



THE LAW REFORM COMMISSION
of
WESTERN AUSTRALIA

ANNUAL REPORT

1 July 2019 – 30 June 2020

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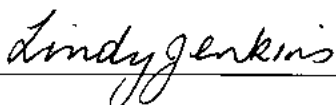
Statement of Compliance with the *Financial Management Act 2006* For the year ending 30 June 2020

Hon John Quigley MLA
Attorney General

In accordance with section 63 of the *Financial Management Act 2006*, 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 2020.

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

Yours sincerely



The Hon Lindy Jenkins

Chair of the Law Reform Commission of
Western Australia

1 October 2020



Ms Kirsten Chivers

Member of the Law Reform Commission
of Western Australia

1 October 2020

This report provides an overview of the activities of the Law Reform Commission of Western Australia (Commission) during 2019-20.

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, Disclosures and Legal Compliance, covers all financial statements, governance requirements and a breakdown of key performance indicators.

Appendix 1 outlines the Commission's current references.

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.

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

LAW REFORM COMMISSION CONTACT DETAILS

Street and postal address:

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

Telephone: (08) 9264 1340

Website: www.lrc.justice.wa.gov.au

Email: lrcwa@justice.wa.gov.au

In the last year the Commission has undergone some changes in its composition; Dr David Cox, Ms Fiona Seaward and Dr Eileen Webb retired from the Commission after making substantial contributions to its work over many years. The Commission extends its gratitude to the former members for their hard work and diligence. In their respective places the Commission has welcomed Dr Sarah Murray and Ms Kirsten Chivers, two well qualified practitioners who will undoubtedly make valuable contributions to the work of the Commission.

In the reporting year, the Commission:

- published a Discussion Paper and Final Report for the reference: 'Maintenance and Champerty in Western Australia';
- completed a tender application process for researchers and writers for the complete terms of reference for: 'Review of the *Equal Opportunity Act 1984* (WA)';
- completed the economic analysis for the reference 'Review of the *Fatal Accidents Act 1959* (WA)';
- engaged Clayton Utz as the project writer for the reference: 'Review of the *Equal Opportunity Act 1984* (WA)'; and
- worked with the project writers, providing guidance and reviewing drafts.

The Commission is well placed to publish a final report for the Review of the *Fatal Accidents Act 1959* (WA)' at the end of 2020.

COMPLETED REFERENCES

Maintenance and Champerty in Western Australia

The Commission made seven recommendations in its 2015 Representative Proceedings Final Report. The seventh recommendation was: *'that, in conjunction with any implementation of the above recommendations, consideration be given by government to whether the torts of maintenance and champerty should be abolished or whether the law in relation to their operation should be otherwise modified in Western Australia'*.

Accordingly, on 16 July 2018, the Attorney General, the Hon John Quigley MLA, instructed the Commission to provide advice and make recommendations for consideration by the Government on whether the torts of maintenance and champerty should be abolished or whether the law in relation to their operation should be otherwise modified in Western Australia and any consequential amendments. This will be provided as a supplementary report to the Representative Proceedings report.

The analysis includes:

1. whether a statutory provision is required to preserve the rule that provides for contracts giving effect to arrangements for maintenance and champerty to be void and/or illegal as being contrary to public policy; and
2. strategies for mitigating the adverse impacts, if any, of abolishing the torts.

The Commission engaged a researcher and writer for this project from within the Department of Justice (the Department). The Discussion Paper was released for public comment in September 2019 and the Final Report was sent to the Attorney General on 13 February 2020. The Final Report will be tabled in Parliament and published on the Commission's website this coming reporting 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 of the *Equal Opportunity Act 1984* (WA), for which Clayton Utz an independent law firm, was engaged.

CURRENT REFERENCES

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 process for this reference was completed during the 2018-19 financial year and two legal research writers, Adam Nolan and Thomas Offer 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. An economic analysis was undertaken to inform the Final Report for the project. The economic analysis was undertaken by Taylor Fry, who successfully tendered for the work. The legal research writers will complete a draft of the Final Report for the consideration of the Commission in view of the economic analysis, with an expected publication date in the first half of the upcoming reporting year.

Review of the *Equal Opportunity Act 1984* (WA)

On 28 February 2019, the Attorney General, the Hon John Quigley MLA, instructed the Commission to provide advice and make recommendations for consideration by the Government on possible amendments to enhance and update the *Equal Opportunity Act 1984* (WA) taking into account Australian and international best practices regarding equality and non-discrimination. In undertaking its review, the Commission is to consider relevant legislation in other jurisdictions, relevant Western Australian reviews, including the Equal Opportunity Commission's 2007 review of the Act, relevant Commonwealth reports, including those on religious freedom, and relevant international reports and agreements.

The Commission conducted a preliminary review into whether there is a need for any reform, and if so, the scope of reform regarding the exceptions to grounds of discrimination including those for religious institutions (item (g) of the Terms of Reference). Corrs Chambers Westgarth was engaged to provide the research and writing services for this part of the project. In the 2019-20 financial year the Attorney General instructed the Commission to commence work on the remainder of the Terms of Reference. A tender process was completed in May 2020 and independent legal firm Clayton Utz, was engaged as legal research writers for the remainder of the project. The completion of this project has been delayed by the effects of the COVID-19 pandemic. Nevertheless the Discussion Paper and Final Report are anticipated before the end of the next reporting 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 laws and proposing new ways 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.

As the Commission's previous Chairman's appointment ceased in August 2020 at the end of this reporting period, it is appropriate to have regard to his outgoing personal message which is produced below. The Commission is indebted to Dr Cox and thanks him for his work with the Commission during his six year appointment.

The Hon. Lindy Jenkins
Chair

PERSONAL MESSAGE FROM THE OUTGOING CHAIR

The 2019-20 financial year began with the Commission undertaking its ongoing work. Shortly after the dawn of 2020, the work of the Commission, as with much of the public and private sectors, was thrown into turmoil with the COVID-19 response. Despite the turmoil, the Commission has nonetheless been able to remain productive throughout the shutdown and the subsequent re-awakening of the Western Australian economy. The Commission completed its reference on the review of 'Maintenance and Champerty in Western Australia' and continued work on the 'Review of the *Equal Opportunity Act 1984* (WA)' and the 'Review of the *Fatal Accidents Act 1959* (WA)'. Project writers have been engaged for both references and work is well underway with a Final Report anticipated early next financial year for the *Fatal Accidents Act 1959* (WA).

Since July 2014, the Department of Justice (the Department) 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 Commission continues to be very grateful to the Department for the financial and in-kind support that it has received to date.

