



**THE LAW REFORM COMMISSION**  
*of*  
**WESTERN AUSTRALIA**

**ANNUAL REPORT**

1 July 2017 – 30 June 2018

# TABLE OF CONTENTS

CLICK ON HEADING TO NAVIGATE TO SECTION

<b>STATEMENT OF COMPLIANCE .....</b>	<b>2</b>
<b>ABOUT THIS REPORT .....</b>	<b>3</b>
<b>MESSAGE FROM THE CHAIR.....</b>	<b>4</b>
<b>OVERVIEW OF THE LAW REFORM COMMISSION .....</b>	<b>7</b>
<b>OPERATIONAL STRUCTURE.....</b>	<b>9</b>
<b>AGENCY PERFORMANCE .....</b>	<b>12</b>
<b>SIGNIFICANT ISSUES IMPACTING THE AGENCY .....</b>	<b>13</b>
<b>AUDITOR GENERAL'S INDEPENDENT AUDITORS REPORT .....</b>	<b>14</b>
Report on the Financial Statements .....	14
Report on Controls .....	15
Report on the Key Performance Indicators.....	16
<b>DISCLOSURE AND LEGAL COMPLIANCE.....</b>	<b>18</b>
Financial Statements .....	18
Certification of Financial Statements .....	18
Statement of Comprehensive Income.....	20
Statement of Financial Position .....	21
Statement of Changes in Equity .....	22
Statement of Cash Flows .....	23
Notes to the Financial Statements.....	24
Key Performance Indicators.....	37
Certification of Key Performance Indicators .....	37
Detailed Information in Support of Key Performance Indicators.....	38
<b>APPENDIX 1: CURRENT REFERENCES .....</b>	<b>45</b>
<b>APPENDIX 2: SECTION 40 ESTIMATES .....</b>	<b>47</b>

**STATEMENT OF COMPLIANCE  
WITH THE *FINANCIAL MANAGEMENT ACT 2006 (WA)*  
For the year ending 30 June 2018**

**Hon John Quigley MLA**  
Attorney General

In accordance with section 63 of the *Financial Management Act 2006 (WA)*, I hereby submit for your information and presentation to State Parliament, the Annual Report of the Law Reform Commission of Western Australia for the year ending 30 June 2018.

This report has been prepared in accordance with the provisions of the *Financial Management Act 2006 (WA)*. The content and layout are consistent with the requirements of Treasurer's Instruction 903.

Yours sincerely



**Dr David Cox**  
Chair  
Law Reform Commission  
of Western Australia

13 September 2018



**Ms Fiona Seaward**  
Member  
Law Reform Commission  
of Western Australia

13 September 2018

This report provides an overview of the activities of the Law Reform Commission of Western Australia (Commission) during 2017-18.

The overview gives a summary of the Commission's activities, operational structure and performance management framework. The Agency Performance – Report on Operations section details the Commission's operations, including key performance indicators. This is followed by the section that identifies significant issues impacting on the agency. The last section, Disclosure and Legal Compliance, covers all financial statements, governance requirements and a breakdown of key performance indicators.

Appendix 1 outlines the Commission's current reference(s).

For further information on the operations of the Commission, for copies of this Annual Report, or to view any of the Commission's other publications, please visit the Commission's web page at [www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)

Printed copies and copies supplied in alternative formats for those with disabilities may be requested from the Commission by calling the number below.

### LAW REFORM COMMISSION CONTACT DETAILS

#### Street and postal address

Level 23, David Malcolm Justice Centre  
28 Barrack Street  
Perth WA 6000

**Telephone** (08) 9264 1600

**Website** [www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)

**Email** [lrcwa@justice.wa.gov.au](mailto:lrcwa@justice.wa.gov.au)

The 2017-18 financial year has been a successful one for the Commission. The Commission completed its reference on the intersection of the family law and caveat systems in Western Australia and commenced its review of the *Gender Reassignment Act 2000* (WA) and the *Births, Deaths and Marriages Registration Act 1998* (WA). In addition, the Commission commenced a tender application process for the reference: Review of the Fatal Accidents Act 1959 (WA), which was finalised subsequent to the financial year end.

Previously I have reported on the financing of the Commission. In summary, since July 2014, the Department of the Attorney General (formerly and now known as the Department of Justice), has been tasked with providing all project management and executive support functions to the Commission from its own resources. This administrative arrangement is working well and the recent amalgamation of the Department of the Attorney General and the Department of Corrective Services into the Department of Justice (Department) has not had an impact upon the Commission. The Commission continues to be very grateful to the Department for the financial and in kind support that it has received to date.

While the Commission does not receive a recurrent budget from which to remunerate members and conduct its projects, over the past few years it has drawn from existing resources to pay these expenses. While those resources are adequate for the next 12 months or so, beyond that, the Commission will need to explore obtaining funding support for those expenses either from the Department or by way of a future budgetary allocation.

The resourcing arrangements for the Commission, while unconventional, continue to have no impact on the Commission's capacity to provide an independent voice. Independence is required by the *Law Reform Commission Act 1972* (WA) and is jealously maintained by each of the Commissioners. In recognition of this, the Director General of the Department and its predecessor departments have, since 2014, provided support to the Commission with no preconditions. For this, the Commission remains very grateful. However, the funding arrangement has created, in some circles, a perception that the independence of the Commission has been lessened. Each of the Commissioners considers the perception to be meritless, noting that the independence of the Commission is already borne out in the findings and recommendations of projects that have been completed under the current funding arrangement. I am however pleased to confirm that the Commission is currently developing a Charter to further affirm its independence and obviate any suggestion that the Commission is less independent as a result of whatever funding arrangements exist now and into the future.

The financial year saw Dr Augusto Zimmermann retire as the academic member of the Commission. The Commission acknowledges Dr Zimmermann's 5 years of service to the Commission. Dr Zimmermann provided his views without

fear or favour, further ensuring that the independence of the Commission has been maintained.

Dr Zimmermann has been succeeded by Dr Eileen Webb as the Commission's Academic member. Dr Webb is currently a professor and the director of the Consumer Law and Small Business Law Discipline at the Curtin Law School and has a national and international profile in her areas of expertise. The Commission is very pleased to welcome Dr Webb and looks forward to working with her into the future.

As mentioned above, the Department provides the Commission with administrative support. That support has primarily been supplied by Dominic Fernandes, who has acted as the Commission's Executive Officer, and David Major and subsequently Emily Priest, who have provided Executive Assistance. The work undertaken by Dominic, David and Emily is gratefully acknowledged. Without the assistance of these tireless and dedicated public servants, the productivity of the Commission would have been substantially reduced. Each of the Commissioners wish to express their appreciation for the efforts of Dominic, David and Emily throughout the year.

An overview of the current references is provided below. The Commission has adopted an outsourcing model for assistance in research and writing, most recently for the review into the *Gender Reassignment Act 2000* (WA) and the *Births, Deaths and Marriages Registration Act 1998* (WA), for which Corrs Chambers Westgarth (Corrs), an independent law firm, has been engaged. In the past, projects have often taken several years to complete however today the Commission averages approximately one reference per year. At the request of the Attorney General, the Commission is aiming to complete the Project before the end of 2018. In order to achieve that objective, a Special Commissioner, Mr Steven Penglis, has been appointed to assist with this project. Mr Penglis of Fourth Floor Chambers brings a wealth of knowledge and experience that is particularly relevant to matters covered by this reference and the Commission is especially delighted to be working with him in this area of the law.

Other than the *Gender Reassignment* reference, the Commission commenced the procurement process to engage assistance for its review into the *Fatal Accidents Act 1959* (WA).

Notwithstanding the financial headwinds in the State, in the financial year, the Commission:

- published a Final Report on 'the intersection of the family law and caveat systems in Western Australia' reference;
- undertook a broad program of stakeholder consultation as part of the *Gender Reassignment* reference; and
- commenced a tender application process for the reference: 'Review of the *Fatal Accidents Act 1959* (WA)'.

In relation to the *Gender Reassignment* reference that is currently underway, I would like to thank Corrs for the substantial support it has provided so far. Corrs assisted with

# MESSAGE FROM THE CHAIR

(continued)

framing the outline for this review, including coordinating engagement with a multitude of stakeholders to assist with the production of the Discussion Paper, which was made publically available on 20 August 2018.

## COMPLETED REFERENCES

### **The Intersection of the Family Law and Caveat Systems in Western Australia**

In the financial year, the Commission completed its Final Report into 'the intersection of the family law and caveat systems in Western Australia' which was tabled in Parliament on 10 October 2017.

The Commission received the terms of reference from the former Attorney General on 2 August 2016 which required the Commission to examine and report on the caveat system in relation to de facto and marital breakdowns.

In undertaking this review, it was apparent to the Commission that the matters raised in this review were material issues for those practising in the field of Family Law in Western Australia and their clients. In its Final Report, the Commission made nine recommendations to Parliament that included a proposal to create a new category of "spousal caveat" and suggestions on how it may be implemented.

The Commission extends its gratitude to all those who participated in this review for their worthy and constructive input. In particular, on behalf of the Commission, I would like to thank Mr Dane Chandler, of Francis Burt Chambers, who assisted with the research for and writing of the Discussion Paper and Final Report.

## CURRENT REFERENCES

### **Review of Western Australian legislation in relation to the recognition of a person's sex, change of sex or intersex status**

On 16 January 2018, the Attorney General, the Hon John Quigley MLA, directed the Commission to examine and make recommendations as to any legislative reform that would be desirable to ensure that the *Gender Reassignment Act 2000* (WA) and the *Births, Deaths and Marriages Registration Act 1998* (WA) continue to be effective and are relevant into the future. The terms of reference in substance require the Commission to identify inconsistencies between Western Australian and Commonwealth legislation in relation to the recognition of a person's sex, change of sex or intersex status.

Reviews such as this give the public an opportunity to comment on the relevance and effectiveness of legislation. Often, they examine whether the laws of the State align with, or are otherwise consistent with, the laws of the Commonwealth. While it is prudent for regular reviews to be undertaken, the timeliness of this reference is particularly appropriate given the recent move by Federal Parliament to legalise same-sex marriage last year.

The Commission sought and received submissions from a range of interested stakeholders, and engaged with various stakeholders on a preliminary basis, to inform its preparation of the Discussion Paper. Stakeholders included representatives of the communities concerned, sections of the medical profession, and religious and legal institutions. The level of submissions, both solicited and unsolicited, is reflective of the high level of public interest this reference has garnered.

The Commission published the Discussion Paper on 20 August 2018 and expects to publish the Final Report in the coming financial year.

### **Non-economic loss under the *Fatal Accidents Act 1959* (WA)**

On 26 February 2018, the Attorney General, the Hon John Quigley MLA, instructed the Commission to provide advice and make recommendations for consideration by the Government as to whether there should be any reform, and if so, the extent of any reform, to allow for claims for non-economic loss for wrongful death under the *Fatal Accidents Act 1959* (WA) and any consequential amendments.

The Commission has been provided with terms of reference that identify key lines of inquiry for the project, which include the scope of the affected class of persons, the types of non-economic loss to be considered and the associated quantum of damages, as well as the financial impact of any proposed amendments.

