

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.3

Question No. 14

Senator Ludwig asked the following question on notice at the hearing on 14 February 2005:

- a) When is the meeting of the new Hague convention on the international recovery of child support?
- b) When will the convention be ready for signing?

The answer to the honourable senator's question is as follows:

- a) A Special Commission meeting to consider a working draft of the Convention is scheduled to be held from 4 April to 15 April 2005 in The Hague.
- b) This treaty is currently under negotiation. At this stage it is not possible to speculate when the Convention will be ready for signature.

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Question No. 15

Senator Ludwig asked the following question at the hearing on 14 February 2005:

How much in total has been provided under the 1,100 grants of financial assistance under the Native Title Assistance Scheme (for 2003–04)? Provide the range of grants, the largest amount committed, the smallest amount and the median.

The answer to the honourable senator's question is as follows:

As at 14 January 2005, there were 1338 grants of financial assistance under the native title financial assistance schemes (including grants under section 183 of the *Native Title Act 1993* and grants under the Special Circumstances (Native Title) Scheme).

The total amount of financial assistance provided under the schemes for 2003–2004 is shown in the table below.

<i>Scheme</i>	<i>Payments (\$)</i>
Native Title (section 183)	9,341,799.86
Special Circumstances (Native Title)	<u>642,769.55</u>
<i>Total</i>	<u>9,984,569.41</u>

The largest amount committed under the schemes is \$2.87m—the cumulative total value of an original grant, made in June 1998, and subsequent extensions of that grant. The smallest amount committed under the schemes is \$788.17—a grant in a matter that was discontinued. The median amount committed under the schemes is \$28,000.

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Question No. 16

Senator Ludwig asked the following question on notice at the hearing on 14 February 2005:

- a) Who conducts the independent assessments for the establishment of competency of marriage celebrants?
- b) Who sets the Code of Practice?
- c) How many complaints have been received against marriage celebrants?
 - i) What is the procedure for the assessment and review of complaints?
 - ii) What are the penalties for a successful complaint?
 - iii) How many celebrants have been struck off as a result of a complaint?
 - iv) What areas do any complaints relate to?

The answer to the honourable senator's question is as follows:

- a) The independent assessments of aspiring marriage celebrants are conducted by qualified assessors. A 'qualified assessor' is defined in regulation 37G(4) of the *Marriage Regulations 1963* as a person who 'holds a qualification at or above the Certificate IV level in Assessment and Workplace Training to conduct assessments for the marriage celebrancy unit'. If the independent assessment is being conducted for someone who has, in the past, undertaken a course of training in marriage celebrancy, regulation 37G(4) goes on to provide that, in addition to the stipulation above, the independent assessor must not be employed by, and not be conducting the assessment on behalf of, an organisation that conducted the course of training.
- b) Section 39G(a) of the *Marriage Act 1961* provides that a Commonwealth registered marriage celebrant must conduct himself or herself in accordance with the Code of Practice for marriage celebrants prescribed by regulations made for the purposes of that paragraph. The Code of Practice is set out in Schedule 1A of the *Marriage Regulations 1963*. It was the result of extensive consultation with marriage celebrants and their representative bodies prior to the introduction of the reforms to the Marriage Celebrants Program that commenced on 1 September 2003.
- c) There have been 16 formal complaints against marriage celebrants.
 - i) The procedure for the assessment and review of complaints is set out in Subdivision 2 of the *Marriage Regulations 1963* (regulations 37Q-37Z). The regulations set out who may make a complaint, how the complaint may be made, the procedure to be followed in dealing with a complaint and the records that are to be kept relating to the complaint.
 - ii) the disciplinary measures that may be taken if the Registrar of Marriage Celebrants determines that a complaint is well-founded are those listed in section 39I(2) of the *Marriage Act 1961*. They are to:

- (a) caution the marriage celebrant in writing; or
 - (b) require the marriage celebrant to undertake professional development activities determined in writing by the Registrar; or
 - (c) suspend the marriage celebrant's registration for up to six months; or
 - (d) deregister the marriage celebrant.
- iii) No marriage celebrants have been struck off as a result of a complaint.
- iv) The complaints received to date relate to a number of areas including authorisation, withdrawing with insufficient notice, arriving late for a ceremony, failing to attend a ceremony, and compliance with the *Marriage Act 1961*.

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Question No. 17

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Has evaluation of the Magellan project begun.

- a) If not, how many more cases are needed for the review to have an adequate base.

The answer to the honourable senator's question is as follows:

The Magellan project is an initiative of the Family Court of Australia. The Court evaluated Magellan in 2002 before rolling it out nationally. The Attorney-General's Department is on the stakeholder committee which is monitoring data related to the roll-out of the Magellan project. The Department understands that further formal evaluation is not planned by the Court unless the monitoring process identifies issues that need examination.

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Question No. 18

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Have the legal aid agreements between the Commonwealth and States been finalised?

