



THE LAW REFORM COMMISSION
of
WESTERN AUSTRALIA

ANNUAL REPORT

1 JULY 2023 - 30 JUNE 2024

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STATEMENT OF COMPLIANCE

Statement of Compliance with the *Financial Management Act 2006 (WA)*

For the year ending 30 June 2024

Hon John Quigley MLA
Attorney General

In accordance with section 63 of the *Financial Management Act 2006 (WA)*, we 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 2024.

This report has been prepared in accordance with the provisions of the *Financial Management Act 2006 (WA)*. The content and layout are consistent with the requirements of Treasurer's Instruction 902.

Yours sincerely



The Hon Lindy Jenkins

Chair of the Law Reform Commission
of Western Australia

30 September 2024



Professor Meredith Blake

Member of the Law Reform Commission
of Western Australia

30 September 2024

ABOUT THIS REPORT

This report provides an overview of the activities of the Law Reform Commission of Western Australia (the Commission) during 2023-24.

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. 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 below.

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LAW REFORM COMMISSION OF WESTERN AUSTRALIA – CHARTER

Purpose of this Charter

The purpose of this Charter is to formally acknowledge the Commission as an independent statutory authority established under the *Law Reform Commission Act 1972* (WA) (the Act). While the Commission takes its terms of reference and priorities from the Attorney General, it is independent of Government. This Charter sets out the role, responsibilities, values and operational structure of the Commission that are to be upheld and adhered to by the Government and the Commission for the primary purpose of maintaining the Commission's independence, integrity and good standing. This Charter is subject to review where appropriate to ensure it continues to reflect the status of the Commission as required by the people of Western Australia and the Government as constituted from time to time.

The Charter was endorsed in Cabinet on 5 November 2018 and signed by the Hon John Quigley, Attorney General and the then Chair of the Commission, David Cox.

Role of the Commission

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

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

Independence as expressed in the *Law Reform Commission Act 1972* (WA)

While the Commission only publishes reports and recommendations on matters referred to it by the Attorney General, it is implicit in the Act that the Commission and its members must act independently. The Act relevantly provides that the Commission:

- must examine critically the law with respect to the matter mentioned in the reference [section 11(3)(a)]; and
- may hold and conduct such inquiries as it thinks fit, and inform itself on any matter in such manner as it thinks fit, and obtain such information as to the law and the administration of justice of other countries as appears to the Commission likely to facilitate the performance of any of its functions [section 11(6)].

The Attorney General has an obligation to ensure that the Commission's proposals and reports (including the recommendations) are presented to each House of Parliament as soon as practicable after they have been submitted to him or her [section 11(7)].

Commitments aimed at maintaining the independence and integrity of the Commission.

Government

The Government and its agencies must ensure:

- non-interference in Commission matters, save for genuine input as a stakeholder during the Commission's consideration of any terms of reference;
- the provision of means necessary for the Commission to perform its statutory functions, such as the provision of financial and administrative support; and
- the Commission is provided an opportunity to take part in or be heard on discussions held in respect to these matters.

Commission and members

The Commission and its members are responsible to the Government and to the people of Western Australia for reviewing and reporting on potential reforms to the laws of the State of Western Australia.

In discharging this responsibility, the Commission and its members must ensure:

- they provide frank and fearless advice to the Government;
- every effort is made to be inclusive and fair in satisfying their obligations by maintaining an appropriate level of engagement through communication and consultation with the public and relevant stakeholders;
- work is completed in a reasonably timely fashion so as to ensure the delivery of an efficient and effective service;
- where a member is part-time, the member's contribution to the work of the Commission is provided independently of that member's substantive position in private practice, as an academic member or at the State Solicitor's Office;
- members notify the Commission of any actual or potential conflict of interest that may arise, promptly after becoming aware.

LAW REFORM COMMISSION OF WESTERN AUSTRALIA – CHARTER (cont.)

Public consultation and engagement

Being an organisation that spends public funds, the Commission and each of its members understand the importance of the right of the public to be involved in the law reform process and consequently value all input from interested stakeholders. The Commission (and, where applicable, its contractors), is to give due consideration to all submissions it receives and is to specifically acknowledge these in reporting its opinions on law reform.

The Commission must consult with the people of Western Australia in an open and transparent way. Such consultation may be through publication of one or more Discussion Papers on the issues arising in a reference along with proposals for reform and by then allowing the people of Western Australia a reasonable opportunity to provide submissions before taking those submissions into account when drafting any final report to the Government.

Where appropriate, the Commission is to actively engage in targeted consultation with stakeholders who have a particular interest or expertise in the subject matter of any reference to ensure that all reasonable views are taken into account in the formulation of recommendations to the Government.

Values

Integrity

The Commission undertakes open, impartial and ethical research on law reform, performing its duties to a high standard of professionalism to reflect the transparency of its operations and maintain its good standing in the eyes of the people of Western Australia and Government.

Accountability

The Commission responsibly and appropriately utilises State resources in discharging its obligations, acting in accordance with governing legislation, including ensuring review by external auditors as provided for in legislation.

Operational Structure

The Commission is structured according to the provisions of the Act and engages with consultants for research, writing and editing purposes. The operational structure of the Commission is subject to change as the Act changes.

Membership

Under section 4 of the Act, the Commission may consist of up to five members: two full-time and three part-time, appointed by the Governor of Western Australia.

Under section 7 of the Act:

- a full-time member shall not hold office for a term exceeding five years and, while eligible for reappointment, shall not hold office for a period exceeding eight consecutive years; and
- a part-time member shall not hold office for a term exceeding three years and, while eligible for reappointment, shall not hold office for a period exceeding six consecutive years,

unless, in the opinion of the Governor, there are special circumstances warranting an extension of that period.

Under section 5, the Commission is to elect its Chair from its members. The Chair may hold office for a term not exceeding one year but shall be eligible for re-election.

Members' fees

The remuneration for Commissioners is set by the Governor in Executive Council. Section 9 of the Act states that a member "shall be paid such remuneration and allowances as the Governor may from time to time determine".

Contractors

Under section 14(2) of the Act, the Attorney General may, at the request of the Commission, engage, under contract for services, such professional and research or other assistance as may be necessary to enable the Commission to carry out its functions under the Act. Contractors must be engaged by way of fair and transparent procurement practices.

The Government, through the Department of Justice (the Department), may also engage contractors on behalf of the Commission under Government procurement practices.

MESSAGE FROM THE CHAIR

During the 2023-24 financial year, the Commission has undergone some changes in composition with Dr Sarah Murray and Ms Kirsten Chivers PSM retiring from the Commission after making substantial contributions to its work over the past four years. I extend my gratitude to these former members for their hard work and diligence. During the period of their appointments the Commission concluded two important reviews; first of the *Equal Opportunity Act 1984* (WA) (Project 111) and secondly of the sexual offences in the *Criminal Code Act Compilation Act 1913* (WA) (the Criminal Code) (Project 113). Neither review could have been completed successfully without their expertise and dedication. I wish them well in their future endeavours.

In their respective places, the Commission has welcomed Professor Meredith Blake and Ms Jean Shaw, two outstanding legal experts and people who will undoubtedly make valuable contributions to the work of the Commission.

In this reporting year, the Commission achieved the significant milestone of completing Project 113 being the review of sexual offences in the Criminal Code. The Project 113 Final Report was submitted to the Attorney General in late 2023. The Final Report contained 134 recommendations to modernise and improve Western Australia's sexual offence laws. I urge the Western Australian Parliament to act on these recommendations so that Western Australia's sexual offence laws can protect and support victim survivors and the community.

