



THE LAW REFORM COMMISSION
of
WESTERN AUSTRALIA

ANNUAL REPORT

1 July 2020 – 30 June 2021

CLICK ON HEADING TO NAVIGATE TO SECTION

Statement Of Compliance	2
About This Report	3
Message From The Chair	4
Overview Of The Law Reform Commission Of Western Australia	6
Executive Summary	6
Performance Highlights	6
Technological and Administrative Changes	7
Financial Forecast	7
Operational Structure	8
Performance Management Framework	11
Agency Performance	12
Report On Operations	12
Key Performance Indicators	12
Significant Issues Impacting The Agency	13
Auditor General's Independent Auditor's Report	14
Disclosures And Legal Compliance	19
Financial Statements	20
Notes To The Financial Statements	25
Key Performance Indicators	33
Certification Of Key Performance Indicators	33
Detailed Information In Support Of Key Performance Indicators	34
Ministerial Directives	38
Other Financial Disclosures	38
Governance Disclosures	38
Other Legal Requirements	38
Government Policy Requirements	41
Appendix 1: Current References	42

STATEMENT OF COMPLIANCE

Statement of Compliance with the *Financial Management Act 2006*

For the year ending 30 June 2021

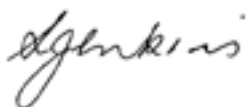
Hon John Quigley MLA

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 2021.

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

6 September 2021



Dr Sarah Murray

Member of the Law Reform
Commission of Western Australia

6 September 2021

ABOUT THIS REPORT

This report provides an overview of the activities of the Law Reform Commission of Western Australia (Commission) during 2020-21.

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 listed right.

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2020-21 MESSAGE FROM THE CHAIR

In the 2020-21 financial year the Commission submitted its Final Report on the review of the *Fatal Accidents Act 1959* to the Attorney General for tabling in Parliament.

Throughout the year the Commission was also working towards publication of a Discussion Paper for the Review of the *Equal Opportunity Act 1984*. After undertaking targeted community consultation, the Discussion Paper was published just after the close of the year, on 31 August 2021.

COMPLETED REFERENCES

Non-economic loss under the *Fatal Accidents Act 1959*

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* and any consequential 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 referred 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 Final Report was submitted to the Attorney General at the end of 2020 however tabling of the report in Parliament was delayed due to the State Government General Election.

The Commission came to the conclusion that the *Fatal Accidents Act 1959* should not be amended at this time however made five recommendations in case the Government decided to amend the legislation to allow for compensation for non-economic loss.

The Final Report was tabled in Parliament on 25 May 2021. On tabling, the Government indicated that it supported the Commission's recommendation that the *Fatal Accidents Act 1959* should not be amended to allow for claims for non-economic loss for wrongful death.

Maintenance and Champerty in Western Australia

The Commission sent to the Final Report on maintenance and champerty to the Attorney General in February 2020. The Final Report was tabled in Parliament on 11 August 2021.

CURRENT REFERENCES

Review of the *Equal Opportunity Act 1984*

On 28 February 2019, the Attorney General 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* 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.

At the request of the Attorney General, 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 to provide the research and writing services for the remainder of the project. The Commission also later engaged Eleni Kannis to assist with research and writing.

The completion of this project was delayed due to:

- the impact of the COVID-19 pandemic;
- relevant developments occurring at the Commonwealth level that widened the project scope; and
- changes in the Commission's membership.

A Discussion Paper was published on 31 August 2021 and the Commission is confident that the Final Report will be completed next year.

MESSAGE FROM THE CHAIR (cont.)

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. Prior to preparation of the Discussion Paper on the Review of the *Equal Opportunity Act 1984* (WA), the Commission consulted with a large number of stakeholders. At all times, 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 defects in current laws and proposing improvements in them, 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.

FINAL THANKS

The Commission is constituted by myself, Dr Sarah Murray and Ms Kirsten Chivers. Dr Murray and Ms Chivers make exceptional contributions to the work of the Commission, despite their commitments to other duties. I am very grateful for their support and their commitment to the Commission.

The Department of Justice provides administrative support to the Commission. I wish to thank the Director General, Dr Adam Tomison, for his continued support, including the assistance of his staff; in particular, Dominic Fernandes, acting as the Commission's Executive Officer, as well as Cassandra Pollock and later, Emily Priest, who provided executive support.

I would also like to expressly thank the Attorney General, the Hon John Quigley MLA.

