systems, collectively, are prepared to create the conditions that make those futures possible.

Kirsten Ball is the Youth Pathways Lead at Junction Australia and a member of the Children and the Law Committee of LSSA.

Since 1979, Junction has grown from an emergency youth accommodation service into a large, integrated social enterprise working across South Australia. Junction is a leading provider of community and affordable housing, manages local community hubs - our Hackham and Kangaroo Island Community Centres, and delivers specialised support for children, young people and families. Our work with young people involved in the child protection system is grounded in a simple belief: young people thrive when they have a safe and stable place to live, enduring relationships, and meaningful access to learning, earning and community opportunities.

Endnotes

1 **https://psycnet.apa.org/record/2024-19513-001**

2 Commissioner for Children & Young People (2024), *Child Rights Progress Report on Child Protection* **https://www.ccyp.com.au/wp-content/uploads/2024/12/Screen-Child-Rights-Progress-Report-2024-Child-Protection.pdf**; Department for Child Protection Statistical data **https://childprotection.sa.gov.au/research-and-publications/statistical-data**

3 Lamb, S. & Huo, S. (2017). *Counting the Costs of Lost Opportunity in Australian Education.*

4 As above

5 McDowall, J. J. (2020). *Transitioning to Adulthood from Out-of-Home Care: Independence or Interdependence.* Sydney: CREATE Foundation

6 Australian Institute of Health and Welfare (AIHW), Specialist Homelessness Services Annual Report 2024-25, Specialist homelessness services annual report 2024–25, Clients leaving care - Australian Institute of Health and Welfare, **https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-annual-report/contents/clients-leaving-care**

7 AIHW

8 NSW Department of Communities and Justice. (2022). *Are children who are known to child protection services more likely to be suspended from school? Findings from the NSW Child Development Study*

Protection of human rights under the new Aged Care Act 2024

The new Aged Care Act has been hailed as a once-in-a-generation reform that prioritises human rights. However, concerns remain that the new Act does not provide protection for aged care individuals as desired by the community.

Helena Errey-White and Claudia Van Eckeren July 2026

Administrative Law Elder Law

A key purpose of the new ***Aged Care Act 2024*** **(Cth)** is to put the rights of individuals receiving aged care at the forefront of the actions and decisions of registered providers and the Government. The new Aged Care Act has been driven by the recommendations of the Royal Commission into Aged Care Quality and Safety, which was established to enquire whether aged care services in Australia were meeting the needs of the community, and how they could be improved in the future.

Protecting the rights of individuals receiving aged care is threaded through many of the recommendations of the Royal Commission, and consequently is a central focus of the new Aged Care Act.[1] These foundations can be seen within the objects of the new Aged Care Act, as well as the Statement of Principles and the Statement of Rights.[2] In practice, the new Act succeeds in providing stronger protections for individuals and establishes a system that is centred around an individual's human rights. However, despite these improvements, there are concerns that the new Aged Care Act - and the system it creates - fails to adequately address the rights of individuals in numerous respects.

Accessing the aged care system

Of course, the fundamental function of the aged care system is to deliver high-quality and timely aged care services to individuals requiring it. Whilst the new Aged Care Act is a step in the right direction, there are inherent human rights limitations that arise from the aged care sector's funding constraints. Specifically, an individual's ability to access aged care services at all, including the level of care accessed, is dependent on the availability of government funding.

This accessibility concern is demonstrated by the long wait times for individuals requiring aged care services, for both in-home and residential aged care. For individuals wishing to receive care in their home through the Support at Home program, the current average wait time is 11 months for a standard priority support-at-home assessment to be decided.[3] Similarly, individuals requiring residential aged care are waiting on average 13 months to access ongoing residential aged care in Australia,[4] with bed shortages only adding to these delays and resulting in individuals being stuck in a hospital system not designed for long-term accommodation.[5] These delays in accessing care are arguably the most significant human rights concern with the aged care system, as it has negative impacts on a person's health, quality of life, and wellbeing.

Statement of Rights

The most apparent mechanism for the protection of individuals' rights under the new Aged Care Act is the new Statement of Rights, which is intended to guide the actions and decisions of providers in their delivery of aged care services.[6] The Statement of Rights has replaced the previous Charter of Aged Care Rights under the now ceased ***Aged Care Act 1997*** **(Cth)**. The Statement of Rights is a substantial improvement on the previous Charter, with a far more comprehensive list of individual rights to be protected.

Under the new Aged Care Act, the Statement of Rights primarily functions through the imposition of a registration condition on registered providers of aged care services. This condition requires providers to demonstrate an understanding of the Statement of Rights and have in place practices to ensure the provider acts compatibly with these rights.[7] A breach of this condition can result in compliance and enforcement action by the Aged Care Quality and Safety Commissioner (ACQS Commissioner) under the new Aged Care Act. Individuals can also make a complaint to the Complaints Commissioner within the Aged Care Quality and Safety Commission that a registered provider is acting incompatibly with the Statement of Rights.[8]

However, the new Aged Care Act specifies that nothing in the Statement of Rights creates rights or duties that are enforceable by proceedings in a court or tribunal.[9] For individuals, this means that if their rights under the Statement of Rights have been breached, their only recourse is to lodge a complaint with the Complaints Commissioner, who may then consider it. Whilst the Complaints Commissioner can investigate the complaint and take action as permitted under the Aged Care Act, the individual is unable to bring court or tribunal proceedings themselves, thereby limiting an individual's autonomy over breaches to their rights under the Statement of Rights.

Compensation Pathway

Another recently introduced protection under the new Aged Care Act is the compensation pathway, which allows for compensation to be granted to individuals who suffer serious injury or illness as a result of the provider's conduct in delivering care.[10] This compensation pathway allows a court to order this compensation either on the application of the ACQS Commissioner or the individual themselves.[11] This provides an express and clear mechanism for an individual to receive compensation from a registered provider where their right to receive safe care is found to have been breached at the hands of the provider.

However, similar to the Statement of Rights, there are narrow circumstances when compensation can be received by the individual. For a court to be able to make a compensation order, the registered provider must be found to be liable to a civil penalty for contravening the provider's statutory duty.[12] This is reliant on the ACQS Commissioner first pursuing the breach, and is a high threshold to meet due to the requirement of a significant failure or systematic pattern of conduct in the provider's breach, which results in the serious injury or illness.[13] Serious injury or illness to the individual alone is not sufficient.[14]

Balancing protections with continuity of care

In our view, a significant contributing factor to the constraints imposed on an individual's ability to enforce the new protections under the new Aged Care Act is the need to balance an individual's human rights with the sustainability of the aged care system. There are significant funding constraints in the aged care sector, and especially so for residential care, where the new Aged Care Act sets or strictly regulates nearly every fee a registered provider is entitled to charge for care, services and accommodation. In this regard, most homes in the residential aged care sector are operating at a loss.[15]

In a sector where the financial viability of registered providers is on a tightrope due to the structure of the system and its funding, the Federal Government needs to be cautious about opening the litigation floodgates and ensuring there is enough supply to meet rising demand. Taking a step back and looking at the collective, there is a need to consider protections for individuals in the care they receive, whilst ensuring that those protections do not compromise the overall supply of aged care services.

Conclusion

Whilst the new Aged Care Act takes important steps to protect fundamental human rights, there remain a number of shortcomings in relation to an individual's ability to enforce breaches to their rights, as well as funding and access issues preventing individuals from accessing high-quality and timely aged care services they require.

Despite this, it is acknowledged that the new Aged Care Act is the biggest aged care reform in a generation, and it is not unexpected for there to be challenges and further considerations required during this transitional period. Providers, individuals and regulators are only now beginning to see how the new Aged Care Act will impact the sector, and parties will need to listen to each other and collaborate in order to ensure there is an appropriate balance between making the system sustainable, whilst ensuring that access to care and protection of individuals' rights are properly managed.

Helena Errey-White is a senior associate at Cowell Clarke and a member of the Human Rights Committee of The Law Society of South Australia, and Claudia Van Eckeren is an associate at Cowell Clarke.

Endnotes

1 Royal Commission into Aged Care Quality and Safety, *Final Report: Care, Dignity and Respect* (March 2021) (**accessible here**).

2 Sections 5, 23 and 25 of the *Aged Care Act 2024* (Cth) (**new Aged Care Act**).

3 My Aged Care's *Estimated wait times for ongoing support at home assessment as at 1 November 2025* (accessed 26 May 2026) (**accessible here**).

4 As at 31 March 2026. Page 15 of the Department of Health, Disability and Ageing's *Aged Care Act 2024 Wait Times* Report: *Residential care and Support at Home* dated 12 May 2026 (**accessible here**).

5 SA Health's *Patients waiting for residential aged care* (accessed 26 May 2026) (**accessible here**).

6 See the Statement of Rights at section 23 of the new Aged Care Act.

7 Section 144(1) of the new Aged Care Act.

8 Section 358 of the new Aged Care Act.

9 Section 24(3) of the new Aged Care Act.

10 Section 186(1) of the new Aged Care Act.

11 Section 186(2) of the new Aged Care Act.

12 Sections 179 and 186(1)(a) of the Aged Care Act.

13 Section 19 of the new Aged Care Act.

14 Section 179 of the new Aged Care Act.

15 As at September 2025. See page 7 of Stewart Brown's *Aged Care Financial Performance Survey Sector Report* dated 11 February 2026.

Walking Gently, Leading Strongly: Culturally Safe Justice Services

What does cultural safety look like in a legal service? For those working in Aboriginal Community Controlled Organisations, cultural safety is not an abstract concept. It shapes how services are delivered, how relationships are built, and whether legal assistance is effective.

John Tonkin and Lesley Kirkwood **July 2026**

Aboriginal Justice

Marnie Mitchell and Lesley Kirkwood hosting a stall at the KWY Conference, March 2026

Safety Before Service

In most legal practices, time is measured in units.

In ours, time is measured in trust.

For many Aboriginal and Torres Strait Islander clients, engagement with the legal system is not a neutral experience. It can be confusing, overwhelming and, at times, re-traumatising.

That experience is often shaped by broader factors - intergenerational trauma, systemic barriers and a long history of mistrust of institutions.

In that context, the traditional model of legal service delivery - identify the issue, provide advice, progress the matter - does not always hold.

Before legal work can begin, there must be a foundation of safety. That safety is not assumed. It is built through every interaction: how a client first sees the service, how they are greeted, how their story is heard, whether they feel believed and whether they retain control over what happens next.

> *Clients need to see that a service is safe. This starts from the moment they see your office, make the first phone call or look online. Some Aboriginal clients have felt specifically excluded from mainstream legal services for so long that they need to know they are explicitly included. If a client does not feel safe, they are less likely to attend follow-up appointments, refer others or seek your help in the future. Clients remember how services make them feel. First impressions count.*
> Lesley Kirkwood, Principal Legal Officer

Relationships Are the Work

In many legal settings, the interaction between practitioner and client is transactional. A matter is opened, advice is given and steps are taken.

In a culturally safe practice, the relationship itself is central to the work.

At Family Violence Legal Service Aboriginal Corporation (FVLSAC), clients will often engage with us more than once before they are ready to seek legal assistance. They may first meet staff at a community event, attend a program, or hear about the service through a trusted connection. By the time they call for an appointment, the relationship may already have begun.

A first appointment may not immediately “progress” a matter in the traditional legal sense. We spend time understanding context: family, community, safety, housing, children, support systems and what the client wants to happen next.

This is not inefficiency. It is the work.

Trust is built through consistency, presence and respect. It is strengthened when staff are visible in community and known as part of the local service landscape, not separate from it.

The result is that when legal advice is given, it is more likely to be understood, accepted and acted upon.

Time Is Not the Constraint

One of the most visible differences in culturally safe practice is how time is used.

In many legal environments, time is a constraint to be managed, recorded and streamlined. In a culturally safe model, time is responsive to the needs of the client.

Some clients need time before decisions are made. Some disengage and return weeks or months later. Progress is rarely linear, particularly where family violence, safety planning, housing insecurity, financial stress or child protection concerns are also present.

Our approach is guided by a simple principle: services should not be delivered according to a fixed time allocation but according to what the client needs.

That means explaining advice more than once. It means allowing space for a client to consider their options without pressure. It means prioritising presence over productivity.

> *We walk alongside our clients. We work with our clients, not for them. This is the strength in our model.*
> Jasanne Cole, Client Support Officer

Progress is not measured by how quickly a matter moves, but by whether the client is ready to move at all.

At FVLSAC, clients are given time between discussions to reflect, seek support and tell us when they are ready to proceed. There is no judgement in that process. For a victim-survivor, deciding what to do next can be complex, frightening and deeply personal.

The Family Violence Legal Service Adelaide Team. Bella, Kiara, Joanna, Ruth, Crystal, Marnie and Shahleena

While this approach can extend the timeframe of a matter, it often supports more informed decision-making and more sustainable outcomes.

