

Division 26: Justice — Services 1 to 6, Attorney General, \$526 666 000 —

Mr T.J. Healy, Chair.

Mr J.R. Quigley, Attorney General.

Dr A. Tomison, Director General.

Dr G. Hill, Director, Legal Aid.

Mr M. Hainsworth, Director, Advisory Services.

Mr N.A. Egan, State Solicitor, State Solicitor's Office.

Mr A.D. Kerr, Director, Financial Management.

Mr G.J. Italiano, Acting Executive Director, Corporate Services.

Ms J.M. Stampalia, Executive Director, Court and Tribunal Services.

Mr B. Roche, Public Trustee.

Mr D. Emerson, Senior Policy Adviser.

Miss L. Markussen, Ministerial Liaison Officer.

[Witnesses introduced.]

The CHAIR: I call the member for Hillarys.

Mr P.A. KATSAMBANIS: My first question is in relation to the appropriations, expenses and cash assets on page 345 of budget paper No 2, and relates to the funding under the Criminal Injuries Compensation Act 2003. I note that the level of funding between the previous financial year and the new financial year has been reduced by around \$9 million—it is more than a 20 per cent reduction of the previous year's spend. What is the reason for that reduction? I also note that it goes right through the forward estimates.

Mr J.R. QUIGLEY: I will defer to the director general for that answer.

Dr A. Tomison: Thank you, minister, and thank you, member, for the question. The budget estimate for the criminal injuries compensation payments for 2017–18 is \$40.707 million. The original budget for 2016–17 was \$31.817 million. However, during the 2016–17 midyear review, the former Economic and Expenditure Reform Committee approved an additional \$8.592 million each year for 2016–17 and 2017–18 to assist the Office of Criminal Injuries Compensation to address its backlog of matters and to meet an expected increase in payments to victims. The funding will return to the long-term level of \$31.817 million in 2018–19, resulting in a decrease of \$8.9 million between the 2017–18 budget and the 2018–19 budget estimate.

Mr P.A. KATSAMBANIS: How have we gone with that backlog? Where was it in 2016–17 and where is it now?

Mr J.R. QUIGLEY: I will ask Ms Stampalia to address that issue.

Ms J.M. Stampalia: The backlog has grown slightly between years. There are two main reasons for that. One of the reasons is an increase in the number of applications made to the assessor in previous years, which means that the backlog continues to grow.

Mr P.A. KATSAMBANIS: Can I ask for the microphone to be turned on?

The CHAIR: I think they are being turned on by the Hansard team. Is it possible for Ms Stampalia to repeat her advice?

Mr J.R. QUIGLEY: I ask Ms Stampalia to continue.

Ms J.M. Stampalia: There are two main reasons for the backlog. The backlog has grown between 2016–17 and 2017–18. The member would potentially recall that we had discussions previously about the growth in the number of applications over the last few years. It has been difficult for the assessors to keep up with the applications, considering some of the procedures they have to follow to assess the applications. The other thing that has happened is that a considerable amount of leave was taken by the assessors during 2017–18. We have also recently implemented a case management system in the criminal injuries compensation area—finally, after many years. That implementation occurred in November 2017. We believe we have now bedded that down and things are working really well. We also expect that that will help in processing some of the backlog.

Mr P.A. KATSAMBANIS: Can we be given an indication of the number of applications each year for the last three years to identify by how much those applications have grown?

Mr J.R. QUIGLEY: I ask Ms Stampalia to proffer the answer.

Ms J.M. Stampalia: In 2008–09, which is the base year in the comparatives we keep, the number of applications was 1 563. In 2016–17, the number of applications was 3 167.

Mr P.A. KATSAMBANIS: Do we have a figure for the year to date for 2017–18?

Mr J.R. QUIGLEY: I again refer to the executive director of court and tribunal services, Ms Stampalia.

Ms J.M. Stampalia: The year-to-date figure is around 1 800 applications.

Mr P.A. KATSAMBANIS: Is that for the financial year?

Ms J.M. Stampalia: From July 2017 to April 2018.

Mr P.A. KATSAMBANIS: How many cases are considered to be in the backlog?

Mr J.R. QUIGLEY: I refer to Ms Stampalia again.

Ms J.M. Stampalia: The description we use is the total number of cases on hand at this moment, which was 4 112 as at the end of April 2018.

[4.10 pm]

Mr P.A. KATSAMBANIS: It is 4 112?

Ms J.M. Stampalia: That is right.

Mr P.A. KATSAMBANIS: What was it at the end of 2015–16?

Ms J.M. Stampalia: It was 2 731.

Mr P.A. KATSAMBANIS: Funding of around \$15 million or \$16 million was provided over two years specifically to deal with the backlog. In that period, the backlog has increased by more than 50 per cent from 2 700-odd to over 4 100. I understand that the caseload has gone up a little bit, but how can we explain away that that significant additional funding did not result in a reduction of the backlog but in an increase? That is the first question. Do we need to put more resources in this area rather than remove the funding for the backlog so that people get their compensation in a relatively efficient time?

Ms J.M. Stampalia: I would like to clarify that the additional funding was not necessarily about resources to process the backlog; the additional funding was required to make the payments to applicants who had been assessed as being able to receive an award. That is what the additional funding was for—the award payments, not resources for the criminal injuries compensation area.

