



Image by Zach Plank/Unsplash

## Katie Green: The New South Wales Bar Association's Legal Assistance Scheme

The New South Wales Bar Association has a longstanding and proud tradition of supporting our members to undertake pro bono work. I oversee the operations of our court based pro bono programs – the Legal Assistance Referral Scheme (LARS) and the Duty Barrister Scheme. These Schemes provide expert advice and representation assistance to people who would otherwise go without a lawyer, increasing access to justice for all.

### The Legal Assistance Referral Scheme

LARS connects unrepresented litigants with a barrister who specialises in the area of law that their matter is about. Many of our referrals come directly from sitting Judges in the superior courts, who may make an order under the Uniform Civil Procedure Rules to refer a party for pro bono assistance where they consider making the referral is in the interest of justice. We also accept referrals directly from the public and from solicitors who need counsel to assist in a pro bono matter. The type of work that the barristers do through LARS is incredibly varied; we assist with criminal, civil, family, employment, equity, inquests, discrimination matters – you name it! All of the clients that are referred through the Scheme are provided with advice on merits, prospects and strategic approaches to a case.

***“All of the referrals provide significant assistance to the courts in assisting the litigant with process, allowing a matter to progress without frustration and unnecessary adjournments.”***



Photo courtesy of the New South Wales Bar Association – <https://nswbar.asn.au/using-barristers/what-is-a-barrister>

***“They find themselves in a courtroom all of a sudden and are overwhelmed with some pretty difficult decisions. We try to take away the confusion of the court process and provide sensible advice at this critical, yet difficult time in their lives.”***

***Barrister involved in the Duty Barrister Scheme***

Barristers may also volunteer their time to assist with drafting and assisting a client to draft their points of claim, or may advise litigants who do not have good prospects of success to withdraw from a matter without incurring

excessive costs. And of course many LARS clients whose matters do proceed to hearing are represented in court. All of the referrals provide significant assistance to the courts in assisting the litigant with process, allowing a matter to progress without frustration and unnecessary adjournments.

One of my favourite matters that I have worked on came from a small community legal centre in the ACT. Their client was a 19 year-old university student and volunteer foster carer for rescue dogs. During the 2019-2020 bushfires one of the foster dogs escaped and allegedly killed some livestock on the neighbouring farms. The foster carer was subsequently charged with offences under the Companion Animals Act and further pursued for the cost of the livestock. We were able to allocate the matter to some very enthusiastic criminal barristers who negotiated to have the charges withdrawn at the 13th hour. A great result for the young person! It was also a good example of

what can happen when a skilled barrister gets involved at the right time to assist in the swift resolution of matters as the hearing that was set down to two full days did not need to go ahead.

Some other interesting cases that are on at the moment include an elder abuse case that has been filed in the Supreme Court, a special leave application to the High Court for an immigration appeal and a Land and Environment Court Application about the number of pets allowed in a suburban backyard. As matters are only referred to us where an applicant is not eligible for Legal Aid, we get to assist in a variety of unique and unusual matters.

#### **The Duty Barrister Scheme**

The NSW Bar Association also oversees the operation of the Duty Barrister Schemes in the Downing Centre to assist with criminal matters and the John Maddison Tower to assist with civil matters. We co-ordinate a roster of barristers who show up to court to provide advice and representation to people whose matter is in the court on that day. Through this Scheme we are helping to fill what is a huge gap in our justice system as the vast majority of litigants appear before the Local Court without any advice or representation. Legal Aid policy is generally confined to very vulnerable

defendants or to people who are likely to go to prison, so the Duty Barrister attempts to assist those who fall outside of Legal Aid eligibility including assisting defendants with Apprehended Violence Order matters, traffic matters and licence suspension appeals, small quantity drug possession offences, trespasses and minor assaults.

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Duty Barristers provide valuable legal advice and representation for people. The incredibly busy Magistrates in the Local Court simply do not have enough time or resources to manage without that pro bono assistance. One barrister told me the following about his experience assisting defendants in the Downing Centre: *“They find themselves in a court room all of a sudden and are overwhelmed with some pretty difficult*

*decisions. We try to take away the confusion of the court process and provide sensible advice at this critical, yet difficult time in their lives.”*

Duty Barristers really assist the courts by explaining the different processes involved in entering a plea, providing people with advice on putting forward any mitigating information and seeking the best outcome for the client. Barristers do not often spend a lot of time working in the Local Court. I find that they come back really invigorated by the number of people that they have been able to assist in a day, and as it is such a fast-paced and dynamic environment, they will often assist up to 15 people in a morning.

The Duty Barristers who assist in the Civil Law jurisdiction of the Local Court help people who have been pursued with debt or people trying to recover debts that are owed to them. It can be a really interesting and challenging jurisdiction to assist in because there are a lot of unrepresented people attempting to fill out their statements of claim and appear for themselves without any previous experience. It is again a huge deal for that person as they are attempting to recover, what may be for them, a significant sum of money. To be assisted by a skilled legal practitioner during their day in court brings them some relief.

More information about LARS and the Duty Barrister Scheme is available [here](#). ■

*Katie Green is Managing Solicitor of the New South Wales Bar Association’s Legal Assistance Scheme. Prior to joining the Association, she worked at Marrickville Community Legal Centre as the Youth Solicitor, where she convened the NSW Youth Justice Coalition and authored “Young People, Criminal Records and Discrimination in Employment”. Katie has also worked within Legal Aid NSW’s Children’s Civil Law Service and for the Class Actions team at Maurice Blackburn Lawyers. Prior to commencing her legal career, Katie worked in the social welfare sector at the Sydney Medically Supervised Injecting Centre, in homelessness services and with asylum seekers at the Red Cross.*

