Lawyer availability and population change in regional, rural and remote areas of New South Wales

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LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

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Michael Cain, Deborah Macourt and Geoff Mulherin

September 2014

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Shortened forms

ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AIHW	Australian Institute of Health and Welfare
ALS	Aboriginal Legal Service (NSW/ACT)
ARIA	Accessibility/Remoteness Index of Australia
ASGC	Australian Standard Geographical Classification
CLC	community legal centre
CPD	Continuing Professional Development
FIFO	fly in—fly out
FVPLS	Family Violence Prevention Legal Services
LGA	Local Government Area
NLAF	New South Wales Legal Assistance Forum
NSW	New South Wales
PLT	practical legal training
RRR	regional, rural and remote
SACS	Social and Community Services
SD	Statistical Division
SLA	Statistical Local Area
SPSS	Statistical Package for the Social Sciences (a statistics program)
SSD	Statistical Sub-Division

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Executive summary

Over recent years, there has been popular concern about an apparent decrease in lawyers working in regional, rural and remote (RRR) areas throughout Australia. Attention has centred on perceived problems in the recruitment and retention of lawyers.

This research is the second of two studies undertaken by the Law and Justice Foundation into the availability of solicitors in RRR New South Wales (NSW). Both studies have included assessments of problems relating to the recruitment and retention of solicitors in different parts of NSW. The aim of both studies was to understand the nature of the problem to better inform strategies to improve access to lawyers for disadvantaged people in RRR areas.

The Foundation's earlier study, *Recruitment and retention of lawyers in regional, rural and remote New South Wales* (Forell, Cain & Gray 2010) produced findings, not all of which were consistent with the widely held perceptions. Key findings of that research included:

- Contrary to expectations, only a low seven per cent of public legal assistance solicitor positions in NSW were vacant on the census date. However, in some remote areas:
  - vacancy rates were higher
  - there were substantial levels of public legal service positions occupied by 'non-incumbent' solicitors, which suggested difficulties in filling positions substantively
  - the time that public legal solicitors served in remote positions was low, and suggested more frequent staff turnover.
- The more remote the region, the greater the ratio of residents to solicitors (i.e. fewer solicitors per thousand residents).
- Remote areas were more likely to have few, if any, solicitors. In addition, remote areas were more likely to have the youngest and least experienced solicitors (outside of Sydney).
- Some areas, for example the Far West, had particular challenges in recruiting and retaining solicitors, while other regions did not experience such difficulties.

Aim

To confirm or otherwise the findings of the 2010 report and to identify any trends over the intervening period, the Foundation has undertaken a second study to:

1. Examine the availability of lawyers and legal services in different parts of NSW and identify whether there have been any changes over time.
2. Identify the characteristics of areas of NSW most affected by difficulties in recruiting and retaining lawyers providing public legal assistance services.
3. Identify reasons for the escalation or diminution of recruitment and retention problems in particular areas of NSW.
4. Explore the impact of general population decline, population migration and social residualisation in regional, rural and remote NSW on lawyer availability and the provision of legal services in country NSW.

Method

Like its predecessor (Forell et al. 2010), this study used both quantitative and qualitative research methods. The quantitative approach involved an analysis of data obtained through:

a) a census of all NSW solicitors registered with the Law Society of NSW holding a practising certificate as at 30 June 2011

b) a separate census of all filled and vacant public legal assistance services' solicitor positions in NSW as at 30 June 2011

c) a download of all legal aid grants assigned to private solicitors in the 2010-11 financial year and all registered legal aid panel members during that period.

In addition, a number of in-depth interviews were conducted with private and public solicitors practising within 'target' RRR areas which had experienced significant population loss in the 10-year period from 2001 to 2011 and that had fewer than five registered solicitors on 30 June 2011. The interviews were undertaken to complement the quantitative data, to provide a better understanding of the nature of legal practice in these areas and to provide personal insights into issues such as: the advantages and disadvantages of working in RRR areas; the challenges of providing legal assistance to disadvantaged persons; and the present and future availability of solicitors in RRR areas of NSW.

In general, the availability of relevant data, such as the number of solicitors and published population statistics, determined the comparisons and analyses that were possible.

Key findings

Availability of lawyers — a recruitment and retention issue?

In brief, the perception of a progressive loss of lawyers from RRR NSW is not supported by the evidence revealed through the Foundation's research. Rather:

- The actual number of RRR solicitors in NSW increased, not decreased, between 2000 and 2011.
- Across the same period, the per capita rate of solicitors in RRR NSW remained relatively stable, within a compressed range of 0.9 to 1.0 solicitors per 1,000 RRR residents. Nonetheless, these were much lower than the corresponding rates in non-RRR areas (which were around three to four times higher).
- Solicitor vacancy rates for public legal assistance positions — one indicator of recruitment and retention difficulties — remained fairly low (7.2% in 2009 and 7.9% in 2011). In areas of NSW outside of Sydney, the vacancy rates were slightly higher (9.3% in 2009 and 9.0% in 2011).

These RRR-wide findings, however, must be interpreted in the light of the following additional observations:

- Inter-regional variations to the broader trends were noted, with some regions losing solicitors and others gaining solicitors. For instance, between 2009 and 2011, the North Western and Northern regions gained 10 and four solicitors respectively, while the Murray and Mid-North Coast regions each lost five solicitors. In addition, with regard to public legal assistance positions, high levels of vacancies were identified for the South Eastern and Far West regions in 2011, whereas the Murray and Central West regions had no such vacant positions.
- Intra-regional differences were also observed. For example, even within regions that lost (private or public) solicitors between 2009 and 2011, some constituent Local Government Areas (LGAs) (containing only small country towns and rural areas, not regional centres) experienced an increase in solicitor numbers.
- The low public legal assistance solicitor vacancy rates must be qualified by reference to turnover and non-incumbent appointment rates. While non-incumbent occupied positions tended to be highest in Sydney, Remote and Very Remote areas had high turnover rates (as suggested by fewer months in the position on average).
- In general, solicitors in Remote and Very Remote areas were younger and had fewer years of experience (particularly public legal experience) than solicitors in Inner and Outer Regional NSW, who tended to be older and more experienced. That being said, areas with declining populations had a high proportion of solicitors in the 60–64 age bracket.
- Crucially, some areas had no or few registered practising solicitors at all. Both studies revealed that there were 19 LGAs in NSW without a single registered practising solicitor (private or public), and a number of other LGAs had only one or two. Access to solicitors in these Outer Regional, Remote and Very Remote areas typically involved one or more parties travelling substantial distances.

- Grants of legal aid may be assigned to a private solicitor or dealt with by an 'in-house' Legal Aid NSW solicitor. The proportions varied from region to region, but overall grants met through private solicitors broadly reflected population share across the majority of RRR regions. However, when area of law was taken into account, a number of regional discrepancies were observed. The research suggested that finding a local lawyer with the right skills and who was prepared to undertake the grant work, particularly in the areas of care and protection, family law and civil law, was more difficult in areas that had fewer solicitors.

These findings must also be interpreted within the demographic and economic context in which they were occurring.

Demographic and economic context

Over the last two decades there has been a *relative* decline in the proportion of the NSW population residing in RRR areas. This relative decline has been due to population growing at a faster rate in Sydney and the major urban centres than in RRR areas. Actual population growth in RRR NSW, however, has tended to occur only in certain inner regional centres, while in the surrounding rural areas and especially remote and very remote locations, there has been sustained population loss.

Actual population decline has generally been paralleled by reductions in services and amenities. The research has highlighted a growing concentration of commercial and government services, including court services, in the inner regional centres ('sponge cities') and a reduction in such services in the declining areas ('dying towns').

This research provided some insights into the impact of population decline on small rural communities — that is, as services, amenities and employment prospects shift to the growing inner regional centres and to the major cities, it is often the most capable, the most educated and the most employable who are first to move (Herbert-Cheshire 2003). Together with the movement of some disadvantaged people to declining towns due to the availability of cheaper rental properties, the result is an increase in the proportion of the residual population in declining areas that are disadvantaged, with consequential effects on legal service provision.

The data obtained on the availability of lawyers in RRR NSW suggests the trend in solicitor availability broadly matches the demographic trends — evidenced by the generally stable ratio of solicitor positions to the residential population in RRR NSW. This is not to argue that these ratios are appropriate or otherwise, just that they are remaining stable. Nonetheless, the ratio of residents to solicitors in RRR areas is only one-third of that for NSW as a whole, and there are approximately four times as many non-corporate solicitors in Sydney, Newcastle and Wollongong to service every 1,000 residents.

A key determinant of the number and location of *private* solicitor positions is undoubtedly market demand. It should not be surprising that private solicitor positions stay relatively stable with stable populations, increase with increasing populations, and decrease with decreasing populations. Interviews with a sample of solicitors based in RRR areas with declining populations revealed that none had plans (or could afford) to recruit new staff, and most had concerns about whether they would be replaced when they moved or retired. This may present a significant problem for areas of NSW experiencing population decline that currently only have one or two local solicitors.

The location and number of *public* sector positions is generally determined by other factors, including community need, available resources and political imperatives. However, market forces can also have an influence, such as when new public positions are created to meet needs that are not being met by the private sector at that time.

Once a solicitor position exists (public or private), issues of recruitment and retention become pertinent. Higher vacancy and staff turnover rates were generally noted for public solicitor positions located in some of the remotest areas of NSW. Overall, however, the level of vacant public solicitor positions was low (below eight per cent) across the state. However, had there been more public legal assistance positions in remote and very remote areas, the final vacancy rate would likely have been much higher.

Aside from their general lack of 'amenity', remote areas are characterised by declining populations, decreasing economic activity and reductions in government, community and other services. For these reasons (and others), remote locations will continue to experience difficulties in attracting and retaining solicitors to fill available positions.

The challenge

Based on the findings of this study and the Foundation's earlier study, the evidence suggests that recruitment and retention issues in RRR areas are, in fact, part of a larger and more significant issue that needs to be addressed:

> *How to provide the appropriate mix of legal services to address the range of legal needs in RRR areas, especially in remote areas and areas experiencing declining populations?*

This question should be informed by the learnings from the latest legal needs research (e.g. Pleasence 2006; Coumarelos, Macourt, People, McDonald, Wei, Iriana & Ramsey 2012; Forell, McDonald, Ramsey and Williams 2013; Pleasence, Coumarelos, Forell & McDonald 2014), which emphasises the need to:

- target and tailor solutions for particular disadvantaged groups and communities appropriate to their needs and capabilities
- reach groups and communities facing substantial barriers to accessing legal services (e.g. distance, remoteness, reduced mobility)
- take into account the interaction of multiple legal and non-legal problems experienced by disadvantaged groups and communities through 'joined-up' services.

Most importantly, however, the question must be addressed in the context of the demographic and economic realities affecting RRR areas discussed above.

Rather than seeking a common solution applicable across the wide extent of RRR areas, or a strategy that does not focus on the heart of the problem (e.g. a narrow approach that just focuses on recruitment and retention issues), the Foundation's research suggests it will be more productive to tailor strategies that recognise the diversity of conditions inherent in the different regions of RRR NSW. The research demonstrates that the profile and needs of each region should be assessed against the backdrop of prevailing population trends and socio-economic conditions.

Extrapolating from the research allows the drawing of some conclusions relating to the planning, resourcing and implementing of legal service delivery options to address the challenges in RRR NSW. The differences between the various regions — in terms of geography, demography and the availability of services and gaps in services — suggests that a 'one size fits all' approach will not work, and that the planning and implementation of services should be strongly influenced by regional and local level knowledge and involvement. This needs to be facilitated by agencies and organisations at the national and jurisdictional levels — by determining priorities, establishing standards and allocating resources. However, it will be at the regional and local levels that the operationalisation of these priorities and standards will need to occur through agencies working within each region.

Strategies and solutions employed to address the challenge in RRR areas must be monitored and evaluated. Given the relative lack of rigorous evaluative research to-date in the legal assistance sector, few of these strategies and solutions will have been trialled or proven. Therefore, as different solutions are implemented in specific areas to cater for different circumstances, they need to be subjected to appropriate evaluation.

The circumstances in each RRR area will continue to change over time, and sustainable and inexpensive research may yield insights that allow for the better refinement of strategies and solutions to meet the challenge of providing the appropriate mix of legal services in each RRR area. In particular, the Foundation would suggest the periodic monitoring and regional and 'small area' analysis of:

- solicitor to population ratios
- the presence or absence of public legal assistance services
- legal service provision to population ratios (e.g. grants of legal aid per 1,000 residents; ALS representations per 1,000 Indigenous residents)
- the views of practising solicitors and managers of legal services working in RRR areas, particularly locations experiencing sustained population loss.

1. Introduction

Background

In September 2010, the Law and Justice Foundation of NSW (the Foundation) published the research report titled, *Recruitment and retention of lawyers in regional, rural and remote New South Wales* (Forell, Cain & Gray 2010). That research was undertaken by the Foundation in response to the difficulties reported by the public legal assistance services in recruiting and retaining solicitors in regional, rural and remote (RRR) areas of NSW. Similar difficulties were reported in attracting sufficient private solicitors to undertake legal aid work in country NSW and similar problems were reported in other Australian states and territories.

The main findings and conclusions from the 2010 research study were:

- Different RRR areas in NSW have their own unique characteristics. Some RRR areas experienced recruitment and retention difficulties and some did not. The difficulties experienced varied from region to region.
- The ratio of residents to all locally based solicitors (public and private) increased with remoteness. Using recognised remoteness categories, Inner Regional areas of NSW had a ratio of one solicitor for every 1,000 residents. This increased to one solicitor for every 2,000 residents in Outer Regional areas. In Remote and Very Remote areas, there was only one solicitor for every 3,000 residents.
- The overall level of vacant public legal solicitor positions (seven per cent) was observed to be reasonably low, and perhaps lower than expected given the perceptions and difficulties being reported by the public legal services themselves. However, the situation was complicated by the fact that in certain RRR areas of NSW, few (if any) public legal assistance positions exist in the first place. Indeed, in a number of regions, one or more of the three major legal assistance services did not have an 'on the ground' office.
- Solicitors in the most remote areas of NSW were generally younger and less experienced. Some RRR areas tend only to attract relatively inexperienced solicitors or solicitors only prepared to stay for a fixed and relatively short period of time. However, operationally it is preferable to have a more senior solicitor in the more remote areas given the nature of legal work and the work conditions.
- There are significant disparities in the salaries of equivalent solicitor positions across the public legal assistance services. This almost certainly contributes to the movement of solicitors between these services and from more remote areas to inner regional areas and urban areas.
- Some RRR areas are experiencing economic, social and population decline and resident services, including legal services and private solicitor numbers, are likely to decline accordingly.
- Given these realities, solutions to recruitment and retention difficulties need to be area specific, problem specific and, in some cases, position specific.

The Foundation's report was well received and influenced the ongoing work of the RRR Working Group of the NSW Legal Assistance Forum (NLAF). The research was also a key topic of discussion at a number of presentations given at Deakin University's 2011 National Rural-Regional Law and Justice Conference.

The 2010 report provided new data and valuable and sometimes surprising insights into the recruitment, retention and availability of lawyers performing public legal assistance work in RRR areas. Nevertheless, it did represent data at a single point-in-time — as at 30 June 2009. Given the unexpected nature of some of the report's findings (e.g. the low level of vacancies in public legal assistance solicitor positions), there was enthusiastic support for a 'repeat' of the research methodology to test the consistency of these findings. In this study the opportunity was taken to examine any changes and trends over time by using the original data as a baseline and following up

with a subsequent census — the state of affairs for NSW solicitors and public legal assistance services as at 30 June 2011.

Aim

Building upon the work of the 2010 study, this second RRR study aimed to:

- Examine the availability of lawyers and legal services in different parts of NSW and identify whether there have been any changes over time.
- Identify the characteristics of areas of NSW most affected by difficulties in recruiting and retaining lawyers providing public legal assistance services.
- Identify reasons for the escalation or diminution of recruitment and retention problems in particular areas of NSW.
- Explore the impact of general population decline, population migration and social residualisation in remote, rural and regional NSW on lawyer availability and the provision of legal services in country NSW.

The Foundation is confident that the findings made in this study will be transferable to other Australian states and territories.

The table titled 'Addressing the aims' which follows on the next page provides a 'road map' for the rest of the report. It indicates which chapters explore which Aims, and also details the indicators and measures used in this study to demonstrate the 'aim-related' findings.

Lawyers and legal services in country NSW

Are solicitors leaving RRR areas?

The Foundation's first study (Forell et al. 2010) into the availability of lawyers in RRR areas identified that the vast majority of registered solicitors in NSW were located in major cities. Excluding corporate lawyers, 91 per cent of lawyers were located in the metropolitan areas of Sydney, Newcastle and Wollongong; seven per cent (7.3%) were located in Inner Regional areas and a further one per cent (1.3%) was located in Outer regional areas. Only 12 registered solicitors, less than one-tenth of one per cent of all non-corporate lawyers in NSW were based in Remote and Very Remote areas (Forell et al. 2010, Table 7, p. 41). These statistics are quite different to the Australia-wide figures of an earlier study (TNS Social Research 2006) which found that five per cent of lawyers were located in remote or very remote areas, 19 per cent were based in regional areas, and a comparatively smaller majority (76%) were located in the major cities. So, is this evidence that the numbers of lawyers in RRR areas have fallen?

Rice (c. 2007, cited in Mundy 2008) noted 'a significant movement of private solicitors away from inland areas of NSW and an influx to coastal areas of the state' in the two decades up to 2004. Research has identified that legal services are subject to the same social and economic pressures that have resulted in the downsizing and closure of banks, schools and medical services in country Australia (see Forell et al. 2010, pp. 1-17).

A perceived shortage of lawyers in country areas of Australia was also one of the main findings of the Law Council of Australia's (2009a) survey-based research:

> *Many law firms and community legal centres [in RRR areas] are unable to find suitable lawyers to fill vacancies when they arise and are being impeded by the drain of corporate knowledge caused by a constant turnover of staff. There is also evidence to suggest that this situation will deteriorate further in the next five to ten years as a large number of experienced principals retire.* (Law Council of Australia 2009a, p. 5)

A study undertaken by the Law Society of NSW found that the proportion of solicitors working in country NSW had dropped three per cent from 16.7 per cent in 1988 to 13.7 per cent in 2003 (Urbis c. 2004). Furthermore, forecasts based on these data indicated that the numbers of country solicitors was on a downward trajectory with only 12 per cent of NSW solicitors predicted to be working in country areas by 2015.

ADDRESSING THE AIMS

Aim	*Chapters*	*Indicators/measures*
Examine the availability of lawyers and legal services in different parts of NSW and identify whether there have been any changes over time.	3, 4, 5	Regional distribution of solicitors practising in NSW, including: • number and per capita rate of registered solicitors in 2011 • number and per capita rate of public legal assistance solicitor positions in 2011 • change in regional numbers and rates from 2009 to 2011 • change in number of registered solicitors in each RRR LGA from 2009 to 2011 • LGAs without a resident solicitor in 2009 and 2011 • number and rate of registered solicitors by NSW Remoteness Area. Regional differences in: • areas of law practised by non-corporate solicitors • characteristics of non-corporate solicitors (e.g. age and years of legal experience). Regional distribution of grants of legal aid assigned to private lawyers (e.g. regional differences in types of assigned grants by area of law).
Identify the characteristics of areas of NSW most affected by difficulties in recruiting and retaining lawyers providing public legal assistance services.	3, 4	The 'patchwork' of public legal assistance in RRR NSW that currently exists: the location and distribution of 'on the ground' Legal Aid NSW, ALS and CLC services. Regional differences in status of public legal assistance solicitor positions: vacancies, positions filled by incumbents and positions filled by non-incumbents. Regional differences in characteristics of public legal assistance solicitors (e.g. age, years of legal experience, salaries, etc.). Ratio of public legal assistance solicitors practising each area of law (i.e. civil, criminal, family law) to residents in each region. Regional difficulties in recruiting and retaining public legal assistance solicitors — length of vacancies; time in position ('stability' and turnover).
Identify reasons for the escalation or diminution of recruitment and retention problems in particular areas of NSW.	4, 6	The demographic and economic context of population changes in RRR areas. Issues identified by managers/coordinators of public legal assistance services including interagency and regional differences in work conditions, salaries, administrative assistance and peer support. Issues identified by lawyers working in remote areas experiencing population decline including distances travelled, closure of courts and other government services, changes in workload and the nature of legal work undertaken, the increasing socio-economic vulnerability of remaining residents and working with disadvantaged clients.
Explore the impact of general population decline, population migration and social residualisation in RRR NSW on lawyer availability and the provision of legal services in country NSW.	2, 6, 7	Solicitor numbers and the dichotomous nature of population change in RRR areas (e.g. 'dying towns' and 'sponge cities'). Factors affecting legal service delivery in RRR areas including population decline, loss and downsizing of commercial and government services and courts, dwindling local economies and an increasing proportion of vulnerable groups in remaining populations. Professional issues including an ageing profession, the 'value' of rural legal practices, lack of succession options, lack of face-to-face services, and the ineffectiveness of 'one size fits all' strategies to attract and keep lawyers in remote areas.

Our earlier study identified that the perceptions about falling solicitor numbers in RRR areas of NSW may have come about, in part, from misreading the available data. For example, the finding from the Urbis (c. 2004) study that the *proportion* of all NSW solicitors in country areas had dropped from 16.7 per cent in 1988 to 13.7 per cent in 2003 may have been interpreted to imply a decrease in RRR solicitor numbers. In fact, it may only have reflected that the *growth* in solicitor numbers in RRR areas occurred more slowly than the growth in solicitor numbers in Sydney. The stated proportional *decrease* in country solicitors actually represented an *increase* in solicitor numbers from 1,631 RRR solicitors in 1988 to 2,474 RRR solicitors in 2003 — an increase of around 51 per cent (Table 1).

Table 1: Number and rate of solicitors in Sydney and RRR NSW, 1988-2006

	RRR NSW		*Sydney*		*NSW (All)*	
Year	*Solicitors*	*Rate per 1,000 population*	*Solicitors*	*Rate per 1,000 population*	*Solicitors*	*Rate per 1,000 population*
1988	1,631	0.77	7,445	2.07	9,076	1.59
2000	2,220	0.92	12,618	3.10	14,838	2.29
2003	2,474	1.00	14,895	3.55	17,369	2.60
2006*	2,675	1.06	16,683	3.90	19,358	2.84

* The number of solicitors in 2006 for RRR NSW, Sydney and NSW were estimates based on projections made by Urbis (c. 2004).

Source: Forell et al. 2010, Table 2, p. 12. Numbers and rates based on ABS (2008) population estimates and Urbis (c. 2004) Table 11.[1]

Furthermore, throwing population figures into the mix demonstrates that the per capita rate of solicitors in RRR NSW actually increased from 0.77 solicitors per 1,000 residents in 1988 to 1.0 solicitors per 1,000 residents in 2003. With access to more recent population statistics, the authors were able to re-calculate the 2006 per capita rate of solicitors in RRR areas. Again, it was found that the rate was up, albeit slightly, to 1.06 solicitors per 1,000 residents (although the number of solicitors used to calculate the 2006 rate was not an actual count, but rather an estimate based on projections made by Urbis (c. 2004)).

Factors affecting lawyers and legal services

Concerns about the drain of legal professionals from law firms and legal assistance services in RRR areas, and the broader impacts of these changes on access to justice in rural communities, have been expressed by governments, rural communities, social commentators and the legal fraternity alike (Senate Legal and Constitutional References Committee 2004; TNS Social Research 2006; National Pro Bono Resource Centre 2006; NSW Parliament Legislative Council Standing Committee on State Development 2006; Mundy 2008; Law Council of Australia 2009a; Law Council of Australia 2009b).

In the Law Council of Australia's (2009a) study, the general feeling amongst interviewed legal practitioners was that the number of RRR lawyers, particularly in some areas, was insufficient to deal with underlying legal need and this, combined with difficulties in retaining country lawyers and enticing replacements to cover remote practices, would adversely affect the level and quality of legal services in country Australia.

A number of factors have been put forward as contributing to the perceived drain of lawyers from RRR areas. Legislative changes to the 'bread and butter' work of solicitors have affected the amount of legal fees they bring in and, therefore, the economic sustainability of smaller country law firms and private practices (NSW Parliament Legislative Council General Purpose Standing Committee 2005).

1 In the ABS source table, the Sydney population is separated from the rest of NSW. Consequently, RRR NSW includes the major cities of Newcastle and Wollongong and coastal areas of NSW (see ABS, 2008). It is not clear from Urbis (c. 2004) how 'country' was defined and whether it was defined in the same way (i.e. included the cities of Newcastle and Wollongong in particular). Nonetheless, the number of solicitors for RRR NSW in Table 1 does not include 'city' and 'suburban' solicitors and this is consistent with Urbis (c. 2004).

Changes to conveyancing laws allowed other qualified professionals apart from solicitors to undertake conveyancing work,[2] while reforms to personal injury compensation laws limited the number and types of claims that could be made[3], further paring away fee-based income for private solicitors. Country lawyers, who were interviewed in the course of a number of studies (Mundy 2008; Law Council of Australia 2009c; Forell et al. 2010), including this one, specifically reported that many country legal practices had suffered a reduction in economic viability as a result of these legislative changes.

In turn, diminished income from conveyancing and compensation work, as well as reduced income from farming due to the acquisition and amalgamation of family businesses by city based corporations (Miles et al c. 2004; Cocklin & Dibden c. 2004; Race, Luck & Black 2011), have made some country legal practices turn to other income sources. As a result, some country lawyers have become more dependent upon legal aid work (Law Council of Australia 2009a; Law Institute of Victoria 2009; PricewaterhouseCoopers 2009; Forell et al. 2010). As will be seen from *Chapter 5: Grants of legal aid* and *Chapter 6: Interviews with solicitors working in areas of population decline*, the quantitative and qualitative data support the claims that many rural solicitors are increasingly engaged in legal aid work, in part due to financial necessity. However, some interviewed solicitors reported that legal aid work was not financially viable because of the low rate of pay and the difficulty of doing court work when there weren't any nearby courts.

Over the last two decades, country solicitors' increased reliance on income from legal aid work has not been without problems. According to a report commissioned by the Australian Bar Association, the Law Council of Australia, the Law Institute of Victoria and the Victorian Bar Council:

> *Since 1997, the Commonwealth's real per capita funding of legal aid has fallen. The 2009-10 Federal Budget indicates that real per capita Commonwealth funding will fall further over coming years. In addition, significant pressure will arise from a reduction in contributions from public purpose funds [and other State funding sources].* (PricewaterhouseCoopers 2009, p. 2)

Paralleling the decrease in legal aid funding was 'the increased demand for legal aid' and 'a reduction in the amount of funding paid to private lawyers in legal aid cases' (Law Institute of Victoria 2009, p. 4). A number of reports argue that payments did not fairly recompense private practitioners for legal aid work that is done (Law Council of Australia 2009a; Law Institute of Victoria 2009; PricewaterhouseCoopers 2009). The impacts on the justice system and rural communities of reduced levels of legal aid funding and increased demand for grants of legal aid are perceived as broad and adverse (Rix 2007). The Law Institute of Victoria (2009, p. 4) has argued that these impacts include 'reduced access to legal representation and an exodus of experienced practitioners from legally aided matters'.

Mixed responses to the perceived problem

Concern about the low and declining numbers of lawyers in some RRR areas has been raised as an access to justice issue, particularly for disadvantaged people in these areas:

> *Country Australia is facing a crisis in the area of access to justice. Government initiatives are desperately needed to attract legal practitioners to RRR areas. Without such intervention, the numbers of lawyers will continue to decline and this will have a massive impact on the legal aid system, which is already under significant pressure, and the justice system in these areas.* (Law Council of Australia, 2009d, p. 2)

In contrast, however, Collits (2002) has cautioned, particularly in the absence of clear empirical evidence, that social commentators tended to 'exaggerate the woes of country Australia in order to justify their demands for greater government involvement' (p. 16). Over the years, state and federal governments alike have received numerous submissions requesting funding and assistance

2 The *Conveyancers Licensing Act 1992* legalised a role for non-lawyers in conveyancing but limited this role. The *Conveyancers Licensing Act 1995* was introduced to increase competition and provided consumers with greater choice in who they could use for their conveyancing needs. Other qualified professionals apart from solicitors could become licensed to undertake conveyancing work under this Act (NSW Department of Fair Trading 2002).

3 Between 1999 and 2002, the NSW Government introduced substantial changes to all areas of personal injury compensation law. The reforms limited claims that could be made in relation to motor vehicle accidents, workers' compensation and civil liability (NSW Parliament 2005, pp. xvi-xvii).

in developing policies and strategies to address the 'crises' affecting communities, businesses and residents of country Australia (see, for example, HREOC 1999 (*Bush Talks*); Senate Legal and Constitutional References Committee 2004; NSW Parliament Legislative Council Standing Committee on State Development 2006; Commonwealth of Australia 2008 (*Australia 2020*); Law Institute of Victoria 2009; Australian Productivity Commission 2009; PricewaterhouseCoopers 2009; Law Council of Australia 2011; Australian Productivity Commission 2011).

Collits (2002) went further, stating that it was common for such submissions to suggest that large parts of regional Australia were in decline, or were adversely affected, when the actual problems were less widespread or more localised than portrayed. Problems were also pessimistically conveyed as enduring rather than possibly transient, short-lived or shifting in nature.

In 2009, the Law Council of Australia made a submission to the Australian Government proposing a number of strategies to attract more lawyers to RRR areas and to alleviate the perceived recruitment and retention issues in these areas. The main strategies put forward were:

- repaying, completely or partially, HECS-HELP (or FEE-HELP) liabilities for law graduates and/or practitioners who work in RRR areas
- the introduction of Government scholarships for students from country areas
- monetary allowances, bonuses and/or subsidised or free housing for lawyers or graduates who relocate to RRR areas
- increasing opportunities for legal clinical placements in RRR areas for law students.

In response, in May 2010 the Commonwealth Government announced $1.1 million in one-off funding to assist in the development of a campaign to boost the recruitment and retention of lawyers in RRR areas. The National Association of Community Legal Centres was allocated a large proportion of the money to employ regional coordinators to develop strategies to attract and retain lawyers in selected RRR areas. The regional coordinators would also provide support for all Commonwealth funded legal assistance services to coordinate recruitment campaigns and to provide mentoring and professional support to lawyers of these services.

The Law Council of Australia used some of these funds to assist in the development of a range of tools, including its *RRRLaw* website and a DVD that presented the views of a number of lawyers working in RRR areas. The DVD did not, however, specifically target the more remote areas that research generally indicates are more likely to be experiencing recruitment and retention problems (Miles et al. c. 2004; Mundy 2008; Law Council of Australia 2009b; Forell et al. 2010).

Of course, such strategies aimed at interesting and attracting lawyers to RRR practice can only be effective if there are *positions* for them to fill or if the economic circumstances in any particular region would support the establishment of a new legal practice. In remote areas and those with declining populations, this may not be the case. In our first study, many of these areas were found to have few solicitor positions or even no solicitor positions. In fact, our first study found that there were 19 LGAs in NSW that did not have a single practising solicitor and many of these LGAs were marked by a level of remoteness and relatively small and disadvantaged populations (Forell et al. 2010).

Remoteness and legal services

Our first study (Forell et al. 2010) identified the following important characteristics of legal services located in remote areas of NSW. Compared with services in less remote areas, services in remote areas generally:

a) have fewer practising registered solicitors and the highest ratio of residents to solicitors

b) have the most entrenched problems in attracting and retaining private and public solicitors

c) have younger and less experienced solicitors

d) tend not to have enough 'on the ground' public legal services or private solicitors performing legal aid work across *all* broad areas of law (i.e. care and protection, family law, civil law and criminal law).

While some solicitors sought rural work to achieve work-life balance (Mundy 2008; Forell et al. 2010), the lack of support, high workload and difficulties in finding replacements to fill in during leave breaks were raised as reasons for professionals leaving rural areas (McDonald, Bibby & Carroll 2002; Miles et al. c. 2004; Forell et al. 2010). The lack of opportunities in relation to professional development, training and continuing education (including the cost and travel times involved) were reported as additional factors adversely affecting lawyer retention in RRR areas (Miles et al. c. 2004; Mundy 2008; Forell et al. 2010).

While there is little doubt that practising law in RRR areas can provide an excellent foundation for obtaining general legal experience — which could increase the likelihood of a more senior position in the future — it provided fewer opportunities for specialisation (Mundy 2008). Some lawyers, particularly new graduates, may move to a country area as a step to aid their career — for instance, it may provide the opportunity to act in a more senior position. In Queensland, it was noted that more junior prosecutors, particularly those in regional offices, were taking on a greater number of matters and more complex matters due to the limited availability of more senior staff (Office of the Director of Public Prosecutions 2008). In our first study, one manager of a public legal assistance service commented that progression into higher positions was shorter for solicitors working in remote areas:

> *… the city sort of time frame for a step from what we would call a junior to an intermediate would be about 3 years and in the country it's 12 months.* (Forell et al. 2010, p.113, Interview 7)

Concern about safety and security, particularly for young lawyers in small towns working with challenging clients, was also noted in our first study as it was in earlier research (Urbis 2008). It was also possible for solicitors to tolerate high volume, stressful work in remote locations, but only for short periods. Burnout was a very real issue in the remote offices of public legal assistance services:

> *in general, the more remote the area, the greater the level of disadvantage, the more difficult the legal working conditions and the greater the difficulty in attracting and retaining lawyers, especially experienced lawyers.* (Forell et al. 2010, p. 127)

Regardless, many solicitors had planned to work in remote areas for no more than two years before intending to return to a less remote practice (Forell et al. 2010). Previous research (Urbis 2008) found that some solicitors left within three months of getting a RRR job, having not fully appreciated the impact of moving to a geographically and, for them, socially isolated location.[4]

The peak body for CLCs in NSW raised the issue of salary parity in the context of difficulties in attracting and retaining experienced staff in RRR areas, particularly given the common experience of high workload and potential for burnout (NSW CCLCG reported in Mundy 2008). It argued that CLCs 'are significantly under-funded and overwhelmed by the demand for their services, [that] staff work in stressful conditions [and] undertake significant levels of unpaid overtime' (p. 20). The National Association of CLCs suggested that 'CLCs are less able to draw lawyers away from the city or else attract inexperienced lawyers who come to increase their skill level and quickly leave for better salary and working conditions' (reported in Mundy 2008, p. 19). This was supported in our first study with a number of CLC managers in RRR areas who were interviewed reporting that 'we were virtually constantly looking for new staff' (Interview 18) and 'we weren't getting people that were committed to working in a [country] CLC, we were getting people who just wanted their first job' (Interview 15).

The Law Council of Australia felt that CLCs in regional areas were particularly susceptible to recruitment and retention issues as they are unable to offer salaries that are competitive with the government and private sectors. This made it difficult for country CLCs to entice solicitors to relocate from the cities. The Law Council of Australia suggested that:

> *Greater government funding of this sector and an improvement of both salaries and resourcing of community legal centres is necessary in order to address the chronic recruitment issues in this sector.* (Law Council of Australia 2011, p. 22)

4 Urbis (2008, Appendix C) reported that four of nine solicitors who were successful in their application to work in country locations under a Regional Solicitors Program did not complete two years in their positions.

Furthermore, high staff turnover, advertising and interviewing for new/replacement solicitors, less experienced staff taking on higher responsibilities, unsustainable workloads, higher levels of burnout and job dissatisfaction not only lead to job and service inefficiencies but to increased administrative loads and higher overall costs for legal services in RRR areas. In addition, the range, continuity and quality of legal services offered to disadvantaged people in rural and remote communities were found to be constantly at risk of being compromised by these adverse factors (Forell et al. 2010).

Decline and growth in country NSW: a real dichotomy

Perhaps due to the convenience of expression, politicians, the media and social commentators continue to make statements about the 'city-country divide'. However, what constitutes country NSW and, more broadly, country Australia is, by no means, homogenous:

> *It is important to recognise that rural Australia [and NSW] encompasses a great diversity of settlement types and sizes, spread across a number of broad biophysical zones and associated bands of population density.* (Argent & Rolley 2000, p. 141)

Aside from these geophysical differences, there is another reason not to treat 'country' NSW as a homogeneous entity — rural communities have demonstrated very real differences in their capacity and resilience to cope with the multitude of global and national economic, social and ecological forces that have been operating in Australia over the last five or more decades. As described in our initial study, the factors that have affected and continue to affect country Australia are numerous, interacting and compounding. They include:

> *globalisation (leading to falling commodity prices and cheaper imported produce); economic rationalism (leading to closure of corporate services such as banks, the downsizing or closure of schools and hospitals, and arrested growth in transport and telecommunications infrastructure); the industrialisation and mechanisation of agriculture (meaning fewer people needed in the farming industry); the effects of drought and water reforms, including the Commonwealth's water buy-back scheme (meaning less, and more expensive, water for livestock and crops); environmental degradation; declining local economies (including a downturn in the economic viability of small farms and rural businesses reliant on local custom); job losses and a lack of employment opportunities; declining populations as young people, in particular, move from remote towns and farmlands to urban areas in search of work and a better life.* (Forell et al. 2010, p.17)

Many commentators have noted that while certain rural communities have not been able to adapt well to these changes (the 'rural downturn'), other rural communities have not only coped but also prospered (HREOC 1999 (*Bush Talks*); Salt 2003; Cocklin & Dibden c. 2004; Race, Luck & Black 2011; Argent, Tonts, Jones & Holmes 2011). For instance in NSW, a few smaller towns such as Cessnock in the Hunter region, have benefited economically because of the mining boom, particularly coal seam gas mining. Other small to medium country towns, inland as well as coastal, blessed with 'the requisite accessibility and/or landscape attributes' (Argent et al. 2011, p. 40), have changed their industry profile to make the most of the boom in ecotourism (e.g. Dorrigo), and the 'sea-change' (e.g. Huskisson, Port Stephens) and 'tree-change' movements (e.g. Maitland). What makes these areas attractive are 'amenities such as sea views, proximity to towns and a pleasant climate' (Barr 2001, p. 5) and in these areas tourism, eco-tourism, hobby farming, retirement, recreation and ecology interests have replaced agriculture as the 'primary' industry.

On the other hand, with their geographic isolation, distance from services and higher levels of socio-economic disadvantage, the more remote areas of Australia, especially inland rural areas, have been more susceptible to the raft of economic, social and ecological pressures. These areas of NSW are not blessed with sea views, pleasant climates, or even proximity to a regional centre, and the consequences have been declining economies, loss of essential human and financial services, increased unemployment, population out-migration and intensified socio-economic disadvantage. Thus, in country Australia, a real dichotomy — a dichotomy that has existed for a number of decades — continues to exist:

> *Many communities in rural Australia are thriving; developing new industries with renewed optimism. Many others feel under siege. They have declining populations, declining incomes, declining services and a declining quality of life. The infrastructure and community life of many rural and remote towns has been slowly pared away.* (Pritchard & McManus 2000, p. viii)

While it was long suspected that residents of small country towns and farming areas were leaving to live in a capital city, it has been shown that one of the primary contributors to population decline in inland areas has been people moving to live and work in one of the larger inner regional cities (Pritchard & McManus 2000; Nugent 2000; Ragusa 2011; ABS 2012). This is a nationwide trend and in NSW, growing commercial centres such as Albury, Armidale, Dubbo, Orange, Tamworth, Taree and Wagga Wagga have experienced an economic revival, with most also experiencing population growth, mainly through in-migration from outlying surrounding towns and farming areas.[5] Large regional centres have been labelled as 'sponge cities' because they were 'absorbing some of the demographic excess of outlying rural areas' (Salt cited in Nugent 2000, p.1). While demographers view this process as a natural aspect of internal population movement, others see these 'sponge centres (as) dragging and sucking the lifeblood out of a lot of smaller centres' (NSW Farmers Association 2009).[6]

Argent et al. (2011, p. 32) noted that what the large inland growth centres 'all have in common is their regional administrative and service centre functions', while 'the common link among declining areas is that, for the most part, they are remote from service centres and occur in arid and semi-arid regions of Australia with declining primary industries' (Race, Luck & Black 2011, p. 3).

Noting the views of other Australian economists, Collits (2002) stated that a number of characteristics of local and regional economies place constraints on growth. These include:

- the existing settlement pattern, which provides constraints on local and regional economic performance
- in a market economy, it is inevitable that growth will not be evenly distributed
- migration of resources between regions is inevitable
- some towns are particularly advantaged by location, either through access to markets, raw materials and infrastructure; or through amenity.

Earlier, Collits (2000, p. 21) reported that much of the debate about the state of crisis in regional Australia and the anger directed at governments that existed at the time he was writing:

> *... relates to small towns in particular – they (not larger regional centres) are the places in decline; they are the places losing young people and skills; they are the places that have seen their services and infrastructure eroded.*

Larson (2011, p. 309) reported that 'the inland rim of Australia has been experiencing population decline for at least the last 30 years' with the drought-affected north-west of NSW severely affected by this trend. The earlier research of Glover and Tennant (1999) noted that the LGAs experiencing large population losses were mostly smaller settlements in regional Australia. Their research also noted a pattern of declining growth with increasing distance away from the large cities. Earlier still, Sorensen and Epps (1993) found that population and economic decline was predominately a small town phenomenon with the majority of declining areas having resident populations of less than 5,000 people. Population decline and dissolving rural communities have been noted in other developed countries and in the USA, 'many analysts consider a county population of 10,000 the minimum threshold of long-term economic viability' (Walser & Anderlik 2004, pp. 65).

A number of factors favour the growth of larger regional centres over small country towns. Regional centres have greater product variety; more, higher order and broader health, human and financial services; greater public services and public service work opportunities; a more diverse range

5 In-migration, the process of migration from outlying rural and urban areas, is also referred to as 'centripetal migration' (Ford 1999).

6 In Australian Productivity Commission (2009), *Government Drought Support Productivity Commission Inquiry Report No. 46*, 27 February 2009, p.43.

of leisure activities; and larger and more robust economies. They offer better access to a skilled workforce, transport cost savings, knowledge exchange and the benefits of localised referrals. They are far more accessible being situated on main roads and highways, have access to railways, and are better serviced by domestic airlines, coach, couriers and public transport (Race, Luck & Black 2011). Ragusa (2011, p.75) noted that 'since 1981, regional centres in NSW, specifically Albury, Dubbo and Wagga Wagga, have continued to experience economic diversification and development as key service centres'. Years earlier, Stayner (1996, p.4) noted that:

> *Farmers now have more reasons for visiting town, and it is efficient to tend to them all in the same place. Because it is now necessary to go to town to do the banking, buy chemicals, and pick up a replacement part, and since the increasing complexity of these inputs makes it desirable to shop around for price, service and information, there are 'agglomeration' economies which favour the larger places offering such services and choice.*

The closure of banks and the loss of essential health and social services in many small to medium country towns across Australia are well documented and have contributed to their decline (HREOC 1999 (*Bush Talks*); Cocklin & Dibden c. 2004; Australian Productivity Commission 2011; Larson 2011). These fundamental changes to country services have effectively forced residents of smaller settlements to travel to their closest regional centre to do 'business', whether that be to do their banking, see a dentist, purchase farming equipment, buy new furniture, or even do their weekly shopping. However, as the Centre of Australian Financial Institutions (Beal & Ralston 1997, p. 157) noted, this has extreme ramifications for the economies of smaller towns:

> *... [in 1997] on average, $320 per month per person in general shopping expenditure is lost to branchless town businesses due to residents combining shopping with banking in the nearest regional centre.*

Another factor in the mix has been the rapid advancement in motor vehicle technologies. Safer, more comfortable and more economical motor vehicles and improved road conditions have made it easier for farmers and other country residents to travel further — that is, the relative costs of going an extra 100 or 200 kilometres to a larger town have declined while the benefits have increased. Such benefits are relatively small though, and the disadvantages of staying in a town with limited or no financial, health and human services may quickly outweigh the benefits of travelling to the larger centres to utilise such services. Thus:

> *Population decline makes towns particularly vulnerable. This is part of a vicious cycle where the removal of services not only contributes to population decline, but often results in the more entrepreneurial and higher spending members of the community moving elsewhere in search of opportunities.* (Pritchard & McManus 2000, p. 10)

A range of reports, including the Australian Productivity Commission's 2011 submission to the Rural Research and Development Council of Australia, argued that rural population loss produces negative and compounding effects for smaller towns, resulting in the contraction of local economies, the downsizing and removal of public and private services, the attrition of local employment opportunities, social destabilisation and further outmigration (Sorensen & Epps 1993; HREOC 1999 (*Bush Talks*); Australian Productivity Commission 2011; Race et al. 2011). Cribb (1994) noted that following the decision of Governments and big corporations to pull out of parts of rural Australia, many of the people had done so too. Consolidation of smaller landholdings into larger farming properties has 'affected the viability of businesses, educational institutions, community organisations and social amenities in small towns heavily dependent on servicing agriculture' and is another factor which has progressively reduced the size of the population in rural areas (Black, Duff, Saggers & Baines 2000, p. 14). Race et al. (2011, p. 10) concluded that the 'drivers of population decline in rural areas, although varied, generally reflect a lack of opportunities'.

An examination of official census counts reveals the dichotomous nature of population changes in different areas of RRR NSW over the 10-year period between the 2001 and 2011 Australian Census of Population and Housing (ABS 2012; ABS 2013a). Table 2 shows the changes in population experienced by 29 selected Very Remote, Remote and Outer Regional areas of NSW. These are inland areas that recorded population losses of between eight and 27 per cent over the 10-year period. When

Table 2: Population changes in selected NSW RRR LGAs between 2001 and 2011a

LGA	Region	Disadvantage (SEIFA 2011)	Population		
			2001	2011	% change
Very Remote					
Bourke	North Western	Degree of disadvantage	3,951	2,867	-27.4%
Central Darling	Far West	Disadvantage	2,451	1,992	-18.7%
Brewarrina	North Western	Disadvantage	2,165	1,766	-18.4%
Unincorporated Far West*	Far West	Disadvantage	873	698	-20.0%
Remote					
Walgett	North Western	Disadvantage	8,328	6,453	-22.5%
Carrathool	Murrumbidgee	Middle grade	3,316	2,585	-22.0%
Coonamble	North Western	Disadvantage	4,836	4,031	-16.6%
Cobar	North Western	Middle grade	5,182	4,713	-9.1%
Bogan	North Western	Degree of disadvantage	3,181	2,900	-8.8%
Outer Regional					
Jerilderie	Murray	Degree of advantage	1,922	1,495	-22.2%
Wakool	Murray	Middle grade	4,929	3,962	-19.6%
Urana	Murray	Degree of disadvantage	1,431	1,158	-19.1%
Hay	Murrumbidgee	Disadvantage	3,599	2,958	-17.8%
Balranald	Murray	Degree of disadvantage	2,773	2,282	-17.7%
Warren	North Western	Degree of disadvantage	3,320	2,759	-16.9%
Lockhart	Murrumbidgee	Degree of advantage	3,578	2,996	-16.3%
Conargo	Murray	Advantage	1,823	1,539	-15.6%
Murrumbidgee	Murrumbidgee	Disadvantage	2,662	2,261	-15.1%
Lachlan	Central West	Degree of disadvantage	7,560	6,477	-14.3%
Gwydir	Northern	Degree of disadvantage	5,760	4,965	-13.8%
Narrandera	Murrumbidgee	Disadvantage	6,739	5,900	-12.4%
Bland	Central West	Middle grade	6,655	5,862	-11.9%
Warrumbungle Shire	North Western	Disadvantage	10,849	9,589	-11.6%
Tumbarumba	Murray	Degree of disadvantage	3,735	3,357	-10.1%
Gilgandra	North Western	Disadvantage	4,799	4,368	-9.0%
Temora	Murrumbidgee	Middle grade	6,337	5,776	-8.9%
Walcha	Northern	Middle grade	3,307	3,021	-8.6%
Bombala	South Eastern	Degree of disadvantage	2,631	2,407	-8.5%
Wentworth	Murray	Middle grade	7,214	6,610	-8.4%
Total — target areas			**125,906**	**107,747**	**-14.4%**
Inner Regional ('sponge cities')					
Armidale	Northern	Degree of advantage	24,807	24,105	-2.8%
Dubbo	North Western	Middle grade	38,754	38,808	0.1%
Orange	Central West	Middle grade	36,999	38,056	2.9%
Goulburn Mulwaree	South Eastern	Degree of disadvantage	26,623	27,480	3.2%
Greater Taree	Mid North Coast	Disadvantage	44,738	46,541	4.0%
Tamworth	Northern	Middle grade	53,973	56,291	4.3%
Albury	Murray	Middle grade	45,621	47,808	4.8%
Wagga Wagga	Murrumbidgee	Degree of advantage	56,722	59,459	4.8%
Total — 'sponge cities'			**328,237**	**338,548**	**3.1%**

a The Very Remote, Remote and Outer Regional LGAs were selected on the basis that they had experienced a decline of eight per cent or more in their residential populations between 2001 and 2011.

* The 2001 and 2011 population figures for Unincorporated Far West are our best estimates and exclude persons living in other unincorporated parts of NSW such as Lord Howe Island.

Notes: 2011 SEIFA based on Index of Relative Socio-economic Advantage and Disadvantage. SEIFA percentiles for NSW LGAs were banded into quintiles.

Sources: ABS 2012, ABS 2013a and ABS 2013b.

contrasted with eight selected Inner Regional (but still inland) areas that contain large commercial centres, in general, these regional centres experienced stable or growing residential populations.

In total, these 29 LGAs in Very Remote, Remote and Outer Regional areas lost more than 14 per cent of their resident populations in the 10-year period. The largest proportional losses in population were recorded by Bourke LGA (down 27.4%), Walgett LGA (down 22.5%), Jerilderie LGA (down 22.2%) and Carrathool LGA (down 22.0%).

In terms of actual numbers of residents lost over the 10-year period, Walgett LGA lost an estimated 1,875 residents (minus 187 residents per year), Warrumbungle Shire lost 1,260 residents (minus 126 residents per year), Bourke LGA lost 1,084 residents (minus 108 residents per year), Lachlan LGA lost 1,083 residents (minus 108 residents per year) and Wakool LGA lost 967 residents (minus 97 residents per year).[7]

Across the same period, the population of seven of the eight identified large Inner Regional 'sponge cities' increased, with the net population gain in two regional cities, Albury and Wagga Wagga, being in the vicinity of five per cent. Five regional centres gained an additional 100 to 270 residents each year from 2001 to 2011.

It is also interesting to note that in the same period that these 29 Very Remote, Remote and Outer Regional LGAs lost over 18,000 residents, the eight 'sponge cities' together added over 10,300 persons to their populations.

Increasing vulnerabilities

Population loss in remote areas is often associated with another detrimental outcome — the intensification of social and economic disadvantage as the composition of the residential population changes. Areas that have experienced population loss are likely to contain a higher proportion of poorer households, unemployed persons, older people and Indigenous residents (Herbert-Cheshire 2003; Vinson et al. 2007; Luck, Black & Race 2011).

This intensification of disadvantage parallels the concept of 'social residualisation', first coined in the context of public housing in the United Kingdom:

> *When people move in some number from a neighbourhood or community because they believe it is no longer a desirable place to live, then what they leave behind is a social residue of less enabled people. The social balance of the area is disturbed by the departures and the people who remain are faced with concentrated poverty together with strengthening social stigmatisation.* (Williams 1999, p. 1)

It is now recognised as a social phenomenon in many modern societies, including Australia:

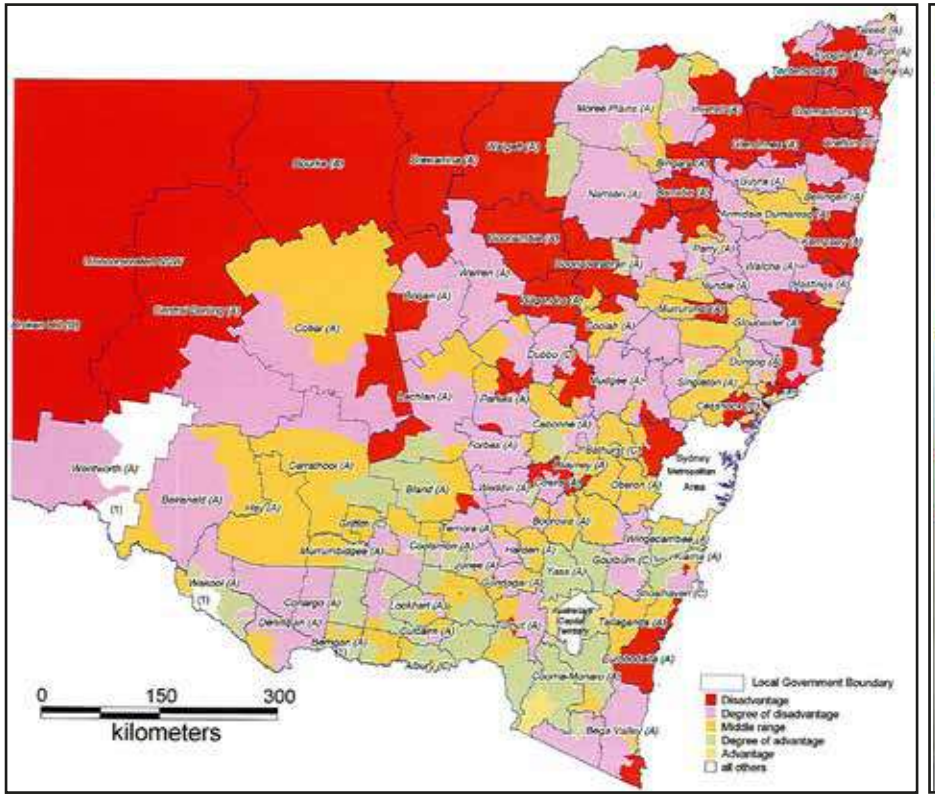
> *Social residualisation refers to the growing proportion of low-income and high needs households in public housing.* (Jacobs & Atkinson 2008, p. 4)

Residualisation is also relevant in the context of the movement of people out of rural areas and smaller towns in Australia. Demographic erosion is considered a natural process of population movement with a proportion of the nation's internal population constantly in flux as people internally migrate to capital cities (the 'big smoke'), coastal areas (a 'sea change') and large regional centres (the 'sponge cities') (Kijas 2002; ABS 2004; Race et al. 2011; Tonts et al. 2011).

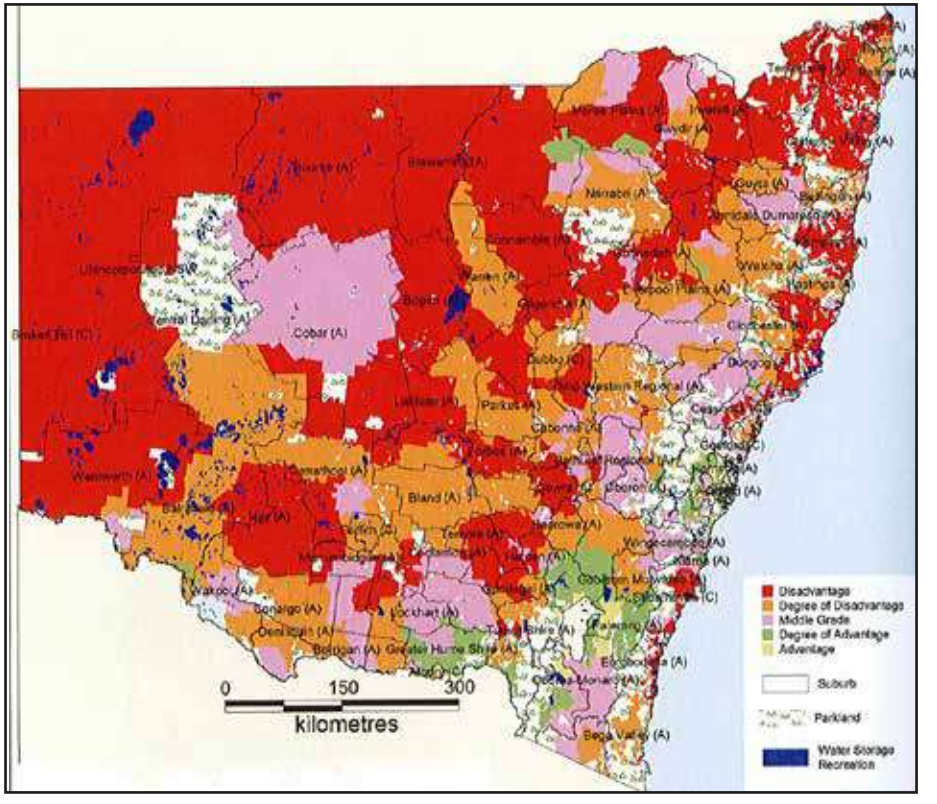
The internal movement of Australian citizens, including the loss of residents from certain parts of Australia, is seen as 'part and parcel' of the broader social and economic changes affecting the nation. However, when there is sustained population loss, as has occurred and continues to occur in many smaller country towns and their rural surrounds, we get what is colloquially known as the 'dying town' syndrome, and with substantial population decline comes the intensification of disadvantage and poverty that has characterised many parts of rural Australia, particularly remote inland areas (see Figure 1).

7 Based on earlier census data, Jackson (2004) found that 47 per cent of NSW LGAs had experienced actual population declines. Heavy population losses were also noted for other areas of rural Australia outside of NSW. For example, 'for the urban areas and rural localities (in Victoria) experiencing population loss between the years 1981 to 2001 the level of decline is significant. Numerous towns have lost in excess of 25% of their population over the twenty year period.' (Budge 2005).

