

Mr John Quigley; Mrs Lisa O'Malley; Chair; Ms Libby Mettam; Mr Shane Love; Mr Matthew Hughes; Dr David Honey; Mr Chris Tallentire; Ms Mia Davies

Division 27: Justice — Services 1 to 8, Attorney General, \$742 916 000 —

Ms M.M. Quirk, Chair.

Mr J.R. Quigley, Attorney General.

Dr A. Tomison, Director General.

Mr T. Clark, Deputy Director General, Corporate Services.

Ms K. Maj, Deputy Director General, Strategic Reform.

Ms J. Stampalia, Deputy Director General, Court and Tribunal Services.

Ms G. Hill, Executive Director, Aboriginal Justice Transformation.

Mr M. Hainsworth, Executive Director, Advisory Services.

Ms K. Kraszlan, Commissioner for Victims of Crime.

Mr B. Roche, Public Trustee.

Ms P. Bagdonavicius, Public Advocate.

Dr J. Byrne, Commissioner for Equal Opportunity.

Mr J. Lee, Principal Policy Adviser.

Ms M. Buchanan, Principal Policy Adviser.

[Witnesses introduced.]

The CHAIR: The estimates committees will be reported by Hansard and the daily proof will be available online as soon as possible within two business days. The chair will allow as many questions as possible. Questions and answers should be short and to the point. Consideration is restricted to items for which a vote of money is proposed in the consolidated account. Questions must relate to a page number, item or amount related to the current division, and members should preface their questions with those details. Some divisions are the responsibility of more than one minister. Ministers shall be examined only in relation to their portfolio responsibilities.

A minister may agree to provide supplementary information to the committee. I will ask the minister to clearly indicate what information they agree to provide and will then allocate a reference number. Supplementary information should be provided to the principal clerk by noon on Friday, 2 June 2023. If a minister suggests that a matter be put on notice, members should use the online questions on notice system to submit their questions.

The member for Vasse with the first question.

Mr J.R. QUIGLEY: Could I make an application, please?

The CHAIR: Certainly.

Mr J.R. QUIGLEY: I wonder whether members would be kind enough to deal with the Commissioner for Equal Opportunity first so that we can release Hansard.

Ms L. METTAM: Absolutely.

Mr J.R. QUIGLEY: Thank you very much.

Ms L. METTAM: That was going to be my comment, so there is no problem there.

I refer to division 27 in budget paper No 2, volume 2. On page 418, under the service summary, the seventh line item is “Equal Opportunity Commission Services”. What is the reason for the elevated cost of services in 2022–23? Is that associated with the act review?

Mr J.R. QUIGLEY: There is no significant variation between the 2022–23 budgeted amount and the 2022–23 estimated actual amount. We are on the Equal Opportunity Commission, are we not?

Ms L. METTAM: Yes. It is not much; it is just a small elevation in the cost of services.

[3.00 pm]

Mr J.R. QUIGLEY: There is no significant variation.

Mrs L.M. O'MALLEY: I refer to the fourth significant issue impacting the agency on page 416 of budget paper No 2, volume 2, which states that the Equal Opportunity Commission experienced a significant increase in inquiries and complaints received during the COVID-19 pandemic. Can the Attorney General advise whether there are any outstanding matters and whether the EOC is still receiving COVID-19 complaints?

Mr J.R. QUIGLEY: Thank you, member. During the pandemic, the government mandated various measures relating to vaccinations, masks and the border closure. The Equal Opportunity Commission received a substantial number of complaints and inquiries alleging discrimination relating to people's vaccination status and mask wearing, most commonly on the grounds of impairment in employment and the provision of services. All those people complained about vaccinations and masks. This resulted in a significant increase in the total number of complaints and inquiries received. The mandates overrode the provisions of the Equal Opportunity Act 1984 to the extent that they were incompatible. Many of the complaints, particularly regarding vaccinations, were resolved by an explanation of the scope of the act, and, in relation to the mandates, the Equal Opportunity Act was specifically excluded. Complaints relating to masks were compatible with the mandates and were made by the people whose medical exemption from wearing a mask was not accepted by a service provider. Most of those complaints were resolved when the service provider was advised that the complaint was valid.

Complaints related to the pandemic ceased after the mandates expired. However, a significant backlog of complaints occurred due to the increased volume of complaints and the secondment of the commission's staff to contact tracing. The backlog was cleared during 2022–23. The COVID-19 pandemic contributed to changes in society, including some that appear to be permanent.

One of these changes is an increase in the number of people working from home. Although not directly related to the pandemic, the commission receives inquiries and complaints from employees who were required to work from home during lockdowns but are now being required to work from the office. The complaints allege that the requirement to return to the office discriminates on the grounds of impairment or family responsibility. The volume of complaints about returning to the office is low and the complaints are considered on their merits. The commission is currently considering but one of these complaints.

The CHAIR: For members who have just come in, we are dealing with division 27, and we are dealing with the Equal Opportunity Commission first.

Mrs L.M. O'MALLEY: Are there any other emerging trends, besides complaints regarding COVID-19?

Mr J.R. QUIGLEY: The pandemic contributed to advancing societal changes, including some that appear to be permanent. As I mentioned before, some people are working from home. The Equal Opportunity Commission received several complaints from people who were required to work from home during the lockdown and other measures aimed at managing COVID-19 and who have recently been instructed to return to work in the office. Many of these employees began working from home for the first time during the pandemic with no loss to productivity and, in some cases, there was an improvement. Often, working from home had valuable benefits for the wellbeing or work–life balance of the employee, most significantly those with compromised immunity or impairments for whom commuting to and/or being in an office environment presents difficulties, and those with responsibilities to care for children, a person with disability or an aged relative. The complaints that alleged the requirement to return to the office discriminates on the ground of impairment or family responsibility are considered on their merits. The Equal Opportunity Commission is currently considering one complaint.

The Commissioner for Equal Opportunity believes that the benefits from greater flexibility in arrangements for working from home will flow to employers; a significant number of employees, including women; people with a disability; the Australian economy overall; and current employees.

Ms L. METTAM: I refer to page 418, the service summary table and service 7, "Equal Opportunity Commission Services". I note that the review of the Equal Opportunity Act was completed in August 2022. How has the review of the act impacted on the operation of the commission?

