

Abstract

Natural disasters, such as bushfires and floods, frequently impact Australian communities and lead to significant legal challenges for affected individuals. This paper examines the patterns of legal service utilisation by people affected by such events using data from a statewide provider of free disaster-related legal assistance. This research presents findings on 6 primary legal issue categories of insurance, grants, tenancy (loss of dwelling), tenancy (not loss of dwelling), goods and services, and environment/ neighbours. The findings suggest that assistance for different types of legal issues is requested at different stages of the recovery process. The analysis highlights the importance of timely and tailored legal assistance to support recovery and resilience. By understanding these patterns, policy makers and service providers can better allocate resources to improve access to necessary support by affected individuals. This research contributes to the understanding of the legal dimensions of disaster recovery and underscores the critical role of legal assistance in response and recovery. Given that many people seek non-legal assistance when resolving legal problems, these results are also relevant for government and community service organisations that provide non-legal support to people experiencing these types of problems post-disaster.

Timing of disaster-related legal assistance in New South Wales: trends in service utilisation for common legal problems following flood and bushfire

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Introduction

Natural disasters such as bushfires and floods are recurrent challenges in Australia and often leave communities devastated and in need of variable forms of support (Commonwealth of Australia 2020). While the immediate aftermath of a disaster typically focuses on physical recovery, an often-overlooked aspect is the significant legal challenges that affected individuals face (Balmer et al. 2023; McDonald 2023; Kothe et al. 2024). These challenges can range from issues with insurance claims and tenancy disputes to navigating government grants and dealing with consumer rights. In Australia, legal assistance services play a critical role in helping disaster-affected individuals navigate these complex issues (Australian Pro Bono Centre 2023), improving access to necessary resources and justice.

The legal needs of people affected by such events are multi-faceted and can have long-lasting consequences if not addressed in a timely and effectively manner (Coumarelos et al. 2012). Research indicates that unmet legal needs can exacerbate the financial and emotional stress people experience, which can lead to adverse outcomes (Currie 2007; Pleasence 2006; Pleasence et al. 2010). For instance, individuals facing insurance disputes may struggle to secure adequate housing or replace lost possessions, while others might encounter barriers to accessing government aid due to bureaucratic complexities (McKenzie et al. 2022).

In response to such issues, legal assistance providers seek to meet this need through disaster-specific legal outreach (Bushfire Legal Help 2010; Hipkin 2021; Star and Sutton 2021). These programs aim to provide timely legal advice and assistance, and help individuals to understand and exercise their rights in the aftermath of a disaster. The effectiveness of these services is crucial as they not only assist in immediate recovery but also contribute to the long-term resilience of communities.

Understanding demand for disaster-specific legal outreach services and the presentation of people with different legal problems over time will assist in service planning and delivery. The effects of these legal issues can be expected to impact demand for non-legal services too. Research by the Victoria Law Foundation showed that many people with legal problems access non-legal help for those problems (Balmer et al. 2023; McDonald 2023) and that many disaster-related legal problems also impact demand for support from other community service providers and government agencies (especially relating to housing, insurance and government benefits). As such, understanding the patterns of presentation for different problems over time has implications for non-legal service providers.

This paper explores the patterns of legal service utilisation by people affected by natural disasters using data from a New South Wales statewide provider of free disaster-related legal assistance. By examining how different types of legal problems present over time following events like bushfires and floods, this study provides insights that can enhance service delivery and policy planning. Understanding these patterns is essential development of targeted support strategies that address the unique legal challenges faced by people impacted by disasters. This ultimately contributes to more robust recovery processes. Given that: (a) different types of problems are likely to present at different times in the post-disaster period and (b) the legal problems people experience is known to be associated with the type of natural disaster (Kothe et al. 2024), trends in service utilisation were examined for the most common legal matters associated with legal assistance after bushfire and flood events.

Methods

Data were obtained from Legal Aid NSW about all legal services provided to individuals from the Disaster Response Legal Service¹ between January 2020 and December 2023. Unit record data were provided in a de-identified form and underwent data validation and cleaning prior to analysis (see Kothe et al. 2024 for a detailed description of data cleaning and validation). The Disaster Response Legal Service model and underlying theory of change has been described by Hipkin (2021).

Variables of interest

Matter group and matter type

Services provided by the Disaster Response Legal Service can relate to multiple legal matters. In the data provided for this series of analyses, information about all matter types recorded for each service was extracted.