With the appointment of the new Commissioners at the end of 2023, the Commission spent the beginning of 2024 inducting these members as well as continuing to improve its governance and financial standards.

For the last few months of the financial year, the Commission has been focused on commencing its review to enhance and update the *Guardianship and Administration Act 1990* (WA) (Project 114).

An overview of this year's references, Project 113 – Sexual Offences and Project 114 – Guardianship and Administration is included in this Report.

The Commission has continued to adopt an outsourcing model for assistance in research and writing. In addition, the Commissioners dedicate many days to research, reading and listening to stakeholders' submission and writing and editing its publications. In relation to Project 113, the Commission has been assisted by many contractors who are named and thanked in the Final Report. Special thanks go to Jamie Walvisch and Amanda Blackburn, without whom the Project could not have been completed. The Commissioners look forward to working with writers Kate Dromey and Fiona Lester on Project 114.

Once again, the Commission was fortunate to have had the input of many interested stakeholders and dedicated experts who were willing to bring their knowledge and skills to the preparation of the Commission's Project 113 Final Report. The Commission appreciates the efforts made by all involved. Their views and efforts in identifying issues in current laws and proposing improvements to them, played a significant role in developing the Commission's recommendations in the Final Report. The efforts made by individuals and organisations ensured that the Commission's Final Report was comprehensive, accurate, considered and, most importantly, relevant to the needs and expectations of the Western Australian public. The Commission anticipates and looks forward to receiving similar input and assistance in relation to Project 114.

As I noted in last year's message, even though the Commission is a small statutory body it is still required to meet the governance standards set for all statutory bodies by the Public Sector Commissioner and the financial standards in the *Financial Management Act 2006* (WA) and Treasurer's instructions. Its Memorandum of Understanding with the Department of Justice ensures that the Commission has the continued executive and corporate services support from the Department to enable the Commission to meet its obligations in these respects.

The governance standards require the Commission to have its own policies, instruments and frameworks. During the 2023-24 financial year, the Commission continued its programme of meetings outside its ordinary monthly meetings to ensure that it gave appropriate attention to these standards. The Commission made significant progress this year with the finalisation of its Code of Conduct, Integrity Framework as well as the implementation of internal processes to monitor the receipt of gifts and benefits, record delegations and induct new members and contractors.

The WA Government, through the Department's Cost and Demand Model (CDM), has provided ongoing funding for the Commission from the 2021-22 financial year to the 2025-26 financial year which will be paid as annual grants to the Commission. The Commission has seen the benefits of this funding in this reporting year, especially to the conduct of Project 113, and the Commission expects this funding will continue appropriately.

In the reporting year, the Commission has also liaised with national and international law reform bodies on current trends and projects in law reform.

MESSAGE FROM THE CHAIR (cont.)

My fellow Commissioners, Professor Blake and Ms Shaw have shown the ability and preparedness to meet the high standards set by Dr Sarah Murray and Ms Kirsten Chivers, despite their commitments to other duties. I look forward to working with them in the year ahead so Project 114 will be successfully completed.

The Department provides administrative support to the Commission. I thank the former Director General, Dr Adam Tomison, and the newly appointed Director General, Kylie Maj, for their continued support, and the Commission's Acting Executive Managers, Fiona Cohen and Daniel Wells, for their diligent and competent work in administering the Commission.

I would also like to expressly thank the Attorney General, the Hon John Quigley MLA for his ongoing support of the Commission. As the Attorney General has announced his plan to retire at the 2025 State election, which will be held prior to the publication of the Commission's next annual report, I take this opportunity to record my thanks to him for the commitment he has shown to law reform during his time as Attorney General. Western Australia's laws cannot be kept up to date and improved without the commitment and advocacy of the Attorney General. The Attorney General has been a strong supporter of law reform in many important areas. The Commission looks forward to working with the new Attorney General to continue this important work.

The Hon Lindy Jenkins
Chair

September 2024

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA

Executive Summary

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

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, and the Attorney General then presents the Commission's reports to State Parliament as soon as practicable after the Commission completes its work on each reference.

The Commission's output measures the progress of a reference against milestone targets. The extent to which the Commission meets the timeframes set by the Attorney General is therefore considered to be a key performance indicator which measures the extent to which the Commission is performing its functions under the Act.

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 must be completed in a timely fashion in order to be relevant 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. However, the Commission invites and values all submissions from people and organisations who wish to contribute to its work.

Performance Highlights

Completed Reference

Project 113 – Sexual offence laws in the Criminal Code

On 1 November 2021, the Attorney General, the Hon John Quigley MLA, referred Project 113 to the Commission. On 4 February 2022, the Attorney General narrowed the scope of the Terms of Reference to require the Commission to provide advice and make recommendations for consideration by Government as to whether there should be any reform, and if so, the extent of any reform, to sexual offences contained in the Criminal Code. The Attorney General advised that the Department would undertake a separate review of the responses of the criminal justice system to sexual offences, concurrently with the Commission's reference. This separate review was led by the Office of the Commissioner for Victims of Crime.

The amended Terms of Reference for the project required the Commission to review Chapter XXXI and sections 186, 191 and 192 of the Criminal Code, having regard to contemporary understanding of, and community expectations relating to, sexual offences. In carrying out this review, the Commission was required to consider whether the concept of affirmative consent should be reflected in the legislation, how consent may be vitiated (including through coercion, fraud or deception) and whether special verdicts should be used. Additionally, the Commission reviewed the application of section 24 of the Criminal Code (dealing with mistake of fact) to sexual offences in Western Australia.

The Terms of Reference were further amended on 28 June 2023, to avoid an overlap with the planned child sexual offence reforms that will respond to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. Therefore, the Commission did not review or report on matters in relation to section 321A of the Criminal Code (persistent sexual conduct with a child under 16 years and related provisions), section 321 of the Code (similar age defence to sexual offences against a child over 13 but under 16 years), and whether there should be new offences of grooming a child or other person under whose care, supervision or authority the child is under, for sex, failing to protect a child from sexual abuse in an institution, and concealing and failing to report child sexual abuse.

In the previous reporting year, the Commission's work on Project 113 focused on the preparation of a Discussion Paper and consultation with stakeholders on the questions raised in this Discussion Paper. In total, the Commission received 85 written submissions and online survey responses from a wide range of stakeholders.

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA (cont.)

In this reporting year, the focus was on analysing these submissions and the stakeholder comments received during oral consultation to draft and complete the Final Report. The Final Report examines issues and makes recommendations to modernise and improve Western Australia's sexual offence laws. It reviews matters such as the definition of consent, the circumstances in which there is no consent, the defence of mistaken belief in consent, the directions given by judges to juries in sexual offence trials, Western Australia's substantive sexual offences and the maximum penalties for sexual offences. This report was one of the largest pieces of work the Commission has completed to date – being 469 pages long and containing 134 recommendations.

To assist with the finalisation of this report, the engagements of the project writer and project director were extended, and expert readers and an editor were engaged.

The Commission submitted the Final Report to the Attorney General on 27 October 2023. The report was tabled in Parliament and published on the Commission's website on 15 May 2024.

Current Reference

Project 114 – Guardianship and Administration

On 3 April 2024, the Attorney General referred Project 114 to the Commission. The Terms of Reference require the Commission to review, provide advice and make recommendations on new legislation to enhance and update the *Guardianship and Administration Act 1990* (WA) (Act).

