

# **LEGAL COSTS COMMITTEE**

## **ANNUAL REPORT**

**2021 - 2022**

12 September 2022

## **LEGAL COSTS COMMITTEE ANNUAL REPORT**

In accordance with the *Financial Management Act* 2006, I submit to the Honourable John Quigley MLA, Attorney General for the State of Western Australia, for information and presentation to Parliament, the Annual Report of the Legal Costs Committee of Western Australia for the period 1 July 2021 to 30 June 2022.

A handwritten signature in blue ink, appearing to read 'Clare Thompson', is written over a light blue rectangular background.

Clare Thompson SC

**CHAIR**

## LEGAL COSTS COMMITTEE

The Legal Costs Committee was first established following the proclamation of the *Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987* on 12 February 1988. Subsequently, the Legal Costs Committee's jurisdiction was reaffirmed by the *Legal Practice Act 2003* and more recently, by Division 9 of Part 10 of the *Legal Profession Act 2008 (Act)*. The Committee is responsible under the Act for making determinations regarding the remuneration of legal practitioners in respect of the matters specified under Division 5 of Part 10 of the Act, as well as other legislation, in the following areas of legal practice:

- ◆ Non-contentious business carried out by legal practitioners;
- ◆ Supreme Court of Western Australia;
- ◆ District Court of Western Australia;
- ◆ Magistrates Court of Western Australia;
- ◆ Official Prosecutions (Accused's Costs);
- ◆ Public Notaries;
- ◆ Family Court of Western Australia; and
- ◆ State Administrative Tribunal.

Before the establishment of the Committee, costs and scales of fees, except for a scale for the Court of Petty Sessions in the period prior to the establishment of the Magistrates Court, and that for Public Notaries, were set by the Judges of the Courts, or by the Under Secretary for Law, as the case required.

Since the proclamation of the *Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987*, the scope of work undertaken by the Legal Costs Committee has changed in that by virtue of the *Magistrates Court Act 2004* and the *Magistrates Court (Civil Proceedings) Act 2004*, the Local Court and Court of Petty Sessions ceased to exist and were replaced by the Magistrates Court exercising both civil and criminal jurisdiction. In 2009 the Family Court of Western Australia and the State Administrative Tribunal were included as additional jurisdictions requiring determinations. In 2016, Magistrates exercising Family Law jurisdiction was recognised as necessitating a separate determination. In 2020 the continued promulgation of a separate determination for costs associated with appeals to the District Court was discontinued.

During the period 1 July 2021 to 31 December 2021, the Committee comprised:

- Ms CH Thompson SC, Barrister, Francis Burt Chambers, as Chair;
- Mr BW Ashdown, Barrister, John Toohey Chambers;
- Mr M Cocker, Retired State Public Servant;
- Mr M Curwood SC, Barrister, Francis Burt Chambers;
- Dr J Dudley, Governance Consultant; and
- Ms A Gaffney, Chartered Accountant.

During the period 1 January 2022 to 30 June 2022, the Committee comprised:

- Ms CH Thompson SC, Barrister, Francis Burt Chambers, as Chair;
- Mr M Curwood SC, Barrister, Francis Burt Chambers;

Dr J Dudley, Governance Consultant;  
 Mr C McKie, Lawyer;  
 Ms A Morgan, FCPA (Certified Public Accountant); and  
 Mr G Rickie, Retired State Public Servant.

| Role         | Member          | Type of remuneration | Tenure   | Term of appointment | Base Salary / Sitting Fee | Gross / actual remuneration for the financial year <sup>1</sup> |
|--------------|-----------------|----------------------|----------|---------------------|---------------------------|---|
| Chair        | Clare Thompson  | Salary               | 19 years | 3 years             | \$15,350                  | \$16,885  |
| Member       | Matthew Curwood | Salary               | 13 years | 3 years             | \$6,140                   | \$6,754   |
| Member       | Janice Dudley   | Salary               | 17 years | 3 years             | \$6,140                   | \$6,754   |
| Member       | Craig McKie     | Salary               | 6 months | 3 years             | \$3,070                   | \$3,377   |
| Member       | Annette Morgan  | Salary               | 6 months | 3 years             | \$3,070                   | \$3,377   |
| Member       | Greg Rickie     | Salary               | 6 months | 3 years             | \$3,070                   | \$3,377   |
| Member       | Brendan Ashdown | Salary               | 5 years  | 6mths of 3yrs       | \$3,070                   | \$3,377   |
| Member       | Marcus Cocker   | Salary               | 19 years | 6mths of 3yrs       | \$3,070                   | \$3,377   |
| Member       | Angela Gaffney  | Salary               | 27 years | 6mths of 3yrs       | \$3,070                   | \$3,377   |
| <b>Total</b> |                 |                      |          |                     | <b>\$46,050</b>           | <b>\$50,655</b>   |

The Committee normally meets on a monthly basis, as its business requires, and in the 2021/2022 financial year, the Committee met on six occasions.

#### 1. Determinations – 2021/2022 Financial Year

The Legal Costs Committee completed eight reviews resulting in the publication of the determinations listed below.

