Recruitment and retention of lawyers in regional, rural and remote New South Wales

September 2010

LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

Recruitment and retention of lawyers in regional, rural and remote New South Wales

Suzie Forell, Michael Cain and Abigail Gray

September 2010

LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

This report is published by the Law and Justice Foundation of New South Wales. The Foundation seeks to advance the fairness and equity of the justice system, and to improve access to justice, especially for socially and economically disadvantaged people.

This study was undertaken by the Law and Justice Foundation on behalf of the NSW Legal Assistance Forum RRR Working Group. The majority of funding for this research was provided by the Australian Government Attorney-General's Department Social Inclusion Division.

© Law and Justice Foundation of New South Wales, September 2010

This publication is copyright. It may be reproduced in part or in whole for educational purposes as long as proper credit is given to the Foundation.

Any opinions expressed in this publication are those of the authors and do not necessarily reflect the views of the Foundation's Board of Governors.

National Library of Australia Cataloguing-in-Publication data:

Author:	Forell, Suzie.
Title:	Recruitment and retention of lawyers in regional, rural and remote New South Wales / Suzie Forell, Michael Cain and Abigail Gray.
Edition:	1st ed.
ISBN:	978 0 909136 92 5 (pbk.)
Notes:	Includes bibliographical references.
Subjects:	Country lawyers — New South Wales. Lawyers — Recruiting — New South Wales.
Other Authors/ Contributors:	Cain, Michael. Gray, Abigail. Law and Justice Foundation of New South Wales.
Dewey Number:	340.068309944

Law and Justice Foundation of New South Wales
Level 14, 130 Pitt Street
Sydney NSW 2000
GPO Box 4264, Sydney NSW 2001
Phone: +61 2 8227 3200
Fax: +61 2 9221 6280
Email: publications@lawfoundation.net.au
<http://www.lawfoundation.net.au>

Contents

Acknowledgements v

Executive Summary vii

Aim vii

Method vii

Major findings viii

Conclusions ix

1. Introduction 1

Background 1

Aim of the research 2

Previous research 9

Rural decline in NSW (and Australia): the broader context 17

Scope of this research 21

2. Method 23

Census of solicitors and public legal assistance solicitor positions in NSW 23

Census of solicitors practising in NSW 28

Data analysis 32

Interviews with solicitors 33

3. Results 35

NSW Law Society solicitor data 35

Public legal assistance solicitor positions dataset 51

Grants of legal aid 80

Region profiles 88

The views of rural solicitors and legal service managers 100

4. Discussion 119

The distribution of public and private solicitors in NSW 120

Major regional differences in lawyer availability, recruitment and retention 122

Regional differences in recruitment and retention: what made the difference? 125

Strategies to address recruitment, retention and lawyer availability issues 127

Conclusion 129

References 131

Appendices 135

Appendix A: The collection form for CLC positions 135

Appendix B: Economic and social indicators for NSW LGAs 138

Appendix C: NSW Statistical Divisions (SD or 'Regions') and Local Government Areas (LGAs) 141

Appendix D: Interview questions for RRR solicitors 144

Appendix E: Interstate grants of legal aid 146

Acknowledgements

The Foundation would like to thank the Australian Government Attorney-General's Department Social Inclusion Division which provided the majority of the funding for this research.

The major authors of this report are Michael Cain and Suzie Forell of the Law and Justice Foundation of NSW. Abigail Gray, the third author of this report and also a Foundation staff member, was heavily involved in arranging and undertaking the interviews, writing up the qualitative results and proof reading the report.

This research arose from the New South Wales Legal Assistance Forum (NLAF) and, in particular, the interests of Geoff Mulherin and Caroline Seagrove, the then NLAF Chair and Project Manager respectively, into clearly defining and rigorously examining the extent of lawyer recruitment and retention problems and their effect on access to justice for disadvantaged people in NSW. Caroline Seagrove, in particular, is acknowledged for her efforts in engaging the various interested stakeholders that resulted in support for this research.

This study could not have been conducted without the generous assistance and support of the organisations and legal assistance services which kindly provided their data to the Foundation, namely: the Law Society of NSW, Legal Aid NSW, the Aboriginal Legal Service (NSW/ACT) and the individual Community Legal Centres (CLCs) in NSW. We would also like to acknowledge the assistance provided by Alastair McEwin (Director, Community Legal Centres NSW) and Amanda Smithers (the CLC Rural Network Coordinator) for facilitating the information received from the various CLCs.

The authors acknowledge the assistance of the following Foundation staff: Geoff Mulherin and Hugh McDonald for reviewing drafts of the report and contributing to the discussion; Ana Russell, Maureen Ward and Stephanie d'Apice for their assistance in proofing the report; and Simon Miller for his help in desktop publishing the report. Judith Levitan, the current NLAF Project Manager, is also thanked for her assistance with the administration of this project.

The Foundation is also grateful to the solicitors, managers and coordinators who agreed to be interviewed and spoke with us about their experiences in working in regional, rural and remote (RRR) areas of NSW.

We would also like to thank the staff of the Law Society of NSW, Legal Aid NSW, the Aboriginal Legal Service, Community Legal Centres NSW and members of the NLAF RRR Working Group for reviewing earlier versions of this report.

Executive Summary

Public legal services for disadvantaged people in NSW have reported difficulties in recruiting and retaining solicitors in regional, rural and remote (RRR) areas. Difficulties are also reported in attracting sufficient private solicitors to undertake legal aid work.

Within a broader context of the social and economic decline experienced by rural Australia, the populations of many RRR areas have been decreasing for decades. Mirroring this general decline, many country areas have lost doctors, dentists, teachers, lawyers and other professionals.

A limitation of much of the previous research into the availability of lawyers in RRR areas is a tendency to focus on the contrast between 'the city' and 'the country'. There has been, however, at least some evidence to suggest that recruitment and retention problems are more nuanced and vary from region to region. The present research was undertaken to obtain more comprehensive location-specific information on the recruitment and retention of lawyers in RRR NSW.

This study was undertaken by the Foundation on behalf of the NSW Legal Assistance Forum RRR Working Group and was funded in large part by the Australian Government Attorney-General's Department Social Inclusion Division.

Aim

The aim of this study was to better inform strategies to improve access to lawyers for disadvantaged people in rural and regional areas by:

1. identifying which areas of NSW are most affected by difficulties in recruiting and retaining lawyers practising in the public sector
2. exploring differences between areas of high and low lawyer retention in terms of potentially relevant characteristics of these areas
3. identifying likely reasons for success or otherwise in the recruitment and retention of lawyers in those areas.

Method

In an attempt to thoroughly explore the issues, the Foundation used both quantitative and qualitative research methods. A snapshot was taken from the NSW Law Society's data on all practising lawyers in NSW on 30 June 2009. A separate census was taken of all filled and vacant public legal assistance solicitor *positions* in NSW on 30 June 2009. This information was obtained from the three main public legal services in NSW — the Aboriginal Legal Service (NSW/ACT), NSW Community Legal Centres and Legal Aid

NSW. In addition, the study examined all legal aid grants assigned to private solicitors in 2008/09 and all registered private practitioner legal aid panel members during that time.

The study also included a survey of selected solicitors who either were working in or who had left a public legal assistance service in RRR areas (including nominally identified 'hard to recruit' areas). Managers responsible for staffing RRR areas were also included among those surveyed.

Major findings

- Only seven per cent of all public legal assistance positions in NSW were vacant on the census date. This was unexpected. In some country regions the actual level of vacant positions was well below the State average and in three RRR regions there were no vacant solicitor positions. Nevertheless, in a number of regions one or more of the three major legal assistance services did not have an office and consequently there were few public legal assistance positions in the first place.
- There were other indicators of recruitment and retention difficulties aside from vacancies. In some RRR areas the level of public legal assistance solicitor positions occupied by a non-incumbent (such as a person acting up in the position or a locum) was high. In many of the same areas, solicitor positions had been filled for only relatively short periods of time. The greatest concentration of recruitment and retention difficulties was noted for the Far West, Murrumbidgee and South Eastern regions.
- The ratio of residents to all locally based solicitors (public and private) increased with remoteness. Inner Regional areas 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 the Remote and Very Remote areas of NSW, there was only one solicitor for every 3,000 residents.
- Nineteen Local Government Areas (LGAs) in NSW did not have a single solicitor — private or public — based in the area. All 19 LGAs were characterised by resident (and relatively disadvantaged) populations of less than 7,000 persons, and the populations of the majority were in actual or relative decline. This is likely to suggest that, in the more remote and less populated parts of country NSW, there may not be enough legal work — private or public — to sustain a full-time *resident* solicitor. People living in these areas may well have to travel to their closest regional centre to obtain legal assistance, although outreach and local court services may also be available.
- Solicitors in the most remote areas of NSW were generally younger and less experienced than elsewhere in the State. In contrast, solicitors in Inner and Outer Regional areas were older and more experienced than solicitors elsewhere in the State. Bearing in mind the lower salaries offered in some services, the qualitative interviews noted the particular difficulties in recruiting appropriately *experienced* lawyers to public legal assistance positions in RRR areas, especially the more remote areas of NSW which may offer little in terms of lifestyle benefits.
- The interviews with lawyers and legal service managers indicated that most lawyers working in RRR NSW were originally from major cities. The opportunity to gain legal experience was a major motivation for taking public legal assistance solicitor positions in RRR areas; while higher paying positions and, in remote areas, stress and burnout, were major reasons given for leaving such areas. The qualitative interviews also indicated that services went to great lengths to cover vacant positions and maintain continuity of services to clients. The challenges of remote area practice were particularly noted.

Conclusions

There are realities to the recruitment, retention and availability of lawyers in RRR areas that need to be acknowledged:

- Different RRR areas have their own unique characteristics. Some RRR areas have recruitment and retention difficulties and some do not. The difficulties experienced vary from region to region.
- Some RRR areas tend only to attract relatively inexperienced solicitors or solicitors prepared to stay for a fixed and relatively short period of time. However, having a more senior solicitor in more remote areas may be preferable given the nature of the work and the work conditions.
- 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.
- 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.

Given these realities, individual solutions to recruitment and retention difficulties need to be area specific, problem specific and, in some cases, position specific.

Legal assistance to disadvantaged people in NSW is provided by a range of legal services and these services are interrelated. While there is no overarching coordinated approach to the distribution and provision of these services, each service is affected by lawyer availability, recruitment and retention issues, particularly in regional, rural and remote areas. While 'blanket' solutions are not appropriate, a coordinated approach across the sector to address the availability, recruitment and retention of lawyers in RRR areas is important.

1. Introduction

Background

Concern about the perceived shortage of lawyers in regional, rural and remote (RRR) Australia has been raised as an access to justice issue, particularly for disadvantaged people living 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, 2009a, pp. 1–2)

Governments, communities and the legal fraternity have shared this concern about how to staff and sustain legal firms and legal assistance services in RRR NSW (Law and Justice Foundation of NSW, 2003; Senate Legal and Constitutional References Committee, 2004; TNS Social Research, 2006; National Pro Bono Resource Centre, 2006; Mundy, 2008; Legal Aid NSW, 2008; Law Council of Australia, 2009b). Drawing upon recent research into the issue, the Law Council reported that:

> *Many law firms and community legal centres 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.* (Law Council of Australia, 2009b, p. 5)

However, the legal sector is not unique in facing these issues. Looking beyond lawyers, concerns have also been expressed about the availability of a range of other professionals in rural areas, including doctors and other health professionals, dentists, planners and teachers (Miles, Marshall, Rolfe and Noonan, 2004; Roberts, 2004; NSW Legislative Council, Standing Committee on State Development, 2006). The 2008 Summit 'Australia 2020', hosted by the Commonwealth Government, identified the welfare of rural Australians as a key priority, and within that priority subject, the attraction, recruitment and retention of people, families and businesses to remote, rural and regional communities was highlighted as a dominant theme (*Australia 2020*, 2008).

In March 2009, the NSW Legal Assistance Forum (NLAF)[1] established the Working Group on Availability of Lawyers for Disadvantaged People in Remote, Rural and Regional NSW (the NLAF RRR Working Group). The purpose of the NLAF RRR Working Group is to better identify and define the nature of the problem and to better inform strategies to address access to justice issues in RRR areas. In particular, the working group aims to identify which specific areas of RRR NSW have difficulties attracting and retaining lawyers to deliver services to disadvantaged communities; where there are gaps in the provision of certain

[1] The New South Wales Legal Assistance Forum <http://www.nlaf.org.au> is an organisation promoting collaboration and coordination in the development of legal services in New South Wales. It includes the peak representative bodies with responsibility for the delivery of legal assistance and specialist organisations dealing with a wide range of legal issues. Member organisations include Legal Aid NSW, the Law Society of NSW, the NSW Bar Association, Community Legal Centres NSW Inc., the Aboriginal Legal Service (NSW/ACT), the Law and Justice Foundation of NSW, the Public Interest Law Clearing House NSW, the Department of Justice and Attorney General NSW and LawAccess NSW.

types of law; and, where there is less take-up of legal aid work. It also seeks to identify the factors that make it difficult to attract lawyers to those areas and keep them there.

This research project is an initiative of the NLAF RRR Working Group.

Aim of the research

The aim of this study was to better inform strategies to improve access to lawyers for disadvantaged people in rural and regional areas by:

1. identifying which areas of NSW are most affected by difficulties in recruiting and retaining lawyers practising in the public sector
2. exploring differences between areas of high and low lawyer retention in terms of potentially relevant characteristics of these areas
3. identifying likely reasons for success or otherwise in the recruitment and retention of lawyers in those areas.

The study focused on lawyers providing face-to-face legal advice and representation to disadvantaged people in rural NSW. Information was collected about lawyer positions in the major publicly funded legal services in NSW: Legal Aid NSW, the Aboriginal Legal Service (NSW/ACT) (the ALS), and the network of community legal centres (CLCs) in NSW. Collectively, these services are referred to as 'public legal assistance services'. The study also included private solicitors who undertake legally-aided case work.

The focus of this study into the recruitment and retention of lawyers in RRR NSW was on the localities in which public legal assistance solicitors are based. The study does not claim to consider the presence of all legal services across NSW and certainly does not cover outreach services or duty solicitor services, particularly where there is a circuit local court in a location (which is the case for most small country towns). Any finding in this report that indicates that there were no resident CLC, ALS or Legal Aid NSW solicitors and no private practitioners in the area undertaking legal aid work should not be taken as suggesting that there were no legal services provided in that locality, as outreach services and local court duty solicitor services may operate in that area.

It is also important to note that this study did not consider the broader question of the level, quality or adequacy of any legal service provided in NSW.

Public legal assistance services in NSW

The major providers of publicly funded legal services in NSW are the ALS, CLCs and Legal Aid NSW. As explained in the **Method** section below**,** information concerning the recruitment and retention of public legal assistance solicitors in NSW is drawn from these principal sources only.

Aboriginal Legal Service (NSW/ACT)

The Aboriginal Legal Service (NSW/ACT) (http://www.alsnswact.org.au) is a predominantly criminal law practice providing advice and representation for Indigenous adults and young persons. The ALS also provides assistance in child protection matters (ALS NSW/ACT, 2009). The ALS has only two of its 18 offices located in Sydney.

Figure 1a shows the location of rural and regional ALS offices in terms of the remoteness of that area (re ARIA Remoteness Index). As this map shows, compared to Legal Aid NSW and CLC offices, there are more ALS offices, reaching more remote parts of NSW. While most ALS offices are located in the coastal fringe or Inner Regional areas of country NSW, the ALS also has offices in Outer Regional, Remote and Very Remote areas of NSW (plus also the ACT).

Figure 1a: Location of Aboriginal Legal Services outside of Sydney by Remoteness Index (ARIA+)

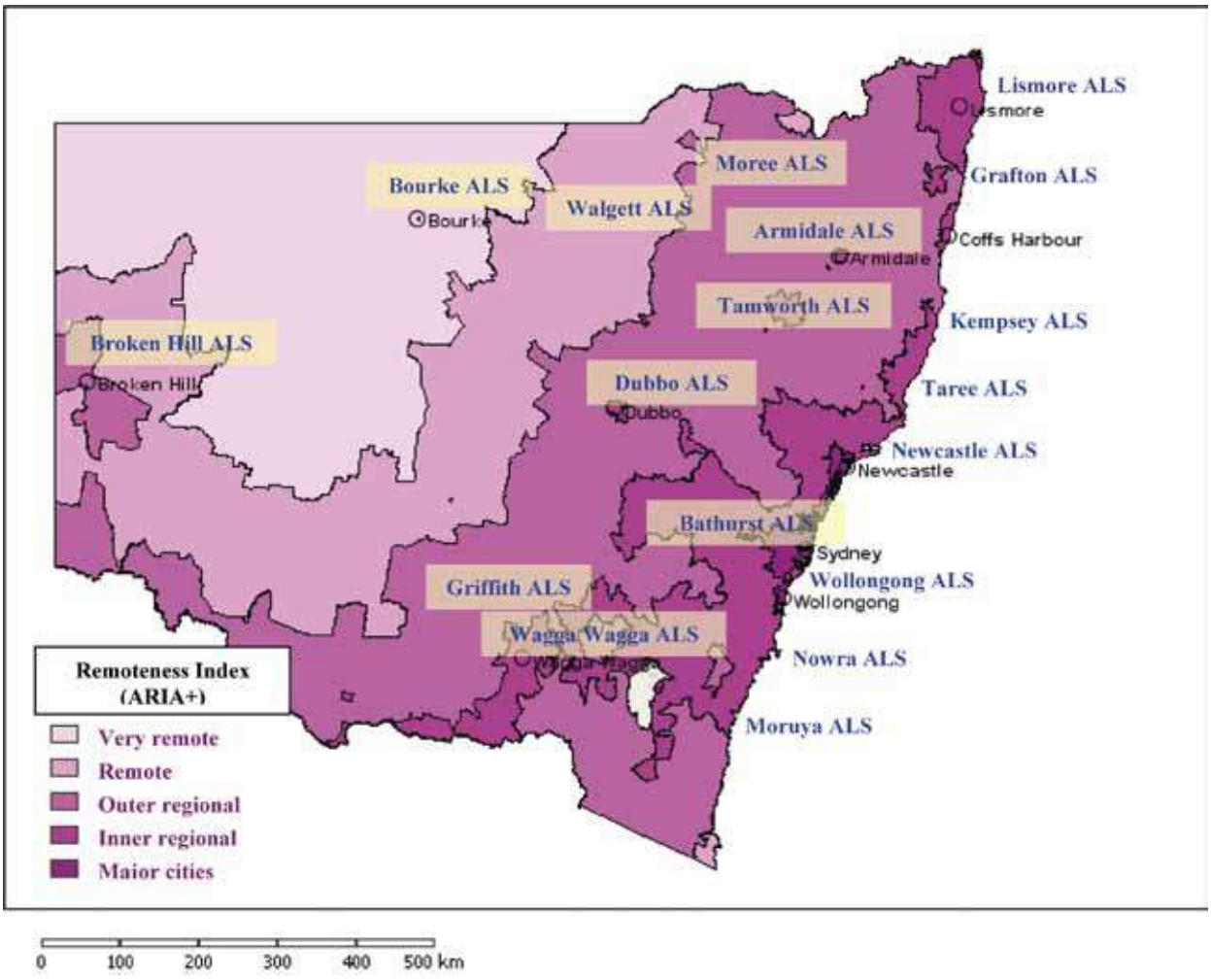
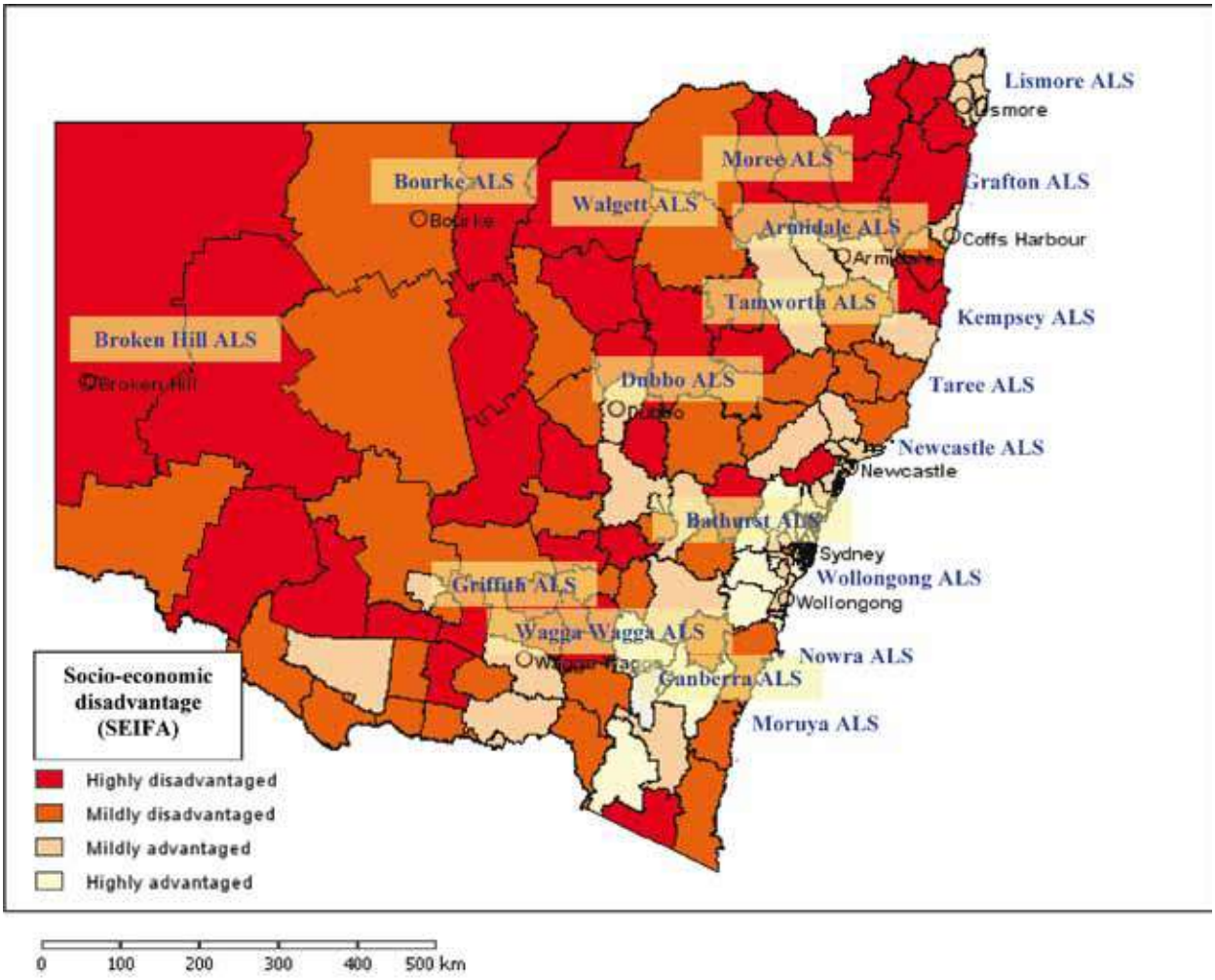


Figure 1b shows the location of rural and regional ALS offices by the Index of Relative Socio-Economic Advantage and Disadvantage (SEIFA) for Local Government Areas (LGAs). This map indicates that many ALS offices are located in close proximity to the more disadvantaged communities in country NSW.

Figure 1b: Location of Aboriginal Legal Services (ALS) outside of Sydney by level of socio-economic disadvantage of LGAs (SEIFA, Census 2006)



Community Legal Centres

Community Legal Centres (http://www.nswclc.org.au) are independent community organisations providing free legal advice and information to individuals and communities across NSW, as well as legal education, law reform and some advocacy. CLC services are available to anyone needing legal advice or assistance that cannot afford the services of a private solicitor.

Generalist CLCs offer legal advice and assistance on a wide range of common legal problems to people living in their catchment area. CLCs provide limited representation services. There are 19 generalist CLCs in NSW — eight in metropolitan Sydney and 11 in RRR NSW.

Figure 2a shows the location of generalist CLCs in rural NSW in terms of the remoteness of that area of the State. Most generalist CLCs in country NSW are located in Inner Regional areas. The Far West CLC is located in Broken Hill, and while Broken Hill is categorised as an Outer Regional area, it is surrounded by a geographically large and very remote part of the State.

Figure 2a: Location of generalist Community Legal Centres (CLCs) outside of Sydney by Remoteness Index (ARIA+)

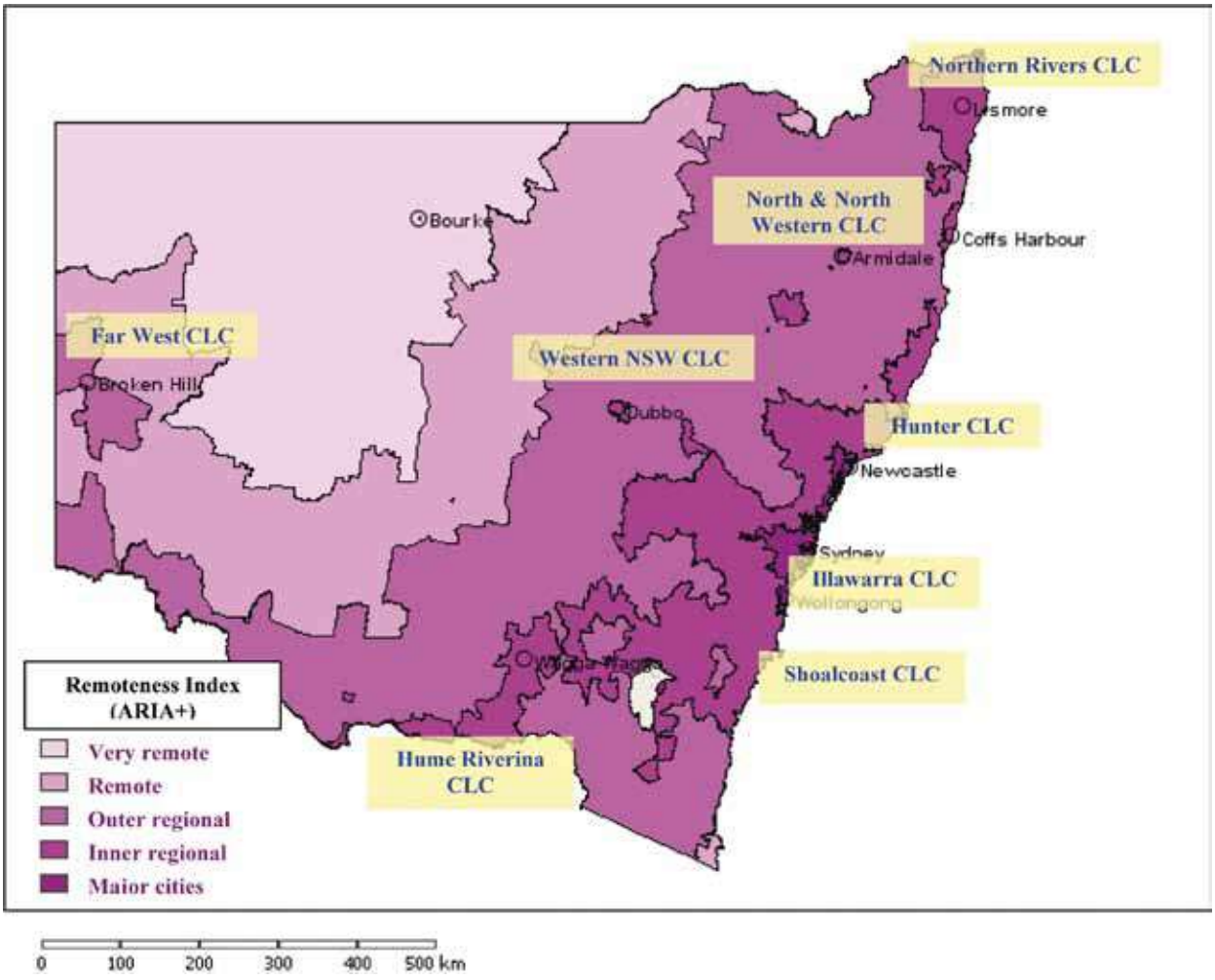
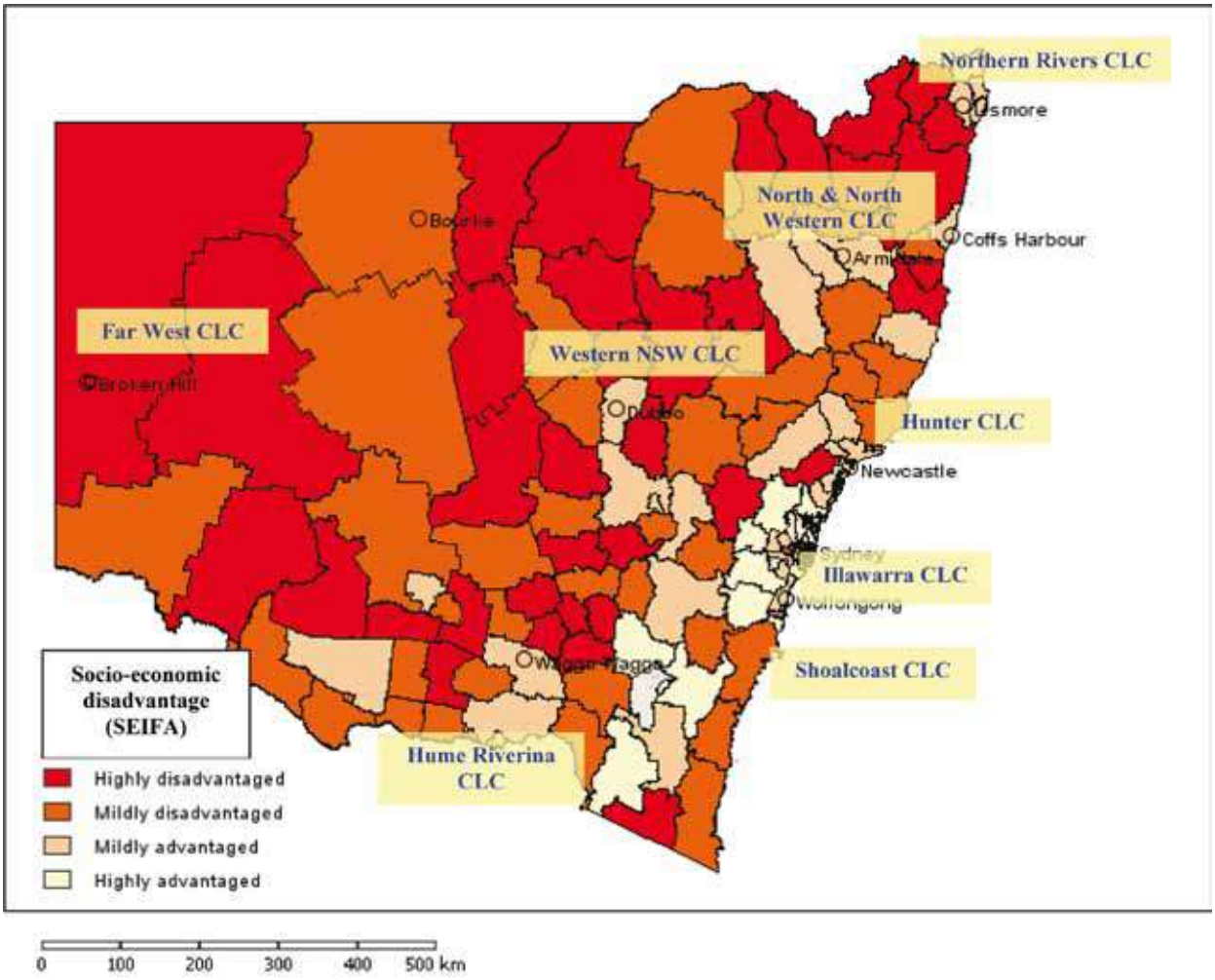


Figure 2b indicates the location of rural generalist CLCs in the context of socio-economic disadvantage. There are also 19 specialist CLCs in NSW. Specialist CLCs have expertise in a particular area of law (e.g. consumer credit, welfare rights, and environmental law) and offer advice, assistance and legal education to individuals and organisations across the State. All except two specialist CLCs are located in the greater Sydney metropolitan area. Both specialist and generalist CLCs may also provide outreach services to rural areas.

Figure 2b: Location of generalist Community Legal Centres (CLCs) outside of Sydney by level of socio-economic disadvantage for LGAs (SEIFA, Census 2006)



Legal Aid NSW

Legal Aid NSW (http://www.legalaid.nsw.gov.au) is a government legal service that assists socially and economically disadvantaged people in understanding and protecting their rights. Legal Aid NSW provides free legal advice, information and minor assistance in all areas of law, representation at court for certain matters, a duty solicitor service at local criminal courts and some family courts, alternative dispute resolution, a domestic violence court assistance program and community legal education programs.

Legal Aid NSW has 22 offices statewide. The majority of Legal Aid NSW offices are located in metropolitan Sydney or in major regional cities and towns. Figure 3a shows the location of rural and regional Legal Aid NSW offices in terms of their remoteness. All Legal Aid NSW offices are either located in Major Cities or Inner Regional areas.

There are no Legal Aid offices located in Outer Regional areas, or in Remote or Very Remote areas of NSW. Note, however, that regional centres such as Dubbo and Tamworth are considered Inner Regional even though each of these regional centres is surrounded by large expanses of Outer Regional areas.

Figure 3a: Location of Legal Aid NSW offices outside of Sydney by Remoteness Index (ARIA+)

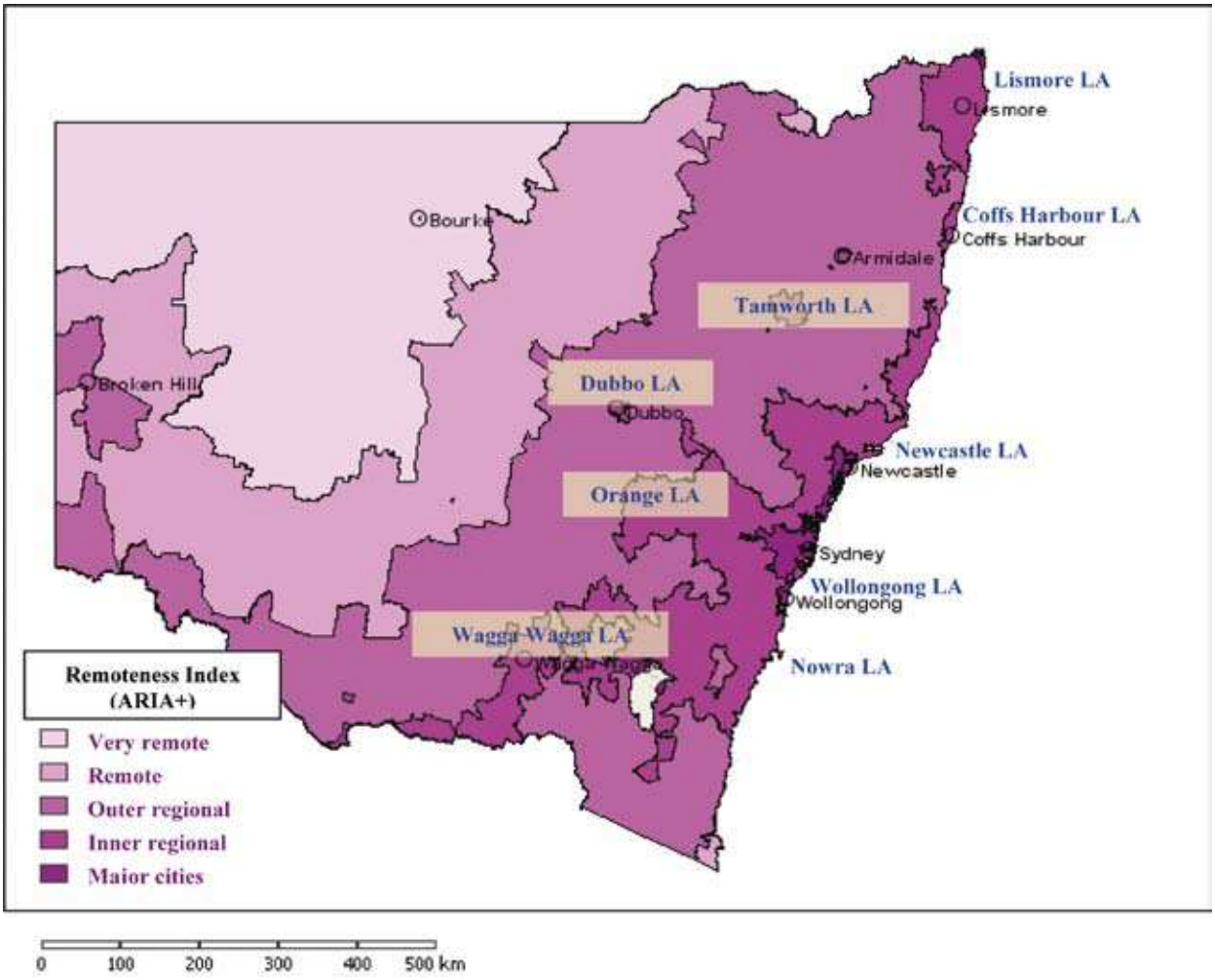
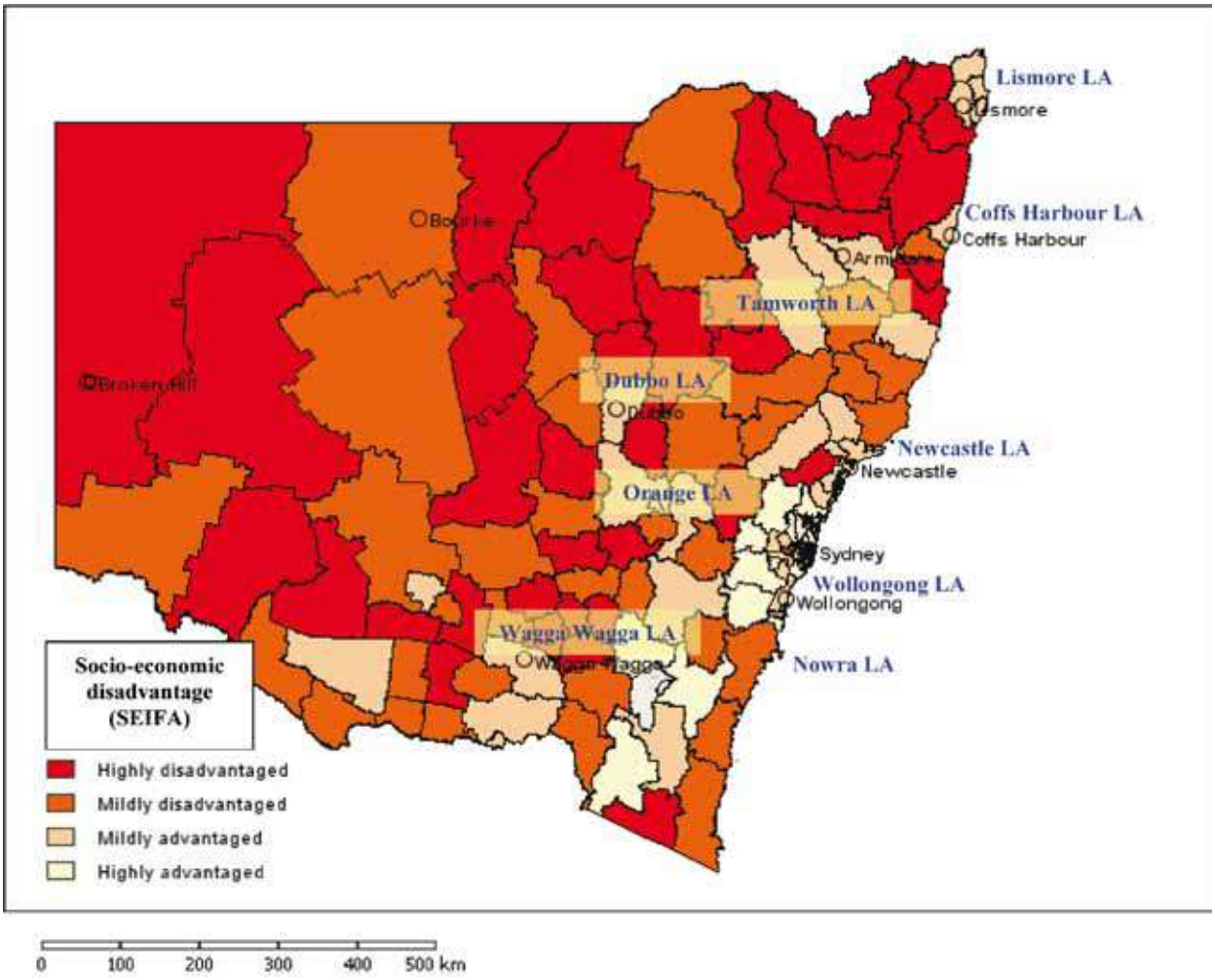


Figure 3b shows the location of rural and regional Legal Aid NSW offices in the context of socio-economic disadvantage. Apart from the Nowra and Newcastle offices, Legal Aid NSW offices are not located in close proximity to many of the more disadvantaged areas of country NSW. Nonetheless, Legal Aid NSW offices in regional areas of the State do provide a base from which the disadvantaged people in smaller rural towns and remote areas can be serviced.

In areas without an office, Legal Aid NSW assigns case and duty work to private solicitors in the form of legal aid grants. Legal Aid NSW also provides outreach services to rural towns throughout NSW. These outreach visits are usually made up of a free legal advice clinic, community legal information session and a stall with information about Legal Aid NSW services.

Figure 3b: Location of Legal Aid NSW offices outside of Sydney by level of socio-economic disadvantage for LGAs (SEIFA, Census 2006)



Private lawyers doing legal aid work

Legal Aid NSW works closely with the private profession to deliver services statewide, with 43.8 per cent of all Legal Aid case and duty services in 2008/09 provided by private lawyers (Legal Aid NSW, 2009).

Legal Aid NSW provides grants of legal aid to its own and private solicitors to represent clients in criminal, family and civil law matters. In 2008/09, 56.2 per cent of the case work provided by legal aid was assigned to private lawyers, with the remaining matters assigned to Legal Aid NSW in-house lawyers. In addition, private lawyers performed 40 per cent of all duty work undertaken at various courts and tribunals across NSW (Legal Aid NSW, 2009).

Legal Aid NSW has also piloted a Regional Solicitor Program and developed a Regional Outreach Clinic Program, both of which involve engaging private lawyers to deliver services to legal aid clients in RRR areas of NSW.

Under the Regional Solicitor Program, private law firms in rural areas receive salary subsidies and other incentives to employ an additional lawyer, on the basis that the lawyer undertakes an agreed amount of legal aid work. The program has seen lawyers placed in Batemans Bay, Bega, Moree, Tweed Heads/ Murwillumbah, Taree, Broken Hill, Cowra, Young and Dubbo (Legal Aid NSW, 2010). An interim

evaluation of the program was completed in 2008 (Urbis, 2008) and a final evaluation released in late 2009 (Urbis, 2009a). While the Regional Solicitor Program was scaled back in some of the original locations (Legal Aid NSW, 2009), separate funding was provided by the Commonwealth to establish the program in four additional country areas (Albury, Bathurst, Tamworth, and Balranald/Mildura) for a two-year period from 1 July 2009 to 30 June 2011.

The Regional Outreach Clinic Program involves Legal Aid NSW funding five solicitors (from private firms and community legal centres) to provide outreach advice clinics each month to seven identified country towns in the North West of NSW, the Mid-North Coast, the Far South West of NSW and the Central Tablelands (Legal Aid NSW, 2010).

Other legal services for disadvantaged people in NSW

A number of other legal services are provided for disadvantaged people across NSW. Notably, these include the Family Violence Prevention Legal Services (FVPLS) funded by the Commonwealth Government in six locations across NSW[2] and pro bono legal services such as the Hunter Homeless Law Advocacy Service.

In examining recruitment and retention issues in this study, not all FVPLS solicitors were included. The **Method** section below explains the reasons why some but not all FVPLS solicitors were counted in this study.

Similarly, recruitment and retention issues relating to private solicitors undertaking pro bono work were not examined in this study.

Previous research

As mentioned, there have been a number of studies, inquiries and reports into the availability, recruitment and retention of lawyers in RRR areas. In scrutinising these reports, little was found that would answer the primary research question concerning the degree to which lawyer shortages and recruitment and retention issues varies from area to area in RRR NSW, and the factors behind any identified regional differences.

While the previous studies and inquiries are noteworthy and commendable in their own right, in general, they lacked the necessary level of detail (e.g. no separate data for NSW; no division of rural NSW into smaller areas; no examination of remote versus regional areas of NSW; no separation of community sector versus private lawyers) or lacked the methodological strengths (e.g. low response rate, no appropriate comparison groups) to allow reliable inferences to be drawn for the present study. Other studies (e.g. Mundy, 2008) added relevant but largely anecdotal insights into the research issues.

Availability of lawyers in RRR areas

In a study commissioned by the Commonwealth Government into the availability of private lawyers to undertake legal aid work, TNS Social Research (2006) attempted to quantify the shortage of lawyers in regional and remote parts of Australia. Using data from the Australian Legal Directory[3] and ABS remoteness indicators, they calculated that there were three legal firms per 10,000 adult residents in remote Australia compared to 10.7 firms per 10,000 in major Australian cities (TNS Social Research, 2006). They

[2] FVPLS provide legal assistance, casework, counselling and court support to Indigenous adults and children who are victim-survivors of family violence, including sexual assault/abuse, or who are at immediate risk of such violence. As of 30 June 2009, there were six FVPLS in NSW: Bourke, Broken Hill, Forbes, Moree, Walgett and West Kempsey (Australian Attorney-General's Department, 2010).

[3] The Australian Legal Directory is a commercial directory of legal firms in Australia.

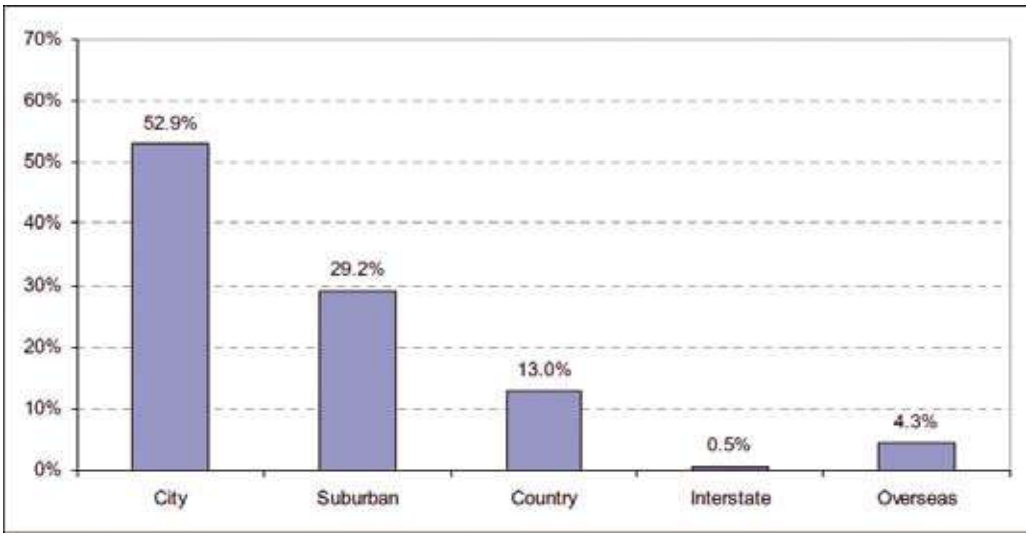
reported that 76 per cent of law firms were located in major cities, 19 per cent in regional areas and five per cent in remote or very remote locations. Unfortunately, these Australia-wide figures were not available by individual State or Territory.

Number and distribution of lawyers in NSW

The Law Society of NSW is the representative body that licenses solicitors to practise in NSW. The Law Society maintains demographic and practice information on the majority of solicitors practising law in NSW.[4] Earlier examinations of the Law Society's data indicate that, in 2008, there were 22,105 solicitors holding a current NSW practising certificate (Urbis, 2009b). Figure 4, taken from this study, shows that in 2008 there were 2,877 (or 13% of) NSW lawyers practising in 'country' areas of the State.[5]

Of the total number of practising NSW solicitors in 2008, 70 per cent were reported as working in private practice, 11 per cent in 'government' (including solicitors working in the community legal sector and for the ALS) and 18 per cent in corporations.

Figure 4: Urbis (2009b): Geographical distribution of all solicitors holding current NSW practising certificates, October 2008



Source: Urbis (2009b), Figure 6.1.

Urbis (2009b) also reported that 16 per cent of private solicitors and 12 per cent of government lawyers worked in country NSW (Table 1). As might be expected, the vast majority of corporate lawyers were based in the CBD or suburban areas of Sydney.

Amongst other issues, the present study will attempt to identify and examine variations (if any) in the availability of both public legal assistance solicitors and private solicitors working in different parts of regional, rural and remote areas of NSW.

