

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

Output 1.3

Question No. 65

Senator Barnett asked the following question at the hearing on 25 May 2010:

Please provide a copy/explanation of the formula and criteria used for the distribution to states and territories of Commonwealth funding for legal aid services.

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

Legal aid funding under the new National Partnership Agreement on Legal Assistance Services is to be distributed under an updated funding model. Legal aid is a program for providing legal assistance services to disadvantaged Australians and requires a more targeted approach than a simple per capita distribution. Like its 2004 predecessor, the updated funding model uses Commonwealth Grants Commission methodology to match funding to need assessed through potential demand for services and costs in service delivery. The updated funding model has been revised to take into account changes in Commonwealth Grants Commission methodology and updated Australian Bureau of Statistics, Centrelink and Commonwealth Grants Commission data.

The legal aid funding model seeks to identify differences between States and Territories in the demand for, and cost of, providing legal aid commission services. The model has five components which represent the different types of services provided by commissions.

There are five components to the model which reflect different elements of legal aid commission service delivery under the National Partnership Agreement. These are family law males, family law females, state law matters, information advice duty lawyer and assignments services, and strategic services.

Each of these components contains factors, as described in the following paragraphs, to determine the relativities between each State and Territory. The result for each State and Territory is then weighted by the population share for that State or Territory. The population data is drawn from the Australian Bureau of Statistics resident population data.

The two family law components address the priority in Commonwealth funding policy to family law matters. These components in the model incorporate the following factors to assess the demand for Commonwealth family law grants of aid:

- per capita number of divorces involving children
- per capita number of single parent payment recipients, and
- a socio-economic demographic factor.

The State law component has been introduced following the change in Commonwealth legal aid funding policy to enable Commonwealth funding to be used for State child protection or family violence matters where there is a corresponding family law matter involved. This component of the model was developed utilising a Commonwealth Grants Commission Health and Community Services Factor to reflect assessed demand.

The information/advice component utilises the socio-economic demographic factor to identify differences between States and Territories. The size of the component has been increased in the current model to reflect the Commonwealth policy changes to increase the emphasis on preventative and early intervention legal assistance services.

The strategic services component reflects the head office costs borne by legal aid commissions in delivering services on behalf of the Commonwealth, including the diseconomies of scale faced by smaller commissions.

Differences between States and Territories in the costs of providing services are assessed within each of the five components through the inclusion of cost factors. These include:

- differences between States and Territories in their per capita costs of wages, accommodation and electricity
- the costs of providing legal aid which increase in line with population dispersion, through for instance increased costs of communication and travel in servicing clients
- isolation cost influences that some legal aid commissions face in retaining staff because their locations are more distant from the south eastern corner of Australia.