

27th Annual Report 2004-2005



Legal Services Commission of South Australia

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September, 2005

27th Annual Report 2004-2005

Legal Services Commission of South Australia

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Thank you kindly for your assistance provided to us recently. Under our unfortunate circumstances when could not repay money requested your assistance was critical. We very much appreciate your advice, but most of all your patience and forthcoming approach. Asking for help is never easy and you made it easy for us. For that we are very grateful. ”

Chairman's Report

The Honourable Michael Atkinson MP
Attorney-General
Natwest Centre
45 Pirie Street
ADELAIDE SA 5000

23 September 2005

Dear Mr Attorney,

I have pleasure in presenting the Annual Report of the Legal Services Commission of South Australia for the year to 30th June 2005 pursuant to section 33 of the Legal Services Commission Act 1977.

The Commission developed a new Corporate Plan in October 2004. The plan notes legal aid is an essential component of an accessible, fair, effective and efficient justice system. Our mandate is to ensure that poverty does not become an insurmountable barrier to justice. The vision of the Commission is simple – it is to provide quality legal assistance to people in South Australia.


The Commission appreciates the signing of the new funding agreement between the State and Commonwealth Governments for the Legal Services Commission to provide legal assistance services in Commonwealth Law related matters for the period 1 July 2004 until 31 December 2008.

The renewal of this agreement and its associated funding provides a stable base for the Commission's continued service delivery to the South Australian public.

A range of new pilot projects have been initiated to improve services and address needs in response to State and Commonwealth government policy directions.

During the reporting period some 82% of the Commission's expenditure was directed towards legal representation of Commission clients and approximately 12% was spent on the Commission's legal advice and access services programs. It was pleasing to see that the Commission's efficient operations enabled major components of its expenditure to be directed to 'front line' services of direct benefit to the community.

The Commission has had a busy and productive year and has, through the dedication and expertise of its staff and the strong support of the of the private profession, continued to make a valuable contribution to the justice system in this state.



Ms D Eszenyi
Chairman.

Director's Report

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This year has seen major changes to membership of the Commission.



Hamish Gilmore, Director.

The Commission notes with regret the resignation of the Chairman Mr Brian Withers in November 2004 and records its sincere appreciation of Mr Withers' long dedicated service and leadership firstly as a Commissioner since 1988 and more recently as its Chairman from 1997.

The Commission extends its best wishes to Mr Withers for every success in his new role as a Master of the Supreme Court.

Ms Dymphna Eszenyi was appointed the first female Chairman of the Commission on 20 January 2005. Ms Eszenyi has a sound knowledge of legal aid and the many issues confronting the Commission and its clients and she was first appointed a Legal Services Commissioner in August 1999. She is a solicitor in private practice with extensive experience in civil law matters and is the President Elect of the Law Society of South Australia.

In May 2005 Mr Gordon Barrett Q.C. was appointed to the Bench of the District Court. The Commission noted his exemplary service as a Legal Services Commissioner. We congratulate him on his appointment, and wish him well.

Mr David Bulloch's term as a Commissioner concluded on 5 September 2004 and Mr Kym Penniford's term concluded on 31 October 2004. Their valuable contribution and commitment to the Commission will be missed and is greatly appreciated.

The Commission welcomes its new Commissioners Ms Maurine Pyke Q.C. a Family Law barrister who was appointed in Ms Eszenyi's place, and Ms Phoung My Chau, a Senior Financial Adviser replaced Mr Penniford.

Mr Bulloch's replacement is yet to be appointed.

The Commission's Chief Counsel Marie Shaw Q.C. was appointed to the District Court bench in June 2005. A well respected member of the Criminal Law Bar, she came to the Commission 14 months ago. During her time at the Commission she was committed to Mr Haydon's defence in the Bodies in the Barrel Murders. Mrs Shaw Q.C. leaves the Commission with the greatest goodwill.

Dr Deborah McCulloch, the Commissioner appointed by the Attorney-General after consultation with the South Australian Council of Social Service Incorporated, was awarded a Member of the Order of Australia in the Queen's Birthday Honours list. Dr McCulloch's involvement with a wide variety of community groups is clearly evidenced by her contribution to debate

at Commission meetings. She has been an effective and active Commissioner since July 1993.

In April 2005 the Commonwealth and the State Attorneys-General signed a new agreement between the two Governments for the Legal Services Commission to provide legal assistance services in Commonwealth Law related matters for the period 1 July 2004 until 31 December 2008.

The renewal of this agreement and its associated funding provides a stable base for the Commission's continued service delivery to the South Australian public.

While the Commonwealth did not provide an overall expansion of Commonwealth funded legal aid, specific funds have been provided to allow for the Commission to provide a Duty Lawyer Service in the Family Court, and funds to continue Primary Dispute Resolution and Child Support Services.

There are some minor changes to the Guidelines set out in the agreement but these can easily be accommodated within the proposed funding level.

Some of the additional Commonwealth funds are only available on compliance with strict conditions. One condition is that the private profession be paid more for Family and Veterans matters.

The Commission immediately accepted that condition and after consulting with the Law Society increased rates to \$120.0 per hour effective from 1 September 2004. The Commission also resolved to maintain parity of hourly rates across the jurisdictions, a policy approach which the Commission believes has widespread acceptance in the legal profession and the community.

During the year, three Case Management Plans pursuant to the Expensive Cases Agreement with the State Attorney-General have been submitted for approval. These plans have proved difficult and time consuming to conclude and improvements to the protocols for their development are being pursued.

As part of celebrating the Legal Services Commission's 25 years of service to the South Australian community, it was agreed by staff and Commissioners that any celebratory functions should raise funds for other good causes. A formal dinner and a quiz night raised \$3 758 for three charities namely, Catherine House, Moore Street Day Centre and the Refugee Advocacy Service of South Australia. These charities were nominated by Commission staff.

In September the Legal Services Commission hosted a visit of the Solicitor-General of Fiji, Mr Nainendra Nand, to Adelaide.

Director's Report

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Mr Nand is also the Chair of the Legal Aid Commission in Fiji. His visit arose from the AusAID Australia/Fiji Law and Justice Sector Program which is working with the Government of Fiji to assist in the development of a robust, accountable, transparent and efficient law and justice sector.

SAGRIC International Pty Ltd, based in Adelaide, has the contract with AusAID for the delivery of most of the services required for the aid program.

As part of the program Ms Janet Maughan, an Assistant Director with the Legal Services Commission of South Australia, has been on a placement in Suva since early 2004. That placement will continue until late 2005 and Ms Maughan was instrumental in arranging Mr Nand's visit.

The visit has laid the basis for an on-going relationship between the South Australian legal community, the Commission and the Fijian legal community.

Initiatives this year include:

- The expansion of the Family Law Primary Dispute Resolution Service
- Family Court Advice Service Project
- Family Law Duty Lawyer Service in South Australia
- Project Magellan
- Family Law and Culturally and Linguistically Diverse Communities Project
- Special Migration Program
- Endorsement of the Information Technology Plan
- Development of the National Legal Aid Best Practice Conference to be held in Adelaide in September 2005.

Again the Commission has finished the year in a healthy financial position with an operating surplus of \$2.49 million. This is largely due to greater than expected revenue from Statutory Interest generated on Practitioner Trust Accounts and the more than adequate Commonwealth funding given Commonwealth guideline constraints.

The provision of legal aid services in South Australia would not be possible without the continued dedication and support of the Chairman and Commissioners, the staff of the Commission, and the many private practitioners who continue to accept our assignments.

I would like to thank all of those people for their continued support this year.

Hamish Gilmore
Director

Legal Services Commission Functions

The Legal Services Commission ('the Commission') was established under the Legal Services Commission Act 1977 ('the Act'). Under section 10(1) of the Act, the Commission's functions are to:



The Commissioners Back row from left: Mr Michael Burgess, Dr Deborah McCulloch, Mr David Meyer, Mr Hamish Gilmore and Mr Brian Nitschke. Front row: Ms Phuong Chau, Ms Dymphna Eszenyi (Chair), Ms Rosemary Davey (appointed 21 July 2005) and Ms Maurine Pyke.

- a) establish an office to be called the 'Legal Services Office';
- b) provide, or arrange for the provision of, legal assistance in accordance with this Act;
- c) determine the criteria upon which legal assistance is to be granted in pursuance of this Act;
- 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;
- e) establish such local offices and other facilities as the Commission considers necessary or desirable;
- f) 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;
- 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;
- h) cooperate and make reciprocal arrangements with persons administering schemes of legal assistance in other States and Territories of the Commonwealth or elsewhere;
- ha) cooperate with any body established by the Commonwealth for the purpose of the administration of legal aid and provide it with such statistical and other information as it may reasonably require;
- 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;
- 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;
- 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.

Legal Services Commission Functions

Eligibility for legal aid

Section 10(2) of the Act requires the Commission, in setting criteria for eligibility for legally aided representation, to have regard to the following principles:

- a) that legal assistance should be granted in pursuance of this Act where the public interest or the interests of justice so require; and
- b) that, subject to paragraph (a) of this subsection, legal assistance should not be granted where the applicant could afford to pay in full for that legal assistance without undue financial hardship.

Special considerations

Section 11 of the Act requires the Commission in the exercise of its powers and functions to:

- a) seek to ensure legal assistance is provided in the most efficient and economical manner;
- b) use its best endeavours to make legal assistance available to persons throughout the State;
- c) have regard to the recommendations of any body established by the Commonwealth for the purpose of advising on matters pertaining to the provision of legal assistance;
- d) have regard to the following factors:
 - i) the need for legal assistance to be readily available and easily accessible to disadvantaged persons;
 - ii) the desirability of enabling all assisted persons to obtain the services of legal practitioners of their choice;
 - iii) the importance of maintaining the independence of the legal profession;
 - iv) 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.

Who can get Legal Aid

Legal aid is not granted for all legal problems. For example, if it is a criminal matter, there must be a reasonable likelihood of imprisonment. Family law matters must usually involve a genuine dispute over children and reasonable steps must have been taken to try and resolve the dispute.

In assessing an application for aid the Commission takes into account personal income and assets plus that of anyone with whom the applicant has a financial relationship.

In assessing the application for a grant of aid the Commission considers:

- **income** - money received after allowing for tax, childcare, reasonable rent or mortgage payments and the number of children cared for
- **assets** - savings, investments and property, excluding the home the applicant lives in, a car and household furniture of average value
- **chances of success** - a merit test is applied to assess the matter has a reasonable chance of success.

Legal aid may be granted subject to a financial contribution or a charge can be placed over real estate, so that legal costs can be paid at a later date when the property is sold or transferred.

Legal Services Commission Functions

What the Commission does

The Commission provides a range of legal services to members of the public:

- legal representation to people eligible under criteria set by the Commission in accordance with Section 10(2) of the Act
- free legal advice and minor legal assistance, either at a Commission office by appointment, in a prison or over the telephone
- a free duty solicitor service to eligible people attending metropolitan and some country Magistrates and Youth Courts who have not yet consulted a legal practitioner
- a range of free publications explaining the law in simple terms, available from Commission offices and various community organisations and on the Commission website
- the Law Handbook, published by the Commission, which can be purchased from Commission offices and some bookshops
- a range of legal education programs, some free and others fee-paying.

Commission members

The membership of the Commission is prescribed in Section 6 of the Act. There are ten members; nine of who are appointed by the Governor on the nomination of various bodies the tenth being the Director. **Membership of the Commission is set out in Appendix 2.**

Public participation in developing Commission policy

Under the Act, the Commission is responsible for developing policy as to how the Act is applied. One Commissioner appointed by the Attorney-General represents the interests of assisted persons in that process. In addition, the Commission consults regularly with the State and Commonwealth Governments, the Courts, representative bodies of the legal profession, community legal centres and other community organisations.

Members of the public are allowed access to certain Commission documents available under the *Freedom of Information Act 1991*. **Information about access is set out in Appendix 1.**

Organisational structure

A chart showing the organisational structure of the Commission is shown as **Appendix 3.**

Community Involvement 2004-05

During the year members of staff, in their own time, contributed to the development of their respective professional associations as well as the other groups referred to in **Appendix 4.**

The Year in Review 2004-2005

***Our Vision:
To provide quality legal
assistance to people
in South Australia.***

The corporate planning strategy of the Commission this year incorporates the sentiments of the previous plan with particular emphasis on improving accessibility of services to clients, developing staff programs and strengthening programs in partnership with the private legal profession, community and government.

A range of new initiatives have been piloted as part of the planning strategy and in response to State and Commonwealth government policy directions.

Corporate Plan Report Special Projects 2004-05

***Our Goal:
To work in partnership with other
members of the legal community
to deliver to our clients equitable
access to the justice system.***

Family Court Advice Service Project

In June 2004, the Commission initiated a service in co-operation with the Adelaide Registry of the Family Court, which is designed to provide a direct link between clients attending the Court and the Commission's Legal Help Line. A dedicated room and telephone service have been made available at the Court, to where clients who require legal advice can be referred by Court staff.

The room has also served as an information booth for the Commission, with all of the Commission's pamphlets and brochures being available together with supplies of legal aid forms for potential applicants to complete.

The Family Court has indicated its ongoing support for the project.

The project has enhanced the Commission's good relationship with the Court and has been praised as a joint project by a number of bodies including the Family Law Pathways Network. It has streamlined assistance to unrepresented litigants and has provided them with immediate assistance in urgent matters.

The service was reviewed by the Commission in February and it has been resolved to continue this project at least until the Court relocates to the Victoria Square precinct in 2006.

Project Magellan

For two years, the Family Court has been intensely managing cases in which serious child abuse allegations have been made under a special project, known as Project Magellan. Legal aid has been closely involved in the project as child representatives have been appointed in each case and the funding cap for all parties was waived by the Commonwealth Attorney-General.

Project Magellan commenced in the Adelaide Registry of the Family Court in June 2003.

There were 21 matters included in the Project in the first 12 months and a further 48 during this reporting period.

Of the 69 matters, 33 have been finalised. Of these 33, 26 resolved at reasonably early stages of proceedings. The 36 extant cases are at varying stages of the court process.

In terms of the Commonwealth Funding Cap, there has been only one case which has exceeded the newly defined child representative limit of \$18 000. Overall, there is every expectation that the costs on these files will be lower than in pre-Magellan times.



Sorna Nachiappan.



Law for Community Workers, Adelaide TAFE student class 2005.

In any event, the cases designated as Magellan are precisely the sort of cases which in the past would have run to lengthy trials. There has not to date been a Magellan matter which has been finalised and which has subsequently returned to court.

The costs to legal aid have not been significant. Matters are definitely being finalised at a less expensive rate than before and although there has been no funding cap in place, only a small number of matters have threatened (or in the future are likely to threaten) the cap should it be re-introduced.

Family Law and Culturally and Linguistically Diverse Communities Project

This project is designed to identify appropriate ways of educating culturally and linguistically diverse communities about Australian family law, and to deliver training to community leaders and workers involved with these communities.

The project is jointly funded by the Commission and the Law Foundation of South Australia. The partners in the project are the Commission, Migrant Resource Centre and the Multicultural Communities Council. The steering

committee also has representatives from Survivors of Torture and Trauma, Migrant Women's Accommodation Service, Multicultural SA and the Family Court of Australia.

Over one hundred and thirty community organizations have been contacted for the project. Consultations with Asian, Middle Eastern and African communities occurred during this year.

Fifteen scholarships were offered to community leaders and workers from the target communities with funding provided by the Law Foundation of South Australia. These scholarships covered the enrolment fees for the Legal Services Commission's two subjects in the 2005 TAFE Certificate 4 in Justice Studies course. Six Sudanese people, one Iraqi, one Afghani, one Palestinian, one Polish, one Bosnian, one Chilean, two Cambodians and one Filipina enrolled. Two of the students were lawyers in their country of origin.

Special learning support has been provided by TAFE to students requiring assistance.

The focus of the project in the coming year will be the documentation and evaluation of the project and the methods used to reach the communities.

Child Support Unit and Centrelink Business Unit Project

The Unit was invited to speak at seminars which were presented by Centrelink for the benefit of workers who are affected by industry redundancies. The unit addressed workers onsite to emphasise the child support implications in this situation. The purpose of these sessions is to make clients aware of the impact any lump sum payments may have on their child support liability.

Centrelink staff have kindly agreed to distribute material from CSU together with the material they provide to workers at the Seminars. The Unit is keen to maintain this spirit of co-operation with Centrelink in an effort to get this important, relevant information to the clients who most need it.

The Year in Review 2004-2005

Our Goal:

To provide clients with accessible information, advice and representation to meet their legal needs

Primary Dispute Resolution Service

The Primary Dispute Resolution Service places emphasis on the parties attending a conference with their lawyers at an early stage of a Family Law dispute to avoid litigation.

In those cases which are identified as suitable for conferencing, aid is granted for a party to be represented by a legal practitioner during the conferencing process.

The conferences are chaired by experienced legal practitioners who have mediation training.

Funding for a further review conference is available in appropriate cases. Review conferences may be convened in cases where an interim agreement has been negotiated, or if problems with the agreement develop and a further conference becomes necessary to resolve those problems.

A review conference is also used in cases where it becomes evident during the conference that the children's wishes and perceptions should be ascertained. In such cases and with the consent of the parties, the children are interviewed by a psychologist who will then deliver



*The Primary Dispute Resolution Unit :
Libby Scholz, Coordinator, Jane Moro and Robbie Williams (not pictured) Conference Organisers.*

a confidential verbal report to the conference for the parties to consider in the negotiations.

The majority of conferences are arranged pre-litigation, but conferencing is also offered at the request of the parties or Child Representative in matters where litigation has been commenced.

In the year ended 30 June 2005, 238 conferencing files were opened and 117 conferences held. 91% of matters resolved either in full or by partial agreement at conferencing. The ability to review a matter has been of assistance in fully resolving matters.

In cases determined unsuitable for conferencing or where the other party does not accept an invitation to conference, the matter is referred back to the Assignments Section to determine a grant of aid for litigation.

In other cases, the invitation to participate in conferencing encourages parties to commence negotiations and a number of matters have settled prior to conference. The input of the conference organisers is important in such settlements, as the organisers are able to discuss with the parties the benefits of resolving issues by way of negotiation.

Over the next year our priority is to expand the service by educating practitioners, court staff and community organisations, with a view to increasing awareness of the benefits of conferencing as a first step.

The conferencing suite contains only one conference room and our conferencing numbers may be constrained by space. The identification of alternative conferencing venues is being pursued with a particular emphasis on the provision of services in the outer metropolitan areas and regional South Australia.



Suzie Derewlany and Phillip Saunders,
The New Duty Lawyers.

Family Law Duty Lawyer Service

As part of its new Legal Aid Funding Agreement, the Commonwealth allocated funds for a national Duty Lawyer scheme for family law matters in the Registries of the Family Court and the Federal Magistrates Court.

The duty lawyers provide the following services:

- Advice and information
- Representation for adjournments and short or procedural mentions
- Representation for limited negotiations
- Assessment of eligibility for legal aid and referrals to either the Commission or a private practitioner.

Assistance beyond the above will not normally be provided.

The issues of conflict and prioritisation of work were addressed by a set of national protocols for the Family Law Duty Lawyer Scheme which were prepared in consultation between the Commonwealth Attorney-General's Department, the Family Court, Federal Magistrates Court and National Legal Aid.

The Commission received additional funds to employ two solicitors to provide a service each sitting day at the courts.

Special Migration Program

The Commission has continued to provide a Special Migration Program to assist refugee clients located in South Australia. Most of these clients are individuals and families living in the community, who have been released from Baxter or Woomera detention centres on Temporary Protection Visas (TPV). Special Migration Program advisers have provided advice and minor assistance with the Permanent Protection Visa (PPV) application process.

Commonwealth funding guidelines prevent advisers from attending Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) interviews with clients, and a volunteer training program was developed in response to this restriction.

Volunteers were able to accompany clients to their interviews with DIMIA and take notes, which were subsequently used to identify and address any issues that may have arisen during the interview.