Figure 1: The 'rising tide' of disadvantage in inland NSW (2001 to 2006)



Vinson 2004 (based on 2001 Census)



Vinson et al. 2007 (based on 2006) Census

Note: The red areas on the map indicate those LGAs marked by high levels of socio-economic disadvantage.

Source: Reproduced from Vinson 2004 and Vinson et al. 2007.

As Vinson identified in his series of studies of socio-economic disadvantage in Australia, disadvantage was concentrated in a comparatively small number of locations and in NSW, many of these areas were situated in rural and remote parts of the state (Vinson 2004; Vinson, Rawsthorne & and Cooper 2007). Many of the characteristics of rural towns and communities are well documented (for example, see ABS 2006a and ABS 2011) as correlates of socio-economic disadvantage:

- more men than women
- a higher proportion of Indigenous people
- fewer young adults and more elderly persons
- more married people and more children per couple
- lower incomes
- higher unemployment
- fewer working women, and
- younger school leavers.

Furthermore, these characteristics bear upon a community's resilience to resist the effects of disabling economic, social and ecological pressures (Vinson et al. 2007; Larson 2011).

In their submission to the 2009 Australian Productivity Commission Report (p. 44), the Central West NSW Councils highlighted the impact of social and economic changes on less resilient regional communities:

> *The decimating of communities will only lead to less and less services within rural communities including medical services having a multiplying downward spiralling impact for rural and regional Australia.*

The loss of teachers and schools, the closure of medical and dental practices, the downsizing or centralisation of public services, the closure of bank branches, the demise of local retail outlets and supermarkets, these adverse changes often signal a new cycle of human movement out of an affected town and its surrounding areas:

> *Some rural communities can find themselves trapped in a 'vortex' of decline whereby the loss of residents can lead to the withdrawal of critical services … which in turn can lead to more people leaving the community.* (Luck, Black & Race 2011, p. 380)

But who leaves and who remains? Herbert-Cheshire (2003, p. 454) stated:

> *Those with any 'get-up-and-go' are said to have 'got up and left' a long time ago in pursuit of better employment, services and lifestyle opportunities … This problem of diminishing population is compounded further by the observation that it is the younger, wealthier, more educated members of rural communities, with the highest levels of entrepreneurial skills, who are making the shift out — precisely at a time when their skills are needed most.*

In simple terms, many of those who leave 'dying towns' are those with the capacity and means to leave — in general, they are the relatively affluent, the skilled and employable, the educated and younger adults. They are not necessarily the rich, but those who are able to afford the costs of relocation. Professionals, semi-professionals and tradesmen/women are generally amongst the first to go. Of course, it is not just the workers that leave but also their families — husbands, wives and children. Farmers also leave and they too are accompanied by their families (McKenzie 1994; Hugo 1994 cited in Roberts 2004; Argent 2008). One study that examined the attitudes of two generations of farming women identified that the older generation 'exerted considerable power' on the younger generation 'to leave the farming industry and seek personal and professional fulfilment elsewhere' (Muenstermann 2011, p. 284).

As noted earlier, the result is that the remaining populations in many declining rural areas contain a greater proportion of vulnerable socio-economic groups, including Indigenous Australians, the elderly and those with high health care needs (Vinson et al. 2007; Larson 2011). Herbert-Cheshire (2003, p. 457) contended that those who remain in declining rural areas do so because they are largely powerlessness to do otherwise:

> *Those who remain are subsequently seen to form a residual population, comprised of the most socially disadvantage and marginalised members of rural society. Their reasons for staying stem from their powerlessness to do otherwise: they may be dependent upon welfare and forced to stay for the cheap and easily available housing, they may be business or home owners who remain locked into loans on enterprises or properties that are no longer of any great value, or they may simply lack the resources or mobility that make the shift out of a declining region possible.*

Affected areas may also contain an increasing proportion of Indigenous Australians who, because of their strong links to their families, communities, land and ancestors, are 'unable or unwilling to move' (Luck et al 2011, p. 380). Many play a key role, some as elders, in maintaining the well-being and spirit of their rural communities (Edwards 2004).

Research suggests that the consequences of population loss are adverse and many. They include the following:

Concentrated disadvantage and impoverishment: Many towns in RRR areas that have experienced population losses have also experienced compositional change. Population decline in rural areas tends to leave behind a community of less enabled people: it concentrates poverty and disadvantage. While many who are poor, unemployed, old, sick or disabled do not have the means to leave and resettle elsewhere, others become 'trapped' as property prices in the area drop and selling their home (or business) would not cover the cost of relocating to a more desirable location. As property prices drop so do rental prices, and there is increasing evidence that those on welfare payments and lower incomes are seeking out such towns to live in (Murphy, Hugo, Marshall & Burnley 2002). As Larson (2011, p. 318) noted, there is:

> *... a countervailing migration of people to rural areas who are attracted by the lower cost of living. These people are frequently among the chronically unemployed and have relatively high needs for health services.*

The result is a lower average income of households in the area and a generally higher level of disadvantage for affected settlements.

Population loss does not necessarily mean that new people have not moved into these small towns. The Research Planning Design Group of Regional Development Victoria noted that retirees with equity in the metropolitan home but without enough savings to finance their retirement were cashing in on the cheaper housing options available in regional areas (Salt 2003). Some were also 'downshifting', relocating to a regional area or a small town to enjoy a slower pace of life (Hamilton & Mail 2003; Argent et al. 2011; Race et al 2011). Notably, the indexed level of socio-economic advantage of such areas is unlikely to be raised through the addition of new residents such as these.

Loss of economic capital: While people remain in an area, a proportion of their income will be spent within it. Once they move away, their income is lost to that area. Race et al. (2011, p. 10) noted that shrinking rural populations 'can eventually lead to a potentially irreversible spiral of decline as various facilities and businesses become unviable as the population becomes smaller.' Extrapolating from Beal & Ralston's 1997 research it may be estimated that in today's terms, each working person lost from a 'dying town' probably takes with them $15,000 to $20,000 of disposable income per year.[8] This makes it harder for the remaining commercial businesses, including legal practices, to survive.

Unsustainable services: While Rice (2011, p. 12) argued that the homogenisation of the rural identity was a 'significant factor precluding appropriate access' to services for many rural communities, attempts made by the various levels of government to achieve equitable access to a wide range of services can lead them to devoting more resources to certain groups in the community, particularly small disadvantaged groups. For example, governments often spend more per person on delivering equivalent services to people in rural and regional areas than people in major cities

8 Beal and Ralston (1997) estimated that $320 per month per person was lost when residents combined shopping with banking in the nearest regional centre. The authors extended this scenario to apply to the out-migration of residents from 'dying towns' into regional centres. They also wanted a 'modern day' estimate. The 1997 dollar amount estimated by Beal and Ralston was adjusted to account for a total CPI increase of 154 per cent between 1997 and 2013 (*RateInflation* – Historical inflation rates for Australia, 2013). The amount was also modified to take into account the fact that families accompany many working residents who leave, and that money spent on and by family members is also lost to the local economy.

(Australian Productivity Commission 2011). In the context of public housing estates, Williams (1999, p. 1) noted that:

> *... social residualisation is economically inefficient. Services to the area are underutilised. The structural fabric is subject to frequent damage. The relative cost of community management soars, and inward investment prospects are all but destroyed.*

Federal, state and local governments struggle with the complex practical issues of how to maintain basic services and opportunities for declining regional populations (HREOC 1999 ('Bush Talks'); Australian Productivity Commission 2011; Larson 2011; Luck et al 2011).

The lack of comprehensive health, education and child care services in some country areas and the shortage of entertainment and cultural activities have been identified as factors that adversely affected the chances of keeping professionals and their families in RRR areas (Mundy 2008; Haslam McKenzie 2011).

Loss of professional capital: With the closure of banks, medical practices supermarkets and retail outlets, the professionals and semi-professional employees that run and manage these local services are also lost from these communities. Many of these individuals have a strong hand in the operation and financial administration of local sporting clubs and community groups — often as club presidents, committee members, secretaries and treasurers. As Argent (2008, p. 245) noted, the associated effect of population decline is the 'increasingly concentrated burden of community responsibility' on those remaining.

Loss of social capital: Vinson (et al. 2007) and other social commentators have noted that social capital is as valuable to the 'health' and resilience of communities as economic capital. In our first study, it was argued:

> *When whole families start to leave a country area – often because of reasons linked to job opportunities, the lack of health and other services, poor educational opportunities for their children, and a lack of cultural and entertainment in the area – the whole social fabric and sense of community that has traditionally existed in many rural and remote areas starts to disintegrate, signalling in many respects the 'death' of the town.* (McKenzie, 1994)

> *The loss of families and children, as social capital that sustains small rural communities, should not be underestimated ... with population decline come service closures and spiralling social decline that could not be arrested – schools are downsized or closed, sporting teams cannot be filled and fold, sports and recreational clubs cut back or stop providing sporting and community services. This makes the area less attractive to the remaining residents and for outsiders considering living and working in that locality.* (Forell et al. 2010, p.19)

Larson (2011, p. 312) has reported that 'the structures that underpin social relations are very fragile and very sensitive to economic prosperity (Caldwell and Boyd 2009) and population size (Tonts and Atherley 2005)' making rural communities with declining populations particularly vulnerable. Similarly, Race (et al 2011, p. 13) commented on the difficulties of maintaining the 'social fabric' of a community when there are fewer people to volunteer for key tasks (e.g. fire-fighting) and the 'minimum threshold of people required' for ensuring 'the viability of clubs and networks' (i.e. the 'social tipping point') has been reached.

In its submission to the NSW Parliament Legislative Council Standing Committee on State Development (2006, p.46), the Capital Region Development Board noted that the loss of working members of a community and their families has a 'hollowing out' effect on the community with health and education services removed as a result of a reduction in the 'working age' population demographic. It also noted that any sustained loss to this particular demographic has negative consequences for the schools and sporting groups as it is the working age demographic that provides children.

Miles et al. (c. 2004) found that personal and family issues were cited as some of the most influential in determining whether a prospective employee would take up a position, and whether they would stay. Mayo & Mathews (2006) found that the spouses of professionals strongly influenced decisions to move to and remain in RRR areas. In turn, spousal decisions were influenced by the professional's workload and the family's ability to integrate into the local community, as well as finding 'meaningful jobs for both adult partners' (Haslam McKenzie 2011, p. 362).

Increased social exclusion and loss of political 'voice': In contrast to the areas experiencing in-migration and growth, the 'dying towns' and rural areas tend to be 'forgotten', 'isolated' and 'off the awareness zone' (Budge 2005, no page numbers). Governments and private corporations must make decisions on the viability of maintaining rural services in the face of changing patterns of settlement, especially rapidly declining populations:

> *There has been minimal government investment in critical components of social and economic infrastructure such as hospitals, schools, roads, railways, ports and essential service utilities and this has been particularly evident in small and remote communities.* (Haslam McKenzie 2011, p. 361)

As Budge (2005) commented:

> *The geographical and societal divide between those places experiencing substantial change and growth primarily because of proximity to large, vibrant urban centres and those areas distant from such influences appears to be getting wider.* (No page numbers)

Those that are 'left behind' are not just fewer in number but their 'voice' is less likely to be heard and more frequently ignored, particularly in the context of government policy-making and service provision that favours city-based communities (Giddings, Hook & Nielsen 2001; Rice 2011; Luck, Black & Race 2011).

Disadvantage and legal need

It has already been noted that many RRR areas of NSW are marked by high general levels of socio-economic disadvantage. In areas that have experienced sustained loss of population, research suggests there is likely to be an intensification or concentration of disadvantage, as those that remain in these communities will generally have low levels of income, lower educational attainment, higher levels of unemployment and lower occupational status.

However, disadvantage is broader than poverty and reflects multiple and compounding types of social inequality and social exclusion (Arthurson & Jacobs 2003; Saunders 2003). Inequality and exclusion are the social manifestations of socio-economic disadvantage, representing the inability to participate in key societal activities or to access generally available standards of living, rights, services and opportunities (Burchardt, Le Grand & Piachaud 2002; Arthurson & Jacobs 2003; ABS 2011; Coumarelos et al. 2012).

Social inequalities may also result from an area's geographic remoteness, poor road infrastructure and lack of transport opportunities. Remoteness measures, such as ARIA (Accessibility/Remoteness Index of Australia) and ARIA+, are framed in terms of the lack of accessibility to services regarded as normal in metropolitan areas, and take into account the considerable distances that people are required to travel outside the major metropolitan areas (Department of Health and Aged Care Information and Research Branch 2001; Australian Institute of Health and Welfare (AIHW) 2004).

Remote and Very Remote parts of this country have very different profiles to the rest of Australia across a range of broad community issues. For example, reduced access to general and specialist medical services tends to result in poorer health outcomes for persons living in remote communities (AIHW 2004; AIHW 2008).

Inequality and exclusion results in a higher prevalence of adverse outcomes across a wide range of social indicators, including the quality of health, housing and education, the functionality of family life, employment, mobility, criminal behaviour and exposure to crime (Commonwealth of Australia 2008 (*Australia 2020 Summit*); Coumarelos, Pleasence & Wei 2013). Not surprisingly, many of these everyday aspects of life regularly contain a legal component or have legal consequences (Coumarelos et al. 2012, Coumarelos et al. 2013).

Concentrated disadvantage, legal need and the need for legal assistance

As population decline in remote and regional areas continues, creating in all likelihood pockets of concentrated disadvantage, there is the need to consider what impacts these changes will have on the provision of legal services in affected areas. International and Australian legal needs research have identified a well-established link between socio-economic disadvantage and vulnerability to legal problems (see Coumarelos et al. 2012 for an overview). As Coumarelos, Pleasance and Wei (2013, p.1) argued:

> *Contemporary life is played out 'in an everyday world that is, in fact, flooded with law' (Hadfield 2010, p. 131). Yet not all people are equally affected by legal problems. One conclusion of the 26 national legal need surveys conducted since the mid-1990s is that 'socioeconomic disadvantage is pivotal' to experiencing legal problems.*

In essence, a small minority of the general population accounts for the majority of legal problems experienced, and socio-economically disadvantaged groups feature heavily in this minority (Coumarelos, Wei & Zhou 2006; Coumarelos et al. 2012; McDonald & Wei 2013).

The Foundation's recent LAW survey[9] identified the particular disadvantaged groups with increased vulnerability to legal problems as people with a disability, single parents, unemployed people, people living in disadvantaged housing and Indigenous people. Some of these disadvantaged groups were more likely to:

- experience large numbers of legal problems
- experience a wide range of legal problems
- experience substantial and enduring legal problems
- have less success in resolving their legal problems.

Furthermore, McDonald and Wei (2013) reported that vulnerability to higher numbers of legal problems and more substantial legal problems 'compound' as the level of disadvantage 'concentrates'. Concentrated disadvantage was evidenced through an 'increasingly higher number of indicators of disadvantage' (p. 4), which had a cumulative adverse effect on the number and seriousness of legal problems experienced. Moreover, as Coumarelos et al. (2013, p. 2) noted:

> *... legal problems frequently have consequences that are aspects of socioeconomic disadvantage, which then act to further increase vulnerability to legal problems (Coumarelos et al. 2012; Pleasence, Balmer, Buck, O'Grady & Genn 2004a) and 'may partly define the dynamics that create and perpetuate poverty'* (Currie 2005, p. 2).

Aside from increased vulnerability to legal problems, Coumarelos et al. (2012) identified that members of disadvantaged groups may also:

- have poor legal knowledge
- be more likely to ignore their legal problems
- be more likely to achieve poor outcomes on their own
- tend not to benefit from self-help strategies
- face a variety of non-legal needs (e.g. health, housing, employment, family issues)
- have lower legal capability and be more likely to need considerable assistance from both legal and non-legal services
- require high quality face-to-face advice to achieve beneficial legal outcomes.

9 The Legal Australia-Wide Survey (LAW Survey) is a set of reports published in 2012 by the Law and Justice Foundation of NSW and provides the first comprehensive quantitative assessment across Australia of an extensive range of legal needs on a representative sample of the population. It examines the nature of legal problems, the pathways to their resolution, and the demographic groups that struggle with the weight of their legal problems. There are separate reports for each state and territory as well as a report for Australia as a whole (Coumarelos et al 2012).

In addition, research into the legal needs of specific disadvantaged groups has demonstrated low levels of legal capability within these groups (see Coumarelos et al. 2012 for an overview). Homeless people, people with a mental illness, prisoners, people with credit/debt problems, marginalised youth and vulnerable workers, typically have poor knowledge about their legal rights, legal remedies and the justice system; they also demonstrate a lack of skills and the psychological 'readiness' required to achieve legal resolution. In addition, problems for these groups are further complicated by:

- poor literacy, language and communication skills
- feelings of despair, hopelessness and being overwhelmed
- feelings of being unworthy or undeserving of justice
- feelings of being afraid, intimidated by or distrustful of the legal system
- more pressing basic needs (e.g. accommodation, food or financial needs)
- ignoring problems until they reach crisis point.

Disadvantaged groups also have poor 'functional literacy' — the information-processing skills required to locate, understand and act on (legal) information or advice in a problem-solving or goal-oriented way (Nheu & McDonald 2010).

Legal services face significant challenges in providing legal assistance to disadvantaged people with complex needs, particularly given that their complex needs 'may be over and above their legal needs' (Forell & Gray 2009, p. 1). The findings of McDonald and Wei (2013, p. 1):

> *... further underscore the importance of more intensive and integrated legal service provision for people with heightened vulnerability to multiple legal problems, and particularly for people with multiple disadvantage. They also indicate that the use of diagnostic instruments, such as a 'legal health check', is likely to enhance the systematic diagnosis, triage and referral of client legal problems in a range of service settings.*

In NSW, legal service providers have made concerted efforts to accommodate the special needs of disadvantaged clients by introducing a range of targeted legal services and specialist programs such as Legal Aid NSW's Family Law Early Intervention Unit Duty Lawyer Service, the Mortgage Hardship Service (a joint initiative of Legal Aid NSW and the Consumer Credit Legal Centre), and Legal Aid NSW's Regional Outreach Clinic Program.[10] These programs are characterised by being more personal in their approach, but also more structured and intensive in the nature of legal assistance they provide (Urbis 2009a; Forell & Gray 2009; Forell & Cain 2011; Legal Aid NSW 2012; Forell & Cain 2012).

Summary

Population decline in remote and regional areas is not a new phenomenon. As country areas lose residents, 'residualisation' is likely to occur, changing the socio-economic composition of these areas and creating pockets of concentrated disadvantage. The effect is that these areas will contain a proportionally higher number of residents on welfare benefits, who are unemployed, elderly, sick and disabled and who are Indigenous citizens. Research is consistent in identifying these as 'high' needs groups in terms of their vulnerability to legal problems, the clustering of multiple, interrelated legal problems, and their general lack of capacity to resolve legal problems on their own.

It is reasonable to assume that the compositional changes occurring in remote and regional areas of NSW (and Australia more broadly) will have an impact on private lawyers and public legal services in RRR areas. As parts of RRR NSW experience population decline and the loss and/or downsizing of basic services in the areas of education, health and banking, it is important to examine whether or not there has been a parallel loss in the number of private solicitors in these areas and whether public legal services in RRR have also been affected.

10 The Legal Aid NSW website lists a range of specialist services for disadvantaged client groups involving particular areas of law. Refer to http://www.legalaid.nsw.gov.au/what-we-do/services for more detail.

Structure of present report

Chapter 2 details the quantitative and qualitative methods used in this research.

Chapter 3 examines the number and per capita ratio of registered solicitors across different regions of NSW in 2011 and compares these with the figures from two years earlier. Changes in the number of registered solicitors in each NSW region and RRR LGA are identified. Mapping the area(s) of law practised across the regions also shows whether or not an area had a proportionate share of private solicitors practising civil, family and criminal law. The demographic characteristics of registered solicitors are also examined in the contexts of rurality and remoteness.

Chapter 4 looks at the number of solicitor positions within Legal Aid NSW, the ALS and CLCs. The regional distribution of these not-for-profit solicitor positions is directly related to the 'on the ground' locations of these services. Also examined were the level of vacant solicitor positions and the level of solicitor positions filled by someone other than the incumbent — identified in our first study as useful indicators of recruitment and retention difficulties. 'Time in position' also provides information on the turnover of solicitors working in different parts of RRR NSW.

Chapter 5 presents an examination of grants of legal aid assigned to private lawyers under the 'mixed model' adopted by Legal Aid NSW. Private lawyers are considered key partners in the delivery of legal aid, especially in many RRR areas where there is a lack of 'on the ground' public legal services. The availability of private lawyers to undertake grant work and their capacity to provide legal assistance across all broad areas of law — care and protection, family law, civil law and criminal law — varies from area to area and affects whether members of disadvantaged communities are able to obtain legal assistance for their problems. This is a key access to justice issue.

Our interviews with RRR lawyers (*Chapter 6: Interviews with solicitors working in areas of population decline*) provide personal perspectives on the provision of legal services to areas of country NSW that have experienced substantial population loss. In relation to these parts of NSW, there was particular interest in examining:

- regional changes and the impact of these changes on the workload of solicitors
- disadvantage in RRR areas and the availability of solicitors to assist disadvantaged people
- the current availability of face-to-face legal services
- concerns about the future availability of private solicitors in these areas.

2. Method

This section provides an abridged version of the method used in this study. A more comprehensive description is provided in *Appendix A: Method in detail*.

Like its predecessor (Forell et al. 2010), this study used both quantitative and qualitative research methods.

The quantitative approach involved an analysis of data obtained through:

- a census of all NSW solicitors registered with the Law Society of NSW holding a practising certificate as at 30 June 2011
- a separate census of all filled and vacant public legal assistance services' solicitor *positions* in NSW as at 30 June 2011
- assembling data on all legal aid grants assigned to private solicitors in the 2010–11 financial year and all registered legal aid panel members during that period.

The 30 June census date was chosen for a number of reasons. Firstly, it represented the end of the 2010-11 financial year and thus, the organisations providing the data were more likely to have prepared similar information for annual reports and other standard reporting requirements. Secondly, information used in annual reports is typically checked for accuracy and completeness, thereby increasing its reliability. Thirdly, at the time of our request for information, the end of the 2010-11 financial year had not long passed, meaning that relevant information was still 'fresh in the minds' of agency staff.

A further component of this study involved in-depth interviews, which were conducted with a number of private and public solicitors practising within 'target' RRR areas. Target areas were defined as LGAs that experienced significant population loss in the 10-year period from 2001 to 2011 and had fewer than five registered solicitors.

The in-depth interviews were undertaken to provide a better understanding of the nature of legal practice in these areas and to provide personal insight into issues such as:

- perceived changes affecting law practices in these areas
- the provision of legal assistance to disadvantaged persons
- solicitors' views on the current and future availability of solicitors in these areas.

Census of solicitors practising in NSW

The Law Society of NSW provided a dataset containing information on all solicitors registered as members as at 30 June 2011. Membership is available to holders of a current practising certificate issued by the Law Society. Application for membership is usually made at the time of applying for or renewing a practising certificate. However, it should be noted that not all admitted solicitors in NSW are registered as members of the Law Society.[11]

11 The total numbers of solicitors in the Foundation's studies differ from those found in the *Profiles of the Solicitors of NSW* produced by Urbis for the Law Society of NSW (www.lawsociety.com.au/resources/surveysandstatistics). The data on *member* solicitors provided by the Law Society to the Foundation for these studies represent approximately 10 per cent fewer NSW solicitors than the total number with a practising certificate for the relevant year. Information on non-member solicitors was not available for use in the Foundation's studies. Further, in each study, a small proportion of Law Society records was missing essential information for the studies' regional analyses: the postcode of the solicitor's main practice location. In general, where the postcode of the practice location was missing, the practice type was also missing. The Law Society advised that such records generally relate to solicitors currently not in employment. In addition, the Urbis profiles use information on solicitors captured later in the year than the Foundation's studies, which may also have contributed to any differences in solicitor numbers.

Information held in the Law Society of NSW database is generally provided by the solicitors at the time of membership registration. The solicitor may update this information at any time via a portal on the Law Society website. However, none of the fields for recording information relating to Law Society members are mandatory.[12]

The data provided to the Foundation by the Law Society of NSW included all member solicitors working in the state in private practices, law firms and corporations, government and community legal centres as at 30 June 2011. In total, there were 21,606 records in the original file provided by the Law Society. However, approximately 7.5 per cent of the original records could not be used by the Foundation as they did not contain information that was fundamental to our regional analysis, that being the postcode of the location that the solicitor practised in. In addition, these same records did not contain information on practice type and thus were excluded from further analysis.

The remaining 'valid' Law Society of NSW records — relating to 19,976 individual solicitors — provide information on private solicitors working in various areas of the state including rural and remote areas of NSW. The principal workplace for each solicitor position was represented by its postcode, and this information was used to assign a number of geographic and area based socio-demographic values to each record.

The first step in this process was to assign postcodes to an over-arching LGA[13] and then to its Statistical Division (SD), referred to in this report as 'Regions' (see 'Definition of Regions' in *Appendix A: Method in detail*; also see Figure 2).[14]

Secondly, a number of geographic measures and socio-economic indicators for LGAs, derived from the Australian Census of Population and Housing,[15] were appended to each record. These measures, including measures of remoteness and geographic accessibility, allow a broader analysis of the characteristics of the geographic areas in which the solicitor positions were located.

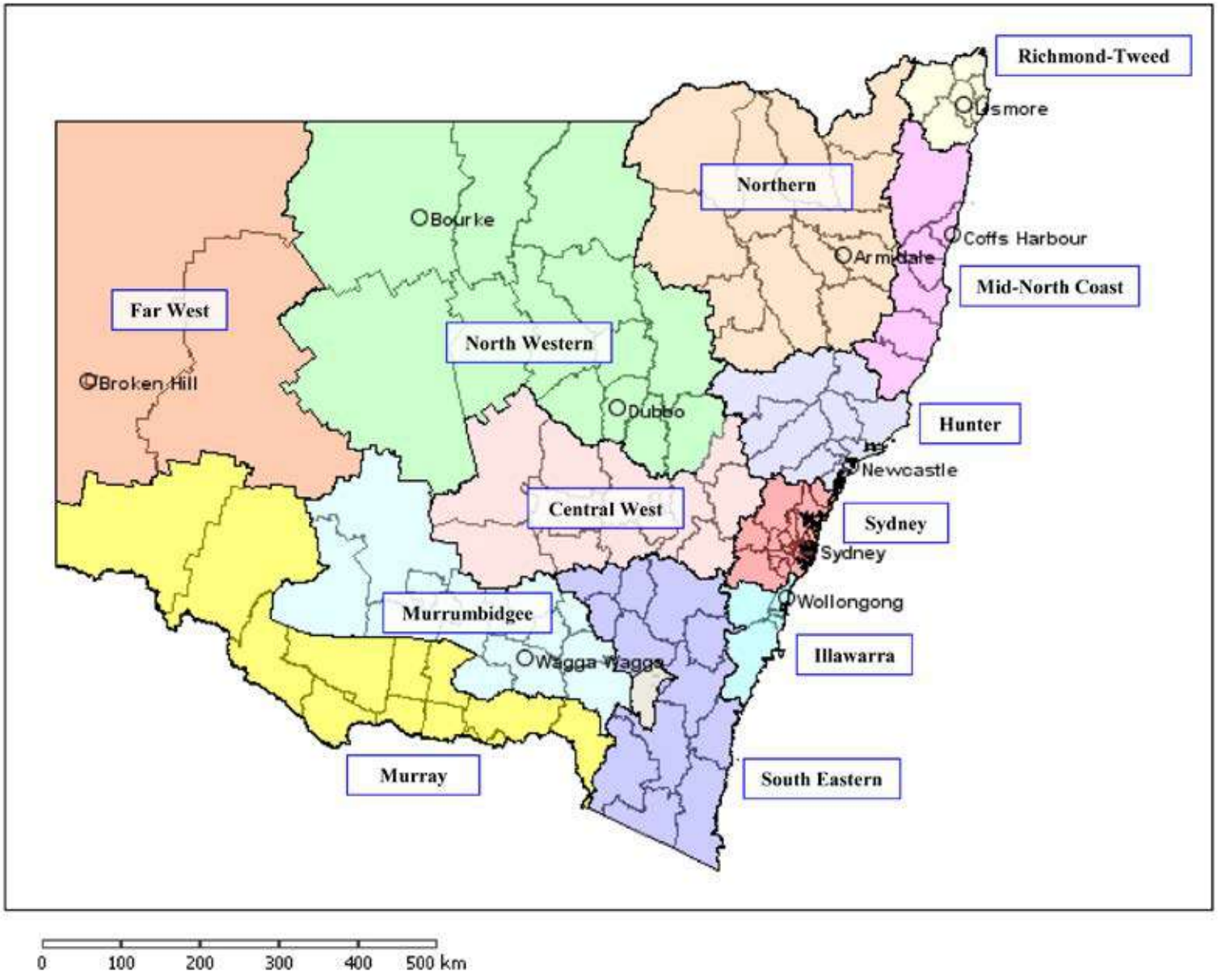
12 Rice (2011) recorded a number of additional caveats on the accuracy of the Law Society of NSW data, most notably that mistakes made by lawyers in completing their membership forms will be reflected in the reported data. He also noted that the main location of practice does not actually provide information on where a lawyer actually practices; whether branch offices or clinics associated with that practice also operate; where practices draw their clientele from; or whether a lawyer worked full-time or part-time, or worked from home.

13 Postcodes or, more technically, postal areas, map to higher geographic areas for example, LGAs and Statistical Local Areas (SLAs). However, not all postal areas necessarily fall completely within a single LGA and may in fact fall across two, three or more LGAs. In this study, a postcode was assigned to its 'main' LGA. That is, if a postal area occupied more than one LGA, the postcode was assigned to the LGA that contained the majority of the area for that postcode. This process did not affect 60 per cent of records as their respective postcodes fell completely within a single LGA. For a further 26 per cent of records, the main LGA occupied 75 to 99 per cent of a postcode's area. For another 12 per cent of records, the main LGA covered 50 to 74 per cent of the area for the particular postcode. For only 1.6 per cent of records did the main LGA occupy less than 50 per cent of the area for the postcode involved. In such cases, the postcode cut across three or more LGAs.

14 The geographical distribution of data in this study is reported in terms of the 2006 Australian Standard Geographical Classification (ASGC) (ABS 2006b), which was current at the time of our research. For more detail, see *Appendix A: Method in detail*. It should be noted that the AGSC Regions do not necessarily correspond to the administrative or program 'regions' used by various NSW public legal assistance services and other government departments. In particular, the regional centre of Dubbo is located in the North Western Region according to the ASGC Statistical Division boundaries but is situated within the Central West region in line with a number of legal service agencies' program boundaries.

15 Australian Bureau of Statistics <http://www.abs.gov.au>. Wherever possible, 2011 ABS Census measures were used, otherwise 2006 Census measures were used.

Figure 2: NSW regions (SDs) and component LGA boundaries



Census of public legal assistance solicitor positions in NSW

Another census was conducted of all filled and vacant solicitor positions within each of the three major public legal assistance services in NSW: the ALS, Legal Aid NSW and CLCs.[16] The date of this census was also 30 June 2011.

The count of practising solicitor positions (filled or vacant; full-time or part-time) in the three main public legal assistance agencies across NSW as at 30 June 2011 was:

- 174 solicitor positions in CLCs and member organisations[17]
- 89 solicitor positions in ALS offices
- 488 solicitor positions in Legal Aid NSW offices.

The collections drawn from these agencies were combined using variables common to all three collections thus forming a combined dataset. The records pooled from the three individual agency collections numbered 751 in total. Each record in the merged dataset represented a public legal service solicitor *position*.

The data on solicitor positions was processed in a similar way to the Law Society of NSW data. First, records were assigned to a LGA based on the postcode of the workplace of each solicitor position. This was followed by appending the LGA based geographic and socio-economic information detailed previously to each record.

Grants of legal aid

In addition to the census of solicitor positions, Legal Aid NSW provided the Foundation with information on its Legal Aid Panels and the number and types of legal aid grants assigned to private lawyers during the 2010-2011 financial year. These are referred to as 'assigned grants'.

The record of each grant of legal aid contains the name and postcode of the law firm or private solicitor assigned the grant, which allowed an analysis of the geographical distribution of assigned grants.

Interpreting the quantitative data

Care in interpreting the quantitative data is required and the authors flag a number of issues for consideration when interpreting the data.

First, the data are diverse and come from a variety of sources. Thus, ABS population statistics and the data on solicitors, public legal assistance solicitor positions and grants of legal aid, may not perfectly align in terms of the periods each dataset covers.

Secondly, at times the research examined trends over longer periods of time (i.e. 10 years or more) while, at other times, short term trends (i.e. changes from 2009 to 2011) were studied. In general, the availability of relevant data, such as the number of solicitors and solicitor positions and access to relevant ABS population statistics — determined the comparisons and analyses that were undertaken in this study.

Thirdly, the absence of public legal services in parts of NSW meant that some regions had few public legal solicitor positions. Similarly, the number of registered practising solicitors in remote areas of NSW is small. This made regional comparisons of recruitment and retention problems and other issues more difficult.

16 Solicitor positions in the NSW Family Violence Prevention Legal Service (FVPLS) were also included. The FVPLS provides legal assistance to Aboriginal women and children who have faced or are at risk of family violence. FVPLS positions were included where they were connected to a CLC or ALS census return. These positions were included in regional counts of public legal assistance solicitor positions. See following footnote.

17 This number includes eight Aboriginal FVPLS solicitor positions.

Interviews with solicitors

In order to further address our main aims (see *Chapter 1: Introduction*), in-depth telephone interviews were conducted with private and public solicitors who worked in inland areas of NSW that had experienced significant population losses during the 10-year period from 2001 to 2011. In total, 29 LGAs were identified as having experienced a population loss of at least eight per cent *and* as having fewer than five practising solicitors in 2011. These LGAs formed the target areas for our interviews with solicitors (see *Appendix E*). The target areas cover approximately 60 per cent of the total landmass of NSW and contain over one hundred thousand residents (ABS 2013a).

A total of 36 practising registered solicitors were recorded as having their main practice in the target areas. There were 18 solicitors interviewed: 11 private lawyers and seven solicitors from public legal services (see Table 3).

Table 3: Lawyers in RRR target areas participating in interviews

Region	*Private lawyers*	*Public solicitors*	*Total*
Northern	1	1	**2**
North Western	4	3	**7**
South Western	3	1	**4**
Central West	1	0	**1**
Far West	2	2	**4**
Total	**11**	**7**	**18**

The interview

The interviews with solicitors in the target areas were undertaken to provide a better understanding of the nature of legal practice in remote areas and insight into issues regarding working with disadvantaged clients. During the course of the interview, solicitors were asked to give their views on a range of issues including:

- the impacts of regional changes on the workload of country solicitors
- the availability of solicitors to assist disadvantaged people
- the future of legal services and private legal practices in their area, including succession planning.

The interview was loosely structured around a set of core questions (see *Appendix F*). This approach allowed the questions to accommodate the different circumstances of the solicitor being interviewed. Interviewees were informed of the purpose of the research and they were encouraged to make additional comments relevant to the topic. The interviews were digitally recorded with the consent of the interviewee and conducted on the understanding that interviewees would not be personally identified. Information was also collected on the solicitor's gender, age, years of experience, legal practice and areas of legal expertise. This information did not inform the selection process but it facilitated an understanding of the diversity of opinions offered by the interviewees.

Thematic analysis

Following each interview, the recording was transcribed into an electronic document. Each interview was then analysed for thematic content.

The aim of qualitative research is not to quantify a phenomenon but to understand the meaning and processes associated with it. Themes relate to why and how certain patterns emerge, not how often things occur. Similarly, quotes are not chosen because they are examples of things most commonly said—although this may also be the case — but to best illustrate the theme that has been identified. For instance, in this study, the quantitative data indicates the parts of NSW that had not only lost population but also lost solicitors. The qualitative data provides additional personal views on why some areas were experiencing population loss, including the perceived reasons for difficulties in retaining local solicitors and attracting new lawyers to the area.

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3. Practising solicitors in NSW

The data provided by the Law Society of NSW to the Foundation represented all its registered member solicitors working in NSW in private practices, law firms and corporations, government and community legal centres as at 30 June 2011. For further detail, see *Appendix A: Method in detail.*

The Law Society dataset contained records for 21,606 solicitors. Of these, approximately 7.5 per cent of records could not be used in the present study as they did not contain two necessary pieces of information, namely, the postcode of the principal location in which the solicitor practised and the practice type (i.e. whether the solicitor was in private practice, government or a community legal centre). These incomplete records were excluded from further analysis.[18]

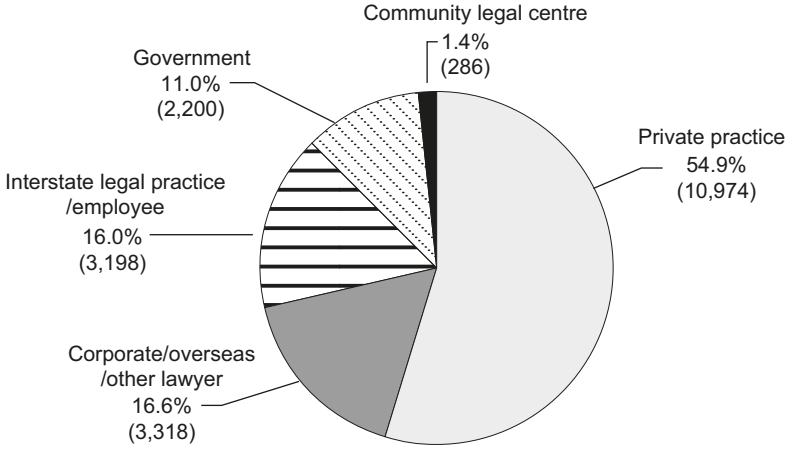
The remaining 19,976 Law Society of NSW records were analysed and are the subject of this chapter. Based on the recorded postcode of the solicitor's principal place of practice, location-based geographic and socio-economic information was appended to each record to allow broader spatial comparisons to be made. For further detail, see *Appendix A: Method in detail.*

Practice type

Figure 3 shows the broad practice types that were self-identified by solicitors registered with the Law Society of NSW as at 30 June 2011.

The Law Society of NSW data shows that solicitors engaged in private practice made up the largest share (54.9%) of solicitors working in NSW. An additional 16.6 per cent of solicitors were practising in NSW based corporations and a further 16.0 per cent were working in interstate practices at the time this census was taken.

Figure 3: Solicitors practising in NSW by practice type (30 June 2011)



Note: N = 19,976.

Source: Law Society of NSW database (30 June 2011).

18 The Law Society of NSW previously advised that records without a postcode for main practice location and without a practice type generally related to solicitors who were not currently employed or 'between jobs' (personal communication, 24 May 2010). There were 1,630 records (7.5%) missing information on practice type and postcode (including valid NSW postcodes) in the 2011 Law Society data. This was higher than the corresponding level of missing information on postcode and practice type in the 2009 data, which had 991 records (4.9%) missing such information. The Law Society data examined in this study contained information on the vast majority of accredited lawyers in NSW. There is no reason to believe that this group is not reasonably representative of the NSW solicitors whose records did not contain a practice type or a valid NSW postcode or, for that matter, the five per cent of solicitors not registered with the Law Society.

It should be noted that how other legal organisations define categories such as 'Government' and 'Community legal centre' may not necessarily correspond to the Law Society of NSW's practice type categories. Only 11.0 per cent of solicitors were recorded as working in 'Government' positions. Solicitors employed by Legal Aid NSW and the ALS are likely to be included under this category. However, it should be noted that other government-employed legal practitioners are also included under this category including public service solicitors practising in areas *other* than community legal work. For example, solicitors employed by government agencies such as the NSW Education Department or the NSW Treasury, including those acting in a corporate rather than legal capacity, are likely to have recorded themselves as 'Government' solicitors.

Solicitors recorded under the practice type 'Community legal centre' represented the smallest number (1.4%) of solicitors registered with the Law Society of NSW. However, the actual number of NSW solicitors in the Law Society of NSW database who recorded 'Community legal centre' as their legal practice type (n=286) was far greater than the actual number of solicitors employed by NSW community legal centres at that time (see *Chapter 4: Public legal assistance solicitor positions*).[19] This is likely to mean that other solicitors who were practising law in the public legal assistance sector, such as those employed by Legal Aid NSW and the ALS have recorded their practice type under this category, presumably because they consider that the legal work that they do is 'community legal work'. However, as previously indicated, it is also likely that some solicitors employed by Legal Aid NSW and the ALS have recorded their practice type under an alternate category, presumably 'Government'.[20]

Distribution of solicitors across NSW

The following analysis considers the regional distribution of solicitors across NSW. It reports on where the legal practices of solicitors are recorded as based, rather than where these solicitors actually provided their legal services (including outreach services, if any).

The analysis also provides a per capita measure, the rate of registered solicitors per 100,000 resident population, which is based on the estimated population from the 2011 Australian Census of Population and Housing.[21] While per capita measures on their own do not reveal the level of underlying legal need in different areas, they do provide a means by which geographical areas with populations of various sizes may be compared to get some indication of equity (or otherwise) in the provision of legal services.

The majority (17,532 or 87.8%) of NSW registered solicitors were based in the Sydney region (Table 4 and Figure 4). This includes 3,196 (96.3%) of the state's corporate and overseas solicitors. In total, 93.6 per cent of solicitors were based in the Sydney, Hunter or Illawarra regions.

Only 6.4 per cent of solicitors were practising law in RRR NSW. Notably, within the geographically largest but least populated region of NSW, the Far West, there were only nine practising solicitors. The Far West also had the lowest rate (40.0) of solicitors per 100,000 residents. However, it should be noted that the Far West has far fewer than 100,000 residents with an estimated population of only 22,480 in 2011.

Of the RRR regions, North Western fared best with around 114 solicitors per 100,000 head of population. In fact, North Western had a solicitor ratio higher than that of the Illawarra region (91.4) and comparable with that of the Hunter region (115.7). Richmond-Tweed and Northern also had relatively high per capita rates of solicitors — both these regions of NSW had approximately 100 registered solicitors for every 100,000 residents.

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19 From the personnel data provided for this study there would seem to be 174 solicitors employed by NSW CLCs and member organisations as at 30 June 2011. Also, see following footnote.

20 Across the main public legal assistance services, a total of 751 solicitor positions were recorded on 30 June 2011. Therefore, even if all 174 CLC solicitors recorded 'Community legal centre' as their practice type, it means that only a relatively small number of solicitors employed by all public legal agencies recorded their practice type as 'Community legal centre'.

21 ABS 2012, *Regional Population Growth, Australia, 2010-11* (cat. no. 3218.0), 30 March 2012. This publication also allowed for 2009 estimated population numbers and solicitor per capita rates to be revised. As a consequence, the 2009 regional rates of solicitors per 100,000 residents presented in this report are more accurate and differ slightly from those found in Forell et al. 2010 (Table 6).

Table 4: NSW registered solicitors — location of principal place of legal practice by region (SD) (30 June 2011)

Place of practice – Region (SD)[a]	*Solicitors*		*Population*[b]		*Solicitors per 100,000 population*[c]
	No.	*%*	*No.*	*%*	*Rate*
Sydney	17,532	87.8	4,627,345	63.4	378.9
Hunter	762	3.8	658,608	9.0	115.7
Illawarra	401	2.0	438,873	6.0	91.4
Richmond-Tweed	259	1.3	245,320	3.4	105.6
Mid-North Coast	236	1.2	315,097	4.3	74.9
Northern	186	0.9	187,685	2.6	99.1
North Western	114	0.6	100,091	1.4	113.9
Central West	146	0.7	205,763	2.8	71.0
South Eastern	126	0.7	221,054	3.0	57.0
Murrumbidgee	143	0.7	160,137	2.2	89.3
Murray	62	0.3	119,374	1.6	51.9
Far West	9	0.1	22,480	0.3	40.0
NSW	**19,976**	**100.0**	**7,301,827**	**100.0**	**273.6**

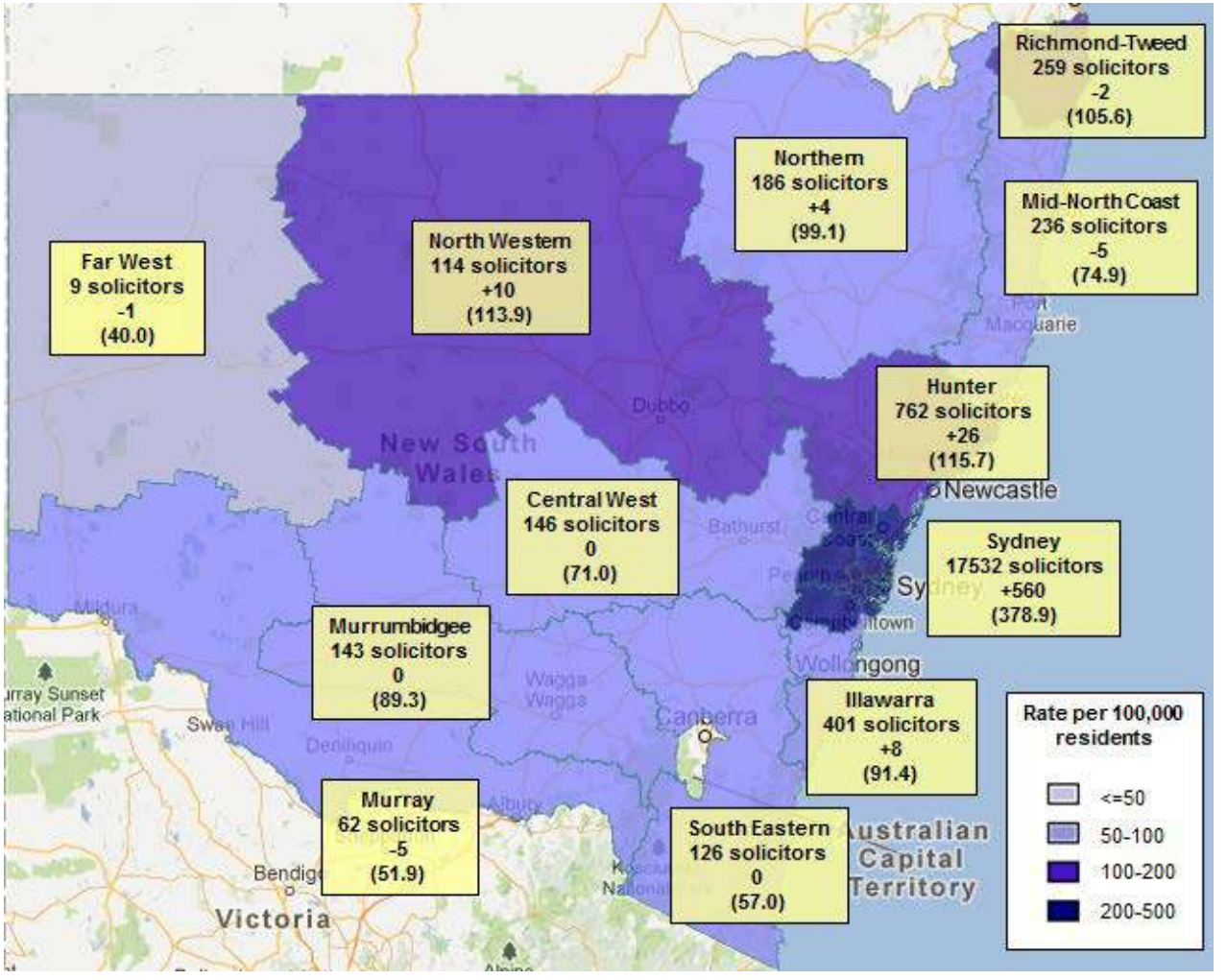
a Based on postcode of principal place of practice. There were 1,630 solicitor records (7.5%) in the 2011 Law Society of NSW dataset that were missing postcode for principal place of practice.

b ABS 2012, *Regional Population Growth, Australia, 2010-11* (3218.0, March 2012). Does not include persons recorded as having 'No usual address'.

c The resident population of the Far West region is far fewer than 100,000 persons. ABS 2012 also provided revised population figures for 2009, permitting a more accurate calculation of 2009 solicitor per capita rates used later in this report. These 2009 rates differ slightly from those found in Forell, Cain and Gray 2010 (Table 6).

Sources: Law Society of NSW database, 30 June 2011 and ABS 2012, *Regional Population Growth, Australia, 2010-11* (cat. no. 3218.0).

Figure 4: Solicitors with NSW practising certificate — location of principal place of practice, number and rate per 100,000 residents as at 30 June 2011 and change in numbers from 30 June 2009



Notes: Numbers for each Region give: 1st line - Region name; 2nd line - number of resident practising solicitors in 2011; 3rd line - change in solicitor numbers from 2009 to 2011; 4th line - rate of solicitors per 100,000 residents for 2011.

The resident population of the Far West region is far fewer than 100,000 persons.

Source: Law Society of NSW database, 30 June 2009 and 30 June 2011 and ABS 2012 (3218.0, March 2012).

The Sydney region, representing the greater Sydney metropolitan area, had the highest per capita rate of registered solicitors (378.9) and was the only area of NSW above the state ratio of 274 solicitors per 100,000 population. Contributing to the high per capita rate of solicitors in the Sydney region is the fact that it is the base for over 96 per cent of the state's corporate/overseas solicitors.[22]

Official population figures for 2011 indicate that less than 22 per cent of the NSW population lived outside of the Sydney, Hunter and Illawarra regions (ABS 2012). The corresponding percentage of solicitors based outside of the Sydney, Hunter and Illawarra regions was just over six per cent.

Applying a somewhat finer divide to city and RRR areas, there were 521 registered solicitors based in Newcastle city and 236 registered solicitors based in Wollongong city. Together with the 17,532 registered solicitors based in the greater Sydney metropolitan area, this means that 91.6 per cent of the state's registered solicitors were based in its three most populated cities and only 8.4 per cent of registered solicitors were based in RRR NSW (Table 5).

Table 5: Location of all registered solicitors — 'city' versus 'country' NSW (30 June 2011)

Area of NSW [a]	*No.*	*%*
Major cities of Sydney, Newcastle and Wollongong	18,289	91.6
Country NSW	1,687	8.4
Total NSW	**19,976**	**100.0**

a Based on postcode of principal place of practice. There were 1,630 solicitor records (7.5%) in the 2011 Law Society dataset that were missing postcode for principal place of practice.

Source: Law Society of NSW database (30 June 2011).

Table 6 shows that of the 1,687 solicitors recorded as practising law in country NSW in 2011, 1,041 solicitors (61.7%) had their practice centre or main office located in one of the larger regional centres, while the remaining 646 solicitors (38.3%) had their practice centre or main office located in areas outside larger regional centres.[23]

Furthermore, according to the 2011 Census, approximately two-thirds of the general population in RRR NSW resided in larger regional centres and only one-third lived in the more rural and remote areas (that is, outside the domain of these larger regional centres). So, the larger regional centres that had two-thirds (67%) of the population of country NSW, had around five per cent fewer solicitors (61.7%). On the other hand, the smaller towns and rural areas fared a little better having one-third (33%) of the population of country NSW but 38 per cent of its solicitors.

Table 6: Location of country solicitors in NSW — within or outside regional centres (30 June 2011)

Country solicitors	*No.*	*%*
Regional centres	1,041	61.7
Outside regional centres	646	38.3
Total country NSW	**1,687**	**100.0**

a Based on postcode of principal place of practice. There were 1,630 solicitor records (7.5%) in the 2011 Law Society dataset that were missing postcode for principal place of practice.

Source: Law Society of NSW database (30 June 2011).

22 The percentage of corporate/overseas lawyers based in the Sydney region in 2011 was up from 94 per cent in 2009.

23 Excludes Newcastle and Wollongong cities. The major regional centres that were included in this count were: Hunter – Cessnock, Lake Macquarie (e.g. Charlestown, Belmont, Swansea) and Maitland; Illawarra – Shellharbour (Kiama) and Shoalhaven (Nowra); Richmond-Tweed – Lismore, Port Macquarie and Tweed Heads); Mid-North Coast – Coffs Harbour and Taree (postcode 2430); Northern – Armidale (postcode 2350) and Tamworth (postcode 2340); North Western – Dubbo; Central West – Bathurst (postcode 2795), Lithgow and Orange; South Eastern – Goulburn (postcode 2580) and Queanbeyan; Murrumbidgee – Griffith and Wagga Wagga; Murray – Albury; and Far West – Broken Hill.

Changes in solicitor numbers from 2009 to 2011

Across NSW, between 2009 and 2011, registered solicitor numbers were up 3.1 per cent (595), from a total of 19,381 in June 2009 to 19,976 in June 2011.[24]

However, only eight of the 595 additional solicitors (or 1.3%) were practising law in country NSW, that is outside the major cities of Sydney, Newcastle and Wollongong (Table 7).

In a sense, the major cities received more than their fair share of additional solicitors, with numbers up by 3.3 per cent from 2009. By contrast, the small increase in 'country' solicitors represented a rise of only 0.5 per cent in solicitor numbers in the two-year period.

Table 7: Change in solicitor numbers —'city' versus 'country' NSW (30 June 2009 and 30 June 2011)

	2009		*2011*		*Difference*	
Area of NSW [a]	***No.***	***%***	***No.***	***%***	***No.***	***%***
Major cities of Sydney, Newcastle and Wollongong	17,702	91.3	18,289	91.6	587	3.3
Country NSW	1,679	8.7	1,687	8.4	8	0.5
Total NSW	**19,381**	**100.0**	**19,976**	**100.0**	**595**	**3.1%**

a Based on postcode of principal place of practice. There were 1,630 solicitor records (7.5%) in the 2011 Law Society dataset that were missing postcode for principal place of practice. In the 2009 data, there were 991 records (4.9%) missing this information.

Source: Law Society of NSW database (30 June 2009 and 30 June 2011).

Five NSW regions recorded proportional increases in the number of registered solicitors from 2009 to 2011:

- Sydney (an extra 560 registered solicitors, up by 3.3%)
- Hunter (an extra 26 solicitors, up 3.5%)
- Illawarra (an extra eight solicitors, up 2.0%)
- Northern (an extra four solicitors, up 2.2%)
- North Western had the largest proportional increase in solicitors from 2009, up 9.6 per cent with an extra 10 solicitors.

Four regions recorded small decreases in their numbers of registered solicitors over the same period:

- Richmond-Tweed (down two solicitors, minus 0.8%)
- Mid-North Coast (down five solicitors, minus 2.1%)
- Murray (down five solicitors, minus 7.5%)
- Far West (down one solicitor to nine solicitors, or minus 10.0%).

Over the same period, three NSW regions — Central West, South Eastern and Murrumbidgee — experienced neither an increase nor a decrease in their number of practising solicitors from 2009 to 2011. As the resident populations of these regions increased during this period, it may be expected that the actual number of registered solicitors in these regions would have risen in parallel.[25]

Small changes in the number of solicitors in regions with relatively small populations can have sizeable effects on per capita rates (Table 8).

24 Taking revised 2009 and 2011 NSW population figures into account, there was an increase of around 0.6 per cent in the per capita rate of solicitors for NSW over this two-year period (see Table 8).

25 The 2009 to 2011 increase in estimated population for the Central West region was in the order of 3.6 per cent. For the South Eastern region, the increase was 4.9 per cent. The increase in population for the Murrumbidgee region was smaller at around 1.3 per cent (ABS 2012).

Table 8: Per capita rates and residents-to-solicitor ratios for NSW registered solicitors by region of principal place of practice (30 June 2009 and 30 June 2011)

Place of practice – Region (SD) [a]	*2009* [b]		*2011* [c]	
	Rate[d]	*Ratio*[e]	*Rate*[d]	*Ratio*[e]
Sydney	377.2	265:1	378.9	264:1
Hunter	114.4	874:1	115.7	864:1
Illawarra	91.2	1096:1	91.4	1094:1
Richmond-Tweed	108.0	926:1	105.6	947:1
Mid-North Coast	78.0	1282:1	74.9	1335:1
Northern	98.6	1014:1	99.1	1009:1
North Western	104.7	955:1	**113.9**	**878:1**
Central West	72.3	1384:1	71.0	1409:1
South Eastern	58.2	1717:1	57.0	1754:1
Murrumbidgee	90.3	1108:1	89.3	1120:1
Murray	56.6	1767:1	*51.9*	*1925:1*
Far West	43.3	2307:1	*40.0*	*2498:1*
NSW	**271.9**	**368:1**	**273.6**	**366:1**

a Based on postcode of principal place of practice. There were 1,630 solicitor records (7.5%) in the 2011 Law Society dataset that were missing postcode for principal place of practice. In the 2009 data, there were 991 records (4.9%) missing this information.

b and c ABS 2012, *Regional Population Growth, Australia, 2010-11* (cat. no. 3218.0), 30 March 2012. It also provides revised population figures for 2009, which permitted a more accurate calculation of 2009 solicitor per capita rates. These 2009 rates differ slightly from those in Forell, Cain and Gray 2010 (Table 6).

d Rate is the per capita rate of solicitors registered in that region per 100,000 persons in the resident population. Excludes persons recorded as having 'No usual address'.

e Ratio indicates the average number of residents for each registered solicitor in that region. For example, in the Sydney region there was an average of 265 residents for every one solicitor.

Notes: In the first column, the Regions highlighted in green are those that were expected to experience an increase in population between 2006 and 2016 that was higher than the projected State average increase (NSW Department of Planning, 2008). Between 2009 and 2011, the only region *not* to experience an actual increase in population was the Far West.

In the '2011 rate' column, the solicitor per capita rates highlighted in pink (with numbers in bold) indicate that the 2011 rate was at least five per cent higher than the corresponding 2009 rate; cells highlighted in blue (with numbers in italics) indicate that the 2011 figure was at least five per cent lower than the corresponding 2009 rate; non-highlighted cells indicate no change or a change of less than five per cent in the per capita rate of registered solicitors between 2009 and 2011.

