

# Annual Report 2020-21

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Providing South Australians with accessible information, advice and representation services to meet their legal needs.



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## **43rd Annual Report 2020-21**

### **Legal Services Commission of South Australia**

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

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# Chairperson's Letter

## Chairperson's letter to the Attorney-General 2020-21

The Hon Vickie Chapman MP  
Deputy Premier  
Attorney-General  
Attorney-General's Department  
Level 17, 10 Franklin 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 2021, pursuant to section 33 of the *Legal Services Commission Act 1977*. In compliance with its mandate, the Legal Services Commission continues to provide high quality, efficient and economic legal assistance services, with expenditure in line with budget.

As with so much else in the previous twelve months, Legal Services Commission operations have been affected by the ongoing COVID-19 pandemic. Our services have been adapted to meet the changing needs of clients and the courts. It is pleasing to advise that the total number of services delivered this year exceeded that of last year.

This year, exceptionally low interest rates have had a significant negative impact (almost \$2m) on our income through reduced interest distributions from the Law Society of South Australia pursuant to the *Legal Practitioners Act 1981*. This is of real concern and will have a significant impact on our funding and ability to deliver services, particularly as court activity and demand for legal aid increases.

Notwithstanding this impact, during 2020-21 we have worked hard to sustain and, in some cases increase, services to the public. Our current level of core funding was maintained in the State Budget, and the Commonwealth Budget continued funding for current projects as well as providing assistance in new areas.

During the year we commenced paying private legal practitioners acting on grants of legal aid weekly in an effort to assist them with cash-flow needs during the pandemic. We have decided to continue this practice to support the profession undertaking legal aid work.



One of the key achievements of the past financial year has been the development of a new Strategic Plan. The planning process concentrated on the Legal Services Commission's core business and its role as a professional legal assistance organisation providing access to justice.

The development of the new plan was led by Commissioners, the Leadership Group and staff through a series of intensive workshops where participants considered what a progressive legal assistance organisation should aspire to be in the twenty-first century. The outcomes from these workshops fed directly into formulating the four key strategic goals, namely–

- Be connected with and responsive to clients and community
- Increase access to services while reducing the cost of justice
- Develop partnerships to create better solutions
- To be a model legal aid service.

In the second half of the year, workplace sexual harassment and bullying emerged as an issue of national concern. Legal Services Commission staff were invited to participate in a survey for the Independent Review of the Legal Profession conducted by the South Australian Commissioner for Equal Opportunity. The Legal Services Commission is committed to ensuring that its internal policies around harassment reflect best practice. It has revised its Appropriate Workplace Behaviour policy, committed to an action plan to reduce risk and instituted mandatory training for all staff.

I acknowledge the excellent work of the Director and all staff of the Legal Services Commission throughout the year in continuing to deliver exceptional services to the people of South Australia.

I thank those 554 members of the legal profession who constitute our practitioner panels and provide legal assistance through grants of aid. They have continued to provide high quality services to their clients in the challenging circumstances of the ongoing pandemic.

I thank you Deputy Premier for your continued support and I acknowledge the ongoing assistance of the Commonwealth Attorney-General and her department.



**Jason Karas**  
Chairperson

# Overview

**Annual Report 2020-21**

Legal Services Commission of South Australia

# Overview

## Who we are and what we do

**The Legal Services Commission is passionate about ensuring justice is available and accessible for all South Australians.**

The Legal Services Commission (Legal Services) is an independent statutory authority established by the Legal Services Commission Act 1977 (the Act) to provide legal assistance to people throughout the State. It has the powers, functions and duties prescribed or imposed on it by the Act.

Legal Services provides legal assistance to clients and the community across a wide range of legal areas including crime, family, child protection, family violence, child support, social security and consumer protection. All South Australians are eligible to receive free legal information, legal advice and duty lawyer services. Those most in need may also be eligible to receive legal representation in courts and tribunals and lawyer assisted family dispute resolution. Applications for legal representation are assessed against means and merit tests and funding guidelines to determine the matters that are eligible for funding. In addition to providing assistance to individual clients, Legal Services provides community legal education to the broader public, initiates proposals for reform and responds to State and Commonwealth governments in relation to proposed legal policy and legislative change.

Legal Services is the largest legal assistance organisation in South Australia with 198 staff, 111 of whom are legal practitioners. Community legal education and legal information and advice are provided by inhouse Legal Services lawyers. Legal representation and duty lawyer services are provided by both inhouse lawyers and 483 private lawyers who have been accepted onto our General Panel of legal practitioners.

Five Commissioners, four appointed by the Governor on the nomination of the Attorney-General, and the Director, determine the strategic priorities and set the direction of Legal Services.

Delivering more than 145,500 legal assistance services this financial year, Legal Services 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, the Law Handbook and amica, all available at [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au).

The functions of Legal Services are set out in section 10(1) of the Act.

## 10—Functions of Commission

1. The Commission will—

- (b) provide, or arrange for the provision of, legal assistance in accordance with this Act; and
- (c) determine the criteria under which the legal assistance is to be granted; and
- (d) conduct research with a view to ascertaining the needs of the community for legal assistance, and the most effective means of meeting those needs; and
- (e) establish such offices and other facilities as the Commission considers necessary or desirable; and
- (f) initiate and carry out educational programmes 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; and
- (g) inform the public by advertisement or other means of the services provided by the Commission, and the conditions upon which those services are provided; and
- (h) co-operate and make reciprocal arrangements with persons administering schemes of legal assistance in other States and Territories of the Commonwealth or elsewhere; and
- (hb) 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; and
- (i) 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; and

- (j) make grants to any person or body of persons carrying out work that will in the opinion of the Commission advance the objects of this Act; and
- (k) perform such other functions as the Attorney-General may direct.

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.

Over the financial year Legal Services developed a new strategic plan. Fundamental to the *Strategic Plan 2021-2024* are four strategic goals–

1. Be connected with, and responsive to, clients and community
2. Increase access to services while reducing the cost of justice
3. Develop partnerships to create better solutions
4. Be a model legal aid service.

In developing the *Strategic Plan 2021-2024*, Legal Services adopted the public sector values of–

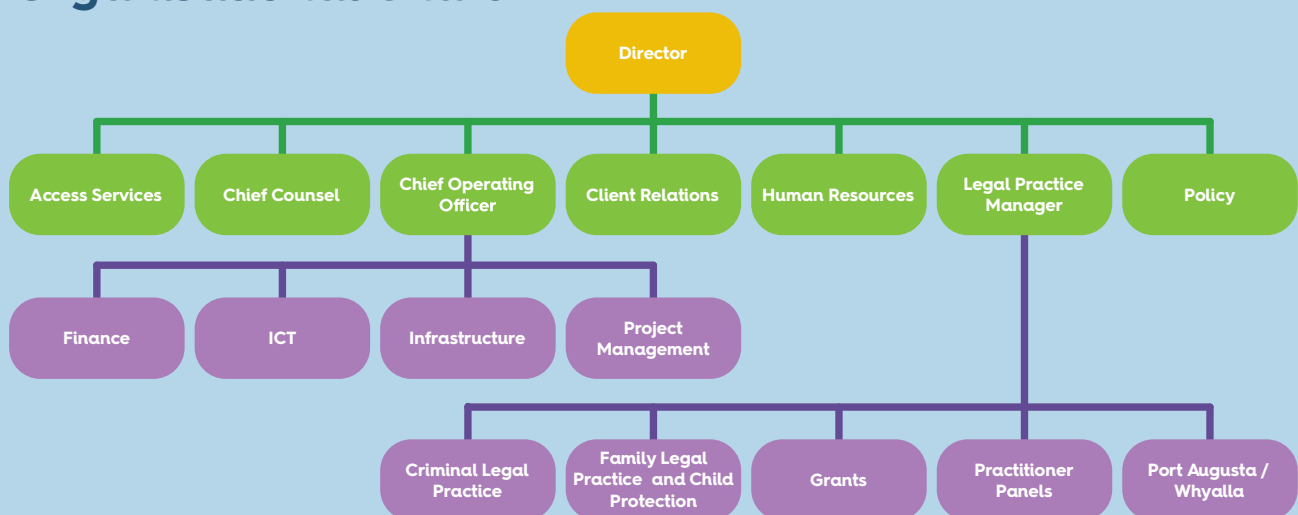
- **Service:** We proudly serve the community
- **Professionalism:** We strive for excellence
- **Trust:** We have confidence in the ability of others
- **Respect:** We value every individual and celebrate diversity
- **Collaboration and Engagement:** We create solutions together

- **Honesty and Integrity:** We act truthfully, consistently and fairly
- **Courage and Tenacity:** We actively pursue the best possible outcomes
- **Sustainability:** We work to get the best results for current and future generations of South Australians

## Organisational Structure

Legal Services provides legal assistance through two programs– the Access Services Program and the Representation Program. These service delivery programs are supported by inhouse services. The Access Services Program provides prevention and early intervention services to clients and the community. The Representation Program consists of inhouse criminal law and family law legal practices, determines applications for legal representation and assigns granted matters to either an inhouse or private legal practitioner. Services under both programs are provided to rural and remote clients through Legal Services offices at Whyalla and Port Augusta.

## Organisational Chart



## Legal Services offices

Legal Services offices are open to the public and accessible for legal advice appointments. Our offices are located at–

### Adelaide

159 Gawler Place,  
Adelaide SA 5000  
T: 08 8111 5555

### Elizabeth

Windsor Building,  
Elizabeth Shopping Centre,  
Elizabeth SA 5112  
T: 08 8111 5400

### Noarlunga

Noarlunga House,  
Centro Colonnades Shopping Centre,  
Noarlunga Centre SA 5168  
T: 08 8111 5340

### Port Adelaide

ANL House,  
306 St Vincent Street,  
Port Adelaide SA 5015  
until 1 December 2021 and then  
263 St Vincent St,  
Port Adelaide SA 5015  
T: 08 8111 5460

### Port Augusta

34 Flinders Street,  
Port Augusta SA 5700  
T: 08 8686 2200

### Whyalla

Tenancy 7, 169 Nicolson Avenue,  
Whyalla Norrie SA 5608  
until 1 September 2021 and then  
17A Forsyth Street,  
Whyalla SA 5600  
T: 08 8620 8500

# Our Year

**Annual Report 2020-21**  
Legal Services Commission of South Australia

**Highlights 2020-21**  
**Director's Report**  
**Snapshot of Services**

# Highlights 2020-21

## Some of our Achievements

1

Development of Strategic Plan 2021-2024

2

Successfully meeting the challenges of ongoing delivery of services through COVID and lockdowns

3

Successful continued operation and extended funding for four legal assistance schemes designed to assist women at risk of family violence

4

554 private and inhouse panel practitioners located throughout South Australia available to provide legal representation

5

Successful first year of the new National Legal Assistance Partnership Agreement (2020-25)

6

Delivery of more than 145,500 legal assistance services



7

**28% increase** in appointments of independent children's lawyers

8

**17% increase** in the number of family dispute resolution conferences, with a settlement rate of **84%**

9

**9% increase** in applications for legal representation

10

**6% increase** in granted applications for legal representation

11

Over **8,000** grants of aid, duty lawyer services and advice appointments were delivered to children and young people

12

Praise for Legal Services in parliament from the State Attorney-General – “this is just another stellar performance of the Commission”- HANSARD Tuesday, 1 December 2020 HOUSE OF ASSEMBLY

13

**amica**

Successful first year of *amica*, online dispute resolution for separating couples

# Director's Report 2020-21

Legal Services has faced another year of unique challenges as the COVID-19 pandemic continues to affect the provision of our services.

We faced significantly reduced receipts from the Law Society of South Australia pursuant to the *Legal Practitioners Act 1981* due to exceptionally low interest returns. This is of concern as the situation is unlikely to improve over the next few years.

Our end of year result benefited by the resolution of our claim for Payroll tax exemption and the refund resulting from that decision.

We greatly appreciated the Commonwealth government providing additional funding to meet the extra service delivery demands from COVID-19 and to provision all staff with the necessary equipment to undertake their work from home.

Adjustments were made to our fee scale during the pandemic to respond to changes in practice in the courts. We also increased our allocation of files to the private profession and commenced paying commitment certificates weekly in an effort to assist with cash-flow needs.

This year was the first of the new *National Legal Assistance Partnership Agreement 2020-25* that commenced on 1 July 2020. The objective of the Agreement is to support integrated, efficient, effective and appropriate legal assistance services. We are facing significant new reporting and data requirements pursuant to the Agreement and have been adjusting our IT systems to accommodate this.

## Staff Training

With the release of the Equal Opportunity Commission Review of Harassment in the Legal Profession in South Australia, Legal Services focussed its staff training program on appropriate workplace behaviour and increased cultural awareness. We have participated in joint training sessions with other South Australian justice agencies and have delivered a targeted ongoing program for our staff. We will also support our practitioner panel members as they access appropriate training and develop behavioural policies.

As a direct result of the experience of lockdowns and compulsory working from home during the pandemic, we reviewed our Flexible Working Arrangements Policy and introduced a formal procedure for working from home. This arrangement has been taken up by 24% of staff.

Another priority for the year was the consultation on and introduction of our Disability Action and Inclusion Plan. Targets have been set that we will work through over the next two years.

## Highlights and Achievements

Legal Services has this year been recognised for the quality of its services. Our Duty Lawyer service in the Magistrates Court was nominated for the 2021 South Australian Premier's Awards for Excellence and two lawyers from our Criminal Law Division, Christina Chrisakis and Madeline Anderson, were the recipients of the 2020 Mark Griffin QC Outstanding Duty Lawyer Award.

## amica

It is now one year since the National Legal Aid online, family dispute resolution platform *amica* was launched by the Commonwealth Attorney-General. *amica* has proved popular with clients, with nearly 3,000 matters commenced and more than 70 consent order applications generated for filing at court.

In conjunction with all legal aid agencies around Australia, clients can access assistance through the 'ask *amica*' chat service, free advice lines and via [Facebook](#) and [Twitter](#). The *amica* website has received more than 260,000 page views.

The platform received important industry recognition when *amica* was declared the national winner in the Australian Information Industry Awards (Public Sector and Government category) and the SA Premier's iAward for Innovation in the Public Sector.

I congratulate all Legal Services staff whose dedicated work made *amica* such a success and a valuable service nationally for clients who do not qualify for a grant of legal aid and are not able to afford the cost of a private legal practitioner.

Speaking of *amica* in the House of Assembly on 9 September 2020, the Attorney-General noted—

*'We have a (Legal Services) Commission that is highly functioning in this State.*

*I was very impressed by the catalogue of presentation of this, selling this extraordinary message to the world of an important initiative established here in South Australia.'*

## New Services

Legal Services has received funding from the South Australian Government to establish two new programs.

The first program is the establishment and operation of a Disability Information and Legal Assistance Unit (DiLA). The Unit will be comprised of staff with specialised training and awareness of disability issues. It will offer a centralised access point within Legal Services for disability legal assistance services.

This service will compliment the support we provide for people with disability or mental illness and for carers so they can develop their capabilities and actively participate in community and economic life through NDIS appeals and reviewable decisions made by NDIA.

The second program is the Safe Families program which will be delivered by Legal Services as part of South Australia's commitment to the National Partnership on COVID-19 Domestic and Family Violence Responses. The program is part of a new service model designed to support children who are impacted by domestic and family violence.

### **Modernisation of Operational Systems**

This year Legal Services made the decision to replace its ageing Law Office system and provide contemporary tools and technology that better serve the current needs of our clients and our strategic goals. After a successful 'Proof of Concept', the project is proceeding with an expected go live date in the next financial year.

### **Accommodation**

Legal Services is committed to providing clients and staff with safe, accessible and appropriate interview rooms and workplaces. This year we initiated a schedule for the refurbishment of our suburban and regional offices, several of which are now fully renovated. Other offices required new premises to be sourced. Work was able to continue despite COVID-19 restrictions, and the refurbished Noarlunga office reopened on 10 June 2021.

I thank the dedicated Legal Services staff. Their flexibility and determination to continue to provide high-quality legal assistance to all South Australians despite service delivery challenges has been demonstrated all year.

I also express my thanks to the private legal practitioners who continued to act on grants of aid throughout the pandemic. The private profession represented 78% of legally aided clients this year. I look forward to our ongoing collaboration in delivering justice services.

Thanks also go to the Legal Practitioners Reference Committee who provide advice to Legal Services on its functions. Practitioner panel audits were successfully introduced this year after consultation conducted through this committee.

I acknowledge and thank the South Australian Deputy Premier and Attorney-General, the Hon Vickie Chapman MP and the Commonwealth Attorney-General, the Hon Senator Michaelia Cash for their ongoing commitment to funding legal assistance in South Australia.

### **Gabrielle Canny**

Director

Legal Services Commission

# Snapshot of Services 2018-21

## Client services

	2018-19	2019-20	2020-21
Grants of aid for legal representation	16 163	17 691	18 745
Other court/tribunal grants for legal representation*	484	471	545
Representation on previously granted files	4 599	4 581	5 482
<b>Dispute Resolution services</b>			
clients represented at an FDR conference	1 417	1 720	2 019
amica parties (South Australia) **	-	-	1 178
Duty lawyer services	12 804	12 706	13 397
Legal task	2 310	2 288	2 255
Legal advice	77 754	78 953	78 645
Information sessions	10 023	10 231	9 302
24Legal sessions	11 143	11 066	9 987
Community legal education participants	7 055	***4 423	***3 323
Social work services	351	462	663
<b>Total client services</b>	<b>144 103</b>	<b>144 592</b>	<b>145 541</b>

\*Guardianship/ Mental Health and NDIS grants.

\*\*2020-21 is the first year of amica.

\*\*\*Due to COVID-19, most CLE sessions were unable to be held for the last 4 months of the 2019-20 financial year. The impact of lockdowns and COVID-19 continued for the entirety of the 2020-21 financial year.

# Supporting client services

	2018-19	2019-20	2020-21
<b>Applications for aid received</b>	<b>18 270</b>	<b>19 827</b>	<b>21 562</b>
<b>Grants of aid for legal representation –</b>			
assigned inhouse	<b>4 345</b>	<b>4 319</b>	<b>4 099</b>
assigned externally	<b>11 818</b>	<b>13 372</b>	<b>14 646</b>
<b>ICL appointments</b>	<b>297</b>	<b>325</b>	<b>451</b>
<b>Lawyer assisted FDR</b>			
conferences organised	<b>1 232</b>	<b>1 443</b>	<b>1 715</b>
conferences held	<b>891</b>	<b>1 032</b>	<b>1 211</b>
conferences settled - percentage	<b>85%</b>	<b>85%</b>	<b>84%</b>
<b>AI assisted FDR – amica (Australia)*</b>			
Parties			<b>5 892</b>
Suggested asset divisions	-	-	<b>700</b>
Finalised property or parenting agreements	-	-	<b>500</b>
<b>Community Legal Education sessions</b>	<b>227</b>	<b>**150</b>	<b>**175</b>
<b>Referrals for further service</b>			
Information	<b>4 343</b>	<b>3 746</b>	<b>1 607</b>
Advice/Legal Task	<b>9 537</b>	<b>14 869</b>	<b>15 023</b>
Duty Lawyer	<b>11 493</b>	<b>10 308</b>	<b>11 379</b>
<b>Law Handbook page views</b>	<b>2 297 545</b>	<b>2 064 460</b>	<b>1 865 114</b>
<b>Legal Services website page views</b>	<b>804 069</b>	<b>729 611</b>	<b>814 352</b>
<b>Distribution of publications</b>	<b>51 207</b>	<b>50 688</b>	<b>***25 506</b>

\*2020-21 is the first year of amica.

\*\*Due to COVID-19, most CLE sessions were unable to be held for the last 4 months of the 2019-20 financial year. The impact of lockdowns and COVID-19 continued for the entirety of the 2020-21 financial year.

\*\*\*The reduction in distribution of publications is related to COVID-19. The pandemic resulted in fewer events at which publications were distributed, such as CLE sessions and expos, and fewer people attending agencies where publications are collected.

# Our Clients

**Annual Report 2020-21**

Legal Services Commission of South Australia

**We believe that every interaction with every client and community member can make a difference to that person. We deliver our services to meet that aim.**

# Legal Services Clients

Legal Services clients are among the most disadvantaged in our community. Of the clients who received a grant of aid for legal representation, a legal advice appointment or a court based legal service–

- 66% were receiving a government benefit
- 19% were children and young people ( $\leq 24$  years)
- 17% were from a culturally and linguistically diverse background\*
- 17% self-identified as having a disability or mental illness
- 14% were living in regional or remote South Australia
- 14% were in custody
- 14% identified as Aboriginal or Torres Strait Islander
- 13% self-identified as victims of family violence
- 7% were older people ( $\geq 65$  years or  $>50$  years for Aboriginal and Torres Strait Islander people)
- 5% required the assistance of an interpreter

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

Whilst 13% of clients who received a grant of aid for legal representation, a legal advice appointment or a court based legal service self-identified as experiencing or being at risk of family violence, an analysis of family law representation files undertaken twice in the last five years indicated approximately 80% of these clients were experiencing or at risk of experiencing family violence.