The Hon Lindy Jenkins
Chair
August 2021

OVERVIEW OF THE LAW REFORM COMMISSION

EXECUTIVE SUMMARY

The Law Reform Commission of Western Australia assists in keeping the law up-to-date and relevant to the needs of society. Upon being referred a matter by the Attorney General, the Commission critically examines the law with respect to that matter, consults with the public and stakeholders and reports to the Attorney General on the results of the examination of that law and makes any recommendations with respect to the reform of that law, that it considers to be desirable.

References may result from proposals submitted to the Attorney General by the Commission, suggestions made by the public or areas of potential law reform identified by the Attorney General. The Attorney General determines the order of priority in which the Commission deals with references. The Attorney General tables the Commission's reports in Parliament as required by the *Law Reform Commission Act 1972*.

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 performing its functions under the *Law Reform Commission Act 1972*.

The community served

It is a critical aspect of law reform to ensure a thorough and balanced examination of the law and to make meaningful and effective recommendations for change where required. In order to maintain this balanced approach, the people of Western Australia are the Commission's primary focus.

The law reform process includes communication and consultation with the public and the relevant stakeholders concerned with particular projects. Moreover, the Commission's work is completed in a 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, or who have expertise in, 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. 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 was tabled in Parliament on 11 August 2021.

OVERVIEW OF THE LAW REFORM COMMISSION (cont.)

Fatal Accidents

As noted above, the Commission completed its review of claims for non-economic loss under the *Fatal Accidents Act 1959* (Project 109). Specifically, the Commission considered whether a solatium payment for families should be introduced to compensate for grief and loss after the death of a family member.

The Final Report was tabled in Parliament on 25 May 2021. On tabling, the Government indicated that it supported the Commission's recommendation that the *Fatal Accidents Act 1959* should not be amended to allow for claims for non-economic loss for wrongful death at this time.

Review of the *Equal Opportunity Act 1984*

The *Equal Opportunity Act 1984* (WA) affects many areas of people's lives. For example, it makes it unlawful to discriminate on the basis of sex and race in Western Australia and it provides exceptions to anti-discrimination laws to permit religious schools and bodies to discriminate in particular circumstances. The review of the Act and its decisions on the best ways to improve and modernise the Act are very large and important matters for the Commission.

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 to the *Equal Opportunity Act 1984*, taking into account Australian and international best practices regarding equality and non-discrimination (Project 111).

The Commission is pleased that during the year it was able to complete its preliminary consultation on the reference and prepare a detailed Discussion Paper, which was released for public consultation on 31 August 2021.

The Commission expects to publish its Final Report for Project 111 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 2020-21, the Commission's website had 30,195

unique page views. The Commission's references on Aboriginal Customary Laws (Project 94) and the *Equal Opportunity Act 1984* (Project 111) were the most accessed pages on the site during this period. That Project 94 remains current despite being finalised many years ago 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.

Through the 2021 upgrade to its website the Commission seeks 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 500 letters, emails and telephone calls from members of the public. The majority of public contacts related to the *Equal Opportunity* reference, despite the fact that public submissions had not yet been invited. Very few contacts related to the *Fatal Accidents* reference, reflecting the completion of that reference early in the financial year.

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.

OPERATIONAL STRUCTURE

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* 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 the 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.

Hon Lindy Jenkins (BA, LLB (Macquarie)) was the Chair during the reporting period following the retirement of the previous Chair, Dr David Cox, in August 2020. In March 2021 she was appointed a Royal Commissioner to inquire into the affairs of the Crown Casino Perth and related matters. She is a retired Supreme Court judge and also

served as a judge of the District Court. After working in New South Wales and the Northern Territory, Hon Ms Jenkins relocated to Western Australia in 1989 to work with the then Crown Solicitor's Office, now known as the State Solicitor's Office. While holding various legal positions, including Deputy Crown Counsel, she appeared in all Western Australian courts, the Federal and High Courts and advised many departments and successive governments. The Hon Ms Jenkins previously served on the WA Law Reform Commission as a part-time member from the Western Australian Crown Solicitor's Office from 1999 to 2001.

Members

Dr Sarah Murray (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 a range of books and across a variety of Australian and international journals.

Ms Kirsten Chivers PSM (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 Acting Deputy State Solicitor 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, as well as leading the Office's COVID-19 response team. Ms Chivers also chairs the State Solicitor's Office law graduate recruitment program, overseeing the employment, development and training of all legal graduates.