Source: Law Society of NSW database (30 June 2009 and 30 June 2011) and ABS 2012, *Regional Population Growth, Australia, 2010-11* (cat. no. 3218.0).

For instance, both the Murray and Far West regions experienced a decrease in solicitor numbers from 2009 to 2011,[26] which equated to a loss of greater than five per cent[27] in their per capita rates:

- the Murray lost five of its 67 solicitors practising in 2009, and consequently its per capita rate of solicitors was down by over eight per cent from 2009
- the Far West lost one of its 10 solicitors practising in 2009 and its per capita rate of solicitors was down by almost eight per cent from 2009.

Table 8 also shows that in the two years that had elapsed since 2009, only three regions had reasonably different per capita rates and residents-to-solicitor ratios. Far West had its residents-to-solicitor ratio slip by 8.3 per cent in the two years from 2009 to 2011 — for every registered solicitor in the Far West in 2011, there were 2,498 residents, up from 2,307 residents per solicitor in 2009. The Murray region lost five solicitors between 2009 and 2011, and at the same time its population increased slightly (0.8%). This meant that, whereas in 2009 there were 1,767 residents for every Murray solicitor, this increased to 1,925 residents for every Murray solicitor in 2011, an increase of 8.9 per cent over the two-year period.

Only one region in NSW was 'better off' in terms of its residents-to-solicitor ratio. In the North Western, there were an extra 10 registered solicitors in 2011, compared to the number of solicitors in 2009. While the resident population of this region also increased marginally (0.8%) in the two years, the residents-to-solicitor ratio was more favourable in 2011 (down 8.1%), with one solicitor for every 878 residents compared to one solicitor for every 955 residents in 2009.

A finer grained picture of change in solicitor numbers in RRR NSW is provided in Table 9, which shows the 2009 to 2011 change in the number of registered solicitors for each LGA outside the Sydney metropolitan area.[28] What is important to note with respect to the changes in solicitor numbers between 2009 and 2011, is that both inter-regional and intra-regional differences exist.

For instance, within regions that experienced a rise in solicitor numbers between 2009 and 2011, there were constituent LGAs that did not experience a corresponding increase. For example, the North Western region recorded a net gain of 10 registered solicitors in Dubbo City (+5 solicitors, up from 70 in 2009), in the Mid-Western Regional Area LGAs (+2, up from 13 in 2009) and in Walgett (+2, up from one in 2009). In contrast, Cobar was the only LGA in this region to record a drop in solicitors (-1, down from three in 2009). However, of the 13 LGAs in the North Western region, eight experienced no change in solicitor numbers across the two-year period — notably, three of these eight LGAs (Brewarrina, Gilgandra and Narromine) did not have a solicitor in 2009 and this continued to be the case in 2011.

Similarly, the Northern region recorded a net increase of four registered solicitors in the two-year period. In this region, three LGAs recorded increases in their number of registered solicitors, Tamworth Regional (+4, up from 62 in 2009), Armidale Dumaresq (+2, up from 52 in 2009) and Inverell (+1, up from 11 in 2009); while three LGAs recorded a loss of solicitors, Glen Innes (-1, down from seven in 2009), Narrabri (-1, down from seven in 2009) and Moree Plains (-1, down from 22 in 2009). Seven of the 13 LGAs in the Northern region logged no change in solicitor numbers. Notably, two of these seven LGAs did not have a resident practising solicitor in 2011, as was the case in 2009.

The Mid-North Coast was one of four NSW regions that experienced a decline in solicitor numbers: it recorded a loss of five solicitors from 2009 to 2011. In this region, three constituent LGAs experienced small increases in solicitor numbers, Clarence Valley (+1, up from 29 in 2009), Kempsey (+1, up from 19 in 2009) and Nambucca (+1, up from six in 2009); while Port Macquarie-Hastings recorded a loss of solicitors (-4, down from 65 in 2009). The Coffs Harbour LGA also had fewer solicitors in 2011 (-3, down from 84 in 2009). Greater Taree was the only Mid-North Coast LGA that registered no change in solicitor numbers in the two-year period.

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26 All 2009 regional per capita rates and residents-to-solicitor ratios were recalculated using final 2009 estimated population figures published by the Australian Bureau of Statistics (ABS 2012).

27 Only 2011 residents-to-solicitor ratios that were outside the range of plus or minus five per cent of the corresponding recalculated 2009 ratios were considered to be worthy of noting as being sufficiently different.

28 The same information for LGAs within the Sydney region is provided in *Appendix G*.

Table 9: Number of registered solicitors in LGAs outside the greater Sydney metropolitan area (30 June 2009 and 30 June 2011)

	No. of registered solicitors		
Region and LGAs	***2009***	***2011***	***Change***
Hunter	**736**	**762**	**26 (+3.5%)**
Cessnock (C)	24	26	2
Dungog (A)	4	4	0
Gloucester (A)	3	2	-1
Great Lakes (A)	18	19	1
Lake Macquarie (C)	75	79	4
Maitland (C)	46	46	0
Muswellbrook (A)	19	16	-3
Newcastle (C)	502	521	19
Port Stephens (A)	26	29	3
Singleton (A)	14	15	1
Upper Hunter Shire (A)	5	5	0
Illawarra	**393**	**401**	**8 (+2.0%)**
Kiama (A)	15	13	-2
Shellharbour (C)	24	26	2
Shoalhaven (C)	71	71	0
Wingecarribee (A)	55	55	0
Wollongong (C)	228	236	8
Richmond-Tweed	**261**	**259**	**-2 (-0.8%)**
Ballina (A)	49	52	3
Byron (A)	37	37	0
Kyogle (A)	3	3	0
Lismore (C)	106	111	5
Richmond Valley (A)	11	12	1
Tweed (A)	55	44	-11
Mid-North Coast	**241**	**236**	**-5 (-2.1%)**
Bellingen (A)	7	6	-1
Clarence Valley (A)	29	30	1
Coffs Harbour (C)	84	81	-3
Greater Taree (C)	31	31	0
Kempsey (A)	19	20	1
Nambucca (A)	6	7	1
Port Macquarie-Hastings (A)	65	61	-4
Northern	**182**	**186**	**4 (2.2%)**
Armidale Dumaresq (A)	52	54	2
Glen Innes Severn (A)	7	6	-1
Gunnedah (A)	11	11	0
Guyra (A)	*0*	*0*	*0*
Gwydir (A)	1	1	0
Inverell (A)	11	12	1
Liverpool Plains (A)	1	1	0
Moree Plains (A)	22	21	-1
Narrabri (A)	7	6	-1

	No. of registered solicitors		
Region and LGAs	***2009***	***2011***	***Change***
Tamworth Regional (A)	62	66	4
Tenterfield (A)	4	4	0
Uralla (A)	*0*	*0*	*0*
Walcha (A)	4	4	0
North Western	**104**	**114**	**10 (9.6%)**
Bogan (A)	2	4	2
Bourke (A)	2	2	0
Brewarrina (A)	*0*	*0*	*0*
Cobar (A)	3	2	-1
Coonamble (A)	4	4	0
Dubbo (C)	70	75	5
Gilgandra (A)	*0*	*0*	*0*
Mid-Western Regional (A) *(Part A)*	13	15	2
Narromine (A)	*0*	*0*	*0*
Walgett (A)	1	3	2
Warren (A)	3	3	0
Warrumbungle Shire (A)	3	3	0
Wellington (A)	3	3	0
Central West	**146**	**146**	**0 (0.0%)**
Bathurst Regional (A)	47	47	0
Bland (A)	3	3	0
Blayney (A)	1	1	0
Cabonne (A)	*1*	*0*[a]	*-1*
Cowra (A)	10	9	-1
Forbes (A)	11	11	0
Lachlan (A)	2	2	0
Lithgow (C)	11	12	1
Mid-Western Regional (A) *(Part B)*	1	1	0
Oberon (A)	*0*	*0*	*0*
Orange (C)	50	50	0
Parkes (A)	7	7	0
Weddin (A)	2	3	1
South Eastern	**126**	**126**	**0 (0.0%)**
Bega Valley (A)	22	21	-1
Bombala (A)	1	1	0
Boorowa (A)	*0*	*0*	*0*
Cooma-Monaro (A)	11	11	0
Eurobodalla (A)	25	27	2
Goulburn Mulwaree (A)	20	22	2
Harden (A)	*0*	*0*	*0*
Palerang (A)	3	4	1
Queanbeyan (C)	22	19	-3
Snowy River (A)	3	3	0
Upper Lachlan (A)	4	4	0
Yass Valley (A)	6	4	-2
Young (A)	9	10	1

Region and LGAs	No. of registered solicitors 2009	2011	Change
Murrumbidgee	**143**	**143**	**0 (0.0%)**
Carrathool (A)	*0*	*0*	*0*
Coolamon (A)	3	3	0
Cootamundra (A)	7	7	0
Griffith (C)	26	24	-2
Gundagai (A)	3	3	0
Hay (A)	1	2	1
Junee (A)	2	1	-1
Leeton (A)	4	4	0
Lockhart (A)	1	1	0
Murrumbidgee (A)	*0*	*0*	*0*
Narrandera (A)	1	1	0
Temora (A)	3	3	0
Tumut Shire (A)	3	3	0
Wagga Wagga (C)	89	91	2
Murray	**67**	**62**	**-5 (-7.5%)**
Albury (C)	52	46	-6
Balranald (A)	*0*	*0*	*0*
Berrigan (A)	4	5	1
Conargo (A)	*0*	*0*	*0*
Corowa Shire (A)	3	3	0
Deniliquin (A)	7	7	0
Greater Hume Shire (A)	1	1	0
Jerilderie (A)	*0*	*0*	*0*
Murray (A)	*0*	*0*[b]	*0*
Tumbarumba (A)	*0*	*0*	*0*
Urana (A)	*0*	*0*	*0*
Wakool (A)	*0*	*0*	*0*
Wentworth (A)	*0*	*0*[c]	*0*
Far West	**10**	**9**	**-1 (-10.0%)**
Broken Hill (C)	10	9	-1
Central Darling (A)	*0*	*0*	*0*
Unincorporated Far West	*0*	*0*	*0*

Notes: LGA is based on postcode of principal place of practice. There were 1,630 solicitor records (7.5%) in the original 2011 Law Society of NSW dataset that were missing postcode for principal place of practice; in the 2009 data, there were 991 records (4.9%) missing this information.

LGAs highlighted in yellow did not have a registered solicitor in 2009 or in 2011, except for the Central West's Cabonne LGA which had a registered solicitor in 2009 but not one in 2011. However, checks undertaken later in 2011 and 2012 using the Law Society's 'lawyer search facility' and the online *Yellow Pages* revealed the following:

a Cabonne LGA was identified through the Law Society's *Find a lawyer* facility as having a registered solicitor in 2011. This study's process of assigning postcodes to (main) LGAs may have placed this solicitor in Orange LGA, which is part of the same region (see Appendix A: Method in detail).

b Murray LGA was identified as having a solicitor in the area who was practising out of their home.

c Wentworth LGA was identified as having a solicitor practising in the area but with a non-NSW certificate.

Source: Law Society of NSW database (30 June 2009 and 30 June 2011).

LGAs without a resident practising solicitor in 2011

The Foundation's first RRR lawyers study (Forell et al. 2010) identified that there were 19 LGAs in NSW that did not have a single registered solicitor at the time of that study's 2009 census of solicitors. The area of NSW known as 'Unincorporated Far West', which is not part of any local government area, also had no practising solicitor in 2009. Two years later, when this study was undertaken, there was still no registered solicitor in any of these 19 LGAs or in Unincorporated Far West[29] (see Figure 5).

While there was no record of a registered CLC lawyer, government lawyer, private solicitor or law firm (or legal corporation) operating out of these 20 areas of NSW in 2011, it should be noted that no comment is being made on the existence or otherwise of outreach and duty solicitor services that may be servicing these localities.

In addition, legal practitioners who have their main practices located elsewhere may travel to these areas to provide legal services. These may include duty solicitors to local courts,[30] solicitors employed by public legal assistance agencies involved in outreach services, and private solicitors with their main practice located in another, possibly nearby, town.

Looking at the geographic location of these areas without a registered solicitor, it is clear that many are situated on a NSW border or close to a neighbouring state or territory. This could mean that residents of these LGAs are accessing lawyers in nearby Victoria, Queensland, the ACT or even South Australia. It may also be the case that residents of these LGAs are travelling to a larger regional centre in NSW to access lawyers and other legal services.

The 19 NSW LGAs without a registered solicitor tend to have a number of other features in common:[31]

- 18 of the 19 LGAs (95%) had a resident population of less than 7,000 persons at the time of the 2011 Australian Census of Population and Housing, with nine of these 19 LGAs (47%) having less than 3,500 residents (ABS 2013a)
- 11 of these 19 LGAs (58%) experienced a population decrease between 2006 and 2011, with eight LGAs recorded as losing between 6.5 and 9.8 per cent of their respective resident populations in that five-year period (ABS 2013a)
- 11 of these 19 LGAs (58%) were projected to experience a modest growth in population numbers between 2006 and 2016 (NSW Department of Planning 2008). However, between 2006 and 2011, nine of these 11 LGAs actually suffered a loss of between 2.5 and 9.6 per cent to their 2006 resident population numbers (ABS 2013a)
- 16 of the 19 LGAs (84%) had Aboriginal populations above the 2011 NSW average of 2.5 per cent, with seven LGAs having Aboriginal populations three times or more higher than the state average (ABS 2013a)
- 12 of the 19 LGAs (63%) were categorised as either highly or mildly disadvantaged according to 2011 SEIFA quartiles (ABS 2013b)
- 11 of the 19 LGAs (58%) did not have a local court. The local court in the remaining nine LGAs operated on a part-time basis, in some locations sitting as infrequently as one or two days per month
- 11 of the 19 LGAs (58%) were in Outer Regional NSW with another four (21%) located in Remote and Very Remote areas.

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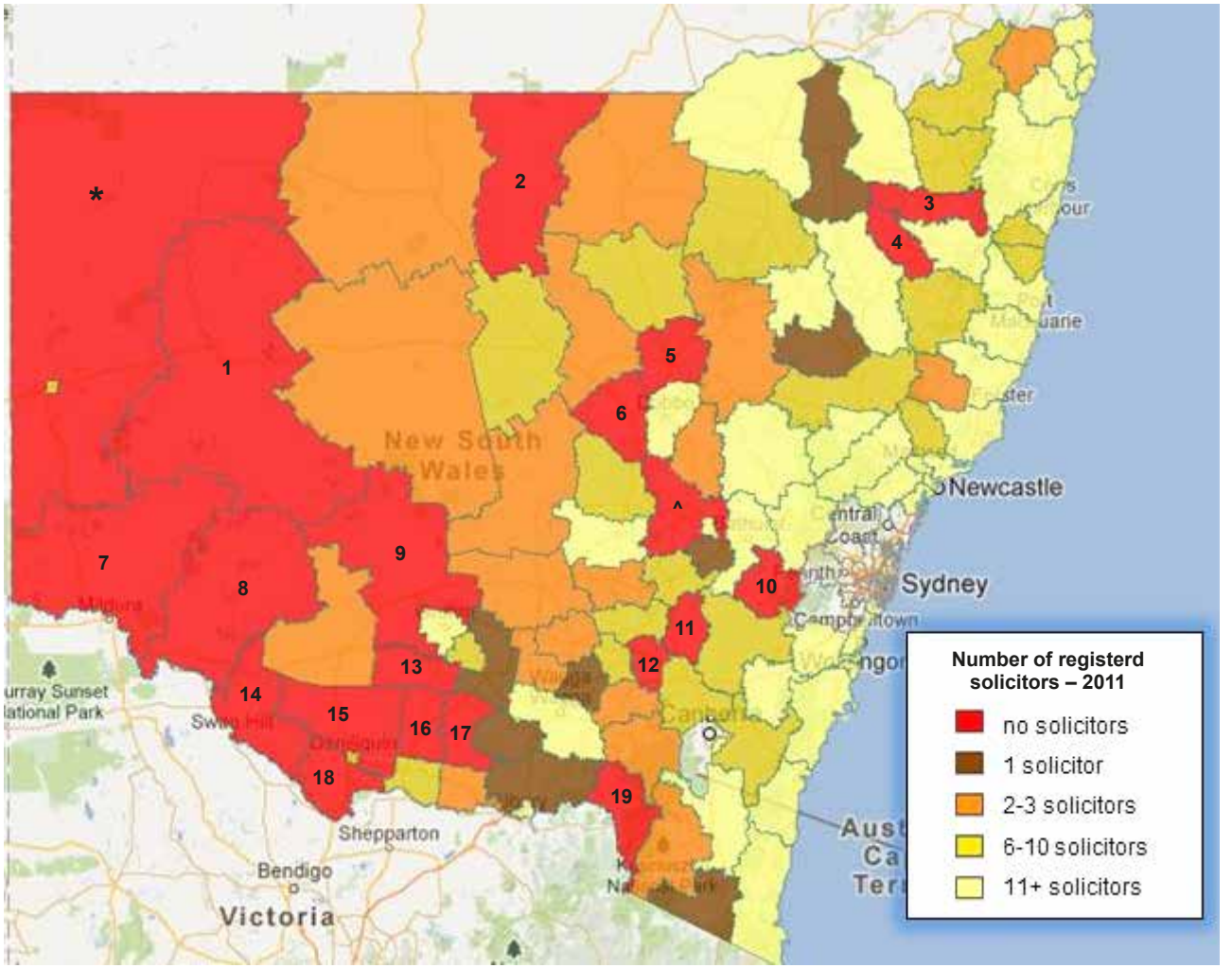
29 This information was crosschecked and verified by entering the names of towns in these LGAs into the '*Find a lawyer*' search facility located on the Law Society website: (http://www.lawsociety.com.au/community/findingalawyer/findalawyersearch/index.htm).
This double-checking exercise was undertaken on the 22 and 23 October 2011. However, a further round of checks undertaken late in 2011 and early 2012 using this search facility and the online *Yellow Pages*, revealed the following:
- Cabonne LGA was identified as having a solicitor in the area that was still registered with the Law Society of NSW in 2011. The process of assigning postcodes to (main) LGAs may have placed this solicitor in Orange LGA within the same region (see Appendix A: Method in detail).
- Murray LGA was identified as having a solicitor in the area who was practising out of their home.
- Wentworth LGA was identified as having a solicitor practising in the area but with a non-NSW certificate.

30 Legal Aid NSW provides a criminal duty lawyer service to every local court in the State, including courts that do not operate five days a week.

31 Cabonne LGA was not included in this analysis given the evidence from our later checks that a resident solicitor was practising in this area on 30 June 2011; our process of assigning postcodes to (main) LGAs may have placed this solicitor in Orange LGA (see Appendix A: Method in detail). Unincorporated Far West was not included in this analysis as it is not associated with any council or shire and is a sparsely populated, predominately desert area of outback NSW.

Figure 5: Number of registered solicitors within NSW LGAs (30 June 2011)



NSW LGAs without a registered practising solicitor

1. Central Darling LGA
2. Brewarrina LGA
3. Guyra LGA
4. Uralla LGA
5. Gilgandra LGA
6. Narromine LGA
7. Wentworth LGA
8. Balranald LGA
9. Carrathool LGA
10. Oberon LGA
11. Boorowa LGA
12. Harden LGA
13. Murrumbidgee LGA
14. Wakool LGA
15. Conargo LGA
16. Jerilderie LGA
17. Urana LGA
18. Murray LGA
19. Tumbarumba LGA

* Unincorporated Far West
^ Cabonne LGA

Notes: Unincorporated Far West (*) is an area of NSW that is not part of any LGA.

Later checks revealed that Cabonne LGA (^) did have a registered solicitor, at least in 2011-2012 – the process of assigning postcodes to (main) LGAs may have placed this solicitor in Orange LGA within the same region (see Appendix A: Method in detail). Also, Murray LGA (#18) was identified through checks as having a solicitor in the area who was practising out of their home; and Wentworth LGA (#7) was identified as having a solicitor practising in the area but with a non-NSW certificate.

Source: Law Society of NSW database (30 June 2011).

LGAs with only one resident solicitor in 2011

In addition to the 19 LGAs that did not have a single registered solicitor, there were 10 NSW LGAs that had just one resident solicitor on 30 June 2011. These LGAs were:

- Gwydir and Liverpool Plains in the Northern region
- Blayney, Cabonne and Mid-West Regional (Part B)[32] in the Central West region
- Bombala in the Southern region
- Junee, Lockhart and Narrandera in the Murrumbidgee region
- Greater Hume Shire in the Murray region.

As can be seen in Figure 5, four of these 'one solicitor' LGAs surround the regional centre of Wagga Wagga and two share a border with the state of Victoria.

Solicitors and remoteness

Distribution of solicitors across NSW

The distribution of solicitors across NSW may also be examined in terms of the remoteness of the geographic areas in which practising solicitors were located. Remoteness is gauged in terms of the lack of accessibility to services regarded as normal in metropolitan areas.[33]

Table 10 examines the distribution of registered solicitors by the remoteness classification of the areas in NSW in which their practice was located. There were only 15 solicitors with their practice located in parts of NSW classified as either Remote or Very Remote. As was the case in 2009, the number of solicitors in the most remote areas of NSW represents less than one-tenth of one per cent of all solicitors in NSW. The greater majority (almost 93%) of NSW solicitors were located in Major Cities,[34] predominately in the greater Sydney metropolitan area. Just over six per cent of all NSW solicitors were based in Inner Regional areas and just one per cent was based in Outer Regional areas.

If solicitors who work for local and overseas corporations are not included in the total, and the analysis is restricted to private solicitors, government solicitors and solicitors working for community legal centres, then the percentage of (non-corporate) solicitors in Major Cities is just over 91 per cent.

As the Inner and Outer Regional areas of NSW have proportionally fewer non-corporate solicitors, then their shares of private, CLC and government solicitors increase slightly to 7.2 and 1.2 per cent respectively. In Remote and Very Remote areas, there were no corporate solicitors, so the proportion of non-corporate solicitors in these areas remains the same at less than one-tenth of one per cent.

Solicitor figures compared with population spread

How do these solicitor figures compare with the share of the NSW general population residing in these areas? First, the Sydney region contained over 73 per cent of the NSW population but had over 90 per cent of the state's solicitors, even with corporate solicitors excluded. Secondly, Inner Regional areas contained almost 20 per cent of the state's population but only six per cent of the total number of registered solicitors in NSW. Even with corporate solicitors excluded, the percentage of solicitors based in Inner Regional NSW was only slightly above seven per cent, or about one-third of the proportion of the NSW population residing in these areas. Thirdly, whereas over six per cent of the NSW population lived in Outer Regional areas, only 1.2 per cent of the state's solicitors were based in Outer Regional NSW (only one per cent if corporate solicitors are included).

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32 Mid-West Regional (Part B) does not show up on the map as having just one solicitor because the mapping software does not display this LGA separately from its neighbour, Mid-West Regional (Part A), which is part of the North Western region and was recorded as having 15 solicitors in 2011.

33 Typically measured through widely accepted indices such as the Accessibility/Remoteness Index of Australia (ARIA; ARIA+), remoteness considers 'access to a range of services, some of which are available in smaller and others in larger centres: the remoteness of a location can thus be measured in terms of how far one has to travel to centres of various sizes' (Department of Health and Aged Care and Research Branch 2001, p. 2).

34 The Remoteness Area category of 'NSW Major Cities' includes the LGAs of Queanbeyan, Maitland, Shellharbour and Tweed Heads (refer to ABS *National Regional Profiles*). This is due to their close proximity ('accessibility') to the large metropolitan cities of Canberra (ACT), Newcastle, Wollongong and the Gold Coast (Queensland), respectively. The numbers of solicitors in these four LGAs as at 30 June 2011 were (non-corporate solicitors in brackets): Queanbeyan 19 (18); Maitland 46 (43); Shellharbour 26 (26); and Tweed Heads 44 (39).

Table 10: Location of NSW solicitors by Remoteness Area (ARIA+) (30 June 2011).

	NSW population [b]		*NSW solicitors*			*Level of socio-economic disadvantage*				*ATSI*
Remoteness Area [a]	*Number*	*%*	*Number*	*%*	*Rate per 100 000*	*Highly disadvantaged*	*Mildly disadvantaged*	*Mildly advantaged*	*Highly advantaged*	*%*
NSW Major Cities	5,295,728	73.4	18,494 *(15,227)*	92.6 *(91.4)*	349.2 *(287.5)*	2%	7%	15%	76%	1.3%
NSW Inner Regional	1,436,745	19.9	1,259 *(1,202)*	6.3 *(7.2)*	87.6 (83.7)	49%	38%	13%	< 1%	3.7%
NSW Outer Regional	442,387	6.1	208 *(208)*	1.0 *(1.2)*	47.0 *(47.0)*	68%	30%	1%	< 1%	6.2%
NSW Remote	32,191	0.4	15 *(15)*	0.1 *(0.1)*	41.0 *(41.0)*	75%	25%	0%	0%	19.5%
NSW Very Remote	4,417	0.1								
Total	**7,211,468**	**100.0**	**19,976** *(16,658)*	**100.0** *(100.0)*	**277.0** *(230.9)*	**25%**	**25%**	**25%**	**25%**	**2.3%**

a Based on postcode mapped to LGA then Remoteness Area. In the 2011 Law Society data, there were 1,630 solicitor records (7.5%) missing postcode for principal place of practice.

b Resident populations for 2011 provided for Remoteness Areas by the ABS (2012) are preliminary estimates only. Furthermore, these figures are based on the 2006 edition of the ASGC Remoteness Structure (see explanatory notes to cat. no. 3218.0). For these reasons, the NSW population total in this table differs to that presented in other tables in this report.

Also, the Remoteness Area category of 'NSW Major Cities' includes the LGAs of Queanbeyan, Maitland, Shellharbour and Tweed Heads (refer to ABS *National Regional Profiles*). This is due to their close proximity ('accessibility') to the large metropolitan cities of Canberra (ACT), Newcastle, Wollongong and the Gold Coast (Queensland), respectively. Therefore, the number of solicitors in NSW Major Cities in this table is higher than in Table 7, which only includes the cities of Sydney, Newcastle and Wollongong.

Notes: Figures in brackets for NSW solicitors represent the number, percentage and rate with 'Corporate/overseas/other' solicitors removed.

Source: Law Society of NSW database (30 June 2011); ABS 2012, NSW population data; ABS 2009, ATSI data for Remoteness Areas; Socio-economic disadvantage data (Vinson et al. 2007).

Finally, whereas the combined population in Remote and Very Remote areas makes up less than half of one per cent of the NSW population, this is, nonetheless, five times greater than the percentage of solicitors located within these parts of NSW (i.e. 0.5% of the NSW population compared with 0.1% of NSW solicitors).

Predicted increases/decreases in solicitor figures

Remote and Very Remote areas not only have fewer people but are losing population, mainly due to out-migration. According to the NSW Department of Planning (2008), the more remote areas of NSW — particularly the Far West, North Western and inland Northern areas — were predicted to experience actual (rather than relative) decreases in population numbers from 2006 to 2016.[35]

There were some general changes in the spread of people across NSW between 2006 and 2011, which are largely consistent with the Department of Planning's projections. The number of persons residing in NSW Major Cities went up from 72.5 per cent in 2006 to 74.2 per cent in 2011. Inner Regional areas experienced a smaller percentage decrease in population (down from 20.3% to 20%), while Outer Regional areas were down from 6.5 to 5.4 per cent in 2011, and together Remote and Very Remote areas contained 0.42 per cent of the NSW population in 2011, which was down from 0.56 per cent in 2009.

From these area-based adjustments in population, the following changes may have been expected:

- The share of the state's solicitors located in the Major Cities to have increased by a few percentage points from 2009 to 2011. This was not the case — the Major Cities' share of solicitors was relatively stable at around 92.6 per cent (91.4 per cent leaving aside corporate solicitors).
- The share of registered solicitors in Inner Regional areas to have remained the same or decreased slightly from 2009 to 2011. This was the case — the proportion of solicitors in Inner Regional NSW remained steady at around 6.3 per cent (7.2 per cent without corporate solicitors) .
- The proportion of registered solicitors in Outer Regional areas to have decreased slightly from 2009. This was the case — the proportion of solicitors in Outer Regional NSW was down from 1.1 to 1.0 per cent in 2011 (and down from 1.3 to 1.2 per cent leaving aside corporate solicitors).
- The proportion of registered solicitors in Remote and Very Remote areas to have also decreased slightly in the two years. This was not the case. Not only was the actual number of solicitors based in these areas up from 12 in 2009 to 15 in 2011 but their share of the state's total number of solicitors was up slightly.[36]

Table 10 also provides a breakdown by Remoteness Area of the rate of registered solicitors per 100,000 general population in NSW. The Remote/Very Remote areas have the lowest per capita rate of solicitors (41.0), with only one registered solicitor for every 2,440 residents. Outer Regional areas fared slightly better, with one registered solicitor for approximately every 2,126 resident persons. A ratio of around one solicitor for every 1,195 residents is noted for Inner Regional areas. Major Cities fared best, with one registered solicitor for around every 348 persons. These ratios were calculated without including corporate solicitors, the majority of which were located in Major Cities.

The other aspect of remoteness, aside from its link to lack of accessibility to services, is its association with socio-economic disadvantage. Generally speaking, the further one travels (west) away from Sydney and the east coast, the greater the general level of disadvantage, with the Remote/Very Remote areas of NSW being marked by extreme socio-economic disadvantage. The percentage of residents that are considered to be socio-economically *advantaged* is practically zero in Remote/Very Remote areas (see Table 10). In fact, 75 per cent of residents from Remote/Very Remote areas fall into the most disadvantaged group (i.e. the 'highly disadvantaged' quartile), with almost 20 per cent of people living in Remote/Very Remote areas identifying as Indigenous compared to the NSW average of just over two per cent.

35 Subsequently, the ABS (2012) has reported that as a result of 'the effects of drought in many parts of rural NSW, more than half of these predominantly rural areas had population declines in the ten years to 2011 … (and) the largest declines over this ten year period were in Broken Hill (down 2,000 people) and Moree (down 1,500)'. See also Figure 5 in Forell, Cain and Gray 2010.

36 As the percentages involved are very small, caution should be exercised. The share of NSW solicitors in Remote and Very Remote areas was up from 0.06 in 2009 to 0.08 per cent in 2011 (and up from 0.07 to 0.09 per cent with corporate solicitors excluded).

In summary, most non-corporate solicitors in NSW are based in its Major Cities and generally deal with a more socio-economically advantaged base clientele. In the Major Cities, the ratio of NSW residents to solicitors is around 350 to every one registered solicitor. On the other hand, there are relatively very few solicitors based in Remote/Very Remote areas of NSW and these solicitors deal with a client base that is, overall, extremely disadvantaged, socially and economically.

Aside from the physical remoteness, lack of accessibility to services and the demands for legal services that a disadvantaged general population brings,[37] non-corporate solicitors based in Remote/Very Remote areas of NSW have an extremely high 'residents-to-solicitor' ratio, with an average of 2,440 residents for every one registered solicitor, compared with the state average of one registered (non-corporate) solicitor for every 433 NSW residents.

Practice type by region

The spread of registered solicitors across NSW should also be considered in combination with their practice types. Table 11 provides a percentage breakdown of the solicitors based in each region categorised by their recorded practice type. This table also indicates which regions had a statistically higher or lower than expected number of solicitors from each practice type. This statistical analysis is based on the breakdown of practice types across the state and the breakdown within each specific region.[38]

Table 11: Percentage breakdown of solicitors by practice type in each NSW region (30 June 2011)

Place of practice – Region (SD, based on postcode)	*% CLC*	*%Government*	*% Private*	*% Interstate*	*% Corporate*
Sydney	1.0	11.3	54.7	14.7	18.2
Hunter	2.8	8.1	59.8	22.8	6.4
Illawarra	4.5	11.0	59.6	19.0	6.0
Richmond-Tweed	4.2	13.1	49.0	28.6	5.0
*Mid-North Coast**	4.2	5.9	60.6	27.1	2.1
Northern	5.9	3.2	52.2	32.8	5.9
North Western	13.2	20.2	55.3	10.5	0.9
*Central West**	2.7	8.2	57.5	29.5	2.1
South Eastern	0.8	0.8	72.2	19.8	6.3
*Murrumbidgee**	4.2	15.4	36.4	42.0	2.1
Murray	1.6	1.6	46.8	41.9	8.1
Far West	44.4	0.0	11.1	44.4	0.0
NSW	**1.4**	**11.0**	**54.9**	**16.0**	**16.6**

* There are no CLCs in the Central West and Murrumbidgee regions. A CLC commenced operating in the Mid-North Coast region in 2011. It is possible that solicitors employed by the Family Violence Prevention Legal Services (FVPLS) are included in the count of CLC solicitors for these regions. A further possibility is that a number of solicitors employed by Legal Aid NSW or the ALS recorded themselves as 'Community legal centre' solicitors rather than 'Government' solicitors.

Notes: Values total to 100% across each row.

*statistically **higher** number of solicitors of that practice type in the Region than expected*

*statistically **lower** number of solicitors of that practice type in the Region than expected*

neither statistically higher nor lower number than expected

Source: Law Society of NSW database, 30 June 2011.

37 Higher levels of legal need are associated with high levels of socio-economic disadvantage, with numerous studies having identified a link between socio-economic disadvantage and the need for legal assistance (for example, Genn 1999, Pleasence et al. 2004a, Coumarelos et al. 2006). There is considerable literature that links socio-economic demographics of an area (e.g. high Aboriginal population) with the need for corresponding services (Schetzer & Henderson 2003). In particular, for those who live in highly disadvantaged areas, the need for legal services is more pronounced because of compound social and financial problems (e.g. credit/debt, employment and family problems) and the tendency for problems to be longer lasting, more difficult to resolve and act as catalysts for further problems (Coumarelos et al. 2012).

38 The chi-square test is based on the cross-tabulation of the relevant variables (e.g. practice type by region) and compares the observed frequencies in each cell of the cross-tabulation with the frequencies expected if there was no relationship between the variables (for example, see Siegel & Castellan 1988).

Solicitors in CLCs

In many regions of NSW, there were significantly higher than expected numbers of CLC solicitors. In three RRR regions — the Central West, South Eastern and the Murray — the recorded number of CLC solicitors was in line with the expected number for that region. However, as there is no CLC in the Central West or in the Murrumbidgee, these regions should also have shown up as having fewer than expected CLC solicitors.[39] Similarly, the Mid-North Coast region, which had a CLC open up in August 2011, should have also shown up as having fewer than expected CLC solicitors given that the census of Law Society members was taken a few months earlier when no CLC operated in that region. Sydney was the only region which had statistically fewer CLC solicitors than expected.

Government solicitors

There were four regions in NSW — Sydney, Richmond-Tweed, North Western and the Murrumbidgee — with a percentage of government solicitors above the state average. However, only the North Western region had a statistically significant higher than expected number of solicitors in government positions. On the other hand, there were five regions in NSW — Hunter, Mid-North Coast, Northern, South Eastern and Murray — whose share of government solicitors was statistically lower than expected.

Solicitors in private practice

Only one region, South Eastern, had a significantly higher than expected number of solicitors in private practice. South Eastern had a larger share (72.2%) of private practice solicitors compared to the state average (54.9%). Only the Murrumbidgee region (36.4%) had a statistically significant lower than expected share of private practice solicitors.

Solicitors from interstate

In eight regions, the number of solicitors from interstate practices was statistically higher than expected. Unsurprisingly, given their proximity to other States and Territories, the Richmond-Tweed, Northern, Murrumbidgee, Murray and Far West regions had a higher percentage of interstate solicitors. However, statistically higher numbers of interstate solicitors were also found in the Hunter, Mid-North Coast and Central West regions. Sydney was the only region with a statistically significant lower share of interstate solicitors.

Corporate solicitors

In the Sydney region, over 18 per cent of its solicitors were registered as corporate solicitors and it was the only region in NSW with a higher than expected number of corporate solicitors. Of the 11 regions outside of Sydney, eight recorded statistically significant lower than expected numbers of corporate solicitors.

Areas of law practised by non-corporate solicitors

Given the fact that corporate solicitors do not generally deal with individual clients or personal legal matters and the general lack of corporate solicitors outside of the major cities of Sydney, Newcastle and Wollongong, the following analyses of the Law Society of NSW's data do not include corporate solicitors.

The practice areas (i.e. areas of law practised) of 16,658 non-corporate solicitors were examined. The majority of these solicitors (14,705 or 88.3%) reported practising civil law. Noting that solicitors could practise in more than one area of law, there were 2,572 NSW solicitors (15.4%) recorded as practising family law. A slightly larger number (2,625 or 15.8%) were recorded as practising criminal law.

It should be noted that civil law is a very broad category than includes issues relevant to disadvantaged persons such as housing, employment and debt. Also included under civil law are issues more pertinent to businesses and corporations rather than individuals, such as commercial law, intellectual property and copyright law. The civil law practised by private solicitors may be

39 It is possible that solicitors employed by the Family Violence Prevention Legal Service (FVPLS) are included in the count of CLC solicitors for these three regions. A further possibility is that a number of solicitors employed by Legal Aid NSW or the Aboriginal Legal Services have recorded themselves as 'Community legal centre' solicitors rather than as 'Government' solicitors in the NSW Law Society database.

very different to that practised by government and CLC solicitors. The 'bread and butter' legal work of many private lawyers is conveyancing, wills and probate, which are areas of law not generally practised by government and CLC solicitors.

Solicitors often practised in more than one area of law. Almost 13 per cent of solicitors (n=2,125) practised both civil and family civil law; 11 per cent practised both civil and criminal law (n=1,953); almost five per cent practised both family and criminal law (n=802); and four per cent of NSW solicitors (n=736) practised all three areas of law.

There were strong statistical differences in the area of law practised based on the practice types of solicitors, which is important for three reasons. Firstly, the various practice types are not equally distributed across NSW regions. Secondly, if there is the tendency for a practice type to specialise in one broad area of law over another, it may also mean that the practise of family law, civil law and criminal law are not equally distributed across NSW. Thirdly, if particular solicitors or firms do not practise certain types of law, it may mean that the communities in which these legal non-corporate practices are located may have certain legal needs unmet, unless there are other practices or legal services within the same area that fill these gaps.

Compared with other practice types:

- Private solicitors were statistically more likely to practise civil law but less likely to practise criminal law (note: neither more nor less likely to practise family law).
- Interstate solicitors were statistically more likely to practise civil law and also family law but less likely to practise criminal law.
- Government solicitors were statistically more likely to practise criminal law but less likely to practise civil law and family law.
- CLC solicitors were statistically more likely to practise family law and criminal law, but less likely to practise civil law.

This last point needs to be further explained. There were large numbers of private interstate and government solicitors in the Law Society dataset and the vast majority of these (up to 93 per cent) recorded that they were engaged in civil law work. Relatively speaking, CLC solicitors were more likely to practise family law and criminal law than corporate, interstate and private solicitors were. However, this does *not* mean that civil law services make up a small or insignificant proportion of CLC work. In fact, the Law Society data shows that almost 70 per cent of solicitors who registered their practice type as 'Community legal centre' were providing civil law services.

Moreover, the official website of Community Legal Centres NSW Incorporated, the peak body for community legal centres in NSW, identifies that the strategic direction of CLC legal services is to mainly deliver civil law services.[40] Further to this point, the proportion of CLC solicitors recorded as practising family law was just 27 per cent and the proportion practising criminal law was 41 per cent.[41] Nevertheless, these percentages were higher than the corresponding proportions for government, interstate and private solicitors.[42] As indicated above, this was largely a function of two features — the broad nature of civil law work and the prominence of civil law as a practice area amongst private, interstate and government solicitors.

Regional differences in areas of law practised

Mapping the area of law practised across the regions also shows whether an area had its fair share of registered solicitors practising civil, family and criminal law as at 30 June 2011. Table 12 reveals a set of findings consistent with earlier findings but also shows some interesting anomalies.

40 It is generally acknowledged that CLCs undertake advice and assistance work in relation to a broad range of civil law matters (http://www.clcnsw.org.au/cb_pages/about_clcs.php#generalist_clcs).

41 The observed proportions of CLC solicitors practising family and criminal law may be somewhat artificially inflated, given that the Law Society of NSW's category 'Community legal centres' is likely to include solicitors employed by the FVPLS and possibly a number of solicitors employed by Legal Aid NSW and the ALS.

42 Only 11 per cent of private solicitors and 13 per cent of interstate solicitors recorded practising criminal law; and for government solicitors it was almost 41 per cent, just below that for CLC solicitors. Only 15 per cent of private solicitors and 13 per cent of interstate solicitors recorded practising family law; and for government solicitors it was even lower at less than 11 per cent, much lower than the 27 per cent of CLC solicitors who recorded that they practised family law.

Table 12: Regions with significantly higher and lower than expected numbers of solicitors practising civil, family and criminal law (30 June 2011)

	Practice area		
Place of practice – Region (SD, based on postcode)	***Civil law***	***Family law***	***Criminal law***
Sydney	12,695	1,808	1,926
Hunter	619	198	171
Illawarra	326	121	113
Richmond-Tweed	199	83	76
Mid-North Coast	203	92	67
Northern	163	77	57
North Western	88	34	55
Central West	134	57	44
South Eastern	106	43	44
Murrumbidgee	112	32	51
Murray	51	22	15
Far West	9	5	6
NSW	**14,705**	**2,572**	**2,625**

Notes: Corporate solicitors excluded. A solicitor could record that they practised more than one area of law.

*statistically **higher** number of solicitors practising the area of law in that Region*
*statistically **lower** number of solicitors practising the area of law in that Region*
neither statistically higher or lower than expected

Source: Law Society of NSW database (30 June 2011).

Solicitors practising civil law

Based on the observed relationship between area of law practised and region, the number of non-corporate solicitors practising *civil* law in nine of the 12 regions of NSW was neither statistically high nor low given the expected number of civil law solicitors.[43] For example, Sydney had the largest number of non-corporate solicitors, and 12,695 of these solicitors were recorded as practising civil law; whereas the statistically derived expected number of civil law solicitors for this region was only 40 lower at 12,655. The Far West had nine solicitors recorded as practising civil law compared to an expected number of eight.

Solicitors practising family law

Sydney was the only region with fewer solicitors practising family law than statistically expected — it had 1,808 family law solicitors, 405 (or 18%) fewer than expected. However, but not surprising given its size and profile as a capital city, Sydney had the largest number of family law solicitors of any region in NSW.

In all regions outside of Sydney, there were more solicitors practising family law than otherwise would be expected. In some regions of NSW, and without commenting upon any underlying legal need, the number of family law solicitors could be considered disproportionately high. For example, there was almost three times the expected number of family law solicitors in the Northern region (actual: 77, expected: 27).

Similarly, much higher than expected numbers of solicitors practising family law were found in the Central West (actual: 57, expected: 22), Mid-North Coast (actual: 92, expected: 36), Murray (actual: 22, expected: 9), North Western (actual: 34, expected: 17), Richmond-Tweed (actual: 83, expected: 38) and South Eastern (actual: 43, expected: 18). Even the Far West, the region with the fewest solicitors, had five of its nine solicitors practising family law when the expected number was less than two.

43 The chi-square test determines the statistical significance of any difference between the actual and expected number of solicitors practising an area of law in the different regions. A standardised residual value of greater than 2.0 or less than -2.0 indicates that the difference between the actual and expected number of solicitors for that area of law in that particular region contributed to the finding of statistical significance.

Solicitors practising criminal law

Sydney was also the only region with significantly fewer than expected registered solicitors practising criminal law, with only 1,926 solicitors practising criminal law in the region, almost 15 per cent fewer than expected. Nonetheless, Sydney still had the greatest number of criminal law solicitors, 11 times that of the Hunter (171), which had the second largest number of criminal law solicitors of any region in NSW.

Outside of Sydney, all regions had significantly more solicitors practising criminal law than expected — North Western had three times the expected number of criminal law solicitors (actual: 55, expected: 18), while Central West, Murrumbidgee, Northern and South Eastern regions had at least double their expected number of criminal law solicitors. Six of the nine registered solicitors in the Far West practised criminal law when the (statistically) expected number was less than two.

Demographic characteristics of non-corporate solicitors

This section details the characteristics of NSW non-corporate solicitors in terms of their gender, age and years of legal experience. Of interest is whether there are regional differences in the characteristics of registered solicitors that may reflect upon broader recruitment and retention issues. For example, the first study found that solicitors in Inner and Outer Regional areas were older on average, with many approaching retirement age.[44] This reflects upon the prospects of such solicitors being able to continue to provide legal services to their communities into the future.

Gender

Males made up 56.9 per cent and females 43.1 per cent of non-corporate solicitors in NSW. There was only one region in which a statistically significant difference was identified in the gender of its solicitors and that was in the Mid-North Coast, where there was a significantly higher proportion of male solicitors (72.7%) and a lower proportion of female solicitors (27.3%).

No gender difference was identified for any other region in NSW including Sydney, which is somewhat surprising given that the census conducted for the first study in 2009 identified that there were proportionally more female solicitors based in the Sydney region at the time. Previously, the South Eastern region recorded a significantly higher proportion of male solicitors but the gender difference was not as prominent in this region (and certainly not statistically significant) two years later.

In terms of Remoteness Area, a significant gender difference only showed for solicitors located in Inner Regional areas. In these areas, the percentage of male solicitors (63.3%) was statistically higher than the NSW figure (56.9%), with the percentage of female solicitors (36.7%) being statistically lower than the corresponding state figure (43.1%). Due to the relatively small numbers involved, examining Remote and Very Remote areas for gender differences was not possible, although it is worth noting that the 50:50 split of male and female solicitors for Very Remote NSW is different from the ratio for NSW as a whole.

Age

The average age of non-corporate solicitors registered with the Law Society of NSW at the time of our census date was 44.2 years and the median age was 42.6 years. Table 13 provides the age breakdown of solicitors in the cohort:

- solicitors under 30 years of age made up around 16 per cent of all NSW non-corporate solicitors
- solicitors who had reached eligible retirement age (55 years plus) made up 23.5 per cent of this cohort
- persons older than 65 years represented slightly less than six per cent of all non-corporate solicitors registered in NSW.

44 See Forell et al. (2010) pp. 46-47.

Table 13: Age of non-corporate solicitors in NSW (30 June 2011)

Age (grouped)	*Number*	*%*
Under 25 years	69	0.4
25 to 29	2,603	15.6
30 to 34	2,572	15.4
35 to 39	1,990	11.9
40 to 44	1,811	10.9
45 to 49	1,793	10.8
50 to 54	1,815	10.9
55 to 59	1,702	10.2
60 to 64	1,224	7.3
65 to 69	580	3.5
70 years and over	386	2.3
Total	**16,545**	**100.0**

Note: Corporate solicitors excluded. Date of birth (DOB) information was provided in the original Law Society dataset and was used to calculate age as at 30 June 2011. DOB was missing for 113 records (0.7%). In the previous study, month and year of birth information was provided instead of DOB, and was used to estimate age.

Source: Law Society of NSW database (30 June 2011).

A chi-square analysis of the age of non-corporate solicitors by the location of their practice/office identified some regional differences:[45]

- Higher than expected numbers of solicitors aged 70 years and over were practising in the Illawarra and South Eastern regions.
- Higher than expected numbers of solicitors aged 65 to 69 years were practising in the Central West, Illawarra, Mid-North Coast, Murray, Murrumbidgee and South Eastern regions.
- Higher than expected numbers of solicitors aged 60 to 64 years were practising in the Central West, Mid-North Coast, Murray and South Eastern regions.
- Higher than expected numbers of solicitors aged 55 to 59 years were practising in the Central West, Hunter, Illawarra, Mid-North Coast, Murray, Northern, Richmond-Tweed and South Eastern regions.
- Sydney, the main 'nursery' for NSW law students and also the site of many solicitors' first job, was the only region that contained higher than expected numbers of younger, non-corporate solicitors (that is, those in the 25 to 29 and 30 to 34 age brackets).

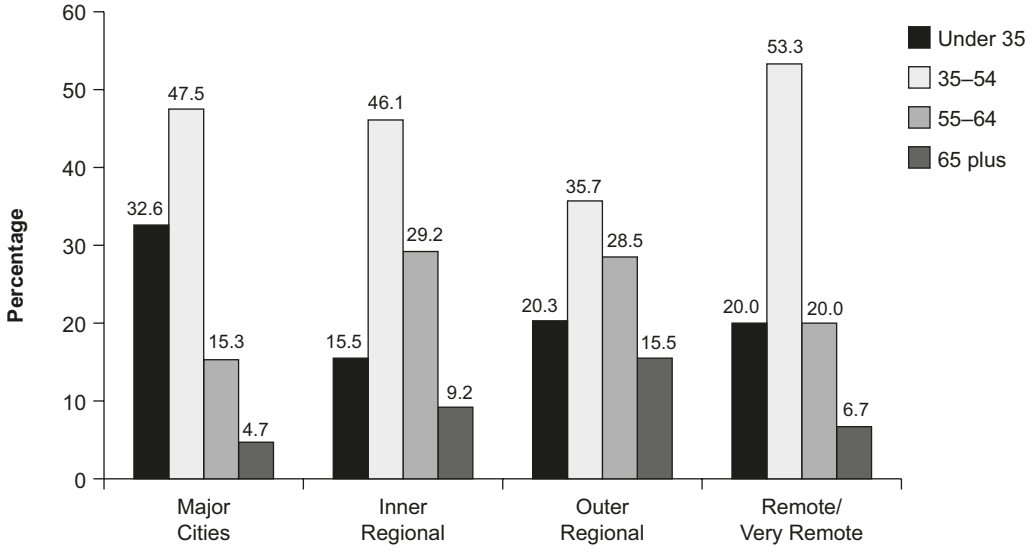
Comparing the age of non-corporate solicitors in terms of the *remoteness* of the geographic area in which they were located reveals a similar set of findings:

- Major Cities of NSW contained disproportionately high numbers of solicitors aged 25 to 29 and 30 to 34, and a disproportionately low number of solicitors aged 55 to 59 years.
- Inner Regional areas contained higher number of solicitors in the 50 to 54, 55 to 65, 60 to 64, 65 to 69 and 70 and over age categories. These areas also recorded low numbers of solicitors in the age ranges below 40 years.
- Outer Regional areas contained higher numbers of solicitors in all age brackets from 55 to 59 and above. They also had lower than expected numbers of solicitors in many of the age groups below 45 years.
- Remote areas contained a higher than expected number of solicitors in the 60 to 64 age group.
- No notable age differences were found for Very Remote areas, although there were only a small number of solicitors practising in these areas.

45 The chi-square table showing this interaction was too large to include in this report, and thus only the main findings from this table are included.

Figure 6 provides the proportional age distribution of non-corporate solicitors working in each of the four Remoteness Areas. NSW Major Cities had the highest proportion of solicitors aged under 35 years (32.6%), whereas Outer Regional areas had the highest proportion of solicitors aged 65 years and older (15.5%). Again, the small number of solicitors working in Remote/Very Remote areas should be kept in mind when examining the age distribution of these particular solicitors.

Figure 6: Age distribution of non-corporate solicitors by Remoteness Area (30 June 2011)



Notes: The number of non-corporate solicitors in each Remoteness Area were: Major Cities (n=15,122); Inner Regional (n=1,203); Outer Regional (n=205) and Remote/Very Remote (n=15).

Source: Law Society of NSW database (30 June 2011).

As Table 14 shows, the large number of non-corporate solicitors based in NSW Major Cities strongly influences the mean and median age of solicitors for the whole state.

Table 14: Mean and median age of non-corporate solicitors by Remoteness Area (30 June 2011)

	Solicitors	*Age*	
Remoteness Area	***N***	***Mean***	***Median***
Major Cities	15,122	43.7	41.8
Inner Regional	1,203	49.6	51.0
Outer Regional	205	50.8	52.8
Remote/Very Remote	15	46.2	46.1
NSW	**16,545**	**44.2**	**42.6**

Note: Corporate solicitors excluded. Date of birth (DOB) information was provided in the original Law Society dataset and was used to calculate age as at 30 June 2011. DOB was missing for 113 records (0.7%). In the previous study, month and year of birth information was provided instead of DOB, and was used to estimate age.

Source: Law Society of NSW database (30 June 2011).

In Inner Regional areas, the average age of solicitors was about five and a half years (12%) higher than the state average; similarly, the median age of Inner Regional solicitors was eight years or 20 per cent higher than the median age across the state. In Outer Regional NSW, the difference was even greater — the average age of Outer Regional solicitors was about seven years (or 15%) higher than the state average, and the median age of Outer Regional solicitors was 10 years (or 24%) higher than the state median age of solicitors. Thus, the age of solicitors practising in Inner and Outer Regional areas was considerably higher than for the rest of NSW. However, even those solicitors based in Remote/Very Remote NSW (mean = 46.2 years; median = 46.1 years) were, on average, three years older than their city counterparts.

Years of experience

Table 15 shows the estimated years of legal experience based on the year each non-corporate solicitor first gained their practising certificate.

Table 15: Years of legal experience of non-corporate solicitors in NSW (30 June 2011)

Years of legal experience	*No.*	*%*
Less than two years	967	5.8
2 to 4.9 years	2,768	16.6
5 to 9.9 years	3,452	20.7
10 to 19.9 years	3,984	23.9
20 years and more	5,487	32.9
Total	**16,658**	**100.0**

Note: Year of Admission was provided in the original Law Society of NSW dataset. This variable was used to calculate the number of years of legal experience as at 30 June 2011. Year of Admission information was recorded for all non-corporate solicitors.

Source: Law Society of NSW database (30 June 2011).

The average number of years of legal experience as at 30 June 2011 was 15.8 years (median = 12.4 years). Almost one third (33%) of non-corporate solicitors in NSW had 20 or more years of legal experience and a further quarter (24%) had between 10 and 20 years of experience.

The areas of the state with higher than expected numbers of the most experienced legal practitioners were:

- Murray (actual: 32, expected: 19) — 56 per cent of solicitors in the Murray had 20 or more years legal experience (compared to 33 per cent across NSW)
- Central West (actual: 71, expected: 47) — 50 per cent of solicitors in Central West had 20 or more years legal experience
- Mid-North Coast (actual: 108, expected: 76) — 47 per cent of solicitors in the Mid-North Coast had 20 or more years legal experience
- Richmond-Tweed (actual: 103, expected: 81) — 42 per cent of solicitors in the Richmond-Tweed had 20 or more years legal experience
- Illawarra (actual: 154, expected: 124) — 41 per cent of solicitors in Illawarra had 20 or more years legal experience
- Hunter (actual: 269, expected: 235) — 38 per cent of solicitors in Hunter had 20 or more years legal experience.

The last two regions are comprised of large cities surrounded by Inner Regional areas.

An interesting difference is highlighted when the years of legal experience for non-corporate solicitors based in Remote/Very Remote areas are compared to those in Outer Regional areas (Table 16).

For non-corporate solicitors based in Remote/Very Remote areas, the average years practising was 13.8 years (median = 11.4 years). This is six full years, or 30 per cent, less than the average years of legal experience for solicitors based in Outer Regional areas of the state (mean = 19.9 years; median = 17 years) and 12 per cent less than the NSW average (mean = 15.8 years; median = 12.4 years).

As would be expected, years of legal experience was highly correlated with the solicitors' age (Pearson's R = 0.86). However, there were regional differences in both the age and the number of years of legal experience of non-corporate solicitors.

Table 16: Relationship between age and years of experience of non-corporate solicitors by Remoteness Area (30 June 2011)

	Age in 2011		Years practising		Correlation*
Remoteness Area	*Mean*	*Median*	*Mean*	*Median*	*(r)*
Major Cities	43.7	41.8	15.5	12.0	0.87
Inner Regional	49.6	51.0	19.1	16.6	0.80
Outer Regional	50.8	52.8	19.9	17.0	0.80
Remote/Very Remote	46.2	46.1	13.8	11.4	0.67
NSW	**44.2**	**42.6**	**15.8**	**12.4**	**0.86**

* The association examined was between actual years of practise and age of solicitor in 2011. The measure used was Pearson's R.

Note: Only records not missing the calculated values for age and years of experience were included in these analyses.

Source: Law Society of NSW database (30 June 2011).

The average age for non-corporate solicitors based in Inner and Outer Regional areas was about 50 years, compared to an average age of around 44 years for city solicitors, and approximately 46 years for solicitors based in Remote/Very Remote areas. Solicitors based in Inner and Outer Regional areas were not only older but had, on average, more years of legal experience than Major City solicitors. Inner Regional solicitors had on average 19.1 years' experience (median=16.6 years) and Outer Regional solicitors on average 19.9 years' (median=17.0 years) compared with 15.5 years (median=12.0 years) for city solicitors and 13.8 years (median=11.4 years) for solicitors based in Remote/Very Remote areas.

The column presenting correlations in Table 16 provides an interesting contrast between non-corporate solicitors based in Remote/Very Remote areas and those based in more accessible areas of NSW. Age and years practising were not as highly associated in Remote/Very Remote areas, which suggests that a reasonable number of solicitors in these areas obtained their practising certificate later in life. That they were also slightly older than the average NSW solicitor implies the possibility of a career change to law sometime later in life (i.e. not straight out of university). Nonetheless, the lower correlation (r=0.67) also would indicate that the Remote/Very Remote areas have a reasonable mix of relatively young, inexperienced solicitors and older, experienced solicitors (see Figure 7).

