



LEGISLATIVE COUNCIL

LEGISLATIVE COUNCIL PORTFOLIO
COMMITTEE No.4

BUDGET ESTIMATES 2017-2018
Supplementary Questions

Legislative Council Portfolio
Committee No.4

ATTORNEY GENERAL

Hearing: Thursday 8 September 2017

**Answers due by: Wednesday 4 October
2017**

Budget Estimates Secretariat
Phone 9230 2412
budget.estimateds@parliament.nsw.gov.au

ATTORNEY GENERAL

Questions from the Hon Mr Robert Borsak MLC

Legislative Encroachments on Common Law Rights

During the Budget Estimates hearing the Attorney General said he would be happy to receive Mr Borsak's questions about legislation for which he has portfolio responsibility. However, according to Department of Justice website (<http://www.justice.nsw.gov.au/aboutus/ministers#TheAttorneyGeneral>) the Attorney General is the principal adviser to the Government and Cabinet on (all) legal, constitutional and legal policy issues.

Furthermore, the Attorney General has an obligation to ensure the administration of (all) justice in New South Wales is fair and efficient; consistent in the level and nature of penalties imposed under the law; observes the rules of natural justice; and preserves civil liberties.

- 1. With this background I ask the Attorney General what progress has been made on removing the 397 legislative encroachments on citizens' basic legal rights referred to by His Honour Tom Bathurst¹ but especially the Acts for which the Attorney General has portfolio responsibility, as identified by highlighting in Appendix 1 – Details of Search Terms and Results?**

Answer

I am advised:

The Government gives due consideration to individuals' common law rights. Legislation is made with a view to balancing common law rights against other important public interest considerations, such as public safety and the investigation and prevention of criminal conduct.

Model Litigant Policy

The Department of Justice Facebook page created a post on 7 June 2017 titled '*Dealing with a Legal Problem and Representing Yourself?*'.

The following comment was made on the post at 8:03am on 9 June 2017:

'It would help if ALL NSW Government agencies were regularly reminded by you people of their obligation to comply with the Model Litigant Policy (Premier's Memorandum 2016-03 – <http://www.justice.nsw.gov.au/legalservices-coordination/Pages/info-for-govt-agencies/model-litigant-policy.aspx>)'

In reply to *this* comment the Department of Justice Facebook page administrator made the following response at 8:18am on 9 June 2017:

'Thanks Steve I will create a campaign referencing this policy' as shown in Appendix 2.

¹ <http://www.smh.com.au/nsw/chief-justice-tom-bathurst-warns-of-threat-to-basic-legal-rights-20160204-gmlo5n.html>

- 2. Minister, can you provide details of the Model Litigant Policy campaign alluded to by the Department of Justice Facebook page administrator on 9 June 2017.**
- a. Has the campaign commenced?**
 - b. Which agencies have been reminded of the policy?**
 - c. When will the campaign be completed?**

Answer

I am advised:

The campaign will run during October and will involve Department of Justice intranet and social media.

Questions from the Hon Shaoquett Moselmane MLC (on behalf of the NSW Labor Opposition)

Staffing levels

3. How many, FTE magistrates were there in this state as at:

- a.1.1.17**
- b.1.1.16**
- c.1.1.15**

Answer

I am advised:

The Local Court publishes the Local Court Annual Review on the Operations of the Court for the period 1 January to 31 December each year. The Local Court Annual Reviews are published at www.localcourt.justice.nsw.gov.au

4. How many, FTE Supreme Court Judges were there in this state as at:

- a.1.1.17**
- b.1.1.16**
- c.1.1.15**

Answer

I am advised:

The Supreme Court publishes the Supreme Court Annual Review on the Operations of the Court for the period 1 January to 31 December each year. The Supreme Court Annual Reviews are published at www.supremecourt.justice.nsw.gov.au

5. How many, FTE District Court Judges were there in this state as at:

- a.1.1.17**
- b.1.1.16**
- c.1.1.15**

Answer

I am advised:

The District Court publishes the District Court Annual Review on the Operations of the Court for the period 1 January to 31 December each year. The District Court Annual Reviews are published at www.districtcourt.justice.nsw.gov.au

6. How many, FTE Crown Prosecutors were there in the state as at:

- a.1.1.17**
- b.1.1.16**
- c.1.1.15**

d.1.1.14

e.How many vacancies are there as at 1.7.17?

Answer

I am advised:

I am advised that the Office of the Director of Public Prosecutions Annual Report includes information in relation to the number of Crown Prosecutors recruited each year. The Annual Reports are available at <http://www.odpp.nsw.gov.au>

7. How many, FTE Public Defenders were there in NSW as at

a.1.1.17

b.1.1.16

c.1.1.15

d.1.1.14

e.How many vacancies are there now as at 1.7.17?

Answer

I am advised:

I am advised that the Public Defenders Annual Review includes a list of Public Defenders and their date of appointment. The Annual Reviews are available at <http://www.publicdefenders.nsw.gov.au>.