The Commission does not receive a recurrent budget from which to remunerate members and conduct its projects, and over the past few years it has drawn from existing resources to pay these expenses. The Commission and the Department will consider whether Treasury ought to be approached for funding or whether the Commission's funding should be included in the Department's budget.

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 implicit in 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. At a ceremony in February 2019, the Commission and the Attorney General signed a formal Charter to affirm the Commission's independence. On 7 February 2020 a Memorandum of Understanding was entered into between the Department and the Commission to further affirm the Commission's independence and obviate any suggestion that the Commission is less independent as a result of whatever funding arrangements exist now and into the future.

PERSONAL MESSAGE FROM THE OUTGOING CHAIR (cont.)

FINAL THANKS

As mentioned above, the Department provides the Commission with administrative support. That support has primarily been supplied by Dominic Fernandes, acting as the Commission's Executive Officer, with executive support provided by Priya Pillay. The work undertaken by Dominic and Priya is gratefully acknowledged. Without the assistance of these tireless and dedicated public servants, the productivity of the Commission would have been substantially reduced. It would not have been possible to deliver the high quality Final Report in the Commission's review of Maintenance and Champerty within the requested time frame without their assistance. Each of the Commissioners wish to express their appreciation for the efforts of Dominic and Priya and throughout the year. They are exemplary public servants and the Commission's work has been enriched by both of them in more ways than I can count.

More generally, the Commission recognises the outstanding support that the Department has provided the Commission over the past year and the Commission hopes that this support will continue for many years to come. The executive and project management assistance that the Department provides relieves the Commissioners of many of the administrative tasks that they would otherwise be required to do in order to keep the Commission operational, and it allows them to focus on providing high quality advice in the reports that it prepares. There are too many people in the Department who deserve thanks for their efforts over the past year. They know who they are. 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. It cannot be easy for the Director General to manage his Department in circumstances where the Commission is regularly seeking the assistance of his staff. The Commission is extremely grateful to the Director General for his tolerance, commitment and support.

This is my final year with the Commission. I retire from my role at the expiration of my current term on 5 August 2020. It has been an honour to serve the Attorney General and the people of Western Australia for the past six years as Chair of the Commission. When I commenced in my role the Commission was in the final stage of a re-organisation that many thought would be the death knell of the Commission. Through the hard work of the Commission and the administrative assistance provided by the Department, the Commission has not only survived, but has blossomed. Throughout my tenure the Commission has remained productive, in no small part as a result of the hard work and professionalism of the Department's staff; Dominic Fernandes, Sarah Burnside, David Major, Emily Priest, Priya Pillay and Ruth Brennan. I would also like to thank the Commissioners; Alan Sefton, Augusto Zimmerman, Fiona Seaward, Eileen Webb, Sarah Murray and Kirsten Chivers. These past and present members of the Commission have made my job as Chair uncomplicated and rewarding. I am honoured to have served with these fine jurists. The Commission is more than the work of one person and I am confident that through the work of Sarah Murray and Kirsten Chivers I am leaving the Commission in safe and fine hands. I look forward to reading the future work of the Commission, and move on in the knowledge that the Commission provides a valuable service to the people of Western Australia.

On a personal note, I would like to thank the Attorney General, the Hon John Quigley MLA. The support that Minister Quigley has given the Commission has been unwavering and cannot be overstated.

Dr David Cox
Chair

25 June 2020

EXECUTIVE SUMMARY

The Commission's function is to prepare and submit to the Attorney General proposals for the review of any area of law with a view to reform the law. In the current COVID-19 milieu the need for an entity like the Commission rises to the fore. The Commission achieves its objectives 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 the Attorney General 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 the 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

Maintenance and Champerty in Western Australia

On 16 July 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 the torts of maintenance and champerty should be abolished, or whether the law in relation to their operation should be otherwise modified in Western Australia (Project 110). This followed the Commission's seven recommendations

in its 2015 Representative Proceedings Final Report which included the recommendation *'that, in conjunction with any implementation of the above recommendations, consideration be given by government to whether the torts of maintenance and champerty should be abolished or whether the law in relation to their operation should be otherwise modified in Western Australia'*.

The tort of maintenance occurs when a third party supports or interferes with another person's litigation without sufficient justification, and champerty occurs when it does so in exchange for a share of the winnings. This was a niche reference which garnered thoughtful consideration within the legal profession. The Final Report was provided as a supplementary report to the Representative Proceedings report. The reference is indicative of the success of the Commission's broad consideration of state laws and progressive mandate to remain up to date and relevant to the needs of Western Australian society.

The analysis included:

1. whether a statutory provision is required to preserve the rule that provides for contracts giving effect to arrangements for maintenance and champerty to be void and/or illegal as being contrary to public policy; and
2. strategies for mitigating the adverse impacts, if any, of abolishing the torts.

The Commission engaged a researcher and writer for the project from within the Department of Justice. The Discussion Paper was released for public comment on 19 September 2019. Final submissions from stakeholders were closed on 1 November 2019 and the Final Report was sent to the Attorney General in February 2020. The Final Report is currently awaiting tabling in Parliament and the Commission anticipates it will be published on the Commission's website in late 2020.

Other ongoing references

The Commission is continuing work to review, provide advice and make recommendations for consideration by the State Government as to whether there should be any reform, and the extent of any reform, as part of the following references:

- Claims for Non-economic loss under the *Fatal Accidents Act 1959*; considering whether a solatium payment for families may be introduced to compensate for grief and loss after the death of a family member (Project 109).
- Review of the *Equal Opportunity Act 1984*; considering possible amendments to enhance and update the Act, taking into account Australian and international best practices regarding equality and non-discrimination (Project 111).

The Commission expects to publish its Final Report for Project 109 in the first half of the upcoming financial year.

TECHNOLOGICAL AND ADMINISTRATIVE CHANGES

To facilitate the citation and reference to the Commission's considerable body of work, all publications are available in electronic format as a pdf document.

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 2019-20, the Commission's website had 24,250 unique page views. The Commission's 2006 Aboriginal Customary Laws (Project 94) remains the most accessed page on the site, with current projects garnering the next largest proportion of public interest. Project 94 remains current despite being finalised many years ago. This is a worthy example of the value of reports from Commissions such as ours, which highlight to government and the public areas in which valued law reform might be undertaken.

The Commission's upgraded website continues to ensure it delivers high quality useful, usable and accessible online information to all users, including people with disabilities who may use assistive technologies. The website is regularly assessed against usability and readability guidelines as well as World Wide Web Consortium best practice.