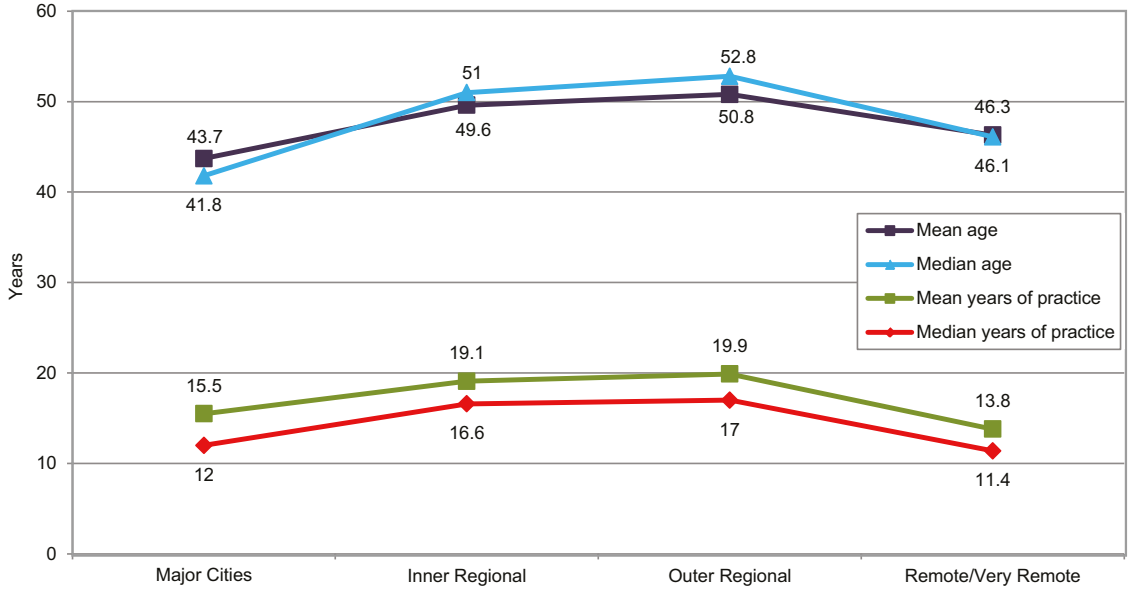
Exploring these contrasts further, it was identified that the main regional difference in years of experience was an unequal distribution of non-corporate solicitors with 20 or more years' legal experience. It was found that Inner and Outer Regional areas contained a disproportionately large number of solicitors with this (high) level of legal experience. In Inner Regional areas, there were 31 per cent more solicitors than expected with 20 years or more legal experience (actual: 522, expected: 397). Similarly, there were 34 per cent more solicitors than expected with 20 years or more legal experience based in Outer Regional areas (actual: 92, expected: 69).[46]

Table 17 shows the average age and years of experience for all NSW non-corporate solicitors by region as at 30 June 2011. The standout figure in this table is that the average age of non-corporate solicitors based in the Far West (mean = 41.5 years; median = 39.6 years) was the lowest of any region in NSW. Furthermore, solicitors in this region only had an average 10.5 years practising experience — five years (or one-third) lower than the state average (and more than four years lower if medians are compared).

Age and years practising were not as highly correlated in a number of regions — namely in the Far West, but also the Richmond-Tweed, the Mid-North Coast and the Northern regions. As previously stated, these lower correlations would seem to suggest two things: that a reasonable number of solicitors based in each of these regions obtained their practising certificate later in life (i.e. a career change to law later in life) combined with a reasonable mix of relatively young, inexperienced solicitors not long out of law school.

46 The first study (Forell et al. 2010) identified that in 2009 there were 40 per cent more solicitors than expected with 20 years or more legal experience based in Inner Regional areas (actual: 534, expected: 379); and 45 per cent more solicitors than expected with 20 years or more legal experience based in Outer Regional areas (actual: 90, expected: 62).

Figure 7: Age and years of experience of non-corporate solicitors by Remoteness Area (30 June 2011)



Note: Only records not missing the calculated values for age and years of experience were included in these analyses.
Source: Law Society of NSW database (30 June 2011).

Table 17: Relationship between age and years of experience of non-corporate solicitors by region (30 June 2011)

	Age in 2011		*Years practising*		*Correlation**
Region (SD)	***Mean***	***Median***	***Mean***	***Median***	***(r)***
Sydney	43.5	41.5	15.4	12.4	0.87
Hunter	47.2	48.4	17.4	14.5	0.81
Illawarra	48.0	48.0	18.7	15.7	0.83
Richmond-Tweed	49.1	50.1	17.9	17.1	0.76
Mid-North Coast	51.4	52.3	20.1	18.1	0.73
Northern	47.9	49.2	16.7	11.7	0.77
North Western	46.0	44.7	16.9	12.5	0.88
Central West	50.9	53.3	20.7	20.0	0.83
South Eastern	51.3	54.3	19.3	15.6	0.79
Murrumbidgee	46.9	43.8	16.9	12.4	0.83
Murray	52.5	55.2	23.5	25.8	0.86
Far West	41.5	39.6	10.5	8.0	0.75
NSW	**44.2**	**42.6**	**15.8**	**12.4**	**0.86**

*The association examined is between actual years of practise and age of solicitor in 2011. The measure used is Pearson's R.
Note: Only records not missing the calculated values for age and years of experience were included in these analyses.
Source: Law Society of NSW database (30 June 2011).

Summary

The Law Society of NSW data represents the most complete set of information on the number, type, characteristics and distribution of solicitors in NSW. This collection contains information on the vast majority of solicitors in NSW, and there is no reason to believe that this group is not representative of all solicitors in NSW.[47] A snapshot of this data, taken as at 30 June 2011, was analysed with particular regard given to the regional distribution and composition of solicitors practising across NSW.

The majority of registered solicitors were identified as based in Sydney, Newcastle and Wollongong, which in itself is not surprising. Yet outside these major cities, the distribution of solicitors across NSW is not even or aligned with either the geographic size of a region or the size of its base population. The low level of registered solicitors based in certain areas of NSW is particularly noteworthy. For example, in the Far West there was only one registered non-corporate solicitor for every 2,440 residents compared to one non-corporate solicitor for every 433 persons across the whole of NSW and one such solicitor for every 348 persons living in NSW major cities.

Only three NSW regions had per capita rates and residents-to-solicitor ratios that were reasonably different to what they were in 2009. The North Western region was 'better off' in terms of its residents-to-solicitor ratio, with an extra 10 registered solicitors in 2011 than in 2009. While the resident population of this region had also increased, the residents-to-solicitor ratio was more favourable in 2011, with one solicitor for every 878 residents compared to one solicitor for every 955 residents in 2009. There were two regions that showed changes that were unfavourable. The Far West had its residents-to-solicitor ratio slip by over eight per cent in the two years, caused by the loss of one registered solicitor from the region. In the Murray region, there were 1,925 residents per solicitor in 2011, up from 1,767 residents per solicitor in 2009 — a change of around nine per cent — in large part caused by the loss of five solicitors from this region during this period.

Some individual LGAs had suffered substantial losses in solicitor numbers: Tweed (minus 11), Albury (minus 6), Port-Macquarie-Hastings (minus 4), Coffs Harbour (minus 3), Muswellbrook (minus 3) and Queanbeyan (minus 3). Other LGAs, each having fewer than four solicitors, would be feeling the impact of losing one solicitor between 2009 and 2011. The large inner regional centres of Dubbo and Wagga Wagga (i.e. 'sponge' cities) experienced an increase in the number of registered solicitors between 2009 and 2011.

In 2009, there were 19 individual LGAs without a single solicitor and this was still the case in 2011. Notably, these 'solicitor empty' LGAs are characterised by a number of features:

- the majority are located in Outer Regional, Remote or Very Remote areas
- they have substantial levels of socio-economic disadvantage
- they have declining resident populations
- they have high levels of both Aboriginal and aged persons.

In 'solicitor empty' LGAs located geographically close to another state or territory, residents of these LGAs may be accessing legal services in a nearby larger regional centre across the border. Also, as circuit courts and outreach programs operate across NSW, residents of these 19 LGAs may be receiving legal assistance from solicitors who are not based locally.

There were only 15 solicitors practising in Remote and Very Remote NSW. This may indicate the difficulties that less accessible areas have in attracting solicitors and sustaining a viable legal practice, particularly private legal practices. This is consistent with the widely recognised problem of

47 The total numbers of solicitors in the Foundation's studies differ from those found in the *Profiles of the Solicitors of NSW* produced by Urbis for the Law Society of NSW (www.lawsociety.com.au/resources/surveysandstatistics). The data on *member* solicitors provided by the Law Society to the Foundation for these studies represent approximately 10 per cent fewer NSW solicitors than the total number with a practising certificate for the relevant year. Information on non-member solicitors was not available for use in the Foundation's studies. Further, in each study, a small proportion of Law Society records was missing essential information for the studies' regional analyses: the postcode of the solicitor's main practice location. In general, where the postcode of the practice location was missing, the practice type was also missing. The Law Society advised that such records generally relate to solicitors currently not in employment. In addition, the Urbis profiles use information on solicitors captured later in the year than the Foundation's studies, which may also have contributed to any differences in solicitor numbers.

the loss of doctors and teachers from the more remote areas of NSW. Compounding the geographic remoteness and the lack of accessibility to services that characterise these areas is a profound level of socio-economic disadvantage and, more specifically, a level of Aboriginal persons in their resident populations that, on average, is ten times higher than the corresponding state figure. Still, the 2011 figure of 41 solicitors per 100,000 residents or one registered solicitor for every 2,440 residents in Remote/Very Remote NSW is an improvement on the one solicitor for every 3,034 residents back in 2009 (Forell et al. 2010, Table 7).

Of all the practice types, private practitioners appear to be the most evenly distributed across NSW. Private solicitors tend to practise civil and family law. Only one region, Murrumbidgee, was low in terms of its number of private solicitors, and only one region, South Eastern, was high in its number of private solicitors. Not including the Sydney, Hunter and Illawarra regions, there were six (of nine) regions in RRR NSW which, statistically at least, had a higher than expected number of 'CLC solicitors'. According to the Law Society data, 'CLC solicitors' generally practise civil law but are often engaged in providing legal assistance in relation to family law and criminal law matters as well — the category probably includes a number of solicitors who work for the ALS and Legal Aid NSW. In the remaining three regions covering RRR NSW, the number of 'CLC solicitors' was neither higher nor lower than expected.

There are marked regional differences in the characteristics of resident non-corporate solicitors. RRR solicitors tend to be older and have more years of legal experience than solicitors in metropolitan areas. Solicitors based in Remote/Very Remote areas appeared to be the exception. The average age for solicitors based in Inner and Outer Regional areas was about 50 years compared to an average age of around 44 years for Major Cities' solicitors and approximately 46 years for solicitors based in Remote/Very Remote areas. In general, non-corporate solicitors based in Inner and Outer Regional areas also had more years of legal experience than solicitors in Major Cities. Inner Regional solicitors had on average 19 years of experience and Outer Regional solicitors had an average of 20 years of experience compared with 15.5 years for city solicitors and 14 years of experience for solicitors based in the more remote areas.

Age and years practising were highly correlated for non-corporate solicitors across NSW but not as highly associated for these solicitors in Remote/Very Remote areas. This suggests that a reasonable number of solicitors working in the more remote areas obtained their practising certificate later in life, possibly as the result of a career change to law sometime later in life (i.e. not straight out of university).

4. Public legal assistance solicitors

In this chapter, the records pooled from the three individual service collections obtained through our census of NSW public legal assistance solicitor *positions* are examined. As at 30 June 2011, there were a total of 751 identified positions comprising:

- 174 CLC solicitor positions (23.2% of the 751 identified positions)[48]
- 89 ALS solicitor positions (11.9%)
- 488 Legal Aid NSW solicitor positions (65.0%).

As a reminder, the following information concerns the distribution of public legal assistance positions *based* in each region. It does not report on all legal services that may be provided in an area, such as that delivered by outreach, hub and spoke models, or 'fly-in fly-out' services. Furthermore, the regional distribution of grants of legal aid and the characteristics of private solicitors who were assigned grants are discussed separately in the next chapter.

Regional distribution of public legal assistance solicitor positions

It is relevant to consider the distribution of NSW public legal assistance solicitor positions in the context of the client groups targeted by each service. While the mission of all three services is to provide legal services to socially and economically disadvantaged groups, the ALS provides legal services exclusively to Aboriginal and Torres Strait Islander people.

Table 18 (and Figure 8) shows where Legal Aid NSW and CLC solicitor positions were based in NSW as at 30 June 2011. In calculating the regional per capita rate of solicitor positions for these two services, the relevant population base is 'all persons' (i.e. the count of all persons — those who identified as Indigenous, those who identified as non-Indigenous, and those who did not disclose their Indigenous status for the 2011 Census).[49]

There were 9.1 Legal Aid NSW and CLC solicitor positions for every 100,000 persons living in NSW, or one such solicitor for every 11,030 residents. South Eastern is conspicuous in that our census revealed that no Legal Aid NSW or CLC solicitor positions were based in this region, which reflects the fact that there are no offices for these services located in this region.[50]

In four regions, the rate of Legal Aid NSW and CLC solicitor positions was higher than the state average:

- In the Sydney region, the per capita rate (11.0) was one-fifth higher than the state average.
- In the Richmond-Tweed region, the per capita rate (9.4) was three per cent higher than the state average.
- In North Western, the per capita rate (14.0) was 55 per cent higher than the state average.
- In the Far West, the per capita rate (17.8) of Legal Aid NSW and CLC solicitor positions was the highest across NSW at almost double the state average.

48 See *Appendix C* for the full list of CLC returns and how this compared with the CLC returns for the first study.

49 At the time of the 2011 Census, there were 12,917 persons in NSW with no usual address (ABS 2013a).

50 In our first study, Legal Aid NSW advised that the Nowra Legal Aid NSW Office had a part-time (two days per week) family law solicitor based in Bega; this position did not show up in our 2011 census, not for Bega anyway.

While the per capita rate for the Far West translates to one such solicitor position for every 5,620 persons living in this region, it must be recognised that this region is marked by high levels of socio-economic disadvantage and geographical remoteness.

Central West (1.9) had the lowest per capita rate of Legal Aid NSW and CLC solicitor positions. The region's four Legal Aid and CLC solicitors serviced a population of 205,763, or one Legal Aid or CLC solicitor position for every 51,440 residents. The Mid-North Coast (3.2) also fared relatively poorly, with one such solicitor position for every 31,510 residents. Other RRR regions with a per capita rate of Legal Aid and CLC solicitors below the state average were the Murray (5.0), Hunter (5.2), Northern (6.4), Murrumbidgee (6.9) and Illawarra (8.2).

Table 18: Location of Legal Aid NSW and CLC solicitor positions and rate per 100,000 residents (all persons) by NSW region (SD) (30 June 2011)

Place of practice – region (SD, based on postcode)	*Legal Aid and CLC solicitor positions*		*Population*[a]		*Solicitors per 100,000 population*
	N	*%*	*N*	*%*	
Sydney*	508	76.7	4,627,345	63.4	11.0
Hunter	34	5.1	658,608	9.0	5.2
Illawarra	36	5.4	438,873	6.0	8.2
Richmond-Tweed*	23	3.5	245,320	3.4	9.4
Mid-North Coast^	10	1.5	315,097	4.3	3.2
Northern	12	1.8	187,685	2.6	6.4
North Western	14	2.1	100,091	1.4	14.0
Central West	4	0.6	205,763	2.8	1.9
South Eastern	0	0.0	221,054	3.0	0.0
Murrumbidgee	11	0.9	160,137	2.2	6.9
Murray	6	1.0	119,374	1.6	5.0
Far West	4	0.6	22,480	0.3	17.8
NSW	**662**	**100.0**	**7,301,827**	**100.0**	**9.1**

* Includes specialist CLCs providing statewide services; one specialist CLC is located in the Richmond-Tweed region.

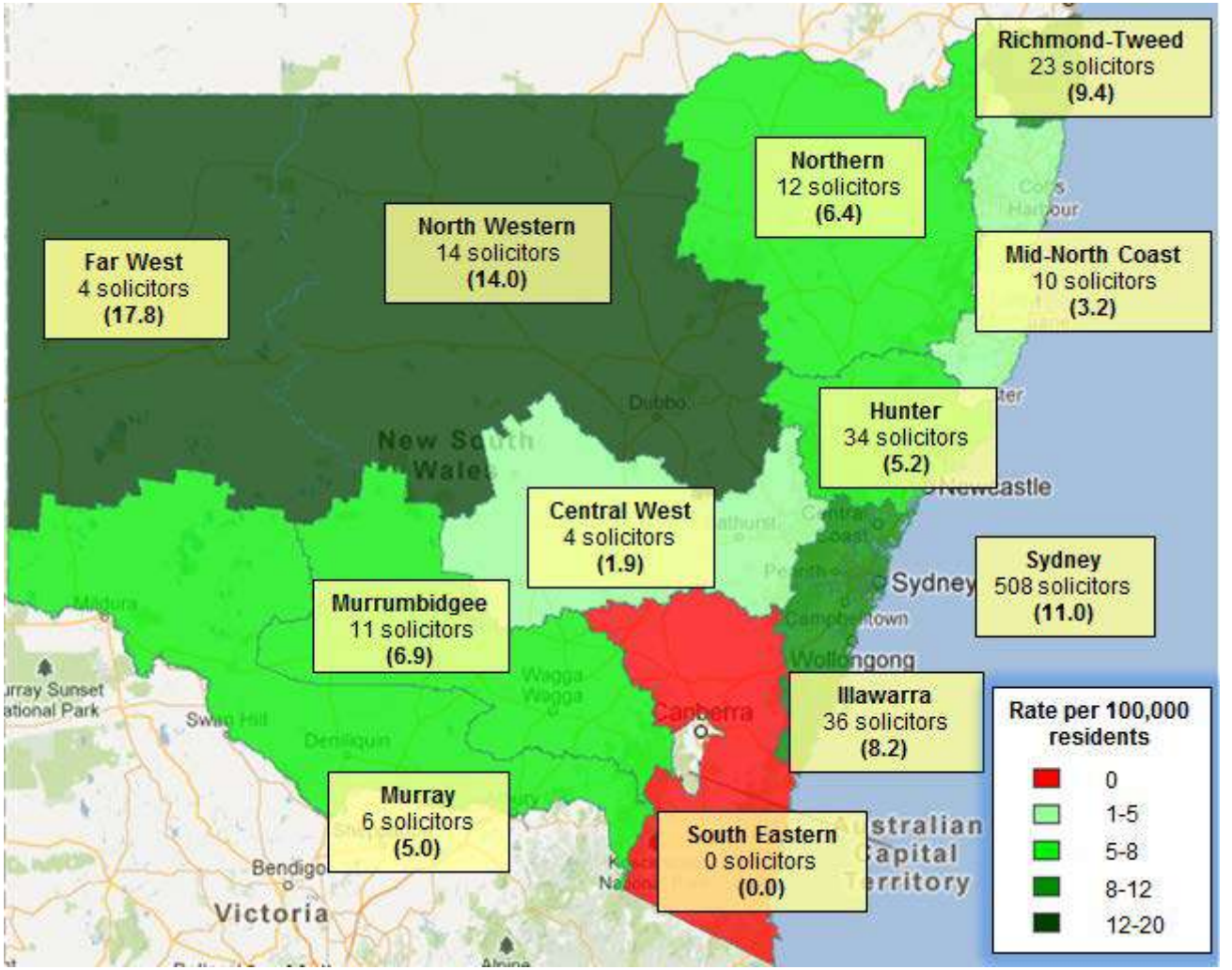
^ The Mid-North Coast CLC started operating in August 2011 after our census was conducted.

a Excludes persons recorded as having 'No usual address'.

Notes: Cells highlighted in yellow indicate regions with a per capita rate of Legal Aid and CLC solicitors higher than the State average. Cells highlighted in blue indicate regions with no Legal Aid or CLC solicitor positions.

Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

Figure 8: Number of Legal Aid NSW and CLC solicitor positions and rate per 100,000 resident population by region (SD) (30 June 2011)



Note: The per capita rate for the Murray region is just slightly greater than 5.0 and falls into the third range.

Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

Table 19 (and Figure 9) shows similar information for ALS solicitor positions. In order to allow the reader to make comparisons across Tables 18 and 19, the per capita rate of ALS solicitors is also expressed per 100,000 relevant persons, in this case, per 100,000 *Indigenous* residents for each region. However, it should be noted that no NSW region has anywhere near 100,000 Indigenous residents and that across the whole of NSW there were only 172,625 Indigenous persons according to the 2011 Census.[51]

Table 19 indicates that there were 51.8 ALS solicitor positions per 100,000 Indigenous residents in NSW. The rate of ALS solicitors was higher than the state average in six regions, up one from 2009. In the Sydney (57.4) and Illawarra (60.5) regions, the per capita rate of ALS solicitor positions was 10 per cent or more higher than the rate for the whole state. The per capita rate of ALS solicitor positions was at least 50 per cent higher than the state rate in the North Western (82.9) and Murrumbidgee (84.6) regions. In the Far West, the per capita rate of ALS solicitor positions was calculated at 137.0 ALS solicitors per 100,000 Indigenous residents, which was 164 per cent higher than the state rate. The per capita rate for the Far West converts to one ALS solicitor for every 730 Indigenous residents in this region.

There was no ALS solicitor position in the Murray region at the time the census was taken for this study. This means that the 3,234 Indigenous persons living in this region could not utilise the specialist and culturally appropriate legal services of the ALS. Indigenous residents of the Murray region could possibly make use of the services provided by Legal Aid NSW and CLCs in the region, but from Table 18 it may be seen that access to resident public legal assistance solicitors in the Murray region was relatively limited, with just six Legal Aid and CLC solicitors servicing the legal needs of a general population (including Indigenous residents) of almost 120,000 people.

Table 19: Location of ALS solicitor positions and rate per 100,000 Indigenous residents by NSW region (SD) (30 June 2011)

Place of practice – region (SD, based on postcode)	*ALS solicitor positions*		*Indigenous population*[a]		*ALS solicitors per 100,000 population*
	N	*%*	*N*	*%*	
Sydney	32	36.0	55,792	32.5	57.4
Hunter	6	6.7	20,705	12.1	29.0
Illawarra	7	7.9	11,561	6.7	60.5
Richmond-Tweed	4	4.5	7,515	4.4	53.2
Mid-North Coast	5	5.6	15,426	9.0	32.4
Northern	7	7.9	15,791	9.2	44.3
North Western	13	14.6	15,685	9.1	82.9
Central West	3	3.4	10,472	6.1	28.6
South Eastern	3	3.4	6,246	3.6	48.0
Murrumbidgee	6	6.7	7,095	4.1	84.6
Murray	0	0.0	3,234	1.9	0.0
Far West	3	3.4	2,189	1.3	137.0
NSW	**89**	**100.0**	**171,711**	**100.0**	**51.8**

Notes: Cells highlighted in yellow indicate regions with a per capita rate of ALS solicitors higher than the state average.

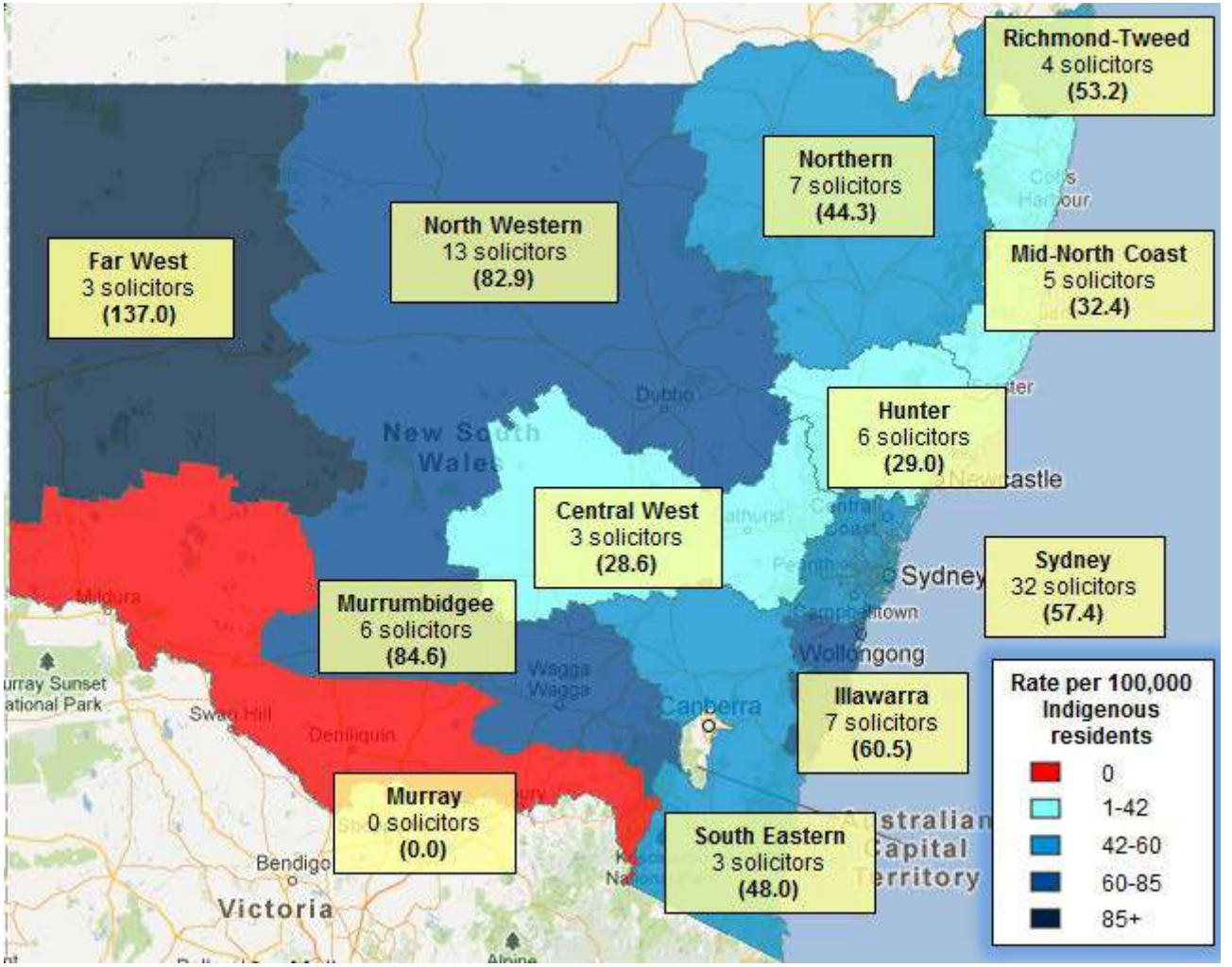
Cells highlighted in blue indicate regions with no ALS solicitor position.

a Excludes persons recorded as having 'No usual address'. There were also three Indigenous persons living in unincorporated areas of NSW outside of the Unincorporated Far West.

Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

51 There were 911 Indigenous persons in NSW with no usual address (ABS 2013a). There were also three Indigenous persons living in unincorporated areas of NSW outside of the Unincorporated Far West.

Figure 9: Number of ALS solicitor positions and rate of ALS solicitors per 100,000 Indigenous residents by region (SD) (30 June 2011)



Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

Using the NSW average as a benchmark, relatively poor per capita rates of ALS solicitors were also noted for Indigenous communities in the:

- Hunter — one ALS solicitor for every 3,451 Indigenous residents
- Central West — one ALS solicitor for every 3,491 Indigenous residents
- Mid-North Coast — one ALS solicitor for every 3,085 Indigenous residents.

Having just referenced the various public legal assistance solicitor positions against their target populations, further analyses provided in this chapter will report in terms of combined solicitor positions, irrespective of whether the agency in which the position existed provides legal services to the general and Indigenous communities, or specifically to Indigenous people.

Table 20 provides information on the distribution of public legal assistance solicitor positions across NSW in 2011. Essentially, the spread of Legal Aid NSW, CLC and ALS solicitor positions has not changed much since 2009. First, solicitor positions within all three public legal services were concentrated in the Sydney metropolitan region. Legal Aid NSW had 77.9 per cent of its solicitor positions based in the greater Sydney metropolitan region. Similarly, almost three-quarters (73.6%) of CLC positions were located in the Sydney region. In contrast, the ALS had just over one-third (36.0%) of its solicitor positions located in the Sydney region. Secondly, whereas the ALS had approximately half (49.4%) of its solicitor positions based outside the regions of Sydney, Hunter and the Illawarra, only 11.7 per cent of solicitor positions within Legal Aid NSW and just 15.5 per cent of CLC solicitor positions were located outside of those three regions.

Table 20 also shows that four regions of NSW — the Mid-North Coast, Central West, South Eastern and Murrumbidgee — did not have a single resident CLC solicitor position as at 30 June 2011.[52] Our census indicated that one region, the Murray, did not have a resident ALS solicitor; and in addition, three regions — South Eastern, Murray and Far West — did not have a resident Legal Aid NSW solicitor.

Table 20: Distribution of Legal Aid NSW, ALS and CLC solicitor positions by region (30 June 2011)

	CLCs		*ALS*		*Legal Aid*		*Total*	
Region (SD)	***N***	***%***	***N***	***%***	***N***	***%***	***N***	***%***
Sydney*	128	73.6	32	36.0	380	77.9	540	71.9
Hunter	7	4.0	6	6.7	27	5.5	40	5.3
Illawarra	12	6.9	7	7.9	24	4.9	43	5.7
Richmond-Tweed*	7	4.0	4	4.5	16	3.3	27	3.6
Mid-North Coast^	0	0.0	5	5.6	10	2.0	15	2.0
Northern	6	3.4	7	7.9	6	1.2	19	2.5
North Western	4	2.3	13	14.6	10	2.0	27	3.6
Central West	0	0	3	3.4	4	0.8	7	0.9
South Eastern	0	0	3	3.4	0	0.0	3	0.4
Murrumbidgee	0	0	6	6.7	11	2.3	17	2.3
Murray	6	3.4	0	0.0	0	0.0	6	0.8
Far West	4	2.3	3	3.4	0	0.0	7	0.9
Total	**174**	**100.0**	**89**	**100.0**	**488**	**100.0**	**751**	**100.0**

* Includes specialist CLCs providing statewide services. One specialist CLC located in Richmond-Tweed.

^ The Mid-North Coast CLC started operating in August 2011, after our census was conducted.

Notes: Highlighted cells indicate that the region did not have solicitors from that particular public legal service.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

52 The Mid-North Coast CLC started operating in August 2011, after our census was conducted.

Piecing together these agency specific sets of information reveals that:

- public legal assistance solicitor positions in the South Eastern region were restricted to the three ALS solicitor positions[53]
- in the Murray region, there were only six CLC solicitor positions and no resident Legal Aid NSW or ALS solicitor positions
- the Far West region had no local Legal Aid solicitor positions
- the Central West and Murrumbidgee regions did not have any resident CLC solicitor positions, while the Mid-North Coast CLC started operating in that region after our census was conducted.

Generally, the ALS had solicitor positions in parts of NSW where Legal Aid NSW and/or CLCs did not have an office. The only region without a resident ALS solicitor was the Murray and, as noted above, this region also had no resident Legal Aid NSW solicitor. However, the Murray region shares a border with Victoria and there are a number of public legal assistance services located in reasonably close proximity to the Murray region, including Victorian Legal Aid offices located at Horsham, Bendigo and Shepparton; Victorian community legal centres located at Mildura and Bendigo (plus the Hume-Riverina CLC located in Albury-Wodonga already included in our census); and Victorian Aboriginal Legal Services located at Swan Hill, Mildura, Ballarat and Shepparton.

It is also important to note at this point, the role played by Legal Aid NSW's Regional Outreach Clinic Program to address the legal needs of disadvantaged persons in RRR areas (see Cipants 2013). This program provides advice services in 14 highly disadvantaged regional, rural and remote towns across NSW (Legal Aid 2012, p.33). Furthermore, Legal Aid has panels of private lawyers to undertake legal aid work across all parts of NSW, including those areas where there is no Legal Aid office. Detailed information on private lawyers undertaking legal aid work in NSW is provided in *Chapter 5: Grants of legal aid*.

Status of public legal assistance solicitor positions

Just as in Forell et al. (2010), in the study, the level of vacant solicitor positions was examined as an indicator of potential recruitment and retention difficulties, as was the level of positions filled by solicitors other than incumbents (e.g. casuals, secondments, locums).

Table 21 provides the breakdown of all public legal assistance solicitor positions within Legal Aid NSW, the ALS and CLCs as at 30 June 2011 in terms of whether they were vacant, filled by the incumbent solicitor or otherwise occupied. It shows that around one in every 12 solicitor positions (7.9%) were vacant on the date of the census. The majority of vacant solicitor positions (54 of 59 vacant positions, or 92%) were categorised as unfilled and advertised (or capable of being advertised). The other five vacant positions were 'on hold' with the incumbent on extended leave (four positions) or acting up in a higher position elsewhere leaving their substantive position vacant (one position). Legal Aid had the highest level (9.4%) of vacant positions while the ALS had the lowest vacancy rate (2.2%) of the three services. On the day, CLCs had a vacancy rate of 6.3 per cent.

Across the sector, around seven per cent of filled solicitor positions were maintained by having an employee act in a higher position, an external secondment, or by appointing a locum to the position.

Just under one-quarter (23%) of all filled public legal assistance solicitor positions were filled by a casual, including temporary appointments to short-term and special projects, primarily sourced through non-recurrent funding. This was substantially higher in Legal Aid NSW (32%), lower in the ALS (17%) and much lower for CLCs with less than two per cent of solicitor positions filled by a casual employee.

53 See footnote 50 concerning a part-time Legal Aid NSW family law solicitor based in Bega.

Table 21: Status of solicitor positions in Legal Aid NSW, ALS and CLCs (30 June 2011)

	CLC		ALS		Legal Aid		Total	
Position status	***N***	***%***	***N***	***%***	***N***	***%***	***N***	***%***
Filled – incumbent	152	87.4	69	77.5	245	50.2	466	62.1
Filled – person acting in position (higher duties)	5	2.9	1	1.1	22	4.5	28	3.7
Filled – secondment/locum	3	1.7	2	2.2	21	4.3	26	3.5
Filled – casual (incl. part filled and other)	3	1.7	15	16.9	154	31.6	172	22.9
Sub-total (filled)	*163*	*93.7*	*87*	*97.8*	*442*	*90.6*	*692*	*92.1*
Vacant – unfilled/advertised	7	4.0	2	2.2	45	9.2	54	7.2
Vacant – incumbent on leave	3	1.7	0	0.0	1	0.2	4	0.5
Vacant – incumbent acting up in higher position	1	0.6	0	0.0	0	0.0	1	0.1
Sub-total (vacant)	*11*	*6.3*	*2*	*2.2*	*46*	*9.4*	*59*	*7.9*
Total	**174**	**100.0**	**89**	**100.0**	**488**	**100.0**	**751**	**100.0**

Notes: A small number of original position status categories are grouped together in this table. The categories used in this table differ from those in the previous report and were adopted as the result of agency feedback.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

CLCs also had the highest level of solicitor positions filled by an incumbent (87%). Legal Aid NSW had the lowest level of positions filled by the incumbent, with half (50%) the positions filled in this way. More than three-quarters (78%) of solicitor positions within the ALS were filled by incumbents. Overall, 62 per cent of all NSW public legal assistance solicitor positions in 2011 were substantively filled by incumbents.

In the first study (Forell et al. 2010), it was identified that, at any point in time, there are a significant number of public legal assistance solicitor positions that are not occupied by the incumbent. These include where:

- a solicitor is acting up in a higher graded position in the same office or elsewhere
- a solicitor is filling in while the incumbent solicitor is on leave (e.g. extended leave, maternity leave, etc.)
- a solicitor is taking up a rotational opportunity (e.g. to gain experience in a different area of law and/or a different part of the state)
- a secondee, locum or casual lawyer is undertaking the duties of the substantive position holder.

Therefore, an examination of occupied positions should also take into consideration solicitor positions not substantively filled by the incumbent. Table 22 shows that the level of public legal assistance solicitor positions not filled by the incumbent solicitor represented 30.1 per cent of all public legal assistance solicitor positions in NSW. That is, of the 751 solicitor positions surveyed on the 30 June 2011, 226 were occupied by a casual employee or by a person who was not the substantive position holder.

Table 22: Vacant, incumbent occupied and non-incumbent occupied solicitor positions in Legal Aid NSW, ALS and CLCs (30 June 2011)

	CLC		ALS		Legal Aid		Total	
Position status	***N***	***%***	***N***	***%***	***N***	***%***	***N***	***%***
Filled – incumbent	152	87.4	69	77.5	245	50.2	466	62.0
Occupied by non-incumbent	11	6.3	18	20.3	197	40.4	226	30.1
Vacant	11	6.3	2	2.2	46	9.4	59	7.9
Total	**174**	**100.0**	**89**	**100.0**	**488**	**100.0**	**751**	**100.0**

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

In Legal Aid NSW, over 40 per cent of solicitor positions fell into this category, which was more than four times the observed vacancy rate for this organisation. For the ALS, more than one in every five (20%) solicitor positions was filled by a non-incumbent, which is more than nine times the identified vacancy rate for this organisation on the day. For CLCs, the level of solicitor positions filled by a non-incumbent was 6.3 per cent, which coincidentally was the same as its vacancy rate on the day our census was taken.

As argued in our first report (Forell et al. 2010, p. 57):

> *The capacity to fill solicitor positions in this manner partly reflects the flexible work arrangements that exist within the public legal assistance services. It also reflects increased opportunities, particularly in Legal Aid NSW, for solicitors to take up designated rotational positions, act in higher positions, cover positions where the incumbent is on leave, and take up special project work.*

Regional distribution of positions vacant or occupied by a non-incumbent

Of the 59 vacant positions in 2011, 40 (or 68%) were located in the Sydney metropolitan area (Table 23). However, if vacancies had been equally spread across all regions of NSW, it would be expected that Sydney would have a level of vacant solicitor positions equal to its share of solicitor positions, which is slightly higher at 72 per cent.

In 2011, there were four vacant positions in the Richmond-Tweed (15% vacancy rate), and three vacant positions each in the Hunter (7.5% vacancy rate), Illawarra (7% vacancy rate) and North Western (11% vacancy rate) (Figure 10). More generally, the vacancy rate outside the Sydney region was 9.0% (down from 9.3% in 2009).

As in 2009, the Far West was the only region with a statistically *significant* number of vacant positions. Two of the seven public legal assistance solicitor positions (29%) in the Far West region were vacant on the 2011 census date.

There were only four public legal assistance solicitor positions located in Remote or Very Remote NSW and none were vacant at the time of our 2011 census. However, it should be noted that Broken Hill (in the Far West region) is categorised as Outer Regional according to the Remoteness Index, and this is where two of the vacant solicitor positions were located. When categorised using the Remoteness Index, no area had more vacant positions than statistically expected.

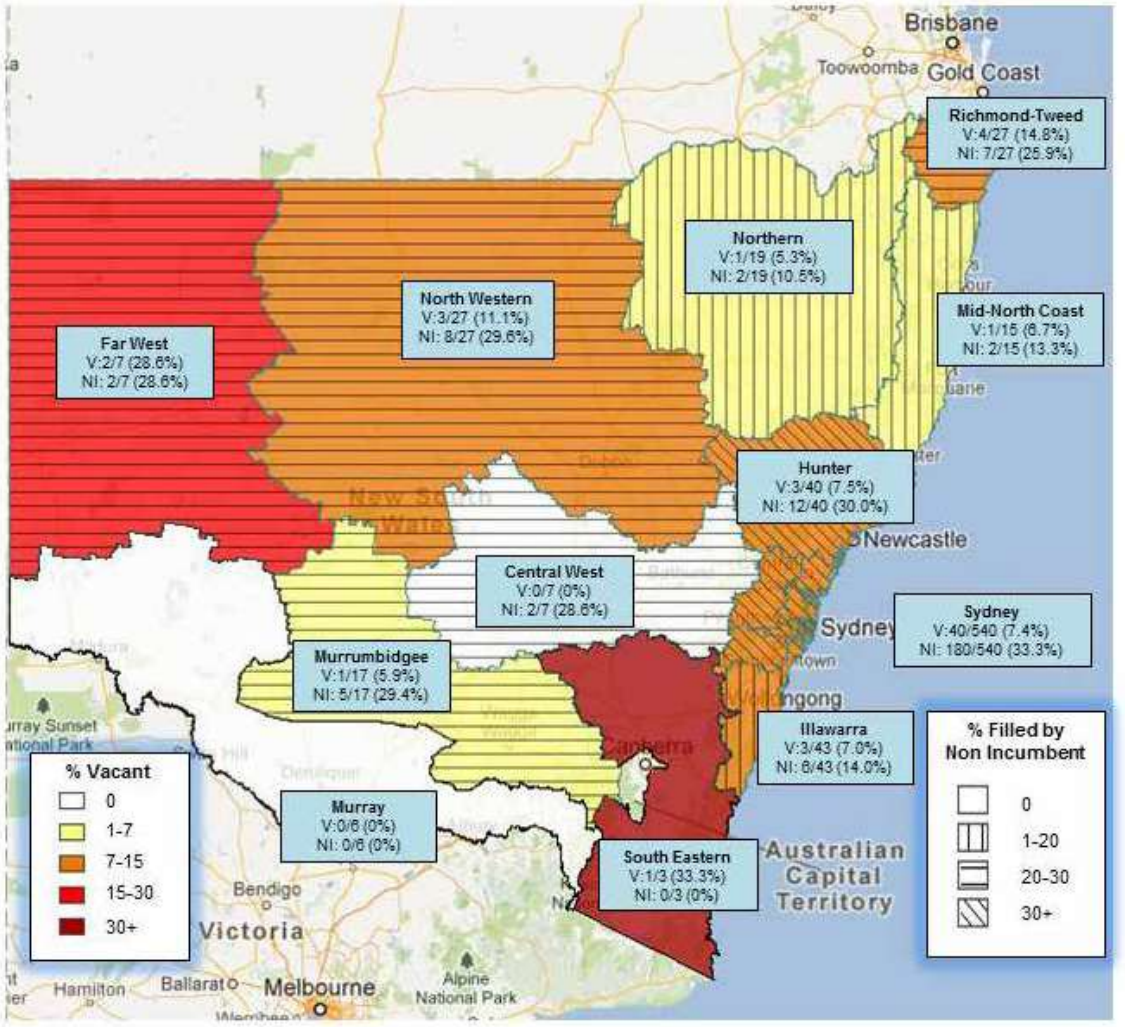
Table 23: Distribution of vacant and otherwise unoccupied solicitor positions by NSW region (30 June 2011)

	Filled by incumbent		*Filled by non-incumbent*		*Vacant*		*All solicitor positions*	
Region (SD)	***N***	***%***	***N***	***%***	***N***	***%***	***N***	***%***
Sydney	320	59.3	180	33.3	40	7.4	540	100.0
Hunter	25	62.5	12	30.0	3	7.5	40	100.0
Illawarra	34	79.1	6	14.0	3	7.0	43	100.0
Richmond-Tweed	16	59.3	7	25.9	4	14.8	27	100.0
Mid-North Coast	12	80.0	2	13.3	1	6.7	15	100.0
Northern	16	84.2	2	10.5	1	5.3	19	100.0
North Western	16	59.3	8	29.6	3	11.1	27	100.0
Central West	5	71.4	2	28.6	0	0.0	7	100.0
South Eastern	2	66.7	0	0.0	1	33.3	3	100.0
Murrumbidgee	11	64.7	5	29.4	1	5.9	17	100.0
Murray	6	100.0	0	0.0	0	0.0	6	100.0
Far West	3	42.9	2	28.6	2	28.6	7	100.0
NSW	**466**	**62.1**	**226**	**30.1**	**59**	**7.9**	**751**	**100.0**

Notes: Row percentages add up to 100%. Highlighted cells indicate that the region had an above average percentage of solicitor positions in that particular category when compared to the corresponding NSW percentage.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Figure 10: Vacant and non-incumbent filled solicitor positions (ALS, CLCs and Legal Aid NSW combined) by region (SD), 30 June 2011



Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Examining solicitor positions filled by someone other than the incumbent, the only region above the NSW average (30.1%) was the Sydney region (33.3%). Of the country regions, North Western (29.6%) had the highest level of positions filled by a non-incumbent. However, in five other regions, the percentage of solicitor positions filled by non-incumbents was greater than one in every four: Hunter (30.0%), Richmond-Tweed (25.9%), Central West (28.6%), Murrumbidgee (29.4%) and Far West (28.6%).

Considering non-incumbent filled positions in terms of geographic remoteness, 197 of these 226 positions (87.2%) were located in Major Cities, 26 (11.5%) were located in Inner Regional areas, two (0.9%) in Outer Regional areas and one (0.4%) in a Very Remote area of NSW. However, no statistical difference was found in the distribution of non-incumbent filled solicitor positions based on remoteness.

Grade/designation of public legal assistance solicitor positions

The grade or broad designation of solicitor positions within Legal Aid NSW, the ALS and CLCs is summarised in Table 24.

Table 24: Grade/designation of solicitor positions in Legal Aid NSW, ALS and CLCs (30 June 2011)

	CLC		*ALS*		*Legal Aid*		*Total*	
Grade/designation	***N***	***%***	***N***	***%***	***N***	***%***	***N***	***%***
CEO/Manager/Coordinator	3	1.7	1	1.1	1	0.2	5	0.7
Principal solicitor	36	20.7	5	5.6	9	1.8	50	6.7
Senior solicitor	30	17.2	21	23.6	112	23.0	163	21.7
Solicitor*	105	60.3	62	69.7	366	75.0	533	71.0
Total	**174**	**100.0**	**89**	**100.0**	**488**	**100.0**	**751**	**100.0**

* Includes nine solicitor positions filled by paralegals or junior solicitors on the date of our census — seven in CLCs and one each in the ALS and Legal Aid NSW.

Notes: A small number of original grade/designation categories are grouped together in this table.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

There were proportionally more principal solicitor positions in CLCs than in the other two organisations. Twenty-one per cent of solicitor positions in CLCs were graded as principal solicitor positions compared with just six per cent of ALS solicitor positions and only two per cent of positions within Legal Aid NSW. The proportion of senior solicitors was highest in the ALS (24%) and Legal Aid (23%), while 17 per cent of solicitor positions in CLCs were graded as senior solicitors.

Designated 'solicitor' positions made up 71 per cent of all public legal assistance solicitor positions. The percentage of solicitor grade positions in Legal Aid NSW (75%) was higher than in the ALS (70%) and CLCs (60%).

At the time of our census, there were 11 CLC positions that were vacant: three principal solicitor positions, two senior solicitor positions and six solicitor positions. Within the ALS, there was one vacant principal solicitor position and one vacant solicitor position. Within Legal Aid NSW, one of the 46 vacant positions was a principal solicitor position, six were senior solicitor positions and the remaining 39 vacancies were solicitor positions.

Salaries

In addition to the grading of solicitor positions, information was obtained from public legal assistance agencies on the salaries of all solicitors in their employment. The Foundation's 2011 census specifically requested a single *gross* salary figure for each solicitor position and, while the authors are more confident with the validity and accuracy of this measure, it may represent a different salary amount to that examined in our first report (see *Appendix A: Method in detail*).

As was the case in our first study, the salary information obtained for solicitors in 2011 was provided in a variety of forms. This required a considerable amount of effort to standardise in order to allow

comparisons to be made across the different agencies. Recognising the difficulties in the definition of the salary data, the variability of the information provided and the extent to which the salary information was recoded and standardised, the analysis will only report on salaries in general terms. This information should be considered as indicative only.[54]

Furthermore, as argued in our first study, there may be good reasons for relatively large salary disparities between seemingly equivalent solicitor positions based in different agencies. In particular, inter-agency salary differences may reflect higher or lower levels of responsibilities, including the supervision of lower graded solicitors numbering from a few to many. There may also be salient differences in the workloads of principal solicitors and senior solicitors across the three services. In addition, newly admitted solicitors may start on a relatively higher salary rate because the particular legal service requires and pays for more experienced solicitors including those at entry level.[55] Similarly, rates of progression for solicitors may differ from agency to agency. Time and resource constraints did not allow a more detailed consideration of the reasons behind salary differences identified in this study.

Based on this study's census of public legal assistance solicitor positions, the average gross annual salary for all Legal Aid NSW solicitors (regardless of grade) on 30 June 2011 was $91,242 (Table 25). The average gross annual salary for CLC solicitors (again, regardless of grade) was found to be 27 per cent less at $66,338. The average gross annual salary for ALS solicitors was even lower at $64,949 or 29 per cent less than that for Legal Aid solicitors. Even comparing median annual gross salaries, CLC and ALS solicitors were paid 15 per cent and 21 per cent less respectively than Legal Aid NSW solicitors.

Notably, many solicitors employed by a CLC will be paid a salary based on the Social and Community Services (SACS) Award — basically an award structure for social workers and not lawyers. Other CLC employed solicitors may be paid a salary based on a University Award where the CLC is located on the campus of a university.

Table 25: Mean and median gross annual salaries* for Legal Aid NSW, ALS and CLC solicitors (30 June 2011)

		Annual salary	
Agency (NSW)	***Grade***	***Mean***	***Median***
Legal Aid	Principal solicitor	$139,903	$138,486
	Senior solicitor	$110,941	$107,277
	Solicitor	$83,998	$77,456
	All Legal Aid solicitors	*$91,242*	*$77,456*
ALS	Principal solicitor	$106,905	$116,291
	Senior solicitor	$81,107	$76,920
	Solicitor	$55,948	$56,784
	All ALS solicitors	*$64,949*	*$60,900*
CLCs	Principal solicitor	$78,848	$76,868
	Senior solicitor	$69,696	$70,764
	Solicitor	$60,715	$59,158
	All CLC solicitors	*$66,338*	*$65,500*

* Based on calculation of mid-point gross salary and comparable solicitor positions.

Notes: CEOs/Managers/Coordinators and Paralegals/Junior solicitors (n=12) not included in this table.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

54 Nonetheless, the first study found that the final figures derived for solicitors' salaries in 2009 were comparable with salary amounts already in the public domain (see Forell et al. 2010, p.61, re Urbis (2009b) *2008 Profile of the solicitors of NSW*).

55 Legal Aid NSW advised that 'newly admitted solicitors start on Legal Officer Grade I, 5th year rate. They then go up through Legal Officer Grade II and III for each year of service thereafter. After 8 years of service, they start on Legal Officer Grade III, 3rd year. This rule is also applied when a new employee starts — each year of post admission experience counts as a year towards that progression'. (Personal correspondence, 15 March 2012).

The majority of legal practitioners in all three services were employed at the designated level of 'Solicitor':

- 75 per cent of all Legal Aid NSW lawyers were employed as solicitors with an average annual salary of $83,998 (median salary = $77,456)
- 70 per cent of ALS lawyers were employed as solicitors with an average annual salary of $55,948 (median salary = $56,784)
- 60 per cent of CLC lawyers were employed as solicitors with an average annual salary of $60,715 (median salary = $59,158).

As can be seen, on average, designated 'solicitors' in the employment of Legal Aid NSW were paid an annual salary that was 33 per cent higher than solicitors working for the ALS and 28 per cent higher than solicitors employed by CLCs. Using median salary instead of mean salary, ALS solicitors were paid 27 per cent less and CLC solicitors 24 per cent less than solicitors employed by Legal Aid NSW.

A similar disparity in salaries is noted for senior solicitors. The average annual salary for senior solicitors in Legal Aid NSW was around 27 per cent more than for senior solicitors in the ALS. Senior solicitors working for CLCs appeared to be more lowly paid, receiving 37 per cent less than their Legal Aid NSW counterparts.

Whereas in 2009, at the level of principal solicitor, Legal Aid NSW and ALS salaries were comparable, this was not the case in 2011. ALS principal solicitors received $33,000 or around one-quarter less per annum than their Legal Aid NSW counterparts. CLC principal solicitors appeared even more financially disadvantaged, receiving on average $61,000 or 44 per cent less per annum than principal solicitors working for Legal Aid NSW.

Regional differences in salaries

Comparing solicitors' salaries from one region to the next is a complicated process that needs to take into account multiple factors. First and foremost, as there are more Legal Aid NSW solicitors than there are solicitors in the other two services, any salary difference may simply reflect more or fewer Legal Aid solicitors in a region. Secondly, it has already been shown that Legal Aid solicitors are generally paid more, so again their numbers will affect the average annual salary for a region. Thirdly, as shown, the three legal services are not distributed evenly across NSW — some regions have Legal Aid offices and some do not, some regions have ALS offices and some do not, and some regions have CLCs and some do not. Regional differences in average salary may be reflecting nothing more than the presence or absence of the legal services in each region.

Furthermore, higher or lower salaries may simply be a proxy for years of experience, which is positively correlated with a solicitor's grade. For example, solicitors working in remote areas, in general, may have fewer years' legal experience and be lower graded. Their salaries will be lower than for more experienced and, in all likelihood, higher graded solicitors working elsewhere in NSW.

Therefore, instead of providing a potentially misleading profile of regional differences in solicitors' salaries, attention is turned to analysing differences in the level of legal experience of solicitors practising within each region.

Public legal experience

In this section, the 680 public legal assistance positions occupied at the time of our 2011 census by designated solicitors, senior solicitors and principal solicitors are examined in terms of years of experience in the public legal sector.[56]

56 Please note that this is a different analysis to that undertaken concerning 'Years of experience' for non-corporate solicitors in *Chapter 3: Practising solicitors in NSW* which used the Law Society's data. That analysis used *Year of admission* to estimate the number of years of legal experience for every registered non-corporate solicitor in NSW. The current analysis looks at years of public legal experience and only for public legal assistance solicitors.

CEOs/Managers/Coordinators and Paralegals/Junior solicitors in public legal assistance solicitor positions — a total of 12 positions — were excluded from this analysis. Furthermore, Legal Aid NSW was not able to provide the necessary information for 28 occupied positions (representing around four per cent of valid records).[57]

Table 26 examines years of public legal experience of solicitors by agency. Not surprisingly given the results for salaries, Legal Aid NSW solicitors, on average, had the most years' legal experience (mean=8.8 years; median=6.4 years). The average number of years of legal experience for a CLC solicitor was 6.0 years (median=4.0 years), while for solicitors employed by the ALS it was an average of 5.5 years of public legal experience (median=3.5 years). Across the sector the mean years of public legal experience was 7.7 years (median=5.0 years).

Table 26: Years of public legal experience for Legal Aid NSW, ALS and CLC solicitors (30 June 2011)

		Years of public legal experience	
Agency (NSW)	***No. of solicitors***	***Mean***	***Median***
Legal Aid	413	8.8	6.4
ALS	85	5.5	3.5
CLCs	154	6.0	4.0
All services	**652**	**7.7**	**5.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions were not included (n=12). The records of 28 occupied solicitor positions within Legal Aid NSW that were missing information required to calculate years of public legal experience were also not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Regional differences in public legal experience

Years of public legal experience also varied in terms of where in NSW the public legal assistance solicitors were located and the relative remoteness of that location (Table 27). Whether considering mean or median years of public legal experience, public legal assistance solicitors in Remote and Very Remote areas appear to be substantially less experienced compared to their counterparts in other areas of NSW. Public legal assistance solicitors based in Remote or Very Remote areas of NSW averaged less than two years of public legal experience (mean=1.7 years; median=1.6 years).

Table 27: Years of public legal experience for Legal Aid NSW, ALS and CLCs solicitors by Remoteness Area (30 June 2011)

		Years of public legal experience	
Remoteness area	***No. of solicitors***	***Mean***	***Median***
Major Cities	532	8.0	5.5
Inner Regional	102	6.6	4.4
Outer Regional	14	5.7	2.5
Remote/Very Remote	4	1.7	1.6
NSW	**652**	**7.7**	**5.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions were not included (n=12). The records of 28 occupied solicitor positions within Legal Aid NSW that were missing information required to calculate years of public legal experience were also not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

57 Also as noted in *Appendix A: Method in detail*, Legal Aid NSW provided information on 'Years of Legal Aid experience' which is narrower in definition than *Years of public legal experience*. As a consequence, it is likely to underestimate the number of years of public legal experience for solicitors employed by Legal Aid NSW.

Public legal assistance solicitors based in Outer Regional areas of NSW averaged 5.7 years of legal experience, although half had fewer than 2.5 years public legal experience. In Inner Regional areas, public legal assistance solicitors had an average of 6.6 years' experience in the public sector (median=4.4 years). The highest level of legal experience was found for public legal assistance solicitors based in Major Cities (mean=8.0 years; median=5.5 years) but, of course, it is in these areas that most of Legal Aid NSW's offices, including its head office, are located.[58]

Table 28 provides an analysis of years of public legal experience based on the region of NSW in which each public legal assistance solicitor was based. Collectively, the public legal assistance solicitors located in the Central West region were the state's most experienced, at least in terms of public legal sector experience.

The seven solicitors in the Central West region had an average of 12.4 years of public legal experience (median=10.0 years), even higher than their Sydney (mean=8.0 years; median=5.4 years), Hunter (mean=7.7 years; median=5.2 years) and Illawarra (mean=7.9 years; median=5.0 years) counterparts. In fact, on average, the Central West, Mid-North Coast and South Eastern regions had the more experienced public legal assistance solicitors.

The public legal assistance solicitors with the least public legal experience were located in the North Western region (mean=2.9 years; median=2.0 years), followed by their counterparts in the Murray (mean=4.3 years; median=3.8 years) and Murrumbidgee (mean=5.4 years; median=3.6 years) regions. Public legal assistance solicitors based in the Far West region had a median years of public legal experience of only two years (which was as low as that for North Western solicitors) However, the average years of legal experience was much higher at 5.6 years, suggesting once more a mix of relatively experienced and inexperienced solicitors working in the Far West region.

