

Civil Justice and Legal Services – departmental programs

Program 1.1

Attorney-General's Department operating expenses – Civil Justice and Legal Services

Summary

The major focus in 2011–12 for Program 1.1 was access to justice, Indigenous justice and service delivery:

- Key initiatives were implemented under the National Partnership Agreement on Legal Assistance Services, with a focus on developing a more strategic approach to service delivery, including an emphasis on early intervention and prevention services.
- Funding totalling \$32.665 million was provided to 138 community legal centres. The community legal centres funded under the program provided more than 235,600 advices, closed more than 50,000 cases and delivered more than 3,300 community legal education projects nationally.
- Funding totalling \$63.635 million was provided to eight Aboriginal and Torres Strait Islander legal services. Aboriginal and Torres Strait Islander legal services provided an estimated 96,000 advices, 28,000 duty lawyer services and conducted 90,000 cases. In addition, two Aboriginal and Torres Strait Islander legal service providers in the Northern Territory received \$2.5 million to assist with the provision of additional legal and welfare rights assistance to communities in the remote Northern Territory under the Closing the Gap initiative.
- The Attorney-General announced a range of legislative and institutional reforms during the year to speed up native title claim resolutions and improve outcomes for all stakeholders.

- During the year, the Commonwealth was a party to ten consent determinations of native title.
- Clear and constructive legal advice on Australia's international human rights obligations was provided to a wide range of Government agencies, enhancing the protection of human rights in legislation and policy.
- The department facilitated constructive engagement by the Government with human rights treaty bodies, including through responding to individual human rights communications.
- The *Human Rights (Parliamentary Scrutiny) Act 2011* was implemented, including provision of assistance and training to Government agencies to meet the new requirements introduced by the Act.
- The department is the lead agency for negotiations on the Protection of Audiovisual Performances. On 24 June 2012, the World Intellectual Property Organization (WIPO) Diplomatic Conference on the Protection of Audiovisual Performances concluded the WIPO Audiovisual Performances Treaty, known as the Beijing Treaty on Audiovisual Performances. An officer from the department represented Australia and signed the Final Act of the Diplomatic Conference, concluding the final text of the treaty.
- On 20 July 2012 the Attorney-General completed a four month consultation process to consider the merits of reform to Australian contract law. This consultation process forms part of the Attorney-General's agenda for microeconomic reform in the law and justice sector to improve business efficacy and further Australia's economic performance.

Major achievements

Access to justice

The department supported the Attorney-General in developing the Access to Justice (Federal Jurisdiction) Bill 2011 introduced into Parliament on 23 November 2011. The Bill implements model national provisions concerning suppression orders and vexatious proceedings, enhances Federal Court powers concerning discovery, enhances Administrative Appeals Tribunal flexibility in dealing with fees and aligns jurisdictional limits for WA family law and federal magistrates. These measures will increase the flexibility of courts and tribunals to deliver access to justice.

The department supported the Attorney-General in developing the Trans-Tasman Proceedings Regulation 2012. Once associated changes have been made to court rules in all states and territories, the Agreement Between the Government of Australia and the Government of New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement can enter into force, streamlining procedures for legal proceedings and enforcement of orders and regulatory fines as between the two countries.

The department supported the Attorney-General in developing the Parliamentary Counsel and Other Legislation Amendment Bill 2012 which was passed by Parliament on 22 June 2012. This will facilitate the transfer of the Office of Legislation Drafting and Publishing to the Office of Parliamentary Counsel. The creation of a single Commonwealth drafting agency will support the Government's clearer laws agenda by supporting a consistent approach to the drafting of all types of Commonwealth legislation.

The department also supported the Government by developing orders under section 19B of the *Acts Interpretation Act 1901* to ensure that administrative changes necessary to give effect to changes in minister's titles as a result of changes to the ministry and Cabinet were in place. These orders replace references to the former title with references to the new minister's title in existing legislation so that the new minister can exercise the relevant powers and functions under the legislation.

Dispute resolution

The *Civil Dispute Resolution Act 2011* commenced on 1 August 2011. It requires parties commencing certain proceedings in the Federal Court or Federal Magistrates Court to file a statement saying what steps they have taken to try to resolve their dispute, or if they have not, the reasons why. It does not require parties to take any steps before starting proceedings or prevent parties from accessing a court. The Act then allows the courts to take that statement into consideration in deciding how to handle the case.

These reforms are aimed at increasing access to justice for the community by promoting realistic, cheaper, faster and less stressful alternatives to litigation, with outcomes determined by the people involved. It is consistent with the Australian Government's Strategic Framework for Access to Justice, which promotes empowering people to manage and resolve their own disputes before they escalate.

The department supports the National Alternative Dispute Resolution Advisory Council (NADRAC) – an independent body responsible for providing alternative dispute resolution policy advice to the Attorney-General and promoting alternative dispute resolution. The department has assisted NADRAC to develop a joint publication, *Your guide to dispute resolution*, which contains readily accessible, useful information about alternative dispute resolution and gives practical tips on using ADR. It will help the reader identify options available to them for resolving their disputes. The Guide was finalised in June 2012 and launched by the Attorney-General in July 2012.

Family law

Considerable work has been conducted to improve collaboration between the federal family courts and child welfare authorities. The department has developed strong and productive working relationships with stakeholders in this area and has received significant input from key stakeholders in relation to proposed national initiatives to improve the interface between the two systems.

The department continues to make significant progress in implementing a family law system which will contribute to a safer society. The *Family Law Amendment (Family Violence & Other Measures) Act 2011* was passed by Parliament on 24 November 2011. These family violence amendments to the *Family Law Act 1975* commenced on 7 June 2011. The amendments include changing the definitions of 'family violence' and 'abuse' to better capture harmful behaviour; and changes to prioritise the safety of children, remove disincentives to disclosing family violence, strengthen adviser obligations, and make it easier for state and territory child welfare authorities to participate in family law proceedings where children are at risk. An education campaign on the amendments commenced in April 2012.

The department continues to encourage family dispute resolution to help families resolve their family disputes outside the courts wherever possible. A pilot of coordinated family dispute resolution which was developed for use in cases where there is family violence was expected to conclude in April 2012 but has been extended to April 2013. Pilots commenced in late 2010 and operate across five sites: Brisbane, Western Sydney, Newcastle, Perth and Hobart. They are being independently evaluated.

In March 2012, the department commissioned the Community Services and Health Industry Skills Council Ltd to scope the need for competency development for family dispute resolution in the areas of property and spousal maintenance disputes under the *Family Law Act 1975* and international disputes to support the Australian Government's obligations in Hague Convention matters. It is anticipated the scoping project will assist in identifying any need for workforce development in the family dispute resolution sector. The report is expected to be finalised in August 2012.

In May 2012, the Attorney-General announced funding for Family Relationship Services Australia to administer a family dispute resolution scholarships scheme aiming to increase opportunities for people from Aboriginal, Torres Strait Islander and culturally and linguistically diverse backgrounds. The scheme aims to increase the number of family dispute resolution practitioners from these backgrounds, building workforce diversity and the capacity of the service sector to respond to community needs.

The department provides support to the Family Law Council, a statutory authority established under section 115 of the *Family Law Act 1975* to advise and make recommendations to the Attorney-General in areas relating to family law. During the year, the Council provided the following advice and recommendations either of its own motion or at the request of the Attorney-General:

- 27 February 2012 – two reports were provided to the Attorney-General in response to Terms of Reference issued in November 2010 regarding ways the family law system meets the needs of clients from Indigenous and culturally and linguistically diverse backgrounds. A Government response is being prepared.
- 5 August 2011 – a letter of advice in response to a request by the Attorney-General and the Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, on the issue of child support in cases of international parental child abduction.

The department, through a consultant Relationships Australia South Australia, has produced a state of the art screening and assessment framework and tool for use by agencies and professionals, to identify safety risks for family law system clients. The screening and assessment package will include a training guide and can be administered via computer. It will assess clients across a range of domains including family violence and child abuse.

The department has selected Relationships Australia Queensland to replace Department of Human Services (Centrelink) as the provider of the Information and Advice component of the Family Relationship Advice Line (the Advice Line). The Advice Line is an anonymous national telephone service that provides information and referral to services that can help strengthen relationships, overcome relationship difficulties or deal with separation.

In May 2012, the department hosted an international mediation training event for Australian family dispute resolution practitioners. An internationally renowned, German-based mediator training organisation (MiKK) was engaged to provide the training to a select group of senior practitioners from key organisations around Australia, including Legal Aid Commissions and the Family Court of Australia. The training is a first step towards building a properly qualified workforce to undertake mediation in Hague abduction and access matters and the introduction of mediation into Hague Convention processes.

On 26 March 2012, the Attorney-General announced that International Social Service (ISS) Australia would be funded to give free legal assistance to Australian parents dealing with the abduction of their child from Australia. The new legal assistance service complements the counselling and mediation service already provided by ISS and funded by the department. The Government's new funding agreement with ISS provides a national service to help parents prepare and lodge applications from Australia for the return of, or access to, children under the Convention. The agreement also addresses key recommendations from the Senate Legal and Constitutional Affairs References Committee report into international child abduction to and from Australia, to which the Government responded on 30 March 2012.

Marriage celebrants

The department published *Guidelines on the Marriage Act 1961 for marriage celebrants* in February 2012 to assist marriage celebrants to solemnise marriages in accordance with the requirements of the *Marriage Act 1961* (Cth). This comprehensive, easy to understand resource is making a positive contribution to the professionalism of the marriage celebrancy sector which in turn leads to better experiences for marrying couples.

The department undertook national consultations in late 2011 on the implementation of the reforms to the marriage celebrants program, including the introduction of cost recovery. Following the national consultations, and a consideration of approximately 280 written submissions, a summary of the feedback provided to the department was made available on the department's website. The consultation process included meetings with Commonwealth-registered marriage celebrants, celebrant associations, state and territory Registries of Births, Deaths and Marriages and members of the community. The department will release a consultation paper in mid-2012 to allow marriage celebrants further opportunity to comment on the reforms.

The first phase of the Marriage Celebrants Program 'MarCel' database was released in 2012. The database will underpin the introduction of the reforms and cost recovery by creating efficiencies in the management and reporting of the marriage celebrants program. Work is underway for the next phases which will enable an online component for celebrants and introduce many of the reforms projects.

