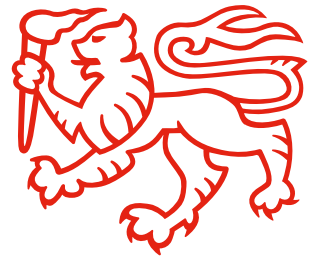


UNIVERSITY *of*
TASMANIA



Attracting and Retaining Criminal Lawyers in Tasmania

Research report and recommendations

June 2026

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List of acronyms

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| ATSILS | Aboriginal and Torres Strait Islander Legal Services |
| CFLS | The Centre for Legal Studies |
| DPP | Office of the Director of Public Prosecutions |
| EAP | Employee Assistance Program |
| eCMS | Electronic Court Management System |
| LACT | Legal Aid Commission of Tasmania |
| LST | Law Society of Tasmania |
| LLB | Bachelor of Laws |
| LACC | Law Admissions Consultative Committee |
| NAJP | National Access to Justice Partnership 2025–30 |
| NLA | National Legal Aid |
| NLAP | National Legal Assistance Partnership 2020–25 |
| PLT | Practical Legal Training |
| TALS | Tasmanian Aboriginal Legal Service |
| TLA | Tasmania Legal Aid |
| TLPC | Tasmanian Legal Practice Course |
| TOIL | Time off in lieu |
| TULS | Tasmanian University Law Society |
| UTAS | University of Tasmania |
| VLA | Victoria Legal Aid |

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Executive summary

Tasmania's criminal justice system relies on a dedicated and hard-working legal workforce with distinctive features: it is a fused profession servicing a dispersed population, with most criminal work being legally aided. This workforce is under significant strain. Pressures on lawyers and legal agencies, services and firms are flowing through to the courts, government services and the wider community. Tasmanian solicitors and barristers report significant job demands and varying levels of satisfaction, while judges, magistrates and other senior members of the profession have drawn attention to capacity pressures affecting the sector's ability to meet legal need and support the timely administration of justice. If not addressed, these issues will continue to inhibit the proper functioning of the criminal justice system and put access to justice for all Tasmanians at risk.

This report presents the findings of a University of Tasmania research project to explore the factors influencing recruitment and retention of criminal lawyers in Tasmania and recommend solutions to foster and secure supply. The project was devised in response to concerns about the declining supply of criminal lawyers in Tasmania raised by the Law Society of Tasmania and Tasmania Legal Aid. It was funded by a competitive grant awarded in the Law Foundation of Tasmania's 2024 Grants Round. This report was prepared by Jennifer Boocock, Yvette Maker, Jane Nielsen and Jeremy Prichard (Faculty of Law), and Mr Garrett O'Duffy (School of Psychological Science).

Prior studies in Australian and international jurisdictions indicate that lawyers' decisions not to enter, or to leave, legal practice are shaped by a range of external factors. High workloads and long hours, limited flexibility and poor work-life balance, workplace bullying and discrimination and declining mental health and wellbeing have been identified as drivers of attrition. Recent research highlights a national decline in private practitioners' willingness to undertake legal aid-funded work, much of which relates to criminal matters. Inadequate grant rates that have not kept pace with costs alongside administrative and bureaucratic burdens have been identified as key deterrents, suggesting that financial and structural settings significantly affect the supply of lawyers doing legal assistance work around the country. In recent years, several Tasmania-specific reviews and reports have documented systemic strain, including resourcing pressures, court backlogs, inefficiencies and worker stress, but have not explicitly examined lawyers' attraction to or exit from criminal legal practice. This study was designed to address that gap.

The study adopted a mixed-methods research design, combining a review of relevant Australian and international literature with three primary data collection methods: an anonymous survey, facilitated forums (focus groups) and semi-structured interviews. It engaged a range of participants with experience of, and insight into, criminal legal practice and the criminal justice system in Tasmania, including solicitors and barristers who currently undertake, or have previously undertaken, criminal law work; members of the Tasmanian judiciary; recent graduates of the Tasmanian Legal Practice Course (TLPC); and University of Tasmania (UTAS) Law students. This approach enabled the study to capture perspectives across career stages and institutional roles and to formulate evidence-based

recommendations for measures to improve attraction and retention of criminal lawyers in the Tasmanian context.

The data from the survey provides a snapshot of who is doing, has done, or may do criminal law work in Tasmania, based on responses from 211 participants. Respondents spanned a wide range of career stages, Tasmanian regions and employers, with many working full-time and criminal law comprising most or all of their workload. Respondents who had ceased criminal law work had mostly remained in the legal profession but moved into other areas of practice, and reported higher satisfaction in those other areas. The small number of students and TLPC trainees who responded to the survey expressed strong interest in criminal law and legal practice generally, but some reported uncertainty about their future career direction and the balance of rewards and challenges offered by criminal law work.

Participants in the survey, forums and interviews identified multiple factors that attract people to criminal law work, and multiple positive features of the work. Participants most commonly identified the nature of criminal law work as a key attraction and positive feature, including its subject matter, variety, pace and opportunities for oral advocacy and courtroom experience. Many respondents also pointed to the rewarding and meaningful nature of criminal law work, particularly where it aligned with values such as contributing to social justice, supporting clients and serving the community. Some identified criminal law experience as important for career progression, including judicial appointment. Collegiality and supportive professional and workplace cultures were also identified as positive features, with respondents describing these experiences at both profession-wide and workplace levels across different parts of Tasmania.

Participants also described a range of conditions that may deter lawyers from entering criminal law practice in Tasmania or contribute to decisions to leave the field. Demanding workloads, high stress levels and limited support were frequently identified challenges, particularly when combined with limited work-life balance, insufficient flexibility and constrained opportunities for career progression. Financial considerations, including remuneration and Legal Aid funding levels, were also reported as negative features of criminal law work that could influence people's decisions, especially those in private practice and defence roles. Respondents also referred to the mental health impacts of working in a demanding and resource-constrained field, alongside administrative and systemic pressures, and pockets of cultural issues. Students and TLPC trainees reported that while criminal law was of interest to many of them, some of these factors – and a perceived lack of opportunities to experience the positive side of this work – led to hesitation about pursuing a career in this field.

The report concludes with 20 recommendations and options for measures that one or more stakeholders could take to address attraction and retention issues and improve the supply of criminal lawyers in Tasmania. The recommendations are based on the findings of the present study, prior research, and models already in place in other jurisdictions. They are organised around five broad themes: improving resourcing for the system; increasing the efficiency of processes across institutions and agencies; supporting the development, wellbeing and sustainability of members of the profession; strengthening pathways and incentives to attract

people to criminal law work; and establishing mechanisms to monitor progress over time. Together, the options and recommendations are intended to address both immediate pressures and longer-term workforce sustainability across the Tasmanian criminal legal ecosystem, with responsibility shared across government, courts, legal assistance bodies and the profession.

Recommendations

Recommendation 1

Increased funding should be made available for grants of legal aid to the private sector, to narrow the gap between legal aid fees and those available for privately funded work and more accurately reflect the tasks undertaken.

Recommendation 2

The funding of Tasmania Legal Aid's (TLA) in-house criminal practice should be reviewed to ensure it is adequate to enable TLA to fulfil its role under the *Legal Aid Commission Act 1990* (Tas). Any changes to increase funding of private legal aid grants should not undermine the adequate resourcing of TLA's in-house criminal law practice.

Recommendation 3

Legal aid grant administration processes in Tasmania would benefit from review, renewal and increased resourcing. Consideration could be given to adopting a more structured framework for the granting of aid, drawing on established approaches in other Australian jurisdictions.

Recommendation 4

Efficiency measures and court system upgrades should facilitate criminal lawyers' work across courts and regions, and reduce workloads and frustration. Any changes to systems and processes should take account of the experiences and needs of practitioners to ensure they can fully benefit from efficiency gains.

Recommendation 5

Any reviews of the structural and procedural features of Tasmania's criminal justice system (such as disclosure and sentencing) should take into account:

- a) access to justice considerations associated with the availability of legal representation and the pressures on legal practitioners; and
- b) the experiences of those working in the system.

Recommendation 6

Early-career professionals working in criminal law should have access to, and be supported by their employers to participate in, a formal mentoring program that matches them with a senior practitioner.

Mentors should be supported to undertake training on effective mentoring and relevant skills such as recognising and responding to distress, effective debriefing and reflective practice.

Consideration should be given to the Law Society of Tasmania providing incentives for senior lawyers to participate in mentoring, such as reduced practising certificate fees; free CPD points; reduced CPD course fees; and formal recognition of contributions to mentoring through, for example, specialist accreditation programs.

Recommendation 7

The feasibility of an ongoing, funded Tasmanian Criminal Law Graduate Program should be explored. Such a program could build on the Department of Justice Graduate Legal Officer program to enable graduate lawyers employed under the *State Service Act 2000* (Tas) to undertake a structured early-career program, including placements at both the DPP and TLA with ongoing mentoring support from senior personnel.

Recommendation 8

The adequacy of funding for government agencies and legal assistance services employing criminal lawyers (TLA and Tasmanian Aboriginal Legal Service) should be reviewed and, where necessary, increased to ensure that:

- a) lawyers employed under the State Service Award understand and enjoy the full range of entitlements available to them;
- b) lawyers are appointed at the appropriate remuneration level for their experience and responsibilities;
- c) career progression is not artificially constrained by short-term contracts or the unavailability of more senior positions;
- d) there is parity of position, pay and career progression for criminal lawyers working in all relevant government agencies and legal assistance bodies; and
- e) staffing numbers are adequate to prevent excessive workloads.

Recommendation 9

There should be an immediate review of the physical safety of all criminal lawyers working in Tasmania's criminal justice system. Particular attention should be paid to the safety of defence lawyers meeting clients in custody.

Recommendation 10

Mental health services (including Employee Assistance Programs (EAPs)) available to Tasmanian legal professionals working in criminal law require review and improvement to ensure they provide effective support. Reviews should assess awareness, accessibility, uptake, effectiveness and satisfaction, including availability at convenient times and locations.

Recommendation 11

The desirability and feasibility of engaging mental health professionals to provide mental health support, mental health first aid training, structured supervision and/or group and individual debriefing for lawyers working in criminal law should be explored by employers and, if deemed appropriate, adequately funded.

Recommendation 12

Agencies employing criminal lawyers under the State Service Award should explore the feasibility of extending access to the Tasmanian Department of Police, Fire and Emergency Services or Tasmanian Coronial System Wellbeing Support Program to these employees.

Recommendation 13

An effective mechanism for dealing with complaints about judicial behaviour, and improving education and training on judicial bullying for all professionals, is needed. The Law Society of Tasmania should assess the feasibility of establishing an independent process for members to register, and receive support concerning, complaints or concerns about judicial behaviour.

Recommendation 14

Practitioners and agencies across the criminal justice system should identify and pursue additional opportunities to positively promote the role and value of the criminal legal profession. This may include advocating to government, participating in public and professional fora, contributing to public discourse (including responding to adverse media and social media coverage) and engaging with early-career lawyers and students.

Recommendation 15

The development of a secondment program to enable interested early-career practitioners in private practice to work with senior practitioners and gain experience in criminal trial work should be explored.

Recommendation 16

UTAS Law School's 2026 course review should consider opportunities to incorporate further support for students and graduates to develop psychosocial preparedness and capacity for self-care in demanding work environments, in consultation with the Centre for Legal Studies.

Recommendation 17

UTAS Law School's 2026 course review should consider whether additional opportunities for interested students to develop knowledge relevant to working in the criminal justice system can be incorporated into the curriculum.

Recommendation 18

UTAS Law School should work with the Centre for Legal Studies and Tasmanian University Law Society to identify opportunities for Law students and graduates to gain greater exposure to information about criminal law careers and connect them to opportunities to develop relevant skills, such as clinical legal education, advocacy and mooting electives and competitions, work experience placements and careers information sessions.

Recommendation 19

The profession could explore the desirability and feasibility of a Criminal Law Internship program to foster students' and graduates' interest in criminal law work.

Recommendation 20

The Law Society of Tasmania should resume regular surveys of the Tasmanian legal profession to track lawyer numbers and areas of professional expertise around the state. This would facilitate identification of trends in criminal practice in Tasmania and areas for further investigation or improvement. Data collection should include lawyers who are not Law Society of Tasmania members, including those employed under the *State Service Act 2000* (Tas).

Introduction

Lawyers play a critical role in the proper functioning of the criminal justice system. Access to legal assistance is fundamental to meeting legal need and ensuring people in Tasmania's criminal justice system have access to justice.¹ Accused persons have the right to a fair trial and a lack of legal representation can impair the enjoyment of this right.² The courts' powers to stay criminal proceedings, including where they consider that an unrepresented person accused of a serious crime may receive an unfair hearing,³ and to set aside a conviction on grounds of procedural fairness,⁴ underscore the importance of legal representation in this context.

In 2024, the Law Society of Tasmania (LST)⁵ and Tasmania Legal Aid (TLA)⁶ approached researchers at the University of Tasmania (UTAS) Faculty of Law to propose a research study examining the supply of criminal lawyers, particularly criminal defence lawyers, around Tasmania, and devise recommendations about how various stakeholders could address issues in the sector. This report sets out the findings of that study, which was funded by a competitive grant awarded in the Law Foundation of Tasmania's 2024 Grants Round.

The project was led by Associate Professor Yvette Maker, who coordinates the UTAS Clinical Legal Education program in the UTAS Faculty of Law. Dr Jennifer Boocock served as Project Research Fellow; Dr Boocock is a staff member of the Law School and the Tasmanian Law Reform Institute. Project advisors were Professor Jane Nielsen, who teaches Tort Law, Private Law and Competition Law, and Professor Jeremy Prichard, who teaches Criminal Law. Research assistance was provided by Mr Garrett O'Duffy, a PhD candidate in the University of Tasmania's School of Psychological Science, who conducted the quantitative data analysis presented in Sections 4, 5 and 6.

The study addressed three main research questions:

1. What are the barriers to lawyers being attracted to, or remaining in, criminal law practice in Tasmania?
2. Are the incentives for law firms to practice in the criminal law area appropriately balanced?

¹ Warren Mundy, *Independent Review of the National Legal Assistance Partnership Final Report* (Report, March 2024) 12-13 <<https://www.ag.gov.au/legal-system/publications/independent-review-national-legal-assistance-partnership-2020-25>>.

² *Dietrich v The Queen* (1992) 177 CLR 292, 311.

³ *Ibid* [1].

⁴ See eg *SZBEL v Minister for Immigration and Multicultural and Indigenous Affairs* (2006) 228 CLR 152 [25].

⁵ The LST is a statutory body tasked with regulating legal practice in Tasmania and providing services to assist the legal profession to maintain high standards of practice. See Law Society of Tasmania, *Annual Report 2024/2025* (2025) 2 <https://issuu.com/taslawsociety/docs/the_law_society_of_tasmania_annual_report_2024-2025>

⁶ TLA is an independent statutory body established to provide legal services and ensure legal access to Tasmanians in need, largely funded by the Commonwealth and State government grants. See Tasmania Legal Aid, *2023/24 Annual Report* (2024) 37 <<https://www.legalaid.tas.gov.au/wp-content/uploads/2024/11/TLA-Annual-Report-2324.pdf>>.

3. How can stakeholders address potential barriers to promote a sustainable supply of lawyers undertaking criminal work to meet demand around Tasmania?

The study sought to answer these questions by gathering the views of current and former members of the Tasmanian legal profession, members of the Tasmanian judiciary, recent Law graduates undertaking professional legal training via the Tasmanian Legal Practice Course, and UTAS Law students in 2025 via three methods: an anonymous online survey; small forums (focus groups); and one-on-one interviews. Participants were asked to share their perspectives on the factors that attract individuals and private firms to undertake criminal legal work and keep them in that field, the factors that lead to dissatisfaction and attrition, and what needs to change to improve attraction and retention and secure the sustainability of the system. The research was approved by the University of Tasmania Human Research Ethics Committee (project number H31773).

The research team acknowledges the valuable contributions of participants from across the Tasmanian legal profession who generously contributed their time and insights to this study. Participants' willingness to share their experiences has enriched the project and ensured the findings are both relevant and meaningful.

At the commencement of the project, the research team established a Reference Group comprising the Hon Justice Helen Wood (Senior Puisne Judge of the Supreme Court of Tasmania), Daryl Coates SC (Director of Public Prosecutions, Tasmania), Kristen Wylie (Director, TLA) and Luke Rheinberger (Executive Director, LST). The Reference Group provided guidance and oversight on the conduct of the study, including feedback on the design of the research instruments, data analysis and development of the recommendations. The role of the Reference Group was to ensure that all aspects of the study were informed by reality 'on the ground' and to support successful recruitment of participants, formulation of meaningful and feasible recommendations, and effective dissemination of outputs. While the report incorporates the Reference Group's advice, the findings and recommendations are solely the responsibility of the authors.

This report is in seven sections. Section 1 describes the interlinked components of Tasmania's criminal legal system, and Section 2 discusses prior research on attraction and retention of Australian lawyers and previous reviews and other processes that have raised concerns about, or sought to address, the supply of criminal lawyers in Tasmania. Section 3 describes the elements of the present study, including the design and conduct of the anonymous survey, forums and interviews. Section 4 provides a snapshot of the Tasmanian legal sector, describing the demographic characteristics, career pathways and future plans of legal professionals, graduates and students who participated in the study. Sections 5 and 6 summarise and analyse the findings of the study, focusing on what attracts people to, and keeps them in, criminal law work (in Section 5) and what prevents people from going into, or drives them from, that work (in Section 6). Section 7 draws together the analysis in the preceding sections to identify reform options for improving attraction and retention of criminal lawyers in Tasmania and makes 20 recommendations for how to implement change.

I. The Tasmanian criminal legal ecosystem

I.1 The criminal justice system

The administration of criminal justice in Tasmania relies on an ecosystem of independent but interconnected institutions, organisations and individuals. This includes the court system, judicial officers, the Office of the Director of Public Prosecutions (DPP), Tasmania Police, Community Corrections, Tasmania Prison Service and other government agencies, legal assistance services such as TLA and Tasmanian Aboriginal Legal Service (TALS), and private law firms, barristers and solicitors.

These bodies and individuals contribute to the fundamental goals of the criminal justice system, which include preventing and deterring crime, punishing and reforming offenders and restoring losses to victims.⁷ They are also essential to upholding rule of law principles such as the presumption of innocence and entitlements to a fair and public trial and to access competent and independent legal advice.⁸ Like any ecosystem, the effective functioning of the criminal justice system depends on the health and sustainability of each component. Conversely, shortcomings in one or more elements can lead to instability throughout the ecosystem, resulting in both human and economic costs for the State and the community (discussed further below).⁹

Tasmania's legal system and profession have some distinctive features. The majority of criminal trials in Tasmania are legally aided, with little private criminal work.¹⁰ Tasmania has a fused legal profession, meaning lawyers can practise as both barristers and solicitors under the same practising certificate, with a relatively small number of practitioners operating solely as barristers.¹¹ This structure has traditionally allowed private practitioners to undertake some criminal work alongside other areas of practice, and to operate as sole practitioners. Tasmania also has the smallest representation of solicitors to population of all Australian states and territories.¹² One consequence of this is that some Tasmanian lawyers undertake large

⁷ Rick Sarre and Kathleen Daly, 'Criminal Justice System: Aims and Processes' in Derek Dalton, Willem de Lint and Darren Palmer (eds), *Crime and Justice: A Guide to Criminology* (Lawbook Co, 6th ed, 2021) 383–403.

⁸ Law Council of Australia, *Rule of Law Principles* (Policy Statement, March 2011) <<https://lawcouncil.au/publicassets/046c7bd7-e1d6-e611-80d2-005056be66b1/1103-Policy-Statement-Rule-of-Law-Principles.pdf>>

⁹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Criminal Justice System* (Issues Paper, 2020) 4 <<https://disability.royalcommission.gov.au/publications/criminal-justice-system>>

¹⁰ Chief Justice Alan Blow, *Comments During Chief Justices' Session* (Speech, Australian Bar Association/Victorian Bar National Conference, 27 October 2016) <<https://supremecourt.tas.gov.au/publications/speeches-articles/australian-bar-association-victorian-bar-national-conference/>>

¹¹ *Legal Profession (Barristers) Rules 2016* (Tas), which adopt the *Legal Profession Uniform Conduct (Barristers) Rules 2015* (NSW).

¹² One in 634 residents held a practising certificate in 2024: Law Society of New South Wales, *National Profile of Solicitors* (13 June 2025) 8 <<https://www.lawsociety.com.au/sites/default/files/2025-06/2024%20National%20Profile%20of%20Solicitors%20-%20Final.pdf>>

amounts of travel to serve the State's dispersed population.¹³

1.2 Legal assistance services

Within the criminal justice ecosystem, government-funded legal assistance services play a central role in the provision of criminal defence in Tasmania. These services – which are designed to provide equitable and efficient access to legal assistance services, including low- or no-cost services to those who otherwise could not afford to pay¹⁴ – are underpinned by the National Access to Justice Partnership (NAJP) 2025–30. The NAJP, which recently replaced the National Legal Assistance Partnership (NLAP) 2020–25, is an agreement between all state and territory governments and the Commonwealth Government.¹⁵ It specifies the relationship between these governments for the provision of legal assistance services across multiple areas of criminal and civil law through Legal Aid Commissions, Aboriginal and Torres Strait Islander Legal Services (ATSILS), Family Violence Prevention Legal Services and Community Legal Centres.¹⁶

The NAJP was developed following the Independent Review of the National Legal Assistance Partnership conducted by Dr Warren Mundy in 2024 ('the Mundy Review'). The Mundy Review's final report described the complex funding arrangements in the sector, which involve a combination of Commonwealth, state and territory funding. It detailed the Commonwealth's funding distribution approach, which included baseline funding for Legal Aid Commissions, Community Legal Centres and ATSILS, and specific funding streams for purposes such as Domestic Violence Units and Family Advocacy and Support Services.¹⁷ Levels of funding provided to states and territories by the Commonwealth, and by state and territory governments to legal assistance services directly, vary according to factors including jurisdiction, service need, population and operational requirements.¹⁸ Relevantly for the present study, and in common with other jurisdictions, the majority of funding for legal assistance for criminal matters in Tasmania is provided by the Tasmanian Government.¹⁹ An exception is TALS, a Tasmanian Aboriginal Community-controlled Organisation and Tasmania's ATSILS, which handles criminal matters but is funded primarily through

¹³ Natasha Cortis and Megan Blaxland, *Legal Aid Private Practitioners: 2024 Census* (UNSW Social Policy Research Centre for National Legal Aid, 5 February 2025) 16 <<https://nla-production-assets.s3.ap-southeast-2.amazonaws.com/public/Reports/Private-Practitioners-Census/Legal-Aid-Private-Practitioners-Report-SPRC-for-NLA-5-February-2025-v2.pdf>>

¹⁴ PricewaterhouseCoopers, *The Benefits of Providing Access to Justice* (Report for National Legal Aid, January 2023) 8 <<https://nla-production-assets.s3.ap-southeast-2.amazonaws.com/public/Reports/Final-Public-Report-PwC-The-Benefits-of-Providing-Access-to-Justice-1-January-2023.pdf>>

¹⁵ Australian Government, 'National Access to Justice Partnership 2025-30', *Attorney-General's Department* (Web Page) <<https://www.ag.gov.au/legal-system/legal-assistance-services/national-access-justice-partnership-2025-30>>

¹⁶ See Mundy (n 1) for an overview.

¹⁷ Ibid 102–104.

¹⁸ Ibid 100.

¹⁹ Tasmania Legal Aid, *2023/24 Annual Report* (n 6) 46. The exception is Commonwealth funding in relation to criminal matters arising under Commonwealth laws. See also, Productivity Commission, *Access to Justice Arrangements* (Inquiry Report No 72, 2014), vol 2, 724–5 <<https://assets.pc.gov.au/inquiries/completed/access-justice/report/access-justice-volume2.pdf>>.

Commonwealth funding under the NAJP and does not receive direct funding from the State Government.²⁰

Tasmania's Legal Aid Commission – known as TLA – is established by the *Legal Aid Commission Act 1990* (Tas) ('the Act'). TLA has a governing board that oversees the provision of community legal assistance by lawyers employed directly by TLA ('in-house') and by private lawyers via grants of legal aid. This 'mixed model' of service delivery, through which a combination of in-house practitioners and private practitioners provide legally aided assistance, is utilised by Legal Aid Commissions around Australia²¹ and was recently described by the Law Council of Australia as 'critical to sustainable service delivery nationally'.²² The Productivity Commission identified benefits of this mixed model, including that it enables Legal Assistance Commissions to 'harness private sector expertise', to be flexible in meeting demand, to facilitate choice of provider, to enable management of conflicts of interest, and to influence affordability by creating competition.²³

Tasmania's mixed model is formalised in section 15(1) of the Act, which holds that TLA 'may provide legal aid by arranging for the services of a private legal practitioner... or by making available the services of an [in-house] officer'. TLA is required to issue directions for allocating work between officers and private practitioners and those directions must 'have regard to the desirability of enabling [in-house] officers to engage in the practice of law as comprehensively as reasonably practicable'.²⁴ The allocation of work must be made according to legal need, practitioners' capacity, and, among other considerations, the most efficient, economical, and effective means of maximising rights and remedies under Tasmanian law.²⁵

The Act also establishes that TLA may provide legal aid if a person is unable to afford the cost of private legal services, or if it is reasonable in all the circumstances to provide legal aid.²⁶ It sets out a series of matters that TLA must have regard to when deciding whether to provide legal aid, including the person's income and assets, the cost of living and of private legal services, the benefit and detriment of legal aid to the person, and the likelihood any court proceedings will terminate in a manner favourable to them.²⁷ TLA guidelines (which

²⁰ Tasmanian Aboriginal Level Service, *Annual Report (2025)* 3

<<https://static1.squarespace.com/static/68881ea114fe832ac01b3759/t/6949ba5bf0704d772e24faed/1766439515956/Annual+Report+2025.pdf>>

²¹ Cortis and Blaxland (n 13) 5.

²² Law Council of Australia, *2025-26 Pre-Budget Submission: The Treasury* (7 February 2025) 11

<<https://lawcouncil.au/publicassets/8c9055eb-17e5-ef11-94af-005056be13b5/4645%20-%20S%20-%202025-26%20Pre-Budget%20Submission.pdf>>.

²³ Productivity Commission (n 19) 724–5.

²⁴ *Legal Aid Commission Act 1990* (Tas) s 15.

²⁵ *Ibid* ss 6(1)(g), 15 (1)–(4).

²⁶ *Ibid* s 19(1). Section 19(2A) also requires the Commission to provide legal aid in accordance with s 8A of the *Evidence (Children and Special Witness) Act 2001* (Tas).

²⁷ *Ibid* s 19(2).

incorporate Commonwealth and State Government guidelines and the Act requirements) specify the eligibility criteria for clients to access legal aid, including means and merits tests.²⁸

TLA is the largest legal assistance service in Tasmania, with offices in the South, North and North West of the state providing information, advice, representation and other legal services in criminal, civil and family law.²⁹ TALS also provides legal assistance around Tasmania to Aboriginal and Torres Strait Islander people and communities across criminal, family and civil law matters.³⁰ Further, Community Legal Centres around Tasmania provide low- or no-cost legal assistance and other legal services to particular geographical or demographic groups, although this rarely involves criminal matters.³¹

In addition to its in-house provision of legal advice and representation on criminal matters, TLA made grants of legal aid to 40 private firms or sole practitioners for criminal matters, totalling \$3,667,006, or 46 per cent of total legal aid grants payments in 2023–24.³² In its 2024–25 Annual Report, TLA indicated that private practitioners in Tasmania deliver between 60 and 70 per cent of criminal grant representation.³³ This demonstrates the significant role that private practitioners and firms play in criminal defence supply in Tasmania.

1.3 Criminal lawyers working in Tasmania

The three largest cohorts of lawyers working in criminal law in Tasmania are those working in the Office of the DPP, those working at TLA, and those doing legally aided work in private practice (as either employees or self-employed). A smaller significant cohort is criminal lawyers working at TALS. There is no centralised data collection or reporting of the number of lawyers practising in criminal law in Tasmania, nor of the total number of Tasmanian lawyers practising in any field. As at October 2025, the LST reported that approximately 920 individuals held practising certificates in Tasmania, and there are at least 118 firms operating in Tasmania.³⁴ In the LST's most recent survey of the Tasmanian legal profession (2017-18), 21 per cent of respondents reported that criminal law was one of their three top areas of practice.³⁵ De-identified data provided by the LST for this study indicates that 51 law firms and 14 barristers in Tasmania registered an intention to do some criminal law work in 2025.

²⁸ Tasmania Legal Aid, *Grants of Legal Aid Guidelines* (1 July 2025) <<https://assets.legalaid.tas.gov.au/uploads/2025/01/Grants-of-legal-aid-Guidelines-2025.pdf>> ('Grant Guidelines'); see Mundy (n 1) 20–21.

²⁹ See 'Legal Assistance Services', *Department of Justice (Tasmania)* (Web Page, 23 October 2023) <<https://www.justice.tas.gov.au/your-rights/legal/legal-assistance-services>>; 'About Us', *Tasmania Legal Aid* (Web Page) <<https://www.legalaid.tas.gov.au/about-us/>>.

³⁰ Tasmanian Aboriginal Level Service (n 20).

³¹ 'About Us', *Community Legal Centres Tasmania* (Web Page, 2013) <<https://clctas.org.au/what/>>.

³² Tasmania Legal Aid, *2023/24 Annual Report* (n 6) 12–14.

³³ Tasmania Legal Aid, *2024/25 Annual Report* (2025) 6 <<https://assets.legalaid.tas.gov.au/uploads/2025/12/TLA-Annual-Report-2425.pdf>>.

³⁴ Law Society of Tasmania, *Annual Report 2024/2025* (n 5) 2, 21.

³⁵ Law Society of Tasmania, *Profile of the Tasmanian Legal Profession 2017-2018* (Report, 2018) 10 <https://www.lst.org.au/wp-content/uploads/2021/05/Profile_Tas-Law-Society-2017-2018.pdf> ('Profile of the Profession').

Government lawyers are not required to hold a practising certificate through the LST because they are practising under the *State Service Act 2000* (Tas).³⁶ This includes a considerable number of lawyers employed by TLA and the DPP.³⁷ In criminal matters, the Office of the DPP is responsible for prosecuting indictable offences in the Supreme Court, as well as certain summary proceedings in the Magistrates Court. Its role also extends to the prosecution of regulatory offences, representing Tasmanian agencies in appeals from the Magistrates Court to the Supreme Court, appearing in tribunal and board proceedings involving government agencies, and acting for the Crown in appeals before both the Court of Criminal Appeal and the High Court.³⁸

Data provided separately by TLA and the DPP indicate that TLA employs 70 lawyers across all practice areas (criminal, family, civil and legal education) and the DPP employs 58 lawyers (40 females and 18 males). TALS had a team of 10 criminal lawyers in 2024-25.³⁹

1.4 Legal education and qualification

Through the Bachelor of Laws (LLB) and associated degrees,⁴⁰ UTAS has traditionally educated a considerable number of Tasmania's legal profession. The LLB is accredited by the Tasmanian Board of Legal Education according to standards set by Australia's Law Admissions Consultative Committee (LACC).⁴¹ The degree provides graduates with the necessary legal knowledge and skills to enter legal practice via the core 'Priestley 11' subjects and a range of electives.⁴² In 2025, 59 students graduated from UTAS with an LLB or combined degree.

The UTAS LLB core curriculum is designed to equip students with knowledge of black letter law and skills in legal reasoning, analysis and research. Students also have a range of opportunities to develop their practical advocacy and client-relations skills through elective units. These currently include two Clinical Legal Education electives (Public Interest Law Clinic and Legal Professional Experience), two mooting electives (Competition Moot and Jessup Moot) and Advocacy. In Public Interest Law Clinic, students complete coursework on core lawyering skills in the community legal context while working in the Student Legal Service – run by Youth Law Australia and the Tasmanian University Student Association – on UTAS's Sandy Bay campus. Students who complete this unit can go on to undertake a placement in a legal assistance service, government body or other public interest organisation in the Legal Professional Experience unit. In recent years, students have completed placements with TLA, TALS, Prisoners Legal Service, the Department of Justice and the Office of the Custodial Inspector, among others. A related opportunity for Aboriginal and Torres Strait Islander

³⁶ *Legal Profession Act 2007*(Tas) s 41.

³⁷ Law Society of Tasmania, *Profile of the Profession* (n 35) 9.

³⁸ 'About the DPP', *Director of Public Prosecutions* (Web Page) <https://www.dpp.tas.gov.au/about_us>.