Table 28: Years of public legal experience for Legal Aid NSW, ALS and CLC solicitors by NSW region (30 June 2011)

		Years of public legal experience	
Region (SD)	***No. of solicitors***	***Mean***	***Median***
Sydney	470	8.0	5.4
Hunter	34	7.7	5.2
Illawarra	39	7.9	5.0
Richmond-Tweed	22	7.3	4.9
Mid-North Coast	13	9.8	4.4
Northern	17	6.2	4.0
North Western	23	2.9	2.0
Central West	7	12.4	10.0
South Eastern	2	8.3	8.3
Murrumbidgee	14	5.4	3.6
Murray	6	4.3	3.8
Far West	5	5.6	2.0
NSW	**652**	**7.7**	**5.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions were not included (n=12). The records of 28 occupied solicitor positions within Legal Aid NSW that were missing information required to calculate years of public legal experience were also not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

58 Again note that this is a different analysis to that undertaken in *Chapter 3: Practising solicitors in NSW* concerning 'Years of experience' for non-corporate solicitors, which used the Law Society's data. Based on the year that they first gained their legal certificate and an end date of 30 June 2011, the average number of years of (generic) legal experience for all *non-corporate* solicitors – as opposed to *public legal assistance solicitors* and their years of *public legal service experience* – was 15.8 years (median = 12.4 years). It was found that almost one-third of non-corporate solicitors in NSW had 20 or more years of legal experience and a further one-quarter had between 10 and 20 years of experience. In addition, it was identified that the main regional difference in years of experience was an unequal distribution of non-corporate solicitors with 20 or more years' legal experience: non-corporate solicitors with the highest level of legal experience were more likely based in Inner Regional and Outer Regional areas of NSW.

Areas of law practised

In the first study, it was demonstrated how two factors — the presence/absence of public legal assistance solicitors in a location and the areas of law for which they provide a legal service — create geographical inequalities in access to public legal services in the individual areas of civil, family and criminal law.[59] This study re-examines that finding by analysing whether anything has changed in terms of what areas of law each service provides assistance for, and where in NSW each agency had its solicitors located.

In NSW, 370 of the 751 (49.3%) public legal assistance solicitor positions provided legal services for criminal law matters (Table 29). A further 34.2 per cent of public legal assistance solicitor positions in NSW were available to provide legal assistance on civil law matters and about one-quarter (26.8%) were available to provide legal assistance on family law matters.

While CLC solicitors tended *not* to specialise in one particular area of law, ALS solicitors almost exclusively (94.4%) practised criminal law. Nearly one in every two (48.4%) Legal Aid NSW solicitors provided criminal law assistance, with a reasonable proportion involved in family law (25.2%) and civil law (20.3%).

Table 29: Practice profiles of solicitor positions in Legal Aid NSW, ALS and CLCs (30 June 2011)

	CLC (N=174)		*ALS (N=89)*		*Legal Aid (N=488)*		*Total (N=751)*	
Area of law practised	***N***	***%***	***N***	***%***	***N***	***%***	***N***	***%***
Civil law	158	90.8	0	0.0	99	20.3	257	34.2
Family law	92	42.5	4	4.5	123	25.2	201	26.8
Criminal law	50	28.7	84	94.4	236	48.4	370	49.3
Other projects/programs*	0	0.0	1	1.1	30	6.1	31	4.1

* Includes law reform, grants, court-based family violence programs and some domestic violence programs such as FVPLS.

Notes: Percentages in CLC and Total columns will add to more than 100% because multiple areas of law were reported as practised by most CLC solicitors.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Areas of law practised — regional distribution

In examining the location of public legal assistance solicitor positions across NSW (see Table 20), it was identified that a number of regions did not have solicitors from one or more of the three public legal services. Specifically, it was found that:

- the Far West had no resident Legal Aid NSW solicitor positions
- the Murray region had no resident ALS or Legal Aid solicitor positions
- South Eastern NSW had no resident CLC or Legal Aid solicitor positions
- the Central West had no resident CLC solicitor position
- the Murrumbidgee region had no resident CLC solicitor position
- the Mid-North Coast had no resident CLC solicitor position at the time of our census, but a local CLC opened a month later in August 2011.

Table 30 reveals the extent to which the three main public legal assistance services are focused, or are diversified, in providing legal assistance in relation to the three broad areas of law.

59 See Forell et al. 2010 (pp. 63-70) for additional detail. Table 23 from that report is not replicated here.

Table 30: Legal Aid NSW, ALS and CLC solicitor positions — regional distribution of area(s) of law practised (30 June 2011)

		Civil law			*Family law*			*Criminal law*			*All*		
Region (SD)	***Population***	***N***	***Rate****	***Ratio⁺***	***N***	***Rate****	***Ratio⁺***	***N***	***Rate****	***Ratio⁺***	***N***	***Rate****	***Ratio⁺***
Sydney	4,627,345	190	4.1	24,354	201	4.3	23,022	250	5.4	18,509	641	13.9	7,219
Hunter	658,608	8	1.2	82,326	16	2.4	41,163	21	3.2	31,362	45	6.8	14,636
Illawarra	438,873	20	4.6	21,944	16	3.6	27,430	15	3.4	29,258	51	11.6	8,605
Richmond-Tweed	245,320	11	4.5	22,302	7	2.9	35,046	9	3.7	27,258	27	11.0	9,086
Mid-North Coast	315,097	4	1.3	78,774	4	1.3	78,774	7	2.2	45,014	15	4.8	21,006
Northern	187,685	7	3.7	26,812	6	3.2	31,281	10	5.3	18,769	23	12.3	8,160
North Western	100,091	8	8.0	12,511	6	6.0	16,682	22	22.0	4,550	36	36.0	2,780
Central West	205,763	0	0.0	^	1	0.5	205,763	6	2.9	34,294	7	3.4	29,395
South Eastern	221,054	0	0.0	^	0	0.0	^	3	1.4	73,685	3	1.4	73,685
Murrumbidgee	160,137	4	2.5	40,034	3	1.9	53,379	10	6.2	16,014	17	10.6	9,420
Murray	119,374	3	2.5	39,791	6	5.0	19,896	4	3.4	29,844	13	10.9	9,183
Far West	22,480	4	17.8	5,620	4	17.8	5,620	7	31.1	3,211	15	66.7	1,499
NSW	**7,301,827**	**259**	**3.5**	**28,192**	**270**	**3.7**	**27,044**	**364**	**5.0**	**20,060**	**893**	**12.2**	**8,177**

* Rate in this table is expressed per 100,000 resident population.

⁺ The ratio shows the number of persons in the region for every public legal solicitor in the region.

^ No public legal assistance solicitors practised civil law in the Central West and South Eastern regions; no public legal solicitor practised family law in South Eastern (however, see footnote 50).

Notes: The grand total of 893 is more than the number of public legal assistance solicitor positions (751) because multiple areas of law could be recorded. This table excludes law reform and special projects.

Highlighted cells indicate regions with a ratio of residents to public legal solicitors that was at least *25 per cent higher* than the state figure for that area of law (i.e. civil law: 35,240 or higher; family law: 33,805 or higher; criminal law: 25,075 or higher; all: 10,221 or higher).

Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

In combination, these two factors create geographical inequalities with regard to local citizens having (or not having) access to public solicitors practising civil, family and/or criminal law. For example:

- The Far West had no specialist public legal assistance solicitor practising civil law or family law. However, the four CLC solicitors based in this region indicated that they were 'general practitioners' and covered all three broad areas of law.
- While half the Murray region's six CLC solicitors covered all three areas of law, there was no public legal assistance solicitor in this region who exclusively practised civil law or criminal law.
- South Eastern NSW only had ALS solicitors[60] and these solicitors specialised in providing criminal law services for Indigenous residents only.
- The Central West had no public legal assistance solicitors who practised civil law and only one who practised family law. Six of the seven public legal assistance solicitors in this region provided criminal law advice.

While the Murrumbidgee and Mid-North Coast regions had, at that time, no CLC solicitor positions, both regions had each practice area covered by three or more individual public legal assistance solicitors who specialised in that area of law.

Another way of examining any unevenness in the distribution of public legal assistance solicitors practising civil, family and criminal law is to derive per capita rates using the number of solicitors practising each area of law as a function of the resident population of each region.[61] These per capita rates may also be expressed as solicitor-to-population ratios — also provided in Table 30. For example, as at 30 June 2011, in the Richmond-Tweed region, there was one resident public legal assistance solicitor practising civil law for every 22,302 persons living in that region, or 4.5 solicitors for every 100,000 residents.

The per capita measures indicating access to resident public legal assistance solicitors practising civil, family and criminal law in 2011 shows that there were four regions with very limited (or no) access to the services of resident public legal assistance solicitors practising particular areas of law (also see Figures 11, 12 and 13):

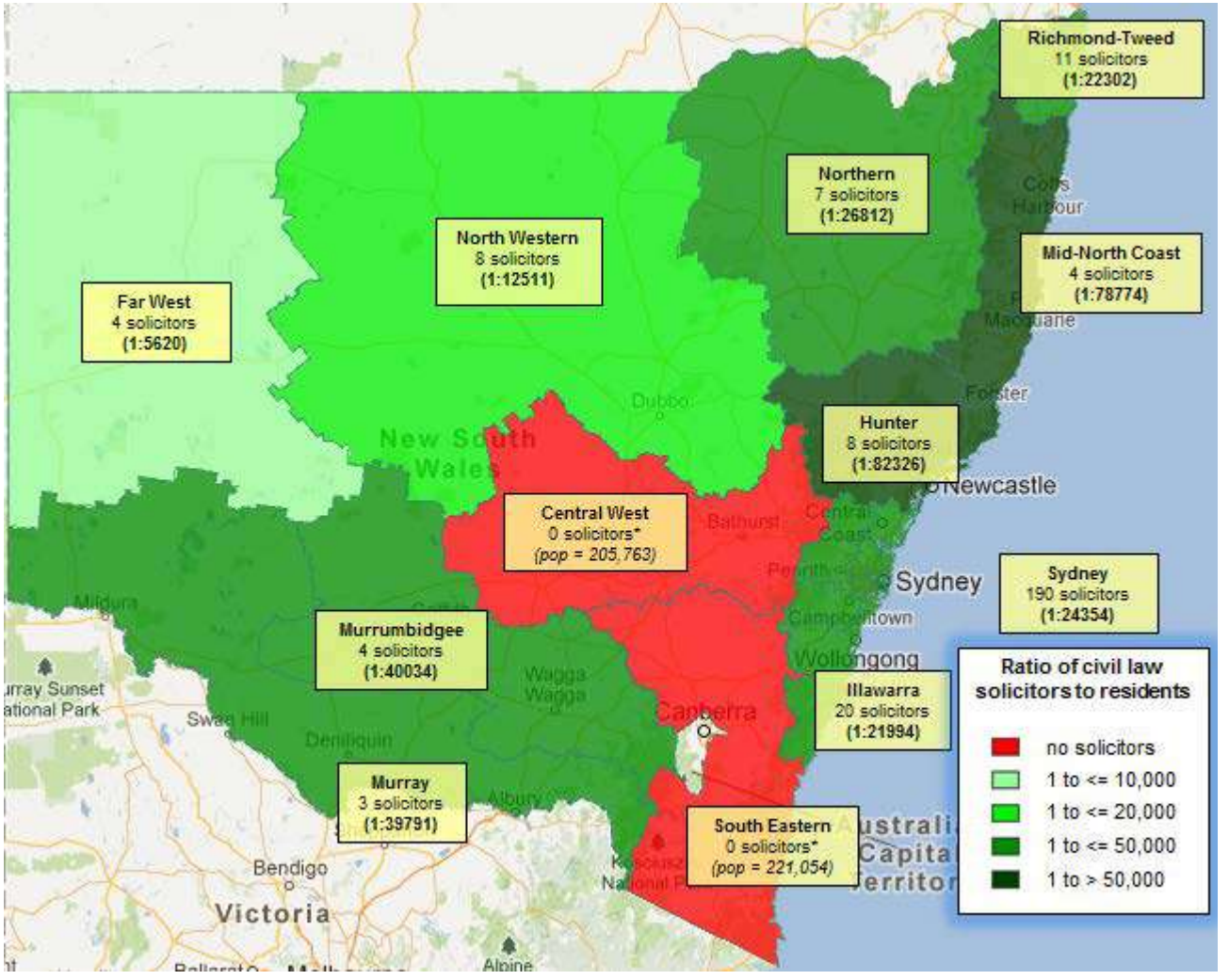
- The Hunter emerged as a region with low per capita rates of public legal assistance solicitors across all areas of law. In this region, for every public legal assistance solicitor who practised civil law there were 82,326 residents; for family and criminal law, the figures were one solicitor for every 41,163 and 31,362 residents, respectively.
- The Mid-North Coast region had just 1.3 public civil law solicitors per 100,000 residents or one civil law solicitor for every 78,774 residents. It also had the same ratio for public legal assistance solicitors who practised family law. It was slightly better off in terms of residents being able to access solicitors for criminal law matters, with one resident public criminal law solicitor for every 45,014 residents.
- The Central West region had no public legal assistance solicitor who practised civil law and only one public family law solicitor available to assist its 205,763 residents. It fared relatively better in terms of criminal law services with one public criminal law solicitor for every 34,294 residents.
- The South Eastern region was clearly the worst off. It had one public criminal law solicitor for every 73,685 residents and did not have a single public legal assistance solicitor who practised civil law or family law.[62]

60 See footnote 50 concerning a part-time Legal Aid NSW family law solicitor based in Bega.

61 The 'All' figure per capita rates for regions in Table 30 do not correspond to the per capita rates in Tables 18 and 19. This is because Table 30 counts the (multiple) areas of law practised by public legal solicitors rather than individual solicitor positions. Thus, if a solicitor practised two areas of law, that solicitor was counted twice in Table 30.

62 See footnote 50 concerning a part-time Legal Aid NSW family law solicitor based in Bega.

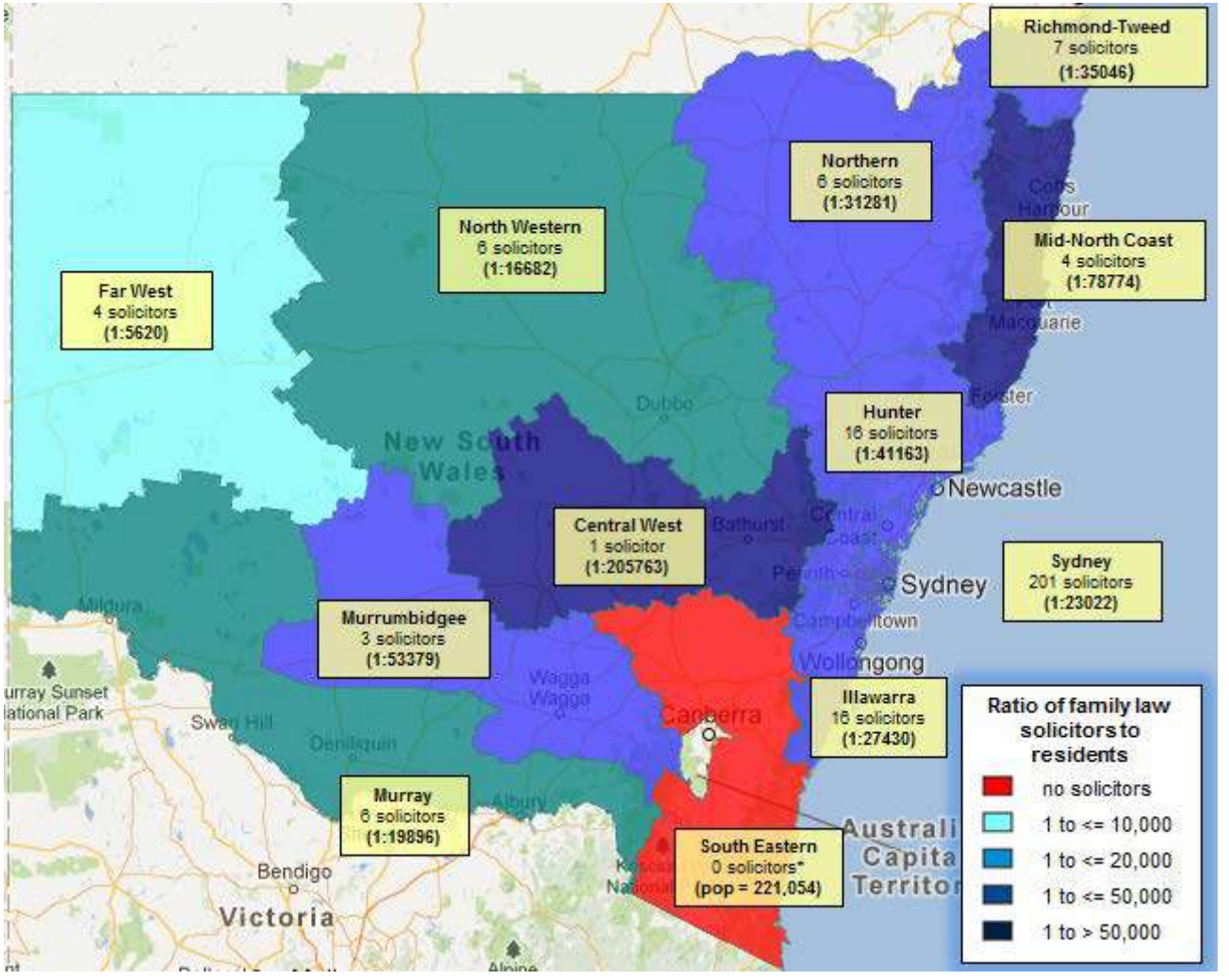
Figure 11: Ratio of civil law solicitors (ALS, CLC and Legal Aid NSW solicitor positions) to residents by NSW region (30 June 2011)



Notes: Includes solicitors employed by FVPLS where provided in an ALS or CLC return. Duty solicitors and (any) outreach solicitors not included.

Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

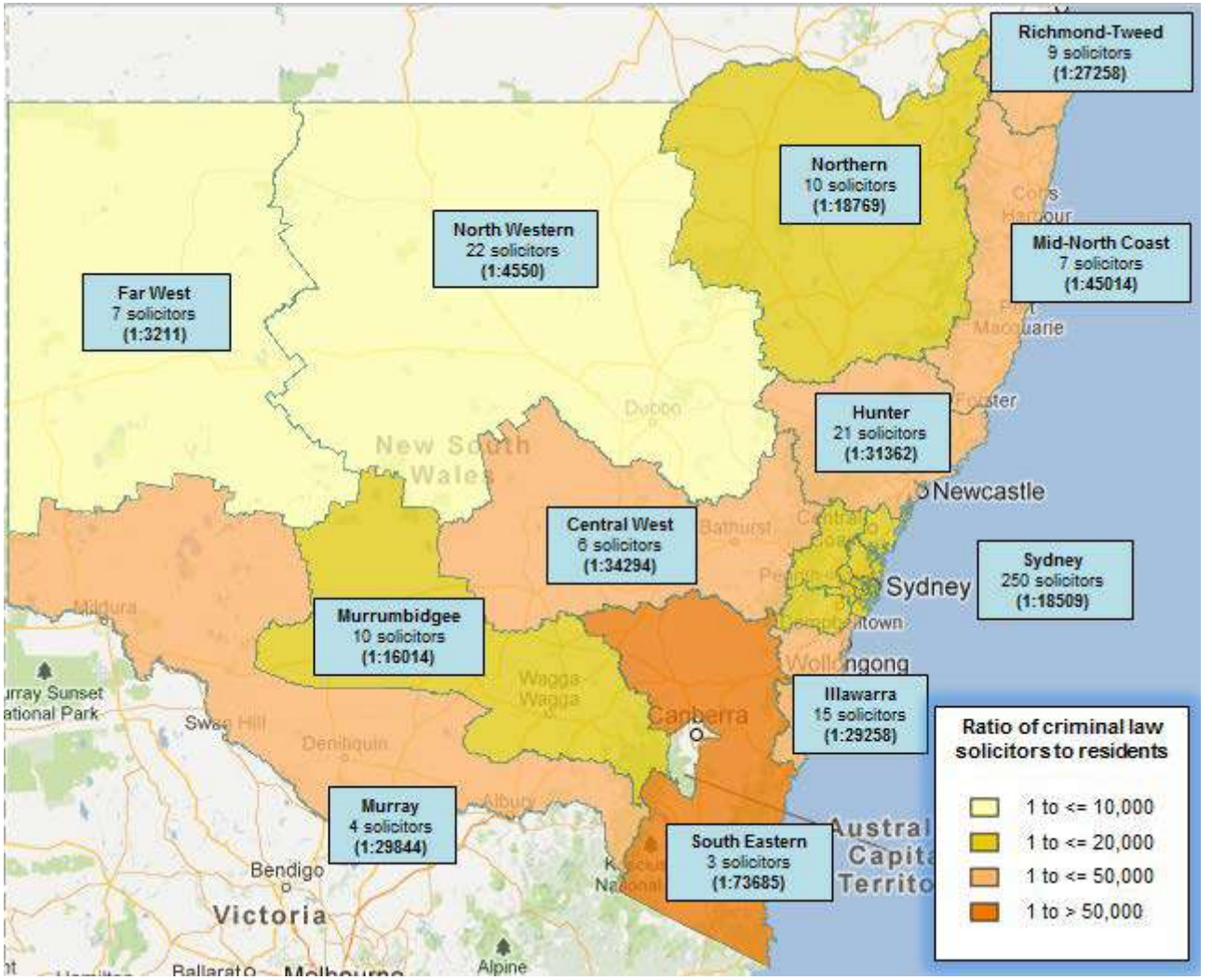
Figure 12: Ratio of family law solicitors (ALS, CLC and Legal Aid NSW solicitor positions) to residents by NSW Region (30 June 2011)



Notes: Includes solicitors employed by FVPLS where provided in an ALS or CLC return. Duty solicitors and (any) outreach solicitors not included.

Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

Figure 13: Ratio of criminal law solicitors (ALS, CLC and Legal Aid NSW solicitor positions) to residents by NSW Region (30 June 2011)



Notes: Includes solicitors employed by FVPLS where provided in an ALS or CLC return. Duty solicitors and (any) outreach solicitors not included.

Sources: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011) and ABS 2013a.

There were three other country regions of NSW that had limited access to public legal assistance solicitors in one or more of the three broad areas of law:

- Richmond-Tweed had one local solicitor for every 35,046 residents in the area of family law and one solicitor for every 27,258 residents in the area of criminal law.
- In the Murrumbidgee region, the public legal assistance solicitors who practised civil law each had a potential client base of 40,034 residents, while for every public legal assistance solicitor in the region who practised family law, the potential client base was around 53,379 residents.
- In 2011, the Murray region appeared to be short of public legal assistance solicitors who practised civil law (one solicitor for every 39,791 residents) and criminal law (one solicitor for every 29,844 residents).

The Far West, Northern and North Western regions did not exhibit any poor solicitor to population ratios across any area of law but, realistically, they already are susceptible to inequalities in service provision. Their huge geographic expanses, the remoteness of some of their communities, their widely spread populations and the large travel distances involved in providing legal services to people living outside the main centres in these regions make them quite different to the other regions in NSW.

Retention of public legal assistance solicitors

It was identified in the predecessor study that there was constant 'jockeying' to fill solicitor positions in RRR areas with many positions filled in a temporary or casual capacity by locums, junior solicitors and paralegals. Other solicitor positions were held by lawyers on secondment from another public legal service agency or even a local law firm. Agencies went to great lengths to keep solicitor positions filled and it was noted that:

> *... without being filled in these ways ... many of these positions, particularly in RRR NSW, would have remained unoccupied.* (Forell et al. 2010, pp.79-80)

As a measure to assess the retention of public legal assistance solicitors across NSW, this report (as per the first study) adopted the number of months that a solicitor position was filled since it was last vacant. The analysis included all solicitor positions occupied on 30 June 2011 regardless of whether the position was filled by an incumbent or a non-incumbent; by a permanent, casual or temporary employee; or by a solicitor or some other person, such as a coordinator, junior solicitor or paralegal. Only those solicitor positions that were missing information relating to the number of months filled since last vacant — a total of 29 positions (or four per cent of valid records) — were excluded from analysis.

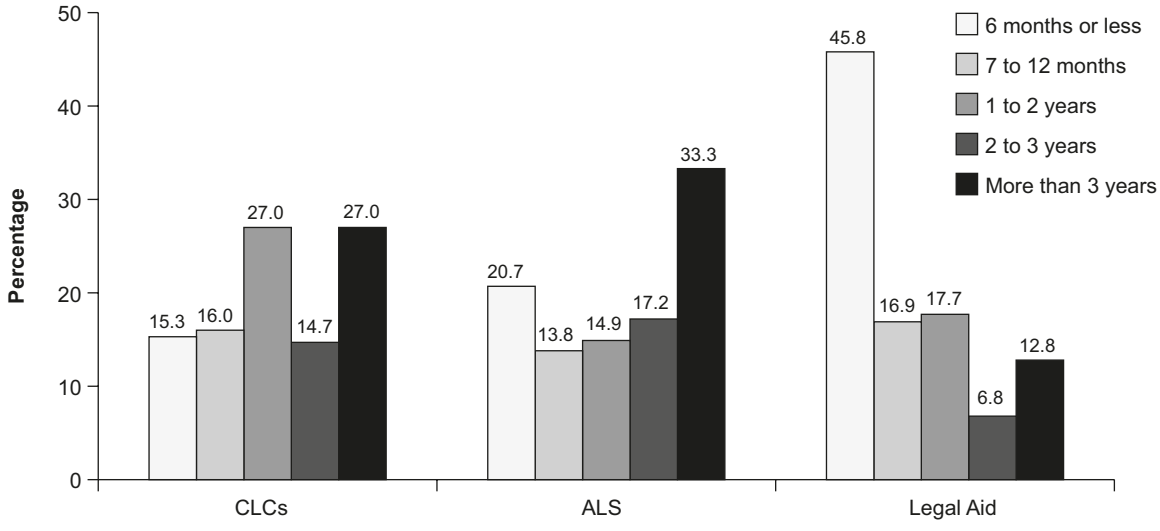
Figure 14 provides information on this measure of retention for all three public legal assistance services.[63] Across CLCs, around 15 per cent of solicitor positions were filled for six months or less; this figure was slightly higher in the ALS at just below 21 per cent. In Legal Aid NSW, over 45 per cent of solicitor positions were filled for six months or less at the time of our 2011 census. This may have a lot to do with the high level of positions in Legal Aid that were filled by a casual, locum or by secondment, as over 40 per cent of Legal Aid positions on the census date were filled by a person other than the incumbent (see Table 22).

Around one half (50.5%) of ALS solicitors were in their job for two years or longer; the corresponding figure for CLCs was somewhat lower (42%), but still much higher than for Legal Aid NSW, where under 20 per cent of its solicitors had been in the position for two years or longer.

In summary, the three agencies show different patterns of solicitor retention. The ALS had many long-employed solicitors counter-balanced by a significant proportion of solicitors relatively new to their positions. Generally, across CLCs there was a reasonably even spread of solicitors in terms of the number of months they had been in their position. In Legal Aid NSW, there was a heavy imbalance with less than one in five solicitors being in the job for two years or longer. In fact, 63 per cent of Legal Aid solicitors could be considered 'new comers' having only been in the job, at most, for 12 months. This, in large part, reflects the high number of casual and temporary appointments to solicitor positions in that organisation (see Table 21).

63 The data table for this chart is provided in Appendix H.

Figure 14: Filled public legal assistance solicitor positions – number of months filled since last vacant by NSW agency (30 June 2011)



Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions *were* included. The records of 29 occupied solicitor positions within Legal Aid NSW that were missing information on months filled since last vacant were not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

This agency-specific pattern is also evident by examining mean and median values for the periods that public legal assistance solicitors have occupied their positions. Table 31 reveals a clear difference between the average time in position for Legal Aid NSW solicitors (mean=15.6 months), which was less than half that for solicitors employed by CLCs or the ALS.

Table 31: Average number of months that public legal assistance solicitor positions were filled, by NSW agency (30 June 2011)

		Months filled since vacant	
Agency	***No. of solicitors***	***Mean***	***Median***
CLCs	163	32.4	24.0
ALS	87	41.2	26.0
Legal Aid	413	15.6	7.8
All positions	**663**	**23.1**	**12.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions *were* included. The records of 29 occupied solicitor positions within Legal Aid NSW that were missing information on months filled since last vacant were not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

The median values are even more telling, with half of all Legal Aid NSW solicitors in their position for 7.8 months or less, whereas half of all CLC and ALS solicitors had been in the job for two years or longer. However, this table includes both solicitor positions filled by incumbents and those filled by non-incumbents, so the mean and median values are affected by the proportion of positions within each service occupied by non-incumbents, which for Legal Aid NSW is over 40 per cent of its solicitor positions (see Table 22).

Table 32 shows that clear interagency differences in 'time in position' still exist, even when only incumbent occupied positions are examined. However, the average time in a position for Legal Aid NSW solicitors was considerably higher once the non-incumbent solicitors were removed. Incumbent Legal Aid NSW solicitors had served an average of 22.2 months in the position (with a median of 12.1 months). The mean time in position for ALS solicitors was much longer at around 48 months (median of 29 months) once non-incumbent positions were removed.[64]

Table 32: Average number of months that incumbent occupied public legal assistance solicitor positions were filled by NSW agency (30 June 2011)

		Months filled since vacant	
Agency	***No. of solicitors***	***Mean***	***Median***
CLCs	152	31.7	24.0
ALS	69	47.9	29.0
Legal Aid	232	22.2	12.1
All positions	**453**	**29.3**	**18.0**

Notes: Only positions occupied by *incumbents* were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions *were* included. The records of 29 occupied solicitor positions within Legal Aid NSW that were missing information on months filled since last vacant were not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Table 33 provides a regional breakdown of time in position for all solicitors working for CLCs, the ALS or Legal Aid in NSW.[65] The longest serving solicitors, at least in terms of the position they held on 30 June 2011, were located in the Mid-North Coast, Northern, Central West, South Eastern and Murrumbidgee regions. In these five regions, at least 50 per cent of their public legal assistance solicitors had been in their job for two years or more. Less than 30 per cent of public legal assistance solicitors across NSW had been in their position for that length of time. Other regions with reasonable levels of long-serving solicitors included the Hunter, Illawarra and Richmond-Tweed.

The North Western region had the highest level of public legal assistance solicitors with the least time in their positions, with almost 48 per cent of its solicitors recording less than six months in the job. The Murray and Sydney regions also contained high levels of solicitors with less than six months in their position.

This may also have a lot to do with the number of casual employees occupying solicitor positions in these regions. However, for the Sydney region, it is also likely to reflect a higher level of temporary and casual appointments to short-term and special statewide projects set up primarily through non-recurrent legal service funding.

64 In contrast, solicitor positions within Legal Aid NSW that were occupied by someone other than the incumbent (some 40 per cent of all Legal Aid solicitor positions), on average, were filled for just 7.1 months (median of 4.3 months). Within the ALS, non-incumbent occupied solicitor positions (some 21 per cent of all ALS solicitor positions) were filled for an average of 15.3 months (median of 10.5 months). Within CLCs, non-incumbent occupied solicitor positions (some six per cent of all CLC solicitor positions) were filled for an average of 41.7 months (median of 12.0 months).

65 This report does not provide a regional analysis by individual public legal assistance service.

Table 33: Filled public legal assistance solicitor positions – number of months filled since last vacant by NSW region (30 June 2011)

Months filled since vacant	Sydney		Hunter		Illawarra		Richmond-Tweed	
	N	%	N	%	N	%	N	%
3 months or less	112	23.3	5	14.7	3	7.7	6	27.3
4 to 6 months	67	14.0	4	11.8	4	10.3	5	22.7
7 to 12 months	80	16.7	6	17.6	11	28.2	0	0.0
1 to 2 years	104	21.7	6	17.6	3	7.7	3	13.6
2 to 3 years	43	9.0	6	17.6	5	12.8	1	4.5
More than 3 years	74	15.4	7	20.6	13	33.3	7	31.8
Total	**480**	**100.0**	**34**	**100.0**	**39**	**100.0**	**22**	**100.0**

Months filled since vacant	Mid-North Coast		Northern		North Western		Central West	
	N	%	N	%	N	%	N	%
3 months or less	1	7.7	1	5.6	6	26.1	1	14.3
4 to 6 months	3	23.1	2	11.1	5	21.7	1	14.3
7 to 12 months	0	0.0	3	16.7	4	17.4	0	0.0
1 to 2 years	1	7.7	3	16.7	3	13.0	0	0.0
2 to 3 years	2	15.4	1	5.6	3	13.0	2	28.6
More than 3 years	6	46.2	8	44.4	2	8.7	3	42.9
Total	**13**	**100.0**	**18**	**100.0**	**23**	**100.0**	**7**	**100.0**

Months filled since vacant	South Eastern		Murrumbidgee		Murray		Far West	
	N	%	N	%	N	%	N	%
3 months or less	0	0.0	1	7.1	0	0.0	1	20.0
4 to 6 months	0	0.0	2	14.3	2	33.3	0	0.0
7 to 12 months	0	0.0	2	14.3	1	16.7	1	20.0
1 to 2 years	1	50.0	1	7.1	2	33.3	3	60.0
2 to 3 years	0	0.0	4	28.6	0	0.0	0	0.0
More than 3 years	1	50.0	4	28.6	1	16.7	0	0.0
Total	**2**	**100.0**	**14**	**100.0**	**6**	**100.0**	**5**	**100.0**

Months filled since vacant	NSW	
	N	%
3 months or less	137	20.7
4 to 6 months	95	14.3
7 to 12 months	108	16.3
1 to 2 years	130	19.6
2 to 3 years	67	10.1
More than 3 years	126	19.0
Total	**663**	**100.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions *were* included. The records of 29 occupied solicitor positions within Legal Aid NSW that were missing information on months filled since last vacant were not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Marked differences are also evident when comparing NSW regions in terms of the mean and median months in position (Table 34). In certain regions, a high degree of stability was noted amongst solicitors. For example, within the Mid-North Coast, Northern, Central West and South Eastern regions, half of all their public sector solicitors had held their current position for two and a half years or longer. In the case of the two South Eastern solicitors, each had been in their job for more than six years. In the case of the 13 Mid-North Coast solicitors, they averaged just less than six years in their current public sector job.

Elsewhere, the average time in position for solicitors was quite low when compared to the state average of 23 months (median=12 months). Time in position was below average for public legal assistance solicitors located in the Far West (mean=14.0 months), North Western (mean=14.4 months) and Murray (mean=19.5 months) regions. Half of all public legal assistance solicitors in the North Western region had been in the job for less than seven months.

Table 34: Average number of months that public legal assistance solicitor positions were filled by NSW region (30 June 2011)

		Months filled since vacant	
Region (SD)	***No. of solicitors***	***Mean***	***Median***
Sydney	480	20.1	10.9
Hunter	34	24.3	18.0
Illawarra	39	31.9	15.9
Richmond-Tweed	22	24.3	9.4
Mid-North Coast	13	68.5	30.0
Northern	18	38.9	30.0
North Western	23	14.4	7.0
Central West	7	58.4	36.0
South Eastern	2	73.0	73.0
Murrumbidgee	14	27.2	28.9
Murray	6	19.5	13.5
Far West	5	14.0	15.0
NSW	**663**	**23.1**	**12.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions *were* included. The records of 29 occupied solicitor positions within Legal Aid NSW that were missing information on months filled since last vacant were not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Possible explanations for this relatively low figure are that these positions were newly created or there had been a relatively high level of turnover of positions recently in this region. The same may be the case for public legal assistance solicitors in the Richmond-Tweed region, as half of these solicitors had been in their position for nine months or less.

In terms of remoteness, public legal assistance solicitors in Outer Regional NSW had served the longest in the positions they held when our census was taken (Table 35). Outer Regional public legal assistance solicitors served an average of 48 months in their positions, twice the state average. However, as this difference is not also reflected in a substantially higher median value, a number of very long-serving solicitors in Outer Regional areas are obviously contributing to the high mean value.

Table 35: Average number of months that public legal assistance solicitor positions were filled by Remoteness Area (30 June 2011)

		Months filled since vacant	
Remoteness area	***No. of solicitors***	***Mean***	***Median***
Major Cities	542	20.5	10.9
Inner Regional	103	33.6	21.9
Outer Regional	14	47.9	16.5
Remote/Very remote	4	12.3	10.5
NSW	**663**	**23.1**	**12.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions *were* included. The records of 29 occupied solicitor positions within Legal Aid NSW that were missing information on months filled since last vacant were not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Public legal assistance solicitors in Inner Regional areas were also relatively long serving, averaging over 33 months in their position. However, it should also be noted that half of all public sector solicitors situated in Inner Regional areas of NSW had spent 22 months or more in their positions, which is almost twice the median value for NSW.

The few public legal assistance solicitors who were based in Remote and Very Remote areas of the state were relatively new to their jobs, having only spent on average 12 months in the job. Even their median time in the position (10.5 months) was lower than the median value for the whole of NSW (12.0 months) but comparable, nevertheless, with the median time in position for their Major Cities counterparts (10.9 months).

Length of vacancies

An indicator of recruitment difficulties is the time that a position remained vacant. As previously mentioned, at the time of our 2011 census of public legal assistance solicitor positions there were a total of 59 vacant positions: 11 in CLCs, two in the ALS and 46 vacant positions in Legal Aid NSW. Unfortunately, the length of time that positions were vacant was not provided by one agency resulting in a high level of missing values for this measure. Thus, it was not possible to proceed with a detailed analysis of this variable.

Some information on the length of vacancies and the difficulties of recruiting and retaining solicitors in remote areas of NSW was provided by principal solicitors and coordinators in their census returns to the Foundation. These are provided in annotated form below:

> *The principal solicitor position was relatively poorly paid and difficult to fill until the Board realised that it needed to provide a more competitive salary. The position was advertised twice and, in the end, had to go to Law Staff [a specialist legal and corporate recruitment firm] to recruit due to the difficulties in getting someone to work in such a remote location.* (A remote CLC)

> *There was a period in 2007 where we had great difficulty in attracting a Principal Solicitor. We advertised from the Queensland to the Victorian border at great cost to no avail. A local solicitor stepped in for the interim. Since then, we have used a succession system which seems to be working well. Rates of pay are the cause of some discontent. We do try to give a bonus but this is always dependent on funding levels and is never consistent.* (Another remote CLC)

> *We used job sharing. This is a great option for filling this position and opens opportunities for experienced solicitors with young families to keep working while also having time to spend with their children. From the Centre's perspective it is good also as two solicitors seem to have more capacity than just one solicitor. It also avoids burn out that a full-time position doing difficult work can create.* (An inner regional CLC)

The pay rates represent recent increments made to base salary rates to address difficulty in retention and attracting suitable staff. Regarding retention, some solicitors expressed that whilst they enjoyed working in this CLC it was not financially viable. Generally speaking, it is difficult to recruit appropriately qualified solicitors because of the large discrepancy between CLC and private practice pay rates and other public sector pay rates. Also CLCs tend to be utilised as a career development path, rather than the ultimate career destination. (A generalist CLC located in Sydney)

We have had difficulty recruiting a principal solicitor and specialist solicitor before. Even though we offer comparatively high wages, getting good quality principal solicitors has been a challenge. We have sometimes had to re advertise. (Another generalist CLC located in Sydney)

It will be good when the pay equity case filters through as young solicitors find the current pay regime difficult in terms of borrowing to buy their first home etc. The staff generally love the variety of work and are sorry to leave, but often have to because of financial reasons. (Another generalist CLC located in Sydney)

When recruiting, we had to advertise twice. The incumbent could earn over twice our salary but chose [our CLC] temporarily for personal reasons. We had to employ a solicitor with less legal and court experience than we were seeking. We also had to initially employ a PLT [practical legal training] student who later became qualified. (Another generalist CLC located in Sydney)

Recruitment and retention of staff is very difficult and I remain worried about continuity and succession. It is easy for the edifice to fall apart and very hard to reconstruct it. (Another generalist CLC located in Sydney)

We have the experience of our first and second choices for an advertised position as both rejected the employment offer on the grounds that pay was insufficient, especially at the low-middle end of the solicitor scale. (A specialist CLC)

We are in the fortunate position of having a variety of funding sources and core CLC funding only comprises about 12% of our income. This is a major factor in enabling our centre to pay higher salaries than other CLCs. However, these salaries are still well below those that are paid in government and the private sector for solicitors with similar experience and skills, particularly in litigation which is a regular part of our solicitors work [unlike most other CLCs]. (Another specialist CLC)

Our pay rates are higher than in the CLC sector generally as staff are employed under [special] award agreements. (Another specialist CLC)

Summary

In terms of sheer numbers, it is hardly surprising to find that most NSW public legal assistance solicitor positions were based in the Sydney region. This is the case for Legal Aid NSW and CLC solicitor positions and for ALS solicitor positions as well. Outside of Sydney, large numbers of public legal assistance solicitor positions are based in the Hunter and Illawarra regions and this in itself is unremarkable. However, when one takes into consideration the base residential population of each region, it becomes apparent that public legal assistance solicitor positions are not uniformly distributed across NSW.

There are whole regions (and, therefore, large sections of the rural community) that do not have access to the services of a solicitor from one or more of the three main public legal assistance services in NSW being based in that area. For instance, the South Eastern region was limited to the 'on the ground' services of three ALS solicitors as there was no Legal Aid NSW office or CLC in this region. Similarly, the Murray region did not have a locally-based Legal Aid or ALS solicitor.

In NSW, there were around nine Legal Aid NSW and/or CLC solicitor positions[66] for every 100,000 residents. However, positions were not always located where there were sizeable residential populations. The Far West region had four such solicitor positions to service a base population of 22,480 people. In addition, it had three ALS solicitors to legally assist an Indigenous community comprising 2,189 individuals, much fewer than in any other NSW region.

66 Includes FVPLS solicitor positions (see *Appendix A: Method in detail*).

Public legal assistance solicitor positions were not evenly distributed across NSW — not in a geographic sense anyway. Nor did the locations of where these solicitor positions were based necessarily reflect where large residential populations, even large Indigenous populations, were based. The Central West region is a good example. It has a population of around 205,763, which is greater than that of the Northern region, yet it has one-third the number of Legal Aid NSW and CLC solicitor positions. It has one ALS solicitor for every 3,490 Indigenous residents, whereas the Northern region has one ALS solicitor for every 2,256 Indigenous residents.

As identified in Forell et al. (2010), the ALS appears to be the most geographically dispersed of the three main public legal assistance services in NSW and, whether by luck or design, the ALS has solicitors based in regions where there are no Legal Aid NSW offices or CLCs. However, this does not help *non*-Indigenous residents in accessing public legal assistance.

Furthermore, the fact that there is a Legal Aid NSW office or CLC or ALS located in a region does not mean a person with a legal issue is going to be able to get help for their specific problem. This is because in addition to having a targeted clientele, the ALS provides assistance primarily for criminal law matters — essentially, it does *not* provide a civil law service or assistance for family law problems other than for care and protection matters.[67] Likewise, around one in every two Legal Aid solicitors practises criminal law, around one-quarter practise family law and fewer still practise civil law. Therefore, it is *only* in regions where there is a generalist CLC that residents will have a reasonable level of access to public legal assistance solicitors providing broad civil law services.[68]

As our census revealed, the South Eastern region had the highest number of residents per public legal assistance solicitor — one solicitor for every 73,684 people. However, the South Eastern region only had ALS criminal law practitioners. While these solicitors were available to its Indigenous residents, there were no locally available public legal assistance solicitors to advise Indigenous residents on family law and civil law problems. Even more disadvantaged, were the *non*-Indigenous residents of the South Eastern region, who do not have access to the local ALS solicitors. Non-Indigenous residents of South Eastern did not have access to *any* public legal assistance solicitor based in the region who practised civil law, family law or criminal law — although as yet grants of legal aid provided by private lawyers have not been accounted for (see *Chapter 5: Grants of legal aid*). Similarly, where available, court-based duty lawyers and outreach services will provide some level of service across all areas of law.[69]

Other residents in RRR NSW also experienced difficulties in accessing public legal assistance solicitors practising across all three broad areas of law. The Mid-North Coast, the Central West and the Hunter regions had ratios of residents to solicitors far above the state average for all three areas of law. The Richmond-Tweed, Murrumbidgee and Murray regions suffered from high residents to solicitor ratios across two of the three broad areas of law.

Importantly, there is little value in the presence of public legal assistance solicitor positions if those positions are vacant. On the day of the Foundation's census, one in every twelve (7.9%) public legal assistance solicitors was vacant. This was slightly higher than in 2009 (i.e. 7.2%). Agency differences were noted — the ALS recorded the lowest level of vacant positions (2.2%), Legal Aid NSW recorded the highest (9.4%) and six per cent of CLC solicitor positions were vacant on the day of our census.

As in 2009, Far West was the only region with a statistically significant number of vacant positions in 2011 — two of the seven public legal assistance solicitor positions in Broken Hill were unoccupied.

Across all three services, 30 per cent of public legal assistance solicitor positions were filled by someone other than the incumbent, through a casual or temporary appointment, secondment or use of a locum; although the largest number of such positions were within Legal Aid NSW. The proportion of solicitor positions occupied by someone other than the incumbent was more than ten and four times the actual level of vacant solicitor positions in the ALS and Legal Aid, respectively. In the CLC sector, the proportion of solicitor positions filled by someone other than the incumbent was

67 Since this research was undertaken, the ALS (NSW/ACT) commenced a limited family law service.

68 Even then, CLC solicitors do not generally provide representation at court, even for civil law matters.

69 According to its annual report, Legal Aid NSW provides lawyers in various courts and tribunals throughout New South Wales. In 2011-2012 it provided a total of 171,744 duty services (108,198 of these were provided in-house and 63,546 were provided by private lawyers). It also provides advice services in 14 highly disadvantaged RRR towns across NSW under its Regional Outreach Clinic Program (Legal Aid 2012, p.11; p33)

equal to the level of vacant positions at just over six per cent.

In certain parts of NSW, namely the Hunter, North Western, Richmond-Tweed, Central West, Murrumbidgee and Far West regions, the percentage of public legal assistance solicitor positions filled by non-incumbents exceeded one in every four positions. Without recourse to filling positions in this way, many of these RRR solicitor positions would have remained unoccupied, which, in turn, would clearly be to the detriment of local residents who required the assistance of a public legal sector lawyer.

The disparity in solicitor salaries across the three services creates, and may continue to create, recruitment and retention difficulties for CLCs and the ALS. At the time of the Foundation's 2011 census, CLC and ALS Solicitors were paid an annual salary that was, respectively, 27 per cent and 29 per cent less than the average annual salary for Legal Aid NSW Solicitors; and Senior Solicitors in Legal Aid NSW were paid around 27 per cent more than Senior Solicitors in the ALS, and 37 per cent more than their counterparts in NSW CLCs.

While there may be good reasons for such large salary disparities — such as differences in workload including, for Senior Solicitors, the supervision of lower graded Solicitors — there is little doubt that higher salaries in one organisation may result in the migration of solicitors from other legal services. Aside from losing solicitors to organisations that pay more — which was a main finding from our interviews with public legal solicitors in the first study and the viewpoint stated by a number of CLC managers in this study — solicitors will also be tempted to transfer and take up similar but higher paid *casual* and *short-term* positions in another organisation. These movements will be mirrored in the higher level of positions filled by solicitors on secondment, temporary and casual appointment in the higher paying organisation. In the case of the agency gaining the solicitor, this may be reflected in a large number of temporary employees and seconded positions. In the case of the agency 'losing' the solicitor, this may be reflected in a large number of positions that are backfilled or which remain vacant.

In addition, remembering that the higher paid Legal Aid NSW positions are located only in the major cities and inner regional areas of the state, the take up of better-paid solicitor positions in Legal Aid NSW will also mean the migration of public legal assistance solicitors *out of* the more remote parts of NSW. Further evidence of this is reflected in the following statistics:

- Public legal assistance solicitors working in Remote and Very Remote NSW tend to have fewer years of public legal experience. They averaged less than two years of public legal sector experience compared with the state average of just below eight years.
- The inexperience of public legal assistance solicitors in remote locations also extended to their time in the position. Solicitors based in Remote/Very Remote areas had been in the job for an average of only 12 months which was around half that for all public legal assistance solicitors in NSW.
- A high proportion of the state's most experienced and long-standing public legal assistance solicitors were based in Inner Regional areas of NSW. For instance, in the Central West, public legal assistance solicitors averaged 12 years of public legal sector experience and averaged almost five years in their current jobs. On the Mid-North Coast, public legal assistance solicitors averaged almost 10 years of public legal sector experience and six years in the position.

Finally, regional differences in the number and per capita rate of public legal assistance solicitors need to be considered in the light of 'amenity' and other characteristics on which regions differ. Differences include the physical expanse of regions, their level of geographic isolation, the spread of their resident populations, the level of socio-economic disadvantage of their communities and the number, type and quality of legal services (resident and otherwise) operating in each region. An important dimension of resident or 'on the ground' services is the availability of private lawyers to provide legal assistance through grants of legal aid — this is the topic of discussion in the next chapter of this report.

5. Grants of legal aid

Private solicitors are a key partner with Legal Aid NSW in the delivery of legal aid services across NSW. As is the case with other Australian and international jurisdictions, Legal Aid NSW provides legal aid services through a 'mixed' model utilising both in-house solicitors and private practitioners.[70]

Legal Aid NSW operates 21 offices across NSW to serve its client group. The economic reality is that Legal Aid cannot operate an office in every town; nor is it possible for its in-house solicitors to provide outreach services to every rural community in NSW. Private solicitors, representing clients under grants of legal aid, therefore, are an essential component of the legal aid system in NSW. However, providing quality legal aid services across NSW remains a continuing challenge, especially in remote areas where high socio-economic disadvantage coincides with low solicitor numbers. Private solicitors, particularly in rural areas, may undertake grants of legal aid as well as participating in duty solicitor rosters at local courts.

Legal Aid NSW regularly revises its policies for approving and administering legal aid grants and the appointment of additional private lawyers to its legal aid panels is a key strategy to ensure 'more people can access legal aid'[71] (Legal Aid NSW 2012, p.17). The ability of a private lawyer to undertake legal aid work is contingent upon their being appointed as a member of a legal aid panel. Legal Aid made 458 additional appointments to legal aid panels in 2011-12, which brought the total number to 3,918 or 13 per cent more than the previous year (Legal Aid NSW 2012, p.33). Panels operate across many areas of law, including general panels in criminal, family and civil law.[72] A private lawyer may be appointed to more than one legal aid panel.

The role of private lawyers in legal aid work is important also as a means of overcoming 'conflict of interest'. The relationship between solicitor and client is a fiduciary relationship – that is, a special relationship of trust and confidence. Predominantly, legal issues are adversarial and involve two (or more) parties. More than one of these parties may be seeking assistance from Legal Aid; however, it can only represent one party.[73] By engaging an independent legal practitioner to represent a second party in a matter in which it is already involved, Legal Aid NSW is able to avoid fiduciary conflict.

It is apparent from its published statistics that private lawyers carry a large part of the grant workload for Legal Aid NSW. Of the 38,751 grants of legal aid in the 2011–12 financial year, 25,932 grants, or two-thirds, were allocated to private lawyers (Legal Aid NSW 2012, Appendix 7, p.135).

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70 Legal aid organisations in other Australian states/territories and in overseas jurisdictions such as Alberta, Canada also adopt a 'mixed' model for delivering grants of legal aid (Legal Aid Commission ACT 2012; Legal Aid Alberta (Canada) 2012; Legal Aid Queensland 2012; Legal Aid Victoria 2012; Legal Aid WA 2012). For example, Legal Aid Queensland (2012, p. 22) reports that: 'more than 80 percent of our grants of aid are provided to private law firms, with the remainder going to our in-house practices'.

71 Clients can apply for a grant of legal aid through a Legal Aid NSW office or a private lawyer, who will complete an online application, or by completing a paper application form. Legal Aid operates a means test for grants of legal representation so that these services are targeted towards those who need them most. Its Grants Division receives, determines and manages legal aid applications from private lawyers and Legal Aid's in-house practice. Applications are submitted and managed electronically, and there is regular telephone contact with lawyers and clients (Legal Aid, 2012, p.33). For more information on the processes and conditions of applying for a grant of legal aid in NSW see the Legal Aid NSW website: (http://www.legalaid.nsw.gov.au/get-legal-help/applying-for-legal-aid).

72 There are also specialist panels for care and protection, independent children's lawyers, serious criminal law, children's criminal law, prisoners' legal service, mental health advocacy, veterans' law and domestic violence matters and for barristers briefed in complex criminal matters (Legal Aid 2012, p. 33). All private lawyers assigned legal aid work must first be appointed to a panel unless there are exceptional circumstances, including that the assignment of legal aid to a non-panel practitioner is considered to be an effective, efficient and economical way of allocating legal aid resources. On appointment to a panel, lawyers sign a service agreement and agree to comply with practice standards for the delivery of services to legal aid clients as well as audit requirements. Lawyers are then able to undertake legal aid work in the area of law covered by their panel.

73 Rule 9 of the Solicitors' Rules reflects the dangers recognised in the general law of acting for more than one party in the same matter (http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0005/5837/Conflict-of-interest-guidelines.pdf).

The 25,932 grants of legal aid in 2011–12 comprised:

- 945 (3.6%) civil law grants
- 14,655 (56.5%) criminal law grants
- 10,332 (39.8%) family law grants[74] (Legal Aid NSW 2012, p. 33).

A finer breakdown provided for these data (Table 36) shows that half of all the civil law grants, over sixty per cent of the criminal law grants and almost eighty per cent of the family law grants in 2011–12 were assigned to private lawyers.

Table 36: Legal Aid NSW — allocation of work to in-house and private lawyers (2011–12)

	In-house lawyer		*Private lawyer*		*Total*
Area of law	***N***	***%***	***N***	***%***	***N***
Family law					
Duty services	6,766	78.4	1,865	21.6	8,631
Grants of legal aid*	2,777	21.2	10,332	78.8	13,109
Sub-total	**9,543**	**43.9**	**12,197**	**56.1**	**21,740**
Criminal law					
Duty services	97,777	65.3	51,857	34.7	149,634
Grants of legal aid	9,110	38.3	14,655	61.7	23,765
Sub-total	**106,887**	**61.6**	**66,512**	**38.4**	**173,399**
Civil law					
Duty services	3,655	27.1	9,824	72.9	13,479
Grants of legal aid	932	49.7	945	50.3	1877
Sub-total	**4,587**	**29.9**	**10,769**	**70.1**	**15,356**
All areas of law					
Duty services	108,198	63.0	63,546	37.0	171,744
Grants of legal aid	12,819	33.1	25,932	66.9	38,751
Total	**121,017**	**57.3**	**89,478**	**42.5**	**210,495**

* Grants of legal aid for family law matters include care and protection matters.

Source: Reproduced from Legal Aid NSW 2012 (Appendix 7).

Grants and 'active' private lawyers

Legal Aid NSW provided the Foundation with information on private lawyers appointed to its family law, care and protection, civil law and criminal law panels. Information was also provided by Legal Aid NSW on the number and types of grants of legal aid assigned to private lawyers in 2010–11 (in line with this study's census date of 30 June 2011). These datasets were generated from Legal Aid NSW's grants database.

In this report, attention is focused on private lawyers practising in RRR areas who were assigned grants of legal aid, and the regional distribution of these assigned grants. The following information provides a compositional breakdown of these grants with regard to whether they related to civil law, criminal law, family law or care and protection matters (see Legal Aid NSW 2003).

Table 37 provides an overview of the number of private lawyers in each region of NSW who performed legally aided casework (for convenience, these are referred to as 'active' lawyers); it also shows a regional breakdown of grants allocated in 2010–11. From these two figures, the average number of grants allocated per active lawyer was calculated.

74 Grants of legal aid for family law matters include care and protection matters.

Table 37: Number of private lawyers allocated grants ('active lawyers') and number of grants allocated by region (2010–11)

	'Active' lawyers	*Grants allocated*	
Region (SD)	***N***	***N***	***Average per lawyer***
Sydney	766	13,664	17.8
Hunter	130	3,593	27.6
Illawarra	85	2,458	28.9
Richmond-Tweed	60	1,427	23.8
Mid-North Coast	72	2,614	36.3
Northern	60	1,794	29.9
North Western	25	617	24.7
Central West	40	913	22.8
South Eastern	47	1,065	22.7
Murrumbidgee	24	834	34.8
Murray	24	442	18.4
Far West	3	109	36.3
NSW (total)	**1,336**	**29,530**	**22.1**
Interstate	*20*	*178*	*8.9*
Grand Total	**1,356**	**29,708**	**21.9**

Note: Highlighted regions do not have a permanent 'on-the-ground' Legal Aid NSW office.

Source: Legal Aid NSW grants database (2010–11 data).

In the 2010-11 financial year, there were 29,530 grants of legal aid undertaken by 1,336 active private lawyers in NSW, or an average of 22 grants allocated to each active private lawyer in NSW over the 12-month period. Private lawyers in the Mid-North Coast, Murrumbidgee and Far West regions averaged more than 50 per cent higher in terms of the number of grants assigned per active lawyer.

