



Australian Government  
Attorney-General's Department

Legal Services  
Expenditure Report  
**2009-10**

Office of Legal Services Coordination

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Expenditure Report  
**2009-10**

Office of Legal Services Coordination

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# 1. Introduction

The purpose of this report is to:

- > provide an overview of legal services expenditure across the Commonwealth for the 2009–10 financial year, and
- > identify and report on trends, patterns and changes in agency legal services spend compared with the previous financial year.

This report has been compiled based on information reported to the Office of Legal Services Coordination (OLSC) as required by subparagraph 11.1(da) of the *Legal Services Directions 2005* (the Directions).

# 2. Executive Summary

In 2009–10, the total legal services expenditure of *Financial Management and Accountability Act 1997* agencies (FMA agencies) was \$571.9m<sup>1</sup>, an increase of 2.9% from 2008–09. The total expenditure of *Commonwealth Authorities and Companies Act 1997* agencies (CAC agencies) was \$68.7m, an increase of 6.5% from 2008–09.

For FMA agencies, expenditure on internal legal services, counsel and disbursements increased but decreased for professional fees. For CAC agencies, expenditure on internal legal services and professional fees increased, but decreased for counsel fees and disbursements. There has been a decrease in overall expenditure in some of the traditionally high spending Commonwealth agencies, such as the Department of Defence, the Department of Immigration and Citizenship, Defence Materiel Organisation, the Department of Education, Employment and Workplace Relations and Centrelink.

There was also a significant increase (490%) in direct briefing of counsel in the period compared with the previous reporting period. The distribution of briefs between male and female counsel was consistent with the distribution in the previous reporting period, with female counsel continuing to be briefed in higher proportion to their reported representation at the Bar.

## Highlights 2009–10

- > **Increased consistency in reporting** – The mandatory reporting template has improved the consistency of Commonwealth agencies' calculation and reporting of legal services expenditure. This will ensure greater consistency in reporting and provide for more accurate data comparison in years to come.
- > **Significant slowing in growth of Commonwealth expenditure** – In 2009–10 expenditure by FMA agencies increased by 2.9%, down from an 8.3% increase in 2008–09.
- > **Continued reform in Commonwealth legal services procurement** – OLSC is continuing to develop further reforms on the back of initiatives introduced in 2008. For example, a common costing methodology to assist in the costing of internal legal services is currently in development.

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<sup>1</sup> All figures in this report are GST inclusive.



### 3. Background

Within 60 days after the end of the financial year, all FMA agencies and non-FMA bodies<sup>2</sup> are required to report to OLSC about their legal services expenditure. Non-FMA bodies became subject to this reporting obligation in 2008–09.

Legal services expenditure data has been required to be reported using a template approved by OLSC since 2008–09. The intention of the template form was, amongst other things, to facilitate consistency in reporting and create a clear break down of data across the Commonwealth.

The 2009–10 financial year is only the second time that agencies have been required to report using the template. The 2009–10 reporting period is the first opportunity to evaluate comparable data on legal services expenditure.

### 4. Office of Legal Services Coordination

OLSC is located within the Civil Justice and Legal Services Group of the Attorney-General's Department. OLSC works to ensure that Commonwealth agencies receive consistent and well coordinated legal services that are of a high standard, uphold the public interest, and are sensitive to whole-of-government interests.

### 5. Reporting legal services expenditure

Pursuant to the Directions, there are three primary sources from which Commonwealth agencies may purchase legal services:

- > from a legal services provider (ie a law firm), under a Deed of Standing Offer or other arrangement
- > from a barrister, engaged through a legal services provider or directly briefed by an agency, or
- > from an internal legal services provider (ie an in-house legal practice).

The legal services expenditure reporting template requires reporting of all three sources of purchase. Fees paid to legal services providers are recorded under 'professional fees' and are also broken down into a firm by firm report. Barrister fees are reported under 'Counsel' and are also broken down into total number of briefs and number of briefs by gender. In-house legal practices are recorded under 'internal legal services expenditure'.

As noted in Guidance Note 8 released in June 2010 (**Appendix D**), internal legal services expenditure is the total cost incurred in the provision of legal services by an in-house practice. Consistent with the Australian National Audit Office, *Legal Services Arrangements in Australia Government Agencies: Better Practice Guide*, the full cost of an in-house legal practice is to include:

<sup>2</sup> CAC agencies which are not Government Business Enterprises (GBE) prescribed under the *Commonwealth Authorities and Companies Act 1997* (Cth) or Corporations Act companies controlled by the Commonwealth.

- > direct salary costs
- > indirect salary costs (superannuation, leave entitlements)
- > direct overhead (costs of desks, stationary, computers etc)
- > indirect overhead (apportioned electricity, rent etc)
- > legal unit overhead (specialist software, licences, cost of law library), and
- > learning and development overhead, including training in legal and non-legal skills.

Increased awareness of the components of internal legal services expenditure and better reporting practices are resulting in more accurate reporting of this category of expenditure, although it is OLSC's view that this category may still be under-reported. OLSC is currently working on a common costing methodology to better assist agencies in costing internal legal services. This will ensure greater consistency in reporting and provide for more accurate data collection.

## 6. Expenditure on legal services in the 2009–10 reporting period

### Total legal services expenditure for 2009–10

A total of 159 FMA and CAC agencies reported legal services expenditure in the reporting period. This figure excludes agencies that are exempt from reporting under the Directions.

The reported total legal services expenditure for FMA agencies in the 2009–10 reporting period was \$571.9m (see **figure 1** for a breakdown of total FMA legal services expenditure)<sup>3</sup>. This is a 2.9% increase from the 2008–09 reporting period, in which FMA agencies reported total legal services expenditure of \$555.9m.

The reported total legal services expenditure for CAC agencies in the 2009–10 reporting period was \$68.7m (see **figure 2** for a breakdown of total CAC legal services expenditure)<sup>4</sup>. This is a 6.5% increase from the 2008–09 reporting period, in which CAC agencies reported total legal services expenditure of \$64.5m.

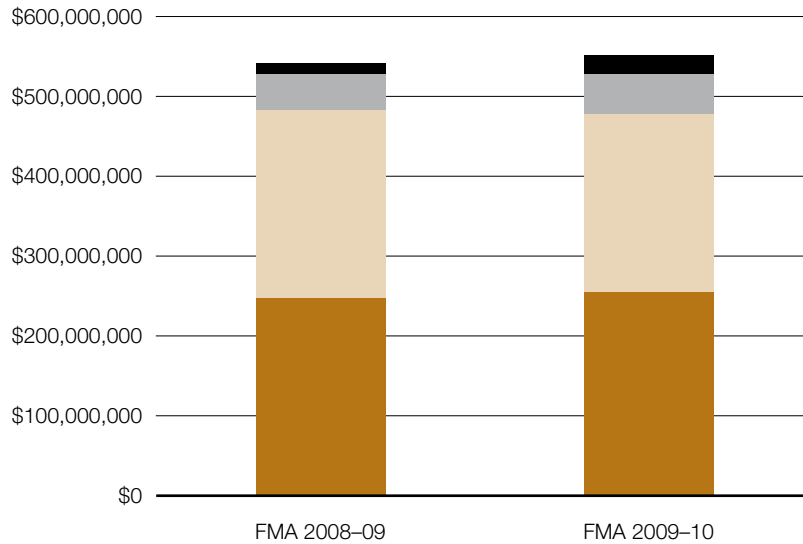
The overall increase in total legal services expenditure for both FMA and CAC agencies from the 2008–09 reporting period is 3.3%. **Figures 3 and 4** show total legal services expenditure for the top 10 FMA and CAC agencies over the 2008–09 and 2009–10 reporting periods. A breakdown of total legal services expenditure by agency, compared to the 2008–09 reporting period, is shown at **Appendix A** of this report.

3 This breakdown is as reported to OLSC. Some agencies were unable to provide this breakdown, which means there is a discrepancy between the total legal services expenditure reported and the sum of the breakdown.

