

**41st Annual Report 2018-19**



Legal Services Commission of South Australia

[www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)



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# Chairperson's Letter 2018-19

The Honourable Vickie Chapman MP  
Deputy Premier  
Attorney-General  
Attorney-General's Department  
45 Pirie Street  
ADELAIDE SA 5000

Dear Deputy Premier,

I am pleased to present the Annual Report of the Legal Services Commission for the financial year ending 30 June 2019, pursuant to section 33 of the *Legal Services Commission Act 1977*.

In compliance with its mandate, the Commission continues to provide high quality, efficient and economic legal assistance services, with expenditure in line with budget.

In January 2019 the Commission recorded 40 years of providing legal assistance to the South Australian community. This important anniversary afforded an opportunity to reflect on the Commission's legacy of the provision of access to justice for those persons who would otherwise be unable to afford the benefit of legal advice and representation. I acknowledge the excellent work of the current Director and staff of the Commission, as well as that of former Directors and employees who have served the organisation over the last 40 years. I thank them all.

In the same spirit I thank those 600 plus members of the legal profession who constitute the Commission's legal practitioner panels and provide legal assistance through grants of aid. Over the last 40 years the enduring partnership between the Commission and the private legal profession has been instrumental in supporting the South Australian justice system with the highest standards of efficiency and professionalism.

The allocation of legal representation work among the legal practitioners at the Commission and those in private practice has consistently stayed at a 35/65 split. This year in-house legal practitioners acted on 4 345 grants of aid and private legal practitioners acted on 11 816 grants of aid.

I thank current and past Commissioners with whom I have worked for their good governance, advice and support. In April the Commission farewelled long-standing Commissioner Alan Herald. He had been a Commissioner since 2012. A senior accountant of many years national and international experience, he was appointed to provide financial expertise and guidance to the Commission. I welcome new Commissioner Debra Contala who has a wealth of experience providing high-level financial advice to statutory bodies, including when she held the position of Public Trustee.

This will be my final report as Chairperson as my term will expire in December 2019. I have been Chairperson since December 2013 and during that time I have presided over significant changes to the Commission's governance and service delivery. I am proud of my achievements as Chairperson and I believe that I leave the Commission in a strong position for the future.

As a final note of caution I observe that there has been no resolution to the impact of major indictable reform introduced in March 2018. This reform has resulted in considerable delay in cases progressing from the Magistrates Court to the District Court and it is likely that there will be a spike in the number of cases to be funded by the Commission once that delay is resolved. Careful budgeting will be needed to cover this expense.

I thank you Deputy Premier for your continued support. I have enjoyed working with you. It has been a pleasure to serve the South Australian community through the significant work of the Legal Services Commission.



Michael Abbott, AO QC  
**Chairperson**

# Snapshot

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Legal Services Commission of South Australia

[www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

# Snapshot 2018-19

## Who we are and what we do

The Legal Services Commission (the Commission) is an independent statutory authority. It is established by the *Legal Services Commission Act 1977* (the Act) to provide legal assistance to people throughout the State. It seeks to give all South Australians equal access to justice through the legal system, providing free legal information, legal advice and legal education to all. To those most in need, legal representation is also provided. The Commission is funded by both the South Australian government and the Commonwealth government and has the powers, functions and duties prescribed or imposed on it by the Act. In 2018-19 the Commission received income of \$51 836 000.

The Commission is the largest legal assistance service in South Australia, with 181 staff, 103 of whom are legal practitioners. Legal representation is provided by those Commission legal practitioners and 542 private lawyers who have been accepted onto the Commission's panel of legal practitioners. Five Commissioners, four appointed by the Governor on the nomination of the Attorney-General, plus the Director, determine the policy and set the direction of the Commission. Delivering more than 135 000 legal assistance services, the Commission plays a vital role in the justice system through a central office in Adelaide, five suburban and regional offices in Elizabeth, Noarlunga, Port Adelaide, Port Augusta and Whyalla and outreach clinics at Murray Bridge and Mt Barker. Legal information and advice can also be accessed from a free call legal helpline on 1300 366 424 and through the online legal services of legal chat, 24Legal and the Law Handbook, all available through the Commission website at [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au).

In performing its functions the Commission must–

- seek to ensure legal assistance is provided in the most efficient and economical manner
- use its best endeavours to make legal assistance available to persons throughout the State, and
- have regard to the following factors:
  - the need for legal assistance to be readily available and easily accessible to disadvantaged persons
  - the desirability of enabling all assisted persons to obtain the services of legal practitioners of their choice
  - the importance of maintaining the independence of the legal profession, and
  - the desirability of enabling legal practitioners employed by the Commission to utilise and develop their expertise and maintain their professional standards by conducting litigation and doing other kinds of professional legal work.

## Snapshot 2018-19

The Commission's Corporate Plan provides for–

### **Vision**

The provision of quality, independent legal assistance to South Australians

### **Beliefs**

- The rule of law
- People matter
- Our clients have an entitlement to fair treatment
- Integrity and quality are important
- Our staff are valuable
- We deliver an essential service
- Cost efficiency matters
- Accountability is necessary
- Change for beneficial purposes is desirable

### **Goals**

- To provide clients with accessible information, advice and representation to meet their legal needs.
- To work in partnership with other members of the legal community to deliver to our clients equitable access to the justice system.
- To provide a safe, healthy, rewarding, satisfying work environment.
- To provide quality legal assistance efficiently and effectively.
- To satisfy the community that we fulfil our statutory and contractual obligations and are deserving of ongoing financial support.
- To provide timely research and advice on legal issues to the government and the community.
- To inform governments of the likely impact on the Legal Services Commission and the community of proposed changes to legislation and policy.

## Snapshot 2018-19

### Offices

The Commission offices are located at the following addresses:

#### Adelaide

159 Gawler Place  
Adelaide 5000

T: 08 8111 5555  
F: 08 8111 5599

#### Elizabeth

Windsor Building  
Elizabeth Shopping Centre  
Elizabeth 5112

T: 08 8111 5400  
F: 08 8207 9333

#### Noarlunga

Noarlunga House  
Centro Colonnades  
Shopping Centre  
Noarlunga Centre 5168

T: 08 8111 5340  
F: 08 8207 3880

#### Port Adelaide

ANL House  
306 Vincent Street  
Port Adelaide 5015

T: 08 8111 5460  
F: 08 8207 6277

#### Port Augusta

34 Flinders Street  
Port Augusta 5700

T: 08 8686 2200  
F: 08 8648 5370

#### Whyalla

Tenancy 7  
169 Nicolson Avenue  
Whyalla Norrie 5608

T: 08 8620 8500  
F: 08 8648 8950

# Our Year

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*“Every person in South Australia is required to live under, and obey, the law.*

*But every person is also entitled to use the law to protect his or her rights and interests.*

*If some members of the community, but not others, have access to the protection of the law, then people are denied justice, the path of the law is skewed and the law itself inevitably becomes unfair.*

*The Legal Services Commission was established by the South Australian government to ensure that all people in this state have access to legal services, regardless of whether or not they can afford to pay for private legal representation.”*

Susan Armstrong  
First Director of the Commission, 1979

# Highlights 2018-19

Port Augusta office moved to new and improved premises

Over 600 private and in-house panel practitioners available to provide legal representation

90% plus client satisfaction in the Commission's biennial survey

40th year since the establishment of the Commission

Funding secured for a dedicated men's social worker in the *Family Advocacy and Support duty lawyer service*

Establishment of the Commonwealth *Family Violence and Cross-examination of Parties Scheme*

Further funding from the Commonwealth government for the online dispute resolution tool for family law matters

Successful tender for the *Women's Domestic Violence Court Assistance Service*

More than 135 000 legal assistance services delivered

# Director's Report 2018-19

The Commission faced a challenging year with State Government funding cuts of \$6.07m over five years impacting on service delivery from 1 July 2018.

Every aspect of the Commission's operational and overhead costs were examined to find savings. This resulted in the need to reduce staff numbers and changes were made to the items funded under the legal aid fee scales. Our office at Mount Barker was closed.

I am pleased to report that the Commission finished the 2018-19 financial year within budget. Careful management of costs however will need to continue over the next four years.

Negotiations have commenced for the next funding agreement with the Commonwealth government. Sufficient funding through this four year agreement is vital for us to deliver much needed family law services to the South Australian public.

## Highlights and Achievements

In January 2019 the Commission celebrated the 40th anniversary of service delivery. It is a pleasure to report that in this auspicious year the Commission achieved outstanding results in its biennial client satisfaction survey. The survey is conducted pursuant to the *National Partnership Agreement on Legal Assistance Services* and first took place in 2017. While the Commission's 2017 results were excellent, there was further improvement in the 2019 survey. Overall the percentage of respondents who were satisfied with the services provided by the Commission was over 90%. These results highlight how much clients value the work of the Commission and demonstrate to our funders that the Commission is delivering quality services, listening to clients and treating them with respect.

In January the Commission was nominated by the Commonwealth Attorney-General to take the lead role in establishing the family law *Family Violence and Cross-examination of Parties Scheme*. This national scheme is designed to provide protection to victims of family violence who are cross-examined as part of their family law proceedings. Personal cross-examination is now banned in certain circumstances where allegations of family violence have been raised. Instead cross-examination is to be conducted by private legal practitioners or by legal practitioners funded by the Commonwealth through legal aid commissions.

The Commission continued to enjoy the support of the Commonwealth Attorney-General with the provision of further funding for the development of an innovative online dispute resolution tool for family law matters. This national online resource will provide an alternative pathway for families to resolve disputes arising through separation.

## Director's Report 2018-19

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In May 2019 the Commission was the successful tenderer to provide the *Women's Domestic Violence Court Assistance Service* based at the Adelaide Magistrates Court. This service is funded by the South Australian government and will commence on 1 July 2019. The Commission will be providing a range of services, including helping women apply for intervention orders and ending lease agreements under the domestic abuse provisions in the *Residential Tenancies Act 1995*. The Commission's success reflects its long experience working with vulnerable community members.

In June 2019 the Commission moved its Port Augusta office to new premises. These modern, high-quality facilities will ensure that our regional staff and clients have a safe and comfortable environment in which to deliver and receive legal services. Out-reach services have been established in Mount Barker and Elizabeth GP Plus Clinics, reflecting the need to deliver services to clients at places convenient to them. The 2012 *Legal Australia Wide Survey* demonstrated that clients will often discuss their legal needs with a doctor before they approach a lawyer.

Other key highlights and achievements during 2018-19 included the following:

- The introduction of an automated answering service, reducing reliance on call transfers by our switchboard operators.
- Entering an information-sharing partnership with the *Women and Children Protection and Family Planning Office of West Java*. In March 2019 the Commission hosted a visit by the head of the organisation, Dr Jatti Indriati and two of her colleagues. A return visit by our staff is being organised for August 2019.
- Taking on a new jurisdictional responsibility in the Youth Court of representing children who are parties to proceedings under the *Adoption Act 1988*. Increased demand for representation for children under the *Children and Young People (Safety) Act 2017* resulted in an increase in staffing in this court.
- Refreshing the Corporate Plan with new strategic goals for 2019 to 2022.

I thank all staff of the Commission for their dedication, expertise and commitment in delivering legal assistance services during a challenging year. It was great to celebrate two of the Commission's practitioners receiving awards for their work this year. The *Law Society of South Australia's Gender Equity in Law Award* was presented to Leah Marrone, and the other, the *Dr Robyn Layton AO QC Award* presented by the Women Lawyers Association of South Australia for outstanding efforts in the law as a practising lawyer in South Australia, was won by Trish Johnson.

## Director's Report 2018-19

I also express my thanks to the private legal practitioners who act on grants of aid and look forward to their continuing support.

I acknowledge the commitment to legal aid of the South Australian Attorney-General, the Hon Vickie Chapman MP and the Commonwealth Attorney-General, the Hon Christian Porter MP.

Finally, our Chairperson Michael Abbott AO QC, has indicated he will not seek a new term as Chairperson once his term expires in December 2019. I thank him for his dedicated service over the last six years and for his guidance and support. I wish him well for the future.

I also thank former Commissioner Alan Herald who provided invaluable advice and good governance over his seven year term. I acknowledge and thank the Panel of Assessors who volunteer their time to hear appeals against refusals to grant legal aid.

Gabrielle Canny

**Director**

**Legal Services Commission**

# Summary of Services 2018-19

	2016-17	2017-18	2018-19
Telephone information and advice sessions	67 591	66 577	66 439
Advice appointments	20 601	18 373	15 077
Legal Chat online sessions	4 788	5 090	6 342
24Legal ( <i>information accessed through a decision tree</i> )	*1 401	8 686	11 143
Participants in legal education sessions	7 250	6 176	7 055
Duty lawyer services	14 249	13 610	12 790
Grants of aid for legal representation	16 727	15 805	16 161
Other legal representation		372	484
<b>Total client services</b> ( <i>excluding website page views</i> )	<b>132 607</b>	<b>134 689</b>	<b>135 491</b>
Distribution of publications	67 888	65 418	51 207
Law Handbook page views	2 089 860	2 521 500	2 297 545
Commission website page views	931 234	1 002 364	804 069
Applications for aid received	19 612	18 269	18 270
Applications assigned in-house	5 474	4 825	4 345
Applications assigned externally	11 253	10 980	11 816
FDR conferences held	953	863	875
FDR conferences settled - percentage	79%	83%	86%
ICL appointments	334	274	297

\*24Legal commenced in March 2017

# Our Clients

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*Every member of the South  
Australian public is entitled to  
receive free legal information and  
advice from the Commission.*

*Some people are also able to  
access legal representation.  
These people are among the most  
disadvantaged in our community.*

# Commission Clients 2018-19

In 2018-19, nearly 28 000 individual clients received legal assistance from the Commission by way of a new grant of aid for legal representation, a legal advice appointment or a court based legal service. This count of clients does not include people who received telephone or website information, participated in community legal education or received ongoing representation services in a matter in which funding was initially granted in a previous year.

Commission clients are among the most disadvantaged in our community. Of the clients who received legal representation, a legal advice appointment or a court based legal service–

- 63% were receiving a government benefit
- 19% were under 25 years of age
- 17% were from a culturally and linguistically diverse background
- 16% self identified as having a disability or mental illness
- 14% were living in regional or remote South Australia
- 11% were in custody
- 9% identified as Aboriginal or Torres Strait Islander
- 6% were 65 years of age or over
- 5% required the assistance of an interpreter.

*\*Based on the ABS definition of people from culturally and linguistically diverse backgrounds.*

Strategies to improve services and access for people who fall within one of these priority client groups are regularly reviewed. The Commission assists clients to access services by providing–

- interpreters
- a telephone typewriter service
- advice appointments by telephone so as not to disadvantage regional or remote clients, or those with mobility issues
- online legal information services
- Readspeak on the Commission website for clients who are visually impaired or prefer spoken language
- regional offices
- prison visits

## Commission Clients 2018-19

- video conferencing appointments
- written information in community languages, including Braille
- video information for newly emerging new arrival communities in Arabic, Farsi, Liberian English, Nepali, Pashto, Sierra Leone Krio, Sudanese, Arabic and Swahili
- dedicated community legal education projects for new arrivals (culturally and linguistically diverse), people with a disability, young people and community workers
- 'Easy English' legal information factsheets
- social media engagement
- regional and remote areas radio interviews
- Webinar legal training for community workers who assist priority groups
- video information in Auslan.

Client group	Grant of Aid	Advice Appointment	Duty Lawyer Service	Total
<b>Receives a government benefit</b>	12 460	8 032	8 920	<b>29 412</b>
<b>Disability or mental illness</b>	4 211	1 268	3 300	<b>8 779</b>
<b>In custody</b>	4 111	589	3 069	<b>7 769</b>
<b>Under 25 years of age</b>	3 897	1 229	2 617	<b>7 743</b>
<b>Lives in regional or remote SA</b>	2 433	1 439	1 794	<b>5 666</b>
<b>Aboriginal or Torres Strait Islander</b>	2 582	480	1 703	<b>4 765</b>
<b>Culturally and linguistically diverse</b>	1 133	2 388	1 089	<b>4 610</b>
<b>Requires an interpreter</b>	434	1 676	449	<b>2 559</b>
<b>65 years of age or over</b>	157	1 971	274	<b>2 402</b>



# Client Services

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*The Commission provides the following services to clients:*

- *Prevention and Early Intervention Services*
  - *Legal Information and Advice*
  - *Community Legal Education*
- *Family Dispute Resolution Service*
- *Court Based Services*
  - *Criminal Law Duty Solicitor Service*
  - *Family Advocacy and Support Service*
  - *Civil Law Court Services*
- *Legal Representation Services*
  - *Criminal Law*
  - *Family Law*
  - *Care and Protection*
  - *Civil Law*

# Prevention and Early Intervention Services 2018-19

Preventative and early intervention services aim to assist the public to understand legal options at the earliest opportunity, thereby reducing the likelihood of a legal problem escalating and avoiding the expense of litigation where possible.

## Legal information and advice

The Commission provides free legal information and advice–

- by telephone, through the legal helpline on 1300 366 424
- in person, at six city and regional offices and at various outreach locations
- through the online services of Legal Chat, 24Legal and the Law Handbook, all available through the Commission website – <http://www.lsc.sa.gov.au>
- via information posts on Twitter, YouTube and Facebook.

## Telephone information and advice

Calls to the Commission legal helpline are answered from 9am to 4.30pm each business day, with callers receiving immediate legal information and advice or a referral to an appropriate specialist agency.

## In person advice appointments

If it is identified during a telephone call or the online legal chat service that further legal advice may be required, an appointment will be scheduled at one of the Commission offices or, where appropriate, through referral to a local community legal centre. In addition to the Commission offices in Adelaide, Elizabeth, Noarlunga, Port Adelaide, Port Augusta and Whyalla, legal advice appointments can be booked at–

- the Murray Bridge Community Centre
- Summit Health Care at Mount Barker, or
- the GP plus Clinic at Elizabeth.

Commission advisers also attend at the Adelaide Remand Centre, the Pre-release Centre, the Women's Prison, Yatala Prison and Mobilong Prison to provide legal advice on matters that impact on prisoners' families. This commonly includes advice in relation to family law, child protection, debts and wills and estates.

# Prevention and Early Intervention Services 2018-19

## Specialist advice services

In addition to general legal advice, specialist legal advice is offered in the following areas:

**Migration** – Legal advice and extended assistance is provided to clients in migration matters. Alleged domestic violence against provisional partner visa holders by their partners continues to be the leading cause for clients to seek our service. Other matters include claims for permanent protection visas and refugee humanitarian visas to reunite UNHCR resettled refugees with their immediate family members.

A telephone advisory service is available for recipients of proposed visa cancellations based on character grounds. This generally involves prisoners convicted of serious criminal offences being faced with deportation.

384 migration services were provided this financial year.

**Child Support** – Advice by specialist legal practitioners is provided to clients in relation to all child support and maintenance matters. The child support helpline operates each weekday, with free follow up appointments and extended assistance services if required. Representation is provided, subject to means and merit tests, where court applications or more substantial services are required.

**Domestic Violence** – A domestic violence unit situated at Elizabeth provides legal information, advice and warm referrals to other support services and agencies for women suffering domestic violence. Specialist advice and support is provided for–

- intervention orders
- family law
- debts/property
- tenancy/housing issues
- victims of crime compensation
- migration matters.

**Consumer law and consumer credit law** – A specialist legal adviser provides advice in consumer law and consumer credit law. This adviser regularly provides information on consumer issues on ABC radio.

### Case study—Domestic violence unit

*Jade\* was referred to our Domestic Violence Unit (DVU) as she was seeking legal advice regarding the termination of a joint tenancy agreement with her ex-partner.*

*Jade was the victim of domestic violence perpetrated by her ex-partner at the leased premises. He had been arrested and charged by police in relation to the incident. His bail conditions required him to continue residing at the property, and police had issued an Intervention Order for Jade's protection, preventing the parties from having contact.*

*Jade decided to vacate the premises with the parties' infant son, as she considered that it was no longer safe or practicable for her to remain living there. She then experienced difficulty ending the lease agreement, as the real estate agent did not take into consideration Jade's circumstances as required under the domestic violence provisions of the Residential Tenancies Act 1995. The agent had been insisting that Jade provide 28 days notice to vacate and terminate the lease, and was also seeking to hold Jade liable for costs and compensation in relation to the proposed early termination.*

*The DVU solicitor advocated on Jade's behalf, but was unsuccessful in negotiating an end to the lease without Jade incurring further costs. Because the agent was unwilling to negotiate, an application to the South Australian Civil and Administrative Tribunal was made on Jade's behalf, seeking a termination of the tenancy on the grounds of domestic violence and financial hardship. It was submitted that in the circumstances Jade should not be liable to pay compensation for any loss arising from an early termination, and that the agent should be prevented from making an adverse entry in relation to Jade on any tenancy database.*

*The outcome was that by agreement between the parties, an Order was made to settle all the matters in dispute. The tenancy was immediately terminated, and the tenancy bond paid to the landlord in full compensation. Jade was relieved at the outcome, saying that it was much better than she had expected.*

*\*Not her real name.*

# Prevention and Early Intervention Services 2018-19

## Key achievements

### Funding successes

The following funding opportunities relating to early intervention and prevention legal services were successfully applied for this financial year:

- *Domestic Violence Unit and Health Justice Partnership* – The Commonwealth government extended the funding for this program, agreeing that it will become part of the Commission's core funding. Additional funding is also being provided to include financial counselling services within this service.
- *Women's Domestic Violence Court Assistance Service* – The Commission successfully tendered to deliver this service. Under the terms of the tender, the State government will provide funding from 1 July 2019 for the provision of legal advice and representation to women who, as a result of domestic violence, may need assistance in applying for an intervention order in the Magistrates Court or a residential tenancy order through the South Australian Civil and Administrative Tribunal.
- *Photo Legal* – The Law Foundation provided funding for Photo Legal software. This software provides a means of securely sending documents online between clients and the Commission. It is still in the development stage but once operational will be of invaluable assistance to rural and remote clients.
- *National Disability Insurance Scheme (NDIS)* – The Commission successfully applied for continuing and increased funding to meet demand in NDIS matters.

### Online technology

Clients continue to take advantage of online technology to find answers to their legal questions. The Commission's Legal Chat service is an online chat tool accessed through the Commission's website. It was launched in September 2015 and as at 30 June 2019 over 19 300 legal chats had occurred between the public and Commission legal advisers. A 25% increase in users occurred between 2017-18 and 2018-19.

24Legal is an online platform, available on the Commission website, that provides legal information through a decision tree format. Site visitors find answers to legal questions by clicking on questions and answers contained in various decision trees, with each decision tree targeting a specific area of law. 24Legal was launched in March 2017 and since that date clients have entered more than 21 200 decision trees for legal help. Between 2017-18 and 2018-19 the number of decision trees accessed increased by over 28%.