³⁹ Tasmanian Aboriginal Legal Service (n 20) 9.

⁴⁰ This included combined degrees such as Law and Psychology, Law and Social Sciences, Law and Science and Law and Antarctic Studies.

⁴¹ Legal Services Council, *Law Admissions Consultative Committee Accreditation Standards for Australian Law Courses* (July 2018) Schedule 1.

⁴² 'Arts and Society Courses and Units', *University of Tasmania* (Web Page, 20 February 2026)

<<https://www.utas.edu.au/courses/arts-soc/courses/l3c-bachelor-of-laws>>.

students to gain criminal law experience is the takamuna Rosie Smith Law Scholarship. This is awarded each year to an Aboriginal or Torres Strait Islander student commencing their first year of a law or combined law degree, providing financial support and internships at TLA each year of their studies (including guaranteed places in Public Interest Law Clinic and Legal Professional Experience).⁴³

In Competition Moot, students prepare for and participate in a national inter-varsity mooting competition, developing their skills in oral advocacy, legal research and drafting arguments. Jessup Moot offers a similar opportunity to participate and develop their skills in an international competition. In the Advocacy elective, students learn the theoretical and practical foundations of advocacy and develop a range of skills for junior civil and criminal legal practice. The student-run UTAS Law students' society, the Tasmanian University Law Society (TULS), also runs a comprehensive internal and external competitions program that students can engage with, including mooting, negotiations, client interviewing and witness examination.⁴⁴

The Centre for Legal Studies (CFLS), under contract with UTAS, delivers the 24-week Tasmanian Legal Practice Course (TLPC) through a Graduate Diploma of Legal Practice that qualifies its graduates for admission to legal practice in Tasmania and nationally. The course provides further opportunities for graduates to observe and develop skills relevant from criminal law practice. TLPC trainees undertake seven compulsory units, including 'Criminal Law Practice: Magistrates' Court and Advocacy'. In this unit, trainees participate in fortnightly exercises in the Magistrates Court to make applications and submissions and undertake other advocacy exercises, with oral feedback from the presiding judicial officer and assisting practitioners. Through this and other parts of the course, trainees undertake weekly appearances before Judges, Magistrates and Tribunal members, complete simulated file work and transactions as part of a 'firm' and complete a 15-day work experience placement relevant to their career goals.⁴⁵ In 2025, 37 trainees completed the TLPC.

An oft-cited feature of Tasmania's legal system is the close relationship between the legal profession and judiciary, UTAS Faculty of Law and CFLS.⁴⁶ These connections manifest in the direct involvement of members of the profession in the undergraduate and postgraduate teaching and extra-curricular activities described above, such as student mooting competitions and regular networking and career development events hosted by the Faculty of Law and TULS.

⁴³ 'takamuna Rosie Smith Law Scholarship', *University of Tasmania* (Web Page)

<https://www.utas.edu.au/study/scholarships-fees-and-costs/domestic-scholarships/a-z?code=SCH_TAKAR>.

⁴⁴ 'About Mooting & Competitions', *Tasmania University Law Society* (Web Page)

<<https://www.tuls.com.au/mooting-competitions>>.

⁴⁵ 'Tasmania Legal Practice Course', *Centre for Legal Studies* (Web Page) <<https://www.cfls.com.au/>>.

⁴⁶ See, eg, *University of Tasmania* (n 42).

2. Attraction and retention of Australian lawyers: prior research, reviews and concerns

2.1 Prior Australian research

Several Australian studies in recent decades have attempted to quantify and explain attrition – and, conversely, retention – of legal practitioners in the profession. These studies have generally focused on a single jurisdiction,⁴⁷ and have examined concerns raised by regulatory bodies about the departure of specific cohorts from legal practice – such as female practitioners,⁴⁸ junior practitioners⁴⁹ and rural and regional practitioners⁵⁰ – or in response to concerns about the declining mental health and wellbeing of lawyers.⁵¹ These studies suggest many factors can influence graduates’ and lawyers’ decisions to decline to join, or to leave, legal practice. They include high workloads and long work hours,⁵² stressful working conditions (such as billing targets),⁵³ inadequate flexibility and work-family balance policies,⁵⁴ workplace bullying and discrimination,⁵⁵ and a desire for more interesting or more fulfilling work.⁵⁶

⁴⁷ For example, Catalyse, *How to Engage and Retain Legal Professionals: Recommendations from Western Australian Practitioners* (Report for The Law Society of Western Australia, 9 July 2020) <<https://lawsocietywa.asn.au/wp-content/uploads/2023/01/Catalyse-Survey-How-to-engage-and-retain-legal-professionals.pdf>>.

⁴⁸ For example, Alison Wallace, Chloe Harkness and Lee Holloway, *National Attrition and Re-Engagement Study (NARS) Report* (Report for the Law Council of Australia, 2014) <<https://lawcouncil.au/publicassets/8cf309de-8a1d-e711-80d2-005056be66b1/NARS%20Report.pdf>>.

⁴⁹ For example, Barry Yau and Glenda Bloomfield, ‘The Road Taken: An Australian Longitudinal Study of Law Graduates and Lawyers Who Pursued Careers Outside of Law’ (2024) 30 *James Cook University Law Review* 87; Sara Charlesworth and Iain Campbell, *Scoping Study for an Attrition Study of Victorian Lawyers Report to Victoria Law Foundation* (2010) (Report to Victoria Law Foundation, 2010) <https://www.vwl.asn.au/cms_files/Publications/Attrition_Scoping_Study_Report.pdf>.

⁵⁰ For example, Law Council of Australia Recruitment and Retention Working Group, *Recruitment and Retention of Legal Practitioners to Rural, Regional and Remote Areas* (Strategy Discussion Paper Working Draft, September 2009) <<https://lawcouncil.au/publicassets/c5ed33af-de39-e711-93fb-005056be13b5/Recruitment%20and%20Retention%20of%20Legal%20Practitioners%20ro%20Rural,%20Regional%20and%20Remote%20Areas%20Strategy%20Discussion%20Paper.pdf>>; Law Council of Australia, *Erosion of Legal Representation in the Australian Justice System* (Report, Law Council of Australia, Australian Institute of Judicial Administration, National Legal Aid and Aboriginal and Torres Strait Islander Legal Services, 2004) <<https://www.cyberprecedent.com.au/lawcouncil/images/LCA-PDF/a-z-docs/fmsdownload079a.pdf>>; Suzie Forell, Michael Cain and Abigail Gray, *Recruitment and Retention of Lawyers in Regional, Rural and Remote New South Wales* (Law and Justice Foundation of New South Wales, 2010) <https://lawfoundation.net.au/wp-content/uploads/2023/11/44PJR_Recruitment-and-retention-of-lawyers-in-regional-rural-and-remote-New-South-Wales_2010.pdf>; Vivian Holmes et al, *Lawyer Wellbeing, Workplace Experiences and Ethics* (Research Report, Victorian Legal Services Board and Commissioner, Law Society of New South Wales and Legal Practice Board of Western Australia, 2025) <<https://www.cyberprecedent.com.au/lawcouncil/images/LCA-PDF/a-z-docs/fmsdownload079a.pdf>>.

⁵¹ For example, Clare Pike and Elly Quinlan, ‘Lawyers’ Perspectives on How to Manage the Psychosocial Risks They Face in the Legal Assistance Sector’ (2026) 33(1) *Psychiatry, Psychology and Law* 139–159.

⁵² Catalyse (2020) (n 47); Wallace, Harkness and Holloway (2014) (n 48).

⁵³ Yau and Bloomfield (2024) (n 49).

⁵⁴ Wallace, Harkness and Holloway (2014)(n 48).

⁵⁵ Catalyse (2020) (n 47).

⁵⁶ Catalyse (2020) (n 47); Yau and Bloomfield (2024) (n 49).

A small number of studies since the early 2000s has also examined an apparent decline in Australian private practitioners' willingness to undertake legal aid work,⁵⁷ a substantial proportion of which (24 per cent in 2023–4) concerns criminal matters.⁵⁸ These studies (discussed in more detail throughout this report) suggest that 'miserable' legal aid grant amounts⁵⁹ that have not kept up with market rates, as well as problems with 'bureaucracy', are key factors affecting the supply of private lawyers doing legal aid work.⁶⁰

2.2 Tasmania-specific reviews and reports

Several reviews have examined aspects of the legal system and profession in Tasmania, offering some insights into the state of criminal law work in Tasmania and potential influences on recruitment and retention of lawyers and firms working in this field.

In 2015, the Honourable Peter Evans conducted a review of the Legal Aid Commission of Tasmania (the LACT, now TLA) at the request of the Attorney-General ('the Evans Review'). It examined the powers and functions of the LACT, the provision of legal aid funding to Tasmania by the Commonwealth, the administration of grants of legal assistance, and the adequacy of grants of aid.⁶¹ The Review found that the LACT was underfunded, receiving only two-thirds of the funding required to achieve government priorities.⁶² It supported the mixed model of delivery (described in section 1.2 above) and concluded that it should not be departed from.⁶³ The Review expressed concerns that the LACT used cuts to grants to private providers to manage budget cuts, and the potential for this to lead to a reduction in private practitioners undertaking legally aided work.⁶⁴ The Review made several recommendations, including that the LACT should audit and continue to monitor the efficiency and cost of in-house services compared against private practice, consider the efficiency of the staff profile, and increase its flexibility to respond to demand or funding changes by using fixed-term contracts.⁶⁵

In a response to the Review report, the then-Chairperson and Director of the LACT said that cutting grants to private providers had 'never been the policy or the LACT's preferred approach', pointing to its most recent 'belt tightening' entirely through in-house staff cuts.⁶⁶ The LACT submitted that the Review's analysis and conclusion that the cost of in-house services was greater than the cost of the private profession doing the work was based on

⁵⁷ See Cortis and Blaxland (n 13) 4.

⁵⁸ Australian Bureau of Statistics, 'Legal Assistance' (Web Page, 23 April 2026) <<https://www.abs.gov.au/statistics/people/crime-and-justice/legal-assistance/latest-release#key-statistics>>.

⁵⁹ Cortis and Blaxland (n 13) 4.

⁶⁰ See Don Fleming and Anne Daly, 'The Retreat of the Legal Profession from Legal Aid: Labour Market Change in the Australian Mixed Model' (2007) 14(1) *International Journal of the Legal Profession* 21, 33; Cortis and Blaxland (n 13) 4.

⁶¹ Peter Evans, *Review of Legal Aid Commission of Tasmania* (Report, 27 March 2015) <<https://nla.gov.au/nla.obj-1908556057/view>>.

⁶² *Ibid* 7.

⁶³ *Ibid* 41.

⁶⁴ *Ibid* 5, 31.

⁶⁵ *Ibid* 5–6.

⁶⁶ Legal Aid Commission of Tasmania, *Response to the Review of Legal Aid Commission of Tasmania* (2015) 11.

incomplete data, and that no such data was available to enable a comparison.⁶⁷ The LACT agreed that it should regularly compare the cost of delivery of legal aid through in-house lawyers and private practitioners, and indicated that it was developing a tool for that purpose.⁶⁸ The LACT also accepted that greater use of fixed-term contracts should be enabled,⁶⁹ although it noted that this would ‘come at a cost including smaller pools of talent to recruit from, regular recruitment costs, loss of corporate knowledge, and more frequent training costs’.⁷⁰

In 2017, the LST conducted its most recent member survey. The results summarised the demographic characteristics of Tasmania’s legal profession. As noted in section 1.3 above, 21 per cent of the 279 survey participants listed criminal law as their primary area of practice, compared with 45 per cent who listed commercial law.⁷¹ Forty five percent of respondents reported an intention or desire to leave the profession in the next ten years.⁷² Survey participants were also asked which aspects of legal practice they found most challenging, with multiple selections permitted. Work-life balance emerged as the most common concern, identified by 46 per cent of respondents. Time management was the second-most frequently reported challenge, selected by 34 per cent of participants.⁷³

A 2018 Evaluation of the Tasmanian Legal Assistance Sector by the Department of Justice assessed the effectiveness of the legal assistance sector in addressing the legal need of vulnerable Tasmanians.⁷⁴ The report highlighted a lack of available data on the level of legal need in Tasmania, suggesting such data could inform better planning and delivery of legal services. The report opined that the legal assistance sector should focus on providing services to those who need them most, reducing duplication across services, and developing strategic, sector-wide planning that identifies service gaps and how best to fill them.⁷⁵

A 2024 National Legal Aid (NLA) survey of private practitioners doing legal aid work (‘the 2024 Private Practitioner Census’) reported that approximately 174 Tasmanian practitioners had done legal aid cases (of any type) in the last two years.⁷⁶ Of the 40 Tasmanian practitioners who responded to the survey, 55 per cent said they would prefer to do less legal aid work.⁷⁷ Participants were also asked about perceptions of change in client need and complexity over the last two years. Among the Tasmanian respondents, 83 per cent perceived that unmet legal need had increased; 78 per cent perceived that the complexity of legal aid cases had increased; 75 per cent perceived that legal aid clients’ need for non-legal, community based services had

⁶⁷ Ibid 7.

⁶⁸ Evans (n 61) 5; Legal Aid Commission of Tasmania (n 66) 16–18.

⁶⁹ Legal Aid Commission of Tasmania (n 66) 18.

⁷⁰ Ibid 11.

⁷¹ Law Society of Tasmania, *Profile of the Profession* (n 35) 23.

⁷² Ibid 23.

⁷³ Ibid 24.

⁷⁴ Department of Justice (Tas), *An Evaluation of the Tasmanian Legal Assistance Sector* (Final Report, 12 December 2018) 6 <<https://apo.org.au/sites/default/files/resource-files/2018-12/apo-nid252566.PDF>>.

⁷⁵ Ibid.

⁷⁶ Cortis and Blaxland (n 13) 69.

⁷⁷ Ibid 20.

increased; and 90 per cent perceived that the time legal practitioners must dedicate to engaging with legal aid clients had increased.⁷⁸

Senior members of the profession have raised these and other issues in recent public statements. For example, Tasmanian Chief Justice Christopher Shanahan wrote in the Supreme Court's 2024–25 Annual Report that Tasmanian courts continue to face increasing workloads, backlogs and delay across all elements of its jurisdiction.⁷⁹ Similarly, in response to the publication of the Mundy Review's final report, the LST issued a media release emphasising the negative impact of 'chronic and decades long underfunding of the [legal assistance] sector' on access to justice in Tasmania, with then-President Julia Higgins noting the 'particularly acute shortage of lawyers' in criminal law.⁸⁰ In September 2023, the *Advocate* reported on multiple defendants appearing without representation in courts on Tasmania's North West Coast.⁸¹

Tasmania's Chief Magistrate Catherine Geason wrote in the Magistrates Court 2024–25 Annual Report that delays in finalising criminal cases in the Magistrates Court were the result of multiple factors including 'delays with disclosure, availability of counsel and time taken for expert reports to be completed, to inform decision making and sentencing outcomes'.⁸² During Tasmania's 2025 Budget Estimates hearings, members of a Legislative Council Select Committee raised several concerns with the Attorney-General, Guy Barnett MP, about delays in criminal proceedings arising from issues with evidence disclosure by Tasmania Police and the DPP.⁸³ In January 2026, the Attorney-General announced that Lloyd Babb SC had been appointed to conduct a 'Third Party Review of Backlogs in the Tasmanian Court System' to identify practical options and recommendations to manage existing court backlog, reduce delays and improve efficiency in the Tasmanian justice system.⁸⁴

While prior research and inquiries indicate the breadth of challenges facing Tasmania's criminal legal sector, no research appears to have been conducted examining attraction to, or departure from, criminal practice in Australia generally or Tasmania specifically. This study was undertaken to address that gap.

⁷⁸ Ibid.

⁷⁹ Supreme Court of Tasmania, *Annual Report 2024/2025* (2025) 2–4 <<https://www.supremecourt.tas.gov.au/publications/annual-reports/>>.

⁸⁰ Julia Higgins, 'Access to Justice for All Needs to be a Priority,' (Media Release, Law Society of Tasmania, 2024) <<https://lst.org.au/access-to-justice-for-all-needs-to-be-a-priority/>>

⁸¹ Tess Kelly, 'Why Legal Aid Boss Has Been Told to Front Court over 'Untenable' Situation', *The Advocate* (online, 23 September 2025) <<https://www.theadvocate.com.au/story/9071798/tasmania-legal-aid-implements-file-pause-in-burnie-and-devonport/>>.

⁸² Magistrates Court of Tasmania, *Annual Report 2024-25* (2025) 26 <https://www.magistratescourt.tas.gov.au/_data/assets/pdf_file/0004/835555/Magistrates-Court-of-Tasmania-Annual-Report-2024-25_web.pdf>.

⁸³ Estimates Committee B, Division 6 Department of Justice, *Tasmania Legislative Council* (Parliamentary Paper No 37, 17 November 2025) 67, 68.

⁸⁴ Guy Barnett, 'Lloyd Babb SC Appointed to Tackle Court Backlogs' (Media Release, 15 January 2026) <<https://www.premier.tas.gov.au/latest-news/2026/january/lloyd-babb-sc-appointed-to-tackle-court-backlogs>>.

3. Research study design

3.1 Research participants

The study used three data collection methods: an anonymous survey, forums (focus groups) and interviews. It targeted a range of participants with experience in, and knowledge of, criminal legal practice and the criminal law system in Tasmania. They were: solicitors and barristers who undertake, or have previously undertaken, criminal law work; members of the Tasmanian judiciary; recent graduates of the TLPC ('TLPC trainees'); and current UTAS students undertaking the LLB (or combined degree) who had completed the two core criminal law units of study.

Garnering the experiences of current and former practising criminal lawyers, and members of the judiciary, was critical to understanding the factors affecting supply of criminal lawyers and the incentives and deterrents to individuals and firms practising in this area. The perspectives of TLPC trainees were sought in order to explore recent graduates' perceptions of criminal practice and factors that might influence the decisions of those entering legal practice. Inclusion of UTAS Law students who had completed the core criminal law units provided further insight into the perceptions of students in the latter stages of their legal studies about criminal legal work, and the relationship between their criminal law studies and their future career plans.

Using Tasmanian population data and guidelines from the Australian Bureau of Statistics, a conservative estimate of the number of people required for the survey was calculated. Using 95 per cent confidence intervals, assuming a working population of 400,000, and an exaggerated per capita of one in ten people working as lawyers (higher per capita estimates being more conservative), a minimum required response of 139 people was calculated.⁸⁵ We ultimately reached approximately 250 participants across the data collection methods. This sample size provided a strong and meaningful sample set for the purposes of this research.⁸⁶

The sample size was sufficient to provide reliable qualitative insights for the core research objectives concerning recruitment and retention of criminal lawyers across Tasmania. It allowed for the identification of meaningful trends and relationships in the legal field across the state, while managing resource constraints such as time, accessibility and respondent availability, particularly as many legal professionals work under a model of billable hours and participation in this research was voluntary.

⁸⁵ See Australian Bureau of Statistics, *2021 Census All Persons QuickStats* (Web Page, 2021) <<https://www.abs.gov.au/census/find-census-data/quickstats/2021/6>>; Australian Bureau of Statistics, 'Sample Size Calculator' (Web Page) <<https://www.abs.gov.au/websitedbs/D3310114.nsf/home/Sample+Size+Calculator+Help>>.

⁸⁶ Some participants may be included in this count two or three times because individuals could participate in more than one of the three data collection activities (survey, forums and interviews).

The study was confined by the capacity to reach participants via email lists held by the LST, UTAS Law School, the Executive Director of the CFLS and members of the research team and project Reference Group. The study did not extend to practitioners outside Tasmania.

3.2 Research methods

3.2.1 Anonymous online survey

The first method of data collection was a voluntary, anonymous online survey conducted using the Redcap online data collection tool. The purpose of the survey was to gather information from a broad range of Tasmanian lawyers and other legal professionals, TLPC trainees and UTAS Law students, to identify key themes and issues that could then be explored in more depth through the focus groups and interviews.

The survey captured basic demographic information from each participant before filtering participants according to their self-identified work or study area. Participants were filtered into cohorts of:

- Current UTAS Law students who had completed both core criminal law units of study: LAW218 (Homicide and Other Complex Offences) and LAW229 (Principles and Processes);
- Trainees enrolled in the 2025 TLPC;
- Legal professionals who currently worked in criminal law;
- Legal professionals (or former legal professionals) who had previously, but were no longer, working in criminal law; and
- Legal professionals (or former legal professionals) who were not, and had never, worked in criminal law.

Each cohort was invited to respond to a set of questions to garner their views on the best and worst features of criminal law work in Tasmania and factors that might attract or deter practitioners from undertaking that work. The questions were based on the design of similar survey instruments in other studies of lawyer attraction and retention⁸⁷ and input from the project Reference Group members.

Survey responses were included for a total of 19 UTAS Law students, 4 TLPC trainees and 188 legal professionals.

3.2.2 Focus groups ('forums')

People belonging to these same cohorts were invited to participate in one of three research forums. The forums utilised the focus group method and were designed to foster open-ended discussion of the barriers and incentives to practitioners and firms taking on criminal law work (including, but not limited to, the ones identified in the survey responses) and identification and discussion of possible solutions. Focus groups were considered appropriate for this study

⁸⁷ See eg Cortis and Blaxland (n 13).

because they leverage group dynamics, draw out points of contention and enable workshopping of the feasibility of solutions.⁸⁸ The forums were structured according to the following categorisations:

1. A forum comprising nine UTAS students who had completed the two core criminal law units of study, most of whom were in their final year of undergraduate study ('Student Forum').
2. A forum comprising 10 people from around Tasmania who currently work, or previously worked, in criminal law, including participants who worked (or had worked) in Hobart, Launceston, Burnie and other regional centres ('Profession Forum 1').
3. A forum comprising nine early-career practitioners (0-10 years post-qualification) who currently, or had previously, worked in criminal law, including participants who worked (or had worked) in Hobart, Launceston, Burnie and other regional centres ('Profession Forum 2').

The Student Forum was held in the Law Building on UTAS Sandy Bay campus. The two Profession Forums were held online via Teams.

While the forum discussions were designed to be open-ended so participants could freely express their views, each discussion was guided by topics arising from the literature and preliminary survey findings (described in Sections 4, 5 and 6 below). The Profession Forums explored related but distinct sets of questions and themes to the Student Forum because they were tailored to the relevant cohorts and their corresponding survey responses.

3.2.3 Interviews

Senior legal professionals such as magistrates, judges, barristers and managing partners or directors with experience and/or knowledge of criminal work and the supply of criminal lawyers in Tasmania were invited to participate in individual interviews via Microsoft Teams videoconferencing. As with the forums, the interviews were semi-structured, with discussion guided by topics arising from the literature and preliminary survey findings.

A total of 11 interviews were conducted over a period of six weeks in late-2025. Similar to the forums, the interviews were designed to facilitate exploration of the themes that emerged from the survey data in more detail, and to elicit additional themes or issues that did not arise in the survey data.

⁸⁸ Fok-Han Leung and Ratnapalan Savithiri, 'Spotlight on Focus Groups' (2009) 55(2) *Canadian Family Physician* 218-9.

3.3 Confidentiality and other ethical considerations

The research was approved as a low-risk project by the UTAS Human Research Ethics Committee (project number H31773), in line with the National Statement on Research Ethics and the Australian Code for Responsible Conduct of Research ('National Statement').⁸⁹

At the recruitment stage, prospective participants were provided with a Participant Information Sheet explaining the purpose of the study, what they would be asked to do, and how the information they provided would be used. Participants were required to indicate their consent to participate prior to proceeding with the survey, forum or interview.

Participants were advised that they were free to cease participation at any time during the data collection and could also request that their contributions be removed from the project data after the event.

The survey took 10–15 minutes to complete. The maximum duration of the forums and interviews was 90 and 60 minutes respectively. The forums and interviews were audio-recorded and electronic and handwritten notes were taken during each session to record the discussions. Forum and interview recordings were subsequently transcribed for data analysis.

Participants could submit survey responses anonymously. Participants in the forums and interviews were advised that transcriptions and notes from the event would be generated and retained for five years but would not contain identifiable information. Participants were also assured that they would not be named as a participant in research reporting or any public discussion of the project, although they may be able to recognise quotes they had given that were included in publications arising from the study. Participants in the forums were reminded that other participants would be aware of their identities and comments and were asked to respect the confidentiality of others.

The research team recognised that additional ethical risks could arise in relation to UTAS Law students' participation in the study. Students may be in 'dependent or unequal relationships' (a prescribed category in the National Statement) with members of the research team if they were studying units being taught by research team members Maker, Nielsen or Prichard.⁹⁰ In order to protect against actual or perceived risks in this regard, team member Boocock – who did not have teaching responsibilities for current UTAS Law students for the duration of the study – was the only point of contact for this cohort during recruitment and data collection. These participants were reminded in the written Participant Information Sheet and verbally at the beginning of the forum that participation in the research was entirely

⁸⁹ National Health and Medical Research Council, *Statement on Consumer and Community Involvement on Health and Medical Research*, (Report, Australian Research Council and Universities Australia. Commonwealth of Australia, 2026) <<https://www.nhmrc.gov.au/about-us/publications/statement-consumer-and-community-involvement-health-medical-research>>.

⁹⁰ Ibid.

voluntary, and choosing not to take part – or deciding to withdraw at any time – would not affect their studies, grades or relationship with UTAS in any way.

3.4 Data analysis

The survey data analysis primarily relied on descriptive statistics, complemented by targeted inferential analyses (chi-square tests, a binomial logistic regression and moderation analyses) performed by Garrett O’Duffy, a research assistant with relevant expertise.

Qualitative data from survey free-text responses, forums and interviews were analysed using a thematic analysis approach.⁹¹ Data were managed in Microsoft Excel and Word, where transcripts and responses were organised by case, and coding was facilitated through colour-coding and analytic memos to support comparison across data types.

Analysis involved an initial familiarisation phase, during which transcripts were read repeatedly, followed by line-by-line coding. A combined deductive and inductive approach was adopted. An initial set of codes was informed by the study aims and relevant literature, while additional codes were generated directly from the data. Codes were iteratively reviewed, grouped and refined. Primary coding and theme development were conducted by Boocock, with subsequent review by Maker. Discrepancies were discussed and resolved through consensus. Themes were further reviewed to ensure coherence within themes and clear distinctions between them, and to assess their representation across survey, focus group and interview data.

The final themes reflect both the researchers’ expertise in this field and patterns that emerged inductively from participants’ accounts, providing a comprehensive interpretation of the data.

3.5 Limitations of the study

Three key limitations of this study were identified. First, it was difficult to reach the 2025 TLPC trainees, as the timing of the project meant the survey was distributed shortly after the 2025 cohort had graduated from the course. As a result, only four trainees responded to the survey, and none attended a forum. While it is likely that members of this group were captured within other cohorts (such as survey respondents from the wider profession or participants in the early-career profession forum), the study may have missed insights unique to this group, including views about the factors that attracted or deterred them from pursuing criminal law work at the beginning of their careers.

The second limitation relates to the absence of definitive data on the total number of practising lawyers in Tasmania. Although some data points exist (such as LST membership numbers), it was not possible to determine what proportion of the overall Tasmanian legal profession is represented by the current and former criminal lawyers who participated in the

⁹¹ See Virginia Braun and Victoria Clarke, *Thematic Analysis: A Practical Guide* (Sage Publishing, 2022) 4; Virginia Braun and Victoria Clarke, ‘Using Thematic Analysis in Psychology’ (2006) 3(2) *Qualitative Research in Psychology* 77.

study. This also means the research team were unable to assess the demographic representativeness of the survey results; for example, whether lawyers of all genders, people with disability and Aboriginal and Torres Strait Islander people were adequately represented. Related to this is the limited input obtained from current UTAS Law students. The 19 student participants (of approximately 111 who were eligible to participate on the basis that they had completed the two core criminal law units) are unlikely to represent the full law student cohort of approximately 377 LLB students in 2025.

Consequently, the study's findings capture only the experiences and perspectives of the current and former lawyers, TLPC trainees and students who participated. This limitation must be taken into account when interpreting the research data and drawing conclusions from it. It also points to avenues for further research, which are discussed in Section 7.

As noted in section 3.1 above, reaching approximately 250 individuals nevertheless provided a strong and meaningful sample for the purposes of this research. The data and findings ultimately reflect the experiences and perceptions disclosed by the study participants, offering valuable insights that – in combination with prior research – have provided a solid foundation for the recommendations presented in this report.

4. Survey snapshot: Who does, did or wants to do criminal law work in Tasmania?

With 211 complete responses, the survey data provides a 'snapshot' of Tasmanian lawyers who are doing, or have done, criminal law work, and of potential future lawyers. This section presents a basic overview of the characteristics of the survey respondents, including their backgrounds, career paths and future plans. Responses they provided about attraction, recruitment and retention of criminal lawyers in Tasmania are discussed in Sections 5, 6 and 7 below.

4.1 Who responded to the survey?

4.1.1 Respondents' demographic characteristics

Of the 211 respondents to the survey, 127 identified as a woman or female, 82 identified as a man or male, and two did not specify their gender. The most common age range for both men and women was 25–34 years. The most underrepresented category for women was 65+ years (2 per cent) and for men was 18-24 years of age (10 per cent). Approximately 80 per cent of respondents (n=170) had studied undergraduate Law at UTAS (n=41 had studied elsewhere). Ten participants identified as having a disability and four identified as Aboriginal or Torres Strait Islander.

4.1.2 Respondents' current (or former) role in the legal field

Respondents were asked to select the term that best described their current role (or former role if they were no longer working) in the legal field. Nineteen respondents said they were current UTAS Law students. Four respondents said they were 2025 TLPC trainees. 187 of the remaining 188 respondents ('professional respondents') identified themselves as holding legal professional roles in government, private practice, Community or Aboriginal Legal Service, judicial office or other legal domains (Table 4.1). The other participant provided no response to this question but indicated in response to a later question that they worked in a legal professional role.

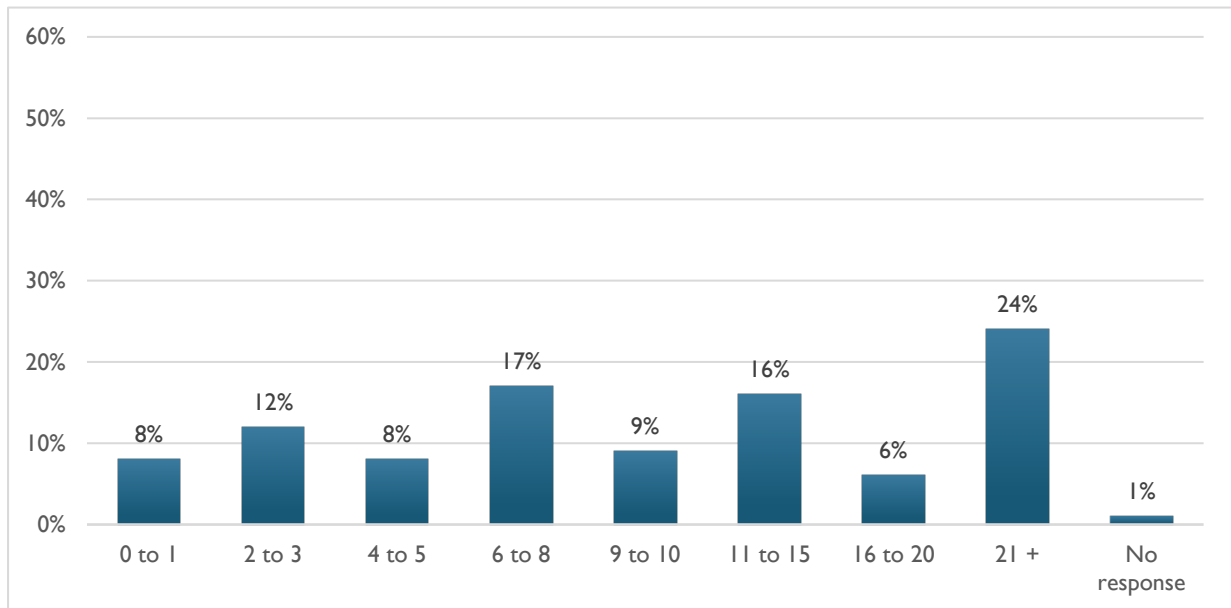
Table 4.1 Which of the following best describes your current role (or former role if you are no longer working) in the legal field?

| Role | n (%) |
|---|-------------------|
| Judge | 6 (3%) |
| Magistrate | 5 (2%) |
| Judicial Officer | 1 (<1%) |
| Tribunal leader | 1 (<1%) |
| Barrister | 10 (5%) |
| Crown prosecutor | 23 (11%) |
| Sole practitioner | 11 (5%) |
| Salaried Partner | 2 (<1%) |
| Equity partner/principal/director (firm or incorporated practice) | 15 (7%) |
| Incorporated legal practice director | 4 (2%) |
| Employee – private practice/firm | 35 (16%) |
| Government (federal/state local) lawyer | 24 (11%) |
| In-house lawyer | 4 (2%) |
| Community Legal Centre/Aboriginal Legal Service lawyer | 20 (9%) |
| Tasmania Legal Aid Lawyer | 13 (6%) |
| 2025 Tasmanian Legal Practice Course Trainee | 4 (2%) |
| Current University of Tasmania Student | 19 (9%) |
| Other | 6 (2%) |
| Two options selected | 7 (3%) |
| No response | 1 (<1%) |
| Total | 211 (100%) |

4.1.3 Duration of respondents' legal careers

Professional respondents were asked to identify the number of years they had practised law in any field. The most common response was 21+ years' experience (24 per cent) (Figure 4.1).