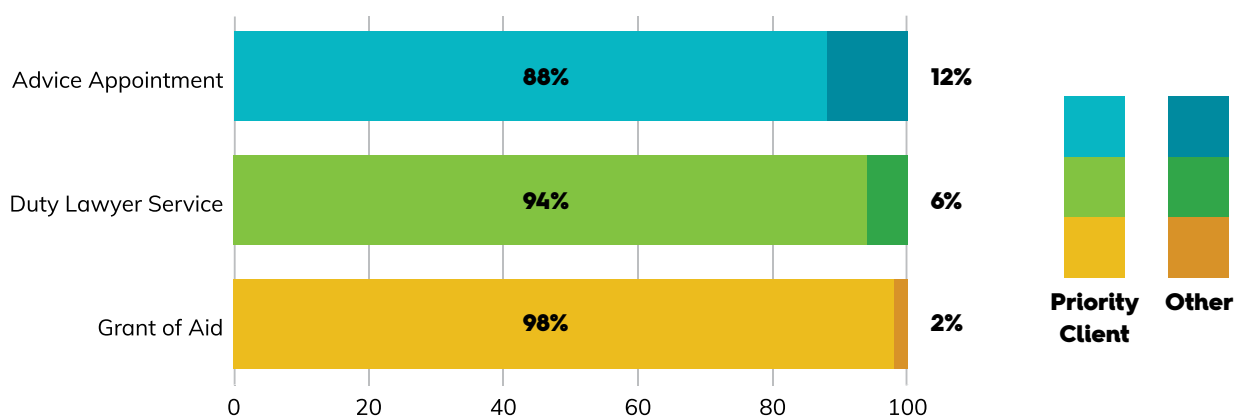
## Number and type of service provided to each priority client group – 2020-21

Priority Client Group	Grant of aid	Duty Lawyer Service	Advice Appointment	Total
Receives a government benefit	14 312	9 435	7 106	30 853
Under 25 years of age	4 370	2 843	954	8 167
Culturally and linguistically diverse	1 639	1 806	4 244	7 689
Disability or mental illness	4 280	3 335	1 145	8 760
Lives in regional or remote SA	3 095	2 073	1 046	6 214
In custody	5 299	2 803	294	8 396
Aboriginal or Torres Strait Islander	3 836	2 898	425	7 159
Victim of family violence	1 491	657	2 979	5 127
Older people	432	539	1 405	2 376
Requires an interpreter	564	525	1 389	2 478

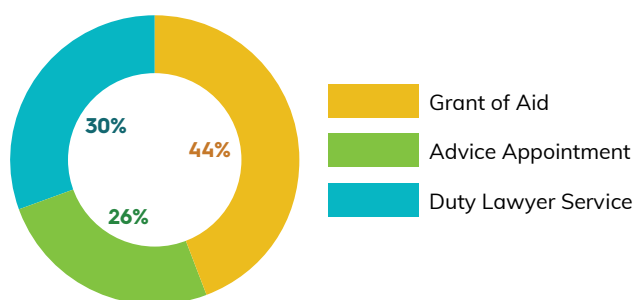
## Number of services (grant of aid, duty lawyer service or advice appointment) to a priority client compared to services to a client who does not fall within a priority group

	Services to a priority client	Other
Grant of aid	18 325	420
Duty lawyer service	12 592	805
Advice appointment	10 531	1 444
<b>Total</b>	<b>41 448</b>	<b>2 669</b>

## % of grants of aid, duty lawyer services and advice appointments to clients in priority groups



### Services accessed by priority clients



Strategies to improve services, and access to services, for people who fall within priority client groups are regularly reviewed. Priority clients are assisted to access our services through the provision of–

- online legal information services
- legal advice appointments and family dispute resolution conferences by telephone, video link or online, enabling access for regional and remote clients or those with mobility issues
- regional offices in Whyalla and Port Augusta
- prison visits
- community legal education projects for priority clients and community workers dedicated to information about how to access services
- social media communication about Legal Services
- appearances on community podcasts
- radio interviews focussed on legal topics and regional communities
- webinar legal training for community workers who assist priority groups
- fortnightly e-mail to community worker networks promoting legal resources on focused legal topics.

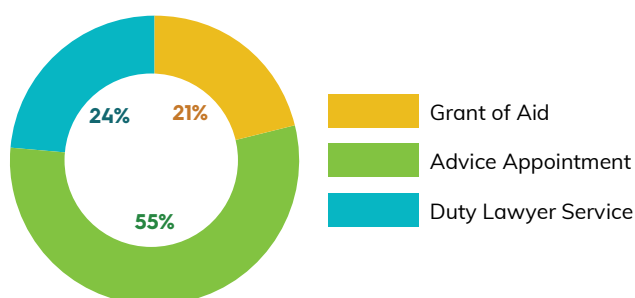
In addition, individual priority groups are specifically targeted and assisted to use our services, as detailed below.

### Culturally and linguistically diverse (CALD) clients

To improve access to services for clients from culturally and linguistically diverse backgrounds–

- written legal information is provided and distributed in community languages
- video community announcements explaining how to contact us for legal advice are available in Farsi, Liberian English, Nepali, Pashto, Sierra Leone Krio, Sudanese, Arabic and Swahili
- audio announcements in Arabic, Dari, Dinka, Hindi, Mandarin, Nepali, Pashto, Swahili, and Vietnamese on how to get legal help are available on our website
- legal information factsheets are written in 'Easy English'
- interpreters are provided
- a Migrant Information and Legal Education Program is regularly run for new and recently arrived migrants explaining how to access legal advice, the Australian legal system and particularly relevant laws such as the Australian road rules, consumer law, criminal law and family law.

### Services accessed by CALD clients

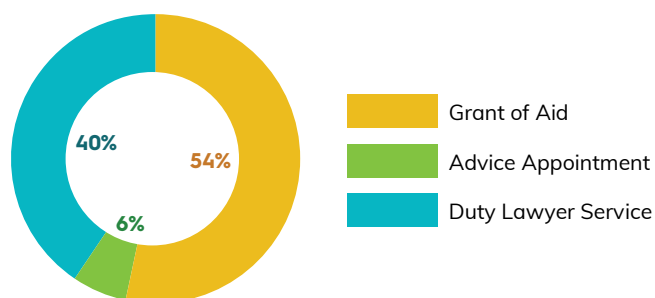


## Aboriginal and Torres Strait Islander (ATSI) clients

Measures specifically targeted to assist Aboriginal and Torres Strait Islander people include—

- legal representation for clients in the Nunga Courts and the Aboriginal Community Courts
- the provision of a duty lawyer and a social worker, and representation through a grant of legal aid, to assist parties who have matters in the Federal Circuit Court Aboriginal and Torres Strait Islander Family Law List
- participation in the South Australian Legal Assistance Forum and Collaborative Service Planning sessions, and regular meetings between the Director of Legal Services and the Chief Executive of the Aboriginal Legal Rights Movement, to increase cooperation and collaboration in the provision of legal assistance services to Aboriginal and Torres Strait Islander people
- two summer clerkships each year for Aboriginal law students
- access to our lawyer assisted family dispute resolution program for Aboriginal Legal Rights Movement clients
- participation in the Aged Rights Advocacy Aboriginal Community Safeguarding Network
- regular liaison between our community legal education officers and officers from the Aboriginal Legal Rights Movement to share information and resources
- cultural awareness training organised for all staff.

Services accessed by ATSI clients

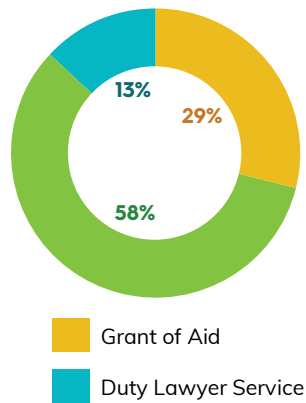


## Victims of family violence

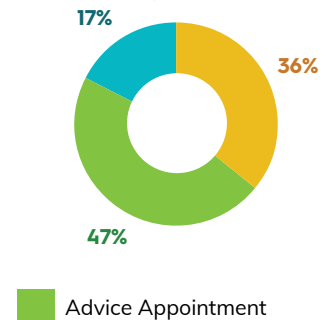
Specialist programs and services specifically targeted for victims of family violence include–

- the provision of a specialist Domestic Violence Unit
- a Women's Domestic Violence and Court Assistance Service
- the inclusion of social work services as part of the duty lawyer service in the family courts
- the provision of a lawyer for the purposes of cross examination in all family court matters in which there is family violence
- family dispute resolution in small property matters that would not normally attract a grant of legal aid
- secure, separated interview rooms at Legal Services to allow family dispute resolution and legal advice appointments to occur without contact with the other party
- screening processes before any family dispute resolution to ensure it is safe for the conference to proceed
- training for interpreters on domestic violence laws
- arrangement of secure locations for legal advice appointments involving issues of family violence.

Services accessed by clients who indicate family violence



Services accessed by family law clients who indicate family violence



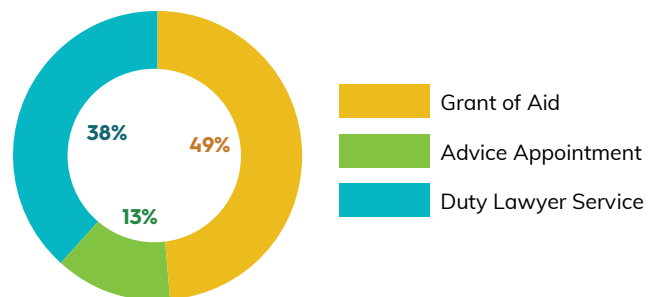
## Clients with a disability

Our services are designed to ensure accessibility to people with particular needs as a consequence of disability. Examples of this include–

- our website can be accessed via Readspeak
- web resources are digitally accessible to people with vision impairment or who, because of a physical impairment, are unable to use a mouse
- contact information for our service is available in Braille and in large print
- factsheets are created in easy read English and available on our website or able to be printed
- specialised videos have been produced specifically for people with disability on issues such as how Legal Services may be able to help and on legal topics including elder abuse, family violence, arrest rights and victim rights
- videos have been produced in Auslan with information about our services and about family violence prevention and elder abuse prevention
- contact via the National Relay Service

- specialist training is provided for Auslan interpreters and lawyers who work with clients with disability
- *Your Story Disability Legal Support* - a service that commenced in September 2019 to assist clients to provide their experiences to the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*.

Services accessed by clients who indicate a disability



## Children and young people

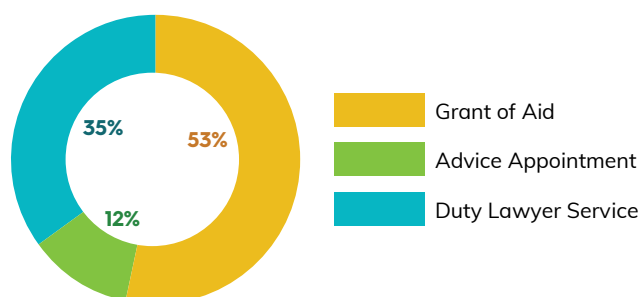
Specialist programs and services are run by Legal

Services for children and young people. These include–

- the appointment of independent children's lawyers to act in the best interests of the child in family law court proceedings
- the appointment of lawyers in child protection matters
- representation of children and young people in the Youth Court
- the provision of duty solicitors in the Youth Court
- involvement of a child and family counsellor in appropriate family dispute resolution conferences
- the publication of a series of factsheets titled *Young people and the Law* which includes factsheets on the following legal topics–
  - Alcohol and the Law
  - Bullying at School
  - Buying Things
  - Cigarettes and the Law
  - Complaints about Police
  - Discrimination
  - Drugs and the Law
  - Families and the Law
  - Graffiti and the Law
  - Health Stuff
  - Living Independently
  - Parties and the Law
  - Police and You
  - Porn, Sexual Photos and Films
  - Pregnancy and Getting Help
  - Public Transport and the Law
  - Security Guards and Bouncers
  - Sex, Consent and the Law
  - Social Media
  - Tattoos and Piercings.

- talks for young people and community workers who work with young people about legal services, legal education resources and information about laws relevant to young people
- the production of a film, *Trusted Moments*, for use in education sessions for young people explaining the importance of consent and respect in relationships as a strategy for the prevention of sexual assault.

Services accessed by children and young people



# Client Services

Annual Report 2020-21  
Legal Services Commission of South Australia  
[www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

# Client Services

**Legal Services provides the following assistance for clients:**

- **Prevention and Early Intervention Services**
  - Community Legal Education
  - Legal Information, Advice and Legal Task
- **Court Based Services**
  - Criminal Law Duty Solicitor Service
  - Family Advocacy and Support Service
  - Civil Law Court and Tribunal Services
- **Family Dispute Resolution Services**
  - Lawyer Assisted Family Dispute Resolution
  - AI Assisted Family Dispute Resolution - *amica*
- **Legal Representation Services**
  - Grants of Aid for Legal Representation
  - Criminal Law
  - Family Law
  - Child Protection
  - Civil Law



# Prevention and Early Intervention

Preventative and early intervention services comprise–

- **community legal education** sessions explaining rights and obligations under the law
- the provision of **legal information, advice and legal task** to individual clients to explain legal options at the earliest opportunity, reducing the likelihood of a legal problem escalating and avoiding litigation.

## Community Legal Education

Community legal education (CLE) is an early intervention strategy aimed at reaching potential clients and the broader community. It is designed to–

- assist people to understand the law and how it affects them, and
- to increase an individual's capacity to seek timely legal assistance.

Legal Services CLE programs focus on the client priority groups targeted under the *National Legal Assistance Partnership Agreement (2020-25)* and identified by the 2012 *Legal Australia Wide Survey* as being amongst the groups most vulnerable to having unresolved legal problems. In particular, the CLE programs focus on–

- new migrants
- young people
- older people
- people with disability
- community workers
- women
- people experiencing family violence.

Community legal education is delivered by Legal Services legal education officers through–

**Digital, web-based and print resources–**

Information covering many legal topics is produced and published online, through multimedia resources and in printed publications such as factsheets and legal information guides. These resources are generally available for download from our website and in hard copy. During the financial year the Law for Community Workers webinar program promoted youth focused topics such as the youth justice system and the work of the SA Bullying Prevention Coalition.

**Media and communications–**

Legal Services has an extensive online presence, including social media and digital platforms, through which it delivers information promoting our services.

**Legal education community talks and events–**

Legal information sessions are provided to professionals, community support workers and the public on a variety of legal topics including–

- Getting Legal Help
- Advance Care Directives, Wills and Powers of Attorney (personal decision making)
- Family Law.

Specific sessions during 2020-21 included–

- a presentation to Aboriginal Elders on COVID-19 related scams
- participation in the Adelaide Women's Prison Living Skills program for inmates on Keeping Safe Inside & Out, a program designed to equip inmates with skills to assist them both within prison and on release back into the community.

**Skills sharing and capacity building–**

Keeping Connected, an e-resource for workers in organisations, government departments and education sites is produced fortnightly. Each edition focuses on one legal topic, highlighting useful links to relevant publications, Law Handbook entries and other Legal Services resources.

**Community and strategic engagement–**

CLE officers liaise with stakeholders, including community workers, social workers, librarians and teachers to ascertain the legal education needs of client groups.

## Key achievements and new initiatives

The CLE family violence and elder abuse prevention videos, aimed at women and girls with disability, were profiled on State and national radio programs during 2020-21. These videos were viewed more than 30,000 times.

In the course of the financial year the CLE team–

- delivered the first national compulsory professional development online training for legal aid community legal education officers entitled *Access for all? Improving accessibility in community legal education*
- in response to the challenges of service delivery in the pandemic, changed the delivery of community legal education sessions and resource development by creating regular e-resources so as to connect with client groups and to deliver community talks and webinars online
- developed and delivered national training on domestic violence and community legal topics for interpreters

- collaborated with migrant settlement services and tertiary institutions to develop legal information for two films about community safety, targeting the newly arrived Syrian and Burmese communities
- worked with the Courts Administration Authority and judiciary to develop resources to reflect new court rules and processes for self-represented litigants.

## Client Feedback

The following feedback was received from a community worker in relation to the *Law for Community Workers* webinar based education program–

“Many thanks for another instructive, informative and useful webinar, thank you for having and maintaining this initiative, of improving our legal understanding and knowledge.”

## Facts and figures

Community Legal Education	2018-19	2019-20	2020-21
Sessions	227	*152	*175
Participants	7 055	*4 429	*3 323

\*Due to COVID-19, most CLE sessions were unable to be held for the last 4 months of the 2019-20 financial year. The impact of lockdowns and COVID-19 continued for the entirety of the 2020-21 financial year.

## Website pageviews

	2018-19	2019-20	2020-21
Law Handbook	2 297 545	2 064 460	1 865 114
Legal Services website	804 069	729 611	814 352

## Top five online legal information topics by page views

	2020-21
Young People, Sex and Consent	56 587
Negligence	41 493
What is Crime?	36 506
Retaining Walls	32 356
COVID-19 Directions and South Australia	29 066

	2018-19	2019-20	2020-21
<b>Publications distributed</b>	51 207	50 688	*25 506

*\*The reduction in distribution of publications is related to COVID-19. The pandemic resulted in fewer events at which publications were distributed, such as CLE sessions and expos, and fewer people attending agencies where publications are collected.*

### Five most distributed publications

2019-20		2020-21	
Fences and the Law	6 928	Fences and the Law	2 672
Trees and the Law	4 096	Trees and the Law	2 112
Legal Helpline Cards	2 910	Do Not Knock	1 570
Do Not Knock	2 860	Need Legal Help	872
Need Legal Help	1 445	Wills	794

## Legal Information, Advice and Legal Task

Legal Services provides free legal information and advice–

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

### Telephone information and advice

Calls to the legal helpline are answered from 9am to 4:30pm each business day, with callers receiving timely legal information or advice or a referral to a more appropriate specialist agency.

### Advice appointments

If during a telephone call or through the online Legal Chat service it is identified that further legal advice may be required, an appointment is scheduled at a Legal Services office or through referral to a local community legal centre. Legal Services has offices in Adelaide, Elizabeth, Noarlunga, Port Adelaide, Port Augusta and Whyalla. In addition, legal advice appointments can be booked at the outreach locations of–

- Murray Bridge Community Centre, and
- Summit Health Care at Mount Barker.

Advice appointments can also be conducted by telephone or video, at the preference of the client.

Legal Services advisers 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, including advice in relation to family law, child protection, debts, and wills and estates.

During the past financial year most legal advice appointments were conducted as telephone appointments because of COVID-19 concerns and public health directives.

### Online technology

Clients continue to use online technology to find answers to their legal questions.

- **Legal Chat** launched in 2015. It is an online chat tool accessed through the Legal Services website. During the 2020-21 financial year an 8% increase in clients stated that their legal question had been fully answered by Legal Chat year on year.
- 24Legal is an online platform that has been available via the Legal Services website since 2017. It provides legal information through a decision tree format, allowing site visitors to find answers to legal questions by clicking on questions and answers. The top three topics by clicks and usage during the 2020-21 financial year were *Family Law*, *Need Legal Help* and *Police and You*.
- **PhotoLegal** is an encrypted digital service allowing secure transmission of photographs and documents to a legal adviser providing advice via a phone call. It won a national IT award in 2020 for *Best State Government Project*.

## Specialist advice services

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

**Migration** – Legal advice and assistance is provided to clients in migration matters. Advice on domestic violence against provisional partner visa holders by their partners continues to be a leading reason 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 who have been convicted of serious criminal offences and face deportation.

**Consumer law and consumer credit law** – A specialist legal adviser provides advice and support to the adviser team in consumer law and consumer credit law. This adviser is a regular commentator on consumer issues on ABC regional radio and CoastFM. The adviser also provides support and information to financial counsellors and contributes to the Law Handbook.

**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 legal appointments and extended assistance services if required. Representation may be provided, subject to means and merit tests, where court applications or more substantial services are required.

In addition to these specialist advice services Legal Services receives dedicated funding from both the Commonwealth and State governments to run specific legal advice programs. These programs may be ongoing, related to particular circumstances or pilot programs. The specific advice services funded during the 2020-21 financial year are as follows:

### **Domestic Violence Unit / Health Justice Partnership**

The specialist Domestic Violence Unit / Health Justice Partnership (DVU) of Legal Services is funded by the Commonwealth government and operates from offices in the Northern suburbs of Adelaide. Solicitors provide advice and assistance on-site to patients at nearby hospitals and health centres.

The DVU provides legal advice, assistance and, in unique circumstances, representation to women experiencing domestic violence, covering issues such as an intervention order or housing.

The safety of the women is always the first consideration and in addition to receiving legal advice, women gain access to support services to ensure their safety and welfare concerns are addressed. These services include financial counselling, tenancy assistance, trauma counselling, emergency accommodation and employment services.

In 2020-21 the DVU provided the following services:

Information	7
Legal Advice	497
Legal Task	428
Grant of aid for legal representation	48
<b>Total</b>	<b>980</b>

### Your Story Disability Legal Support

Your Story Disability Legal Support commenced in September 2019 to assist clients to provide their experiences to the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*. This is a national legal service delivered as a joint initiative of National Legal Aid and National Aboriginal and Torres Strait Islander Legal Services (NATSILS).