> *Culturally safe practice is an extension of trauma-informed practice. We must ensure that we do not cause further harm by disregarding a person's culture. Consideration of culture must be at the heart of what we do. Our service delivery model centers the client. Our processes allow time to build rapport and trusting relationships, and we are led by our Client Support Officers, our community-controlled Board and our clients themselves in determining our approach.*
> Ruth Storer, Senior Solicitor

Wraparound Support Is Not Optional

Legal issues do not exist in isolation.

A client experiencing family violence may also be dealing with housing instability, financial stress, health concerns, child protection involvement or immediate safety risks. Providing legal advice alone, without recognising those intersecting issues, can limit the effectiveness of that advice.

A culturally safe practice recognises this and responds accordingly.

At FVLSAC, legal assistance sits alongside non-legal support, referral pathways, community legal education and early intervention work. This is not an "add-on" to legal work. It is integral to it.

In practice, this means initial conversations may focus less on a clearly defined legal problem and more on what is happening in the client's life. Over time, as trust builds, the legal issue often becomes clearer. By that point, the client may be more comfortable asking questions, weighing options and making decisions about next steps.

> *We provide whole-of-client support. This means meeting clients where they are at and working on what their priorities are — legal or non-legal. Our clients are victim-survivors of family, domestic or sexual violence. Their lives are complex, and they are often dealing with multiple systems alongside their legal issue. Once immediate needs are addressed, the client can better focus on the legal issue.*
> Lesley Kirkwood

> *I feel privileged to work with an Aboriginal Community Controlled Organisation. I am trusted with the stories and experiences of our clients and supported by Aboriginal staff who are incredibly generous in sharing their knowledge with me. We see incredible resilience from our clients, and we get to be part of celebrating Aboriginal culture and community through events such as Sista 2 Sista.*
> Ruth Storer

Cultural Safety Comes Through Leadership Being Active, not Passive

There is a tendency to treat cultural safety as a value statement — something expressed in policies, training frameworks or strategic plans. In practice, it is much more concrete.

Cultural safety is reflected in how decisions are made about service delivery. It is reflected in how time is allocated, how staff are supported, how governance operates and how success is defined.

For Aboriginal Community Controlled Organisations, this is not incidental. Community control ensures that services are shaped by the communities they serve. It influences not only what services are provided, but how and where they are delivered.

> *Cultural safety is operational, and it begins with leadership. When leadership commits to cultural safety, it becomes visible in every part of an organisation — how people are supported, how services are delivered and how accountability is upheld.*
> Tosha Sambo, Deputy CEO

Cultural safety is not static. It requires ongoing reflection, feedback and adaptation. It is built through relationships with staff, clients and community, and through a willingness to listen, learn and respond.

It also applies to staff. A culturally safe service for clients must also be a culturally safe workplace for Aboriginal and Torres Strait Islander employees.

> *Cultural safety means creating a workplace where Aboriginal and Torres Strait Islander peoples feel respected, valued and safe to be themselves without fear of racism, discrimination or misunderstanding. It involves recognising the impact of history, power imbalances and unconscious bias, while ensuring that policies, behaviours and relationships support inclusion, dignity and genuine respect for culture. A culturally safe employer will acknowledge and support staff with the colonial load. The colonial load refers to the ongoing emotional, cultural, social, and systemic burden carried by Aboriginal and Torres Strait Islander peoples because of colonisation.*
> Jackie, Senior Client Support Officer

What This Means for the Profession

Culturally safe legal practice is not about replacing traditional legal models. It is about expanding our understanding of what effective practice can look like, particularly when working with clients who face structural disadvantage.

There are elements of this approach that have broader relevance across the profession: the importance of trust in client engagement, the need to consider the wider context of a legal issue, and the value of flexibility in how and where services are delivered.

At its core, this is about access to justice.

Access to justice is not achieved simply by making legal advice available. Advice must also be accessible, understood and delivered in a way that reflects the lived realities of the people who need it.

> *I see cultural safety as the client's right, and our responsibility as the legal service.*
> Jasanne Cole

Closing Reflection

The legal profession has long measured work in time: time recorded, time billed and time accounted for.

There is value in that measure, but it is not the only one.

In a culturally safe practice, time is also measured in trust. Without trust, access to justice remains incomplete.

As FVLSAC continues to grow, there is an opportunity to bring this model of practice to more communities. The expansion of culturally safe, trauma-informed legal services is not simply about increasing reach. It is about ensuring that more Aboriginal and Torres Strait Islander people can access support in a way that is safe, responsive and grounded in lived experience.

That work depends on people.

For practitioners considering their role in the profession, there is a growing space for legal practice that is not defined by billable hours alone, but by relationships, impact and connection to community. It is work that can be challenging, but also deeply rewarding.

Increasingly, it is where the profession has an opportunity to lead differently.

For more information about FVLSAC, visit **http://www.fvlsac.org.au** or follow FVLSAC on Facebook.

John and Lesley work at the Family Violence Legal Service Aboriginal Corporation of SA (FVLSAC). FVLSAC is an Aboriginal Community Controlled Organisation that provides free and confidential legal and non-legal support to Aboriginal and Torres Strait Islander Peoples.

Support Services Making a Difference: Growing Student Success at Adelaide Law School

Adelaide Law School's suite of inclusive initiatives, such as exam practice opportunities, mentoring programs and weekly coffee chats, shows that when support is practical, accessible and designed with students rather than for them, students engage enthusiastically.

Peta Spyrou **July 2026**

Education **Inclusion**

In May 2026, I was honoured to receive the Australian Disability Clearinghouse on Education and Training (ADCET) **Accessibility in Action Award**. While the award recognised an individual's contribution, it reflected the collective efforts of the many colleagues, professional staff and students who have helped me shape a suite of inclusive initiatives within Adelaide Law School, including the Exam Practice Opportunity, the Student Success and Accountability Mentor Program, and weekly Coffee Chats.

Although these initiatives were developed with accessibility and inclusion in mind, they are not disability-specific supports. Rather, they reflect universal design principles[1] and **multi-tiers of support** that benefit a broad range of students while remaining particularly valuable for those who experience barriers to learning.[2] Their rapid growth, especially in 2026, demonstrates that when support is practical, accessible and designed with students rather than for them, students engage with it enthusiastically.

Responding to a Changing Student Cohort

Society has a better understanding of disability and neurodiversity than ever before. More people are seeking diagnoses, disclosing disability, or developing a deeper understanding of their own learning needs.[3] At the same time, the recent University merger has brought together larger student cohorts with increasingly diverse experiences, responsibilities and pathways into university study.

Six months into the life of Adelaide University, one thing has become abundantly clear: demand for meaningful student support continues to grow.

Practising Success Before It Counts

One initiative that has seen consistent growth over the past three years, and has expanded substantially during the first six months of Adelaide University, is the Exam Practice Opportunity.

The concept is deceptively simple. Students complete handwritten responses in a quiet, timed environment designed to replicate the conditions of a formal examination. The sessions provide an opportunity to test knowledge, practise time management and experience exam conditions before the stakes are real.

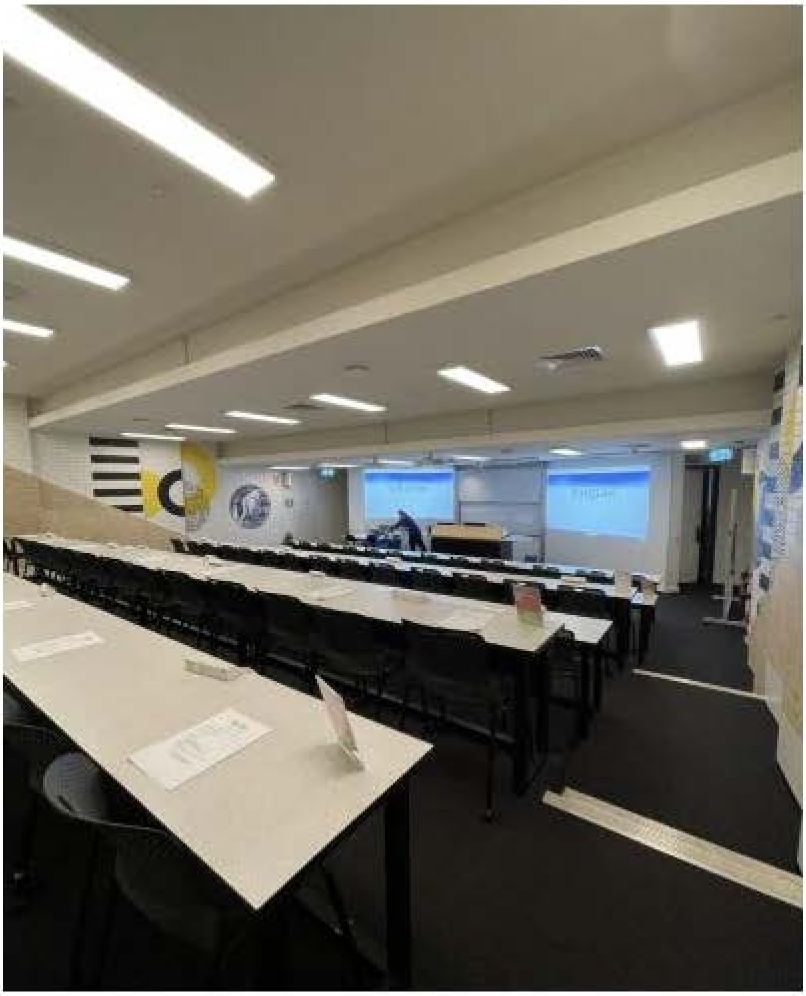


Figure 1: Lecture Theatre 231 transformed as an exam venue, with rows of desks and chairs arranged in exam-style formation facing presentation screens at the front of the room

Early versions of the initiative were relatively modest. While they did not replicate every aspect of the examination environment, student feedback consistently highlighted the value of experiencing timed assessment conditions in advance. Participants reported increased confidence, reduced anxiety and a greater awareness of gaps in their preparation.

Building on this success, the program expanded throughout 2025, operating across four core courses in Semester 1 and five in Semester 2. Approximately 120 students registered to participate across the year.
Importantly, these sessions are available to all students. No disclosure of disability is required. Students who experience anxiety, neurodivergent students, first-in-family students, non-school-leaver students returning to study, and those simply seeking additional preparation can all benefit from the same opportunity. Students with approved exam accommodations are also supported to participate, allowing them to rehearse their assessment approach under realistic conditions and trial the adjustments they will use in

formal examinations. By embedding support into the student experience rather than limiting it to those with formal accommodations, the initiative creates a more inclusive environment for everyone.

Survey data collected following the 2025 program provides strong evidence of its impact.[4]

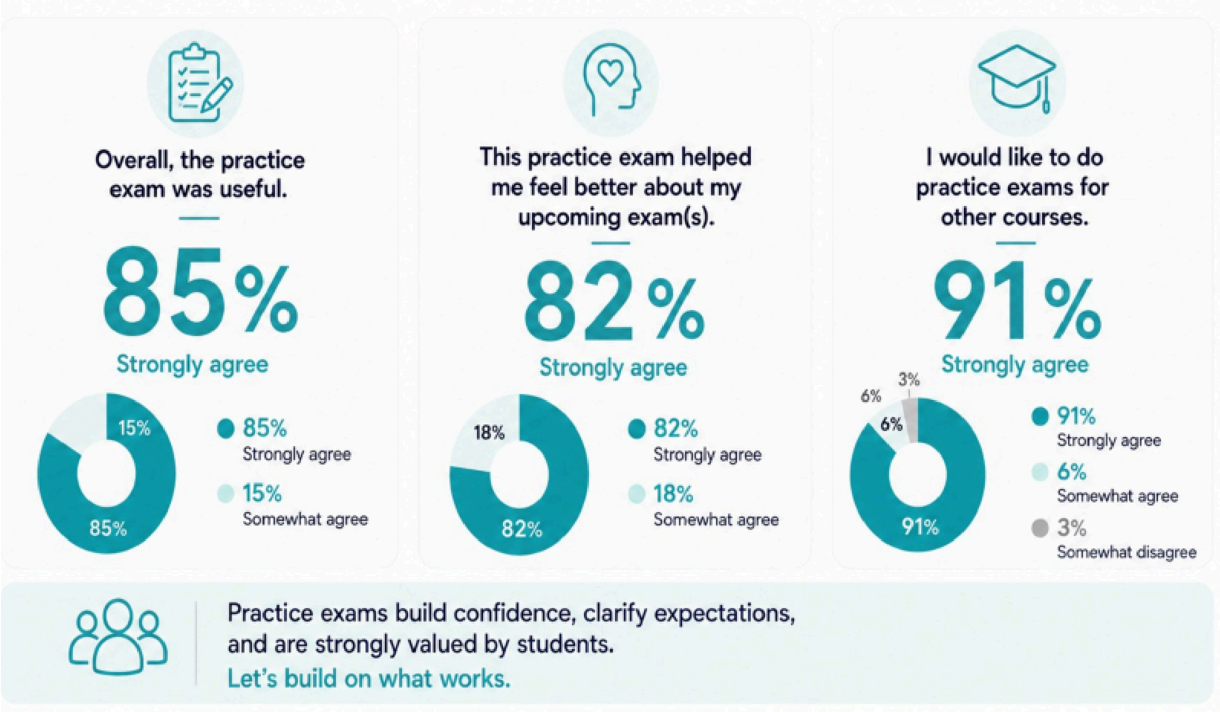


Figure 2: Survey results from 33 students who participated in the activity in 2025

Eighty-five per cent of respondents strongly agreed that the practice exam was useful. Eighty-two per cent strongly agreed that it helped them feel better about their upcoming examinations, while 91 per cent strongly agreed that they would like similar opportunities offered in other courses.