Special Migration Program advisers have also provided some advice and assistance to clients in respect of a range of broader migration matters. This was partly the result of legislative changes enabling TPV holders to apply for mainstream visas, and partly the result of staffing changes within the migration section.

Significant legislative and administrative changes in relation to migration matters were announced by the Federal Government in June 2005. A large number of PPV applications have now

been successful. In part as a result of these PPV grants, there has been increased demand for advice and minor assistance for family reunification applications, and it is expected that this change in demand will be reflected in the service provided by the Special Migration Program in future.

Our Goal:

To provide a safe, healthy, rewarding, satisfying work environment.

A series of workshops was held throughout the year to consolidate both staff and management requirements about staff safety and client interaction. Support programs have been put in place to address identified needs.

This year the Commission elected to rescind its Enterprise Bargaining Agreement. This allowed the Commission to actively join with the public sector in Enterprise Bargaining negotiations. The Commission now enjoys congruent salary increase implementation with the public sector while, at the same time, ensuring that it can adopt like terms and conditions of employment by being party to the South Australian Government (Public Sector Salaried Employees) Salaries Interim Award 2004.

The Training Advisory Committee has reported on the training requirements for staff and several flexible working arrangements have been endorsed for approval.

The Year in Review 2004-2005

Our Goal:

To provide quality legal assistance efficiently and effectively

In the past financial year the Commission delivered:

- 12 057 grants of legal representation aid
- 9 998 duty solicitor services
- 63 246 telephone advice services
- 34 285 face to face advice appointments;

and recorded 3 622 146 hits on the Commission and Law Handbook Online websites

The Commission works hard to ensure that as small an amount of its funding as reasonably possible is spent on strategic management and capital expenditure and that the bulk goes to "coal face" services.

Our Goal:

To satisfy the community that we fulfil our statutory and contractual obligations and are deserving of ongoing financial support.

In April 2005 the Commonwealth and the State Attorneys-General signed a new agreement between the two Governments for the Legal Services Commission to provide legal assistance services for the period 1 July 2004 until 31 December 2008.

Our Goal:

To provide timely research and advice on legal issues to the government and the community.

The Commission provided comments in relation to significant legislative and policy change at both a State and Commonwealth level.

Our Goal:

To inform governments of the likely impact on the Legal Services Commission and the community of proposed changes to legislation and policy.

The Director was invited by the Chief Executive of the Justice Portfolio to participate on the Criminal Law Justice Leadership group and the Civil Law Justice Leadership Group. By participating in these forums, he has been able to keep the Legal Services Commission and the government informed about the impact of these initiatives being implemented across the portfolio.

Senior staff have represented the Commission on a significant number of community and government committees outlined in **Appendix 4**.

Other Reporting Requirements

Promoting Independence

The Legal Services Commission of South Australia recognizes our organization's role in ensuring that people with disabilities have equal access to justice within the legal system.

The Commission is a member of the Attorney-General's Justice Portfolio Steering Committee examining cross portfolio issues facing people with disabilities in the justice system. Staff of the Commission participated in the development of the Strategic Disability Statement in November 2002 which is to be reviewed in November 2005. The statement has been endorsed by the Legal Services Commission

The Disability Action Plan identifies a number of strategies to review and improve access to services and Commission buildings for people with a range of disabilities.

The first goal in the Commission's Corporate Plan seeks to provide clients with accessible information, advice and representation to meet their legal needs

The Commission provides a specialist adviser in our Access Services Program and solicitors in the Representation Program represent clients in the Diversion Courts.

Since 1993 the Commission has employed a Client Relations Coordinator to assist clients in their dealings with the Commission. A telephone typewriter service is available to clients and a member of staff is fluent in Auslan.



The Adelaide office new reception area.

Staff attended a half-day training session 'Disability Dilemmas' which was run by the Equal Opportunity Commission. The seminar aimed to raise awareness of the way we deal with people (staff or clients) who have a disability. The program was linked to the State Government's project *Promoting Independence: Disability Action Plans for SA*.

Last year, the Community Legal Education Unit conducted extensive training sessions and consultation which resulted in increased client demand for Commission services during this reporting period.

The Commission collects information on disability in our nationally mandated Legal Aid database, LA Office. These

A senior lawyer from the Criminal Law Program drafted and completed submissions to the Palmer Inquiry, a Commonwealth government enquiry into detention centre practices. The submission included an analysis of the policy of mandatory detention, the duty of care for mentally ill persons both in detention and the community at large, the policy of prohibiting lawyers intervening for detainees and the use of force and isolation units to punish detainees both in prisons and detention centres.

She also obtained a favourable judgment in the Federal Court for detainees who failed to receive appropriate medical treatment at Baxter Detention Centre.

statistics do not record every client who has a disability. The data base relies on self identification of clients in receipt of a disability support allowance or whose assistance related to a disability specific problem.

Clients in receipt of a disability allowance accessed the following services this year

Type of Services	No of Services
Duty Lawyer	1 230 (+145)
Appointment Advice	2 317 (+508)
Legal Aid Grants	1 638 (+ 36)

A physical access audit was completed in 2002. The audit was commissioned by the Attorney General's Department and the Commission was included in this audit. Several issues were identified at the Adelaide Office. This office has been refurbished and the recommendations of the report have been significantly addressed. The Adelaide reception area was modified to enable easier access for clients in wheelchairs. The counter modifications also included security screens and a counter hearing system installed for clients with a hearing impairment. Personal hearing systems are also available for clients in interviews. Other offices of the Commission are also in the process of refurbishment and the Accommodation Steering Committee has considered disability requirements in this process.

The Year in Review 2004-2005



Sasha Lowes, Community Legal Education Worker at Harmony Day.

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Access and Equity Report

Approximately every fifth South Australian was born overseas, with about half of this group born in an English speaking country. 10.3% of South Australia's population was born in a non-English speaking country. Among the groups from non-English speaking countries, the largest communities in the State comprise those born in Europe and persons born in Vietnam. The Indigenous community represents 1.6% of South Australia's population.

The Legal Services Commission has long held a commitment to equity of access to services for all South Australians and has targeted special needs groups.

This year has been an exceptional year. Apart from our special projects highlighted earlier, the Commission has undertaken extensive consultation and training in multicultural issues, outlined in **Appendix 7**.

South Australia's State Strategic Plan ~ Creating Opportunity

Objective 1 Growing Prosperity

Target 1.18: *Lead the nation in cost effectiveness of government services within 5 years.*

Some 94% of the Commission's expenditure in this financial year was directed to legal representation and/or access services for the community. 82% was spent on legal representation both by the private legal profession doing legal aid work and by in-house lawyers. 11% was spent on access services which include telephone and face to face advice, community education, and advice available to the community through its website and Law Handbook Online.

The Commission works hard to ensure that as small an amount of its funding as reasonably possible is spent on strategic management and capital expenditure and that the bulk goes to "coal face" services

Target 1.19: *Lead Australian governments in timely and transparent decision-making within 5 years.*

The Commission achieved the second highest key performance indicator in the National Legal Aid Corporate Plan grants benchmark. 90% of legal aid applications are processed within five days of receipt.

Objective 3 Attaining Sustainability

Target 3.2: *Energy Consumption-Government- Reduce energy consumption in Government buildings by 25% within 10 years and lead Australia in wind and solar power generation within 10 years.*

Target 3.3: *Greenhouse Gas Emissions-Achieve the Kyoto target during the first commitment period (2008-2012)*

As part of the Government's commitment to energy efficiency, Government agencies are required to undertake a range of measures to reduce their output of greenhouse gases. In particular, energy use in Government buildings must be cut by 15% over the ten years from 2000/01 to 2009/10 (as an interim target) and a further 10% by 30th June 2014.

Legal Services Commission	Energy Use (Gj)	Expenditure	Greenhouse Gas Emissions (Tonnes CO2)
2000/2001	2 116	\$85 795.13	652
2003/2004	1 565	\$77 036.00	515
2004/2005	1 882	\$97 889.00	502
Target 2004/2005	1 991		614
Target 2010	1 799	\$72 925.86	554

Above table:

In the base year, the CO2 emissions coefficient was 1.1096kg CO2 per kWh, however this increased to 1.1860kg in 2002-03, representing an increase of almost 7%. With 100% of the energy use in the Legal Services Commission being electricity, this change in emissions coefficient has had an impact of increasing emissions by 45 tonnes of CO2 (on the baseline) excluding any changes in energy consumption.

It is equally possible that the emission coefficient may be decreased in any given future year.

In the base year, the CO2 emissions coefficient was 1.1096kg CO2 per kWh, however this decreased to 0.960kg in 2004-05, representing a decrease of almost 13.5%. With 100% of the energy use in the Legal Services Commission being electricity, this change in emissions coefficient has had an impact of decreasing emissions by 62 tonnes of CO2 (on the baseline) excluding any changes in energy consumption.

During 2004/2005, as part of the energy audit, it was determined that the Commission had not been billed by the landlord, as specified in the lease, for electricity on an area first leased by the Commission since May 2003. In 2004-2005 this has resulted in an increase in 408 Gj (\$22,092)

The Commission increased the size of its Adelaide Office by 263 square meters on 1 July 2004, the specific energy consumption for this area cannot be isolated.

Without the last two changes the Commission's energy consumption would have been 1,474 Gj or a reduction of 91 Gj (6%) on 2003-2004 rather than an actual increase of 317 Gj (20%).

Energy Management Activities

In line with the Government's Energy Efficiency Action Plan, the following measures were taken to reduce energy consumption across the Justice Portfolio:

- Major energy consuming buildings across the Commission were audited to ascertain the progress by the Commission in reducing energy. The following measures continue to be implemented in the Adelaide Office:
 - replacing lighting with more efficient lights, de-lamping in some areas and installing eco light systems
 - air conditioning timing adjustments
 - reprogramming boiling water systems so they don't run after hours
 - vigilance by staff in turning lights out when areas are vacant
- LSC runs motor vehicles with dual fuel (petrol and LPG) motor vehicles to determine energy saved and associated running costs.

The Year in Review 2004-2005

Objective 5 Building Communities

Target 5.6: Increase the level of volunteerism in South Australia from 38% in 2000 to 50% within 10 years

Volunteers

In October 2004, the Commission conducted training sessions for new DIMIA volunteers. The sessions resulted in over 140 new volunteers being available to take part in our program. Program advisers successfully coordinated volunteers in Murray Bridge to ensure support for clients living in the area. This coordination was very successful and a majority of our clients in Murray Bridge obtained visas.

Over 70 volunteer recruits attended a thank you breakfast. The following speakers related the personal rewards gained in their experiences in the project;

- A young student who was going on to participate in an internship at the United Nations High Commissioner for Refugees,
- A retired couple who became involved following a visit to their church by a refugee.



Interpreters visiting the Courts.

- One of our clients, who also works as an interpreter, spoke of his personal gratitude for the existence of the volunteer program as well as passing on the thanks of the wider refugee community.

The importance of the role of volunteers is highlighted below:

One of our clients had an interpreter at the interview, who misinterpreted the statements the client was making about the political party he supported. As a result, the information the client appeared to have given at the interview was inconsistent with that provided in his written statements, and he was at risk of an adverse credibility finding on his most important claims. If the volunteer had not been at the interview to take notes of the discussion, neither we nor the client would have known about the discrepancies.

After reading the volunteer's notes and speaking again to the client, the problem was discovered and by negotiation with the case officer, it was agreed that the record of interview would be disregarded. Had it not been for the volunteer's involvement, the consequences for the client's application could have been very severe. The client, who had been waiting for five years to tell his story to DIMIA, is very grateful for the volunteer's involvement.

27th Annual Report 2004-2005

Legal Services Commission of South Australia

- 020 Face-to-Face Advice
Telephone Advice
- 021 Applications Received
to Process
Grants of Aid
- 022 Duty Solicitor Services
Child Representative
Appointments
- 023 Child Support Unit
Telephone Advice
Child Support Unit
Appointments
- 024 Grants of Aid by Matter
& Representation Type

Outputs

2004-2005

019

Outputs 2004-2005

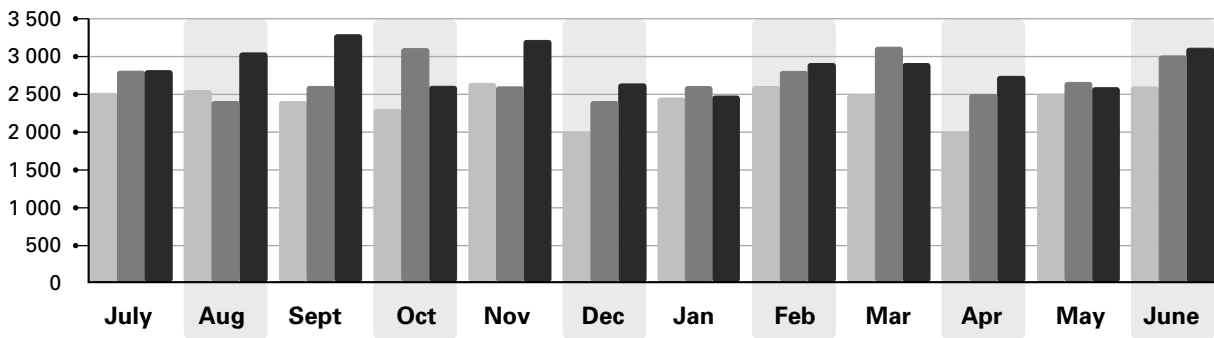
Advice Services

Access Services Program, the Child Support Unit and Prison Outreach staff provide these services.

Face-to-Face Advice 1 July to 30 June inclusive.

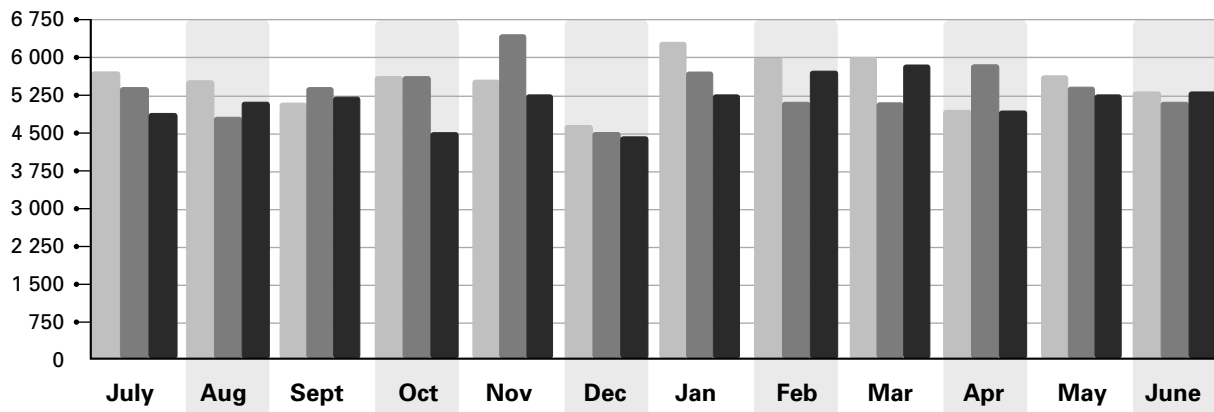
34 285 advice appointment services were provided, an increase of **1 259** appointments on the previous year.

020



Telephone Advice 1 July to 30 June inclusive

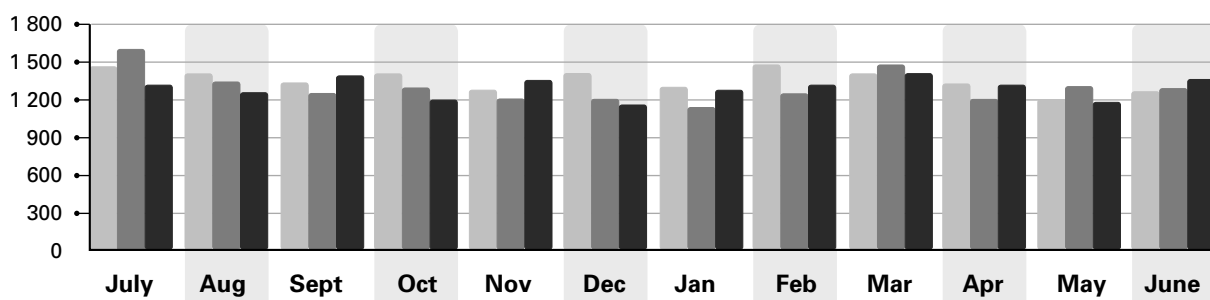
63 246 telephone advice services were provided, a decrease of **1 631** on the previous year.



Outputs 2004-2005

Applications Received to Process 1 July to 30 June inclusive

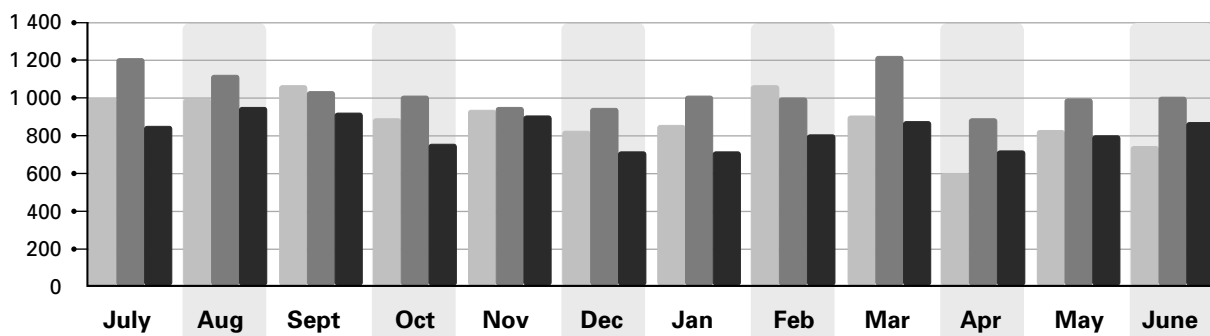
15 395 applications were received to process this year, a decrease of 182.



021

Grants of Aid 1 July to 30 June inclusive

12 057 applications were granted this year, a decrease of 307.



Note: This graph indicates grants of aid made by month. There are always some matters pending at the end of each month.

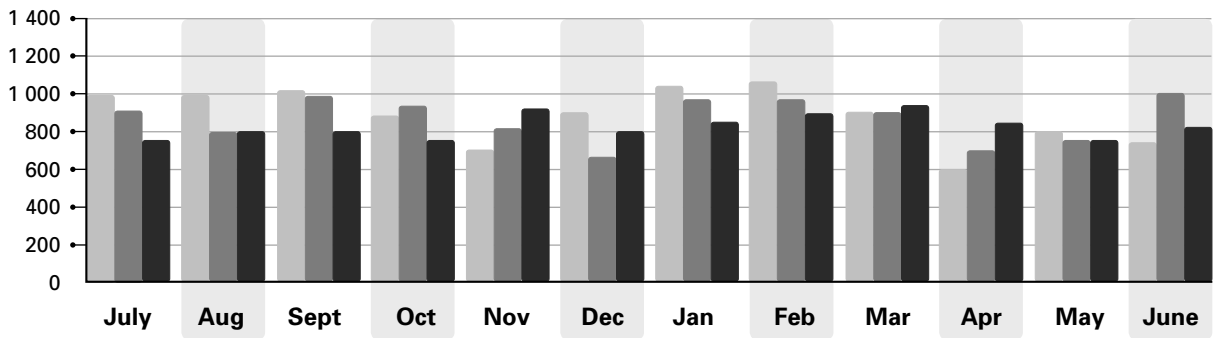


Outputs 2004-2005

022

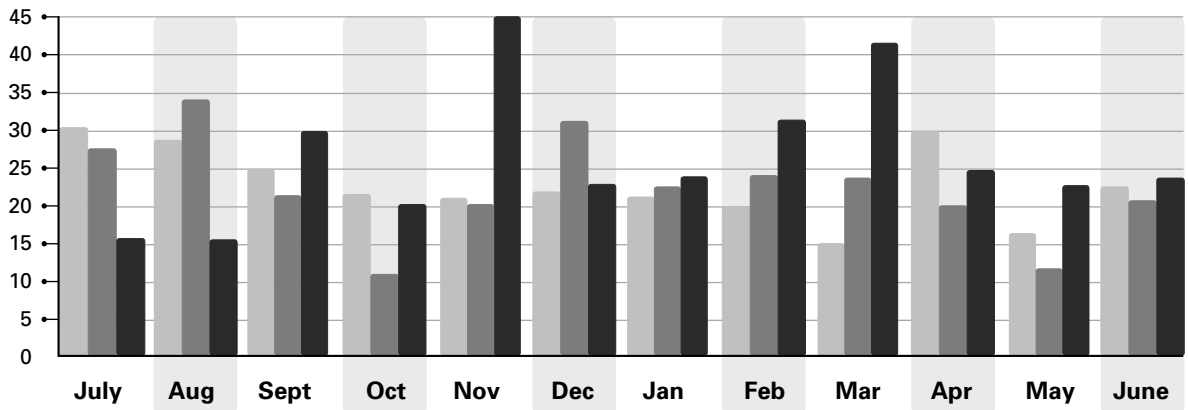
Duty Solicitor Services 1 July to 30 June inclusive

9 998 duty solicitor services were provided this year, a decrease of 565.



