

CLAIM FARMING PRACTICES PROHIBITION BILL 2025 STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Claim Farming Practices Prohibition Bill 2025 (**the Bill**) seeks to prohibit the practice of “claim farming” in NSW in relation to certain personal injury claims to which the *Civil Liability Act 2002* (NSW) applies as well as personal injury claims arising from intentional torts.

The Department of Communities and Justice conducted targeted consultation with victims’ advocacy groups, NSW government agencies and legal stakeholders in 2024 to identify the need for reform in this area.

The consultation found broad agreement among stakeholders that claim farming is having negative and traumatic impacts on potential claimants. Examples of problematic claim farming practices identified by stakeholders included third parties (“claim farmers”):

- Obtaining personal information and contacting potential claimants without their consent;
- Encouraging potential claimants to lodge legal claims, including by:
 - using high-pressure and misleading tactics such as harassment or intimidation, and
 - making promises about legal entitlements which may not be correct or in the claimant’s best interests; and
- Collecting referral fees from a law practice or another claim farming organisation for claims.

A number of stakeholders noted that this kind of behaviour is particularly concerning in cases involving historical child abuse, where victim-survivors may be re-traumatised and financially exploited.

Some stakeholders also raised concerns that claim farming may increase the potential for the bringing of illegitimate claims, which may call into question the integrity of legitimate claims.

Objectives: What is the policy’s objective couched in terms of the public interest?

There is a strong public interest in protecting members of the community from the negative and traumatic impacts of claim farming. By prohibiting claim farming in relation to certain personal injury claims in NSW, the Bill aims to protect the community from unethical, predatory and exploitative claim farming practices.

The Bill is not intended to remove legitimate pathways that facilitate access to justice and ensure that members of the public are informed of their legal rights.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The Government considered whether the policy objective could be achieved by strengthening the professional and ethical conduct rules that apply to lawyers and law practices in respect of conflicts of interest and receipt of financial benefits under the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (**Solicitors' Conduct Rules**).

Analysis: What were the pros/cons and benefits/costs of each option considered?

The Government determined that strengthening the Solicitors' Conduct Rules would not achieve the policy objective for a number of reasons.

Firstly, the Solicitors' Conduct Rules apply only to solicitors and are not capable of regulating the conduct of third-party individuals and organisations who engage in claim farming practices. Prohibiting claim farming in respect of third-party conduct may therefore only be achieved through legislative reform.

Secondly, under the Legal Profession Uniform Law framework the Law Council of Australia is responsible for developing the Solicitors' Conduct Rules and not the Government. The Government cannot require the Law Council of Australia to amend the Conduct Rules to explicitly prohibit claim farming practices.

Thirdly, the Government considers that the disciplinary consequences associated with breaching the Solicitors' Conduct Rules would not have a sufficiently strong deterrent effect in any event, given the strong financial incentives associated with claim farming.

In contrast, the prohibitions on claim farming proposed through this Bill address the drawbacks outlined above by:

- Appropriately targeting third-party individuals and organisations who are engaging in claim farming practices
- Making it an offence for any person, including a lawyer or law practice, to make prohibited contact with a claimant, or provide or receive consideration for a claim referral
- Including additional financial consequences for lawyers who engage in prohibited conduct, including that the law practice may not charge or recover legal costs, and must immediately refund any legal costs received, in relation to the claim to which a conviction relates. This is complemented by an express statement that lawyers may also face professional regulatory consequences for engaging in prohibited conduct.

This approach will better protect members of the community from the potential trauma and distress that may be caused by claim farming practices, and better support the justice system by disincentivising illegitimate claims.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill will commence on assent. The NSW Courts, the NSW Police Force and the Office of the NSW Legal Services Commissioner have been given adequate time to prepare for commencement, including in relation to the updating of internal systems and policies.

The NSW Police will be responsible for investigating and prosecuting alleged contraventions of the offence provisions in the Bill. The NSW Legal Services Commissioner will be responsible for investigating alleged misconduct by lawyers in connection with the offences in the Bill and taking disciplinary action where conduct falls short of the standard reasonably expected of a lawyer, regardless of whether charges have been laid by NSW Police or a conviction has been recorded.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The NSW Government has undertaken extensive consultation during the development of the policy and resulting Bill.

In 2024, the Department of Communities and Justice sought submissions from victims' advocacy groups, NSW government agencies and legal organisations to identify the need for reform and to inform policy development.

In January 2025, an exposure draft bill and accompanying background paper were released for public consultation. Submissions or written comments were received from legal peak bodies, plaintiff firms, victims' support and advocacy organisations, religious bodies, the insurance industry and NSW government agencies. Non-confidential submissions are published on the Department of Communities and Justice website. A number of changes were made to the final Bill in response to stakeholder feedback.