A tender application process for this reference commenced during the financial year and two legal research writers were subsequently engaged. Paragraph 5 of the terms of reference refers to considering, to the extent it is measurable, the financial impact of any proposed reforms. For this, an economic analysis will be undertaken once the Discussion Paper has been released but before the Final Report is released. This analysis will not be undertaken by the successful tender applicants.

The Commission is aiming to publish the Discussion Paper by 1 December 2018. A period of several months has been set to allow for the requisite economic analysis to be undertaken and considered as part of the Final Report.

As with the previous reference, the Commission expects both the Discussion Paper and Final Report will be published in the coming financial year.

## COMMUNITY CONSULTATION

The Commission commences each reference with a thorough and detailed program of research which culminates in the publication of a Discussion Paper and a period of public consultation. In the past, the Commission has been fortunate to have had the assistance of many diligent and dedicated experts who were willing to bring their knowledge and skills to the preparation of the Commission's reports. The Commission sincerely appreciates the efforts made by all involved. Their views and efforts in identifying the difficulties in current

## MESSAGE FROM THE CHAIR

(continued)

laws, and proposing considered alternatives to the existing arrangements to address those difficulties, play a significant role in developing proposals and reports. The efforts made by individuals and organisations ensure that the Commission's reports are comprehensive, accurate, considered and, most importantly, relevant to the needs and expectations of the Western Australian public.

Following the successful completion of its Family Law and Caveat Systems reference, the Commission again extends its gratitude to Mr Dane Chandler, for his well-researched contributions to both the Discussion Paper and Final Report, and to the Family Court of Western Australia, the Family Law Practitioners' Association of Western Australia and Landgate, each of whom provided information and constructive discussions that proved essential to the completion of the project.

I thank all of the stakeholders and interested members of the public who took time to consider the issues under review and made submissions to the Commission. Public consultation is an essential part of the Commission's role. The Model that the Commission has long used, namely the publication of a Discussion Paper followed by public consultation and finally the release of a Final Report, provides an opportunity for all Western Australians to participate meaningfully in potential law reform. This participation is highly valued by the Commission and each of the Commissioners look forward to engaging with the public in the coming year in the course of its reviews.

### FINAL THANKS

Members of the Commission would like to express their appreciation to Dominic Fernandes, David Major and Emily Priest for the services that they have provided to the Commission over the past year. Each has made a measurable contribution to the work of the Commission.

As part-time Executive Officer of the Commission, Dominic Fernandes has been an enormous support to the Commission and to myself as the Chairman. The extent of his assistance cannot be underestimated. He has coordinated the legal research activities, project managed the references and ensured the Commission's continued smooth operation. He is an outstanding public servant who has contributed enormously to the operations of the Commission. Dominic's efforts have lessened the administrative burden that otherwise would have befallen on Fiona, Eileen, Augusto and myself, allowing us to spend more time on our projects. This has allowed the Commission to maintain its productivity at a similar, if not improved level, as compared to the Commission prior to the 2014 restructure. Each of the Commissioners, individually and collectively, would like to express our sincerest thanks to Dominic for his outstanding efforts and his exemplary service over the past year.

Dominic has, until quite recently, been assisted by David Major. David is an extremely competent assistant. His most notable tasks this year, other than providing assistance to Dominic and myself in relation to the day to day tasks that allow the Commission to operate, included editing the 'family law and caveat systems' reference and preparing the Final Report for publication. The quality of that Final Report is a testament to David. Earlier this year, with great sadness to the Commission, David left the Department under the Government's Voluntary Targeted Separation Scheme.

At very short notice, David's role was assumed by Ms Emily Priest. In doing so, Emily soon discovered how much work David did for the Commission. True to her hard work and dedication ethos, Emily has not only made a smooth transition into the Administrative support role but she appears to have done the impossible and has slightly expanded the role, whilst at all times completing her tasks with distinction. In the short time that Emily has worked for the Commission, she has exhibited outstanding insight, diligence and positivity of which the Commission has been the beneficiary.

The outstanding efforts of David and Emily have ensured that the Commission works in an efficient way. Rarely, are administrative support personnel appropriately acknowledged for the central role that they have in the day to day operations of organisations such as the Commission. In the present case, it would be remiss of me not to acknowledge how important they, David and Emily, have been to the Commission. The extensive assistance that they have provided over the past year cannot be over-appreciated and for that, the Commission and the Commissioners individually express their sincerest thanks.

More generally, the Commission recognises the support of the Department for its ongoing responsibility in providing executive and project management assistance to the Commission and in particular, for assigning individuals of enormous competence and ability to assist with the operations of the Commission. There are too many people in the Department who deserve thanks for their efforts over the past year. I do not propose to thank them individually as I would surely forget someone. Collectively however, I would like to express the thanks of the Commission for their assistance. I would also like to expressly thank the Director General, Dr Adam Tomison, for his commitment and support in this regard.

Finally, the Commission would like to thank the Attorney General, the Hon John Quigley MLA, for his ongoing interest in and support of the Commission's work.

**Dr David Cox**

13 September 2018



## EXECUTIVE SUMMARY

The role of the Commission is to keep the law up-to-date and relevant to the needs of Western Australian society. The Commission achieves this by receiving terms of reference and reviewing selected legislation at the request of the Attorney General to identify opportunities for reform.

References may result from proposals submitted by the Commission, suggestions made by the public or topics of interest to the Attorney General. The Attorney General determines the order of priority in which the Commission deals with references and then presents the Commission's reports to State Parliament as soon as practicable after the Commission completes its work on each reference.

The Commission's output measures the progress of a reference against milestone targets. The extent to which the Commission meets the timeframes set by the Attorney General is therefore considered to be a key performance indicator which measures the extent to which the Commission is contributing to keeping Western Australian law up-to-date.

## THE COMMUNITY SERVED

The people of Western Australia are the Commission's primary clients or customers. This must be the case for a law reform organisation, funded by taxpayers, in a society governed by law. To be meaningful and effective, law reform must make every effort to be inclusive and fair.

The law reform process should include communication and consultation with the public and the relevant stakeholders concerned with particular projects. Moreover, the Commission's work must be completed in a reasonably timely fashion in order to be efficient and effective.

## STAKEHOLDERS

The Commission's stakeholders include those governed by particular laws and those charged with enforcing and administering them. With each reference, the Commission makes an effort to identify stakeholders concerned with the specific topic and invites submissions to assist in developing its recommendations.

## PERFORMANCE HIGHLIGHTS

### **The intersection of the family law and caveat systems in Western Australia**

The Commission has completed its Final Report into 'the intersection of the family law and caveat systems in Western Australia' which was tabled in Parliament on 10 October 2017.

The Commission was required to investigate two substantive issues: firstly, to consider legislative amendments for a new "spousal caveat" to allow a spouse not having a direct caveatable interest in the title deed of the land to lodge a caveat against land owned by either spouse during their

relationship, following the breakdown of the relationship; and secondly, to consider jurisdictional conferral of powers be given to the Family Court of Western Australia to extend the operation of caveats.

The Commission received six submissions following publication of the Discussion Paper, four of which were substantial, and made nine recommendations in its Final Report.

### **The Gender Reassignment reference**

The Commission is currently undertaking a review of legislation in relation to the recognition of a person's sex, change of sex or intersex status. This reference will consider the overarching policies underpinning the *Gender Reassignment Act 2000* (WA) and the *Births, Deaths and Marriages Registration Act 1998* (WA).

The terms of reference for this review include consideration of whether additional classifications of sex should be introduced, the role of the Gender Reassignment Board, criteria for determination of intersex status and related matters.

To inform its approach, the Commission consulted with various stakeholders on a preliminary basis prior to releasing a Discussion Paper for public comment on 20 August 2018. The Commission expects to publish its Final Report on 30 November 2018.

### **Review of the Fatal Accidents Act 1959 (WA)**

The Commission is also currently undertaking a reference regarding non-economic loss under the *Fatal Accidents Act 1959* (WA) (FA Act), which will consider the requirement for reform, and, if deemed necessary, the extent of such reform, to allow for claims for non-economic loss for wrongful death under the FA Act.

The terms of reference for that review include consideration of the types of non-economic loss that ought to qualify, the appropriate quantum of damages for non-economic loss and the measurable financial impact of such reform.

The 2018-19 financial year will see both the Discussion Paper and Final Report published for this reference.

## TECHNOLOGICAL AND ADMINISTRATIVE CHANGES

To facilitate the citation and reference to the Commission's considerable body of work, all publications are available for download in either Adobe Reader (pdf) or Microsoft Word. Further, the use of ReadSpeaker technology on the Commission's website increases accessibility by converting text to speech.

Effective law reform requires active public participation. To achieve this, the Commission seeks to inform and engage members of the general public in the law reform process through various mediums, including its website.

Throughout 2017-18, the Commission's website received 154,562 visits and 169,808 page views. In the interest of



# OVERVIEW OF THE LAW REFORM COMMISSION

(continued)

enhancing public engagement, in the financial year, the Commission begun development of a new eAlerts system to replace the old eAlerts system. Subscribers to the old system will automatically be transferred onto the new system, which will be finalised in the 2018-19 financial year.

Additionally, in response to feedback from the general public, the Commission also sought to upgrade aspects of its website to ensure it delivers high quality useful, usable and accessible online information to all users, including people with a disability who may use assistive technologies. These changes were implemented subsequent to the financial year end. The website is regularly assessed against usability and readability guidelines as well as World Wide Web Consortium best practice.

During the financial year, Commission staff processed 497 letters, emails and telephone calls, predominately regarding the *Gender Reassignment* reference and proposals for legal reform.

Staff within the Department carried out the executive support and project management functions of the Commission.

## FINANCIAL FORECAST

The Department's provision of executive support and project management functions to the Commission was accommodated within the Department's existing budget.

## ENABLING LEGISLATION

The Law Reform Commission of Western Australia was established under the *Law Reform Commission Act 1972* (WA) as a Statutory Authority on 31 October 1972.

## RESPONSIBLE MINISTER

The Hon John Quigley MLA, Attorney General.

The Commission reviews areas of the law referred to it by the Attorney General of the day to identify potential opportunities for reform. References may result from proposals submitted by the Commission, suggestions made by the public or topics of interest to the Attorney General. Section 11 of the *Law Reform Commission Act 1972* (WA) sets out the functions of the Commission.

The Attorney General determines the order of priority in which the Commission deals with references and presents the Commission's reports to State Parliament as soon as practicable after the Commission completes its work on each reference.

## MISSION

The Commission assists in keeping the law up-to-date and relevant to the needs of Western Australian society by making recommendations for the reform of areas of law referred to it by the Attorney General.

## STRUCTURE AND MEMBERSHIP OF THE COMMISSION

The Commission may consist of up to five members: two full-time and three part-time, appointed by the Governor of Western Australia.

Of the part-time members, one is to be a private legal practitioner with no less than eight years' experience; one must be engaged in teaching law at a university in Western Australia with a status no less than that of Senior Lecturer; and the third is to be a legal officer of the State Solicitor's Office with no less than eight years' experience.

Full-time members are to be legal practitioners of at least eight years' standing, or persons suitable for appointment by reason of their legal qualifications and experience, whether in Western Australia or elsewhere.