Child Representative Appointments 1 July to 30 June inclusive

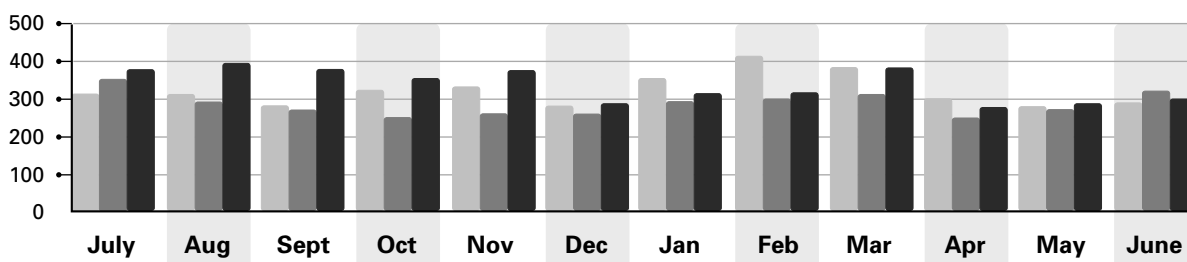
264 child representative appointments were made in the current year an increase of 56. This increase is partly due to the expansion of the Magellan Project.



Outputs 2004-2005

Child Support Unit Telephone Advice 1 July to 30 June inclusive

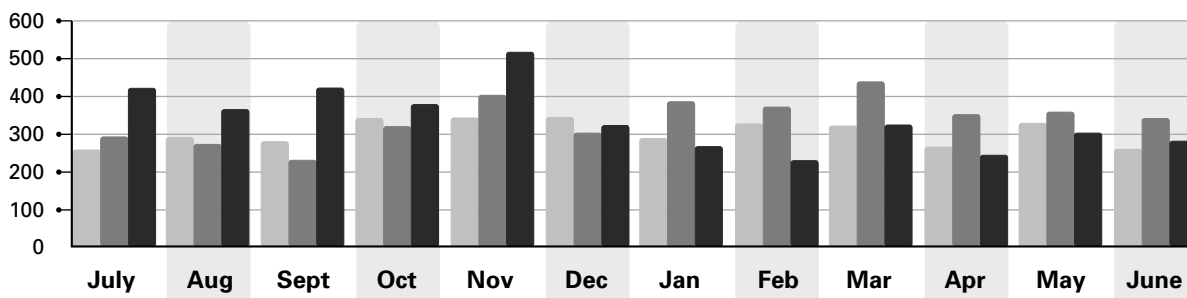
The Unit provided **4 055** telephone services this year. This represents an increase of **694**.



023

Child Support Unit Appointments 1 July to 30 June inclusive

The Unit provided **4 089** appointments this year. This represents an increase of **6**.



Outputs 2004-2005

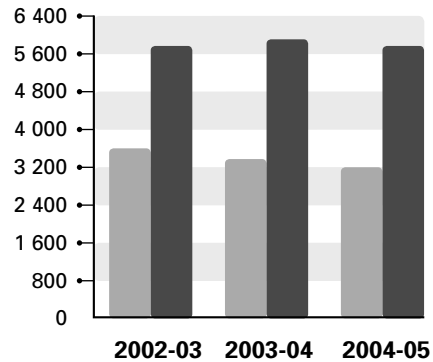
Grants of Aid by Matter & Representation Type

024

Criminal Law

1 July to 30 June

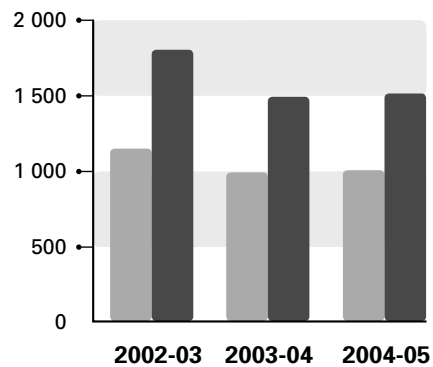
Of the **8 936** grants of aid in criminal law matters **3 287** were represented by the in-house practice and **5 649** were represented by private practitioners.



Family Law

1 July to 30 June

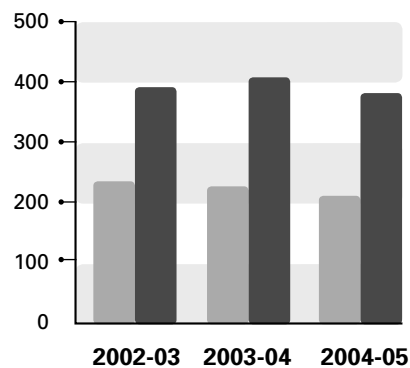
Of the **2 553** grants of aid in family law matters **1 002** were represented by the in-house practice and **1 551** were represented by private practitioners.



Civil Law

1 July to 30 June

Of the **568** grants of aid in civil law matters **206** were represented by the in-house practice and **362** were represented by private practitioners.



Key In House Private Practitioner

Our Clients

The Commission is committed to providing clients with accessible information, advice and representation to meet their legal needs. The Legal Services Commission of South Australia recognizes our organization's role in ensuring that people have equal access to justice within the legal system. The two tables below record the gender and ethnicity of the Commission client base. The Commission also collects information on disability in our nationally mandated Legal Aid database, LA Office. These statistics do not record every client who has a disability. The data base relies on self identification of clients in receipt of a disability

support allowance or whose assistance related to a disability specific problem. Table 3 provides data on our services to clients in receipt of a disability allowance. The data collected assists the Commission in targeting our services to those most in need.

Since 1993 the Commission has employed a Client Relations Coordinator to assist clients in their dealings with the Commission.

The Commission provided 119 586 direct client services in 2004-2005.

The coordinator dealt with 737 (0.6% of services) complaints this year. The chief source of complaints related to refusals

and entitlement to aid and in particular in Family Law matters. This is not surprising given the nature of the legal issues and the application of funding caps required by the Commonwealth/ State funding agreement.

In the 2003-2004 financial year we noted that complaints referred to the Commission from Members of Parliament and the Ombudsman had increased substantially.

In 2004-2005 this trend has reversed and these complaints reduced by approximately fifty per cent.

The client relations contacts are outlined in detail in **Appendix 8**.

Services by Gender and Law Type

Gender	Grants of Aid			Appointment Advice Services			Duty Solicitor Services
	Criminal	Family	Civil	Criminal	Family	Civil	
Male	7 527	910	276	2 595	5 732	9 598	8 024
Female	1 409	1 508	277	1 027	9 520	5 517	1 808
Other*	Nil	135	79	36	172	88	110
Total	8 936	2 553	632	3 658	15 424	15 203	9 942**

*Other category denotes there is more than one party involved in the matter.

**Duty solicitors provided 9 998 services in total, 56 services related to family or civil law matters.

Services by Client Origin

Country of birth	Grants of Aid	Advice Services	Number
Not collected	nil	12 746*	1 769
Not stated	1 083	3 115	810
Born in Australia	8 758	9 466	5 950
Indigenous Australians	877	260	480
English speaking country	633	1 139	386
Non-English speaking country	706	7 559	603
Total	12 057	34 285	9 998

*This number is rather high and will be monitored over the next 12 months.

Clients in receipt of a disability allowance accessed the following services this year:

Type of services	Number
Duty lawyer	1 230
Appointment advice	2 317
Legal aid grants	1 638
Total	5 185

Human Resources

026

The Human Resources Branch continues to liaise closely with agencies in the Justice Portfolio about Government initiatives in employment related matters.

A collaborative approach is taken to managing diversity—particularly indigenous employment and disability planning—and to staff training and development.

A series of workshops was held throughout the year to consolidate both staff and management requirements about staff safety and client interaction. Support programs have been put in place to address identified needs.

This year the Commission elected to rescind its Enterprise Bargaining Agreement.

This allowed the Commission to actively join with the public sector in Enterprise Bargaining negotiations. The Commission now enjoys congruent salary increase implementation with the public sector while, at the same time, ensuring that it can adopt like terms and conditions of employment by being party to the South Australian Government (Public Sector Salaried Employees) Salaries Interim Award 2004.

Our Staff

Staff are based at the Commission's offices in Adelaide, (Head Office), Elizabeth, Holden Hill, Noarlunga, Port Adelaide and Whyalla and at the Commission's offices in the Youth Court and the Adelaide Magistrate's Court.

The information below provides a profile of the workforce for the year:

Status of Employees in current position

Persons	Ongoing	Short-term Contracts	Long-term Contracts	Casual	Total
Female	98	26	4	2	130
Male	31	9	6	3	49
TOTAL	129	35	10	5	179
FTE's	Ongoing	Short-term Contracts	Long-term Contracts	Casual	Total
Female	88.53	21.7	4	0.41	114.64
Male	30.2	9.9	6	1.3	47.4
TOTAL	118.73	31.6	10	1.71	162.04

As at 30 June 2005 the Commission employed 179 staff, equating to 162.04 full time equivalent staff members This includes 3 trainees and 4 indigenous cadets

Of the 179 staff employed by the Commission on 30 June 2005:

- 72% are ongoing employees
- 25% are on contract
- 3% are casual.
- 73% of employees are female (a 3% decrease from the previous year).
- 27% are male.

Staff on contract arrangements are engaged primarily for short-term special projects or to replace ongoing employees on extended leave.

Number of Employees by salary bracket

Salary Bracket	Male	Female	Total
\$0 - \$38 599	6	60	66
\$38 600 - \$49 999	9	36	45
\$50 000 - \$65 999	9	19	28
\$66 000 - \$85 999	15	10	25
\$86 000+	10	5	15
TOTAL	49	130	179

Number of Executives by status in current position

Classification	Tenured	
	Male	Female
TOTAL	6	1

Legal and para-legal staff make up the four top salary groups.

Leave management

Leave Type	2001-2002	2002-2003	2003-2004	2004-2005
Sick Leave	7.6	7.9	9.38	7.4
Carer's Leave	0.1	0.2	0.36	.23
Special Leave	N/A	N/A	1.21	1.32

In this financial year a total of 9 684.60 hours (or 1 291.28 days) sick/carers leave was taken, equating to an average of 7.6 days of sick/carers leave per person. This figure compares favourably to previous years—in particular to last year when a higher than average amount of sick/carers leave resulted from long term illness experienced by some Commission employees.

Human Resources

Workforce diversity

Age Profile

Age Bracket	Male	Female	Total	% of Total	Public Sector %	South Australian Workforce %
15-19	1	3	4	2.2	0.7	7.3
20-24	3	7	10	5.6	5.3	10.7
25-29	4	17	21	11.7	9.0	10.2
30-34	4	14	18	10.1	9.9	11.2
35-39	3	14	17	9.5	11.4	11.4
40-44	8	20	28	15.6	15.0	13.3
45-49	9	21	30	16.8	18.1	12.0
50-54	9	18	27	15.1	16.4	10.7
55-59	7	11	18	10.1	10.1	7.7
60-64	1	4	5	2.8	3.3	3.5
65+	0	1	1	0.5	0.8	2.0
Total	49	130	179	100	100	100

The Commission's age profile is consistent with the age profile across the SA public sector (SAPS) – the greater concentration of staff is in the age 40-59 groups (LSC 57.6%, SAPS 59.6%).

The age profile for the SAPS differs from the South Australian workforce in that the percentile for this age grouping in the SA workforce is lower (43.7%), while the percentile for the 15-24 age grouping is higher (18% SA workforce, 7.8% LSC, 6.0% SAPS).

Indigenous Employees

	Male	Female	Total	%
Aboriginal/Torres Strait Islander	2	6	8	4.47%

The Commission has continued to focus on the recruitment and retention of indigenous employees as part of its diversity program. The figure of 4.47% indigenous employees compares favourably with the SA Public Sector 2% benchmark.

“ *My placement, under the National Indigenous Cadetship Project, with Legal Services Commission of South Australia has been a successful step from studying and doing work experience into full employment.*

During my final week of the placement, I was fortunate to be offered a full time position at the Commission as a Telephone Legal Advisor, and am enjoying the experience that I am gaining everyday in this employment. ”

Report on Cadetship placement from Yanji Robson-McInerney

Cultural and linguistic diversity

	Male	Female	Total	% of Total	South Australian Community
Number of employees born overseas	3	11	14	8%	20.3%
Number of employees who speak a language other than English	3	6	9	5.3%	15.5%
Total	6	17	25		

8% of Commission employees were born overseas and 5.3% of employees speak a language other than English. Some languages spoken by staff include Tagalog, Mandarin, Hokkien, Greek, Italian, Hungarian, French, Polish, Tamil and Bahasa Malaysia.

029

Voluntary Flexible Working Arrangement

Classification	Tenured		Total
	Male	Female	
Fexitime	12	87	99
Purchased leave	0	1	1
Compressed weeks	2	2	4
Part time	5	45	50
Working from home	0	0	0

The Commission strongly supports Voluntary Flexible Working Arrangements that balance both work and family life. Of the Commission's employees, 28% work on a part-time basis.

All applications for flexible work arrangements are given reasoned consideration by senior management.

Training and Development

In addition to extensive collaboration with other agencies in the Justice Portfolio in training and development programs, the Commission has supported the attendance of staff at selected external training activities.

Training initiatives this year are:

- All staff attended a workshop on Appropriate Workplace Behaviour
- All staff attended a Workshop on Personal Safety and Commission security.
- 17 staff members attended a seminar on Indigenous history and European settlement.
- All OHSW representatives attended essential training in office safety
- Central Records staff were trained in manual handling procedures.

Training expenditure as a percentage of total remuneration expenditure by salary bands

Salary Bracket	ACTUAL 03/04	ACTUAL 04/05
\$0 - \$38 000	12%	12%
\$38 001 - \$49 000	30%	12%
\$49 001 - \$64 000	10%	12%
\$64 001 - \$83 000	31%	12%
\$83 001	17%	12%
TOTAL	100%	100%

Human Resources

030

Fraud

The Commission continues to monitor its policies and staff have acknowledged the State Government Code of Conduct booklet incorporating the Statutes Amendment (Honesty and Accountability in Government) Act requirements.

No cases of fraud were investigated this year.

Overseas Travel.

No staff travelled overseas this year.

Occupational Health Safety and Injury Management.

The Commission's OHSW Committee met as scheduled throughout the year.

The Commission's OHSW representatives, with the cooperation of all staff, have ensured that the standard of safety in the Commission meets WorkCover requirements.

**The Commission is not an SA Government exempt employer. It is self insured and pays an annual workers compensation premium from which costs are met by a private insurer.*

In 2004/5 the Commission paid a workers compensation premium of 0.408% (\$37 440) total salaries.

Occupational Health, Safety & Injury management	2004-2005
1. OHS legislative requirements	
• Number of notifiable occurrences pursuant to OHS&W Regulations Division 6.6	Nil
• Number of notifiable injuries pursuant to OHS&W Regulations Division 6.6	Nil
• Number of notices served pursuant to OHS&W Act s35, s39, and s40	1
2. Injury Management legislative requirements	
• Total number of employees who participated in the rehabilitation program	3
• Total number of employees rehabilitated and reassigned to alternative duties	3
• Total number of employees rehabilitated back to their original work	3
3. WorkCover Action Limits	
• Number of open claims as at 30 June	5
• Percentage of workers compensation expenditure over gross annual remuneration	*
4. Number of claims	
• Number of new workers compensation claims in the financial year	7
• Number of fatalities, lost time injuries, medical treatment only	Nil 4 3
• Total number of whole working days lost	33
5. Cost of workers compensation	
• Cost of new claims for financial year	*
• Cost of all claims excluding lump sum payments	*
• Amount paid for lump sum payments: s42 s43 s44	*
• Total amount recovered from external sources (s54)	Nil
• Budget allocation for workers compensation	*
6. Trends	
• Injury frequency rate for new lost-time injury/disease for each million hours worked	
• Most frequent cause (mechanism) of injury	Overuse injury
• Most expensive cause (mechanism) of injury	Overuse injury
7. Meeting the organisation's strategic targets	

Our Services

Legal representation is provided by private legal practitioners, providing their services within legal aid fee scales at discounted rates (compared to Court scales), and by the Commission's in-house practice.

Grant guidelines and funding caps

The State and Commonwealth funding agreement for the delivery of legal services in Commonwealth matters was executed in April 2005. There are some changes to the guidelines for Commonwealth law matters. Funding caps in both State and Commonwealth matters were increased during this year. These changes can be viewed under the Practitioners Guide on the Commission website: www.lsc.sa.gov.au

The Criminal Law (Legal Representation) Act 2001 requires the Commission to provide legal assistance to persons charged with a serious offence subject to the qualifications contained in section 6 of the Act. The Commission is required to enter into a funding agreement with the State government for re-imbusement of costs beyond the funding cap. **A copy of the current agreement is contained in Appendix 10.**

Recovery of legal costs by statutory charge

Costs secured analysis

To secure repayment of legal costs by grant recipients having assets in the form of real estate, the Commission has, since 1 July 1992, taken statutory charges over real estate where the costs of a matter have exceeded a threshold amount. The threshold for taking a

statutory charge was increased to \$1 300 in January 2003. This means that once an applicant's legal costs exceed \$1 300 a charge will be taken over the applicant's real estate to secure their legal costs.

The Commission has taken **2 496** Statutory Charges (in the amount of **\$7 377 818** excluding GST) over client's real estate to 30 June 2005. **228** charges were taken this year.

803 of these charges securing **\$3 507 605** (excluding GST) remain outstanding. An average of **\$4 368** is secured by each charge.

Of the total charges outstanding **650** secure funds for legal proceedings which have finalised or are no longer funded by the Commission. The balance of **153** secure costs of ongoing matters, therefore the costs secured by these matters will increase.

Of the charges taken in the reporting period, **122** were taken for aid granted to male applicants and **106** were taken for aid granted to female applicants.

57 charges were taken for criminal law matters, **166** were taken for family law matters and **5** charges were taken in civil matters. **168** charges related to proceedings under Commonwealth law and **60** related to proceedings under State law.

Our services

Money recovered analysis

1 693 of the 2 496 charges taken since 1 July 1992 have now been removed. The Commission has received \$4 460 567 from payments and legal fees necessary to remove the charge. In the reporting period 210 charges were removed.

Representation by private practitioners

The input of private lawyers in the legal aid system continues to be substantial. Of the 15 395 applications for aid received by the Commission in 2004-2005, 7 307 (47%) were lodged by private practitioners on behalf of their clients. These applications are known as 'claimed' applications because the client has nominated the solicitor of their choice. If approved, claimed applications in which a private practitioner is nominated are in most cases referred back to that practitioner. Those applications in which a solicitor from the Commission's in-house practice is nominated are in most cases assigned to that in-house solicitor.

Applications in which no solicitor is nominated ('unclaimed' applications) are, if approved, assigned to the in-house practice. If there is conflict or other reasons apply they are assigned to a private practitioner.



Peter Haskett, Deputy Director.