[4] The Law Society of NSW estimates that 95 per cent of solicitors in NSW are registered members (personal communication, 24 May 2010).

[5] 'Rural' and 'country' were used interchangeably in the Urbis (2009b) report but neither label was defined to indicate whether areas such as Newcastle and Wollongong were or were not included in rural or country NSW.

Table 1: Urbis (2009b): Practising solicitors in NSW by sector of employment and geographic location, 1 October 2008

	Private **n = 15,533** **%**	***Government*** **n = 2,520** **%**	***Corporate*** **n = 4,045** **%**	***Total*** **n = 22,105** **%**
City	52.6	60.7	49.1	52.9
Sydney suburbs	29.2	25.5	31.3	29.2
Country NSW	15.9	12.2	2.4	13.0
Interstate	0.4	1.0	0.7	0.5
Overseas	1.8	0.5	16.4	4.3
Total	**100.0**	**100.0**	**100.0**	**100.0**

Source: Urbis (2009b), Table 7.1

Projected changes in the distribution of solicitors in NSW

In 2004, Urbis Keys Young used NSW Law Society data from 1988 to 2003 to project the number of solicitors who would be working in NSW in the period from 2004 to 2015. Based on these projections it was estimated that:

- the total number of solicitors in NSW would increase by 42 per cent (from 18,092 solicitors in 2004 to 25,750 solicitors in 2015)
- while the proportion of solicitors working in the government sector would remain relatively stable at around 10 per cent of all NSW solicitors, the proportion of private solicitors would drop slightly from 70 per cent to 68.4 per cent. It was projected that the proportion of solicitors working in the corporate sector would increase by around two percentage points
- the proportion of solicitors working in city, suburban and country locations would not vary to any great degree, with just a slight decline in the relative proportion of solicitors working in country areas (expected to drop from 13.3% to 12.1%).

However, the data used in Urbis Keys Young (2004) report also indicated that between 1988 and 2003, the actual *number* of solicitors in city, suburban and rural areas in NSW had increased. Furthermore, the projections indicated that the number of solicitors in all three broad geographic areas would keep increasing each year through to 2015 (Urbis, 2004, Appendix 1 Table 11).

So while the *proportion* of solicitors working in rural areas was expected to decline slightly over time, the actual *number* of solicitors in all areas of NSW, including rural NSW, was expected to rise. Nonetheless, the increase in the number of solicitors in rural NSW was not expected to match the increase in the number of solicitors in non-rural NSW.

The number of solicitors — whether actual or projected — only tells part of the story. In order to gain a more accurate picture of solicitors' availability across the different areas of NSW, it is necessary to compare the numbers of solicitors available per head of population in rural and non-rural locations.

Using the Urbis Keys Young (2004) data on actual and projected solicitor numbers and relating this to available census figures and projections, the Foundation has calculated the per capita rate of solicitors for rural and non-rural NSW for the period between 1988 and 2006 (Table 2).

Table 2: Number and rate of solicitors in Sydney and RRR NSW, 1988 to 2006

Year	RRR NSW		Sydney		NSW (All)	
	Solicitors	*Rate per 1,000 pop*	*Solicitors*	*Rate per 1,000 pop*	*Solicitors*	*Rate per 1,000 pop*
1988	1,631	0.77	7445	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

Source: Numbers and rates based on ABS (2008) population statistics/projections and Urbis (2004) Table 11.[6]

Using projected per capita rates and numbers of solicitors instead of percentage of solicitors for Sydney and areas outside of Sydney, the Urbis (2004) forecasts would have shown that:

- the total number of private solicitors in NSW would more than double between 1988 and 2006. The projected increase in solicitors would be greater in Sydney (124%) than in country NSW (64%)
- the per capita rate of solicitors would increase by 79 per cent for the whole of NSW, from 1.59 to 2.84 solicitors per 1,000 population. In country NSW, the per capita increase in solicitors would be in the order of 38 per cent compared to 88 per cent in Sydney
- the per capita rate of solicitors in country NSW in the period from 1988 to 2006 would increase marginally from around 0.8 solicitors per 1,000 residents to 1.1 solicitors for every 1,000 residents. Nonetheless, in the same period, the increase in solicitor numbers in Sydney would effectively double the per capita rate from two to four solicitors for every 1,000 residents
- while the rate of solicitors per head of population remained lower in RRR NSW than in Sydney, it was expected, nonetheless, to increase rather than decrease over time.

The Urbis (2004 and 2009b) reports provide a valuable backdrop to the present study. However, neither report provides the information necessary to determine whether parts of rural NSW are better served by solicitors than others and, if so, which solicitors — private, Legal Aid, CLC or ALS — are providing (or not providing) the legal services in these areas.

Last, Mundy (2008) reported that Rice (unpublished study, c2007), using Law Society data to 'map' geographic shifts in the distribution of solicitors in NSW from the 1980s to 2004, found a 'significant movement of private solicitors away from inland areas of NSW and an influx to coastal areas of the state' (Mundy, 2008 p. 10).

Private lawyers available to do legal aid work

The private profession performs a significant proportion of legal aid work. In a study of private lawyers doing legal aid work, TSN Social Research (2006, p. viii) suggested that rural and remote firms in Australia were significantly more likely to undertake legal aid work than metropolitan or city firms:

> *[A]pproximately two-thirds of firms (67%) in regional and remote areas currently provide legal aid compared with approximately half of firms across all locations (48%) … Fewer than one in ten firms in regional and remote areas have <u>never</u> provided legal aid (8%). This is fewer than all firms across Australia (19%).* (our underlining)

[6] 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 (2004) how 'country' was defined and whether it was defined in the same way. Nonetheless, the number of solicitors for RRR NSW in Table 2 does not include 'city' and 'suburban' solicitors as categorised by Urbis (2004).

Furthermore, the researchers suggested that:

> *[P]roviders of legal aid in regional and remote areas are 'keeping the system going' with a small number of lawyers providing significant amounts of legal aid.* (p. viii)

The researchers also suggested a reduced willingness in the private legal sector to take on legal aid work:

> *A decline in the availability of private practitioners to provide legal aid first became an issue in the late 1980s. It has been generally supposed that this decline could be attributed to the lack of profitability of participating in legal aid.* (p. v)

The Regional Solicitor Program and the Regional Outreach Clinic Program were conceived in direct response to the declining "number of legal practitioners located in rural NSW available and willing to undertake legal aid work" (Legal Aid NSW, 2008, p. 30).

Recruitment and retention of RRR lawyers in NSW

The Law Council of Australia conducted an Australia-wide survey of lawyers working in RRR areas "to explore widespread concerns within the profession (of) significant problems recruiting and retaining lawyers in country Australia" (Law Council of Australia, 2009c, p. 1). The survey asked country lawyers about their decisions to go to and stay in RRR areas, lawyer shortages, matters of concern to principals, retirement and succession planning, legal aid and pro bono work.

The study provided valuable insights into the issues and concerns facing RRR lawyers. Some of the key concerns for NSW law firms reported by the Law Council (2009c) were: succession planning (65%); attracting additional lawyers (44%); and finding lawyers to replace those who departed (46%).

However, the utility of this data to the present study is limited by a number of factors. First, the Law Council's survey had only a 13 per cent response rate from RRR lawyers in NSW and therefore whether the views are representative of all RRR lawyers in NSW is not known. Secondly, the vast majority (86%) of respondents were private lawyers, with only seven per cent of respondents from Legal Aid NSW or the ALS and just one per cent of respondents from CLCs. One could speculate that the issues facing community or public sector lawyers and their motivations for working in RRR areas are different from those for private lawyers. Thirdly, as the study did not interview lawyers outside of RRR areas, comparisons with non-RRR areas are not possible, and it is impossible to ascertain whether lawyers in rural areas were *more* concerned with recruitment and retention issues than city or suburban lawyers, or were having more difficulties with these matters.

Factors related to recruitment and retention issues

There is a significant body of research on the recruitment and retention of various professionals to RRR locations, indicating that problems staffing rural services are not unique to the legal sector.

A diverse range of factors have been identified as affecting the availability of professional staff in RRR areas, including personal views and attitudes, the features of different geographic areas, the changing nature of the workforce and broader population migration trends:

> *Often the skills shortages issues in regional areas are, in reality, retention and attraction issues. While regional areas offer lifestyle and cost benefits to households and firms, they cannot compete easily with cities in terms of career choice, breadth of business services available, cultural attractions and diversity. Social changes, the feminization of the workforce, the increased expectations of young people in relation to career*

> *choice, the tendency to career shifting, the far greater current preoccupation with higher education, all affect the capacity of regional communities to retain and attract people with skills.*
> (NSW Department of State and Regional Development in Standing Committee on State Development, 2003, p. 45)

Mundy (2008), having reviewed a heavily anecdotal literature relating to the recruitment and retention of lawyers and other professionals, identified a number of factors that affected the recruitment and retention of RRR lawyers: family issues; lifestyle issues; career and professional development opportunities; location of legal education; gender; the profitability of rural practice (affecting the private sector); generational change; and salary and working conditions.

Drawing from Mundy (2008) and other studies reviewed for this project[7], key factors reported to be relevant to the recruitment and retention of lawyers and other professionals to rural, regional and remote areas are related below.

Family issues

A number of studies (Lowe, 2003; Miles et al, 2004; Mayo and Matthew, 2006) suggest that family issues — including job opportunities for partners and health and educational facilities for children — influenced the decision of professionals to move to and/or leave RRR areas. Miles et al (2004, p. 12) reported:

> *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.*

In particular, education, especially for secondary aged children, was noted as a key consideration for professionals and that this "was a time in which many professionals chose to leave rural areas for what they perceive to be better regional or city-based educational opportunities" (Miles et al, 2004, p.12).

Mayo and Mathews (2006) found that doctors' spouses strongly influenced decisions to go to and remain in RRR areas. Spousal decisions were in turn influenced by the doctor's workload and the family's ability to integrate into the local community.

Lifestyle

Closely related to family issues were matters concerning lifestyle, including the availability of social networks, a sense of community, having a place in the local community and work-life balance. While some people sought rural work to achieve work-life balance (Mundy, 2008), the lack of professional support, high workload and difficulties in finding locums for holiday breaks were raised as reasons for professionals leaving rural areas (Miles et al, 2004; McDonald, Bibby and Carroll, 2002). The general lack of infrastructure and services in some country areas and the dearth of entertainment and cultural activities were also seen as factors adversely affecting the recruitment and retention of professional staff (Mundy, 2008).

Pre-existing ties to the area and location of legal training

In a case controlled study of rural general (medical) practitioners, Laven et al (2002) found that rural doctors were more likely than suburban doctors to have spent part of their childhood and/or school education in a rural location. In response to this and similar evidence, many of the strategies to increase the numbers of doctors available in rural areas have centred on encouraging students originating from rural areas to study medicine. Strategies have included decentralising medical training and fostering medical training and work opportunities in rural settings (Dunbabin and Levitt, 2003). Evaluations of these strategies have suggested

[7] There is a significant body of literature on the recruitment and retention of medical and allied health staff, teachers and others. It was beyond the scope of this study to fully review this literature.

that undergraduate rural training, rural cadetships, postgraduate training and medical school entry criteria favouring rural students were all associated with an increased likelihood of becoming a rural GP (e.g. Wilkinson, Laven, Pratt and Beilby, 2003; Dunbabin, McEwin and Cameron, 2006; Battye et al, undated c2005). However, Eley and Baker (2006) found that while rural training experiences increased student interest in a rural medical career, it did not necessarily lead to a rural internship.

Having reviewed the literature on lawyer retention and recruitment, Mundy (2008, p. 2) surmises that:

> *One of the key factors identified concerns the link between one's exposure to life and practice in a RRR area and one's increased likelihood of engaging in rural practice. A graduate with family ties to a particular area, or a graduate who undertakes their law degree at a regional university, is more likely to return to that RRR area to practise than a person who has not had that experience*.

In examining the availability of teachers in RRR NSW, Roberts (2004, p. 17) reported research suggesting that rural training opportunities for student teachers increased their willingness to subsequently take rural teaching positions. However, he went on to suggest that:

> *While incentives are important, many studies have demonstrated that the most effective approach is to recruit trainee professionals from rural and remote areas.*

Gender and age differences

A number of studies have also identified the impact of gender and age differences on work practices and expectations in RRR areas. Younger generations appeared to have become increasingly mobile, spending shorter periods in any particular job (rural or otherwise) (Shoo, Stagnitti, Mercer and Dunbar, 2005). Dunbabin (2003) identified that female professionals appeared to be seeking greater flexibility in their job.

Researchers have argued that these are factors that have an impact on the recruitment and retention of professionals in RRR areas and need to be factored into strategies to address staff shortages and turnover (Shoo et al, 2005; Miles et al, 2004).

Career opportunities, professional development and working conditions

Miles et al (2004) describe a pattern of younger professionals accepting positions in RRR areas as a way of gaining professional experience and enhancing their long-term career prospects. However, this group tended to return to the city or coastal areas as they move along their career path (Miles et al, 2004; Shoo et al, 2005).

Some lawyers, particularly new graduates, may move to a country area as a step to aid their career including the opportunity to act in a more senior position. The Queensland Office of the Director of Public Prosecutions noted that more junior officers, 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 (ODPP, 2008). However, the report also noted the impact of having less experienced staff on the quality of work performed. Mundy (2008) reported that while legal practise in RRR areas can provide an excellent foundation for obtaining general legal experience it provided fewer opportunities for specialisation.

The lack of opportunities in relation to professional development, training and continuing education (including the cost and travel times involved) are reported as additional factors adversely affecting lawyer retention in RRR areas (Miles et al, 2004; Mundy 2008).

Research on the retention of RRR medical staff consistently describes heavy workloads, on-call commitments, professional isolation, lack of professional development opportunities and lack of locum relief as factors contributing to doctors and other professionals leaving rural practice (McDonald, Bibby and Carroll, 2002). Similar issues have been reported to affect the retention of rural teachers (HREOC, 2000; Roberts, 2004).

Salary levels

Mundy (2008) reported some evidence to suggest that lawyer salaries in the country may be lower than salaries in the city. However, she noted that it was not clear how this may affect recruitment and retention across the legal sector generally, as other issues such as lifestyle, cost of living and professional development opportunities regularly come into play.

Urbis (2009b) did not report income specifically by geographic location, but did report income by sector of employment. It was found that the mean annual income of CLC lawyers was $58,100 compared to $86,700 per year in the government sector and $94,800 per year in the private sector. Mundy (2008) reported that lower salaries might be a disincentive to working in country areas, particularly in those areas where the cost of living is considerably higher.

The NSW Combined CLC Group (NSW CCLCG)[8] have raised issues 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 the potential for 'burn-out'. NSW CCLCG 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" (NSW CCLCG reported in Mundy, 2008, p. 20). The National Association of CLCs suggested "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).

Financial incentives

In a number of professions, such as medicine and education, incentives are provided to entice personnel to work in RRR areas (Dunbabin, 2003; Roberts, 2004). Incentives include additional or increased salary payments, housing or other subsidies, more generous leave provisions, or a 'right of return' to more desirable areas after a designated period of time for professionals who take up positions in RRR locations.

Differences between areas

A particular focus of the present study concerns variations between different rural areas in their capacity to recruit and retain lawyers. To-date, however, none of the previous studies has specifically examined this issue. Nevertheless, it has been noted (in Queensland at least) that:

> *While regions that are remote and isolated are key areas that struggle to attract professional services, other regions that may suffer skills shortages include those that are:*
>
> - *Perceived to have limited opportunities;*
> - *Are experiencing population growth; and*
> - *Are experiencing population declines*
>
> *Coastal and urban areas that share these characteristics may also experience shortages in professional skills* (Miles et al, 2004, p. 3)

[8] Now known as Community Legal Centres NSW Incorporated (CLCNSW) (http://www.clcnsw.org.au//index.php).

In contrast, the health sector is active in its attempts to identify rural areas with particular difficulties in attracting medical staff, and uses this information to influence the placement of doctors and other health professionals. For instance, the Australia-wide Rural Retention Program provides different levels of subsidy to GPs, depending upon their work location's current access to health services (NSW Rural Doctors Network, 2010, <http://www.doctorconnect.gov.au>). In addition, overseas doctors may gain visas to work in Australia if they agree to practise in 'districts of workforce shortage'. An online interactive map of NSW[9] indicating these districts is constantly updated and made widely available to aid service delivery and policy decisions.

Rural decline in NSW (and Australia): the broader context

The long-term impacts of global and national economic, social and ecological forces that have been operating over the last 50 years have been strongly felt by regional, rural and remote areas of Australia (HREOC, 1999; Roberts, 2004; Cocklin and Dibden, 2004). 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; the intensification (or residualisation) of social and economic disadvantage within country areas as the population that remains will contain a higher proportion of poorer households and elderly and Indigenous residents.

As the Wesley Mission (Hoogland and Pieterse, 2000) noted:

> *In some cases, whole communities have suffered economic hardship and many are struggling to survive. Indeed, it is widely accepted that small communities, with populations of less than 10,000 are no longer economically viable, as we witness farm repossession, business and industry closures, the removal of medical and educational services, and the exodus of people to larger commercial centres.*[10]

The crises facing regional, rural and remote communities were summed up by the Human Rights and Equal Opportunity Commission (HREOC) in 'Bush Talks' (1999):

> *Declining populations, declining incomes, declining services and a declining quality of life … in almost every aspect of our work, the HREOC has noticed that people in rural and remote Australia generally come off second best. Distance, isolation, lower incomes and minority status all exacerbate the experience of discrimination, harassment and lack of services and participation.*

While there is a tendency to treat country NSW (and country Australia for that matter) as a homogenous entity, some rural communities have demonstrated the natural capacity and resilience to cope well with the wave of economic, social and ecological changes, while other rural communities have not (HREOC,

[9] For interactive map go to: <http://www.health.gov.au/internet/main/publishing.nsf/Content/2E64885C8564E410CA2572AB00151221/$File/mapnsw.jpg>.

[10] This is a HTML document with no page numbers. The quote is located in the section on Rural and Remote Communities, <http://www.wesleymission.org.au/publications/r&d/suicide.htm>.

1999). For those areas unable to adapt, the consequences have been declining economies, increased unemployment and population losses. In particular, the more remote areas of Australia, because of their geographic isolation, distance from services, higher levels of socio-economic disadvantage and demographic characteristics have appeared more susceptible to the various and numerous economic, social and ecological pressures.

The demographic profile of rural towns and communities is markedly different from that of larger urban communities and these characteristics bear on a community's resilience to the effects of disabling economic and social forces (Vinson, 2004, 2007). In general, rural towns and communities are characterised by: more men than women; a higher proportion of Indigenous people; fewer young adults; more elderly persons; more married people; more children per couple; lower incomes, higher unemployment, fewer working women; and, younger school leavers (Australian Bureau of Statistics, 2006a). Most are widely-known correlates of socio-economic disadvantage. Vinson (2007) calculated the burden of disadvantage experienced by different localities across Australia and identified that 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.

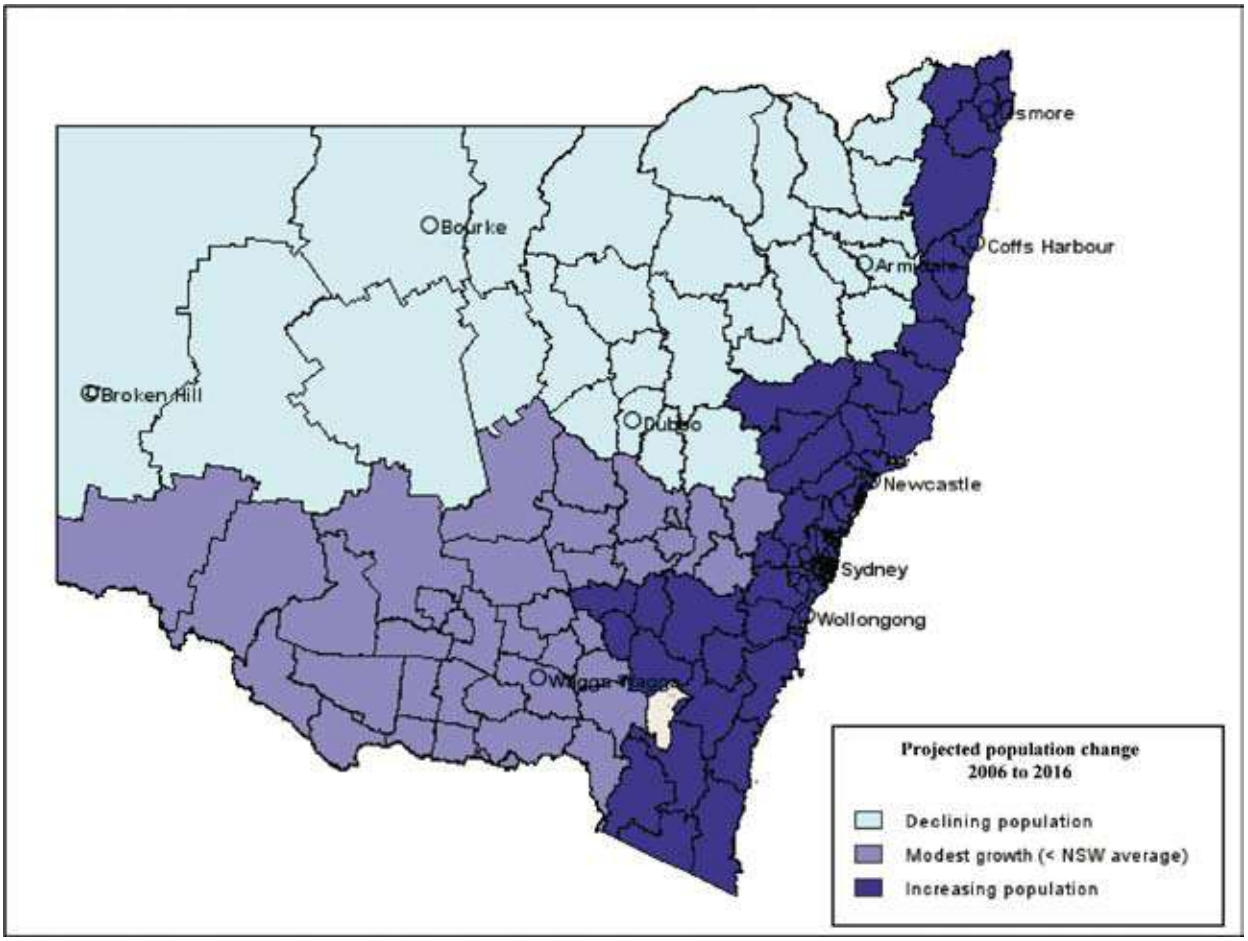
Glover (et al, 1999) noted that the Local Government Areas (LGAs) with large population losses were mostly smaller centres in regional Australia. This study also identified a pattern of declining growth with increasing distance away from large cities. Jackson (2004), using more recent Census data, found that 47 per cent of LGAs in NSW were experiencing actual population declines. In 'outback' areas[11] — largely the North Western and Far West regions in NSW — it was noted that population had been declining at a rate faster than for other country areas, with a three per cent decline in the ten years to 2006, and a 12 per cent decrease expected from 2006 to 2036 (NSW Department of Planning, 2008). It was also expected that the population of the area comprising the Far West and North Western regions of NSW would continue to decrease and at an increased rate, from minus 400 persons each year initially to minus 800 persons in later years (Figure 5).

The primary contributor to population decline in country areas has been people leaving these areas to live in capital cities and growing commercial centres, such as Dubbo and Wagga Wagga in NSW. These major regional centres have been labelled "sponge cities" as they "appear to be absorbing some of the demographic excess of outlying rural areas" (Salt 1996, cited in Nugent, 2000, p.1).

Most people leaving outlying country areas are aged between 15 and 35 (Hugo, 1994, cited in Roberts, 2004) and this trend has created a distorted age profile in many rural areas. With the loss of young adults come significant financial impacts, such as the loss of a valuable customer base, loss of a significant sector of the potential workforce, and the loss of active members of sporting teams and recreational clubs. Many of those remaining in country areas are elderly (including retirees moving to the country because of lifestyle factors and reduced living costs) which, combined with the loss of young adults, reduces the potential for an area to increase its population through natural births (NSW Department of Planning, 2008). These factors, in turn, reduce the number of children in an area making child care facilities, schools and small businesses that rely on the custom of young families economically unviable (Argent, 2008).

[11] There is no accepted definition of what constitutes 'outback' Australia according to Carson (2008). However, he notes that various State tourism organisations have attached the outback label to particular remote and mainly arid and semi-arid locations. These include in NSW, the Far West region, the western part of the Murray region (or far south-west corner of NSW) and the greater part of the North Western region (the area west of Dubbo).

Figure 5: Projected population change 2006 to 2016 for LGAs outside of Sydney



Source: NSW Department of Planning (2008).

When whole families start to leave a country area — often for reasons linked to job opportunities, the lack of health and other services, poor educational opportunities for their children, and a lack of cultural activities 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. For instance, Argent (2008) found that 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. The associated effect of population decline is the "increasingly concentrated burden of community responsibility" (p.245) for those left behind — a burden that can also prove too much to bear.[12] This social impost is more likely to be experienced in rural areas that have suffered the greatest declines in population, education services and economic opportunities.

Finally, the loss of families and young adults often means the loss of professionals and skilled workers from the area. The review of the literature on the recruitment and retention of legal, health and education

[12] As noted by Hoogland and Pieterse (2000), the economic and social stresses can also precipitate anxiety, depression, family breakdown, grief, anger, alcoholism, suicide and other mental health problems.

professionals has already acknowledged the various features of this concerning trend for RRR areas. Yet the impact of losing working members of the community has a broader economic context. Roberts (2004, p. 13), in relating job figures from a rural business writer for the *Australian* newspaper, indicates that "in the decade ending in 1996 'at least 30,000 jobs (were) cut in country NSW … jobs that put over one billion dollars into the regional economy'", and that "these figures are probably underestimated as it is impossible to calculate the number of jobs lost in small business as a flow on result of these job cuts." There is little doubt that the further closure of banks, retail outlets, hospitals, schools and other services in country NSW since 1996 (Pritchard and McManus, 2000, cited in Roberts, 2004) has further damaged the economies of rural and remote areas of NSW.

Given the extent of forces impacting on the economic and social well-being of rural Australia, it is not surprising that one social commentator has made the following sobering conclusion:

> *What generates the current sense of crisis is that country people are experiencing loss at a time when much of the rest of the country is prospering, when their community institutions are already debilitated by several decades of change, and when nobody seriously proposes that the situation can be reversed.*[13]

The impact of recruitment/retention issues

The interim review of the Legal Aid NSW Regional Solicitor Program (Urbis, 2008) provided some further insights into the difficulties of recruiting and retaining lawyers in country NSW. Observations particularly relevant to the current study included:

- Recruitment took time and was more expensive than anticipated. This was largely due to the large amount of advertising required to fill the position and the high number of recruitment actions that needed to be taken.
- The numbers and calibre of candidates applying for positions was limited:

  > *The general view was that, overall, the pool of candidates applying for the Program has been limited both in terms of numbers and calibre. One firm felt they were getting the 'bottom end' of the market; that they could only attract mature age graduates or younger, less successful graduates who had not secured a job in the competitive metropolitan job market. (p. 7)*

- Solicitors with less than two years' experience require a significant amount of mentoring and support from older, more experienced members of the firm. This is an additional cost to the firm.
- Having less experienced lawyers doing a high volume of challenging legal aid work can be particularly daunting for inexperienced lawyers:

  > *I'm dealing in things I don't have experience in … there's no time for professional development. It's very depressing turning up for matters I don't have any experience in. I'm frequently in at 6am and often here till 7pm. I don't have time to learn all the areas I am expected to practise in. (p. 13)*

- Some solicitors left within three months of getting the job, having not fully appreciated the impact of moving to a geographically (and, for them, socially) isolated location (Urbis, 2008). Four of the nine solicitors originally chosen did not complete the two years of the position (Urbis, 2008, Appendix C).
- Concern about safety and security, particularly for young lawyers in small towns, doing work for challenging clients was also noted (Urbis, 2008).

[13] Davison, G (2004), 'The long retreat: rural sustainability in historical perspective', quoted in Cocklin, C and Dibden, J (eds), *Regional Dimensions in National Development: A perspective from Rural Australia*, <http://www.btre.gov.au/publications/87/Files/c_cocklin.pdf>.

Recognising that these findings relate to the specific features of the pilot Regional Solicitor Program, they may not have broader application.

Scope of this research

Concern has been repeatedly expressed about the difficulties in recruiting and retaining lawyers in RRR areas of NSW, and the impact of lawyer shortages on access to justice in RRR locations, especially for socially and economically disadvantaged communities in these areas.

Despite the number and breadth of research studies into this topic, questions remain about:

- regional differences in the availability and distribution of lawyers to provide legal assistance to disadvantaged people in NSW
- the availability of *public* legal assistance positions based in different parts of NSW (including those areas *without* any *resident* solicitor positions meaning that recruitment and retention issues will not be noted for these areas)
- which parts of NSW have more difficulties in recruiting and retaining public legal assistance solicitors and the geographic, social and economic characteristics of these areas
- whether there are recruitment and retention issues which are specific to public legal assistance services.

The current study aimed to explore these issues.

There are also broader issues that bear on the recruitment and retention of lawyers in rural areas, which were beyond the scope of this study. These include:

- an analysis of legal need in different parts of NSW
- an analysis of whether such legal need is being met or unmet
- the quantum level of public legal assistance services in an area, including duty solicitor, outreach, pro bono and other legal services
- an analysis of the adequacy (or otherwise) of legal service provision in NSW.

2. Method

The aim of this study was to better inform strategies to improve access to lawyers for disadvantaged people in rural and regional areas by:

- identifying which areas of NSW are most affected by difficulties in recruiting and retaining lawyers practising in the public sector
- exploring differences between areas of high and low lawyer retention in terms of potentially relevant characteristics of these areas
- identifying likely reasons for success or otherwise in the recruitment and retention of lawyers in those areas.

Two complementary research methods were used:

1. A quantitative analysis of data obtained through:
    a. a census of all filled and vacant public legal assistance services' solicitor *positions* in NSW as at 30 June 2009
    b. a separate census of all NSW solicitors registered with the Law Society of NSW as holding a practising certificate as at 30 June 2009
    c. a download of all legal aid grants assigned to private solicitors in 2008/09 and all registered legal aid panel members during that time.
2. A survey of selected solicitors who either were working in a public legal assistance service in RRR areas, including 'hard to recruit' areas, or previously worked as a solicitor for a public legal assistance service in such areas but left the position to work in another part of the State and/or left to work in private practice (or other non-public legal sector position). Managers responsible for staffing RRR areas were also included among those surveyed.

Census of solicitors and public legal assistance solicitor positions in NSW

At the request of the Foundation, a point-in-time census was conducted using information contained in the administrative and/or human resources systems of a number of different organisations and peak bodies. First, comprehensive information on all solicitors holding a NSW practising certificate was obtained from the Law Society of NSW. Secondly, as the focus of this study was on the public legal sector, a separate census was conducted of all filled and vacant solicitor *positions* within the three major public legal assistance services in NSW: the NSW Aboriginal Legal Service, Legal Aid NSW and Community Legal Centres of NSW.

The date for the collection of information, 30 June 2009, was chosen for a number of reasons. First, as it represented the end of the 2008/09 financial year, 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 normally checked for accuracy and completeness, increasing its reliability. Thirdly, at the time of the request, 30 June 2009 had not long passed — meaning that relevant information was still fresh in the minds of relevant staff.

Census of NSW public legal assistance solicitor positions

The Foundation met with each organisation to clarify the information request and to ensure that confidentiality and privacy requirements were safeguarded. At a meeting with CLC coordinators, it was confirmed that there was no central database of CLC lawyer positions from which the information could be derived. This necessitated the design of an electronic collection form to assemble the required information from each CLC. It was agreed that each CLC coordinator would collect the required information for all solicitors employed in their CLC. This meant that the Foundation was expecting up to 35 individual returns from CLCs. Completion of the form, nonetheless, was voluntary.

Following a meeting with ALS management it was agreed that a collection form, similar to that used by CLCs, would be adopted. However, unlike for CLCs, the information on solicitor positions within the ALS was able to be produced centrally.

The Foundation's research team also met with staff from Legal Aid NSW to discuss the information request. Legal Aid indicated that the required information on solicitor positions within Legal Aid NSW could be produced centrally from their administrative, human resources and financial databases. In addition to the census of solicitor positions, Legal Aid NSW agreed to provide information on legal aid panels operating in NSW and the number and types of legal aid grants made in NSW during the 2008/09 financial year.

In designing the electronic collection form for CLCs, the Foundation drew on recent surveys conducted in NSW (e.g. Law Council, 2009b) as well as suggestions and recommendations made by CLC and ALS management, CLC coordinators and the NLAF RRR Working Group. A copy of the collection form is provided at Appendix A.

Recognising that there are other services in NSW providing legal assistance to disadvantaged people in (rural) NSW, the vast majority of relevant legal positions in NSW are covered by the three organisations included in the census. It was beyond the scope of the current research to identify *every* single lawyer position providing legal assistance to disadvantaged people.

Ideally, this study would have examined all solicitor positions in the NSW FVPLS. The FVPLS provides legal assistance to Aboriginal women and children who have faced or are at risk of family violence. Unfortunately, FVPLS positions were only included where they were connected to a CLC census return. To explain, there are six FVPLS in NSW: Bourke/Brewarrina, Broken Hill, Forbes, Moree, Walgett and West Kempsey. Solicitor positions at the Broken Hill FVPLS were included in this study, as the service is under the auspices of the Far West CLC and were included in their census return. Solicitors from Women's Legal Services in Sydney provide legal assistance in both the Bourke/Brewarrina FVPLS and Walgett FVPLS offices for one week a month (although each office is open five days a week). These solicitors were included in the returns from Women's Legal Services as being based in Sydney, but providing outreach services to Bourke/Brewarrina and Walgett. Moree FVPLS, as part of the CLC network, was asked but did not provide a census return on their solicitor positions.

The Foundation was not aware of the West Kempsey and Forbes FVPLS until the data analysis had been completed, meaning it was too late to incorporate these solicitor positions in the regional analyses. Nonetheless, the following basic information has since been provided by the Moree, West Kempsey and Forbes FVPLS.

In the Moree FVPLS, there were two positions, one filled and the other vacant. In West Kempsey FVPLS there were two positions, both filled, as was the case in Forbes FVPLS. While these positions have not been included in the tabulations and maps of public legal assistance solicitor positions, they have been included in the **Region profiles**.

Definition of public legal assistance solicitor positions

Information was requested on all solicitor positions within Legal Aid NSW, the ALS NSW/ACT and the Community Legal Centres of 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 advice.

Response rate

An exceptional response rate of 100 per cent was achieved from generalist and specialist CLCs in NSW. One member of the CLC network and an associate member did not respond. The 35 individual CLC returns were checked for completeness, inconsistencies and apparent errors. Where necessary, CLC coordinators were contacted by telephone and/or email 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 database of CLC solicitor positions in NSW. Information contained in the CLC database is listed in Table 3.

Information requested from the ALS Head Office on ALS solicitor positions was almost identical to that requested from CLCs. The information on filled and vacant solicitor positions returned by the ALS contained all the variables listed in Table 3, except for years of corporate experience and total years of experience. Similar information was provided by Legal Aid NSW on its filled and vacant solicitor positions (also see Table 3). The only differences being that:

1. the Legal Aid NSW database provided information on 'Years with Legal Aid' rather than years of public legal experience. The latter being broader in definition
2. years of experience (within Legal Aid NSW) is capped at eight years in their system
3. years of corporate/private sector experience is not recorded
4. information is not routinely recorded on other work locations, hours spent with clients in other work locations, or time spent travelling to other work locations.

Table 3: Information on NSW public legal (CLC, ALS and Legal Aid NSW) solicitor positions

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 and higher
Position information:	
Grade	e.g. Principal, Senior Solicitor, Solicitor, other designation
Salary	A number of salary variables were created to make best use of the highly variable ways in which salary information was provided. The standardised annual salary variables created for each position were: Salary (High); Salary (Mid); Salary (Low); and Salary Range ($5,000 increments)[14]
Hours worked	i.e. 35 hours=1.0 FTE
Area of law practised	e.g. Family, Civil, Criminal, General, etc.
Position status	e.g. Filled — incumbent, Filled — secondee/locum, Vacant — unfilled/ advertised, etc.
Higher duties allowance (HDA) paid	
Months filled since last vacant (where filled)	
Months vacant since last filled (where vacant)	
Times advertised (where vacant)	
Years of public legal experience	Legal Aid provided information on 'Years of Legal Aid experience', which is narrower.
Years of corporate legal experience	Not routinely recorded by ALS or Legal Aid
Total legal experience	Not routinely recorded by ALS
Postcode(s) other work locations	Not routinely recorded by Legal Aid
Client hours per month spent in other work locations	Not routinely recorded by Legal Aid
Hours per month spent travelling to and from other work locations	Not routinely recorded by Legal Aid
Position specific comments (if any)	Any additional position-relevant information considered pertinent to the research issue.

Classification of the status of solicitor positions

Solicitor positions were coded as either filled or vacant. Within each broad category, sub-categories provided more granular information.

Position status	**Sub-category**
Filled	Filled — incumbent
	Filled — higher duties
	Filled — secondee/locum/casual
	Filled — shared position (job share)
	Filled — incumbent on maternity leave
	Filled — part filled
	Filled — non-permanent position (including special projects)
Vacant	Vacant — unfilled/advertised/could be advertised
	Vacant — incumbent acting up elsewhere
	Vacant — incumbent on leave

[14] The survey asked for 'SACS award or salary range'. Sometimes the returns contained a specific SACS grade (e.g. SACS 4.2), at other times a more general/vague SACS category was indicated (e.g. SACS 4, SACS 6 plus). Other returns specified exact salary amounts (e.g. $65,000) or a salary range (e.g. $63,000–$70,000). Other returns specified hourly rates (e.g. $33.40 per hour). Still other returns indicated an agreement arranged through enterprise bargaining rather than a specific salary amount or range. Some salary information seemed inconsistently high or low given the designated grading and these were checked. Salary (High), Salary (Mid) and Salary (Low) were the same value for positions where a specific amount (i.e. annual salary or hourly rate) was given. Following standardisation, the measure best suited for comparing salaries is likely to be Salary (Mid). Salary Range ($5,000 increments) is also likely to be a useful way of comparing salaries in conjunction with mean and median salary values.

The public legal assistance solicitor positions dataset

Legal Aid NSW and the Aboriginal Legal Service provided their data in the form of a Microsoft 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. The Law Society data was also provided in Excel format. All data provided to the Foundation was held in de-identified form with no names attached.

In terms of practising solicitor positions (filled or vacant; full-time or part-time), as at 30 June 2009:

- CLCs reported that there were 169 solicitor positions in Community Legal Centres across NSW
- the ALS reported that there were 87 solicitor positions in Aboriginal Legal Services across NSW
- Legal Aid NSW reported that there were 441 solicitor positions in Legal Aid services across NSW.

The collections were combined based on variables common to all three collections to form a Public Legal Assistance Solicitor Positions dataset. This contained the 697 records pooled from the three individual agency collections.

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 to each record a number of geographic and area based socio-demographic values.

First, postcodes were assigned to an over-arching Local Government Area (LGA)[15] 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). Secondly, a number of geographic measures and socio-economic indicators for LGAs derived from the 2006 Australian Census of Population and Housing[16] were appended to each record. These measures allow a broader analysis of the characteristics of the geographic areas in which solicitor positions were located.

The geographic and socio-economic indicators attached to each record by the LGA variable and presented as maps (see Appendix B) were:

- remoteness (re ARIA+ — see **Definition of Remoteness** below)[17] and accessibility to services[18] (see **Figure 1a** above as an example)
- socio-economic disadvantage (re SEIFA Index of Relative Socio-Economic Advantage and Disadvantage — see **Definition of socio-economic disadvantage (SEIFA)** below) (see **Figure 1b** above as an example)

[15] 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.

[16] Australian Bureau of Statistics <http://www.abs.gov.au>.

[17] 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>.

[18] 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.

- 2006 economic status
- projected population change 2006 to 2016[19]
- percentage of Indigenous persons (2006 Census)
- percentage of unemployed (2006 Census)
- percentage of one parent families (2006 Census)
- percentage of persons aged 55 and over (2006 Census).

Other socio-economic indicators attached to each record (but not mapped in the present report) were:

- resident population (2006 Census)
- economic change (2001 and 2006 Censuses)
- percentage of low income households (2006 Census)
- percentage renting (2006 Census).

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 2009. Law Society solicitor membership is available to holders of a current practising certificate issued by the Law Society of NSW. Application for membership is usually made at the same time as applying for or renewing a practising certificate. It should be noted that not all admitted solicitors are registered with the Law Society as they may not be currently practising law.[20]

Information held in the Law Society database is provided by the solicitors themselves, generally, at point of registration as a member. This information may be updated by a registered solicitor at any time by logging onto 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 included all member solicitors working in NSW in private practices, law firms and corporations, government and community legal centres as at 30 June 2009. In total, there were 20,372 records in the original file provided by the Law Society. However, a little less than five per cent of the original records were not be used by the Foundation as they did not contain information on 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, community legal centre, etc.) these records were excluded from further analysis.

The remaining 'valid' Law Society records represent a dataset which supplements and complements the data supplied by the public legal sector agencies. Amongst other things, it provides information on private solicitors working in various areas of the State, including, rural and remote areas of NSW. However, as it also counts solicitor members working in government and the community legal sector, it duplicates information contained in the Public Legal Assistance Solicitor Position dataset.

[19] NSW Department of Planning, <http://www.planning.nsw.gov.au/Programsservices/Populationandhousingprojections/tabid/124/Default.aspx>.

[20] According to the Law Society of NSW, an estimated five per cent of solicitors in NSW are not registered members (personal communication, 7 September 2009).

The Law Society data was processed in the same way as for the Public Legal Assistance Solicitor Position dataset. First, records were assigned to a LGA based on the postcode of the workplace of the solicitor. This was followed by appending the LGA based geographic and socio-economic information, detailed in the previous section, to each record.

In addition, five practice type groups were formed by collapsing the Law Society's original and more specific practice type categories, although it should be noted that 'Community legal centres' and 'Government' are original categories in the Law Society data. The practice type solicitor groups used in this study were:

- community legal centres
- government
- private practice
- interstate; and
- corporate/overseas/other.

Advantages and limitations of the census method

An advantage of the point-in-time censuses used in the present study is that the data is not restricted to a sample of solicitors or solicitor positions. The data from the public legal services represents a complete set of public legal assistance solicitor positions — filled and unfilled — across NSW. Similarly, the data provided by the Law Society of NSW represents as complete a set of registered and practising solicitors in NSW as is available.

A second advantage of the census technique is that it avoids the biases of trying to select representative (or, for that matter, non-representative) areas of NSW to analyse the characteristics of private solicitors and public legal assistance solicitor positions in those 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 stands alone in terms of the characteristics of their private solicitors and public legal sector solicitor positions.

Another advantage of the census technique used in this study was that it provided 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, for the first time, revealed the true extent of the 'jockeying' of positions within the public legal sector, including back-filling, to cover otherwise unoccupied solicitor positions.

A limitation of the present study was that point-in-time data may easily miss important information — information that occurred at another point in time. For example, the ratio of vacant to filled 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 this census of positions was taken, the vacancy rate was at its highest or lowest point for the whole year. This issue may be relevant, in particular, to one-off, short-term and project-related solicitor positions that were funded for 12 months or less, especially on a financial year basis given that 30 June 2009 was the selected 'snapshot' date. A number of community legal centres reported that some solicitor positions that were filled at the time of the study's census had subsequently become vacant.

A census will also tell you nothing about trends or patterns occurring in the matter being researched. For example, various community legal centres 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.

Definition of Regions

The geographical distribution of data was reported in terms of the 2006 Australian Standard Geographical Classification (Australian Bureau of Statistics, 2006b). The Australian Standard Geographical Classification (ASGC) is used by the Australian Bureau of Statistics (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 used 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 February 2004.

- Statistical Divisions (SDs) or Regions

  The SD is a general purpose spatial unit and is the largest and most stable spatial unit within each State and Territory. SDs consist of one or more 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 SDs (also referred to as 'Regions') and, where practicable, underlying Local Government Areas (LGAs). Relevant 2006 Census data and population statistics were also reported at these levels.

A map of the 12 Regions (i.e. SDs) in NSW and their underlying LGAs is provided in Figure 6. A table listing the LGAs within each Region (i.e. SD) is provided at Appendix C.

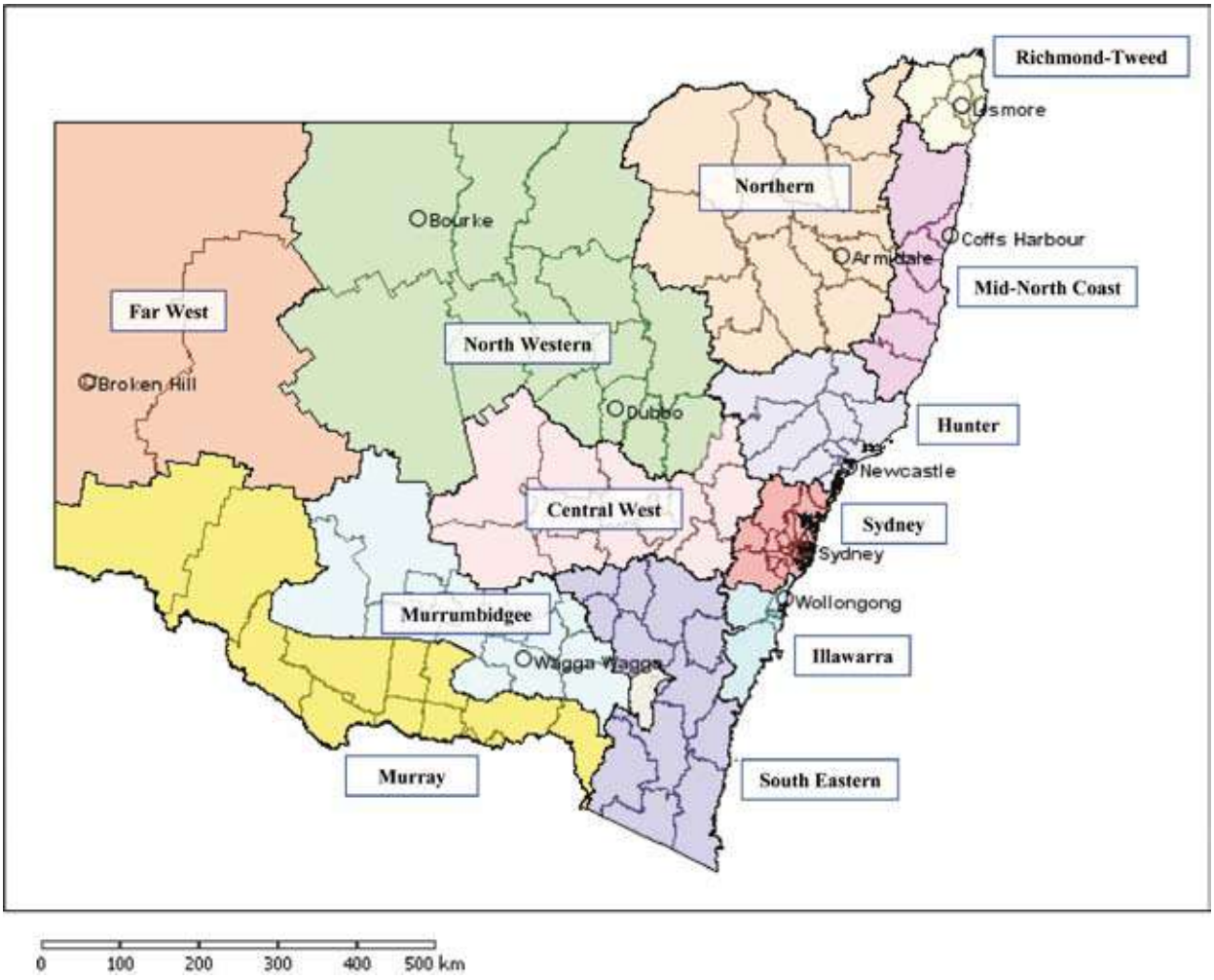
It should be noted that the AGSC Regions do not necessarily correspond to the administrative or program 'regions' used by various NSW public legal assistance services. In particular, the regional centre of Dubbo is located in the North Western region according to the AGSC Statistical Division boundaries but is situated within the Central West region in line with a number of legal services' program boundaries.

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’ (Australian Institute of Health and Welfare, 2004).

Figure 6: NSW Regions (Statistical Divisions) and underlying Local Government Area (LGA) boundaries



Definition of socio-economic disadvantage (SEIFA)

SEIFA stands for ‘Socio-Economic Indicators for Areas’. According to the ABS (Australian Bureau of Statistics, 2006c), SEIFA is the preferred source for comparing the relative socio-economic conditions of cities, towns and other areas across Australia. 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.