In addition to assistance to tell their story to the Royal Commission, South Australian clients receive ancillary legal advice. People in prison who wish to make a submission are also assisted.

During 2020-21–

- Legal Services staff visited Port Augusta, Whyalla and Port Pirie to provide legal information and advice about the Royal Commission
- on-site information and advice was provided to those attending the public hearing of the Disability Royal Commission in Adelaide
- 40 CLE activities and 33 legal advice sessions were provided.

### Bushfire legal advice service

The South Australian 2019-20 'black summer' bushfires resulted in the loss of 3 lives, 196 homes, 660 vehicles and 68,000 livestock, and burnt 280,000 hectares of land. Legal Services received specific funding to provide legal advice and education services to those affected.

Working in conjunction with Community Legal Services (CLSs) Legal Services established a weekly legal clinic in the Adelaide Hills. The CLCs established an equivalent clinic on Kangaroo Island and the two organisations jointly ran bimonthly clinics on the Yorke Peninsula. The clinics provided free legal advice services to individuals, small businesses and primary producers, dealing with a wide range of legal issues including insurance claim disputes, landlord and tenant matters, fencing and boundary disputes, debt, employment law and family law.

In addition, free legal seminars were run online and at all three clinic locations to promote public awareness of the measures that can be taken to prepare for, mitigate losses from, future bushfires.

Over the course of the financial year, 17 community legal education sessions were held, 80 legal advice services provided and 23 legal tasks completed.



### **Return to Work Information and Advice Service**

The *Return to Work Information and Advice Service* is run by Legal Services to provide information and advice about workers compensation, specifically in relation to the operation of the *Return to Work Act 2014*. Injured workers can seek information and advice from our legal helpline and can be provided with free legal advice appointments.

There is close collaboration between Legal Services and Return to Work SA, with monthly feedback provided by Legal Services on statistics and trends in queries from injured workers. Return to Work SA regularly refers injured workers to us for independent advice.

In the 2020-21 financial year, the service provided 309 telephone attendances for information or advice and 39 advice appointments conducted either in person or by telephone.

## Facts and figures

In 2020-21 Legal Services advisers provided over **90,000** free legal information and advice services to the South Australian public. This included–

- legal information and advice in response to over **68,000** telephone helpline enquiries and more than **7,000** Legal Chat enquires, and
- free legal advice to clients in nearly **12,000** appointments.

In addition, the online question and answer format of 24Legal was accessed by clients on nearly **10,000** occasions to obtain legal information specific to their individual needs.

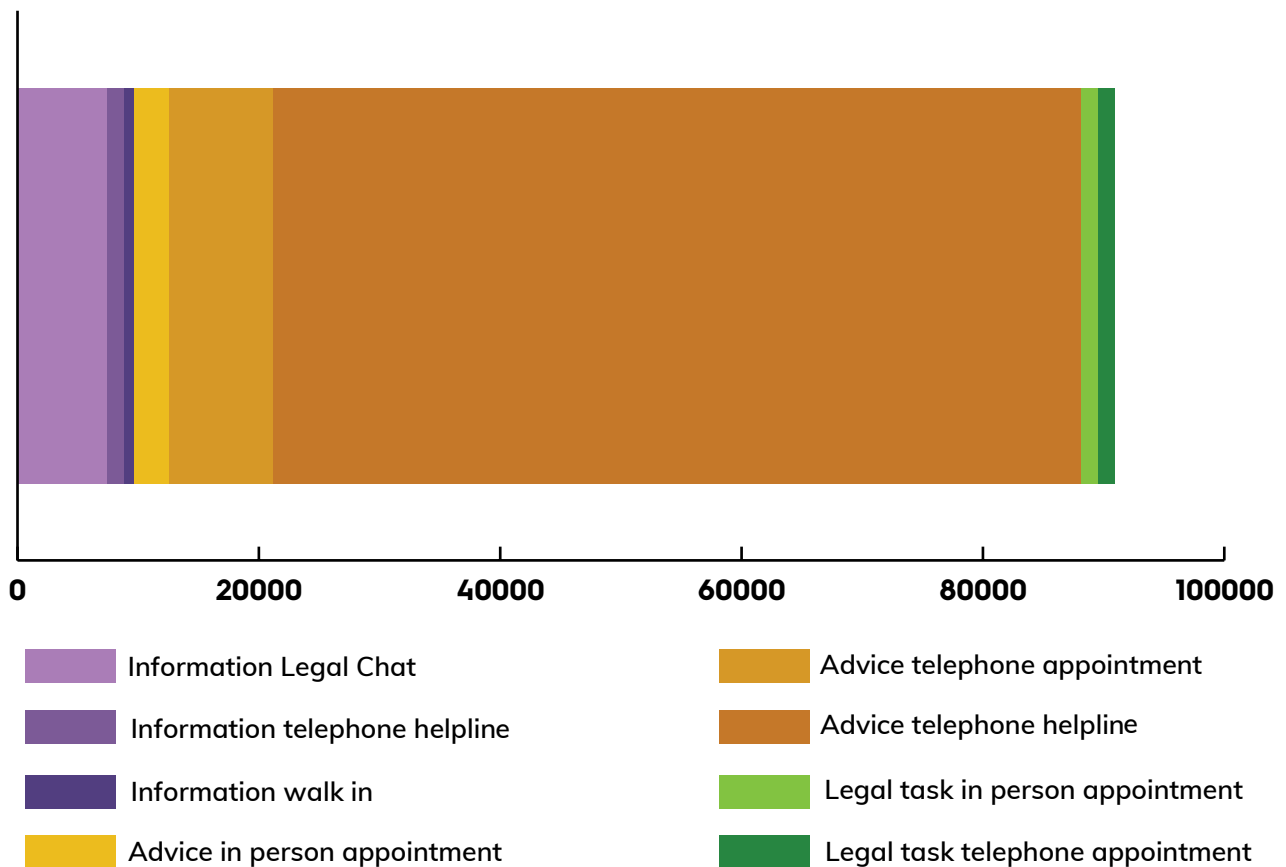
	2018-19	2019-20	2020-21
<b>Information</b>			
Legal Chat online sessions	6 342	7 244	7 373
Telephone helpline	2 498	1 879	1 463
Client walk-ins	1 183	1 108	466
<b>Total</b>	<b>10 023</b>	<b>10 231</b>	<b>9 302</b>
<b>Legal advice</b>			
Telephone helpline	62 758	64 923	66 902
Telephone appointments	3 985	6 030	8 664
In person appointments	11 011	*8 000	*3 079
<b>Total</b>	<b>77 754</b>	<b>78 953</b>	<b>78 645</b>
<b>Legal task</b>			
Telephone appointments	1 800	1 362	1 481
In person appointments	510	926	774
<b>Total</b>	<b>2 310</b>	<b>2 288</b>	<b>2 255</b>
<b>Total information and advice services</b>	<b>90 087</b>	<b>91 472</b>	<b>90 202</b>

\*COVID-19 resulted in a reduction in face to face legal appointments for the last 4 months of the 2019-20 financial year and for the entirety of the 2020-21 financial year.

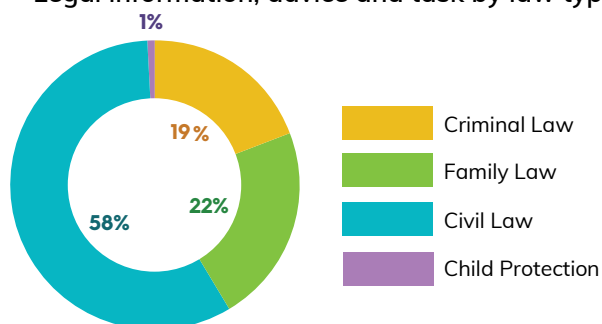
## Law type by service type

	Criminal Law	Family Law	Civil Law	Child Protection	Total
Information	1 546	2 945	4 785	26	9 302
Legal advice	15 708	16 639	45 646	652	78 645
Legal task	78	381	1 779	17	2 255
Total	17 332	19 965	52 210	695	90 202

## Legal information, advice and task by delivery method



## Legal information, advice and task by law type



## Most common information and advice matters by delivery method

Legal Chat		Telephone helpline		Advice appointment	
Law in General	862	Law in General	5 464	Intervention order	660
Documents	587	Fences/retaining walls	4 309	Property settlement	618
Property settlement	507	Contact - spends time with	3 336	Contact - spends time with	520
Contact - spends time with	395	Property settlement	2 827	Fences/retaining walls	386
Fences/retaining walls	361	Consumer problem	2 431	Consumer problem	370

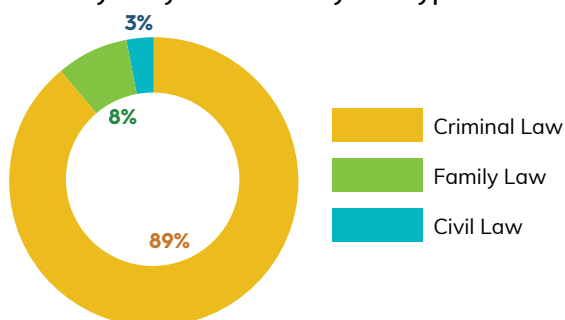
## Court Based Services

Legal Services provides duty lawyers at the Magistrates Court, the family law courts and the Youth Court. Legal advisers are also available to provide advice in the Adelaide Magistrates Court and at the Administrative Appeals Tribunal.

### Duty lawyer services by law type – 2020-21

	2018-19	2019-20	2020-21
Criminal law	10 600	10 314	11 914
Family law	1 915	2 162	1 102
Civil law	290	287	381
<b>Total</b>	<b>12 805</b>	<b>12 763</b>	<b>13 397</b>

### Duty lawyer services by law type - 2020-21



## Criminal Law Duty Solicitor Service

Legal Services has supported the South Australian community for decades through the provision of duty solicitors in the Magistrates Courts. The presence of duty solicitors in these courts plays a significant role in the smooth running and administration of the criminal justice system.

Duty solicitors protect the legal interests of our most vulnerable citizens at their most vulnerable time. The role carries substantial responsibility as it involves dealing with people taken into custody overnight who are often still under the influence of drugs or alcohol, have complex mental health issues and may be experiencing psychosis. They may also be subject to family breakdown and homelessness.

For clients arrested the previous night, duty solicitors conduct bail applications, provide legal advice and conduct simple guilty pleas. They may appear in the Supreme Court on bail reviews if bail is refused or contested by the Crown. This requires obtaining instructions, preparing submissions on often complex legal and factual issues and appearing in Court, usually within an hour of receiving the client's name. They then address issues arising from the hearing, including further legal representation, housing options and mental health services.

During the challenges presented by COVID-19, all stakeholders in the Magistrates Court jurisdiction worked closely and co-operatively to facilitate the smooth processing of defendants in custody and to ensure that Legal Services could continue to assist clients. With the introduction of COVID restrictions duty services were provided remotely where necessary.

In 2020 we introduced rostering to support the provision of duty services over public holidays. Deploying this new service involved working closely with Magistrates and SAPOL.

No matter the challenge, the duty solicitors continued their vital service - one that every day shows the values of the SA Public Sector in action and has strengthened relationships between vital justice sector stakeholders.

The role of the duty solicitor is appreciated by the judiciary and other stakeholders, with Magistrates regularly reporting positively about individual lawyers or the duty solicitor service overall.

### Stakeholder feedback

During the financial year a prosecution sergeant provided positive feedback about a Legal Services duty solicitor who secured bail for a young person who presented with significant challenges. In addition to providing excellent advocacy for the client, the duty solicitor found a sentencing error that he brought to the attention of SAPOL. The prosecution sergeant stated that while the solicitor's conduct in court was extremely professional, she was just as impressed with his attitude outside court - respectful, confident, and professional.

### Facts and figures

In 2020-21, **11 914** criminal law duty solicitor services were provided. 11 556 of these services were provided by a Legal Services inhouse duty lawyer, with the remaining 358 provided by private legal practitioners funded by Legal Services.

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

	Advice	Mention	Uncontested bail application	Contested bail application	Plea	Hearing	Other	Total
Supreme Court	0	0	0	1	0	1	0	2
District Court	5	3	0	13	0	0	2	23
Magistrates Court	2 371	1 831	252	5 904	435	75	169	11 037
Youth Court	56	299	249	124	114	4	6	852
<b>Total</b>	<b>2 432</b>	<b>2 133</b>	<b>501</b>	<b>6 042</b>	<b>549</b>	<b>80</b>	<b>177</b>	<b>11 914</b>

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

	Advice	Mention	Uncontested bail application	Contested bail application	Plea	Hearing	Other	Total
Adelaide	625	874	436	1 730	241	5	44	3 955
Berri	30	114	0	45	24	0	2	215
Ceduna	3	1	0	1	0	0	0	5
Christies Beach	441	290	5	683	82	2	47	1 550
Elizabeth	364	204	14	2 218	24	3	17	2 844
Kingscote	0	1	0	0	0	0	1	2
Millicent	0	2	0	0	0	0	0	2
Mount Barker	3	1	0	2	0	0	0	6
Mount Gambier	25	52	0	5	26	0	1	109
Murray Bridge	50	4	0	18	1	0	3	76
Port Adelaide	633	273	2	851	71	3	18	1 851
Port Augusta	101	217	22	296	49	32	11	728
Port Lincoln	1	3	0	9	0	0	0	13
Port Pirie	2	0	2	0	0	0	0	4
Victor Harbor	0	3	0	1	0	0	0	4
Waikerie	6	18	0	0	3	0	0	27
Whyalla	148	76	20	183	28	35	33	523
Total	2 432	2 133	501	6 043	549	79	177	11 914

## Family Advocacy and Support Service

The Family Advocacy and Support Services (FASS) program is funded by the Commonwealth government to provide a combined duty lawyer and social worker service for unrepresented clients in the family law courts. The program assists families affected by family violence by integrating social support services with duty lawyer legal services. Duty lawyers and social workers are available at the family law courts in Adelaide on each sitting day and in Mount Gambier during the quarterly circuits of the Federal Circuit Court.

The social workers deliver risk assessment, referral and social assistance services. Two social workers are employed with one dedicated to assisting men. The duty lawyers provide legal advice and assist parties to manage their court appearance. Many clients require both the legal assistance and the social support services offered by the program.

The duty lawyers at the Adelaide family law courts are provided by Legal Services and the social support workers by Relationships Australia (South Australia) through an agreement with us. In Mount Gambier, Legal Services partners with Community Justice Services SA for the provision of the duty lawyer service and with ac.care (Anglican Community Care Inc) to deliver the social support program.

Throughout the restrictions imposed by COVID-19 the duty lawyers and social support staff worked off-site, continuing to provide services by telephone or video. The number of services were less than the previous year as many court lists were held remotely and it was difficult to get timely access to the duty services.

### Case studies

The following is an example of the benefits of the duty lawyer service.

*M was referred to FASS for assistance on the day of her court hearing. The litigation was high conflict and the parties had been in Court for over a year. F was seeking a significant increase in his time with the children and M was concerned about the possible outcome. She was appearing without a lawyer and was very stressed and nervous at having to appear before a judge.*

*The FASS duty lawyer obtained instructions from M and liaised with F's lawyer and the independent children's lawyer, eventually negotiating an agreement without the court hearing proceeding. The duty lawyer made a warm referral to a lawyer to represent the client on an ongoing basis.*

The benefits of the social support services are indicated by the following case study.

*M had two small children in her care. English was her second language, and domestic violence and F's drug use were issues in the case. M contacted FASS with concerns over court proceedings taken out by F who wanted equal care of the children.*

*The FASS social support worker identified that M was the victim of domestic violence and that the family needed long-term stable housing. The social worker linked M to a housing liaison advisor, obtained furniture for the household and liaised with a Domestic Violence service for a new phone for M as F was still harassing her via text messages.*



## Client Feedback

The following client feedback, received by a FASS duty lawyer during the financial year, indicates the benefit of the service to the client extends beyond the legal resolution of the matter–

“Again, thank you so very much for all your help today. It has been invaluable and helped me beyond belief. For the first time in 3 weeks I feel I can breathe and see a way forward in this.”

## Facts and figures

### FASS services

	2018-19	2019-20	2020-21
Information and referral	1 163	1 287	1 229
Social work appointments	351	462	663
Duty lawyer services	1 914	2 158	*1 097

\*The reduction in the number of duty lawyer services between 2019-20 and 2020-21 is partly due to a change in counting methodology in accordance with the National Legal Assistance Data Standards Manual. Prior to this financial year multiple services to a client in the same day were counted separately. These services are now being counted as one service. The number of clients who received a duty lawyer service also fell, but less significantly, reducing from 904 in 2019-20 to 724 in 2020-21.

## Civil Law Court and Tribunal Services

Legal Services 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. Referrals are made to other services where appropriate, including financial counselling.
- *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.

## Women's Domestic Violence Court Assistance Service

Legal Services receives dedicated funding from the State Government for the provision of the Women's Domestic Violence Court Assistance Service (WDVCAS). WDVCAS is a court based service designed to assist and represent women experiencing domestic violence and in need of assistance with protective measures such as intervention orders or tenancy (break lease) applications.

Despite COVID-19, WDVCAS continued to provide a duty solicitor service to the four metropolitan Magistrates Courts and, on request, to the regional and rural Magistrates Courts of Mount Gambier, Port Lincoln, Port Augusta, Whyalla and Murray Bridge, as well as in the Housing and Civil Division of SACAT.

In addition to domestic violence issues, the women assisted by this service often have other legal matters for which assistance is required, including debt, children's issues, property disputes and Centrelink disputes. Practitioners offer a comprehensive approach to their clients, ensuring warm referrals to non-legal support services are provided as required.

The service has been well received, with the Attorney-General stating in parliament–

*(WDVCAS) is way above its weight in target, and it has delivered an outstanding service comprehensively across the state for free. -*

*HANSARD Tuesday, 1 December 2020 House of Assembly*

In the 2020-21 financial year the service delivered 109 duty solicitor services in the Magistrates Court. In addition, 786 legal advice sessions were provided and 128 clients received a grant of aid for legal representation.

## Client Feedback

"Thank you for representing me in the process necessary for my safety and protection during the extremely traumatic events...Please know that the work of WDVCS is invaluable to people/women like me, who are so distressed and overwhelmed in these horrible circumstances that they don't know what to do. You (and the magistrate) made a difference to me in recognising the severity...I felt seen, heard and that I mattered."

## Facts and figures

During the financial year duty lawyers dealt with various civil law matters in the Magistrates Court and the Youth Court. The majority of these matters related to intervention orders.

### Civil law duty lawyer services by court type

	2018-19	2019-20	2020-21
Magistrates Court	268	277	376
Youth Court	22	10	5
<b>Total</b>	<b>280</b>	<b>237</b>	<b>381</b>

## Family Dispute Resolution Services

### Lawyer Assisted Family Dispute Resolution

The Legal Services lawyer assisted Family Dispute Resolution program (FDR) provides an efficient and effective method of dispute resolution for parties with family law conflict.

The FDR program is available both before a matter goes to court (an early intervention conference) or after proceedings have commenced in the court (when the court orders that a conference occur). An early intervention conference is preferable as the matter may settle sooner and before positions have become entrenched. There are some situations where this is not appropriate, often due to the urgency of the matter.

Conferences are chaired by specialised family dispute resolution practitioners who have both legal and family dispute resolution qualifications. The client's lawyer provides legal advice and assists their client during the FDR process. Cases are often complex and often involve family violence. The conferences are held in our secure purpose built conference facilities, allowing them to be carried out by shuttle negotiation, with each party (and their lawyer) in a separate room during negotiations.

Legal Services held 1,211 conferences in the 2020-21 financial year, an increase of 17% over the 2019-20 financial year notwithstanding COVID-19. The settlement rate for the conferences was 84%, consistent with previous years. Matters settling at a conference result in an earlier resolution, reducing stress and expense for clients and freeing up the court lists.

In appropriate cases a child inclusive conference model is employed. In these matters the FDR conference includes a child and family counsellor who, with the consent of the parties, sees the children, seeks their views and provides feedback.

#### Case study

The benefit of a child inclusive conference model can be seen in the following case study.

*Since separation M and F had attempted to set up an arrangement whereby their 8 year old child spent time with both parties. This had not been successful.*

*M applied for legal aid and a Family Dispute Resolution Conference was held. The parties agreed that the child's wishes were important and relevant for working out the time the child should spend with each parent.*

*It was agreed that the child be interviewed by a child expert who would provide feedback to the parents about the child's wishes. This feedback resulted in an agreement being reached in line with the child's views.*

Throughout the COVID-19 pandemic the family dispute resolution service continued to operate, with conferences being conducted both in person and online. Legal Services will provide both modes of services delivery on an ongoing basis, depending on the nature of the conference and the needs of the parties.