During the financial year, the Commission processed 93 letters, emails and telephone calls from members of the

public. This was a lower number than previous years, due in part because public submissions for the Equal Opportunity reference had not yet been invited. The lower number was also due to the niche subject matter of the *Maintenance and Champerty* and *Fatal Accidents* references. All projects remain of vital importance to the Commission's mandate to advise government on keeping the laws of Western Australia up to date and relevant to the needs of society.

Through an ongoing arrangement to facilitate the Commission's administrative duties, executive support and project management functions continued to be provided by the Department of Justice.

FINANCIAL FORECAST

The Department of Justice provided executive support and project management to the Commission free of charge pursuant to a memorandum of understanding which is reviewed annually. The cost of the services were accommodated within the Department's budget.

Enabling legislation

The Law Reform Commission was established as a Statutory Authority under the *Law Reform Commission Act 1972* 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 law 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.

Chair

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

Dr David Cox BSc (Hons), PhD (UWA), LLB (Hons) (Murd) was the Chair during the reporting period and had been reappointed in this role annually since 2014. He is a barrister at 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. Dr Cox's tenure as Commissioner was extended by the Attorney General in August 2018 until August 2020. In view of the *Law Reform Commission Act 1972* section 7 that no member may hold a term for longer than 6 years, Dr Cox retired from the Commission in August 2020.

Retiring Members

Ms Fiona Seaward (BComm, LLB (Hons) (UWA), LLM (ANU)) joined the Commission in August 2015 and retired on 5 September 2019. She is a Senior Assistant State Solicitor employed in the State Solicitors 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 (BA (Asian Studies) (Griffith), DipEd (UQ), LLB (Hons), Master of Laws (QUT), PhD (UWA)) joined the Commission in August 2017 and retired in August 2019. Dr Webb is an adjunct professor at the Curtin Law School (Curtin). She researches in real property law, particularly housing and tenancy law, competition and consumer law (including small business law) and elder law. Dr Webb coordinates and teaches the elder law programs at Curtin and the School of Law at the University of South Australia.

Members during Reporting Period

Dr Sarah Murray (Professor, BA (Hons), LLB (Hons), PhD (Monash)) joined the Commission as a special member in June 2019 and as a Commissioner in August 2019. She is a Professor at the University of Western Australia Law School where she has worked as an academic since 2007. She is the Western Australian Convenor and a Council Member of the Australian Association of Constitutional Law and a co-Convenor of the Electoral Regulation and Research Network. Dr Murray graduated from the University of Western Australia Law School with a Bachelor of Arts (First Class Honours in Anthropology) and a Bachelor of Laws (First Class Honours). Her PhD from Monash University was awarded the 2011 Mollie Holman Doctoral Medal for Law. Dr Murray has published across a range of Australian and international journals.

Ms Kirsten Chivers (LLB (Hons) Murdoch) joined the Commission in November 2019. Ms Chivers holds a Bachelor of Laws with Merit Honours from Murdoch University. She is an Advisor at the State Solicitor's Office, where she has worked since 2002. In her practice, Ms Chivers provides legal advice to the State Government in relation to a broad range of issues, including in relation to administrative law, parliament and parliamentary committees, statutory interpretation and the fields of freedom of information, privacy and information sharing. Ms Chivers is also the Head of Professional Development for the State Solicitor's Office, overseeing the development and training of all junior solicitors.

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.

Fees payable to part-time members from private legal practice are determined on a formula related to 35% of the median base salary paid to a Level D academic employee under the UWA Academic Agreement 2017 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

The following table outlines the remuneration for Commission members during the reporting period:

Law Reform Commission of Western Australia				
Name	Position	Type of remuneration	Period of membership (as at 30 June)	Gross/actual remuneration
Dr David Cox	Chair (part time)	Honorarium	5 years, 10 months	\$54,024 pa
Ms Kirsten Chivers	Member (part time)	None [#]	7 months	Not applicable
Dr Sarah Murray	Member (part time)	Honorarium	10 months	\$43,860 pa
Total:				\$97,884

[#] As Ms Chivers 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 2019-20, Mr Dominic Fernandes, Director, Legislative Services at the Department of Justice served as Executive Officer for the Commission and was responsible for coordinating legal research activities, executive support and project management of the various references.

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 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 Act 2000*
- *State Records (Consequential Provisions) Act 2000*
- *State Superannuation Act 2000*
- *State Supply Commission Act 1991*
- *Criminal Code 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.

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

Legislative change

There were no statutory changes or significant judicial decisions affecting the Commission in 2019-20.

Meetings of the Commission

The Commission held six formal Commission meetings during the 2019-20 financial year. In addition, the Commission conducted meetings with various stakeholders and contractors in regards to the references undertaken during the financial year, as well as holding meetings with the Attorney General.

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 2019-20.

SHARED RESPONSIBILITIES WITH OTHER AGENCIES

The Commission did not share any responsibilities with other agencies in 2019-20.

REPORT ON OPERATIONS

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

The Commission is continuing work on a reference regarding non-economic loss under the *Fatal Accidents Act 1959*, 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 *Fatal Accidents Act 1959*.

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 Commission has engaged project researchers and writers, along with a contractor to undertake an economic analysis of proposed changes to the regime.

The Discussion Paper was published in the 2019-20 financial year and the Final Report is due 29 November 2020.

Maintenance and Champerty in Western Australia

This financial year the Commission completed the reference to provide advice and make recommendations for consideration by the Government as to whether the torts of maintenance and champerty should be abolished. The Commission reviewed whether the law in relation to maintenance and champerty operation should be otherwise modified in Western Australia and any consequential amendments.

The Commission engaged an internal researcher and writer for this project. The reference was produced as a supplementary report to the Commission's 2015 Representative Proceedings Final Report and the report currently awaits tabling in parliament.

Both the Discussion Paper and Final Report were published during the 2019-20 financial year.

Review of the *Equal Opportunity Act 1984* (WA)

The Commission continued work on last year's reference to provide advice and make recommendations for consideration by the Government on possible amendments to enhance and update the *Equal Opportunity Act 1984* (WA) taking into account Australian and international best practices regarding equality and non-discrimination.

The Commission undertook some preliminary research into whether there is a need for any reform, and if so, the scope of reform regarding the exceptions to grounds of discrimination, including those for religious institutions at item (g) of the Terms of Reference. The law firm Corrs Chambers Westgarth was engaged to provide the research and writing services for this part of the project.

In August 2019 the Attorney General instructed the Commission to invite tenders to complete the remaining terms of reference for the project. In May 2020, the law firm Clayton Utz was engaged to provide the research and writing services. The Final Report is expected in June 2021.