4 See footnote 3.

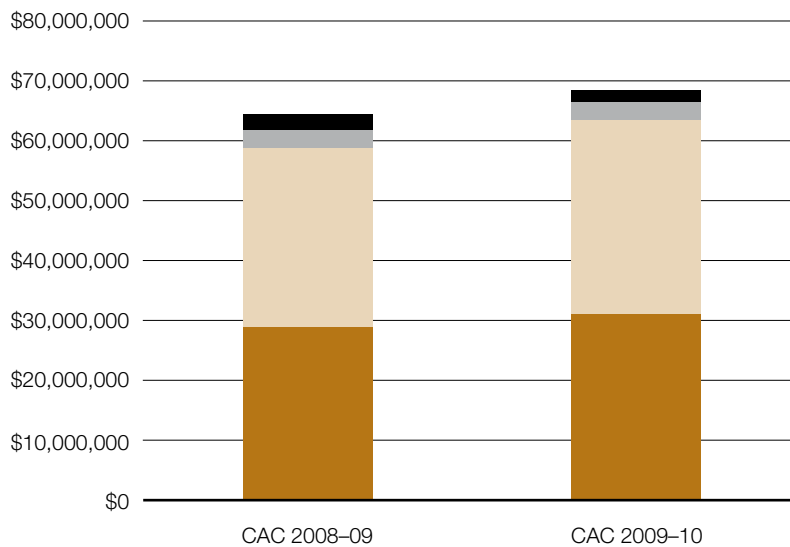


**Figure 1: Total 2008–09 and 2009–10 FMA agency legal services expenditure**



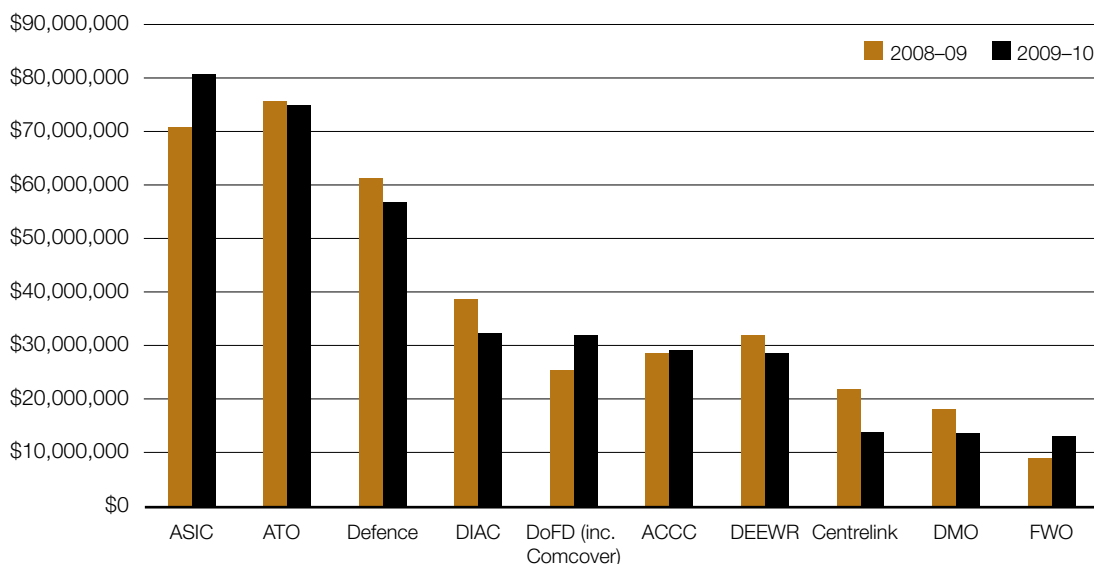
■ Other external disbursements excluding counsel (GST inclusive)	\$14,039,772.65	\$23,634,198.23
■ Counsel (GST inclusive)	\$45,211,050.48	\$50,310,770.58
■ Professional fees (GST inclusive)	\$234,632,540.22	\$222,481,309.77
■ Internal	\$247,464,621.63	\$255,003,867.96

**Figure 2: Total 2008–09 and 2009–10 CAC agency legal services expenditure**

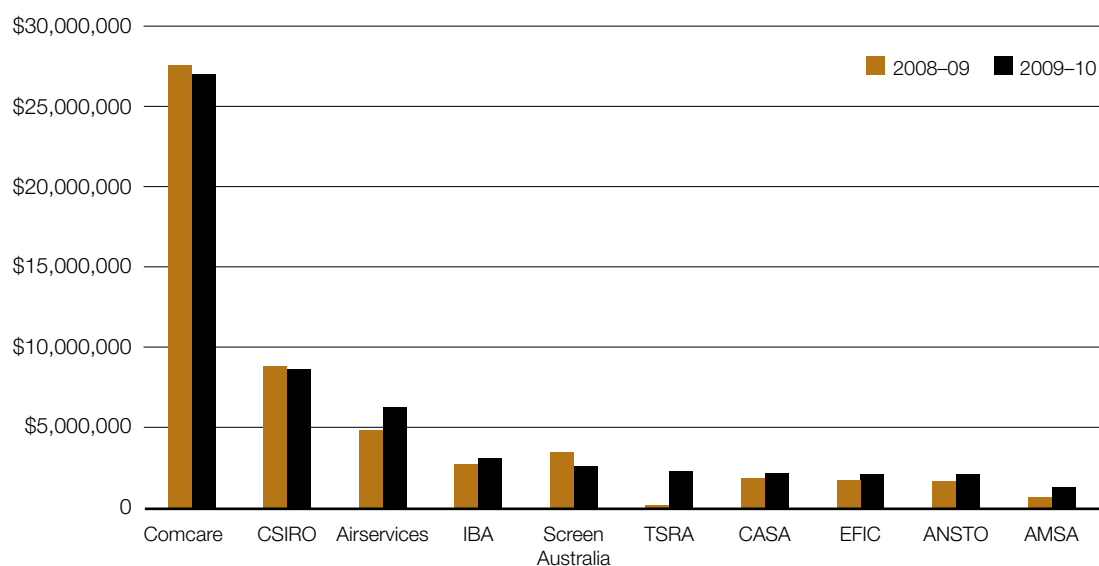


■ Other external disbursements excluding counsel (GST inclusive)	\$2,622,692.26	\$2,107,986.97
■ Counsel (GST inclusive)	\$2,979,077.20	\$2,846,405.16
■ Professional fees (GST inclusive)	\$30,019,059.74	\$32,462,387.21
■ Internal	\$28,789,899.90	\$31,014,508.92

**Figure 3: Total expenditure of top 10 FMA agencies 2008–09 – 2009–10**



**Figure 4: Total expenditure of top 10 CAC agencies 2008–09 – 2009–10**



### Total internal and total external expenditure for 2009–10

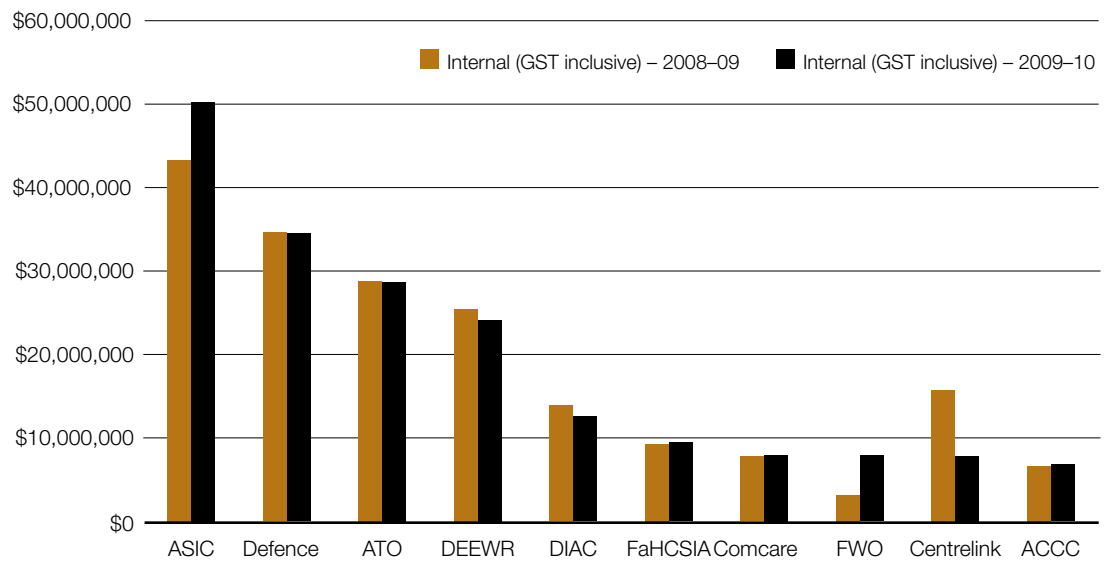
In 2009–10 FMA agencies reported \$316.9m on external legal services<sup>5</sup> and \$255m on internal legal services. External legal services expenditure increased by approximately \$8.4m and internal legal services expenditure increased by approximately \$7.5m from the previous reporting period.

<sup>5</sup> This is the total external expenditure sum as reported to OLSC. Some agencies were unable to provide a breakdown of external expenditure into professional fees, counsel and disbursements, which means there is a discrepancy between the total external expenditure sum reported and the sum of the breakdown as provided in figure 1. There were also discrepancies in some agency reports between the reported total expenditure and the sum of the reported totals of internal and external expenditure.

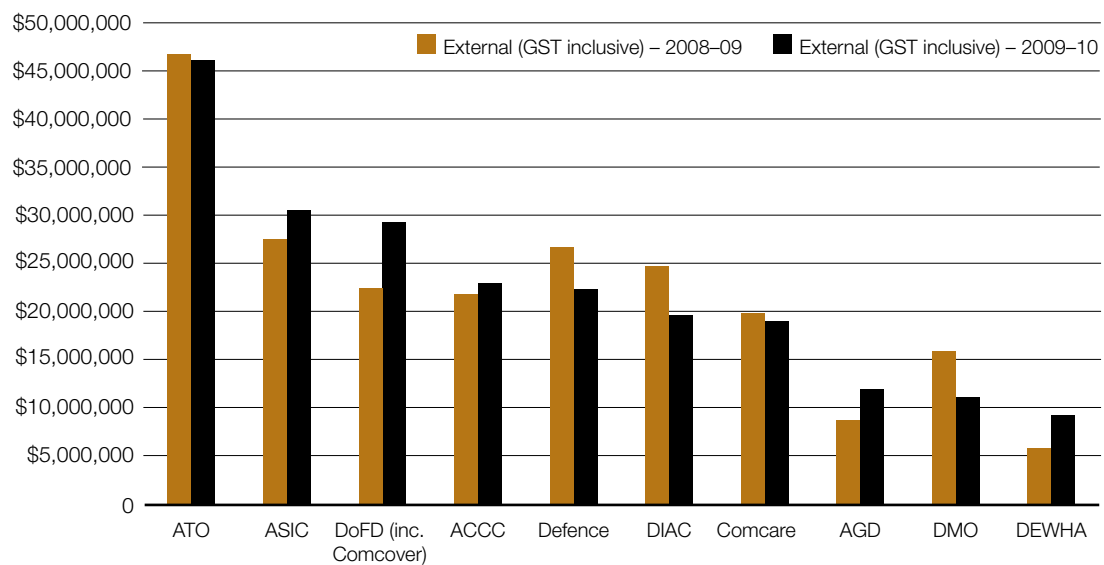


In 2009–10 CAC agencies reported \$37.4m on external legal services<sup>6</sup> and \$31m on internal legal services. External legal services expenditure increased by approximately \$1.6m and internal legal services expenditure increased by approximately \$2.2m from the previous reporting period (see figures 5 and 6 for internal and external legal services expenditure for the top 10 FMA and CAC agencies over 2008–09 and 2009–10). A breakdown of internal and external legal services expenditure by agency, compared to the 2008–09 reporting period is shown at **Appendix B**.