In this dataset, each legal problem was assigned a ‘matter group’ and a corresponding ‘matter type’. Matter types provided a more detailed description of the specific nature of the problem than the matter group. For example, where a person has a legal problem relating to their consumer rights and protection as a consumer of goods and/or services the matter group ‘goods and services’ would be assigned. Within this, there were more detailed matter types that could be recorded. For example, in the case of the ‘goods and services’ matter group, the matter types provide detail about the type of good or service a person was experiencing a problem with (e.g. ‘energy and water utilities’ or ‘motor vehicle purchase and services’).

Matter groups and matter types are standardised across Legal Aid NSW. As such, some distinct disaster-related legal issues share a single matter type that lacks specificity. For example, the matter type ‘state disaster relief grants’ encapsulates all disaster grants funded by the New South Wales Government including the Disaster Relief Grant and Resilient Homes Program even though the value of these grants and their expected timing in the post-disaster period varies substantially.

Across the services to individuals provided by the Disaster Response Legal Service in response to natural disasters since 2020, 41 different matter groups and 159 different matter types were reported at least once. However, most of these matter groups and types were only infrequently recorded. In this paper, we focus on 6 of the most frequently occurring legal problems: (1) insurance (2) grants (3) tenancy - loss of dwelling (4) tenancy - not loss of dwelling (5) goods and services and (6) environment/ neighbours.² Table 1 provides a description of the matter types that constitute these matter groups.

Time since disaster

The time between the date of the first service for a given disaster event and the date of each service for that event was calculated for the purpose of this analysis. The date of the first service was used as a proxy for the activation of the legal service for each event. This provides an estimate of the time between when a person was impacted by the disaster and when they accessed legal assistance. This estimate is less reliable for the 2019–20 bushfires since all

1. Disaster Response Legal Service NSW at <https://disasterhelp.legalaid.nsw.gov.au/>.

2. Matter group names are not the matter group names used by Legal Aid NSW. They have been edited to increase readability and clarity for a non-legal audience.

interest; in this case, the time taken for service utilisation. The x-axis of each density plot represents the time taken (in months) for a person to seek a legal service. The y-axis indicates the relative probability of service utilisation occurring at different time intervals. By examining the peaks, spread and tails of the density curves, patterns in service delivery times and areas of high concentration (indicating frequent service delivery times) can be identified and variability across different matter groups can be compared. For instance, a high peak suggests a high concentration of service delivery times around a given month, while the width of the curve reflects the variability in those times. Long tails indicate the presence of outliers or extended service delivery periods. Caution should be taken in interpreting density plots where there are prolonged gaps in service provision. Trends in service utilisation across matter groups was conducted through visual comparison of density plots and through consideration of service utilisation statistics.

Results

Of the 8,604 services delivered by the Disaster Response Legal Service in the data collection period, 7,445 (90%) of services related to the matter groups of interest. Given the potential for a given service to relate to multiple matters, this data accounted for a total of 8,478 legal matters.

Flood

Figure 1 shows service utilisation for flood-related services by matter group. In this figure, the area shaded grey on each plot represents values of months since the disaster that are not possible given the time the first flooding event was recorded (i.e. values beyond 21 months). These values are included on the plots to facilitate visual comparison between this plot and the bushfire density plots by maintaining a consistent scale for the x-axis. There are clear differences in trends in service utilisation over time for flood-related services based on the type of legal problem a person experienced. While all matter groups demonstrated an initial surge in service utilisation shortly after the disaster event, how problems continued to play out over the medium to long-term varied as a function of matter group.

Bushfire

Figure 2 shows service utilisation by matter group for bushfire-related services. As with flood-related services, visual inspection shows marked differences in service utilisation trends over time. Only 3 matter groups demonstrated sizeable peaks in service utilisation in the immediate post-disaster period. The probability density for service utilisation for goods and services and environment/neighbours was distributed across the response and recovery period. While the density plot for

grant-related matters is included for completeness, given the small number of services related to this matter group following bushfire and issues relating to the recording of this data (discussed in further detail below), we have not included detailed analysis bushfire grant-related matters in this report.

Goods and services

Overall, 397 services were provided relating to goods and services. Most were classified as ‘other goods and services’ with services relating to utilities, telecommunication providers and purchase and service of motor vehicles also common.

Legal needs survey data shows that people frequently deal with goods and services problems alone or with informal support from family and friends (Balmer et al. 2023). Where people do seek help from others to solve problems of this type they are more likely to use a non-legal source of assistance than to receive independent legal help (Balmer et al. 2023). Common sources for legal help for goods and services related problems include internal complaint and dispute resolution processes, industry specific ombudsmen and dispute resolution services as well as government agencies such as the Department of Fair Trading and the Australian Competition and Consumer Commission (Coumarelos et al. 2012).

