

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 1

Question No. 2

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Australian Organisations Grants - \$731,000 in 04-05

- a) Who did the grants go to and for what purpose in 03-04?
- b) Who are the grants going to in 04-05 and what is the purpose of the increase?

The answer to the honourable senator's question is as follows:

The amounts of, and purposes of, grants included in the estimated actual expenditure of \$704,000 in the 2004-2005 Portfolio Budget Statements for the Australian organisations grants item for 2003-2004 are set out in Attachment A.

The 2004-2005 Portfolio Budget Statements provide an estimate of \$731,000 for the Australian organisations grants item for 2004-2005. This is a net increase of \$27,000. While this figure is based on an estimate of the grants which might be made, no grants have yet been approved by the Attorney-General.

ATTACHMENT A – Details of grants comprising the estimated actual expenditure for the Australian organisations grants item in 2003-2004

| | Organisation | Amount | Purpose |
|----------|---|------------------|--|
| 1 | Australian Institute of Judicial Administration (AIJA) | \$201,350 | Commonwealth contribution to the AIJA |
| 2 | National Judicial College of Australia (NJC) | \$260,148 | Commonwealth contribution to the NJC |
| 3 | Australian Red Cross | \$150,000 | To assist in meeting Australia's obligation to disseminate humanitarian law principles under the Geneva Conventions |
| 4 | Asian Law Centre | \$7,636 | To assist the work of the Asian Law Centre |
| 5 | National Committee on Human Rights Education (NCHRE) | \$20,000 | To assist with the NCHRE conference and administrative costs |
| 6 | Deafness Forum Ltd | \$24,545 | To continue the Disability Discrimination Act Standards Project, including consultation with the disability sector over proposed disability standards under the <i>Disability Discrimination Act 1992</i> |
| 7 | The World Congress on Family Law | \$30,000 | To contribute to the running costs of the next World Congress. (The World Congress is an Australian organisation which brings together lawyers, judges, health care professionals, politicians, community and government representatives from the private and business sectors who share a common concern about the rights of children. Its primary focus is to develop outcomes that directly benefit those who are especially vulnerable and disadvantaged, particularly children and young people.) |
| 8 | Australian Centre for Industrial and Commercial Arbitration (ACICA) | \$10,000 | To contribute to the running costs of the ACICA conference in 2004 |
| | Total | \$703,679 | |

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Outcome 1

Question No. 3

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Questions in relation to Certified Agreement negotiations in AGD:

- a) Management and elected staff representatives failed to reach an agreed position. What did staff representatives report as the major areas where the management offer is unattractive?
- b) Under the previous two Certified Agreements (2000 and 2002) management has undertaken to review and monitor workloads. What have the results been?

Has AGD reviewed and monitored workloads by examining the output side of the equation and what are the results of this work?

- c) What is the current rate of annual staff turnover in the Department, broken down by Division?
- d) What has the Department done to identify the causes of staff turnover? What do these results show statistically?

The answer to the honourable senator's question is as follows:

- a) Staff representatives have indicated that the areas of discontentment about the proposed agreement are as follows. Since the original proposal the agreement was also revised to address some concerns raised by employees. These are also identified below:
 - Proposed duration of agreement (employee representatives wanted an agreement expiring on 30 September 2006 whereas management has proposed an agreement expiring on 30 June 2007).
 - Employee representatives sought an agreement provision which stated that AGD employees would not be financially disadvantaged if paid parking was introduced in Barton. Management did not agree to include such a provision but included a provision in the proposed agreement a commitment to ensure strong proactive steps are taken in relation to any proposal affecting the provision of safe and affordable parking in Barton and also to discuss the effect of pay parking with employees if pay parking is introduced.
 - Employee representatives sought an agreement provision which would allow for the cashing out of flextime credit above the maximum accruable level. Management did not agree to include such a provision on the basis that the flextime system provides for flexible hours without the limitation that would be required if it was to become in effect another form of overtime.
 - Management proposed that the existing arrangement for salary advancement by two pay points for employees who achieve the highest performance rating under the

Department's performance appraisal system should be discontinued with employees achieving this rating receiving salary advancement by one pay point. Employee representatives did not agree with this proposal. This was one of the productivity savings to be achieved in the agreement.