### Client Feedback

The following feedback was received in relation to the Commission's legal information and advice service.

*Last year I contacted your office for legal advice and saw a woman, D, at the city office. I wish for her supervisor to be aware that when I first walked into Legal Services Commission I was very troubled with the matter/matters I was enduring. D's support was instrumental to my healing and taking back my power. Her empathy, compassion and kindness enabled me to pursue the matter/matters (which are still ongoing). I feel this is needed to be noted by her supervisor. Also, I would like you to note that due to the above correspondence, I am now seeking to study law to work for the community. Prior to this or these events, I believed all lawyers were the scum of the earth. All it takes is a sincere being to change your mindset. I am grateful for her support.*

## Prevention and Early Intervention Services 2018-19

### Facts and figures

In 2018-19 Commission advisers provided free legal information and advice in more than 66 000 telephone calls and free legal advice in more than 15 000 appointments. The following tables indicate the types of matters about which information and advice was provided.

#### Top five telephone information enquiries    Top five advice sessions

2018-19	Count	2018-19	Count
Family law - contact with children	4 428	Family law - contact with children	876
Fences / retaining walls	4 224	Property settlement	834
Law in general	3 442	Fences / retaining walls	578
Property settlement	3 008	Consumer problem	514
Court information	2 567	Motor vehicle property damage	503

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#### Type of session by law type

	Criminal	Family	Child Protection	Civil
Advice appointments	13%	31%	1%	55%
Telephone information and advice	17%	23%	1%	59%
Legal Chat	19%	23%	0%	58%

#### Criminal law sessions

	2014-15	2015-16	2016-17	2017-18	2018-19
Advice appointments	3 789	3 064	2 728	2 432	1 924
Telephone information and advice	12 116	12 087	11 185	11 017	11 302
Legal Chat		*687	1 017	871	1 175
<b>Total</b>	<b>15 905</b>	<b>15 838</b>	<b>14 930</b>	<b>14 320</b>	<b>14 401</b>

\*Legal Chat was established in September 2015

## Prevention and Early Intervention Services 2018-19

### Family law sessions

	2014-15	2015-16	2016-17	2017-18	2018-19
Advice appointments	8 328	6 698	6 308	5 767	4 732
Telephone information and advice	16 312	17 747	16 015	15 238	15 227
Legal Chat		*739	1 096	1 098	1 477
<b>Total</b>	<b>24 640</b>	<b>25 184</b>	<b>23 419</b>	<b>22 101</b>	<b>21 436</b>

\*Legal Chat was established in September 2015

### Care and protection sessions

	2014-15	2015-16	2016-17	2017-18	2018-19
Advice appointments	126	133	180	131	132
Telephone information and advice	247	397	346	361	416
Legal Chat		*4	11	13	18
<b>Total</b>	<b>373</b>	<b>534</b>	<b>537</b>	<b>505</b>	<b>566</b>

\*Legal Chat was established in September 2015

### Civil law sessions

	2014-15	2015-16	2016-17	2017-18	2018-19
Advice appointments	12 967	11 659	11 586	10 094	8 198
Telephone information and advice	39 598	42 316	40 985	40 322	39 494
Legal Chat		*1 863	2 637	3 121	3 672
<b>Total</b>	<b>52 565</b>	<b>55 838</b>	<b>55 208</b>	<b>53 537</b>	<b>51 364</b>

\*Legal Chat was established in September 2015

### Community Legal Education

The Commission's community legal education program targets four priority groups–

- new migrants
- young people
- older people
- people with disabilities.

These groups are prioritised by the *National Partnership Agreement on Legal Assistance Services 2015–2020* and were identified by the 2012 *Legal Australia Wide Survey* as being amongst the groups most vulnerable to having unresolved legal problems.

Community Legal Education is delivered through the following programs.

Program	Description
Legal resource development and maintenance	The production of clear, plain English, interpretations of the law for use by Commission legal advisers, duty lawyers, and the general public. As legislation is enacted, the law is analysed and resources updated.
Media and Communications	The Commission has an extensive online presence, including social media and digital platforms. Commission advisers regularly speak on South Australian radio programs and provide legal comment for radio news broadcasts.
Publications	The Commission produces online legal information, multimedia resources and printed publications (factsheets and legal information guides) covering many legal topics. Fact Sheets and resources are available for download from the Commission website, and are generally available in hard copy to members of the public.
Webinars	Educational webinars are delivered to other service providers and the public. These sessions draw on the specialist legal knowledge of Commission lawyers. Topics are selected primarily to address the issues that confront people who are facing disadvantage, as contemplated by the <i>National Partnership Agreement on Legal Assistance Services 2015–2020</i> .

## Prevention and Early Intervention Services 2018-19

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Program	Description
<b>Training &amp; Information Sessions</b>	Commission advisers provide information sessions for professionals, community support workers and the public. In 2018-19 Commission staff participated in a number of community events, including the NAIDOC Family Fun Day at Tarntanyangga (Victoria Square). The Commission participates in the Adelaide Women's Prison Living Skills program for inmates on Keeping Safe Inside & Out by providing information and contacts for participants. The program is designed to equip inmates with skills to assist them both within prison and on release back into the community.
<b>Outreach</b>	Commission staff members engage in collaborative projects for hard to reach communities to increase their awareness of their rights and obligations under the law and the services that are available to them.
<b>Peer support</b>	In March 2019 the Commission hosted the National Legal Aid Community Legal Education Network meeting in Adelaide.

### Client Feedback

The following feedback was received in relation to the Commission's Community Titles booklet from a person on the management committee for a community title corporation:

*The guide is fantastic, it allows myself and other committee members to understand the Act and its many parts- we wouldn't be able to if it wasn't for the guide.*

# Prevention and Early Intervention Services 2018-19

## Facts and figures

Community Legal Education	2016-17	2017-18	2018-19
Sessions	238	230	227
Participants	7 250	6 176	7 055

Website page views	2016-17	2017-18	2018-19
Law Handbook	2 089 860	2 521 500	2 297 545
LSC website	931 234	1 002 364	804 069
Total	3 021 094	3 523 864	3 101 614

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### Top five online legal information topics by page views

Publications
Retaining walls
Negligence
Intent to sue
Criminal and traffic offences
Fences

### Top five publications distributed

Publications	
Fences and the Law	7 986
Do not knock	4 825
Trees and the Law	4 516
Power of Attorney	2 367
Family Law and You	2 248

# Family Dispute Resolution Service

## 2018-19

The *Family Law Act 1975* requires that in most cases, prior to making an application to the court for a parenting order, parties must have attempted family dispute resolution. Consequently, if a party to a dispute has received a grant of legal aid the Commission will generally hold a lawyer assisted family dispute resolution conference. At a conference, the following matters may be discussed:

- parenting arrangements
- division of property, including superannuation and debt (where parents are in dispute about children's issues)
- partner maintenance
- adult child maintenance
- international parental child abduction.

A screening process is conducted to ensure that a conference is appropriate and that it is safe for the parties to attend. The conference is chaired by a family dispute resolution practitioner, provided by the Commission, who has both legal and family dispute resolution qualifications. The chairperson helps family members to discuss their dispute and make decisions that are in the best interest of their children. A conference may be convened with everyone in the same room or, more commonly, by shuttle where parties and their lawyers occupy separate rooms for the mediation.

Usually, each person to the dispute will have a lawyer to provide legal advice and help make decisions. If agreement is reached at the conference, the dispute may be finalised without the need for court orders.

Conferences can occur both early in a family law matter in an attempt to avoid court proceedings or after proceedings have commenced in the family law courts to attempt to settle the dispute before the final hearing. Post filing mediation is often undertaken when family dispute resolution has not taken place prior to the filing of proceedings because of urgency or some other factor that makes it inappropriate to conduct a conference at that stage. These cases often involve more difficult factual situations, multiple parties, serious abuse or violence allegations and often the participation of an independent children's lawyer. A referral process has been established between the Commission and the Federal Circuit Court, with dates for conferences specifically allocated to fit in with the management of the case through the court system.

In the last financial year the settlement rate for both types of conference has been greater than 80%. Even where a matter does not settle at a conference the process is valuable. It limits the areas in dispute and focuses the parties' minds on a settlement process. After further negotiation agreement is often reached at the next court hearing.

A conference will often result in an interim arrangement, allowing parties to assess the impact of the arrangement before further discussion about a final agreement at a review conference.

# Family Dispute Resolution Service 2018-19

## Case Study

The benefit of a family dispute resolution conference can be seen in the following case study.

*Shortly after their son was born, A and B separated. They were living in a country town but A relocated to Adelaide and refused to allow B to spend time with the child. There were various allegations of violence and drug use and a fear that B would remove the child from A's care.*

*B made an application to the Federal Circuit Court and the court ordered the appointment of an independent children's lawyer (ICL) to represent the best interests of the child in the dispute.*

*The parties could not reach agreement but, with the support of the ICL, an interim arrangement was put in place that allowed B to have a series of supervised visits with the child at a children's contact centre. The matter was listed for trial but the trial was adjourned and the court made an order that the parties attend a family dispute resolution conference at the Commission.*

*At that conference, it was agreed that there be a further series of visits at the children's contact centre. It was agreed that the trial date be vacated and that the parties attend for a further family dispute resolution conference after an observational report was obtained from the centre following the conclusion of the visits.*

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## Facts and figures

Settlement rates at family dispute resolution conferences are high, and continue to grow.

	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Number of conferences</b>	777	780	953	863	875
<b>Settlement rate</b>	75%	77%	79%	83%	86%

# Court Based Services 2018-19

The Commission provides duty lawyers at the Magistrates court, the family law courts and the Youth Court. Legal advisers are also available in the Adelaide Magistrates Court and, on certain days, at the Administrative Appeals Tribunal.

## Criminal Law Duty Solicitor Service

Duty solicitors are present at all magistrates' courts in metropolitan Adelaide, in some country courts and in the Youth Court. In addition to providing assistance at court, duty solicitors see clients being held in the cells.

The presence of duty solicitors in the courts plays a significant role in the smooth running and administration of the criminal justice system. For clients arrested the previous night, duty solicitors–

- conduct bail applications
- give legal advice, and
- conduct simple guilty pleas.

Many of these clients are vulnerable due to mental illness, substance abuse, family breakdown and homelessness.

## Case Study

*A was arrested in relation to a number of “street” level type offences including theft, disorderly behaviour and state false details that occurred at a shopping centre. Bail was opposed by the prosecution due to the number of similar matters A had pending. A had an acquired brain injury and also an intellectual disability. Funding from NDIS had briefly stopped prior to the spate of offending for an unknown reason. As a result, A was unable to manage his affairs and he was partly offending due to the lack of support services available to him. He also didn't have the capacity to reengage the services himself. The duty solicitor assisted A whilst in custody on these fresh charges. The duty solicitor also sought the assistance of the Forensic Court Assessment and Diversion Service (FCADS). FCADS were able to immediately assess A and follow up with his community mental health team and the Public Trustee to ensure that he could be supported in the community and have his funds reinstated. Following this, an application for bail was made by the duty solicitor on behalf of A. He was granted bail as the Magistrate had confidence he would be connected to the appropriate mental health and disability support services, thereby ameliorating his risk of reoffending. Had A not had the assistance of the duty solicitor service he would not have been able to put forward a strong application for bail and reconnect with support services. This would have increased the likelihood of his offending continuing and/or of him being remanded in custody.*

## Court Based Services 2018-19

### Facts and figures

In 2018-19, 10 586 criminal law duty solicitor services were provided. 10 160 of these services were provided by a Commission in-house duty lawyer, with the remaining 426 provided by private legal practitioners funded by the Commission.

#### Criminal law duty solicitor services by court type and work type

	Advice	Mention	Plea	Contested Bail Application	Hearing	Other	Total
<b>Supreme Court</b>	1	0	0	0	0	0	<b>1</b>
<b>District Court</b>	1	0	0	5	0	5	<b>11</b>
<b>Magistrates Court</b>	1 726	357	9	4 291	90	3 488	<b>9 961</b>
<b>Youth Court</b>	297	3	1	134	7	165	<b>607</b>
<b>No court proceedings</b>	5	0	0	0	0	1	<b>6</b>
<b>Total</b>	<b>2 030</b>	<b>360</b>	<b>10</b>	<b>4 430</b>	<b>97</b>	<b>3 659</b>	<b>10 586</b>

## Court Based Services 2018-19

### Criminal law duty solicitor services by location and work type

Court	Advice	Mention	Plea	Contested Bail Application	Hearing	Other	Total
Adelaide	863	227	3	942	4	1 605	<b>3 644</b>
Berri	70	8	0	38	0	133	<b>249</b>
Christies Beach	288	23	0	530	1	266	<b>1 108</b>
Elizabeth	367	6	2	1 772	8	272	<b>2 427</b>
Kadina	1	0	0	0	0	0	<b>1</b>
Kingscote	0	0	0	2	0	4	<b>6</b>
Millicent	5	0	0	0	0	17	<b>22</b>
Mount Barker	19	23	0	4	0	40	<b>86</b>
Mount Gambier	29	0	0	8	1	76	<b>114</b>
Murray Bridge	40	26	0	9	0	87	<b>162</b>
Port Adelaide	154	36	3	789	0	737	<b>1 719</b>
Port Augusta	82	9	2	235	58	215	<b>601</b>
Port Pirie	3	0	0	3	0	3	<b>9</b>
Victor Harbor	1	0	0	2	0	4	<b>7</b>
Waikerie	18	0	0	0	0	11	<b>29</b>
Whyalla	90	2	0	96	25	189	<b>402</b>
<b>Total</b>	<b>2 030</b>	<b>360</b>	<b>10</b>	<b>4 430</b>	<b>97</b>	<b>3 659</b>	<b>10 586</b>

### Family Advocacy and Support Service

The *Family Advocacy and Support Services* program (FASS) is available at the family law courts in Adelaide and, during circuits of the Federal Circuit Court, at Mount Gambier. These circuits occur four times each year. The program provides duty lawyers and a social worker in the family law courts each sitting day. The aim of the program is to assist families affected by family violence by integrating social support services with duty lawyer legal services.

The duty lawyers see unrepresented parties who have matters before the courts on that day or where proceedings are imminent. They–

- assist parties to manage court appearances
- refer clients to a court located social worker
- provide assistance with legal aid applications, and
- refer clients to private family law practitioners or other community services, as appropriate.

The duty lawyers at the Adelaide family law courts are provided by the Commission. In Mount Gambier the Commission partners with *Community Justice Services SA* for the provision of the duty lawyer service.

### Case Study

The following is an example of the benefits of this service.

*Janet\* was referred to FASS shortly after her separation via a collaborative arrangement with a women's family violence service. She saw a duty lawyer who gave her general legal advice and assisted her to make an application for legal aid.*

*There were multiple intertwined issues for Janet including a long history of family violence combined with cultural and language issues which made her ability to seek assistance difficult. Janet had an Intervention Order against her husband.*

*Janet filed her own divorce application. As a result of the history of violence she was able to secure assistance to attend the divorce hearing. On arriving at the court the court's security staff immediately placed Janet in a secure room and notified the FASS social worker of a client needing support to attend a divorce hearing.*

*The FASS social worker identified the need for Janet to receive legal assistance. She contacted the duty lawyer who took instructions from Janet in the secure room at court and appeared at the divorce hearing. Janet was assisted by both the FASS duty lawyer and social worker during the hearing with court security notifying the associate of the need for additional security measures and escorting Janet to the courtroom for the hearing.*

## Court Based Services 2018-19

*The duty lawyer appeared at the hearing and Janet's application was granted. Following the hearing the client returned to the secure room and then left the building with the assistance of the court's security staff and state police officers.*

*\*Not her real name.*

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The social worker delivers risk assessment, referral and assistance services. For the provision of the service at the family law courts in Adelaide the Commission partners with *Relationships Australia South Australia* (RASA). To deliver the social support program in Mount Gambier, the Commission partners with ac.care (Anglican Community Care Inc).

### Case Study

The benefits of the service are apparent in the following case study.

*Mary\* attended at court seeking to renew contact with her children whom she had not seen for three months. The children had been retained by their father and she was not aware of their whereabouts. Mary had just returned to Adelaide from Melbourne and presented to the court as homeless. She had experienced physical and other forms of family violence in her relationship with the children's father, and had no family supports in Adelaide and few friends.*

*Mary met with the FASS social support worker at the court who took the following action:*

- *supported Mary in contacting the DV crisis line and helped advocate on her behalf to obtain emergency accommodation*
- *discussed family violence, keeping herself and her children safe, and implementing a safety plan*
- *supported Mary in making a report to the police about the historical abuse and recent events with the other party*
- *made a notification about historical abuse and recent events*
- *organised counselling at a community based service*
- *referred Mary to Centrelink and the women's domestic violence court assistance service to consider an intervention order application*
- *assisted Mary in applying for an urgent grant of legal aid*
- *referred Mary to a duty lawyer to explain court processes and procedures.*

*\*Not her real name.*

During 2018-19 an evaluation was conducted of the FASS program around Australia. The results were very positive and the service will be expanded in the next financial year to include a dedicated social worker for men involved in family law disputes.

## Court Based Services 2018-19

### Facts and figures

#### Family law duty lawyer services by work type

Work Type	Total
Advice	1 155
Minor legal assistance	619
Mention	23
Explaining consent orders	3
Negotiations/draft terms	31
Urgent hearing	37
Referral	24
Legal aid application	9
Uncontested bail application	1
Others	10
<b>Total</b>	<b>1 914</b>

The social work component of the Family Advocacy and Support Service commenced in April 2017. The following table provides the statistics for the first two full years of this service.

	2017-18	2018-19
<b>Information and referral</b>	692	1 163
<b>Social worker appointments</b>	256	351

## Court Based Services 2018-19

### Civil Law Court Services

Duty lawyers dealt with various civil law matters in the Magistrates Court and Youth Court. The vast majority of these matters relate to responding to an application for an intervention order – 78% in 2018-19.

#### Civil law duty lawyer services by court type and work type

	Advice	Mention	Plea	Contested Bail Application	Hearing	Other	Total
<b>Magistrates Court</b>	125	22	0	14	17	90	<b>268</b>
<b>Youth Court</b>	13	0	0	1	0	8	<b>22</b>
<b>Total</b>	<b>138</b>	<b>22</b>	<b>0</b>	<b>15</b>	<b>17</b>	<b>98</b>	<b>290</b>

The Commission provides legal advisers in the precincts of both the Adelaide Magistrates Court and the Administrative Appeals Tribunal to assist clients with information and advice in civil law matters. This service includes–

- *Adelaide Magistrates Court Information and Civil Advice Service* – Clients appearing without legal representation in the Court can access advice from legal advisers on the day of their appearance. This is sometimes at the suggestion of the Magistrate before whom they have appeared, or on referral from registry staff. Advice is provided on civil jurisdiction procedures and civil law generally, and sometimes on traffic breaches and minor criminal matters.
- *Investigation Summons in the Adelaide Magistrates Court* – A specialist adviser in consumer law regularly attends the hearing of investigation summonses in the Adelaide Magistrates Court. The adviser is able to provide advice and assistance to unrepresented debtors, and make referrals to financial counselling services.
- *Administrative Appeals Tribunal* – A legal adviser situated at the Administrative Appeals Tribunal provides advice to applicants involved in internal reviews of Comcare decisions, Veteran's appeals and tier 2 decisions in Centrelink matters. Advice is also provided to clients who are seeking reviews of National Disability Insurance Agency decisions that have affected their eligibility or entitlement under the Agency's Disability and Carer Support Program. Advice was provided from this Tribunal service in 128 matters during the 2018-19 financial year.

### Case Study

*J's application for the Disability Support Pension was rejected by Centrelink on the basis that the work capacity test was not met. He appealed to the first level of the Administrative Appeals Tribunal (AAT) without success. He sought advice from the Commission legal adviser, situated at the AAT, at the second level appeal stage.*

*The legal adviser was able to assist him by explaining the deficits in the medical evidence he had provided. The Department ultimately accepted that J had been eligible for the pension when he had applied and an agreement was reached without needing to progress to a hearing. J received back pay of the pension for the 19 months it had taken to resolve the matter.*

# Legal Representation Services 2018-19

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The Commission provides funding for legal representation in matters where the applicant meets the Commission's funding criteria. The criteria vary, depending on the type of matter. In general, a person will only meet the funding criteria if–

- the Commission's means test is satisfied
- the legal case has merit, and
- the legal case falls within the guidelines under which legal assistance is granted.

Cases that come within the guidelines are usually criminal law cases where there is a real risk of imprisonment and family law cases involving children. However, some other matters may be funded. For further information please visit the Commission website at [http://www.lsc.sa.gov.au/cb\\_pages/legal\\_aid\\_eligibility.php](http://www.lsc.sa.gov.au/cb_pages/legal_aid_eligibility.php)

## Practitioner Panels

To provide the best possible representation for clients, the Commission requires a legal practitioner representing a client funded through the Commission to be a member of the appropriate Commission panel of practitioners. The following six legal practitioner panels have been established–

- General Panel
- Complex Criminal Law Panel, with a murder subpanel
- Guardianship and Mental Health Representation Panel
- Independent Children's Lawyer Panel
- Family Dispute Resolution Chairperson Panel
- Care and Protection Panel for practitioners acting for children under the *Children and Young People (Safety) Act 2017*.

All legal practitioners representing clients funded through the Commission must be on the General Panel. If a practitioner wishes to represent a client in a matter to which a specialist panel applies, the practitioner must also be a member of that panel. Each panel has specific requirements relating to experience and expertise. Practitioners who wish to act on a grant of aid involving a child must produce a Working with Children clearance certificate.

Continued inclusion on a panel requires ongoing compliance with the General Panel Agreement and practice standards, and compliance with practice standards specific to each particular panel. Regular auditing of practitioner files occurs to ensure compliance with applicable practice standards. For further information about the Commission's panel system, please see [http://www.lsc.sa.gov.au/cb\\_pages/practitioners\\_panel\\_registry.php](http://www.lsc.sa.gov.au/cb_pages/practitioners_panel_registry.php).

