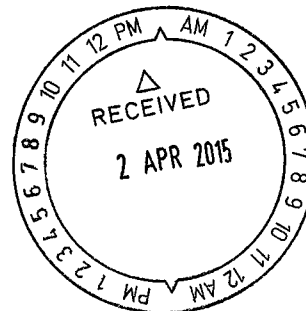




ATTORNEY GENERAL; MINISTER FOR COMMERCE

Our Ref: 44-15031



Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Mr O'Brien

PETITION NO 68 – ROYAL ASSOCIATION OF JUSTICES OF WA (INC.)

Thank you for your letter dated 18 February 2015 concerning a petition from the Royal Association of Justices of WA (RAJWA) and your request for comments on the terms of the petition and issues raised by the Hon Ljiljana Ravlich MLC.

This response will provide further information as follows:

1. the Department of the Attorney General's (DotAG) responsibility for the training of Justices of the Peace (JPs), in particular since the 2009 State Coroner's inquest following the death of Mr Ward;
2. clarification of the key findings within the WA Auditor General's Report - "*Training and Support for Justices of the Peace*" published November 2014;
3. grant funding and other support provided to RAJWA by DotAG; and
4. a progress report on the review of the *Justices of the Peace Act 2004* (WA).

Background

DotAG is the responsible agency (via its Justice of the Peace Branch) for the appointment and coordination of the training of JPs state-wide. The office of a JP is a voluntary and statutory position involving a range of duties – both in court judicial functions (eg presiding in court and bail applications etc) and in the community (eg issuing search warrants and witnessing documents such as affidavits, statutory declarations, either independently or at signing centres).

RAJWA is a member association, with 17 branches throughout WA. Its role is to promote and support the status and interests of JPs. RAJWA has an estimated membership of up to 60 per cent of the current number of 2,921 JPs in WA; annual subscription to join RAJWA is \$50 per annum. Membership is voluntary. It is not the only member association for JPs in WA.

Training of Justices of the Peace

In response to the 2009 State Coroner's inquest into the death of Mr Ward, Government provided additional funding to DotAG to develop an enhanced and targeted training model for JPs, in particular for those JPs performing judicial/court functions. Additional funding in 2010/11 was \$250,000 and thereafter \$177,000 recurrent indexed at CPI.

This increased DotAG's capability and responsibility for training JPs in their judicial functions, which was in accordance with the State Coroner's recommendations.

Formal training delivered to JPs across the State is now managed by a JP Training Committee. Its role is to identify and communicate JP training needs and to facilitate and monitor the effective delivery of JP training in WA. The committee is comprised of the Deputy Chief Magistrate, JP Branch staff, DotAG senior managers, Central Institute of Technology (CIT), a representative from RAJWA and a JP from a country location.

DotAG has introduced a significant change in the approach to training JPs. JPs who perform court duty must receive annual DotAG approved training on court procedures in order to be accredited to preside in court. If they do not complete this training, they are not rostered in court.

Training sessions in the metropolitan area are delivered by a magistrate, rotated around the metropolitan area to different locations and available to all JPs irrespective of whether they are members of RAJWA or any other association. Information sessions are also conducted on witnessing documents and Aboriginal cultural awareness. Post-appointment training for JPs is also available via online modules provided through the CIT on topics covering bail, traffic law, warrants, violence restraining orders and witnessing documents.

Information and updates relating to changes in legislation are sent to all JPs via email and/or post and placed on DotAG's website. This is the central source of relevant and accurate information and training material for JPs. It should be noted that all training material presented at DotAG training sessions is examined by a magistrate prior to delivery or release.

DotAG acknowledges the role that JP member associations have in providing professional development, peer support and networking support to their members. RAJWA branches are encouraged to provide professional development to their members on topics where a specific need is identified and DotAG's JP Branch can provide support in the form of materials and administrative assistance. However, it must be noted that RAJWA only provides services to its members, whereas DotAG's responsibilities extend to all JPs.

In summary, DotAG has improved the provision of training to JPs, including:

1. mandatory pre-appointment training for all new JPs;
2. providing all JPs with a JP Handbook which covers all responsibilities, including issuing search warrants and bail;
3. online training modules (bail, traffic, warrants, violence restraining orders and witnessing documents) are available to all JPs;
4. training seminars are open to all JPs State-wide. These are advertised on DotAG's website and the attendances of JPs are registered; and
5. four DVDs have been produced since 2010, three on court procedures and one on Aboriginal cultural awareness and are available to all JPs.

The Auditor General's Report

The objective of the WA Auditor General's Report (the Report) was to determine if JPs are trained and supported so that they could carry out their duties. The Report confirmed that *"Comprehensive training is provided to all applicants before they are appointed as a JP and JPs presiding in Court are trained annually."* The report also observed while all existing JPs are provided with the opportunity to receive training *"JPs that perform duties in the community are not required to receive ongoing training after they are appointed"* and noted *"training records for a random sample of 100 JPs and found that 58 had not done any voluntary training in the past three years"*.