There are four separate SEIFA measures from the 2006 Census. The measure used in this report was the *Index of Relative Socio-Economic Advantage and Disadvantage*.

SEIFA measures for 2006 are available for a number of geographical units including postal area (postcode). 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). In this report SEIFA values were provided for LGAs.

Data analysis

Statistical analysis was largely conducted using the Statistical Package for the Social Sciences (SPSS) version 17.

Descriptive statistical analyses

Primarily descriptive analyses, such as frequencies and percentages, were compiled from the Law Society dataset and the public legal assistance solicitor position dataset to address the first two aims of the study, that is:

1. identifying which areas of NSW are most affected by difficulties in recruiting and retaining lawyers practising in the public sector (CLC, ALS, Legal Aid NSW, private solicitors practising legal aid)
2. exploring differences between areas of high and low lawyer retention in terms of potentially relevant characteristics of these areas.

Mean and median values were frequently used in this study as measures of central tendency to examine differences in factors such as years of experience, time in the 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 practise. However, correlation cannot be used to (necessarily) infer a causal relationship between two variables.[21]

Non-parametric analyses (chi-square tests)

In addition to the descriptive analysis, some chi-square analyses were also conducted to address aspects of Aims 1 and 2. For example, chi-square tests examined the relationship between:

- 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 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 and 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.

Missing values

The number of missing values for each variable analysed by descriptive or non-parametric method 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.

[21] See <http://en.wikipedia.org/wiki/Correlation>.

Interviews with solicitors

In-depth qualitative interviews were conducted with 16 solicitors working in or who had left a range of RRR areas. Five more interviews were conducted with managers and coordinators of community legal centres, ALS offices and Legal Aid NSW offices, with direct experience in staffing public legal assistance offices in RRR areas. Interviews were largely conducted by telephone.

The aims of the interviews were:

- to gain an insight into the particular issues concerning the recruitment and retention of lawyers undertaking community sector legal work in RRR areas
- to gain insight into differences between RRR areas with regard to these issues
- to understand the particular impact of recruitment and retention issues on RRR public legal assistance services
- to complement the study's quantitative findings.

Sample selection

All persons surveyed were working or previously worked in RRR areas of NSW. Interviewees were selected to include:

1. solicitors and managers from CLCs, the ALS and Legal Aid NSW currently working in a range of RRR areas, including 'hard to staff' RRR areas, as identified by the data collection
2. solicitors in private firms currently undertaking legal aid work in these RRR areas
3. solicitors who had left CLC, ALS or Legal Aid NSW positions in RRR areas, including 'hard to staff' areas.

Potential interviewees were identified in consultation with project contacts at Legal Aid NSW and the ALS. Interviewees from CLCs were contacted through relevant CLC Coordinators and the CLC RRR network. Private solicitors were identified through representation on legal aid panels and private contacts.

Budgetary and time constraints limited the number of interviews that could be conducted. Given the small size (n=21) of the final sample, caution should be exercised in generalising from the findings of this modest qualitative study. In particular, the views of those lawyers interviewed should not necessarily be considered representative or typical of the views of all their peers.

Table 4 provides the breakdown of the lawyers interviewed in this study by their workplace and whether or not they remained in that position. The interviews revealed that a number of lawyers had worked in several different rural jobs. As a result, while only one person was interviewed as an ex ALS lawyer, it turned out that six interviewees had worked for the ALS at some point. In some services, lawyers may take on management responsibilities. Three of the managers/coordinators interviewed were also practising solicitors.

Table 4: Characteristics of the interviewed sample

Sample	*Currently working in RRR area*	*Left the position/area*	*Total*
ALS lawyers	2	1 (+5)	3 (+5)
CLC lawyers	3	3*	6
Legal Aid NSW lawyers	2 (+2)	2	4 (+2)
Private lawyer doing/did legal aid work	2 (+1)	1^ (+3)	3 (+4)
ALS Managers	2	-	2
CLC Coordinators	2	-	2
Legal Aid NSW Managers	1	-	1
Total	**14 (+3)**	**7 (+8)**	**21 (+11)**

Note: The numbers in brackets are the numbers of people interviewed who were not selected for that characteristic, but had that characteristic in any case. For example, through interviewing a person on the basis that they currently worked for Legal Aid NSW, it was discovered that they also previously worked for the ALS.

* One person was about to leave a CLC, having taken a job elsewhere.

^ Had previously performed legal aid work but had left firm.

The interviews

All interviewees were approached by email or phone and provided with a participant information sheet describing the project and the interview process. All interviews were voluntary and conducted on the understanding that interviewees would not be personally identified.

The interviews were conducted by telephone at a mutually agreed time and digitally recorded with the consent of the interviewee. The set of interview questions were adapted to accommodate the different circumstances of the person interviewed (e.g. currently working or previously worked in the RRR area).

All interviewees (including coordinators and managers) were asked about recruitment and retention issues generally. Solicitors were also asked about their personal circumstances and their own reasons for taking on or, where applicable, leaving a RRR public legal assistance solicitor position. Information was also collected on the solicitor's gender, age, years of experience, legal practice areas, city/country background and family status, although this information did not inform the selection process. Appendix D provides an example of the set of interview questions, in this case for a solicitor currently working in a RRR community sector legal position.

The interview questions were piloted with a coordinator and a solicitor working in different inner regional areas of NSW. These interviews were included in the analysis.

Analysis

Following each interview, the researchers listened to the recording and wrote up the interview in a word document. The transcripts were then entered into a qualitative software analysis program (NVivo) for coding and thematic analysis. NVivo allows researchers to store, organise and retrieve data, by document (interview) and by 'theme' (e.g. question or common theme identified in the analysis).

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, but to best illustrate the theme which has been identified. For instance, in this study, the solicitor positions census data indicates which parts of NSW were having difficulties in recruiting and retaining public legal assistance solicitors, and to what degree. The qualitative data provided related information on why some areas (more than others) were experiencing difficulties in attracting staff, and insight into why some lawyers chose to go to some locations in NSW but not others.

3. Results

Before turning attention to recruitment and retention issues, it is necessary to identify characteristics in the two datasets — the Law Society's Solicitors (LWS) dataset and the public legal assistance solicitor positions dataset — that may aid in the interpretation of any findings relating to the recruitment and retention of solicitors in RRR areas of NSW.

NSW Law Society solicitor data

As detailed in the **Method** section above, the data provided to the Foundation by the Law Society represents all member solicitors working in NSW in private practices, law firms and corporations, government and community legal centres registered with the NSW Law Society as at 30 June 2009.

The original file contained 20,372 records of which approximately five per cent of records could not be used in the present study as they did not contain two required pieces of information:

- 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, community legal centre, etc.).

These incomplete records were excluded from further analysis.[22] The remaining 19,381 Law Society records represent what will be referred to as the 'valid' Law Society dataset. Based on the postcode of the solicitor's principal practice location, LGA indexed geographic and socio-economic information was appended to each record in the valid dataset.

General characteristics

Practice type

Table 5 indicates the broad practice types of solicitors registered with the NSW Law Society on 30 June 2009. Solicitors working in private practice made up the largest share (56%) of solicitors working in NSW. A further 31 per cent of solicitors were working in NSW-based corporations or in NSW offices of interstate or overseas corporations/law firms.

Only 11 per cent of solicitors were recorded as working in 'government' positions. Legal Aid NSW and Aboriginal Legal Services solicitors are included under this category.

[22] A quick analysis of area of law practised for the 991 solicitors for whom postcode of main practice location and practice type were missing showed that no more than about five per cent practised family law or criminal law. For the greater majority (95 per cent or more) of solicitors missing postcode and practice type, some variant of corporate law was indicated as the area(s) of law practised, including many specific instances of business or administrative law. The Law Society 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).

However, it should be noted that other 'government' solicitors, practising in areas other than community legal work, are also included under 'government'. For example, solicitors who are employed by the NSW Education Department or the NSW Treasury (etc.) and act in a corporate capacity would be recorded as 'government' solicitors. In fact, 'government' includes all State and Commonwealth employed solicitors registered with the NSW Law Society.

Solicitors employed by Community Legal Centres represent the smallest (1.4%) number of solicitors registered with the Law Society of NSW.

Table 5: Solicitors practising in NSW by practice type, 30 June 2009

Law Society Practice Type (grouped)	*n*	*%*
Community legal centre	263	1.4
Government	2,150	11.1
Private practice	10,890	56.2
Interstate	2,942	15.2
Corporate/overseas/other	3,136	16.2
Total	**19,381**	**100.0**

Source: Law Society of NSW database, 30 June 2009.

Distribution of solicitors across NSW

The following analysis concerns the regional distribution of all solicitors in NSW. It reports on where solicitors are based rather than where legal services (including outreach) are provided. It also provides a per capita measure of solicitors to resident population. However, it should be noted that while per capita measures alone do not indicate the level of underlying legal need, they do provide a means by which areas with different populations may be compared.

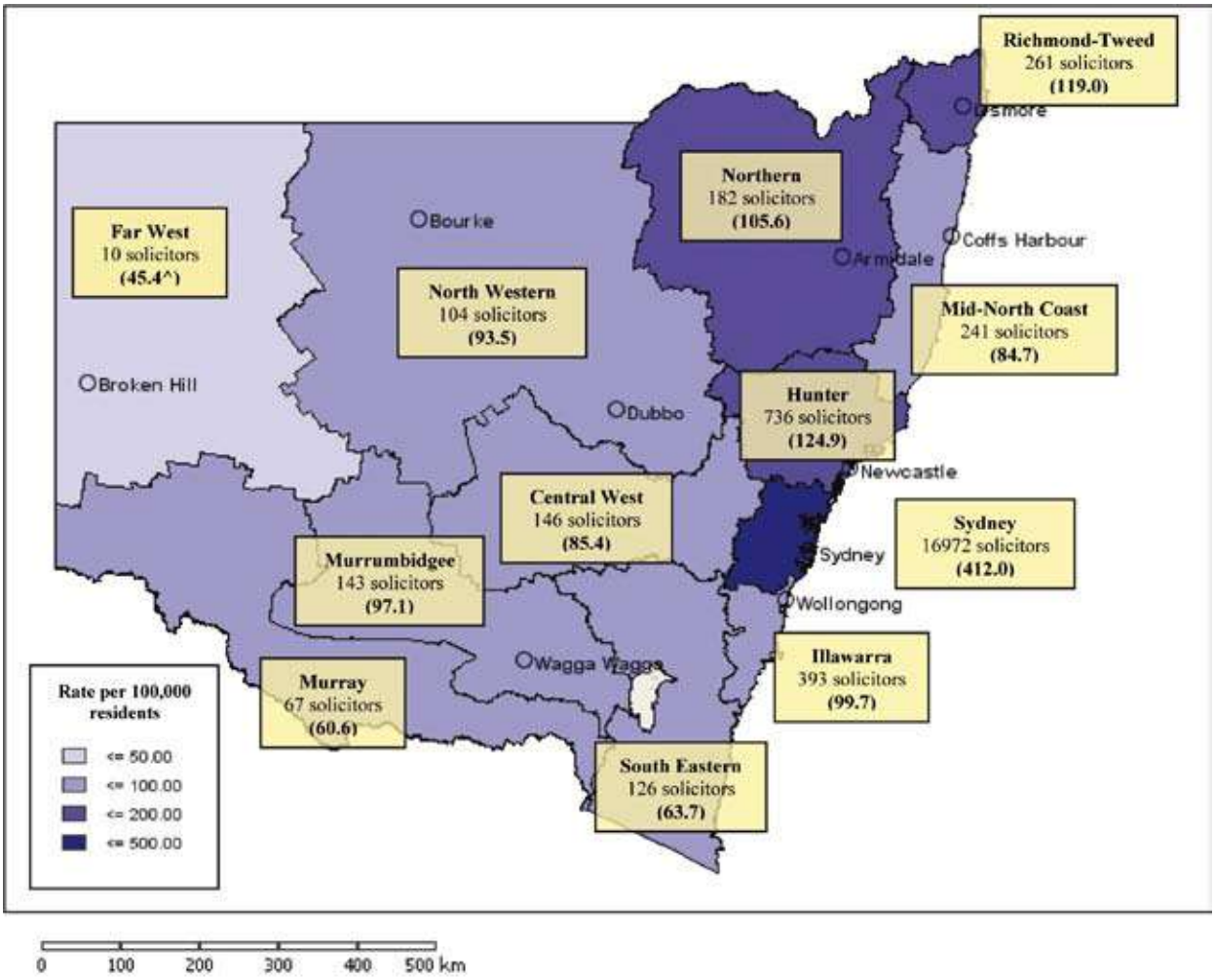
The majority (16,972 or 87.6%) of NSW solicitors were based in the Sydney region (Figure 7 and Table 6). This includes 3,023 (96.4%) of the State's corporate lawyers. In total, over 93 per cent of NSW solicitors were based in the Sydney, Hunter or Illawarra regions. Only 6.6 per cent of solicitors were practising law in regional, rural or remote (RRR) areas of NSW.[23] Notably, within the largest (but least populated) geographic region of NSW — the Far West — there were only ten practising lawyers registered with the NSW Law Society.

The Far West region also had the lowest rate (45.4) of solicitors per 100,000 residents. However, it should be noted that the Far West has nothing like 100,000 residents with a population of just 22,030 according to the 2006 Australian Census. Nonetheless, the per capita rate of solicitors in the Far West of NSW means that there was only one solicitor for every 2,000 persons living in this region.

Of the country regions, the Richmond-Tweed fared best with 119 solicitors per 100,000 head of population. In fact, Richmond-Tweed had a solicitor ratio comparable with that of Newcastle. Sydney had the highest rate (412.0) of solicitors per 100,000 residents and was the only region above the State ratio of 296 solicitors per 100,000 population. Contributing to the high per capita rate of solicitors in the Sydney region is the fact that over 94 per cent of corporate lawyers were based in this area.

[23] The majority of the 991 solicitors in the Law Society data that were missing a postcode (and practice type) practised corporate law (footnote 22). It will also be seen (re Table 8) that the majority of corporate solicitors are based in Sydney or Newcastle or Wollongong. Nonetheless, if these 991 registered solicitors were accounted for and distributed across the NSW regions according to the proportions identified in Table 6, an additional 65 solicitors may have been based in country NSW (i.e. 6.6% x 991 = 65) and distributed across the regions as follows: Richmond-Tweed (an extra 13 solicitors); Mid-North Coast (+12); Northern (+9); North Western (+5); Central West (+7); South Eastern (+6); Murrumbidgee (+7); Murray (+3); and Far West (+0.5). One may similarly attempt to account for the five per cent of solicitors *not registered* with the Law Society (estimated to be around 1,019 solicitors); to do this, the estimated number of extra solicitors for each country region would need to be doubled (e.g. Richmond-Tweed, an extra 26 solicitors).

Figure 7: Solicitors with NSW practising certificate — location of principal place of practice and rate of solicitors per 100,000 resident population by NSW Region (SD), 30 June 2009



^ The resident population for the Far West region, according to the 2006 Census, was only 22,030 (i.e. far less than 100,000).
Source: Law Society of NSW database, 30 June 2009.

Table 6: Location of principal place of legal practice — Statistical Division*, 30 June 2009

Place of practice — Region (SD, based on postcode)	*Solicitors*		*Population*		*Solicitors per 100,000 population*
	n	*%*	*n*	*%*	
Sydney	16,972	87.6	4,119,179	63.0	412.0
Hunter	736	3.8	589,237	9.0	124.9
Illawarra	393	2.0	394,216	6.0	99.7
Richmond-Tweed	261	1.3	219,327	3.4	119.0
Mid-North Coast	241	1.2	284,678	4.4	84.7
Northern	182	0.9	172,392	2.6	105.6
North Western	104	0.5	111,230	1.7	93.5
Central West	146	0.8	170,900	2.6	85.4
South Eastern	126	0.7	197,943	3.0	63.7
Murrumbidgee	143	0.7	147,296	2.3	97.1
Murray	67	0.3	110,522	1.7	60.6
Far West	10	0.1	22,030	0.3	45.4
NSW	**19,381**	**100.0**	**6,538,950**	**100.0**	**296.4**

* Based on postcode. Note: 991 (or 4.9%) solicitor records in the original Law Society dataset were missing postcode.
Source: Law Society of NSW database, 30 June 2009.

Whereas 32 per cent of the State's population lived outside the cities of Sydney, Newcastle and Wollongong according to the 2006 Census, only 7.6 per cent (1,469) of all solicitors practised law in Local Government Areas outside the Sydney, Newcastle and Wollongong metropolitan areas. In addition, of the 1,469 solicitors recorded as practising law in country NSW:

- 43 per cent (632 solicitors) had their practice or office/centre located in one of the larger regional centres (e.g. Albury, Coffs Harbour, Dubbo, Lismore, Orange, Port Macquarie, Tamworth, Wagga Wagga)
- 57 per cent (837 solicitors) had their practice or office/centre located in areas outside a larger regional centre.

According to the 2006 Census, approximately two-thirds of the general population in country NSW resided in the larger regional centres and only one-third lived in the more rural and remote areas (outside these larger country centres). This indicates that while country NSW has only one-quarter of the number of lawyers expected based on its share of the NSW population (i.e. 7.5% of all registered lawyers but 32% of NSW population), the smaller country towns and rural areas fare slightly better than the regional centres in terms of their share of the solicitors practising law outside of Sydney, Newcastle and Wollongong.

LGAs without a resident practising lawyer

One surprising finding arising from the analysis of the Law Society data was that there were 19 LGAs in NSW that did not have on record a single *resident* practising solicitor at the time of this study's census of solicitors (Figure 8).

Thus, according to the Law Society data, there was no community legal centre lawyer, no government lawyer, no law firm or legal corporation, and no private solicitor with their office located in these areas. This information was cross-checked and verified using the lawyer search facility on the Law Society website and entering the names of any towns and larger hamlets in these LGAs.[24] At this point, however, no comment is being made on the availability of public legal services including outreach and duty solicitor services that may be operating in these localities.[25]

Looking at the location of these particular 19 LGAs, it is clear that many of these LGAs are situated on or near a NSW border. This could possibly mean that residents of these LGAs were accessing lawyers in nearby Victoria, Queensland, the ACT or even South Australia. It is also likely that residents of these LGAs are travelling to a larger regional town or LGA in NSW or an adjoining State/Territory to access lawyers as well as other services.

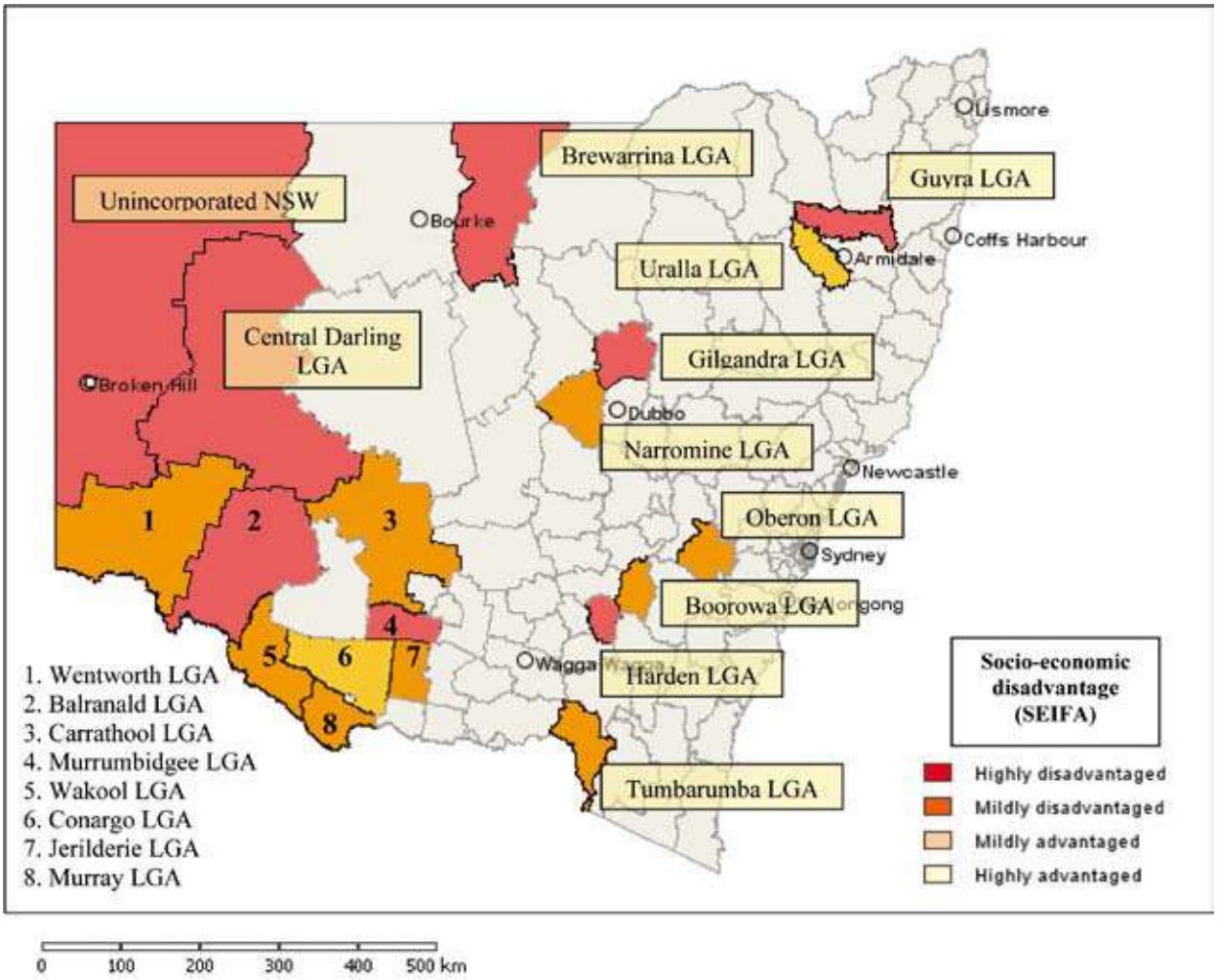
Aside from their general proximity to a bordering State or Territory, the 19 NSW LGAs without a resident practising solicitor have other features in common:

- 11 of the 19 LGAs (58%) were in outer regional areas of NSW with another four (21%) located in remote or very remote areas of the State
- 16 of the 19 LGAs (84%) were categorised as either highly or mildly disadvantaged according to the Index of Relative Socio-economic Advantage and Disadvantage

[24] This double-checking exercise was undertaken on 22 and 23 October using the NSW Law Society's 'lawyer search facility' <http://www.lawsociety.com.au/community/findingalawyer/findalawyersearch/index.htm>.

[25] Lawyers, who have their practices located elsewhere, may well travel into these 19 LGAs to provide legal services. These may include, for example, duty solicitors to local courts, lawyers involved in outreach services and private solicitors with their main practice located in a nearby town. 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.

Figure 8: NSW Local Government Areas (LGAs) without a registered practising solicitor and level of socio-economic disadvantage (SEIFA), 30 June 2009



Sources: Law Society of NSW data (2009) and ABS SEIFA data (2006).

- all 19 LGAs had a resident population of less than 7,000 persons, with nine of the 19 LGAs (47%) having less than 3,500 residents
- seven of the 19 LGAs (37%) had declining populations when population figures from the 2001 and 2006 Censuses are compared. A further ten LGAs (53%) had populations in relative decline (i.e. while their population was growing, any such increase was below the State average increase in population)
- 15 of the 19 LGAs (79%) had Aboriginal populations above the State average of 2.2 per cent, with eight (42%) of the 19 LGAs having Aboriginal populations of seven per cent or higher (i.e. three times or more higher than the State average)
- 15 of the 19 LGAs (79%) had markedly aged populations. Whereas persons aged 55 years and older represent one-quarter of the NSW population, in these 15 LGAs persons aged 55 years comprised as much as 35 per cent of the local population
- 10 of the 19 LGAs (53%) did not contain 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 each month.

Solicitors and remoteness

Another way of examining the distribution of solicitors in NSW is to consider geographic areas in terms of their remoteness. Remoteness is gauged in terms of the lack of accessibility to services regarded as normal in metropolitan areas.[26] 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 GISCA, 2001, p. 2)*

Table 7 examines the distribution of solicitors by the remoteness classification of the areas in NSW in which their practice was located. There were only 12 solicitors with their practice located in areas of NSW categorised as either Remote or Very Remote. This represents less than one-tenth of one per cent of all solicitors in NSW. The greater majority (92%) of NSW solicitors were located in major cities, predominately in Sydney. Just over six percent of solicitors were based in Inner Regional areas of NSW and just over one percent of solicitors were based in Outer Regional areas of NSW.

This pattern contrasts markedly with the distribution of the NSW population across these areas. For example, whereas less than six per cent of solicitors were based in Inner Regional areas of NSW, 20 per cent of the NSW population lives in these areas. Similarly, just 1.2 per cent of solicitors were located in Outer Regional areas compared to a population base of 6.5 per cent. The combined population of Remote and Very Remote areas of NSW represents just over half of one per cent of the State's total population; whilst very small, this percentage nonetheless is ten times greater than the proportion of the State's solicitors based in these areas.

Table 7 also provides a breakdown by remoteness area of the rate of solicitors per 1,000 resident population. The Remote/Very Remote areas of NSW have the lowest per capita rate of solicitors, with only one resident solicitor for every 3,000 residents. Outer Regional areas of NSW fared slightly better with around one resident solicitor for every 2,000 persons.

A rate of around one solicitor per 1,000 residents is noted for Inner Regional areas of NSW. Major Cities fared best with around four resident solicitors for every 1,000 persons.

The other aspect of remoteness, aside from its link to accessibility to services, is its association with socio-economic disadvantage. It has been observed that generally the further one travels (west) away from Sydney, the more the general level of disadvantage, with the Remote and Very Remote areas of NSW being marked by extreme socio-economic disadvantage. The percentage of residents in these areas considered socio-economically *advantaged* is practically zero. In fact, 75 per cent of residents from Remote and Very Remote areas of NSW fall into the most disadvantaged group (i.e. the 'highly disadvantaged' quartile).

Not surprisingly, almost 20 per cent of the population living in Remote/Very Remote areas of NSW is Indigenous compared to the State average figure of just two per cent.

[26] "Policy makers, researchers and the general community are interested in the ways that the lives of Australians vary according to where they live. For example:

- There has been an increasing concern over a number of years about perceived difficulties faced by Australians living outside major metropolitan centres in accessing services
- There has also been particular concern about possible differences in health, education, income and a range of other factors, between those living in and those living outside major metropolitan centres." (Australian Institute of Health and Welfare, 2004)

Table 7: Location of NSW solicitors by Remoteness Area (ARIA+), 30 June 2009

Remoteness Area (ARIA+)	*NSW Pop.*	*% NSW pop. in each RA*	*NSW solicitors in each RA*	*% solicitors in each RA*	*Solicitors per 1,000 pop.*	*Level of socio-economic disadvantage (Vinson, 2007)*				*% ATSI*
						Highly disadvantaged	*Mildly disadvantaged*	*Mildly advantaged*	*Highly advantaged*	
NSW Major Cities	4,748,500	72.51	17,917 (14,832)	92.4 (91.3)	3.77 (3.12)	2%	7%	15%	76%	1.3%
NSW Inner Regional	1,327,599	20.27	1,242 (1,192)	6.4 (7.3)	0.94 (0.90)	49%	38%	13%	< 1%	3.5%
NSW Outer Regional	426,441	6.51	210 (209)	1.1 (1.3)	0.49 (0.49)	68%	30%	1%	< 1%	6.0%
NSW Remote	32,077	0.49	12 (12)	0.06 (0.07)	0.33 (0.33)	75%	25%	0%	0%	19.3%
NSW Very Remote	4,335	0.07								
Total	**6,538,952**	**99.84**	**19,381**	**100.0**	**2.96**	**25%**	**25%**	**25%**	**25%**	**2.0%**

* Based on postcode transposed to LGA and remoteness area. Note: 991 (or 4.9%) solicitor records in the original Law Society dataset were missing postcode.

Figures in brackets represent the number, percentage and rate of NSW solicitors with the 3,136 'corporate/overseas/other' solicitors excluded.

Source: Remoteness Area Index — ARIA+. Population data — ABS 2006 Census of Population and Housing; Solicitor data — Law Society of NSW database (30 June 2009); Socio-economic disadvantage data (Vinson, 2007).

Therefore, while the majority of NSW solicitors are based in Major Cities, generally dealing with a socio-economically advantaged base clientele at a ratio of around one solicitor for every 250 residents, there were very few solicitors based in Remote/Very Remote areas of NSW. Solicitors based in the Remote and Very Remote areas of NSW must deal with a very high per capita ratio (one resident solicitor for every 3,000 persons) and an extremely disadvantaged base clientele.[27]

Type of practice by region

The spread of lawyers across NSW should also be considered in combination with the type of practices that service the legal needs of the various areas of the State. Table 8 provides a percentage breakdown of the solicitors based in each region of NSW categorised by their practice type.

Table 8: Percentage breakdown of solicitors by practice type in each Region, 30 June 2009

Place of practice — Region (SD, based on postcode)	*% CLC*	*% Govt*	*% Private*	*% Interstate*	*% Corporate*
Sydney	1.0	11.4	55.9	13.9	17.8
Hunter	2.4	8.7	62.0	21.2	5.7
Illawarra	4.1	10.4	61.1	18.3	6.1
Richmond-Tweed	3.8	13.4	50.2	29.1	3.4
Mid-North Coast*	3.7	5.4	60.6	28.2	2.1
Northern	6.0	3.3	53.3	31.3	6.0
North Western	12.5	22.1	54.8	9.6	1.0
Central West*	2.7	10.3	59.6	25.3	2.1
South Eastern	0.8	0.8	73.0	18.3	7.1
Murrumbidgee*	4.9	14.0	38.5	40.6	2.1
Murray	1.5	1.5	46.3	41.8	9.0
Far West	40.0	0.0	30.0	30.0	0.0
NSW	**1.4**	**11.1**	**56.2**	**15.2**	**16.2**

* There are no Community Legal Centres in the Mid-North Coast, Central West and Murrumbidgee regions. It is possible that solicitors employed by the Family Violence Prevention Legal Services (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 Service have recorded themselves as 'community legal centre' solicitors rather than 'government' solicitors in the NSW Law Society database.

Note: Values total to 100% across each row. Cell values lower or higher than the corresponding State average may not be significantly different when examined at the 0.05 level of statistical significance.

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

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

neither statistically higher nor lower than expected

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

This table also indicates where a region had a statistically higher or lower than expected number of resident solicitors of each practice type based on the breakdown of practice types across all of NSW and the breakdown for each specific region.[28]

Bearing in mind that the following discussion relates to solicitors based in each region, Table 8 shows that, in many regions of NSW, there were significantly higher than expected numbers of CLC solicitors. In fact, outside of Sydney there were only three regions — the Central West, South Eastern NSW and the Murray — that had fewer than the expected number of CLC solicitors based in that region. Sydney was the

[27] Numerous studies have identified the link between socio-economic disadvantage and the need for legal assistance (for example, Coumarelos et al, 2006; Pleasence et al, 2004, Genn, 1999). There is considerable literature that links socio-economic demographics of an area (e.g. high Aboriginal population) with the need for corresponding services (Schetzer and 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 to act as catalysts for further problems.

[28] Expected numbers are calculated by the chi-square test (for example, see Siegel & Castellan, 1988). The chi-square test is based on the cross-tabulation of the relevant variables (e.g. Region by Practice Type) and compares the observed frequencies in each cell of the cross-tabulation with the frequencies expected if there were no relationship between the variables.

only region which had a significantly lower than expected number of CLC solicitors. As there are no actual Community Legal Centres in the Mid-North Coast, Central West and Murrumbidgee regions, these regions should also show up in Table 8 as having fewer than expected CLC solicitors.[29]

North Western was the only region with a significantly higher than expected number of solicitors in government positions, although three other NSW regions — Sydney, Richmond-Tweed and the Murrumbidgee — had a percentage of resident government solicitors above the State average. There were five regions in NSW without their expected share of government solicitors, with four of these regions (Mid-North Coast, Northern NSW, South Eastern NSW and Murray) in country NSW.

Only two regions, Hunter and South Eastern, had a significantly higher than expected number of solicitors in private practice. In particular, South Eastern had an increased share (73%) of private practice solicitors compared to the State average (56%). Only the Murrumbidgee had a significantly lower than expected number of private practice solicitors.

It may be expected that the highest proportion of interstate solicitors would be noted for regions bordering other States or Territories. The Murray region, which borders Victoria and South Australia, had the highest percentage (42%) of interstate solicitors. Other regions sharing State boundaries, namely Richmond-Tweed (29%), Far West (30%) and Northern NSW (31%), also had high compositions of interstate solicitors.[30] This pattern did not extend to North Western (10% interstate solicitors) which also borders onto Queensland; nor did it apply to South Eastern NSW (18% interstate solicitors) even though this region both surrounds the ACT and butts onto Victoria. Furthermore, four regions with significantly high levels of interstate solicitors — Murrumbidgee (41%), Mid-North Coast (28%), Central West (25%) and Hunter (21%) — do not share a boundary with another State or Territory.

Sydney was the only region with a level of corporate solicitors (18%) above the State average. In fact, over 96 per cent of the State's corporate solicitors were located in the greater Sydney metropolitan region.

Type of practice by remoteness area

A number of significant differences in the distribution of solicitor practice types appear in using Remoteness Areas (ARIA+) as the basis for geographic comparisons.

For Remote/Very Remote areas, a higher than expected number of CLC solicitors was the only significant finding (actual: 2, expected: 0) although, given the small total number of solicitors based in remote and very remote areas of NSW, caution should be exercised.

For Outer Regional areas of NSW four differences were identified:

- a higher than expected number of CLC solicitors (actual: 15, expected: 3)
- a higher than expected number of interstate solicitors (actual: 66, expected: 32)
- a lower than expected number of corporate solicitors (actual: 1, expected: 34)
- a lower than expected number of government solicitors (actual: 0, expected: 23).

[29] 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.

[30] While the percentage of interstate solicitors for the Murray, Richmond-Tweed and Northern regions is significantly higher at the 0.05 level of significance, the high percentage (30%) of interstate solicitors in the Far West was not statistically significant because of the small total number of solicitors in this region.

Inner Regional NSW areas had:

- a higher than expected number of CLC solicitors (actual: 50, expected: 17)
- a higher than expected number of interstate solicitors (actual: 308, expected: 189)
- a lower than expected number of corporate solicitors (actual: 50, expected: 201).

By contrast, Major Cities in NSW had:

- a higher than expected number of corporate solicitors (actual: 3,085, expected: 2,899)
- a lower than expected number of CLC solicitors (actual: 196, expected: 243)
- a lower than expected number of interstate solicitors (actual: 2,566, expected: 2,720).

Given the lack of corporate lawyers in areas outside the major cities of Sydney, Newcastle and Wollongong, and the fact that corporate lawyers do not generally deal with individual clients or personal legal matters, the remaining analyses of the Law Society data will not include corporate lawyers.

Areas of law practised

In broad terms, there were 2,488 solicitors in NSW recorded as practising family law. This represents 15 per cent of the total 16,245 solicitors in the 'valid' Law Society dataset (corporate lawyers excluded). The same number (2,488) and percentage (15%) of NSW solicitors indicated they practised criminal law. The majority (86% or 13,900) of solicitors in NSW reported practising civil law.

It should be noted that civil law is a very broad category. It includes issues relevant to disadvantaged persons such as housing, employment and debt. It also includes issues more pertinent to businesses than to individuals, such as commercial law, intellectual property and copyright. Therefore, the civil law practised by public legal assistance solicitors may be very different from the civil law practised by government and private lawyers.

Solicitors often practise more than one area of law. Almost 13 per cent of solicitors (n=2,029) practised both family and civil law; a little under ten per cent practised both civil and criminal law (n=1,556); almost five per cent practised both family and criminal law (n=757); and four per cent (n=673) practised all three areas of law.

There were strong statistical differences in the area of law practised based on the practice types of solicitors. This is important to know for three reasons. First, the various practice types are not equally distributed across regions of NSW. Secondly, if there is the tendency for a practice type to specialise in one broad area of law over another, it may mean that the practise of family law, civil law and criminal law also is 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 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:

- Government solicitors were significantly more likely to practise criminal law but significantly less likely to practise civil law and family law.
- Private solicitors were significantly more likely to practise civil law but significantly less likely to practise criminal law (no significant difference with regard to family law).
- Interstate lawyers were significantly more likely to practise civil law and family law (no significant differences with regard to criminal law).

- CLC solicitors were significantly more likely to practise family law and criminal law but significantly less likely to practise civil law *compared with other practice types.*

This last point needs to be further explained. There were large numbers of corporate, interstate and private solicitors in the Law Society dataset and the vast majority — between 90 and 99 per cent — of these practices 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. This does *not* mean that civil law services makes up a small proportion of CLC work. In fact, almost three-quarters of CLC solicitors were involved in civil law work in the Law Society data. This is consistent with the strategic direction of CLC legal services to mainly deliver civil law services.[31] The proportion of CLC solicitors recorded as practising family law was just 25 per cent and the proportion practising criminal law was 40 per cent.[32] As explained, these are higher than the corresponding proportions for corporate, interstate and private solicitors.

Mapping the area of law practised across the regions also shows whether or not an area has its fair share of solicitors practising civil, family and criminal law. Table 9 reveals a set of findings consistent with earlier findings but still throwing up some interesting anomalies.

Table 9: Summary table of Regions with significantly higher and lower than expected numbers of solicitors practising civil, family and criminal law, 30 June 2009

Place of practice — Region (SD, based on postcode)	*Civil law*	*Family law*	*Criminal law*	*All*
Sydney	11,951	1,754	1,814	15,519
Hunter	589	191	164	944
Illawarra	314	114	113	541
Richmond-Tweed	204	83	82	369
Mid-North Coast	211	89	61	361
Northern	150	72	56	278
North Western	74	27	46	147
Central West	129	53	45	227
South Eastern	108	50	40	198
Murrumbidgee	111	32	50	193
Murray	52	17	12	81
Far West	7	6	5	18
NSW	**13,900**	**2,488**	**2,488**	**18,876**

Note: The grand total is higher than the number of solicitors in the Law Society valid dataset (corporate lawyers excluded) because 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 nor lower than expected

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

The number of solicitors practising civil law in each region of NSW was neither statistically high nor low given the expected number of civil law solicitors.[33] For example, Sydney, with the largest number of solicitors, had 11,951 solicitors practising civil law whereas the statistically-derived expected number of civil law solicitors for this region was 11,953. Even the Far West, with only ten solicitors, still had seven solicitors practising civil law compared to an expected number of nine.

[31] 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>.

[32] The observed proportions of CLC solicitors practising family and criminal law will be increased somewhat given that the Law Society category 'community legal centres' may include solicitors employed by the Family Violence Prevention Legal Service (FVPLS) and possibly a number of solicitors employed by Legal Aid NSW and/or the Aboriginal Legal Services.

[33] 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 a statistically significant difference between the actual and expected number of solicitors for that area of law in that particular region.

Sydney was the only region with significantly fewer solicitors practising family law than expected. Sydney had 1,754 family law solicitors, 382 (or 18%) fewer than expected. However, it should be noted that Sydney still had the largest number of family law solicitors of any region. In all regions outside of Sydney, there were more solicitors practising family law than otherwise would be expected. In some areas, and without commenting upon any underlying legal need, the number of family law solicitors could be considered disproportionately high. For example, South Eastern NSW had greater than two times the expected number of resident family law solicitors (actual: 50, expected: 18), as did the Mid-North Coast (actual: 89, expected: 36) and Northern NSW (actual: 72, expected: 26).

Even the Far West, with the fewest solicitors, had six of its ten (60%) solicitors practising family law when the expected number was just two.

Sydney was also the only region with significantly fewer than expected resident solicitors practising criminal law. There were 1,814 solicitors practising criminal law in Sydney, 15 per cent fewer than expected. Nonetheless, Sydney still had the greatest number of criminal law solicitors, ten times that of Newcastle (164) with the second highest number of criminal law solicitors of any region in NSW. Outside of Sydney, all regions, except for the Murray,[34] had significantly more solicitors practising family law than expected. North Western NSW had almost three times the number of resident criminal law solicitors than expected (actual: 46, expected: 16), while Northern NSW, the Central West and South Eastern NSW had double their expected number of criminal law solicitors. Five of the ten resident solicitors in the Far West region of NSW practised criminal law when the expected number was just two.

Demographic characteristics of NSW solicitors

While the profile of NSW solicitors in terms of gender, age and other characteristics may, in itself, not be exceptional, a breakdown by solicitors' place of practice may uncover some differences in demographics that bear upon the recruitment and retention of solicitors in different areas of NSW.

Gender: Males made up 56 per cent and females 44 per cent of solicitors in NSW. However, a number of regional sex differences were identified as significant. First, there were proportionally more female solicitors (46%) based in the Sydney region. Secondly, there were proportionally more male solicitors based in the Mid-North Coast (72%) and South Eastern (69%) regions.

At the level of Remoteness Area, a number of significant sex differences also appear in the location of solicitors across NSW:

- in Inner Regional areas of NSW, the percentage of male solicitors (65%) was above the State average (56%)
- likewise, in Outer Regional areas of NSW, the proportion of male solicitors (68%) was above the State average.

The composition of male and female solicitors based in Remote and Very Remote areas of NSW was not significantly different from the State profile.

Age: The average age of solicitors registered with the Law Society at the time of this study's census was 42.5 years. The median age was 41 years. Table 10 provides the age breakdown of solicitors in the cohort. Solicitors under 30 years of age made up 18 per cent of all NSW solicitors. Solicitors who had reached eligible retirement age (55 years plus) made up 20 per cent of NSW solicitors. Persons older than 65 years represented only slightly more than four per cent of all NSW solicitors.

[34] Even the Murray had more criminal law solicitors than expected (actual: 12, expected: 9) although the difference was not statistically significant.

Table 10: Age of solicitors with NSW practising certificate, 30 June 2009

Age (grouped)	*n*	*%*
Under 25 years	277	1.4
25 to 29	3,204	16.6
30 to 34	2,886	15.0
35 to 39	2,689	13.9
40 to 44	2,161	11.2
45 to 49	2,235	11.6
50 to 54	2,070	10.7
55 to 59	1,779	9.2
60 to 64	1,183	6.1
65 to 69	499	2.6
70 years and over	312	1.6
Total	**19,381**	**100.0**

Note: Month and year of birth information was provided in the original Law Society dataset and were used to approximate age as at 30 June 2009. Month and year of birth information was missing for 86 records (0.4%).

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

An analysis of the age of solicitors by the location of their practice/office identified some regional differences:

- higher than expected numbers of solicitors aged 55 to 59 years were found for the Richmond-Tweed, Northern, Mid-North Coast, Central West, Murray, South Eastern, Hunter and Illawarra regions of NSW
- there were higher than expected numbers of solicitors aged 60 to 64 years in the Northern, Mid-North Coast, South Eastern, Hunter and Illawarra regions
- there were higher than expected numbers of solicitors aged 65 to 69 years in the Northern, Mid-North Coast, Central West, Murray and Murrumbidgee regions
- higher than expected numbers of solicitors aged 70 years and over were identified for the Illawarra and South Eastern regions of NSW.

Northern and Richmond-Tweed also had higher than expected numbers of solicitors in the 50 to 54 age bracket (i.e. verging on eligible age for retirement). Sydney was the only region with higher than expected numbers of solicitors in the 25 to 29 and 30 to 34 age brackets.

Comparing the age of solicitors in terms of the remoteness of the geographic area in which they were based reveals a similar set of findings:

- Major Cities contained higher numbers of solicitors aged 25 to 29 and 30 to 34
- Inner Regional areas contained higher numbers of solicitors in the 50 to 54, 55 to 65, 60 to 64, 65 to 69 and 70 and over age categories
- Outer Regional areas contained higher numbers of solicitors in all age brackets over 55
- Remote/Very Remote areas contained higher than expected numbers of solicitors in the 60 to 64 age group.

The average age of solicitors based in Remote and Very Remote areas (mean=45.2 years; median=44.5 years) was around three years higher than for the rest of the State. In Outer Regional NSW, the average age of resident solicitors was considerably older at 49 years (median=52 years).

Years of experience: Table 11 shows the calculated years of legal experience based on the year the solicitor gained their legal certificate. The average number of years of legal experience was 18.8 years (median=11 years). As would be expected, years of legal experience is highly correlated with the solicitors' age (Pearson's R=0.85).

Almost one-third (31%) of solicitors in NSW had 20 or more years of legal experience, and a further quarter (24%) had between 10 and 20 years' experience.

Table 11: Years of legal experience of solicitors with NSW practising certificate, 30 June 2009

Years of experience	*n*	*%*
One year or less	1,640	8.7
2 to 4 years	2,964	15.7
5 to 9 years	3,845	20.4
10 to 20 years	4,531	24.1
20 years and more	5,842	31.0
Total	**18,822**	**100.0**

Note: Year of Admission was provided in the original Law Society dataset. This variable was used to calculate the number of years of legal experience as at 30 June 2009. Year of Admission information was missing for 559 records (2.9%).

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

There were regional differences in both the age and the number of years of legal experience for NSW solicitors (Table 12). The average age for solicitors based in Inner and Outer Regional areas of NSW was just below 50 years compared to an average age of around 40 years for city solicitors and around 45 years for solicitors based in Remote/Very Remote areas of NSW. Solicitors based in Inner and Outer Regional areas were not only older but had, on average, more years of legal experience than city solicitors. Inner and Outer Regional solicitors had an average 18 years' experience (median=16 years) compared with 14 years (median=11 years) for city solicitors and 13 years (median=9 years) for solicitors based in the more remote areas of NSW.

The table column presenting correlations provides an interesting contrast between 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 lawyers 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 also have a reasonable mix of relatively young, inexperienced lawyers.

Table 12: Relationship between age and years of experience of solicitors with NSW practising certificate by remoteness area, 30 June 2009

Remoteness Area (ARIA+)	*Age in 2009*		*Years practising*		*Correlation* (r)*
	Mean	*Median*	*Mean*	*Median*	
Major Cities	42	40	14	11	0.86
Inner Regional	48	49	18	16	0.79
Outer Regional	49	52	19	16	0.80
Remote/Very Remote	45	45	13	9	0.67
NSW	**42**	**41**	**14**	**11**	**0.85**

* The association examined is between actual years of practise and age of solicitor in 2009. 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 2009).

Exploring these differences further, it was identified that the main regional difference in years of experience was an unequal distribution of solicitors with 20 or more years' legal experience. Solicitors with the highest level of legal experience were more likely to be based in Inner Regional and Outer Regional areas of NSW. There were 45 per cent more solicitors than expected with 20 years' or more legal experience based in Outer Regional areas of NSW (actual: 90, expected: 62). Similarly, there were 40 per cent more solicitors than expected with 20 years' or more legal experience based in Inner Regional areas of NSW (actual: 534, expected: 379).

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

- Central West (actual: 73, expected: 45) — 51 per cent of solicitors in Central West had 20 or more years' legal experience
- Mid-North Coast (actual: 106, expected: 74) — 44 per cent of solicitors in the Mid-North Coast had 20 or more years' legal experience
- Murray (actual: 36, expected: 20) — 55 per cent of solicitors in the Murray region had 20 or more years' legal experience
- South Eastern (actual: 56, expected: 37) — 47 per cent of solicitors in South Eastern region had 20 or more years' legal experience
- North Western (actual: 43, expected: 31) — 43 per cent of solicitors in South Eastern region had 20 or more years' legal experience
- Richmond-Tweed (actual: 97, expected: 78) — 39 per cent of solicitors in the Richmond-Tweed had 20 or more years' legal experience.

Two other regions of NSW, namely Illawarra and the Hunter, also had more than their expected share of resident solicitors with 20 or more years' experience. Both regions are comprised of large metropolitan centres surrounded by Inner Regional areas.

An interesting difference is highlighted in comparing the years of legal experience for solicitors based in Remote/Very Remote areas as opposed to Outer Regional areas of NSW. For solicitors based in Remote/Very Remote areas, the average years of legal experience was 12.8 years (median=9 years). This is almost half the average years of legal experience for solicitors based in Outer Regional areas of the State (mean=24 years; median=16 years) and a third less than the State average (mean=18.8 years; median=11 years).

Table 13 shows the average age (in 2009) and years of experience for all NSW solicitors by region. The standout figure in this table is that the average age of lawyers based in the Far West in 2009 was the lowest of any region in NSW and, furthermore, lawyers in this region had an average of only ten years' practising experience — four years lower than the State average (three years lower if medians are compared).

Age and years practising were not as highly associated in a number of regions — namely, the Far West but also the Richmond-Tweed and the Mid-North Coast. As previously stated, these lower correlations would seem to suggest two things: that a reasonable number of lawyers 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 lawyers straight out of law school.