## Legal Representation Services 2018-19

### Facts and figures

#### Applications for legal aid

Applications	2014-15	2015-16	2016-17	2017-18	2018-19
Received	19 254	19 562	19 612	18 269	18 270
Granted*	16 062	16 510	16 727	15 805	16 161

\*Granted applications Includes applications received in 2017-18 but granted in 2018-19

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#### Status of applications received 2018-19

	Waiting assessment	Assigned externally	Assigned in-house	Refused	Withdrawn	Total
Criminal	5	9 081	3 327	1 350	12	<b>13 775</b>
Family	0	2 077	597	606	5	<b>3 285</b>
Care and Protection	0	561	383	53	2	<b>999</b>
Civil	0	12	8	191	0	<b>211</b>
<b>Total</b>	<b>5</b>	<b>11 731</b>	<b>4 315</b>	<b>2 200</b>	<b>19</b>	<b>18 270</b>

#### Granted applications– Assigned externally or in-house by law type

(including applications received in 2017-18 but not granted until 2018-19)

	Assigned externally		Assigned in-house		Total
Criminal	9 157	(73%)	3 352	(27%)	<b>12 509</b>
Family	2 088	(78%)	601	(22%)	<b>2 689</b>
Care and Protection	560	(59%)	384	(41%)	<b>944</b>
Civil	11	(58%)	8	(42%)	<b>19</b>
<b>Total</b>	<b>11 816</b>	<b>(67%)</b>	<b>4 345</b>	<b>(33%)</b>	<b>16 161</b>

## Legal Representation Services 2018-19

### Reason for refusal of applications received 2018-19

	Criminal		Family		Care and Protection		Civil		Total	
<b>Autofinalise</b>	3	(0.2%)	2	(0.3%)	0		0		<b>5</b>	<b>(0.2%)</b>
<b>Guidelines</b>	745	(55%)	167	(28%)	29	(55%)	168	(88%)	<b>1 109</b>	<b>(50%)</b>
<b>Guidelines and means</b>	130	(10%)	45	(7%)	9	(17%)	5	(3%)	<b>189</b>	<b>(9%)</b>
<b>Means</b>	423	(31%)	303	(50%)	9	(17%)	2	(1%)	<b>737</b>	<b>(34%)</b>
<b>Means and merit</b>	0		12	(2%)	0		0		<b>12</b>	<b>(0.1%)</b>
<b>Means, merit and guidelines</b>	0		3	(0.5%)	0		0		<b>3</b>	<b>(0.1%)</b>
<b>Merit</b>	46	(3%)	21	(3%)	5	(9)	13	(7%)	<b>85</b>	<b>(4%)</b>
<b>Merit and guidelines</b>	3	(0.2%)	13	(2%)	1	(2%)	3	(2%)	<b>20</b>	<b>(1%)</b>
<b>No jurisdiction</b>	0		40	(7%)	0		0		<b>40</b>	<b>(2%)</b>
<b>Total</b>	<b>1 350</b>		<b>606</b>		<b>53</b>		<b>191</b>		<b>2 200</b>	

### **Criminal law legal representation**

The Criminal Law Practice Division of the Commission comprises the largest criminal law defence practice in South Australia, accounting for nearly 30% of the legally aided criminal work in all State courts. It is a genuine litigation practice where all solicitor and counsel work is done in-house.

The practice is divided into a number of teams, which provide a comprehensive duty solicitor service, a Youth Court service and a general and specialist Magistrates Court service. The most experienced practitioners represent clients in complex and high profile trials and sentencing matters before the District and Supreme Courts. Superior court litigation is co-ordinated between a major indictable solicitor team, solicitor advocate team and counsel team. Members of the counsel team also provide representation to clients on appeals against conviction and sentence to the Court of Criminal Appeal and the High Court of Australia.

The in-house practice also provides a free after hour's custody telephone advice service and free prison advisory service.

### **Specialist court representation**

The Commission has a strong commitment to assisting the most disadvantaged and vulnerable people in the South Australian community. Specialist criminal law services are provided to children and young people charged with criminal offences before the Youth Court, including representation for minor and serious criminal offending and legal services for children detained in youth detention facilities.

Specialist legal representation is also available to clients with addiction illnesses who have been accepted into therapeutic rehabilitation programs, such as in the Treatment Intervention Court. Clients participating in this court program will typically have pleaded guilty to less serious criminal offences and are given the opportunity to take part in a structured and intensive court ordered program of drug or gambling addiction rehabilitation. Successful completion of the program can result in less severe penalties being imposed as an encouragement to cease drug and gambling related offending. An active role is taken in supporting therapeutic court programs as a means of reducing crime and recidivism in the community.

Specialist legal representation is also provided to clients with mental illness or impaired cognitive function. Many Commission clients suffer from chronic mental illnesses such as schizophrenia, bi-polar disorder, major depression and post traumatic stress disorder. In many cases the client's mental illness has contributed to the offending behaviour, raising the questions of fitness to plead and mental competence to commit the offence. These matters must be explored and determined

## Legal Representation Services 2018-19

by the court with the assistance of expert psychiatric and psychological opinion. The work can be demanding and complex. Practitioners are often confronted with clients incapable of providing instructions charged with very serious offences, including murder.

### **Magistrates Court representation**

Commission lawyers represent clients on bail applications, pleas of guilty and in summary trials. Practitioners primarily working in courts of summary jurisdiction carry significant case file loads and are highly skilled in managing the challenges of heavy court lists and sometimes difficult legal and factual issues.

### **Higher court representation**

The Criminal Law Practice Division includes a counsel section, the members of which are briefed by legal practitioners employed in the major indictable solicitor section. Counsel members represent legally aided clients charged with the most serious criminal offences before the District Court, Supreme Court and High Court. A benefit of in-house counsel is that it allows early briefing, resulting in expert advice, better client outcomes and a more timely settlement of cases.

### **Whyalla and Port Augusta**

The criminal law practitioners located in the Commission offices in Port Augusta and Whyalla provide advice and representation to clients in the Whyalla and Port Augusta Magistrates' Courts, and in some summary criminal cases in the Port Lincoln and Port Pirie Magistrates' Courts.

The services offered include duty solicitor representation, bail applications, guilty pleas and summary trials, along with committal court and higher court representation for clients facing very serious major indictable charges, including murder. Commission lawyers also provide comprehensive Youth Court representation in these country court locations and regularly attend the Port Augusta Prison to assist clients in custody.

Since 2014 the in-house counsel section has provided barrister services for trials and guilty pleas in the District Court and Supreme Court sitting on circuit in Port Augusta. In-house counsel are instructed by Port Augusta and Whyalla office criminal law practitioners in addition to receiving briefs from private practitioners and the Aboriginal Legal Rights Movement.

### Key achievements

#### Improved Services to Country Courts using Audio Visual Link (AVL)

In November 2018 the in-house practice extended its operations to include representation of clients in the Ceduna Magistrates Court. Many of these clients are Aboriginal. The Ceduna Court sits every two months and in contested matters proceeding to trial, in-house counsel attends in person. However, for clients in custody who are applying for bail or pleading guilty appearances are now often managed by AVL. Improvements in AVL technology and the willingness of clients and the court to use this facility has significantly enhanced the ability of Commission lawyers to provide services to remote communities in a cost efficient way.

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#### Case Study

*C, an Aboriginal man, was charged with aggravated assault alleged to have been committed at Ceduna. He was required to appear before a Magistrate in the Ceduna Magistrates Court although he was being held in custody at the Port Augusta Prison. Through the use of AVL technology linked to the court and prison he was able to apply for bail without being transported to Ceduna in person. His in-house lawyer was able to take instructions and conduct his bail application from an AVL suite in the Adelaide office of the Commission.*

#### Responding to the needs of the Court

The in-house practice regularly provides assistance to unrepresented clients appearing before all criminal courts. The co-ordinated multi-team structure of the in-house practice allows for the provision of urgent assistance to clients and the courts in the following ways:

- Counsel can be deployed to support and assist the duty solicitor service during times of heavy custody list demand or where a serious and complex matter is before the court without notice, requiring more experienced assistance.
- Counsel can be deployed at short notice to the Magistrates Court in domestic violence cases where the defendant is unrepresented and is prohibited from cross examining the complainant under the *Evidence Act 1929*. Here, representation is provided for the limited purpose of assisting the defendant to put his case to the complainant.
- A protocol has been established with the District Court whereby members of the counsel team will provide immediate representation to individuals arrested on bench warrants on notification by the Higher Courts Registry.
- Experienced in-house Counsel are available to provide representation to clients for trials, pleas of guilty or bail applications at short notice.

### Case Study

*D was charged with false imprisonment and rape. His trial proceeded before a judge and jury in the District Court. Eleven days into the trial, and after the complainant had given evidence, D sacked his counsel and solicitor. At the request of the Court and D members of the solicitor team and counsel team provided immediate representation to the client. The trial was able to proceed to conclusion without the jury being discharged and the trial relisted.*

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### Challenges

The criminal justice system is facing many challenges in South Australia. Incarceration rates continue to be at record levels (particular for Aboriginal people) and prison overcrowding remains a chronic problem. In 2017 the prison population exceeded 3000 for the first time and it continues to grow by about 10% per annum. These increases can be attributed in the main to government policy settings which have seen greater restrictions on access to bail, tighter laws relating to release on parole, increased custodial sentences and the under use of community based sentencing options as legitimate alternative sentencing options. In-house lawyers, private practitioners and other professionals are finding it increasingly difficult to gain adequate access to clients in custody.

Another concern is the number of people with mental health problems coming before the criminal courts who are being sentenced to terms of imprisonment. Often they are placed within the mainstream prison population because there are insufficient facilities available to accommodate them in James Nash House (the South Australian forensic detention facility).

The introduction in March 2018 of amendments to the *Criminal Procedure Act 1921* and the new *Sentencing Act 2017* have not delivered the key reforms necessary to reduce court appearances and bring about early resolution of major indictable cases. In many instances disclosure of the prosecution case to defence and the court can take many months, making it difficult for defence lawyers to take instructions from clients in order to negotiate the speedy resolution of cases with the prosecuting authority.

## Legal Representation Services 2018-19

The high rate of methamphetamine use in the community remains a significant feature of the criminal justice system. It continues to figure prominently in cases involving mental illness, domestic abuse, violent offending, dishonesty offences and in major motor vehicle offences. To some extent the issues surrounding substance abuse are being addressed by Intervention Court Programs in the Magistrates Court such as the Treatment Intervention Court, the Family Violence Court and the Gambling Court. However, the resources to support these programs remain scarce, reducing the desired positive outcomes of lowering recidivism and rehabilitating offenders back into the community.

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### Client Feedback

*Hello Sir/Madam*

*I am writing to thank legal service commission and specifically R, the lawyer who work in the service commission. I came to Adelaide 9 years ago from China. I love Adelaide so much and very much enjoy the culture and community here. However, I had my first criminal charge due to some misunderstanding and I was charged by police .... My wife and myself were so stressed and came to the legal service commission for help and met R. R was so nice and considerate .....Finally, the charges are all gone! My wife and myself were so much relieved. We really think legal service Commission is very helpful and great! Especially for us coming from overseas.*

## Legal Representation Services 2018-19

### Facts and figures

#### Grants of aid in criminal law matters

Grants of aid	2014-15	2015-16	2016-17	2017-18	2018-19
Assigned externally	8 552	8 730	8 798	8 863	9 157
Assigned in-house	3 969	4 150	4 200	3 670	3 352
<b>Total</b>	<b>12 521</b>	<b>12 880</b>	<b>12 998</b>	<b>12 533</b>	<b>12 509</b>

Private practitioners received 73% of the grants of legal aid for criminal law matters in 2018-19, an increase from 71% in 2017-18 and 67% in 2016-17.

### Family law legal representation

Commission family lawyers assist people involved in family separation to resolve their disputes in an appropriate way through–

- the provision of legal information and advice
- family dispute resolution conferences
- litigation in the family law courts.

Family law representation services include–

- legal representation in relation to parenting disputes, financial issues and child support matters
- independent children’s lawyers, appointed by the courts to represent the best interests of children in parenting cases before the courts
- lawyer assisted family dispute resolution to help people resolve their disputes either before litigation has commenced or during litigation
- legal education and liaison with other members of the broader family law community.

### In-house legal representation

In-house Commission family lawyers–

- represent clients with substantial family law disputes in cases involving children – these disputes regularly include complicating factors such as family violence, mental health and drug and alcohol issues
- represent clients in low asset property matters
- have expertise in the specialised area of child support, providing legal advice and representation in disputes over parentage of children and the level of child support payment
- provide advice and assistance in international child support cases, where either the parent with the child is seeking to properly register for assessment and collection of child support in Australia against a local payer or where the Australian payer of child support has relocated overseas.

## Legal Representation Services 2018-19

### Independent children's lawyers

In appropriate cases, an accredited and experienced family lawyer is appointed as an independent children's lawyer (ICL) to represent the best interests of a child who is the subject of an application for parenting orders in the family law courts. These lawyers are involved at all stages of the case, including family dispute resolution conferences and trial. During the course of proceedings the ICL–

- meets with and facilitates the involvement of the child in the case, as appropriate
- ensures any views of the child are made known to the court
- arranges for appropriate evidence to be called
- seeks to broker appropriate agreement between the parties
- examines evidence presented by other parties and responds according to the best interests of the child.

### Case Study

The following matter illustrates the role of an ICL.

*An ICL was appointed to represent the interests of three children in a dispute between their parents in the Federal Circuit Court. The parents had been separated for some time and an informal arrangement had been set up with one child living with the mother and the other two with the father. The mother's time with the children not living with her had ceased on the basis that the children were expressing a desire not to see her.*

*The ICL met with all three children and listened to their views which were relayed to the parents. The parents however maintained a range of criticisms about the other, in particular in relation to their parenting skills and their control of and lack of support for the other parent. It was suggested that the views expressed by the children in the father's care had been encouraged by the father. The matter was set down for trial. In the meantime, the ICL obtained a family assessment report and a family dispute resolution conference was convened with the ICL, the parties and their lawyers. The conference was successful in an acknowledgment that the parties needed to moderate their behaviours and focus on the children's needs. A temporary arrangement was set in place in the lead up to the trial.*

*An agreement was reached that the mother's time be reinstated and then increased and consent orders were made without the need for the matter to proceed to a defended hearing.*

### Key achievements

#### In-house Counsel

The Commission created an in-house counsel position this year and was fortunate to secure the services of a highly regarded and vastly experienced family law counsel.

He has taken on a broad range of family law work both for in-house family law practitioners and private practitioners acting on grants of legal aid. A significant part of this work has been highly complex and has included attendances at family dispute resolution conferences and informal pre-trial conferences, trials in the Family Court and Federal Circuit Court and appeals to the Full Court of the Family Court. He has appeared both as counsel for parties and for independent children's lawyers.

In addition, he has taken on a range of care and protection work ranging from interim hearings and trials in the Youth Court to appearances at SACAT in matters involving care and protection issues, as well as several appearances in the Supreme Court in relation to care and protection matters.

As part of a mentoring and training role, the in-house counsel has run specific advocacy courses for younger practitioners, including a full week program that involved preparation for a defended hearing and culminated in a mock trial before a Family Court judge.

### Challenges

#### Changes to the family law system

During the financial year a significant amount of work has been devoted to contributing to family law reform. In March 2019 the Commonwealth Attorney-General released a comprehensive review of the family law system, undertaken by the *Australian Law Reform Commission (ALRC)*. The review was broad and far reaching. *National Legal Aid (NLA)*, through its Family Law Working Group, met with the ALRC on a number of occasions and provided formal submissions in response to the interim reports and discussion papers. A number of the recommendations will be implemented in the next financial year, as well as progressing discussions around the proposed merger between the Family Court and the Federal Circuit Court.

#### New initiatives

The Commonwealth government announced a number of new initiatives this financial year which commence in the next financial year. These include–

- *the prohibition of direct cross examination in the family law courts of victims of family violence* – As a result of changes to the *Family Law Act 1975*, in certain matters involving family violence parties will no longer be able to personally cross-examine each other. In

## Legal Representation Services 2018-19

these cases, a party can apply to the Commission for legal representation for the cross examination under the Commonwealth *Family Violence and Cross-examination of Parties Scheme*.

- *legally assisted family dispute resolution in small pool property matters* – This is a pilot project where the Commission has been funded to undertake family dispute resolution in matters that would normally fall outside Commission guidelines.

### Client Feedback

*Dearest J,*

*I wanted to say thankyou for all your support throughout this difficult time for my family. You were always professional and highly considerate in all circumstances. I am extremely grateful for the time and effort you clearly put into our situation.*

*You are a wonderful person and it was a pleasure to have you as my lawyer.*

*Sincerely,*

### Facts and figures

#### Grants of legal aid in family law matters

Grants of aid	2014-15	2015-16	2016-17	2017-18	2018-19
Assigned externally	1 977	2 365	1 891	1 623	2 088
Assigned in-house	906	1 246	872	799	601
<b>Total</b>	<b>2 883</b>	<b>3 611</b>	<b>2 763</b>	<b>2 422</b>	<b>2 689</b>

Private practitioners received 78% of the grants of legal aid for family law matters in 2018-19, an increase from 67% in 2017-18 and 68% in 2016-17.

#### Independent Children's Lawyers appointments

	2014-15	2015-16	2016-17	2017-18	2018-19
<b>ICL appointments</b>	339	312	334	274	297

### Care and protection legal representation

The Commission performs an important role in providing legal representation to all children and young people who are taken into the care of the Department for Child Protection under the *Children and Young People (Safety) Act 2017*. The Commission also funds legal practitioners to provide legal advice and representation to the parents or guardians of those children.

In undertaking these roles the Commission provides–

- free legal advice in all care and protection matters
- legal representation for parents and legal guardians in care and protection matters
- legal practitioners to act as child representatives to interview the children, present the children's views to the court and make submissions on the best interests of the child
- legal education and liaison with other members of the broader care and protection legal community.

In care and protection proceedings, an assessment is made by the Department for Child Protection as to whether a child or young person needs to be under the custody or guardianship of the Chief Executive of the Department for Child Protection. If so, proceedings are brought before the Youth Court to present the evidence that the action is necessary in order to protect the child or young person from harm. While protection from harm is the paramount consideration in making a decision, other matters to be considered include the need for the child or young person–

- to be heard and have his or her views considered
- for love and attachment
- for self esteem
- to achieve his or her full potential.

In some matters, children are able to be reunited with their parents once concerns about safety have been addressed. In other matters, longer term orders may be appropriate.

In a small number of cases, guardianship may be formally transferred to a child's long term carers, recognising the strong bonds and stable relationships that they have been able to provide to that child. The Commission also provides representation for children in adoption proceedings.

### Case Study

The following example is typical of the type of matter in which the Commission is involved.

*M is the mother of a new born child to a father that has a diagnosis of schizophrenia and is a registered sex offender. The father wants no contact with the child and did not play a part in the proceedings. The parents do not reside together.*

*M was under long term guardianship herself as a child having been removed from her parents after suffering extensive physical abuse and severe neglect. M has an acquired brain injury and has been diagnosed with depression. She also experiences regular seizures as a consequence of the physical abuse and injuries she suffered as a child to her brain. M has no family or other informal supports that can assist her to care for the child. She requires intensive support from services to ensure that she has supervision when experiencing seizures and resides in supported accommodation as funded through her NDIS plan.*

*When M was in hospital after giving birth to her child, the hospital raised concerns about M's parenting capacity and basic care skills for her new born child. M has had previous children removed and placed under long term orders following trials in the Youth Court. The Department invoked section 41 of the Children and Young People (Safety) Act 2017 to remove the newborn child on the basis that the child would be at risk of harm if discharged into M's care. The Department did not consider the father as an option to care for the child given his offender history.*

*The Department sought a short term order for three months to assess M's parenting capacity with 24/7 support from her supported accommodation. The Department also engaged a nurse from CAFHS and Options Coordination to model and teach her parenting skills. During the intervention, concerns were raised about M's ability to take on board information, recall it and implement it. Further there was the impact of the seizures on her ability to parent the child. Subsequent to several weeks of being shown basic parenting skills repeatedly, modelling and intensive support, M was not able to demonstrate independent parenting skills even with support and still needed to be heavily prompted to complete basic parenting tasks, such as remembering to feed her child.*

*The Department applied for a long term Order. In addition to representing the child, the Commission funded representation for the mother and funded a psychological report as to her level of functioning and parenting capacity, which was in dispute with the Department. The matter proceeded to trial and long term orders were granted by the Court.*

## Key achievements

### New child protection legislation

The *Children and Young People (Safety) Act 2017* commenced in full on 26 February 2018. The introduction of the Act has resulted in a significant increase in the work involved at the commencement of proceedings. The Commission looks forward to the opportunity to contribute to the review of this legislation in late 2019.

### Reunification Court

The Reunification Court is a new court list, dealing with matters where reunification between the parents or guardians and the child has been assessed as viable or is the goal during the period of the order. The Court operates informally. No lawyers other than the child representative are permitted to attend and the Departmental representative and the parents or guardians appear in person. The purpose of the Court is for there to be transparency as to decision making for families and to monitor and assist the parents in their progress towards addressing the child protection issues.

## Facts and figures

### New matters under the *Children and Young People (Safety) Act 2017*

	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Applications</b>	810	1031	991	890	999
<b>Granted</b>	763	985	950	831	944

\*Granted applications Includes applications received in 2017-18 but granted in 2018-19

### Status of new matters as at 30 June 2019

	Waiting assessment	Assigned externally	Assigned in-house	Refused	Withdrawn	Total
Adult	0	502	0	53	2	<b>557</b>
Child	0	59	383	0	0	<b>442</b>
<b>Total</b>	<b>0</b>	<b>562</b>	<b>383</b>	<b>53</b>	<b>2</b>	<b>999</b>

These applications are in relation to a new grant of aid. The figures do not include applications relating to a person where an order has previously been made. Where more than one child in a family is the subject of an application, the application may relate to multiple children.

### Civil law legal representation

The Commission provides legal representation in some civil law matters connected with social security entitlements, the National Disability Insurance Scheme, mental health applications, guardianship and administration applications, veteran's affairs, migration and tenancy matters.

Representation at the South Australian Civil and Administrative Tribunal (SACAT) may occur in a matter under the following South Australian legislation:

- *Mental Health Act 2009*
- *Guardianship and Administration Act 1993*
- *Advance Care Directives Act 2013*
- *Consent to Medical Treatment and Palliative Care Act 1995*
- *Children and Young People (Safety) Act 2017*
- *Residential Tenancies Act 1995.*

In particular, the Commission is responsible for the scheme of legal representation available to a client seeking a review of an order under the *Guardianship and Administration Act 1993* or appealing a treatment order made under the *Mental Health Act 2009*. Representation may also be provided to women seeking relief from residential tenancy obligations when they are forced to vacate the premises due to family violence.

Representation at the Commonwealth Administrative Appeals Tribunal (AAT) may occur in the following type of matters:

- National Disability Insurance Scheme
- Social Security
- Veteran's Appeals (war caused)
- Centrelink debt.

The Commission assists eligible clients who seek access to funded support under the National Disability Insurance Scheme. Applicants may be funded for representation in the AAT in disputed applications and eligibility claims under the Scheme.