The findings suggest that the value of the program extends beyond revision. Students reported that the sessions helped clarify expectations, identify knowledge gaps, refine study notes and practise exam technique. For many, the opportunity transformed an unfamiliar and intimidating experience into something more predictable and manageable.

The demand observed in 2026 reflects these findings. Thanks to the strong support and collaboration of Course Coordinators, the Exam Practice Opportunity expanded significantly, with nine practice exam sessions offered across three days in Semester 1 covering four core subjects. The initiative attracted 315 registrations, a substantial increase on the approximately 120 registrations recorded across the entire program in 2025. This growth would not have been possible without the commitment of Course Coordinators, who recognised the value of providing students with authentic opportunities to build confidence and exam readiness. The scale of participation demonstrates that students are actively seeking practical and realistic ways to prepare for assessment.

Building Capability Through Mentoring

A second initiative that has experienced remarkable growth is the Student Success and Accountability Mentor Program, now led by **Carren Walker**.

Figure 2: Dr Peta Spyrou and Carren Walker promoting the Adelaide Law School Student Success and Accountability Mentor Program, which provides one-to-one support with study planning, organisation, motivation, and accountability. View the video at: https://www.instagram.com/p/DWOZ5T4ki9i/

The program was developed to address a gap frequently experienced by neurodivergent students and others who struggle with organisation, time management, prioritisation and assessment preparation. Rather than focusing solely on accommodations, the program emphasises capability-building. Students work one-on-one with Carren to develop practical strategies for managing workload, breaking down complex tasks, preparing for assessments and maintaining accountability throughout the semester.

What began as support for a single student in 2024 has evolved into a structured mentoring program delivering more than 25 hours of individual support during Semester 1 2026 alone, with demand continuing to grow.

The mentoring model also serves an important inclusion function. By normalising help-seeking and providing support in a practical, strengths-based manner, the program reduces stigma and creates opportunities for students to build confidence, independence and self-efficacy. Students are not simply supported to complete a particular assessment; they are supported to develop skills that will assist them throughout their studies and professional careers.

Creating Connection Through Coffee Chats

Another initiative that has grown organically has been our weekly Coffee Chats. What began as a simple opportunity for students and staff to connect outside the classroom has developed into a regular feature of student life within the Law School.

The informal format creates a low-pressure environment where students can ask questions, seek advice and build relationships with staff and peers. For many students, particularly those who are neurodivergent, new to university, or who find traditional networking events intimidating, Coffee Chats provide an accessible alternative to more formal professional engagement opportunities.

This semester also saw the introduction of our inaugural special guest, Adelaide Law School alumna and legal practitioner Marissa Mackie. Marissa generously joined students for a conversation about her career journey, professional experiences and life after law school. The session provided students with the opportunity to engage directly with a practising lawyer in a relaxed and supportive setting, generating thoughtful discussion and positive feedback from attendees.

The popularity of the Coffee Chats reinforces an important lesson: inclusion is not only about removing barriers to learning, but also about creating opportunities for connection, belonging and community. Students who feel connected are more likely to engage, seek support when needed and develop a stronger sense of confidence and belonging within the university environment.

Interested in joining a future Coffee Chat?

Members of the legal profession who would be interested in participating are encouraged to contact Dr Peta Spyrou to discuss opportunities to connect with the next generation of law students.

Inclusion Beyond the Classroom

Together, these initiatives reflect a broader shift in how we think about inclusion in higher education. Rather than relying solely on reactive, individualised responses, we are increasingly embedding accessibility into the design of the student experience itself. The goal is to create environments in which all students can thrive, while ensuring that additional support remains available when needed.

The ADCET recognition is a welcome acknowledgement of this work, but perhaps the most meaningful measure of success is the response from students themselves. From one student seeking mentoring support in 2024, to hundreds of students voluntarily registering for practice exams in 2026, to a thriving community gathering each week for mentoring and Coffee Chats, the message is clear: students value supports that are practical, accessible and designed to help them succeed.

As Adelaide University continues to grow, so too does the opportunity to learn from initiatives like these. The early evidence suggests that when support is proactive, practical and inclusive by design, students not only engage with it — they actively seek it out.

Peta Spyrou is a lecturer at Adelaide University Law School.

Endnotes

1 Matthew L Timko, 'Applying Universal Design in the Legal Academy' (2022) 114(4) Law Library Journal 343.

2 Kate de Bruin, 'Multi-Tiered Systems of Support: A Roadmap for Achieving an Inclusive Education System' in The Inclusion Dialogue (Routledge, 2022) ('Multi-Tiered Systems of Support'); Kate de Bruin, 'The Impact of Inclusive Education Reforms on Students with Disability: An International Comparison' (2019) 23(7–8) International Journal of Inclusive Education 811 ('The Impact of Inclusive Education Reforms on Students with Disability'); James B Vetter, Shai Fuxman, and Yuxuan Eleanor Dong, 'A Statewide Multi-Tiered System of Support (MTSS) Approach to Social and Emotional Learning (SEL) and Mental Health' (2024) 3 Social and Emotional Learning: Research, Practice, and Policy 100046. See also Department for Education, 'Episode 10: Enhancing Literacy Through the Multi-Tiered Systems of Support' (2024) •

3 Luke Butcher and Stevie Lane, 'Neurodivergent (Autism and ADHD) Student Experiences of Access and Inclusion in Higher Education: An Ecological Systems Theory Perspective' (2025) 90(1) Higher Education 243, 247.

4 The data were collected as part of a project titled: A Study to Engage Law Students and Staff in Shaping a Future Law School (Human Research Ethics Committee approval no HREC/AL/2025/0617(v3)), led by myself, and with my fellow research team: Professor Judith McNamara, Associate Professor Beth Nosworthy and Tracey Coleman.

South Australian Veterans Court Pilot Program - a new approach to the sentencing of defence veterans

A pilot Veterans Court is offering defence veterans a structured pathway to rehabilitation prior to sentencing, recognising the unique nature of military service and its impact on veterans.

South Australian Veterans Court **July 2026**

Criminal Law

The Magistrates Court of South Australia is undertaking a pilot program for the sentencing of defence veterans. The pilot will be known as the South Australian Veterans Court (SAVC). The SAVC is a treatment and sentencing court that provides an opportunity for defence veterans to engage with rehabilitation services prior to sentencing and recognises the unique nature of military service and its impacts on veterans and their families. The SAVC relies upon the support of State and Federal agencies including the Department for Correctional Services (DC) and the Department for Veterans Affairs (DVA). Support will also be provided by a range of other service organisations such as DefenceKidz and Open Arms.

Why the need for a specialist Veterans Court?

There are approximately 47,000 defence veterans living in South Australia. Like those in the general community, defence members may find themselves facing charges in the Magistrates Court. The SAVC will provide an opportunity for eligible veterans to undertake rehabilitation through available veteran services and approach the sentencing informed by any treatment gains and their veteran status.

Who is a veteran?

A defendant will be considered a defence veteran if they have served any period (as a full-time or reserve member) in the Australian Defence Force or any allied force. It is not a requirement that the defence veteran has served on military operations overseas.

How will the SAVC work?

The SAVC will sit in the Elizabeth Magistrates Court each month. The first day of sitting will be on 3 August 2026.

Where a veteran faces summary or minor indictable charges in the Magistrates Court sitting at any location, upon entering pleas of guilty to the most serious and majority of charges, they may seek a referral to the SAVC. At the first hearing before the SAVC, a preliminary triage will be conducted to assess the defendant’s likely veteran status, the nexus between their service and the offending and their motivation to engage with rehabilitation services. If appropriate, an eligibility assessment will then be ordered. The veteran will be placed on supervised bail to facilitate that process.

If the veteran is assessed as a suitable participant, the SAVC, based on information provided by DCS, DVA and relevant service organisations, will determine whether the defendant is accepted onto SAVC and approve a treatment plan. If accepted, the veteran will be granted a supervised Griffiths remand (a deferred sentencing for rehabilitation, participation in an intervention program or other purposes). This will enable the veteran to undertake treatment and attend programs before any sentence is imposed. The veteran will periodically appear before the SAVC during the term of the remand so the SAVC can assess and monitor the veteran’s progress and determine whether a further Griffiths remand should be granted to allow the veteran further time to engage in rehabilitation prior to sentencing.

Key points for practitioners

When taking instructions on charges in the Magistrates Court, if guilty pleas are to be entered, practitioners should ascertain whether their client is a defence veteran. If so, it is recommended that you speak with the SAPOL prosecutor and the presiding Magistrate to seek a referral to the SAVC.

An Information Sheet that details how the SAVC will operate is available on the **CAA website under SAVC Pilot Program**.

Human rights must be at the centre of the support services sector

Law Society President David Colovic discusses the challenges care and support providers are facing and the major changes hitting the sector.

David Colovic **July 2026**

News Briefs **President's Message**

The aged care system and NDIS have recently undergone major changes to meet a surge in demand, but with that has come challenges. Workforce shortages, skill gaps, increased regulatory complexity and infrastructure pressures all affect quality of care and place additional strain on an already fragile system.

These challenges are comprehensively examined in this edition of the Bulletin, which focuses on care and support providers and features a personal reflection from a South Australian lawyer with two high-needs children. She speaks of her experience navigating the disability support system in both her professional capacity and as a carer and shares some valuable insights into the challenge of juggling professional life with caring duties.

The Federal Government is grappling with surging demand for support services on a number of fronts. It recently implemented significant reforms to the aged care system via the *Aged Care Act 2024*. These changes came into effect in November 2025 and introduced a rights-based framework to aged care reform and more stringent regulations for providers. The reforms are a response to the Royal Commission into Aged Care Quality and Safety, which revealed numerous instances of sub-optimal quality of care, lack of accountability, staffing shortages and, in some cases, severe neglect and safety failures.

The Government has also had to confront the ballooning costs of the NDIS system. To contain the cost growth, the Government announced it was tightening eligibility criteria for access to the NDIS, introducing supports outside the NDIS and cracking down on dodgy operators. Reducing the number of NDIS participants was always going to be a controversial and, for a number of families, an upsetting decision to come to terms with. It remains to be seen whether those with extra support needs who do not qualify for NDIS will receive the care they need.

The Society recently made a lengthy submission to the Office of the Australian Information Commissioner’s consultation on transparency in automated decision-making in advance of new rules that, from December 2026, will require government agencies and large organisations in Australia to disclose in plain language when they use computer programs to make decisions that may significantly affect individuals.

The Society's submission noted that while algorithm-driven systems such as automated decision-making can create efficiencies, safeguards must be in place to ensure that vulnerable people are not disadvantaged by the system, particularly when they may be awaiting the results of an assessment that could determine the level of critical care they receive.

The Society's submission recommended that any automated decision-making framework be accompanied by a clear explanation of the decision-making process, sufficient human oversight for complex decisions, and rights to review automated decisions.

Transparency alone will not protect individuals. Even if the use of technology is driven by the imperative to manage high costs and high demand, these systems still need to be centred on rights-based principles that prioritise the protection of individuals.

Access to adequate care is critical for vulnerable Australians. While legislation and policy will continue to evolve, human rights must remain an implicit part of reform. Lawyers and lawmakers have an important role to play in ensuring that those who need support receive it, and in an effective and timely way.

Former High Court Justice Michael Kirby launches new book Paris Nesbit KC: Quixotic Counsel

The Hon. Michael Kirby AO CMG was in Adelaide in May to launch the new biography by Graham Loughlin of Paris Nesbit KC, a brilliant South Australian lawyer who faced mental health challenges for much of his adult life.

Pamela Wilkinson **July 2026**

Wellbeing **History** **Books**

“A beautiful book” and “a masterpiece of legal biography” were how former High Court Justice Michael Kirby described Graham Loughlin’s biography, *Paris Nesbit KC: Quixotic Counsel*, at the book’s launch chaired by William Boucaut KC and held at the Adelaide Convention Centre in May as part of Law Week 2026. Mr Kirby congratulated Graham Loughlin on his achievement, describing the book as very readable and bringing Adelaide to life as it was in the late nineteenth and early twentieth centuries.