Mr P.A. KATSAMBANIS: Can I seek clarification? The director general clearly read out a statement that said that the funding was for dealing with the backlog. Now I am told that it was not for dealing with the backlog; it was for providing compensation. Which one is it?

Ms J.M. Stampalia: In reality, it is still about the backlog. Considering that the number of applications has built up over time, the assessors were able to get through many applications in a year, even though they received new applications and there is still a backlog. The additional funding was about paying for the number of awards made during the year. The other thing to reflect upon is the average of the award made. That also changes from year to year. An award average in one year might be around \$15 000 but more recently the average of awards made in the criminal injuries compensation scheme have been close to \$20 000.

Mr P.A. KATSAMBANIS: My mind has been read as to the next question. Can the department give us the average compensation paid in each of the last three years, including the year to date?

Ms J.M. Stampalia: In 2015–16, it was \$20 118 and in 2016–17, it was \$17 454.

Mr P.A. KATSAMBANIS: Does the department have a figure for the year to date?

Ms J.M. Stampalia: We do. It is \$17 712.

Mr P.A. KATSAMBANIS: Based on those figures, if anything, the average amount of compensation has been coming down, not going up. I realise that it is clumpy, that each year is different, and that each case is different. I go back to my original point that the backlog has increased significantly, which means that claimants who are clearly entitled to compensation are being delayed in receiving it. Is there a case for extra resources, even on an interim basis, to start processing some of these backlog claims so that people are not waiting a long time? In these particular cases, these are very deserving people who have suffered great loss through no fault of their own.

Mr J.R. QUIGLEY: I will look at the history of the scheme. In 2008–09, 750 cases were on hand. The next year it jumped up to 943. It dipped in 2010–11 to 813. In 2011–12, it was 885. In 2012–13, it was 1 149. In 2013–14, it was 1 556. In 2014–15, there was a big jump to 2 261. In 2015–16, it was 2 731. In 2016–17, it was 3 313. By

the time we got to February 2018, it was already 3 808, which represents an overall increase in claimants of 342 per cent. For this reason, I have requested that the department review the scheme for its ongoing sustainability.

Mr P.A. KATSAMBANIS: I am seriously concerned that someone over there is reading my mind. The backlog increased at a time when additional resources were handed over partly to deal with the backlog. Whether it was for the amounts of compensation or dealing with the compensation, additional resources were committed. I was going to ask the Attorney General whether he was going to conduct a review. Now that he has indicated that he has asked the department to conduct a review, is there any indication at this stage of when that review is likely to report, and will the findings of the report be made available to the house?

Ms J.M. Stampalia: There are two dates. We have prepared a draft discussion paper that we hope to distribute to key stakeholders within the next month or so. We also hope that at the completion of the process, we will have enough information that we can deliver a report to the Attorney General around October.

Mr P.A. KATSAMBANIS: The discussion paper will be circulated to key stakeholders. Will it also be publicly available on the website so that people who were not identified as key stakeholders will be able to make submissions?

Mr J.R. QUIGLEY: I will leave it to the department whether it wants to respond to that. We have previously indicated that we would not be tabling the discussion paper, but I will leave whether the department will publish it on a website to Ms Stampalia.

Ms J.M. Stampalia: We could publish the discussion paper online. The questions that I have seen so far in the discussion paper draft are very straightforward. It is not something that we would not be able to publish in terms of calling for questions.

Mr P.A. KATSAMBANIS: Can we get some form of undertaking that the discussion paper at least will be published on the department's website so that people who are interested in this area can have a look at it?

Mr J.R. QUIGLEY: The department is happy to give that undertaking.

Mr P.A. KATSAMBANIS: I have not asked yet about the average time to complete a matter. Could the department give me the details for the last three financial years, including the year to date?

Ms J.M. Stampalia: For 2015–16, it was 12 months. For 2016–17, it was 12.4 months. For the year to date in April 2018, it was 12.6 months.

Mr P.A. KATSAMBANIS: That is going up as well, in the same way that the backlog is going up, which means that people are waiting longer and longer. I realise that six months may not be a long time.

Mr J.R. QUIGLEY: It is 12.4 months to 12.6 months.

Mr P.A. KATSAMBANIS: From 12 months to 12.4 to 12.6—but people are still waiting longer to get compensation that they are entitled to. Is the Attorney General confident that the review will address all these areas, including the backlog and the time it takes to complete individual matters?

[4.20 pm]

Mr J.R. QUIGLEY: That is what has precipitated the review. I am very hopeful that those matters are going to be addressed.

Mr R.S. LOVE: In the table of spending changes on page 346 of the budget papers, there is an allocation to the Magistrates Court for additional judicial resources in this year and subsequent years. How many additional magistrates or what additional resources will that put on the ground for the courts? Also, can the Attorney General outline how many magistrates might be needed due to the requirements of the reforms that are highlighted in the second last dot point on page 346 after some changes were brought about by the Courts Legislation Amendment Bill?