8. How many, FTE Sheriff Officers were there in this state NSW as at

a.1.1.17

b.1.1.16

c.1.1.15

d.1.1.14

e.How many vacancies are there now?

Answer

I am advised:

There were over 285 FTE Sheriff Officers at 1.1.17. This is an increase of over 55 from 1.1.14. There are no set quotas for FTE Sheriff's Officers.

Local Courts

9. How many Local Court registries have been closed since 1.1.13?

Answer

I am advised:

One.

10. How many people were employed in the Civil Law Division NSW legal Aid as at:

- a. 1.1.17**
- b. 1.1.16**
- c. 1.1.15**
- d. 1.1.14**

Answer

I am advised:

There are almost 190 people employed at 1.1.17. This is an increase of over 50 people since 1.1.14.

Additional information about staffing can be found in Legal Aid's annual review at:
<http://www.legalaid.nsw.gov.au/>

11. How many local courts will cease to have sittings or be closed in the next 12 months?

Answer

I am advised:

Local Court sitting arrangements are a matter for the Chief Magistrate. A comprehensive list of all Local Court sittings is available at www.justice.nsw.gov.au

12. What local courts will have reduced sittings in the next 12 months?

Answer

See response to supplementary question 11.

Coroner

13. Hugh Dillon a respected recently retired Deputy State Coroner says that the overall standard of coronial services provided to country people is less than that provided to city people. What is your response to that view?

Answer

I am advised:

People living in regional NSW are provided with access to coronial services through utilising senior magistrates on circuits who are trained in coronial matters. Coronial matters are appropriately referred to central locations for deaths in sensitive matters or where further expert forensic advice is required.

14. What is your response to the proposal made by Mr Hugh Dillon to establish a Specialist Coroner's Court?

Answer

I am advised:

The proposal to establish a specialist coroner's court is being considered in the statutory review of the *Coroners Act 2009* currently being conducted by the Department of Justice.

15. When will the current Departmental review of the Coroners Act be complete and will it consider the proposal of a Specialist Coroners Court for all of NSW?

Answer

I am advised:

See response to supplementary question 14.

It is anticipated that the review will be complete by the end of 2017.

Wagga Wagga Court House

16. Why was the redeveloped Wagga Court House opened without proper air-conditioning?

Answer

Refer to my previous answer to question on notice 6044 in Questions & Answers Paper No 138.

17. In relation to Wagga Court House:

- a. Local solicitor, Tim Abbott, has said that in the new court the jury box is too close to the bar table which means they hear lawyers discussing evidence not yet admitted and in some cases inadmissible. What do you propose to do about that?
- b. Mr Abbott says there are no means for mediation, Fair Work Commission hearing, CARS and the bar table facilities are inadequate. What do you propose to do about that?

Answer

Refer to my previous answer to question on notice 6166 in Questions & Answers Paper No 144.

Asset Sales

18. Can you confirm that in the Financial Year 2011/12 the Justice cluster sold 12 properties at a value of \$45.16m?

Answer

I am advised:

Information relating to property disposals is contained in agency annual reports.

19. Can you confirm that in the Financial Year 2012/13 the Justice cluster sold 10 properties at a value of \$4.5M?

Answer

See response to supplementary question 18.

20. Can you confirm that in the Financial Year 2013/14 the Justice cluster sold 4 properties at a value of \$0?

Answer

See response to supplementary question 18.

21. Can you confirm that in the Financial Year 2014/15 the Justice cluster sold 8 properties at a value of \$1.86M?

Answer

See response to supplementary question 18.

22. Can you confirm that in the Financial Year 2015/16 the Justice cluster sold 18 properties at a value of \$12.39M?

Answer

See response to supplementary question 18.

23. Can you provide details as to how many properties were sold by the Justice cluster in the Financial Year 2016/17 and what the total value of those sales was?

Answer

See response to supplementary question 18.

24. For each of the Financial Years, 11/12 through to 16/17 inclusive, can you provide the breakdown, within the Justice cluster, as to which specific departments/agencies sold what volume of properties and at what value, for each of the financial years?

Answer

See response to supplementary question 18.

25. For each of the Financial Years, 11/12 through to 16/17 inclusive, what portion, as a percentage or dollar value, of the properties sold went back into the Budgets within the Justice cluster, and what portion went into the Restart NSW fund?
a. Are you able to provide a breakdown by specific department/agency?

Answer

See response to supplementary question 18.

26. Since July 1, 2011, with regard to the total sales of assets and properties across the combined Justice Cluster, are you able to provide a breakdown of address, value and Electorate for each sale?

Answer

See response to supplementary question 18.

(a) What action will occur concerning the \$724,497 of outstanding premiums under the Surety Bond Scheme?

Answer

I am advised:

See my comments made in Portfolio Committee No. 4 – Legal Affairs, on 8 September 2017 and recorded on page 13 of the transcript.

(b) Will any payments be made by or to NSW Trustee and Guardian in respect of the amount referred to in (9) above?