**Figure 5: Top 10 FMA and CAC agencies internal expenditure 2008–09 and 2009–10**



**Figure 6: Top 10 FMA and CAC agencies external expenditure 2008–09 and 2009–10**



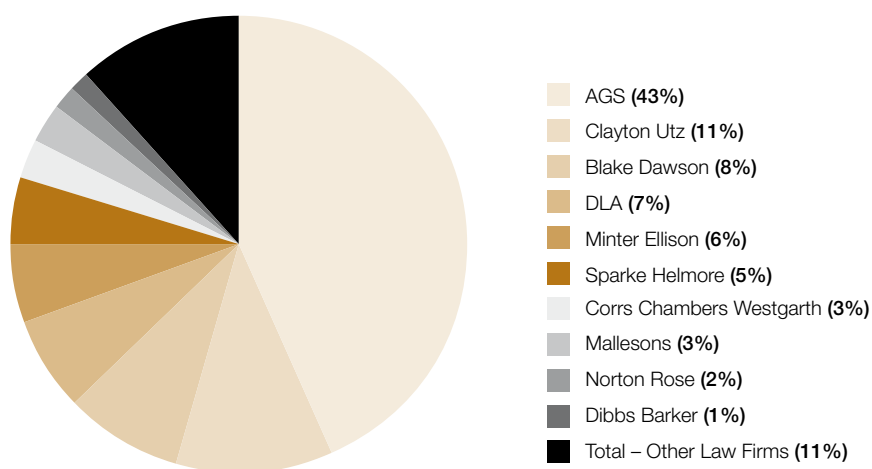
<sup>6</sup> This is the total external expenditure sum as reported to OLSC. Some agencies were unable to provide a breakdown of external expenditure into professional fees, counsel and disbursements, which means there is a discrepancy between the total external expenditure sum reported and the sum of the breakdown as provided in figure 2. There were also discrepancies in some agency reports between the reported total expenditure and the sum of the reported totals of internal and external expenditure.

## Professional fees

In 2009–10, FMA and CAC agencies paid a total of \$254.9m in professional fees to law firms, with the top 10 firms receiving approximately 89% of that total. A total of 291 legal services providers were identified in agency reports as providing legal services to the Commonwealth.

**Figure 7** below illustrates the distribution of expenditure across the top 10 legal service providers. 'Other' refers to the remaining 281 legal services providers.

**Figure 7: Professional fees earned by law firms 2009–10**



## Counsel

In 2009–10 FMA and CAC agencies paid a total of \$53.2m to counsel, consisting of 2821 briefs. This is an increase of \$5m from the 2008–09 reporting period, in which FMA and CAC agencies paid a total of \$48.2m to counsel consisting of 2280 briefs.

The average value of a brief to counsel in 2009–10 was \$18,900 as compared with \$21,000 in 2008–09.

### Direct briefing of counsel

In 2009–10, FMA and CAC agencies reported 767 briefs to counsel on a direct brief basis. This is an increase of approximately 490% from the previous reporting period, in which FMA and CAC agencies reported only 130 direct briefs to counsel (see **figure 8**).

### Selection of counsel

Paragraph 2 of Appendix D to the Directions provides that agencies are encouraged to brief a broad range of counsel, and in particular, women.

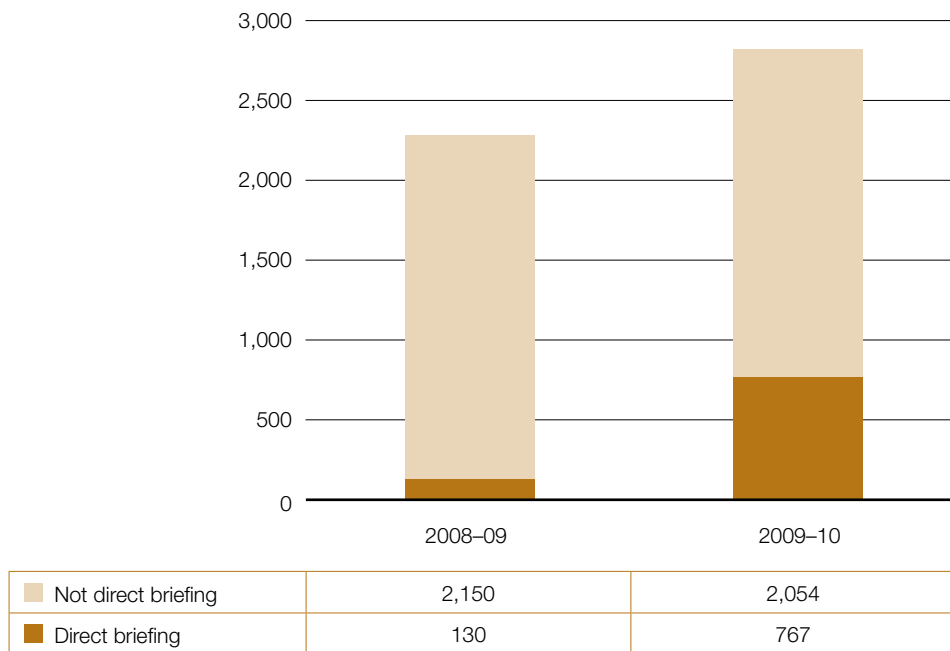
Of the 2821 briefs to counsel in the reporting period, 2085 were issued to male counsel and 736 to female counsel. This means that 73.9% of all briefs to counsel went to male counsel.

This represents a slight increase from the 2008–09 reporting period, in which 72.6% of all Commonwealth briefs to counsel went to male counsel. In 2008–09, 2280 briefs were issued to counsel and of those, 1655 briefs were issued to male counsel, and 625 briefs were issued to female counsel.

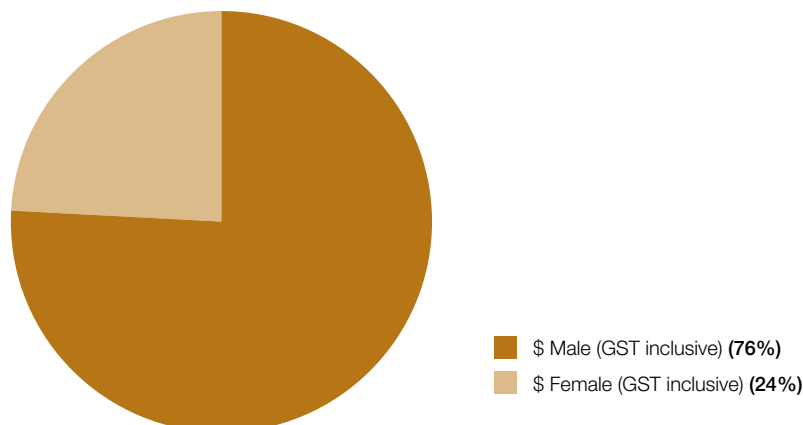
The figures indicate that women are briefed by the Commonwealth in greater proportion to their representation at the Bar, based on the composition of the Bar nationally as reported in the Law Council of Australia's report, *2009 Court Appearance Survey – Beyond the Statistical Gap*. The report recorded that as at December 2008 the gender representation of men at the Bar was 81% with women constituting 19%.

In 2009–10 female counsel received 24% of Commonwealth expenditure on counsel, and male counsel the remaining 76% (see **figure 9**).

**Figure 8: Directing briefing of Counsel by FMA and CAC agencies 2009–10**



**Figure 9: Combined FMA and CAC agency overall percentage of fees earned by male and female counsel 2009–10**



## Pro bono legal services

Appendix F to the Directions supports and encourages legal services providers to the Commonwealth to undertake pro bono work.

As a result of reforms introduced in 2008 Commonwealth agencies are required, when approaching the market, to consider information from law firms about their current pro bono activities, what they aspire to achieve by way of pro bono if successful at tender, and whether the firm is a signatory to the National Pro Bono Aspirational Target. The target is a voluntary commitment of 35 hours of pro bono legal work per lawyer per year.

In 2009–10, 21 Commonwealth legal services providers reported on their pro bono work compared with eight in 2008–09. It should be noted here that only Deeds of Standing Offer established after 2008 require legal services providers to report on pro bono work.

The table below compares the pro bono work undertaken by legal services providers to the Commonwealth in 2008–09 and in 2009–10.

The table illustrates the significant pro bono contribution of most major Commonwealth legal services providers. A number of providers who reported in 2008–09 and 2009–10 achieved increases in hours of pro bono work per lawyer in 2009–10.