In carrying out its review, the Commission is required to make recommendations for any new legislation reflecting the current scope of the Act as applying to adults only. The Commission is required to also consider the need for reform, and the best approach to implementing that reform in the Western Australian context, following on from:

- the recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability relating to guardianship and administration, particularly the recommendations regarding a new supported decision-making framework and a legal framework for the authorisation, review and oversight of restrictive practices;
- the statutory review of the Act conducted by the Department of the Attorney General in November 2015;
- the Final Report of the Select Committee into Elder Abuse tabled in the Legislative Council on 13 September 2018;

- the work of the Standing Council of Attorneys General's Enduring Powers of Attorney Working Group, including any model provisions developed by that Working Group, as applicable in the particular context of Western Australia; and
- any other state and federal reform relating to guardianship and administration.

The Commission will also take into account the role and identity of decision-makers under the Act, as compared with other legislation including the Aged Care Bill 2023 (Cth) (exposure draft) and consider whether confidentiality requirements under the Act are sufficient to adequately balance the protection of the privacy of persons providing information or who are affected by or involved in a decision made pursuant to the Act, and the promotion of the principle of transparency.

After receiving the reference, the Commission commenced identifying and recruiting suitably qualified contractors to assist it to complete the reference. This process was not complete at the end of the reporting period.

The Commission contacted relevant stakeholders in April 2024 to provide preliminary views in advance of preparing and circulating a Discussion Paper. The final date for preliminary submissions concluded on 4 June 2024 and the Commission accepted late submissions by application from several stakeholders.

In May and June 2024, the Commission engaged Ms Kate Dromey and Ms Fiona Lester as Project Writers for the reference. These writers, together with the Commission, have commenced reviewing the feedback received in preliminary submissions and are preparing a draft Discussion Paper to be submitted to the Commission with a view to its publication in the first half of the next reporting year.

Other Commission work

With the completion of Project 113 in late October 2023 and Project 114 referred at the start of April 2024, the Commission had the opportunity to focus on administrative and governance improvements.

With the approval of the Attorney General, the Commission was able to utilise the services of Project Director Amanda Blackburn following the completion of Project 113. This enabled the Commission to undertake a comprehensive review of the project and develop a model Project Plan for use in future references. Under section 11(1) of the Act, one of the functions of the Commission is to prepare and submit to the Attorney General from time to time, proposals for the review of any area of law with a view to reform. For this purpose, the Commission may consider any proposals for the reform of the law which may be

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA (cont.)

Other Commission work (cont.)

made to it by any person. In November 2023, the Commission presented to the Attorney General, a comprehensive list of 11 suggested new reference topics.

From November 2023, the focus of the Commission was to induct its new members to ensure they had all the information required to fulfil their new role. This included meetings focusing on governance, resulting in the Commission developing a mature governance framework. The Commission, which relied upon the policies and procedures of the Department in the past, used the past year to work towards the development of its own integrity framework, gifts and benefits register, delegations of authority register, record keeping policy and a complaints process.

For several years, questions have arisen periodically as to whether the Commission's Act could, through specific updating, better govern the Commission and assist it to discharge its responsibilities to the Attorney General and the Parliament. These questions are not unexpected given that the Act was enacted over 50 years ago. In early 2024, the Commission had the opportunity to consider the issue of possible amendments in greater detail and make specific recommendations to the Attorney General in this regard.

Community Consultation

The Commission commences each reference with a detailed program of research which culminates in the publication of a Discussion Paper or an Issues Paper and a period of public consultation.

During the course of Project 113, the Commission heard from a diverse cross section of the community. The Commission held a number of expert consultation forums with both legal and nonlegal experts, from a variety of different backgrounds and experiences, and travelled to a range of regional locations across the State, including Albany, Kalgoorlie, Geraldton and Broome, to hear the specific viewpoints of those living in regional areas. It held a number of consultation sessions with individual organisations representing particular groups or interests and ran discussion forums with other Government and non-Government organisations whose day to day work involves efforts to prevent sexual violence in Western Australia. The Commission invited submissions from the public, developed an online portal and survey, and met with individual members of the public who wanted to contribute in person to this reference.

For Project 114, the Commission commenced preliminary consultation in April 2024, seeking written submissions from over 80 government and not-for-profit stakeholders in the

guardianship and administration space. Much like for Project 113, the Commission plans to conduct further online and in person consultations for Project 114 towards the end of 2024, once the Discussion Paper is published.

The Commission receives requests from time to time from community and stakeholder groups to speak about its past and current references. The Commission responds positively to these requests to promote topics of law reform within the community.

Technological and Administrative Changes

The Commission seeks to ensure it delivers high quality, useful, usable and accessible online information to all consumers, including people with disability, who may use assistive technologies. The Commission's website aims to meet the Western Australian Government's web accessibility requirements, including meeting the World Wide Web Consortium's Web Content Accessibility Guidelines version 2.1 (WCAG 2.1) at level A.

To facilitate citation of, and reference to, the Commission's considerable body of work, all publications are available in electronic format as a PDF document on the Commission's website. The Commission's Final Reports are not able to be published on the website until they have been tabled in Parliament by the Attorney General.

During the past year, the Commission received feedback from website users in relation to the difficulties in locating publications relating to specific past Commission projects in the absence of knowing the relevant project numbers. As a result of this feedback, this year the Commission has added a new page to its website with a searchable list of all Commission Reports and Papers from 1973 to present.

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 online.

During the 2023-2024 financial period, the Commission's website had 25,704¹ unique page views. The page for the Commission's reference announcement for Project 113 was the most accessed page on the site during this period. The views on the *Review of the Firearms Act 1973 (WA)* (Project 105) page increased significantly from previous years, coinciding with the enactment of the *Firearm Act 2024* in June 2024. The page for the Review of Aboriginal Customary Laws (Project 94) was the second most accessed page, despite being finalised many years ago. This highlights the value of maintaining access to the reports of the Commissions.

¹ This appears to be significantly decreased from last financial year 122,441. It is a trend across agencies using the wa.gov.au platform that the change from using Google Analytics to Universal Analytics has resulted in reduced unique page views

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA (cont.)

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, the Commission may have one private legal practitioner with no less than eight years' experience; one member 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 Act, 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 Chair during the reporting period. The Hon Ms Jenkins relocated to Western Australia in 1989 and commenced 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. Commissioner Jenkins previously served with the Commission as a part-time member from the Crown Solicitor's Office from 1999 to 2001. The Hon Ms Jenkins served as a judge in the District Court of Western Australia from 2001-2004 and in the Supreme Court from 2004-2020. Prior to her retirement from the Supreme Court, the Hon Ms Jenkins was the then longest still serving judge in Western Australia. From March 2021 to March 2022, the Hon Ms Jenkins was appointed by the Governor as a Commissioner to the Perth Casino Royal Commission.

During the 2023-24 financial year, the Commission had 985 interactions with members of the public and various organisations involved in law reform or the promotion of knowledge about particular legal issues. These interactions were via letter, email, telephone calls to and from members of the public or attendance by members at speaking engagements where Commission work was discussed. The majority of public contacts related to the Project 113 reference (sexual offences).

All projects are important 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, the Commission's administrative duties, executive support and project management functions continued to be provided by the Department.

