

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Sub Program 1.1.1

Question No. 123

Senator Ludlam asked the following question at the hearing on 27 May 2009:

The Family Court's 2007-08 Annual Report noted that in 30% of cases appearing before the court there was at least one unrepresented party. This can prove to [be an] inefficiency, and a costly one, but it also affects the provision of a fair trial. While people have the right to represent themselves, many are doing so because of the contraction in legal aid funding. What is the Government doing to redress this? Are people refusing legal counsel, or is the capacity to provide it simply not there?

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

The Attorney-General's Department does not hold data on the reasons people appear as self-represented litigants in the family courts.

The Australian Government funds State and Territory legal aid commissions to provide assistance for family law matters, including grants of aid for representation in court proceedings. Applications for assistance are considered by commissions under Commonwealth priorities and guidelines for family law matters. This includes consideration of an applicant's means and the merits of their case. As part of Australian Government funding to legal aid commissions, all commissions provide a family law duty lawyer service to assist self-represented litigants before the Family Court of Australia, the Family Court of Western Australia and the Federal Magistrates Court. Funding for legal assistance services has been maintained in the 2009-10 Budget.

In 2007-08, and again in 2008-09, the Attorney-General also approved one-off funding for two family law duty lawyer services operating through two community legal centres in Victoria. In 2008-09, this was extended to the Caxton Legal Centre (Brisbane) and the Hunter Community Legal Centre (Newcastle). These centres were chosen for the pilots based on their known workloads. A review of these family law duty lawyer services will be undertaken in the next 12 months to evaluate their effectiveness.