Of the 12 057 applications for aid that were approved this year, 7 562 (63%) of legal aid grants were assigned to private lawyers, and 4 495 (37%) to the in-house practice.

Fee scale payments to private practitioners.

As in previous years fee scales were again the subject of consultation with the Law Society. During the year the Commission approved a fee scale increase across jurisdictions effective as and from 1 September 2004.

Criminal law in-house practice

The criminal law in-house practice provides eligibility tested representation, free duty solicitor services in Adelaide, metropolitan and some country Magistrates Courts and the Youth Court, a free after hours custody advice service, a free prison advisory service, and an eligibility tested youth legal service. The in-house practice also provides expert advice on criminal matters to the Access Services and Assignments programs, and is a major contributor to the Commission's publications and community education programs.

Representation

The Commission's in-house criminal practice, at its Adelaide and regional offices, acted for 37% of people who received legal aid for representation in the State's criminal courts, at all levels from the Youth Court to the Court of Criminal Appeal. The service extends from representation at police interview (through the after hours custody answering service), to advice and representation through committal, trial, sentence, appeal and appearances before the Parole Board.

Duty solicitor service

In-house practitioners provide free legal advice and minor initial representation (for remand, bail and simple pleas) to people on their first appearance in court on criminal charges. The Commission's Adelaide and regional offices provide this service in the Magistrates Court and the Youth Court. **Appendix 6 contains further details**

Prison advisory service

Free advice services are provided to prisoners in metropolitan and country prisons by in-house criminal law solicitors from the Adelaide and Whyalla offices.



Tim Blake, Duty Solicitor.

After hours answering service

The service offers free legal advice to people in police custody outside ordinary working hours. The after hours service is provided voluntarily by in-house criminal law solicitors and by solicitors from other sections of the Commission.

The Youth Legal service

This service provides representation to children appearing on criminal charges and involved in children's protection applications in the Adelaide Youth Court. The Commission is the major provider of such services in the State, using its own specialist criminal lawyers for representation for criminal charges.

The Commission also funds legal representation by private practitioners and its own counsel in children's protection applications.

Criminal law in-house practice

Involvement with other agencies

The in-house practice liaises regularly with

- the court system through membership of the Adelaide Magistrates Court Users Group and the Criminal Court Committee
- the Intellectually Disabled Services Council, to improve after hours services to the intellectually disabled by both organisations
- the Aboriginal Legal Rights Movement, providing a back up role in cases of conflict

The Manager, Criminal Law Practice has met with the Magistrate managing each regional court. Issues relating to court procedures and the Commission's provision of services were discussed.

Drug Court

The Drug Court now receives recurrent funding from the State Government.

This Court enables a client whose offending behaviour is related to a drug addiction to enter a plea of guilty and the sentencing is suspended pending participation by the client in a drug rehabilitation program.

Diversion Court

Although not specifically funded to do so, the Criminal Law Practice Division provided a solicitor to the Magistrates Court Diversion Program at its weekly sittings. The program aims to provide offenders with an intellectual disability or suffering from a mental illness, with an alternative means of resolving their criminal charges. Participation in the program is directed towards assessment and treatment of their illness or disability rather than having criminal sanctions imposed. The example below highlights the work of the court:

Remand Rates

The staff of the division have been involved in special projects to reduce the high remand rate in custody in South Australia.

A man was charged with drink driving and multiple offences of driving whilst disqualified over a 3 month period in early 2004. The offences breached a suspended sentence. The lawyer arranged for this case to be transferred to the Diversion Court because his client had suffered a frontal lobe injury many years ago and this had affected his ability to plan and to solve problems. A licence disqualification until further order made in 1995 had made life very difficult for him as he lived in a country region and worked at various farming properties as a diesel mechanic. He had applied to a court to have the disqualification lifted and attended a Driver Assessment Clinic which cleared him of alcoholism. His application was unsuccessful and he was told he had to wait until 2006 before he could apply again. Being frustrated about this and seeing no way out of his situation he began to drink heavily again and embarked on a spree of driving offences.

After working with the Diversion Program staff he cut down on his drinking, obtained employment as a caretaker in a mechanical workshop where he was able to live on site so had no need to drive. At the conclusion of the program the prosecutor and the magistrate congratulated him and released him on a bond with a minimum licence disqualification.

Family law in-house practice

The Commission's family lawyers, at its Adelaide and Regional Offices, provide advice and representation to people who qualify for legal aid in family law matters. The practice also provides specialist advice on child support through the Child Support Unit. In addition, the PDR Unit and the Commission's child and family counsellors provide family law conferencing and general PDR services to clients. Meetings of all staff in the Family Law Practice Division, including those in the regional offices, are held each month.

Child Support Unit

The Commission's specialist Child Support Unit provides assistance in all child support matters through telephone advice, community education, limited assistance and representation in court, and outreach services to suburban and country areas. The Unit has continued to provide services in Stage 1 (pre-child support scheme) maintenance matters, a service which was previously handled by the Maintenance Branch of Department of Family and Youth Services. The Unit also assists in providing family law and child support advice services to the major male and female prisons on a weekly basis.

Separate representation

The Commission accepted 322 orders for the appointment of a child representative this, compared with 266 in the previous financial year.

Project Magellan

Project Magellan is an initiative of the Family Court to improve the case management of disputes in which serious child abuse allegations have been made. The Project has been introduced Australia wide and has been running in the Adelaide Registry since July 2003. The role of the Commission is crucial in that child representatives are appointed by the Court in every case, and the Commonwealth Attorney-General has specifically waived the application of the Commonwealth Funding Cap for parties in receipt of legal assistance. In the first year of operations, 22 cases were included in the Project.

The initial indications are that the Project has been successful in a quicker resolution of these difficult matters and a reduction in legal costs for the parties and the Commission.

Year	Both parties aided	One party aided	No party aided
2004-2005	30.2%	34.8%	35.0%
2003-2004	29.0%	39.0%	32.0%
2002-2003	34.4%	41%	24.6%
2001-2002	37.8%	38.8%	23.4%
2000-2001	32.2%	38.8%	29.0%

**Of an estimated 662 parties in child representative matters, 315 (or 47.6%) are in receipt of legal aid at the time the child representative is appointed. The figures for the last four financial years have been 48.5% (2003-2004), 54.9% (2002-2003), 55.7% (2001-2002) and 51.6% (2000-2001).*

64% of child representative appointments were undertaken by Commission lawyers and 36% by the private profession on a legal aid assignment.

Family law in-house practice

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Janet Roche, Solicitor, The Family Court.

Liaison

The in-house practice engages in regular liaison with other sections of the Commission dealing with family law issues –

- Access Services (joint seminars, training programs and provision of speakers for in-house and external sessions, general assistance).
- Assignments (funding conferences, fee scale reviews and attendances at Adelaide and regional assignments meetings).

External liaison involved the following organisations-

- Interstate legal aid commissions –the National Family Law Working Group. This group met in Adelaide for two days in February 2004.
- The Family Court- regular meetings with Judges and Court staff, representation on a number of the Court's committees e.g. the Cultural Diversity Consultative Panel and the Community Reference Panel and provision of training sessions to Court staff.
- The Child Support Agency Regional Legal Forum and the Child Support Registrar's Regional Advisory Panel- involving representatives from the Child Support Agency, Centrelink, Community Legal Centres, the Family Court, the Law Society and other community groups.
- The Law Society- through Family Law Section membership and the supervision on placement of Law Society Practical Legal Training students.
- The SA Pathways Network- a collaboration of the major service providers in the area of family law.

Access Services Program

The Access Services Program complements the Legal Representation Program in assisting people in the early clarification or resolution of their legal problems. The Commission recognises that access to the justice system at the earliest possible instance is of critical importance for people experiencing legal problems.

This program is an early intervention strategy and accessible to all South Australians.



Face to Face advice.

Free legal advice, information and referral services are provided by legal and paralegal staff by telephone or appointment interviews.

Financial counsellors from UnitingCare Wesley, Bowden provide free financial advice to clients at Commission offices.

Over 100 000 advice services were provided by Commission staff in the last year.

Appointment advice services

People seeking legal advice may arrange an appointment for a free 30-minute interview with an adviser at any Commission office.

Advice staff provide general legal advice, as well as specialist advice in areas of high demand. Specialist advice is given in domestic violence, disability discrimination, Centrelink and migration

matters. Our specialist domestic violence worker received a thank you letter from a grateful client that summarized well the time, commitment and expertise that our clients benefit from by providing specialist services.

I am deeply grateful for you being on my side, for your helpful comments as we walked down the LSC corridors, for letting my father come along too, for your perseverance and for the time you've put into a complicated case.

Whilst attending for specialist advice on migration matters, it is not uncommon for advisers to assist clients with other legal issues that arise due to their unfamiliarity with the Australian legal system. The example that follows highlights this issue:

Access services

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A client from Afghanistan who arrived in Australia as a young unaccompanied man, was immersed in a financial mess. He borrowed \$10,000 as a personal loan to send money to his family in Afghanistan who was in dire straits, and he had no real ability to repay the money. To make matters worse, he had to cope with the death of his mother, and then the loss of a job. He had also bought a \$20,000 car which was subsequently torched by offenders and written off. The insurance company refused to pay, citing undisclosed traffic offences. We assisted the client through our minor assistance program to write to the insurance company and to prepare statutory declarations citing his version of events. We also helped him with an Freedom of Information application to the police which showed that the traffic offences in question had not been notified to the client at the time he took out his policy. The result - the insurance company completely reversed their decision on coverage and have paid out just over \$20,000. This just covers all of the client's debts and wipes his slate clean. A positive decision is also expected soon on his PPV application, so the client will have a real chance to establish a permanent, stable life in Australia.

Advisers regularly visit metropolitan prisons to provide information and advice to inmates on family law and child support. In the two years since this project began well over a thousand interviews and many information sessions have been provided to both prisoners and prison staff. This is difficult and demanding work to try to assist prisoners within the confines of the prison system, with frustrations such as sudden releases or lockdowns. Nevertheless the service is very much appreciated by prisoners who very often have complex family law issues arising due to their incarceration.

Where a client cannot access alternative sources of help and has special needs, assistance may involve more than one appointment and include negotiations, document preparation and advice on self representation.

The note below expresses the issues often encountered by clients who are self representing.

This is a little note to thank you for your care and attention and concern for me, in my recent troubles. I took your advice when we last talked and later that day visited the Magistrates Court to sit in for a while and see how it operated; so as to make it a little less traumatic on the day of my case. I am so glad I did so, as everyone was so cordial to me, and though I was surprised as to the speed and efficiency the cases were handled. So it was a very good idea to do this.

On the day, I toddled up when my name was called and the Magistrate read your letter and allowed me to say a few words. So I said to him, that I would give anything to be able to go back to that terrible day and change the course of events, but the reality was it happened. And no matter what punishment he would decide for me it would be nothing, compared to the embarrassment, shame and guilt that I would carry with me for the rest of my life. I assured him, that with all due respect, he and I would never again meet in this setting.

Access services

The Commission has a commitment to provide its services to people in regional, rural and remote areas of South Australia. The telephone advice service is particularly valuable for these clients.

Advisers deliver outreach services to country districts. Advice appointments are provided to country areas of greatest demand, by either face-to-face appointments when advisers visit the region, or by telephone advice appointments. In the last year advisers attended regularly at Murray Bridge to provide face to face appointments.

Video conferencing is an effective and accessible tool for the provision of advice for professionals and members of the public. As a result of Justice Portfolio initiatives designed to increase efficiencies in the courts, the Commission's video conferencing facilities have been upgraded to improve this service.



Sarah Hender.

Telephone advice services

The Commission provides a Legal Help Line designed to provide brief, simple legal information and advice on all areas of law applicable in South Australia. The service is at the cost of a local call for country callers.

On average, six advisers are rostered to the advice line at any time. The advice line operates from 9:00a.m to 4:30p.m, Monday to Friday. The telephone queue is limited to five callers, with a waiting time message facility.

A Commonwealth Government Regional Law Hotline service is also directed to our Legal Help Line. This service provides more detailed legal advice to callers from regional areas of the State.

PSA Legal Expenses Scheme

Since 1991 the Commission has been responsible for the provision of a telephone legal advice and referral line to members of the Public Service Association of South Australia.

This fully funded, unique service operates efficiently and cost effectively, enabling members of the union access to advice and other services as required, subject to eligibility criteria established by the Association. The scheme is dispute based and has a high resolution rate at the first point of contact.

Community Legal Education

A total of 7 480 people attended the Commission's courses and information sessions in 2004-05. This has been an exceptional year with two special projects outlined in 'The Year in Review' chapter of this report. Our significant community involvement in the form of consultations, seminars and talks over metropolitan and rural South Australia are outlined in Appendix 7.

Law for Community Workers

An accredited component of the TAFE Certificate in Justice Studies, this course is conducted by staff from the Commission at the Adelaide TAFE College in weekly two-hour sessions over two semesters in a calendar year. The course uses videoconference mode to reach country students. The demand for enrolment this year exceeded capacity. The 2005 course enrolled 52 students including 15 indigenous students and 15 culturally and linguistically diverse students. The videoconference sites are located at Ceduna, Mount Gambier, Port Augusta, Noarlunga, Port Pirie, Murray Bridge and Whyalla with the rest attending in Adelaide.

Family Law Information Seminars

Family Law Information sessions are regularly presented at the Adelaide Campus of TAFESA and broadcast via TAFE videoconferencing facilities to 19 metropolitan, rural and remote sites around South Australia. The Justice Studies Department of TAFESA generously provides the use of these videoconferencing facilities as a community service.

Fresh FM Radio

In August 2004, the Commission commenced a regular appearance on Fresh FM radio to promote legal issues and services to young people. The programs presented on a fortnightly basis, cover a wide range of topics relevant to young people, including drugs and alcohol, drink driving and motor vehicle accidents, tattooing and body piercing, powers of bouncers and security guards, drug testing in schools and the legal issues associated with share households, joint tenants and sub-tenants.



Law for Community Workers course, Adelaide student class 2004.

Staff Development

Staff from the Commission, Community Legal Centres and Aboriginal Legal Rights Movement participated in monthly training sessions.

Regular training sessions are held for staff and other community groups on issues such as Domestic Violence, updates on Family Law, the Guardianship Board and the role of the Public Advocate, an Introduction to Muslims in SA and Sharia law and an update on recent changes to Bankruptcy Law.

The National Community Legal Centres Conference was held in Adelaide in August 2004. Staff of the Commission attended the conference, both as presenters and participants.

Staff from the Commission attended the 'Tracking Your Rights' seminar given by the Equal Opportunity Commission. This seminar is designed to raise the cultural awareness of participants with regard to Aboriginal clients and enhance their knowledge of equal opportunity law.

Consultancy Services

Consultancy services in legal training tailored to the specific needs of the organisation are provided on request on a fee for service basis by staff with specialist skills.

Three large consultancies occurred this year

- A staff member working on the Law Handbook Online project was invited to provide information to visiting Indonesian officials on the logistics, advantages and disadvantages of providing an online Law Handbook. The venue for the session was Fitzroy Community Legal Centre, Melbourne. Expenses were met by AUSAID. Very positive feedback on the presentation was received from the visit co-ordinator.
- The Commission was approached to deliver a lecture/workshop on the topic of Privacy and Confidentiality for staff from organisations funded by the Department of Immigration and Indigenous Affairs under the Integrated Humanitarian Settlement Services Program.
- Boards, Roles & Responsibilities was presented to Community Legal Centres. Corporate governance training sessions, tailored to the specific needs of each community legal centre, were presented over a six month period. Feedback has been very positive. This consultancy is funded by the South Australian Attorney General's Department.

Web Services Report

During this year the Legal Services Commission site www.lsc.sa.gov.au was improved and updated.

The Law Handbook Online service was unavailable to the public for a short period. Safeguards have since been put in place to improve security of the site. A part-time Legal Education Officer (Web Content) was employed to assist with maintaining the legal content of the site.

The law handbook online service has been updated including new sections on drugs in schools and South Australian motor vehicle laws relating to 'hoon drivers' (misuse of motor vehicles, emitting excessive noise, impounding of vehicles).

Publications

This year saw the updating and redesign of brochures and booklets published by the Commission. All publications are available in hard copy form and can be downloaded from the Commission web site.

A new Family Law booklet, 'Untying the knots', the result of a National Legal Aid project to produce a common family law publication, has been released.

Library

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The library, run by a staff of two, is a much appreciated, valuable resource for staff practitioners and for private practitioners conducting a matter pursuant to a grant of legal aid.

The library resources, built up over the last twenty five years, have been kept up to date with the IT environment. Most collections of reports are now available on line. The library staff co ordinate access to these collections and provide short cuts and handy hints on the efficient use of such resources.

The focus this year has been on providing staff with easy access to resources, whether they be available on the Commissions' network or the internet. The library staff aim to anticipate user needs and provide access to materials which may be of interest as well as to provide materials which keep staff up-to-date with the latest developments in the legal field.



'Information at your fingertips.'

The collection of online subscriptions has been expanded to include several additional law report series and loose-leaf services, including the **South Australian State Reports, Commonwealth Law Reports, Federal Court Reports, Criminal Law SA, Expert Evidence, Federal Offences and Magistrates Court Practice SA.** All electronic library resources have been made available on the new Commission intranet, either through Resource Portals or through the Library Services page. Staff can email requests directly to the library staff from that page or can access the library's in-house databases.

New web-based software now provides all staff, including those at Regional Offices, with speedy access to the databases. User-friendly search screens have been added to facilitate searching. The library databases include

an extremely valuable database of SA Supreme Court headnotes, District Court matters and sentencing remarks dating back to 1988. Links to full text judgments where available have been added for the latter part of 2004 and the library staff will gradually link older decisions over the coming months. Other databases include the Library catalogue and journal articles database, an index of words and phrases judicially considered, and summaries of Administrative Appeals Tribunal decisions.

A major task for the library staff is the constant updating of materials available through the resource portals. Regular emails are now sent to staff advising of new legislative developments, notable cases, reports and articles. All staff find these emails very useful as a notification of legislative changes and an easy reference for research.

Information technology services

In today's business environment, there is an increased dependence on technology and automated systems. The continued operation of a business depends on the effective management of ICT (Information and Communications Technology) resources to ensure that business objectives are achieved and maintained. The Commission achieves this by developing and implementing the ICT Strategic Plan for 2004-09 and bestow the IT Section with the responsibility for the provision of IT services, ranging from PC desktop, application support and help desk services through to maintaining support of the infrastructure and IT systems training.



Bookmark of the Commission website and Law handbook.

ICT Strategic Plan 2004-09

ICT Strategic Plan 2004-09, in line with the business context of the Corporate Plan, was prepared for the Commission by Trilogy Information Solutions (International) Pty Ltd and the final version was presented to the Commission in August 2004.

The ICT Strategic plan has been developed within a framework of five major components of ICT service provision:

- Business processes and ICT Systems;
- Information Management;
- ICT Governance;
- ICT Services; and
- ICT Infrastructure.

The ICT Strategic Plan details the major ICT initiatives that need to be undertaken over the period 2004 to 2009.

The ICT Steering Committee was formed to oversee the implementation of the ICT Strategic Plan with the responsibility to ensure that all ICT projects meet the Commissions objectives.

Legal Aid Office

During the year, the Commission installed 1 full release and 6 corrective patch releases of LA Office. These releases incorporated changes to strengthen the stability of the software, resulting in improvement in system usability. Also the Database management system on which LA Office operates was upgraded to ensure continuation of support from the supplier.

Australian Total Legal Aid Solution (ATLAS)

The Commission continued to be involved with the refinement of the baseline and user evaluation processes of the replacement of the LA Office. The requirement specification for ATLAS was completed and Technology One costed the requirements. Due to the high costs to meet these requirements, the tender and project board for the ATLAS project have been put on hold while a range of options are being considered.

Information Technology Services

Law Diary

Enhancements to the Law Diary have been implemented to improve efficiency of use to enable better service to clients.

Finance Application

No major changes were performed, except for minor patch releases to assure the applications stability and effectiveness.