Retiring Members

Dr David Cox (BSc (Hons), PhD (UWA), LLB (Hons) (Murd)) was the outgoing Chair. 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

OPERATIONAL STRUCTURE (cont.)

a term for longer than 6 years, Dr Cox retired from the Commission in August 2020.

Former members of the Commission are listed on the Commission's website:

<https://www.wa.gov.au/organisation/law-reform-commission-of-western-australia/about-the-commission>

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* 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.

There is currently no fee determined for full-time members.

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	2 months	\$54,024 pa
Hon Lindy Jenkins	Chair (full time)	None	10 months	\$5,000 ¹
Ms Kirsten Chivers	Member (part time)	None [#]	1 year	Not applicable
Dr Sarah Murray	Member (part time)	Honorarium	1 year	\$43,860 pa
Total:				\$102,884 pa

[#] As Ms Chivers is employed at the State Solicitor's Office under the Public Sector Management Act 1994, she is not entitled to remuneration for her membership of the Commission.

Senior Officer

During 2020-21, 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.

¹ One-time reimbursement for home office and travel expenses.

OPERATIONAL STRUCTURE (cont.)

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* 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 the Commission's current references. 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 2020-21.

Meetings of the Commission

The Commission held 13 formal Commission meetings during the 2020-21 financial year. In addition, the Commission held one meeting with the Attorney General.

PERFORMANCE MANAGEMENT FRAMEWORK

OUTCOME BASED MANAGEMENT FRAMEWORK

Government Goal:

Outcomes based service delivery - greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

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

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

CHANGES TO OUTCOME BASED MANAGEMENT FRAMEWORK

The Commission's Outcome Based Management Framework did not change during 2020-21.

SHARED RESPONSIBILITIES WITH OTHER AGENCIES

The Commission did not share any responsibilities with other agencies in 2020-21.

AGENCY PERFORMANCE

REPORT ON OPERATIONS

Review of the *Fatal Accidents Act 1959*

The Commission completed its work on a reference regarding non-economic loss under the *Fatal Accidents Act 1959*, which considered 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 that Act.

The Terms of Reference for that review included 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 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 was submitted to the Attorney General at the end of 2020. The Final Report was tabled in Parliament on 25 May 2021. On tabling, the Government indicated that it supported the Commission's recommendation that the *Fatal Accidents Act 1959* should not be amended to allow for claims for non-economic loss for wrongful death at this time.

Review of the *Equal Opportunity Act 1984*

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

As per the last annual report, Clayton Utz was awarded the tender to draft the Discussion Paper and Final Report for the reference. The tender process suffered a delay of approximately three months due to COVID-19. As well, changes in the Commission's membership and relevant developments occurring at the Commonwealth level that widened the project scope, resulted in the Attorney General granting an extension of the submission of the Final Report to 2022.

The Commission published the Discussion Paper on 31 August 2021, inviting public consultation to inform the recommendations in the Final Report.

KEY PERFORMANCE INDICATORS

ACTUAL RESULTS VS BUDGET TARGETS

Summary of Key Performance Indicators	2021 Target ¹	2021 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	\$194,750	\$193,570.10	\$1,179.90
Total Community Contacts ²	500	500	N/A
Average Cost per Contact	\$41.00	\$40.75	\$0.25
Number of Publications on Law Reform	2	2	N/A

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 the Department of Justice to estimate potential reference numbers. Target determinations for 2020-21 were set at the beginning of the financial year.

² Total community contacts were set in Commission Minutes dated 3 July 2020 and were based on expected community contacts for the Equal Opportunity Project 111 reference. Although Project 111 was delayed, the reference still generated significant public interest.

SIGNIFICANT ISSUES IMPACTING THE AGENCY

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

The Commission's cash balances are almost fully utilised and are insufficient to fund future commitments. Accordingly, an agreement was reached between the Department of Justice and Treasury that ongoing funding would be incorporated into the Department's Cost and Demand Model (CDM) as part of the 2021-22 Budget process.

The CDM assumes the Department will internally fund the Commission for 2021-22 and provides an annual average funding amount based on the Commission's previous expenditure. This figure is not fixed and will be updated on a yearly basis to reflect an agreed appropriate level of cash expenditure for future years. The Department has undertaken to cover any shortfall resulting from this arrangement.

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; and
- a review of the *Equal Opportunity Act 1984*.