Table 13: Relationship between age and years of experience of solicitors with NSW practising certificate by Region (SD), 30 June 2009

Region (SD)	Age in 2009		Years practising		Correlation* (r)
	Mean	Median	Mean	Median	
Sydney	42	40	14	11	0.86
Hunter	46	47	16	13	0.79
Illawarra	46	47	17	15	0.83
Richmond-Tweed	47	48	16	15	0.71
Mid-North Coast	49	50	18	17	0.74
Northern	46	48	15	12	0.78
North Western	46	47	17	15	0.86
Central West	50	52	19	20	0.82
South Eastern	50	53	20	18	0.79
Murrumbidgee	46	43	16	12	0.83
Murray	51	53	22	24	0.87
Far West	40	41	10	8	0.70
NSW	**42**	**41**	**14**	**11**	**0.85**

* The association examined is between actual years of practise and age of solicitor in 2009. 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 2009).

Summary

The Law Society data provides the best available information on the number, type and characteristics of solicitors in NSW as at 30 June 2009. Also, as this collection represents some 95 per cent of accredited lawyers in NSW, there is no reason to believe that this group is not representative of the five per cent of solicitors not registered with the Law Society. A further five percent of records in the Law Society data were not analysed as these records were missing information on practice type and, more importantly, postcode of practice location, fundamental to this study's regional dissection. Again, there is no reason to believe that the small proportion of records without postcode (and practice type) — which generally relates to lawyers not currently in employment — would differ markedly in their characteristics to the Law Society records that were examined in this study.

While the uneven distribution of solicitors across NSW is hardly surprising, the low level of solicitors based in certain areas of NSW is certainly noteworthy. In the Far West of NSW, for example, there were only ten resident solicitors according to the Law Society's data, or only one solicitor for every 2,000 residents compared to four resident solicitors for every 1,000 persons in the Sydney metropolitan area.

There were also 19 individual LGAs across NSW that appeared to be without a single resident solicitor. These 'lawyer empty' LGAs are characterised by a number of features: 80 per cent are located in Outer Regional, Remote or Very Remote areas of NSW; they have substantial levels of socio-economic disadvantage; they have declining resident populations; and high levels of both Aboriginal and aged persons. Again, it should be acknowledged that circuit court duty solicitors and solicitors involved in outreach programs may be coming into these LGAs to provide legal services. Also, persons residing in these particular LGAs may be accessing legal services in a nearby larger regional centre, possibly in another State or Territory.

There were only 12 resident solicitors practising in remote and very remote areas of NSW — just one solicitor for every 3,000 residents. In general terms, this may indicate the difficulties that remote and very remote areas have in attracting solicitors and sustaining a viable legal practice, particularly private legal practices. This is consistent with the loss of doctors and teachers from the more remote country 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.

Without reflecting on underlying legal need, all areas of country NSW appeared to have a reasonable share of CLC solicitors. In fact, six of the nine regions in country NSW, statistically at least, had a higher than expected number of CLC solicitors. CLC solicitors typically practised civil law but are often engaged in providing legal assistance in relation to family law and criminal law matters as well, at least according to the Law Society data. Private practitioners appear to be the most evenly distributed of all the practice types. Private solicitors tend to practise civil and family law. Only one region of NSW — the Murrumbidgee — was low in terms of its number of private solicitors.

Solicitors in country NSW, especially in Outer Regional areas, tend to be older than solicitors in metropolitan areas. They were also more likely to have more years of legal experience. Solicitors in Remote/Very Remote areas were the exception. They more resembled city solicitors in terms of their level of legal experience. However, they were on average five years older than their city counterparts. In addition, solicitors in Remote/Very Remote areas had on average one-third fewer years of legal experience than solicitors in other country areas of NSW.

Public legal assistance solicitor positions dataset

The public legal assistance solicitor positions dataset represents the 697 records pooled from the three individual service collections obtained through the census of NSW public legal sector *positions* on record as at 30 June 2009. This dataset contains:

- 169 NSW Community Legal Centres (CLC) solicitor positions (24.6%)
- 87 Aboriginal Legal Services (ALS) solicitor positions (12.4%)
- 441 Legal Aid NSW solicitor positions (63.0%).

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 outreach. Private solicitors undertaking grants of legal aid are discussed in the next chapter.

Distribution of public legal assistance solicitor positions

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

Table 14a (and Figure 9) shows where Legal Aid NSW and CLC solicitor positions are based in NSW. In calculating the regional per capita rate of solicitor positions, the relevant population base is ‘all persons’ in each region (i.e. regardless of whether the person identified as Indigenous, non-Indigenous or did not disclose their Indigenous status for the 2006 Census).

Table 14a: Location of Legal Aid NSW and CLC solicitor positions and rate per 100,000 residents by NSW region (Statistical Division), 30 June 2009

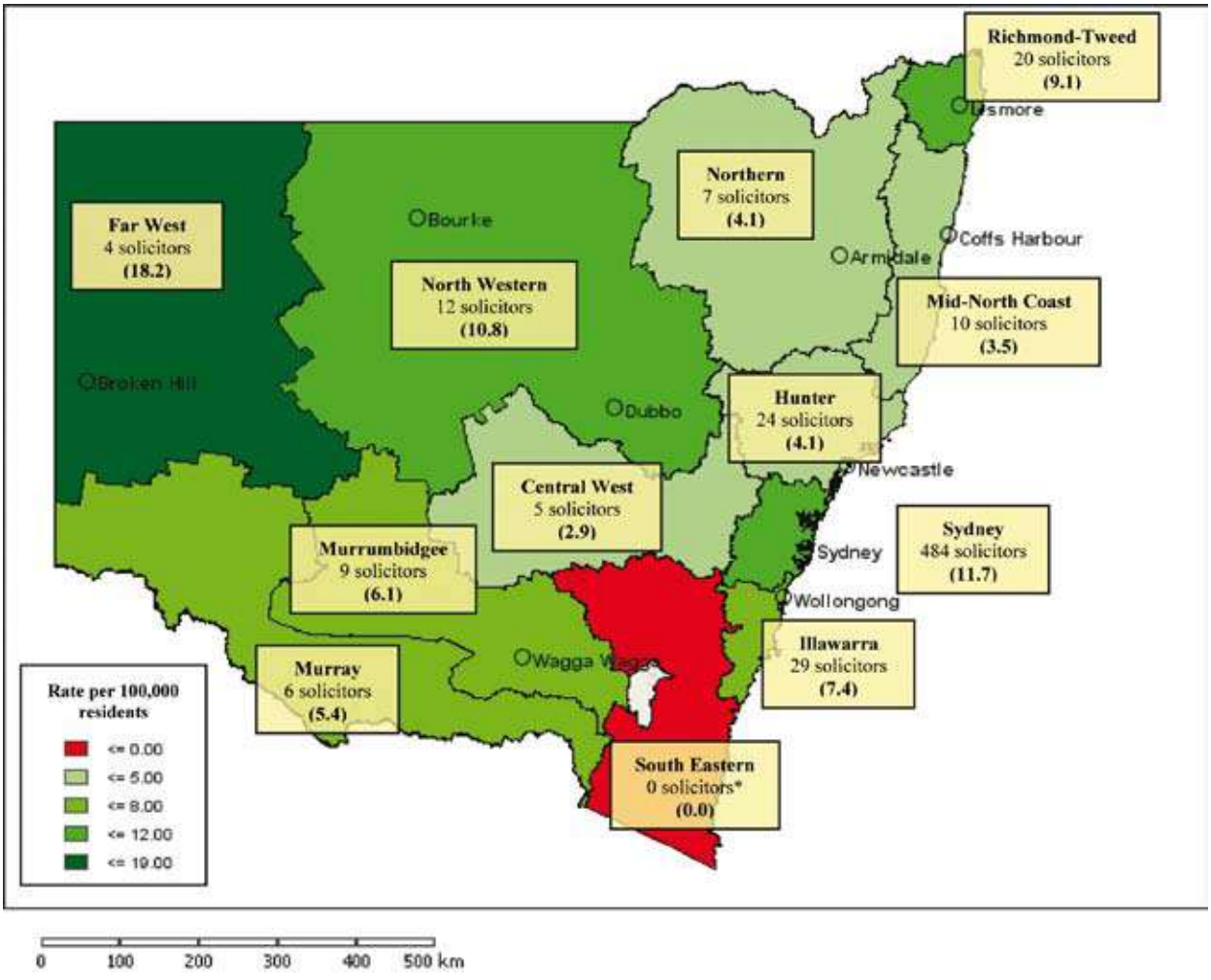
Place of practice — Region (SD, based on postcode)	*Legal Aid and CLC solicitor positions*		*Population*		*Solicitors per 100,000 population*
	n	*%*	*n*	*%*	
Sydney*	484	79.3	4,119,179	63.0	11.7
Hunter	24	3.9	589,237	9.0	4.1
Illawarra	29	4.8	394,216	6.0	7.4
Richmond-Tweed*	20	3.3	219,327	3.4	9.1
Mid-North Coast	10	1.6	284,678	4.4	3.5
Northern	7	1.1	172,392	2.6	4.1
North Western	12	2.0	111,230	1.7	10.8
Central West	5	0.8	170,900	2.6	2.9
South Eastern	0	0.0	197,943	3.0	0.0
Murrumbidgee	9	1.5	147,296	2.3	6.1
Murray	6	1.0	110,522	1.7	5.4
Far West	4	0.7	22,030	0.3	18.2
NSW	**610**	**100.0**	**6,538,950**	**100.0**	**9.3**

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

Note: 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: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

Figure 9: Number of Legal Aid NSW and CLC solicitor positions and rate per 100,000 resident population by Region (SD), 30 June 2009



Sources: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

There were 9.3 Legal Aid and CLC solicitor position for every 100,000 persons living in NSW, or one public legal solicitor for every 10,720 NSW residents. In only three regions was the rate of Legal Aid and CLC solicitor positions higher than the State average. In the Sydney region, the per capita rate of 11.7 was 30 per cent higher than the State average; in North Western NSW, the per capita rate (10.8) was 20 per cent higher than the State average; and in the Far West, the per capita rate (18.2) of Legal Aid and CLC solicitor positions was the highest across NSW at almost double the State average. The rate for Far West, nonetheless, translates to one Legal Aid or CLC solicitor position for every 5,500 persons living in this region, and this region, aside from its remoteness, contains some of the most socially and economically disadvantaged communities in NSW. South Eastern NSW is conspicuous in that the census indicated that there were no Legal Aid or CLC solicitor positions based in the region. This reflects the fact that there are no CLC or Legal Aid offices in this region.[35]

Leaving aside the South Eastern region, the Far West and Central West regions of NSW had the lowest number of Legal Aid and CLC solicitor positions with four and five positions, respectively. Central West also had the lowest per capita rate of Legal Aid and CLC solicitor positions with its five Legal Aid and CLC solicitors servicing a population of just under 171,000 or one Legal Aid or CLC solicitor position for every 34,000 residents. The Mid-North Coast also fared relatively poorly with one such solicitor position for every 28,500 residents. Northern region and the Hunter, with rates of 4.1 Legal Aid and CLC solicitor positions per 100,000 residents — or one such solicitor for approximately every 24,500 residents — were also well below the State average rate.

Similar information may be derived for Aboriginal Legal Services solicitor positions in NSW (Table 14b and Figure 10). In order to permit comparisons between Tables 14a and 14b, the per capita rate of ALS solicitors is also expressed per 100,000 relevant population, in this case, the resident Indigenous population within each region. However, it should be noted that no region has anywhere near 100,000 Indigenous residents and that across the whole of NSW there were only 138,065 Indigenous persons according to the 2006 Census.

Table 14b indicates that there were 63.0 ALS solicitor positions per 100,000 Indigenous residents in NSW. In five regions, the rate of ALS solicitors was higher than the State average. In the Sydney (71.2) and Illawarra (69.9) regions the per capita rate of ALS solicitor positions was 10 per cent higher than the rate for the whole State. In North Western NSW, the per capita rate of ALS solicitor positions (84.1) was 30 per cent higher than the State rate, while in the Murrumbidgee and the Far West the per capita rate of ALS solicitor positions was calculated at in excess of 100 ALS solicitors per 100,000 Indigenous residents, or 60 per cent higher than the State rate. The highest rate (Far West: 103.4) translates to one ALS solicitor for every 970 Indigenous persons living in this region.

[35] Since the data analysis the researchers have been informed that the Nowra Legal Aid NSW Office has a part-time (two days a week) family law solicitor based in Bega.

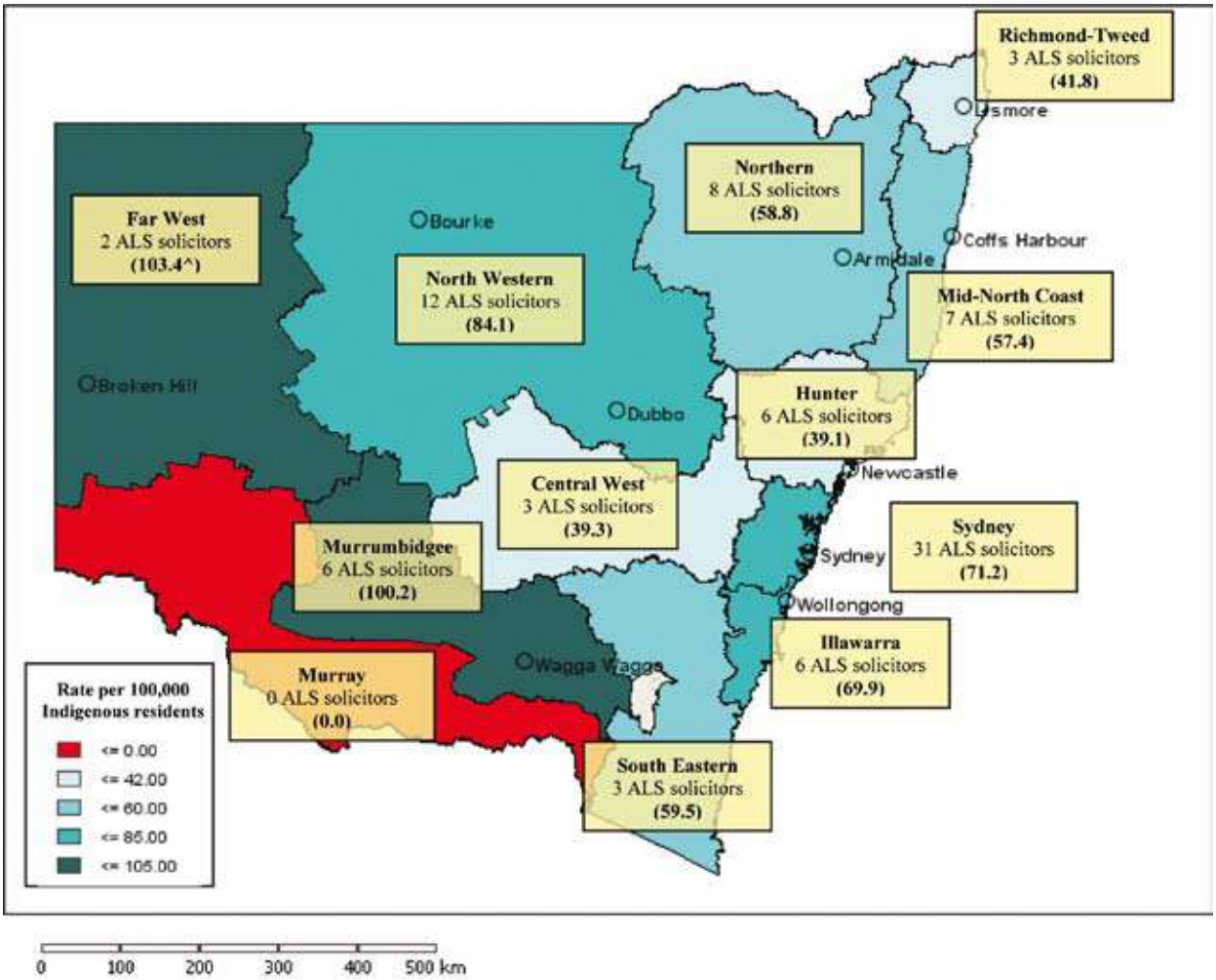
Table 14b: Location of Aboriginal Legal Services (ALS) solicitor positions and rate per 100,000 Indigenous residents by NSW region (Statistical Division), 30 June 2009

Place of practice — Region (SD, based on postcode)	*ALS solicitor positions*		*Indigenous pop.*		*ALS solicitors per 100,000 Indigenous population*
	n	*%*	*n*	*%*	
Sydney	31	35.6	43,514	31.5	71.2
Hunter	6	6.9	15,335	11.1	39.1
Illawarra	6	6.9	8,578	6.2	69.9
Richmond-Tweed	3	3.4	7,177	5.2	41.8
Mid-North Coast	7	8.0	12,197	8.8	57.4
Northern	8	9.2	13,600	9.9	58.8
North Western	12	13.8	14,264	10.3	84.1
Central West	3	3.4	7,632	5.5	39.3
South Eastern	3	3.4	5,038	3.6	59.5
Murrumbidgee	6	6.9	5,988	4.3	100.2
Murray	0	0.0	2,808	2.0	0.0
Far West	2	2.3	1,934	1.4	103.4
NSW	**87**	**100.0**	**138,065**	**100.0**	**63.0**

Note: 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.

Sources: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

Figure 10: Number of Aboriginal Legal Service (ALS) solicitor positions and rate of ALS solicitors per 100,000 Indigenous resident population by Region (SD), 30 June 2009



Note: The resident Indigenous population within each NSW Region (SD) was far less than 100,000 persons according to the 2006 Census.

Sources: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

There was no ALS solicitor position in the Murray region at the time the census was taken for this study. This means that the 2800 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 14a it can be seen that access to resident public legal assistance solicitors is relatively limited with six Legal Aid and CLC solicitors servicing the legal needs of a general population (including Indigenous residents) of more than 110,000 persons.

Compared to the State figure, relatively poor per capita rates of ALS solicitors were also noted for Indigenous communities in the Central West, Hunter and Richmond-Tweed regions. In these regions, there was one ALS solicitor for approximately every 2,500 Indigenous residents.

Having 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 they were employed provides legal services to the general community or, more selectively, to the Indigenous community.

Table 15 provides information on the distribution of Legal Aid, CLC and ALS solicitor positions across NSW. The solicitor positions of all three public legal services were concentrated in the Sydney metropolitan region. Legal Aid NSW had 80 per cent of its solicitor positions located in the greater Sydney metropolitan region. Similarly, over three-quarters (78%) of CLC positions were located in the Sydney region. In contrast, the ALS had just over one-third (36%) of its solicitor positions located in the Sydney region. In addition, whereas the ALS had over half of its solicitor positions based in country NSW (that is, outside the regions of Sydney, Hunter and the Illawarra), only one in every eight solicitors employed by Legal Aid NSW and NSW CLCs was located in country areas of NSW.

Table 15: Distribution of Legal Aid NSW, ALS and CLC solicitor positions by Region, 30 June 2009

Region (SD)	*CLC*		*ALS*		*Legal Aid*		*Total*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Sydney*	131	77.5	31	35.6	353	80.0	515	73.9
Hunter	6	3.6	6	6.9	18	4.1	30	4.3
Illawarra	10	5.9	6	6.9	19	4.3	35	5.0
Richmond-Tweed*	6	3.6	3	3.4	14	3.2	23	3.3
Mid-North Coast	0	0	7	8.0	10	2.3	17	2.4
Northern	3	1.8	8	9.2	4	0.9	15	2.2
North Western	3	1.8	12	13.8	9	2.0	24	3.4
Central West	0	0	3	3.4	5	1.1	8	1.1
South Eastern	0	0	3	3.4	0	0	3	0.4
Murrumbidgee	0	0	6	6.9	9	2.0	15	2.2
Murray	6	3.6	0	0	0	0	6	0.9
Far West	4	2.4	2	2.3	0	0	6	0.9
Total	**169**	**100.0**	**87**	**100.0**	**441**	**100.0**	**697**	**100.0**

* Includes specialist CLCs providing statewide services. One specialist CLC located in Richmond-Tweed.
Note: Highlighted cells indicate that the region did not have solicitors from that particular public legal service.
Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Table 15 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. The census indicated that three regions — South Eastern, Murray and Far West — did not have a single resident Legal Aid NSW solicitor, and one region — the Murray — did not have a resident ALS solicitor. In fact:

- South Eastern region had only ALS solicitors based in the region[36]
- the Murray region had only CLC solicitors based in the region (no resident Legal Aid or ALS solicitors).

In addition:

- the Far West did not have any resident Legal Aid NSW solicitors
- the Mid-North Coast, Central West and Murrumbidgee regions did not have a resident CLC solicitor.

Generally, the ALS had solicitors based 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 solicitor.

At this point, it is important to note that Legal Aid NSW has panels of private lawyers to undertake legal aid work statewide, including those areas of the State where there is no Legal Aid NSW office. See **Grants of legal aid** below for information on private lawyers in NSW doing legal aid work. In addition, a number of outreach services operate in NSW and these are designed to address the legal needs of disadvantaged persons in RRR areas.

Status of public legal assistance solicitor positions

Table 16 provides the breakdown of all public legal assistance solicitor positions within Legal Aid NSW, the ALS and NSW CLCs as at 30 June 2009. It shows that one in every 14 solicitor positions (7%) was vacant on the date of the census. Legal Aid had the highest level (9%) of vacant positions while CLCs had the lowest vacancy rate (2%) of the three services. The ALS had seven per cent of solicitor positions vacant on the chosen census date.

Less than half of all vacant positions (21 of 50 vacant positions, or 42%) were categorised as either unfilled and advertised or unfilled and capable of being advertised. All other vacant positions were 'on hold' with the incumbent on extended leave (24%) or acting up elsewhere (34%).

CLCs had the highest level of solicitor positions filled by the incumbent (85%). Legal Aid had the lowest level of positions filled by the incumbent, with less than half (49%) of all positions filled in this way. Three-quarters (75%) of solicitor positions within the ALS were filled by the incumbent. Overall, 61 per cent of all public legal assistance solicitor positions in NSW were filled by the incumbent.

Across the sector, almost one in four (24%) filled solicitor positions were maintained by employing an external worker or appointing a locum. Over one-third (35%) of all filled solicitor positions in Legal Aid were occupied by a casual, secondee or locum. This was much higher than for CLCs (7%) and the ALS (2%). In all three services, the number of employees reported as being paid a higher duties allowance was small at around two per cent.[37]

[36] See footnote 35 concerning a part-time Legal Aid NSW family law solicitor based in Bega.

[37] Caution should be exercised in interpreting this finding as the present study did not permit an analysis of pay rates. In particular, a comparison of 'before' and 'after' pay rates for staff acting up or otherwise filling in for incumbents is required to accurately determine the number of public legal assistance solicitors receiving a Higher Duties Allowance.

Table 16: Status of solicitor positions in Legal Aid NSW, ALS NSW and NSW CLCs, 30 June 2009

Position status	*CLC*		*ALS*		*Legal Aid*		*Total*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Filled — incumbent	143	84.6	65	74.7	217	49.2	425	61.0
Filled — higher duties	3	1.8	2	2.3	11	2.5	16	2.3
Filled — casual, secondee or locum	12	7.1	2	2.3	142	32.2	156	22.4
Filled — part filled or job share	4	2.4	0	0	14	3.2	18	2.6
Filled — incumbent on maternity leave	2	1.2	1	1.2	17	3.9	20	2.9
Filled — non-permanent position (incl. special projects)	1	0.6	11	12.6	0	0	12	1.7
Sub-total (filled)	*165*	*97.6*	*81*	*93.1*	*401*	*90.9*	*647*	*92.8*
Vacant — unfilled/ advertised/could be advertised	3	1.8	5	5.8	13	2.9	21	3.0
Vacant — incumbent acting up elsewhere	0	0.0	0	0	17	3.9	17	2.4
Vacant — incumbent on leave	1	0.6	1	1.2	10	2.3	12	1.7
Sub-total (vacant)	*4*	*2.4*	*6*	*6.9*	*40*	*9.1*	*50*	*7.2*
Total	**169**	**100.0**	**87**	**100.0**	**441**	**100.0**	**697**	**100.0**

Note: A small number of original position status categories are grouped together in this table.
Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Legal Aid NSW had almost four per cent of its solicitor positions filled whilst the incumbent was on maternity leave. This was three times higher than for the other two services. Legal Aid also had over six per cent of its solicitor positions vacant as a result of the incumbent being on leave or acting up elsewhere (including secondments to other public legal sector agencies). No positions in the ALS or CLCs were vacant because the incumbent was acting up elsewhere and there was only one instance in each of these services where the solicitor position was vacant as a result of leave being taken.

The ALS was the only organisation with a substantial number (13%) of solicitor positions designated as non-permanent positions. These include short-term and special projects positions primarily sourced through non-recurrent funding.

Given the high number of public legal assistance solicitor positions not occupied by the incumbent, the study's consideration of 'vacant' positions could be extended to include those solicitor positions not substantively filled by the incumbent. That is positions occupied by:

- a worker acting up in a higher graded position
- a worker filling in while the incumbent is on leave, maternity leave, etc.
- a worker 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 worker undertaking the duties of the position.

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.

Table 17 shows that the level of public legal assistance solicitor positions not filled by the incumbent solicitor represented 32 per cent of all public legal assistance solicitor positions in NSW. That is, of the 697 solicitor positions surveyed on the 30 June 2009, 222 were not occupied by the person substantively holding the position. In Legal Aid NSW, almost 42 per cent of solicitor positions fell into this category, or almost five times the actual vacancy rate.

Table 17: Incumbent occupied, vacant and non-incumbent occupied solicitor positions (Legal Aid NSW, ALS NSW and NSW CLCs, 30 June 2009)

Position status	*CLC*		*ALS*		*Legal Aid*		*Total*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Vacant	4	2.4	6	6.9	40	9.1	50	7.2
Filled — incumbent	143	84.6	65	74.7	217	49.2	425	61.0
Occupied by non-incumbent	22	13.0	16	18.4	184	41.7	222	31.9
Total	**169**	**100.0**	**87**	**100.0**	**441**	**100.0**	**697**	**100.0**

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

For the ALS, more than one in every six (18%) solicitor positions was filled by a non-incumbent, which is almost three times the actual vacancy rate. For NSW CLCs, the level of solicitor positions filled by a non-incumbent was 13 per cent or over five times the actual vacancy rate.

Regional distribution of 'vacant' positions

Two-thirds (67%), that is 33 of the 50 vacant positions were located in the Sydney metropolitan area (Table 18) although, had vacancies been equally spread across all areas of NSW, it would be expected that Sydney would have a level of vacant solicitor positions equal to its share (i.e. 74%) of solicitor positions.

There were three vacant positions in each of the following country regions: Richmond-Tweed (13% vacancy rate), North Western NSW (13%) and the Mid-North Coast (18%). The Far West of NSW was the only region with a statistically *significant* number of vacant positions. Two of the six public legal assistance solicitor positions (33%) in the Far West region were vacant on the census date (Figure 10).

Considering vacant positions in terms of the geographic Remoteness Index, only Outer Regional areas had a statistically higher number of vacant positions than expected. Three of the 13 solicitor positions (23%) in Outer Regional areas of NSW were vacant at the time of this study's census. There were no vacant positions in remote or very remote areas of NSW, although it should be noted that Broken Hill (in Far West region) is categorised as Outer Regional according to the Remoteness Index, and this is where two of the vacant positions were located.

Table 18: Distribution of vacant and otherwise unoccupied solicitor positions by NSW region (Statistical Division), 30 June 2009

Region (SD)	*Filled by incumbent*		*Vacant*		*Filled by non-incumbent*		*All solicitor positions*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Sydney	289	56.1	33	6.4	193	37.5	515	100.0
Hunter	24	80.0	1	3.3	5	16.7	30	100.0
Illawarra	26	74.3	2	5.7	7	20.0	35	100.0
Richmond-Tweed	15	65.2	3	13.0	5	21.7	23	100.0
Mid-North Coast	11	64.7	3	17.6	3	17.6	17	100.0
Northern	14	93.1	1	6.7	0	0.0	15	100.0
North Western	17	70.8	3	12.5	4	16.7	24	100.0
Central West	6	75.0	0	0.0	2	25.0	8	100.0
South Eastern	3	100.0	0	0.0	0	0.0	3	100.0
Murrumbidgee	13	86.7	2	13.3	0	0.0	15	100.0
Murray	5	83.3	0	0.0	1	16.7	6	100.0
Far West	2	33.3	2	33.3	2	33.3	6	100.0
NSW	**425**	**61.0**	**50**	**7.2**	**222**	**31.9**	**697**	**100.0**

Note: Row percentages add up to 100%.

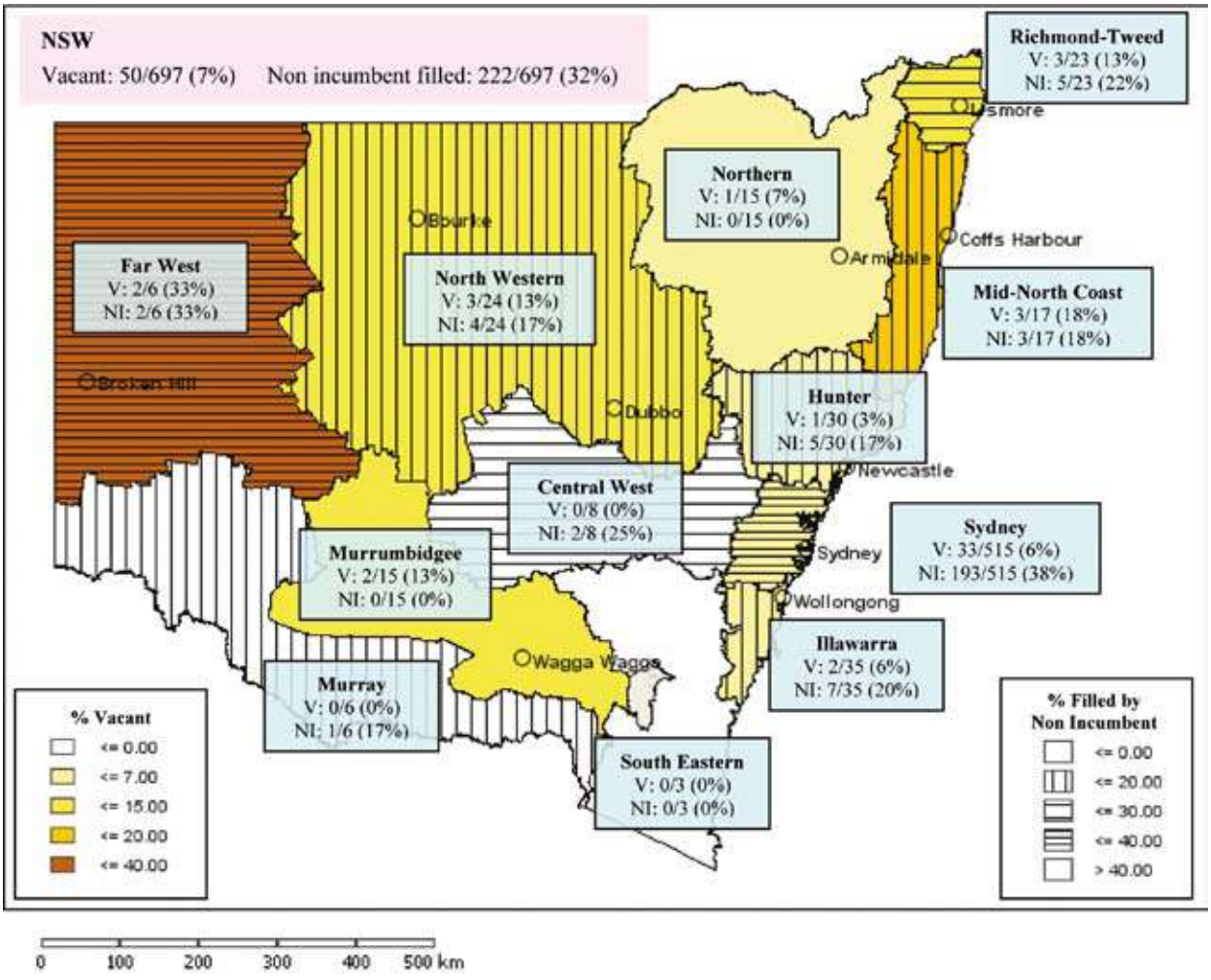
Highlighted cells indicate that the region had an above average percentage of solicitor positions in that particular category.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Examining solicitor positions filled by someone other than the incumbent, there were just two regions in NSW with a level above the State average of 32 per cent. Overall, the Sydney region had the highest level (38%) of solicitor positions that were filled by a non-incumbent. Of the country regions, the Far West had the highest level of positions filled by a non-incumbent with two of its six (33%) public legal assistance solicitor positions held by a non-incumbent. However, no less than one in every five solicitor positions was filled by a non-incumbent in the Illawarra (20%), Richmond-Tweed (22%) and Central West (25%) regions (see Figure 11).

Considering non-incumbent filled positions in terms of geographic remoteness, 91 per cent of such positions were located in major cities, almost eight percent in Inner Regional areas and just over one per cent combined was located in Outer Regional, Remote and Very Remote areas of NSW. Statistically, Inner Regional NSW was the only remoteness area where the number of non-incumbent filled solicitor positions (n=17) was lower than statistically expected (n=34). There were two public legal assistance solicitor positions located in Remote areas of NSW, with one position being filled by the incumbent. In Very Remote areas of NSW there were two public legal assistance solicitor positions, both filled by the incumbent.

Figure 11: Percentage vacant and non-incumbent filled solicitor positions (ALS, CLCs and Legal Aid NSW combined) by Region (SD), 30 June 2009



Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

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 19. Positions that were designated as solicitor positions made up 77 per cent of all public legal assistance solicitor positions. The percentage of solicitor grade positions in the ALS (85%) and Legal Aid NSW (81%) was higher than in NSW CLCs (62%). There were proportionally more senior solicitor and principal solicitor positions in CLCs than in the other two public legal services. A little less than 20 per cent of solicitor positions in CLCs were graded as principal solicitor positions compared with just three per cent of principal solicitor positions in the ALS and six per cent in Legal Aid. There was also a higher proportion of senior solicitors in CLCs (17%), compared with ten and 11 per cent respectively in the ALS and Legal Aid NSW.

Table 19: Grade/designation of solicitor positions in Legal Aid NSW, ALS and CLCs, 30 June 2009

Grade/designation	*CLC*		*ALS*		*Legal Aid*		*Total*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
CEO/Manager/Coordinator	4	2.4	1	1.1	9	2.0	14	2.0
Principal solicitor	33	19.5	3	3.4	28	6.3	64	9.2
Senior solicitor	28	16.6	9	10.3	49	11.1	86	12.3
Solicitor	104	61.5	74	85.1	355	80.5	533	76.5
Total	**169**	**100.0**	**87**	**100.0**	**441**	**100.0**	**697**	**100.0**

Note: A small number of original grade/designation categories are grouped together in this table.
Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

All four vacancies within CLCs were for solicitor positions. Within Legal Aid NSW, 32 of the 40 vacant positions were for solicitors, seven were for senior solicitors and one vacancy was for a principal solicitor (on leave). In the ALS, five of the six vacant positions were for solicitors with the other vacancy existing at the time for a senior solicitor.

Salaries

In addition to information on grading, information was obtained from public legal assistance agencies on the salaries for all solicitors employed by their organisation. However, as the question was expressed broadly and the request understood differently by respondents, the data ultimately received proved difficult to compare. For instance, some respondents provided salary information in terms of the actual salary received as at 30 June 2009, while others provided a salary range (band) for each position, and other respondents provided a description of the position's award. Yet others provided an hourly rate.

Only the ALS consistently provided a single figure for each solicitor position. Legal Aid NSW provided a general grade and salary range (band). Salary information received from CLCs (as 35 separate centres) was the most variable. Furthermore, information was not requested on salary packaging and what differences this would make to 'take home pay'. In addition, it was not always clear whether the salary figures provided included the superannuation component.

In order to enable some comparisons to be made between (and within) services, the salary information provided for each solicitor position was transformed to a yearly range with a minimum, maximum and mid-point salary amount. Where a single salary figure was provided this was taken to be the mid-point salary. The mid-point salary was then used to compare solicitor salaries across all three services.

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. That said, the final figures derived were comparable with salary amounts already in the public domain. For example, Urbis (2009b) used data collected from individual solicitors by the Law Society of NSW to report on solicitor income by sector (or practice type). As indicated in Table 20, the reported mean annual income for solicitors in CLCs was $28,600 less than for 'government' lawyers. The category, 'government', includes, but is not restricted to, solicitors employed by the Aboriginal Legal Service and Legal Aid NSW.

Table 20: Urbis (2009b): Estimated mean annual income, NSW solicitors, 2008/09 financial year

Sector	*Mean annual income*
Community Legal Centres	$58,100
Government (incl. Legal Aid, ALS and other government lawyers)	$86,700
Private	$94,800
Corporate	$123,900
All solicitors	**$96,900**

Source: Urbis, 2009b, Table 13.3.

Based on this study's census of public legal assistance solicitor positions, the average annual salary for all Legal Aid NSW solicitors (regardless of grade) on 30 June 2009 was $87,548 (Table 21). The average annual salary for CLC (again, regardless of grade) was found to be almost one-third less, at $59,155. Similarly, the average annual salary for ALS solicitors was one-third less than for Legal Aid solicitors.

At the level of principal solicitor, Legal Aid NSW and ALS salaries were comparable. However, CLC salaries stand apart at this level, with principal solicitors in CLCs paid some 36 per cent less than principal solicitors in the other two services. Nonetheless, as information regarding the responsibilities of individual principal solicitors was not collected (including the number of staff reporting to each position), salary differences may, in some, part reflect higher or lower levels of responsibilities of principal solicitors (or equivalent) within each service.

The pattern for senior solicitors is somewhat different. The average annual salary for senior solicitors in Legal Aid NSW was around 40 per cent more than for senior solicitors in both the ALS and CLCs.

Table 21: Mean and median annual salaries* for Legal Aid NSW, ALS and CLCs solicitors, 30 June 2009

Agency	*Grade*	*Annual salary*	
		Mean	*Median*
Legal Aid NSW	Principal solicitor^	$109,099	$104,151
	Senior solicitor	$106,184	104,151
	Solicitor	$82,670	$85,650
	All Legal Aid solicitors	*$87,548*	*$88,955*
ALS (NSW/ACT)	Principal solicitor	$106,500	$106,500
	Senior solicitor	$63,417	$63,500
	Solicitor	$55,507	$50,000
	All ALS solicitors	*$58,883*	*$52,000*
CLCs (NSW)	Principal solicitor	$68,070	$67,000
	Senior solicitor	$65,741	$66,500
	Solicitor	$53,896	$53,534
	All CLC solicitors	*$59,155*	*$55,577*

* Based on calculation of mid-point salary. ^ Or equivalent solicitor position in Legal Aid NSW.
Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

In all three services, the majority of legal practitioners were employed at the lower level of 'solicitor':

- 81 per cent of all Legal Aid NSW lawyers were employed as solicitors with an average annual salary of $82,670 (median salary = $85,650)
- 85 per cent of ALS lawyers were employed as solicitors with an average annual salary of $55,507 (median salary = $50,000)
- 60 per cent of CLC lawyers were employed as solicitors with an average annual salary of $53,896 (median salary = $53,534).

As can be seen, on average, 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 35 per cent higher than solicitors employed by NSW CLCs.

It should be noted that most solicitors employed by CLCs were generally on a Social and Community Services (SACS) Award (i.e. an award structure basically for social workers) and not an award for lawyers.

Regional differences in salaries

There are a number of reasons why a regional analysis of solicitors' salaries would not be meaningful. First, some regions of NSW 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. Secondly, the average annual salary for solicitors in a region will be affected by the distribution of services within the region, and the number of solicitors in each service working in that region. Thirdly, as Legal Aid NSW solicitor annual salaries are generally higher, the average salary of solicitors will be affected by both the presence of Legal Aid solicitors in that region and the number of Legal Aid solicitors working in that region.

Nonetheless, summarised salary information, based on region and remoteness, is presented below for each of the three legal services.

Legal Aid NSW

- All Legal Aid positions were located in Major Cities or Inner Regional parts of NSW.
- Senior and principal solicitors tended to be based in Major Cities, especially Sydney, where head office is located.
- Salaries were consistent across the State at all levels of Legal Aid NSW solicitors.

NSW CLCs

- Principal solicitors in Sydney-based CLCs appeared to be paid more than those in other parts of NSW. However, this may reflect the fact that most specialist CLCs are located in Sydney and that certain specialist CLCs have different funding sources and salary structures to the generalist CLCs.
- In two particular regional CLCs, the senior solicitors were on a higher annual salary than the principal solicitors in the same CLC. This anomaly arises because family lawyers funded as senior solicitors by the Commonwealth are on a higher salary scale than lawyers employed within generalist CLCs under NSW State funding and salary conditions.
- At the solicitor level in CLCs, there appeared to be parity between Sydney and most other regions. While solicitors in Northern, North Western and the Richmond-Tweed) regions appeared to be being paid less than solicitors in other regions, it was not possible to ascertain whether this reflects a real difference in salary or a difference in the way the information was reported.

ALS (NSW/ACT)

- There are only three principal solicitor positions in the ALS, one for each ALS zone. All three received the same annual salary.
- It appears from the information provided that ALS senior solicitors in outer regional, remote and very remote parts of NSW have a lower mean annual salary than ALS senior solicitors working in inner regional and major city locations. However, the data also suggests that senior solicitors on higher salaries generally have more solicitor positions reporting to them.
- There is some regional variation in salary levels of solicitor positions within the ALS. In particular, ALS solicitors in outer regional, remote and very remote areas of NSW were amongst the lowest paid solicitors in the ALS. However, salary differences may be no more than a proxy for years of experience (which brings with it a corresponding higher level within the solicitor grade). That is, the general level of experience of ALS solicitors working in RRR areas of NSW may be lower than the level of experience of other ALS solicitors and they are payed less on this basis.

Areas of law practised

In NSW, 388 of the 697 (56%) public legal assistance solicitor positions provided legal services for criminal law matters (Table 22). A further 32 per cent of public legal assistance solicitor positions in NSW were available to provide legal assistance on family law matters. One-third (33%) of such positions were available to provide legal assistance on civil law matters, although there were no ALS solicitors practising civil law at the time of this study's census.

Table 22: Area of law practised — solicitor positions in Legal Aid NSW, ALS and CLCs, 30 June 2009

Area of law practised	*CLC (n=169)*		*ALS (n=87)*		*Legal Aid (n=441)*		*Total (n=697)*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Civil law	156	92.3	0	0.0	77	17.5	233	33.4
Family law	104	61.5	4	4.6	113	25.6	221	31.7
Criminal law	92	54.4	82	94.3	214	48.5	388	55.7
Special projects/programs*	5	3.0	1	1.1	37	8.4	43	6.2

* Includes law reform, court-based family violence programs and some domestic violence programs such as FVPLS. Note: Percentages in CLC and Total columns may total to more than 100% because multiple areas of law were reported as practised by most CLC solicitors.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

ALS solicitors almost exclusively (94%) practised criminal law with just five per cent practising family law. In general, CLC solicitors tended not to specialise in one particular area of law. While the majority of CLC solicitors practised civil law (92%), many also practised family law (62%) and criminal law (54%). In fact, most CLC solicitors indicated that they practised 'general law'. It was more common for Legal Aid solicitors to be involved in providing assistance in relation to criminal law matters (49%), although a fair proportion were also involved in family law (26%) and civil law (18%).

For 43 solicitors (6%) it was recorded that their positions involved working within more specialised legal programs such as domestic violence or family violence prevention programs or law reform. In addition, 57 public legal assistance solicitors (8%) indicated that their positions involved the provision of community legal education.

The CLC data indicated that CLC solicitors often practised in more than one area of law. Of the 169 CLC solicitor positions:

- 93 (55%) were reported as involving the provision of civil and family law services

- 90 (53%) were reported as involving the provision of family and criminal law services
- 87 (51%) were reported as involving the provision of civil and criminal law services
- 86 (51%) were reported as involving the provision of legal services across all three areas of law.

The Legal Aid NSW and ALS solicitor returns only specified one area of law for each solicitor. This is notably different from the CLC data. This should not be taken as meaning that (some) Legal Aid NSW solicitors do not practise more than one area of law.

Areas of law practised — regional distribution

In examining the location of public legal assistance solicitor positions across NSW (Tables 14a and 14b), it was identified that a number of regions were without solicitors (or solicitor positions) employed by one or more of the three public legal services. Specifically, it was found that:

- South Eastern NSW had no CLC or Legal Aid solicitor positions
- the Murray region had no ALS or Legal Aid solicitor positions
- the Mid-North Coast, Central West and the Murrumbidgee regions had no CLC solicitor positions
- the Far West had no Legal Aid solicitor positions.

In addition, Table 22 revealed the extent to which public legal assistance solicitors based in the regions practise in each of the three broad areas of law. Table 23 demonstrates how these two factors (resident solicitors and areas of law practised) create geographical inequalities in access to public legal services in the areas of civil, family and criminal law. For example:

- South Eastern NSW, with only ALS solicitors, did not have access to any resident public legal assistance solicitors practising civil law or family law[38]
- the Murray region with only CLC solicitors based in the area, did not appear to have reasonable access to resident public legal assistance solicitors practising:
- civil law (only 2% of public legal assistance solicitors practising civil law were located in this region)
- criminal law (only 1% of public civil law solicitors were located in this region)
- the Mid-North Coast had around just two per cent of the State's public legal assistance solicitors practising in each of the three areas of law
- the Central West had no public legal assistance solicitors practising civil law based in the region. Furthermore, less than two per cent of the State's public legal assistance solicitors who practised family or civil law were based in this area
- the Murrumbidgee region, with no CLC solicitor positions, had poor access to resident public legal assistance solicitors practising family law and civil law (around just one per cent of the State's number for each were located in this region)
- the Far West, with no Legal Aid solicitor positions, had few resident public legal assistance solicitors practising civil or family law. Perhaps surprisingly, the Far West also appeared relatively short of resident public legal assistance solicitors who practised criminal law.

[38] See footnote 35 concerning a part-time Legal Aid NSW family law solicitor based in Bega.

Rounding out the full complement of country regions in NSW:

- Richmond-Tweed had a low proportion of the State's resident public legal assistance solicitors practising family law and criminal law
- Northern NSW had a low proportion of resident public legal assistance solicitors practising civil law
- Northern Western had a low proportion of public legal assistance solicitors practising civil law.

Table 23: Legal Aid NSW, ALS and CLC solicitor positions — regional distribution of area(s) of law practised, 30 June 2009

Region (SD)	*Civil law*		*Family law*		*Criminal law*		*All*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Sydney	182	78.1	158	71.5	274	70.6	614	72.9
Hunter	6	2.6	15	6.8	17	4.4	38	4.8
Illawarra	14	6.0	12	5.4	17	4.4	43	4.7
Richmond-Tweed	9	3.9	5	2.3	9	2.3	23	2.7
Mid-North Coast	4	1.7	5	2.3	8	2.1	17	2.0
Northern	3	1.3	6	2.7	12	3.1	21	2.4
North Western	4	1.7	6	2.7	20	5.2	30	3.6
Central West	0	0.0	1	0.5	7	1.8	8	1.0
South Eastern	0	0.0	0	0.0	3	0.8	3	0.4
Murrumbidgee	2	0.9	3	1.4	10	2.6	15	1.8
Murray	5	2.1	6	2.7	5	1.3	16	1.9
Far West	4	1.7	4	1.8	6	1.5	14	1.7
Total	**233**	**100.0**	**221**	**100.0**	**388**	**100.0**	**842**	**100.0**

Note: Highlighted cells indicate regions with less than a 2.5% share of public legal assistance solicitors practising in that area of law. The grand total of 842 is more than the number of public legal assistance solicitor positions (697) because multiple areas of law could be recorded. Table excludes solicitors solely involved in law reform and special projects.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

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 based in each region and the resident population in each region (Table 24).[39] A solicitor-to-population ratio is also provided. For example in the Richmond-Tweed, there was one resident public legal assistance solicitor who practised civil law for every 24,370 persons living in that region.

The per capita measures for access to resident public legal assistance solicitors practising civil, family and criminal law 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 12, 13 and 14):

- The Mid-North Coast had just 1.4 public civil law solicitors per 100,000 residents or one civil law solicitor for every 71,000 residents. It also had just one public family law solicitor for every 57,000 residents. It was slightly better off in accessing assistance for criminal law matters with one resident public criminal law solicitor for every 35,500 residents.
- The Central West had no resident public civil law solicitors and only one resident public family law solicitor for its 170,000 residents. It also fared relatively better in terms of criminal law services with one resident public criminal law solicitor for every 24,000 residents.
- South Eastern NSW had one public criminal law solicitor for every 66,000 residents but did not have access to any public civil law or family law solicitors based in the region.[40]

[39] The 'All' figures for regions in Table 24 do not correspond to the per capita rates in Tables 14a and 14b. This is because Table 24 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 24.