Payroll and HR Systems

Arrangements are in place to prepare the Commission to upgrade the current Payroll and HR system, CHRISFive to Chris²¹ and HR21.

PC Desktop Assets

As per the asset replacement plan, the Commission is organising to replace all its PC desktops.

Multifunctional Units

All units identified as part of the 3rd phase of the printer, copier and fax machine replacement, as per the asset replacement plan, were installed by December 2004.

Future ICT

Future ICT is the program name for the review of the South Australian Government's entire ICT environment, including existing across government ICT arrangements, with the intention of developing a sourcing strategy for the delivery of future ICT service operations. The initial focus is on the Government's largest contract – ITSSSED with EDS – and other related ICT services conducted by agencies.

The Manager IT is the Commission's representative on the ICT Transition Co-ordinators group. Preparations are taking place to ensure that if required the Commission is in readiness to transition. Transition would only occur with the approval of the Commission and will only be contemplated where the transition does not affect the independence of the Commission and is both effective and efficient from the Commission's perspective.

Manager, IT

In April the Commission appointed Mr Robert Zanin to the position of Manager, Information Technology. Robert came from Revenue SA and has been a welcome addition to the Management of the Commission.

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Legal Services Commission of South Australia

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Finance

2004-2005

045

Finance

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The Commission is funded by State and Commonwealth Governments. The State Government provides funding for State law related matters and State projects and the Commonwealth funds for Commonwealth law matters and projects. The Commonwealth Government entered into a new Commonwealth/State funding agreement in 2005. The Agreement was effective from 1 July 2004, but was not signed until 4 April 2005. The agreement is operational until to December 2008. Pursuant to the agreement the Commonwealth funds for annual service payments and provides additional funding for the provision of a primary dispute resolution service and funding for a family law duty solicitor service. It also provides funding for the provision of legal assistance in child support parent-carer matters. Child support stage one parent-carer matters are funded at a set amount until 2007-2008. All other funding is indexed each year by the factor used in the Australian Government annual budget process. The increased level of Commonwealth funding will allow the Commission to increase Commonwealth government services in 2005-2006 to meet current unmet needs within the constraints of the Commonwealth 'Priorities and Guidelines'.

The State Government provided separate funding for the Bodies in the

Barrels case. The funding was used for the defence legal teams. The State Government also provides funds for other approved State expensive cases that exceed the cap the Commission imposes on all cases. These State expensive cases are subject to a case management plan approved by the Attorney-General.

The Commission receives income from the Law Society pursuant to the Legal Practitioner's Act, 1981. The statutory interest on solicitors' trust accounts was higher than expected in the 2004-2005 year. This source of income is used for State law related matters.

The Commission self generates income from investments, legal case clients, education courses and other income generating initiatives.

The Commission achieved a consolidated operating surplus at the 30 June 2005 of \$2 489 920. The Commission had budgeted for a deficit in the 2004-2005 year, expenditure was close to budget at \$27 504 317. Revenue from solicitors' trust accounts pursuant to the Legal Practitioner's Act 1981 and funding from the Commonwealth Government received late in the financial year resulted in the large surplus.

The Commission expects to expend some of the Commonwealth surplus on additional services in the 2005-2006 and later years.

The Commission reports to the Commonwealth government on

sixteen separate outputs as outlined in Schedule 1, of the Commonwealth agreement. The Commission also provides five schedules to the Commonwealth containing statistical information. The Commonwealth reports are provided each quarter. The Commission is considered to be one output for State Government reporting purposes and the State Government receive a consolidated report of State and Commonwealth financial operations.

The Commission's cash reserve at 30 June 2005 was \$10 887 000. The Commission allocates the reserve into State and Commonwealth portions. Part of the cash reserves is committed to future liabilities and the uncommitted portion is used for future operating expenditure.

The following tables are enclosed:-

Table 1: Consolidated Outputs compared to budget

Table 2: Output allocations by State and Commonwealth responsibilities

Table 3: Commonwealth funding pursuant to the State/Commonwealth funding Agreement

Table 4: State Government funding

Table 5: Reserves and Commitment

Table 6: Cash budget projections 2005-2006 and 2006-2007

Table 7: Cash Financial Overview comparisons

Consolidated Outputs compared to Budget 2004-2005

Table 1

	June Actual	June Budget	% Variance
Income			
Statutory Interest	1 125 884	900 000	25.10
Interest on Solicitor's Trust Account	1 352 500	900 000	50.28
Excess Guarantee Fund	32 306	0	100.00
Interest on Investments	609 267	514 970	18.31
Contributions – In house	142 863	172 470	-17.17
Costs Recovered – In house & referred	54 709	72 000	-24.02
Government Grants – Commonwealth	11 951 700	11 527 830	3.68
Commonwealth Grants – Duty Solicitor Services	310 000	0	100.00
Commonwealth Grants – Primary Dispute	310 000	310 000	0.00
Child Support Stage 1 Parent Carer's matters	356 610	356 610	0.00
Government Grants – State	10 962 000	10 831 000	1.21
Other Income	567 972	383 370	48.15
Statutory Charges	948 858	750 000	26.51
State expensive case – Bodies in the Barrels	654 945	0	100.00
State expensive case – Other	564 623	0	100.00
Telephone Advisor – Regional Hotline	50 000	50 000	0
Total Revenue from Ordinary Activities	29 994 237	26 768 250	12.05
Expenditure			
Assignments	1 385 646	1 398 145	-0.89
Private Practitioner Representation			
Criminal Law Services	6 182 478	5 727 070	7.95
Family Law Services	3 889 241	4 550 995	-14.54
Primary Dispute Resolution	152 075	0	100.00
Civil Law Services	440 283	461 360	-4.57
Civil Law – Veteran's Affairs	198 178	252 495	-21.51
Inhouse Representation			
Criminal Law Services	4 420 623	4 504 370	-1.86
Criminal Law Duty Solicitor Services	921 731	861 760	6.96
Family Law Services	2 467 085	2 457 255	0.40
Family Law Duty Solicitor Services	26 795	0	100.00
Primary Dispute Resolution	167 406	310 000	-46.00
Civil Law Services	255 327	291 085	-12.28
Child Support Services	1 247 423	1 304 910	-4.41
Telephone & Face to Face Advice	1 756 215	1 948 710	-9.88
Advice & Minor Assistance	1 149 437	1 071 705	7.25
Community Education Services	542 947	551 940	-1.63
Strategic Services	1 253 460	1 198 720	4.57
Operation of new chambers – six months	0	88 035	-100.00
Other Expenditure			
State Expensive case – Bodies in the Barrels	424 695	0	100.00
State Expensive case – Other	623 272	300 000	107.76
Total Expenses from Ordinary Activities	27 504 317	27 278 555	0.83
Operating Surplus/(Deficit) from Ordinary Activities	2 489 920	-510 305	-587.93

Income and Expenditure - Commonwealth and State by Output allocations as at 30 June 2005

Table 2

	June Actual	June Commonwealth	June State
Income			
Statutory Interest	1 125 884	0	1 125 884
Interest on Solicitor's Trust Account	1 352 500	0	1 352 500
Excess Guarantee Fund	32 306	0	32 306
Interest on Investments	609 267	276 361	332 906
Contributions - Inhouse	142 863	75 630	67 233
Costs Recovered – Inhouse & referred	54 709	15 451	39 258
Government Grants – Commonwealth	11 951 700	11 951 700	0
Commonwealth Grants – Duty Solicitor Service	310 000	310 000	0
Commonwealth Grants – Primary Dispute	310 000	310 000	0
Child Support Stage 1 Parent Carer's matters	356 610	356 610	0
Government Grants – State	10 962 000	0	10 962 000
Other Income	567 972	138 312	429 660
Statutory Charges	948 858	619 587	329 271
State expensive case – Bodies in the Barrels	654 945	0	654 945
State expensive case – Other	564 623	0	564 623
Telephone Advisor – Regional Hotline	50 000	50 000	0
Total Revenue from Ordinary Activities	29 994 237	14 103 651	15 890 586
Expenditure			
Assignments	1 385 646	581 467	804 179
Private Practitioner Representation			
Criminal Law Services	6 182 478	205 329	5 977 149
Family Law Services	3 889 241	3 888 506	735
Primary Dispute Resolution	152 075	152 075	0
Civil Law Services	440 283	10 452	429 831
Civil Law – Veteran's Affairs	198 178	198 178	0
Inhouse Representation			
Criminal Law Services	4 420 623	345 693	4 074 930
Criminal Law Duty Solicitor Services	921 731	18 435	903 296
Family Law Services	2 467 085	2 467 085	0
Family Law Duty Solicitor Services	26 795	26 795	0
Primary Dispute Resolution	167 406	167 406	0
Civil Law Services	255 327	32 601	222 726
Child Support Services	1 247 423	1 247 423	0
Telephone & Face to Face Advice	1 756 215	785 028	971 187
Advice & Minor Assistance	1 149 437	944 291	205 146
Community Education Services	542 947	271 473	271 474
Strategic Services	1 253 460	626 730	626 730
Other Expenditure			
State Expensive Cases – Bodies in the Barrels	424 695	0	424 695
State Expensive Cases – Other	623 272	0	623 272
Total Expenses from Ordinary Activities	27 504 317	11 968 967	15 535 350
Operating Surplus/(Deficit) from Ordinary Activities	2 489 920	2 134 684	355 236

Legal Services Commission of South Australia
Commonwealth Government Funding

Table 3

Financial Year	2000-2001 \$'000	2001-2002 \$'000	2002-2003 \$'000	2003-2004 \$'000	2004-2005 \$'000
Annual Funds	9 450	9 901	10 351	10 802	11 952

In addition the Commonwealth Government separately funded the following:-

	2004-2005 \$'000
Child Support Stage 1 Parent Carer's matters	357
Primary Dispute Resolution	310
Telephone Legal Advisor – Regional Hotline	310
Total Other Commonwealth Funding	977

Legal Services Commission of South Australia
State Government Funding

Table 4

Financial Year	1997-1998 \$'000	1998-1999 \$'000	1999-2000 \$'000	2000-2001 \$'000	2001-2002 \$'000	2002-2003 \$'000	2003-2004 \$'000	2004-2005 \$'000
Annual Funds	5 078	5 856	7 884	8 514	9 412	9 901	9 943	10 962

In addition the State Government separately funded the following:-

	2004-2005 \$'000
State Expensive Case – Bodies in the Barrels	655
State Expensive Case – West Lakes	565
Total Other State Funding	1 220

Legal Services Commission of South Australia
Reserves and Other Commitments

Table 5

Financial Year	\$State	\$ Commonwealth	\$ Total
Comprised of:			
Provision for Legal Commitment	2 025 000	1 052 000	3 077 000
Expensive Case Reserve	100 000	100 000	200 000
Long Service Leave Reserve	839 000	839 000	1 678 000
Legal Assistance Scheme Reserve	343 000	0	343 000
Asset Replacement Reserve	260 810	260 810	521 620
<i>Uncommitted Funds 30 June 2005</i>	<i>1 200 860</i>	<i>3 866 520</i>	<i>5 067 380</i>
Total Cash Reserves 30 June 2005	4 768 670	6 118 330	10 887 000

050

1. Provision for Legal Commitment

The Commission issues certificates of legal commitment for each matter approved for legal aid. The Commission has a future legal commitment of \$3 077 000 on legal matters referred to private practitioners; which are still to be finalised.

2. Expensive Case Reserves

The Commission establishes reserves each year to fund expensive cases that exceed the Commission guideline caps. In certain circumstances the Commission is required by legislation to fund cases that exceed the guideline caps. The Commonwealth reserve was not used in the 2004-2005 year and the State Government has established separate funding for approved expensive cases. The Commission has retained expensive case reserves of \$100,000 for each Government, for cases that may exceed the commission caps by a small amount and separate funding is not sought from either Government in those instances.

3. Long Service Leave Provisions

The Commission has a long service leave staff entitlement of \$1 678 000 at the 30th June 2005. The Commission is funded on purchaser/provider model by the Commonwealth Government and ensures sufficient reserves are held to cover both State and Commonwealth long service leave liabilities.

4. Legal Assistance Scheme Reserves

The Commission established a State Legal Assistance Reserve of \$389 000 in 2003-2004. During the course of the 2004-2005 year \$46 000 was expended from the reserve on Commissioner approved appeals. The reserve

was established by agreement with the Law Society of SA and will continue to be spent on State Law matters as determined in agreement with the Law Society of SA.

5. Asset Replacement Reserve

The Commission delayed planned expenditure on personal computers in the 2004-2005 year. Commissioners resolved to roll the balance of the unspent asset budget into a reserve at the 30 June 2005 for replacement of personal computers in the 2005-2006 year. The asset reserve of \$297 000 established at June 2004 was used to upgrade and extend the Adelaide office during 2004-2005.

6. Reserves held not committed

The finalisation of the Commonwealth funding agreement did not occur until the 31 March 2005. As a result the Commission delayed initiating some Commonwealth projects until funding was secured. The Commission received higher than budgeted funding from the Commonwealth Government in 2004-2005 and as a result held high levels of Commonwealth reserves at 30 June 2005. New Commonwealth projects were commenced late in 2004-2005 and some Commonwealth projects were expanded. The Commission expects to further develop Commonwealth projects in the 2005-2006 year, particularly in regional areas.

The Commission received higher than budgeted revenue from the Legal Practitioners Act sources. It is expected that these State reserves will be used in 2005-2006 meeting normal State law commitments.

Cash Draft Budget Outline 2005-2006 and 2006-2007

Table 6

	2005-2006			2006-2007		
	State \$'000	Commonwealth \$'000	Total \$'000	State \$'000	Commonwealth \$'000	Total \$'000
Cash Reserves B/Fwd 1 July	4 769	6 118	10 887	3 838	6 982	10 820
Receipts	14 435	14 358	28 793	14 760	14 681	29 441
Expenditure						
In-house representation	5 498	5 094	10 592	5 718	5 400	11 118
Private Practitioner representation	6 940	4 795	11 735	7 218	5 082	12 300
Advice & minor assistance	1 208	1 759	2 967	1 256	1 865	3 121
Community Education	267	267	534	278	278	555
Assignment services	791	557	1 348	823	590	1 413
Directorate	662	662	1 324	688	688	1 377
New Projection-Mediation centres	0	360	360	0	750	750
Total Expenditure	15 366	13 494	28 860	15 981	14 653	30 634
Cash Surplus/(Deficit)	-931	864	-67	-1 221	28	-1 193
Cash Reserves 30 June	3 838	6 982	10 820	2 617	7 010	9 627

At this stage the Commission is unable to accurately predict the cost of new commonwealth projects expected to be operational in the 2005-2006 and 2006-2007 years. Estimates included are possibly conservative, however forecasts at 30 June 2005 depict falling State reserves and rising Commonwealth reserves.

Schedule of Cash Financial overview as % of Total Expenditure

Table 7

Output	2002-2003	% Expenditure	2003-2004	% Expenditure	2004-2005	% Expenditure
Inhouse Practices	8 602 973	32.59	9 064 266	35.11	9 984 383	36.07
External Practices	10 751 600	40.73	10 793 994	41.81	11 735 987	43.04
Expensive Cases: Snowtown	2 514 557	9.53	1 143 983	4.43	494 776	1.81
Other	0	0.00	191 236	0.74	564 623	2.07
Legal Assistance Scheme	0	0.00	0	0.00	45 731	0.17
Access Service	2 763 674	10.47	3 085 632	11.95	3 239 691	11.88
Strategic Services	1 337 688	5.07	1 280 637	4.96	1 208 264	4.43
Capital Expenditure	426 247	1.61	259 076	1.00	310 120	1.14
Total Cash Expenditure	26 396 739	100.00	25 818 824	100.00	27 265 706	100.00

Legal Services Commission of South Australia

Notes to the Tables

Table 1

State Expensive cases – Bodies in the Barrels and Other State expensive cases, where a case management plan has been approved by the Attorney-General, are included in Income and Expenditure, but budgets are not established for these cases. Income was received from the State Government and payments made to the defence legal teams.

- *Income*

Legal Practitioner's Act, 1981 income in the form of Statutory Interest and on interest on Solicitor's Trust accounts were higher than budget expectations. Similarly, the finalisation of the Commonwealth/State funding agreement result in higher Commonwealth funding than the amounts anticipated in the budget.

- *Expenditure*

Overall expenditure was slightly below budget, if the Bodies in the Barrels and other expensive State cases are removed from total expenditure.

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Table 2

This report depicts Income and Expenditure attributed to State and Commonwealth responsibilities. The items highlighted are separately funded by State and Commonwealth Governments.

Table 3 and 4

These reports detail funding from State and Commonwealth Governments for normal legal activities, for the past and current year, and include funding received in 2004-2005 for specific projects and expensive cases.

Table 5

This table depicts the cash reserves that are committed to future liabilities and the uncommitted portion that will be used for future expenses.

Table 6

This table depicts the cash reserves brought forward to 2005-2006 year, the cash receipts and payments anticipated in the year and the cash reserves expected to be held at the 30 June 2006. The Commission notes that funding from the Commonwealth Government pursuant to the new Commonwealth/ State funding agreement is higher than anticipated. The higher level of funding will allow the Commission to provide services for current unmet need particularly in regional locations. The high level of projected Commonwealth reserves is expected to be utilised in providing additional Commonwealth services. The Commission is not able to accurately predict the cost of providing these additional services, at the time of preparing the annual report

Table 7

This table depicts the amount and % of expenditure on specific outputs. The tables are prepared to provide a comparison of growth between the services provided by the Commission.

Legal Services Commission of South Australia
Auditor General's Letter



**Auditor-General's
Department**

9th Floor State Administration Centre,
200 Victoria Square
Adelaide
South Australia 5000

Our Ref: A05/111

27 September 2005

Ms Dymphina Eszenyi
Chairperson
Legal Services Commission of South Australia
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ADELAIDE SA 5001

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DX 56208 Victoria Square

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Dear Ms Eszenyi

The audit of the accounts of the Legal Service Commission for the year ended 30 June 2005 has been completed.

The scope of the audit covered all principal areas of the Commission's financial operations and included an assessment of the overall control environment and test verification of the financial statements.

Matters arising during the course of the audit were detailed in a management letter in May 2005. The response to the management letter was considered to be satisfactory.

The assistance provided to audit staff during the course of the audit was greatly appreciated.

The financial statements for the Commission for the year ended 30 June 2005 are returned herewith together with my unqualified Independent Audit Report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K I MacPherson'.

K I MacPherson
AUDITOR-GENERAL

Enc

Legal Services Commission of South Australia
Independent Audit Report



Auditor-General's
Department

INDEPENDENT AUDIT REPORT

**TO THE CHAIRPERSON
LEGAL SERVICES COMMISSION OF SOUTH AUSTRALIA**

SCOPE

As required by section 31 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 of South Australia for the financial year ended 30 June 2005. The financial report comprises:

- A Statement of Financial Performance;
- A Statement of Financial Position;
- A Statement of Cash Flows;
- Notes to and forming part of the Financial Statements;
- Certificate by the Chairperson and the Finance Manager.

The members of the Legal Services Commission of South Australia are responsible for the financial report. I have conducted an independent audit of the financial report in order to express an opinion on it to the Chairperson.

The audit has been conducted in accordance with the requirements of the *Public Finance and Audit Act 1987* and Australian Auditing and Assurance Standards to provide reasonable assurance whether the financial report is free of material misstatement.

Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with Treasurer's Instructions promulgated under the provisions of the *Public Finance and Audit Act 1987*, Accounting Standards and other mandatory professional reporting requirements in Australia so as to present a view which is consistent with my understanding of the Legal Services Commission of South Australia's financial position, the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

AUDIT OPINION

In my opinion, the financial report presents fairly in accordance with the Treasurer's Instructions promulgated under the provisions of the *Public Finance and Audit Act 1987*, applicable Accounting Standards and other mandatory professional reporting requirements in Australia, the financial position of the Legal Services Commission of South Australia as at 30 June 2005, the results of its operations and its cash flows for the year then ended.

27 September 2005

Handwritten signature of K I MacPHERSON in black ink.