- (a) *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2022;*
- (b) *Legal Profession (Supreme and District Courts) (Criminal) Determination 2022;*
- (c) *Legal Profession (Family Court of Western Australia) Determination 2022;*
- (d) *Legal Profession (Magistrates Court) (Civil) Determination 2022;*
- (e) *Legal Profession (Magistrates Court) (Criminal) Determination 2022;*
- (f) *Legal Profession (Magistrates Court) (Family Law) Determination 2022;*
- (g) *Legal Profession (Official Prosecutions) (Accused's Costs) Determination 2022; and*
- (h) *Legal Profession (State Administrative Tribunal) Determination 2022.*

<sup>1</sup> The amounts for gross/actual remuneration for 2021/22 financial year include 10% superannuation.

## 2. Determinations anticipated in 2022/2023 Financial Year

The Legal Costs Committee anticipates that it will complete reviews of the following determinations during the next financial year:

- (a) *Legal Profession (Solicitors Costs) Determination 2021;*
- (b) *Legal Profession (Non-Contentious Probate Costs) Determination 2021; and*
- (c) *Legal Profession (Public Notaries) Determination 2021.*

## 3. Performance Measures

| <b>OUTPUT</b>                                   | <b>2021/22</b>                            |               |                 |
|---|---|---------------|-----------------|
|   | <b>TARGET</b>                             | <b>ACTUAL</b> | <b>VARIANCE</b> |
| <b>Quantity</b>                                 | 8   | 8             | 0               |
| <b>Quality</b>                                  | Not Assessed                              | Not Assessed  | N/A             |
| <b>Timeliness</b>                               | In accordance with statutory requirements |               |                 |
| <b>Cost</b><br>(Average cost per determination) | \$17,694                                  | \$17,580      | \$114           |

## 4. Accounts and Performance Indicators

The financial statements and performance indicators for the year ended 30 June 2022 are attached.

## 5. Report on Operations

The Committee does not employ staff nor does it have its own premises. The facilities used by the Committee comply with the requirements listed under the *Financial Management Act 2006* and are provided by the Department of Justice.

## 6. Annual Estimates

Until 16 March 2022, pursuant to section 40 *Financial Management Act 2006* the accountable authority of an agency was required to prepare draft annual estimates of the financial operation of the agency for the next financial year unless otherwise directed in writing by the Treasurer. As of 16 March 2022, and pursuant to Treasurer's Instruction 953 Attachment 1 item (c), the Committee is exempt from

preparing draft annual estimates.

## **7. General Comments**

The Committee again notes that the Effectiveness Indicator and the Efficiency Indicator, if taken in isolation in any given financial year, can give rise to a distorted assessment of the Committee's effectiveness and efficiency. The Committee suggests a period of at least three consecutive financial years, over which the relative indicator results are averaged, is likely to produce a more accurate assessment of those outcomes.

The Committee notes the considerable assistance given to it by the Committee of Australian Lawyers Alliance (WA) in the drafting of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2022*.

The Committee notes the retirements of three of its members in the past financial year. Ms Gaffney, Mr Cocker and Mr Ashdown all contributed substantially to the work of the Legal Costs Committee over their tenure. Of particular note is Ms Gaffney who served 27 years as the accountant on the Committee, and Mr Cocker who served 19 years as a consumer representative.

## **8. Executive Assistance**

The Legal Costs Committee wishes to record its appreciation of the assistance provided during the year by Ms Marnee Nolan of the Department of Justice. Ms Nolan has offered the Committee and myself in particular, great assistance with the administration of the Committee and publication of our notices, reports and determinations.

The Legal Costs Committee continues to rely very heavily on the willingness of its members to undertake the administrative and drafting functions which are an essential part of ensuring the Committee fulfils its statutory obligations.



Clare Thompson SC  
**CHAIR**

12 September 2022



# Auditor General

## INDEPENDENT AUDITOR'S REPORT

2022

### Legal Costs Committee

To the Parliament of Western Australia

## Report on the audit of the financial statements

### Opinion

I have audited the financial statements of the Legal Costs Committee (Committee) which comprise:

- the Statement of Financial Position at 30 June 2022, and the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended
- Notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion, the financial statements are:

- based on proper accounts and present fairly, in all material respects, the operating results and cash flows of the Legal Costs Committee for the year ended 30 June 2022 and the financial position at the end of that period
- in accordance with Australian Accounting Standards (applicable to Tier 2 Entities), the *Financial Management Act 2006* and the Treasurer's Instructions.

### Basis for opinion

I conducted my audit in accordance with the Australian Auditing Standards. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my report.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Responsibilities of the Committee for the financial statements

The Committee is responsible for:

- keeping proper accounts
- preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (applicable to Tier 2 Entities), the *Financial Management Act 2006* and the Treasurer's Instructions
- such internal control as it determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Committee is responsible for:

- assessing the entity's ability to continue as a going concern
- disclosing, as applicable, matters related to going concern
- using the going concern basis of accounting unless the Western Australian Government has made policy or funding decisions affecting the continued existence of the Committee.

### **Auditor's responsibilities for the audit of the financial statements**

As required by the *Auditor General Act 2006*, my responsibility is to express an opinion on the financial statements. The objectives of my audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.

A further description of my responsibilities for the audit of the financial statements is located on the Auditing and Assurance Standards Board website. This description forms part of my auditor's report and can be found at [https://www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](https://www.auasb.gov.au/auditors_responsibilities/ar4.pdf).