## Legally Assisted Family Dispute Resolution Small Property Cases

In 2019 the Commonwealth government provided specific funding to Legal Services for a Legally Assisted Family Dispute Resolution Small Property Cases program to assist separating couples with small property pools. This funding is available to clients who would not otherwise qualify for a grant of legal aid but who, due to particular priority issues, the nature of their dispute and less than \$500 000 in equity, are considered eligible for this funding. Under the funding the client is provided with the opportunity to engage in a lawyer assisted family dispute resolution conference at Legal Services. If the matter fails to settle at the conference, the application may be funded to the family law courts. The aim of the program is to resolve small property disputes faster and, if possible, out of court. It is designed to assist people to achieve equitable property settlements and increase their financial independence when they need it most.

### Case study

Below is an example of the type of matter covered by this scheme.

*The parties had lived together for almost 40 years. Both had ceased working and were in receipt of Government benefits.*

*After separation, M continued to live in the jointly owned home. F had no permanent home. M wished to remain in the home but had no ability to raise funds to purchase F's interest.*

*Neither party had the finances to consult a lawyer.*

*M applied for assistance under the Legally Assisted Family Dispute Resolution Small Property Cases program. At conference, an agreement was reached without incurring significant legal fees and without instituting court proceedings.*

## Facts and figures

The number of lawyer assisted family dispute resolution conferences held at Legal Services continues to rise, with a 17% increase this financial year, after a 16% increase in the year previous. Settlement rates are high and remain steady. Each conference that settles is a family law matter that is no longer in the court list, benefiting both the clients and the family law courts.

	2018-19	2019-20	2020-21
Parties represented at an FDR conference	1 417	1 720	2 019
Conferences held	891	1 032	1 211
Conferences settled	761	881	1 019
Settlement rate	85%	85%	84%

### Legally assisted family dispute resolution small property cases

	2020-21
Parties represented at an FDR small property conference	34
Conferences held	26
Conferences settled	25
Settlement rate	96%

## AI Assisted Family Dispute Resolution – amica

During 2019-20 Legal Services, on behalf of National Legal Aid and with funding from the Commonwealth Attorney-General's Department, developed an online family dispute resolution service, *amica*. It was launched on 30 June 2020 by the Commonwealth Attorney-General and assists a separating couple, through computer generated interaction and artificial intelligence, to reach agreement about a property settlement or parenting arrangement. These agreements are then recorded in plain language and may be filed at court as consent orders.

*amica* guides users through a step by step online process with their former partner. It allows parties to undertake the process at their own pace, in their own time and in their own space, offering information and support to assist in achieving an amicable agreement. In so doing, it may reduce legal bills and reduce pressure on the family law courts.

In determining an asset split, *amica*'s artificial intelligence takes into account–

- the assets and circumstances of the particular matter
- consent orders and court judgements in similar situations.

The tool has been received positively, taking first place in the Australian Information Industry Awards, Public Sector and Government category. On *Sunrise*, David Koch referred to it as "A genius idea!" and an early user described it as "a godsend".

Access to *amica* is Australia wide. In the 2020-21 financial year, *amica*'s first year of operation–

- nearly 3,000 matters were commenced
- over 700 asset division suggestions were provided
- approximately 300 property agreements were finalised
- over 70 consent order applications were generated, with staff of the family courts praising the quality of the documents
- over 200 parenting plans and parenting agreements were finalised
- the *amica* site received more than 260,000 page views.

Until the end of 2020 the tool was free to use. From 1 January 2021 a nominal income tested fee has been charged to fund ongoing maintenance and development of the service.

More information is available at [amica.gov.au](https://amica.gov.au)

# Legal Representation Services

## Grants of Aid for Legal Representation

Legal Services provides funding for legal representation in cases that meet our funding criteria. In general, a case will meet the funding criteria if–

- our means test is satisfied
- the case has merit, and
- the case falls within the guidelines under which legal aid is granted.

Cases likely to fall within the guidelines are–

- criminal law cases where there is a real risk of imprisonment
- family law cases involving children, and
- child protection cases.

Some civil cases may also be funded. For further information please visit– [http://www.lsc.sa.gov.au/cb\\_pages/legal\\_aid\\_eligibility.php](http://www.lsc.sa.gov.au/cb_pages/legal_aid_eligibility.php).

In addition, Legal Services receives specific funding to provide representation to clients in situations that would not fall within our means and merit tests and funding guidelines. In these cases, the requirements for funding are specified by the funder. During the 2020-21 financial year Legal Services received funding to represent clients under the following specific programs:

- Family Violence and Cross-examination of Parties Scheme
- Family Dispute Resolution Small Property Cases

- Women's Domestic Violence Court Assistance Service
- Domestic Violence Unit / Health Justice Partnership
- National Disability Insurance Scheme
- Guardianship and Administration reviews
- Mental Health treatment order appeals.

## Practitioner Panels

If a case is assessed as falling within our funding criteria we assign a legal practitioner to act in the matter. The legal practitioner may be an inhouse lawyer or a private lawyer, either chosen by the applicant or, where the applicant does not indicate a preference, chosen by Legal Services as an appropriate practitioner for the case.

To ensure the best possible representation for clients, we require a legal practitioner representing a client in receipt of a grant of aid to be a member of our General Panel of practitioners.

In addition to the General Panel, five specialist legal practitioner panels have been established–

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

If a practitioner wishes to represent a client in a case 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. All legal practitioners employed by Legal Services, and any private practitioner who wishes to act on a grant of legal aid involving a child, must obtain a Working with Children check from the South Australian Department of Human Services.

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 panel system, please visit–

[http://www.lsc.sa.gov.au/cb\\_pages/practitioners\\_panel\\_registry.php](http://www.lsc.sa.gov.au/cb_pages/practitioners_panel_registry.php)

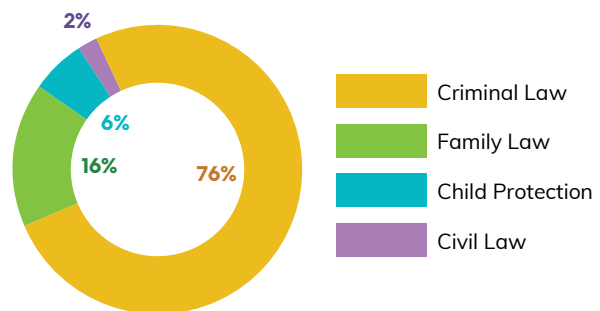
## Facts and figures

### Applications for legal aid

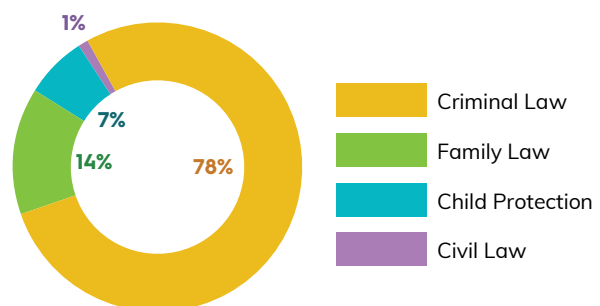
	2017-18	2018-19	2019-20	2020-21
<b>Received</b>	18 295	18 271	19 828	21 562
<b>Granted *</b>	15 817	16 162	17 692	18 745

\* Granted applications for each year include applications received in prior years but first granted in that year.

#### Applications received by law type



#### Applications granted by law type





## Status of applications received in 2020-21 as at 30 June 2021

	Awaiting assessment	Assigned externally	Assigned inhouse	Refused	Withdrawn	Total
Criminal Law	39	11 935	2 628	1 700	11	16 313
Family Law	67	2 018	587	793	14	3 479
Child Protection	4	603	680	47	2	1 336
Civil Law	5	8	181	237	3	434
Total	115	14 564	4 076	*2 777	30	21 562

\*Many of the refused matters are subsequently granted on receiving further information

## Applications granted in 2020-21 – Assigned externally or inhouse by law type (including applications received in 2019-20 but not granted until 2020-21)

	Assigned externally		Assigned inhouse		Total
Criminal	11 988	82%	2 635	18%	14 623
Family	2 042	77%	602	23%	2 644
Child Protection	608	47%	681	53%	1 289
Civil	8	4%	181	96%	189
Total	14 646	78%	4 099	22%	18 745

## Reason for refusal of applications received 2020-21 as at 30 June 2021

	Criminal	Family	Child Protection	Civil	Total
Guidelines	926	224	14	219	1 383
Means	597	417	9	3	1 026
Guidelines and means	133	73	6	8	220
Merit	33	31	10	2	76
Merit and guidelines	2	11	5	1	19
Means and merit	0	11	2	3	16
No jurisdiction	5	26	1	0	32
Autofinalise	4	0	0	1	5
Total	1 700	793	47	237	2 777

## Criminal Law Legal Representation

The Criminal Law Practice Division of Legal Services comprises the largest criminal law defence practice in South Australia, providing a duty solicitor service, a Youth Court service and a general and specialist Magistrates Court service. In addition, the practice represents clients in trials and sentencing before the District and Supreme Courts and clients appealing convictions and sentence to the Court of Criminal Appeal and the High Court of Australia. The inhouse practice also provides a free after hour's custody telephone advice service and a free prison advisory service.

### Specialist court representation

Legal Services 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. A solicitor assigned to the Youth Court jurisdiction provides mentoring and guidance to other Legal Services solicitors and counsel who practice in that jurisdiction from time to time. We also provide a dedicated frontline service to youths who are taken into custody to ensure they are expeditiously brought before the presiding judge or Youth Court magistrate.

Specialist legal representation is also available to clients with addiction illnesses who have been accepted into therapeutic rehabilitation programs, through 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 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. A solicitor is assigned to the Treatment Intervention Court and there is an expectation that all criminal law practice solicitors will work in this jurisdiction for a period of time, the allocation of resources and operational imperatives permitting.

Specialist legal representation is also provided to clients with mental illness or impaired cognitive function. Many Legal Services 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 questions of fitness to plead and mental competence to commit the offence. These matters must be explored and determined 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 who have been charged with very serious offences, including murder, and who are incapable of providing instructions.

### Magistrates Court representation

Legal Services lawyers represent clients in the Magistrates Courts on bail applications, pleas of guilty and in summary trials. These practitioners carry significant case file loads and are highly skilled in managing the challenges of heavy court lists and sometimes difficult legal and factual issues in both summary and major indictable cases as the latter moves through the committal process.

## 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 team. 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 inhouse counsel is that it allows early briefing, resulting in expert advice, better client outcomes and a timely finalisation of cases.

## Whyalla and Port Augusta

The criminal law practitioners located in the Legal Services 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 in these country locations 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. Legal Services lawyers also provide comprehensive Youth Court representation and regularly attend the Port Augusta prison to assist clients in custody.

Since 2014 the inhouse counsel section has provided counsel services for trials and guilty pleas in the District Court and Supreme Court sitting on circuit in Port Augusta. Inhouse counsel practitioners are instructed by the Port Augusta and Whyalla office practitioners in addition to receiving briefs from private regional legal practitioners with legally aided clients and clients of the Aboriginal Legal Rights Movement.

## Key achievements

### Improved stakeholder relations

The impact of COVID-19 in March 2020 brought closer consultation and understanding between the main stakeholders in the criminal justice system in South Australia, something that was necessary across all criminal jurisdictions nationally. The courts, Legal Services, South Australia Police, the Director of Public Prosecutions and the Department for Correctional Services, in particular, have worked in conjunction with each other to ensure that the criminal jurisdiction continued to operate smoothly throughout the COVID-19 pandemic. The Criminal Law Practice Division, working closely with the Legal Practice Manager and Grants Manager, has made a major contribution to the ongoing functioning of the criminal jurisdiction in this state during this very challenging time. An example of this is the direct dialogue with senior SAPOL prosecutions managers that now occurs on an ongoing basis, fostering a good working relationship and building trust, with the view to encouraging more open and fruitful charge negotiations, ultimately achieving a better outcome for Legal Services clients.

## Inhouse representation in the courts

The inhouse practice provides assistance to clients appearing before all criminal courts. The co-ordinated multi-team structure of the inhouse 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 case 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 their 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 inhouse counsel are available to provide representation to clients for trials, pleas of guilty or bail applications at short notice, working with other service providers to ensure the best representation possible. An example of such assistance was a trial where senior counsel was deployed after the trial had commenced as original trial counsel had been dismissed by the client, avoiding the need for a mistrial, and saving significant cost to the State. More recently, senior counsel was engaged in a complex trial where again previous counsel was dismissed, resulting in an acquittal for the client
- through our Chief Counsel and other senior counsel and solicitors we provide the highest-level appellate advice and advocacy. Our senior major indictable solicitor, in conjunction with Chief Counsel, is mounting a challenge to the High Court regarding the operation of s53 of the *Sentencing Act 2017* involving indefinite detention. This is a significant challenge, going directly to the issue of liberty for our most vulnerable clients.

## Provision of Continuing Legal Education

Despite the challenges presented by COVID, the Criminal Law Practice Division has continued to provide inhouse legal education to internal practitioners and, during 2021, remotely to external practitioners on the Legal Services Practitioner Panel. The sessions have been received very positively, attracting significant participation from external Panel members. Post COVID we intend to transition to onsite legal education for external practitioners, fostering an ongoing relationship between our inhouse and private criminal lawyers who work tirelessly for legally aided clients.

## Challenges

The criminal justice system is facing many challenges in South Australia. Incarceration rates continue to be at high levels (particularly for Aboriginal people) and prison overcrowding remains a problem. These increases can be attributed in the main to greater restrictions on access to bail, particularly with regard to prescribed applicants, tighter laws relating to release on parole, increased custodial sentences, various offences precluded from suspended sentence options, the serious repeat offender provisions of the *Sentencing Act 2017* requiring a mandatory four fifths non parole period, along with the

implementation of extended supervision orders. Inhouse lawyers, private practitioners and other professionals are finding it increasingly difficult to gain adequate access to clients in custody. This has been amplified during COVID-19.

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 *Sentencing Act 2017*, do not appear to be delivering 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 to negotiate the speedy resolution of cases with the prosecuting authority in the context of tight timelines within the sentencing discount regime.

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.

## Facts and figures

### Grants of aid in criminal law cases

	2018-19	2019-20	2020-21
Assigned externally	9 157	10 346	11 988
Assigned inhouse	3 352	2 907	2 635
Total	12 509	13 253	14 623

Private practitioners received **82%** of the grants of legal aid for criminal law cases in 2020-21, an increase from 78% in 2019-20 and 73% in 2018-19.

## Family Law Legal Representation

Legal Services 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.

### Legal representation of parties

Family law legal representation services involve advice and representation in the more complex parenting disputes and financial matters. Clients are represented in matters before the court and, where appropriate, at lawyer assisted family dispute resolution.

Clients are often unaware of their legal rights and may not always know about the help they need. This may be compounded by language or literacy barriers. The following case study illustrates the factual and legal complexities often encountered, and the issues clients may be dealing with that heighten their legal difficulties. In this case, the client thought they needed a parenting order but in fact required a property settlement.

### Case study

*M applied for legal aid seeking orders for “divorce and custody”. The client did not speak English and an interpreter was required for all her attendances.*

*M instructed that she had been separated from F for more than twelve months and that F was in jail. M was fearful that her husband’s family would take her young children away from her, as they had threatened to do so previously.*

*M was advised that she did not need to seek a court order as she had the full-time care of the children,*

*F was not pursuing time with the children and if his parents took action she would be able to quickly apply for orders for the children’s return.*

*While taking instructions the lawyer raised the issue of property settlement.*

*M instructed that she and F had bought a house with joint contributions but that she could not recall signing any of the legal documents. When she separated from F his family demanded that she vacate the house, which she did. She did not know what had happened to the house.*

*She was advised that she had twelve months after the divorce to institute property settlement proceedings and that, if the house was in F’s sole name, she might need to take urgent action.*

*It was discovered that F had a superannuation policy and that the house was only in his name and for sale. A caveat was lodged at the Lands Titles Office and an agreement made with the bank that the proceeds of sale be paid into the Legal Services trust account. An application for property settlement was filed in the Federal Circuit Court, together with the divorce application.*

*An excellent result was achieved for M when an agreement was reached that M retain the full proceeds of the sale of the house and one half of F’s superannuation entitlements.*

During COVID-19, family lawyers continued to act for clients and take on new cases. For the major part of the year, the family law courts restricted the hearing of cases in person, with the bulk of hearings for divorces, directions and procedural business conducted either by phone or video link. Most trial hearings were heard in person.

## Client feedback

Examples of the feedback received during the financial year highlights the valuable role Legal Services lawyers play–

*"I wanted to say thank you for all the work you have done over the last year to get to this point."*

and–

*"I genuinely didn't believe that B was ever going to consent to anything reasonable and it would have to go to trial. Fortunately, the tide has changed, hopefully for the long-term benefit of my children."*

and–

*"Thank you so much for your support through this terrible ordeal. I'm free !!!!"*

## 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 to the appropriate extent
- ensures any views of the child are made known to the court
- arranges for evidence to be called
- seeks to broker an agreement between the parties in the best interests of the child
- assists the court and the parties in a case management role
- examines evidence presented by other parties and responds according to the best interests of the child.

Generally, appointments of ICLs are made at an early stage in court proceedings, but an order can be made at any stage should a judicial officer consider it necessary.

## Case study

The following case illustrates the role of an ICL.

*A parenting trial was proceeding in the Federal Circuit Court. Both parties were represented. The judge considered that the input of an independent children's lawyer was necessary to represent the interests of the pre-school child.*

*Legal Services appointed an ICL who met with a child expert to consider the needs of the child and set up an informal conference between the lawyers for the parties. An agreement regarding the long term care of the child was reached without going back to the court for a decision.*

In 2020-21, 451 orders were made by the family law courts requesting the appointment of an ICL. This is a 28% increase over the 325 orders made in the previous financial year. The 451 orders this financial year related to 727 children.

## Independent Children's Lawyer appointments

	2018-19	2019-20	2020-21
ICL appointments	297	325	451

## Child support

Legal Services family lawyers also 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.

The following example illustrates the benefit of receiving specialised child support advice and representation.

### Case study

*After F and M separated their children remained in the care of M. F remained in employment and was paying child support at the rate assessed by Services Australia, Child Support.*

*F became sick and ceased working. Arrears of child support accrued as a result. Some years later he lodged outstanding tax returns and refunds due to him were intercepted to meet the outstanding arrears. Those arrears had accrued because he was still required to pay child support at the rate of his previous, not his actual, income when he had no capacity to pay such support. His child support debt exceeded \$30,000 by the time he approached Legal Services.*

*He was assisted by a Legal Services child support lawyer to file a Change of Assessment application with Services Australia and was then successfully represented by that lawyer in court in an application to discharge the arrears that had accrued over the previous years.*

## Lighthouse Project

In December 2020, the family law courts launched the Lighthouse Project, a three-year pilot program in three family law court registries, including Adelaide. The

Lighthouse Project is a case management process to identify issues of family violence and to give priority to the matters of highest need. The project consists of three interconnected processes–

- screening of all parties,
- triage into an appropriate pathway, and
- the creation of a specialist list, the Evatt List, for high-risk matters.

Legal Services is a member of the Project's Stakeholder Group and has played a significant role in its implementation, particularly in developing referral practices to FASS and the appointment of independent children's lawyers. A guide for the role of ICLs in the Evatt List has been produced and distributed to all ICLs. In addition, Legal Services has hosted information sessions for the legal profession about the Project. Since the Project was launched in December 2020, 58 orders for the appointment of an ICL have been made in matters designated to the Evatt List.

### Case study

The following case illustrates the role of an ICL in a Lighthouse Project matter.

*A case involving two children, and in which there were allegations of family violence, was filed in the Federal Circuit Court. In line with the procedures of the Lighthouse Project, the case was referred to the Evatt List for intensive early intervention.*

*An order was made for an ICL to be appointed to represent the best interests of the children. The first court event took place three weeks later. In that time, the ICL ascertained the views of the children and liaised with the court counsellors and the many other professionals involved with the children.*



An order was made that the parties attend at a legally assisted FDR conference. At that conference, with the input of the ICL, the parties were able to reach an agreement about all parenting issues.

The matter was finalised with consent orders being made in the court within seven months of the application being filed.

## Family Violence and Cross-examination of Parties Scheme

The Commonwealth government has determined that in cases involving family violence parties are not to directly cross-examine each other at trials in the family law courts. Accordingly, any cross-examination must be conducted through a lawyer.

Under the Commonwealth *Family Violence and Cross-examination of Parties Scheme*, a party to a hearing in which cross-examination is to occur may, if they have not instructed a private lawyer, or are not in receipt of a grant of legal aid, apply for a lawyer to be appointed to prepare for, and represent the client at, the hearing in which the cross-examination is to occur. This scheme is administered by Legal Services on behalf of the Commonwealth government. In 2020-21, 32 parties received legal assistance under the scheme.

## Court based Family Dispute Resolution

In February 2021 the family law courts commenced court based Dispute Resolution Conferences. These conferences are to complement the lawyer assisted FDR program run at Legal Services. The court conferences are also lawyer assisted and involve a Registrar and a Family Consultant. Legal Services has been supportive of this innovation and has made available funding for solicitors and ICLs to attend these conferences in line with the funding provided for Legal Services FDR conferences.

## Challenges

### Merger of courts

The Government has announced that in September 2021 the Family Court of Australia and the Federal Circuit Court of Australia will be brought together into a unified administrative structure to be called the *Federal Circuit and Family Court of Australia* (FCFCOA). This Court will comprise two divisions that equate to the existing courts but operate as one court. It is anticipated that there will be significant consultation and information about the new processes early in the next financial year.