In January 2012, the Attorney-General announced that Australians seeking to enter into a same-sex marriage overseas would be able to apply for a certificate of 'no impediment to marriage' from 1 February 2012. This certificate confirms that there is no impediment to a person taking part in a marriage ceremony overseas.

Intercountry adoption

The department continues to facilitate a consistent national approach to processes and service delivery for Australian prospective adoptive parents. The department continues to work closely with stakeholders and our overseas program partners to ensure that Australia's intercountry adoption programs remain ethical and viable and that the best interests of children are always paramount.

In line with our commitment to promote ethical and responsible intercountry adoption practices, the department presented on its experience in addressing child trafficking in intercountry adoption at the 11th Global Consultation on Child Welfare Services in the Philippines in August 2011. The department also participated as a panellist on the challenges of achieving safe intercountry adoptions at the 4th Asia Pacific Regional Conference on the Hague Conference on Private International Law in the Philippines in October 2011.

The department also steered the development of cooperative measures at the international level to improve procedural safeguards and protections for children. Following Australia-sponsored discussions on this topic at the Hague Special Commission meeting in June 2010, the department coordinated an informal working group which developed principles and cooperative guidelines to prevent and address illicit practices in intercountry adoption. The result will be circulated to all Hague Central Authorities and published online.

In early 2011 Australia convened a working group to develop cooperative measures to prevent and address illicit practices in intercountry adoption cases. This was in response to a recommendation of the 2010 Special Commission on the practical operation of the Hague Convention on Intercountry Adoption. Those involved in the working group include sending and receiving countries and non-government organisations.

The working group has developed a discussion paper setting out principles and cooperative measures to prevent and address illicit practices.

Human rights

The department continues to implement the Human Rights Framework, including:

- **Consolidation of anti-discrimination laws** – a discussion paper was released in September 2011 to guide consultation on the project to consolidate Commonwealth anti-discrimination laws into a single Act. The department conducted three multi-stakeholder forums and a series of one-on-one meetings and received 240 submissions over a four-month consultation period. The department has developed policy options for government consideration based on the outcomes of this consultation.
- **National Human Rights Action Plan** – an exposure draft Plan was released in December 2011 and includes a range of actions across Commonwealth, state and territory governments to promote human rights. The Plan will include actions that implement the recommendations from Australia's most recent UN Universal Periodic Review of Human Rights.
- **Public Sector Education Program on Human Rights** – the program provides the public sector with information about Australia's international human rights obligations and their role in respecting, protecting and fulfilling human rights. In 2011, training was delivered to over 700 public sector officials from thirty-five departments and agencies across the Commonwealth.

- **Education grants** – the department also provides small grants to community organisations to deliver grassroots human rights education projects for the community and vulnerable groups. In 2011, a total of \$439,663 was awarded to fund fifteen human rights education projects including human rights workshops for Indigenous children in remote communities in the NT and self-advocacy training for people with disabilities in NSW.

In June 2012, the department led a high level Government delegation for Australia's appearance in Geneva before the UN Committee on the Rights of the Child. The appearance provided the Government with the opportunity to set out Australia's record and achievements in implementing our commitments under the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and the sale of children, child prostitution and child pornography. The Committee commended Australia on key projects within the department including the establishment of a National Children's Commissioner and Australia's Human Rights Framework. The department coordinated detailed briefing across Commonwealth departments and state and territory governments, and engaged constructively with key non-government stakeholders who also attended the appearance.

The *Australian Human Rights Commission Amendment (National Children's Commissioner) Act 2012*, which was developed by the department, was passed by the Australian Parliament on 25 June 2012 and commenced on 1 July 2012. The Act establishes a National Children's Commissioner within the Australian Human Rights Commission. The National Children's Commissioner will be the first dedicated advocate focused on the human rights of children and young people at the national level. The Commissioner will promote discussion and awareness of issues affecting children, conduct research and education programs and consult directly with children and representative organisations. The Commissioner will also monitor Commonwealth legislation, policies and programs as well as national or cross-jurisdictional matters that would benefit from national leadership.

The department has worked toward the ratification of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), including by developing the National Interest Analysis, which was tabled in Parliament in February 2012, which led to the Joint Standing Committee on Treaties recommending the Government take binding treaty action. The department continues to work with the states and territories to develop model legislation that would implement the obligations under the OPCAT.

Human Rights (Parliamentary Scrutiny) Act 2011

The *Human Rights (Parliamentary Scrutiny) Act 2011* introduced the requirement for all new Bills and disallowable legislative instruments to be accompanied by a Statement of Compatibility with human rights. The department developed a range of training materials and resources which are available online to assist Australian Government departments in drafting statements of compatibility. The department also implemented a targeted training strategy to assist the public sector to meet these new requirements, including conducting training sessions on statements of compatibility for over 600 policy and legal officers across the public sector.

Tobacco plain packaging litigation

In December 2011 the department assumed overall responsibility for the Government's defence of legal challenges to the plain packaging of tobacco products under the *Tobacco Plain Packaging Act 2011*.

Constitutional challenges

Two constitutional challenges to the plain packaging legislation were heard by the High Court of Australia on 17–19 April 2012: *British American Tobacco Australasia Limited and Ors v. Commonwealth of Australia* and *JT International SA v. Commonwealth of Australia*. The department assisted in the preparation of the Commonwealth's case in both proceedings. On 15 August 2012 the High Court handed down orders for these matters, and found that the Tobacco Plain Packaging Act is not contrary to s 51(xxxi) of the Constitution. The Court will publish its reasons at a later date.

Investor–state dispute

Philip Morris Asia is challenging the plain packaging legislation under the 1993 Agreement between the Government of Australia and the Government of Hong Kong for the Promotion and Protection of Investments. The dispute was formally initiated by way of a Notice of Arbitration on 21 November 2011. On 21 December 2011, the Government provided its Response to the Notice of Arbitration. The documents are available at www.ag.gov.au/tobaccoplainpackaging. The arbitral tribunal was established on 15 May 2012 and held its first procedural meeting on 30 July 2012. The arbitration will be conducted under the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules 2010.

World Trade Organization

The department has provided support to the Department of Foreign Affairs and Trade, which has responsibility for management of any challenge to the plain packaging of tobacco products in the World Trade Organization (WTO), in the preparation for and conduct of WTO dispute consultations with Ukraine and Honduras. Requests for consultations were made by Ukraine and Honduras on 13 March and 4 April 2012 respectively; consultations were held with those two WTO Members on 12 April and 1 May 2012, respectively. On 18 July 2012, the Dominican Republic requested WTO dispute settlement consultations. These consultations have not yet been held. On 31 August 2012 Ukraine made its first request for a dispute panel to be established. Australia refused this request. Ukraine is expected to make a second request for a panel to be established. Australia will not be able to refuse the second request from Ukraine.

International whaling litigation

The department leads Australia's anti-whaling case in the International Court of Justice, which seeks to bring an end to Japan's whaling in the Southern Ocean. In March 2012 the department received Japan's written submissions, which set out Japan's comprehensive legal arguments in response to Australia's case, which was filed with the Court in May 2011. The next stage in the case will be oral hearings, which are likely to take place in The Hague in the second half of 2013.

Legal assistance

The department commissioned a review of Commonwealth legal assistance services, which is due for completion by 30 June 2013. The review is a collaborative project between the Commonwealth, states and territories. It will evaluate the quality, efficiency and cost-effectiveness of service delivery across all four Commonwealth-funded legal assistance services, namely legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander legal services and family violence prevention legal services for Indigenous Australians.

The National Partnership Agreement on Legal Assistance Services came into effect on 1 July 2010 for a period of four years. Under the Agreement, the Australian Government will provide states and territories with more than \$785 million over four years to deliver Commonwealth legal aid services. This includes \$92.3 million in additional legal aid funding.

During the year, the department worked with the states and territories to enhance forums established in each jurisdiction to consider opportunities for better coordination and targeting of services between legal assistance service providers, as well as the linking of legal aid services with other service providers. The department also agreed on a reporting framework with the states and territories and legal aid commissions for reporting progress against performance benchmarks established by the Agreement. Each state and territory has developed an information and referral strategy to ensure comprehensive access to legal assistance information.

Funding totalling \$32.665 million was provided to 138 community legal centres for the provision of generalist as well as specialist assistance in legal and related matters to disadvantaged members of the community and those with special needs. Specialist sub-programs include services for women (including Indigenous and rural) and youth as well as child support, disability discrimination matters, welfare rights, and environmental issues.

As part of the 2011-12 Budget, the Australian Government decided to expand the range of matters and individuals who would qualify for assistance under the various legal financial assistance schemes administered by the department. The goal was to ensure a fairer and more effective distribution of limited legal assistance funds. The changes are also designed to provide greater support for pro bono activities by the legal community.

In consultation with organisations associated with the delivery of pro bono legal services, the department also developed a Disbursement Support Scheme, which will commence on 1 July 2012. The Scheme will aim to assist financially disadvantaged persons overcome the obstacle imposed by the cost of disbursements. Assistance under the Scheme will be available for persons who would not otherwise receive government assistance and is limited to Commonwealth non-criminal legal matters.

During the year, and in the context of consolidation, the department also conducted a review of the Native Title Respondent Funding Scheme. It was timely to re-evaluate the level of legal assistance provided to respondent parties to native title claims, given the development of native title law in the years since the enactment of the *Native Title Act 1993*. The department's review was informed by a public consultation process, and a report was prepared by an independent consultant, Mr Anthony Neal SC. Changes to the Native Title Respondent Funding Scheme will take effect on 1 January 2013.

The department has been working on a data standardisation project across all four Commonwealth-funded legal assistance services, working closely with representatives from all four services. The work of the data standardisation group is integral to the evaluation framework being developed under the review of the legal assistance programs and will help build an evidence base in the sector.

The Indigenous Legal Assistance and Policy Reform Program delivers culturally sensitive legal assistance and related services to Indigenous Australians. The Program helps deliver a coordinated, long term and multi-jurisdictional approach to reduce the incidence of Indigenous Australians' adverse contact with the justice system. Funded Aboriginal and Torres Strait Islander legal service providers achieve this by working with other Indigenous and non-Indigenous service providers.