Financial Forecasts

In the 2023-24 financial year, a new funding mechanism was implemented whereby the Department received funding for the Commission from the Government. That funding was paid by the Department to the Commission by way of an annual grant. This will continue to at least 2025-26.

The Department continued to provide executive and corporate support to the Commission free of charge pursuant to a memorandum of understanding. The cost of the services was accommodated within the Department's budget.

Operational Structure

Enabling legislation

The Commission was established as a Statutory Authority under the Act 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 current Attorney General 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 Act 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.

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA (cont.)

Members

Professor Meredith Blake (BA, BJuris, LLB (Hons) University of Western Australia; LLM MA (Medical Law and Ethics) King's College London) joined the Commission in November 2023. She is a Professor at the University of Western Australia (UWA) and Director of International Partnerships and Exchange in the Law School where she has worked as an academic since 2009. She has served as Deputy Head of School, Associate Dean, and was a member of the UWA Human Research Ethics Committee from 2009 to 2018. Professor Blake co-ordinates Criminal Law, Advanced Criminal Law and Procedure and Health Law and Policy. Her research interests include Health Law, Medical Ethics, Criminal Law, Elder Law, Human Rights Law, Torts Law and Legal Education. In 2018 she was the recipient of UWA's Outstanding Contribution to Student Learning award and in 2021 she was awarded Senior Fellowship of the Higher Education Academy. Professor Blake has published a range of books and scholarly articles across a variety of Australian and international journals.

Ms Jean Shaw (BA, LLB (Hons) University of Western Australia) joined the Commission in December 2023. Ms Shaw holds a Bachelor of Arts and Bachelor of Laws with First Class Honours from the University of Western Australia. She is currently Acting State Counsel at the State Solicitor's Office (SSO), where she has worked since 2003. In that role, Ms Shaw leads SSO's Counsel Team, provides high level, independent legal advice on complex issues across a range of subject areas of relevance to the State Government and appears as counsel in complex and politically sensitive litigation on behalf of State Government clients. She has appeared as counsel in the High Court, Federal Court, Court of Appeal, Supreme Court, District Court, Magistrates Court, Coroner's Court and State Administrative Tribunal, and in both civil and criminal matters. Ms Shaw has been involved in various legislative reform projects while working at the SSO.

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>

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA (cont.)

Members' Remuneration

The remuneration for Commissioners is set by the Western Australian Governor in Executive Council. Section 9 of the Act states that a member "shall be paid such remuneration and allowances as the Governor may from time to time determine". Prior to this reporting year, the remuneration rates had not been reviewed since 2012.

On 11 November 2023, the Governor increased remuneration rates for the members appointed under section 6(1)(a) and 6(1)(b) of the Act. Remuneration was also set for the first time, for a full-time member appointed under section 6(2) and the

Chairperson elected under section 5 of the Act. It was approved by the Premier and then the Governor, that Hon Jenkins should receive the remuneration amount set for the Chair, despite being a retired judicial officer and taking into account Premier's Circular 2019/07 (State Government boards and committees).

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

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*	Gross/actual remuneration**
Hon Lindy Jenkins	Chair (full time)	Honorarium	1 year	\$67,301
Ms Kirsten Chivers	Member (part time)	None#	5 Months	Not applicable
Ms Jean Shaw	Member (part time)	None#	6 Months	Not applicable
Dr Sarah Murray	Member (part time)	Honorarium	4.5 Months	\$17,249
Professor Meredith Blake	Member (part time)	Honorarium	7.5 Months	\$30,614
			Total	\$115,164

* Refers to board members' membership during the reporting period not their entire tenure on the Commission.
** Rounded to the nearest dollar amount.
As Ms Chivers and Ms Shaw are employed at the State Solicitor's Office (SSO) under the *Public Sector Management Act 1994* (WA), they not remunerated separately for their membership of the Commission. There was a month period where there was no SSO member appointed.

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA (cont.)

Senior Officer

For 2023-24, Ms Fiona Cohen (9 months) and Mr Daniel Wells (3 months), acted as the Executive Manager LRCWA. This position was created in June 2023 within the Department to assist the Commission with executive and corporate services.

Administered Legislation

Key legislation impacting on the Commission's activities is listed below.

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

- *Auditor General Act 2006*
- *Disability Services Act 1993*
- *Electoral Act 1907*
- *Equal Opportunity Act 1984*
- *Financial Management Act 2006*
- *Freedom of Information Act 1992*
- *Industrial Relations Act 1979*
- *Interpretation Act 1984*
- *Library Board of Western Australia Act 1951*
- *Minimum Conditions of Employment Act 1993*
- *Procurement Act 2020*
- *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*
- *Work Health and Safety Act 2020*
- *Workers Compensation and Injury Management Act 1981*

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

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

Diversification

The Commission engages consultants to provide research, writing and editing services. 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.

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 2023-24.

Meetings of the Commission

The Commission held 11 formal monthly Commission meetings and 2 formal Governance meetings during the 2023-24 financial year.

In addition, the Commission conducted numerous meetings with contractors in connection with the references undertaken during the 2023-24 financial year (in addition to a significant number of internal meetings for these references).

OVERVIEW OF THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA (cont.)

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 2023-24.

Shared Responsibilities with other Agencies

The Commission did not share any responsibilities with other agencies in 2023-24.

AGENCY PERFORMANCE

Report on Operations

Review of sexual offences

The Attorney General tabled in Parliament on 15 May 2024 the Final Report of Project 113 - Sexual Offences.

Due to the complexity of the issues raised and the extensive consultation undertaken, the Commission was granted an extension from 1 July 2023 to 29 September 2023 to submit the Final Report to the Attorney General. This date was then further extended to 6 November 2023 at the request of the Attorney General.

Project Writer, Jamie Walvisch, and Project Director, Amanda Blackburn were initially only contracted to 30 June 2023. Due to the extension of the due dates for the Final Reports, these contracts were varied twice to increase the term of their contacts of service. During the previous financial year Mr Walvisch's contract was extended to 30 September 2023. From 1 July 2023, Mr Walvisch's capacity to work for the Commission reduced from 3 days a week to 2 days a week and this was also reflected in this contract variation. His contract was further extended to 13 November 2023.

Ms Blackburn's contract was extended to 30 September 2023 and then to 31 December 2023. The Attorney General agreed to the Commission engaging Ms Blackburn past the end of Project 113 to allow her to complete a thorough project review and create resources for future projects. Due to the lack of resources in the past, the review of projects and planning for new references has

been ad hoc, creating more pressure on all involved. The work that Ms Blackburn completed during this time is invaluable to improving Commission processes.

Short terms contracts were also entered into with Ms Kate Dromey, Ms Janelle Koh and Mr Jared Bartle to assist the writers to meet the deadline for the Final Report.

Early this year, the Commission also engaged as expert readers, retired Supreme Court Judge the Hon Michael Corboy SC and retired District Court Chief Judge Kevin Sleight to provide comments on the draft Final Report from their perspectives as experienced judicial officers.

The Commissioned also engaged Mr Scott Hurley to edit the Final Report.

Review of Guardianship and Administration laws

The Commission commenced work on this reference to provide advice and make recommendations for consideration by Government.

The Commission has engaged Project Writers, Kate Dromey and Fiona Lester for the reference. The Commission will also engage a Project Director and Research Assistant early in the next financial year.

The work on this reference is ongoing and the Commission is well placed to publish a Discussion Paper and complete the Final Report next year.