### Chairman

Under section 5 of the *Law Reform Commission Act 1972* (WA), the Commission elects its Chairman from its members. The Chairman may hold office for a term not exceeding one year but shall be eligible for re-election.

During 2017-18, Dr David Cox (BSc (Hons), PhD (UWA), LLB (Hons) (Murdoch)) continued his tenure as the Chair of the Commission. Dr Cox joined the Commission in August 2014. He is currently a barrister in the Western Australian law firm Francis Burt Chambers. Dr Cox's areas of practice are in commercial law,

health law and intellectual property law. Prior to becoming a lawyer, he was a research scientist in the fields of biochemistry and physiology.

## Members

Ms Fiona Seaward (BComm, LLB (Hons) (UWA)) joined the Commission in August 2015. She is a Senior Assistant State Solicitor employed in the State Solicitor's Office, where she has worked in various capacities since 2000. Ms Seaward graduated from the University of Western Australia in 1999 with a Bachelor of Laws with First Class Honours and a Bachelor of Commerce. Ms Seaward provides advice and acts as counsel for the State Government and its agencies in relation to a range of matters, principally in the areas of administrative law, constitutional law, land compensation and the fields of privacy and information sharing.

Dr Eileen Webb (PhD (UWA), Master of Laws (QUT), LLB (Hons) (QUT), BA (Asian Studies) (Griffith), DipEd (UQ)) joined the Commission in August 2017. She is the director of the Consumer Law and Small Business Law Discipline at the Curtin Law School. Eileen teaches and researches in real property law, particularly housing and tenancy law, competition and consumer law, (including small business law) and elder law.

Dr Webb has a national and international profile in her areas of expertise. Dr Webb is a member of the Australian arm of the Dynamics of Enduring Property Relationships Project: a collaboration of international real property schools. She is also a member of interdisciplinary research teams for two national AHURI projects on housing affordability, a Bankwest Curtin Economic Centre project on security of tenure for older renters, and a review of prevalence and characteristics of elder abuse in Queensland. Recently, Dr Webb was appointed to the Expert Reference Group for the international cross-organisational research initiative, the Implications of the Tenure Revolution for New Zealand and its Ageing Society.

## Members' fees

The remuneration for Commissioners is set by the Western Australian Governor in Executive Council. Section 9 of the *Law Reform Commission Act 1972* (WA) states that a member "shall be paid such remuneration and allowances as the Governor may from time to time determine".

Fees payable to part-time members from academia are determined on a formula related to 25% of the salary paid to a General Division Class 1 public servant, as adjusted from time to time.

The State Solicitor's Office representative receives no additional fee beyond their ordinary salary.

Former members of the Commission can be located at the Commission's web address:

[http://www.lrc.justice.wa.gov.au/P/past\\_members.aspx?uid=5016-2351-3409-1374](http://www.lrc.justice.wa.gov.au/P/past_members.aspx?uid=5016-2351-3409-1374)

# OPERATIONAL STRUCTURE

(continued)

As required by the Public Sector Commission's Annual Reporting Framework: 2017-18 reporting year, the following table outlines the remuneration for Commission members:

Law Reform Commission of Western Australia				
Position	Name	Type of remuneration	Period of membership	Gross/actual remuneration*
Chair (part time)	Dr David Cox	Honorarium	3 years, 10 months	\$52,580
Member (part time)	Ms Fiona Seaward	# See note below	2 years, 10 months	Not applicable
Member (part time)	Dr Eileen Webb	Honorarium	10 months	\$43,360
<b>Total</b>				<b>\$95,940</b>

\* Refers to membership during the reporting period, not entire tenure.

# As Ms Seaward is employed at the State Solicitor's Office, under the *Public Sector Management Act 1994* (WA) she is not entitled to remuneration for her membership of the Commission.

## Senior Officer

During 2017-18, Mr Dominic Fernandes, Manager Legal and Legislation at the Department, served as Executive Officer for the Commission and was responsible for coordinating legal research activities, executive support and project management of the various references.

- *State Superannuation Act 2000*
- *State Supply Commission Act 1991*
- *The Criminal Code Act 1913*
- *Workers Compensation and Injury Management Act 1981*

In the financial administration of the Commission, the Commission has complied with the requirements of the *Financial Management Act 2006* (WA) and every other relevant written law, and exercised controls that provide reasonable assurance that the receipt and expenditure of monies and the acquisition and disposal of public property and incurring of liabilities have accorded with legislative provisions.

At the date of signing, the Commission is not aware of any circumstances that would render the particulars included in this statement misleading or inaccurate.

## ADMINISTERED LEGISLATION

Key Legislation Impacting on the Commission's activities is listed below.

In the performance of its functions, the Commission complies with the following relevant Western Australian Acts:

- *Auditor General Act 2006*
- *Disability Services Act 1993*
- *Electoral Act 1907*
- *Equal Opportunity Act 1984*
- *Evidence Act 1906; Acts Amendment (Evidence) Act 2000*
- *Freedom of Information Act 1992*
- *Industrial Relations Act 1979*
- *Interpretation Act 1984*
- *Library Board of Western Australia Act 1951*
- *Limitation Act 1935*
- *Management Act 1981*
- *Minimum Conditions of Employment Act 1993*
- *Occupational Safety and Health Act 1984*
- *Public Interest Disclosure Act 2003*
- *Public Sector Management Act 1994*
- *Salaries and Allowances Act 1975*
- *State Records (Consequential Provisions) Act 2000*
- *State Records Act 2000*

## DIVERSIFICATION

The Commission engages consultants for research, writing and editing. This permits individuals who would not otherwise have been able to participate in the process of law reform to bring their unique and special skills to the Commission's law reform activities on less than a full-time basis. The Commission endeavours to use the public tender procedure to select writers for each project.

## PUBLICATIONS

Appendix 1 provides current terms of reference. Information about available publications can be found on the Commission's website at [www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)

## LEGISLATIVE CHANGE

There were no statutory changes or significant judicial decisions affecting the Commission in 2017-18.

# OPERATIONAL STRUCTURE

(continued)

## MEETINGS OF THE COMMISSION

The Commission held 3 formal Commission meetings during the 2017-18 financial year. In addition, the Commission conducted numerous meetings with various stakeholders and contractors in regards to the references undertaken during the financial year, as well as holding two meetings with the Attorney General.

## PERFORMANCE MANAGEMENT FRAMEWORK

### OUTCOME BASED MANAGEMENT FRAMEWORK

#### Government goal

Outcomes Based Service Delivery — Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

#### The Law Reform Commission of Western Australia's desired outcome

The Commission reviews the law as requested by the Attorney General and keeps stakeholders informed through the provision of publications on law reform. This aligns with the State Government's goal of providing a greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

### CHANGES TO OUTCOME BASED MANAGEMENT FRAMEWORK

The Commission's Outcome Based Management Framework did not change during 2017-18.

### SHARED RESPONSIBILITIES WITH OTHER AGENCIES

The Commission did not share any responsibilities with other agencies in 2017-18.

## REPORT ON OPERATIONS

### The Gender Reassignment reference

On 16 January 2018, the Attorney General referred Project 108: 'The inconsistencies between Western Australian and Commonwealth legislation in relation to the recognition of a person's sex, change of sex or intersex status', to the Commission.

The Commission was asked to examine and make recommendations as to any legislative reform necessary to the *Gender Reassignment Act 2000* (WA) and the *Births, Deaths and Marriages Registration Act 1998* (WA) to improve the process by which a person's change of sex or a person's intersex status is recognised by law in Western Australia, as well as noting any consequential amendments.

Early submissions by stakeholders reflected keen public interest in the review. In the financial year, the Commission received submissions from members of the communities concerned, sections of the medical profession, and religious and legal institutions.

Publication of the Discussion Paper occurred subsequent to the financial year end, with the Final Report due by no later than 30 November 2018.

### Review of the Fatal Accidents Act 1959 (WA)

On 26 February 2018, the Attorney General referred Project 109: Non-economic loss under the *Fatal Accidents Act 1959* (WA), to the Commission.

The Commission was asked to provide advice and make recommendations for consideration by the Government as to whether there should be any reform, and if so, the extent of any reform, to allow for claims for non-economic loss for wrongful death under the *Fatal Accidents Act 1959* (WA) and any consequential amendments.

The tender application process commenced during the financial year and procurement was subsequently finalised.

Publication of the Discussion Paper is expected to occur by 30 November 2018, with the Final Report to be published in the New Year.

## KEY PERFORMANCE INDICATORS

### ACTUAL RESULTS VS BUDGET TARGETS

Summary of Key Performance Indicators	2018 Target <sup>1</sup>	2018 Actual	Variation
<b>Outcome:</b> <i>The law is reviewed as requested by the Attorney General and stakeholders are kept informed.</i>			
<b>Key Effectiveness Indicator:</b> Progress against target milestone timelines – The extent to which the Commission is meeting the Attorney General's law reform requests in a timely manner.	100%	100%	N/A
<b>Service:</b> <i>Publications on Law Reform</i>			
<b>Key Efficiency Indicator:</b>			
Average Cost per Publication	\$86,200	\$81,486 <sup>(c)</sup>	\$4,714
Total Community Contacts	500	497	3
Average Cost per Contact	\$47.88 <sup>(b)</sup>	\$25.89	\$21.99
Number of Publications on Law Reform <sup>(a)</sup>	2	3	1

<sup>1</sup> Targets are checked and, if necessary, revised by the members of the Commission at the beginning of each new financial year, taking into account those from the previous year as well as verbal discussions with the Attorney General and Department of Justice to estimate potential reference numbers. Target determinations for 2017-18 were discussed verbally between the Commission and the Department towards the beginning of the financial year. Total community contacts were set in Commission Minutes dated 20.07.2017.

## CURRENT AND EMERGING ISSUES AND TRENDS

The most fundamental issue for the Commission is to assist in keeping Western Australian law up-to-date and relevant to the needs of society.

A further issue resulting from this is the need to make law reform as meaningful and effective as possible.

## ECONOMIC AND SOCIAL TRENDS

Since the commencement of the 2014-15 financial year, no specific allocation has been made for the Commission's operations in the Budget Statements or in the out-years beyond. Responsibility for ensuring the Commission is able to discharge its statutory functions, is assumed by the Department of Justice (Department).

The Department recently underwent significant structural change through the amalgamation of the Department of Corrective Services and the Department of the Attorney General. Despite this, the Department has continued to provide a high level of service in the way of administrative support to the Commission, ensuring the Commission is able to discharge its statutory functions.

In the financial year, the Commission was tasked with reporting to the Attorney General in relation to the terms of reference for:

- the inconsistencies between Western Australian and Commonwealth legislation in relation to the recognition of a person's sex, change of sex or intersex status; and
- the need for reform to allow for claims for non-economic loss for wrongful death.

In 2017-18 and beyond, the level of support that the Department is willing and able to provide to the Commission will influence the extent to which the Commission is capable of discharging its statutory duties and reporting to the Attorney General on a timely basis. Relevant to this is the extent to which the Commission may be able to use its own existing funds — or access funds through the Department — to enable it, where appropriate, to engage external resources such as independent experts and project writers. The Commission is encouraged by the continued communication between the Attorney General and the Department in relation to the existing resourcing arrangements.

## CHANGES IN WRITTEN LAW

There were no changes in any written law that affected the Commission during the financial year.