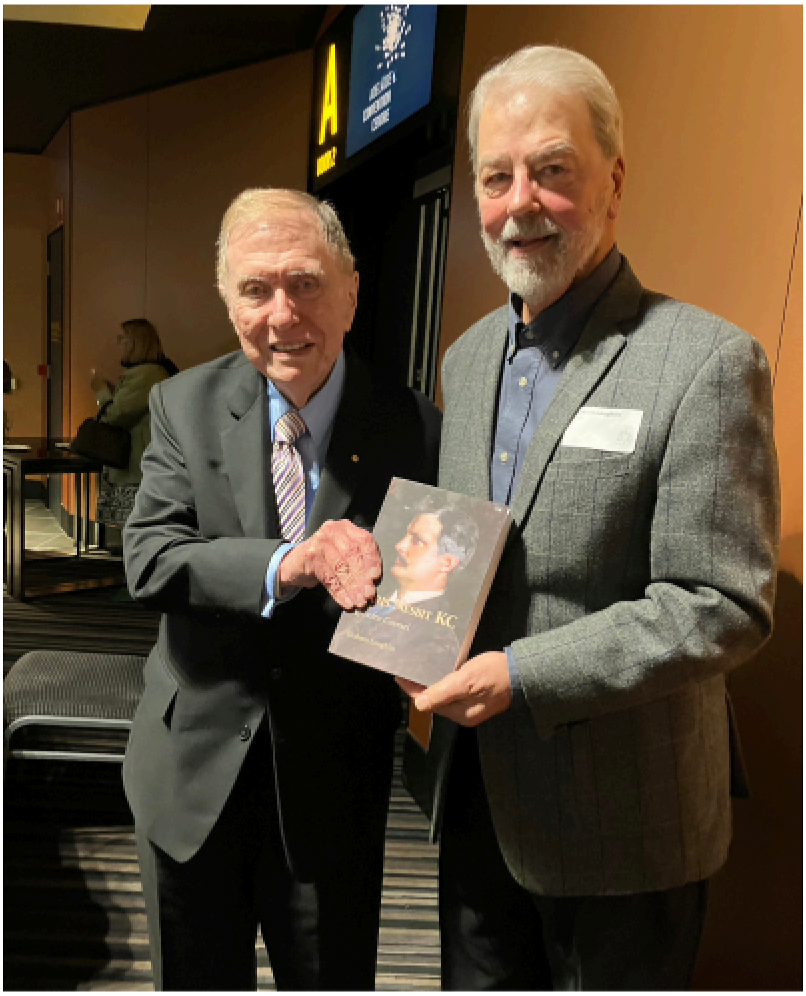
The title of the book derives from Nesbit describing himself as a Don Quixote - when a windmill stood in his way, he must try to knock it down.

A life of remarkable success despite mental health struggles

Unlike many legal biographies, which concentrate on their subjects’ careers as judges and/or statesmen, this is the story of a gifted legal advocate beset by mental illness whose aspirations beyond the Bar were thwarted by his affliction and his progressive ideas. It is not, however, a story of failure, but rather of perseverance and remarkable success despite Nesbit’s incurable condition.

Drawing on extensive historical research, *Paris Nesbit KC: Quixotic Counsel* begins with Nesbit’s family background, then follows his 50-year legal professional career from articled clerk to King’s Counsel, while examining his contributions to law, politics and culture in South Australia during the late 19th and early 20th centuries. The book includes an extensive bibliography and detailed endnotes for each chapter, providing a valuable resource for future researchers and historians.

Forensic psychiatrist Dr William Brereton also spoke at the launch and commended the book as deeply researched, well written and fascinating, both because of Nesbit as the main protagonist and as well as the legal and medical communities in South Australia during Nesbit's lifetime, putting characters to names that are still in and around Adelaide to this day.



Hon Michael Kirby AO CMG with author Graham Loughlin

Graham Loughlin said that he saw his book as an opportunity to contribute to South Australia's recorded history - its legal, medical, social, political, constitutional and cultural history – and his aim was fourfold:

- To leave no stone unturned in research;
- To not conceal or sanitise by omission or commission;
- To strike a balance between the "life" and "times", Nesbit as the subject, and the broader context including the manners and norms of his profession and wider society; and
- To avoid being judgmental, leaving readers to draw their own conclusions.

As mental illness was then understood by medicine and defined in law, Paris Nesbit was four times certified as a lunatic and confined in asylums over a span of 30 years. Once, he was even classified as a "criminal lunatic".

His episodes of super-abundant energy were invariably followed by what Nesbit himself described as "awful fits of melancholia and depression".

Yet remarkably over the same 30-year span, he was the acknowledged joint leader of the South Australian Bar with Sir Josiah Symon, and for 10 of those years was the state's preeminent Parliamentary draftsman.

A champion for reform

Paris Nesbit championed numerous causes including legal aid, Aboriginal justice reform, parklands preservation, abolition of imprisonment for debt, establishing a Court of Criminal Appeal and improvements to legal professional standards.

In 1900 he proposed the "Bureau of Justice", his scheme for publicly funded litigation. This was 25 years before the first *Poor Persons Legal Assistance Act 1936* (SA).

In 1905 he was lead Counsel in the first South Australian case heard in the High Court.[1]

In 1905 he argued for Aboriginal justice reform governing confessions of guilt. This was 68 years before Justice Sir Charles Bright issued judicial guidelines for interrogating First Nations people.

In 1910 he urged the government to establish a Court of Criminal Appeal, which occurred 14 years later.

Involvement in the establishment of the Law Society

Appointed Queen's Counsel in 1893, Paris Nesbit was a leader of the South Australian Bar for more than 20 years, a distinguished Parliamentary draftsman, and a much-valued member of the Law Society. He was:

- a member of the formation committee which drafted the Law Society's Rules;
- a foundation Councillor in 1879; and
- co-author of the first SA Law Reports after responsibility for their publication passed from the Supreme Court to the Society.

At the Law Society formation meeting in October 1879, he was elected to membership of the rules drafting committee and a month later, the youngest of 11, to membership of the inaugural Council.

The measure of the Law Society's longstanding regard for Nesbit was evident when, in 1986, the Society sponsored a commemorative plaque in his name for inclusion in the South Australian Jubilee 150 walkway on Adelaide's North Terrace. His was the only nomination made by the Society for this distinction and of the 150 South Australians initially memorialised, he was the only one selected for his contribution to South Australia specifically as a lawyer. The book's back cover includes a photograph of the plaque.

Strong social connections vital to overcome mental illness

Dr Brereton said that it was obvious from the book that Nesbit had quite a severe bipolar affective disorder, colloquially known as manic depression. He had multiple episodes of mania, which became severe at times with the emergence of psychotic symptoms, as well as periods of crushing depression.

Nesbit also had a low-level mania (hypomania). Dr Brereton said this appears to have given him “a silver-tongued articulacy, a drive and a prodigious capacity for legal work and public engagements” that, together with his intellect, contributed to his outstanding ability as a legal advocate.

Nesbit’s legal career started strongly and showed his keen social conscience and drive for reform. He took on multiple causes, drafted extensive legislation and had political aspirations.

In the 1880s he started showing signs of poor judgement and behaving erratically due to mental illness, publicly insulting even those who might help him and mismanaging his money. He lost his partnership in a legal firm, amassed debt and plunged into despair. His friends and legal contacts helped him get back on his feet and he became high-achieving again.

Dr Brereton said: “here we see how vital strong social connections and support are”. Connections with community, friends and family are also vital for contemporary mental health rehabilitation, which is where Dr Brereton said he largely practises.

He said this is also the case in forensics where social connectedness is important to the individual’s wellbeing and a significant factor in the assessment of risk.

The mental health system then and now

In the book, Graham Loughlin points out that there were some progressive attitudes at the time. Nesbit was deemed a “patient” rather than a “prisoner”.

Dr Brereton said that approaches to mental health were improving in that period, for example, in classification of mental illnesses allowing accurate diagnoses to establish how best to treat a person and determine their prognosis.

There were the first purpose-built asylums, separate from prisons, and which had some of the first medical mental health specialists. Options for treatment however were few, primitive and largely ineffectual. With hundreds of patients for each doctor, the reality was often a brutal and restrictive environment.

Dr Brereton said that the degree to which a good environment facilitates good mental health and wellbeing and, in particular, recovery from mental illness should not be underestimated. The most severely mentally unwell individuals in SA today are admitted to the acute wards at

James Nash House. The buildings are 40 years old, poorly designed by today's standards, run down and bleak.

Dr Brereton said that forensics today tries to use security measures and seclusion therapeutically and proportionally but "in some ways it seems we have not progressed since Nesbit's time, and maybe even regressed, largely due to financial constraints".

He said that resources for the mentally ill have not kept pace with the ever-increasing prison population. Many unwell prisoners who, in Nesbit's time, would have been in hospital, today languish in prison, together with an increasing number of forensic patients who have been found not criminally responsible and yet must also remain in prison.

The Law Society of South Australia supported the book launch in collaboration with the South Australian Bar Association, Adelaide University Law School, Legal Services Commission, Pride in Law and Australian and New Zealand Association of Psychiatry, Psychology and Law.

The book is available from the publisher **Wakefield Press**.

Pamela Wilkinson is a member of the Law Society's Bulletin Committee.

Endnotes

1 *Rout v Thompson* (1905) 3 CLR 1001 (3 November 1905) per Griffiths CJ, Barton and O'Connor JJ.

Navigating the 2026 Conduct Rule Amendments: Practical Guidance for AML/CTF Compliance

Kate Marcus outlines new conduct rules developed in the wake of the expanded anti-money laundering regime that recently came into effect.

Kate Marcus **July 2026**

Regular Columns **Legal Practice** **Risk Management** **Anti-Money Laundering**

On 1 June 2026, the South Australian Legal Practitioners Conduct Rules (SALPCR) were amended to support the commencement of the Anti Money Laundering and Counter Terrorism Financing (AML/CTF) regime for legal practitioners. These changes take effect alongside the AML/CTF obligations, which commenced on 1 July 2026. They refine the boundaries of a practitioner’s duties to accept instructions, continue acting and communicate with clients in circumstances where statutory obligations may constrain what can be done or be said.

Why the changes matter

The AML/CTF regime introduces obligations that may sit uneasily with traditional professional duties, particularly duties of confidentiality. Most notably, the AML/CTF Act contains “tipping off” prohibitions. Following reforms that commenced on 31 March 2025, section 123 of the ***Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth**) no longer simply prohibits disclosing that a suspicious matter report (SMR) has been made. It now makes it an offence to disclose information if doing so would, or could reasonably be expected to, prejudice an investigation.

The conduct rule amendments have been designed to resolve these tensions by clarifying when a practitioner must decline to act or cease acting and how that can be done consistently within professional obligations.

Accepting instructions under Rule 8

The amendment to Rule 8 is subtle but important. Previously, practitioners were required to follow a client’s “lawful, proper and competent instructions”. The rule now provides that a practitioner must only accept and follow a client’s “lawful, proper and competent instructions”.

This change demonstrates that the ethical assessment begins before the retainer is formed. In practical terms, it requires practitioners to make sufficient enquiries at the outset to be reasonably satisfied that:

- the client’s purpose is lawful and proper; and
- the practitioner can act consistently with their legal and professional obligations.

In the AML/CTF context, this includes considering whether:

- the matter involves a “**designated service**”;
- customer due diligence (CDD) can be completed; and
- the practitioner can comply with reporting and risk management obligations.

For example, if a prospective client refuses to provide identity verification documents or directs the practitioner not to undertake CDD, those instructions cannot be accepted because accepting them would put the practitioner in breach of the AML/CTF regime.

Similarly, where instructions appear to involve or facilitate unlawful activity, Rule 8 requires the practitioner to decline the engagement.

From a practical standpoint, firms should formalise their intake processes to include AML/CTF screening and ensure that no retainer is formed until minimum CDD requirements are met.

Termination and “just cause” under Rule 13

The second major development is the insertion of Rule 13.4, which clarifies what constitutes “just cause” for terminating a retainer.

Rule 13 has always required practitioners to complete a matter unless an exception applies. One such exception is termination for just cause on reasonable notice.

“Reasonable notice”

Rule 13.1.3 continues to require that termination for just cause occur on reasonable notice. The purpose of that requirement is to ensure that a client is not left without assistance in the middle of an uncompleted matter.

In the AML/CTF context, reasonable notice does not always mean that the practitioner must continue providing the relevant service for a further period of time. There may be circumstances where the practitioner must cease acting immediately, including where continuing to provide a designated service would be inconsistent with the practitioner’s statutory or professional obligations.