**Table 1: Pro bono legal services**

Firms	Hours of pro bono work per lawyer	
	2008–09	2009–10
Allens Arthur Robinson		51
Australian Government Solicitor	5	16.5
Bartier Perry		16
Blake Dawson Waldron	42	
Corrs Chambers Westgarth	41	50
DLA Phillips Fox		43
FCB Workplace Law		391*
Ffrench Commercial Lawyers		0
Freehills		53
Holding Redlich Lawyers		19
Hunt & Hunt Lawyers		5
HWL Ebsworth Lawyers	3.68	
Lawlab		50
Mallesons Stephen Jacques	28.5	30
Maurice Blackburn Lawyers		40
McCullough Robertson		15
Media & Entertainment Law	70	

Firms	Hours of pro bono work per lawyer	
	2008–09	2009–10
Minter Ellison	19.7	18
Moray & Agnew Lawyers		548*
Norton Rose		Not available
Piper Alderman		2.7
Russell Kennedy		28
Sparke Helmore Lawyers	3.8	2.5
Zeeman & Zeeman		35–40

\* denotes total reported for the firm to OLSC rather than total per lawyer

## 7. Conclusion

The expenditure data provided to OLSC has the potential to provide valuable information as to how the Commonwealth is purchasing and managing its legal services. OLSC is continuing to assist agencies to more accurately and consistently record and report on legal services expenditure.

# Appendix A

## Total Legal Services Expenditure by FMA Agencies

Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
Australian Securities and Investments Commission	70,803,026.00	80,728,134.00
Australian Taxation Office	75,561,417.00	74,786,243.00
Department of Defence	61,249,724.06	56,769,373.04
Department of Immigration and Citizenship	38,595,674.00	32,186,000.00
Department of Finance and Deregulation	25,323,841.86	31,907,194.54
Australian Competition and Consumer Commission	28,425,188.00	29,801,573.51
Department of Education, Employment and Workplace Relations	31,936,873.40	28,479,967.19
Centrelink	21,811,854.63	13,698,241.85
Defence Materiel Organisation	18,045,278.41	13,542,180.22
Office of the Fair Work Ombudsman	8,936,348.69	12,955,881.44
Attorney-General's Department	9,397,101.70	12,851,432.29
Department of Families, Housing, Community Services and Indigenous Affairs	12,434,247.89	11,767,472.53
Department of Health and Ageing	11,268,576.38	11,589,674.72
Department of Human Services	8,594,186.21	10,575,232.00
Department of the Environment, Water, Heritage and the Arts	7,179,892.04	10,284,001.35
Department of Veterans' Affairs	10,084,213.56	10,092,905.02
Department of Foreign Affairs and Trade	6,082,601.00	9,810,222.00
Office of the Australian Building and Construction Commissioner	6,365,399.08	9,066,124.02
Australian Customs and Border Protection Service	8,382,986.46	8,758,870.18
Australian Federal Police	7,787,011.36	8,712,759.09
Department of Broadband, Communications and the Digital Economy	8,529,991.13	7,561,048.00
Department of Resources, Energy and Tourism	3,769,389.84	7,083,211.00
Department of Innovation, Industry, Science and Research	5,146,350.87	6,196,070.92
Department of Climate Change and Energy Efficiency	4,569,402.59	6,125,727.66
Australian Crime Commission	5,175,499.64	5,707,708.60
Department of the Treasury	4,512,972.82	5,484,066.91
Australian Communications and Media Authority	5,040,838.53	4,994,146.87



Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
Department of Infrastructure, Transport, Regional Development and Local Government	5,507,345.96	4,375,833.03
Department of Agriculture, Fisheries and Forestry	4,317,873.37	3,841,656.80
Medicare Australia	2,607,345.81	3,648,395.00
Australian Prudential Regulation Authority	3,997,068.03	3,182,101.78
ComSuper	2,638,243.45	2,867,035.54
Migration Review Tribunal and Refugee Review Tribunal	2,743,485.19	2,847,898.90
Murray-Darling Basin Authority	666,294.99	2,624,850.87
Australian Trade Commission	1,074,379.00	2,031,790.00
National Competition Council	542,547.00	1,721,708.94
Australian Sports Anti-Doping Authority	954,655.14	1,307,533.66
AusAID	863,366.91	1,269,134.59
Insolvency and Trustee Service Australia	1,271,440.00	1,247,072.00
Australian Transaction Reports and Analysis Centre	1,386,157.71	1,225,843.00
Australian Human Rights Commission	1,038,639.04	1,119,521.92
Professional Services Review Scheme	697,026.06	1,100,529.00
Australian Pesticides and Veterinary Medicines Authority	1,402,931.73	990,554.07
Future Fund Management Agency	1,080,849.27	941,915.31
Australian Fisheries Management Authority	1,434,569.95	934,293.59
Australian Electoral Commission	975,183.24	929,608.80
National Native Title Tribunal	693,541.00	884,480.00
Department of the Prime Minister and Cabinet	605,796.32	862,421.00
Bureau of Meteorology	524,065.76	696,512.00
Great Barrier Reef Marine Park Authority	644,327.50	695,825.00
CrimTrac Agency	746,886.13	604,995.86
Australian Transport Safety Bureau	Was not an agency until 1 July 2009	580,683.73
National Offshore Petroleum Safety Authority	655,717.22	522,862.82
Office of the Commonwealth Ombudsman	385,453.79	507,573.43
IP Australia	572,448.00	491,595.00
National Blood Authority	561,860.20	442,684.00
Australian Public Service Commission	623,050.12	438,784.00
National Capital Authority	311,125.71	434,084.05
Office of the Director of Public Prosecutions	272,853.69	394,599.20

Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
Australian Commission for Law Enforcement Integrity	299,192.15	367,279.55
Australian Reward Investment Alliance	284,070.00	366,365.00
Australian Bureau of Statistics	491,692.17	343,029.25
Australian Radiation Protection and Nuclear Safety Agency	38,235.00	338,300.00
National Archives of Australia	206,443.55	266,272.28
Office of the Renewable Energy Regulator	128,767.03	248,085.23
Family Court of Australia	211,231.00	228,456.23
Department of Parliamentary Services	285,488.18	217,075.84
National Water Commission	126,819.07	207,394.26
Australian National Audit Office	279,025.00	206,122.00
Wheat Exports Australia	477,027.08	197,158.00
Office of the Privacy Commissioner	133,972.02	178,049.10
Royal Australian Mint	378,295.53	171,908.18
Fair Work Australia *these figures include the Workplace Authority	Was not an agency until 1 July 2009	170,318.76
Office of National Assessments	27,134.88	147,769.85
Australian Research Council	122,070.73	140,663.33
Geoscience Australia	352,252.67	135,313.53
Australian Office of Financial Management	21,345.50	95,249.00
Department of the Senate	3,916.40	74,983.83
Office of the Official Secretary to the Governor-General	45,454.75	71,044.53
Old Parliament House	20,406.00	60,456.97
Federal Court of Australia	68,451.29	60,353.47
National Health and Medical Research Council	161,869.84	54,741.95
Administrative Appeals Tribunal	25,030.12	53,058.80
Australian Organ and Tissue Donation and Transplantation Authority	336	42,664.99
Office of the Inspector-General of Intelligence and Security	54,889.73	32,413.60
Safe Work Australia	Commenced operation 1 November 2009	32,019.90
Australian Institute of Family Studies	36,020.00	30,357.14
Australian Centre for International Agricultural Research	0	22,391.60
Productivity Commission	24,996.55	19,660.30

Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
Cancer Australia	11,372.96	14,424.45
Commonwealth Grants Commission	0	12,035.00
Equal Opportunity for Women in the Workplace Agency	15,342.80	11,172.45
Department of the House of Representatives	0	10,307.50
Private Health Insurance Ombudsman	7,250.31	9,550.20
Inspector-General of Taxation	0	3,300.00
Federal Magistrates Court of Australia	21,528.00	904.75
Office of the Auditing and Assurance Standards Board	22,285.45	821.21
Australian Industrial Registry	77,363.00	0
Corporations and Markets Advisory Committee	0	0
Office of Parliamentary Counsel	1,983.85	0
Office of the Australian Accounting Standards Board	3,069.00	0
Seafarers Safety, Rehabilitation and Compensation Authority	0	0
Workplace Authority	4,582,890.80	Superseded by Fair Work Australia
Australian Fair Pay Commission Secretariat	56,456.27	Ceased operation in 2009
Dairy Adjustment Authority	5,781.00	Ceased operation 31 December 2008
<b>Total FMA (GST-inclusive)</b>	<b>\$555,916,170.11</b>	<b>\$571,921,310.87</b>

### Total Legal Services Expenditure by CAC Agencies

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Comcare	27,583,073.00	26,998,775.00
Commonwealth Scientific and Industrial Research Organisation	8,792,308.93	8,613,909.78
Airservices Australia	4,833,398.00	6,242,702.00
Indigenous Business Australia	2,700,548.00	3,089,431.82
Screen Australia	3,432,829.67	2,569,656.50
Torres Strait Regional Authority	154,556.75	2,265,261.00
Civil Aviation Safety Authority	1,829,507.00	2,140,299.00
Export Finance and Insurance Corporation	1,725,958.15	2,099,971.81
Australian Nuclear Science and Technology Organisation	1,627,517.00	2,077,986.00
Australian Maritime Safety Authority	650,899.34	1,299,959.80