## **Report on the audit of controls**

### **Opinion**

I have undertaken a reasonable assurance engagement on the design and implementation of controls exercised by the Legal Costs Committee. The controls exercised by the Committee are those policies and procedures established to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions (the overall control objectives).

In my opinion, in all material respects, the controls exercised by the Legal Costs Committee are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities have been in accordance with legislative provisions during the year ended 30 June 2022.

### **The Committee's responsibilities**

The Committee is responsible for designing, implementing and maintaining controls to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities are in accordance with the *Financial Management Act 2006*, the Treasurer's Instructions and other relevant written law.



## **Auditor General's responsibilities**

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the suitability of the design of the controls to achieve the overall control objectives and the implementation of the controls as designed. I conducted my engagement in accordance with Standard on Assurance Engagements ASAE 3150 *Assurance Engagements on Controls* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements and plan and perform my procedures to obtain reasonable assurance about whether, in all material respects, the controls are suitably designed to achieve the overall control objectives and were implemented as designed.

An assurance engagement involves performing procedures to obtain evidence about the suitability of the controls design to achieve the overall control objectives and the implementation of those controls. The procedures selected depend on my judgement, including an assessment of the risks that controls are not suitably designed or implemented as designed. My procedures included testing the implementation of those controls that I consider necessary to achieve the overall control objectives.

I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

## **Limitations of controls**

Because of the inherent limitations of any internal control structure, it is possible that, even if the controls are suitably designed and implemented as designed, once in operation, the overall control objectives may not be achieved so that fraud, error or non-compliance with laws and regulations may occur and not be detected. Any projection of the outcome of the evaluation of the suitability of the design of controls to future periods is subject to the risk that the controls may become unsuitable because of changes in conditions.

## **Report on the audit of the key performance indicators**

### **Opinion**

I have undertaken a reasonable assurance engagement on the key performance indicators of the Legal Costs Committee for the year ended 30 June 2022. The key performance indicators are the Under Treasurer-approved key effectiveness indicator and key efficiency indicator that provide performance information about achieving outcomes and delivering services.

In my opinion, in all material respects, the key performance indicators of the Legal Costs Committee are relevant and appropriate to assist users to assess the Committee's performance and fairly represent indicated performance for the year ended 30 June 2022.

### **The Committee's responsibilities for the key performance indicators**

The Committee is responsible for the preparation and fair presentation of the key performance indicators in accordance with the Financial Management Act 2006 and the Treasurer's Instructions and for such internal control as the Committee determines necessary to enable the preparation of key performance indicators that are free from material misstatement, whether due to fraud or error.

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

## **Auditor General's responsibilities**

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the key performance indicators. The objectives of my engagement are to obtain reasonable assurance about whether the key performance indicators are relevant and appropriate to assist users to assess the entity's performance and whether the key performance indicators are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. I conducted my engagement in accordance with Standard on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements relating to assurance engagements.

An assurance engagement involves performing procedures to obtain evidence about the amounts and disclosures in the key performance indicators. It also involves evaluating the relevance and appropriateness of the key performance indicators against the criteria and guidance in Treasurer's Instruction 904 for measuring the extent of outcome achievement and the efficiency of service delivery. The procedures selected depend on my judgement, including the assessment of the risks of material misstatement of the key performance indicators. In making these risk assessments I obtain an understanding of internal control relevant to the engagement in order to design procedures that are appropriate in the circumstances.

I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

## **My independence and quality control relating to the reports on controls and key performance indicators**

I have complied with the independence requirements of the *Auditor General Act 2006* and the relevant ethical requirements relating to assurance engagements. In accordance with ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements*, the Office of the Auditor General maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

## **Other information**

The Committee is responsible for the other information. The other information is the information in the entity's annual report for the year ended 30 June 2022, but not the financial statements, key performance indicators and my auditor's report.

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

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

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

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

This auditor's report relates to the financial statements and key performance indicators of the Legal Costs Committee for the year ended 30 June 2022 included in the annual report on the Committee's website. The Committee's management is responsible for the integrity of the Committee's website. This audit does not provide assurance on the integrity of the Committee's website. The auditor's report refers only to the financial statements, controls and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from the annual report. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to contact the entity to confirm the information contained in the website version.



Mark Ambrose  
Senior Director Financial Audit  
Delegate of the Auditor General for Western Australia  
Perth, Western Australia  
13 September 2022

# Legal Costs Committee

## Disclosures and legal compliance

### Certification of financial statements

#### For the reporting period ended 30 June 2022

The accompanying financial statements of the Legal Costs Committee have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the reporting period ending 30 June 2022 and the financial position as at 30 June 2022.

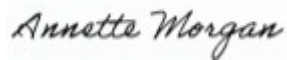
At the date of signing we are not aware of any circumstances which would render the particulars included within the financial statements misleading or inaccurate.