- a. If so, when were they finalised?
- b. If not, why not?
- c. What are the arrangements?

The answer to the honourable senator's question is as follows:

Yes, legal aid agreements have been finalised for all States and Territories.

- a. The agreements were finalised on the following dates:

New South Wales	29 March 2005
Victoria	19 April 2005
Queensland	7 March 2005
Western Australia	4 April 2005
South Australia	4 April 2005
Tasmania	5 April 2005
Australian Capital Territory	4 April 2005
Northern Territory	23 March 2005
- b. Not applicable.
- c. Legal aid commissions will provide legal assistance for Commonwealth law matters under the terms and conditions of the new agreements and in accordance with revised Commonwealth legal aid priorities and guidelines.

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Question No. 19

Senator Ludwig asked the following question at the hearing on 14 February 2005:

How much was provided for the 12 month pilot legal aid service for the Jervis Bay Territory?

- a. How was Jervis Bay selected for the legal aid service?
- b. How much has been expended?
- c. Do these funds represent an ongoing or one-off expenditure?
- d. Have any reviews of the legal aid service been conducted?
 - i. If so, what was the outcome?

The answer to the honourable senator's question is as follows:

An amount of \$15,000 was paid to the Legal Aid Commission of New South Wales to provide a 12 month pilot duty lawyer and advice service in the Jervis Bay Territory (JBT) commencing on 9 October 2003. The Commonwealth's Legal Aid Program administered by the Attorney-General's Department contributed \$10,000 towards the pilot and the remaining \$5,000 was funded by the Department of Transport and Regional Services (DOTARS).

- a. Prior to 1997 JBT residents had access to legal aid services administered and provided through the Australian Capital Territory (ACT) Legal Aid Office. On 5 December 1997, the ACT Government amended its *Legal Aid Act 1977* by deleting the provision which extended coverage of that Act to JBT residents.

Since 1997 JBT residents have accessed legal assistance services through the South Eastern Aboriginal Legal Service and the Shoalcoast Legal Centre with supplementary assistance provided on a case by case basis by the Attorney-General's Department. Following consultation in 2003 with DOTARS and the Legal Aid Commission of NSW, the Commission agreed to provide duty lawyer services to JBT residents on a 12 month trial basis. The pilot was aimed at determining the need for and cost of a more permanent arrangement with the Legal Aid Commission of NSW.

- b. During the 12 month pilot period, the Commission provided duty lawyer services to 19 clients at a cost of \$9,160. This cost excludes expenditure incurred by the Commission to establish the service.

- c. The \$15,000 for the pilot duty lawyer service represented a one-off payment. However the new proposed legal aid agreement between the Commonwealth and the Legal Aid Commission of NSW for 2004-05 to 2007-08 will include a component for providing an ongoing duty lawyer service to JBT residents.
- d. No formal evaluation of the pilot duty lawyer service was conducted. The Commonwealth is satisfied the service meets the needs of residents of the JBT.

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Question No. 20

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Community Legal Centres

- a) How much funding was provided to Community Legal Centres?
- b) How many community legal centres were established last year?
- c) How much funding does it take to establish and maintain a community legal centre?
- d) Were any shut down?
- e) How is an area assessed to see if it requires a community legal centre?
- f) What are the locations of community centres. Including federal electorate?

The answer to the honourable senator's question is as follows:

- a) & f) A list of community legal centres funded in 2003-04, together with respective allocations and electorate information, is attached.
- b) One community legal centre was established in 2003-04. The Taylor Street Community Legal Centre was established at Hervey Bay, Queensland. Funding to establish this centre became available when the Financial Counselling Service withdrew from funding under the Commonwealth Community Legal Services Program. A State-based review of the program had previously identified the Wide Bay - Burnett area of Queensland as a priority for the establishment of a community legal centre when funds became available.
- c) No set formula exists for Commonwealth funding of centres. The Community Legal Services Program originated as an application-based grants program and different amounts of funding were provided to different centres, and in different years, depending on the availability of funds. Current resource levels are based on the amounts originally provided as a result of those funding applications with indexation increases. The exception to this rule is the 11 community legal centres established in mainly rural and regional areas since 1998-99 which have been funded at a level set to maintain viability of such centres.
- d) No community legal centres were shut down in 2003-04.
- e) In identifying priority areas for the establishment of community legal centres, a demographic analysis is undertaken using completed CLC program review outcomes, where applicable, and/or the Australian Bureau of Statistics' *Social Health Atlases of Australia*. The focus is on selecting geographical regions with gaps in service delivery, high population areas and high disadvantage indicators.

The reviews seek to provide all Australians with better access to community legal services, regardless of where they live. They are aimed at identifying how people who currently do not have a local community legal service, particularly those living in outer metropolitan

and regional areas, can access legal assistance. The reviews in each State also provide a sound basis for considering improvements to the community legal services program.