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Central Land Council	915,636.50	1,256,867.00
Indigenous Land Corporation	2,347,282.00	1,211,015.43
Reserve Bank of Australia	841,816.27	1,165,913.51
Food Standards Australia New Zealand	830,259.29	854,241.00
Tourism Australia	671,818.84	748,285.23
Australian Sports Commission (Australian Institute of Sport)	551,316.00	537,615.00
National Transport Commission	624,696.91	504,693.00
Australian Curriculum, Assessment and Reporting Authority	4,064.52	468,444.54
Grains Research and Development Corporation	474,670.71	413,778.73
Australian Institute of Marine Science	313,105.91	399,449.00
Director of National Parks	375,154.66	388,969.58
National Museum of Australia	201,658.45	327,359.02
Australian Hearing Services (Australian Hearing)	640,801.88	312,252.00
National Film and Sound Archive	228,401.00	305,960.55
Australian National Maritime Museum	195,036.60	278,303.01
Australian Film, Television and Radio School	112,840.85	211,419.96
Fisheries Research and Development Corporation	129,343.94	195,466.29
Sydney Harbour Federation Trust	258,899.59	148,402.00
Australian War Memorial	68,373.50	134,041.85
Albury-Wodonga Development Corporation	Exempt from the CAC Act until 1 July 2009	128,819.00
Anindilyakwa Land Council	2,640.00	128,344.00
Australian Wine and Brandy Corporation	15,173.35	127,960.94
Private Health Insurance Administration Council	184,325.48	123,361.06
Rural Industries Research and Development Corporation	84,329.00	122,222.02
National Library of Australia	267,741.22	112,748.87
Australia Council	78,685.00	100,692.00
Northern Land Council	Did not report	100,000.00
Australian Institute of Aboriginal and Torres Strait Islander Studies	57,216.00	98,241.65
Australian Institute of Health and Welfare	15,883.00	79,991.00
Health Workforce Australia	0.00	77,791.32
Australian Reinsurance Pool Corporation	93,131.75	65,199.93

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Grape and Wine Research and Development Corporation	65,150.28	43,131.69
Tiwi Land Council	312,988.82	41,286.47
Cotton Research and Development Corporation	15,250.00	40,141.50
National Gallery of Australia	2,931.69	31,531.27
Coal Mining Industry (Long Service Leave Funding) Corporation	30,000.00	16,000.00
Sugar Research and Development Corporation	25,674.00	12,131.22
Australian Institute of Criminology	22,111.00	8,965.34
Army and Air Force Canteen Service (Frontline Defence Services)	1,094.50	6,544.34
Royal Australian Navy Central Canteens Board	7,340.74	5,575.29
Wreck Bay Aboriginal Community Council	30,876.06	2,243.30
Royal Australian Air Force Veterans' Residences Trust Fund	382.47	448.80
Royal Australian Navy Relief Trust Fund	0	0
Royal Australian Air Force Welfare Trust Fund	0	0
NEPC Service Corporation	0	0
Criminology Research Council	0	0
Australian Military Forces Relief Trust Fund (Army Relief Trust Fund)	0	0
Australian Law Reform Commission	0	0
Australian Industry Development Corporation	0	0
Land and Water Resources Research and Development Corporation (Land and Water Australia)	128,091.00	Ceased operation in May 2009
<b>Total CAC (GST-inclusive)</b>	<b>\$64,556,788.62</b>	<b>\$68,733,170.42</b>

## Appendix B

### Total Internal Legal Services Expenditure by FMA Agencies

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Australian Securities and Investments Commission	43,280,443.00	50,222,536.00
Department of Defence	34,598,357.44	34,500,000.00
Australian Taxation Office	28,841,317.00	28,667,784.00
Department of Education, Employment and Workplace Relations	25,413,274.08	24,113,862.73
Department of Immigration and Citizenship	13,870,125.00	12,563,678.00
Department of Families, Housing, Community Services and Indigenous Affairs	9,291,590.74	9,425,138.20
Office of the Fair Work Ombudsman	3,164,415.00	7,875,336.94
Centrelink	15,735,182.00	7,866,840.17
Australian Competition and Consumer Commission	6,653,622.00	6,822,593.00
Department of Foreign Affairs and Trade	3,352,305.00	6,552,400.00
Department of Health and Ageing	5,504,740.38	6,049,068.55
Australian Federal Police	3,597,685.18	4,702,716.00
Department of Broadband, Communications and the Digital Economy	3,622,538.67	3,951,655.33
Australian Communications and Media Authority	3,558,910.60	3,867,991.00
Office of the Australian Building and Construction Commissioner	2,695,591.10	3,658,435.08
Department of Human Services	2,224,624.18	3,597,410.00
Australian Crime Commission	3,689,654.16	3,388,892.03
Department of Veterans' Affairs	3,272,888.34	3,264,227.82
Migration Review Tribunal and Refugee Review Tribunal	2,711,867.90	2,845,260.00
Department of Finance and Deregulation *these figures include Comcover	2,874,200.00	2,583,918.84
Defence Materiel Organisation	2,173,295.65	2,454,217.78
Australian Prudential Regulation Authority	1,941,364.00	2,138,500.00
Department of Innovation, Industry, Science and Research	1,790,195.30	2,080,739.96
ComSuper	1,792,025	1,975,776.00
Department of Climate Change and Energy Efficiency	1,382,802.00	1,867,620.00
Medicare Australia	1,653,792.00	1,304,170.00
Australian Transaction Reports and Analysis Centre	1,306,323.60	1,123,595.00
Australian Human Rights Commission	1,032,698.44	1,097,634.52

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Department of the Environment, Water, Heritage and the Arts	1,454,480.83	1,038,063.42
Attorney-General's Department	757,493.39	938,247.49
Department of Resources, Energy and Tourism	521,237.00	860,000.00
Future Fund Management Agency	958,029.74	847,171.97
Department of Infrastructure, Transport, Regional Development and Local Government	1,409,527.00	843,581.00
Australian Pesticides and Veterinary Medicines Authority	816,329.69	841,756.72
Australian Customs and Border Protection Service	0.00	756,899.75
Australian Electoral Commission	495,370.00	730,251.90
National Native Title Tribunal	642,761.00	705,821.00
Australian Sports Anti-Doping Authority	390,663.47	644,681.00
AusAID	463,725.88	636,788.00
Great Barrier Reef Marine Park Authority	527,876.00	571,595.00
Australian Fisheries Management Authority	448,490.00	558,464.22
Department of the Treasury	431,119.22	478,896.14
Office of the Commonwealth Ombudsman	355,851.40	406,592.18
National Blood Authority	461,979.10	372,698.00
Insolvency and Trustee Service Australia	466,804.00	358,875.00
Australian Transport Safety Bureau	Was not an agency until 1 July 2009	343,855.67
Murray-Darling Basin Authority	0.00	329,572.00
Australian Public Service Commission	443,321.18	324,757.00
CrimTrac Agency	0.00	288,011.00
Australian Commission for Law Enforcement Integrity	270,178.99	275,917.20
Australian Trade Commission	267,450.00	274,252.00
Department of the Prime Minister and Cabinet	230,000.00	250,000.00
Australian Radiation Protection and Nuclear Safety Agency	0.00	229,001.00
Bureau of Meteorology	140,575.00	195,204.00
Family Court of Australia	176,300.00	186,107.99
Australian Research Council	0.00	91,935.18
National Offshore Petroleum Safety Authority	0.00	54,000.00
Administrative Appeals Tribunal	7,138.60	8,875.18
Department of Agriculture, Fisheries and Forestry	0.00	0.00
Department of the Senate	0.00	0.00

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Department of the House of Representatives	0.00	0.00
Department of Parliamentary Services	0.00	0.00
Federal Magistrates Court of Australia	0.00	0.00
IP Australia	0.00	0.00
Geoscience Australia	0.00	0.00
Australian Office of Financial Management	0.00	0.00
Royal Australian Mint	0.00	0.00
Australian Bureau of Statistics	0.00	0.00
Australian Centre for International Agricultural Research	0.00	0.00
Australian Industrial Registry	0.00	0.00
Australian Institute of Family Studies	0.00	0.00
Australian National Audit Office	0.00	0.00
Australian Organ and Tissue Donation and Transplantation Authority	0.00	0.00
Cancer Australia	0.00	0.00
Corporations and Markets Advisory Committee	0.00	0.00
Equal Opportunity for Women in the Workplace Agency	0.00	0.00
Fair Work Australia *this includes the Workplace Authority's expenditure	Was not an agency until 1 July 2009	0.00
Federal Court of Australia	0.00	0.00
Inspector-General of Taxation	0.00	0.00
National Capital Authority	0.00	0.00
National Competition Council	0.00	0.00
National Health and Medical Research Council	0.00	0.00
National Water Commission	0.00	0.00
Office of National Assessments	0.00	0.00
Office of Parliamentary Counsel	0.00	0.00
Office of the Auditing and Assurance Standards Board	0.00	0.00
Office of the Australian Accounting Standards Board	0.00	0.00
Office of the Director of Public Prosecutions	0.00	0.00
Office of the Inspector-General of Intelligence and Security	0.00	0.00
Office of the Privacy Commissioner	0.00	0.00
Office of the Renewable Energy Regulator	0.00	0.00
Private Health Insurance Ombudsman	0.00	0.00



Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Productivity Commission	0.00	0.00
Professional Services Review Scheme	0.00	0.00
Wheat Exports Australia	0.00	0.00
Safe Work Australia	Commenced operation 1 November 2009	0.00
National Archives of Australia	0.00	0.00
Old Parliament House	0.00	0.00
Commonwealth Grants Commission	0.00	0.00
Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)	0.00	0.00
Australian Reward Investment Alliance	0.00	0.00
Office of the Official Secretary to the Governor-General	0.00	0.00
Workplace Authority	4,302,092.38	Superseded by Fair Work Australia
Dairy Adjustment Authority	0.00	Ceased operation 31 December 2008
Australian Fair Pay Commission Secretariat	0.00	Ceased operation in 2009
<b>Total FMA (GST-inclusive)</b>	<b>\$247,464,621.63</b>	<b>\$255,003,867.96</b>

