

## ESTIMATES AND FINANCIAL OPERATIONS COMMITTEE

### FORMAT FOR ANSWERS TO QUESTIONS PRIOR

#### Legal Aid Western Australia

#### Hon Alanna Clohesy asked:

- 1) I refer to Page 5 and the reduction in funding for community legal centres by 27 per cent from 2017-18 and ask how is this figure arrived at, given the correspondence from Attorney General Brandis to Attorney General Mischin which refers to 32.2%.

Answer

The figure of a 27% cut in Commonwealth community legal centre funding was calculated using total Commonwealth community legal centres funding inclusive of Social and Community Services (SACS) funding payments for Western Australian community legal centres. This represents the reduction in total Commonwealth funding from 2016-17 levels of \$5.821 million to \$4.263 million in 2017-18.

Legal Aid WA understands that the 32.2% figure referred to in the correspondence from the Federal Attorney-General was calculated using Commonwealth funding figures for Western Australian community legal centres exclusive of SACS funding payments. This represents the reduction in Commonwealth funding (excluding SACS) from the 2016-17 levels of \$5.196 million to \$3.523 million in 2017/18.

- 2) I refer to Page 5 and the 81,419 telephone information line services and ask, given that Legal Aid has reduced the operating time of its information line from 1 August 2016 from 8.30-4.30 to 9-4, what is the anticipated impact of this reduction on the number of information line services?

Answer

The change of hours was to reallocate the staff from off peak times to peak times with the intention to provide more services. The below table shows the strategy has been successful.

	<b>August and Sept 2015</b>	<b>August and Sept 2016</b>	<b>Variance from 15-16 to 16-17</b>	<b>Explanation</b>
Total calls offered	13905	15437	1532.00	1532 more calls offered in 2016-17
Total calls completed	10151	12411	2260.00	2260 more calls completed in 2016-17
Total calls abandoned	3754	3026	-728.00	728 less calls abandoned in 2016-17

- 3) What was the amount of funding from the State Government for community legal centres in 2015-16?

Answer

The amount of funding from the State Government for community legal centres administered through the Community Legal Services Program is set out in the funding table on page 27 of the annual report and is \$3,625,363.

In addition to this amount, a one-off grant of \$139,000 was paid to the Employment Law Centre of WA, outside of the Community Legal Services Program. This grant was as a result of the termination of funding to the Environmental Defenders Office of Western Australia and reallocation of these funds as a one off payment to the Employment Law Centre of WA in 2015-16.

- 4) I refer to Page 6 and the operating surplus of \$1.346 million and ask, given the many references to funding pressures throughout this Annual Report, why does Legal Aid have a surplus?

Answer:

Legal Aid WA derives the majority of its funding through Commonwealth and State Government grants. Commonwealth funding provided to Legal Aid WA under the National Partnership Agreement on Legal Assistance Services is required to be used for Commonwealth law matters only, with the exception of some limited State law matters. State funding is generally allocated to State law matters only.

In 2015-16, the operating surplus of \$1.346 million is a result of a surplus related to Commonwealth law matters, which has been partially offset by an overall deficit related to State law matters. The funding pressures referred to in the Annual Report is related to State law matters funded by State Government grants. Legal Aid WA is forecasting an operating deficit of \$3.147 million in 2016-17.

- 5) I refer to page 11 and the composition of the Board and ask, what is the name of the member, a non-lawyer, who is nominated by the Minister of Commerce who is responsible for consumer protection?

Answer

Mr Brian Bradley PSM.

- 6) I refer to Page 23 and the “challenges associated with CPFS permanency planning policy” and ask what specific challenges do legal Aid see associated with CPFS permanency planning policy?

Answer

Legal Aid WA's assessment is that there will be significant consequences for respondent parents and children as a result of the shortened timeframes imposed by CPFS for the making of permanent orders. This will lead to an increase in demand for legal services as well as post order monitoring and representation which has not previously been the subject of grants of aid. Legal Aid WA's preliminary estimate is that the impact on State recurrent funding for representation services will be in the order of \$1 million.

There are also likely to be broader impacts across government, particularly for the Children's Court of WA and in respect of the required support and management of affected families, especially in regional locations given the extremely high rates of children, predominantly Aboriginal, in care in some regional locations.

- 7) I refer to Page 26 and the function of the Regions Division as managing community legal centre funding "on behalf of external agencies" and Page 19 (3.3.3 Shared Responsibilities with Other Agencies) which states there were no shared responsibilities with other agencies in 2015-16 and ask, who are the external agencies referred to on Page 26?

Answer

Legal Aid WA performs the role of Program Manager of the Community Legal Services Program to administer Commonwealth and State community legal centres funding. Funding is received from the Commonwealth Government (Attorney-General's Department) and State Government (Department of the Attorney General) for the delivery of community legal services.

- 8) I refer to Page 29 and the top 30 Legal Aid WA fee earners and ask, given the National Pro Bono Aspirational Target is a voluntary and aspirational target of at least 35 hours of pro bono legal services per lawyer per year, does Legal Aid take the meeting of this target into account in determining which lawyers receive legal aid work?