KEY PERFORMANCE INDICATORS

ACTUAL RESULTS VS BUDGET TARGETS

Summary of Key Performance Indicators	2020 Target ¹	2020 Actual	Variation
Outcome: <i>The law is reviewed as requested by the Attorney General and stakeholders are kept informed.</i>			
Key Effectiveness Indicator: 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
Service: <i>Publications on Law Reform</i>			
Key Efficiency Indicator:			
Average Cost per Publication	\$94,683	\$145,492	\$50,809
Total Community Contacts ²	500	102	(398)
Average Cost per Contact	\$29.90	\$225.22	\$195.32
Number of Publications on Law Reform	3	3	3

1 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 2019-20 were set at the beginning of the financial year.

2 Total community contacts were set in Commission Minutes dated 2 July 2019 and were based on expected community contacts for the *Equal Opportunity* Project 111 reference. Project 111 was put on hold in August 2019 at the request of the Attorney General due to the Commonwealth Government referring the framework for religious exemptions in anti-discrimination legislation to the Australian Law Reform Commission. Subsequently public submissions were not invited in the 2019-20 financial year.

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.

The COVID-19 pandemic and the associated need for social distancing has impacted on how agencies consult with the public. While the process of consultation is well in hand, the Commission needs to ensure that consultations remain reflective of the broader community.

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.

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 need for reform to allow for claims for non-economic loss for wrongful death;
- the need for the continued operation of the torts of maintenance and champerty in Western Australia; and
- a review of the *Equal Opportunity Act 1984* (WA).

In 2019-20 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

In order to manage the ongoing pressures on agency workloads as a result of the COVID-19 pandemic the Public Sector Commission and the Office of the Auditor General released a Temporary Treasurer's Instruction reflected in the Financial Administration Bookcase in June 2020. The instruction temporarily reduced the reporting requirements for Annual Reports. The Commission has not reduced the reporting measures in the 2019-20 Annual Report and as such, fulfils the unamended requirements of the *Financial Management Act 2006* (WA).

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 and Final Report on the *Maintenance and Champerty* reference were published during the financial year. In addition, the Commission published a Discussion Paper on the *Fatal Accidents Act* reference with a final report expected in the first half of the 2020-21 financial year. The Commission expects a discussion paper and final report for the *Equal Opportunity* reference at the conclusion of next financial year.



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 2020, 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 2020 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 Responsibility 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 entity'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.

A further description of my responsibilities for the audit of the financial statements is located on the Auditing and Assurance Standards Board website at https://www.auasb.gov.au/auditors_responsibilities/ar4.pdf. This description forms part of my auditor's report.

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 2020.

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 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 non-compliance 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 2020. The key performance indicators are the Under Treasurer-approved key effectiveness indicator and key efficiency indicator 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 agency's performance and fairly represent indicated performance for the year ended 30 June 2020.

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 entity'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 2020 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 contact the entity to confirm the information contained in the website version of the financial statements and key performance indicators.



MARK AMBROSE
SENIOR DIRECTOR FINANCIAL AUDIT
Delegate of the Auditor General for Western Australia
Perth, Western Australia
7 October 2020

Law Reform Commission of Western Australia

Disclosures and legal compliance


Financial Statements

Certification of financial statements

For the reporting period ended 30 June 2020

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 2020 and the financial position as at 30 June 2020.

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.



The Hon Lindy Jenkins
Chair of the Law Reform Commission WA

1 October 2020



Ms Kirsten Chivers
Member of the Law Reform Commission WA

1 October 2020



John Deery
Chief Finance Officer

1 October 2020



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 2020 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:

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FINANCIAL STATEMENTS

Law Reform Commission of Western Australia
PRIMARY FINANCIAL STATEMENTS

Statement of comprehensive income

For the year ended 30 June 2020

	Note	2020 \$	2019 \$
COST OF SERVICES			
Expenses			
Employee benefits expense	2.1	114,836	105,088
Supplies and services	2.2	341,316	529,074
Other expenditure	2.2	3,295	10,018
Total cost of services		459,447	644,180
Income			
Other revenue	3.2	-	24
Total Revenue		-	24
Total income other than income from State Government		-	24
NET COST OF SERVICES		459,447	644,156
Income from State Government			
Services received free of charge	3.1	171,619	179,093
Total income from State Government		171,619	179,093
DEFICIT FOR THE PERIOD		(287,828)	(465,063)
TOTAL COMPREHENSIVE LOSS FOR THE PERIOD		(287,828)	(465,063)

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



FINANCIAL STATEMENTS

Law Reform Commission of Western Australia
PRIMARY FINANCIAL STATEMENTS

Statement of financial position

As at 30 June 2020

	Note	2020 \$	2019 \$
ASSETS			
Current Assets			
Cash and cash equivalents	5.1	360,271	739,304
Receivables	4.1	10,754	16,000
Total Current Assets		<u>371,025</u>	<u>755,304</u>
TOTAL ASSETS		<u>371,025</u>	<u>755,304</u>
LIABILITIES			
Current Liabilities			
Payables	4.2	<u>83,622</u>	<u>180,073</u>
Total Current Liabilities		<u>83,622</u>	<u>180,073</u>
TOTAL LIABILITIES		<u>83,622</u>	<u>180,073</u>
NET ASSETS		<u>287,403</u>	<u>575,231</u>
EQUITY			
Contributed equity	7.8	17,000	17,000
Accumulated surplus	7.8	<u>270,403</u>	<u>558,231</u>
TOTAL EQUITY		<u>287,403</u>	<u>575,231</u>

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



FINANCIAL STATEMENTS

Law Reform Commission of Western Australia
PRIMARY FINANCIAL STATEMENTS

Statement of changes in equity

For the year ended 30 June 2020

	Note	Contributed equity \$	Accumulated surplus \$	Total equity \$
Balance at 1 July 2018	7.8	17,000	1,023,294	1,040,294
Total comprehensive income		-	(465,063)	(465,063)
Balance at 30 June 2019		<u>17,000</u>	<u>558,231</u>	<u>575,231</u>
Balance at 1 July 2019		17,000	558,231	575,231
Total comprehensive income		-	(287,828)	(287,828)
Balance at 30 June 2020		<u>17,000</u>	<u>270,403</u>	<u>287,403</u>

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



FINANCIAL STATEMENTS

Law Reform Commission of Western Australia
PRIMARY FINANCIAL STATEMENTS

Statement of cash flows

For the year ended 30 June 2020

	Note	2020 \$	2019 \$
CASH FLOWS FROM STATE GOVERNMENT			
Service appropriation		-	-
Net cash provided by State Government		-	-
Utilised as follows:			
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee benefits		(113,974)	(104,739)
Payments for supplies and services (inc. GST)		(265,059)	(196,296)
Receipts			
GST receipts from taxation authority		-	-
Net cash used in operating activities		<u>(379,033)</u>	<u>(301,035)</u>
Net (decrease) in cash and cash equivalents		(379,033)	(301,035)
Cash and cash equivalents at the beginning of the reporting period		<u>739,304</u>	<u>1,040,339</u>
CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD	5.1	<u><u>360,271</u></u>	<u><u>739,304</u></u>

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

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

1. Basis of preparation

The Law Reform Commission of Western Australia (the Commission) is a WA Government entity and is controlled by the State of Western Australia, which is the ultimate parent. The Commission 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 Commission on 1 October 2020.

