

Our Performance

41st Annual Report 2018-19

Legal Services Commission of South Australia
www.lsc.sa.gov.au

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Snapshot of financial performance 2018-19

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

The 2018-19 financial statements record the following:

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

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

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

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National Partnership Agreement on Legal Assistance Services 2015-2020

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

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

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

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

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

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

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

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

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

Reporting against our statutory functions

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

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

This financial year the Commission—

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

Determine the criteria under which legal assistance is to be granted

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Perform such other functions as the Attorney-General may direct

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

Reporting against our corporate plan

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

Corporate Plan 2015-18

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

OUR CLIENTS

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

OUR PEOPLE

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

OUR STAKEHOLDERS

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

OUR RESOURCES

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

KEY ● KPI met and task completed
● Project in progress

Corporate Plan 2019-22

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

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

OUR CLIENTS

Develop and introduce a simplified means test

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

OUR PEOPLE

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

OUR STAKEHOLDERS

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

KEY ● KPI commenced

Reporting 2018-19

OUR STAKEHOLDERS *(continued)*

Deliver successful Commission Conferences in 2020 and 2022

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

OUR RESOURCES

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

Review the ICT Plan by 2020

Ensure practice management tools are in place

Review our security arrangements

Update our client data management system

KEY ● KPI commenced

Public Benefit 2018-19

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

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

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

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

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

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

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

Public Benefit 2018-19

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

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

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

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

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

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

Partnerships 2018-19

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

National Legal Aid

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

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

Australian Legal Assistance Forum

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

South Australian Legal Assistance Forum

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

Partnerships 2018-19

Private Practitioners

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

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