Indigenous justice

In 2011–12, funding was provided to eight Aboriginal and Torres Strait Islander legal service providers, totalling \$63.635 million. The legal services support the delivery of culturally sensitive legal assistance and related services to Indigenous Australians so that they can fully exercise their legal rights as Australian citizens. Additional one-off funding was provided in June 2011 to increase capacity to deliver legal services and contribute towards the cost of expensive cases.

The Indigenous Women's Program is a specialist service under the Community Legal Services Program. In 2011–12, \$1.131 million was provided to eight community legal centres to help address particular legal needs affecting Indigenous women through the provision of legal information, legal advice, casework, and community legal education.

Native title

On 6 June 2012, the Attorney-General announced that the Australian Government will progress a number of amendments to the *Native Title Act 1993*.

The proposed reforms will:

- clarify the meaning of 'good faith' under the 'right to negotiate' provisions and make associated amendments to 'right to negotiate' provisions
- enable parties to agree to disregard historical extinguishment of native title in areas such as parks and reserves
- streamline Indigenous Land Use Agreement (ILUA) processes. This will include simplifying the process for minor amendments to ILUAs, improving objection processes for area ILUAs and clarifying the coverage of ILUAs.

The proposal to clarify the meaning of 'good faith' was included in the Government's 2010 Discussion Paper, *Leading practice agreements: maximising outcomes from native title benefits*.

The amendment to enable parties to disregard historical extinguishment in parks and reserves was released as an exposure draft for public consultation in 2010.

The proposals to simplify the process for minor amendments to ILUAs and improve objection processes for area ILUAs were also included in the *Leading practice agreements* discussion paper.

The Government will further consult with stakeholders on the development and implementation of these reforms. An exposure draft of the legislation will be released for consultation.

Institutional reforms

On 8 May 2012, the Australian Government announced it would implement further institutional reform to the native title system as part of the 2012-13 Budget through:

- the transfer of the National Native Title Tribunal's (NNTT) appropriation (minus savings) and staff to the Federal Court of Australia, forming a distinct organisational unit that will continue to undertake most of the NNTT's current functions, including future acts functions and maintenance of Native Title Registers
- the transfer of native title claims mediation and claim-related ILUA negotiation assistance to the Federal Court of Australia, to be performed by its own staff
- a review by the NNTT and the department (in consultation with the Department of Families, Housing, Community Services and Indigenous Affairs) to determine whether the NNTT's discretionary services (including ILUA negotiation assistance, geospatial/mapping, research, workshops, and seminars) should be reduced or discontinued, and whether cost recovery would be desirable
- the removal of the NNTT's status under the *Financial Management and Accountability Act 1997* (FMA Act) as an FMA Act agency.

All but one of these reforms (the transfer of ILUA negotiation assistance that is related to claims) was recommended by the *Strategic review of small and medium agencies in the Attorney-General's portfolio* (the Skehill review).

The reforms commenced on 1 July 2012, and the department has had a key role in ensuring the implementation of the measures.

Native title litigation

As at 30 June 2012, there were 475 active native title applications lodged with the NNNT, with the Commonwealth being a party to the Federal Court proceedings in relation to approximately a quarter of these claims. The department takes a flexible approach to resolving the Government's involvement in native title claims, including seeking, where possible, to resolve matters through consent determinations. In 2011-12, the Federal Court handed down thirty-four consent determinations, with the Commonwealth being a party to ten of these.

On 14 March 2012, the Full Court of the Federal Court handed down its decision in the Commonwealth's appeal of the Torres Strait Regional Seas Claim. The Commonwealth had appealed Justice Finn's finding that a native title right to take marine resources for commercial purposes had not been extinguished. The Australian Fisheries Management Authority was concerned to clarify this issue in light of its obligations to manage fisheries in the area. The Full Court's determination now provides that the native title holders' right to access and take resources does not extend to taking fish and other aquatic life for sale or trade.

The native title holders then filed an application for special leave to appeal to the High Court on three grounds. Firstly, that the Full Court erred in holding that a commercial right to take marine resources was extinguished. Secondly, that the Full Court erred in holding that reciprocal rights are not native title rights and, finally, that native title rights must yield to the public right to fish and to customary rights. As at 30 June 2012, the special leave application had not yet been set down for hearing.

Federal courts and tribunals

The department supported the Attorney-General in developing the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012 and the Courts Legislation Amendment (Judicial Complaints) Bill 2012, introduced into Parliament on 14 March 2012. The Bills will provide a clear, accountable and effective system for handling complaints against federal judicial officers, both within the courts and, where necessary, in the Parliament.

The department worked closely with the Department of Defence in order to support the Attorney-General in developing the Military Court of Australia Bill 2012 and the Military Court of Australia (Transitional Provisions and Consequential Amendments) Bill 2012, introduced into Parliament on 21 June 2012. The Bill will establish the Military Court of Australia under Chapter III of the Constitution to provide a permanent system of military justice for Australia's defence forces. The new Court will provide a modern system dedicated to trying serious service offences and will ensure independent and transparent military justice for service personnel on a long-term basis.

The department assisted the Attorney-General with the process of appointing one Federal Court judge, two Family Court judges and two Federal Magistrates. The appointment of Federal Magistrate Matthew Myers was particularly significant as Australia's first Indigenous appointment to a federal court.

The department assisted the Attorney-General with the processes leading the appointment of the Hon Duncan Kerr MP Chev LH as a Federal Court judge and, on 15 May 2012, as President of the Administrative Appeals Tribunal. The Government has also announced a process for collaboration between merits review tribunals to promote efficiency and best practice. The department is working closely with the President to support this process.

The department assisted the launch of the Administrative Appeals Tribunal's jurisdiction to review Norfolk Island Administration decisions on 1 March 2012, as part of the Government's Norfolk Island reform process. This included preparation of the Administrative Appeals Tribunal Amendment Regulations 2012 and participation in a multi-agency group that provided training on the Island.

The department supported the Attorney-General with a 2012–13 Budget measure to increase court fees, which will provide an increase in revenue of \$72.7 million over four years. The fee increases are part of court reforms which focus on government priorities of accessibility and timely resolution of disputes. The department continues to progress the details of the final fees package in close consultation with the federal courts.

Administrative law

The department supported the Attorney-General in developing the Legislative Instruments Amendment (Sunsetting Measures) Bill, introduced into Parliament on 23 May 2012. The Bill will facilitate the efficient culling of out of date legislative instruments and also allow more holistic and effective approach to the review of such instruments.

The department also provides secretariat support for the Administrative Review Council. During 2011-12, the Council finalised its inquiry into the federal system for judicial review of government action. The Council's Report No. 50, *Federal Judicial Review in Australia*, will be tabled and launched in early 2012-13. The Council also commenced a project to review and update its existing publications, which include best-practice guides for policy-makers and government decision-makers.

Social and community services sector minimum wage increase

On 22 June 2012, Fair Work Australia issued an Equal Remuneration Order that grants increases to the minimum wage rates of workers in the social and community services (SACS) sector. The Australian Government has committed to pay its share of the increases for eligible SACS employers delivering Commonwealth-funded programs and for eligible SACS employers it funds through Commonwealth-state agreements. The increases of between 23 per cent and 45 per cent will be phased in over nine years. The date for affected employers to pay the first SACS minimum wage increase is 1 December 2012. The Government is working to develop mechanisms to provide funding supplementation to employers that will enable them to meet their obligations by this date.

The Australian Government has also committed to fund SACS back-pay to eligible organisations in Queensland for obligations arising from the Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulation 2012 (No 1). The Regulation requires certain employers in Queensland to back-pay SACS workers for the period 27 March 2011 to 29 February 2012 in recognition of higher minimum wage rates awarded by the Queensland Industrial Relations Commission. The department expects to provide 100 per cent of funding to eligible organisations early in the 2012-13 year.

Personal property security

Implementation of the personal property securities reform

In January 2012 the department implemented one of the most significant microeconomic reforms in recent years with the commencement of the Personal Property Securities (PPS) Register. The PPS Register is the centrepiece of legislative reform that has been undertaken over many years culminating in the *Personal Property Securities Act 2009*. The law represents a significant change to laws on the way personal property is used as security in Australia.

PPS reform was a result of an agreement by the Council of Australian Governments to establish a national system governing the creation, registration and enforcement of security interests in personal property as part of its Seamless National Economy microeconomic reform agenda. These reforms to personal property securities law have resulted in over seventy laws and nearly forty registers throughout Australia being reduced to one national

law and one national register. A key element to the transition to a single national register was the transfer of data from national, state and territory registers such as the Australian Securities and Investments Commission (ASIC) Register of Company Charges, registers of security interests in vehicles, and Bills of Sale registers prior to the PPS Register's commencement on 30 January 2012.

The introduction of these wide-reaching reforms is a significant advance in the way that personal property can be used to secure the performance of obligations. These changes are aimed at reducing costs and complexity for business and financiers including by the delivery of greater clarity and certainty about rights and obligations connected with security interests in personal property.

Personal insolvency

Review of the regulation of the corporate and personal insolvency professions

On 14 September 2010, the Senate Economics Reference Committee tabled its report on the corporate insolvency industry. The Committee report was critical of the regulation of the corporate insolvency profession but commended the regulation of the personal insolvency industry.

The department has worked closely with Treasury officers to harmonise regulation of the insolvency industry under the *Bankruptcy Act 1966* and the *Corporations Act 2001*.

The Insolvency Law Reform Bill 2012 represents the Government response to the Senate Economics Reference Committee 2010 Report. The Bill follows public consultation on an options paper on the regulation of the personal and corporate insolvency professions and a later proposals paper. The Bill is likely to be introduced in the Spring Sittings of Parliament.

Copyright

Release of Australian Government Intellectual Property Manual

In March 2012 the department launched a whole-of-government manual designed to assist government agencies to better manage their intellectual property (IP).

The manual outlines practical steps for government agencies to take to assist them to comply with the Australian Government's IP policies, which were amended in light of recommendations in Sir Peter Gershon's 2008 Review of the Australian Government's Use of Information and Communication Technology and the 2009 Government 2.0 Taskforce Report.