[40] See footnote 35 concerning a part-time Legal Aid NSW family law solicitor based in Bega.

Table 24: Legal Aid NSW, ALS and CLC solicitor positions — regional distribution of area(s) of law practised, 30 June 2009

Region (SD)	*Population*	*Civil law*			*Family law*			*Criminal law*			*All*		
		n	*Rate**	*Ratio⁺*	*n*	*Rate**	*Ratio⁺*	*n*	*Rate**	*Ratio⁺*	*n*	*Rate**	*Ratio⁺*
Sydney	4,119,179	182	4.4	22,632	158	3.8	26,071	274	6.7	15,034	614	14.9	6,709
Hunter	589,237	6	1.0	98,206	15	2.5	39,282	17	2.9	34,661	38	6.4	15,506
Illawarra	394,216	14	3.6	28,158	12	3.0	32,851	17	4.3	23,189	43	10.9	9,168
Richmond-Tweed	219,327	9	4.1	24,370	5	2.3	43,865	9	4.1	24,370	23	10.5	9,536
Mid-North Coast	284,678	4	1.4	71,170	5	1.8	56,936	8	2.8	35,585	17	6.0	16,746
Northern	172,392	3	1.7	57,464	6	3.5	28,732	12	7.0	14,366	21	12.2	8,209
North Western	111,230	4	3.6	27,808	6	5.4	18,538	20	18.0	5,562	30	27.0	3,708
Central West	170,900	0	0.0	^	1	0.6	170,900	7	4.1	24,414	8	4.7	21,363
South Eastern	197,943	0	0.0	^	0	0.0	^	3	1.5	65,981	3	1.5	65,981
Murrumbidgee	147,296	2	1.4	73,648	3	2.0	49,099	10	6.8	14,730	15	10.2	9,820
Murray	110,522	5	4.5	22,104	6	5.4	18,420	5	4.5	22,104	16	14.5	6,908
Far West	22,030	4	18.2	5,508	4	18.2	5,508	6	27.2	3,672	14	63.5	1,574
Total	**6,538,950**	**233**	**3.6**	**28,064**	**221**	**3.4**	**29,588**	**388**	**6.0**	**16,852**	**842**	**13.0**	**7,766**

* 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 35).

The grand total of 842 is more than the number of public legal assistance solicitor positions (697) because multiple areas of law could be recorded. This table excludes law reform and special projects.

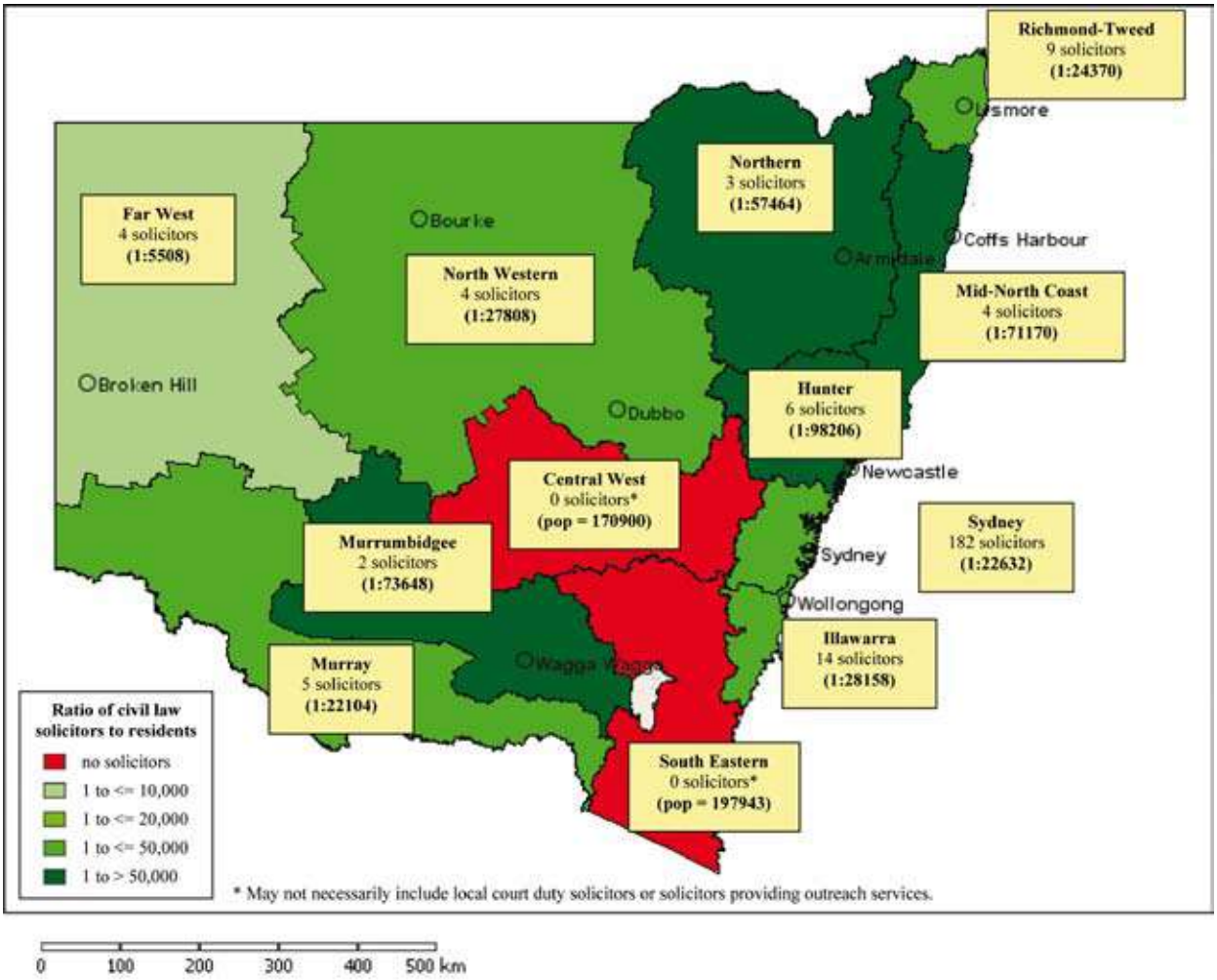
Highlighted cells indicate regions with a ratio of residents to public legal solicitors that was at least *25 per cent higher* than the State figure for that area of law (i.e. civil law: 34,634 or higher; family law: 36,654 or higher; criminal law: 20,959 or higher; all: 9,628 or higher).

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

- Hunter emerged as a region with low per capita rates of public legal assistance solicitors across all areas of law. For every one public legal assistance solicitor practising civil, family and criminal law in this region, there were approximately 98,000, 39,000 and 34,000 residents, respectively.
- Richmond-Tweed had poor ratios of residents to public legal assistance solicitors practising family law (one solicitor for every 44,000 residents) and criminal law (one solicitor for every 24,000 residents) who were based in the region.
- Northern NSW had only one public legal assistance solicitor practising civil law for every 57,000 residents.
- The Murray region appeared to be short of public legal assistance solicitors practising criminal law (only one such solicitor for every 22,000 residents in the region).
- In the Murrumbidgee region, the two public legal assistance solicitors practising civil law had a potential client base of 73,000 residents each, while the three public legal assistance solicitors who practised family law potentially serviced the needs of around 49,000 residents each.

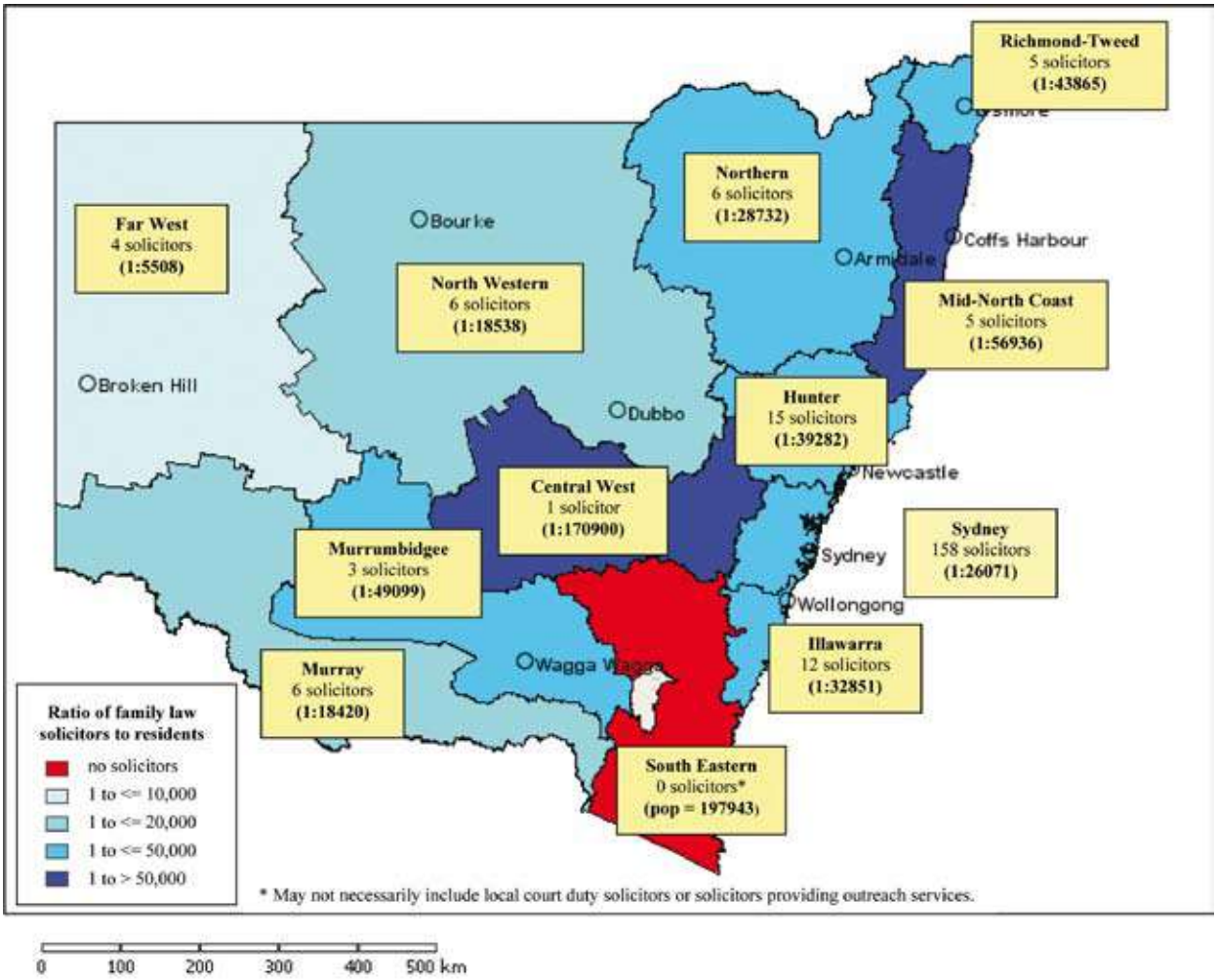
The Far West and North Western regions of NSW did not manifest as having poor solicitor to population ratios. However, their huge geographic areas, the sparseness and spread of their resident populations, and the large travel distances make these regions very different to other country regions of NSW.

Figure 12: Ratio of civil law solicitors (ALS, CLC and Legal Aid NSW solicitor positions)* to residents in each Region (SD), 30 June 2009



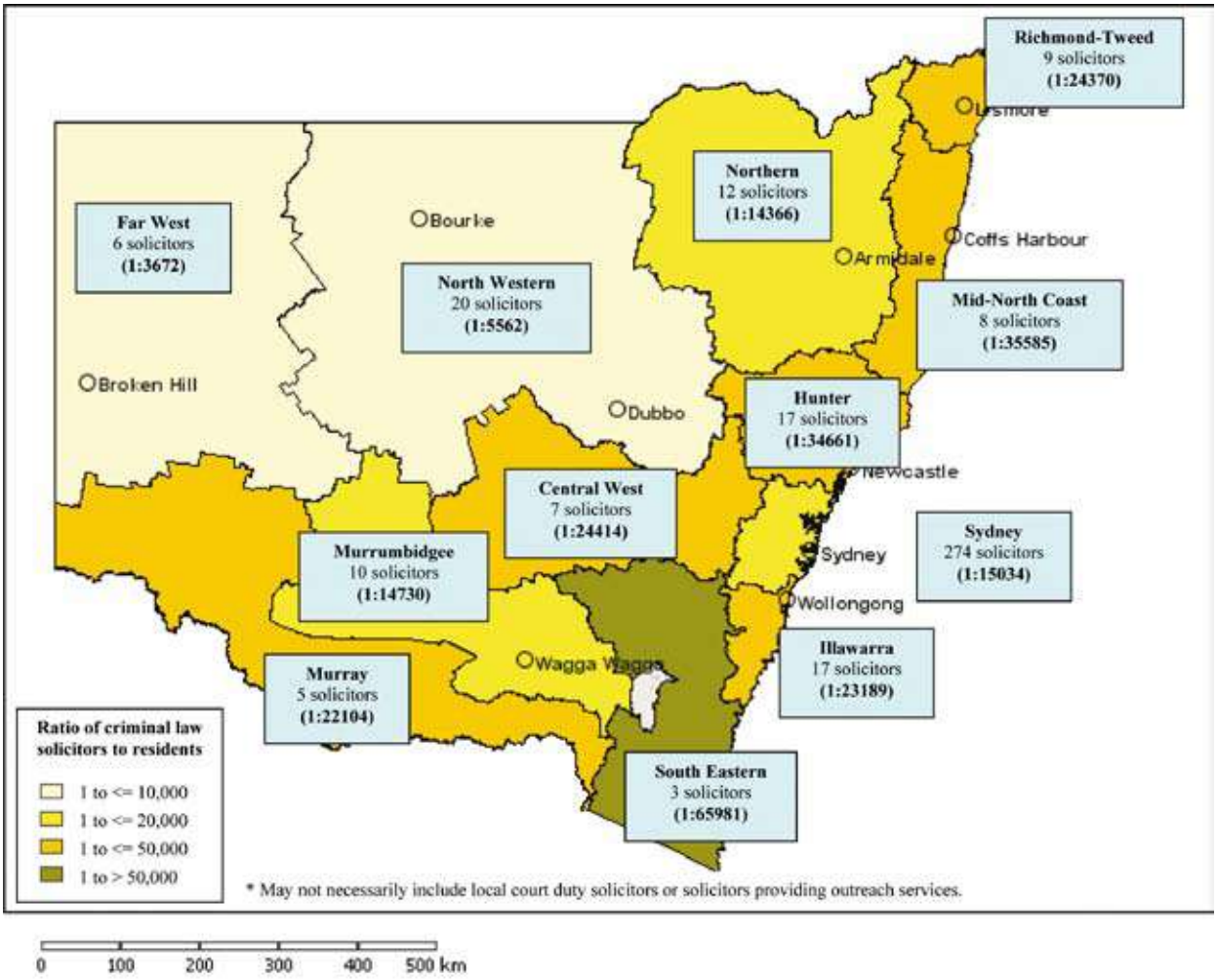
Sources: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

Figure 13: Ratio of family law solicitors (ALS, CLC and Legal Aid NSW solicitor positions)* to residents in each Region (SD), 30 June 2009



Sources: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

Figure 14: Ratio of criminal law solicitors (ALS, CLC and Legal Aid NSW solicitor positions)* to residents in each Region (SD), 30 June 2009



Sources: LJF census of NSW public legal assistance solicitor positions (30 June 2009) and ABS Census of Population and Housing 2006.

Retention of public legal assistance solicitors

One measure that may be used to gauge the retention of public legal assistance solicitors is the number of months that a solicitor position has been filled since it was last vacant. Table 25 provides information on this measure of retention for solicitors within the ALS. This includes all filled positions not just positions filled by the incumbent. The information is first presented in terms of ALS zone[41]. There were 37 filled ALS solicitor positions in Zone 1, 22 in Zone 2, and 21 in Zone 3 at the time of the study's census.

[41] The new Aboriginal Legal Service (NSW/ACT) was created in 2006, when the six Aboriginal and Torres Strait Islanders Legal Services that had previously served the State came together to form one statewide service. Administratively, the ALS is organised into three zones. Zone 1 includes the ALS offices of Redfern, Parramatta, Wollongong, Nowra, Moruya and Canberra and broadly covers metropolitan Sydney, the Illawarra and South Eastern NSW. Zone 2 includes the Newcastle, Taree, Kempsey, Grafton, Lismore, Tamworth, Armidale and Moree ALS offices and broadly covers the Hunter, Mid-North Coast and Richmond-Tweed regions and parts of Northern and North Western NSW. The ALS offices in Zone 3 are Bathurst, Dubbo, Walgett, Bourke, Broken Hill, Griffith and Wagga Wagga. Zone 3 broadly covers the Central West, the Far West and the Murray and Murrumbidgee regions of NSW.

Table 25: ALS filled solicitor positions — number of months filled since last vacant by ALS zone, 30 June 2009

Months filled since vacant	*Zone 1**		*Zone 2*		*Zone 3*		*All Zones*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
3 months or less	2	5.4	2	9.1	4	19.0	8	10.0
4 to 6 months	2	5.4	3	13.6	3	14.3	8	10.0
7 to 12 months	10	27.0	3	13.6	7	33.3	20	25.0
1 to 2 years	10	27.0	5	22.7	2	9.5	17	21.3
2 to 3 years	3	8.1	1	4.5	2	9.5	6	7.5
More than 3 years	10	27.0	8	36.4	3	14.3	21	26.3
Total	**37**	**100.0**	**22**	**100.0**	**21**	**100.0**	**80**	**100.0**

* Includes two ALS solicitors based in the ACT (one solicitor was in the position for one to two years; the other solicitor was in the position for two to three years).

Note: 'Number of months filled since vacant' was not recorded for one filled ALS position in Zone 1.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Across the service, ten per cent of ALS solicitors were in the position for three months or less. However, in Zone 3, which covers many of the more remote areas of NSW, there were almost double (19%) the proportion of solicitors in the position for three months or less. Solicitors who had been in the position for six months or less made up 20 per cent of all ALS solicitors, but in Zone 3 this group made up one-third (33%) of solicitors. Furthermore, two-thirds (67%) of solicitors in Zone 3 were in the position for one year or less. By contrast, in Zones 1 and 2 the proportion of solicitors in the position for one year or less was 38 and 36 per cent, respectively — or only half the level for Zone 3.

Zones 1 and 2 also had the benefit of solicitors being retained in their positions for longer periods — 27 per cent of ALS solicitors in Zone 1 were in their positions for no less than three years with this figure even higher for Zone 2 at 36 per cent. In Zone 3, only 14 per cent of ALS solicitors were in the job for more than three years. Indeed, in Zone 2, 41 per cent of ALS solicitors had more than two years' experience in the position compared with just 24 per cent of ALS solicitors in Zone 3.

For all 80 ALS solicitors in NSW (/ACT), the average length of time in the position was 42 months (median=24 months).[42] On average, ALS solicitors in Zone 1 were in the position for 43.5 months (median=24 months); in Zone 2, the average length of time in the position was slightly higher at 52 months (median=24 months); while in Zone 3 the average length of time in the position was just 28 months, and the median was also substantially lower at 12 months. In fact, the average length of time in the position for ALS solicitors in Zone 3 was one-third lower than for their counterparts in Zone 1 and almost half that for ALS solicitors in Zone 2. In addition, while the median length of time in the position was 24 months for ALS solicitors in Zones 1 and 2, for ALS solicitors in Zone 3 the median time in the position was just 12 months.

Table 26 provides information on the number of months that ALS solicitor positions were filled since last vacant, but this time organised by Region. Presented in this way, it should be noted that the number of ALS solicitors in some regions was quite small. Therefore, caution should be exercised in comparing figures, especially percentages, across different regions.

Given the relatively small number of ALS solicitors in most regions of NSW, the following observations are made without any further comment:

[42] The mean (or average) is the sum of the observations divided by the number of observations (e.g. the total number of months in the position for all solicitors divided by the number of solicitors). The median is the numeric value separating the higher half of a sample from the lower half. The median is found by arranging all values from lowest to highest and selecting the middle one (the mid-point). If there is an even number of observations, then there is no single middle value, the median is defined to be the average of the two middle values.

- three of the six (50%) ALS solicitors in the Mid-North Coast region had spent more than three years in the position
- in Northern region, three of the seven (43%) ALS solicitors had been in their position for three years or longer
- in North Western region, all ALS solicitors except one had less than two years in the position and six of the 11 (55%) had no more than one year in the position
- in South Eastern, the ALS solicitors appeared relatively stable with all three solicitors in their position for more than one year
- in the Murrumbidgee, ALS solicitors were either relatively new in the position (three of the five solicitors had been in the position for no more than 12 months) or had been in the position for at least two years (two solicitors)
- the ALS solicitor based in the Far West of NSW was in the job for less than 12 months.

Table 26: ALS filled solicitor positions — number of months filled since last vacant by NSW Region (Statistical Division), 30 June 2009

Months filled since vacant	*Sydney*		*Hunter*		*Illawarra*		*Richmond-Tweed*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
3 months or less	2	6.9	2	33.3	0	0.0	0	0.0
4 to 6 months	2	6.9	2	33.3	0	0.0	0	0.0
7 to 12 months	8	27.6	0	0.0	2	33.3	1	33.3
1 to 2 years	6	20.7	0	0.0	3	50.0	1	33.3
2 to 3 years	2	6.9	1	16.7	0	0.0	0	0.0
More than 3 years	9	31.0	1	16.7	1	16.7	1	33.3
Total	**29**	**100.0**	**6**	**100.0**	**6**	**100.0**	**3**	**100.0**

Months filled since vacant	*Mid-North Coast*		*Northern*		*North Western*		*Central West*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
3 months or less	0	0.0	0	0.0	3	27.3	0	0.0
4 to 6 months	1	33.3	0	0.0	3	27.3	0	0.0
7 to 12 months	1	33.3	1	14.3	2	18.2	2	66.7
1 to 2 years	1	33.3	3	42.9	2	18.2	0	0.0
2 to 3 years	0	0	0	0.0	1	9.1	0	0.0
More than 3 years	3	50.0	3	42.9	0	0.0	1	33.3
Total	**6**	**100.0**	**7**	**100.0**	**11**	**100.0**	**3**	**100.0**

Months filled since vacant	*South Eastern**		*Murrumbidgee*		*Far West*		*All ALS*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
3 months or less	0	0.0	1	20.0	0	0.0	8	10.0
4 to 6 months	0	0.0	0	0.0	0	0.0	8	10.0
7 to 12 months	0	0.0	2	40.0	1	100.0	20	25.0
1 to 2 years	1	33.3	0	0.0	0	0.0	17	21.3
2 to 3 years	1	33.3	1	20.0	0	0.0	6	7.5
More than 3 years	1	33.3	1	20.0	0	0.0	21	26.3
Total	**3**	**100.0**	**5**	**100.0**	**1**	**100.0**	**80**	**100.0**

* Two ALS solicitors based in the ACT were included in South Eastern region.

Note: No ALS solicitor position located in the Murray region.

'Number of months filled since vacant' was not recorded for one filled ALS position in Sydney (Zone 1).

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Regional differences become more apparent when retention of ALS solicitors is examined in terms of average (and median) time in the position. Table 27 shows that it is simply not the case that all country areas of NSW were characterised by relatively 'new' ALS solicitors in positions. Certainly, in some country

regions — notably, North Western NSW and the Far West — the average time in the position for ALS solicitors was much less than their counterparts in other parts of the State. In both these regions, the average length of time in the position was at least 70 per cent less than the average for all ALS solicitors in NSW. The 11 ALS solicitors in North Western region had, on average, less than 12 months in the position and five of them had been in the job for six months or less. Nonetheless, in other areas of country NSW — notably, the Mid-North Coast and to a lesser extent the Central West and South Eastern regions — the average length of time in the position for ALS solicitors was well above the average for all ALS solicitors. In fact, on the Mid-North Coast, three of the six ALS solicitors had been in their position for no less than 48 months.

Table 27: ALS filled solicitor positions* — mean and median number of months filled since last vacant by NSW Region (Statistical Division), 30 June 2009

Region (SD)	*Mean (months)*	*Median (months)*
Sydney	45.1	24.0
Hunter	24.0	5.0
Illawarra	32.0	20.0
Richmond-Tweed	35.0	24.0
Mid-North Coast	106.0	48.0
Northern	37.9	24.0
North Western	11.8	6.0
Central West	88.0	12.0
South Eastern^	52.7	36.0
Murrumbidgee	27.0	12.0
Far West	9.0	9.0
All NSW ALS	**41.8**	**24.0**

***** No ALS solicitors located in the Murray region.

^ Two ALS solicitors based in the ACT were included in South Eastern region.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

It should also be noted that non-country regions of NSW had a reasonable number of ALS solicitors who were relatively new to their positions. The Hunter region, in particular, had a group of ALS solicitors with a relatively low average length of time in the position (24 months) and three of the six Hunter ALS solicitors had been in the job for four months or less.

Table 28 provides retention information for CLC solicitors in NSW. It is also based on the number of months that each CLC solicitor position was filled since it was last vacant, and includes all filled positions ot just positions filled by the incumbent.

Across NSW, 17 per cent of CLC solicitors had been in the position for three months or less. Marked regional differences, however, were noted with regard to recently appointed CLC solicitors. Bear in mind that there are no CLCs located in the Mid-North Coast, Central West, South Eastern and Murrumbidgee regions of NSW.

In the Far West, three of the four (75%) CLC solicitors had been in the position for only three months or less. In the Hunter, four of the six (67%) CLC solicitor positions had been held for three months or less. In the Far West, no current CLC solicitor had held the position for more than six months, while in the Hunter five of the six (84.3%) solicitors had been in the position for only six months or less. In the Murray region, four of the six (67%) CLC solicitors had been in the position for less than one year.

The Richmond-Tweed region had the highest proportion (50%) of CLC solicitors who had been in the position for three or more years. This was substantively higher than for all other regions, including Sydney.

Table 28: CLC filled solicitor positions* — number of months filled since last vacant by NSW Region (Statistical Division), 30 June 2009

Months filled since vacant	Sydney		Hunter		Illawarra		Richmond-Tweed	
	n	%	n	%	n	%	n	%
3 months or less	19	15.6	4	66.7	0	0.0	1	16.7
4 to 6 months	11	9.0	1	16.7	0	0.0	0	0.0
7 to 12 months	11	9.0	0	0.0	2	22.2	0	0.0
1 to 2 years	35	28.7	0	0.0	4	44.4	1	16.7
2 to 3 years	18	14.8	0	0.0	3	33.3	1	16.7
More than 3 years	28	23.0	1	16.7	0	0.0	3	50.0
Total	**122**	**100.0**	**6**	**100.0**	**9**	**100.0**	**6**	**100.0**

Months filled since vacant	Northern		North Western		Murray		Far West	
	n	%	n	%	n	%	n	%
3 months or less	0	0.0	0	0.0	0	0.0	3	75.0
4 to 6 months	0	0.0	0	0.0	1	16.7	1	25.0
7 to 12 months	1	33.3	1	33.3	3	50.0	0	0.0
1 to 2 years	2	66.7	1	33.3	0	0.0	0	0.0
2 to 3 years	0	0.0	0	0	0	0.0	0	0.0
More than 3 years	0	0.0	1	33.3	2	33.3	0	0.0
Total	**3**	**100.0**	**3**	**100.0**	**6**	**100.0**	**4**	**100.0**

Months filled since vacant	All NSW CLCs	
	n	%
3 months or less	27	17.0
4 to 6 months	14	8.8
7 to 12 months	18	11.3
1 to 2 years	43	27.0
2 to 3 years	22	13.8
More than 3 years	35	22.0
Total	**159**	**100.0**

* No CLCs located in Mid-North Coast, Central West, South Eastern and Murrumbidgee regions of NSW.

Note: 'Months filled since vacant' was not recorded for eight positions — four positions filled by the incumbent, three positions filled by secondee, a locum or casual and one by higher duties.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Further highlighting these regional differences are the average lengths of time in the position for CLC solicitors working in different parts of the State (Table 29). Across NSW, the mean length of time in the position held by CLC solicitors was a little over two years (28 months) with half of all CLC solicitors in their current position for less than 18 months. However, in the Far West, the average length of time that CLC solicitors held their current the position was just two months (median=1.5 months). This was far lower than for other regions. For example, the next lowest level of time in the position was in the Hunter where CLC solicitors had a mean time of 12 months in their current position, with the median time much lower at just three months. CLC solicitors in the Murray region had an above average time in their current position (30 months) but the median time was much lower than for all CLC solicitors at just 9.5 months.

In both the North Western and Richmond-Tweed regions, the median length of time for CLC solicitors in their current position was higher than for other areas of the State at 24 months and 40 months, respectively. Sydney-based CLC solicitors had been in their current position for an average 28 months (median=19 months).

Table 29: CLC filled solicitor positions* — mean and median number of months filled since last vacant by NSW Region (Statistical Division), 30 June 2009

Region (SD)	*Mean (months)*	*Median (months)*
Sydney	28.2	19.0
Hunter	12.3	3.0
Illawarra	19.9	16.0
Richmond-Tweed	44.7	40.5
Northern	17.7	20.0
North Western	63.3	24.0
Murray	29.7	9.5
Far West	2.0	1.5
All NSW CLCs	**27.6**	**18.0**

* **Note**: No CLCs located in the Mid-North Coast, Central West, South Eastern and Murrumbidgee regions of NSW.

Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Table 30 provides retention information for Legal Aid solicitors in NSW and likewise is based on the number of months that each Legal Aid solicitor position was filled since it was last vacant.

It shows that almost 19 per cent of Legal Aid NSW solicitors had been in their current position for no more than three months and around 35 per cent of Legal Aid solicitors had been in their current position for no more than six months. A further one in five (20%) Legal Aid solicitors had been in the position for between seven and 12 months and around one-quarter (24%) of all solicitors employed by Legal Aid had been in their current position for one to two years. The proportion of Legal Aid solicitors who had been in their position for three year or longer (13%) was half that for ALS solicitors (26%) and nine per cent lower than for CLC solicitors. This could be a feature of increased opportunities in Legal Aid NSW for solicitors to take up designated rotational positions, act in higher positions, cover positions where the incumbent is on leave, or take up special project work.

Table 30: Legal Aid NSW filled solicitor positions — number of months filled since last vacant by NSW Region (Statistical Division), 30 June 2009

Months filled since vacant	*Sydney*		*Hunter*		*Illawarra*		*Richmond-Tweed*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
3 months or less	66	20.4	1	5.6	1	5.9	2	18.2
4 to 6 months	59	18.3	0	0.0	0	0.0	3	27.3
7 to 12 months	71	22.0	1	5.6	1	5.9	0	0.0
1 to 2 years	72	22.3	3	16.7	7	41.2	5	45.5
2 to 3 years	21	6.5	8	44.4	2	11.8	1	9.1
More than 3 years	34	10.5	5	27.8	6	35.3	0	0.0
Total	**323**	**100.0**	**18**	**100.0**	**17**	**100.0**	**11**	**100.0**

Months filled since vacant	*Mid-North Coast*		*Northern*		*North Western*		*Central West*	
	n	*%*	*n*	*%*	*n*	*%*	*n*	*%*
3 months or less	1	12.5	0	0.0	2	28.6	1	20.0
4 to 6 months	1	12.5	1	25.0	2	28.6	0	0.0
7 to 12 months	2	25.0	0	0.0	3	42.9	1	20.0
1 to 2 years	3	37.5	0	0.0	0	0.0	2	40.0
2 to 3 years	0	0.0	0	0.0	0	0.0	0	0.0
More than 3 years	1	12.5	3	75.0	0	0.0	1	20.0
Total	**8**	**100.0**	**4**	**100.0**	**7**	**100.0**	**5**	**100.0**

Months filled since vacant	*Murrumbidgee*		*All Legal Aid*	
	n	*%*	*n*	*%*
3 months or less	0	0.0	74	18.5
4 to 6 months	0	0.0	66	16.5
7 to 12 months	3	37.5-	82	20.4
1 to 2 years	3	37.5	95	23.7
2 to 3 years	0	0.0	32	8.0
More than 3 years	2	25.0	52	13.0
Total	**8**	**100.0**	**401**	**100.0**

Note: No Legal Aid NSW offices located in Far West, South Eastern and Murray regions.
Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Solicitors in the Dubbo Legal Aid office (North Western region) had the highest proportion (57%) of Legal Aid NSW solicitors with no more than six months' experience in their current position. This office also had the highest proportion (29%) of solicitors who had spent no more than three months in their position. In the Lismore office (Richmond-Tweed region), five of the 11 (45%) solicitors had no more than six months in the position. Hunter appeared to fare best in terms of retaining staff with eight of 18 staff (44%) in their position for two to three years and a further five staff (28%) holding their position for three years or longer. Central West had a mixed bag of solicitors with one solicitor in the job for three months or less, one solicitor in their position for more than three years and three solicitors in their positions for between seven months and two years. All eight solicitors in the Wagga Wagga Legal Aid office (Murrumbidgee region) had spent no less than seven months in their current position.

Examining the mean (and median) time spent in positions for Legal Aid solicitors across NSW (Table 31), it is noticeable that solicitors in the Dubbo office (North Western region) had the lowest average time in their current positions. The average time in the position for solicitors in the Dubbo Legal Aid office was less than seven months, almost one year lower than the State average. Fifty per cent of solicitors in the Dubbo office had been in their current position for less than five months (i.e. median=5.1 months). In the Lismore Legal Aid office (Richmond-Tweed region), while the mean time in the position was six months lower than the State average (i.e. 12.4 months compared to18.7 months), half of their solicitors had been in their position for at least 17 months, six months higher than the State median value.

The mean time in positions for Legal Aid NSW solicitors was lower than the State average in only three regions — Sydney (16.7 months), Richmond-Tweed (12.4 months) and North Western NSW (6.6 months). Of these, only Sydney (8.5 months) and North Western (5.1 months) were also below the State median value for time in the position. That is, the NSW median value indicates that half of the State's Legal Aid solicitors had spent 10 months or longer in their positions. In Sydney, however, the typical time spent in a position was only 8.5 months and in the Dubbo (North Western) office it was even lower at just five months.

Table 31: Legal Aid NSW filled solicitor positions* — mean and median number of months filled since last vacant by NSW Region (Statistical Division), 30 June 2009

Region (SD)	*Mean (months)*	*Median (months)*
Sydney	16.7	8.5
Hunter	32.7	29.0
Illawarra	29.4	21.7
Richmond-Tweed	12.4	16.6
Mid-North Coast	19.8	11.9
Northern	43.2	48.0
North Western	6.6	5.1
Central West	51.7	18.6
Murrumbidgee	27.9	17.7
All Legal Aid NSW	**18.7**	**10.2**

Note: No Legal Aid NSW offices located in Far West, South Eastern and Murray regions.
Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Length of vacancies

The 40 truly vacant solicitor positions within NSW Legal Aid offices at the time of the census taken for this study were further examined in terms of their geographical distribution and the time that they were vacant since they were last filled (Table 32).

Table 32: Legal Aid NSW vacant solicitor positions — mean and median number of months vacant since last filled by NSW Region (Statistical Division), 30 June 2009

Region (SD)	*Number*	*Mean (months)*	*Median (months)*
Sydney	29	4.9	4.0
Hunter	1	5.0	5.0
Illawarra	1	5.0	5.0
Richmond-Tweed	2	2.6	2.6
Mid-North Coast	2	3.0	3.0
Northern	0	n/a	n/a
North Western	2	10.0	10.0
Central West	0	n/a	n/a
Murrumbidgee	1	1.0	1.0
All Legal Aid NSW	**38***	**4.8**	**4.0**

* Time unoccupied not recorded for two vacant Legal Aid NSW solicitor positions located in Parramatta (Sydney region) and Lismore (Richmond-Tweed region).
Note: No Legal Aid NSW offices located in Far West, South Eastern and Murray regions.
Source: LJF census of NSW public legal assistance solicitor positions (30 June 2009).

Three-quarters (76%) of vacant Legal Aid NSW positions were located in the Sydney metropolitan area. Two regions (Central West and Northern NSW) did not have any vacant Legal Aid solicitor positions at the time of the census. The Lismore (Richmond-Tweed), Coffs Harbour (Mid-North Coast) and Dubbo

(North Western) Legal Aid offices each had two vacant solicitor positions, while the Newcastle (Hunter), Wollongong (Illawarra) and Wagga Wagga (Murrumbidgee) Legal Aid offices each had one vacant solicitor position as at 30 June 2009.

The average length of time that a Legal Aid NSW solicitor position was vacant, up to the date of the census, was 4.8 months (median=4 months). Only the two vacant positions in the Dubbo Legal Aid office were unoccupied for substantially longer periods. Both the vacant positions in the Dubbo Legal Aid office were unoccupied for a period of 10 months to the end of June 2009, more than double the average vacancy period.

In terms of grading/designation, the majority (80%) of vacant positions within Legal Aid NSW were for solicitors. Across all three NSW services, 88 per cent of vacant positions were for solicitors. The remaining vacant positions were for senior solicitors aside for one vacant paralegal position and one principal solicitor position which was vacant as the incumbent had taken leave.

Given the relatively small number of strictly vacant positions within the ALS (six positions) and NSW CLCs (five positions) and a level of unavailable data, the nature of these vacant positions are simply described below:

- Vacant ALS positions (6)
  - Redfern office (Zone 1), solicitor position, incumbent on LWOP for 12 months, not advertised
  - Moree office (Zone 2), solicitor position, could be advertised, vacant for unspecified period
  - Grafton office (Zone 2), solicitor position, could be advertised, vacant for unspecified period
  - Dubbo office (Zone 3), solicitor position, advertised, one month vacant (filled since census taken)
  - Wagga Wagga office (Zone 3), solicitor position, advertised, two months vacant (filled since census taken)
  - Broken Hill office (Zone 3), senior solicitor position, could be advertised, vacant for unspecified period
- *Vacant CLC positions (4)*
  - Illawarra CLC, solicitor position, incumbent on leave for unspecified period
  - Hawkesbury-Nepean CLC, solicitor position, advertised, one month vacant
  - Mt Druitt CLC, solicitor position, advertised, one month vacant
  - Far West CLC, solicitor position, advertised, one month vacant.

Summary

While there may be one Legal Aid NSW or CLC solicitor position for approximately every 10,000 persons living in NSW, the spread of these solicitor positions across the State is far from even. In South Eastern, for example, there were no full-time Legal Aid NSW or CLC solicitor positions located in the region for almost 198,000 residents. By comparison, there was one resident public legal assistance solicitor position for every 5,500 persons in the Far West. Similarly, ALS solicitor positions were not evenly spread geographically, nor did their locations necessarily reflect where some of the larger Indigenous communities resided. For example, while overall there was one ALS solicitor position for every 1,600 Indigenous persons living in NSW, the Murray region had 2,808 Indigenous residents but no ALS solicitor. In the Far West and the Murrumbidgee regions, there was one ALS solicitor position for every 1,000 Indigenous persons compared to one such position for every 2,500 Indigenous residents in the Central West and Hunter regions.

Regional differences in the ratio of public legal assistance solicitors to residents must be considered in the light of other characteristics on which regions differ, including 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 and type of legal services (resident and otherwise) operating in each region, including the number of private lawyers assigned legal aid work in each area.

It is hardly surprising that the greater majority of public legal assistance solicitor positions were concentrated in the Sydney metropolitan area. This is the case for Legal Aid NSW, CLC and ALS solicitor positions. What is noteworthy is that there are whole regions in NSW that do not have a resident solicitor from one or more of the three public legal assistance services. The Murray region, for instance, does not have a resident Legal Aid or ALS solicitor.

Of the three services, the ALS appears to be the most geographically dispersed. In fact, whether by design or luck, the ALS has solicitors based in regions that do not have Legal Aid NSW offices or community legal centres. However, ALS solicitors almost exclusively provide legal assistance in relation to criminal law matters and only to Indigenous clients.

It is also more common for Legal Aid solicitors to practise criminal law, although around one-quarter of Legal Aid solicitors practise family law. Legal Aid solicitors who practise civil law are even less common. Therefore, it is only in regions where there are CLCs that the community will have any reasonable level of access to public civil law solicitors.[43] For example, South Eastern only has an ALS and as a consequence does not have access to any local public legal assistance solicitors practising civil law or family law. Similarly, the Central West, the Mid-North Coast and the Murrumbidgee regions, all without a CLC, have fewer resident public legal assistance solicitors who practise civil law.

Some parts of NSW appear to experience access issues across all three broad areas of law. The Far West, the Mid-North Coast, the Central West, the Murrumbidgee regions and South Eastern regions each had less than two per cent of the State's civil law, family law and criminal law public legal assistance solicitors. For South Eastern, this means that there was only one public criminal law solicitor for every 66,000 residents and no public civil law solicitor and no full-time public family law solicitor based in the area.

Despite the hearsay, the level of truly vacant positions in the NSW public legal sector is far from being at a level that should cause alarm or concern. Across the sector, only seven per cent of solicitor positions were vacant. CLCs recorded the lowest level of vacant positions (3%) and Legal Aid NSW the highest (9%). The ALS had seven per cent of positions vacant on the day that the census was taken. While it could be claimed that these vacancy levels are unusually low, influenced by the chosen census date, the figures are more likely than not representative of the general vacancy rate for solicitor positions across the sector.

It is important to note that many public legal assistance solicitors were holding positions in a temporary or casual capacity. Across all three services, only 61 per cent of public legal sector positions were filled by the incumbent. Of the remainder, the biggest share of public legal assistance solicitor positions was filled through casual appointment, secondment or the use of a locum. As at 30 June 2009, 222 of the 697 (or 32%) public legal assistance solicitor positions were not occupied by the incumbent solicitor substantively holding the position. Therefore, the proportion of solicitor positions occupied by someone other than the incumbent was more than two times (for the ALS), four times (for Legal Aid) or five times (for CLCs) the actual level of vacant solicitor positions in these agencies. What is important to note (and as the qualitative data will indicate) is that, without being filled in these ways, it is likely that many of these positions,

[43] Although CLC solicitors do not provide much legal representation at court for legal matters, including civil law matters.

particularly in RRR NSW, would have remained unoccupied (see **The views of rural solicitors and legal service managers** below).

The Far West is the only region in NSW with a statistically significant number of vacant solicitor positions. Two of the six solicitor positions in Broken Hill were unfilled and two other solicitor positions were filled by a lawyer other than the incumbent. Dubbo (North Western region) also stands apart from the rest of country NSW in terms of the number of solicitor positions unoccupied. There were two vacant Legal Aid solicitor positions in Dubbo and an additional vacant ALS position. The two Legal Aid positions at Dubbo had been vacant for 10 months, which is double the average time unoccupied for solicitor positions identified as vacant on 30 June 2009.

Finally, the level of vacant public legal assistance solicitor positions in country regions of NSW is not found in Sydney and other metropolitan areas of the State. While almost three-quarters (74%) of all public legal assistance solicitor positions were located in the Sydney region, only two-thirds (66%) of all vacant solicitor positions were located in the Sydney region. However, the Sydney region did have more than its fair share (87%) of public legal assistance solicitor positions filled by someone other than the incumbent.

Grants of legal aid

> *One of the main challenges for regional legal service providers is how to deliver quality services to remote locations where there is high socio-economic disadvantage, high unmet legal need and few permanent on-the ground services.*
> (Legal Aid NSW, Annual Report, 2008/09, p. 27)

As described in the introduction, private solicitors, particularly in rural areas, may undertake grants of legal aid as well as participating in duty solicitor rosters at local courts. According to the 2008/09 Legal Aid NSW Annual Report, private lawyers provided 43.8 per cent of all legally aided cases and duty services in 2008/09[44] (Legal Aid NSW 2009, p. 4).

This section focuses on grants of legal aid to private solicitors who are appointed members of legal aid panels. The following data does not include any duty work undertaken by these private practitioners in 2008/09.

In the 12 month period, Legal Aid NSW received 36,151 legal aid applications for case matters from private lawyers, comprising:

- 1,316 (3.6%) applications for legal aid in civil law
- 14,768 (40.9%) applications for legal aid in criminal law
- 20,067 (55.5%) applications for legal aid in family law.[45] (Legal Aid NSW, 2009, p. 32)

For this study, Legal Aid NSW provided 2008/09 data relating to the number of grants of legal aid assigned to private lawyers and the composition of legal aid panels operating within NSW.

[44] Legal Aid refers to legal aid case matters performed by private lawyers as 'assigned matters'.

[45] Grants of legal aid for family law matters also include care and protection matters. In addition, Legal Aid funded 68,063 duty appearances conducted by private practitioners during this period, at courts throughout NSW (Legal Aid NSW, 2009, p. 32).

Legal aid panels

Legal aid panels were established across NSW to improve the delivery of legal aid services to the community and to ensure transparency and accountability in the relationship between Legal Aid NSW and private lawyers undertaking legal aid work.

Legal Aid NSW has implemented legal aid panels across most practice areas, including the three main areas of law: civil law, criminal law and family law (including care and protection). Some legal aid panels have been operating since 2005. Appointment to a practice panel applies to all private practitioners who work on behalf of legally assisted clients. 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".[46]

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. A lawyer may be appointed to more than one legal aid panel.

According to the 2008/09 Legal Aid NSW Annual Report, there were 2,380 private lawyers on ten panels available to undertake legal aid work.[47] It should be noted that Legal Aid NSW panels were in considerable transition during the 2008/09 reporting period, including the recruitment of private solicitors to various panels and the finalisation of a number of panels.

Legal Aid NSW provided the Foundation with information on family law panels, civil law panels and criminal law panels. Information was also provided on care and protection panels.

Table 33 shows the distribution of legal aid panel members across NSW with respect to their appointed panel(s). It also shows the number of panel members who were 'active' in terms of actually performing legal aid work in the respective area of law in 2008/09.[48] Remembering that a lawyer may be appointed to more than one panel, there were 2,185 NSW panel members available to undertake legal aid work in 2008/09. Over 40 per cent (936 or 43%) of the appointed NSW lawyers were registered with criminal law panels, 32 per cent (707) were registered with family law panels, and a further 13 per cent (291) were registered with care and protection panels. Fewer than 12 per cent of appointed NSW lawyers were available to undertake legal aid work for civil law matters.[49]

Almost 80 per cent of civil law panel members did not provide an instance of legal aid in 2008/09. The reverse pattern was noted for criminal and family law panels: 76 per cent of criminal law panel members and over 64 per cent of family law panel members were active in delivering legal aid services in 2008/09. Similarly, two-thirds (66%) of appointed panel members undertook legal aid services for care and protection matters in 2008/09.

---

[46] The *Grant Allocation Guidelines* detail the exceptional circumstances that may apply (Legal Aid NSW, 2003, pp. 3–4).

[47] Legal aid panels operate in Children's Criminal Law (specialist Children's Courts), Care and Protection, Court of Criminal Appeal, Veteran's Law, Independent Children's Lawyers and General Family Law. In 2008/09, new panels were implemented in General Civil Law, Mental Health Advocacy and Prisoners Legal Services. Two additional criminal law panels were established in 2009: the Serious Criminal Law Panel and the General Criminal Law Panel, which is the largest panel with a total of 808 lawyers appointed across metropolitan and regional areas of NSW. The Children's Criminal Law Panel was also renewed in May 2009.

[48] Note again that private solicitors who have not undertaken grant work in the previous 12 months ('inactive') may well have performed duty lawyer work, which is not included in this data.

[49] There were also 23 interstate lawyers listed as NSW legal aid panel members. The Family Law panel included lawyers from Victoria (7), Queensland (6), South Australian (1) and the ACT (3). The Care and Protection panel included one lawyer from the ACT. The Civil Law Panel included lawyers from Victoria (2) and the ACT (1). The Criminal Law Panel included lawyers from Victoria (2), Queensland (1) and the ACT (1).

