

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

Output 1.1

Question No. 8

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Is the report that was prepared by the consultancy firm CMR available to the Committee?

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

The report is not made available to the Committee. All documents tabled to the Committee become public documents. Since Law Courts Limited is yet to formally commence the tendering process for the project the report cannot be released because its release as a public document would most likely contaminate the tendering process.

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

Output 1.1

Question No. 9

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Do (international bodies which receive contributions from Australia) provide a report on how that money is expended or do they provide an annual report that you then obtain in due course? In other words, what check on the expenditure is there?

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

The estimate of \$440,000 for the 'International bodies – membership contributions' administered item under Outcome 1, set out in the 2004-2005 Portfolio Budget Statements, consists of contributions to The Hague Conference on Private International Law, the International Institute for the Unification of Private Law (UNIDROIT) and the Berne Union. As a Member State of each of these organisations, Australia participates in the discussion and approval processes for the organisation's proposed budgets and yearly accounts, which fully document the organisation's financial expenditure, are made available to Australia. In some cases, an organisation's financial year may cover a different 12 month period from the Australian financial year.

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

Output 1.1

Question No. 10

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Why isn't the report on the migration review available?

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

As the Attorney-General has previously stated, the report was prepared for the Government's consideration and for the purposes of a Cabinet decision.

However, certain factual material in the report has been released and can be made available to the Committee.

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

Output 1.2

Question No. 11

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Can you provide the Committee with details of those seven (occasions of breaches) you have mentioned – what they were, what they amounted to and what remedial action was taken or suggested by the Department involved? Detail what the appropriate action might be.

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

The details of the seven breaches of the Legal Services Directions are as follows:

1. The Australian Antarctic Division in the Department of the Environment and Heritage breached the tied work obligation in paragraph 2 by having a private consultant prepare a legal advice concerning international treaty obligations. The breach was remedied by the Office of International Law in the Department being asked to provide comment on the advice.
2. The Department of Defence breached the obligation in relation to counsel fees in Appendix D by briefing senior counsel at a rate above the \$2,400 per day threshold, without having obtained approval from the Office of Legal Services Coordination (OLSC). The Department of Defence and the relevant Counsel were informed of the requirements of the Legal Services Directions.
3. The Australian Competition and Consumer Commission (ACCC) breached the tied work obligation in paragraph 2 by having Phillips Fox file submissions on constitutional issues arising in litigation, without having obtained approval from OLSC. The ACCC was advised that the Australian Government Solicitor (AGS) should perform future tied work in relation to that matter. The Chairman of the ACCC informed the Secretary to the Department that the oversight would not occur again.
4. The Aboriginal and Torres Strait Islander Commission (ATSIC) breached its model litigant obligation in Appendix B, in proceedings in the Supreme Court of New South Wales on separate occasions, by ATSIC's counsel causing unnecessary delay and by AGS initially refusing to accept service of documents on behalf of ATSIC. The breach was remedied because ATSIC's counsel was ready to proceed at the next directions hearing. AGS accepted service of the documents after obtaining instructions later on the day service was attempted.
5. The ACCC breached the requirement in paragraph 3 to advise the Attorney-General or OLSC of significant litigation as soon as possible. OLSC was notified of the proceedings.
6. AGS, acting on behalf of the Australian Taxation Office, advised OLSC of a general breach of the model litigant obligation because of a letter sent to solicitors acting on behalf of a taxpayer notifying an intention to seek a personal costs order against the solicitors because of what AGS believed was the lack of merit of the case. The breach was remedied by AGS apologising to the solicitors involved.
7. Minter Ellison, acting on behalf of the Professional Services Review Scheme, breached the obligation in relation to counsel fees in Appendix D by briefing senior counsel at a rate above the \$2,400 per day threshold, and junior counsel at a rate above the \$1,600 per day threshold, without having obtained approval from OLSC. The breach was remedied by OLSC approving lower ongoing rates for each counsel.

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

Output 1.2

Question No. 12

Senator Ludwig asked the following question at the hearing on 24 May 2004:

The Attorney has issued three directions since 1999. Could you take it on notice as to whether you can provide those instances, the particular case that was involved, what the advice was, what action was taken to ensure that the actions were consistent with the Department or the executive government's view about the issue and in which matter it was?

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

The Attorney-General has issued two directions.

- (1) In proceedings in the Full Court of the Federal Court, *Commonwealth of Australia v Williams*, the Commonwealth, represented by the Department of Defence, appealed against a decision of the Federal Magistrates Court which found that the Commonwealth committed an act of unlawful discrimination when it dismissed Mr Williams from the Royal Australian Air Force on medical grounds.