In 2021-22 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 new funding arrangement will enable the Commission, 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 Commission's ongoing resourcing arrangements but it remains guarded about the adequacy of its future funding.

CHANGES IN WRITTEN LAW

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

LIKELY DEVELOPMENT AND FORECAST RESULTS OF OPERATIONS

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

The Final Report on the *Fatal Accidents Act* reference was completed in November 2020. The Commission expects the Final Report for the *Equal Opportunity* reference will be published in the next financial year.

AUDITOR GENERAL'S INDEPENDENT AUDITOR'S REPORT



Auditor General

INDEPENDENT AUDITOR'S OPINION 2021 Law Reform Commission of Western Australia

To the Parliament of Western Australia

Report on the audit of the financial statements

Opinion

I have audited the financial statements of the Law Reform Commission of Western Australia (Commission) which comprise:

- the Statement of Financial Position at 30 June 2021, and the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended
- 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 2021 and the financial position at the end of that period
- in accordance with Australian Accounting Standards, the *Financial Management Act 2006* and the Treasurer's Instructions.

Basis for opinion

I conducted my audit in accordance with the Australian Auditing Standards. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my report.

I am independent of the Commission in accordance with the *Auditor General Act 2006* and the relevant ethical requirements of the Accounting Professional & Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (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.

AUDITOR GENERAL'S INDEPENDENT AUDITOR'S REPORT (cont.)

Responsibilities of the Commission for the financial statements

The Commission is responsible for:

- keeping proper accounts
- preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the *Financial Management Act 2006* and the Treasurer's Instructions
- such internal control as it 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
- 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 responsibilities 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. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.

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

Report on the audit of 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 2021.

AUDITOR GENERAL'S INDEPENDENT AUDITOR'S REPORT (cont.)

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 involves performing procedures to obtain evidence about the suitability of the controls design to achieve the overall control objectives and the implementation of those controls. The procedures selected depend on my judgement, including an 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 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 audit of 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 2021. The key performance indicators are the Under Treasurer-approved key effectiveness indicators and key efficiency indicators that provide performance information about achieving outcomes and delivering services.

In my opinion, in all material respects, the key performance indicators of the Law Reform Commission of Western Australia are relevant and appropriate to assist users to assess the Commission's performance and fairly represent indicated performance for the year ended 30 June 2021.

AUDITOR GENERAL'S INDEPENDENT AUDITOR'S REPORT (cont.)

The Commission's responsibilities 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 it 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 responsibilities

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.

Other information

The Commission is responsible for the other information. The other information is the information in the entity's annual report for the year ended 30 June 2021, but not the financial statements, key performance indicators and my auditor's report.

My opinions do not cover the other information and, accordingly, I do not express any form of assurance conclusion thereon.

AUDITOR GENERAL'S INDEPENDENT AUDITOR'S REPORT (cont.)

Matters relating to the electronic publication of the audited financial statements and key performance indicators

This auditor's report relates to the financial statements, controls and key performance indicators of the Law Reform Commission of Western Australia for the year ended 30 June 2021 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, controls 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, controls or key performance indicators. If users of the financial statements, controls 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, controls and key performance indicators.



Mark Ambrose
Senior Director Financial Audit
Delegate of the Auditor General for Western Australia
Perth, Western Australia
10 September 2021

DISCLOSURES AND LEGAL COMPLIANCE

FINANCIAL STATEMENTS

Law Reform Commission of Western Australia

Disclosures and legal compliance

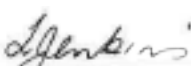
Financial Statements

Certification of financial statements

For the reporting period ended 30 June 2021

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 2021 and the financial position as at 30 June 2021.

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 of
Western Australia

6 September 2021


Dr Sarah Murray
Member of the Law Reform Commission of
Western Australia

6 September 2021


John Deery
Chief Finance Officer

6 September 2021



DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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 2021 which provides users with the information about the Commission's stewardship of resources entrusted to it. The financial information is presented in the following structure:

Index	Page
Financial statements	
Statement of comprehensive income	3
Statement of financial position	4
Statement of changes in equity	5
Statement of cash flows	6
Notes to the financial statements	
1. Basis of preparation	7
Statement of compliance	7
Basis of preparation	7
Judgements and estimates	7
Contributed equity	7
2. Use of our funding	8
Expenses incurred in the delivery of services	8
2.1 Employee benefits expense	8
2.2 Supplies and services	8
2.3 Other expenditure	8
3. Our funding sources	9
How we obtain our funding	9
3.1 Income from State Government	9
4. Other assets and liabilities	10
4.1 Receivables	10
4.2 Payables	10
5. Financing	11
5.1 Cash and cash equivalents	
6. Financial instrument and contingencies	12
6.1 Financial instruments	12
6.2 Contingent assets and liabilities	12
7. Other disclosures	13
7.1 Events occurring after the end of the reporting period	13
7.2 Correction of prior period errors/ changes in accounting policy	13
7.3 Key management personnel	13
7.4 Related party transactions	13
7.5 Related bodies	14
7.6 Affiliated bodies	14
7.7 Remuneration of auditors	14
7.8 Equity	14
7.9 Supplementary financial information	14

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS

Law Reform Commission of Western Australia PRIMARY FINANCIAL STATEMENTS

Statement of comprehensive income

For the year ended 30 June 2021

	Note	2021 \$	2020 \$
COST OF SERVICES			
Expenses			
Employee benefits expenses	2.1	53,954	114,836
Supplies and services	2.2	348,850	341,316
Other expenditure	2.3	4,712	3,295
Total cost of services		407,516	459,447
NET COST OF SERVICES		407,516	459,447
Income from State Government			
Resources received	3.1	166,998	171,619
Total income from State Government		166,998	171,619
DEFICIT FOR THE PERIOD		(240,518)	(287,828)
TOTAL COMPREHENSIVE LOSS FOR THE PERIOD		(240,518)	(287,828)

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



DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS

Law Reform Commission of Western Australia PRIMARY FINANCIAL STATEMENTS

Statement of financial position

As at 30 June 2021

	Note	2021 \$	2020 \$
ASSETS			
Current Assets			
Cash and cash equivalents	5.1	37,998	360,271
Receivables	4.1	9,783	10,754
Total Current Assets		47,781	371,025
TOTAL ASSETS		47,781	371,025
LIABILITIES			
Current Liabilities			
Payables	4.2	896	83,622
Total Current Liabilities		896	83,622
TOTAL LIABILITIES		896	83,622
NET ASSETS		46,885	287,403
EQUITY			
Contributed equity	7.8	17,000	17,000
Accumulated surplus	7.8	29,885	270,403
TOTAL EQUITY		46,885	287,403

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



DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS

Law Reform Commission of Western Australia PRIMARY FINANCIAL STATEMENTS

Statement of changes in equity

For the year ended 30 June 2021

	Note	Contributed equity \$	Accumulated surplus \$	Total equity \$
Balance at 1 July 2019	7.8	17,000	558,231	575,231
Deficit		-	(287,828)	(287,828)
Balance at 30 June 2020		<u>17,000</u>	<u>270,403</u>	<u>287,403</u>
Balance at 1 July 2020		17,000	270,403	287,403
Deficit		-	(240,518)	(240,518)
Balance at 30 June 2021		<u>17,000</u>	<u>29,885</u>	<u>46,885</u>

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

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS

Law Reform Commission of Western Australia PRIMARY FINANCIAL STATEMENTS

Statement of cash flows

For the year ended 30 June 2021

	Note	2021 \$	2020 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee benefits		(54,290)	(113,974)
Supplies and services		<u>(267,983)</u>	<u>(265,059)</u>
Net cash used in operating activities		<u>(322,273)</u>	<u>(379,033)</u>
Net decrease in cash and cash equivalents		(322,273)	(379,033)
Cash and cash equivalents at the beginning of the period		<u>360,271</u>	<u>739,304</u>
CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD	5.1	<u>37,998</u>	<u>360,271</u>

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

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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 6 September 2021.

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

The FMA and the TIs take precedence over AASs. Several AASs are modified by the TIs 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.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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
Employee benefits expenses	2.1
Supplies and services	2.2
Other expenditure	2.3

2.1 Employee benefits expenses

	2021	2020
	\$	\$
Board member fees	49,273	104,841
Superannuation - defined contribution plans	4,681	9,995
Total employee benefits expenses	53,954	114,836

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 Gold State Superannuation (concurrent contributions), the West State Superannuation, the Government Employees Superannuation Board, or other superannuation funds.