Answer

Legal Aid WA has established a graduated panel for the engagement of private lawyers who provide services under a grant of legal aid. Lawyers may, on application, be placed on the panel subject to appropriate levels of expertise and experience in particular areas of law. In this regard, it is the priority of Legal Aid WA to ensure that private lawyers who are paid from public funds are capable of maintaining the highest standards in legal practice. Panel lawyers are paid by Legal Aid WA at a rate of \$140 per hour, which is substantially below rates of remuneration which generally apply across the profession. While Legal Aid WA does not take account of pro-bono targets when selecting panel members, it is important to note that there is a significant remunerative sacrifice for those lawyers who are willing to provide services under a grant of legal aid.

- 9) I refer to Page 34 and the reference to “twenty four community legal centres funded through the Community Legal Centres Program in Western Australia, each of which faces an uncertain future in the face of these projected funding arrangements,” and ask who are the 24 community legal centres referred to?

Answer

The reference is to the community legal centres which receive funding through the Community Legal Centre Program and the Community Legal Centre Association. These are listed on page 27 of the Legal Aid WA Annual Report. The purpose of the comment is to raise awareness that changes to Commonwealth funding arrangements creates an environment of uncertainty which has an impact across all community legal centres.

- 10) I refer to Page 6 and Commonwealth money “now being channelled through Legal Aid Commissions,” and ask, is the cut in Commonwealth funding going to be reflected in a funding cut to all community legal centres or will it be spread across the 20 community legal centres who have received Commonwealth funding previously?

Answer

The cut in community legal centres funding set out in the NPA is a cut to Commonwealth funding scheduled to take effect from 1 July 2017. As set out in the NPA, the outcomes of collaborative service planning will inform the distribution of Commonwealth and State funding to community legal centres within each jurisdiction. The WA Collaborative Services Planning Group is currently conducting a service mapping and mapping of legal need exercise to ensure that distribution of funding and planning of future services is aligned to legal need. This gives effect to the requirements of the NPA on legal assistance services that legal assistance services are co-ordinated and the reach of services is maximised to ensure that services are directed where they are most needed.

- 11) I refer to Page 34 and the statement, “The imminent loss of funding for these organisations is a significant issue which will continue to be raised with the Commonwealth throughout 2016-17,” and ask what has the Government already done to raise this issue with the Commonwealth and what is it planning to do?

Answer

The Attorney General has raised his concerns in relation to this issue with the Commonwealth Attorney-General. It is understood that all State and Territory Attorneys General have or will be writing jointly to the Commonwealth Attorney-General to repeat the concerns they have already raised individually in relation to this matter.

- 12) I refer to Page 34 and the monitoring of arrest rates in 2016-17 to see if demand for grants is likely to exceed the available budget allocation, and ask, if it is likely to exceed the available budget allocation, what action will Legal Aid plan to take?

Answer

It is likely that demands for grants of legal aid will exceed the available budget allocation in 2016-17. Legal Aid WA will address this issue by seeking supplementary funding in 2016-17.

- 13) I refer to Page 58, Note 7 and expenditure for Practising Certificates and Fees and ask, given Government solicitors are exempt from the Legal Practice Certificate which private solicitors need to have, what is covered in this figure?

Answer

Section 36 of the *Legal Profession Act 2008* does not include lawyers employed by Legal Aid WA within the definition of WA Government Lawyer. As a consequence, lawyers employed by Legal Aid WA are required to hold a local practising certificate, in accordance with the conditions prescribed under Part 5 of the *Legal Profession Act 2008*.

- 14) I refer to Page 61 Note 17 showing income of \$ 482,220 for community legal centres, which was \$937,220 in the previous year and ask, what is this funding for and why has it halved?

Answer

This is funding approved by the Attorney General from the Legal Contribution Trust for community legal centres. In 2016, the Legal Contribution Trust advised the Attorney General that distributions from the Trust were significantly reduced as a result of claims on the fund. Therefore, the income received for community legal centres from the Legal Contribution Trust in 2015-16 was significantly less than in the previous year. Legal Contribution Trust funding in 2015-16 to Legal Aid WA was also significantly reduced.

- 15) I refer to funding from Royalties for Regions and ask, what this funding is used for?

Answer

In 2010, district allowance payments for eligible regional public sector employees substantially increased. A large part of this increase is funded by Royalties for Regions.

- 16) I refer to Page 91, Contracts with Senior Officers and the declaration, “At the date of reporting, no senior officers, or firms of which senior officers are members, or entities in which senior officers have substantial interests, had any interests in existing or proposed contracts with Legal Aid WA, other than normal contracts of employment of services,” and ask, given that several Senior Executives are on the Boards of community legal centres, is that consistent with this declaration?

Answer

Legal Aid WA administers funding agreements with community legal centres for State sourced funding and funding agreements with community legal centres for funding made available from the Commonwealth, under the National Partnership Agreement on Legal Assistance Services. These arrangements are not contractual in nature because Legal Aid WA does not receive any benefit from community legal centres in exchange for its administration of the agreements, on behalf of the State and the Commonwealth. It is understood that in 2016-17 agencies will be required to report related party transactions. In this circumstance, it may be appropriate to declare the presence of Legal Aid WA officers on the boards of community legal centres in future Legal Aid WA Annual Reports. This issue has previously been raised by Legal Aid WA with the Office of the Auditor General, which has advised that it will consider the impact of this new requirement, in this context, prior to the conclusion of 2016-17.