- Employee representatives sought that the agreement identify an acceptable staff turnover rate whereas management considered that the Department presently has insufficient data to specify a particular rate for the Department. However a clause has been included in the revised Agreement to commit the Department to an early examination of the factors affecting our rate of separation. As well, a commitment that we will use our best endeavours to achieve a separation rate no more than the Australian Public Service average, unless operational reasons justify a different rate has also been included in the revised Agreement.

- b) Following the commitment to review workloads and the management of flextime being made in the Department's certified agreement of December 2000, an electronic personal diary form was established which fed all information recorded on working hours into an electronic database.

Use of the personal diary commenced on 1 September 2001. All employees who work flextime (ie predominantly APS Level 1 to 6 classified employees) were required to use the personal diary and all other employees were strongly encouraged to use the personal diary.

A report in relation to the first full year of information captured by the diary (ie for the period 1 September 2001 to 31 August 2002) was finalised in November 2002. The report revealed that:

- an average of 10 hours 24 minutes excess flex credit was forfeited each year by APS Level 1 to 6 and Executive Level employees who used the personal diary, and
- an average amount of unpaid overtime of 12 hours and 8 minutes per year applied in respect of all employees who used the personal diary.

Importantly, the report revealed that only about 50% of employees at the Executive Level 1 and 2 classifications were using the personal diary. As this group of employees is the one where it might be expected that the highest number of work hours might be performed it created some doubt about the validity of the information obtained from the use of the personal diary. Accordingly, one of the proposals related to managing workloads for the proposed replacement certified agreement is a requirement that all non-shiftworker employees record their attendance using the personal diary.

While the personal diary has remained in use since the first full report was produced, and some summary data has been compiled from it for the Department's Executive Committee since that time, its primary use at present is as an attendance recording device rather than a workload and flextime evaluation tool because of the doubts about the usefulness of the data it can presently provide.

It is considered, however, that the personal diary will provide very useful data for the purposes of workload management and reviewing the operation of flextime when its use becomes mandatory for all non-shiftworker employees.

With respect to whether the Department has reviewed and monitored workloads by examining the output side of the equation and, if so, what the results of this have been, it is noted that measuring workloads by outputs is problematic for a policy department.

What is apparent in terms of increasing workloads is that, particularly since 11 September 2001, the Department has experienced a substantial increase in workloads and responsibilities.

The workload increases include the government's national security legislation program; increased demands on the Department for advice in international matters including Australia's involvement in the war on Iraq; participation in IDCs on insurance and tort law reform; increased operational services in extradition and mutual assistance in criminal matters; and a 70% increase in applications for financial assistance.

In addition to the Department's direct responsibilities, AGD employees have been increasingly involved in assisting other agencies and IDCs in achieving their objectives or whole of government objectives through, for example, advice to the Department of Defence on the war in Iraq, participation in US Free Trade Agreement negotiations, and in advising on a wide range of cross-portfolio security and international issues.

Avenues taken to address the increasing workload issue have included seeking additional base funding for workload increases (with \$7.3m being received in the 2004/05 budget) and regular discussion about work priorities with the Attorney-General and Minister for Justice and Customs resulting in deferring or discontinuing low priority work.

Additional measures to address the increasing workloads the Department is facing are also proposed for the replacement certified agreement including the conduct of periodic workload surveys, the adoption of principles for working smarter supported by particular strategies and implementation actions, and the formal recognition of time off in lieu of additional unpaid hours of duty for employees who do not work flextime.

- c) The Department measures its turnover primarily as employee-initiated separation, consistent with Australian National Audit Office methodology. Employee-initiated separation occurs when an employee leaves the Department on their own accord during the reporting period. This includes resignation from the Australian Public Service (APS), moving to another APS agency, retirement and voluntary early cessation of a non-ongoing contract. The employee-initiated separation in the Department for the 2003-2004 financial year was 12.74%. This is calculated as no. of employee-initiated separations in 2003-2004 ÷ headcount at 30 June 2004 x 100. Details as requested are at **Attachment A**.

It should be noted that this includes permanent moves to another APS agency under section 26 of the *Public Service Act* 1999. If these mobility 'transfers' are not included, then the Department's employee-initiated separation figure for 2003-2004 was 8.25%. Details are at Attachment A.

It can be seen that for the whole Department, approximately one third of all separations are as a result of mobility within the APS. The Department supports the concept of the APS as a ‘career service’.