Mr J.R. QUIGLEY: We will be bringing in a new equal opportunity bill. As the member knows, the Law Reform Commission presented to government, and I tabled in Parliament, an extensive report on the Equal Opportunity Act, which was project 111. The Law Reform Commission undertook extensive consultations during the review and received 995 written submissions. Following the tabling of that report in Parliament, the government announced that it would broadly adopt 163 of the recommendations in the final report of the LRCWA and would draft a new bill, as I just mentioned. Several key elements of that will remove the outdated disadvantage test for sexual harassment complaints. I am sure that would be of interest to the member, having chaired the committee into '*Enough is enough*': *Sexual harassment against women in the FIFO mining industry*. Under the new legislation, people will not have to prove disadvantage, only that they were harassed. I think that is a big step forward.

The new bill will strengthen the equal opportunity protections for our LGBTQIA+ community, and staff and students in religious schools. It will provide anti-discrimination protection for those who are trans, gender diverse or non-binary and extend the prohibition against sexual and racial harassment to members of Parliament and parliamentary staff, judicial officers, court staff, local government councillors and staff, and unpaid volunteer workers. The member will remember the incidents that happened around this Parliament that could be properly described as sexual

harassment. The victims had nowhere to complain. They could not lodge a complaint against the member because the member was not their employer. The same is true in court settings. The bill will also aim to protect family and domestic violence victims from discrimination in rental accommodation and employment. We will introduce anti-vilification laws and strengthen the victimisation provisions in the Equal Opportunity Act. For the first time, we will introduce an obligation called a “positive duty” on employers to eliminate discrimination, harassment and vilification. I expect that will be another move welcomed by the member as the chair of the committee that brought in that valuable ‘*Enough is enough*’ report. These proposed changes will address the concerns raised in the Community Development and Justice Standing Committee’s second report, which is the report the member signed off on, ‘*Enough is enough: Sexual harassment against women in the FIFO mining industry*’.

We are drafting the equal opportunity bill at the moment and it is at an advanced stage. I have been receiving representations from stakeholders during the drafting process. They had made previous submissions to the Law Reform Commission of Western Australia, but after the tabling of the report and the announcement that government would be drafting legislation, they have written in again. I have invited those who have come back with substantive concerns to attend my office and sit around the table with me to address and take on board their concerns.

[3.10 pm]

The CHAIR: Member, that answer was actually broader than the question you asked, but that may well limit what other questions you need to ask.

Ms L. METTAM: The Attorney General answered a few of my other questions, so I thank him for his response. When does the Attorney General anticipate the amended bill will be introduced to Parliament?

Mr J.R. QUIGLEY: It is now towards the end of May. We are in the final stages of drafting the bill. I do not expect it to be complete before we get up for the winter break. This Attorney General will not be travelling to Europe or northern climes. We will be working on this assiduously during the winter break to present it to the Parliament as soon as possible. A lot of people are waiting on this legislation, especially those people in the fly-in fly-out industry. I note in the media recent examples of the conduct that the member’s committee reported on, so it is imperative that we do this as soon as possible. The member will recall that it has not been that long since the report was tabled, and it was a long report. We got cracking on it straightaway.

Ms L. METTAM: The Attorney General is quite correct in that we are continuing to hear concerning reports in the media about assaults or sexual harassment at mine sites. I have also raised another matter with the Attorney General.

Mr J.R. QUIGLEY: I did respond to the member, did I not?

Ms L. METTAM: The Attorney General did; absolutely.

The CHAIR: All right—question?

Ms L. METTAM: In the last 12 months, how many cases of harassment or complaints have been received by the Equal Opportunity Commission?

Mr J.R. QUIGLEY: Does the member mean generally or in relation to FIFO workers?

Ms L. METTAM: In relation to sexual harassment or assault in the workplace?

Mr J.R. QUIGLEY: May I defer to the Commissioner for Equal Opportunity, please.

Dr J. Byrne: Thank you. We include that type of data in our annual report, but I do not have it in my head at the moment. Complaints of sexual harassment are not very common really. We need to realise that in employment, people first take it up with the employer. If the employer addresses it well, the complaint does not come to us. It is those complaints that the employer does not address well that come to us. The mining industry has greatly improved the handling of sexual harassment complaints. Although sexual harassment in the mining industry has been facing attention, this problem is far more widespread than just in the mining industry. Many workplaces have a cultural problem, particularly male-dominated workplaces. We get complaints across the full spectrum of workplaces, but predominantly those with a male workforce.

Ms L. METTAM: That is a very good point. I note the fact that most people do not report to the Equal Opportunity Commission; many people go directly to the employer. In relation to the bill that will be introduced, it is important to have the resourcing that will support these changes. What additional resourcing does the Attorney General think will be required by the Equal Opportunity Commission?

Mr J.R. QUIGLEY: That would require me to expose what is going to cabinet. All I can say is that we are bringing in what I think will be leading equal opportunity legislation in Australia. There is a patchwork of legislation around the country and it seems that different jurisdictions are jumping ahead of each other. That is good, but we can do better. Our act has not been replaced for many years. We are very confident that we will be bringing in very good legislation, which I anticipate the member will be quite pleased with, given the matters she has raised with me,

and the commission will be properly resourced to deal with it. I cannot go further than that prior to the introduction of the bill.

The CHAIR: If we have no more questions on the Equal Opportunity Commission, we might move on more generally and the commissioner will be free to go. Do we have any general questions on division 27?

Mr R.S. LOVE: I refer to the table on page 416 and the line item “Review of Public Trustee Fee Model”. The funding for the review goes into the 2024–25 financial year. Why does there need to be funding in the following year as well as this year? Surely we can complete the review in one year.

Mr J.R. QUIGLEY: Very important issues have been raised about beneficiaries. From 1 July 2023, Public Trustee clients will receive \$13 million towards fee relief over two years while the Department of Treasury conducts a review into the agency’s fees and funding model. Might I remind the chamber that it was the previous Barnett Liberal government that put in this self-funding model for the Public Trustee that has been burdensome for many vulnerable clients of the office. During the 2023–24 budget process, the Department of Justice will spend \$500 000 over two years, from 2023–24 to 2024–25, to develop and revise the Public Trustee fee setting and operating subsidy model to one that is simpler, more transparent and more equitable. The Public Trustee clients will receive fee relief for two years from 1 July 2023, a 50 per cent reduction in the establishment and financial asset and property management fees, ahead of the development of the revised fee and operating subsidy model. The independent governing board will be established to strengthen the oversight of the Public Trustee, in addition to the establishment of an independent advisory board to oversee the development of a revised fee model and fee waiver policy. In six weeks’ time, there will be a 50 per cent reduction in fees charged by the office, and I am sure that this will be applauded by the member and all the beneficiaries and clients of the office.