The Government's IP policy, set out in its Statement of IP Principles, is designed to encourage innovation, particularly within the information and communications technology (ICT) sector, by allowing creators of IP products supplied to Government to further develop the material they create. The Government is also promoting the utilisation of public sector information by releasing most material under open content licences, free of charge, to the community.

Audio Visual Performances Treaty

On 24 June 2012, the WIPO Diplomatic Conference on the Protection of Audiovisual Performances concluded the WIPO Audiovisual Performances Treaty, known as the Beijing Treaty on Audiovisual Performances. The Attorney-General's Department is the lead agency for the negotiations. An officer from the department represented Australia and signed the Final Act of the Diplomatic Conference, concluding the final text of the treaty.

When the Beijing Treaty on Audiovisual Performances enters into force, it will give performers (ie singers, musicians, dancers, actors and others) economic rights in their performances (ie films, TV programs and multimedia), as well as certain moral rights. These rights will complement the rights of performers in sound recordings that are already provided for in the WIPO Performances and Phonograms Treaty of 1996, to which Australia acceded in 2007.

The Diplomatic Conference was attended by 156 member states, six intergovernmental organisations and forty-five NGOs, the highest level of participation ever at a WIPO Diplomatic Conference. One hundred and twenty-two countries signed the Final Act of the treaty (including Australia), and forty-eight countries have signed the treaty itself. It is a significant achievement for WIPO and its Australian Director-General, Dr Francis Gurry. It is the first multilateral intellectual property treaty negotiated in WIPO since 1996.

Classification

On 19 February 2012 the Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill 2012 was passed by the House of Representatives. The Classification Bill provides for an R 18+ category for computer games in the National Classification Scheme. On 18 June 2012 the Bill was passed in the Senate with no amendments. The Bill commences on 1 January 2013.

The Classification Liaison Scheme (CLS) is a joint state, territory and Australian Government initiative aimed at improving industry compliance with classification laws. In 2011-12 CLS staff conducted 1,050 compliance checks across a range of retail premises in capital cities, and regional and rural centres. Where possible breaches of classification laws were identified, companies were given information about how to comply and serious breaches were referred to the relevant law enforcement agency. CLS staff also held meetings with the nominated state or territory Classification Enforcement Contact to provide a briefing on compliance issues, in addition to providing a written report.

In 2011-12, CLS referred seventy-one restricted premises and seven adult mail order catalogues and associated websites to law enforcement agencies.

As part of its law enforcement support functions, CLS delivered presentations on the National Classification Scheme to law enforcement agencies in the Australian Capital Territory, Northern Territory, Queensland and South Australia. Presentations were also delivered to police prosecutors in the Northern Territory and South Australia and to Offices of the Director of Public Prosecutions in the Australian Capital Territory, Queensland, New South Wales, Northern Territory and Tasmania. In addition, presentations were delivered to the Department of Families, Housing, Community Services and Indigenous Affairs in the ACT and NT.

Stemming from the Classification Enforcement Contacts Forum held in April 2010, the then Minister wrote to state and territory enforcement agencies requesting periodic reporting on enforcement action undertaken in relation to classification laws. CLS has been responsible for coordinating and collating the reports and circulating them to states and territories. This reporting is shared with other jurisdictions to strengthen enforcement practices. The first report was circulated in July 2011 and the second report in March 2012.

CLS and the Australian Customs and Border Protection Service met quarterly to facilitate information sharing in relation to importers and distributors of potentially Refused Classification material.

Approximately 78,000 brochures about classification requirements were distributed to retailers across Australia. State and territory Departments of Education were provided with an information sheet for teachers, 'Showing Films and Playing Computer Games in Schools', in response to enquiries from teachers to provide guidance on selecting appropriate material for students.

International law

The department has provided advice to advance a broad range of Government initiatives with an international law element, including in relation to refugee law, climate change, maritime boundaries, trade law, law of the sea issues, privileges and immunities of foreign States, security law and environmental law.

International legal services

The department continues to work with the International Legal Services Advisory Council (ILSAC) to implement legal cooperation initiatives and advance Australia's international interests in legal services, legal education and training, and international commercial dispute resolution services. Some of the year's significant achievements included:

- working with the Department of the Prime Minister and Cabinet to implement a visit by the Chinese Minister for Justice, Madam Wu Aiying, to Australia including the signing of a Memorandum of Understanding on Legal Cooperation which provides a framework for promoting closer engagement and greater mutual understanding across the wider law and justices sectors of Australia and China
- development and release of *Best practice principles for the regulation of foreign lawyers and transnational law practice* which provides guidance for countries that wish to refine or introduce workable systems for the international professional mobility of legal services providers
- working with the legal profession and the Department of Foreign Affairs and Trade to improve access for Australian legal services providers to key markets internationally, including in China, India, Indonesia, Japan, Korea, Malaysia and the EU
- working collaboratively with a group of universities to successfully hold a symposium opened by the Hon Chief Justice Robert French AC and including eminent speakers from across the profession, academia and government on 'Internationalising the Australian Law Curriculum for Enhanced Global Legal Education and Practice'.

Legal services

Legal Services Multi-Use List

The Office of Legal Services Coordination (OLSC) within the department administers the Legal Services Directions 2005, which provide a framework for delivering high quality legal services by, and to, the Australian Government and its agencies.

We have progressed a number of reforms based on the recommendations of the *Report of the review of Commonwealth legal services procurement* by Anthony Blunn AO and Ms Sibylle Krieger and the Lateral Economics report, *Learning from experience: purchasing legal services*, including the implementation of the Legal Services Multi-Use List (LSMUL) which commenced on 1 June 2012.

The LSMUL provides a single streamlined list for purchasing legal services, and provides an important portal for sharing of information about legal services purchasing experiences at a whole-of-government level. From 1 June 2012, the LSMUL began to replace the existing system of individual panel arrangements established by departments and agencies.

Government Legal Network

OLSC also furthered the professionalisation of Australian Government legal services by continued support of the General Counsel Working Group and by working to establish a Government Legal Network. The Government Legal Network will provide Australian Government lawyers and practice managers with an opportunity to share information to maintain and improve the quality of legal services delivery in the Commonwealth. A Board has been appointed by the department to progress the Government Legal Network in 2012-13.

Microeconomic reform

On 20 July 2012 the Attorney-General completed a four month consultation process to consider the merits of reform to Australian contract law. This consultation process forms part of the Attorney-General's agenda for microeconomic reform in the law and justice sector to improve business efficacy and further Australia's economic performance. The consultation process included release of a discussion paper seeking feedback on the performance of our contract law system, a series of twelve information leaflets ('infolets') on current issues in the law, an online survey to capture data on experiences with contract law, and stakeholder forums in Sydney and Melbourne.

The Attorney-General received a positive response to the consultation. At the conclusion of the consultation process over fifty submissions expressing a diverse range of opinions on the nature and scope of Australian contract law reform were received as well as sixty-four responses to the online survey. The Contract Law Review Website (www.ag.gov.au/contractlaw) had 6,628 unique page views and 268 people had subscribed to the contract law reform mailing list.

Approximately sixty key stakeholders attended two contract law forums held in Melbourne (22 June 2012) and Sydney (28 June 2012). The forums drew together key individuals representing consumer, business, legal and professional interests to aid the Attorney-General in identifying the effectiveness of Australian contract law and canvass potential areas for

improvement. Most stakeholders agreed that there was room to improve contract law and a variety of options for reform, ranging from codification to harmonisation, were put forward. The evidence gathered from the consultation process will inform the Attorney-General on the need for and future direction of reform options for contract law.

Legislative drafting and publishing

The Office of Legislative Drafting and Publishing (OLDP) has two main functions, one of which is drafting subordinate legislation. In 2011–12, our legislative drafters provided client agencies with final drafts of over 350 legislative and other instruments. The Office:

- drafts all Regulations, Proclamations and Rules of Court
- delivers a range of other drafting services to the Australian Government and, on occasion, other governments as part of Australia's international aid program
- works closely with the Office of Parliamentary Counsel to ensure high standards of drafting for subordinate legislation.

The Office also publishes all Australian Government legislation, particularly through the ComLaw website at www.comlaw.gov.au. Public use of ComLaw continues to increase, and further enhancements have been made to ensure the website does not become slow or unavailable as a result. Behind the scenes, the editors, compilers and registration staff continued to:

- work with the Executive Council Secretariat and more than seventy agencies to register legislative instruments and other documents in accordance with the *Legislative Instruments Act 2003*
- provide a central tabling and disallowance monitoring service, delivering up to twelve copies of each instrument and its explanatory material to the Parliament for scrutiny
- track and publish the detail of relationships between Bills, Acts, legislative instruments and other important legislative material
- prepare compilations of Acts and key legislative instruments as amended or otherwise changed, including some modified Western Australian laws that apply in the Indian Ocean Territories
- publish legal notices in the Government Notices, Periodic and Special Gazettes on behalf of government (and a small number of non-government) bodies.

A key achievement in 2011–12 was making ComLaw content more accessible to people who need to use it in print, in customised visual formats onscreen, or in spoken form (see case study on BrowseAloud on page 106). OLDP also:

- drafted important legislative instruments in major areas of law reform, including work health and safety, the carbon package and bio-security
- prepared over 500 pages of civil aviation regulations for public comment through a joint taskforce with the Civil Aviation Safety Authority and the relevant policy department, with a similar amount to follow in 2012–13
- published and maintained an authoritative online version of more Acts, including the 11-volume *Income Tax Assessment Act 1997* and another thirty-two Acts as amended

- scanned and researched historic material for publication during 2012-13, including 5,000 Acts and 12,000 statutory rules made between 1901 and the 1970s
- worked with all portfolios to verify whether and when all their instruments in force will sunset (or cease automatically), and on the Legislative Instruments Amendment (Sunsetting Measures) Bill 2012.

All OLDPA functions will be transferred to the Office of Parliamentary Counsel in 2012-13, in line with the report of the Skehill Review. To facilitate the transfer, the *Parliamentary Counsel Act 1970* has been amended and changes will commence before 23 January 2013.

Evaluations/reviews

Review of Access to Justice website

The department commissioned a review of the Access to Justice website, www.accesstojustice.gov.au, to identify options for increasing the accessibility and usefulness of that site. The reviewers made a range of recommendations that the department is now considering in the context of a broader project to enhance the department's website.