**K I MacPHERSON
AUDITOR-GENERAL**

Legal Services Commission of South Australia
Statement of Financial Performance 30 June 2005

Legal Services Commission of South Australia

**Statement of Financial Performance
for the year ended 30 June 2005**

	Note	2005 \$'000	2004 \$'000
EXPENSES FROM ORDINARY ACTIVITIES:			
Employee expenses	4	10 959	10 653
Private practitioner services	2.16	12 198	11 418
Private practitioner services - Bodies in the Barrels	5	425	1 214
Private practitioner services - Other expensive State matters	5	623	0
Supplies and services	6	2 952	2 661
Depreciation and amortisation	7	328	379
Bad and doubtful debt		19	70
Total Expenses from Ordinary Activities		27 504	26 395
REVENUES FROM ORDINARY ACTIVITIES:			
<i>Legal Practitioners Act</i> revenue	8	2 510	2 212
Statutory charges		949	1 047
Interest		609	550
Costs recovered and contributions	9	198	247
Other		617	515
Total Revenues from Ordinary Activities		4 883	4 571
Net Cost of Services from Ordinary Activities		22 621	21 824
REVENUES FROM GOVERNMENTS:			
Commonwealth Government:			
Funding agreement	10	11 952	10 802
Primary dispute resolution	10	310	125
Family duty solicitor service	10	310	0
Child support - Stage One matters	10	357	332
State Government:			
Funding	11	10 962	9 943
Expensive cases - Bodies in the Barrels	11	655	1 214
Expensive cases - Other matters	11	565	191
Total Revenues from Governments		25 111	22 607
NET RESULT FROM ORDINARY ACTIVITIES		2 490	783
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH OWNERS AS OWNERS		2 490	783

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Legal Services Commission of South Australia
Statement of Financial Position 30 June 2005

Legal Services Commission of South Australia

**Statement of Financial Position
as at 30 June 2005**

		2005	2004
	Note	\$'000	\$'000
CURRENT ASSETS:			
Cash at bank and on hand	19	10 887	8 335
Receivables	12	893	1 134
Other	13	108	144
Total Current Assets		11 888	9 613
NON-CURRENT ASSETS:			
Library	2.9	333	333
Computers and other equipment	14	965	937
Statutory charge debtors	15	3 133	2 681
Total Non-Current Assets		4 431	3 951
Total Assets		16 319	13 564
CURRENT LIABILITIES:			
Legal payables		1 144	1 182
Employee benefits	16	741	626
Payables		562	458
Total Current Liabilities		2 447	2 266
NON-CURRENT LIABILITIES:			
Employee benefits	16	1 678	1 594
Total Non-Current Liabilities		1 678	1 594
Total Liabilities		4 125	3 860
NET ASSETS		12 194	9 704
EQUITY:			
Reserves	17	1 186	1 006
Accumulated surplus	18	11 008	8 698
TOTAL EQUITY		12 194	9 704
Commitments, Contingent Liabilities	20, 21, 23		

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Legal Services Commission of South Australia
Statement of Cash Flows 30 June 2005

Legal Services Commission of South Australia

**Statement of Cash Flows
for the year ended 30 June 2005**

	2005	2004
	Inflows	Inflows
	(Outflows)	(Outflows)
	\$'000	\$'000
CASH FLOWS FROM OPERATING ACTIVITIES:		
CASH OUTFLOWS:		
Employee payments	(10 693)	(10 388)
Supplies and services	(2 919)	(2 709)
Private practitioner services	(12 182)	(11 232)
GST payments on purchases	(1 793)	(1 678)
GST remitted to ATO	(192)	(149)
Private practitioner services - Bodies in the Barrels	(495)	(1 144)
Private practitioner services - Other expensive State matters	(565)	0
Total Outflows from Ordinary Activities	(28 839)	(27 300)
CASH INFLOWS:		
<i>Legal Practitioners Act</i> receipts	2 768	2 135
Costs recovered and contributions	178	245
Statutory charge receipts	590	886
GST receipts on receivables	172	139
GST receipts from taxation authority	1 712	1 601
Other	1 170	1 079
Total Inflows from Ordinary Activities	6 590	6 085
CASH FLOWS FROM GOVERNMENTS:		
Commonwealth Government:		
Funding agreement	11 952	10 802
Child support - Stage One matters	357	332
Primary dispute resolution	310	125
Family duty solicitor services	310	0
State Government:		
Funding	10 962	9 943
Expensive Cases - Bodies in the Barrels	655	1 214
Expensive Cases - Other matters	565	191
Total Cashflows from Governments	25 111	22 607
Net Cash Inflows from Operating Activities	2 862	1 392
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property, plant and equipment	(310)	(259)
Total (Outflows) from Investing Activities	(310)	(259)
NET INCREASE IN CASH HELD	2 552	1 133
CASH AT 1 JULY	8 335	7 202
CASH AT 30 JUNE	10 887	8 335

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Notes to and Forming Part of the Financial Statements 30 June 2005

Legal Services Commission of South Australia

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Legal Services Commission of South Australia
Notes to and Forming Part of the Financial Statements
30 June 2005

Legal Services Commission of South Australia

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

1. Objectives of the Legal Services Commission of South Australia

The Legal Services Commission (the Commission) was established under the *Legal Services Commission Act 1977* (the Act) to provide, or arrange for the provision of legal assistance in accordance with the Act. The objective of the Commission is to provide clients with accessible information, advice and representation to meet their legal needs.

2. Summary of Significant Accounting Policies

2.1 Basis of Accounting

The financial report is a general purpose financial report. The statements have been prepared in accordance with:

- Treasurer's Instructions and Accounting Policy Statements promulgated under the provision of the *Public Finance and Audit Act 1987*
- Applicable Australian Accounting Standards
- Other mandatory professional reporting requirements in Australia

The Commission's Statement of Financial Performance and Statement of Financial Position have been prepared on an accrual basis and are in accordance with historical cost convention, except for the valuation of the library, which is at an independent valuation.

2.2 Comparative Figures

The previous year's figures are provided in the financial report for comparative purposes. Where applicable, comparative figures have been adjusted to conform to changes in presentation and classification in the current year.

2.3 Rounding

All amounts in the financial statements have been rounded to the nearest thousand dollars (\$'000).

2.4 Taxation

The Commission is not subject to income tax. The Commission is endorsed by the Australian Tax Office (ATO) as an income tax exempt charity and as a Public Benevolent Institution. The Commission is liable for Goods & Services Tax (GST).

In accordance with the requirements of UIG Abstract 31 'Accounting for the Goods & Services Tax (GST). Revenues, expenses and assets are recognised net of the amount of (GST), except:

- (a) where the amount of GST incurred is not recoverable from the taxation authority, it is recognised as part of the cost of acquisition of an asset or as part of an item of expense; or
- (b) for receivables and payables which are recognised inclusive of GST.

The net amount of GST recoverable from, or payable to, the taxation authority is included as part of receivables or payables.

Cash flows are reported on a gross basis in the Statement of Cash Flows. The GST component of cash flows arising from investing or financing activities, which are recoverable from, or payable to, the Australian Taxation Office have however been classified as operating cash flows.

2.5 Revenue and Expenses

Revenue and Expense are recognised in the Commission's Statement of Financial Performance when and only when the flow or consumption or loss of economic benefits has occurred and can be reliably measured.

Revenues and Expenses have been classified according to their nature in accordance with Accounting Policy Statement 13 *Form and Content of General Purpose Financial Reports* and have not been offset unless required or permitted by another accounting standard.

Legal Services Commission of South Australia
 Notes to and Forming Part of the Financial Statements
 30 June 2005

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Government Funding

The Commission receives funding from the State and Commonwealth governments, which are recognised as income when monies are received.

Other Revenues

Other Revenue is recognised as it accrues.

2.6 Current and Non-Current Items

Assets and liabilities are characterised as either current or non-current in nature. The Legal Services Commission of SA has a clearly identifiable operating cycle of 12 months. Therefore assets and liabilities that will be realised as part of the normal operating cycle will be classified as current assets or current liabilities. All other assets and liabilities are classified as non-current.

2.7 Cash

For the purposes of the Statement of Cash Flows, cash includes cash at bank and deposits at call that are readily converted to cash and are used in the cash management function on a day-to-day basis.

2.8 Depreciation & Amortisation of Non-Current Assets

All non-current assets, having a limited useful life, are systematically depreciated/amortised over their useful lives in a manner that reflects the consumption of their service potential. Amortisation is used in relation to intangible assets, while depreciation is applied to physical assets such as property, plant and equipment.

The useful lives of all major assets held by the Legal Services Commission of SA are reassessed on an annual basis.

The value of leasehold improvements is amortised over the estimated useful life of each improvement, or the unexpired period of the relevant lease, whichever is shorter.

Depreciation/amortisation for non-current assets is determined as follows: -

Class of Asset	Depreciation Method	Useful Life (Years)
Computers	Straight Line	3-5
Office equipment	Straight Line	5-13
Furniture and fittings	Straight Line	13
Leasehold improvements	Straight Line	10

2.9 Library

In October 2001, the Commission obtained an independent revaluation of the library at market or market replacement value. The library collection comprises reports/major works, journals, loose-leaf services and a mix of dictionaries, encyclopaedias, statutes etc. The revaluation was undertaken by Lawyers Books, which valued the library at \$333 000.

2.10 Payables

Payables include creditors, accrued expenses and employment on-costs.

Creditors represent the amounts owing for goods and services received prior to the ending of the reporting period that are unpaid at the end of the reporting period. Creditors include all unpaid invoices received relating to the normal operations of the Legal Services Commission of SA.

Accrued expenses represent goods and services provided by other parties during the period that are unpaid at the end of the reporting period and where an invoice has not been received.

All amounts are measured at their nominal amount and are normally settled within 30 days in accordance with Treasurer's Instruction 8 *Expenditure for Supply Operations and Other Goods and Services* after the Legal Services Commission of SA receives an invoice.

Employment on-costs include superannuation contributions and payroll tax with respect to outstanding liabilities for salaries and wages, long service leave and annual leave.

The Legal Services Commission of SA makes contributions to several superannuation schemes operated by the State Government and a Commonwealth scheme. These contributions are treated as an expense when they occur. There is no liability for payments to beneficiaries as the South Australian Superannuation Board (SASB) has assumed these. The only liability outstanding at balance relates to any contributions due but not yet paid to the SASB.

2.11 Employee Benefits

Provision has been made in the financial report for the Commission's liability for employee benefits arising from services rendered by employees to balance date. Related on-costs consequential to the employment of employees have been included in the determination of the liability. However, in accordance with the Treasurer's Accounting Policy Statements 'Employee Benefits', the on-cost component is included in creditors. The aggregate of employee benefits is disclosed at Note 16.

1. Annual Leave

Provision has been made for the unused component of annual leave at balance date. The provision has been measured at the amounts expected to be paid when the liability is settled, plus related on-costs. A salary inflation of 4 percent has been applied to employee benefits which are expected to be settled in the next 12 months.

2. Sick Leave

No provision has been made in respect of sick leave. As sick leave taken by employees is considered to be taken from the current year's accrual, no liability is recognised.

3. Long Service Leave

Provision has been made for the Commission's liability for long service leave at balance date on a basis, which is consistent with measurement techniques outlined in Australian Accounting Standard AASB 1028 'Accounting for Employee Entitlements'. The short-hand method of determining long service leave entitlements has been adopted and provision has been made for all employees with seven or more years of service, being the benchmark number of years as determined by the Department of Treasury and Finance.

4. Superannuation

Salaries and related payments include superannuation contributions paid by the Commission under the following categories:

- (a) The Commission paid an amount to 'Comsuper' towards the accruing government liability in respect of currently employed contributors to the Commonwealth Superannuation Fund. Payments amounted to \$93 000 (\$98 000).
- (b) During 2004-05 the Commission paid \$957 000 (\$911 000) to the South Australian Department of Treasury and Finance towards the accruing government liability for superannuation in respect of all employees.

The Commission has no responsibility for benefits in relation to future superannuation payments to employees, as these are assumed by the superannuation funds.

2.12 Workers Compensation

The Commission pays a worker's compensation levy to the WorkCover Corporation to cover any claims. The levy rates varies slightly depending on the location of the Commission office or chambers.

2.13 Reserves

The Commission has established the following reserves (refer Note 17):

Asset Revaluation Reserve

The asset revaluation reserve includes the net revaluation increments and decrements arising from the revaluation of non-current assets.

Legal Services Commission of South Australia
Notes to and Forming Part of the Financial Statements
30 June 2005

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Asset Replacement Reserve

The Commission utilised the reserve of \$296 000 in 2004-2005 for upgrade and extension of the Adelaide office. Planned expenditure to upgrade personal computers in the 2004-2005 years was delayed until 2005-2006. The balance of the unspent 2004-2005 asset replacement budget has been transferred to the asset replacement reserve.

Commonwealth Expensive Case Reserve

The Commission did not use the Commonwealth Expensive Case Reserve in the 2004-2005 year. The amount in the reserve has been retained in the 2005-2006 year.

State Expensive Case Reserve

The Commission has retained the State Expensive Case Reserve for specific state matters that exceed the State Guideline cap.

State Legal Assistance Scheme Reserve

The Commission utilised \$46 000 of the State Legal Assistance Scheme reserve on State matters approved by Commissioners and the Law Society of SA and subject to specific conditions. The balance of the reserve has been retained in 2005-2006.

2.14 Financial Instruments

The Commission's accounting policies, including the terms and conditions of each class of financial asset and financial liability recognised at 30 June 2005, are as follows:

Financial Assets

Cash at Bank (Note 19) comprises deposits at call with the South Australian Government Financing Authority and are recorded at cost. Interest revenues are recognised as they accrue. Interest rates are at market rates and have fluctuated between 5.15% and 5.70% for the year ended 30 June 2005 (4.65% and 5.53%).

Receivables (Note 12) include client debtors and other debtors and are reported at amounts due.

The Commission is exposed to credit risk associated with amounts due from clients with respect to contributions for legal aid and other sundry charges. The credit risk relating to the financial asset recognised in the Statement of Financial Position is the carrying amount net of any provision for doubtful debts.

Financial Liabilities

Legal creditors are raised for amounts billed from private practitioners for approved cases undertaken but unpaid. They are normally settled within 30 days.

Creditors are raised for amounts billed but unpaid and are normally settled within 30 days.

All financial instruments are valued at the carrying amount as per the Statement of Financial Position, which approximates net fair value.

2.15 Computer & Other Equipment

In accordance with the Accounting Policy Statement APS 3 'Revaluation of Non-Current Assets' and the Commission's revaluation policy, Computers and Other Equipment are recognised at cost unless the fair value of the group (at the time of acquisition) is greater than \$1 million.

2.16 Legal Payables

Comprise solicitor's fees, counsel fees and disbursements due to private practitioners for approved cases undertaken during the year.

2.17 Trust Funds

Pursuant to the *Legal Practitioner's Act 1981* the Commission holds funds in trust on behalf of clients. As at 30 June 2005, the total funds held were \$38 000 (\$25 000).

These funds are not controlled by the Commission. As such they are not recognised in the financial report.

Legal Services Commission of South Australia
Notes to and Forming Part of the Financial Statements
30 June 2005

3. Changes in Account Policies

Impact of Adopting Australian Equivalents to International financial Reporting Standards

Australia will be adopting Australian equivalents to International Financial Reporting Standards (AIFRS) for reporting periods commencing on or after 1 January 2005. The Legal Services Commission of South Australia will adopt these standards for the first time in the published financial report for the year ended 30 June 2006.

At 30 June 2005 and in accordance with requirements of AASB 1047 *Disclosing the Impacts of Australian Equivalents to International Financial Reporting Standards* the Commission reports no known impacts on the financial report had it been prepared using AIFRS.

4. Employee Expenses

	2005	2004
	\$'000	\$'000
Salaries and wages	9 311	9 013
Superannuation	1 049	1 009
Long service leave	285	267
Payroll tax	225	220
Annual leave	46	80
Workers compensation	43	64
Total Employee Expenses	10 959	10 653

Remuneration of Employees

Amounts received or receivable by employees of the Commission whose remuneration is greater than \$100 000. The amounts include salaries and related payments, superannuation benefits and motor vehicle benefits.

The number of employees whose remuneration received or receivable fell within the following bands was:

	Number of Employees	
	2005	2004
\$100 001 - \$110 000	3	5
\$110 001 - \$120 000	4	4
\$120 001 - \$130 000	5	1
\$170 001 - \$180 000	1	-
\$180 001 - \$190 000	-	-
\$190 001 - \$200 000	-	-
\$200 001 - \$210 000	-	1
\$210 001 - \$220 000	1	-
\$230 001 - \$240 000	-	1
\$250 001 - \$260 000	1	-

The total remuneration received or due and receivable by these employees was \$2 033 000 (\$1 562 000).

On average, the Commission employed 165 (157) people throughout the reporting period.

5. State Expensive Case matters

The Commission is required to provide litigation services pursuant to the Criminal Law (Legal Representation) Act 2001 for State matters that exceed the normal funding cap. These matters are separately funded by the State Government (refer note 11).

Legal Services Commission of South Australia
Notes to and Forming Part of the Financial Statements
30 June 2005

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6. Supplies and Services	2005	2004
Accommodation:	\$'000	\$'000
Rental	771	691
Other	374	288
Computer maintenance and processing	427	491
Telephone and postage	358	360
Travel	128	153
Office requisites	283	177
Loss on disposal of assets	5	1
Library	165	140
Consultancy fees	90	41
Other*	351	319
	2 952	2 661

* Includes Auditor's remuneration of \$43 000 (\$41 000), for auditing the accounts. The auditors provided no other services and received no other benefits.

The Commission did not incur material expenditure on government supplies and services.

The number and dollar amount of consultancies paid/payable (included in supplies and service expenses) that fell within the following bands:

	Number	\$'000	Number	\$'000
Below \$10 000	5	19	9	41
Between \$10 000 and \$50 000	1	19	-	-
Above \$50 000	1	52	-	-
Total Paid/Payable to the Consultants Engaged	7	90	9	41
Loss on disposal of asset				
Proceeds from disposal		Nil		Nil
Book value of asset scrapped		5		1
Loss on Scrapping of Assets		5		1

7. Depreciation and Amortisation	2005	2004
Depreciation:	\$'000	\$'000
Computer equipment	247	304
Plant and equipment	30	28
Total Depreciation	277	332
Amortisation:		
Leasehold improvements	51	47
Total Amortisation	51	47
Total Depreciation and Amortisation	328	379

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

Statutory interest account	1 126	973
Interest on legal practitioners trust accounts	1 352	1 238
Legal practitioners guarantee fund	32	1
	2 510	2 212

Legal Services Commission of South Australia
Notes to and Forming part of the Financial Statements
30 June 2005

9. Costs Recovered and Contributions

	2005	2004
	\$'000	\$'000
Costs recovered	55	72
Contributions*	143	175
	198	247

* In addition contributions of \$315 000 (\$349 000) in relation to referred cases were paid or are payable directly to private practitioners by clients

10. Commonwealth Government

A Commonwealth Government Legal Assistance Agreement was entered into between the Commonwealth and State Governments for the provision of legal assistance. The agreement was effective from 1 July 2004. Pursuant to that Agreement:

- the Commonwealth contributed \$11 952 000 in service payments in 2004-2005.
- The Commonwealth also contributed \$310 000 for the provision of Primary Dispute Resolution Services. \$310 000 for the provision of a Family Law Duty Services and \$356 610 for the provision of legal assistance in Child Support Stage One carer-parent matters. With the exception of Stage One carer-parent matters funding which is an agreed amount for each year to 2007-2008, all other funding will be indexed each year by the factor used in the Australian Government annual budget process.
- The Commonwealth allows up to 25 percent of Commonwealth revenue to be held by the Commission as an allowed surplus in a financial year. Reserves exceeding this level may be returned to the Commonwealth Government.

11. State Government

The State Government increased funding in the normal budget process to maintain the Legal Services Commission overall funding. In 2004-2005 the State contributed funding of \$10 962 000 (\$9 943 000).