## LIKELY DEVELOPMENT AND FORECAST RESULTS OF OPERATIONS

The structure of the Commission has allowed it to conduct research on more than one reference at a time. It expects to continue to do so, subject to satisfactory resourcing in relation to the issues identified above.

A Discussion Paper on the *Gender Reassignment* reference was published on 20 August 2018, with the Final Report due by no later than 30 November 2018.

In addition, the Final Report for the review of the law in regards to non-economic loss under the *Fatal Accidents Act 1959* (WA), is due by 29 March 2019.





## Auditor General

### INDEPENDENT AUDITOR'S REPORT

To the Parliament of Western Australia

### LAW REFORM COMMISSION OF WESTERN AUSTRALIA

#### Report on the Financial Statements

##### **Opinion**

I have audited the financial statements of the Law Reform Commission of Western Australia which comprise the Statement of Financial Position as at 30 June 2018, the Statement of Comprehensive Income, Statement of Changes in Equity, Statement of Cash Flows for the year then ended, and Notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion, the financial statements are based on proper accounts and present fairly, in all material respects, the operating results and cash flows of the Law Reform Commission of Western Australia for the year ended 30 June 2018 and the financial position at the end of that period. They are in accordance with Australian Accounting Standards, the *Financial Management Act 2006* and the Treasurer's Instructions.

##### **Basis for Opinion**

I conducted my audit in accordance with the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Commission in accordance with the *Auditor General Act 2006* and the relevant ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to my audit of the financial statements. I have also fulfilled my other ethical responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

##### **Responsibility of the Commission for the Financial Statements**

The Commission is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the *Financial Management Act 2006* and the Treasurer's Instructions, and for such internal control as the Commission determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commission is responsible for assessing the agency's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Western Australian Government has made policy or funding decisions affecting the continued existence of the Commission.

##### **Auditor's Responsibility for the Audit of the Financial Statements**

As required by the *Auditor General Act 2006*, my responsibility is to express an opinion on the financial statements. The objectives of my audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.



As part of an audit in accordance with Australian Auditing Standards, I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the agency's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Commission.
- Conclude on the appropriateness of the Commission's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the agency's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Commission regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

## Report on Controls

### *Opinion*

I have undertaken a reasonable assurance engagement on the design and implementation of controls exercised by the Law Reform Commission of Western Australia. The controls exercised by the Commission are those policies and procedures established by the Commission to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions (the overall control objectives).

My opinion has been formed on the basis of the matters outlined in this report.

In my opinion, in all material respects, the controls exercised by the Law Reform Commission of Western Australia are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities have been in accordance with legislative provisions during the year ended 30 June 2018.

### *The Commission's Responsibilities*

The Commission is responsible for designing, implementing and maintaining controls to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities are in accordance with the *Financial Management Act 2006*, the Treasurer's Instructions and other relevant written law.

## ***Auditor General's Responsibilities***

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the suitability of the design of the controls to achieve the overall control objectives and the implementation of the controls as designed. I conducted my engagement in accordance with Standard on Assurance Engagements ASAE 3150 *Assurance Engagements on Controls* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements and plan and perform my procedures to obtain reasonable assurance about whether, in all material respects, the controls are suitably designed to achieve the overall control objectives and the controls, necessary to achieve the overall control objectives, were implemented as designed.

An assurance engagement to report on the design and implementation of controls involves performing procedures to obtain evidence about the suitability of the design of controls to achieve the overall control objectives and the implementation of those controls. The procedures selected depend on my judgement, including the assessment of the risks that controls are not suitably designed or implemented as designed. My procedures included testing the implementation of those controls that I consider necessary to achieve the overall control objectives.

I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

## ***Limitations of Controls***

Because of the inherent limitations of any internal control structure it is possible that, even if the controls are suitably designed and implemented as designed, once the controls are in operation, the overall control objectives may not be achieved so that fraud, error, or noncompliance with laws and regulations may occur and not be detected. Any projection of the outcome of the evaluation of the suitability of the design of controls to future periods is subject to the risk that the controls may become unsuitable because of changes in conditions.

## **Report on the Key Performance Indicators**

### ***Opinion***

I have undertaken a reasonable assurance engagement on the key performance indicators of the Law Reform Commission of Western Australia for the year ended 30 June 2018. The key performance indicators are the key effectiveness indicators and the key efficiency indicators that provide performance information about achieving outcomes and delivering services.

In my opinion, in all material respects, the key performance indicators of the Law Reform Commission of Western Australia are relevant and appropriate to assist users to assess the Commission's performance and fairly represent indicated performance for the year ended 30 June 2018.

### ***The Commission's Responsibility for the Key Performance Indicators***

The Commission is responsible for the preparation and fair presentation of the key performance indicators in accordance with the *Financial Management Act 2006* and the Treasurer's Instructions and for such internal control as the Commission determines necessary to enable the preparation of key performance indicators that are free from material misstatement, whether due to fraud or error.

In preparing the key performance indicators, the Commission is responsible for identifying key performance indicators that are relevant and appropriate having regard to their purpose in accordance with Treasurer's Instruction 904 *Key Performance Indicators*.

### ***Auditor General's Responsibility***

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the key performance indicators. The objectives of my engagement are to obtain reasonable assurance about whether the key performance indicators are relevant and appropriate to assist users to assess the agency's performance and whether the key performance indicators are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion.



I conducted my engagement in accordance with Standard on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements relating to assurance engagements.

An assurance engagement involves performing procedures to obtain evidence about the amounts and disclosures in the key performance indicators. It also involves evaluating the relevance and appropriateness of the key performance indicators against the criteria and guidance in Treasurer's Instruction 904 for measuring the extent of outcome achievement and the efficiency of service delivery. The procedures selected depend on my judgement, including the assessment of the risks of material misstatement of the key performance indicators. In making these risk assessments I obtain an understanding of internal control relevant to the engagement in order to design procedures that are appropriate in the circumstances.

I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### **My Independence and Quality Control Relating to the Reports on Controls and Key Performance Indicators**

I have complied with the independence requirements of the *Auditor General Act 2006* and the relevant ethical requirements relating to assurance engagements. In accordance with ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements*, the Office of the Auditor General maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

#### **Matters Relating to the Electronic Publication of the Audited Financial Statements and Key Performance Indicators**

This auditor's report relates to the financial statements and key performance indicators of the Law Reform Commission of Western Australia for the year ended 30 June 2018 included on the Commission's website. The Commission's management is responsible for the integrity of the Commission's website. This audit does not provide assurance on the integrity of the Commission's website. The auditor's report refers only to the financial statements and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements or key performance indicators. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to refer to the hard copy of the audited financial statements and key performance indicators to confirm the information contained in this website version of the financial statements and key performance indicators.



DON CUNNINGHAME  
ASSISTANT AUDITOR GENERAL FINANCIAL AUDIT  
Delegate of the Auditor General for Western Australia  
Perth, Western Australia  
3 September 2018



**Law Reform Commission  
of Western Australia**

## **Disclosures and legal compliance**

### **Financial Statements**

### **Certification of Financial Statements**

For the reporting period ended 30 June 2018

The accompanying financial statements of the Law Reform Commission of Western Australia have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the reporting period ended 30 June 2018 and the financial position as at 30 June 2018.

At the date of signing we are not aware of any circumstances which would render the particulars included within the financial statements misleading or inaccurate.

A handwritten signature in black ink, appearing to read 'David Cox'.

Dr. David Cox  
Chairman of the Law Reform Commission  
WA

30 August 2018

A handwritten signature in blue ink, appearing to read 'Eileen Webb'.

Dr. Eileen Webb  
Commissioner of the Law Reform  
Commission WA

30 August 2018

A handwritten signature in blue ink, appearing to read 'Sandy Kerr'.

Mr. Sandy Kerr  
Chief Finance Officer

30 August 2018

# DISCLOSURES AND LEGAL COMPLIANCE (continued)

## FINANCIAL STATEMENTS



### Law Reform Commission of Western Australia

The Commission has pleasure in presenting its audited general purpose financial statements for the financial reporting period ended 30 June 2018 which provides users with the information about the Commission's stewardship of resources entrusted to it. The financial information is presented in the following structure:

Index	Page
<b>Financial statements</b>	
Statement of comprehensive income	3
Statement of financial position	4
Statement of changes in equity	5
Statement of cash flows	6
<b>Notes to the financial statements</b>	
1. Basis of preparation	7
Statement of compliance	7
Basis of preparation	7
Judgements and estimates	7
Contributed equity	7
2. Commission outputs	8
How the Commission operates	8
2.1 Commission objectives	8
3. Use of our funding	8
Expenses incurred in the delivery of services	8
3.1 Employee benefits expense	8
3.2 Other expenses	9
4. Our funding sources	10
How we obtain our funding	10
4.1 Income from State Government	10
5. Other assets and liabilities	11
5.1 Payables	11
6. Financing	12
6.1 Cash and cash equivalents	12
7. Risks and contingencies	13
7.1 Financial risk management	13
7.2 Contingent assets and liabilities	14
8. Other disclosures	15
8.1 Events occurring after the end of the reporting period	15
8.2 Future impact of Australian Accounting Standards not yet operative	15
8.3 Key management personnel	17
8.4 Related party transactions	18
8.5 Related bodies	18
8.6 Affiliated bodies	18
8.7 Remuneration of auditors	18
8.8 Equity	19
8.9 Supplementary financial information	19

**Law Reform Commission of Western Australia  
Statement of Comprehensive Income**

For the year ended 30 June 2018

	Note	2018 \$	2017 \$
<b>COST OF SERVICE</b>			
Expenses			
Board member fees	3.1	101,323	104,208
Supplies and services	3.2	152,328	273,864
Printing	3.2	3,672	10,249
<b>Total cost of services</b>		<b>257,323</b>	<b>388,321</b>
<b>NET COST OF SERVICES</b>		<b>257,323</b>	<b>388,321</b>
<b>Income from State Government</b>			
Services received free of charge	4.1	156,000	284,113
<b>Total income from State Government</b>		<b>156,000</b>	<b>284,113</b>
<b>(DEFICIT) FOR THE PERIOD</b>		<b>(101,323)</b>	<b>(104,208)</b>
<b>TOTAL COMPREHENSIVE (LOSS) FOR THE PERIOD</b>		<b>(101,323)</b>	<b>(104,208)</b>

The Statement of Comprehensive Income should be read in conjunction with the accompanying notes.





**Law Reform Commission of Western Australia  
Statement of Financial Position**

As at 30 June 2018

	Note	2018 \$	2017 \$
<b>ASSETS</b>			
Current Assets			
Cash and cash equivalents	6.1	1,040,339	1,142,005
<b>Total Current Assets</b>		<b>1,040,339</b>	<b>1,142,005</b>
<b>TOTAL ASSETS</b>		<b>1,040,339</b>	<b>1,142,005</b>
<b>LIABILITIES</b>			
Current Liabilities			
Payables	5.1	45	388
<b>Total Current Liabilities</b>		<b>45</b>	<b>388</b>
<b>TOTAL LIABILITIES</b>		<b>45</b>	<b>388</b>
<b>NET ASSETS</b>		<b>1,040,294</b>	<b>1,141,617</b>
<b>EQUITY</b>			
Contributed equity	8.8	17,000	17,000
Accumulated surplus	8.8	1,023,294	1,124,617
<b>TOTAL EQUITY</b>		<b>1,040,294</b>	<b>1,141,617</b>

The Statement of Financial Position should be read in conjunction with the accompanying notes.