Review and research on Family Support Program family law services

The department has commissioned research on Family Support Program family law services. This research will help inform a review of these services prior to the commencement of new funding agreements in July 2014. The research will examine the nature, effectiveness, distribution, client characteristics, and integration of these services and will be undertaken by Allen Consulting Group. The research is due to be completed in April 2013.

Review of Independent Children's Lawyers

The department commissioned the Australian Institute of Family Studies to undertake a study of Independent Children's Lawyers (ICLs). The study will look into the use, role and effectiveness of ICLs in the family law system. The results of the study are expected in May 2013.

Review of legal assistance services

The department commissioned a review of legal assistance services, which is due for completion by 30 June 2013. The review is a collaborative project between the Commonwealth, states and territories. It will evaluate the quality, efficiency and cost-effectiveness of service delivery across all four Commonwealth-funded legal assistance service providers, ie legal aid commissions, Aboriginal and Torres Strait Islander legal services, community legal centres and family violence prevention legal services for Indigenous Australians.

Review of native title respondent funding

In August 2011, the department engaged Mr AC Neal SC to conduct a review of native title respondent funding. The review considered the efficiency and effectiveness of existing financial assistance arrangements for native title respondents and native title officers. The review also considered a revised interest test and the circumstances in which legal representation may be funded for respondents in native title matters in the context of the consolidated administration of legal financial assistance schemes from 1 July 2012. The report outcomes are available on the department's website.

Family violence prevention legal service – financial control audit and program review

The department engaged Deloitte Touche Tohmatsu to undertake a financial control audit and financial viability assessment of twelve family violence prevention legal service providers. The report was completed on 30 June 2012 and the department is undertaking analysis and preparing an implementation plan. The outcome and implementation of the findings and recommendations will be reported in 2013.

Review of the family violence prevention legal service program

The department engaged the Allen Consulting Group to undertake a review of the family violence prevention legal services, with a draft report to be submitted to the department in July 2012. The outcomes and recommendations of this report will be reported in 2013. The outcomes and recommendations will be taken into account in the broader review of Commonwealth legal assistance services.

Outlook at 30 June 2012

Access to justice

The department will continue to provide legal policy advice to assist development of major Commonwealth initiatives, including the National Disability Insurance Scheme, which will launch in selected pilot sites in mid-2013.

Dispute resolution

The department will undertake a comprehensive evaluation of the operation of the *Civil Dispute Resolution Act 2011*, from August 2012 to July 2013. This will inform future policy development directed to the effective use of alternative dispute resolution in the federal civil justice system. We will also engage with Commonwealth agencies to provide enhanced guidance on how those agencies can most effectively use alternative dispute resolution processes.

Family law

Work will continue on improving collaboration between the federal family courts and the child welfare authorities. This will include publication of a paper commissioned by the department on ways to improve formal and informal information exchange and monitoring and assessing other pilot initiatives.

The department will distribute the common screening and risk assessment framework so that it is available to all practitioners and agencies in the family law system.

The pilot of coordinated family dispute resolution (which was developed for cases where there is family violence) will be evaluated and findings from the evaluation will inform future program and policy development in this area.

A review of Family Support Program family law services, including research conducted by the Allen Consulting Group, will provide evidence for policy development on streamlining family law services. Our aim is that the new funding agreements (commencing 1 July 2014) will benefit from this review and will provide the framework for more integrated, responsive and accessible support for separated families and their children.

Adoption

The department will coordinate the Government's response to the Senate Former Forced Adoptions report, including the development and delivery of a national apology to those affected.

Marriage celebrants

The department will implement reforms to the marriage celebrants program to improve the delivery of services to celebrants by the department and implement cost recovery from 1 July 2013.

Legal assistance services

The department will focus on the review of Commonwealth-funded legal assistance services to ensure that assistance is high quality, targeted to those most in need, cost effective and provided in collaboration with other service providers across the legal assistance sector. The review will be completed by 30 June 2013.

From 1 July 2012, the existing legal financial assistance schemes are being administered as one scheme, with funding for legal representation costs payable only in exceptional circumstances. The consolidation also introduced a new scheme, the disbursement support scheme, to provide access to financial assistance for a broader range of applicants and provides greater support for pro bono work.

Findings from audit reports and a review of the family violence prevention legal services will be implemented during 2013 and will inform the review of Commonwealth legal assistance services.

Native title

As announced by the Attorney-General on 6 June 2012, the department will progress legislative reforms to the *Native Title Act 1993* relating to historical extinguishment, good faith negotiations and ILUAs. The reforms will be implemented in consultation with native title stakeholders.

Indigenous law and justice

The department continues to support development of a national strategy under the Safe Communities Building Block of the Closing the Gap agenda. This work will complement the three existing frameworks on Indigenous law and justice, child protection, and protecting women and children from violence. In the coming months, work will focus on reaching agreement on an overarching strategy and specific projects to be undertaken by the Australian and state and territory governments.

Federal courts and tribunals

The department will assist the Attorney-General on further appointments to the federal courts as needed including appointments to the High Court following the retirements of Justice Gummow on 8 October 2012 and Justice Heydon on 28 February 2013.

Reforms to court fees announced as part of the 2012–13 Budget will be implemented with new court fees to commence from 1 January 2013. The department will continue to support the Attorney-General in progressing her court reform legislation package.

The department will continue to work with Commonwealth tribunals and their line departments to explore opportunities for enhanced collaboration between tribunals in the use of facilities, the sharing of services and the promulgation of best practice, in support of the Administrative Appeals Tribunal President, who is leading this process.

Microeconomic reform

The department is considering the need for reform to Australian contract law based on the evidence gathered through the recent consultation process and in consultation with other departments and stakeholders.

Privacy reform

The department is continuing to progress reform to Australia's privacy laws. The Privacy Amendment (Enhancing Privacy Protection) Bill was introduced into Parliament on 23 May 2012. The department will support the Attorney-General during Parliamentary debate on the Bill and, if it is passed, will work on the Bill's implementation including the development of supporting regulations.

Copyright

International instrument on copyright exceptions for the visually impaired

The department is the lead agency for negotiations at WIPO for a possible international instrument on copyright exceptions for the visually impaired. Australia has taken a leading role in negotiating the text of the instrument and has advocated for the instrument taking the form of a treaty. The department will continue to engage with WIPO and its international partners to progress agreement of a treaty.

Review of technological protection measure exceptions under the Copyright Act

The department is undertaking a review of additional exceptions to the technological protection measure (TPM) provisions in the *Copyright Act 1968*. TPMs are technical locks copyright owners use to stop their material being copied or accessed without permission. Stakeholders have been invited to make submissions on whether existing exceptions are still appropriate and whether any new exceptions should be added.

Classification

R18+ category for computer games

A new adult (R18+) category for computer games will commence from 1 January 2013. Legislation passed in the Commonwealth parliament in June 2012 provided for the new R18+ category in the National Classification Scheme (NCS). The department will oversee implementation of the new category including: working with the computer games and retail industries to assist them prepare for the new category; training and working with other government agencies such as the Australian Media and Communications Authority and Australian Customs and Border Protection; and updating all relevant instruments and administrative procedures.

Review of National Classification Scheme

The Australian Law Reform Commission (ALRC) completed its review of the NCS in light of changes in technology, media convergence and the amount of classifiable content available to consumers. The Government is now considering its response to the ALRC's fifty-seven recommendations. This will involve consultation with states and territories, as the NCS is a cooperative arrangement.

Connecting Australian Government lawyers

The department will continue to support the establishment of the Government Legal Network as an important step towards professionalising government lawyers, enhancing the delivery of legal services to the Australian Government and supporting the Attorney-General as First Law Officer. The inaugural Government Legal Network Board has been appointed and is working towards establishing the whole-of-government Network.

Support for the Attorney as First Law Officer

OLSC will continue to support the Attorney-General in their role as First Law Officer of the Commonwealth, particularly with regard to oversight of significant legal issues involving the Commonwealth.

The department will support the Commonwealth legal services framework by delivering a targeted training program focusing on enhancing government lawyers' and legal service providers' understanding of the Legal Services Directions 2005.

Human rights

The department provides high quality legal advice on Australia's human rights obligations and their domestic implementation. The department will continue its work on individual communications lodged with United Nations human rights treaty bodies and engagement in international human rights issues of interest to Australia.

The department supports government agencies with the implementation of requirements under the *Human Rights (Parliamentary Scrutiny) Act 2011*. Work to consider the effectiveness of the Act as part of the 2013–14 review of the Human Rights Framework will also be undertaken.

The department will progressively implement the measures under Australia's Human Rights Framework. The centrepiece of the Framework is education. In 2012–13, the department will deliver a public-sector-wide eLearning package that is designed to strengthen the capacity of officers to develop policies, programs and legislation that are consistent with human rights, and provide guidance to administrative decision makers on relevant human rights considerations. Resources will be produced to further assist public servants in their role in protecting and promoting human rights. In addition a tailored human rights training program will be delivered in 2012–13, providing targeted assistance on particular issues.

Work continues on consolidating Commonwealth anti-discrimination laws, with exposure draft legislation scheduled to be released for consultation with stakeholders.

Legislation to establish a National Children's Commissioner within the Australian Human Rights Commission commenced on 1 July 2012. The department is progressing the recruitment process and the inaugural Commissioner will take office by the end of 2012 or early 2013.

International litigation

The department continues its lead role in defending Australia's interests in international litigation, including in relation to Japan's whaling in the Southern Ocean.

The department also has overall responsibility for the Government's defence of legal challenges to the plain packaging of tobacco products. This includes the conduct of the investor-state dispute, and assistance to the Department of Foreign Affairs and Trade in preparing for and defending any challenges to plain packaging in the World Trade Organization.

International law

The department will continue to provide high quality legal advice in relation to the interpretation and application of international law as it relates to trade, maritime boundaries, activities in cyber space, security, refugees, law of the sea and the environment.

The department will continue to provide high quality legal advice to Australia's negotiators in the Trans-Pacific Partnership Agreement. As negotiations work towards a conclusion, the department will also be providing advice on the domestic implementation of the Agreement.