Community Legal Centres by State	2003-04 \$	Electorate
<u>NEW SOUTH WALES</u>		
Blue Mountains CLC	87,572	Macquarie
Central Coast CLC	170,849	Dobell
Western NSW CLC	241,606	Parkes
Consumer Credit Service	120,599	Sydney
Court Support Scheme	28,750	Sydney
Environmental Defenders Office	81,771	Sydney
Far West CLS	216,891	Parkes
Hawkesbury Nepean CLC	120,730	Macquarie
HIV-AIDS Legal Centre	58,967	Sydney
Hunter District CLC	182,375	Newcastle
Illawarra Legal Centre Inc.	350,994	Throsby
Immigration Advice & Rights Group	85,035	Sydney
Inner City Legal Centre	87,570	Sydney
Kingsford Legal Centre	147,568	Kingsford-Smith
Macarthur Legal Centre	191,698	Macarthur
Macquarie Legal Centre	135,180	Reid
Marrickville Legal Centre	133,652	Grayndler
Mt Druitt and Area CLC	170,623	Chifley
North and North West CLC	171,551	New England
Northern Rivers CLC	238,480	Page
NSW Disability Discrimination Legal	174,956	Sydney - Statewide
Public Interest Advocacy Centre	99,428	Sydney
Redfern Legal Centre	136,061	Sydney
Shoalcoast CLC	218,114	Gilmore
South West Sydney Legal Centre Inc.	171,289	Fowler
Tenants Union of N.S.W.	65,365	Sydney
The Aged Care Rights Service	29,409	Sydney
Welfare Rights Centre	197,910	Sydney
Women's Legal Resource Centre	736,496	Reid and statewide
NEW SOUTH WALES TOTAL	4,851,489	

VICTORIA		
Albury/Wodonga CLS	218,029	Farrer/Indi
Brimbank	62,681	Burke
Broadmeadows CLS	131,960	Calwell
Casey Cardinia CLS	99,894	Bruce
Central Highlands CLS	156,796	Ballarat
Coburg - Brunswick CLC	81,549	Wills
Community Connections (VIC)	165,597	Wannon
Consumer Credit Legal Service	61,878	Melbourne
Darebin CLS	46,499	Batman
Disability Discrimination Legal Service	159,513	Melbourne, Statewide
Eastern CLC	115,985	Deakin
Environment Defenders Office	80,046	Melbourne, Statewide
Essendon CLC	46,603	Melbourne
Fitzroy Legal Service	148,537	Melbourne
Flemington & Kensington CLC	78,448	Melbourne
Footscray CLC	47,190	Gellibrand
Geelong CLS	321,213	Corio
Victoria continued		
Gippsland CLS	216,471	Gippsland
Monash Oakleigh LS	120,671	Chisholm
Murray-Mallee CLS	239,875	Mallee
North Melbourne Legal Service	72,952	Melbourne
Young People's Legal Rights Centre - Westside Lawyers	70,237	Melbourne
Peninsula CLS	292,445	(Frankston Office) Dunkley
Springvale Community Aid & Advice	62,548	Hotham
Springvale Monash LS	262,552	Hotham
St.Kilda Legal Service	83,595	Melbourne Ports
Tenants Union of Victoria	92,839	Melbourne
Welfare Rights Unit	165,745	Melbourne & Statewide
Werribee Legal Service	92,789	Lalor
West Heidelberg CLS	78,417	Jagajaga
Western Suburbs LS	77,028	Gellibrand
Women's LS Victoria	481,910	Melbourne & Statewide
VICTORIA TOTAL	4,432,492	

QUEENSLAND		
Brisbane Welfare Rights Centre	220,286	Griffith
Cairns CLS	187,758	Leichhardt
Caxton Legal Centre	327,618	Brisbane
Central Queensland CLC	171,340	Capricornia
Environmental Defenders Office	80,423	Brisbane & surrounding
Taylor Street (Hervey Bay)	38,214	Wide Bay
Highway Legal Service-Gold Coast Citizens Advice Bureau	174,520	Moncrieff
Logan Youth Legal Service	72,160	Rankin
Nth QLD Environmental Defender's Office	80,117	Leichhardt & surrounding
Nth QLD Women's LS	410,177	Herbert
Pine Rivers Welfare Association	6,177	Dickson
Prisoners Legal Service	60,363	Brisbane
Roma Legal Service	32,580	Maranoa
South Brisbane Immigration & CLS	140,013	Brisbane
South West Brisbane CLS	2,578	Oxley
Suncoast CLS	14,365	Fisher
Tenants Union of Qld	15,934	Brisbane
Toowoomba CLS	175,578	Groom
Townsville CLS	160,287	Herbert
Western Queensland Justice Network	217,625	Kennedy
Women's Legal Service	452,750	Moreton, Statewide service
Youth Advocacy Centre	83,249	Lilley
QUEENSLAND TOTAL	3,124,112	

