

36th Annual Report 2013-14

Legal Services Commission of South Australia

Representation Program

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The Representation Program, overseen by the Deputy Director, is made up of three divisions–

- *the Grants of Legal Aid and Assignments Division;*
- *the Criminal Law Practice Division; and*
- *the Family Law Practice Division.*



*Karen Lehmann, Deputy Director,
Manager Representation Program.*

The Commission provides funding for legal representation of clients by private practitioners and by the Commission's in-house legal practitioners. Funding in criminal law matters is provided predominantly by the State Government for litigation involving State legislation. Funding for cases in the Family Courts, and other matters that fall within the jurisdiction of the Commonwealth, is a Commonwealth funding responsibility.

The Grants of Legal Aid and Assignments Division has the responsibility of ensuring that funds provided by the State and Commonwealth governments for grants of legal aid are expended in accordance with the *Legal Services Commission Act 1977*. If a client is unable to afford the cost of a private practitioner, and it is determined

that a matter has merit and falls within the Commission's guidelines, a client may be granted legal aid. Assignment officers then determine whether the matter will be handled by an in-house lawyer, or assigned to a private practitioner. A private practitioner may be allocated a grant of legal aid if that practitioner is on the relevant practitioner panel and has been nominated by a client as the client's preferred solicitor and the Commission determines that the choice is appropriate. If a client does not nominate a private practitioner, or if the nominated solicitor is considered inappropriate, the client will be represented by an experienced lawyer with speciality knowledge of the area concerned, either on the staff of the Commission or another panel lawyer in private practice.

The Legal Services Commission has a legislative responsibility to ensure legal assistance is provided to persons throughout the State in the most efficient and economical manner. To achieve this, the Commission must ensure that each legal aid matter is assigned to a suitably qualified practitioner. Legislative changes in family law and criminal law, including the introduction of mandatory non parole periods for murder convictions and the potential availability of a discounted sentence for an early guilty plea,

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have indicated how important it is for clients to have representation of the highest standard. A formal process to achieve this commenced in 2012 and consolidated into the Commission's first formal panel system commencing on 1 May 2014. The Commission now has a General Panel and a Complex Criminal Law Panel with a murder subpanel. Inclusion on these panels requires ongoing compliance with the General Panel Agreement and Practice Standards.

As at 30 June 2014, 476 lawyers had been admitted to the General Panel, of which 158 were also included on the Complex Criminal Law Panel. Of these, 47 counsel had been admitted to the murder subpanel. The response of practitioners to the opportunity to be included on the panels has been very positive.

The Commission is recognised as a significant contributor to the criminal justice system. The Deputy Director attends project meetings initiated by the Criminal Justice Sector Reform Council set up to deliver efficiencies to the criminal justice sector so as to deliver better service to the people of South Australia.

The Criminal Law Practice Division of the Commission comprises 38 legal practitioners who provide representation in all criminal law

jurisdictions including, with some help from the private profession, over 13 000 duty lawyer attendances in the last financial year.

The Family Law Practice Division has 22 legal practitioners who undertake duty lawyer services and represent clients at family dispute resolution and in the Family Court and Federal Circuit Court. Practitioners also provide advice and assistance in child support cases. The Family Dispute Resolution (FDR) program continues to grow. The purpose built suite available in the new premises at 159 Gawler Place, Adelaide has enabled the Commission to increase the number of FDR sessions. In the 2013-14 year, 869 conferences were conducted, an increase of 146 over 2012-13.

Duty lawyer services are available to all members of the public at the Magistrates Courts, the Family Law Courts and the Youth Court. Duty lawyers assist people with free legal advice and minor initial representation, including remand, bail and simple guilty pleas in the criminal law jurisdiction and adjournments and interim applications in the family law jurisdictions. The courts have repeatedly voiced their appreciation and support for this program. The assistance of a duty lawyer is

an early intervention strategy and often reduces the hearing time for a matter and helps cases to settle more quickly.

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

In the 2013-14 financial year private legal practitioners performed 69% of legal aid grants in criminal law matters, 66% of legal aid grants in family law matters and 96% of legal aid grants in civil law matters.

This financial year the Commission began formal communication with private practitioners through email so as to reduce the 'turn around' time associated with traditional post. The introduction of email communication has proved beneficial, particularly in relation to the establishment of the panel system and to notify changes applying to all practitioners undertaking legal aid cases. The next step is to introduce EFT payments and online lodgement of legal aid applications which it is anticipated will introduce efficiencies to private practitioners.