The department, through funding under AusAID's Pacific Public Sector Linkages Program, will continue to provide assistance to Pacific Island Forum countries to finalise their maritime boundaries.

Performance results

Table 7.1: Performance results, Program 1.1

Key performance indicators	Results
Improved access to justice	Partially achieved Comment: The Access to Justice (Federal Jurisdiction) Bill introduced into Parliament in November 2011 promotes access to justice including enhanced court powers to manage discovery and implementation of improved mechanisms to deal with vexatious litigation. New regulations will also support streamlined access to justice in proceedings with a cross-border Australia – New Zealand dimension.
The human rights of Australians at risk of social exclusion are protected and promoted and they have ready access to appropriate legal assistance services	Partially achieved Comment: Measures which were introduced by the <i>Human Rights (Parliamentary Scrutiny) Act 2011</i> are designed to encourage early and ongoing consideration of Australia's human rights obligations in the development of policy and legislation, which will assist the protection and promotion of the human rights of Australians.
Improved family and community safety for Indigenous Australians	Partially achieved Comment: Community and family safety for Indigenous Australians remains an area of considerable concern. However, identifiable progress has been achieved in a number of areas, including: <ul style="list-style-type: none"> • funding initiatives designed to reduce reoffending under the Indigenous Justice Program • facilitating support for Community Engagement Police Officers (CEPOs) in eight remote Indigenous communities across the Northern Territory • successfully managing community night patrols in Northern Territory communities.
A reduction in the complexity of laws	Partially achieved Comment: The Legislative Instruments Amendment (Sunsetting Measures) Bill, introduced into Parliament in May 2012 will allow for the efficient culling of thousands of spent and redundant legislative instruments. The consolidation of the drafting of Acts and legislative instruments in the Office of Parliamentary Counsel will support consistency in drafting and clearer laws. Commencement of an evaluation of the complexity scheme is directed to further reducing the complexity of laws.
Contribution to effective microeconomic reform	Partially achieved Comment: The department continues to scope new opportunities for microeconomic reform in the law and justice sector, including through the Standing Council on Law and Justice (SCLJ) and will consider the need for reform to Australian contract law in light of the recent consultation process. In April 2012, the Department commenced its work on an SCLJ project to develop harmonised choice of law and choice of court provisions under Australian law.
Clarity and certainty of advice on international law and legislation implementing international law	Achieved Comment: The department consistently provided accurate and effective legal advice regarding Australia's international human rights obligations and their domestic implementation, assisting in policy development across Government and enhancing the protection of human rights in Australia.



“ making Australia’s laws accessible to the widest possible audience ”

OUR PEOPLE

Matthew Hilhorst and Julie Channells,
Office of Legislative Drafting and Publishing



BrowseAloud – making legislation more accessible to people

Thousands of Australians with disabilities can now access the laws of Australia thanks to an innovative upgrade to the ComLaw website.

ComLaw is an online repository for legal information. It contains information about Commonwealth laws including Acts, as well as other documents such as Bills and Legislative Instruments (Regulations), in electronic form.

Making Australia's laws accessible to the widest possible audience is a key aim of the ComLaw site as it is the only government-backed website to provide this service.

In January 2012 assistive software called BrowseAloud was added to the site. The software improves accessibility for users who have literacy difficulties, mild vision impairment or problems with written English.

BrowseAloud is text-to-speech software that reads online content aloud and highlights each word as it is spoken. The audio-visual reinforcement can help people with a range of disabilities follow the words as they are heard, improving comprehension. It also includes a screen-magnification function that can assist users who have visual impairment.

Acting Assistant Secretary Andrew McLeod understands that accessing information online can be difficult for people with disabilities.

'Through ComLaw we seek to provide no-cost access to Australian Commonwealth legislation to all Australians,' Andrew said. 'Adding BrowseAloud to the site presented an opportunity to broaden the number of people who could access the service and read about the laws of Australia.'

The BrowseAloud feature puts ComLaw at the forefront of the move to make government websites more accessible.

'BrowseAloud came highly recommended. It's a product that's free to the end user, cost effective for us to license and implement on ComLaw, and did not require any changes or implementation of software to our own network,' Andrew said.

'For us the decision was a simple one, and we are already receiving plenty of positive feedback from the community.'



Civil Justice and Legal Services – administered programs

Program 1.3

Justice services

Summary

A major focus of 2011–12 was the provision of effective resources for legal assistance services to disadvantaged Australians and communities. This has been achieved by:

- implementing key initiatives under the National Partnership Agreement on Legal Assistance Services, with a focus on developing a more strategic approach to service delivery, including an increased focus on early intervention and prevention services
- consolidating the legal financial assistance schemes administered by the department to ensure a more effective and equitable distribution of limited funds
- establishing the disbursement support scheme to provide broader assistance to financially disadvantaged Australians and greater support for pro-bono legal work.

Major achievements

Consolidation of legal financial assistance schemes

As part of its 2011–12 Budget, the Australian Government has expanded the range of matters and individuals that would qualify for assistance under the various legal financial assistance schemes administered by the department. The goal was to ensure a fairer and more effective distribution of limited legal assistance funds. The changes also provide greater support for pro bono activities of the legal community.

The department has worked to consolidate the existing legal financial assistance schemes under a unifying set of guidelines. The Commonwealth Guidelines for Legal Financial Assistance 2012 provide a consistent approach to grants administration across all schemes, and will come into effect on 1 July 2012.

In consultation with organisations associated with the delivery of pro bono legal services, the department developed the disbursement support scheme, which will commence on 1 July 2012. This scheme aims to assist financially disadvantaged persons overcome the obstacle imposed by the cost of disbursements. Assistance is available for persons who would not otherwise receive government assistance and is limited to Commonwealth non-criminal legal matters.

The department conducted a review of the native title respondent funding scheme. It was timely to re-evaluate the level of legal assistance provided to respondent parties to native title claims given the development of native title law in the years since the enactment of the *Native Title Act 1993*. The department's review was informed by a public consultation process and a report prepared by an independent consultant, Mr Anthony Neal SC. Changes to the native title respondent funding scheme will take effect on 1 January 2013.

Review of the Legal Assistance National Partnership

The department commissioned a review of legal assistance services that will assess the progress made by the parties to the National Partnership Agreement on Legal Assistance Services in respect of achieving the agreed outcomes, objectives and outputs.

The review is a collaborative project between the Commonwealth, states and territories. It will evaluate the quality, efficiency and cost-effectiveness of service delivery across all four Commonwealth-funded legal assistance service providers, ie legal aid commissions, Aboriginal and Torres Strait Islander legal services, community legal centres and family violence prevention legal services for Indigenous Australians. The review will be completed by 30 June 2013.

Establishment of the Centre for Asia–Pacific Pro Bono

The Australian Government provided funding of \$450,000 over three years (commencing on 1 July 2011) to establish the Centre for Asia–Pacific Pro Bono. The department has worked closely with the Law Council of Australia in the establishment of the Centre. The Centre administers a clearinghouse to coordinate requests from the Asia–Pacific region for pro bono assistance by Australia and administer an associated disbursement fund.

The Centre supports development in the Asia–Pacific (particularly within the law and justice sector) and provides a service to match requests for assistance with providers of international pro bono legal services. The department will continue to work with the Law Council of Australia in relation to the future work of the Centre.

Evaluations/reviews

The department commissioned a review of legal assistance services which is due for completion by 30 June 2013. The review is a collaborative project between the Commonwealth, states and territories. It will evaluate the quality, efficiency and cost-effectiveness of service delivery across all four Commonwealth-funded legal assistance service providers, ie legal aid commissions, Aboriginal and Torres Strait Islander legal services, community legal centres and family violence prevention legal services for Indigenous Australians.

Outlook at 30 June 2012

The legal aid program will focus on the review of legal assistance services. This review will ensure that legal assistance is of high quality and targeted to those most in need, and that the delivery of legal assistance is cost effective, coordinated with other service provision and done in collaboration across the legal assistance sector. The review is to be completed by 30 June 2013.

In parallel with the review, this program will continue working with states and territories to implement key initiatives under the National Partnership Agreement on Legal Assistance Services. Key measures under the Agreement include jurisdictional forums to improve coordination and targeting of services between legal assistance service providers and information and referral strategies to ensure comprehensive access to information and seamless referral.

The department's work on consolidating the legal financial assistance schemes will continue in the coming year. On 1 January 2013, the new parameters for the operation of the native title respondent funding scheme will commence. The department will also be reviewing the operation of the disbursement support scheme to ensure that it continues to deliver the desired outcomes.

Performance results

Table 8.1: Performance results, Program 1.3

Key performance indicator	Results
Improvement in access to education, information, advice and support services for disadvantaged Australians and communities.	<p>Achieved</p> <p>Comment: Data reported by legal aid commissions for the first six months of 2011-12 indicates an increase in the number of these services being provided. Full year data will not be available until 31 August 2012.</p> <p>In 2011-12, community legal centres have provided more than 235,600 advices, closed more than 50,000 cases and delivered more than 3,300 community legal education sessions nationally.</p>