Answer

I am advised:

There is no amount referred to at (9) above.

Office Administration

27. How many staff are in your ministerial office?

a. What was the average salary for staff members in your office during 2016-17?

b. What is the estimated average salary for a ministerial staffer in your office in 2017-18 based on current appointments?

Answer

I am advised:

Ministers' staff numbers and salary bands are available on the DPC website. Refer to: http://www.dpc.nsw.gov.au/about/publications/premiers_and_ministers_staff_numbers

28. How many blackberries/iphones/smart phones are assigned to your staff?

a. For each phone, how much was each bill in 2016-17?

b. How many phones have been lost or replaced due to damage in your office?

i. What is the cost of replacing those phones?

Answer

I am advised:

There were 240 smart phones allocated across the Ministerial Offices in 2016-17. The total usage cost of these smart phones and other mobile devices (including iPads) was \$269,644, a 53.4% per cent reduction on the 2008-09 expenditure of \$578,691. The cost of replacing any lost or stolen devices is claimed through the NSW Treasury Managed Fund. Repairs are funded by the Department of Premier and Cabinet, Corporate and Ministerial Services.

29. How many iPads or tablets has DPC assigned to your Ministerial office and to whom have they been issued?

a. What was the cost of providing iPads or tablets to your Ministerial Office in 2016-17?

b. How many iPads or tablets have been replaced due to lost or damage in 2016-17?

i. What was the cost of replacing these devices?

Answer

I am advised:

There were 139 iPads in use across the Ministers' IT network in 2016-17. The cost of replacing any lost or stolen devices is claimed through the NSW Treasury Managed Fund. Repairs are funded by the Department of Premier and Cabinet, Corporate Ministerial Services.

30. Has any artwork been purchased or leased for display in your ministerial office in 2016-17?

a. What is the cost of this?

Answer

I am advised:

Artwork related to my portfolio, both donated and on loan, are displayed in the office.

31. Have any floral displays or indoor plants or potplants been hired or leased for display in your ministerial office in 2016-17?

a. If so, what was the cost of these items?

Answer

I am advised:

Floral arrangements hired or leased by the Ministry are managed within the office's budgets.

32. Have any floral displays or indoor plants or potplants been purchased for display in your ministerial office in 2016-17?

a. If so, what was the cost of these items?

Answer

I am advised:

Floral arrangements purchased by the Ministry are managed within the office's budgets.

33. What was the total cost of all subscriptions by you and your staff to online news services, newspapers, magazines, journals and periodicals in 2016-17?

a. What are these services/newspapers/magazines/journals/periodicals?

i. Who is the subscriber for each of these?

Answer

I am advised:

The Attorney General's office subscribes to a modest number of publications, the cost of which is managed within the office's budget.

34. What was the total amount your office spent on stationery?

Answer

I am advised:

Expenditure on stationery in 2016-17 across the Ministry was \$146,596. This includes the cost of printed stationery (business cards and letterhead).

- 35. What was the total value of all gifts purchased for use by you and your office in 2016-17?**
- a. What were the gifts purchased?**
 - i. Who were they gifted to?**

Answer

Gifts are presented to dignitaries during overseas missions and to dignitaries visiting NSW.

- 36. Do you purchase bottled water or provide water coolers for your office?**
- a. What is the monthly cost of this?**

Answer

I am advised:

No.

- 37. What non-standard features are fitted to your ministerial vehicle?**
- a. What is the cost of each non-standard feature?**

Answer

I am advised:

Ministers, the Leader of the Opposition, other nominated public office holders and certain former office holders are provided with official cars and drivers. During 2016-17 all costs associated with these vehicles were paid from the relevant office's budget.

- 38. What was the total bill for your office in 2016-17 for:**
- a. Taxi hire**
 - b. Limousine hire**
 - c. Private hire care**
 - d. Hire car rental**
 - e. Ridesharing services**

Answer

I am advised:

Expenditure on taxis, hire cars and ride share services in 2016-17 across the Ministry was \$82,771, down from \$99,463 last year. This compares with 2009-10 expenditure of \$175,776.

39. Were any planes or helicopters chartered by you or your office and paid for with public money in 2016-17?

a. If yes, will you please detail each trip, the method of transport and the cost?

Answer

I am advised:

Expenditure on charter flights for the Ministry totalled \$6,921 in 2016-17, down from \$28,706 last year. This compares with expenditure in 2009-10 of \$281,567.

Hospitality

40. How much did your ministerial office spend on hospitality, including catering and beverages, in 2016-17?

Answer

I am advised:

Expenditure on hospitality across the Ministry totalled \$32,021 in 2016-17, which includes catering for stakeholder meetings and courtesy calls with visiting dignitaries.

41. How much did your Department/agency spend on hospitality, including catering and beverages, in 2016-17?

Answer

I am advised:

Costs are managed within each agency's recurring budget.