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)
- 3) Australian Accounting Standards (AASs) – Reduced Disclosure Requirements
- 4) Where appropriate, those AASs paragraphs applicable for not-for-profit entities have been applied.

The *FMA* and the Instructions take precedence over AASs. Several AASs 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.

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

2. 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	2020 \$	2019 \$
Employee benefits expenses	2.1	114,836	105,088
Supplies and services	2.2	341,316	529,074
Other expenditure	2.2	3,295	10,018

2.1 Employee benefits expenses

	2020 \$	2019 \$
Board member fees	104,841	95,971
Superannuation - defined contribution plans	9,995	9,117
	<u>114,836</u>	<u>105,088</u>

Salaries and wages:

Employee expenses include all costs related to employment including salaries and wages, 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 Government Employees Superannuation Board (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.

2.2 Supplies and Services and Other expenditure

	2020 \$	2019 \$
Supplies and services		
Business and Finance Services ^(a)	20,485	6,899
Shared Information Services ^(a)	123,231	140,294
Policy and Aboriginal Services ^(a)	10,878	6,942
Services and contracts ^(b)	185,856	372,675
Communications ^(a)	866	2,264
Total supplies and services expenses	<u>341,316</u>	<u>529,074</u>
Other expenditure		
Printing ^(a)	3,295	10,018
Total other expenditure	<u>3,295</u>	<u>10,018</u>
Total supplies and services and other expenditure	<u>344,611</u>	<u>539,092</u>

(a) Services received free of charge. These items of expenditure were provided in line with the terms of the Memorandum of Understanding with the Department of Justice

(b) Services and contracts contain \$12,864 of Services received free of charge.

Supplies and services:

Supplies and services are recognised as an expense in the reporting period in which they are incurred.

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

3. 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	2020	2019
		\$	\$
Income from State Government	3.1	171,619	179,093
Other revenue	3.2	-	24

3.1 Services received free of charge

	2020	2019
	\$	\$
Services received free of charge from other state government agencies ^(a)		
Department of Justice (Corporate Services)	171,619	179,093
Total services received free of charge	171,619	179,093

- (a) 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.

The application of AASB 15 and AASB 1058 from 1 July 2019 has had no impact on the treatment of Income from State Government.

3.2 Other revenue

	2020	2019
	\$	\$
Other income	-	24
Total other revenue	-	24

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

3. 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	2020	2019
		\$	\$
Income from State Government	3.1	171,619	179,093
Other revenue	3.2	-	24

3.1 Services received free of charge

	2020	2019
	\$	\$
Services received free of charge from other state government agencies ^(a)		
Department of Justice (Corporate Services)	171,619	179,093
Total services received free of charge	171,619	179,093

(a) 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.

The application of AASB 15 and AASB 1058 from 1 July 2019 has had no impact on the treatment of Income from State Government.

3.2 Other revenue

	2020	2019
	\$	\$
Other income	-	24
Total other revenue	-	24

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia
NOTES TO THE FINANCIAL STATEMENTS

4. 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	2020	2019
		\$	\$
Receivables	4.1	10,754	16,000
Payables	4.2	83,622	180,073

4.1 Receivables

	2020	2019
	\$	\$
<u>Current</u>		
GST receivable	10,754	16,000
Total current	10,754	16,000

4.2 Payables^(a)

	2020	2019
	\$	\$
<u>Current</u>		
Trades and other creditors	82,390	179,703
Accrued salaries ^(b)	1,232	370
Total current	83,622	180,073

(a) 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.

(b) Represents 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.

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

5. Financing

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

	Notes
Reconciliation of cash	5.1
Commitments	5.2

5.1 Cash and cash equivalents**Reconciliation of cash**

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:

	2020	2019
	\$	\$
Cash and cash equivalents	360,271	739,304
	<u>360,271</u>	<u>739,304</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.

5.2 Commitments

	2020	2019
	\$	\$
Non-cancellable Contract commitments^(a)		
Commitments for Contract costs are payable as follows:		
Within 1 year	191,676	252,990
Later than 1 year and not later than 5 years	97,971	-
	<u>289,647</u>	<u>252,990</u>

- (a) Contracts have been entered into during 2019-20 for the provision of services to review Western Australian legislation in relation to the non-economic loss for wrongful death under the *Fatal Accidents Act 1959 (WA)*, and for a review of the *Equal Opportunity Act 1984 (WA)*. The contract terms expire when the services have been supplied. Milestone payments are due in terms of the contracts, with the final payments due on acceptance of the Final Reports by the Commission before the expiry of the contracts

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia
NOTES TO THE FINANCIAL STATEMENTS

6. Financial instruments and contingencies

	Notes
Financial instruments	6.1
Contingent assets and liabilities	6.2

6.1 Financial instruments

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

	2020 \$	2019 \$
<u>Financial Assets</u>		
Cash and cash equivalents	360,271	739,304
	<u>360,271</u>	<u>739,304</u>
<u>Financial Liabilities</u>		
Financial liabilities measured at amortised cost	83,622	180,073
	<u>83,622</u>	<u>180,073</u>

6.2 Contingent assets and liabilities

There were no contingent assets and contingent liabilities as at 30 June 2020 (2019: nil).

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

7. 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	7.1
Initial application of Australian Accounting Standards	7.2
Key management personnel	7.3
Related party transactions	7.4
Related bodies	7.5
Affiliated bodies	7.6
Remuneration of auditors	7.7
Equity	7.8
Supplementary financial information	7.9

7.1 Events occurring after the end of the reporting period

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

7.2 Initial application of Australian Accounting Standards

(a) AASB 15 Revenue from Contracts with Customers and AASB 1058 Income of Not-for-Profit Entities

AASB 15 *Revenue from Contracts with Customers* replaces AASB 118 *Revenue* and AASB 111 *Construction Contracts* for annual reporting periods on or after 1 January 2019. Under the new model, an entity shall recognise revenue when (or as) the entity satisfies a performance obligation by transferring a promised good or service to a customer and is based upon the transfer of control rather than transfer of risks and rewards.