Table 8.2: Program 1.3

Administered Items	Results
Payments for grants to Australian organisations	Achieved Comment: Fifteen grants approved for fifteen organisations. Budget price: \$1.633 million Actual price: \$1.632 million
Payments for the provision of legal aid – Legal Aid Commissions	Achieved Comment: Funding was provided from the Expensive Commonwealth Criminal Cases Fund and the Illegal Foreign Fishing Fund for 596 claims from legal aid commissions for reimbursement of costs incurred for expensive matters. Budget price: \$10.218 million Actual price: \$10.214 million
Payments for the provision of community legal services	Achieved Comment: Payments made in accordance with the terms and conditions of the service agreements. Budget price: \$36.286 million Actual price: \$36.286 million
Financial assistance towards legal costs and related expenses	Achieved Comment: Funding was provided across a range of legal financial assistance schemes on a case-by-case basis. Schemes include the Special Circumstances (Overseas) Scheme, Overseas Custody (Child Removal) Scheme and Native Title Respondent Funding Scheme. Budget price: \$4.527 million Actual price: \$4.524 million
Payments for services under the <i>Family Law Act 1975</i> and the Child Support Scheme legislation	Achieved Comment: In accordance with individual agreements with the States, the Australian Government promotes an accessible system of federal civil justice by providing funds for services under the <i>Family Law Act 1975</i> and the Child Support Scheme legislation by State courts summary jurisdiction. Budget Price: \$2.354 million Actual Price: \$2.159 million
Payments to Law Courts Limited for contributions to operating and capital expenses	Achieved Comment: The Department pays 47.5 per cent of the operating expenses of the Law Courts building in Sydney. Budget Price: \$2.430 million Actual Price: \$2.430 million
Family Court of Western Australia	Achieved Comment: The Australian Government contributes to the operating expenses of the Family Court of Western Australia to ensure access to the Court in family law and child support matters. Budget Price: \$17.358 million Actual Price: \$17.448 million
Payments for membership of international bodies	Achieved Comment: Funds provided in accordance with approved agreements. Budget Price: \$0.550 million Actual Price: \$0.549 million
Commonwealth Human Rights Education Program	Achieved Comment: Australia’s Human Rights Framework provided funding of \$2.068 million over four years to non-government organisations to develop and deliver community education and engagement programs to promote greater understanding of human rights. A second round of fifteen grants totalling \$459,703 was announced by the Attorney-General on 9 September 2011. In total \$957,309 has been awarded to 30 projects since the inception of the program. Budget Price: \$0.509 million Actual Price: \$0.513 million

Administered Items	Results
Personal Property Securities—public awareness campaign	<p>Achieved</p> <p>Comment: The Personal Property Securities Campaign ran national radio, online and press advertising from 23 January – 30 June 2012.</p> <hr/> <p>Budget Price: \$1.602 million Actual Price: \$1.321 million</p>
Publications of Acts and select legislative instruments	<p>Achieved</p> <p>Comment: In 2011-12, all new Acts and select Legislative Instruments continued to be printed and distributed free of charge to Members of the Australian Parliament and to key reference libraries worldwide.</p> <p>In line with changes to the <i>Acts Publication Act 1905</i> that came into force in January 2011, all new Acts as made and an increased number of Acts as amended were published online in authoritative form. Work to make all Acts in force available in authoritative form will continue over 2012-13. Fewer than 700 Acts are outstanding but these do include some particularly long and frequently amended Acts.</p> <p>Work has also continued on filling known gaps in online holdings of Commonwealth law. As part of this, work has begun on digitising and linking up the thousands of Acts and Statutory Rules made before 1973 and 1979 respectively. This important historic material is expected to be released to the public in 2013.</p> <hr/> <p>Budget Price: \$1.569 million Actual Price: \$1.610 million</p>
Special Appropriations	Results
<i>Law Officers Act 1964</i>	<p>Achieved</p> <p>Comment: The Department processes payment of pensions to former Solicitor's - General</p> <hr/> <p>Budget Price: \$0.450 million Actual Price: \$0.300 million</p>

Program 1.4

Family relationships

Summary

During 2011–12, the Government provided \$153 million to seventy-two not-for-profit community based organisations, one business, and one agency (Department of Human Services – Centrelink), to assist Australian families during and after separation and divorce. The eleven service types are:

- sixty-five Family Relationship Centres, with 59,091 clients¹
- sixty-five Children’s Contact Services, with 39,681 clients
- forty counselling services, with 169,721 clients²
- twenty Parenting Orders Program services, with 8,988 clients
- twenty-eight Post Separation Cooperative Parenting services, with 5,474 clients
- eighteen Family Dispute Resolution services, with 15,858 clients
- forty-two Regional Family Dispute Resolution services, with 6,371 clients
- eighteen Supporting Children after Separation Program services, with 9,844 clients
- the Family Relationship Advice Line, Information and Advice component, with 62,320 calls³
- the Telephone and Online Dispute Resolution Service, with 16,620 calls
- the Legal Advice Service, with 5,301 calls.

Face to face services are available through Australia, and for people not easily able to access them, telephone-based services offer a viable alternative. The client numbers indicate a continuing high demand for programs that provide family relationship assistance for separating and separated families.

Major achievements

The department has developed a common screening and risk assessment tool and framework for people entering the family law system. This package is known as the Detection Of Overall Risk Screen (DOORS) and will be available in both ‘pen and paper’ and computer formats. DOORS will be simple to use as well as practical and flexible in meeting the varying needs of professionals, service locations and client demographics. It will allow clients to be identified for referral to services to address risks and needs. The tool and framework

1 Data for all services except Family Relationship Advice Line, Information and Advice component, Telephone and Online Dispute Resolution Service and Legal Advice Service include both registered and unregistered clients.

2 Attorney-General’s Department-funded counselling is reported as part of the larger Department of Families, Housing, Community Services and Indigenous Affairs-funded Family and Relationships Services

3 Data for calls for Family Relationship Advice Line, Information and Advice component, and Telephone and Online Dispute Resolution Service comprises calls answered by these services. Data for calls for Legal Advice Service comprises calls answered and calls made by this service. These divergent approaches in reporting are due to differences in the service models.

complement the earlier development of the AVERT training package for family violence and safety issues.

Relationships Australia Queensland has been selected to replace the Department of Human Services (Centrelink) as the provider of the Family Relationship Advice Line (Information and Advice service), commencing in October 2012. The Family Relationship Advice Line provides information and advice about family relationship and family separation issues, and referral to other relevant services. Relationships Australia Queensland already provides the Telephone and Online Dispute Resolution service, so their selection as the provider of the Family Relationship Advice Line means there will be closer links between these two non-face-to-face services.

Purchaser/provider arrangements

The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) manages contractual arrangements with organisations funded to provide family law services under the Family Support Program. This arrangement is delivered under a memorandum of understanding between FaHCSIA and the department. Funding agreements are in place to provide these services till 30 June 2014.

Family Support Program

The department funds family law-related services through the Family Support Program. The Program commenced on 1 July 2011 and brought together a number of existing family, children and parenting services, most of which are funded through the FaHCSIA portfolio. The Family Support Program works with and supports families, and nurtures children, especially those who are vulnerable and disadvantaged. It enables families to better manage life's transitions, ensure children at risk are protected and contribute to building stronger, more resilient communities.

Evaluations/reviews

The department has commissioned Encompass Family and Community to conduct an independent review of the Family Law Pathways Networks, which will report in the second half of 2012. The Networks are funded by the department to enhance the integration of the family law system, at a local level. The review has considered:

- the applicability of current categories of Networks (ie 'small', 'medium' and 'large') and associated funding levels and geographical coverage
- current terms of funding agreements and whether this needs to be reconsidered
- various governance models developed by Networks
- constraints and challenges for Networks
- achievements and benefits of the Networks in contributing to the ongoing development of the family law system.

Any changes ensuing from the review will be implemented for the next round of funding agreements to commence in July 2013.

Outlook at 30 June 2012

The department has commissioned Allen Consulting Group to undertake research on the Family Support Program family law services, which will be used to inform a review of these services prior to the signing of new funding agreements, to commence in July 2014.

The research will entail site visits, surveys and interviews with a wide variety of family law system stakeholders, and analysis of administrative data. The research will consider:

- value for money of services
- client participation in services including access by various groups of clients
- location of services
- interventions undertaken
- effectiveness of services
- service integration in family law system
- use of alternative technology.

The department has commissioned the Australian Children’s Contact Services Association to develop a draft Operational Framework for Children’s Contact Services (CCSs).

The framework will guide minimum service level standards for the delivery of CCSs, respond to the issues of waiting times, case prioritisation and interaction with other parts of the family law system. A draft framework is expected to be provided to the department in the first half of 2013.

Performance results

Table 8.3: Performance results, Program 1.4

Key performance indicator	Results
Improving the family law system’s response to family violence and to enhance the role of family services to keep more people out of court, including through family dispute resolution.	Achieved Comment: This key performance indicator has been achieved through the development of the common screening and risk assessment framework and tool.

Table 8.4: Program 1.4

Administered Items	Results
Family Relationships Services Programs	Achieved Budget price: \$165.082 million Actual price: \$ 164.875 million

Program 1.5

Indigenous law and justice

Summary

The objective of Program 1.5 is to improve Indigenous family and community safety. Work under this program for 2011-12 included:

- administering the Indigenous Legal Assistance and Policy Reform Program and the Family Violence Prevention Legal Services Program
- delivering the Indigenous Justice Program
- delivering the Closing the Gap in the Northern Territory law and order measures while preparing for the transition to Stronger Futures in the Northern Territory initiative
- providing ongoing support for Indigenous interpreter services in the Northern Territory
- five recipients receiving funding under the second round of the Native Title Anthropologist Grants Program.

Major achievements

Indigenous Justice Program

In 2011-12, major achievements for the Indigenous Justice Program were:

- supporting justice-focused projects that helped reduce recidivism and incarceration
- supporting projects to reduce petrol sniffing and substance abuse for Indigenous youth in designated remote regions
- introducing a minimum dataset to measure outcomes achieved from the Prisoner Through Care projects.

Closing the Gap in the Northern Territory law and order measures

Achievements in Northern Territory law and order measures include:

- preparing community night patrol services to transition from the Closing the Gap in the Northern Territory to the Stronger Futures in the Northern Territory initiative. This included consultation with existing service providers in the development and design of new processes to improve service delivery
- supporting stronger relationships and cooperation between community night patrols and the Northern Territory Police through memoranda of understanding between local police and patrols. The memoranda of understanding will clarify how local police and night patrollers work together to achieve community safety outcomes

- facilitating support for Community Engagement Police Officers who commenced operation in eight remote Indigenous communities across the Northern Territory in July 2011. The department provided \$3.4 million over 2010–11 and 2011–12 for the Community Engagement Police Officers
- supporting the Northern Territory Aboriginal Interpreter Service to implement the findings of the Commonwealth Ombudsman’s report *Talking in language: Indigenous language interpreters and government communication*. The funding has contributed to advanced legal training for interpreters, workshops for organisations which engage interpreters, re-recording of police cautions for use during police interview processes (in fifteen major languages) and trialling appointment of interpreters to Magistrates Courts in ‘bush court’ settings.