Mr J.R. QUIGLEY: Firstly, we appointed a magistrate to the vacant position that the previous administration had not filled for some time. To help ease the demand pressure from criminal matters primarily relating to illicit drugs, theft and sex offences, the department will spend an additional \$4.2 million over the period from 2018–19 to 2020–21 for two additional judicial officers and support staff in the Magistrates Court. These additional resources will be allocated to courts within the metropolitan area. The additional expenditure will be offset by an increase in court and tribunal fees of 7.5 per cent in 2018–19. This is expected to reduce the Magistrates Court time to trial from the current 25 weeks to the budgeted target of 19 weeks. There are currently 47.5 full-time equivalent judicial officers in the Magistrates Court, with 23.5 of those, including the Chief Magistrate and Deputy Chief Magistrate, located in the Central Law Courts and the remainder, or 24 magistrates, located in metropolitan and regional areas. The current level of judicial resourcing has largely remained unchanged since 2011–12. We have appointed one magistrate whose position was vacant for some good while and additionally we have appointed two new magistrates.

Mr R.S. LOVE: Will all those positions be in the metropolitan area?

Mr J.R. QUIGLEY: They will be in the metropolitan area, but I have been speaking to the Chief Magistrate and, as and when required, they can be sent to the regions; for example, if there is a crush on in the Magistrates Court in Roebourne, we will be able to deploy them. The posting would be a metropolitan posting, but they would be available to be deployed where there is exceptional workload.

Mr P.A. KATSAMBANIS: Resourcing in the courts is always an issue and has been for a long time. Other jurisdictions, particularly the United Kingdom, use part-time magistrates sometimes specifically either to deal with complex matters that a general magistrate may not necessarily be an expert on or in particular regional areas where there may not be a point in locating a full-time magistrate, but where there would be significant work for someone to do two or three days a week. Has any thought been given to looking at that sort of regime to allow for better justice in regional areas?

Mr J.R. QUIGLEY: We have. I understand that for hearings times the real backlog is in the metropolitan area. We do have, of course, some part-time magistrates in the metropolitan area and they largely sit on the weekends at the Roe Street court. One of the problems with part-time magistrates is that they all require judicial support officers, who cannot be part-time. It is not as easy as just ringing up Joe and saying, “You’re on the roster; come in.” We have to have all the judicial support staff and then when we go to some of the country locations where there is a heavy workload, it is also a matter of the availability of courtrooms. I will let the director general add to my comments if that is appropriate.

Dr A. Tomison: Obviously, the Attorney General is correct; we do not have a plan at the moment for part-time magistrates. I would say, though, that courts and tribunal services spend a lot of time on the cost–benefits of various models of service for having circuit courts or alternatives to circuit courts. I have been to some of the places up north that used to have a magistrate on deck all the time and that has now ceased, so it is more of a circuit, and the local council is not happy with that. Karratha is one such town, and I remember meeting with the shire. At one point we stopped circuiting to Roebourne; in fact, Karratha court now services both those towns with a circuit. The reality is that the department, like the rest of government, has cost pressures. The most efficient way we can do the magistrates work in that town is through a fly in, fly out or circuit-type situation. It is something that we continue to look at regularly and we continue to look at our network as a whole to make the best use of it where we can. Some towns historically have had quite a large service demand and that has changed over time but the towns still wish to retain a magistrate. Sometimes that is possible, depending on the demand there; sometimes it is not. We try to consider that almost on a yearly basis, and we work with the Chief Magistrate and his staff on that as well. As the Attorney General said, it is not just about the magistrates; it is about staffing, when the courts open and a whole range of other factors, including police attending to provide court security in rural areas, which is an ongoing issue for them.

Mr P.A. KATSAMBANIS: What were the drivers behind the decision to no longer have that circuit go to Roebourne and to concentrate all the work in that area in Karratha? Has that caused any concern or dislocation within the Roebourne community?

Mr J.R. QUIGLEY: I ask Ms Stampalia to answer that.

Ms J.M. Stampalia: That decision really came from cyclone Christine. The Roebourne courthouse was severely damaged by cyclone Christine and it had to be closed for significant repairs for many months. Once the works were done, things had happened that meant that the Department of Transport was servicing from Karratha and finding other methods. We also did Department of Transport work at Roebourne court. The magistrates were listing in Karratha but also had made the commitment at that time to circuit matters for Roebourne to Wickham, Point Samson and other locations that had a community bus going to that particular location.

Mr P.A. KATSAMBANIS: We had the cyclone and there was damage to the courthouse. We needed to find other places while the courthouse was being rebuilt or patched up; I am not sure exactly what happened. The state spent resources to rehabilitate that courthouse and make it useable and then we decided not to use it. Attorney General, was that not a waste of pretty valuable resources?

Mr J.R. QUIGLEY: Not at all, but I will let Ms Stampalia give the full answer.

Ms J.M. Stampalia: We were committed to restoring that building because it is heritage listed. That is the reason that we did spend the money on restoration.

[4.30 pm]

Mr P.A. KATSAMBANIS: I repeat my concern: we have a perfectly useable courthouse that taxpayers’ money has been spent on and then we decide not to service the community with a circuit—the type of community that we are told quite regularly faces issues in significant areas of disadvantage. Would it not make more sense to actually

continue to service that community in its community rather than force those people to travel some distance to Karratha, with no real public transport available, as I understand it—certainly not regular public transport—from Roebourne to Karratha?