- d) The Department records the reasons for employee-initiated separation in its human resources information system, Aurion, such as resignation from the APS, moving to another APS agency, death, retirement, and voluntary early cessation of a non-ongoing contract. (A ‘retirement’ just before a person’s 55th birthday for superannuation purposes is recorded as a resignation.) It also records separations for the purposes of management-initiated termination of employment and end of non-ongoing contract. The statistics are as follows:

| Reason | Number in 2003-2004 |
|--|----------------------------|
| Move to another APS agency | 22 |
| Ongoing Redundancy | 9 |
| Ongoing Resignation from APS | 58 |
| Ongoing Retirement at or after 55 (includes SES) | 3 |
| Death | 0 |
| Ongoing Permanent Move to APS agency | 13 |
| Voluntary Move Non-ongoing | 3 |
| Completion of Non-ongoing contract | 50 |
| Termination on Other Grounds | 0 |
| Ongoing Invalidity | 3 |

Attachment A

| Division | Employee-initiated Separation Rate 2003-2004 (%) | Employee-initiated Separation Rate (%) excluding move to another APS agency |
|--|---|--|
| Attorney-General's Department | 12.47 | 8.25 |
| Civil Justice Division | 10.91 | 9.09 |
| Legal Services and Native Title Division | 15.38 | 12.82 |
| Family Law and Legal Assistance Division | 20.20 | 15.15 |
| Office of International Law | 8.70 | 4.35 |
| Office of Legislative Drafting | 4.00 | 4.00 |
| Criminal Justice Division | 9.89 | 6.59 |
| Information and Security Law Division | 15.79 | 8.77 |
| Emergency Management Australia | 10.94 | 10.94 |
| Protective Security Coordination Centre | 9.20 | 3.68 |
| Information and Knowledge Services Group | 14.71 | 7.35 |
| Corporate Services Group | 17.46 | 15.08 |

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Outcome 1

Question No. 4

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Average staffing levels – from 359 (03-04) to 378 (04-05)

- What is the rationale for the increase in staffing levels? Is it for one year only, or ongoing?
- Please provide breakdown of what sections these staff are employed in across the department (by Output Group)
- How many new SES positions?
- Do you expect any savings in other expenditure because of this measure?

The answer to the honourable senator's question is as follows:

The increase staff numbers in Outcome 1 is due to measures announced by the Government in the 2004-05 Budget. The measures are: Commonwealth Legal Aid – equitable access and Attorney-General's Department – additional funding (workload increases).

The legal aid measure provides funding for two additional staff at the Executive Level 1 and APS 6 classification.

In the Portfolio Budget Statements, the additional funding for workload increases was notionally allocated on a proportional basis across all outputs. This resulted in an additional 17 staff being notionally allocated to Outcome 1. The final number and classification of staff funded from the workload increase measure will be determined in the process of reviewing and finalising divisional budgets for 2004-05.

There are no savings in other expenditure required because of the legal aid and workload increase measures.

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Output 1.1

Question No. 5

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Why wouldn't the simple change to court rules allow the remittal of matters from the High Court to the Federal Magistrates Court?

The answer to the honourable senator's question is as follows:

Currently the High Court's practice is to remit migration cases to the Federal Court. The Federal Court may then remit to the Federal Magistrates Court cases which are appropriate for hearing by the Federal Magistrates Court. The Government's reforms will streamline the remittal process so that the High Court, when it remits migration cases, will be able to remit these cases directly to the Federal Magistrates Court. This will avoid unnecessary double-handling.

Generally, remittals by the High Court to another court are provided for by laws of the Parliament (for example, section 44 of the *Judiciary Act 1903*). It is appropriate that remittals of migration cases continue to be dealt with in this way.

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Output 1.1

Question No. 6

Senator Ludwig asked the following question at the hearing on 24 May 2004:

Is the review of the security needs of the courts available to the committee?

The answer to the honourable senator's question is as follows:

It would not be in the public interest for the review to be made available to the Committee as it contains material concerning the security of Commonwealth buildings which could, if disclosed, possibly prejudice the security of those buildings and their occupants. It also contains material relating to the protection of public safety which if released, would or could reasonably be expected to prejudice the maintenance of lawful methods for the protection of public safety.