Note that a private lawyer may be assigned grants in more than one area of law if that legal practitioner is registered with more than one legal aid panel. This is reflected in Table 38, where the number of private lawyers across all grants totals to more than 1,336 and the percentages sum to more than 100 per cent. This table shows that most private lawyers assigned grant work undertook criminal law grants. Following is the breakdown for the 1,336 NSW based private lawyers who were assigned grants of legal aid in 2010–11:

- 970 (or just under 73%) were involved in criminal law grant work
- 704 (or 53%) were assigned grants for family law work
- 311 (or 23%) were assigned grants for care and protection matters
- 165 (or 12%) were assigned grants for civil law matters.

With regard to civil law grant work, Sydney contained the highest number (100) of private lawyers assigned grants for civil law matters, followed by the Hunter (16) and the Mid-North Coast (12). Not one of the 25 North Western private lawyers assigned grants in 2010–11 undertook civil law work; similarly, not one of the three active lawyers in the Far West was assigned grants for civil law work. The Central West region had the highest percentage of active lawyers that provided civil law grants: 10 of the 40 private lawyers assigned grants in 2010–11 provided legally aided civil casework.

Across NSW, seven in every ten private lawyers who were assigned grants in 2010–11 took on criminal law grants. In some regions of country NSW, such as North Western (88%), South Eastern (85%) and Central West (83%), the proportion was much higher.

Around one in every two private lawyers assigned grants in 2010–11 provided their services in relation to family law work. However, across RRR NSW, the proportion of lawyers undertaking family law grants as a proportion of all lawyers undertaking grant work was regionally variable, with lower figures recorded for Murrumbidgee (42%) and North Western (48%) and higher figures recorded for Mid-North Coast (74%), Northern (75%) and Central West (93%).

Table 38: Regional distribution of private lawyers assigned grants ('active' lawyers) by type of grant (2010–11)

	'Active' lawyers	*Assigned grants*							
		Civil law		*Criminal law*		*Family law*		*Care and protection*	
Region (SD)	***N***	***N***	***%***	***N***	***%***	***N***	***%***	***N***	***%***
Sydney	766	100	13.1%	542	70.8%	338	44.1%	103	13.4%
Hunter	130	16	12.3%	81	62.3%	77	59.2%	27	20.8%
Illawarra	85	7	8.2%	65	76.5%	48	56.5%	29	34.1%
Richmond-Tweed	60	7	11.7%	40	66.7%	40	66.7%	20	33.3%
Mid-North Coast	72	12	16.7%	59	81.9%	53	73.6%	33	45.8%
Northern	60	4	6.7%	49	81.7%	45	75.0%	28	46.7%
North Western	25	0	0.0%	22	88.0%	12	48.0%	11	44.0%
Central West	40	10	25.0%	33	82.5%	37	92.5%	21	52.5%
South Eastern	47	5	10.6%	40	85.1%	28	59.6%	23	48.9%
Murrumbidgee	24	2	8.3%	18	75.0%	10	41.7%	6	25.0%
Murray	24	2	8.3%	19	79.2%	14	58.3%	8	33.3%
Far West	3	0	0.0%	2	66.7%	2	66.7%	2	66.7%
NSW	**1,336**	**165**	**12.4%**	**970**	**72.6%**	**704**	**52.7%**	**311**	**23.3%**

Notes: Row percentages total to more than 100 per cent because a private lawyer may be a member of more than one legal aid panel and therefore be assigned grants in more than one area of law. Private lawyers may also be engaged in other legally aided work (such as local court duty rosters) and they may also undertake pro bono work.

Highlighted cells indicate an above average level of 'active' private lawyers in the region compared to the state average for that particular area of grant work.

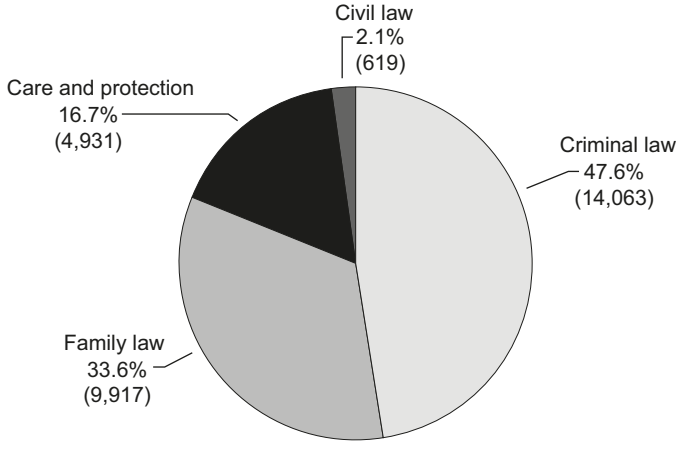
Source: Legal Aid NSW grants database (2010–11).

Care and protection matters did not appear heavily in the grants undertaken by private lawyers in Sydney and the Hunter. Only 13 per cent of Sydney lawyers active in grant work provided aid for care and protection matters; for Hunter lawyers the corresponding percentage was 21 per cent. The level of active care and protection panel grant work was generally higher in the country regions. The Far West had only three private lawyers active in grant work but two received grants for care and protection matters. In Northern, Central West and South Eastern NSW, the level of activity involving care and protection matters was also high, with around one in every two active lawyers undertaking grants in this area of law (as compared to the state average of one in four).

Nature of grants assigned to private lawyers

As Figure 15 shows, criminal law matters were the subject of almost half (47.6%) of all legal aid grant work performed by NSW private solicitors in 2010–11. Family law work made up a further third (33.6%) and care and protection matters another 16.7 per cent of legal aid grant work undertaken by private lawyers in 2010–11. Civil law work represented just over two per cent of the legal aid grant caseload of private lawyers.

Figure 15: Grants assigned to private lawyers in NSW by area of law (2010–11)



Note: N = 29,530

Source: Legal Aid NSW grants database (2010–11 data).

Table 39 shows the number of grants of legal aid assigned to private lawyers categorised by area of law and distributed by region. Across NSW there were 29,530 grants of legal aid assigned to private lawyers in 2010–11, with one-third (33%) of grants assigned to assist clients in country NSW.

The population of NSW outside of the Sydney, Hunter and Wollongong regions comprises 21.6 per cent of the state's total population, therefore, the proportion of grants to private lawyers in RRR NSW is 50 per cent higher than expected based purely on population share.[75] This indicates that Legal Aid NSW's mixed model provides greater emphasis on private lawyers to undertake grant work in remote, rural and outer regional areas where there are few Legal Aid offices.

With respect to the different areas of legally aided grant work provided by private lawyers, country NSW had a higher than expected proportion of grants of legal aid for criminal law (37%) and family law (33%) matters when compared to population share. The vast majority (88%) of civil law grants were assigned to private lawyers based in Sydney, the Hunter and the Illawarra, with only 12 per cent assigned to private lawyers located in the other regions of NSW. Legally aided care and protection matters in country NSW (26%) were slightly higher but roughly proportionate to the population share of country NSW (21.6%).

75 Note this analysis does not take into consideration or reflect any underlying level of expressed or unexpressed legal need.

Table 39: Grants of legal aid assigned to NSW private lawyers by region and area of law of grant (2010–11)

	Population	*Civil law*		*Criminal law*		*Family law*		*Care and protection*		*All grant areas*	
Region (SD)	*%*	*N*	*%*	*N*	*%*	*N*	*%*	*N*	*%*	*N*	*%*
Sydney	63.4	501	80.9	6,372	45.3	4,233	42.7	2,558	51.9	13,664	46.3
Hunter	9.0	28	4.5	1,432	10.2	1,488	15.0	645	13.1	3,593	12.2
Illawarra	6.0	14	2.3	1,010	7.2	967	9.8	467	9.5	2,458	8.3
Sub-total (City)	*78.4*	*543*	*87.7*	*8,814*	*62.7*	*6,688*	*67.4*	*3,670*	*74.4*	*18,715*	*66.8*
Richmond-Tweed	3.4	17	2.7	565	4.0	636	6.4	209	4.2	1,427	4.8
Mid-North Coast	4.3	14	2.3	1,463	10.4	899	9.1	238	4.8	2,614	8.9
Northern	2.6	11	1.8	1,049	7.5	555	5.6	179	3.6	1,794	6.1
North Western	1.4	0	0.0	293	2.1	212	2.1	112	2.3	617	2.1
Central West	2.8	22	3.6	229	1.6	435	4.4	227	4.6	913	3.1
South Eastern	3.0	7	1.1	765	5.4	175	1.8	118	2.4	1,065	3.6
Murrumbidgee	2.2	2	0.3	580	4.1	139	1.4	113	2.3	834	2.8
Murray	1.6	3	0.5	220	1.6	161	1.6	58	1.2	442	1.5
Far West	0.3	0	0.0	85	0.6	17	0.2	7	0.1	109	0.4
Sub-total (Country)	*21.6*	*76*	*12.3*	*5,249*	*37.3*	*3,229*	*32.6*	*1,261*	*25.6*	*9,815*	*33.2*
NSW Total	**100.0**	**619**	**100.0**	**14,063**	**100.0**	**9,917**	**100.0**	**4,931**	**100.0**	**29,530**	**100.0**

Notes: Highlighted cells indicate the region had a share of legal aid grants that was equal to or greater than the region's share of the NSW population.

Sources: Legal Aid NSW grants database (2010–11) and ABS 2012.

Based on each region's share of the NSW population, all regions outside of Sydney except for the Murray had a higher than expected proportion of grants of legal aid assigned to private lawyers. Even the Murray's share (1.5%) of grants across the four practice areas was only just below its population share (1.6%).

Over six per cent of the state's grants of legal aid assigned to private lawyers were in the Northern region, which is more than double the level expected from its population share (2.6%). Similarly, the proportion of grants assigned to private lawyers across all areas of law in the Mid-North Coast (8.9%) was more than double its population share (4.3%). In the case of the Mid-North Coast, this may reflect that there was no Legal Aid NSW office or a CLC in that region at that time, although a CLC did start operating in this region one month after our census of legal services was taken.

In all regions outside of Sydney except for the Central West, the proportion of legal aid grants to private lawyers for *criminal law* matters was approximately equal to their share of the state's population or higher. In a number of areas of RRR NSW, the level of grants to private lawyers for criminal law work was considerably higher than expected given their base populations. For example, the Northern region had 7.5 per cent of the state's criminal law grants but only 2.6 per cent of the state's population. Other regions that stood out were Mid-North Coast (10.4% of criminal law grants compared with 4.3% of NSW population), South Eastern (5.4% compared with 3.0% of the population), Murrumbidgee (4.1% compared with 2.2% of the population) and the Far West (0.6% compared with 0.3% of the population).

With regard to grants to private lawyers for *family law* work, three regions — South Eastern, Murrumbidgee and Far West — had a share of legal aid grants below what might be expected based on resident population numbers. All other country regions had a share of grants for family law matters equal to or above that expected from their population share and, in particular, the Mid-North Coast's share of family law grants to private lawyers was more than twice its population share (9.1% compared with 4.3% of the population) as was the case for the Northern region (5.6% compared with 2.6% of the population).

A similar pattern to that just noted above was evident for *care and protection* grants to private lawyers. South Eastern, Murray and Far West regions had a share of care and protection grants below what might be expected based on their respective populations. The other country regions had a level of care and protection grants above that expected from their share of the NSW population.

With regard to *civil law* matters, private lawyers in the Sydney region had a higher than expected share of grants of legal aid based on their population share (80.9% compared with 63.4% of the population). The Central West had a slightly higher share of legal aid grants for civil law matters given their population share (3.6% compared with 2.8% of the population). The Murray and Murrumbidgee regions only had three and two civil law grants, respectively, in the 12-months, while both the Far West and North Western regions had no grants of legal aid for civil law work assigned to a private lawyer in the period.

Availability of private solicitors to undertake grant work

This section further examines the regional distribution of private solicitors presented in Chapter 3 in order to contextualise assigned grants.

Table 40 gives a regional count of solicitors who recorded their practice type as a 'private solicitor'. The regional breakdown allows for the calculation of a regional rate of assigned grants per private solicitor based in the area. However, it is important to note that these figures are indicative only — they present a broad picture of grants assigned to private solicitors when the uneven spread of private solicitors across NSW is taken into consideration.

The statewide rate for assigned grants in 2010-11 was approximately three grants for every registered private solicitor in NSW. Nonetheless, the heavy concentration of private solicitors in the Sydney region meant that, on average, fewer grants were assigned to Sydney-based private solicitors (a rate of 1.4 grants per solicitor). A mid-range band of rates was observed for a number of regions. In the Hunter, Illawarra, Richmond-Tweed, North Western, Central West and South Eastern regions, the rate of assigned grants per private solicitor was roughly in the range of eight to 12. However, in four

regions — Murray, Murrumbidgee, Mid-North Coast and Northern — the rate of assigned grants per private solicitor was much higher, in the range of 15 to 18 grants per private solicitor within that 12-month period. The rate of assigned grants for the Far West (109.0) is an obvious outlier, deviating markedly from the rest of the regions. Even if a different count of private solicitors in the Far West is used (as is available from the Legal Aid NSW grants database which identified that three private practitioners located within this region were assigned grants), the rate would change to 36.3 assigned grants per private solicitor in this region. This figure is still around twice as high as any other region's rate of assigned grants per solicitor in the 2010-11 period.

Table 40: Regional distribution of private solicitors and assigned grants (2010–11)

	Private solicitors	*Assigned grants*	
Region (SD)	***N***	***N***	***Rate per solicitor***
Sydney	9,592	13,664	1.4
Hunter	456	3,593	7.9
Illawarra	239	2,458	10.3
Richmond-Tweed	127	1,427	11.2
Mid-North Coast	143	2,614	18.3
Northern	97	1,794	18.5
North Western	63	617	9.8
Central West	84	913	10.9
South Eastern	91	1,065	11.7
Murrumbidgee	52	834	16.0
Murray	29	442	15.2
Far West*	1 (3)	109	109.0 (36.3)
NSW (total)	**10,974**	**29,530**	**2.7**

* In Table 37, the recorded number of private lawyers in the Far West region, based on those assigned grants, was not one but three. Far West was the only region where the number of private solicitors (n=1), according to the Law Society NSW database, was fewer than the number of private lawyers (n=3) who were assigned grants in 2010–11 according to the Legal Aid NSW grants database. The total number of private solicitors in NSW would be 10,976 if the Legal Aid NSW figure for the Far West were used.

Notes: The number of private solicitors is based on the variable 'Practice type' in the NSW Law Society database. This is recorded by each individual solicitor at time of annual registration. The above numbers will differ from counts of private solicitors obtained from other sources. Therefore, the derived rates should be treated as indicative only.

Sources: Law Society of NSW database (30 June 2011) and Legal Aid NSW grants database (2010–11).

Another point that needs to be taken into consideration is that some private lawyers in RRR NSW may be prepared to travel considerable distances to represent legally aided clients. Assigned lawyers may not be based in the area where the client lives and certainly in remote areas of NSW, the client's residence and the lawyer's practice maybe geographically distant from where court proceedings take place. A number of solicitors interviewed by the Foundation for this study raised this as a salient access to justice issue for residents RRR NSW (see next chapter).

Finally, the lack of availability of 'on the ground' services in RRR areas, which also varies depending on the nature of the legal problem for which the person is seeking assistance, is very important. This issue was identified in the previous study (Forell et al. 2010, p.87) and continues to be relevant:

> *Whether or not a person makes an application for legal aid in the first place can depend on the availability of a lawyer and this can depend on the nature of the legal problem. In general, people involved in criminal law and care proceedings are able to access duty services provided by in-house and private lawyers at Local Courts which are located throughout NSW – even though many courts in RRR areas of NSW are 'circuit courts' and may only be open for a few days each week (and some, in fact, are open as infrequently as two days per month).*
>
> *By contrast, people with civil and family law problems may lack the proximity to the appropriate legal aid service. Some people with a legal problem may not make an application for legal aid because of the difficulty of finding a lawyer in their area who practises in that area of law and is prepared to do the legal aid work.*

NSW grants assigned to interstate private lawyers

Aside from the grants of legal aid given to NSW based private lawyers, Legal Aid NSW also made 178 grants to private lawyers located in the ACT, Victoria, Queensland and South Australia. These grants were assigned to assist NSW clients.[76]

Many of these private lawyers were located in interstate cities or towns close to the NSW border. This may be said to be the case for the four private lawyers based in the ACT who performed 37 instances of legal aid in 2010–11. In Victoria, nine private lawyers were assigned 108 grants of legal aid. All except one of these lawyers were based in locations close to the state border, including five lawyers based in Wodonga who were assigned 57 grants for NSW legally aided work and two private lawyers in Echuca who were assigned 18 grants. In total, the eight private lawyers in Victoria whose legal practices were in close proximity to the NSW border accounted for 77 grants of NSW legal aid.

There were also eight Queensland lawyers who performed 32 cases of legal aid work for Legal Aid NSW. Six of these lawyers were based in practices close to the NSW border, including along the Gold Coast, and together they provided 26 cases of legal aid in 2010–11. There was also one Legal Aid NSW grant in 2010–11 assigned to a private lawyer in South Australia, who was based in a suburb of Adelaide.

Summary

Legal Aid NSW provides grants of legal aid through a 'mixed' model utilising the services of both in-house solicitors and private practitioners. This is particularly important in remote areas where high socio-economic disadvantage coincides with few 'on the ground' public legal services and low solicitor numbers. Assigning grants of legal aid to private lawyers ensures that more people access legal aid, and assists in the resolution of 'conflicts of interest'.

In 2010–11, two-thirds of all NSW grants of legal aid were allocated to private lawyers, including half of all civil law grants, over sixty per cent of the criminal law grants and almost eighty per cent of the family law grants. Most private lawyers who were assigned grant work undertook criminal law grants (73%). On the other hand, there were fewer private lawyers involved in civil law grant work (12%), care and protection grant work (23%) and family law grant work (53%) more generally. Some private lawyers in RRR NSW were prepared to travel considerable distances to represent legally aided clients at court, particularly where the matter involved a criminal hearing or a care matter.

Regional variations in the allocation of grants to private solicitors were noted, especially after area of law was factored into the analysis. In four regions — Murray, Murrumbidgee, Mid-North Coast and Northern — the rate of (all) assigned grants per private solicitor was in the range of 15 to 18 grants per private solicitor, well above the state average of three grants per solicitor for the 12-month period examined. Even using the most conservative estimate, the rate of grants assigned per private solicitor for the Far West was extremely high at 36 grants per solicitor — a rate twice that of any other NSW region. However, none of the grants of legal aid assigned to private lawyers in the Far West was for a civil law matter, and few were for family law matters. This is likely to reflect the real difficulties that people in remote areas of NSW have in finding a lawyer who practises the 'right' area of law *and* is prepared to take on the legal aid work (Forell et al. 2010).

76 Such clients include ex-residents of NSW who were represented by Legal Aid NSW in ongoing Commonwealth legal matters.

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6. Interviews with solicitors working in areas of population decline

Introduction

To explore the impact of general population decline on lawyer availability and the provision of legal services in RRR NSW, a number of interviews were conducted with solicitors practising within target areas that had experienced significant population losses over the previous 10 years.[77]

As well as adding context to the quantitative data provided earlier in this report, the interviews provide solicitors' personal perspectives on the nature of their work and address:

- regional changes and the impact of these on the workload of solicitors
- disadvantage and the availability of solicitors to assist disadvantaged people
- the current availability of face-to-face legal services
- concerns regarding the future availability of private practitioners.

As can be seen in Figure 16, the target areas covered roughly 60 per cent of the total landmass of NSW and just over 100,000 people were estimated to be residents of these areas.

The target areas were also characterised by low availability of both private practitioners and public legal services.

Personal perspectives

Distance

An outstanding feature of the nature of the work described by the solicitors that worked within the target areas was the distance over which their day-to-day work could extend:

> *I've got matters from Bourke [350 km] just because there are no solicitors out there. I've got matters from Gilgandra which is 95 km away. There is Walgett [115 km] and Lightening Ridge [195 km] … Most of my practice is in the court in Dubbo [160 km] then occasionally some of those matters go off to Sydney [550 km]. I also do a few things in some areas like Mudgee [285 km] … I had a matter the other day involving the Children's Court in Tweed Heads [880 km].* (Private, North Western)

> *The first week of every month we do a full five day week down in the court in Wentworth [260 km] and the court in Balranald [450 km] then half a week we go to the court in Wilcannia [195 km]. It's like a mobile office so we pack all the files and drive up and stay there for a few days.* (Public, Far West)

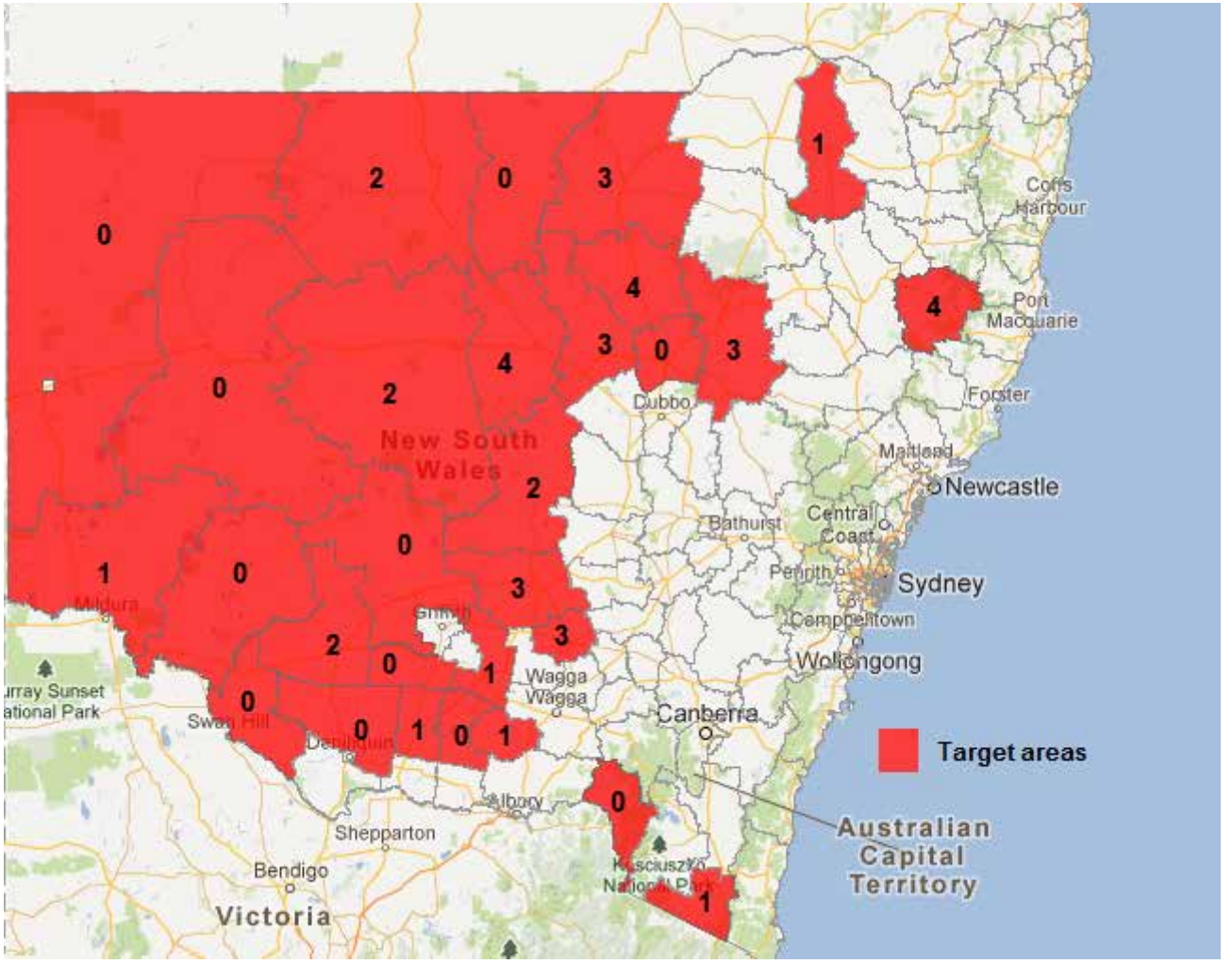
Private solicitors often serviced branch offices, and while the distance to these might not necessarily be far, distances to attend court hearings could still be quite significant:

> *Well in terms of just the local geographic distance taking on the branch, it's not a big deal, it's not that far away [80 km]. In terms of servicing clients' matters in the court, that becomes much more of a problem because the nearest circuits are some hours away [275 km].* (Private, Northern)

Of the solicitors interviewed, there was only one for which distance was not a relevant issue. This sole practitioner did not do court work and did not service a branch office.

77 Further details of the method are provided in *Appendix A: Method in detail.*

Figure 16: NSW target areas and the number of registered solicitors per target LGA (30 June 2011)



Note: To obtain coverage of the Central Darling LGA and Unincorporated Far West, solicitors from Broken Hill were asked to participate if they were familiar with those outlying areas. Broken Hill was not included in the initial selection of LGAs because, as at 30 June 2011, it had nine registered solicitors. Gwydir and Wakool were covered by solicitors that had branch offices in these LGAs. Due to the very small number of 'on the ground' public legal services in the target areas, public solicitors that conducted outreach within the target areas were identified through public legal services in Armidale, Dubbo, Broken Hill and Wodonga. Wentworth LGA was identified as having a solicitor practising in the area but with a non-NSW certificate.

Source: Law Society of NSW database (30 June 2011) and ABS 2013a.

Regional changes and the workload of solicitors

Solicitors were asked their personal perspectives on changes that may have occurred in their region and how these might have impacted upon their workload. Farming practices, drought, mining, government services, court circuits and the areas of law available to practice in, were all, to varying degrees, attributed with having had an impact.

Changes in farming practices

The changing nature of farms and farming practices had a considerable impact upon the workload of some private practitioners. This was attributed to farms having combined into larger landholdings and a reduction in local farm ownership. This in turn had led to a reduction in the availability of commercial work for some local solicitors:

> *When I came here in 1984 we'd go to the Great Western Hotel on a Friday night and there'd be 50 shearers around the bar. I think we've now got four. It's not drought related. That's just factors of business and profitability. These properties which used to be run by a couple of people are now run by one person across four properties. The absentee landlord is very much part of the rural scene, so you don't get that consistent work anymore.* (Private, North Western)

> *Many small farms changing hands used to provide commercial work for the local solicitors but now they are such big international entities all their commercial work has gone to city firms.* (Private, South Western)

One solicitor noted that farming in his area had remained mostly family based, but he now undertook a more diverse range of business and investment work for his farming clientele:

> *Farming in this area, I think mainly for geographic reasons, has remained mostly family based. The farms combining has made farms more economic[al] so that the people still running farms, if they're clients of ours, if they are still active legally, they might be buying an investment property, doing farm investments, doing contracts for the sale of their livestock or produce. They are probably much more business oriented, the farmers today, than they were 30 odd years ago and that business orientation leads to a diversity of legal work.* (Private, North Western)

Drought

In the South Western and Central West regions, the impact of the drought commencing in 2003 had been considerable. Although things had now improved a little, solicitors reported that at the time, the drought had affected their communities greatly:

> *Deniliquin got into a huge slump when the rice mill had to close and in the last 12 months to 24 months that's reopened. But there was a time when there was no water, and the farmers were doing it very, very tough. The shops in the main street were closed and empty.* (Public, South Western)

> *We've had a terrible, terrible drought here where we could get no water. Then, when it looked like breaking, we got flooded. Just prior to the flooding, the water [we got] looked like it was going to break the drought, [but] what did shoot was eaten off by grasshoppers. So, we've had drought, grasshoppers [and] floods. People that grow marketable produce, they've been greatly affected by those traumatic events. That of course restricts their spending … [and there is] the whole knock-on effect.* (Private, South Western)

The work of both private and public solicitors was affected by the drought and some described the challenges of working with clients who were facing drought-related difficulties:

> *Through the drought, we had a lot of distressed farmers, at times in tears… so you are trying to provide almost a counselling service.* (Private, Central West)

One public solicitor described how the CLC had been approached by people with drought-related difficulties who previously would not have required public legal assistance:

> *As a CLC we can give advice on virtually every area of law except migration law and commercial law. Usually though, those sorts of people we can refer to a private solicitor, but sometimes, you know in that really bad drought period, there were business people and farmers coming to us with*

> *huge issues, and they didn't have the money. While they might be asset rich, they didn't have much cash and it was very difficult for them to afford a lawyer, so they were really stuck between 'a rock and a hard place'.* (Public, South Western)

Mining

In the Far West, Central West and North Western regions private and public solicitors reported that the nature of the mining industry could have a significant impact upon both their towns and their workload.

One solicitor, whose practice undertook a considerable amount of mining work, noted that they were particularly busy. Other solicitors described how mining might temporarily increase the number of people in a town, but contribute little more to the general wellbeing of the community. This was largely because mining personnel tended to 'fly-in and fly-out' of the town when they were not working:

> *You've got many vacant shop fronts in the main street. I can't get my clothes dry cleaned, I've got to send them away … I can go on and on … Oh, and no barber of course, haven't had a barber for years. This is a mining town, we've got active mining happening … but have you ever heard of FIFOs [fly-in fly-outs]? That has an effect on the community of course. Some communities have lost their drinking holes but this town still has its four pubs and two licensed clubs.* (Private, North Western)

> *This town has always been boom and bust. It's the very nature of a mining town. In probably the last ten years there's been a massive number of FIFOs [fly-in fly-outs] in the town, of which I am one. While the population may have decreased, it's very much on the cusp of yet another boom. That doesn't mean the population will increase significantly, but the FIFOs do.* (Private, Far West)

Solicitors reported that mining could also impact upon the region more broadly, as people travelled to obtain work in a mining area rather than working within their local community:

> *A lot of people are leaving to go and work in the mines so that's having an effect on the town — basically the younger men. The local council is having trouble getting employees and there are businesses having trouble getting staff.* (Private, North Western)

Government services and departments

Some private practitioners expressed strong opinions about the government policies that had resulted in the loss of government departments and services from their towns:

> *The NSW Government has just about pulled out every office that it could have. [The] fisheries, forestry and conservation [departments are] now amalgamated with something else, somewhere else. They tried to close up our Department of Agriculture but we managed to save that.* (Private, Central West)

> *I think it would be nice if the government actually realised things do actually exist the other side of the Blue Mountains. It's not so much the solicitors, it's the cutting of government services that are causing people to move away from small towns. Government departments, public transport, court services — all of those sorts of things.* (Private, North Western)

Concern about the availability of medical services was also raised:

> *Federal, state and local government services are diminishing, but when you find out that people can't have babies in these western towns except in Dubbo [300 km away]! Well in my youth, we only had one hospital, but now we have a hospital that can't have babies. And that goes for Bourke [370 km away], Brewarrina [410 km away], Nyngan [165 km away] — anywhere west of Dubbo.* (Private, North Western)

In one remote town, it was the public solicitor's perception that as population loss had occurred, government services had increased and it was now a 'government services town':

> *… 100 years ago this was a really big town, now it's a government services town. We have agriculture but a lot of it is just government services. You've got the medical services, you've got teachers, police and government agencies — so it's a government town really. Without government services it would be nothing really.* (Public, North Western)

Court work

A number of private practitioners described the impact of regional court changes on the workload of their practice. Their concerns related mainly to distance and the unpredictable nature of court schedules. Court work often required that private solicitors spend considerable amounts of time out of their office:

> *Our nearest Federal Circuit Court is Tamworth, a three and a half hour drive away. This of course makes it very difficult to attend mentions and what not, you are forever asking for phone appearances, and some magistrates are quite gracious and some magistrates are not.* (Private, Northern)

> *The District Court work all goes to Dubbo. There's no way I can do those cases, I can only take instructions, give them to the visiting solicitor when he comes here once a month and he takes it and does it elsewhere. Which is the only way you can handle those sorts of things. I suppose it's fair to say I'm adapting.* (Private, North Western)

For some solicitors, the difficulties of undertaking court work had necessitated that they discontinue this work altogether in favour of maintaining the other work of their practice:

> *Since we lost our District Court, 15 years ago now, we basically don't practice in the District Court anymore. It's too inconvenient dealing with agents or running around the countryside to comply with directions hearings and timetables that the courts force upon you. You can't manage when you live so far away. A lot of farming transactions still come this way. We're busy, don't worry.* (Private, Central West)

> *Up until the beginning of this year I did do court work but I'm actually scaling the practice back. Because it's only me, I don't have any staff, I can't afford to pay staff because I don't have enough work coming in to employ anyone. So I've just scaled it back just to the wills and conveyancing, because I can't afford to be spending a day sitting in court, out of the office, it's costing me too much money.* (Private, North Western)

Changes in areas of law

Private practitioners described how there had been changes in the areas of law that were available for them to practice in. To some extent, the changes reflected regional changes and general levels of decline that had occurred in their area. For some solicitors, these changes had led to a reduction in workload and had necessitated that they take on, or expand, their public legal work:

> *My work has changed considerably. It used to be a conveyancing and probate practice; it's now more a legal aid practice. My conveyancing practice has dropped off considerably, markedly. Quite frankly, now, I'm actually surviving on my court practice ... Legal Aid needed someone and, funnily enough, it happened to suit me because I enjoy doing it.* (Private, North Western)

Some solicitors had addressed their reducing workload by extending their practice to cover additional areas of law:

> *This firm has had to expand the range of legal areas it covers. We were doing very little family law, so we've now started doing a bit of family law because there weren't a lot of lawyers in town doing it.* (Private, Northern)

Legislative changes to conveyancing and personal injury litigation were reported to have had a negative impact on the workload of a number of private practitioners. However, one solicitor reported that government legislation had provided a new source of work in the form of water rights:

> *The majority of the changes to our practice are probably more to do with the de-restriction of the conveyancing and the alteration of the motor vehicle accidents and more recently the workers' comp. But we've had other areas that have improved. Creation of water rights has had a difference. We have a whole different sort of market which was never there before.* (Private, South Western)

No change for some

For some private practitioners, there had been little change in their workload over the years:

> *Changes haven't impacted my practice so much because I'm quite lucky in that I've got quite a good client base. The property market here isn't too bad and I've got quite a good relationship with the agents here so I don't advertise. My work here is just referrals from the agents or other clients or repeat business from clients.* (Private, North Western)

> *Nothing has changed really. My main area of practice is care matters and family law although I do some crime and I've done that for years. We take in such a reasonable catchment area and particularly in the care and family law jurisdiction there is a limited number of solicitors.* (Private, North Western)

Many public solicitors reported that there had been little change in their workload over the years as levels of disadvantage within the target areas had been consistently high:

> *Because we service the Aboriginal community here we don't notice changes so much. We tend to be a high volume practice anyway, regardless of what's going on in the wider community.* (Public, Far West)

> *Well, probably our clients are pretty much the same. The people that I see are the disadvantaged, usually, anyway, so they probably wouldn't have the means to leave this area.* (Public, South Western)

> *I don't know about population declining, we're as busy as we ever were.* (Public, Northern)

Overall, the range of regional changes that had impacted upon the workload of private practitioners was quite varied and solicitors working in the target areas had found different ways of adapting to their particular circumstances. Essentially, private practitioners were driven by the need to make decisions that kept their businesses viable. In contrast to private practitioners, the workload of public solicitors tended to be driven by the (constant) level of disadvantage, which could be exacerbated by local issues such as drought.

Disadvantage and the availability of solicitors

As research has shown a link between population decline and an intensification of disadvantage in affected areas (see Chapter One), solicitors were asked to provide their personal perspectives on the level of disadvantage within their community, and whether they believed any changes in the level of disadvantage had impacted upon their work.

General disadvantage

Generally, in the more remote target areas, solicitors reported that levels of disadvantage were high:

> *Most of the people out here are people who fall under the poverty line. There is a definite core population of disadvantaged people and it's not going to get any less … We have about 33 per cent of people in our region who have Centrelink as their sole support. We have a high Aboriginal population. We have a high proportion of single mothers. We have a high proportion of young people who are on a benefit. All of those legal need indicators… exist here.* (Public, Far West)

Some solicitors noted how life in remote areas could be particularly difficult for people with limited financial means. In particular, the expense of operating private vehicles contributed to the isolation of people in remote areas:

> *The environment is difficult … the price of petrol is high, and just that problem of distance, maintaining vehicles and then of course other things like loss of licences, fine default, things like that. There can be a real isolation. And that's like the bigger towns, and then you've got the smaller ones that are quite cut off — you can't even buy petrol in the town.* (Public, North Western)

The high cost of grocery items in remote areas was also noted by a number of solicitors, and how, with the high cost of transport or the poor availability of public transport, it was difficult to source these goods elsewhere:

> *You've got the combination of the decline of population along with increasing costs. And moreover, I'd have to say, unfortunately, particularly in regard to grocery services here, it's a bit over the top in regards to what they can charge. If you compare the cost in Dubbo with the costs here, and they've got to have transport to go. If you are on social security you're in real problems here.* (Private, North Western)

> *Even if you came down on the bus you would have to go back the next day and there is a limit to what you can take back, and obviously you can't take a lot of produce because it would go off. I know with Wilcannia there were some problems about access to fresh food and vegetables. We heard something a while ago that they wanted to transport things from Broken Hill where it was cheaper but the council stepped in to stop it on the basis that the bus wasn't refrigerated.* (Public, North Western)

Away from the more remote regions, solicitors were less likely to report high levels of disadvantage, but a couple of solicitors noted that people on low incomes could be drawn into an area where rents were low:

> *In the villages around here there tends to be a lot of unemployed people, usually because the cost of living is so low.* (Private, North Western)

> *The Aboriginal population would be fairly similar to what it has been. You might get the odd person moving into the area because of the cheaper housing.* (Private, South Western)

Availability of private practitioners to assist disadvantaged people

Private practitioners were asked to provide their views on the availability of solicitors to address the needs of disadvantaged people within the region.

Private practitioners reported that their work with disadvantaged people could be funded either through Legal Aid NSW or on a reduced fee or pro bono basis. Only one private practitioner reported that their principal area of practice related to legal aid work, others undertook legal aid work to varying degrees.

Some private practitioners reported that they had taken on legal aid work because it was important in sustaining their business while, for others, it was to fill duty rosters or to assist in family law and care matters where the availability of solicitors to do legal aid work was low:

> *Our clients tend to be economically advantaged, but we still do criminal duty solicitor work, so we do that side of it, and we do the odd family law or care matter.* (Private, South Western)

> *Because we don't have a family court, our local court sits here once a month, I don't do family law. I have been doing care very reluctantly, only again, because there's nothing else left to do.* (Private, North Western)

A few private practitioners reported that they did not do any legal aid work. For some, this was because they believed it made it difficult to maintain their other work:

> *We don't do legal aid at all because the hoops are just huge, we don't have the time for that sort of paper work … It all revolves around courts, which we don't have. We can't do it ourselves as a small practice, to stretch ourselves that far.* (Private, Central West)

Some private practitioners reported that their decision not to undertake legal aid work, or to undertake limited amounts of legal aid work, was because they undertook a reasonable pro bono workload, either for disadvantaged clients or by providing assistance to community organisations and charities:

> *We don't do legal aid very much because we do a lot of pro bono work, I think at one stage I calculated between 50 or 60 charities and non-profit organisations.* (Private, Far West)

Most private practitioners reported that they undertook a certain amount of free work:

> *We do a fair bit of just helping people out, work that you just can't charge for. You know, you get battlers coming through the door. That happens every week. We are helping someone out or drastically reducing costs because we know they can't afford to pay.* (Private, Central West)

> *People come in with what I suppose you and I might call petty problems, but they are huge to them, because of the financial difficulties. They are huge to them and if I didn't provide that service for free, they just wouldn't get it, basically.* (Private, North Western)

One solicitor noted that they could only afford to undertake pro bono work if they were getting enough other work to sustain their practice:

> *We do a lot of pro bono work, which we can do because we are getting work from other places, but if you are not getting work from other places, you can't afford to do it.* (Private, South Western)

Another private practitioner noted that if public legal assistance was available locally this would allow them to focus on the fee paying work that kept their practice viable:

> *If we had a shopfront here, or if we could say there is a legal services centre in Parkes, you can go there and get help and they can organise your legal aid for you, that would make our job a whole lot easier … it would free us up for concentrating on what we want to be doing rather than trying to point people in the right direction.* (Private, Central West)

Due to a considerable pro bono workload, one solicitor expressed strong opinions against the expectation that he undertake relatively poorly paid legal aid work:

> *A legal aid client has just walked in the door. I rang him a couple of times this morning to say I don't do legal aid. So he's just turned up, and this is a classic example of what happens … I know he won't be able to pay me … At court on Friday, when I'm down there, doing quite a number of private matters, I'll see him floundering around, and the magistrate will look at me, and I'll look at the magistrate, and I'll say can I assist, the magistrate will say "Yes, that would be much appreciated." … So then, when the government tells me that I'm going to do legal aid work, and I have to do it, and they are going to pay me a third of the going rate, I burr up … this free work is what the average country attorney is doing on a daily basis.* (Private, North Western)

For one solicitor it was a concern that some people assumed they had a right to free legal services, whatever the area of law:

> *People from disadvantaged backgrounds, especially where there have been generations of unemployment, can get a mentality that they deserve government help, that we will fix things up for them. It's not how much it will cost them, we shouldn't have to pay for this because we should get legal aid or something like that, which is simply not available for most areas of law.* (Private, South Western)

Private practitioners were asked what they did if disadvantaged people approached them requiring assistance they were not able to provide. Often, this involved referring them to regional centres that were a considerable distance away. The difficulties of undertaking these trips with public transport, including the cost of these trips and the lack of any possibility of making return trips within a single day, were noted:

> *The nearest big town here is Wagga which is an hour away by car. If you were to get a public service you have to get a bus to Cootamundra and a train from there to Wagga. You would have to stay the night in Wagga and then come back by train and then bus. With that lack of public transport, a lot of people do not have legal services at all, simply because they just can't get to it.* (Private, South Western)

> *We don't do any family law and that's a pretty basic area. We're about half way between Dubbo [160 km] and Tamworth [180 km], the two regional centres, so for areas like family law we would either give people names or we'd tell them to go to see lawyers in those bigger centres.* (Private, North Western)

One solicitor reported that sometimes people were choosing to go without legal assistance:

> *What people are tending to do is put up with it [and] not bother to get a solicitor unless it's extremely urgent, [they will] represent themselves in court or try and muddle their way through filling in forms or doing whatever they have to do.* (Private, South Western)

Availability of public solicitors to assist disadvantaged people

Public solicitors were also asked to provide their views on the availability of solicitors to address the needs of disadvantaged people within the region:

> *There's no availability of solicitors in the region. This is the truth. In our region, between Broken Hill and Dubbo [755 km away] there are only about 17 solicitors in practice.* (Public, Far West)

While lawyer availability was reported to be low, some solicitors noted that outreach services meant that legal needs within their region were able to be met:

> *If we didn't do outreach, they would have huge difficulties, but because we do that they do have access to the legal services that they require. To the best of my knowledge, I think at this point we are covering the need.* (Public, Northern)

For many public solicitors, the availability of private practitioners within the target areas had a significant impact on their workload. Public solicitors reported that they had to fill the gap left by private practitioners — because private solicitors were too expensive, or they chose not to do public legal work, or they were simply not available:

> *A lot of it can be attributed to the fact that people from all those upper regions can't afford to pay private practitioners any longer. You basically have to pick up the slack for all that.* (Public, Northern)

> *We never used to do Coonabarabran and Gilgandra because they had a local solicitor that would do those courts. That solicitor retired at Gilgandra and then [so did the solicitor] at Coonabarabran. The local firms just didn't want to do it. And of course, that's the history of this office. This office started about 2002 when the local solicitors operated a duty scheme, and they said they didn't want to do it anymore, so that led to the Legal Aid office being opened here.* (Public, North Western)

> *In Deniliquin there are, I think, three law firms. The biggest problem for Deniliquin is the lack of legal aid. The nearest Legal Aid office in NSW is in Wagga [290 km away] and they physically don't come over. We do, we go over once a month, but we don't do litigation work, so that's where the problem is in those regions, and with the lack of legal aid, and family law and legal aid. There would be quite a bit of that. There's only one firm in Deniliquin that does legal aid work.* (Public, South Western)

The poor availability of solicitors in some regions leads to situations where 'conflict' rules were tested:

> *Well, you've got the one barrister here but if he's not available, you have to make a referral to Legal Aid. Not all practitioners want to come out here so we often, where there are conflict rules, we often have to stretch that rubber band. If we automatically said, "Conflict, we're out of it", the client has no one. So, we really do stretch that conflict rubber band. You have to, because if you work like you do in the city, [and] say "Sorry, look that's it", they would have no one. Because in rural areas the circumstances are very different.* (Public, North Western)

Fiduciary conflicts were a particular problem in care matters where multiple parties are involved:

> *When you are doing a care and protection matter you've got someone acting for the department, someone acting for the child, someone acting for each parent, and sometimes you get grandparents and other people joined to the action. There's a single private firm in town that does everything, well they act for the department. The other private firm that does a bit of litigation acts for the children or child separately, so they're out. You are literally down to one private firm and two community legal services to do care.* (Public, Far West)

> *They continually ring me up and give me children's representational work because there's nobody else. (Private, South Western]*

In the Far West, solicitors reported the difficulties of having to address cases of conflict by sourcing solicitors from interstate:

> *We refer people routinely to interstate solicitors. The law is different and you do often see that practitioners struggle because there is a difference between jurisdictions. And the court also struggles with the problem of having practitioners that don't really quite know the procedure appearing in front of them. But it's literally this, either they come in and help, or there's no one.* (Public, Far West)

One public solicitor noted that there had been concerns expressed about the availability of solicitors in the region for many years, and while he saw few changes, there were changes in the amount and depth of the casework that was undertaken with disadvantaged clients. He attributed this, in part, to an increase in the capability of the solicitors concerned:

> *I've been in practice here for about 13 years. In the early days of my career, there was sort of doom and gloom forecast for those outlying towns and it hasn't come about … Certainly the workload has changed. In terms of output, it's significantly increased and the extent of the work that we do now is a lot more in-depth. In terms of casework, that's certainly grown quite significantly, and the volume of the work that we're doing has increased a fair bit; that's partly because [staff] capacity has increased.* (Public, North Western)

A face within the community

While the number of solicitors working within the target areas was small, private and public solicitors alike stressed the importance of their role in providing a face-to-face service within the community.

Public solicitors providing a face within the community

Public solicitors, who serviced the target areas largely through outreach, stressed the importance of being able to provide a face-to-face service to address the complex needs of some of their clients:

> *We have a really high percentage of acquired brain injury and it's because we have mining industry and high lead levels … Lead affects higher brain function, it affects the ability to reason and think, it affects the ability to read and write. So, we have high proportions of illiteracy. Add to all that, you've got the problems of isolation. People need that face-to-face contact. They just do.* (Public, Far West)

> *Language can be a problem when you are dealing with juveniles [particularly] when you are trying to explain to a juvenile a really complex legal question, the issues, abstract things that you have to get across. Explaining in a way which the client can understand, that's another challenge.* (Public, North Western)

> *We've got an 80% recidivism rate in this area, so we do travel and do education in the prisons, trying to make sure they don't breach their parole within five minutes, or they take a car to drive and see the kids and they haven't got a license because they haven't paid the fines et cetera.* (Public, Northern)

Despite the poor availability of public solicitors within the target areas and the extensive use of outreach, solicitors noted that telecommunication was simply not an option for some of their more disadvantaged clients who did not have access to telephones:

> *A lot more people these days only have mobile phones. If they don't have credit then they can't get in touch with us and a lot of them end up changing numbers, so contact issues, keeping in touch, getting instructions, can be an issue.* (Public, North Western)

> *I was told Wilcannia was being well serviced by telephone services. Out of the five clients I saw that day, none of them had telephones. Of the two public phones in town, neither of them had been working for more than three months, no one can access telephone services.* (Public, Far West)

Internet services were also reported to be poor in some locations:

> *You've got the issue of technology, but sometimes the internet out here is not that great. You're limited in what you can do. (Public, North Western)*

One public solicitor noted that face-to-face services were essential as they allowed solicitors to see and deal with documents, even if that service was provided through outreach:

> *A lot of them have documents that you need to read and that's not possible, obviously, over the phone. And it's very hard for them to find faxing facilities to fax them over. That's why we do the outreach.* (Public, South Western).

As well as the importance of providing face-to-face outreach services, public solicitors in the more remote regions described the importance of being available within the community at large and the importance of building trust within the community, particularly with Aboriginal clients:

> *The community has to get to know you, to trust you … I think the community deserves that. They know who they can trust … If you don't trust your lawyer when you go to court, you're not going to give full and frank instructions. So, having that trust and having lawyers who have been in the community a while [is good], and not having a kind of merry-go-round of lawyers coming and going, I don't think that's good for the community.* (Public, North Western)

> *We have people coming in who might stay say six months to a year, but they'll move on. There's always a massive follow on, especially when you're dealing with the Aboriginal community. You're asking your clients to make a connection with somebody who then goes away once they've got their trust built up. It's a really hard ask.* (Public, Far West)

Solicitors from public legal services noted that in addition to their legal work, they put considerable effort into coordinating both legal and non-legal services for their more complex clients:

> *Multiple problems! Well, that's what we do. And all of our clients have that, they usually have multiple problems … our job really is to assess that and try and find out all their problems, and either help them help themselves, if they are capable of doing that, or refer them off to other services that can assist them … We're located with Family Care, which is a not for profit community organisation, and every Wednesday afternoon I do outreach at the Aboriginal Health Service. We also have lots of networks with other service providers, so we know where to refer clients, how to help them in the holistic way.* (Public, South Western)

> *This service only does criminal law, but we act as a referral point … If people come in they might talk to me and they've got a family issue or something has happened in the shop … What we do, we bring them into our office, we listen to what the issue is. Then we say "OK, these are the agencies you might want to have a chat with". We help them by letting them use our facilities here. We help them fill out application forms and we help them understand the supporting documentation they need. We can fax that off or send it off for them.* (Public, North Western)

> *We do appointments, we do CLE, and we do a lot of work with our community partners. For example, when we go on outreach we drop in on all of the services on the ground because usually I find they are the best steers to have them do the referrals to me, or they are also a good place for us to provide information, so that at least people understand their legal issues, and they can triage them to us.* (Public, Far West)

A public solicitor from one legal service noted how their field officer was able to provide an important face-to-face contact for people within the community:

> *The idea is that she's a contact always available in the community. More accessible to the local communities than us here, and she makes appointments and she also advertises the service as a drop in… Also in cases where there is a feeling of urgency, she can make the connection by phone or remote web cam so we can give them a reply straight away and then maybe progress the matter by the next time we visit, so they know what documents to have, what needs to be investigated.* (Public, North West)

Funding to maintain the areas of law covered by public services, or the availability of outreach positions, was a critical issue voiced by some of the public solicitors:

> *We used to be funded to do civil and criminal, and we also have a family care and protection unit, but it's slowly being trimmed back. The civil law section is completely gone because of lack of funding.* (Public, Far West)

> *Well, there's always a problem of access to legal resources for those outlying communities … there have been identified needs and endeavours to try and provide further resources to meet those gaps, but obviously it's pretty hard to do it on a scale that you would like to in a perfect world, by any means … We have real issues at the moment with capacity, in terms of workload, and so that obviously stems from funding and all that sort of stuff.* (Public, North Western)

Private practitioners providing a face within the community

Private practitioners also stressed the importance of being able to provide a face-to-face service within the community. For some, this involved creating a neighbourly atmosphere that encouraged people to drop-in:

> *I operate at an extremely low rate, a very, very low rate; give away prices, to encourage people to come in, which they do. When they come in, they love to come in, this is a country practice. They have a Monte Carlo [biscuit] and a Scotch Finger [biscuit] and a cup of tea and they talk about the wheat and the sheep, and then the grapes and the river and the water, then finally they get around to what they are talking about … Anyone can walk in here and sit down, have a talk, what's your problem? (*Private, South Western)

> *People want to see a face. I know you have those 1800 numbers. They'll have to do that at some stage. But people are going to see a face if they can see a face. That's why the Legal Aid clinic is such a good thing. You see in these little communities, once years ago, you didn't have a solicitor but a solicitor used to visit from the next town so you would make appointments and see them, because they liked to see you, they liked to see the community.* (Private, North Western)

Some solicitors noted how being available within the community, combined with their local knowledge, allowed them to work more efficiently and cost effectively for their clients than might be the case with 'big town' firms:

> *One thing I do find is that in this town, we have got two firms of solicitors, one firm has got one person now, I have got two here. We quite often, because we know each other, we deal regularly with each other, we can sort through the problems and sort them out on behalf of the client just talking between the other solicitor and myself. Whereas without that local knowledge and the contact we have on a regular basis, we wouldn't be doing that. And I know that in other places, in bigger towns, they don't do that, they work on a time-for-service basis. If they don't do that, they don't make money so they drag it out essentially. Whereas because of our situation, we know the people, we can sort it out.* (Private, South Western)

> *I've got a really good stable network over all of the areas, including into Sydney. If I need to get a specialist in, or a barrister, or whatever, I have access to all of those. I've set that up so I can operate that way. It's difficult, because of the distance. Other people won't do those things for nothing, whereas I do … People get in touch with the solicitors in the town and they just cut them off. If they're not going to get paid, they're not interested. Makes a difference, especially when you are living in the area you know.* (Private, South Western)

The considerable amount of free-work undertaken by private practitioners within their communities has already been discussed, and one solicitor queried who would take on this work if local lawyers were not available:

> *But here's the problem, when I retire, and all the other lawyers you've been talking to retire, who does that work? Who sits on the committees of any number of community organisations? There's honorary secretary or honorary treasurer providing advice on that sort of basis to numerous community groups.* (Private, North Western)

The future of private practitioners within the target areas

Solicitors reported a bleak future for private practitioners based within the target areas. This was largely attributed to the current high age of these private practitioners (the average age of interviewed private practitioners based in the target areas was 59 years) and a relatively small number of new practitioners coming into the areas:

> *The number of lawyers per head would probably be about the same as what it's been for the last 25 years, but they're ageing. I think I started out as about the youngest lawyer, and I think I still am.* (Private, South Western)

> *Having been out here as long as I have, and a lot of the lawyers that I deal with in the adjoining towns, it's very, very similar. They might have come out in their 20s, they are still here in their 50s, and obviously, a lot of them are much older.* (Private, North Western)

Some solicitors described their thoughts on retirement and 'shutting the doors' of their practice. Generally, they indicated that there was little prospect of anyone wanting to come and continue their practice:

> *I can't close the door because if I did, I've got files here going back to stations and properties that are over a hundred years old. If I did close the door and walk out, which sometimes I'm tempted to do, I'm 71, and then those files have to get broken up. It's a hell of a job just to close the door. You can't just close the door and walk out. …You've got to pass [on the files] and then you've got to get permission, you've got to advise the Law Society and the Law Institute, you just can't do it… A solicitor could come in and take it over, but they don't want to do it.* (Private, South Western)

> *There's only me here at my practice and I know the other solicitor here in town, and his wife works with him. He doesn't employ any other solicitors so neither of us have any succession planning. There are no solicitors, or any prospect of any solicitors, coming to the town. The other solicitor is in his 60s and he wants to retire. He's just got no succession planning in place. I certainly don't have any prospects of anyone coming.* (Private, North Western)

One private practitioner described how he believed it would be good for the town if the practice were to continue, but that his retirement plans were based on the premise that his business was 'worthless':

> *Look, this might be very negative and defeatist, but I see myself working here as long as I want or need, and almost quite literally, shutting the doors. That might be negative, you know it's a good practice, we do all right out of it, and I'd like to think that someone would take over. The non-material side of me says that it would be good for the town and the clientele that someone did what I did. I was 26 and I came out of the city, I bought it, and just continued it for another 30 years, but I simply just don't see that happening quite frankly.* (Private, North Western)

Another solicitor believed his business could be sold, but it was unlikely that the purchaser would be someone who would live in town and be part of the community:

> *Everyone loves my practice, I could sell it tomorrow for a moderate sum, but they want me in it. When I die no doubt someone will come along and they'll take the wills and they'll take the business side, but I don't really think they'll have someone come and live here and be part of the community. I hope they do.* (Private, North Western)

In the North Western region, it was noted by a few solicitors that where solicitors' offices were being vacated some were being taken over by paralegals or as branches of legal firms that were not based in target areas, or firms that tended not to do legal aid or court work:

> *The other firm is still here, but it's run by paralegals, there's no solicitor. So, they are limited, through no fault of their own, but they just can't do some of the work. They've got three girls up there, but they are unable to provide a general service. What they do of course, they do the conveyancing, probate and that sort of thing. And of course they are a branch office of a firm that works in Nyngan. And they don't do court work or general stuff like that.* (Private, North Western)

> *There are some firms that have opened up. There are some firms that have gone to Bourke and Walgett, these are sole practitioners, but as far as I know they are not doing the legal aid sort of work, or it's not viable for them to do that sort of work … For example, in Gilgandra where that solicitor retired, they were bought out by Peacocks, a Dubbo based law firm, but they don't do the crime. And then there was another firm there which sold out, which got taken over as part of Slater and Gordon.* (Public, North Western)

One solicitor indicated that while viable legal practices could be established in larger towns or 'sponge cities', a slow decline in the availability of 'local' practitioners was inevitable:

> *I know some people have had a great success rate in buying up practices in the Riverina there, but I don't know how you can do it out here … When you are dealing with Wagga Wagga, you've got 100,000 people in a 100 square kilometres. Then you see how many solicitors … and barristers there are in Dubbo, which is 300 km away. But here, when you are dealing with the face of the patient, the client over the desk, of course, the services are just slowly going to lessen.* (Private, North Western)

Three private practitioners reported that they had children that had obtained graduate qualifications, but that they were unlikely to return home to take over the family practice:

> *My daughter is the girl you were speaking to, she is studying law and she has two years to go for her Solicitors Admission Board's certificate so she can then be admitted and become a solicitor. I don't know whether she'll stay here. She's got a desire to go to Sydney. My ambition here is to keep the practice going so that she has that opportunity. It's a shame if she decides not to, because it does work.* (Private, South Western)

> *I have a daughter who is 28 who went the metropolitan way. She's been very successful, she's a senior solicitor at a large bank, but watching the narrowness of her exposure versus the breadth that my trainee here has had exposure to, I think that's one of the benefits of the traineeship. You start on the bottom, work your way up the top, but you get exposure at all levels. And from my perspective, I have what I believe to be incredibly bright and well-trained staff.* (Private, Far West)

As noted in the above quote, this private practitioner, whose main office was not located within a target area, had addressed concerns of recruiting professional staff by sourcing locally:

> *I have had a lot of trouble over many decades employing good competent staff, because there is a perception that perhaps practice in the country is perhaps second rate, which I would suggest is not the case, in any sense of the word. So after all those negative experiences, I came up with the idea of actually approaching the local high school and from that, by our first arrangement, we had two very talented young ladies that wanted to stay in this town. They were pretty much born and bred here. The way we arranged it was that the girls were that committed that they studied their law degree externally and worked full time at the same time.* (Private, Far West)

The experience had been a positive one for the trainee:

> *I studied externally over eight years, it was at a university in Lismore and so I had to go there a couple of times during the eight years. Everything's online now so I didn't find that it was too much. The only thing I found was that with the CPD [Continuing Professional Development] units and the College of Law, there were the occasional ones that I'm aware of through working in the firm, but generally, they concentrate on family or criminal, that's an area that's lacking here so I had to travel to get my units or do the online ones. (Private, Far West)*

In contrast to the above situation, none of the private practitioners that were based within the target areas had an interest in recruiting professional staff to their practice, indicating that it was simply not financially viable for them to do so.