Figure 4.1 For how many years have you practised law (in any practice area)? (n=188)



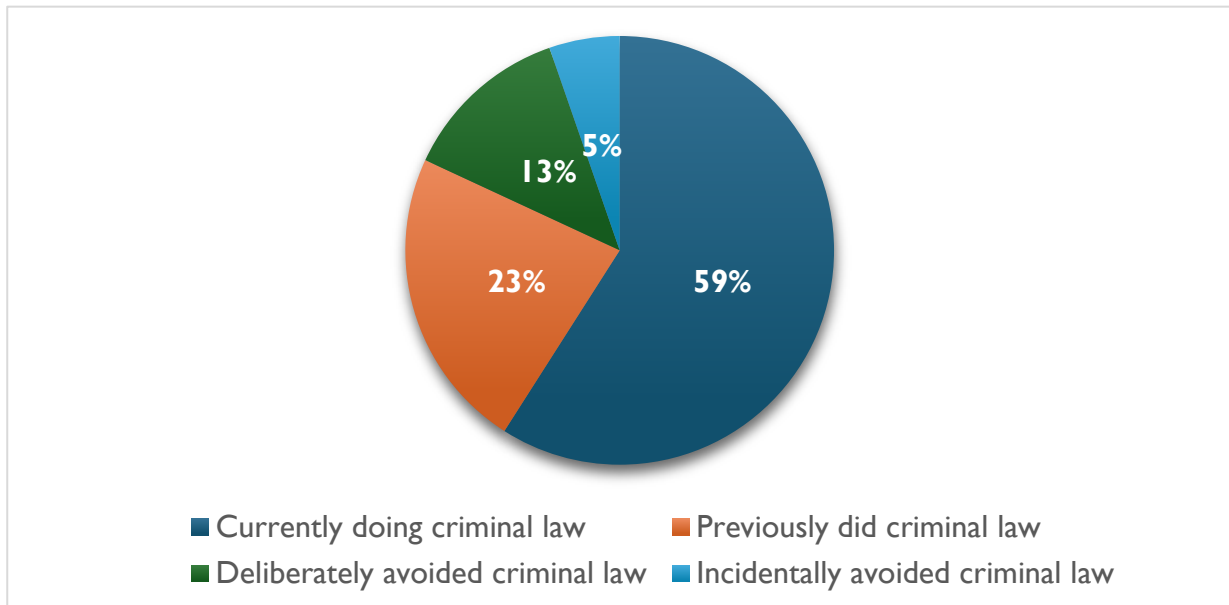
4.1.4 Respondents' involvement in criminal law work

Among the professional respondents, 59 per cent (n=111) were currently doing criminal law work, while 23 per cent (n=43) had previously done criminal law work. Thirteen per cent of respondents (n=24) said they had deliberately avoided working in criminal law, while 5 per cent (n=10) said they had incidentally avoided it (Figure 5.2). Respondents' reasons for these decisions are explored in Sections 5 and 6 below.

Among people currently working in criminal law, age and gender appeared to have some relationship. In particular, men seemed more likely to be represented in the oldest age group (55–65 and over). However, among people who previously worked in criminal law, there was no clear pattern linking age and gender, with men and women distributed similarly across age groups.⁹²

⁹² Two responses were removed from the data: one with no response to gender and one with no response to age. A chi-square test and post-hoc tests conducted on the gender and age of people currently working in criminal law (n=109) suggested evidence of a dependent relationship between gender and age in this group, namely, that males might be over-represented in the 55-65+ age bracket. A chi-square test on the gender and age of people who previously worked in criminal law (n=43) found no evidence of a dependent relationship between gender and age in that group.

Figure 4.2 Do you currently work, or have you previously worked, in criminal law? (n=188)

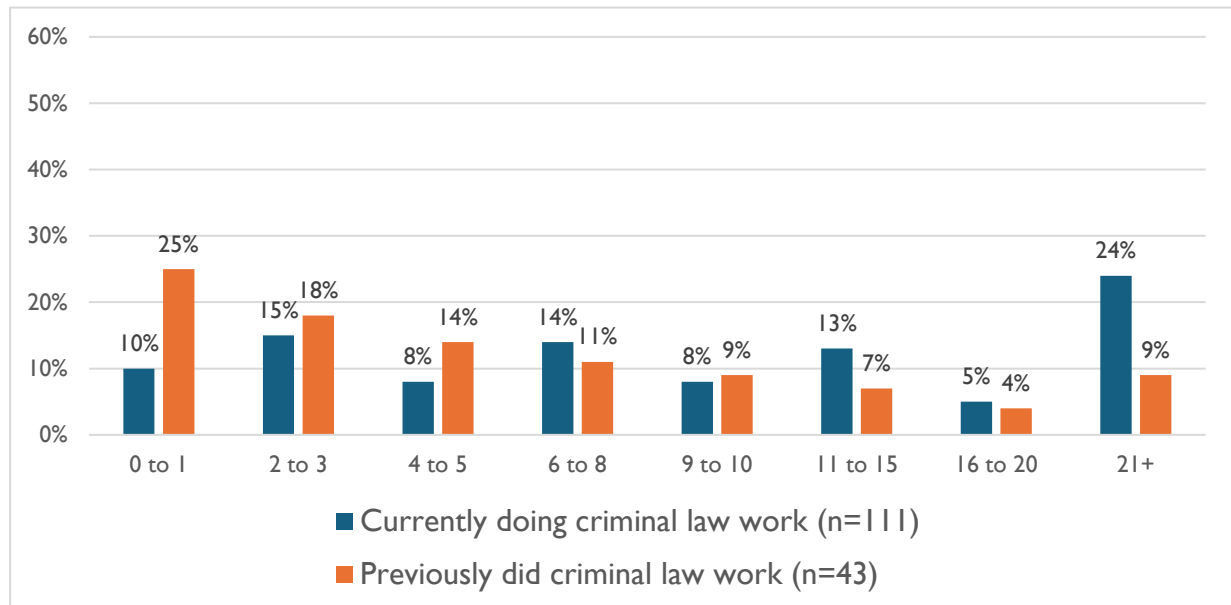


4.2 Where and how do Tasmanian lawyers do criminal law work?

4.2.1 Respondents' years working in criminal law

Professional respondents were asked to choose a timeframe that best represented their years of experience working in criminal law. The trends in the data indicate that the experience profile of people currently doing criminal law work is skewed towards a longer timeframe than for people who formerly did criminal law work. Most respondents who previously worked in criminal law said that they stopped working within their first three years of practice in the area (Figure 4.3).

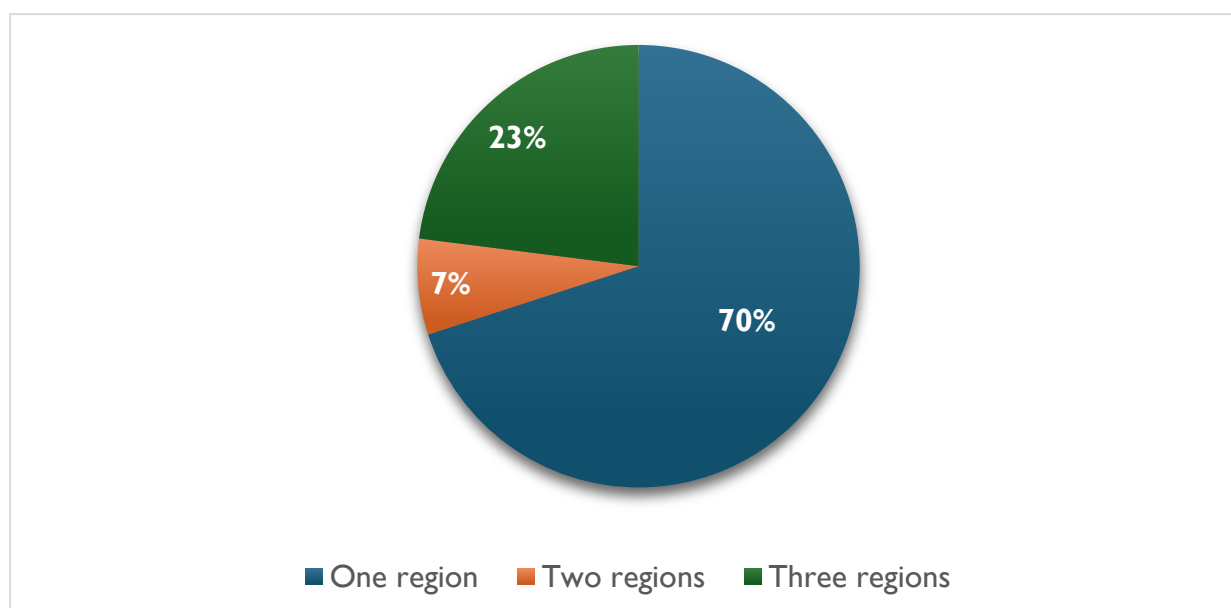
Figure 4.3 For how many years have you worked, or did you work, in criminal law? (n=154)



4.2.2 Regions where respondents do (or did) criminal law work

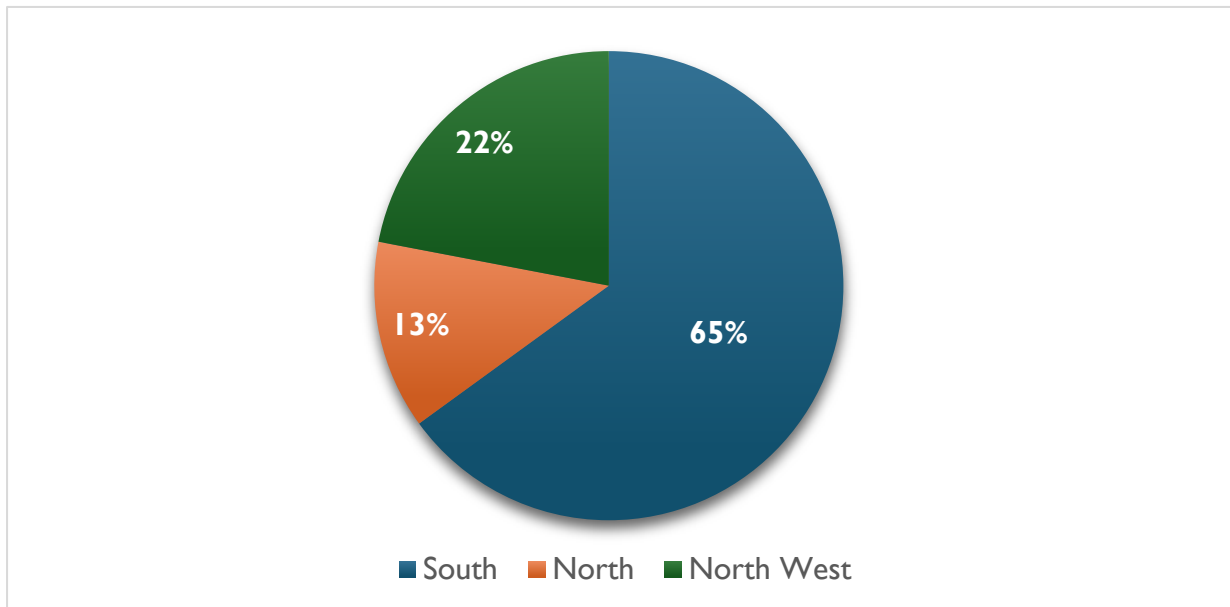
Professional respondents were asked to note which regions of Tasmania they worked in; the same respondent could select multiple regions. Seventy per cent of people currently doing criminal law work worked in one region (n=77), with almost a quarter working in three regions (23 per cent, n=25) and the remainder working in two regions (7 per cent, n=8) (Figure 4.4).

Figure 4.4 Currently doing criminal law work: In how many Tasmanian regions do you do criminal law work? (n=111)



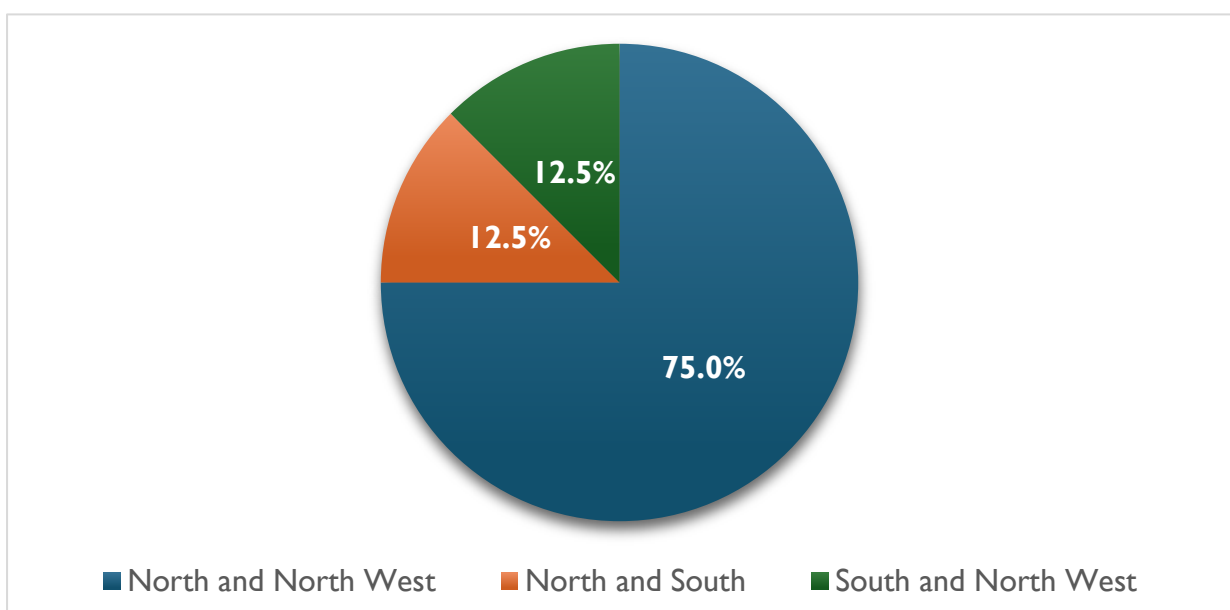
Two-thirds of people currently doing criminal law work in only one region were working in the South (65 per cent, n=50), 22 per cent in the North West (n=17) and 13 per cent in the North (n=10) (Figure 4.5).

Figure 4.5 Currently doing criminal law work: In which region do you do criminal law work (if working in one region)? (n=77)



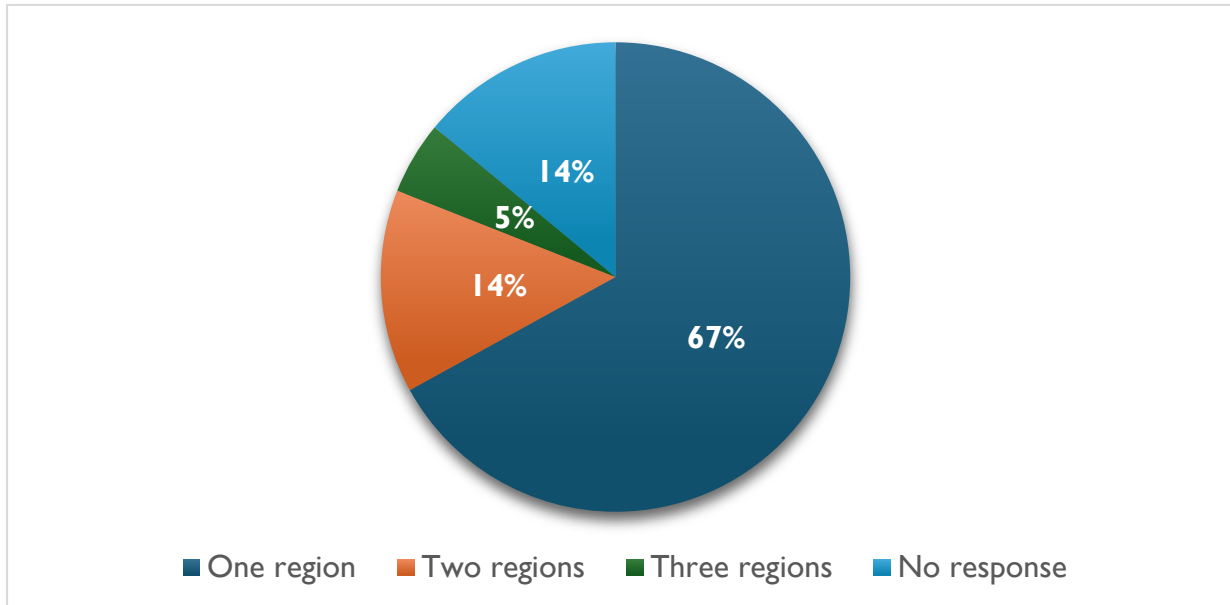
Of those currently working in criminal law in two regions (n=8), six (75 per cent) worked in the North and North West; one worked in the North and the South, and one worked in the South and North West (Figure 4.6).

Figure 4.6 Currently doing criminal law work: In which regions do you do criminal law work (if working in two regions)? (n=8)



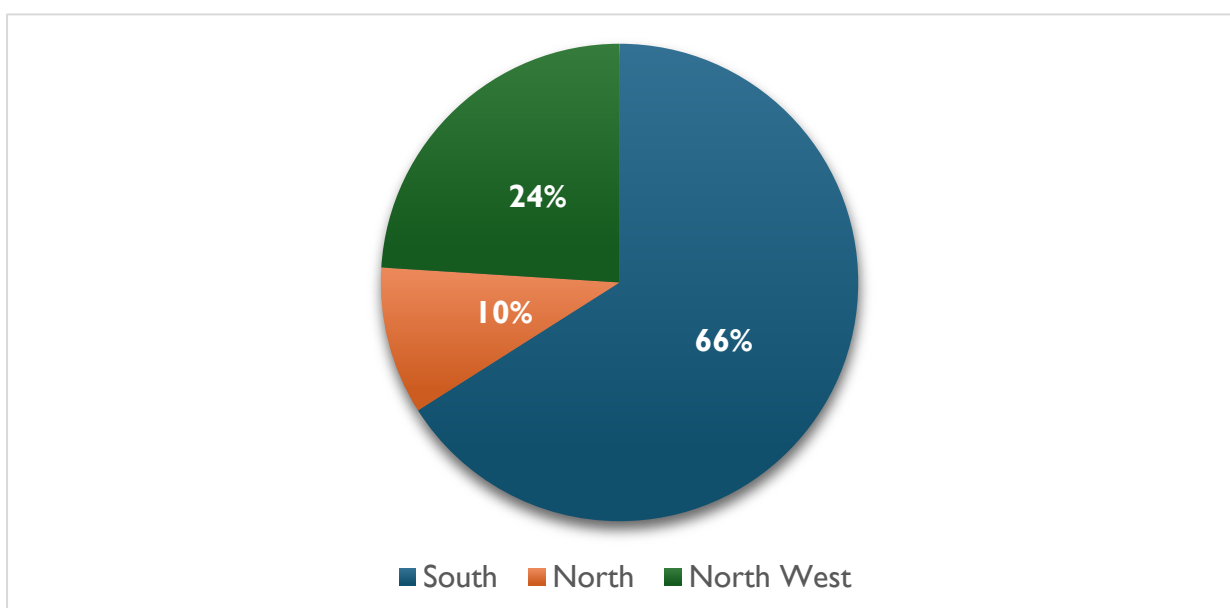
Of the 43 professional respondents who previously did criminal law work, 67 per cent (n=29) worked in only one region and 19 per cent (n=8) worked in multiple regions when they did criminal law work (Figure 4.7). Fourteen per cent (n=6) did not provide a response.

Figure 4.7 Previously did criminal law work: In how many Tasmanian regions did you do criminal law work? (n=43)



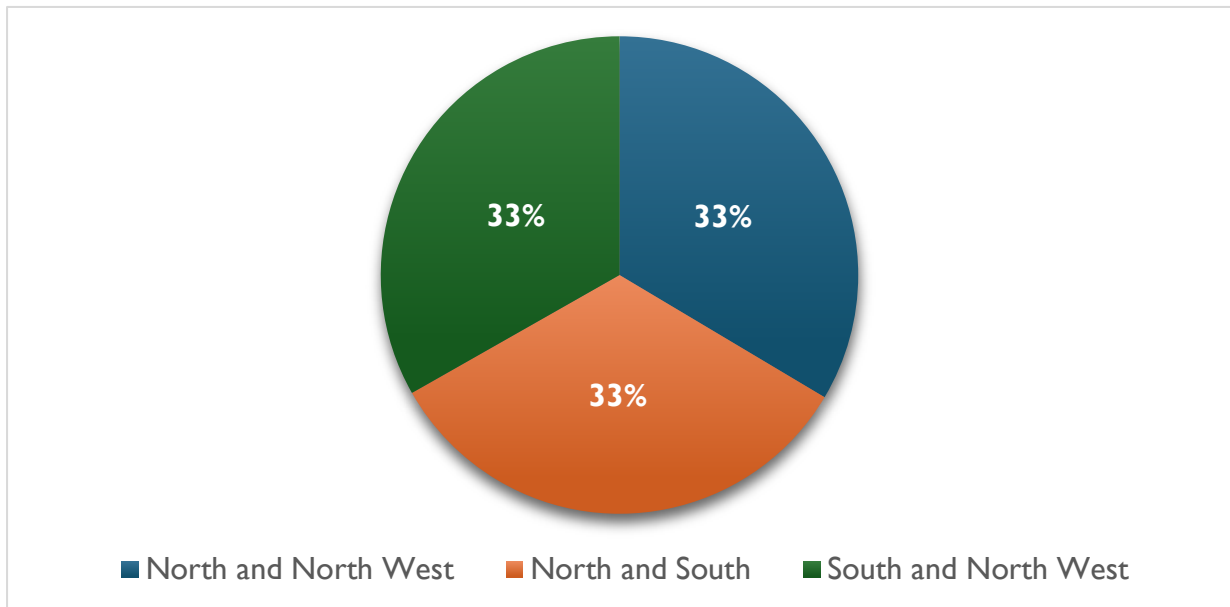
Of those who only worked in one region, 66 per cent (n=19) worked solely in the South, 10 per cent (n=3) worked solely in the North and 24 per cent (n=7) worked solely in the North West (Figure 4.8).

Figure 4.8 Previously did criminal law work: In which region did you do criminal law work (if working in one region)? (n=29)



The small number of respondents (n=6) who previously worked in criminal law across two regions were evenly split (n=2 or 33 per cent each) across North and North West, South and North, and South and North West (Figure 4.9).

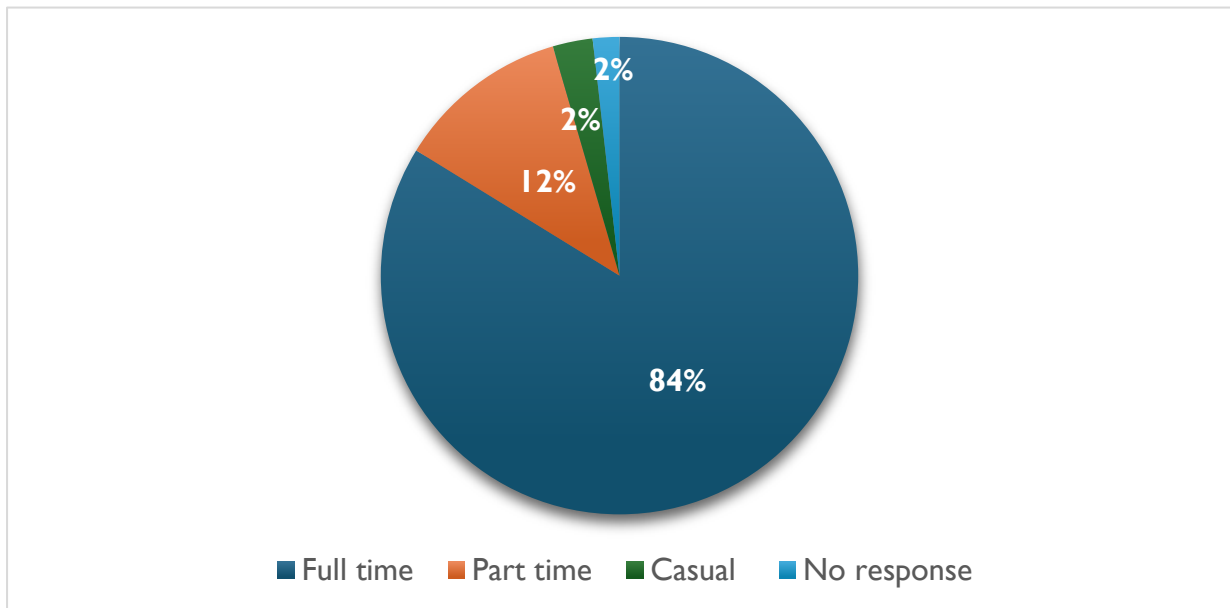
Figure 4.9 Previously did criminal law work: In which regions did you do criminal law work (if working in two regions)? (n=6)



4.2.3 Respondents' employment type

Working full-time was the most common employment status reported by professional respondents currently engaged in criminal law work (84 per cent, n=95). Twelve per cent of respondents (n=13) who were currently doing criminal law reported working part-time, two per cent (n=2) worked casually and two per cent (n=2) provided no response (Figure 4.10).

Figure 4.10 Currently doing criminal law work: What is your employment status? (n=111)



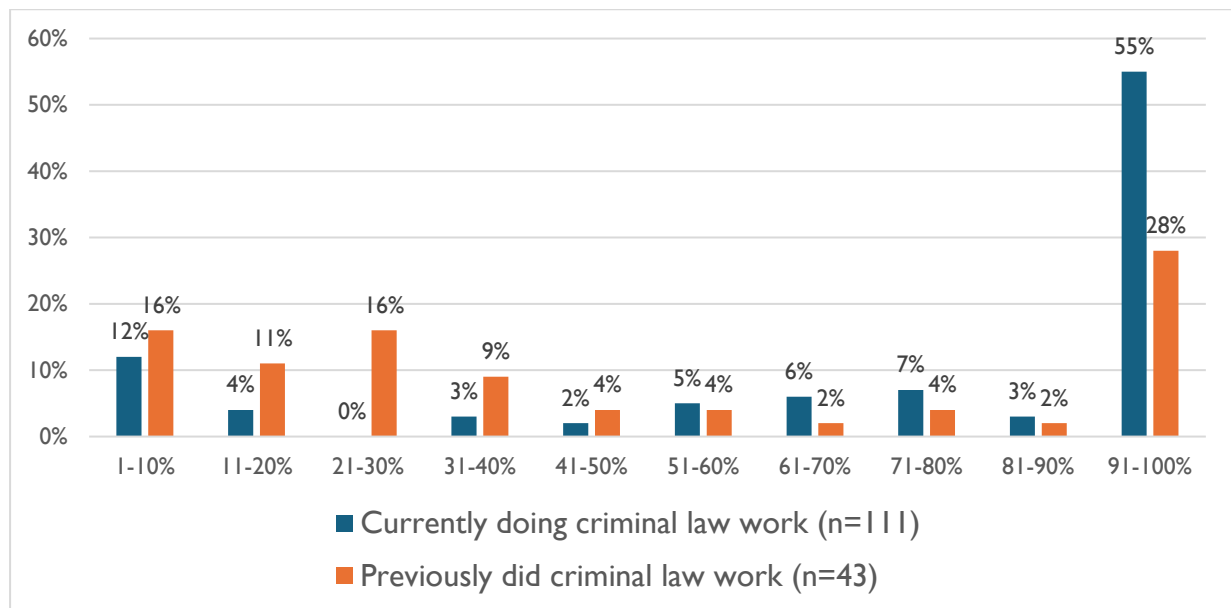
Thirty-nine respondents who previously worked in criminal law responded to a similar question about their employment type when they were doing criminal law work. Most (95 per cent, n=37) said they worked full time while two (<1 per cent) indicated they did part time work. The three other respondents (<1 per cent) in this group provided multiple answers indicating, for example, that they worked in both part-time and casual positions.

4.2.4 Respondents' criminal law workloads

Among the 111 respondents currently doing criminal law work, approximately half (55 per cent, n=61) reported that criminal law comprised 91–100 per cent of their workload, while approximately one in ten (12 per cent, n=14) said criminal law comprised only 1–10 per cent of their annual workload. The remaining third (32 per cent, n=36) of this respondent group had criminal law workloads that varied between those two extremes (Figure 4.11).

Similar criminal law workloads were reported by those who previously did criminal law work. Of the 43 respondents who previously did criminal law work, only 28 per cent (n=12) reported that criminal law work comprised 91–100 percent of their annual workload (Figure 4.11).

Figure 4.11 Approximately what percentage of your annual workload is or was comprised of criminal law work? (n=154)



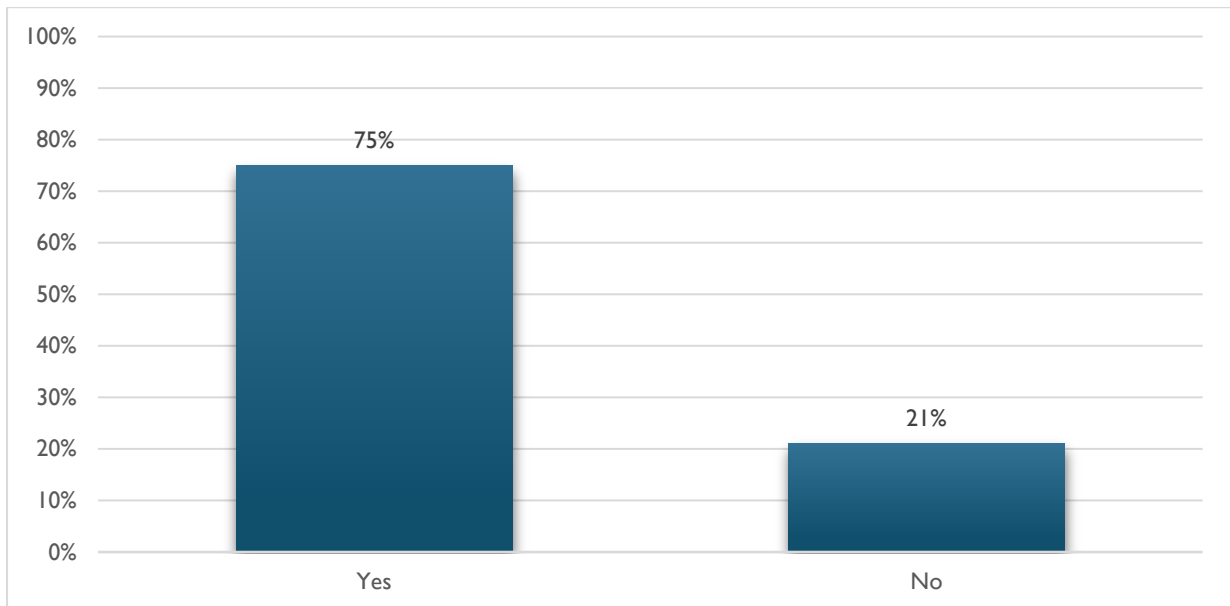
4.3 What do career pathways and future plans look like for lawyers, students and graduates?

4.3.1 Respondents' future intentions about criminal law work

Professional respondents currently doing criminal law work (n=111) were asked to rate their satisfaction with doing criminal law. Most respondents said they were either satisfied (44 per cent, n=49) or very satisfied (26 per cent, n=29). Fourteen per cent (n=15) said they were neither satisfied or dissatisfied. Only 10 per cent (n=11) said they were dissatisfied and 4 per cent (n=4) said they were very dissatisfied. Three per cent of these participants (n=3) did not answer the question.