Services related to floods

There were 292 services associated with goods and services following a flood. Figure 1 shows a clear peak in goods and services related legal services for flood impacted people. This peak occurs later than for other services and the decline in service utilisation after the peak is relatively slow. This is confirmed by descriptive statistics that show that the peak of service utilisation was at 2 months after the disaster. A quarter (25%) of services had been delivered by 53 days following the disaster, 50% were delivered by 94 days and 75% were delivered by 226 days.

Services related to bushfires

There were 105 services associated with goods and services following a bushfire. Figure 2 does not demonstrate an obvious post-bushfire peak and services related to goods and services spread across much of the post-disaster period. The peak of service utilisation was at one month after the disaster. The first month with no services delivered was 6 months post-event. A quarter (25%) of services had been delivered by 53 days post-disaster, 50% were delivered by 367 days and 75% were delivered by 517 days.

Insurance

Overall, 4,482 services were provided relating to insurance. For both flood and bushfire, the vast majority of these

time, the data for this matter group were also explored at the matter type level for these two matter types.

Problems relating to this matter group were likely to result in engagement with a range of non-legal advisers, most notably with local government given the large number of issues relating specifically to local government and planning. Other government agencies with responsibility for planning approval or dispute resolution are also likely to experience increased utilisation following a disaster. For those legal problems that relate to neighbours (e.g. fencing and stock control issues), people may also seek help from NSW Civil and Administrative Tribunal (or other equivalent bodies in other jurisdictions) with or without legal assistance.

Services related to floods

There were 218 flood-related services associated with the environment/neighbours matter group. Figure 1 shows a peak in service utilisation in the immediate post-disaster period followed by steady decline in services delivered. There appears to be a small increase in service utilisation at around 12 months after the flood. The descriptive data shows that the peak in service utilisation occurred one month post-flood. A quarter (25%) of services had been delivered by 36 days, 50% were delivered by 78 days and 75% were delivered by 135 days.

There were 115 services associated with the local government/planning matter type post-flood. A quarter (25%) had been delivered by 27 days, 50% were delivered by 67 days and 75% were delivered by 135 days. Only 42 services relating to fences/animals/trees were delivered post-flood. A quarter had been delivered by 55 days, 50% were delivered by 87 days and 75% were delivered by 132 days.

Services related to bushfires

There were 192 services relating to environment/neighbours delivered following bushfires. Figure 2 shows consistent demand relating to this legal problem type with only a small peak in the initial post-disaster period. The peak in demand is more clearly identified in the descriptive data, which showed a peak in demand in the first 30 days post-bushfire and the first month. The first month with no environment/neighbour related services was 7 months after the event. A quarter (25%) of services were delivered by 31 days, 50% were delivered by 168 days and 75% were delivered by 496 days.

There were 56 services relating to environment/neighbours post-bushfire associated with the local government/planning matter type. It took until 255 days post-disaster for a quarter of these services to be delivered, with 50% delivered by 500 days and 75% delivered by 619 days. In contrast, of the 117 services relating to fences/trees/

animals post-bushfire, a quarter (25%) had been delivered by 30 days, 50% were delivered by 49 days and 75% were delivered by 289 days.

Tenancy (loss of dwelling)

Tenancy (loss of dwelling) accounted for 691 services. Most services in this matter group were coded as 'other loss of dwelling (not by credit obligation)'. Services related to 'no grounds' eviction from private tenancies and evictions from caravan parks, boarding houses and retirement villages were also common.

Where people experience a loss of dwelling due to a tenancy-related problem, this will lead to demand for services from housing and homelessness providers, tenant's advocacy services and dispute resolution processes such as the NSW Civil and Administrative Tribunal (or other equivalent bodies in other jurisdictions) (van den Nouwelant and Cibirn 2022; Cortis and Blaxland 2022).

Flood-related tenancy services may be slightly delayed relative to bushfire services. This is likely a reflection of the different impacts these disasters have on housing stock and different dynamics in housing markets in areas that have been disaster-impacted.

Services related to floods

There were 609 services associated with tenancy (loss of dwelling) associated with a flood. Figure 1 shows rapid initial demand that peaks in the first 30 days post-flood and remains at high levels for 2 months after the flood. Service utilisation for this matter group is maintained at lower, but non-zero, levels for most of the data collection period. Descriptive data show that services peaked in the first 30 days post-disaster. The only month with no tenancy (loss of dwelling) services was 12 months after the flood. A quarter (25%) of services had been delivered by 23 days post-disaster, 50% were delivered by 53 days and 75% were delivered by 87 days.