**Law Reform Commission of Western Australia  
Statement of Changes in Equity**

For the year ended 30 June 2018

	Note	Contributed equity \$	Accumulated surplus \$	Total equity \$
Balance at 1 July 2016	8.8	17,000	1,228,825	1,245,825
Total comprehensive income		-	(104,208)	(104,208)
Balance at 30 June 2017		<u>17,000</u>	<u>1,124,617</u>	<u>1,141,617</u>
Balance at 1 July 2017		17,000	1,124,617	1,141,617
Total comprehensive income		-	(101,323)	(101,323)
Balance at 30 June 2018		<u>17,000</u>	<u>1,023,294</u>	<u>1,040,294</u>

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.

**Law Reform Commission of Western Australia**  
**Statement of Cash Flows**

For the year ended 30 June 2018

	Note	2018 \$	2017 \$
<b>CASH FLOWS FROM STATE GOVERNMENT</b>			
Service appropriation	4.1	-	-
<b>Net cash provided by State Government</b>		-	-
Utilised as follows:			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments</b>			
Board member fees		(101,666)	(103,844)
Supplies and services		-	(116,800)
<b>Receipts</b>			
GST receipts from taxation authority		-	11,680
<b>Net cash used in operating activities</b>	6.1	<u>(101,666)</u>	<u>(208,964)</u>
Net (decrease) in cash and cash equivalents		(101,666)	(208,964)
Cash and cash equivalents at the beginning of the reporting period		<u>1,142,005</u>	<u>1,350,969</u>
<b>CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD</b>	6.1	<u><b>1,040,339</b></u>	<u><b>1,142,005</b></u>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

**Law Reform Commission of Western Australia**

**NOTES TO THE FINANCIAL STATEMENTS**

**Note 1: Basis of preparation**

The Commission is a WA Government entity and is controlled by the State of Western Australia, which is the ultimate parent. The entity is a not-for-profit entity (as profit is not its principal objective).

A description of the nature of its operations and its principal activities have been included in the 'Overview' which does not form part of these financial statements.

These annual financial statements were authorised for issue by the Accountable Authority of the agency on 30 August 2018.

**Statement of compliance**

These general purpose financial statements have been prepared in accordance with:

- 1) The Financial Management Act 2006 (FMA)
- 2) The Treasurer's Instructions (the Instructions or TI)
- 3) Australian Accounting Standards (AAS) including applicable interpretations
- 4) Where appropriate, those AAS paragraphs applicable for not-for-profit entities have been applied.

The FMA and the Instructions take precedence over AAS. Several AAS are modified by the Instructions to vary application, disclosure format and wording. Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

**Basis of preparation**

These financial statements are presented in Australian dollars applying the accrual basis of accounting and using the historical cost convention. Certain balances will apply a different measurement basis (such as the fair value basis). Where this is the case the different measurement basis is disclosed in the associated note. All values are rounded to the nearest dollar.

**Judgements and estimates**

Judgements, estimates and assumptions are required to be made about financial information being presented. The significant judgements and estimates made in the preparation of these financial statements are disclosed in the notes where amounts affected by those judgements and/or estimates are disclosed. Estimates and associated assumptions are based on professional judgements derived from historical experience and various other factors that are believed to be reasonable under the circumstances.

**Contributed equity**

AASB Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* requires transfers in the nature of equity contributions, other than as a result of a restructure of administrative arrangements, to be designated by the Government (the owner) as contributions by owners (at the time of, or prior, to transfer) before such transfers can be recognised as equity contributions. Capital appropriations have been designated as contributions by owners by TI 955 *Contributions by Owners made to Wholly Owned Public Sector Entities* and have been credited directly to Contributed Equity.

The transfers of net assets to/from other agencies, other than as a result of a restructure of administrative arrangements, are designated as contributions by owners where the transfers are non-discretionary and non-reciprocal.

**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**Note 2: Commission outputs**

This section includes information regarding the nature of funding the Commission receives and how this funding is utilised to achieve the Commission's objectives.

	Notes
Commission objectives	2.1

**2.1 Commission objectives**

**Mission**

The Commission's mission is to assist in keeping the law up-to-date and relevant to the needs of society.

**Services**

The Commission's service is publications on law reform.

As there is only one service provided by the Commission, the Schedule of Income by Service and Schedule of Asset and Liabilities by Service have not been prepared.

**Note 3: Use of our funding**

**Expenses incurred in the delivery of services**

This section provides additional information about how the Commission's funding is applied and the accounting policies that are relevant for an understanding of the items recognised in the financial statements. The primary expenses incurred by the Commission in achieving its objectives and the relevant notes are:

	Notes	2018 \$	2017 \$
Board member fees	3.1	101,323	104,208
Supplies and services	3.2	152,328	273,864
Other expenses	3.2	3,672	10,249

**3.1 Employee benefits expenses**

	2018 \$	2017 \$
Board member fees	92,533	95,199
Superannuation - defined contribution plans <sup>(a)</sup>	8,790	9,009
	<u>101,323</u>	<u>104,208</u>

(a) Government Employees Superannuation Board Superannuation Scheme (GESB) (contributions paid).

**Wages and salaries:**

Employee expenses include all costs related to employment including wages and salaries, fringe benefits tax, and leave entitlements.

**Superannuation:**

The amount recognised in profit or loss of the Statement of Comprehensive Income comprises employer contributions paid to the GESB.

The GESB and other fund providers administer public sector superannuation arrangements in Western Australia in accordance with legislative requirements. Eligibility criteria for membership in particular schemes for public sector employees vary according to commencement and implementation dates.

**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**3.2 Other expenditure**

	2018	2017
<b>Supplies and services</b>	\$	\$
Business and Financial Services*	17,374	36,197
Shared Information Services*	39,646	57,904
Policy and Aboriginal Services*	48,611	108,827
Services and contracts*	44,550	68,807
Communications*	2,147	2,129
<b>Total supplies and services expenses</b>	<b>152,328</b>	<b>273,864</b>
<b>Other expenses</b>		
Printing*	3,672	10,249
<b>Total other expenses</b>	<b>3,672</b>	<b>10,249</b>
<b>Total other expenditure</b>	<b>156,000</b>	<b>284,113</b>

\*Payment for these expenses was made by the Department of Justice (the successor to the Department of the Attorney General as from 1 July 2017) in terms of a Memorandum of Understanding between the Department of Justice and the Commission.

**Supplies and services:**

Supplies and services are recognised as an expense in the reporting period in which they are incurred. The carrying amounts of any materials held for distribution are expensed when the materials are distributed.



**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**Note 4: Our funding sources**

**How we obtain our funding**

This section provides additional information about how the Commission obtains its funding and the relevant accounting policy notes that govern the recognition and measurement of this funding. The primary income received by the Commission and the relevant notes are:

	Notes	2018 \$	2017 \$
Income from State Government	4.1	156,000	284,113

**4.1 Income from State Government**

	2018 \$	2017 \$
Appropriation received during the period:		
Service appropriation	-	-
	<u>-</u>	<u>-</u>

Services received free of charge from other state government agencies during the period:

Department of Justice		
- Financial, human resources and information technology services	156,000	284,113
	<u>156,000</u>	<u>284,113</u>
<b>Total Income from State Government</b>	<b><u>156,000</u></b>	<b><u>284,113</u></b>

**Services received free of charge or for nominal cost:** Services received free of charge or for nominal cost that the Commission would otherwise purchase if not donated, are recognised as income at the fair value of the assets or services where they can be reliably measured. A corresponding expense is recognised for services received. Receipts of assets are recognised in the Statement of Financial Position. Services received from other State Government agencies are separately disclosed under Income from State Government in the Statement of Comprehensive Income.

**Law Reform Commission of Western Australia**

NOTES TO THE FINANCIAL STATEMENTS

**Note 5: Other assets and liabilities**

This section sets out those assets and liabilities that arose from the Commission's controlled operations and includes other assets utilised for economic benefits and liabilities incurred during normal operations:

	Notes	2018	2017
		\$	\$
Payables	5.1	45	388

**5.1 Payables**

	2018	2017
	\$	\$
<u>Current</u>		
Trades and other creditors	24	24
Accrued salaries	21	364
<b>Total current</b>	<b>45</b>	<b>388</b>

**Payables** are recognised at the amounts payable when the Commission becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as settlement is generally within 30 days.

**Accrued salaries** represent the amount due to Commission members but unpaid at the end of the reporting period. Accrued salaries are settled within a fortnight of the reporting period end. The agency considers the carrying amount of accrued salaries to be equivalent to its fair value.



**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**Note 6: Financing**

This section sets out the material balances and disclosures associated with the financing and cashflows of the Commission:

	Notes	
Reconciliation of cash	6.1	
<b>6.1 Cash and cash equivalents</b>		
<b>Reconciliation of cash</b>		
Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:		
	2018	2017
	\$	\$
Cash and cash equivalents	1,040,339	1,142,005
	<u>1,040,339</u>	<u>1,142,005</u>

For the purpose of the statement of cash flows, cash and cash equivalent (and restricted cash and cash equivalent) assets comprise cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash and which are subject to insignificant risk of changes in value.

**Reconciliation of net cost of services to net cash flows used in operating activities**

	2018	2017
	\$	\$
Net cost of services	(257,323)	(388,321)
<u>Non-cash items</u>		
Services received free of charge	156,000	284,113
<u>(Increase)/decrease in assets</u>		
GST receivable	-	11,680
<u>Increase/(decrease) in liabilities</u>		
Other payables	-	(116,800)
Accrued salaries	(343)	364
Net cash used in operating activities	<u>(101,666)</u>	<u>(208,964)</u>

The mandatory application of AASB 2016-2 *Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 107* imposed disclosure impacts only. The Commission is not exposed to changes in liabilities arising from financing activities, including both changes arising from cash flows and non-cash changes.

**Law Reform Commission of Western Australia**

**NOTES TO THE FINANCIAL STATEMENTS**

**Note 7: Risks and contingencies**

This note sets out the key risk management policies and measurement techniques of the Commission:

	Notes
Financial risk management	7.1
Contingent assets and liabilities	7.2

**7.1 Financial risk management**

Financial instruments held by the Commission are cash and cash equivalents, receivables and payables. The Commission has limited exposure to financial risks. The Commission's overall risk management program focuses on managing the risks identified below.

**(a) Summary of risks and risk management**

Credit risk

Credit risk arises when there is the possibility of the Commission's receivables defaulting on their contractual obligations resulting in financial loss to the Commission. Credit risk also arises from cash and cash equivalents held at banks and financial institutions.

The maximum exposure to credit risk at the end of the reporting period in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any provisions for impairment, as shown in the table at Note 7.1(c) 'Ageing analysis of financial assets'.

The Commission does not have any significant credit risks as services are provided only to government agencies. In addition, receivable balances are monitored on an ongoing basis with the result that the Commission's exposure to bad debts is minimal. At the end of the reporting period there were no significant concentrations of credit risk, other than in respect of cash and cash equivalents.