<u>SOUTH AUSTRALIA</u>		
Uniting <i>Care</i> Wesley Adelaide Incorporated	436,182	Adelaide
Environmental Defender's Office	80,103	Adelaide, Statewide Service
Southern Community Justice Centre	334,805	Kingston
Northern Community Legal Service	297,105	Bonython
Westside Community Lawyers	286,228	Port Adelaide
Port Pirie, Westside Lawyers (previously Spencer Gulf CLC)	217,941	Grey
Riverland CLS Association	216,619	Wakefield
South East CLS Association	216,651	Barker
Welfare Rights Centre (SA)	166,076	Adelaide & Statewide
Women's Legal Service SA	485,342	Adelaide
SOUTH AUSTRALIA TOTAL	2,737,052	
<u>WESTERN AUSTRALIA</u>		
Albany CLS	218,095	O'Connor
Bunbury CLC	157,461	Forrest
Community Legal & Advocacy Centre	73,448	Fremantle
Consumer Credit Legal Service	52,509	Perth
Environmental Defenders Office (WA)	79,958	Perth, Statewide Service
Geraldton Resource Centre	258,416	O'Connor
Goldfields CLC	216,514	Kalgoorlie
Gosnells CLC	189,965	Hasluck
Kimberley CLS	296,863	Kalgoorlie
Multicultural Services Centre of Western	103,227	Perth
Northern Suburbs CLC	171,937	Stirling
Pilbara Legal Service	241,074	Kalgoorlie
SCALES	109,161	Brand
Sussex St. Community Law Service	272,720	Swan
Tenants Advice Service	119,605	Perth
Welfare Rights & Advocacy Service	167,026	Perth, Statewide Service
Women's Legal Services WA	306,409	Perth, Statewide Service
Youth Legal Service WA	71,863	Perth
WESTERN AUSTRALIA TOTAL	3,106,251	

TASMANIA		
Environmental Defender's Office (TAS)	80,991	Denison, Statewide Services
Hobart CLS	338,177	Denison
Launceston CLS	238,252	Bass
North West CLC	88,825	Braddon
Tenants' Union of Tasmania	53,303	Denison
Women's Legal Service Tas	172,910	Denison, Statewide Service
TASMANIA TOTAL	972,458	
COMMONWEALTH MANAGEMENT		
<u>NORTHERN TERRITORY</u>		
Central Australian Women's Legal	169,702	Lingiari
Darwin CLS Inc.	360,492	Solomon
Environmental Defenders Office (NT)	78,802	Solomon
Top End Women's Legal Service	169,539	Solomon
Katherine Women's Information & Legal Service	68,820	Lingiari
NORTHERN TERRITORY TOTAL	847,355	
<u>ACT</u>		
Canberra Welfare Rights and LC	275,689	Canberra-Fraser
Environmental Defenders Office (ACT)	39,763	Canberra-Fraser & region
Women's Legal Centre (ACT & Region)	172,558	Canberra-Fraser & region
ACT TOTAL	488,010	
National Children's & Youth Law Centre	149,315	Kingsford-Smith & nationwide

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Question No. 21

Senator Ludwig asked the following question at the hearing on 14 February 2005:

The review of the Community Legal Services Program – Western Australia's report identified priorities for future centres –

- a) What are those priorities?
- b) What data does the new data collection system collect?
- c) What tools does it provide to community legal services?
- d) Has the department initiated any review to ascertain its effectiveness?
 - i. if yes, what was the outcome of that review?
 - ii. if not, will they?
- e) What areas of the system need further improvement?
 - i. how were these areas identified?

The answer to the honourable senator's question is as follows:

- a) The priorities for future centres as identified by the Western Australian review were:

Recommendation 2 –

In the establishment of any new services or new community legal centres, priority should be given to:

- a. non-metropolitan regions – Gascoyne, Peel, Wheatbelt and West Kimberley; and
- b. metropolitan outer corridors – north, north east and south east.

Recommendation 3 –

Priority services include services for Aboriginal people, mental health consumers, persons affected by domestic and family violence, culturally and linguistically diverse (CALD) people, prisoners and young people.

- b) The Commonwealth's service agreement with individual community legal services requires each organisation to submit to the Commonwealth, on a monthly basis, statistical information on their activities and on the use of Commonwealth funds provided under the program. The Community Legal Services Information System (CLISIS) is designed to allow community legal centres to transmit information electronically to a central database for analysis and, at the same time, provide centres with a means for maintaining internal management information. Details of the data items required are below.

- c) CLSIS provides community legal centres with a flexible database to assist them with their own centre management, including an improved conflict of interest search, and an electronic financial reporting system to replace the previous manual reporting requirements and submit its Annual Accrual Budget, Income and Expenditure Reports and Annual Activity Targets.
- d) CLSIS is a working tool that is constantly monitored. Consideration will be given to upgrades or improvements as the need arises, as with any IT system, rather than undertaking a review after a set period. For example, a range of enhancements were made to the system following the pilot based on sector recommendations for improvements.
- e) There have been ongoing discussions about reports available under the CLSIS system with community legal centres and their peak body, the National Association of Community Legal Centres. Development of the majority of the proposed standard reports has been completed. (The report development is seen as a longer term responsibility than the implementation of the CLSIS system itself.) The Department continues to provide access to a Help Desk facility for centres experiencing problems or requiring assistance with the system. Help Desk services have included assistance to centres to install and to migrate their existing data to the new system during the roll out phase.