Services related to bushfires

There were 85 services associated with tenancy (loss of dwelling) following a bushfire. Figure 2 shows a large initial peak in the 30 days post-bushfire followed by a rapid decline in service utilisation. Descriptive data show that services peaked in the first 30 days post-disaster. The first month with no tenancy (loss of dwelling) services was 3 months after the bushfires. A quarter (25%) of services had been delivered by 19 days, 50% were delivered by 27 days and 75% were delivered by 69 days.

Tenancy (not loss of dwelling)

Tenancy (not loss of dwelling) accounted for 1,048 services. The most common matter type was 'repairs

and maintenance’, but ‘other tenancy dispute’ and issues relating to caravan parks, boarding houses and retirement villages were also common.

Where people experience a tenancy-related problem that does not directly result in the loss of a dwelling, this will lead to demand for services such as tenant’s advocacy services and dispute resolution processes such as the NSW Civil and Administrative Tribunal (or other equivalent bodies in other jurisdictions). Although this category of legal matter does not directly lead to the loss of a dwelling, where problems cannot be resolved (e.g. where essential maintenance is not performed) there is likely to be downstream demand for services from housing and homelessness providers.

The data related to this matter group and to the tenancy (loss of dwelling) matter group previously described suggests that the long tail may be less marked for tenancy-related issues. This appears to result in less sustained service utilisation. Over 75% of services were delivered within the first 100 days post-disaster. However, it is important to recognise that housing and tenancy services should expect people to still be experiencing problems relating to their housing long after the disaster.

Services related to floods

There were 980 services associated with a tenancy issue that did not lead to the loss of a dwelling following a flood. Figure 1 shows an acute surge in demand during the initial post-disaster period, characterised by a sharp and pronounced peak that declines rapidly but remains above zero throughout the post-flood period. The descriptive data show a peak service utilisation at one month post-flood and there are no months with zero tenancy (not loss of dwelling) services delivered. A quarter (25%) of services had been delivered by 34 days, 50% were delivered by 63 days and 75% were delivered by 100 days.

Services related to bushfires

There were 68 services associated with tenancy (not loss of dwelling) matter group. A quarter (25%) of services had been delivered by 23 days, 50% were delivered by 46 days and 75% were delivered by 76 days. No services were recorded between 6 and 13 months, making the interpretation of the density plot unreliable.

Discussion

The findings from this study highlight the significant and varied legal needs that arise in the aftermath of bushfires and floods in New South Wales. The data underscore that assistance for different types of legal issues is requested at different stages of the recovery process. It is well known that there is an initial surge in demand for services in the immediate post-disaster period (Kothe et al. 2024). While these trends in service utilisation are partly a function

of the availability of services and outreach activities, this data suggest that the surge is observed for most issues. Legal service providers and other services that provide help to people impacted by these problems are likely to experience an initial surge in demand following disaster. This surge appears especially rapid for tenancy-related needs while other problems may have a slightly delayed onset.

While all problem types demonstrated a long tail with sustained service utilisation beyond the initial disaster response period, this is especially marked for problems relating to local government and planning and state government grants, which are characterised by low but persistent service utilisation across the post-disaster period. Insurance also showed a very long tail of service utilisation with some people presenting to services for the first time more than 40 months after the event. While the proportion of services relating to insurance long after the disaster is lower than the proportion of long tail planning and grant services, the relatively large number of services related to this matter group means that type of legal problem dominates long tail service delivery.

This time-based variation in service utilisation points to the necessity for a dynamic and responsive legal assistance framework that can adapt to the evolving needs of disaster-impacted populations. Legal service providers must be equipped to handle a diverse range of issues, from immediate post-disaster claims to long-term recovery support. Legal assistance providers and community service organisations that help with these problem types should plan service delivery with expectations about the likely timing and duration of service delivery based on the types of problems that they assist with.

Policy makers and service providers should consider these findings to better plan and allocate resources, so that legal and related non-legal services are accessible and effective throughout the entire recovery phase. In particular, government responses relating to preparedness should be shaped by the expectation that many people will continue to have issues that require assistance from local or state government for years following a disaster.

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References

Alston M, Hazeleger T and Hargreaves D (2019) *Social Work and Disasters: A Handbook for Practice*, Routledge.