In the North Western region, one private practitioner noted that while his legal practice was financially viable for himself, it was unlikely that his practice could support more than one person:

> *Only recently, I've had a couple of people ring me up and send me their CVs to come out here, and they are lovely people I'm sure, but they are too specialist. I'm not hiring anyone, not now. If I am going to go, I'll go, I'm 65 … So I suppose the long and the short of it is that I'll still be here until I drop. Unless someone comes in and says [they'll] help, but unfortunately, this legal practice may not support two people. So that's the problem.* (Private, North Western)

Another North Western private practitioner described how it might be a positive experience to provide practical legal training to a law graduate, but financially, this was quite unrealistic:

> *We've had people from different universities come in and address us about taking on graduates. For someone like me, yes, it would be great for someone to come and give them that practical legal training, but we're expected to pay them and provide some sort of accommodation. I can barely pay myself sometimes. I can't afford to pay $700 a week for someone doing their practical legal training; I don't pay myself $700 a week. That's a huge issue for a lot of smaller firms out here.* (Private, North Western)

Again, in the North Western region, another solicitor noted that while the option of country practice could be attractive to a young solicitor, he could not employ anyone himself:

> *It's not happening at the moment. I'm not in the market to recruit someone. I haven't been in the job market for 15 years. But I truly believe there will be a trend where young professionals will realise that working in places like this, it's not the end of the world; in fact, it has some attraction. But of course, I can't put that theory into any sort of practice by employing young solicitors.* (Private, North Western)

For some practitioners, the continuing loss of population and services from the target areas was inevitable and mirrored the losses that had occurred in other professions:

> *Accountancy problems come in — I just say look, you need to go and see someone else ... We don't have any accountants here anymore. We have two firms that come up and visit, but they're not here behind a door every day of the week. And that's the problem that's going to happen throughout these rural areas. It's going to be a truncated service. It's going to be once a week, or once a month or once a fortnight, or whatever it is, and the legal profession will be like anyone else, it will just simply diminish over a period of time.* (Private, North Western)

In contrast to this view, one practitioner saw a different future for the region, one where technology would make it easier to work in country areas and professional people would choose to reside away from cities:

> *I do see a future for regional Australia, as life in the cities becomes more expensive and more stressful, and technology makes it easier to work away from the CBD anywhere. You know, as a Sydney boy, and we go to Sydney very often, I see little appeal down there these days, and I think that there will be a movement towards the country, I really do. And I think that will involve professionals.* (Private, North Western)

Summary

The interviews with solicitors were undertaken to explore the impact of general population decline on lawyer availability within target areas that had experienced significant population losses over the previous 10 years. These target areas cover roughly 60 per cent of the total landmass of NSW and contain over 100,000 residents.

The target areas were characterised by a low availability of both private practitioners and public legal services, and most solicitors described travelling extensive distances to service small towns and courts, where the availability of solicitors was either minimal or non-existent.

In addition to general population decline, solicitors described a varied range of regional changes that had impacted upon their workload and these included changes in farming practices, the loss of government services and departments, changes in the areas of law available to practice in, regional court changes, drought and mining.

For some private practitioners, these regional changes had led to there being a reduction in their workload, and this had necessitated that they take on or expand their public legal work. However, for others, the difficulties of undertaking both public legal work and court work had required them to discontinue this work in favour of maintaining the other work of their practice.

Some private practitioners noted how they could only afford to continue their public legal workload, including their pro bono work, if there was enough fee-paying work available to sustain their practice. General population decline, combined with the impact of other regional changes, had often made this difficult. In the North Western region, some new firms had opened, but these tended not to do legal aid or court work.

In some areas, solicitors had increased their fee-paying workload by expanding into additional areas of law. For some, this included family law where the availability of specialist lawyers was often low; and also water rights, an area involving recent legislative changes.

The changing nature of farming meant that some solicitors now undertook a more diverse range of business and investment work for their farming clientele, and an increase in mining work had kept (at least) one interviewed solicitor busy.

While private practitioners had found different ways of adapting to the impact of general population decline, essentially, they were driven by the need to keep their businesses viable.

In contrast to private practitioners, public solicitors reported that there had been little change in their workload over the years as levels of disadvantage within the target areas had been consistently high. However, the poor availability of private practitioners within the target areas had a significant impact on their workload. Public solicitors reported that they had to fill the gap left by private practitioners, either because private solicitors were too expensive, because they chose not to do public legal work, or because these solicitors were simply not available.

While the number of solicitors working within the target areas was small, private and public solicitors alike stressed the importance of their role in providing a face-to-face service within the community, even if that service was provided through outreach. Overall, however, solicitors reported a bleak future for private practitioners based within the target areas. This was largely attributed to the current high age of these solicitors and a relatively small number of new practitioners coming into the areas.

None of the private practitioners that were based within the target areas had an interest in recruiting professional staff to their practice, indicating that it was simply not financially viable for them to do so. Although the option of country practice could be attractive, for these practitioners, it was unrealistic to consider that their practice could support an additional solicitor.

Some solicitors described their thoughts on retirement and 'closing the doors', and generally, they indicated that there would be little prospect of their practices continuing if they went. One private practitioner described how he believed it would be good for the town if his practice were to continue, but that his retirement plans were based on the premise that his business was 'worthless' and not likely to be taken over.

Another solicitor, who believed his business could be sold, noted that it was unlikely that the purchaser would be someone who would live in town and be part of the community. While viable legal practices could be established in larger towns or 'sponge cities', many saw as inevitable the slow decline in the availability of solicitors who were able to provide the much needed 'face within the community'.

7. Discussion

This study was undertaken by the Law and Justice Foundation of NSW in order to further explore issues examined in the Foundation's earlier report, *Recruitment and retention of lawyers in regional, rural and remote New South Wales* (Forell et al. 2010). Both studies were conducted in response to ongoing concerns over what was perceived to be a general departure of lawyers from RRR Australia, the problems private practices and public legal services were having in recruiting and retaining lawyers in those areas, and the difficulties reported in attracting sufficient private solicitors to undertake legal aid work in these areas.

Like its predecessor, this research aimed at better understanding the nature of the problem with the intent to inform strategies to improve access to legal services and lawyers in RRR NSW, particularly for disadvantaged people. Interestingly, the earlier research's findings were not entirely consistent with the widely held perceptions of RRR areas experiencing recruitment and retention difficulties. Key findings of the 2010 research included:

- Contrary to expectations, only a low seven per cent of public legal assistance solicitor positions in NSW were vacant on the census date. However, in some remote areas:
  - vacancy rates were higher
  - there were substantial levels of public legal service positions occupied by 'non-incumbent' solicitors, which suggested difficulties in filling positions substantively
  - the time that public legal solicitors served in remote positions was low, and suggested more frequent staff turnover.
- The more remote the region, the greater the ratio of residents to solicitors (i.e. fewer solicitors per thousand residents).
- Remote areas were more likely to have few, if any, solicitors. In addition, remote areas were more likely to have the youngest and least experienced solicitors (outside of Sydney).
- Some areas, such as the Far West, had particular challenges in recruiting and retaining solicitors, while other regions did not experience such difficulties.

To confirm or otherwise the findings of the 2010 report and to identify any trends over the intervening period, the Foundation undertook this second study to:

1. Examine the availability of lawyers and legal services in different parts of NSW and identify whether there have been any changes over time.
2. Identify the characteristics of areas of NSW most affected by difficulties in recruiting and retaining lawyers providing public legal assistance services.
3. Identify reasons for the escalation or diminution of recruitment and retention problems in particular areas of NSW.
4. Explore the impact of general population decline, population migration and social residualisation in remote, rural and regional NSW on lawyer availability and the provision of legal services in country NSW.

Availability of solicitors in RRR areas

Changes over time

Our earlier study identified that while there were strong and widely held perceptions about falling solicitor numbers in RRR areas, these perceptions may have come, in part, from misreading the available data. For example, the Urbis (c. 2004) finding that the *proportion* of all NSW solicitors in RRR areas had dropped from 16.7 per cent in 1988 to 13.7 per cent in 2003, may have been interpreted to imply a decrease in RRR solicitor numbers. In fact, it really only reflected that the

growth in solicitor numbers in RRR areas occurred more slowly than the growth in solicitor numbers in Sydney. The stated proportional *decrease* in RRR solicitors actually represented an *increase* in solicitor numbers from 1,631 RRR solicitors in 1988 to 2,474 RRR solicitors in 2003 — an increase of around 51 per cent.

Examining the first decade of the 21st century reveals that the number of RRR solicitors in NSW rose by 8.5 per cent from 2000 to 2009. However, there was no steady pattern of growth but rather a sizeable increase (11.4%) in RRR solicitor numbers between 2000 and 2003 followed by a smaller fall (2.6%) in their numbers between 2003 and 2009. Subsequently, this was followed by a small increase (1.5%) in RRR solicitor numbers between 2009 and 2011 (Table 41).

Across the 12-year period between 2000 and 2011, the per capita rate of solicitors in RRR NSW remained relatively constant within the compressed range of 0.9 to 1.0 solicitors for every 1,000 RRR residents. Furthermore, the 2011 per capita rate of RRR solicitors was fundamentally no different to what it was in 2009 (our first census) or, for that matter, what it was in 2000. Nevertheless, the per capita rate of solicitors in RRR NSW was generally no more than one-quarter of the corresponding per capita rate of solicitors for Sydney.

Table 41: Number and rate of solicitors in Sydney and RRR NSW, 2000 to 2011

	RRR NSW		*Sydney*		*NSW (All)*	
Year	*Solicitors*	*Rate per 1,000 population*	*Solicitors*	*Rate per 1,000 population*	*Solicitors*	*Rate per 1,000 population*
2000	2,220	0.92	12,618	3.10	14,838	2.29
2003	2,474	1.00	14,895	3.55	17,369	2.60
*2006 Urbis projection**	*2,675*	*1.06*	*16,683*	*3.90*	*19,358*	*2.84*
2009	2,409	0.92	16,972	3.77	19,381	2.72
2011	2,444	0.91	17,532	3.79	19,976	2.74

* Urbis (c. 2004) used actual counts of solicitors between 1988 and 2003 and projected numbers for 2006. The 2009 and 2011 figures are actual counts (not projections) based on Law Society data provided to the Foundation for this study and its predecessor (Forell et al. 2010). ABS final population estimates were used for all years where available.

Sources: Law Society of NSW database (30 June 2009 and 30 June 2011), Urbis c. 2004 (Table 11), Forell et al. (2010) and ABS 2012.

Beyond these trends for RRR NSW as a whole, and based on our follow up study to the initial research, there have been more localised changes in the number of solicitors for particular areas of RRR NSW (although care should be exercised when interpreting these changes as the numbers involved are generally small). On the one hand, a number of regions in NSW had fewer solicitors in 2011 than in 2009. The Mid-North Coast had five fewer solicitors in 2011, the Murray five fewer, the Richmond-Tweed two fewer and the Far West one fewer solicitors. On the other hand, the North Western region gained 10 solicitors between 2009 and 2011 and the Northern region gained four solicitors. The remaining country regions – Central West, South Eastern and Murrumbidgee – experienced no change in solicitor numbers between 2009 and 2011.

Furthermore, within regions that experienced gains or losses in solicitor numbers, contrasting changes took place within their sub-regions. For example, the Northern region recorded a net gain of four solicitors between 2009 and 2011. However, its constituent LGAs of Narrabri, Moree Plains and Glen Innes Severn each lost one solicitor in the period; and Armidale Dumaresq and Tamworth Regional LGAs gained two and four solicitors, respectively. Seven other LGAs within the Northern region neither gained nor lost solicitors, and two constituent LGAs — Guyra and Uralla — did not have a solicitor to lose in the first place.

In summary, the perception of a RRR-wide loss of lawyers is not supported by the evidence from this and our earlier study. Rather:

- RRR solicitor numbers have increased between 2000 and 2011, and while they dropped slightly between 2003 and 2009, they increased again between 2009 and 2011.

- Per capita rates of solicitors per one thousand residents in RRR areas have remained relatively stable, at between 0.9 and 1.0 solicitors per thousand residents since 2000. Nonetheless, these were much lower than the corresponding rates in metropolitan areas of Sydney, Newcastle and Wollongong (which were around three to four times higher).
- Inter-regional variations exist, with some country regions having lost solicitors and others country regions having gained solicitors.
- *Intra*-regional differences were also observed. Even within those regions that lost solicitors between 2009 and 2011, some of their constituent LGAs (containing only small country towns and rural areas, not regional centres) had experienced an increase or no change in solicitor numbers.

Solicitor numbers and population change

The last few decades have seen dramatic changes in the growth and decline of resident populations in different parts of Australia.

Regional population changes, in combination with changes in solicitor numbers, affect the ratio of residents to solicitors within each region (Table 42). For example, in the Sydney region, the sizeable increase in solicitor numbers between 2009 and 2011 was largely matched by a rise in population. Thus, the ratio of residents to solicitors for the Sydney region in 2011 was basically the same as it was in 2009. This was also the case for NSW as a whole.

In certain parts of NSW, the change in solicitor numbers, however, did not mirror broader population changes. Only the North Western region was comparatively better off in 2011. The combination of an additional 10 registered solicitors plus almost zero growth in population resulted in a residents-to-solicitor ratio that was 8.1 per cent lower in 2011 than in 2009.

Relatively speaking, a number of other country regions in NSW — Richmond-Tweed, Mid-North Coast, Central West and South Eastern — were somewhat worse off in 2011, either having lost solicitors or having failed to gain any additional solicitors in the two-year period. The failure of these particular country regions to gain any additional solicitors was magnified by a concurrent increase in their residential populations — or, in simple terms, more people and *fewer* lawyers.

Table 42: Changes in NSW regional populations, solicitor numbers and ratio of residents to solicitor, 2009 to 2011

	2009 to 2011		*Residents to solicitors*		
Place of practice – Region (SD)[a]	***% change in population***	***Change in number of solicitors***	***2009 ratio[e]***	***2011 ratio[e]***	***% change in ratio***
Sydney	2.7	560	265:1	264:1	-0.5%
Hunter	1.5	26	874:1	864:1	-1.2%
Illawarra	1.2	8	1096:1	1094:1	-0.1%
Richmond-Tweed	0.5	-2	926:1	947:1	2.3%
Mid-North Coast	1.7	-5	1282:1	1335:1	4.2%
Northern	0.7	4	1014:1	1009:1	-0.5%
North Western	0.1	10	955:1	878:1	**-8.1%**
Central West	1.1	0	1384:1	1409:1	1.8%
South Eastern	1.2	0	1717:1	1754:1	2.2%
Murrumbidgee	-0.4	0	1108:1	1120:1	1.1%
Murray	-0.7	-5	1767:1	*1925:1*	*8.9%*
Far West	-1.9	-1	2307:1	*2498:1*	*8.3%*
NSW	**2.0**	**595**	**368:1**	**366:1**	**-0.6%**

Notes: In the column labelled '% change in ratio', values highlighted in pink (and bolded) indicate that the 2011 ratio of residents to solicitors was at least five per cent higher than the corresponding 2009 ratio; values highlighted in blue (and italicised) indicate that the 2011 ratio was at least five per cent lower than the corresponding 2009 ratio. Non-highlighted cells indicate no change or a change of less than five per cent in the ratio of residents to solicitors between 2009 and 2011.

Sources: Law Society of NSW database 30 June 2011 and ABS 2013a.

The Far West and Murray regions had residents-to-solicitor ratios that were respectively eight and nine per cent higher in 2011 than they were in 2009. This is an unfortunate development as these two regions already had the state's worse residents-to-solicitor ratios in 2009. The 2011 residents-to-solicitor ratio in the Murray was five times higher than that for NSW, while the 2011 ratio for the Far West at 2,498 residents per solicitor was almost seven times that for NSW, and occurred despite a drop of almost two per cent in its residential population.

While it is highly likely that some residents of the Murray region may be crossing the border to access legal services in the nearby Victorian regional centres of Mildura, Swan Hill, Echuca, Shepparton and Wodonga, there are no nearby regional centres across the border from the Far West region that would provide its residents with similar options.

Indicators of recruitment and retention difficulties

Vacancies

If services have difficulty recruiting and retaining solicitors, it might be expected that high vacancy rates would be evident in the 'censuses' of public legal services undertaken as part of this research and the 2010 research. In our earlier study, only just over seven per cent of NSW public legal service solicitor positions were unfilled at the census. In this study, the vacancy rate for solicitor positions in public legal services was only slightly higher at 7.9 per cent across the whole of NSW and 9.0% for areas outside of Sydney — arguably still reasonably low levels of vacant positions.

These low vacancy rates must, however, be interpreted in the context of a number of other factors, given that certain parts of NSW have experienced more recruitment and retention problems than others. In the Far West region (Broken Hill) in particular, there appears to be an ongoing problem reflected in public legal services solicitor vacancies. In 2009, two of six (33.3%) solicitor positions were vacant and, in 2011, two of seven (28.6%) solicitor positions were vacant. Elsewhere in NSW, vacancy rates had increased or decreased, although there were no vacant positions in the Central West and Murray regions when both snapshots were taken, and in the Northern region the level of vacant positions was low in both 2009 and 2011.

Time in position

Public legal services based in the more remote areas of NSW also experienced problems in retaining solicitors, as suggested by the length of time that these solicitors had served in their current positions. At the time of our 2011 census, public legal solicitors based in Remote and Very Remote areas of NSW were relatively new to their jobs, having served an average of just over 12 months in the position (the median time in the position was even shorter at 10.5 months). This compares poorly with averages of almost 34 months and 48 months respectively for public legal service solicitors working in Inner and Outer Regional areas. It also compares poorly with the statewide, average time in the position of 23 months.

Positions not filled by incumbents

Aside from keeping solicitor positions filled, the level of public legal service solicitor positions occupied by non-incumbents — that is, by a casual or temporary employee, locum or solicitor on secondment — remains at high levels in many parts of RRR NSW. For example, at the time of our 2011 census, public legal services in the Far West region (Broken Hill) had two positions filled by non-incumbents in addition to two positions being vacant. This means that only three of the seven public legal service solicitor positions in the Far West were substantively filled. Similar difficulties were identified in other areas of NSW such as the North Western, Murrumbidgee, Richmond-Tweed and Central West regions.

The presence (or absence) of a Legal Aid NSW office appears to affect the balance of incumbent and non-incumbent occupied positions. Across the whole of NSW, over 40 per cent of Legal Aid's solicitor positions were occupied by a temporary, casual or other non-incumbent at the time of our 2011 census (down slightly from 42 per cent in 2009). Notably, the South Eastern and Murray regions do not have a Legal Aid office and *all* public legal service solicitor positions in these two regions were occupied by incumbents. However, there is also no Legal Aid office located in the Far West region and, paradoxically, the number and proportion of positions occupied there by non-incumbent public

solicitors was one of the state's highest. From our interviews with public legal assistance solicitors in Broken Hill for the 2010 report, it is the region's remoteness and its general lack of amenity which results in public legal service positions being occupied only for short periods of time, and this mainly involves temporary appointments filling in until more permanent and qualified solicitors are recruited.

Demographic and economic factors

Recruitment and retention are only relevant issues if there is a position for a solicitor to be recruited or retained to in the first place. While many of the impacting factors are similar once a position exists, very different types of 'market forces' determine whether or not a private or public solicitor position exists (or continues to exist) in a RRR area.

Population change is a driver for economic change and, as the National Farmers' Federation (1997, p. 8) noted more than 15 years ago, it is associated with:

> *... the centralisation and regionalisation of services in rural Australia into larger regional centres. Governments are increasingly locating services in areas of greatest population demand. This strategy is having an increasing detrimental effect on the local delivery of services in small towns in rural communities.*

The economic consequences of this divide are that while regional centres continue to grow and prosper, the smaller towns are subject to declining local economies and the increased costs of consumables and services (Budge 2005; Race et al. 2011). Declining population in RRR areas is commonly paralleled by the downsizing and/or removal of private and public services, which may set up a recurring sequence of further population loss and further attrition of services (Pritchard & McManus 2000; Larson 2011; Luck, Black & Race 2011).

Market forces

It was identified in our earlier study that there were 19 LGAs in NSW without a single registered practising solicitor in 2009. This means that there were neither public nor private solicitors practising in these LGAs as their primary place of work. Two years later, the same 19 LGAs still did not have a registered practising solicitor. While there always remains a possibility that solicitors might move into these areas over time, the reality may be that there is simply not enough work in certain RRR locations to support a private legal practice, even if it is just one private solicitor. Similarly, there may not be the need or policy priority to establish any 'on-the-ground' public legal service in particular RRR locations.

None of the 19 LGAs without a single practising solicitor had populations of more than 7,000 residents and, in fact, 10 had populations of less than 3,500. While it was beyond the scope of this project to investigate the factors that contribute to the economic viability of a private legal practice in these areas, others have noted that population decline and associated economic and service losses are predominately small town phenomena (Sorensen & Epps 1993; Glover & Tennant 1999; Race et al. 2011; Ragusa 2011). In North America, where the 'depopulation of a significant portion of the nation's rural counties' was labelled 'a major demographic event', it has been reported that 'many analysts consider a county population of 10,000 the minimum threshold of long-term economic viability' (Walser & Anderlik 2004, pp. 57, 65).

The availability of private lawyers, like most other commercial services in RRR areas, seems to be largely a function of market forces. Where demand is high then private legal practices will likely flourish; where demand is low or on the decline, lawyers will find it difficult to sustain a legal practice. In response to diminishing business prospects, a legal practice may need to cut staff, reduce opening hours, or even relocate to a more populated and economically vibrant country centre nearby. For some legal firms, it may also necessitate the closure of satellite offices in smaller centres.

The location and number of *public* sector positions is generally determined by other factors, including community need, available resources and political imperatives. However, market forces can also have an influence, such as when new public positions are created to meet needs that are not being met by the private sector at that time.

Furthermore, while there may not be a Legal Aid NSW office or ALS office or CLC in every country town, most towns do have one or more private lawyers, and many are willing to perform legal aid work if appropriate payment is provided for their services.

Private lawyers engaged in paid legal aid work provide a practical and economic alternative in areas where 'on-the-ground' public legal services and outreach services are not present or are in short supply. There are a large number of private lawyers in RRR areas who, in addition to maintaining their private practices, undertake paid legal aid work and perform duty work at court — many also provide pro bono services. Private lawyers are thus a fundamental part of ensuring access to justice in RRR Australia (Law Council of Australia 2009a; PricewaterhouseCoopers 2009; Legal Aid NSW 2012).

Amenity and attractiveness

For solicitors thinking of taking a job in a regional or remote area, or deciding whether to continue working in a country practice, the considerations may be very different and often involve a personal assessment of the attractiveness and amenity of the particular setting. Argent (et al. 2011) commented that, in Australia, 'amenity values' are playing an 'increasingly critical role … in shaping rural futures' and this 'has been noted by leading researchers' (p. 27).

Our earlier study found that public legal assistance solicitors were heavily influenced by the amenity of the country location in which they worked (or were considering working). They commented on the undesirable nature of remote areas of NSW, which were seen as distant, hot, dry, inhospitable locations. Such areas were also seen as lacking the health, education and public services that residents of larger urban areas took for granted. Office conditions in remote locations were assessed as run-down and inadequate. Remote areas were also viewed as 'technology-poor', with sub-standard internet access making it hard to utilise online assistance, support and mentoring options (Forell et al. 2010).

Miles, Marshall, Rolfe and Noonan (2004) identified that areas that failed to attract and retain lawyers and other professionals were generally those that were geographically remote, experiencing population decline and/or perceived to have limited opportunities. Our earlier study identified that, even in cases where a public legal solicitor was prepared to work in a remote location, usually it was a short-term plan with the solicitor intending to return to a less remote location after a couple of years (Forell et al. 2010).

Finally, the loss of private lawyers in some remote areas may result in a growing burden of social responsibility on those (private and public) practitioners that remain behind. The loss of professional peers could further reduce the perceived amenity of an area as well as perhaps creating additional access to justice issues, such as 'conflict of interest' matters.

'Dying towns' and 'sponge cities'

The analysis of solicitor availability across RRR NSW must occur in the knowledge of an important demographic trend revealed by longitudinal census data — the growth in population and services in a number of larger regional centres while surrounding towns have been declining (Argent et al 2011; Boylan 2011; Race et al. 2011). The growth of these larger centres, labelled as 'sponge cities', appears to be at the expense of smaller country towns and 'rural hinterlands' (Salt cited in Nugent 2000; NSW Farmers Association cited in Australian Productivity Commission 2009).

A number of LGAs in NSW that contain large regional centres have experienced substantial increases in their residential populations between 2001 and 2011 (ABS 2012).[78] The population of Wagga Wagga, for example, increased by almost five per cent over the 10-year period; for Tamworth the increase was more than four per cent; and for Goulburn, more than three per cent. Against the backdrop of population change, parallel changes in solicitor numbers for these LGAs were observed (if only for a two-year span at the end of that period which our studies covered).[79]

A number of 'growth' centres gained solicitors, including Dubbo (five additional solicitors), Lismore

78 In many instances in NSW, large urban centres are contained within the LGA bearing the names of those centres (e.g. the city of Wagga Wagga within the Wagga Wagga LGA, the city of Dubbo within Dubbo LGA and Tamworth within the Tamworth Regional LGA). However, many smaller towns are contained within the boundaries of these LGAs.

79 Note that only changes between 2009 and 2011 were considered as solicitor numbers for earlier years broken down by LGA were not available.

(5) and Tamworth (4), which appeared to have occurred at the expense of surrounding LGAs. For example, the Northern region LGAs of Narrabri, Moree Plains and Glen Innes Severn each lost one solicitor in the same period that Tamworth gained four solicitors (it should also be noted that two other Northern region LGAs, Guyra and Uralla, did not have a solicitor to lose in the first place).

Our interviews with private solicitors in remote areas of NSW provided some evidence of the negative influence that growing regional centres were perceived as having on the viability of smaller country towns and their local legal practices. For instance, one private lawyer associated the cutting of government services stemming from centralisation and regionalisation with 'causing people to move away from small towns'. Another found that referrals to lawyers in larger regional centres had become necessary as legal assistance for certain areas of law, for example family law and care and protection, were not available locally. Others predicted that the future of private legal services in smaller towns would involve the further curtailing of legal services, perhaps leading eventually to their disappearance altogether.

Not all our findings, however, supported these negative views.

First, it was demonstrated that the ratio of solicitors to residents across RRR NSW has remained relatively constant despite the declining populations and deteriorating economies of many small towns. This may suggest that solicitors are leaving 'dying towns' at much the same rate as the general population of these settlements. In the face of losing one or more solicitors, these areas will generally have the same level of legal service because the balance in the ratio of solicitors to residents has remained largely the same.

Secondly, it was found that between 2009 and 2011 there were more country LGAs that *gained* solicitors than lost solicitors. In addition, there were *fewer* country LGAs with a solitary solicitor in 2011 than there were in 2009, reflecting the fact that a number of these LGAs had acquired a second solicitor in the interim period.

Nonetheless, many of the LGAs that lost solicitors between 2009 and 2011 were in outer regional and remote areas of NSW. This finding is likely to indicate the particular difficulties that private lawyers have in sustaining a viable legal practice in remote country areas with small and declining residential populations. With population decline, the amount of commercial work may drop below a *threshold*, resulting in there being not enough work to sustain all solicitors practising in that location. The finding may also reflect real difficulties in attracting solicitors to work in RRR areas that are lacking many of the health, education and commercial amenities available in larger centres; or the failure to find replacements for RRR solicitors who have retired. These difficulties have been highlighted by comparable research examining the availability of doctors, teachers and other professionals in RRR areas of Australia (Miles et al. 2004; Roberts 2004; NSW Legislative Council Standing Committee on State Development 2006; Larson 2011).

Factors impacting service delivery in RRR areas

Population decline and increasing socio-economic vulnerability

Many RRR areas of NSW are already marked by high general levels of socio-economic disadvantage. Sparsely populated country towns and their surrounds are particularly vulnerable to the adverse socio-economic effects associated with declining population numbers. In areas that have experienced sustained population loss, there is likely to be an intensification or concentration of disadvantage as those that remain in these communities are more likely to have low income levels, lower educational attainment, low occupational status and high unemployment — the 'less enabled people' as Wilson (1999) referred to them. Out-migration is likely to bring about the intensification of socio-economic disadvantage, which has wide ranging and multiplying effects on the social well-being of rural communities. Without going into every single effect, a number are discussed below to highlight their impact on both private and public legal services.

First, in circumstances of population loss and out-migration, it is the more entrepreneurial and higher spending members of rural communities that tend to move first in search of opportunities and a better quality of life (Pritchard & McManus 2000; Race et al. 2011). Unfortunately, their money goes with them. According to Garnett (2010), while all other regions in Australia experienced strong

employment growth between 2001 and 2006, remote Australia experienced negative employment growth rate of -4.3 per cent. In today's terms, it may be estimated that each working person lost from a 'dying town' takes with them between $15,000 and $20,000 of disposable income each year.[80] This makes it harder for the remaining commercial businesses, including legal practices, to survive.

Secondly, with the amalgamation of farming properties and ever-increasing agricultural efficiencies, the growth in remote corporate ownership and even the 'fly-in fly out' nature of workers in some RRR industries, fewer and fewer people are needed to live and work on farms and in rural areas, more generally. These trends, exacerbated by long-lasting droughts and other natural disasters, have resulted in farmers 'leaving the land'. A number of solicitors interviewed in this study noted that as farmers left, this resulted in less work for local lawyers.

Thirdly, the dynamics of population loss, particularly in terms of leaving behind a set of more disadvantaged residents, combined with a dwindling rural economy, means that demand for *free* legal assistance was as high as ever in many rural areas. This observation was made by a number of the remote area solicitors interviewed for this study. In addition, disadvantaged people could actually be drawn into towns affected by declining populations because of the lower rents on residential properties (Murphy et al. 2002; Salt 2003; Race et al. 2011). The result is a further increase in the proportion of disadvantaged residents and thus a potential increase in the demand for free legal assistance.

Fourthly, disadvantage is closely linked with high legal need (Coumarelos et al. 2012), and the upshot of concentrated disadvantage arising from population loss in RRR areas for legal practitioners in these locations is likely to be a set of clients with not only lower functional capacity, but a higher incidence of legal problems and more complex problems.

Forced to adapt in regions with declining populations, a number of private solicitors noted that their legal practice now survived on the extra income provided by grants of legal aid and duty rosters at court. One reported that his practice had become, in essence, a legal aid practice. However, this was not a uniform trend. For some private solicitors, the difficulties of undertaking legal aid work had necessitated that they discontinue this work altogether in favour of maintaining the other fee paying work that kept their businesses viable. Largely, this was attributed to the extensive distances now required to attend courts in regional centres and the belief, expressed by a number of private solicitors, that they were not adequately recompensed for time away from their office.

The patchwork of public legal assistance in RRR areas

Disadvantage is broader than poverty and reflects multiple and compounding types of social inequality and social exclusion (Arthurson & Jacobs 2003; Saunders 2003). This includes the inability to participate in key societal activities or to access generally available standards of living, rights, services and opportunities (Burchardt, Le Grand & Piachaud 2002; Arthurson & Jacobs 2003; ABS 2011c; Coumarelos et al. 2012). Factors such as remoteness, poverty and distance from key service locations, all contribute to disadvantage and social exclusion (Vinson et al. 2007; ABS 2011c; Coumarelos et al. 2012).

'On-the-ground' public legal services

Both our initial and the present follow-up study highlighted the uneven distribution of 'on-the-ground' public legal assistance services across NSW. There are few permanent 'on-the-ground' public legal services in certain parts of the state. There is no Legal Aid NSW office west of Dubbo in the northern half of the state and west of Wagga Wagga in the southern half. There is no Legal Aid office or CLC in the Southern region of NSW; there is no CLC in the Murrumbidgee region; the Murray region has no Legal Aid office or ALS office; and there is no Legal Aid office in the Far West. At the time of our census, a CLC was about to commence operations on the Mid-North Coast.

The lack of a local CLC, Legal Aid NSW office or ALS office affects not only the types of public legal

80 Beal and Ralston (1997) estimated that $320 per month per person was lost when residents combined shopping with banking in the nearest regional centre. The authors extended this scenario to apply to the out-migration of residents from 'dying towns' into regional centres. They also wanted a 'modern day' estimate. The 1997 dollar amount estimated by Beal and Ralston was adjusted to account for a total CPI increase of 154 per cent between 1997 and 2013 (*RateInflation* – Historical inflation rates for Australia, 2013). The amount was also modified to take into account the fact that families accompany many working residents who leave, and that money spent on and by family members is also lost to the local economy.

services that country residents are able to access, but also the types of legal problems for which local residents can receive 'face-to-face' assistance. For example, it was noted that ALS offices are located in some of the more remote areas of NSW, and they may be the only 'on-the-ground' public legal service in these locations. However, the ALS only provides a legal service for *Indigenous* residents and only for criminal law and care matters. It does not provide a legal service for *non*-Indigenous residents; and it does not provide legal assistance to people seeking help for civil law and family law problems, even if they are Indigenous residents.

Thus, in NSW at least, there is a complex, inconsistent patchwork of fixed public legal services, with legal services provided in some areas and not others. Targeted legal assistance programs, such as Legal Aid NSW's Regional Outreach Clinic Program, and statewide telephone and internet services such as LawAccess NSW, have been implemented in an effort to bridge these gaps and to increase access to legal assistance in RRR areas for disadvantaged communities.[81] Furthermore, outreach programs assist in the resolution of 'conflicts of interest' in locations where there are few public or private solicitors.

Grants assigned to private lawyers in RRR areas

Legal Aid NSW provides grants of legal aid through a 'mixed' model utilising the services of both in-house solicitors and private lawyers. This is particularly important in areas where high socio-economic disadvantage coincides with few 'on-the-ground' public legal services and low solicitor numbers. Assigning grants of legal aid to private lawyers aims to ensure that people across the whole of NSW can access legal aid (regardless of whether there is a legal aid office nearby or not). It also assists in the resolution of 'conflicts of interest', particularly in cases where one party in a legal dispute is already a client of Legal Aid NSW.

In conducting a review of grants of legal aid assigned to private lawyers in 2010–11, the goal was to identify whether there were any relationships between population numbers, solicitor numbers, the presence or absence of 'on-the-ground' services and grants of aid in a region.

Based on all registered solicitors, an average of 2.7 grants in 2010–11 was assigned to every non-corporate private solicitor in NSW (although it should be remembered that not all private solicitors engage in legal aid work). The average number of assigned grants was up to four times higher for private solicitors based in the Richmond-Tweed, North Western, Central West and South Eastern regions, and up to six times higher for private solicitors in the Murray, Murrumbidgee, Mid-North Coast and Northern regions. In the Far West, a conservative estimate of the annual number of grants in 2010–11 per private solicitor was 36 — a rate 12 times the state average and twice that of any other region in NSW. Regions with large numbers of assigned grants and regions without one or more 'on-the-ground' public legal services tended to match up.

Secondly, each region's share of grants met through private solicitors, while varying from region to region, broadly reflected each region's share of the NSW residential population. However, when area of law was taken into account, a number of regional discrepancies were observed.

In relation to legally aided *criminal law* work, a lower than expected proportion of criminal law grants was noted for the Central West region. For *family law* and *care and protection* matters, the South Eastern and Far West regions had a share of legal aid grants below what might be expected based on population counts. The picture concerning legally aided *civil law* work was very different. Almost across the board, regional lawyers were assigned fewer grants than expected based on population share and this was the case even in the Hunter and Illawarra regions. In two outlying regions, the Far West and North Western, private solicitors received no grants of legal aid whatsoever for civil law work in 2010–11 and in two others, the Murray and Murrumbidgee, three or fewer civil law grants were assigned in the 12-month period.

Our first study identified that there were few private solicitors in these regions who were members of Legal Aid NSW's civil law panel in 2009 (Forell et al. 2010). Even if this were still the case in 2011, the expectation may be that the few lawyers specialising in civil law in these RRR areas would

81 See Forell and Gray (2009) for an examination of outreach services in NSW. The Law and Justice Foundation of NSW's recent review of Legal Aid NSW's outreach legal services identified that almost 80 per cent of such services were located in rural and regional areas of NSW (Forell, Ramsey, McDonald & Williams 2013). Furthermore, the Legal Aid NSW website catalogues a range of its specialist services to disadvantaged client groups. Refer to http://www.legalaid.nsw.gov.au/what-we-do/services for more detail. Many of these provide outreach to areas of country NSW. Also, see Cipants (2013) for a review of Legal Aid NSW's Regional Outreach Clinic Program.

receive *more*, not fewer, grants to assist clients with their civil law problems. As this did not occur, one possible interpretation is that people living in RRR areas simply have fewer civil law problems than those in more congested, urban environments. However, legal needs research, such as the Foundation's recent Legal Australia-Wide Survey (LAW Survey), suggests otherwise (Coumarelos et al. 2012). An alternate explanation might be that the lack of lawyers practising in civil law in some RRR areas may impact negatively on applications for legal aid from people experiencing civil law problems.[82]

In summary, the research suggests that finding a local lawyer with the right skills and willingness to undertake grant matters in the different areas of law, particularly civil and family law, and also care and protection matters, was more difficult in areas with fewer lawyers. Fortunately, some private lawyers in regional and remote NSW reported being prepared to travel considerable distances to represent legally aided clients at court, particularly where the matter involved a criminal hearing or a child's care matter.

Age, experience and stability

There were marked regional differences in the characteristics of resident solicitors — some of which may affect legal service delivery to remote communities.

Country solicitors tend to be older than solicitors in metropolitan areas. However, solicitors based in the more remote country areas appeared to be the exception. The average age for solicitors based in Inner and Outer Regional areas of NSW was about 50, compared to an average age of around 44 years for Major Cities' solicitors and approximately 46 years for solicitors based in Remote/Very Remote areas.

Regional differences were identified in the *level of legal experience* of public legal assistance solicitors. There appeared to be a strong (negative) relationship between years of public legal experience and the degree of remoteness. Public legal assistance solicitors based in Major Cities had an average of eight years of experience in the sector, whereas their counterparts in Inner Regional and Outer Regional averaged below seven and six years of experience, respectively. Public legal assistance solicitors working in Remote and Very Remote areas had the lowest level of public legal experience, averaging under two years.[83]

Public legal services based in the more remote areas of NSW also experienced problems in retaining solicitors, with their solicitors serving on average just over 12 months in the position. This compares poorly with an average of almost 34 months and 48 months respectively for public legal service solicitors working in Inner and Outer Regional areas of NSW, and a statewide average of 23 months in the position.

Our first study identified that the high turnover of solicitors in remote offices of public legal services was a constant drain on those services. There was the burden of having to repeatedly recruit, interview, induct, train, supervise and support new staff, and there were the extra administrative costs of advertising for new staff, and arranging and paying for locums. There was also access to justice repercussions — the effects of high turnover on the quality and continuity of legal services, and the time taken away from *core* services for recruiting, training and covering vacant solicitor positions (Forell et al. 2010).

Interagency differences in work conditions

In RRR NSW, Legal Aid NSW offices are located in the larger regional centres. This factor alone may make a solicitor's job in a country Legal Aid office more attractive than a similar job with the ALS or in a CLC in a more remote location. However, other differences may influence a solicitor's decision to work in one agency over another:

82 Other research also suggests a link between the making of grant applications and the availability of legal practitioners, if only through outreach. For example, Cipants (2013, p. 37) noted that 'promising' rates of grant applications were made by clients of the Legal Aid NSW Regional Outreach Clinic Program (ROCP). She reported that 12 out of 14 ROCP clinics assessed had ROCP clients who were subsequently granted aid, and of the nine per cent of ROCP clients who applied for a grant of aid, 70% of grant applications were approved.

83 The median values for years of experience for public legal assistance solicitors in the different Remoteness Areas essentially follow the same pattern.

- *General work conditions and support*: Interviews conducted as part of our previous research (Forell et al. 2010) suggested that the level of infrastructure, office conditions, administrative support, IT systems and assistance, mentoring and professional development opportunities were considered better, overall, within Legal Aid NSW.
- *Salary disparities*: Legal Aid NSW solicitors are paid significantly more than similarly graded solicitors in the ALS and CLCs.

The result is that lower paid public solicitor positions tend to be located in remote and outer regional areas with less infrastructure support, while the higher paid public solicitor positions tend to be located in less remote, inner regional areas with better infrastructure support.

Some RRR solicitors who were interviewed believed that these disparities contributed to a movement of solicitors away from CLCs and the ALS to other employers, including Legal Aid NSW. Of course, any move of a RRR solicitor from a CLC or the ALS to Legal Aid NSW may reflect, to some degree, a move from *more* remote to *less* remote areas of NSW.

Rationalisation of government services and the closure of courts

The retraction of services in rural Australia into larger regional centres has meant that key government and non-government services have been withdrawn or downsized in many RRR areas (Australian Productivity Commission 2011). At least in NSW, the closure of local, district and family law courts, and the reduction of sitting days, has followed a similar pattern. A number of interviewed solicitors identified the latter, in particular, as having multiple adverse effects on their workload, the economic viability of their legal practices and the ability of country residents to access legal services.

In remote areas, the location of where the client resides and where the lawyer practices are often distant from where court proceedings take place. While many lawyers in regional and remote areas are prepared to travel considerable distances to represent clients, often better court outcomes are achieved when the client attends court in person, especially when they are ordered to do so.

The 'tyranny of distance' is very real for disadvantaged clients living in most RRR areas, but especially in the more remote areas of NSW, particularly where public transport is inadequate or non-existent. In many cases it is impossible to travel to the nearest relevant court or service in a single day round trip, which adds significant financial burden on disadvantaged clients. For some clients, this effectively prevents them from obtaining legal assistance, and some may choose to 'go without' legal assistance or fail to attend court. This creates the very real possibility, widely acknowledged within the legal sector, of an escalation in 'criminality' when *'Failed to Appear'* is added to the record of an alleged offender who does not appear in court. In some cases, additional warrants are issued even though no new offence was committed.[84]

Generally, people who are involved in criminal law, family law and care proceedings are able to access duty services provided by in-house and private lawyers at local courts and family courts that are located throughout the state. Unfortunately, many courts in RRR NSW are circuit courts and may only be open for a few days each week, or as infrequently as one or two days every month. Regional outreach clinics help, but other strategies may be needed to provide legal assistance to members of remote communities who are required to appear before a court or who have a need to consult with a public legal solicitor in person.

An ageing profession

In general, country solicitors tend to be older than solicitors in metropolitan areas of NSW. However, solicitors in Remote/Very Remote areas were the exception being around the same average age as their city counterparts.

Solicitors based in Inner and Outer Regional areas, aside from on average being older, also had more years of legal experience.

84 Cunneen (2007) makes the point that Indigenous people are proportionately more likely to live in rural and remote areas of Australia than other culturally and linguistically distinct groups. They are also more highly over-represented in their appearances before the courts for 'justice-related' matters — a group of offences primarily related to breaches of existing court orders such as conditions placed on bail, bonds, probation or parole. Cain (2006) noted that harsh and discriminatory practices by criminal justice authorities 'early' in the system have been found to adversely affect later criminal justice outcomes, especially for Indigenous persons.

The Law Council of Australia (2009b) has previously expressed concerns that the number of lawyers in RRR areas will rapidly decline in coming years as large numbers of private lawyers in rural areas retire. In areas with declining populations, the private lawyers interviewed in this study were acutely aware of their ageing demographic and what that meant for the long-term prospects of country law practices and the provision of even basic law services in these areas.

Lack of succession options

Succession planning was a key concern arising from the Law Council's (2009b) survey of lawyers working in RRR areas, and this issue also featured prominently in the views of the country lawyers interviewed for this study. None of the interviewed solicitors that were based in declining areas expressed an interest in recruiting additional solicitors to their practice, indicating that it was simply not financially viable for them to do so. Although the option of country practice could be attractive, for these practitioners, it was unrealistic to consider that their practice could support another person.

Describing their thoughts on succession, these solicitors generally indicated that there would be little prospect of their practices continuing if they went. One private practitioner described how he believed it would be good for the town if his practice were to continue, but that his retirement plans were based on the premise that his business was 'worthless'. Another solicitor, who believed his business could be sold, noted that it was unlikely that the purchaser would be someone who would live in town and be part of the community. While viable legal practices could be established in larger towns or 'sponge cities', many saw as inevitable the slow decline in the availability of solicitors who were able to provide the much needed 'face within the community'.

Incentive based strategies

In a number of professions, such as medicine and education, incentives have been provided to entice personnel to work in certain RRR areas (Dunbabin 2003; Roberts 2004). For those willing to take up positions in those locations, incentives have included additional or increased salary payments, housing or other subsidies and more generous leave provisions.

As discussed in our previous report, medical practitioner provider numbers that are restricted to specified areas have been used as one means to fill medical positions in many RRR areas using migrant doctors. In education, a priority transfer to a vacancy at another school, in an agreed location after serving a required number of years in a rural or remote school, has long been in use in NSW to attract teachers to accept positions in country locations (Department of Education & Community 2013).

For large government departments, such as Health and Education, providing higher salaries and other financial incentives for the relatively few employees working in remote locations may be an economically viable way of resolving recruitment and retention issues in RRR areas. However, for small country legal practices, CLCs and other public legal services that operate on tight and relatively small budgets, providing higher salaries and other financial benefits for their RRR employees may not be possible. Furthermore, a 'priority transfer' system would seem problematic in the public legal services sector — it probably would not be possible for CLCs (they are small organisations that operate independently of one another) or the ALS (which is also a relatively small organisation). While it may be possible in Legal Aid NSW, their offices are not currently located in areas with the greatest recruitment and retention challenges, and it is not clear what benefits would accrue through such a system.

Rural incentive strategies can only work successfully if they provide for differentiation across heterogeneous country areas on the basis of remoteness and amenity. Otherwise, such schemes will tend to make the more amenable RRR locations, such as coastal towns and regional centres, even more attractive to potentially interested solicitors than the more remote and less amenable country areas. As the more remote areas have the greatest recruitment and retention problems, they should be the intended targets of such measures.

Of course, even well targeted rural incentive strategies will only attract those solicitors who consider rural practice as a realistic pathway to enhance their career development.

8. Conclusion

Over recent years, there has been popular concern about an apparent decrease in lawyers working in RRR areas throughout Australia. Attention has centred on perceived problems in the recruitment and retention of lawyers. The Foundation has now completed two studies into the availability of solicitors in RRR NSW that have included assessments of problems relating to the recruitment and retention of solicitors in different parts of country NSW.

Availability of lawyers — a recruitment and retention issue?

In brief, the perception of a progressive loss of lawyers from RRR NSW is not supported by the evidence revealed through the Foundation's research. Rather:

- The actual number of RRR solicitors in NSW increased, not decreased, between 2000 and 2011.
- Across the same period, the per capita rate of solicitors in RRR NSW remained relatively stable, within a compressed range of 0.9 to 1.0 solicitors per 1,000 RRR residents. Nonetheless, these were much lower than the corresponding rates in metropolitan areas of Sydney, Newcastle and Wollongong (which were around three to four times higher).
- Solicitor vacancy rates in NSW public legal assistance positions — one indicator of recruitment and retention difficulties — remained fairly low (7.2% in 2009 and 7.9% in 2011). The vacancy rates for areas outside of Sydney were only slightly higher (9.3% in 2009 and 9.0% in 2011).

These RRR-wide findings, however, must be interpreted in the light of the following further observations:

- Inter-regional variations to the broader trends were observed, with some regions losing solicitors and others gaining solicitors. For instance, between 2009 and 2011, the North Western and Northern regions gained 10 and four solicitors respectively, while the Murray and Mid-North Coast regions each lost five solicitors. In addition, with regard to public legal assistance positions, high levels of vacancies were identified for the South Eastern and Far West regions in 2011 but the Murray and Central West regions had no such vacant positions.
- Intra-regional differences were also observed. For example, even within regions that lost (private or public) solicitors between 2009 and 2011, some constituent LGAs (containing only small country towns and rural areas, not regional centres) experienced an increase in solicitor numbers.
- The low public legal assistance solicitor vacancy rates must be qualified by reference to turnover and non-incumbent appointment rates. While non-incumbent occupied positions tended to be highest in Sydney, Remote and Very Remote areas had high turnover rates (as suggested by fewer months in the position on average).
- In general, solicitors in Remote and Very Remote areas were younger and had fewer years of experience (particularly public legal experience) than solicitors in Inner and Outer Regional areas of NSW, who tended to be older and more experienced. That being said, areas with declining populations had a high proportion of solicitors in the 60–64 age bracket.
- Crucially, some areas had no or few registered practising solicitors at all. Both studies revealed that there were 19 LGAs in NSW without a single registered practising solicitor (private or public), and a number of other LGAs had only one or two. Access to solicitors in these Outer Regional, Remote and Very Remote areas typically involved one or more parties travelling substantial distances.
- Grants of legal aid may be assigned to a private solicitor or dealt with by an 'in-house' solicitor.

The proportions varied from region to region, but overall grants met through private solicitors broadly reflected population share across the majority of RRR regions. However, when area of law was taken into account, a number of regional discrepancies were observed. The research suggested that finding a local lawyer with the right skills and who was prepared to undertake the grant work, particularly in the areas of care and protection, family law and civil law, was more difficult in areas that had fewer solicitors.

These findings must also be interpreted within the demographic and economic context in which they were occurring.

Demographic and economic context

Over the last two decades, there has been a *relative* decline in the proportion of the NSW population residing in RRR areas. This relative decline has been due to population growing at a faster rate in Sydney and the major urban centres than in RRR areas. Actual population growth in RRR NSW, however, has tended to occur only in certain inner regional centres, while in the surrounding rural areas, especially remote and very remote areas, there has been sustained population loss.

Actual population decline has generally been paralleled by reductions in services and amenities. The research has highlighted a growing concentration of commercial and government services, including court services, in the inner regional 'sponge cities' and a reduction in such services in the declining areas ('dying towns').

This research provided some insights into the relationship between population decline and increasing socio-economic vulnerability — that is, as services, amenities and employment prospects shift to the growing inner regional centres or to the major metropolitan areas, it is often the most capable, the most educated and the most employable who are first to move from areas experiencing sustained population loss. Together with the movement of some disadvantaged people to declining towns due to the availability of cheaper rental properties, this results in an increase in the proportion of the residual population in declining areas that are disadvantaged, with consequential effects on legal service provision.

The data obtained on the availability of lawyers in RRR NSW suggests the trend in solicitor availability broadly matches the demographic trends — evidenced by the generally stable ratio of solicitor positions to the residential population in RRR NSW. This is not to argue that these ratios are appropriate or otherwise, just that they are remaining stable. Nonetheless, it is noted that the ratio of residents to solicitors in RRR areas is only one-third of that for NSW as a whole, and there are approximately four times as many non-corporate solicitors in Sydney, Newcastle and Wollongong to service every 1,000 residents.

A key determinant of the number and location of *private* solicitor positions is undoubtedly market demand. It should not be surprising that private solicitor positions stay relatively stable with stable populations, increase with increasing populations, and decrease with decreasing populations. Interviews with a sample of solicitors based in RRR areas with declining populations revealed that none had plans (or could afford) to recruit new staff, and most had concerns about whether they would be replaced when they moved or retired. This may present a significant problem for areas of NSW experiencing population decline that currently only have one or two local solicitors.

The location and number of *public* sector positions is generally determined by other factors, including community need, available resources and political imperatives. However, market forces can also have an influence, such as when new public positions are created to meet needs that are not being met by the private sector at that time.

Once a solicitor position (public or private) exists, issues of recruitment and retention become pertinent. Higher vacancy and staff turnover rates were generally noted for public solicitor positions located in some of the remotest areas of NSW. Overall, however, the level of vacant public solicitor positions was low (below eight per cent) across the state. Nonetheless, had there been more public legal assistance positions in remote and very remote areas, the final vacancy rate would likely have been much higher.

Aside from their general lack of 'amenity', remote areas are characterised by declining populations,

falling economic activity and reductions in government, community and other services. For these reasons (and others), remote locations will continue to experience difficulties in attracting and retaining solicitors to fill available positions.

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9. The challenge

Based on the findings of this study and the Foundation's earlier study, the evidence suggests that recruitment and retention issues in RRR areas are, in fact, part of a larger and more significant issue that needs to be addressed:

> *How to provide the appropriate mix of legal services to address the range of legal needs in RRR areas, especially in remote areas and areas experiencing declining populations?*

This question should be informed by the learnings from the latest legal needs research (e.g. Pleasence 2006; Coumarelos et al. 2012; Forell et al. 2013; Pleasence et al. 2014) which emphasises the need to:

- target and tailor solutions for particular disadvantaged groups and communities appropriate to their needs and capabilities
- reach groups and communities facing substantial barriers to accessing legal services (e.g. distance, remoteness, reduced mobility)
- take into account the interaction of multiple legal and non-legal problems experienced by disadvantaged groups and communities through 'joined-up' services.

Most importantly, however, the question must be addressed in the context of the demographic and economic realities impacting on RRR areas discussed in earlier chapters.

Rather than seeking a common solution applicable across the wide extent of RRR areas, or a strategy that does not focus on the heart of the problem (e.g. a narrow approach that just focuses on recruitment and retention issues), the Foundation's research suggests it will be more productive to tailor strategies that recognise the diversity of conditions inherent in the different regions of RRR NSW. The research demonstrates that the profile and needs of each region should be assessed against the backdrop of prevailing population trends and socio-economic conditions.

Extrapolating from the research allows the drawing of some conclusions relating to the planning, resourcing and implementing of legal service delivery options to address the challenges in RRR NSW. The differences between the various regions — in terms of geography, demography and amenity, and the availability of services or gaps in services — suggests that not only will a 'one size fits all' approach not work, but also that the planning and implementation of services should be strongly influenced by regional and local level involvement. This needs to be facilitated by agencies and organisations at the national and jurisdictional levels — by determining priorities, establishing standards and allocating resources. However, it will be at the regional and local levels that the operationalisation of these priorities and standards will need to occur through agencies working within each region.

Strategies and solutions employed to address the challenge in RRR areas must be monitored and evaluated. Given the relative lack of rigorous evaluative research to-date in the legal assistance sector, few of these strategies and solutions will have been trialled or proven. Therefore, as different solutions are implemented in specific areas to cater for different circumstances, they need to be subjected to appropriate evaluation.

Finally, the circumstances in each RRR area will continue to change over time, and sustainable and inexpensive research may yield insights that allow for the better refinement of strategies and solutions to meet the challenge of providing the appropriate mix of legal services in each RRR area. In particular, the Foundation would suggest the periodic monitoring and regional and 'small area' analysis of:

- solicitor to population ratios
- the presence or absence of public legal assistance services
- legal service provision to population ratios (e.g. grants of legal aid per 1,000 residents; ALS representations per 1,000 Indigenous residents)
- the views of practising solicitors and managers of legal services working in RRR areas, particularly locations experiencing sustained population loss.

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Appendices

Appendix A: Method in detail

This was a follow-up study to Forell et al. (2010) and, like its predecessor, it used both quantitative and qualitative research methods.

The quantitative approach involved an analysis of data obtained through:

a) a census of all NSW solicitors registered with the Law Society of NSW holding a practising certificate as at 30 June 2011

b) a separate census of all filled and vacant public legal assistance services' solicitor positions in NSW as at 30 June 2011

c) a download of all legal aid grants assigned to private solicitors in 2010–11 and all registered legal aid panel members during that time.

In addition, qualitative interviews were conducted with a number of private and public solicitors practising within 'target' RRR areas. Target areas were defined as those Local Government Areas (LGAs) that experienced significant population loss in the 10-year period from 2001 to 2011. These interviews were undertaken to provide a better understanding of the nature of legal practice in these areas and to provide personal insight into issues such as: changes affecting law practices in RRR areas; the provision of legal assistance to disadvantaged persons; and the current and future availability of solicitors in these areas.