Liquidity risk

Liquidity risk arises when the Commission is unable to meet its financial obligations as they fall due. The Commission is exposed to liquidity risk through its trading in the normal course of business.

The Commission has appropriate procedures to manage cash flows by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

Market risk

Market risk is the risk the changes in market prices such as foreign exchange rates and interest rates will affect the Commission's income or the value of its holdings of financial instruments. The Commission does not trade in foreign currency and is not materially exposed to other price risk. The Commission is not exposed to interest rate risk because cash and cash equivalents are non-interest bearing and it has no borrowings, therefore, neither the carrying amount nor the future cash flows will fluctuate because of a change in market interest rate.

**(b) Categories of financial instruments**

The carrying amounts of each of the following categories of financial assets and financial liabilities at the balance sheet date are:

	2018 \$	2017 \$
<b>Financial Assets</b>		
Cash and cash equivalents	1,040,339	1,142,005
	<u>1,040,339</u>	<u>1,142,005</u>
<b>Financial Liabilities</b>		
Financial liabilities measured at amortised cost	45	388
	<u>45</u>	<u>388</u>

**Law Reform Commission of Western Australia**

**NOTES TO THE FINANCIAL STATEMENTS**

**7.1 Financial risk management (continued)**

**(c) Ageing analysis of financial assets**

	Carrying Amount \$	Not past due and not impaired \$	Past due but not impaired				
			Up to 1 month \$	1-3 months \$	3 months to 1 year \$	More than 5 years \$	Impaired financial assets \$
<b>2018</b>							
Cash and cash equivalents	1,040,339	1,040,339	-	-	-	-	-
	<b>1,040,339</b>	<b>1,040,339</b>	-	-	-	-	-
<b>2017</b>							
Cash and cash equivalents	1,142,005	1,142,005	-	-	-	-	-
	<b>1,142,005</b>	<b>1,142,005</b>	-	-	-	-	-

**(d) Liquidity risk and interest rate exposure**

The following table details the contractual maturity analysis of financial assets and financial liabilities.

Maturity analysis of financial assets and financial liabilities								
	Carrying Amount \$	Non- interest bearing	Nominal Amount \$	Up to 1 month \$	1-3 months \$	3 months to 1 year \$	1-5 years \$	More than 5 years \$
2018								
Financial Assets								
Cash and cash equivalents	1,040,339	1,040,339	1,040,339	1,040,339	-	-	-	-
	1,040,339	1,040,339	1,040,339	1,040,339	-	-	-	-
Financial Liabilities								
Payables	45	45	45	45	-	-	-	-
	45	45	45	45	-	-	-	-
2017								
Financial Assets								
Cash and cash equivalents	1,142,005	1,142,005	1,142,005	1,142,005	-	-	-	-
	1,142,005	1,142,005	1,142,005	1,142,005	-	-	-	-
Financial Liabilities								
Payables	388	388	388	388	-	-	-	-
	388	388	388	388	-	-	-	-

**7.2 Contingent assets and liabilities**

There were no contingent liabilities and contingent assets as at 30 June 2018 (2017: nil).

**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**Note 8: Other disclosures**

This section includes additional material disclosures required by accounting standards or other pronouncements for the understanding of this financial report.

	Notes
Events occurring after the end of the reporting period	8.1
Future impact of Australian Accounting Standards not yet operative	8.2
Key management personnel	8.3
Related party transactions	8.4
Related bodies	8.5
Affiliated bodies	8.6
Remuneration of Auditors	8.7
Equity	8.8
Supplementary financial information	8.9

**8.1 Events occurring after the end of the reporting period**

There were no events occurring after the end of the reporting period.

**8.2 Future impact of Australian Accounting Standards not yet operative**

The Commission cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements* or by an exemption from TI 1101. Where applicable, the Commission plans to apply the following Australian Accounting Standards from their application date.

		Operative for reporting periods beginning on/after
AASB 9	<i>Financial Instruments</i>  This Standard supersedes AASB 139 <i>Financial Instruments: Recognition and Measurement</i> , introducing a number of changes to accounting treatments.  The mandatory application date of this Standard is currently 1 January 2018 after being amended by AASB 2012-6, AASB 2013-9 and AASB 2014-1 <i>Amendments to Australian Accounting Standards</i> . The Commission has not yet determined the application or the potential impact of the Standard.	1 Jan 2018
AASB 15	<i>Revenue from Contracts with Customers</i>  This Standard establishes the principles that the Commission shall apply to report useful information to users of financial statements about the nature, amount, timing and uncertainty of revenue and cash flows arising from a contract with a customer.  The Commission receives Services Free of Charge from the Department of Justice or income from appropriations which will be measured under AASB 1058 <i>Income of Not-for-Profit Entities</i> and has no sales revenue, so will be unaffected by this change.	1 Jan 2019



**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**8.2 Future impact of Australian Accounting Standards not yet operative (continued)**

		Operative for reporting periods beginning on/after
AASB 16	<p><i>Leases</i></p> <p>This Standard introduces a single lessee accounting model and requires a lessee to recognise assets and liabilities for all leases with a term of more than 12 months, unless the underlying asset is of low value. The Commission currently has no commitments for non-cancellable operating leases.</p>	1 Jan 2019
AASB 1058	<p><i>Income of Not-for-Profit Entities</i></p> <p>This Standard clarifies and simplifies the income recognition requirements that apply to not-for-profit (NFP) entities, more closely reflecting the economic reality of NFP entity transactions that are not contracts with customers. Timing of income recognition is dependent on whether such a transaction gives rise to a liability, a performance obligation (a promise to transfer a good or service), or, an obligation to acquire an asset. The Commission has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2019
AASB 1059	<p><i>Service Concession Arrangements: Grantors</i></p> <p>This Standard addresses the accounting for a service concession arrangement (a type of public private partnership) by a grantor that is a public sector entity by prescribing the accounting for the arrangement from the grantor's perspective. Timing and measurement for the recognition of a specific asset class occurs on commencement of the arrangement and the accounting for associated liabilities is determined by whether the grantee is paid by the grantor or users of the public service provided. The Commission has not identified any public private partnerships within scope of the Standard.</p>	1 Jan 2019
AASB 2010-7	<p><i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 &amp; 1038 and Int 2, 5, 10, 12, 19 &amp; 127]</i></p> <p>This Standard makes consequential amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 9 in December 2010.</p> <p>The mandatory application date of this Standard has been amended by AASB 2012-6 and AASB 2014-1 to 1 January 2018. The Commission has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2018
AASB 2014-1	<p><i>Amendments to Australian Accounting Standards</i></p> <p>Part E of this Standard makes amendments to AASB 9 and consequential amendments to other Standards. It has not yet been assessed by the Commission to determine the application or potential impact of the Standard.</p>	1 Jan 2018
AASB 2014-5	<p><i>Amendments to Australian Accounting Standards arising from AASB 15</i></p> <p>This Standard gives effect to consequential amendments to Australian Accounting Standards (including Interpretations) arising from the issuance of AASB 15. The mandatory application date of this Standard has been amended by AASB 2015-8 to 1 January 2018. The Commission has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2018
AASB 2014-7	<p><i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2014)</i></p> <p>This Standard gives effect to the consequential amendments to Australian Accounting Standards (including Interpretations) arising from the issuance of AASB 9 (December 2014). The Commission has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2018

**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**8.2 Future impact of Australian Accounting Standards not yet operative (continued)**

		Operative for reporting periods beginning on/after
<b>AASB 2015-8</b>	<b><i>Amendments to Australian Accounting Standards – Effective Date of AASB 15</i></b>	1 Jan 2018
	This Standard amends the mandatory application date of AASB 15 to 1 January 2018 (instead of 1 January 2017). It also defers the consequential amendments that were originally set out in AASB 2014-5. There is no financial impact arising from this Standard.	
<b>AASB 2016-3</b>	<b><i>Amendments to Australian Accounting Standards – Clarifications to AASB 15</i></b>	1 Jan 2018
	This Standard clarifies identifying performance obligations, principal versus agent considerations, timing of recognising revenue from granting a licence, and, provides further transitional provisions to AASB 15. The Commission has not yet determined the application or the potential impact.	
<b>AASB 2016-7</b>	<b><i>Amendments to Australian Accounting Standards – Deferral of AASB 15 for Not-for-Profit Entities</i></b>	1 Jan 2018
	This Standard defers, for not-for-profit entities, the mandatory application date of AASB 15 to 1 January 2019, and the consequential amendments that were originally set out in AASB 2014-5. There is no financial impact arising from this standard.	
<b>AASB 2016-8</b>	<b><i>Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities</i></b>	1 Jan 2019
	This Standard inserts Australian requirements and authoritative implementation guidance for not-for-profit entities into AASB 9 and AASB 15. This guidance assists not-for-profit entities in applying those Standards to particular transactions and other events. There is no financial impact.	

**8.3 Key management personnel**

The Commission has determined that key management personnel include Cabinet Ministers and senior officers of the Commission. However, the Commission is not obligated to compensate Ministers and therefore disclosures in relation to Ministers' compensation may be found in the *Annual Report on State Finances*.

The total fees, salaries, superannuation, non-monetary benefits and other benefits for senior officers of the Commission for the reporting period are presented within the following bands:

	2018	2017
<b>Compensation Band (\$)</b>		
50,001 – 60,000	1	1
40,001 – 50,000	1	1
0 <sup>(a)</sup>	1	1
	\$	\$
Short-term employee benefits	92,533	95,199
Post-employment benefits	8,790	9,009
Other long-term benefits	-	-
Termination benefits	-	-
<b>Total compensation of senior officers</b>	<b>101,323</b>	<b>104,208</b>

(a) Member is employed by the State Solicitors Office under the Public Service Management Act 1994 and is not entitled to remuneration.

Total compensation includes the superannuation expense incurred by the Commission in respect of its members.

**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**8.4 Related party transactions**

The Commission is a wholly owned public sector entity that is controlled by the State of Western Australia.

Related parties of the Commission include:

- all cabinet ministers and their close family members, and their controlled or jointly controlled entities;
- all senior officers and their close family members, and their controlled or jointly controlled entities;
- other departments and public sector entities, including related bodies included in the whole of government consolidated financial statements;
- associates and joint ventures, that are included in the whole of government consolidated financial statements; and
- the Government Employees Superannuation Board (GESB).

**Significant transactions with Government-related entities**

In conducting its activities, the Commission is required to transact with the State and entities related to the State. These transactions are generally based on the standard terms and conditions that apply to all agencies. Such transactions include:

- Services received free of charge from the Department of Justice (Note 4.1);
- Superannuation payments to GESB (Note 3.1);

**Material transactions with other related parties**

Outside of normal citizen type transaction with the Commission, there were no other related party transactions that involved key management personnel and/or their close family members and/or their controlled (or jointly controlled) entities.

**8.5 Related bodies**

The Commission had no related bodies during the financial year (2017: nil).

**8.6 Affiliated bodies**

The Commission had no affiliated bodies during the financial year (2017: nil).