## Facts and figures

### Grants of legal aid in family law cases

	2018-19	2019-20	2020-21
Assigned externally	2 088	2 265	2 042
Assigned inhouse	601	686	602
Total	2 689	2 951	2 644

Private practitioners received **77%** of the grants of legal aid for family law cases in 2020-21, equivalent to 2019-20 and a slight decrease from 78% in 2018-19.

## Child Protection Legal Representation

Legal Services–

- provides representation for all children and young people who are subject to child protection proceedings under the *Children and Young People (Safety) Act 2017* in the Youth Court of South Australia, and
- subject to means and merit tests, funds legal practitioners to provide legal representation to the parents or guardians of those children and young people.

Under the *Children and Young People (Safety) Act 2017* the Department for Child Protection takes proceedings to secure the safety of children who are identified as being at risk. These children do not directly participate in the proceedings (except in certain exceptional cases). All children over the age of 5 years are interviewed at each stage of the process and every child's view is conveyed to the court (and as a result, to their family).

The child protection jurisdiction is a complex area in which to work. The vast majority of children wish to remain with their parents. Invariably they do not have a full appreciation of the factors that lead to the Department's intervention, nor do they appreciate the short and long term implications of those problems.

The role of the lawyer representing the child is complex and skilled, involving interviewing, negotiation and advocacy skills as well as the ability to assess cases quickly and succinctly. Assessment of a situation is often difficult because of the tension between keeping children with their parent and protecting them.

Proceedings can be lengthy. An initial order is sought to enable assessment of the parents and their children. This is usually a 3 month order but can be up to 6 months.

Thereafter, there can be further short term orders, but the usual course is either an application for an order until 18 years of age or a referral to the Reunification Court.

An order involving the Reunification Court is usually for twelve months and is designed to allow the Department to work with the parents with a view to reunifying the children with them. If reunification is unsuccessful, the Department will then apply for an order until 18 years of age.

Typical problems within families that come into the child protection system include general neglect, drug use and domestic violence. These issues are often inter-related, with drug use leading to neglect and domestic violence. However, neglect, poor parenting and a failure to send children to school can be problems in their own right and are surprisingly common. By the time the Department becomes aware of these problems and acts, they have often become very serious.

There is no typical child protection case. There has been an increase in the number of parents affected by methamphetamine. While poor parenting practices may not cause specific conditions, the ability of children to achieve their maximum potential is often significantly compromised and may affect the child for the rest of their life (as well as causing significant cost to society). A child's parenting template is often so affected that they replicate the same problems with their own children.

The Child Protection team lawyers are all encouraged to complete Independent Children's Lawyer (ICL) training. They are notable for their knowledge of child development. Most of the team have undertaken our inhouse advocacy training program.

## **Key achievements**

### **Administrative overhaul**

Over the last few years administrative changes have been implemented to enable the management of an increasing number of files. 681 files were allocated to inhouse child protection practitioners in the last financial year. Many of those files will have multiple children. The life of a file can extend over a year. When this is taken into account, representation by an inhouse child protection practitioner was provided on over 900 files during the last reporting period.

Over the last few years there has been an increase in the number of child protection files. The indications received from the Department of Child Protection and the State Crown is that those figures are going to continue to increase. Over the same time the number of trials conducted inhouse has significantly increased, as has the number of appeals.

### **Stakeholder engagement**

Over the past financial year, stakeholder discussions have occurred with the Department for Child Protection, the Crown, the Youth Court and with advocates for parents.

The Reunification Court operates as a diversion court, similar to the Drug Court, where the Court and child representatives provide support to parents and to the Department as part of the reunification process. It was originally set up as a demonstration project. Over the last reporting year, this project has been assessed and the Attorney-General has agreed to formalise its role as part of the Youth Court. We were part of the Committee involved in that formalisation process. This has been an important commitment for Legal Services in what is a major project for the Court, being one of the ways that the Court assists to bring parents and children safely back together.

## Facts and figures

### Grants of legal aid under the Children and Young People (Safety) Act 2017

Applications	2018-19	2019-20	2020-21
Received	1 000	1 298	1 337
Granted	944	1 246	*1 289

\*Granted applications includes applications received in 2019-20 but granted in 2020-21

	2018-19	2019-20	2020-21
Assigned externally	560	751	608
Assigned inhouse	384	495	681
<b>Total</b>	<b>944</b>	<b>1 246</b>	<b>1 289</b>

Private practitioners received **47%** of the grants of legal aid for child protection cases in 2020-21, a decrease from 60% in 2019-20 and 59% in 2018-19.

### Status of applications received in 2020-21 as at 30 June

	Waiting assessment	Assigned externally	Assigned inhouse	Refused	Withdrawn	Total
Adult	4	542	0	47	0	593
Child	0	61	680	0	2	743
<b>Total</b>	<b>4</b>	<b>603</b>	<b>680</b>	<b>*47</b>	<b>2</b>	<b>1 336</b>

\*Many of the refused matters are subsequently granted on receiving further information

- 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, one application may relate to multiple children.

## Civil Law Legal Representation

Legal Services provides legal representation in some civil law cases connected with–

- social security entitlements
- the National Disability Insurance Scheme
- mental health applications
- guardianship and administration applications
- veteran's affairs
- migration
- tenancy matters, and
- applications for private intervention orders.

In these cases, Legal Services lawyers and private practitioners funded by Legal Services represent clients in the Civil Division of the Magistrates Court, the South Australian Civil and Administrative Tribunal (SACAT) and the Administrative Appeals Tribunal (AAT).

Through the Women's Domestic Violence Court Assistance Service, representation may be provided to women experiencing family violence–

- in the Civil Division of the Magistrates Court to apply for a private intervention order, and
- at SACAT under the Residential Tenancies Act 1995 to seek relief from residential tenancy obligations when they are forced to vacate the premises because of family violence.

Representation at SACAT may also occur in a case under the–

- *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.*

Under the *Mental Health Act 2009* and the *Guardianship and Administration Act 1993* Legal Services receives funding from the South Australian Attorney-General and the Minister for Health to administer a legal representation scheme. Under this scheme, representation is 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*.

In addition to inhouse practitioners, a panel of private solicitors with the requisite level of knowledge and experience is available to represent those seeking a review or an appeal under this legislation.

Legal representation was provided to 479 applicants under the scheme this financial year, including assisting a client to appeal to the Full Court of the Supreme Court.

Representation at the Commonwealth Administrative Appeals Tribunal (AAT) may occur in cases related to–

- the National Disability Insurance Scheme (NDIS)
- social security
- veteran's appeals (war caused)
- Centrelink debt
- migration.

## National Disability Insurance Scheme

Legal Services receives funding from the Department of Social Services to provide assistance to NDIS applicants or participants who have a dispute with the National Disability Insurance Agency. Specifically, Legal Services–

- provides specialist legal advice in relation to the jurisdiction
- receives and processes applications for funding for legal representation in relation to disputes before the Administrative Appeals Tribunal
- assigns Legal Services solicitors to represent clients that meet the funding guidelines for NDIS disputes.

Legal Services provided assistance to 175 NDIS clients this financial year – legal advice to 109 clients and legal representation to 66 clients.

Many applicants seeking dispute resolution through the Administrative Appeals Tribunal would be unable to self-represent successfully. With the assistance of a legal representative most matters are resolved by agreement. In this financial year 33 matters finalised, all without funding for trial.

## Facts and figures

In 2020-21, the following civil law cases were funded by Legal Services for legal representation.

Administrative law	1
Centrelink	8
Domestic Violence Unit	48
Immigration	1
Miscellaneous (civil)	4
Women's Domestic Violence Court Assistance Service	128
<b>Total</b>	<b>189</b>

In addition, 479 matters were funded under the *Guardianship and Administration Act 1993* and the *Mental Health Act 2009*, and 66 matters were funded under the National Disability Insurance Scheme.

# Our Performance

Annual Report 2020-21  
Legal Services Commission of South Australia  
[www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

# Our Performance

- **Snapshot of Financial Performance**
- **Reporting**
  - Agreements with Government
  - Reporting against our Statutory Functions
  - Reporting against our Corporate Plan
- **Public Benefit**
- **Partnerships**



## Snapshot of Financial Performance

Legal Services ended the 2020-21 financial year with a consolidated comprehensive result of \$3,050,000 surplus. This compares to a consolidated comprehensive result of \$20,267,000 deficit for the 2019-20 financial year. This year's surplus is due to a timing issue as the State government reverted to paying the Commission its contribution in the year that it is scheduled to receive it.

The 2020-21 financial statements record the following:

Income	
Commonwealth government core funding and specific grants	\$22 514 000
State government core funding and specific grants	\$24 591 000
Reimbursement under the <i>State Expensive Criminal Cases Funding Agreement</i> (see Appendix)	\$437 000
Reimbursement under the <i>Commonwealth Expensive Criminal Cases Funding Agreement</i>	\$287 000
Funding from the Law Society of South Australia pursuant to the <i>Legal Practitioners Act 1981</i>	\$148 000
Other income	\$5 288 000
<b>Total income</b>	<b>\$53 265 000</b>

Expenditure	
Private practitioner payments	\$21 894 000
Other payments	\$28 321 000
<b>Total expenses</b>	<b>\$50 215 000</b>

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

## Reporting

### Agreements with Government

Legal Services receives funding from both the Commonwealth and State governments under various agreements. Each agreement requires us to report to the funder against specified benchmarks and key performance indicators. During the financial year Legal Services met its obligations to report in relation to each agreement.

#### National Legal Assistance Partnership Agreement 2020-25

The *National Legal Assistance Partnership Agreement 2020-25* (NLAP) commenced on 1 July 2020. It is the Agreement under which Legal Services receives the majority of its Commonwealth funding. The stated objective of the Agreement is–

*to contribute to integrated, efficient, effective and appropriate legal assistance services which are focussed on improving outcomes and keeping the justice system within reach for vulnerable people facing disadvantage, within available resources.*

The NLAP Agreement is between the Commonwealth government and all state and territory governments. It applies to legal aid commissions, community legal centres, family violence prevention legal services and Aboriginal and Torres Strait Islander legal services and specifies the terms under which Commonwealth funding will be provided for–

- baseline legal assistance services,
- the Domestic Violence Unit / Health Justice Partnership service, and
- the Family Advocacy and Support Service in the family law courts.

To comply with the NLAP Agreement, Legal Services must provide six monthly reports in relation to all three funding categories against the national performance indicators contained within the Agreement. This includes reporting on–

- a) the proportion of legal representation services delivered to the national priority client groups
- b) the number of legal representation services and the percentage of those services where clients were financially disadvantaged
- c) the number of legal assistance services provided to individuals disaggregated by service type and primary law type
- d) the number of facilitated resolution processes and the percentage of those processes that resulted in a held conference reaching full or partial settlement, and
- e) the number of legal assistance services provided to individuals (excluding information, referral, non-legal support, and facilitated resolution processes), in which the client is experiencing or at risk of family violence.

### Other Agreements

During the financial year, in addition to reporting against the requirements contained in the NLAP Agreement, Legal Services reported to the State and Commonwealth governments in accordance with the requirements contained within agreements in relation to–

- Adoption representation services
- Bushfire legal advice
- COVID-19 specific legal funding
- Drug Court representation services
- the Family Violence and Cross Examination of Parties Scheme

- Legal Assistance Family Dispute Resolution – Small Property Cases pilot
- the National Disability Insurance Scheme
- Return to Work SA
- Representation at SACAT under the *Guardianship and Administration Act 1993* and *Mental Health Act 2009*
- the Women's Domestic Violence Court Assistance Service
- Your Story Disability Legal Support service.

In many of these Agreements reports are required multiple times a year, often with differing obligations.

## Reporting Against Our Statutory Functions

The *Legal Services Commission Act 1977* establishes our statutory functions. During the 2020-21 financial year each statutory function was performed as follows:

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

This financial year Legal Services delivered over **145,500** legal assistance services to clients.

This included–

- providing grants of aid for legal representation in **18,745** cases
- undertaking **13,397** duty lawyer services
- holding **1,211** family dispute resolution conferences
- providing over **100,000** prevention and early intervention services, including through the new technology services of 24Legal, Legal Chat and amica.

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

Legal Services regularly reviews the criteria under which legal aid for representation services is granted. For representation services granted under baseline funding the criteria include means and merit tests and funding guidelines. The means test was last updated in March 2020. Where an agreement with either the Commonwealth or State government is entered into for the provision of a particular service with specific funding, criteria relevant to the particular agreement are determined and applied. For example, the Family Violence and Cross-examination Scheme in the family law courts is a fully funded Commonwealth scheme which is not means or merit tested. Rather, to receive assistance under the scheme a client must have been subjected to domestic violence. A client within the scheme receives legal representation for the hearing in which cross-examination is to occur, including the necessary preparatory work for that hearing and, where appropriate, late stage legally assisted family dispute resolution.

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

Legal Services has actively participated in and contributed to a number of comprehensive reviews this year, including the House of Representatives *Inquiry into Family, Domestic and Sexual Violence*, and SALRI's review of the *Role and Operation of Powers of Attorney in South Australia*. These submissions provide Legal Services with the opportunity to influence legislative change and promote community needs relating to legal assistance.

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

As the pandemic continued into its second year, Legal Services developed a flexible working policy based on the experience of the previous year and ensuring a readiness to continue services to the public during future restrictions.

A program of refurbishment for our suburban and regional offices is being undertaken to ensure staff and clients have safe and appropriate premises for the provision of legal assistance services.

***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 Legal Services community legal education program targets clients prioritised in the *National Legal Assistance Partnership Agreement 2020-25*. After the lengthy shut down last year community groups became more accustomed to working online using video conferencing platforms. Consequently, Legal Services has been able to reach some groups despite restrictions, including people who are remotely situated.

The Law Handbook and Duty Solicitor Handbook have been kept up to date, including in relation to the Emergency Management Directions regarding quarantine and other restrictions.

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

Our services are promoted to the public through the Legal Services website, social media platforms, press releases and media opportunities. In the 2020-21 financial year, our services were mentioned or featured in more than 200 news media stories or segments (this figure excludes news reports about legally aided court cases). The coverage was overwhelmingly positive and spanned print, online, radio and television outlets. In addition, there were 326 social media posts across Facebook and Twitter which received about 244,000 impressions (the number of times a post is displayed to social media users). In particular, *amica* (our online separation platform) and the legal advice services for participants in the *Your Story Disability Royal Commission* and victims of the South Australian bushfires, received significant coverage.

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

This was the first year of operation for the new *National Legal Assistance Partnership Agreement 2020-25* (NLAP). The Agreement brought together for the first time funding for all types of legal assistance service providers around Australia.

Through National Legal Aid, a co-operative body of all Australian legal aid directors, Legal Services participated in establishing and administering various Commonwealth schemes of legal assistance to fill gaps in service delivery and to ensure consistency and best practice across the country.

***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***

Legal Services funds interpreters for clients in receipt of a grant of aid, for legal advice interviews and for duty lawyer sessions. In addition to spoken language interpreters, Legal Services makes extensive use of persons skilled in communicating in Auslan, the sign language of the hearing impaired.

As part of the duty lawyer service in the family law courts, social workers are provided to assist clients. In the last financial year, 663 clients received a service from a social worker.

***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***

Each year, Legal Services offers four paid summer clerkships for law students, at least two of which are for indigenous law students. The law students are employed full time for four weeks, spending time across all areas of Legal Services. Highlights include a visit to the Nunga Court and learning about careers in the law from senior legal practitioners and managers. This year's clerks were impressed by the breadth and depth of Legal Services work, and the generosity of practitioners in sharing their time, knowledge, and experience.

Legal Services also provides six week placements for students participating in practical legal training courses.

***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***

Legal Services looks for opportunities to work with stakeholders on legal assistance projects. This may involve identifying gaps in service delivery and identifying funding opportunities to fill such gaps.

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

Legal Services 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.



## Reporting Against our Corporate Plan

The Legal Services Corporate Plan concluded on 30 June 2021. The KPIs contained within the Plan measure our progress against self-identified major initiatives in line with our objectives and strategies.










The Corporate Plan comprises four reporting areas - clients, people, stakeholders and resources. The following is a report against each KPI. The green dots indicate items that are ongoing or have been completed. The orange dotted items indicate work in progress.

A new Strategic Plan has been in development over the last six months and will commence in the next financial year. This new Strategic Plan is available in the About Us section of the Legal Services Commission website.






### Key:

-  Completed
-  In Progress

## 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
-  Invest in programs that promote the mental and physical well-being of our staff

## 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 assistance services
- Deliver a successful Commission Conference in 2021
- Negotiate and implement the terms of the new National Legal Assistance Partnership Agreement
- 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

## Public Benefit

Through the unique and extensive experience of Legal Services staff in criminal, family and civil law we are able to assist stakeholders and the community in developing policy and driving law reform relevant to justice issues. In 2020-21 this involved participating in forums, inquiries, consultations and reviews undertaken by State and Commonwealth Attorneys-General, the South Australian Law Reform Institute (SALRI), SA Health, and Committees of the House of Representatives and the Senate.

During the financial year, Legal Services, along with other legal aid commissions around Australia, delivered various Commonwealth government national legal assistance projects, including the *Legally Assisted Family Dispute Resolution Small Property Cases* pilot and the *Family Violence and Cross Examination of Parties Scheme*.

In the course of 2020-21 the expertise of Legal Services staff was sought by a number of national and interstate bodies, including–

- National Legal Aid
- the Australian Institute of Family Studies
- the Australian Bureau of Statistics
- Queensland Sentencing Council.

Legal Services staff responded to many requests for comment from both the State and Commonwealth governments in relation to matters of public relevance and legislative reform. These submissions included responses to the following legislative proposals, inquiries, and reviews–

- Senate Committee inquiries into disability pensions and visa classes
- House of Representative *Inquiry into Family, Domestic and Sexual Violence*

- SALRI inquires into Powers of Attorney and into Common Law Forfeiture
- Inquiry by the Commissioner for Consumer Affairs into Renting with Pets
- Review of the South Australian Retirement Villages Act 1987.

Legal Services senior lawyers regularly attend a range of meetings with government and other organisations to improve delivery of services for the public across the justice sector. To help improve and make more efficient the operation of the South Australian criminal justice system, senior staff attended regular meetings with judges, magistrates, tribunal members, police prosecutors, representatives of the Director of Public Prosecutions, the Courts Administration Authority and private legal practitioners to discuss current issues impacting on the criminal courts.

Similarly, senior staff attended regular meetings with judges and officials of the Federal Circuit Court and Family Court to discuss new developments and emerging issues in family law, with the aim of improving the client experience of the family law system.

In 2020-21 Legal Services worked with the following courts, tribunals, justice agencies and community legal services–

- Attorney-Generals' Departments, State and Commonwealth
- Aboriginal Legal Rights Movement
- Administrative Appeals Tribunal (Commonwealth)
- Community Legal Centres Australia
- Courts Administration Authority (SA)
- Family Court of Australia
- Family Violence Legal Service
- Aboriginal Corporation



- Federal Circuit Court
- JusticeNet
- National Aboriginal and Torres Strait Islander Legal Services
- Office of the Director of Public Prosecutions
- SA Police, including Police Prosecution
- South Australian Civil and Administrative Tribunal
- Southern Community Justice Services
- Northern Community Legal Service
- Uniting Communities Law Centre
- Women's Legal Service
- Westside Lawyers Legal Service
- Youth Law Australia.

Legal Services worked with the following government agencies whose activities intersect with the justice system–

- Australian Bureau of Statistics
- Commissioner for Children and Young People (SA)
- Department for Child Protection (SA), including Youth Justice
- Department for Correctional Services (SA)
- Department of the Premier and Cabinet
- Department for Human Services (SA), including Safe and Well Kids program
- Family Law Roundtable (Commonwealth Attorney-General's Department)
- Guardian for Children & Young People in Care (SA)
- Northern Adelaide Local Health Network
- Office of the Chief Psychiatrist
- Office of Ageing Well
- Office of the Public Advocate
- Public Trustee
- Return to Work SA
- Victims of Crime Commission
- Your Story Disability Royal Commission
- Community Engagement Division, and Your Story Disability Legal Support.

Legal Services worked with the following educational institutions who offer legal education–

- Flinders University
- Adelaide University
- University of South Australia.

Legal Services staff are members of the Law Society of South Australia and contribute to the profession through membership of Law Society Committees and providing professional development training on relevant matters.

Legal Services worked with the following professional organisations and committees who represent the legal profession–

- Law Society of South Australia
- South Australian Bar Association
- Legal Profession Reference Committee.

Legal Services shares its knowledge and expertise with community organisations involved in supporting the justice system in the community. In 2020-21 this included–

- Aged Rights Advocacy Service
- Anglicare
- Advocacy for Disability Access and Inclusion
- Disability Rights Advocacy service
- Disability Advocacy and Complaints Service
- First Peoples Disability Network Australia
- Independent Advocacy SA
- Relationships Australia
- Women's Safety Services SA
- South Australian Family Law Pathways Network
- South Australian Council of Social Services
- Women's Information Service.