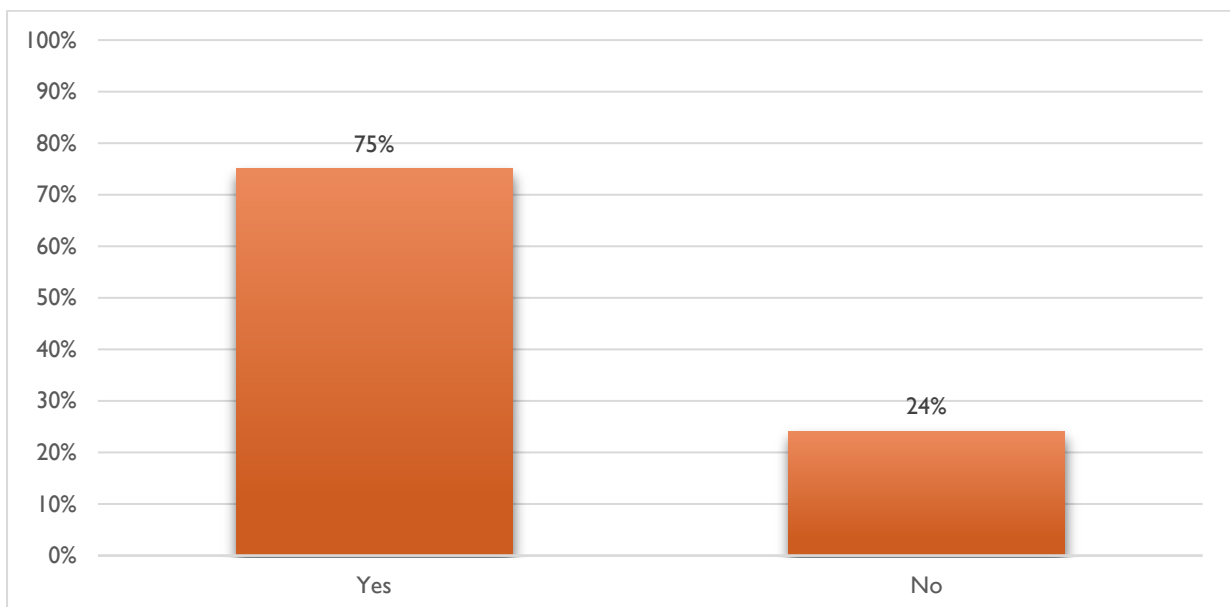
The professional respondents who reported currently doing criminal law work (n=111) were asked if they intend to still be doing criminal law work in 5 years and in 10 years. Most (75 per cent, n=84) said they planned to still be doing criminal law work in 5 years; 21 per cent (n=24) said they did not, and 3 per cent (n=3) did not respond to the question (Figure 4.12).

Figure 4.12 Currently doing criminal law work: Do you intend to still be doing criminal law work in 5 years? (n=108)⁹³



Among those who said they intended to remain for the next 5 years (n=84), 75 per cent (n=63) said they planned to still be doing criminal law work in 10 years; 24 per cent (n=20) said they did not, and 1 per cent (n=1) did not respond to the question (Figure 4.13).

Figure 4.13 Currently doing criminal law work: If yes, do you intend to still be doing criminal law work in 10 years? (n=83)⁹⁴



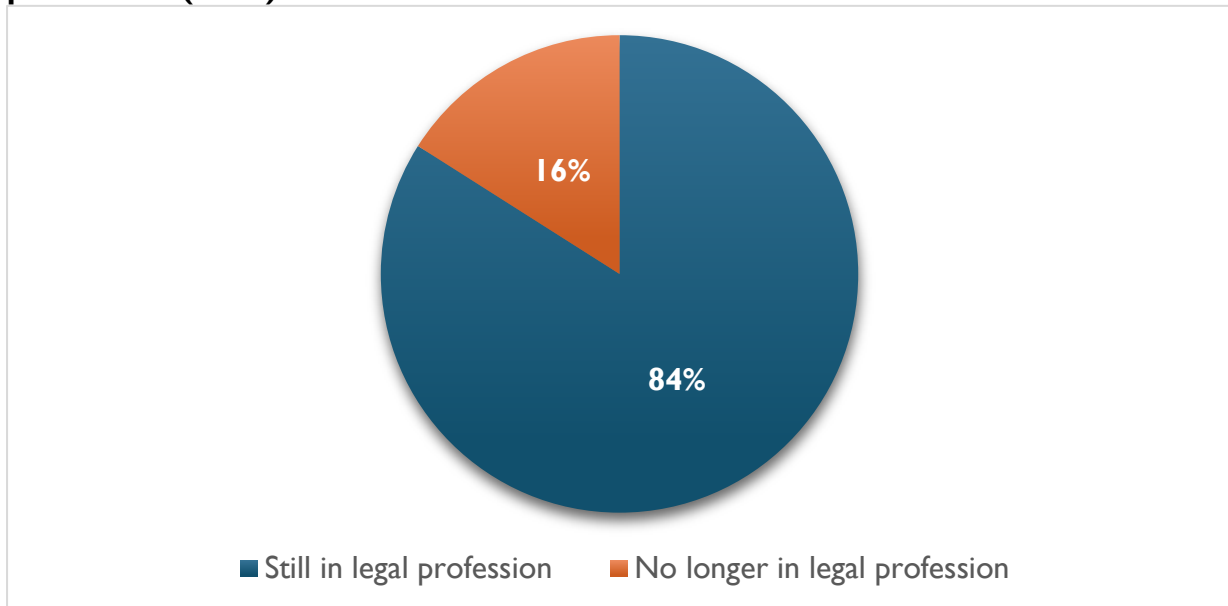
⁹³ Three non-responses excluded.

⁹⁴ One non-response excluded.

4.3.2 Respondents' areas of practice after stopping criminal law work

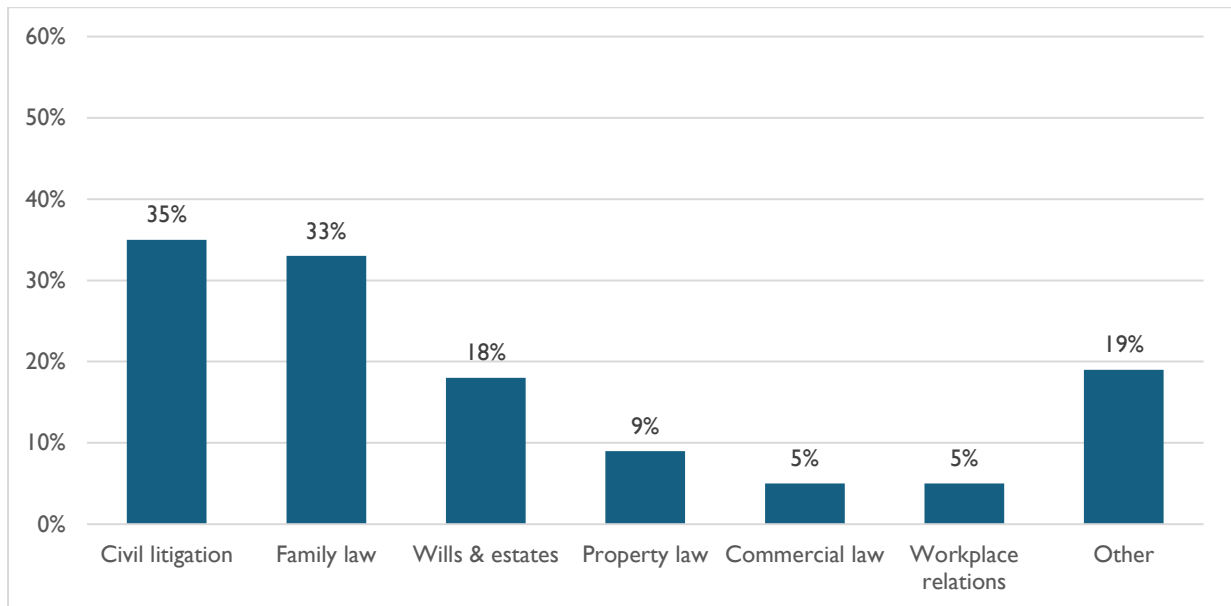
The professional respondents who had previously done criminal law work were asked to specify whether they still work in the legal profession and, if so, to indicate their current primary areas of practice, with up to three selections possible. The majority (84 per cent, n=36) said they still worked in the legal profession, while only 16 per cent of respondents (n=7) said they were no longer work in the legal profession (Figure 4.14).

Figure 4.14 Previously did criminal law work: Do you still work in the legal profession? (n=43)



The 36 respondents who previously worked in criminal law and were still in legal practice reported that they now worked in a range of areas (with respondents able to select up to three options). The most common were civil litigation (35 per cent, n=15) and family law (33 per cent, n=14) followed by wills and estates and other areas (each 18 per cent, n=9). Smaller numbers were working in property law (9 per cent, n=5), commercial law and workplace relations (each 5 per cent, n=2) (Figure 4.15). Most respondents in this group (89 per cent, n=32) agreed that they were more satisfied with their current area of legal practice than they were doing criminal law work; the remainder (11 per cent, n=4) disagreed.

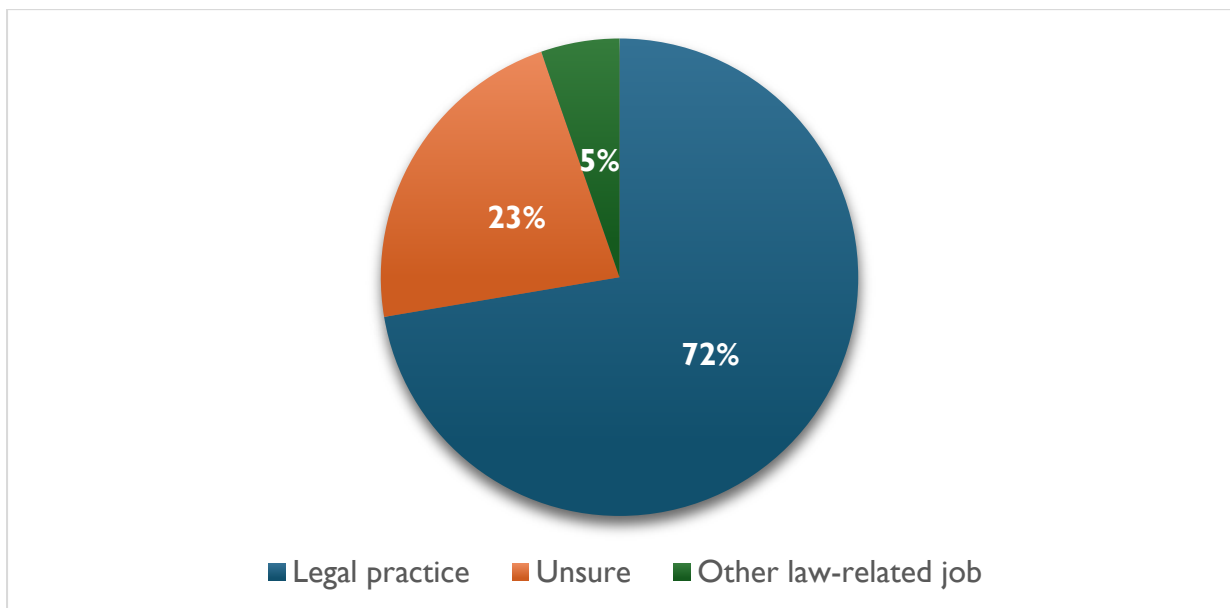
Figure 4.15 Previously did criminal law work: What were or are your main areas of practice (after leaving criminal law)? (n=36)



4.3.3 Law students' and TLPC trainees' future career plans and factors influencing those plans

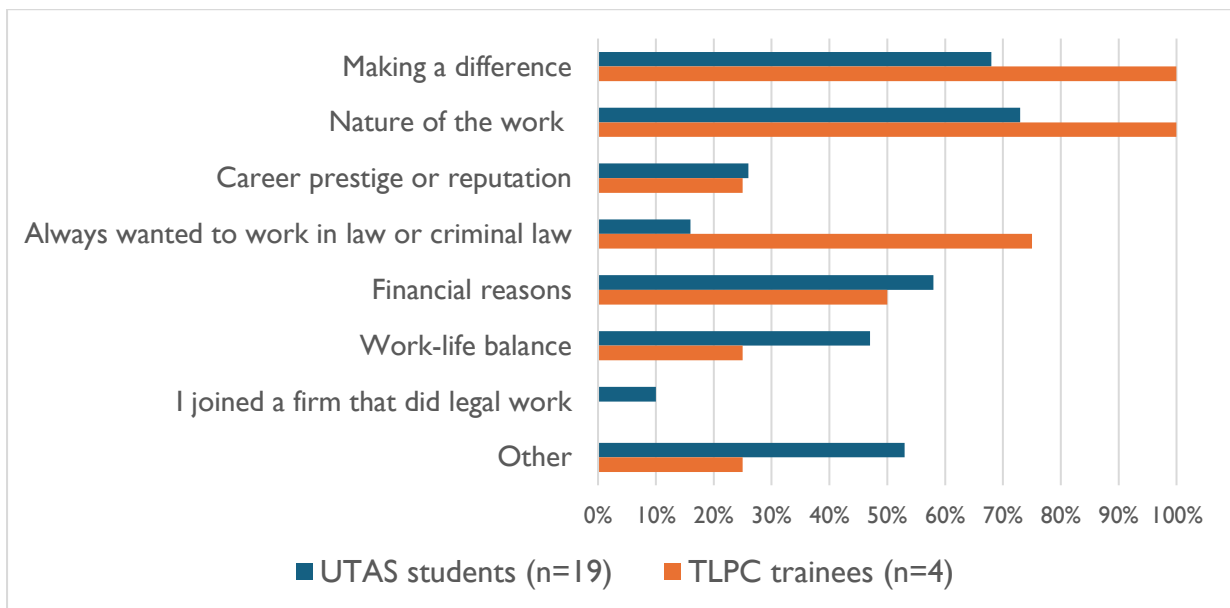
Current UTAS students who responded to the survey were asked about their career plans post-graduation (Figure 4.16). Of the 19 student respondents, 68 per cent (n=13) indicated they intended to go into legal practice, 21 per cent (n=4) said they were unsure and 5 per cent (n=1) said they intended to seek another law-related job such as government/public service or associateship (Figure 4.16). Sixty-three per cent (n=12) of those who said they intended to enter legal practice planned to enrol in the TLPC. Of the small cohort of 2025 TLPC trainees who completed the survey (n=4), three said they intended to go into legal practice and the fourth intended to seek another law-related job. Two of the four trainees had accepted or were undertaking a legal traineeship with a law firm. Three of the four suggested they were likely to do criminal law in the future, and one was unsure.

Figure 4.16 Students: What are your career plans post-graduation? (n=19)



Students and TLPC trainees were asked to indicate which factors influence their decisions about their future legal career (Figure 4.17). They were invited to select up to three choices. Among students, the most-selected factors were 'the nature of the work' (for example, subject matter, variety of cases, intellectual challenge, pace) (74 per cent of respondents, n=14); 'making a difference/contributing to social justice' (68 per cent of respondents, n=13); and 'financial reasons' (58 per cent of respondents, n=11). TLPC trainees were asked the same question. All respondents (n=4) selected 'nature of the work' and 'making a difference/contributing to social justice'; 75 per cent (n=3) selected 'always wanted to work in law'; 50 per cent (n=2) selected 'financial reasons' and 25 per cent (n=1) selected each of 'career prestige or reputation', 'work-life balance' and 'other'.

Figure 4.17 Students and trainees: What factors influence your decisions about your future legal career?



5. Factors that attract and keep people in criminal law work in Tasmania

5.1 Overview

Participants in the survey, forums and interviews identified a number of positive factors that attract people to criminal law work, and/or keep them working in the field. In particular, there was a strong view among those currently and previously working in criminal law, and students and TLPC trainees who have studied criminal law, that it can offer a rewarding and collegial career and a path to judicial appointment.

As described in this section, the nature of the work (such as its interesting subject matter, fast pace, and the career opportunities it provides), and being able to make a difference or contribute to social justice, were most commonly identified as factors that attract people to criminal law work and are the ‘best’ features of that work. Joining a firm, practice or service that already did criminal law work, and entering the profession with a desire to do criminal law work, were other commonly identified factors that had attracted people to the field. Workplace and professional culture were also highlighted as some of the positive features by many respondents.

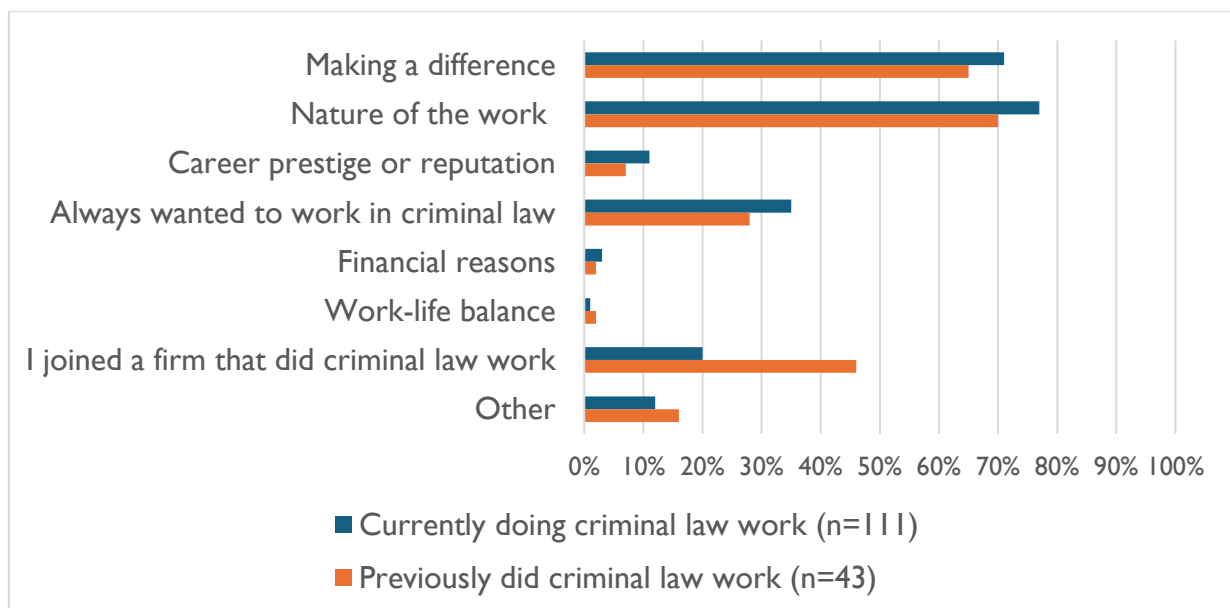
5.1.1 Factors that attracted respondents to criminal law work

In the survey, professional respondents were invited to select up to three responses from a list of features that attracted them to criminal law work (Figure 5.1). Seven factors were listed;

these were based on prior research in other sectors and jurisdictions⁹⁵ as well as suggestions from members of the Reference Group. An ‘Other’ option was also provided, through which participants could name additional factors relevant to them.

The results indicate that the most influential element of the work that both attracts and retains professionals to criminal law is the ‘nature of the work’, such as its subject matter, case variety, intellectual challenge and fast pace. This attracted 77 per cent of respondents currently doing criminal law work (n=87) and 70 per cent of respondents who previously did criminal law work (n=30). Similarly, ‘making a difference/contributing to social justice’ was a major attractor, selected by 71 per cent of those currently doing criminal law work (n=80) and 65 per cent of those who previously did criminal law work (n=28). One in five respondents currently doing criminal law work (20 per cent, n=23) said that joining a firm, practice or service that did criminal law work was one feature that attracted them to the field; almost half of people who previously did criminal law work also selected this as an attractive factor (47 per cent, n=20). Around one-third of respondents – 35 per cent of those currently doing criminal law work (n=40) and 28 per cent of those who previously did criminal law work (n=12) – said they had always wanted to work in criminal law (Figure 5.1).

Figure 5.1 Professionals: What attracted you to criminal law work?



5.1.2 The best features of criminal law work

All respondents (professionals, students and TLPC trainees) were asked to specify what they considered to be the best features of criminal law work. Seven factors were listed and participants could choose multiple answers from the list. These were substantially the same as those described in section 5.1.1 with the following differences: two factors relevant to

⁹⁵ Catalyse (n 47); Wallace, Harkness and Holloway (n 48); Yau and Bloomfield (n 49); see section 2.1 above for more details.

work conditions were added ('culture of the profession' and 'culture of the workplace') and two factors that were only relevant to attraction and recruitment were removed ('always wanted to work in criminal law' and 'I joined a firm, practice or service that did criminal law work'). An 'Other' option was again available, through which participants could name other factors relevant to them.

The survey responses (Figures 5.2 and 5.3) indicate a consistent view about the best factors of criminal law work across all respondent groups: 'the nature of the work' and 'making a difference/contributing to social justice' were the most-selected features across all groups, and were selected by the majority of respondents in all groups. Among the professional respondents, the third most-selected feature was 'culture of the profession', chosen by 33 per cent of respondents currently doing criminal law work (n=37) and 23 per cent of respondents who previously did criminal law work (n=10). Nineteen per cent (n=21) of respondents currently doing criminal law work – compared to 4 per cent (n=2) of respondents who previously did criminal law work) selected 'culture of the workplace' as one of the best features. Thirteen per cent of those currently doing criminal law work (n=15) and 11 per cent of those who previously did criminal law work (n=5) selected 'career prestige or reputation' as one of the best features. Very few professional respondents (and no students or TLPC trainees) selected 'work-life balance' or 'financial benefit'. A small number named 'other' features, which are discussed later in this section.

Figure 5.2 Professionals: What are the best features of criminal law work?

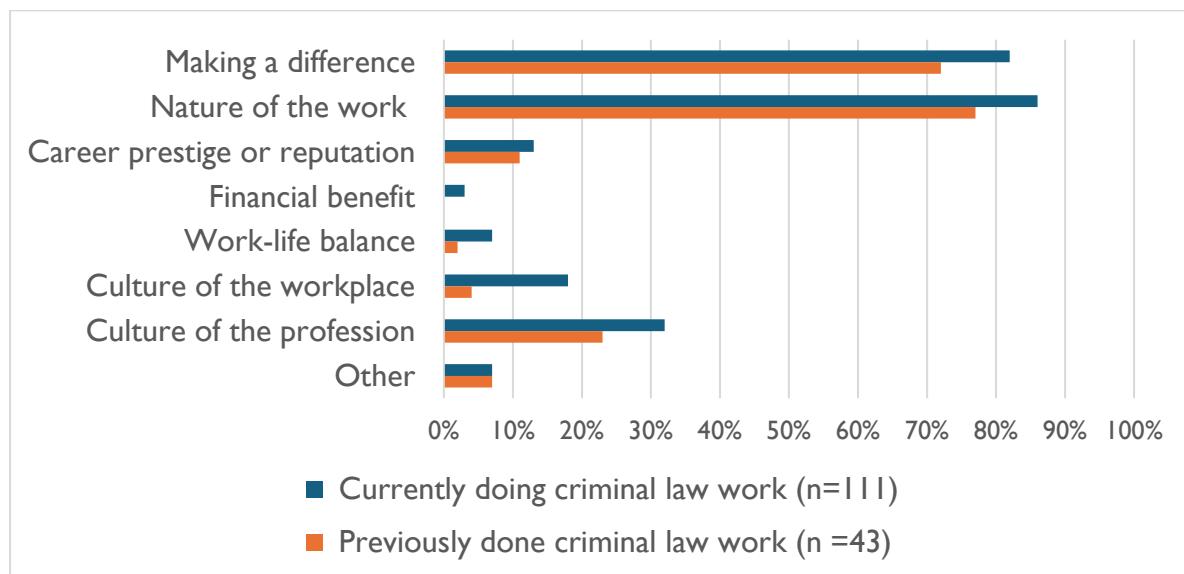
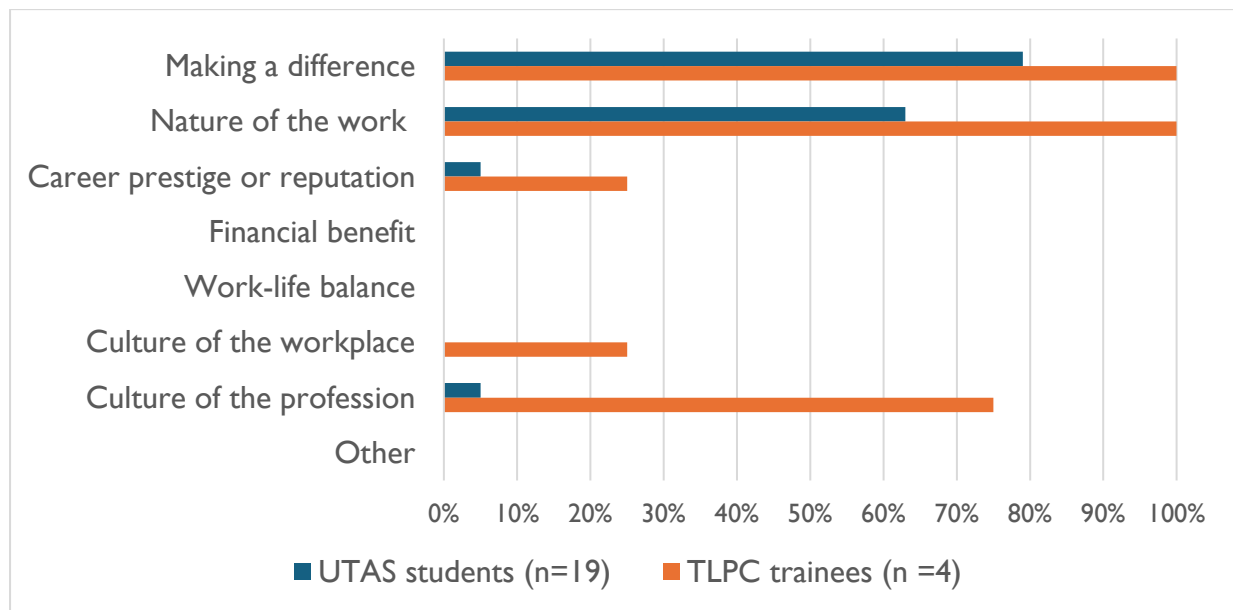


Figure 5.3 Students and trainees: What are the best features of criminal law work?



Moderation analyses were used to test a range of hypotheses about the relationship between attractive and positive factors identified by respondents and their satisfaction with working in criminal law. The analyses indicated that the more aspects of criminal law that a respondent identified as having attracted them to work in criminal law (set out in Figure 5.1),⁹⁶ and the more ‘best features’ of criminal law they selected (set out in Figure 5.2), the higher their satisfaction working in criminal law.⁹⁷

These and other themes were explored in more depth via free-text questions in the survey, and open-ended discussions in the forums and interviews. These questions invited respondents to elaborate on the features they said attracted them to criminal law work and the best features of criminal law they had identified. The following sub-sections discuss that data.

5.2 The nature of criminal law work

Interesting and stimulating work is recognised in the research literature as a key factor in lawyers’ job satisfaction and retention.⁹⁸ Consistent with the high proportion of survey respondents who selected ‘nature of the work’ as both a feature that attracted them to criminal law work and one of its best features, respondents in the survey, forums and

⁹⁶ Attractive factors were a positive and statistically significant predictor of satisfaction ($b = 0.24$, 95% CI[0.05 to 0.44], $p = .016$). That is, the more factors an individual identified as having first attracted them to work in criminal law, the higher their self-reported satisfaction in working criminal law.

⁹⁷ Retaining factors were a positive and statistically significant predictor of satisfaction ($b = 0.34$, 95% CI[0.11 to 0.57], $p = .004$). That is, the more factors an individual identified as ‘best’ features of working in criminal law, the higher their self-reported satisfaction in working criminal law.

⁹⁸ See generally Marion Nickum and Pascale Desrumaux, ‘Burnout Among Lawyers: Effects of Workload, Latitude and Mediation via Engagement and Over-Engagement’ (2023) 30(3) *Psychiatry, Psychology and Law* 349.

interviews elaborated on a range of positive features of criminal law work in their qualitative responses.

Respondents described criminal law work as providing the best opportunity for lawyers to develop and use their oral advocacy skills through regular court appearances. For example:

“I was interested in advocacy work, and working in criminal law guaranteed that I would be doing regular advocacy work in an area I found interesting and rewarding.” (Currently working in criminal law, survey)

“It offers the opportunity to do appearance work and conduct hearings. The civil work that I do... does not provide many opportunities to appear in Court beyond directions hearings.” (Previously worked in criminal law, survey)

Courtroom advocacy was described by some participants as a stimulating and exciting aspect of the work:

“There is an excitement with criminal law that doesn't exist in other fields. It arises from the need to make decisions ‘on your feet’, and to assess evidence as it is given to determine its effect on your client's defence.” (Currently working in criminal law, interview)

“The work is interesting and ever changing. I loved advocacy and the complexity and pace of criminal work and being in court.” (Previously worked in criminal law, survey)

Participants pointed to the interesting subject matter, opportunity to support clients, and pace of the work as other rewarding features:

“The clients themselves are something I like most about my job. I find criminal defence work challenging, complex and rewarding. I enjoy working in a role where I am always engaged and passionate about the purpose in the role....” (Currently working in criminal law, survey)

“It's... a fast-paced area with a lot of characters (among the crim lawyers as well as clients!)” (Previously worked in criminal law, survey)

“The best aspects are it's intellectually challenging and stimulating... It's hard work in a in a good sense, you're constantly on either side, problem solving. The problems are usually solvable to some degree. Or you're finding the best path through a variety of variables, and... there's real intellectual stimulation in that.” (Currently working in criminal law, interview)

5.3 Professional experience and opportunities

Criminal law work was also described by some participants as the best and fastest route to the Bar or judicial appointment. Some participants suggested that experience in criminal law work is essential if judicial appointment is a career objective:

“I am ultimately interested in judicial appointment, and a solid grounding in criminal law seemed sensible given the balance of criminal and civil work before the Supreme Court of Tasmania.” (Currently working in criminal law, survey)

“I am predominantly a civil litigation practitioner but if I want to be a judge in the future I need criminal law experience. Thus, I take on a few selected criminal matters to build this experience.” (Currently working in criminal law, survey)

5.4 Criminal law work is rewarding and aligns with one’s values

The opportunity to do meaningful work is another factor associated with job satisfaction and retention in the research literature.⁹⁹ Consistent with the sizeable proportion of survey respondents who identified ‘making a difference/contributing to social justice’ as a key factor attracting them to criminal law work and one of its best features, qualitative responses highlighted the rewarding nature of the work in multiple senses.

Many respondents to the survey, forums and interviews said criminal law work is rewarding because it aligns with their values, such as promoting access to justice, assisting people from marginalised groups or maintaining community safety. While some mentioned challenges in managing clients with complex needs, or those who cannot afford to pay, practitioners currently working in the sector suggested they could look past these difficulties or had a different perspective on them:

“Defence work aligned with my desire to participate in social justice law.” (Currently working in criminal law, survey)

“It’s really important work for society, and there is that societal satisfaction of contributing in a way that is useful to everybody” (Currently working in criminal law, interview)

“Assisting and supporting some of most vulnerable community members that have always been stigmatised.” (Previously worked in criminal law, survey)

5.5 Colleagues are supportive and collegial

As described above (section 5.1.2), the culture of the profession and/or the workplace were also identified by a number of survey respondents as some of the best features of criminal law work in Tasmania. Prior research indicates that positive workplace and professional culture is an important factor in recruitment and retention in the legal profession.¹⁰⁰ Participants in Launceston and the North West in particular identified strong collegial working relationships

⁹⁹ Ibid 351.

¹⁰⁰ See generally Patrick R Krill et al, ‘People, Professionals, and Profit Centers: The Connection between Lawyer Well-Being and Employer Values’ (2022) 12(6) *Behavioral Sciences* 177.

across the profession in their region as a positive feature of the work. Those in Southern Tasmania spoke more about positive, close working relationships within their workplaces.

“I think practicing in Launceston, there is a great collegial culture among the criminal profession. More experienced practitioners are very approachable and willing to provide guidance on issues arising out of my practice.” (Currently working in criminal law, Northern Tas, survey)

“It’s great to work as a team and get a good 'win'.” (Currently working in criminal law Southern Tas, survey)

6 Factors that prevent lawyers being attracted to, or remaining in, criminal law in Tasmania

6.1 Overview

The data from the survey, forums and interviews suggest there are multiple interrelated barriers to recruiting and retaining criminal lawyers in Tasmania. These include issues with legal aid funding and processes, lack of professional development opportunities and collegiality, undesirable working conditions and concerns about the preparedness of students to enter legal practice. The vast majority (85 per cent, n=94) of survey respondents who currently do criminal law work agreed that there are disincentives to new practitioners taking on criminal law. Ten per cent (n=11) did not agree; 5 per cent (n=6) did not respond.