Labour Hire Firms

42. Do any Departments/agencies within your portfolio responsibilities utilise the services of Labour Hire Firms? If yes, please advise in table form for 2016-17:

a. The names of the firms utilised

b. The total amount paid to each firm engaged

c. The average tenure period for an employee provided by a labour hire company

d. The longest tenure for an employee provided by a labour hire company

e. The duties conducted by employees engaged through a labour hire company

- f. The office locations of employees engaged through a labour hire company**
- g. The highest hourly or daily rate paid to an employee provided by a labour hire company**

Answer

I am advised:

The Justice Cluster uses Labour Hire firms, in accordance with NSW Public Service policies to cover temporary vacancies as required. There are no central records maintained, with operations authorised to make such arrangements, subject to their overall labour expense cap.

Media and Public Relations

- 43. How many media or public relations advisers are employed for each of your portfolio agencies and what is the total cost to employ these advisers?**

Answer

I am advised:

Staffing numbers and employee related expenses vary across years according to Government priorities and machinery of Government changes.

- 44. What is the forecast for the current financial year for the number of media or public relations advisers to be employed and their total cost?**

Answer

See response to supplementary question 43.

- 45. What is the total cost of media monitoring services used by Departments/agencies within your portfolio responsibilities?**

Answer

I am advised:

The NSW Government purchases all commercial media monitoring centrally through the Department of Premier and Cabinet which delivers significant savings through aggregated procurement.

- 46. By how much has the number of media or public relations advisers employed for each of your portfolio agencies increased since 2011-12 to the current date?**

Answer

See response to supplementary question 43.

47. By how much has the expenditure on media or public relations advisers employed for each of your portfolio agencies increased since 2011-12 to the current date?

Answer

See response to supplementary question 43.

**48. Have you had media training or speech training?
a. If yes, who paid for it?
b. If paid by taxpayers, what was the amount paid in 2016-17?**

Answer

No.

Facebook

49. How much did your ministerial office spend on Facebook advertising or sponsored posts in 2016-17?

Answer

I am advised:

No taxpayer money has been spent on Facebook advertising or sponsored posts.

50. How much did your Department/agency spend on Facebook advertising or sponsored posts in 2016-17?

Answer

I am advised:

Where appropriate social media is used by agencies alongside other forms of advertising as a cost effective medium of communication.

Overseas Trips

**51. Were any of your overseas trips in the last financial year paid for in part or in full by using public money?
a. If so, did any of your relatives or friends accompany you on these trips?**

Answer

I am advised:

Details of overseas travel including costs are published on the Department of Premier and Cabinet's website.

- 52. Have you undertaken any official overseas travel that was privately funded?**
a. If so, what was the nature of these trips?
b. Who paid for these trips?

Answer

See response to supplementary question 51.

Department/Agency Travel

- 53. What was the total expenditure in 2016-17 by Departments/agencies within your portfolio on:**
a. Taxi hire
b. Limousine/private car hire
c. Hire car rental
d. Ridesharing services

Answer

I am advised:

All departmental travel is undertaken in accordance with relevant NSW Government guidelines and policies and agency budgets.

- 54. Do any senior executive service employees in your Departments/agencies have a driver that is paid for by the Departments/agencies? If so, what is the number of senior executive service employees that have a driver and which senior executive service employees have a driver?**
a. How much was spent on these drivers in 2016-17?

Answer

I am advised:

A driver is allocated to the Commissioner of Police. This expense is managed within the NSW Police Force annual budget.

Consulting

- 55. How much did the Department/agencies under your portfolio responsibility spend in legal costs in 2016-17?**
a. For what specific purposes or matters was legal advice sought?

Answer

I am advised:

Financial statements, including legal services expenditure and expenditure on consultants, are available in agency annual reports.

- 56. Have Department/agencies under your portfolio engaged any consultants to provide the following services or advice in 2016-17:**
- a. Social media**
 - i. And the cost of these services**
 - b. Photography**
 - i. And the cost of these services**
 - c. Acting training**
 - i. And the cost of these services**
 - d. Ergonomics**
 - i. And the cost of these services**

Answer

I am advised:

Financial statements, including expenditure on consultants, are available in agency annual reports.

Department/Agency Staffing

- 57. What was the number of senior executive service employees employed by Departments/agencies within your portfolio in 2016-17?**
a. How much was this number in 2011-12?

Answer

I am advised:

Senior executive employee numbers are available in agency annual reports.

- 58. What was the expenditure on senior executive service employees employed by Departments/agencies within your portfolio in 2016-17?**
a. How much was this number in 2011-12?

Answer

I am advised:

Senior executive level remuneration details are available in agency annual reports.

- 59. What was the number of internal legal counsel employees employed by Departments/agencies within your portfolio in 2016-17?**
a. How much was this number in 2011-12?

Answer

See response to supplementary question 43.

- 60. What was the expenditure on internal legal counsel employees employed by Departments/agencies within your portfolio in 2016-17?**
a. How much was this number in 2011-12?

Answer

See response to supplementary question 43.