The broader community is also served through the provision of legal education sessions to the public, community workers and the legal profession. Due to the impact of COVID-19, the Community Legal Education team developed innovative ways to offer its services, continuing and improving our online resource, *Keeping Connected*, to provide ongoing education and information to community contact groups with whom it would normally have face to face contact. Our free series of webinars, *Law for Community Workers*, continued to be offered throughout the pandemic. The webinars focus on key areas of law that are relevant for community workers and their clients.

Legal Services has continued to show its commitment to the South Australian community through fund raising activities for charities such as the Cancer Council, JusticeNet, Catherine House, OARS Community Transitions, Visit A Farmer, and Dry July.

# Partnerships

Legal Services is committed to working collaboratively with other organisations, both in relation to specific projects or more generally with bodies involved in the delivery of legal assistance services.

During 2020-21, specific collaborative projects included working with–

- migrant settlement services and tertiary institutions to develop legal information for two films about community safety, targeting the newly arrived Syrian and Burmese communities
- SAPOL Family and Domestic Violence section to achieve permission to display our Women's Domestic Violence Court Assistance Service posters in all South Australian Police Stations. In addition, this team works closely with the Women's Safety Services South Australia, Office for Women, Victims of Crime Commissioner and the South Australian Magistrates Courts
- the Courts Administration Authority and judiciary to develop resources to reflect new court rules and processes for self-represented litigants
- community legal centres to produce a 'grab and go bag', consisting of a list of documents that are important to have in the event of a disaster and a protective satchel with key details of organisations to contact in the event of a disaster printed on the satchel
- the Women's Information Service to deliver training to volunteers on legal services
- Relationships Australia SA, GP Plus Elizabeth, Northern Domestic Violence Service, the Lyell McEwin Hospital and Watto Purrinna Primary Health Care to deliver the Domestic Violence Unit / Health Justice Partnership. Domestic Violence Unit solicitors regularly visit and liaise with these service providers, and SAPOL, to ensure that women's safety and welfare concerns are addressed as well as their legal needs met.

In the course of 2020-21, Legal Services also worked collaboratively with the following organisations.

## National Legal Aid

National Legal Aid is the representative body for Australian legal aid commissions. It comprises the Directors or CEOs of the eight state and territory legal aid commissions and is supported by a secretariat. Regular meetings provide an overall view of the Australian legal assistance sector and the likely demands on local and national resources. It is the contact and referral point for Commonwealth government funders.

Legal Services staff 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 Civil 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 in relation to proposed reforms and enquiries. This financial year, the Family Law Working Group prepared and provided a formal submission to–

- the House of Representatives Standing Committee on Social Policy and Legal Affairs - *Inquiry into Family, Domestic and Sexual Violence*, and
- the Commonwealth Attorney-General's Department Consultation Paper on the *Establishment of an Accreditation Scheme for Children's Contact Services*.

The Civil Law Working Group prepared and provided a formal submission to–

- the Joint Standing Committee on the National Disability Insurance Scheme - *Inquiry into Independent Assessments*
- the National Disability Insurance Scheme in relation to two consultation Papers - *Access and Eligibility Policy and Planning Policy for Personalised Budgets and Plan Flexibility*.

## 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 NLAP Agreement specifies that a legal assistance forum in each state and territory will consider strategic opportunities, highlight best practice and support innovation through collaboration between service providers across the legal assistance sector. The State Attorney-General's Department leads the South Australian Legal Assistance Forum with a rotating co-chair from the legal assistance sector. The Forum consists of members from Legal Services, community legal centres, Aboriginal legal services, the Law Society, university law school advice clinics, JusticeNet SA and representatives of the State and Commonwealth governments. The Forum supports the National Strategic Framework for Legal Assistance by promoting an integrated, efficient and effective legal assistance sector focused on improving access to justice for disadvantaged people and maximising service delivery within available resources.

## Private Practitioners

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

In the 2020-21 financial year 483 private practitioners provided legal representation to Legal Services clients, receiving \$21,894,000. These legal practitioners undertook 82% of legal aid grants in criminal law cases, 77% of legal aid grants in family law cases, 47% of legal aid grants in child protection cases and 4% of legal aid grants in civil law cases. Private practitioners also assist in delivering duty lawyer services at a number of regional courts across South Australia.

# Management of Our Organisation

**Annual Report 2020-21**

Legal Services Commission of South Australia

# Management of Our Organisation

- **Corporate Governance**
- **Staff**
- **Support Services**
- **Queries and Complaints**
- **Legislative Compliance**

# Corporate Governance

## Governing legislation

The Legal Services 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 Legal Services 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 Legal Services. A panel of persons, with appropriate qualifications and experience, in conjunction with Commissioners, hear 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 Legal Services
- 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.

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 2020-21 the Commission comprised–

- **Jason Karas** LLB – Chairperson, appointed 20 January 2020. A respected corporate dispute resolution lawyer and law firm managing partner, Jason is committed to improving access to justice including through technology and innovation.
- **Catherine Nelson** LLB – appointed 29 May 2014. A highly experienced legal practitioner who specialises in family law, Catherine is a skilled mediator and regularly chairs Family Dispute Resolution conferences. She previously worked as an Independent Children’s Lawyer.
- **Debra Contala** FCPA – appointed 1 May 2019. Debra has extensive experience in corporate financial management and governance in a range of agencies in the State public sector. Throughout her career she has held many senior leadership positions, including that of Public Trustee. She currently remains actively involved with the State government as a member of a number of advisory committees.

- **Lucinda Byers** LLB – appointed 28 August 2019. Lucinda is special legal counsel to the Crown Solicitor. She has 20 years experience as a public lawyer in a variety of sensitive roles, advising government agencies and inquiries.
- **Gabrielle Canny** LLB — appointed Director 2 August 2012. As the Director of Legal Services, Gabrielle is responsible for its day to day operations. She is a member of National Legal Aid, a coalition of Australian legal aid directors. She represents the Legal Services Commission on a number of community and educational boards.

The Commissioners determine the broad policies and strategic priorities of the organisation. In the 2020-21 financial year 11 Commission meetings were held. The Commission is advised on specific matters by a number of committees. In 2020-21 these included the–

- Accommodation Committee
- Audit, Compliance and Risk Committee
- Budget Committee
- ICT Infrastructure and Management Implementation Project 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.

A comprehensive risk management and internal audit program is in place and overseen by the Committee. Strategic and operational risk assessments have been undertaken and regular reports provided to the Committee on audit findings, risk management strategies and actions taken.

The financial management of Legal Services is in accordance with applicable Australian Accounting Standards, Treasurer's Instructions and Accounting Policy Statements. Additionally, a Financial Management Compliance Program, and accounting procedures and policies, are maintained and regularly reviewed in conjunction with the external auditors, internal audit and the Audit, Compliance and Risk Committee.

No instances of fraud were recorded for the 2020-21 financial year.

## Staff

As at 30 June 2021, Legal Services employed 198 people (both legal and non-legal) to carry out its functions under the Act. This is an increase of 16 from the same time last year. Similarly to last year, 76% 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–

- 20% of staff worked part time
- 43% of staff took advantage of flexi time, and
- 24% of staff had a work from home agreement in place.

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 South Australian 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. Legal Services 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.

### Professional development opportunities

In the course of the financial year, Legal Services provided a range of new development opportunities for staff. These included–

- workshops on resilience
- mindfulness meditation
- online disability awareness training, and
- appropriate workplace behaviour training.

The online disability awareness training focussed on providing an understanding of the legislative framework that supports people with a disability in Australia, the barriers faced by people with a disability and the need for inclusive language and compliance with communication principles. This training was mandatory for all staff.

The appropriate workplace behaviour training program was also mandatory for all staff and focussed on each individual's obligations in relation to workplace behaviour, particularly in relation to discrimination, bullying and harassment.

Specific training for managers and supervisors in managing performance and resilience, and mastering effective communication, was also provided.

## Performance management and development systems

Performance management and development system	Performance
Legal Services performance management and development process involves an annual face to face development review discussion between each employee and their Manager. Compliance is measured through the managers advising HR of the date each review is undertaken, with these details recorded in CHRIS21.	71 employees (36%) had a formal performance management and development review discussion during the 2020-21 financial year.

## Employee numbers, status and gender at 30 June 2021

Number of employees	Total
Persons	198
Full-time equivalent	186.66

Gender	% Persons	% FTE's
Male	23.74	24.80
Female	76.26	75.20

Number of persons during the 2020-21 financial year who–

- separated from Legal Services – 24
- were recruited to Legal Services – 38

Number of persons at 30 June 2021 on leave without pay – 4

## Number of employees by salary bracket

Salary bracket	Male	Female	Total
\$0 - \$59 999	2	31	33
\$60 000 - \$74 999	8	31	39
\$75 000 - \$94 999	8	55	63
\$95 000 - \$99 999	5	7	12
\$100 000 +	24	27	51
<b>Total</b>	<b>47</b>	<b>151</b>	<b>198</b>

## Status of employees in current position

FTEs	Ongoing	Short-term contract	Long-term contract	Casual	Trainee	Total
Male	32.80	7	6.5	0	0	46.30
Female	102.03	32.33	4.00	0	2	140.36
<b>Total</b>	<b>134.83</b>	<b>39.33</b>	<b>10.5</b>	<b>0</b>	<b>2</b>	<b>186.66</b>
Persons	Ongoing	Short-term contract	Long-term contract	Casual	Trainee	Total
Male	33	7	7	0	0	47
Female	112	33	4	0	2	151
<b>Total</b>	<b>145</b>	<b>40</b>	<b>11</b>	<b>0</b>	<b>2</b>	<b>198</b>

## Executives by gender, classification and status

Classification	Tenured		Untenured		Male		Female		Total
	Male	Female	Male	Female	Total	% Exec	Total	% Exec	
Executive A	0	0	3	2	3	60%	2	40%	5
Executive B	0	0	2	1	2	66.6%	1	33.3%	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>6</b>	<b>4</b>	<b>6</b>	<b>60%</b>	<b>4</b>	<b>40%</b>	<b>10</b>

## Average days leave per full time equivalent employee

Leave Type	2017-18	2018-19	2019-20	2020-21
Sick leave	8.00	8.64	6.63	7.26
Family Carer's leave	1.02	1.21	1.03	1.15

## Aboriginal and Torres Strait Islander employees

Salary bracket	Aboriginal employees	Total employees	% Aboriginal employees
\$0 - \$59 999	0	33	0%
\$60 000 - \$74 999	1	39	0.5%
\$75 000 - \$94 999	1	63	0.5%
\$95 000 - \$99 999	0	12	0%
\$100 000 +	2	51	1%
<b>Total</b>	<b>4</b>	<b>198</b>	<b>2%</b>

## Employees by age bracket and gender

Age Bracket	Male	Female	Total	% of Total
15 - 19	0	0	0	0%
20 - 24	1	3	4	2%
25 - 29	6	17	23	12%
30 - 34	9	22	31	16%
35 - 39	5	15	20	10%
40 - 44	5	21	26	13%
45 - 49	3	13	16	8%
50 - 54	6	25	31	16%
55 - 59	5	21	26	13%
60 - 64	4	9	13	6%
65+	3	5	8	4%
<b>Total</b>	<b>47</b>	<b>151</b>	<b>198</b>	<b>100%</b>

## Cultural and linguistic diversity

Employees	Male	Female	Total	% of Agency
Number of employees born overseas	10	28	38	19.19%

**Total number of employees with disabilities** (Disability Discrimination Act 1992 definition)

Employees	Number
Male	1
Female	1
<b>Total</b>	<b>2</b>
% of Agency	1%

**Type of disability** (where specified)

Disability	Male	Female	Total	% Agency
Requiring workplace adaptation	0	0	0	0%
Physical	0	1	1	0.5%
Intellectual	1	0	1	0.5%
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	1	1
Flexi time	12	74	86
Compressed weeks	0	2	2
Part-time	3	37	40
Job share	0	0	0
Working from home*	3	44	47

\*This does not include staff working from home because of COVID-19.

## Work health, safety and return to work

Workplace injury claims	2020-21	2019-20	% change (+/-)
Total new workplace injury claims	2	Nil	+200%
Fatalities	Nil	Nil	0
<b>Seriously injured workers*</b>	<b>Nil</b>	<b>Nil</b>	<b>0</b>
Significant injuries (where lost time exceeds a working week, expressed as frequency rate per 1000 FTE)	2	Nil	+200%

\*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	2020-21	2019-20	% change (+/-)
Number of notifiable incidents (WHS Act 2012, Part 3)	1	Nil	+100%
Number of provisional improvement, improvement and prohibition notices (WHS Act 2012, ss90, 191,195)	Nil	Nil	0

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

Legal Services 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 2020-21, the premium cost was 0.41% of total salary remuneration. This amounted to \$79,390 for the 2020-21 financial year.

## Support Services

### Information and communication technology

Technology is used to support the delivery of services to clients and staff. The significant ICT achievements of 2020-21 include–

- replacement of 230 end user devices, enabling a fully mobile workforce with remote access to Legal Services systems
- completion of the upgrade to Windows 10 and Microsoft 365 to enable use of current technology and collaboration tools
- migration of email services to Exchange Online
- implementation of additional security, including Multi factor user authentication
- extension of the Legal Services network to Christies Beach, Port Adelaide, Elizabeth and Port Augusta Magistrates Courts
- continued improvement of automated document management
- development of online forms for management of practitioner panels
- continued development of data reporting to enable increased reporting capability to stakeholders and management
- tendered for the replacement of the legal aid grants management system and implementation of a practice management system. The tender was awarded to McGirr technologies and the proof of concept was completed successfully.

### Records management

Legal Services 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 2020-21, with–

- the finalisation of a new contract for off-site storage services, and
- the development of new and updated business procedures to align with changes arising from Covid-19.

### Library

The Legal Services library continues to provide expert legal research assistance to inhouse staff and to legal practitioners acting on a grant of legal aid. Services focus on keeping practitioners up to date with legal developments, in particular legislative amendments and case law developments, and the maintenance of online resources and databases which facilitate speedy retrieval of legal information.



## Queries and Complaints

Legal Services employs a dedicated client relations coordinator to liaise with members of the public. This financial year the client relations coordinator received 374 queries from the public, as compared to 405 last financial year. The majority of these matters related to–

- whether there was an entitlement to legal aid, or
- why legal aid had been refused.

Of the 374 queries this financial year, 34 were complaints relating to the delivery of our services. This is two fewer complaints than in the 2019-20 financial year, equating to 0.025% of the 130,804 services\* provided to members of the public by Legal Services. Most complaints were resolved by providing a full explanation of our processes and procedures.

During 2020-21, 36 complaints were made in relation to private legal practitioners, equating to 0.19% of the 18,764 services provided to members of the public by the private profession. This was a slight increase from the 32 complaints received in the 2019-20 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 in South Australia any unsatisfactory service by a legal practitioner is dealt with by the Legal Profession Conduct Commissioner.

*\*Includes legal information and advice, duty lawyer services, family dispute resolution services, applications for legal aid and inhouse representation services.*

### Client Relations Contacts - 1 July 2020 – 30 June 2021

Reason for contact	Protection Application	FDR	Child Support	Family	Criminal	Civil	General	Total	% of all contacts
Refusal of aid	8	1	0	74	25	4	0	112	29.95
Entitlement to legal aid	4	0	0	94	12	1	0	111	29.68
Child representation	0	0	0	3	0	0	0	3	0.80
Service provision	1	1	1	12	12	7	0	34	9.09
Statutory charge	0	0	0	7	0	0	0	7	1.87
Private practitioner service	1	1	0	24	8	2	0	36	9.63
Discrimination	0	0	0	0	0	0	0	0	0.00
Conditions of aid (other than statutory charge)	0	0	0	4	4	2	0	10	2.67
Cap	0	0	0	0	0	0	0	0	0.00
Complaint to MP, Ombudsman etc	0	0	0	1	1	3	0	5	1.34
Other	3	2	0	13	28	8	2	56	14.97
<b>TOTAL</b>	<b>17</b>	<b>5</b>	<b>1</b>	<b>232</b>	<b>90</b>	<b>27</b>	<b>2</b>	<b>374</b>	<b>100%</b>

# Legislative Compliance

## Freedom of Information

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

- **A description of the structure and function of Legal Services**

This information can be found in this report in the section headed Overview –Who we are and what we do.

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

Legal Services provides legal representation to applicants who meet our means and merit tests and funding guidelines. We also provide a free legal information and advice service and duty lawyer service to all members of the public. Legal information can also be accessed online through our Legal Chat platform, our 24Legal decision tree format and the Law Handbook. Family dispute resolution can also be accessed through our representation service or our online tool, *amica*. Free publications on legal issues and various community legal education programs are also available. Legal Services 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 Legal Services staff are members of community organisations, both legal and non-legal. This community engagement promotes two way communication and feedback.

The Legal Services Commission Act 1977 provides for a Legal Profession Reference Committee to advise the Commission in relation to its functions. The Committee include members nominated by the Law Society and the South Australian Bar Association.

In addition, 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 Legal Services**

Legal Services has a computerised record management system and database that records details of accounts, clients, legal aid cases and legal advice and duty lawyer attendances. In 2017-18 an electronic document records management system (EDRMS) was introduced. Legal aid files created since the implementation of the EDRMS are maintained on that system. 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 maintained in hard copy, with their location recorded on a manual system.

- **Access to documents**

The Legal Services' 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 us. 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 Legal Services office.

In the 2020-21 financial year, six applications for information were processed under the FOI Act. Full release of the requested material was provided in five of the applications. One application was refused under section 6(1) and section 12(1) of Schedule 1 of the FOI Act which states:

**6—Documents affecting personal affairs**

(1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

**12—Documents the subject of secrecy provisions**

(1) A document is an exempt document if it contains matter the disclosure of which would constitute an offence against an Act.

Two contracts containing approved confidentiality clauses were executed this year.

## Public Interest Disclosure Act 2018

There were no occasions during the financial year in which public interest information was disclosed to the responsible officer under the *Public Interest Disclosure Act 2018*.

# Our Finances

**Annual Report 2020-21**

Legal Services Commission of South Australia

# Finance

## Income

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

In 2020-21 the State government provided funding of \$24,591,000. The State government also provided \$437,000 in reimbursements under the *State Expensive Criminal Cases Funding Agreement*. During 2021, Revenue SA granted the Commission exemption from the requirement to pay payroll tax based on the exemption provisions in the *Payroll Tax Act 2009* and refunded \$2,669,000 for payroll tax paid in the previous five years.

The Commonwealth government, through the *National Legal Assistance Partnership Agreement 2020-25* (NLAP) provided funding of \$17,445,000, an increase from \$16,326,000 in 2019-20. In addition, the Commonwealth government provided \$5,069,000 in funding grants tied to particular services or projects and \$287,000 in reimbursements under the *Commonwealth Expensive Criminal Cases Funding Agreement*.

A further \$148,000 was received 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 or child protection. The income from the Law Society is also used for State law related matters. Commonwealth funding is mostly used for matters involving family law or Commonwealth criminal law.

During 2020-21 income was generated 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 are secured by a charge on land – a statutory charge. During 2020-21 the Legal Services Commission recovered \$863,275 in statutory charges, and imposed charges in 170 matters, an increase from 130 in 2019-20.

Other funding is actively pursued, 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, functions outlined in the *Legal Services Commission Act 1977*.

## Expenditure

Total operating expenditure for 2020-21 was \$50,215,000, up from \$46,298,000 in 2019-20. Private legal practitioner payments totalled \$21,894,000, up from \$18,416,000 in 2019-20.

The Legal Services Commission completed the 2020-21 financial year with a consolidated comprehensive result of \$3,050,000 surplus.

## Commonwealth government funding received as at 30 June 2021

Financial year	2016-17 \$'000	2017-18 \$'000	2018-19 \$'000	2019-20 \$'000	2020-21 \$'000
Core funding	16 250	16 644	16 801	17 161	17 445

## State government funding received as at 30 June 2021

Financial year	2016-17 \$'000	2017-18 \$'000	2018-19 \$'000	2019-20 \$'000	2020-21 \$'000
Core funding	21 848	*44 545	**22 940	***250	23 953

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

\*\* During 2018-19 the State government paid \$22 940 000 in advance for the 2019-20 financial year.

\*\*\* During 2019-20 the State government did not pay in advance for the 2020-21 financial year.

## Consultants disclosure

The following is a summary of external consultants engaged by Legal Services during the 2020-21 financial year, the nature of the work undertaken and the actual payments for the work.

