



Australian Government

Attorney-General's Department  
Family Law and Legal Assistance

03/6559

18 December 2003

Ms Louise Gell  
Secretary  
Senate Legal and Constitutional References Committee  
Room S1.61  
Parliament House  
CANBERRA ACT 2600

Dear Ms Gell

#### INQUIRY INTO LEGAL AID AND ACCESS TO JUSTICE

I write to clarify certain aspects of Commonwealth funding for legal aid contained at page 3 of the Department's submission to the Inquiry dated 1 October 2003.

I draw the Committee's attention to a correction of the figure distributed to the ACT in 2000-01 set out in the table headed Distribution of Commonwealth Funding. The figure should read \$3.006m and the total amended to \$108.715m.

In addition to the funding noted in the table, the Legal Aid Office of the ACT (LAOACT) receives separate funding for war veterans' matters and the Legal Services Commission of South Australia (LSCSA) receives separate funding for services provided in Stage 1 carer-parent matters. Both Commissions commenced receiving this funding in 2001-02.

The revised section titled Commonwealth Funding 2000-2001 to 2003-2004 (**Attachment A**) includes these amendments.

If you have any queries about the above matter please do not hesitate to contact me, Garry Burlingham (02) 6250 5602 or Gregory Nicholas (02) 6250 6931.

Yours sincerely

## COMMONWEALTH FUNDING 2000-2001 TO 2003-2004

The current legal aid agreements run until 30 June 2004, but can continue if they are not replaced by new agreements or terminated by either party after giving 12 months notice. Like the 1997 agreements, the current agreements are purchaser-provider style funding arrangements for the provision of Commonwealth legal aid in each State and Territory. Under the legal aid agreements the Commonwealth determines the priorities, guidelines and accountability mechanisms that apply to the use of its funds. The legal aid commissions manage the funds to provide efficient and effective legal aid services within the parameters set by the Commonwealth.

The current arrangements enable the Commonwealth to ensure that its funds are directed towards meeting its priorities for legal aid. By specifying the types of matters for which assistance should be provided, the parameters set by the Commonwealth are directed to increasing consistency and equity in the delivery of legal aid in Commonwealth matters across all jurisdictions.

The following table sets out the distribution of Commonwealth legal aid funding to State and Territory legal aid commission under the current agreements.

### DISTRIBUTION OF COMMONWEALTH FUNDING TO LEGAL AID COMMISSIONS

	2000-01	2001-02	2002-03	2003-04
	\$M	\$M	\$M	\$M
NSW	33.719	36.337	38.956	41.574
VIC	27.750	27.750	27.750	27.750
QLD	19.903	21.806	23.709	25.612
SA	9.450	9.901	10.351	10.802
WA	8.995	9.741	10.486	11.232
TAS	3.773	3.827	3.880	3.934
ACT	3.006	3.071	3.104	3.137
NT	2.119	2.226	2.334	2.441
TOTAL	108.715	114.659	120.570	126.482

In addition the Legal Aid Office of the ACT (LAOACT) receives separate funding for war veterans' matters and the Legal Services Commission of SA (LSCSA) receives separate funding for Stage 1 carer-parent matters. These amounts are specified in the following table.

	2000-01	2001-02	2002-03	2003-04
	\$M	\$M	\$M	\$M
SA		0.325	0.408	0.332
ACT		0.225	0.130	0.130

The ACT commenced providing assistance to war veterans in 2001/02. Prior to this, war veterans' matters in the ACT were funded from the financial assistance program administered by the Attorney-General's Department. The legal aid agreement with the ACT provides for an additional amount of \$225,000 in 2001-02 for the Commission to undertake war veterans' matters (being \$100,000 pro rata for new cases for the balance of the year and \$125,000 for current cases transferred to the Commission from the Commonwealth Attorney-Generals' Department), and \$130,000 per annum for 2002-03 and 2003-04. These funds are paid from the financial assistance program administered by the Attorney-General's Department.

The LSCSA provides services in relation to Child Support Scheme Stage 1 carer-parent matters. This function was previously undertaken by the former Family Maintenance Branch (FMB) of the SA Department of Human Services and transferred to the Legal Services Commission in 2001-02. The FMB provided services in relation to Stage 1 maintenance cases including collection, disbursement and enforcement of Stage 1 orders. Stage 1 cases involve those children who were born before, or whose parents separated before 1 October 1989 and who have no siblings born on or after that date.

Under the *Family Law Act 1975* (the Act), State and Territory courts of summary jurisdiction have jurisdiction with respect to, among other things, the collection, disbursement and enforcement of child maintenance. This jurisdiction was largely overtaken by the Child Support Scheme. In 1988 the Commonwealth agreed to the continuation of services provided by South Australia (FMB) with respect to the Act matters despite introduction of the Child Support Scheme.

The Attorney-General's Department provides reimbursement from the Administered Item - Services provided under the Act and Child Support Scheme legislation.