AASB 15 focuses on providing sufficient information to the users of financial statements about the nature, amount, timing and uncertainty of revenue and cash flows arising from the contracts with customers. Revenue is recognised by applying the following five steps:

- Identifying contracts with customers;
- Identifying separate performance obligations;
- Determining the transaction price of the contract;
- Allocating the transaction price to each of the performance obligations; and
- Recognising revenue when or as each performance obligation is satisfied.

Revenue is recognised either over time or at a point in time. Any distinct goods or services are separately identified and any discounts or rebates in the contract price are allocated to the separate elements.

In addition, income other than from contracts with customers are subject to AASB 1058 *Income of Not-for-Profit Entities*. Income recognition under AASB 1058 depends on whether such a transaction gives rise to liabilities or a contribution by owners related to an asset (such as cash or another asset) recognised by the Council.

The Council adopts the modified retrospective approach on transition to AASB 15 and AASB 1058. No comparative information is restated under this approach, and the Council recognises the cumulative effect of initially applying the Standards as an adjustment to the opening balance of accumulated surplus/(deficit) at the date of initial application (1 July 2019).

Under this transition method, the Council elects to not apply the standards retrospectively to non-completed contracts at the date of initial application.

Refer to Note 3.1 and 3.2 for the revenue and income accounting policies adopted from 1 July 2019.

The adoption by the Council of AASB 15 and AASB 1058 as at 1 July 2019 resulted in no adjustments and consequently no impact on the opening balance of accumulated surplus/(deficit) at the date of initial application.

(b) AASB 16 *Leases* AASB 16 *Leases* supersedes AASB 117 *Leases and related Interpretations*. AASB 16 primarily affects lessee accounting and provides a comprehensive model for the identification of lease arrangements and their treatment in the financial statements of both lessees and lessors. The adoption of AASB 16 as at 1 July 2019 has had no impact on the Council as the Council has no leases within the scope of AASB 16.

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

7.3 Key management personnel

The Commission has determined that key management personnel include Cabinet Ministers and members 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 members of the Commission for the reporting period are presented within the following bands:

	2020	2019
Compensation Band (\$)		
50,001 – 60,000	1	1
40,001 – 50,000	1	1
0 – 10,000	1	
0 ^(a)	1	1
	2020	2019
	\$	\$
Total compensation of senior officers	114,836	105,088

(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.

7.4 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 member, and their controlled or jointly controlled entities;
- all members 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 GESB

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.

7.5 Related bodies

The Commission had no related bodies during the financial year (2019: nil).

7.6 Affiliated bodies

The Commission had no affiliated bodies during the financial year (2019: nil).

7.7 Remuneration of auditors

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

	2020	2019
	\$	\$
Auditing the accounts, financial statements and key performance indicators	12,865	12,865

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

NOTES TO THE FINANCIAL STATEMENTS

7.8 Equity

The Government holds the equity interest in the Commission on behalf of the community. Equity represents the residual interest in the net assets of the Commission.

Contributed equity

	2020	2019
	\$	\$
Balance at start of period	17,000	17,000
Balance at end of period	<u>17,000</u>	<u>17,000</u>

Accumulated surplus

Balance at start of period	558,231	1,023,294
Result for the period	(287,828)	(465,063)
Balance at end of period	<u>270,403</u>	<u>558,231</u>

Total Equity at end of period

<u>287,403</u>	<u>575,231</u>
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7.9 Supplementary financial information

There were no losses of public moneys or other public property through theft or default during the financial year (2019: nil).

There were no write offs of public money or other public property during the financial year (2019: nil).

There were no gifts of public property during the financial year (2019: nil).

KEY PERFORMANCE INDICATORS

LAW REFORM COMMISSION OF WESTERN AUSTRALIA

AUDITED KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2020

Certification of Key Performance Indicators

We hereby certify that the 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 2020.



The Hon. Lindy Jenkins

Member of the Law Reform Commission
of Western Australia

1 October 2020



Ms Kirsten Chivers

Member of the Law Reform Commission
of Western Australia

1 October 2020



KEY PERFORMANCE INDICATORS

Detailed Information in Support of Key Performance Indicators

GOVERNMENT GOAL: 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.

KEY PERFORMANCE INDICATORS

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 Law Reform Commission of Western Australia (**the Commission**) receives its terms of reference (**TOR**) from the AG and performs reviews of selected legislation at the request of the AG. The extent to which the Commission 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.

The percentage of references proceeding as planned against target timelines:

	2019-2020 Target ^(a)	2019-2020 Actual	2018-2019 ^(a)	2017-2018 ^(a)
% on target	100%	100%	100%	100%

(a) In the 2017-18 to 2019-20 financial years, the final report due date has been set as per the AG's request outlined in the TOR for each project, and extended from time to time.

References	2019-2020	2018-2019	2017-2018
Brought forward	3	2	1
New	0	2	2
Total to be reviewed	3	4	3
References completed during the year	1 (a)	1	1
References with elapsed time	-	-	-

(a) Refer to Table B: *Maintenance and Champerty* Reference, for progress against milestone.

The Commission had three live references in the financial year 2019-20. The effectiveness of each reference is measured separately as shown below.

KEY PERFORMANCE INDICATORS

FATAL ACCIDENTS

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

Table A – Progress towards the *Fatal Accidents* reference

Milestones	TOR referred to LRC	Project Plan completed/signed	Tender process completed/contracts awarded & signed	Project writer engaged	First draft of Discussion Paper	Discussion Paper published	Report to LRC on response to discussion paper & submissions	Draft Report submitted to LRC	Final Report forwarded to AG
Target Date (a)	N/A	May 2018	May – June 2018	N/A	March 2019	30 August 2019	15 July 2020	4 August 2020	29 November 2020 (c)
Actual Date	26 February 2018	17 May 2018	7 August 2018	7 August 2018 (b)	13 March 2019	17 December 2019	-	-	-

Key:

- (a) Interim milestone targets agreed and extended by the Commission. Refer also to (c).
- (b) The project writers for the reference are Adam Nolan and Thomas Offer. In a separate tender process, Taylor Fry was appointed on 28 May 2019 to undertake an economic analysis for the Final Report.
- (c) The original date set by the AG as per the terms of reference was 29 March 2019, this was extended at the request of the Commission.