- 61. How many redundancies were processed by Departments/agencies within your portfolio responsibilities during 2016-17?**
a. Of these redundancies, how many were:
i. Voluntary
ii. Forced
b. What was the total cost of all redundancies?

Answer

I am advised:

Voluntary redundancies are a component for agencies to achieve their efficiency dividends. Redundancy figures across the sector for 2016/17 are anticipated to be in the order of 1,222, totalling 12,999 Since July 2011. The Labour Expenses Cap introduced in the 2012-13 Budget also continues to give Secretaries as much flexibility as possible to achieve these savings in the most appropriate ways to meet the service requirements of their agencies. Nurses, police officers and teachers in schools have been quarantined from this measure.

- 62. Have any staff who received a redundancy in the last two years undertaken any paid work or provided any paid services for the agency with which they were formerly employed?**
a. What was the nature of these works/services?
b. What was the total cost of these works or services?

Answer

I am advised:

All Justice Cluster employees and contractors are engaged in accordance with relevant legislation and associated rules and policies or relevant statutory frameworks.

63. Are any staff formerly employed by your ministerial office now employed by Departments/agencies under your portfolio responsibility?

Answer

See response to supplementary question 62.

**64. How many staff were dismissed from Departments/agencies under your portfolio responsibilities in 2016-17?
a. What were the reason/s for each dismissal?**

Answer

I am advised:

A very small number of staff were dismissed from the Justice Cluster in 2016-17. The employment of an employee of a government sector agency may be terminated pursuant to sections 68(2) or 69(4) of the *Government Sector Employment Act 2013* or other relevant legislation.

65. What was the total amount your Departments/agencies spent on stationery?

Answer

I am advised:

Costs associated with stationery are available in agency annual reports.

Smart Phone Accounts

**66. Do the Departments/agencies within your portfolio have an iTunes account?
a. What was the total expenditure in 2016-17 on iTunes?
i. What applications/subscriptions/services were purchased through iTunes?**

Answer

I am advised:

IT costs are managed within each Department/agencies' budget and guided by the NSW Government's ICT and procurement policies and frameworks.

- 67. Do the Departments/agencies within your portfolio have an Android account?**
a. What was the total expenditure in 2016-17 on Android?
i. What applications/subscriptions/services were purchased through Android?

Answer

See response to supplementary question 66.

Websites Visited

- 68. What were the top 20 most utilised (by data sent and received) unique domain names accessed by your Ministerial office this year?**

Answer

I am advised:

The configuration of the Ministers' IT network infrastructure by our third party service providers does not allow the determination of such data.

- 69. What were the top 20 most accessed (by number of times accessed) unique domain names accessed by your Ministerial office this year?**

Answer

See response to supplementary question 68.

Merchant fees

- 70. Please provide a list of all transactions where customers need to pay a merchant fee on credit and/or debit card payments in your Department/agency.**
- 71. Please provide the percentage and/or amount of the merchant fees applied to all credit and/or debit card payments/transactions in your Department/agency.**
- 72. What was the total amount paid in merchant fees on credit and/or debit card payments in your Department/agency in 2016-17?**

Answer

Questions 70 – 72

I am advised:

All NSW government agencies are required to impose surcharges to recoup their merchant interchange fees, pursuant to Treasury Circular TC12/13. If particular vendors elect to impose a merchant fee on card transactions, that is an unavoidable cost of doing

business. It would not be possible to determine the transactions and fees charged to departmental cards, as these would either be embedded in individual transaction costs, or if separately disclosed would require each monthly card statement for each user to be reviewed.

Probity Auditor

73. Has your office or department used a Probity Auditor or Probity Advisors, or similar, in the past five years? If so please list the company and/or individual, the project, the engagement dates, and their total remuneration in tabular format.

Answer

I am advised:

In accordance with the NSW Procurement Board's Direction (PBD-2013-05), the department/agencies have internal mechanisms in place to ensure that probity considerations are routinely taken into account in its procurement decisions, and the use of external probity advisers and auditors is the exception rather than the rule. The Department's annual report includes all consultancies valued more than \$50,000.

Questions from Mr David Shoebridge MLC

Custody Notification Service

74. Is there data on how often the Custody Notification Service is used when an indigenous person is in custody?

- a. Is there data on how long on average it takes to notify a contact?**
- b. What steps are being taken to improve notification times?**
- c. Does the department have target notification times?**

Answer

I am advised:

This is a question for the Minister for Police.

75. How did it take a month for the ALS to be notified of the death of Rebecca Maher in police custody?

Answer

I am advised:

This matter is currently the subject of a Coronial investigation. The Government will consider any recommendation for legislative change put forward by the Coroner.

76. What confidence can the Aboriginal community have that this failure was an isolated incident?

Answer

I am advised:

This is a question for the Minister for Police.

77. What consideration has been given to closing the loophole that means the Custody Notification Service is only notified when an Aboriginal person is charged and detained?

Answer

I am advised:

See response to supplementary question 75.