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Clare Thompson SC  
Chair of the Legal Costs Committee

9 September 2022



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Annette Morgan  
Member of the Legal Costs Committee

9 September 2022



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John Deery  
Chief Finance Officer

9 September 2022



# Legal Costs Committee

## Financial statements

The Legal Costs Committee has pleasure in presenting its audited general purpose financial statements for the reporting period ended 30 June 2022 which provides users with the information about the Committee's stewardship of resource entrusted to it. The financial information is presented in the following structure:

| <b>Contents</b>  | <b>Page</b> |
|--|-------------|
| <b>Certification of financial statements</b> .....               | <b>1</b>    |
| Statement of comprehensive income.....                           | 3           |
| Statement of financial position .....                            | 4           |
| Statement of changes in equity.....                              | 5           |
| Statement of cash flows .....                                    | 6           |
| <b>Notes to the financial statements</b> .....                   | <b>7</b>    |
| 1. Basis of preparation .....                                    | 7           |
| Statement of compliance .....                                    | 7           |
| Basis of preparation .....                                       | 7           |
| Contributed equity.....  | 7           |
| Comparative information.....                                     | 7           |
| Judgements and estimates .....                                   | 7           |
| 2. Use of our funding.....                                       | 8           |
| 2.1 Board members fees and entitlements .....                    | 8           |
| 2.2 Other expenditure .....                                      | 8           |
| 3. Our funding sources.....                                      | 9           |
| 3.1 Income from State Government.....                            | 9           |
| 4. Other assets and liabilities .....                            | 10          |
| 4.1 Receivables .....  | 10          |
| 4.2 Other assets.....  | 10          |
| 4.3 Payables .....   | 10          |
| 5. Financing.....  | 11          |
| 5.1 Cash and cash equivalents.....                               | 11          |
| 6. Financial instruments and contingencies .....                 | 11          |
| 6.1 Financial instruments.....                                   | 11          |
| 6.2 Contingent assets and liabilities .....                      | 11          |
| 7. Other disclosures .....                                       | 12          |
| 7.1 Events occurring after the end of the reporting period. .... | 12          |
| 7.2 Key management personnel.....                                | 12          |
| 7.3 Related party transactions .....                             | 13          |
| 7.4 Related bodies .....   | 13          |
| 7.5 Affiliated bodies.....                                       | 13          |
| 7.6 Remuneration of auditors.....                                | 13          |
| 7.7 Supplementary financial information.....                     | 13          |

# Legal Costs Committee

## Primary financial statements

### Statement of comprehensive income

For the year ended 30 June 2022

|   | Notes               | 2022<br>\$     | 2021<br>\$     |
|---|---------------------|----------------|----------------|
| <b>Cost of services</b>                                 |                     |                |                |
| <b>Expenses</b>   |                     |                |                |
| Board members fees and entitlements                     | 2.1                 | 50,655         | 50,425         |
| Secretarial and management support                      | 3.1                 | 71,633         | 70,901         |
| Other expenses  | 2.2                 | 18,350         | 18,995         |
| <b>Total cost of services</b>                           |                     | <b>140,638</b> | <b>140,321</b> |
| <b>Net cost of services</b>                             |                     | <b>140,638</b> | <b>140,321</b> |
| <b>Income from State Government</b>                     |                     |                |                |
| Income received from other public sector entities       | 3.1                 | 75,000         | 65,000         |
| Resources received                                      | <a href="#">3.1</a> | 71,633         | 70,901         |
| <b>Total income from State Government</b>               |                     | <b>146,633</b> | <b>135,901</b> |
| <b>Surplus/(deficit) for the period</b>                 |                     | <b>5,995</b>   | <b>(4,420)</b> |
| <b>Total comprehensive income/(loss) for the period</b> |                     | <b>5,995</b>   | <b>(4,420)</b> |

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



# Legal Costs Committee

## Primary financial statements

### Statement of financial position

As at 30 June 2022

|                                  | Notes | 2022<br>\$    | 2021<br>\$   |
|----------------------------------|-------|---------------|--------------|
| <b>Assets</b>                    |       |               |              |
| <b>Current Assets</b>            |       |               |              |
| Cash and cash equivalents        | 5.1   | 16,928        | 4,000        |
| Receivables                      | 4.1   | 704           | 234          |
| Other assets                     | 4.2   | -             | 40           |
| <b>Total current assets</b>      |       | <b>17,632</b> | <b>4,274</b> |
| <b>Total assets</b>              |       | <b>17,632</b> | <b>4,274</b> |
| <b>Liabilities</b>               |       |               |              |
| <b>Current Liabilities</b>       |       |               |              |
| Payables                         | 4.3   | 7,446         | 83           |
| <b>Total Current Liabilities</b> |       | <b>7,446</b>  | <b>83</b>    |
| <b>Total liabilities</b>         |       | <b>7,446</b>  | <b>83</b>    |
| <b>Net assets</b>                |       | <b>10,186</b> | <b>4,191</b> |
| <b>Equity</b>                    |       |               |              |
| Contributed equity               |       | 39,335        | 39,335       |
| Accumulated deficit              |       | (29,149)      | (35,144)     |
| <b>Total equity</b>              |       | <b>10,186</b> | <b>4,191</b> |