Key Performance Indicators

Actual results vs budget targets

Summary of Key Performance Indicators	2023-2024 Target	2023-2024 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 ⁽¹⁾	\$379,995	\$220,891	\$159,104
Total community contacts ⁽²⁾	500	985	485
Average cost per contact ⁽¹⁾	\$80	\$23.61	\$56.39
Number of publications on law reform	2	2	N/A

(1) The actual costs were lower than expected due to the five-month gap between Project 113 being finalised and Project 114 being referred by the Attorney General.

(2) Target for community contacts for this financial year was set at the Commission's Monthly Meeting on 6 September 2023.

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. This entails making law reform efforts as meaningful and effective as possible. It does this by reviewing areas of the law referred to it by the Attorney General. The Commission continues to benefit from enhanced technology that has been implemented by the Department to enable staff to work remotely, particularly the use of a unified communications platform.

The Commission continues to explore and develop new and efficient means of engaging in public consultations as they are fundamental to its reviews.

Economic and Social Trends

Ongoing funding was 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 2023-24 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 corporate and administrative support to the Commission, ensuring the Commission is able to discharge its statutory functions.

In 2024-25 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 optimistic that the new funding arrangement will enable it to discharge its statutory duties and report to the Attorney General in a timely manner.

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 for the Guardianship and Administration reference will be submitted to the Attorney General in the upcoming financial year.

The next state election will occur in the upcoming financial year. The current Attorney General, Hon John R Quigley LLB JP MLA, who the Commission has reported to since 2017, has announced he will not seek re-election which will result in the Commission reporting to a new Attorney General for the first time in 8 years.

AUDITOR GENERAL'S INDEPENDENT AUDITOR'S REPORT



Auditor General

INDEPENDENT AUDITOR'S REPORT

2024

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 as at 30 June 2024, 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 material 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 2024 and the financial position as at the end of that period
- in accordance with Australian Accounting Standards (applicable to Tier 2 Entities), 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 believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

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 (applicable to Tier 2 Entities), 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.

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

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 Law Reform Commission of Western Australia are those policies and procedures established 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 the State's financial reporting framework (the overall control objectives).

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 controls within the system were suitably designed to achieve the overall control objectives identified as at 30 June 2024, and the controls were implemented as designed as at 30 June 2024.

AUDITOR GENERAL'S INDEPENDENT AUDITOR'S REPORT

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 2024 reported in accordance with *Financial Management Act 2006* and the Treasurer's Instructions (legislative requirements). 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 report of the Law Reform Commission of Western Australia for the year ended 30 June 2024 are in accordance with the legislative requirements, and are relevant and appropriate to assist users to assess the Commission's performance and fairly represent indicated performance for the year ended 30 June 2024.

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 controls as the Commission determines necessary to enable the preparation of key performance indicators that are free from material misstatement, whether due to fraud or error.

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

Auditor General's 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 management relating to the report on financial statements, 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 ASQM 1 Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements, the Office of the Auditor General maintains a comprehensive system of quality management including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

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

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 2024, but not the financial statements, key performance indicators and my auditor's report.

My opinions on the financial statements, controls and key performance indicators do not cover the other information and accordingly I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, controls and key performance indicators my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and key performance indicators or my knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I did not receive the other information prior to the date of this auditor's report. When I do receive it, I will read it and if I conclude that there is a material misstatement in this information, I am required to communicate the matter to those charged with governance and request them to correct the misstated information. If the misstated information is not corrected, I may need to retract this auditor's report and re-issue an amended report.

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

This auditor's report relates to the financial statements and key performance indicators of the Law Reform Commission of Western Australia for the year ended 30 June 2024 included in the annual report 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 the annual report. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to contact the entity to confirm the information contained in the website version.

Mark Ambrose

Mark Ambrose
Senior Director Financial Audit
Delegate of the Auditor General for Western Australia
Perth, Western Australia
13 September 2024

DISCLOSURES AND LEGAL COMPLIANCE

CERTIFICATION OF FINANCIAL STATEMENTS

For the financial year ended 30 June 2024

The accompanying financial statements of the Law Reform Commission 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 financial year ended 30 June 2024 and the financial position as at 30 June 2024.

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
Member of the Law Reform
Commission of Western Australia

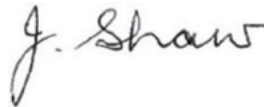
10 September 2024



Professor Meredith Blake
Member of the Law Reform
Commission of Western Australia

*Signed by the Hon Lindy Jenkins under
delegated authority.*

10 September 2024



Ms Jean Shaw
Member of the Law Reform Commission of
Western Australia

10 September 2024



Rodolfo Montilva
A/Chief Finance Officer
Department of Justice

10 September 2024

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS

The Law Reform Commission of Western Australia has pleasure in presenting its audited general purpose financial statements for the reporting period ended 30 June 2024 which provides users with the information about the Commission's stewardship of resource entrusted to it. The financial information is presented in the following structure:

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DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS (cont.)

Statement of comprehensive income

For the year ended 30 June 2024

	Notes	2024 \$	2023 \$
COST OF SERVICES			
Expenses			
Commission members expenses	2.1	130,177	66,604
Other payroll expenses	2.2	-	16,400
Supplies and services	2.3	334,857	513,394
Total cost of services		465,034	596,398
Net cost of services		465,034	596,398
Income from State Government			
Income received from other public sector entities	3.1	596,000	646,000
Resources received free of charge	2.3	229,951	242,427
Total income from State Government		825,951	888,427
Surplus for the year		360,917	292,029
Total comprehensive income for the year		360,917	292,029

The Statement of comprehensive income should be read in conjunction with the accompanying notes.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS (cont.)

Statement of financial position

As at 30 June 2024

	Notes	2024 \$	2023 \$
Assets			
Current Assets			
Cash and cash equivalents	5.1	807,085	479,238
Receivables	4.1	10	10,277
Total Current Assets		807,095	489,515
Total assets		807,095	489,515
Liabilities			
Current Liabilities			
Payables	4.2	8,586	51,923
Total Current Liabilities		8,586	51,923
Total liabilities		8,586	51,923
Net assets		798,509	437,592
Equity			
Contributed equity		17,000	17,000
Accumulated surplus		781,509	420,592
Total equity		798,509	437,592

The Statement of financial position should be read in conjunction with the accompanying notes.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS (cont.)

Statement of changes in equity

For the year ended 30 June 2024

	Contributed equity	Accumulated surplus	Total equity
	\$	\$	\$
Balance at 1 July 2022	17,000	128,563	145,563
Surplus for the year	-	292,029	292,029
Total comprehensive income for the year	-	292,029	292,029
Balance at 30 June 2023	17,000	420,592	437,592
Balance at 1 July 2023	17,000	420,592	437,592
Surplus for the year	-	360,917	360,917
Total comprehensive income for the year	-	360,917	360,917
Balance at 30 June 2024	17,000	781,509	798,509

The Statement of changes in equity should be read in conjunction with the accompanying notes.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

FINANCIAL STATEMENTS (cont.)