The Department has also continued funding for a Data Project Officer employed by the National Association of Community Legal Centres to provide assistance with the design, development and implementation of the system to assist individual centres with particular issues.

The National Association expressed the view that the facility which extracts ad hoc reports from the system was too complex for services to use. As a result a new data query system was developed and released mid-2004. Further significant enhancements have been made to the system to address issues raised by users since the initial roll-out.

DATA ITEMS REQUIRED BY CLSIS

1. *Data requirements for **Information** activities are as follows:*

- a) Activity Date (Month and Year only for Summary Information)
- b) Activity Nature
- c) Outreach Service and Outreach Location
- d) Problem Type/s
- e) Referral To

There are no client data requirements for Information activities.

2. *Client and Activity data requirements for **Advice and Casework** activities are as follows:*

CLIENT DATA

- a) Client Type
- b) Date of Birth
- c) Disability Indicator
- d) Family Type
- e) Income Scale
- f) Indigenous Status
- g) Main Language Spoken at Home
- h) Postcode
- i) Proficiency in Spoken English
- j) Sex
- k) Suburb/Town/Locality
- l) State

Where the Client is a group, organisation, company or other type of body corporate, the only Client data requirements are:

- a) Client Type; h) Postcode; k) Suburb/Town/Locality; and, l) State.

ACTIVITY DATA

- a) Activity Date (Open Date and Close Date for Cases)
- b) Activity Issues (for Cases only)
- c) Activity Nature
- d) Contact Type (for Advices only)
- e) Case Hours (for Cases only)
- f) Domestic Violence Indicator (Family Law matters only)

- g) Interpreter Used
- h) Legal Aid Provision
- i) Outreach Service and Outreach Location
- j) Problem Type/s
- k) Referral To
- l) Service Type/Specific Project
- m) Worker Type

3. *Data requirements for **Community Legal Education and Law Reform & Legal Police Activities** are as follows:*

- a) Activity Date (Open Date and Close Date)
- b) Activity Type
- c) Outreach Service and Outreach Location
- d) Problem Type/s
- e) Project Hours
- f) Project Type
- g) Service Type/Specific Project
- h) Worker Type

There are no Client data requirements for Community Legal Education or Law Reform Activities.

4. Organisations in receipt of Funding under the Funding Category of Child Support Services of the Agreement will provide the following additional mandatory data items to assist in reporting to the Child Support Agency:

- a) DNA Test Required
- b) Parent Type
- c) Stage of Child Support Matter

5. A number of additional data items have been agreed between the parties to the Agreement as key data items for collection. However, those data items are not mandatory performance reporting requirements under the Agreement.

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Question No. 22

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) How much has the Review of the Community Legal Services Funding Program – New South Wales cost?
- b) Have the consultations begun?
- c) What stage is the review at?
- d) Are any interim reports available?
 - i. If yes, please provide.
 - ii. If not when will they be?

The answer to the honourable senator's question is as follows:

- a) The Commonwealth has contributed \$60,000 towards the cost of the review of the community legal services funding program in New South Wales. New South Wales has contributed \$40,000 to the costs of the review.
- b) The review has commenced. The first meeting of the review steering committee was held in August 2004.
- c) Submission have been received from the public and a range of research has been carried out.
- d) No interim reports are being prepared. A draft final report has been prepared by the consultants and is being considered by the Steering Committee. It is anticipated that the review will be completed before 30 June 2005.

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Question No. 23

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- 1) What is the procedure for monitoring the compliance of other countries adoption programs?
- 2) Have any been found to be non-compliant?
 - a) If so, which ones and how were they non-compliant?
- 3) What is the procedure if one is found to be non-compliant?
- 4) How does the monitoring occur?

The answer to the honourable senator's question is as follows:

1) Countries are able to join the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention) when they comply with the provisions of the Convention, and in particular have in place infrastructure to conform with the standards required in the Convention. Countries report to the Permanent Bureau of The Hague on their performance. If a country becomes aware of problems with another country's adoption program it may draw them to the attention of the country's Central Authority or to the attention of the Permanent Bureau.

Some countries, such as Romania, Belarus, Moldova have self-imposed moratoriums on their adoption programs while they resolve issues about their adoption processes.

In addition, International Social Services/International reference for the Rights of Children Deprived of their Family (ISS/IRC) provides information about the implementation of the Convention in various countries. Each State and Territory, and the Commonwealth, is a member of ISS/IRC, which allows access to a data base that holds information about various countries as well as reports and commentary about intercountry adoption.