### Case study – Appeal to AAT

*The applicant is a 50 year old woman with Downs Syndrome who requires full time care from her sister. Her sister instigated the appeal on her behalf.*

*She applied to the Tribunal to review an NDIS plan decision. Three months later she applied for an internal review of the decision. Six months after that she applied to the AAT as she had not received an internal review decision.*

*The Commission has funded the appeal to the AAT to clarify whether the Tribunal has jurisdiction to determine a matter where the National Disability Insurance Agency is yet to respond to a request for an internal review by a participant of the scheme.*

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### Facts and figures

In 2018-19, the following civil law matters were funded by the Commission for legal representation.

	Total
Guardianship and Administration and Mental Health	373
National Disability Insurance Scheme	67
Other (including Centrelink debt, veteran appeals and residential tenancy matters)	63
<b>Total</b>	<b>503</b>



# Our Performance

41st Annual Report 2018-19

Legal Services Commission of South Australia  
[www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

- *Snapshot of financial performance*
- *Reporting*
  - *National Partnership Agreement on Legal Assistance Services*
  - *Reporting against our statutory functions*
  - *Reporting against our corporate plan*
- *Public benefit*
- *Partnerships*

# Snapshot of financial performance 2018-19

The Commission ended the 2018-19 financial year with a consolidated comprehensive result of \$5 384 000 surplus. This compares to a consolidated comprehensive result of \$22 984 000 surplus for the 2017-18 financial year. The significant surplus in 2017-18 was as a consequence of an advance payment from the State Government of \$21 960 000 for 2018-19 funding.

The 2018-19 financial statements record the following:

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Income	\$
Commonwealth government funding	\$16 801 000
State government funding	\$23 991 000
Reimbursement under the <i>Expensive Criminal Cases Funding Agreement (State)</i> (see Appendix)	\$950 000
Reimbursement under the <i>Expensive Criminal Cases Funding Agreement (Commonwealth)</i>	\$66 000
Funding from the Law Society of South Australia pursuant to the <i>Legal Practitioners Act 1981</i>	\$3 243 000
Other income	\$6 785 000
<b>Total income</b>	<b>\$51 836 000</b>

Expenditure	\$
Private practitioner payments	\$17 555 000
Other payments	\$28 897 000
<b>Total expenses</b>	<b>\$46 452 000</b>

The *Commission Finance* section of this Report contains the detailed financial year report, the Auditor-General's Report and the financial statements.

# Reporting 2018-19

## National Partnership Agreement on Legal Assistance Services 2015-2020

The current National Partnership Agreement on Legal Assistance Services (NPA) commenced on 1 July 2015 for a five year term. It is an agreement between the Commonwealth and states and territories under which the Commonwealth funds each legal aid commission and community legal centre.

The objective of the NPA is a national legal assistance sector that is integrated, efficient and effective, focussed on improving access to justice for disadvantaged people and maximising service delivery within available resources.

As a prerequisite to continued Commonwealth funding, the performance benchmark established under the NPA must be met. This benchmark requires that 95% or more of representation services be delivered to people experiencing financial disadvantage. The means test that is applied to each representation service delivered by the Commission ensures that this target is met.

In addition, the NPA requires six monthly reports on performance indicators, including-

- the proportion of representation services delivered to priority clients comprising children and young people, people experiencing financial disadvantage, indigenous Australians, older people, people experiencing, or at risk of, family violence, people residing in rural or remote areas, people who are culturally and linguistically diverse and people with a disability or mental illness
- the number of facilitated resolution conferences undertaken by the Commission and the settlement rate of those conferences, and
- the number of legal assistance services delivered comprising information and referral, legal advice, legal task, duty lawyer, dispute resolution, court and other representation and community legal education.

These reports were all provided during the year to the satisfaction of the Commonwealth government.

The NPA also required the Commission to undertake a client satisfaction survey during the 2018-19 financial year. The survey was conducted by an independent survey company, by telephone, across 581 Commission clients whose matters had finalised. The survey cohort was spread evenly across the Commission's practice areas of family, criminal and civil law, and across the different types of service - duty lawyer services, legal advice services, legal representation and applications for aid refused. Quotas were employed to ensure a reliable sample was attained from each of the law areas being assessed. The survey also identified whether an in-house or external lawyer had been assigned in legal representation matters.

## Reporting 2018-19

Overall, the Commission's approval rating was very high, and slightly improved on the results achieved in the 2017 survey. At least 90% of those surveyed agreed they were treated fairly, were listened to and that staff were knowledgeable, competent and professional in their dealings with them. Furthermore, more than 90% agreed they would recommend the service to others.

The next NPA is due to commence on 1 July 2020. Consultation between the Commonwealth Attorney-General's Department, the State Attorney-General's Department and the legal assistance sector has commenced.

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### Reporting against our statutory functions

The *Legal Services Commission Act 1977* establishes the statutory functions of the Commission. During the 2018-19 financial year, each of these statutory functions was undertaken as follows:

#### *Provide, or arrange for the provision of, legal assistance in accordance with the Act*

This financial year the Commission—

- received 18 270 applications for aid for legal representation
- granted aid in 16 161 of those applications
- provided 12 790 duty lawyer services
- provided 99 001 legal advice and information services
- provided legal education sessions to 7 055 participants.

#### *Determine the criteria under which legal assistance is to be granted*

The Commission regularly reviews the criteria under which legal assistance is granted, with the means test last reviewed in September 2018 to ensure it reflected the cost of living in South Australia. In general, the criteria under which legal assistance is granted includes means, merit and guideline tests. Where the Commission enters into an Agreement with the government in relation to a particular funding grant, specific criteria are developed for the services covered by the Agreement. For example, representation proceedings under the *Adoption Act 1988*, which commenced this financial year, are not subject to the current guidelines but to the terms of a Memorandum of Administrative Arrangement between the Commission and the Department for Child Protection.

### ***Conduct research with a view to ascertaining the needs of the community for legal assistance, and the most effective means of meeting those needs***

Under the *National Partnership Agreement on Legal Assistance Services 2015-2020* the Commission is required to undertake a client satisfaction survey every two years to assess whether services are tailored to meet clients' legal needs and capability levels. The first survey under the current Agreement occurred in 2016-17 with overwhelmingly positive results (see *2016-17 Annual Report*). The results of the 2019 survey are even better, with the vast majority of clients in agreement with the key statements relating to service standards. Amongst the responses, 94% of clients surveyed agreed they had been treated fairly, 93% found the officers they dealt with to be knowledgeable and competent and 91% would recommend the Commission to others.

### ***Establish such offices and other facilities as the Commission considers necessary or desirable***

During the financial year the Commission's Port Augusta office moved to new, modern, high-quality premises. These facilities will ensure regional staff and clients work in a safe and comfortable environment. Out-reach services were established at Mt Barker and Elizabeth at local medical centres, reflecting our commitment to embed legal assistance services within community facilities.

### ***Initiate and carry out educational programs to promote an understanding by the public (and especially those sections of the public who may have special needs) of their rights, powers, privileges and duties under the laws of the Commonwealth or the State***

The Community Legal Education program targets four priority groups – new migrants, young people, older people and people with disabilities. These groups are prioritised by the *National Partnership Agreement on Legal Assistance Services 2015-2020* and were identified by the Legal Australia Wide Survey of 2012 as amongst the groups most vulnerable to unresolved legal problems.

This financial year the Commission was invited to participate on the State Adult Safeguarding Advisory Group and the State Advisory Roundtable on Bullying in recognition of the Commission's expertise in the delivery of community education programs to vulnerable groups.

### ***Inform the public by advertisement or other means of the services provided by the Commission, and the conditions upon which those services are provided***

The Commission promotes its services to the public through traditional advertising, the Commission website, social media platforms, press releases and media opportunities. This financial year, over 220 media reports (excluding court cases) were published in relation to the work of the Commission. This was achieved across print, digital news media and broadcast outlets. In addition, there were approximately 350 Commission media posts across Facebook and Twitter. These posts were displayed to social media users more than 400 000 times.

Following the successful tender for the *Women's Domestic Violence Court Assistance Service*, the Commission plans to promote the service through a variety of media including Facebook and Twitter posts, brochures, website, sharable content, newsletters, social media platforms, business cards, community service announcements on regional radio stations, and print media advertising in regional newspapers.

### ***Co-operate and make reciprocal arrangements with persons administering schemes of legal assistance in other States and Territories of the Commonwealth or elsewhere***

The Director of the Commission is a member of National Legal Aid, a co-operative body of legal aid directors from Australia and New Zealand. She leads the National Legal Aid Family Law Working Group and Dispute Resolution Working Group, working closely with the Commonwealth government on family law reform. Senior staff participate in other National Legal Aid committees, including the Criminal Law Working Group, Community Legal Education Working Group, Civil Law Working Group, Finance Working Group and the Grants and National Statistics Working Group.

The Director oversees reciprocal arrangements with other legal aid commissions, community legal centres and Aboriginal and Torres Strait Islander legal services.

### ***Where it is practicable and appropriate to do so, make use of the services of interpreters, marriage guidance counsellors and social workers for the benefit of assisted persons***

The Commission funds interpreters for clients in receipt of a grant of aid and for legal advice interviews. This year the Commission provided interpreters on 2570 occasions.

As part of the duty lawyer service in the family law courts, a social worker is available to assist clients. In the last financial year, 351 clients received a service from the social worker, with 89% of those clients experiencing family violence.

***Encourage and permit law students to participate, so far as the Commission considers practicable and proper to do so, on a voluntary basis and under professional supervision, in the provision of legal assistance by the Commission***

The Commission offers four paid summer clerkships for law students, at least two of which are for indigenous law students. In 2018-19 all four summer clerkships were offered and accepted but due to a change in circumstances only three were undertaken.

The Commission also provides six week placements for students participating in practical legal training courses. In 2018-19, nine students participated in this program.

***Make grants to any person or body of persons carrying out work that will in the opinion of the Commission advance the objects of the Act***

The Commission engages in many collaborative ventures with other agencies and organisations. This financial year the Commission entered into a partnership with the *Women and Children Protection and Family Planning Office of West Java*, hosting a two day visit by the head of the organisation and two of her colleagues

***Perform such other functions as the Attorney-General may direct***

The Commission regularly responds to requests from the State Attorney-General for analysis of proposed changes to legislation and for comment on major reviews and reforms of the State's justice system. This financial year, at the Attorney-General's direction, the Commission participated in the Bullying Roundtable, a cross-government initiative.

### Reporting against our corporate plan

During the course of the 2018-19 financial year the Commission's Corporate Plan was updated. The new Corporate Plan applies from 2019-22. As the financial year spans the two plans, the key performance indicators under both plans are included.

#### Corporate Plan 2015-18

The Commission's *Corporate Plan 2015-18* comprises four sections under the headings of clients, people, stakeholders and resources. Key performance indicators (KPIs) were developed for each section. The following is a report against each KPI.

##### OUR CLIENTS

- *Develop and launch Law Chat for online legal information.*
- *Upgrade and enhance the Commission's website*
- *Demonstrate satisfaction with services through survey results*
- *Email only correspondence with the private profession in place by 2018*

##### OUR PEOPLE

- *Investigate the benefit of exit interviews*
- *Develop a staff succession policy*
- *Ensure compliance with the professional development policy*

##### OUR STAKEHOLDERS

- *Develop reporting templates that capture data and information to demonstrate the value and quality of legal aid services provided by the Commission*
- *Meet all benchmarks under the National Partnership Agreement on Legal Assistance Services 2015-2020*
- *Deliver successful Commission conferences in 2016 and 2018*
- *Respond to the Attorney-General's Transforming Criminal Justice Strategy*

##### OUR RESOURCES

- *Review of the ICT plan to be completed by 2018*
- *Redevelop the Commission's intranet site*
- *Practice management tools to be in place by 2018*
- *Equip staff who work across more than one service delivery point with remote access portable communication devices*

- KEY ● KPI met and task completed  
● Project in progress

## Corporate Plan 2019-22

The current three year Commission Corporate Plan is available under the *About Us* section of the Legal Services Commission website. The KPIs measure the Commission progress against self-identified major initiatives in line with our objectives and strategies. Our Vision, to provide quality, independent legal assistance to South Australians, remains unchanged.

The new Corporate Plan also comprises four reporting areas under the headings of clients, people, stakeholders and resources. The following is a report against each new KPI. The green-lighted items have already commenced.

### OUR CLIENTS

*Develop and introduce a simplified means test*

- *Develop and launch a system of online dispute resolution in family law matters*  
*Streamline the process for granting aid, including in family dispute resolution matters*
- *Digitise the legal aid application process and phase out paper forms*
- *Upgrade the 24Legal online service*
- *Demonstrate client satisfaction with services through survey results*
- *Investigate the use of technology to help us gather information and instructions from clients*  
*Review how we audit legal aid files and how we identify audit issues in those files*
- *Implement new Commonwealth government initiatives in our Family Law Practice*

### OUR PEOPLE

- *Explore the introduction of an online learning management system to assist LSC staff with their education needs and professional development requirements*
- *Publish and maintain all staff professional development policies on the Commission's intranet*  
*Further develop a workforce that is skilled, accomplished and valued by implementing a staff succession and promotion policy*
- *Transition HR processes to an online format*

### OUR STAKEHOLDERS

- *Maintain and promote innovative, fair and equitable ways of delivering services*
- *Increase the scope of our legal assistance services where funding permits*
- *Develop reporting templates that capture data and information to demonstrate the value and quality of legal aid services*

KEY ● KPI commenced

## Reporting 2018-19

### OUR STAKEHOLDERS *(continued)*

*Deliver successful Commission Conferences in 2020 and 2022*

- *Negotiate and implement the terms of the 2020-2024 National Partnership Agreement on Legal Assistance Services*
- *Respond to significant reviews which impact on our services*

### OUR RESOURCES

- *Identify and secure new accommodation for our Port Augusta office*
- *Refurbish accommodation for our offices in Elizabeth and Noarlunga*
- *Investigate and establish new outreach services at Mount Barker*
- *Provide secure interview rooms for all LSC offices*

*Review the ICT Plan by 2020*

*Ensure practice management tools are in place*

*Review our security arrangements*

*Update our client data management system*

KEY ● KPI commenced

# Public Benefit 2018-19

Through the Commission's unique and extensive experience in criminal, family and civil law matters we are able to assist stakeholders and the community in developing policy and law reform relevant to justice issues. In 2018-19 this involved participating in forums, consultations and reviews undertaken by State and Commonwealth governments, the South Australian Law Reform Institute, the Australian Law Reform Commission and the Australian Bureau of Statistics.

In the course of 2018-19 the expertise of Commission staff was sought in a number of forums and conferences including–

- the Access to Justice and Pro Bono Conference
- the Bullying Prevention Roundtable, South Australia
- the Criminal Justice Agency Committee
- the Elder Abuse National Plan Consultation Group
- the Adult Safeguarding Advisory Group, South Australia
- the Australian Guardianship and Administration Council
- the World Elder Abuse Awareness Day Conference.

Commission staff also responded to many requests for comment from both the State and Commonwealth governments in relation to matters of public relevance. These submissions included responses to the following proposals and inquiries:

- the draft *Statutes Amendment (Domestic Violence) Bill 2018*
- the draft *Correctional Services (Accountability and Other Measures) Amendment Bill 2019*
- legislative reforms arising out of the *Royal Commission into Institutional Responses to Child Sexual Abuse Criminal Justice Report*
- draft amendments to the Community and Strata Titles legislation
- the draft *Disability Inclusion Regulations 2019*
- the Senate inquiry into Dowry Abuse and Forced Marriage
- the Senate inquiry into the *Agricultural Protection Bill 2019*, relating to protesters
- the Senate inquiry into the *Combatting Child Exploitation Amendment Bill 2019*
- Senate inquiries into changes to migration and importation laws including strengthening the character test, medical transfers, and immediate destruction of illicit tobacco.

During the year Commission staff made detailed submissions to significant State and Commonwealth reviews including:

- Major Indictable Reform Review, South Australia
- the review into the *Operation and Effectiveness of the South Australian Sentencing Reduction Scheme*

## Public Benefit 2018-19

- the external review of the *National Partnership Agreement on Legal Assistance Services*
- Australian Law Reform Commission review of the family law system.

Commission lawyers regularly attend a range of meetings with Government organisations to improve delivery of services for the public across the justice sector. In 2018-19 this included working with–

- the Office of the Director of Public Prosecutions
- SA Police, including police prosecution
- the Courts Administration Authority
- the Attorney-General's Department
- Federal Circuit Court
- Families SA
- Office of the Chief Psychiatrist
- Office for Ageing Well
- Office for the Public Advocate
- Public Trustee
- Aged Rights Advocacy Service.

More specifically, staff attended regular meetings with magistrates, police prosecutors, representatives of the DPP, Courts Administration Authority staff and private practitioners to discuss current issues impacting on the summary criminal courts and to improve and make more efficient the operation of the criminal justice system. Improvements achieved in these meetings are of ultimate benefit to the users of the system.

The Commission shares its knowledge and expertise with community organisations involved in the provision of legal services and in access to justice. Examples of this include involvement with–

- committees of the Law Society
- court and tribunal user groups
- the South Australian Family Law Pathways Network, which consists of representatives of all the major organisations in South Australia involved in the family law area
- community legal centres
- JusticeNet SA
- SACOSS
- Refugee Advocacy Service of South Australia
- the Women's Information Service.

# Partnerships 2018-19

The Commission is committed to providing legal services collaboratively with other organisations involved in the delivery of legal assistance services.

## National Legal Aid

National Legal Aid is the representative body for all legal aid commissions in Australia and New Zealand. It meets regularly and is attended by Directors of all Commissions. It provides an overall view of the Australian legal aid sector, and the likely demands on local and national resources.

Staff members contribute to working groups established by National Legal Aid, including the Family Law Working Group, the Family Law Dispute Resolution Working Group, the Criminal Law Working Group, the Community Legal Education Working Group and the Grants and National Statistics Working Group. These working groups meet regularly during the year, often with government, court, and profession representatives, to provide responses and submissions on proposed reforms and enquiries. This financial year, the Family Law Working Group contributed to the Australian Law Reform Commission review into the family law system, the Commonwealth Family Violence and Cross-examination of Parties Scheme and the FASS program.

## Australian Legal Assistance Forum

The Australian Legal Assistance Forum comprises National Legal Aid, the Law Council of Australia, Aboriginal and Torres Strait Islander Legal Services, the National Association of Community Legal Centres and National Family Violence Prevention Legal Services. This Forum provides an opportunity for discussion and collaboration in relation to national legal assistance issues.

## South Australian Legal Assistance Forum

The South Australian Legal Assistance Forum consists of members from the Commission, community legal centres, Aboriginal legal services, the Law Society, university law school advice clinics, JusticeNet SA, and representatives of the State and Commonwealth governments. Meetings are hosted by the Commission, with the Director of the Commission chairing the Forum. The Forum considers opportunities for improved coordination and targeting of services between legal assistance providers in South Australia, as well as the linking of legal services with other service providers.

## Partnerships 2018-19

### Private Practitioners

The Commission and the South Australian community are well served by the generous co-operation of private legal practitioners in the delivery of legal aid services. The Commission acknowledges that its fee scales are considerably lower than published court scales or commercially negotiated fees.

In the 2018-19 financial year private practitioners received \$17 555 000. They performed 73% of legal aid grants in criminal law matters, 78% of legal aid grants in family law matters, 58% of legal aid grants in civil law matters and 59% of legal aid grants in care and protection matters. Private practitioners also assist in delivering duty lawyer services at a number of courts across South Australia.

# Management of our organisation

41st Annual Report 2018-19

Legal Services Commission of South Australia  
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- *Corporate Governance*
- *Staff*
- *Support Services*
- *Complaints*
- *Legislative Compliance*

# Corporate Governance 2018-19

## Governing legislation

The Commission is a statutory authority established by the *Legal Services Commission Act 1977* (the Act). It is a body corporate. It is not an instrumentality of the Crown and is independent of Government.

The Director of the organisation is a member of the Commission, is appointed by the Commission and holds office on terms and conditions determined by the Commission and approved by the Governor.

The Director is responsible to the Commission for the provision of legal assistance in accordance with the Act. Accordingly, the Director oversees the daily management of the Commission. A panel of persons, with appropriate qualifications and experience, hears appeals against decisions of the Director.

Transparency and accountability is ensured through external auditing, reporting to the Commonwealth and State governments and the tabling of audited financial statements as contained in this Report.

The Act provides for a *Legal Profession Reference Committee* to advise the Commission in relation to–

- any matter referred to it by the Commission, or
- any of the Commission's functions under the Act.

The *Legal Profession Reference Committee* consists of–

- the Chairperson of the Commission
- the Director
- an employee of the Commission
- two members nominated by the Law Society, and
- two members nominated by the South Australian Bar Association.

## The Commission

The Act provides that the Commission consists of–

- the Chairperson, appointed by the Governor on the nomination of the Attorney-General
- three persons appointed by the Governor on the nomination of the Attorney-General, of whom–
  - at least one must have experience in financial management, and
  - at least one must, in the opinion of the Attorney-General, be an appropriate person to represent the interests of assisted persons, and
- the Director.

## Corporate Governance 2018-19

Other than the Director, each member of the Commission holds office for three years and at the end of the term of appointment is eligible for reappointment.

During 2018-19 the Commission comprised–

- Michael Abbott AO QC LLB—Chairperson, appointed 12 December 2013
- Alan Herald FCA—appointed 6 December 2012, retired 30 April 2019
- Alison Lloyd-Wright BA (Hons), LLB—appointed 12 December 2013
- Catherine Nelson LLB—appointed 29 May 2014
- Debra Contala FCPA—appointed 1 May 2019
- Gabrielle Canny LLB—appointed Director 2 August 2012.

The Commissioners determine the broad policies and strategic priorities of the organisation. In the 2018-19 financial year 11 Commission meetings were held. The Commission is advised on specific matters by a number of committees. In 2018-19 these included the–

- Accommodation Committee
- Audit, Compliance and Risk Committee
- Budget Committee
- Funding Guidelines and Panels Review Committee
- ICT Steering Committee
- Legal Profession Reference Committee
- Panels Appeal Committee
- Staffing and Remuneration Committee.

### Audit, Compliance and Risk Committee

The Audit Compliance and Risk Committee assists the Commission to fulfil its governance responsibilities. It provides oversight of financial matters and risk management.

The Committee considers–

- all matters that relate to the financial affairs of the Commission
- the findings of the external audit conducted by the Auditor General
- risk management strategies and exposures as they arise, and
- any other matters referred to it by the Commission.

Key risk indicators have been developed to monitor risks against likelihood and impact. Regular reports on risk assessment, and the action taken, are provided to the Committee.