[3.20 pm]

The CHAIR: Further questions?

Mr R.S. LOVE: I am not sure whether it is a further question or whether it is different. It is similar, but it may be a different question.

The CHAIR: Is it to do with the Public Trustee?

Mr R.S. LOVE: Sort of.

The CHAIR: All right; give it a go.

Mr R.S. LOVE: With regard to the review of the Public Trustee’s fees, which the Attorney General has just outlined, the funding model that was in place and the governance around it, will a similar review take place into the Office of the Public Advocate for people who are under state guardianship?

The CHAIR: No. It is quite a different question, member, but you can proceed.

Mr R.S. LOVE: I did say that it was a long lead, but it seems to have worked.

The CHAIR: You will need a page reference.

Mr R.S. LOVE: I refer to page 422 under the heading “Advocacy, Guardianship and Administration Services”, which is all about the Public Advocate. With regard to the service that is available, is there a need for a review by the Public Advocate; and, if not, why would there not be? Would that be part of this other review?

Mr J.R. QUIGLEY: The Public Advocate is a service offered by Western Australia. The office does not charge fees.

Mr R.S. LOVE: All right.

Mr J.R. QUIGLEY: Unless the member had dealt with the office, he might not have been aware of that.

Mr R.S. LOVE: No. I have only been told of it. I have not been personally involved with it.

Mr J.R. QUIGLEY: You never know, because families are.

Mr R.S. LOVE: The Public Advocate in other states can have suppression orders and administration and guardianship over people. Would the Public Advocate here have the same role?

Mr J.R. QUIGLEY: In getting suppression orders?

Mr R.S. LOVE: Yes.

Mr J.R. QUIGLEY: The question of suppression orders arises only when applications are made to the State Administrative Tribunal. These are generally in relation to very vulnerable people and often people with dementia. SAT orders the suppression. Under the Guardianship and Administration Act, there is a statutory bar to the identification of those people. That is why when those SAT decisions come out, there is reference to “BA”.

They do not go before SAT for anything they have done or for any appeal they are making. They are just a person who is labouring under severe disability or cognitive disability, so the legislation provides for non-disclosure of their name because they are vulnerable clients. They have not been brought there for punishment or to seek redress. These poor people have been taken to SAT for orders to try to help them look after their estate.

Mr R.S. LOVE: However, the person is also bound by that suppression order, so if they wished to be known, they could not be known. I understand that that issue has been examined in other states. Is it going to be examined in Western Australia?

Mr J.R. QUIGLEY: No, we are not planning to at this stage. All I will say is that there is a general prohibition on the identification of those people. People say that that prohibits them from going to the media. A lot of those people do not have the cognitive ability to make decisions in their own interests, and that is why the order is made in the first place. There is no disadvantage to bringing those cases to public attention by just referring to them anonymously. Because we are bringing forward a bill to amend the Guardianship and Administration Act, we have also sought advice about whether there is any capacity or room within our amendments to allow people to speak about their own circumstances perhaps without identification. There has been some recent publicity of cases that did not accord with my or the Public Advocate's knowledge or recollection of the cases. That is not surprising, because the client is cognitively impaired. We do not mind them talking, but in their own interests and that of their families, it is not contemplated to allow the media to publish their name.

Mr M. HUGHES: I go back to page 416. Paragraph 3 under the significant issues impacting the agency refers to the establishment of the Aboriginal Justice Advisory Committee, which provides cultural advice and guidance to ensure that key departmental policies and programs operate with meaningful involvement from significant Aboriginal community advisers. Can the Attorney General please outline some of the achievements of the committee in its first term of operation?

Mr J.R. QUIGLEY: This is a subject dear to my heart and I know it is a subject very dear to the heart of the director general, who is responsible for this. I have gone to a morning tea at the David Malcolm Justice Centre at which people not just from the Attorney's side of Justice, but also from the corrective services side of Justice have congratulated and thanked the committee members. The AJAC was established by the government in October 2021 to provide cultural advice and guidance to the department on justice issues relevant to the Aboriginal community. In that regard, it might be regarded as a voice for those people, but only to the Department of Justice. The department has convened a diverse membership of Aboriginal leaders with a range of lived experiences in the justice system. The AJAC is already helping the department improve its cultural responsiveness and increase Aboriginal workforce participation through policies, programs, services, reviews and development. This is contributing to improved justice outcomes for Aboriginal people in the medium to long term.

In June 2022, the AJAC identified four strategic priority areas to be focused on: young people; safe housing and homelessness; Aboriginal workforce development and employment; and procurement and Aboriginal community-controlled organisations. In 2023, the AJAC has progressed the establishment of three subcommittees to monitor action on these four strategic areas. The AJAC's first quarterly meeting of 2023 was held with the department's corporate executive to discuss the AJAC's Aboriginal workforce development and employment strategic priority and met with the Department of Communities' Aboriginal strategic advisory group to explore opportunities for future collaboration on issues significant to both portfolios. In 2023, the Aboriginal Justice Advisory Committee received briefings and provided advice on the following: referrals regarding policy matters under collaboration with the Attorney General; the Dandjoo Bidi-Ak care and protection court—Dandjoo Bidi-Ak is Noongar for “on the path together”—within the Perth Children's Court; the establishment of Aboriginal reference groups; the department's draft Aboriginal suicide prevention strategy; the proposed recommendations and a draft strategic framework from the policy partnership under the 2020 National Agreement on Closing the Gap; the Department of Justice youth strategic plan; and the department's contribution to the national discussion about the minimum age of criminal responsibility.

During the AJAC's first term, it conducted site visits, which have helped its strategic priorities, at the following departmental locations: the Perth Magistrates Court, the Office of the Chief Assessor of Criminal Injuries Compensation, the metropolitan youth bail service, Banksia Hill Detention Centre, Boronia Pre-release Centre for Women and the Corrective Services Academy.