Mr J.R. QUIGLEY: I defer to Ms Stampalia.

Ms J.M. Stampalia: That decision was made some time ago in December 2013.

Mr P.A. KATSAMBANIS: I am aware of that.

Ms J.M. Stampalia: It was made because the courthouse was also not fit for purpose. Although it might have been restored after the cyclone, it probably had reached a point at which it really was not suited to court operations as well. The decision was made at the time by the then minister not to continue those activities.

Mr P.A. KATSAMBANIS: To paraphrase, the restoration was to the heritage aspects of the courthouse and not to make it a modern, twenty-first century functioning courthouse. I understand that.

Mr J.R. QUIGLEY: I will ask the director general to reply to that.

Dr A. Tomison: I will just add to that for the member's benefit. The courthouse was refurbished to a particular standard. One of the benefits of the machinery-of-government changes is that the Department of Justice now incorporates community corrections. I do not know whether the member has been to the community corrections offices in Roebourne. They are in a fairly atrocious, old building. I visited it late last year and offered to move the community corrections staff into the courthouse subject to it being a suitable venue to try to make use of that resource so we do not waste it. The building they are in now is pretty lousy.

Mr P.A. KATSAMBANIS: That is a good use of resources.

Mr R.S. LOVE: As the discussion went on, it was mentioned that some changes were made in December 2013 in Roebourne. I believe that just after that, a number of towns within the wheatbelt and the midwest lost the provision of a magistrate to the local court and the centralisation in a few key places, creating the associated problems with public transport et cetera that the member highlighted. But these problems were accentuated far greater because there is no way of getting to some of those places. Is there a published list of the various locations and the demand on time et cetera of all the regional courts and those in the metropolitan areas so that I can be assured that there is a greater backlog in the metropolitan area and not in some of those regional areas?

Mr J.R. QUIGLEY: I will refer to Ms Stampalia.

Ms J.M. Stampalia: We monitor that information internally. We do not publish that information for the general public. There are pockets across the metropolitan area in which we have significant listing delays in the Magistrates Court and in particular country locations. We are doing many things to address the delay in those locations. As the Attorney General referred to earlier, the Chief Magistrate regularly monitors what happens in those locations. He makes decisions on whether he will add to the resources at particular locations to make sure that the listing interval is brought down. As the member knows, our target is a particular number. At the moment, some of our locations have a backlog of around 40 weeks.

Mr R.S. LOVE: So I cannot be provided with a snapshot of existing conditions in terms of a backlog?

Ms J.M. Stampalia: I can give the member particular locations and their numbers.

Mr R.S. LOVE: I am happy to take that in supplementary form.

Mr J.R. QUIGLEY: I am happy to provide in supplementary form the information concerning the backlog in particular regional locations —

Mr R.S. LOVE: And a comparison of that with the metropolitan situation.

Mr J.R. QUIGLEY: — and in the metropolitan area as well.

[*Supplementary Information No A37.*]

Mr Z.R.F. KIRKUP: I refer to legal assistance aid outlined on page 354 of budget paper No 2. The table contains a summary of service costs and efficiency indicators. I appreciate the explanation of significant movements in the 2017–18 budget and the estimated actual for the average cost of legal representation. That explains that increase over the 2017–18 period. Why is there an expected reduction in that target for the average cost of legal representation in 2018–19? In 2017–18 it is \$3 813 000 and it goes up to \$4 449 000. The explanation of significant movements outlines that and I appreciate that explanation, but what strategies are in place and what explains that reduction forecast for 2018–19?

Mr J.R. QUIGLEY: Dr Hill will take that question.

Dr G. Hill: Looking back over a number of years, the average cost per representation has been fairly stable. There seem to have been a large number of expensive cases in the last 12 months. It is a little random as to what cards

are dealt in terms of the complexity and duration of trials that come up, but we expect it to return to the historical level. There is no indication that it will continue at the current level. Again, the demand for legal assistance services is something that we do not control and it is very difficult to predict.

Mr Z.R.F. KIRKUP: I appreciate that response. Obviously, those costs will return to an expected long-run average. Can I get an outline, if possible, of the types of cases that have seen that become more expensive over the 2017–18 period? Are there any examples of one-offs that would have pushed that cost up for the 2017–18 period?

Mr J.R. QUIGLEY: I will defer to the director, but he has been here for only two weeks. Otherwise, I will field the answer myself.

Dr G. Hill: A number of significant murder cases and also some very significant and expensive commonwealth cases to do with immigration laws and drug trafficking over the same period would play into that average.

Mr J.R. QUIGLEY: I will add to that. Since I have practised, which is some good while ago now to date, and even over the last five years, I have noticed that forensic science has come a long way. The Chief Justice has said that it has made the cases not only longer, but also a lot more complex when dealing with DNA and other evidence. There is more reliance on telephone intercepts in conspiracy cases. We have just seen a big commonwealth case fall over after 10 months—I hasten to add that it was a commonwealth prosecution, not Western Australian—because of non-disclosure of massive amounts of telephone intercept asset. Police are running more complex investigations that lifts up the defence costs.