### Total Internal Legal Services Expenditure by CAC Agencies

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Comcare	7,770,863.00	7,973,242.00
Commonwealth Scientific and Industrial Research Organisation	6,718,808.40	6,632,035.00
Airservices Australia	1,914,000.00	2,204,400.00
Screen Australia	3,131,199.75	1,916,994.00
Export Finance and Insurance Corporation	1,350,092.00	1,557,744.00
Civil Aviation Safety Authority	1,644,642.00	1,512,314.00
Central Land Council	879,594.00	1,253,717.00
Australian Maritime Safety Authority	405,549.00	993,820.00
Torres Strait Regional Authority	0.00	960,144.00
Reserve Bank of Australia	554,306.70	715,061.44
Food Standards Australia New Zealand	732,195.00	700,718.00

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Indigenous Land Corporation	573,137.00	657,932.00
Australian Nuclear Science and Technology Organisation	519,550	643,554.00
National Transport Commission	624,696.91	503,055.00
Director of National Parks	325,738.46	367,947.43
Australian Institute of Marine Science	252,189.00	362,598.00
Australian Sports Commission (Australian Institute of Sport)	326,498.00	305,135.00
Grains Research and Development Corporation	315,088.00	293,008.50
National Film and Sound Archive	81,071.00	227,215.00
Tourism Australia	217,479.11	224,618.23
National Museum of Australia	130,210.19	210,659.87
Australian Film, Television and Radio School	96,583.38	183,450.00
Indigenous Business Australia	142,000.00	167,405.14
Australian Hearing Services (Australian Hearing)	0.00	154,798.00
Anindilyakwa Land Council	0.00	104,134.00
Australia Council	65,000.00	80,000.00
Australian Wine and Brandy Corporation	0.00	53,295.60
Private Health Insurance Administration Council	19,409.00	38,721.71
Tiwi Land Council	0.00	14,779.70
Wreck Bay Aboriginal Community Council	0.00	2,012.30
Albury-Wodonga Development Corporation	Exempt from the CAC Act until 1 July 2009	0.00
Army and Air Force Canteen Service (Frontline Defence Services)	0.00	0.00
Australian Curriculum, Assessment and Reporting Authority	0.00	0.00
Australian Industry Development Corporation	0.00	0.00
Australian Institute of Aboriginal and Torres Strait Islander Studies	0.00	0.00
Australian Institute of Criminology	0.00	0.00
Australian Institute of Health and Welfare	0.00	0.00
Australian Law Reform Commission	0.00	0.00
Australian Military Forces Relief Trust Fund (Army Relief Trust Fund)	0.00	0.00
Australian National Maritime Museum	0.00	0.00
Australian Reinsurance Pool Corporation	0.00	0.00
Australian War Memorial	0.00	0.00
Coal Mining Industry (Long Service Leave Funding) Corporation	0.00	0.00

Agency	2008–09 total (GST inclusive)	2009–10 total (GST inclusive)
Cotton Research and Development Corporation	0.00	0.00
Criminology Research Council	0.00	0.00
Fisheries Research and Development Corporation	0.00	0.00
Grape and Wine Research and Development Corporation	0.00	0.00
Health Workforce Australia	0.00	0.00
National Gallery of Australia	0.00	0.00
National Library of Australia	0.00	0.00
NEPC Service Corporation	0.00	0.00
Northern Land Council	Did not report	0.00
Royal Australian Air Force Veterans' Residences Trust Fund	0.00	0.00
Royal Australian Air Force Welfare Trust Fund	0.00	0.00
Royal Australian Navy Central Canteens Board	0.00	0.00
Royal Australian Navy Relief Trust Fund	0.00	0.00
Rural Industries Research and Development Corporation	0.00	0.00
Sugar Research and Development Corporation	0.00	0.00
Sydney Harbour Federation Trust	0.00	0.00
Land and Water Resources Research and Development Corporation (Land and Water Australia)	0.00	Ceased operation in May 2009
<b>Total (GST-inclusive)</b>	<b>\$28,789,899.90</b>	<b>\$31,014,508.92</b>

### Total External Legal Services Expenditure by FMA Agencies

Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
Australian Taxation Office	46,720,100.00	46,118,459.00
Australian Securities and Investments Commission (ASIC)	27,522,583.00	30,505,598.00
Department of Finance and Deregulation	22,449,641.86	29,323,275.70
Australian Competition and Consumer Commission	21,771,566	22,978,981.51
Department of Defence	26,651,366.62	22,269,373.04
Department of Immigration and Citizenship	24,725,549.00	19,622,322.00
Attorney-General's Department	8,639,608.31	11,913,184.80
Defence Materiel Organisation	15,871,982.76	11,087,962.44
Department of the Environment, Water, Heritage and the Arts	5,725,411.21	9,245,937.93
Australian Customs and Border Protection Service	8,382,986.46	8,001,970.43
Department of Human Services	6,369,562.03	6,977,822.00

Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
Department of Veterans' Affairs	6,811,325.22	6,828,677.20
Department of Resources, Energy and Tourism	3,248,152.84	6,223,211.00
Centrelink	6,076,672.63	5,831,401.68
Department of Health and Ageing	5,763,836.00	5,540,606.17
Office of the Australian Building and Construction Commissioner	3,669,807.98	5,407,688.94
Office of the Fair Work Ombudsman	5,771,933.69	5,080,544.50
Department of the Treasury	4,081,853.60	5,005,170.77
Department of Education, Employment and Workplace Relations	6,523,599.31	4,366,104.46
Department of Climate Change	3,186,600.59	4,258,107.66
Department of Innovation, Industry, Science and Research	3,356,155.57	4,115,330.96
Australian Federal Police	4,189,326.18	4,010,043.09
Department of Agriculture, Fisheries and Forestry	4,317,873.37	3,841,656.80
Department of Broadband, Communications and the Digital Economy	4,907,452.46	3,609,392.67
Department of Infrastructure, Transport, Regional Development and Local Government	4,097,818.96	3,532,252.03
Department of Foreign Affairs and Trade	2,730,296.00	3,257,822.00
Department of Families, Housing, Community Services and Indigenous Affairs	3,142,657.15	2,388,584.33
Medicare Australia	953,553.81	2,344,225.00
Australian Crime Commission	1,485,845.48	2,318,816.57
Murray-Darling Basin Authority	666,294.99	2,295,278.87
Australian Trade Commission	806,929.00	1,757,538.00
National Competition Council	542,547.00	1,721,708.94
Australian Communications and Media Authority	1,481,927.93	1,126,155.87
Professional Services Review Scheme	697,026.06	1,100,529.00
Australian Prudential Regulation Authority	2,055,704.03	1,043,601.78
ComSuper	846,218.45	891,259.54
Insolvency and Trustee Service Australia	804,636.00	888,197.00
Australian Sports Anti-Doping Authority	563,991.67	662,852.06
AusAID	399,641.03	632,346.59
Department of the Prime Minister and Cabinet	375,796.32	612,421.00
Bureau of Meteorology	383,490.76	501,308.00
National Offshore Petroleum Safety Authority	655,717.22	468,862.82
National Capital Authority	311,125.71	434,084.05
Office of the Director of Public Prosecutions	272,853.69	394,599.20

Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
IP Australia	572,448.00	388,574.00
Australian Fisheries Management Authority	986,079.95	375,829.37
Australian Reward Investment Alliance	284,070.00	366,365.00
Australian Bureau of Statistics	491,692.17	343,029.25
CrimTrac Agency	746,886.13	316,984.86
National Archives of Australia	206,443.55	266,272.28
Office of the Renewable Energy Regulator	128,767.03	248,085.23
Australian Transport Safety Bureau	Was not an agency until 1 July 2009	236,828.06
Department of Parliamentary Services	285,488.18	217,075.84
National Water Commission	126,819.07	207,394.26
Australian National Audit Office	279,025.00	206,122.00
Australian Electoral Commission	479,813.24	199,356.90
Wheat Exports Australia	477,027.08	197,158.00
National Native Title Tribunal	50,780.00	178,659.00
Office of the Privacy Commissioner	133,972.02	178,049.10
Royal Australian Mint	378,295.53	171,908.18
Fair Work Australia (includes the Workplace Authority)	Was not an agency until 1 July 2009	170,318.76
Australian Pesticides and Veterinary Medicines Authority	586,602.04	148,797.35
Office of National Assessments	27,134.88	147,769.85
Geoscience Australia	352,252.67	135,313.53
Great Barrier Reef Marine Park Authority	116,451.50	124,230.00
Australian Public Service Commission	179,728.94	114,027.00
Australian Radiation Protection and Nuclear Safety Agency	38,235.00	109,299.00
Australian Transaction Reports and Analysis Centre	79,834.11	102,248.00
Office of the Commonwealth Ombudsman	29,602.39	100,981.25
Australian Office of Financial Management	21,345.50	95,249.00
Future Fund Management Agency	122,819.53	94,743.34
Australian Commission for Law Enforcement Integrity	29,013.16	91,362.35
Department of the Senate	3,916.40	74,983.83
Office of the Official Secretary to the Governor-General	45,454.75	71,044.53
National Blood Authority	99,881.10	69,986.00
Old Parliament House	20,406.00	60,456.97