Statement of cash flows

For the year ended 30 June 2024

	Notes	2024 \$	2023 \$
Cash flows from the State Government			
Funds from other public sector entities		596,000	646,000
Net cash provided by the State Government		596,000	646,000
<i>Utilised as follows:</i>			
Cash flows from operating activities			
Payments			
Payments to Commission members	(127,833)	(66,374)	
Other payroll payments	-	(16,400)	
Payments to suppliers (incl. GST)	(155,014)	(260,930)	
Receipts			
GST receipts from taxation authority		14,694	14,880
Net cash used in operating activities		327,847	317,176
Net increase in cash and cash equivalents		327,847	317,176
Cash and cash equivalents at the beginning of the year		479,238	162,062
Cash and cash equivalents at the end of the year	5.1	807,085	479,238

The Statement of cash flows should be read in conjunction with the accompanying notes.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

NOTES TO THE FINANCIAL STATEMENTS

The Law Reform Commission of Western Australia (the Commission) is a Government not-for-profit entity and is controlled by the State of Western Australia, which is the ultimate parent.

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 10 September 2024.

Statement of compliance

The financial statements constitute general purpose financial statements that have been prepared in accordance with The Australian Accounting Standards – Simplified Disclosures, the Framework, Statement of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board as applied by Treasurer’s instructions. Several of these are modified by Treasurer’s instructions to vary application, disclosure, format and wording.

The Act and Treasurer’s instructions are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, the Framework, Statement of Accounting Concepts, and other authoritative pronouncements of the Australian Accounting Standards Board. 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.

Accounting for Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of goods and services tax (GST), except that the:

- (a) amount of GST incurred by the Office as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset’s cost of acquisition or as part of an item of expense; and
- (b) receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

Contributed equity

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 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.

Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

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.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

NOTES TO THE FINANCIAL STATEMENTS (cont.)

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
Commission members expenses	2.1
Other payroll expenses	2.2
Supplies and services	2.3

2.1 Commission members expenses

	2024	2023
	\$	\$
Commission members fees	117,270	60,312
Superannuation – defined contribution plans	12,907	6,292
Total Commission members expenses	130,177	66,604

Superannuation is 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 (GESB), or other superannuation funds.

2.2 Other Payroll Expenses

	2024	2023
	\$	\$
Other payroll expenses	-	14,824
Superannuation – defined contribution plans	-	1,576
Total Commission members expenses	-	16,400

Other Payroll Expenses include salaries.

Superannuation is 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 (GESB) or other superannuation funds.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

NOTES TO THE FINANCIAL STATEMENTS (cont.)

2.3 Supplies and services

	2024	2023
	\$	\$
Supplies and services		
Business and finance services ^(a)	16,774	9,107
Shared information services ^(a)	36,746	33,750
Administration services ^(a)	150,013	145,011
Travel, Other ^(a)	2,429	14,667
Audit fees ^(a)	14,000	13,500
Communications ^{(a)(b)}	-	21,867
State Solicitors Office ^(a)	5,539	-
Printing ^(a)	4,450	4,525
Total supplies and services received free of charge	229,951	242,427
Services and contracts ^(c)	104,906	270,967
Total supplies and services expenses	334,857	513,394

(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'.

(b) Advertising costs incurred to attract people to engage with the Project and become 'community contacts'.

(c) Contractors directly engaged by the Commission for report writing for Projects.

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

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

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

NOTES TO THE FINANCIAL STATEMENTS (cont.)

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		
	2024	2023
	\$	\$
Income received from other public sector entities during the period:		
- Service grant from the Department of Justice	596,000	646,000
Total grants and subsidies	596,000	646,000
Resources received from other public sector entities during the period:		
- Services received free of charge:		
- State Solicitors Office	5,539	-
- Department of Justice	224,412	242,427
Total resources received	229,951	242,427
Total income from State Government	825,951	888,427

Income from other public sector entities is recognised as income when the Commission has satisfied its performance obligations under the funding agreement. If there is no performance obligation, income will be recognised when the Commission receives the funds.

Resources received from other public sector entities is recognised as income equivalent to 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 (cont.)

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

	2024	2023
	\$	\$
<u>Current</u>		
Trade receivables	-	1,621
GST receivable	10	8,656
Total receivables at end of the period	10	10,277

The carrying amount of net trade receivables is equivalent to fair value as it is due for settlement within 30 days.

The Commission would recognise an expected credit loss on its historical credit loss experience, adjusted for forward-looking factors specific to the debtors and the economic environment. However, the Commission has had no historical credit loss experience, so no expected credit loss is recognised by the Commission with respect to these receivables.

4.2 Payables

	2024	2023
	\$	\$
<u>Current</u>		
Trade payables ^(a)	-	11,880
Accrued expenses	4,714	38,515
Accrued salaries ^(b)	3,872	1,528
Total payables at end of period	8,586	51,923

(a) Trade payables are recognised as 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 for the Commission 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. 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 (cont.)

5. Financing

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

	Notes
Cash and cash equivalents	5.1

	2024	2023
	\$	\$
Cash and cash equivalents	807,085	479,238
Balance at end of period	807,085	479,238

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

6. Financial instruments and contingencies

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

	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:

	2024	2023
	\$	\$
<u>Financial assets</u>		
Cash and cash equivalents	807,085	479,238
Financial assets at amortised cost ^(a)	-	1,621
Total financial assets	807,085	480,859
<u>Financial liabilities</u>		
Financial liabilities at amortised cost ^(b)	4,714	11,880
Total financial liability	4,714	11,880

(a) The amount of financial assets at amortised cost excludes GST recoverable from the ATO (statutory receivable).

(b) The amount of financial liabilities at amortised cost excludes GST payable to the ATO (statutory payable)

Measurement

All financial assets and liabilities are carried without subsequent remeasurement.

6.2 Contingent assets and liabilities

There were no contingent assets and contingent liabilities as at 30 June 2024 (2023: nil).

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

NOTES TO THE FINANCIAL STATEMENTS (cont.)

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
Key management personnel	7.2
Related party transactions	7.3
Related bodies	7.4
Affiliated bodies	7.5
Remuneration of auditors	7.6
Supplementary financial information	7.7

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 Key management personnel

The Commission has determined key management personnel to include cabinet ministers and members of the Commission. The Commission does not incur expenditures to compensate Ministers and those disclosures 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:

Compensation band (\$)	2024	2023
10,001 – 20,000	1	1
30,001 – 40,000	1	-
40,001 – 50,000	-	1
70,001 – 80,000	1	-

	2024	2023
	\$	\$
Total compensation of senior officers	130,177	66,604

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

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

NOTES TO THE FINANCIAL STATEMENTS (cont.)

7.3 Related party transactions

The Commission is a wholly owned public sector entity that is controlled by of 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 (i.e. wholly-owned public sector entities);
- associates and joint ventures of a wholly-owned public sector entity; and
- the Government Employees Superannuation Board (GESB).

Material transactions with related parties

Outside of normal citizen type transactions 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.

7.4 Related bodies

The Commission had no related bodies during the reporting period (2023: nil)

7.5 Affiliated bodies

The Commission had no affiliated bodies during the reporting period (2023: nil)

7.6 Remuneration of auditors

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

	2024	2023
	\$	\$
Auditing the accounts, financial statements, controls, and key performance indicators	15,400	14,000

7.7 Supplementary financial information

(a) Write-offs

There were no losses of public moneys or other public property through theft or default during the financial year (2023: nil).

(b) Losses through theft, defaults and other causes

There were no write offs of public money or other public property during the financial year (2023: nil).

(c) Forgiveness of debts

There were no forgiveness (or waiver) of debts by the agency during the financial year (2023: nil).

(d) Gift of public property

There were no gifts of public property during the financial year (2023: nil).

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

KEY PERFORMANCE INDICATORS

AUDITED KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2024

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 2024.