Many study participants suggested that it is the cumulative and compounding effects of multiple factors over time that has led to a shortage of criminal lawyers. This section describes the key barriers to lawyers entering, or continuing, criminal law work identified by participants.

6.1.1 The worst features of criminal law work

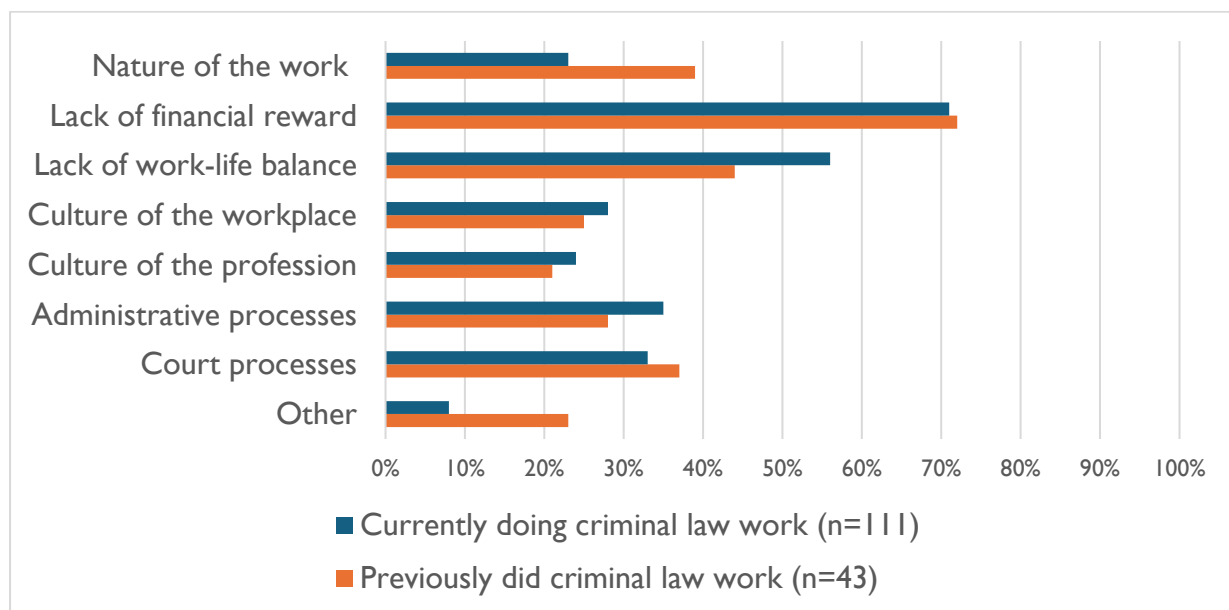
Survey respondents were asked to indicate the worst features of criminal law work, and could select multiple options. Seven factors were listed; they were drawn from prior research in other sectors and jurisdictions¹⁰¹ and suggestions from members of the Reference Group. An ‘Other’ option was also provided, through which participants could name other factors relevant to them.

Each of the seven listed factors – ‘culture of the profession’, ‘culture of the workplace’, ‘lack of work-life balance’, ‘administrative processes’, ‘court processes’, ‘lack of financial reward’ and ‘nature of the work’ – were selected by at least 21 per cent of professional respondents to the survey, suggesting dissatisfaction with criminal law work is affected by a range of features of that work (Figure 6.1).

¹⁰¹ Catalyse (n 47); Wallace, Harkness and Holloway (n 48); Yau and Bloomfield (n 49); see section 2.1 above for more details.

The survey data indicates that ‘lack of financial reward’ was the most salient negative feature of working in criminal law for both professional respondents currently working in the area (71 per cent, n=81) and those who previously did so (72 per cent, n=31). Both groups identified ‘lack of work-life balance’ as the second-worst feature. This included 56 per cent (n=64) of those currently working in criminal law and 44 per cent (n=19) of those who previously worked in criminal law. Respondents who previously did criminal law work were more likely to select ‘nature of the work’ as a negative (39 per cent, n=17) than those currently working in criminal law (23 per cent, n=26).

Figure 6.1 Professionals: What are the worst features of criminal law work?



UTAS Law students (Figure 6.2) showed a similar concern about lack of work-life balance; this was the most commonly selected ‘worst feature’ of criminal law work (68 per cent, n=13). ‘Lack of financial reward’ and ‘systems and processes’ were tied as the students’ second-most common concerns (42 per cent, n=8). Other features selected were ‘the nature of the work’ (36 per cent, n=7) and professional and workplace culture (26 per cent each, n=5). Three of the four TLPC trainees who responded to the survey identified the ‘nature of the work’ and ‘systems and processes’ as the worst features (75 per cent); lack of work-life balance and lack of financial reward were also selected by one (25 per cent) or two (50 per cent) of those participants (Figure 6.2).

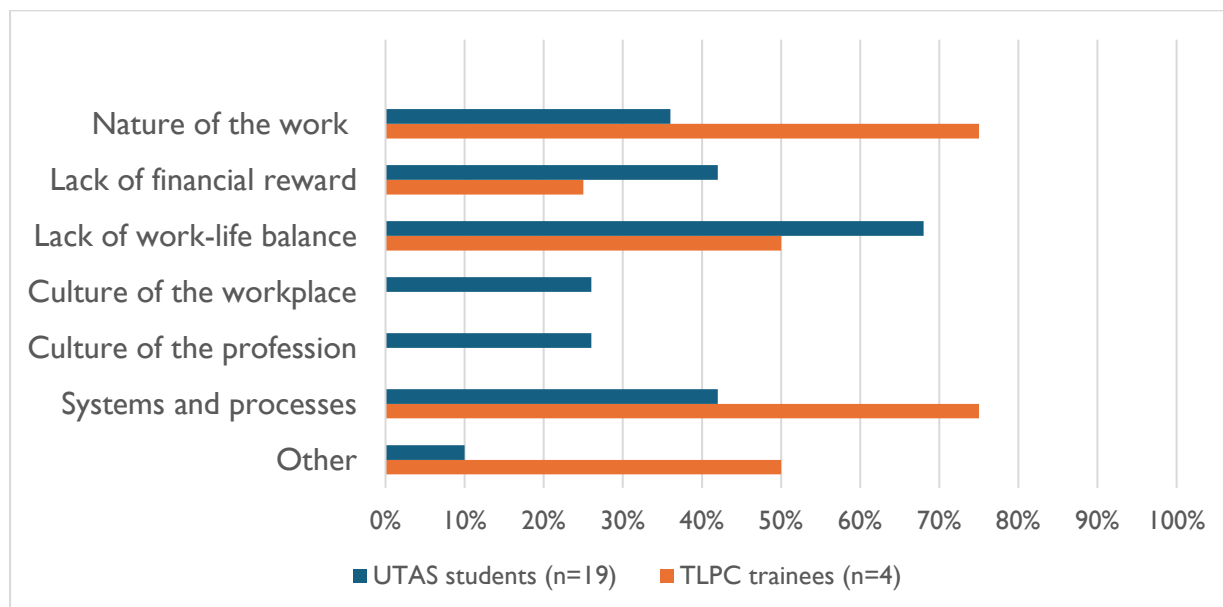
Moderation analysis indicated that negative features were a statistically significant and negative predictor of satisfaction with criminal law work (that is, a contributor to attrition) for people currently working¹⁰² in that area as well as for people who formerly worked in criminal law.¹⁰³ This suggests – in combination with the finding noted in section 5.1.1 that positive features were a statistically significant and positive predictor of satisfaction with criminal law work –

¹⁰² b = -0.29, 95% CI[-0.42 to -0.16], p = <.001

¹⁰³ b = -0.39, 95% CI[-0.58 to -0.12], p = <.001

that optimising the best aspects of criminal law work and eliminating or controlling the worst aspects identified by participants could improve satisfaction.

Figure 6.2 Students and trainees: What are the worst features of criminal law work?



Professionals, students and TLPC trainees were asked to elaborate on these and other issues in other parts of the survey, and the forums and interviews. Those qualitative inputs are summarised below.

6.2 Funding and structures

6.2.1 Legal Aid funding

The majority of survey respondents identified ‘lack of financial reward’ as one of the worst features of criminal law work (see Figure 6.1). Participants’ perception of the meaning of ‘financial reward’ likely differed between those doing legally aided work in private practice, those employed by the DPP, those employed by TLA and those employed by TALS. The qualitative data indicates that funding for legal aid fees available to private practitioners was the most acute source of dissatisfaction in this regard.

NLA has argued that inadequate funding for legal aid grants and consequent low fees has resulted in a national crisis in the supply of private lawyers.¹⁰⁴ The Mundy Review (discussed in section 1.2) reported receiving multiple submissions highlighting the inadequate rates of grants of aid provided by Legal Aid Commissions around Australia.¹⁰⁵ The 2024 Private Practitioner Census commissioned by NLA indicated that approximately one-third of private

¹⁰⁴ National Legal Aid, ‘National Access to Justice Partnership Now Live’ (Media Release, 30 June 2025) <<https://nationallegalaid.org.au/news/najp-live>>.

¹⁰⁵ Mundy (n 1) 136.

practitioners intend to stop doing legal aid work during the 2025–30 lifetime of the NAJP.¹⁰⁶ Consistent with this national picture, participants in the present study identified inadequate funding for grants of legal aid in Tasmania as a significant obstacle to taking on, or building a practice in, criminal law work. Respondents described criminal legal aid grant funding as not having kept pace with the cost of running criminal trials, private firms’ billing targets, or lawyers’ salaries:

“I think at the end of the day, it all really comes down to money... the fees are too low because the Commission isn’t funded enough to increase those fees. It has to strike a balance between trying to serve as many people as possible with the funding it has, and it’s just simply not enough.” (Currently working in criminal law, survey)

“Funding here is nothing like funding on the mainland and what people who do legal aid work get in terms of funding on the mainland is phenomenal in comparison to what we get.” (Previously worked in criminal law, survey)

Legal aid grant funding covers solicitor or barrister service fees (with exceptions) and court costs; some activities are not funded, including solicitors’ and barristers’ travel over a certain distance, cost of printing and administrative costs of applying for grants.¹⁰⁷ TLA confirmed an increase of the hourly rate for legal practitioners by 2 per cent from 1 July 2025 across all areas of TLA practice and law programs.¹⁰⁸ As of that date, the hourly legal aid fee for practitioners appearing in the Supreme Court of Tasmania, Federal Court, Family Court or Administrative Review Tribunal is \$180.18 for counsel and \$160.78 for a solicitor.¹⁰⁹ In the Magistrates Court, the fee is \$160.78 for counsel or a solicitor. Travel costs are only provided under certain conditions¹¹⁰ and are capped at \$160.¹¹¹ In contrast, average Australian lawyers’ private charge out rates for any discipline sit between \$220 to \$880 per hour, including for travel.¹¹²

Respondents reported that inadequate legal aid funding affects both private practitioners and TLA’s in-house criminal practice, limiting the ability of professionals in both groups to build sustainable careers in criminal law (discussed further in section 6.4.2 below). Participants described the funding gap as contributing to a change in the Tasmanian legal landscape: not only is low grant funding resulting in fewer private firms taking on individual matters, but fewer

¹⁰⁶ National Legal Aid, ‘National Legal Aid calls for urgent funding review amid lawyer shortage,’ (Media Release, 14 November 2025) <<https://nationallegalaid.org.au/news/scag-review-lawyer-shortage/>>.

¹⁰⁷ Tasmania Legal Aid, *Grant Guidelines* (n 28).

¹⁰⁸ Law Society of Tasmania, ‘Tasmania Legal Aid – 2025-26 Increase in Practitioner Fee Rate’ (Media Release, 2 July 2025) <<https://lst.org.au/tasmania-legal-aid-2025-26-increase-in-practitioner-fee-rate/>>.

¹⁰⁹ Ibid 70.

¹¹⁰ Travelling costs to Court will only be paid where the practitioner has office premises 5 kilometres or more from the Court to be attended, and where an appearance is required in a Court in a town other than where the practitioner has office premises, only with the prior consent of the Commission. Travel over a distance of 40 kilometres will not be paid on any non-Court attendance unless prior consent of the Commission has been obtained. Mileage for car expenses will be paid at the rate of 0.45 cents per kilometre: Ibid.

¹¹¹ Ibid.

¹¹² ‘How Much Does a Lawyer Cost in Australia?’, *Criminal Defence Lawyers Australia* (Web Page, 2024) <<https://www.criminaldefencelawyers.com.au/blog/how-much-does-a-lawyer-cost-in-australia/>>.

private practitioners are able to specialise in criminal law work and develop expertise in that area. Existing work consequently appears to be spread thinly across a shrinking group of practitioners.

“Legal aid grants to the private profession are far too low so increasingly less private lawyers do legally aided work. Which puts a strain on in-house lawyers.” (Previously worked in criminal law, forum)

“[B]ecause of the reluctance of private firms to take on legal aid work or do crime work generally there is not a way to progress your career outside legal aid.” (Currently working in criminal law, survey)

Participants suggested the lack of private practitioners doing criminal law work is especially acute in Tasmania because most criminal law work is legally aided, with only a small number of firms in Tasmania being able to operate a criminal practice without legal aid funding. One participant explained that funding rates in the past had allowed firms to support the training of early-career practitioners in criminal law work, which in turn enabled them to offer a more ‘rounded’ legal service for the Tasmanian public.

Participants suggested higher numbers of people are now appearing in court unrepresented, or with sub-optimal representation; a similar observation was made recently by Tasmanian Chief Justice Shanahan.¹¹³ This also appears to be contributing to delays and the widely reported backlog in the Tasmanian courts.¹¹⁴

“In the Magistrates Court the lack of lawyers actually meant less flexibility for people because, you know, particularly the legal aid lawyers, they would just stay constantly... and of course it's self-perpetuating in the Magistrates Court, because there are a lack of lawyers, more and more people are appearing unrepresented, dealing with an unrepresented person takes more time.” (Currently working in criminal law, interview)

In a 2018 report for the Criminology Research Advisory Council, Flynn and Freiberg reported that reductions in funding for the legal assistance sector in Victoria have led to a rise in the number of accused persons appearing without legal representation.¹¹⁵ According to the authors, this increase in self-represented defendants has had negative consequences for both the quality and timeliness of plea negotiations, contributing to further delays across the criminal justice system, and placing additional pressure on magistrates and police prosecutors, whom the authors argued were being drawn into roles resembling those of defence lawyers.¹¹⁶ That research also indicated that individuals without representation faced disadvantages when

¹¹³ Supreme Court of Tasmania, *Annual Report 2024/2025* (n 79) 3.

¹¹⁴ Supreme Court of Tasmania, *Annual Report 2023/2024* (2024) 2 <<https://www.supremecourt.tas.gov.au/wp-content/uploads/2024/11/SCT-Annual-Report-2324-FINAL.pdf>>.

¹¹⁵ Asher Flynn and Arie Freiberg, *Plea Negotiations Report to the Criminology Research Advisory Council* (Report, Criminology Research Grants, April 2018) 134 <https://www.aic.gov.au/sites/default/files/2020-05/CRG_51_13-14-FinalReport.pdf>.

¹¹⁶ *Ibid* 112, 135.

attempting to negotiate with police prosecutors and were more vulnerable to agreeing to outcomes without fully understanding the consequences of entering a guilty plea.¹¹⁷ According to Flynn and Freiberg, this problem is especially acute for accused persons with cognitive impairment.¹¹⁸

As described in section 1.2 above, the other core element of the ‘mixed model’ of legal aid provision in Tasmania is TLA’s in-house criminal practice. In its review of access to justice arrangements in 2014, the Productivity Commission noted that studies in other countries provided support for the role of public defender services in providing cheaper and more efficient services and producing other cost savings.¹¹⁹ Most participants who commented on Tasmania’s mixed model similarly characterised TLA’s in-house service as essential to the functioning of the system. For example, one interviewee said:

“There always should be an in-house practice. I believe that it's a really important part of the mix and there are things that legal aid can do that other firms can't do because they don't have a budget imperative to you know, bill a certain amount of money. I remember when I went there from a private firm, I felt liberated because I could pick up the phone 20 times and I wasn't writing down, you know, who owes the firm money anymore. It was just there needs to be 10 calls, I'm going to make 10 calls. I need to do the work I'll do the work as efficiently as I can...” (Currently working in criminal law, interview)

The implications of long periods of constrained TLA funding – which was identified as a national issue in the NLA Private Practitioner Census¹²⁰ – were also apparent in staffing and workload issues raised by multiple participants in this study. These are discussed in detail in section 6.4.2 below.

Several participants argued that a perceived expansion of TLA’s operations beyond its ‘core’ purpose of criminal defence work were exacerbating funding constraints. For example, one forum participant said:

“I think legal aid works for so many different [fields, as] if they've almost broadened their service so much when the core service should probably be crime, so it can almost be frustrating when another department gets funding and they get another staff member and you've got the crime team... ... with like three staff and trouble filling jobs, so that was something I found harder at legal aid at times.” (Previously worked in criminal law, forum)

These views likely reflect a misunderstanding of legal assistance funding arrangements; while the bulk of criminal work is funded by the State government, civil and other areas are largely

¹¹⁷ Ibid 133.

¹¹⁸ Ibid 136–141.

¹¹⁹ Productivity Commission (n 19) 725.

¹²⁰ See generally Cortis and Blaxland (n 13).

funded through the Commonwealth NAJP and other ‘earmarked’ grants of funding which, even if desirable, could not be deployed for criminal matters.¹²¹

6.2.2 Legal Aid grant processes

Thirty-five per cent of survey respondents currently doing criminal law work, and 28 per cent of those who had previously done criminal law work, selected ‘administrative processes’ as one of the worst features of the work (Figure 6.1). Private practitioners expressed the view that application and administrative requirements for grants of legal aid are overly burdensome, and that current grant funding does not adequately compensate for this work. Participants in the survey and interviews gave examples of lawyers at times waiting until several days into a trial before funding is approved, even though eligibility and merit are already established, an issue also reported in NLA’s Private Practitioner Census.¹²² Study participants also gave examples of particular frustrations; for example, one explained how an absence of funding for instructing solicitors means that barristers’ court work is limited as costs are spent covering the work of instructing solicitors. Senior, mid-career, and early-career lawyers shared similar concerns about longstanding issues with legal aid grant applications for private firms.

“I enjoy defending clients and it is such a shame that the funding process limits my engagement.” (Currently working in criminal law, survey)

“The funding of matters is extremely piecemeal. The administration of grants requires very frequent applications for small amounts of money.” (Previously worked in criminal law, survey)

This is consistent with the findings of NLA’s 2024 Private Practitioner Census described above, with respondents to the national survey describing similar ‘difficulties of engaging with Legal Aid Commissions’ and reporting that legal aid grant processes and operational requirements for private practitioners were overly complex.¹²³

6.2.3 Sector-wide resourcing issues

In addition to inadequate funding for legal aid grants, participants characterised sector-wide funding and resource shortages as contributing to slower and less efficient criminal proceedings, greater work stress and fewer career opportunities, making criminal law a less appealing field of work. Court processes were selected as one of the ‘worst’ features of the work by 33 per cent of survey respondents currently working in criminal law and 37 per cent of those who previously worked in criminal law (Figure 6.1).

Participants working in Tasmania’s North and North West reported concerns with outdated court technology and courts’ limited flexibility in response to the additional burden of rural

¹²¹ Tasmania Legal Aid, *2024/25 Annual Report* (n 33) 45–47.

¹²² See generally Cortis and Blaxland (n 13).

¹²³ *Ibid* 35–36.

and regional practice, such as longer travel times to attend proceedings and conflicts in court scheduling between the Magistrates Court and Supreme Court.

“There needs to be upgrades to technology making electronic remote appearances for certain matters available.” (Currently working in criminal law, survey)

“[P]ractitioners that try to do a lot of work in both jurisdictions are going to end up in trouble because if you end up with a complicated hearing in the Magistrates Court and a trial at the same time both courts will not be happy. In the Supreme Court that's where this relentless focus on just getting as many matters completed as soon as possible is.” (currently working in criminal law, interview)

In September 2025, the Tasmanian Chief Justice issued a Practice Direction introducing significant changes to criminal proceedings in the Supreme Court.¹²⁴ Statewide responsibility for managing all criminal matters prior to proceeding to trial are now managed by the Honourable Associate Justice Michael Daly, who is responsible for timetabling the proceedings, a process previously performed by the Office of the DPP in consultation with the Court. Associate Justice Daly has explained that the purpose of the Practice Direction is to streamline the case management process, reduce court delays, contribute to reducing the backlog of matters and enhance system efficiency.¹²⁵ When participants in the forums and interviews for the present study were asked about these new arrangements, they expressed optimism that the change could improve workload scheduling, especially for defence lawyers, although they noted it was too soon to assess their effectiveness.

In the qualitative responses, several participants indicated that resourcing is inadequate across all elements of the system, from TLA and the DPP through to court security and the prison system. For example:

“A lot of the time can be a bit Groundhog Day in criminal law, whether it's because of delays, you know, these service providers, whether it's Community Corrections or TPS not being appropriately funded and that meaning that reports aren't ready or clients aren't able to receive the type of assistance that they really need.” (Currently working in criminal law, forum)

Multiple participants also said the lack of funding in the system for offender rehabilitation was a source of frustration and disillusionment with criminal defence work:

“There's just not enough funding put into rehabilitation, so the cycle of offending continues as a result. So, we're going to see those clients again and that can quite often lead to burnout of criminal lawyers, because you're just seeing the same people again

¹²⁴ Supreme Court of Tasmania, *Criminal Case Management List* (Practice Direction, 7 July 2025).

¹²⁵ Associate Justice Michael Daly, ‘The New System of Criminal Listings in the Supreme Court of Tasmania,’ (Speech, Law Society of Tasmania, 8 August 2025) <https://issuu.com/taslawociety/docs/ccml_paper_-_associate_justice_daly?fr=sMmY2NzgzNzAlMjM>.

doing exactly the same thing, unable to break the cycle and that can be pretty disheartening.” (Currently working in criminal law, forum)

“..I seriously began to question what benefit I was making from a social justice perspective. Those I was defending all had similar stories of disadvantage. There was no sense of my work contributing to the systemic issues of injustice. I found this very demoralising – at first, I considered there was prestige in being a criminal advocate; within a couple of years, I didn't consider this to be so anymore.” (Previously worked in criminal law, survey)

Other major reviews have identified inadequate funding of ATSILS such as TALS (described in section 1.2 above) and recommended funding increases to address workload shortages and ensure that Aboriginal Community-controlled Organisations can act as the preferred provider in line with national principles.¹²⁶ For example, the Mundy Review found that ATSILS faced high staff attrition due to ‘funding levels, short-term funding, high workloads, burnout, insecure employment arrangements, and inadequate facilities’.¹²⁷ In its 2026–27 pre-budget submission, National Aboriginal and Torres Strait Islander Legal Services, representing the ATSILS, called for increased Commonwealth funding to achieve pay parity, increase staff numbers to safe and sustainable levels, improve recruitment and retention in regional and remote areas and strengthen supervision, training and leadership pathways in ATSILS.¹²⁸ In its most recent Annual Report, TALS CEO Jake Smith said that it ‘simply cannot meet [demand] within the funding available’.¹²⁹

6.3 The sector and profession

6.3.1 Professional mentoring

Participants in this study suggested that the inadequacy of funding and consequent withdrawal of many private firms and practitioners from criminal law work described above are having a flow-on effect on the ‘pipeline’ of criminal lawyers. Specifically, participants reported that senior practitioners have reached, or will soon reach, retirement age, and there are very few mid-career lawyers available to mentor and develop early-career lawyers. Over half the forum and interview participants spoke about this lack of mentoring having a negative impact on recruitment and retention of new and early-career lawyers.

The shortfall in mentoring was attributed to several factors, including the retirement of senior members of the profession, a comparative lack of mid-career lawyers, and the financial cost of having private and government lawyers being ‘shadowed’ or providing other time-intensive mentoring to early-career lawyers:

¹²⁶ Mundy (n 1) 90.

¹²⁷ Ibid 89 and Chapter 5 generally.

¹²⁸ National Aboriginal and Torres Strait Islander Legal Services, *FY2026-27 Pre-Budget Submission* (nd) 4, 5, 9 <https://www.natsils.org.au/wp-content/uploads/2026/05/NATSILS-FY2026_27-Pre-Budget-Submission-PBS.pdf>

¹²⁹ Tasmanian Aboriginal Legal Service (n 20) 4.

“The problem we're facing today started 15 to 20 years ago and that lost generation of lived experience, of people who knew how to conduct a trial, who knew how to cross examine, who knew how to take instructions, who understood the nuts and bolts of the Evidence Act. They're gone. And so why would a young professional go into such a war zone where they know they will be so deeply alone and having to reinvent a wheel.” (Previously worked in criminal law, forum)

“...one of the major issues in terms of providing that level of support is that in private practice it is not feasible [for early-career lawyers to attend court alongside senior lawyers].” (Currently working in criminal law, interview)

According to senior professional participants, government employment (for example with the DPP or TLA) has historically been an important training ground for criminal lawyers, including those who subsequently move into private criminal law practice. Senior professional participants in the forums suggested that the introduction of short-term and fixed-term contracts to employ some lawyers around a decade ago, especially at TLA, contributed to current shortages:

“Now I appreciate at the time that was no doubt a pragmatic response to serious funding issues, but it's left us with a legacy of people who really didn't stick around for very long in the criminal law. We started to get high turnover and then you start to lose your middle ground. You start to have lawyers that have been there for many years and have lots of experience, and then nothing in the middle to support those experienced practitioners. And then you've got your graduate lawyers who are trying to pick things up as they go.” (Previously worked in criminal law, forum)

Nickson and Neikirk conducted interviews about job satisfaction, motivations, professional challenges and wellbeing with 32 lawyers in five Australian jurisdictions, most of whom did or had worked in legal aid offices, and their findings suggest that this issue is not confined to Tasmania.¹³⁰ The authors argued that structural changes to legal aid services across jurisdictions have resulted in many offices losing a substantial cohort of senior lawyers.¹³¹ Their research suggested that the Evans Review's recommendations to reduce in-house lawyer positions (described in section 2.2 above) contributed to a significant depletion of senior legal roles within TLA.¹³² According to their analysis, the policy direction influenced by the Evans Review was widely viewed as detrimental to the profession.¹³³ In 2014, the Productivity Commission also cautioned against state and territory governments placing staffing restrictions on Legal Aid Commissions 'where the expansion of in-house services represents a cost effective approach to delivering services than outsourcing to the private legal profession'.¹³⁴

¹³⁰ Ray Nickson and Alice Neikirk 'Legal First Responders: Duty Lawyers as an Essential Service' (2025) 37(3) *Current Issues in Criminal Justice* 442.

¹³¹ *Ibid* 410–411.

¹³² *Ibid*.

¹³³ *Ibid*.

¹³⁴ Productivity Commission (n 19) 726.

More broadly, Nickson and Neikirk noted that the prevailing perception of Australian legal aid as primarily a training ground for early-career lawyers continues to restrict the availability of senior positions and opportunities for progression.¹³⁵ One lawyer who participated in their study observed that the departure of many experienced practitioners had left offices staffed predominantly by early-career lawyers who were struggling to manage the workload.¹³⁶ Staffing issues and workloads are discussed further in section 6.4.2 below.

Several senior criminal lawyers who participated in the present study decried the loss of the apprenticeship scheme, under which individuals who had completed the LLB undertook a 12-month apprenticeship or articulated clerkship program under the supervision of a barrister or solicitor in order to be admitted to the Supreme Court.¹³⁷ For example, participants said:

“I think things like the end of the apprenticeship idea was an enormous negative.”
(Previously worked in criminal law, forum)

“[In the apprenticeship program] you went to court with your master. You saw them in action and when it was your turn, you sat with them Told them what you were going to do. They told you what was right and wrong about it. They went to court with you because you had no right of audience and [they were] there to encourage and assist you.” (Previously worked in criminal law, forum)

However, participants in both the forums and interviews agreed that reinstating the apprenticeship program would not be financially viable for firms.

It appears that most mentoring of early-career practitioners today occurs in-house at TLA and the DPP. However, practitioners working in those organisations suggested that mentoring – where it is available – is largely informal, and there are challenges to effectively supporting and developing new graduates and other early-career lawyers. These included limited staff numbers, high workloads and associated time constraints, although lawyers at the DPP felt support for early-career staff has improved in recent years. The Duty Lawyer Scheme introduced in 2015, which is currently funded by the Solicitors’ Guarantee Fund and administered by the LST, CLS and Hobart Community Legal Centre was identified as another avenue available for developing early-career criminal lawyer capacity.¹³⁸ This scheme enables both graduate lawyers employed by firms, and those who have completed the TLPC but not yet secured ongoing employment, to participate in the duty lawyer roster.

¹³⁵ Nickson and Neikirk (n 130) 410–411.

¹³⁶ Ibid.

¹³⁷ See Tasmania Industrial Commission, *Order for Amendment to the Legal Practitioners Award, No 1 of 1990 under the Industrial Relations Act 1984* (T.2165 of 1989)

<https://www.tic.tas.gov.au/_data/assets/pdf_file/0004/77080/T2165_order_1_1990_con.pdf>.

¹³⁸ ‘SGF Grant Deeds – Current – 17 November 2025’, *Department of Justice* (Web Page, 2025) <<https://www.justice.tas.gov.au/your-rights/legal/legal-assistance-resources/sgf-grant-deeds-current-17-november-2025>>.

6.3.2 Cultural issues

With fewer firms and lawyers in the sector, some participants reported that there is less cohesion, fewer opportunities for building informal professional connections, and in some instances poor collegiality between members of the profession. These issues related to both the profession generally and individual workplaces (Figure 6.1). Among survey respondents currently doing criminal law work, 24 per cent selected ‘culture of the profession’, and 28 per cent selected ‘culture of the workplace’, as one of the worst features of criminal law work. Similar proportions of respondents who previously did criminal law work selected these features – 21 per cent for the culture of the profession and 25 per cent for the culture of the workplace.

The qualitative data indicated a view among many in the profession that some practitioners and judicial officers’ behaviour falls short of what is considered appropriate in a professional workplace. While participants described a range of positive examples of supportive professional collaboration – such as early-career duty lawyer colleagues who back one another up at the Magistrates Court, and strong informal support networks in the North and North West – others pointed to areas with less healthy cultural dynamics, and suggested that these contribute to practitioners (particularly early-career professionals) leaving criminal practice or legal practice altogether.

“Launceston has a bit of a reputation of being perhaps more collegiate than other places.” (Currently working in criminal law, interview)

“I think there's a real risk that we'll lose our junior lawyers because it's not fun for them ... going to court at the moment.” (Currently working in criminal law, interview)

Many participants spoke about judicial behaviour that had negatively affected them or their colleagues. Some characterised challenging or distressing interactions between lawyers and judicial officers as a clash of personalities or an inevitable and necessary aspect of the power dynamics of the legal system. Others perceived it as a manifestation of judicial officers’ work stress, frustration with administrative delays or lack of appreciation of the work pressures and limited mentoring support affecting early-career lawyers. Others still characterised it as unacceptable and harmful behaviour that negatively affects lawyers’ wellbeing and contributes to attrition, especially among early-career practitioners.

In recent years, concerns about the impacts of unreasonable judicial behaviour have led to research and the issuing of guidance by the New South Wales and Victorian Bar Associations, and the NSW and Victorian Judicial Commissions, under the banner of responding to ‘judicial bullying’.¹³⁹ In its Judicial Bullying Guideline, the Judicial Commission of Victoria defined ‘judicial bullying’ as:

¹³⁹ For an overview, see Kylie Nomchong, ‘Judicial Bullying: The View from the Bar’ in Judicial Commission of NSW, *Handbook for Judicial Officers* (October 2021) 561-569

conduct by a judicial officer towards an individual that:

- is unreasonable; and
- includes, but is not limited to, conduct that a reasonable person would, having regard to all the circumstances, perceive as belittling, humiliating, insulting, victimising, aggressive or intimidating.