The Attorney-General issued a direction that the Commonwealth withdraw some grounds in its Notice of Appeal and otherwise not argue that section 53 of the *Disability Discrimination Act 1992* and the associated regulations impose a blanket exemption for Australian Defence Force personnel.

The Department of Defence amended its Notice of Appeal to remove reference to those grounds of appeal.

- (2) In proceedings in the High Court of Australia, *Mulholland v Australian Electoral Commission*, the Democratic Labor Party challenged the constitutional validity of provisions in Part X1 of the *Commonwealth Electoral Act 1903*, relating to the registration of political parties.

The Australian Electoral Commission (AEC) and the Attorney-General, who had intervened in the matter, supported the constitutional validity of the provisions in question. The Attorney-General directed the AEC to adopt the further submission made on behalf of the Commonwealth that any provisions of the *Commonwealth Electoral Act 1903*, in the event that they were invalid, were severable from the other provisions of that Act.

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

Output 1.2

Question No. 13

Senator Ludwig asked the following question at the hearing on 24 May 2004:

In relation to the number of submissions to the review that you are conducting in relation to the Office of Legal Services Coordination, can you tell the Committee which Departments have not responded?

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

The Department is not conducting a review in relation to the Office of Legal Services Coordination but rather a review of the Legal Services Directions. The following Departments did not provide responses to the Review of the Legal Services Directions Issues Paper:

- Agriculture, Fisheries and Forestry
- Communications, Information Technology and the Arts
- Environment and Heritage
- Finance and Administration
- Foreign Affairs and Trade
- Immigration and Multicultural and Indigenous Affairs
- The Prime Minister and Cabinet
- Transport and Regional Services
- The Treasury, and
- Veterans' Affairs.

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

Output 1.2

Question No. 14

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Which Departments were the scoping studies done in?

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

The ANAO examined the Office of Legal Services Coordination within the Attorney-General's Department, and its role in the administration and coordination of legal services across the APS.

The ANAO has advised that it also selected four agencies for examination in the preliminary study, seeking a range of service delivery models in both small and large agencies. The agencies selected were:

- the Department of Education, Science and Training
- the Department of Family and Community Services
- the Australian Competition and Consumer Commission, and
- Comsuper.

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

Output 1.3

Question No. 15

Senator Kirk asked the following question at the hearing on 24 May 2004:

Are you able to advise the Committee of the locations for the Community Legal Centres that did have Regional Law Hotline funding but that will not have it post 30 June?

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

The locations for the Community Legal Centres that are funded to provide Regional Law Hotline services until 30 June 2004 are listed below.

Organisation	Location
Shoalcoast Community Legal Centre	Nowra, NSW
Far West Community Legal Centre	Broken Hill, NSW
South East Community Legal Service Inc	Mount Gambier, SA
Goldfields Community Legal Centre	Kalgoorlie, WA
Albury/Wodonga Community Legal Service	Wodonga, VIC
Riverland Community Legal Service Inc	Berri, SA
Roma Community Legal Service	Roma, QLD
Albany Community Legal Service	Albany, WA
Western Queensland Justice Network	Mt Isa, Qld

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

Output 1.3

Question No. 16

Senator Kirk asked the following question at the hearing on 24 May 2004:

Does the Government have any long-term plans for expanding community legal centres?

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

Community legal centre funding is indexed in the Budget.

Any further increase in funding in future years would be a matter for the Government as part of the Budget process.

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

Output 1.3

Question No. 17

Senator Kirk asked the following question at the hearing on 24 May 2004:

Do you have an idea of the timeframe for a Government response to the report *Every Picture Tells a Story*?

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

The Government is currently considering the recommendations made in the *Every Picture Tells a Story* report.

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

Output 1.3

Question No. 18

Senator Kirk asked the following question at the hearing on 24 May 2004:

Regarding the funding for the Family Relationships Services Program, which organisations are the money going to, whether there are any unspent funds and such matters.

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

The total funds allocated to the AG's portfolio for the Family Relationship Services Program in 2003-04 is \$29,525,000.

\$25,563,845 was transferred by the Attorney-General's Department to the Department of Family and Community Services for payment to organisations for family law related dispute resolution services under the Family Relationship Services Program. These organisations are listed alphabetically in the table attached.

\$71,610 was paid to the Victorian Court Network to provide support for people appearing at the Family Court registries of Melbourne and Dandenong.

\$1,432,000 was allocated for Australian Law Online for 2003-04. This amount mainly covers payments to Centrelink for the operation of the Family and Regional Law Hotline call centres, CiTR Asia Pacific Pty Ltd for maintenance, support and development of the Australian and Family Law Online portals, Lawscape Communications Pty Ltd for updating of Family Law Online content and to DeakinKM Pty Ltd for related training services. Information on unspent funds is not yet available.