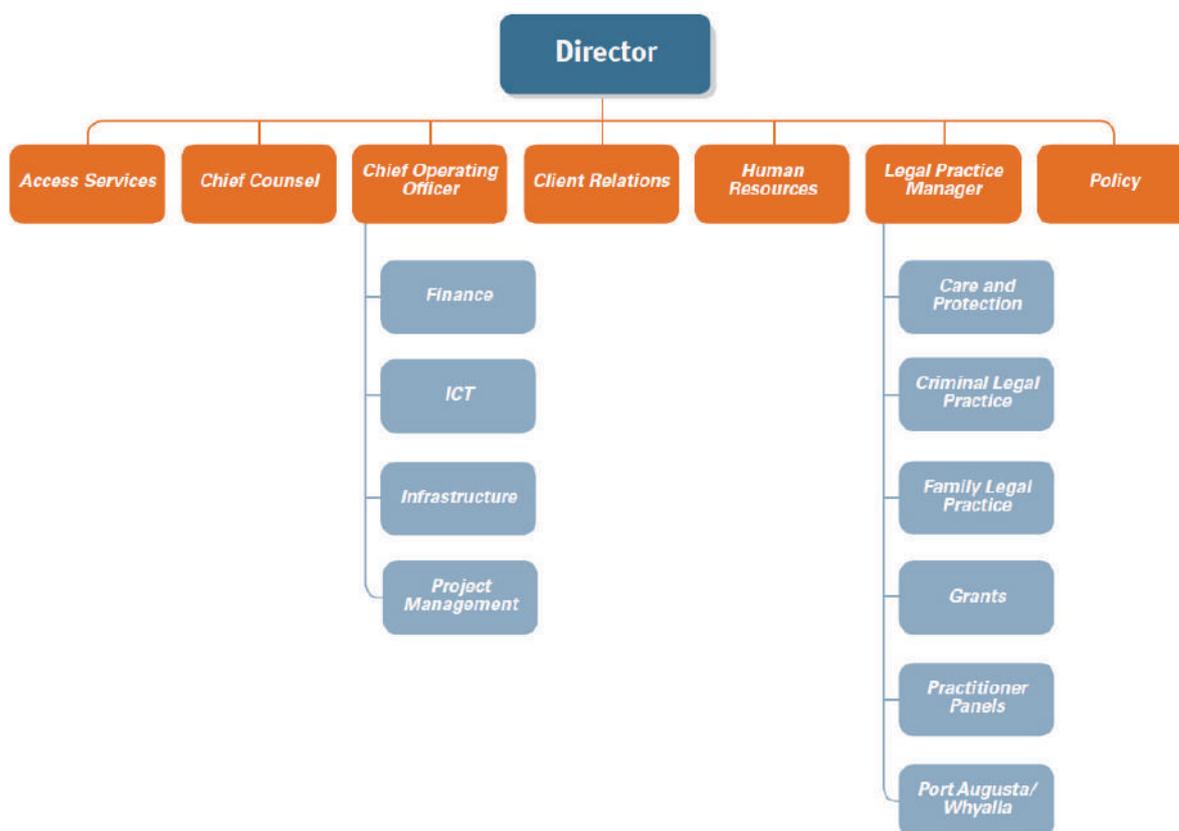
## Corporate Governance 2018-19

The financial management of the Commission is in accordance with applicable Australian Accounting Standards, the Treasurer's Instructions and Accounting Policy Statements. To minimise the potential for fraud, a risk register, a financial management compliance program and accounting procedures and policies are maintained and regularly reviewed in conjunction with the external auditors and the Audit, Compliance and Risk Committee.

No instances of fraud were recorded for the 2018-19 financial year.

### Organisational Structure

The Commission provides legal assistance through two programs— the Access Services Program and the Representation Program. Services under both programs are provided to rural and remote clients through Commission offices at Whyalla and Port Augusta.



# Staff 2018-19

As at 30 June 2019, the Commission employed 181 people (both legal and non-legal) to carry out its functions under the Act. This is a reduction from 216 at the same time last year and is a consequence of funding cuts that impacted from 1 July 2018. Consistently with last year, nearly 75% of all staff are female.

Each person is appointed on such terms and conditions as are determined by the Commission and approved by the Commissioner for Public Sector Employment. A legal practitioner employed by the Commission is required to observe the ethical principles and standards appropriate to the practice of the profession of the law.

Employees have access to a broad range of flexible working arrangements that support work/life balance. This financial year, 19% of staff worked part time and 50% of staff took advantage of flexi time. Paid parental leave entitlements were accessed by 6 staff members.

During the reporting year many members of staff contributed in their own time to professional associations. In addition, staff members were involved in a wide variety of community organisations.

## Professional development for lawyers

The mandatory continuing professional development scheme (CPD) requires legal practitioners to complete a minimum of 10 units of CPD activity each year to maintain a practising certificate. The Commission supports staff in accumulating these points, with the Access Services Division, the Criminal Law Practice Division and the Family Law Practice Division all organising internal training sessions for members of staff.

Legal practitioners and other staff also regularly attend external continuing legal education seminars and workshops and present papers or participate as panellists in a range of forums.

## Employee numbers, status and gender at 30 June 2018

Number of employees	Total
Persons	181
Full-time equivalent	170.99

Gender	% Persons	% FTE's
Male	23.76	25.03
Female	76.24	74.97

Number of persons during 2018-19 financial year who	Total
separated from the Commission	61
were recruited to the Commission	23

Number of persons at 30 June 2019	Total
on leave without pay from the Commission	3

## Staff 2018-19

076

### Number of employees by salary bracket

Salary bracket	Male	Female	Total
\$0-\$59 999	2	36	38
\$60 000 – \$74 999	9	45	54
\$75 000 – \$94 999	8	32	40
\$95 000 –\$99 999	2	1	3
\$100 000 +	22	24	46
<b>Total</b>	<b>43</b>	<b>138</b>	<b>181</b>

### Status of employees in current position

FTEs	Ongoing	Short-term contract	Long-term contract	Casual	Total
Male	22.80	11	9	0	42.80
Female	91.45	33.74	3	0	128.19
<b>Total</b>	<b>114.25</b>	<b>44.74</b>	<b>12</b>	<b>0</b>	<b>170.99</b>

PERSONS	Ongoing	Short-term contract	Long-term contract	Casual	Total
Male	23	11	9	0	43
Female	99	36	3	0	138
<b>Total</b>	<b>122</b>	<b>47</b>	<b>12</b>	<b>0</b>	<b>181</b>

## Staff 2018-19

### Executives by gender, classification and status

Classification	Tenured		Untenured		Male		Female		Total
	Male	Female	Male	Female	Total	% Exec	Total	% Exec	
Executive A	0	0	2	1	2	66.66%	1	33.33%	3
Executive B	0	0	2	1	2	66.66%	1	33.33%	3
Executive C	0	0	0	1	0	0%	1	100%	1
Executive D	0	0	1	0	1	100%	0	0%	1
<b>Total</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>3</b>	<b>5</b>	<b>62.5%</b>	<b>3</b>	<b>37.5%</b>	<b>8</b>

### Average days leave per full time equivalent employee

Leave Type	2014-15	2015-16	2016-17	2017-18	2018-19
Sick leave	7.18	5.98	6.68	8	8.64
Family carer's leave	0.80	1.02	1	1.02	1.21

### Number of employees by age bracket and gender

Age Bracket	Male	Female	Total	% of Total
15 - 19	0	0	0	0
20 - 24	1	2	3	1.66
25 - 29	4	12	16	8.84
30 - 34	8	13	21	11.60
35 - 39	4	13	17	9.39
40 - 44	6	23	29	16.02
45 - 49	4	19	23	12.71
50 - 54	3	24	27	14.92
55 - 59	4	18	22	12.15
60 - 64	8	13	21	11.60
65+	1	1	2	1.10
<b>Total</b>	<b>43</b>	<b>138</b>	<b>181</b>	<b>100</b>

### Aboriginal and/or Torres Strait Islander employees

Salary bracket	Aboriginal employees	Total employees	% Aboriginal employees
\$0 - \$59 999	0	38	0
\$60 000 - \$74 999	1	54	0.55
\$75 000 - \$94 999	0	40	0
\$95 000 - \$99 999	0	3	0
\$100 000 +	2	46	1.11
<b>Total</b>	<b>3</b>	<b>181</b>	<b>1.66%</b>

## Staff 2018-19

### Cultural and linguistic diversity

Employees	Male	Female	Total	% of Agency
Number of employees born overseas	6	25	31	17.12%

078

### Total number of employees

**with disabilities** *according to Commonwealth DDA definition*

Employees	Number
Male	0
Female	1
<b>Total</b>	<b>1</b>
% of Agency	0.5%

### Type of disability *where specified*

Disability	Male	Female	Total	% of Agency
Requiring workplace adaptation	0	0	0	0%
Physical	0	1	1	0.5%
Intellectual	0	0	0	0%
Sensory	0	0	0	0%
Psychological/ Psychiatric	0	0	0	0%

### Voluntary flexible working arrangements by gender

Leave type	Male	Female	Total
Purchased Leave	0	0	0
Flexitime	11	79	90
Compressed weeks	0	2	2
Part-time	1	34	35
Job share	0	0	0
Working from home	0	0	0

	2018-19
Performance Review discussions	51%

## Work health, safety and return to work

Work place injury claims	2018-19	2017-18	% change
Total new workplace injury Claims	2	4	-50%
Fatalities	Nil	Nil	0
Serious injured workers*	Nil	Nil	0
Significant injuries (where lost time exceeds a working week, expressed as frequency rate per 10000FTE)	Nil	Nil	0

\* number of claimants assessed during the reporting period as having a whole person impairment of 30% or more under the *Return to Work Act 2014 (Part 2 Division 5)*

Work Health and Safety Regulations	2018-19	2017-18
Number of notifiable incidents pursuant ( <i>WHS Act 2012, Part 3</i> )	Nil	Nil
Number of provisional improvement, improvement and prohibition notices ( <i>WHS Act 2012, ss 90, 191, and 195</i> ) Nil	Nil	Nil

**Note:** The Commission is not a South Australian Government exempt employer but has based its Work Health and Safety Program on prescribed WorkCover requirements.

The Commission is self insured for workers compensation claims and rehabilitation management. It pays an annual premium to an insurance provider from which all income maintenance, medical and rehabilitation costs are met, excepting the first two weeks of salary following an injury.

For workers compensation purposes the Commission has been assessed as a low risk employer and accordingly pays a low workers compensation premium. For 2018-19, the premium cost was 0.42% of total salary remuneration. This amounted to \$78 933 for the 2018-19 financial year.

# Support Services 2018-19

## Information and communication services

The Commission supports operational and client needs through the use of appropriate technology. The significant achievements of 2018-19 include–

- integration of the Electronic Document and Records Management System (EDRMS) and improvement of business process to maximise the benefit of the system and increase the use of digital only documents
- upgrading of business systems to maintain currency
- increased use of analytics to improve the reporting and business analysis capability to Commission members and management, and
- piloting of speech recognition dictation across the legal practices of the Commission.

The Commission is leading a national project, on behalf of National Legal Aid, for the development of an online dispute resolution 'App' for separating couples. The App is an Artificial Intelligence based solution, designed to reduce the need for families to go through the traditional family court pathway when separating. As promoted by the Commonwealth Attorney-General, it is an innovative approach to address the increasing number of family law matters awaiting resolution and the increase in the median time taken to reach trial. It has the potential to assist the 70% of families that primarily resolve their family disputes themselves to achieve a better settlement.

The App can be downloaded to a user's smart phone. It employs a machine-learning model, using legal precedents to develop parenting plans and suggest an equitable division of family assets based on information entered by separating couples. It takes users through the process in a simple but structured way, using everyday language to explain complex legal terminology. It will also incorporate technology that supports positive engagement, by detecting rude or aggressive language. The App should be publicly available in 2020.

## Support Services 2018-19

### Records management

The Commission is required to comply with the *State Records Act 1997* which mandates the care, management and disposal of official records. Focus on achieving 100% compliance with the *State Records Act 1997* has continued during 2018-19, with–

- continued implementation of the five year records management strategy
- completion of the Electronic Document and Records Management System (EDRMS) implementation project, deploying Content Manager and providing training to all Commission employees, and
- the development of new and updated business procedures to align with changes arising from the Content Manager project.

### Library

The Commission library is widely regarded as one of the most comprehensive law libraries in South Australia. The proliferation of new legislation requires in-house legal practitioners to be regularly updated about legislative and case law changes. Commission library programs and updates, specifically designed to keep practitioners informed of legal developments as they occur, are available to all staff. The Law Librarian provides research assistance to in-house staff and to legal practitioners acting on a grant of legal aid.

# Complaints 2018-19

The Commission employs a client relations coordinator to liaise with members of the public.

This financial year the client relations coordinator received 562 queries from the public, as compared to 575 last financial year. The majority of these matters related to whether there was an entitlement to legal aid and why aid was refused.

Of the 562 queries, 53 were complaints relating to Commission services, equating to 0.04% of the \*119 402 services provided to members of the public by the Commission. This was a decrease of 15 from the 68 complaints in relation to Commission services in the 2017-18 financial year. Most complaints were resolved by providing a full explanation of the Commission's processes and procedures.

*\*includes applications for aid, and advice, information and duty lawyer services.*

During 2018-19, 24 complaints were made in relation to private legal practitioners, equating to 0.2% of the 11 816 services provided to members of the public by the private profession. This was an increase from 11 complaints in the 2017-18 financial year. Most of these complaints were resolved by clarifying the role of a private legal practitioner acting on a grant of legal aid and by informing the complainant that unsatisfactory service provision is dealt with by the Legal Profession Conduct Commissioner.

## Client Relations Contacts 1 July 2018- 30 June 2019

Reason for contact	Protection Application	FDR	Child Support	Family	Criminal	Civil	General	Total	% of all Contacts
Refusal of aid	5	3	2	78	35	9	0	<b>132</b>	23.49
Entitlement to legal aid	1	4	2	157	21	1	0	<b>186</b>	33.10
Child representation	0	0	0	8	0	0	0	<b>8</b>	1.42
Commission service	0	4	3	26	12	8	0	<b>53</b>	9.43
Statutory charge	0	0	0	7	4	0	0	<b>11</b>	1.96
Private practitioner service	0	4	0	9	9	1	1	<b>24</b>	4.27
Discrimination	0	0	0	0	0	1	0	<b>1</b>	0.18
Conditions of aid (other than statutory charge)	0	0	0	9	1	0	0	<b>10</b>	1.78
Cap	0	0	0	3	0	0	0	<b>3</b>	0.53
Complaint to MP, Ombudsman etc	0	0	0	4	1	2	0	<b>7</b>	1.25
Other	0	1	2	35	58	27	4	<b>127</b>	22.60
<b>Total</b>	<b>6</b>	<b>16</b>	<b>9</b>	<b>336</b>	<b>141</b>	<b>49</b>	<b>5</b>	<b>562</b>	<b>100%</b>

# Legislative Compliance 2018-19

## Freedom of Information

Section 9 of the *Freedom of Information Act 1991* (FOI Act) requires the Commission to publish an annual information statement containing the following information:

- **A description of the structure and function of the agency**

This information can be found in this report in the sections headed *Snapshot—Who we are and what we do* and *Corporate Governance*.

- **How the functions affect members of the public**

The Commission provides legal representation to applicants who meet the Commission's means, merit and guidelines tests. Additionally, Commission staff provide free legal information and advice and a free duty lawyer service to all members of the public. The public can also access online legal information through an online Legal Chat platform and the Commission's 24Legal decision trees. Free publications on legal issues, an online Law Handbook and various community legal education programs are also available. Commission staff regularly provide input into legislative changes and government reviews.

- **Arrangements enabling members of the public to participate in the formulation of policy and exercise of functions**

Many Commission staff are members of community organisations, both legal and non-legal. This community engagement promotes two way communication and feedback. Members of the public are invited to participate in the formulation of policy and the delivery of functions by completing a Feedback Form available at [http://www.lsc.sa.gov.au/cb\\_pages/feedback.php](http://www.lsc.sa.gov.au/cb_pages/feedback.php).

- **Documents usually held by the Commission**

The Commission has a computerised record management system and database that records details of accounts, clients, legal aid cases and legal advice and duty lawyer attendances. During 2017-18 an EDRMS was introduced. Legal aid files created since the implementation of the EDRMS are maintained on that system. Hard copy files are maintained for each external grant of aid file created prior to the EDRMS and for all in-house files. The location of these files is recorded in the computerised record management system. Management and administrative files created prior to the implementation of the EDRMS are also maintained in hard copy, with their location recorded on a manual system.

## Legislative Compliance 2018-19

- **Access to documents**

The Commission's Freedom of Information Officer administers the FOI Act and facilitates, subject to exemptions and exceptions, access to documents and amendments to personal information held by the Commission. Arrangements can be made to inspect or purchase documents available under the FOI Act at 159 Gawler Place, Adelaide between 9.00 am and 5.00 pm on working days. Copies may be purchased for 50 cents per page, which may be waived in appropriate cases. By prior arrangement with the Freedom of Information Officer, these documents may also be inspected and copies purchased at any of the Commission's offices.

In the 2018-19 financial year, nine applications for information were processed under the FOI Act. Full release of the requested material was provided in seven of the applications. In two of the applications only partial release of the material was possible because the Commission did not possess the requested information or documents. During the reporting period one Internal Review occurred - the original decision was confirmed. No contracts containing approved confidentiality clauses were executed this year.

### **Whistleblowers Protection Act 1993**

There were no occasions during the financial year in which public interest information was disclosed to the responsible officer under the *Whistleblowers Protection Act 1993*.

# Commission Finances

**41st Annual Report 2018-19**

Legal Services Commission of South Australia

[www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

# Finance 2018-19

## Income

The Commission is primarily funded by the State and Commonwealth governments.

In 2018-19 the State government provided funding to the Commission of \$22 940 000 million, a decrease from \$44 545 000 in 2017-18. The exceptional 2017-18 funding was due to an advance payment of \$21.96 million for the 2018-19 financial year. The State government also provided \$1 051 000 in reimbursements under the Expensive Criminal Cases Funding Agreement.

The Commonwealth government, through the National Partnership Agreement on Legal Assistance Services 2015-20 (the NPA) provided funding to the Commission of \$16 801 000, an increase from \$16 644 000 in 2017-18. In addition, the Commonwealth government provided \$355 000 in reimbursements for expensive criminal cases and \$3 596 000 in grants tied to particular services or projects.

The Commission received a further \$3 243 000 from the Law Society pursuant to sections 56 and 57A of the *Legal Practitioners Act 1981*.

State government funding is largely used for matters involving State criminal law and child protection applications. The income from the Law Society is also used for State law related matters. Commonwealth funding is mostly used for family law matters, although it may be used to fund any matter under Commonwealth law.

The Commission generated income from investments, client contributions, education courses, the sale of legal kits and, most significantly, cost recovery through the imposition of statutory charges. This is achieved under section 18A of the *Legal Services Commission Act 1977* which provides that a grant of legal assistance may be subject to the condition that legal assistance costs payable to the Commission are secured by a charge on land – a statutory charge. During 2018-19 the Commission recovered \$395 277 in statutory charges, and imposed charges in 149 matters, an increase from 123 in 2017-18.

The Commission actively pursues other funding, including State and Commonwealth government funding, where the projects to be delivered provide legal assistance services to the community and are related to, and enhance, services prescribed in the Act.

## Finance 2018-19

### Expenditure

Total operating expenditure for 2018-19 was \$46 452 000, up from \$45 130 000 in 2017-18. Private legal practitioner payments totaled \$17 555 000, down from \$18 015 000 in 2017-18.

The Commission completed the 2017-18 financial year with a consolidated comprehensive result of \$5 384 000 surplus.

### Commonwealth Government funding as at 30 June 2019

Financial Year	2014-15	2015-16	2016-17	2017-18	2018-19
	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Core funding</b>	16 194	15 699	16 250	16 644	16 801

### State Government funding as at 30 June 2019

Financial Year	2014-15	2015-16	2016-17	2017-18	2018-19
	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Core funding</b>	17 750	21 423	21 848	44 545*	22 940

\*During 2017-18 the State Government paid \$21 960 000 in advance to the Commission for the 2018-19 financial year.

## Finance 2018-19

### Consultants

The following is a summary of external consultants engaged by the Commission, the nature of work undertaken and the actual payments made for work undertaken during the financial year.

#### Consultancies with a contract value below \$10 000 each

	Consultancy	Purpose	Actual Payment
<b>Below \$10 000</b>	Mercer Consulting Australia Pty Ltd	HR consulting	\$2 750
<b>Total</b>			<b>\$2 750</b>

#### Consultancies with a contract value above \$10 000 each

	Consultancy	Purpose	Actual Payment
<b>Above \$10 000</b>	KPMG	Internal audit	\$19 311
<b>Total</b>			<b>\$19 311</b>

### Contractors

The following is a summary of external contractors engaged by the Commission, the nature of work undertaken and the actual payments made for work undertaken during the financial year.

#### Contractors with a contract value above \$10 000 each

	Contractor	Purpose	Actual Payment
<b>Below \$10 000</b>	MAC (secondment of staff)	Office accommodation	\$54 863
<b>Total</b>			<b>\$54 863</b>

The Commission publishes contract details in accordance with the government's Contract Disclosure Policy. The information is available through the SA Tenders and Contracts website – <https://www.tenders.sa.gov.au>.

# Auditor-General's Letter 2019

**For official use only**



**Government of South Australia**  
**Auditor-General's Department**

Our ref: A19/111

30 September 2019

Mr M Abbott AO QC  
Chairman  
Legal Services Commission  
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Dear Mr Abbott

## **Audit of Legal Service Commission for the year ended 30 June 2019**

We have completed the audit of your accounts for the year ended 30 June 2019. Two key outcomes from the audit are the:

- 1 Independent Auditor's Report on your agency's financial report
- 2 audit management letter.

### **1 Independent Auditor's Report**

We are returning the financial statements for Legal Services Commission, with the Independent Auditor's Report. This report is unmodified.

The *Public Finance and Audit Act 1987* allows me to publish documents on the Auditor-General's Department website. The enclosed Independent Auditor's Report and accompanying financial statements will be published on that website on Tuesday 22 October 2019.

### **2 Audit management letter**

During the year, we sent you an audit management letter detailing the weaknesses we noted and improvements we considered you need to make.

Significant matters related to insufficient segregation of duties for private practice expenditure and payment and the EFT payment file was not appropriately restricted.

We have received responses to our letter and will follow these up in the 2019-20 audit.

### **What the audit covered**

Our audits meet statutory audit responsibilities under the *Public Finance and Audit Act 1987* and the Australian Auditing Standards.