The AJAC has also been consulted by the heads of jurisdiction on its united statement of reconciliation. The statement will be launched by the Chief Justice of the Supreme Court on 29 May and will be displayed soon after in courthouses across Western Australia.

The AJAC's membership comprises Aboriginal people from across Western Australia who are connected to one of the 10 metropolitan and regional areas—Perth metropolitan, north; Perth metropolitan, south; great southern; south west; midwest; goldfields; Ngaanyatjarra lands; Pilbara; East Kimberley; and West Kimberley. The AJAC establishment

aligns with the Aboriginal empowerment strategy by encouraging truth-telling, reshaping government services to work with culture and supporting Aboriginal-led solutions.

The AJAC members are contributing to an Aboriginal Advisory Council of Western Australia initiative to develop a collaborative approach for government Aboriginal advisory boards, which aims to ensure that high-level cultural advice is delivered in a consistent and structured way across government.

Finally, in June 2022, the AJAC met with AACWA co-chairs Gail Beck and Martin Sibosado to discuss AACWA initiatives. In September 2022, two AJAC members attended the AACWA-led meeting of all Western Australian government Aboriginal advisory boards to discuss the development of a collaborative strategy. The AJAC members are currently appointed as members of the recently established AACWA youth justice committee.

I want to vary from the answer by extending my personal congratulations to the director general, who is sitting to my right, and to his deputy, who is sitting behind him, for initiating this and to all staff for getting right behind it. When I attend the Department of Justice, it is such a wonderful feeling to be amongst these wonderful people.

[3.30 pm]

The CHAIR: Member for Cottesloe, you have been very patient.

Dr D.J. HONEY: I was almost drifting off there!

On page 417 under significant issues impacting the agency, paragraph 15 discusses the fact that we are not seeing significant reductions in the time to trial for criminal cases. From time to time, we hear from the courts that judges feel overwhelmed by their workload. Do we have a sufficient number of judges and sufficient resources? Is that the real problem rather than the factors in that paragraph? I know that COVID has not disappeared, but it has been more normalised, and I would imagine that the other factors would happen over time, not just now.

Mr J.R. QUIGLEY: A few issues are involved in this. It was my very great pleasure this morning to address the Full Bench of the District Court to welcome the “thirty-third and a half judge” to the District Court. That is how the Chief Judge described the new judge, Wendy Hughes, who is a brilliant person, because 50 per cent of the time she will be a judge of the Children’s Court, along with President Quail—so much has the Children’s Court expanded—and 50 per cent of the time she will be at the District Court. When I came to this office, I had an ambition to increase the quorum of the court by an extra judge each year at least, given that no new judges had been appointed and the quorum of the court had not been increased by the previous government, to my recollection. We have exceeded that because the department, with Treasury, devised what we call the justice pipeline model. It is a wonderful computer model. People can enter, for example, 500 more police, and it automatically goes down the line to show that this will lead to 2 000 more arrests, with so many more cases in the Magistrates Court, so many more cases in the Supreme Court or District Court, and so many more cells needed to accommodate prisoners. The justice pipeline has been in place for four or five years and has delivered the proper quota of judges to the respective jurisdictions.

But there is a problem, member, which I was discussing with the Solicitor-General today. Under the Constitution and the Judiciary Act, the state courts also exercise federal jurisdiction. When a person is charged with a federal crime, the commonwealth could elect to put them before the Federal Court, but it puts them before the state courts.

Dr D.J. HONEY: Cost-shifting.

Mr J.R. QUIGLEY: Exactly! Then the federal offences and the federal trials are mega. I know of no federal trial that lasts three or four days. I remind members of the immigration trial that came from the growers at Wanneroo. I think it was strawberry or tomato farms, or something like that. It could have been cannabis farms. I do not know, but they were all illegal immigrants. The case went for about three months before the Director of Public Prosecutions fessed up that it had not disclosed all the telephone intercepts, so the trial had to be abandoned and started again. We are bearing literally millions of dollars. It was the Commonwealth Director of Public Prosecutions that mucked it up, not the state DPP.

Similarly, there was a big drug trial relating to all the methamphetamine that was brought into the port of Geraldton. The member might remember that one. The people have just been sentenced by Justice Corboy to between 28 and 33 years, as I recall. That was a commonwealth charge. Two-thirds of the way through that very big and complicated trial, people realised that the commonwealth had not disclosed all the evidence, so the trial was abandoned and restarted. When the trial restarted, it had to be split in two because of the disclosures. The thing went on for about six or nine months, and we had no control over it.

I have sent a bill to the commonwealth. I did. It sent us a bill for the cost of detaining people for their trial on criminal stay warrants, and they were being held in the detention centre. The commonwealth had the cheek to send us a bill for millions of dollars for accommodating those people at the detention centre. I wrote back and said, “Thank you. You can set this off against the millions you owe us for crime.” We never heard from the commonwealth again. This is part of the problem.

[3.40 pm]

Dr D.J. HONEY: Send in the collectors.

Mr J.R. QUIGLEY: Part of the problem is that we are also accommodating all the commonwealth trials. I would not mind if the commonwealth built its own criminal courts with jury rooms where its prosecutors could prosecute and we would have more capacity here. We are doing everything to provide. The courts thank us time and again that the pipeline for justice is delivering them judges.

Dr D.J. HONEY: Further question.

The CHAIR: I cannot believe you need more information, member for Cottesloe, but proceed.

Dr D.J. HONEY: I thank the Attorney General for that, but given that those factors will continue, the gap between the aspiration in terms of time and what is being achieved is about a 15 per cent decrease in time. As the Attorney General pointed out, he just appointed half a full-time position into the Supreme Court, which is a 1.5 per cent increase. Is there a requirement for further resources?

The CHAIR: Okay, that is it. That is the question.

Dr D.J. HONEY: I anticipate the unfairness of the position the Attorney General is in, but it continues.

The CHAIR: Do you need more resources, Attorney General? That is the question.

Mr J.R. QUIGLEY: We would like, and we are working on, more courtrooms, because the Liberal government built a 32-storey David Malcolm Justice Centre for the Supreme Court and the Liberal government said that we are not allowed to have criminal trials in there. We are at a choke point. Yes, we need a new court building to make up the flawed decision to build a multi-32 level building in which we are not allowed to conduct a criminal trial.