78. Section 130 of the GIPA Act provided the responsible Minister (the Attorney General) was to conduct a review of the Act as soon as possible after the period of five years since its assent in 2009.

Answer

This is a statement, not a question.

79. Given it is now 2017, why was the Statutory Review of the *Government Information (Public Access) Act 2009 (NSW)* over two years late?

Answer

I am advised:

The Department of Justice undertook detailed consultation with a range of stakeholders, including the Information Commissioner, the Privacy Commissioner, government agencies, local councils, the NSW Civil and Administrative Tribunal and the community. The report of NSW Department of Justice entitled "Statutory Review: Government Information (Public Access) Act 2009, Government Information (Information Commissioner) Act 2009", was tabled in Parliament on 10 August 2017.

80. What departments currently accept electronic applications?

Answer

I am advised:

This is a matter for individual agencies; the Department of Justice does not hold this information.

81. What departments are in the process of changing to accept electronic applications?

Answer

See response to supplementary question 80.

**82. Is there a timeframe for all agencies to accept electronic applications?
a. When are all agencies expected to accept electronic applications?
b. If there is no timeframe, why not?**

Answer

I am advised:

See my comments made in Portfolio Committee No. 4 – Legal Affairs, on 8 September 2017 and recorded on page 26 of the transcript.

83. How does compulsory internal review prior to external review facilitate the purpose of the GIPA Act to increase public access to information rather than further hinder access?

Answer

I am advised:

The *Government Information (Public Access) Act 2009* does not require compulsory internal review prior to external review. The Statutory Review recommended applicants be required to seek internal review prior to seeking NCAT review. An applicant could still seek review by the Information Commissioner without an internal review.

84. Why have fees not been abolished despite promises to do so?

Answer

I am advised:

The report of NSW Department of Justice entitled “Statutory Review: Government Information (Public Access) Act 2009, Government Information (Information Commissioner) Act 2009” tabled in Parliament on 10 August 2017 did not recommend any changes to the existing provisions relating to fees and charges.

85. How is charging application and processing fees consistent with the purpose of the Act to increase public access to requested information?

Answer

See my comments made in Portfolio Committee No. 4 – Legal Affairs, on 8 September 2017 and recorded on page 26 of the transcript.

**86. What progress has been made to implement the recommendations in the Statutory Review report?
a. Is there a timeframe in place for implementing these recommendations?**

Answer

I am advised:

The recommendations in the report of NSW Department of Justice entitled “Statutory Review: Government Information (Public Access) Act 2009, Government Information (Information Commissioner) Act 2009” tabled in Parliament on 10 August 2017 are under consideration.

a. There is no statutory timeframe for implementing these recommendations.

Child sexual abuse

87. What process and policies are in place within the department for responding to the findings and recommendations released by the Royal Commission into abuse?

Answer

I am advised:

The NSW Government fully supports the Royal Commission and is carefully considering the Royal Commission's findings, observations and recommendations made to date.

In response to the Royal Commission's Criminal Justice Report, the Government:

- i. has released a discussion paper on 1 September 2017 titled *Strengthening child sexual abuse laws in NSW*;
- ii. is conducting targeted consultation and roundtables with victims' groups and legal stakeholders; and
- iii. will take into account all submissions and recommendations to develop a comprehensive package of reform to child sexual abuse legislation.

The Government has already implemented reform consistent with the Royal Commission's Criminal Justice Report recommendations, including:

- i. the Child Sexual Offence Evidence Pilot that commenced in March 2016, to provide special support to child witnesses in child sexual assault proceedings, consistent with the Royal Commission's recommendations 52-55 and 59-60;
- ii. allocating \$93 million over three years to implement reforms to encourage earlier guilty pleas and reduce trial delays, consistent with the Royal Commission's recommendation 72; and
- iii. amending the *Crimes (Sentencing Procedure) Act 1999* in August 2017 to ensure victims in proceedings for prescribed sexual offences can access a support person and other special measures when reading their victim impact statement at sentencing, consistent with the Royal Commission's recommendation 78.

In response to the Royal Commission's Redress and Civil Litigation Report, the Government:

- i. introduced a package of interim measures to respond to the Royal Commission's report, including 18 Guiding Principles to guide how NSW agencies respond to civil claims for child sexual abuse and providing unlimited access to free counselling, improved access to care records and the construction of a memorial at the Parramatta Girls Home;
- ii. introduced the *Limitation Amendment (Child Abuse) Act 2016* to remove limitation period defences from actions for damages relating to child abuse;
- iii. released a consultation paper on 23 July 2017 titled *NSW Government consultation in relation to the civil litigation recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*; and
- iv. is engaging closely with the Commonwealth Government in relation to the design and implementation of a national redress scheme for survivors of institutional child sexual abuse.

88. How many cases is the department aware of where the Ellis Defence was used in each of the last 5 years?

Answer

I am advised:

The Department of Justice does not collect statistics on the use of the 'Ellis defence'.

89. What advice have you sought about possible breaches of s316 of the Crimes Act relating to the practice of "blind reporting" as used by the NSW Police regarding child sexual abuse?