Indigenous Legal Aid and Policy Reform Program

The Indigenous Legal Assistance and Policy Reform Program provides funding to Aboriginal and Torres Strait Islander legal services to deliver high quality, culturally sensitive legal assistance services, including duty lawyers, advice, case work and representation in criminal, civil and family law matters. The majority of service outlets (88 per cent) are located in regional and remote areas. Outreach service models are employed to ensure legal assistance services are available at court circuits and bush courts. Assistance is provided mainly in criminal matters (84 per cent). Of the total services provided, 30 per cent were delivered to women.

In 2011–12, the Indigenous Legal Assistance and Policy Reform Program entered into a memorandum of understanding with the Torres Strait Regional Authority to facilitate the administration of legal service delivery in the Torres Strait and Northern Peninsula. The department has funded the Aboriginal and Torres Strait Islander Legal Service Queensland to provide the services from October 2011 to 30 June 2014. The funding in 2011–12 was \$600,000.

Aboriginal and Torres Strait Islander Safe Communities Strategy

The department and FaHCSIA are continuing to lead discussions with state and territory governments on a national Indigenous Safe Communities Strategy. A joint meeting of the Standing Council on Law and Justice’s Indigenous Justice Working Group and the Working Group on Indigenous Reform’s Indigenous Reform Coordination Sub-Group was held in Sydney on 28–29 March 2012. The Commonwealth has engaged, and will continue to engage, with jurisdictions bilaterally and multilaterally. Discussions on the Strategy will occur at the Working Group on Indigenous Reform and the Indigenous Reform Coordination Sub-Group throughout 2012.

Family Violence Prevention Legal Services Program

The objective of the Family Violence Prevention Legal Service Program is to work collaboratively with other service providers to deliver legal assistance and related services, including counselling and court support, to Indigenous adults and children who are victim survivors of family violence.

The Program is delivered by fourteen service providers to thirty-one identified high-need service areas in rural and remote areas. The service providers work closely with the community, providing assistance in child protection, referral, community engagement and community legal education.

In 2011-12, \$1.1 million was provided to seven early intervention and prevention projects across Australia. The projects raise community awareness about family violence and promote positive strategies to help people who are exposed to violence achieve change. The grants ranged from \$45,000 to \$330,000 and will assist communities in rural and remote locations.

Evaluations/reviews

Family Violence Prevention Legal Service – Financial Control Audit

The department engaged Deloitte Touche Tohmatsu to undertake a financial control audit and financial viability assessment of twelve family violence prevention legal service providers. The report was completed on 30 June 2012 and the department will undertake analysis and prepare an implementation plan. The outcome and implementation of the findings and recommendations will be reported on in 2013.

Review of the Family Violence Prevention Legal Service Program

The department engaged the Allen Consulting Group to undertake a review of the family violence prevention legal services. A draft report is expected to be submitted to the department in July 2012. The outcomes and recommendations of this report will be reported on in 2013, and will inform the review of Commonwealth legal assistance programs.

Outlook at 30 June 2012

The department will seek feedback from other service providers on the performance of individual Aboriginal and Torres Strait Islander legal service providers. The survey will cover the accessibility and responsiveness of the Aboriginal and Torres Strait Islander legal services. The extent to which the Aboriginal and Torres Strait Islander legal service providers collaborate with other service providers will also be measured, as well as the effectiveness of their referral processes.

As family violence prevention legal services enter the final year of their current funding agreements, the department has commenced a review of the program and will advise the Government on the proposed future directions. The department will consult with relevant stakeholders to inform this review.

The department will work with the relevant service providers to smoothly transfer the provision of community night patrol services from the Closing the Gap initiative to the Stronger Futures in the Northern Territory initiative. This will include application of a new performance reporting framework and the roll-out of a new community night patroller training package.

The department and the Northern Territory Police will undertake an independent evaluation of the Community Engagement Police Officers in 2012–13. Findings and recommendations from the evaluation will inform government consideration of further activity in this area.

All jurisdictions have agreed to undertake a comprehensive evaluation of the National Indigenous Law and Justice Framework in 2013–14. The purpose of the evaluation is to consider the policy and program changes since the endorsement of the framework at a national level and at a state and territory level, as well as issues identified in its application. The department is funding evaluations of twenty-six Indigenous justice programs under the framework. This is a joint project with all jurisdictions to build the evidence base about 'what works' to address the over-representation of Indigenous people within the criminal justice system. The first tranche of evaluations is scheduled for completion in December 2012. The second tranche will be finalised in October 2013.

A review of the Native Title Anthropologist Grants Program will be undertaken in 2012–13. Funding for the Program is ongoing.

Performance results

Table 8.5: Performance results, Program 1.5

Key performance indicator	Results
Identifiable progress in improving community and family safety of Indigenous Australians	Partially achieved Community and family safety for Indigenous Australians remains an area of considerable concern. However, identifiable progress has been achieved in a number of areas, including: <ul style="list-style-type: none"> • funding Community Engagement Police Officers in eight remote Indigenous communities across the Northern Territory • funding initiatives designed to reduce reoffending under the Indigenous Justice Program • funding community night patrols in eighty Northern Territory communities • funding for Aboriginal interpreter services in the Northern Territory • continuing to develop an Aboriginal and Torres Strait Islander Safe Communities Strategy, and associated work on justice targets.
Improved access to appropriate legal services for Indigenous Australians	Achieved Comment: Grants made to Aboriginal and Torres Strait Islander legal services and family violence prevention legal services have helped improve access to legal assistance for Indigenous Australians. The memorandum of understanding with the Torres Strait Regional Authority has increased services to remote areas.
Negotiation of Safe Communities Strategy successfully concluded with states and territories	Partially achieved The development of an Indigenous Safe Communities Strategy was discussed at the 27 April 2012 meeting of the Working Group on Indigenous Reform. Negotiations with states and territories on the Strategy are continuing.
The Australian Government and states and territories are engaged in agreed activities identified under the Safe Communities Strategy	Partially achieved Comment: Negotiations on an Indigenous Safe Communities Strategy are ongoing. Agreement on activities under the Strategy is included in this process.

Table 8.6: Program 1.5

Administered Items	Results
Payments under the Indigenous Justice Program	<p>Achieved</p> <p>Comment: Funds were provided for forty-five projects, including Petrol Sniffing Strategy projects, across four funding streams, namely prisoner through care, youth prevention and diversion, restorative justice, and community patrols.</p> <p>Budget price: \$11.459 million Actual price: \$11.461 million</p>
Payments for the provision of family violence prevention legal services for Indigenous Australians	<p>Achieved</p> <p>Comment: Grant payments were made to fourteen family violence prevention legal service organisations. Two reviews of the service were commenced in 2011-12. Findings of these reviews will be implemented in 2013 and will inform the review of Commonwealth legal assistance programs.</p> <p>Budget price: \$19.833 million Actual price: \$19.832 million</p>
Indigenous Legal Assistance and Policy Reform Program	<p>Achieved</p> <p>Comment: Grant payments were made to eight Aboriginal and Torres Strait Islander legal service organisations. Additional one-off funding of \$200,000 was used to support increased service delivery.</p> <p>Budget price: \$65.666 million Actual price: \$65.664 million</p>
Payments for Indigenous interpreter services in the Northern Territory	<p>Achieved</p> <p>Comment: Funding provided to the Northern Territory Government for interpreter services to Indigenous Australians.</p> <p>Budget price: \$1.285 million Actual price: \$1.285 million</p>
Closing the Gap in the Northern Territory law and order measures	<p>Achieved</p> <p>Comment: Funding provided for night patrol services and additional legal and interpreter services as part of the Closing the Gap in the Northern Territory national partnership.</p> <p>Budget price: \$25.503 million Actual price: \$25.503 million</p>
Native title system	<p>Achieved</p> <p>Comment: Funding was provided to five recipients under the Native Title Anthropologist Grants Program. Recipients were: the Cairns Institute, James Cook University; ANU School of Archaeology and Anthropology; University of Adelaide School of Social Sciences (two projects); and the University of Sydney Department of Anthropology, School of Social and Political Sciences.</p> <p>Budget price: \$0.526 million Actual price: \$0.526 million</p>

“ discussing current justice
and legal issues in the
Kimberley region ”

OUR PEOPLE



Brad Smith,
Rohan Weliwita,
Jason Lynch,
James Park and
Natasha Mokrij,
Social Inclusion
Division.

Kimberley Community Legal Services: pulling together in remote Australia

Hundreds of Indigenous Australians in remote communities across the Kimberleys in Western Australia learned more about their legal rights and responsibilities in activities sponsored by the department in early 2012.

Kimberley Community Legal Service (KCLS) staff flew and camped around the region to respond to invitations from community members and agencies to discuss current justice and legal issues in communities and to provide legal advocacy services to individuals.

The department supports and funds KCLS and 138 community legal services centres around Australia as part of our Commonwealth Community Legal Services Program.

In the Kimberleys – from Kununurra to Balgo to remote Kalumburu and along the Gibb River Road – the ‘stolen wages’ issue has been a big focus for 2012.

From 1905 to 1972, many employers held money and property belonging to Aboriginal people. There is little or no evidence the money was ever returned to those people. A Western Australia state government task force established a reparation scheme in March 2012, inviting people to apply for up to \$2,000 to be returned to them. KCLS began gathering community responses to the scheme during regular outreach activities in remote Kimberley communities.

It became clear that this scheme would impact widely throughout the Kimberley and many Kimberley people would be eligible to receive payments under the Scheme. KCLS developed a work plan to disseminate information, provide legal assistance to applicants and communicate with the state government about community responses to the scheme. This plan included a series of week-long trips to remote communities to engage in wider community legal education and to talk about stolen wages. The Aboriginal Legal Service and Legal Aid WA partnered with KCLS in these trips to provide these much-needed services.

KCLS also engaged with local schools and students about their rights and responsibilities with the law. Other people wanted to know about their rights when police entered their homes. Some people wanted to apply for the Stolen Wages Scheme and have their remarkable stories heard. Through workshops and more informal settings, KCLS met these information needs. In doing so, they strengthened relationships with the local Aboriginal Legal Service and Legal Aid WA, and formed strong bonds with community leaders, families and schools.

‘In the outback, the distances seem endless and services are limited,’ said Joan Jardine, Director of the Community Legal Services section in the department in Canberra. ‘Community legal centres do a great job because they know everyone has to pull together to succeed.’