Dr D.J. HONEY: There was less crime then.

The CHAIR: Do not get us started on that now, member.

Mr R.S. LOVE: I am looking at spending changes on page 416, under “Other”, and \$33 262 000 is listed.

The CHAIR: On page 416 in the table up the top of the page, Attorney General. Which particular heading are you looking at? Other?

Mr R.S. LOVE: “Criminal Injuries Compensation” under “Other”. Last year, or this year still to be completed, an estimated amount of \$33 million on top of —

The CHAIR: So you want to know why there is not any money in the out years. Is that what you are asking?

Mr R.S. LOVE: No.

The CHAIR: Sorry.

Mr R.S. LOVE: As an explanation for the chair, there is a standard allocation of around \$41 million per annum to allow for the criminal compensation.

The CHAIR: Sorry to interrupt.

Mr R.S. LOVE: We had a \$33 million uplift in that one particular year in compensation payments. Why was that? Perhaps, by way of supplementary information, the Attorney General can detail some of those payments so that we can understand why there is such an extraordinary amount in that year.

Mr J.R. QUIGLEY: The general assessment in the first place, when it came through with the budget, is that in 2022–23 it is forecast that a total of \$75 million in criminal injuries compensation payments will be paid out to victims of crime. In fact, the sums paid out to victims have drifted down a little from about \$20 000 to \$16 000, or \$17 000. Each claim has drifted down slightly and that is for a number of factors including the types of claims being made, but there was quite a backlog of claims that we had to attack. A total of \$75 million in payments will be paid out to victims of crime, which is an additional \$33.3 million above the target of \$41.7 million. Due to the increase in applications and increasing number of awards made together to the reduction in backlog, the government has approved an additional \$33 million, as the member noted. The number of awards assessed under the Criminal Injuries Compensation Act 2023 increased following the appointment of an additional assessor and support staff to address increasing demand as community awareness of the scheme continues to grow. The increased efficiencies and procedures of the Office of Criminal Injuries Compensation follow an introduction of end-to-end processing, and the continual growing of e-lodgements has contributed to the increase in the number of applications being assessed. Also, a dedicated effort to reduce the backlog of claims and backlog of cases older than 12 months has reduced by 10 per cent the total case load on hand from 14 per cent the previous year. That is the backlog. The number of CIC applications finalised and awards granted in 2021–22 was 7 708 and 6 475 respectively. As of February 2023, 3 928 applications had been finalised and 3 049 awards granted. The number of applications received has increased

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significantly. The case load on hand has increased from 4 452 in 2021–22 to 5 767 at the end of February 2023. This is an increase of 29 per cent. To deal with all of this has required supplementary funding to the office. We do not want to be telling victims of crime who have made e-lodgements that it is empty. Also, because we have the extra assessor and a new end-to-end processing system for greater efficiency, the processing time in which people have to wait for a result has shrunk from 16 months to eight months. That has put a lot of this backlog into this year. Therefore, it is over the budget.

Mr R.S. LOVE: Can the Attorney General give me some understanding of perhaps the maximum amount that was paid out in all of that, the minimum amount and the average? Can the Attorney General give me some idea of how complex this all was?

Mr J.R. QUIGLEY: The maximum was \$75 000, and people can get it for two offences, if two things have happened to them.

Mr R.S. LOVE: If that is a list, could the Attorney General perhaps table it?

Mr J.R. QUIGLEY: No, it is just a historical list, which the member is probably not too interested in, like, in 1976 it was \$2 000, and in 1982 it was \$7 500.

The CHAIR: Do not encourage him, members.

Mr J.R. QUIGLEY: What we got to is \$75 000. If it is a double offence and the person has been convicted on an indictment of several offences against them, they cannot claim for more than two. That is the maximum and the average is about \$16 000 or \$17 000, even factoring in the large ones.

The CHAIR: I call the member for Thornlie. Can I counsel the Attorney General to keep it relatively brief, because we need to give the opposition maximum time.

Mr C.J. TALLENTIRE: My question relates to fine reforms. I am looking at page 421, and the table under court and tribunal services. The last line is “Fine Enforcement Registry—Cost per enforcement”. What impact have the fine reforms had on vulnerable and marginalised Western Australians?

Mr J.R. QUIGLEY: The fine reforms have had a dramatic effect. In September 2020, we introduced legislation to focus on protecting marginalised and vulnerable Western Australians. Changes were implemented across several areas prohibiting the fines enforcement registrar from issuing licence suspensions, introducing a new scheme of work development and removing the registrar’s ability to issue a warrant of commitment. This has been groundbreaking stuff in vulnerable communities and especially in regional communities where the suspension of a person’s licence for the non-payment of a parking fine could mean that the person could lose their job. Most importantly, since the introduction of the legislation, no person has been imprisoned for the non-payment of a fine, like Ms Dhu was and tragically died whilst in custody.

[3.50 pm]

Mr R.S. LOVE: I refer to page 416 and the table of spending changes. A moment ago we were discussing criminal injuries compensation, but if we move down the list, there is another heading, third from the bottom, which is also significant this year. Line item “RiskCover Fund Insurance Premiums” has a one-off lump sum of \$55 million. What is the reason for this extraordinary figure?

Mr J.R. QUIGLEY: I wonder whether I could defer to Mr Clark, please.

Mr T. Clark: We have seen a 10 per cent reduction in the number of claims, which has led to a seven per cent reduction in lost-time injuries between 2018–19 and 2021–22. Therefore, the agency’s performance is slightly better. However, there has been an increase in workers compensation claims that have been paid. This is mainly reflected through the higher number of lost-time injuries; the increasing psychological injury claims; the number of long-term injuries; and the high costs associated with workers compensation claims due to high rates of pay—if someone is earning over time, the workers compensation claims are higher. Medical expenses have increased, and, quite often, the length of time taken to make a determination on contentious claims has been a factor in these increases.

Mr R.S. LOVE: I also raised the issue of workers compensation in the Insurance Commission of Western Australia division and compared with private sector outcomes, the public sector seems to be falling behind in return to work and recovery. Is that also the experience that the Attorney would report?

Mr J.R. QUIGLEY: I defer to the director general, please.