The system of Central Authorities under the Convention also enables direct communication with the country in question or with other Central Authorities involved with a particular country.

In Australia, the Central Authorities are responsible for monitoring compliance with the Convention. When there is sufficient interest among prospective adoptive parents for a program to be established with a country that has ratified or acceded to the Convention, and a decision is taken that it would be appropriate to commence a program, a State or Territory Adoption Central Authority is nominated to be the 'lead State' for that program. That State is responsible for an initial investigation of the program and if there is agreement between the Australian Central Authorities that a program should be established, the lead State will undertake the negotiation and establishment of the program. This normally involves a visit to the country as well as research and reporting obligations.

Every five years there is a Special Meeting of all Convention Central Authorities at The Hague to review the operation of the Convention. The next special Commission meeting is in September 2005.

For non-Hague countries with which Australia has a bilateral arrangement a review has been conducted. A subcommittee comprised of Central Authority officials representing the Commonwealth, New South Wales, Queensland, South Australia and Victoria completed a revision of all the bilateral programs in 2004. That review was conducted against the standards of the Convention. The monitoring of on-going compliance with countries where a bilateral arrangement exists is a matter for consideration at the regular meeting of State and Territories with the Commonwealth Central Authority.

2) My Department has advised me the only country, with which Australia has established an adoption program, which has been found to be non-compliant is Guatemala. The adoption program with Guatemala predates Guatemala's accession to the Convention and is based on historical arrangements rather than on a bilateral agreement.

Guatemala acceded to the Convention on 26 November 2002. Because of concerns about Guatemala's readiness to comply with the convention requirements the Australian Central Authorities agreed to suspend any further forwarding of files of prospective adoptive parents to Guatemala. The program remains suspended.

3) In the event of an issue arising in relation to the operation of a program, the lead State will report to the other Central Authorities (State, Territory and Commonwealth) and then the Central Authorities will decide on a course of action. Where a serious complaint is made a decision might be taken to forward no further files until it can be established that the processes and procedures required under the Convention are in place.

This may include further investigation of the complaint or preparation of a report on the issue for consideration by the Central Authorities. From this information a decision about the suspension of a program could be made if that was considered necessary.

4) In practical terms, the monitoring undertaken by the lead State involves day to day liaison with the overseas country by telephone, email and, where necessary, in person. Any complaints about the handling of applications or the placement of children are directed to the lead State and, if necessary, the procedures set out above in response to Q.1 would be followed.

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Question No. 24

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Has the Lebanese government agreed to the final text of the bilateral agreement relating to protecting the welfare of children?

The answer to the honourable senator's question is as follows:

The Lebanese government has not yet agreed to final text for the bilateral agreement relating to protecting the welfare of children.

Further amendments to the text of the proposed agreement were sent to the Lebanese authorities by the Attorney-General's Department via the Department of Foreign Affairs and Trade in December 2004 in response to amendments requested by the Lebanese authorities.

The Department has not yet received advice as to whether the amended text has been, or will be, accepted by the Lebanese authorities.

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Output 1.3

Question No. 25

Senator Ludwig asked the following question on notice at the hearing on 14 February 2005:

Has the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility been implemented in each State and Territory?

If not, what progress is being made on it?

The answer to the honourable senator's question is as follows:

The Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children (the Convention) has been implemented in all Australian States and Territories as a result of the *Family Law Amendment (Child Protection Convention) Act 2002* and the *Family Law (Child Protection Convention) Regulations 2003*. Those Regulations contain 'roll-back' provisions that withdraw jurisdiction once the States and Territories pass their own legislation.

Queensland has passed legislation, entitled *Child Protection (International Measures) Act 2003*. Tasmania has passed similar legislation, also entitled the *Child Protection (International Measures) Act 2003*. New South Wales has advised that it is currently working on introducing legislation and expects to introduce it this year. The Northern Territory has advised that it intends to rely on the Commonwealth's legislation and will not be introducing its own legislation. The other States and the ACT have not yet passed legislation.

All States and Territories have designated a Central Authority. Of the designated authorities the Central Authorities for Western Australia, Queensland, Tasmania and the Northern Territory have all been gazetted. It should be noted that the Queensland Central Authority will, as a result of a recent restructure of responsibilities within the Government of Queensland, need to be re-gazetted. The Northern Territory wishes to amend its designated Central Authority so this will also need to be re-gazetted.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.3

Question No. 26

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) Has the new grants management system begun?
- b) What types of grants does this system monitor?
- c) What is it intended to accomplish?
- d) How much has it cost to develop?
- e) Was it developed in-house, or by an external firm?
 - i) If it was developed by an external firm, was there a tender process?
 - ii) Was the tender open?
 - iii) Where was the tender advertised?
 - iv) How many tenders were submitted?
 - v) Who was on the selection panel?
 - vi) Why was the winning tender chosen?