2.2 Supplies and services

	2021	2020
	\$	\$
Supplies and services		
Business and finance services ^(a)	13,839	20,485
Shared information services ^(a)	33,750	123,231
Strategic reform services ^(a)	101,832	10,878
Services and contracts	186,564	172,991
Audit fees ^(a)	12,865	12,865
Communications ^(a)	-	666
Total supplies and services expenses	348,850	341,316

2.3 Other expenditure

Printing ^(a)	4,712	3,295
Total other expenditure	4,712	3,295

(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. Refer to note 3.1 'Income from state government'.

Supplies and services:

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

Other operating expenses:

Other operating expenses represent the day-to-day running costs incurred in normal operations.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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
Income from State Government	3.1

3.1 Income from State Government

	2021 \$	2020 \$
Resources received from other public sector entities during the period:		
Services received free of charge - Department of Justice	166,998	171,619
Total resources received	166,998	171,619

Resources received from other public sector entities are recognised as income (and assets or expenses) equivalent to the fair value of the assets, or the fair value of those services that can be reliably determined and which would have been purchased if not donated.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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
Receivables	4.1
Payables	4.2

4.1 Receivables

	2021	2020
	\$	\$
<u>Current</u>		
GST receivable	9,783	10,754
Balance at end of period	<u>9,783</u>	<u>10,754</u>

4.2 Payables

	2021	2020
	\$	\$
<u>Current</u>		
Trades payables ^(a)	-	82,390
Accrued salaries ^(b)	896	1,232
Balance at end of period	<u>896</u>	<u>83,622</u>

(a) Trade 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 20 days.

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

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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
Cash and cash equivalents	5.1

5.1 Cash and cash equivalents

	2021	2020
	\$	\$
Cash and cash equivalents	37,698	360,271
Balance at end of period	37,998	360,271

For the purpose of the statement of cash flows, cash and cash equivalent assets comprise cash on hand,

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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 end of the reporting period are:

	2021 \$	2020 \$
<u>Financial Assets</u>		
Cash and cash equivalents	37,998	360,271
Total financial assets	37,998	360,271
<u>Financial Liabilities</u>		
Financial liabilities measured at amortised cost	896	83,622
Total financial liability	896	83,622

6.2 Contingent assets and liabilities

There were no contingent assets and contingent liabilities as at 30 June 2021 (2020: nil).

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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
Correction of prior period errors/ changes in accounting policy	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 Correction of prior period errors/ changes in accounting policy

There were no correction of prior period errors or changes in accounting policy in the reporting period.

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:

	2021	2020
Compensation Band (\$)		
50,001 – 60,000	-	1
40,001 – 50,000	1	1
0 - 10,000 ^(a)	3	2
	2021	2020
	\$	\$
Total compensation of senior officers	53,954	114,836

(a) Includes one member employed by the State Solicitors Office under the *Public Service Management Act 1994* who 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 members, and their controlled or jointly controlled entities;
- all members and their close family members, and their controlled or jointly controlled entities;
- other agencies and statutory authorities, including related bodies, that are included in the whole of government consolidated financial statements;
- associates and joint ventures, that are included in the whole of government consolidated financial statements; and
- the Government Employees Superannuation Board.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

NOTES TO THE FINANCIAL STATEMENTS

Law Reform Commission of Western Australia NOTES TO THE FINANCIAL STATEMENTS

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 (2020: nil).

7.6 Affiliated bodies

The Commission had no affiliated bodies during the financial year (2020: nil).

7.7 Remuneration of auditors

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

	2021	2020
	\$	\$
Auditing the accounts, controls, financial statements and key performance indicators	13,100	12,865

7.8 Equity

The Government of Western Australia 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

	2021	2020
	\$	\$
Balance at start of period	17,000	17,000
Balance at end of period	17,000	17,000

Accumulated surplus

Balance at start of period	270,403	558,231
Deficit	(240,518)	(287,828)
Balance at end of period	29,885	270,403

Total Equity at end of period

46,885	287,403
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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 (2020: nil).

There were no write offs of public money or other public property during the financial year (2020: nil).

There were no gifts of public property during the financial year (2020: nil).

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

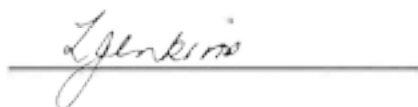
KEY PERFORMANCE INDICATORS

LAW REFORM COMMISSION OF WESTERN AUSTRALIA

AUDITED KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2021

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 2021.