Dr A. Tomison: The department has identified that the case management of active workers compensation claims needs to improve and be done in a more speedy fashion to identify those workers who can return, and to actually work with them to get them back to work. We have met with ICWA a number of times over the past 18 months to two years, in various ways, to try to improve the process of both the Department of Justice and ICWA. That is an ongoing discussion. We do take it seriously. We do think there is an issue there, and we actually want to improve

people's return to work, essentially in a more speedy fashion. It is good for the worker. In fact, it is very difficult to get a worker who is off for 12 to 18 months to come back to work. Usually, it indicates a more serious injury. But we do want to do better at getting people back.

The CHAIR: The Attorney has indicated that he wants a comfort break. My shift change is at 4.00 pm, so is it all right if we do it then?

Mr J.R. QUIGLEY: That is fine.

The CHAIR: In which case, I might ask the Attorney a quick question. I refer to page 419, about two-thirds of the way down, where it says, in part, "Government receives quality and timely legislative drafting ...". What measures are being taken to ensure more timely legislative drafting than is currently available?

Mr J.R. QUIGLEY: I understood the chair's question to be: what steps are being taken in relation to timely drafting?

The CHAIR: Yes.

Mr J.R. QUIGLEY: Thank you, Madam Chair. The Parliamentary Counsel's Office is staffed by specialist drafters, who take a long time to train, and we have lost a number of them because of pregnancy, death and other life factors. They are hard to replace. The passage of the uniform law enabled practitioners from other jurisdictions, who have not been admitted but who would be working for government, to supervise things and to practice here. Since then, we have engaged outside employment consultants to advertise internationally and nationally. We have secured some responses to the national and international advertisements. Now that the uniform law is enacted, the drafting speed and resources in the office are picking up due to our aggressive recruiting campaign. Additionally, we have secured the services of some retired interstate drafts people, who can draft online. The amendments to the Equal Opportunity Act, which has about 400-odd sections, are being drafted in Sydney by the retired chief Parliamentary Counsel of New South Wales, who flew over to talk to the team before going back and doing it online. Therefore, we are doing all we can to aggressively pursue extra parliamentary drafts people.

We have also introduced a scheme whereby we advertise for private law firms that can offer drafting services to tender. They are on a panel. That is being largely supervised by the executive director sitting behind me. When ministers want particular bills but they cannot get priority at the Parliamentary Counsel's Office, they can make a request to my office and I can see whether it is a bill that could be drafted privately. I discuss it with the Premier and it requires the Premier and myself to sign off on it and it goes to a private firm. We have also employed a retired person from the Department of Justice, who was overlooking bills with PCO, to be a project manager of these matters.

The CHAIR: That is excellent. Is there anything else on this division or do we want to vote on it now?

Dr D.J. HONEY: There are some more questions.

The CHAIR: We will adjourn now and return at 4.10 pm, continuing on division 27.

Meeting suspended from 3.58 to 4.09 pm

[Ms A.E. Kent took the chair.]

Dr D.J. HONEY: The Attorney General is very passionate about the National Redress Scheme for Institutional Child Sexual Abuse.

The CHAIR: Which page, please?

Dr D.J. HONEY: I apologise, Attorney General. It is page 423, service 4. There is a relatively small but dedicated staff in that unit. The payment efficiency indicator—the average cost per claim for that unit—is up around \$60 million. Can the Attorney General provide a breakdown of the costs? I do not need an agonising breakdown. I note that the explanation refers to the Western Australian scheme payments to the commonwealth government. I assume that this does not include payments to individuals but is administrative expenses, plus those payments to the commonwealth. Can the Attorney General clarify that?

Mr J.R. QUIGLEY: I invite the Commissioner for Victims of Crime to speak on this, please. I defer to her.

Ms K. Kraszlan: The costs include the redress payment to the survivor, the payment for counselling and psychological care and the administrative percentage that we pay the commonwealth. We also pay a percentage towards the free legal service available for survivors. The cost also includes our administrative costs for delivering it and is minus any prepayments that survivors may have received in other redress schemes or criminal injuries.

Dr D.J. HONEY: Do the payments to victims of child sex abuse that involved, in part or whole, a government agency come out of this budget and not individual agency budgets? I may have misunderstood because I thought individual agencies would be responsible for that. Are payments made from one central point of government?

Mr J.R. QUIGLEY: I defer to Ms Kraszlan, please.

Ms K. Kraszlan: The Department of Justice has received the allocation for payments for all responsibility of government agencies, local government and any funder of last resort payments.

Dr D.J. HONEY: Approximately—I do not need an exact number—how many cases does that correspond to? Looking at last year, it looks like it is expected to be a steady case load.

Ms K. Kraszlan: In terms of case loads for government institutions—those related purely to government—we have processed 1 729 applications over the course of the scheme, which is four years. On average, we have somewhere around 100 requests for information each month.

Dr D.J. HONEY: Concern has been expressed about unnecessary delays in finalising these schemes, particularly when a matter goes to court. Does the Attorney General have any comment on that in relation to claims against state government agencies?

Mr J.R. QUIGLEY: This will be covered in the division on the State Solicitor's Office, which is now a sub-department of Justice. The question will have to be addressed to me in that division.

Dr D.J. HONEY: I refer to the net appropriation determination table on page 434 of budget paper No 2, volume 2. In the middle of the table is the bold heading "Sale of Goods and Services", and the fourth point under that is "Public Trustee Contributions—Estate Fees and Other Revenue". The Attorney General can read that as well as I can. What seems to be a little bit surprising is that in the out years of 2025–26 and 2026–27, there looks to be quite a significant increase in the estimated figure. If I heard correctly—I was not completely concentrating when the Attorney General provided answers to the member for Moore on a related topic—I think the Attorney General indicated that the government was restructuring the fees for this service and that the cost, which was a result of a former government's decision and was seen to be unfair, would be halved. Why is the government estimating such a significant increase in fee income?

Mr J.R. QUIGLEY: I will defer to the Public Trustee himself, Mr Brian Roche.

Mr B. Roche: The reduction in fees that was announced as part of the state budget will be over two years while Treasury has allowed us to use \$500 000 to do a significant further review of our fees and self-funding model. These are very much estimates and I think they will change significantly once the review is complete. That will not report back to government until 18 months from now.