The Legal Services Commission of South Australia is separately funded by the State Government for matters that exceed the Legal Services Commission's cap on funding. 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 \$655 000 (\$1 214 000) to the 'Bodies in the Barrels' case during 2004-05 and provided \$565 000 (\$191 000) for approved expensive cases that exceeded the Commission cap.

12. Receivables

	2005		2004	
	\$'000	\$'000	\$'000	\$'000
<i>Legal Practitioners Act</i>		507		764
Goods and Services Tax		241		256
Client debtors and other debtors	158		127	
Less: Provision for doubtful debts	13	145	13	114
Total Current Receivables		893		1 134

13. Other

	2005	2004
	\$'000	\$'000
Prepayments	108	144

Legal Services Commission of South Australia
Notes to and Forming Part of the Financial Statements
30 June 2005

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14. Computers and Other Equipment	2005		2004	
	\$'000	\$'000	\$'000	\$'000
Computer - Major hardware equipment at fair value	364		346	
Less: Accumulated depreciation	249	115	196	150
Computer - Software and applications at fair value	281		495	
Less: Accumulated depreciation	200	81	412	83
Computer - Minor hardware at fair value	373		468	
Less: Accumulated depreciation	338	35	351	117
Office equipment at fair value	146		175	
Less: Accumulated depreciation	96	50	113	62
Furniture and fittings at fair value	155		162	
Less: Accumulated depreciation	47	108	39	123
Leasehold improvements at fair value	717		492	
Less: Accumulated depreciation	141	576	90	402
		965		937

14.1 Reconciliation of Computers and Other Equipment

	Major Computer Hardware	Computer Software	Minor Computer Hardware	Office Equipment	Furniture And Fittings	Leasehold Improvements	2005 Total \$'000
Balance at 30 June 2004	346	495	468	175	162	492	2 138
Add: Additions	61	59	8	8	-	225	361
Less: Disposals	43	273	103	37	7	-	463
Balance at 30 June 2005	364	281	373	146	155	717	2 036
Accumulated Depreciation:							
Balance at 30 June 2004	196	412	351	113	39	90	1 201
Less: Disposals	43	273	103	36	3	-	458
Add: Depreciation expense	96	61	90	19	11	51	328
Balance at 30 June 2005	249	200	338	96	47	141	1 071
Net Book Value:							
As at 30 June 2004	150	83	117	62	123	402	937
As at 30 June 2005	115	81	35	50	108	576	965

15. Statutory Charge Debtors

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

	2005 \$'000	2004 \$'000
Statutory charge debtors	3 283	2 831
Less: Provision for doubtful debts	150	150
	3 133	2 681

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Legal Services Commission of South Australia
Notes to and Forming part of the Financial Statements
30 June 2005

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16. Employee Benefits		
Current Liabilities:		
Annual leave	602	561
Long service leave	139	65
	741	626
Non-Current Liabilities:		
Long service leave	1 678	1 594
	2 419	2 220
16.1 Employee Benefits and Related On-costs		
Accrued Salaries and Wages:		
On-costs included in payables - Current	24	15
Creditors - Current	155	111
	179	126
Annual Leave:		
On-costs included in payables - Current	78	73
Provision for employee benefits - Current	602	561
	680	634
Long Service Leave:		
On-costs included in payables - Current	13	6
Provision for employee benefits - Current	139	65
	152	71
On-costs included in payables - Non-Current	139	136
Provision for employee benefits - Non-Current	1 678	1 594
	1 817	1 730
Aggregate Employee Benefits and Related On-costs	2 828	2 561
17. Reserves		
Movements during the year were:		
Asset Replacement Reserve:		
Balance at 1 July	296	103
Less: Transfer to accumulated funds	296	-
Add: Transfer from accumulated funds	522	193
Balance at 30 June	522	296
Commonwealth Expensive Case Reserve:		
Balance at 1 July	100	200
Less: Transfer to accumulated funds	-	100
Balance at 30 June	100	100
State Expensive Cases Reserve:		
Balance at 1 July	100	200
Less: Transfer to accumulated funds	-	100
Balance at 30 June	100	100
State Legal Assistance Scheme Reserve:		
Balance at 1 July	389	389
Less: Transfer to accumulated funds	46	-
Balance at 30 June	343	389
Asset Revaluation Reserve:		
Balance at 1 July	121	121
Balance at 30 June	121	121
Total Reserves	1 186	1 006
18. Accumulated Surplus		
Balance at 1 July	8 698	7 908
Add: Transfer from reserve	342	200
Less: Transfer to reserve	522	193
Operating surplus from ordinary activities	2 490	783
Balance at 30 June	11 008	8 698

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Legal Services Commission of South Australia
Notes to and Forming Part of the Financial Statements
30 June 2005

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19. Reconciliation of Cash

For the purposes of the Statement of Cash Flows, cash includes cash on hand and at bank. Cash as at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the items in the Statement of Financial Position as follows: -

	2005	2004
	\$'000	\$'000
Deposits at call - South Australian Financing Authority	10 870	8 320
Cash at bank and on hand	17	15
Cash as recorded in the Statement of Financial Position	10 887	8 335
Cash as recorded in the Statement of Cash Flows	10 887	8 335

Reconciliation of Net Cash provided by Operating Activities to Net Cash

provided by Operating Activities		
Net cash provided by (used in) operating activities	2 490	783
Add/Less non cash items		
Depreciation and amortisation	328	379
Microsoft licence - DAIS	(54)	-
Loss on disposal of equipment	5	1
Changes in Assets/Liabilities		
Increase in statutory charge debtors	(452)	(213)
(Decrease) Increase in receivables	241	(55)
Decrease (Increase) in prepayments	36	(37)
Increase in employee provisions	199	167
Increase in payables	107	76
(Decrease) Increase in legal payables	(38)	291
Net Cash Inflows from Ordinary Activities	2 862	1 392

20. Legal Expense Commitments

As at 30 June 2005, the Commission has a future commitment of \$3 077 000 (\$2 543 000) on legal cases referred to private practitioners which are still to be finalised. In addition the Commission has a future commitment of \$512 000 (\$402 000) on a State Expensive case which will be funded separately.

The Commission reviewed outstanding legal commitments and determined that commitments less the underutilisation factor of 26.26 percent Commonwealth and 31.45 percent State would be recognised on all outstanding amounts raised since December 2003 (ie the previous 18 months). Commitments raised prior to this date have been dismissed. If any file prior to this date is reactivated, new commitments will be raised.

In the normal course of business, further commitments may be required on recognised legal cases. It is not possible to quantify that amount.

21. Commitments for Expenditure

At the reporting date the Commission had the following obligations under non-cancellable operating leases. The obligations are not recognised as liabilities in the Statement of Financial Position. The operating leases held by the Commission are property leases with penalty clauses equal to the amount of the residual payments remaining for the lease term. The leases are payable one month in advance. The option to renew the lease is held by the Commission. There are no existing contingent rental provisions.

	2005	2004
	\$'000	\$'000
Operating lease commitments payable:		
Not later than one year	69	21
Later than one year but not later than five years	145	64
	214	85

Legal Services Commission of South Australia
 Notes to and Forming Part of the Financial Statements
 30 June 2005

22. Related Party Disclosures

The members of the Commission who have held office during the financial year are:

Ms Dymphna Eszenyi (Chairman)	Appointed 5 February 2005
Ms Phuong Chau	Appointed 13 January 2005
Ms Maurine Pyke	Appointed 24 March 2005
Mr David Bullock	Resigned 5 September 2004
Mr Kym Penniford	Resigned 31 October 2004
Mr Brian Withers (Chairman)	Resigned 24 December 2004
Mr Gordon Barrett	Resigned 18 May 2005
Mr Michael Burgess	
Mr Hugh Gilmore	
Mr David Meyer	
Ms Deborah McCulloch	
Mr Brian Nitschke	

The members of the Commission are appointed by the Governor in accordance with the provisions of the *Legal Services Commission Act 1977* and include partners of legal firms. In the ordinary course of business the Commission enters into transactions with legal firms, some of which are associated with members of the Commission. Payments made to these firms are in accordance with the Commission's scale of fees and are payments that apply to practitioners generally.

The number of members whose remuneration received or receivable fell within the

following bands was:

	2005	2004
	Number of Members	Number of Members
\$nil	1	1
\$1 - \$10 000	10	9
\$10 001 - \$20 000	1	1

The total remuneration received or due and receivable by these members was \$66 000 (\$79 000).

23. Contingent Liabilities

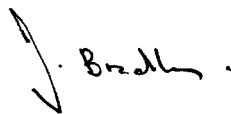
At balance date and at the date of the certification of this financial report by the Commission, there was a known contingent liability as disclosed at Note 20 'Legal Expense Commitments'.

Legal Services Commission of South Australia
Audit Certificate
30 June 2005


Legal Services Commission of South Australia
CERTIFICATION OF THE FINANCIAL REPORT

We certify that: -

- that the financial statements are in accordance with the accounts and records of the Legal Services Commission of SA and give an accurate indication of the financial transactions of the Legal Services Commission of SA for the year ended 30 June 2005;
- as presenting fairly, in accordance with the Treasurer's Instructions promulgated under the provisions of the *Public Finance and Audit Act 1987*, applicable Accounting Standards and other mandatory professional reporting requirements in Australia, the financial position of the Legal Services Commission of SA as at the reporting date and the result of its operations and its cash flows for the year ended 30 June 2005; and
- that internal controls over financial reporting have been effective throughout the reporting period.



Josie Bradley
FINANCE MANAGER
22 September 2005



Dymphna Eszenyi
CHAIRPERSON
22 September 2005

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Legal Services Commission of South Australia

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2004-2005

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Appendix 1

Freedom of Information

Access to Commission documents

Policy documents

The following Commission policy documents may be inspected free of charge:

- Assignments Policy Manual
- Agreement between the Commonwealth of Australia and the State of South Australia in relation to the Provision of Legal Assistance 2005

Other documents

The Commission has a computerised records management system and databases that record certain details of accounts, clients, legal aid cases, legal aid files, legal advice and duty solicitor attendances. Hard copy files are maintained for each grant of aid and the location of these files is recorded in the computerised records management system. Management and administrative files are also maintained, with their location being recorded on a manual system.

Arrangements can be made to inspect documents available under the *Freedom of Information Act* at 82-98 Wakefield Street, Adelaide between 9.00 am and 5.00 pm on ordinary working days. Copies may be purchased at a fee of 50 cents per page, which may be waived in appropriate cases.

By prior arrangement with the Freedom of Information Officer, these documents may also be inspected and copies purchased at any of the Legal Services Commission's offices:

Commission Offices

Adelaide

82-98 Wakefield Street,
Adelaide 5000

Elizabeth

Windsor Building,
Elizabeth Centre,
Elizabeth 5112

Holden Hill

Tenancy 7
560 North East Road
Holden Hill 5088

Noarlunga

Noarlunga House
Colonnades Shopping Centre,
Noarlunga Centre 5168

Port Adelaide

306 St Vincent Street
Port Adelaide 5015

Whyalla

1st Floor RAA House
25 Forsyth Street
Whyalla 5600

Appendix 2

Members of the Legal Services Commission 2004-2005

The Chairman, nominated by the South Australian Attorney-General:-

Mr. Brian Withers LLB

Chairman resigned 24.12.2004.

Ms. Dymphna Eszenyi LLB

Appointed Chairman 20.1.2005.

One person to represent the interests of assisted persons, nominated by the South Australian Attorney-General after consultation with the South Australian Council of Social Service Incorporated: -

Dr Deborah McCulloch BA (Hons), Dip Ed.

Reappointed 30.1.2003. (Trainer and coordinator of the Women's Electoral Lobby).

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Three nominees of the South Australian Attorney-General: -

Mr. Michael Burgess B.Ec, FCA

Appointed 20.11.1997 (Chartered accountant and partner of KPMG Adelaide).

Mr. David Bulloch LLB

Resigned 2.9.2004 LLB

Mr Kym Pennifold B.Bus St (Accounting) Grad. Dip. Management, C.P.A.

Resigned 31.10.2004.

Ms Phoung Chau

Appointed 13.1.2005 (Financial Adviser, Attorney-General's Department).

Three nominees of the Law Society of South Australia:

Mr. David Meyer LLB

Appointed 21.8.1997 (A legal practitioner in private practice).

Mr. Gordon Barrett QC

Appointed 24.12.1998 (Queen's Counsel at the independent bar).

Resigned 18.5.2005.

Ms Maurine Pyke Q.C.

Appointed 24.3.2005 (Queen's Counsel at the independent bar).

One nominee of the employees of the Legal Services Commission:-

Mr Brian Nitschke LLB

Appointed 9.7.2003.

The Director of the Legal Services Commission:-

Mr. Hamish Gilmore B Ec

Appointed Director 17.6.1999.

Appendix 3

Organisation Structure of the Legal Services Commission 30 June 2005



Board of Commissioners

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Director

Directorate staff

Representation Program

Access Services Program

• Criminal law
Practice Division

• Family Law
Practice Division

• Civil Law
Casework

• Assignments
Program

• Advice

• Community Legal
Education

• Library

Support Services Program

• Finance

• Administration

• IT Systems

• Human Resources

Appendix 4

Community Involvement

Staff membership of various community organisations

- Administrative Appeals Tribunal User Group Meeting
- AIJA SA Executive Committee
- Alliance For Prevention Of Elder Abuse
- Child Support Agency, Regional Registrars Advisory Panel
- Child Support Issues Group
- Children's Access Program Management Committee
- Family Law Section, Law Council Of Australia
- Hills Domestic Violence Reference Group
- Intellectually Disabled Services Council, Ethics Committee
- Intellectually Disabled Services Council, Legal Issues Committee
- Intellectually Disabled Services Council, Sterilisation Focus Group
- International Commission of Jurists
- Joint Criminal Court Committee
- Justice Portfolio Agency Finance Committee
- Justice Portfolio, Learning & Development Task Group
- Juvenile Justice Awareness Group
- Juvenile Justice Detention Options Group
- Law Society Advocacy Committee
- Law Society Bulletin Committee
- Law Society Criminal Committee
- Law Society Family Law Committee
- Law Society Human Rights Committee
- Law Society Council
- Law Society Disciplinary Committee
- Law Society, Country Law Week Committee
- Law Society, Justice Network Meeting, (ex Law Week Committee)
- Law Society, Practical Legal Training Committee
- Law Society, Public Sector Lawyers Committee
- Magistrate Courts User Groups
- Magistrates Court Diversionary Program Steering Committee
- Magistrates Court Drug Court Steering Committee
- National Legal Aid, Assignments Benchmarking And Best Practices Group
- National Legal Aid, Business And Technology Reference Group
- National Legal Aid, CLE Working Group
- National Legal Aid, Criminal Law Group
- National Legal Aid, Family Law Group
- National Legal Aid Statistics Working Party
- Office Of Multicultural & International Affairs, Multicultural Good Practice Network, Reference Group
- Para Districts Community Legal Centre, Management Committee
- Prisoners Advocacy
- School Mock Trials Competition Coaches, Judges
- South Australian Council of Social Service Inc. Policy Council
- State Government Gambler's Rehabilitation Committee
- Women's Information Service Support Group

Appendix 5

Applications

Applications for Aid received by Source 2004-05

Source	Total	%
CHILD SUPPORT UNIT	482	3.13%
COMMUNITY LAW CENTRE	15	0.10%
DIRECT FROM CLIENT	5 604	36.40%
DUTY LAWYER	1 439	9.35%
FAMILY COURT	244	1.58%
FEDERAL MAGISTRATES SERVICE	101	0.66%
INTERVIEW	141	0.92%
OTHER AGENCY	38	0.25%
PRISON	17	0.11%
PRIVATE PRACTITIONER	7 307	47.46%
RECIPROCITY - TRANSFER COMMISSION	7	0.05%
TOTAL	15 395	100.00%

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Applications for Aid processed 2004-05

Application Status	Family	%	Crime	%	Civil	%	Total	% All Law Types
PENDING	167	4.55%	369	3.37%	13	1.83%	549	3.58%
ASSIGNED	1 551	42.24%	5 549	51.64%	362	50.91%	7 562	49.35%
INHOUSE	1 002	27.29%	3 287	30.05%	206	28.97%	4 495	29.33%
REFUSED	912	24.84%	1 553	14.20%	119	16.74%	2 584	16.86%
WITHDRAWN	40	1.09%	82	0.75%	11	1.55%	113	0.87%
TOTAL	3 672	100.00%	10 940	100.00%	711	100.00%	15 323	100.00%

Please note: 72 applications for aid received were not processed by 30 June 2005

Appendix 5 continued

Case Matters Approved by Primary Matter Group Category 2004-05

		<i>Inhouse % of all approved</i>	<i>Assigned % of all approved</i>	<i>Total Number approved matters</i>	<i>Total % of all approved matters</i>	
Family	CHILD SUPPORT	92.59	7.41	324	2.69	
	CHILD SUPPORT SCHEME - CARER	0	100.00	1	0.01	
	CHILDREN	19.84	80.16	1 741	14.43	
	CONTEMPT	33.33	66.67	36	0.30	
	DISSOLUTION	90.48	9.52	21	0.17	
	INJUNCTIONS (FAMILY)	25.00	75.00	4	0.03	
	MAINTENANCE	88.89	11.11	9	0.07	
	MEDIATION	90.77	9.23	65	0.54	
	PROPERTY SETTLEMENT	14.29	85.71	14	0.12	
	SEPARATE REPRESENTATIVE	62.13	37.87	339	2.80	
	TOTAL FAMILY LAW	39.25	60.75	2 553	21.16	
Crime	ASSAULTS (EXCLUDING SEXUAL ASSAULTS)	41.21	58.79	1 773	14.71	
	BURGLARY, BREAK & ENTER	33.86	66.14	1 398	11.59	
	DRUGS COMMONWEALTH OFFENCES	0	100.00	4	0.03	
	DRUGS DEALING AND TRAFFICKING	22.62	77.38	168	1.39	
	DRUGS POSSESS/USE	17.14	82.86	35	0.29	
	ENVIRONMENTAL	15.38	84.62	13	0.11	
	EXTORTION	20.00	80.00	5	0.04	
	FRAUD, MISAPPROPRIATION AND DECEPTION	39.50	60.50	319	2.65	
	HANDLING, RECEIVING AND UNLAWFUL POSSESSION OF STOLEN GOODS	24.20	75.80	219	1.82	
	HOMICIDE	29.51	70.49	183	1.52	
	MANUFACTURING DRUGS	10.91	89.09	110	0.91	
	MOTOR VEHICLE DRIVING OFFENCES	36.25	63.75	881	7.31	
	MOTOR VEHICLE OTHER AND RELATED OFFENCES	39.07	60.93	627	5.20	
	OFFENCES AGAINST GOOD ORDER	27.82	72.18	133	1.10	
	OFFENCES AGAINST GOVT SECURITY	0	100.00	1	0.01	
	OFFENCES AGAINST JUSTICE PROCEDURE	43.26	56.74	1 203	9.97	
	OFFENCES AGAINST PERSON	38.57	61.43	70	0.58	
	OFFENSIVE BEHAVIOUR OFFENCES	48.75	51.25	80	0.66	
	OTHER CRIMINAL LAW MATTERS/OFFENCES	76.74	23.26	43	0.36	
	PROPERTY DAMAGE (CRIMINAL)	42.86	57.14	252	2.09	
	RAPE AND SEXUAL OFFENCES	40.98	59.02	305	2.53	
	ROBBERY	42.98	57.02	242	2.01	
	THEFT AND OTHER DISHONEST	34.50	65.50	742	6.16	
	UNLAWFUL POSSESSION OF OTHER WEAPONS	25.38	74.62	130	1.08	
	TOTAL CRIME LAW	36.78	63.22	8 936	74.12	
	Civil	ADMINISTRATIVE LAW	42.16	57.84	288	2.38
		DOCUMENTS	31.18	68.82	280	2.32
TOTAL CIVIL LAW		36.27	63.73	568	4.70	
TOTAL CASE MATTERS	37.28	62.72	12 057	100		