Mr Z.R.F. KIRKUP: Given the complexity and the number of cases that Legal Aid Western Australia continues to deal with—even in significant impacts affecting the agency, I note the increase in casework—I am keen to understand why more full-time equivalents have been cut from Legal Aid.

[4.40 pm]

Mr J.R. QUIGLEY: I will refer that to the director.

Dr G. Hill: I understand that we lost two staff members in the year due to the voluntary targeted separation scheme and another three staff members are scheduled to go in the next financial year.

Mr Z.R.F. KIRKUP: To clarify, was that as part of VTSS?

Mr J.R. QUIGLEY: Yes.

Dr G. Hill: A net total of five staff members, but looking at Legal Aid staffing is not the complete picture, because most legal aid in Western Australia is delivered by the private profession. The number of employees working at Legal Aid is not necessarily indicative of the number of services delivered.

Mr Z.R.F. KIRKUP: Further to that—as I expect the member for Hillarys will jump in—I expect that in that case, the government is comfortable that these staff cuts will have no impact on services delivered by Legal Aid. Is that a correct assertion?

Mr J.R. QUIGLEY: That is correct. It will not have any impact on that. What will have an impact is the big caseload.

Mr P.A. KATSAMBANIS: I refer to service 6, “Legal Aid Assistance”, on page 354. We were talking about the average cost of legal representation. Can the Attorney General provide a figure for the average time taken to assess an application for legal aid?

Mr J.R. QUIGLEY: I will have to refer that to the director of Legal Aid.

Dr G. Hill: The time taken to determine an application for legal aid depends on the complexity of the matter and what has to be assessed. The assessors and the grants officers need to look at eligibility, the merit of the case and whether it fits within the guidelines. I understand that it takes about four weeks to determine an application.

Mr P.A. KATSAMBANIS: That is obviously an average. Does the Attorney General have figures for the year to date on how many applications have been made and how many applications have been accepted or declined?

Mr J.R. QUIGLEY: I will refer to the director for the number of applications. I might add that that figure is published in the annual report.

Mr P.A. KATSAMBANIS: As we said earlier, the annual report is quite historical. I am asking for figures for the year to date if possible.

Mr J.R. QUIGLEY: I refer to the director.

Dr G. Hill: I do not have the year to date figures with me here. I understand that the number has increased slightly on the same period in the previous year, but the number of applications approved is running at about 85 per cent this year, which is on par with the longer-term historical average.

Mr Z.R.F. KIRKUP: I want to go back over the five positions that were cut through the VTSS. Can I have a breakdown of the positions that have been cut since 2016–17?

Mr J.R. QUIGLEY: I refer to the director.

Dr G. Hill: I thank the Attorney General. I cannot tell the member what those positions are because I do not know. I do know that there were about 40 applications for the scheme and my predecessors applied a number of criteria: they wanted people to be from back of house, not frontline service delivery; they wanted them to be senior people, so that significant savings would arise from it; and they wanted them to be positions that obviously would not have to be replaced, but could be covered through streamlining and other efficiencies.

Mr Z.R.F. KIRKUP: I appreciate that. Given there has been a VTSS reduction of those five positions, why is it that the total cost of services has gone down if the caseload has gone up? Is that because private practitioners have undertaken those cases? I see that in 2017–18 and 2018–19 there has been an overall cut in the budget as well. There has been a reduction in senior but not frontline FTEs, but the cost of services has gone down. What has occurred there?

Mr J.R. QUIGLEY: Certainly, I will refer that to the director.

Dr G. Hill: It would have to do with the duration and complexity of large trials.

Mr S.A. MILLMAN: I refer to page 347 and the final dot point under “Significant Issues Impacting the Agency”, which is about the increasing demand for legal aid services across the community. An issue that arises in legal practice is unrepresented litigants, or community members who have not had the opportunity to obtain legal advice, and an important part of the delivery of legal services in Western Australia is that provided by our community legal centres. Could the Attorney General provide a summary of work that has been undertaken to ensure CLCs can continue their valuable work?

Mr J.R. QUIGLEY: Of course, the state government is deeply committed to a sustainable funding pathway for community legal centres. We are examining ways in which, for the out years, we can develop a sustainable funding package. Since coming to government, we have approved an allocation of \$2 million from the proceeds of crime account to provide some certainty to community legal centres in 2018–19 and to maintain the status quo while the review of Legal Aid’s financial affairs is underway. There has been an internal general review of the commission’s financial affairs, and, in the meantime, the government has been dipping into the proceeds of crime account. I will give a breakdown of that funding for this year. In April, we approved a \$2 million rescue package drawn from that fund. In 2018–19, \$1.35 million of this funding will be used for the following centres: the Albany Community Legal Centre will receive \$53 000; the Citizens Advice Bureau will receive \$81 400; the Northern Suburbs Community Legal Centre will receive \$330 000; the Street Law Centre of WA Inc will receive \$195 000; Sussex Street Community Law Services will receive \$114 120; the Welfare Rights and Advocacy Service will receive \$37 200; the Wheatbelt Community Legal Centre will receive \$299 520; the Youth Legal Service of WA will receive \$71 000; the Humanitarian Group will receive \$100 000; and the Northern Suburbs Community Legal Centre will receive \$57 486 for a respondent duty lawyer for domestic violence and violence restraining order cases.