Census of solicitors practising in NSW

The Law Society of NSW provided a dataset containing information on all solicitors registered as members of the Law Society as at 30 June 2011. Membership is available to holders of a current practising certificate issued by the Law Society. Application for membership is usually made at the time of applying for or renewing a practising certificate. However, it should be noted that not all admitted solicitors are registered as members of the Law Society.

Information held in the Law Society of NSW database is generally provided by the solicitors at the time of membership registration. The solicitor may update this information at any time via a portal on the Law Society website. However, none of the fields for recording information relating to Law Society members are mandatory.

The data provided to the Foundation by the Law Society of NSW included all member solicitors working in the state in private practices, law firms and corporations, government and community legal centres (CLCs) as at 30 June 2011.[85] The Law Society data was provided in Excel format.

In total, there were 21,606 records in the original file provided by the Law Society. However, approximately 7.5 per cent of the original records were not be used by the Foundation as they did not contain information that was fundamental to our regional analysis, that being the postcode of the location that the solicitor practised in. As these same records also did not contain information on practice type (e.g. private practice, government, CLC) they were excluded from further analysis.

The remaining 'valid' Law Society of NSW records, relating to 19,976 individual solicitors, provide information on private solicitors working in various areas of the state, including, rural and remote areas of NSW. The principal workplace for each solicitor position was represented by its postcode. This information was used to assign a number of geographic and area based socio-demographic values to each record.

85 See footnotes 11 and 47.

The first step in this process was to assign postcodes to an over-arching LGA[86] and then to its Statistical Division (SD), referred to in this report as 'Regions' under which LGAs are situated. See 'Definition of Regions' within this appendix and Figure 2 in body of the report.

Secondly, a number of geographic measures and socio-economic indicators for LGAs derived from the 2006 Australian Census of Population and Housing were appended to each record. These measures, including measures of remoteness and geographic accessibility, allow a broader analysis of the characteristics of the geographic areas in which the solicitor positions were located.

In addition, five practice type groups were formed by collapsing the Law Society of NSW's original and more specific practice type categories:

- CLCs
- Government
- Private practice
- Interstate
- Corporate/overseas/other.

The Law Society dataset, amongst other things, provides information on *private* solicitors working in various areas of the state, including, rural and remote areas of NSW. As such, it supplements and complements the data supplied by the public legal sector agencies, which relates to *public* solicitor positions. However, given that it also counts solicitor members working in government and the community legal sector, it does duplicate information contained in the public legal assistance 'solicitor position' dataset.

Notably, while 'Community legal centres' and 'Government' are original categories in the Law Society of NSW data, they do not necessarily carry the same meaning as when other agencies use these labels. In addition, solicitors working for certain public legal sector agencies may not be clear on which practice type to record. For instance, a solicitor working for the Aboriginal Legal Service (NSW/ACT) (ALS) may feel that they work neither in government nor for a CLC.

Census of NSW public legal assistance solicitor positions

While the Law Society census was reasonably straightforward, the other collections required a more intensive approach, outlined below.

At the request of the Foundation, a point-in-time census (or snapshot) was conducted using information contained in the administrative and human resources systems of a number of public legal service agencies. A separate census was conducted of all filled and vacant solicitor *positions* within the three major public legal assistance services in NSW, with the cooperation of the ALS, Legal Aid NSW and Community Legal Centres of NSW (CLC NSW).[87] The date of each of these censuses was also 30 June 2011.

The 30 June date was chosen for a number of reasons. First, it represented the end of the 2010–11 financial year and thus the organisations providing the data were more likely to have prepared similar information for annual reports and other standard reporting requirements. Second, information used in annual reports is normally checked for accuracy and completeness, increasing its reliability. Third, at the time of our request for information, the end of the 2010–11 financial year had not long passed, meaning that relevant information was still fresh in the minds of agency staff.

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86 Postcodes or, more technically, postal areas, map to higher geographic areas, for example Local Government Areas (LGAs) and Statistical Local Areas (SLAs). However, not all postal areas necessarily fall completely within a single LGA and may, in fact, fall across two, three or more LGAs. In this study, postcodes were assigned to their 'main' LGA. That is, if a postal area occupied more than one LGA, the postcode was assigned to the LGA that contained the majority of the area for that postcode. This process did not affect 60 per cent of records as their respective postcodes fell completely within a single LGA. For a further 26 per cent of records, the main LGA occupied 75 to 99 per cent of a postcode's area. For another 12 per cent of records, the main LGA covered 50 to 74 per cent of the area for the particular postcode. For only 1.6 per cent of records did the main LGA occupy less than 50 per cent of the area for the postcode involved. In such cases, the postcode cut across three or more LGAs.

87 Solicitor positions in the NSW Family Violence Prevention Legal Service (FVPLS) were also included. The FVPLS provides legal assistance to Aboriginal women and children who have faced or are at risk of family violence. FVPLS positions were included where they were connected to a CLC or ALS census return. These positions were included in regional counts of public legal assistance solicitor positions. Also see footnote 16.

The Foundation contacted each organisation to clarify the information requested and to guarantee that confidentiality and privacy requirements were safeguarded.

Information was requested on all solicitor *positions* within Legal Aid NSW, the ALS and the CLC NSW regardless of whether the position was filled or vacant at the time of the study's census. Information was requested on all full and part-time positions, and casual appointments. The Foundation specified that information was to be provided on practising solicitor positions only. That is, a solicitor position could only be included if, at the time of the census, the duties for that position included the provision of legal assistance.

As there was no central database of CLC solicitor positions from which the information could be derived, the electronic collection form designed and used in Forell et al. (2010) to obtain the required information from each CLC was again used.[88] As the Foundation received useful feedback on this collection form from the first study, only minor modifications to this form were needed. Changes to the original collection form are outlined later in this section. The collection form was emailed with a covering letter and explanatory note to the managers and coordinators of all CLCs and member organisations in NSW.[89] Completion of the form was voluntary.

At a meeting with ALS, it was agreed that information on solicitor positions within the ALS would be produced centrally using the CLC collection form as a guide.

The research team also discussed the information request with senior staff of Legal Aid NSW. While Legal Aid indicated that the required information on solicitor positions could be generated from their human resources and financial databases, they also cautioned that they did not have the resources to undertake the same quality assurance checks as they had performed in providing the data for the Forell et al. (2010) study. In order to ensure the accuracy and completeness of their 2011 data, and to ensure comparability with data from the first study, the Foundation went to some lengths to validate these data.[90]

While our census of the three main public legal assistance agencies in NSW covers the vast majority of relevant solicitor positions, it must be recognised that there are a number of lawyers employed by non-government and charitable organisations providing 'free' legal assistance to disadvantaged people in NSW, including those in country areas. It was beyond the scope of this research to identify *every* single lawyer position providing legal assistance to disadvantaged people in NSW. Nonetheless, it is likely that most if not all such solicitors are accounted for through the Law Society of NSW's data, given that they should hold a current practising certificate.

A number of solicitor positions in the NSW Family Violence Prevention Legal Service (FVPLS) were also included where they were connected to a CLC or ALS census return. These positions were included in regional counts of public legal assistance solicitor positions.[91]

Census returns and response rate

A highly satisfactory response rate of 90 per cent (37 of the 41 CLCs) was achieved from generalist and specialist CLCs in NSW. Fortunately, given our focus on RRR issues, all country based generalist CLCs provided a return for 2011. Three Sydney-based specialist CLCs that provided a return in 2009 did not provide a 2011 return, despite a number of reminder calls and emails. Another Sydney-based specialist CLC did not provide a return for either year. The state office, CLC NSW, did not have a solicitor practising law in 2011 and thus was not required to provide a return in 2011.

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88 In designing the electronic collection form for CLCs, the Foundation drew on recent surveys conducted in NSW (e.g. Law Council of Australia 2009c) as well as suggestions made by CLC and ALS management, CLC coordinators and the NLAF RRR Working Group before and after the first study was completed. A copy of the modified collection form used in this study is provided at *Appendix B*.

89 See <http://www.clcnsw.org.au/clc_directory.php>

90 The Foundation is especially grateful to Ms Bronwyn McCutcheon (Legal Aid NSW) who provided invaluable assistance and agreed to undertake one major component of the validation process despite having moved to a different position within Legal Aid NSW.

91 For Thiyama-li Family Violence Legal Service, located in Moree and providing an outreach service to Bourke and Walgett, six positions were included: one principal solicitor, two senior solicitors and three junior solicitors/paralegals. For the Warra Warra (Broken Hill) Aboriginal FVPLS, two positions were included: one principal solicitor and one solicitor. Solicitor positions in the Many Rivers FVPLS (West Kempsey) and Binaal Billa (Forbes) FVPLS were not included in any return.

Four CLCs and member organisations that were not part of our 2009 census completed a return in 2011. These were: Thiyama-li Family Violence Legal Service located in Moree (Northern Region); the University of Newcastle Legal Centre (Hunter Region); the National Children's and Youth Law Centre based at the University of NSW (Sydney Region); and the Mid-North Coast CLC located in Port Macquarie (Mid-North Coast Region). It should be noted that the Mid-North Coast CLC first started operating in August 2011, which was after our designated census date and its data was not included.

The 37 individual CLC returns were checked for completeness, inconsistencies and apparent errors. Where necessary, CLC coordinators were contacted by telephone and/or email and asked to verify particular details or provide additional information on certain filled or vacant positions. The individual CLC returns were then processed and amalgamated to form a single standardised dataset of CLC solicitor positions in NSW. Information contained in the CLC dataset (which was then combined with the ALS and Legal Aid NSW datasets) is listed in Table A1. Appendix C lists the CLCs included in our 2011 census of solicitor positions.

Information requested from the ALS head office on its solicitor positions was almost identical to that requested from the CLCs. The information on filled and vacant solicitor positions provided by the ALS also is listed in Table A1.

Similar information was provided by Legal Aid NSW on its filled and vacant solicitor positions (also see Table A1), the only differences were:

a. the Legal Aid NSW database provided information on 'Years with Legal Aid' rather than years of public legal experience. The former being narrower in definition and, as a consequence, is likely to undercount the number of years of *public legal experience* for its solicitors

b. years of experience (within Legal Aid NSW) is capped at eight years in their personnel system.

Table A1: Structure of the combined dataset on NSW public legal assistance solicitor positions (ALS, CLCs and Legal Aid NSW)

Standardised variable	*Description/Example*
Service information:	
Service ID	i.e. CLCs=1, ALS=2, Legal Aid=3
Centre/Office name/location and ID	Unique identifier
Postcode of location	Aggregated to LGA, Region and Remoteness Area (ARIA+)
Position information:	
Grade	e.g. Principal, Senior Solicitor, Solicitor, Junior/Paralegal
Salary	While an exact salary amount was requested in 2011, a number of salary variables were created to make best use of the various ways in which this information was provided. The standardised annual salary variables created for each position were: SACS salary (original amount provided); Salary (High); Salary (Mid); Salary (Low); and Salary Range ($5,000 increments)
Hours worked	e.g. 21 hours
Area of law practised	e.g. Family, Civil, Criminal, General, etc.
Position status	e.g. Filled by incumbent; Filled by person acting in position (higher duties); Vacant – unfilled/advertised, etc.
Higher duties allowance (HDA) paid	Was the solicitor receiving a higher duties allowance?
Months filled since last vacant	In cases where position was reported as filled
Months vacant since last filled	In cases where position was reported as vacant
Year of admission in NSW as a solicitor	*New variable in 2011*. Replaced 'Total legal experience'
Years of public legal experience	*Legal Aid provided information on 'Years of Legal Aid experience', which is narrower*
Position specific comments (if any)	Any additional information relevant to the position and considered pertinent to the research issues

Salary was the most inconsistently recorded variable, with this information being provided in a variety of forms. As in the previous study, a lot of time and effort was spent in standardising salary information by running cross checks based on solicitors' grades using published SACS Awards Guides. Wherever possible, information was also checked with its source. Following standardisation, the measure best suited for comparing salaries, especially across different agencies, is Salary (Mid). This constructed variable is the basis of any comparison of solicitor salaries provided in this report.[92]

There were a number of differences between the combined data for 2009 and that for 2011, as described below.

A number of variables collected in our 2009 census of solicitors were discarded in 2011 because one or more of the three legal service agencies did not collect them. These variables were: *Years of corporate legal experience; Postcode(s) other work locations; Client hours per month spent in other work locations*; and *Hours per month spent travelling to and from other work locations*. In general, these variables also had high levels of missing information in 2009 and/or information of dubious quality.

The variable, *Times advertised (where a position was vacant)*, was also dropped from the 2011 census because of the poor and incomplete nature of the data in 2009.

The variable, *Total legal experience*, was replaced in the 2011 census of solicitors with the variable *Year of admission in NSW as a solicitor* from which *Years of legal experience* (as at 30 June 2011) was calculated. However, Legal Aid NSW was not able to provide this variable because of changes to its administrative systems and resource constraints. The ALS also had difficulty in providing this variable for all its solicitors. It was also decided not to use the variable *Years of legal experience*, as it only approximates the actual number of years that a solicitor has practised law since first admitted (given, for instance, that a solicitor may have stopped practising law for a period of time for reasons such as raising children, extended leave, career changes).

Classification of the status of solicitor positions

Solicitor positions were categorised as either filled or vacant. Within each broad category, sub-categories provided more detailed information (Table A2). Based on feedback from the 2009 study, these categories were made clearer for those completing 2011 returns.

Table A2: Status categories for filled and vacant public legal assistance service positions

Position status	*Sub-category*
Filled	Filled by incumbent (even if on sick or annual leave on 30 June 11)
	Filled by person acting in position (higher duties)
	Filled by person on secondment (or by a locum)
	Filled – other (please specify)
Vacant	Vacant – unfilled (advertised or could be advertised)
	Vacant – incumbent on leave (e.g. maternity, long service, etc. - but not annual leave)
	Vacant – incumbent is acting up in a higher position
	Vacant – other (please specify)

The combined public legal assistance solicitor positions dataset

Legal Aid NSW and the ALS provided their data in the form of an Excel spreadsheet. The CLC data was provided in the form of completed returns of the electronic survey form emailed to CLC coordinators. These were converted to Excel spreadsheets, processed and merged to form a single CLC dataset. All data provided to the Foundation was held in de-identified form with no names attached.

92 The survey asked for 'Annual gross salary (full-time equivalent) ($) (e.g. $65,400 p.a.)'. Sometimes the returns specified an exact salary amount (e.g. $56,074); others gave a salary range (e.g. $63,000 - $70,000). Others gave no dollar amount but indicated a SACS grade (e.g. SACS 4.2). Some reported salaries seemed inconsistently high or low given the general grade of the position (e.g. senior solicitor) and these were checked. Salary (High), Salary (Mid) and Salary (Low) were the same value for positions where a specific amount was given.

The count of practising solicitor positions (filled or vacant; full-time or part-time) in the three main public legal assistance agencies across NSW as at 30 June 2011 was:

- 174 solicitor positions in CLCs and member organisations[93]
- 89 solicitor positions in ALS offices
- 488 solicitor positions in Legal Aid NSW offices/services.

The collections were combined based on variables common to all three collections to form a combined dataset. The records pooled from the three individual agency collections numbered 751 in total.

Each record in the merged dataset represents a solicitor position. The principal workplace for each solicitor position was represented by its postcode, and this information was used to assign a number of geographic and area based socio-demographic values to each record.

Regionalisation of the dataset

The first step in this process was to assign postcodes to an over-arching LGA[94] and then to larger geographic units under which LGAs are situated — Statistical Sub-Divisions (SSDs) and Statistical Divisions (SDs), referred to in this report as 'Regions' (see Definition of Regions below).

Second, a number of geographic measures and socio-economic indicators for LGAs derived from the 2006 Australian Census of Population and Housing[95] were appended to each record. These measures, including measures of remoteness and geographic accessibility, allow a broader analysis of the characteristics of the geographic areas in which the solicitor positions were located.

The geographic and socio-economic indicators attached to each record according to the LGA variable were:

- accessibility to services[96] and the associated measure of remoteness (re ARIA+, see Definition of Remoteness)[97] (for an example, see Figure 1a in Forell et al. 2010)
- socio-economic disadvantage (re SEIFA Index of Relative Socio-Economic Advantage and Disadvantage — see Definition of socio-economic disadvantage (SEIFA) and Figure A1 below)
- resident population (2011 Australian Census of Population and Housing)
- percentage of Indigenous persons (2011 Census)
- percentage of unemployed (2011 Census)
- percentage of single parent families (2011 Census)
- percentage of persons aged 55 and over (2011 Census).

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93 This includes eight Aboriginal FVPLS solicitor positions. See footnote 16.

94 Postcodes or, more technically, postal areas, map to higher geographic areas, for example LGAs and Statistical Local Areas (SLAs). However, not all postal areas necessarily fall completely within a single LGA and may, in fact, fall across two, three or more LGAs. In this study, postcodes were assigned to their 'main' LGA. That is, if a postal area occupied more than one LGA, the postcode was assigned to the LGA that contained the majority of the area for that postcode. This process did not affect 60 per cent of records as their respective postcodes fell completely within a single LGA. For a further 26 per cent of records, the main LGA occupied 75 to 99 per cent of a postcode's area. For another 12 per cent of records, the main LGA covered 50 to 74 per cent of the area for the particular postcode. For only 1.6 per cent of records did the main LGA occupy less than 50 per cent of the area for the postcode involved. In such cases, the postcode cut across three or more LGAs.

95 Australian Bureau of Statistics <http://www.abs.gov.au>.

96 A measure of ease of access to major services developed by the Australian Government Department of Health and Ageing, with five levels:

1. Highly Accessible – relatively unrestricted accessibility to a wide range of goods and services and opportunities for social interaction.
2. Accessible – some restrictions to accessibility of some goods, services and opportunities for social interaction.
3. Moderately Accessible – significantly restricted accessibility of goods, services and opportunities for social interaction.
4. Remote – very restricted accessibility of goods, services and opportunities for social interaction.
5. Very Remote – very little accessibility of goods, services and opportunities for social interaction.

97 For descriptions of the remoteness measure, ARIA+, see <http://www.gisca.adelaide.edu.au/products_services/ariav2_about.html and http://www.alswh.org.au/InfoData/Data%20Dictionary%20Supplement/DDSSection5ARIA.pdf>.

Two socio-economic indicators, used in the first study, were not used in this study:

- 2006 economic status
- projected population change 2006 to 2016.[98]

The former was proving to be out-dated as a measure of an area's economic status, while the population projections of the latter were proving to be inaccurate for a substantial number of NSW LGAs when compared to the population estimates which became available following the 2011 Australian Census of Population and Housing (ABS 2013a).

Advantages and limitations of the census method

An advantage of the census method is that the data is not restricted to a sample of solicitors or solicitor positions. The data from the public legal services represents an 'as complete' set of NSW public legal assistance solicitor positions — filled and unfilled — as is possible. Similarly, the data provided by the Law Society of NSW represents the best picture of registered and practising solicitors in NSW that is currently available. A second advantage of the census technique is that it avoids the biases of trying to select representative (or even non-representative) areas of NSW to analyse the characteristics of private solicitors and public legal assistance solicitor positions in such areas. This technique also avoids the difficulties of attempting to generalise findings to other areas of the state.

All regions in NSW are covered by this method, and each region in NSW may be inspected in terms of the characteristics of its private solicitors and its public legal sector solicitor positions.

Another advantage of the census method used in this study is that it provides comprehensive information on the proportion of public solicitor positions actually filled by incumbents as opposed to persons acting up or otherwise 'filling in' positions. This study reveals the true extent of the instability of solicitor positions within the public legal sector, including back filling, to cover otherwise unoccupied positions.

A limitation of the present study is that point-in-time data may easily miss important information that did not occur on the designated census date. This issue may be relevant, in particular, to one-off, short-term and project-related solicitor positions that were funded on a financial year basis for 12 months or less. For example, the number of vacant solicitor positions may have been substantially higher or lower at other times during the year. In fact, it is possible (although statistically unlikely) that, at the time of our census, the vacancy rate was at its highest or lowest point for the whole year. Notably, the ALS and a number of CLCs indicated in their returns that some solicitor positions that were filled at the time of our 30 June 2011 census had subsequently become vacant and vice versa.

A census taken at a point-in-time will also tell you nothing about trends or patterns occurring in the matter being researched. For example, various CLCs and ALS offices reported that the census would not capture information on the difficulties they experienced in recruiting solicitors in the months prior to the census, as these positions were filled by the time the census was taken. In this study, the managers and coordinators completing the 2011 returns were asked to note any such difficulties. The ALS and many CLCs provided this material and it has been used selectively in this report to complement the quantitative data.

Grants of legal aid

In addition to the census of solicitor positions, Legal Aid NSW provided the Foundation with information on its legal aid panels and the number and types of legal aid grants assigned to private lawyers during the 2010–11 financial year. As the record of each grant of legal aid contains the name and postcode of the law firm and/or private solicitor assigned the grant of legal aid, an analysis of the geographical distribution of assigned grants was undertaken.

Interpreting the quantitative data

Care in interpreting the quantitative data is required. Therefore, a number of issues are flagged.

First, the data are diverse and come from a variety of sources. Thus, ABS population statistics and the data on solicitors, public legal assistance solicitor positions and grants of legal aid may not perfectly

98 NSW Department of Planning, 2008 <http://www.planning.nsw.gov.au/Programsservices/Populationandhousingprojections/tabid/124/Default.aspx>.

align in terms of the periods each dataset covers.

Secondly, at times the research examined trends over longer periods of time (i.e. 10 years or more) while, at other times, short term trends (i.e. changes from 2009 to 2011) were studied. In general, the availability of relevant data, such as the number of solicitors and solicitor positions and the availability of relevant ABS population statistics, determined the comparisons and analyses that were undertaken.

Thirdly, the absence of public legal services in parts of NSW meant that particular regions had few public legal solicitor positions. Similarly, the number of registered practising solicitors in remote areas of NSW is small. This made regional comparisons of recruitment and retention problems and other issues more difficult.

Regional and other thematic analyses

Definition of Regions

The geographical distribution of data in this study is reported in terms of the 2006 Australian Standard Geographical Classification (ABS 2006b), which was current at the time of our research.[99] The Australian Standard Geographical Classification (ASGC) is used by the ABS for the collection and dissemination of geographically classified information and for the generation of spatially themed maps. It is an essential framework for understanding and interpreting the geographical context of statistics published by the ABS, such as measures of socio-economic disadvantage. The ABS encourages the use of the ASGC by other organisations to improve the comparability and interpretation of statistics. The ASGC provides seven categories of geographical areas of which this report utilised two:

Local Government Areas (LGAs): The LGA structure covers only incorporated areas of Australia. Incorporated areas are legally designated areas over which incorporated local governments have responsibility. Presently, LGAs are used as the base on which Statistical Local Areas (SLAs) are defined for the ASGC. LGAs are one of the more unstable levels of geography and the number of LGAs and their boundaries vary over time as they are governed by various state and government structures. Current LGAs may not correspond to past LGAs — for example, South Sydney LGA no longer exists following its formal merger with the City of Sydney LGA in 2004.

Statistical Divisions (SDs) or Regions: The SD is a general-purpose spatial unit. It is the largest and most stable spatial unit within each state and territory. SDs consist of one or more Statistical Sub Divisions (SSDs) and generally embrace contiguous whole local government areas. In aggregate, SDs cover Australia without gaps or overlaps. In NSW, SDs correspond to proclaimed government regions with the exception that North Coast region consists of the SDs of Richmond-Tweed and Mid-North Coast.

In this report, data was reported in terms of Regions and, where practicable, underlying LGAs. Relevant 2006 Census data and population statistics were also reported at these levels. A map of the 12 regions in NSW and their underlying LGAs is provided in Figure 2 in the report. A table listing the LGAs within each NSW region is provided at *Appendix D*. It should be noted that the AGSC Regions do not necessarily correspond to the administrative or program 'regions' used by various NSW public legal assistance services and other government departments. In particular, the regional centre of Dubbo is located in the North Western region according to the AGSC Statistical Division boundaries, but is situated within the Central West region in line with a number of legal service agencies' program boundaries.

99 The Australian Statistical Geography Standard (ASGS) is the Australian Bureau of Statistics' new geographical framework and replaces the ASGC. The vast majority of ABS spatial data will be based on the ASGS by 2014. For more information refer to: http://www.abs.gov.au/websitedbs/D3310114.nsf/home/Australian+Statistical+Geography+Standard+%28ASGS%29.

Definition of remoteness

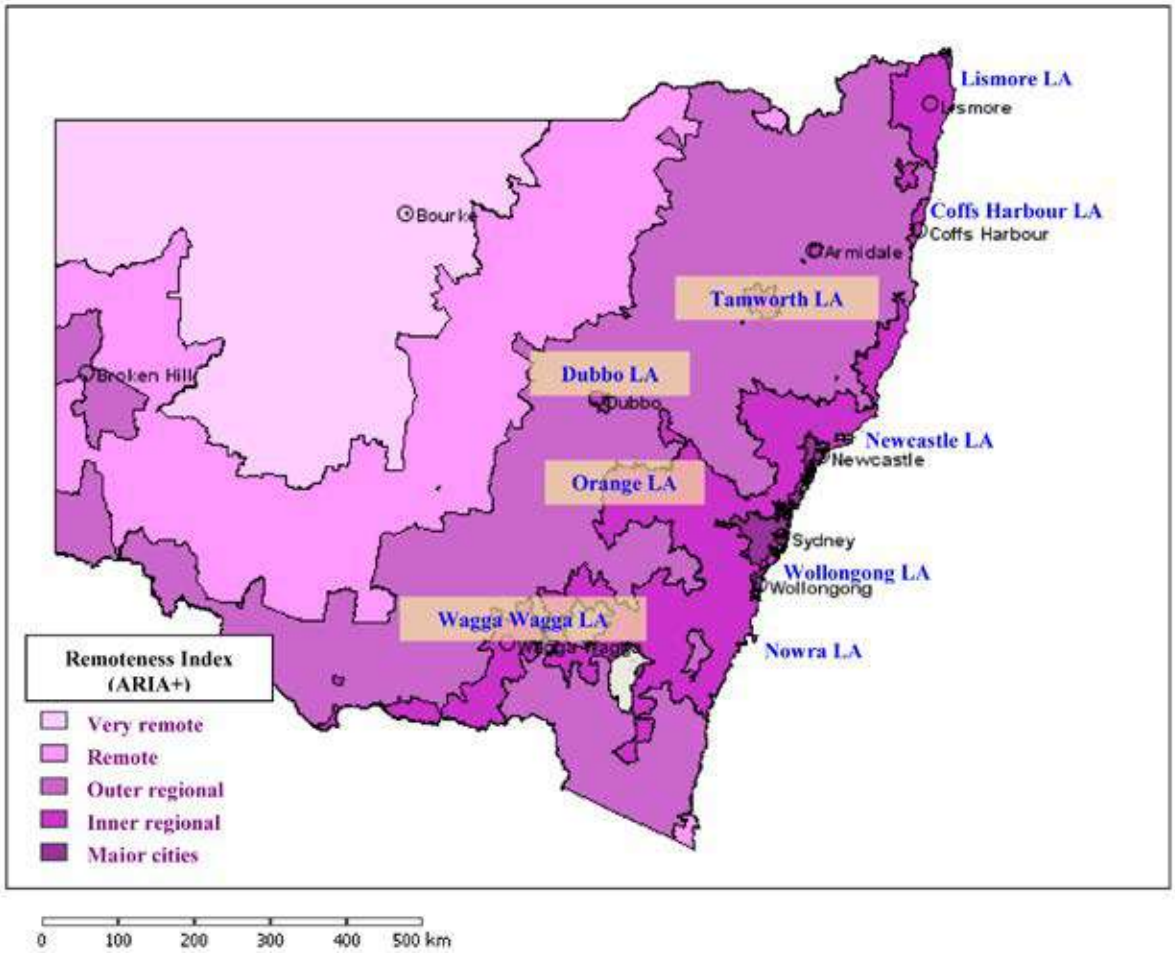
The ASGC also contains a measure of remoteness — the Accessibility/Remoteness Index of Australia (ARIA). ARIA+ is an enhanced measure of remoteness that takes into account accessibility to service centres. Remoteness measures such as ARIA and ARIA+ have been used to describe regional differences in a range of issues (such as health outcomes).

The ASGC Remoteness Index categorises areas of Australia as 'Major Cities', 'Inner Regional', 'Outer Regional', 'Remote' and 'Very Remote' (AIHW 2004). At the time of writing, remoteness measures for 2011 census data were not available.[100]

It should be noted that the Remoteness Area category of 'NSW Major Cities' includes the NSW LGAs of Queanbeyan, Maitland, Shellharbour and Tweed Heads (refer to ABS National Regional Profiles). This is due to their close proximity ('accessibility') to the large metropolitan cities of Canberra (ACT), Newcastle, Wollongong and the Gold Coast (Queensland), respectively.[101]

Figure A1 shows the different Remoteness Areas in NSW, in this example, with respect to the location of 'on-the-ground' offices of Legal Aid NSW.

Figure A1: Location of Legal Aid NSW offices outside of Sydney by Remoteness Index



100 The ABS website indicated that remoteness indexed information for 2011 Australian Census of Population and Housing data would be available around mid-2013. It was not available at the time that relevant analyses were undertaken.

101 Unless, the Remoteness Area category, 'NSW Major Cities', is specifically referred to, reference in this report to the major cities of NSW is restricted to Sydney, Newcastle and Wollongong.

Definition of socio-economic disadvantage (SEIFA)

Socio-Economic Indexes for Areas (SEIFA) is a product developed by the ABS that ranks areas in Australia according to relative socio-economic advantage and disadvantage, which is broadly defined 'in terms of *people's access to material and social resources, and their ability to participate in society*' (ABS 2013c, p. 3, their italics). SEIFA is based on information collected from the five-yearly Australian Census of Population and Housing and is the preferred source for comparing the relative socio-economic conditions of cities, towns and other areas across Australia (ABS 2006a).

Four separate SEIFA indexes are available for the 2006 and 2011 Censuses.[102] The index used in this report was the *Index of Relative Socio-Economic Advantage and Disadvantage*.

SEIFA measures are available for a number of geographical units including postal area (postcode). In this report, SEIFA measures were provided for LGAs. The ABS advises that SEIFA indexes are primarily designed to compare the *relative* socio-economic characteristics of areas at a *given point in time*. This means that SEIFA scores or rankings from one Census may not necessarily equate to the same SEIFA score or ranking from an earlier or later Census.

While the ABS has advised that 'direct comparisons between 2006 and 2011 SEIFA rankings are made difficult by the substantial changes to ABS geography coding between the 2006 and 2011 Censuses', it did note that 'the vast majority of similar geographic areas only changed a small amount relative to their 2006 ranking' (ABS 2013c, pp. 50–51). Nevertheless, the ABS cautions that 'it can be very difficult to perform useful longitudinal or times series analysis, and it should not be attempted without due consideration of the [many] issues' (ABS 2013c, p. 55). The ABS recommends the use of quantiles (e.g. deciles, quintiles, etc.), rather than ranks or scores, should comparisons over time be made. This is the method adopted in this study.

Data analysis

Statistical analysis was largely conducted using SPSS version 18.

Descriptive statistical analyses

Descriptive analyses, including frequencies and percentages, were compiled from the Law Society of NSW dataset and the combined public legal assistance solicitor position dataset. Both mean and median values were used in this study as measures of central tendency to examine differences in factors such as age of solicitors, years of experience, time in position and other numeric indicators.

Correlation was also used in this study to examine the relationship (dependence) between variables, such as age of lawyers and years of legal experience. However, it should be noted that correlation cannot be used to infer a causal relationship between two variables.[103]

Non-parametric analyses (chi-square tests)

In addition to the descriptive analysis, some chi-square analyses were also conducted to examine, *inter alia*, regional differences in numbers of solicitors, practice types and other key indicators. For example, chi-square tests were used to ascertain whether regional differences existed in the relationship between collected variables such as:

- filled/vacant positions and the grade of positions
- filled/vacant positions and remoteness of the location
- remoteness and area of law practised
- remoteness and age of solicitors
- remoteness and years of legal experience.

The chi-square test is a non-parametric test that examines whether there is a significant relationship

102 It should be noted that the smaller the geographic unit the more valid the SEIFA value as an indicator of any area's level of disadvantage. The SEIFA Index is not valid for spatial units above the level of LGAs (or SLAs). A SEIFA score is an average of people and households within a given area. Therefore, not everyone in the area would have that same score — an area that SEIFA rates as relatively disadvantaged could have some advantaged households; just as an area ranked as relatively advantaged could have some households that are relatively disadvantaged (ABS 2006a).

103 For example, see Yule (1995).

between two or more categorical variables. The test is based on the cross-tabulation of the relevant variables and compares the *observed* frequencies in each cell of the cross-tabulation with the frequencies *expected* if there were no relationship between the variables (e.g. Siegel & Castellan, 1988). The chi-square test reveals the straightforward relationship between the two variables, when no other variables are taken into account (i.e. the bivariate relationship). The statistical significance of each chi-square test is examined at the 0.05 level of confidence.

Missing values

The number of missing values for each variable analysed by descriptive or non-parametric methods is provided in the table notes. The number of valid records for each analysis is also provided in the table. Each analysis was based only on those records that had data on all the variables of interest used in the analysis.

Interviews with solicitors

In order to further address the main aims of this study, one of the Foundation's senior researchers conducted in-depth telephone interviews with private and public solicitors who worked in inland areas of NSW that had experienced significant population losses during the 10-year period from 2001 to 2011. In total, 29 LGAs were identified as having experienced a population loss of at least eight per cent *and* which had fewer than five practising solicitors in 2011. These LGAs formed the target areas for our interviews with solicitors (see *Appendix E*). The target areas cover approximately 60 per cent of the total landmass of NSW and contain over one hundred thousand residents (ABS 2013a).

A total of 36 practising registered solicitors were recorded as having their main practice in the target areas. The only 'on the ground' public legal services located within the target areas catered exclusively to Indigenous people. These were an ALS and an Aboriginal FVPLS located in Bourke, and an ALS and an Aboriginal FVPLS located in Walgett.

The interviews with solicitors in the target areas were undertaken to provide a better understanding of the nature of legal practice in remote areas and to provide insight into issues regarding working with disadvantaged clients. During the course of the interview, solicitors were asked to give their views on, *inter alia*: the impacts of regional changes on the workload of country solicitors; the availability of solicitors to assist disadvantaged people; and the future of legal services and private legal practices in their area, including succession planning.

The sample

Throughout the NSW target areas contact information for private practitioners was sourced through the Law Society of NSW 'Find a lawyer' search facility. Relevant firms were approached by email or phone and provided with information describing the project and the interview process. Solicitors were then asked if they would participate. All interviews were voluntary.

To obtain coverage of the Central Darling LGA and the Unincorporated Far West, which have no solicitors or law firms, solicitors based in Broken Hill were asked to participate on the condition that they were familiar with the outlying areas. Although Broken Hill had experienced population loss of eight per cent between 2001 and 2011, it was not included in the initial selection of LGAs because it had nine resident solicitors at the time of the 2011 census of solicitors. Similarly, Gwydir and Wakool LGAs were covered by solicitors that had branch offices in these areas. Although Walcha LGA met the definition for inclusion as a target area, solicitors from this LGA were not approached for an interview because population estimates available at the time (ABS 2012) indicated that the area's population had not declined by the criterion of eight per cent or more. Revised estimates issued by the ABS at a later date (ABS 2013a), after the interviews had been completed, indicated that the population of Walcha LGA had declined by more than the criterion amount.

Due to the very small number of 'on the ground' public legal services in the target areas, public solicitors that conducted outreach *within* the target areas were identified through public legal services located in Armidale, Dubbo, Broken Hill and Albury-Wodonga. A total of 18 solicitors were interviewed: 11 private lawyers and seven solicitors from public legal services (see Table A3).

The interviewed solicitors ranged in age from 27 to 71 years and their mean age was 50 years. The mean age of private lawyers based within the target areas who were interviewed was 59 years. The interviewed solicitors held practising certificates for between one and 40 years; six solicitors

had been practising law for more than 25 years, and the average length of time practising law was 18 years.

Table A3: Lawyers in RRR target areas participating in interviews

Region	*Private lawyers*	*Public solicitors*	*Total*
Northern	1	1	**2**
North Western	4	3	**7**
South Western	3	1	**4**
Central West	1	0	**1**
Far West	2	2	**4**
Total	**11**	**7**	**18**

The interview

The interview was loosely structured around a set of core questions (see *Appendix F*). This approach allowed the questions to accommodate the different circumstances of the solicitor being interviewed. Interviewees were informed of the purpose of the research and were encouraged to make additional comments relevant to the topic.

Information was also collected on the solicitor's gender, age, years of experience, legal practice and areas of legal expertise. This information did not inform the selection process.

The interviews were digitally recorded with the consent of the interviewee and were conducted on the understanding that interviewees would not be personally identified.

Thematic analysis

Following each interview, the recording was transcribed and each interview was then analysed for thematic content.

The aim of qualitative research is not to quantify a phenomenon but to understand the meaning and processes associated with it. Themes relate to why and how certain patterns emerge, not how often things occur. Similarly, quotes are not chosen because they are examples of things most commonly said (although this may also be the case) but to best illustrate the theme that has been identified. For instance, in this study, the quantitative data indicates which parts of NSW had not only lost population, but lost solicitors. The qualitative data provides personal views on why some areas were experiencing population loss including the perceived reasons for difficulties in retaining local solicitors and attracting new lawyers to the area.

Appendix B: 2011 CLC data collection form

	A	B	C
1	***CLC Solicitor Positions Data Collection Form*** ***Note: There is a second tab which contains background information on this project. Please read it before completing this form.*** ***Please complete as much information as possible for each practising solicitor position (filled or vacant) in your CLC as at 30 June 2011.*** ***If you have any questions or need any help, please do not hesitate to call or email Michael Cain or Suzie Forell at the Foundation:*** Michael Cain - 02 8227 3211 or mcain@lawfoundation.net.au Suzie Forell - 02 8227 3209 or sforell@lawfoundation.net.au	***Enter information in the light blue cells***	
2			
3	**COMMUNITY LEGAL CENTRE:**		
4	**Total number of practising solicitor positions as at 30 June 2011** (include filled and vacant positions; full- and part-time)		
5	**Contact person:**		
6	**Contact number:**		
7	***Please do not identify the person occupying any position. Just enter the information against a position number.***	***Enter solicitor information starting with this column***	
8	***Position number***	*1*	*2*
9	**Position grade** 1. Principal solicitor 2. Senior solicitor 3. Solicitor 4. Junior/paralegal 5. Other (please specify)		
10	**Contracted hours per week**		
11	**Annual gross salary (full-time equivalent) ($) (e.g. $65,400 p.a.)**		
12	**Area of law/work (indicate one or more of the following)** 1. Civil 2. Crime 3. Family 4. Other (please specify)		
13	**Status of the position** 1. Filled by incumbent (even if on sick or annual leave on 30 June 11) 2. Filled by person acting in position (higher duties) 3. Filled by person on secondment (or by a locum) 4. Filled - other (please specify) 5. Vacant - unfilled (advertised or could be advertised) 6. Vacant - incumbent on leave (e.g. maternity, long service etc., but not annual leave) 7. Vacant - incumbent is acting up in a higher position 8. Vacant - other (please specify)		
14	***If the position is currently filled?***		
15	**How long has this person been working in this position?**		
16	**If the person in this position is not the incumbent, how long (in months) has it been since the position was filled by an incumbent?**		
17	***If the position is currently vacant?***		
18	**How long has this position been vacant?** **(months vacant or months since last occupied by an incumbent)**		
19	**Number of times the vacant position has been advertised since last filled?**		
20			
21	**Current solicitor in position:** **Year of admission in NSW as a solicitor**		
22	*(include all years in CLCs, ALS, Legal Aid, etc)*		
23			
24	**Location and postcode of principal workplace**		
25	*If applicable,* **Other locations where the incumbent regularly works** *(e.g. branch office, outreach service)*		
26			
27	**Position specific comments:** Please provide any additional information or comments you consider relevant to each solicitor position in this row (e.g difficulty in filling) --->		
28			
29	**General comments:** If you would like to make any more general comments on issues experienced by your CLC (e.g. vacancies, staff turnover, difficulties in filling positions, work conditions, etc), please provide them here --->` THANK YOU FOR COMPLETING THIS FORM.		
30			

Appendix C: CLCs solicitor returns

(Provided for this study and the earlier study - Forell et al. 2010)

CLC	*2009*	*2011*	*Notes*
Generalist CLCs			
Central Coast	Y	Y	
Elizabeth Evert	Y	Y	
Far West	Y*	Y	* 2009 return included Broken Hill FVPLS
Hawkesbury Nepean	Y	Y	
Hume Riverina	Y	Y	
Hunter	Y	Y	
Illawarra	Y	Y	
Inner City	Y	Y	
Kingsford	Y	Y	
Macarthur	Y	Y	
Macquarie	Y	Y	
Marrickville	Y	Y	
Mid North Coast	N	Y*	* Return not used. Started operating after 2011 census date.
Mount Druitt	Y	Y	
North & North West	Y	Y	
Northern Rivers	Y	Y	
Redfern	Y	Y	
Shoalcoast	Y	Y	
South West Sydney	Y	Y	
Western NSW	Y	Y	
Womens Legal Centre	Y	Y	
Specialist CLCs			
Arts Law	Y	Y	
Broken Hill Family Violence Prevention LS	N*	Y	* Part of Far West return in 2009.
Consumer Credit	Y	Y	
Disability Discrimination	Y	Y	
EDO	Y	Y	
HIV/AIDS	Y	Y	
IARC	Y	Y	
IDRS	Y	Y	
National Children's and Youth Law Centre	N	Y	No return in 2009.
National Pro Bono Resource Centre	N	N	No return in 2009 or 2011.
PIAC	Y	Y	
PILCH	Y	N	No 2011 return.
Refugee Advice & Casework Service	Y	N	No 2011 return.
Tenants' Union	Y	Y	
The Aged Care Rights Service	Y	Y	
Thiyama-li Family Violence Legal Service	N	Y	No return in 2009.
University of Newcastle LC	N	Y	No return in 2009.
Wirringa Baiya AWLC	Y	Y	
Welfare Rights	Y	Y	
CLCNSW (*peak body*)	Y	N*	* No 2011 return required as no practising solicitor in 2011.

Appendix D: NSW Statistical Divisions and LGAs

Statistical Division (SD)	*Local Government Area (LGA)*
Sydney	Ashfield (A)
	Auburn (A)
	Bankstown (C)
	Baulkham Hills (A)
	Blacktown (C)
	Blue Mountains (C)
	Botany Bay (C)
	Burwood (A)
	Camden (A)
	Campbelltown (C)
	Canada Bay (A)
	Canterbury (C)
	Fairfield (C)
	Gosford (C)
	Hawkesbury (C)
	Holroyd (C)
	Hornsby (A)
	Hunter's Hill (A)
	Hurstville (C)
	Kogarah (A)
	Ku-ring-gai (A)
	Lane Cove (A)
Hunter	Cessnock (C)
	Dungog (A)
	Gloucester (A)
	Great Lakes (A)
	Lake Macquarie (C)
	Maitland (C)
Illawarra	Kiama (A)
	Shellharbour (C)
	Shoalhaven (C)
	Wingecarribee (A)
	Wollongong (C)
Richmond-Tweed	Ballina (A)
	Byron (A)
	Kyogle (A)
	Lismore (C)
	Richmond Valley (A)
	Tweed (A)

Statistical Division (SD)	*Local Government Area (LGA)*
Sydney	Leichhardt (A)
(continued)	Liverpool (C)
	Manly (A)
	Marrickville (A)
	Mosman (A)
	North Sydney (A)
	Parramatta (C)
	Penrith (C)
	Pittwater (A)
	Randwick (C)
	Rockdale (C)
	Ryde (C)
	Strathfield (A)
	Sutherland Shire (A)
	Sydney (C)
	Warringah (A)
	Waverley (A)
	Willoughby (C)
	Wollondilly (A)
	Woollahra (A)
	Wyong (A)
Hunter	Muswellbrook (A)
(continued)	Newcastle (C)
	Port Stephens (A)
	Singleton (A)
	Upper Hunter Shire (A)
South Eastern	Bega Valley (A)
	Bombala (A)
	Boorowa (A)
	Cooma-Monaro (A)
	Eurobodalla (A)
	Goulburn Mulwaree (A)
	Harden (A)
	Palerang (A)
	Queanbeyan (C)
	Snowy River (A)
	Upper Lachlan (A)
	Yass Valley (A)
	Young (A)

Statistical Division (SD)	*Local Government Area (LGA)*
Mid-North Coast	Bellingen (A)
	Clarence Valley (A)
	Coffs Harbour (C)
	Greater Taree (C)
	Hastings (A)
	Kempsey (A)
	Nambucca (A)
Northern	Armidale Dumaresq (A)
	Glen Innes Severn (A)
	Gunnedah (A)
	Guyra (A)
	Gwydir (A)
	Inverell (A)
	Liverpool Plains (A)
	Moree Plains (A)
	Narrabri (A)
	Tamworth Regional (A)
	Tenterfield (A)
	Uralla (A)
	Walcha (A)
North Western	Bogan (A)
	Bourke (A)
	Brewarrina (A)
	Cobar (A)
	Coonamble (A)
	Dubbo (C)
	Gilgandra (A)
	Mid-Western Regional (A) *(Part A)*
	Narromine (A)
	Walgett (A)
	Warren (A)
	Warrumbungle Shire (A)
	Wellington (A)

Statistical Division (SD)	*Local Government Area (LGA)*
Murrumbidgee	Carrathool (A)
	Coolamon (A)
	Cootamundra (A)
	Griffith (C)
	Gundagai (A)
	Hay (A)
	Junee (A)
	Leeton (A)
	Lockhart (A)
	Murrumbidgee (A)
	Narrandera (A)
	Temora (A)
	Tumut Shire (A)
	Wagga Wagga (C)
Murray	Albury (C)
	Balranald (A)
	Berrigan (A)
	Conargo (A)
	Corowa Shire (A)
	Deniliquin (A)
	Greater Hume Shire (A)
	Jerilderie (A)
	Murray (A)
	Tumbarumba (A)
	Urana (A)
	Wakool (A)
	Wentworth (A)

Statistical Division (SD)	*Local Government Area (LGA)*
Central West	Bathurst Regional (A)
	Bland (A)
	Blayney (A)
	Cabonne (A)
	Cowra (A)
	Forbes (A)
	Lachlan (A)
	Lithgow (C)
	Mid-Western Regional (A) *(Part B)*
	Oberon (A)
	Orange (C)
	Parkes (A)
	Weddin (A)

Statistical Division (SD)	*Local Government Area (LGA)*
Far West	Broken Hill (C)
	Central Darling (A)
	Unincorporated Far West

Appendix E: NSW LGAs experiencing population loss between 2001 and 2011

Definition of target areas: LGAs with less than five registered solicitors in 2011 and greater than eight per cent population loss between 2001 and 2011.

Target areas		*Population*			*Registered solicitors in 2011*
LGA	*Region*	*2001*	*2011*	*% change*	
Bourke	North Western	3,951	2,867	-27.4	2
Walgett	North Western	8,328	6,453	-22.5	3
Jerilderie	Murray	1,922	1,495	-22.2	0
Carrathool	Murrumbidgee	3,316	2,585	-22.0	0
Unincorporated Far West[a]	Far West	873	698	-20.0	0
Wakool	Murray	4,929	3,962	-19.6	0
Urana	Murray	1,431	1,158	-19.1	0
Central Darling	Far West	2,451	1,992	-18.7	0
Brewarrina	North Western	2,165	1,766	-18.4	0
Hay	Murrumbidgee	3,599	2,958	-17.8	2
Balranald	Murray	2,773	2,282	-17.7	0
Warren	North Western	3,320	2,759	-16.9	3
Coonamble	North Western	4,836	4,031	-16.6	4
Lockhart	Murrumbidgee	3,578	2,996	-16.3	1
Conargo	Murray	1,823	1,539	-15.6	0
Murrumbidgee	Murrumbidgee	2,662	2,261	-15.1	0
Lachlan	Central West	7,560	6,477	-14.3	2
Gwydir	Northern	5,760	4,965	-13.8	1
Narrandera	Murrumbidgee	6,739	5,900	-12.4	1
Bland	Central West	6,655	5,862	-11.9	3
Warrumbungle Shire	North Western	10,849	9,589	-11.6	3
Tumbarumba	Murray	3,735	3,357	-10.1	0
Cobar	North Western	5,182	4,713	-9.1	2
Gilgandra	North Western	4,799	4,368	-9.0	0
Temora	Murrumbidgee	6,337	5,776	-8.9	3
Walcha	Northern	3,307	3,021	-8.6	4
Bogan	North Western	3,181	2,900	-8.8	4
Bombala	South Eastern	2,631	2,407	-8.5	1
Wentworth[b]	Murray	7,214	6,610	-8.4	1

[a] The 2001and 2011 population figures for Unincorporated Far West are our best estimates and exclude persons living in other unincorporated parts of NSW such as Lord Howe Island.

[b] Wentworth LGA was identified as having a solicitor practising in the area but with a non-NSW certificate.

Sources: Law Society of NSW database, 30 June 2011 and ABS 2013a.

Appendix F: Core interview questions

RRR2 Interview schedule for solicitors

Background

1. Is it OK that I record our conversation?
2. Your name? *(This won't be published)*
3. Name of your practice or organisation? *(This won't be published)*
4. What region or town are you based in?
5. How long have you been working in this region/town?
6. What is your current position?
7. In total, how many years' experience do you have in practising law?
8. Approximately what age are you?
9. How many solicitors are there at your firm/service?
10. What area of law do you/the firm/the service usually work in?
11. Does the firm do Legal Aid work?
12. Do you provide services to other towns? How?

Changes in the area

13. Just generally, in your town/region, are you aware of any changes in the population?
    - Are population numbers decreasing?
    - Are businesses and services closing down or going?
14. Why are people leaving? Where are they mainly going? Why?
    - Who tends to be going? Who tends to be staying?
    - Do you think levels of disadvantage are increasing?
    - What impact have these changes had on the town/region?

Impact on practice

15. What impact have these changes had on your practice?
    - Has your client group changed?
    - Have the types of legal matters you deal with changed?
    - Has your workload changed?

Availability of solicitors

16. What can you tell me about the availability of solicitors in the region?

Working with disadvantaged people

17. For solicitors not doing Legal Aid work:
    - Do disadvantaged people come to you?
    - What sort of problems do they have?
    - How do you assist?
    - Do you do free legal work?
    - Any other particular difficulties for disadvantaged people accessing solicitors in this area?
18. For solicitors doing public work:
    - What are some of the difficulties for disadvantaged people accessing solicitors in this area?
19. Is there anything else you would like to say about the availability of solicitors in your region?
    - Any recommendations you would like to suggest?
    - What about the future for lawyers in your region?

THANK YOU FOR PARTICIPATING IN THIS STUDY.

Appendix G: Change in number of registered solicitors for Sydney LGAs

	No. of registered solicitors		
Region (SD) and LGAs	***2009***	***2011***	***Change***
Sydney	**16,972**	**17,532**	**560 (+3.3%)**
Ashfield (A)	69	83	14
Auburn (A)	79	84	5
Bankstown (C)	123	126	3
Baulkham Hills (A)	191	203	12
Blacktown (C)	95	87	-8
Blue Mountains (C)	50	49	-1
Botany Bay (C)	78	90	12
Burwood (A)	110	102	-8
Camden (A)	26	26	0
Campbelltown (C)	136	135	-1
Canada Bay (A)	103	109	6
Canterbury (C)	63	60	-3
Fairfield (C)	138	142	4
Gosford (C)	146	152	6
Hawkesbury (C)	43	39	-4
Holroyd (C)	47	44	-3
Hornsby (A)	121	129	8
Hunter's Hill (A)	15	15	0
Hurstville (C)	77	81	4
Kogarah (A)	14	15	1
Ku-ring-gai (A)	165	171	6
Lane Cove (A)	25	35	10
Leichhardt (A)	112	114	2
Liverpool (C)	128	129	1
Manly (A)	86	92	6
Marrickville (A)	98	115	17
Mosman (A)	50	54	4
North Sydney (A)	574	635	61
Parramatta (C)	578	631	53
Penrith (C)	138	133	-5
Pittwater (A)	65	69	4
Randwick (C)	110	139	29
Rockdale (C)	103	99	-4
Ryde (C)	280	286	6
Strathfield (A)	59	48	-11
Sutherland Shire (A)	208	210	2
Sydney (C)	11,841	12,143	302
Warringah (A)	112	114	2
Waverley (A)	102	109	7

Region (SD) and LGAs	No. of registered solicitors		
	2009	2011	Change
Willoughby (C)	200	199	-1
Wollondilly (A)	7	9	2
Woollahra (A)	151	166	15
Wyong (A)	56	61	5

Notes: LGA is based on postcode of principal place of practice. There were 1,630 solicitor records (7.5%) in the original 2011 Law Society dataset that were missing postcode for principal place of practice; in the 2009 data, there were 991 records (4.9%) missing this information.

Shaded rows indicate an LGA where there has been a decline in registered solicitors.

Source: Law Society of NSW database, 30 June 2011 and 30 June 2009.

Main findings for Sydney LGAs

- Of the 43 Sydney LGAs, 11 LGAs (or around 26%) lost solicitors between 2009 and 2011.
- Strathfield LGA lost the greatest number of solicitors (minus 11) and experienced the greatest proportional decrease in solicitor numbers (minus 18.6%). No other Sydney LGAs registered a proportional *decrease* in solicitor numbers of 10 per cent or more.
- Only two Sydney LGAs, Camden and Hunter's Hill, experienced no change in solicitor numbers in the two-year period.
- Sydney LGA had the highest increase in solicitor numbers (302 additional solicitors or up 2.6%).
- Lane Cove LGA recorded the highest proportional increase in solicitor numbers (10 additional solicitors or up 40%, from 25 in 2009).
- Three other Sydney LGAs also experienced increases in solicitor numbers in excess of 20 per cent — Wollondilly (two additional solicitors or up 28.6% from seven solicitors in 2009), Randwick (29 additional solicitors or up 26.4% from 110 solicitors in 2009) and Ashfield (14 additional solicitors or up 20.3% from 69 solicitors in 2009).

Appendix H: Data tables for figures

Data tables for figures other than Figures 3, 6, 7, 14 and 15 are found in the body of the report.

Data table for Figure 3: Solicitors practising in NSW by practice type (30 June 2011)

Law Society of NSW practice type	*No.*	*%*
Private practice	10,974	54.9
Corporate/overseas/other lawyer	3,318	16.6
Interstate legal practice/employee	3,198	16.0
Government	2,200	11.0
Community legal centre	286	1.4
Total	**19,976**	**100.0**

Source: Law Society of NSW database (30 June 2011).

Data table for Figure 6: Age of solicitors by Remoteness Area (30 June 2011)

Remoteness Area	*Under 35*	*35 to 54*	*55 to 64*	*65 plus*	*All*
Major Cities	5,995	8,738	2,817	856	18,406
Inner Regional	195	580	367	116	1,258
Outer Regional	42	74	59	32	207
Remote/Very Remote	3	8	3	1	15
NSW	**6,235**	**9,400**	**3,246**	**1,005**	**19,886**

Note: Only records not missing the calculated values for age were included.
Source: Law Society of NSW database (30 June 2011).

Data table for Figure 7: Relationship between age and years of experience of solicitors with NSW practising certificate by Remoteness Area (30 June 2011)

	Age in 2011		*Years practising*	
Remoteness Area	*Mean*	*Median*	*Mean*	*Median*
Major Cities	43.7	41.8	15.5	12.0
Inner Regional	49.6	51.0	19.1	16.6
Outer Regional	50.8	52.8	19.9	17.0
Remote/Very Remote	46.2	46.1	13.8	11.4
NSW	**44.2**	**42.6**	**15.8**	**12.4**

Note: Only records not missing the calculated values for age and years of experience were included in these analyses.
Source: Law Society of NSW database (30 June 2011).

Data table for Figure 14: Filled public legal assistance solicitor positions — number of months filled since last vacant by agency (30 June 2011)

Months filled since vacant	*CLCs*		*ALS*		*Legal Aid*		*All*	
	N	*%*	*N*	*%*	*N*	*%*	*N*	*%*
3 months or less	11	6.7	12	13.8	114	27.6	137	20.7
4 to 6 months	14	8.6	6	6.9	75	18.2	95	14.3
7 to 12 months	26	16.0	12	13.8	70	16.9	108	16.3
1 to 2 years	44	27.0	13	14.9	73	17.7	130	19.6
2 to 3 years	24	14.7	15	17.2	28	6.8	67	10.1
More than 3 years	44	27.0	29	33.3	53	12.8	126	19.0
Total	**163**	**100.0**	**87**	**100.0**	**413**	**100.0**	**663**	**100.0**

Notes: Only filled positions were included. CEOs/Managers/Coordinators and Paralegals/Junior solicitors in solicitor positions *were* included. The records of 29 occupied solicitor positions within Legal Aid NSW that were missing information on months filled since last vacant were not included.

Source: Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions (30 June 2011).

Data table for Figure 15: Grants assigned to private lawyers in NSW by area of law

	Grants of legal aid	
Area of law	*N*	*%*
Civil law	619	2.1
Criminal law	14,063	47.6
Family law	9,917	33.6
Care and protection	4,931	16.7
Total	**29,530**	**100.0**

Source: Legal Aid NSW grants database (2010–11 data).