However, immediate cessation of the designated service does not remove the need to manage the termination properly. Practitioners should still consider what procedural steps are required, including any court, tribunal or other procedural requirements that apply to ceasing to act. Where necessary and possible, the practitioner should also assist the client to obtain alternative legal representation.

In practical terms, a practitioner may need to distinguish between:

- the point at which the practitioner must stop acting or stop providing a designated service, which may be immediate; and
- the steps required to bring the retainer to an end in an orderly way, including notification, transfer of the file, protection of the client’s position and compliance with any relevant procedural requirements.

Any notice given to the client should be carefully framed. In circumstances involving AML/CTF obligations, it may be necessary to keep the explanation brief and neutral to avoid the risk of disclosing information that could contravene tipping off prohibitions.

The new Rule 13.4 expressly recognises three categories of just cause:

- Ethical or professional conflict: where continuing to act would breach duties or responsibilities;
- Inability to act in the client’s best interests; and
- Failure to provide required information: where the client does not supply information necessary to meet statutory obligations.

These categories directly address common AML/CTF scenarios.

Common AML/CTF termination scenarios

Failure to provide CDD information

If a client does not provide requested identification or source of funds information, Rule 13.4.3 provides a clear basis for termination. It allows the practice to terminate for just cause, on reasonable notice, in any circumstance where a client has not provided all information requested of them that is required to fulfil a legal practitioner's statutory duty.

Suspicious matter reporting obligations

Where an SMR is required, continuing to act may be incompatible with the practitioner's duties and particularly the paramount duty to the court (Rule 3.1) and the obligation not to facilitate unlawful conduct.

Conflicts with client interests

If compliance with AML/CTF obligations prevents the practitioner from fully advising the client (for example, due to tipping off restrictions), Rules 13.4.2 and 13.4.3 may be engaged.

The introduction of these express categories is intended to give practitioners confidence that ceasing to act in such circumstances is not only permitted but required.

It is essential that retainers include clear termination clauses aligned with Rule 13.4, particularly covering CDD non compliance and regulatory obligations.

Managing tipping off risks

One of the most challenging aspects of the AML/CTF regime is the prohibition on tipping off. Section 123 of the AML/CTF Act makes it an offence to disclose information if doing so would, or could reasonably be expected to, prejudice an investigation.

This has significant implications when terminating a retainer.

Practitioners must ensure that any communication with the client:

- does not refer to suspicion, reporting or AUSTRAC;
- does not include detail from which such matters could be inferred; and
- remains general and neutral in tone.

For example, it is appropriate to say:

- "We are unable to continue to act due to our professional and regulatory obligations."

It is not appropriate to say:

- “We have concerns about your transactions” or
- “We are required to report this matter.”

Overly detailed explanations increase the risk of inadvertent tipping off. The guidance emphasises that brevity is safer. A short, neutral termination letter is preferable to a detailed one.

It is recommended that practices develop standard form termination letters and train staff to avoid ad hoc explanations.

Updating retainers and client communications

The new regime requires a re thinking of how practices communicate with clients at the outset of a matter.
Retainer agreements should:

- notify clients that the firm may need to collect and verify information;
- explain that statutory obligations may affect the firm’s ability to act; and
- reserve the right to terminate where those obligations cannot be met.

They should also include privacy and consent provisions regarding the collection and use of information for AML/CTF purposes.

In addition, practices may wish to provide general information (for example, in reception notices or engagement letters) explaining that additional identification and information may be required. Care must be taken to ensure that such communications do not reference reporting obligations or suspicion, which could later create a tipping off risk.

The Ethics and Practice Guidance Note titled “AML/CTF Client Engagement, Retainer Clauses and Termination Guidance” provides a suggested clause that practices will find useful. The clause set out below is an extract from that note. It is a starting point rather than a finished product, and practices should adapt it to their own engagement terms rather than adopt it word for word.

> ***Termination by the practice***
>
> *We may terminate this retainer for just cause, including where:*
>
> *(a) you fail to provide information or documentation reasonably requested by us, including information required for the purpose of customer due diligence under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) and the rules made under that Act;*

(b) we are unable to continue to act consistently with our professional obligations, the South Australian Legal Practitioners' Conduct Rules, or any legislative requirement applicable to our practice; or

(c) any other circumstance arises which, in our reasonable opinion, constitutes just cause for termination.

Where we terminate this retainer, we will provide written notice of termination and the date on which our engagement will end. All fees and expenses incurred prior to termination are immediately payable. We will transfer your file to you or to another legal representative of your choice on receipt of their contact details.

In some circumstances, the law may prohibit us from providing reasons for terminating this retainer.

It is important that practices review and update precedents for costs agreements and engagement letters so as to comply with the new Rules, which commenced on 1 July 2026.

Broader implications for practice management

The amendments also highlight the need for systemic changes within practices. Firms should consider how they will:

- identify whether a matter involves a designated service;
- document the scope of work clearly;
- implement CDD processes at intake and ongoing stages;
- manage non-compliance by clients;
- record decisions around suspicion and termination; and
- ensure staff understand escalation pathways.

Importantly, providing designated services without enrolment with AUSTRAC and an AML/CTF program is an offence. Practitioners must therefore understand whether their work falls within the regime before commencing any such services.

Conclusion

The 2026 amendments to the SALPCR do not fundamentally alter practitioners' ethical duties. Rather, they clarify how those duties operate in the context of modern regulatory obligations, particularly under the AML/CTF regime.

- The key messages for practitioners are:
- Ethical obligations begin before accepting instructions;
- Practitioners must be prepared to decline or terminate engagements where compliance cannot be achieved; and
- Communication with clients must be carefully managed to avoid tipping off risks.

With thoughtful preparation now, particularly in relation to intake processes, retainer drafting and termination protocols, practitioners can navigate these changes confidently while continuing to act in accordance with their professional obligations.

Kate Marcus is a Risk & Claims Solicitor at Law Claims.

Discretionary Trusts: A Wealth Adviser's Lens on What Legal Practitioners May Be Missing

In this article, FinSec Partners explain changes to discretionary trusts, things lawyers can do to avoid blind spots and when a wealth adviser can be useful.

FinSec Partners **July 2026**

Trusts

This article is written from a wealth advice perspective for legal practitioners. It does not provide commentary on legal rules or drafting guidance. Its purpose is to surface the financial consequences and decision trade-offs that can sit downstream of trust governance choices — and to outline when it can be useful to coordinate with a client's financial adviser.

The discretionary trust story isn't really about "trusts"

The current attention on discretionary trusts is being framed as tax reform. But from a wealth adviser's perspective, that framing misses a deeper question.

Not all discretionary trusts exist for the same purpose. Some are primarily used to create flexibility in family governance, succession planning and asset protection. Others have historically delivered tax advantages through distribution flexibility. Recent policy developments themselves reflect that distinction.

What's changing is not just a tax lever. It's a constraint on a behaviour that some discretionary structures have historically enabled: turning family circumstances into marginal tax outcomes through distribution choice. The proposed design — announced in the 2026–27 Federal Budget and applying from 1 July 2028 — aims to ensure tax paid on in-scope discretionary trust income is not lower than a 30% floor.

At the same time, the Government's subsequent decision to preserve the treatment of discretionary testamentary trusts suggests an ongoing recognition that many trust structures are fundamentally governance and succession vehicles rather than simply tax structures.

The important point isn't whether discretionary trusts are "good" or "bad". It's that a structure many clients use for mixed reasons — governance, protection, flexibility and tax — is potentially being forced into a cleaner separation:

- discretion as governance (still valuable), versus
- discretion as tax arbitrage (less reliable).

That separation is where lawyers can unexpectedly find themselves in the middle. Clients will ask:

“Should we change the trust?”

When the more important question may be:

“What is the trust actually doing for this family?”

The distinction matters because, once the tax discussion is stripped away, many trust structures remain valuable for reasons that have little to do with tax at all. For families dealing with succession, blended family dynamics, beneficiary protection, business risk, unequal needs, or intergenerational wealth transfer, discretion is often less about tax outcomes and more about preserving decision-making flexibility when future circumstances cannot be known in advance.

What's in scope — and what isn't

Before exploring the downstream implications, it's worth noting that the proposed measure does not capture all trusts or all income. The minimum tax applies to discretionary trusts specifically — a term that, as practitioners will be aware, has no settled statutory definition in the income tax legislation, and its boundary with fixed trusts remains a persistent source of complexity.

The following are explicitly excluded:

- Fixed trusts, widely held trusts, complying superannuation funds, special disability trusts, deceased estates, and charitable trusts.

Certain income types are also excluded:

- Primary production income
- Amounts subject to non-resident withholding tax
- Certain income relating to vulnerable minors
- Income from assets of discretionary testamentary trusts existing at 12 May 2026 (Budget day)
- Following subsequent Government announcements, discretionary testamentary trusts established after Budget Day are also proposed to be excluded, subject to integrity measures relating to distributions to corporate beneficiaries.

The primary production exclusion will be particularly relevant for South Australian practitioners with farming and rural clients.

The treatment of testamentary trusts remains directly relevant to estate planning conversations. Recent Government announcements preserving the concessional treatment of discretionary testamentary trusts reinforce their continuing role as estate planning, asset protection and intergenerational wealth transfer vehicles.

Importantly, the measure remains subject to consultation and is not yet law. Subject to any future legislative changes, existing discretionary trust structures are proposed to be captured from 1 July 2028.

The blind spots legal practitioners tend to inherit (because clients don't raise them)

In our experience, three "quiet misunderstandings" often sit behind trust structures. They rarely show up in the legal brief — but they can drive dissatisfaction later.

Blind spot A: "Income" is treated as if it's "cash"

Clients often talk about trust distributions as though taxable income and liquidity are interchangeable. They aren't.

A trust can generate taxable income with limited liquidity (or vice versa), and families can get forced into reactive decision-making when a distribution outcome is assumed to be fundable but isn't. The tax design being proposed (trustee-level minimum tax with credits flowing to beneficiaries) only increases the need to understand where cash actually comes from.

Relevance: A *plan can be legally sound but financially brittle. Brittleness is where disputes and "surprise regret" come from.*

Blind spot B: The trustee's discretion is treated as a permanent setting

Discretion isn't only an annual decision; it's a long-duration governance stance. Families often fail to revisit "how" discretion is meant to be exercised as beneficiaries mature, family structures change, or asset mixes evolve.

When tax settings tighten, families can become even more tempted to treat discretion as a mechanical, tax-focused optimisation tool again — which is exactly what creates trouble: a mismatch between governance intent and distribution behaviour.

Blind spot C: The "bucket company" is assumed to be neutral

Many clients treat corporate beneficiaries as a default "parking bay" for surplus income. Under the proposed new design, corporate beneficiaries would not receive the non-refundable credits for tax paid by the trustee — a deliberate feature to stop the minimum tax being avoided through corporate beneficiaries.

Relevance: *Even without touching legal drafting, you may be asked, "Does this make our company beneficiary structure pointless?" That is not a legal question. It's a financial modelling question — and it's a prime coordination moment.*

The intergenerational wealth angle lawyers can use immediately: "discretion is decision rights"

Discretionary trusts exist because families are not linear. Discretion is decision rights — the ability to adapt distributions when human outcomes diverge.

Interestingly, the Government's subsequent decision to preserve discretionary testamentary trusts largely reflects this distinction. Not all discretionary trusts exist primarily to generate tax outcomes. Many exist to provide succession planning flexibility, beneficiary protection and family governance across generations.

If the tax benefit component compresses, governance value can remain. But only if the family has a disciplined view of what discretion is for.

A useful practitioner approach is to shift clients from "what structure do we have?" to "what problem is this structure solving?"

Here are the five problem-types discretionary structures commonly aim to solve (stated in non-legal terms):

- **Capability variance:** beneficiaries develop at different speeds; staged support matters.
- **Timing variance:** the "right year" to distribute is often not predictable in advance.
- **Risk variance:** relationship breakdown, creditor exposure, business volatility, health events.
- **Complex obligations:** blended families, unequal dependency, competing intergenerational goals.
- **Capacity variance:** the capacity to make decisions may change or be impaired due to illness, incapacity, incarceration or other life events.

None of that is legal advice. It's simply naming the real-world reasons clients choose flexibility.

The practical pressure points the proposed design creates (in client terms)

Even without knowing the final drafting, the design principles in the Budget papers imply certain pressure points lawyers should expect to surface in client conversations:

> "We may have a 30% floor" — where families previously streamed income to beneficiaries on lower rates, the design uses trustee-level minimum tax and non-refundable credits to prevent outcomes below the floor.
>
> "The company beneficiary may be the issue" — corporate beneficiaries would not receive credits, potentially resulting in double taxation of the same income at both the trust level and the company level.
>
> "Share portfolios inside trusts may behave differently" — the Budget materials explicitly address franking credits within the mechanism design and note consultation on some details, including how franking credits that exceed the minimum tax liability are treated.
>
> "Capital gains face a dual floor" — the Budget also introduces a separate 30% minimum tax on net capital gains for individuals, trusts and partnerships from 1 July 2027. For families holding capital assets in trusts, this creates a compounding effect alongside the distribution minimum tax.