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

Consultancy	Purpose	\$ Actual payment
All consultancies below \$10,000 each - combined	WHS consulting, Remote and isolated work procedure, WHS and IM policy, Research council risk assessment and finalising risk assessment	\$6 300 (combined total)

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

Consultancy	Purpose	\$ Actual payment
OZ-Train Pty Ltd	Consultancy to develop strategic plan	\$50 700
Colmar Brunton Pty Ltd	Consultancy for amica market sizing and user shadow research	\$66 450
Finity Consulting Pty Ltd	Independent review of proposed changes to fee scale	\$20 000
Bee Squared Consulting Ltd	Consultancy for modernisation project for grants, practice management and data warehousing. Law Office replacement, Legal case management system, Change management and contingency, Grants management and practice management realisation plan	\$95 000
VLOW Pty Ltd (Trading as HRM Matters)	Consultancy and strategic planning project, Organisational review, project establishment and consultation/research, analysis and write up	\$19 800
		<b>Total \$251 950</b>

## Contractors

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

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Auditor-General's Department

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Our ref: A21/111

30 September 2021

Mr J Karas  
Chairperson  
Legal Services Commission  
GPO Box 1818  
ADELAIDE SA 5001

Dear Mr Karas

**Audit of Legal Services Commission for the year to 30 June 2021**

We have completed the audit of your accounts for the year ended 30 June 2021. Two key outcomes from the audit are the:

- 1 Independent Auditor's Report on your agency's financial report
- 2 audit management letter recommending you address identified weaknesses.

**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, 12 October 2021.

**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.

We have received a response to our letter and will follow up matters raised in the 2021-22 audit.



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#### **What the audit covered**

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

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 expense
- expenditure including private practitioner expenses
- revenue including grants
- cash
- financial accounting including general ledger and journals
- governance.

#### **3 Assessing the impact of IFRS agenda decision on Software as a Service Arrangements**

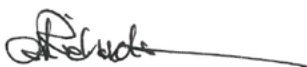
As noted in note 5.4 of the financial report, the IFRS Interpretations Committee (IFRIC) published an agenda decision for configuration and customisation costs incurred related to implementing Software as a Service (SaaS) arrangements.

During our audit we noted that the Commission may possibly have at least one cloud-based SaaS arrangement in place which is currently capitalised, however at 30 June 2021 the Commission was unable to quantify the impact of the decision. In the 2021-22 financial year the Commission will need to understand and analyse the agenda decision, and determine the impact this agenda decision has on the intangible assets balance at 30 June 2021.

We will follow up the Commission's assessment and the calculated impact of this decision in the 2021-22 audit.

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



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Auditor-General's Department

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### To the Chairperson Legal Services Commission

#### Opinion

I have audited the financial report of Legal Services Commission for the financial year ended 30 June 2021.

In my opinion, the accompanying financial report has been prepared in accordance with the Treasurer's Instructions issued under the provisions of the *Public Finance and Audit Act 1987*, Division 60 of the *Australian Charities and Not-for-profits Commissions Act 2012*, and Australian Accounting Standards including:

- a) giving a fair and true view of the financial position of the Legal Services Commission as at 30 June 2020, its financial performance and its cash flows for the year ended, and
- b) complying with Division 60 of the Australian Charities and Not-for-profits Commission Regulations 2013.

The financial report comprises:

- a Statement of Comprehensive Income for the year ended 30 June 2021
- a Statement of Financial Position as at 30 June 2021
- a Statement of Changes in Equity for the year ended 30 June 2021
- a Statement of Cash Flows for the year ended 30 June 2021
- 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 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 (including Independence Standards)* have been met.

I believe that the audit evidence I have 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 relevant Treasurer's Instructions issued under the provisions of the *Public Finance and Audit Act 1987* and the 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 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 assessment indicates that it is not appropriate.

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**

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 financial year ended 30 June 2021.

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 internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Director
- conclude on the appropriateness of the Director'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. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify the opinion. My conclusion is based on the audit evidence obtained up to the date of the auditor's report. However, future events or conditions may cause an entity to cease 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 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 2021

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

Our ref: A21/111

30 September 2021

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Mr J Karas  
Chairperson  
Legal Services Commission  
GPO Box 1818  
ADELAIDE SA 5001

Dear Mr Karas

**Independence declaration**

I am responsible for the audit of Legal Services Commission for the year ended 30 June 2021, and I declare that, to the best of my knowledge and belief, during the year there have been

- i. no contraventions of the auditor independence requirements of any applicable code of professional conduct in relation to the audit.

This declaration is in respect of Legal Services Commission and the entities it controlled during the period.

Yours sincerely

A handwritten signature in black ink, appearing to read "A Richardson", with a long horizontal flourish extending to the right.

Andrew Richardson  
**Auditor-General**

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Government of South Australia  
Auditor-General's Department

Our ref: A21/111

30 September 2021

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Mr J Karas  
Chairperson  
Legal Services Commission  
GPO Box 1818  
ADELAIDE SA 5001

Dear Mr Karas

**Auditor's independence declaration**

As you are aware the *Australian Charities and Not-for-profits Commission Act 2012* (section 60-40) requires a registered entity to obtain a written declaration each year from its auditor stating that either:

- there have been no contraventions of the auditor independence requirements as set out in any applicable code of professional conduct in relation to the audit
- or in the case that there have been contraventions, specific details of those contraventions need to be provided.

The *Public Finance and Audit Act 1987* establishes the independence of the Auditor-General. The applicable codes of professional conduct are APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* and *Code of Ethics for the South Australian Public Sector*.

A declaration of independence for the audit of Legal Services Commission for the year ended 30 June 2021 is attached.

Yours sincerely

A handwritten signature in black ink, appearing to read "Andrew Richardson".

Andrew Richardson  
**Auditor-General**



**Legal Services Commission of South Australia**

**Financial Statements  
for the year ended  
30 June 2021**



## 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;
  - comply with relevant Treasurer's Instructions;
  - comply with relevant accounting standards;
  - comply with Division 60 of the Australian Charities and Not-for-profit Commission Regulations 2013; 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 for the financial year over its financial reporting and its preparation of the financial statements have been effective.



Chinh Dinh-Pham  
Manager, Finance  
29 September 2021



Gabrielle Canny  
Director  
29 September 2021



Jason Karas  
Chairperson  
29 September 2021



## Legal Services Commission of South Australia

### Statement of Comprehensive Income

for the year ended 30 June 2021

	Note	2021 \$'000	2020 \$'000
<b>Income</b>			
Commonwealth-sourced grants and funding	2.1	22 801	20 697
SA Government grant, subsidies and transfers	2.2	27 697	1 670
Legal Practitioners Act 1981 revenues	2.3	148	1 666
Statutory charges		1 285	1 017
Interest	2.4	18	295
Costs recovered and contributions	2.5	218	246
Other income	2.6	1 098	440
<b>Total income</b>		<b>53 265</b>	<b>26 031</b>
<b>Expenses</b>			
Employee benefits expenses	3.3	19 260	19 058
Private Practitioner services	4.5	21 894	18 416
Supplies and services	4.1	8 024	7 817
Depreciation and amortisation	4.2	933	646
Borrowing costs	4.3	7	12
Other expenses	4.4	97	349
<b>Total expenses</b>		<b>50 215</b>	<b>46 298</b>
<b>Net result</b>		<b>3 050</b>	<b>(20 267)</b>
<b>Total comprehensive result</b>		<b>3 050</b>	<b>(20 267)</b>

The accompanying notes form part of these financial statements.

## Legal Services Commission of South Australia

## Statement of Financial Position

as at 30 June 2021

	Note	2021 \$'000	2020 \$'000
<b>Current assets</b>			
Cash and cash equivalents	6.1	11 434	7 779
Receivables	6.2	1 739	3 092
Other financial assets	6.3	8 308	7 806
<b>Total current assets</b>		<b>21 481</b>	<b>18 677</b>
<b>Non-current assets</b>			
Property, plant and equipment	5.1	3 364	4 471
Intangible assets	5.4	1 550	1 470
Statutory charge debtors	6.4	9 420	8 967
<b>Total non-current assets</b>		<b>14 334</b>	<b>14 908</b>
<b>Total assets</b>		<b>35 815</b>	<b>33 585</b>
<b>Current liabilities</b>			
Legal payables		969	824
Payables	7.1	476	421
Financial liabilities	7.2	4	133
Employee benefits	3.4	1 556	1 451
Other current liabilities	7.3	233	233
<b>Total current liabilities</b>		<b>3 238</b>	<b>3 062</b>
<b>Non-current liabilities</b>			
Payables	7.1	165	207
Financial liabilities	7.2	-	594
Employee benefits	3.4	3 701	3 828
Other non-current liabilities	7.3	1 401	1 634
<b>Total non-current liabilities</b>		<b>5 267</b>	<b>6 263</b>
<b>Total liabilities</b>		<b>8 505</b>	<b>9 325</b>
<b>Net assets</b>		<b>27 310</b>	<b>24 260</b>
<b>Equity</b>			
Retained earnings		27 261	24 211
Asset revaluation surplus		49	49
<b>Total equity</b>		<b>27 310</b>	<b>24 260</b>

The accompanying notes form part of these financial statements.

## Legal Services Commission of South Australia

### Statement of Changes in Equity

for the year ended 30 June 2021

	Note	Asset revaluation surplus \$'000	Retained earnings \$'000	Total Equity \$'000
Balance at 30 June 2019		49	44 478	44 527
Net result for 2019-20		-	(20 267)	(20 267)
<b>Total comprehensive result for 2019-20</b>		<b>-</b>	<b>(20 267)</b>	<b>(20 267)</b>
<b>Balance at 30 June 2020</b>		<b>49</b>	<b>24 211</b>	<b>24 260</b>
Net result for 2020-21		-	(3 050)	(3 050)
<b>Total comprehensive result for 2020-21</b>		<b>-</b>	<b>3 050</b>	<b>3 050</b>
<b>Balance at 30 June 2021</b>		<b>49</b>	<b>27 261</b>	<b>27 310</b>

The accompanying notes form part of these financial statements.

## Legal Services Commission of South Australia

## Statement of Cash Flows

for the year ended 30 June 2021

	Note	2021 \$'000	2020 \$'000
<b>Cash flows from operating activities</b>			
<u>Cash inflows</u>			
Receipts from State Government funding		27 697	1 670
Receipts from Commonwealth-sourced grants and funding		22 801	20 697
Legal Practitioners Act 1981 receipts		336	2 190
Costs recovered and contributions		290	233
Statutory charge receipts		949	429
Interest received		21	318
GST recovered from the ATO		2 509	2 605
Other receipts		2 107	1 980
<b>Cash generated from operations</b>		<b>56 710</b>	<b>30 122</b>
<u>Cash outflows</u>			
Employee benefits payments		(19 359)	(19 251)
Payments for supplies and services		(9 100)	(9 845)
Private Practitioner services		(23 922)	(20 283)
<b>Cash used in operations</b>		<b>(52 381)</b>	<b>(49 379)</b>
<b>Net cash provided by/(used in) operating activities</b>		<b>4 329</b>	<b>(19 257)</b>
<u>Cash flows from investing activities</u>			
<u>Cash outflows</u>			
Purchase of property, plant & equipment and intangibles		(544)	(1 887)
Purchase of financial assets		-	(8 000)
<b>Net cash used in investing activities</b>		<b>(544)</b>	<b>(9 887)</b>
<u>Cash flows from financing activities</u>			
<u>Cash outflows</u>			
Repayment of principal portion of lease liabilities		(130)	(128)
<b>Net cash used in financing activities</b>		<b>(130)</b>	<b>(128)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>3 655</b>	<b>(29 272)</b>
<b>Cash and cash equivalents at the beginning of the period</b>		<b>7 779</b>	<b>37 051</b>
<b>Cash and cash equivalents at the end of the period</b>	6.1	<b>11 434</b>	<b>7 779</b>

The accompanying notes form part of these financial statements.

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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. 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* and the *Australian Charities and Not-for-Profit Commission Act 2012*;
- 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 purposes of preparing the financial statements, the Commission is a not-for-profit entity. 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. Income

### 2.1. Commonwealth-sourced grants and funding

	2021 \$'000	2020 \$'000
National Legal Assistance Partnership Agreement funding	17 445	16 326
COVID-19 Relief funding	1 137	1 206
Online Dispute Resolution System	578	-
Family Advocacy and Support Service funding	847	835
Expensive Cases reimbursement	287	588
Women's Domestic Violence Unit	559	551
Family Violence and Cross-Examination of Parties Scheme	603	395
Disability and Carer Support Program	418	329
Legally Assisted Financial Dispute Resolution - Small Property Claims	642	316
National Legal Advisory Service for the Disability Royal Commission	138	77
Bushfire Relief funding	147	74
<b>Total Commonwealth-sourced grants and funding</b>	<b>22 801</b>	<b>20 697</b>

Commonwealth-sourced grants and funding are recognised as income on receipt.

A National Legal Assistance Partnership agreement on Legal Assistance Services between the Commonwealth of Australia and States and Territories is effective from 1 July 2020 to 30 June 2025.

Obligations under Commonwealth-sourced grants and funding are required to be met by the State of South Australia for \$20.42m (2020: \$19.59m) of the above grants. For accounting purposes, the obligations under the funding arrangements do not sit with the Commission. The Commonwealth has provided funding to the State for legal assistance services and were originally received by the State and then paid from Department of Treasury and Finance Administered Items. Amounts from the Commonwealth are received via the Attorney-General's Department.

In addition, the Commission received \$2.38m (2020: \$1.11m) of income recognised upon receipt directly from the Commonwealth for legal assistance services.

### 2.2. SA Government grants, subsidies and transfers

	2021 \$'000	2020 \$'000
SA Government grant	23 953	250
Refund of payroll tax from the Department of Treasury and Finance	2 669	-
Women's Domestic Violence Court Assistance Service funding	479	476
Expensive Cases - reimbursement	437	469
Drug Court funding	159	155
Community Legal Service Eligibility, Triage and Referral Services	-	320
<b>Total SA Government grants, subsidies and transfers</b>	<b>27 697</b>	<b>1 670</b>

SA Government grants, subsidies and transfers are recognised as income on receipt.

In 2021 the State Government contributed funding of \$23.95m (2020: \$0.25m) and is deposited with SAFA. Most of the State Government funding for 2019-20 was received in the preceding year.

During 2021, Revenue SA granted the Commission exemption from the requirement to pay payroll tax based on the exemption provisions in the *Payroll Tax Act 2009*. The Commission was entitled to be refunded for payroll tax already paid in the previous five years.

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 \$0.44m (2020: \$0.47m) 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.

### 2.3. 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.

	2021 \$'000	2020 \$'000
Statutory Interest account	63	640
Interest on Legal Practitioners Trust Account	85	1 026
<b>Total Legal Practitioners Act 1981 Revenue</b>	<b>148</b>	<b>1 666</b>

### 2.4. Interest revenues

	2021 \$'000	2020 \$'000
Short-term deposits with SAFA	17	294
Cash and cash equivalents	1	1
<b>Total interest revenues</b>	<b>18</b>	<b>295</b>

Reduction in interest received from funds held with SAFA is attributable to the decline in interest rates.

### 2.5. Costs recovered and contributions

	2021 \$'000	2020 \$'000
Costs recovered	79	79
Contributions *	139	167
<b>Total costs recovered and contributions</b>	<b>218</b>	<b>246</b>

\* In addition, contributions of \$0.91m (2020: \$0.98m) in relation to referred cases were paid or are payable directly to private practitioners by clients.

### 2.6. Other income

	2021 \$'000	2020 \$'000
Unrealised investment gain *	502	-
Return to Work SA funding	117	106
Safe Families funding	85	-
Other	394	334
<b>Total other income</b>	<b>1 098</b>	<b>440</b>

\* Unrealised investment gain in portfolio managed by Funds SA measured at fair value through profit or loss.



### 3. Board, committees and employees

#### 3.1. Key management personnel

Key management personnel of the Commission in 2020-21 include the Director, Commissioners, Chief Operating Officer, Legal Practice Manager, Access Services Manager and Human Resources Manager. In 2019-20, it included the Director, Commissioners, the Chief Operating Officer and the Legal Practice Manager.

Total compensation for key management personnel was \$1.29m in 2020-21 and \$0.89m in 2019-20.

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

In the ordinary course of business the Commission enters into transactions with legal firms, some of which may be 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. These transactions amounted to \$0.17m (2020: \$0.15m).

#### 3.2. 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 2021 financial year were:

Jason Karas	Chair
Gabrielle Canny *	Ex Officio
Catherine Nelson	
Debra Contala	
Lucinda Byers *	

\*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:	2021 No.	2020 No.
\$0 - \$19 999	4	7
\$20 000 - \$39 999	1	-
<b>Total number of members</b>	<b>5</b>	<b>7</b>

The total remuneration received or receivable by members was \$47 000 (2020: \$48 000). Remuneration of members includes sitting fees, superannuation contributions, salary sacrifice benefits, fringe benefits and related fringe benefits tax.

### 3.3. Employee benefits expenses

	2021 \$'000	2020 \$'000
Salaries and wages	15 348	15 033
Targeted voluntary separation packages	-	56
Long service leave	246	289
Annual leave	1 521	1 444
Skills and experience retention leave	104	93
Employment on-costs - superannuation	1 624	1 614
Employment on-costs - other	294	405
Commission members' fees	43	44
Workers' compensation	80	80
<b>Total employee benefits expenses</b>	<b>19 260</b>	<b>19 058</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*

	2021 No.	2020 No.
The number of employees whose remuneration received or receivable falls within the following bands:		
\$154 001 to \$174 000	4	5
\$174 001 to \$194 000	1	-
\$194 001 to \$214 000	2	2
\$214 001 to \$234 000	1	-
\$234 001 to \$254 000	2	2
\$254 001 to \$274 000	1	1
\$294 001 to \$314 000	-	1
\$314 001 to \$334 000	1	1
<b>Total</b>	<b>12</b>	<b>12</b>

The total remuneration received by these employees for the year was \$2.54m (2020: \$2.62m).

The table includes all employees whose normal remuneration was 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 as well as any termination benefits for employees who have left the Commission.

#### *Targeted voluntary separation packages*

The number of employees who received a TVSP during the reporting period was nil (2020: one).

	2021 \$'000	2020 \$'000
Amount paid to separated employees:		
Targeted voluntary separation packages	-	56
Leave paid to separated employees	-	21
<b>Net cost to the Commission</b>	<b>-</b>	<b>77</b>

### 3.4. Employee benefits liability

	2021 \$'000	2020 \$'000
<b>Current</b>		
Annual leave	1 185	1 100
Long service leave	266	256
Skills and experience retention leave	105	95
<b>Total current employee benefits</b>	<b>1 556</b>	<b>1 451</b>
<b>Non-current</b>		
Long service leave	3 701	3 828
<b>Total non-current employee benefits</b>	<b>3 701</b>	<b>3 828</b>
<b>Total employee benefits</b>	<b>5 257</b>	<b>5 279</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 at note 10.1.

## 4. Expenses

### 4.1. Supplies and services

	2021 \$'000	2020 \$'000
Accommodation	3 197	2 952
Information technology expenses	2 235	2 547
Periodicals and subscriptions	295	273
Legal fees and disbursements	275	176
Consultancy fees	258	8
Telecommunications	248	570
External service providers	188	87
Office supplies and consumables	133	116
Interpreter fees	131	177
Practising certificates and membership	123	136
Internal audit and governance	112	69
Audit fees - Auditor-General's Department	80	79
Travel	70	124
Other	679	503
<b>Total supplies and services</b>	<b>8 024</b>	<b>7 817</b>

#### Accommodation

The Commission's accommodation is provided by the Department for Infrastructure and Transport under Memoranda of Administrative Arrangement (MoAA) issued in accordance with Government-wide accommodation policies. These arrangements do not meet the definition of lease set out in AASB16. Information about accommodation incentives relating this arrangement is shown at note 7.3.

#### Consultants

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

	No.	2021 \$'000	No.	2020 \$'000
Below \$10 000	1	6	2	8
\$10 000 or above	5	252	-	-
<b>Total</b>	<b>6</b>	<b>258</b>	<b>2</b>	<b>8</b>

### 4.2. Depreciation and amortisation

	2021 \$'000	2020 \$'000
Plant and equipment	305	219
Accommodation and leasehold improvements	225	225
Right-of-use accommodation	74	134
Right-of-use vehicles	7	8
Intangible assets	322	60
<b>Total depreciation and amortisation</b>	<b>933</b>	<b>646</b>

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

### Useful life

Depreciation and amortisation are calculated on a straight-line basis. Property, plant and equipment and intangible assets depreciation and amortisation are calculated over the estimated useful life as follows:

Class of asset	Useful life (years)
Accommodation and leasehold improvements	5-15
Right-of-use vehicles	Lease term
Right-of-use accommodation	Lease term
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.

### 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.

## 4.3. Borrowing costs

	2021 \$'000	2020 \$'000
Interest expense on lease liabilities	7	12
<b>Total borrowing costs</b>	<b>7</b>	<b>12</b>

The Commission does not capitalise borrowing costs.

## 4.4. Other expenses

	2021 \$'000	2020 \$'000
Statutory charge bad debts and impairment loss on receivables	85	109
Bad debts	12	17
Loss on Funds SA investment	-	194
Loss on revaluation of assets	-	29
<b>Total other expenses</b>	<b>97</b>	<b>349</b>

## 4.5. Private Practitioners services

	2021 \$'000	2020 \$'000
Private Practitioners services	21 894	18 416
<b>Total Private Practitioners services</b>	<b>21 894</b>	<b>18 416</b>

## 5. Non-financial assets

### 5.1. Property, plant and equipment

Property, plant and equipment comprises tangible assets owned and right-of-use (leased) assets. The assets presented below do not meet the definition of investment property.