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



# Legal Costs Committee

## Primary financial statements

### Statement of changes in equity

For the year ended 30 June 2022

|                                | Contributed equity | Accumulated surplus/<br>(deficit) | Total equity  |
|--------------------------------|--------------------|-----------------------------------|---------------|
|                                | \$                 | \$                                | \$            |
| <b>Balance at 1 July 2020</b>  | 39,335             | (30,724)                          | 8,611         |
| Deficit                        | -                  | (4,420)                           | (4,420)       |
| <b>Total</b>                   | <b>39,335</b>      | <b>(35,144)</b>                   | <b>4,191</b>  |
| <b>Balance at 30 June 2021</b> | <b>39,335</b>      | <b>(35,144)</b>                   | <b>4,191</b>  |
| <b>Balance at 1 July 2021</b>  | 39,335             | (35,144)                          | 4,191         |
| Surplus                        | -                  | 5,995                             | 5,995         |
| <b>Total</b>                   | <b>39,335</b>      | <b>(29,149)</b>                   | <b>10,186</b> |
| <b>Balance at 30 June 2022</b> | <b>39,335</b>      | <b>(29,149)</b>                   | <b>10,186</b> |

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



# Legal Costs Committee

## Primary financial statements

### Statement of cash flows

For the year ended 30 June 2022

|  | Notes | 2022<br>\$    | 2021<br>\$      |
|--|-------|---------------|-----------------|
| <b>Cash flows from the State Government</b>                |       |               |                 |
| Funds from other public sector entities                    |       | 75,000        | 65,000          |
| <b>Net cash provided by the State Government</b>           |       | <b>75,000</b> | <b>65,000</b>   |
| <i>Utilised as follows:</i>                                |       |               |                 |
| <b>Cash flows from operating activities</b>                |       |               |                 |
| <b>Payments</b>  |       |               |                 |
| Payments to Board members                                  |       | (50,655)      | (50,425)        |
| Payments to suppliers (incl. GST)                          |       | (12,802)      | (31,173)        |
| <b>Receipts</b>  |       |               |                 |
| GST receipts from taxation authority                       |       | 1,385         | 2,226           |
| <b>Net cash provided by/(used in) operating activities</b> |       | <b>12,928</b> | <b>(14,372)</b> |
| Net increase/(decrease) in cash and cash equivalents       |       | 12,928        | (14,372)        |
| Cash and cash equivalents at the beginning of the period   |       | 4,000         | 18,372          |
| <b>Cash and cash equivalents at the end of the period</b>  | 5.1   | <b>16,928</b> | <b>4,000</b>    |

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

# Legal Costs Committee

## Notes to the financial statements

### Notes to the financial statements

#### 1. Basis of preparation

The Legal Costs Committee (“the Committee”) is an independent statutory authority established under the *Legal Profession Act 2008*. The Committee is a WA Government entity and is controlled by the State of Western Australia, which is the ultimate parent. The Committee is a not-for-profit entity (as profit is not its principal objective).

A description of the nature of its operations and its principal activities have been included in the ‘**Overview**’ which does not form part of these financial statements.

These annual financial statements were authorised for issue by the Members of the Committee on 9 September 2022.

#### Statement of compliance

These general-purpose financial statements have been prepared in accordance with:

- 1) the *Financial Management Act 2006 (FMA)*
- 2) Treasurer’s instructions (**TIs**)
- 3) Australian Accounting Standards (**AASs**) – Simplified Disclosures
- 4) where appropriate, those **AAS** paragraphs applicable for not-for-profit entities have been applied.

The FMA and TIs take precedence over AASs. Several AASs are modified by the TIs to vary application, disclosure format and wording. Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

#### Basis of preparation

These financial statements are presented in Australian dollars applying the accrual basis of accounting and using the historical cost convention. Certain balances will apply a different measurement basis (such as the fair value basis). Where this is the case the different measurement basis is disclosed in the associated note. All values are rounded to the nearest dollar.

#### Accounting for Goods and Services Tax (GST)

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

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

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

#### Contributed equity

AASB Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* requires transfers in the nature of equity contributions, other than as a result of a restructure of administrative arrangements, to be designated as contributions by owners (at the time of, or prior to, transfer) before such transfers can be recognised as equity contributions. Capital appropriations have been designated as contributions by owners by TI 955 *Contributions by Owners made to Wholly Owned Public Sector Entities* and have been credited directly to Contributed Equity.

#### Comparative information

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

#### Judgements and estimates

Judgements, estimates and assumptions are required to be made about financial information being presented. The significant judgements and estimates made in the preparation of these financial statements are disclosed in the notes where amounts affected by those judgements and/or estimates are disclosed. Estimates and associated assumptions are based on professional judgements derived from historical experience and various other factors that are believed to be reasonable under the circumstances.

# Legal Costs Committee

## Notes to the financial statements

### 2. Use of our funding

#### Expenses incurred in the delivery of services

This section provides additional information about how the Committee's funding is applied and the accounting policies that are relevant for an understanding of the items recognised in the financial statements. The primary expenses incurred by the Committee in achieving its objectives and the relevant notes are:

|                                     | <b>Notes</b> |
|-------------------------------------|--------------|
| Board members fees and entitlements | 2.1          |
| Other expenditure                   | 2.2          |

#### 2.1 Board members fees and entitlements

|  | <b>2022</b>   | <b>2021</b>   |
|--|---------------|---------------|
|  | <b>\$</b>     | <b>\$</b>     |
| Board members fees                           | 46,050        | 46,050        |
| Superannuation – defined contribution plans  | 4,605         | 4,375         |
| <b>Total Board members benefits expenses</b> | <b>50,655</b> | <b>50,425</b> |

**Superannuation** is the amount recognised in profit or loss of the Statement of comprehensive income and comprises contributions paid to the Government Employees Superannuation Board (GESB), West State Superannuation Scheme, the Government Employees Superannuation Board (**GESB**), or other Super Guarantee.