## For official use only

Our audit covered the principal areas of the agency's financial operations and included test reviews of systems, processes, internal controls and financial transactions. Some notable areas were:

- employee benefits
- expenses including private practice payments
- revenue including grants
- cash
- financial accounting including general ledger and journals
- governance.

Particular attention was given to quality of the disclosure in relation to AASB 9 *Financial Statements*. We concluded the financial report was prepared in accordance with the financial reporting framework in this respect.

I would like to thank the staff and management of your agency for their assistance during this year's audit.

Yours sincerely



Andrew Richardson  
**Auditor-General**

enc

# Independent Auditor's Report 2019

## INDEPENDENT AUDITOR'S REPORT



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Auditor-General's Department

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### To the Chair Legal Services Commission

As required by section 31(1)(b) of the *Public Finance and Audit Act 1987* and section 25 of the *Legal Services Commission Act 1977*, I have audited the financial report of the Legal Services Commission for the year ended 30 June 2019.

### Opinion

In my opinion, the accompanying financial report gives a true and fair view of the financial position of the Legal Services Commission as at 30 June 2019, its financial performance and its cash flows for the year then ended in accordance with the Treasurer's Instructions issued under the provisions of the *Public Finance and Audit Act 1987* and Australian Accounting Standards.

The financial report comprises:

- a Statement of Comprehensive Income for the year ended 30 June 2019
- a Statement of Financial Position as at 30 June 2019
- a Statement of Changes in Equity for the year ended 30 June 2019
- a Statement of Cash Flows for the year ended 30 June 2019
- notes, comprising significant accounting policies and other explanatory information
- a Certificate from the Chairperson, Director and Manager, Finance.

### Basis for opinion

I conducted the audit in accordance with the *Public Finance and Audit Act 1987* and Australian Auditing Standards. My responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial report' section of my report. I am independent of the Legal Services Commission. The *Public Finance and Audit Act 1987* establishes the independence of the Auditor-General. In conducting the audit, the relevant ethical requirements of APES 110 *Code of Ethics for Professional Accountants* have been met.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my opinion.

### **Responsibilities of the Director and members of the Commission for the financial report**

The Director is responsible for the preparation of the financial report that gives a true and fair view in accordance with the Treasurer's Instructions issued under the provisions of the *Public Finance and Audit Act 1987* and Australian Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of the financial report that gives a true and fair view and that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the Director is responsible for assessing the entity's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the entity is to be liquidated or to cease operations, or has no realistic alternative but to do so.

The members of the Commission are responsible for overseeing the entity's financial reporting process.

### **Auditor's responsibilities for the audit of the financial report**

My objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Legal Services Commission's internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Director

# Independent Auditor's Report 2019

- conclude on the appropriateness of the entity's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern
- evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

My report refers only to the financial report described above and does not provide assurance over the integrity of electronic publication by the entity on any website nor does it provide an opinion on other information which may have been hyperlinked to/from the report.

I communicate with the Director and the members of the Commission about, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during the audit.



Andrew Richardson  
**Auditor-General**  
30 September 2019

# Statement of Comprehensive Income 30 June 2019

## Legal Services Commission of South Australia

### Statement of Comprehensive Income

for the year ended 30 June 2019

	Note	2019 \$'000	2018 \$'000
<b>Expenses</b>			
Employee benefits expenses	2.3	21 395	19 521
Private Practitioner services		17 555	18 015
Supplies and services	3.1	6 821	6 883
Depreciation and amortisation	3.2	600	547
Other expenses	3.3	81	164
<b>Total expenses</b>		<b>46 452</b>	<b>45 130</b>
<b>Income</b>			
Commonwealth grants	4.2	16 867	16 999
Legal Practitioners Act 1981 revenues	4.3	3 243	2 920
Statutory charges		1 314	927
Interest	4.4	512	368
Costs recovered and contributions	4.5	294	273
Other income	4.6	4 665	1 828
<b>Total income</b>		<b>26 895</b>	<b>23 315</b>
<b>Net cost of providing services</b>		<b>19 557</b>	<b>21 815</b>
<b>Revenues from SA Government</b>			
Revenues from SA Government	4.1	24 941	44 799
<b>Net result</b>		<b>5 384</b>	<b>22 984</b>
<b>Total comprehensive result</b>		<b>5 384</b>	<b>22 984</b>

The accompanying notes form part of these financial statements. The net result and total comprehensive result are attributable to the SA Government as owner.

# Statement of Financial Position 30 June 2019

## Legal Services Commission of South Australia

### Statement of Financial Position

as at 30 June 2019

	Note	2019 \$'000	2018 \$'000
<b>Current assets</b>			
Cash and cash equivalents	6.1	37 051	35 158
Receivables	6.2	4 361	2 066
<b>Total current assets</b>		<b>41 412</b>	<b>37 224</b>
<b>Non-current assets</b>			
Property, plant and equipment	5.1	3 533	3 729
Intangible assets	5.2	414	524
Statutory charge debtors	6.3	8 361	7 511
<b>Total non-current assets</b>		<b>12 308</b>	<b>11 764</b>
<b>Total assets</b>		<b>53 720</b>	<b>48 988</b>
<b>Current liabilities</b>			
Legal payables		745	807
Payables	7.1	615	442
Employee benefits	2.4	1 583	1 833
Other liabilities	7.2	233	233
<b>Total current liabilities</b>		<b>3 176</b>	<b>3 315</b>
<b>Non-current liabilities</b>			
Payables	7.1	202	271
Employee benefits	2.4	3 879	3 980
Other liabilities	7.2	1 867	2 100
<b>Total non-current liabilities</b>		<b>5 948</b>	<b>6 351</b>
<b>Total liabilities</b>		<b>9 124</b>	<b>9 666</b>
<b>Net Assets</b>		<b>44 596</b>	<b>39 322</b>
<b>Equity</b>			
Retained earnings		44 547	39 273
Asset Revaluation Surplus		49	49
<b>Total Equity</b>		<b>44 596</b>	<b>39 322</b>

The accompanying notes form part of these financial statements. The total equity is attributable to the SA Government as owner.

# Statement of Changes in Equity 30 June 2019

## Legal Services Commission of South Australia

### Statement of Changes in Equity

for the year ended 30 June 2019

	Note	Asset revaluation surplus \$'000	Retained earnings \$'000	Total Equity \$'000
Balance at 1 July 2017		49	16 289	16 338
<b>Total comprehensive result for 2017-18</b>		-	<b>22 984</b>	<b>22 984</b>
Balance at 30 June 2018		49	39 273	39 322
Adjustments on initial adoption of AASB 9	9.2	-	(110)	(110)
<b>Adjusted balance at 1 July 2018</b>		<b>49</b>	<b>39 163</b>	<b>39 212</b>
<b>Total comprehensive result for 2018-19</b>		-	<b>5 384</b>	<b>5 384</b>
<b>Balance at 30 June 2019</b>		<b>49</b>	<b>44 547</b>	<b>44 596</b>

The accompanying notes form part of these financial statements. All changes in equity are attributable to the SA Government as owner.

# Statement of Cash Flows 30 June 2019

## Legal Services Commission of South Australia

### Statement of Cash Flows

for the year ended 30 June 2019

	Note	2019 \$'000	2018 \$'000
<b>Cash flows from operating activities</b>			
<i>Cash outflows</i>			
Employee benefits payments		(21 841)	(19 141)
Payments for supplies and services		(7 527)	(6 975)
Private Practitioner services		(19 416)	(20 453)
<b>Cash used in operations</b>		<b>(48 784)</b>	<b>(46 569)</b>
<i>Cash inflows</i>			
Receipts from Commonwealth		16 867	16 744
Legal Practitioners Act 1981 receipts		3 329	2 884
Costs recovered and contributions		309	296
Statutory charge receipts		396	590
Interest received		511	364
GST recovered from the ATO		2 181	2 365
Other receipts		2 467	1 640
<b>Cash generated from operations</b>		<b>26 060</b>	<b>24 883</b>
<b>Cash flows from SA Government</b>			
Receipts from SA Government		24 911	44 675
<b>Cash generated from SA Government</b>		<b>24 911</b>	<b>44 675</b>
<b>Net cash provided by operating activities</b>		<b>2 187</b>	<b>22 989</b>
<b>Cash flows from investing activities</b>			
<i>Cash outflows</i>			
Purchase of property, plant & equipment and intangibles		(294)	(164)
<b>Net cash used in investing activities</b>		<b>(294)</b>	<b>(164)</b>
<b>Net increase in cash and cash equivalents</b>		<b>1 893</b>	<b>22 825</b>
<b>Cash and cash equivalents at the beginning of the period</b>		<b>35 158</b>	<b>12 333</b>
<b>Cash and cash equivalents at the end of the period</b>	6.1	<b>37 051</b>	<b>35 158</b>

The accompanying notes form part of these financial statements.

# Note Index 30 June 2019

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## 1. About the Legal Services Commission of South Australia

The Legal Services Commission of South Australia (the Commission) is a body corporate and not-for-profit. It is capable of acquiring or incurring any rights or liabilities that may properly attach to a body corporate. It has the powers, functions and duties prescribed or imposed upon it by or under the *Legal Services Commission Act 1977* (the Act).

The Commission was established under the Act to provide or arrange for the provision of legal assistance in accordance with the Act. Under section 6(3) of the Act, the Commission is not an instrumentality of the Crown and is independent of the Government.

The financial statements and accompanying notes include all activities of the Commission.

The Commission does not control any other entity and has no interests in unconsolidated structured entities. The financial statements and accompanying notes include all the controlled activities of the Commission.

The Commission is endorsed by the Australian Taxation Office (ATO) as an income tax exempt charity and as a Public Benevolent Institution.

### 1.1. Basis of preparation

The financial statements are general purpose financial statements prepared in compliance with:

- section 23 of the *Public Finance and Audit Act 1987*;
- Treasurer's Instructions and Accounting Policy Statements issued by the Treasurer under the *Public Finance and Audit Act 1987*; and
- relevant Australian Accounting Standards with reduced disclosure requirements.

For the 2018-19 financial statements, the Commission adopted *AASB 9 Financial Instruments* and is required to comply with new *Treasurer's Instructions (Accounting Policy Statements)* issued on 22 March 2019. Further information is provided in note 9.

The financial statements are prepared based on a 12 month reporting period and presented in Australian currency. The historical cost convention is used unless a different measurement basis is specifically disclosed in the note associated with the item measured.

Income, expenses and assets are recognised net of the amount of GST except:

- when the GST incurred on a purchase of goods or services is not recoverable from the ATO, in which case the GST is recognised as part of the cost of acquisition of the asset or as part of the expense item applicable; and
- receivables and payables, which are stated with the amount of GST included.

Assets and liabilities that are to be sold, consumed or realised as part of the normal operating cycle have been classified as current assets or current liabilities. All other assets and liabilities are classified as non-current.

### 1.2. Objectives

The objective of the Commission is to provide or arrange for the provision of legal assistance in accordance with the Act. The functions and principals of the Commission are set out in section 10 and 11 of the Act.

## 2. Board, committees and employees

### 2.1. Key management personnel

Key management personnel of the Commission in 2018-19 include the Director, five Commissioners, the Chief Operating Officer and the Legal Practice Manager. In 2017-18, it included the Director, four Commissioners, the Chief Operating Officer and the Legal Practice Manager.

Total compensation for key management personnel was \$0.9m in 2018-19 and \$0.8m in 2017-18.

#### *Transactions with key management personnel and other related parties*

There were no transactions with key management personnel and other related parties during the financial year.

### 2.2. Commission members

The members of the Commission are appointed by the Governor in accordance with the provisions of the Act and include sole practitioners.

Members of the Commission during the 2019 financial year were:

Michael Abbott	Chair
Gabrielle Canny *	Ex Officio
Alison Lloyd-Wright *	
Alan Herald (retired April 2019)	
Catherine Nelson	
Debra Contala (appointed May 2019)	

\*In accordance with the Premier and Cabinet Circular No. 016, government employees did not receive any remuneration for board/committee duties during the financial year.

#### *Remuneration of Commissioners*

The number of members whose remuneration received or receivable falls within the following bands:	2019 No.	2018 No.
\$0 - \$19 999	5	4
\$20 000 - \$39 999	1	1
<b>Total number of members</b>	<b>6</b>	<b>5</b>

The total remuneration received or receivable by members was \$47 000 (2017-18 - \$50 000). Remuneration of members includes sitting fees, superannuation contributions, salary sacrifice benefits, fringe benefits and related fringe benefits tax.

In the ordinary course of business the Commission enters into transactions with legal firms, some of which are associated with members of the Commission. Payments made to these firms are in accordance with the Commission's scale of fees and are payments that apply to practitioners generally. Accordingly, unless otherwise disclosed, transactions between members are on conditions no more favourable than those that it is reasonable to expect the entity would have adopted if dealing with the related party at arm's length in the same circumstances.

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 2.3. Employee benefits expenses

	2019 \$'000	2018 \$'000
Salaries and wages	14 652	15 502
Targeted voluntary separation packages	2 303	-
Long service leave	788	496
Annual leave	1 374	1 208
Skills and experience retention leave	94	89
Employment on-costs - superannuation	1 623	1 679
Employment on-costs - other	429	414
Commission members' fees	43	43
Workers compensation	89	90
<b>Total employee benefits expenses</b>	<b>21 395</b>	<b>19 521</b>

### *Employment on-costs - superannuation*

The superannuation employment on-cost charge represents the Commission's contributions to superannuation plans in respect of current services of current employees.

### *Executive remuneration*

	2019 No.	2018 No.
The number of employees whose remuneration received or receivable falls within the following bands:		
\$149 000 to \$151 000 *	N/A	1
\$151 001 to \$171 000	5	6
\$171 001 to \$191 000	1	1
\$191 001 to \$211 000	2	2
\$211 001 to \$231 000	2	1
\$231 001 to \$251 000	1	1
\$251 001 to \$271 000	1	-
\$271 001 to \$291 000	1	-
\$291 001 to \$311 000	2	2
<b>Total</b>	<b>15</b>	<b>14</b>

\* This band has been included for the purposes of reporting comparative figures based on the executive base level remuneration rate for 2017-18.

The table includes all employees who received remuneration equal to or greater than the base executive remuneration level during the year. Remuneration of employees reflects all costs of employment including salaries and wages, payments in lieu of leave, superannuation contributions, salary sacrifice benefits and fringe benefits and any fringe benefits tax paid or payable in respect of those benefits. The total remuneration received by these employees for the year was \$3.23m (2017-18 - \$2.77m)

**Targeted voluntary separation packages**

The number of employees who received a TVSP during the reporting period was 33 (2017-18 - Nil).

	2019 \$'000	2018 \$'000
Amount paid to separated employees:		
Targeted Voluntary Separation Packages	2 303	-
Leave paid to separated employees	748	-
Recovery from the Department of Treasury and Finance	(1 051)	-
<b>Net cost to the Commission</b>	<b>2 000</b>	<b>-</b>

**2.4. Employee benefits liability**

	2019 \$'000	2018 \$'000
<b>Current</b>		
Accrued salaries and wages	341	376
Annual leave	916	1 111
Long service leave	244	234
Skills and experience retention leave	82	112
<b>Total current employee benefits</b>	<b>1 583</b>	<b>1 833</b>
<b>Non-current</b>		
Long service leave	3 879	3 980
<b>Total non-current employee benefits</b>	<b>3 879</b>	<b>3 980</b>
<b>Total employee benefits</b>	<b>5 462</b>	<b>5 813</b>

Employee benefits accrue as a result of services provided up to the reporting date that remain unpaid. Long-term employee benefits are measured at present value and short-term employee benefits are measured at nominal amounts.

**Salaries and wages, annual leave, skills and experience retention leave (SERL) and sick leave**

The liability for salary and wages is measured as the amount unpaid at the reporting date at remuneration rates current at the reporting date.

The annual leave liability and the SERL liability in full is expected to be payable within 12 months and is measured at the undiscounted amount expected to be paid.

No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees is estimated to be less than the annual entitlement for sick leave.

**Long service leave**

The liability for long service leave is measured as the present value of expected future payments to be made in respect of services provided by employees up to the end of the reporting period using the projected unit credit method. Details about the measurement of long service leave liability is provided as note 11.1.

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 3. Expenses

Employee benefits expenses are disclosed in note 2.3.

### 3.1. Supplies and services

	2019 \$'000	2018 \$'000
Operating lease payments	2 428	2 426
Information technology expenses	1 803	1 726
Accommodation	610	642
Telecommunications	359	292
Periodicals and subscriptions	278	274
Legal fees and disbursements	166	111
Interpreter fees	146	159
Travel	134	173
Practising certificates and membership	118	111
Office supplies and consumables	115	164
Audit fees - Auditor-General's Department	77	76
Relationship Australia Service fees	86	108
Storage fees	73	69
Courses and training	35	76
Media and advertising	34	41
Audit fees - other	25	-
Consultancy fees	22	90
Northern Domestic Violence Service fees	-	70
Other	312	275
<b>Total supplies and services</b>	<b>6 821</b>	<b>6 883</b>

#### *Operating leases payments*

Operating lease payments (less any lease incentives) are recognised on a straight-line basis over the lease term.

#### *Consultants*

The number of consultancies and the dollar amount paid/payable (included in supplies and services expense) to consultants that fell within the following bands:

	No.	2019 \$'000	No.	2018 \$'000
Below \$10 000	1	3	3	12
\$10 000 or above	1	19	3	78
<b>Total</b>	<b>2</b>	<b>22</b>	<b>6</b>	<b>90</b>

### 3.2. Depreciation and amortisation

	2019 \$'000	2018 \$'000
Plant and equipment	266	273
Leasehold improvements	224	223
Intangible assets	110	51
<b>Total depreciation and amortisation</b>	<b>600</b>	<b>547</b>

All non-current assets, having a limited useful life, are systematically depreciated/amortised over their useful lives in a manner that reflects the consumption of their service potential.

# Notes to and Forming Part of the Financial Statements 30 June 2019

## **Review of accounting estimates**

Assets' residual values, useful lives and amortisation methods are reviewed and adjusted, if appropriate, on an annual basis. Changes in the expected life or the expected pattern of consumption of future economic benefits embodied in the asset are accounted for prospectively by changing the time period or method, as appropriate.

## **Useful life**

Depreciation/amortisation is calculated on a straight-line basis over the estimated useful life of the following classes of assets as follows:

<b>Class of asset</b>	<b>Useful life (years)</b>
Leasehold improvements	5-15
Plant and equipment	
Computers	3-5
Office equipment	5-13
Furniture and fittings	5-13
Intangibles	3-8

The library collections are anticipated to have very long and indeterminate useful lives. No amount for depreciation has been recognised as their service potential has not, in any material sense, been consumed during the reporting period.

The amortisation period and the amortisation method for intangible assets is reviewed on an annual basis.

## **3.3. Other expenses**

	<b>2019</b>	<b>2018</b>
	<b>\$'000</b>	<b>\$'000</b>
Statutory charge bad debts and impairment loss on receivables	76	162
Bad debts	5	2
<b>Total other expenses</b>	<b>81</b>	<b>164</b>

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 4. Income

### 4.1. Revenues from SA Government

	2019 \$'000	2018 \$'000
<b>Revenues from SA Government</b>		
Grant funding	22 940	44 545
Recovery from the Department of Treasury and Finance	1 051	-
Expensive Cases - reimbursement	950	254
<b>Total revenues from SA Government</b>	<b>24 941</b>	<b>44 799</b>

In 2019 the State Government contributed funding of \$22.9m (2017-18 - \$44.5m). This amount is deposited with SAFA.

Due to a change in the timing of the payment, 2017-18 included funding for both 2017-18 and 2018-19. The funding in 2018-19 was for services offered in 2019-20.

The Commission is separately funded by the State Government for matters that exceed the Commission's prescribed funding cap. The matters are funded pursuant to the *Criminal Law (Legal Representation) Act 2001*. The Commission enters into an approved Case Management Agreement with the State Government for these matters.

The State Government provided \$0.95m (2017-18 - \$0.3m) for approved expensive cases that exceeded the Commission funding cap of \$50 000 in the case of one party being aided and \$100 000 in the case of more than one party, irrespective of the number being aided. These matters are separately funded by the State Government.

### 4.2. Commonwealth grants

	2019 \$'000	2018 \$'000
National Partnership Agreement - funding	16 191	16 034
Family Advocacy and Support Service - funding	610	610
Expensive Cases - reimbursement	66	355
<b>Total Commonwealth grants</b>	<b>16 867</b>	<b>16 999</b>

A National Partnership Agreement on Legal Assistance Services between the Commonwealth of Australia and States and Territories is effective from 1 July 2015 to 30 June 2020. Amounts from the Commonwealth are received via the Attorney-General's Department.

Contributions are recognised as an asset and income when the Commission obtains control of the contributions or obtains the right to receive the contributions and the income recognition criteria are met.

### 4.3. Legal Practitioners Act 1981 revenues

In accordance with the *Legal Practitioners Act 1981*, the Commission is entitled to revenue from funds administered by the Law Society of South Australia.

	2019 \$'000	2018 \$'000
Statutory Interest account	1 265	1 138
Interest on Legal Practitioners Trust Account	1 978	1 782
<b>Total Legal Practitioners Act 1981 Revenue</b>	<b>3 243</b>	<b>2 920</b>

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 4.4. Interest

	2019 \$'000	2018 \$'000
Short-term deposits with SAFA	511	367
Cash and cash equivalents	1	1
<b>Total interest revenues</b>	<b>512</b>	<b>368</b>

## 4.5. Costs recovered and contributions

	2019 \$'000	2018 \$'000
Costs recovered	62	46
Contributions *	232	227
<b>Total costs recovered and contributions</b>	<b>294</b>	<b>273</b>

\* In addition, contributions of \$0.9m (2017-18 - \$0.8m) in relation to referred cases were paid or are payable directly to private practitioners by clients.

## 4.6. Other income

	2019 \$'000	2018 \$'000
Online Dispute Resolution System *	2 649	240
Women's Domestic Violence *	450	450
Disability and Carer Support Program *	368	165
Community Legal Service Eligibility, Triage and Referral Services	320	320
Drug Court Funding	151	147
Family Violence and Cross-Examination of Parties Scheme *	129	-
Return to Work SA Funding	124	111
Law Foundation Grant	32	-
Other	442	395
<b>Total other income</b>	<b>4 665</b>	<b>1 828</b>

\* Included in other income is funding for special projects paid directly to the Commission by the Commonwealth Government.