	2021 \$'000	2020 \$'000
<b><u>Accommodation and leasehold improvements</u></b>		
Accommodation and leasehold improvements	3 589	4 170
Accumulated depreciation	(1 973)	(2 328)
<b>Total accommodation and leasehold improvements</b>	<b>1 616</b>	<b>1 842</b>
<b><u>Plant and equipment</u></b>		
Plant and equipment	4 240	5 032
Accumulated depreciation	(2 849)	(3 483)
<b>Total plant and equipment</b>	<b>1 391</b>	<b>1 549</b>
<b><u>Right-of-use office accommodation</u></b>		
Right-of-use office accommodation	-	831
Accumulated depreciation	-	(134)
<b>Total right-of use office accommodation</b>	<b>-</b>	<b>697</b>
<b><u>Right-of-use vehicles</u></b>		
Right-of-use vehicles	19	19
Accumulated depreciation	(15)	(8)
<b>Total right-of use vehicles</b>	<b>4</b>	<b>11</b>
<b><u>Library</u></b>		
Library	261	261
<b>Total library</b>	<b>261</b>	<b>261</b>
<b><u>Work in progress</u></b>		
Work in progress	92	111
<b>Total work in progress</b>	<b>92</b>	<b>111</b>
<b>Total property, plant and equipment</b>	<b>3 364</b>	<b>4 471</b>

### 5.2. Property, plant and equipment owned by the Commission

Property, plant and equipment owned by the Commission with a value equal to or in excess of \$5 000 is capitalised, otherwise it is expensed. Property, plant and equipment owned by the Commission is recorded at fair value. Details about the Commission's approach to fair value are set out in note 10.2.

#### *Impairment*

Property, plant and equipment owned by the Commission 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.

### Reconciliation 2020-21

	Accommodation and Leasehold improvements	Plant and equipment	Library	Work in Progress	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Carrying amount at the beginning of the period</b>	<b>1 842</b>	<b>1 549</b>	<b>261</b>	<b>111</b>	<b>3 763</b>
Acquisitions	-	50	-	92	142
Depreciation	(225)	(305)	-	-	(530)
Transfer between asset classes	-	111	-	(111)	-
Disposals	(1)	(14)	-	-	(15)
<b>Carrying amount at the end of the period</b>	<b>1 616</b>	<b>1 391</b>	<b>261</b>	<b>92</b>	<b>3 360</b>

### 5.3. Property, plant and equipment leased by the Commission

Right-of-use assets for property, plant and equipment leased by the Commission as lessee are measured at cost.

Short-term leases of 12 months or less and low-value leases, where the underlying asset value is less than \$15 000, are not recognised as right-of-use assets. The associated lease payments are recognised as an expense and are disclosed in note 4.1.

The Commission has a limited number of leases:

- Two motor vehicle leases with the South Australian Government Financing Authority (SAFA). Motor vehicle leases are non-cancellable, with rental payments monthly in arrears. Motor vehicle lease terms can range from 3 years (60,000km) up to 5 years (100,000km). No variable lease payments are provided for in the lease agreements and no option exist to renew the leases at the end of their term.

The lease liabilities related to the right-of-use assets are disclosed in note 7.2. The Commission's maturity analysis of its lease liabilities is disclosed in note 10.3. Expenses related to leases, including depreciation and interest expenses, are disclosed in note 4. Cash out flows related to leases are disclosed in note 8.2.

#### Impairment

Property, plant and equipment leased by the Commission has been assessed for impairment. There was no indication of impairment. No impairment loss or reversal of impairment loss was recognised.

### 5.4. Intangible assets

	2021 \$'000	2020 \$'000
<b>Computer software</b>		
Computer software	3 535	3 133
Accumulated amortisation	(1 985)	(1 663)
<b>Total computer software</b>	<b>1 550</b>	<b>1 470</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.

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 \$5 000.



### Configuration or Customisation Costs in a Cloud Computing Arrangement

In April 2021, the IFRS Interpretations Committee (IFRIC) published an agenda decision for configuration and customisation costs incurred related to implementing Software as a Service (SaaS) arrangements.

The Commission is currently assessing the impact of the agenda decision on its current accounting policy, which may result in previously capitalised costs needing to be recognised as an expense. The process to quantify the impact of the decision is ongoing. The process is ongoing due to the complexity in interpreting the decision and ensuring the interpretation is consistent for all of the Commission's intangible assets.

At the date of this report, the impact of the IFRIC agenda decision on the Commission cannot be estimated with reasonable certainty. The impact of adopting the accounting policy clarification will be quantified ahead of 30 June 2022 financial report.

### Reconciliation 2020-21

	Computer software \$'000	Total \$'000
Carrying amount at the beginning of the period	1 470	1 470
Acquisitions	402	402
Amortisation	(322)	(322)
Carrying amount at the end of the period	1 550	1 550

## 6. Financial assets

### 6.1. Cash and cash equivalents

	2021 \$'000	2020 \$'000
Short-term deposits with SAFA	9 811	7 838
Cash on hand	1 623	(59)
<b>Total cash and cash equivalents</b>	<b>11 434</b>	<b>7 779</b>

### 6.2. Receivables

	2021 \$'000	2020 \$'000
<b>Current</b>		
<b>Trade receivables</b>		
From government entities	215	281
From non-government entities	-	1
Legal Practitioners Act 1981 debtors	19	207
Client debtors	119	165
Impairment loss on receivables	(20)	(30)
<b>Total trade receivables</b>	<b>333</b>	<b>624</b>
<b>Statutory receivables</b>		
GST input tax recoverable	454	368
<b>Total statutory receivables</b>	<b>454</b>	<b>368</b>
Prepayments	952	890
Accrued revenues	-	1 210
<b>Total current receivables</b>	<b>1 739</b>	<b>3 092</b>



Trade receivables arise in the normal course of selling goods and services to other government agencies and to the public. Trade receivables are normally settled within 30 days after the issue of an invoice or the goods/services have been provided under a contractual arrangement.

Statutory receivables do not arise from contracts with customers. They are recognised and measured similarly to contractual receivables (except impairment) but are not classified as financial instruments for disclosure purposes.

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

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.

### 6.3. Other financial assets

	2021 \$'000	2020 \$'000
<b>Current</b>		
Investment with Funds SA at fair value	8 308	7 806
<b>Total current investment</b>	<b>8 308</b>	<b>7 806</b>
<b>Total investment</b>	<b>8 308</b>	<b>7 806</b>

For further information on risk management refer to note 10.3.

### 6.4. Statutory charge debtors

	2021 \$'000	2020 \$'000
Statutory charge debtors	9 600	9 157
Impairment loss on Statutory charge receivables	(180)	(190)
<b>Total statutory charge debtors</b>	<b>9 420</b>	<b>8 967</b>

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.

## 7. Liabilities

Employee benefits liabilities are disclosed in note 3.4.

### 7.1. Payables

	2021 \$'000	2020 \$'000
<b>Current</b>		
Trade payables	251	159
Accrued expenses	77	79
<b>Statutory payables</b>		
Employment on-costs	148	183
<b>Total statutory payables</b>	<b>148</b>	<b>183</b>
<b>Total current payables</b>	<b>476</b>	<b>421</b>
<b>Non-current</b>		
<b>Statutory payables</b>		
Employment on-costs	165	207
<b>Total non-current payables</b>	<b>165</b>	<b>207</b>
<b>Total payables</b>	<b>641</b>	<b>628</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.

Statutory payables do not arise from contracts.

The net amount of GST recoverable from the ATO is included as part of receivables. However, if a net GST payable arises then this amount would be disclosed in this Payables note.

#### *Employment on-costs*

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

The Commission contributes 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 remains unchanged at a rate of 42% and the average factor for the calculation of employer superannuation cost on-costs has changed from the 2020 rate of 9.8% to 10.1%. These rates are used in the employment on-cost calculation. The net financial effect of the changes in the current financial year is immaterial.

## 7.2. Financial liabilities

		2021 \$'000	2020 \$'000
<b>Current</b>			
Lease liabilities	5.3	4	133
<b>Total current financial liabilities</b>		<b>4</b>	<b>133</b>
<b>Non-current</b>			
Lease liabilities	5.3	-	594
<b>Total non-current financial liabilities</b>		<b>-</b>	<b>594</b>
<b>Total financial liabilities</b>		<b>4</b>	<b>727</b>

The Commission measures financial liabilities at amortised cost. In prior years, The Commission held leases for Regional Legal aid offices. These leases are no longer held by the Commission. All accommodation lease arrangements are held by the Department of Infrastructure and Transport. Expenditure related to these leases is recognised in Note 4.1.

## 7.3. Other liabilities

		2021 \$'000	2020 \$'000
<b>Current</b>			
Accommodation incentive		233	233
<b>Total current other liabilities</b>		<b>233</b>	<b>233</b>
<b>Non-current</b>			
Accommodation incentive		1 401	1 634
<b>Total non-current other liabilities</b>		<b>1 401</b>	<b>1 634</b>
<b>Total other liabilities</b>		<b>1 634</b>	<b>1 867</b>

Accommodation incentive liabilities relate to arrangements with the Department for Infrastructure and Transport (DIT) for office accommodation. These arrangements do not comprise leases and the accommodation incentives do not comprise financial liabilities. DIT has provided a range of fit-out free of charge. The benefit of this incentive is spread over the accommodation term so that each year reported accommodation expenses reflect the economic substance of the office accommodation arrangements and related benefits provided.

## 8. Other disclosures

### 8.1. Equity

The asset revaluation surplus is used to record increments and decrements in the fair value of property, plant and equipment to the extent that they offset one another. Relevant amounts are transferred to retained earnings when an asset is derecognised.

### 8.2. Cash flow

Cash flows are included in the Statement of Cash Flows on a gross basis and the GST component of cash flows arising from investing and financing activities, which is recoverable from, or payable to, the ATO is classified as part of operating cash flows.

The total cash outflows for leases was \$130 000 (2020: \$128 000).

## 9. Outlook

### 9.1. Unrecognised commitments

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

#### *Legal expense commitments*

	2021 \$'000	2020 \$'000
Within one year	23 125	19 746
<b>Total expenditure commitments</b>	<b>23 125</b>	<b>19 746</b>

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*

	2021 \$'000	2020 \$'000
Within one year	2 948	2 779
Later than one year but not longer than five years	12 213	11 746
Later than five years	6 495	9 627
<b>Total expenditure commitments</b>	<b>21 656</b>	<b>24 152</b>
<b>Representing:</b>		
Accommodation	21 548	23 971
Electronic Document and Record Management System (EDRMS)	108	181
<b>Total expenditure commitments</b>	<b>21 656</b>	<b>24 152</b>

The Commission's expenditure commitments are for agreements for:

- Memoranda of Administrative Arrangements with the Department for Infrastructure and Transport for accommodation.
- the Electronic Document and Record Management System (EDRMS).

### 9.2. 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.

### 9.3. 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.

## 10. Measurement and risk

### 10.1. 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 increased from 2020 (0.75%) to 2021 (1.25%).

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

The net financial effect of the changes to actuarial assumptions in the current financial year is a decrease in the long service leave liability of \$445 000 and employee benefits expense of \$445 000. 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 2.5% 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.

### 10.2. 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, other than right-of-use assets, 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.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amounts of the assets and the net amounts are restated to the revalued amounts of the asset.



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.

Revaluation of leasehold improvements and fixtures and fittings was performed by Liquid Pacific Holdings Pty Ltd during 2019-20 financial year. The independent valuer arrived at fair value based on the actual cost of the assets.

### ***Plant and equipment***

All items of plant and equipment that had a fair value at the time of acquisition less than \$1.5 million or had an estimated useful life of less than three years have not been revalued. The carrying value of these items are deemed to approximate fair value.

## **10.3. 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 *SA Government Risk Management Guide* 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.

### ***Impairment of financial assets***

Loss allowances for statutory charge and client 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, client 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 and client debtors 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 and client 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.

The allowance was recognised when there was objective evidence that a client debtor was impaired. The allowance for impairment is recognised in other expenses for specific client debtors and debtors assessed on a collective basis for which such evidence existed.

Statutory charge debtors are written off or waived when there is a shortfall of sale proceeds from real estate sold on behalf of the clients. In addition, a decision may be made by the Commission to waive the debt based on the client's negative equity or through a court order.

The Commission has placed its investments in a portfolio managed by Funds SA. Listed shares and equities included within these investments are traded in an organised financial market by the fund managers. The Commission values these investments at current market value.

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.

### ***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 of Financial Instruments***

Category of financial assets and financial liabilities	Note	2021 Carrying amount (\$'000)	2020 Carrying amount (\$'000)
<b>Financial assets</b>			
<b>Cash and equivalent</b>			
Cash and cash equivalent	6.1	11 434	7 779
<b>Fair value through profit and loss</b>			
Investments	6.3	8 308	7 806
<b>Financial assets at amortised cost</b>			
Receivables *	6.2	333	1 834
Statutory charge debtors	6.4	9 420	8 967
<b>Total financial assets</b>		<b>29 495</b>	<b>26 386</b>
<b>Financial liabilities</b>			
<b>Financial liabilities at amortised cost</b>			
Payables *	7.1	251	159
Lease liabilities	7.2	4	727
Legal payables		969	824
<b>Total financial liabilities</b>		<b>1 224</b>	<b>1 710</b>

\* Total amounts disclosed here exclude statutory amounts. Receivables do not include prepayments as these are not financial instruments. Prepayments are presented in note 6.2.

### ***Statutory receivables and payables***

The receivable and payable amounts disclosed here exclude amounts relating to statutory receivables and payables. This includes Commonwealth, State and Local Government taxes and equivalents, fees and charges, and Auditor-General's Department audit fees. This is in addition to employee related payables, such as Fringe Benefits Tax, Pay As You Go Withholding and ReturnToWorkSA levies. In government, certain rights to receive or pay cash may not be contractual but have their source in legislation and therefore, in these situations, the disclosure requirements of AASB 7 will not apply. The standard defines contract as enforceable by law. All amounts recorded are carried at cost.

# Appendix

Annual Report 2020-21

Legal Services Commission of South Australia

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



State Expensive Criminal Cases Funding Agreement

DATED	19 <sup>th</sup>	DAY OF	August	2020	Page i of i
DEED OF VARIATION					
BETWEEN					
THE HONOURABLE VICKIE CHAPMAN, ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA					
AND					
THE LEGAL SERVICES COMMISSION					
CRD/24/6 SOLICITOR Level 17, 50 Franklin Street, Adelaide SA 5000					
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2.	VARIATION OF THE PRINCIPAL AGREEMENT	2			
3.	CONFIRMATION OF THE PRINCIPAL AGREEMENT	2			
4.	OPERATION OF THE DEED	3			
6.	COSTS OF THIS DEED	3			
ANNEXURE Copy of Principal Agreement					
Template 1: Deed of Variation (CSO 1022)					

**DEED OF VARIATION** dated 19 day of December 2020**BETWEEN:**

THE HONOURABLE VICKIE CHAPMAN, ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA, of Level 19, 10 Franklin Street Adelaide, 5000, in the State of South Australia ("Attorney General")

**AND**

THE LEGAL SERVICES COMMISSION a body corporate pursuant to the Legal Services Commission Act 1977 of 159 Gawler Place, Adelaide, 5000, in the State of South Australia ("Commission")

**BACKGROUND:**

- A. The Attorney-General and the Commission entered into a deed dated 29 January 2003 and described as the Expensive Criminal Cases Funding Agreement ("Principal Agreement").
- B. The Principal Agreement was varied by a deed of amendment entered into by the Attorney-General and the Commission dated 2 December 2004.
- C. The Attorney-General and the Commission have agreed to further vary certain terms and conditions of the Principal Agreement on account of amendments to the Criminal Law (Legal Representation) Act 2007 pursuant to which the Principal Agreement is made and to record those variations in this Deed

**IT IS AGREED.****1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this Deed.
  - 1.1.1 "Deed" means this deed of variation between the Attorney-General and the Commission.
  - 1.1.2 "Principal Agreement" means the deed between the Attorney-General and the Commission dated 29 January 2003 and described as the Expensive Criminal Cases Funding Agreement, as varied by the deed of amendment between the Attorney-General and the Commission dated 2 December 2004.
  - 1.1.3 All words and expressions defined in the Principal Agreement shall have the same meanings in this Deed.
  - 1.1.4 The Attorney-General and the Commission agree that the matters referred to in the Background under this Deed are true and correct in

every material particular and that the Background shall form part of this Deed

**2. VARIATION OF THE PRINCIPAL AGREEMENT**

- 2.1 The Principal Agreement is varied by adding the following clause after clause 5.1:

"5.1A Nothing in clause 5.1 shall be taken to require the Attorney-General to approve a case management plan or a proposal to vary a case management plan if the plan relates to more than 1 matter. The trials are related trials and in accordance with section 18(3) of the Act the Attorney-General is satisfied, in the circumstances of the case, that it is appropriate for the trials to be combined under a single case management plan."

- 2.2 The Principal Agreement is varied by deleting clause 6.1 and substituting it with the following:

"6.1 A case management plan must be submitted to the Attorney-General by the Commission in writing as soon as possible after BOTH the Commission becomes aware that the legal assistance costs for each assisted person to whom the case management plan will relate may exceed the funding cap AND as soon as practicable after the defendant has been charged or after a direction of the court pursuant to section 6(3) of the Act"

- 2.3 Clause 6.2.3 of the Principal Agreement is varied by deleting the words "costs of legal assistance" and replacing them with the words "legal assistance costs for each assisted person to whom the case management plan relates."

- 2.4 Clause 6.2.5(a) of the Principal Agreement is varied by adding the words "after the date on which the case management plan is submitted for approval (regardless of whether such liability be funded in respect of the funding cap and including terms for which a funding commitment has been made prior to that date but for which no payment has yet been made)" after the words "the cost of each separate item proposed to be funded".

- 2.5 The Principal Agreement is varied by deleting clause 7.3 and substituting it with the following:

"7.3 Where the Commission has terminated legal assistance to each assisted person to whom a case management plan relates 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 legal assistance costs for each assisted person to whom the case management plan relates prior to the termination of that assistance."

**3. CONFIRMATION OF THE PRINCIPAL AGREEMENT**

- 3.1 Subject only to the variations contained in this Deed and such other alterations (if any) as may be necessary to make the Principal Agreement consistent with this Deed, the Principal Agreement remains in full force and effect and will be read and construed and be enforceable as if the terms of this Deed were inserted in the Principal Agreement by way of addition or substitution (as the case may be).

3.2 The parties have prepared a consolidated copy of the Principal Agreement with the additions and substitutions made by the Deed, a copy of which is annexed to this Deed at Annexure A. The parties acknowledge the consolidated copy has been prepared for ease of reference only and to the extent there is any inconsistency between the terms of the consolidated copy and the terms of the Principal Agreement as varied by this Deed, the Principal Agreement as varied by this Deed shall prevail.

4. OPERATION OF THE DEED

The variations effected by this Deed shall operate from the date the Criminal Law (Legal Representation) (Reimbursement of Commission) Amendment Act 2020 commences.

5. COSTS OF THIS DEED

Each party must pay its own costs arising from the preparation, negotiation and execution of this Deed.

EXECUTED AS A DEED

SIGNED by THE HONOURABLE

WICKIE CHAPMAN,

ATTORNEY-GENERAL FOR THE STATE

OF SOUTH AUSTRALIA in the presence of




Witness

[Print Name: *Debra Constable*]

THE COMMON SEAL of THE LEGAL

SERVICES COMMISSION

was hereunto affixed in the presence of



Chairperson/Commissioner

[Print Name: Catherine Ann Nelson]



Commissioner/Director

[Print Name: Debra Constable]



DATED 2 <sup>ND</sup> DAY OF <i>December</i> 2004	Page i of i
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ANNEXURE A THE PRINCIPAL AGREEMENT	
CSO 55888 / 0320743 / Final	
PNP/O / 1/1204	

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 9, 48 Pile Street, Adelaide SA 5000	

THIS DEED is made the SECOND day of December 2004.

BETWEEN:

THE HONOURABLE MICHAEL ATKINSON, ATTORNEY-GENERAL FOR THE  
STATE OF SOUTH AUSTRALIA of 45 Pirie 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.

## 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.

# 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: )

Witness  
 [Print Name: Susan Dwyer ]

THE COMMON SEAL of THE LEGAL )  
SERVICES COMMISSION )  
 was hereto affixed in the presence of: )

NOELANE CARLISLE-JACOBS SECRETARY  
CHIEF OF COMMISSIONER  
 [Print Name: ]

Director  
 [Print Name: Heather James Givens ]

Procurator  
Director/Secretary General  
 [Print Name: LISA JEAN HARKIN ]



# 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 Pirie Street, Adelaide 5000, in the State of  
South Australia (the "Attorney-General") ("Attorney-General")  
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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:

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

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**AGREED TERMS:**

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**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;

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- 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.

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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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- 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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## 9. APPLICATION OF CONTRIBUTIONS

- 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.

## 11. AUDIT

- 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.

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- 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

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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 Commission 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 confining the issues in dispute.

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