#### 2.2 Other expenditure

|                                | <b>2022</b>   | <b>2021</b>   |
|--------------------------------|---------------|---------------|
|                                | <b>\$</b>     | <b>\$</b>     |
| <b>Other expenses</b>          |               |               |
| Advertising expenses           | 1,091         | 4,391         |
| Notice publication expenses    | 6,769         | 3,694         |
| Audit fees                     | 10,100        | 9,947         |
| Other expenses                 | 390           | 963           |
| <b>Total other expenditure</b> | <b>18,350</b> | <b>18,995</b> |

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

# Legal Costs Committee

## Notes to the financial statements

### 3. Our funding sources

#### How we obtain our funding

This section provides additional information about how the Committee obtains its funding and the relevant accounting policy notes that govern the recognition and measurement of this funding. The primary income received by the Committee and the relevant notes are:

|                              | <b>Notes</b> |
|------------------------------|--------------|
| Income from State Government | 3.1          |

#### 3.1 Income from State Government

|   | <b>2022</b>    | <b>2021</b>    |
|---|----------------|----------------|
|   | <b>\$</b>      | <b>\$</b>      |
| Income received from other public sector entities during the period:    |                |                |
| - Service grant from the Department of Justice                          | 75,000         | 65,000         |
| <b>Total income received from other public sector entities</b>          | <b>75,000</b>  | <b>65,000</b>  |
| Resources received from other public sector entities during the period: |                |                |
| - Secretarial and management support from the Department of Justice     | 71,633         | 70,901         |
| <b>Total resources received</b>   | <b>71,633</b>  | <b>70,901</b>  |
| <b>Total income from State Government</b>                               | <b>146,633</b> | <b>135,901</b> |

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

**Resources received from other public sector entities** is recognised as income equivalent to the fair value of the services that can be reliably determined, and which would have been purchased if not donated.

# Legal Costs Committee

## Notes to the financial statements

### 4. Other assets and liabilities

This section sets out those assets and liabilities that arose from the Committee's controlled operations and includes other assets utilised for economic benefits and liabilities incurred during normal operations:

|              | <b>Notes</b> |
|--------------|--------------|
| Receivables  | 4.1          |
| Other assets | 4.2          |
| Payables     | 4.3          |

#### 4.1 Receivables

|   | <b>2022</b> | <b>2021</b> |
|---|-------------|-------------|
|   | <b>\$</b>   | <b>\$</b>   |
| <b>Current</b>                                |             |             |
| GST receivable                                | 704         | 234         |
| <b>Total receivables at end of the period</b> | <b>704</b>  | <b>234</b>  |

#### 4.2 Other assets

|  | <b>2022</b> | <b>2021</b> |
|--|-------------|-------------|
|  | <b>\$</b>   | <b>\$</b>   |
| <b>Current</b>                             |             |             |
| Prepayments                                | -           | 40          |
| <b>Total other assets at end of period</b> | <b>-</b>    | <b>40</b>   |

**Other assets** include prepayments which represent payments in advance of receipt of goods or services or that part of expenditure made in one accounting period covering a term extending beyond that period.

#### 4.3 Payables

|  | <b>2022</b>  | <b>2021</b> |
|--|--------------|-------------|
|  | <b>\$</b>    | <b>\$</b>   |
| <b>Current</b>                         |              |             |
| Trade payables                         | 7,446        | 83          |
| <b>Total payables at end of period</b> | <b>7,446</b> | <b>83</b>   |

**Payables** are recognised when the Committee becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value as settlement is generally within 15-20 days.

# Legal Costs Committee

## Notes to the financial statements

### 5. Financing

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

|                           | <b>Notes</b> |
|---------------------------|--------------|
| Cash and cash equivalents | 5.1          |

#### 5.1 Cash and cash equivalents

|                                 | <b>2022</b>   | <b>2021</b>  |
|---------------------------------|---------------|--------------|
|                                 | <b>\$</b>     | <b>\$</b>    |
| Cash and cash equivalents       | 16,928        | 4,000        |
| <b>Balance at end of period</b> | <b>16,928</b> | <b>4,000</b> |

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

### 6. Financial instruments and contingencies

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

|                                   | <b>Notes</b> |
|-----------------------------------|--------------|
| Financial instruments             | 6.1          |
| Contingent assets and liabilities | 6.2          |

#### 6.1 Financial instruments

The carrying amounts of each of the following categories of financial assets and financial liabilities at the end of the reporting period are:

|  | <b>2022</b>   | <b>2021</b>  |
|--|---------------|--------------|
|  | <b>\$</b>     | <b>\$</b>    |
| <b>Financial assets</b>                                |               |              |
| Cash and cash equivalents                              | 16,928        | 4,000        |
| <b>Total financial assets</b>                          | <b>16,928</b> | <b>4,000</b> |
| <b>Financial liabilities</b>                           |               |              |
| Financial liabilities at amortised cost <sup>(a)</sup> | 7,446         | 83           |
| <b>Total financial liability</b>                       | <b>7,446</b>  | <b>83</b>    |

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

#### 6.2 Contingent assets and liabilities

There were no contingent assets and contingent liabilities as at 30 June 2022 (2021: nil).