KEY PERFORMANCE INDICATORS

MAINTENANCE AND CHAMPERTY

Project 110: Maintenance and Champerty in Western Australia.

Table B – Progress towards the *Maintenance and Champerty* reference

Milestones	TOR referred to LRC	Project Plan completed/signed	Tender process completed/contracts awarded & signed	Project writer engaged	First draft of Discussion Paper	Discussion Paper published	Report to LRC on response to discussion paper & submissions	Draft Report submitted to LRC	Final Report forwarded to AG
Target Date	N/A	N/A (a)	N/A (a)	N/A (a)	5 July 2019	16 August 2019	1 October 2019	1 November 2019	29 February 2020 (b)
Actual Date	16 July 2018	N/A (a)	N/A (a)	N/A (a)	5 July 2019	19 September 2019	19 November 2019	5 February 2020	13 February 2020

Key:

- a) The project was internally resourced through the Department of Justice (DOJ), therefore a project plan, tendering process and project writer were not required.
- b) Original date set by the AG as per the terms of reference was 31 May 2019, this was extended at the request of the Commission.

KEY PERFORMANCE INDICATORS

EQUAL OPPORTUNITY ACT

Project 111: Review of the *Equal Opportunity Act 1984* (WA)Table C – Progress towards the *Equal Opportunity Act* reference

Milestones	TOR referred to LRC	Project Plan completed/signed	Tender process completed/contracts awarded & signed	Project writer engaged	First draft of Discussion Paper	Discussion Paper published	Report to LRC on response to discussion paper & submissions	Draft Report submitted to LRC	Final Report forwarded to AG
Target Date (a)	N/A	March 2020	July 2020	July 2020	December 2020	January 2021	March 2021	May 2021	30 June 2021
Actual Date	28 February 2019	-	21 May 2020	21 May 2020 (b)	-	-	-	-	-

Key:

- (a) Date set by the AG, was amended in 2019 to take into account a potential new Commonwealth religious discrimination law and the Australian Law Reform Commission reference regarding the framework of religious exemptions in anti-discrimination legislation which is due after March 2021.
- (b) The project writer for the reference is Clayton Utz. Corrs Chambers Westgarth was appointed on 10 May 2019 to provide project assistance on item (g) of the TOR only.

KEY PERFORMANCE INDICATORS

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 refers to references referred to the Commission in the 2019-20 financial year and comparative years as well as references carried over from previous financial years.

Total community contacts refers to correspondence with stakeholders by Commission representatives in relation to Commission publications and matters of law reform, including 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 2019-20 and previous financial years. The table also identifies the total community contacts and the average cost per contact in the same period.

	Target 2019-2020	Actual 2019-2020	2018-2019	2017-2018	2016-2017
Service:	3	3	4	3	2
Total Publications (a)					
Average cost per publication (b)	\$94,683	\$145,492	\$152,993	\$81,486	\$184,452
Total community contacts	500 (c)	102 (d)	679	497	1,062
Average cost per community contact	\$29.90	\$225.22 (e)	\$47.44	\$25.89	\$18.28

Key:

- (a) Total publications refers to the number of published, in-progress and completed references during the 2019-20 financial year and includes references carried over from previous financial years.
- (b) The actual average costs per publication is comparable to 2018-19, but is higher than target due to the new Equal Opportunity Act reference not being included in the target estimates and the extension of the Fatal Accidents reference.
- (c) The target for 2019-2020 anticipated high community contacts in response to a Discussion Paper for the Equal Opportunity reference previously due in 2020. Subject to the Australian Law Reform Commission's anticipated report on the framework of religious exemptions in anti-discrimination legislation, the Discussion Paper was postponed at the request of the AG and stakeholder submissions were not invited. This resulted in the difference between target and actual community contacts.
- (d) The lower actual number of community contacts compared to 2018-19 reflects the completion of the Maintenance and Champerty reference and the niche subject matters of the Fatal Accidents and Maintenance and Champerty references. See also (c).
- (e) The higher actual average cost per community contact in the 2019-2020 financial year reflects the lower number of actual community contact as outlined in (d) above.

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	2019-20	2018-19
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 of Justice'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 2019-20 financial year.

Category	Amount
Advertising agencies	Nil
Market research organisations	Nil
Polling organisations	Nil
Direct mail organisations	Nil
Media advertising organisations	Nil
Total	Nil

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 Street, 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 Charter.

The Commission uses the Department's human resource services and the Executive Officer ensures that 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 including mandated training for all Department of Justice staff assisting the Commission. The Commission has its own Charter which is made available to new members.

In 2019-20 no breach claims were lodged in relation to either the Public Sector Standards or the WA Public Sector Commission's Code of Ethics.

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 April 2019 and provided a report to the State Records Commission that the Commission will not be renewing its RKP and instead will rely on the Department's plan going forward, given all administrative support is provided by Department staff.

The Department'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 the 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.

FREEDOM OF INFORMATION

In 2019-20, the Commission received no freedom of information applications.

It is the aim of the Commission to make information available promptly and at the least possible cost, and whenever possible documents will be provided outside the FOI process.

All of the Commission's publications, including Background Papers, Discussion Papers, Final Reports and Annual Reports

are available to download for free from the Commission's website. The Commission holds other documents which are not published, such as general correspondence, submissions received from stakeholders, minutes of its meetings, contracts and tender documents.

If information is not routinely available, the *Freedom of Information Act 1992* (WA) provides the right to apply for documents held by the Commission and to enable the public to ensure that personal information in documents is accurate, complete, up-to-date and not misleading.

The following information statement is published pursuant to the requirements of the *Freedom of Information Act 1992*.

Access to personal information

No fee or charge is payable for an application for personal information about the applicant. All applications relating to personal information must be in writing. Personal information can be:

- factual or routine information, for example, date of birth, length of employment, qualifications and/or
- opinions or evaluative material such as advice or recommendations of a third party - for example records of interviews, material in personnel records.

Applications to access the personal information of an applicant must be accompanied by proof of identification documentation. All applications lodged on behalf of another person must be accompanied by the written authorisation of the individual on whose behalf the application is lodged.

Amendment of personal information

A person can apply to amend personal information in a document held by the Commission.

Applications to amend the personal information of an applicant must be accompanied by proof of identification documentation.

All applications lodged on behalf of another person must be accompanied by the written authorisation of the individual on whose behalf the application is lodged.

Applicants must provide details and, if necessary, documentation in support of their claim to amend inaccurate, incomplete, out-of-date or misleading information. In addition, applicants must indicate how they want the amendment to be made within the options set out in the *Freedom of Information Act 1992*, including:

- altering information
- striking out or deleting information
- inserting information
- inserting a note in relation to information.