These allocations will ensure that no centre receives less funding than it received previously. The remainder of the funds will be allocated following discussions between the Department of Justice, the Community Legal Centres Association of Western Australia and Legal Aid on the best way to deliver services in the future. Community legal centres need certainty in their funding to allow them to effectively plan and run their services now and into the future. Our government is committed to developing a sustainable funding path for community legal centres as part of this commitment. We will review the operation of community legal centres in partnership with those centres to determine whether services can be delivered more effectively. In this regard, I especially have in mind centralising back-of-house functions and administration that might be replicated in one or more centres to support these centres so that they can concentrate on their core function of providing legal advice.

Mr R.S. LOVE: The fifth dot point on page 347 refers to the Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018. I understand that act is pending proclamation. I wonder whether the Attorney General could give an indication of when he expects that bill to be proclaimed. He referred to appropriate preparations to respond to anticipated civil claims. What moneys have been set aside to provide for additional costs for activities around claims et cetera arising from that act?

[4.50 pm]

Mr J.R. QUIGLEY: There are two parts to that question. I will deal with the first proclamation and refer to the State Solicitor, Mr Egan, for the second part. In relation to the first part, as explained in this chamber earlier, we have capped the fees for lawyers acting for claimants in historical child sexual abuse cases to scale. That requires an official determination by the costs committee of the Legal Practice Board. I have been liaising with it and it has

to invite responses. It is confident it will get a determination by June, so at this stage I fully anticipate proclaiming the legislation before 1 July. It is only weeks away; we anticipate proclaiming the legislation as soon as practicable after that cost determination .

As to preparations that are being made, these preparations are being undertaken within the State Solicitor's Office, which obviously has to gear up for the reception and dealing with those claims. I will, with the Chair's permission, refer to the State Solicitor who will give the member a more detailed run-down of the preparations.

Mr N.A. Egan: Thank you, Attorney General. A preliminary funding allocation of \$427 000 has been set aside in 2017–18 and a further \$815 000 for the 2018–19 year. To date, my office has recruited two additional lawyers dedicated solely for the purpose of handling historical child sexual abuse claims. A further two will be employed over the course of the next six weeks. That is four; a further senior solicitor has been re-tasked from within the office, thereby giving a small team of five, supported by two administrative staff. We have to date received approximately 20 claims. Estimates contemplate, expect or anticipate that we would receive somewhere in the vicinity of 230 claims a year. But of course that will depend upon whether they are for historical child sexual abuse claims under the Limitation Act or, alternatively, under the redress scheme, and some might of course go down either route. We have draft guidelines for a precarious trauma-informed practice for responding to civil litigation involving historical child sexual abuse to meet the needs of lawyers and others working in the area. We have also liaised closely with the Departments of Education and Communities, as well as court services and RiskCover, concerning the future management of the claims.

Mr R.S. LOVE: The expected number is 230 claims in a year. How long would the Attorney General anticipate that level of activity before we started to hopefully see some sort of decline in that ongoing number? I assume a backlog of people are waiting to take this type of action. How long does the Attorney General think that that type of resource will be required?

Mr J.R. QUIGLEY: I will let the State Solicitor expand on this answer, but as the State Solicitor has already mentioned, if and when we join the redress scheme, it is unknown how many people will go to redress as opposed to civil claims.

Mr R.S. LOVE: Before we go on, though, my understanding is that one did not preclude the other completely.

Mr J.R. QUIGLEY: No, the acceptance of an award under the national redress scheme by the scheme's operator will require the applicant to sign a deed releasing everyone from all future claims. It will extinguish all future claims if a person goes under the national redress scheme. It will reduce the number that will go under civil law and reduce the workload on the State Solicitor's Office. It is hard to predict. The State Solicitor might have done some more work in this space. I refer to Mr Egan.

Mr N.A. Egan: Thank you, Attorney General. Based on the experience of other jurisdictions, it is very difficult to say. We are planning perhaps for all historic child sexual abuse claims to be resolved within a period of two to five years. But that is a guesstimate, as matters presently stand, and will depend on the number of claims that we receive in any one particular year, and how those claims process over the course of out years.

Mr R.S. LOVE: Just on the redress scheme, how advanced is that and how far down the track will that be before that may be an issue?

Mr J.R. QUIGLEY: The redress scheme comes within the Department of the Premier and Cabinet. I have been the minister attending those negotiations, and I would like to compliment the federal minister, Mr Tehan, for his helpfulness in those negotiations. We are hopeful of coming to some finality within the next six or eight weeks. But as I said on radio yesterday, and to Mr Tehan, before we give a commitment or an idea that we are going in—having had our GST experience, and the legislation or the rules not having gone through the federal Parliament yet—we want to see what it comprises, not in general conversation or emails; we want to see it in black and white and that all matters have been agreed to.