What is unreasonable is to be assessed objectively, with regard to the following factors:

- the functions of the judicial officer;
- the subject or target of the conduct;
- the tone or nature of the conduct;
- whether the conduct is momentary or sustained;
- the location, including the jurisdiction and type of proceeding (for in-court matters) in which the conduct occurs; and
- the overall context of the conduct.¹⁴⁰

Nickson and Neikirk's research with Australian lawyers working in publicly funded criminal defence identified a 'key theme' in their research on job satisfaction, whereby 'judicial bullying was experienced by many lawyers, but perpetrated by a few, easily-identified judicial officers' and was perceived as a contributor to attrition.¹⁴¹ Consistent with this and other reports in other jurisdictions,¹⁴² multiple participants in the present study suggested that perceived or actual judicial bullying is not a system-wide issue but involves a small number of judicial officers. Prior research suggests that the impacts of such behaviour can nevertheless be widespread; 66 per cent of respondents to a NSW Bar Association survey and 59 per cent of respondents to a VicBar Association survey had experienced judicial bullying.¹⁴³ International research reflects the same pattern: a 2018 wellbeing survey of criminal lawyers in New Zealand found that 88.1 per cent of respondents had personally witnessed or experienced bullying, and in 65 per cent of those cases the perpetrator was identified as a judge.¹⁴⁴

Importantly, participants in the present study perceived judicial behaviour as not only affecting early-career lawyers, although several acknowledged that its impacts on that group can be greater. For example:

<https://www.judcom.nsw.gov.au/publications/benchbks/judicial_officers/judicial_bullying_view_from_the_bar.htm>; see also Nickson and Neikirk (n 130) 401.

¹⁴⁰ Judicial Commission of Victoria, *Judicial Bullying Guideline* (24 May 2023) [2.4]

<<https://www.judicialcommission.vic.gov.au/guidelines/judicial-bullying-guideline/>>.

¹⁴¹ Nickson and Neikirk (n 130) 401, 402.

¹⁴² Judicial Commission of Victoria, *Judicial Bullying Summary Paper: Consultation and Recommendations* (Report, May 2023) [14] <<https://judicialcollege.vic.edu.au/resources/judicial-bullying-consultation-paper>>; Australian Law Reform Commission, *Without Fear or Favour: Judicial Impartiality and the Law on Bias* (Report No 138, December 2021) [10.113]; see also Nickson and Neikirk (n 130) 402-3.

¹⁴³ Arthur Moses, 'Judicial Bullying Can't Be Tolerated', *The Australian* (11 May 2018); Victorian Bar, *Quality of Working Life Survey* (Final Report and Analysis, October 2018) 18 cited by Nomchong (n 139) 561.

¹⁴⁴ New Zealand Law Society, 'Chief Justice Responds on Bullying Results' (Web Page, 28 March 2018)

<<https://www.lawsociety.org.nz/news/newsroom/chief-justice-responds-on-bullying-results/>>.

“Every single practitioner will have a story about crying in court, and that's not normal. It's not and it shouldn't be the case.” (Currently working in criminal law, survey)

“Even if a younger practitioner deserves to be told that they're not doing a good enough job on a particular matter, the way in which some of them are spoken to would never be allowed if it were in an office environment, it would undoubtedly lead to HR stepping in, and there's no recourse.” (Currently working in criminal law, survey)

6.3.3 Changing expectations about work and resilience

Many participants spoke of generational differences in expectations about working conditions that might discourage early-career lawyers from going into criminal law. Some expressed concerns about early-career lawyers' lack of 'resilience' and noted the prevalence of 'that's just how it's done, it has always been like that' attitudes among more senior professionals:

“Resilience is an enormous issue. I mean, when they say they're thrown into things, there's nothing new there. It's always been the way; it always will be the way. There's nothing new about that. I think perhaps in the olden days we probably lost people, but there were more people doing it to cover for them and you didn't notice it so much.” (Currently working in criminal law, interview)

“I think part of it is this culture amongst many of the senior profession that well, that's the way that we did things. And that's just the way it is and there's not a huge amount of motivation to change things because it's just the way it always has been, and you just get on with it and you move on.” (Currently working in criminal law, interview)

These perspectives appeared to clash with younger lawyers' expectations of less intensive working conditions, proper preparation and a more structured approach:

“I think in terms of my generation and other generations that are coming through into practice, that's just not how we work. We want better conditions, we want more structure in our days, you know the days of just going with the flow and doing hearings and trials without any preparation, that's just not how it works these days. The expectations are much higher.” (Currently working in criminal law, interview)

UTAS Law students who participated in the survey and forum also described significant non-work pressures that appear to inform their work expectations and aspirations. High costs of living and housing in Tasmania mean many said they are engaged in paid work (sometimes full-time) while studying full-time or part-time, often alongside extracurricular commitments such as volunteering, sport, student competitions and other activities. Students reported already being employed in law firms in their final year or years of study. Several explained that they were keen to complete their university studies so they could be relieved of the burden of balancing study with paid work, and have a more manageable schedule – one not necessarily aligned with the dynamic, unpredictable and intensive nature of much criminal law work.

6.3.4 Negative community attitudes and (social) media reporting

Participants across the surveys, forums and interviews reported that social and news media perpetuates poor community attitudes about criminal law work, which can also discourage lawyers from going into, or staying in, this field. Both student and professional respondents expressed concern that media coverage often fails to recognise the role of defence lawyers in the proper functioning of the legal system and upholding key principles such as access to justice and the presumption of innocence. By portraying people accused of crimes as undeserving of legal support, media reporting can reinforce negative views of criminal lawyers and diminishes the perceived value of the profession. Participants with experience in prosecution work also described how media and community misconceptions negatively affect job satisfaction and recruitment. They noted that the public often misunderstands sentencing outcomes or the way charges are negotiated and resolved during proceedings, which can lead to prosecutors being unfairly blamed for ‘not doing a good enough job.’

“I mean, how many commercial lawyers in Tasmania are written up in the Mercury, The Advocate, The Examiner in potentially not very flattering ways for appearing on a duty matter in the most extreme of circumstances.” (Currently working in criminal law, forum)

“The discourses around crime that occur socially, why would any 18-year-old person going into law school in their right mind go into a profession that is increasingly seen by the average punter [as] reviled and ... that mindset is propagated within the legal profession.” (Currently working in criminal law, forum)

Law students who participated in the forum indicated similar concerns, citing this as one motivation for avoiding criminal practice. For example, students said:

“When I talk about it with anyone, the immediate response, no matter who I'm talking to is, ‘why would you want to defend a criminal?’” (Law student, forum)

“That sort of stigma seems to arise either way, depending on who you're talking to. Like with defence, it's also defending criminals, murderers and rapists. And people say, ‘wow some kind of person you are’. And then on the other side many people think, ‘oh you are harsh you lock up poor people for a living’. And, I guess the injustice of the justice system kind of gets put on you as an individual. And I guess that's a huge deterrent for a lot of people.” (Law student, forum)

Some students noted that negative community and media perceptions of the industry are much harder to ignore when combined with what they hear about low pay, fewer firms taking on criminal matters and the challenges faced by many of their peers working as early-career criminal lawyers.

Public perceptions and media portrayals of lawyers have been the subject of some prior research.¹⁴⁵ For example, Asimow and colleagues argued in 2007 that American law students' views were strongly influenced by broader social narratives; they observed that this phenomenon is not unique to the criminal law or the legal profession.¹⁴⁶ However, the same study suggested that public perceptions of lawyers had fallen between the 1970s and 2000s, which the authors attributed to popular culture portrayals and the rise of mass media.¹⁴⁷

6.4 Working conditions

6.4.1 Physical safety concerns

Some participants in the study mentioned unsafe work situations arising from workforce and other resource shortages. Concerningly, some woman lawyers mentioned interviewing or delivering information to clients in cells or prison interview rooms in circumstances where they felt unsafe or witnessed aggressive behaviour without access to support from colleagues or security staff to call for assistance. Other participants expressed similar safety concerns:

“When they first come into custody, they're often still quite drug affected, and that's when your young duty solicitors are, you know, called upon to deal with them. So, you've got the perfect storm of a difficult client, who's probably affected by drugs and a two-months-out duty solicitor who was often female. And it can be an intimidating environment.” (Currently working in criminal law, interview)

Research examining the physical risks faced by lawyers remains limited, although multiple recent studies in Australia and the UK have identified safe physical spaces as essential for lawyers' physical and mental health.¹⁴⁸ For example, participants in Pike and Quinlan's focus group research, which explored psychosocial risks for Australian legal assistance lawyers, highlighted the connection between physical and psychosocial safety, noting 'a feeling of vulnerability in their physical workspaces due to clients' behaviour.'¹⁴⁹ Mental health and psychosocial safety concerns are discussed further in section 6.4.3 below.

6.4.2 Workloads and work conditions

Over half (56 per cent) of survey respondents currently doing criminal law work identified 'lack of work-life balance' as one of the worst features of the work; 44 per cent of those who

¹⁴⁵ See Ben Clarke, 'An Ethics Survey of Australian Criminal Law Practitioners' (2003) 27(3) *Criminal Law Journal* 142, 143.

¹⁴⁶ Michael Asimow et al, 'Perceptions of Lawyers—a Transnational Study of Student Views on the Image of Law and Lawyers' (2005) 12(3) *International Journal of the Legal Profession* 407.

¹⁴⁷ See generally Asimow et al (n 146); Andrew Makin, 'Criminal Court Outcomes and Public Expectations: Is Alignment Necessary and How Can it be Achieved?' (2024) 6 *University of South Australia Law Review* 3, 3.

¹⁴⁸ Joanna Fleck and Rachel Francis, *Vicarious Trauma in the Legal Profession: A Practical Guide to Trauma, Burnout and Collective Care* (Legal Action Group, 2021); Chris Maylea et al, *With You Toolkit: Empowering Trauma-informed Rights-based Organisations* (La Trobe University, 2023); Clare Pike and Amanda Rebar, 'What Would a Trauma-Informed Workplace Ideally Look like in Legal Aid? A Qualitative Perspective from Lawyers' (2024) 31(3) *Psychiatry, Psychology and Law* 523.

¹⁴⁹ See eg, Pike and Quinlan (n 51); Nickson and Neikirk (n 130).

previously worked in criminal law gave the same response (Figure 6.1). Qualitative responses to the survey, forums and interviews similarly identified high and potentially unsafe workloads as a negative feature of criminal law work and a contributor to attrition, particularly among defence lawyers and others appearing regularly in court.

“There should be a financial distinction between government lawyers who work 9-5 and government lawyers who work 65-hour weeks.” (Currently working in criminal law, survey)

Many attributed high workloads to inadequate funding in the sector and associated staffing shortages. Participants reported, for example, that staff shortages have resulted in early-career practitioners having to manage complex criminal matters without adequate support. Several participants suggested there are also challenges with recruitment, especially in the North and North West, reporting for example that recent job advertisements for criminal lawyer positions at TLA had attracted only a handful of unsuitable applicants. Other participants highlighted the challenges created by single-point dependencies, where one staff member’s absence can delay trials, leave no duty lawyer available in the Magistrates Court, or result in an unmanageable workload upon their return to work.

“We've been under resourced for a very long time and the place operates on the goodwill of people that do extra hours. So, some people decide not to do that and quite fairly. I probably am too far the other way I've given too much time, and I probably shouldn't have.” (Currently working in criminal law, interview)

“Sick leave for general sickness, even if it's something like a cold it can be really hard when you're in a busy job and as the only duty lawyer, if you took a sick day it would have had a big impact on the team....” (Currently working in criminal law, forum)

These concerns are consistent with views expressed in other studies by legal stakeholders across the Australian legal profession, and by those working in criminal practice specifically.¹⁵⁰ They are also consistent with findings of the Mundy Review that structural factors such as remuneration, excessive workloads, use of short-term contracts and lack of career progression opportunities presented challenges to attracting and retaining lawyers in the legal assistance workforce generally, with some of these factors being especially acute for ATSILS.¹⁵¹

¹⁵⁰ Cortis and Blaxland (n 13); Emily Millane, Angela Jackson and Nathan Blane, *Justice on the Brink, Stronger Legal Aid for a Better Legal System* (Impact Economics and Policy for National Legal Aid, November 2023) 27 <<https://nla-production-assets.s3.ap-southeast-2.amazonaws.com/public/Reports/Justice-on-the-Brink/november-2023-justice-on-the-brink-final-report-1.pdf>>; National Legal Aid, ‘National Legal Aid Calls for Urgent Funding Review Amid Lawyer Shortage,’ (Media Release, 14 November 2025) <<https://nationallegalaid.org.au/news/scag-review-lawyer-shortage>>; Victorian Legal Services Board + Commissioner, *Systems Theory of Change for Lawyer Wellbeing* (Report, 2025) <<https://lsbc.vic.gov.au/sites/default/files/2025-04/Systems%20Theory%20of%20Change%20for%20Lawyer%20Wellbeing%20-%20FINAL.pdf>>

¹⁵¹ Mundy (n 1) 167–173.

Participants working in government agencies and government-funded legal assistance bodies, particularly TLA, identified a lack of career progression opportunities due to limited permanent positions and inadequate pay gradings. Others noted that a combination of factors, including the fact that much criminal work is legally aided, and the limited availability of senior positions makes it difficult for those who have reached the 'ceiling' at TLA to progress to more senior private work. Some participants working at TLA and the DPP mentioned frustrations around limited, or no formal access to, TOIL (time off in lieu) or overtime, and insufficient remuneration for the number of hours worked.

Participants in public and private positions reported experiencing frequent overtime with little notice, making it difficult to balance work with personal commitments. They described challenges such as struggling to schedule personal activities, including medical appointments, due to demanding workloads and court obligations. Some of these features were characterised as inevitable parts of the job for lawyers regularly attending court, while others were subject to more criticism. For example, participants said:

“A disincentive is the unpaid overtime travelling to Courts in Burnie and Launceston on weekends and after work hours as well as unpaid overtime preparing for Court as government criminal lawyers.” (Currently working in criminal law, survey)

“Not receiving basic entitlements such as flex time, overtime or TOIL. Being expected to perform duties far beyond what was included in my statement of duties.” (Previously worked in criminal law, survey)

Some participants mentioned a change in organisational structure at TLA resulting in some senior lawyers no longer having carriage of matters or appearing in court once they are promoted into a senior leadership position. Participants queried whether this decision aligned with priorities for maintaining the supply of criminal lawyers as these individuals are often highly experienced. TLA advised that this change affected only one position. Participants in Pike and Quinlan's recent study on managing psychosocial risks for legal assistance lawyers suggested that there can be benefits of managers 'stay[ing] involved in the groundwork' and holding a manageable caseload, although they also noted that this can lead to burnout or other challenges if it is beyond reasonable limits.¹⁵²

UTAS Law students were clearly aware of issues with workloads, working conditions and pay in this part of the profession. Students spoke openly about these factors influencing their, or their peers', decisions to avoid criminal practice. For example:

“You see a lot of people come through the Magistrates Court. You see, lawyers turn up getting the briefs as they're walking in, so high caseloads, not sure it's matched by pay.” (Law Student, survey)

¹⁵² Pike and Quinlan (n 51) 150.

“I think the money thing is the thing that we should also talk about, because I think I was told like right at the beginning, like there's no money in criminal law.” (Law student, forum)

6.4.3 Vicarious trauma and other mental health impacts

Criminal lawyers are often exposed to traumatic material and work with clients who have experienced trauma and are facing legal and non-legal stressors.¹⁵³ Recent years have seen growing concern about the impacts of this (and other features of legal professional work) on lawyers' mental health and wellbeing among professional bodies and researchers. This growing concern has been attributed to multiple factors, including changing expectations about work health and safety, greater focus on trauma-informed practice and vicarious trauma, and higher rates of reporting of sexual offences leading to greater exposure to potentially traumatising material.¹⁵⁴

Participants in the present study suggested vicarious trauma and the psychosocial wellbeing of Tasmanian criminal lawyers are not being adequately managed by workplaces and the profession. The experiences of participants in this study reflect a growing body of global research suggesting that mental health issues in the legal profession are increasing.¹⁵⁵ This literature recognises a foreseeable risk to lawyers' mental health, including but not limited to, post-traumatic stress disorder (PTSD), depression, anxiety, vicarious trauma, burnout and compassion fatigue arising from their work.

Participants in this study characterised available mental health supports as limited, generic in nature and often difficult to access around court schedules. For example:

“My issue was, I'm sure like everyone else, the [Employee Assistance Scheme] will just provide random times and I'd have to try and cancel appointments and then I'd be paying for appointments I couldn't go to because I was stuck in court.” (Currently working in criminal law, forum)

Some participants also described experiences of 'needless exposure' to traumatic videos and photographs of offending that do not always come with warning labels or notes to prepare a lawyer for exposure or protect those who do not need to see the material. One participant

¹⁵³ See Anna Verney, 'Lessons on Vicarious Trauma and Wellbeing from a Royal Commission' (2018) 41 *Law Society Journal* 26 <<https://lsj.com.au/articles/lessons-on-vicarious-trauma-and-wellbeing-from-a-royal-commission/>>.

¹⁵⁴ For an overview, see Patricia Weir, Liz Jones and Nicola Sheeran, 'Australian Lawyers' Experience of Exposure to Traumatic Material: A Qualitative Study' (2021) 28(3) *Psychiatry, Psychology and Law* 363; see also Pike and Quinlan (n 51) 139; Maylea et al (n 148); Pike and Rebar (n 148) 523.

¹⁵⁵ Pike and Quinlan (n 51) 139–159; see also International Bar Association, *Mental Wellbeing in the Legal Profession: A Global Study*, (Report prepared by the IBA Presidential Task Force, October 2021) <<https://www.ibanet.org/document?id=IBA-report-Mental-Wellbeing-in-the-Legal-Profession-A-Global-Study>>; LawCare, *Life in the Law 2020/21* (Final Report, 2021) <<https://www.lawcare.org.uk/wp-content/uploads/2025/09/lawcare-lifeinthelaw-v6-final-1.pdf>>; Tina Popa et al, "'A Big Nebulous, Multifaceted Concept': Reflections from Victorian Personal Injury Lawyers on Wellbeing, Burnout and Vicarious Trauma' (2024) 31(3) *Psychiatry, Psychology and Law* 417.

mentioned that an informal process existed within the DPP to limit early-career lawyers' exposure to difficult materials, but this approach did not appear to be used across the system.

Several participants noted a disparity between the support services available to Tasmanian Department of Police, Fire and Emergency Services staff exposed to traumatic material or events and the far more limited support available to lawyers working in the same system and often exposed to the same or similar materials. For example, one participant said:

“It just seems to me that the front end of criminal law is police, and they quite rightly have a great deal of emphasis on mental health support. But I think the back-end prosecution and most certainly defence, even more so, is quite vulnerable and they are not looked after, but they're all government, they're all criminal law, it's just a different phase.” (Previously worked in criminal law, forum)

Multiple participants noted that the LST offers free counselling via an Employee Assistance Program (EAP). This program is available to lawyers in Tasmania holding a practicing certificate, includes three free counselling sessions and is accessible through the LST's website.¹⁵⁶ Some participants did not consider this to be well advertised and expressed the view that it is difficult to access and insufficient to meet people's needs and requires greater funding. For example:

“The Law Society has free access to counselling I don't think it's well enough advertised either. It's in the law letter each week, but you don't hear much of it other than that.” (Previously worked in criminal law, survey)

“I thought 'I'll access Converge through the Law Society'. And the one thing that I found when I tried.... It was hard to find, and I think it's a form you have got to put into the Law Society to get, and it just created a barrier to entry where I just ended up giving up and not using it.” (Currently working in criminal law, forum)

Similar sentiments were expressed by some legal assistance sector lawyers in Pike and Quinlan's study. Some were critical of EAP for being a 'cheap option' with a 'reputation for being poor quality' and not offering ongoing therapeutic relationships, follow-up or process change; others said it was 'useful'.¹⁵⁷ The authors noted that this was consistent with multiple prior studies that have highlighted 'cynicism and resistance to wellbeing initiatives such as Employee Assistance Program (EAP) counselling... despite research supporting their efficacy'.¹⁵⁸

¹⁵⁶ 'Employee Assistance Program', *The Law Society of Tasmania* (Web Page) <<https://lst.org.au/members/member-benefits-and-support-services/eap/>>.

¹⁵⁷ Pike and Quinlan (n 51) 149–50.

¹⁵⁸ Ibid 141 citing Janet Chan, Suzanne Poynton and Jasmine Bruce, 'Lawyering Stress and Work Culture: An Australian Study' (2014) 37(3) *University of New South Wales Law Journal* 1062; Suzanne Poynton et al, 'Assessing the Effectiveness of Wellbeing Initiatives for Lawyers and Support Staff' (2018) 41(2) *University of New South Wales Law Journal* 584; LawCare (n 155).

Legal professionals who participated in the present study noted a lack of awareness and training on how to manage exposure to traumatic materials during both their undergraduate and graduate legal training. Student participants were also aware of the likelihood of exposure to traumatic materials and suggested it could influence them to avoid doing criminal law work when combined with their other concerns about low pay and heavy workloads. For instance, one student said:

“All these people tell us about their experiences and we hear about the details of actual cases, and I guess I found that the idea of being a criminal law lawyer is nice, but then we get exposed to what the content is like and the workloads and pay and it's like, ‘oh, well, thank you for telling me about it’.” (Law student, forum)

6.4.4 Criminal matters have become more complex

Several participants noted that changes in the nature of criminal proceedings and legislation may be compounding the pressures on lawyers, especially in combination with the other issues described. Participants explained that changes in client behaviour, successive reforms to evidence law, and changes in criminal procedure have lengthened and complicated many proceedings and, in some cases, reduced early-career practitioners' confidence in advising their clients.¹⁵⁹

Participants identified a range of pressures. For example, some asserted that ‘tough on crime’ reforms have made the role of defence lawyers more complex while also increasing demand. Participants also spoke about being confronted with large volumes of complex evidence, especially in drug cases where advanced technologies, such as phone tracking, data analysis, surveillance and intercepted communications have replaced simpler forms of police observation. They also mentioned the changing nature of crime – including increased sexual or drug-related offending and a rise in matters involving children either as defendants or victims – adds emotional strain and complexity to both defence and prosecution proceedings. These cumulative changes increase workloads and slow court processes. For example, participants said:

“Over the years, at least the last decade, criminal law defence work has become increasingly more difficult as well, with legislative changes, with law changes in procedures. Some legal arguments, such as for example severance or severing certain charges on indictment, rarely are successful in argument these days.” (Currently working in criminal law, interview)

“I think the work type has changed. Now with a lot of the drug matters, for example...technology is getting better, so it's making things harder to prosecute. And I would say the volume of the work is probably bigger. Gone are the days we used to get like a little skinny file where you could read it in an hour or two. Now there are

¹⁵⁹ The increasing complexity and length of criminal matters was also noted by Millane, Jackson and Blane (n 150) 23, 27.

three volumes and by the time each person has about 40 of those, well....” (Currently working in criminal law, interview)

These observations are consistent with findings of the NLA 2024 Private Practitioner Census, where 74 per cent of respondents around Australia (and 78 per cent of Tasmanian respondents) said they perceived that the complexity of legal aid cases had increased over the last two years.¹⁶⁰ The participants’ perspectives also accord with statistics reported by Tasmania’s Chief Justice and Chief Magistrate in their respective 2024–2025 annual reports.¹⁶¹ Chief Justice Shanahan reported that in 2024–25, new criminal cases grew by 4.3 per cent, on the back of a 21 per cent increase in 2023–24. Criminal lodgements have also grown by 72 per cent in the last four years and bail applications to the Supreme Court increased 96.4 per cent in the four years between 2021–22 and 2024–25.¹⁶² Chief Justice Shanahan suggested these increases place demand on the courts’ limited resources and contribute to rates of outstanding criminal matters (by more than 24 months) for this financial year at 159 cases, or 17.4 per cent of the courts overall pending criminal caseload.¹⁶³ In the Magistrates Court’s 2024–5 Annual Report, Chief Magistrate Geason reported that the Criminal Division of the Magistrates Court is the busiest division of the court with 17,339 new adult criminal lodgements in 2024–25, an increase of 14.8 per cent on 2023–24, and 13,452 finalisations, an increase of 0.4 per cent on the previous financial year. This represented the third year in a row of increased criminal lodgements and numbers are now above pre-COVID19 levels.¹⁶⁴

One senior legal professional who participated in the present study mentioned that there have also been changes in the way clients treat their lawyers, which may also contribute to perceived lower confidence of early-career lawyers to give their clients bad news, such as recommending that they take an early guilty plea.

“In recent times, a lot of people who are charged with offences, some of them, are a lot more aware of their rights than perhaps some of them used to be and treat their counsel differently. Certainly, I’ve noticed some people who are charged with offences try and treat their lawyers as though they’re servants... And I would say that junior practitioners may find that difficult to deal with, especially if you’ve got a junior practitioner going into the cells to see someone who’s in custody who’s agitated, who’s slamming their fist on a bench saying, ‘I’m not doing this, and you’re doing that, and I want you to get me bail’. That can be quite confronting for someone who doesn’t have a lot of experience...” (Currently working in criminal law, interview)

6.4.5 Delays with disclosure and other parts of proceedings

Some participants reported communication issues between defence and prosecution that slow proceedings, particularly delays in disclosure of information and evidence to defence by

¹⁶⁰ Cortis and Blaxland (n 13) 28, 75 (Table B. 9).

¹⁶¹ Supreme Court of Tasmania, *Annual Report 2024/2025* (n 79) 3-5.

¹⁶² *Ibid* 4.

¹⁶³ Supreme Court of Tasmania, *Annual Report 2024/2025* (n 79) 4.

¹⁶⁴ Magistrates Court of Tasmania, *Annual Report 2024-25* (n 82) 26.

Tasmania Police and the DPP. Commentary in both the survey and interviews suggest this issue is more pronounced in the South:

“There is massive delays with disclosure – Southern Prosecution Services were (and I believe still are) notoriously slow in providing disclosure, which would result in multiple adjournments being required.” (Currently working in criminal law, survey)

“We are appearing up to 4 times just to get disclosure; we are not funded for those appearances hence the court/prosecution are also the issue here as it is completely disorganised.” (Currently working in criminal laws, survey)

Participants’ comments on this issue are consistent with then-Chief Justice Alan Blow’s commentary in the Tasmanian Supreme Court’s 2023–4 Annual Report, which also noted that delays on the part of Tasmania Police in disclosing documents and recordings to defence counsel contribute to court delays.¹⁶⁵ This was reinforced during 2025 Budget Estimates, when the Secretary of the Department of Justice noted that issues with disclosure from Tasmania Police to defence continue to impact on timeliness of matters through the courts.¹⁶⁶

Some participants suggested these issues extend to other parts of proceedings, including a perceived excessive reluctance to discuss or negotiate about pleas:

“There's a belief amongst defence lawyers that prosecution do not accept reasonable deals when they should, and there's a belief amongst prosecution that defence lawyers do not accept reasonable deals when they should. Both of those things are valid.” (Currently working in criminal law, interview)

“I understand that there are some policy prohibitions that may explain why prosecutors are difficult to negotiate with. However, requests for documents or even minor factual concessions are strongly resisted (often without merit).” (Currently working in criminal law, survey)

6.5 Legal education

6.5.1 Students do not hear enough about the positives and value of criminal law work

Several issues raised by both students and professional participants related to the UTAS Faculty of Law’s teaching program. As discussed at section 3.4 above, the student response rate of 19 across survey and forum participants cannot be taken as a full representation of the UTAS law student cohort.

As outlined in section 6.3.4 above, Law students who responded to the survey or forum reported that negative public perceptions of criminal law influence their perceptions of a

¹⁶⁵ Supreme Court of Tasmania, *Annual Report 2023/2024* (n 114) 2.

¹⁶⁶ Estimates Committee B (n 83) 12.

career in the field. Students suggested members of the Faculty and the wider profession did not adequately counter those perceptions among students:

“Create positive rumours, I have only heard bad things about working in criminal law.”
(Law student, survey)

“I've got a perception that might be inaccurate, that if you get all the first year and second year students and ask them what do you want to do when you practise.... I think a lot will answer ‘I want to be a criminal lawyer’, and a lot of that is driven by the social justice reasons. And the answer ‘I want to be a criminal lawyer’, as a law student isn't necessarily, ‘I want to have a higher paying career or building a really successful practice area’, it's social justice reasons... And then obviously something falls down because people find out how hectic it is.” (Law student, forum)

Participants in the student forum unanimously agreed that their perceptions of, and interest in, criminal law work were shaped by exposure (or lack of exposure) to criminological and sociological perspectives on crime and offending. Entering their degrees without a clear understanding of these foundational concepts was described as a barrier to fully contextualising criminal law. While some students said they developed this knowledge through criminology electives offered outside the Law degree, all noted that this content remained disconnected from the core criminal law curriculum. Some students suggested that the separation of these perspectives from compulsory units limited students' ability to understand why crime is committed and to appreciate broader issues such as access to justice and the importance of legal representation.

“I feel that it does need to be said explicitly so that it's not missed. There are reasons why people do this, and let's talk about that and think about why.” (Law student, forum)

“I'm going to say that there was no proper addressing of social determinants in any of the crim subjects.” (Law student, forum)

6.5.2 Students have limited exposure to criminal law careers and skills

Both students and legal professional participants suggested that students and TLPC trainees might be more likely to be attracted to criminal legal work if there was a stronger emphasis on practical advocacy skills and earlier exposure to the criminal law profession and its day-to-day work during their undergraduate or graduate training. Students in both the survey and forum expressed a desire for more opportunities to learn about criminal law work throughout the degree. For instance:

“I guess, to actually hear from legal professionals working in the field as well as like people that have been through the system, like hear about those things in the classes.”
(Law student, forum)

“Young practitioners are probably not getting the ability to, you know, see and absorb and practice advocacy and be fully and properly trained before they step into a courtroom.” (Currently working in criminal law, survey)

“Potentially more assessment or practice on advocacy/mooting to build confidence in graduates to perform in a court setting. Many people including myself are somewhat unpractised in this area.” (Currently working in criminal law, survey)

Student participants in the forum were asked directly whether they were aware of the existing advocacy and clinical legal subjects as well as other opportunities, such as mooted, that are already available within the law degree (described in section 1.4 above). They reported that mooted was well-advertised; however, they observed that these do not generally focus on criminal law. They also suggested other opportunities could be more widely advertised at different stages of the degree, and that timetabling of elective units could be prohibitive to some students’ participation.

The limited data available from TLPC trainees (those who completed the TLPC in 2025) means it is possible that some of these perceived gaps in the undergraduate offering are addressed in the more skills-focused TLPC (also described in section 1.4 above).

7 Options and recommendations for improving attraction and retention of criminal lawyers

This section reflects on the themes outlined above and identifies opportunities to address factors that appear to negatively affect attraction and retention and thereby increase the supply of criminal lawyers in Tasmania. The recommendations incorporate participants’ perceptions of the issues and suggestions for change, and precedents from the research literature and other jurisdictions.

As described in Section 1 of this report, Tasmania’s system can be likened to an ‘ecosystem’, with many individuals and agencies operating in interaction. Consequently, effective solutions will require a coordinated, multi-agency approach and must address a range of interconnected, and in some instances complex, factors. For this reason, the recommendations identify strategies for improving recruitment and retention that may have relevance for multiple stakeholders.

7.1 Better resourcing for the system

7.1.1 Increase funding for legal aid

Participants in this study overwhelmingly called for funding for the criminal legal sector to be increased. The most common suggestion was to increase TLA funding so that legal aid fees for private practitioners can be increased, making legally aided work more viable and competitive with other practice areas. Another suggestion was to increase funding for TLA’s in-house criminal law practice to improve capacity and ensure workloads are manageable,

especially in light of the limited availability of private practitioners and consequent growth of in-house caseload. For example, participants said:

“The more practitioners employed in the area, particularly in government organisations, the more the workload can be shared. And more government funding generally, given that the majority of persons appearing before criminal courts in Tasmania are legally aided – the more funding into legal aid, the better the whole system would run.” (Currently working in criminal law, forum)

“The reality is that the budget can only stretch so far or there’ll be types of work that can’t be funded at all.” (Currently working in criminal law, interview)

Increased funding was also proposed as a means to attract practitioners to extend their work territory or relocate to the North and North West of Tasmania:

“Increased Legal Aid funding for private practitioners working in this space - especially for private practitioners from the south who are willing and able to travel to the northwest to meet legal need there” (Previously worked in criminal law, survey)

Participants’ perspectives on TLA funding are consistent with the findings of the Mundy Review (described at sections 1.2 and 6.2 above) which characterised the national legal aid funding model as ineffective. It concluded that the model failed to accurately estimate the legal needs and true costs incurred by service providers in delivering safe, holistic and culturally appropriate legal services.¹⁶⁷ Mundy recommended substantial increases to overall funding levels and proposed legal aid fees be set at prevailing court scales (which would mean, on average, doubling of current fees) and made consistent across civil, family and criminal matters.¹⁶⁸

The Mundy Review also highlighted the connection between adequate funding and the capacity of legal assistance services (including Legal Aid Commissions such as TLA and ATSILS such as TALS) to maintain sufficient staffing levels, manageable workloads and appropriate preparation time for clients, particularly in criminal and other trauma-related matters, as well as to provide safe workplaces and effective wellbeing and mental health supports for staff.¹⁶⁹ This is discussed in more detail in section 7.3 below. In a recent report for NLA, Millane, Jackson and Blane pointed to economic and social benefits of funding for Legal Aid Commissions’ work, including cost savings from legal representation and reduced pain and suffering.¹⁷⁰

There has been some political willingness to increase State Government funding to TLA and related services in recent years. The 2025 State Budget included an additional \$2 million in

¹⁶⁷ Mundy (n 1) 125.