Table 33: Proportion and distribution of NSW legal aid panel members (private solicitors) assigned grants ('active') or not assigned grants ('inactive') in 2008/09 (Legal Aid NSW)

Region (SD)	*Civil law panel members*				*Criminal law panel members*				*Family law panel members*				*Care and protection panel members*			
	Total	*Inactive*	*Active*	*% Active*	*Total*	*Inactive*	*Active*	*% Active*	*Total*	*Inactive*	*Active*	*% Active*	*Total*	*Inactive*	*Active*	*% Active*
Sydney	135	103	32	23.7	536	145	391	72.9	325	98	227	69.8	118	31	87	73.7
Hunter	33	27	6	18.2	86	20	66	76.7	82	29	53	64.6	30	14	16	53.3
Illawarra	10	7	3	30.0	57	17	40	70.2	49	15	34	69.4	28	10	18	64.3
Richmond-Tweed	15	12	3	20.0	41	8	33	80.5	41	16	25	61.0	19	7	12	63.2
Mid-North Coast	24	19	5	20.8	56	7	49	87.5	67	26	41	61.2	33	14	19	57.6
Northern	6	4	2	33.3	48	7	41	85.4	47	29	18	38.3	24	10	14	58.3
North Western	0	n/a	n/a	n/a	15	2	13	86.7	15	5	10	66.7	3	2	1	33.3
Central West	11	11	0	0.0	32	10	22	68.8	29	12	17	58.6	13	5	8	61.5
South Eastern	9	9	0	0.0	37	6	31	83.8	31	13	18	58.1	16	3	13	81.3
Murrumbidgee	3	3	0	0.0	13	2	11	84.6	8	8	0	0	4	3	1	25.0
Murray	4	3	1	25.0	11	1	10	90.9	9	0	9	100.0	3	0	3	100.0
Far West	1	1	0	0.0	4	0	4	100.0	4	1	3	75.0	0	n/a	n/a	n/a
Total	**251**	**199**	**52**	**20.7**	**936**	**225**	**711**	**76.0**	**707**	**252**	**455**	**64.4**	**291**	**99**	**192**	**66.0**

Note: Active panel members undertook legal aid grant work in the respective area of law during 2008/09. Inactive panel members did not undertake any grant work in the respective area of law during 2008/09. Private solicitors may also be engaged in other legally-aided work such as local court duty rosters. They may also be involved in pro bono work.

Highlighted cells indicate an above average level of active panel members in the region compared to the State average for that particular area of grant work.

Source: Legal Aid NSW database of panel members (2008/09).

With regard to civil law panels, Sydney contained the highest number (135) of appointed civil law panel members, followed by the Hunter (33), Mid-North Coast (24), Richmond-Tweed (15) and Central West (11) regions. Legal aid clients in North Western NSW did not have access to an appointed civil law panel member. Over three-quarters (76%) of civil law panel members in Sydney did not provide any civil law legal aid service in 2008/09. In the regions of Central West, South Eastern, Murrumbidgee and Far West, none of the appointed civil law panel members provided legal aid for civil law clients in the 12 month period.

The criminal law panel was the largest legal aid panel with 936 lawyers available in 2008/09 to take on criminal legal aid work. Criminal law panel members appeared more evenly dispersed across NSW than civil, family law and care and protection panel lawyers, although more than half (57%) of the criminal law panel members had their practice located in the greater Sydney metropolitan region.

Across the State, three-quarters (76%) of appointed criminal law panel members delivered legal aid in 2008/09. In eight regions, the number of active criminal law panel members was higher than the State average. In the Far West region, all four criminal law panel members had at least one grant of legal aid in 2008/09. In seven other regions — all country areas of NSW — the level of active criminal law panel members was above the State average: Murray (91%), Mid-North Coast (88%), North Western (87%), Northern (85%), Murrumbidgee (85%), South Eastern (84%) and Richmond-Tweed (80%). The only country region with a level of active criminal law panel members lower than the State average was the Central West (69%).

Sydney also had the largest number (325 or 46%) of family law panel members, followed by Hunter (82), Mid-North Coast (67), Illawarra (49) and Northern NSW (47). All nine family panel members in the Murray region provided family law legal aid in 2008/09, whereas none of the eight family law panel members in the Murrumbidgee region were active. Northern NSW was the only other region where there were more inactive (29) than active (18) family law panel members.

The largest number (118 or 41%) of care and protection panel members also practised in the Sydney region. There was a higher number (33) of care and protection panel members in the Mid-North Coast region of NSW than in the Hunter (30) or Illawarra (28). There were only three parts of the State where the percentage of active care and protection panel members was higher than the State average — in the Murray, all three care and protection panel members performed legal aid work in 2008/09; in South Eastern NSW, 13 of the 16 appointed panel members provided legally aided care and protection services; and 74 per cent of care and protection panel members in Sydney delivered legal aid services in 2008/09. There were no care and protection panel members in the Far West region of NSW.

Grants of legal aid assigned to private solicitors

Grants of legal aid may be assigned to private solicitors. They may also be assigned to in-house Legal Aid NSW solicitors. Given that Legal Aid NSW solicitors have already been accounted for in the regional distribution of public legal assistance solicitors, grants assigned to Legal Aid NSW solicitors are not included in the following grants data.[50]

Legal representation in criminal law matters comprised 48 per cent of legal aid grant work performed by private solicitors. Family law work made up 31 per cent of legal aid grant work performed by private

[50] This data was provided to the Foundation and reflect matters for which Legal Aid NSW has been invoiced by private lawyers. The figures reported here differ slightly from those reported in the Legal Aid NSW Annual Report 2008/09 (Legal Aid NSW, 2009). The figures reported here may include some duty lawyer work billed to Legal Aid NSW by private lawyers.

practitioners and, if care and protection matters are included, legally aided family law work represents 50 per cent of all legal aid grant work undertaken by private solicitors. Civil law work represented just two per cent of legal aid grant work performed by private solicitors.

Table 34: Grants of legal aid assigned to private solicitors (Legal Aid NSW, 2008/09)

Area of law	*Grants of legal aid*	
	n	*%*
Civil law	670	1.9
Criminal law	16,860	48.1
Family law	10,853	31.0
Care and protection	6,650	19.0
Total	**35,033**	**100.0**

Source: Legal Aid NSW Grants database (2008/09 data).

Table 35 shows the number of grants of legal aid assigned to private solicitors categorised by region and area of law. Across NSW, there were 34,694 grants of legal aid assigned to private solicitors in 2008/09, with one-third (33%) of grants assigned to assist clients in country NSW. The population in country NSW represents 22 per cent of the State's total, so the proportion of grants to private solicitors in country NSW is 50 per cent higher than expected based on population share.

With respect to the different areas of legally aided grant work by private solicitors, country NSW had a higher than expected proportion of grants of legal aid for criminal law (38%) and family law (34%) matters based on population share. Most of the civil law matters were assigned to private solicitors based in Sydney, with only 15 per cent assigned to private solicitors in country regions of NSW. Legally aided care and protection matters in country NSW (24%) were roughly proportionate to the share of the population in country NSW (22%).

Based on each region's share of the NSW population,[51] all regions outside of Sydney except for the Murray had a higher than expected proportion of grants of legal aid assigned to private solicitors. Even the Murray's share (1.4%) of grants across the four practice areas was only just below its population share (1.7%). Over six per cent of the State's grants of legal aid assigned to private solicitors were in Northern NSW, which is almost two and a half times the level expected from that region's population share (2.6%). Similarly, the proportion of grants assigned to private solicitors in the Mid-North Coast region (8.7%) was almost double its population share (4.4%). This may reflect the absence of both a Legal Aid NSW Office and a CLC in the Mid-North Coast.

In all regions outside of Sydney except for the Murray, the proportion of legal aid grants to private solicitors for *criminal law* matters was at least equal to their share of the State's population. Even the Murray's share of legal aid grants for criminal work (1.6%) was almost equal to its population share (1.7%).

In a number of areas of country NSW, the level of grants to private solicitors for criminal law work was considerably higher than expected given their populations. For example, Northern NSW had 8.3 per cent of the State's criminal law grants but only 2.6 per cent of the State's population. Other areas that stood out were: Mid-North Coast (9.6% of criminal law grants versus 4.4% of NSW population); South Eastern NSW (5.0% versus 3.0%); Murrumbidgee (4.4% versus 2.3%) and the Far West (0.6% versus 0.3%).

[51] It is worth noting that this analysis is not meant to take into account nor reflect any underlying level of expressed or unexpressed legal need.

Table 35: Grants of legal aid assigned to private solicitors by region and area of law (Legal Aid NSW, 2008/09)

Region (SD)	*Population*	*Civil law*		*Criminal law*		*Family law*		*Care and protection*		*All four areas*	
	%	*n*	*%*	*n*	*%*	*n*	*%*	*n*	*%*	*n*	*%*
Sydney	63.0	472	76.6	7,722	46.0	4,592	43.0	3,559	53.6	16,345	47.1
Hunter	9.0	38	6.2	1,640	9.8	1,716	16.1	901	13.6	4,295	12.4
Illawarra	6.0	14	2.3	1,082	6.4	770	7.2	607	9.1	2,473	7.1
Sub-total (City)	*78.0*	*524*	*85.1*	*10,444*	*62.3*	*7,078*	*66.3*	*5,067*	*76.3*	23,113	66.6
Richmond-Tweed	3.4	14	2.3	573	3.4	635	6.0	246	3.7	1,468	4.2
Mid-North Coast	4.4	23	3.7	1,612	9.6	1,122	10.5	266	4.0	3,023	8.7
Northern	2.6	15	2.4	1,391	8.3	508	4.8	282	4.2	2,196	6.3
North Western	1.7	3	0.5	396	2.4	198	1.9	93	1.4	690	2.0
Central West	2.6	20	3.2	429	2.6	467	4.4	201	3.0	1,117	3.2
South Eastern	3.0	6	1.0	834	5.0	274	2.6	215	3.2	1,329	3.8
Murrumbidgee	2.3	1	0.2	732	4.4	170	1.6	192	2.9	1,095	3.2
Murray	1.7	8	1.3	266	1.6	182	1.7	54	0.8	502	1.4
Far West	0.3	2	0.3	103	0.6	34	0.3	22	0.3	161	0.5
Sub-total (Country)	*22.0*	*92*	*14.9*	*6,328*	*37.7*	*3,590*	*33.7*	*1,571*	*23.7*	11,581	33.4
Total	**100.0**	**616**	**100**	**16,780**	**100.0**	**10,668**	**100.0**	**6,638**	**100.0**	**34,694**	**100.0**

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

Source: Legal Aid NSW grants of legal aid database (2008/09).

With regard to grants to private solicitors for *family law* work, only the Murrumbidgee and South Eastern regions had a share of legal aid grants below what might be expected on a population basis. The Murray region and Far West NSW had a share of family law grants to private solicitors that was equal to their respective population shares. All other country regions had a share of grants for family law matters above that expected from their population share and, in particular, the Mid-North Coast's share of family law grants to private solicitors was more than twice its population share (10.5% versus 4.4%). As previously indicated, this is likely to reflect the absence of a Legal Aid NSW Office and a CLC in the Mid-North Coast.

Legal aid grants to private solicitors for *care and protection* matters were relatively higher in all country areas of NSW with the exception of Mid-North Coast, North Western NSW and the Murray. Only in the Northern region was the level of grants for care and protection matters substantially higher than the population share (4.2% versus 2.6%) and only in the Murray was the level of legal aid grants well below its population share (0.8% versus 1.7%). In all other areas of country NSW, the level of grants for care and protection matters to private solicitors was generally equivalent to that region's population share.

With regard to *civil law* matters, private solicitors in the greater Sydney metropolitan region had an above expected share of grants of legal aid based on their population (76.6% versus 63.0%). The Central West had a slightly higher share of legal aid grants for civil law matters given their population share (3.2% versus 2.6%). In three country regions, there were no more than three grants of legal aid to private solicitors for civil law work in the 12 month period — the Murrumbidgee had only one grant of legal aid for civil law work performed by a private solicitor; the Far West had two such cases, while North Western NSW had three such cases.

NSW grants assigned to interstate private solicitors

Aside from the grants of legal aid given to NSW based private solicitors, there were also 334 grants of NSW legal aid given to private solicitors located outside of NSW.[52] Some of these interstate solicitors were located in cities or towns close to the NSW border. This may be said to be the case for the 23 private solicitors in the ACT who performed 58 instances of legal aid in 2008/09. In Victoria, 45 private solicitors undertook 149 legally aided cases for Legal Aid NSW. Approximately half these solicitors were based in locations close to the NSW border, including seven solicitors based in Wodonga who performed 41 cases of legal aid work and six private solicitors in Mildura who performed 11 cases of legal aid on behalf of Legal Aid NSW. In total there were 23 private solicitors in Victoria practising in close proximity to the NSW border and these solicitors accounted for 73 cases of NSW legal aid. There were also 51 Queensland solicitors who performed 84 cases of legal aid work for Legal Aid NSW. Over half these Queensland solicitors were based in practices close to the NSW border, including 20 Gold Coast solicitors who provided 48 cases of legal aid in 2008/09. In South Australia, there were 40 instances of legal aid provided by eight private solicitors, but only one of these solicitors was based close to NSW and he or she performed only one grant of legal aid in 2008/09.

According to Legal Aid NSW[53] there were no cases in 2008/09 where a person with a grant of legal aid was not legally represented because there was no private (or in-house) lawyer available to do the legal aid work. However, this does not necessarily mean that the assigned lawyer lived in the area where the client lived or where the court proceedings were being conducted. Some private solicitors in regional and remote NSW may be prepared to travel considerable distances to represent legally-aided clients.

[52] In total there were 144 appointed panel members involving 134 individual private lawyers practising in States and Territories other than NSW. Appendix E shows the number of interstate lawyers in each State and Territory that was assigned grant work for Legal Aid NSW in 2008/09.

[53] Information provided by the Legal Aid NSW Grants Director on 13 May 2010 in response to a request for further information by the Foundation.

In addition, 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.

Region profiles

The following profiles for each NSW region summarise the key findings from the previous sections.

Region (SD)	*SYDNEY*
Availability of legal services	88% of NSW solicitors located in Sydney (compared with 63% of NSW population) including 94% of all corporate lawyers. Highest per capita rate of all regions (412 solicitors per 100,000 residents or one solicitor for every 243 residents), although not all Sydney solicitors provide legal services to individuals. Over 79% of Legal Aid NSW and CLC solicitors located in Sydney. Rate of public legal assistance solicitors (11.7 per 100,000 residents) was second highest in the State. One Legal Aid or CLC solicitor for every 8,500 residents. 36% of ALS solicitors based in Sydney — one ALS solicitor for every 1,400 Indigenous residents. Sydney had: • 54% of the State's civil law panel members • 57% of the State's criminal law panel members • 46% of the State's family law panel members • 41% of the State's care and protection panel members. Based on its population share (63%), Sydney had a higher share of the State's legal aid grants for civil matters (77%) but a lower share for criminal law grants (46%), family law grants (43%) and care and protection grants (54%).
Recruitment issues	6% of public legal assistance solicitor positions in Sydney were vacant, comparable to the 7% statewide. Highest proportion (38%) of public legal assistance solicitor positions occupied by a lawyer other than the incumbent (i.e. a locum, secondee or someone acting in the position). State average was 32%.
Retention issues	ALS solicitors in Sydney were in their positions for slightly longer (45 months) than the State average (42 months), although the median time (24 months) was the same. CLC solicitors in Sydney were in their positions for an average 28 months (median=19 months), little different from the CLC state average (mean=27.6 months, median=18 months). The mean (16.7 months) and median (8.5 months) time in the position for Legal Aid solicitors was some two months lower than the statewide values (mean=18.7 months, median=10.2 months).
Social and economic indicators	Increasing population. Socio-economic disadvantage varies from highly advantaged to highly disadvantaged depending on the LGA. Less than 1% Indigenous residents (2.1% for NSW), but this also varies from area to area (e.g. Blacktown LGA, 2.7% Indigenous population).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*HUNTER*
Availability of legal services	Second highest number (736) of solicitors based in the Hunter or 3.8% of the State's solicitors. Hunter contains 9% of the NSW population. Second highest per capita rate of solicitors — 24.9 solicitors per 100,000 residents or one solicitor for every 800 residents. Only 4% of Legal Aid NSW and CLC solicitors located in this region. Rate of public legal assistance solicitors (4.1 per 100,000 residents) was one of the lowest in the State. One Legal Aid NSW or CLC solicitor for every 24,500 residents is more than double the State ratio. 7% of all ALS solicitors located in the Hunter. Indigenous population of the Hunter region is 11%. One ALS solicitor for every 2,555 Indigenous residents. Per capita rate of ALS solicitors was the lowest across NSW (where an ALS existed). The Hunter had: • 13% of civil law panel members • 9% of criminal law panel members • 12% of family law panel members • 10% of care and protection panel members. Based on population share (9%), Hunter had a lower share of the State's legal aid grants for civil law (6%) but a higher share for criminal law (10%), family law (16%) and care and protection matters (14%).
Recruitment issues	No major recruitment issues identified. Only 3% of public legal assistance solicitor positions in Hunter were vacant, compared to 7% statewide. The Hunter's level of public legal assistance solicitor positions occupied by a lawyer other than the incumbent (17%) was around half the State average (32%).
Retention issues	ALS solicitor positions identified as unstable. CLC solicitor positions identified as unstable. Average length of time in the position (24 months) was substantially less than the ALS State average (42 months). The median time in the position for Hunter ALS solicitors (5 months) was the lowest in the State — 19 months shorter than the State median (24 months). Hunter CLC solicitors were in their positions for an average 12 months (median=3 months), at least 15 months shorter than the State mean (27.6 months) and median (18 months) times. In contrast, Legal Aid solicitor positions appeared very stable with a mean time in the position of 33 months, or more than a year longer than the State average (18.7 months). The median time in the position for Hunter Legal Aid solicitors (29 months) was almost three times the corresponding State median (10.2 months).
Social and economic indicators	Increasing population. Eight of 11 LGAs in Hunter classified as Inner Regional. Three regional LGAs in economic decline. Socio-economic disadvantage varies: six mildly advantaged LGAs; four mildly disadvantaged LGAs; one highly disadvantaged LGA. Average 2.6% Indigenous population across the region. Average 6.4% unemployment, higher in Newcastle city (7.2%) and two regional LGAs (8 to 9%). Up to 32% of families in some LGAs were one parent families (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*ILLAWARRA*
Availability of legal services	Illawarra contained 393 (or 2%) of the State's solicitors but 6% of the NSW population. One solicitor for every 1,000 residents (or a rate of 99.7 solicitors per 100,000 population). 5% of Legal Aid NSW and CLC solicitors located in this region. Rate of Legal Aid and CLC solicitors (7.4 per 100,000 residents) was a little below the State rate. One Legal Aid or CLC solicitor for every 13,600 residents. 7% of all ALS solicitors located in Illawarra. Indigenous population of the region is 6%. One ALS solicitor for every 1,430 Indigenous residents. Illawarra region had: • 4% of civil law panel members • 6% of criminal law panel members • 7% of family law panel members • 10% of care and protection panel members. Based on population share (6%), Illawarra had a lower share of the State's legal aid grants for civil law (2%) and a higher share of family law (7%) and care and protection (9%) grants. Criminal law grants (6%) were 'as expected'.
Recruitment issues	No major recruitment issues identified. 6% of public legal assistance solicitor positions in Illawarra were vacant, compared to 7% statewide. In the Illawarra, the level of public legal assistance solicitor positions occupied by a lawyer other than the incumbent (20%) was lower than the State average (32%).
Retention issues	CLC solicitor positions identified as somewhat unstable. CLC solicitors were in their positions on average for 8 months less than the statewide mean (with a median difference of 2 months). ALS solicitors were in their positions for 32 months (median=20 months), slightly lower than the ALS statewide average of 42 months (median=24 months). Legal Aid solicitors appeared quite stable. They were in their positions for an average 29 months (median=21.7 months) compared to the State average of 18.7 months (median=10.2 months).
Social and economic indicators	Increasing population. Three of five LGAs in Illawarra classified as Inner Regional. One regional LGA in economic decline and is mildly disadvantaged. Indigenous population varies from 1.2% to 3.8%. Average unemployment 6.6% but up to 9%. One parent families were 16% of all families (same as NSW average).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*RICHMOND-TWEED*
Availability of legal services	Richmond-Tweed contained 261 (or 1.3%) of the State's solicitors but 3.4% of the NSW population. The per capita rate of 119 solicitors per 100,000 persons translates to one solicitor for every 840 residents. 3% of Legal Aid NSW and CLC solicitors located in this region. One Legal Aid or CLC solicitor for every 11,000 residents. This is around the State average ratio. 3% of all ALS solicitors located in Richmond-Tweed. Indigenous population of the region is 5%. Per capita rate of ALS solicitors was the second lowest across NSW. One ALS solicitor for approximately every 2,500 Indigenous residents. Richmond-Tweed had: • 6% of civil law panel members • 4% of criminal law panel members • 6% of family law panel members • 7% of care and protection panel members. Based on population share (3.4%), Richmond-Tweed had a lower share of the State's legal aid grants for civil law (2.3%) and a higher share of family law (6.0%) grants. Criminal law (3.4%) and care and protection (3.7%) grants were 'as expected'.
Recruitment issues	Major recruitment issues identified. 13% of public legal assistance solicitor positions in region were vacant — almost double the State average (7%). Relatively moderate proportion (22%) of public legal assistance solicitor positions being occupied by a lawyer other than the incumbent.
Retention issues	Average length of time in the position (35 months) was less than the ALS State average (42 months) but median length of time in the position (24 months) for ALS solicitors in Richmond-Tweed was no different from the State median. CLC solicitors in the Richmond-Tweed were in their positions for an average 45 months or almost 1.5 years longer than the State average. Median length of time in the position was 22 months higher than the State median. Five of 11 (45%) Legal Aid solicitors had been in their positions for six months or less. This contributed to the low mean value (12 months), although the remaining six Richmond-Tweed Legal Aid solicitors had been in their positions for much longer periods and raised the median value to almost 17 months — seven months higher than the State median (10.2 months).
Social and economic indicators	Increasing population. Five of six LGAs in region classified as Inner Regional. Three LGAs in lowest economic quintile (bottom 20%). Generally, economically stable. Two highly disadvantaged LGAs (Kyogle and Richmond Valley). Average 3.3% Indigenous population across the region. Average 8.5% unemployment (NSW average — 6%) Average 19% and up to 23% of families in some LGAs were one parent families (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*MID-NORTH COAST*
Availability of legal services	MNC contained 241 (or 1.2 %) of the State's solicitors but 4.4% of the NSW population. One solicitor for every 1,180 residents. No CLC in this region. (One FVPLS with two solicitors located in West Kempsey). 1.6% of Legal Aid NSW (and CLC) solicitors located in this region. One Legal Aid (or CLC) solicitor for every 28,500 residents. The per capita rate of 3.5 Legal Aid or CLC solicitors per 100,000 residents is much lower than the corresponding State average (9.3 per 100,000). 8% of all ALS solicitors located in MNC. Indigenous population of the region is 8.8%. One ALS solicitor for around every 1,700 Indigenous residents. MNC had: • 10% of civil law panel members • 6% of criminal law panel members • 9% of family law panel members • 11% of care and protection panel members. Based on population share (4.4%), MNC had a slightly lower share of the State's legal aid grants for civil law (3.7%) and care and protection matters (4.0%) but a higher share of criminal law (9.6%) and family law (10.5%) grants.
Recruitment issues	Major recruitment issues identified. Three of 17 (18%) public legal assistance solicitor positions in MNC were vacant — more than double the State average (7%). Moderate proportion (18%) of public legal assistance solicitor positions being occupied by a lawyer other than the incumbent. No CLC in region. Therefore, no CLC positions to recruit.
Retention issues	No major retention issues identified. On average, ALS solicitors in the MNC had been in their positions longer (mean=106 months, median=48 months) than ALS solicitors elsewhere in the State (mean=42 months, median=24 months). Length of time in the position for Legal Aid solicitors in this region (mean=19.8 months, median=11.9 months) were marginally higher than the State values (mean=18.7 months, median=10.2 months). No CLC in region. Therefore, no CLC positions to retain.
Social and economic indicators	Increasing population in seven of eight LGAs. One LGA in decline. Four Inner Regional LGAs, three Outer Regional LGAs and one Very Remote LGA (Lord Howe Island). Generally, economically stable but five LGAs in lowest economic quintile (bottom 20%). Four highly and two mildly disadvantaged LGAs. Average 4.3% and up to 9.3% Indigenous population across the region. Average 10% and up to 15% unemployment (NSW average — 6%). Average 17% and up to 21% of families in some LGAs were one parent families (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*NORTHERN*
Availability of legal services	Northern contained 182 (or 0.9 %) of the State's solicitors but 2.6% of the NSW population. One solicitor for every 950 residents (rate of 105.6 solicitors per 100,000 population). (One FVPLS with two solicitors located in Moree.) 1.1% of Legal Aid NSW and CLC solicitors located in this region. One Legal Aid or CLC solicitor for every 24,500 residents. This is 2.3 times the State ratio. 9% of all ALS solicitors located in Northern. Indigenous population of the region is 10%. One ALS solicitor for every 1,700 Indigenous residents. Northern had: • 2% of civil law panel members • 5% of criminal law panel members • 7% of family law panel members • 8% of care and protection panel members. Based on population share (2.6%), Northern had a higher share of criminal law (8.3%), family law (4.8%) and care and protection (4.2%) grants. Its share of civil law grants (2.4%) was roughly 'as expected'.
Recruitment issues	No major recruitment issues identified. (However, one vacant FVPLS position in Moree.)
Retention issues	No major retention issues identified. Three of the four Legal Aid solicitors in the Northern region had been in their positions for longer than three years. The remaining solicitor had been in the position for less than six months.
Social and economic indicators	All 13 LGAs in this region experiencing declining populations. Two Inner Regional LGAs and 11 Outer Regional LGAs. Six LGAs in lowest economic quintile (bottom 20%). Five of the 13 LGAs in economic decline. Others stable. Seven highly and three mildly disadvantaged LGAs. Average 7.9% and up to 19.3% (Moree Plains) Indigenous population. Average 7% and up to 8.3% unemployment (NSW average — 6%) Average 15% and up to 18.5% of families in some LGAs were one parent families (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*NORTH WESTERN*
Availability of legal services	North Western contained 104 (or 0.5 %) of the State's solicitors but 1.7% of the NSW population. One solicitor for every 1,070 residents (or a rate of 93.5 solicitors per 100,000 population). 2% of Legal Aid NSW and CLC solicitors located in this region. One Legal Aid or CLC solicitor for every 9,270 residents. This is just above the State ratio (i.e. 10.8 versus 9.3 Legal Aid or CLC solicitors per 100,000 persons). Almost 14% of all ALS solicitors located in North Western. Indigenous population of the region is 10.3%. One ALS solicitor for every 2,544 Indigenous residents is one of the State's worst ratios (where an ALS existed). North Western had: • no civil law panel members • 2% of criminal law panel members • 2% of family law panel members • 1% of care and protection panel members. Based on population share (1.7%), North Western had a higher share of legal aid grants for criminal law (2.4%) and a lower than expected share of civil law (0.5%) grants. Family law (1.9%) and care and protection (1.4%) grants were roughly 'as expected'.
Recruitment issues	Major recruitment issues identified. Three of 24 (13%) public legal assistance solicitor positions in region were vacant — almost double the State average (7%). Both vacant Legal Aid positions in this region had been unfilled for 10 months, double the average length of time for vacant positions across the sector. A relatively small proportion (17%) of public legal assistance solicitor positions was occupied by a lawyer other than the incumbent.
Retention issues	ALS solicitor positions identified as unstable. Legal Aid solicitor positions identified as unstable. However, CLC Legal Aid solicitor positions identified as stable. Average time in the position for North Western ALS solicitors (12 months) was much shorter than the State average (42 months). The median time in the position for these ALS solicitors (six months) was just one-quarter of the State median (24 months). Five of 11 (45%) ALS solicitors in this region had been in the position for no more than six months. On average, Legal Aid solicitors in North Western were in their positions for much shorter periods (mean=7 months, median=5 months) than Legal Aid solicitors elsewhere in the State (mean=19 months, median=10 months). In stark contrast, CLC solicitors in North Western were, on average, in their positions for much longer periods (mean=63 months, median=24 months) than CLC solicitors elsewhere in the State (mean=28 months, median=18 months).
Social and economic indicators	North Western region contains many of the more remote areas of NSW. All 12 LGAs in this region experiencing declining populations. One Inner Regional, five Outer Regional, four Remote and two Very Remote LGAs. Six LGAs in lowest economic quintile (bottom 20%). Four LGAs in economic decline. Seven highly and four mildly disadvantaged LGAs. Average 12.8% and up to 60% (Brewarrina) Indigenous population. Average 7% and up to 12.7% unemployment (NSW average — 6%). Average 18.7% and up to 28.9% of families in some LGAs were one parent families (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*CENTRAL WEST*
Availability of legal services	Central West contained 146 (or 0.8 %) of the State's solicitors but 2.6% of the NSW population. One solicitor for every 1,170 residents (or a rate of 85.4 solicitors per 100,000 population). No CLC. (One FVPLS with two solicitors located in Forbes.) There were five Legal Aid NSW solicitors located in this region. One Legal Aid (or CLC solicitor) for every 34,000 residents. This is the second worst ratio across the State and three times higher than the State ratio. Three ALS solicitors (3.4%) located in the Central West. Indigenous population of the region is 5.5%. One ALS solicitor for every 2,500 Indigenous residents is one of the worst across the NSW regions. Central West had: • 4% of civil law panel members, but none active in 2008/09 • 3% of criminal law panel members • 4% of family law panel members • 4% of care and protection panel members. Based on population share (2.6%), Central West had a higher share of legal aid grants for civil law (3.2%), presumably undertaken by lawyers other than appointed panel members. It also had a higher than expected share of family law (4.4%) and care and protection (3.0%) grants. Criminal law grants (2.6%) were 'as expected'.
Recruitment issues	No major recruitment issues identified. However, no CLC in this region. Therefore, no CLC positions to recruit.
Retention issues	No major retention issues identified. All three ALS solicitors in the Central West had been in their positions for 12 months or longer. The mean time (52 months) and median time (19 months) in the position for Legal Aid solicitors in the Central West was much higher than the corresponding State figures (mean=19 months, median=10 months). However, no CLC in this region. Therefore, no CLC positions to retain.
Social and economic indicators	Modest population growth (but less than State average) in 12 LGAs. One LGA experiencing a population decrease. Eight Inner Regional and five Outer Regional LGAs. Four LGAs in economic decline. Five LGAs stable. Four LGAs experiencing improving economies. Five highly and five mildly disadvantaged LGAs. Average 4.5% and up to 14.9% (Lachlan) Indigenous population. Average 6% and up to 8.4% unemployment (NSW average — 6%). One parent families — 10% (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*SOUTH EASTERN*
Availability of legal services	South Eastern contained 126 (or 0.7 %) of the State's solicitors but 3.0% of the NSW population. There was one solicitor for every 1,570 residents (a rate of 63.7 solicitors per 100,000 population). No CLC in region. No Legal Aid NSW office in region (although there was one part-time family law solicitor in Bega, supported by the Nowra office). There were no Legal Aid or CLC solicitors to provide legal services to the general population of 198,000 persons living in this region. Three ALS solicitors (3.4%) were located in South Eastern NSW. Indigenous population of the region is 3.6%. One ALS solicitor for approximately every 1,700 Indigenous residents. South Eastern had: • 4% of civil law panel members, but none active in 2008/09 • 4% of criminal law panel members • 4% of family law panel members • 5% of care and protection panel members. Based on population share (3.0%), South Eastern had a higher share of legal aid grants for criminal law (5.0%) and a lower than expected share of civil law grants (1.0%, presumably performed by private lawyers other than appointed panel members). Family law (2.6%) grants were slightly lower than expected. Grants of legal aid for care and protection matters (3.2%) were roughly 'as expected'.
Recruitment issues	No major recruitment issues identified. However, no CLC or Legal Aid NSW office in this region. Therefore, no CLC or Legal Aid positions to recruit.
Retention issues	No major retention issues identified. However, no CLC or Legal Aid NSW office in this region. Therefore, no CLC or Legal Aid positions to retain. ALS solicitor positions appeared to be very stable with average (53 months) and median (36 months) time in the position substantially higher than the State mean (42 months) and median (24 months). (It should be noted that two of the three ALS solicitor positions in the South Eastern region were located in Canberra.)
Social and economic indicators	Increasing population in all 13 LGAs. Nine Inner Regional and three Outer Regional LGAs. Economically stable or improving. One LGA in economic decline. Two highly and five mildly disadvantaged LGAs in this region. Average 2.5% Indigenous population. Average 4.7% and up to 9% unemployment (NSW average — 6%) One parent families — 13% (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*MURRUMBIDGEE*
Availability of legal services	The Murrumbidgee region contained 143 (or 0.7 %) of the State's solicitors but 2.3% of the NSW population. There was one solicitor for every 1,030 residents (a rate of 97.1 solicitors per 100,000 population). No CLC in region. Only 1.5% of Legal Aid NSW (and CLC solicitors) located in this region. A rate of 6.1 per 100,000 residents or one Legal Aid (or CLC solicitor) for every 16,360 residents. This is 50% higher than the State average ratio. 7% of ALS solicitors were located in the Murrumbidgee region. Indigenous population of the region is 4.3%. One ALS solicitor for every 1,000 Indigenous residents. The Murrumbidgee region had: • 1% of civil law panel members, but none active in 2008/09 • 1% of criminal law panel members • 1% of family law panel members, but none active in 2008/09 • 1% of care and protection panel members. Based on population share (2.3%), Murrumbidgee had a higher share of legal aid grants for criminal law (4.4%) and a lower than expected share of civil law grants (0.2%, presumably performed by private lawyers other than appointed panel members). Family law (1.6%) grants were lower than expected (and presumably also performed by private lawyers not on the family law panel). Grants of legal aid for care and protection matters (2.9%) were slightly higher than 'expected'.
Recruitment issues	Major recruitment issues identified. Two of 15 (13%) public legal assistance solicitor positions in region were vacant — almost double the State average (7%). But no public legal assistance solicitor positions occupied by a lawyer other than the incumbent. No CLC in this region. Therefore, no CLC positions to recruit.
Retention issues	ALS solicitor positions identified as unstable. Legal Aid solicitor positions identified as unstable. Average time in the position for Murrumbidgee region ALS solicitors (27 months) was substantially lower than the State average (42 months). The median time (12 months) in the position for ALS solicitors in this region was half that for all ALS solicitors in NSW (24 months). Nonetheless, four of the five ALS solicitors had been in the position for more than six months. In contrast, Legal Aid solicitors in this region were in their positions for much longer average periods (mean=27.9 months, median=17.7 months) than Legal Aid solicitors elsewhere in the State (mean=18.7 months, median=10.2 months). No CLC in this region. Therefore, no CLC positions to retain.
Social and economic indicators	Modest population growth (but less than State average) in all 14 LGAs. Six Inner Regional, seven Outer Regional and one Remote LGA. Five LGAs in lowest economic quintile (bottom 20%). Seven LGAs were economically stable or improving. The other seven LGAs were in economic decline. Seven highly and five mildly disadvantaged LGAs in this region. Average 4.1% and up to 9.4% Indigenous population. Average 5.2% and up to 7.1% unemployment (NSW average — 6%) One parent families — 14% (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*MURRAY*
Availability of legal services	The Murray region contained 67 (or 0.3 %) of the State's solicitors but 1.7% of the NSW population. There was one solicitor for every 1,650 residents (a rate of 60.6 solicitors per 100,000 population). No Legal Aid NSW office in the region. No ALS in the region. Only 1% of CLC (and Legal Aid) solicitors located in this region. One CLC (or Legal Aid) solicitor for every 18,400 residents. This is 70% higher than the State ratio. Indigenous population of the region is 2.0%. There were no ALS solicitors to provide legal services to the 2,800 Indigenous persons living in this region. The Murray region had: • 2% of civil law panel members • 1% of criminal law panel members • 1% of family law panel members • 1% of care and protection panel members. Based on population share (1.7%), the Murray region had a lower share of legal aid grants for civil law (1.3%) and care and protection matters (0.8%). The level of grants for criminal law and family law were 'as expected'.
Recruitment issues	No major recruitment issues identified. However, no Legal Aid NSW office or ALS in this region. Therefore, no Legal Aid or ALS positions to recruit.
Retention issues	CLC solicitor positions identified as somewhat unstable. Average length of time in position for CLC solicitors in Murray (30 months) was just above the State average although the median time (9.5 months) was almost half that for CLC solicitors across NSW. No Legal Aid NSW office or ALS in this region. Therefore, no Legal Aid or ALS positions to retain.
Social and economic indicators	Five Inner Regional and eight Outer Regional LGAs. Modest population growth (but less than State average) in all 13 LGAs. Ten LGAs were economically stable or improving. The other three LGAs were in economic decline. Two highly and eight mildly disadvantaged LGAs in this region. Average 2.5% and up to 9% Indigenous population. Average 4.4% and up to 5.8% unemployment (NSW average — 6%) One parent families — 12% (NSW average — 16%).

RECRUITMENT AND RETENTION OF LAWYERS IN NSW — REGION PROFILES

Region (SD)	*FAR WEST*
Availability of legal services	The Far West contained 10 (or 0.1 %) of the State's solicitors but 1.7% of the NSW population. Lowest per capita rate of solicitors of all regions in NSW (one solicitor for every 2,000 residents). Four of the ten solicitors in the Far West work for the CLC (or the FVPLS). Two ALS positions in the region (one vacant). No Legal Aid NSW office in the region. Far West had the highest per capita rate of ALS and CLC solicitor positions in NSW: one ALS solicitor position for every 970 Indigenous residents one CLC (or Legal Aid) solicitor position for every 5,500 residents. The Far West had: • one civil law panel member, not active in 2008/09 • 0.5% of criminal law panel members • 0.5% of family law panel members • no care and protection panel members. Based on population share (0.3%), the Far West had a higher share of legal aid grants for criminal law (0.6%). The level of grants for civil law, family law and care and protection matters were 'as expected'. The grants of legal aid for civil law and care and protection matters were presumably performed by private lawyers who were not appointed panel members.
Recruitment issues	Major recruitment issues identified. Two of six (33%) public legal assistance solicitor positions vacant compared to 7% statewide. Two other (33%) public legal assistance solicitor positions occupied by a lawyer other than the incumbent (i.e. a locum, secondee or someone acting in the position). Only RRR region with anything close to the State average (32%) for solicitor positions occupied by non-incumbents. No Legal Aid NSW office in this region. Therefore, no Legal Aid positions to recruit.
Retention issues	ALS solicitor positions identified as unstable. CLC solicitor positions identified as unstable. Only one of two ALS solicitor positions filled. The filled ALS solicitor position had been occupied for just nine months compared to the ALS statewide average of 42 months (median=24 months). All four CLC solicitors were in their positions for four months or less (mean=2 months, median=1.5 months) compared to statewide CLC average of 28 months (median=18 months). No Legal Aid NSW office in this region. Therefore, no Legal Aid positions to retain.
Social and economic indicators	One of the most remote areas of NSW. One Outer Regional LGA (Broken Hill) and one Very Remote LGA. Both LGAs experiencing declining populations. Both LGAs in lowest economic quintile (bottom 20%). Both LGAs highly disadvantaged. 8.8% Indigenous population (but over 36% in Central Darling). 10% unemployment (6% for NSW). One parent families — 19% (NSW average — 16%).

The views of rural solicitors and legal service managers

The statistical data collected from the Law Society of NSW and public legal assistance services indicated that:

- within rural NSW, some areas have significantly more lawyers than other areas
- in the more remote regions of NSW, a significant proportion of all lawyers in the area are public legal assistance solicitors
- the factors driving the location of private law firms (largely economic realities) differ from the factors driving the location of public legal services (i.e. policy and political considerations)
- while there were few actual vacancies in rural areas on the census date, there was evidence of temporary measures to fill positions and high turnover, in some locations more than others
- in the more remote parts of NSW, solicitors tended to stay for shorter periods in public legal assistance positions and have less experience than solicitors in other areas of the State.

To add context to these quantitative results, a relatively small number of in-depth interviews (n=21) were undertaken with:

- solicitors working in different regional and remote regions of NSW
- solicitors who had left these regions
- legal service managers tasked with staffing RRR offices.

The analysis presented in this chapter also includes comments made by legal services on their data returns for the census of legal positions in NSW.

The interviews and census comments provide more personal perspectives on:

- the recruitment of RRR public legal assistance lawyers
- the retention of RRR public legal assistance lawyers
- the impact of recruitment and retention difficulties on rural public legal assistance services, and
- the availability of private lawyers to assist disadvantaged clients in RRR areas.

Recruitment to RRR public legal assistance positions

Where RRR solicitors come from

Interviewees reported that few solicitors working in public legal assistance solicitor positions in RRR NSW were from the local area, with many coming from major cities (Sydney and interstate). Of the solicitors interviewed for this study, eight had moved from Sydney, four had moved from interstate and one had recently migrated from overseas. Two lawyers interviewed had returned to work in the locations where they were born or raised, although one had only returned for a finite period (Interview 9). The observation that most lawyers working in RRR areas are not 'from' these areas, underpins many of the difficulties experienced with lawyer recruitment and particularly with lawyer *retention* in RRR areas.

Some RRR areas were able to source solicitors from the local area. As will be illustrated later in this chapter, some solicitors who originally came from the city to take up a legal position in the country (e.g. for a CLC or the ALS), then moved to a second legal job in the same or a nearby region (e.g. for Legal

Aid NSW or private practice). These intra-region movements were reported as common in regional areas where there was more than one public legal assistance employer and/or local opportunities in private practice.

Regional universities also provided a source of recruits for public legal assistance services in their vicinity. CLCs and Legal Aid reported recruiting law students from the local universities, who had undertaken volunteer work placements at their agencies.

Motivations for taking public legal assistance positions in RRR areas

With many lawyers coming from major cities or interstate, the interviews suggested that common motivations for lawyers to take public legal assistance positions in RRR NSW included:

- to get a job or greater job security/permanence
- to gain a depth of legal experience in a relatively short space of time
- a social justice imperative
- for work-life balance/ (family) lifestyle.

The choice of location, in some cases, was influenced by a prior connection to the area.

To get a (more permanent) job

The interviews indicated that there were some private and public solicitors taking positions in RRRs areas because they were unable to find employment as a lawyer in the city:

> *It was totally because I couldn't get work in Sydney. I was a late starter, you know, I'm in my late 50s … and that seemed to be a major impediment and, yeah, I just couldn't get anything in Sydney, so I started to look elsewhere.* (Interview 5)

> *This one I knew I would have success with because nobody else would want it because who is going to move and do it for 6-12 months … who with experience would do that? And I was the only applicant, so it was easy, I don't think we even had an interview.* (Interview 20)

Within Legal Aid NSW, some junior solicitors had taken positions in regional areas to secure longer term or permanent positions. One lawyer, who had been able to secure only temporary work in Sydney, said:

> *The solicitor in [a regional town] … had applied for extension of the leave so there was a vacancy for that period of time. HR could not recruit any proper candidate, I think, so I was there initially as a relief [then] a proper recruitment was organised and I applied for the position ... and was actually selected. I was very fortunate.* (Interview 1)

The interviews also suggested that recruits who had moved to rural areas to get legal experience tended not to be drawn to a *particular* rural location; they were prepared to go to wherever the work was:

> *I had just graduated from law school and I needed that experience badly and to work with the (Legal Aid) commission was an ideal job for me, it didn't matter where I would be working … gave me an opportunity to do civil law work.* (Interview 1)

To get particular legal experience

As well as those solicitors who could not find a legal job in the city, another group who were willing to move to RRR areas were "talented" (Interview 7) young lawyers seeking to accelerate their career by getting in-depth and/or broad ranging experience in a relatively short space of time. Some lawyers were

attracted to the opportunity to undertake a broad range of legal work or to work at a higher level than a solicitor with equivalent experience in the city (e.g. undertake District Court work):

> *... you're not pigeon holed into local court or district court or just running appeals, which the ... lawyers do in Sydney ... they're really pigeon holed ... I was running everything from local court, Children's Court, District Court and Supreme Court, right through, which you don't get that opportunity very often in the city.* (Interview 10)

While this was reported across all three public legal assistance services, this was regularly mentioned in relation to ALS solicitors doing criminal law work:

> *[WALS[54]] had a good reputation ... as a good solid professional legal service, that was well managed ... where young lawyers got very good training, the people at the Legal Aid Commission often said ... (and they took most of our lawyers!), that a year at the WALS was like 5 years anywhere else.* (Interview 18)

The interviews suggested that many solicitors who had moved to the country primarily to get a (permanent) legal job or to gain particular work experience, viewed the move as a short term arrangement: a sharp learning curve and as a step to something 'better', often back in the city:

> *Others come seeking a permanent position, but then look for jobs elsewhere once they arrive.* (Interview 12)

> *Because [when I came out here] I wanted to do five years at [legal service] and go back to Sydney so my plan wasn't to stay out here ... I was going to do five years and then hope to go to the Bar and do trials.* (Interview 14)

Social justice imperative and an interest in remote area practice

A motivation among the interviewees for taking *public* legal assistance positions in particular, related to the desire to provide legal assistance to disadvantaged communities and to work in remote communities. While an interest in social justice is not a motivation exclusive to RRR areas, some of the opportunities available in rural and remote areas are quite unique:

> *... working in remote Aboriginal communities was a whole new world for me. Having lived a rather traditional anglo middle class life in Sydney. It was very rewarding work. The association with the communities was very rewarding.* (Interview: 18)

> *To get out of Sydney, and I liked the idea of the remoteness and there was circuit work on offer as well, I liked the idea of doing circuit work which I did for about a year, which meant going to really remote places for a week and half every month of the year. It all sounded very exotic, until I was doing it!* (Interview 11)

Lifestyle and work-life balance

Lifestyle was also described as a motivation to work in rural public legal assistance services. A number of interviewees reported seeking a better work-life balance, a less stressful lifestyle and the opportunity to bring up children in a country environment:

> *I just wanted to get out of the city ... I just thought look if I stayed in Sydney I'd never have children, its just really a lot harder to do, I've [now] got three kids and I work full time, I think I'd have difficulty doing that in Sydney.* (Interview 10)

Unlike the solicitors moving to RRR areas for work experience, these solicitors tended to be older, already had some legal experience in the private or public sector, had children or were considering starting a family. Among this group were solicitors leaving big city law firms:

[54] Western Aboriginal Legal Service, which is now part of ALS NSW/ACT.

> *I just wanted to get out of Sydney, I'd had enough. 80 to 90 hours a week in certain firms I'd worked in, not worth it. You're not getting the recognition, you're not getting the work you really want and you don't have a life ... that's the main part that drew me out of the city into different areas, and I looked all round the place and settled on this one. I didn't even know where [country town] was.* (Interview 13)

Amongst this group were lawyers whose partners had got jobs (legal or non-legal professions) in the region, and they too were looking for work in the area. Lawyers seeking a lifestyle change tended to be drawn to larger regional towns with facilities for themselves and their families, rather than less well-resourced and more distant remote locations.

Work-life balance was a drawcard to public legal assistance services in particular. Solicitors reported being attracted by the more flexible hours offered by both CLCs and Legal Aid NSW. Such lawyers included those leaving behind the more pecuniary aspects of private sector practice:

> *I've always been attracted to a legal aid type role ... not having those restrictions that are in place when you work in private ... counting the minutes and the hours and having the dollar sign between you and the client.* (Interview 9)

This group appeared more likely to stay in RRR areas for longer than those recruits moving to rural areas simply to gain legal experience.

Existing connection to an area

Previous literature on the recruitment and retention of RRR lawyers has described how a connection to an area can act as an incentive to live and work in that area. While the lawyers interviewed in this study certainly factored in family or social networks to their decision about *where* in the country to move to, on the whole, a prior connection to a rural area did not appear to be the main motivation for them to leave the city in the first place.

To illustrate, two interviewees with connections to a rural area made the decision to move to a country area, one "to get out of a big city and do something different" (Interview 4) and the other because her partner could make more money in the country (Interview 9). However, the decision as to *where* to move was influenced by existing connections to the area. The former moved to a regional centre where friends were working, while the other moved to a remote town close to where her mother had returned to live. Yet another interviewee moved back to a regional area where he had previously studied and had friends (Interview 21).

Disincentives to rural public legal assistance work

The most immediate barrier to recruitment identified in the interviews was that most lawyers were from elsewhere and, in the words of one interviewee: "I think people, understandably, don't want to leave their home, friends and family" (Interview 15, public legal assistance solicitor, left Inner Regional area). Other factors raised in the study included:

- concerns about the specific location
- perceived status of the position or work
- the salary package offered.