Dr D.J. HONEY: I see. Based on what the Attorney General said previously, we will potentially see a figure south of \$20 million as opposed to above \$30 million, based on a similar number of clients.

Mr J.R. QUIGLEY: That is to be determined based on the income and the review.

Mr M. HUGHES: I refer the Attorney General to page 416 of budget paper No 2, volume 2, and the third significant issue, which relates to the Aboriginal Justice Advisory Committee. In the Attorney General's answer to me before the break, he made reference to matters relating to Closing the Gap and raising the age of criminal responsibility. I am well aware that this matter is before the Standing Council of Attorneys-General. Is it possible for the Attorney General to give me some sense of how the possibility of that reform is progressing?

Mr J.R. QUIGLEY: Sure. At a SCAG meeting in 2019, I moved that the attorneys investigate raising the age. Western Australia was then nominated, or the Department of Justice, as the jurisdiction to lead SCAG's investigation of that. A report was prepared and handed down, which recommended raising it to either 12 or 14 and presented us with options. We took that back to SCAG. We came away from there all in agreement that we could not abandon these children by not bringing them into custody or whatever, so we were charged with looking at alternative pathways to deal with children who are involved in miscreant behaviour but who now will not be captured by the criminal justice system. The department runs magnificent juvenile justice programs for dealing with children, especially when young ones come before the criminal justice system and are given bail or are under orders. If they are not arrested or charged, those programs will not be automatically available or delivered. We are working through that. The deputy director general, Kylie Maj, who is sitting behind me to my left, is leading that working group working with the commonwealth and we are taking that back to the Standing Council of Attorneys-General, I think in August, for the final decision. The Premier of Western Australia has said that we will not be raising the age above 12 at this point. Providing that we can get all the ducks in a row and have good alternatives for the 10 and 11-year-olds, we will look at raising it for them, conditional upon us having the right pathways available. We are working assiduously on this to bring us into line with the standards of the age of criminal responsibility in other commonwealth countries.

[4.20 pm]

Dr D.J. HONEY: I refer to the Registry of Births, Deaths and Marriages on page 424. The net cost of service for the 2022–23 estimated actual shows a very significant deficit compared with the 2023–24 budget estimate.

Mr J.R. QUIGLEY: I am sorry, which page?

Dr D.J. HONEY: It is the fifth service and key efficiency indicator on page 424.

Mr J.R. QUIGLEY: I have that. I am looking for which line it is.

Dr D.J. HONEY: It is the net cost of service. The department lost money in 2021–22; the budget in 2022–23 made up that deficit—it virtually zeros it out; in 2022–23, the estimated actual was \$1.8 million; and there is a significant decline going forward. What change has caused that turnaround from 2021–22?

Mr J.R. QUIGLEY: I think I have the answer here. I defer to the director general.

Dr A. Tomison: I think the change is mainly attributed to the increase in salary costs due to the new Community and Public Sector Union–Civil Service Association of WA agreement in 2022, which also includes the one-off cost-of-living payment and some back payments. That is the only variation that I am aware of. We would have to take anything else on notice.

Dr D.J. HONEY: I assume from past practice that there is expected to be, effectively, no net cost to government for that service. It is a service that pays for itself. Will that be reflected in an increase in fees to recover that increase in the costs?

Mr J.R. QUIGLEY: I defer to the director general.

Dr A. Tomison: My recollection is that there is no plan to make a significant increase to any of the fees that are being charged by the Registry of Births, Deaths and Marriages. The budget for the Registry of Births, Deaths and Marriages typically comes out pretty much cost neutral in the sense that it balances income and expenditure. I do not expect this will be an ongoing issue and believe that it will balance out. From time to time there are increases in the various services offered by the registry, but at this point I am not aware of anything beyond CPI being contemplated at all.

Dr D.J. HONEY: In relation to the FTEs carrying out the services, there is an eight per cent increase in the number of FTEs from 56 to 60, which is an increase of four people. Why do we need more people in that area?

Mr J.R. QUIGLEY: I defer to the director general.

Dr A. Tomison: Essentially, the answer is that additional staff are needed because of the increase in the services provided. That is an increase in the range of certificates that are produced and applications that are processed et cetera. The increase will see increased registration positions, including a senior customer service officer. There will be three of them. A community engagement officer will also be employed, so there will be two of them, to inform the work that the Registry of Births, Deaths and Marriages does in communities when it goes to remote areas to assist others and help people who cannot get to Perth to get their birth certificates and get their information processed appropriately. We all know that identification is a very important part of existing in our society and that Aboriginal people in particular are disadvantaged. The Registry of Births, Deaths and Marriages joins the Aboriginal justice transformation team in the department and they do open days of which there are quite a large number now. One reason these staff are needed is to staff that particular resourcing of the Registry of Births, Deaths and Marriages presence on those open days. There will also be one additional corporate support person to assist with backroom functions. Essentially, the nature of the service has increased in workload and the Registry of Births, Deaths and Marriages is moving to address that appropriately.

Ms M.J. DAVIES: I will preface this question by apologising if it has been asked already. Cut me off if it was. I refer to the third significant issue impacting the agency on page 416 of budget paper No 2, which says that the department has implemented an Aboriginal justice advisory committee.

Mr J.R. QUIGLEY: We went through that in detail.

Ms M.J. DAVIES: It has been answered. Okay, I will read *Hansard* tomorrow. Can I ask a new question or try again? After that I might give up so that I do not waste everyone's time! I refer to paragraph 15 of the significant issues impacting the agency on page 417. It is also linked to the line item "District Court—Criminal—Time to trial" in the outcomes and key effectiveness indicators on page 419. There is quite a disparity between the budget target and what was budgeted for in the previous year and what the estimated actual is. Perhaps the Attorney General can explain why the 2022–23 budget target is 32 weeks yet the estimated actual for 2022–23 was 70 and in 2021–22 it was 66. I would have thought it was optimistic to think that the target of 32 weeks would be met. Is that realistic?

Mr J.R. QUIGLEY: A lot of those time to trials were blown out by COVID and the restrictions on the courts and on juries. We have come through that now and are playing catch-up. We are reducing the number of outstanding matters and think that we can get the time to trial down. Under the pipeline of justice model, which I have discussed previously and which the computer modelling tells us that we need another judge, in the District Court, we have been

doing better than appointing one judge a year, which has increased its capacity. We have also just increased the number of judges in the Supreme Court.