**8.7 Remuneration of auditors**

Remuneration paid or payable to the Auditor General in respect of the audit for current financial year is as follows:

	2018	2017
	\$	\$
Auditing the accounts, financial statements, controls, and key performance indicators	12,675	12,550



**Law Reform Commission of Western Australia**  
**NOTES TO THE FINANCIAL STATEMENTS**

**8.8 Equity**

<b>Contributed equity</b>	<b>2018</b>	<b>2017</b>
	<b>\$</b>	<b>\$</b>
Balance at start of period	17,000	17,000
<b>Balance at end of period</b>	<b>17,000</b>	<b>17,000</b>
<b>Accumulated surplus</b>		
Balance at start of period	1,124,617	1,228,825
Result for the period	(101,323)	(104,208)
<b>Balance at end of period</b>	<b>1,023,294</b>	<b>1,124,617</b>
<b>Total Equity at end of period</b>	<b>1,040,294</b>	<b>1,141,617</b>

**8.9 Supplementary financial information**

There were no losses of public moneys or other public property through theft or default during the financial year (2017: nil).

There were no write offs of public money or other public property during the financial year (2017: nil).

There were no gifts of public property during the financial year (2017: nil).

**LAW REFORM COMMISSION OF WESTERN AUSTRALIA**

**AUDITED KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2018**

**Certification of Key Performance Indicators**

We hereby certify that the key performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Law Reform Commission of Western Australia's performance, and fairly represent the performance of the Law Reform Commission of Western Australia for the financial year ended 30 June 2018.



Dr. David Cox

Chairman of the Law Reform Commission of Western Australia 30 August 2018



Ms. Fiona Seaward

Commission Member of the Law Reform Commission of Western Australia



*Detailed Information in Support of Key Performance Indicators*

**GOVERNMENT GOALS: OUTCOME BASED SERVICE DELIVERY**

Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

**THE COMMISSION'S STRATEGIC OBJECTIVE**

**Mission:** To assist in keeping the law up-to-date and relevant to the needs of Western Australian society.

**Desired Outcome:** The law is reviewed as requested by the Attorney General (AG) and stakeholders are kept informed.

The Commission receives its terms of reference from the AG and performs reviews of selected legislation at the request of the AG. The extent to which the Law Reform Commission of Western Australia (the Commission or LRC) meets the timeframes set by the AG is considered to be a key performance indicator (KPI) which measures the extent to which the Commission is contributing to keeping the law up-to-date.

**KEY EFFECTIVENESS INDICATOR: Progress against target timelines.**

The extent to which the Commission is meeting the Attorney General's law reform requests in a timely manner.

**THE PERCENTAGES OF REFERENCES PROGRESSING AS PLANNED AGAINST TARGET TIMELINES**

	2017-2018 Target <sup>(a)</sup>	2017-2018 Actual	2016-2017 <sup>(a)</sup>	2015-2016 <sup>(a)</sup>
% on target	100%	100%	100%	100%

a) In the 2015-16 to 2017-18 financial years, the final report due date has been set as per the Attorney General's request outlined in the Terms of Reference (TOR).

References	2017-2018	2016-2017	2015-2016
Brought Forward	1	1	2
New	2	1	-
Total to be Reviewed	3	2	2
References Completed During the Year	1 <sup>(a)</sup>	1	1
References with Elapsed time	-	-	-

a) Refer to Table A: *Family Law Reference*, for progress against milestone.

The Commission had three live references in the financial year 2017-18. The effectiveness of each reference is measured separately as shown below.

### FAMILY LAW

Project 107: The intersection of the family law and caveat systems in Western Australia.

Table A – Progress towards the *Family Law* reference

Milestones	TOR referred to LRC	Project Plan completed/ signed	Tender process completed/contracts awarded & signed	Project writer engaged <sup>(a)</sup>	First draft of Discussion Paper	Discussion Paper published and released	Provide LRC Report on response to discussion paper & submissions	Draft Report submitted to LRC	Final Report forwarded to AG
Target Date <sup>(b)</sup>	N/A	N/A	December 2016	December 2016	February 2017	March 2017	May 2017	May 2017	31 July 2017 <sup>(c)</sup>
Actual Date	2 August 2016	29 September 2016	13 February 2017	13 February 2017	29 March 2017	12 May 2017	-	13 July 2017	31 July 2017

Key:

- a) The project writer for the reference was Dane Chandler of Francis Burt Chambers.
- b) Interim milestone targets based on initial Project Plan approved by the Commission –Refer also to (c).
- c) Date set by AG. On 13 June 2017, AG amended publication date from 31 May 2017 to 31 July 2017.

### GENDER REASSIGNMENT

Project 108: The inconsistencies between Western Australian and Commonwealth legislation in relation to the recognition of a person's sex, change of sex or intersex status.

Table B – Progress towards the *Gender Reassignment* reference

Milestones	TOR referred to LRC	Project Plan completed/ signed	Tender process completed/contracts awarded & signed	Project writer engaged <sup>(a)</sup>	First draft of Discussion Paper	Discussion Paper published and released	Provide LRC Report on response to discussion paper & submissions	Draft Report submitted to LRC	Final Report forwarded to AG
Target Date <sup>(b)</sup>	N/A	N/A	February – March 2018	N/A	July 2018	31 July 2018 <sup>(c)</sup>	1-8 November 2018	9 November 2018	30 November 2018 <sup>(c)</sup>
Actual Date	16 January 2018 <sup>(d)</sup>	24 April 2018	Tender closed: 15 February 2018 Contract awarded: 27 March 2018	27 March 2018	20 July 2018	14 August 2018	-	-	-

Key:

- a) The project writer for the reference was Corrs Chambers Westgarth.
- b) Interim milestone targets based on initial Project Plan approved by the Commission –Refer also to (c).
- c) Date set by AG. On 31 July 2018, LRC sent courtesy advice to AG re: delay in publication.
- d) On 19 February 2018, AG amended preamble and removed Clause (d) of the original TOR.

**FATAL ACCIDENTS**

Project 109: Claims for non-economic loss for wrongful death under the *Fatal Accidents Act 1959* (WA).

Table C – Progress towards the *Fatal Accidents* reference

Milestones	TOR referred to LRC	Project Plan completed/ signed	Tender process completed/contracts awarded & signed	Project writer engaged <sup>(a)</sup>	First draft of Discussion Paper	Discussion Paper published and released	Provide LRC Report on response to discussion paper & submissions	Draft Report submitted to LRC	Final Report forwarded to AG
Target Date <sup>(b)</sup>	N/A	May 2018	May – June 2018	N/A	21 September 2018	30 September 2018	October 2018 – February 2019	N/A	29 March 2019 <sup>(c)</sup>
Actual Date	26 February 2018	10 May 2018	-	-	-	-	-	-	-

Key:

- a) Procurement process is yet to be finalised during the period.
- b) Interim milestone targets based on initial project plans approved by the Commission. Refer also to (c).
- c) Date set by AG.



**KEY EFFICIENCY INDICATOR: Publications on Law Reform.**

The extent to which the efforts of the Commission resulted in recommendations and public awareness.

**Service: Publications on Law Reform**

The delivery of the Commission's service 'Publications on Law Reform' is achieved through work undertaken in the production of reports compiled in relation to references and by the extent to which the Commission was able to reach stakeholders and inform them on matters of law reform.

Total publications refer to references referred to the Commission in the 2017-18 financial year and comparative years as well as references carried over from the previous financial year.

Total Community Contacts refers to correspondence with stakeholders by Commission representatives. Activity relates to Commission publications and matters of law reform consisting of: submissions received; incoming and outgoing mail; e-mails to the Commission's email address, and phone calls.

**Total Publications and Community Contacts and their Average Cost**

The following table shows the total number of publications and the average cost per publication in 2017-18 and previous financial years. The table also identifies the total community contacts and the average cost per contact in the same period.

	Target 2017-2018	Actual 2017-2018	2016-2017	2015-2016	2014-2015
Service: Total Publications <sup>(a)</sup>	2	3	2	2	2
Average cost per publication	\$86,200	\$81,486 <sup>(b)</sup>	\$184,452	\$253,218	\$123,721
Total community contacts	500	497	1,062	1,911	598
Average cost per contact	\$47.88 <sup>(c)</sup>	\$25.89	\$18.28	\$13.95	\$32.67

(a) Total Publications refers to the number of references referred to the Commission by the Attorney General and includes published, in-progress and completed references during the financial year.

(b) The decrease in the average cost per publication is due to only preliminary work being undertaken by the legal research writer for the second reference (Project 108) in the 2017-18 financial year.

(c) This target figure was higher than previous years due to the estimated total cost of services being higher and the target total community contacts figure being lower. As mentioned in (b) a portion of publications costs for the financial year includes Project 108 which is not yet open for public comment.



## MINISTERIAL DIRECTIVES

There have been no ministerial directives in this reporting period.

## OTHER FINANCIAL DISCLOSURES

### Capital works

The Commission has no capital works projects.

### Employment and industrial relations

#### Staff Profile

	2017-18	2016-17
Full-time permanent	Nil	Nil
Full-time contract	Nil	Nil
Part-time measured on an FTE basis	Nil	Nil
On secondment	Nil	Nil

### Staff development

The learning and development of Commission members is encapsulated within the Department's Strategic Learning and Development Framework.

### Workers compensation

No workers compensation claims were recorded during the financial year.

## GOVERNANCE DISCLOSURES

### Contracts with senior officers

No member of the Commission had any interest in or benefit from any contract that the Commission entered.

### Personal use of corporate credit card

No member of the Commission was issued with a corporate credit card.

## OTHER LEGAL REQUIREMENTS

### Advertising and sponsorship

In accordance with section 175ZE of the Electoral Act 1907 (WA), the Commission incurred the following expenditure relating to advertising and sponsorship during the 2017-18 financial year:

Advertising agencies	Nil
Market research organisations	Nil
Polling organisations	Nil
Direct mail organisations	Nil
Media advertising organisations	Nil
<b>Total</b>	<b>Nil</b>

### Disability access and inclusion plan outcomes

The Commission is committed to ensuring that professional and appropriate services are provided to meet the needs of community members with physical, intellectual, sensory or cognitive disabilities, their carers and families.

The Commission recognises delivering the same level and quality of service and advice, with full awareness and understanding of the needs of people with disabilities.

The Commission's office - located on Level 23 of the David Malcolm Justice Centre at 28 Barrack St, Perth - has wheelchair access, lift access to the upper floors and convenient public parking nearby.

This annual report is designed to be print-accessible to people with disabilities and can be supplied in alternative formats on request. In accordance with the Commission's community outreach program, all public meeting venues are selected with disabled access in mind, including special facilities for the hearing-impaired and the projection of discussion notes on large screens so that people attending the meeting can see what is being recorded.

Electronic publishing allows documents to be enlarged at will or projected.

### Compliance with public sector standards and ethical codes

The Commission has complied with Section 31(1) of the *Public Sector Management Act 1994* in the administration of the Commission's human resource management practices relating to Public Sector Standards, the Western Australian Public Sector Code of Ethics and the Commission's Code of Conduct. The Commission uses the Department's human resource services and is confident that Departmental human resource management principles have adequate checks in place to ensure compliance requirements are met.