The Hon. Lindy Jenkins

Chair of the Law Reform Commission of
Western Australia

6 September 2021



Dr Sarah Murray

Member of the Law Reform Commission
of Western Australia

6 September 2021



DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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 the 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:

	2020-2021 Target	2020-2021 ^(a) Actual	2019-2020 ^(a) Actual	2018-2019 ^(a) Actual
% on target	100%	100%	100%	100%

(a) In the 2018-19 to 2020-21 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	2020-2021	2019-2020	2018-2019
Brought forward	2	3	2
New	0	0	2
Total to be reviewed	2	3	4
References completed during the year	1 ^(a)	1	1
References with elapsed time	-	-	-

(a) Refer to Table A *Fatal Accidents* reference, for progress against milestones.

The Commission had two live references in the financial year 2020-21. The effectiveness of each reference is measured separately as shown below.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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 2016	7 August 2018	7 August 2018 (b)	13 March 2019	17 December 2019	None (d)	12 October 2020	29 November 2020

Key

- (a) Interim milestone targets agreed and extended by the Commission. Refer also to (c)
- (b) The project writers for the reference were 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 TOR was 29 March 2019. This was extended at the request of the Commission.
- (d) Due to the limited number of submissions received, a report on submissions was not required.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

KEY PERFORMANCE INDICATORS

EQUAL OPPORTUNITY ACT

Project 111: Review of the *Equal Opportunity Act 1984* (WA)Table B – 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	August 2021	December 2021	January 2022	28 February 2022 (c)
Actual Date	28 February 2019	-	21 May 2020	21 May 2020 (b)	25 February 2021	31 August 2021	-	-	-

Key

- (a) Interim milestone targets agreed and extended by the Commission. Refer also to (c).
 (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.
 (c) The AG originally requested that the Commission prepare an interim report on item (g) of the TOR only and to provide that report by 31 May 2019. The Commonwealth Government subsequently announced that the Australian Law Reform Commission (ALRC) would be conducting a review into the *Framework of Religious Exemptions in Anti-discrimination Legislation*. In order for the Commission to take the ALRC review into account when preparing its report, the AG extended the reporting date to 30 June 2021. The AG also requested that all of the TOR be considered at once, rather than separately considering item (g) first. The AG later extended the due date to 28 February 2022. The ALRC report has been further delayed to 12 months from the date the Religious Discrimination Bill is passed by the Commonwealth Parliament.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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 2020-21 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 2020-21 and previous financial years. The table also identifies the total community contacts and the average cost per contact in the same period.

	Target 2020-2021	Actual 2020-2021	Actual 2019-2020	Actual 2018-2019	Actual 2017-2018
Service:					
Total publications (a)	2	2	3	4	3
Average cost per publication	\$194,750	\$193,570 (c)	\$145,492	\$152,993	\$81,486
Total community contacts (b)	500	500	102	679	497
Average cost per community contact	\$41.00	\$40.75 (d)	\$225.22	\$47.44	\$25.89

Key:

- (a) Total publications refer to the number of published, in-progress and completed references during the 2020-21 financial year and includes references carried over from previous financial years.
- (b) The majority of community contacts (69.6%) related to Project 111: *Review of the Equal Opportunity Act 1984 (WA)*.
- (c) This figure is higher than the prior year because the Commission had less publications than the prior year and incurred a large proportion of the costs for one of the carried over publications in this financial year.
- (d) This figure is lower than the prior year because of the significantly increased community contacts as a result of the public interest in Project 111: *Review of the Equal Opportunity Act 1984 (WA)*.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

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	2020-21	2019-20
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*, the Commission incurred the following expenditure relating to advertising and sponsorship during the 2020-21 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.

DISCLOSURES AND LEGAL COMPLIANCE (cont)

This annual report, like the recently released Project 111 Discussion Paper, 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 2020-21 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. The Commission last 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.

FREEDOM OF INFORMATION

In 2020-21, the Commission received no freedom of information (FOI) 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 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* 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

DISCLOSURES AND LEGAL COMPLIANCE (cont)

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.

DISCLOSURES AND LEGAL COMPLIANCE (cont)

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 the 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 2020-21 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.

GOVERNMENT BUILDING CONTRACTS

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

Annual performance for 2020-21

Measure	Actual Results		Results against Target	
	2017-18 ⁽¹⁾	2020-21 ⁽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 2020-21; previous year is 2017-18).

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

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

APPENDIX 1: CURRENT REFERENCES

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.

Review of the *Equal Opportunity Act 1984*

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* ("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

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