Mr P.A. KATSAMBANIS: I have a further question on this whole issue that was raised about the recent bill that passed through this place and its interrelationship with the national redress scheme. I note the Attorney General said that there has been progress with the commonwealth. Has there been any progress around the commonwealth accepting that it has a financial liability in particular cases and not to push them down to the Western Australian state government?

Mr J.R. QUIGLEY: Is the member referring to child migrants?

Mr P.A. KATSAMBANIS: Yes—in particular child migrants, but it may not necessarily be exclusive.

Mr J.R. QUIGLEY: We have not seen it in black and white yet. There has been an indication. What has transpired is that we initially asked the commonwealth to accept a 50 per cent liability. It declined. We went back to it and said, "In that case, looking at the rules as currently framed, it looks as though the commonwealth is 100 per cent

liable.” It said, “We will come back to you”, so we are coming to a negotiated position of 50 per cent for participating governmental institutions, which will be a state and commonwealth institution, but I have not got anything firm in writing at the moment. We have agreed on principles and we hope to move forward with that in the legislation that it presents.

[5.00 pm]

Mr P.A. KATSAMBANIS: In this whole area of the interrelationship and the compensation payable under the state act, it is clear that the Attorney General intends to proclaim the act very soon, as soon as the legal costs determination is finalised.

Mr J.R. QUIGLEY: That is correct. I think that is also the answer I gave during debate in the chamber.

Mr P.A. KATSAMBANIS: That is right. Claims will be made and, hopefully, processed in this coming financial year. Is there an estimate of the state’s liability for compensation—not for costs or anything like that—in this coming financial year?

Mr J.R. QUIGLEY: I will pass that off to the State Solicitor. Before doing so, I make this prefatory comment, which is a repetition of what I said earlier. That will depend largely upon whether and when we enter the national redress scheme and how many claimants decide to go down that path and not down a common law path. I will hand that over to the State Solicitor to see whether his office has done any actuarial calculation on that.

Mr N.A. Egan: Member, it is too difficult to identify with precision the average cost per historic child sexual abuse case. It depends upon the circumstances of the case and the extent of the abuse. There have been multiple common law awards over the years and they have varied according to the extent and trauma associated with the abuse. Based upon what we know from other jurisdictions in the eastern states, the common law award for damages is trending upwards. In those circumstances, it is most difficult to provide any specific quantum.

Mr P.A. KATSAMBANIS: I will use a colloquial term: from which pot of money will compensation payable under the state act be paid?

Mr J.R. QUIGLEY: It will be from consolidated revenue. I am very proud to be part of the Labor Party because it had the election commitment to lift the statute of limitations. It was unfunded in the sense that no-one could put an exact figure on what it would involve. It involved a principle of the government saying that we will compensate child victims regardless. We have made that commitment and it has gone through the chamber. Since coming to government, we have embarked upon some actuarial calculations. We are advised that if we take redress and common law claims together, it could be as high as \$650 million. That could stretch over 10 years, with perhaps more of it in the beginning, but it will not be \$650 million in the next financial year or over the forward estimates. The actuarial calculations indicate that it is in that order and we have to brace ourselves to pay \$650 million. The only pot of money I could identify is consolidated revenue.

[Mr I.C. Blayney took the chair.]

Mr P.A. KATSAMBANIS: It is not within the Department of Justice budget.

Mr J.R. QUIGLEY: No.

Mr C.J. TALLENTIRE: I know that the Attorney General has committed to the custody notification system, and we are all very keen to see that put in place. I refer to the spending changes table on page 345. I thought that the custody notification system would be mentioned in this table, so I am keen for some sort of explanation of why it is not. I understand that there was talk of the commonwealth funding the CNS. Perhaps that is part of the explanation.

Mr J.R. QUIGLEY: Yes. The custody notification service provides the police with a phone number to ring whenever an Indigenous or Torres Strait Islander person is brought into custody. This service was first suggested 20 years ago in the Royal Commission into Aboriginal Deaths in Custody, but it was not advanced by any states until some 10 years ago in New South Wales. After the death of the late Ms Dhu in custody, there was a coroner’s inquest and the coroner reiterated the call for a custody notification service in Western Australia. Shortly thereafter, federal Minister for Indigenous Affairs Mr Scullion wrote to the previous administration, offering to fund a custody notification service for \$300 000 a year for three years. The previous administration thought it was unnecessary and declined the offer. Our government took this up as a very important matter because we noted that in New South Wales, which has had a custody notification service running for 10 years, there has not been a single death in police custody since it was introduced.

We re-entered negotiations with the commonwealth. I am on the record, if *The West Australian* is a record, as thanking the federal Minister for Finance, Senator Cormann, whom I contacted personally to discuss this matter.