Ms M.J. DAVIES: I saw that. I refer to the line item “Coroner’s Court—Time to trial” under the heading “Outcomes and Key Effectiveness Indicators” on page 419. It would not be a budget estimates unless we had this conversation, Attorney General. It is still a long time.

[4.30 pm]

Mr J.R. QUIGLEY: It is.

Ms M.J. DAVIES: Has the government been able to make headway? I appreciate that the Attorney General is probably going to say that this is everybody else’s responsibility, but what has been done at a cabinet level so that the numbers in this area do not look like this next year when I come back for my last budget estimates? That can be the Attorney General’s present to me; I will not have to ask this question again.

Mr J.R. QUIGLEY: We have reduced it from 1 315 cases in 2021–22 to 1 165 as of 31 March 2023. We have for the member’s penultimate appearance reduced it by some 200 cases. Not all these cases will go to a full coronial inquest. Many are dealt with administratively by the State Coroner, the Deputy State Coroner or the assistant coroners, and the files are dealt with administratively when the cause of death is uncontentious and known, but had to be reported as a sudden death. A good number of years ago, the previous Liberal government commissioned a Law Reform Commission of Western Australia report into the Coroner’s Court and a weighty voluminous report came back. It took hours for me to work through that with the coroner’s staff. The completely new coroners act will allow for more efficiencies within the system. The member knows from experience that sometimes the lead time in getting these bills to that table for consideration in detail is unfortunately long, especially when dealing with a large bill. That is what we intend to do. I intend to bring in a new coroner’s act that will really speed up the process. It will allow for quicker dispositions of those matters that do not have to go to a full hearing. I will defer to the director general to expand on that answer.

Dr A. Tomison: Obviously, deaths are also increasing each year, which does not help us address the backlog, but as the AG said, the backlog has gone down in the last year. One of the issues for the court is that about 30 to 35 per cent of all backlog cases are under the control of the court. Two-thirds rely on the coroner receiving an appropriate coronial investigation, and final supplementary post-mortem examination reports and toxicology reports from PathWest and ChemCentre respectively. Once the medical reports are provided, the coroner awaits the police investigation report that puts together the whole picture for the coroner. The inquest cannot be progressed until these matters are covered. This year we have spent time, as has the coroner herself, meeting with representatives of the Western Australia Police Force and also PathWest to try to work through what can be done to speed up the process. Additional resources have been allocated by WA police to the coronial investigation unit, resulting in more police reports being submitted to the coroner’s office so that more matters are finalised. We have also met with PathWest to identify where it can speed up the delivery of its toxicology reports and other medical reports that are also required. We are holding ongoing discussions with those agencies. They have their own issues around workload, but we are trying to get that prioritised, as is the coroner herself, by meeting with those bodies—we are talking about senior representations such as CEOs and the Commissioner of Police et cetera. This matter has been taken seriously and that is what we are doing to further reduce that backlog.

Dr D.J. HONEY: I refer to page 424 of budget paper No 2 and item 6 “Services to Government”, specifically the line item “Total Cost of Service”. A little while ago at least, the Attorney General and the Premier were joined in action against Mr Palmer for defamation. Does the cost of that action appear under services to government or does it appear somewhere else?

Mr J.R. QUIGLEY: No, the Premier made a very detailed public statement on the cost of the defamation trial. As the member will recall, it included the fact that the defamation trial was not conducted by government solicitors but by Clayton Utz, an independent counsel.

Dr D.J. HONEY: In which case, did that money come from the Department of the Premier and Cabinet and not involve —

Mr J.R. QUIGLEY: The member would have to ask Treasury that. We will have to wait until we get to the division on the State Solicitor’s Office because it is really a question for them.

Dr D.J. HONEY: That is why I was unsure. Thank you. I refer to legal assistance on page 425 and targeting access and the like. I see a reasonably significant increase in the total cost of service from the estimated actual of \$135 million to \$141 million in 2023–24. Why have we seen such a significant increase in the cost of that service?

Mr J.R. QUIGLEY: The increase in the total costs between the 2022–23 and 2023–24 budget years of \$13.2 million is primarily due to an increase in legal assistance grants of \$7.3 million, an increase due to the public sector wages

Extract from Hansard

[ASSEMBLY ESTIMATES COMMITTEE A — Wednesday, 24 May 2023]

p35b-47a

Mr John Quigley; Mrs Lisa O'Malley; Chair; Ms Libby Mettam; Mr Shane Love; Mr Matthew Hughes; Dr David Honey; Mr Chris Tallentire; Ms Mia Davies

policy of \$2.3 million, and an increase of \$2 million due to the new public hourly rate for private practitioners—we increased their rate from \$140 to \$160. The increase is also due to additional funding of \$4.7 million to maintain the community legal centres, which is a really good news story for all the regions. The community legal centres have never had a sustainable funding model. There are women's legal centres and tenants' legal centres—all sorts of legal centres. Those centres enable those who cannot afford to walk into a lawyer's door to get some quality advice.

Ms M.J. DAVIES: Did the Attorney General just say there is a \$4.7 million increase to the base funding for legal centres?

Mr J.R. QUIGLEY: Yes, \$4.7 million.

Ms M.J. DAVIES: What does that equate to for each centre? Was the funding spread across the board or was it weighted to particular centres—for example, the Wheatbelt Community Legal Centre versus the Women's Legal Service WA?

Mr J.R. QUIGLEY: I will defer to the executive director Mr Hainsworth who supervises all this.

Mr M. Hainsworth: The \$4.7 million was subject to quantitative and qualitative assessment criteria to inform the allocation to the 25 community legal centres across the state. The quantitative criteria focused on the allocation of funding based on the estimated relative greatest need. The qualitative criteria focused on the community legal centres' capacity to deliver those services to the areas of greatest need. That resulted in about 69 per cent of funding going to generalist centres that basically occupy a geographic area and 31 per cent being allocated to specialist centres. It would be fair to say that community legal services servicing outer metropolitan areas got a slightly greater increase than those in regional areas. That was largely driven by population growth and the growth in the number of priority clients within that population growth.

The appropriation was recommended.

[4.40 pm]