Agency	2008–09 total (GST Inclusive)	2009–10 total (GST Inclusive)
Federal Court of Australia	68,451.29	60,353.47
National Health and Medical Research Council	161,869.84	54,741.95
Australian Research Council	122,070.73	48,728.15
Administrative Appeals Tribunal	17,891.52	44,183.62
Australian Organ and Tissue Donation and Transplantation Authority	336.00	42,664.99
Family Court of Australia	34,931.00	42,348.24
Office of the Inspector-General of Intelligence and Security	54,889.73	32,413.60
Safe Work Australia	Commenced operation on 1 November 2009	32,019.90
Workplace Authority	280,798.42	Superseded by Fair Work Australia
Australian Institute of Family Studies	36,020.00	30,357.14
Australian Centre for International Agricultural Research	0.00	22,391.60
Australian Human Rights Commission	5,940.60	21,887.40
Productivity Commission	24,996.55	19,660.30
Cancer Australia	11,372.96	14,424.45
Commonwealth Grants Commission	0.00	12,035.00
Equal Opportunity for Women in the Workplace Agency	15,342.80	11,172.45
Department of the House of Representatives	0.00	10,307.50
Private Health Insurance Ombudsman	7,250.31	9,550.20
Inspector-General of Taxation	0.00	3,300.00
Migration Review Tribunal and Refugee Review Tribunal	31,617.29	2,638.90
Federal Magistrates Court of Australia	21,528.00	904.75
Office of the Auditing and Assurance Standards Board	22,285.45	821.21
Australian Industrial Registry	77,363.00	0.00
Corporations and Markets Advisory Committee	0.00	0.00
Office of Parliamentary Counsel	1,983.85	0.00
Office of the Australian Accounting Standards Board	3,069.00	0.00
Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)	0.00	0.00
Australian Fair Pay Commission Secretariat	56,456.27	Ceased operation in 2009
Dairy Adjustment Authority	5,781.00	Ceased operation 31 December 2008
<b>Total FMA (GST-inclusive*)</b>	<b>\$308,451,548.48</b>	<b>\$316,860,672.31</b>

## Total External Legal Services Expenditure by CAC agencies

Agency	External 2008–09	External 2009–10
Comcare	19,812,210.00	19,025,533.00
Airservices Australia	2,919,398.00	4,038,302.00
Indigenous Business Australia	2,558,548.00	2,922,026.68
Commonwealth Scientific and Industrial Research Organisation	2,073,500.53	1,981,874.78
Australian Nuclear Science and Technology Organisation	1,107,967	1,434,432.00
Torres Strait Regional Authority	154,556.75	1,305,117.00
Civil Aviation Safety Authority	184,865.00	627,985.00
Indigenous Land Corporation	1,774,145.00	553,083.43
Export Finance and Insurance Corporation	375,866.15	542,227.81
Tourism Australia	454,339.73	523,667.00
Australian Curriculum, Assessment and Reporting Authority	4,064.52	468,444.54
Reserve Bank of Australia	287,509.57	450,852.07
Screen Australia	301,629.92	314,580.00
Australian Maritime Safety Authority	245,350.34	306,139.80
Australian National Maritime Museum	195,036.60	278,303.01
Australian Sports Commission	224,818.00	232,480.00
Fisheries Research and Development Corporation	129,343.94	195,466.29
Australian Hearing Services (Australian Hearing)	640,801.88	157,454.00
Food Standards Australia New Zealand	98,064.29	153,523.00
Sydney Harbour Federation Trust	258,899.59	148,402.00
Australian War Memorial	68,373.50	134,041.85
Albury-Wodonga Development Corporation	Exempt from the CAC Act until 1 July 2009	128,189.00
Rural Industries Research and Development Corporation	84,329.00	122,222.02
Grains Research and Development Corporation	159,582.71	120,770.23
National Museum of Australia	71,448.26	116,699.15
National Library of Australia	267,741.22	112,748.87
Northern Land Council	Did not report	100,000.00
Australian Institute of Aboriginal and Torres Strait Islander Studies	57,216.00	98,241.65
Private Health Insurance Administration Council	164,916.48	84,539.35
Australian Institute of Health and Welfare	15,883.00	79,991.00
National Film and Sound Archive	147,330.00	78,745.55

Agency	External 2008–09	External 2009–10
Health Workforce Australia	0.00	77,791.32
Australian Wine and Brandy Corporation	15,173.35	74,665.34
Australian Reinsurance Pool Corporation	93,131.75	65,199.93
Grape and Wine Research and Development Corporation	65,150.28	43,131.69
Cotton Research and Development Corporation	15,250.00	40,141.50
Australian Institute of Marine Science	60,916.91	36,851.00
National Gallery of Australia	2,931.69	31,531.27
Australian Film, Television and Radio School	16,257.47	27,969.96
Tiwi Land Council	312,988.82	26,506.77
Anindilyakwa Land Council	2,640.00	24,210.00
Director of National Parks	49,416.20	21,022.15
Australia Council	13,685.00	20,692.00
Coal Mining Industry (Long Service Leave Funding) Corporation	30,000.00	16,000.00
Sugar Research and Development Corporation	25,674.00	12,131.22
Australian Institute of Criminology	22,111.00	8,965.34
Army and Air Force Canteen Service (Frontline Defence Services)	1,094.50	6,544.35
Royal Australian Navy Central Canteens Board	7,340.74	5,575.29
Central Land Council	36,042.50	3,150.00
National Transport Commission	0.00	1,638.00
Royal Australian Air Force Veterans' Residences Trust Fund	382.47	448.80
Wreck Bay Aboriginal Community Council	30,876.06	231.00
Australian Industry Development Corporation	0.00	0.00
Australian Law Reform Commission	0.00	0.00
Australian Military Forces Relief Trust Fund (Army Relief Trust Fund)	0.00	0.00
Criminology Research Council	0.00	0.00
NEPC Service Corporation	0.00	0.00
Royal Australian Air Force Welfare Trust Fund	0.00	0.00
Royal Australian Navy Relief Trust Fund	0.00	0.00
Land and Water Resources Research and Development Corporation (Land and Water Australia)	128,091.00	Ceased operation in May 2009
<b>Total (GST-inclusive*)</b>	<b>\$35,766,888.72</b>	<b>\$37,380,479.01</b>



## Appendix C

### ACRONYMS

ACCC	Australian Competition and Consumer Commission
AGD	Attorney-General's Department
Airservices	Airservices Australia
AMSA	Australian Maritime Safety Authority
ANSTO	Australian Nuclear Science and Technology Organisation
ASIC	Australian Securities & Investments Commission
ATO	Australian Taxation Office
CAC	<i>Commonwealth Authorities and Companies Act 1997 (Cth)</i>
CASA	Civil Aviation Safety Authority
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DEEWR	Department of Education, Employment and Workplace Relations
Defence	Department of Defence
DIAC	Department of Immigration and Citizenship
DMO	Defence Materiel Organisation
DoFD	Department of Finance and Deregulation
EFIC	Export Finance and Insurance Corporation
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FMA	<i>Financial Management and Accountability Act 1997 (Cth)</i>
FWO	Fair Work Ombudsman
IBA	Indigenous Business Australia
OLSC	Office of Legal Services Coordination
TSRA	Torres Strait Regional Authority

## Appendix D

### GUIDANCE NOTE 8

*The Office of Legal Services Coordination (OLSC) provides Guidance Notes in order to assist Australian Government departments and agencies, and legal services providers (as applicable), to comply with the Legal Services Directions 2005, procure legal services, and deal with legal issues in an efficient and effective manner. OLSC welcomes feedback on this Guidance Note.*

#### Reporting legal services expenditure

Paragraph 11 of the *Legal Services Directions 2005* sets out the responsibilities of a Chief Executive of an agency regulated by the *Financial Management and Accountability Act 1997* (FMA agency).

In particular, the Chief Executive is responsible for ensuring that the agency reports its legal services expenditure to OLSC within 60 days of the end of financial year and that the expenditure figures are published by 30 October each year.

This information is required to be reported in the template approved by OLSC. There is no required form for the information to be published. Most agencies publish via the agency annual report or website<sup>1</sup>.

A copy of the template required for reporting is attached to this Guidance Note, and is available on the OLSC website at [www.ag.gov.au/olsc](http://www.ag.gov.au/olsc).

#### Why has the obligation been imposed?

The obligation for agencies to report and publish legal services expenditure is to enhance the transparency of legal services expenditure and to ensure reporting of expenditure is in line with the findings of the Australian National Audit Office in its Report No 52 of 2004/05, *Legal Services Arrangements in the Australian Public Service* (the ANAO Report). This obligation was initially reflected in the 2005 amendments to the Directions.

The requirement for agencies to report their legal services expenditure to OLSC in a template approved by OLSC ensures consistency of reporting across Commonwealth agencies. Further, the extension of the requirement to CAC agencies in 2008 provides better information about the purchase of legal services across the whole of government.

#### Who does the obligation apply to?

The obligation to report legal services expenditure applies to all FMA agencies.

Paragraph 12.3A of the Directions extends the legal services expenditure reporting and requirements to agencies regulated by the *Commonwealth Authorities and Companies Act 1997* (CAC agencies). The publishing requirement does not apply to CAC agencies.

The reporting and publishing obligations do not apply to CAC agencies which are Government Business Enterprises, *Corporations Act 2001* companies controlled by the Commonwealth, or agencies which are otherwise exempt from complying with the Directions.

<sup>1</sup> From 2010, OLSC will also publicise certain legal services expenditure information as noted on p5

Paragraph 13 of the Directions provides that the Attorney-General may decide that an agency is not required to comply with some or all of the Directions, or is required to comply with modified obligations. If an agency considers that there are compelling reasons that it should be exempt from the reporting requirement, or should comply with a modified requirement, it can contact OLSC to discuss.

### What does the obligation require agencies to do?

As noted above, agencies are to report legal services expenditure within 60 days after the end of each financial year in a template approved by OLSC.

