

Access to Justice

All Victorians are entitled to access effective and high-quality legal services and remedies. The Victorian Charter of Human Rights and Responsibilities Act also establishes a number of rights which are unable to be effectively exercised without access to legal advice and representation.

Our corporate plan supports this by including *improving access to justice* as one of our three strategic objectives, and setting out the following four goals for us to meet as part of achieving this objective:

- **Raise awareness of the Victorian Legal Services Board's (the Board) role in improving access to justice**
- **Conduct comprehensive evaluation and reporting on the Board's access to justice activities**
- **Reduce regulatory barriers to more affordable, accessible legal services by supporting innovation in legal practice**
- **Develop strategic and longer term planning for effective funding of access to justice initiatives in Victoria.**

Access to justice typically refers to a person's ability to access any component of the justice system. It commonly refers to access to lawyers and to dispute resolution mechanisms, such as courts or tribunals. However, access to justice as a concept also encompasses social and economic factors that can affect the experience of the legal system such as racism, mental illness, low literacy, poverty, isolation and violence.

In addition, actual or perceived barriers such as the cost and/or availability of legal services can result in people who would not be considered disadvantaged, finding themselves unable to access legal help and/or a legal remedy. Others may not access legal services because they do not realise that their problem may have a legal dimension and they could be assisted by a lawyer.¹

Our role in increasing Access to Justice

The Board's role in supporting Victorians' access to justice arises through our statutory responsibilities as:

- ① **Regulator:** We are the regulator of the Victorian legal profession and oversee the conduct and professionalism of Victorian lawyers.
- ② **Funder:** The Board is a significant funder of access to justice activities in Victoria.
- ③ **Investor:** We manage our investments in the Public Purpose Fund to support our ability to undertake legal regulation and fund access to justice in Victoria.

Supporting Access to Justice through regulation

Our priority is to support a well-functioning and well-regulated legal system by ensuring lawyers are ethical and professional. The consumer confidence and trust this engenders is an important part of ensuring access to justice in Victoria. Consumers are unlikely to access legal help unless they are confident that both the legal system and their lawyer will respond in a way that is ethical and meets their needs.

Improving legal practice and ethics

As the regulator of the Victorian legal profession, we license lawyers and oversee their service delivery and conduct, including handling complaints, investigating poor conduct and overseeing management of trust accounts. This helps to protect current and future consumers of legal services by ensuring lawyers are competent and maintain high ethical and professional standards.

Focus on supporting innovation

Our work to explore how regulation can help foster innovation to improve the accessibility and affordability of legal services is strongly linked to our goal of improving access to justice, particularly to the 'missing middle'.² We give guidance about the application of legal profession regulation to new service models. We also encourage innovation in the delivery of legal services, including by ensuring that there are no unnecessary regulatory barriers to the provision of more accessible and affordable legal services.

Focus on First Nations peoples

Ensuring that our service and workplace environments and processes are culturally safe, particularly given the impacts of racism and intergenerational trauma on First Nations peoples, is essential for improving justice outcomes and promoting a high-quality legal profession. Amongst other things we are undertaking a Reconciliation Action Plan and we are supporting the development of a cultural capability framework for lawyers to further this goal.

Protect and empower consumers

One of our roles as regulator is to help consumers understand what lawyers do, how to engage with lawyers effectively and how to recognise if they have received poor service from their lawyer. Our Australian-first consumer panel is a key part of this.

The Consumer Panel's insights into the way consumers choose and use legal services help us understand barriers to accessing justice, and will continue to be incorporated into our regulatory approach.

Supporting Access to Justice through funding

The second way we support access to justice is through our funding. The Public Purpose Fund (PPF) is a vital source of funding for a range of public benefits. The monies earned from deposits and investments of the PPF, which is primarily comprised of the interest on and investment returns from the lawyer's trust accounts, enables this work. The Board oversees how these funds are invested and distributed.

The Board distributes more than \$50 million annually for purposes other than legal regulation through the PPF. We run an annual grants program allowing non-profit and community legal centres to deliver innovative services, education and law reform. We also fund key legal organisations such as Victoria Legal Aid that deliver legal services to people who experience vulnerable circumstances, as well as Victoria Law Foundation and the Victorian Law Reform Commission, who work to improve the justice system for Victorians.

Supporting Access to Justice through investment

The Board understands that the way it invests its funds can also affect access to justice. We manage the PPF in order to balance the maintenance of the corpus of the fund over the long term and the generation of income annually for disbursement. The Board also recognises there is the potential for the Public Purpose Fund to support access to justice through the way it invests in two ways.

The first is to be a responsible investor. The Board's recently revised Investment Policy Statement commits the Board to responsible investment of its investment portfolio, including incorporating proactive, best practice Environmental, Social and Corporate Governance (ESG) principles. The Board will work over the next three years to review its portfolio to identify and where possible move out of investments that may contribute negatively to broader systemic issues affecting access to justice and replace these with investments that have a positive impact.

The second opportunity is for the Board to allocate some of its investment portfolio as an impact investor. Impact investment aims to align social impact and financial returns, and not sacrifice one at the expense of the other.³ The Board will work with its investment manager to identify whether and how it may be able to direct some of its investment allocation towards areas that we know have an impact on justice outcomes.

Our future

The Board recognises that it is in a unique position to contribute to the goal of improving access to justice, and is committed to leveraging its role as regulator, funder and investor to achieve maximum impact.

We are undertaking this challenge and journey with the intention that the work we do will improve access to justice for all Victorians.

1. Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, Legal Australia-Wide Survey: legal need in Australia, Law and Justice Foundation of NSW, Sydney.

2. The 'missing middle' refers to people who do not qualify for legal aid but are still unable to afford private legal services.

3. Impact Investing Australia. (2022, March 25). Interested in investing. Retrieved August 2022, from <https://impactinvestingaustralia.com/interested-in-investing/>