The Hon. Lindy Jenkins

Member of the Law Reform
Commission of Western Australia

10 September 2024

Ms Jean Shaw

Member of the Law Reform
Commission of Western Australia

10 September 2024

Professor Meredith Blake

Member of the Law Reform
Commission of Western Australia

Signed by the Hon Lindy Jenkins under
delegated authority.

10 September 2024

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 Attorney General. 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:

	2023-2024 Target ^(a)	2023-2024 Actual	2022-2023	2021-2022
% on target	100%	100%	100%	100%

(a) In the 2023-24 financial year, 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	2023-2024	2022-2023	2021-2022
Brought forward	1	1	1
New	1	0	2
Total to be reviewed	2	1	3
References completed during the year	1	0	2
References with elapsed time	0	0	0

The Commission had two live references in the financial year 2023-24. The effectiveness of these references are measured separately as shown below.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

KEY PERFORMANCE INDICATORS – DETAILED INFORMATION IN SUPPORT OF KEY PERFORMANCE INDICATORS (cont.)

SEXUAL OFFENCES

Project 113: Review Chapter XXXI of the Criminal Code Compilation Act 1913 (WA)

Table A – Progress towards the Sexual Offences 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 Vol 1 published	Discussion Paper Vol 2 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	-	-	1 August 2022	-	23 December 2022	10 February 2023	-	June 2023	6 November 2023 (f)
Actual Date	4 February 2022	-	8 August 2022 (b)	1 August 2022 (c)	-	20 December 2022	10 February 2023	May 2023(d)	May 2023(e)	27 October 2023

Key:

(a) Interim milestone targets agreed and extended by the Commission.

(b) The project director for reference was Amanda Blackburn. Her contract was agreed from 8 August 2022 to 30 June 2023 and then was extended to 30 September 2023 and then to 31 December 2023. During 2023/24, two contracts were entered into for the provision of expert reader services and two for Project Research and Writing Assistant services to replace a 2023/24 contract that had expired.

(c) The project writer for reference was Dr Jamie Walvisch. His initial 2022 contract was varied to allow him to work on Project 113, then a new contract from 1 August 2022 to 30 June 2023 was agreed. This was extended to 30 September 2023 and then to 13 November 2023.

(d) On 3 May 2023, the project writer submitted a Submission Summary document to the Commission. On 5 May 2023, the project writer submitted Issues Documents to the Commissioners. These documents were used to discuss and agree upon recommendations for the Final Report.

(e) The first chapter of the uncompleted draft was submitted on 31 May 2023. The remaining chapters were then submitted for review by the Commissioners as they became available.

(f) At the Attorney General's request, the due date for the Final Report was extended to 6 November 2023 due to the competing Government workload of one of the Commission members. The Commission submitted the report to the Attorney General on 27 October 2023.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

KEY PERFORMANCE INDICATORS
– DETAILED INFORMATION IN SUPPORT OF KEY PERFORMANCE INDICATORS (cont.)

GUARDIANSHIP AND ADMINISTRATION

Project 114: Review of the Guardianship and Administration Act 1990 (WA)

Table B – Progress towards the Guardianship and Administration 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)	3 April 2024(b)	-	1 May 2024 (c)	1 May 2024 (d)	-	-	-	-	1 April 2025 (b)
Actual Date	3 April 2024	-	-	1 May 2024 and 1 June 2024	-	-	-	-	-

Key:

- (a) Interim milestone targets agreed and extended by the Commission.
- (b) Letter enclosing TOR received from the Attorney General dated 3 April 2024.
- (c) The Commission commenced recruitment of a Project Director in May 2024 whose appointment will be finalised at the start of 2024/25. A Project Plan will be approved once the Project Director is appointed.
- (d) The project writers for the reference are Kate Dromey and Fiona Lester. Ms Dromey's contract was agreed from 1 May 2024 to 30 September 2024. Ms Lester's contract was agreed from 1 June 2024 to 31 October 2024.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

KEY PERFORMANCE INDICATORS
– DETAILED INFORMATION IN SUPPORT OF KEY PERFORMANCE INDICATORS (cont.)

KEY EFFICIENCY INDICATOR: Publications on Law Reform.
The extent to which the efforts of the Commission resulted in recommendations and public awareness.

Service: Publications on Law Reform

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

Total publications refer to references referred to the Commission in the 2023-24 financial year and comparative years as well as references carried over from previous financial years.

Total community contacts refer to correspondence with stakeholders by Commission representatives in relation to Commission publications and matters of law reform, including submissions received; incoming and outgoing mail; emails to the Commission's email address, and phone calls.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

KEY PERFORMANCE INDICATORS – DETAILED INFORMATION IN SUPPORT OF KEY PERFORMANCE INDICATORS (cont.)

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 2023-24 and previous financial years. The table also identifies the total community contacts and the average cost per contact in the same period.

	Target (a) 2023-2024(b)	Actual 2023-2024	Actual 2022-2023	Actual 2021-2022	Actual 2020-2021
Service: Total Publications	2	2	1	3	2
Average cost per publication (c)	\$379,995(b)	\$220,891	\$566,578	\$141,441	\$193,570
Total community contacts (c)	500	985(d)	1,029	1,888	500
Average cost per community contact (c)	\$80.00	\$23.61(e)	\$28.98	\$11.83	\$40.75

Key:

- (a) Total publications refers to the number of published, in-progress and completed references during the 2023-24 financial year and includes references carried over from previous financial years.
- (b) In accordance with the Treasurer's instructions, the Commission is now exempt from producing Section 40 Estimates. This figure is based on underspend from the Project 113 estimated budget from the previous financial year and the estimated Project 114 budget.
- (c) The average cost per publication is calculated as 95% of the total cost of services divided by total publications. The average cost per contact is calculated as 5% of total cost of services divided by total community contacts.
- (d) This figure is greater than the target because of the significant community interest in Project 113 which resulted in a high number of public contacts.
- (e) For 2023-24, the WA Government, through the Department's Cost and Demand Model (CDM), has provided ongoing funding for the Commission. The Commission has seen the benefits of this stable funding arrangement, especially in the conduct of Project 113 and 114, which has allowed for improved consultation and the engagement of expert contractors to assist with the preparation of Discussion Papers and Final Reports (eg. Expert Readers and an Editor). The increased current year Actual cost per community contact compared to the previous year is mostly due to the increase of Commissioners remuneration by the Governor in accordance with the Act. This figure was also affected by the 5-month delay between Project 113 being submitted to the Attorney General and Project 114 being referred to the Commission by the Attorney General. This delay meant that the majority of work for Project 113 occurred in 2022-23 and the majority of work for Project 114 is planned to occur in 2024-25.

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	2023-24	2022-23
Full-time permanent	Nil	Nil
Full-time contract	Nil	Nil
Part-time measured on an FTE basis	Nil	Nil
On secondment	Nil	Nil
Casual contract*	Nil	2

*Two casual Graduate positions were created in 2022-23 for the purpose of engaging law students to assist with data collection and note taking for Project 113.

Staff development

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

Workers' compensation

No workers' compensation claims were recorded during the financial year.

Governance Disclosures

Contracts with senior officers

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

Personal use of corporate credit card

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

Other Legal Requirements

Advertising and sponsorship

In accordance with section 175ZE of the *Electoral Act 1907* (WA), the Commission incurred the following expenditure relating to advertising and sponsorship during the 2023-24 financial year.