# Legal Costs Committee

## Notes to the financial statements

### 7. Other disclosures

This section includes additional material disclosures required by accounting standards or other pronouncements, for the understanding of this financial report.

|  | <b>Notes</b> |
|--|--------------|
| Events occurring after the end of the reporting period | 7.1          |
| Key management personnel                               | 7.2          |
| Related party transactions                             | 7.3          |
| Related bodies   | 7.4          |
| Affiliated bodies                                      | 7.5          |
| Remuneration of auditors                               | 7.6          |
| Supplementary financial information                    | 7.7          |

#### 7.1 Events occurring after the end of the reporting period.

There were no events occurring after the end of the reporting period.

#### 7.2 Key management personnel

The Committee has determined key management personnel to include cabinet ministers and members of the Committee. The Committee does not incur expenditures to compensate Ministers and those disclosures may be found in the *Annual Report on State Finances*.

The total fees, salaries, superannuation, non-monetary benefits and other benefits for members of the Committee for the reporting period are presented within the following bands:

| <b>Compensation band (\$)</b>              | <b>2022</b>   | <b>2021</b>   |
|--|---------------|---------------|
| 10,001 – 20,000                            | 1             | 1             |
| 0 – 10,000                                 | 5             | 5             |
|  | <b>2022</b>   | <b>2021</b>   |
|  | <b>\$</b>     | <b>\$</b>     |
| <b>Total compensation of Board members</b> | <b>50,655</b> | <b>50,425</b> |

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

# Legal Costs Committee

## Notes to the financial statements

### 7.3 Related party transactions

The Committee is a wholly owned public sector entity that is controlled by of the State of Western Australia.

Related parties of the Committee include:

- all Cabinet ministers and their close family members, and their controlled or jointly controlled entities;
- all Committee members and their close family members, and their controlled or jointly controlled entities;
- other departments and statutory authorities, including related bodies, that are included in the whole of government consolidated financial statements (i.e. wholly-owned public sector entities);
- associates and joint ventures of a wholly-owned public sector entity; and
- the Government Employees Superannuation Board (GESB).

#### Material transactions with related parties

Outside of normal citizen type transactions with the Committee, there were no other related party transactions that involved key management personnel and/or their close family members and/or their controlled (or jointly controlled) entities.

### 7.4 Related bodies

The Committee had no related bodies during the financial year (2021: nil).

### 7.5 Affiliated bodies

The Committee had no affiliated bodies during the financial year (2021: nil).

### 7.6 Remuneration of auditors

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

|   | 2022   | 2021   |
|---|--------|--------|
|   | \$     | \$     |
| Auditing the accounts, financial statements, controls, and key performance indicators | 10,400 | 10,100 |

### 7.7 Supplementary financial information

There were no losses of public moneys or other public property through theft or default during the financial year (2021: nil).

There were no write-offs of public money or other public property during the financial year (2021: nil).

There were no gifts of public property during the financial year (2021: nil).



## LEGAL COSTS COMMITTEE

### AUDITED KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2022

#### Certification of Key Performance Indicators

We hereby certify that the key performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Legal Costs Committee's performance, and fairly represent the performance of the Legal Costs Committee for the financial year ended 30 June 2022.



Clare Thompson SC  
Chair of the Legal Costs Committee  
9 September 2022



Annette Morgan  
Member of the Legal Costs Committee  
9 September 2022

2021-2022



**LEGAL COSTS COMMITTEE**  
**KEY PERFORMANCE INDICATORS**  
**2021 - 2022**

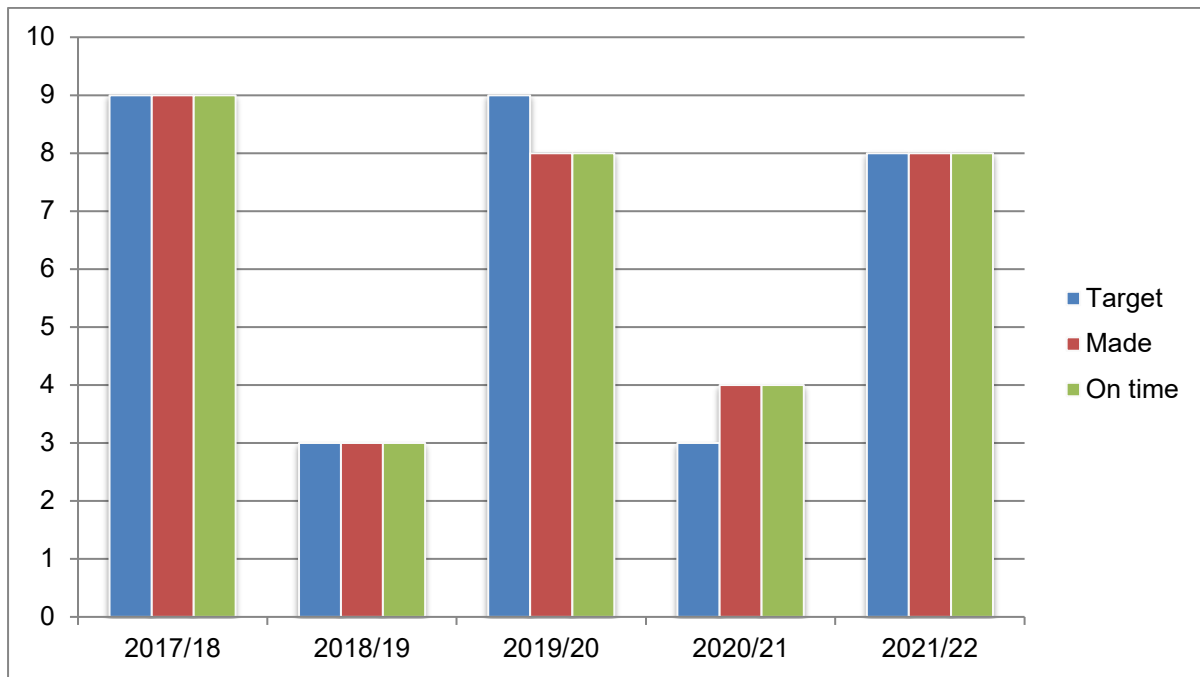
Broad government goals are supported at agency level by specific outcomes. Agencies deliver services to achieve these outcomes. The following table illustrates the relationship between the agency's service and desired outcome, and the government goal it contributes to. The key effectiveness indicators measure the extent of impact of the delivery of services on the achievement of desired outcomes. The key efficiency indicators monitor the relationship between the service delivered and the resources used to produce the service.