The RRR location

Interviewees reported a range of negative perceptions about rural life as barriers to recruiting lawyers to country areas. These included a reported perception among city lawyers that rural communities are insular and "hick" (Interview 13); that social networks would be difficult to establish; that the services, facilities and (cultural) activities were of lower quality or absent (Interview 15); and, that the physical environment was harsh:

> *The reasons people don't come out here are lifestyle … I've spoken to people in Sydney … and the reasons they don't come out here is that they don't want to live in 45 degree desert with … flies.* (Interview 19)

Some informants put this down to the little knowledge that city lawyers were perceived to have about country locations and the benefits of country life (Interview 13). One interviewee observed:

> *You automatically have less numbers of people applying because some people don't know where [the regional town] is and don't have a connection [to the area].* (Interview 12)

Consistent with data presented in earlier chapters, the interviews suggested that it was more difficult to recruit to some parts of NSW than others. Interviewees reported that regional areas were easier to recruit to than the more remote parts of NSW:

> *Larger rural communities are able to attract more potential good candidates just because they are a bit known, there is something to sell: there is a TAFE, there is a university, there is a bit more of a diverse population ... people feel that they will be able to connect into a community and participate in activities that they like to do. It is a little bit easier to sell a larger place [such as] Wagga and Dubbo. It is difficult to get quality people on the ground for any length of time in [more remote offices].* (Interview 16)

However, while it may be easier to recruit to regional than remote areas, is not necessarily 'easy':

> *It is not easy to recruit and retain lawyers in the public sector in rural NSW. For example, at one time, we were without both a Principal Solicitor and a second solicitor. Despite advertising extensively and despite the fact that we are a larger regional centre, we still had relatively few applications. We consider that lifestyle and remuneration were two major factors in this.* (Comment from CLC census return)

Distance from 'home' was also raised as a factor:

> *Sometimes people [ring] inquiring about the job. They are interested in going to the country, but in their minds, the country stops at Bathurst. As in,'I'm happy to go just over the Blue Mountains but not too much further away because I still want to be able to go back to Sydney on the weekend'.* (Interview 16)

However, the following statement from a lawyer working in a fairly remote area of NSW, suggests that the notion of remoteness is relative:

> *They offered me Broken Hill but that was far too remote. I have a life in Sydney and I try to go back once a month or so.* (Interview 17)

One part of NSW which was reported to have little difficulty in recruiting and retaining lawyers was the Richmond-Tweed region. The particular features of that region are discussed in the next section on the retention of RRR lawyers.

Perceived status of the position or work

A number of interviewees suggested that there was a perception in the cities that country legal work has less status than working in a city practice, and therefore, that moving to a country area was a damaging

career move:

> *I think what the problem in relation to recruiting to country areas [is] that there's a stigma attached to it, and I think that is a stigma attached to it that comes from law schools. It's about, you need to get a job in the top ten law firms otherwise it's seen as a failure.* (Interview 14)

Another interviewee spoke about how this perception applied to the rural public legal sector:

> *My impression is that there is an attitude [amongst city lawyers] that our lawyers must be 'pretty pathetic lawyers' to work for so little pay doing our type of work.* (Interview 2)

As alluded to in this quote and others, salary was also reported to affect the ability of rural public legal assistance services to attract solicitors.

Salary package

Salary was raised by a number of interviewees as a factor affecting the recruitment of *experienced* lawyers to public legal assistance positions in RRR areas. As one solicitor commented:

> *That's how I ended up as principal, because nobody wanted to do it ... they get very surprised by the money when they see what's on offer ... A lot of the time there were just no applicants ... nobody is willing to go somewhere like that for that amount of money, it's just not feasible, why would you unless you were a beginner ... which I was, so it was fine for me.* (Interview 20)

Salary was described as a particular barrier to recruitment to remote areas, due in part to the additional costs of relocation, travelling 'home' and higher costs of living:

> *Some of the difficulties are attracting staff to leave the city and come to remote areas ... the other issue is relocation costs, there seems to be more and more pressure put on us to offer some sort of relocation costs. In our budget we don't have a budget line for relocation costs, quite often we don't have reserves to offer relocation costs either.* (Interview 3)

Managers described how, because of the low pay and lack of allowances, the type of people they were able to recruit to positions in remote areas tended to be young and inexperienced. Without financial incentives, senior lawyers (who did not need to gain legal experience) had little to draw them to these remote areas:

> *... financially there is no benefit to being out here, you actually need to want to be out here ... you need a bigger financial incentive to get people out here, or travel benefits, the package, not much can be done to change the place or the job.* (Interview 19)

> *We predominantly have to get lawyers from Sydney or Adelaide and no one is willing to do it for the salary. And generally they have to be people without family. It's very hard to uproot an entire family and bring them out to [here]. We tend to get younger people or people straight from university, people who are not in partnerships or married.* (Interview 11)

Retention of lawyers in RRR public legal assistance positions

The interviews conducted for this study also provide insight into the factors affecting lawyer *retention* in RRR areas, and why some rural areas may have more difficulties in retaining public legal assistance lawyers than other areas. It should also be noted that the reasons given for lawyers staying in an area often related to *how long* they were prepared to stay, rather than whether or not they would stay permanently, as many had taken the positions with the intention of only staying for a finite period.

The interviews suggested that key considerations in deciding whether to stay or go from an area related to:

- lifestyle and work-life balance
- the lawyer's connection with the community and other lawyers
- the ability to save money due to either lower costs of living, a reasonable income and/or income subsidies (e.g. subsidised housing and relocation costs)
- continuing professional opportunities and the nature of the work.

Where these things could not be attained, lawyers tended to leave, or move after a shorter than expected stay in the area. That observed, some lawyers cited personal reasons for leaving RRR legal jobs that did not relate to either the location or the work.

Personal reasons

There appeared to be personal reasons why people left public legal assistance jobs in RRR areas which did not relate to the *particular* rural location of the job or to the work itself. As one manager said:

> *[It] depends on the circumstances. If I go back over the civil officers we've had, the previous one was a personal tragedy ... prior to that the solicitor's husband relocated ... so she went with him ... Prior to that was a solicitor [with] her family in [a capital city].* (Interview 12)

> *At least one person has left to pursue further education ... my reasons for going back to Sydney would definitely be my family.* (Interview 11)

Apart from the fact that people tended not to originally come from the rural area (and therefore have family or social connections elsewhere), these personal reasons tell us little about the characteristics of *particular* rural locations which may adversely affect lawyer retention.

However, the interviews also identified features of the actual location of the rural town, its facilities and its community which did affect the decision of lawyers to stay in or leave RRR areas.

Location and lifestyle

While a number of the lawyers interviewed for this study had been prepared to take legal positions in very remote locations, for some, the sheer distance from home has its effects:

> *They were certainly dedicated, but realistically how long can you expect a young lawyer in their 20s to work in a place like Walgett or Bourke. In the end though, [its] the remoteness, because most lawyers, as you know originate from Sydney, the remoteness from Sydney and from their friends and families took its toll. Solicitors working in Dubbo would often drive back to Sydney every weekend or every other weekend. [It] Takes its toll. They put in generally up to 2 years.* (Interview 18)

As one manager described, in places such as Walgett or Bourke, there are no commercial flights, with the nearest commercial airport located in Dubbo. Both these towns are more than nine hours' drive from Sydney. Broken Hill is a two day drive. While there are flights from Broken Hill, they were reported to be expensive, particularly for public legal assistance lawyers on low salaries:

> *And the pay isn't sufficient to allow people to travel back to Sydney to family and the distance makes it difficult.* (Interview 7)

Less than satisfactory lifestyle and local facilities were also given as reasons for leaving more remote areas:

> *If I was to move back to the city it would be lifestyle, purely. It's a very unhealthy lifestyle ... tends to be that way when you've grown up on the coast and you have beaches and trees ... out here there's not really a lot to do apart from pubs ... it's just lifestyle ... it's oppressively hot, the things that I've grown up doing don't really apply out here at all, you need to really make an effort to use your time constructively.* (Interview 19)

While remoteness or distance were raised as factors for the younger lawyers in particular, a desirable lifestyle did appear to sustain some lawyers in rural and, in some cases, remote locations. Some lawyers described a more relaxed environment, less commuting and a healthy lifestyle for them and their families as reasons for staying in particular RRR locations. Several informants had stayed in the country far longer than they had originally anticipated. In one case, a solicitor's 'five year plan' to get experience with the ALS and return to the criminal bar in Sydney had been replaced by investing in a local practice and staying in the remote location.

Local amenities were also discussed in this context. Lawyers with families spoke of the availability or otherwise of appropriate schooling for their children. In larger regional centres where lawyers were happy with the schooling and other activities for themselves and their families, they appeared happy to stay. However, some of the informants had left rural locations to return to a major city for their children's secondary education.

Work-life balance

Some solicitors had been drawn to public legal assistance positions for better 'work-life balance' than their city jobs or their private sector jobs. The achievement of this work-life balance was also given as a reason for staying in positions. Even the rural private sector lawyers interviewed described their workplaces as more relaxed and autonomous than jobs they had previously held in the city. However, as will be demonstrated, where there was less opportunity to achieve this lifestyle balance, solicitors appeared to stay in legal jobs for shorter periods of time. Opportunities for effective work and lifestyle balance appeared to be particularly difficult in the more remote public legal assistance offices.

Community networks and peers

Prominent among lawyers' reasons for staying in or leaving an area, were comments about connections to the local community, as well as the importance of social and professional peer networks. Larger regional centres with universities (e.g. Lismore and Armidale) appeared better able to offer this type of network.

In some instances, these connections were purely social. One lawyer left a rural town as he felt isolated from others from his cultural background at a time when he was hoping to meet someone and settle down (Interview 1).

It appeared that a 'community of peers' (Interview 7) — like-minded social and professional networks — helped to sustain lawyers in certain rural areas. Lawyers working in the Richmond-Tweed region, for instance, described the number of and high standard of legal professionals in the area, the quality of the legal work available, and the shared sense of social justice as a reason for staying there:

> *I chose [regional centre] for particular reasons, in particular the standard of the profession is very high, in terms of an RRR area. There is a public defender who is a senior counsel, there are two specialist barristers who just do crime ... There is another criminal law specialist in town as well as Legal Aid. I wouldn't have gone to another regional centre.* (Interview 10)

> *I've got great staff here. I'm in one of the best offices I could possible see. Really nice environment, great sense of social justice.* (Interview 8)

Both respondents also noted the relatively low turnover of lawyers in the region.

The need for a social network was particularly important for single young lawyers who were a long way from home, working in a highly stressful environment:

> *In the remote offices there's very limited access to other educated professionals as a start.* (Interview 7)

Not only were there few other professionals to socialise with, but as one manager reported, some lawyers "never really integrate into country life … or the community [and] they always felt like they're an outsider" (Interview 3). Another stated:

> *I used to hit a tennis ball against the wall down at the tennis courts, because I couldn't even get a tennis partner. Makes it hard to stay there for any length of time.* (Interview 5)

Two lawyers who had worked in a number of remote areas also spoke of isolation between themselves and other "middle-class educated people" in the town due to differing views on social justice issues and their work with Aboriginal people (Interview 15). It appeared that a lack of a social or professional network made it more difficult for people to stay in rural and remote locations for any extended period. This was compounded for lawyers in very remote locations.

Financial incentives/ the ability to 'save money'

The ability to save money was cited by a number of the interviewees as a key influence on their decision to stay in or leave a rural public legal assistance position. A number of factors affected lawyers' capacity to save including cost of living, salary levels, salary packaging and subsidies. A major issue concerning salaries in very remote locations related to the higher cost of living,[55] relocation costs, the costs associated with travelling home from very remote locations and housing. The research suggests that while lawyers did not go to work in RRR public legal assistance jobs for the money, the ability to save either through lower costs of living or higher salaries or salary packaging did influence their decision to stay longer in a rural area. Understandably, financial incentives took a more prominent role when lifestyle and community benefits were absent:

> *I think money, it has to come down to money. Yep. You come out here and you lose your lifestyle totally, you work 7 days a week and you … need to be rewarded for it, otherwise you're slaving away.* (Interview 19)

However, this lawyer also observed that "maybe if people don't want to be here, any amount of money is not going to get them to stay here, especially long term" (Interview 19).

Salaries influencing movements within regional areas

The interviews suggest that salaries and salary packaging may also be affecting the movement and retention of staff between different public legal assistance agencies *within* rural and regional areas. For instance, a number of interviewees had moved from CLCs or the ALS to Legal Aid *within* a region for more money or better working conditions or from Legal Aid to private practice for similar financial reasons. A number of private lawyers interviewed had previously worked for Legal Aid, the ALS or a CLC.

A common path described in the interviews was that lawyers get 'trained up' by the ALS or CLC and then

[55] Cost of living was reported to be lower in some regional parts of NSW.

leave to work at Legal Aid. One incentive for this move was financial:

> *I wanted to get out of the city. I worked with [the ALS] for about a year then [due to pay and salary packaging options]… I jumped across to Legal Aid in a temporary position … It was a situation really driven by money.* (Interview 10)

> *Money was the main reason, absolutely the main reason … I don't even have a family to support and it was still about money for me, I'm probably better off than a lot of people working for CLCs in rural areas … There's nobody but me to support financially … and I still found it difficult … I resented that I was paid like a social worker, because that's the award they are being paid under … I resented that the [union] had done nothing to approve that award for solicitors … I potentially would have stayed there if the money had been on par with legal aid.* (Interview 20)

These observations marry with findings from the quantitative data, which indicated that salaries in Legal Aid NSW are substantially higher than ALS and CLC salaries. That said, the salary packaging around CLC salaries was reported to make the low salary level somewhat more "tolerable" (Interview 3).

The manager at one CLC noted that they had lost staff to another service because the other agency could offer higher salaries (Interview 3). In contrast, a Legal Aid manager in a regional centre said that salary level was only "sometimes but not always an issue" in the retention of solicitors in country offices (Interview 8).

While salary does appear to be a factor affecting the movement of lawyers between and within RRR NSW, this is also an issue that has been raised in a number of forums, in relation to rural and *metropolitan* CLCs and ALSs. Salary is not a factor which is unique to the retention of public legal assistance solicitors in RRR areas, but it is a factor nonetheless.

Work related factors

Career progression and professional development

As described earlier, some lawyers are drawn to public legal assistance jobs in rural areas for the legal experience that they gain in these positions. Lawyers working in these jobs describe the benefits of this experience:

> *I'm learning a phenomenal amount, it's great … I don't really have enough time to think about the fact that I am living in the middle of nowhere.* (Interview 19)

However, while the opportunity to gain legal experience held lawyers in rural positions for a period of time, the ambition and drive behind this motivation also contributed to these lawyers moving on from these positions:

> *I wouldn't expect the more senior positions to be filled for more than 18 months. In those remote offices the people who have gone out are capable and talented and wonderful but they won't be there in another 2 years time. It will be onwards and upwards somewhere.* (Interview 7)

> *Particularly in the ALS, some of them they just want experience, they don't care where it is and then after 12 months they just want a transfer through to somewhere like Sydney… because they want to get back into that city thing.* (Interview 13)

Another manager reporting that some young lawyers were concerned that they would not progress their careers if they stayed in the country (Interview 16).

The nature of the work

The nature of public legal assistance work in RRR areas also appeared to contribute to the attrition of lawyers in some locations. The constant and grinding nature of the work, particularly in remote locations, was reported as a challenge for junior and more experienced public legal assistance lawyers alike. Having described the work as "the sort of work you wouldn't do forever" a lawyer who had left remote area practice noted that the work:

> *... did became draining and sort of constant — the same old problems, sometimes the same old clients and the feeling that you were sort of hitting your head against the brick wall at times — dealings with the police and certain magistrates and what have you. It did get rather draining.* (Interview 18)

Other lawyers described workloads that were "just so high, it is very hard to get on top of things a long way in advance" (Interview 19). Some of the factors reported as contributing to high loads in rural public legal assistance services were:

- the need to travel long distances (for instance to deliver outreach services and on court circuits)
- working in small offices and having to cover a range of administrative tasks, as well as the legal work
- having to cover other positions in addition to their own when staff were sick, were on leave or had resigned
- having a high volume of challenging clients
- managing conflict of interest issues
- limited access to supervision and support, particularly in small offices in remote locations.

In the context of high volume and at times demanding work, any additional stressors appeared to be strongly felt. Several lawyers who had worked in one town described the impact of a particular magistrate, described by one respondent as "a bully" (Interview 4). A manager observed:

> *It's slightly more country in the country, it's not as full on (here) ... one of the negatives is you tend to get stuck with the one magistrate. And that's one of the problems ... He's a very tough, cranky magistrate ... and that really affects recruitment because there are people who wake up in the morning and really don't want to deal with being yelled at.* (Interview 8)

Notably, this large regional centre was identified in the census as a 'hard to staff' location (see **Discussion** below).

Supervision and support

The combination of relatively junior and less skilled staff, the challenging work and less directly available supervision in some locations, was said to result in some staff not coping and staying for even shorter periods of time than they had originally intended. It appears from the interviews that in some of the more remote locations, lawyers tended to be "thrown in at the deep end" (Interview 3). One manager described lawyers being:

> *... literally thrown in at the deep end, given a suitcase full of files and sent off to Bourke for the week ... young lawyers in their first two years of practise handling a whole week of circuit court at Bourke or Walgett ... But generally they were on their own, they could ring me up for advice ... but it was a real stress trip for them. Having to make fairly significant decisions about matters and about ethical issues so far away from any immediate advice.* (Interview 18)

A senior lawyer gave his view of the quality of this experience:

> *You're getting an experience of being thrown in at the deep end but it is questionable how good that experience is [compared to being mentored].* (Interview 12)

A private lawyer who got his first job under the Legal Aid NSW Regional Solicitor Program described his experience in a remote town, doing virtually all legal aid work:

> *They put a lot of weight on those new lawyers. I was in [town] by myself virtually. My boss was based in [a larger regional town]. It meant that a lot of pressure landed on me. I was having to make decisions not knowing very much and to run cases not knowing very much. I was lucky to get 10 minutes a week talking to him for any advice ... and so that makes it tougher ... it makes it really quite a hard gig when you are trying to run it yourself when you don't have much knowledge and very little backup.* (Interview 5)

This lack of appropriate support and supervision contributed to his decision to leave:

> *It was tough for all those reasons and eventually after more than 18 months I thought, I've had enough. I've got a decent amount of experience, very much hands on useful experience, it's time to get out, I'd just had enough.* (Interview 5)

Others spoke of the impact of isolation in remote locations:

> *... it is just that constant feeling of isolation from the organisation, but also ... you don't care about me you don't know how hard I'm doing it out here, I've just finished court at 4:30pm and gone back to the office and there is no one there who has pulled out the files for me for tomorrow.* (Interview 16)

Workload stress and burnout

In order to maintain the quality of services in a challenging environment, lawyers spoke of working harder and for longer hours to meet the demands of the job. Where this was coupled with personal and professional isolation, lawyers did not last very long:

> *The problem you have with community legal firms in these sort of areas ... is that you burn out because it is the same work, really good job but you burn out doing the same stuff all the time and you really need an escape and you don't get the escape you need when you are doing that sort of work all the time. You probably feel like going to Bondi Beach or something, or just getting totally away from it.* (Interview 14)

Workplace and conditions

In the context of workload and the potential for burnout, some interviewees mentioned the importance of well supported workplaces, not only in terms of supervision and professional support, but also in terms of paralegal and administrative support:

> *Comes down to support staff, important to have a good office dynamic, really good secretarial staff and field officer, their role is integral, you wouldn't get anyone to court, it would be a disaster ... Retaining really good office dynamic is really important to keep stress levels down and enable you to stay here for more than a few months without having to run away screaming.* (Interview 19)

While this is not an issue that is unique to rural legal practice, a lack of administrative support and infrastructure had a particular impact in the rural context. For instance, one lawyer in a remote location described the frustration of the computer and/or internet not working, further isolating him from relevant sources of information and support (Interview 19). Issues such as having no one to answer the phone, having no support to find files that were left by the previous incumbent, not being able to contact senior lawyers in the city office for professional support because they were also in court, poor

resources and training were all reported to add to the difficulties of remote legal practice (Interviews 10, 19). While there was no single administrative issue reported as causing lawyers to leave their rural jobs, a lack of administrative support emerged as a strong theme in the interviews. It was seen as a factor that was likely to make an isolated and stressful work environment even more so — the proverbial 'last straw'.

Movement of lawyers from and within RRR areas

As described earlier, there is a group of young lawyers who go to rural NSW to gain legal experience, with the clear intention of returning to the city within a defined period. Most, it would seem, stick to their plan and only stay in the regional area for a short time:

> *I have only come for 12–18 months. I don't want to live in a RRR area.* (Interview 4)

> *We always managed to fill [positions], but the turnaround was more rapid than I would have liked.* (Interview 18)

Information from the small group of informants also indicated movement between different positions *within* RRR areas. Some lawyers had gone from rural ALS and CLC offices to Legal Aid NSW (usually for money and improved working conditions), others from Legal Aid to private practice (for more money or autonomy). One Legal Aid solicitor left for private practice as there were no opportunities for further promotion within that office.

There was also movement from private practice to the public legal sector. Movement to the public legal sector from the private sector appeared to be driven by a range of factors. To begin with, city and rural private lawyers cited a desire for 'work-life balance', a more flexible work environment ('no six-minute billing' — Interview 12) and a social justice imperative as influencing their decision to move to the public sector. However, the two lawyers interviewed who had left *rural* private practice to work in the public legal sector, did so because of encroachments on the legal industry through changes to personal injury law and conveyancing. These changes were seen to undermine the viability of rural private practice.

The impact of recruitment and retention issues

While services generally appeared to be able to find *someone* to fill their positions in rural and remote areas, the interviews illustrate the extent to which services must scramble to cover positions, particularly in the more remote locations. This was evidenced by:

- the range of strategies required to cover the shortfall in legal staff
- the calibre and consistency of lawyers filling positions
- the additional administrative costs in terms of time, resources and expenses to keep positions filled or covered on a temporary basis
- the level of stress and burnout among legal and other office staff in these areas and consequent high turnover
- the impact of retention issues on the range and quality of services that could be provided.

Strategies for covering the shortfall in staff

Each of the public legal assistance services has a responsibility to provide legal services to disadvantaged clients in RRR areas. It also appears that each service goes to considerable lengths to meet those obligations — particularly where they concern the provision of legal representation. This is taking place

in environments where staff are only staying in positions for relatively short periods and, at times, leaving suddenly due to burnout, stress or other reasons.

Different agencies cover vacancies in different ways. As described in the introduction, Legal Aid NSW only has offices in major regional locations and draws upon a network of private solicitors to do legal aid work in those areas where it does not have an office. Legal Aid can also draw upon this network to cover work that cannot be covered by legal aid solicitors (e.g. due to staff shortages).

Being statewide agencies, Legal Aid NSW and the ALS can rotate staff, for instance from city offices to regional offices, or regional offices to other regions or more remote offices. The ALS reported having to staff some of the more remote offices only on circuit week, when they cannot staff those offices more permanently.

All services report using 'temps' or locums (solicitors, barristers, legally qualified people not working as lawyers), some located through local personal or professional networks:

> *We try and get temps in — find out if there is anyone we know. Sometimes we find out there might be someone who is legally qualified but is not working as a lawyer, or on maternity leave or have stopped working and we ask them if they would be prepared to do it.* (Interview 12)

Agencies may also cover positions by 'poaching' staff from other agencies:

> *Sometimes we steal people off other places so you might find someone in private practice and ask them if they are interested or ask someone at the legal centre. The legal centres sometimes do the worst because their salaries are lower although they have greater salary sacrifice advantages.* (Interview 12)

The CLCs, as discrete organisations, do not have other offices from which they can draw or rotate staff, and only have the private profession as a source of locums (Interview 3). Access to the private profession for this purpose, however, is limited by the obvious expense of this option and by possible conflict of interest issues.

Services may also have solicitors covering two positions for certain periods of time. For instance, in one remote town, one person was acting as Principal Solicitor for two legal services (covering two full-time positions), in order to ensure that there was supervision available for the more junior lawyers in each service.

In another region, a service reported having one staff member carrying the load of two solicitors and also having junior staff step up to more senior positions (or both):

> *We have accessed locum day rate solicitors and barristers from time to time. Regularly it would happen that we just ended up with one solicitor doing the work of two and regularly solicitors who weren't genuinely experienced enough to do the work of the senior let alone the work of the senior plus a missing junior.* (Interview 7)

Calibre and consistency of staff

The interviews suggested that, in a number of cases, positions had been filled by relatively inexperienced solicitors. One manager described young solicitors reaching levels much earlier than they would in the city:

> *Two of those offices now have people stepping up from junior to intermediate at a relatively early point in their career, one very early, but very talented. Much earlier than you would take that step in the city, so 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.* (Interview 7)

Both public and private legal services reported that, at times, they employed people who would not have been successful applicants in the more competitive city job market. A private solicitor who had done legal aid work in a remote location noted:

> *They certainly had difficulties recruiting experienced people, which meant that [my boss] was forever getting people like me who were basically brand new and knew very little and with whatever faults and problems that brings.* (Interview 5)

One of the 'problems' that less experienced and perhaps less skilled lawyers could bring was the additional supervisory burden for managers and senior staff. This was reported by a number of informants in both rural and remote locations:

> *Mentoring for inexperienced or young solicitors is an additional stress for the Principal Solicitor. [It is] hard to find staff and [there is] a lack of assistance in developing technical skills.* (Comment, census of CLC positions)

High turnover

The relative inexperience of staff also has to be considered in the context of reported high turnover:

> *Constantly changing, constantly having new staff, constantly training staff that then stay for 6 months, 12 months, which is really irritating. I found that really wearing, that constant turnover ... [On average people] stayed about 6-9 months. We weren't getting people that were committed to working in a CLC, we were getting people who just wanted their first job.* (Interview 15)

As the above quote suggests, high turnover itself contributes to this strain:

> *We were constantly recruiting staff, because the average stay was about 2 years. At one stage it got down to about 18 months. We were virtually constantly looking for new staff.* (Interview 18)

> *The turnover is just a crusher, it really is.* (Interview 7)

A manager observed that each new recruit required appropriate induction, supervision and support, a considerable burden for senior staff when the turnover was high (Interview 16). Lawyers described being "really stressed out" (Interview 20) at not being able to maintain services, particularly when staff left.

Finally, managers described the administrative costs of high turnover, in terms of recruitment, paying for locums and managing locums:

> *We're lucky ... we've got a pretty good bunch of private practitioners both solicitors and barristers that we can rely on to do work ... But this can increase the amount of administration and follow-up work.* (Interview 8)

Several interviewees described the impact of high turnover on the quality and continuity of services which they could provide. This continuity was seen as important, both to the lawyer in terms of knowing the clients and their backgrounds, and to the client in terms of receiving quality legal assistance:

> *Preparation is the key to success in any of our matters, the more prepared you are the better off your client will be ... which is an accused person, accused with serious criminal offences ... (it) could have repercussions that result in potential jail terms, so it's serious, taking away a lot of preparation time is impinging on an accused person who is Aboriginal who's very disadvantaged.* (Interview 17)

> *When you take someone else's files you have to get up to speed, takes longer, can mean meeting with the client again and asking them the same questions over again, which looks like we're not interested.* (Interview 19)

With time taken away from core services for recruiting, training or covering vacant staff positions, a number of solicitors and managers spoke about having to restrict some of their services, such as outreach services (Interviews 6, 15) in order to make sure that representation could be provided when needed. Advice clinics to prisons were among the outreach services affected by staff shortages:

> *One area where this office falls down is not seeing people in custody. It's very hard to see people in jail. We need to prioritise. If we had two solicitors we could visit every week.* (Interview 19)

Availability of private solicitors to provide legal assistance to disadvantaged clients

As indicated earlier in this report, 44 per cent of legal aid work is undertaken by the private profession. The interviews above indicate that CLCs and the ALS may also use private lawyers to fill staff gaps.

Three private lawyers currently practising in rural and remote NSW and doing legal aid work, and one who had left private practice, were interviewed for this study. Two of the private lawyers had gone out to a rural area to work at the ALS and Legal Aid NSW respectively, before setting up their own practices in the region. Each cited lifestyle reasons as their motivation to stay in the rural area.

The practising private lawyers indicated that 35 to 45 per cent of their work was legal aid work (assigned grants and duty lawyer work). The one private lawyer who had left the remote location had undertaken only legal aid work. He had been employed as a new lawyer under subsidies provided by the Legal Aid NSW regional solicitor program.

Two public legal assistance lawyers interviewed had left private practice in regional NSW to work for Legal Aid. Both cited the difficulties facing rural private practice as contributing to this decision. In particular, they described how changes to personal injury law[56] and conveyancing[57] had taken away 'bread and butter' legal work, making their private rural legal practice unsustainable:

> *If you go into private practice in a country firm, conveyancing is the bedrock of the fees you bring in … that's going to be taken away soon … all that core area of work is being taken away, personal injury litigation … has been taken away … What do you do? … chucked in to do legal aid criminal work with no training at all … told you have to do as much of it as possible to justify your salary … terrible for the profession in general … you have to do so much of it to justify fees … so the work is getting done badly, which contributes to a lowering of the profession in the public's eyes.* (Interview 21)

The possibility, as suggested by this informant, is that the quality of work performed may be compromised by the relevance of the legal experience of those lawyers taking up this work.[58]

The private lawyers said that they were motivated to do legal aid and ALS work for both economic and philanthropic reasons:

> *There are two motivations. There is the financial side to it but there's also the side that you are a legal firm and there is a responsibility to the community to provide that service and there's a lot of it about.*
> (Interview 14)

---

[56] Between 1999 and 2002 the State Government made substantial changes to all areas of personal injury compensation law in NSW, including motor accidents, workers compensation and civil liability. The reforms limited claims that could be made in these areas (NSW Parliament 2005, pp. xvi–xvii).

[57] Whereby legal qualifications are not required to undertake this work

[58] Note that all lawyers accepted onto legal aid panels must meet specified selection criteria, see <http://www.legalaid.nsw.gov.au/asp/index.asp?pgid=531&cid=925&id=532>.

So while they said that the amount paid by Legal Aid NSW did not cover the work that they do, it was seen as a reliable income stream that they could coordinate with their private work:

> *The real motivation to take it is it's constant money that comes in — it's not spectacular by any stretch of the imagination, I lose half of my hourly rate every hour I do legal aid but the whole part about it is that you can pick up a duty list [and] you can still have 3 or 4 private sentenced matters. It's worth your while.* (Interview 13)

> *There was so much of it and it was so easy to pick up, nearly all the clients who came to us fitted into the legal aid framework, they were always on Centrelink … there was just lots of it around … you couldn't avoid it.* (Interview 5).

Summary

The modest number of interviews reported in this study point to a pattern where many lawyers working in rural and remote NSW come from cities or interstate. A number of those coming from elsewhere go to rural public legal assistance solicitor positions with a defined period in mind for staying in the position. This factor, on its own, affects the retention of lawyers in RRR areas. If lawyers have set themselves a career path which involves a defined period in a rural area, they may well be fixed to that path, and will move back to the city or elsewhere once they have the experience needed to achieve their career aspirations. Further, if lawyers move to any rural area from elsewhere, personal circumstances and family reasons may well draw them back 'home' at some point in the future.

However, some lawyers were staying in rural areas for longer periods than they had originally anticipated, sometimes going to better paid positions within the same region. There appeared to be a flow of solicitors from CLCs and the ALS to Legal Aid NSW, and from all public legal assistance agencies to the private sector. That said, there was also some movement from the private sector to public legal assistance positions.

A second key observation is that it appears to be particularly difficult to recruit *experienced* lawyers to RRR areas of NSW. The motivations for lawyers to work in RRR public legal assistance positions may provide some insight into this. A number of lawyers are drawn to public legal assistance positions in RRR areas by the opportunity to break into the legal profession (if they could not get a job in the city) or to gain particular or specialised legal experience. This is naturally less of a motivation for more experienced senior lawyers. In the absence of attractive salaries or salary packages, this left lifestyle, work-life balance and social justice imperatives as the major incentives to public legal assistance work in RRR areas. The data from this study would suggest that such motivations alone are generally not enough to attract and retain experienced lawyers in RRR areas, particularly in remote locations.

There are other factors which may help explain differences in the capacity of different RRR areas to recruit and retain lawyers. Rural locations which offer a 'better lifestyle' (more suited to the individual lawyer's needs), or a more attractive work-life balance than other areas, appear to have experienced less trouble recruiting and retaining lawyers. Contributing to this work-life balance were: the sustainability of the work environment (including the nature of the work, the level of professional support and administrative support and resourcing); social and professional networks in the area; the capacity to access social and family networks elsewhere, and recreational opportunities.

The interviews suggest that where this work-life balance is better, lawyers are able to stay longer in the area. This balance was more apparent in the larger regional centres and, particularly, in the Richmond-Tweed area of coastal NSW. This balance was much harder to achieve in small, remote areas of inland NSW.

The opportunity to gain professional experience (for more junior lawyers) and to save money also appeared to sustain some lawyers in rural and remote locations, although this was more short-lived without work-life balance. For instance, in the very remote offices of the ALS, it was possible for lawyers to 'live and breathe' high volume, stressful work but only for a short time. Burnout was raised as a very real issue in RRR offices of public legal services.

In RRR locations where there was less work-life balance and fewer opportunities for social and community engagement, financial rewards and opportunities for professional development become more substantial incentives for lawyers to stay in an area. Despite these additional incentives, some lawyers may neither be attracted to nor stay in an area with these characteristics for any length of time.

Finally, the qualitative interviews also indicate that public legal assistance services went to great lengths to cover vacant positions and to meet their obligations to clients. Strategies used to cover positions that could not be filled included: placing more junior lawyers in more senior positions; having one lawyer covering the role of two lawyers; moving staff from one office to another for days, weeks or months; 'poaching' staff from other services; passing work to local private solicitors or using locums. Nonetheless, there were costs associated with this scramble to cover solicitor positions, including:

- less experienced staff taking on higher responsibilities
- staff taking on unsustainable workloads, resulting in high levels of burnout, job dissatisfaction and staff turnover
- job and service inefficiencies, including increased administrative loads and higher overall costs
- the range and quality of services being offered to disadvantaged people in rural and remote communities being compromised.

4. Discussion

Over recent years there has been growing concern about the shortage of lawyers working in RRR areas throughout Australia and, in particular, perceived difficulties in recruiting and retaining public legal assistance solicitors and private solicitors doing legal aid work in these areas. The current study was undertaken to better inform strategies to improve access to lawyers for disadvantaged people in rural and regional areas.

The Foundation's census of public legal assistance solicitor positions in NSW yielded an interesting and unexpected finding. On the census date of 30 June 2009, only seven per cent of all public legal assistance positions in NSW were vacant. In some country regions the actual level of vacant positions was well below the State average and in three RRR regions there were no vacant solicitor positions. While limitations to the census method must be acknowledged (it only reflects the situation on a particular day and does not take into account factors such as the possible impact of the Global Financial Crisis), the level of vacant positions identified should not be the cause for concern.

However, indicators of recruitment and retention difficulties are broader than vacancies alone. For instance, a count of actual vacant positions does not acknowledge that some 'filled' positions were occupied by a non-incumbent, such as a person acting up in the position, a locum or a temporary employee. This information is important for a fuller appreciation of recruitment and retention issues, particularly in RRR areas. The study also examined the length of time that positions had been occupied at the census date, with particular attention paid to those areas of NSW in which positions were filled for relatively short periods of time.

This research also identified that some regions do not have one or more of the major legal services based in their area and this confounds any regional analysis of recruitment and retention difficulties. For example, if there is no CLC in a region, there can be no recruitment or retention difficulties for that particular service. In such regions, public legal assistance solicitor availability is not as much affected by vacancies or turnover, but by the lack of solicitor positions in the first place. This also affects the relative standing of one RRR area to another in terms of key recruitment and retention indicators.

Furthermore, in RRR areas where there are few public legal assistance solicitors, the loss of a single solicitor will have a proportionally greater impact on an area's vacancy rates than areas which have many public legal assistance solicitors. Again, this needs to be factored into any observations arising from the regional analyses.

The scope of this study

To-date, a limitation of much of the previous research into the availability of lawyers in RRR areas has been the tendency to focus on differences between country and city areas, with country areas treated as a homogenous whole. In contrast, research in the health and education sectors highlighting regional

differences has driven more location-specific strategies to address problems with the recruitment and retention of professionals in country areas. The present research was undertaken to obtain more comprehensive location-specific information on the recruitment and retention of lawyers in RRR NSW.

Specifically, this study aimed to:

1. identify the areas of NSW most affected by difficulties in recruiting and retaining lawyers practising in the public sector
2. explore differences between areas of high and low lawyer retention in terms of relevant characteristics of these areas
3. identify factors affecting the recruitment and retention of lawyers in these areas.

By necessity, the research has described the regional distribution of solicitors across NSW, and in particular, those employed by Legal Aid NSW, CLCs and the ALS. These services are the main not-for-profit services providing legal assistance to disadvantaged people in metropolitan and rural NSW.

The research also examined private solicitors delivering legal services to disadvantaged people in regional areas through assigned legal aid case work. This recognises that 56 per cent of all legally aided case work (i.e. grants) in NSW is assigned to private lawyers.

It was, however, beyond the scope of this study to identify each and every legal service operating in NSW. The study has not attempted to quantify outreach services or duty solicitor services, nor does it consider the availability of other legal services such as pro bono work and legal assistance provided through community organisations. Rather, the study attempted to map the location of solicitors based and providing public legal assistance services in each region, to identify the areas in which recruitment and retention was most problematic, and the reasons why this was the case.

The distribution of public and private solicitors in NSW

Legal services to disadvantaged people in NSW are met through a combination of public (Legal Aid, Aboriginal Legal Services and Community Legal Centres) and private legal services (through grants of legal aid). In RRR areas, particularly those with small numbers of resident solicitors, these services interrelate significantly, including impacting upon recruitment, retention and viability of the services. Therefore, the distribution of all public and private solicitor positions across NSW needs to be considered as an important variable that contextualises recruitment and retention issues.

To set this context, on the snapshot date, there were a total of 19,381 private and public solicitors practising in NSW,[59] or 296 solicitors for every 100,000 persons in NSW. Overall, the ratio of residents to locally based solicitors increases the more remote the area becomes. In NSW, the Inner Regional areas have a ratio of one resident solicitor for every 1,000 residents. This increases to one resident solicitor for every 2,000 residents in Outer Regional areas. In the Remote and Very Remote areas of NSW, there is only one resident solicitor for every 3,000 residents. In addition, it is generally the case that the more remote and inaccessible the area, the higher the level of socio-economic disadvantage and the higher the proportion of Indigenous persons. These characteristics are commonly associated with high levels of legal need (Coumarelos et al, 2006).

[59] According to the Law Society of NSW an additional five per cent of solicitors were not practising at the time of the study's census. These were not included as part of the Law Society dataset. In addition, a further five per cent of solicitor records were not included in this study as they were missing postcode and practice type.

Furthermore, there were 19 Local Government Areas in NSW that did not have a single solicitor — private or public — based in the area. All of these 19 LGAs were characterised by resident (and relatively disadvantaged) populations of less than 7,000 persons, and for 17 of these 19 LGAs the populations were in actual or relative decline. This would seem to suggest that in some areas, particularly the more remote and less populated parts of country NSW, there may not be not enough legal work — private or public — to sustain a full-time *resident* solicitor. Without necessarily discounting the possibility of outreach services or duty lawyer services operating in these areas,[60] it is possible that residents of these 19 LGAs travelled elsewhere, perhaps to their closest regional centre, to obtain legal assistance. However, it is also possible that in these areas (like other disadvantaged areas) some people may not have sought help at all (Coumarelos et al, 2006).

There are important differences between the profile of private solicitors in NSW and public legal assistance solicitor positions. To begin with, for every 100,000 persons in NSW there were 296 solicitors, with less than four per cent being public or community sector solicitor positions.

Secondly, it appears that the more remote (and disadvantaged) the area, the higher the ratio of public or community legal sector solicitors compared to private solicitors. For example, while the Far West had the *lowest* ratio of resident solicitors to population in NSW (45 solicitors versus a NSW average of 296 solicitors for every 100,000 persons), it had the *highest* ratio of resident public legal assistance solicitors to population in NSW (25 public legal assistance solicitors versus a NSW average of 10 solicitors for every 100,000 persons).

Some regions have fewer public legal assistance services (and solicitors) than others. South Eastern only had an ALS office (no CLC or Legal Aid NSW) and Murray only had a CLC (no ALS or Legal Aid NSW). There were no CLCs in the Mid-North Coast, Central West, South Eastern or Murrumbidgee regions. The presence of a CLC, a FVPLS and the ALS in Broken Hill contributed to the higher per capita rate of public legal assistance solicitors in the Far West, even though there was no Legal Aid NSW office in this region.

Apparently affecting the amount of work and, therefore, the sustainability of private law firms, particularly in RRR areas, were recent changes to conveyancing and personal injury compensation law. Interviewees specifically reported that, as a result of these legislative changes, some private solicitors were now more dependent upon legal aid work — both grants of legal aid and duty solicitor work. The quantitative data does indicate that large numbers of private solicitors in rural areas were assigned grants of legal aid.

Regional differences in solicitor availability by area of law

To appreciate the potential impact of recruitment and retention issues in any one area, the availability of public legal assistance solicitors and solicitor positions also needs to be considered in the context of three additional factors: the mix of public to private solicitors performing public legal assistance work in each area; the types of law practised by each solicitor; and any other legal services provided to residents in each area. Two examples highlight these points.

With a reasonably sized population of 198,000 people, South Eastern region appeared to have the least number of public legal assistance positions based in the region. It had no public legal assistance solicitors

[60] For example, the Women's Legal Service located in Sydney flies a solicitor and a senior solicitor into Bourke for one week each month to work in the Bourke/Brewarrina Family Violence Prevention Legal Service. The monthly outreach clinics to Dareton and Wentworth funded under Legal Aid's Regional Outreach Clinic Program and the weekly clinic in Taree (funded by the local Cooperative Legal Service Delivery Program) are additional examples. Furthermore, many rural localities across NSW have a local court and duty lawyer services are provided. A local court was located in 10 of the 19 LGAs that did not have a resident solicitor. However, in many small towns, the court is a circuit court and sits infrequently; in some locations, as seldom as ten times a year. Furthermore, the duty lawyer available in circuit courts is a solicitor who travels intothe town when the court is sitting.

practising civil law (no CLC), only one part-time resident Legal Aid solicitor providing family law services, and three ALS solicitors providing criminal law support, and then, only to Indigenous clients. However, complementing the work of these public legal assistance solicitors were local private lawyers who were assigned grants of legal aid. In 2008/09, South Eastern region had 37 private solicitors on the Legal Aid NSW criminal law panel, 31 on the family law panel, 16 private solicitors on the care and protection panel and nine on the civil law panel (a solicitor may be a member of more than one panel). In terms of actual grant activity in 2008/09, there were 1,329 grants of legal aid assigned to private solicitors based in the South Eastern region — 63 per cent for criminal matters, 21 per cent for family matters and 16 per cent for care and protection matters. Only six grants were assigned for civil matters.

Similarly, the Central West region, with a general population of 171,000, had no public legal assistance solicitors practising civil law (no CLC), only one public legal assistance solicitor providing family law services, and seven public legal assistance solicitors practising criminal law. However, private solicitors based in the Central West region handled 1,117 grants of legal aid in 2008/09 — 38 per cent for criminal matters, 42 per cent for family matters and 18 per cent for care and protection matters. Only 20 grants were assigned for civil matters.

The availability of private practitioners willing to undertake public legal assistance work is a key consideration to the delivery of legal services in RRR areas, given that private solicitors are more evenly distributed across the State and undertake a considerable proportion of legal aid work.

Major regional differences in lawyer availability, recruitment and retention

The parts of NSW which were identified as having the most difficulties with the availability, recruitment and retention of resident solicitors for public legal assistance services were the Far West, Murrumbidgee and North Western regions. These three regions are described in terms of the major indicators of these difficulties.

Far West

- With a total of only 10 private and public solicitors, Far West had the lowest per capita rate of solicitors in NSW (one resident solicitor for every 2,000 persons). Therefore, the loss of even a single solicitor from this area will have a major impact.
- Two of six public legal assistance solicitor positions in this region were vacant (33% compared to the State average of 7%) on the census date.
- Two of the four occupied public legal assistance solicitor positions were filled by a non-incumbent.
- All ALS and CLC positions had only been filled for relatively short (below average) periods of time.
- Far West was an area of high volatility in terms of recruitment and retention issues, which is likely to exacerbate access to justice issues for disadvantaged people.
- There was no Legal Aid NSW office in the region (and, therefore, no possible retention or recruitment issues for this service).
- Noting there were only six private solicitors based in the Far West, there were no care and protection panel members and just one civil law panel member in this region.

Murrumbidgee

- Murrumbidgee had one resident solicitor for every 1,000 residents.
- There were nine Legal Aid NSW and six ALS solicitor positions in this region, but no CLC solicitor positions.
- Two of the 15 public legal assistance solicitor positions were vacant (13% compared to the State average of 7%).
- All ALS and Legal Aid NSW positions had only been filled for relatively short (below average) periods of time. Four of the five ALS solicitors had been in the position for no more than six months. The Legal Aid NSW solicitors had been in their positions for an average of seven months (compared to the State average of 19 months).
- Based on population share, this region had fewer than expected panel members across all areas of law.

North Western

- North Western had one resident solicitor for every 1,000 residents.
- There were nine Legal Aid NSW, 12 ALS and three CLC solicitor positions in this region.
- Three of the 24 public legal assistance solicitor positions were vacant (12.5% compared to the State average of 7%).
- Both vacant Legal Aid NSW positions had remained unfilled for 10 months (double the State average)
- The ALS and Legal Aid NSW positions had only been filled for relatively short periods of time. The average time ALS solicitors had been in the position was 12 months (compared to the ALS State average of 42 months). Six of the 11 filled ALS positions had been occupied for no more than six months. The Legal Aid NSW solicitors had been in their positions for an average of seven months (compared to the State average of 19 months).
- This region had no civil law panel members and, based on population share, fewer than expected care and protection panel members.

Other regions with noteworthy issues

While Far West, Murrumbidgee and North Western regions stood apart, other regions had their own lawyer availability, recruitment and/or retention difficulties.

Murray, South Eastern, Central West and Mid-North Coast regions

South Eastern only had one part-time Legal Aid family law solicitor based in the area, as well as three ALS solicitors (although two were based in the ACT). The Murray had only a CLC based in the area (no ALS or Legal Aid NSW office), while Central West and the Mid-North Coast had ALS and Legal Aid offices but no CLC.

Compared to the Far West, Murrumbidgee and North Western regions, these four regions had less concentrated recruitment and retention issues. For example in the Murray and Central West, retention appeared to be the issue, with positions in the ALS and Legal Aid NSW offices occupied for shorter than average periods.

Hunter

Focusing on retention indicators, the average length of time in an ALS position in the Hunter was 18 months lower than the State average for ALS positions. The average length of time in a CLC position in this area was 15 months less than the State average for CLC positions.

Richmond-Tweed

Those interviewed from the Richmond-Tweed region spoke in glowing terms of the area, its professional network and the standard and range of legal work available. They described it as an area which attracts and retains solicitors. However, our census indicated that there was a relatively high vacancy rate (13%) for public legal assistance solicitor positions in this region and almost one in four positions were filled by a non-incumbent.

Interviewees noted that a number of solicitors in this region had moved between different legal jobs in the area (including between public legal assistance services). The amount of movement from job to job *within* the region was made possible by the relatively large number of legal services in the area and employment opportunities within these services. Among those interviewed were solicitors who had moved from the local ALS and local CLC to the local Legal Aid NSW office, as well as ex-public sector solicitors who had moved to private practice in the area. Differences between the agencies in pay and working conditions were identified as contributing to these movements.

Sydney

RRR areas were not the only parts of NSW that experienced recruitment and retention difficulties. Of all the regions, Sydney had the highest proportion (38%) of public legal assistance solicitor positions occupied by a non-incumbent. This figure was inflated by the high number of non-incumbent positions in Legal Aid NSW.

The high number of non-incumbent filled positions in Legal Aid NSW was partly a function of the numerous opportunities for temporary solicitor appointments within the organisation. These included designated rotational positions and special projects work, which allow solicitors to gain experience across different practice areas. Temporary positions may also be used to cover vacancies arising from flexible work arrangements such as extended leave, parental leave and secondment opportunities.

Regional differences in solicitor characteristics

Another variable to be considered in the discussion of recruitment and retention is the regional variation in the characteristics of lawyers attracted to work in RRR areas. The two major sources of data for this information were the NSW Law Society data and the qualitative interviews.

The Law Society data indicated that the average age of solicitors increased as one moved out from Sydney, to Inner Regional and Outer Regional parts of the State, before decreasing slightly in the Remote/Very Remote areas. The years of experience as a solicitor showed a similar and more pronounced pattern in that years of experience dropped more steeply in the Remote/Very Remote areas. On average, solicitors in Inner and Outer Regional areas had the highest median years of experience (16 years), followed by Sydney (11 years) and the Remote/Very Remote areas (nine years). Together these points show that solicitors in most Remote areas of NSW were generally not only younger but the least experienced, whereas solicitors in Inner and Outer Regional areas of NSW were both older and more experienced than solicitors elsewhere in the State, including Sydney.

This finding is of interest given the high levels of disadvantage in Remote/Very Remote areas and the particular difficulties faced by lawyers in these regions. As noted in the interviews, these difficulties included challenging clients, high volume and stressful work, adverse work environments, being remote from supervision and support, and being distant from social and family networks. Given these difficulties, it would seem that lawyers require more rather than *less* experience in order to sustain quality legal services.

Regional differences in recruitment and retention: what made the difference?