Australian Financial Complaints Authority (2023) Submission to the House of Representatives Standing Committee on Economics Inquiry into insurers' responses to 2022 major floods claims. www.apra.gov.au/sites/default/files/2024-08/Supplementary%20Submission%20-%20Inquiry%20into%20Insurers%27%20Response%20to%202022%20Major%20Floods%20Claims.pdf

Australian Pro Bono Centre (2023) *Pro Bono Response To Natural Disasters*. Sydney. www.probonocentre.org.au/wp-content/uploads/2023/10/2023.10.09-Pro-Bono-Disaster-Response-Report-FINAL.pdf

Balmer NJ, Pleasence P, McDonald HM and Sandefur RL (2023) *The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need*. Victorian Law Foundation, Melbourne. https://cdn.prod.website-files.com/64cb3eaa05058fe9b199601b/66d6a986f46cb803fc4fc2e2_The%20Public%20Understanding%20of%20Law%20Survey%20Volume%201.pdf

Bushfire Legal Help (2010) *Legal assistance and community recovery after the 2009 Victorian bushfires: The Bushfire Legal Help response*. Victoria Legal Aid, Melbourne. NA2JPBC2010-BushfireLegalHelpReport-36.pdf

Commonwealth of Australia (2020) *Royal Commission into National Natural Disaster Arrangements Report*. Commonwealth of Australia, Canberra. Royal Commissions website www.royalcommission.gov.au/natural-disasters/report

Cortis N and Blaxland M (2022) Helping people in need during a cost-of-living crisis: findings from the Australian Community Sector Survey. Australian Council of Social Service, Sydney. www.acoss.org.au/helping-people-in-need-during-a-cost-of-living-crisis-findings-from-the-australian-community-sector-survey/

Coumarelos C, Macourt D, People J, McDonald HM, Wei Z, Iriana R and Ramsey S (2012) *Legal Australia-Wide Survey: legal need in Australia*. Law and Justice Foundation of NSW, Sydney. https://lawfoundation.net.au/wp-content/uploads/2023/11/31PJR_Legal-Australia-Wide-Survey.-Legal-need-in-Australia_2012.pdf

Currie A (2007) *The Legal Problems of Everyday Life: The Nature, Extent and Consequences Of Justiciable Problems Experienced by Canadians*. Department of Justice Canada, Ottawa. https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07_la1-rr07_aj1/rr07_la1.pdf

Financial Counselling Australia (2023) Financial counselling sector: Submission to the inquiry into insurers' responses to 2022 major flood claims. Submission to House of Representatives Standing Committee on Economics Inquiry into insurers' responses to 2022 major floods claims.

Hipkin F (2021) After the aftermath: Legal assistance for communities impacted by disasters. *Precedent*.

Kothe EJ, Butler K and Mirrlees-Black C (2024) Natural disaster related legal need in Australia: State of the Evidence. Law and Justice Foundation of NSW, Sydney. <https://lawfoundation.net.au/wp-content/uploads/2025/02/Natural-Disasters-report-FINAL.pdf>

Legal Aid NSW (2023) Legal Aid NSW submission to the House of Representatives Standing Committee on Economics Inquiry into insurers' responses to 2022 major floods claims.

McDonald H (2023) Presentation of PULS Bushfire Analyses. Insights on Community Legal Need: PULS findings and implications for NSW. Sydney NSW.

McKenzie JW, Longman JM, Bailie R, Braddon M, Morgan GG, Jegasothy E and Bennett-Levy J (2022) 'Insurance Issues as Secondary Stressors Following Flooding in Rural Australia-A Mixed Methods Study', *International Journal of Environmental Research and Public Health*, 19(11):6383. <https://doi.org/10.3390/ijerph19116383>

National Emergency Management Agency (2024) Get Support [Online]. National Emergency Management Agency website <https://nema.gov.au/get-support/>, accessed 24 May 2024.

Pleasence P (2006) *Causes of action: civil law and social justice*. The Stationery Office, London.

Pleasence P, Balmer NJ, Patel A and Denvir C (2010) *Civil Justice in England and Wales 2009: Report of the 2006-09 English and Welsh Civil and Social Justice Survey*. Legal Services Research Centre, London.

Star C and Sutton Z (2021) *Final Report – South Australian Bushfire Legal Services: Review of current practices*. Climate and Sustainability Policy Research Group, Flinders University, Adelaide.

van den Nouwelant R and Cibin A (2022) *The impact of housing vulnerability on climate disaster recovery: The 2022 Northern Rivers Floods*. UNSW, Sydney. <https://cityfutures.ada.unsw.edu.au/documents/700/Northern-Rivers-postflood-housing-20221102.pdf>

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