¹⁶⁸ Ibid 134, 138–9.

¹⁶⁹ Ibid 167–173.

¹⁷⁰ Millane, Jackson and Blane (n 150) 31.

TLA funding for legal aid services each year for the next 4 years.¹⁷¹ In January 2026 the State Government also announced a \$3.5 million grant from the Solicitors' Guarantee Fund for TLA to introduce additional 'access to justice' measures, including expanding the duty lawyer services and mental health legal services in the North West and establishing a Trial Hub to reduce delays.¹⁷²

During Tasmania's Budget Estimates hearings in November 2025, the Attorney-General also stated that the Magistrates Court (across its Criminal, Coronial and Civil divisions) will receive an additional \$800,000 funding over a four-year period to help improve efficiency in managing rising demand and increasingly complex cases.¹⁷³ This is in addition to the Court's existing annual operating budget of \$500,000.¹⁷⁴ These announcements came after data collection for this study was completed, so participants' views about it could not be sought. While the Courts are only one component of the interconnected criminal justice ecosystem addressed in this study, if accompanied by increased resourcing and other measures to shore up the supply of criminal defence lawyers, these funding increases could meaningfully begin to address shortages and inefficiencies in the system.

Recommendation 1

Increased funding should be made available for grants of legal aid to the private sector, to narrow the gap between legal aid fees and those available for privately funded work and more accurately reflect the tasks undertaken.

Recommendation 2

The funding of Tasmania Legal Aid's (TLA) in-house criminal practice should be reviewed to ensure it is adequate to enable TLA to fulfil its role under the *Legal Aid Commission Act 1990* (Tas). Any changes to increase funding of private legal aid grants should not undermine the adequate resourcing of TLA's in-house criminal law practice.

Several participants also mentioned the need to streamline TLA's grant administration and processing procedures. Suggestions included reviewing a perceived policy that clients can only access in-house (TLA) representation when their legal aid-funded private lawyer can no longer act for the client; streamlining the process of handing clients over to a new lawyer; faster approval times including instant approvals to facilitate urgent matters; reduced paperwork for variations or additions; and guaranteed and timely legal aid funding for Supreme Court trials because these costs are predictable and representation is essential.

¹⁷¹ Attorney-General Guy Barnett, 'Improving Access to Justice for Tasmanians' (Media Release, 17 November 2025) <<https://www.premier.tas.gov.au/latest-news/2025/november/improving-access-to-justice-for-tasmanians>>

¹⁷² Guy Barnett, *Improving Access to Justice*, (Media Release, 30 January 2026) <<https://www.premier.tas.gov.au/latest-news/2026/january/improving-access-to-justice>>.

¹⁷³ Estimates Committee B (n 83) 71.

¹⁷⁴ *Ibid* 71.

Some participants suggested that funding for trials could be calculated and ring-fenced to ensure adequate resourcing regardless of overall budget constraints. Concerns about the adequacy of funding for criminal law matters have been expressed Australia-wide, although reviews by the Productivity Commission and NLA have noted contrary concerns that prioritisation of criminal law matters, and growing proportions of budget expenditure on criminal matters at the national level, are resulting in under-resourcing of civil and family matters, underscoring the challenges of striking the right balance.¹⁷⁵

Models used in other states may offer a way forward. In some jurisdictions, Legal Aid Commissions engage private practitioners through a ‘practitioner panel’ model. In Victoria, for example, the *Legal Aid Act 1978* (Vic) establishes private practitioner panels, meaning only approved private law firms and community legal centres are authorised to apply for grants of aid and deliver legal assistance services.¹⁷⁶ Practitioners may apply for panel membership at any time through a standard application process that specifies eligibility requirements.¹⁷⁷ Once accepted onto the panel, practitioners are bound by a deed of agreement with Victoria Legal Aid (VLA), which sets out clear conditions for the granting and administration of aid.¹⁷⁸ VLA then uses a ‘standard’ or ‘simplified’ approach to assess grants.¹⁷⁹ The simplified grants assessment process allows a person’s lawyer to directly recommend that their client receive legal assistance by confirming that the matter falls within VLA’s guidelines and that it meets the relevant merits or reasonableness test.¹⁸⁰ Overall, the grants process is designed to reduce delays, increase efficiency, and ensure that eligible clients receive assistance more quickly. VLA has suggested that this process streamlines decision-making by giving substantial weight to the lawyer’s professional assessment, with VLA accepting these recommendations unless there is a compelling reason not to, for example, if the matter falls outside VLA’s jurisdiction.¹⁸¹

Participants in the present study who mentioned the panel model acknowledged that it may offer greater certainty and consistency in the grants process for Tasmania. However, they also expressed uncertainty about whether Tasmania has a sufficiently large practitioner base to sustain such a system. An alternative approach may be to have a panel limited to matters involving one or more indictable offences.

Recommendation 3

Legal aid grant administration processes in Tasmania would benefit from review, renewal

¹⁷⁵ Productivity Commission, *Access to Justice Arrangements* (Inquiry Report No 72, 2014), vol 2, 1025; <<https://assets.pc.gov.au/inquiries/completed/access-justice/report/access-justice-volume2.pdf>>; Millane, Jackson and Blane (n 150) 27-8.

¹⁷⁶ *Legal Aid Act 1978* (Vic) ss 29, 30.

¹⁷⁷ ‘Practitioner Panels’, *Victoria Legal Aid* (Web Page, 12 February 2026)

<<https://www.legalaid.vic.gov.au/practitioner-panels>>

¹⁷⁸ *Ibid.*

¹⁷⁹ Victoria Legal Aid, *Handbook for Lawyers* (4 August 2025) Part 10: Simplified Grants Assessment Process

<<https://www.handbook.vla.vic.gov.au/10-simplified-grants-assessment-process>>.

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*

and increased resourcing. Consideration could be given to adopting a more structured framework for the granting of aid, drawing on established approaches in other Australian jurisdictions.

7.2 Making processes more efficient

7.2.1 Modernise court processes and facilities

Efficient and equitable court processes and facilities are essential to the administration of justice. Participants in the present study agreed that improvements to court process and technology – such as improvements to listings and case management processes, introduction of remote appearances in appropriate circumstances, and upgrades to audiovisual systems – could enhance the experience for all users and help relieve some pressure on lawyers juggling high caseloads and limited resourcing.

“One thing I constantly think about is how well the FCFCOA does audio visual connectivity for practitioners. As far as having, you know, a room you jump on at a certain time, you don’t have to do requests.” (Currently working in criminal law, interview)

“Improved court processes, such as allocation of a hearing date early in the matter and implementation of a case management timetable so that deadlines are clear from the outset and all parties are working towards having the matter ready for hearing at a set time. (I now work in Family Law, and this is the approach taken in all family law matters. It works very well).” (Previously worked in criminal law, survey)

Chief Justice Shanahan stated in the Supreme Court’s 2024–25 Annual Report that the Court, with support from the Department of Justice, has commenced an audit of its information and communication technology and management systems.¹⁸² The report indicated that a consultant will undertake this audit, which is intended to identify new technologies that can enhance access to the Court and improve the timely management and hearing of outstanding cases.¹⁸³ Significant work has also been undertaken within the Magistrates Court to improve the use of information technology; the Court is currently engaged in a 12-month scoping process to assess the potential adoption of the Electronic Court Management System (eCMS), which has been operating successfully in South Australia since 2022.¹⁸⁴ In addition, the Department of Justice is progressing its broader digital modernisation project through the Justice Connect program, which aims to replace the Department’s multiple legacy justice IT systems with a single, modern, integrated platform that will encompass both the Supreme and Magistrates Courts.¹⁸⁵ As noted at section 6.2.3 above, a 2025 Supreme Court Practice Direction shifted responsibility for criminal listings to the Court in order to streamline case

¹⁸² Supreme Court of Tasmania, *Annual Report 2024/2025* (n 79) 2–3.

¹⁸³ *Ibid.*

¹⁸⁴ Magistrates Court of Tasmania, *Annual Report 2024-25* (n 82) 19.

¹⁸⁵ ‘Projects and Initiatives’, *Department of Justice (Tas)* (Web Page) <<https://www.justice.tas.gov.au/about-us/projects-and-initiatives>>.

management, reduce delays and backlog and improve efficiency.¹⁸⁶ The 2026 Third Party Review of Backlogs in the Tasmanian Court System will make further recommendations for managing these issues.¹⁸⁷

At this stage, it is unclear how these various reviews, scoping processes, and system upgrades will interact with one another, or the extent to which they will address the issues raised by participants in the present study. However, it would be beneficial for these projects to take account of the views expressed by participants in the present study to help ensure that any changes are beneficial to this user group reduce – and do not further exacerbate – high workloads and other frustrations.

Recommendation 4

Efficiency measures and court system upgrades should facilitate criminal lawyers' work across courts and regions, and reduce workloads and frustration. Any changes to systems and processes should take account of the experiences and needs of practitioners to ensure they can fully benefit from efficiency gains.

7.2.2 Review of criminal justice processes affecting working conditions

Multiple participants in this study suggested that earlier disclosure of information and evidence by Tasmania Police and the DPP could reduce some workload pressure on defence lawyers by allowing greater trial preparation time, and contribute to restoring relationships across defence and prosecution.

“There should be actual enforcement by courts of disclosure requirements – such as costs penalties – for Prosecution non-compliance, instead of judicial consternation but not [sic] able to actually do anything about it.” (Currently working in criminal law, survey)

“Improve administrative processes such as provision of disclosure by prosecution.” (Previously worked in criminal law, survey)

Participants indicated that the experience in Victoria suggests this may also result in more timely resolution of matters and fewer adjournments.¹⁸⁸ During the 2025 Budget Estimates hearings, Department of Justice representatives also identified disclosure as a factor that contributes to court delays.¹⁸⁹ Accordingly, some participants in this study suggested that increased funding may be required for the Police Disclosure Office, while others argued that

¹⁸⁶ Daly (n 125).

¹⁸⁷ Guy Barnett, 'Lloyd Babb SC Appointed to Tackle Court Backlogs' (Media Release, 15 January 2026) <<https://www.premier.tas.gov.au/latest-news/2026/january/lloyd-babb-sc-appointed-to-tackle-court-backlogs>>.

¹⁸⁸ See Victorian Law Reform Commission, *Committals* (Report, March 2020) 94–108 <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Committals-Report-forweb.pdf>.

¹⁸⁹ Estimates Committee B (n 83) 137, 159.

legislative reform might be necessary, noting that other states have more prescriptive disclosure requirements.¹⁹⁰

The Attorney-General reported during 202 Budget Estimates that a Justice Forum, chaired by the Attorney and comprising the DPP, Chief Justice, Chief Magistrate, Solicitor-General, Law Society and other key stakeholders, had been established and, among other topics, was discussing solutions for the issue of delayed disclosure between Tasmania Police, the DPP and defence counsel.¹⁹¹ This may offer an opportunity to consider and respond to the concerns raised by participants in this study.

Similarly, participants highlighted delayed pleas as a source of frustration and process inefficiency, though their perspectives on the underlying causes and potential solutions varied. Some attributed delays to the increasing complexity of criminal matters, while others linked them to lawyer inexperience highlighting a need for improved mentoring and professional support (see sections 6.4.4 and 6.4.5 above). The issue was also raised during the 2025 Budget Estimates hearings as a factor contributing to court delays.¹⁹² The Attorney-General indicated that one response the Government is considering is the introduction of statutory sentence discounts for early guilty pleas.¹⁹³ In 2018, the Tasmanian Sentencing Advisory Council examined whether a statutory plea scheme should be introduced in Tasmania.¹⁹⁴ Its final report analysed how legislated plea-based sentencing discounts function in other Australian jurisdictions,¹⁹⁵ and highlighted the potential risks associated with mandatory discount systems. These include the potential for coercion of accused person to plead guilty, impacts on victims and issues with the perception of fair justice.¹⁹⁶ Importantly, the Council found that the introduction of a statutory sentencing reduction for a guilty plea will not be effective on its own to reduce court delays.¹⁹⁷

The present study highlights the potential hazards of introducing statutory sentencing discounts without also addressing the structural and professional pressures that appear to be contributing to delayed pleas. This concern is particularly relevant in respect of early-career lawyers, who may face increased pressure to advise clients to plead guilty in the absence of sufficient supervision or support. Such pressures risk undermining an accused person's rights

¹⁹⁰ For example, sections 141–144 of the *Criminal Procedure Act 1986* (NSW) and sections 590AH–590AQ of the *Criminal Code 1899* (Qld), which establish mandatory, staged pre-trial disclosure procedures for any criminal proceedings (including prosecution and defence responses to matters), an ongoing obligation to disclose new matters as soon as possible, and a disclosure certificate between Police and the DPP. Disclosure must also occur on a set time frame or prior to the trial date, and there are provisions for the court to intervene and require disclosure in some matters.

¹⁹¹ Estimates Committee B (n 83) 159–60.

¹⁹² Ibid 160.

¹⁹³ Ibid 160.

¹⁹⁴ Sentencing Advisory Council, *Statutory Sentencing Reductions for Pleas of Guilty* (Final Report No 10, October 2018) < https://www.sentencingcouncil.tas.gov.au/_data/assets/pdf_file/0003/449553/Web-version-Sentencing-Discounts-Final-Report-October-2018.pdf >

¹⁹⁵ For example, in New South Wales after amendments to the *Crimes (Sentencing Procedure Act) 1999* Pt 3, Div 1A, which introduced a tiered approach that dictates discounts for indictable offences based on when a plea is entered, generally capped around 25 per cent for early pleas: *ibid*, 13–18.

¹⁹⁶ *Ibid*, xvi.

¹⁹⁷ *Ibid*.

to a fair hearing and competent representation.¹⁹⁸ They may also exacerbate existing workforce challenges, as sustained exposure to high stakes decision-making without appropriate guidance can contribute to psychological distress and burnout, ultimately affecting the retention of early-career practitioners within the profession.¹⁹⁹ Moreover, statutory sentencing incentives alone are unlikely to address underlying factors affecting defendants' decisions to plead guilty such as increasing complexity in criminal proceedings, lack of legal representation, delayed disclosure and the pressures on early-career lawyers.

Determining the details of appropriate criminal justice reforms to address these complex matters is beyond the scope of this study, but the issues raised in the findings indicate the need for the perspectives and experiences of lawyers to be factored into any such reforms.

Recommendation 5

Any reviews of the structural and procedural features of Tasmania's criminal justice system (such as disclosure and sentencing) should take into account:

- a) access to justice considerations associated with the availability of legal representation and the pressures on legal practitioners; and
- b) the experiences of those working in the system.

7.3 Supporting and developing members of the profession

7.3.1 Provide more coordinated mentoring and professional development

Participants expressed support for improved mentoring as a means to retain early-career lawyers in the criminal law field. This is consistent with prior research identifying mentoring from more experienced and empathic professionals as a desired source of mental health and wellbeing support for Australian lawyers.²⁰⁰ One popular suggestion from participants in this study was the introduction of a structured, funded mentoring program with incentives for senior practitioners to mentor early-career practitioners. Across Australia, legal professional mentoring programs administered through state and territory law societies and bar associations are generally volunteer-based, although some require mentees to contribute financially to support the program.²⁰¹ Some, such as the Law Society of South Australia, offer an incentive for lawyers who participate as mentors (in that case, a free continuing

¹⁹⁸ Flynn and Freiberg (n 115) xii.

¹⁹⁹ See generally Millane, Jackson and Blane (n 150).

²⁰⁰ See eg Chan, Poynton and Bruce (n 158) 1089; Pike and Quinlan (n 51) 149.

²⁰¹ Such as a \$75 mentee fee for the structured program described for the 2025 program in NSW: '2025 Mentoring Program', *Law Society of NSW* (Web Page) <<http://ecsolicitors.com/2025-mentoring-program.html#3>>; 'Mentoring Programs', *Law Society of NSW* (Web Page) <<https://www.lawsociety.com.au/professional-development/mentoring-programs#:~:text=Mentoring%20is%20an%20incredibly%20rewarding,map%20and%20achieve%20career%20goals>>.

professional development course).²⁰² In addition to these voluntary programs, some parts of the legal sector operate sponsored or structured mentoring programs that include professional development components designed to encourage mentor involvement.²⁰³ Outside the legal profession, some workplaces also provide wage incentives where staff are expected to supervise or support the work of junior colleagues.²⁰⁴

In this study, participants suggested that better funding of criminal law work (discussed in section 7.1.1 above) could expand opportunities for mentoring by broadening the pool of experienced practitioners in the field. Some participants also suggested that increasing the number of TLA and DPP positions – particularly secure, ongoing roles – would enable lawyers to remain within these agencies for longer periods and spread workloads more evenly, in turn strengthening their capacity to provide sustained mentoring.

“More structured peer support making it more feasible and even giving incentives for senior practitioners to take on mentoring roles.” (Currently working in criminal lawyer, survey)

“The mentoring of younger practitioners can only be achieved by the better remuneration for legal practices, in particular senior practitioners with criminal practices, to take the younger practitioners into their confidence and support their practical legal education.” (Previously worked in criminal law, forum)

Some participants suggested that the LST’s existing mentoring program could be expanded or strengthened for this purpose:

“I think a more structured mentoring scheme, perhaps through the Law Society where... it's really part of your practising certificate, that you do mentoring because by teaching you are learning.” (Currently working in criminal law, interview)

Other suggestions for supporting professional development and retention of early-career practitioners included a structured program for new government lawyers that provides diverse experience and mentoring, and opportunities to seek feedback from the judiciary:

“I believe that structured induction, mentoring, and regular advocacy training would make the transition into criminal practice less overwhelming for new practitioners and reduce the risk of burnout.” (Previously worked in criminal law, survey)

²⁰² ‘The Law Society of South Australia Mentoring Programs’, *Law Society of South Australia* (Web Page) <<https://www.lawsocietysa.asn.au/site/site/for-legal-practitioners/practitioner-services-and-support/mentoring-program.aspx>>.

²⁰³ ‘Your Launchpad: ACC Mentor Match’, *Association of Corporate Counsel* (Web Page, 24 February 2026) <<https://www.acc.com/education-events/2026/your-launchpad-acc-mentor-match-feb-24-2026>>.

²⁰⁴ For example, the Nurses and Midwife State Service Award provides a preceptor allowance paid to a certain grade of nurse who acts as a ‘preceptor’ or mentor to work alongside new or less experienced staff: Tasmanian Industrial Commission, *Nurses and Midwives (Tasmanian State Service) Award* (T15157 of 2024, 14 August 2024) s 13.

These proposals are broadly consistent with discussions in the research literature about the potential of better-trained mentors or ‘clinical’ or ‘professional’ supervisors in legal practice, similar to the supervision provided to other professionals such as psychologists and social workers. Such supervision, which is distinct from workplace or line management and is focused on reflective practice and learning from experience, is shown to improve staff morale, reduce attrition and improve the quality of legal practice and lawyers’ capacity to deliver trauma-informed services.²⁰⁵ Participants in Pike and Quinlan’s study also noted the importance of institutional support for lawyers to participate in mentoring programs, such as ensuring that they had time to meet with mentors.²⁰⁶ Such proactive approaches to supporting and mentoring lawyers are also consistent with calls for mental health initiatives to focus on lawyers ‘overall wellbeing, not just mitigating risks that could lead to psychological injury’ or responding to incidents after-the-fact (discussed further in section 7.3.3 below).²⁰⁷

Existing practice may offer a model to build on. For example, responsibility for coordinating and managing ongoing education and training is assigned to a designated lawyer within the Office of the DPP. This involves monthly, informal training sessions for early-career practitioners focused on topics commonly encountered by this group and ongoing professional development opportunities for all DPP staff through twice-yearly conferences.

Recommendation 6

Early-career professionals working in criminal law should have access to, and be supported by their employers to participate in, a formal mentoring program that matches them with a senior practitioner.

Mentors should be supported to undertake training on effective mentoring and relevant skills such as recognising and responding to distress, effective debriefing and reflective practice.

Consideration should be given to the Law Society of Tasmania providing incentives for senior lawyers to participate in mentoring, such as reduced practising certificate fees; free CPD points; reduced CPD course fees; and formal recognition of contributions to mentoring through, for example, specialist accreditation programs.

Multiple participants supported the introduction of opportunities for early-career lawyers employed under the *State Service Act 2000* (Tas) to gain experience and deeper understanding of the system by rotating between defence and prosecution roles at the DPP and TLA. They viewed such rotations as a way of strengthening skill development and broadening practitioner

²⁰⁵ Meribah Rose and Chris Maylea, ‘The Case for Implementing Legal Clinical Supervision within Legal Practice, and Recommendations for Best Practice’ (2023) 32(3) *Griffith Law Review* 259.

²⁰⁶ Pike and Quinlan (n 51).

²⁰⁷ *Ibid* 153.

experience across the criminal justice system. Such measures could also support collegiality and facilitate cross-fertilisation of ideas within the system.

“I've seen in other jurisdictions where there is some fluidity between defence and prosecution. So, you might do, you know, two or three years in defence [TLA]. And I mean, they're all state government employees, right? So, you've seen some fluidity where you might have a set contract in defence for three years and then go to the DPP.” (Previously worked in criminal law, forum)

“It would be helpful for there to be some fluidity between defence and prosecution experience, and I couldn't agree more with that. Having done both, I think there is a skill set that is invaluable in having both experiences, and there is also a level of understanding of each other's positions, which is invaluable.” (Currently working in criminal law, interview)

Similar initiatives in Tasmania and other jurisdictions offer models for this. Careful planning would be required to ensure that rotation timing and case-allocation processes prevent conflicts. Graduate Legal Officer roles with Tasmania's Department of Justice, which are currently offered to applicants enrolled in the TLPC, provide rotations with the Department and Crown Law agencies that could potentially be extended with shared resourcing to include rotations to TLA. In NSW, a Crime Regional Graduate Program offers a paid legal practice training position in criminal law. Participants rotate through city and regional/rural legal aid offices with structured mentoring and support built into the program, and are directed to areas of high need.²⁰⁸ Similarly, in 2026, Victoria Legal Aid launched the 'New Lawyers Program' offering a structured two-year professional development pathway for early-career lawyers. Delivered annually, the program will offer 12 positions across 14 pathway options, enabling early-career lawyers to complete three eight-month rotations across different areas of law, supported by a mentoring framework.²⁰⁹

Recommendation 7

The feasibility of an ongoing, funded Tasmanian Criminal Law Graduate Program should be explored. Such a program could build on the Department of Justice Graduate Legal Officer program to enable graduate lawyers employed under the *State Service Act 2000* (Tas) to undertake a structured early-career program, including placements at both the DPP and TLA with ongoing mentoring support from senior personnel.

²⁰⁸ 'Crime Regional Graduate Program', *New South Wales Legal Aid* (Web Page, 2025) <<https://www.legalaid.nsw.gov.au/about-us/careers/crime-regional-graduate-program>>.

²⁰⁹ 'New Lawyers Program', *Victoria Legal Aid* (Web Page, 17 November 2025) <<https://www.legalaid.vic.gov.au/new-lawYERS-program>>.

7.3.2 Improve work conditions and career progression

Participants recommended that changes to employment conditions could improve retention of criminal lawyers across the sector. Many comments focused on lawyers employed by the Tasmanian Government working under the State Service Award (2025) and on criminal defence lawyers in particular.²¹⁰

In relation to overtime, the State Service Award requires that employees be paid overtime when their authorised hours exceed the ordinary 36¾-hour full time work week.²¹¹ The award stipulates that TOIL can be used for overtime hours worked with consent of the employer.²¹² The award also includes flextime arrangements.²¹³

Participants across multiple study cohorts (legal professionals and students) emphasised the importance of workplace policies that support work-life balance, such as flextime and TOIL:

“Each body refuse [sic] to implement an overtime or TOIL system despite the state service act being clear that staff are entitled to overtime or TOIL.” (Currently working in criminal law, survey)

“There needs to be flex time or overtime for additional hours worked during trials” (Previously worked in criminal lawyer, survey)

“We have been saying for so long that we're entitled, we should be entitled to flex time or toil and it's just something that's never really been considered or acknowledged, which is just so frustrating” (Currently working in criminal law, survey)

It is possible that some Tasmanian lawyers employed under the State Service Award, and in some cases their managers, are not fully aware of the award entitlements that apply to them. The Department of Justice, TLA and the DPP could provide better support to help managers and staff understand and utilise flexible working arrangements and other entitlements in the Award.²¹⁴ However, the psychosocial and other risks of high workloads and excessive hours discussed in section 6.4.2 above mean flexible working conditions and availability of overtime pay or TOIL for individual staff cannot compensate for inadequate overall staffing levels and related systemic issues (which are discussed further in section 7.3.4 below).²¹⁵

Participants also suggested that employee position descriptions are not always ‘fit for purpose’ and can constrain practitioners’ career progression, or lead to them performing work above their pay grade:

²¹⁰ Tasmanian Industrial Commission, *State Service Award* (T15245 of 2025, 23 September 2025).

²¹¹ *Ibid* pt VI cl 4.

²¹² *Ibid* pt VI cl 5. The hours must be taken as ordinary time, documented prior and taken within 28 days of the overtime occurring: *ibid*.

²¹³ *Ibid*.

²¹⁴ See generally ‘Preventing Workplace Problems’, *Fair Work Ombudsman* (Web Page)

<<https://www.fairwork.gov.au/workplace-problems/preventing-workplace-problems>>

²¹⁵ For a discussion, see Popa et al (n 155).

“Lawyers in government don't really fit into the traditional pay structure that may be used for other roles. It needs to be more flexible as you gain experience and not have these artificial ceilings that are dictated by a position code that's funded at a particular level.” (Currently working in criminal law, interview)

“[The] government award doesn't allow you to transition from a level 1 to a level 2 when you've gained that experience. You're stuck in whatever position you are until another position opens up.” (Currently working in criminal law, interview)

Participants noted the connection between issues with workload and work conditions and the inadequacy of legal assistance funding. For example:

“SIGNIFICANTLY more resources [are needed], especially at Legal Aid... so that file loads could be lowered and duty work could be shared amongst a greater number of people..” (Currently working in criminal law, survey, emphasis in original)

The frustration of limited career progression opportunities was raised by participants in respect of both the DPP and TLA, although the disparity between higher DPP resourcing and lower TLA resourcing were noted. Some participants also suggested TLA should reassess the criminal division to ensure it is meeting the needs of both the system and its own staff. This is likely to require increased funding for TLA to, for example, create specialist senior advocacy positions and ensure position and pay parity across government agencies and legal assistance services, particularly between the DPP and TLA, to facilitate attraction of lawyers to TLA.

“Legal Aid... [needs] funding to allow their inhouse lawyers to develop into specialist advocacy roles and not overloading senior advocates with "management" and "policy" and "HR" tasks that they don't have time to do unless it is at the expense of the clients.” (Currently working in criminal law, survey)

“Make wages competitive not just within law but between comparable professions. What justification has there ever been provided for the disparity between higher level FTE between the DPP and TLA.” (Currently working in criminal law, survey)

Also relevant here is the ‘same job, same pay’ recommendation of the Mundy Review, which highlighted the comparatively low pay of ATSILS lawyers compared to lawyers employed by Legal Aid Commissions and recommended increased remuneration for ATSILS (and other legal assistance services) to address this disparity and improve attraction and retention across the board.²¹⁶

An additional approach may be to introduce a mechanism to support and recognise highly experienced, senior criminal lawyers who undertake complex, onerous and high-level work in circumstances where remuneration does not always adequately reflect their expertise or workload. For example, a formal accreditation pathway for advanced criminal advocacy

²¹⁶ Mundy (n 1) 160.

(similar to the Specialist Accreditation program administered by the Law Society of NSW²¹⁷ and the Law Institute of Victoria's LIV Accredited Specialisation),²¹⁸ available to lawyers across TLA, the DPP, TALS and private practice, could recognise and foster the senior cohort. It could also assist this group to develop and maintain the range of skills and knowledge they need to work effectively and safely in this demanding field (see section 7.3.4 below). If a sustained contribution to mentoring early-career practitioners were an element of the program, this could also incentivise senior practitioners' participation in mentoring (discussed in section 7.3.1 above).

Participants working for multiple agencies and services also observed that increasing funding to increase overall staff numbers (discussed in section 7.1 above) could improve availability of flexible work, make workloads more manageable and facilitate better support for early-career staff. Conversion of non-ongoing roles to permanent appointments – which is the remit of the Department of Justice for those working at the DPP and TLA – was also suggested, on the basis that it could attract people to criminal law positions and reduce high turnover of staff.

“Retention would improve if there were more lawyer positions, working a four-day week, without having to compromise even further on pay.” (Currently working in criminal law)

Recommendation 8

The adequacy of funding for government agencies and legal assistance services employing criminal lawyers (TLA and Tasmanian Aboriginal Legal Service) should be reviewed and, where necessary, increased to ensure that:

- a) lawyers employed under the State Service Award understand and enjoy the full range of entitlements available to them;
- b) lawyers are appointed at the appropriate remuneration level for their experience and responsibilities;
- c) career progression is not artificially constrained by short-term contracts or the unavailability of more senior positions;
- d) there is parity of position, pay and career progression for criminal lawyers working in all relevant government agencies and legal assistance bodies; and
- e) staffing numbers are adequate to prevent excessive workloads.

²¹⁷ 'Specialist Accreditation', *Law Society of NSW* (Web Page) <<https://www.lawsociety.com.au/specialist-accreditation>>.

²¹⁸ 'Accredited Specialisation', *Law Institute of Victoria* (Web Page) <https://www.liv.asn.au/specialisation?srsId=AfmBOor9dZf4lrNPNcVljQS2IHafOjFHb_cbZ-CvVZX2AdKbA-F_Phcc>.

7.3.3 Ensure working environments are physically safe

As noted above (section 6.4.1), there is limited research literature examining the physical safety of criminal lawyers. However, there is a well-established legal duty, supported by extensive workplace health and safety laws in Australia, requiring employers to ensure the safety of workers (including employees, contractors, and volunteers) and other persons in the workplace. In Tasmania, this duty is codified in the *Work Health and Safety Act 2012 (Tas)*.²¹⁹

Accordingly, given that some participants in this study raised concerns about their own physical safety, and that of their colleagues, while practising as criminal lawyers in Tasmania, it is critical that these concerns are addressed. While the primary duty of care rests with the employer,²²⁰ the risks identified may arise in settings such as cells, remand centres, prisons, courts, or other locations where lawyers perform work on behalf of their employer. In such contexts, there may be concurrent or shared duties of care owed by employers as well as by Courts, correctional institutions and other relevant authorities.²²¹

Recommendation 9

There should be an immediate review of the physical safety of all criminal lawyers working in Tasmania's criminal justice system. Particular attention should be paid to the safety of defence lawyers meeting clients in custody.

7.3.4 Ensure mental health support is available and effective

Recommendations 1-9 above suggest improvements to system resourcing and working conditions. These all have the potential to foster healthier, more sustainable workplaces that protect workers' mental health and enable them to deliver high quality legal services.²²² Increasing funding, reducing workloads and strengthening organisational supports could directly address many of the stressors described by participants in this study and by lawyers in studies in other sectors and jurisdictions. Prior research has highlighted that 'primary interventions' – those which are preventative and enable workers to manage their mental health before trauma or psychological injury has occurred – are more effective than reactive measures, and both must be available for employees.²²³

Australia has a well-established requirement for employers to take proactive steps to prevent psychological harm when such risks in the workplace are reasonably foreseeable.²²⁴ One such precedent is the *Kozarov* case, which involved a lawyer from the Specialist Sexual Offences Unit of the Victorian Office of Public Prosecutions who developed PTSD and depression due

²¹⁹ *Work Health and Safety Act 2012 (Tas)* s 19.

²²⁰ *Ibid.*

²²¹ *Ibid* s 20.

²²² International Bar Association (n 155) 15, 16, 21.

²²³ Pike and Quinlan (n 51) citing Chan, Poynton and Bruce (n 158); Poynton et al (n 158).