\$2,457,545 was allocated for program development. This includes activities such as a contribution to the evaluation of the Family Relationship Services Program that was managed by the Department of Family and Community Services, workshops held with the service providers as part of the review, publication of material for providers and the public, developing and delivering training for providers and various research, capacity building and networking projects. Information on unspent funds is not yet available.

Organisation	State	TOTAL
Adelaide Central Mission Inc	SA	110,243
Anglican Community Care Inc	SA	155,085
Anglican Counselling Service - Diocese of Armidale	NSW	23,763
Anglicare NSW	NSW	219,008
Anglicare SA Inc	SA	160,433
Anglicare Tasmania Inc	TAS	20,096
Anglicare Top End	NT	203,468
Anglicare Victoria	VIC	156,369
Anglicare WA	WA	828,602
Berry Street Victoria Inc	VIC	160,375
Bethany Family Support Inc	VIC	158,001
Brimbank Community Centre Inc	VIC	184,191
Broken Hill & District Family Support Services Inc	NSW	63,937
Centacare Ballarat Inc	VIC	40,198
Centacare Adelaide	SA	493,351
Centacare Archdiocese of Canberra & Goulburn	ACT	111,376
Centacare Ballarat	VIC	18,404
Centacare Bathurst	NSW	26,109
Centacare Bathurst - Dubbo	NSW	63,937
Centacare Bathurst - Orange/Bathurst	NSW	63,937
Centacare Brisbane	QLD	138,526
Centacare Broken Bay	NSW	296,261
Centacare Cairns	QLD	40,216
Centacare Catholic Diocese of Port Pirie	SA	102,300
Centacare Central Queensland, Rockhampton	QLD	119,514
Centacare Diocese of Sandhurst	VIC	104,097
Centacare Family Services	TAS	181,533
Centacare Geraldton	WA	131,840
Centacare Melbourne	VIC	680,137
Centacare New England North West	NSW	63,937
Centacare Newcastle	NSW	56,673
Centacare Northern Territory	NT	195,250
Centacare Parramatta	NSW	128,144
Centacare Sydney	NSW	880,843
Centacare Toowoomba	QLD	93,464
Centacare Townsville	QLD	140,013
Centacare Wagga Wagga	NSW	135,142
Centacare Wollongong	NSW	94,224
Centacare Wollongong - Campbelltown	NSW	115,512
Centacare Wollongong - Nowra	NSW	115,512
Centrecare Inc	WA	486,818
Child and Family Services Ballarat	VIC	149,962
Community Connections (Vic) Ltd	VIC	58,311
Drummond Street Relationship Centre Inc	VIC	257,858
Family Mediation Centre	VIC	1,082,976
George St Neighbourhood Centre Association Inc (MacKays Childrens Contact Service)	QLD	155,418
Gordon Homes for Boys and Girls	VIC	278,807
Interrelate	NSW	1,313,329
Interrelate - Coffs Harbour	NSW	63,937
Interrelate - Lismore	NSW	63,937
Kinections (formerly Anglican Family Care)	QLD	73,482
Lifecare: Counselling and Family Services	NSW	91,906

Lifeline Sunshine Coast	QLD	231,566
LifeWorks	VIC	456,922
Logan West Community Centre Inc	QLD	333,531
Macquarie Legal Centre Inc	NSW	192,426
Mallee Family Care	VIC	165,509
Marymead Child and Family Centre	ACT	97,763
Positive Solutions	TAS	282,837
Relationships Australia (Victoria) Inc - Ballarat	VIC	58,311
Relationships Australia (Victoria) Inc - Gippsland	VIC	58,311
Relationships Australia (Victoria) Inc - Shepparton	VIC	58,311
Relationships Australia Northern Territory - Alice Springs	NT	24,552
Relationships Australia Northern Territory - Darwin	NT	51,150
Relationships Australia Northern Territory - Katherine	NT	26,598
Relationships Australia, Canberra & Region	ACT	805,667
Relationships Australia, New South Wales	NSW	1,695,042
Relationships Australia, Northern Territory	NT	179,221
Relationships Australia, Queensland	QLD	1,910,597
Relationships Australia, Queensland - Bundaberg	QLD	58,311
Relationships Australia, Queensland - Cairns	QLD	135,964
Relationships Australia, Queensland - Mackay	QLD	40,920
Relationships Australia, Queensland - Rockhampton	QLD	58,413
Relationships Australia, Queensland - Townsville	QLD	204,049
Relationships Australia, South Australia	SA	1,145,338
Relationships Australia, Tasmania	TAS	878,274
Relationships Australia, Victoria	VIC	1,884,075
Relationships Australia, Western Australia	WA	1,118,128
Salvation Army (Victoria) Property Trust	VIC	151,128
Sunshine Coast Family Contact Centre Assoc.	QLD	158,294
The Cairnmillar Institute	VIC	36,176
Toowoomba Community Access Assoc (Children's Contact Centre)	QLD	147,555
Unifam - Marriage and Family Counselling Service	NSW	1,551,536
Upper Murray Family Care	VIC	216,605
TOTAL		25,563,845