RRR areas in NSW are not homogenous in terms of their capacity to attract and retain public sector lawyers. There were some rural and regional areas which were more attractive to public and private sector lawyers than others, and these areas appeared better able to retain skilled and experienced solicitors for longer periods.

The interviews with lawyers working in or who had left the ALS, Legal Aid NSW, CLCs and private firms undertaking legal aid work in RRR NSW provided some insights into the factors which influenced their decision to stay or go from an area. Chief among these reasons were:

- personal reasons (such as family issues)
- the nature of the work and professional development opportunities offered
- the opportunity to save money
- lifestyle, including social and community networks and distance from 'home'.

Particular attention was paid to how these factors may vary from area to area.

A key observation arising from the interviews was just where lawyers considered 'home'. All except one of the lawyers interviewed were born in Sydney, interstate or overseas. With all of the interviewed lawyers having attended city (NSW or interstate) universities, each had their social and family networks in areas other than the areas in which they were working.

A common theme given for leaving a rural area involved personal reasons, such as a solicitor needing or wishing to return to family or the solicitor's partner taking a job elsewhere. Notably, these reasons did not reflect any particular characteristic of the current work location, aside from the fact that the RRR location was distant from the place to which the solicitor returned.

The opportunity to get a legal job, or to obtain particular legal experience, appeared to be an important lure for solicitors to rural public legal assistance solicitor positions, and this appeared to hold regardless of where these work opportunities were located in RRR NSW. While this warrants further examination, it appeared that interviewees who took positions with Legal Aid NSW, CLCs or the ALS in order to get experience were less selective about the location in RRR NSW they went to, compared to people who moved to a rural location for lifestyle reasons. Similarly, people seeking the opportunity to work with disadvantaged Indigenous communities were prepared to go to remote and very remote locations. However, this group of lawyers also tended to have a finite timeframe in mind for their return to 'the city'.

The social justice imperative was also a drawcard for many solicitors to work in the community legal sector and, in the case of private lawyers, to do legal aid work. However, this motivation is not likely to be unique to public legal assistance positions in RRR areas. While the lawyers interviewed generally

indicated that they did not go to work in rural community sector jobs 'for the money', the capacity to save money was consistently raised as a factor relevant to decisions to take, stay in or leave a country job. Some solicitors were drawn to certain RRR areas by the lower cost of living and were prepared to consider their salary level in this context. Many left the job (often to go to a higher paying public legal sector job if it was available) for financial reasons. What was noted from the interviews was that where the work stress was high, the costs of living high, and/or the lifestyle poor (i.e. in very remote parts of NSW), the salary package became a far more prominent reason given for staying or leaving a RRR area.

One reason that ALS and CLC solicitors gave for leaving their country position was to take a job in Legal Aid NSW which, as a general rule, provided a higher salary level for equivalent positions. The salary data collected through the census of public legal assistance solicitor positions bore this out. The salary in Legal Aid NSW was roughly one-third higher than most similarly graded positions in CLCs and the ALS. The issue for rural areas is that Legal Aid NSW offices are located in cities or major regional centres and, therefore, are based no further out than Inner Regional areas of NSW. Should solicitors in remote areas wish to change jobs including going to work for Legal Aid NSW, they are usually lost from the more remote communities.

Consistent with earlier research, the availability of a professional and personal network in a region did appear to help sustain solicitors in rural areas. Solicitors working in the Richmond-Tweed region, in part, attributed their interest in staying in the area to the relatively strong legal fraternity in the region as well as a shared interest in social justice issues. Other regions, including the Far West, were in the process of building these types of networks. By contrast, personal and professional isolation was given as a reason for leaving some areas that lacked such features.

While office infrastructure and support were not the main reason given by solicitors for leaving a RRR public legal assistance position, limited office assistance and support did appear to wear solicitors down, particularly in stressful and high volume work environments. Interviewees also highlighted the need for effective supervision of lawyers who had accepted positions in regional areas in order to get experience, and locum support for leave and training opportunities. This appeared to be a particularly critical issue in the more remote offices.

The remoteness of a legal office's location was a characteristic that, from both the qualitative and quantitative data, increased the degree of difficulty to fill solicitor positions and to retain staff in these positions for any length of time. Remote offices were described as difficult, isolated and lonely places to work. Solicitor and managers interviewed for this study expressed the view that the long-term retention of solicitors may remain a challenge in remote areas, regardless of what strategies were introduced and what incentives were offered. This suggests that strategies aimed at better facilitating the short-term retention reality may be more appropriate.

Finally, the research indicated that, as might be expected, there are idiosyncratic reasons for solicitors leaving a position or RRR location. For instance, personality clashes, difficulties between management and staff, and challenging external players can affect solicitors in all public legal service offices, regardless of where the office is located.

Strategies to address recruitment, retention and lawyer availability issues

It was beyond the scope of the present study to evaluate initiatives which have been trialled across different sectors to attract and retain professional staff in different rural, regional and remote areas in Australia. Within the legal sector, prominent examples include the WA Country Lawyers Program and the Legal Aid NSW Regional Solicitor Program.

However, the results of this study do suggest that any new strategies take the following points into account:

1. The realities of recruitment, retention and lawyer availability issues:
   - some RRR areas are experiencing economic, social and population decline, and resident services, including legal services and private solicitor numbers, are expected to decline accordingly
   - some RRR areas are especially vulnerable to recruitment and retention problems and, without innovative solutions, will generally attract only relatively inexperienced solicitors and/or solicitors prepared to stay for a fixed and relatively short period of time
   - given the challenging nature of legal work in certain RRR areas, a more senior solicitor may be needed as a minimum to staff offices in the more remote parts of the State
   - 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.

2. Different RRR areas have their own unique characteristics. Some RRR areas have recruitment and retention difficulties and some do not. The difficulties experienced vary from region to region. Consequently, a single 'blanket' solution is unlikely to work. Solutions to address recruitment and retention issues need to be both location-specific and problem-orientated.

3. The interviews suggested the following initiatives might contribute to attracting and retaining solicitors in different RRR areas:
   - differentiation of remuneration and conditions packages to provide greater benefits in those areas experiencing the most difficulties in attracting and retaining solicitors with the right skills and experience
   - priority consideration for a move to a more favourable location and/or a more senior position after a remote area posting (where applicable to the organisation)
   - provision of appropriate office infrastructure and clerical and para-legal support. This includes the capacity to use up-to-date information technology to facilitate communication and support
   - building professional networks in RRR areas, such as through the Cooperative Legal Service Delivery Program[61] and interagency professional networks.

4. The disparity in the salaries of similarly graded solicitor positions between the CLCs, the ALS and Legal Aid NSW almost certainly contributes to the movement of solicitors from the CLCs and the ALS to Legal Aid NSW. This may also result in a movement of solicitors from more remote areas to inner regional areas and urban areas.

[61] The Cooperative Legal Service Delivery Program (CLSD) brings together government, community and private sector agencies in a regional and cooperative approach to delivering legal services, (http://www.legalaid.nsw.gov.au)

5. Recent graduates, including career change solicitors, are a major source of staff for many rural and remote offices, especially given the relatively low salaries offered in some organisations. These relatively inexperienced solicitors require appropriate professional supervision and mentoring, particularly in remote, isolated and challenging environments, yet difficulties attracting senior lawyers to these areas impedes this.

6. Particularly in the absence of a capacity to offer higher salaries, it may be pragmatic to accept the reality of short-term retention in remote locations and to structure services to accommodate this, rather than expect or hope that solicitors will stay for longer periods. (This strategy is already being trialled in remote NSW by the ALS, and is worth monitoring into the future.)

7. It may never be realistic to provide resident solicitors or legal services in certain particularly remote areas. These areas may simply not have the population to sustain a viable legal practice, whether that is a private practice or a public legal assistance service. Alternative models of legal service delivery such as outreach may be more appropriate. Just which strategies are best suited to each particular area is beyond the scope of this research or its findings, but represents an important topic for future research.

8. This study highlighted deficiencies in the information available to fully understand and explain the problems associated with providing legal services to disadvantaged people in RRR areas. Important areas for future research include:
   - monitoring over time changes in the availability of private and public solicitors, with particular emphasis on regional contrasts and broader demographic and social changes
   - identifying the location and distribution of all legal services in NSW, including outreach, pro bono and other services
   - examining whether the availability of lawyers in a region affects the number of requests for grants of legal aid being made in that region
   - analysing the above questions in the context of research into met and unmet legal need.

Finally, this study has identified benefits and flexibility which come with being a statewide service. Both Legal Aid NSW and the ALS NSW/ACT have some capacity to move staff between their city and different regional and rural offices. Staff vacancies may be covered by other solicitors employed by these organisations, subject to flow-on staffing constraints. In contrast, CLCs, which operate largely independently of one another, and with varying sources of funding, do not have this flexibility. Strategies to provide CLCs with more capacity to cover shortages in RRR areas may warrant further consideration.

Conclusion

Given the level of concern about the recruitment and retention of RRR lawyers, the small number of vacancies found among public legal assistance positions in RRR NSW was unexpected. While the overall vacancy rate was low on this study's census date, regional variations in vacancies were identified. Areas also differed in terms of the proportion of solicitor positions occupied by non-incumbents and the length of time for which positions had been filled.

What was also noteworthy was how few public legal assistance positions were based in some regions. In these regions then, concerns with the availability of solicitors in RRR areas may not have been due to *vacant* positions but rather due to a lack of public legal assistance solicitor positions in the first place. That noted, it is possible that legal services in such areas were being delivered through other models, such as outreach and private lawyers performing legal aid work. While the number of private solicitors undertaking legal aid work was examined, it was beyond the scope of this study to assess the overall level of legal service delivery in these regions. This represents a major topic for research in the future.

It was also beyond the scope of this study to examine the factors which drive the placement of private law firms versus not-for-profit legal services, apart from noting that private practice is driven more by economic sustainability. Public legal assistance services, on the other hand, appear to be located in response to legal need as well as other historical, political and strategic factors.

That said, the two sectors are interdependent. Some rural law firms rely on the legal aid work they are assigned in order to survive. Equally, the public legal sector relies on private practitioners to deliver services to disadvantaged clients, particularly in areas where there are insufficient numbers of in-house solicitors.

The study provided evidence to suggest that remote parts of NSW were having more difficulties than other regions in recruiting and retaining public legal assistance solicitors. Indeed, remote NSW was marked by the smallest ratio of solicitors to clients, clients with the highest level of disadvantage, and particular difficulties in attracting and retaining suitably experienced staff. In addition, the level of solicitor turnover was noticeably higher in these areas and, as a consequence, legal service provision was less consistent. It is these parts of RRR NSW which may require the introduction of new and innovative strategies as well as additional funding in order to address recruitment and retention issues.

Across RRR NSW, there needs to be a range of strategies to address solicitor shortages, but individual solutions need to be area specific, problem specific and, in some cases position specific, in order for legal services to attract and retain the best solicitor to a particular position. Ideally, services need the capacity to offer different incentives in order to cater for the different motivations to work in RRR areas. For instance, a more seasoned and experienced solicitor may be the best person for a remote area position and the solution may be to offer a package that is attractive to senior solicitors. Of course, this would require appropriate funding. Furthermore, consideration needs to be given to what may constitute the most viable and sustainable form of legal service delivery to these RRR areas in the long term.

Enhancing the knowledge of recruitment and retention issues, this study has clearly shown that some RRR areas have difficulties while others do not. The difficulties experienced vary from region to region as do the particular social and economic characteristics of the regions.

The continuing economic and social decline in many parts of RRR Australia is considered to be inevitable. Declining populations in many RRR areas are likely to cause a further loss of private solicitors and, therefore, a loss of solicitors available to do legal aid work. If the loss of private solicitors is not arrested

then public legal assistance services in RRR areas would need to be retained and in fact bolstered, assuming this is possible. Alternatively, private solicitors in declining areas may become more dependent on legal aid work to sustain their rural practices. Otherwise alternative models of legal service delivery may be necessary in these areas.

In NSW, a range of legal services is provided by each of Legal Aid NSW, the ALS, 35 different CLCs, Commonwealth funded family violence prevention legal services, a large number of private law firms and others. While these services are interrelated and do work together, there is no overarching coordinated approach to the distribution and provision of legal services for disadvantaged people in RRR NSW. Yet the issues of lawyer availability, recruitment and retention in regional, rural and remote areas affect all legal services. While strategies need to be location specific and problem orientated, a coordinated approach across the sector to address the availability, recruitment and retention of lawyers in RRR areas should be seriously considered.

References

Aboriginal Legal Service (NSW/ACT) 2009, <http://www.alsnswact.org.au/>.

Argent, N 2008, 'Perceived density, social interaction and morale in NSW rural communities', *Journal of Rural Studies*, vol. 24**,** no. 3**,** pp. 245–261.

Australia 2020 Summit 2008, *Australia 2020 final report*, Commonwealth of Australia, Canberra, <http://www.australia2020.gov.au/docs/final_report/2020_summit_report_full.doc#_Toc199994575>.

Australian Bureau of Statistics 2006a, *Census of population and housing*, ABS, Canberra, <http://www.abs.gov.au/websitedbs/d3310114.nsf/home/census+data>.

Australian Bureau of Statistics 2006b, *2006 Australian Standard Geographical Classification and Census Geographic Areas: diagram of structures*, Census Fact Sheet, Canberra, <http://www.innesys.com.au/29140%20FS-2006%20ASGC%20and%20Census%20Geographic%20Areas-Diagram%20of%20Structures.pdf>.

Australian Bureau of Statistics 2006c, *Information paper: an introduction to Socio-Economic Indexes for Areas (SEIFA)*, Canberra, <http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/D729075E079F9FDECA2574170011B088/$File/20390_2006.pdf>.

Australian Bureau of Statistics 2008, *Australian historical population statistics, 2008*, Cat. 3105.0.65.001, Canberra, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3105.0.65.0012008?OpenDocument>.

Australian Bureau of Statistics 2009, *Legal services, Australia, 2007–08*, 8667.0, Canberra, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/8667.0Main+Features62007-08#>.

Australian Institute of Health and Welfare 2004, *Rural, regional and remote health: a guide to remoteness classifications*, AIHW Catalogue Number PHE 53, Canberra, <http://www.aihw.gov.au/publications/phe/rrrh-gtrc/rrrh-gtrc.pdf>.

Battye, K, White, C, Cronin, S, Bond, N and Mitchell, C 2005, 'Developing solutions to the provision of primary care services in rural and remote Queensland', *National Rural Health Conference, 8th, Alice Springs, 10–13 March*, Brisbane, <http://nrha.ruralhealth.org.au/conferences/docs/8thNRHC/Papers/battye_cronin.pdf>.

Carson, D 2008, *The economic demography of outback Australia: how does regional Northern Territory compare?*, Population Studies Research Brief No. 2009037, Population Studies Group, School for Social and Policy Research, Charles Darwin University, Darwin, <http://www.cdu.edu.au/sspr/documents/outback_australia_and_the_NT.pdf>.

Cocklin, C and Dibden, J c2004, *Regional dimensions in national development: a perspective from rural Australia*, Bureau of Infrastructure, Transport and Regional Economics, Canberra, <http://www.btre.gov.au/publications/87/Files/c_cocklin.pdf>.

Coumarelos, C, Wei, Z and Zhou, AZ 2006, *Justice made to measure: NSW legal needs survey in disadvantaged areas*, Access to Justice and Legal Needs vol. 3, Law and Justice Foundation of NSW, Sydney, <http://www.lawfoundation.net.au/access/jmm/justice_made_to_measure.pdf>.

Department of Health and Aged Care Information and Research Branch 2001, *Measuring remoteness: Accessibility/ Remoteness Index of Australia (ARIA)*, Revised edn, Occasional Papers New Series no. 14, Canberra, <http://www.health.gov.au/internet/main/publishing.nsf/Content/7B1A5FA525DD0D39CA25748200048131/$File/ocpanew14.pdf>.

Dunbabin, J 2003, *General practice ownership in rural and remote NSW: its impact on recruitment and retention*, NSW Rural Doctors Network, Newcastle, <http://www.nswrdn.com.au/site/index.cfm?display=78980>.

Dunbabin, J and Levitt, L 2003, 'Rural origin and rural medicine exposure: their impact on the rural and remote medical workforce in Australia', *Rural and Remote Health*, vol. 3 (online), <http://www.rrh.org.au/articles/subviewnew.asp?ArticleID=212>.

Dunbabin, J, McEwin, K and Cameron, I 2006, 'Postgraduate medical placements in rural areas: their impact on the rural medical workforce', *Rural and Remote Health*, vol. 6 (online), <http://www.rrh.org.au/articles/subviewnew.asp?ArticleID=481>.

Eley, D and Baker, P 2006, 'Does recruitment lead to retention? Rural clinical school training experiences and subsequent intern choices', *Rural and Remote Health*, vol. 6**,** no. 511 (online), <http://www.rrh.org.au/publishedarticles/article_print_511.pdf>.

Glover, J and Tennant, S 1999, *A social health atlas of Australia. Volume 2: NSW*, 2nd edn, University of Adelaide Public Health Information Development Unit, Adelaide, <http://www.publichealth.gov.au/publications/a-social-health-atlas-of-australia-%5Bsecond-edition%5D---volume-2%3a-new-south-wales.html>.

Hoogland, S and Pieterse, R 2000, 'Suicide in Australia, a dying shame', *LifeForce Conference, Suicide Prevention Week, 6–10 November*, <http://www.wesleymission.org.au/publications/r&d/suicide.htm>.

Human Rights and Equal Opportunities Commission (HREOC) 2000, *Emerging themes: National Inquiry into Rural & Remote Education*, Commonwealth of Australia, Sydney, <http://www.hreoc.gov.au/word/human_rights/rural_remote/emerging_themes.doc>.

Human Rights and Equal Opportunity Commission 1999, *Bush talks*, Sydney, <http://www.hreoc.gov.au/pdf/human_rights/bush_talks.pdf>.

Jackson, N 2004, 'Regional population ageing and local government funding: a tentative consideration of the issues', *Australasian Journal of Regional Studies*, vol. 10**,** no. 1, <http://www.anzrsai.org/system/files/f8/f4/f6/f53/o316//Jackson.pdf>.

Laven, G, Wilkinson, D and Beilby, J 2002, 'Are medical students of rural origin more likely to become rural general practitioners, than students of urban origin? A national case-control study', *World Rural Health 2002 International Conference, Melbourne, 1–3 May*, Melbourne, <http://www.abc.net.au/rural/worldhealth/papers/24.htm>.

Law and Justice Foundation of NSW 2003, *Access to justice roundtable: proceedings of a workshop, July 2002*, Sydney, <http://www.lawfoundation.net.au/report/roundtable>.

Law Council of Australia 2009a, *Fact sheet: recruitment and retention of legal practitioners in rural, regional and remote (RRR) areas of Australia*, Canberra, <http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=79FD4FA6-1E4F-17FA-D2BA-40F523436801&siteName=lca>.

Law Council of Australia 2009b, *Report into the Rural, Regional and Remote Areas Lawyers Survey*, Canberra, <http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=58075666-1E4F-17FA-D22C-92C2CC13DA7C&siteName=lca>.

Law Council of Australia 2009c, *NSW Rural, Regional and Remote Area Lawyers Survey*, Canberra, <http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=58024F1B-1E4F-17FA-D295-349CEC7C2460&siteName=lca>.

Law Council of Australia Recruitment and Retention Working Group 2009, *Recruitment and retention of legal practitioners to rural, regional and remote areas strategy: discussion paper, working draft*, Law Council of Australia, Canberra, <http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=0D46B351-1E4F-17FA-D28E-29B907CBACAB&siteName=lca>.

Legal Aid NSW 2003, *Grants allocation guidelines*, <http://www.legalaid.nsw.gov.au/data/portal/00000005/public/14369001164325797703.pdf>.

Legal Aid NSW 2008, *Annual report 2007–08*, Sydney.

Legal Aid NSW 2009, *Annual report 2008–09*, Sydney, <http://www.legalaid.nsw.gov.au/asp/index.asp?pgid=784>.

Legal Aid NSW 2010, *Regional Outreach Clinic Program*, <http://www.legalaid.nsw.gov.au/data/portal/00000005/public/76001001266968986931.doc>.

Lowe, F 2003, *Report on a survey of rural general practitioners' partners in NSW*, NSW Rural Doctors Network, Scone, <http://www.nswrdn.com.au/site/index.cfm?display=78980>.

Mayo, E and Mathews, M 2006, 'Spousal perspectives on factors influencing recruitment and retention of rural family physicians', *Canadian Journal Rural Medicine*, vol. 11**,** no. 4, Fall**,** pp. 271–276, <http://www.cma.ca/index.php/ci_id/50130/la_id/1.htm>.

McDonald, J, Bibby, L and Carroll, S 2002, *Recruiting and retaining general practitioners in rural areas: improving outcomes through evidence-based research and community capacity-building: evidence based review: final report*, Victorian Universities Rural Health Consortium, Rowville, Vic.

McKenzie, F 1994, 'Population decline in non-metropolitan Australia: impacts and policy implications', *Urban Policy and Research*, vol. 12**,** no. 4**,** pp. 253–263.

Miles, R, Marshall, C, Rolfe, J and Noonan, S c2004, *The attraction and retention of lawyers to regional areas*, Central Queensland University, <http://www.bowenbasin.cqu.edu.au/pdfs/dotars_colloq.pdf>.

Mundy, T 2008, *Recruitment and retention of lawyers in rural, regional and remote NSW: a literature review*, Northern Rivers Community Legal Centre, Lismore.

National Pro Bono Resource Centre 2006, *Regional, rural and remote pro bono: models and opportunities*, Sydney, <http://www.nationalprobono.org.au/publications/documents/RRRPaper.pdf>.

NSW Department of Planning 2008, *NSW state and regional population projections, 2006–2036*, Sydney, <http://www.planning.nsw.gov.au/population/pdfs/nsw_state_regional_population_projections_2006_2036_2008release.pdf>.

NSW Parliament Legislative Council General Purpose Standing Committee No. 1 2005, *Report on personal injury compensation legislation*, 28, Sydney, <http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/6deb694c553e0db8ca2570d100000c9a/$FILE/Final%20Personal%20Injury%20Report%208%20Dec%202005.pdf>.

NSW Parliament Legislative Council Standing Committee on State Development 2006, *Inquiry into skills shortages in rural and regional NSW*, Sydney, <http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/f38fab9bb76cd71aca25716b0005c993/$FILE/Final%20Skills%20Report%2011%20May%202006.pdf>.

NSW Rural Doctors Network 2010, *Rural Retention Program*, <http://www.nswrdn.com.au/site/index.cfm?display=57833>.

Nugent, S 2000, 'Migration to (and from) "sponge cities": Dubbo and Wagga Wagga as case studies', *Australia in the 21st Century, Melbourne, 28th November to 1st December*, <http://www.apa.org.au/upload/2000-4A_Nugent.pdf>.

Office of the Director of Public Prosecutions 2008, *Review of issues associated with the recruitment and retention of prosecutors in the Queensland ODPP, Queensland*, Brisbane, <http://www.parliament.qld.gov.au/view/legislativeAssembly/tableOffice/documents/TabledPapers/2008/5208T3603.pdf>.

Roberts, P 2004, *Staffing an empty schoolhouse: attracting and retaining teachers in rural, remote and isolated communities*, Eric Pearson Study Grant Report, Sydney, <http://www.acsso.org.au/roberts070501.pdf>.

Schetzer, L and Henderson, J 2003, *Public consultations: a project to identify legal needs, pathways and barriers for disadvantaged people in NSW*, Access to Justice and Legal Needs vol. 1, Law and Justice Foundation of NSW, Sydney, <http://www.lawfoundation.net.au/report/consultations>.

Senate Legal and Constitutional References Committee 2004, *Legal aid and access to justice*, Canberra, <http://www.aph.gov.au/senate/committee/legcon_ctte/legalaidjustice/report.pdf>.

Shoo, AM, Stagnitti, KE, Mercer, C and Dunbar, J 2005, 'A conceptual model for recruitment and retention: allied health workforce enhancement in Western Victoria, Australia', *Rural and Remote Health*, vol. 5**,** no. 477, <http://www.rrh.org.au/articles/subviewnew.asp?ArticleID=477>.

Siegel, S and Castellan, NJ 1988, *Nonparametric statistics for the behavioural sciences*, 2nd edn, McGraw-Hill, New York.

TNS Social Research 2006, *Study of the participation of private legal practitioners in the provision of legal aid services in Australia*, Commonwealth Attorney-General's Department, Canberra.

Urbis 2008, *Evaluation of the Regional Solicitor Program [interim evaluation]*, Legal Aid NSW, Sydney, <http://www.legalaid.nsw.gov.au/data/portal/00000005/public/64989001253059963158.pdf>.

Urbis 2009a, *Evaluation of the Regional Solicitor Program*, Legal Aid NSW, Sydney.

Urbis 2009b, *2008 profile of the solicitors of NSW*, Law Society of NSW, Sydney, <http://www.lawsociety.com.au/idc/groups/public/documents/internetcontent/025941.pdf>.

Urbis c2004, *The solicitors of NSW in 2015: final report*, Law Society of NSW, Sydney, <http://www.lawsociety.com.au/idc/groups/public/documents/internetcontent/025942.pdf>.

Vinson, T 2004, *Community, adversity and resilience: the distribution of social disadvantage in Victoria and NSW and the mediating role of social cohesion*, Jesuit Social Services, Richmond, Vic.

Vinson, T, Rawsthorne, M and Cooper, B 2007, *Dropping off the edge: the distribution of disadvantage in Australia*, Jesuit Social Services and Catholic Social Services Australia, Richmond, Vic.

Wilkinson, D, Laven, G, Pratt, N and Beilby, J 2003, 'Impact of undergraduate and postgraduate rural training, and medical school entry criteria on rural practice among Australian general practitioners: national study of 2414 doctors', *Medical Education*, vol. 37**,** no. 9**,** pp. 809–814.

Appendices

Appendix A: The collection form for CLC positions

Cover sheet

The RRR Project:
Access to lawyers for disadvantaged people in regional, rural and remote areas of NSW

The Law and Justice Foundation of NSW is undertaking research on behalf of the NSW Legal Assistance Forum (NLAF) RRR Working Group to better inform strategies to improve access to lawyers for disadvantaged people in rural and regional areas.
The research seeks to:

1. identify which areas of NSW are most affected by difficulties in recruiting and retaining lawyers practicing in the public sector (CLC, ALS, Legal Aid, private solicitors practicing legal aid)

2. explore differences between areas of high and low lawyer retention in terms of potentially relevant characteristics of these areas

3. identify likely reasons for success or otherwise in recruitment and retention of lawyers in those areas.

More broadly, the research will examine recruitment and retention of lawyers across all areas of NSW.

To achieve this, the Foundation seeks to obtain and analyse human resource data on all practising lawyer positions from all NSW CLCs, the Aboriginal Legal Service, Legal Aid NSW and the Law Society of NSW.

Community Legal Centres NSW, Legal Aid NSW, the ALS and the Law Society are all members of the NLAF RRR Working Group.

Note: The second tab is the CLC Lawyer Positions Data Collection Form.

This is to be used for the recording of filled and vacant lawyer positions within your CLC as at 30 June 2009.

Thank you very much for taking the time to provide this information for your CLC. Please email this completed form to:

Michael Cain - mcain@lawfoundation.net.au

Suzie Forell - sforell@lawfoundation.net.au

The CLC contacts for this project are Alastair McEwin (Alastair_McEwin@clc.net.au) and Amanda Smithers (Amanda_Smithers@clc.net.au).

CLC Lawyer Positions Data Collection Form

Please complete as much information as possible for each practising lawyer position (filled or vacant) in your CLC as at 30 June 2009.

If you have any questions, 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

COMMUNITY LEGAL CENTRE:	
Total number of practising lawyer positions (include filled and vacant positions; full- and part-time)	
Contact person:	
Contact number:	

Please do not identify the person occupying any position. Just enter the information against a position number.

Enter lawyer information starting with this column

Position number	***1***
Position grade 1. Principal 2. Senior 3. Lawyer 4. Junior 5. Other (please specify)	
SACS award or salary range (FTE) ($)	
Contracted hours per week	
Area of law/work 1. General 2. Civil 3. Family 4. Crime 5. CLE 6. Other including combination of above (please specify)	
Postcode of principal workplace	
Status of the position 1. Filled - incumbent position 2. Filled - higher duties 3. Filled - secondment/locum 4. Filled - other (please specify) 5. Vacant - unfilled, is or could be advertised 6. Vacant - incumbent on leave 7. Vacant - incumbent acting up 8. Vacant - other (please specify)	
If the position is currently filled?	
- How long filled (months since last vacant)?	
- Is Higher Duties Allowance being paid?	
If the position is currently vacant?	

- How long vacant (months since last filled)?	
- Number of times advertised since last filled?	
Incumbent's years of experience in public legal sector *(include all years in CLCs, ALS, Legal Aid, etc)*	
Incumbent's years of experience in private/corporate legal sector	
If applicable, **Postcode of other locations where the incumbent regularly works** *(e.g. branch office, outreach service)*	
- Client hours per month spent in other work locations	
- Hours per month spent travelling to other work locations	
Position specific comments: Please provide any additional information or comments you consider relevant to a particular position in this row --->	
General comments: Please provide any more general comments you may have here --->	

Appendix B: Economic and social indicators for NSW LGAs

Figure A1: Economic status of RRR NSW (2006 Census)

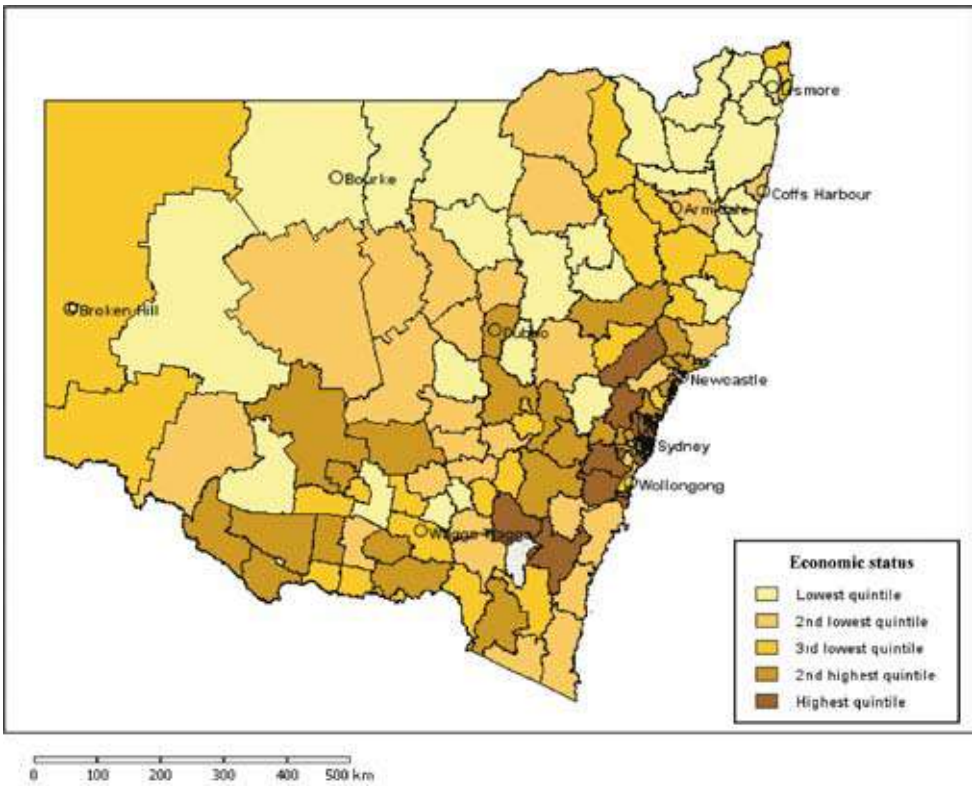


Figure A2: Projected population change 2006 to 2016 for RRR NSW (NSW Department of Planning 2008)

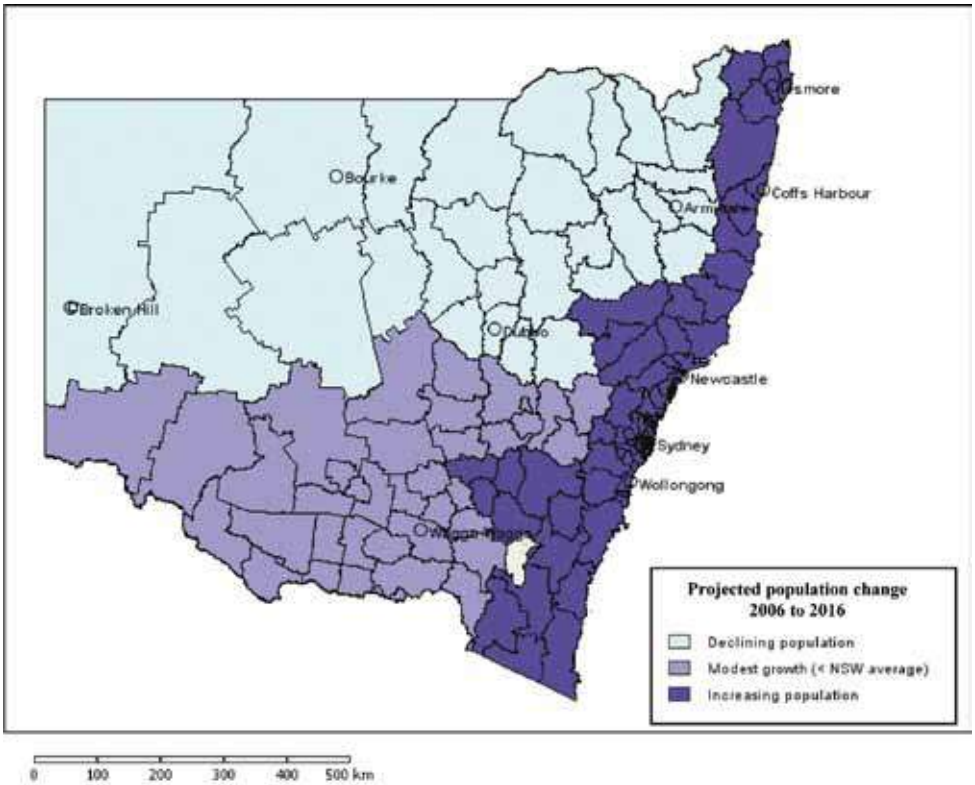
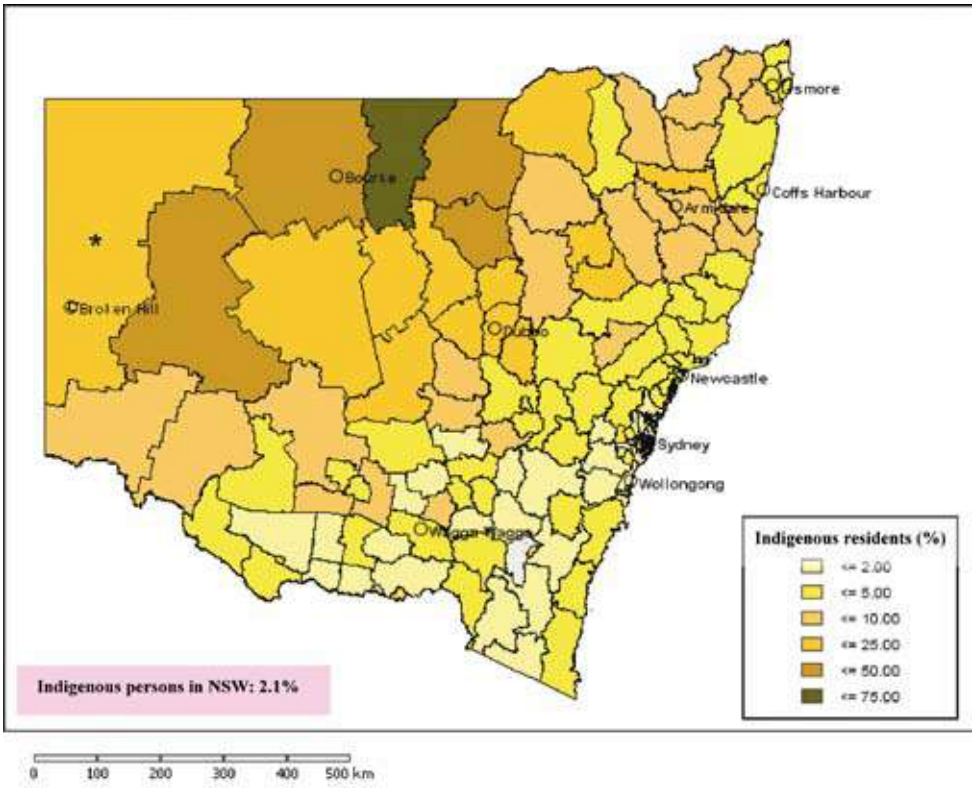


Figure A3: Percentage Indigenous residents in RRR NSW (2006 Census)



* The percentage of Indigenous residents for Unincorporated Far West (which does not include Broken Hill) was estimated using the ABS '2006 Census QuickStats for Tibooburra'. This town has the largest resident population of all towns and villages in Unincorporated Far West. Indigenous persons made up 12% of persons living in Tibooburra.

Figure A4: Percentage unemployed in RRR NSW (2006 Census)

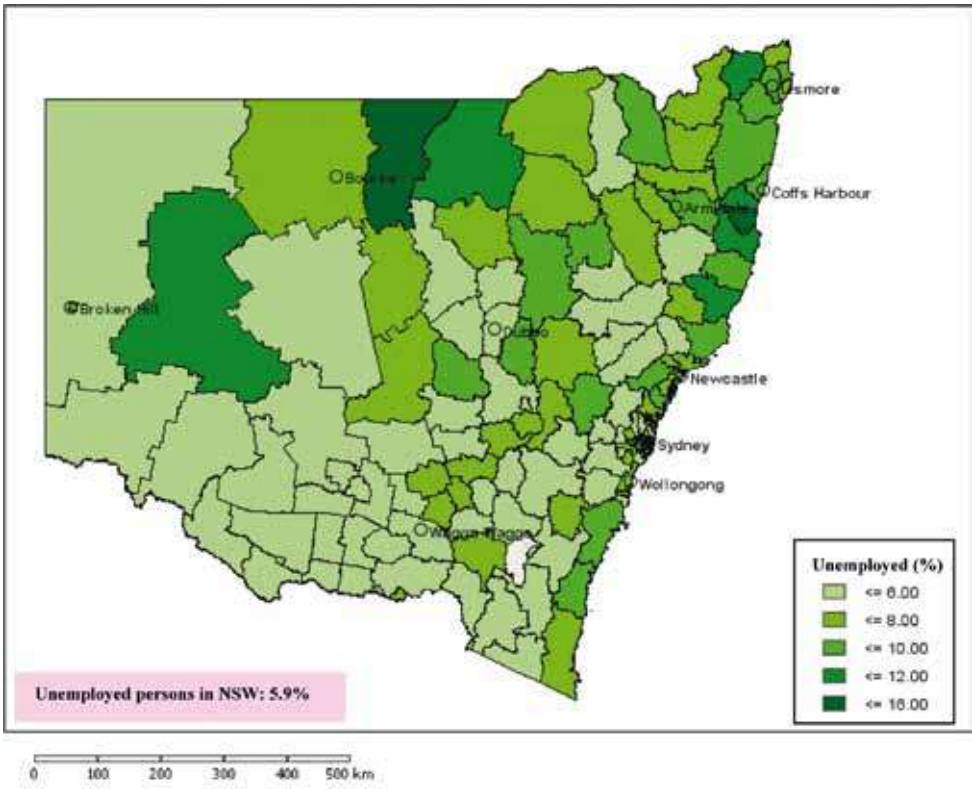


Figure A5: Percentage one parent families in RRR NSW (2006 Census)

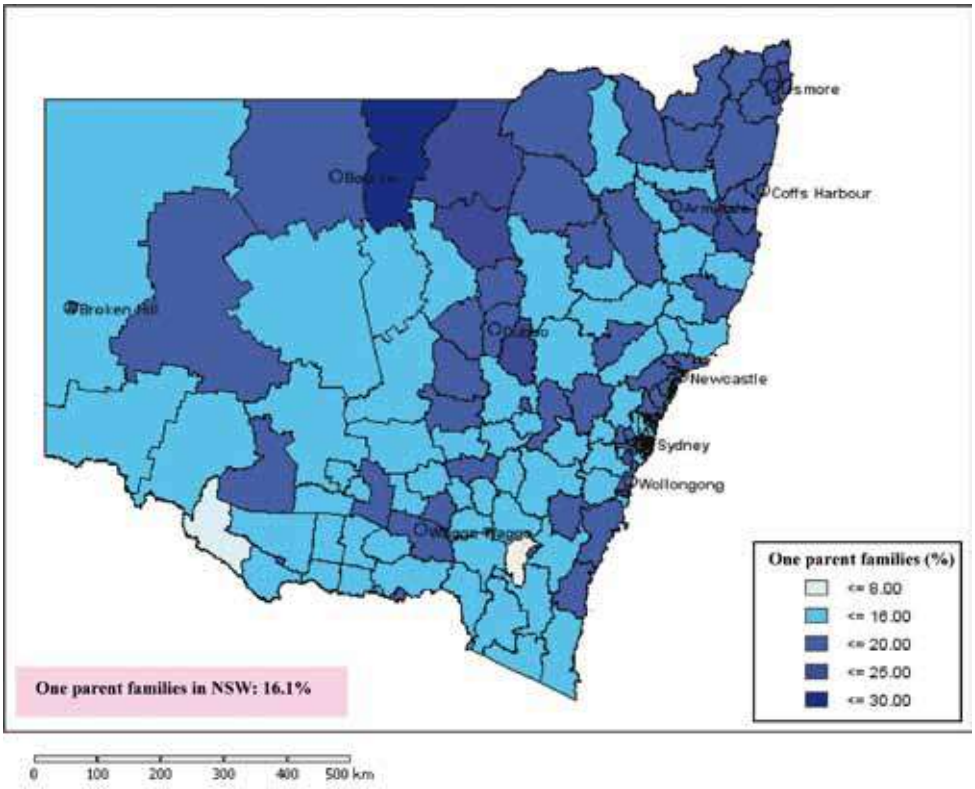
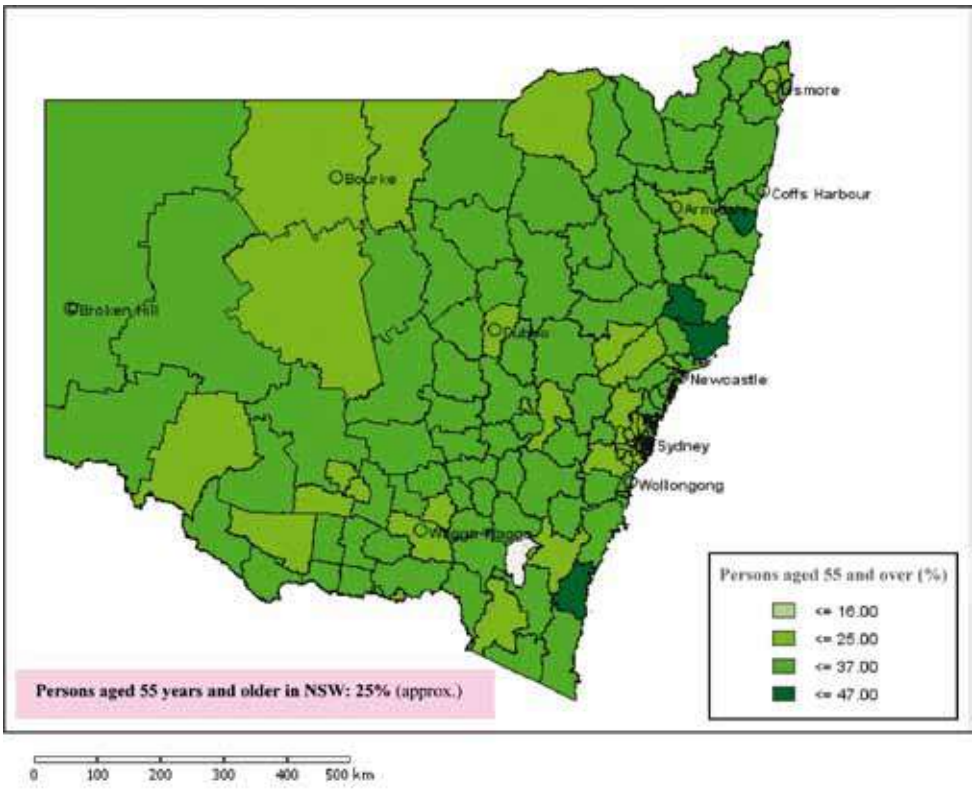


Figure A6: Percentage persons aged 55 years and over in RRR NSW (2006 Census)



Appendix C: NSW Statistical Divisions (SD or 'Regions') and Local Government Areas (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 (continued)	Leichhardt (A)
	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 (continued)	Muswellbrook (A)
	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)
	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)
	Oberon (A)
	Orange (C)
	Parkes (A)
	Weddin (A)

Statistical Division (SD)	Local Government Area (LGA)
Far West	Broken Hill (C)
	Central Darling (A)
	Unincorporated NSW

Appendix D: Interview questions for solicitor working in a RRR public legal assistance service (example)

1

Interview schedule 1: Lawyers currently working in RRR areas

Record before starting

Location of workplace:	Postcode:
Organisation:	

Hi… thanks for taking the time to speak with us. So have you seen the information sheet I forwarded to you about this project?

If no, read through the participant information sheet.

If yes, .. So just to recap, this should take up to 30 minutes, depending upon how much you would like to say about these issues. **We will not be recording your name or identifying you in any way in the report published on this study**.

Is it OK with you that I record our conversation, so I can concentrate of what you are saying rather than writing things down?

❑ YES ❑ NO

If you want me to stop the recorder at any time I can do that.

1. What is your current position at [organisation]?

2. What type of law do you practice?

3. How long have you been in this job?

4a. Where did you work before you took this job?

Record organisation and location

4b. was that a legal job? YES ❑ NO ❑

5a. What attracted you to your *current* position? (*prompt for more details)*

5b. Of these, what was the main thing?

6a. What are the things that attracted you to [area]?

6b. Of these, which would be the main factor that attracted you to this area?

7. What keeps you living and working in [area]? (*prompt for more details)*

8. Are there any difficulties or challenges which are particular to being a legal aid lawyer in a regional area?

NO ❑ YES ❑ **Can you tell me a bit about these?**

9. If you left your current position, what would the likely *reasons* be? (*prompt for more details)*

10. If you left your current job, do you think you would stay in the area or move elsewhere?

11a. Thinking about recruitment and retention of RRR lawyers more generally, from your own experience, is it difficult to fill [organisation] lawyer positions in [AREA]?

YES ❑ NO ❑ DK ❑

11b.Why is that?

11c. Have things changed since the Financial Crisis?

IF yes to 11A **11c). So what do you think *most* affects the capacity of [your office- org/location] to attract lawyers?**

12a. From your own experience/observations is it difficult to *retain* [organisation] lawyers in areas such as….?

YES ❑ NO ❑ DK ❑

12b.Why is that? (*prompt for more details)*

if yes to 12 a) **So what do you think *most* affects the capacity of [your office-org/location] to keep lawyers?** (*prompt for more details)*

13) When there are staff shortages, how are these vacancies covered?

14) Is there any other impact of high turnover/ shortage of staff on:

a) your office?

b) **services delivered?** (*prompt for more details)*

15) Thanks very much for that. Is there anything else you would like to add to the issues we have discussed today?

OK could I just a few details about you?

Gender	**Age**
Where born: *(town, state, country)*	
Where studied law	**Years since admission**
Years of experience - private	**public/community**
Do you have a spouse/partner?	**Do you have children?**

That is it for now. Thanks so much for your time.

Appendix E: Interstate grants of legal aid

Grants assigned by Legal Aid NSW in 2008/09 to interstate lawyers

Table A1: Grants of legal aid to private lawyers in practices located outside of NSW (Legal Aid NSW, 2008/09)

*State/Territory** *(number of individual private lawyers)*	*Civil law*		*Criminal law*		*Family law*		*Care and protection*		*All four areas*	
	Panel members	*Grants*	*Panel members*	*Grants*	*Panel members*	*Grants*	*Panel members*	*Grants*	*Panel members*	*Grants*
ACT (n=23)	2	3	12	39	8	12	4	4	26	58
Victoria (n=45)	3	50	13	24	34	71	4	4	54	149
Queensland (n=51)	1	1	7	23	43	58	2	2	53	84
South Australia (n=7)	0	0	0	0	7	38	1	2	8	40
Tasmania (n=1)	0	0	0	0	1	1	0	0	1	1
Western Australia (n=2)	0	0	0	0	2	2	0	0	2	2
Total	**6**	**54**	**32**	**86**	**95**	**182**	**11**	**12**	**144**	**334**

* No grants of legal aid made by Legal Aid NSW in 2008/09 to private lawyers in the Northern Territory.

Source: Legal Aid NSW grants of legal aid database (2008/09).