"Restructuring becomes a choice with a runway" — the ATO and Budget materials refer to a time-limited rollover intended to facilitate the transfer of assets out of discretionary trusts to entities that are not discretionary trusts (such as companies or fixed trusts), available for three years from 1 July 2027. Note: this rollover is for federal income tax purposes. Stamp duty implications are state-specific and are not addressed by the federal rollover — a material consideration where the trust holds property.

"The rules are still moving" — the measure is not yet law, and the Budget anticipates consultation on key aspects, including the collection mechanism, the treatment of franking credits, and the scope of rollover relief.

Where a wealth adviser can be genuinely useful

The most valuable collaboration point is not "trust education." It's pressure-testing the financial viability of the legal intent.

Below are specific scenarios where coordination can add material value — and reduce later surprise:

Coordination trigger 1: Distribution design relies on low-tax beneficiaries

Where distributions have historically been made to beneficiaries with low taxable income (adult children, non-working family members), the proposed design makes it harder for outcomes to land below a minimum floor.

A wealth adviser can model "what changes if the floor holds" and help families re-anchor distribution principles around governance rather than rate shopping.

Coordination trigger 2: Corporate beneficiaries are in the picture

If the family group uses a corporate beneficiary, the "no credits for corporate beneficiaries" feature becomes central.

This typically requires scenario work: retention needs, dividend policy, franking implications, and whether alternative approaches better support the family's objectives.

Coordination trigger 3: Franked dividend exposure is meaningful

Where trust portfolios include material franked dividends, the Budget material indicates trustees may be required to use franking credits to pay the minimum tax and that aspects will be consulted on.

A wealth adviser can help quantify exposure and set sensible expectations while detail firms up.

Coordination trigger 4: The trust is doing "too many jobs"

Many family trusts evolve into a multi-purpose vehicle: investment holding, business risk management, family support, estate-planning assumptions and distribution streaming. When the tax environment tightens, these "all-in-one" structures often reveal internal tension.

A wealth adviser can help separate the functions, clarify which ones matter most and explore whether the structure needs simplification (or just better distribution discipline).

Coordination trigger 5: "Do we restructure?" becomes a live question

The existence of an intended rollover window (from 1 July 2027, time-limited to three years) invites the question — but it doesn't answer it.

Restructuring decisions should be treated as governance decisions with financial consequences, not just tax decisions. Modelling can reduce the risk of clients making premature or irreversible moves under uncertainty.

A practitioner-friendly question set (financial prompts, not legal advice)

If you want a simple way to move the conversation from "headlines" to "design", these prompts work well:

- What is discretion protecting in this family — capability, timing, risk or complexity?
- Where does cash come from in a 'bad year' — and what is the plan if liquidity is tight?
- Is our distribution approach built around low-tax beneficiaries or a company beneficiary?
- If tax advantages compress, is discretion still worth it for governance reasons?
- Are we treating a long-duration governance structure as a set-and-forget mechanism?
- If restructuring is on the table, what is the financial cost of getting it wrong — including stamp duty and other transaction costs?

These questions don't require legal interpretation — they simply locate where the financial fragility sits.

Clients often treat trust structures as inert objects. They are not. They are living governance systems — and the policy direction signalled in the Budget material makes that more obvious.

The opportunity is not to become tax specialists. It's to help clients articulate intent clearly, then coordinate with their adviser to ensure the intent is financially executable — especially when tax assumptions are changing and the measure is not yet law.

Please contact FinSec Partners on 8357 7840 or **nathan.pech@finsecpartners.com.au** if you wish to speak with a financial advisor about your circumstances.

FinSec Partners is a South Australian based Financial Advisory firm and a sponsor of the Law Society of South Australia.

Information provided in this article is general in nature and does not constitute financial advice. Every effort has been made to ensure that the information provided is accurate. Individuals must not rely on this information to make a financial or investment decision. Before making any decision, we recommend you consult a financial adviser to take into account your particular investment objectives, financial situation and individual needs. FinSec Partners Pty Ltd is a corporate authorised representative of Kaizen Wealth Pty Ltd ABN 19 608 040 062 AFSL 480 797

Tax Advice Using Some LLMs

Bernie Walrut explores the use of large language models and applications that facilitate their use in providing tax advice.

Bernie Walrut **July 2026**

Regular Columns **Tax Law**

This article explores the use of large language models (LLMs) and applications (apps) that facilitate their use in providing tax advice. Although the discussion focuses on their application in providing tax advice, the LLMs and apps can be readily adapted to many other areas of legal practice.

The article does not consider the offerings of the three large legal publishing companies in Australia, Thomson Reuters, LexisNexis and Wolters Kluwer, nor those offered by Microsoft, the dedicated legal providers such as Harvey and Legora, nor providers that offer document review, chat with your documents, drafting document assistance, multi-document review and research assistant facilities trained on Australian law.[1] Also, some legal practice management software now incorporates LLM tools that provide such assistance.[2] The focus is more on utilising some general models and apps in practice, including developing them to deliver detailed advice.

LLMs, Prompts and Skills

Much of the early use of LLMs focused on chat, document chat, assistance with legal research, drafting documents and correspondence, and proofreading that correspondence and those documents. More recently, attention has turned to prompt engineering, the use of Retrieval Augmented Generation (RAG), chaining outputs through multiple models, using models for coding (e.g. Claude Code and Codex), granting models access to files, directories and applications to carry out specific tasks unsupervised (e.g. Claude Cowork), the use of the Model Context Protocol (MCP) to connect various applications to LLMs, and the use of completely autonomous agents that learn what you do and then undertake it unsupervised (e.g. Clawbot).

Even with these developments, the models have not been particularly useful for providing detailed tax advice. In an article in press,[3] I have described attempts to produce detailed tax advice in three situations (two state tax problems and one federal tax problem) using various apps and models, utilising a one-shot request, a prompt that details the relevant tax rules and rates (where applicable), and a prompt where the relevant tax rules and rates were introduced through an RAG file. In that article, I describe how, with well-designed prompts, useful tax advice can be prepared using appropriate models. The one-shot prompt and the use of RAG files to augment the model's knowledge did not generally produce useful output, and on some occasions, the output was nonsensical. The outcome was not unexpected. It has been recognised that the performance of LLMs "deteriorates when dealing with more complex tasks that require a nuanced understanding of legal issues or interpretation of legal texts" and "different models exhibit varying degrees of accuracy and biases".[4]

It therefore appears, at least for the time being, that the preferable approach is to build a library of relevant prompts that clearly set out what is being sought from the model. This may include: the model's role, the goal, the process, the response framework, guidelines for producing the output, the relevant tax law broken down into logical rules, any relevant tax rates and ideally an example template of the output sought. It is possible to use LLMs to help develop such prompts. The prompt can then be saved in a prompt library in a suitable application. A template for the relevant facts can also be developed. These library prompts are likely to require ongoing maintenance, particularly as issues in the output are identified. Depending on the app used, the facts can be entered using the usual prompt, which is then supplemented by the stored library prompt. The draft advice generated by the selected model can be saved as a text document for settling and use.

There are many potential issues with using these apps and models, including the handling of client information, privilege, security and copyright concerns, that must be considered. One way to address this is to use local models run by the chosen app or to utilise models run locally through another program (e.g. LM Studio). The chosen app connects to LM Studio, which runs a downloaded model on the local machine, and nothing should leave the machine. In those situations, it is necessary to explore which models are suitable and, where appropriate, to set relevant parameters for their application.

An alternative is to use some of the proprietary models (e.g. those provided by OpenAI and Anthropic) with anonymised information. In this situation, the anonymisation must be practical, sufficient to ensure there is no possibility of identification, and readily customisable for subsequent use of the output, for example, with a search-and-replace mechanism. Obviously, in some situations, this may simply not be possible or advisable. The use of these models often requires an API key and a per-use payment, depending on the model and the number of tokens used.

A variation on the foregoing is to use the Claude desktop app to create a Skill that runs within the app. Skills are specialised instructions and workflows, organised in folders containing instructions, scripts, and resources designed to enhance the app's performance on specific tasks. They enable the creation of reusable workflows, allowing Claude to execute tasks consistently and efficiently. They may be developed to provide advice and perform computations on a range of repetitive tax matters.

The Claude desktop app must have access to the file system to operate, so using these apps again creates risks that must be managed. Once the Skill is developed, the app can be prompted to use the Skill with a given fact situation to produce the draft advice. As the Claude desktop app will be running one of the Anthropic models when implementing the script, the usual client confidentiality, privilege and privacy issues arise. In that situation, the information may, where appropriate, be anonymised as already described. Skills developed using the Claude app may be exposed to Anthropic and used to train its models.

Either way, once these libraries of prompts or Skills are developed, they can be used, much like most precedents, to produce useful, reasoned output that can quickly form the basis of an advice. They may be chained to produce even more complex advice or documents.

Agents Integrating Mixed Models

An example of chaining different types of models can be seen in a voice recognition app that has recently attracted attention, called Superwhisper. It uses voice models, including both local and cloud models, for voice recognition, and, if selected, LLMs (both local and cloud models) to generate output in a range of formats, known as modes (e.g. raw text, emails, notes, etc.). The model library is limited and does not allow the use of local models running outside the app (such as those running on LM Studio). However, it does allow the use of downloaded local models.

The modes can use a selected voice model and can be activated for specific applications (e.g. Microsoft Word, email clients, etc.). The language selection does not include Australian English, so either US English or British English must be used. The app also stores transcriptions as voice files, allowing them to be replayed at any time using different modes. There is a facility to add corrections when the app incorrectly recognises a word or phrase, so it is corrected in future transcriptions. This facility also allows for the creation of a snippet library to be used with designated prompts.

Importantly, the app allows users to create custom modes. The first attribute that can be set in a custom mode is the custom instructions the model should use. This supports not only formatting instructions for dictated text but also specialised prompts for specific use cases. So, in addition to formatting instructions for recognised text, a detailed prompt for providing detailed tax advice can be added, along the lines described above. Unless a local model is used, client information should be consistently anonymised where that can be appropriately undertaken.

LLM Wiki

The development and use of “LLM Wikis” is a relatively new and evolving field for the use of LLMs. They have recently been inspired by an article, a GitHub Gist (Gist), by Andrej Karpathy.[5]   As he stated:

> *Most people's experience with LLMs and documents looks like RAG: you upload a collection of files, the LLM retrieves relevant chunks at query time, and generates an answer. This works, but the LLM is rediscovering knowledge from scratch on every question. There's no accumulation. Ask a subtle question that requires synthesizing five documents, and the LLM has to find and piece together the relevant fragments every time.*

His solution was to compile the knowledge once into interconnected (Markdown)[6] files and keep them current, rather than repeatedly asking an LLM the same questions over time, using RAG each time. [7] The LLM is used to incrementally build a structured, interlinked collection of files that sits between the user and the raw sources. This creates a persistent and compounding resource (the wiki). The structure may be enhanced by adding individual wikis for specific topics (e.g. land tax, stamp duty, capital gains tax, etc).

The LLM populates the wiki from a suite of raw materials (e.g. notes, articles, papers, cases, etc.). The LLM is then used to extract key information and integrate it into the existing wiki — updating entity pages, revising topic summaries, noting where new data contradicts old claims, and strengthening or challenging the evolving synthesis. The knowledge is compiled once and kept current, rather than re-derived for every query. It is suggested at the outset that an LLM can be used to create the initial wiki by pasting the article into the LLM coding agent of choice.

It is also suggested that once the wiki material is created, it can be accessed using an app called Obsidian. This allows the original raw material to be viewed, along with the concepts and entities extracted by the LLM, the results of past queries of the material conducted using the LLM, and a summary of the source material on an item-by-item basis. Several other summary logs are also available for viewing. Using Obsidian, it is also possible to search across various materials, show a concept relationship graph, and create workflows. There is also a large suite of plugins that can enhance Obsidian's functionality.

Such an LLM Wiki will be useful for bringing together and building a comprehensive repository of cases, articles, commentaries, notes, and materials relevant to the different fields of tax practice, and, much more importantly, for providing an effective means of finding answers, and sometimes re-finding answers, from that source material. When building any such repository, it is necessary to be mindful of what is to be included, particularly if it may include client or privileged information or copyrighted material.

Consideration will also need to be given to whether only local models or proprietary models are used. The wiki's instructions can include detailed guidance on the focus of the particular wiki and on the manner of citing the material ingested (e.g. Australian Guide to Legal Citations, South Australian Courts requirements, etc.). Using this citation method in the wiki may also help if it becomes necessary to create lists of authorities for a hearing.