The Commission has adopted the Public Sector Commission's Code of Conduct template for government boards. Various measures are in place to ensure that Commission members and staff assisting the Commission are familiar with the WA Public Sector Commission's Code of Ethics and the Commission's own Code of Conduct. The Commission's Code of Conduct is made available on induction to all Commission members and related responsibilities are included in job descriptions. The Commission's Executive Officer monitors compliance.

In 2017-18 no breach claims were lodged in relation to either the Public Sector Standards or the WA Public Sector Commission's Code of Ethics.

### GOVERNMENT POLICY REQUIREMENTS

#### Recordkeeping plan

In accordance with section 29 of the *State Records Act 2000*, the Commission must review its Recordkeeping Plan (RKP) every five years or when there is any significant change to the organisation's functions. As such, the Commission reviewed its RKP in January 2014 and provided a report and appropriate documentation to the State Records Commission as evidence of the evaluation of its recordkeeping practices. The RKP review report was tabled at the State Records Commission meeting on 21 March 2014 and the RKP's approval renewed for a further five years.

The Commission must submit a report of the next review to the State Records Office again in 2019.

The Commission's RKP provides an accurate reflection of its recordkeeping program and is complied with by all Commission members and staff assisting the Commission. New departmental inductees assisting the Commission are required to complete Department's Recordkeeping Awareness Training course through the Enterprise Learning Management System. Commission members and staff assisting the Commission have been trained in record-keeping practices.

### Substantive equality

Although the Commission is not required to negotiate annually the scope of implementation for the Policy Framework for Substantive Equality with the Commissioner for Equal Opportunity, the Commission is aware of the intent and substance of the Policy Framework. The Commission supports the objective of the Policy Framework to achieve substantive equality in the Western Australian public sector by:

- eliminating systematic racial discrimination in the provision of public sector services; and
- promoting sensitivity to the different needs of client groups.

### Occupational health and safety

The Commission is committed to meeting its obligations and responsibilities under the *Workers' Compensation and Injury Management Act 1981*, the *Occupational Safety and Health Act 1984* and the *Occupational Safety and Health Regulations 1996* in such a manner as it ensures the provision and maintenance of a safe and healthy work environment for its members, Departmental staff and the general public.

Since the Commission uses staff resources through Department, training opportunities are available through Department's Corporate Learning and Development Division. Although an external audit of the Commission's occupational safety and health management systems has not occurred, the Commission continues to provide a safe and secure working environment for its members and Departmental staff. Commission members and staff assisting the Commission are expected to comply with the Code of Practice – Occupational Safety and Health in the WA Public Sector and to conduct themselves in a safe manner, not placing themselves and others at risk. During the 2017-18 reporting period, no worker's compensation claims were lodged, nor was any time lost from work as a result of work-related illness or injury.

In the event of a work-related injury, the Commission will provide effective claims management and rehabilitation assistance aimed at supporting the injured member through the illness or injury to ensure a safe return to work, where possible.

The Commission is committed to consulting with its members and staff assisting the Commission in a meaningful and effective manner on occupational safety and health issues, enabling each Commission member and Departmental staff member to contribute to decisions that may affect their health, safety and welfare at work.

### Government building contracts

No contracts subject to the Government Building Training Policy had been awarded.

## DISCLOSURES AND LEGAL COMPLIANCE

(continued)

### ANNUAL PERFORMANCE FOR 2017-18

Measure	Actual Results		Results against Target	
	2014-15 <sup>(1)</sup>	2017-18 <sup>(1)</sup>	Target	Comment on Result
Number of fatalities	0	0	0	
Lost time injury and/or disease incidence rate	0	0	0	
Lost time injury and/or disease severity rate	0	0	0 <sup>(2)</sup>	
Percentage of injured workers returned to work:				
(i) within 13 weeks	N/A <sup>(3)</sup>	N/A <sup>(3)</sup>	100%	
(ii) within 26 weeks	N/A <sup>(3)</sup>	N/A <sup>(3)</sup>	≥ 80%	
Percentage of managers trained in occupational safety, health and injury management responsibilities	100%	100%	≥ 80%	

(1) This is a three-year trend. Thus, the year is to be three years prior to the current reporting year (i.e. current year is 2017-18; previous year is 2014-15).

(2) The reduction may be calculated over a three year period.

(3) There were no injured workers during this reporting year.

The Commission makes recommendations for the reform of areas of the law referred to it by the Attorney General. Once the terms of reference are received, the Commission engages specialists with experience and expertise to increase the overall efficiency of the reviews. The Commission uses a project-based management model that allows for the management of multiple references at the same time.

This section refers only to references for which work is still being undertaken i.e. references for which a Final Report has not yet been produced.

### **GENDER REASSIGNMENT ACT 2000 (WA)**

Pursuant to section 11(2)(b) of the *Law Reform Commission Act 1972* (WA), I hereby refer the matter “the inconsistencies between Western Australian and Commonwealth legislation in relation to the recognition of a person’s sex, change of sex or intersex status” for consideration by the Commission in accordance with the terms of reference.

The Law Reform Commission of Western Australia is to review and report on the inconsistencies between Western Australian and Commonwealth legislation in relation to the recognition of a person’s sex, change of sex or intersex status.

In carrying out its review, the Commission should examine and make recommendations as to any legislative reform necessary to the *Gender Reassignment Act 2000* (WA) and the *Births, Deaths and Marriages Registration Act 1998* (WA) to improve the process by which a person’s change of sex or a person’s intersex status is recognised by law in Western

Australia and any consequential amendments, including:

- a. whether another category for classification of sex should be introduced and how any new category should be designated;
- b. whether the role of the Gender Reassignment Board should be retained, or whether the Registrar of Births, Deaths and Marriages, or another person or body, should have responsibility for registering change of sex or intersex status;
- c. what criteria should be used to determine whether a change of sex or intersex status should be registered and what evidence is necessary to establish that criteria;
- d. any approval requirements which should apply in relation to applications by children to register change of sex or intersex status, including issues of parental consent, disputes between parents, and whether the child should be required to give informed consent; and
- e. any other related matter.

I request that you provide me with your Final Report by 30 November 2018.

**Hon John Quigley MLA**

16 January 2018\*

\* New preamble and amended terms of reference referred on 19 January 2018. The terms of reference above are as they appeared in the referral on 19 January 2018.

### **FATAL ACCIDENTS ACT 1959 (WA)**

Pursuant to section 11(2)(b) of the *Law Reform Commission Act 1972* (WA), I hereby refer the matter “non-economic loss under the *Fatal Accidents Act 1959* (WA)” for consideration by the Commission in accordance with the terms of reference.

The Law Reform Commission of Western Australia is to review and report on claims for non-economic loss for wrongful death in the context of the *Fatal Accidents Act 1959* (WA).

In carrying out its review, the Commission should examine and make recommendations as to any legislative reform necessary to the *Fatal Accidents Act 1959* (WA) to allow for claims for non-economic loss for wrongful death and any consequential amendments, including:

1. the scope of the class of persons who may claim for non-economic loss;
2. the types of non-economic loss that ought to qualify;
3. the appropriate quantum of damages for non-economic loss, including how damages are to be calculated and whether damages should be:
  - a) fixed or variable; and
  - b) capped or uncapped;
4. whether other types of damages awarded for non-economic loss for wrongful death should be deducted from any damages awarded for non-economic loss for wrongful death under the Act;
5. the measurable financial impact of any recommended changes on plaintiffs, insurers and the Government; and
6. any other related matter.

I request that you provide me with your Final Report by 29 March 2019.

**Hon John Quigley MLA**

26 February 2018



## APPENDIX 2: ANNUAL ESTIMATES

In accordance with Treasurer's Instruction 953, the annual estimates for the 2018-19 year are hereby enclosed in the 2017-18 Annual Report. These estimates do not form part of the 2017-18 financial statements and are not subject to audit.

### Law Reform Commission

#### SECTION 40 ESTIMATES 2018 – 2019

In accordance with Treasurer's Instruction 952, the annual estimates for the 2018-19 year are hereby enclosed in the 2017-18 Annual Report. These estimates do not form part of the 2017-18 financial statements and are not subject to audit.

	2016-17 Actuals \$000	2017-18 Estimated Actuals \$000	2018-19 Section 40 Estimates \$000
<b>Statement of Comprehensive Income</b>			
<b>COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefit expenses	104	105	106
Supplies and services	274	247	258
Other expenses	10	4	4
Law Reform References		75	461
<b>Total cost of services</b>	388	431	829
<b>Income</b>			
<b>Total income from other than State Government</b>			
Other Revenue	-	-	-
	-	-	-
<b>INCOME FROM STATE GOVERNMENT</b>			
Service appropriation	-	-	-
Services received free of charge	284	251	262
<b>Total income from State Government</b>	284	251	262
<b>(DEFICIT) FOR THE PERIOD</b>	(104)	(180)	(567)

## APPENDIX 2: ANNUAL ESTIMATES (Continued)

### Law Reform Commission

#### SECTION 40 ESTIMATES 2018 – 2019

	2016-17 Actuals \$000	2017-18 Estimated Actuals \$000	2018-19 Section 40 Estimates \$000
<b>Statement of Financial Position</b>			
<b>Current Assets</b>			
Cash and cash equivalents	1,142	962	395
Receivables	-	-	-
<b>Total Current Assets</b>	1,142	962	395
<b>TOTAL ASSETS</b>	1,142	962	395
<b>Current Liabilities</b>			
Payables			
<b>Total Current Liabilities</b>	-	-	-
<b>TOTAL LIABILITIES</b>	-	-	-
<b>NET ASSETS</b>	1,142	962	395
<b>EQUITY</b>			
Contributed equity	17	17	17
Accumulated surplus	1,125	945	378
<b>TOTAL EQUITY</b>	1,142	962	395
<b>Statement of Changes in Equity</b>			
<b>Contributed equity at start of period</b>	17	17	17
Equity contributions during the period	-	-	-
<b>Contributed equity at the end of the period</b>	17	17	17
<b>ACCUMULATED SURPLUS</b>			
Balance at start of period	1,229	1,125	945
(Deficit) for period	(104)	(180)	(567)
<b>Accumulated surplus at the end of the period</b>	1,125	945	378
<b>Balance of equity at end of period</b>	1,142	962	395

## APPENDIX 2: ANNUAL ESTIMATES (Continued)

### Law Reform Commission SECTION 40 ESTIMATES 2018 – 2019

	2016-17 Actuals \$000	2017-18 Estimated Actuals \$000	2018-19 Section 40 Estimates \$000
<b>Statement of Cash Flows</b>			
<b>CASH FLOWS FROM STATE GOVERNMENT</b>			
Appropriation	-	-	-
<b>Net cash provided by State Government</b>	-	-	-
<b>Utilised as follows:</b>			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments</b>			
Employee benefits	(104)	(105)	(106)
Supplies and services	(117)	(75)	(461)
GST payments on purchases	-	(8)	(46)
<b>Receipts</b>			
GST receipts from taxation authority	12	8	46
<b>Net cash provided by/(used in) operating activities</b>	(209)	(180)	(567)
Net (decrease) in cash held	(209)	(180)	(567)
Cash assets at the beginning of the financial year	1,351	1,142	962
<b>CASH &amp; CASH EQUIVALENTS AT THE END OF PERIOD</b>	1,142	962	395



THE LAW REFORM COMMISSION  
*of*  
WESTERN AUSTRALIA