Access to non-personal information

Requests for access to information held by the Commission that do not relate solely to the applicant under the *Freedom of Information Act 1992*, must be made as non-personal applications.

Access applications have to -

- be in writing;
- give enough information so that the documents requested can be identified;
- give an Australian address to which notices can be sent; and
- be lodged at the agency with any application fee payable.

Applications and enquiries should be addressed to the Freedom of Information Coordinator and posted or delivered to:

The Law Reform Commission of Western Australia
Level 23, David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Or emailed to: lrcwa@justice.wa.gov.au

Service delivery

Under the *Freedom of Information Act 1992*, the Commission is required to process requests for information within 45 days of receiving the application. There is provision under section 23 of the *Freedom of Information Act 1992* to refuse access to documents and information on a range of grounds. Applicants have a right of appeal in these cases, initially to the Commission and subsequently to the Information Commissioner.

Notice of decision

The applicant will receive in writing, notice of the Commission's decision relating to the request. The notice will include the following information:

- date of the decision
- name and designation of the decision maker
- reasons for deleting any matter
- reasons for deferring access
- arrangements for giving access
- reasons for refusing access to any matter
- the amount and basis for any charges levied and
- the rights of review and procedures to be followed.

Review rights

Applicants have the right to submit a written request for a review of the decision. This must be done within 30 days after being given notice of the decision. The review is to be conducted by a person other than the person who made the original decision. The Commission must respond with a written notice of decision within 15 days and no fees are involved.

If the applicant remains unhappy, they may lodge a written complaint to the Office of the Information Commissioner within 60 days following the internal review decision (30 days for third parties). The Commissioner's decision is final unless an appeal is made to the Supreme Court on a question of law.

Charges

The Commission can apply the following charges when processing a non-personal FOI application:

- charge for time taken dealing with the application - \$30.00 per hour
- charge for access time supervised by staff - \$30.00 per hour
- charges for photocopying - \$30.00 per hour for staff time; and 20c per copy
- charges for staff time in transcribing information from a tape or other device - \$30.00 per hour
- charge for duplicating a tape, film or computer information - actual cost
- charge for delivery, packaging and postage - actual cost.

In cases where charges levied are expected to be higher than \$25.00, the applicant will be provided with an estimate of charges as soon as possible after receipt of the application. The Commission reserves the right to request an advance deposit. A reduction in charges may be sought in the case of financial hardship.

GOVERNMENT POLICY REQUIREMENTS

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 2019-20 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. This has been particularly important during the COVID-19 pandemic with the Commission employing remote access tools to facilitate online communication and adhering to increased Departmental hygiene and social distancing requirements.

Annual performance for 2019-20

Measure	Actual Results		Results against Target	
	2016-17 ⁽¹⁾	2019-20 ⁽¹⁾	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 ⁽²⁾	
Percentage of injured workers returned to work:				
(i) within 13 weeks	N/A ⁽³⁾	N/A ⁽³⁾	100%	
(ii) within 26 weeks	N/A ⁽³⁾	N/A ⁽³⁾	Greater than or equal to 80%	
Percentage of managers trained in occupational safety, health and injury management responsibilities	100%	100%	Greater than or equal to 80%	

Note (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 2018-19; previous year is 2015-16).

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

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

GOVERNMENT BUILDING CONTRACTS

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

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.

Claims for Non-Economic Loss for Wrongful Death under the *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 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* (the ‘Act’) and any consequential amendments.

In carrying out its review, the Commission is required to undertake a review on the following:

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
 - 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
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

*Date extended by the Attorney General to 29 November 2020

Review of the *Equal Opportunity Act 1984* (WA)

Pursuant to section 11(2)(b) of the *Law Reform Commission Act 1972* (WA), I hereby refer the matter “Review of the *Equal Opportunity Act 1984* (WA)” for consideration by the Commission in accordance with the terms of reference.

The Law Reform Commission of Western Australia is to provide advice and make recommendations for consideration by the Government on possible amendments to enhance and update the *Equal Opportunity Act 1984* (WA) (“the Act”) taking into account Australian and international best practices regarding equality and non-discrimination.

In carrying out its review, the Law Reform Commission should consider whether there is a need for any reform, and if so, the scope of reform regarding:

- (a) the objects of the Act and other preliminary provisions;
- (b) the grounds of discrimination including (but not limited to) introducing grounds of gender identity and intersex status;
- (c) the areas of public life to which the Act applies;
- (d) definitions in the Act including (but not limited to) discrimination, harassment (including a requirement for disadvantage in a definition of sexual harassment), impairment (including a requirement to make reasonable adjustments for persons with an impairment), victimisation, services and employment;
- (e) the inclusion of vilification, including racial, religious, sexual orientation and impairment vilification;
- (f) the inclusion of a positive duty not to discriminate on grounds covered by the Act;
- (g) exceptions to grounds of discrimination including (but not limited to) those for religious institutions;
- (h) the burden of proof;
- (i) the functions and investigative powers of the Commissioner for Equal Opportunity including (but not limited to) the functions of the Commissioner (either personally or by counsel) assisting complainants in the presentation of their case to the State Administrative Tribunal (“SAT”);
- (j) requirements around the referral of complaints to SAT;
- (k) the role and jurisdiction of SAT under the Act, including the requirement for leave if the complaint is dismissed by the Commissioner;
- (l) interaction with the Commonwealth *Marriage Amendment (Definition and Religious Freedoms) Act 2017* and with other relevant Commonwealth laws or proposed laws;
- (m) any other element of the Act or other laws relevant to equal opportunity and non-discrimination; and
- (n) any related matter.

In undertaking its review, the Law Reform Commission is to consider relevant legislation in other jurisdictions, relevant Western Australian reviews including the Equal Opportunity Commission’s 2007 review of the Act, relevant Commonwealth reports, including those on religious freedom and relevant international reports and agreements.

The Review is to involve a public call for submissions and consultation with relevant stakeholders, including churches, religious schools and institutions, and organisations that represent marginalised groups, including women, Aboriginal peoples, lesbian, gay, bisexual, transgender, queer and intersex people and persons with disabilities.

The Law Reform Commission may undertake its review in stages, considering one or several of the above matters prior to undertaking the broader review of the entire Act.

I request that you provide me with your Final Report by 30 June 2021.

Hon John Quigley MLA
28 February 2019



THE LAW REFORM COMMISSION
of
WESTERN AUSTRALIA

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

Telephone: (08) 9264 1340

Email: lrcwa@justice.wa.gov.au

Website: www.lrc.justice.wa.gov.au