The WA Auditor General confirmed that since 2011 DotAG has provided comprehensive training to all persons before they are appointed as a JP and has demonstrated that JPs presiding in court are trained annually.

Whilst the scope of the WA Auditor General's audit included duties undertaken by JPs within both courts and the broader community, the key findings reported related primarily to those activities within the community. DotAG will be undertaking annual surveys of JPs to inform the JP Training Committee on future training requirements and to gain an indication of the volume and activities JPs undertake in the community.

I do not support the suggestion that RAJWA should be funded to implement the recommendations of the Report. The findings and recommendations of the Report are currently the subject of a DotAG project that will see the successful implementation of agreed findings and recommendations. The implementation of the Auditor General's recommendations will be monitored and reported to the Department's Risk management and Audit Committee.

RAJWA – grant and other support provided by DotAG

Historically, DotAG has provided financial assistance to RAJWA in the form of an annual grant to support its role in coordinating signing centres, training and the production of the JP Journal.

Government funds are provided to volunteer organisations in accordance with the *"Delivering Community Services in Partnership Policy"*. This requires public authorities to ensure that:

1. the grants are tied for a clearly defined purpose;
2. there are clear reporting measures relating to the use of the grant; and
3. the Public Authority must ensure the organisation agrees to provide a properly documented acquittal of the grant funds.

For the 2012/13 financial year, acquittal statements from RAJWA showed that 88 per cent of the grant funds allocated were used for the production of a hard copy JP Journal, published 11 times a year. For many years, DotAG encouraged RAJWA to consider the advantages and efficiencies of transitioning the JP Journal to digital format.

In 2013/14, DotAG offered RAJWA a one-off grant of \$10,000 to transition the JP Journal to digital format. This was accepted in April 2014. In response to the reduced grant, the JP Journal is now published bi-monthly, circulated in hard copy to its members only and available in PDF format on RAJWA's website.

RAJWA has received the following grants from DotAG:

Financial Year	Grants provided to RAJWA from DotAG
2011/12	\$50,000
2012/13	\$50,000
2013/14	\$10,000 (one- off grant)
2014/15	Nil
2015/16	Nil
2016/17	\$10,000 (Note: subject to RAJWA presenting a business case to access funds to support its centenary celebrations in 2017).

RAJWA also receives significant support from DotAG in addition to the grant. This includes the provision of accommodation, communications and facilities at the Perth Central Law Courts for the administration of RAJWA.

RAJWA branches operate autonomously and the level and range of activities, such as the coordination of signing centres, varies from branch to branch. There are 35 document witnessing centres located around the metropolitan area, at shopping centres, libraries, local government offices and court houses. Of these signing centres, three are coordinated by the Fremantle Association of Justices (another JP member association which receives no funding from DotAG), six are coordinated by JPs on their own initiative, at least seven are coordinated by individuals employed by local government authorities and approximately 10 are coordinated by RAJWA branches.

In February 2014, RAJWA was advised that DotAG will only consider applications for financial support of up to \$10,000 for specific projects that further the training and development outcomes for JPs and that a business case to secure funds should be submitted. RAJWA was also advised that funding has been provisionally authorised for up to \$10,000 as a contribution to the centenary celebrations in March 2017, subject to a business case. To date RAJWA has not provided a business case requesting financial assistance.

Research of other interstate government agencies indicates the overall assistance provided to RAJWA by WA greatly exceeds that provided by any other State, with most States providing no assistance to their JP member associations.

Review of the *Justices of the Peace Act 2004 (WA)*

Under the *Justices of the Peace Act 2004 (WA)* (the Act) there is no requirement for JPs to undertake training. This was in part the reason why a review of the Act was proposed in August 2014. Consultation with key stakeholders regarding the scope of any proposed amendments is underway and a call for submissions is currently progressing. Once those consultations are finalised, DotAG will seek approval to proceed to draft the necessary changes to the Act and regulations which may include a requirement that all JPs attend pre/post appointment training and demonstrate that they are an active JP in the community.

Conclusion

I would like to reiterate that as a consequence of the Coroner's Report into the death of Mr Ward, the training of JPs has become the sole responsibility of DotAG. Also, I do not support the suggestion that RAJWA should be funded to implement the recommendations of the WA Auditor General's Report. The findings and recommendations of the WA Auditor General's Report are currently the subject of a DotAG project that will see the successful implementation of agreed findings and recommendations. I do, however, encourage RAJWA's ongoing support of JPs and its continuing interest in professional development, peer support and networking of JPs in WA.

I appreciate and acknowledge the valuable work undertaken by JPs, and JP member associations in WA. However, it must be emphasised that when accepting their commission, JPs do so in the knowledge that the services they provide to the community are voluntary and that they perform those duties without remuneration or reward.

I trust this information is of assistance to you and your committee.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michael Mischin". The signature is written in a cursive style with a large, stylized initial "M".

Hon. Michael Mischin MLC
ATTORNEY GENERAL; MINISTER FOR COMMERCE

- 1 APR 2015