²²⁴ *Ibid*; *Kozarov v Victoria* (2022) 273 CLR 115.

to the nature of her work.²²⁵ The High Court determined that the employer had breached its duty of care by failing to address the clear psychosocial hazards associated with the lawyer's role.²²⁶

Many participants in the present study called directly for better recognition of the mental health impacts of working in criminal law, and more effective measures to support workers' long-term mental health and wellbeing. Participants said they needed more, and more effective, mental health, trauma and wellbeing support, and reduced disparity between the services available, on the one hand, to DPP lawyers and, on the other hand, to TLA and TALS lawyers. The wellbeing models used by the Department of Police, Fire and Emergency Services²²⁷ and the Tasmanian Coroners Court²²⁸ staff offer precedents for this. A more comprehensive service could include court-aware mental health services such as drop-in hubs and access to specialist clinicians who attend workplaces or engage directly with practitioners. This could ensure that legal practitioners have reliable, trauma-informed, culturally safe support that they can flexibly access around court proceedings and work commitments.

“Police and part of the Department of Justice have this thing called the Wellbeing hub and you can book an appointment with a psychologist or a counsellor, and they work or have worked in the department, so they sort of get it... I'm not sure it's offered to legal aid, but I think it should be.” (Currently working in criminal law, forum)

After the *Kozarov* ruling described above, Safe Work Australia amended its Model Work Health and Safety Regulations to provide more detailed guidance on psychosocial risks.²²⁹ It also issued a Code of Practice to assist employers in identifying and managing psychosocial hazards within their workplaces.²³⁰ These documents may provide a model for Tasmanian employers seeking to design workplace systems and supports that safeguard employees' mental health.

Pike and Quinlan suggested that lawyers, managers and mentors could also benefit from more training on mental health first aid, how to identify and respond to staff and client distress, and how to conduct effective debriefing and reflective practice so that lawyers are not 'just rehashing and not resolving what they had experienced'.²³¹ As discussed in section 7.3.1 above, some Australian research has suggested that mental health professionals, such as psychologists, may be best positioned to provide workplace and individual supervision, debriefing and other support for lawyers doing work with foreseeable mental health risks.

²²⁵ Ibid.

²²⁶ Ibid [117]–[113].

²²⁷ 'Wellbeing Support', *My Pulse* (Web Page) <<https://mypulse.com.au/topic/wellbeing-support>>

²²⁸ Magistrate Court of Tasmania Coronial Division, *Coronial Policy on Professional Counselling* (Policy guideline Tasmania Coroners Court, 2023).

²²⁹ 'Model WHS Laws', Safe Work Australia (Web Page, 2025) <<https://www.safeworkaustralia.gov.au/law-and-regulation/model-whs-laws>>.

²³⁰ Safe Work Australia, *Managing Psychosocial Hazards at Work: Model Code of Practice* (Report, 2022) <https://www.safeworkaustralia.gov.au/sites/default/files/2022-08/model_code_of_practice_-_managing_psychosocial_hazards_at_work_25082022_0.pdf>

²³¹ Pike and Quinlan (n 51) 149.

Participants in this study pointed to the LST’s unique position to raise awareness of the mental health and wellbeing supports available to its members. LST is also well-positioned to review how these supports are structured and accessed to ensure they are operating effectively, and advocate for improved workplace mental health resources – although its position as a legal professional representative body means it cannot require employers to improve services, nor employees to utilise them.

“[The Tasmania Police wellbeing service] is something that I think the Law Society could look at implementing, or sort of no-fee psychological system that's similar because it definitely works.” (Previously worked in criminal law, forum)

Other jurisdictions offer alternative models that could be assessed for suitability and feasibility in Tasmania. For example, the Commonwealth DPP’s current enterprise agreement includes a wellbeing initiative that supports employee wellbeing by recognising and encouraging healthy lifestyle activities undertaken outside of work.²³² It also funds a range of health services, such as medical or psychology services, designed to improve productivity and reduce absences due to illness or injury.²³³ The agreement is underpinned by a wellbeing policy that also requires all staff to be supported through regular wellbeing checks conducted by psychologists.²³⁴

Some participants in the present study suggested that lawyers could have access to funding for a psychologist of their choice, rather than being obliged to use the designated EAP. Another suggestion was for TLA and DPP employees to have formal access to leave for mental health appointments, in addition to existing sick leave entitlements.

“It would provide some recognition of the mental load of this job if you had that access to meaningful support that was funded by your employer, and that would mean that you could continue engaging with those supports that you know work for you and not have the financial pressure of having to cover that cost yourself or use the EAP which might not be as good a fit for you.” (Currently working in criminal law, forum)

The DPP advised that, under its Mental Health Policy, DPP staff are entitled to reimbursement of out-of-pocket costs for four sessions per year (or more with approval) with a psychologist of their choice. DPP staff also have access to the Justice Wellbeing Hub, a service for Department of Justice employees to access support from someone who understands the work done within the Department of Justice.²³⁵

²³² Fair Work Commission, *Office of the Commonwealth Director of Public Prosecutions (CDPP) Enterprise Agreement 2024-2027* cl 308–311.

²³³ *Ibid*; Australian Government, *Office of the Director of Public Prosecutions Annual Report 2024-2025 (Annual Report 2025)* Part 4 <<https://www.transparency.gov.au/publications/attorney-general-s/office-of-the-director-of-public-prosecutions-cdpp/office-of-the-director-of-public-prosecutions-cth-annual-report-2024-25/>>.

²³⁴ Australian Government (n 233).

²³⁵ ‘Employee Assistance Program’, *Department of Justice (Tas)* (Web Page, 2 October 2023) <<https://www.justice.tas.gov.au/careers/employee-assistance-program>>; ‘Why Work at Justice’, *Department of Justice (Tas)* (Web Page, 2 October 2023) <<https://www.justice.tas.gov.au/careers/why-justice>>; ‘Care Anytime Anywhere’, *Converge* (Web Page) <<https://convergeinternational.com.au/>>.

Pike and Quinlan's research also supports suggestions from participants in this study that barriers such as heavy workloads need to be addressed to ensure staff can meaningfully engage with wellbeing initiatives, and that organisational change must be led by strong, visible leadership.²³⁶ They pointed to evidence that when leaders demonstrate a commitment to mental health and model healthy work practices, levels of psychosocial risk can be significantly reduced, and noted the need for more research to develop practical guidance for managers.²³⁷

Recommendation 10

Mental health services (including Employee Assistance Programs (EAPs)) available to Tasmanian legal professionals working in criminal law require review and improvement to ensure they provide effective support. Reviews should assess awareness, accessibility, uptake, effectiveness and satisfaction, including availability at convenient times and locations.

Recommendation 11

The desirability and feasibility of engaging mental health professionals to provide mental health support, mental health first aid training, structured supervision and/or group and individual debriefing for lawyers working in criminal law should be explored by employers and, if deemed appropriate, adequately funded.

Recommendation 12

Agencies employing criminal lawyers under the State Service Award should explore the feasibility of extending access to the Tasmanian Department of Police, Fire and Emergency Services or Tasmanian Coronial System Wellbeing Support Program to these employees.

7.3.5 Address unreasonable and inappropriate behaviour

Members of the Tasmanian judiciary have publicly acknowledged the need to address concerns raised about judicial behaviour, and the findings of the present study support the need for education and other mechanisms to address cultural issues that contribute to dissatisfaction and attrition. For instance, Justice Robert Pearce delivered a presentation to the 2021 Associations of Magistrates Conference titled 'Power Imbalance in Court: Judicial Bullying'. Justice Pearce defined judicial bullying as rudeness and discourtesy by judicial officers in court, which is conduct that goes beyond firmness or necessary abruptness.²³⁸ His Honour distinguished it from merely robust judicial behaviour, emphasising that there is never a valid reason or excuse for discourteous treatment from the bench.²³⁹ While Justice Pearce

²³⁶ Pike and Quinlan (n 51) 154.

²³⁷ Ibid citing E Kevin Kelloway and Julian Barling, 'Leadership Development as an Intervention in Occupational Health Psychology' (2010) 24(3) *Work & Stress* 260.

²³⁸ Robert Pearce, *Power Imbalance in Court Judicial Bullying* (Speech, Australian Association of Magistrates Conference, 18 March 2021) <<https://www.lst.org.au/power-imbalance-in-court-judicial-bullying/>>.

²³⁹ Ibid.

acknowledged that rudeness or discourtesy from the bench is never justified, His Honour explained that it can occur because judicial officers work under intense pressure, with heavy workloads, limited time and constant decision-making demands, especially in magistrates' courts where the volume and variety of matters are high.²⁴⁰ These stressful conditions can contribute to lapses in behaviour, though they never justify discourtesy or rudeness.²⁴¹ Acknowledging that judicial officers may need to be firm, Justice Pearce suggested that respectful conduct is essential to maintaining fairness, public confidence, and a healthy court environment, and ultimately urged the judiciary to recognise the impact of their behaviour and to uphold standards that promote dignity and respect in all court interactions.²⁴²

Participants in Nickson and Neikirk's study in five Australian jurisdictions characterised judicial bullying as 'painful, at times devastating and career-changing',²⁴³ consistent with growing evidence about the psychological impact it can have on lawyers' wellbeing.²⁴⁴ The authors suggested that contemporary discussions should no longer treat poor behaviour as an inevitable part of legal practice or something lawyers should simply develop a 'thicker skin' to endure.²⁴⁵ There is now a clear understanding of what constitutes judicial bullying, supported by well-established definitions and a body of research that demonstrates its impacts and supports calls for change.²⁴⁶

Academic research and guidance from judicial commissions and professional associations provides guidance on how unreasonable judicial behaviour and judicial bullying can be addressed in order to reduce or prevent its deleterious consequences.²⁴⁷ For example, Nickson and Neikirk recommended that the burden of managing judicial behaviour should not fall primarily on those experiencing it, nor their managers.²⁴⁸ They suggested that reporting systems must be accessible, effective, safe to use, anonymous and underpinned by consistent definitions and guidelines to reduced the perception that raising concerns is futile or carries unacceptable personal or professional risk.²⁴⁹ They also proposed sustained and visible leadership on the issue of judicial bullying; increased education for judicial officers about the impact of some behaviour; and addressing shortcomings in existing reporting and complaints mechanisms.²⁵⁰ Some participants in the present study made similar suggestions, proposing that measures to familiarise members of the judiciary with the growing pressures faced by defence lawyers, and updated training on judicial bullying, could help:

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Nickson and Neikirk (n 130) 408.

²⁴⁴ Ibid 405; Kate Diesfeld et al, 'Introduction to the Special Issue on Judicial and Lawyer Well-being and Stress' (2024) 31(3) *Psychiatry, Psychology and Law*, 315–319.

²⁴⁵ Nickson and Neikirk (n 130) 403.

²⁴⁶ Diesfeld et al (n 244) 315–319.

²⁴⁷ Nickson and Neikirk (n 130) 401–416.

²⁴⁸ Ibid 411.

²⁴⁹ Ibid 411–413.

²⁵⁰ Ibid.

“Courts recognising the pressure placed on counsel (both prosecutors and defence) and improving the psychosocial safety of courts as workplaces for practitioners.” (Currently working in criminal law, survey)

“... harmonisation between magistrates (as far as possible) so you don't get told off by one for doing something another would allow” (Currently working in criminal law, survey)

The *Judicial Commissions Act 2024* (Tas) will establish a formal framework for managing complaints about judicial conduct in Tasmania. The Act will create a Judicial Commission empowered to receive complaints about a judicial officer's conduct or their physical or mental capacity and will allow any person or entity to lodge a complaint. Importantly, complainants do not need to have been a party to a proceeding or personally affected by the conduct, and complaints may be made anonymously.²⁵¹ The Act received Royal Assent in December 2024 but has yet to be proclaimed.

While the effectiveness of the Tasmanian regime remains to be seen, data from McIntyre's 2025 research study assessing all existing Australian judicial complaint commissions across six jurisdictions concluded that, to date, judicial commissions rarely lead to meaningful accountability outcomes for judges.²⁵² Instead, most of the commissions' work involved dismissing complaints that were considered unfounded or inappropriate.²⁵³ Between 2017 and 2022, over 95 per cent of the 2,055 complaints assessed were resolved without formal inquiry, and fewer than 1 per cent resulted in a formal investigation.²⁵⁴ Only a very small number were found to have any substance at all.²⁵⁵ Overall, McIntyre concluded that these bodies were functioning primarily as channels for receiving and filtering complaints, and may not act as a mechanisms to impose discipline or consequences on judges.²⁵⁶ This suggests that care is needed to ensure judicial commissions have effective, rigorous triaging mechanisms to provide early dismissal of, or prevent investigations of, irrational, malicious or misconceived conduct complaints about judges, which would enable them to focus on more serious, substantiated complaints and offer education and training to reduce the incidence of inappropriate behaviour.²⁵⁷

Research from the United States further suggests that complaints from lawyers to judicial commissions are rare and may reflect structural disincentives and perceived risks of reprisal from members of the bench.²⁵⁸ It suggested that Bar Complaints Committees could be established to act as a buffer or intermediary between lawyers and the formal complaints

²⁵¹ *Judicial Commissions Act 2024* (Tas) s 27

²⁵² Joe McIntyre, 'The Darkness of Sunlight: Judicial Complaint Commissions in Australia' (2025) 48(1) *UNSW Law Journal* 40.

²⁵³ *Ibid* 58.

²⁵⁴ *Ibid* 59.

²⁵⁵ *Ibid* 59.

²⁵⁶ *Ibid* 76-80.

²⁵⁷ *Ibid* 69.

²⁵⁸ David Pimentel, 'The Reluctant Tattletale: Closing the Gap in Federal Judicial Discipline' (2009) 76(4) *Tennessee Law Review* 909, 910 cited by McIntyre (n 252).

system, making it easier and safer for lawyers to raise concerns.²⁵⁹ This also highlights the need for further research assessing measures that might protect lawyers who participate in complaints as witnesses, recognising that they may be vulnerable to professional or personal repercussions.²⁶⁰

Writing for the New South Wales Bar Association, Kylie Nomchong SC suggested that professional bodies also have a responsibility to ensure that the legal profession is equipped to respond appropriately with judicial bullying occurs.²⁶¹ Nomchong recommend this can be implemented through maintaining support networks to assist practitioners subject to judicial bullying, ensuring they have access to guidance and support rather than managing these situations alone.²⁶² Kate Eastman SC has suggested that senior practitioners can also play a role by intervening when they witness inappropriate judicial conduct by, for example, requesting a discussion with the judge in chambers during a break or, in more serious circumstances, by intervening directly in the courtroom.²⁶³

Recommendation 13

An effective mechanism for dealing with complaints about judicial behaviour, and improving education and training on judicial bullying for all professionals, is needed. The Law Society of Tasmania should assess the feasibility of establishing an independent process for members to register, and receive support concerning, complaints or concerns about judicial behaviour.

7.3.6 Defend and champion the profession

As described in the introduction to this report, legal professionals are essential to the effective functioning of Tasmania’s criminal justice system. While defence lawyers play a crucial role in upholding the rule of law and ensuring that all Tasmanians enjoy access to justice, procedural fairness and the right to a fair trial, data gathered in this study indicates that the value and significance of their roles is at odds with their representation in mainstream and social media.

Participants across the surveys, forums and interviews described their frustrations with the representation of criminal lawyers in the public domain. Some expressed a desire for greater support from government and the profession itself in challenging negative public perceptions of criminal law work and misconceptions about the system (described in section 6.3.4 above), and emphasising the public interest in adequate funding and resourcing of the sector.

²⁵⁹ Ibid.

²⁶⁰ Ibid.

²⁶¹ Nomchong (n 139) 568–9.

²⁶² Ibid.

²⁶³ Kate Eastman, ‘Judicial Bullying: Let’s Have a Conversation’ in Judicial Commission of NSW, *Handbook for Judicial Officers* (October 2021) 581–611, 606.

“There's a lot of misconceptions... and probably the biggest one is that the majority of people are police bailed and not court bailed. But people point the finger at the court, judges, magistrates, defence lawyers and that's never corrected [by government].” (Currently working in criminal law, interview)

“We need more moral support from the community and government.” (Currently working in criminal law, survey)

Several participants called passionately for the LST to take on a stronger advocacy role, while others suggested practical measures the LST could introduce to support attraction and retention of criminal lawyers. For example:

“We don't have our own separate union, and it often feels that the Law Society should be stepping in to sort of advocate for those interests and advocate for conditions...” (Currently working in criminal law, forum)

Recommendation 14

Practitioners and agencies across the criminal justice system should identify and pursue additional opportunities to positively promote the role and value of the criminal legal profession. This may include advocating to government, participating in public and professional fora, contributing to public discourse (including responding to adverse media and social media coverage) and engaging with early-career lawyers and students.

7.4 Attracting people to criminal law work

7.4.1 Create opportunities for private practitioners to gain experience

Participants in the present study identified improved financial incentives (via higher funding for legal aid fees) as the primary factor that could attract and enable firms and lawyers in private practice to increase their criminal legal workloads; this is consistent with national research (see sections 6.2 and 7.1 above). To contribute to developing and rebuilding this workforce, some participants suggested interim measures that could enable more early-career lawyers to explore an interest in criminal law work and develop expertise, even where the lawyer's own employer does not do criminal work.

One option proposed by study participants is to enable early-career practitioners to develop their knowledge and skills for criminal trial work through short-term secondments to work with senior practitioners in other firms or organisations who are preparing for and conducting criminal trials. Such arrangements could be developed between firms and practices, or could be an extension of the larger mentoring program recommended in section 7.3.1 above.

Recommendation 15

The development of a secondment program to enable interested early-career practitioners in private practice to work with senior practitioners and gain experience in criminal trial work should be explored.

7.4.2 Foster students' and graduates' capacity for criminal law work

The study findings, supported by prior research, suggest that legal education and professional training could be redesigned to better equip early-career practitioners for work in criminal law and other demanding and potentially distressing areas of practice. A national review of Practical Legal Training (PLT) is currently underway and may lead to changes in the design and delivery of this training around the country.

Several participants who responded to the survey and interviews suggested that changes to the LLB could help students and early-career practitioners develop their ability to take care of their mental health and wellbeing and show resilience in the face of the demands of criminal law work. This could build on the Faculty of Law's existing relationship with the legal profession and judiciary to include further measures to support students to engage with difficult content, and teach them strategies to manage their wellbeing while navigating the emotional and psychological challenges associated with criminal practice:

“There needs to be more information on how to cope with the nature of the cases you will encounter.” (Currently working in criminal law, survey)

“I think letting [students] know early that there is going to be conflict... Every file you are against somebody every time you go to court, there's a winner and a loser and if its for defence its mostly going to be you.” (Currently working in criminal law, survey)

UTAS Faculty of Law's periodic review of the curriculum in 2026 presents an opportunity to consider these findings in collaboration with the CFLS, drawing on the emerging body of literature on how students and graduates can be better supported to manage difficult content and develop resilience in preparation for legal practice.²⁶⁴ The literature suggests that, although universities increasingly offer wellbeing initiatives, these supports often sit outside law school curriculum and do not address the impact of exposure to potentially traumatising material that students may encounter during legal study and in legal practice.²⁶⁵ Recommendations for improving this include embedding wellbeing into the core curriculum and culture of law schools and practical legal training opportunities; teaching and discussing the emotional impact of sensitive material; explicitly teaching reflective practice, and

²⁶⁴ See Aesha Ziad and Kelley Burton, 'Supporting Law Student Wellbeing: Integrating Trauma-Informed Practices in Legal Education' (2024) 47(3) *UNSW Law Journal* 785.

²⁶⁵ Ibid; Stephen Clear, 'Let's Talk: A Framework for Supporting Law Students' Wellbeing' (2026) 60(1) *The Law Teacher* 75; Doris Bozin, Allison Ballard and Vicki de Prazer, 'Improving Law Student Resilience: An Australian Perspective' (2020) 27(2) *International Journal of Clinical Legal Education* 237.

normalising help-seeking and peer support in classes and assessments.²⁶⁶ Research also suggests the importance of visible leadership, staff training and structured, curriculum integrated interventions (such as staged induction supports, reflective activities, community building and assessment practices that reduce unnecessary stress) so that wellbeing is treated as part of professional formation, not an optional add-on.²⁶⁷ Such measures would align legal education and practical legal training with training in other professions, such as psychology and social work, which place considerable emphasis on mental health and self-care.²⁶⁸

Another relevant consideration here is the cultural shift that appears to be underway in legal work in Australia. The literature highlights that newer generations of lawyers are seeking better work-life balance, healthier workplace cultures and stronger mental health support than their predecessors may have done.²⁶⁹ This is expected to continue with future cohorts, suggesting the need to strike a balance between ensuring students and early-career lawyers develop the skills and knowledge to manage their mental health and wellbeing and ensuring the profession acknowledges and adapts to younger generations' expectations. Failing to do so risks criminal law becoming an increasingly unattractive career path for emerging lawyers.

A 2017 university-based health justice legal advice clinic at the University of Canberra (UoC) offers one example of a university-level model for embedding this type of support for students. UoC codesigned a pastoral care course component with a psychologist from its health service to embed resilience training and support into the legal curriculum.²⁷⁰ The course was designed to teach students about the importance of self-awareness and resilience as a skill, providing resilience-building strategies and support mechanisms in the context of an academic unit which involved working in a health-justice legal clinic within the university environment.²⁷¹ Other researchers suggest a whole-of-law-school approach to resilience and wellbeing is needed, arguing that intentionally designing the first-year curriculum to address and prevent psychological distress in law students is critical to normalise and promote individuals' skills in seeking support or raising complaints when needed.²⁷² UTAS Faculty of Law's Clinical Legal Education program similarly incorporates curriculum and practical experience in trauma-informed practice, managing vicarious trauma and using reflective practice and other techniques (such as debriefing, peer support and accessing mental health services) to foster students' capacity for self-care and professional resilience, although only a subset of students undertake those elective units.

²⁶⁶ Zaid and Burton (n 264); Clear (n 265); Bozin, Ballard and de Prazer (n 265).

²⁶⁷ Ibid.

²⁶⁸ See Pike and Quinlan (n 51) 139.

²⁶⁹ See generally Bozin, Ballard and de Prazer (n 265).

²⁷⁰ Ibid 237.

²⁷¹ Ibid.

²⁷² Ibid 237, 238.

Recommendation 16

UTAS Law School's 2026 course review should consider opportunities to incorporate further support for students and graduates to develop psychosocial preparedness and capacity for self-care in demanding work environments, in consultation with the Centre for Legal Studies.

While not all law students intend to practice as lawyers, and not all aspiring lawyers are drawn to criminal law, the findings of this study suggest that students who are interested in criminal practice could be better supported to recognise, develop and pursue that interest. Many students may also be uncertain about their future career direction. More exposure to criminal law work could also foster interest and support future recruitment of members of that group. Participants' suggestions for how to achieve this included increasing work experience opportunities, a criminal law mooting competition, student volunteer court roles, increased exposure to criminal law judges, and additional visits to the Magistrates Court or Supreme Court (which are currently part of units such as Evidence and Advocacy).

“[More] opportunities for clerkships in criminal law firms, work experience, volunteer roles, and information sessions by criminal lawyers.” (Currently working in criminal law, survey)

“More training and support in advocacy and in subject matter directly relevant to criminal practice would be valuable, particularly given that in Tasmania the role operates in a solicitor-advocate type style, which I find differs from other jurisdictions...” (Previously worked in criminal law, forum)

As described in section 6.5.2 above, the UTAS LLB and the TLPC currently provide opportunities for students to hear from criminal law practitioners and develop their practical skills for commencing criminal practice. Some student participants in this study suggested that greater advertisement of UTAS electives that provide these opportunities, and further consideration of how to increase uptake of those electives, could be beneficial. For example:

“So there is not enough knowledge out there about the advocacy and clinic opportunities that are available. I think the timetabling is the problem. So often you don't know when it's going to happen, and that's often like, not in the teachers' hands. So, I think that the whole thing is a little bit too bare.” (Law Student, forum)

“So anything that could be done to try and get students involved at an earlier stage [in the degree] would be ideal.” (Currently working in criminal law, interview)

Other students suggested that some skills or knowledge relevant to criminal law work could be integrated more consistently across the curriculum, as it is in the TLPC:

“There could be more of a course-wide structure of building on advocacy skills slowly.” (Law student, forum)

“I was just gonna bring up [the] Constitutional [Law subject] from back in 2022, I don't know if they still do the moots... I remember when I did it, it was relatively frequently, we learned the content over the fortnight then we'd get our workshop problem and then we'd have to moot about it... I just thought that makes sense... We learn about it; we do the problem solving as we do for most workshops and then we actually present the case like we would in real life and it's integrated pretty neatly.” (Law student, forum)

As highlighted earlier (see section 6.5.1), student participants also expressed a desire for greater exposure to criminology and the social factors that contribute to crime. When asked for their ideas about how this could be better addressed, participants suggested that the core criminal law units already contain a large amount of essential content that should not be cut back to introduce more criminology content, but additional criminology electives would be welcomed:

“It would be really helpful to know about these things to add that social context.” (Law Student, forum)

When [UTAS lecturer] specifically was teaching homicide, he explained that he was being impartial for a reason. And him doing that taught me a lot about how to consider what was going on with the prosecution, with the victim and the defendant. So, I kind of worked that out from him, not saying anything about social determinants. I thought that came across really powerfully for me. But I feel like we need more of that.” (Law Student, forum)

Participants in the study suggested that legal professionals and members of the UTAS Faculty of Law could also more actively promote the rewarding nature of criminal law work and its centrality to the effective functioning of the legal system and wider society among Law students as appropriate to students' stage of study. Douglas and Taylor discussed empirical research showing that many students begin their law degrees with strong idealism and a belief that the law can be used to challenge injustice, but by the time they are nearing completion of their studies, their perceptions have often shifted and they show increasing preference for what they perceive as more 'prestigious' areas of practice such as commercial law.²⁷³ Participants in the present study suggested ways that students' interest could be fostered throughout their studies. These included more regular invitations to practitioners to give guest lectures on criminal law work, their careers and experiences in the criminal law and clinical legal education units, and ensuring students are exposed to community and government (including TLA and TALS) careers information during careers days and related information sessions.

²⁷³ Heather Douglas and Monica Taylor, 'Understanding the Power of Law: Engaging Students in Criminal Law Casework' (2014) 24(1) *Legal Education Review* 31 <<https://ler.scholasticahq.com/article/6285-understanding-the-power-of-law-engaging-students-in-criminal-law-casework>>.

“More information on the various career paths in criminal law (you don't just have to become a public prosecutor)” (Law Student, forum)

Some private practitioner participants suggested they would happily take on more students for work experience opportunities:

“We would happily host as many students as we could. And we have a lot of work experience students that come through from high schools and colleges. But yeah, if we could get some more Uni students, that would be great.” (Currently working in criminal law, interview)

There was support among participants to improve opportunities for students to gain work experience in the criminal field:

“[More] opportunities for clerkships in criminal law firms, work experience, volunteer roles, and information sessions by criminal lawyers.” (Currently working in criminal law, survey)

Douglas and Taylor's research, which involved students who participated in practical experience such as criminal law clinics, suggested that these programs provide valuable hands-on experience. Through activities such as preparing outlines of argument for appeals, visiting correctional facilities, undertaking legal research, and engaging directly with clients, students gain practical exposure to criminal law practice.²⁷⁴ These experiences (many of which are available in the LLB or TLPC described in section 1.4 above) help students connect theoretical learning with real-world application, while also developing key skills in research, drafting, teamwork, and client communication.²⁷⁵

Traditionally, the responsibility for increasing clerkship and work experience opportunities has rested with law firms, and at least seven students who participated in the forum said they were already employed by Tasmanian firms. The Legal Professional Experience UTAS Law elective also places several students interested in criminal law work in the criminal law teams at TLA and other organisations every year. In light of the enthusiasm shown by some professional participants about hosting more work experience students, there may be an opportunity to place a greater number of interested students with criminal lawyers. The profession might also consider the desirability and feasibility of establishing a criminal lawyers internship program similar to the model offered by some private firms in Victoria. For example, the Victorian Criminal Law Internship program runs a competitive intake twice a year and offers a three-day intensive learning experience.²⁷⁶ The program combines court

²⁷⁴ Ibid.

²⁷⁵ Ibid 38.

²⁷⁶ See eg 'Welcome to the Criminal Law Internship Program', *Emma Turnbull Lawyers* (Web Page) <[https://clipvictoria.com.au/#:~:text=The%20Criminal%20Law%20Internship%20Program%20\(CLIP\)%20is%20your%20gateway%20to,and%20mentorship%20in%20the%20field](https://clipvictoria.com.au/#:~:text=The%20Criminal%20Law%20Internship%20Program%20(CLIP)%20is%20your%20gateway%20to,and%20mentorship%20in%20the%20field)>.

observations, workshops, panel discussions, and Q&A sessions to give students exposure and mentorship prior to completing their degree.²⁷⁷

Recommendation 17

UTAS Law School's 2026 course review should consider whether additional opportunities for interested students to develop knowledge relevant to working in the criminal justice system can be incorporated into the curriculum.

Recommendation 18

UTAS Law School should work with the Centre for Legal Studies and Tasmanian University Law Society to identify opportunities for Law students and graduates to gain greater exposure to information about criminal law careers and connect them to opportunities to develop relevant skills, such as clinical legal education, advocacy and mooted electives and competitions, work experience placements and careers information sessions.

Recommendation 19

The profession could explore the desirability and feasibility of a Criminal Law Internship program to foster students' and graduates' interest in criminal law work.

7.5 Monitoring progress

Many of the changes called for by participants and/or recommended in this report will only be realised – and optimised – if their progress and effectiveness is monitored. Systematic collection of data on workloads, wellbeing, access to mental health services and the effectiveness of new processes (such as changes to court technology and hearing scheduling) would help ensure that strategies actually improve practitioner welfare, maintain access to justice and strengthen the resilience of the criminal justice system. While participants did not raise the need for ongoing data collection, the nature of our findings suggests that the profession will require sustained support to rebuild its workforce and improve morale and retention.

This approach is supported by a 2024 UK study on recruitment and retention in the criminal justice system, which emphasised the value of systematic workforce monitoring for identifying emerging challenges, guiding targeted interventions, and ensuring the system operates efficiently and effectively.²⁷⁸ Similarly, a 2021 International Bar Association study on mental wellbeing in the legal profession highlighted the importance of monitoring the implementation of policies and procedures to ensure that intended changes are maintained. That study also

²⁷⁷ Ibid.

²⁷⁸ See eg Criminal Justice Joint Inspection, *The Impact of Recruitment and Retention on the Criminal Justice System* (Efficiency Spotlight Report, 2024) <<https://www.criminalbar.com/wp-content/uploads/2024/02/2024-02-09-Joint-Efficiency-Spotlight-Report-1.pdf>>.

identified firms' lack of ongoing monitoring of lawyer wellbeing as an issue. For example, although 73 per cent of firms that participated in the study reported having wellbeing initiatives in place, only 29 per cent measured their impact and 27 per cent collected data on employee wellbeing.²⁷⁹

Ongoing monitoring of working conditions could be complemented by regular data collection on the number of lawyers practising across different sectors in Tasmania. Up-to-date information that includes government lawyers who do not hold a practising certificate would help track workforce trends, identify shortages, geographic imbalances, emerging demand pressures and long-term trends that affect access to timely and effective legal representation. Such data would enable the LST and other agencies to more effectively advocate for the profession. Without consistent and reliable monitoring, gaps in legal service provision are harder to detect, increasing the risk of gradual system-wide change that may compromise fair hearings and access to justice.²⁸⁰

The LST is uniquely positioned to contribute to this by monitoring working conditions and recruitment and retention trends and tracking the effectiveness of measures taken. One option is to reinstate the 'state of the profession' survey (last conducted in 2017), while another is to fund further targeted research. The Lawyer Wellbeing Program, established in 2023 by the Victorian Legal Services Board and Commissioner to support university-led research on the topic, could also provide a useful model for Tasmania.²⁸¹

Recommendation 20

The Law Society of Tasmania should resume regular surveys of the Tasmanian legal profession to track lawyer numbers and areas of professional expertise around the state. This would facilitate identification of trends in criminal practice in Tasmania and areas for further investigation or improvement. Data collection should include lawyers who are not Law Society of Tasmania members, including those employed under the *State Service Act 2000* (Tas).

²⁷⁹ International Bar Association (n 155) 41.

²⁸⁰ Law Council of Australia, *The Lawyer Project Report* (September 2021) 8 < <https://lawcouncil.au/policy-agenda/access-to-justice/the-lawyer-project-report>>.

²⁸¹ See 'The Lawyer Wellbeing Program: Working Together to Achieve Systemic Change', *Law Institute Victoria* (Web Page) <https://www.liv.asn.au/web/law_institute_journal_and_news/web/lij/year/2024/august/the_lawyer_wellbeing_program_working_together_to_achieve_systemic_change.aspx>.