Since Andrej Karpathy's Gist was published, a few standalone LLM Wiki apps have been developed and released. Some support local models running on LM Studio, as well as a wide range of proprietary models accessed using an API key. If the initial ingestion is carried out using a local model, there is no cost. If a proprietary model is used, there will be a cost based on the number of tokens used.[8]

By Bernie Walrut, Murray Chambers.

Tax Files is contributed on behalf of the South Australian based members of the Taxation Committee of the Business Law Section of the Law Council of Australia.

The views expressed are solely that of the author.

Endnotes

1 AI Legal Assistant (Website) <**https://legalassistant.au**>.

2 'Exclusive AI: Purpose-Built for Law Firms', Leap (Web Page) <**https://www.leap.com.au/legal-ai/**>.

3 Bernard Walrut "Tax, LLMs, RAGs and some soft logic" (2026) 24(1) eJournal of Tax Research 91.

4 Mathew Dahl et al, 'Hallucinating Law: Legal Mistakes with Large Language Models are Pervasive', Stanford University HAI <**https://hai.stanford.edu/news/hallucinating-law-legal-mistakes-large-language-models-are-pervasive**>.

5 **https://gist.github.com/karpathy/442a6bf555914893e9891c11519de94f**.

6 Markdown files are files where the text is formatted using Markdown, a lightweight markup up language.

7 RAG has no accumulation. Every query using RAG starts afresh.

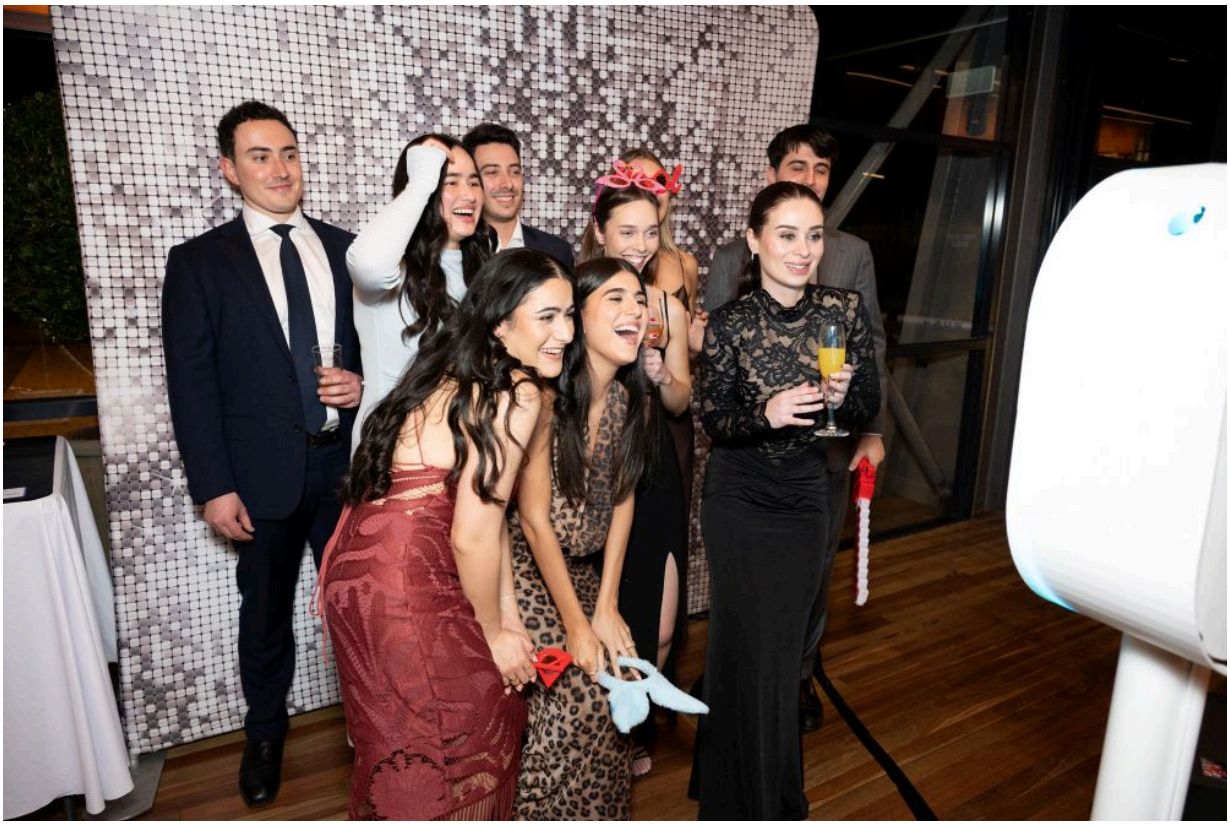
8 There is a growing broader issue for legal practices as the use of AI increases, namely in the quantity of tokens used and the cost of those tokens, see discussion at **https://www.artificiallawyer.com/2026/06/03/legal-ai-has-a-growing-token-price-problem/**.

The Young Lawyers’ Gala 2026

The annual Young Lawyers Gala provided a night of fun and entertainment for the state's budding legal professionals.

Shannon Collins **July 2026**

Events



The Young Lawyers’ Gala, hosted by the Law Society’s Young Lawyers’ Committee and proudly sponsored by Burgess Paluch, was held on Friday, 19 June 2026, at Hickinbotham Hall within the National Wine Centre of Australia. Attracting almost 300 guests, the annual event once again proved to be one of the highlights of the legal profession’s social calendar, bringing together young practitioners and members of the profession from across South Australia for an evening of networking, celebration and connection.

Guests enjoyed the venue's elegant surroundings while reconnecting with colleagues and building new professional relationships. The evening featured a selection of canapés, a four-hour drinks package, professional photography and a photobooth, creating a lively and memorable atmosphere throughout the night.

A live DJ kept the energy high well into the evening, with the dance floor remaining busy as attendees celebrated with friends and colleagues from across the profession. The strong turnout and enthusiastic participation reflected the continued popularity of the Gala and the important role it plays in fostering collegiality and engagement among South Australia’s legal community.

The Young Lawyers’ Committee extends its sincere thanks to Burgess Paluch for its valued sponsorship and support of the event. The Gala was a resounding success and a wonderful opportunity for young lawyers to connect, strengthen professional relationships and celebrate the profession in a relaxed and enjoyable setting. The Committee looks forward to welcoming members to future events throughout the year.

Shannon Collins is a solicitor at Richard Solomon Commercial Lawyers and a member of the Law Society’s Young Lawyers Committee.

Gazing in the Gazette

3 May 2026 – 2 June 2026

A monthly review of Acts, Appointments, Regulations and Rules compiled by Associate Judge Elizabeth Olsson of the District Court of South Australia.

compiled by Associate Judge Elizabeth Olsson **July 2026**

Acts Proclaimed

Nil.

Bills Assented To

Nil.

Appointments

Youth Court of South Australia
Principal Judiciary
Magistrate
From 18 May 2026

- Magistrate Luke Anthony Davis

Gazetted: 13 May 2026, Gazette No. 26 of 2026

District Court of South Australia,
Environment, Resources and Development Court of South Australia
Licensing Court of South Australia
Judge
From 25 May 2026
Adelaide, 21 May 2026

- Jeffrey Alvin Powell

Gazetted: 21 May 2026, Gazette No. 29 of 2026

Supreme Court of South Australia
Associate Justice
Effective from 15 June 2026

- Andrea Michaels

Gazetted: 21 May 2026, Gazette No. 29 of 2026

State Coroner
For a term of seven years commencing on 1 September 2026 and expiring on 31 August 2033

- Naomi Mary Kereru

Gazetted: 21 May 2026, Gazette No. 29 of 2026

South Australian Employment Tribunal
Commissioners
On a full-time basis from 15 June 2026 until 14 June 2031

- Benjamin Robert Smith

On a part-time basis from 2 September 2026 until 1 September 2031

- Shirley Anne Burchell

Gazetted: 21 May 2026, Gazette No. 29 of 2026

Special leave
from 31 August 2026 until 16 April 2027

- Liesl Jane Kudelka, Judge of the District Court of South Australia

Gazetted: 21 May 2026, Gazette No. 29 of 2026

Rules

Nil.

Regulations Promulgated

Regulation Name	Regulation No.	Date Gazetted
Controlled Substances (Poisons) Regulations 2026	15 of 2026	7 May 2026 Gazette No. 25 of 2026
Fines Enforcement and Debt Recovery (Prescribed Amounts) Amendment Regulations 2026	16 of 2026	13 May 2026 Gazette No. 26 of 2026
Education and Children's Services (Youth Education Centre) Amendment Regulations 2026	17 of 2026	13 May 2026 Gazette No. 26 of 2026
Preventive Health SA Regulations 2026	18 of 2026	13 May 2026 Gazette No. 26 of 2026
Real Property (Registration of Instruments) Amendment Regulations 2026	19 of 2026	13 May 2026 Gazette No. 26 of 2026
Planning, Development and Infrastructure (General) (Infrastructure Frameworks) Amendment Regulations 2026	20 of 2026	13 May 2026 Gazette No. 26 of 2026
Environment Protection (Fees) Amendment Regulations 2026	21 of 2026	13 May 2026 Gazette No. 26 of 2026
Expiation of Offences (Fees) Amendment Regulations 2026	22 of 2026	13 May 2026 Gazette No. 26 of 2026
Victims of Crime (Fund and Levy) Amendment Regulations 2026	23 of 2026	13 May 2026 Gazette No. 26 of 2026
Mining (Rental) Amendment Regulations 2026	24 of 2026	13 May 2026 Gazette No. 26 of 2026
Hydrogen and Renewable Energy (Administrative Penalties) Amendment Regulations 2026	25 of 2026	13 May 2026 Gazette No. 26 of 2026
Road Traffic (Miscellaneous) (Expiation Fees) Amendment Regulations 2026	26 of 2026	13 May 2026 Gazette No. 26 of

Regulation Name	Regulation No.	Date Gazetted
		2026
Motor Vehicles (Expiation Fees) Amendment Regulations 2026	27 of 2026	13 May 2026 Gazette No. 26 of 2026
Heavy Vehicle National Law (South Australia) (Expiation Fees) Amendment Regulations 2026	28 of 2026	13 May 2026 Gazette No. 26 of 2026
Harbors and Navigation (Fees) Amendment Regulations 2026	29 of 2026	13 May 2026 Gazette No. 26 of 2026
Motor Vehicles (Fees) Amendment Regulations 2026	30 of 2026	13 May 2026 Gazette No. 26 of 2026
Road Traffic (Miscellaneous) (Fees) Amendment Regulations 2026	31 of 2026	13 May 2026 Gazette No. 26 of 2026
Motor Vehicles (National Heavy Vehicles Registration Fees) Amendment Regulations 2026	32 of 2026	13 May 2026 Gazette No. 26 of 2026
Private Parking Areas (Expiation Fees) Amendment Regulations 2026	33 of 2026	13 May 2026 Gazette No. 26 of 2026
Tobacco and E-Cigarette Products (Smoking Bans—Residential Aged Care Facility) Amendment Regulations 2026	34 of 2026	21 May 2026, Gazette No. 29 of 2026
Summary Offences (Knives and Other Weapons) Amendment Regulations 2026	35 of 2026	28 May 2026 Gazette No. 30 of 2026
Fines Enforcement and Debt Recovery (Prescribed Amounts for Section 18 of Act) Amendment Regulations 2026	36 of 2026	28 May 2026 Gazette No. 30 of 2026

Members on the Move

Law Society Members are on the move with promotions across Piper Alderman, senior appointments at Gilchrist Connell and new partners at Thomsons.

LSSA **July 2026**

Regular Columns

Piper Alderman has announced 27 promotions across the firm, including 3 Adelaide promotions.

Travis Shueard has been promoted to partner after joining Piper Alderman in 2021 as an Associate, rising quickly to Senior Associate in 2022 and Special Counsel in 2025. He is a specialist in intellectual property law, advising on disputes relating to trademarks, designs, copyright, patents and consumer law.

Liberty Privopoulos has been promoted to Special Counsel, effective 1 July 2026. With more than 10 years' experience as a commercial lawyer, Liberty advises on a broad range of corporate and commercial matters, including supply and procurement contracts, intellectual property protection, corporate governance, business structuring, and regulatory compliance.

Tabitha Mackenzie has been promoted to Senior Associate in the Financial Services and FinTech team. Tabitha specialises in mortgage enforcement and brings a strong background in commercial litigation, including experience in national debt recovery matters across multiple courts.

Gilchrist Connell recently announced five senior appointments across the firm, including Courtney Hood and Emily Hunt who will take on new roles at its Adelaide office.

Courtney Hood has more than 17 years' experience in the South Australian public sector. She is an experienced legal adviser who has worked across a range of government departments and jurisdictions, providing strategic advice and representation in complex matters. Courtney has also held senior roles supporting major government initiatives and has expertise in workplace conduct, regulatory matters and disciplinary proceedings.