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

Output 1.3

Question No. 19

Senator Bolkus asked the following question at the hearing on 24 May 2004:

Provide the Committee with the comments the Department made to AT SIS on the request for tender.

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

It would not be appropriate to pass these comments on to the Committee as they were provided as part of the policy development process of Government.

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

Output 1.3

Question No. 20

Senator Bolkus asked the following questions at the hearing on 24 May 2004:

What restrictions on Indigenous Legal Services are being planned and how they compare to other community legal services. Include restrictions referred to in the draft tender on clients with prior convictions.

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

Responsibility for Aboriginal and Torres Strait Islander Legal Services transferred from Aboriginal and Torres Strait Islander Services (ATSIS) to the Attorney-General's Department on 1 July 2004.

The Government is considering changes to the tender documentation, taking account of comments received on the exposure draft.

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

Output 1.3

Question No. 21

Senator Bolkus asked the following questions at the hearing on 24 May 2004:

How will government measure or assess the appropriateness of profit levels—that is, whether they are appropriate in a particular case or a range of cases and what levels would be appropriate?

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

Responsibility for Aboriginal and Torres Strait Islander Legal Services will transfer from Aboriginal and Torres Strait Islander Services (ATSIS) to the Attorney-General's Department on 1 July 2004. ATSIS advises the following.

No formal assessment or analysis has been made on the appropriateness of profit levels. The Government is committed to ensuring a value-for-money service is achieved in the provision of Indigenous legal services. The tendering process is intended to achieve efficiencies in service provision, and an open and competitive tender ensures transparency in the selection of providers.

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

Output 1.3

Question No. 22

Senator Bolkus asked the following questions at the hearing on 24 May 2004:

Have you made any assessment as to where the non-eligible Indigenous people will go for legal advice and assistance if these arrangements were to be implemented? Has an assessment been made of what it might cost?

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

Responsibility for Aboriginal and Torres Strait Islander Legal Services will transfer from Aboriginal and Torres Strait Islander Services (ATSIS) to the Attorney-General's Department on 1 July 2004. ATSIS advises the following.

Indigenous clients are also eligible to seek assistance from Legal Aid Commissions, Community Legal Centres or other legal assistance programs. Service providers will be expected to cooperate and establish effective relationships with other relevant service delivery agencies and will be assessed on this requirement in the tender selection criteria. No assessment has been made of the costs involved.

Where clients do not have access to the services of Legal Aid Commissions, the draft Policy Directions require service providers to accord such clients priority in preference to clients who do have a choice of legal aid service providers.

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

Output 1.3

Question No. 23

Senator Bolkus asked the following questions at the hearing on 24 May 2004:

The Department has been part of the consultation process and, for instance, ATSILS has had advocacy and law reform functions. Has there been any discussion as to who would be performing these functions in the future?

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

These matters have been discussed, but a final decision has not been made in relation to the ongoing provision of services that ATSILS currently provide but which may be excluded from the tender.

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

Output 1.3

Question No. 24

Senator Bolkus asked the following questions at the hearing on 24 May 2004:

There is a current requirement that the legal service be controlled and staffed to a certain extent by Indigenous people. It is proposed that that requirement be dropped. What is the rationale behind that?

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

Responsibility for Aboriginal and Torres Strait Islander Legal Services will transfer from Aboriginal and Torres Strait Islander Services (ATSIS) to the Attorney-General's Department on 1 July 2004. ATSIS advises the following.

The *Aboriginal and Torres Strait Islander Commission Act 1989*, under which Aboriginal and Torres Strait Islander Legal Services are currently funded, has no requirement that funding go to Indigenous organisations or that the recipients of such funding employ Indigenous staff. The funding is required to be 'for the purpose of furthering the social, economic or cultural development of Aboriginal persons or Torres Strait Islanders': subsection 14(1).

The Government is concerned to ensure that Indigenous clients receive the best services on the ground. Tenderers will be assessed on their ability to provide an accessible and culturally sensitive service to Indigenous Australians. This has been accorded a weighting of 30% in the selection criteria, effectively making the requirement mandatory, in contrast to current arrangements.