Answer

I have received general advice on section 316 of the *Crimes Act 1900*. This is considered in the *Strengthening child sexual abuse laws in NSW* discussion paper released on 1 September 2017 in response to the Royal Commission Criminal Justice Report.

90. Are you aware of any other bodies who employ this practice?

Answer

The *Strengthening child sexual abuse laws in NSW* discussion paper released on 1 September 2017 in response to the Royal Commission Criminal Justice Report considers s 316 of the *Crimes Act 1900* and the practice of blind reporting.

Evidentiary requirements for victims compensation

91. How many claims in each of the last two financial years have been unsuccessful because they did not meet the evidence requirements?

Answer

I am advised:

Collected Victims Services data are available at www.victimsservices.justice.nsw.gov.au.

92. How many clients have been informed by Victims Services in advance of making an application that they do not meet the evidence requirements?

Answer

I am advised:

This information is not available.

Victims Services

93. Regarding the 2015-16 Victims Services data profile Table 5 indicates 37% of matters that were dismissed were due to no act of violence being established.

a. What number and percentage of these matters were related to domestic violence? Sexual assault?

b. What number and percentage of these matters were dismissed due to a failure to report to police or government agency?

Answer

I am advised:

(a) Approximately 16% of matters related to sexual assault, and around 30% related to domestic violence.

(b) This information is not available.

94. In 2016-17:

a. What number and percentage of matters were dismissed due to no act of violence being established?

b. What number and percentage of these matters were related to domestic violence? Sexual assault?

c. What number and percentage of these matters were dismissed due to a failure to report to police or government agency?

Answer

(a) – (b) See response to supplementary question 91.

(c) I am advised this information is not available.

95. Regarding the 2015-16 Victims Services data profile Figure 1 indicates that

Answer

This is not a question.

96. 12,176 applications for counselling were lodged in 2015/16 and Figure 7 indicates that 18% of these applications for counselling were made more than 10 years after the date of the act of violence. What number and percentage of these were victims/survivors of domestic violence? Sexual assault?

Answer

I am advised:

Around 25 % of applications for counselling in 2015/16 related to domestic violence and approximately 67% of applications related to sexual assault.

97. In 2016-17:

- a. How many applications for counselling were made?**
- b. What number and percentage of these were made more than 10 years after the act of violence?**
- c. What number and percentage of these were victims/survivors of domestic violence? Sexual assault?**

Answer

See response to supplementary question 91.

98. Regarding the 2015-16 Victims Services data profile Table 5 states 13% of recognition payment applications in 2015/16 were dismissed on the basis of being out of time. What number and percentage of these were due to domestic violence? Sexual assault?

Answer

I am advised:

Table 5 states that of the applications for recognition payments that were dismissed, 13% were dismissed for being out of time. Of the applications for recognition payments that were dismissed for being out of time, around 30% of applications were related to domestic violence and approximately 17% of applications were related to sexual assault.

99. In 2016-17:

- a. How many recognition payment applications were dismissed on the basis of being out of time?**
- b. What number and percentage of these were due to domestic violence? Sexual assault?**

Answer

See response to supplementary question 91.

**100. Regarding the 2015-16 Victims Services data profile (The next two paragraphs include raw data from the data profiles).
*Of the 12,176 applications for counselling in 2015-16, 99% were approved. Figure 4 shows 59% of counselling applications were lodged in matters relating to domestic violence [approximately 7184] and 22% relating to sexual assault [approximately 2,679].
"Of the 7,069 determinations for financial support (immediate needs and economic loss) applications in 2015/16, 4,529 were approved.... 3,630 applications relating to domestic violence were determined, 2,234 were***

approved with 1,020 given conditional approval.” [This means 376 were not approved]. “Of the 725 sexual assault applications, 473 were approved and 163 were given conditional approval.” “Almost all [recognition payment] applications lodged for offences involving sexual assault and domestic violence were approved: 92 percent (of 1,062 applications) for sexual assault offences and 91 percent (of 1,664) for offences involving domestic violence.”

In the financial year prior to the introduction of the *Victims Rights and Support Act* there were more applications for victims compensation (6,660) than counselling (5,723).

Based on the figures from the 2015/16 data profiles it seems that far fewer domestic violence and sexual assault victims who apply for counselling are also accessing payments under the Scheme. Less than $\frac{1}{4}$ are approved for a recognition payment, less than $\frac{1}{2}$ are approved for financial support relating to domestic violence and less than $\frac{2}{5}$ are approved for financial support relating to sexual assault.

- a. Can you comment on the significant difference between applications for payments in comparison to applications for counselling for victims of domestic violence and sexual assault?
- b. How does this compare to the victims of other types of violence, and the rates of access to counselling and payments?
- c. How does it compare to applications for counselling and compensation under the old scheme?

Answer

I am advised:

The Victims Support Scheme provides support for victims of acts of violence as they require it.