As a result of discussions with Senator Cormann, the federal government has committed to funding the custody notification service on an ongoing basis by direct payment to the Aboriginal Legal Service, which will provide the service—on a condition. The condition is that the Western Australian government bring in legislation mandating that the police have to ring the custody notification service immediately once they take into custody any Indigenous Australian or Torres Strait Islander. That service will then inquire into the welfare of the prisoner and the charges the prisoner is on and, if it is a schedule 1 offence under the Bail Act, endeavour to negotiate bail on the spot. We might remember the case of Mr Ward, who died in a prison van being transported from Laverton to Kalgoorlie. His charge was driving under the influence. No driver in the metropolitan area arrested for driving under the influence would be held in custody for the magistrate on Monday morning. They would all be admitted to bail from the Perth watch house. In that sort of a case, we can imagine that the police would ring the custody notification service and advise that they have taken the late Mr Ward into custody. An inquiry would be made about his welfare. The reason he was arrested would be that he was under the effects of alcohol. The service would negotiate his release on bail. It is really important to have on the other end of the phone a solicitor who can negotiate bail with the station sergeant. It will not only reduce the number of people being remanded in custody but will, hopefully, see the early release of the person to their local community, rather than having to transport them somewhere to be held. The Commissioner of Police has indicated that the sorts of cells at many of the police stations are not fit to hold people for days.

The custody notification service will also assist when a person is taken into custody for fine default. The solicitor on the other end of the phone might be able to negotiate with the sergeant and then ring up the registrar of the court to negotiate payment for that fine. This is part of our efforts to reduce the Indigenous incarceration rate and to look after the welfare of people who intersect with the justice system, most of whom have English as a second language and cannot negotiate with or explain their circumstances to the police. Another stark example is the case of Mr Gene Gibson, who was brought into custody. His native tongue was Pintupi and he did not understand what was going on, but if the police could have rung the custody notification service on his behalf, perhaps an interpreter would have been brought in at an earlier date and that would have avoided a lot of the mistakes that occurred thereafter.

We are very grateful that the commonwealth has decided to directly fund this service. It will be run by the Aboriginal Legal Service and it will provide 24/7 telephone access to a solicitor.

[5.10 pm]

Mr P.A. KATSAMBANIS: I refer to the second dot point under “Significant Issues Impacting the Agency” in volume 2 of budget paper No 2 on page 346. It states in part —

The Department —

I assume that is the Department of Justice —

will establish a Western Australian Crime Statistics and Research Office ...

It states further on —

Part of the establishment will be the release of a publically-available sentencing database.

When is it intended that this office will be up and running and the database will become publicly available?

Mr J.R. QUIGLEY: I will ask the director to talk to this—it is one of my prime projects—so that we can have a debate going forward on sentencing and the like based on facts. I defer to the director.

Dr A. Tomison: Thank you, minister. This is also one of my pet projects.

The budget line notes that the department will fund the project for at least the first year. It was always going to be the case that the department would be putting funds and staff into this unit. The key person to employ for the job, to get the unit moving, is a director for the Western Australian office of crime statistics and research. That is starting to proceed in the sense we had to have the position assessed by the Public Sector Commission. That has been approved. Shortly, we will advertise to recruit that person. I expect that from 1 July we will have some facilities available and will start reworking existing department facilities to meet the needs of that new unit. Another key element that relates to the unit is the justice pipeline model, which Treasury is leading with the Department of Justice, also involving legal aid, police, the DPP and other key players in the justice system. That statistical modelling tool will be a vital element in collecting and using information effectively to map policy trends, data trends and, if you like, even costing trends around changes to our system, and monitoring them over time. We will start to see, I guess, an influence and a branding from 1 July. It will grow over the first year of operation and expand, particularly around the partnership—the university sector—in the second year, I expect.

The second part of the member’s question was about the sentencing database. A draft sentencing database has been developed, which is quite a simple tool. We are fine-tuning it and making sure that all our stakeholders, such as

the heads of jurisdiction, are happy with that. It will obviously be up to the minister to decide when he wants to announce that. It should not be too long. I hope it will be within this calendar year, that is for sure.

Mr P.A. KATSAMBANIS: I take it from the answer that no additional funding is provided to the department to establish this office; it will be established through existing departmental funds. Is that correct?

Mr J.R. QUIGLEY: I defer to the director, who is doing this within the department.

Dr A. Tomison: I was keen to get the unit operating. As I indicated, it was always that the department would contribute at least half the funds at any rate. We wanted to get it moving. It will have to grow over time into a unit. We thought we could get it going now with existing funds, but then obviously go back to the budget process to make some bids in the out years to make sure that it works properly. As the member will be aware, New South Wales has had the Bureau of Crime Statistics for 20-plus years. It is an extremely good facility. It has taken a while to grow, as these things do. I want to start it small and grow it. I also want to make sure that we get it right. Having the justice pipeline already available within the next year will be a big boost for the capabilities of that unit and should help us grow it a lot faster.

Mr P.A. KATSAMBANIS: In the first year of operation, 2018–19, how many FTEs are anticipated to be employed within that office or unit or whatever we want to name it?

Dr A. Tomison: Making it up on the spot, I would say probably at least half a dozen. I will move some of our business intelligence people and some of our policy staff and start creating the unit around the new director position. I want the new director in place first to lead that. Given my background running national research units, I will play a role in helping to guide that person to, hopefully, achieve what we need to achieve.

Mr P.A. KATSAMBANIS: I do not have any questions in this area. I note that there is some consternation that we may not get through the other parts if we keep going here.

Mr J.R. QUIGLEY: There has been an indication from the other side that perhaps a comfort break at this stage might be appropriate. We have been going for over two hours.

The appropriation was recommended.

Meeting suspended from 5.14 to 5.23 pm