Category	Amount
Advertising agencies	Nil
Market research	Nil
Polling	Nil
Direct mail	Nil
Media advertising	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 meeting rooms the Commission use — located on Level 23 of the David Malcolm Justice Centre at 28 Barrack Street, Perth — have wheelchair access, lift access to the upper floors and convenient public parking nearby.

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

Publications on the Commission's website continue to be in an accessible format and screen reader friendly.

Online meetings are enabled with live written transcript and chat boxes for the hearing impaired.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

Compliance with Public Sector Standards and Ethical Codes

The Commission has complied with section 31(1) of the *Public Sector Management Act 1994* (WA) 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 Manager ensures that human resource management principles have adequate checks in place to ensure compliance requirements are met.

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. The Commission has its own Charter which is made available to new members.

During the financial year, the Commission implemented its own Code of Conduct and an accompanying Integrity Framework. These documents collectively guide all members of the Commission, its contractors and staff of the Department who assist it, in their responsibility to uphold ethical behaviour and promote and maintain a culture of integrity in the workplace.

In 2023-24, 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* (WA), 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.

In 2023-24, the Commission commenced discussions around creating its own Record Keeping Policy for use by Commission members and contractors. This will accompany the Department's RKP and is due to be completed in 2024-25.

Freedom of Information

In 2023-24, 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* (WA) provides the right to apply for documents held by the Commission and to enable the public to ensure that personal information in documents is accurate, complete, up-to-date and not misleading.

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

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.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

Applicants must provide details and, if necessary, documentation in support of their claim to amend inaccurate, incomplete, out-of-date or misleading information. In addition, applicants must indicate how they want the amendment to be made within the options set out in the *Freedom of Information Act 1992* (WA), 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* (WA), 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* (WA), 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* (WA) 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 of 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. Agencies may choose to report on progress achieved in implementing the Policy Framework for Substantive Equality, noting progress on developing and implementing the framework and/or achievement of outcomes in the 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.

Western Australian Multicultural Policy Framework

The Commission relies on the Department's Multicultural Plan 2021-2025. The plan was developed in consultation with the Office of Multicultural Interests (OMI) and is aligned with the Western Australian Multicultural Policy Framework. The Multicultural Plan is an integral part of the Department's commitment to diversity and inclusion and assists the Commission in ensuring a culturally safe and inclusive workplace, and a responsive service that meets the needs of our culturally and linguistically diverse consumers.

Occupational safety, health and injury management

The Commission is committed to meeting its obligations and responsibilities under the *Workers' Compensation and Injury Management Act 1981* (WA), the *Work Health and Safety Act 2020* (WA) and the *Work Health and Safety (General) Regulations 2022* (WA) 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.

As 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 2023-24 reporting period, no workers' 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, social distancing and working from home requirements where necessary.

DISCLOSURES AND LEGAL COMPLIANCE (cont.)

Annual performance for 2023-24

Measure	Actual Results		Results against Target	
	2022-23 ⁽¹⁾	2023-24	Target	Comment on result
Number of fatalities	0	0	0	
Lost time injury and/or disease incidence rate	0	0	0 or 10% reduction in incidence rate	
Lost time injury and/or disease severity rate	0	0	0 or 10% reduction in severity rate ⁽²⁾	
Percentage of injured workers returned to work: (i) within 13 weeks (ii) within 26 weeks	N/A ⁽³⁾ N/A ⁽³⁾	N/A ⁽³⁾ N/A ⁽³⁾	100% 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⁾ The performance reporting examines a three-year trend and, as such, the comparison base year is two years prior to the current reporting year.

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

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

National Strategic Plan for Asbestos Awareness and Management

Each State and local government department, agency, authority and government enterprise is required to report on its progress in achieving Western Australia's targets.

As the Commission does not have its own premises, the identification and assessment of risks associated with asbestos-containing material, asbestos awareness and training are undertaken by the Department's Procurement, Infrastructure and Contract Services on the Commission's behalf and reported in the Department's Annual Report.

Government Building Contracts

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

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 sexual offences in the Criminal Code

Pursuant to section 11(2)(b) of the *Law Reform Commission Act 1972* (WA), the Commission of Western Australia is to review Chapter XXXI of the *Criminal Code Compilation Act 1913* (WA) (Code) and sections 186, 191 and 192 of the Code, and provide advice for consideration by the Western Australian Government on possible amendments to enhance and update these provisions (and related or ancillary provisions or legal rules), having regard to contemporary understanding of, and community expectations relating to, sexual offences.

In carrying out its review, the Commission:

1. having regard to the in-principle support of the Western Australian Government to legislative amendment to address certain matters arising out of the Criminal Justice Report of the Royal Commission into Institutional Responses to Child Sexual Abuse, should not review or report on the matters identified in Schedule 1;
2. should consider whether there is a need for any reform and, if so, the scope of reform regarding the law relating to consent (including knowledge of consent) and, in particular:
 - (a) whether the concept of affirmative consent should be reflected in the legislation;
 - (b) how section 24 of the Code (dealing with mistake of fact) applies to the offences created by the above-mentioned provisions;
 - (c) how consent may be vitiated, including through coercion, fraud or deception, for example, through "stealththing"; and
 - (d) whether special verdicts should be used.

Schedule 1

1. Section 321A of the Code (Persistent sexual conduct with a child under 16 years), including related evidentiary provisions and the maximum penalty for the offence.
2. Similar age defence to Section 321 of the Code (sexual offences against a child over 13 but under 16 years).
3. New offence of grooming a child or other person under whose care, supervision or authority the child is under, for sex.
4. New offence of failing to protect a child from sexual abuse in an institution, and concealing and failing to report child sexual abuse.

Hon John Quigley MLA

Amended 28 June 2023

APPENDIX 1: CURRENT REFERENCES (cont.)

Review of WA's Guardian and Administration legislation

1. Pursuant to section 11(2)(b) of the *Law Reform Commission Act 1972* (WA), the Law Reform Commission of Western Australia is to review, provide advice and make recommendations for consideration by the Western Australian Government on new legislation to enhance and update the *Guardianship and Administration Act 1990* (WA) (Act).
2. In carrying out its review, the Law Reform Commission should:
 - a. ensure that recommendations for any new legislation reflect the current scope of the Act as applying to adults only;
 - b. consider the need for reform, and the best approach to implementing that reform in the Western Australian context, following on from:
 - i. the recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability relating to guardianship and administration, particularly the recommendations regarding a new supported decision-making framework and a legal framework for the authorisation, review and oversight of restrictive practices, as applicable in the particular context of Western Australia,
 - ii. the statutory review of the Act conducted by the Department of the Attorney General in November 2015,
 - iii. the Final Report of the Select Committee into Elder Abuse tabled in the Legislative Council on 13 September 2018;
 - iv. the work of the Standing Council of Attorneys General's Enduring Powers of Attorney Working Group, including any model provisions developed by that Working Group, as applicable in the particular context of Western Australia; and
 - v. any other state and federal reform relating to guardianship and administration,

- c. take into account the role and identity of decision-makers under the Act, as compared with other legislation including the Aged Care Bill 2023 (Cth) (exposure draft);
- d. consider whether confidentiality requirements under the Act are sufficient to adequately balance the protection of the privacy of persons providing information or who are affected by or involved in a decision made pursuant to the Act, and the promotion of the principle of transparency; and
- e. have regard to any other matter the Commission considers relevant.

Hon John Quigley MLA

3 April 2024



THE LAW REFORM COMMISSION
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