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 5. Non-financial assets

### 5.1. Property, plant and equipment

	2019 \$'000	2018 \$'000
<b>Leasehold improvements</b>		
Leasehold improvements	4 199	4 136
Accumulated depreciation	(2 125)	(1 901)
<b>Total leasehold improvements</b>	<b>2 074</b>	<b>2 235</b>
<b>Plant and equipment</b>		
Plant and equipment	5 247	5 015
Accumulated depreciation	(4 049)	(3 782)
<b>Total plant and equipment</b>	<b>1 198</b>	<b>1 233</b>
<b>Library</b>		
Library	261	261
<b>Total library</b>	<b>261</b>	<b>261</b>
<b>Total property, plant and equipment</b>	<b>3 533</b>	<b>3 729</b>

Property, plant and equipment with a value equal to or in excess of \$1 000 is capitalised, otherwise it is expensed.

Property, plant and equipment is recorded at fair value. Detail about the Commission's approach to fair value is set out in note 11.2.

#### Impairment

Property, plant and equipment have not been assessed for impairment as they are non-cash generating assets, that are specialised in nature and held for continual use of their service capacity and are subject to regular revaluation.

#### Reconciliation 2018-19

	Leasehold improvements \$'000	Plant and equipment \$'000	Library \$'000	Total \$'000
<b>Carrying amount at 1 July 2018</b>	<b>2 235</b>	<b>1 233</b>	<b>261</b>	<b>3 729</b>
Acquisitions	63	231	-	294
Depreciation	(224)	(266)	-	(490)
<b>Carrying amount at 30 June 2019</b>	<b>2 074</b>	<b>1 198</b>	<b>261</b>	<b>3 533</b>

### 5.2. Intangible assets

	2019 \$'000	2018 \$'000
<b>Computer software</b>		
Computer software	2 031	1 557
Work in progress	-	473
Accumulated amortisation	(1 617)	(1 506)
<b>Total computer software</b>	<b>414</b>	<b>524</b>

Intangible assets are initially measured at cost and are tested for indications of impairment at each reporting date. Following initial recognition, intangible assets are carried at cost less accumulated amortisation and any accumulated impairment losses.

# Notes to and Forming Part of the Financial Statements 30 June 2019

The acquisition of or internal development of software is capitalised only when the expenditure meets the definition and recognition criteria and when the amount of expenditure is greater than or equal to \$1 000.

## *Reconciliation 2018-19*

	WIP	Computer software	Total
	\$'000	\$'000	\$'000
<b>Carrying amount at 1 July 2018</b>	<b>473</b>	<b>51</b>	<b>524</b>
Transfers from WIP to Computer Software	(473)	473	-
Amortisation	-	(110)	(110)
<b>Carrying amount at 30 June 2019</b>	<b>-</b>	<b>414</b>	<b>414</b>

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 6. Financial assets

### 6.1. Cash and cash equivalents

	2019 \$'000	2018 \$'000
Short-term deposits with SAFA	36 688	34 960
Cash on hand	363	198
<b>Total cash and cash equivalents</b>	<b>37 051</b>	<b>35 158</b>

### 6.2. Receivables

	2019 \$'000	2018 \$'000
<b>Current</b>		
Prepayments	351	376
Accrued revenues	78	47
Legal Practitioners Act 1981 debtors:		
Client debtors	142	129
Impairment loss on receivables	(30)	(30)
Other debtors	2 787	479
GST input tax recoverable	302	248
<b>Total current receivables</b>	<b>4 361</b>	<b>2 066</b>

The total receivables figure does not include 'non-current receivables' as the Legal Services Commission of South Australia does not have any receivables that meet the definition of non-current. Any 'non-current receivables' would be disclosed in this note.

Receivables arise in the normal course of selling goods and services to other government agencies and to the public. Receivables are normally settled within 30 days after the issue of an invoice or the goods/services have been provided under a contractual arrangement. Receivables, prepayments and accrued revenues are non-interest bearing. Receivables are held with the objective of collecting the contractual cash flows and they are measured at amortised cost.

The net amount of GST payable to the ATO is included as part of receivables.

#### **Impairment of receivables**

The Commission assessed the impact of initial adoption of AASB 9 and concluded that it had no impact on receivables.

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 6.3. Statutory charge debtors

Statutory charge debtors are raised as a result of the Commission registering charges over property owned by some recipients of legal aid to secure legal costs owed on cases undertaken and are reported at amounts due. Debts are recovered when the property is refinanced or sold.

	2019 \$'000	2018 \$'000
Statutory charge debtors	8 561	7 641
Impairment loss on receivables	(200)	(130)
<b>Total statutory charge debtors</b>	<b>8 361</b>	<b>7 511</b>

### *Impairment of statutory charge debtors*

	2019 \$'000	2018 \$'000
Balance at 30 June 2018 under AASB 139	130	-
Adjustments on initial adoption of AASB 9	110	-
<b>Carrying amount at the beginning of the period</b>	<b>240</b>	<b>130</b>

Refer to note 9.2 for details regarding the methodology for determining impairment.

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 7. Liabilities

Employee benefits liabilities are disclosed in note 2.4.

### 7.1. Payables

	2019 \$'000	2018 \$'000
<b>Current</b>		
Trade payables	342	144
Accrued expenses	77	76
Employment on-costs	196	222
<b>Total current payables</b>	<b>615</b>	<b>442</b>
<b>Non-current</b>		
Employment on-costs	202	271
<b>Total non-current payables</b>	<b>202</b>	<b>271</b>
<b>Total payables</b>	<b>817</b>	<b>713</b>

Payables and accruals are raised for all amounts owing but unpaid. Trade payables are normally settled within 30 days from the date the invoice is first received. All payables are non-interest bearing. The carrying amount of payables represents fair value due to their short-term nature.

The net amount of GST recoverable from the ATO is included as part of payables.

#### *Employment on-costs*

Employment on-costs include payroll tax, Return to Work levies and superannuation contributions and are settled when the respective employee benefits that they relate to is discharged.

The Commission makes contributions to several State Government and externally managed superannuation schemes. These contributions are treated as an expense when they occur. There is no liability for payments to beneficiaries as they have been assumed by the respective superannuation schemes. The only liability outstanding at reporting date relates to any contributions due but not yet paid to the South Australian Superannuation Board.

As a result of an actuarial assessment performed by the Department of Treasury and Finance, the proportion of long service leave taken as leave is unchanged at 41% and the average factor for the calculation of employer superannuation cost on-costs has changed from the 2018 rate (9.9%) to 9.8%. These rates are used in the employment on-cost calculation. The net financial effect of the changes in the current financial year is immaterial.

#### *Paid parent leave scheme*

Paid Parental Leave Scheme payable represents amounts which the Commission has received from the Commonwealth Government to forward onto eligible employees via the Commission's standard payroll processes. That is, the Commission is acting as a conduit through which the payment to eligible employees is made on behalf of the Family Assistance Office.

# Notes to and Forming Part of the Financial Statements 30 June 2019

## 7.2. Other liabilities

	2019 \$'000	2018 \$'000
<b>Current</b>		
Lease incentive	233	233
<b>Total current other liabilities</b>	<b>233</b>	<b>233</b>
<b>Non-current</b>		
Lease incentive	1 867	2 100
<b>Total non-current other liabilities</b>	<b>1 867</b>	<b>2 100</b>
<b>Total other liabilities</b>	<b>2 100</b>	<b>2 333</b>

Lease incentives in the form of leasehold improvements are capitalised as an asset and depreciated over the remaining term of the lease or estimated useful life of the improvement, whichever is shorter.

## 9. Changes in accounting policy

### 9.1. Treasurer's Instructions (Accounting Policy Statements)

On 22 March 2019 the *Treasurer's Instructions (Accounting Policy Statements) 2019* were issued by the Treasurer under the *Public Finance and Audit Act 1987*. The Accounting Policy Statements replaced the following Accounting Policy Frameworks:

- Purpose and Scope
- General Purpose Financial Statements Framework
- Asset Accounting Framework
- Financial Asset and Liability Framework
- Income Framework
- Definitions.

The new Accounting Policy Statements have largely been prepared on a no-policy change basis. Changes that impact on these financial statements are:

- removal of the additional requirement to report transactions with the SA Government.
- increasing the bands from \$10 000 to \$20 000 for employee and board member reporting.

These changes, however, do not impact on the amounts reported in the financial statements.

The Accounting Policy Statements also set out requirements in relation to Accounting Standards and Statements not yet effective.

### 9.2. AASB 9 Financial instruments

*AASB 9 Financial Instruments* replaces the provisions of *AASB 139 Financial Instruments: Recognition and Measurement* that relate to recognition, classification and measurement of financial assets and financial liabilities, derecognition of financial instruments, impairment of financial assets and hedge accounting. The adoption of AASB 9 from 1 July 2018 resulted in changes in accounting policies and adjustments to the amounts recognised in financial statements.

As part of the adoption of AASB 9, the Commission adopted consequential amendments to other accounting standards and the Accounting Policy Statements arising from the issue of AASB 9 as follows:

- *AASB 101 Presentation of Financial Statements* requires the impairment of financial assets to be presented in a separate line item in the statement of comprehensive income. This information was presented as part of other expenses, as it was deemed not to be material.
- *AASB 7 Financial Instruments: Disclosures* requires amended disclosures due to changes arising from AASB 9. These disclosures have been provided for the current year because the comparatives have not been restated.

In accordance with transitional provisions and the Accounting Policy Statements, *AASB 9 Financial Instruments* was adopted without restating comparative information for classification and measurement requirements. All adjustments relating to classification and measurement are recognised in retained earnings at 1 July 2018.

The adoption of AASB 9 has not had a significant effect on the recognition, measurement or classification of financial liabilities.

# Notes to and Forming Part of the Financial Statements 30 June 2019

The total impact on the Commission's retained earnings as at 1 July 2018 is as follows:

	<b>2018</b>
	<b>\$000</b>
<b>Closing retained earnings 30 June 2018 – AASB 139</b>	<b>39 273</b>
Adjustment to retained earnings from adoption of AASB 9	(110)
<b>Opening retained earnings 1 July 2018 – AASB 9</b>	<b>39 163</b>

On 1 July 2018, the Commission has assessed and reclassified its financial assets into the appropriate AASB 9 categories depending on the business model and contractual cash flow characteristics applying to the asset. AASB 9 eliminates the AASB 139 categories of held to maturity, loans and receivables and available for sale.

### Reclassification of financial instruments on adoption of AASB 9

On the date of initial application, Commission's financial instruments were as follows, with any reclassifications noted.

	Measurement category		Carrying amount		
	AASB 139	AASB 9	AASB 139 at 30 June 2018 \$'000	Re - measurement \$'000	AASB 9 at 1 July 2018 \$'000
<b>Current financial assets</b>					
Receivables	Loans and receivables	Amortised cost	99	-	99
<b>Non-current financial assets</b>					
Statutory charge debtors	Loans and receivables	Amortised cost	7 511	(110)	7 401

### Impairment of financial assets

AASB 9 replaces the 'incurred loss' model in AASB 139 with an 'expected credit loss' model. The receivables and statutory charge debtors of the Commission are subject to AASB 9's new expected credit loss model.

This model generally results in earlier recognition of credit losses than the previous one.

### Receivables and statutory charge debtors

New impairment requirements result in a provision being applied to all receivables rather than only on those receivables that are credit impaired. The Commission has adopted the simplified approach under *AASB 9 Financial Instruments* and measured lifetime expected credit losses on all receivables using a provision matrix approach as a practical expedient to measure the impairment provision. This resulted in an increase of the loss allowance on 1 July 2018 of \$110 000 for statutory charge debtors, external to Government.

There are no additional impairment provisions for State, Territory, or Commonwealth Government receivables due to the Government's high quality credit risk.

Receivables and statutory charge debtors that were classified as loans and receivables under AASB 139 are now classified at amortised cost as they meet the appropriate criteria under AASB 9.

## 10. Outlook

### 10.1. Unrecognised contractual commitments

Commitments include operating, capital and outsourcing arrangements arising from contractual or statutory sources and are disclosed at their nominal value.

#### *Legal expense commitments*

	2019 \$'000	2018 \$'000
Within one year	7 509	7 259
<b>Total expenditure commitments</b>	<b>7 509</b>	<b>7 259</b>

As at 30 June 2019, the Commission has disclosed a commitment on all outstanding amounts raised since 1 January 2019 (i.e. previous six months).

When a private practitioner is allocated a case, they are issued with a commitment certificate indicating the amount the private practitioner is able to claim in relation to the case. Once the private practitioner has provided the service, they sign and submit the commitment certificate, so they can be paid. 'Legal Expense Commitments' relate to commitment certificates that have been issued by the Commission but not yet returned.

#### *Expenditure commitments*

	2019 \$'000	2018 \$'000
Within one year	67	65
Later than one year but not longer than five years	159	226
<b>Total expenditure commitments</b>	<b>226</b>	<b>291</b>

The Commission's expenditure commitments are for agreements for the Electronic Document and Record Management System (EDRMS).

#### *Operating lease commitments*

	2019 \$'000	2018 \$'000
<b>Commitments in relation to operating leases contracted for at the reporting date but not recognised as liabilities are payable as follows:</b>		
Within one year	2 673	2 699
Later than one year but not longer than five years	10 862	10 450
Later than five years	11 588	14 556
<b>Total operating lease commitments</b>	<b>25 123</b>	<b>27 705</b>
Representing:		
Cancellable operating leases	719	-
Non-cancellable operating leases	24 404	27 705
<b>Total operating lease commitments</b>	<b>25 123</b>	<b>27 705</b>

There are no purchase options available to the Commission.

The Commission's operating leases are for office accommodation.

Office accommodation is leased from the Department of Planning, Transport and Infrastructure and from non-government landlords. The leases are non-cancellable with terms ranging up to three years with some leases having the right of renewal. Rent is payable in advance.

## 10.2. Contingent assets and liabilities

Contingent assets and contingent liabilities are not recognised in the Statement of Financial Position, but are disclosed by way of a note and, if quantifiable, are measured at nominal value.

The Commission is not aware of any contingent assets or contingent liabilities.

## 10.3. Impact of standards and statements not yet effective

The Commission has assessed the impact of new and changed Australian Accounting Standards Board Standards and Interpretations not yet effective.

*Treasurer's Instructions (Accounting Policy Statements) 2019* issued by the Treasurer on 22 March 2019 are effective for 2018-19 reporting period and are addressed below in relation to Standards not yet effective and in note 9.1. There are no Accounting Policy Statements that are not yet effective.

The material impacts on the Commission are outlined below.

### **AASB 15 – Revenue from Contracts with Customers and AASB 1058 – Income of Not for Profit Entities**

The Commission will adopt *AASB 15 – Revenue from Contracts with Customers* and *AASB 1058 – Income of Not for Profit Entities* from 1 July 2019.

#### **Objective**

AASB 15 introduces a 5-step approach to revenue recognition. The objective of AASB 15 is that recognition of revenue depicts the transfer of promised goods or services to customers in an amount that reflects the consideration to which an entity expects to be entitled in exchange for those goods or services. It provides extensive guidance as to how to apply this revenue recognition approach to a range of scenarios. *AASB 15 – Revenue from Contracts* replaces *AASB 111 – Construction Contracts* and *AASB 118 – Revenue*.

AASB 1058 introduces consistent requirements for the accounting of non-reciprocal transactions by not-for-profit entities, in conjunction with AASB 15. These requirements closely reflect the economic reality of not-for-profit entity transactions that are not contracts with customers. AASB 1058 replaces parts of *AASB 1004 – Contributions*.

#### **Impact on 2019-20 financial statements**

As at the reporting date, adopting AASB 15 and AASB 1058 is not expected to have an impact on the timing of recognition of revenue by the Commission.

#### **Related accounting policies**

The *Treasurer's Instructions (Accounting Policy Statements) 2019* sets out key requirements that the Commission must adopt for the transition to *AASB 15 – Revenue from Contracts with Customers* and *AASB 1058 – Income of Not for Profit Entities*. These requirements include that the Commission will:

- apply AASB 15 and AASB 1058 retrospectively. The cumulative effect of initially applying the Standards will be recognised at 1 July 2019. Comparatives will not be restated.
- not apply the AASB 15 and the AASB 1058 completed contracts practical expedient.
- apply the AASB 15 practical expedient for all contract modifications that occur before the date of initial application.

# Notes to and Forming Part of the Financial Statements 30 June 2019

The *Treasurer's Instructions (Accounting Policy Statements) 2019* also sets out requirements for on-going application. These requirements include that Commission will:

- apply, where permitted, the short-term licences recognition exemption.
- adopt \$15 000 as the threshold to determine whether a licence is a licence for which the transaction price is of low value and will apply the low value licence recognition exemption for all low value licences.
- not recognise volunteer services when the services would not have been purchased if they had not been donated.

## AASB 16 – Leases

The Commission will adopt AASB 16 – *Leases* from 1 July 2019.

### Objective

AASB 16 sets out a comprehensive model for lease accounting that addresses recognition, measurement, presentation and disclosure of leases. The outcome will be that lease information disclosed will give users of financial statements a basis to assess the effect that leases have on the financial position, financial performance and cash flows of an entity. *AASB 16 Leases* replaces *AASB 117 Leases* and *Interpretation 4 Determining whether an Arrangement contains a Lease*, *Interpretation 115 Operating Leases – Incentives* and *Interpretation*, and *Interpretation 127 Evaluating the Substance of Transactions Involving the Legal Form of a Lease*.

### Impact on 2019-20 financial statements

The Commission has assessed the estimated impact on the Statement of Financial Position of adopting AASB 16 with the transition requirements mandated by the *Treasurer's Instructions (Accounting Policy Statements)*.

AASB 16 requires lessees to recognise assets and liabilities for all leases, not subject to a recognition exemption or scoped out of the application of AASB 16. Applying AASB 16 will result in leases previously classified as operating leases having right-of-use assets and related lease liabilities being recognised in the Statement of Financial Position for the first time. Lease incentive liabilities previously recognised will be written off against the right-of-use assets or retained earnings depending on the nature of the incentive.

AASB 16 is expected to have a material impact on the Statement of Financial Position. The Commission has estimated the impact of this change and the results as at 1 July 2019.

The estimated impact is based on applying AASB 16's transition approach to those leases identified as leases by the Commission prior to 1 July 2019. The incremental borrowing rates applied to estimate the lease liability were SAFA's forecast interest rates for principal and interest loans to SA Government agencies for 1 July 2019 as at 4 February 2019.

The estimated impact is set out below.

	as at 1 July 2019 \$'000
<b>Assets</b>	
Right-of-use assets	20 417
<b>Liabilities</b>	
Lease liabilities	(22 517)
Other liabilities (lease incentive liabilities)	2 100
<b>Net impact on equity</b>	-

Leases with the Commission are for office accommodation and motor vehicles.

# Notes to and Forming Part of the Financial Statements 30 June 2019

AASB 16 will also impact on the Statement of Comprehensive Income. The operating lease expense previously included in supplies and services will mostly be replaced with:

- a depreciation expense that represents the use of the right-of-use asset; and
- borrowing costs that represent the cost associated with financing the right-of-use asset.

The estimated impact on 2019-20 Statement of Comprehensive Income is set out below.

	2020 \$'000
Depreciation and amortisation	2 405
Supplies and services	(2 537)
Borrowing costs	409
<b>Net impact on net cost of providing services</b>	<b>277</b>

The amounts disclosed are current estimates only. The Commission is continuing to refine its calculations of lease assets and liabilities for 2019-20 financial reporting purposes and expects that these figures will change. This includes accounting for non-lease components and clarifying lease terms and treatment of contractual rent increases.

### **Related accounting policies**

The *Treasurer's Instructions (Accounting Policy Statements) 2019* sets out key requirements that the Commission must adopt for the transition from *AASB 117 Leases* to *AASB 16 Leases*. These requirements include that the Commission will:

- apply AASB 16 retrospectively. The cumulative effect of initially applying the Standard will be recognised at 1 July 2019. Comparatives will not be restated.
- only apply AASB 16 to contracts that were previously identified as containing a lease applying AASB 117 and related interpretations.
- not apply to transition operating leases for which the lease term ends before 30 June 2020.

The *Treasurer's Instructions (Accounting Policy Statements) 2019* also sets out requirements for on-going application. These requirements include that Commission will:

- not apply AASB 16 to leases of intangible assets.
- adopt \$15 000 as the threshold to determine whether an underlying asset is a low value asset and must apply the low value asset recognition exemption to all low value assets.
- apply the short-term leases recognition exemption for all classes of underlying asset.
- separate non-lease components from lease components.
- adopt the revaluation model, where permitted.
- where required, apply the relevant lessee's incremental borrowing rate published by the Department of Treasury and Finance.
- on initial recognition not record at fair-value leases that have significantly below-market terms and conditions principally to enable the Commission to further its objectives, unless they have already been recorded at fair-value prior to 1 July 2019.

### **10.4. Events after the reporting period**

At balance date and as at the date of financial statement certification, there were no known events after the reporting period.

## 11. Measurement and risk

### 11.1. Long service leave liability - measurement

AASB 119 *Employee Benefits* contains the calculation methodology for long service leave liability.

The actuarial assessment performed by the Department of Treasury and Finance has provided a basis for the measurement of long service leave and is based on actuarial assumptions on expected future salary and wage levels, experience of employee departures and periods of service. These assumptions are based on employee data over SA Government entities.

AASB 119 *Employee Benefits* requires the use of the yield on long-term Commonwealth Government bonds as the discount rate in the measurement of the long service leave liability. The yield on long-term Commonwealth Government bonds has decreased from 2018 (2.5%) to 2019 (1.25%).

This decrease in the bond yield, which is used as the rate to discount future long service leave cash flows, results in an increase in the reported long service leave liability.

The net financial effect of the changes to actuarial assumptions in the current financial year is an increase in the long service leave liability of \$364 000 and employee benefits expense of \$364 000. The impact on future periods is impracticable to estimate as the long service leave liability is calculated using a number of demographical and financial assumptions - including the long-term discount rate.

The actuarial assessment performed by the Department of Treasury and Finance left the salary inflation rate at 4% for long service leave liability. As a result, there is no net financial effect resulting from changes in the salary inflation rate.

The Commission's estimate of expected future payments for the current portion of long service leave is based on an average over a three year period on long service leave taken.

### 11.2. Fair value

AASB 13 *Fair Value Measurement* defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants, in the principal or most advantageous market, at the measurement date.

#### *Initial recognition*

Non-current tangible assets are initially recorded at cost or at the value of any liabilities assumed, plus any incidental cost involved with the acquisition.

#### *Revaluation*

Property, plant and equipment are subsequently measured at fair value after allowing for accumulated depreciation.

Non-current tangible assets are valued at fair value and revaluation of non-current assets or a group of assets is only performed when the fair value at the time of acquisition is greater than \$1.5 million and estimated useful life is greater than three years.

Revaluation is undertaken on a regular cycle. If at any time management considers that the carrying amount of an asset materially differs from its fair value, then the asset will be revalued regardless of when the last valuation took place.

