

Claim farming

Submission to the Department of Communities
and Justice, NSW Government

23 May 2024

Contents

Who we are	4
Introduction	5
The ALA's opposition to claim farming.....	5
Addressing claim farming	5
Future stakeholder consultation.....	6
Conclusion	6

Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal people of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to provide feedback to the NSW Government's Department of Communities and Justice (DCJ) as part of the DCJ's targeted stakeholder consultation on claim farming. We note the Issues Paper released by the DCJ as part of this targeted stakeholder consultation.
2. Our submission details: the ALA's opposition to claim farming; matters relevant to addressing claim farming; and future stakeholder consultation on claim farming.

The ALA's opposition to claim farming

3. The ALA opposes the insidious and predatory practice of claim farming. Our leadership and members have a strong record of calling out such activities across Australia.
4. Claim farming greatly concerns the ALA since claim farming practices affect some of the most vulnerable people in NSW. That includes those who have been injured and those who are the victim survivors of abuse – people navigating serious injuries, rehabilitation and trauma.
5. The ALA is particularly concerned that the manner in which claim farmers obtain the personal information of people who have suffered personal injuries or experienced abuse, and how that confidential information is then used or sold to other agencies for profit, amount to a serious breach of privacy.

Addressing claim farming

6. The ALA supports measures which will directly address claim farming in NSW.
7. The ALA believes that businesses and legal practitioners who seek to participate or benefit from claim farming activities should be subject to stringent professional and statutory sanctions for their involvement in such conduct.
8. However, measures to address and prevent claim farming must not:
 - a. inhibit injured people or victim survivors of abuse being told about their rights to make claims and receive compensation, and then being assisted by lawyers to access the compensation and justice to which they are entitled;

- b. infringe on the right of legal practitioners in NSW to advertise their personal injury law firms and services lawfully and legitimately – as per the *Legal Profession Uniform Law 2014 (NSW)*, the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*, and the *Legal Profession Uniform Conduct (Barristers) Rules 2015*;
- c. prohibit legitimate referral processes that are properly disclosed – for example, if an individual approaches one lawyer for assistance and that lawyer cannot represent that individual but instead refers that individual (with their consent) to another lawyer in another jurisdiction or practice area for which the original lawyer receives a referral fee (properly and transparently disclosed) for that introduction; and
- d. involve amending aspects of any statutory scheme in NSW which will not actually affect claim farming but which seeks to reduce entitlements and/or negatively affect the claimant experience for those making claims under that statutory scheme.

Future stakeholder consultation

- 9. The ALA welcomes the opportunity to provide further feedback on this matter, including but not limited to: when any amendments to existing legislation or regulations are being drafted; and when any new legislation or regulations to address claim farming are being drafted.

Conclusion

- 10. The Australian Lawyers Alliance (ALA) is grateful for the opportunity to have input to the NSW Government's Department of Communities and Justice on claim farming.
- 11. The ALA is available to provide further assistance to DCJ on the issues raised in this submission.



Joshua Dale

President, NSW Branch Committee

Australian Lawyers Alliance