In reporting, agencies must report total legal services expenditure – and the division between internal and external expenditure – and must further break down external legal services expenditure into a number of categories, including:

- > Total of professional fees paid
- > Total number of Counsel briefed
- > Total number of Counsel direct briefed
- > Total value of Counsel briefs
- > Total of disbursements (excluding Counsel)

Relevant explanations, and the details required in respect of the external legal services expenditure breakdown are set out in the dictionary below.

All expenditure is to be reported **GST inclusive**.

### Dictionary

#### **Counsel**

Barristers from the private bar or legal practitioners (in a jurisdiction like the ACT where the profession is fused) briefed as barristers to advise or appear in tribunal or court proceedings.

#### **Direct briefed**

This is when an agency briefs the barrister directly, rather than through a law firm.<sup>2</sup>

#### **Total number of Counsel briefed<sup>3</sup>**

This is the total number of briefs to Counsel. For example, if an agency briefs one Counsel six times, the response is six – not one.

#### **Total number of Counsel direct briefed**

This is the total number of direct briefs to Counsel. For example, if one Counsel is direct briefed six times, the response is six – not one.

<sup>2</sup> Note the restriction on in-house lawyers acting as solicitor on the record (paragraph 5 of the Directions), so this should ordinarily only relate to a brief to advise.

<sup>3</sup> Note, this advice may vary from advice that OLSC has previously provided to agencies.

**Total value of Counsel briefs**

This is the total value of all Counsel briefs paid by the agency. For example, if the same Counsel is briefed six times at a fixed rate of \$1,000 per brief, the answer is \$6,000 – not \$1,000.

This includes the value of all Counsel briefs, whether through a legal services provider or direct briefed.

**Total number of male / female Counsel briefed** – this is the total number of briefs to male and female Counsel, broken down by gender of the Counsel briefed, which can be read together with the value of briefs to give an impression of the kind / nature of work Counsel is engaged to perform.

Where Counsel is briefed in an appeal from a first instance judgment, this is to be counted as a second brief.

**Total value of male / female Counsel briefed** – this is the total value of Counsel briefs (as calculated above) broken down by gender of the Counsel briefed.

The sum of the briefs to male and female Counsel should equal the total value of Counsel briefs.

**Total of disbursements (excluding Counsel)**

Disbursements are costs incurred for goods and services, which are not for Counsel and not professional fees. For example, disbursements could include filing fees, expert witnesses, and administrative fees such as binding and photocopying, travel and accommodation fees where payable.

OLSC appreciates there may be difficulties in determining the exact amount of disbursements, depending on how legal services providers invoice and how financial systems capture this information. We ask that details of disbursements be provided if possible, and where it would not require a significant diversion of resources from other tasks.

**Total of professional fees paid**

Professional fees are the fees charged by external legal services providers (the law firms) for their professional services; that is, the work done by the solicitors.

This includes the professional fees incurred by engaging external legal services providers overseas, if the agency making payment is a FMA or non-exempt CAC agency.

**Internal legal services expenditure**

This is the total amount of expenditure within an agency on legal work undertaken by in-house lawyers. This can be undertaken either by a dedicated legal unit (for example, the Legal Services Branch in your agency), or by individual lawyers working within business lines.

If there is a dedicated legal unit within an agency, OLSC expects that the entire costs of that unit will be included in the agency's internal legal services expenditure. (See below for information about fully costing internal legal services.)

If an agency has legally qualified officers engaged in non-legal roles (for example, they are embedded with operational teams), the agency should ask itself whether the officer is allocated work because of their legal qualifications or skills, or is the work allocated regardless of legal qualifications or skills? If work is allocated due to legal qualifications and skills, or partially so, the cost of that officer (or a pro rata amount) is to be included in the total internal legal services expenditure for the agency.

OLSC requires agencies to follow the Australian National Audit Office Better Practice Guide of August 2006 in costing internal legal services. In line with the ANAO Guide, the full cost of an internal legal unit must include:

- > direct salary costs
- > indirect salary costs (superannuation, leave entitlements)
- > direct overhead (costs of desks, computer, stationery)
- > indirect overhead (apportioned rent, electricity, etc)
- > legal unit overhead (specialist software licences, cost of law library), and
- > learning and development overhead of officers – including training in legal and non-legal skills.

The ANAO Guide worked example is **attached** to this Guidance Note.

### **Total costs recovered**

This relates to the total costs recovered by the Commonwealth in litigation or alternative dispute resolution, such as funds received by the Commonwealth through enforcement of a costs order made by the court, or an amount representative of the Commonwealth's costs received by way of settlement. It only includes actual funds received, not simply the quantified order of the court, which may not be enforced for many reasons.

The reason for including this amount in the reporting is to ascertain where the Commonwealth has been able to defray its legal services costs through recovery of costs from another party. Amounts received by way of compensation are not included, because they are not directly related to the costs of the Commonwealth purchasing legal services, rather compensation moneys would represent a different cost or loss to the Commonwealth.

Agencies are not to offset costs recovered in reporting expenditure.

### **Publication of Legal Services Expenditure Data**

It is OLSC's intention to publish a table of reported agency expenditure on the Attorney-General's Department's website. This will include Commonwealth total figures relating to:

- > Overall legal services expenditure
- > External legal services expenditure
- > Internal legal services expenditure
- > Professional fees paid to law firms (although not broken down as to amounts paid to individual law firms)
- > Number of Counsel briefs
- > Number of direct briefs to Counsel
- > Value of Counsel briefs
- > Disbursements
- > Costs recovered pursuant to court order

## Frequently asked questions

Does 'legal services expenditure' refer only to briefing legal professionals to appear in court matters, or does it extend to obtaining advice?	Legal services expenditure includes both appearance by legal professionals in litigation, the provision of legal advice, and costs attributed to in-house lawyers.  Refer also to the explanation relating to the reporting of internal legal services expenditure.
Do the reporting requirements apply to fees incurred in respect of overseas legal counsel and solicitors?	Yes.
Does an agency need to report expenditure relating to a transaction where another body has paid for the legal fees?	No.
Do 'Professional fees' cover solicitors' fees (or cover both solicitors' fees and counsel fees)?	For the purposes of legal services expenditure reporting under the Directions, professional fees refer only to solicitors' fees. Counsel fees should be reported in the relevant line depending on male, female, direct, indirect etc.
What is included in 'Total Costs Recovered'?	In 'Total Costs Recovered' we only require reporting of actual funds recovered by way of a court order or ADR process that is representative of the Commonwealth's incurred costs. This is distinct from the recovery of third party payments, such as compensation payments, which are not required to be reported.
<b>Reporting Figures – Counsel</b>	
When counting Counsel, is the SolicitorGeneral included?	No. The Solicitor-General is budgetfunded, so including the briefs to the Solicitor-General in this analysis would skew the expenditure totals.
Does the phrase 'Total value of Counsel briefs' cover both categories of counsel, those briefed via firms and directly?	Yes.
<b>Sending in the Report</b>	
In what form should the reports be sent?	The reports should be completed in the template form available on the web site, and the template must be completed in full and without amendment.  Reports may be emailed to OLSC at <a href="mailto:olsc@ag.gov.au">olsc@ag.gov.au</a> , or sent via hardcopy to:  Assistant Secretary Office of Legal Services Coordination Attorney-General's Department 3–5 National Circuit BARTON ACT 2600



By what date should the report be sent in?	60 days after the end of the financial year. This is usually by 29 August, but if 29 August falls on a weekend, the report is due the next business day.
What are the consequences of failing to report to OLSC in time?	Breaches will be recorded against agencies that fail to report 60 days after the end of the financial year.
<b>Publishing</b>	
What information is required to be published by the FMA agency?	An FMA agency would satisfy the requirement to publish legal services expenditure by publishing a figure for total external and total internal legal services expenditure. The Directions do not require agencies to publish details of the expenditure breakdown between particular legal services providers. In addition, an agency will satisfy the obligation to publish by including the information in its annual report, or by inclusion in a readily accessible place on its website.
By what date should the records be published?	Under paragraph 11.1(ba) of the Directions, an agency is required to publish records of its legal services expenditure for the previous financial year by <b>30 October</b> each year. For example, 2009–10 expenditure must be published by 30 October 2010.

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### ANAO Case study – costing legal services

ANAO noted in Audit Report No.52 2004–05 that an audited agency costed its internal legal services and developed charge-out rates for its internal lawyers using a model that included salary, a loading for salary-related expenses and variable, or direct, overheads and fixed, or indirect, overheads.

The salary rates reflected the relevant salary points (from the agency's workplace agreement), and levels of staff. This enabled the agency to calculate the full cost, as well as apply an hourly rate, based on a specified level of 'billable' hours per year. The agency included a figure of 1210 billable hours for junior and senior lawyers and 1100 hours for principal lawyers and general counsel for this purpose.

These annual hours reflected the agency's expectation of 5.5 billable hours per day for junior and senior lawyers and 5 hours per day for principal lawyers and general counsel, over 220 working days per year. The result of this approach was that an internal legal resource could be fully costed, as well as the 'marginal cost' per hour/day for work that could be given to external providers. The hourly rate was calculated by dividing the full cost by the number of productive hours.

The salary-related loading was based on 25 per cent of salary for each staff member, to make provision for superannuation and long service leave, etc.

The variable overhead included the provision of IT, professional development and workers' compensation insurance (the agency's average contribution per employee to Comcare).

The fixed overhead included the total estimated cost of the provision and maintenance of the legal unit's law library, administrative support staff, apportioned costs of accommodation and rent, furniture and fittings, communications (phone and facsimile), office expenses (stationery, photocopiers, consumables, etc), travel, and a provision for annual recruitment costs for the legal unit.

The ANAO considered that this costing model represented a comprehensive and appropriate approach to assessment of that agency's internal legal costs.