Emily Hunt brings broad experience across professional indemnity, personal injury and general insurance litigation, with a particular focus on defending complex medical negligence and malpractice claims.

Dana Paitaridis was also welcomed as an associate at the firm.

Belinda Cohen, CEO of Gilchrist Connell said the highly regarded practitioners had a deep expertise in their field and added real strength to the practice.

“Alongside the talented associates and lawyers who have joined us in recent months, these appointments reflect the depth of talent we continue to attract and our focus on building a strong bench to support clients facing increasingly complex risks,” she said.

Thomsons has appointed two new partners and two special counsel to its Adelaide office.

Lisa Harrington joins the firm as a partner in the Real Estate team, bringing more than 15 years’ experience advising clients across property and broader commercial matters, including hospitality and agriculture.

Liz Viant joins as a partner in the Employment and Workplace Relations and Safety team. Liz is an experienced employment and industrial relations specialist with deep expertise across workplace disputes, enterprise bargaining, work health and safety matters, investigations and government advisory work.

Chief Executive Partner Adrian Tembel said the appointments reflected Thomsons' continued growth and investment in practice areas where there was increasing demand.

“Lisa and Liz are both highly regarded lawyers with strong reputations in their respective markets and practices,” he said.

Stephanie Cogno-Maglieri and **Alexandra Nicola** have also been promoted to special counsel.

Tindall Gask Bentley has announced 16 promotions across their Adelaide firm, effective 1 July 2026.

Promoted Partners:

- **Daniel Weekley**
- **Alex Svenson**
- **Olla Kutieleh**
- **Deanna Gatto**
- **Lianna Ferraro**

Special Counsel:

- **Adam Osborn**
- **Amanda Tsui**

Senior Associates:

- **Denise Abfalter**
- **Hanna Rogers**

- **David Tan**

Associates:

- **Nicola Berlingeri**
- **William Britten-Jones**
- **Alex Rice**
- **Kristen Camera**
- **Justine Lacasandile**

Administrative Manager:

- **Amanda Dowdy**

TGB Managing Partner Tim White said their achievements were not the result of any one individual, but the combined effort, commitment, and expertise of every person in the firm.

Adelta Legal also announced the appointment of **George Capaldo** and **Marianna Danby** as directors.

Bookshelf

The latest authoritative legal texts, compiled by Lucy Brown, Manager, Library Services and Information Management, Law Society of South Australia.

Compiled by Lucy Brown **July 2026**

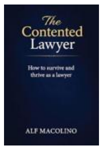
Books **Regular Columns**

Macolino

The Contented Lawyer: How to survive and thrive as a lawyer

Vivid Publishing, 2026

Paperback: $29.95; e-book US$6.99



Abstract from Vivid Publishing

Alf Macolino has distilled nearly 50 years of legal practice into *The Contented Lawyer - How to Survive and Thrive as a Lawyer*. Written with wit, wisdom and some cracking anecdotes, the book provides guidance on surviving and thriving as a lawyer from graduating until retirement. A good read guaranteed.

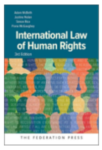
McBeth et al

International Law of Human Rights

Federation Press, 2026

Paperback: $150.00

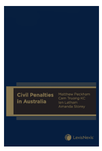
Abstract from Federation Press



International Law of Human Rights offers a clear and comprehensive guide to the key concepts, institutions, and mechanisms that shape global human rights protection, while exploring the real-world challenges facing the field today. Analysis is illuminated by case studies and examples drawn from Australia and around the world, thoroughly covering the scope of international human rights law in a way that is informative and engaging for all readers. 'Snapshots' provide real-life illustrations, bringing the material to life and demonstrating current practice and issues in international human rights law. This 2026 edition introduces several new chapters including more comprehensive accounts of LGBTQIA+ rights and the intersection between international human rights law and climate change, as well as up-to-date analysis of how rights can be limited.

Higgins and Shepherd

Civil Penalties in Australia



LexisNexis, 2025

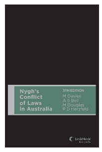
Paperback: $200.00

Abstract from LexisNexis

Civil penalties and civil penalty proceedings have become a major regulatory and industrial enforcement tool across various pieces of Commonwealth, state and territory legislation. Yet, little has been written about the general law of civil penalties, outside of the context of specific legislative regimes. This text aims to fill that longstanding gap in legal literature by being the first standalone, practical guide to civil penalty proceedings in Australia. Civil Penalties in Australia distinguishes itself through its in-depth analysis of key issues such as penalty privilege, civil procedure, and the process of fixing a penalty, all presented in a regime-agnostic manner. By focusing on common principles and themes, and taking examples from a range of legislative regimes, the text provides relevant guidance for any civil penalty proceeding.

de Groot and Nickel
Family Provision in Australia
LexisNexis, 7th ed, 2026
Paperback: $290.00

Abstract from LexisNexis
Family Provision in Australia is cited frequently in superior court decisions. Among its outstanding features are the tables of cases which, in this new edition, include a new one that presents digestible format decisions where a poor relationship has been relevant in affecting the outcome of the application.



The updates in this edition also include updated commentary on the effect of bankruptcy on family provision claims which has been the subject of conflicting judicial opinion. *Family Provision in Australia 7th edition* incorporates changes to succession law in South Australia from 1 January 2025.

Family Law Case Notes

A summary of recent notable family law cases.

Craig Nicol and Keleigh Robinson July 2026

Regular Columns Case Notes Family Law

Property – No error by trial judge excluding funds held in husband's solicitor's trust account where outstanding legal fees, work in progress and trial costs would exhaust those funds – Leave entitlements owed to the husband by his own business were not an asset for the purpose of s 79

In ***Anselmo*** [2026] FedCFamC1A 87 (20 May 2026) the Full Court (Austin, Campton & Christie JJ) heard a wife's appeal from orders made by the Family Court of Western Australia.

As part of the wife's appeal, she contended that money paid to the husband's lawyer for legal fees that were held in trust, were an asset and ought to have been included in the asset pool. She also contended that the husband's leave entitlements were property.

The Full Court said (from [42]):
"… We accept the reasons for judgment do not identify the monies in trust as an existing asset… The respondent had outstanding costs of $39,371.56 and unbilled work in progress of about $15,078.80. Together those sums accounted for more than half of the funds held in trust by the respondent's solicitors. The respondent was also obliged to meet the costs of the trial which… would have exhausted the funds in trust. It is somewhat artificial in those circumstances to include the assets when you propose to (appropriately) exclude the liability. It is for this reason that the failure to identify the trust funds is not… material."

Considering the husband's leave entitlements in the business which he owned and operated, the Court continued (from [49]):

"… Such entitlements have ordinarily been considered a potential financial resource: see Gould & Gould [1995] FamCA 142 … In that case a distinction was drawn between a case where a party expects to receive the funds and a case where a party expects to take the leave. In the first case, the court would be persuaded that the entitlements may be a financial resource (not an asset), while in the latter [it] … might be neither. It will turn on the evidence in each individual case.

(…)

[51] The approach taken by the primary judge was… appropriate…"

The appeal was allowed on a limited basis (only on the assessment of the contribution of the parties). Cost certificates were ordered.

Property – Litigation lender's application to vary final consent orders that were made 4 weeks before the husband's bankruptcy – Wife (who knew of husband's precarious financial position) restrained from dealing with two of four properties

In ***O Pty Ltd v Calvo*** [2026] FedCFamC1F 295 (7 May 2026) Austin J heard an application by the husband's litigation lender for injunctive relief against the wife.

Family law proceedings were commenced in May 2024. The husband was advanced $90,000 from the lender, paid to the husband's lawyers. The husband executed registrable second mortgages over four properties, but they were not registered ([7],[8]).

Final orders were made by consent on 8 July 2025 for the wife to retain all four properties. The husband informed the lender of the orders two weeks after they were made. He was then made bankrupt, having liabilities of approximately $4.5 million ([10]-[12]).

Austin J said (from [31]):

"The applicant is 'affected' by the final orders… because… it may not be able to recover the debt owed to it (s 79A(4))…

(…)

[35] The wife fails to demonstrate the applicant has no reasonable chance of success in prosecuting the claim for relief under s 79A(1) of the Act because, arguably either:

(a) there was a miscarriage of justice by the suppression of evidence (s 79A(1)(a)) – being the husband's apparent failure to disclose… the true extent of his enormous liabilities…; or

(b) the husband has defaulted in carrying out an obligation imposed upon him by the final orders (s 79A(1)(c))…

[36] The registrar was not empowered to make the final orders unless satisfied that… the orders were just and equitable (s 79(2))… The identity and value of the husband's… liabilities were part of the 'circumstances' which bore upon the question of whether the orders adjusting the spouses' property interests were just and equitable…

(…)

[38] It seems unlikely the wife had no inkling of the husband's financial predicament… The wife did not try to explain… how it was just and equitable for her to have received so much property from the husband under the final orders."

The wife's summary dismissal application was dismissed. An injunction was made against the wife disposing of two of her properties. Costs were ordered against the wife fixed at $12,500.

Property – Wife's application for leave to adduce adversarial evidence was premature as time for the parties to ask questions of the single expert pursuant to rule 7.26(1)(b) had not expired – Non-binding indicative offer is a "mere puff" and inadmissible as evidence of value

In ***Finamore (No 3)*** [2026] FedCFamC1F 289 (5 May 2026) Strum J heard a wife's Application in a Proceeding to adduce evidence from an adversarial expert with respect to business valuation matters.

The wife adduced evidence from her proposed adversarial expert and also relied upon a "Non-Binding Indicative Offer" ("NBIO"), purportedly for the acquisition of the business ([21]).

Strum J said (from [21]):

"… Although styled an 'offer', [the NBIO] … is nothing of the sort. Rather, it is an invitation to treat or a mere puff…

[22] If the NBIO were the basis of the wife's application, she would likely be unsuccessful. It is settled law that evidence of an offer, even if the NBIO were that, is not admissible as evidence of value.

(…)

[32] Rule 7.26(1)(b) of the Rules provides that a party seeking to clarify the report of a single expert witness may ask questions of that expert within 21 days… Accordingly, the time for either party to ask questions has not yet expired…

(…)

[36] … Whilst I have the power to… shorten that time… I consider that to do so [would]… deprive the wife… the opportunity to explore this issue… with [the single expert and]… would … deprive her of procedural fairness…

(…)

[39] Senior Counsel for the husband submits… that the wife should have asked questions of [the single expert]… before bringing her application; however, she is still within time to do so…

(…)

[41] In circumstances where I have determined that the wife and… the husband, should undertake the processes under the Rules for the clarification of the single expert witness' report, I consider the wife's Application in a Proceeding to be premature and therefore I shall strike it out, rather than dismiss it… I shall order that the time for the parties to ask questions of [the single expert]… be extended to commence, and be calculated, from tomorrow…"

No orders were made as to costs.

Children – Surrogacy – Surrogate failed to hand over child following birth and sought that the child live with her – Interim orders made for the child to live with the intended parents – Declaration of parentage under s 69VA to be determined as a final order

In ***Taggart & Gowden*** [2026] FedCFamC2F 673 (14 May 2026) Judge Harland heard an application by intended parents in a surrogacy arrangement. The respondent was the surrogate.

The child “X” was born in 2026. Ms Taggart was the intended mother and the second applicant, Mr Miller, was the intended father and X’s biological father. The respondent, Ms Goden was Mr Miller’s sister and the surrogate. All three parties were Aboriginal. The parties entered into an altruistic surrogacy agreement in 2023 ([27]).

Ms Gowden sought interim orders that X live with her, raising risk issues associated with Mr Miller ([50]). The applicants sought orders that the child live with them and a parentage order in favour of Mr Miller.

Judge Harland said (from [24]):

“Mr Miller seeks an interim order declaring him X’s legal parent pursuant to s69VA…

[25] The wording [of s 69VA] is clearly that of a final order not an interim one. I decline to make an interim order regarding parentage.”

After considering the evidence of Mr Miller’s drug and alcohol use and his mental health and Ms Gowden’s traumatic history and involvement with child protection, her Honour concluded (at [77]):

“This is a complex and sensitive matter… I am mindful that [X’s] … family has suffered intergenerational trauma…

[78] X is very young and vulnerable. He is completely reliant on the adults around him. There are too many unknowns in Ms Gowden’s household currently. …

[79] Ms Taggart is a protective factor in this matter. She is an educator surrounded by children daily. She does not have any mental health issues. She has also acted protectively when Mr Miller was psychotic and violent. I observe that many people with mental health issues are great parents. It is only relevant in so far as impacts a child’s welfare…

[80] I am satisfied that on balance X should live with Ms Taggart and Mr Miller on an interim basis.”

Family Law Case Notes is contributed by Craig Nicol and Keleigh Robinson, Co-Editors of The Family Law Book.