- 101. During 2016-17 what is the (a) shortest (b) longest (c) average waiting period for the following to be determined:**
- a. Immediate needs
 - b. Financial support – economic loss
 - c. Recognition payment

Answer

I am advised:

See response to supplementary question 91.

- 102. During 2015-16 and 2016-17 what number and percentage of financial support applications and recognition payments relating to (i) domestic violence; and (ii) sexual assault took longer than the average time to determine?**

Answer

I am advised that in 2015/16:

- i) Around 30% of financial support applications related to domestic violence and approximately 30% of recognition payments related to domestic violence.
- ii) Around 30% of financial support applications related to sexual assault and approximately 48% of recognition payment applications related to sexual assault.

For 2016/17, see response to supplementary question 91.

103. In all reassessment matters since the reassessment application process opened, what number and percentage of applications has an assessor made a finding there was no act of violence?

Answer

I am advised:

All matters are reassessed in line with the *Victims Rights and Support Regulations 2013*.

104. What procedures exist to ensure quality and consistency in decision-making by assessors in circumstances where most applicants are unlikely to be legally represented and therefore unlikely to pursue review avenues? (NB 2015/16 [Victims Services data profiles](#) states there were 222 internal reviews lodged for recognition payments in 2015/16).

Answer

I am advised:

The assessors have been trained in writing therapeutically and regularly discuss decision-making processes to ensure consistent decision-making.

105. The [2015/16 Victims Service data profiles](#) seems to limit reporting of internal review numbers to recognition payments.
a. How many internal reviews were made in 2015-16 for (i) immediate needs? (ii) economic loss ?
b. What number and percentage of these relate to (i) domestic violence? (ii) sexual assault?

Answer

I am advised:

This information is not available.

106. In 2016-17:

- a. How many internal reviews were made for (i) immediate needs (ii) economic loss? (iii) recognition payments?
b. What number and percentage of these relate to (a) domestic violence? (b) sexual assault?

Answer

I am advised:

This information is not available.

- 107. The 2015/16 Victims Services data profiles** Figure 1 provides the number of counselling applications lodged, by year over the past 5 financial years.
- a. Will the 2016/17 Victims Services data profiles include a table comparing applications lodged for each year of the new scheme for (i) immediate needs (ii) economic loss (iii) recognition payments?
b. Will the 2016/17 Victims Services data profiles include a table comparing applications determined for each year of the new scheme for (i) immediate needs (ii) economic loss (iii) recognition payments?
c. Will both (a) and (b) above also include a breakdown of these three categories for each year of the new scheme relating to (i) domestic violence? (ii) sexual assault?

Answer

See response to supplementary question 91.

- 108. Table 4 in the 2015/16 Victims Services data profiles** provides the percentage of applications approved in each recognition payment category (Categories A-D).
- a. In 2015-16, what number and percentage of (i) domestic violence; and (ii) sexual assault matters fell within each recognition payment category (Categories A-D)?
b. In 2016-17, what number and percentage of (i) domestic violence; and (ii) sexual assault matters fell within each recognition payment category (Categories A-D)?
c. If this data is not currently being collected will the Government consider collecting this data?

Answer

- (a) I am advised that in 2015-16:
- (i) In relation to domestic violence, approximate figures are: Category A –0%, Category B –1%, Category C –33%, and Category D –66%.
 - (ii) In relation to sexual assault, approximate figures are: Category A –0%, Category B –72.5%, Category C –19% and Category D –8.5%
- (b) See response to supplementary question 91.

(c) See response to supplementary question 91.

Royal Commission into Aboriginal Deaths in Police and Prison Custody

109. What amount of funding has been, and will be, allocated to responding to the Recommendations from the Royal Commission into Aboriginal Deaths in Police and Prison Custody?

Answer

This is a question for the Minister for Police and the Minister for Corrections.

110. Specifically, which of the 339 Recommendations has and/or will funding be allocated to?

Answer

This is a question for the Minister for Police and the Minister for Corrections.

Use of artificial intelligence

111. What current uses of artificial intelligence does the department undertake?

Note: Please include all uses of AI including uses for resource allocation and administrative support, big data analysis, replacement and assistance of experts and researchers, procedural matters, or summarising diverse data – for reference this might include:

- Chatbots for customer service or advice
- Customer management systems
- Scanning legal documents to find relevant case law
- Categorising and searching documents
- Directing petitions efficiently
- Translation
- Document drafting

112. When did the department implement AI technologies and which technologies were these?

113. What planned uses does the department have for artificial intelligence?

114. What is the anticipated timeline for the expansion of existing AI uses or implementation of new technologies?

115. What policy guidelines, if any, guide the exploration and use of artificial intelligence by the department?

116. What research, if any, has the department undertaken regarding the use of AI in Government services?

Answer

Questions 111 – 116

I am advised:

As outlined in the Digital Government Strategy, the NSW Government will continue to explore the use of cognitive and machine learning, and related Artificial Intelligence technologies, to simplify processes, eliminate duplication, and improve customer experience.