| Government Goal  | Desired Outcome   | Service                           |
|--|---|-----------------------------------|
| <p>Results-Based Service Delivery:</p> <p>Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.</p> | <p>In accordance with section 276 of the <i>Legal Profession Act 2008</i>, to review each determination in force at least once in the period of two years in the following jurisdictions:</p> <ul style="list-style-type: none"> <li>Supreme and District Courts (Contentious Business)</li> <li>Supreme &amp; District Courts (Criminal)</li> <li>Magistrates Court (Civil)</li> <li>Magistrates Court (Criminal)</li> <li>Magistrates Court (Family Law)</li> <li>Probate Costs</li> <li>Solicitors' Costs</li> <li>Official Prosecutions (Accused's Costs)</li> <li>Public Notaries</li> <li>State Administrative Tribunal</li> <li>Family Court of Western Australia</li> </ul> | <p>1. Review of determination</p> |

### KEY EFFECTIVENESS INDICATOR

The Key Effectiveness Indicator means the extent to which Legal Costs Committee determinations are completed in accordance with established deadlines.

**Performance Measure:** The number of Determinations made during the year and completed on time.



In the 2021/22 year, eight determinations were due for review, compared to the three non-contentious business determinations and one contentious business determination which were reviewed in 2020/21. This variation will occur every year because the Committee has for many years adopted the practice of reviewing all contentious determinations concurrently in one year, and all non-contentious determinations concurrently in the next year, so that the rates for similar types of work undertaken by legal practitioners remain comparable regardless of the court in which that work is undertaken.

**The Legal Costs Committee made and completed the following determinations during the financial year ended 30 June 2022:**

- 1) *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2022;*
- 2) *Legal Profession (Supreme and District Courts) (Criminal) Determination 2022;*
- 3) *Legal Profession (Family Court) Determination 2022;*
- 4) *Legal Profession (Magistrates Court) (Family Law) Determination 2022;*
- 5) *Legal Profession (Magistrates Court) (Civil) Determination 2022;*
- 6) *Legal Profession (Magistrates Court) (Criminal) Determination 2022;*
- 7) *Legal Profession (Official Prosecutions) (Accused Cost's) Determination 2022; and*
- 8) *Legal Profession (State Administrative Tribunal) Determination 2022.*

The Legal Costs Committee does not employ staff but the administrative function is undertaken as a service provided free of charge by staff from the Department of Justice. Hence, the Legal Costs Committee considers that the development of further effectiveness indicators would not be meaningful or relevant.

### KEY EFFICIENCY INDICATOR

Key Efficiency Indicator measures cost per determination.

#### Cost per Determination

| Year    | Target          |        | Actual          |        | Variance to target |          |
|---------|-----------------|--------|-----------------|--------|--------------------|----------|
|         | Cost            | Number | Cost            | Number | Cost               | Number   |
| 2021/22 | <b>\$17,694</b> | 8      | <b>\$17,580</b> | 8      | <b>114</b>         | <b>0</b> |
| 2020/21 | \$41,308        | 3      | \$35,080        | 4      | \$6,228            | 1        |
| 2019/20 | \$13,769        | 9      | \$15,296        | 8      | (\$1,527)          | 0        |
| 2018/19 | \$42,961        | 3      | \$38,986        | 3      | (\$3,975)          | 0        |
| 2017/18 | \$14,045        | 9      | \$13,238        | 9      | (\$807)            | 0        |

The cost per determination is calculated based on the total cost of services for the Legal Costs Committee in a given year, divided by the number of determinations completed in that year.

The cost per determination is lower than the previous year due to a significant variation between the number of determinations undertaken in 2020/21 and 2021/22.

This variation will occur every year because the Committee has for many years adopted the practice of reviewing all contentious determinations concurrently in one year, and all non-contentious determinations concurrently in the next year, so that the rates for similar types of work undertaken by legal practitioners remain comparable regardless of the court in which that work is undertaken