Revaluation of the library collection was performed by Valcorp Australia Pty Ltd as at 30 June 2014. The independent valuer arrived at fair value based on the written down replacement cost of the collections.

All items of plant and equipment had a fair value at the time of acquisition less than \$1.5 million and had an estimated useful life of between three to five years. Plant and equipment has not been revalued in accordance with Accounting Policy Statements 116.D. The carrying value of these items are deemed to approximate fair value.

### 11.3. Financial instruments

#### *Financial risk management*

Risk management is managed by the Commission's corporate services section. Commission risk management policies are in accordance with the *Risk Management Policy Statement* issued by the Premier and Treasurer and the principles established in the Australian Standard *Risk Management Principles and Guidelines*.

The Commission's exposure to financial risk (liquidity risk, credit risk and market risk) is low due to the nature of the financial instruments held.

#### *Liquidity risk*

The Commission is funded principally from grants by the State and Commonwealth Governments.

The Commission's exposure to liquidity risk is insignificant based on past experience and current assessment of risk. There have been no changes to risk exposure since the last reporting period.

#### *Impairment of financial assets*

Loss allowances for statutory charge debtors are measured at an amount equal to lifetime expected credit loss using the simplified approach in AASB 9. The Commission uses an allowance matrix to measure the expected credit loss of receivables from non-government debtors which comprise a large number of small balances.

To measure the expected credit losses, statutory charge debtors are grouped based on the days past due. When estimating expected credit loss, the Commission considers reasonable and supportable information that is relevant and available without undue cost or effort. This includes both quantitative and qualitative information and analysis, based on the Commission's historical experience and informed credit assessment, including forward-looking information.

The expected credit loss of government debtors is considered to be nil based on the external credit ratings and nature of the counterparties.

Loss rates are calculated based on the probability of a statutory charge debtor progressing through stages to write off based on the common risk characteristics of the transaction and debtor.

Loss rates are based on actual history of credit loss. These rates have been adjusted to reflect differences between previous economic conditions, current conditions and the Commission's view of the forecast economic conditions over the expected life of the statutory charge debtors.

Impairment losses are presented as net impairment losses within net result, subsequent recoveries of amounts previously written off are credited against the same line item.

Statutory charge debtors are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include the failure of a debtor to enter into a payment plan with the Commission and a failure to make contractual payments.

The Commission considers that its cash and cash equivalents have low credit risk based on the external credit ratings of the counterparties and therefore the expected credit loss is nil.

# Notes to and Forming Part of the Financial Statements 30 June 2019

In the comparative period, the impairment of statutory charge debtors was assessed based on the incurred loss model. The allowance was recognised when there was objective evidence that a debtor was impaired. The allowance for impairment is recognised in other expenses for specific debtors and debtors assessed on a collective basis for which such evidence existed.

### ***Categorisation of financial instruments***

Details of the significant accounting policies and methods adopted including the criteria for recognition, the basis of measurement, and the basis on which income and expenses are recognised with respect to each class of financial asset, financial liability and equity instrument are disclosed in the respective financial asset/financial liability note.

### ***Classification applicable until 30 June 2018 under AASB 139 Financial Instruments: Recognition and Measurement***

The carrying amounts are detailed below of each of the following categories of financial assets and liabilities:

- Loans and receivables
- Financial liabilities measured at cost.

### ***Classification applicable from 1 July 2018 under AASB 9 Financial Instruments***

On initial recognition, a financial asset is classified as measured at amortised cost, fair value through other comprehensive income (FVOCI) - debt instrument, FVOCI - equity instrument or fair value through profit or loss.

A financial asset is measured at amortised cost if it meets both of the following conditions:

- It is held within a business model whose objective is to hold assets to collect contractual cash flows; and
- Its contractual terms give rise on specified dates to cash flows that are solely payments of principal and interest only on the principal amount outstanding.

The Commission measures all financial instruments at amortised cost.

# Notes to and Forming Part of the Financial Statements 30 June 2019

Category of financial assets and financial liabilities	Note	2019 Carrying amount (\$'000)
<b>Financial assets</b>		
<b>Cash and equivalent</b>		
Cash and cash equivalent	6.1	37 051
<b>Financial assets at amortised cost</b>		
Receivables	6.2	2 865
<b>Total financial assets</b>		<b>39 916</b>
<b>Financial liabilities</b>		
<b>Financial liabilities at amortised cost</b>		
Payables	7.1	342
<b>Total financial liabilities</b>		<b>342</b>

Category of financial assets and financial liabilities	Note	2018 Carrying amount (\$'000)
<b>Financial assets</b>		
<b>Cash and equivalent</b>		
Cash and cash equivalent	6.1	35 158
<b>Loans and receivables</b>		
Receivables	6.2	525
<b>Total financial assets</b>		<b>35 683</b>
<b>Financial liabilities</b>		
<b>Financial liabilities at amortised cost</b>		
Payables	7.1	144
<b>Total financial liabilities</b>		<b>144</b>

### Receivables and payables

Under AASB 139, the receivable and payable amounts disclosed excluded amounts relating to statutory receivables and payables. In the current year, these have been included as required under AASB 9.

In government, certain rights to receive or pay cash may not be contractual and therefore, in these situations, the requirements will not apply. The standard defines contract as enforceable by law. All amounts recorded are carried at cost (not materially different from amortised cost).

The receivables amount disclosed here excludes prepayments as they are not financial assets. Prepayments are presented in note 6.2.

# Certification of the Financial Statements

## Certification of the Financial Statements

We certify that the:

- Financial statements of the Legal Services Commission of South Australia:
  - are in accordance with the accounts and records of the authority; and
  - comply with relevant Treasurer's Instructions; and
  - comply with relevant accounting standards; and
  - present a true and fair view of the financial position of the Commission at the end of the financial year and the result of its operations and cash flows for the financial year.
- Internal controls employed by the Legal Services Commission of South Australia over its financial reporting and its preparation of the financial statements have been effective throughout the financial year.



Chinh Dinh-Pham  
Manager, Finance  
27 September 2019



Gabrielle Canny  
Director  
27 September 2019



Michael Abbott  
Chairperson  
27 September 2019

# Appendix

**41st Annual Report 2018-19**

Legal Services Commission of South Australia

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# Appendix

## State Expensive Criminal Cases Funding Agreement

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<b>ANNEXURE A THE PRINCIPAL AGREEMENT</b>	

DATED 2nd DAY OF December 2004

**DEED OF AMENDMENT**

BETWEEN

THE HONOURABLE MICHAEL ATKINSON,  
ATTORNEY-GENERAL  
FOR THE STATE OF SOUTH AUSTRALIA  
("Attorney-General")

-AND-

THE LEGAL SERVICES COMMISSION  
("Commission")



CROWN SOLICITOR  
Level 19, 48 Pirie Street, Adelaide SA 5000

# Appendix

## State Expensive Criminal Cases Funding Agreement

**2. RECITALS**

The parties hereto agree that the matters referred to in the recitals of this Deed are true and correct in every particular and that the recitals shall form part of this Deed.

**3. OPERATION OF AMENDMENTS**

This Deed shall have effect from and including the date hereof, and is supplementary to and shall be read in conjunction with the Principal Agreement.

**4. AMENDMENT TO CLAUSE 6**

The Principal Agreement shall be amended by adding the following two clauses after clause 6.4:

*"6.4A Except where a Case Management Plan expressly provides that this clause does not apply, a Case Management Plan shall be deemed to be varied automatically to take account of any new scale of fees approved by the Commission pursuant to section 19(2) of the Legal Services Commission Act, 1977 (S.A.). Such a variation of a Case Management Plan shall take effect from the date that the Commission approves that the new scale of fees shall become operative. This clause 6.4A shall apply to all new scales of fees which are operative on or from 1 September 2004."*

*6.4B The Commission shall, as soon as practicable after approving a new scale of fees, inform the Attorney-General in writing of the financial impact on each Case Management Plan to which a new scale of fees applies."*

**5. COSTS AND STAMP DUTY**

- 5.1 Each party hereto shall bear its own costs incurred in respect of the negotiation, preparation and execution of this Deed.
- 5.2 The Commission shall be responsible for and pay any stamp duty assessed or charged in respect of this Deed.

THIS DEED is made the SEVENTH day of DECEMBER 2004.

**BETWEEN:**

General SA - Stamp Duty  
 2004 12 04 14:59:52  
 THE HONOURABLE MICHAEL ATKINSON, ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA of 45 Pine Street, Adelaide, 5000, in the State of South Australia (the "Attorney-General")

**AND**

THE LEGAL SERVICES COMMISSION a body corporate pursuant to the Legal Services Commission Act 1977 of 82-98 Wakefield Street, Adelaide, 5000, in the State of South Australia (the "Commission")

**RECITALS:**

- A. The Attorney-General and the Commission entered into a deed dated 29 January 2003 (the "Principal Agreement"), and described as the Expensive Criminal Cases Funding Agreement, a copy of which is annexed hereto.
- B. The parties have agreed to vary certain of the terms and conditions of the Principal Agreement and to record the same in this Deed.

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Words and expressions defined in the Principal Agreement have the same meanings in this Deed unless the contrary is clearly intended.
- 1.2 Rules for the construction and interpretation of the Principal Agreement also apply in the construction and interpretation of this Deed.

# Appendix

## State Expensive Criminal Cases Funding Agreement

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**EXPENSIVE CRIMINAL CASES FUNDING AGREEMENT**

COPY

AGREEMENT dated 29th January 2002

**BETWEEN:**

**THE HONOURABLE MICHAEL ATKINSON, ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA** of 45 Pine Street, Adelaide, 5000, in the State of South Australia (the "Attorney-General") 10/07/2002 11:04:56 07713142-1

COMMISSIONER OF STATE INQUIRY 15/10/02

**AND**

**THE LEGAL SERVICES COMMISSION** a body corporate pursuant to the Legal Services Commission Act 1977 of 82-98 Wakefield Street, Adelaide, 5000, in the State of South Australia (the "Commission")

**RECITALS:**

A. The State of South Australia has enacted the Criminal Law (Legal Representation) Act 2001 ("the Act") to ensure that legal representation is available for persons charged with serious offences, and for other purposes.

B. Section 18 of the Act provides that an Expensive Criminal Cases Funding Agreement is to be made between the Commission and the Attorney-General governing the approval of case management plans for cases to which the Act applies.

C. The parties wish to enter into this Agreement in order to give effect to section 18 of the Act.

  
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**6. CONFIRMATION OF PRINCIPAL AGREEMENT**

Subject only to the amendments contained in this Deed, the parties hereto confirm the terms and conditions of the Principal Agreement in all other respects.

**EXECUTED** by the parties unconditionally as a deed.

**SIGNED** by **THE HONOURABLE MICHAEL ATKINSON, ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA** in the presence of:

Michael Atkinson [Print Name: Michael Atkinson ]

M. J. Atkinson

**THE COMMON SEAL of THE LEGAL SERVICES COMMISSION**

was herunto affixed in the presence of:

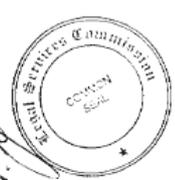
MARGARET CAROLINE HARRIS BULLOCK [Print Name: Margaret Carole Harris Bullock ]

M. Bullock

Director [Print Name: Mark James Curran ]

Robert [Print Name: Robert ]

15224 JOHN TAYLOR [Print Name: 15224 John Taylor ]



CSO 55888 / 0820743 / Final EXPID / 11/2/04

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**AGREED TERMS:**

**1. DEFINITIONS**

In this Agreement unless a contrary intention is evident:

- 1.1 "Act" means the Criminal Law (Legal Representation) Act 2001;
- 1.2 "Agreement" means this Expensive Criminal Cases Funding Agreement and includes the Schedules;
- 1.3 "approved case management plan" means a case management plan, including any variations to that plan, which has been approved by the Attorney-General in accordance with clause 5 of this Agreement;
- 1.4 "case management plan" or "plan" means a case management plan prepared by the Commission in accordance with clause 6 of this Agreement;
- 1.5 "certificate of commitment" or "certificate" means a certificate, incorporating an invoice, issued by the Commission to the defendant's lawyer, authorising him or her to provide a level of legal assistance up to the gross cost specified in the certificate;
- 1.6 "Commencement Date" means the date upon which the Act came into operation;
- 1.7 "Commission" means the Legal Services Commission, established pursuant to the Legal Services Commission Act 1977;
- 1.8 "defence proposal" means the report prepared by the defendant's lawyer on the scope and nature of the proposed defence containing the information described in Schedule 1;
- 1.9 "Treasurer" means the Treasurer of the State of South Australia.

**2. INTERPRETATION**

- 2.1 In this Agreement unless a contrary intention is evident:
  - 2.1.1 words and expressions defined in the Criminal Law (Legal Representation) Act 2001 shall have the same respective meanings herein;
  - 2.1.2 the clause headings are for convenient reference only and they do not form part of this Agreement;

*M.A.A.*  
21/11/2002

- 2.1.3 a reference to a clause number is a reference to all of its sub-clauses;
- 2.1.4 a reference to a clause, sub-clause, schedule or annexure is a reference to a clause, sub-clause, schedule or annexure of this Agreement;
- 2.1.5 a word in the singular includes the plural and a word in the plural includes the singular;
- 2.1.6 a word importing a gender includes any other gender;
- 2.1.7 a reference to a person includes a partnership and a body corporate;
- 2.1.8 a reference to legislation includes legislation repealing, replacing or amending that legislation; and
- 2.1.9 where a word or phrase is given a particular meaning other parts of speech or grammatical forms of that word or phrase have corresponding meanings.

2.2 This Agreement incorporates the attached schedule.

**3. TERM**

The term of this Agreement commences on the Commencement Date and shall continue to operate for so long as an Expensive Criminal Cases Funding Agreement is required under section 18 of the Act.

**4. AGREEMENT OPERATES AS A DEED**

This Agreement operates as a deed between the Attorney-General and the Commission.

**5. APPROVAL OF A CASE MANAGEMENT PLAN**

- 5.1 For the purposes of section 18 of the Act, the Attorney-General shall approve a case management plan or a proposal to vary a case management plan if it complies with this Agreement.
- 5.2 Approval is effected by the Attorney-General returning a signed copy of the approved plan or approved variations to the plan to the Commission.

*M.A.A.*  
21/11/2002

# Appendix

## State Expensive Criminal Cases Funding Agreement

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- 6.3.3 to proof distant expert witnesses other than by telephone, video-link, email or other methods of long distance communication; or
- 6.3.4 to prove formally any aspect of the defence case which the prosecution will agree, or
- 6.3.5 to call evidence in person where the prosecution will agree to the tender of documentary evidence to the same effect, and this is permitted by the rules of evidence,
- unless the Attorney-General is satisfied, on the basis of the explanations given in the defence proposal, that this course of action is necessary for the defence and is a responsible use of public funds.
- 6.4 The Commission may from time to time submit in writing to the Attorney-General a proposal to vary an approved case management plan to reflect developments in the case which may affect its cost.
- 6.5 While the Attorney-General may approve expenditure retrospectively, the Commission is to use its best endeavours to avoid this by presenting proposals for variation as soon as possible after it becomes apparent that variation is necessary.
- 6.6 A proposal to vary a plan will:
- 6.6.1 describe how the plan is proposed to be varied, and the reasons for the proposed variation(s);
- 6.6.2 if any aspect of the proposed variation might be thought to make the plan non-compliant in terms of clause 6.3, include a memorandum to the Commission from defence counsel giving the reasons why this is necessary for the defence;
- 6.6.3 include an estimate, on the information reasonably available to the Commission, of the cost of each separate new item proposed to be funded, including counsel fees, disbursements for expert evidence, disbursements for travel, other disbursements, and solicitor's fees, including how each is calculated; and
- 6.6.4 if the variation proposes a change in defence counsel, a written undertaking from the new defence counsel in terms of clause 5 of Schedule 1.

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6. **CASE MANAGEMENT PLANS**
- 6.1 A case management plan must be submitted to the Attorney-General by the Commission in writing as soon as possible after the Commission becomes aware that the costs of the case may exceed the legal aid funding cap AND as soon as practicable either after the defendant has been arraigned or after a direction of the court pursuant to section 8(3) of the Act.
- 6.2 A case management plan must contain:
- 6.2.1 the names of the legal representative(s) (solicitors, lead counsel, junior counsel (if one is to be engaged) to whom the Commission has assigned this case;
- 6.2.2 a defence proposal in the terms set out in Schedule 1;
- 6.2.3 a statement that it is anticipated that the costs of legal assistance will exceed the legal aid funding cap and identifying those parts of the defence proposal which the Commission proposes to be funded under the plan;
- 6.2.4 a memorandum:
- (a) identifying measures taken or to be taken to minimise costs or reduce the length of the trial, and
- (b) addressing any part of the defence proposal which might make the proposed plan non-compliant in terms of clause 6.3;
- 6.2.5 the Commission's estimate, on the information reasonably available to it, of:
- (a) the cost of each separate item proposed to be funded, including solicitors' fees, counsel fees, disbursements for expert evidence, disbursements for travel, fees for pre-trial applications, other disbursements, including how each is calculated; and
- (b) the extent to which these estimated costs will in total exceed the legal aid funding cap and require reimbursement under the Act.
- 6.3 A case management plan will not comply with this Agreement if it proposes:
- 6.3.1 to use expert evidence from outside Australia; or
- 6.3.2 to require repeat forensic testing or examination of evidence already so tested or examined; or

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**7. COMMISSION'S OBLIGATIONS**

- 7.1 The Commission shall manage each case for which a case management plan is approved, efficiently and effectively, and shall ensure that the management and cost of the case are kept under constant review.
- 7.2 The Commission shall make it a term of the assignment of a serious criminal case that should the case become subject to a case management plan, the assisted person's assigned solicitor (whether a legal practitioner in private legal practice or employed by the Commission) will provide to the Commission, on a monthly basis following approval of the plan:
  - 7.2.1 an indication of and explanation for any current or anticipated expenditure that may exceed the estimates of expenditure in the approved case management plan; and
  - 7.2.2 any information that may suggest that the trial will last longer than the estimated time given in the approved case management plan.
- 7.3 Where the Commission has terminated legal assistance in accordance with section 6(4) of the Act, all obligations pursuant to the case management plan will cease to exist and the Commission may seek reimbursement of the cost of providing legal assistance prior to the termination of that assistance.

**8. REIMBURSEMENT OF COSTS**

- 8.1 If the Commission seeks reimbursement of the cost of providing legal assistance, it shall submit to the Attorney-General:
  - 8.1.1 a copy of the relevant invoices signed by the defendant's lawyer;
  - 8.1.2 a memorandum explaining any increase in the costs of the case from the estimates provided in the approved case management plan;
  - 8.1.3 a report detailing the outcome of any investigation or enquiry into the financial affairs of the assisted person or a financially associated person, and the contribution that the Commission has received or has a reasonable prospect of recovering from the assisted person or a financially associated person.
- 8.2 In the case of an exceptionally long trial, the Commission may seek interim reimbursements of the cost of providing legal assistance.

*M.A.A.*  
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**9. APPLICATION OF CONTRIBUTIONS**

A contribution received or recovered by the Commission from the assisted person or a financially associated person shall be applied as follows:

- 9.1 the Commission shall be entitled to retain the contribution up to the amount of the funding cap, plus the amount of any costs incurred by the Commission in investigating the financial affairs of an assisted or financially associated person, plus the amount of any costs incurred by the Commission in recovering any contribution, including court costs;
- 9.2 the balance of the contribution received (if any) or recovered shall be paid by the Commission to the Treasurer.

**10. CONFIDENTIALITY**

- 10.1 The Attorney-General may disclose the anticipated cost of the case, including legal fees, expert's fees, and any other associated costs, in order to secure funding for the trial under the terms of an approved case management plan.
- 10.2 Except as provided in Clause 10(1), the Attorney-General must not disclose any information received pursuant to this Agreement without the consent of the assisted person.

**11. AUDIT**

Nothing in this Agreement derogates from the powers of the Auditor-General under the Public Finance and Audit Act 1987 (South Australia).

**12. NO ASSIGNMENT**

The Commission must not assign or encumber any of its rights and obligations under this Agreement.

**13. SURVIVAL**

The clauses of this Agreement relating to confidentiality survive the expiry or termination of this Agreement and continue to apply unless the Commission notifies

*M.A.A.*  
21/11/2002

# Appendix

## State Expensive Criminal Cases Funding Agreement

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**SCHEDULE 1**  
**Contents of Defence Proposal**

A defence proposal shall contain the following material:

1. A copy of the information upon which the defendant has been arraigned.
2. The name of the court in which the matter is to be heard.
3. The following information:
  - (a) the number of witnesses who have provided declaration statements;
  - (b) whether any expert testing and evidence will be needed, and if so, in relation to what issues and for what purpose;
  - (c) if it is proposed to use an expert witness whose fees or expenses exceed Contimission scale fees and expenses, or who is from outside South Australia, the reasons why this is necessary;
  - (d) if the case entails the use of an expert witness from outside Australia, an account of the enquires made to identify any expert within Australia and the reasons why any identified expert is not available to the defence;
  - (e) where documentary evidence is significant, an indication of its volume;
  - (f) a preliminary estimate as to the length of pre-trial proceedings and the trial;
  - (g) any legal issues which are considered likely to impact upon the length of the trial;
  - (h) if the case requires senior or multiple counsel, the reasons;
  - (i) whether the case requires travel, additional reading time, conference time and viewing time or has any other features likely to add to the cost; and
  - (j) if the case entails travel outside South Australia, the reasons.
4. If it is proposed:
  - (a) to use expert evidence from outside Australia; or
  - (b) to require repeat forensic testing or examination of evidence already so tested or examined; or

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- (c) to proof distant expert witnesses other than by telephone, video link email or other methods of long distance communication; or
- (d) to prove formally any aspect of the defence case which the prosecution will agree, or
- (e) to call evidence in person where the prosecution will agree to the tender of documentary evidence to the same effect, and this is permitted by the rules of evidence;

transcript of anything said by the court about this course of action, and the reasons why such course of action is necessary for the defence.

5. A written undertaking by defence counsel to the Commission that he or she will:
  - (a) present the defendant's case as quickly and simply as may be consistent with its advancement;
  - (b) avoid unnecessary delay or unnecessary complication or prolongation of the proceedings;
  - (c) inform the defendant about the reasonably available alternatives to fully contested adjudication of the case;
  - (d) advise the defendant to agree matters as to which the prosecution case is overwhelming and the defence has no countervailing evidence, or matters which are purely formal;
  - (e) encourage consultation between defence and prosecution experts with a view to defining and confirming the issues in dispute.

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*[Signature]*  
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