The answer to the honourable senator's question is as follows:

- a) The new grants management system, known as Data and Workflow Grants System (DAWGS), came into operation on 3 August 2004.
- b) The system monitors all financial assistance grants made under the schemes administered by the Attorney-General's Department.
- c) DAWGS automates, standardises and achieves efficiencies in workflow procedures for the consideration of applications for financial assistance and claims for payment.
- d) The Department has paid \$322,099.50 in relation to the DAWGS project under the head agreement for services with KAZ Technology Services.
- e) The system was developed by KAZ Technology Services, under a standing offer signed in 2002–03 between the Attorney-General's Department and Aspect Computing (KAZ). This three-year standing offer, which continues until the end of December 2005, was signed following an open tender for all IT applications and development maintenance across the Department. Accordingly, there was no separate tendering process for the DAWGS system.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.2

Question No. 27

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Provide an update on the latest figures you have of total outsourced legal spend, broken down between the AGS and, more generally, those lawyers on panels.

The answer to the honourable senator's question is as follows:

The Department's total expenditure from 9 August 2004 to 28 February 2005 on external legal services (including disbursements and counsel fees) was \$4,374,018.57. This excludes amounts of legal expenditure relating to the *United Nations Convention on the Recovery Abroad of Maintenance*, the *Convention on the Civil Aspects of International Child Abduction*, and international obligations under various bilateral maintenance arrangements. These are recorded separately because they do not constitute the purchase of legal services by the Department for itself. Rather, they arise as the Department pays for legal services that benefit other parties as a result of obligations under international agreements.

The Attorney-General's Department has no legal services panel. It procures legal services from the Australian Government Solicitor under a standing agreement, and from other legal services providers as needed.

From 1 July 2004 to 28 February 2005, the AGS invoiced the Department for professional fees and disbursements (excluding counsel fees) of \$3,260,894.

From 9 August 2004 to 28 February 2005, the Department paid \$358,461.30 for professional fees and disbursements (excluding counsel fees) in relation to legal services provided by private firms.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 28

Senator Ludwig asked the following question at the hearing on 14 February 2005.

ComLaw: What type of lease are they?

The answer to the honourable senator's question is as follows:

Equipment leases for ComLaw are finance leases.

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Output 1.5

Question No. 29

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Regarding assistance to the governments of Papua New Guinea and Nauru: What is fee for service and what is absorbed into your budget and the scale or nature of it?

The answer to the honourable senator's question is as follows:

The Office of Legislative Drafting and Publishing has provided the following assistance to the Governments of Nauru and PNG on the following matters during the 2004-2005 financial year.

Assistance to Nauru:

- Draft of implementation legislation for Australia's package of assistance to Nauru. Begun in April 2004, completed and billed for in August 2004. Billed to AusAID. Cost: \$5,300.

Assistance to PNG

- Draft Bill on Assistance in Criminal Matters. Begun in June 2003 and still in progress. Billed to AusAID. Costs so far: \$48,000 billed, \$7,000 not yet billed. (Includes costs of travel to PNG).
- Draft Bill on Extradition. Begun in September 2004 and still in progress. To be billed to AusAID. Costs so far: \$15,000 (not yet billed).
- Draft Bill on Proceeds of Crime. Begun in October 2004 and still in progress. To be billed to AusAID. Costs so far: \$34,000 (not yet billed).
- The costs billed did not include a small amount of work in administration, in particular for scoping of work and settling of billing arrangements

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Output 1.5

Question No. 30

Senator Ludwig asked the following question at the hearing on 14 February 2005:

AusInfo:

- a) What was the price of the contract let to CanPrint Communications?
- b) Which outlets will it be distributed through?
- c) Show the main distribution process that is used.

The answer to the honourable senator's question is as follows:

a) The contract deals with two matters. The first is the printing and distribution of legislation under the "Free List" arrangements, under which it is provided to Members of Parliament, Federal and State Courts and various international bodies. Material includes individual pamphlet copies of the Acts and instruments "as made", bound annual volumes, and reprints of Acts or instruments as they have been amended. It is paid for from an administrative appropriation. The actual expenditure in any year of the contract will depend on the volume of legislation produced and decisions about what is to be printed under the appropriation. As an indication, the expenditure under the appropriation in 2003-04 was \$1.3m.

The second matter is the printing and sale of legislation to the public. Canprint is required to meet requirements about availability of material and pricing set out in the contract, and makes a return to the Department based on the volume of sales. Otherwise it makes its decisions on printing and distribution on a commercial basis.

b) Legislation is sold to the public by:

- mail order from CanPrint Information Services, PO Box 7456, Canberra MC ACT 2610, or by faxing to (02) 6293 8333
- telephone orders made by phoning 1300 656 863
- online orders made at <http://www.infoservices.com.au/>
- over the counter sales from addresses given in the Government Notices Gazette, which are currently:
 - CanPrint Communications, Telephone, 16 Nyrang Street, Fyshwick ACT 2609
 - Information Victoria, 356 Collins Street, Melbourne VIC 3000
 - Goprint, 371 Vulture Street, Woolloongabba QLD 4102
 - Printing Authority of Tasmania, 2 Salamanca Place, Hobart TAS 7000

- Service SA Government Legislation Outlet, Ground Floor, 101 Grenfell Street, Adelaide SA 5000
- NSW Government Information, Ground Floor Goodsell Building, Cnr Hunter and Phillip Streets, Sydney NSW 2000
- Copies are also available through the University Co-operative Bookshops network, with outlets at university campuses in the ACT, NSW, Queensland, Tasmania and WA.