Appendix 5 continued

Applications

Applications for aid refused by reason 2004-05

Reason Refused	Family	%	Crime	%	Civil	%	Total	% Total Refused
GUIDELINES	297	32.57%	559	35.99%	88	73.95%	944	36.53%
GUIDELINES and MEANS	177	19.41%	378	24.34%	11	9.24%	566	21.90%
MEANS	323	35.42%	545	35.09%	16	13.45%	884	34.21%
MEANS and MERIT	10	1.10%	0	0.00%	0	0.00%	10	0.39%
MEANS, MERIT & GUIDELINES	5	0.55%	0	0.00%	0	0.00%	5	0.19%
MERIT	33	3.62%	11	0.71%	0	0.00%	44	1.70%
MERIT and GUIDELINES	50	5.48%	2	0.13%	1	0.84%	53	2.05%
NO JURISDICTION	16	1.75%	1	0.06%	3	2.52%	20	0.77%
OTHER	1	0.11%	57	3.68%	0	0.00%	58	2.24%
TOTAL	912	100.00%	1 553	100.00%	119	100.00%	2 584	100.00%

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Protection Applications 2004-05

	Assigned	In-house	Refused	Total
ADULT	237	1	20	258
CHILD	56	197	1	254
TOTAL	293	198	21	512

Appendix 6

Duty Solicitor Services

Duty Solicitor Services by Court location and work type

Court Location	Advice only	Contested Bail Appl ⁿ	Mention	Plea	Hearing	Other	Total
ADELAIDE	669	1 516	1 404	374	24	287	4 274
AMATA	0	0	4	16	0	1	21
CHRISTIERS BEACH	156	336	210	67	32	11	812
COOBER PEDY	1	2	44	25	4	4	80
ELIZABETH	167	696	528	169	14	41	1 615
ERNABELLA	0	0	8	3	1	2	14
FREGON	0	0	2	8	3	0	13
HOLDEN HILL	250	183	567	139	85	5	1 229
INDULKANA	0	0	2	3	1	0	6
MARLA	0	1	3	2	0	0	6
MIMILLI	0	0	1	1	0	0	2
NOARLUNGA	3	8	4	0	0	0	15
ODDNADATTA	0	0	4	2	1	0	7
PIPALYATJARRA	0	1	1	2	0	0	4
PORT ADELAIDE	47	347	457	87	1	31	970
PORT AUGUSTA	2	31	121	36	11	9	210
WHYALLA	6	66	430	144	57	17	720
TOTAL	1 301	3 187	3 790	1 078	234	408	9 998

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Duty Solicitor Services by Court and work type

Work Type	Youth Court	Magistrates Court	Other Court	Total
ADVICE ONLY	63	1 227	11	1 301
CONTESTED BAIL APPLICATION	609	2 578	0	3 187
HEARING	17	217	0	234
MENTION	383	3 401	6	3 790
OTHER	33	371	4	408
PLEA	124	954	0	1 078
TOTAL	1 229	8 748	21	9 998

Appendix 7

Community Legal Education

Community Education—Talks and Displays	<i>Duration</i>	<i>Attendance</i>
Wills, POA & G VH Retirement village	1	25
Role of the Child rep in Family Court	1	17
CALD & Families project; Mid East Consultation	3	22
Assessment of Children; Southern CAMHS	2	35
Legal System, TAFE Interpreters class	1	50
LSC Services, EXPO at Women's Prison	2	50
LSC Services, Muslim Women's assoc	1	25
Legal Services, Interpreters TAFE	1	25
Sex offenders, TAFE Cert 4 Child Abuse	1.5	15
Family Court & Allegations of Child Abuse, TAFE Cert 4 Child Abuse	1.5	25
EXPO on LSC services at Women's Prison	2	50
LSC Services, DV group Northern DV Service	1.5	20
Family Court & Allegations of Child Abuse, TAFE Cert 4 Child Abuse	1.5	25
LSC Services Years 11 & 12 Smithfield High School	3	30
LSC Services Clare Community Health Centre Group	3	10
Advance Directives (inc EPOA & G and Medical Directives) Focus Group	2	19
Family law & CSU Men's Forum at Playford Centre, Elizabeth	2	80
LSC Services Middle Eastern Women's group Bowden	2	15
Domestic Violence "Hypothetical" Seminar – Mount Barker	3	40
Legal Resources at Mitcham & Inner Sthn Community Network at St Mary's	1.5	15
Carnival in the North - Mental Health Week	2	100
Chinese Welfare Introduction to Family law	0.75	30
Chinese Welfare Legal resources	0.75	30
Refugee Week African Women's Forum Legal Resources	0.5	30
Refugee Week Middle Eastern Women's Forum Legal Resources	0.5	10
Refugee Week African Men's Talk Legal Resources	1	10
Migration Volunteer Breakfast	1	70
Migration Volunteers training program	1.5	140
Family Law Update at the SA Financial Counsellors Conference	0.5	60
Visit to indigenous prisoners at Mobilong Prison with Family Court staff	1	20
EPA and EPG Talk at West Croydon RSL to Legacy widows	2	50
Elizabeth TAFE - Women's Studies Group	2	42

Appendix 7 continued

Community Education—Talks and Displays	<i>Duration</i>	<i>Attendance</i>
Introduction to Family Law Filipina Women's Network	1.5	42
LSC services Filipina Women's Network	0.5	42
LSC services Overseas Chinese Ass	0.5	20
Introduction to Family Law Overseas Chinese Ass	0.5	20
Introduction to Family Law Vietnamese Womens ASEAWA	0.5	19
LSC services Vietnamese Womens ASEANWA	0.5	19
Legal Services, Wills, Powers of Attorney and Guardianship for Statewide Conference of Indigenous, HACC funded & Carers from rural, remote and metropolitan areas	1.5	50
Legal Services Vietnamese Older People Group - Parks Community Health Centre	0.5	30
Introduction to Family law Vietnamese Older People Group - Parks Community Health Centre	1	5
Legal Services to staff of new foster care program called Relative Care	1	5
Vietnamese SA Chapter Staff Family Law Children's Issues	1.5	12
TAFE Cert 4 Interagency Practice Child Abuse, Child Reps & Family Court		
Port Adelaide TAFE students	2	20
Elizabeth TAFE students**	2	20
Elizabeth TAFE students**	2	20
Adelaide		
Clare Family Law Information Seminar	2	64
Vietnamese SA Chapter Children & Family Law staff	4	15
Family Court Harmony Day Display	4	15
United Care Wesley Bowden African Women	1.5	6
United Care Wesley Bowden African Women	1.5	9
Vietnamese Women's Friendship Association Legal Resources	1.5	16
Vietnamese Women's Friendship Association Intro Family Law 1	1	18
Vietnamese Women's Friendship Association Intro Family Law 2	1	17
UNI SA students Effects on children of separation and divorce	3	15
Working Women's Centre Talk on taking instructions from client's with mental illness or intellectual disabilities	1	7
Northern Women's Counsellor Info Session	2	8
Shopfront StaffInfo Session	1	12

Appendix 7

Community Legal Education

Community Education—Talks and Displays	<i>Duration</i>	<i>Attendance</i>
Middle Eastern Communities Council LSC Display	1	200
Overseas Chinese Association Property Settlement Issues	1	10
Overseas Chinese Association Legal Resources	0.5	10
African's Women's Group - UCW Bowden Neighbours and EOC	1.5	15
TAFE - African Interpreters Course Legal System & Criminal law	3	25
TAFE - African Interpreters Course Civil & Family law	3	25
IDSC – Carer's Group Power of Attorney & Guardianship	2	20
Law Society – PLT Students LSC	1	118
TAFE Expo Display	4	300
African Interpreters - L & M Training The Legal System		
African Interpreters - TAFE Adel Mag Court Visit	3	25
African interpreters – L&M Training The Aust Legal System	3	6
African Interpreters – L&M Training Family Law	3	6
African interpreters – L&M Training Family Court Visit	2	15
African Interpreters - TAFE LSC Services The Law In General	3	20
African Men's Talk Law Week Family, DV & Child Protection	1	12
African Women - Modbury Uniting Church The Law In General	0.5	12
African Women - Modbury Uniting Church The Law In General	0.5	14
Gilles Plains TAFE LSC Services & Family Law	1	12
IDSC Staff Child Support	2	12
Migrant Resource Centre Legal Resources	1.5	70
Migrant Resource Centre Youth Human Rights Law Week	2.5	30
Migrant Resource Centre LSC Services Law Week	1	65
Migrant Resource Centre LSC Services Law Week	1	65
Migrant Resource Centre Human Rights Youth	2	15
Migrant Resource Centre Staff Legal Resources	2	25
Mt Barker TAFE Family Law	2	20
Multicultural Com Council Family Law	1.5	15
Multicultural Com Council Family Law	3	13
Multicultural Com Council Family Law	2	16
The Law In General	0.5	15
MWASS Family & DV	1	8

Appendix 7 continued

Community Education—Talks and Displays	<i>Duration</i>	<i>Attendance</i>
Northern Women's DV Group Family Law	2	10
SGIC Child Support	0.5	30
Spina Bifida EPA, EPG & Wills	2	17
Vietnamese Women's Friendship Association Wills and Probate	1.5	16
Vietnamese Women's Friendship Association Restraining Orders	1.8	18
Vietnamese Women's Friendship Association Family Law	1	20
Centrelink Child Support	3	25
IDSC Staff Justice System and Legal Advice	3.5	15
IDSC Staff Justice System and Legal Advice	3.5	20
TAFE Interagency Cert 4 Child Abuse	1.5	25
Sikh Community – Older People's group Enfield Family Law	2	27
Adelaide TAFE LSC Services, -Domestic Violence and Family Law	1.5	15
Vietnamese Women's Group Child Protection	1	10
Sikh Association – Adelaide Intro to Family Law	3	65
Vietnamese Community Child Abuse	3	20
Family Law Information Seminars:		
• Mt Barker		
• Murray Bridge		
• Victor Harbor		
• Noarlunga		
• Adelaide		
• Mt Gambier		
• Berri		
• Millicent		
• Elizabeth		
• Whyalla		
• Port Augusta		
• Kadina		
• Peterborough		
• <i>TOTAL</i>	2	92

Publications

Pamphlets

- Adult Child Maintenance
- Bankruptcy
- Child Support
- Court Ordered Maintenance
- De Facto Relationships
- Debt
- Dogs and the law
- Drink Driving
- Going to Court
- Motor Vehicle Accidents
- Need Legal Help
- Neighbours
- Power of Attorney
- Restraining Orders
- Restraining Orders – for person's restrained
- Untying the Knot
- Wills
- You and the Police

Booklets

- Unfair Dismissal *in association with Workplace Services and the Working Women's Centre*
- Worker's Rights *in association with Workplace Services and the Working Women's Centre*
- Strata and Community Titles
- Family Law and You
- Trees and the Law
- Fences and the Law

Kits

- Enduring Power of Attorney Kit *in association with the Office of the Public Advocate and Service SA*
- Enduring Power of Guardianship Kit *in association with the Office of the Public Advocate and Service SA)*
- Motor Vehicle Accident Kit *in association with Westside Community Lawyers*

Bookmarks

- Legal Services Commission website

Other languages

- Need Legal Help poster in 21 community languages. Free Legal Advice: a contact card with instructions on accessing our telephone advice line and free interpreting services. Available in 21 languages: Albanian, Amharic, Arabic, Bosnian, Chinese, Croatian, Dari, Greek, Italian, Khmer, Kurdish, Persian, Philipino, Polish, Russian, Serbian, Somali, Spanish, Thai, Tigrinia, Vietnamese.

Appendix 8

Client Relations

Client Relations Contacts 1 July 2004 - 30 June 2005

Basis of contact	Mediation	Child Support	Family	Criminal	Civil	General	Total	% of all contacts
Refusal of aid	2 (0.8%)	2 (0.8%)	153 (62.2%)	87 (35.4%)	1 (0.4%)	1 (0.4%)	246	33.4%
Entitlement to legal aid	9 (4.3%)	6 (2.9%)	125 (60%)	57 (27.3%)	5 (2.4%)	7 (3.1%)	209	28.3%
Child representation	Nil	Nil	22 (100%)	Nil	Nil	Nil	22	3.0%
Commission service	2 (2.7%)	11 (15.4%)	21 (29.2%)	26 (36.1%)	5 (6.9%)	7 (9.7%)	72	9.8%
Commission process	1 (5.3%)	Nil	7 (36.8%)	10 (52.6%)	Nil	1 (5.3%)	19	2.6%
Statutory charge	Nil	Nil	20 (80%)	5 (20%)	Nil	Nil	25	3.4%
Private practitioner service	2 (4.4%)	Nil	20 (44.5%)	18 (40%)	3 (6.7%)	2 (4.4%)	45	6.1%
Discrimination	1 (25%)	Nil	2 (50%)	1 (25%)	Nil	Nil	4	0.6%
Conditions of aid (other than statutory charge)	Nil	1 (5%)	8 (40%)	10 (50%)	Nil	1 (5%)	20	2.7%
CAP	Nil	1 (14.3%)	6 (85.7%)	Nil	Nil	Nil	7	0.9%
Complaint to MP, Ombudsman etc.	1 (2.7%)	2 (5.6%)	29 (80.5%)	4 (11.2%)	Nil	1 (2.7%)	36	4.9%
Other	Nil	1 (3.2%)	8 (25%)	9 (28%)	4 (12.5%)	10 (31.3%)	32	4.3
TOTAL	17	24	421	227	18	30	737	100%

Appendix 9

Finance

Account payment performance

	Accounts Paid		Value of Accounts Paid	
	Number	Percentage	\$Aus	Percentage
Paid by the due date	21 384	95.20%	22 069 811	95.39%
Paid within 30 days or less from due date	1 0341	4.60%	1 021 469	4.42%
Paid more than 30 days from due date	82	0.20%	45 531	0.19%
Number of accounts paid	31 770	100%	23 136 811	100%

o86

Appendix 10

Expensive Criminal Cases Funding Agreement

DATED 2ND DAY OF DECEMBER 2004

DEED OF AMENDMENT

087

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, 45 Pirie Street, Adelaide SA 5000**

Appendix 10

Expensive Criminal Cases Funding Agreement

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- 2. RECITALS..... 2
- 3. OPERATION OF AMENDMENTS..... 2
- 4. AMENDMENT TO CLAUSE 6..... 2
- 5. COSTS AND STAMP DUTY..... 2
- 6. CONFIRMATION OF PRINCIPAL AGREEMENT..... 3

ANNEXURE A THE PRINCIPAL AGREEMENT

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Appendix 10

Expensive Criminal Cases Funding Agreement

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----- End of Receipt -----
Revised Stamp Print
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.

CSO 55888 / 0820743 / Final

PXPIO / 1/12/04

089

Appendix 10

Expensive Criminal Cases Funding Agreement

2. **RECITALS**

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

3. **OPERATION OF AMENDMENTS**

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

4. **AMENDMENT TO CLAUSE 6**

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

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

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

5. **COSTS AND STAMP DUTY**

5.1 Each party hereto shall bear its own costs incurred in respect of the negotiation, preparation and execution of this Deed.

5.2 The Commission shall be responsible for and pay any stamp duty assessed or charged in respect of this Deed.

Appendix 10

Expensive Criminal Cases Funding Agreement

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.

091

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



.....
Witness
[Print Name: Susan Deed]

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

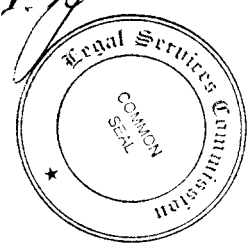


MICHAEL CARLISLE HOWARD BURGESS
Chairperson COMMISSIONER
[Print Name:]

.....
Director
[Print Name: HELEN JAMES GILBERT]



.....
Director/Secretary - witness
[Print Name: PETER JOHN HARRITT]



Appendix 10

Expensive Criminal Cases Funding Agreement

Annexure A: The Principal Agreement

Page 1 of 9

EXPENSIVE CRIMINAL CASES FUNDING AGREEMENT

COPY

AGREEMENT dated

29th January

2002

BETWEEN:

COMMISSIONER OF STATE TAXATION

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")

\$10.00

ASSUMED DULY STAMPED
ORIGINAL WITH 2 COPIES
10/03/2003 11:06:06 00719113.1
DEED

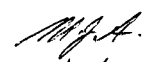
AND

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

RECITALS:

- A. The State of South Australia has enacted the Criminal Law (Legal Representation) Act 2001 ("the Act") to ensure that legal representation is available for persons charged with serious offences, and for other purposes.
- B. Section 18 of the Act provides that an Expensive Criminal Cases Funding Agreement is to be made between the Commission and the Attorney-General governing the approval of case management plans for cases to which the Act applies.
- C. The parties wish to enter into this Agreement in order to give effect to section 18 of the Act.


29/1/03


21/11/2002

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CSO 21537

15 November 2002

Appendix 10

Expensive Criminal Cases Funding Agreement

AGREED TERMS:



1. DEFINITIONS

In this Agreement unless a contrary intention is evident:

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

2. INTERPRETATION

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

M. J. A.
21/11/2002

Appendix 10

Expensive Criminal Cases Funding Agreement

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

3. TERM

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

4. AGREEMENT OPERATES AS A DEED

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

5. APPROVAL OF A CASE MANAGEMENT PLAN

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

M.A.A.
21/11/2002

Appendix 10

Expensive Criminal Cases Funding Agreement

6. CASE MANAGEMENT PLANS

COPY

- 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

M.A.A.
21/11/2002

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Expensive Criminal Cases Funding Agreement

COPY

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.

M.A.S.
21/11/2002

Appendix 10

Expensive Criminal Cases Funding Agreement

COPY

7. COMMISSION'S OBLIGATIONS

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

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8. REIMBURSEMENT OF COSTS

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

M.J.A.
21/11/2002

Appendix 10

Expensive Criminal Cases Funding Agreement

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COPY

9. APPLICATION OF CONTRIBUTIONS

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

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

10. CONFIDENTIALITY

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

11. AUDIT

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

12. NO ASSIGNMENT

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

13. SURVIVAL

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

MJA
21/11/2002

Appendix 10

Expensive Criminal Cases Funding Agreement

Page 8 of 9

the Attorney-General that the assisted person has agreed to the Attorney-General's being released from his or her obligations of confidentiality.



14. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts each of which is taken to be an original. All of those counterparts taken together constitute one instrument. An executed counterpart may be delivered by facsimile.

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15. **ENTIRE AGREEMENT**

15.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.

15.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

16. **PROPER LAW**

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

17. **JURISDICTION OF COURTS**

The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.

18. **MODIFICATION**

Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

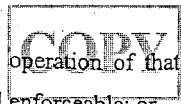
19. **SEVERANCE**

If any provision or part of a provision of this Agreement is invalid or unenforceable in any jurisdiction:

M.A.A.
21/11/2002

Appendix 10

Expensive Criminal Cases Funding Agreement



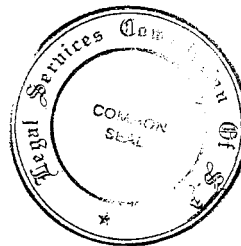
- 19.1 the provision must be read down for the purposes of the operation of that provision in that jurisdiction, if possible, so as to be valid and enforceable; or
- 19.2 if the provision cannot be read down, it must be severed if it is capable of being severed without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction and the parties must consult in good faith to determine whether any amendment or substituted provision is required.

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:)

..... 21/11/02
 Witness
 [Print Name: HELEN WIGHTON]

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



.....
 Chairperson
 [Print Name: BRIAN WITHERS]

Appendix 10

Expensive Criminal Cases Funding Agreement

SCHEDULE 1

COPY

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 enquiries 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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Expensive Criminal Cases Funding Agreement

Page 2 of 2

- COPY**
- (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.

[Signature]
29/1/03

M.A.A.
21/11/2002



25 years

1979-2004



A dinner was held at The Observatory in July 2005 to celebrate the 25th Anniversary of the Legal Services Commission.

27th Annual Report 2004-2005



Legal Services Commission of South Australia

www.lsc.sa.gov.au

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