(c) The proportions sold through the various distribution mechanisms are:

Subscription	45%
Mail, telephone and online orders	47%
Over the counter sales	8%

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Output 1.6

Question No. 31

Senator Ludwig asked the following questions at the hearing on 14 February 2005

In the tender process for the Digital Agenda Review, were any firms rejected on the basis of conflicts of interest? Which firms were these and what was the nature of the conflicts of interest? Were any of these firms rejected because of their links to the music recording industry or music industry clients?

The answer to the honourable senator's questions is as follows:

No. See also the answer to Question No. 36.

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Output 1.6

Question No. 32

Senator Ludwig asked the following questions at the hearing on 14 February 2005

What steps were taken to ensure that Phillips Fox's relationship with LEF Interactive, Sharman License Holdings Limited and Sharman Networks Limited did not create a conflict of interest or perceived conflict of interest in respect of their contract to undertake parts of the Digital Agenda Review?

The answer to the honourable senator's questions is as follows:

The Department asked all tenderers, including Phillips Fox, to give details of any known circumstances which might give rise to an actual or a perceived conflict of interest. The Phillips Fox tender of 9 September 2002 named clients who would have an interest in the proper and efficient operation of Australia's copyright system and, possibly, an interest in making submissions to the review. The list represented a diverse range of copyright interests, including significant owner interests as well as users of copyright material. The list of clients included Sharman Networks Limited. It did not include LEF Interactive or Sharman License Holdings Limited. The Department has been advised by Phillips Fox that Sharman Licence Holdings Limited was not incorporated until 6 June 2003.

The Department asked all tenderers to submit a management plan to deal with conflict of interest issues.

In addition, the Department assessed the approach and methodology proposed by Phillips Fox for conducting the consultancy, particularly the extensive consultative components and considered that it would assist Phillips Fox to conduct the consultancy fairly and independently.

The Department also ensured the contract with Phillips Fox contained the following conflict of interest obligations:

15.1 The Consultant warrants that, to the best of its knowledge after making diligent inquiry, and as except as disclosed in the Consultant's tender response dated September 2002, at the date of signing this Agreement no conflict with the interests of the Commonwealth exists or is likely to arise in the performance of the Contract Services.

15.2 If, during the performance of the Contract Services a conflict of interest arises, or appears likely to arise, the Consultant agrees to:

- (a) notify the Commonwealth immediately in writing;
- (b) make full disclosure of all relevant information relating to the conflict; and
- (c) take such steps as the Commonwealth may reasonably require to resolve or otherwise deal with the conflict.

15.3 If the Consultant does not notify the Commonwealth or is unable or unwilling to resolve or deal with the conflict as required, the Commonwealth may terminate this Agreement in accordance with the provisions of clause 25 [*Termination for Default*].

15.4 The Consultant agrees that it will not, and will use its best endeavours to ensure that any personnel do not, engage in any activity or obtain any interest during the course of this Agreement that is likely to conflict with or restrict the Consultant in providing the Contract Services to the Commonwealth fairly and independently.

The above contractual conflict of interest obligations were additional to the usual professional obligations of solicitors in respect of conflict of interests.

Allegations of a conflict of interest involving LEF Interactive were made in an article in the Australian Personal Computer magazine in September 2003. The Department discussed the allegations contained in that article with Phillips Fox at that time. The Department was satisfied that the article contained factual inaccuracies both in relation to Phillips Fox's role concerning the Digital Agenda review and Matthew Hall's representation of LEF Interactive. The Department remained satisfied that Phillips Fox was conducting its research and analysis of the Digital Agenda reforms fairly and independently in accordance with its contractual obligations.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.6

Question No. 33

Senator Ludwig asked the following questions at the hearing on 14 February 2005

Which of the recommendations made by Phillips Fox in the Digital Agenda Review were not superseded by the US Free Trade Agreement Implementation Act 2004 or the Copyright Amendment Act 2004?

The answer to the honourable senator's questions is as follows:

Recommendations 12, 17, 18, 19 and 20 made by Phillips Fox as part of the Digital Agenda Review have been superseded by the amendments to the *Copyright Act 1968* made by the *US Free Trade Agreement Implementation Act 2004* and the *Copyright Legislation Amendment Act 2004* or amendments still needed to implement the Australia-United States Free Trade Agreement (AUSFTA) obligations concerning technological protection measures.

The other recommendations remain under consideration but some may be affected by other projects, including the review of the fair use exception.